MUNICIPALITY OF ANCHORAGE

Assembly Information Memorandum

No. AIM 63-2026

Meeting Date: April 28, 2026

From: **ASSEMBLY CHAIR CONSTANT AND ASSEMBLY MEMBER BALDWIN DAY**

Subject: **REPORT ON ASSEMBLY LITIGATION RELATED TO EKLUTNA HYDROELECTRIC PROJECT; ATTACHMENT FOR AR 2026-82, REVISING AND APPROPRIATING FUNDS FOR THE 2026 MUNICIPAL UTILITIES / ENTERPRISE ACTIVITIES OPERATING AND CAPITAL IMPROVEMENT BUDGETS.**

For the Assembly's information and consideration; please see the report from the Assembly's contracted legal counsel Landye Bennett Blumstein LLP (LBB), "Report on Assembly Litigation Related to Eklutna Hydroelectric Project." The Assembly retained LBB in 2023 to assist in evaluating and defending the Assembly's rights related to the 1991 Fish & Wildlife Agreement and obligations related to implementing that agreement.

This Report is a summary of LBB's work on behalf of the Assembly, separately from the Administration or the Municipal Attorney's office, and is intended to serve to aggregate the work and efforts into a single document. This will provide future members ready access to the details of the Assembly's work- -to date as they consider future legislative actions and budgeting for the Anchorage Hydropower Utility and Anchorage Water and Wastewater Utility and their respective activities related to the focus on the Eklutna River Restoration.

The Report and related documents are available at this page under Resources: https://www.muni.org/Departments/Assembly/Pages/FOCUS-Eklutna-River.aspx and also linked from this page: https://www.muni.org/Departments/Assembly/Pages/Native-Village-of-Eklutna.aspx

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REPORT ON ASSEMBLY LITIGATION RELATED TO EKLUTNA HYDROELECTRIC PROJECT

Landye Bennett Blumstein LLP

Prepared at the request of the Anchorage Assembly

Through Chair Christopher Constant and Member Erin Baldwin Day

Dated: April 28, 2026

INTRODUCTION

Early in 2024, the Assembly recognized the need to have independent legal counsel assist the Assembly in evaluating and defending its rights related to the August 7, 1991 Agreement Between the Municipality of Anchorage, DBA Municipal Light and Power, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., U.S. Fish and Wildlife Service, National Marine Fisheries Service, Alaska Energy Authority, and the State of Alaska, relative to the Eklutna and Snettisham Hydroelectric Projects (hereinafter the "1991 Agreement"), and its obligations related to implementing the 1991 Agreement. Chair Christopher Constant and then-Vice Chair Meg Zaletel worked with outside counsel on litigation and legislative solutions. Member Zaletel left the Assembly at the end of her term in 2025 and Chair Constant's term ends on April 28, 2026. This report is a summary of outside counsel's work, in coordination with the Office of Assembly Counsel, and after July 1, 2024, the Municipal Attorney's Office. We hope this Report will serve to aggregate the work and efforts into a single document so that future members, including Erin Baldwin Day who is now leading the Assembly's efforts on this front, have ready access to the details of the Assembly's work to date. This Report is not a comprehensive summary of the good work of Assembly Counsel or the Municipal Attorney's office related to the Eklutna River; this Report is the work of the Assembly and should not be understood to be the work of the Administration or the Municipal Attorney's Office.

BACKGROUND

On August 7, 1991, the Municipality of Anchorage (dba Anchorage Municipal Light and Power), Chugach Electric Association, Inc., and Matanuska Electric Association, entered into an agreement with the United States Fish and Wildlife Service, the National Marine Fisheries Service, the Alaska Energy Authority, and the State of Alaska, regarding "protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat) affected by hydroelectric development of the Eklutna Hydroelectric Project (the "Project").[1] The 1991 Agreement was a transition from the work in the 1950s by the United States Bureau of reclamation.[2]

The Project consists of a 40-megawatt dam on the Eklutna River. In the 1990s, the federal government agreed to sell the Project to the Municipality of Anchorage (the "Municipality"), Chugach Electric Association ("Chugach"), and Matanuska Electric Association ("MEA") (collectively the "Project Owners"). Specifically, in 1997, the federal Alaska Power Administration sold the Project to MEA, Chugach, and the Municipality d/b/a Municipal Light and Power Department ("ML&P"). MEA obtained a 16.67% undivided ownership interest in the Project, Chugach obtained a 30% undivided ownership interest, and ML&P acquired a 53.33% undivided interest. The utilities operate the Project through the Eklutna Operating Committee ("EOC") based upon affirmative votes of at least two of the utilities with a combined Project ownership interest of at least 50%.

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[1] *See* Agreement Between the Municipality of Anchorage, dba Municipal Light and Power, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., U.S. Fish and Wildlife Service, National Marine Fisheries Service, Alaska Energy Authority, and the State of Alaska, Relative to the Eklutna and Snettisham Hydroelectric Projects (Aug. 7, 1991). Though the Eklutna and Snettisham projects are both described in the 1991 Agreement, the Snettisham project is not the subject of this Report or the relevant work.

[2] *See* Governor's Decision, In the Matter of the Eklutna River Fish & Wildlife Program, p. 2 (Oct. 2, 2024) (hereinafter "Governor's Decision").

The Project Owners entered into the 1991 Agreement with the State of Alaska, Alaska Energy Authority, and federal agencies (the "1991 Agreement"). The 1991 Agreement described the process for the Project Owners to study and quantify "impacts to fish and wildlife from the Project, and to develop a proposed Final Program for the protection, mitigation, and enhancement of fish and wildlife effected by the Project"[3] and for the other parties to the agreement – the United States Fish and Wildlife Service (the "FWS"), the National Marine Fisheries Service (the "NMFS"), the Alaska Energy Authority (the "AEA"), and the State of Alaska ("State") – to offer their comments on the proposed Final Program.

In or around 2017, the Project Owners entered into a "Common Interest Agreement" to facilitate negotiations regarding implementation of the 1991 Agreement. The Common Interest Agreement was executed by a representative of the Municipality of Anchorage and applies to the Municipality as whole, including all officers, departments, and branches of the municipal government. Importantly, the Assembly was neither consulted nor approved the Common Interest Agreement. As part of the negotiations among the Project Owners regarding implementation of the 1991 Agreement, the Project Owners entered into one or more agreements with the Anchorage Water and Wastewater utility ("AWWU") purportedly governing the Municipality's water rights and access to drinking water from Eklutna Lake. Each of those agreements is subject to Assembly approval;[4] the Project Owners did not seek Assembly approval of those agreements before they were executed.

In 2018, the Municipality sold substantially all of the assets of ML&P to Chugach.[5] As part of that transaction, the Municipality retained its 53.33% ownership in the Project but agreed to sell its share of the power output to Chugach and MEA. The Project Owners agreed that Project management and operations decisions would continue to be made by the EOC, even after the sale of ML&P. The Municipality's interest in the Project is now housed in the Anchorage Hydropower Utility ("AHP"). The Project remained a majority publicly held asset.

According to the terms of the 1991 Agreement, the Project Owners were to commence planning for a Final Program that would "adequately and equitably protect[], mitigate[] damage to, and enhance[] fish and wildlife resources"[6] by 2022 (25 years after the date the Project ownership was officially transferred to the Project Owners – October 2, 1997). Under the 1991 Agreement, the Project was exempted by law from the Federal Energy Regulatory Commission's jurisdiction in exchange for development of a Project fish and wildlife mitigation plan. This mitigation plan is required to be submitted to the Governor of the State of Alaska for approval, and its approval was supposed to be obtained by October 2, 2024. Beginning in 2019, the Project Owners began scoping the work. In 2020, the Project Owners retained technical experts to assist with planning and consultation with the parties. In 2021-2022, the Project Owners began studying plans to shape a proposed Final Program, with the goal of developing a draft for review by the parties to the 1991 Agreement and stakeholders and for public review and comment.[7] This review

[3] Governor's Decision at 2.
[4] *See* AO No. 2024-28, As Amended.
[5] A copy of the Asset Purchase and Sale Agreement between the Municipality of Anchorage, Alaska and Chugach Electric Association, Inc. is available at: https://www.muni.org/departments/assembly/documents/mlp%20asset%20purchase%20agreement%20-%20final%20execution%20version%20(compiled).pdf.
[6] The 1991 Agreement at 1.
[7] *See* Eklutna Hydro Project Schedule (available at https://eklutnahydro.com/project-schedule/).

and planning process largely took place out of the public's view and without input from the Assembly.

In February of 2024, the Assembly learned that AWWU had entered into a final agreement related to the Project – described by the Project Owners as a "Binding Term Sheet."[8] During the February 2, 2024 Assembly meeting, members of the Assembly requested to view copies of the Binding Term Sheet, which was shown to them by the Bronson Administration during an executive session. Assembly members were not permitted to retain copies of the Binding Term Sheet nor were they permitted to review it in a confidential setting with their legal counsel. Meanwhile, the Project Owners proceeded to evaluate a proposed Fish and Wildlife Program without involving the Assembly.

Pursuant to the 1991 Agreement, the Project Owners must submit a proposed Fish and Wildlife Program to the Governor for approval and then implement the Governor's approved final Fish and Wildlife Program beginning no later than 2027.

In April of 2024, Chugach and MEA submitted a plan to the Governor with Mayor Bronson's support despite the objection of the Assembly. After Suzanne LaFrance was sworn in as Mayor in July of 2024, the Municipality submitted its own proposal to the Governor for consideration. Chugach and MEA proposed a portal valve design that would restore flow to most, but not all, of the Eklutna River. The Municipality's plan was to further study pumped storage hydropower (a proposal that was overlooked by the Project Owners) that would rewater the entire Eklutna River and had the support of the Native Village of Eklutna.

THE ASSEMBLY'S AUTHORITY

The Assembly is a co-equal branch of the Municipality and the legislative and policy-making body. Under Article X, Section 11 of the Alaska Constitution, the Assembly "may exercise all legislative powers not prohibited by law or by charter." And the Constitution also calls for "maximum local self-government" and demands that "[a] liberal construction shall be given to the powers of local government units."[9] Municipal utility policy and budgetary decisions must be approved by the Assembly. The Assembly is charged with "prescrib[ing] rules and procedures for the operation and management of municipal utilities"[10] and, as the body with the purse strings, sets the budget for Municipal utilities. Furthermore, the Assembly, through ordinance, prescribed the Municipality's policy on Eklutna River Restoration to be the restoration of the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991 Agreement.[11] The Assembly is the body within the Municipality with the authority to approve the Proposed Final Fish and Wildlife Program: "[t]he Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife

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[8] *See* Emily Goodykoontz & Alex DeMarban, "What's Behind the Fight Over the Eklutna River," *Anchorage Daily News* (Apr. 18, 2024) ("[T]he Assembly earlier this year learned that the Bronson administration signed a deal with the utilities last October that will govern Anchorage's drinking water rights for 25 years. The agreement, a 'binding term sheet,' was based on the utilities' plan to tap into the city's water supply. It would go into effect if the governor approves the Fish and Wildlife program, city officials have said.") (available at https://www.adn.com/alaska-news/anchorage/2024/04/17/whats-behind-the-fight-over-the-eklutna-river/).

[9] A.K. CONST. art. X, § 1.

[10] Anchorage Charter, art. XVI, §16.01 – Municipal utilities.

[11] AMC 26.30.025; AO No. 2023-131, As Amended (Dec. 19, 2023)

resources in the Eklutna River shall be submitted to the Assembly with a proposed resolution in support for action, prior to its submission to the Governor of Alaska."[12]

THE PUBLIC PROCESS

Though the Municipality is a 53.33% owner in the Project, the Project Owners have operated as if the implementation of the 1991 Agreement is a private endeavor. The public's review of plans has been limited, feedback from the public largely overlooked, and the Assembly's ability to conduct oversight of the Project constrained. The Assembly pursued a number of litigation options to open the process up to the public, beginning with subpoenaing documents executed by the Project Owners in secret.

THE SUBPOENAS

Despite the Assembly's codified role in setting policy and approving budgets for Municipal utilities, the Project Owners, including the Administration of then-Mayor Bronson, excluded the Assembly from Project discussions and decisions. When the Assembly learned the Bronson Administration signed the Binding Term Sheet and was negotiating with the Project Owners in secret, it endeavored to gather information about what "binding" agreements the Administration was seeking to implement outside of the required approval channels – i.e. Assembly action.

Instead of informing and involving the Assembly in Project decisions – as was appropriate and legally required – the Bronson Administration took great pains to exclude the Assembly and shield the decisions from public view.

During the February 2, 2024 Assembly meeting, Assembly members asked to view copies of the Binding Term Sheet, which Mayor Bronson's administration previously only showed to the Assembly during an executive session. The Assembly members were not permitted to retain copies of the Binding Term Sheet. On March 27, 2024, the Assembly passed and approved AR No. 2024-103, a resolution approving the use of "subpoenas to compel testimony and document production related to the 1991 Fish and Wildlife Agreement (Eklutna Hydropower Project) or water rights to Eklutna Lake."[13]

AR No. 2024-103 provides,

> having taken up these matters in executive session, the Assembly finds that it is necessary in furtherance of the Assembly's legislative powers under the Charter and the Assembly's role to provide legislative oversight of municipal agencies and utilities, to compel production of the binding term sheet so that the Assembly may share the agreement with its counsel for legal review prior to a determination by the Assembly regarding whether it is appropriate and in the public interest to make the agreement a disclosable public record.[14]

On March 27, 2024, pursuant to AR No. 2024-103, Assembly Chair Christopher Constant on behalf of the Assembly issued subpoenas to produce documents to Municipal Manager Kent

[12] AMC 26.30.025(B)(1); AO No. 2023-131, As Amended.
[13] AR No. 2024-103.
[14] *Id.* at 2.

Kohlhase (the "Kohlhase Subpoena")[15] and AWWU General Manager Mark Corsentino (the "Corsentino Subpoena").[16] The Kohlhase and Corsentino Subpoenas were identical in all substantive respects and requested production of the following documents by "5 p.m. on Wednesday, April 3, 2024":

1. The document described as a "binding term sheet" executed between the Eklutna Owners and the Anchorage Water and Wastewater Utility, which had been previously provided for review only in executive session; and

2. Any document constituting an existing agreement among the Eklutna Owners or between the Eklutna Owners and any third party upon which any claim of privilege or confidentiality is based.[17]

On April 2, 2024, then-Mayor Bronson vetoed AR No. 2024-103. In his veto transmission message, Mayor Bronson stated that the requested documents "have been made available" to the Assembly and "are available to them, and this open invitation continues."[18]

On April 3, 2024, Mr. Kohlhase and Mr. Corsentino each responded to the Kohlhase and Corsentino Subpoenas via email to Assembly Legislative Counsel Matthew Hurt, stating that they had "substantially complied" with their respective subpoenas "by making the documents available to the Assembly and its counsel for confidential review through the Municipal Attorney's Office."[19] Mr. Kohlhase and Mr. Corsentino further stated that that their "invitation for the Assembly and its legal counsel to review the documents through the Municipal Attorney's Office remains open."[20]

On April 4, 2024, then Municipal Attorney Anne Helzer allowed Assembly Chair Constant, the Assembly Counsel, and the Assembly's outside legal counsel (Landye Bennett Blumstein LLP) to view copies of the Common Interest Agreement, Binding Term Sheet, and an amendment to the Binding Term Sheet at the Municipal Attorney's Office. However, Ms. Helzer would not allow Assembly Chair Constant to retain copies of those documents. Ms. Helzer also did not allow Chair Constant to have a private conversation regarding the documents with Assembly Counsel and the Assembly's outside counsel. Ms. Helzer insisted that an Assistant Municipal Attorney remain in the room with the documents at all times.

During the April 9, 2024, Assembly meeting, Assembly members reiterated their request for copies of the Common Interest Agreement, Binding Term Sheet, and Amendment to the Binding Term Sheet in order to review and obtain legal advice from Assembly Legal Counsel and outside counsel regarding those documents. Ms. Helzer stated that she could not provide the documents to the Assembly unless each Assembly member signed a confidentiality agreement, which would be subject to approval from the other Project Owners. No other Municipal officer or employee was required to sign an additional confidentiality agreement prior to possessing or

[15] Letter to K. Kolhase Regarding Request for Certain Documents Concerning Municipal Access to Drinking water from Eklutna Lake (Mar. 27, 2024), Exhibit 4 to Complaint in 3AN-24-05979CI (the "Subpoena Case").
[16] Letter to M. Corsentino Regarding Request for Certain Documents Concerning Municipal Access to Drinking Water from Eklutna Lake (Mar. 27, 2024), Exhibit 5 to Complaint in Subpoena Case.
[17] Letter to K. Kolhase at 4; Letter to M. Corsentino at 4.
[18] AR No. 2024-103 at 3.
[19] Email from K. Kolhase to M. Hurt at 1-2 (April 3, 2024), Exhibit 6 to Complaint in Subpoena Case.
[20] *Id.*

viewing documents under the Common Interest Agreement, including the Binding Term Sheet. The differential treatment is especially notable given that no other officer or employee had a greater interest in the policies and decision than the Assembly, since the Charter explicitly authorizes the Assembly to act in this instance.

On April 9, 2024, the Assembly voted to override the Mayor's veto of AR No. 2024-103.

On April 16, 2024, pursuant to AR No. 2024-103, Assembly Chair Constant on behalf of the Assembly issued a subpoena (the "Subpoena") to Ms. Helzer.[21] The Subpoena required Ms. Helzer to produce the same documents that were described in the Kohlhase and Corsentino Subpoenas, and the amendment to the Binding Term Sheet:

1. The document described as a "binding term sheet" executed between the Eklutna Owners and the Anchorage Water and Wastewater Utility, which had been previously provided for review only in executive session, as well as any amendments, extensions, addendums, or any other writing reflecting a change to the substantive terms thereto; and

2. The document described as the "2017 Common Interest Agreement" and any other document upon which a claim of privilege or confidentiality is based.[22]

The Subpoena was sent to Ms. Helzer via email on Tuesday, April 16, 2024 at 5:08 p.m. by Assembly Counsel Matthew Hurt and required Ms. Helzer to produce the requested documents for the Assembly's inspection and retention by 5:00 p.m. on Wednesday, April 17, 2024.[23]

On Wednesday, April 17, 2024, at 2:23 p.m., Ms. Helzer acknowledged receipt of the Subpoena in an email to Assembly Counsel Hurt.[24] Ms. Helzer requested additional time to comply with the Subpoena because she was traveling but did not offer any explanation for why these readily available documents could not be produced while she was out of the office. On Thursday, April 18, 2024, Assembly Counsel Hurt responded to Ms. Helzer's request for additional time to comply with the Subpoena, providing until "the close of business Monday, April 22."[25]

Ms. Helzer did not comply with the Subpoena by the deadline and did not seek to quash or limit the Subpoena. On April 24, 2024 the Assembly filed a lawsuit in Anchorage Superior Court (Case No. 3AN-24-05979CI) to enforce the Subpoena.[26] The Assembly sought expedited relief so it could obtain copies of the requested documents before the Project Owners submitted their Proposed Final Fish and Wildlife Program proposal to the Governor. The Court granted the

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[21] Letter to A. Helzer Regarding Demand for Full, Free, and Unrestricted Access to Certain Documents Concerning Municipal Access to Drinking Water from Eklutna Lake (April 16, 2024), Exhibit 7 to Complaint in Subpoena Case.
[22] *Id*. at 4.
[23] Email to A. Helzer from M. Hurt at 2 (April 18, 2024), Exhibit 8 to Complaint in Subpoena Case; Letter to A. Helzer at 2.
[24] Email to A. Helzer from M. Hurt at 2.
[25] Email to A. Helzer from M. Hurt at 1. According to Mr. Hurt's email response, "we understand the documents to be readily accessible and, at this time, see no reason that counsel for the other Eklutna Owners would not be reachable by phone or email."
[26] The lawsuit consisted of a Complaint and *Ex Parte* Motion for Order to Show Cause & to Enforce Subpoena filed contemporaneously with a Moton for Expedited Consideration of the Anchorage Assembly's *Ex Parte* Motion for Order to Show Cause and to Enforce Subpoena.

Assembly's request for expedited relief, set a deadline for Ms. Helzer to respond to the *Ex Parte* motion by April 30, 2024, and set a hearing on the Motion for Order to Show Cause for May 1, 2024.

On April 25, 2024, Ms. Helzer ultimately provided the documents to the Assembly.[27] In a Joint Notice to the Court drafted by Ms. Helzer's legal counsel and filed on April 30, 2024, she noted she "does not concede that AMC 2.30.085 and the subpoena issued under its authority are valid under Alaska law, the Alaska Constitution, and the United States Constitution."[28] In a transmittal letter authored by Ms. Helzer she argued the documents were privileged and could not be released before the privileged was waived.[29] That permission was apparently granted on or around April 25, 2026. On May 14, 2024, Ms. Helzer filed a Motion to Dismiss noting she "has not disputed the Assembly's ability to issue a legislative subpoena," seemingly reversing course from her position as of April 30, 2024. Accordingly, the Assembly submitted a Notice of Dismissal on June 7, 2024 along with a proposed Final Judgment noting Ms. Helzer's position and quoting the Motion to Dismiss. Ms. Helzer took issue with the Assembly's pleading and filed a Notice to Court Re: Assembly's Notice of Dismissal on June 7, 2024 stating the Assembly's quote was a "mischaracterization of the Municipal Attorney's actual position. The Municipal Attorney has not conceded any legal issues in this case."[30] Despite Ms. Helzer's notice, the Court signed the Final Judgment as submitted by the Assembly on June 11, 2024 and found that "Plaintiffs have voluntarily dismissed their complaint pursuant to Alaska Rule of Civil Procedure 41(a)(1), without prejudice . . . This case is CLOSED." The Assembly filed a Notice of Clarification on June 12, 2024 standing by its characterization of the record and the fact Ms. Helzer agreed "the Assembly's legislative subpoena power is valid."[31]

Though the Assembly ultimately received copies of the documents referenced in the Subpoena and reassurance from the Court that its subpoena powers are valid, Ms. Helzer's actions frustrated the oversight obligations of the Assembly and caused significant delays and unnecessary expense to the taxpayers. The result, if not the intention, was a delay that assisted Chugach and MEA in their efforts to proceed in finalizing the Proposed Final Fish and Wildlife Program without the Assembly's input.

THE ASSEMBLY'S RCA ACTION

Contemporaneous with the Assembly's work to obtain copies of critical documents from the Eklutna Operating Committee to exercise its oversight and budgeting obligations, the Assembly undertook efforts to reassert its right to set policy related to the EOC. When Mayor Bronson and the members of the EOC continued to shut the Assembly out of the decision-making process and foreclosed the public's ability to know and understand what the Project Owners intended to propose to the Governor, the Assembly filed a Petition to Intervene and Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020 with the Regulatory Commission of Alaska ("RCA"). The Petition and Motion were filed before - and in anticipation of – an

[27] *See* Joint Notice Regarding Provision of Documents Demanded by Subpoena (April 30, 2024).
[28] *See Id.* p. 2.
[29] *See* A. Helzer Letter to Assembly Leadership (April 25, 2024) (Exhibit A to Notice of Filing in Subpoena Case).
[30] Notice to Court Re: Assembly's Notice of Dismissal at 1-2.
[31] Assembly's Notice of Clarification at 1.

impending EOC vote on the Proposed Final Fish and Wildlife Plan proposal that would then be submitted to the Governor by the Project Owners.

The RCA issued Order 39 on May 28, 2020 in connection with the sale of ML&P to CEA in consolidated dockets U-18-102/U-19-020/U-19-021.[32] Order 39 conditionally granted the Municipality's application to amend its certificate of public convenience and necessity for the Project. When that transaction concluded, the RCA determined that the Municipality no longer had an employee with the qualifications and experience to manage an electric utility and required the Municipality to surrender its vote on the EOC, essentially surrendering its ability to vote on all Project management and operation decisions, including policy decisions implementing the 1991 Agreement, until the Municipality hired staff with the requisite qualifications and experience to serve as a voting representative on the EOC. The Municipality continues to be excluded from voting on management and operations decisions despite holding a 53.33% ownership interest in the Project and securing an appropriately-credentialed director at AHP. [33] This process is further outlined in a later section.

Specifically, Order 39 stated:

> Under these circumstances we cannot unconditionally find that [the Municipality] is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that [the Municipality] is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna [Power Purchase Agreement] or the MEA [Power Purchase Agreement], ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without [the Municipality] having a vote on operation or management decisions.[34]

The Municipality complied with the Order and surrendered its voting rights on the EOC and "under the Fish and Wildlife Agreement."[35]

Beginning in 2019, the EOC was proceeding to study options and begin developing a Proposed Final Fish and Wildlife Program (pursuant to the 1991 Agreement) with the potential to commit the Municipality to a decades-long multi-million dollar mitigation plan all without allowing the Municipality to have a vote in that process.[36] The effect on Anchorage residents and taxpayers was a chief concern of the Assembly, and the Assembly noted the Bronson Administration had taken no action to reinstate the Municipality's vote on the EOC. With this backdrop, the Assembly sought to intervene in the consolidated docket and reopen the docket to modify Order 39 and regain the Municipality's policy making authority and vote on the EOC

[32] Order U-18-102(44)/U-19-020(39)/U-19-021(39) (May 28, 2020).
[33] *See* Anchorage Assembly's Petition to Intervene, Dockets U-18-102/U-19-020/U-19-021 (April 15, 2024); Anchorage Assembly's Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020, Dockets U-18-102/U-19-020/U-19-021 (April 15, 2024).
[34] Order U-18-102(44)/U-19-020(39)/U-19-021(39) at 67.
[35] Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights (Oct. 30, 2020).
[36] *See* Eklutna Hydro Schedule at https://eklutnahydro.com/project-schedule/.

decisions related to the Program.[37] Because the Assembly anticipated the EOC would be voting imminently, it requested the Commission consider its request on shortened time and filed a Motion for Expedite Consideration.[38]

In its Motion to Reopen Dockets and Modify Order No. 39, the Assembly asked the RCA to conditionally grant a certificate of public convenience and necessity to allow the Municipality to have a vote on the Project at the EOC. The Assembly's argument was supported by the Municipal code and the Municipal Charter, and the fact that since 2017, the Assembly consistently called for efforts to restore the Eklutna River and ensure continuous water flow to the greatest extent possible.[39] The Assembly argued that regardless of the substantive outcome or content of the Proposed Final Fish and Wildlife Program, there is a legal process that must be followed as prescribed in Municipal Code implemented through AO 2023-131. In the AO, the Assembly codified a requirement for Assembly approval before the plan is submitted to the Governor. "The Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources in the Eklutna River shall be submitted to the Assembly with a proposed resolution in support for action, prior to its submission to the Governor of Alaska."[40] Through the Code, the Assembly ensured there is a public process for the Assembly to have a role in approving the Proposed Final Fish and Wildlife Program before implementation.

In 2024, the Assembly again clarified municipal law surrounding the 1991 Agreement and implemented Municipal law confirming: "[p]ursuant to section 26.30.025, the assembly shall be responsible for all policy decisions related to the municipality's performance under the 1991 Fish and wildlife agreement regarding the Eklutna hydroelectric project."[41] The Assembly has the responsibility to make policy decisions regarding the 1991 Agreement, including deciding whether or not to approve the Proposed Final Fish and Wildlife Program.

At the RCA, the Assembly argued that the concerns the RCA had in 2020 were ameliorated because the Assembly implemented guardrails to ensure that policy decisions regarding the implementation of the 1991 Agreement would be made by the Assembly and not (then-unqualified) AHP staff. The Assembly viewed its role in setting policy as distinct from the technical expertise required to manage day to day hydroelectric operations. The logical follow-on was that the Commission could modify Order 39 to allow the Municipality to exercise its vote as to *policy* decision on the EOC without getting into regulated "button pushing" issues.[42]

No parties opposed the Assembly's Motion or Petition (and only ENSTAR Natural Gas Company opposed the request for expedited consideration).

On April 19, 2024, despite the fact that no parties had opposed the Assembly's requests, the RCA issued an expansive order wherein it denied the relief the Assembly requested. The document was titled an Order Redesignating the Commission Panel; Denying Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020; Denying Petition to Intervene; Denying

[37] *See* Petition to Intervene and Motion to Reopen Dockets.
[38] Anchorage Assembly's Motion for Expedited Consideration of Petition to Intervene and Motion to Reopen Docket and Modify Order No. 39 Dated May 28, 2020 (April 15, 2024).
[39] AR No. 2017-324(S), § 1 (Oct. 24, 2017).
[40] AO 2023-131 at 3.
[41] AO No. 2024-28, § 1 (Mar. 19, 2024) (codified at AMC 3.20.070).
[42] *See* Motion to Reopen Dockets and Modify Order No. 39 at 10-11.

Motion for Expedited Consideration of Petition to Intervene and Motion to Reopen Docket and Modify Order 39 dated May 28, 2020; and Addressing Anchorage Ordinances.

The Commission denied the Motion to Reopen Dockets as untimely pursuant to 3AAC 48.105 (on motions for reconsideration of an order of the Commission), holding that the Assembly should have filed for reconsideration of the Order within 15 days of the date of the order – or by June 12, 2020. It reasoned that since the date of the Order, Chugach "has expended considerable resources incorporating [ML&P's] assets into Chugach's operations, that the transaction can no longer be undone."[43] The Commission further noted that 3 AAC 48.105 only permits parties to a proceeding to seek reconsideration of an Order and because the Assembly was not directly a party to the earlier proceeding, it likely lacked standing to seek reconsideration (in 2020).

The Commission then denied the Petition stating there was not a process to reopen the dockets under the statutory timelines in AS 42.05.175 and further that petitions to intervene can only be considered in cases that are to be decided upon an evidentiary record after holding a hearing per 3 AAC 48.110(a). Because the Commission believed there was not a way to hold a hearing under the statue, the Commission reasoned there was also not a way to open the docket to consider the Assembly's request to intervene. The Commission denied the Assembly's Petition as moot.

The Commission also denied the request for expedited consideration, noting that the resolution of the pleadings could not be accomplished on the requested timeline because of the need to involve other parties and allow for their input. Instead, the Commission denied the request for expedited consideration without seeking the input from the other parties.

Finally, the Commission addressed two ordinances passed by the Assembly: AO No. 2023-131, As Amended December 19, 2023, and AO No. 2024-28, which passed on March 27, 2024, was vetoed by Mayor Bronson, and the Assembly overrode the Mayor's veto on April 9, 2024. The Commission recounted its belief that the ordinances purported to require the EOC's plan to require Assembly approval before it could be submitted by the EOC to the Governor. The Commission called the Assembly's attention to AS 42.05.641 which states:

> The commission's jurisdiction and authority extend to public utilities operating within a municipality, whether home rule or otherwise. In the event of a conflict between a certificate, order, decision, or regulation of the commission and a charter, permit, franchise, ordinance, rule, or regulation of such a local governmental entity, the certificate, order, decision, or regulation of the commission shall prevail.

It then noted the Commission required "the MOA to surrender its right to vote on the EOC specifically to prevent the MOA from delaying or changing the EOC's Project management decision, including decisions related to the Fish and Wildlife Agreement, until such time as the MOA convinces us that it has acquired the expertise required to fully participate as a voting member of the EOC."[44] The Commission reasoned that because it had not reinstated the MOA's

[43] Order Redesignating the Commission Panel; Denying Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020; Denying Petition to Intervene; Denying Motion for Expedited Consideration of Petition to Intervene and Motion to Reopen Docket and Modify Order 39 dated May 28, 2020; and Addressing Anchorage Ordinances at 3 (April 19, 2024).
[44] *Id*. at 4.

status as a voting member of the EOC, and because the MOA had not convinced it that AHP had acquired the expertise to fully participate as a voting member, "any effort to delay or change EOC Project management decisions by ordinance are void under AS 42.05.641 as being contrary to Order 18-102(44)."[45]

ASSEMBLY'S APPEAL TO SUPERIOR COURT

On April 24, 2024, the Assembly appealed the RCA's decision to the Alaska Superior Courtin Case No. 3AN-24-06001CI. The appeal was filed before the Proposed Final Fish and Wildlife Program were submitted to the Governor on April 24, 2024, thus preserving the Assembly's arguments related to voting rights and participation in the development of the proposed Plan.

In April of 2024, Suzanne LaFrance was elected as Anchorage Mayor. Mayor LaFrance's approach to implementing the 1991 Agreement was a departure from the Bronson Administration and was largely in sync with the Assembly's position. As a result, the Assembly was able to strategically position itself for a cooperative effort beginning upon her swearing in on July 1, 2024.

In its Statement of Points on Appeal (filed the same day as a Notice of Appeal), the Assembly argued:

1. The Regulatory Commission of Alaska ('RCA') erred in denying the Assembly's Petition to Intervene, dated April 15, 2024, because the Assembly meets the requirements of 3 AAC 48.110(a) and has a statutory right to intervene.

2. The RCA erred in denying the Assembly's Petition to Intervene because the Assembly should have been granted permissive intervention.

3. The RCA erred by misconstruing the Assembly's Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020, as a motion for reconsideration of the RCA's Order U-18-102(44)/U-19-020(39)/U-19-021.

4. The RCA erred when it denied the Assembly's request to modify Order 39 to allow the Municipality to vote as a member of the 'EOC' for the purposes of implementation of the 1991 Fish and Wildlife Agreement.

5. The RCA erred when it determined that it lacked statutory authority to reopen the dockets referenced in the Assembly's Motion.

6. The RCA's decision was arbitrary, capricious, and an abuse of discretion.

7. The RCA erred when it relied on facts not in the record.

[45] *Id*.

8. The RCA lacked jurisdiction to enter Order 39.

9. Order 39 violates state and federal law.

The Assembly proceeded to gather the record on appeal and the parties agreed to several extensions of pre-briefing deadlines. On July 18, 2024, AHP opened a new action in the RCA and filed a Notice and Request for Acknowledgement of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee, following AHP's hiring of Mark Corsentino, P.E., as Utility Director for AHP. This, too, is described in more detail below. After the Assembly filed the appeal, Chugach and MEA filed a single proposal with the Governor and the Municipality (inclusive of the Assembly and its position) requested the Governor allow the parties to examine an alternative proposal involving pumped storage hydro. The Governor issued his decision on October 2, 2024, which granted the Municipality's request (as described later in this document).

In October of 2024, the RCA moved to dismiss the appeal.[46] The RCA argued: (1) the Assembly's action in the RCA was time-barred because its request was not filed within 15 days of the Commission's Order in 2020; (2) the issues raised by the Assembly were moot because the Governor issued his decision on October 2, 2024; and (3) because the Assembly lacked a direct interest in the underlying RCA proceedings, was not aggrieved by the proceedings, and failed to participate when the dockets were open, the Assembly lacks standing to challenge the RCA's decision.[47] After the deadline to file dispositive motions (like the Motion to Dismiss) lapsed on October 28, 2024, Chugach and MEA filed a Joinder to the RCA's motion and included new, independent arguments describing the investments Chugach and MEA made in reliance on the Order 39 and that other non-parties have similarly relied on the Order.[48] The Assembly opposed the Joinder, noting it was filed after the dispositive motion deadline,[49] but the Court denied the Assembly's request reasoning that the Assembly had sufficient time to respond to the allegations raised in it.[50]

The Assembly responded to the Motion to Dismiss on January 10, 2025.[51] Therein, the Assembly noted the RCA's flawed reliance on exhaustion principles – the RCA asserted that it could not hear the Assembly's Petition because it cannot reopen dockets except as narrowly authorized by statute. However, in reviewing the RCA's online docket sheets, it is clear the RCA "regularly—and apparently routinely—reopens closed dockets, and has done so numerous times for myriad purposes . . . ."[52] The Assembly provided numerous examples of actions the RCA claimed were not permissible. As to the argument that the Assembly should have intervened in 2020 and sought the relief that it sought in 2024, it is clear that there was no reason for the Assembly to anticipate that Chugach and MEA would sideline the Assembly's appropriating and legislating power related to the 1991 Agreement in 2020. That issue only came to light in 2024 when the Assembly discovered that the Bronson administration, Chugach, and MEA had entered

[46] Motion to Dismiss or, in the Alternative, to Stay Appeal (Oct. 28, 2024).
[47] *Id*. at 1-2.
[48] Joinder in Corrected Motion to Dismiss or, in the Alternative, to Stay Appeal (Nov. 4, 2024).
[49] Motion to Strike CEA & MEA's Joinder (Nov. 5, 2024).
[50] Order Denying Motion to Strike (Dec. 13, 2024).
[51] Anchorage Assembly's Opposition to Motion to Dismiss (Jan. 10, 2025).
[52] *Id*. at 5-6, 8-9.

into a secret Binding Term Sheet without informing the Assembly or seeking its input.[53] Further, the Assembly argued that it is not required to seek reconsideration (here, as to Order 39 in 2020) and may appeal a Commission decision without first seeking reconsideration.[54] Lastly, as to the RCA's argument that the appeal was time barred (because an appeal should have been filed in 2020), the Assembly argued the operative appeal deadline followed the RCA's decision in 2024, not in 2020.[55]

In response to the RCA's argument that the Assembly lacked standing because the "Municipality" and not the "Assembly" had standing since the "Municipality's" voting rights were at stake, the Assembly noted the RCA ignored controlling Alaska law. The Alaska Constitution states that "[t]he governing body of the organized borough shall be the assembly, and its composition shall be established by law or charter."[56] And, as described in AMC 3.20.010(6), the Assembly (not the Administration) has authority to make all policy decisions "related to the municipality's performance under the 1991 Fish and Wildlife agreement regarding the Eklutna hydroelectric project." Order 39 directly affected the Assembly's authority, and the Assembly is the proper party to challenge the decision.

Finally, the RCA argued that the appeal was moot because the Governor issued a Decision approving the final Fish and Wildlife Program in October 2024 (while the appeal was pending). On the contrary, the Governor's Decision notes that Order 39 required the Municipality to surrender its vote on Eklutna Project decisions but then requires the parties to the 1991 Agreement to consider several future policy decisions ("Limited Reopeners") that have important implications for the Eklutna River. The Governor's Decision makes reinstating the Assembly's ability to vote on those policy decisions even more important and certainly does not moot the appeal.[57]

In addition to responding to each of the RCA's arguments, the Assembly's Opposition highlighted the RCA's attempt to unilaterally remove the Municipality's voting rights under the 1991 Agreement:

> [T]he process in which that proposed Fish and Wildlife Program was developed, and the associated agreements to use municipal infrastructure and water supply, violated municipal law and contradicted long-standing municipal policies. The Assembly sought RCA approval to modify Order 39 to allow the Assembly to exercise its proper, democratic role as the Municipality's policymaking body, with powers to appropriate municipal resources. Because policy decisions will continue to be made regarding implementation of the Fish and Wildlife Program (even after the Governor's Decision), the Assembly continues to have a strong interest in how the $57-million plan is carried out over the next several decades.[58]

This concern undergirds the Assembly's actions related to the Eklutna River and provides context for why the Assembly has prioritized the policies surrounding the 1991 Agreement. The Assembly

[53] *Id*. at 9-10
[54] *See* AS 42.05.551; Opposition to Motion to Dismiss at 11.
[55] *Id*. at 11.
[56] A.K. CONST. art. X, § 4.
[57] *See* Governor's Decision at 26-27.
[58] Opposition to Motion to Dismiss at 7.

has a fiduciary duty to protect both taxpayers and ratepayers and ensure funds are used prudently. The decisions surrounding the implementation of the 1991 Agreement have a direct effect on the assets and finances of the Municipality.

While the Motion to Dismiss was pending, the RCA issued a novel decision on the Municipality's Request for Acknowledgement of Anchorage Hydropower's Acquisition of Expertise.[59] In sum, the Commission determined that the surrender to be for the full length of the Eklutna Power Purchase Agreement ("PPA") and the MEA PPA, both scheduled to expire on October 31, 2055. The RCA filed a Notice of Supplemental Authority in the Appeal and lodged the RCA's Order.

On February 5, 2025, the Court issued an Order Granting Motion to Dismiss. The Court agreed with the Assembly and found that the Assembly was not required to exhaust administrative remedies before appealing to the Superior Court.[60] However, the Court found the appeal was untimely because it sought to undo the 2020 Order 39 and appeal should have been filed in 2020.[61] The Court further found that the Assembly did have standing to challenge Order 39 because it had a direct interest in the proceedings, a specific interest in the Project, was factually aggrieved, and the Assembly sufficiently participated in the RCA proceedings.[62] The Court found that there remains a live controversy and the appeal was not moot: "the Assembly's ultimate issue is not just with the Fish and Wildlife Program, but its general lack of input on the Eklutna project and the Program. This will continue to be a present, live controversy as long as the project operates."[63]

Importantly, the Court found that the Assembly could be entitled to future relief: "Under Order 39, the Assembly may petition to reinstate its voting rights on the EOC. While the Assembly's most recent petition was denied, the RCA notes that it may petition again in the future or file an appeal. The issue of the Assembly's participation in the Eklutna project clearly remains a live controversy."[64]

The RCA sought attorney's fees as the prevailing party,[65] and then agreed to withdraw the Motion after reaching an agreement with the Assembly.[66] The Court granted the request and the case was closed.

The Assembly elected not to appeal the dismissal and instead turned its focus towards participation in the planning process and working cooperatively with the LaFrance Administration on its RCA actions. The dismissal of the appeal marked the end of the Assembly-led litigation around the Eklutna Project.

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[59] Order Granting Motion to Dismiss in Part and Dismissing Notice and Request, Denying Motion to Dismiss in Part, Vacating Procedural Schedule, Denying Motion to Compel, Denying Request to Construe Notice and Request as petition to Amend Certificate Condition, Providing Guidance for Future Filings, and Closing Docket, U-24-024, Order No. 8 (Nov. 14, 2024) (hereinafter "RCA Order U-24-024(8)").
[60] Order Granting Motion to Dismiss at 2 (Feb. 5, 2025).
[61] *Id*. at 4-5.
[62] *Id*. at 5-7.
[63] *Id*. at 7.
[64] *Id*. (citing RCA Order U-24-024(8) at 35).
[65] Motion for Award of Attorney's Fees (Feb. 18, 2025).
[66] Stipulation to Withdraw motion for Award of Attorney's Fees (Mar. 10, 2025).

THE GOVERNOR'S DECISION

> This [Fish and Wildlife] Agreement is entered into on August 7, 1991 . . . regarding protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat) affected by hydroelectric development of the Eklutna . . . Projects. With respect to the implementation provisions called for in this Agreement, the Eklutna Purchasers will be responsible for the consultation, study and implementation provisions applicable to the Eklutna Project . . . .[67]

The 1991 Agreement outlined the process for the parties to study the Project's impacts to fish and wildlife and develop a proposed Final Program for the "protection, mitigation, and enhancement of fish and wildlife affected by" the Project and for the other Parties to offer their comments.[68] The 1991 Agreement requires the parties to consider "the impact on fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use, as well as available means to mitigate these impacts."[69] As described by the Governor, the Project received Congressional approval to substitute the 1991 Agreement and its requirements for federal licensing under the Federal Power Act and accompanying regulations.[70]

The 1991 Agreement laid out relevant timelines and some structure around the study and proposals. The Governor was charged with "evaluat[ing] the Proposed Final Program, attempt[ing] to reconcile differences between the Parties to the Agreement, and establish[ing] a Final Program that 'adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources.'"[71] The evaluation required consideration of eight (8) factors to "ensure that Eklutna [is] best adapted for power generation and other beneficial public uses."[72] The eight (8) factors are:

1. efficient and economical power production;
2. energy conservation;
3. the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat);
4. the protection of recreation opportunities;
5. municipal water supplies;
6. the preservation of other aspects of environmental quality;
7. other beneficial public uses; and
8. requirements of State law[73]

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[67] 1991 Agreement.
[68] *Id*. at 3.
[69] *Id*.
[70] Governor's Decision at 3 (citing 16. U.S.C. § 791a et seq.; 18 C.F.R. 4.1 et seq.).
[71] Letter from Governor Mike Dunleavy Accompanying the Governor' Decision (Oct. 2, 2024).
[72] 1991 Agreement, § 5.
[73] *Id*.

On April 25, 2024, Chugach and MEA submitted a Proposed Final Fish and Wildlife Program with the support of Mayor Bronson.[74] The Assembly did not approve or support the proposal. Following the submission, the public had 60 days to comment on the Proposed Final Fish and Wildlife Program, followed by 30 days for the Project Owners to respond. Copies of comments can be found at https://eklutnahydro.com/documents/#April2024Final|2.

On June 11, 2024, the Assembly held a public hearing on the Proposed Final Fish and Wildlife Program and passed AR 2024-182(S-1) on June 25, 2024 encapsulating the public comments gathered by the Assembly and reiterating the Assembly's position in support of the Native Village of Eklutna and its proposed alternate plan.[75] The Assembly requested the Project Owners seek a two-year extension to perform additional analysis of alternate plans and to seek consensus among the parties.[76] The Assembly submitted the comments to the Governor on June 26, 2024.

On July 19, 2024, after her swearing-in, Mayor LaFrance submitted the Municipality's response (as a Project Owner) in the form of a letter to the Governor.[77] The letter was approved by the Assembly at its July 19, 2024 meeting and submitted as part of the public comment process.[78]

Chugach and MEA touted the Proposed Final Program as a compromise and response to public input:

> After reviewing all of the comments received, the Project Owners made substantive revisions to the program reflecting negotiations with the parties to the 1991 Agreement and NVE, and are submitting the proposed final program to the Governor. The proposed final program includes the following:
>
> - Construction of the Eklutna River Release Facility and establishment of year-round instream flows in the Eklutna River;
> - Automation of the existing outlet gate at the dam to provide periodic channel maintenance flows in the Eklutna River;
> - Construction of eight new bridges along the Anchorage Water and Wastewater Utility (AWWU) access road to enable AWWU's access to critical infrastructure year-round following the establishment of instream flows;
> - Payment to Chugach State Park for lakeside trail repairs;
> - Establishment of a Committee to oversee implementation of the Monitoring and Adaptive Management Plan;

[74] Eklutna Hydroelectric Project Proposed Final Fish and Wildlife Program (April 25, 2024).
[75] *See* AR No. 2024-182(S-1); Letter from Native Village of Eklutna to S. Owen Re: Eklutna Hydroelectric Project Draft Fish and Wildlife Program (Dec. 4, 2023) (available at: https://eklutnahydro.com/wp-content/uploads/2023/12/NVE-Eklutna-Draft-Fish-Wildlife-Program-Comment-Letter.pdf).
[76] AR No. 2024-182(S-1) at 14.
[77] AM 557-2024(A) Comments to the Governor from the Municipality of Anchorage, In Response to Stakeholder Comments to the Eklutna Hydroelectric Project's Proposed Final Fish and Wildlife Program Put Forth on April 25, 2024 (July 19, 2024).
[78] *Id*.

- Funding to conduct monitoring studies in the Eklutna River throughout the 35-year program;
- Funding for physical habitat enhancement in the Eklutna River based on the monitoring results;
- Procedures for the Committee to adaptively manage the flow regime in the Eklutna River based on the monitoring results;
- Provisions for banking water in Eklutna Lake and potentially increasing the water budget for instream flows in the future;
- Potential installation of a fixed wheel gate to accommodate higher inflows in the future and/or allow higher channel maintenance flows if needed; and
- Potential installation of upstream and downstream fish passage facilities that meet specific criteria in the plan.

> Approval of the Proposed Final Program will enable the Project Owners to implement these significant fish and wildlife measures at the Project, while simultaneously protecting the municipal water supply and continuing to provide firm, low cost, renewable energy to Southcentral Alaska.[79]

The Assembly's perspective on the Proposal was not as positive. The Assembly's sentiments were shared by Mayor LaFrance who expressed:

> The current Proposed Final Fish and Wildlife Program would not result in a 'continuous water flow of the Eklutna River,'[80] or restoration of 'fish populations . . . to Eklutna Lake.'[81] The agencies that submitted stakeholder comments recognized that the proposed Program therefore 'has limitations'[82] and "does not meet the goal of full ecosystem connectivity."[83] They expressed preferences for an alternative that would "re-water[] the river with staged implementation of meaningful mitigation measures to support restoration and resilience of salmon runs in the Eklutna River watershed,"[84] and "[return] flows to the river that provide wetland connectivity, both instream and off-channel spawning and rearing habitats, and the return of salmon runs and marine derived nutrients into the entire river, lake, and its tributaries."[85]

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[79] Press Release from Chugach and MEA, *Proposed Final Fish and Wildlife Program sent to Governor, Proposal calls for returning water, creating habitat in Eklutna River* (Apri. 25, 2024).
[80] AMC 26.30.025(A).
[81] *Id*.
[82] National Marine Fisheries Service, Comments on Proposed Program at 2 (June 21, 2024) (available at https://eklutnahydro.com/wp-content/uploads/2024/07/2024-6-21-Comments-on-Proposed-Final_NMFS.pdf).
[83] U.S. Fish and Wildlife Service, Comments on Proposed Program at 1(June 24, 2024) (https://eklutnahydro.com/wp-content/uploads/2024/07/2024-6-24-Comments-on-Proposed-Final_USFWS.pdf).
[84] National Marine Fisheries Service, Comments on Proposed Program at 2.
[85] U.S. Fish and Wildlife Service, Comments on Proposed Program at 1.

> Alternatives that would preserve power production while also resulting in this majority-preferred "continuous water flow" were proposed. As a result of time pressures, at least one received only an "initial analysis."[86]

Mayor LaFrance reiterated that alternatives to the Proposed Final Fish and Wildlife Program existed and should be considered.[87] Noting the Governor's authority to reconcile differences between the parties, the Municipality requested the Governor consider the Municipality's position and require the Project Owners to:

> use two years of the three-year pre-implementation period to identify an alternative infrastructure and engineering solution to ensure continuous water flow to all 12 miles of the Eklutna River. This will enable the owners to define and develop a practical alternative that will:
>
> - Ensure continuous water flow to all 12 miles of the Eklutna River,
> - Protect drinking water supply for Anchorage residents, and
> - Further contribute to a reliable, affordable energy future for Southcentral Alaska.
>
> In addition, the "limited reopeners" in the proposed final Program are unnecessary, as under the existing 1991 Agreement, the Owners can and should remain open on an ongoing basis to additional river restoration solutions as technology and conditions evolve. We propose you remove the limited reopeners from the final program to ensure clarity on this point.[88]

On August 15, 2024, Governor Dunleavy sent a letter to the parties setting a meeting for September 9, 2024 and requesting briefing on six (6) topics:

> 1. The Governor is required to give equal consideration to eight factors identified in Section 5 of the Agreement. Please identify how the proposed final program or an alternate program promoted by any other parties, or the Native Village of Eklutna, does or does not meet those eight factors.
> 2. Does the Agreement require complete connection between the river and the lake to support fish passage?
> 3. Is MOA Assembly approval required for approval of the Owners' program?
> 4. What effect, if any, did the MOA' s lack of a vote on the Owners' program have on the process set forth in the Agreement?
> 5. Does the Governor have the authority under the Agreement to impose a two-year extension on the process as requested by the MOA?
> 6. Whether the Owners and Anchorage Water and Wastewater Utility ('AWWU') have reached a final and binding agreement concerning the use of AWWU infrastructure as outlined in the Owners' program. If a final agreement has not

[86] See Chugach Electric Association, Letter to the Anchorage Assembly at 9 (May 23, 2024) (available athttps://eklutnahydro.com/wp-content/uploads/2024/05/2021-05-23-Chugach-Letter-to-Assembly.pdf).
[87] LaFrance Letter attached to AR 557-2024(A) at 2.
[88] *Id*. at 2-3.

been reached, what effect will that have on the Owners' ability to implement the final proposed program?[89]

The parties submitted briefs on September 4, 2024. In its brief, the Municipality argued that the Proposed Final Fish and Wildlife Program falls short when compared to other approaches and encouraged the Governor to allow the parties to study alternatives. The Proposed Final Fish and Wildlife Program has a hefty price tag (annualized cost of $3.7 million per year) and reduces power production by 10%.[90] Furthermore, the Proposed Final Fish and Wildlife Program fails to re-water the entire Eklutna River and, in turn, fails to protect, mitigate harm to, or enhance fish and wildlife; it fails to adequately advance recreational and beneficial public uses; it does not meet the Municipality's expectations though it must be approved by the Assembly, risking viability if the Assembly withholds approval.[91]

The U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the Native Village of Eklutna also criticized the Proposed Final Fish and Wildlife Program citing similar concerns, including the Program's failure to rewater the entire Eklutna River.[92] Members of the public agreed.[93] The Municipality encouraged the Governor to allow for study of more promising programs over the following two (2) years, in particular pumped storage hydro.[94] The Municipality also highlighted the difficulties of advancing its position (and the public's) due to the RCA's actions regarding its voting rights and the concurrent obstruction by Chugach and MEA.[95]

In contrast, Chugach and MEA argued that the work to develop the Proposed Program was robust, considered the alternatives, incorporated comments from the parties and the public throughout the process, stating the process utilized "countless staff resources, and significant management time conducting a process of consultation with state and federal resource agencies, rigorous scientific and engineering studies, stakeholder engagement, and careful analysis of dozens of fish and wildlife protection, mitigation, and enhancement proposals."[96] Many of the public comments called out shortcomings with the Proposed Final Fish and Wildlife Program.

On September 4, 2024, the Parties met at the Governor's office and presented their arguments and proposals. On September 5, the Anchorage Assembly and Native Village of Eklutna passed Joint Resolution 2024-001 urging "Governor Dunleavy to establish a final Fish and Wildlife Program that requires the owners to use two years of the three year pre-implementation period to explore alternative infrastructure options, including pumped storage hydropower, that can provide continuous water flow to all twelve miles of the Eklutna River and fish passage into and out of

[89] Letter from Governor Dunleavy to the Parties Re: Final Proposed Fish and Wildlife Program, p. 2 (Aug. 15, 2024).
[90] The Municipality of Anchorage's Brief Addressing the Governor's Questions About the Final Proposed Fish and Wildlife Program, Eklutna Hydro Project, p. 11 (Sept. 4, 2024).
[91] *Id*.
[92] *See* U.S. Fish and Wildlife Service, Comments on Proposed Program at 1; National Marine Fisheries Service, Comments on Proposed Program at 3; Native Village of Eklutna, Comments on Proposed Program at 1 (June 21, 2024) (available at https://eklutnahydro.com/wp-content/uploads/2024/07/2024-6-21-Comments-on-Proposed-Final-Program_NVE.pdf).
[93] *See* Proposed Program Attachment G.
[94] *See* Municipality's Brief at 13-14.
[95] *Id*. at 22-23.
[96] Chugach Electric Association Inc. and Matanuska Electric Association, Inc. Joint Brief at 1 (Sept. 4, 2024).

Eklutna Lake, protect the drinking water supply for Anchorage residents, and ensure a reliable, affordable energy future for Southcentral Alaska."

The Governor issued his decision on October 2, 2024. He struck a compromise, allowing the portal valve project planning to proceed (as proposed by Chugach and MEA) while permitting a study of the pumped storage hydro option (as proposed by the Municipality and Native Village of Eklutna).[97]

THE ADMINISTRATION'S RCA ACTIONS

When the Municipality sold ML&P to Chugach, it surrendered its vote on the EOC because the RCA determined that it no longer had the requisite knowledge of prudent utility practice and the Railbelt electric generation and transmission system required to be a voting owner representative on the EOC. However, by July of 2024, the Administration had secured that expertise by appointing Mark Corsentino, P.E. as Utility Director of AHP. On July 18, 2024, the Administration filed a Notice and Request for Acknowledgement of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee with the RCA.[98] The Notice included a request for expedited consideration so AHP would have a vote on decisions related to the Final Fish and Wildlife Program that would ultimately bind the Municipality to budgetary and policy decisions.

The Native Village of Eklutna filed a letter in support of the Municipality's request.[99] Chugach and MEA opposed the request to consider the matter on shortened time and also raised substantive concerns about whether the RCA should grant the underlying relief.[100] Chief among their concerns was whether AHP's Director would be subject to the whims of the Assembly.[101] Notably, Chugach and MEA did not dispute Mr. Corsentino's qualifications or oppose his becoming a voting member of the EOC.[102] The Assembly filed a Petition to Intervene as a result of Chugach and MEA's "attempt to place at issue the Assembly's role in determining the Municipality's policies with respect to the Eklutna Project and call into question the propriety of the Assembly's actions regarding the 1991 Fish and Wildlife Agreement."[103] Chugach and MEA opposed the Petition.[104]

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[97] *See* Governor's Decision at 29. For a thorough look at options for implementing the 1991 Agreement and the Governor's Decision, see Mark Corsentino's opinion piece, "The biggest hydropower opportunity on the Railbelt isn't on Chugach Electric Association's List," *Anchorage Daily News* (Feb. 26, 2026) (available at: https://www.adn.com/opinions/2026/02/26/opinion-the-biggest-hydropower-opportunity-on-the-railbelt-isnt-on-chugach-electric-associations-list/).

[98] Docket U-24-024.

[99] Letter of Support from Native Village of Eklutna (Aug. 2, 2024).

[100] Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Opposition to AHP's Motion for Expedited Consideration (Aug. 26, 2024) (hereinafter "Joint Opposition"); Initial Comments on Chugach Electric Association, Inc. and Matanuska Electric Association, Inc. (Aug. 26, 2024) (hereinafter "Initial Comments").

[101] Joint Opposition at 2-3.

[102] Initial Comments at 1 ("At this point, we do not oppose AHP's nomination of Mr. Corsentino to become a voting member of the EOC.").

[103] Anchorage Assembly's Petition to Intervene at 1 (Aug. 27, 2024).

[104] Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Opposition to Anchorage Assembly's Petition to Intervene (Sept. 3, 2024).

The RCA scheduled a prehearing conference for August 30, 2024; Administrative Law Judge (ALJ) James L. Walker presided. At the hearing, ALJ Walker denied AHP's request for expedited consideration—electing for a truncated schedule but not as shortened as AHP requested—and denied the Assembly's Petition to Intervene,[105] reasoning the Municipality could represent the Assembly's interests.[106]

During the prehearing conference, ALJ Walker sua sponte posited that the term of the surrender of AHP's vote might have been for the length of the Eklutna PPA and MEA PPA, 35 years,[107] stating "the Commission should be considering dismissal of the notice and request for acknowledgement as being prematurely filed" because it purportedly failed to acknowledge the required term length.[108] No party had argued for this interpretation, but Chugach and MEA immediately adopted it.[109]

The relevant language from the RCA Order regarding the term of the surrender reads:

> We can only find that [AHP] is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreement so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without [AHP] having a vote on operating or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as [AHP] has shown to our satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC.[110]

The Commission adopted a schedule to hear evidence and arguments on AHP's request with hearings on the matter scheduled for November 18, 2024 and a Commission decision thereafter.[111]

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[105] The Assembly did not participate as a party to either of the Administration's RCA actions after this date and the information included in this Report is for context to the Assembly's advocacy but is not an exhaustive report on the Administration's actions and efforts.

[106] Order Adopting Procedural Schedule, Denying Petition to Intervene, and Redesignating Commission Panel at 2-3, 5 (Sept. 12, 2024).

[107] *Id*. at 3.

[108] *See* U-24-024 Prehearing Conference, Tr. 7, lines 5-7.

[109] *See* Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Brief Regarding Surrender Term, pp. 11-12 (Oct. 8, 2024) ("Chugach and MEA admit that until ALJ Walker raised this issue in this proceeding, they had not examined this issue closely and were theoretically comfortable with an interpretation of the Surrender that if and when the MOA could demonstrate technical and managerial fitness, potentially with certain conditions imposed on the MOA to require MOA act consistently with prudent utility practice, to prevent the MOA from undermining the Project Owners' work in implementing the Final Fish and Wildlife Program, and to protect the Eklutna Project as a valuable resource in the Railbelt, the MOA would be entitled to regain its voting rights on the EOC and with respect to the Fish and Wildlife Agreement before the end of the PPA terms. Upon further review in this proceeding, however, Chugach and MEA no longer think that this matter is so simple. . . .") (hereinafter "Chugach & MEA Brief on Term").

[110] Order U-18-102(44) at 67.

[111] *Id*. at 6-7.

In response to the RCA's request, the parties briefed the question of the surrender term with the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section ("RAPA"), Chugach and MEA arguing the surrender was for a term of at least 35 years.[112] AHP argued that the language in Order 39 did not implement a minimum term and focused on the acquisition of expertise:[113]

> As documented in the Acquisition dockets and the MEA PPA approval docket (TA379-121), as well as in subsequent filings in this docket, the Commission, the owners of the Eklutna Project, and the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section ('RAPA'") all had a public, contemporaneous and continuing understanding that while Order 39 required the term of the surrender to be equal to the terms of the Eklutna and MEA PPAs, that term was subject to termination, and the surrender was subject to being 'lifted' at any time after the MOA made a showing to the Commission's satisfaction that MHP had acquired the expertise required to fully participate as a voting member of the EOC.[114]

On October 15, 2024, RAPA filed a Motion to Dismiss the Notice and Chugach and MEA filed a Joinder on October 24, 2024.[115] RAPA argued that the issues raised by AHP were mooted by the Governor's Decision and Chugach and MEA further argued that the RCA's decision (due after briefing was filed) on the question of a minimum term would determine whether the parties should proceed to a hearing on the underling request.[116]

On November 14, 2024, the RCA issued its decision, finding the minimum term of the surrender was 35 years, the request to restore AHP's vote on the EOC was premature, vacating the hearings set for November 18, 2024, and closing the docket.[117]

On December 13, 2024, AHP appealed the RCA's decision to the Anchorage Superior Courtin Case No. 3AN-24-10554CI.[118]

On July 30, 2025 (while the appeal in Case No. 3AN-24-01554CI was pending and stayed), AHP filed a new action in the RCA, this time requesting the RCA lift the condition requiring the surrender of the vote from the Certificate of Public Convenience and Necessity No. 780 and an

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[112] Office of the Attorney General's Brief on Interpretation of Order 39 (Oct. 8, 2024); Chugach & MEA Brief on Term.
[113] Municipality of Anchorage d/b/a/ Anchorage Hydropower's Brief Regarding Interpretation of Order 39 (Sept. 18, 2024).
[114] *Id*. at 3.
[115] Motion to Dismiss as Moot (Oct. 15, 2024); Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joinder in Motion to Dismiss Regarding Surrender Term (Oct. 24, 2024).
[116] *See Id*.
[117] Order Granting Motion to Dismiss in part and Dismissing Notice and Request, Denying Motion to Dismiss in Part, Vacating Procedural Schedule, Denying Motion to Compel, Denying Request to Construe Notice and Request as Petition to Amend Certificate Condition, Providing Guidance for Future Filings, and Closing Docket (Nov. 14, 2024). The RCA found RAPA's motion was moot, given its finding on the minimum surrender term. *See Id*. at 29-30.
[118] Notice of Appeal (Dec. 13, 2024); Statement of Points on Appeal (Dec. 13, 2024).

alternative application to amend Certificate No. 780.[119] The request approached the question of the vote surrender from a different angle and asked the RCA to amend the Certificate of Convenience as opposed to interpret its prior Order 39.[120]

RAPA filed a Motion to Dismiss the new action, relying on the minimum term set by the RCA in Docket U-24-024;[121] Chugach and MEA joined in RAPA's motion.[122] In a 3-2 vote, the RCA granted the Motion to Dismiss on January 26, 2026 finding the minimum term requirement had not been nullified and there was not good cause to grant the request to amend the Certificate of Convenience.[123] AHP filed a Petition for Reconsideration on February 10, 2026.[124] In a 3-2 vote, the RCA denied the Petition on February 27, 2026.[125]

AHP appealed the RCA's February 27, 2026 decision to the Anchorage Superior Court in Case No. 3AN-26-05848CI on March 31, 2026 and simultaneously moved to consolidate it with Case No. 3AN-24-10554CI. The appeals were consolidated in April of 2026 and the Municipality continues to pursue review of the RCA's decisions.[126]

THE ROAD AHEAD

The Assembly serves as the steward of public funds (both taxpayer and ratepayer) and must exercise its authority prudently and in line with its fiduciary duties. The expected path for the Assembly to exercise its oversight and fiduciary duties related to the Eklutna River and the 1991 Agreement have been severely limited, as explained herein. Presently, the Municipality's partners in the Project have the ability to essentially decide how taxpayer and ratepayer funds are spent without the Municipality having a vote, despite the public's ownership stake in the Eklutna Project.

In the face of these difficulties, the Assembly continues to prioritize its government-to-government relationship with the Native Village of Eklutna and works to ensure Eklutna's position is centered in the Assembly's actions related to this Project. The Assembly is considering the related AWWU contracts with Chugach as part of its oversight related to the Eklutna Project. The process surrounding the implementation of the 1991 Agreement was flawed, in particular as it relates to the Assembly's oversight and public participation. But through the Assembly's actions as described in this Report and its continued focus on inclusive policy considerations, the Assembly has worked and continues to work with the Administration to represent the people of Anchorage and their priorities related to the Eklutna River.

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[119] Municipality of Anchorage d/b/a Anchorage Hydropower's Request to Lift Condition Requiring the Surrender of Voting Rights from Certificate of Public Convenience and Necessity No. 780; and Alternative Application to Amend Certificate of Public Convenience and Necessity No. 780, Docket U-25-025 (July 30, 2025).
[120] The RCA action also acknowledged some staffing changes at the Municipality but noted the requisite expertise remained. *Id*.
[121] Office of the Attorney General's Motion to Dismiss (Aug 8, 2025).
[122] Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joinder in Motion to Dismiss (Aug 22, 2025).
[123] Order Granting Motion to Dismiss and Closing Docket, U-25-025 at 20 (Jan. 26, 2026).
[124] Municipality of Anchorage d/b/a Anchorage Hydropower's Petition for Reconsideration of Order U-25-025(2) (Feb. 10, 2026).
[125] Order Denying Petition for Reconsideration and Finding Motions Moot (Feb. 27, 2026).
[126] *See* Order Granting Appellant's Motion to Consolidate Appeals (April 20, 2026).

As enshrined in AMC 26.30.025(A):

it is the policy of the Municipality of Anchorage and the Anchorage Hydropower utility to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible . . . .

August 7, 1991

Fish and Wildlife Agreement

Snettisham and Eklutna Projects

Municipality of Anchorage
d/b/a Anchorage Municipal Light and Power

Chugach Electric Association, Inc.

Matanuska Electric Association, Inc.

Alaska Energy Authority

United States Department of Commerce
National Marine Fisheries Service

United States Department of Interior
Fish and Wildlife Service

State of Alaska

AGREEMENT

AGREEMENT BETWEEN
THE MUNICIPALITY OF ANCHORAGE,
DBA ANCHORAGE MUNICIPAL LIGHT AND POWER,
CHUGACH ELECTRIC ASSOCIATION, INC.,
MATANUSKA ELECTRIC ASSOCIATION, INC.,
U.S. FISH AND WILDLIFE SERVICE,
NATIONAL MARINE FISHERIES SERVICE,
ALASKA ENERGY AUTHORITY,
AND THE
STATE OF ALASKA,
RELATIVE TO THE EKLUTNA AND SNETTISHAM
HYDROELECTRIC PROJECTS

This Agreement is entered into on August 7, 1991, between The Municipality of Anchorage, dba, Anchorage Municipal Light and Power, Chugach Electric Association, Inc., and Matanuska Electric Association, Inc. (hereinafter collectively "Eklutna Purchasers"), the United States Fish and Wildlife Service (hereinafter "USFWS"), the National Marine Fisheries Service (hereinafter "NMFS"), the Alaska Energy Authority (hereinafter "AEA") and the State of Alaska (hereinafter "the State"), regarding protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat) affected by hydroelectric development of the Eklutna and Snettisham Projects. With respect to the implementation provisions called for in this Agreement, the Eklutna Purchasers will be responsible for the consultation, study and implementation provisions applicable to the Eklutna Project and AEA shall be responsible for the consultation, study and implementation provisions applicable to the Snettisham Project.

WITNESSETH THAT:

WHEREAS, subject to the approval of Congress, the Eklutna and Snettisham Projects will be transferred from the Federal Alaska Power Administration to the Eklutna Purchasers and AEA (collectively, "the Purchasers") without the necessity of their having to obtain a Federal Energy Regulatory Commission (FERC) License for project operation; and

WHEREAS, the Eklutna and Snettisham hydroelectric developments may have resulted in a yet to be quantified impact to fish and wildlife resources; and

WHEREAS, concerns have been expressed that without FERC licensing, there is no opportunity to determine the extent of that fish and wildlife impact, develop measures to protect, mitigate

damages to, and enhance fish and wildlife (including related spawning grounds and habitat), and implement fish and wildlife measures found to be in the public interest.

NOW THEREFORE, the parties agree as follows:

1. **FERC Licensing.**

NMFS, USFWS and the State agree that the following mechanism to develop and implement measures to protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat) obviate the need for the Eklutna Purchasers and AEA to obtain FERC licenses.

2. **Study Plan.**

The Purchasers agree to fund studies to examine, and quantify if possible, the impacts to fish and wildlife from the Eklutna and Snettisham Projects. The studies will also examine and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by such hydroelectric development. This examination shall consider the impact of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use, as well as available means to mitigate these impacts.

3. **Carrying Out The Study Plan.**

Study Plans shall be developed by the Purchasers in consultation with the USFWS, NMFS, the Alaska Department of Fish and Game, the Alaska Department of Environmental Conservation and the Alaska Department of Natural Resources (the "State Resource Management Agencies"), or their successors to aid in the formulation of the Program called for in this Agreement. Prior to implementation, the parties to this Agreement shall review the plans and concur with their scope of work.

The Purchasers shall conduct the studies and prepare the evaluations called for in the plans, seeking input from the USFWS, NMFS, the State Resource Management Agencies and other interested parties as the studies progress. The USFWS, NMFS, and State Resource Management Agencies shall have an opportunity to comment on draft study reports, and their comments and a response to their comments shall be included in the final study reports. All study plans, data, reports and comments will be made available to the parties and, upon request, to the public.

4. **Review of Findings.**

After final study reports are prepared, the Purchasers shall prepare a draft Summary of Study Results and prepare a draft Fish and Wildlife Program. The draft Fish and Wildlife Program shall consist of the measures recommended by the Purchasers for the protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat) and set a tentative schedule for their implementation. The Purchasers shall provide copies of the draft Summary and draft Fish and Wildlife Program to the USFWS, NMFS, and State Resource Management Agencies for comments or recommendations. If USFWS, NMFS, or the State Resource Management Agencies' comments or recommendations differ from those of the Purchasers, the Purchasers will attempt to resolve such differences giving due weight to the recommendations, expertise, and statutory responsibilities of USFWS, NMFS, and the State Resource Management Agencies.

Once comments and recommendations have been received, the Purchasers shall hold at least one public meeting each in Anchorage and the Matanuska Valley (with respect to the Eklutna Project) and in Juneau (with respect to the Snettisham Project) to receive public comment on the draft Summary, the draft Fish and Wildlife Program, and the comments and recommendations of the USFWS, NMFS, and the State Resource Management Agencies. At least thirty days prior to the proposed public meetings, copies of the draft Fish and Wildlife Program, reports and recommendations will be distributed to representative public libraries in the Anchorage and Matanuska Valley areas (in the case of the Eklutna Project) and in the Juneau area (in the case of the Snettisham Project). Public notice will also be posted in at least two newspapers serving the Anchorage and Matanuska Valley areas (for Eklutna) and the Juneau area (for Snettisham). The public notice shall specify meeting places, times and dates; where studies, reports and recommendations may be obtained for review; and where written comments may be sent. The Purchasers will provide copies of the draft Summary, draft Fish and Wildlife Program, and the comments and recommendations of the USFWS, NMFS, and State to interested members of the public at no charge.

5. **Public Interest Determination.**

The Purchasers shall compile all comments and testimony received; prepare a summary and analysis of them; develop a Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources; and prepare an explanatory statement describing the basis for its Proposed Final Fish and Wildlife Program. All comments, testimony, summary, and analysis materials and the Proposed Final Fish and Wildlife Program shall be provided to the parties to this Agreement and to the Governor

of Alaska. The parties shall have 60 days to submit written comments on the proposed Fish and Wildlife Program, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources, to the Governor. The Purchasers shall have 30 days to submit written reply comments to the Governor.

The Governor shall review the Proposed Final Fish and Wildlife Program, the comments, testimony, summary and analysis materials, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources. The Governor shall attempt to reconcile any differences between the parties, giving due weight to the recommendations, expertise, and statutory responsibilities of USFWS, NMFS, the State Resource Management Agencies and the Purchasers. In order to ensure that Eklutna and Snettisham are best adapted for power generation and other beneficial public uses, the Governor shall give equal consideration to the purposes of efficient and economical power production, energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), the protection of recreation opportunities, municipal water supplies, the preservation of other aspects of environmental quality, other beneficial public uses, and requirements of State law. Based on his/her review and consideration, the Governor shall establish a final Fish and Wildlife Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources (including affected spawning grounds and habitat) affected by the Eklutna Project and the Snettisham Project.

6. **Implementation**.

The Purchasers shall implement the Fish and Wildlife Program established by the Governor, subject to their right to judicial review as provided in Section 9 hereof. However, the Purchasers will implement all provisions of the Program that do not require major capital expenditures pending judicial review, unless otherwise agreed among the Parties or unless a stay is granted by the Court.

7. **Schedule**.

The consultation process leading to the Programs shall be initiated no later than 25 years after the Transaction Date specified in the respective Eklutna and Snettisham Agreements. The Study Plans shall include a schedule for the consultation, comment, and decision making, called for in this Agreement, which shall be adopted by the parties in consultation with the Governor. The schedule shall call for implementation of all provisions of the Fish and Wildlife Program by the Eklutna Purchasers to begin no

later than 30 years after the Transaction Date, and to be completed no later than 35 years after the Transaction Date. The schedule shall call for implementation of all provisions of the Fish and Wildlife Program by AEA (Snettisham) to begin no later than 35 years after the Transaction Date, and to be completed no later than 40 years after the Transaction Date. The schedules shall call for the issuance of the Fish and Wildlife Program by the Governor at least three years prior to the commencement of the period for implementation.

The Purchasers shall repeat the process called for in Sections 2 through 6 of this Agreement on a recurring basis every 35 years, beginning within 25 years of the time implementation of the Fish and Wildlife Program has been completed for the prior consultation process. In addition, prior to undertaking any major structural or operational modification substantially affecting water usage or fish and wildlife at the projects, the Purchasers shall follow the process called for in Sections 2 through 6 of this Agreement. Compliance with the terms of the Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, entered into between the Alaska Power Administration and the Municipality of Anchorage on February 17, 1984, as amended by a Supplemental Agreement dated August 2, 1988, shall not be construed to be a major structural or operational modification. However, the Eklutna Purchasers will discuss major structural or operational changes from current operations with NMFS and USFWS and will consider any recommendations they have for fisheries mitigation related to such changes.

8. **Dam Construction, Modification, Removal or Abandonment.**

The Purchasers agree to comply with 11 AAC 93.151-.201 with respect to safety inspections, new construction or modifications to existing structures, removal and/or abandonment of all or part of the project.

9. **Enforcement of Fish and Wildlife Program and Agreement.**

The provisions of this Agreement, including the decisions of the Governor and the provisions of the Fish and Wildlife Program, shall be reviewable and enforceable in the United States District Court for the District of Alaska and the Court may order specific performance thereof.

At least thirty days prior to seeking review or enforcement in the United States District Court for the District of Alaska, a party shall send written notice of its concerns to all parties and hold a meeting to attempt informal resolution of its concerns. During the period of informal resolution, any statute of limitations shall toll.

10. Authority of Parties.

Each party to this Agreement warrants that it has the legal authority to sign this Agreement and be fully bound by its terms, subject to any administrative or regulatory approval, if required. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns.

11. Term of Agreement.

This Agreement shall be effective, as to each project, upon the Transaction Date specified in the respective Purchase Agreement and shall remain in full force and effect so long as that project remains in operation. The Agreement shall terminate, as to either project, if that Project becomes subject to the provisions of the Federal Power Act.

12. Severability.

If any section, paragraph, clause or provision of this Agreement or any agreement referred to in this Agreement shall be finally adjudicated by a court of competent jurisdiction or administrative agency to be invalid or unenforceable as to either project, the Agreement shall nonetheless remain in full force and effect as to the other project.

13. Cooperation With Studies.

The Parties agree that they will cooperate with one another in conducting studies pertaining to fish and wildlife other than those called for in this Agreement by:

a. Notifying and consulting with the other parties before beginning a new fish and wildlife study,

b. Providing each other with data on flows, fish populations, and other data already in their possession,

c. Having the option of funding fish and wildlife studies before the process called for in Sections 2 and 3 of this Agreement would otherwise require, whether such studies are conducted by the parties themselves, or by third parties.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

MUNICIPALITY OF ANCHORAGE, DBA ANCHORAGE MUNICIPAL LIGHT & POWER

By: _____ 7/30/91
Tom Fink, Mayor — Date

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____ 7/30/91
Thomas D. Humphrey, President — Date

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____ 7/29/91
Jess Lee, President — Date

ALASKA ENERGY AUTHORITY

By: _____ 8-1-91
Charles Bussell, Executive Director — Date

U.S. DEPARTMENT OF COMMERCE, NATIONAL MARINE FISHERIES SERVICE

By: _____ JUL 12 1991
John A. Knauss, Under Secretary of Commerce for Oceans and Atmopshere — Date

U.S. DEPARTMENT OF INTERIOR, FISH AND WILDLIFE SERVICE

By: _____ 7/19/91
S. Scott Sewell, Principal Deputy Assistant Secretary for Fish and Wildlife and Parks — Date

STATE OF ALASKA

By: _____ 8/7/91
Walter Hickel, Governor — Date

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert M. Pickett, Chairman Stephen McAlpine Antony G. Scott Daniel A. Sullivan Janis W. Wilson
In the Matter of the Investigation Into the Beluga River Unit Management Practices of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	U-18-102 ORDER NO. 44
In the Matter of the Application Filed by CHUGACH ELECTRIC ASSOCIATION, INC. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend Its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	U-19-020 ORDER NO. 39
In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT to Amend Certificate of Public Convenience and Necessity No. 121, to Eliminate Its Retail Electric Service Area and Add the Eklutna Hydroelectric Project to Its Service Area, and to Lift the Dividend Restriction	U-19-021 ORDER NO. 39

ORDER ACCEPTING STIPULATION IN PART, SUBJECT TO CONDITIONS; TRANSFERRING AND ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY, SUBJECT TO CONDITIONS; ADDRESSING BELUGA RIVER UNIT MANAGEMENT, GAS TRANSFER PRICES, AND THIRD PARTY SALES GAS PRICING; AND REQUIRING FILINGS

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BY THE COMMISSION:

Summary

We accept in part the stipulation by less than all parties of record filed in Dockets U-18-102, U-19-020, and U-19-021, subject to conditions. We reject parts of the stipulation. We approve the transaction under which Chugach Electric Association, Inc. (Chugach) proposes to acquire most assets and service obligations of the Municipality of

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Anchorage (MOA) d/b/a Municipal Light & Power Department (ML&P)[1], as that transaction has been amended and subject to conditions. Subject to transaction closure, we grant in part the petition for regulatory approvals filed by Chugach in Docket U-19-020, subject to conditions. We deny the application to amend Certificate of Public Convenience and Necessity (Certificate) No. 8 filed by Chugach and we deny the application to amend Certificate No. 121 filed by ML&P. Subject to transaction closure and other conditions, we transfer Certificate No. 121 to Chugach.[2] We give notice of our intention to revoke Certificate No. 121 effective on the date that Chugach begins serving ratepayers in the Certificate No. 121 service area under the Certificate No. 8 tariff. Subject to transaction closure and other conditions, we grant a new certificate to MHP authorizing the provision of wholesale public electric utility service through part ownership of the Eklutna Hydroelectric Project (Eklutna Project) generation facility. Subject to transaction closure, we grant the petition to terminate the dividend restriction imposed on ML&P. We establish a pricing mechanism for Beluga River Unit (BRU) gas used by ML&P and Chugach to generate electric energy for economy energy sales and sales to ENSTAR Natural Gas Company, a Division of SEMCO Energy, Inc. (ENSTAR).

Introduction and Overview

The Railbelt electric grid (stretching from the Kenai Peninsula to Fairbanks) is comprised of six separate utilities. Three of them serve within the boundaries of the Municipality of Anchorage (Anchorage) — ML&P and Chugach each serve different parts

[1]We refer to the pre-transaction electric utility owned by the MOA as ML&P. The MOA has sold the ML&P name to Chugach as part of the transaction and the surviving utility has not yet been given a name. *See* Dockets U-19-020 and U-19-021 Hearing, Tr. 2525. Solely for the purposes of this order we refer to the post-transaction electric utility owned by the MOA as Municipal Hydro Power (MHP).

[2]As discussed in detail below, for the sake of clarity we refer in this order to the Certificate No. 121 service territory as the North District and the Certificate No. 8 service territory as the South District.

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of Anchorage, and Matanuska Electric Association, Inc. (MEA), serves north Anchorage from Eagle River through Eklutna.

For decades residents of Anchorage have discussed combining ML&P and Chugach. Combining them could mean better economies of scale in employment, more efficient deployment of existing generation and transmission assets, more efficient inventory management, and better planning to efficiently meet the future electric utility requirements of Anchorage. Further, a combined utility would foster a better business environment because electric rates would be same regardless of where in Anchorage an enterprise was located.

In 2014, the Alaska Legislature directed us to determine whether creating an independent system operator or similar structure for the Railbelt electric grid would be the best option. In 2015 we submitted recommendations that focused on the need for greater collaboration and consistent operating standards among the Railbelt electric utilities. We have worked for more than five years to encourage increased coordination between utilities to reduce collective costs for ratepayers.

Chugach and ML&P have coordinated their efforts in recent years. In 2013, Chugach and ML&P built the Southcentral Power Project together, owning and operating that plant for more than 7 years now. In 2016 Chugach purchased a share in the BRU gas field and ML&P increased the share it already owned in the BRU. Chugach's and ML&P's shares in the BRU provide their ratepayers with low-cost gas. In 2017 Chugach, ML&P, and MEA entered into a power pooling agreement and made progress toward operating a power pool over the next year. However, in 2018 the progress stalled and the significant ratepayers benefits that pooling promises have not been achieved.

ML&P ratepayer frustrations erupted in 2017 after a series of significant utility rate increases, largely needed to pay for a new natural gas combined-cycle electric generation plant (Plant 2A). In addition, declining ratepayer demand made it difficult to

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hold rates down as fixed costs had to be spread over fewer kilowatt hours (kWh). From 2013 to 2016 ML&P rates increased 24%, followed by a 37% increase in 2017.

In April 2017, the Anchorage Economic Development Corporation recommended on behalf of its working group that ML&P and Chugach explore merger opportunities. In June 2017, the Anchorage Assembly passed a resolution encouraging the MOA, ML&P and Chugach to begin looking at a merger. The MOA signed a contract with Goldman Sachs in July 2017 to provide a preliminary analysis of ML&P's strategic position and a range of potential values based on comparable public entities and precedents. The MOA received the private and confidential report in August 2017. The report became public in January 2018 through a public records request by the Anchorage Daily News. The analysis provided by Goldman Sachs valued ML&P between $707 million and approximately $1 billion.

In December 2017, Mayor Ethan Berkowitz proposed to sell ML&P to Chugach for approximately $1 billion. Under its charter the MOA cannot sell ML&P unless the sale is authorized by voters. In January 2018, the Anchorage Assembly passed an ordinance approving a ballot proposition to be submitted to voters at the April 2018 municipal election. Of those voting on the proposition, 65% voted yes. The proposition stated that the sale was for "a competitive value of approximately $1 billion" and specified disposition of the sale proceeds. They were to be used to retire debt of ML&P and the MOA or to replace ML&P's Municipal Utility Service Assessment (MUSA) with the replacement funds, like MUSA, to be subject to annual appropriation so that property and other taxes subject to the MOA's tax cap would not rise as a result of the sale. The remaining proceeds were to be deposited into the Municipal Trust Fund. The proposition also stated that Chugach would not lay off any employees of ML&P or Chugach and would assume ML&P's collective bargaining agreement. Finally, the proposition stated that base rates for Chugach and ML&P ratepayers would not increase as a result of the sale.

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Following voter approval the details of the sale were negotiated. The resulting transaction documents were signed in December 2018. In April 2019, Chugach and ML&P submitted their requests for our approval of various aspects of their transaction along with supporting testimony purporting to show $278 million in savings over 40 years on a net present value basis.

The transaction as conceived by ML&P and Chugach was not straightforward. We could have quickly approved a simple transaction, money in exchange for assets priced at net book value. The benefits of having one utility for Anchorage instead of two are obvious.

In addition to amending the certificates of Chugach and ML&P to transfer ML&P's service area to Chugach, we are asked to assure Chugach that it can recover in rates the entire purchase price (including an upfront payment and two future payment streams), and recover all costs of the transaction. Chugach also seeks approval of regulatory assets allowing recovery over time of transaction costs. Chugach has entered into four separate agreements that, when taken together, effectuate the transaction:

1. An Asset Purchase and Sale Agreement (APSA) that requires a number of approvals from us before the close of the transaction, including approval of the three agreements listed immediately below.
2. An agreement to generate a future stream of revenue from some but not all Chugach ratepayers in uncertain amount to be paid to the MOA over 50 years (Payment In Lieu of Taxes (PILT) Agreement (PILT Agreement)).
3. An agreement to securitize an additional stream of future payments in certain amount from all Chugach ratepayers to be paid to the MOA through a purported power purchase agreement (Eklutna Power Purchase Agreement (Eklutna PPA)).
4. An agreement to reserve the benefits (presumed to be cost savings but uncertain in amount) of one of ML&P's assets being transferred in the sale to a subset of Chugach ratepayers (BRU Fuel Agreement)).

The transaction as presented to us was complicated at filing and became even more so when nearly seven months after the initial filing most of the parties in these

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proceedings filed a stipulation that changed and added to the terms of the transaction originally filed. The stipulating parties opted to have us consider only the transaction as modified by the stipulation rather than the transaction as originally proposed. Chugach, ML&P and all other parties, except the Attorney General, Regulatory Affairs and Public Advocacy Section (AG), request that we approve their stipulation without modification. The stipulation:

- changes the purchase price;
- provides a subset of Chugach ratepayers immediate rate relief;
- imposes extensive and long-lived post-closing reporting requirements on Chugach;
- terminates a remand proceeding concerning return on equity and the prudence of ML&P's Plant 2A;
- makes provision for a new treatment center in Anchorage;
- maintains separate accounting of costs and benefits for gas produced from the BRU, allocating ML&P's current ownership share to North District ratepayers and allocating Chugach's current ownership share to South District ratepayers, for the economic life of the BRU;
- establishes a proxy price for BRU gas from the ML&P current ownership share that is burned to generate electric energy for consumption by South District ratepayers, with margins on such transfers to benefit North District ratepayers;
- gives ENSTAR a right of first refusal to purchase BRU gas;
- establishes a proxy price for BRU gas burned to make economy energy sales;
- mandates how costs associated with the Eklutna PPA will be recovered from ratepayers;
- based on achieved interest on transaction financing, conditionally changes Chugach's regulatory asset request from one regulatory asset to two; and
- requires conforming amendments to the transaction agreement.

The stipulated transaction, with its expanded list of approval requests, presented many challenges and issues that required extensive analysis which has

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delayed our final decision. Also contributing to delay were the issues the parties needed to confront as a result of the remand of the Plant 2A prudence dockets. After additional proceedings related to the prudence dockets, we approved in a previous order the amended remand stipulation required by the parties' amended stipulation in these dockets and do not address those issues in this order.

As a further complication the AG, did not sign or support the stipulation that was signed or joined in by every other party in these dockets. When the AG, who represents the public interest in our proceedings, does not support a settlement as being in the public interest, we must carefully analyze its terms to satisfy ourselves that the settlement is in the public interest.

In this order we address two areas of primary concern. The first is the very large acquisition premium we are asked to approve as part of the transaction. The second is the differential rates Chugach intends to charge its two sets of post-closing ratepayers.

An acquisition premium is a payment for utility assets that exceeds the net book value of the assets. Chugach proposes to pay at closing tens of millions more for ML&P assets than its net book value, and seeks to recover this premium in rates from ratepayers. Two ancillary agreements—the PILT Agreement and the Eklutna PPA—further boost the premium above net book value to more than $290 million. Despite arguments and rationalizations to the contrary, careful analysis reveals that these agreements are best understood as mechanisms designed to increase ML&P's sales price without requiring Chugach to pay more up front at the time of closing. These mechanisms further increase the acquisition premium above conventional utility costs that ratepayers under the transaction would have to pay.

To approve recovery in future rates of an acquisition premium we must determine that the benefits of permitting such a premium outweigh the costs. Chugach provided a comparative analysis of individual and combined Chugach and ML&P revenue

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requirements. This revenue requirement modeling included both base rate revenue requirements and cost of power adjustment elements. This comparative analysis was not included in the original filing but was filed at our direction. While this comparative analysis purported to show global savings from the transaction, it failed to demonstrate that ratepayers in the ML&P service territory would not pay a premium for the privilege of being acquired by Chugach. Nor did it show that Chugach ratepayers would not have their rates increase as a result of the transaction. We concur with the AG that these are tests that must be met.

Chugach and ML&P ask us to approve differential rate treatment associated with aspects of the transaction—differences that would persist for 17 years or more—based merely on a ratepayer's address. Under the PILT Agreement, payments to the MOA would be collected only from the ratepayers in the former ML&P service area through 2033 and thereafter, for the remainder of a 50-year period would be collected from most, but not all, Chugach ratepayers. Under the BRU Fuel Agreement, the benefits of most of Chugach's post-closing low-cost BRU gas would be perpetually (for the life of the BRU) enjoyed by ratepayers whose meters are located in the former ML&P service area. Chugach did not provide a clear and adequate record to justify these rate differences.

Review and analysis of the PILT Agreement and the Eklutna PPA raised another concern. The future premium compensation payments to the MOA, rather than additional up-front payments at closing, was made necessary because of Chugach's equity position. Additional up-front payments would erode Chugach's capital structure. As presented to us, Chugach will have only 13% equity after closing the transaction. A highly leveraged capital structure may increase future borrowing costs and impact Chugach's ability to finance expenditures until its equity position has recovered.

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This transaction contains a commitment by Chugach to not increase base rates as a result of the transaction. AS 42.05.431 is clear on one critical issue: "The financial covenants contained in mortgages and other debt instruments of cooperative utilities organized under AS 10.25 are also valid and enforceable, and rates set by the commission must be adequate to meet those covenants." We cannot unconditionally approve a transaction with terms that would leave Chugach in an overly-weakened financial position. This would expose Chugach ratepayers to unknown rate risks as a result of the transaction.

We have worked diligently to ensure that the obvious benefits of consolidation are maximized. Utility operations, regulatory filings, management of diverse and potentially conflicting interests in the BRU mandate simplification and streamlining. The current economic and financial environment nationally, in Alaska, and specifically in Anchorage, make our approval of this transaction subject to the following three conditions:

1) Unified cost of power adjustment (COPA) surcharges, and rejection of the BRU Fuel Agreement cost and benefit allocations as unreasonably discriminatory.

2) Unified base rates to be filed in Chugach's first rate case. The PILT Agreement's proposed recovery of payments only from ML&P ratepayers through 2033 must be rejected. Chugach's rate design should achieve the following objectives:

   (a) base rates should reasonably approximate load-ratio share between the Chugach and ML&P portions of the new Chugach service territory, and

   (b) rate shock for any ratepayer class should be minimized to the maximum extent practicable.

3) Chugach and MEA forming a tight pool to ensure that broader application of security-constrained merit order dispatch occurs.

We have sought to find a way to approve this transaction while leaving as much of the parties' bargain intact as possible. Accordingly, we provide regulatory assurance for cost recovery in rates of the acquisition costs, including the deferred

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payments under the PILT Agreement and the Eklutna PPA. We also permit the stipulation's provision for returning $36 million to ML&P ratepayers and its provisions to create two separate regulatory assets to amortize and recover prudently incurred costs of the transaction.

We recognize that ML&P ratepayers have contributed significant capital to the BRU. Unlike the MOA, these ratepayers will not be compensated for this capital at the closing of this transaction. The 2018 year-end net book value of this ML&P ratepayer-contributed capital, which otherwise would have materially reduced rates in previous periods, totals $136 million. As a matter of equity, we order Chugach to amortize and return this sum, with interest, to ratepayers within the ML&P service territory over the next ten years through a negative surcharge. This approximately replicates the 'bargain' contained in the BRU Fuel Agreement, but results in simpler and more coherent ratemaking and operations. Additionally, Chugach's incentives will be clarified in its management of the BRU; greater clarity and simplicity in the COPA will result; different ratepayers in the same rate class will be treated similarly; and regulatory costs will be reduced.

The sale of ML&P, like that of any other jurisdictional utility, must comply with our statutes and regulations and our policies and precedents, which have been established to protect the public interest. Based on the record developed by the parties at hearing, the extensive disclosures filed by Chugach and ML&P at our request, and our independent analysis of data in the record, we have determined that the transaction as stipulated by the parties fails to be fully consistent with the public interest. As a result, we do not approve the sale as proposed, but do approve the sale if the parties agree to modify the transaction as required by this order. Because we do not accept their stipulation in its entirety, the parties must now decide whether to accept our modifications

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and proceed to unite public electric utility service for the majority of ratepayers in the MOA.

Background

ML&P is authorized to provide retail public electric public utility service to that portion of Anchorage[3] generally bounded by Tudor Road to the south, the southern boundary of Joint Base Elmendorf Richardson (JBER) to the north, Boniface Parkway to the east, and on the west by Arctic Boulevard from Tudor Road to Northern Lights Boulevard, by Forest Park Drive from Northern Lights Boulevard to the Knik Arm, and by the Knik Arm. ML&P is also authorized to provide retail public electric utility service in portions of two sections of land adjacent to its George M. Sullivan Plant 2 near to the Glenn Highway, and to 17 individual locations on JBER.[4] By contract, ML&P currently provides wholesale public electric utility service to JBER.[5]

Chugach provides retail public electric utility service under Certificate No. 8 to those portions of the Anchorage south, east, and west of the ML&P service area, and that are also south and west of the JBER boundaries. Chugach also provides retail public electric utility service to Whittier, portions of the Kenai Peninsula Borough, including the communities of Hope, Moose Pass, Cooper Landing, Tyonek, and Beluga, and a small portion of the Matanuska-Susitna Borough near the community of Beluga.[6]

[3]In this order, we sometimes refer to the geographic area named the Municipality of Anchorage and sometimes to the local government entity named the Municipality of Anchorage. For the sake of clarity, in this order we will refer to the geographic area as Anchorage and to the local government entity as the MOA.

[4]Certificate No. 121 Parchment, Appendix A; Certificate No. 121, Tariff Sheet Nos. 6-7.

[5]Certificate No. 121, Tariff Sheet Nos. 99, 125-130.

[6]Certificate No. 8 Parchment Appendix A; Certificate No. 8, Tariff Sheet Nos. 9-10.2.

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MEA provides retail public electric utility service under Certificate No. 18 to those portions of Anchorage that are north and east of the JBER boundary. MEA also provides retail public electric utility service to the northern portion of JBER and in those parts of the Matanuska-Susitna Borough accessible by road.[7]

In 1951 through 1955, the federal government built the Eklutna Project to provide wholesale electric utility service to ML&P, Chugach, and MEA. The Eklutna Project generation infrastructure includes a tap into Eklutna Lake within Anchorage, a tunnel to carry water from the tap to a power house and tailrace in the Matanuska-Susitna Borough. The Eklutna Project also includes transmission infrastructure connecting the Eklutna Project to MEA substations in Anchorage and the Matanuska-Susitna Borough, to ML&P at substations in Anchorage, and to Chugach substations in Anchorage.

In 1995, the federal government agreed to sell the Eklutna Project to ML&P, Chugach, and MEA.[8] This sale was governed by the terms of the Eklutna Purchase Agreement, a copy of which was filed with us by ML&P as Hearing Exhibit H-132 in Dockets U-16-094 and U-17-008.[9] ML&P, Chugach, and MEA jointly manage the Eklutna Project under the terms of the 1996 Eklutna Project transition plan, as amended. A copy of this transition plan was filed with us by ML&P as Hearing Exhibits H-130 and H-131 in Dockets U-16-094 and U-17-008.[10] Under these agreements, ML&P acquired an

[7]Certificate No. 18 Parchment, Appendix A; Certificate No. 18, Tariff Sheet Nos. 3-7.

[8]Dockets U-19-020 and U-19-021 Hearing, Exhibit H-77 (Public Law No. 104-58, adopted November 28, 1995).

[9]Dockets U-16-094 and U-17-008 Hearing Tr. 2239-2240. We take official notice of these Eklutna Project documents filed by ML&P in Dockets U-16-094 and U-17-008 under 3 AAC 48.154(b)(4). The Eklutna Transition Plan (Plan) filed in Dockets U-16-094 and U-17-008 does not include the exhibits to that Plan. Those exhibits were filed by ML&P as a supplement to TA329-121 on July 17, 2013, in response to our questions, and we also take official notice of these exhibits under 3 AAC 48.154(b)(4).

[10]Dockets U-16-094 and U-17-008 Hearing, Tr. 2239-2240.

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undivided 53.33% ownership interest in the Eklutna Project capacity, energy, and assets, with Chugach acquiring a 33% undivided ownership interest and MEA acquiring a 16.67% undivided ownership interest.[11]

In 1996, ML&P requested approval of its acquisition of a one-third ownership interest in the BRU, a large natural gas and oil production unit on the west side of Cook Inlet. The Alaska Public Utilities Commission (APUC) granted that request subject to three enforceable conditions, one of which was that ML&P ratepayers will be the ultimate beneficiaries of the savings or proceeds resulting from ML&P's purchase of this BRU ownership interest.[12] We approved ML&P's and Chugach's request to jointly acquire another one-third interest in the BRU. With this second acquisition, ML&P owns 56.67% of the BRU leases down to 7,000 feet and 80% of the BRU leases below 7,000 feet. Chugach owns 10% of the BRU leases down to 7,000 feet and 20% of the BRU leases below 7,000 feet. Hilcorp Alaska, LLC (Hilcorp) owns the remaining 33% interest in the BRU leases down to 7,000 feet and serves as the BRU field operator.[13]

We opened Docket U-18-102 to investigate concerns about ML&P's BRU management practices. We required ML&P to file answers to certain questions supported

[11]Dockets U-16-094 and U-17-008 Hearing, Exhibit H-131 at 3.

[12]Order U-96-036(6), *Order Affirming Oral Bench Ruling Approving Agreement, Subject to Conditions; Granting Request for Clarification; and Requiring Notification*, dated October 11, 1996, at 6-8.

[13]Order U-16-012(14), *Order Affirming Bench Ruling Granting Joint Request, Affirming Bench Ruling Granting Petition for Confidential Treatment, Affirming Bench Ruling Accepting Stipulation, Affirming Bench Ruling Granting Federal Executive Agencies' Request to Withdraw Participation as a Party, and Closing Docket*, dated April 21, 2016 (Order U-16-012(14)).

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by prefiled testimony.[14] The AG elected to participate in Docket U-18-102.[15] ML&P filed responses to our questions with prefiled direct testimony by Mark A. Johnston and Anna C. Henderson.[16] ML&P requested that portions of the Henderson testimony be classified as confidential.[17]

We granted petitions to intervene in Docket U-18-102 filed by Providence Health & Services (Providence), ENSTAR, MEA, and Golden Valley Electric Association, Inc. (GVEA).[18] We granted ML&P's petition in part and classified a portion of Henderson's testimony as confidential.[19] ML&P refiled Henderson's direct testimony consistent with our decision on the petition.[20] Johnston left his position with ML&P, and Henderson adopted Johnston's prefiled testimony as her own.[21]

[14]Order U-18-102(1), *Order Opening Investigation, Requiring Filings, Inviting Participation by the Attorney General and Intervention, Addressing Timeline for Decision, Designating Commission Panel, and Appointing Administrative Law Judge*, dated November 5, 2018 (Order U-18-102(1)).

[15]*Notice of Election to Participate*, filed November 7, 2018.

[16]*Prefiled Direct Testimony of Mark A. Johnston*, filed December 31, 2018, in Docket U-18-102 (T-7 (Johnston Direct)); *Prefiled Direct Testimony of Anna C. Henderson*, filed December 31, 2018, in Docket U-18-102.

[17]*Petition for Confidential Treatment*, filed December 31, 2018, in Docket U-18-102.

[18]Order U-18-102(3), *Order Granting Petitions to Intervene, Extending Time for Response to Petition for Confidential Treatment, Extending Time for Issuing Decision on Petition for Confidential Treatment, Finding Motions Moot, Scheduling Prehearing Conference, Denying Motion for Extension of Time to File Responses, and Addressing Responses by Parties and Persons to Filed Answers*, dated January 11, 2019.

[19]Order U-18-102(5), *Order Granting, in Part, Petition for Confidential Treatment; Requiring Filing; Adopting Procedural Schedule; and Extending Statutory Timeline with Consent of the Parties*, dated February 6, 2019.

[20]*Prefiled Direct Testimony of Anna C. Henderson*, filed February 13, 2019, in Docket U-18-102 (T-6 (Henderson Direct)).

[21]*Municipality of Anchorage d/b/a Municipal Light and Power's Notice of Adoption of Testimony*, filed August 5, 2019.

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Chugach filed a petition for approval of its acquisition of most assets of ML&P, to amend Certificate No. 8 to include ML&P's Certificate No. 121 service territory, and for other related approvals (Chugach Petition).[22] In support of the Chugach Petition, Chugach submitted prefiled testimony by Brian Hickey, Dustin Highers, Sherri Highers, Thomas A. Lovas, Todd McCarty, Arthur W. Miller, Kurt Strunk, and Lee D. Thibert.[23] Attached to Miller's testimony were four agreements that document the terms of this transaction: the APSA;[24] the Eklutna PPA;[25] the BRU Fuel Agreement;[26] and the PILT Agreement.[27]

Under the terms of this transaction, Chugach would acquire most ML&P assets other than the Eklutna Project generation facilities and responsibility for providing public electric utility service to the ML&P retail ratepayers. The net book value of the

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[22]*Petition for Approvals Needed to Acquire Anchorage Municipal Light and Power and Application to Amend Certificate of Public Convenience and Necessity No. 8*, filed April 1, 2019. This document was admitted into the record as Hearing Exhibit H-28. *See* Dockets U-19-020 and U-19-021 Hearing, Corrected Tr. 78.

[23]*Pre-filed Direct Testimony of Brian Hickey*, filed April 1, 2019, in Docket U-19-020 (T-12 (Hickey Direct)); *Pre-filed Direct Testimony of Dustin Highers*, filed April 1, 2019, in Docket U-19-020 (T-10 (D. Highers Direct)); *Pre-filed Direct Testimony of Sherri Highers*, filed April 1, 2019, in Docket U-19-020 (T-17 (S. Highers Direct)); *Pre-filed Direct Testimony of Thomas A. Lovas*, filed April 1, 2019, in Docket U-19-020, as modified by *Notice of Filing Exhibit Revisions*, filed August 23, 2019 and *Compliance Filing and Notice of Filing Exhibit Revisions*, filed August 30, 2019 (T-15 (Lovas Direct)); *Prefiled Direct Testimony of Todd McCarty*, filed April 1, 2019, in Docket U-19-020 (T-14 (McCarty Direct)); *Pre-filed Direct Testimony of Arthur W. Miller*, filed April 1, 2019, in Docket U-19-020 (T-8 (Miller Direct)); *Pre-filed Direct Testimony of Kurt Strunk*, filed April 1, 2019, in Docket U-19-020 (T-19 (Strunk Direct)); *Pre-filed Direct Testimony of Lee D. Thibert*, filed April 1, 2019, in Docket U-19-020 (T-9 (Thibert Direct)).

[24]T-8 (Miller Direct), Exhibit AWM-03. A copy of the APSA, including subsequent amendments, is attached to this order as Appendix C.

[25]T-8 (Miller Direct), Exhibit AWM-04. A copy of the Eklutna PPA, including subsequent amendments, is attached to this order as Appendix D.

[26]T-8 (Miller Direct), Exhibit AWM-05. A copy of the BRU Fuel Agreement, and the subsequent restatement, is attached to this order as Appendix E.

[27]T-8 (Miller Direct), Exhibit AWM-06. A copy of the PILT Agreement, including subsequent amendments, is attached to this order as Appendix F.

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ML&P assets Chugach would acquire is approximately $715.4 million. In exchange, Chugach would pay the MOA an initial payment of $767.8 million. Under the Eklutna PPA, Chugach would purchase ML&P's share of Eklutna Project output for 35-years with payments estimated to have a net present value of $75 million, plus pay ML&P's share of Eklutna Project costs. Under the PILT Agreement, Chugach would make annual payments to the MOA for 50-years with an estimated net present value of $166.8 million. From transaction close through December 31, 2033, PILT payment obligations would be recovered from North District ratepayers only. Beginning January 1, 2034, PILT payment obligations would be recovered from all Chugach ratepayers located in Anchorage. Under the BRU Fuel Agreement, Chugach would acquire ML&P's 56.67% ownership interest in the BRU. Chugach would be required to allocate all costs and benefits from the former ML&P interest in the BRU to the North District through December 31, 2033, after which that interest in the BRU would become a Chugach system asset.[28]

With its petition, Chugach requested assurance that it could recover the $1,009.6 million in compensation paid to the MOA and an estimated $41.7 million in transaction consummation costs through rates.[29] Chugach also requested permission to create a regulatory asset consisting of approximately $117.5 million of these transaction costs and defer amortization of these costs for the initial 3 years following transaction closing.[30] Chugach asked that we amend its Certificate No. 8 to incorporate the ML&P Certificate No. 121 service area, or North District, and authorize it to adopt the ML&P tariff governing the provision of service in the North District during a transition period.[31]

[28]T-8 (Miller Direct) at 19-22, Exhibits AWM-03, AWM-04, AWM-05, AWM-06.

[29]Chugach Petition at 8-16; T-8 (Miller Direct), Exhibit AWM-07 (showing $8.7 million in direct transaction consummation costs and $33 million in integration costs).

[30]Chugach Petition at 17.

[31]Chugach Petition at 21-23.

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We issued public notice of the Chugach Petition, with comments due by May 13, 2019. We received 25 comments in favor of, regarding, or against Chugach's proposed acquisition of most ML&P assets.[32] We opened Docket U-19-020 to investigate the Chugach Petition.[33]

In conformance with the agreements filed in Docket U-19-020, ML&P filed an application to amend Certificate No. 121 to eliminate the retail service area and add the Eklutna Project generation facilities to its service area (ML&P Application). ML&P

[32]Comments from Representative Zack Fields, filed April 29, 2019; Comments from Ben May, filed May 3, 2019; Correspondence from Greg Stiegel, filed May 3, 2019; Comments from Meera Kohler, filed May 3, 2019; Comments from Tom McGrath, filed May 7, 2019; Comments from Colleen Fisk, filed May 7, 2019; Comments from Bill Popp as President & CEO of the Anchorage Economic Development Corp., filed May 7, 2019; Comments from Keils Kitche, filed May 10, 2019; Comments from Pat Irwin, filed May 10, 2019; Comments from Mary Ann Nickles, filed May 10, 2019; Comments from Kenneth Farmer, filed May 13, 2019; Comments from Simon Harrison, filed May 13, 2019; Comments from Dr. Pershing J. Hill, filed May 13, 2019; Comments from Yvonne Leutwyler, filed May 13, 2019; Comments from Steve Cleary, filed May 13, 2019; Comments from Greg D. Bringhurst, filed May 13, 2019; Comments from Chris Rose as Executive Director of the Renewable Energy Alaska Project, filed May 13, 2019; Comments from Melissa Heuer as Executive Director of the Susitna River Coalition, filed May 13, 2019; Comments from Brett Woern, filed May 13, 2019; Comments from Veri di Suvero as Executive Director of the Alaska Public Interest Research Group, filed May 13, 2019 (all in favor of the acquisition). Comments from Desirea Camacho, filed May 10, 2019 (not expressing an opinion on the acquisition). Comments from Bob Maier, filed May 9, 2019; Comments from Patrick Fisher, filed May 13, 2019; Comments from Matthew Yeates, filed May 13, 2019; Comments from Anthony M. Izzo as Chief Executive Officer of Matanuska Electric Association, Inc., filed May 13, 2019 (all opposed to the acquisition).

[33]Order U-19-020(1), *Order Addressing Timeline for Decision, Inviting Participation by the Attorney General and Petitions to Intervene, Scheduling Prehearing Conference, Giving Notice of Possible Consolidation, Designating Commission Panel, and Appointing Administrative Law Judge*, dated April 18, 2019.

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also requested that the dividend restriction imposed by Order U-13-184(22)[34] be terminated.[35] We opened Docket U-19-021 to investigate the ML&P Application.[36]

The AG elected to participate in Dockets U-19-020 and U-19-021.[37] We consolidated Dockets U-18-102, U-19-020, and U-19-021, and designated Chugach as a party to Docket U-18-102. We granted petitions to intervene in Dockets U-19-020 and U-19-021 by Providence, the Federal Executive Agencies (FEA), MEA, and GVEA. We also granted the joint petition to intervene in Docket U-19-020 by Homer Electric Association, Inc. and its wholly owned subsidiary Alaska Electric and Energy Cooperative, Inc. (jointly HEA).[38] We subsequently granted the untimely petition to intervene in Docket U-19-020 filed by the Alaska Energy Authority (AEA),[39] granted GVEA's request to

[34]Order U-13-184(22), *Order Accepting Stipulation on Certain Disputed Issues, Resolving Remaining Disputed Issues, Establishing Revenue Requirement, Making Interim Rates Permanent, Establishing Permanent Rates, Ruling on Motions, Imposing Dividend Restriction, Opening Dockets of Investigation, and Approving Tariff Sheets*, dated July 16, 2015 (Order U-13-184(22)).

[35]*Application of the Municipality of Anchorage d/b/a Municipal Light and Power to Amend Certificate of Public Convenience and Necessity No. 121 and to Terminate Dividend Restriction*, filed April 5, 2019. This document was admitted into the record as Exhibit H-29. *See* Dockets U-19-020 and U-19-021 Hearing, Corrected Tr. 78.

[36]Order U-19-021(1), *Order Addressing Timeline for Decision, Inviting Participation by the Attorney General and Petitions to Intervene, Scheduling Prehearing Conference, Giving Notice of Possible Consolidation, Designating Commission Panel, and Appointing Administrative Law Judge*, dated April 18, 2019.

[37]*Notice of Election to Participate*, filed April 22, 2019, in Docket U-19-020; *Notice of Election to Participate*, filed April 22, 2019, in Docket U-19-021.

[38]Order U-18-102(8)/U-19-020(2)/U-19-021(2), *Order Consolidating Dockets, Designating Party, Requiring Filing, Granting Petitions to Intervene, Adopting Procedural Schedule, Addressing Timeline for Final Decision, and Amending Docket Captions*, dated May 8, 2019 (Order U-18-102(8)).

[39]Order U-18-102(27)/U-19-020(21)/U-19-021(21), *Order Granting Petition to Intervene Subject to Limitations*, dated August 19, 2019.

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withdraw from Dockets U-18-102, U-19-020, and U-19-021,[40] and granted MEA's request to withdraw from Docket U-18-102.[41]

In Docket U-18-102, the AG filed testimony by Ralph C. Smith,[42] Providence filed testimony by Mark E. Garrett,[43] and Chugach filed testimony by Mark B. Fouts[44] and Arthur W. Miller.[45] ML&P filed notice that it had no significant disputes with the prefiled testimony of the AG or Providence, and therefore chose to not file reply testimony.[46] We held a public hearing for Docket U-18-102 on August 12-14, 2019, at which Smith, Garrett, Fouts, Miller, and Henderson testified.[47]

In Dockets U-19-020 and U-19-021 MEA filed responsive testimony by Anthony M. Izzo,[48] Providence filed responsive testimony by Richard Beam and by

[40]Dockets U-19-020 and U-19-021 Hearing, Tr. 155-156.

[41]Docket U-18-102 Hearing, Tr. 158-161.

[42]*Prefiled Testimony of Ralph C. Smith*, filed May 1, 2019, in Docket U-18-102 (T-1 (Smith Direct)).

[43]*Direct Testimony of Mark E. Garrett on Behalf of Providence Health & Services*, filed May 1, 2019, in Docket U-18-102 (T-2 (Garrett Direct)). *Supplemental Responsive Testimony of Mark E. Garrett on Behalf of Providence Health & Services*, filed June 19, 2019, refiled August 2, 2019, refiled August 9, 2019, and refiled again on August 12, 2019 (T-3 (Garrett Responsive)).

[44]*Pre-filed Direct Testimony of Mark B. Fouts*, filed June 7, 2019 (T-4 (Fouts Direct)).

[45]*Supplemental Pre-filed Direct Testimony of Arthur Miller Addressing the Management of the Beluga River Unit (BRU)*, filed June 7, 2019 (T-5 (Miller Supplemental Direct)).

[46]*Municipal Light and Power's Notice Regarding Reply Testimony*, filed June 7, 2019.

[47]Docket U-18-102 Hearing, Tr. 67-558.

[48]*Pre-filed Response Testimony of Anthony M. Izzo on Behalf of Matanuska Electric Association, Inc.*, filed July 12, 2019 (T-27 (Izzo Response)).

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Garrett,[49] and the FEA filed responsive testimony by Michael P. Gorman.[50] GVEA and Chugach jointly filed a memorandum of understanding under which GVEA would withdraw from these dockets.[51] ML&P filed reply testimony by Henderson, John J. Reed, and Rebecca Windt Pearson.[52] Chugach filed reply testimony by Strunk, Sherri Highers, Lovas, Hickey, Dustin Highers, and Miller.[53]

We required Chugach and ML&P to make disclosures intended to assist us, our staff, and our consultants to evaluate the issues raised in Docket U-18-102 and the

[49] *Direct Testimony of Richard Beam on Behalf of Providence Health and Services*, filed July 12, 2019 (T-25 (Beam Direct)); *Direct Testimony of Mark E. Garrett on Behalf of Providence Health & Services*, filed July 12, 2019 (T-26 (Garrett Direct)).

[50] *Prefiled Responsive Testimony and Exhibit of Michael P. Gorman on Behalf of Federal Executive Agencies*, filed July 12, 2019 (T-28 (Gorman Responsive)).

[51] *Joint Informational Filing of Memorandum of Understanding Between Golden Valley Electric Association, Inc. and Chugach Electric Association, Inc.*, filed July 12, 2019.

[52] *Prefiled Reply Testimony of Anna C. Henderson*, filed August 2, 2019 (T-23 (Henderson Reply)); *Prefiled Reply Testimony of John J. Reed*, filed August 2, 2019, as revised by *Municipal Light and Power's Notice of Filing Revised Exhibit JJR-01 to the Prefiled Reply Testimony of John J. Reed*, filed September 3, 2019 (T-24 (Reed Reply)); *Prefiled Reply Testimony of Rebecca Windt Pearson*, filed August 2, 2019, as corrected by *Municipal Light and Power's Errata to the Prefiled Reply Testimony of Rebecca Windt Pearson*, filed August 9, 2019 (T-22 (Windt Pearson Reply)).

[53] *Pre-filed Reply Testimony of Kurt Strunk*, filed August 2, 2019 (T-20 (Strunk Reply)); *Pre-filed Reply Testimony of Sherri Highers*, filed August 2, 2019 (T-18 (S. Highers Reply)); *Pre-filed Reply Testimony of Thomas A. Lovas*, filed August 2, 2019 (T-16 (Lovas Reply)); *Pre-filed Reply Testimony of Brian Hickey*, filed August 2, 2019 (T-13 (Hickey Reply)); *Pre-filed Reply Testimony of Dustin Highers*, filed August 2, 2019 (T-11 (D. Highers Reply)); *Pre-filed Reply Testimony of Arthur Miller*, filed August 2, 2019 (T-21 (Miller Reply)).

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transactions proposed in Dockets U-19-020 and U-19-021.[54] ML&P and Chugach complied with these requirements.[55] We held a consumer input hearing in Dockets

[54]Dockets U-19-020 and U-19-021 Hearing, Tr. 26-27 (initial disclosures); Order U-18-102(8) at 11 (Chugach only); Order U-18-102(11)/U-19-020(5)/U-19-021(5), *Order Requiring Filings*, dated May 23, 2019; Order U-18-102(12)/U-19-020(6)/U-19-021(6), *Order Requiring Filings*, dated June 17, 2019, as clarified by Correspondence from J. Walker, dated June 19, 2019; Order U-18-102(14)/U-19-020(8)/U-19-021(8), *Order Requiring Filings of Fourth Disclosures*, dated July 3, 2019; Order U-18-102(16)/ U-19-020(10)/U-19-021(10), *Order Denying Motion for Extension of Time in Part, Requiring Expedited Responses to Motion for Extension of Time, and Requiring Filing*, dated July 17 2019 (Chugach only); Order U-18-102(18)/U-19-020(12)/U-19-021(12), *Order Requiring Filings of Fifth Disclosures*, dated July 30, 2019; Docket U-18-102 Hearing, Tr. 476; Dockets U-19-020 and U-19-021 Hearing, Tr. 880; Order U-18-102(31)/ U-19-020(25)/U-19-021(25), *Order Requiring Filings*, dated October 11, 2019; Order U-18-102(32)/U-19-020(27)/U-19-021(27), *Order Requiring Filings and Modifying Procedural Schedule*, dated October 15, 2019; Order U-18-102(35)/U-19-020(30)/ U-19-021(30), *Order Requiring Filings*, dated October 30, 2019 (Order U-18-102(35)); Order U-18-102(36)/U-19-020(31)/U-19-021(31), *Order Requiring Filings*, dated November 1, 2019, as corrected by Order U-18-102(36E)/U-19-020(31E)/U-19-021(31E), *Errata to Order U-18-102(36)/U-19-020(31)/U-19-021(31)*, dated November 1, 2019; Order U-18-102(39)/U-19-020(34)/U-19-021(34), *Order Requiring Filings*, dated January 21, 2020.

[55]Correspondence from T. Schulman, filed April 26, 2019 (filing the documents in Hearing Exhibit H-1); Correspondence from T. Torrey, filed April 26, 2019 (filing the documents in Hearing Exhibit H-2); *Municipal Light and Power's Responses to the Regulatory Commission of Alaska's Information Requests Contained in Appendix B to Order U-18-102(11)/U-19-020(5)/U-19-021(5) (RCA-MLP-1)*, filed June 3, 2019; *Chugach Electric's Filing in Compliance with Order U-18-102(11)/U-19-020(5)/U-19-021(5)*, filed June 4, 2019 (with attachments designated as CHU-00875 through CHU-016218); *Notice of Filing Prefiled Testimony*, filed June 7, 2019 (filed with T-4 (Fouts Direct) and T-5 (Miller Supplemental Direct)); *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(12)/U-19-020(6)/U-19-021(6) and Motion to Modify Specific Requirements*, filed June 24, 2019; *Municipal Light and Power's Responses to the Regulatory Commission of Alaska's Second Information Requests Contained in Appendix B to Order No. U-18-102(12)/U-19-020(6)/U-19-021(6)*, filed June 24, 2019; *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(14)/U-19-020(8)/ U-19-021(8) and Motion to Modify Specific Requirements*, filed July 15, 2019, as supplemented and corrected by *Chugach Electric Association, Inc.'s Errata to Notice of Compliance with Order U-18-102(14)/U-19-020(8)/U-19-021(8*, filed July 16, 2019, and *Chugach Electric Association, Inc.'s Second Errata to Notice of Compliance with Order U-18-102(14)/U-19-020(8)/U-19-021(8)*, filed July 17, 2019; *Chugach Electric Association, Inc.'s Supplemental Filing in Compliance with Order U-18-102(11)/ U-19-020(5)/U-19-021(5)*, filed July 19, 2019; *Chugach Electric Association, Inc.'s Filing in Compliance with Order U-18-102(16)/U-19-020(10)/U-19-021(10)*, filed July 22, 2019; *Municipal Light and Power's First Supplemental Response to the Regulatory Commission of Alaska's Fourth Request for Initial Disclosures Contained in Appendix B to Order No. U-18-102(14)/U-19-020(8)/U-19-021(8)*, filed July 22, 2019; *Chugach Electric*

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U-19-020 and U-19-021 on August 26, 2019.[56] We held a public hearing in Dockets U-19-020 and U-19-021 from August 27 through September 13, 2019, during which Thibert, Dustin Highers, Hickey, McCarty, Lovas, Beam, Sherri Highers, Strunk, Gorman, Miller, and Windt Pearson testified.[57] We then recessed the hearing to September 30,

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Association, Inc.'s Notice of Compliance with Order U-18-102(18)/U-19-020(12)/ U-19-021(12), filed August 8, 2019; *Municipal Light and Power's Responses to the Regulatory Commission of Alaska's Fifth Request for Initial Disclosures Contained in Appendix B to Order U-18-102(18)/U-19-020(12)/U-19-021(12) (RCA-MLP-5)*, filed August 8, 2019; *Chugach Electric Association, Inc.'s Notice of Corrected/Supplemental Compliance with Order U-18-102(18)/U-19-020(12)/U-19-021(12)*, filed August 13, 2019; *Municipal Light and Power's Second Supplemental Response to the Regulatory Commission of Alaska's Fourth Request for Initial Disclosures Contained in Appendix B to Order No. U-18-102(14)/U-19-020(8)/U-19-021(8) (RCA-MLP-4 2nd Supp)*, filed August 15, 2019; *Municipal Light and Power's Third Supplemental Response to the Regulatory Commission of Alaska's Fourth Request for Initial Disclosures Contained in Appendix B to order No. U-18-102(14)/U-19-020(8)/U-19-021(8) (RCA-MLP-4 3rd Supp)*, filed August 16, 2019; *Chugach Electric Association, Inc.'s Notice of Compliance with August 14, 2019 Bench Order*, filed August 21, 2019; *Municipal Light and Power's Compliance Filing Regarding Beluga River Unit Agreements*, filed August 21, 2019; *Chugach Electric Association, Inc.'s Notice of Second Supplemental Compliance with Order U-18-102(18)/U-19-020(12)/U-19-021(12)*, filed September 3, 2019; *Chugach Electric Association, Inc.'s Notice of Compliance with Bench Order*, filed September 5, 2019; *Municipal Light and Power's Filing in Compliance with Order No. U-18-102(32)/ U-19-020(27)/U-19-021(27)*, filed October 20, 2019; *Municipal Light and Power's Errata to Disclosure Request RCA-MLP-4-9 and Order U-18-102(28)/U-19-020(22)/ U-19-021(22)*, filed October 23, 2019; *Municipal Light and Power's Revision to Disclosure Request RCA-MLP-4-7*, filed October 24, 2019; *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(31)/U-19-020(25)/U-19-021(25)*, filed October 25, 2019; *Municipal Light and Power's Filing in Compliance with Order U-18-102(32)/ U-19-020(27)/U-19-021(27)*, filed October 29, 2019; *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019; *Chugach Electric Association, Inc.'s Notice of Errata to Compliance with Order U-18-102(31)/U-19-020(25)/U-19-021(25)*, filed November 1, 2019; *Chugach Electric Association, Inc.'s Notice of Errata to Compliance with Order U-18-102(36)/ U-19-020(31)/U-19-021(31)*, filed November 5, 2019; *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(36)U-19-020(31)/U-19-021(31)* filed November 5, 2019.

[56]Dockets U-19-020 and U-19-021 Hearing, Tr. 2-32.

[57]Dockets U-19-020 and U-19-021 Hearing, Tr. 102-2735.

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2019.[58] Chugach filed amendments to the PILT Agreement and the Eklutna PPA.[59] Chugach subsequently filed amendments to the APSA.[60]

We required ML&P to file testimony by Jeff Warner, and ML&P complied.[61] Chugach and MEA jointly filed an agreement under which title to certain transmission assets would be exchanged and operational practices implemented, and under which MEA would not object to Chugach's acquisition of most ML&P assets.[62] At the continued public hearing in Dockets U-19-020 and U-19-021 the parties asked for a one-day continuance to discuss possible settlement of the issues in dispute, which we granted.[63] On October 1, 2019, the parties announced that most of them had reached a tentative settlement agreement of disputed issues in these dockets and disputed issues in the Superior Court remand of Dockets U-16-094 and U-17-008. They requested a continued stay of the public hearing to allow them an opportunity to put their tentative agreement into written form and get approval from their various governing bodies. The parties

[58]Dockets U-19-020 and U-19-021 Hearing, Tr. 2735.

[59]*Notice of Filing*, filed September 27, 2019, at Attachments 1, 3. The amendment to the Eklutna PPA is attached to this order as a part of Appendix D. The amendment to the PILT Agreement is attached to this order as part of Appendix F.

[60]*Notice of Filing APA Amendment, Closing Statement, NBV, and Errata*, filed September 30, 2019, at Attachment 1. The amendment to the APSA is attached to this order as part of Appendix C.

[61]Order U-18-102(29)/U-19-020(23)/U-19-021(23), *Order Requiring Jeff Warner to be Presented as a Witness*, dated September 27, 2019; *Prefiled Testimony of Jeff Warner*, filed October 29, 2019 (T-31 (Warner Direct)).

[62]*Joint Informational Filing of Operations and Exchange Agreement by Chugach Electric Association, Inc. and Matanuska Electric Association, Inc. in Dockets U-18-102/U-19-020/U-19-021*, filed September 26, 2019. A copy of the Operations and Exchange Agreement is attached to this order as Appendix G.

[63]Dockets U-19-020 and U-19-021 Hearing, Tr. 2742-2745.

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consented to an extension of the statutory timeline for issuance of a final order in these dockets.[64]

We scheduled the continued public hearing for Dockets U-19-020 and U-19-021 to begin again on October 29, 2019.[65] On October 28, 2019, ML&P, Chugach, Providence, FEA, MEA, AEA, and ENSTAR filed a stipulation resolving all issues in these dockets between these parties (Original Stipulation).[66] As part of the Original Stipulation, the stipulating parties included amendments to the APSA and the Eklutna PPA, plus a completely revised BRU Agreement (Restated BRU Agreement).[67] In support of the Original Stipulation, ML&P filed supplemental testimony by Reed and Chugach filed

[64]Dockets U-19-020 and U-19-021 Hearing, Tr. 2751-2775; Order U-16-094(14)/U-17-008(18)/U-18-102(30)/U-19-020(24)/U-19-021(24), *Order Recessing Hearing, Extending Statutory Timeline with the Consent of All Parties of Record, and Staying Filing Obligations*, dated October 3, 2019.

[65]Order U-19-020(26)/U-19-021(26), *Order Scheduling Continued Public Hearing*, dated October 11, 2019, as amended by Order U-18-102(32)/U-19-020(27)/U-19-021(27), *Order Requiring Filings and Modifying Procedural Schedule*, dated October 15, 2019.

[66]*Stipulation Resolving All Issues*, filed October 28, 2019, as corrected by *Notice of Filing Corrected Stipulation Exhibit 4*, filed November 5, 2019. The Original Stipulation was marked as Exhibit H-115. Dockets U-19-020 and U-19-021 Hearing, Tr. 2839. A copy of the Original Stipulation and subsequent amendment are attached to this order as Appendix B.

[67]Original Stipulation at Exhibit 1 (Amendment No. 3 to APSA, attached to this order as part of Appendix C), Exhibit 3 (Amendment No. 3 to Eklutna PPA, attached to this order as part of Appendix D), Exhibit 4 (Amended and Restated BRU Agreement, attached to this order as part of Appendix E).

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supplemental testimony by Sherri Highers.[68] Chugach subsequently filed further amendments to the APSA, Eklutna PPA, and PILT Agreement.[69]

HEA filed notice that it did not oppose our acceptance of the Original Stipulation and later joined in the Original Stipulation.[70] We required ML&P and Chugach to file documents related to the supplemental testimony of Reed.[71] ML&P and Chugach complied.[72] ML&P and Chugach filed additional documents in support of the Original Stipulation.[73]

On October 29, 2019, Chugach presented a summary of the Original Stipulation on behalf of the parties.[74] All parties of record concurred that the transaction originally proposed in Dockets U-19-020 and U-19-021 had been permanently modified by the Original Stipulation, and that they were willing to proceed at hearing only on the

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[68] *Prefiled Supplemental Testimony of John J. Reed*, filed October 28, 2019 (T-29 (Reed Supplemental)); *Pre-filed Supplemental Testimony of Sherri Highers*, filed October 28, 2019 (T-30 (S. Highers Supplemental)).

[69] *Notice of Filing Amendments to Transaction Agreements*, filed October 30, 2019, at Exhibit 1 (Amendment No. 2 to APSA, attached to this order as part of Appendix C), Exhibit 2 (Amendment No. 2 to Eklutna PPA, attached to this order as part of Appendix D), Exhibit 3 (Amendment No. 2 to PILT Agreement, attached to this order as part of Appendix F).

[70] *Homer Electric Association, Inc. and Alaska Electric and Energy Cooperative, Inc.'s Notice of Non-objection to Stipulation Resolving All Issues*, filed October 28, 2019; *HEA's Joinder in Stipulation Resolving All Issues*, filed November 7, 2019.

[71] Dockets U-19-020 and U-19-021 Hearing, Tr. 2801, 2844.

[72] *Municipal Light and Power's Compliance Filing of Additional Information*, filed October 29, 2019; *Chugach Electric Association, Inc.'s Filing in Compliance with Bench Order*, dated October 30, 2019.

[73] *Notice of Filing Amendments to Transaction Agreements*, filed October 30, 2019; *Municipal Light and Power's Notice of Filing of Anchorage Assembly Resolution Approving Participation in Stipulation Resolving All Issues*, filed October 31, 2019; *Summary of Requests for Approvals Updated to Reflect Settlement Filed October 25, 2019*, filed November 5, 2019; *Chugach Electric Association, Inc.'s Notice of Filing Board Resolution*, filed November 5, 2019.

[74] Dockets U-19-020 and U-19-021 Hearing, Tr. 2811-2827; Exhibit H-114.

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transaction as modified by the Original Stipulation.[75] We proceeded with taking evidence on the Original Stipulation at the continued public hearing from October 31 through November 8, 2019. During this continuation of the public hearing, we received testimony from Reed, Garrett, Windt Pearson, Henderson, Thibert, Hickey, Sherri Highers, Miller, Strunk, Lovas, Izzo, and Warner. We also received closing arguments from the parties.[76]

The AG is the only party of record that did not join the Original Stipulation and explained why in its closing argument. The AG asserted that stipulations cannot be accepted unless they are in the public interest and consistent with controlling law. The AG questioned whether allowing Chugach's equity to drop down to 13.5% was in the public interest. The AG also questioned whether Chugach had shown tangible benefits directly flowing from the transaction equal to or greater than the requested acquisition premium, and further argued that the PILT payments must be included as part of the acquisition premium. The AG argued that the labor force attrition savings presented by Chugach were speculative rather than tangible. The AG expressed concern that the cost and benefit allocations in the PILT Agreement and BRU Fuel Agreement are unreasonably discriminatory in violation of AS 42.05.391. The AG expressed concern that the proposed restricted rate reduction (RRR) account established by the Original Stipulation violated AS 42.05.391(c), and its return through the COPA mechanism violated our regulations. The AG concluded that our decisions in these proceedings cannot bind future Commissions.[77]

[75]Dockets U-19-020 and U-19-021 Hearing, Tr. 2828-2840.

[76]Dockets U-19-020 and U-19-021 Hearing, Tr. 2851-3746.

[77]Dockets U-19-020 and U-19-021 Tr. 3677-3703; *RAPA Closing Argument U-19-020/U-19-021 Chugach Acquisition of ML&P*, filed at public hearing on November 8, 2019 (AG Closing).

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On January 15, 2020, ML&P, Chugach, Providence, FEA, MEA, AEA, HEA, and ENSTAR filed an amendment to the Original Stipulation.[78] Through that amendment the parties replaced a draft stipulation (Remand Stipulation)[79] that was to have been signed by Providence and ML&P and filed in Dockets U-16-094 and U-17-008 (the dockets in which we decided ML&P's most recent rate case). In the Remand Stipulation Providence and ML&P agreed to terminate those rate case dockets without further action. Pending at the time in those dockets were two rate case issues—the prudence of Plant 2A and the appropriate return on equity—that the Alaska Superior Court had remanded to us as a result of Providence's appeal of our rate case decision. The AG opposed the way the other parties proposed to resolve the remanded issues. The replacement stipulation (Amended Remand Stipulation)[80] signed by ML&P, Providence, FEA, and the AG, resolved the remanded issues by agreeing to the permanent rates we had set in the rate case. We accepted the Amended Remand Stipulation, reaffirmed ML&P's current rates as permanent, and closed the dockets.[81]

ML&P and MEA jointly filed an informational copy of a proposed power purchase agreement under which MEA would purchase a portion of ML&P's share of the Eklutna Project capacity and energy (MEA PPA).[82] We extended the statutory timeline for issuance of a final order in Dockets U-18-102, U-19-020, and U-19-021, and our time

[78] *First Amendment to Stipulation* Resolving *All Issues*, filed January 15, 2020 (First Amendment to Stipulation). A copy of this amendment is attached to this order as part of Appendix B.

[79] Original Stipulation at Exhibit 2.

[80] First Amendment to Stipulation at Exhibit 5.

[81] Order U-16-094(23)/U-17-008(27), *Order Granting Alaska Native Tribal Health Consortium's Request to Withdraw from Dockets and Request to Withdraw Opposition, Accepting Stipulation by Less Than All of the Parties, Vacating Briefing Schedule, and Closing Dockets*, dated February 21, 2020 (Order U-16-094(23)).

[82] *Informational Filing of MEA PPA*, filed January 27, 2020. A copy of the MEA PPA is attached to this order as Appendix H.

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to review the pending stipulation, either at the request of the parties or on our own motion, to May 28, 2020.[83]

Copies of the Original Stipulation and First Amendment to Stipulation (Appendix B), APSA as amended (Appendix C), Eklutna PPA as amended (Appendix D), PILT Agreement as amended (Appendix F), and BRU Fuel Agreement as restated (Appendix E), are attached as appendices to this order.

Discussion

ML&P and Chugach make frequent references to the ML&P legacy territory, the Chugach legacy territory, Chugach legacy service area, ML&P legacy customers, and Chugach legacy customers.[84] With respect to ML&P, references to the term "legacy" refer to the pre-transaction Certificate No. 121 service area and the ratepayers located within that service area. With respect to Chugach, references to the term "legacy" refer to the pre-transaction Certificate No. 8 service area and the ratepayers located with that service area.[85] The terms of the transaction at issue in Dockets U-19-020 and U-19-021 will affect ratepayers long after ML&P has ceased providing public electric utility service, including ratepayers who locate into the pre-transaction Certificate No. 121 service area

[83]Order U-18-102(1) at 12 (initial timeline expired November 5, 2019); Order U-18-102(5), *Order Granting, In Part, Petition for Confidential Treatment; Requiring Filing; Adopting Procedural Schedule; and Extending Statutory Timeline with Consent of the Parties*, dated February 6, 2019, at 6 (extending timeline to November 19, 2019); Order U-16-094(14)/U-17-008(18)/U-18-102(30)/U-19-020(24)/U-19-021(24), *Order Recessing Hearing, Extending Statutory Timeline with the Consent of All Parties of Record, and Staying Filing Obligations*, dated October 3, 2019, at 7 (extending timeline to February 17, 2020); Order U-18-102(40)/U-19-020(35)/U-19-021(35), *Order Extending Statutory Timeline with the Consent of All Parties and Extending Time to Consider Stipulation*, dated January 24, 2020, at 3 (extending timeline to February 28, 2020); Order U-18-102(43)/U-19-020(38)/U-19-021(38), *Order Extending Statutory Timeline for Good Cause and Extending Time to Consider Stipulation*, dated February 27, 2020, at 8 (extending timeline to May 28, 2020).

[84]Chugach Petition at 4, 11, 14, 15, 16. ML&P Application at 4.

[85]Chugach Petition, Application for Amendment of Certificate of Public Convenience and Necessity No. 8, at 5, Exhibit Form 101-II.D1, Exhibit Form 101-II.D2.

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after the transaction closes. Referring to such ratepayers as ML&P legacy customers is both inaccurate and confusing. To avoid this problem, in this order we avoid the use of "legacy" and instead follow the alternate Chugach designation protocol of referring to the pre-transaction Certificate No. 121 service area as the North District and the pre-transaction Certificate No. 8 service area as the South District.[86]

These consolidated proceedings concern two separate topics: (1) the sale to Chugach of ML&P assets, including ML&P's interest in the BRU, a natural gas producing field on the west side of Cook Inlet (the subject of Dockets U-19-020 and U-19-021) and (2) ML&P's management practices as majority owner of the BRU (the subject of Docket U-18-102). The management practices proceeding was ongoing when Chugach and ML&P requested approval of their proposed transaction and we consolidated it with the ML&P sale dockets.

The primary focus of this order is the sale of ML&P assets to Chugach. We do not discuss the issues in Docket U-18-102 in any detail. We accept the parties' resolution of the docket as discussed later in this order. While we resolve Docket U-18-102 in this final order by accepting the portions of the parties' stipulation in these consolidated dockets that address the issue the parties seemed most concerned about in Docket U-18-102—sales of economy energy generated using BRU gas—we continue to have other concerns about future management of the BRU. Those concerns are best addressed after it has been determined whether the ML&P sale will occur. One concern is asset retirement obligations (AROs). The parties did not address AROs in the stipulation that is their final resolution of Docket U-18-102 and we find that the record in these consolidated dockets is not sufficiently complete for us to resolve ARO issues now. Further, we note that we are already considering BRU AROs for both ML&P and Chugach

[86]Chugach Petition, Exhibit Form 101-II.C at 1-2. Dockets U-19-020 and U-19-021 Hearing, Tr. 3536-3537.

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in consolidated Dockets U-19-085 and U-19-091 which concern ML&P's and Chugach's gas transfer prices.

One Rate for Anchorage

We expected, when the sale of ML&P assets to Chugach was proposed, that, after a necessary but short transition period, rates for each rate class (residential, commercial, etc.) would be the same for all ratepayers of the newly expanded Chugach. Utilities generally design their rates so that all similarly situated ratepayers within a contiguous service area pay the same rates. Adhering to general practice, Chugach now charges the same rates to all residential ratepayers whether they live in, for example, the Anchorage Bowl or Hope, even though the cost to serve those two areas is likely quite different. This principle of utility ratemaking is so firmly embedded and universally followed, especially by cooperatives (neighbors helping neighbors), that regulators rarely need to articulate it.

What surprised us most about the transaction as proposed was Chugach's failure to even acknowledge this one-rate principle, much less justify deviation from it. Chugach apparently intends, unapologetically, to maintain two sets of base rates and two COPAs—one for its own current ratepayers and another for the ratepayers transferred from ML&P, until 2034 for base rates and until some indefinite future date beyond that for COPA rates—even though Chugach's cost to serve ratepayers living across from one another on Tudor Road (one Chugach/ML&P boundary) will be the same once operations of the two utilities are merged. And those costs will certainly more closely resemble each other than they will the cost of serving a ratepayer living in Hope. Yet, under Chugach's plan a ratepayer living on Tudor Road (the south side) will have the same rates as a Hope ratepayer, but different rates from a neighbor across the street (on the north side of Tudor Road). While that is the case today, the different rates on the north side and south side

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of Tudor Road are legitimately derived from differences in ML&P's and Chugach's costs to serve those ratepayers.

One of the main goals of Anchorage electric utility consolidation should have been to eliminate Anchorage's electric rate bifurcation. Instead, Chugach and ML&P agreed to perpetuate it. Other parties then exacerbated rather than ameliorated the rate bifurcation with their changes to the transaction. Perpetuating bifurcation unduly complicates and obfuscates both Chugach's formulation of rates and the regulatory review of those rates by future commissions, the AG, and future parties. The stipulated transaction addresses only a few of the myriad choices in allocating costs and benefits that Chugach faces when setting rates. After all those choices are made, some constrained and others unconstrained, we are required by statute to determine whether the resulting rates grant an unreasonable preference or advantage to any ratepayer or subject any ratepayer to an unreasonable prejudice or disadvantage.

The job of establishing appropriate rates for all rate classes of a utility recently melded from two utilities, each having its own somewhat different rate classes, is challenging and complex in the best circumstances. Imposing artificial constraints on that process, here based on novel and unsupported ratemaking concepts, assures future controversy over fairness. The stipulating parties urge us to approve the transaction and leave rate issues for another day. After all, they suggest, we and future commissions are not bound by their bargained-for ratemaking mandates. We disagree. We must consider rate effects now before we decide whether to approve the transaction. Withholding that assessment would be a disservice to the public and to the parties.

As discussed elsewhere in this order, we decline to accept the ratemaking mandates of the stipulated transaction. Approving agreements that commit Chugach to maintaining two sets of rates for decades to come, based on history soon forgotten, is not

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in the public interest. We direct Chugach, in its first rate case after the transaction closes, to propose only one set of rates for all its ratepayers, regardless of location.

Accept Stipulation in Part Subject to Conditions, and Reject in Part

Original Stipulation

The Original Stipulation is a complex agreement with many moving parts. The following is a summary list of the changes to the transaction under which Chugach proposed to acquire most ML&P assets:

- Reduces the initial cash payment from Chugach to the MOA by $10 million.
- Further reduces the initial cash payment from Chugach to the MOA by the amount the net book value of acquired ML&P plant at the time of transaction closing is below $715.4 million.
- At closing, the MOA will transfer $36 million in cash to Chugach to fund the RRR account. Chugach will manage the RRR account in an interest bearing account. Beginning with Chugach's first COPA filing after closing, Chugach will use the RRR as a COPA credit to North District ratepayer bills. The amount of this credit will be prorated so that the entire RRR account balance plus interest has been distributed to North District ratepayers within 36 months of closing.
- Commits Chugach to filing annual reports from 2021 through 2028: (1) comparing achieved savings with projected savings in the cost savings model identified by Bates No. CHU-000001; (2) identifying actual reductions in employee positions compared to the position reductions identified in the model identified by Bates No. CHU-000692; (3) a narrative description of Chugach's integration of the two systems, specifically identifying areas where savings have been significantly more or less than originally projected; (4) information showing Chugach's compliance with its obligation to amortize the Secondary Regulatory Asset over three years; and (5) information showing Chugach's compliance with its obligation to recover Eklutna PPA payments through base rates charged to all Chugach ratepayers.
- Commits Chugach to filing quarterly reports with its COPA filings showing: (1) for the life of the RRR account compliance with its obligations to prudently manage the RRR account and distribute the funds in that account through its COPA to North District ratepayers; and (2) for the economic life of the BRU field compliance with the BRU cost and benefit allocations specified in the Original Stipulation.
- Termination of proceedings on remand from the Superior Court in Dockets U-16-094 and U-17-008 with no further action.

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- Requiring the MOA to provide $15 million in funding within 5 years of the date of closing for planning, permitting, design, construction, and related demolition costs for a substance use disorder treatment center.
- Requires Chugach to separately account for the costs and benefits of the 56.67% share of BRU acquired from ML&P, and the 10% share of BRU that Chugach acquired pre-transaction, for the economic life of the BRU.
- Requires Chugach to allocate BRU costs and benefits attributable to the BRU share acquired from ML&P to North District ratepayers and allocate BRU costs and benefits attributable to the BRU share Chugach acquired pre-transaction to South District ratepayers for the economic life of the BRU.
- Requires Chugach to (1) estimate the proxy market value of BRU gas before using such gas for economy energy sales, and (2) report all such estimates with each quarterly COPA filing.
- Prohibits Chugach from using any volume of BRU gas for economy energy sales unless the price of the economy energy sale is based in part upon the proxy market value of the gas and (1) Chugach has offered that gas to ENSTAR, and (2) ENSTAR has not offered to buy the gas at a price greater than the proxy market value of gas. If ENSTAR offers to buy the gas at a price greater than the proxy market value of gas, Chugach is required to sell the gas to ENSTAR rather than use it for economy energy sales.
- Requires Chugach to determine if any BRU gas used for economy energy sales or sales to ENSTAR comes from the BRU share acquired from ML&P or the BRU share Chugach acquired pre-transaction, and allocate the revenue from such sales to the North District or South District, respectively.
- If Chugach uses BRU gas where the benefits and costs of which are allocated to one District, the Supplying District, to serve load in the other District, the Served District, Chugach is required to charge the Served District the proxy market value for that gas and credit that revenue to the Supplying District. These inter-District sales are to be recognized on a monthly basis.
- Requires Chugach to request our approval of the disposition of revenue from inter-District sales and notify the parties to the Original Stipulation of all inter-District sales with each COPA filing.
- Unless we impose a different proxy market value for BRU gas, the proxy market value shall be the greater of (a) Chugach's highest priced contracted gas, or (b) 90% of the most recently published Cook Inlet Prevailing Value of Gas determined by the Alaska Department of Revenue.
- Requires Chugach to notify the parties to the Original Stipulation before seeking our approval for an alternative method of determining the proxy market value of BRU gas.

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- Requires Chugach to recover Eklutna PPA payments through the base rates of all Chugach ratepayers.
- Requires Chugach to expense up to $7.6 million of Eklutna PPA payments during the first three years following transaction closing, if Chugach finances the transaction at a weighted average interest rate of 5% or less.
- Requires Chugach to create a $19 million Secondary Regulatory Asset if it finances the transaction at a weighted average interest rate of 4% or lower, and amortize that regulatory asset during the first three years following transaction closing. The amount of the Secondary Regulatory Asset will be prorated down if Chugach finances the transaction at a weighted average interest rate above 4% and less than 5%.
- Allows Chugach to request approval of a Primary Regulatory Asset of approximately $101 million, to be amortized over a period of time up to 30 years beginning after Chugach files its first post-transaction general rate case.
- Allows Chugach to propose an amortization period for the Primary Regulatory Asset consistent with the objective of not increasing base rates as a result of the transaction.
- Allows the parties to the Original Stipulation to seek enforcement of the terms of the Original Stipulation, other than the terms related to the substance use disorder treatment center, by us.[87]

The stipulating parties also ask us to approve all requests for transaction approvals filed by Chugach and ML&P in Dockets U-19-020 and U-19-021, as those requests have been modified through October 28, 2019, the date the Original Stipulation was filed.[88] Each party to the Original Stipulation waives its right to appeal our decision if we accept that stipulation in its entirety and without material changes.[89] The stipulating parties expressly state:

> The validity and enforceability of the agreements contained in this [Original] Stipulation are conditioned on the Commission's acceptance of this [Original] Stipulation in its entirety and without material changes. Section III.D of this [Original] Stipulation requires Providence and ML&P to file a stipulation in the remand proceeding in Dockets U-16-094/U-17-008 providing for termination of that proceeding. If the Commission, in its orders

[87]Original Stipulation at 6-15.

[88]Original Stipulation at 5.

[89]Original Stipulation at 18-19.

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> on this [Original] Stipulation and the Remand Stipulation, does not accept each Stipulation in its entirety or imposes material changes to either, any Settling Party may withdraw from this [Original] Stipulation by notice to the Settling Parties and Commission within 30 days of issuance of such order.[90]

Under this term, it appears that each of the settling parties will individually determine if any conditions we impose on acceptance of the Original Stipulation, as amended, are sufficiently material to justify termination of the entire transaction. We repeat our earlier caution, which was acknowledged by the parties,[91] that there is no time under AS 42.05.175 to reopen the evidentiary hearing in this proceeding in the event of a settling party withdrawal as is contemplated by Section IV.C of the Original Stipulation.[92]

The Original Stipulation was amended only once, two and a half months after filing.[93] That amendment related to the resolution of the remanded issues (prudence of Plant 2A and return on equity) in ML&P's most recent rate case. The Plant 2A issue had to be resolved before we could decide whether to approve the sale of ML&P's assets to Chugach. The size of the acquisition premium (the difference between net book value and purchase price) depended on whether all, part, or none of Plant 2A was included in net book value. Based on the Amended Remand Stipulation (filed as part of the amendment to the Original Stipulation), we resolved the Plant 2A prudence issue, resulting in the full value of Plant 2A being part of ML&P's net book value. Beyond that determination, which we made three months ago in an order in the rate case dockets,[94]

[90]Original Stipulation at 18.

[91]Dockets U-19-020 and U-19-021 Hearing, Tr. 2828–2840.

[92]Original Stipulation at 19. Dockets U-19-020 and U-19-021 Hearing, Tr. 2828-2840.

[93]First Amendment to Stipulation.

[94]Order U-16-094(23).

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the amendment to the Original Stipulation does not affect the issues addressed in this order and we do not further discuss it.

Legal Standards

Parties may stipulate to the disposition of a proceeding or to the disposition of any outstanding issues in a proceeding.[95] If all parties of record join in a stipulation, we can terminate the proceeding if we do not find that the public interest requires the proceeding to continue.[96] If a settlement stipulation is not joined by all parties of record, we consider whether our acceptance of the stipulation may materially prejudice the rights of non-settling parties.[97] If we accept a stipulation, the parties to the stipulation are bound by its terms.[98]

The AG is a party to these proceedings that did not join in the filed Original Stipulation.[99] Therefore, we cannot terminate these dockets pursuant to 3 AAC 48.090(d)(2). Pursuant to AS 42.05.191, we provided an opportunity for hearing on the Original Stipulation.[100]

As will be discussed in greater detail below, we find that the transaction under which Chugach proposes to acquire most of the assets of ML&P, as amended by the Original Stipulation, requires Chugach to pay the MOA more than the net book value of ML&P plant. This payment in excess of net book value is referred to as an acquisition premium. Closure of this transaction is contingent in part on our guaranteeing that

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[95]3 AAC 48.166.

[96]3 AAC 48.090(d)(2).

[97]*See* Order U-06-134(15), *Order Accepting Settlement Agreements, Amending Procedural Schedule, and Permitting Supplemental Testimony*, dated August 9, 2007, at 3-4.

[98]3 AAC 48.166.

[99]Original Stipulation at 1-2; First Amendment to Stipulation at 1-2; Dockets U-19-020 and U-19-021 Hearing, Tr. 3677-3703.

[100]Dockets U-19-020 and U-19-021 Hearing, Tr. 2851-3746.

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Chugach has the opportunity to recover the full acquisition premium through rates. This proposal is therefore in clear violation of the requirements of AS 42.05.441(b), which states:

> In determining the value for rate-making purposes of public utility property used and useful in rendering service to the public, the commission shall be guided by acquisition cost or, if lower, the original cost of the property to the person first devoting it to public service, less accrued depreciation, plus materials and supplies, and a reasonable allowance for cash working capital when required.

However, we may exempt the Chugach acquisition of most ML&P assets from the requirements of AS 42.05.441(b), under AS 42.05.711(d), which states:

> The commission may exempt a utility, class of utilities, or a utility service from all or a portion of the requirements of [AS 42.05] if the commission finds that the exemption is in the public interest.

Reading AS 42.05.441(b) and AS 42.05.711(d) together, we are required to reject Chugach's request to recover the ML&P asset acquisition premium through rates unless we can affirmatively find that allowing such recovery is in the public interest. Chugach and the AG agree that under this test, the tangible benefits to ratepayers directly flowing from allowing recovery of the acquisition must be equal to or greater than the amount of the acquisition premium.[101]

Overview of Transaction and Stipulation Problem Areas

This transaction was presented to the public as a merging of ML&P with Chugach to reduce duplicative costs of service,[102] and was understood by the public to

[101]Dockets U-19-020 and U-19-021 Hearing, Tr. 3658-3659 (Chugach Closing), 3678-3680 (AG Closing). *RAPA Closing Argument U-19-020/U-19-021 Chugach Acquisition of ML&P* (power point presentation at public hearing on November 8, 2020) at 5-6.

[102]T-9 (Thibert Direct), Exhibit LDT-02 at 1, 2, 8. Exhibit H-1 at CHU-000044, CHU-000058, CHU-000060, CHU-000132.

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result in the merging of these two utilities.[103] Chugach has estimated a net present value of $11.5 million from the elimination of duplication in regulatory activities by this merger.[104] As proposed, PILT payments will be recovered through rates from North District ratepayers through December 31, 2033, and from all Chugach ratepayers located in Anchorage from January 1, 2034 until expiration of the 50-year term of the PILT Agreement.[105] As proposed in the Restated BRU Agreement, there will be separate gas costs for North District and South District ratepayers for the economic life of the BRU.[106]

The PILT Agreement and Restated BRU Agreement cost and benefit allocations, will prevent Chugach from having fully unified system base rates and COPA surcharges for many years. This will probably eliminate the proposed regulatory savings[107] and possibly increase regulatory costs. The Restated BRU Agreement cost and benefit allocations will also prevent Chugach from managing its majority ownership interest in the BRU under a unified management doctrine, as the interests of North District ratepayers in BRU outcomes will differ from those of South District ratepayers.

As will be discussed in greater detail below, we find the PILT Agreement and Restated BRU Agreement cost and benefit allocations unreasonably discriminatory under AS 42.05.391. However, these cost and benefit allocations are also problematic on a public interest basis. We have determined that the public interest will best be served if Chugach achieves, to the extent possible, unified rates no later than upon approval of its first post-transaction rate case. Our discussion below is substantially guided by this determination.

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[103]T-9 (Thibert Direct), Exhibit LDT-05 at 1, 3, 5, 6.

[104]T-15 (Lovas Direct) at 21-22.

[105]T-8 (Miller Direct), Exhibit AWM-06 at 2.

[106]Original Stipulation at 10-12, Exhibit 4 (as corrected by *Notice of Filing Corrected Stipulation Exhibit 4*, filed November 5, 2019).

[107]T-15 (Lovas Direct) at 21-22, Exhibit TAL-02.

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One basic premise of the transaction is that base rates for ML&P and Chugach ratepayers will not increase as a direct result of Chugach's acquisition of most ML&P assets. For the reasons discussed below we cannot, and do not, accept that premise as limiting our rate setting authority or obligations under law. We notify the parties and the public that if this transaction closes, base rates for public electric utility service provided by Chugach may have to increase to avoid rate discrimination and insure the continued financial health of Chugach. Therefore, in choosing to close this transaction, the parties are specifically waiving any claims against Chugach related to rate increases that we approve.

For reasons discussed in detail below, we cannot grant some of the approvals requested in the Original Stipulation as currently presented. However, with the conditions required below we find that the transaction will yield tangible benefits to ratepayers and thus the Original Stipulation, as amended, should be accepted in part subject to conditions. In developing the modifications and conditions set out below, we have tried to balance the desires of the various parties with our obligations under AS 42.05. Parts of the Original Stipulation cannot be accepted under AS 42.05, and we reject those parts.

For example, under the record before us we cannot find that MHP will remain managerially and technically fit to own a share of the Eklutna Project after ML&P employees are transferred to Chugach. This lack of fitness means that we cannot unconditionally grant MHP certificate authority to continue ownership of the Eklutna Project as requested in Docket U-19-021. This lack of fitness also means that we cannot unconditionally approve the Eklutna PPA as requested in Docket U-19-020. Given the lack of time to consider options, we impose conditions that address this issue rather than seek input from the parties.

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Another issue with the Eklutna PPA is that it we do not find it to be a power purchase agreement. The Eklutna PPA might be considered a lease, or merely a secured acquisition payment mechanism, but it is not entitled to the protections offered wholesale power purchase agreements under AS 42.05.431(b). We condition our approval of the Eklutna PPA to reflect this, without changing the payments due to the MOA under this agreement.

The PILT agreement is merely a deferred acquisition payment mechanism, and is not materially similar to the MUSA currently paid by ML&P ratepayers. The proposed PILT Agreement is not a payment in lieu of any tax obligation of Chugach, and tax remedies authorized by Section 2.12 of the PILT Agreement are inappropriate under these circumstances. Further, the allocation of responsibility for these deferred payments specified in Section 2.02 of the PILT Agreement discriminates between ratepayers in violation of AS 42.05.391(a). We condition our approval of the PILT Agreement to address these issues.

The proposed Restated BRU Agreement would allocate the costs and benefits of ML&P's existing 56.67% interest in natural gas produced from the BRU to ratepayers located in the North District, and allocate the costs and benefits of Chugach's existing 10% interest in natural gas produced from the BRU to ratepayers located in the South District, for the remainder of natural gas production from the BRU. We understand that this allocation was negotiated to ensure that North District ratepayers receive the benefit of past ratepayer contributions invested by ML&P in the BRU.

Under the gas transfer price (GTP) pricing mechanisms currently in effect, current BRU production estimates, and current contract prices for natural gas marketed in the Anchorage area, the Restated BRU Agreement gives ratepayers in the North District a significant cost of gas advantage over ratepayers located in the South District. That advantage could substantially outweigh the North District ratepayer contributions

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invested by ML&P in the BRU. For the reasons set out below, we are modifying the GTP pricing mechanism for the ML&P and Chugach shares of BRU natural gas production.

The Restated BRU Agreement requires Chugach to manage the BRU field under two separate economic models, and ultimately could result in Chugach having to show preferential treatment to one set of ratepayers to the disadvantage of another set of ratepayers. For the reasons discussed in greater detail below, we find that the Restated BRU Agreement is inconsistent with the requirements of AS 42.05.391(a), and we cannot approve that agreement. We also find it equitable to reimburse North District ratepayers for their past contributions to ML&P investment in the BRU. Therefore, as a condition for approval of the overall transaction, we require Chugach to reimburse North District ratepayers in an amount approximately equal to this past investment in the form of a temporary credit to their COPA surcharge.[108]

Finally, there is the issue of public interest. Chugach is asking us to grant it permission to recover through rates payments to the MOA for most of the ML&P assets that exceed the net book value of those assets. This request is contrary to the requirements of AS 42.05.441(b), and can only be granted through a public interest exemption under AS 42.05.711(d). To ensure that tangible benefits to ratepayers equal or exceed the acquisition premium that Chugach desires to recover through rates, we require Chugach to file an agreement with MEA on the formation of a tight power pool and single load balancing area incorporating the entire service areas currently served under Certificate Nos. 8, 18, and 121. This agreement must specify a time-period not to exceed six months from transaction closing for actual implementation of the tight power pool, and it must filed as a tariff advice filing not less than 45 days before to closure of the transaction at issue in Dockets U-19-020 and U-19-021.

[108]Chugach refers to its COPA as a Fuel and Purchase Power Cost Adjustment (FPPCA), but for the purposes of this order we will refer to it as a COPA, consistent with our regulation at 3 AAC 52.503(a).

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We address each of these issues in greater detail below.

Public Representation that Base Rates Will Not Increase

We note that this transaction was approved by the MOA Assembly and voters based in part on a public representation by Chugach that base rates for ML&P and Chugach ratepayers would not increase as a result of Chugach's acquisition of most ML&P assets.[109] That public representation is not expressly included in any of the documents that we have been asked to approve, other than being referenced in Exhibit O to the APSA.[110]

In setting utility rates, we are required to ensure that rates are just and reasonable under the tests set out in AS 42.05.381. We are also required to ensure that rates do not grant an unreasonable advantage or disadvantage to any customer or customer class under AS 42.05.391(a). For electric cooperatives such as Chugach, we are also required by AS 42.05.431(a) to set rates that are adequate to meet the debt covenants of the cooperative. For Chugach, we implement these statutory requirements through application of our cost-of-service and rate design regulations set out in 3 AAC 48.500 through 48.560.

Chugach has acknowledged its understanding that nothing in the agreements we are being asked to approve in these dockets will bind us when it comes to cost allocations and rate setting.[111] We notify the parties and the public that if the

[109]Exhibit H-1 at CHU-000070, CHU-000083, CHU-000097, CHU-000121, CHU-000124, CHU-000140, CHU-000144, CHU-000155, CHU-000158, CHU-000169, CHU-000178, CHU-000189, CHU-000202, CHU-000214, CHU-000227, CHU-000241, CHU-000255, CHU-000269, CHU-000282, CHU-000296, CHU-000310, CHU-000324, CHU-000337, CHU-000350, CHU-000363, CHU-000374, CHU-000380, CHU-000384; Exhibit H-36 at 2; Exhibit H-38 at 5; Exhibit H-39 at 2; T-8 (Miller Direct) at 4, 23, 56-58, 59, 65; T-9 (Thibert Direct) at 3, Exhibit LDT-02, at 3, 9; T-15 (Lovas Direct) at 3; T-22 (Windt Pearson Reply) at 6-7.

[110]T-8 (Miller Direct), Exhibit AWM-03 at 155.

[111]Dockets U-19-020 and U-19-021 Hearing, Tr. 2294-2295.

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transaction under which Chugach proposes to acquire most ML&P assets closes, we will continue establishing Chugach's rates under the statutes and regulations listed above. We do not consider ourselves bound in any way by Chugach's public representation that base rates will not increase as a result of this transaction. We will not, as suggested by Chugach,[112] be establishing the recovery period of the regulatory asset requested by Chugach in Docket U-19-020[113] based upon Chugach's public representation that base rates will not increase as a result of this transaction.

One of the ways in which Chugach has proposed to ensure that base rates will not increase as a result of this transaction is to reduce its authorized TIER[114] from 1.55 to 1.35, or even lower.[115] Chugach recognizes that its financial health at the time of its first rate case after transaction closing may not warrant this change.[116] In Docket U-19-003, we granted Chugach's request to increase its TIER from 1.35 to 1.55, in part to increase margins so that Chugach could achieve its target 40% equity capitalization.[117] With this proposed transaction, Chugach will be reducing its equity level to approximately 13.5%, and with a 1.35 TIER Chugach does not expect to achieve its 40% target equity level until sometime after 2034.[118] On the record before us, and based on the

[112]Dockets U-19-020 and U-19-021 Hearing, Tr. 2214-2218.

[113]Chugach Petition at 17-20. Dockets U-19-020 and U-19-021 Hearing, Tr. 2257.

[114]TIER stands for Times Interest Earned Ratio. The revenue Chugach earns in excess of its cost of service, referred to as margins, is limited by its target TIER. An explanation of the TIER calculation can be found in *Chugach Electric Association, Inc.'s Petition to Increase Target TIER*, filed January 15, 2019, in Docket U-19-003, at 4-5. As an electric cooperative, Chugach does not have shareholders who invest the equity capital required for the business. Chugach's equity consists of margins earned less capital credits retired, referred to as retained margins.

[115]T-8 (Miller Direct) at 40-43; T-19 (Strunk Direct) at 11-12, 30-31, 37-40, Exhibit KGS-02. Dockets U-19-020 and U-19-021 Hearing, Tr. at 2256-2257.

[116]T-19 (Strunk Direct) at 37-38. Dockets U-19-020 and U-19-021 Hearing, Tr. 2242-2243.

[117]Order U-19-003(8), *Order Accepting Stipulation, Granting Petition, and Closing Docket*, dated October 11, 2019 (Order U-19-003(8)).

[118]T-19 (Strunk Direct) at 34-35.

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representations of Chugach in Docket U-19-003, we cannot commit to allowing Chugach to reduce its TIER to 1.35 while its equity level is substantially below the target level we accepted as optimal just a few months ago.

Although we believe that in the long term, and with the conditions we impose, this transaction will be beneficial to consumers, rate increases in the short term may be required to ensure the continued financial health of Chugach and to comply with the rate setting statutes and regulations identified above. We expressly do not accept Chugach's public representation that base rates will not increase as a result of its acquisition of most ML&P assets as a limitation on the rates we will approve in future Chugach rate cases. To implement the public representation that base rates will not increase as a result of this transaction, Chugach and ML&P have proposed cost and benefit allocations based on the geographic location of ratepayers rather than the cost of providing service to those ratepayers. As will be discussed in detail below, we find these geographically-based allocations to be discriminatory under AS 42.05.391.

We further find that, aside from a reasonable period of time for transition, the geographic location based allocation of costs and benefits are unreasonable. Chugach has proposed a quick transition period to merge ML&P and Chugach functions and employees, to harvest integration cost savings and minimize impacts on ratepayers.[119] This includes merging the Certificate No. 121 tariff with the Certificate No. 8 tariff so that uniform rates are charged to ratepayer classes throughout the post-transaction Chugach system. However, Chugach has pointed out that this transition will take some time and effort, and for that reason Chugach is proposing to initially provide

[119]Chugach Petition at 25-26; T-8 (Miller Direct) at 60-69; T-9 (Thibert Direct) at 18-21; T-10 (D. Highers Direct) at 6-7; T-13 (Hickey Reply) at 4-5; T-15 (Lovas Direct) at 9, 12-13, 19, 29-31; Dockets U-19-020 and U-19-021 Hearing, Tr. 686-692, 751-752, 888-889, 1974-1976, 1986, 1993-1994, 2288-2290.

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service to ratepayers in the North District through adoption of the Certificate No. 121 tariff under 3 AAC 48.400. Chugach proposes to merge the rules sections of these two tariffs before to its first general rate case after closing the transaction, scheduled for no later than December 31, 2023.[120]

Chugach asserts that the cost and benefit allocations included in the PILT Agreement and the Restated BRU Agreement will prevent full integration of the tariff for service to North District ratepayers with the tariff for service to South District ratepayers.[121] For the reasons mentioned above and discussed below, we are rejecting the proposed PILT Agreement and Restated BRU Agreement cost and benefit allocations Chugach is concerned about. Thus, on the record presented, there are no impediments to Chugach serving both sets of ratepayers with one integrated tariff by the conclusion of its next rate case. Therefore, if the transaction closes, we require Chugach to file proposed rule and rate revisions to fully integrate service in the North District into the Certificate No. 8 tariff, including uniform rates for ratepayer classes as determined by a rate design study that does not distinguish between ratepayers based on geographic location in the Chugach service territory, no later than December 31, 2023.

We acknowledge that there will be a period of time before the COPA surcharges for North District and South District ratepayers can be identical. The $36 million RRR account created by Section III.B.2 of the Original Stipulation is to be returned to North District ratepayers as a COPA credit over a 36-month period.[122] Additionally, we will be creating a COPA credit to reimburse North District ratepayers over a 10-year period for their past contributions to ML&P investment in the BRU and an offsetting COPA surcharge for South District ratepayers. These credits and surcharge will be line items

[120]T-8 (Miller Direct) at 15-16, 64.

[121]Dockets U-19-020 and U-19-021 Hearing, Tr. 1974.

[122]Original Stipulation at 6-7.

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on ratepayer bills and should not otherwise affect use of the same COPA calculation methodology for all Chugach ratepayers. We will address these credits and the COPA methodology in greater detail below.

We inform Chugach that we are concerned about the extremely low equity level resulting from this transaction and that we may require an early rate case if Chugach's equity levels do not rebound as quickly as presented in this proceeding. It may be necessary to increase Chugach's base rates solely to remedy Chugach's low equity level caused by this transaction, and we will not allow Chugach's ability to provide safe, reliable, and efficient public electric utility service to be jeopardized just to honor a public representation that may have been improvidently made.

We inform Chugach, the MOA, and ML&P, that closing this transaction under the terms and conditions we require in this order is an express waiver of any claims for remedies under the language of Ballot Measure 10 or any municipal ordinances if Chugach's base rates are increased by us as a result of the costs incurred by Chugach to acquire most of ML&P's assets.

Certificate No. 121

In Docket U-19-021, ML&P requests two actions related to Certificate No. 121: 1) transfer of authority to provide public electric utility service in the Certificate No. 121 service area to Chugach and delete retail service territory from Certificate No. 121; and 2) amend Certificate No. 121 to authorize the provision of wholesale electric generation utility service from the ML&P ownership share of the Eklutna Project.[123] In Docket U-19-020, Chugach requests that we amend the Certificate No. 8 service area to include the Certificate No. 121 service area. Chugach also requests permission to serve

[123]ML&P Application at 2-3.

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ratepayers in the North District through adoption of the Certificate No. 121 tariff pursuant to 3 AAC 48.400 until it files a general rate case, before the end of 2023.[124]

None of these requests have been amended by the Original Stipulation, which includes a request that we approve these requests as filed.[125]

Transfer of Certificate Authority

We evaluate applications to acquire a certificated public utility under AS 42.05.281, which states that a certificate may not be sold or transferred without our prior approval. We determine whether the transferee is fit, willing, and able to provide the utility services authorized by the certificate and whether the proposed transfer is consistent with the public interest.[126] When determining whether an entity is fit, willing, and able to provide service, we examine that entity's managerial, technical, and financial fitness.

Managerial and Technical Fitness

As of December 31, 2016, ML&P provided public electric utility service to 31,081 service locations with 444.3 megawatts (MW) of installed generation capacity, 50 miles of transmission line, 23 substations, and 371 miles of distribution line.[127] As of December 31, 2016, Chugach provided public electric utility service to 83,855 service locations with 531.2 MW of installed generation capacity, 434 miles of transmission line, 42 substations, and 1,719 miles of distribution line.[128] The ML&P and Chugach service

[124]Chugach Petition at 21-23.

[125]Original Stipulation at 5.

[126]AS 42.05.241; Order U-15-090(2), *Order Granting Expedited Consideration; Granting Application for Authority to Acquire Controlling Interest in Fairbanks Natural Gas, LLC; and Requiring Filing,* dated August 13, 2015, at 5.

[127]Exhibit H-1 at CHU-000102.

[128]Exhibit H-1 at CHU-000102.

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areas are immediately adjacent to each other.[129] The ML&P and Chugach transmission systems are part of the Railbelt interconnected electric grid.[130]

Under the proposed transaction, ML&P will be transferring its Certificate No. 121 service obligations and all of the facilities used to provide such service, including ML&P's ownership interest in the BRU and excepting ML&P's ownership interest in the Eklutna Project, to Chugach. Chugach will also purchase a portion of ML&P's share of Eklutna Project output.[131] Additionally, all ML&P employees will become Chugach employees upon transaction closure and Chugach has committed that it will retain its entire current workforce.[132] We find that Chugach is technically fit to provide public electric utility service in the North District based on its existing capabilities, and its acquisition of the infrastructure and staffing currently providing public electric utility service to ratepayers in that service area.

Chugach's Chief Executive Officer, Lee D. Thibert, has worked in senior management positions at Chugach since 1987. Chugach's Chief Financial Officer and Vice President of Finance and Administration, Sherri Highers, has worked in the Chugach finance section since 1998. Chugach's Senior Vice President for Production and Engineering, Paul R. Risse, P.E., has worked on the Chugach generation plant and substations since 1995, and worked in generation and transmission systems for another electric utility before his employment by Chugach. Chugach's Chief Operating Officer, Brian J. Hickey, P.E., has over twenty years of experience as a manager at Chugach, plus extensive experience as a project manager for non-utility design and construction firms. Chugach's Vice President for Member and Employee Services, Tyler E. Andrews,

[129]Chugach Petition, Exhibit Form 101-II.C at 1, 2.

[130]Chugach Petition, Exhibit Form 101 IV.A, at 24.

[131]ML&P Application at 1-2; Chugach Petition at 8.

[132]Chugach Petition at 11, 24.

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has over twelve years of human relations experience with Chugach, and has substantial additional human relations experience with a telecommunications utility and the State of Alaska. Chugach's Senior Vice President for Regulatory and External Affairs, Arthur W. Miller, has nearly thirty years of rate and regulatory experience at Chugach. Chugach's Executive Manager for Fuel and Corporate Planning, Mark B. Fouts, has over thirty years of planning and management experience with Chugach. Chugach's Vice President and General Counsel, Matthew Clarkson, has served Chugach for a little over two years.[133]

We do not know which management personnel from ML&P will accept positions with Chugach. However, based on the experience of the current Chugach management team in providing public electric utility service in Anchorage, we find that Chugach is managerially fit to provide public electric utility service in the North District.

Financial Fitness

As of December 31, 2018, Chugach owned utility plant with a net book value of $707,548,485, long-term debt of $456,572,084, and equity capital of $194,524,694. For the year 2018, Chugach reported operating revenue of $202,252,742, and operating expenses of $175,395,618.[134] Chugach proposes to finance its acquisition of most ML&P assets solely through the issuance of new long-term debt, originally estimated to be in the amount of $810,100,000.[135] Chugach requests that we specifically condition approval of this transaction on Chugach obtaining this debt at an interest rate of 5.75% or less.[136]

[133]Chugach Petition, Exhibit Form 101-II.A, at 1-10.

[134]Chugach Petition, Exhibit Form 101-IV.A, at 12, 14 16.

[135]T-8 (Miller Direct) at 40 n.20; T-17 (S. Highers Direct) at 5; T-19 (Strunk Direct) at 4, 24, 34, 38. The Original Stipulation results in a reduction of the upfront payment to the MOA by $10,000,000, and may result in a corresponding reduction in the amount Chugach will have to borrow to finance this transaction.

[136]T-8 (Miller Direct) at 40.

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With the addition of this new debt, Chugach will be decreasing its equity level from approximately 27% in 2019[137] to 13.5%.[138] This equity level figure does not include Chugach's contractual obligation to pay the MOA amounts with an estimated net present value of $215,000,000 under the Eklutna PPA and PILT Agreement,[139] which Chugach does not consider to be debt for reporting purposes.[140] Chugach's post-transaction equity level will be significantly below the 40% target equity ratio recommendation Chugach's Board accepted on December 19, 2018,[141] and that we recently accepted as the optimum equity level for Chugach in Docket U-19-003.[142]

We are very concerned about the large debt burden Chugach is taking on with this transaction. This concern is exacerbated by Chugach's becoming majority owner of the BRU with no BRU management experience or BRU capital expenditure plan in place. We have repeatedly expressed in these proceedings our concern about the financial risks Chugach is taking on and have not received responses that reassure us.[143] Chugach has acknowledged that this reduction in equity ratio results in Chugach becoming more vulnerable to disruptions in the external environment.[144]

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[137]Dockets U-19-020 and U-19-021 Hearing, Tr. 2228.

[138]T-19 (Strunk Direct) at 34-35.

[139]Eklutna PPA payments estimated at $48.2 million with MEA taking a prorated share of Eklutna output and PILT Agreement payments estimated at $166.8 million. T-8 (Miller Direct) at 22 n.9.

[140]Dockets U-19-020 and U-19-021 Hearing, Tr. 1381-1382. If these payments of $215 million were considered debt, Chugach's post-transaction equity level would be approximately 11% using the figures accepted by Miller at Dockets U-19-020 and U-19-021 Hearing, Tr. 2228, and the $810.8 million new debt for the transaction estimated by Miller. T-8 (Miller Direct) at 40 n.20.

[141]*Chugach Electric Association, Inc.'s Petition to Increase Target TIER*, filed January 15, 2019, in Docket U-19-003, at Attachment II.

[142]Order U-19-003(8) at 10.

[143]Docket U-18-102 Hearing, Tr. 115-119, 142-148, 309-313; Dockets U-19-020 and U-19-021 Hearing, Tr. 333-334, 378-380, 384-389, 1356-1361, 1685-1689, 2227-2245, 2640-2654, 2932-2945, 3413-3419.

[144]Dockets U-19-020 and U-19-021 Hearing, Tr. 1358.

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We could reasonably find that Chugach is not financially fit to acquire most of ML&P's assets under the terms of the transaction presented to us. In an effort to harvest the consumer benefits that could be achieved through the combination of ML&P with Chugach, we have determined that with the imposition of appropriate conditions under AS 42.05.241 on the terms of this transaction the financial health of Chugach can be better protected. With the parties' acceptance of, and compliance with the conditions imposed in this order, we find that Chugach is financially fit to acquire most of the assets of ML&P.

These conditions include the following which are specifically aimed at protecting Chugach's financial health and ability to provide safe, reliable, and efficient public utility service:

1. Chugach is required to file a rate case consistent with the requirements of 3 AAC 48.275(a) and based on a 2022 calendar year test year, on or before December 31, 2023. [145]

2. There will be no reduction of the Chugach target TIER level accepted by Order U-19-003(8) until Chugach has shown to our satisfaction that its equity level is safely within its zone of reasonableness.[146]

3. Formation of a tight power pool with MEA as discussed elsewhere in this order to ensure the most efficient use of generation assets.

Other conditions imposed by this order may serve to protect Chugach's financial health while also serving the public interest in other manners.

[145]If Chugach's financial condition warrants, Chugach may file a rate case based upon an earlier test year.

[146]In Docket U-19-003, Chugach filed a cost of capital study indicating that the zone of reasonableness for Chugach's equity was from 35% to 50%. *Chugach Electric Association, Inc.'s Petition to Increase TIER*, filed January 15, 2019, Attachment I at 5. We relied on that cost of capital study in granting Chugach's petition for an increased target TIER. Order U-19-003(8) at 6, 10.

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Transfer to Chugach is in Public Interest

We will transfer the authority granted by Certificate No. 121 from ML&P to Chugach only if we find that this transfer is in the public interest. To make this determination, we will look at the two utilities on a stand-alone basis and then look at the two utilities as combined under Chugach's proposed acquisition of most ML&P assets.

As of December 31, 2012, ML&P was capitalized at 44.5% equity and 55.5% debt. Based on projections that ML&P's equity level would drop to below 30% due to an aggressive capital improvements program, we imposed a dividend restriction on ML&P in an effort to maintain a reasonable equity level in the utility.[147] As of December 31, 2015, ML&P's equity level had dropped to 35.5% despite the beneficial impacts of our dividend restriction and the fact that it had not yet fully funded its new generation facility. Based on these facts, in 2018 we continued the dividend restriction imposed on ML&P in 2015.[148] As of December 31, 2019, ML&P reported debt of $507,431,235 and equity capital of $299,321,917,[149] indicating 37% equity capitalization.[150]

[147]Order U-13-184(22) at 54, 56-68.

[148]Order U-16-094(9)/U-17-008(13), *Order Resolving All Revenue Requirement and Cost-of-Service Issues, Approving Depreciation Rates, Approving Revised Cost of Power Adjustment, Requiring Filings, and Allowing Parties to File Comment*, dated March 23, 2018 (Order U-16-094(9)), at 40-41.

[149]*2018* [*sic*] *Annual Report to the Commission*, filed March 31, 2020 (2019 ML&P Annual Report), by ML&P, at 112, which we take official notice of under 3 AAC 48.154(b)(4).

[150]$299,321,917 ÷ [$299,321,917 + $507,431,235] = 0.371.

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In 2019, we found that the optimum equity level for Chugach was 40%.[151] As of December 31, 2019, Chugach reported long-term debt of $456,572,084 and equity capital of $194,524,694,[152] indicating 30% equity capitalization.[153]

Based on their end of 2019 reports, Chugach and ML&P have a combined $964 million in debt and $494 million in equity yielding a roughly 34% equity level. Assuming Chugach has to borrow $810 million to close the transaction, the combined utility will have approximately $1,266.6 million in debt and $194.5 million in equity. This yields a roughly 13.3% equity level. The transaction under which Chugach will acquire most ML&P assets effectively combines two under-capitalized utilities by harvesting a substantial amount of the existing capital investment from them. We find that this weakening of the financial capacity of the electric utilities serving over 100,000 locations is not in the public interest.

However, Chugach has asserted that this transaction will produce benefits sufficient to offset the costs to consumers and allow it to rebuild its equity level. Chugach has informed us that this transaction will only be closed if we approve Chugach's recovery through rates of the substantial acquisition premium Chugach has agreed to pay the MOA for most of the ML&P assets.[154] As noted above, we can only authorize recovery of an acquisition premium if we find that it is in the public interest for us to waive application of AS 42.05.441(b) to this transaction under AS 42.05.711(d).

The precise amount of the acquisition premium is in dispute and the economic value of some asserted benefits are disputed as being speculative rather than tangible. In our analysis of the acquisition premium below, we go into detail of why we

[151]Order U-19-003(8) at 10.

[152]*Annual Report of Chugach Electric Association, Inc.*, filed March 31, 2020, at 112, which we take official notice of under 3 AAC 48.154(b)(4).

[153]$194,524,694 ÷ [$194,524,694 + $456,572,084] = 0.299.

[154]T-8 (Miller Direct) at 25-44.

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find that, with appropriate conditions, it is in the public interest for us to approve this transaction. We announce here that we find transfer of the Certificate No. 121 service area to Chugach, subject to the conditions set out in this order, is in the public interest.

Transfer of Certificate No. 121

ML&P asks us to transfer the Certificate No. 121 retail service territory to Chugach, and then modify Certificate No. 121 to include only a service area consisting of MHP's 53.3% interest in the Eklutna Project dam, tunnel, and powerhouse.[155] Chugach asks us to amend Certificate No. 8 to include the Certificate No. 121 service area.[156] Chugach asks us to allow it to initially serve ratepayers in the North District through adoption of the Certificate No. 121 tariff under 3 AAC 48.400.[157]

These requests are conflicting. Our regulation at 3 AAC 48.400(a) states:

> When the name of a utility or pipeline carrier, as shown on a certificate of public convenience and necessity is changed, due to the transfer of operating control of one utility or pipeline carrier to that of another by sale, lease, rental, inheritance, assignment, receivership, acquisition of a controlling interest by any means, or change in the legal form of its organization, or when the name of the utility or pipeline carrier is changed, the utility or pipeline carrier operating after that, if it intends to continue using the tariff shall, for each tariff so used, issue and file with the commission and shall, at the same time, make available for the statutory notice period at every place designated by 3 AAC 48.200 – 3 AAC 48.430, a tariff supplement containing an adoption notice reading substantially as follows:
>
> > (Name of utility or pipeline carrier) hereby adopts as if they had been originally filed by it, all tariffs, rules, notices, concurrences, provisions, authorities, power of attorney, or any other instrument of (name of predecessor utility or pipeline carrier) before (here insert the date of change). By this notice, it also adopts and ratifies all supplements and amendments to any of the above tariffs of the (name of predecessor utility or pipeline carrier).

[155]ML&P Application at 2, 11

[156]Chugach Petition at 21-22.

[157]Chugach Petition at 14, 22-23, Attachment 1; APUC Form PU 101, at 6-7.

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By requesting to serve ratepayers in the North District through adoption of the Certificate No. 121 tariff pursuant to 3 AAC 48.400(a), Chugach is effectively asking to have its name placed on Certificate No. 121.

Chugach is asking to adopt the Certificate No. 121 tariff under 3 AAC 48.400 for the purpose of establishing rates for ratepayers in the Certificate No. 121 service area during a transition period until all Chugach ratepayers can receive service under the Certificate No. 8 tariff.[158] ML&P has expressed no justification for its continuing to hold Certificate No. 121. We note that the standard for amending the Certificate No. 121 service area to include the Eklutna Project power production facilities is the same under AS 42.05.241 as the standard for issuance of a new certificate.

Allowing Chugach to adopt the Certificate No. 121 tariff under 3 AAC 48.400(a) for a transition period would give North District ratepayers an opportunity to have input into proposed changes to the rules under which they are provided public electric utility service. We find that the public interest would be served by granting Chugach's request to adopt the Certificate No. 121 tariff under 3 AAC 48.400(a), and we find that granting this request will not harm ML&P.

In issuing new certificate authority, we may impose conditions necessary to protect and promote the public interest.[159] We find that the public interest requires clear rules under which public utility service is provided. Allowing Chugach to serve North District ratepayers under a separate set of rules from the rules governing service to South District ratepayers during the transition period is acceptable if that transition period is of a reasonably limited duration. Chugach has represented its intent to propose

[158]Chugach Petition at 13-14, 23, Attachment 1, Attachment 3 at 6-7; T-8 (Miller Direct) at 5, 15-16, 60- 67.

[159]AS 42.05.241.

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consolidation of service to all ratepayers under the Certificate No. 8 tariff no later than the end of calendar year 2023.[160] We accept this representation as defining a reasonable period of time for the transition to unified tariff rules.

As found above, Chugach is fit, willing, and able to provide public electric utility service in the in the North District, and transfer of service responsibility to Chugach is in the public interest if the conditions imposed in this order are accepted by the parties and the transaction closes. To allow Chugach to provide service under the Certificate No. 121 tariff under 3 AAC 48.400(a) during a transition period before service to all Chugach ratepayers can be provided under the Certificate No. 8 tariff, we transfer Certificate No. 121 to Chugach effective the date the transaction closes, subject to the following conditions:

1) The transaction under which Chugach acquires most of the ML&P assets closes, as that term is defined in Article III of the Asset Purchase and Sale Agreement filed as Exhibit AWM-03 to Hearing Exhibit T-8.

2) Chugach is required to file notice of transaction closing within ten days of the date that closing occurs.

3) Chugach shall file tariff revisions under which all Chugach ratepayers will be billed under the same COPA surcharge calculation, including unified GTP no later than 45-days before January 1, 2021.

4) Chugach shall file proposed tariff revisions under which all Chugach ratepayers will be served under the Certificate No. 8 tariff no later than December 31, 2023.

With this decision, we deny ML&P's request that we amend Certificate No. 121 to include the Eklutna Project generation facilities. We give notice of our intent to revoke Certificate No. 121 under AS 42.05.271(1) after Chugach has completed the transition process and all North District ratepayers are being provided public electric utility service under the Certificate No. 8 tariff. The Certificate No. 121 parchment will be transferred to Chugach under separate cover once the transaction has closed.

[160]Chugach Petition at 22-23.

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New Certificate for MHP Ownership of Eklutna Project

A public utility is defined in part as: "every corporation, whether public, cooperative, or otherwise . . . that owns . . . any plant . . . for furnishing, by generation . . . electrical service to the public for compensation."[161] For the purposes of this definition, the term "public" is defined to include any public utility purchasing service from the entity owning the generation plant for resale to the public.[162] "A public utility may not operate and receive compensation for providing a commodity or service without first having obtained from the commission under [AS 42.05] a certificate declaring that public convenience and necessity require or will require the service."[163]

Under the transaction at issue in Dockets U-19-020 and U-19-021, Chugach agreed to pay the MOA approximately $1 billion for most of the ML&P assets.[164] This payment is made up in part by deferred payments under the Eklutna PPA over a 35-year period. To implement the Eklutna PPA, MHP retains ownership of the Eklutna Project generation plant,[165] and will receive a payment stream estimated to have a net present value of $48,200,000 from Chugach in exchange for Chugach getting access to a portion of MHP's share of the Eklutna Project energy output.[166] The MOA also proposes to sell a portion of MHP's share of the Eklutna Project output to MEA for compensation over a

[161]AS 42.05.990(6)(A).

[162]AS 42.05.990(5)(C).

[163]AS 42.05.221(a).

[164]T-9 (Thibert Direct), Exhibit LDT-02 at 3, 9; Exhibit LDT-03 at 2, 5

[165]ML&P Application at 1; T-8 (Miller Direct), Exhibit AWM-03 at 26-27; T-9 (Thibert Direct) at 8.

[166]T-8 (Miller Direct) at 22, 46, Exhibit AWM-04 (payment stream is shown on page 47 of Exhibit AWM-04); T-9 (Thibert Direct) at 15-18.

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period of 35 years.[167] Therefore, as the transaction has been proposed, MHP will remain a public utility required to hold a certificate.

We review an application for a certificate to determine whether the applicant is fit, willing, and able to provide the utility services applied for, and that those services are required for the public convenience and necessity.[168] A public utility's certificate describes the nature and extent of the authority granted to the utility. Before addressing MHP's fitness, willingness, and ability to provide wholesale electric generation services from its share of the Eklutna Project, we review the Eklutna Project and the power purchase agreements presented to us to determine the scope of responsibilities that MHP will incur through retention of an ownership share of the Eklutna Project.

Eklutna Project

The Eklutna Project was built and operated by the federal government pursuant to the Eklutna Power Act of 1950.[169] In 1995, Congress authorized sale of the Eklutna Project to ML&P, Chugach, and MEA under the terms of the 1989 Eklutna Purchase Agreement.[170] Under this agreement, the three utilities received an undivided interest in all of the Eklutna Project, water rights, generation plant and the transmission assets interconnecting the Eklutna Project with ML&P, Chugach, and MEA.[171] ML&P obtained a 53.33% ownership interest, Chugach obtained a 30% ownership interest, and MEA obtained a 16.67% interest in the Eklutna Project. Eklutna Project energy, capacity,

[167]MEA PPA at Exhibit 1.

[168]AS 42.05.241.

[169]Eklutna Purchase Agreement at 4 (Dockets U-16-094 and U-17-008 Hearing, Exhibit H-132).

[170]Dockets U-19-020 and U-19-021 Hearing, Exhibit H-77.

[171]Eklutna Purchase Agreement at 5-6. Eklutna Transition Plan, at 3 (Dockets U-16-094 and U-17-008 Hearing, Exhibit H-131).

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and costs are to be allocated based on these ownership interests.[172] ML&P and Chugach assert that the Eklutna Project currently has a maximum capacity of 39 MW.[173]

The three utilities created the Eklutna Operating Committee (EOC) to make all management decisions related to operation, maintenance, and budgeting for the Eklutna Project. ML&P, Chugach, and MEA each have a representative on the EOC. Decisions by the EOC are made based upon a double majority consisting of affirmative votes by at least two of the three utilities whose ownership shares total at least 51% of the Eklutna Project ownership.[174] Effectively, management of the Eklutna Project is limited to actions approved by ML&P and at least one of Chugach or MEA.

MHP Obligations under Power Purchase Agreements

Eklutna PPA

Under the Eklutna PPA, MHP is required to name a representative to the EOC who will make decisions on behalf of MHP "consistent with Prudent Utility Practice and the rights and obligations of the parties to [the Eklutna PPA]. This representative shall also represent MHP in all decisions related to the Fish and Wildlife Agreement identified in Section 104(a)(2) of Public Law 104-58.[175] MHP is also required to not curtail Eklutna Project power deliveries except as required by law or Prudent Utility Practice.[176]

[172]Eklutna Transition Plan at 3.

[173]*Joint Informational Filing of Term Sheets Regarding the Potential Sale of Municipal Light and Power Assets to Chugach Electric Association, Inc.*, filed October15, 2018, in the ML&P and Chugach company files, at *Power Purchase Agreement Term Sheet, MOA/Chugach, September 28, 2018, Preliminary Non-binding Expression of Intent – Subject to Further Negotiation*, at 1.

[174]Eklutna Transition Plan, Exhibit E at 2-3 (TA329-121 Supplement filed July 17, 2013.

[175]T-8 (Miller Direct), Exhibit AWM-04 at 8; Dockets U-19-020 and U-19-021 Hearing, Exhibit H-77 at 2.

[176]T-8 (Miller Direct), Exhibit AWM-04 at 9-10.

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Implied, but not specifically stated, MHP is required to maintain the capability of billing Chugach for Eklutna PPA payments due and accepting such payments when received.[177] Also implied, but not specifically stated, MHP is required to notify Chugach of any Eklutna PPA payment offsets required for the Alaska Center for Treatment.[178] MHP is required to indemnify and defend Chugach from third-party claims based on MHP's conduct.[179] MHP is required to allow Chugach to purchase a portion of MHP's interest in the Eklutna Project at the end of the Eklutna PPA.[180] Finally, MHP is required to not exercise any right to claim sovereign immunity with regard to claims that MHP breached the Eklutna PPA.[181]

MEA PPA

Under the proposed MEA PPA, MHP is responsible for 19.05% of costs related to capital investments, operation and maintenance of the Eklutna Project, and delivering 19.05% of Eklutna Project output to MEA. MHP is required to name a representative to the EOC who will make decisions on behalf of MHP "consistent with Prudent Utility Practice and the rights and obligations of the parties to MEA PPA and [the Eklutna PPA]. This representative shall also represent MHP in all decisions related to the Fish and Wildlife Agreement identified in Section 104(a)(2) of Public Law 104-58.[182]

MHP is also required to pay all governmental charges incurred before delivery of power from the Eklutna Project to MEA.[183] MHP is required to bill MEA for

[177]T-8 (Miller Direct), Exhibit AWM-04 at 12-13.
[178]Original Stipulation, Exhibit 3 at 1-2.
[179]T-8 (Miller Direct), Exhibit AWM-04 at 18.
[180]T-8 (Miller Direct), Exhibit AWM-04 at 22-24.
[181]T-8 (Miller Direct), Exhibit AWM-04 at 28.
[182]MEA PPA, Exhibit 1 at 5, 8-9.
[183]MEA PPA, Exhibit 1 at 12.

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energy sold under the MEA PPA.[184] MHP is required to pay MEA restitution for any unexcused failure to deliver power under the MEA PPA.[185] MHP is required to maintain insurance under the MEA PPA.[186] MHP is required to indemnify MEA for third-party claims based on MHP actions.[187] MHP is required to allow MEA to purchase a portion of MHP's interest in the Eklutna Project at the end of the MEA PPA.[188] Finally, MHP is required to not exercise any right to claim sovereign immunity with regard to claims that MHP breached the MEA PPA.[189]

New Certificate for MHP

Public Convenience and Necessity

Under AS 42.05.241, we may issue a certificate only upon finding that the services to be authorized are required for the convenience and necessity of the public. The Eklutna Project has provided reliable generation services to ratepayers of ML&P, Chugach, and MEA for over sixty years. The Eklutna Project has been an extremely reliable generation resource located substantially closer to the Anchorage and Matanuska-Susitna Borough load centers than the only larger hydroelectric generation facility interconnected with these loads, the Bradley Lake Project located east of Homer. We find that continued receipt of generation service from the Eklutna Project is required for the convenience and necessity of the public.

Financial Fitness

ML&P states that under the Eklutna PPA, Chugach will pay all operating, maintenance, and capital costs associated with Chugach's share of MHP's Eklutna

[184]MEA PPA, Exhibit 1 at 12-13.

[185]MEA PPA, Exhibit 1 at 13.

[186]MEA PPA, Exhibit 1 at 18-19.

[187]MEA PPA, Exhibit 1 at 19-20.

[188]MEA PPA, Exhibit 1 at 23-24.

[189]MEA PPA, Exhibit 1 at 28.

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Project output. ML&P asserts that the payments from MEA will be sufficient to pay the Eklutna Project costs that MHP will be responsible for under the MEA PPA. ML&P states that MHP will create a $3,000,000 reserve fund during the first year of operation after closing of the transaction to cover any intra-year revenue shortfalls. ML&P also states that in the event that annual revenue and this reserve is inadequate to meet MHP's Eklutna Project financial obligations, the MOA has sufficient borrowing capacity to make up the difference.[190] ML&P filed its financial statements for the years 2016 and 2017.[191]

ML&P estimates Eklutna Project generation operating expense to be $143,762 per year based on 2017 calendar year experience.[192] ML&P estimates Eklutna Project generation plant depreciation expense to be $210,035 based on 2018 calendar year experience.[193] ML&P estimates a working capital requirement of $17,970.[194] ML&P estimates that annual revenue from the Eklutna PPA, the MEA PPA, and from Anchorage Water and Wastewater Utility for diversion of Eklutna water from electric generation to public water utility use will be $4,654,793.[195]

These cost estimates do not include capital expenditures that MHP will be responsible for under the MEA PPA. These cost estimates also do not include any costs to be incurred under the Eklutna Project memorandum of agreement dated August 7, 1991, regarding protection and enhancement of fish and wildlife (Fish and Wildlife Agreement). Chugach is operating under the assumption that compliance with the Fish and Wildlife Agreement will cost $5,000,000 for studies plus $25,000,000 for remediation,

[190]ML&P Application at 13.

[191]ML&P Application at Exhibit 7.

[192]ML&P Application, Exhibit 9 at 2.

[193]ML&P Application, Exhibit 9 at 3.

[194]ML&P Application, Exhibit 9 at 6.

[195]ML&P Application, Exhibit 9 at 1.

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based upon their environmental costs for another hydroelectric project.[196] Chugach estimates that the remediation expense will be incurred in one year, and ML&P appears to indicate it will happen over four years.[197] The studies on which this compliance effort will be based have not yet been done and thus there is no firm remediation plan or cost estimate.[198]

Based on the information presented, it appears that MHP will have sufficient Eklutna Project revenue to cover its allocated share of normal Eklutna Project operations and maintenance expense. We have been presented with little record showing that the $3 million Eklutna Project reserve account ML&P has agreed to maintain is adequate.[199] However, no party has challenged the adequacy of this reserve account. Based upon the limited information available to us, we find that MHP is financially fit to own an interest in the Eklutna Project, subject to the condition that MHP maintain a $3,000,000 reserve fund to support the Eklutna Project capital expenditures it is obligated to make under the MEA PPA.

Managerial and Technical Fitness

ML&P asserts that billing and record keeping under the Uniform System of Accounts will be done for MHP by the professional accountants working for the MOA's Financial Department. These accountants will also maintain MHP's continuing property records, calculating annual depreciation and net book value of plant in service.[200] ML&P has provided no evidence in support of this assertion that accountants employed by the MOA's Financial Department are trained to maintain records in accordance with the

[196]Dockets U-19-020 and U-19-021 Hearing, Tr. 443-444; T-19 (Strunk Direct) at 47.

[197]Exhibit H-1, CHU-000004 at 2; ML&P Application at Exhibit 13.

[198]Dockets U-19-020 and U-19-021 Hearing, Tr. 605.

[199]ML&P Application at Exhibit 13.

[200]ML&P Application at 13-14.

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Uniform System of Accounts or to maintain continuing property records. However, we are aware that many of our smaller regulated utilities retain outside accountants to maintain their records in accordance with our regulations and thus we are aware that those private resources are available.

ML&P proposes that MHP will have a seat on the EOC, even though it will have no employees. ML&P states that MHP will be managed by the Municipal Manager, a position currently filled by William D. Falsey.[201] Falsey has a law degree from Yale Law School and a Bachelor of Science degree in physics from Stanford University. Falsey has worked as the MOA's manager since 2017 and worked in legal positions from 2003 through 2017.[202]

Chugach witness Dustin Highers testified based on his experience as chair of the EOC that to be an owner representative on the EOC, it was essential that the representative have knowledge of prudent utility practice and the Railbelt electric generation and transmission system.[203] Dustin Highers testified that there were two ML&P employees he was aware of qualified to sit on the EOC and that both of those employees were being transferred to Chugach as part of the transaction.[204] There is nothing in Falsey's resume indicating that he has any knowledge of the Railbelt generation and transmission system, or prudent utility practice which is the management standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA PPA.[205] ML&P indicated "that, more likely than not, we would utilize consultant services

[201]ML&P Application at 14, 16; Dockets U-19-020 and U-19-021 Hearing, Tr. 2708-2709.

[202]ML&P Application at Exhibit 1.

[203]Dockets U-19-020 and U-19-021 Hearing, Tr.603-604.

[204]Dockets U-19-020 and U-19-021 Hearing, Tr. 605.

[205]ML&P Application at Exhibit 1 (Falsey Resume); T-8 (Miller Direct), AWM-04 at 8 (Eklutna PPA reference); MEA PPA, Exhibit 1 at 8 (MEA PPA reference).

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to provide that industry-specific expertise and staffing to help us make informed decisions as a continuing member of the [EOC]." However, ML&P admitted that it has not investigated whether such expertise exists in the consulting community.[206]

Under these circumstances, we cannot unconditionally find that MHP is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.

Certificate Issuance

Subject to our financial fitness condition and surrender of its vote on the EOC, we find MHP to be fit, willing, and able to provide wholesale public electric utility service through its ownership share of the Eklutna Project. Subject also to closure of the transaction at issue in Dockets U-19-020 and U-19-021, we will issue MHP a certificate authorizing the provision of such service to the public for compensation. This new certificate will be issued under separate cover after the transaction has closed.

[206]Dockets U-19-020 and U-19-021 Hearing, Tr. 2709.

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ML&P Dividend Restriction

ML&P asks that we terminate the dividend restriction imposed by Order U-13-184(22).[207] In that order, we imposed a dividend restriction on ML&P under AS 42.05.521 based on a finding that ML&P might become capital impaired because its equity level of 44.5% was substantially below the equity level projected in its equity management plan and was projected to continue declining.[208] With Order U-16-094(9), we continued this dividend restriction based upon evidence that ML&P's equity level was 35.5%.[209]

ML&P asserts that if the transaction is approved, all of ML&P's debt will be paid off. ML&P further asserts that revenue from the Eklutna PPA and the MEA PPA will allow MHP to maintain a $3 million cash reserve and pay dividends to the MOA without incurring future debt. ML&P states "that, with 100% equity, [MHP]'s post-closing capital will not, by any measure, be impaired." For this reason, ML&P states that the current dividend restriction should be terminated as part of approval of the transaction.[210]

Under most circumstances, we would only consider lifting a dividend restriction in the context of a rate case where we have adequate information on the utility's financial health.[211] In this docket, ML&P has filed financial statements for 2016 and 2017. These indicate that as of December 31, 2017, ML&P was capitalized at 66% debt and

[207]ML&P Application at 20-23.

[208]Order U-13-184(22) at 65-68.

[209]Order U-16-094(9) at 30, 41.

[210]ML&P Application at 22-23.

[211]*See* Order U-08-026(16)/U-09-024(13), *Order Reopening Docket, Redesignating Commission Panel, Appointing Administrative Law Judge, Vacating Filing Requirement, Requiring Filings, and Closing Dockets*, dated December 29, 2016, at 8 (declining to terminate dividend restriction based on cash flow statements).

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34% equity.[212] This is a lower equity level than that under consideration in Order U-16-094(9),[213] and absent closure of the transaction under the conditions imposed by this order, ML&P's request for termination of the dividend restriction imposed by Order U-13-184(22) is denied.

If the transaction closes under the terms and conditions imposed by this order, then MHP may no longer be subject to rate regulation under AS 42.05.711(b)(2) and the request to terminate the dividend restriction would be moot. In relevant part, this statute states:

> Except as otherwise provided in this subsection . . . public utilities owned and operated by a political subdivision of the state . . . are exempt from [AS 42.05], other than AS 42.05.221 – 42.05.281 and 42.05.385. However,
>
> (2) a utility or electric operating entity that is owned and operated by a political subdivision and that directly competes with another utility or electric operating entity is subject to [AS 42.05] and any other utility or electric operating entity owned and operated by the political subdivision is also subject to [AS 42.05]; this paragraph does not apply to a utility or electric operating entity owned and operated by a political subdivision that competes with a telecommunications utility.[214]

As discussed in greater detail below, we do not consider the Eklutna PPA to be a wholesale power contract. Rather, the Eklutna PPA is a deferred transaction payment mechanism under which the size of Chugach's payments to the MOA do not vary based upon how much energy or power Chugach takes from the Eklutna Project. The MOA

[212]ML&P Application, Exhibit 7 at 90.

[213]ML&P reports that as of December 31, 2019, it had long-term debt of $507,431,235 and proprietary capital of $299,321,917, indicating a 37% equity level. 2019 ML&P Annual Report at 112. This indicates that ML&P is gaining financial strength under the dividend restriction, but not to the point that we would lift the dividend restriction absent evidence on the financial plans of ML&P.

[214]AS 42.05.711(b)(2).

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does not view MHP's actions under the Eklutna PPA to be in direct competition with other utilities or electric operating entities, except in the case of payment default by Chugach.[215]

The MEA PPA is a substantially different arrangement from the Eklutna PPA, and ML&P offered no opinion regarding the competitive nature of the MEA PPA. Under the MEA PPA, MHP will sell up to a specific level of output from the Eklutna Project to MEA at the times scheduled by MEA for a price that is equal to 85% of MEA's published avoided energy cost, subject to annual price adjustments and triennial price resetting.[216] MEA is under no take-or-pay obligation and is effectively buying firm energy from MHP at a zero capacity cost and an energy cost lower than MEA's tariffed avoided energy cost. If MEA chose to not take its full allocation of Eklutna Project energy under the MEA PPA, that choice would cost MEA nothing other than lost opportunity and would result in lost revenue to MHP. On the record presented to us, we find that under the MEA PPA, MHP is competing with other electric operating entities and public utilities for MEA's business.

Based on the finding that MHP will be competing with other electric operating entities and public utilities under the MEA PPA, we also find that MHP is fully regulated under AS 42.05 pursuant to the AS 42.05.711(b)(2) exception to the exemption from regulation granted by AS 42.05.711(b). With this finding, and contrary to the expectation of the MOA,[217] Anchorage Water and Wastewater Utility will remain subject to regulation under AS 42.05 pursuant to AS 42.50.711(b)(2).

The financial requirements of ML&P, as a load serving utility, are distinctly different from the financial requirements of MHP, which will only be providing public electric utility service at wholesale. For that reason, if the transaction at issue in Dockets U-19-020 and U-19-021 closes, we will terminate the dividend restriction imposed on

[215]Dockets U-19-020 and U-19-021 Hearing, Tr. 2697-2699.

[216]MEA PPA, Exhibit 1 at 9, 45.

[217]Dockets U-19-020 and U-19-021 Hearing, Tr. 2698-2699.

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ML&P by Order U-13-184(22). This will allow disbursement of ML&P assets as contemplated by the transaction.

However, based on the evidence in the record, we find that MHP is a regulated public utility under AS 42.05.711(b)(2). Given MHP's limited asset base, lack of experience as a stand-alone utility, and plan to pay all income other than the reserve fund as dividends to the MOA, borrowing in its own name may be difficult and costly. In these circumstances, we could find under AS 42.05.521 that MHP might become capital impaired and impose a dividend restriction on MHP. Although not specifically a dividend restriction, consistent with the condition on its certificate imposed above, MHP may not pay dividends to the MOA any time that its reserve account balance is under $3,000,000.

Transaction Agreements

The transaction under consideration in Dockets U-19-020 and U-19-021 includes four separate agreements between the MOA, ML&P, and Chugach, all of which require our approval in order for the transaction to close. The transaction also will not close unless we authorize Chugach to recover the transaction costs, including the acquisition premium paid to the MOA, through rates.[218] We are also being asked to approve the return of $36 million of unrestricted cash held by ML&P to North District ratepayers through a credit on Chugach bills over a three-year period, and accept a number of reports from Chugach.[219] The transaction also includes a community donation by the MOA, the enforcement of which the parties have recognized is outside of our jurisdiction.[220] In this section we will address each of the four transaction agreements,

[218]Chugach Petition at 20-21; Original Stipulation at 5.

[219]Original Stipulation at 6-8.

[220]Original Stipulation at 9-10 ("Any Settling Party seeking to enforce this Section III.E of this Stipulation shall do so through a civil action in a court of competent jurisdiction and venue").

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waiver of the AS 42.05.441(a) prohibition on recovery of the acquisition premium through rates, and the AS 42.05.391(c) prohibition on the refund of rates paid under a tariff.

Eklutna Project Agreements

The Eklutna PPA was filed as an integral part of the transaction.[221] Chugach acknowledged that the entire amount paid to the MOA under the Eklutna PPA should be considered part of the acquisition premium.[222] MEA has chosen to purchase a portion of ML&P's share of Eklutna Project output under the MEA PPA.[223] This decision results in the acquisition premium Chugach pays to the MOA under the Eklutna PPA declining from a net present value of $75 million to $48.2 million.[224] Chugach's responsibility for Eklutna Project costs and entitlement to Eklutna Project output also declined from 100% of ML&P's share to 64.29%.[225]

As the Eklutna PPA and the MEA PPA are interrelated we will address each of them in this section. We note that we can approve neither of these Eklutna Project agreements unless we can first find that MHP is fit, willing, and able to serve as an owner of the Eklutna Project. Therefore, a condition to our approval of these Eklutna Project agreements is that MHP obtain a certificate under the conditions established above.

Eklutna PPA

Under the Eklutna PPA, Chugach makes specified monthly payments to the MOA for a period of 35 years.[226] Chugach's obligation to make these payments to the

[221]T-8 (Miller Direct) at Exhibit AWM-04.

[222]T-8 (Miller Direct) at 26-27.

[223]MEA PPA at 1-2.

[224]T-8 (Miller Direct) at 20, 22, Exhibit AWM-04 at 47 (showing nominal payments under the two scenarios).

[225]T-8 (Miller Direct), Exhibit AWM-04 at 6-7.

[226]T-8 (Miller Direct), Exhibit AWM-04 at 11, 12, 40.

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MOA are not contingent on any power or energy being produced by the Eklutna Project, and are not suspended by any Eklutna Project outages regardless of nature or duration.[227] In exchange for these payments, Chugach receives the right to a portion of ML&P's share of Eklutna Project output and the obligation to pay a proportionate share of ML&P's Eklutna Project costs, including capital and Fish and Wildlife Agreement costs, for the 35-year term of the Eklutna PPA.[228] Chugach has the unilateral right to exercise a purchase option for a portion of the ML&P interest in the Eklutna Project, subject to advance notice provisions and at a net book value price upon termination of the Eklutna PPA.[229]

Section 15.11 of the Eklutna PPA was amended to expressly state the MOA's and Chugach's understanding that the Eklutna PPA is a wholesale power agreement subject to AS 42.05.431(b).[230] Section 10.1 of the Eklutna PPA was amended to allow either party the opportunity to pursue any legal remedy in the event that senior management of the two parties could not negotiate resolution to a dispute within 30-days of the date the dispute is submitted to senior management.[231] The stipulating parties agreed that Chugach would recover payments to the MOA under the Eklutna PPA through base rates charged to all Chugach ratepayers after the first three years following transaction closure and Chugach will expense up to $7.6 million of Eklutna PPA payments during the first three years.[232]

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[227]T-8 (Miller Direct), Exhibit AWM-04 at 11-12, 16.

[228]T-8 (Miller Direct), Exhibit AWM-04 at 8-11, 12.

[229]T-8 (Miller Direct), Exhibit AWM-04 at 22-23.

[230]*Notice of Filing*, filed September 27, 2019, Attachment 3 at 1.

[231]*Notice of Filing Amendments to Transaction Agreements*, filed October 30, 2019, Exhibit 2 at 1.

[232]Original Stipulation at 13-14.

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The Eklutna PPA was created to establish a secured deferred payment mechanism for a portion of the transaction price that had already been negotiated between the MOA and Chugach.[233] Chugach asserts that the Eklutna PPA payments are based on Chugach's avoided cost of power.[234] However, the testimony is clear that payments to the MOA under the Eklutna PPA are based on an estimated market price based on assumptions regarding the future value of energy in a Southcentral power pool that does not currently exist. The Eklutna PPA payments are also based on assumptions regarding Eklutna Project operating, maintenance, capital, and Fish and Wildlife Agreement costs that have little to do with Chugach's traditional avoided cost calculations.[235] Eklutna PPA payments are also based on capacity values and a cost of carbon, neither of which have economic value at this time.[236]

Chugach has stated that it would not have entered into the Eklutna PPA except as a part of the overall transaction.[237] The Eklutna PPA places all outage risk and responsibility on Chugach, and yet that risk was not factored into the Eklutna PPA pricing. We find the assertion that the Eklutna PPA payments are based upon Chugach's avoided cost of energy to be highly speculative, at best. Eklutna PPA payments are due to the MOA regardless of whether the Eklutna Project produces any electric energy at all.

Under these circumstances, we find that the Eklutna PPA is not a wholesale power agreement entitled to the protections of AS 42.05.431(b). We do not approve

[233]T-8 (Miller Direct) at 46; T-9 (Thibert Direct) at 15-18; T-22 (Windt Pearson Reply) at 8-9.

[234]T-8 (Miller Direct) at 47; T-9 (Thibert Direct) at 18.

[235]*See* TA485-8, filed March 27, 2020 at 5, Tariff Sheet No. 97, Attachment E (Chugach's avoided cost calculation for the quarter beginning April 1, 2020).

[236]T-19 (Strunk Direct) at 40-48.

[237]Dockets U-19-020 and U-19-021 Hearing, Tr. 381.

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Amendment No. 1 to the Eklutna Power Purchase Agreement.[238] We make no finding on whether or not the Eklutna PPA qualifies as a "forward contract," "forward agreement," "master netting agreement," or a "commodity forward agreement" under the Bankruptcy Code, as asserted by the MOA and Chugach.[239]

We find that the Eklutna PPA is a deferred payment mechanism for Chugach's acquisition of most ML&P assets. We further find that the stipulating parties' agreement that Eklutna PPA payments will be collected through base rates charged all Chugach ratepayers after the initial three-year transition period is appropriate. Therefore, we approve the Eklutna PPA as amended by Amendment No. 2,[240] Amendment No. 3,[241] and the Original Stipulation.[242] This approval is subject to the condition that MHP complies with the certificate conditions set out above. This approval is also subject to the limitation that we interpret the stipulating parties' agreement that enforcement of the community donation called for in Section III.E of the Original Stipulation shall be through the court system,[243] also applies to enforcement of Amendment No. 3 to the Eklutna PPA. Subject to these conditions, we authorize Chugach to recover Eklutna PPA payments through base rates from all ratepayers as agreed to in the Original Stipulation.

MEA PPA

Under the MEA PPA, the MOA has agreed to sell 37.51% of ML&P's 53.33% share, or 19.05% of Eklutna Project output to MEA for a period of 35 years. The price is initially set at 85% of the avoided cost rate published on line J of MEA's Tariff

[238] *Notice of Filing*, filed September 27, 2019, Attachment 3 at 1.

[239] T-8 (Miller Direct), Exhibit AWM-04 at 24-25.

[240] *Notice of Filing Amendments to Transaction Agreements*, filed October 30, 2019, at Exhibit 2.

[241] Original Stipulation at Exhibit 3.

[242] Original Stipulation at 13.

[243] Original Stipulation at 10.

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Sheet No. 107, and increases by 1% each year thereafter, except that the price will be reset to 85% of MEA's published avoided cost rate at the beginning of each third year. MHP will be responsible for a 19.05% share of Eklutna Project operations, maintenance, capital, and environmental compliance costs. MHP is responsible for delivery of Eklutna Project energy to MEA as scheduled by MEA, in accordance with past practice and prudent utility practice. MEA is responsible for paying for the Eklutna Project energy delivered by MHP to it.[244]

We find that, unlike the Eklutna PPA, the MEA PPA is a wholesale power agreement between public utilities subject to the requirements and protections of AS 42.05.431(b). ML&P and MEA filed the MEA PPA as an informational filing in these dockets, stating that they will file it for our approval through a tariff filing separate from these dockets. We remind the MOA and MEA that the MEA PPA cannot go into effect until after we have approved it.[245] When the MEA PPA is filed for our approval, it must be supported with the information listed in 3 AAC 52.470(d) and if recovery of the cost is intended to be through MEA's COPA the tariff filing must include the information required by 3 AAC 52.502. The tariff filing will not be allowed to go into effect except upon at least 45 days advance notice to us and 30 days advance notice to the public of the MEA PPA tariff filing under AS 42.05.421.

PILT Agreement

In describing the basis for the PILT Agreement, Chugach states that it "committed to making PILT payments to [the MOA] consistent with the payment structure being made by ML&P as payments known as the Municipal Utility Service Assessment or

[244]MEA PPA at Exhibit 1.

[245]AS 42.05.431(b).

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MUSA and currently being recovered in ML&P's rates."[246] Chugach acknowledges that the PILT Agreement payments are not structured identical to the MUSA, saying:

> Under the Anchorage Municipal Code, ML&P's MUSA payment is calculated by applying the applicable MOA property tax mill rate to the net plant in service in each of the tax districts in the [North District]. However, there was a concern that this could create a disincentive to Chugach to invest in plant in the [North District]. The formula that was developed is designed to avoid this by adjusting the net plant in the [North District] by reference to all changes in net plant (increases and decreases) in all parts of the new combined Chugach service territory within the MOA. This eliminated any incentive for Chugach to invest in plant differently in the two [Districts] but yet still limited the PILT assessment to reflect plant and mill rates within the [North District].[247]

Chugach asserts that this revised formula "would reasonably reflect ML&P's MUSA payments over the next 50 years."[248] Chugach asserts that PILT payments should not be counted as part of the acquisition premium Chugach is paying for most ML&P assets because it mimics the MUSA payments already being recovered through ML&P rates and thus adds no incremental cost to the transaction.[249]

The PILT Agreement identifies Anchorage Municipal Code 26.10.025 as the source of ML&P's obligation to make MUSA payments.[250] Article I of the PILT Agreement provides definitions, including definitions for the terms Adjusted Net Book Value and Overall Plant in Service Change, which are material in determining the amount of annual

[246]T-8 (Miller Direct) at 19, 21 n.8.

[247]T-8 (Miller Direct) at 24. *See* Dockets U-19-020 and U-19-021 Hearing, Tr. 434-436 (testimony about the difference between MUSA and PILT payment calculations).

[248]T-8 (Miller Direct) at 23.

[249]T-8 (Miller Direct) at 28.

[250]T-8 (Miller Direct), Exhibit AWM-06 at 1.

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PILT payment obligations.[251] These terms were substantially modified by Chugach and ML&P to address issues related to contributed plant.[252]

Article II includes the terms under which PILT payments are calculated and paid. Section 2.01 provides a narrative description of the annual PILT payment calculation. Section 2.02 states that PILT payments will be collected solely from North District ratepayers through December 31, 2033, and from all Chugach ratepayers located in Anchorage after January 1, 2034.[253] Section 2.03 requires Chugach to make PILT payments by July 15 of each year and Section 2.04 provides that Chugach shall begin making PILT payments in the calendar year following the last year ML&P makes a MUSA payment under AMC 26.10.025. Section 2.05 describes the manner in which the annual PILT payment calculation is reviewed and disputes about that calculation resolved. Section 2.06 declares that PILT payments will be made for a period of 50 years. Sections 2.09 and 2.10 define PILT payments as tax obligations for regulatory and bankruptcy proceedings. Section 2.11 defines Chugach's ability to withhold PILT payments based upon the MOA's financial obligations to Chugach. Section 2.12 authorizes the MOA to utilize all remedies available for the collection of unpaid taxes to collect PILT payments that are not timely paid.[254]

Article III includes miscellaneous terms related to implementation of the PILT Agreement.[255] Chugach and the MOA included Exhibit A to the PILT Agreement as

[251]T-8 (Miller Direct), Exhibit AWM-06 at 1-2.

[252]*Notice of Filing*, filed September 27, 2019, at 2, Attachment 1 (PILT Agreement Amendment 1).

[253]The record is silent on why Chugach is proposing to make its South District ratepayers within Anchorage pay this obligation, and not requiring South District ratepayers outside of Anchorage, such as Chugach ratepayers living in Whittier and on the Kenai Peninsula, to share in this burden.

[254]T-8 (Miller Direct), Exhibit AWM-06 at 2-5.

[255]T-8 (Miller Direct), Exhibit AWM-06 at 5-9.

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a sample calculation of PILT payments for illustrative purposes only.[256] Exhibit A was subsequently deleted and replaced in its entirety to reflect the contributed plant treatment revision in the first amendment to the PILT Agreement.[257] Sections 2.09 and 2.10 were deleted by the second amendment to the PILT Agreement.[258] The stipulating parties to these dockets have asked us to approve the PILT Agreement as amended.[259]

Chugach has acknowledged that it is exempt from local property taxes and that the PILT Agreement does not represent a tax liability on the part of Chugach.[260] Chugach intends to allocate its costs of acquiring most ML&P assets on a system-wide basis, except for the PILT payments and BRU costs.[261] Chugach has also acknowledged that the 2034 transition of PILT payment responsibility from North District ratepayers to all Chugach ratepayers located in Anchorage was merely the result of negotiations,[262] and is subject to being modified by us for good cause.[263]

Chugach and ML&P have emphasized that the MOA's receipt of the PILT payment revenue stream over a 50 year period is an essential element of this transaction.[264] We have reviewed the PILT Agreement as amended, and find that even if we approve Chugach's payment of the PILT revenue stream we must require

[256]T-8 (Miller Direct), Exhibit AWM-06 at 2, 13-15. *See* Dockets U-19-020 and U-19-021 Hearing, Tr. 2579-2583 (describing how to read this exhibit).

[257]PILT Agreement Amendment 1 at 2, 4-5.

[258]*Notice of Filing Amendments to Transaction Agreements*, filed October 30, 2019, Exhibit 3 at 1.

[259]Original Stipulation at 5.

[260]Dockets U-19-020 and U-19-021 Hearing, Tr. 354, 436.

[261]Dockets U-19-020 and U-19-021 Hearing, Tr. 2296.

[262]Dockets U-19-020 and U-19-021 Hearing, Tr. 3167, 3320-3321.

[263]Dockets U-19-020 and U-19-021 Hearing, Tr. 2296.

[264]T-8 (Miller Direct) at 34; T-9 (Thibert Direct) at 12; T-22 (Windt Pearson Reply) at 10-14.

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substantial revisions to the PILT Agreement. We also find that for the purposes of our public interest analysis under AS 42.05.441(b), we must consider the PILT payments to be part of the acquisition premium Chugach has offered to pay for most ML&P assets. We address each of these findings in detail below.

The PILT Agreement Does Not Create or Replace a Tax Obligation

The MUSA is essentially a tax-like charge based on the net book value of contributed and non-contributed utility plant that the MOA chooses to impose just on those residents who take public utility service from the MOA owned public utilities.[265] The MOA has recognized that it has no authority to impose property taxes on property exempt from taxation by state law,[266] and property of public utilities owned by municipalities are exempt from general taxation.[267] However, the Alaska Supreme Court has determined that the MOA may require municipal public utility ratepayers to pay the MUSA in rates.[268] Therefore, the MUSA itself cannot be considered a tax obligation even if it is a valid utility cost.

Electric cooperatives such as Chugach and MEA, which serve the majority of electric consumers in Anchorage, are exempt under state law from state and local government taxes based on the value of property.[269] In return for this exemption, Chugach and MEA are required to pay to the state $0.0005 for each kWh sold at retail.[270] This electric cooperative tax is refunded in part to local governments based on a formula

[265]AMC 26.10.025.

[266]AMC 12.15.010.A.

[267]AS 29.45.030(a)(1).

[268]*See Municipality of Anchorage v. Regulatory Commission of Alaska*, 215 P.3d 327 (Alaska 2009) (analyzing the MOA's MUSA for Anchorage Water and Wastewater Utility).

[269]AS 10.25.540(b)(2).

[270]AS 10.25.540(b)(2); AS 10.25.555.

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established by state law.[271] As an actual and necessary cost of providing service this per kWh charge is included in electric cooperative rates.

We have reviewed the PILT Agreement, and find it to be merely a deferred payment mechanism that the MOA and Chugach have negotiated for this transaction. The PILT Agreement does not create a tax obligation, or serve as a substitute for any tax obligation of Chugach. It is therefore not a cost that is necessary to the provision of public electric utility service. We reject PILT Agreement, Article II, Section 2.12, as we do not find that the tax delinquency remedies authorized by this section are appropriate for a deferred payment agreement. Our approval of the PILT agreement and authorization of Chugach to recover PILT payments through rates is specifically conditioned on Section 2.12 not being a part of the approved PILT Agreement.

Discrimination in Rates

A fundamental premise on which rates are established in Alaska is that:

> [A] public utility may not, as to rates, grant an unreasonable preference or advantage to any of its customers or subject a customer to an unreasonable prejudice or disadvantage. A public utility may not establish or maintain an unreasonable difference as to rates, either as between localities or between classes of service.[272]

PILT Agreement, Article II, Section 2.02 states:

> Chugach agrees that any amounts that Chugach collects from retail customers in connection with the PILT Payments will be collected solely from retail customers of Chugach in the [North District] until December 31, 2033. Beginning on January 1, 2034, Chugach shall collect such amounts from retail customers of Chugach within [the MOA] without restriction.[273]

[271] AS 10.25.570.

[272] AS 42.05.391(a).

[273] T-8 (Miller Direct), Exhibit AWM-06 at 2.

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PILT payments are modeled by Chugach as being $8,847,553 per year for the entire 50-year term of the PILT Agreement.[274] As of April 1, 2019, ML&P served 31,278 service locations in the North District and Chugach served 84,106 service locations in the South District.[275] We have received no cost-of-service based justification from Chugach or ML&P for the proposed shifting of PILT payment burden solely to ratepayers in the North District through 2033, and then solely to those Chugach ratepayers located in Anchorage beginning in 2034.

Chugach has asserted that PILT payment obligations are intended to be approximately the same as the MUSA payment obligations already being paid by North District ratepayers, and thus they will not be impacted by continuing to require them to pay the entire Chugach PILT obligation through 2033.[276] The implication is that, because there is no new impact on North District ratepayers the rate discrimination is not "unreasonable" under AS 42.05.391(a). In examining PILT Agreement impacts on ratepayers, we have determined that structural differences between the PILT and MUSA calculations mean that they are not equal and offsetting, or a wash as argued by Chugach.[277] MUSA for ML&P is currently calculated by adding the net book value of contributed and non-contributed plant in each of the seven taxable service areas served by ML&P, and multiplying that sum times the tax rate for each service area. The total MUSA payment obligation is the sum of these seven calculations.[278]

[274] *Chugach Electric Association, Inc.'s Filing in Compliance With Bench Order*, filed October 30, 2019, *NERA Settlement Model (Bates No. CHU-020788)*, at PILT worksheet.

[275] Chugach Application, APUC Form PU 101, at 4.

[276] T-8 (Miller Direct) at 21 n.8, 46.

[277] Dockets U-19-020 and U-19-021 Hearing, Tr. 908-911, 1082-1085 (reference to Exhibit H-62), 3474-3476, 3657, 3722.

[278] TA357-121, filed December 30, 2016, Exhibit 7 at 32-33.

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PILT payment obligations are determined by a more complex calculation. This calculation starts with the net book value of ML&P contributed and non-contributed plant in each taxable service area *at the time of transaction closing*. This net book value is then adjusted by a factor representing differences in the net book value of Chugach plant in Anchorage on January 1 of the year compared to the value of North District and South District plant in Anchorage at the time of closing. This adjusted net book value is then multiplied times the current property tax rate for each of the seven taxable service areas that ML&P served, and the PILT obligation is the sum of these seven calculations.[279]

For the PILT formula to yield payments that are equal to MUSA a key condition would have to hold: Post-transaction, the change in net book value of Chugach plant within Anchorage would need to perpetually occur in the exact ratio of Chugach to ML&P net book value *that exists at the time of closing.* Any large investment that occurred in one but not the other District would necessarily cause a material change in this ratio, violating this condition. For example, installation of a Battery Energy Storage System in the South District would cause PILT – but not MUSA – to rise.

Such differences would be magnified if there were any substantial trends in the locational distribution of new and retired plant. Under two highly stylized scenarios we modeled MUSA and PILT payments to assess the extent to which they might differ if this important assumption were relaxed.[280] In Case 1 an annual shrinkage factor of 1% was compounded and applied to each year's net book value of Chugach South District plant, as recorded in the *Revised NERA Settlement Model* (Strunk Model)[281]; and an

[279]T-8 (Miller Direct) at 23-23, Exhibit AWM-06, as modified by *Notice of Filing*, filed September 27, 2019, Attachment 1.

[280]Appendix A to this Order contains an explanation of the modeling approach.

[281]Revised NERA Settlement Model, Bates No. CHU-020789, filed as part of Exhibit 1 to *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019.

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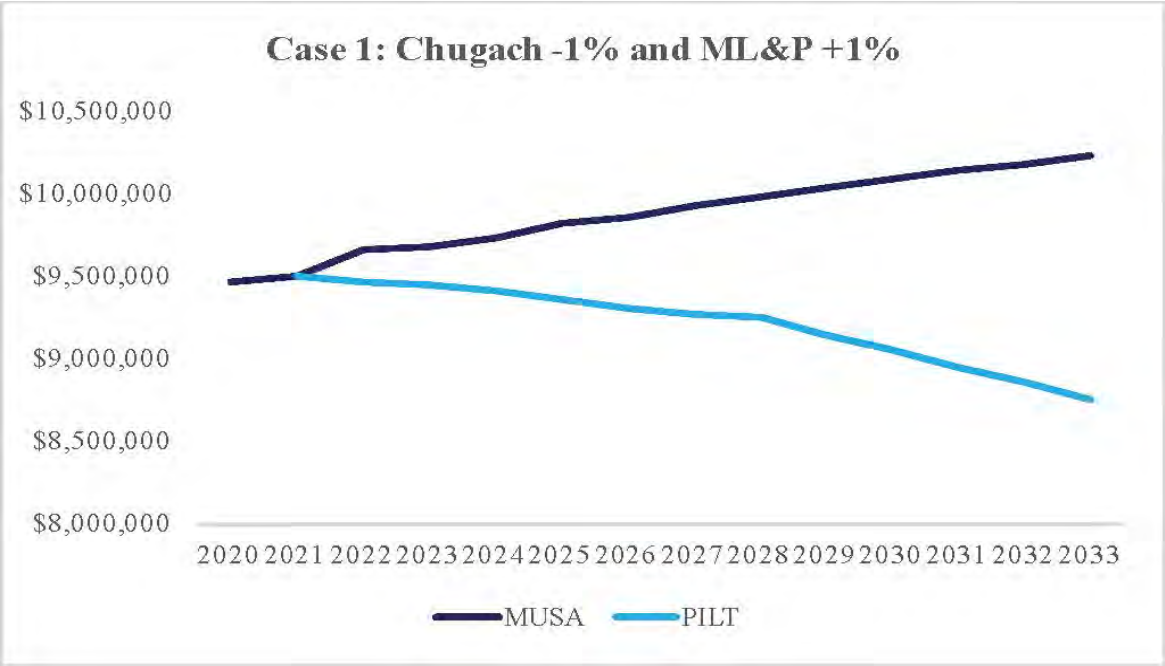
annual growth factor of 1% was compounded and applied to each year's net book value of North District plant. The results are shown below.

Case 1



In Case 2 we imposed mirroring conditions to Case 1: an annual growth factor of 1% was compounded and applied to each year's projected net book value of South District plant; while a 1% shrinkage factor was compounded and applied to each year's projected net book value of North District plant.[282]

[282] *See* Appendix A, Schedules H.1, H.2 (showing respectively the underlying calculations for Case 1 and Case 2).

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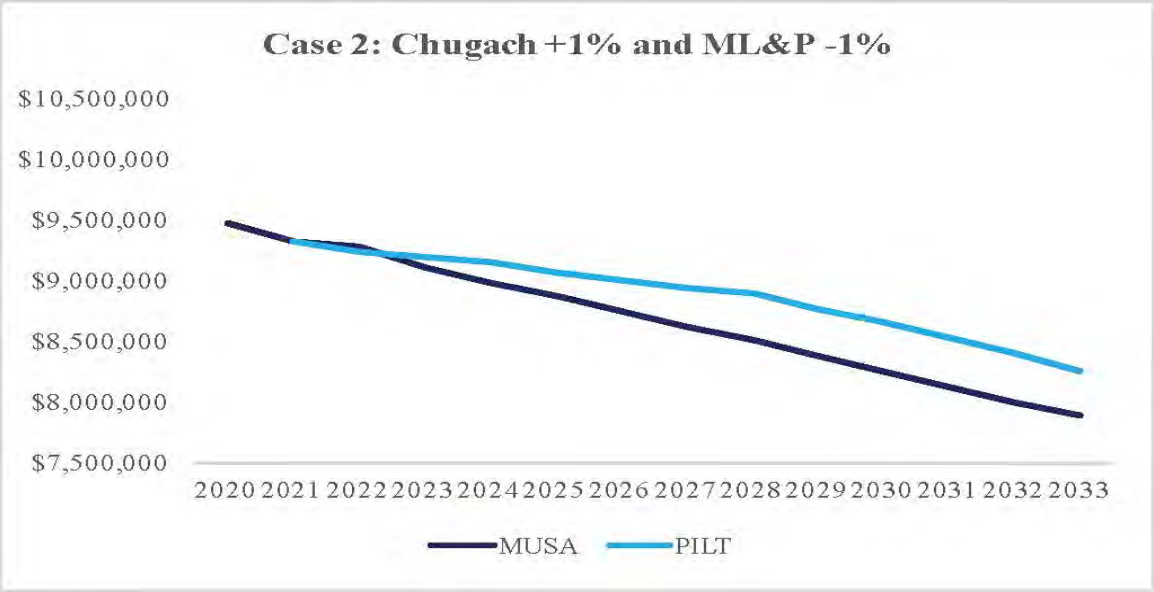
Case 2



We have received no evidence that Chugach plans on maintaining the ratio of net plant balances between the two Districts at the historic transaction closing figure into the future. Indeed, the fact that the PILT formula exists as it does is evidence that the MOA was concerned that Chugach might, post-acquisition, geographically locate new plant investment with the intention of reducing PILT payment obligations. Otherwise, the PILT Agreement could have more simply calculated PILT payment obligations on the basis of Chugach property balances within the North District.

Our modeling clearly shows that the PILT payment calculation is not equivalent to the MUSA payment calculation, except under restrictive assumptions. We accordingly have no basis for finding the PILT Agreement's rate discrimination provisions acceptable. We reject Chugach's proposed 'no harm, no foul' arguments for approval of discriminatory ratemaking.

As an aside, we note that Chugach's testimony concerning the value of PILT payments obscures the overall benefits to the MOA associated with this transaction. Chugach represents the net present value for the PILT payments, in 2019 dollars to be

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of $166,782,107.[283] This value is derived by taking the adjusted ML&P MUSA payment accepted for the 2015 test year in Docket U-17-008, in the amount of $8,847,553, and assuming that this amount would be the PILT payment for each of the next 50 annual payments due under the PILT Agreement.[284]

As discussed above, PILT payments will be made as a function of evolving net plant balances of Chugach property in Anchorage. The Chugach sponsored figure is thus inconsistent with Chugach's own projections of such property, which materially change between now and 2033. As part of our effort to determine whether Chugach's proposed acquisition adjustment can be recovered through rates, discussed below, we modeled PILT payments based on the amended PILT Agreement formula and net plant balance projections consistent with those sponsored by Chugach witness Strunk.[285] The results indicate that the net present value of the stream of PILT payments over 50 years is just shy of $146 million, in 2019 dollars.[286]

Chugach has chosen to enter into the transaction to acquire most assets of ML&P for the benefit of all North District and South District ratepayers.[287] As discussed above, the PILT Agreement is not a payment in lieu of any tax obligation of Chugach. The PILT Agreement is merely one of the deferred payment mechanisms that Chugach

[283]T-8 (Miller Direct) at 4 n.2, 18-19, 22. Miller actually testifies to the rounded figure of $166.8 million, which comes from the Strunk Model, PILT Worksheet at column E, line 8.

[284]*See* Strunk Model at PILT Worksheet, column E (showing a PILT payment of $8,847,553 for each of the annual payments and citing to Docket U-16-094); *Municipal Light and Power's Filing in Compliance with Ordering Paragraph 3 of Order No. U-16-094(9)/U-17-008(13)*, filed April 20, 2018, in Dockets U-16-094 and U-17-008, Exhibit 2 at 2 (Schedule 2, line 35), accepted by Order U-16-094(10)/U-17-008(14), *Order Accepting Compliance Filings, Approving Tariff Sheets, and Approving Request for Authorization of Release of Escrow Funds*, dated May 25, 2018.

[285]Strunk Model, at CEA Base (Extended) tab, line 55.

[286]Appendix A at Schedule H.

[287]T-9 (Thibert Direct) at 5.

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and the MOA have negotiated for Chugach to acquire the ML&P assets. The stipulating parties, including Chugach and ML&P, have agreed that payments under the other deferred payment mechanism they have negotiated, the Eklutna PPA, will be recovered from all Chugach ratepayers through base rates.[288]

No cost-based justification has been presented for making North District ratepayers share in this burden for all 50-years, South District ratepayers located in Anchorage sharing in this burden for 34-years, and South District ratepayers located outside of Anchorage not sharing this burden at all. PILT Agreement Section 2.02 allocates the PILT payment portion of transaction costs solely based on ratepayer geographic location and yet this is not a cost based on location. We find that implementation of PILT Agreement Section 2.02 would result in an unreasonable difference in rates as between localities, in violation of AS 42.05.391(a).

Our approval of the PILT Agreement and authorization of Chugach to recover PILT payments through rates is specifically conditioned on Section 2.02 not being a part of the approved PILT Agreement. As PILT payments are merely a deferred payment for Chugach's acquisition of most ML&P assets, there is no apparent reason why these costs should not be allocated to all post-transaction Chugach ratepayers the same as Chugach proposes for the other deferred acquisition payments.

ML&P's MUSA payment obligations will end and Chugach's PILT payment obligations will begin effective the date the transaction closes.[289] ML&P's current rates are based upon a revenue requirement that included MUSA expense.[290] After transaction closing, MUSA expense will no longer be a cost of providing service to North District

[288]Original Stipulation at 13.

[289]T-8 (Miller Direct), Exhibit AWM-03 at 122-123.

[290]Order U-16-094(9) at 5, Appendix at 4.

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ratepayers. If the transaction closes within 120 days of the date of this order in accordance with the APSA,[291] Chugach's first PILT payment will be due by July 15, 2021.[292]

Chugach cannot incorporate PILT payments into rates outside of a rate case, and for the reasons discussed above we find that it is reasonable for Chugach to adopt ML&P's current tariff rates for service in the North District until Chugach files its next rate case, before December 31, 2023. As will be discussed in the next section, we find that MUSA expense obligation of ML&P can reasonably be expected to range from somewhat more than PILT payment obligations, to slightly less than PILT payment obligations. This effectively means that until Chugach files its first post-transaction rate case, North District ratepayers are effectively paying PILT Agreement obligations that should be allocated to all Chugach post-transaction ratepayers. We do not find this locational allocation to be unreasonable for the relatively short transition period proposed by Chugach.

We approve the PILT Agreement, subject to closure of the transaction and the condition that PILT payments are funded by all Chugach ratepayers through base rates following the date of Chugach's first post-transaction rate case. PILT Agreement Sections 2.02 and 2.12 are not a part of the PILT Agreement that we approve.

PILT Payments are Part of the Acquisition Premium

While acknowledging that they have offered to pay an acquisition premium for most of ML&P's assets, Chugach has consistently argued that the PILT payments should not be considered a part of that premium. Chugach has based this argument on the assertion that PILT payments are merely a continuation of MUSA payments and thus

[291] T-8 (Miller Direct), Exhibit AWM-03 at 34.

[292] T-8 (Miller Direct), Exhibit AWM-06 at 2-3.

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are not a cost incremental to the transaction.[293] Our review of the acquisition premium is in the context of AS 42.05.441(b), which states:

> In determining the value for rate-making purposes of public utility property used and useful in rendering service to the public, the commission shall be guided by acquisition cost or, if lower, the original cost of the property to the person first devoting it to public service, less accrued depreciation, plus materials and supplies and a reasonable allowance for cash working capital when required.

We traditionally refer to the original cost of the property to the person first devoting it to public service, less accrued depreciation, as the net book value of plant used and useful in rendering service to the public.[294]

Under the transaction at issue in Dockets U-19-020 and U-19-021, as amended by the Original Stipulation, Chugach will be acquiring ML&P assets with a net book value estimated to be $715.4 million. If, at closing, the net book value of the ML&P assets being acquired is less than $715.4 million, there will be an equivalent reduction in the purchase price paid by Chugach. Should the net book value of ML&P assets being acquired be less than $715.4 million at closing, this adjustment means that there will be no increase to the amount of the acquisition premium. If the net book value of the ML&P assets being acquired is greater than $715.4 million at closing, there will be no upward purchase price adjustment. [295] Thus, if the ML&P assets being acquired by Chugach have a net book value at closing greater than $715.4 million, there will be a reduction in the acquisition premium.

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[293]Chugach Application at 8, 9-10; T-8 (Miller Direct) at 4 n.2, 21, 28-29, 34; T-9 (Thibert Direct) at 14-15; T-19 (Strunk Direct) at 5, 14-15; T-21 (Miller Reply) at 17-20.

[294]*See* Order U-13-183(5), *Order Granting Motion to Accept Late-Filed Compliance Filing, Approving Tariff Adoption Notice, and Acknowledging Filings*, dated March 23, 2015, at 2; *Compliance Filing Pursuant to U-13-183(4)*, filed February 4, 2015, in Docket U-13-183, at Exhibit B.

[295]Original Stipulation at 6 (Section III.B.1); Dockets U-19-020 and U-19-021 Hearing, Tr. 2818; Exhibit H-114 at 11.

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Chugach is proposing to pay the MOA for these ML&P assets with an immediate payment equal to $757.8 million at closing, subject to downward adjustment if net book value of the ML&P assets is less than $715.4 million,[296] plus deferred payments under the Eklutna PPA with a net present value estimated at $48.2 million.[297] Chugach acknowledges that with these payments, it is paying an acquisition premium for most ML&P assets and that it is seeking recovery of this premium through rates.[298] Thus, there is no dispute that we have to make a public interest finding under AS 42.05.711(d) to waive the prohibition in AS 42.05.441(b) against recovery of the acquisition premium through rates in order to approve this transaction.

Chugach has stated its belief that we will allow the recovery of the acquisition premium through rates "when ratepayers will benefit, and the utility has demonstrated specific, tangible benefits in an amount at least equal to the cost of the acquisition [premium]."[299] We view Chugach's objection to counting the PILT payments as part of the acquisition premium to be related to the amount of the acquisition premium that must be offset by transaction benefits to ratepayers. This view is supported by Chugach's assertion that if we count the PILT payments as part of the acquisition premium, we must offset that amount by including savings related to termination of MUSA obligations as part of the transaction benefits.[300]

Under our acquisition premium analysis, the acquisition premium is the difference between the amount paid to acquire utility plant and the net book value of that

[296]Original Stipulation, Exhibit 1 at 2.

[297]Original Stipulation at 13 n.1.

[298]T-8 (Miller Direct) at 6.

[299]T-8 (Miller Direct) at 6.

[300]Dockets U-19-020 and U-19-021 Hearing, Tr. 908-911, 1083-1085 (referencing Exhibit H-62), 1491-1493, 3474-3476, 3657.

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plant. Chugach has acknowledged that we have not previously determined the amount of an acquisition premium based on whether or not there are incremental costs or savings related to the amount paid to acquire utility plant.[301] Chugach and ML&P have both asserted that PILT payments to the MOA are an essential element of this transaction.[302] As discussed above, we find the PILT Agreement to be merely a deferred payment mechanism for Chugach's acquisition of most ML&P assets. PILT payments are part of the price Chugach is paying to the MOA for ML&P assets and seeking to recover through rates. Therefore, we agree with the AG that PILT payments must be included in our calculation of the acquisition premium.[303] We address Chugach's argument that MUSA savings must be used to offset the PILT payment portion of the acquisition premium below in our public interest evaluation.

BRU Asset Transfer

In 1996, ML&P requested authority to acquire a one-third working interest in the BRU field from Shell Western E&P, Inc. and Shell Onshore Ventures, Inc. (jointly Shell Western) for $125 million. This purchase was to be entirely financed with debt. At the time of the purchase, ML&P estimated that the purchase included 316 billion cubic feet of unproduced recoverable natural gas, enough to meet 100% of ML&P's natural gas requirements for up to 25 years. Complicating this purchase was the fact that Shell Western had natural gas sales contracts with Aurora Gas, Inc. and Chugach, both of whom objected to ML&P's purchase of Shell Western's BRU field interests.[304]

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[301]Dockets U-19-020 and U-19-021 Hearing, Tr. 2167-2170.

[302]T-8 (Miller Direct) at 18, 23; T-9 (Thibert Direct) at 12; T-22 (Windt Pearson Reply) at 10-14.

[303]Dockets U-19-020 and U-19-021 Hearing, Tr. 3685-3689. AG Closing at 11-17.

[304]Order U-96-036(1), *Order Instituting Investigation; Designating a Subset of Commission Staff a Party; Establishing Hearing and Filing Schedule; and A*ppointing *Hearing Officer*, dated June 3, 1996.

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APUC Staff and ML&P filed a stipulation that included the following language:

> ML&P and Staff have stipulated that ML&P's ratepayers will be the ultimate beneficiaries of the savings or proceeds resulting from the purchase or ownership of the Beluga gas field interests. In approving this transaction, the Commission acknowledges and incorporates this stipulation and will enforce it in future ML&P rate proceedings.[305]

The APUC specifically accepted this stipulation in approving ML&P's acquisition of Shell Western's one-third working interest in the BRU field.[306]

In the ratemaking phase of the docket in which ML&P's acquisition of Shell Western's interest in the BRU field was considered, controversy arose over the price at which ML&P would provide itself gas from its ownership interest in the BRU.[307] We established an interim and refundable GTP mechanism to establish the price ML&P would charge itself for natural gas produced from its interest in the BRU. This mechanism was based on a debt service coverage rate of return based upon our finding that all ML&P risk related to its acquisition of an interest in the BRU was borne by ratepayers. This mechanism also required ML&P to use revenue from third-party natural gas sales as an offset against the BRU revenue requirement used to annually adjust the GTP.[308]

Under the BRU field operating agreements, if one owner does not take all of its share of the BRU field production, the other owners can take the underlifted gas for

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[305] *Stipulation*, filed October 11, 1996, in Docket U-96-036.

[306] Order U-96-036(6), *Order Affirming Oral Bench Ruling Approving Agreement, Subject to Conditions; Granting Request for Clarification; and Requiring Notification*, dated October 11, 1996 (Order U-96-036(6)), at 7-8.

[307] Order U-96-036(8), *Order Accepting Late-Filed Response of Staff; Scheduling Prehearing Conference; and Denying Chugach's Request for Surrogate Pricing*, dated October 30, 1997.

[308] Order U-96-036(25), *Order Establishing Revenue Requirement and Rate Design for ML&P's One-third Working Interest in the Beluga River Gas Field*, dated June 2, 2002.

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their purposes and compensate the underlifting owner. In 2004, ML&P received $16 million in settlement of its 2003 BRU underlift. We authorized ML&P to utilize a portion of this money to remove a BRU related deferred asset, and the remainder to pay for its share of the 2005, 2006, and part of 2007 planned BRU capital improvements.[309] In 2005, ML&P received almost $20 million in settlement of its 2004 BRU underlift. We authorized ML&P to utilize those funds to pay for its share of the remaining 2007, 2008, 2009, 2010, and part of 2011 planned BRU capital improvements.[310]

In 2006, ML&P received $22,950,406 in settlement of its 2005 underlift. ML&P requested permission to loan this amount plus interest earnings for a total of $23,530,064 to its electric fund for replacement of Generation Unit No. 3. ML&P proposed that loan repayments, including interest, from its electric fund to its gas fund would be placed in a restricted future gas purchase (FGP) account. The FGP account would be used to offset the cost of gas purchased as BRU field production declines. We granted ML&P's request for this use of its 2005 underlift settlement.[311]

In 2007, a rapid increase in the market price of gas threatened to result in a negative GTP for ML&P. ML&P asked for permission to modify its GTP calculation to remove third-party sales revenue and to create a deferred regulatory liability from gas sales (DRLGS) account in which to capture that revenue. Interest and principal of the DRLGS account would be used to fund ML&P's share of BRU capital projects and the

[309]Order U-04-063(6), *Order Clarifying OrderU-04-063(5), Approving Use of Underlift Settlement, Requiring Interest Accrual and Quarterly Reports, and Closing Docket*, dated March 25, 2005.

[310]Order U-05-097(1), *Order Approving Plan for Use of 2004 Underlift Settlement and Closing Docket*, dated February 16, 2006.

[311]Order U-06-089(2), *Order Affirming Bench Ruling Approving Plan for Use of 2005 Underlift Settlement and Closing Docket*, dated October 23, 2006.

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future purchase of gas from other producers. We approved modification of the GTP calculation methodology and creation of the DRLGS account as requested by ML&P.[312]

In 2013, ML&P reported that it had placed nearly $130 million into the DRLGS account, and used approximately $60 million of that amount to fund its share of BRU capital projects. ML&P requested to use $5.5 million of the $70 million DRLGS balance to off-set a projected revenue deficiency.[313] We did not reach a decision on this proposed use of the DRLGS balance and denied a related request by Providence to use the DRLGS balance as an offset against ML&P's rate base.[314]

ML&P filed a petition in 2014 seeking permission to use a portion of the DRLGS balance to fund its BRU ARO through December 31, 2013, and to modify its GTP to include an ARO surcharge equal to the annual ARO booked under current accounting standards. ML&P proposed using $6,208,891 of the DRLGS balance to create an ARO sinking fund, and then to add money recovered through the ARO surcharge to that fund. The ARO fund will be used to pay ML&P's share of BRU dismantlement, removal, and restoration (DR&R) costs required at the time of well or field abandonment. We granted ML&P's petition.[315]

In 2016, ML&P and Chugach jointly filed a petition for authority to acquire ConocoPhillips Alaska, Inc.'s (CPAI) one-third interest in the BRU for $152 million. Under

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[312]Order U-07-045(2), *Order Granting Petition and Closing Docket*, dated May 15, 2007.

[313]*Prefiled Direct Testimony of Anna C. Henderson*, filed September 9, 2013, in TA332-121 (which was later suspended into Docket U-13-184), at 7-9.

[314]Order U-13-184(22)/U-15-096(1)/U-15-097(1), *Order Accepting Stipulation on Certain Disputed Issues, Resolving Remaining Disputed Issues, Establishing Revenue Requirement, Making Interim Rates Permanent, Establishing Permanent Rates, Ruling on Motions, Imposing Dividend Restriction, Opening Dockets of Investigation, and Approving Tariff Sheets*, dated July 16, 2015 (Order U-13-184(22)), at 55, 68-70.

[315]Order U-14-009(2), *Order Granting Petition, Denying Motion to Intervene, and Denying Motion to Consolidate*, dated May 15, 2014.

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this proposal, ML&P would acquire 70% of CPAI's interest for $106.4 million and Chugach would acquire 30% of CPAI's interest for $45.6 million. ML&P proposed to pay for its share of this purchase with $13.2 million of CPAI underlift obligations owed to ML&P related to BRU operation, the entire DRLGS fund balance which was $68.9 million as of December 31, 2015, the entire FGP account balance which was $18.0 million as of December 31, 2015, and approximately $6.2 million from the ML&P gas fund unrestricted cash reserves. We approved the proposed ML&P and Chugach acquisition of the CPAI interest in the BRU, and ML&P's proposal for financing its share of this acquisition.[316]

In concluding its purchase of CPAI's BRU interest, ML&P actually used the $13.2 million in underlift settlement, $61 million from the DRLGS account, $18.2 million from the FGP account, and $11.5 million of gas fund equity. ML&P requested a modification to the return portion of its GTP calculation from a debt service coverage methodology to a rate base rate of return methodology. We required ML&P to use the remaining $9.1 million DRLGS balance in funding its acquisition of CPAI's interest in the BRU, and allowed ML&P to use the rate base rate of return methodology for calculating the return on the remaining $2.4 million equity investment in the acquisition. After acquiring CPAI's interest in the BRU, ML&P owns a 56.67% interest in the BRU leases down to 7,000 feet, and 80% of the BRU leases below 7,000 feet. Chugach owns 10% of the BRU leases down to 7,000 feet and 20% of the BRU leases below 7,000 feet.[317]

Amended and Restated BRU Fuel Agreement

With the transaction at issue in Dockets U-19-020 and U-19-021, ML&P will be selling its entire interest in the BRU to Chugach.[318] Chugach's use of this asset was

[316]Order U-16-012(14) at 19.

[317]Order U-16-060(12)/U-16-073(11), *Order Granting in Part Request for Approval of Ratemaking and Accounting Treatment and Requiring Filings*, dated October 24, 2017.

[318]T-8 (Miller Direct), Exhibit AWM-03 at 25.

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to be governed by the BRU Fuel Agreement.[319] The BRU Fuel Agreement required Chugach to use the share of BRU gas acquired from ML&P through 2033 to serve North District ratepayers at a price consistent with the current ML&P GTP calculation, with revenue from any excess gas sold and the revenue placed in the DRLGS account for the benefit of North District ratepayers. Beginning January 1, 2034, Chugach will be allowed to utilize BRU gas on a system-wide basis for the benefit of all ratepayers.[320] Chugach asserts that this allocation is required to ensure that neither North District nor South District ratepayers "should be seen as achieving a major benefit (or cost) at the expense of the other as a result of the Transaction."[321]

Providence expressed concern that the BRU Fuel Agreement did not adequately compensate North District ratepayers for their capital contribution to ML&P's interest in the BRU.[322] The Original Stipulation, to which Providence is a party, replaced the BRU Fuel Agreement with a new agreement entitled the *Amended and Restated BRU Fuel Agreement* (Restated BRU Agreement).[323] The Restated BRU Agreement addresses many of Providence's concerns by requiring Chugach to account for the gas and costs of the BRU interests acquired from ML&P separate from the BRU interest Chugach acquired pre-transaction for the economic life of the BRU.[324] All benefits and costs of the BRU interest Chugach is acquiring from ML&P are allocated to North District ratepayers, and all benefits and costs of the BRU interest Chugach acquired pre-transaction are allocated to South District ratepayers. The Restated BRU Agreement

[319]T-8 (Miller Direct) at Exhibit AWM-05.

[320]T-8 (Miller Direct), Exhibit AWM-05 at 2.

[321]T-8 (Miller Direct) at 58.

[322]T-25 (Beam Direct) at 18-19; T-26 (Garrett Direct) at 67-73.

[323]Original Stipulation at 10-12, Exhibit 4.

[324]Original Stipulation, Exhibit 4 at 2.

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establishes a proxy market price for BRU gas sales to third-parties and for inter-District gas transfers. Upon making third-party sales or inter-District transfers of BRU gas, Chugach is required to seek our permission to either flow the revenue achieved through the COPA for the benefiting District or into the DRLGS account for the benefiting District.[325]

ML&P witness Reed testified that the Original Stipulation terms related to the BRU were intended to recognize ML&P ratepayer contributions to the BRU and return that value to them.[326] ML&P has quantified the net present value of ratepayer contribution to ML&P BRU plant in service as of December 31, 2018, as being $136,002,239. This amount represents funds that should have been used to reduce ML&P ratepayer rates under the APUC decision in Order U-96-036(6). This rate reduction was postponed by our later decisions allowing ML&P to use these funds to benefit future ratepayers. We recognize the equitable claim of ML&P ratepayers to receive the benefit of this contribution.

However, we find that the methodology proposed in the Restated BRU Agreement does not reasonably accomplish return of this contribution to the North District ratepayers who should receive it. The Restated BRU Agreement, by its terms, will require Chugach to maintain separate North District and South District COPA filings for the economic life of the BRU. This will necessarily reduce the regulatory savings projected to support our approval of this transaction.[327]

The separate accounting for North District and South District interests in the BRU will also significantly complicate Chugach's management of the BRU and its generation system. For example, North District ratepayers' interest in the BRU may justify

[325]Original Stipulation, Exhibit 4 at 2-3, as corrected by *Notice of Filing Corrected Stipulation Exhibit 4*, filed November 5, 2019.

[326]Dockets U-19-020 and U-19-021 Hearing, Tr. 2954.

[327]T-15 (Lovas Direct) at 21-22.

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an accelerated investment and production management plan in order to have excess gas available for sale or inter-District transfers. South District ratepayers' interest may justify a less aggressive investment and production management plan in order to extend the period lower cost BRU gas is available to reduce market price gas purchases for a longer period of time.

Also, the cost of gas can directly affect generation dispatch schedules, and determination of whether natural gas fueled units should be refurbished or retired. The differential gas price for North District load and South District load could easily create conflict in generation dispatch schedules and long-term generation planning. If these decisions are to be left to the Chugach member elected board of directors, then we have to consider that the North District has less than half the number of ratepayers as the number of ratepayers in the South District. This could lead to systematic discrimination against the interests of North District ratepayers.

The allocation benefits of the Restated BRU Agreement are necessarily defined by how much gas is ultimately produced from the BRU and the cost of producing that gas. Neither of these variables can be determined with any degree of certainty at this time. Therefore the location based cost and benefit allocation portions of the Restated BRU Agreement are rejected as being unduly discriminatory under AS 42.05.391(a). We further find that if the transaction closes it would be unreasonable for Chugach to manage the BRU as if there were two separate ownership interests. Pursuant to the authority granted by AS 42.05.431(a), our approval of the transaction under which Chugach acquires most ML&P assets is specifically conditioned on the requirement that Chugach propose a single COPA calculation, including a unified GTP for BRU gas, applicable to North District and South District ratepayers. This single COPA calculation will be modified on ratepayer bills by the RRR credit and by the BRU contributed capital surcharge and credit discussed below.

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With these findings, we do not reject the Restated BRU Agreement in its entirety. One of the issues we specifically opened Docket U-18-102 to address was the pricing of BRU gas used for generating electric energy sold at wholesale, including economy energy sales.[328] ML&P witness Henderson stated that pricing BRU gas for economy energy sales at the ML&P GTP was reasonable, but she did not otherwise address our concerns expressed in Order U-18-102(1) about sharing BRU ownership benefits with ratepayers who did not share in the risks of ownership and the distorted price signals resulting from this practice. Henderson agreed that market pricing of BRU gas for economy energy sales could also be appropriate.[329]

Providence witness Garrett testified that so long as the margins earned on economy energy sales were sufficiently great to return all incremental costs, including the market value for any BRU gas used, and a margin on generation, the margins were adequate. However, Garrett testified that currently ML&P does not maintain adequate records to determine if this is true for all economy energy sales and that a process needs to be implemented to make the pricing of economy energy sales more transparent so it could be determined that no non-economic economy energy sales are made.[330] AG witness Smith generally took a position similar to that taken by Garrett, and raised additional issues related to the potential impact on the competitive economy energy market of ML&P pricing economy energy based on the GTP for BRU gas.[331]

Chugach witnesses Fouts and Miller testified that if Chugach acquired ML&P's interest in the BRU, it did not plan on making any economy energy sales with

[328]Order U-18-102(1) at 4-10.

[329]T-6 (Henderson Direct) at 8.

[330]T-2 (Garrett Direct) at 16-20.

[331]T-1 (Smith Testimony) at 24-33.

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BRU gas or any third-party gas sales.[332] Chugach witness Miller testified that if circumstances arose where Chugach did make third-party gas sales or economy energy sales using BRU gas, it would price that gas at market and place the revenue in the DRLGS fund.[333]

No party has convinced us that use of the BRU gas GTP in pricing economy energy sales is reasonable. No party has argued that the use of a market price for gas used in generating economy energy is unreasonable, regardless of whether the gas was produced from a utility ownership interest in the BRU or gas actually purchased from other producers in the market. We find that pricing economy energy sales based on the cost-based GTP calculation for gas produced from the generating utility's ownership interest in a natural gas production asset is an unreasonable practice.

We find that the market value proxy methodology set out in Section 2.05 of the Restated BRU Agreement and agreed to by Chugach, the MOA, and Providence establishes a reasonable pricing mechanism for gas produced from the generating utility's ownership interest in a natural gas production asset and used to make economy energy sales. We note that although the AG did not sign on to the Original Stipulation and objected to portions of the Restated BRU Agreement, the AG did not oppose use of Section 2.05 market value proxy.[334] We further find that the limitation on sales in Section 2.03 of the Restated BRU Agreement provides a reasonable test for the validity of the market value proxy.

Pursuant to the authority granted by AS 42.05.431(a), we determine that economy energy sales by ML&P or Chugach that utilize gas produced from their respective ownership interests in the BRU must include the market value proxy in Section

[332]T-4 (Fouts Direct) at 8; T-5 (Miller Supplemental Direct) at 4.

[333]T-5 (Miller Supplemental Direct) at 5.

[334]AG Closing at 21-23. Dockets U-19-020 and U-19-021 Hearing, Tr. 3677-3703.

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2.05 of the Restated BRU Agreement as part of the incremental cost of the economy energy sale transaction. We further require ML&P and Chugach to utilize the process set out in Section 2.03 of the Restated BRU Agreement before utilizing gas produced from their interest in the BRU for making an economy energy sale. These requirements are effective the date of this order. To the extent compliance with these requirements result in ML&P or Chugach needing to modify their tariffs, such modification shall be filed as a tariff advice letter and not in these dockets.

Rebate of BRU Contributed Capital

The MOA has identified $136 million in ratepayer contributed capital in the Gas Fund that was accumulated through the collection of electric rates from what will become the North District. This capital was collected in anticipation of provision of future service at favorable rates. Ordinarily, ratepayer contributed capital is collected from specific ratepayers to construct facilities or plant which continue to serve those ratepayers even if subsequently sold to another utility. In this case, the contributed capital was accumulated to obtain access to a resource that would be consumed into the future. Therefore, the full benefit of that contribution will not continue to flow to the class of ratepayers that contributed the capital upon sale of the resource.

To remedy this mismatch between historical capital contributions and future benefits, we require[335] Chugach, by tariff, to rebate the remaining value of the net capital contribution to the North District over a period of 10 years and with a 5% interest. We recognize that the $136 million figure is not the current net book value of contributed BRU assets. However, we also recognize that Chugach will be receiving funds from the restricted DRLGS and FGP accounts that represent additional ML&P ratepayer contributions of capital. Therefore, we find that requiring rebate of the $136,002,239 contributed capital to North District ratepayers is more equitable and reasonable than the

[335] AS 42.05.431(a).

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allocation of costs and benefits required by the Restated BRU Agreement. This will also allow Chugach to operate its interests in the BRU and its generation fleet as a unified owner, which should result in achieving the benefits to ratepayers projected for this transaction.

We instruct Chugach on how to account for the $136 million rebate. The amortization of the $136 million, with carrying costs, will be handled through equal yearly sums that are paid or recovered in a per kWh surcharge/contra-cost basis. Chugach will add a line item to its COPA for South District ratepayers that reflects a per kWh surcharge for the annual amortization amount. Chugach will add a line item to its COPA for the North District ratepayers that reflects a per kWh rebate of the annual amortization. The formula to calculate this surcharge and rebate is discussed below.

We recognize that the per kWh amount will not be fixed at a single per kWh amount over the next 10 years, given the uncertainties of load from year to year, which may result in an under- or over-collection and payment. As a result, Chugach will be required to maintain a separate balancing account for the annual amortization amounts and report, in a separate schedule with its quarterly COPA filings, the balancing account balance and the balance of the $136 million rebate, with carrying costs. The balancing account will reflect:

- debit entries equal to the equal monthly amounts of the annual amortization amount, and
- credit entries equal to the monthly rebate amount paid to North District ratepayers.

Any under-collection of the previous quarter's amortization amount will increase the balancing account and be used to increase the surcharge or credit over the next quarter and any over-collection will decrease the balancing account and be used to

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decrease the surcharge or credit. The following formula will be used to calculate the surcharge:

$$Surcharge = \frac{(AA/4) + B}{SQS}$$

Where:

AA = the annual amortization amount
B = the previous end of quarter balancing account balance
SQS = projected quarterly kWh sales for the South District

We recognize that the kWh sales for each District will be different; therefore, the following formula will be used to calculate the rebate:

$$Rebate = \frac{(AA/4) + B}{NQS}$$

Where:

AA = the annual amortization amount
B = the previous end of quarter balancing account balance
NQS = projected quarterly kWh sales for the North District

The annual amortization amount is divided by four to reflect the quarterly amount used in calculating the surcharge/rebate. The projected quarterly kWh sales will be for the same period as the sales used in Chugach's COPA surcharge calculation.

We require Chugach to file tariff sheets, as a new tariff advice filing, to reflect this surcharge/rebate mechanism when it files its unified COPA filing.

Asset Purchase and Sale Agreement

The APSA serves as the primary agreement between the MOA and Chugach governing the transaction at issue in Dockets U-19-020 and U-19-021, with the Eklutna PPA, PILT Agreement, and Restated BRU Agreement serving as ancillary agreements.[336] The MOA and Chugach have not specifically requested our approval of

[336] T-8 (Miller Direct) at 12, 17 n.6, Exhibit AWM-03 at 9.

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the APSA.[337] However, the APSA is the agreement under which ML&P proposes to discontinue the public utility service responsibilities assigned to it by Certificate No. 121, and transfer those responsibilities to Chugach.[338] Under AS 42.50.281, we clearly have authority over the terms of any such transfer. Closing of the APSA is also contingent on our granting approval to a number of requests that will affect Chugach rates long into the future.[339] We clearly have the authority to ensure that Chugach's rates are just, reasonable, and not unreasonably discriminatory.[340] Therefore, our approval of the APSA is essential for this transaction to proceed.

Article I of the APSA includes the definitions used in this agreement.[341] Article II identifies the assets and liabilities being acquired by Chugach and the assets and liabilities being retained by the MOA. It also identifies certain obligations related to the purchase price and the purchase price dispute resolution mechanisms.[342] Article III addresses the transaction closing process and closing deliverables.[343] Article IV lists the representations and warranties offered by the MOA, and Article V lists the representations and warranties offered by Chugach.[344] Article VI addresses the covenants between the MOA and Chugach regarding behavior during the time the transaction is pending, and Article VII addresses the conditions that have to be met for the transaction to close.[345]

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[337] *Summary of Requests for Approvals Updated to Reflect Settlement Filed October 25, 2019*, filed November 5, 2019.

[338] T-8 (Miller Direct), Exhibit AWM-03 at 70.

[339] T-8 (Miller Direct), Exhibit AWM-03 at 69-71.

[340] AS 42.05.381(a); AS 42.05.391(a).

[341] T-8 (Miller Direct), Exhibit AWM-03 at 8-17.

[342] T-8 (Miller Direct), Exhibit AWM-03 at 17-34.

[343] T-8 (Miller Direct), Exhibit AWM-3 at 34-36.

[344] T-8 (Miller Direct), Exhibit AWM-3 at 36-60.

[345] T-8 (Miller Direct), Exhibit AWM-3 at 60-88.

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Article VIII addresses terms of the APSA that survive closing, and continuing indemnification obligations between the MOA and Chugach.[346] Article IX identifies how the APSA can be terminated before closing, and Article X includes miscellaneous terms.[347]

Most terms of the APSA do not raise issues under AS 42.05, and we do not address those terms further in this order. However, the terms identified below must be addressed.

APSA Section 6.16(a)

This subsection states in its entirety:

> [Chugach] will take such actions, including the use of Cost of Power and Non-Cost of Power ratemaking allocation methods that are consistent with those used by [the MOA] prior to the Closing, as are reasonably necessary and appropriate to ensure that the Non-Cost of Power Adjustment rates for any Persons that are ratepayers of ML&P or [the MOA] as of the Closing Date will not increase as a result of the transactions contemplated by this Agreement.[348]

We do not accept the implied premise in this section that the parties to this transaction can, in any way, limit our ability to establish the rates Chugach charges for public utility service under the standards set out in AS 42.05 and our regulations. We note that Chugach itself has a legal obligation to charge rates that are just and reasonable, and not unreasonably discriminatory.[349] We see no public benefit in mandating, as this Section 6.16(a) does, that Chugach manipulate cost allocation principles to meet an artificial rate-making goal. Our approval required for the APSA to close is specifically conditioned on Section 6.16(a) not being part of the approved APSA.

[346]T-8 (Miller Direct), Exhibit AWM-3 at 88-95.

[347]T-8 (Miller Direct), Exhibit AWM-3 at 95-102.

[348]T-8 (Miller Direct), Exhibit AWM-03 at 75.

[349]AS 42.05.381(a); AS 42.05.391(a).

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APSA Section 6.21

This section states in its entirety:

> (a) [Chugach] covenants and agrees that it will comply in full with all applicable requirements of Ordinance No. 2018-1(S) of the Anchorage Assembly (the **Ordinance**) and all applicable requirements of the ballot proposition presented to the voters of [the MOA] in connection with the Ordinance ("**Proposition 10**"). Without limiting the foregoing or any other provision of this Agreement, in furtherance of the requirements of the Ordinance and Proposition 10, [Chugach] covenants and agrees that, for a period of ten (10) years after the Closing Date, [Chugach] will provide to [the MOA], not later than thirty (30) days following each anniversary of the Closing Date, a written confirmation from a duly authorized officer of [Chugach] in the form attached hereto as Exhibit O
>
> (b) [Chugach] covenants and agrees that the rights and remedies of [the MOA] for any noncompliance by [Chugach] with the requirements of the Ordinance and Proposition 10 and with the requirements of this Section 6.21 shall include having such provision specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach shall cause irreparable injury to [the MOA] and that money damages would not provide an adequate remedy to [the MOA].[350]

Ordinance No. 2018-1(S) includes the following provision: "**No Increase in Base Rates.** Base rates for existing ML&P and Chugach Electric ratepayers would not increase as a result of the transaction."[351] Proposition 10 includes the following provision: "**No Increase in Base Rates.** Base rates for existing ML&P and Chugach Electric ratepayers would not increase as a result of the transaction."[352]

For the reasons discussed above, these quoted terms prohibiting base rate increases as a result of the transaction are inconsistent with our obligations and Chugach's obligations under AS 42.05. We are specifically mandated by AS 42.05.431(a) to ensure that Chugach's rates are sufficient to meet its debt covenants. We cannot allow Chugach to be subject to legal claims under Section 6.21(b) for specific performance of

[350]T-8 (Miller Direct), Exhibit AWM-03 at 80 (emphasis in original).

[351]T-9 (Thibert Direct), Exhibit LDT-02 at 3.

[352]Dockets U-19-020 and U-19-021 Hearing, Exhibit H-36 at 2.

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the requirements of Ordinance No. 2018-1(S) or Proposition 10, when such performance may put Chugach's financial health at risk. To be clear, we declare under our authority in AS 42.05.141(a)(3) that any covenant by Chugach to comply with the rate provisions of Ordinance No. 2018-1(S) or Proposition 10 quoted above is an unreasonable practice that is void and unenforceable. Our approval required for the APSA to close is specifically conditioned on Section 6.21 not being part of the approved APSA. Additionally, our approval required for the APSA to close is specifically conditioned on the requirement that by the act of proceeding to closure of this transaction the MOA specifically waiving any and all rights to enforce these rate provisions of Ordinance No. 2018-1(S) and Proposition 10 under any other enforcement mechanism.

APSA Section 8.02(d)

This section states subject to the other terms of Article VIII and the appropriation of funds, the MOA will indemnify Chugach for any losses incurred by reason of:

> (d) the Assumed Environmental Liabilities, to the extent, if any, that Losses incurred by [Chugach] in connection with the same prior to the tenth (10th) anniversary of the Closing Date exceed the amount of $25,000,000 in the aggregate, but not in any event including any Environmental Claims, Liabilities, or Losses arising directly out of any asset retirement obligations or arising solely by reason of [Chugach's] ownership and operation of the Purchased Assets following the Closing Date.[353]

In the APSA, the term Assumed Environmental Liabilities is defined as "means Environmental Claims and Liabilities under Environmental Laws that, in each case, are directly related to the Purchased Assets (including violations of Environmental Laws and the presence or Release of Hazardous Materials at, in, or under or migrating from or to, the Purchased Assets)." The terms "Environmental Claims" and "Environmental Laws" are very broadly defined in the APSA.[354]

[353]T-8 (Miller Direct), Exhibit AWM-03 at 89.

[354]T-8 (Miller Direct), Exhibit AWM-03 at 10, 14-15.

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In its disclosure schedule 4.18, ML&P discloses that its Hank Nikkels Plant One, Operations and Dispatch Center, and Transformer Shop, all on East First Avenue, are listed as Open Contaminated Sites on the Alaska Department of Environmental Conservation Contaminated Sites Database. ML&P also discloses polychlorinated biphenyl (PCB) contaminated paint flaking off of Tank 1 at Plant 2, equipment containing PCB's, the possibility of asbestos materials and lead based paint in its older buildings, and a number of past violations of Environmental Law.[355]

Given the scope of known environmental liabilities, we are concerned about the level of environmental liability risk Chugach is taking on under the APSA and the relatively short period of time that the MOA is subject to indemnification if the cost of remediation exceeds $25 million. ML&P witness Henderson testified that remediation is required any time they open the asphalt at Plant One, and ML&P has no estimate of the cost of remediation.[356] It would be an unreasonable management practice under AS 42.05.141(a)(3) for Chugach not to take full advantage of the MOA's indemnification obligations under Section 8.02(d) by aggressively pursuing environmental remediation of the known and potential contamination related to the assets Chugach is acquiring from ML&P.

To alleviate our concerns related to this issue, we add the following conditions to our approval of the APSA:

1. Within 18 months of the transaction closing date, Chugach shall file with us a plan for remediating the contaminated sites disclosed by ML&P in the APSA. This plan must ensure that remediation activities are concluded before the tenth anniversary of the transaction closing date. To the extent remediation activity results in the DR&R of a Purchased Asset previously deemed retired by ML&P or now considered retired by Chugach, DR&R activity is acceptable.

[355]T-8 Miller Direct), Exhibit AWM-03 at 198-202.

[356]Dockets U-19-020 and U-19-021 Hearing, Tr. 3171-3172, 3177-3178

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However, DR&R is not the primary goal of this requirement and this requirement does not create any ARO.

2. Within 18 months of the transaction closing date, Chugach shall file with us a plan for thoroughly investigating all ML&P assets being acquired through the transaction at issue in Docket U-19-020 to determine the existence of any environmental liabilities other than those disclosed by ML&P in the APSA. This investigation is to be concluded within one year of the date the plan is filed.

3. If the investigation required by paragraph 2 above results in the discovery of additional contaminated sites, Chugach shall file with us a plan for remediating such contaminated site before the tenth anniversary of the transaction closing date within 18 months of the date the contamination is discovered.

Public Interest

Chugach is specifically requesting permission to recover the acquisition premium being paid to the MOA for most of ML&P's assets through future rates.[357] As identified above, the recovery of an acquisition premium through an acquisition adjustment to rates is directly contrary to the requirements of AS 42.05.441(b), and can only be approved pursuant to an exemption granted pursuant to AS 42.05.711(d). Such exemption can only be granted if we find that it is in the public interest.[358] We have previously held that:

In evaluating acquisition adjustment, we begin with the standard set by AS 42.05.441(b). This statute provides, in pertinent part, that:

> In determining the value for rate-making purposes of public utility property used and useful in rendering service to the public, the commission shall be guided by acquisition cost or, if lower, the original cost of the property to the person first devoting it to public service.

This statute states a well-accepted ratemaking principle that acquisition adjustments will not generally be allowed in a utility's rate base because the ratepayers should not be

[357]T-8 (Miller Direct) at 6.

[358]AS 42.05.711(d).

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required to pay the cost of speculation in utility assets. We have recognized an exception to the general rule against acquisition adjustments when the ratepayers will benefit, and the utility has demonstrated specific, tangible benefits in an amount at least equal to the cost of the acquisition adjustment. We have disallowed acquisition adjustments when alleged benefits are speculative or derived from causes other than the acquisition.[359]

To be permissibly recovered in rates a utility must generally show that ratepayers would be worse off but for the acquisition and its attendant acquisition adjustment. In the instant case both Chugach and ML&P pre-transaction ratepayers will shoulder a portion of the acquisition adjustment if the transaction closes. We must therefore assess whether net savings from the transaction, after accounting for the acquisition adjustment's inclusion in rates and the costs of the transaction, are favorable for each set of ratepayers.

Chugach did not provide the commission with its own assessment of rates. Instead, Chugach initially provided only a comparative assessment of base rate revenue requirements.[360] That is, Chugach's initial analysis compares a *portion* of the revenue requirements of Chugach and ML&P, as if they were continued to be separately owned on a stand-alone basis, with a portion of the revenue requirement of the combined utility. This fractional analysis is deficient in a number of respects.

As an initial matter, we note that Chugach implicitly presumes that if the combined utility can reduce its cost structure overall then consumers within each service

[359]Order U-02-013(7)/U-02-014(7)/U-02-015(7), *Order Affirming Electronic Ruling Vacating Hearing, Accepting Stipulation Subject to Condition, and Cancelling Hearing*, dated March 19, 2003, at 7-8 (citing to Order U-78-4(33), *Order Deciding Outstanding Substantive Issues and Establishing Procedures for Computing Revenue Requirement*, dated April 22, 1981 [at 30-32], and Order U-00-115(13)/U-00-116(12)/U-00-146(10), *Order Establishing Revenue Requirement and Rate Design and Requiring Filings*, dated September 24, 2001 [at 3-12]).

[360]Exhibit H-1, CHU-000002 at Revenue Requirement tab; T-8 (Miller Direct) at Exhibit AWM-02.

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territory will necessarily benefit. This clearly is not a logical consequence of the transaction. More importantly, the North District versus South District rate discrimination provisions that the PILT Agreement and Restated BRU Agreement both embody raise questions of whether ratepayers in each service territory will indeed both benefit. Savings associated with the combined-utility revenue requirement does not shed light on how those savings, let alone total utility costs, might be allocated across ratepayers. It is precisely the allocation of costs that must be addressed if we are to be able to find that the proposed acquisition adjustment can be recovered in rates without harming the pre-transaction ratepayers of the acquired, or acquiring, utilities.

Moreover, as previously indicated, Chugach's initial analysis did not include the COPA portion of each separate, nor of the combined, utility revenue requirements. Our acquisition adjustment precedent is concerned with the full rate impacts on consumers – not a portion of the rates that they pay. This is problematic especially given that the Restated BRU Agreement is essentially concerned only with securing our approval of discriminatory rate treatment of the benefits associated with comparatively low cost-of-service BRU gas. It was not helpful to our deliberations that Chugach declined to provide their intended approach to having two separate COPAs – one for its North District ratepayers and one for its South District ratepayers. This raises the possibility of any number of compensating measures that might be proposed. Heat rates of particular generation units, economy energy margins, or wheeling revenue might also be differentially allocated across Chugach's North District and South District. As discussed above, we cannot approve the Restated BRU Agreement discriminatory cost and benefit allocation terms.

Nevertheless at hearing Chugach asserted, in essence, that the presence of global base rate savings would ensure that all consumers might be made better off (or

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at least be left unharmed).[361] Given the existence of sufficient savings, and our ability to make rates, we could defer to the future the means by which it would ensure that the transaction would satisfy our acquisition adjustment tests.[362] While such an outcome is logically possible, such a strategy is practically fraught with difficulty. Testing future proposed rates against what hypothetically would have occurred had the transaction not proceeded is without precedent.

We asked Chugach and ML&P, at a number of different times and in a number of different ways, to supplement the record to address our concerns. Unfortunately, none of the responses provided direct insight into the rate consequences of the proposed acquisition adjustment. We briefly review our requests and the responses of Chugach and ML&P.

First, we asked for all analyses of rates that had been presented to the Chugach board or the MOA Assembly.[363] Responses were filed and a portion of Chugach's response was marked as confidential.[364] No petition for classification of these records as confidential was filed under 3 AAC 48.045 and the status of these marked documents has not been resolved. Without disclosing the particulars of the filings, actual rate impacts of the transaction were not contained in the materials that were presented.

Second, we asked Chugach to estimate base rates, post-transaction, for the combined service territory using its current rate design.[365] Chugach complied with

[361]Dockets U-19-020 and U-19-021 Hearing, Tr. 3508-3511, 3574-3577; Original Stipulation at 13-14.

[362]Dockets U-19-020 and U-19-021 Hearing, Tr. 389-390, 1365, 2817, 2821-2822, 3009, 3010, 3073, 3102, 3665, 3705-3707; Original Stipulation at 7.

[363]Dockets U-19-020 and U-19-021 Hearing, Tr. 26-27 (Bench Order).

[364]Exhibits H-1, H-2.

[365]Order U-18-102(36)/U-19-020(31)/U-19-021(31), *Order Requiring Filings*, dated November 1, 2019.

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our request but specifically denied that the results would be indicative of future rates.[366] As well, that exercise was directed toward the original proposed transaction, rather than the transaction as modified by the Original Stipulation that we are asked to consider here. It is accordingly of little use in addressing whether the proposed acquisition adjustment may permissibly be recovered in rates.

Third, upon receiving the Original Stipulation, we asked Chugach to estimate transaction savings when the revenue requirements included COPA surcharges.[367] Among other things, we required Chugach to separate out the annual base rate portion of the revenue requirement for 2020 through 2034, and to identify costs that contributed to base rates and costs that contributed to COPA surcharges.[368]

Chugach filed the Strunk Model identified above in response to Order U-18-102(35). The Strunk Model consists of an Excel spreadsheet model that projects revenue requirements for the two stand-alone utilities and savings associated with the combined utility. Unfortunately, that filing is insufficient. Its approach to modeling total revenue requirements suffers from several important structural inadequacies for purposes of long term evaluation of the proposed transaction. The Strunk Model also does not allocate the savings of the combined utility between the North District and the South District and, in consequence, it provides no direct insight into whether the proposed acquisition adjustment is permissible. Finally – and most understandably – the Strunk Model does not reflect our findings regarding the BRU Fuel Agreement, the rate discrimination provisions of the PILT Agreement, or amortization of ML&P ratepayer

[366] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(36)/U-19-020(31)/U-19-021(31)*, filed November 5, 2019, Exhibit 1.

[367] Order U-18-102(35). This request was made after we received the NERA Settlement Model sponsored by Strunk, filed as the document identified by Bates No. CHU-020788 attached to *Chugach Electric Association, Inc.'s Filing in Compliance with Bench Order*, filed October 30, 2019 (in response to the Bench Order found at Dockets U-19-020 and U-19-021 Hearing, Tr. 2844).

[368] Order U-18-102(35) at 1.

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contributed capital in the BRU. We explain the changes that we have made to the Strunk Model so that we could analyze the proposed acquisition adjustment, consistent with our earlier findings.

Adjustments to the Strunk Model

No model can perfectly project future events or mimic reality. Important deficiencies in the Strunk Model have been corrected to enable reasonable insight into whether the proposed acquisition adjustment is permissible. Every change made to the Strunk Model is detailed in the attached Appendix A[369] and accompanying Schedules. The following provides a high level overview of the major issues and approaches we have taken.

Fuel Costs and the COPA Surcharge

The Strunk Model is particularly deficient in its approach to modeling fuel use for each of the stand-alone utilities as well as the combined utility. For the Chugach stand-alone case there is no breakout of fuel costs at all. Instead, fuel costs are subsumed within a single COPA figure that is held constant for each of the next 15 years. Meanwhile, for ML&P, BRU gas volumes were assumed to equal total ML&P needs.[370] This is inconsistent with the projections of BRU production provided by ML&P and Chugach,[371] and ignores that ML&P will need to make third-party gas purchases during the forecast period.

These simplified assumptions concerning utility gas costs are particularly problematic. Fuel is the major component of the COPA surcharge for both utilities. BRU

[369]Appendix A is entitled *RCA Modelling and Analysis*.

[370]Strunk Model (CHU-020789), sheet "EData", row 229.

[371]*Compare* Strunk Model (CHU-020789), sheet "GData", row 164, *with* Hearing Exhibit H-112 (PRA production forecast for BRU) and Hearing Exhibit H-111 (Ryder Scott production forecast for BRU).

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gas is expected to confer important benefits to ratepayers under the Restated BRU Agreement, yet BRU gas production is expected by both Chugach and ML&P to decline over the next fifteen years.[372] Such declines will need to be met with third-party fuel purchases. Meanwhile, third-party fuel costs are affected by gas contract prices and electricity demand (which the Strunk Model otherwise shows); neither source of variability in overall cost structure is reflected.

We have enhanced the Strunk Model's projections of COPA costs by explicitly modeling ML&P and Chugach stand-alone gas consumption, as well as combined-utility gas consumption. A model of BRU gas production costs, reflecting the BRU gas production forecasts provided by ML&P and Chugach, and relying on BRU cost data contained in the Strunk Model, addresses the first source of natural gas upon which Chugach and ML&P are assumed to rely. Remaining gas demand, reflecting the gas needs of each utility, is assumed to be met through third-party gas purchases that are priced consistently with Chugach's most recently-approved gas supply agreement.[373] Savings associated with the reduced gas needs of the combined utility, which reflect merit order dispatch across the enlarged service area, are calculated from the work papers underlying Warner's Hearing Exhibits JW-2 and consistent with his findings.[374] The combined-utility COPA reflects our finding rejecting the Restated BRU Agreement cost and gas allocation provisions. The data supplied by Warner indicate that the utilities would have saved approximately $5 - $7 million per year in natural gas costs to meet the

[372]Exhibit H-111 at 5-6; Exhibit H-112 at 5.

[373]TA481-8 (Fourth Amendment to Gas Sale and Purchase Agreement with Hilcorp Alaska, LLC), filed January 21, 2020. Approved by Letter Order No. L2000085, dated February 28, 2020.

[374]T-31 (Warner Direct) at Exhibit JW-2.

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combined native load from unified operations.[375] This is roughly on par with the annual personnel savings that Chugach expects to flow from the acquisition.

Our finding – that it is appropriate to consider dispatch savings that stem from the transaction – is at odds with Chugach's position. Lovas testified that Chugach did not ascribe dispatch savings to the transaction because a power pool that would result in those savings being achieved was expected to be formed with or without the acquisition's approval.[376] As explained below in our discussion on the Chugach and MEA tight power pool, we find – absent our action in these Dockets – the likelihood of a tight power pool being formed in the near future is speculative. Meanwhile, we have particular confidence that material savings from security-constrained economic dispatch across the North District and South District are real and durable.[377] These savings flow from simple engineering optimization rather than the vagaries of personnel retention policies and union agreements.

There are numerous other non-fuel cost elements in both the Chugach and ML&P COPA calculations. For the ML&P COPA, we have generally taken these cost elements from data contained in the Strunk Model and have held them constant. For the Chugach COPA, because no similar data projections are available, we have taken the non-fuel portions of Chugach's COPA calculation from actual data for mid-2018 to mid-2019 and assumed these to be constant for the modeled period. Our COPA calculations maintain maximum possible consistency with the Strunk Model, reflect the Lovas

[375]T-31 (Warner Direct) at Exhibit JW-2.

[376]T-15 (Lovas Direct) at 24.

[377]We acknowledge that the precise estimate described here is a function of the third-party natural gas prices paid and native load of the North and South Districts during a discrete historical period. This does not discount our confidence in material available savings, however, given that they are, in the first instance, a function of operational engineering.

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assessment of cost savings,[378] while avoiding double counting any particular cost element. Contra-costs (revenues that offset costs) associated with economy energy margins and wheeling are benchmarked off data from mid-2018 to mid-2019, with appropriate adjustments to reflect the merging of Chugach and ML&P interests.

ML&P's Cost of Capital

As Strunk testified, the interest rate on financing after Chugach closes the acquisition will have a major effect on the ultimate savings that the transaction will deliver.[379] The Strunk Model, however, "bakes in" savings from the transaction through its method of calculating ML&P's stand-alone base rate revenue requirements. It does so by assuming that that ML&P's weighted average cost of capital (WACC) should be held constant at 6.75%[380] – a figure that is not otherwise supported or justified – and simultaneously assumes that ML&P does not have a major bond financing to undertake if the transaction does not close. Neither of these approaches are valid in light of currently known facts. It is thus concerning that in the Strunk Model a more favorable interest rate environment has the effect of reducing the combined-utility revenue requirement but does not similarly affect the ML&P stand-alone revenue requirement.

ML&P's last adjudicated rate case provided a WACC of 6.33%.[381] Had this WACC been assumed for the ML&P stand-alone revenue requirements going forward the savings associated with the acquisition would necessarily have been materially smaller.

[378]T-15 (Lovas Direct) at 26; T-19 (Strunk Direct) at 29; Dockets U-19-020 and U-19-021 Hearing, Tr. 1499. *Chugach Electric Association, Inc.'s Filing in Compliance With Bench Order*, filed October 30, 2019, *Cost Savings Settlement Model (Bates No. CHU-020787)* (Lovas Settlement Model).

[379]Dockets U-19-020 and U-19-021 Hearing, Tr. 3304, 3311, 3381-3382, 3411-3412, 3417, 3431.

[380]CHU-020789 (Strunk Model), sheet "Rev Req" row 9; ML&P stand-alone WACC assumption of 6.75% starting 2021.

[381]Order U-16-094(9) at 41.

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This is not to say, for modeling purposes, that an adjustment to the WACC might not be justified. If one were to assume that the most recently-adjudicated return on equity of 10.7% should be held constant and that the dividend restriction remains in effect, then ML&P's thicker equity percentage would imply a higher WACC.[382]

However, ML&P's modeled WACC should at minimum reflect known facts, and for savings assessment purposes the modeled ML&P WACC should reflect the same interest environment that Chugach will face when it is time to finance their acquisition. In the Bonds tab of the Strunk Model, $192 million[383] bond balance and a $25 million[384] new debt were assumed to bear a 5%[385] interest rate. The $192 million appears to reflect borrowing related to the Plant 2A construction.[386] That borrowing, however, is currently managed in a short-term arrangement; it has not yet been financed with revenue bonds.[387] Accordingly, we find that for modeling transaction savings the $192 million of debt associated with the construction of Plant 2A will be financed if the Chugach

[382] According to CHU-020789, sheet "ML&P EMP" cell D157, ML&P had 38.66% equity in 2019. As noted above, ML&P reported an achieved 2019 equity level of 37%. Both of these are greater than the 35.5% equity level on which ML&P's WACC of 6.33% was adjudicated. Order U-16-094(9) at 41.

[383] CHU-020789, sheet "Bonds" cell Z122.

[384] CHU-020789, sheet "Bonds" cell AE401.

[385] CHU-020789, sheet "Bonds" cell Z125.

[386] Municipality of Anchorage Comprehensive Annual Financial Report, for the fiscal year ending December 31, 2017, at 77. "In April 2015, the Electric Utility redeemed all outstanding commercial paper and entered into a short-term borrowing agreement with Wells Fargo Municipal Capital Strategies, LLC, herein referred to as the Direct Drawdown Purchase Program (DDPP). The DDPP was used by the Electric Utility to complete construction of Generation Plant 2A. At December 31, 2016 the outstanding balance of DDPP notes payable was $181,000,000. On November 30, 2017, the loan term was extended to November 29, 2019. At December 31, 2017 the balance was $191,900,000 and long-term notes payable on the Utility's Statement of Net Position, as the principal is not expected to be paid within one year".

[387] Municipality of Anchorage Comprehensive Annual Financial Report, for the fiscal year ending December 31, 2018, shows a total outstanding indebtedness of $315,505,000 (p. 78). This is in line with the previous year's indebtedness, allowing us to conclude that the nearly $192 million held by Wells Fargo has not yet been financed.

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acquisition does not proceed. Meanwhile, the $25 million of additional new debt would also be financed at prevailing interest rates.

It is unreasonable to suppose that ML&P would be forced to pay higher interest rates on roughly $217 million in revenue bonds than Chugach would for over $700 million. ML&P is not only less leveraged than Chugach will be, but it also has access to tax-exempt bonding authority. Nevertheless, this is exactly what the Strunk Model does. Given the low interest rate environment cited in the proceeding as a key consideration for the transaction and the 4.10% interest rate assumed for the long-term transaction related debt, the 5% interest rate associated with Plant 2A debt is arbitrary and unsupportable for considering the ML&P's stand-alone costs.

Accordingly we revise the WACC that is to be used to generate the ML&P stand-alone revenue requirement. We do so by assuming that cost of debt for the roughly $217 million in new bonds will be financed at the same cost of debt as will apply to Chugach's financing of the transaction, while retaining the embedded cost of debt from ML&P's last rate case for roughly $300 million. ML&P's capital structure, as assessed by the Strunk model in 2019, and the previously adjudicated return on equity, result in WACC of 6.59%. This calculation detail is contained in Appendix A, at Schedule I.

Directionally our approach almost certainly overstates the savings associated with the acquisition, for reasons previously articulated. However, we have no basis for determining how much less costly ML&P's new tranche of debt might be.

PILT-MUSA

The Strunk Model assumes that PILT and MUSA payments to the MOA are the same and also equal to $8.9 million each and every year for the next 50 years.[388] As previously discussed, PILT and MUSA payments are not identical. Moreover, PILT payments, under the data assumptions contained in the Strunk Model itself, can be

[388]CHU-020789, PILT worksheet.

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expected to decline during 2021-2034 along with net plant values. To correct this failure to known changes to MUSA and PILT payment obligations, we have calculated MUSA for the ML&P stand-alone revenue requirement, and PILT for the combined-utility revenue requirement.

Rebating Ratepayer Contributed Capital in BRU

We have found that the net value of capital that ML&P ratepayers have invested in the BRU should, as a matter of equity, should be amortized through the contra-cost and surcharge mechanism that we have described above. For the combined utility these adjustments to the COPA are reflected in our assessment of effective COPA rates for both North District and South District ratepayers.

Calculating Ratepayer Savings

The Strunk Model calculates the net plant value of savings associated with the transaction by comparing the sum of the yearly stand-alone total revenue requirements for Chugach and ML&P with yearly total revenue requirements post-transaction for the period 2020-2034. We make several necessary modifications to this calculation. First, because the transaction is unlikely to close until the latter half of this year we calculate savings from the COPA portion of the relevant requirements beginning January 1, 2021. Accordingly, we consider the net plant value of savings over a maximum period of fourteen years, because 2034 is the end point of the Strunk Model's cost projections. Second, because base rates for the combined utility will be subject to a rate moratorium until January 1, 2024, we calculate no transaction savings associated with base rates before that time. This is because we find that there can be no direct transaction-induced base rate savings for ratepayers if any achieved savings are instead retained by Chugach during this period.

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Allocating Costs of the Combined Utility

Some allocation of base rate costs to the North District and South District of the post-transaction Chugach service territory is required if we are to assess possible ratepayer savings to North District and South District ratepayers. Normally a particular rate design would allocate total costs across different ratepayer classes within the service area. The relative prevalence of ratepayers within the North District and South District of the combined Chugach service area would then permit assessment of whether the proposed acquisition adjustment was consistent with our precedent.

No party sponsored a rate design for our consideration. Instead, Chugach insisted that the tool that we require to assess whether the proposed acquisition adjustment is permissible (a rate design) is something that will be considered in a future rate case.[389] Doing so saddles a future commission with the task of protecting ratepayers from a potentially inappropriate acquisition adjustment after it has already been granted. ML&P has acknowledged that once this transaction closes, it cannot be undone and utility service returned to pre-transaction conditions.[390]

The representation made to the voters to not raise base rates has perhaps hindered Chugach's ability to specify particular cost allocations and rate design, and the distribution of acquisition adjustment costs and transaction savings that would result. We face no such constraint. To satisfy ourselves that the proposed acquisition adjustment is permissible, we allocate the combined revenue requirement across the two service territories in the simplest manner possible: according to load ratio share. That is, in every year we allocate to each District the share of the combined revenue requirement -- both base rates and COPA surcharge -- according to the ratio of the utility's projected native load to total native load of the combined utility. Doing so leaves open the question of how

[389]Dockets U-19-020 and U-19-021 Hearing, Tr. 2437-2441.

[390]Dockets U-19-020 and U-19-021 Hearing, Tr. 2975.

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rates across ratepayer classes will be developed. We discuss this problem, and some parameters for how Chugach should address it in its next rate case, elsewhere in this order.

Model Results and Findings

Chugach has stressed that the net present value of savings to ratepayers considered collectively, discounted at 5%, was both positive and significant.[391] The net present value is a metric usually used to assess the current dollar sum of a stream of cash flows that are both positive and negative; it allows, for example, evaluation of whether a near-term investment (negative cash flow) is worthwhile given a subsequent stream of revenue (positive cash flow).

Total annual savings accruing to the acquisition are material and positive in each year of the analysis. This result is robust to different forecasts of BRU gas production, interest rates on the debt used to finance the transaction as high as 5.25%, and a 25% reduction in the level of projected personnel savings.

More importantly, given our precedent, annual savings remain positive for both North District and South District ratepayers under a range of credible future events. The two sets of figures, below, assume a financing interest rate of 4.1% and a 25% reduction in projected personnel savings.[392] They demonstrate both stand-alone and allocated combined-utility annual revenue requirements, and savings from the transaction (shaded areas), for ratepayers in the post-transaction North District and South District.

[391]T-8 (Miller Direct) at 7; T-19 (Strunk Direct) at 36, 49; Lovas Settlement Model at worksheets Cost Savings Model-Base, TAL-02, TAL-03.1, TAL-03.2, TAL-03.3. Dockets U-19-020 and U-19-021 Hearing, Tr. 126, 374, 834-836, 1071-1076, 1443, 1820.

[392]The transaction's personnel savings received considerable attention at hearing. We are not persuaded that projected savings will fully materialize. As Figures 1 and 2 demonstrate, however, both sets of ratepayers will benefit even if a significant portion of the personnel savings projected by Chugach does not materialize.

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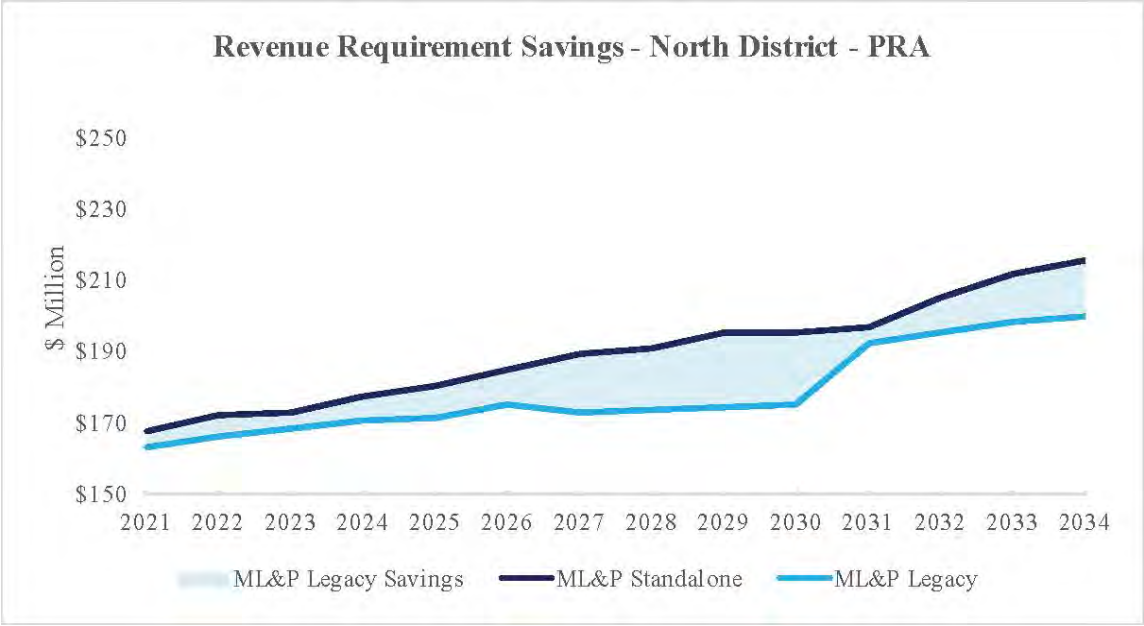
They also illustrate the importance of PRA (Figure 1) and Ryder Scott (Figure 2) BRU production forecasts – holding all else equal[393] – to the temporal distribution of transaction savings across North District and South District ratepayers.



[393]Of course things are never equal. The results could change materially if BRU capital investment, or third-party market costs of gas, were different than what we assume.

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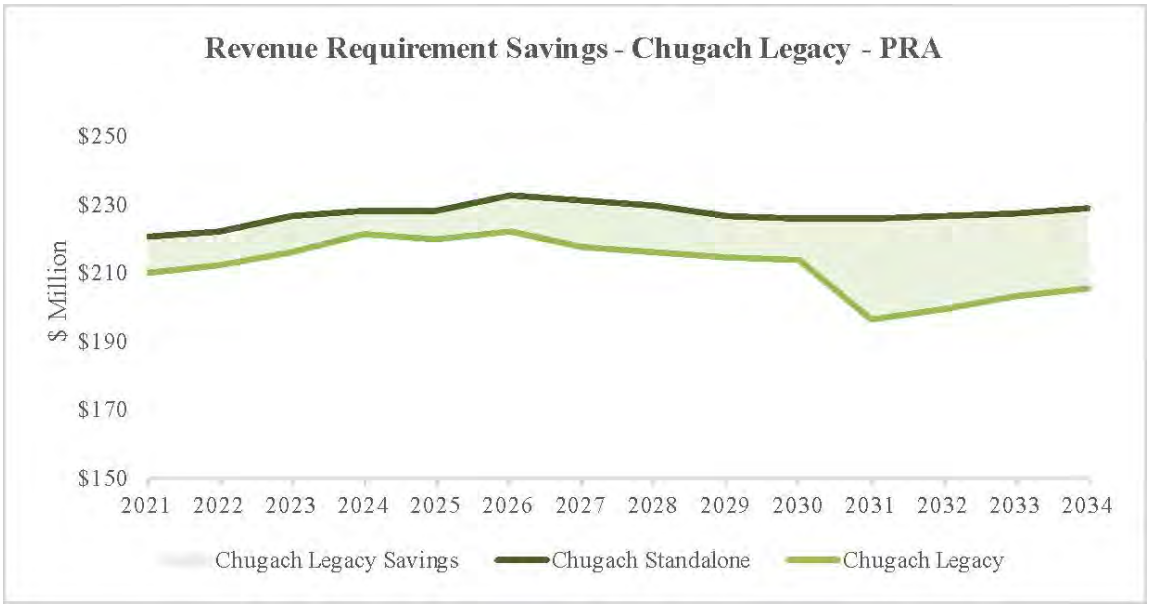

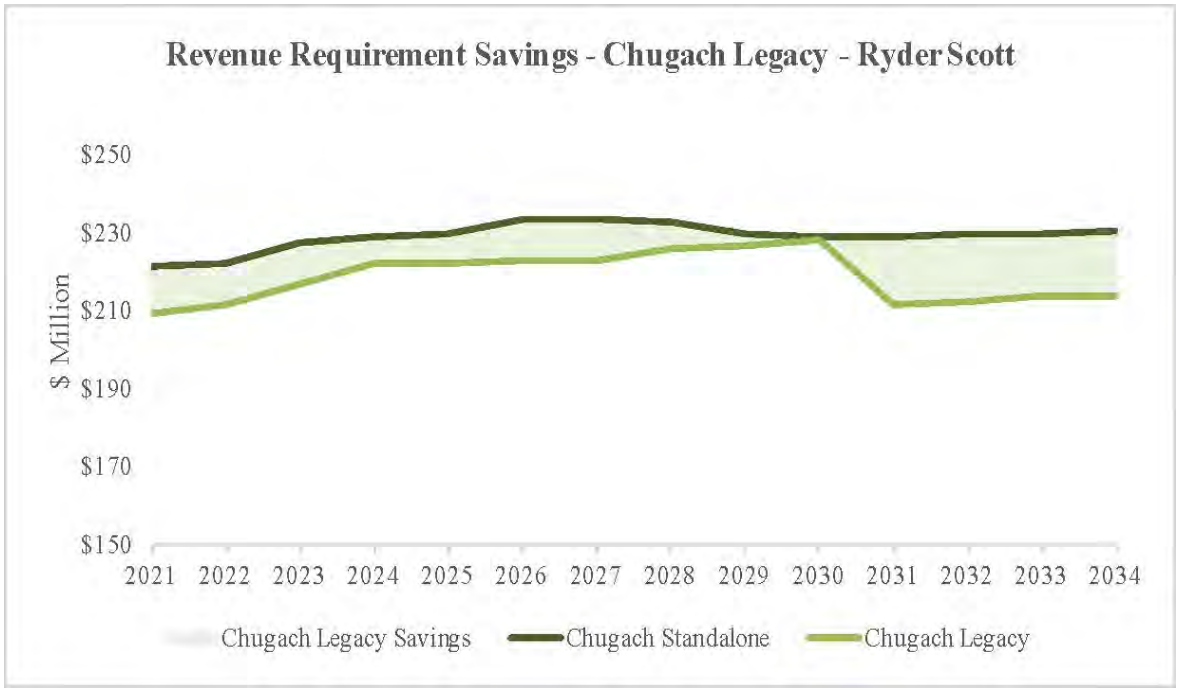

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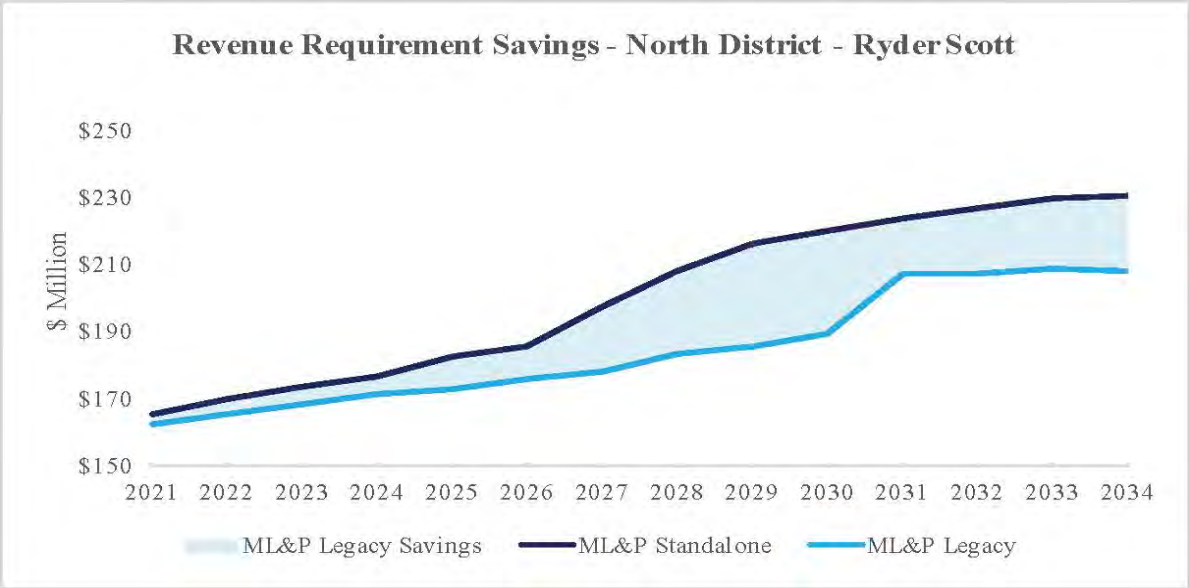

Future events will determine whether the relative distribution of savings across the Chugach service territory will prove somewhat more favorable to one or the other District. Interest rates, Cook Inlet natural gas prices, personnel savings, BRU production, the level of future economy energy sales and a host of other factors will all affect both overall transaction savings and the distribution of those savings across the combined service territory. In addition, given confluence of sufficiently unfortunate events, it is possible that in a given year some group of ratepayers could be worse off with the acquisition than they would otherwise be without the acquisition. However, based on the record presented, and given what we believe to be reasonable and credible ranges of future outcomes, we find that ratepayers in both the North District and the South District of the combined service territory are much more likely to be substantially better off with the acquisition than without. The robustness of this result is significantly underpinned by the relatively equal overall distribution of savings between North District and South District

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ratepayers – a result of our allocation of base rate costs according to the relative shares of electric load between the two Districts.[394]

We have not previously found an acquisition adjustment permissible on the basis of the net present value of savings to ratepayers. We find no need to do so here. The annual and sustained savings to both sets of ratepayers, including dispatch savings, are not speculative. Given the robustness of annual modeled savings to future events we find that both North District and South District ratepayers will be better off if the acquisition proceeds than if it does not. We are also persuaded that, absent our permission that the acquisition adjustment may be collected in rates, the acquisition will not proceed and ratepayers will be denied these benefits. Accordingly, we find that the proposed acquisition adjustment are permissible. We grant their recovery in future rates subject to the conditions in this order.

Our finding is premised on Chugach developing a unified rate design that produces an allocation of costs across both the North District and the South District that reasonably approximates the relative share of each District's consumption of electric energy. Assuming that the transaction is consummated, we require Chugach in its next filed rate case to propose a rate design that achieves this goal. Our finding is also premised on Chugach entering into a tight power pool with MEA as discussed in the next section.

Formation of a Chugach – MEA Tight Power Pool

Background and Findings

For more than six years we have gathered information on, and exhorted Railbelt electric utilities to make progress on formal arrangements to deliver more efficient

[394]The costs recovered in the COPA are always recovered on a per kWh basis and thus necessarily reflect the relative shares of electricity consumption across the two Districts.

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and reliable electricity service.[395] In our first letter to the Legislature in response to the appropriation in Section 31(b) of Chapter 18 of the 2014 Session Laws of Alaska, we found that significant and readily-available consumer savings might be obtained from developing an inter-utility system of security-constrained economic dispatch.[396] Chugach and ML&P, and then Chugach, ML&P, and MEA, made early and promising efforts to formalize commercial and operational arrangements to do so amongst themselves.

In January of 2017 the Commission received as an informational filing from Chugach, MEA, and ML&P, the *Amended and Restated Power Pooling and Joint Dispatch Agreement* (Pooling Agreement).[397] The Pooling Agreement was designed to formalize a tight pool, in which the operation of the utilities' combined plant would be managed to provide the lowest possible cost of power over the region, regardless of plant ownership. Payments among the utilities would ensure that all parties were made better off through the facility sharing arrangement.

The Pooling Agreement was admittedly incomplete, with significant elements remaining to be negotiated and finalized over the coming year – what the Pooling Agreement referred to as the Development Period. Nevertheless, the parties to that agreement projected considerable savings from formation of a tight pool.[398]

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[395] *See* Docket I-15-001, captioned *In the Matter of the Evaluation of the Operation and Regulation of the Alaska Railbelt Electric Transmission System*. Order I-15-001(1), *Order Opening Docket and Requesting Responses*, dated February 27, 2015.

[396] *Regulatory Commission of Alaska Recommendation to Legislature*, dated June 30, 2015, filed in Docket I-15-001, at 4.

[397] *Joint Filing on Efforts Towards Power Pooling and Joint Dispatch among Anchorage Municipal Light and Power, Chugach Electric Association, Inc., and Matanuska Electric Association, Inc., and Joint Informational Filing of Amended and Restated Power Pooling and Joint Dispatch Agreement*, filed January 30, 2017 (2017 Joint Filing), in Docket I-15-001. In the Pooling Agreement, attached as an attachment to this document, the parties note that on December 15, 2015, Chugach and ML&P had signed an earlier power pooling and joint dispatch agreement. Pooling Agreement at 4.

[398] 2017 Joint Filing at 2.

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Progress was slower than originally hoped. Over the next twenty months the Commission received periodic progress reports. At our public meeting held June 13, 2018, representatives of the three utilities informed us that they had formalized the commercial aspects of their power pool agreement.[399] They provided a timeline, explaining that the rest of the power pool agreement would be finalized by September 30, 2018.[400] On October 5, 2018, we received an informational filing from Chugach and ML&P that explained that efforts to finalize the power pool would temporarily cease. The acquisition and subsequent integration of ML&P's assets was given as the reason for this cessation.[401]

Chugach and MEA filed an *Operations and Exchange Agreement* as an information filing in these dockets.[402] That agreement, among other things, requires the two parties to resume and consummate their efforts to form a bilateral tight pool. The effort is intended to be completed within 90-days of the closing on Chugach's purchase of most ML&P assets.

The indefinite deferral of the known consumer benefits achievable through a tight power pool that has persisted to date, and that will continue to result from this delay, is troubling. Available annual consumer savings are material in amount, and yet have been permanently lost for want of sufficient attention, focus, or motivation. With the

[399] June 13, 2018, Public Meeting Tr. 37.

[400] June 13, 2018, Public Meeting Tr. 37-38.

[401] *Update on Efforts Towards Power Pooling and Joint Dispatch among Chugach Electric Association, Inc., Anchorage Municipal Light and Power and Matanuska Electric Association, Inc.*, filed October 5, 2018, by Chugach and ML&P in Docket I-15-001. October 10, 2018, Public Meeting Tr. 15-19.

[402] *Joint Informational Filing of Operations and Exchange Agreement by Chugach Electric Association, Inc. and Matanuska Electric Association, Inc. in Dockets U-18-102/U-19-020/U-19-021*, filed September 26, 2019 (Chugach-MEA Operations and Exchange Agreement).

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announcement of the Pooling Agreement Chugach issued a press release estimating annual ratepayer savings of $12-$16 million.[403] A MOA-sponsored study estimated annual savings of $10-$20 million.[404] In these dockets, Hickey testified that dispatch savings from the acquisition would come to $8 - $10 million a year, and that if security-constrained economic dispatch were extended to include MEA via a tight pool an additional $4 - $6 million in savings could be achieved.[405]

We find that the public interest requires conditioning the sale of most ML&P assets upon Chugach and MEA forming a tight pool. The parties have demonstrated a willingness to form a wholesale power contract that would effectuate this, and we accept their good intentions. The parties have also testified that an agreement could be brokered within months.[406] We take them at their word. We condition our approval of the transaction in this manner because in doing so ratepayer interests will be materially advanced; if we do not then such benefits may be lost indefinitely.

While easy to start, and readily progressed, institutional innovation is difficult to finalize. Company priorities change, new crises emerge, and critical personnel move on. For the foreseeable future, both Chugach and MEA will have a lot on their plates. Both Chugach and MEA will undoubtedly be significantly focused in the next eighteen months on helping to form and achieve certification of an electricity reliability

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[403] https://www.chugachelectric.com/media/press-releases/2017/1/30/utilities-sign-power-pooling-agreement last viewed May 19, 2020.

[404] Anchorage Energy Landscape and Opportunities Analysis, Prepared by Deerstone Consulting and Crimp Energy Consulting, dated May 2017, at 14. Currently online at https://www.muni.org/departments/mayor/aware/resilientanchorage/documents/anchorage%20energy%20landscape%20and%20opportunities%20analysis%20may%202017.pdf last viewed May 19, 2020.

[405] Dockets U-19-020 and U-19-021 Hearing, Tr. 668-669, 3264.

[406] Dockets U-19-020 and U-19-021 Hearing, Tr. 3259-3260, 3595-3598.

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organization.[407] Chugach will surely need to spend long hours over a great many months to integrate ML&P's operations, employees, and business processes into its own.[408] And post-transaction Chugach will emerge in a potentially dominant commercial position in the Railbelt. The asymmetric commercial relationship between Chugach and MEA could be more than enough to prevent consummation of a bilateral tight power pool.

The annual savings associated with security-constrained economic dispatch are material and anything but speculative. We cannot know their exact size, as this is driven by load and by fuel prices. However, the existence of these material savings are a function of engineering and math. Given fewer constraints and more resources, the security-constrained optimal dispatch over the combined Chugach-MEA service territory is necessarily more efficient. (Such savings are in distinction to the credible but less certain savings projections to which Chugach, through its witnesses Lovas and Strunk, have sponsored.) The ratepayers of Chugach and MEA deserve to realize these benefits that can and should flow today.

We are mindful of the commercial leverage that our requirement to form a tight pool could potentially give to MEA. However, we also note that MEA believes it will significantly benefit from closure of the Chugach-ML&P transaction – as evidenced by its own contingent agreement with Chugach to acquire various transmission assets and rights it has long sought.[409] We also believe that by being somewhat prescriptive concerning what such an agreement should look like, with respect to positions that the

[407]All Railbelt utilities are signatories to a Memorandum of Understanding to form a Railbelt Reliability Council, a non-profit organization that is expected to apply to be the Railbelt's certificated electric reliability organization under AS 42.05.760. *Informational Filing (I-15-001 & I-16-002): Railbelt Reliability Council Memorandum of Understanding*, filed December 20, 2019.

[408]Dockets U-19-020 and U-19-021 Hearing, Tr. 751-752.

[409]Chugach-MEA Operations and Exchange Agreement at 6-8.

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parties have publicly indicated that they can agree to, we can blunt the rise of any temptation to take advantage.

Specific Terms

We require Chugach and MEA to file an acceptable wholesale energy and power contract creating a tight power pool as a tariff advice filing in these dockets at least 45 days before transaction close. After 45 days the Commission may ultimately determine that the wholesale contract as filed cannot be approved. However, this filing condition that we impose on Chugach's acquisition of ML&P assets will be satisfied so long as we do not, within the 45-day window, reject the proposed contract as being facially inconsistent with the terms outlined below. In keeping with the provisions of their 2017 Pooling Agreement, the term of the contract should be at least twenty years.[410] This is less than the period that has expired since formal modeling exercises and reports have been undertaken to capture more efficient dispatch.[411]

The contract must effectuate a "tight pool." The services that must be transacted within the tight pool are both limited and staged. In its first year, subject to the reservation of resources needed to provide for adequate frequency regulation of their respective service territories, the agreement must ensure that the joint dispatch of all generation and transmission resources under Chugach and MEA's direct control is done to meet the energy and spinning reserve needs of their two service areas in the most cost efficient manner, irrespective of resource ownership. Within the first year of tight pool

[410]Pooling Agreement, Section 2.1(d).

[411]*Study of Electric Utility Restructuring in Alaska*, filed July 8, 1999, in Docket R-97-010, at 11.7-11.8 (estimating $40.9 million in annual savings if power pooling was implemented in the Railbelt).

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operation, MEA and Chugach shall form a single load balancing area.[412] Thus, in addition to energy and spinning reserves, the joint dispatch of resources must provide for the most cost efficient provision of frequency regulation services.

Chugach and MEA must dedicate and prioritize the use of their owned, leased, or controlled generation and transmission resources for tight pool benefit before economy energy transactions are made to parties outside the tight pool. At the same time the agreement must accommodate existing and future contractual requirements.[413] These provisions are consistent with the original Pooling Agreement.[414]

The economic settlement of energy transactions should equally split the transaction's energy production-cost savings between buyer and seller.[415] This is congruent with public presentations that have been made by Chugach and MEA when reporting on their earlier progress toward forming a tight pool.[416] We have not received

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[412]Operating as a single load balancing area would require one of the utilities to become the Balancing Authority. A Balancing Authority is the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Load Balancing Area, and supports interconnection frequency in real time. A Load Balancing Area is the collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load-resource balance within this area.

[413]For example, Seward Electrical System is currently an all-requirements customer of Chugach, and Chugach has obligations to effectuate transmission under the Bradley Lake Services Agreement. Such arrangements will need to be accommodated. We find that the *Memorandum of Understanding Between Golden Valley Electric Association, Inc., Fairbanks, AK, and Chugach Electric Association, Inc., Anchorage, AK*, filed July 12, 2019, which was presented to us as fitting within the parties' economy energy transaction tariffs, is not a pre-existing contractual requirement that trumps dedication of resources to the pool.

[414]Pooling Agreement, Section 3.2(a).

[415]We do not know whether Chugach and MEA have the software to enable precise implementation of an exact split-the-savings rule upon contract approval. Accordingly, during the contract's first year, we permit the parties to settle transactions within the range of cost savings should they need to develop the appropriate documentation and auditing tools.

[416]June 13, 2018, Public Meeting, Tr. 12-13.

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testimony on how the parties previously intended to price spin and regulation transactions. Accordingly, we suspect that there may be technical difficulties to implementing a similar "split the savings" rule as they have promoted for energy transactions. If so we require, at minimum, that spin and regulation transactions provide compensation for the seller at a level no less than the full incremental cost of supply.

In part because we require a contract of such long duration we are mindful of the potential for unintended consequences. Membership in the tight pool should not cause a party material financial regret. Accordingly, the agreement must substantively address rights and obligations associated with a number of issues that are necessarily raised by the pledging of resources under a party's dispatch control within the larger Railbelt market. These include:

- Purchases from and sales of economy energy with non-pooling parties;[417]
- Wholesale contracts to purchase non-firm power from parties outside the tight pool;[418]
- Wholesale contracts to purchase firm power from parties outside the tight pool; and
- Firm sales contracts to parties outside the tight pool.[419]

We recognize that the imposition of per megawatt hour wheeling charges, consistent with current transmission tariffs, may inhibit the tight pool's ability to take full advantage of efficiency gains that might otherwise be had.[420] This would be an

[417]The agreement must address whether economy energy purchases, if permitted, are tight pool resources or individual utility resources. It must also ensure that a tight pool purchaser does not unreasonably profit, at the tight pool seller's expense, from making economy energy sales through the capacity that the tight pool purchase enabled.

[418]For example, contracts for non-firm power, such as Chugach's contract to purchase output from CIRI's Fire Island Wind project, raise issues of who should bear the costs of regulation of such resources.

[419]Examples include Chugach's current net requirements contract with Seward Electrical System, and ML&P's net requirements contract with JBER.

[420]April 29, 2015, Public Meeting, Tr. 18-19.

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unfortunate outcome. Accordingly, we put the parties on notice that, in crafting a split-the-savings mechanism, the Commission is receptive to entertaining accompanying proposals to modify how transmission use might be compensated.

We anticipate that the tight pool contract will be filed with us as a wholesale power contract under AS 42.05.431. We find that the Pooling Agreement, at Article 8 – *Governing Law and Dispute Resolution*, contains a dispute resolution mechanism wholly inadequate for an arrangement of this financial importance and duration. Had that agreement been approved the parties' only recourse, should they have a dispute that they could not amicably resolve, was litigation in the Superior Court. The range of possible friction in a tight pool agreement is wide. For instance, disagreements around optimal dispatch to a forecasted load can have material financial consequences; the appropriate measurement of a given generator's start costs can matter. Accordingly, a resilient agreement should have dispute resolution provisions that are fit for a broad range of purposes. There should be, for example, mechanisms that accommodate the need for expeditious and necessary decisions, address parameters that need to be initially established or have 'drifted' and no longer reflect reality, and identify and correct potentially strategic behavior of one's counterparty. Transaction costs of resolving disagreements should be low enough that matters can be satisfactorily resolved.

We will only accept a tight pool contract that recognizes the Commission's ability to establish a just and reasonable rate, or rate mechanism, if we determine that a rate established under the contract is not just and reasonable.[421] To enable us to do so we require the parties to generate and retain readily-retrievable documentation that reflect each tight pool transaction in each hour. Documentation should be sufficient to allow the parties, and the commission, the ability to verify that during the first year each hour's

[421] AS 42.05.431(b).

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energy transactions are priced between the incremental and decremental cost of service, and that after the first year all transactions equally split the cost savings engendered.

Interest Rate Cap

The stipulating parties requested that we approve all Chugach requests for approvals in Docket U-19-020, as those requests have been amended.[422] Chugach expressly asked us to condition our approval of the transaction on Chugach's financing it at a weighted average effective interest rate of 5.75% or less.[423] When given the opportunity to amend this request, Chugach chose not to do so.[424] Therefore, each of our approvals in this order is specifically subject to the condition that Chugach finance its acquisition of most ML&P assets at a weighted average effective interest rate of 5.75%. Chugach shall file its report on financing within 30-days of the date of transaction closing.[425]

Restricted Rate Reduction Account

The parties to the Original Stipulation created the RRR account to provide immediate rate relief to North District ratepayers. This account is to be funded by a transfer of $36 million of ML&P's unrestricted cash from the MOA to Chugach, with no corresponding increase in the price Chugach is paying to acquire most ML&P assets. Chugach is required to manage this account prudently and to provide rate reductions to North District ratepayers through an adjustment to their COPA surcharge. The amount of this surcharge adjustment is to be calculated quarterly and is to be in approximately equal amounts each quarter such that the RRR account balance is exhausted in 3 years.[426]

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[422]Original Stipulation at 5.

[423]T-8 (Miller Direct) at 40.

[424]Dockets U-19-020 and U-19-021 Hearing, Tr. 3519-3520.

[425]T-8 (Miller Direct) at 40.

[426]Original Stipulation at 6-7.

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The AG opposed approval of the RRR account, asserting that it violated the restriction on refunds in AS 42.05.391(c) and was an unreasonable preference to North District ratepayers in violation of AS 42.05.391(a). The AG also asserted that use of Chugach's COPA mechanism to provide this rate relief violates our regulations at 3 AAC 52.502 through 52.504. Finally, the AG asserts that if we are to allow refund of this money to North District ratepayers, it should be returned partially through base rates and partially through the COPA surcharge.[427]

In discussing the rebate of BRU contributed capital, we found that the Gas Fund was accumulated through the collection of electric rates from what will become the North District, and that the mismatch between the historical capital contributions and future benefits from consumption of the resources in the BRU was a sufficient basis to require the rebate of the net ratepayer contributed capital contribution to the North District. Although not phrased in precisely the same terms, we are asked to apply similar treatment to RRR.

According to Henderson, the unrestricted Gas Fund balance was approximately $40 million and was accumulated from earnings on the Gas Fund.[428] In other words, the retained earnings on ratepayer contributed capital is roughly equal to the amount the parties have stipulated will be rebated to the North District ratepayers through the RRR account. Although with a more complete record, or in a contested case, we might have found that a different mechanism, amount or period would better balance the equities implicated in compensating for retained earnings on ratepayer contributed capital, here the parties have stipulated to the mechanism, the amount, and the period over which the rebate will be applied, and the stipulated treatment is not unreasonable.

[427]AG Closing at 24-31; Dockets U-19-020 and U-19-021 Hearing, Tr. 3693-3695.

[428]T-23 (Henderson Reply) at 5-8; Dockets U-19-020 and U-19-021 Hearing, Tr. 3157-3158.

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While the AG opposed approval of the RRR, that opposition was on conceptual grounds, and neither the amount nor the period over which the rebate should be applied were challenged. Therefore, we approve the RRR and the rebate as stipulated.

We agree with the AG that the RRR account rebate does not meet the criteria established in 3 AAC 52.502(a) for inclusion as an element in Chugach's COPA calculation. However, we read the Original Stipulation to say that the Chugach COPA mechanism is merely being used as the method by which the MOA desires to provide temporary rate relief to North District ratepayers, and not as a request to include the RRR account rebate as an element of Chugach's COPA. While we do not anticipate that COPA mechanism's will typically be used in this manner, we do not find the RRR account rebate proposal in the Original Stipulation to be an inappropriate use of the Chugach monthly billing system.

We note that if Chugach had objected to use of its billing system in this manner, it is unlikely that we would approve it. However, Chugach is party to the Original Stipulation and is not objecting to the extra work that the RRR account rebate will require. Therefore, we approve Chugach flowing the RRR account rebate through its billing system to North District ratepayers as set out in the Original Stipulation. We provide the following guidance on implementation of the RRR account rebate.

Section III.B.2 of the Original Stipulation provides that ML&P will create a new account, the RRR account, using $36 million of unrestricted cash. This account will be managed by Chugach for the benefit of North District ratepayers and will be credited to those ratepayers over a three year period. The stipulating parties agreed that the RRR credit will be a reduction to North District ratepayer's COPA surcharge, filed quarterly with Chugach's COPA filing. The stipulating parties also agreed that the RRR account funds

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will be disbursed in approximately equal amounts every quarter for a three-year period, or until all of the RRR account funds have been distributed.[429]

As discussed elsewhere in this order, one condition of approval of the transaction is that there will be unified COPA surcharges for the North and South Districts. We instruct Chugach how to account for the $36 million RRR credit for North District ratepayers. As provided in the Section III.B.2.c, Chugach will calculated quarterly disbursements of the RRR account funds in approximately equal amounts every quarter. Chugach will add a line item to its COPA for North District ratepayers that reflects a per kWh credit of the quarterly amounts.

Chugach will be required to maintain a separate balancing account for the quarterly disbursement amounts and report, in a separate schedule with its quarterly COPA filings, the balancing account balance and the balance of the $36 million credit, with interest if applicable. The balancing account will reflect

- debit entries equal to the equal monthly amounts of the RRR account disbursement;
- debit entries equal to any interest earned in that reported month, if applicable; and,
- credit entries equal to the monthly credit amount paid to North District ratepayers.

Any under-collection of the previous quarter's disbursement amount will increase the balancing account and be used to increase the credit over the next quarter and any over-collection will decrease the balancing account and decrease the credit over the next

[429] *Stipulation Resolving All Issues*, filed October 25, 2019, at 6, 7.

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quarter. The following formula will be used to calculate the credit:

$$Rebate = \frac{(AD/4) + B}{NQS}$$

Where:

AD = the annual disbursement amount
B = the previous end of quarter balancing account balance
NQS = projected quarterly kWh sales for the North District

The annual disbursement amount is divided by four to reflect the quarterly amount used in calculating the credit, as agreed to by the stipulating parties. The projected quarterly kWh sales will be for the same period as the sales used in Chugach's COPA surcharge calculation.

We require Chugach to file tariff sheets, as a new tariff advice filing, to reflect this credit mechanism when it files its unified COPA filing.

Regulatory Assets

Chugach initially requested permission to create a regulatory asset consisting of transaction costs, recovery of which will be deferred over the first three years following transaction closing. These costs totaled an estimated $117.5 million, consisting of the $48.7 million portion of the initial payment to the MOA in excess of the estimated net book value of ML&P assets being acquired, $26.2 million of pre-closing transaction consummation costs, $6.8 million of post-closing integration costs, $3.7 million to defease ML&P's debt, $11.8 million for the first three years of Eklutna PPA payments, and $11.6 million in interest on this deferral.[430] Chugach was not actually asking us to create the regulatory asset at this time. Instead, Chugach requested "a statement recognizing the need for expenditures needed to consummate the Transaction and assurance that

[430]Chugach Petition at 17-20; T-8 (Miller Direct) at Exhibit AWM-07.

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prudently incurred expenses such as those listed above will be includable in Chugach's revenue requirement used to set future rates."[431] Chugach asked to defer these costs until it files its first post-closing general rate case, and to amortize these costs over a 30-year period.[432]

With the Original Stipulation, the stipulating parties have agreed to creation of a Primary Regulatory Asset, which could be in an amount as low as $83.4 million. The Primary Regulatory Asset recovery would be deferred over the initial three-year transition period, and then amortized over an approximately 20-year period. If Chugach finances the transaction at a weighted average interest rate no higher than 5%, Chugach will expense up to $7.6 million of Eklutna PPA payments during the three-year transition period rather than defer those costs. If Chugach finances the transaction at a weighted average interest rate below 5%, Chugach will create a Secondary Regulatory Asset. If Chugach finances the transaction at a weighted average interest rate of no more than 4%, the Secondary Regulatory Asset will include $19 million of transaction costs. If Chugach finances the transaction at a weighted average interest rate of between 4% and 5%, the Secondary Regulatory Asset will be prorated between $0 and $19 million depending on what the achieved weighted average interest rate for transaction financing is. The Secondary Regulatory Asset, if created, will be completely amortized over the three-year transition period.[433]

We have previously informed Chugach that its practice of deferring the recovery of routine expenses through the use of regulatory assets was expensive for ratepayers and no longer acceptable to us. However, we did not prohibit Chugach from

[431]Chugach Petition at 16.

[432]Chugach Petition at 17.

[433]Original Stipulation at 13-14; Dockets U-19-020 and U-19-021 Hearing, Tr. 3650.

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proposing the creation of regulatory assets for the recovery of large and unexpected expenses, with shorter amortization periods.[434] We granted Chugach's request to increase its target TIER from 1.35 to 1.55 to allow greater capacity to expense costs rather than defer recovery.[435]

Chugach began the process of acquiring most ML&P assets about three years ago,[436] and thus the transaction costs cannot be considered unexpected. However, we agree that within the scope of Chugach's revenue requirement the expected transaction costs are large. All parties to these dockets except the AG agreed to creation of the regulatory assets identified in the Original Stipulation, and the AG did not object to their creation.[437]

We find that the type and scope of transaction costs identified for deferral in the Chugach Petition are appropriate for inclusion in a regulatory asset for recovery through future rates, and we approve creation of the Primary Regulatory Asset and the Secondary Regulatory Asset as proposed in the Original Stipulation. However, consistent with Chugach's request and our practice, we will allow recovery through future rates of only those transaction costs that were prudently incurred. Further, and consistent with our decision in Order U-18-036(3), we will be looking at the shortest amortization period possible without causing harm to Chugach's financial health. Chugach will bear the burden of showing that each deferred transaction cost proposed for recovery through

[434]Order U-18-036(3)/U-18-051(3), *Order Granting Petitions in Part and Closing Dockets*, dated August 27, 2018 (Order U-18-036(3)), at 4-13.

[435]Order U-19-003(8), *Order Accepting Stipulation, Granting Petition, and Closing Docket*, dated October 11, 2019, at 3-16.

[436]T-9 (Thibert Direct), Exhibit LDT-02 at 1.

[437]AG Closing, 1-44; Dockets U-19-020 and U-19-021 Hearing, Tr. 3677-3703.

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rates was prudently incurred, and will bear the burden of proving to us that its proposed amortization period for these regulatory assets cannot be reasonably shortened.

BRU Management and Asset Retirement Obligations

We opened Docket U-18-102 to investigate the BRU management practices of ML&P, including specifically the disposition and pricing of BRU gas used to produce electric power at wholesale.[438] We resolved that issue above by adopting the market value proxy pricing proposed by the stipulating parties in the Restated BRU Agreement.[439] The other specific issues under investigation in Docket U-18-102 include ML&P's management of BRU gas production and the adequacy of the ARO calculation used by ML&P.[440]

We expanded the scope of Docket U-18-102 to include the BRU management plans of Chugach when we consolidated Docket U-18-102 with Dockets U-19-020 and U-19-021.[441] Chugach informed us that it planned no changes in BRU management if it acquires ML&P's ownership interest.[442] We received updated BRU production studies,[443] prefiled testimony,[444] and held a three-day public hearing in Docket U-18-102.[445]

What we could not get accomplished was development of an adequate record on our Docket U-18-102 BRU management practices and ARO issues to have a

[438]Order U-18-102(1) at 4-10.

[439]Original Stipulation, Exhibit 4 at 2-3.

[440]Order U-18-102(1) at 3, 10-11.

[441]Order U-18-102(8) at 10-11.

[442]T-4 (Fouts Direct) at 4.

[443]TA474-8, filed June 28, 2019, at Attachment A; TA373-121, filed August 16, 2019, at Exhibit 52.

[444]T-1 (Smith Direct); T-2 (Garrett Direct); T-3 (Garrett Supplemental); T-4 (Fouts Direct); T-5 (Miller Direct); T-6 (Henderson Direct); T-7 (Johnston Direct).

[445]Docket U-18-102 Hearing, Tr. 82-576.

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basis for ordering changes to current practice. The uncertainty related to future BRU responsibilities caused by Chugach's proposed acquisition of ML&P's BRU interest at issue in Docket U-19-020 has apparently, and possibly not unreasonably, made it impossible for the parties and their witnesses to substantively address our issues. Therefore, we have decided that we will not be taking further action on these issues in Docket U-18-102.

We give the parties advance warning that our concerns regarding BRU management practices and the adequacy current ARO surcharges are not resolved. We will be issuing orders in Dockets U-19-085 and U-19-091 requesting information and comments on possible ARO revision impacts to the GTP's suspended in those dockets.

Final Order

This order constitutes the final decision in these proceedings. This decision may be appealed within thirty days of this order in accordance with AS 22.10.020(d) and Alaska Rule of Appellate Procedure 602(a)(2). In addition to the appellate rights afforded by AS 22.10.020(d), a party has the right to file a petition for reconsideration in accordance with 3 AAC 48.105. If such a petition is filed, the time period for filing an appeal is tolled and then recalculated in accordance with Alaska Rule of Appellate Procedure 602(a)(2).

ORDER

THE COMMISSION FURTHER ORDERS:

1. The *Stipulation Resolving All Issues*, filed October 28, 2019, by the Municipality of Anchorage d/b/a Municipal Light & Power Department; Chugach Electric Association, Inc.; Providence Health & Services; the Federal Executive Agencies; Matanuska Electric Association, Inc.; the Alaska Energy Authority; and ENSTAR Natural Gas Company, a Division of SEMCO Energy, Inc., (as corrected by *Notice of Filing Corrected Stipulation Exhibit 4*, filed November 5, 2019; supplemented by *HEA's Joinder*

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in Stipulation Resolving All Issues, filed November 7, 2019; and amended by *First Amendment to Stipulation Resolving All Issues*, filed January 15, 2020), is accepted in part, subject to the conditions set out in the body of this order, and rejected in part.

2. The *Asset Purchase and Sale Agreement* between Municipality of Anchorage, Alaska and Chugach Electric Association, Inc. dated as of December 28, 2018, and filed April 1, 2019 (as revised by *Amendment No. 1 to Asset Purchase and Sale Agreement*, filed September 30, 2019, *Amendment No. 2 to Asset Purchase and Sale Agreement*, filed October 30, 2019, and the unsigned *Amendment No. 3 to Asset Purchase and Sale Agreement*, filed October 28, 2019, as Exhibit 1 to *Stipulation Resolving All Issues*), is approved subject to the condition that Sections 6.16(a) and 6.21 are not part of the agreement and the other conditions set out in the body of this order.

3. The *Eklutna Power Purchase Agreement* between Chugach Electric Association, Inc. and the Municipality of Anchorage, dated as of December 28, 2018, and filed April 1, 2019 (as revised by *Amendment No. 1 to Eklutna Power Purchase Agreement*, filed September 27, 2019; *Amendment No. 2 to Eklutna Power Purchase Agreement*, filed October 30, 2019; and the unsigned *Amendment No. 3 to Eklutna Power Purchase Agreement*, filed October 28, 2019 as Exhibit 3 to *Stipulation Resolving All Issues*), is approved subject to the condition that it is not a power purchase agreement under AS 42.05.431(b) and the other conditions set out in the body of this order.

4. The *Amended and Restated BRU Fuel Agreement* between the Municipality of Anchorage and Chugach Electric Association, Inc., filed October 28, 2019 (as Exhibit 4 to the *Stipulation Resolving All Issues*) is rejected, except as discussed in Ordering Paragraph No. 5 to this order.

5. Upon closing as defined in Section 3.01 of the *Asset Purchase and Sale Agreement* approved in Ordering Paragraph No. 2 of this order, Chugach Electric Association, Inc. shall manage all of its Beluga River Unit assets in a unified manner as

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discussed in the body of this order. If Chugach Electric Association, Inc. uses natural gas produced from its Beluga River Unit assets to make economy energy sales or make natural gas sales to other parties, it shall value that natural gas in a manner consistent with Section 2.05 of the *Amended and Restated BRU Fuel Agreement* between the Municipality of Anchorage and Chugach Electric Association, Inc., filed October 28, 2019. Chugach Electric Association, Inc. shall only use natural gas produced from its Beluga River Unit assets to make economy energy sales or make natural gas sales to other parties in a manner consistent with the limitation set out in Section 2.03 of the *Amended and Restated BRU Fuel Agreement* between the Municipality of Anchorage and Chugach Electric Association, Inc., filed October 28, 2019.

6. The *Payment in Lieu of Taxes Agreement* between the Municipality of Anchorage, Alaska and Chugach Electric Association, Inc. dated as of December 28, 2018, and filed April 1, 2019, between the Municipality of Anchorage, Alaska and Chugach Electric Association, Inc. dated as of December 28, 2018, and filed April 1, 2019 (as revised by *Amendment No. 1 to Payment in Lieu of Taxes Agreement*, filed September 27, 2019; and *Amendment No. 2 to Payment in Lieu of Taxes Agreement*, filed October 30, 2019), is accepted subject to the conditions that: (1) it not be considered a tax or tax-like obligation in any forum; (2) that Sections 2.02 and 2.12 are not part of the approved agreement: (3) that by January 1, 2024, costs incurred by Chugach Electric Association, Inc. as a result of the *Payment in Lieu of Taxes Agreement* shall be recovered through base rates charged all Chugach Electric Association, Inc. ratepayers; and (4) the other conditions set out in the body of this order.

7. The application to amend Certificate of Public Convenience and Necessity No. 121 contained in the *Application of the Municipality of Anchorage d/b/a Municipal Light and Power to Amend Certificate of Public Convenience and Necessity No. 121 and to Terminate Dividend Restriction*, filed April 5, 2019, is denied.

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8. The application of Chugach Electric Association, Inc. to amend Certificate of Public Convenience and Necessity No. 8 to include the service area currently being served by the Municipality of Anchorage d/b/a Municipal Light & Power Department under Certificate of Public Convenience and Necessity No. 121, contained in *Petition for Approvals Needed to Acquire Anchorage Municipal Light and Power and Application to Amend Certificate of Public Convenience and Necessity No. 8*, filed April 1, 2019, is denied.

9. Certificate of Public Convenience and Necessity No. 121 is transferred to Chugach Electric Association, Inc. effective on the date of closing as defined in Section 3.01 of the *Asset Purchase and Sale Agreement* approved in Ordering Paragraph No. 2 of this order, subject to the condition that Chugach Electric Association, Inc. will begin to serve ratepayers in the Certificate of Public Convenience and Necessity No. 121 service area under the rules contained in the Certificate of Public Convenience and Necessity No. 8 tariff, but not the rates stated therein, by no later than December 31, 2023. This transfer is also subject to the other conditions set out in the body of this order.

10. The petition by Chugach Electric Association, Inc. to adopt the current Certificate of Public Convenience and Necessity No. 121 tariff under 3 AAC 48.400 to temporarily govern service provided under the service obligations acquired through this order is granted, subject to the conditions set out in the body of this order. Chugach Electric Association, Inc. shall file in these dockets a tariff adoption notice under 3 AAC 48.400 within 10 days of the date of closing as defined in Section 3.01 of the *Asset Purchase and Sale Agreement* approved in Ordering Paragraph No. 2 of this order. Within 90 days after filing the tariff adoption notice, Chugach Electric Association, Inc. shall file in these dockets a tariff in its own name for the Certificate of Public Convenience and Necessity No. 121 service area.

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11. Effective on the date of closing as defined in Section 3.01 of the *Asset Purchase and Sale Agreement* approved in Ordering Paragraph No. 2 of this order, a certificate of public convenience and necessity is granted to the Municipality of Anchorage authorizing ownership and provision of generation electric utility service to the public for compensation from its share of the Eklutna Hydroelectric Project, subject to the condition that: (1) before this effective date the Municipality of Anchorage has filed documentation that it has surrendered its voting rights on the Eklutna Hydroelectric Project operating committee; (2) that the Municipality of Anchorage shall maintain a $3,000,000 reserve fund to support its Eklutna Hydroelectric Project financial obligations under the Eklutna Power Purchase Agreement with Matanuska Electric Association, Inc. filed January 27, 2020; and (3) subject to the other conditions set out in the body of this order.

12. Section III.B.1 of the *Stipulation Resolving All Issues* identified in Ordering Paragraph No. 1 of this order is accepted. Subject to closing of the transaction as defined in Section 3.01 of the *Asset Purchase and Sale Agreement* approved in Ordering Paragraph No. 2 of this order, and the other conditions set out in the body of this order, we authorize Chugach Electric Association, Inc. to incur the Purchase Price as defined in this Section III.B.1 and to recover those costs through rates in a manner to be determined in its next general rate case.

13. Section III.B.2 of the *Stipulation Resolving All Issues* identified in Ordering Paragraph No. 1 of this order is accepted subject to the instructions set out in the body of this order and the conditions set out in this order.

14. Section III.B.3 of the *Stipulation Resolving All Issues* identified in Ordering Paragraph No. 1 of this order is accepted subject to the conditions set out in Ordering Paragraph No. 2 of this order.

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15. Section III.C of the *Stipulation Resolving All Issues* identified in Ordering Paragraph No. 1 of this order is accepted. Chugach Electric Association, Inc. shall not file the reports required by this Section III.C in these dockets.

16. Section III.D of the *Stipulation Resolving All Issues* identified in Ordering Paragraph No. 1 of this order was effectively accepted when Order U-16-094(23)/ U-17-008(27), *Order Granting Alaska Native Tribal Health Consortium's Request to Withdraw from Dockets and Request to Withdraw Opposition, Accepting Stipulation by Less Than All of the Parties, Vacating Briefing Schedule, and Closing Dockets*, dated February 21, 2020, was issued. No further action on this Section III.D is taken in these dockets.

17. Section III.E of the *Stipulation Resolving All Issues* identified in Ordering Paragraph No. 1 of this order addresses a matter outside of our jurisdiction, and no action regarding this Section III.E is taken nor will enforcement of this Section III.E, including enforcement of Amendment No. 3 to the *Eklutna Power Purchase Agreement* approved in Ordering Paragraph No. 3 of this order be undertaken.

18. Section III.F of the *Stipulation Resolving All Issues* identified in Ordering Paragraph No. 1 of this order is rejected, except those terms similar to Sections 2.03 and 2.05 of the *Amended and Restated BRU Fuel Agreement*, which will be treated as stated in Ordering Paragraph No. 5 of this order.

19. Section III.G.1 of the *Stipulation Resolving All Issues* identified in Ordering Paragraph No. 1 of this order is accepted, subject to the conditions set out in the body of this order.

20. Section III.G.2 is accepted in part. Chugach Electric Association, Inc. is authorized to accumulate and defer recovery of costs prudently incurred in its acquisition of most assets of the Municipality of Anchorage d/b/a Municipal Light & Power Department and of the type identified in the *Pre-filed Direct Testimony of Arthur W. Miller*,

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filed April 1, 2019, at Exhibit AWM-07. Chugach Electric Association, Inc. shall bear the burden of proving that the costs accumulated in the Primary Regulatory Asset were prudently incurred, and that the amortization period for recovery of the deferred costs is reasonable.

21. Section III.G.3 of the *Stipulation Resolving All Issues* identified in Ordering Paragraph No. 1 of this order is rejected for the reasons stated in the body of this order.

22. The request to terminate the dividend restriction imposed by Order U-13-184(22), dated July 16, 2015, contained in the *Application of the Municipality of Anchorage d/b/a Municipal Light and Power to Amend Certificate of Public Convenience and Necessity No. 121 and to Terminate Dividend Restriction*, filed April 5, 2019, is granted, subject to the conditions set out in the body of this order.

23. We find that it is in the public interest to exercise our authority under AS 42.05.711(d) and waive the requirements of AS 42.05.441(b) to allow Chugach Electric Association, Inc. to recover through rates the amount that it is paying to the Municipality of Anchorage for assets held by the Municipality of Anchorage d/b/a Municipal Light & Power Department in excess of the net book value of those assets. This waiver is subject to the condition that all conditions set out in the body of this order must be complied with by the Municipality of Anchorage and Chugach Electric Association, Inc. This waiver applies to the Purchase Price defined in Section 2.02 of the *Asset Purchase and Sale Agreement* approved in Ordering Paragraph No. 2 of this order, payments made under the *Eklutna Power Purchase Agreement* approved in Ordering Paragraph No. 3 of this order, and payments made under the *Payment in Lieu of Taxes Agreement* approved in Ordering Paragraph No. 6 of this order.

24. Our finding of public interest in Ordering Paragraph No. 23 of this order, and our approvals in Ordering Paragraph Nos. 1 through 22 of this order, are conditioned

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on Chugach Electric Association, Inc. rebating the Beluga River Unit contribute capital as discussed in the body of this order.

25. At least 45 days before closing as defined in Section 3.01 of the *Asset Purchase and Sale Agreement* approved in Ordering Paragraph No. 2 of this order, Chugach Electric Association, Inc. and Matanuska Electric Association, Inc. shall submit, as a tariff advice filing, an acceptable wholesale energy and power contract creating a tight power pool that meets the requirements for a tight power pool specified in the body of this order.

26. Within ten days after the date of closing as defined in Section 3.01 of the *Asset Purchase and Sale Agreement* approved in Ordering Paragraph No. 2 of this order, Chugach Electric Association, Inc. shall file notice of transaction closing specifying the date of closing.

27. Within 18 months after the date of closing as defined in Section 3.01 of the *Asset Purchase and Sale Agreement* approved in Ordering Paragraph No. 2 of this order, Chugach Electric Association, Inc. shall file a plan for remediating the contaminated sites disclosed by the Municipality of Anchorage d/b/a/ Municipal Light & Power Department in that agreement.

28. Within 18 months after the date of closing as defined in Section 3.01 of the *Asset Purchase and Sale Agreement* approved in Ordering Paragraph No. 2 of this order, Chugach Electric Association, Inc. shall file a plan to investigate all assets being acquired from the Municipality of Anchorage d/b/a Municipal Light & Power Department under that agreement to determine the existence of any environmental liabilities other than those disclosed in that agreement.

29. Within 18 months after beginning the investigation required by Ordering Paragraph No. 27 of this order, Chugach Electric Association, Inc. shall file a plan for remediating, before the tenth anniversary of the date of closing as defined in Section 3.01

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of the *Asset Purchase and Sale Agreement* approved in Ordering Paragraph No. 2 of this order, any contamination discovered in the investigation.

30. Within 90 days after the date of this order, Chugach Electric Association, Inc. shall submit, as a tariff advice filing, proposed tariff sheets establishing a methodology to calculate a unified cost of power adjustment for the combined Certificate of Public Convenience and Necessity No. 8 and Certificate of Public Convenience and Necessity No. 121 service areas.

31. Within 90 days after the date of this order, Chugach Electric Association, Inc. shall submit, as a tariff advice filing, proposed tariff sheets governing disbursement in compliance with this order to ratepayers in the Certificate of Public of Public Convenience and Necessity No. 121 service area of the Restricted Rate Reduction Account approved in this order.

32. Within 90 days after the date of this order, Chugach Electric Association, Inc. shall submit, as a tariff advice filing, proposed tariff sheets governing collection of surcharges from ratepayers in the Certificate of Public Convenience and Necessity No. 8 service area and disbursement of rebates to ratepayers in the Certificate of Public Convenience and Necessity No. 121 service area in compliance with the decision in this order to require Chugach Electric Association, Inc. to return Beluga River Unit contributed capital to ratepayers in the Certificate of Public of Public Convenience and Necessity No. 121 service area.

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33. Chugach Electric Association, Inc. shall file, by December 31, 2023, a revenue requirement study, cost of service study, and rate design proposing unified rates for its combined Certificate of Public Convenience and Necessity No. 121 and Certificate of Public Convenience and Necessity No. 8 service areas based on a 2022 calendar year test year.

DATED AND EFFECTIVE at Anchorage, Alaska, this 28th day of May, 2020.

BY DIRECTION OF THE COMMISSION
(Commissioners Antony G. Scott and
Daniel A. Sullivan, not participating.)

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RECEIVED
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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert M. Pickett, Chairman
Stephen McAlpine
Antony G. Scott
Daniel A. Sullivan
Janis W. Wilson

In the Matter of the Investigation Into the Beluga River Unit Management Practices of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	U-18-102
In the Matter of the Petition Filed by CHUGACH ELECTRIC ASSOCIATION, INC. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend Its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	U-19-020
In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT to Amend Its Certificate of Public Convenience and Necessity No. 121, to Eliminate Its Retail Electric Service Area and Add the Eklutna Hydroelectric Project to Its Service Area, and to Lift the Dividend Restriction	U-19-021
In the Matter of the Request for Approval of Special Contract Designated as TA379-121 Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	TA379-121

NOTICE OF ML&P'S SURRENDER OF EKLUTNA OPERATING COMMITTEE VOTING RIGHTS

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In Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39"), the Regulatory Commission of Alaska ("RCA") approved, subject to conditions, the sale to Chugach Electric Association, Inc. ("Chugach") of most of the electric utility assets of the Municipality of Anchorage d/b/a Municipal Light and Power ("ML&P") ("Transaction"). Order 39 also approved the MOA-Chugach Eklutna Power Purchase Agreement ("Chugach PPA"), subject to conditions, effective on the date of closing of the Transaction. In Order 39, the RCA granted to the MOA, effective upon the date of closing of the Transaction, a certificate of public convenience and necessity authorizing ownership and provision of generation electric utility service to the public for compensation from its share of Eklutna, subject to conditions, including that before the effective date of the Chugach PPA or the MOA-Matanuska Electric Association, Inc. ("MEA") Power Purchase Agreement ("MEA PPA"), the MOA has filed documentation that it has surrendered its voting rights on the Eklutna Operating Committee ("EOC").[1] In Order 39, the RCA required that the MOA's surrender of its EOC voting rights "cannot be lifted until such time as [the MOA] has shown to our satisfaction that [the MOA] has acquired the expertise required to fully participate as voting member of the EOC."[2]

Enclosed as Exhibit 1 is a Surrender of Eklutna Operating Committee Voting Rights document, signed by ML&P, Chugach, and MEA. The Surrender will remain in effect until the MOA shows to the RCA's satisfaction that the MOA has acquired the expertise required to participate as a voting member of the EOC (or upon expiration or termination of the terms of the Chugach PPA and the MEA PPA).

[1] Order 39 at 147, Ordering ¶ 11; *see also* Order 39 at 66-67.
[2] *Id.* at 67.

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RESPECTFULLY SUBMITTED this 30th day of October, 2020, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage d/b/a Municipal Light and Power

By: */s/ Dean D. Thompson*

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CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2020, a copy of the foregoing document was electronically filed with the RCA and served on the following persons by electronic means authorized by the RCA.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
By: /s/ *Tina M. Torrey*
Tina M. Torrey, Legal Assistant

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Exhibit 1

October 27, 2020

Surrender of Eklutna Operating Committee (EOC) Voting Rights

In accordance with the requirements of order U-18-102(44), the Municipality of Anchorage, dba Municipal Light & Power(ML&P), hereby surrenders its voting rights as an EOC member and under the Fish and Wildlife Agreement effective as of the Closing of the Asset Purchase Agreement between ML&P and Chugach Electric Association (Chugach). This surrender of voting rights shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC.

Until ML&P's successor complies with the qualification terms of RCA order U-18-102(44), all EOC decisions will be by unanimous vote of Chugach and Matanuska Electric Association, Inc. (MEA). Eklutna hydro operations, dispatch and maintenance will continue to follow past practices and policies unless changes are approved through the EOC process.

MUNICPALITY OF ANCHORAGE

By: _____
Name: William Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____
Name: Lee Thibert
Title: Chief Executive Officer

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____
Name: Anthony Izzo
Title: Chief Executive Officer

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert A. Doyle, Chairman John M. Espindola Keith Kurber II Robert M. Pickett
In the Matter of the Investigation Into the Beluga River Unit Management Practices of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	U-18-102
In the Matter of the Application Filed by Chugach Electric Association, Inc. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend Its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	U-19-020
In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT to Amend Certificate of Public Convenience and Necessity No. 121, to Eliminate Its Retail Electric Service and Add the Eklutna Hydroelectric Project to Its Service Area, and to Lift the Dividend Restriction	U-19-021

AFFIDAVIT OF ANDREW ERICKSON IN SUPPORT OF THE ANCHORAGE ASSEMBLY'S PETITION TO INTEREVENE; MOTION TO REOPEN DOCKETS AND MODIFY ORDER NO. 39; & MOTION FOR EXPEDITED CONSIDERATION

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TELEPHONE (907) 276-5152. FAX (907) 276-8433

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

Andrew Erickson, being duly sworn, states that:

1. I have personal knowledge of the facts and information set forth in this affidavit, and if called as a witness, I could and would testify to them.

2. I am an attorney at the law firm of Landye Bennett Blumstein LLP and am counsel of record for Petitioner-Intervenor Anchorage Assembly in the above-captioned matter.

3. This affidavit is submitted in support of the Anchorage Assembly's Petition to Intervene; Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020; and Motion for Expedited Consideration.

4. **Exhibit 1** is a true and accurate copy of the August 7, 1991 Agreement Among the Municipality of Anchorage, Chugach Electric Association, Matanuska Electric Association, Alaska Energy Authority, National Marine Fisheries Service, U.S. Fish and Wildlife Service, and the State of Alaska.

5. **Exhibit 2** is a true and accurate copy of AO No. 2023-131, As Amended (Dec. 19, 2023).

6. **Exhibit 3** is a true and accurate copy of the 1996 Eklutna Transition Plan, Exhibit E: Eklutna Purchasers Manner of Acting, Functional Responsibilities, and Staffing.

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7. **Exhibit 4** is a true and accurate copy of the Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights dated October 30, 2020.

8. **Exhibit 5** is a true and accurate copy of a presentation dated December 7, 2023, entitled "Eklutna Fish & Wildlife Program; Anchorage Assembly Worksession," presented by Chugach Electric Association and Matanuska Electric Association.

9. **Exhibit 6** is a true and accurate copy of a letter from Aaron Leggett, President, Native Village of Eklutna, to Samantha Owen, McMillin, Inc., Re: Eklutna Hydroelectric Project Draft Fish and Wildlife Program, dated February 19, 2024).

10. **Exhibit 7** is a true and accurate copy of AR No. 2024-40, As Amended (Feb. 2, 2024).

11. **Exhibit 8** is a true and accurate copy of a letter from Andrew Laughlin, Tony R. Zellers, and Kolby Hickel, to Michael Curry, Eklutna, Inc., dated April 3, 2024.

12. **Exhibit 9** is a true and accurate copy of AR 2017-324(S) (Oct. 24, 2017).

13. **Exhibit 10** is a true and accurate copy of AO No. 2024-28 (Mar. 19, 2024).

14. As described in the Assembly's Motion for Expedited Consideration, on information and belief, the Matanuska Electric Association's ("MEA") board of directors intends to meet on or about April 16, 2024 to approve the proposed final

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Fish and Wildlife Program; the Chugach Electric Association's ("Chugach") board of directors intends to meet on or about April 24 for the same purpose. On information and belief, once the proposed final Fish and Wildlife Program is approved by both MEA and Chugach, it will be submitted to the governor pursuant to the 1991 Agreement.

15. On Friday, April 11, 2024, I emailed counsel of record for the parties in this matter who may be affected by the Assembly's Petition to Intervene and Motion to Reopen Docket and Modify Order No. 39 Dated May 28, 2020. My email informed counsel of the Assembly's intent to file a Motion for Expedited Consideration of both the underlying Petition and Motion, and requested that each party inform the Assembly of its position, consistent with the requirements of 3 AAC 48.091(g).

FURTHER AFFIANT SAYETH NAUGHT.

4/15/2024
Date

Andrew Erickson

SUBSCRIBED AND SWORN to before me this 15th day of April 2024.

STATE OF ALASKA
NOTARY PUBLIC
Riza Smith
My Commission Expires Dec 18, 2027

Notary Public in and for Alaska
My Commission expires: DEC 18, 2027

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert A. Doyle, Chairman John M. Espindola Keith Kurber II Robert M. Pickett
In the Matter of the Investigation Into the Beluga River Unit Management Practices of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	U-18-102
In the Matter of the Application Filed by Chugach Electric Association, Inc. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend Its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	U-19-020
In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT to Amend Certificate of Public Convenience and Necessity No. 121, to Eliminate Its Retail Electric Service and Add the Eklutna Hydroelectric Project to Its Service Area, and to Lift the Dividend Restriction	U-19-021

ANCHORAGE ASSEMBLY'S MOTION FOR EXPEDITED CONSIDERATION OF PETITION TO INTERVENE AND MOTION TO REOPEN DOCKET AND MODIFY ORDER NO. 39 DATED MAY 28, 2020

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Pursuant to 3 AAC 48.091(g), the Anchorage Assembly respectfully moves for expedited consideration of its concurrently filed (1) Petition to Intervene, and (2) Motion to Reopen Docket and Modify Order No. 39 Dated May 28, 2020. Decisions are needed on both the principal Petition and Motion no later than **THURSDAY, APRIL 25, 2024**, which is before the usual time for responses and decisions. A certificate indicating when and how the opposing parties were served with this motion and the principal motions, and their respective positions on this motion, is included herein.[1] This motion is also supported by the accompanying affidavit of counsel.[2]

The Assembly seeks to intervene in this action for the purpose of requesting a modification to Order No. 39, which required the Municipality to surrender its voting rights as a majority owner of the Eklutna Hydroelectric Project (the "Project").[3] The Assembly's principal Motion requests that the Commission modify the Order to allow the Municipality to vote on policy matters regarding implementation of the 1991 Fish and Wildlife Agreement, specifically whether to approve the proposed final Fish and Wildlife Program. Under the 1991 Agreement, the Municipality is required to implement and contribute public funds to the final Fish and Wildlife Program once that plan is approved by the governor. The current draft Fish and Wildlife Program was developed by the minority Project owners, Chugach Electric Association

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1 *See* 3 AAC 48.091(g)(4).

2 *See* 3 AAC 48.091(g)(3).

3 *See* Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020.

("Chugach") and Matanuska Electric Association ("MEA"), but it has not been submitted to or approved by the Assembly as required by law.[4]

A decision is needed by April 25, 2024 because Chugach and MEA have indicated that they intend to submit the proposed final Fish and Wildlife Program to the governor before the end of this month.[5]

The Assembly proposes the following expedited schedule regarding the underlying Petition to Intervene and Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020:

- April 17 – Responses to Motion for Expedited Consideration
- April 19 – Responses to Underlying Motions
- April 22 – Assembly's Replies in Support of Underlying Motions
- April 25 – Commission decisions on Underlying Motions

DATED: April 15, 2024.

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

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Attorneys for Petitioner-Intervenor Anchorage Assembly

4 *See* Exhibits 2 and 10.

5 *See* Exhibit 5 at 20.

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CERTIFICATE OF COMPLIANCE WITH 3 AAC 48.091(g)

On Friday, April 11, 2024, counsel for the Anchorage Assembly emailed counsel for the affected parties in this proceeding, providing notification of the Assembly's intent to file a Petition to Intervene, Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020, and this Motion for Expedited Consideration. ENSTAR indicated that it would oppose the Assembly's underlying motions; none of the other parties responded and their positions are unknown.

/s/ Andrew Erickson

_____

Andrew Erickson

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert A. Doyle, Chairman John M. Espindola Keith Kurber II Robert M. Pickett
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CERTIFICATE OF SERVICE

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I, Riza Smith, hereby certify that on April 15, 2024, a true and correct copy of the included Motion for Expedited Consideration was sent electronically to the following parties:

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/s/ Riza Smith

_____

Riza Smith
Legal Assistant

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

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ANCHORAGE ASSEMBLY'S MOTION TO REOPEN DOCKETS AND MODIFY ORDER NO. 39 DATED MAY 28, 2020

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The Anchorage Assembly respectfully moves to reopen the docket in this matter and modify Order No. 39 dated May 28, 2020, conditionally granting the Municipality's application to amend its certificate of public convenience and necessity for the Eklutna Hydroelectric Project (the "Project").[1] The Order required the Municipality to surrender its vote on all Project management and operation decisions, including policy decisions implementing the 1991 Fish and Wildlife Agreement.[2] The Assembly requests that the Commission modify the Order to allow the Municipality to exercise its vote as a majority owner of the Project, specifically on the proposed final Fish and Wildlife Program—a multi-decades, multi-million-dollar fish and wildlife mitigation plan governing the future of the Eklutna Dam.

Currently, under the conditions of the Order, the Municipality does not have a vote on the proposed final Fish and Wildlife Program even though the Municipality will be responsible for funding a portion of the implementation costs. Unless the Commission modifies the Order and allows the Municipality to vote, the proposed final Fish and Wildlife Program is expected to be submitted to the governor by the

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1 Order U-18-102(44)/U-19-020(39)/U-19-021(39) (May 28, 2020).

2 August 7, 1991 Agreement Among the Municipality, Chugach Electric Association, Matanuska Electric Association, Alaska Energy Authority, National Marine Fisheries Service, U.S. Fish and Wildlife Service, and the State of Alaska [attached as **Exhibit 1**].

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end of this month, potentially binding the Municipality to an estimated $57-million mitigation plan that has not been approved by the Assembly as required by law.[3]

INTRODUCTION

In 2018, the Municipality sold Municipal Light & Power ("ML&P") to Chugach Electric Association, Inc. ("Chugach"). As part of that transaction, the Municipality retained its 53.33 percent ownership interest in the Project but agreed to sell its share of the power output to Chugach and the Matanuska Electric Association ("MEA") (collectively with the Municipality, the "Project Owners"). The Project Owners agreed that Project management and operations decisions would continue to be made by the Eklutna Operating Committee ("EOC")—a group of representatives from each of the Project Owners. From 1996 until the May 28, 2020 Order, EOC decisions had been made "by double majority (a vote of two of the three Eklutna [Owners] whose shares total at least 51% of the Eklutna Project shares)."[4]

In 2020, the Commission concluded that it could only approve the ML&P sale if the Municipality surrendered its vote on the EOC.[5] The Order noted that after the

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3 *See* AO No. 2023-131, As Amended, § 1 (Dec. 19, 2023) (to be codified at AMC 26.30.025(B)(2)) [attached as **Exhibit 2**] ("The Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources in the Eklutna River shall be submitted to the Assembly with a proposed resolution in support for action, prior to its submission to the Governor of Alaska.").

4 Eklutna Transition Plan, Exhibit E at 2 [attached as **Exhibit 3**].

5 Order U-18-102(44)/U-19-020(39)/U-19-021(39) at 147.

ML&P sale the Municipality no longer had an employee with the qualifications and experience to manage an electric utility.[6] The Commission explained,

> Under these circumstances we cannot unconditionally find that [the Municipality] is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that [the Municipality] is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna [Power Purchase Agreement] or the MEA [Power Purchase Agreement], ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without [the Municipality] having a vote on operation or management decisions.[7]

On October 27, 2020, the Municipality complied with the Order by entering into an agreement with the Project Owners in which the Municipality surrendered its voting rights on the EOC "and under the Fish and Wildlife Agreement."[8]

While the Order may have been useful at the time based on the expectation that the Municipality would soon hire qualified staff for the Anchorage Hydropower Utility, the present circumstances in which a final proposed Fish and Wildlife Program will be imminently transmitted to the governor for approval without any

6 *Id*. at 67.

7 *Id*.

8 Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights (Oct. 30, 2020) [attached as **Exhibit 4**].

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affirmative act by the Municipality, nor its consent, renders the Order substantially unjust and deeply contrary to the public interest. Importantly, Anchorage Municipal Code is clear that the Assembly must approve the final proposed Fish and Wildlife Program before it is submitted to the governor.[9] Thus, it is in the public interest that the Order be modified to allow the Municipality to exercise its vote as the majority owner of the Project on policy matters regarding implementation of the 1991 Agreement, specifically the adoption of a multi-decade, multi-million dollar fish and wildlife mitigation plan, which Anchorage residents will be obligated to pay for.

FACTUAL BACKGROUND

The Eklutna Project consists of a 40-megawatt dam on the Eklutna River that was originally constructed by the federal government in 1950s. In the 1990s the federal government agreed to sell the Project to the Municipality, Chugach, and MEA. Thus, the Municipality acquired a 53.33 percent interest in the Project; Chugach and MEA acquired the remaining 30 percent and 16.67 percent, respectively.

Because there were concerns regarding the Project's affects on fish and wildlife, the Project Owners entered into a fish and wildlife agreement with the State of Alaska, Alaska Energy Authority, and federal agencies.[10] The 1991 Agreement requires the Project Owners to carry out certain measures to "protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and

9 Exhibit 2 (AO No. 2023-131).

10 *See* Exhibit 1.

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habitat)" in lieu of complying with certain federal hydroelectric licensing statutes.[11] Under the 1991 Agreement, the Project Owners must conduct studies, publish a draft fish and wildlife program containing measures "for the protection, mitigation of damages to, and enhancement of fish and wildlife," and submit a proposed final Fish and Wildlife Program to the governor for approval. The Project Owners "shall implement the Fish and Wildlife Program established by the Governor,"[12] beginning no later than 2027 and to be completed no later than 2032.[13]

In October 2023, the Project Owners released a draft fish and wildlife program based on a two-year study program and alternatives analysis.[14] The draft program, referred to as the "portal valve alternative," proposed to leave the Eklutna Dam in place but add a new valve and release structure to provide limited continuous, year-round flows from Eklutna Lake to the Eklutna River.[15] The draft program proposes to use existing water line infrastructure to transport the water from the lake one mile downstream from the dam to the release structure, leaving a portion of the Eklutna

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11 *See* Alaska Power Administration Asset Sale and Termination Act, Pub. L. No. 104-58 § 104 (Nov. 28, 1995).

12 Exhibit 1 at 5.

13 *Id*.

14 The draft program was developed by Chugach and MEA. Although the Municipality's seal and name appears on the cover page, the Municipality did not have a vote on any decisions made by Chugach and MEA.

15 *See* Eklutna Hydroelectric Project, Draft Fish and Wildlife Program (October 2023), available at https://eklutnahydro.com/wp-content/uploads/2023/10/2023-10-27-Eklutna-Draft-Fish-and-Wildlife-Program_with-Appendices.pdf.

River de-watered. The Project Owners anticipate that the draft program will cost approximately $57 million—and will be funded by increases to electric ratepayers and municipal property taxes.[16] Importantly, the draft program did not consider a full dam removal option that was proposed by the Native Village of Eklutna and supported by many organizations and community members.[17]

On February 2, 2024, the Assembly adopted Assembly Resolution No. 2024-40, outlining the Assembly's concerns with the draft program's process and the potential affects to Anchorage drinking water. According to the Resolution, the "Municipality does not intend to issue authorizations or provide funds or any other form of support of the Draft Fish and Wildlife Program or any alternative that doesn't restore the full length of the Eklutna River or comply with policy of the Municipality, as recently enacted by AO 2023-131."[18]

On April 3, the Project Owners stated that "an alternatives analysis is not required under the 1991 Agreement [and] the Project Owners were not required to

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16 *See* Presentation, Eklutna Fish & Wildlife Program, Anchorage Assembly Work Session (Dec. 7, 2023) [attached as **Exhibit 5**].

17 *See* Letter from Aaron Leggett, President, Native Village of Eklutna to Samantha Owen, McMillen, Inc., Re: Eklutna Hydroelectric Project Draft Fish and Wildlife Program at 3 (Feb. 19, 2024) [attached as **Exhibit 6**] (describing that during public meetings in summer 2023 NVE staff "asked the Project Owners' consultant about estimating the costs and modeling impacts, of removing the dam. The consultant flatly rejected undertaking any dam removal analysis.").

18 AR No. 2024-40, As Amended, § 2 (Feb. 2, 2024) [attached as **Exhibit 7**].

bring a handful of alternative proposals to the public."[19] The Project Owners indicated that they intended to submit the proposed final Fish and Wildlife Program to the governor by the end of April without the Assembly's approval as required by AMC 26.30.025B.2.[20]

LEGAL STANDARD

The Assembly seeks to narrowly modify an order conditionally granting a certificate of public convenience and necessity. When considering whether to grant a certificate under the Public Utilities Regulatory Act, AS 42.05, the Commission determines whether the "applicant is fit, willing, and able to provide the utility services applied for, and that those services are required for the public convenience and necessity."[21] The Commission considers three factors in deciding whether an entity is fit, willing, and able to provide service: the entity's managerial, technical, and financial fitness.[22]

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19 Letter from Andrew Laughlin, Tony R. Zellers, and Kolby Hickel, to Michael Curry, Eklutna, Inc. at 6 (Apr. 3, 2024) [attached as **Exhibit 8**].

20 *Id*. at 1.

21 Order U-18-102(44)/U-19-020(39)/U-19-021(39) at 60 (citing AS 42.05.241).

22 *Id*. at 49.

ARGUMENT

A. Authorizing the Municipality to Vote on Policy Decisions Implementing the 1991 Agreement Is Overwhelmingly in the Public Interest, and Assembly Approval of the Fish and Wildlife Program Is Required by Law.

Anchorage voters reasonably expect that their elected government will have a say in how public tax dollars are spent. However, if the proposed final Fish and Wildlife Program is submitted to the governor without the Municipality's vote as a majority owner of the Project, the Municipality may be required to fund and implement an Eklutna mitigation plan that the Municipality did not formally approve.

It is vital that the Municipality's vote on matters regarding the 1991 Agreement be reinstated. Since 2017, the Assembly has consistently called for efforts to restore the Eklutna River and ensure continuous water flow to the greatest extent possible.[23] However, regardless of the substantive outcome or content of the proposed final Fish and Wildlife Program, there is a legal process that must be followed. Under AO 2023-131, the Assembly codified a requirement for Assembly approval before the plan is submitted to the governor. "The Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources in the Eklutna River shall be submitted to the Assembly with a proposed resolution in support for action, prior to its submission to the Governor of Alaska."[24] That code provision ensures that there is

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23 AR No. 2017-324(S), § 1 (Oct. 24, 2017) [attached as **Exhibit 9**]

24 Exhibit 2 at 3.

a public process and that Anchorage's elected policy-making body, the Assembly, will have a role in approving the proposed final Fish and Wildlife Program before it is implemented.

Subsequently, in February 2024, the Assembly clarified municipal law regarding the authority to make policy decisions implementing the 1991 Agreement. "Pursuant to section 26.30.025, the assembly shall be responsible for all policy decisions related to the municipality's performance under the 1991 Fish and Wildlife agreement regarding the Eklutna hydroelectric project."[25] Municipal law is clear; the Assembly has the responsibility to make policy decisions regarding the 1991 Agreement, including deciding whether or not to approve the proposed Fish and Wildlife Program.

The recent code changes mean that the Commission's specific concerns at the time of the ML&P sale in 2020 are no longer applicable. There is no risk that policy decisions regarding implementation of the 1991 Agreement, specifically the adoption of the proposed final Fish and Wildlife Program, will be made by a municipal employee who lacks the required qualifications and experience. Although the Municipality has attempted to fill the open position with Anchorage Hydropower but has not succeeded, the lack of qualified employees is now a moot point. All policy

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[25] AO No. 2024-28, § 1 (Mar. 19, 2024) (to be codified at AMC 3.20.070) [attached as **Exhibit 10**].

decisions, including whether to approve the Fish and Wildlife Program, may only be made by the Assembly.

Thus, the Commission should modify Order No. 39 to allow the Municipality to exercise its vote as a majority owner of the Project on policy decisions regarding implementation of the 1991 Agreement, specifically whether to approve the proposed final Fish and Wildlife Program.[26]

B. Modification of Order No. 39 Will Not Affect Any Day-to-Day Management and Operation Decisions Regarding the Project.

The Assembly's request is narrow. The Municipality's vote on the EOC should be reinstated but only for policy decisions under the 1991 Agreement. The Assembly does not propose to reinstate the Municipality's vote on any technical aspects of the Project, utility operations, or day-to-day management decisions. Those decisions, as outlined in the Exhibit E to the Eklutna Transition Plan,[27] would continue to be made by Chugach and MEA "until such time as [Municipal Hydropower] has shown to [the

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[26] The Assembly expressly reserves and does not waive the argument that the Commission lacked jurisdiction and authority to require the Municipality to surrender its voting rights under the 1991 Agreement, and that the Administration lacked authority to enter into the 2020 "Surrender of Eklutna Operating Committee (EOC) Voting Rights."

[27] *See* Exhibit 3.

Commission's] satisfaction that [Municipal Hydropower] has acquired the expertise required to fully participate as a voting member of the EOC."[28]

CONCLUSION

For the foregoing reasons, the Commission should reopen the docket in this matter and modify Order No. 39 dated May 28, 2020. The Commission should allow the Municipality to exercise its vote on the EOC as the majority owner of the Project, but only on policy matters regarding implementation of the 1991 Agreement, including whether or not to approve the proposed final Fish and Wildlife Program before it is submitted to the governor. Because Anchorage law requires Assembly approval of the proposed final Fish and Wildlife Program, and the Municipality will be contractually bound to fund and implement the plan, there is no just reason why the Municipality should not have a vote before the plan is submitted to the governor.

DATED: April 15, 2024.

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[28] Order U-18-102(44)/U-19-020(39)/U-19-021(39) at 66-67 (noting that the Municipality's representative must have "knowledge of the Railbelt generation and transmission system, or prudent utility practice which is the management standard specified for the [Municipal] EOC representative in" the Chugach and MEA power purchase agreements).

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert A. Doyle, Chairman John M. Espindola Keith Kurber II Robert M. Pickett
In the Matter of the Investigation Into the Beluga River Unit Management Practices of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	U-18-102
In the Matter of the Application Filed by Chugach Electric Association, Inc. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend Its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	U-19-020
In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT to Amend Certificate of Public Convenience and Necessity No. 121, to Eliminate Its Retail Electric Service and Add the Eklutna Hydroelectric Project to Its Service Area, and to Lift the Dividend Restriction	U-19-021

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I, Riza Smith, hereby certify that on April 15, 2024, a true and correct copy of the included Motion to Reopen Dockets and Modify Order No. 39, Affidavit of Andrew Erickson, and Exhibits 1-10 were sent electronically to the following parties:

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

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ANCHORAGE ASSEMBLY'S PETITION TO INTERVENE

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The Anchorage Assembly respectfully petitions to intervene in this action pursuant to 3 AAC 48.110. The Assembly is the legislative and policy-making body of the Municipality of Anchorage (the "Municipality"), and by intervening in this action seeks to modify Order No. 39 dated May 28, 2020, requiring the surrender of the Municipality's voting rights under the 1991 Fish and Wildlife Agreement.[1]

INTRODUCTION

This consolidated docket concerns applications and petitions filed in connection with the sale of Municipal Light & Power Department ("ML&P) to Chugach Electric Association ("Chugach"). When that transaction concluded, the Municipality no longer had an employee with the qualifications and experience to manage an electric utility.[2] Accordingly, the Commission required the Municipality to surrender its voting rights on the Eklutna Operating Committee ("EOC"), a group of representatives from each owner of the Eklutna Hydropower Project (the "Project").[3] Although the Municipality holds a 53.33 percent ownership interest in the Project, the Order required that all policy and management decisions regarding the Project be made by the minority Project Owners, Chugach and Matanuska Electric

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1 *See* Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020 (lodged concurrently).

2 *See* Order U-18-102(44)/u-19-020(39)/U-19-021(39) at 67 (May 28, 2020).

3 *See id.* The background and effect of the Order is discussed in greater detail in the Assembly's Motion to Reopen Dockets and Modify Order No. 39.

Association ("MEA"), until the Municipality hired staff with the requisite qualifications and experience to serve as its voting representative on the EOC.

However, in the four years since ML&P's sale and entry of the Order, the Municipality has been unable to fill the open position with Anchorage Hydropower—the department responsible for managing the Municipality's ownership interest in the Project. In the meantime, the EOC has moved forward with developing a proposed Fish and Wildlife Program pursuant to the 1991 Agreement that would potentially commit the Municipality to a decades-long, multi-million dollar mitigation plan. The Project Owners—including the Municipality—are required to fund and implement the Fish and Wildlife Program once it is adopted by the governor.

Despite potentially binding the Municipality to significant financial and other commitments, the Municipality presently has no opportunity to vote on the proposed final Fish and Wildlife Program. Resident taxpayers of the Municipality may ultimately be responsible for funding a portion of the $57 million mitigation plan even though they had no formal representation in the decision-making process. The Administration has taken no action to reinstate the Municipality's vote on the EOC regarding implementation of the 1991 Agreement. Thus, the Assembly seeks to intervene under 3 AAC 48.110 for the purpose of filing a motion to reopen dockets and modify Order No. 39, urging this Commission to reinstate the Municipality's voting right as to the narrow but important issue of the 1991 Agreement.

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ARGUMENT

I. The Assembly Is Entitled to Intervene as a Matter of Right.

"Any person who has a statutory right to be made a party to that proceeding will be permitted to intervene."[4] Anchorage is a home rule municipality and the Assembly is vested with governmental powers under the Anchorage Charter. Under Article X, Section 11 of the Alaska Constitution, the Assembly "may exercise all legislative powers not prohibited by law or by charter."[5] The Alaska Constitution also explicitly calls for "maximum local self-government" and demands that "[a] liberal construction shall be given to the powers of local government units." Here, the Assembly has exercised its legislative authority to require that the proposed final Fish and Wildlife Program be submitted to the Assembly for approval before being transmitted to the governor.[6] Thus, the Assembly should be entitled to intervene as a matter of right in this proceeding.

II. Alternatively, the Assembly Should Be Permitted to Intervene at the Commission's Discretion.

Under 3 AAC 48.110 "any person whose intervention will be conducive to the ends of justice and will not unduly delay the conduct of the proceeding" may be

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4 3 AAC 48.110(a).

5 Alaska Const. Art. X, § 11.

6 *See* Exhibit 2 at 3, Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020.

permitted to intervene.[7] In ruling on a petition for intervention, the Commission considers seven factors:

> (1) the nature of the petitioner's right under statute to be made a party to the proceeding;
>
> (2) the nature and extent of the property, financial, or other interest of the petitioner;
>
> (3) the effect on petitioner's interest of the order which may be entered in the proceeding;
>
> (4) the availability of other means by which the petitioner's interest may be protected;
>
> (5) the extent to which petitioner's interest will be represented by existing parties;
>
> (6) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, including the issues that petitioner intends to address in the proceeding; and
>
> (7) the extent to which participation of the petitioner will broaden the issue or delay the proceeding.[8]

The Assembly's Petition satisfies each of the seven factors for permissive intervention.

First, the Assembly has a statutory right to be made a party to this proceeding, as explained above.

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7 3 AAC 48.110(a).

8 3 AAC 48.110(b).

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Second, the Assembly has a financial interest in this matter. The proposed final Fish and Wildlife Program is anticipated to cost at least $57 million and will be funded by increases to Anchorage electricity ratepayers and property taxpayers. The responsibility for appropriating money and determining tax rates is vested in the Assembly.

Third, the Assembly is significantly and uniquely affected by Order No. 39 in this matter. The Order required the Municipality to surrender its vote on decisions implementing the 1991 Agreement. However, the Assembly recently codified a process in which the Assembly must approve the proposed final Fish and Wildlife Program before it is submitted to the governor.[9] Thus, the Order undermines the Assembly's legal authority to approve the mitigation plan. As the elected representative body for residents of the Municipality, the Assembly has a clear and cognizable interest in protecting its constituents' voice in this proceeding.

Fourth, intervention by the Assembly is the only way its interests will be protected. There is no alternative forum in which the Assembly can seek modification of the Order. On information and belief, the other Project Owners are scheduled to vote on approving the proposed final Fish and Wildlife Program in the coming weeks. Once Chugach and MEA approve the plan, it is expected to be submitted to the

9 *See* Exhibits 2 and 10, Anchorage Assembly's Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020.

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governor before the end of this month. The Assembly's challenge to the Order must be raised first with this Commission before seeking any judicial relief.

Fifth, the Assembly's interests are not already represented in this matter because the Administration has not taken any steps to reinstate the Municipality's vote on decisions implementing the 1991 Agreement. Courts allow legislative bodies to intervene in actions when the executive branch is a already a party but where the executive has failed to enforce or defend an existing law.[10] Here, the Assembly is the only party presently advancing the argument that the Order should be modified to permit the Assembly to exercise its legal authority under AMC 26.30.025.[11]

Sixth, because the Municipality has taken no action on this issue, the Assembly's participation is imperative to the development of a sound record. As discussed above, the Assembly's interests are not adequately represented because the Administration has not taken any action to modify the Order or to advocate for the Municipality's legally-required role in implementing the 1991 Agreement. Without the Assembly's intervention, the record will be incomplete and the interests of justice will not be served.

Seventh and finally, the Assembly's intervention will not unnecessarily delay the proceeding or broaden the issues. The Assembly's Petition and Motion are

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10 *See Hollingsworth v. Perry*, 570 U.S. 693 (2013); *Karcher v. May*, 484 U.S. 72 (1987).

11 *See* Exhibits 2 and 10, Anchorage Assembly's Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020.

focused on a single, narrow issue: whether the Municipality should be allowed to vote on the EOC's decision to submit a proposed final Fish and Wildlife Program to the governor. The Assembly does not seek to relitigate issues previously decided or to expand the scope of this proceeding beyond the key issues. The Assembly seeks only to respond to new developments that could not have been contemplated when the Order was initially entered.

Thus, as a matter of law and equity, the Assembly's Petition to Intervene should be granted.

CONCLUSION

For the foregoing reasons the Commission should grant the Assembly's petition to intervene in this matter. The Assembly should be permitted to intervene as a matter of right. Alternatively, the Commission should permit the Assembly to intervene for the limited purpose of seeking to modify Order No. 39.

DATED: April 15, 2024.

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert A. Doyle, Chairman John M. Espindola Keith Kurber II Robert M. Pickett
In the Matter of the Investigation into the Beluga River Unit Management Practices of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	U-18-102
In the Matter of the Petition Filed by CHUGACH ELECTRIC ASSOCIATION, INC. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	U-19-020
In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT to Amend Certificate of Public Convenience and Necessity No. 121, to Eliminate Its Retail Electric Service Area and Add the Eklutna Hydroelectric Project to Its Service Area, and to Lift the Dividend Restriction	U-19-021

ENSTAR'S OPPOSITION TO ANCHORAGE ASSEMBLY'S MOTION FOR EXPEDITED CONSIDERATION

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After a complex proceeding, with multiple parties and multiple weeks of hearing, the Regulatory Commission of Alaska ("Commission") authorized Chugach Electric Association, Inc. ("Chugach") to acquire most of the assets of the Municipality of Anchorage d/b/a Municipal Light & Power Department ("ML&P").[1] The Commission described the purchase "conceived by ML&P and Chugach" as "not straightforward."[2] Ultimately, this Commission only approved the transaction after imposing significant conditions. Without the required conditions this Commission would not have approved the acquisition.[3] The Anchorage Assembly now untimely seeks to revisit one of those conditions and unravel the Commission's carefully crafted decision on an expedited basis. The Commission should flatly deny the request for expedited consideration.

The requirement for ML&P to surrender its vote on the Eklutna Operating Committee under the Eklutna Project Agreements, which is the subject of the Anchorage Assembly's request, was specifically identified by the Commission as an example of one of its required conditions:

> For example, under the record before us we cannot find that MHP [Municipal Hydro Power] will remain managerially and technically fit to own a share of the Eklutna Project after ML&P employees are transferred to Chugach. This lack of fitness means that we cannot unconditionally grant MHP certificate authority to continue ownership of the Eklutna Project as

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1 See Order U-18-102(44)/U-19-020(39)/U-19-021(39), *Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third Party Sales Gas Pricing; and Requiring Filings*, May 28, 2020.

2 *Id*. at 7.

3 *Id*. at 12.

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> requested in Docket U-19-021. This lack of fitness also means that we cannot unconditionally approve the Eklutna PPA as requested in Docket U-19-020. Given the lack of time to consider options, we impose conditions that address this issue [and require ML&P to surrender its vote on the Eklutna Operating Committee] rather than seek input from the parties.[4]

The Commission was well aware of the obligation for the Eklutna Operating Committee to work with Fish and Wildlife when it imposed the condition complained of by the Anchorage Assembly:

> [W]e cannot unconditionally find that MHP is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements *so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions*… This does not prohibit MHP from attending EOC meetings, *but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC*.[5]

The Anchorage Assembly did not petition for reconsideration or appeal the Commission's decision.

The municipal ordinance that the Anchorage Assembly claims requires "modification" of the Commission's requirement was passed and approved on December 19, 2023, with an immediate effective date.[6] The Anchorage Assembly then waited

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4 *Id*. at 41.

5 *Id*. at 67 (emphasis added).

6 *Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020*, filed April 15, 2024, at Ex. 2.

almost four months to file its motion with the Commission. In contrast, the Anchorage Assembly would have the parties to this proceeding respond to their substantive request in four days and the Commission issue a decision in ten calendar days. This is patently unreasonable. The Commission's requirement at issue was an integral part of its overall decision in Order U-18-102(44)/U-19-020(39)/U-19-021(39) and was put in place based on the Commission's obligations under statute.[7] The Commission should deny the motion for expedited consideration on such an important matter and provide the parties with sufficient time to address the primary motion.

DATED this 17th day of April 2024, at Anchorage, Alaska.

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[7] U-18-102(44)/U-19-020(39)/U-19-021(39) at 41.

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I hereby certify that on April 17, 2024, a true and correct copy of the foregoing document was served by electronic mail on the following attorneys of record:

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before the Commissioners: Robert A. Doyle, Chairman
John M. Espindola
Keith Kurber II
Robert M. Pickett

In the Matter of the Investigation Into the Beluga River Unit Management Practices of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	U-18-102
In the Matter of the Application Filed by Chugach Electric Association, Inc. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend Its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	U-19-020
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ENTRY OF APPEARANCE ON BEHALF OF HOMER ELECTRIC ASSOCIATION;

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HOMER ELECTRIC ASSOCIATION'S STATEMENT OF NON-PARTICIPATION AND WAIVER OF PARTY RIGHTS IN ANY PROCEEDINGS RELATED TO THE ANCHORAGE ASSEMBLY REQUESTS - EKLUTNA HYDROELECTRIC PROJECT

Birch, Horton, Bittner & Cherot, P.C., through Elisabeth H. Ross, hereby enters a limited appearance on behalf of Homer Electric Association, Inc. ("HEA"), and provides the following statement on HEA's behalf: On April 15, 2024, the Anchorage Assembly filed a Petition to Intervene, Motion to Reopen Dockets and Modify Order No. 39 dated May 28, 2020, and other supporting documents in U-18-102/U-19-020/U-19-021. HEA had participated as a party in proceedings that culminated in Order 39.

HEA has no interest related to the Anchorage Assembly's request. It waives all rights it may have as a party to participate in further proceedings, if any, in these dockets related to the Anchorage Assembly's requests,[1] including responding to pleadings or participating in any hearings or conferences. It takes no position on the requests and asks that it be removed from service lists related to the requests. If the Commission decides to conduct further proceedings on the requests, HEA asks that the Commission excuse it from all duties and obligations as a party under 3 AAC 48.155(b).[2] HEA seeks to avoid unnecessary costs for its members.

For purposes of her appearance on behalf of HEA, Ms. Ross's address is as follows:

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RESPECTFULLY SUBMITTED this 17th day of April, 2024.

BIRCH HORTON BITTNER & CHEROT
HOMER ELECTRIC ASSOCIATION, INC.

By: /s/
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[1] 3 AAC 48.155(a).
[2] 3 AAC 48.091(a).

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

BEFORE COMMISSIONERS:	Robert A. Doyle, Chair John M. Espindola Keith Kurber II Robert M. Pickett
In the Matter of the Petition filed by CHUGACH ELECTRIC ASSOCIATION, INC. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend Its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	Docket No. U-19-020
In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT to Amend Certificate of Public Convenience and Necessity No. 121, to Eliminate Its Retail Electric Service Area and Add the Eklutna Hydroelectric Project to Its Service Area, and to Lift the Dividend Restriction	Docket No. U-19-021

NOTICE OF WITHDRAWAL

Please take notice that Perkins Coie LLP hereby withdraws as counsel for Homer Electric Association, Inc. and Alaska Electric and Energy Cooperative, Inc. in the above-captioned matter.

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DATED: April 17, 2024.

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STATE OF ALASKA

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AFFIDAVIT OF CHRISTOPHER CONSTANT IN SUPPORT OF THE ANCHORAGE ASSEMBLY'S MOTION FOR EXPEDITED CONSIDERATION

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THIRD JUDICIAL DISTRICT)

Christopher Constant, being duly sworn, states that:

1. I have personal knowledge of the facts and information set forth in this affidavit, and if called as a witness, I could and would testify to them.

2. I am the Chair of the Municipality of Anchorage Assembly (the "Assembly").

3. This affidavit is submitted in support of the Assembly's Motion for Expedited Consideration.

4. In October 2023, Eklutna Hydroelectric Project (the "Project") minority owners Chugach Electric Association and Matanuska Electric Association released a Draft Fish and Wildlife Program (the "Draft Program") for public review and comment, which noted their intent to submit a Final Proposed Fish and Wildlife Program to the governor for approval in April 2024.

5. The Draft Program fell short of the Assembly's expectations in several ways, including by failing to consider full dam removal, an alternative supported by some of the Project's key stakeholders including the Native Village of Eklutna ("NVE"), Eklutna, Inc., and the Assembly.

6. In response to the Draft Program, the Assembly enacted AO 2023-131 as amended, requiring that the Proposed Final Fish and Wildlife Program be submitted to the Assembly for approval before being submitted to the governor.

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7. In early 2024, the public engagement process for the Draft Program continued and public meetings were held in Anchorage and the Mat-Su Valley in late January 2024. The public comment deadline was February 19, 2024.

8. During the public comment period, the Assembly continued to advocate for changes to the Draft Program, including by adopting Assembly Resolution 2024-40 as amended, requesting that the Project owners seek a two-year extension of the deadline to submit a Proposed Final Fish and Wildlife Program to adequately address concerns by the public and the Assembly regarding the Draft Program.

9. On February 12, 2024, the Project owners rejected the Assembly's request to seek an extension, but indicated that they were revising the Draft Program to address concerns raised by stakeholders and the public. The Project owners stated that they were now assessing the dam removal alternative, and would release their assessment publicly in due course. A true and correct copy of the letter sent by the Project Owners to the Assembly is attached as **Exhibit 11**.

10. Throughout February and March 2024, it was reasonable for the Assembly to believe that its concerns were being considered and that additional changes to the Draft Program would be implemented before the Program was finalized.

11. On April 3, the Project owners announced that they would not implement any significant changes to the Draft Program to address the concerns raised

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by NVE, Eklutna Inc., and the Assembly, or to seriously consider full dam removal and restoration of the Eklutna River.

12. As soon as the Assembly learned its concerns would not be incorporated into the proposed final Fish and Wildlife Program, the Assembly acted as quickly as reasonably possible under law and assembly procedure to protect its rights and the interests of Anchorage rate- and taxpayers, including overriding the Mayor's veto of AO 2024-28 as amended, and filing the Petition to Intervene, Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020, and Motion for Expedited Consideration.

FURTHER AFFIANT SAYETH NAUGHT.

4/18/2024
Date

Christopher Constant

SUBSCRIBED AND SWORN to before me this 18th day of April 2024.

STATE OF ALASKA
NOTARY PUBLIC
Riza Smith
My Commission Expires Dec 18, 2027

Notary Public in and for Alaska
My Commission expires: DEC 18, 2027

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert A. Doyle, Chairman John M. Espindola Keith Kurber II Robert M. Pickett
In the Matter of the Investigation Into the Beluga River Unit Management Practices of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	U-18-102
In the Matter of the Application Filed by CHUGACH ELECTRIC ASSOCIATION, INC. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend Its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	U-19-020
In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT to Amend Certificate of Public Convenience and Necessity No. 121, to Eliminate Its Retail Electric Service and Add the Eklutna Hydroelectric Project to Its Service Area, and to Lift the Dividend Restriction	U-19-021

ANCHORAGE ASSEMBLY'S REPLY TO ENSTAR'S OPPOSITION TO MOTION FOR EXPEDITED CONSIDERATION

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Although the transaction that originally gave rise to this matter was "not straightforward,"[1] the relief that the Anchorage Assembly seeks now is simple. The elected representatives of the Municipality of Anchorage should have a vote on whether to approve a program that could potentially bind the Municipality to a multi-decades, multi-million dollar fish and wildlife mitigation plan. The Assembly's narrow request to modify Order No. 39 with respect to a minor part of a condition imposed solely on the Municipality does not "unravel" any of the substantive conditions of the transaction or affect—let alone prejudice—any other party to the original proceedings, particularly not ENSTAR.

While ENSTAR acknowledges that this is an "important matter" of public concern, ENSTAR's chief complaint is that the Assembly waited until now to raise the issue. However, the timeline has always been out of the Assembly's control. As described in the attached affidavit of Assembly Chair Christopher Constant, the Project Owners (Chugach and MEA) published a draft Fish and Wildlife Program in October 2023, followed by a public comment period that ended on February 19, 2024. During that time, the Assembly reasonably expected the Project Owners to incorporate into the final proposed program the Assembly's expectations for the fish and wildlife mitigation plan, as described in AR No. 2024-40 as amended,[2] and the

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[1] ENSTAR's Opposition to Anchorage Assembly's Motion for Expedited Consideration at 1 (Apr. 17, 2024).

[2] *See* Anchorage Assembly's Exhibit 7.

Native Village of Eklutna's suggestions for a dam removal alternative.[3] However, on April 3, the Project Owners announced that they would not implement any significant changes to the Draft Program, nor analyze dam removal alternatives.[4] The Assembly moved promptly on April 9 to override the Mayor's veto of AO 2024-28 as amended, which clarified that the Assembly is responsible for all policy decisions "related to the municipality's performance under the 1991 Fish and Wildlife agreement."[5] The Assembly filed its petition to intervene and Motion to Modify Order No. 39 on an expedited basis less than a week later. Thus, there was no delay in the Assembly seeking relief.

The fact that Chugach and MEA intend to move forward by submitting the proposed final Fish and Wildlife Program to the governor by the end of April without the Municipality's consent or the Assembly's approval as required by law overwhelmingly justifies expedited consideration of this "important matter."

DATED: April 18, 2024.

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

Andrew Erickson, Alaska Bar No. 1605049
Leslie R. Need, Alaska Bar No. 0712113

Attorneys for Petitioner-Intervenor Anchorage Assembly

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3 *See* Anchorage Assembly's Exhibit 6.

4 *See* Affidavit of Christopher Constant and attached Exhibit 11.

5 *See* Anchorage Assembly's Exhibit 10 at 1.

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert A. Doyle, Chairman John M. Espindola Keith Kurber II Robert M. Pickett
In the Matter of the Investigation Into the Beluga River Unit Management Practices of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	U-18-102
In the Matter of the Application Filed by CHUGACH ELECTRIC ASSOCIATION, INC. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend Its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	U-19-020
In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT to Amend Certificate of Public Convenience and Necessity No. 121, to Eliminate Its Retail Electric Service and Add the Eklutna Hydroelectric Project to Its Service Area, and to Lift the Dividend Restriction	U-19-021

CERTIFICATE OF SERVICE

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I, Riza Smith, hereby certify that on April 18, 2024, true and correct copies of Anchorage Assembly's **Reply to ENSTAR's Opposition to Motion for Expedited Consideration, Affidavit of Christopher Constant**, and **Exhibit 11**, and this Certificate of Service were sent via email to the following:

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Subject: Order U-18-102(52)/U-19-020(47)/U-19-021(47) ML&P - Chugach
Date: Friday, April 19, 2024 8:04:04 AM

BY THE COMMISSION

Order U-18-102(52)/U-19-020(47)/U-19-021(47)

ORDER REDESIGNATING COMMISSION PANEL; DENYING MOTION TO REOPEN DOCKETS AND MODIFY ORDER NO. 39 DATED MAY 28, 2020; DENYING PETITION TO INTERVENE; DENYING MOTION FOR EXPEDITED CONSIDERATION OF PETITION TO INTERVENE AND MOTION TO REOPEN DOCKET AND MODIFY ORDER 39 DATED MAY 28, 2020; AND ADDRESSING ANCHORAGE ORDINANCES

Background

In 1997, the federal Alaska Power Administration sold the Eklutna Hydroelectric Project (Project) to Matanuska Electric Association, Inc. (MEA), Chugach Electric Association, Inc. (Chugach), and the Municipality of Anchorage (MOA) d/b/a Municipal Light and Power Department (ML&P). Through this transaction MEA obtained a 16.67% undivided ownership interest in the Project, Chugach obtained a 30% undivided ownership interest, and ML&P acquired a 53.33% undivided interest. Under this transaction the utilities operate the Project through the Eklutna Operating Committee (EOC) based upon affirmative votes of at least two of the utilities with a combined Project ownership interest of at least 50%. This transaction was subject to the Fish and Wildlife Agreement, Snettisham and Eklutna Projects, dated August 7, 1991 (Fish and Wildlife Agreement). Under the Fish and Wildlife Agreement, the Eklutna Hydroelectric Project was exempted by law from the Federal Energy Regulatory Commission's jurisdiction in exchange for development of a Project fish and wildlife mitigation plan. This mitigation plan is required to be submitted to the Governor of the State of Alaska for approval, and its approval is supposed to be obtained by October 2, 2024.

Chugach and the MOA entered into an Asset Purchase and Sale Agreement (APSA) under which Chugach acquired most of the assets of ML&P for a substantial acquisition premium over the book value of those assets. Under the APSA the MOA would terminate the employment of all ML&P employees and those employees would be offered employment by Chugach. Among the ML&P assets retained by the MOA was the 53.33% undivided ownership interest in the Eklutna Hydroelectric Project. Chugach and ML&P asked us to approve this APSA. We opened Dockets U-19-020 and U-19-021 to consider the APSA, and then consolidated those dockets with Docket U-18-102. On May 28, 2020, we issued Order U-18-102(44)/Order U-19-020(39)/U-19-021(39) (Order U-18-102(44)) conditionally approving purchase by Chugach of most ML&P assets. One of the conditions we imposed in granting approval of the APSA is stated on page 67 of Order 44 as follows:

> Under these circumstances, we cannot unconditionally find that [the MOA retained electric

> utility referred to in Order U-18-102(44) as MHP] is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, **including negotiating compliance with the Fish and Wildlife Agreement**, without MHP having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC. (emphasis added)

On October 30, 2020, the MOA d/b/a ML&P filed notice of surrender of its voting rights on the EOC in conformance with this condition in a manner that allowed the EOC to operate the Project based on unanimous agreement between MEA and Chugach. On October 30, 2020, Chugach filed notice that the transaction set out in the APSA, as modified by Order U-18-102(44) had closed. We closed these dockets with Order U-18-102(51)/U-19-020(46)/U-19-021(46), dated December 23, 2020.

On April 15, 2024, we received in these dockets a filing entitled *Anchorage Assembly's Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020*. On that same date we also received in these dockets filings entitled *Anchorage Assembly's Petition to Intervene*, *Anchorage Assembly's Motion for Expedited Consideration of Petition to Intervene and Motion to Reopen Docket and Modify Order No. 39 Dated May 28, 2020*, and *Affidavit of Andrew Erickson in Support of the Anchorage Assembly's Petition to Intervene; Motion to Reopen Dockets and Modify Order No. 39; & Motion for Expedited Consideration*. On April 17, 2024, we received in these dockets an entry of appearance and statement of non-participation from Homer Electric Association, Inc. and an opposition to the motion for expedited consideration from ENSTAR Natural Gas Company, LLC (ENSTAR). The Anchorage Assembly filed a response to ENSTAR's opposition on April 18, 2024, supported by an affidavit by Christopher Constant, chair of the Anchorage Assembly.

Discussion

Redesignation of Commission Panel

The chairman redesignates the Commission Panel for these dockets. The chairman designates Commissioners John Espindola, Keith Kurber II, and Robert M. Pickett and himself as the Commission Panel. Commissioner Robert M Pickett remains the Docket Manager.

Deny Motion to Reopen Dockets and Modify Order U-18-102(44)

We have reviewed the Anchorage Assembly's motion to reopen these dockets and modify Order U-18-102(44). This motion asserts that the Anchorage Assembly disagrees with the Fish and Wildlife Agreement mitigation plan prepared by MEA and Chugach through the EOC. The Anchorage Assembly seeks through this motion to regain its vote on the EOC in order to delay or prevent submission of the MEA/Chugach approved EOC mitigation plan to the Governor for approval. We

note that the Anchorage Assembly does not assert that the MOA has acquired the expertise required to fully participate as a voting member of the EOC.

We find that the motion to reopen these dockets and modify Order U-18-102(44) is a petition for reconsideration of that portion of Order U-18-102(44) quoted above. Under our regulation at 3 AAC 48.105, any party can petition for reconsideration of an order if the petition is filed within 15 days of the date that the order is issued. Order U-18-102(44) was issued May 28, 2020, and thus any petition for reconsideration of that order was due by June 12, 2020. Had the Anchorage Assembly timely filed a petition for reconsideration of that portion of Order U-18-102(44), we could have either found an alternative solution to the lack of managerial and technical fitness of MHP or we could have rejected the ASPA in its entirety. Now that the transaction under which Chugach acquired most ML&P assets has closed and Chugach has expended considerable resources incorporating those assets into Chugach's operations, that transaction can no longer be undone. Therefore, we deny the *Anchorage Assembly's Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020*, on the ground that it was untimely filed. This denial is without prejudice to the MOA seeking to regain its vote on the EOC under the terms set out in Order U-18-102(44).

We note that under 3 AAC 48.105, only parties to a proceeding can file a petition for reconsideration of an order. It is unclear to us that the Anchorage Assembly was a party to these proceedings, and based on the filing of a petition to intervene by the Anchorage Assembly it appears that the Assembly does not believe that it was a party to these dockets. Given our resolution of the motion to reopen and modify above, we do not need to resolve this issue. We raise it so that the Anchorage Assembly can address it if they choose to seek reconsideration of this order.

Deny Petition to Intervene

Under our regulation at 3 AAC 48.110(a), "[p]etitions for permission to intervene as a party will be considered only in those cases that are to be decided upon an evidentiary record after notice and hearing." The relief that the Anchorage Assembly seeks in these dockets will affect the substantive rights of others and cannot be granted without giving those others a reasonable opportunity to respond. These dockets have been closed for over three years and we have no process under the statutory timelines established by AS 42.05.175 to reopen these dockets and hold another evidentiary hearing. As we cannot schedule another hearing in these dockets, we do not consider the Anchorage Assembly's petition to intervene in these dockets and deny that petition as being moot.

Deny Motion for Expedited Consideration

We have reviewed the Anchorage Assembly's motion for expedited consideration of its motion to reopen these dockets and its petition to intervene. We are issuing this order before the April 25, 2024, decision date requested by the Anchorage Assembly. However, we can only do so because we are denying those pleadings without waiting for input from the parties to these dockets. We agree with the opposition filed by ENSTAR that any other resolution of these pleadings cannot reasonably be accomplished consistent with the requirements of Due Process on the timeline requested by the Anchorage Assembly. Therefore, we deny the Anchorage Assembly's motion for expedited consideration.

Addressing Anchorage Ordinances

Attached to the Affidavit of Andrew Erickson in support of the Anchorage Assembly's pleadings, as Exhibit 2 and Exhibit 10, are ordinances designated as AO No. 2023-131, As Amended December 19, 2023, and AO No. 2024-28, which passed on March 27, 2024, and the Mayor's veto was overridden on April 9, 2024. These ordinances both purport to prohibit submission of the Fish and Wildlife mitigation plan developed by the EOC to the Governor without prior Assembly approval. We remind the Anchorage Assembly of AS 42.05.641, which states:

> The commission's jurisdiction and authority extend to public utilities operating within a municipality, whether home rule or otherwise. In the event of a conflict between a certificate, order, decision, or regulation of the commission and a charter, permit, franchise, ordinance, rule, or regulation of such a local governmental entity, the certificate, order, decision, or regulation of the commission shall prevail.

We required in Order U-18-102(44) that the MOA to surrender its right to vote on the EOC specifically to prevent the MOA from delaying or changing the EOC's Project management decisions, including decisions related to the Fish and Wildlife Agreement, until such time as the MOA convinces us that it has acquired the expertise required to fully participate as a voting member of the EOC. The MOA has failed to make any showing that it has acquired the expertise required to fully participate as a voting member of the EOC, and we have not reinstated the MOA's status as a voting member of the EOC. We inform the Anchorage Assembly that any effort to delay or change EOC Project management decisions by ordinance is void under AS 42.05.641 as being contrary to Order U-18-102(44).

Order

1. Commissioners Robert A. Doyle, John Espindola, Keith Kurber II, and Robert M. Picket are designated as the Commission Panel.

2. *Anchorage Assembly's Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020*, filed in Dockets U-18-102, U-19-020, and U-19-021, on April 15, 2024, is denied.

3. *Anchorage Assembly's Petition to Intervene*, filed in Dockets U-18-102, U-19-020, and U-19-021, on April 15, 2024, is denied.

4. *Anchorage Assembly's Motion for Expedited Consideration of Petition to Intervene and Motion to Reopen Docket and Modify Order No. 39 Dated May 28, 2020*, filed in Dockets U-18-102, U-19-020, and U-19-021, on April 15, 2024, is denied.

DATED AND EFFECTIVE at Anchorage, Alaska this 19th day of April, 2024.

BY DIRECTION OF THE COMMISSION

I electronically notified the following:

Anchorage Assembly - Andrew Erickson (andye@lbblawyers.com)

ML&P -	Dean D. Thompson (ddt@khe.com) Paul J. Jones (pjj@khe.com) Jonathon D. Green (jdg@khe.com)
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This order can be reconsidered in its current form within the time established by regulation. Please place a copy of this order in the formal file for these proceedings.

James L. Walker
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email: jim.walker@alaska.gov

From: Walker, Jim L (RCA)
To: RCA Commissioners; RCA Administrative Law; RCA Records & Filing; RCA Law Office Assistants; Egan, Erin K (LAW); Aufderheide, Kevin S (RCA); Vogler, Julie C (RCA); Alvey, Becki (RCA); andye@lbblawyers.com; ddt@khe.com; pjj@khe.com; jdg@khe.com; donaldwe510@gmail.com; Matthew.Clarkson@chugachelectric.com; Waller, Jeffery J (LAW); Stojak, Deborah J (LAW); jondawson@dwt.com; craiggannett@dwt.com; walkerstanovsky@dwt.com; scott.kirk2@us.af.mil; Robert.friedman5@us.af.mil; rsnell@jlproperties.com; rbrena@brenalaw.com; aguerriero@brenalaw.com; kmoghadam@brenalaw.com; EGShutt@ANTHC.org; tina.grovier@stoel.com; veronica.keithley@stoel.com; kwparker@hollandhart.com; djmayberry@hollandhart.com; srparnell@hollandhart.com; david.pease@mea.coop; eross@bhb.com; jp@dillonfindley.com; moira.smith@enstarnaturalgas.com; Thayer, Curtis W (AEA); kwarren@akenergyauthority.org; Stefan.Saldanha@alaska.gov
Subject: Order U-18-102(52)/U-19-020(47)/U-19-021(47) ML&P - Chugach
Date: Friday, April 19, 2024 8:04:04 AM

BY THE COMMISSION

Order U-18-102(52)/U-19-020(47)/U-19-021(47)

ORDER REDESIGNATING COMMISSION PANEL; DENYING MOTION TO REOPEN DOCKETS AND MODIFY ORDER NO. 39 DATED MAY 28, 2020; DENYING PETITION TO INTERVENE; DENYING MOTION FOR EXPEDITED CONSIDERATION OF PETITION TO INTERVENE AND MOTION TO REOPEN DOCKET AND MODIFY ORDER 39 DATED MAY 28, 2020; AND ADDRESSING ANCHORAGE ORDINANCES

Background

In 1997, the federal Alaska Power Administration sold the Eklutna Hydroelectric Project (Project) to Matanuska Electric Association, Inc. (MEA), Chugach Electric Association, Inc. (Chugach), and the Municipality of Anchorage (MOA) d/b/a Municipal Light and Power Department (ML&P). Through this transaction MEA obtained a 16.67% undivided ownership interest in the Project, Chugach obtained a 30% undivided ownership interest, and ML&P acquired a 53.33% undivided interest. Under this transaction the utilities operate the Project through the Eklutna Operating Committee (EOC) based upon affirmative votes of at least two of the utilities with a combined Project ownership interest of at least 50%. This transaction was subject to the Fish and Wildlife Agreement, Snettisham and Eklutna Projects, dated August 7, 1991 (Fish and Wildlife Agreement). Under the Fish and Wildlife Agreement, the Eklutna Hydroelectric Project was exempted by law from the Federal Energy Regulatory Commission's jurisdiction in exchange for development of a Project fish and wildlife mitigation plan. This mitigation plan is required to be submitted to the Governor of the State of Alaska for approval, and its approval is supposed to be obtained by October 2, 2024.

Chugach and the MOA entered into an Asset Purchase and Sale Agreement (APSA) under which Chugach acquired most of the assets of ML&P for a substantial acquisition premium over the book value of those assets. Under the APSA the MOA would terminate the employment of all ML&P employees and those employees would be offered employment by Chugach. Among the ML&P assets retained by the MOA was the 53.33% undivided ownership interest in the Eklutna Hydroelectric Project. Chugach and ML&P asked us to approve this APSA. We opened Dockets U-19-020 and U-19-021 to consider the APSA, and then consolidated those dockets with Docket U-18-102. On May 28, 2020, we issued Order U-18-102(44)/Order U-19-020(39)/U-19-021(39) (Order U-18-102(44)) conditionally approving purchase by Chugach of most ML&P assets. One of the conditions we imposed in granting approval of the APSA is stated on page 67 of Order 44 as follows:

> Under these circumstances, we cannot unconditionally find that [the MOA retained electric

> utility referred to in Order U-18-102(44) as MHP] is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, **including negotiating compliance with the Fish and Wildlife Agreement**, without MHP having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC. (emphasis added)

On October 30, 2020, the MOA d/b/a ML&P filed notice of surrender of its voting rights on the EOC in conformance with this condition in a manner that allowed the EOC to operate the Project based on unanimous agreement between MEA and Chugach. On October 30, 2020, Chugach filed notice that the transaction set out in the APSA, as modified by Order U-18-102(44) had closed. We closed these dockets with Order U-18-102(51)/U-19-020(46)/U-19-021(46), dated December 23, 2020.

On April 15, 2024, we received in these dockets a filing entitled *Anchorage Assembly's Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020*. On that same date we also received in these dockets filings entitled *Anchorage Assembly's Petition to Intervene*, *Anchorage Assembly's Motion for Expedited Consideration of Petition to Intervene and Motion to Reopen Docket and Modify Order No. 39 Dated May 28, 2020*, and *Affidavit of Andrew Erickson in Support of the Anchorage Assembly's Petition to Intervene; Motion to Reopen Dockets and Modify Order No. 39; & Motion for Expedited Consideration*. On April 17, 2024, we received in these dockets an entry of appearance and statement of non-participation from Homer Electric Association, Inc. and an opposition to the motion for expedited consideration from ENSTAR Natural Gas Company, LLC (ENSTAR). The Anchorage Assembly filed a response to ENSTAR's opposition on April 18, 2024, supported by an affidavit by Christopher Constant, chair of the Anchorage Assembly.

Discussion

Redesignation of Commission Panel

The chairman redesignates the Commission Panel for these dockets. The chairman designates Commissioners John Espindola, Keith Kurber II, and Robert M. Pickett and himself as the Commission Panel. Commissioner Robert M Pickett remains the Docket Manager.

Deny Motion to Reopen Dockets and Modify Order U-18-102(44)

We have reviewed the Anchorage Assembly's motion to reopen these dockets and modify Order U-18-102(44). This motion asserts that the Anchorage Assembly disagrees with the Fish and Wildlife Agreement mitigation plan prepared by MEA and Chugach through the EOC. The Anchorage Assembly seeks through this motion to regain its vote on the EOC in order to delay or prevent submission of the MEA/Chugach approved EOC mitigation plan to the Governor for approval. We

note that the Anchorage Assembly does not assert that the MOA has acquired the expertise required to fully participate as a voting member of the EOC.

We find that the motion to reopen these dockets and modify Order U-18-102(44) is a petition for reconsideration of that portion of Order U-18-102(44) quoted above. Under our regulation at 3 AAC 48.105, any party can petition for reconsideration of an order if the petition is filed within 15 days of the date that the order is issued. Order U-18-102(44) was issued May 28, 2020, and thus any petition for reconsideration of that order was due by June 12, 2020. Had the Anchorage Assembly timely filed a petition for reconsideration of that portion of Order U-18-102(44), we could have either found an alternative solution to the lack of managerial and technical fitness of MHP or we could have rejected the ASPA in its entirety. Now that the transaction under which Chugach acquired most ML&P assets has closed and Chugach has expended considerable resources incorporating those assets into Chugach's operations, that transaction can no longer be undone. Therefore, we deny the *Anchorage Assembly's Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020*, on the ground that it was untimely filed. This denial is without prejudice to the MOA seeking to regain its vote on the EOC under the terms set out in Order U-18-102(44).

We note that under 3 AAC 48.105, only parties to a proceeding can file a petition for reconsideration of an order. It is unclear to us that the Anchorage Assembly was a party to these proceedings, and based on the filing of a petition to intervene by the Anchorage Assembly it appears that the Assembly does not believe that it was a party to these dockets. Given our resolution of the motion to reopen and modify above, we do not need to resolve this issue. We raise it so that the Anchorage Assembly can address it if they choose to seek reconsideration of this order.

Deny Petition to Intervene

Under our regulation at 3 AAC 48.110(a), "[p]etitions for permission to intervene as a party will be considered only in those cases that are to be decided upon an evidentiary record after notice and hearing." The relief that the Anchorage Assembly seeks in these dockets will affect the substantive rights of others and cannot be granted without giving those others a reasonable opportunity to respond. These dockets have been closed for over three years and we have no process under the statutory timelines established by AS 42.05.175 to reopen these dockets and hold another evidentiary hearing. As we cannot schedule another hearing in these dockets, we do not consider the Anchorage Assembly's petition to intervene in these dockets and deny that petition as being moot.

Deny Motion for Expedited Consideration

We have reviewed the Anchorage Assembly's motion for expedited consideration of its motion to reopen these dockets and its petition to intervene. We are issuing this order before the April 25, 2024, decision date requested by the Anchorage Assembly. However, we can only do so because we are denying those pleadings without waiting for input from the parties to these dockets. We agree with the opposition filed by ENSTAR that any other resolution of these pleadings cannot reasonably be accomplished consistent with the requirements of Due Process on the timeline requested by the Anchorage Assembly. Therefore, we deny the Anchorage Assembly's motion for expedited consideration.

Addressing Anchorage Ordinances

Attached to the Affidavit of Andrew Erickson in support of the Anchorage Assembly's pleadings, as Exhibit 2 and Exhibit 10, are ordinances designated as AO No. 2023-131, As Amended December 19, 2023, and AO No. 2024-28, which passed on March 27, 2024, and the Mayor's veto was overridden on April 9, 2024. These ordinances both purport to prohibit submission of the Fish and Wildlife mitigation plan developed by the EOC to the Governor without prior Assembly approval. We remind the Anchorage Assembly of AS 42.05.641, which states:

> The commission's jurisdiction and authority extend to public utilities operating within a municipality, whether home rule or otherwise. In the event of a conflict between a certificate, order, decision, or regulation of the commission and a charter, permit, franchise, ordinance, rule, or regulation of such a local governmental entity, the certificate, order, decision, or regulation of the commission shall prevail.

We required in Order U-18-102(44) that the MOA to surrender its right to vote on the EOC specifically to prevent the MOA from delaying or changing the EOC's Project management decisions, including decisions related to the Fish and Wildlife Agreement, until such time as the MOA convinces us that it has acquired the expertise required to fully participate as a voting member of the EOC. The MOA has failed to make any showing that it has acquired the expertise required to fully participate as a voting member of the EOC, and we have not reinstated the MOA's status as a voting member of the EOC. We inform the Anchorage Assembly that any effort to delay or change EOC Project management decisions by ordinance is void under AS 42.05.641 as being contrary to Order U-18-102(44).

Order

1. Commissioners Robert A. Doyle, John Espindola, Keith Kurber II, and Robert M. Picket are designated as the Commission Panel.

2. *Anchorage Assembly's Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020*, filed in Dockets U-18-102, U-19-020, and U-19-021, on April 15, 2024, is denied.

3. *Anchorage Assembly's Petition to Intervene*, filed in Dockets U-18-102, U-19-020, and U-19-021, on April 15, 2024, is denied.

4. *Anchorage Assembly's Motion for Expedited Consideration of Petition to Intervene and Motion to Reopen Docket and Modify Order No. 39 Dated May 28, 2020*, filed in Dockets U-18-102, U-19-020, and U-19-021, on April 15, 2024, is denied.

DATED AND EFFECTIVE at Anchorage, Alaska this 19th day of April, 2024.

BY DIRECTION OF THE COMMISSION

I electronically notified the following:

Anchorage Assembly - Andrew Erickson (andye@lbblawyers.com)

ML&P -	Dean D. Thompson (ddt@khe.com) Paul J. Jones (pjj@khe.com) Jonathon D. Green (jdg@khe.com)
Chugach -	Donald W. Edwards (donaldwe510@gmail.com) Matthew C. Clarkson (Matthew.Clarkson@chugachelectric.com)
Attorney General -	Jeffrey J. Waller (jeff.waller@alaska.gov) Deborah J. Stojak (deborah.stojak@alaska.gov)
Providence Health & Services -	Jon S. Dawson (jondawson@dwt.com) Craig Gannett (craiggannett@dwt.com) Walker Stanovsky (walkerstanovsky@dwt.com)
Federal Executive Agencies -	Major Scott L. Kirk (scott.kirk2@us.af.mil) Captain Robert J. Friedman (robert.friedman5@us.af.mil)
JL Properties -	William Riley Snell (rsnell@jlproperties.com) Robin O. Brena (rbrena@brenalaw.com) Anthony S. Guerriero (aguerriero@brenalaw.com) Kelly M. Moghadam (kmoghadam@brenalaw.com)
Alaska Native Health Consortium -	Ethan G. Schutt (EGSchutt@ANTHC.org) Tina M. Grovier (tina.grovier@stoel.com) Veronica M. Keithley (veronica.keithley@stoel.com)
MEA -	Kyle W. Parker (kwparker@hollandhart.com) David J. Mayberry (djamyberry@hollandhart.com) Sean R. Parnell (srparnell@hollandhart.com) David Pease (david.pease@mea.coop)
Homer Electric Association, Inc. -	Elisabeth H. Ross (eross@bhb.com)
ENSTAR Natural Gas Company -	John P. Wood (jp@dillonfindley.com) Moira K. Smith (moira.smith@enstarnaturalgas.com)
Alaska Energy Authority -	Curtis Thayer (cthayer@akenergyauthority.org) Kirk Warren (kwarren@akenergyauthority.org) Stefan Saldhanha (stefan.saldanha@alaska.gov)

This order can be reconsidered in its current form within the time established by regulation. Please place a copy of this order in the formal file for these proceedings.

James L. Walker
Administrative Law Judge
Regulatory Commission of Alaska
701 W. 8th Avenue, Suite 300
Anchorage, AK 99501

phone: 907.263.2138
email: jim.walker@alaska.gov

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-_____CI

(PROPOSED) ORDER GRANTING EXPEDITED CONSIDERATION

The Plaintiff's Motion for Expedited Consideration is GRANTED.

DATED this _____ day of _____, 2024, at Anchorage, Alaska.

_____

Superior Court Judge

LANDYE BENNETT BLUMSTEIN LLP
701 WEST EIGHTH AVENUE, SUITE 1100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-5152, FAX (907) 276-8433

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-_____CI

(PROPOSED) ORDER TO SHOW CAUSE

This matter comes before the Court on the Plaintiff's *Ex Parte* Motion for Order to Show Cause and to Enforce Subpoena, filed pursuant to Alaska Rule of Civil Procedure 90(b) and Anchorage Municipal Code 2.30.085. This Court has considered the Motion, Complaint, and accompanying Affidavits and Exhibits, and finds that the Plaintiffs have made a proper showing that the Defendant Anne Helzer has not complied with a valid subpoena for production of documents.

It is therefore ORDERED that the Defendant shall appear and show cause on the ____ day of _____, 2024 at _____ am / pm in Courtroom ____.

LANDYE BENNETT BLUMSTEIN LLP
701 WEST EIGHTH AVENUE, SUITE 1100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-5152, FAX (907) 276-8433

The show-cause hearing may be automatically vacated if the Defendant complies with the Subpoena by Friday, April 26, 2024 at 12 noon. The Parties are directed to file a Joint Notice of Compliance if that condition is satisfied.

IT IS SO ORDERED.

DATED this _____ day of _____, 2024, at Anchorage, Alaska.

_____

Superior Court Judge

LANDYE BENNETT BLUMSTEIN LLP
701 WEST EIGHTH AVENUE, SUITE 1100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-5152, FAX (907) 276-8433

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-_____CI

AFFIDAVIT OF LESLIE NEED IN SUPPORT OF THE ANCHORAGE ASSEMBLY'S MOTION FOR EXPEDITED CONSIDERATION

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

Leslie Need, being duly sworn, states that:

1. I have personal knowledge of the facts and information set forth in this affidavit, and if called as a witness, I could and would testify to them.

2. I am an attorney at the law firm of Landye Bennett Blumstein LLP and am counsel of record for Plaintiffs.

3. This affidavit is submitted in support of the Plaintiffs' Motion for Expedited Consideration.

LANDYE BENNETT BLUMSTEIN LLP
701 WEST EIGHTH AVENUE, SUITE 1100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-5152. FAX (907) 276-8433

4. On Monday, April 22, 2024, the Defendant Anne Helzer was notified of the Anchorage Assembly's intent to file an enforcement action in this matter. A true and accurate copy of the email to Ms. Helzer and her response is attached as Exhibit 9. The notification requested Ms. Helzer's position regarding the Assembly's intent to file a motion for expedited consideration.

5. Although Ms. Helzer responded on Tuesday, April 23, 2024, she did not express an opinion regarding the Assembly's motion for expedited consideration. *See* Exhibit 9.

FURTHER AFFIANT SAYETH NAUGHT.

4/24/2024
Date

Leslie Need

SUBSCRIBED AND SWORN to before me this 24th day of April 2024.

STATE OF ALASKA
NOTARY PUBLIC
Riza Smith
My Commission Expires Dec 18, 2027

Notary Public in and for Alaska
My Commission expires: DEC 18 2027

LANDYE BENNETT BLUMSTEIN LLP
701 WEST EIGHTH AVENUE, SUITE 1100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-5152. FAX (907) 276-8433

From: **Helzer, Anne** Anne.Helzer@anchorageak.gov
Subject: Re: Anchorage Assembly v. Anne Helzer; Notice of Subpoena Enforcement Action
Date: April 23, 2024 at 6:39 AM
To: Andy Erickson andye@lbblawyers.com
Cc: Leslie R. Need leslien@lbblawyers.com, Gates, Dean T. dean.gates@anchorageak.gov, Hurt, Matthew P. Matthew.Hurt@anchorageak.gov, Riza Smith rizas@lbblawyers.com

Hi Andy,
I am in D.C. at the US Supreme Court.
The MOA signed on as an amici in the Grants Pass v. Johnson case heard yesterday, April 22. I am heading out now to a family funeral on April 25.

I would appreciate it, as a professional courtesy, that we first have a conversation before you demand or compel me to do something. Your email sent at 1:41 AM(my time) is the first and only communication I received from you on this issue.

Your email states you will seek court action against me in my official capacity if I do not provide possession to you of lawyer-client documents before 4:00 PM today. Please understand, there is no simply opportunity for me to meaningfully consult with affected municipal clients before that time in order to comply with your demand.

On April 17, Mr. Hurt, Assembly Counsel, asked me for my input on a reasonable time frame to comply with the subpoena and I suggested April 30 was reasonable. Due to my out of state travel this week and last, I have been unable to meaningfully consult with affected departments and clients. The April 22 date was selected even though I was at the US Supreme Court the same day, and even though I am getting on a plane to a family funeral this afternoon.

One further complication is that your subpoena requires me, the lawyer, and not the client, to turn over possession of lawyer-client protected documents. Accordingly, I am required to consult with affected municipal department clients before possession of any lawyer client protected documents can be released.

You spent many hours in our conference room on April 4 reviewing the same documents you now seek possession of by compelled subpoena. Please let me know if you will also afford me a reasonable time to speak with affected municipal client departments and the Mayor about releasing possession of those same documents you already have access to, and Assembly members have access to, or if you will continue with a motion to compel.

Anne R. Helzer
Municipal Attorney
Municipality of Anchorage

From: Andy Erickson <andye@lbblawyers.com>
Sent: Tuesday, April 23, 2024 1:41 AM
To: Helzer, Anne <Anne.Helzer@anchorageak.gov>
Cc: Leslie R. Need <leslien@lbblawyers.com>; Gates, Dean T. <dean.gates@anchorageak.gov>; Hurt, Matthew P. <Matthew.Hurt@anchorageak.gov>; Riza Smith <rizas@lbblawyers.com>
Subject: Anchorage Assembly v. Anne Helzer; Notice of Subpoena Enforcement Action

[EXTERNAL EMAIL]

Dear Ms. Helzer,
As you know, Leslie Need and I represent the Anchorage Assembly in matters regarding the Eklutna Hydroelectric Project. On April 16, 2024, the Assembly Leadership issued a "Subpoena to Produce Documents" that was served to you via email by Legislative Counsel Matthew Hurt. Your April 17 email to Mr. Hurt acknowledged receipt of that subpoena, and an extension was subsequently granted allowing you until Monday, April 22, 2024 at the close of business to comply with the subpoena. As of this writing, the Assembly Leadership has not received any documents from you or any substantive response to the subpoena. This email serves as notice that the Assembly Leadership has instructed us to file an enforcement action against you, in your official capacity as the Municipal Attorney, pursuant to AMC 2.30.085B. The Municipal Code provides that "[i]f a person refuses to comply with a subpoena issued under subsection A of this section, the superior court may, on application of the chair of the assembly, compel obedience by proceedings for contempt in the same manner as in the case of disobedience to the requirements of a subpoena issued by the court for refusal to testify in the court." AMC 2.30.085B (as amended by AO 2023-133). Under Alaska Rule of Civil Procedure 90(b), "For every contempt . . . upon a proper showing on ex parte motion supported by affidavits, the court shall either order the accused party to show cause at some reasonable time, to be therein specified, why the accused party should not be punished for the alleged contempt, or shall issue a bench warrant for the arrest of such party."

Because the Assembly has repeatedly emphasized that “time is of the essence in this matter,” we intend to move for expedited consideration of this enforcement action in the superior court, including a motion to compel production of the requested documents. Please let us know by Tuesday, at 4 pm (Alaska Time), whether you will agree to expedited consideration, or if not, the reasons why. Please let me know if you have any questions.

All further correspondence regarding this matter should be directed to Leslie Need and me, and cc’d to Dean Gates and Matthew Hurt.

Thanks,
Andy

LANDYE BENNETT BLUMSTEIN LLP

ATTORNEYS

Andy Erickson | Partner

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-_____CI

CERTIFICATE OF SERVICE

On April 24, 2024, true and accurate copies of Plaintiffs' **Complaint to Enforce Subpoena Issued by the Anchorage Assembly, Exhibits 1-9**, ***Ex Parte* Motion for Order to Show Cause and to Enforce Subpoena**, **(Proposed) Order to Show Cause**, **Affidavit of Matthew Hurt in Support of *Ex Parte* Motion for Order to Show Cause and to Enforce Subpoena**, **Motion for Expedited Consideration, (Proposed) Order Granting Expedited Consideration**, and **Affidavit of Leslie Need in Support of Motion for Expedited Consideration** were sent via First-Class Mail and email to the following:

Ms. Anne Helzer
Municipal Attorney
612 West 6th Ave., Ste. 730

LANDYE BENNETT BLUMSTEIN LLP
701 WEST EIGHTH AVENUE, SUITE 1100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-5152. FAX (907) 276-8433

Anchorage, Alaska 99501
Anne.helzer@anchorageak.gov

DATED: April 24, 2024.

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

Andrew Erickson, Alaska Bar No. 1605049
Leslie R. Need, Alaska Bar No. 0712113
Jackson Morawski, Alaska Bar No. 2310113

Attorneys for the Plaintiffs Anchorage Assembly and Christopher Constant, in his official capacity as Chair of the Anchorage Assembly

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Attorneys for the Appellant Anchorage Assembly

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER; ENSTAR NATURAL GAS CO.; PROVIDENCE HEALTH & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.; STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM,	)	Case No. 3AN-24-_____CI RCA Nos. U-18-102/U-19-020/U-19-021

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ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-5152, FAX (907) 276-8433

Appellees.)
)
)

CERTIFICATE OF SERVICE

I, Riza Smith, hereby certify that on April 24, 2024, true and correct copies of Anchorage Assembly's **Notice of Appeal** and **Statement of Points on Appeal**, and this Certificate of Service were sent via U.S Mail and email to the following:

Municipality of Anchorage/ Municipal Light & Power

Anne Helzer
Benjamin Bowman
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Craig Gannett
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Attorneys for the Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	Case No. 3AN-24-_____CI

COMPLAINT TO ENFORCE SUBPOENA ISSUED BY THE ANCHORAGE MUNICIPAL ASSEMBLY

Plaintiffs Anchorage Municipal Assembly, through its Chair, Christopher Constant (collectively the "Assembly"), respectfully request that this Court issue an

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Order directing that the Defendant Anne Helzer (the "Defendant" or "Ms. Helzer") show cause and produce documents requested in a subpoena issued by Chair Chistopher Constant on behalf of the Assembly on April 16, 2024. This Complaint is brought pursuant to Alaska Rules of Civil Procedure 45 and 90(b) and Anchorage Municipal Code ("AMC") 2.30.085, and is supported by the accompanying Affidavit of Assembly Legislative Counsel Matthew Hurt, *Ex Parte* Motion for Order to Show Cause and to Enforce Subpoena, and the attachments thereto.

As the basis for this Complaint, the Assembly alleges as follows:

PARTIES

1. Plaintiffs are the Anchorage Municipal Assembly and its Chair, Christopher Constant, in his official capacity. Under the Anchorage Charter, the Assembly is the co-equal legislative branch of the Municipality of Anchorage.

2. At all times relevant to the events that are the subject of this dispute, Defendant Anne Helzer has served as the Anchorage Municipal Attorney. On information and belief, Ms. Helzer has custody and control of all the responsive documents that are described in the Subpoena. Ms. Helzer is sued in her official capacity.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action under AS 22.10.020, Alaska Rules of Civil Procedure 45 and 90(b), and AMC 2.30.085B.

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4. Venue is proper in this Court under Alaska Rule of Civil Procedure 3 because this claim arose in Anchorage and the Defendant may be personally served in the Third Judicial District.

LEGAL BACKGROUND

5. The Assembly is authorized to issue subpoenas for the production of documents that relate to public matters being considered by the Assembly. AMC 2.30.085 provides in full:

> A. Subject to the privileges which witnesses have in courts of this state, the chairman of the assembly, with the approval of a majority vote of the assembly, may, in the chair's official capacity and on behalf and in the name of the assembly:
>
> 1. Compel by subpoena, at a specified time and place, the appearance and sworn testimony of a person whom the assembly reasonably believes may be able to give information relating to a public matter being considered by the assembly; and
>
> 2. Compel a person, by subpoena, to produce documents, papers or objects which the assembly reasonably believes may relate to a public matter being considered by the assembly.
>
> B. If a person refuses to comply with a subpoena issued under subsection A of this section, the superior court may, on application of the chair of the assembly, compel obedience by proceedings for contempt in the same manner as in the case of disobedience to the requirements of a subpoena issued by the court for refusal to testify in the court.

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> C. A person who seeks to quash or limit a subpoena issued pursuant to this section may file an action against the assembly in superior court.[1]

6. Alaska Rule of Civil Procedure 45 provides that a subpoena may "command the person to whom it is directed to produce the books, papers, documents, electronically stored information, or other tangible things designated therein."

7. "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Alaska R. Civ. P. 45(f).

8. Under Alaska Rule of Civil Procedure 90(b), "[f]or every contempt . . . upon a proper showing on ex parte motion supported by affidavits, the court shall either order the accused party to show cause at some reasonable time, to be therein specified, why the accused party should not be punished for the alleged contempt, or shall issue a bench warrant for the arrest of such party."

FACTUAL BACKGROUND

9. The Eklutna Hydroelectric Project consists of a 40-megawatt dam on the Eklutna River. In the 1990s the federal government agreed to sell the Project to the Municipality, Chugach Electric Association ("Chugach"), and Matanuska Electric Association ("MEA") (collectively the "Project Owners"). The Project Owners entered into a fish and wildlife agreement with the State of Alaska, Alaska Energy

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1 Exhibit 1 at 1-2 (AO No. 2023-133).

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Authority, and federal agencies (the "1991 Fish and Wildlife Agreement"). The 1991 Fish and Wildlife Agreement requires the Project Owners to carry out certain measures to "protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat)." Pursuant to the 1991 Fish and Wildlife Agreement, the Project Owners must submit a proposed Fish and Wildlife Program to the governor for approval and then implement the governor's approved final Fish and Wildlife Program beginning no later than 2027.

10. In or around 2017, the Project Owners entered into a "Common Interest Agreement" to facilitate negotiations regarding implementation of the 1991 Fish and Wildlife Agreement.

11. On information and belief, the Common Interest Agreement was executed by a representative of the Municipality of Anchorage and applies to the Municipality as whole, including all officers, departments, and branches of the municipal government.

12. As part of the negotiations among the Project Owners regarding implementation of the 1991 Fish and Wildlife Agreement, the Project Owners have entered into one or more agreements purportedly governing the Municipality's water rights and access to drinking water from Eklutna Lake. Each of those agreements is subject to Assembly approval.[2]

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[2] *See* Exhibit 2 (AO No. 2024-28, As Amended).

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13. On or about February 2, 2024, the Assembly learned that the Municipality and the Anchorage Water and Wastewater Utility ("AWWU") had entered into a final agreement described as a "Binding Term Sheet." *See* Emily Goodykoontz & Alex DeMarban, "What's Behind the Fight Over the Eklutna River," *Anchorage Daily News* (Apr. 18, 2024) ("[T]he Assembly earlier this year learned that the Bronson administration signed a deal with the utilities last October that will govern Anchorage's drinking water rights for 25 years. The agreement, a 'binding term sheet,' was based on the utilities' plan to tap into the city's water supply. It would go into effect if the governor approves the Fish and Wildlife program, city officials have said.").

14. During the February 2, 2024 Assembly Meeting, members of the Assembly requested to view copies of the Binding Term Sheet, which was shown to them by the Defendant during an executive session. The Assembly members were not permitted to retain copies of the Binding Term Sheet.

15. On March 27, 2024, the Assembly passed and approved AR No. 2024-103, a resolution approving the use of "subpoenas to compel testimony and document production related to the 1991 Fish and Wildlife Agreement (Eklutna Hydropower Project) or water rights to Eklutna Lake."[3]

[3] Exhibit 3 (AR No. 2024-103).

16. Also on March 27, 2024, pursuant to AR No. 2024-103, Chair Christopher Constant on behalf of the Assembly, issued subpoenas to produce documents to Municipal Manager Kent Kohlhase (the "Kohlhase Subpoena")[4] and AWWU General Manager Mark Corsentino (the "Corsentino Subpoena").[5]

17. The Kohlhase and Corsentino Subpoenas were identical in all substantive respects and requested production of the following documents by "5 p.m. on Wednesday, April 3, 2024":

> 1. The document described as a "binding term sheet" executed between the Eklutna Owners and the Anchorage Water and Wastewater Utility, which had been previously provided for review only in executive session; and
>
> 2. Any document constituting an existing agreement among the Eklutna Owners or between the Eklutna Owners and any third party upon which any claim of privilege or confidentiality is based.[6]

18. On April 2, 2024, Mayor Dave Bronson vetoed AR No. 2024-103. In his veto transmission, Mayor Bronson stated that the requested documents "have been made available" to the Assembly and "are available to them, and this open invitation continues."[7]

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4 Exhibit 4.

5 Exhibit 5.

6 Exhibit 4 at 4; Exhibit 5 at 4.

7 Exhibit 3 at 3.

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19. On April 3, 2024, Mr. Kohlhase and Mr. Corsentino each responded to the Kohlhase and Corsentino Subpoenas via email to Legislative Counsel Matthew Hurt, stating that they had "substantially complied" with their respective subpoenas "by making the documents available to the Assembly and its counsel for confidential review through the Municipal Attorney's Office."[8] Mr. Kohlhase and Mr. Corsentino further stated that that their "invitation for the Assembly and its legal counsel to review the documents through the Municipal Attorney's Office remains open."[9]

20. On April 4, 2024, Ms. Helzer allowed an Assembly member, the Assembly Counsel, and the Assembly's outside legal counsel to view copies of the Common Interest Agreement, Binding Term Sheet, and an amendment to the Binding Term Sheet at the Municipal Attorney's Office. However, Ms. Helzer would not allow the Assembly member to retain copies of those documents. Ms. Helzer also did not allow the Assembly member to have a confidential and attorney-client-privileged discussion regarding the documents with Assembly Counsel and the Assembly's outside legal counsel while they reviewed the documents. Ms. Helzer insisted that an Assistant Municipal Attorney remain in the room with the documents at all times.

21. On April 9, 2024, during an Assembly meeting, Assembly members reiterated their request for copies of the Common Interest Agreement, Binding Term Sheet, and amendment to the Binding Term Sheet in order to review and obtain legal

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8 Exhibit 6 at 1-2.

9 Exhibit 6 at 1-2.

advice regarding those documents. Ms. Helzer stated that she could not provide the documents to the Assembly unless each Assembly member signed an additional confidentiality agreement, which would be subject to approval from the other Project Owners.

22. On information and belief, no other municipal officer or employee has been required to sign an additional confidentiality agreement prior to possessing or viewing documents under the Common Interest Agreement, including the Binding Term Sheet.

23. On April 9, 2024, the Assembly voted to override the Mayor's veto of AR No. 2024-103.

ISSUANCE AND SERVICE OF THE SUBPOENA

24. On April 16, 2024, pursuant to AR No. 2024-103, Chair Christopher Constant on behalf of the Assembly issued a subpoena (the "Subpoena") to Ms. Helzer.[10] The Subpoena required Ms. Helzer to produce the same documents that were described in the Kohlhase and Corsentino Subpoenas, and the amendment to the Binding Term Sheet:

> 1. The document described as a "binding term sheet" executed between the Eklutna Owners and the Anchorage Water and Wastewater Utility, which had been previously provided for review only in executive session, as well as any amendments, extensions,

10 *See* Exhibit 7.

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addendums, or any other writing reflecting a change to the substantive terms thereto; and

2. The document described as the "2017 Common Interest Agreement" and any other document upon which a claim of privilege or confidentiality is based.[11]

25. The Subpoena was served to Ms. Helzer via email on Tuesday, April 16, 2024 at 5:08 p.m. by Assembly Counsel Matthew Hurt.[12]

26. The Subpoena required Ms. Helzer to produce the requested documents for the Assembly's inspection and retention by 5:00 p.m. on Wednesday, April 17, 2024.[13]

27. On Wednesday, April 17, 2024, at 2:23 p.m., Ms. Helzer acknowledged receipt of the Subpoena in an email to Assembly Counsel Hurt.[14] Ms. Helzer requested additional time to comply with the Subpoena because she was traveling.

28. On Thursday, April 18, 2024, Assembly Counsel Hurt responded to Ms. Helzer's request for additional time to comply with the Subpoena, extending the deadline until "the close of business Monday, April 22."[15] According to Mr. Hurt's email response, "we understand the documents to be readily accessible and, at this

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11 Exhibit 7 at 4.

12 Exhibit 8 at 2.

13 Exhibit 7 at 3.

14 Exhibit 8 at 2.

15 Exhibit 8 at 1.

time, see no reason that counsel for the other Eklutna Owners would not be reachable by phone or email."[16]

GROUNDS FOR RELIEF

29. The Subpoena is proper in all respects.

30. The Defendant has willfully refused to comply with the Subpoena without a valid legal basis.

PRAYER FOR RELIEF

WHEREFORE, the Assembly respectfully requests enforcement of the subpoena as follows:

A. That the Defendant be held in contempt of court for willfully refusing to comply with the Subpoena;

B. That the Defendant be ordered to show cause at some reasonable time why the Defendant should not be punished for the contempt for willfully refusing to comply with the Subpoena, or alternatively, that the Defendant be ordered to comply with the Subpoena by a date and time certain before the show-cause hearing;

C. That the Court impose a reasonable punishment for the Defendant's contempt, including, but not limited to, referring the Defendant's conduct to the Alaska Bar Association and/or holding the Defendant personally liable for civil fines and the Assembly's attorney's fees;

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16 Exhibit 8 at 1.

D. That this Court grant the Assembly such other and further relief as may be necessary and proper to effectuate this Court's orders; and

E. That this Court retain jurisdiction over this matter to issue any subsequent declaratory or injunctive relief that may be appropriate after the documents described in the Subpoena have been produced to the Assembly and reviewed by the Assembly Counsel.

DATED: April 24, 2024.

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

Andrew Erickson, Alaska Bar No. 1605049
Leslie R. Need, Alaska Bar No. 0712113
Jackson Morawski, Alaska Bar No. 2310113

Attorneys for the Plaintiffs Anchorage Assembly and Christopher Constant, in his official capacity as Chair of the Anchorage Assembly

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Municipal Clerk's Office
Approved
Date: January 16, 2024
Mayoral Veto Given
Date: January 23, 2024
Mayoral Veto Overridden
Date: January 23, 2024

Submitted by: Assembly Chair Constant
Prepared by: Assembly Counsel's Office
For hearing: December 5, 2023

ANCHORAGE, ALASKA
AO No. 2023-133

AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE SECTION 2.30.085, SUBPOENA POWERS.

WHEREAS, the Assembly formally codified its ability to issue subpoenas in 1991, by passing and approving AO 91-15(S) which enacted AMC Section 2.30.085; and

WHEREAS, when originally introduced, the intent if AO 91-15 was to recognize in the Assembly a subpoena power "similar to what the Alaska Legislature has under State Statutes"[1]; and

WHEREAS, the original proposed ordinance was modified by a substitute (S) version which included the words "involving municipal funds" to clarify that the subpoena was intended to apply to "any matter that the city is involved in directly, and it would exclude, by that language, private business matters that happen to reside within the geographical area"[2]; and

WHEREAS, the language "involving municipal funds" has been misconstrued to limit the Assembly's subpoena power strictly to matters of fiscal policy, while the state legislature's subpoena power is not limited in this way; and

WHEREAS, the intent of this ordinance is merely to clarify the Assembly's existing subpoena power, and not to expand its scope; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 2.30.085 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out)*:

2.30.085 Subpoena powers.

A. Subject to the privileges which witnesses have in courts of this state, the chair[MAN] of the assembly, with the approval of a majority vote of the assembly, may, in the chair's official capacity and on behalf and in the name of the assembly:

1. Compel by subpoena, at a specified time and place, the appearance and sworn testimony of a person whom the assembly reasonably believes may be able to give information relating to a public matter [INVOLVING MUNICIPAL FUNDS AND POLICY] being considered by the assembly; and

[1] AM 131-91 (Memorandum of Fred Dyson).
[2] Regular Assembly Meeting of Feb. 12, 1991.

2. Compel a person, by subpoena, to produce documents, papers or objects which the assembly reasonably believes may relate to a public [THE] matter being considered by the assembly [UNDER CONSIDERATION].

B. If a person refuses to comply with a subpoena issued under subsection A of this section, the superior court may, on application of the chair[MAN] of the assembly, compel obedience by proceedings for contempt in the same manner as in the case of disobedience to the requirements of a subpoena issued by the court for refusal to testify in the court.

C. A person who seeks to quash or limit a subpoena issued pursuant to this section may file an action against the assembly in superior court.

(AO No. 91-15(S))

Section 2. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 16th day of January, 2023.

Christopher Constant
Chair

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 955-2023

Meeting Date: December 5, 2023

From: **Assembly Chair Constant**

Subject: **AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE SECTION 2.30.085, SUBPOENA POWERS.**

The proposed ordinance clarifies the section of the Anchorage Municipal Code governing the Assembly's power to issue subpoenas. In keeping with the original intent of AO 91-15 as well as the relevant caselaw, the Assembly's authority to gather information needed to legislate on any matter of public concern "is an essential and appropriate auxiliary to the legislative function"[1]. It is not limited to only matters involving municipal funds, but instead broadly covers any public matter on which the Assembly may act or is considering legislative action. As such, this ordinance makes minor clarifying changes to the language already in Code and does not substantively alter the scope or process of the powers already possessed by this body.

There are no anticipated economic effects by this ordinance, so a summary of economic effects is not required.

I request your support for the ordinance.

Reviewed by: Assembly Counsel's Office

Respectfully submitted: Christopher Constant, Assembly Chair
District 1, North Anchorage

[1] *McGrain v. Daugherty*, 273 U.S. 135, 161, 174 (1927)

MUNICIPALITY OF ANCHORAGE
MAYOR DAVE BRONSON

OFFICE OF THE MAYOR

RECEIVED
POSTED
MUNICIPAL CLERK

Date: January 23, 2024

To: Anchorage Assembly

From: Mayor Dave Bronson

Subject: Veto of Ordinance No. AO 2023-133

Today, in accordance with Section 2.30.100 of the Anchorage Municipal Code (AMC) and Section 5.02 of the Municipal Charter, I am issuing a veto for AO 2023-133, which was approved during the Assembly's special meeting on January 16, 2024.

Several Assembly members have pointed out that the original 1991 subpoena ordinance restricted the scope of subpoenas to "municipal funds and policy." For this reason, AO 2023-133 was passed by the Assembly to solidify the expansion of subpoena powers, allowing the Assembly to subpoena individuals within its authority for any "public matter being considered by the assembly."

Citizen participation in Municipal governance is voluntary under normal circumstances. Citizens are encouraged to participate through their Community Councils, Boards and Commissions, public commentary at Assembly meetings, or by contacting their Assembly Member. The Assembly subpoena process changes voluntary participation into mandatory participation—even in the face of citizen objection. Uncontrolled Assembly subpoena powers will create a potential chilling effect on citizen volunteers participating in their municipal government. In a recent incident, four Anchorage residents were subpoenaed by the Assembly in relation to an election matter. Three of them sought legal representation, eventually persuading the Assembly to accept their voluntary appearance at a public meeting instead of a mandated one. For these citizens, the subpoena process itself became a form of punishment or penalty, and the broadening of this process raises deep concerns.

Moreover, critics argue that the expanded subpoena powers are unnecessary. The Municipality already has a prosecution department for handling misdemeanors. Ultimately, the additional financial burden falls on the Anchorage taxpayer.

Because this ordinance allows the Assembly to mandate citizen testimony in an otherwise voluntary public venue, expands Assembly power to subpoena testimony and document production, and imposes additional financial burden on the Anchorage taxpayer, I hereby veto AO 2023-133.

Municipal Clerk's Office
Amended and Approved
Date: March 27, 2024
Mayoral Veto Given
Date: April 3, 2024
Mayoral Veto Overridden
Date: April 9, 2024

Submitted by: Assembly Chair Constant
Assembly Vice Chair Zaletel
Prepared by: Assembly Counsel's Office
For reading: March 19, 2024

ANCHORAGE, ALASKA
AO No. 2024-28, As Amended

AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 3.20.070, 25.20.020, 25.30.020, 26.30.025, AND INSERTING A NEW SECTION 26.40.090 TO REQUIRE ASSEMBLY APPROVAL OF ACTIONS TO ACQUIRE OR DISPOSE OF PROPERTY RIGHTS TO WATER, MINERAL, WIND OR SOLAR RESOURCES, AND OF THE FISH AND WILDLIFE PROGRAM FOR THE EKLUTNA HYDROPOWER PROJECT AND RESTORATION OF CONTINUOUS WATER FLOWS TO THE EKLUNTA RIVER.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 3.20.070 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out)*:

3.20.070 Executive branch organization.

*** *** ***

C. Office of the municipal manager. Within the office of the municipal manager and reporting to the municipal manager or designee are: the office of equal opportunity, the office of emergency management; risk management; health and safety; transportation inspection; culture, entertainment, and arts venues (including the Egan Center, the Dena'ina Civic and Convention Center, the Anchorage Museum at Rasmuson Center, the Anchorage Golf Course, the Sullivan Sports Arena, the Alaska Center for the Performing Arts, and the Boeke and Dempsey Ice Arenas); and the following departments:

*** *** ***

3. Anchorage Water and Wastewater Utility. The Water and Wastewater Utility is responsible for providing water and sanitary sewage services. The utility is also responsible for billing and collecting special assessments.

a. The municipal manager shall have operational oversight of the utility; and

b. The mayor shall be responsible for **operational** policy decisions of the utility, subject to the limitations of subsection c.

c. Pursuant to section 26.30.025, the assembly shall be responsible for all **other** policy decisions **, including those** related to the municipality's performance under the 1991 Fish and Wildlife agreement regarding the Eklutna hydroelectric project.

*** *** ***

6. Anchorage Hydropower Utility. The Anchorage Hydropower Utility is responsible for supplying wholesale electric service to utilities in southcentral Alaska.

   a. The municipal manager shall have operational oversight of the utility; and

   b. The mayor shall be responsible for **operational** policy decisions of the utility, subject to the limitations of subsection c.

   c. Pursuant to section 26.30.025, the assembly shall be responsible for all **other** policy decisions **, including those** related to the municipality's performance under the 1991 Fish and Wildlife agreement regarding the Eklutna hydroelectric project.

*** *** ***

(AO No. 21-76; AO No. 59-76; AO No. 283-76; AO No. 77-359; AO No. 78-82; AO No. 78-113; AO No. 78-121; AO No. 79-27; AO No. 80-5; AO No. 82-49; AO No. 83-159; AO No. 85-8; AO No. 86-204; AO No. 88-47(S); AO No. 88-82; AO No. 89-10; AO No. 89-18; AO No. 89-39; AO No. 90-15(S); AO No. 91-173(S); AO No. 92-79; AO No. 92-148; AO No. 94-135(S), § 8, 7-12-94; AO No. 95-141, § 1, 7-11-95; AO No. 96-47, § 2, 3-5-96; AO No. 98-115(S), § 3, 7-1-98; AO No. 2003-109, § 6, 9-9-03; AO No. 2004-132, § 2, 10-12-04; AO No. 2004-136, § 2, 12-7-04; AO No. 2005-142, § 2, 10-25-05; AO No. 2008-90(S), § 2, 1-1-09; AO No. 2009-21, § 2, 2-24-09; AO No. 2009-101, § 6, 8-25-09; AO No. 2010-64, § 2, 9-28-10; AO No. 2010-93, § 2, 1-11-11; AO No. 2011-40, § 1, 3-29-11; AO No. 2011-25, § 2, 5-24-11; AO No. 2012-106, § 3, 11-13-12; AO No. 2013-34, § 3, 2-26-13; AO No. 2015-112(S), § 5, 1-1-16 ; AO No. 2017-122(S) , § 4, 10-24-17; AO No. 2018-24 , § 3, 4-10-18; AO No. 2018-108(S) , § 3, 12-31-18; AO No. 2018-118 , § 2, 1-1-19; AO No. 2019-42 , § 2, 4-23-19; AO No. 2019-133 , § 1, 11-5-19; AO No. 2020-23 , § 2, 3-10-20; AO No. 2020-24 , § 1, 3-10-20; AO No. 2020-79(S) , § 2, 8-26-20; AO No. 2020-109 , § 2, 10-13-20; AO No. 2020-121 , § 2, 1-1-21; AO No. 2021-113(S) , § 3, 11-10-21; AO No. 2021-114 , § 2, 1-31-22; AO No. 2022-40(S) , § 3, 3-22-22; AO No. 2023-38(S) , § 2, 4-18-23; AO No. 2023-61(S) , § 1, 5-23-23)

Section 2. Anchorage Municipal Code section 25.30.020 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out)*:

25.20.020 - Approval by assembly.

In addition to any other assembly action that may be required by law with regard to real property acquisition by the municipality, the following shall be subject to assembly approval:

A. Acquisitions of, or substantive change to the terms governing ownership, control, or access to, real property including an interest in mineral, wind, solar or water rights, except:

*** *** ***

(AO No. 79-170; AO No. 84-61(S))

Section 3. Anchorage Municipal Code section 25.30.020 is hereby amended to read as follows *(the remainder of the section is not affected and therefore not set out)*:

25.30.020 Disposal by ordinance.

A. Except as required or provided otherwise by law, the municipality may dispose of municipal land or any interest therein only by ordinance.

B. For purposes of this section, an interest in municipal land means any estate in real property or improvements thereon, including an interest in mineral, wind, solar, or water rights, but excluding the following if found by the assembly to be without substantial value to the municipality:

1. Revocable permits;

2. Revocable Licenses;

3. Rights-of-way; or

4. Easements.

*** *** ***

(AO No. 79-170; AO No. 80-48(S); AO No. 2007-102, § 1, 8-14-07; AO No. 2015-47, § 2, 5-14-15 , AO No. 2023-107, § 1, 10-10-2023)

Section 4. Anchorage Municipal Code section 26.30.025 is hereby amended to read as follows:

26.30.025 Eklutna River Restoration

A. It is the policy of the Municipality of Anchorage and the Anchorage Hydropower utility to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991 Fish & Wildlife Agreement.

B. Under the 1991 Agreement with the State of Alaska, federal agencies, and utility partners, the Municipality of Anchorage, through its Anchorage Hydropower utility and ownership share in the Eklutna Hydroelectric Project, bears responsibility to study and develop proposals for the protection, mitigation, and enhancement of fish and

wildlife affected by the hydroelectric development.

1. The Anchorage Hydropower utility shall provide a report to each joint session of the Anchorage Assembly and the Native Village of Eklutna under section 2.30.135B. regarding the restoration of the Eklutna River and Lake and the municipality's performance of its obligations under the 1991 Agreement and the Final Fish and Wildlife Program.

2. The Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources in the Eklutna River shall be subject to assembly approval [SUBMITTED TO THE ASSEMBLY WITH A PROPOSED RESOLUTION IN SUPPORT FOR ACTION], prior to its submission to the Governor of Alaska.

(AO No. 2023-131 § 1, 12-5-23)

Section 5. Anchorage Municipal Code is amended to insert a new section 26.40.090 to read as follows (requiring no legislative drafting):

26.40.090 Water rights.

The utility may enter agreements for water and water rights for use by or within the municipality, subject to approval by the assembly.

Section 6. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 27th day of March, 2024.

Christopher Constant
Chair

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM

No. AM 280-2024

Meeting Date: March 27, 2024

From: **Assembly Chair Constant**

Subject: **AO 2024-28 – AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 3.20.070, 25.20.020, 25.30.020, 26.30.025, AND INSERTING A NEW SECTION 26.40.090 TO REQUIRE ASSEMBLY APPROVAL OF ACTIONS TO ACQUIRE OR DISPOSE OF PROPERTY RIGHTS TO WATER, MINERAL, WIND OR SOLAR RESOURCES, AND OF THE FISH AND WILDLIFE PROGRAM FOR THE EKLUTNA HYDROPOWER PROJECT AND RESTORATION OF CONTINUOUS WATER FLOWS TO THE EKLUNTA RIVER.**

The proposed Ordinance is submitted in response to the apparent effort by the Eklutna Owners group to incur financial obligations and dispose of Municipal resources and assets without the approval of or any formal consultation with the Assembly. That is in derogation to the Assembly's legislative powers; it has sole authority to obligate Municipal revenues through its appropriations power, and dispositions of Municipal property, which is apparent in the proposed Draft Fish and Wildlife Plan under the 1991 Agreement, requires Assembly approval. The proposed Ordinance clarifies incurring and obligating the Municipality in these circumstances where the proposed Final Fish and Wildlife Plan will become effective upon approval by the Governor, requires Assembly prior approval.

Section 1. The Proposed AO corrects an oversight in the language of AMC 3.20.070 which had apparently delegated broad policy-making decisions for utilities to the Mayor. This language is an improper delegation of the Assembly's authority as the legislative policy-making branch of the municipal government and directly conflicts with the language of AMC section 26.30.025 as codified in AO 2023-131. The changes proposed in this section will clarify that except for operational policies, the policy making authorities, such as budgetary, financial, construction, and other policy considerations reside with the Assembly and thereby resolves the conflict in the Code.

Sections 2 & 3. These proposed changes clarify the Assembly's approval authority over any agreements acquiring or disposing of any interest in real property, including water rights. Specifically, these changes are meant to address a perceived gap in the Code where creative legal instruments have previously been used to grant private parties exclusive use of Municipal property. These proposed amendments make plain that the Assembly's approval must be obtained for the Municipality to grant, dispose, or alter any parties' right to acquire, dispose of, control or access public property, including wind, solar, mineral and water rights.

Section 4. This proposed change inserts a new requirement for the Assembly to approve the final Fish and Wildlife program proposed under the 1991 Eklutna Dam agreement, prior to submission the Governor. This change has proven necessary, as the Eklutna Owners have made clear their intention to alter the Municipality's access to drinking water and obligate the Municipality to fund the final program inside the tax cap. These decisions have been made ignoring meaningful input from and policy guidance passed and approved by the Assembly over the past seven years and often in direct conflict to the guidance provided time and time again.

Section 5. Finally, Section 5 inserts a new section of code that requires AWWU submit any agreement for water rights to the Assembly for approval.

I request your support for the ordinance.

Prepared by: Assembly Counsel's Office

Respectfully submitted: Christopher Constant, Assembly Chair
District 1- Northern Anchorage

MUNICIPALITY OF ANCHORAGE
MAYOR DAVE BRONSON

OFFICE OF THE MAYOR

RECEIVED
OFFICE OF
APR 03 2024
MUNICIPAL CLERK

Date: April 3, 2024

To: Anchorage Assembly

From: Mayor Dave Bronson

Subject: Veto of Ordinance No. AO 2024-28 (As Amended)

Today, in accordance with Section 2.30.100 of the Anchorage Municipal Code (AMC) and Section 5.02 of the Municipal Charter, I am issuing a veto for AO 2024-28 (As Amended), which was approved during the Assembly's special meeting of March 27, 2024.

History is instructive here. Seven years ago, the Assembly passed a resolution supporting the restoration of the hydrology and fisheries of the Eklutna River "subject to all provisions of the Fish and Wildlife agreement of August 7, 1991." (AR 2017-324(S)). While the Assembly at that time appropriately urged support from the utilities to restore hydrology and fisheries of the Eklutna River, the Assembly never presumed the power to second guess the operational decisions of the utilities themselves. (Anchorage Assembly, Regular Meeting of October 24, 2017 (51:30 - 58:38)).

Under Charter Section 16.01, municipal utilities are required to be operated as utilities, not as political tools. Municipal utilities combine subject-matter expertise and decision-making that is in the best interest of the Municipality and its citizens. In the past six months, however, the Assembly has shifted its stance to one of imposing operational control over the proposed Eklutna Fish and Wildlife Program to achieve a political purpose. This shift has resulted in legislation that pits politicians against subject matter experts, both inside and outside of the of the Municipality (AR 2024-75 (as amended)). This imposition by the Assembly has created tension between the utilities, affected departments, and executive staff charged with making operational decisions in the best interests of the Municipality. The ordinance I am vetoing today, AO 2024-28 (as amended), removes the policymaking power of the mayor as it was historically established in code for utilities – AWWU and the Anchorage Hydropower Utility.

There is no need to change Title 3 of the Anchorage Municipal Code to shift policymaking from one government branch to the other. As was stated at the March 27, 2024 meeting (32:05 – 32:30), and has been repeated numerous times before, serious concerns arise when powers are shifted between branches. Previous mayors signed documents on behalf of the Municipality relating to Eklutna Lake. Those actions were valid and binding upon the Municipality as a whole. The Municipality of Anchorage Charter grants executive and administrative power to the mayor. Assembly action that purports to strip executive and

administrative power from the mayor or municipal manager and grant that same power to itself raises the question of a charter violation.

The executive branch has held the power to make policy and execute agreements when the original agreements were signed in 1984 and 1991 and continues to hold this power today. Should the Assembly wish to disapprove executive branch actions, there are ways to accomplish its goals without dismantling the structure of our home rule municipal government as defined by the Anchorage Municipal Charter.

For the above reasons, I hereby veto AO 2024-28 (As Amended).

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 350-2024

Meeting Date: A p r i l 9 , 2024

From: **Assembly Chair Constant and Vice Chair Zaletel**

Subject: **Response to Mayoral vetoes of AR 2024-103 and AO 2024-28, As Amended.**

We request the Assembly override the Mayoral vetoes of AR 2024-103, dated April 2, 2024 and AO 2024-28, As Amended, dated April 3, 2024. Both vetoes are either woefully uniformed, or deliberately misleading. For the sake of clarity this memo addresses each veto in turn:

AR 2024-103

In the veto message of AR 2024-103, Mayor Dave Bronson states that "[b]ecause the Assembly is part of the Municipality of Anchorage, we have no objection to Assembly members making their own copies of the confidential term sheet and of the confidential Common Interest Agreement."[1] This statement is remarkable, not only for its sound logic, but particularly because it is the first time **any** member of the Administration has expressed this view to members of the Assembly, and it came in the form of a Mayoral veto.

On January 23, 2024, the Assembly learned of the existence of a "binding term sheet" between the Eklutna Owners and AWWU. It is notable that neither the Administration, nor the Department of Law saw fit to inform the Assembly of the existence of this document, but rather the Assembly Leadership was forced to send the Municipal Attorney a request asking to inspect it. The following day, the Municipal Attorney confirmed the existence of a document titled as a binding term sheet, but refused to allow us to see it, asserting that its terms and conditions were "confidential." This assertion of confidentiality notably lacked reference or citation to any legal authority, merely that, whatever its basis for a claim of confidentiality, the Municipal Attorney did not consider the Assembly to have the appropriate standing to see this document upon request.

Further, when Assembly Leadership agreed to take up this agreement in executive session on February 2, 2024, the Administration only provided a copy of the binding term sheet after receiving the consent of the other Eklutna Owners. When the Assembly requested to see correspondence between the Municipal Attorney and the Eklutna Owners, this was also refused as being "confidential." And finally, on April 4th when the Chair recently attempted to review the term sheet with the Assembly's attorneys, as the Mayor's veto clearly stated he would be able to, he was denied the opportunity to either retain a copy or even review and discuss it

[1] Veto of AR 2024-103.

without a municipal attorney present until the Eklutna Owners approved the language of a confidentiality agreement she intended to have both the Chair and the Attorneys sign. In this extraordinary change in Municipal policy, the Municipal Attorney didn't bother to apprise the Assembly Chair of her unilateral decision to restrict his ability to confer with counsel. Until the language of the confidentiality agreement was approved, the Chair and the Assembly's attorneys would only be allowed to view the document with a member of the Department of Law physically present in the room.

Despite the repeated affirmations of the Municipal Attorney that their office works for the Municipality of Anchorage and that its job is to advise both branches of the Municipal Government, the Assembly has been consistently treated as a third party, if not a party opponent, to the Eklutna Owners, and has been denied meaningful access to these documents.

AO 2024-28, As Amended.

The Mayor's veto quite condescendingly states that "[h]istory is instructive here"[2]. Ironically, we cannot agree more.

As the legislative branch of the Municipal Government, it is inherently the Assembly's role to articulate and codify the policy of the Municipal Government.[3]

The Administration's assertion that "[t]he executive branch held the power to make policy and executive agreements when the original agreements were signed in 1984 and 1991"[4] strikes us as statement that could be best described as grossly inaccurate.

The Mayor describes previous mayors as having "signed documents on behalf of the Municipality relating to Eklutna Lake. Those actions were valid and binding upon the Municipality as a whole."[5] However, the historical record of the Eklutna Project reflects substantial involvement by the Assembly and the public in those agreements.

In 1987, Mayor Tony Knowles presented the prospect of purchasing the Eklutna Hydropower Project and requested both public hearings and the Assembly's endorsement to even begin the negotiations for its purchase.[6] In 1989, Mayor Tom Fink presented the purchase agreement to the Assembly and requested authority from them to sign on behalf of the Municipality,[7] and again in 1991, requesting the Assembly's approval of the final amendment to the agreement.[8] The actions of these previous mayors were "valid and binding" not because there were the inherent prerogative of the executive, but rather, because they were done openly, with the

[2] Veto of AO 2024-28 (As Amended), pg 1.
[3] *See* https://mrsc.org/stay-informed/mrsc-insight/february-2021/separation-of-powers-in-local-government.)
[4] Veto *supra* note 2
[5] *Id.*
[6] *See* AR 1987-41(S-1), as Amended.
[7] See AM 674-1989.
[8] *See* AM 716-1991.

advice, consultation, and **consent** of the Assembly.

History is instructive indeed.

By way of comparison, should we examine the actions of this administration? Not just with regard to Eklutna Lake, but his management of public utilities and public finances as a whole?

It is this Mayor who disregarded the requirements of code and unilaterally discontinued the fluoridation of the Municipality's water supply in violation of AMC 26.40.050.[9]

It is this Mayor who ignored the Assembly's authority to over contracts under AMC and illegally executed a multi-million dollar contract on a tent purportedly intended to shelter human beings but lacking any approved and verifiable engineering data pertaining to its capacity to hold snow load or withstand wind as required by Title 23 of the Municipal Code.[10]

It is this Mayor who ignored the State Legislative Program, duly enacted by the Assembly under AMC 2.10.075 and its published advocacy pamphlet, and instead printed a separate program and advocated his own personal policies to the State Legislature, undermining his own government, betraying the people of Anchorage, and violating subsection 2.10.075B.[11]

This Mayor clandestinely negotiated and is presently attempting to bind the Municipality to a series of agreements implicating tens of millions of taxpayers' and ratepayers' funds and access to drinking water for decades in direct contradiction of policies duly established and codified by the Assembly. Moreover, the Mayor's actions were done without clearly informing the public of the substance and effect of the unauthorized agreements he is attempting to make.

Nevertheless, with this historical context, this Mayor still has the temerity to assert that it is the action of the Assembly which "raises the question of a charter violation."[12]

History is instructive here, but not nearly so instructive as the law. We strongly encourage the Administration to apprise itself of both before implying that we have strayed from our sworn duties under the Charter. That the code had previously

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[9] *See* Michael Levenson, *Anchorage Mayor Briefly Shut Off Fluoride in City's Water System*, N.Y. TIMES, Dec. 16, 2021 available at https://www.nytimes.com/2021/12/16/us/anchorage-mayor-dave-bronson-fluoride-water.html.

[10] *See* Emily Goodykoontz, *Bronson Administration Approved $4.9 Million for Construction for East Anchorage Homeless Shelter Without Required Assembly Approval*, ANCHORAGE DAILY NEWS, Oct. 13, 2022 available at https://www.adn.com/alaska-news/anchorage/2022/10/13/bronson-administration-green-lit-49-million-in-construction-for-east-anchorage-homeless-shelter-without-assembly-approval/

[11] *See* Yallow Silvers, *Anchorage Mayor 'Bonson' Goes Rogue in Juneau*, THE ALASKA CURRENT, Jan. 26, 2024 available at https://thealaskacurrent.com/2024/01/26/anchorage-mayor-bonson-goes-rogue-in-juneau/

[12] Veto supra note 2, pg.2

delegated certain policy-making powers to the executive branch, does not, should not, and cannot be presumed to create an insurmountable impediment to returning such power to the policy-making branch: the legislative. This is particularly important now, when that power has been so grossly abused by an Administration so seemingly incapable of performing the most basic of functions of government without violating the law.

Regardless of the characterizations implied by the Mayor's vetoes, the actions of this body do not constitute an expansion of the Assembly's power or an impermissible intrusion into the authority of the executive. Rather, these are the measured and reasonable actions of a body attempting to secure information to which it is already entitled, to exercise legislative powers it has not had to exercise in the past, and to implement policies inherently within its authority.

We request your support for overriding the veto of both the ordinance and resolution.

Prepared by:	Assembly Chair Constant
Reviewed by:	Assembly Counsel's Office
Respectfully submitted:	Christopher Constant, Assembly Chair District 1, North Anchorage
	Meg Zaletel, Assembly Vice Chair District 4, Midtown

Municipal Clerk's Office
Approved
Date: March 27, 2024
Mayoral Veto Given
Date: April 2, 2024
Mayoral Veto Overridden
Date: April 9, 2024

Submitted by: Assembly Chair Constant and Assembly Vice Chair Zaletel
Prepared by: Assembly Counsel's Office
For reading: March 27, 2024

ANCHORAGE, ALASKA
AR No. 2024-103

A RESOLUTION OF THE ANCHORAGE ASSEMBLY APPROVING THE USE OF SUBPOENAS TO COMPEL TESTIMONY AND DOCUMENT PRODUCTION RELATED TO THE 1991 FISH AND WILDLIFE AGREEMENT (EKLUTNA HYDROPOWER PROJECT) OR WATER RIGHTS TO EKLUTNA LAKE, PURSUANT TO ANCHORAGE MUNICIPAL CODE SECTION 2.30.085.

WHEREAS, Anchorage Municipal Code section 2.30.085, *Subpoena powers,* authorizes the Assembly Chair with the approval of a majority of the Assembly, to compel by subpoena the "testimony of a person whom the assembly reasonably believes may be able to give information relating to a public matter being considered by the assembly" and to "produce documents, papers or objects which the assembly reasonably believes may relate to a public matter being considered by the assembly"; and

WHEREAS, in 1984 the Alaska Power Administration and the Municipality Anchorage negotiated and executed an Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska (1984 Agreement) to secure water rights for the diversion of water from Eklutna Lake while protecting water volume needed for the Eklutna Hydropower Project; and

WHEREAS, in 1991, the Federal Government sold the Eklutna Dam Hydroelectric facility to the Chugach Electric Association, Matanuska Electric Association, and the Municipality of Anchorage (doing business as Anchorage Municipal Light and Power (ML&P)); and

WHEREAS, the terms of the 1991 Fish and Wildlife Agreement require a robust public process, in place of the process required for a Federal Energy Regulatory Commission license, whereby the owners are to study and propose a plan for mitigating the impact of the Eklutna Dam on local fish and wildlife; and

WHEREAS, in 1993, the Alaska Power Administration and the Municipality of Anchorage executed a supplemental agreement to their earlier 1984 Agreement (1993 Supplement) which currently governs Anchorage Water & Wastewater Utility's (AWWU) rights and access to drinking water from Eklutna Lake and is set to expire in 2025; and

WHEREAS, in May of 2020, the Regulatory Commission of Alaska (RCA) approved the sale of the ML&P from the Municipality of Anchorage to Chugach Electric Association (CEA), with the requirement that the Municipality surrender its vote as a member of the Eklutna Operating Committee, until it could demonstrate to the RCA that it has sufficient expertise within Municipal Hydro Power to participate again as a voting member; and

WHEREAS, the Assembly Leadership recently learned that in October 2023, AWWU and the Eklutna Owner's Group, executed an agreement which the Administration described to the Assembly as a "binding term sheet," the terms of which would govern AWWU's rights and access to drinking water from Eklutna Lake in the event the Governor endorses the currently proposed Fish and Wildlife Plan; and

WHEREAS, the Municipal Attorney and representatives of AWWU produced the binding term sheet in executive session and it was examined by the Assembly Members on February 2, 2024; and

WHEREA, on February 23, 2024, the Assembly met again and recessed to an executive session to discuss the legal implications of the binding term sheet and the Proposed Fish and Wildlife Program; and

WHEREAS, having taken up these matters in executive session, the Assembly finds that it is necessary in furtherance of the Assembly's legislative powers under the Charter and the Assembly's role to provide legislative oversight of municipal agencies and utilities, to compel production of the binding term sheet so that the Assembly may share the agreement with its counsel for legal review prior to a determination by the Assembly regarding whether it is appropriate and in the public interest to make the agreement a disclosable public record; and

WHEREAS, the Chair of the Assembly now requests authorization of the Assembly, per AMC section 2.30.085, to issue subpoenas for the production of agreements and other records specified herein, and Assembly's retention thereof;

NOW, THEREFORE BE IT RESOLVED THAT THE ANCHORAGE ASSEMBLY:

Section 1. Does hereby, pursuant to AMC section 2.30.085, authorize the Chair of the Assembly, on behalf and in the name of the Assembly, to compel by subpoena the attendance of persons to provide testimony or produce documents at a time and place specified by the Chair, as described below:

A. The agreement described as a "binding term sheet" executed between the Eklutna Owners and the Anchorage Water and Wastewater Utility, which had been previously provided for review only in executive session; and

B. Any existing agreement among the Eklutna Owners or between the Eklutna Owners and any third party, upon which a claim of privilege or confidentiality is based.

Section 2. This resolution shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 27th day of March, 2024.

Christopher Constant
Chair

ATTEST:

Jamie Heinz
Municipal Clerk

MUNICIPALITY OF ANCHORAGE
MAYOR DAVE BRONSON

OFFICE OF THE MAYOR

RECEIVED
OFFICE OF THE
APR 02 2024
MUNICIPAL CLERK

Date: April 2, 2024

To: Anchorage Assembly

From: Mayor Dave Bronson

Subject: Veto of Resolution No. AR 2024-103

Today, in accord with Section 2.30.100 of the Anchorage Municipal Code (AMC) and Section 5.02 of the Municipal Charter, I am issuing a veto for AR 2024-103, which was approved during the Assembly's special meeting on March 27, 2024.

Why are assembly members spending taxpayer dollars for their attorneys to subpoena documents they already have access to? These documents have been made available to them, are available to them, and this open invitation continues. These threatening subpoenas are nothing more than scare tactics to bully municipal employees into potentially breaching municipal contracts. As one of the Assembly's own members put it, these extreme tactics are mere "chest puffing."

The Assembly and their own lawyers have said the real reason for the subpoena is to make the term sheet public. However, the term sheet they seek to make public is subject to a prior contract - a Common Interest Agreement signed by the Municipality of Anchorage in 2017. Because the Assembly is part of the Municipality of Anchorage, we have no objection to Assembly members making their own copies of the confidential term sheet and of the confidential Common Interest Agreement. Indeed, disclosure has already been made, and is available to members of the Assembly and their paid outside counsel – if the confidentiality is properly maintained, and the Common Interest Agreement is not breached. I simply do not see why the Anchorage Assembly believes they are not bound by the 2017 Common Interest Agreement and, consequently, I do not agree that the Assembly has a unilateral right to publicly release documents subject to a Common Interest Agreement. If the Anchorage Assembly makes this document public as they want to, the Municipality will surely be sued for breach of contract.

The Municipality agreed in 2017 that no party would have the authority to waive any privilege or defense on behalf of any other party without the consent from the other parties. Chugach and MEA have not waived their rights under the Common Interest Agreement.

A subpoena is unnecessary when we have already made these documents available to Assembly Members and their counsel. AR 2024-103 is an attempt to interfere and potentially

breach the contractual obligations agreed to by the Municipality in 2017 during the Berkowitz administration.

For the above reasons, I hereby veto AR 2024-103.

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 350-2024

Meeting Date: A p r i l 9 , 2024

From: **Assembly Chair Constant and Vice Chair Zaletel**

Subject: **Response to Mayoral vetoes of AR 2024-103 and AO 2024-28, As Amended.**

We request the Assembly override the Mayoral vetoes of AR 2024-103, dated April 2, 2024 and AO 2024-28, As Amended, dated April 3, 2024. Both vetoes are either woefully uniformed, or deliberately misleading. For the sake of clarity this memo addresses each veto in turn:

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Further, when Assembly Leadership agreed to take up this agreement in executive session on February 2, 2024, the Administration only provided a copy of the binding term sheet after receiving the consent of the other Eklutna Owners. When the Assembly requested to see correspondence between the Municipal Attorney and the Eklutna Owners, this was also refused as being "confidential." And finally, on April 4th when the Chair recently attempted to review the term sheet with the Assembly's attorneys, as the Mayor's veto clearly stated he would be able to, he was denied the opportunity to either retain a copy or even review and discuss it

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Despite the repeated affirmations of the Municipal Attorney that their office works for the Municipality of Anchorage and that its job is to advise both branches of the Municipal Government, the Assembly has been consistently treated as a third party, if not a party opponent, to the Eklutna Owners, and has been denied meaningful access to these documents.

AO 2024-28, As Amended.

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The Administration's assertion that "[t]he executive branch held the power to make policy and executive agreements when the original agreements were signed in 1984 and 1991"[4] strikes us as statement that could be best described as grossly inaccurate.

The Mayor describes previous mayors as having "signed documents on behalf of the Municipality relating to Eklutna Lake. Those actions were valid and binding upon the Municipality as a whole."[5] However, the historical record of the Eklutna Project reflects substantial involvement by the Assembly and the public in those agreements.

In 1987, Mayor Tony Knowles presented the prospect of purchasing the Eklutna Hydropower Project and requested both public hearings and the Assembly's endorsement to even begin the negotiations for its purchase.[6] In 1989, Mayor Tom Fink presented the purchase agreement to the Assembly and requested authority from them to sign on behalf of the Municipality,[7] and again in 1991, requesting the Assembly's approval of the final amendment to the agreement.[8] The actions of these previous mayors were "valid and binding" not because there were the inherent prerogative of the executive, but rather, because they were done openly, with the

[2] Veto of AO 2024-28 (As Amended), pg 1.
[3] *See* https://mrsc.org/stay-informed/mrsc-insight/february-2021/separation-of-powers-in-local-government.)
[4] Veto *supra* note 2
[5] *Id.*
[6] *See* AR 1987-41(S-1), as Amended.
[7] See AM 674-1989.
[8] *See* AM 716-1991.

advice, consultation, and **consent** of the Assembly.

History is instructive indeed.

By way of comparison, should we examine the actions of this administration? Not just with regard to Eklutna Lake, but his management of public utilities and public finances as a whole?

It is this Mayor who disregarded the requirements of code and unilaterally discontinued the fluoridation of the Municipality's water supply in violation of AMC 26.40.050.[9]

It is this Mayor who ignored the Assembly's authority to over contracts under AMC and illegally executed a multi-million dollar contract on a tent purportedly intended to shelter human beings but lacking any approved and verifiable engineering data pertaining to its capacity to hold snow load or withstand wind as required by Title 23 of the Municipal Code.[10]

It is this Mayor who ignored the State Legislative Program, duly enacted by the Assembly under AMC 2.10.075 and its published advocacy pamphlet, and instead printed a separate program and advocated his own personal policies to the State Legislature, undermining his own government, betraying the people of Anchorage, and violating subsection 2.10.075B.[11]

This Mayor clandestinely negotiated and is presently attempting to bind the Municipality to a series of agreements implicating tens of millions of taxpayers' and ratepayers' funds and access to drinking water for decades in direct contradiction of policies duly established and codified by the Assembly. Moreover, the Mayor's actions were done without clearly informing the public of the substance and effect of the unauthorized agreements he is attempting to make.

Nevertheless, with this historical context, this Mayor still has the temerity to assert that it is the action of the Assembly which "raises the question of a charter violation."[12]

History is instructive here, but not nearly so instructive as the law. We strongly encourage the Administration to apprise itself of both before implying that we have strayed from our sworn duties under the Charter. That the code had previously

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[9] *See* Michael Levenson, *Anchorage Mayor Briefly Shut Off Fluoride in City's Water System*, N.Y. TIMES, Dec. 16, 2021 available at https://www.nytimes.com/2021/12/16/us/anchorage-mayor-dave-bronson-fluoride-water.html.

[10] *See* Emily Goodykoontz, *Bronson Administration Approved $4.9 Million for Construction for East Anchorage Homeless Shelter Without Required Assembly Approval*, ANCHORAGE DAILY NEWS, Oct. 13, 2022 available at https://www.adn.com/alaska-news/anchorage/2022/10/13/bronson-administration-green-lit-49-million-in-construction-for-east-anchorage-homeless-shelter-without-assembly-approval/

[11] *See* Yallow Silvers, *Anchorage Mayor 'Bonson' Goes Rogue in Juneau*, THE ALASKA CURRENT, Jan. 26, 2024 available at https://thealaskacurrent.com/2024/01/26/anchorage-mayor-bonson-goes-rogue-in-juneau/

[12] Veto supra note 2, pg.2

delegated certain policy-making powers to the executive branch, does not, should not, and cannot be presumed to create an insurmountable impediment to returning such power to the policy-making branch: the legislative. This is particularly important now, when that power has been so grossly abused by an Administration so seemingly incapable of performing the most basic of functions of government without violating the law.

Regardless of the characterizations implied by the Mayor's vetoes, the actions of this body do not constitute an expansion of the Assembly's power or an impermissible intrusion into the authority of the executive. Rather, these are the measured and reasonable actions of a body attempting to secure information to which it is already entitled, to exercise legislative powers it has not had to exercise in the past, and to implement policies inherently within its authority.

We request your support for overriding the veto of both the ordinance and resolution.

Prepared by:	Assembly Chair Constant
Reviewed by:	Assembly Counsel's Office
Respectfully submitted:	Christopher Constant, Assembly Chair District 1, North Anchorage
	Meg Zaletel, Assembly Vice Chair District 4, Midtown

Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 343-4311 • Fax: (907) 343-4313 http://www.muni.org/assembly

Anchorage Assembly Leadership

March 27, 2024

Mr. Kent Kohlhase
632 West 6th Avenue, Ste. 850
Anchorage, AK 99501
kent.kohlhase@anchorageak.gov

Sent electronically and served via certified mail

Re: Request for certain documents concerning Municipal access to drinking water from Eklutna Lake

Dear Mr. Kohlhase:

At a recent executive session the General Manager of the Anchorage Water and Wasterwater Utility and the Municipal Attorney appeared and provided information regarding the substance of a "binding term sheet" which had been executed between the Anchorage Water and Wastewater Utility and the Eklutna Owners Group governing the Municipality's access to drinking water from Eklutna Lake. As we have stated before, this is a matter of significant public interest.

After having taken up these matters in executive session, the Assembly finds that it is necessary in furtherance of the Assembly's legislative powers under the Charter and the Assembly's role to provide legislative oversight of municipal agencies and utilities, to compel production of the binding term sheet so that the Assembly may share the agreement with its counsel for legal review prior to a determination by the Assembly regarding whether it is appropriate and in the public interest to make the agreement a disclosable public record.

Given the foregoing, the Assembly leadership hereby requests you produce copies of the following documents:

- The agreement described as a "binding term sheet" executed between the Eklutna Owners and the Anchorage Water and Wastewater Utility, which had been previously provided for review only in executive session; and

- Any existing agreement among the Eklutna Owners or between the Eklutna Owners and any third party, upon which a claim of privilege or confidentiality is based.

Please provide the requested documents to us either physically or via email **no later than 5p.m. Wednesday, April 3, 2024.** Your attention is invited to the attached subpoena compelling the production of these documents.

We will appreciate your prompt attention to this matter.

Sincerely,

Christopher Constant, Assembly Chair

Meg Zaletel, Assembly Vice Chair

Cc: Municipal Attorney

Municipality of Anchorage

Christopher Constant
Chair

Anna Brawley
Karen Bronga
Kevin Cross
Zac Johnson
George Martinez

Meg Zaletel
Vice–Chair

Scott Myers
Kameron Perez-Verdia
Felix Rivera
Randy Sulte
Daniel Volland

Dave Bronson
Mayor

Jamie Heinz, Municipal Clerk
Jasmine Acres, Deputy Municipal Clerk

SUBPOENA TO PRODUCE DOCUMENTS
ON BEHALF AND IN THE NAME OF THE ANCHORAGE ASSEMBLY

Pursuant to the authority provided under Article IV of the Anchorage Municipal Charter, Section 2.30.085 of the Anchorage Municipal Code, and Assembly Resolution 2024-103:

To:
Mr. Kent Kohlhase
ATTN: Records Custodian, Anchorage Hydropower Utility
632 West 6th Avenue, Ste. 850
Anchorage, AK 99501
kent.kohlhase@anchorageak.gov

Sent electronically and served via certified mail

YOU ARE HEREBY ORDERED TO PRODUCE for the Assembly's inspection and retention, the documents listed in the Appendix to this subpoena.

Provide the requested documents either in person, by certified mail, or by electronic submission no later than **5 p.m. on Wednesday, April 3, 2024** to:

Chair Christopher Constant
632 West 6th Avenue, Ste. 150
Anchorage, AK 99501
christopher.constant@anchorageak.gov

Failure to obey the commands of this subpoena may be punished by contempt proceedings, in addition to any other remedy available by law.

This subpoena is issued this day, March 27, 2024, upon authorization of:

Christopher Constant
Chair, on Behalf of the Assembly

ATTEST:

for Municipal Clerk

APPENDIX

INSTRUCTIONS

1. The term "documents" means and includes, without limitation, all written or graphic matter of every kind and description, however produced or reproduced, whether draft or final, original or reproduction, internal or otherwise, whether stored in tangible, electric, mechanical, or electronic form or representation of any kind.

2. Documents, communications, and records must be produced in a form that is reasonably usable, such PDFs or native file.

RECORDS REQUESTED

1. The document described as a "binding term sheet" executed between the Eklutna Owners and the Anchorage Water and Wastewater Utility, which had been previously provided for review only in executive session; and

2. Any document constituting an existing agreement among the Eklutna Owners or between the Eklutna Owners and any third party, upon which a claim of privilege or confidentiality is based.

Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 343-4311 • Fax: (907) 343-4313 http://www.muni.org/assembly

Anchorage Assembly Leadership

March 27, 2024

Mr. Mark Corsentino
3000 Arctic Boulevard
Anchorage, AK 99503-3813
mark.corsentino@awwu.biz

Sent electronically and served via certified mail

Re: Request for certain documents concerning Municipal access to drinking water from Eklutna Lake

Dear Mr. Corsentino:

At a recent executive session you appeared and testified regarding the substance of a "binding term sheet" which had been executed between the Anchorage Water and Wastewater Utility and the Eklutna Owners Group governing the Municipality's access to drinking water from Eklutna Lake.
As we have stated before, this is a matter of significant public interest.

After having taken up these matters in executive session, the Assembly finds that it is necessary in furtherance of the Assembly's legislative powers under the Charter and the Assembly's role to provide legislative oversight of municipal agencies and utilities, to compel production of the binding term sheet so that the Assembly may share the agreement with its counsel for legal review prior to a determination by the Assembly regarding whether it is appropriate and in the public interest to make the agreement a disclosable public record.

Given the foregoing, the Assembly leadership hereby requests you produce copies of the following documents:

- The agreement described as a "binding term sheet" executed between the Eklutna Owners and the Anchorage Water and Wastewater Utility, which had been previously provided for review only in executive session; and

- Any existing agreement among the Eklutna Owners or between the Eklutna Owners and any third party, upon which a claim of privilege or confidentiality is based.

Please provide the requested documents to us either physically or via email **no later than 5p.m. Wednesday, April 3, 2024.** Your attention is invited to the attached subpoena compelling the production of these documents.

We will appreciate your prompt attention to this matter.

Sincerely,

Christopher Constant, Assembly Chair

Meg Zaletel, Assembly Vice Chair

Cc: Michael McLaughlin

Municipality of Anchorage

Christopher Constant
Chair

Anna Brawley
Karen Bronga
Kevin Cross
Zac Johnson
George Martinez

Dave Bronson
Mayor

Meg Zaletel
Vice-Chair

Scott Myers
Kameron Perez-Verdia
Felix Rivera
Randy Sulte
Daniel Volland

Jamie Heinz, Municipal Clerk — Jasmine Acres, Deputy Municipal Clerk

SUBPOENA TO PRODUCE DOCUMENTS
ON BEHALF AND IN THE NAME OF THE ANCHORAGE ASSEMBLY

Pursuant to the authority provided under Article IV of the Anchorage Municipal Charter, Section 2.30.085 of the Anchorage Municipal Code, and Assembly Resolution 2024-103:

To:
Mr. Mark Corsentino
ATTN: Records Custodian, Anchorage Water and Wastewater Utility
3000 Arctic Boulevard
Anchorage, AK 99503-3813
mark.corsentino@awwu.biz

Sent electronically and served via certified mail

YOU ARE HEREBY ORDERED TO PRODUCE for the Assembly's inspection and copying, the documents listed in the Appendix to this subpoena.

Provide the requested documents either in person, by certified mail, or by electronic submission no later than **5 p.m. on Wednesday, April 3, 2024** to:

Chair Christopher Constant
632 West 6th Avenue, Ste. 150
Anchorage, AK 99501
christopher.constant@anchorageak.gov

Failure to obey the commands of this subpoena may be punished by contempt proceedings, in addition to any other remedy available by law.

This subpoena is issued this day, March 27, 2024, upon authorization of:

Christopher Constant
Chair, on Behalf of the Assembly

ATTEST:

Jasmine Acres
Municipal Clerk

for

APPENDIX

INSTRUCTIONS

1. The term "documents" means and includes, without limitation, all written or graphic matter of every kind and description, however produced or reproduced, whether draft or final, original or reproduction, internal or otherwise, whether stored in tangible, electric, mechanical, or electronic form or representation of any kind.

2. Documents, communications, and records must be produced in a form that is reasonably usable, such PDFs or native file.

RECORDS REQUESTED

1. The document described as a "binding term sheet" executed between the Eklutna Owners and the Anchorage Water and Wastewater Utility, which had been previously provided for review only in executive session; and

2. Any document constituting an existing agreement among the Eklutna Owners or between the Eklutna Owners and any third party upon which any a claim of privilege or confidentiality is based.

[redacted]

[redacted]

From: Kohlhase, Kent E. <kent.kohlhase@anchorageak.gov>
Sent: Wednesday, April 3, 2024 4:05 PM
To: Hurt, MaJhe w P. <MaJhe w.Hurt@anchorageak.gov>
Cc: Gates, Dean T. <dean.gates@anchorageak.gov>; Helzer, Anne <Anne.Helzer@anchorageak.gov>; Bolgiano, Allison P. <Allison.Bolgiano@anchorageak.gov>
Subject: LeJ er and Subpoena

Good afternoon, Mr. Hurt,

As Municipal Manager, I have substantially complied with the attached Subpoena by making the documents available to the Assembly and its counsel for confidential review through the Municipal Attorney's Office.
My invitation for the Assembly and its legal counsel to review the documents through the Municipal Attorney's Office remains open.

Further, I assert the client-lawyer privilege because all documents responsive to the Subpoena in my possession are privileged communications. Additionally, the documents are confidential under the terms of a Common Interest Agreement executed in 2017, and I cannot breach my duty of confidentiality under that Agreement because I do not wish to expose the Municipality to legal liability.

Please include the Municipal Attorney on any further communications with me about this matter.

Thank you,

Kent

Kent Kohlhase, P.E.
Municipal Manager
Municipality of Anchorage
632 W. 6th Avenue, Suite 850
Anchorage, Alaska 99501
(907) 343-7110
kent.kohlhase@anchorageak.gov

[redacted]

From: Corsen+no, Mark A. <Mark.Corsen+no@awwu.biz>
Sent: Wednesday, April 3, 2024 1:29 PM
To: Hurt, MaJhe w P. <MaJhe w.Hurt@anchorageak.gov>
Cc: Gates, Dean T. <dean.gates@anchorageak.gov>; McLaughlin, Michael S <mmclaughlin@guessrudd.com>; Helzer, Anne <Anne.Helzer@anchorageak.gov>; Kohlhase, Kent E. <kent.kohlhase@anchorageak.gov>; Bolgiano, Allison P. <Allison.Bolgiano@anchorageak.gov>
Subject: RE: LeJ er and Subpoena

Matthew,

As AWWU's General Manager, I have substantially complied with the attached Subpoena by making the documents available to the Assembly and its counsel for confidential review through the Municipal Attorney's Office.
My invitation for the Assembly and its legal counsel to review the documents through the Municipal Attorney's Office remains open.

Further, I assert the client-lawyer privilege because all documents responsive to the Subpoena in my possession are privileged communications made for the purpose of facilitating the provision of legal services to AWWU.
Additionally, the documents are confidential under the terms of a Common Interest Agreement executed in 2017, and I cannot breach my duty of confidentiality under that Agreement because I do not wish to expose AWWU or the Municipality to legal liability.

Please include the Municipal Attorney on any further communications with me about this matter.

Thank you,

Mark A. Corsentino, P.E.
General Manager
Anchorage Water & Wastewater Utility
Direct: 907-786-5511
Cell: 907-917-6551
Mark.Corsentino@awwu.biz

AWWU is inves+ng to ensure reliable service, safeguard public health, and protect the environment, long into the future.

From: Hurt, MaJhe w P. <MaJhe w.Hurt@anchorageak.gov>
Sent: Thursday, March 28, 2024 4:54 PM
To: Corsen+no, Mark A. <Mark.Corsen+no@awwu.biz>
Cc: Gates, Dean T. <gatesdt@muni.org>; McLaughlin, Michael S <mmclaughlin@guessrudd.com>
Subject: LeJ er and Subpoena

On behalf of the Anchorage Assembly, please see the attached letter and subpoena.

Thank you,

Matthew Hurt
Legislative Counsel
O: 907.343.4714
C: 907.802.7238

Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 343-4311 • Fax: (907) 343-4313 http://www.muni.org/assembly

Anchorage Assembly Leadership

April 16, 2024

To:
Ms. Anne Helzer
Municipal Attorney
632 West 6th Avenue, Ste. 730
Anchorage, AK 99501
anne.helzer@anchorageak.gov

Sent electronically and served.

Re: Demand for Full, Free, and Unrestricted Access to Certain Documents Concerning Municipal Access to Drinking Water from Eklutna Lake

Dear Ms. Helzer,

As you know, on April 9, 2024, the Assembly overrode the Mayor's veto of AR 2024-103, which authorized the Chair to issue subpoenas on behalf the Assembly for certain documents in the Administration's possession related to the Eklutna Project. While the Assembly does not concede that the Mayor may validly veto a resolution authorizing a subpoena pursuant to AMC 2.30.085, in this instance, the Assembly has removed any doubt by overriding the veto.

After having taken up these matters in executive session, the Assembly has determined that this is a matter of significant public interest and it remains necessary to compel production of certain public documents in the Administration's possession.

The Assembly recently learned that in 2017, the Municipality entered into a "Common Interest Agreement" with Chugach Electric Association and Matanuska Electric Association, who, along with the Municipality, collectively own and manage the Eklutna Hydroelectric Project. The Assembly understands that the purpose of the Common Interest Agreement was to facilitate negotiations, including communications among the Project Owners' attorneys, regarding implementation of the 1991 Fish and Wildlife Agreement. The Assembly further understands that the Common Interest Agreement was intended to apply to the Municipality of Anchorage as whole and that no other municipal employee or officer has been required to sign a supplemental confidentiality agreement prior to receiving access to materials designated as confidential under the Common Interest Agreement.

The Assembly also recently learned that the Project Owners, including the Municipality and the Anchorage Water and Wastewater Utility ("AWWU"), entered into an agreement described as a "Binding Term Sheet." That agreement purportedly commits the Municipality to certain obligations regarding implementation of the 1991 Fish and Wildlife Agreement and negotiations regarding the Municipality's water rights and access to Eklutna Lake. Importantly, the Binding Term Sheet also contains a provision [redacted]

[redacted]

Finally, on April 4, the Assembly learned of an "Amendment to the Binding Term Sheet," which contained [redacted]
Each of those [redacted] will be subject to Assembly approval prior to their execution.

The Assembly has repeatedly asked to review each of the aforementioned documents in private with Assembly Counsel and the Assembly's outside attorneys. However, on April 4, when reviewing the documents in your office with Assembly Counsel, you refused to allow Assembly members to discuss the documents confidentially, outside of the presence of an Assistant Municipal Attorney.

The Assembly is the co-equal legislative branch of the Municipality of Anchorage. As part of the Municipality, the Assembly has a legitimate and compelling interest in providing legislative oversight of municipal agencies and utilities. In particular, the Assembly has a responsibility to Anchorage residents to ensure that any agreements that purport to legally bind municipal agencies or commit municipal resources are in the public interest. In carrying out its duties, the Assembly is entitled to seek the advice of the Assembly Counsel, including outside counsel. Under AMC 2.20.065, the Assembly Counsel is entitled to "full, free, and unrestricted access" to all public records and "all activities of the municipal government and its various departments."

The Assembly finds that it is necessary in furtherance of the Assembly's legislative powers under the Charter to compel production of the following documents for the Assembly to retain and share with their counsel:

- The document described as a "binding term sheet" executed between the Eklutna Owners and the Anchorage Water and Wastewater Utility, which had been previously provided for review only in executive session, as well as any amendments, extensions, addendums, or any other writing reflecting a change to the substantive terms thereto; and

- The document described as the "2017 Common Interest Agreement" and any document upon which a claim of privilege or confidentiality is based.

Please provide the requested documents to us either physically or via email **no later than 5p.m. Wednesday, April 17, 2024.** Time is of the essence in this matter. Should you have questions or require additional time to provide these documents please do not hesitate to contact the Office of the Assembly Counsel, and we will endeavor to accommodate a reasonable request.

We appreciate your prompt attention to this matter.

Sincerely,

Christopher Constant, Assembly Chair

Meg Zaletel, Assembly Vice Chair

[redacted]

Municipality of Anchorage

Christopher Constant
Chair

Anna Brawley
Karen Bronga
Kevin Cross
Zac Johnson
George Martinez

Meg Zaletel
Vice–Chair

Scott Myers
Kameron Perez-Verdia
Felix Rivera
Randy Sulte
Daniel Volland

Dave Bronson
Mayor

Jamie Heinz, Municipal Clerk
Jasmine Acres, Deputy Municipal Clerk

SUBPOENA TO PRODUCE DOCUMENTS
ON BEHALF AND IN THE NAME OF THE ANCHORAGE ASSEMBLY

Pursuant to the authority provided under Article IV of the Anchorage Municipal Charter, Section 2.30.085 of the Anchorage Municipal Code, and Assembly Resolution 2024-103:

To:
Ms. Anne Helzer
ATTN: Records Custodian, Department of Law
632 West 6th Avenue, Ste. 730
Anchorage, AK 99501
anne.helzer@anchorageak.gov

Sent electronically and served in person

YOU ARE HEREBY ORDERED TO PRODUCE for the Assembly's inspection and retention, the documents listed in the Appendix to this subpoena.

Provide the requested documents either in person, by certified mail, or by electronic submission no later than **5 p.m. on Wednesday, April 17, 2024** to:

Chair Christopher Constant
632 West 6th Avenue, Ste. 150
Anchorage, AK 99501
christopher.constant@anchorageak.gov

Failure to obey the commands of this subpoena may be punished by contempt proceedings, in addition to any other remedy available by law.

This subpoena is issued this day, April 16, 2024, upon authorization of:

Christopher Constant
Chair, on Behalf of the Assembly

ATTEST:

for Municipal Clerk

APPENDIX

INSTRUCTIONS

1. The term "documents" means and includes, without limitation, all written or graphic matter of every kind and description, however produced or reproduced, whether draft or final, original or reproduction, internal or otherwise, whether stored in tangible, electric, mechanical, or electronic form or representation of any kind.

2. Documents, communications, and records must be produced in a form that is reasonably usable, such PDFs or native file.

RECORDS REQUESTED

1. The document described as a "binding term sheet" executed between the Eklutna Owners and the Anchorage Water and Wastewater Utility, which had been previously provided for review only in executive session, as well as any amendments, extensions, addendums, or any other writing reflecting a change to the substantive terms thereto; and

2. The document described as the "2017 Common Interest Agreement" and any other document upon which a claim of privilege or confidentiality is based.

Subject: RE: Subpoena 4/16/2024
Date: Thursday, April 18, 2024 at 5:02:10 PM Alaska Daylight Time
From: Hurt, Matthew P.
To: Helzer, Anne
CC: Gates, Dean T.

Ms. Helzer,

After conferring with leadership, we are willing to wait until the close of business Monday, April 22nd. While we appreciate that you are out of town, we have reason to believe that the owners intend to transmit the document to the State by the 30th. Further, we understand the documents to be readily accessible and, at this time, see no reason that counsel for the other Eklutna Owners would be unreachable by phone or email.

Thanks in advance,

Matthew Hurt
Legislative Counsel
O: 907.343.4714
C: 907.802.7238

From: Helzer, Anne <Anne.Helzer@anchorageak.gov>
Sent: Thursday, April 18, 2024 11:15 AM
To: Hurt, MaHhew P. <MaHhew.Hurt@anchorageak.gov>
Cc: Gates, Dean T. <dean.gates@anchorageak.gov>
Subject: Re: Subpoena 4/16/2024

Good aS ernoon, MaH,
I think the 30th is reasonable. I don't get back to Alaska unWl nœt week. I will need Wme to consult with the affected Municipal departments in order to meaningfully respond.

Anne R. Helzer
Municipal AHorney
Municipality of Anchorage

From: Hurt, MaHhew P. <MaHhew.Hurt@anchorageak.gov>
Sent: Wednesday, April 17, 2024 6:59 PM
To: Helzer, Anne <Anne.Helzer@anchorageak.gov>
Cc: Gates, Dean T. <dean.gates@anchorageak.gov>; Constant, Christopher <christopher.constant@anchorageak.gov>; Zaletel, Meg <meg.zaletel@anchorageak.gov>
Subject: RE: Subpoena 4/16/2024

Ms. Helzer,

How much time would you request to provide a response?

Thanks in advance,

Matthew Hurt
Legislative Counsel
O: 907.343.4714
C: 907.802.7238

From: Helzer, Anne <Anne.Helzer@anchorageak.gov>
Sent: Wednesday, April 17, 2024 2:32 PM
To: Hurt, MaHhew P. <MaHhew.Hurt@anchorageak.gov>
Cc: Gates, Dean T. <dean.gates@anchorageak.gov>; Constant, Christopher <christopher.constant@anchorageak.gov>; Zaletel, Meg <meg.zaletel@anchorageak.gov>
Subject: Re: Subpoena 4/16/2024

Dear AHorney Hurt,

I am in receipt of a subpoena delivered to my office aS er 4:00 PM on April 16, 2024. The subpoena demands that the Municipal AHorney respond by producing lawyer-client privileged and contractually confidenWal documents to Assembly leadership within 24 hours. As I am traveling across the country today, I am unable to substanWvely confer with the impacted parWes—including Municipal clients—before the requested Wme of poducWon. Due to the excepWonally short Wmeline provided in the subpoena, I will be unable to substanWvely respond within the limited Wme povided.

Please advise. Thank you.

Anne R. Helzer
Municipal AHorney
Municipality of Anchorage

From: Hurt, MaHhew P. <MaHhew.Hurt@anchorageak.gov>
Sent: Tuesday, April 16, 2024 5:08 PM
To: Helzer, Anne <Anne.Helzer@anchorageak.gov>
Cc: Gates, Dean T. <dean.gates@anchorageak.gov>; Constant, Christopher <christopher.constant@anchorageak.gov>; Zaletel, Meg <meg.zaletel@anchorageak.gov>
Subject: Subpoena 4/16/2024

Ms. Helzer,

Please see attached letter and subpoena from the Assembly Leadership.

Thank you,

Matthew Hurt
Legislative Counsel
O: 907.343.4714
C: 907.802.7238

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-_____CI

MOTION FOR EXPEDITED CONSIDERATION OF THE ANCHORAGE ASSEMBLY'S *EX PARTE* MOTION FOR ORDER TO SHOW CAUSE AND TO ENFORCE SUBPOENA

"Time is of the essence in this matter."[1]

Pursuant to Alaska Rule of Civil Procedure 77(g), the Plaintiffs Anchorage Municipal Assembly, through its Chair, Christopher Constant (collectively the "Assembly"), respectfully request expedited consideration of the concurrently filed *Ex Parte* Motion for Order to Show Cause and to Enforce Subpoena. A decision is requested on the Assembly's *Ex Parte* Motion on or before **THURSDAY, APRIL 25, 2024**.

[1] Exhibit 7 at 2.

LANDYE BENNETT BLUMSTEIN LLP
701 WEST EIGHTH AVENUE, SUITE 1100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-5152, FAX (907) 276-8433

LANDYE BENNETT BLUMSTEIN LLP
701 WEST EIGHTH AVENUE, SUITE 1100
ANCHORAGE, ALASKA 99501
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A decision is needed before the Eklutna Hydroelectric Project Owners (Chugach Electric Association and Matanuska Electric Association) submit their proposed final Fish and Wildlife Program to the Governor pursuant to the 1991 Fish and Wildlife Agreement.

On information and belief, the Eklutna Hydroelectric Project Owners intend to submit their proposed final Fish and Wildlife Program to the Governor on or about April 27, 2024. Once the Project Owners' proposed final Fish and Wildlife Program is approved by the Governor, certain provisions of the Binding Term Sheet (which is a document described in the Subpoena) become effective and may bind the Municipality of Anchorage. The Assembly has a compelling and legitimate need to review copies of the Binding Term Sheet, and other associated documents described in the Subpoena, before legal consequences may accrue to the Municipality. Because the opportunity to influence the proposed final Fish and Wildlife Program diminishes once the Program is submitted to the Governor, the Assembly has a significant need to review the documents described in the Subpoena immediately. It is imperative that the Assembly, Assembly Counsel, and the Assembly's outside counsel have the opportunity to possess, meaningfully review, analyze, and discuss the Binding Term Sheet before the proposed Fish and Wildlife Program is submitted to the Governor.

For the foregoing reasons, the Assembly respectfully requests this Court grant expedited consideration of its *Ex Parte* Motion at the soonest possible opportunity, and in any event no later than **THURSDAY, APRIL 25**. This will allow the

Defendant a reasonable opportunity to respond while reducing the risk of irreparable injury to the Assembly from the Defendant's ongoing and unreasonable disobedience of the Assembly's valid Subpoena.

Because this matter comes to the Court under Alaska Rule of Civil Procedure 90(b), which authorizes an "*ex parte* motion," the Assembly requests that the Court issue the Proposed Order to Show Cause and set a Show Cause Hearing for Monday, April 29, 2024. The Proposed Order also contemplates that the Defendant Anne Helzer may comply with the Subpoena on or before Friday, April 26, 2024, in which case the Assembly would stipulate to vacating the Show Cause Hearing.

This Motion is supported by the attached Affidavit of Leslie Need.

DATED: April 24, 2024.

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

Andrew Erickson, Alaska Bar No. 1605049
Leslie R. Need, Alaska Bar No. 0712113
Jackson Morawski, Alaska Bar No. 2310113

Attorneys for the Plaintiffs Anchorage Assembly and Christopher Constant, in his official capacity as Chair of the Anchorage Assembly

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-_____CI

EX PARTE MOTION FOR ORDER TO SHOW CAUSE AND TO ENFORCE SUBPOENA

All public officials, especially attorneys, are expected to comply with the law. When a municipal official is subpoenaed by the Assembly, compliance with that subpoena is not voluntary and the recipient may not dictate the terms of their compliance.[1] There is a clear legal process for objecting to an Assembly subpoena, and that process is available to any subpoena recipient.[2]

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1 *See* AMC 2.30.085.

2 *See* Exhibit 1 (AO No. 2023-133 (to be codified at AMC 2.30.085C) ("A person who seeks to quash or limit a subpoena issued pursuant to this section may file an action against the assembly in superior court.")). All Exhibits referenced in this Motion are attached to the Anchorage Assembly's Complaint to Enforce Subpoena Issued by the Anchorage Municipal Assembly, filed concurrently.

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Here, the Defendant Anne Helzer received a valid subpoena from the Anchorage Assembly on April 16, 2024 (the "Subpoena").[3] Ms. Helzer understood the terms of the Subpoena,[4] and it should have come as no surprise following months of repeated requests by Assembly members for the documents described in the Subpoena.[5] Although Ms. Helzer was afforded additional time to comply with the Subpoena,[6] she did not "seek to quash or limit" the Subpoena. Instead, Ms. Helzer insisted that she would only comply with the Subpoena at a time of her choosing.[7]

As of this filing, Ms. Helzer has not complied with the Subpoena. That willful action constitutes contempt and should be addressed by this Court as expeditiously as possible. A proposed order to show cause, or alternatively requiring Ms. Helzer to comply immediately with the Subpoena, accompanies this motion.

ARGUMENT

The Anchorage Municipal Code ("AMC") authorizes the Assembly to enforce a subpoena through "proceedings for contempt in the same manner as in the case of

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3 *See* Exhibit 7.

4 *See* Exhibit 8 at 2.

5 *See* Exhibit 3 at 5-6.

6 Exhibit 8 at 1.

7 *Id*.

disobedience to the requirements of a subpoena issued by the court."[8] Failure to comply with a lawful subpoena is deemed a contempt of court.[9]

Under Alaska Rule of Civil Procedure 90(b), an order for contempt requires four elements:

> (1) the existence of a valid order directing the contemnor to do or refrain from doing something and the court's jurisdiction to enter that order; (2) the contemnor's notice of the order within sufficient time to comply with it; and in most cases, (3) the contemnor's ability to comply with the order; and (4) the contemnor's willful failure to comply with the order.[10]

Because each of the four elements are satisfied here, this Court should order Ms. Helzer to show cause why she should not be punished for the contempt of failing to comply with the Subpoena. Alternatively, if Ms. Helzer complies with the Subpoena by Friday, April 26, 2024 at 12 noon, the Assembly will stipulate that no show-cause hearing is necessary.

I. The Assembly Issued a Valid Subpoena to Produce Documents.

On April 16, 2024, pursuant to AR No. 2024-103, Assembly Chair Christopher Constant, on behalf of the Assembly, issued the Subpoena to Ms. Helzer to produce documents related to the implementation of the 1991 Fish and Wildlife Agreement

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8 AMC 2.30.085B.

9 Alaska R. Civ. P. 45(f).

10 *Hartland v. Hartland*, 777 P.2d 636, 647 (Alaska 1989) (quoting *L.A.M. v. State*, 547 P.2d 827, 831 (Alaska 1976)).

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and the Municipality's water rights and access to Eklutna Lake,[11] which were public matters being considered by the Assembly.[12]

The Assembly is the co-equal legislative branch of the Municipality of Anchorage. As part of the Municipality, the Assembly has a legitimate and compelling interest in providing legislative oversight of municipal agencies and utilities.[13] In particular, the Assembly has a responsibility to Anchorage residents to ensure that any agreements that purport to legally bind municipal agencies or commit municipal resources are in the public interest.[14] In carrying out its duties, the Assembly is entitled to subpoena documents and to seek the advice of the Assembly Counsel, including outside legal counsel. Under AMC 2.20.065, the Assembly

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11 *See* AMC 2.30.085B.

12 Exhibit 3 at 2; *see, e.g.*, Joe Cadotte, "Litigation Authorized by Assembly Related to Environmental Impact Program for Hydroelectric Project," *Alaska's News Source* (Feb. 23, 2024); Emily Goodykoontz, "Anchorage Assembly Approves Legal Action Over Eklutna Dam Mitigation," *Anchorage Daily News* (Feb. 24, 2024); Jeremy Hsieh, "Anchorage Assembly Seeks 2-Year Extension on Eklutna Lake Fish and Wildlife Plan Process," *Alaska Public Media* (Feb. 6, 2024).

13 *See* Exhibit 3 at 2.

14 *See* Emily Goodykoontz & Alex DeMarban, "What's Behind the Fight Over the Eklutna River," *Anchorage Daily News* (Apr. 18, 2024) ("[T]he Assembly earlier this year learned that the Bronson administration signed a deal with the utilities last October that will govern Anchorage's drinking water rights for 25 years. The agreement, a 'binding term sheet,' was based on the utilities' plan to tap into the city's water supply. It would go into effect if the governor approves the Fish and Wildlife program, city officials have said.").

Counsel is entitled to "full, free and unrestricted access" to all public records and "all activities of the municipal government and its various departments."

Thus, the Assembly had a legitimate interest in reviewing the requested documents and the Subpoena was validly issued.

II. Ms. Helzer Had Notice and Sufficient Time to Comply with the Subpoena.

The Subpoena was served via email to Ms. Helzer on April 16, 2024, and a response was demanded by the next day, April 17 at 5 p.m. Nevertheless, Ms. Helzer had ample time to comply with the Subpoena.

First, Ms. Helzer acknowledged receiving the Subpoena on April 17 at 2:30 p.m., and demonstrated a clear understanding of exactly what documents were described in the Subpoena.[15] There was no need for Ms. Helzer to search for or locate, or conduct a scope review, for any potentially unknown documents prior to complying with the Subpoena. All that was required was for her to send the clearly-identifiable, "readily accessible" documents to the Assembly Counsel via email.[16]

Second, Ms. Helzer was on reasonable notice since at least March 27 that the documents would be subpoenaed. On March 27, the Assembly passed and approved AR No. 2024-103, a resolution authorizing the use of "subpoenas to compel testimony and document production related to the 1991 Fish and Wildlife Agreement (Eklutna

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15 *See* Exhibit 8.

16 Exhibit 8 at 1.

Hydropower Project) or water rights to Eklutna Lake." That resolution was adopted in the context of the Assembly's requests for the documents described in the Subpoena. On March 27, the Assembly subpoenaed the same documents from Municipal Manager Kent Kohlhase and AWWU General Manager Mark Corsentino. The Subpoena should not have come as a surprise. Ms. Helzer had ample time to seek judicial review to limit or quash the Subpoena if she believed that was appropriate.

Third, Ms. Helzer has known since at least the Assembly meeting on February 2, 2024—over two months ago—that the Assembly has repeatedly requested access to and copies of the documents described in the Subpoena. Thus, Ms. Helzer had sufficient time to consult with her clients (municipal agencies and utilities) and any affected third parties regarding her ability to produce the documents to the Assembly.

III. Ms. Helzer Had the Ability to Comply with the Subpoena.

The Municipal Code provides a clear option for any Assembly subpoena recipient to challenge the subpoena's scope: "A person who seeks to quash or limit a subpoena issued pursuant to this section may file an action against the assembly in superior court."[17] Ms. Helzer did not file an action to limit or quash the subpoena, and she should not be permitted to raise those arguments challenging the scope of the

[17] Exhibit 1 at 1 (AMC 2.30.085C).

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Subpoena for the first time in this enforcement action.[18] Regardless, there is no valid legal reason why Ms. Helzer could not have complied with the Subpoena.

A. No Privileges Prohibit the Assembly from Reviewing the Documents.

The Municipal Manager and AWWU General Manager have previously invoked attorney-client privilege over the documents described in the Subpoena. However, the attorney-client privilege does not prevent Ms. Helzer's compliance with the Subpoena. Ms. Helzer has already shared the documents with the Assembly in executive session and with an individual Assembly member, Assembly Counsel, and the Assembly's outside legal counsel. The attorney-client privilege covers the Municipality of Anchorage as a whole, including the Assembly. Thus, because the Assembly is part of the Municipality (the "client"), the Assembly is authorized to review the documents, even if they would otherwise be protected by the attorney-client privilege.

B. The "Common Interest Agreement" Does Not Prohibit Production of the Documents to the Assembly.

In her April 17 response email, Ms. Helzer noted that the documents described in the Subpoena may be "contractually confidential documents." On information and

[18] Allowing subpoena recipients to defy subpoenas and wait for an enforcement action to challenge the validity and scope of the subpoena eviscerates the intent of AMC 2.30.085C and creates a perverse incentive for recipients to defy the Assembly. It is inequitable to allow Ms. Helzer to raise arguments here that could have and should have been raised in an action to limit or quash the Subpoena.

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belief, the Common Interest Agreement (which is a document that is described in the Subpoena) creates a contractual obligation for the Municipality to keep certain "common interest" materials confidential. But because the Assembly is part of the Municipality, the Common Interest Agreement would not prohibit the Assembly from reviewing any confidential documents, including the Common Interest Agreement itself. The stated purpose of the Subpoena is for the Assembly to determine—with the independent advice of the Assembly's legal counsel—whether certain documents described in the Subpoena are covered by the Common Interest Agreement or whether those documents, including the Binding Term Sheet, should be made public.[19]

Finally, during the April 9, 2024 Assembly meeting, Ms. Helzer suggested that she would only produce the documents described in the Subpoena if each Assembly member signed an additional confidentiality agreement. However, the Municipal Attorney has no authority to require Assembly members to sign such an additional confidentiality agreement. The Assembly is a co-equal branch of the Municipality; allowing the Municipal Attorney to dictate the terms in which the Assembly may view municipal agreements or documents clearly violates the doctrine of separation of powers.

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19 *See Anchorage School District v. Anchorage Daily News*, 779 P.2d 1191, 1193 (Alaska 1991) ("[A] public agency may not circumvent the statutory disclosure requirements by agreeing to keep the terms of a settlement agreement confidential. Under Alaska law, a confidentiality provision such as the one in the case at bar is unenforceable because it violates the public records disclosure statutes.").

Importantly, no other Municipal officer or employee has been required to sign an additional confidentiality agreement prior to possessing or viewing the documents described in the Subpoena. Ms. Helzer cannot cite any authority to require the Assembly (or its legal counsel) to sign an additional confidentiality agreement when other Municipal officers and employees are not subject to the same requirement.

IV. Ms. Helzer's Failure to Comply with the Subpoena Was Willful.

The Assembly does not accuse the Municipal Attorney of willful malfeasance lightly, but in this case, there is no question that Ms. Helzer understood the terms of the Subpoena and made an intentional decision not to comply. Ms. Helzer is an attorney and must "act with reasonable diligence and promptness in representing"[20] the Municipality. If Ms. Helzer believed the Assembly's request for compliance by April 22 was unreasonable, she could have, and should have, filed a motion pursuant to AMC 2.30.085C in this court. Simply putting off complying with the Subpoena until her preferred response time was not an option authorized by law.

RELIEF REQUESTED

Normally, a person who is held in contempt of court is subject to punishment, such as fines or imprisonment. Here, the Assembly does not seek to punish Ms. Helzer for her contempt, but instead require immediate compliance with the Subpoena. It is within this Court's discretion to issue the appropriate relief, and the public interest

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20 Alaska R. Prof. Conduct 1.3.

favors a speedy resolution to this issue. A proposed order setting a show-cause hearing pursuant to Rule 90(b) is attached. The proposed order provides that if Ms. Helzer complies with the Subpoena by Friday, April 26, 2024, at 12 noon (Alaska Time), the show-cause hearing will be automatically vacated. The Assembly believes that Ms. Helzer will comply with this Court's instructions in good faith.

CONCLUSION

For the foregoing reasons, this Court should conclude that Ms. Helzer is in contempt by willfully refusing to comply with the Subpoena to produce documents. The appropriate relief at this stage is for this Court to enter an order directing Ms. Helzer to show cause why she should not be punished for the contempt.

DATED: April 24, 2024.

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/s/ Andrew Erickson

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER; ENSTAR NATURAL GAS CO.; PROVIDENCE HEALTH & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.; STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM,	)	Case No. 3AN-24-_____CI RCA Nos. U-18-102/U-19-020/U-19-021

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Appellees.)
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NOTICE OF APPEAL

The Anchorage Municipal Assembly (the "Assembly"), through counsel and pursuant to Alaska Rule of Appellate Procedure 602(c) hereby appeals the Regulatory Commission of Alaska's ("RCA") Order U-18-102(52)/U-19-020(47)/U-19-021(47) dated April 19, 2024. This Notice is accompanied by a Statement of Points on Appeal, the appropriate filing fee, a bond for costs on appeal, a copy of the RCA Order herein appealed, and proof of service on the required parties.

DATED: April 24, 2024.

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/s/ Andrew Erickson

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Subject:	Order U-18-102(52)/U-19-020(47)/U-19-021(47) ML&P - Chugach
Date:	Friday, April 19, 2024 8:04:04 AM

BY THE COMMISSION

Order U-18-102(52)/U-19-020(47)/U-19-021(47)

ORDER REDESIGNATING COMMISSION PANEL; DENYING MOTION TO REOPEN DOCKETS AND MODIFY ORDER NO. 39 DATED MAY 28, 2020; DENYING PETITION TO INTERVENE; DENYING MOTION FOR EXPEDITED CONSIDERATION OF PETITION TO INTERVENE AND MOTION TO REOPEN DOCKET AND MODIFY ORDER 39 DATED MAY 28, 2020; AND ADDRESSING ANCHORAGE ORDINANCES

Background

In 1997, the federal Alaska Power Administration sold the Eklutna Hydroelectric Project (Project) to Matanuska Electric Association, Inc. (MEA), Chugach Electric Association, Inc. (Chugach), and the Municipality of Anchorage (MOA) d/b/a Municipal Light and Power Department (ML&P). Through this transaction MEA obtained a 16.67% undivided ownership interest in the Project, Chugach obtained a 30% undivided ownership interest, and ML&P acquired a 53.33% undivided interest. Under this transaction the utilities operate the Project through the Eklutna Operating Committee (EOC) based upon affirmative votes of at least two of the utilities with a combined Project ownership interest of at least 50%. This transaction was subject to the Fish and Wildlife Agreement, Snettisham and Eklutna Projects, dated August 7, 1991 (Fish and Wildlife Agreement). Under the Fish and Wildlife Agreement, the Eklutna Hydroelectric Project was exempted by law from the Federal Energy Regulatory Commission's jurisdiction in exchange for development of a Project fish and wildlife mitigation plan. This mitigation plan is required to be submitted to the Governor of the State of Alaska for approval, and its approval is supposed to be obtained by October 2, 2024.

Chugach and the MOA entered into an Asset Purchase and Sale Agreement (APSA) under which Chugach acquired most of the assets of ML&P for a substantial acquisition premium over the book value of those assets. Under the APSA the MOA would terminate the employment of all ML&P employees and those employees would be offered employment by Chugach. Among the ML&P assets retained by the MOA was the 53.33% undivided ownership interest in the Eklutna Hydroelectric Project. Chugach and ML&P asked us to approve this APSA. We opened Dockets U-19-020 and U-19-021 to consider the APSA, and then consolidated those dockets with Docket U-18-102. On May 28, 2020, we issued Order U-18-102(44)/Order U-19-020(39)/U-19-021(39) (Order U-18-102(44)) conditionally approving purchase by Chugach of most ML&P assets. One of the conditions we imposed in granting approval of the APSA is stated on page 67 of Order 44 as follows:

> Under these circumstances, we cannot unconditionally find that [the MOA retained electric

utility referred to in Order U-18-102(44) as MHP] is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, **including negotiating compliance with the Fish and Wildlife Agreement**, without MHP having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC. (emphasis added)

On October 30, 2020, the MOA d/b/a ML&P filed notice of surrender of its voting rights on the EOC in conformance with this condition in a manner that allowed the EOC to operate the Project based on unanimous agreement between MEA and Chugach. On October 30, 2020, Chugach filed notice that the transaction set out in the APSA, as modified by Order U-18-102(44) had closed. We closed these dockets with Order U-18-102(51)/U-19-020(46)/U-19-021(46), dated December 23, 2020.

On April 15, 2024, we received in these dockets a filing entitled *Anchorage Assembly's Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020*. On that same date we also received in these dockets filings entitled *Anchorage Assembly's Petition to Intervene*, *Anchorage Assembly's Motion for Expedited Consideration of Petition to Intervene and Motion to Reopen Docket and Modify Order No. 39 Dated May 28, 2020*, and *Affidavit of Andrew Erickson in Support of the Anchorage Assembly's Petition to Intervene; Motion to Reopen Dockets and Modify Order No. 39; & Motion for Expedited Consideration*. On April 17, 2024, we received in these dockets an entry of appearance and statement of non-participation from Homer Electric Association, Inc. and an opposition to the motion for expedited consideration from ENSTAR Natural Gas Company, LLC (ENSTAR). The Anchorage Assembly filed a response to ENSTAR's opposition on April 18, 2024, supported by an affidavit by Christopher Constant, chair of the Anchorage Assembly.

Discussion

Redesignation of Commission Panel

The chairman redesignates the Commission Panel for these dockets. The chairman designates Commissioners John Espindola, Keith Kurber II, and Robert M. Pickett and himself as the Commission Panel. Commissioner Robert M Pickett remains the Docket Manager.

Deny Motion to Reopen Dockets and Modify Order U-18-102(44)

We have reviewed the Anchorage Assembly's motion to reopen these dockets and modify Order U-18-102(44). This motion asserts that the Anchorage Assembly disagrees with the Fish and Wildlife Agreement mitigation plan prepared by MEA and Chugach through the EOC. The Anchorage Assembly seeks through this motion to regain its vote on the EOC in order to delay or prevent submission of the MEA/Chugach approved EOC mitigation plan to the Governor for approval. We

note that the Anchorage Assembly does not assert that the MOA has acquired the expertise required to fully participate as a voting member of the EOC.

We find that the motion to reopen these dockets and modify Order U-18-102(44) is a petition for reconsideration of that portion of Order U-18-102(44) quoted above. Under our regulation at 3 AAC 48.105, any party can petition for reconsideration of an order if the petition is filed within 15 days of the date that the order is issued. Order U-18-102(44) was issued May 28, 2020, and thus any petition for reconsideration of that order was due by June 12, 2020. Had the Anchorage Assembly timely filed a petition for reconsideration of that portion of Order U-18-102(44), we could have either found an alternative solution to the lack of managerial and technical fitness of MHP or we could have rejected the ASPA in its entirety. Now that the transaction under which Chugach acquired most ML&P assets has closed and Chugach has expended considerable resources incorporating those assets into Chugach's operations, that transaction can no longer be undone. Therefore, we deny the *Anchorage Assembly's Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020*, on the ground that it was untimely filed. This denial is without prejudice to the MOA seeking to regain its vote on the EOC under the terms set out in Order U-18-102(44).

We note that under 3 AAC 48.105, only parties to a proceeding can file a petition for reconsideration of an order. It is unclear to us that the Anchorage Assembly was a party to these proceedings, and based on the filing of a petition to intervene by the Anchorage Assembly it appears that the Assembly does not believe that it was a party to these dockets. Given our resolution of the motion to reopen and modify above, we do not need to resolve this issue. We raise it so that the Anchorage Assembly can address it if they choose to seek reconsideration of this order.

Deny Petition to Intervene

Under our regulation at 3 AAC 48.110(a), "[p]etitions for permission to intervene as a party will be considered only in those cases that are to be decided upon an evidentiary record after notice and hearing." The relief that the Anchorage Assembly seeks in these dockets will affect the substantive rights of others and cannot be granted without giving those others a reasonable opportunity to respond. These dockets have been closed for over three years and we have no process under the statutory timelines established by AS 42.05.175 to reopen these dockets and hold another evidentiary hearing. As we cannot schedule another hearing in these dockets, we do not consider the Anchorage Assembly's petition to intervene in these dockets and deny that petition as being moot.

Deny Motion for Expedited Consideration

We have reviewed the Anchorage Assembly's motion for expedited consideration of its motion to reopen these dockets and its petition to intervene. We are issuing this order before the April 25, 2024, decision date requested by the Anchorage Assembly. However, we can only do so because we are denying those pleadings without waiting for input from the parties to these dockets. We agree with the opposition filed by ENSTAR that any other resolution of these pleadings cannot reasonably be accomplished consistent with the requirements of Due Process on the timeline requested by the Anchorage Assembly. Therefore, we deny the Anchorage Assembly's motion for expedited consideration.

Addressing Anchorage Ordinances

Attached to the Affidavit of Andrew Erickson in support of the Anchorage Assembly's pleadings, as Exhibit 2 and Exhibit 10, are ordinances designated as AO No. 2023-131, As Amended December 19, 2023, and AO No. 2024-28, which passed on March 27, 2024, and the Mayor's veto was overridden on April 9, 2024. These ordinances both purport to prohibit submission of the Fish and Wildlife mitigation plan developed by the EOC to the Governor without prior Assembly approval. We remind the Anchorage Assembly of AS 42.05.641, which states:

> The commission's jurisdiction and authority extend to public utilities operating within a municipality, whether home rule or otherwise. In the event of a conflict between a certificate, order, decision, or regulation of the commission and a charter, permit, franchise, ordinance, rule, or regulation of such a local governmental entity, the certificate, order, decision, or regulation of the commission shall prevail.

We required in Order U-18-102(44) that the MOA to surrender its right to vote on the EOC specifically to prevent the MOA from delaying or changing the EOC's Project management decisions, including decisions related to the Fish and Wildlife Agreement, until such time as the MOA convinces us that it has acquired the expertise required to fully participate as a voting member of the EOC. The MOA has failed to make any showing that it has acquired the expertise required to fully participate as a voting member of the EOC, and we have not reinstated the MOA's status as a voting member of the EOC. We inform the Anchorage Assembly that any effort to delay or change EOC Project management decisions by ordinance is void under AS 42.05.641 as being contrary to Order U-18-102(44).

Order

1. Commissioners Robert A. Doyle, John Espindola, Keith Kurber II, and Robert M. Picket are designated as the Commission Panel.

2. *Anchorage Assembly's Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020*, filed in Dockets U-18-102, U-19-020, and U-19-021, on April 15, 2024, is denied.

3. *Anchorage Assembly's Petition to Intervene*, filed in Dockets U-18-102, U-19-020, and U-19-021, on April 15, 2024, is denied.

4. *Anchorage Assembly's Motion for Expedited Consideration of Petition to Intervene and Motion to Reopen Docket and Modify Order No. 39 Dated May 28, 2020*, filed in Dockets U-18-102, U-19-020, and U-19-021, on April 15, 2024, is denied.

DATED AND EFFECTIVE at Anchorage, Alaska this 19th day of April, 2024.

BY DIRECTION OF THE COMMISSION

I electronically notified the following:

Anchorage Assembly - Andrew Erickson (andye@lbblawyers.com)

ML&P -	Dean D. Thompson (ddt@khe.com) Paul J. Jones (pjj@khe.com) Jonathon D. Green (jdg@khe.com)
Chugach -	Donald W. Edwards (donaldwe510@gmail.com) Matthew C. Clarkson (Matthew.Clarkson@chugachelectric.com)
Attorney General -	Jeffrey J. Waller (jeff.waller@alaska.gov) Deborah J. Stojak (deborah.stojak@alaska.gov)
Providence Health & Services -	Jon S. Dawson (jondawson@dwt.com) Craig Gannett (craiggannett@dwt.com) Walker Stanovsky (walkerstanovsky@dwt.com)
Federal Executive Agencies -	Major Scott L. Kirk (scott.kirk2@us.af.mil) Captain Robert J. Friedman (robert.friedman5@us.af.mil)
JL Properties -	William Riley Snell (rsnell@jlproperties.com) Robin O. Brena (rbrena@brenalaw.com) Anthony S. Guerriero (aguerriero@brenalaw.com) Kelly M. Moghadam (kmoghadam@brenalaw.com)
Alaska Native Health Consortium -	Ethan G. Schutt (EGSchutt@ANTHC.org) Tina M. Grovier (tina.grovier@stoel.com) Veronica M. Keithley (veronica.keithley@stoel.com)
MEA -	Kyle W. Parker (kwparker@hollandhart.com) David J. Mayberry (djamyberry@hollandhart.com) Sean R. Parnell (srparnell@hollandhart.com) David Pease (david.pease@mea.coop)
Homer Electric Association, Inc. -	Elisabeth H. Ross (eross@bhb.com)
ENSTAR Natural Gas Company -	John P. Wood (jp@dillonfindley.com) Moira K. Smith (moira.smith@enstarnaturalgas.com)
Alaska Energy Authority -	Curtis Thayer (cthayer@akenergyauthority.org) Kirk Warren (kwarren@akenergyauthority.org) Stefan Saldhanha (stefan.saldanha@alaska.gov)

This order can be reconsidered in its current form within the time established by regulation. Please place a copy of this order in the formal file for these proceedings.

James L. Walker
Administrative Law Judge
Regulatory Commission of Alaska
701 W. 8th Avenue, Suite 300
Anchorage, AK 99501

phone: 907.263.2138
email: jim.walker@alaska.gov

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER; ENSTAR NATURAL GAS CO.; PROVIDENCE HEALTH & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.; STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	)	Case No. 3AN-24-_____CI RCA Nos. U-18-102/U-19-020/U-19-021

STATEMENT OF POINTS ON APPEAL

The Anchorage Municipal Assembly (the "Assembly"), through counsel and pursuant to Alaska Rule of Appellate Procedure 602 submits the following Statement of Points on Appeal.

LANDYE BENNETT BLUMSTEIN LLP
701 WEST EIGHTH AVENUE, SUITE 1100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-5152, FAX (907) 276-8433

1. The Regulatory Commission of Alaska ("RCA") erred in denying the Assembly's Petition to Intervene, dated April 15, 2024, because the Assembly meets the requirements of 3 AAC 48.110(a) and has a statutory right to intervene.

2. The RCA erred in denying the Assembly's Petition to Intervene because the Assembly should have been granted permissive intervention.

3. The RCA erred by misconstruing the Assembly's Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020, as a motion for reconsideration of the RCA's Order U-18-102(44)/U-19-020(39)/U-19-021 ("Order 39").

4. The RCA erred when it denied the Assembly's request to modify Order 39 to allow the Municipality to vote as a member of the Eklutna Operating Committee (the "EOC") for the purposes of implementation of the 1991 Fish and Wildlife Agreement.

5. The RCA erred when it determined that it lacked statutory authority to reopen the dockets referenced in the Assembly's Motion.

6. The RCA's decision was arbitrary, capricious, and an abuse of discretion.

7. The RCA erred when it relied on facts not in the record.

8. The RCA lacked jurisdiction to enter Order 39.

9. Order 39 violates state and federal law.

DATED: April 24, 2024.

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LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

_____

Andrew Erickson, Alaska Bar No. 1605049
Leslie R. Need, Alaska Bar No. 0712113
Jackson Morawski, Alaska Bar No. 2310113

Attorneys for the Appellant Anchorage Assembly

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Charles J. Gunther
Assistant Municipal Attorney
Email: courtdocs@muni.org

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, vs. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	Case No. 3AN-24-05979CI

LIMITED ENTRY OF APPEARANCE

The Municipal Attorney's Office (Civil Division) makes this Limited Entry of Appearance on behalf of Municipal Attorney, Anne R. Helzer, solely to submit the accompanying *Notice of Filing* and attached exhibits marked A-C.

The Municipality of Anchorage requests that all future pleadings and orders pertaining to the Notice of Filing and documents, be forwarded to:

Charles J. Gunther
Municipality of Anchorage
Department of Law – Civil Division
P.O. Box 196650
Anchorage, Alaska 99519-6650
courtdocs@muni.org

MUNICIPALITY OF ANCHORAGE

OFFICE OF THE MUNICIPAL ATTORNEY

P.O. Box 196650
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99519-6650

Telephone: 343-4545
Facsimile: 343-4550

Respectfully submitted this 25th day of April, 2024

ANNE R. HELZER
Municipal Attorney

By: */s Charles Gunther*
Charles J. Gunther
Assistant Municipal Attorney
Alaska Bar No. 9411106

Certificate of Service
I certify that on 4/25/2024 I caused to be hand delivered a true and correct copy of the foregoing to:

Andrew Erickson
Leslie R. Need
Jackson N. Morawski
LANDYE BENNETT BLUMSTEINLLP
701 W. 8th Avenue, #1100
Anchorage, AK 99501

/s Marie Stafford
Marie Stafford, Legal Secretary
Municipal Attorney's Office

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April 25, 2024

Chair Christopher Constant
Anchorage Assembly Leadership
632 West 6th Avenue, Ste. 150
Anchorage, AK 99501
Christopher.constant@anchorageak.gov

To Anchorage Assembly Leadership,

Copies of two documents are attached to this letter: (1) the Binding Term Sheet between Eklutna Owners and AWWU and (2) the Amendment to Binding Term Sheet between Eklutna Owners and AWWU.

The position of the Municipality of Anchorage Department of Law has been consistent: the documents requested by Assembly leadership were privileged under lawyer-client privilege until such time as the affected municipal departments clients waived that privilege. The express language of AMC 2.30.085 is clear that any legislative subpoena is subject to the privileges that may be asserted in Alaska courts. Generally, an attorney cannot waive lawyer-client privilege on behalf of clients.

After the Assembly requested and was permitted to view the Binding Term Sheet during the February 2, 2024 Assembly Executive Session, the MOA successfully obtained a waiver of lawyer-client privilege from all parties holding any privilege. That limited waiver restricted the circumstances under which the MOA was authorized to produce the Binding Term Sheet and Common Interest Agreement to the Assembly. Those circumstances were limited in three ways: (1) review in executive session, (2) private or "in-camera" review, or (3) the members providing sufficient assurances of their intent to maintain the continued confidentiality of the documents. These opportunities for Assembly access to the documents or Assembly were never withdrawn.

On March 27, 2024, the Assembly passed a resolution authorizing Chair Constant to subpoena the Binding Term Sheet and the Common Interest Agreement. Subpoenas were issued to the Municipal Manager and the AWWU General Manager. The Mayor vetoed the resolution that authorized those subpoenas and those subpoenas became ineffective. Despite the ineffectiveness of the subpoenas, the Municipal Manager and the AWWU General Manager both chose to reply informally to the subpoenas to let the Assembly know that the documents were lawyer-client privileged and confidential under an agreement signed in 2017 during a prior administration.

Assembly leadership was again provided the opportunity to review the Binding Term Sheet, the Common Interest Agreement, and the Amendment to Binding Term Sheet (effective March 27, 2024) on April 4, 2024. The only access that was denied to the Assembly was the ability to retain or make copies of the documents without agreeing to maintain the confidentiality of those documents.

The Assembly overrode the veto on April 9, 2024. The Department of Law, the Municipal Manager, and the AWWU General Manager were prepared to respond to renewed subpoenas issued after the Assembly overrode the mayoral veto. However, they expected the subpoenas would continue to be directed to one of the municipal utilities. Instead, Assembly Leadership chose to subpoena the documents from the Anchorage Municipal Attorney. Issuing a subpoena to an attorney directly is unusual. Attorneys hold documents for the purpose of providing legal services to their clients, not on their own behalf.

The subpoena was directed to the Municipal Attorney in her professional capacity and was sent the afternoon of April 16. The subpoena required production of the requested documents the next day, 25 hours

later. In the Municipal Attorney's correspondence with Assembly Counsel, Matthew Hurt, the Municipal Attorney informed him that she was traveling out of state on April 17, 2024 and after attending a prearranged Municipal Lawyer's conference from the 18th through the 21st, she would be attending the United States Supreme Court oral arguments in the *Grants Pass v. Johnson* case on April 22, 2024. Despite indicating that she could not respond until after obtaining a waiver of lawyer-client privilege from all affected parties, the Assembly required production by the close of business on April 22, 2024.

The Municipal Attorney had previously received written statements of non-waiver from Municipal departments. The Municipality also received objections and demand letters regarding the confidentiality provisions from the other parties to the Common Interest Agreement.

Assembly outside counsel emailed the Municipal Attorney at 1:41 a.m. the next morning on April 23, 2024 informing her that Assembly leadership and their outside counsel had intended to file an enforcement action against the Municipal Attorney, which could result in professional discipline before the superior court in her official capacity. The Municipal Attorney responded to that email at 6:39 a.m. informing them that she was still in Washington, D.C. at the U.S. Supreme Court and was leaving D.C. that day to attend a family funeral. She requested, as a professional courtesy, that Assembly outside counsel have a conversation with her in order to clarify some of the open legal issues that needed to be resolved before responding to the subpoena. In that email it was explained that the documents were privileged under lawyer-client privilege and that, as the attorney, she had to first obtain waiver of that privilege from the affected municipal department clients. The Municipal Attorney does not have the ability to waive privilege on behalf of any municipal clients.

Despite the legal action filed against the Municipal Attorney yesterday, the MOA Department of Law has continued to seek waiver of lawyer-client privilege from all necessary parties in a good faith effort to fulfill the Assembly's demand. As of April 25, 2024, 9:11 a.m. (AKDT), in accord with our efforts to obtain waiver, MOA Department of Law has received written waiver of lawyer-client privilege for the attached documents from all necessary parties. Accordingly, attached are copies of (1) the Binding Term Sheet between Eklutna Owners and AWWU and (2) the Amendment to Binding Term Sheet between Eklutna Owners and AWWU.

s/ Anne Helzer
Anne Helzer
Municipal Attorney
Municipality of Anchorage

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Confidentiality Waived – 4/25/2024

Execution Version

BINDING TERM SHEET

WATER FACILITIES INTERCONNECTION AND LONG-TERM WATER TRANSPORTATION SERVICES

EFFECTIVE DATE: OCTOBER 27, 2023

In furtherance of their obligations to implement a Fish and Wildlife Program (defined below) pursuant to the 1991 Agreement,[1] the Eklutna Owners (defined below) desire to transport a portion of the water reserved for hydroelectric production in their Eklutna Hydroelectric Project through the water utility tunnel and pipeline system owned by Anchorage Water and Wastewater Utility for the purpose of establishing instream water flows in the Eklutna River. Anchorage Water and Wastewater Utility is willing to allow its water utility tunnel, pipeline, and other infrastructure as appropriate to be used for this purpose should the Governor of Alaska approve the Fish and Wildlife Program inclusive of the proposed usage of Anchorage Water and Wastewater Utility's infrastructure. In entering into this Term Sheet and the Agreements (as defined below), however, Anchorage Water and Wastewater Utility does not, and shall not, take any position on whether or not using Anchorage Water and Wastewater Utility's infrastructure is the best alternative for establishing instream water flows in the Eklutna River as the foundation of the Fish and Wildlife Program. Instead, Anchorage Water and Wastewater Utility merely states its willingness to allow use of its infrastructure under the agreed terms and conditions, pursuant to a Governor-approved Fish and Wildlife Program. The parties, as Customer and Service Provider as defined below, have investigated the engineering, interconnection, operational, and regulatory requirements necessary for Service Provider to operate water facilities interconnections and long-term water transportation services to Customer and have agreed to the terms set forth below, which will be memorialized in detailed contractual agreements by March 1, 2024, subject to certain conditions precedent. This Term Sheet shall bind the parties as set forth in this Term Sheet and inure to the benefit of the respective successors and permitted assigns of each of the Parties signatory hereto; provided, however, that neither this Term Sheet nor any rights, benefits, obligations or duties hereunder may be assigned, transferred, hypothecated or otherwise conveyed without the prior express written consent of the other Party. Any such purported assignment, transfer, hypothecation or other conveyance without such prior express written consent shall be void.

1. **Eklutna Owners/ Customer**	Chugach Electric Association, Inc., Matanuska Electric Association, Inc., and the Municipality of Anchorage ("***Eklutna Owners***" or collectively, the "***Customer***").
2. **Service Provider**	Anchorage Water and Wastewater Utility ("***Service Provider***" or "***AWWU***", and collectively with Customer, the "***Parties***").

[1] Agreement between the Municipality of Anchorage, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., the United States Fish and Wildlife Service, the National Marine Fisheries Service, the State of Alaska, and the Alaska Energy Authority Relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991 (the "1991 Agreement").

3. **Agreements**	(1) Water Facilities Interconnection Agreement ("***Interconnection Agreement***"); and (2) Long-Term Water Transportation Services Agreement ("***Transportation Agreement***") (collectively with the Interconnection Agreement, the "***Agreements***").
4. **Binding Term Sheet**	The Parties will use commercially reasonable efforts to negotiate and execute the Agreements and associated documentation promptly following the date of this binding Term Sheet ("***Term Sheet***") in accordance with the substantive terms set forth below. Until such time as this Term Sheet is replaced by any such further documentation, or is terminated pursuant to the terms herein, this Term Sheet remains binding on the signatory parties, and memorializes the legal and enforceable rights and obligations of, the Parties. If the Parties fail to enter into the Agreements by March 1, 2024, either Party may terminate this Term Sheet upon thirty (30) days written notice. The Parties also acknowledge that design is in its early stages and that the current concept for development of the Eklutna River Release Facility, and use of the AWWU Facilities (as defined below) may be further refined after the date of this Term Sheet. Accordingly, the substantive terms of this Term Sheet are subject to change during the course of the negotiation of the Agreements due to any material refinement of such designs and neither Party shall be in breach of this Term Sheet by seeking to change said substantive terms to address such material refinements arising out of the design process, provided that in seeking such a change or changes, such Party is operating in good faith to preserve the primary purpose of this Term Sheet that the Customer and AWWU cooperate to use AWWU Facilities to transport water from Eklutna Lake into the Eklutna River as part of the Eklutna Owners' implementation of the Fish and Wildlife Program.
5. **Purpose**	The Parties intend to enter into definitive Agreements, the key terms of which are set forth in this Term Sheet (subject to the right to change said terms due to material refinements in design process provided in Article 4 above), to enable the Eklutna Owners to implement a fish and wildlife program as required by the 1991 Agreement (the "***Fish and Wildlife Program***"), upon approval by the Governor of Alaska. Specifically, the Eklutna Owners intend to reestablish and preserve instream flows of the Eklutna River to implement the Fish and Wildlife Program through

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	two primary mechanisms, and to mitigate the impact of the Fish and Wildlife Program on AWWU's public water system as required under Section 2 of the 1991 Agreement: (1) the construction of the Eklutna River Release Facility (as defined in Section 6 below), to consist of a River Release Structure (as defined below) to be owned and managed by Customer and an Isolation Valve Structure (as defined below) to be owned by Service Provider and managed in part by Service Provider and in part by Customer (as further described herein), all to be interconnected to the existing AWWU Facilities (as defined in Subsection (2) below), which shall be used for the ultimate delivery of water to the Eklutna River; and (2) the use of existing water transportation facilities owned and operated by AWWU on terms defined below, including but not limited to the AWWU Eklutna Lake raw water diversion bypass tunnel and pipeline ("***AWWU Facilities***"), which will allow for the transport of Customer's water from the Injection Point to the Delivery Point defined and described below ("***Water Transportation Services***"). A more detailed overview of the Eklutna River Release Facility is set forth in Appendix A. Appendix A also shows: • the "***Injection Point***" (the existing "T" in the tunnel downstream of the Eklutna power plant intake in Eklutna Lake where the AWWU tunnel begins) at which the custody, control, and risk of loss of water is exchanged from Customer to Service Provider, • the AWWU Facilities, an existing tunnel and pipeline covering a distance of roughly 1.6 miles, • the "***Delivery Point***" (the outlet of a new "T" to be built in the AWWU pipeline downstream of the AWWU tunnel/pipeline transition and upstream of the AWWU portal valve) at which the custody, control, and risk of loss of water is exchanged from Service Provider back to Customer, • A 54-inch gate valve on the main segment of AWWU pipeline intended to provide dual means of

	isolation for AWWU's pipeline segment (the "***AWWU Isolation Valve***"); and • A 42-inch gate valve on the branch segment of AWWU pipeline intended to provide isolation to the river release structure ("***Customer Isolation Valve***", together with the AWWU Isolation Valve, the "***Isolation Valves***"). Accordingly, this binding Term Sheet sets forth key terms of definitive Agreements, wherein the Eklutna Owners desire for (1) the Parties to mutually set forth certain obligations and understandings regarding the development, construction, and operation of the Eklutna River Release Facility, which shall be connected to AWWU Facilities, and (2) compensate AWWU for the provision of Water Transportation Services.
6. **Eklutna River Release Facility Definition**	The "***Eklutna River Release Facility***" shall consist of the proposed Isolation Valve Structure and the River Release Structure. The "Isolation Valve Structure" shall include the tee, the Isolation Valves, controls, and communication technology to be installed in the main line of the AWWU Facilities and owned and operated by Service Provider, provided that Customer shall have coordinated control of the Customer Isolation Valve for maintenance throughout the Delivery Term; and the "River Release Structure" shall include a new pipeline, control valve, the Delivery Point Meter (as defined below) and monitoring and control equipment and will be owned and operated by Customer. The Eklutna River Release Facility shall be designed, engineered, and constructed by Customer, all potentially as shown in Appendix B (the 15% design), which is subject to change and approval by both Parties in all respects during the design and approval stages of project development.
7. **Effective Dates and Conditions Precedent**	The definitive Agreements will become effective upon execution (the "***Execution Date***"), but the construction and operational obligations set forth in the definitive Agreements will become binding upon the Parties only upon the satisfaction of the following conditions precedent (such date, the "***Construction Start Effective Date***"): (1) The Eklutna Owners gain final approval of their Fish and Wildlife Program by the Governor of Alaska that requires use of AWWU Facilities as contemplated in this

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	Term Sheet without any conditions materially adverse to the Eklutna Owners or AWWU, as determined in good faith and in the exercise of commercial reasonable business judgment, and that such Eklutna Owners' Fish and Wildlife Program and the Governor's final approval is not subject to any pending judicial review or appeal; (2) The Eklutna Owners obtain all permits necessary to construct the Eklutna River Release Facility; and (3) The Eklutna Owners obtain or provide evidence of lawful Certificates of Appropriation from the Alaska Department of Natural Resources for the use and transport of water as contemplated under the Transportation Agreement, including but not limited to an amendment of existing water rights or other approval(s) authorizing a change of use allowing Eklutna Owners' use of a portion of their certificated water right to establish and continue instream flows. The Eklutna Owners will commence final engineering and construction of the Eklutna River Release Facility on the Construction Start Effective Date, and endeavor to complete construction within a reasonable time to be defined in the Agreements following the Governor's approval in a manner consistent with the approved Fish and Wildlife Program and the 1991 Agreement. The obligations to provide and take Water Transportation Services shall begin when the Eklutna Owners achieve Commercial Operation of the Eklutna River Release Facility. "***Commercial Operation***" means, with respect to the Eklutna River Release Facility, that all construction, testing and operational conditions have been fulfilled as evidenced by a certificate from a licensed professional engineer.
8. **Term**	The Agreements shall continue for 35 years from the Commercial Operation date (the "***Delivery Term***"), unless terminated earlier in accordance with the terms thereof. The "***Term***" of the Agreements shall begin on the Execution Date and continue until the expiration of the Delivery Term. At the conclusion of the Term, the Agreements shall thereafter renew on a year-to-year basis, unless terminated earlier in accordance with the terms hereof.

9. **Interconnection Agreement**	Commencing on Effective Date, the Parties shall take all commercially reasonable efforts to develop the Eklutna River Release Facility pursuant to the Interconnection Agreement, which shall include, but not be limited to, the following terms: a. **Customer Responsibilities.** Following the Effective Date, the Customer shall be responsible, solely at its own expense, to (i) design, engineer, permit, and construct the Eklutna River Release Facility to meet the layout and design criteria as presented in Appendix B (15% design), which may be updated and refined from time to time hereafter; for the avoidance of doubt, this shall include all transmission, power, and communication facilities associated with construction; (ii) provide to Service Provider the design drawings pertaining to the Eklutna River Release Facility and any updates to the specifications for the Service Provider's review and approval; (iii) obtain all real property interests necessary for the construction, operation, and maintenance of the Eklutna River Release Facility; (iv) complete all permitting and environmental impact studies necessary for the construction, operation, and maintenance of the Eklutna River Release Facility; (v) acquire and maintain all governmental authorizations and other necessary Approvals for the design, construction, commissioning, ownership, operation, and maintenance of the Eklutna River Release Facility; achieve all milestones to be set forth in a definitive Interconnection Agreement; (vi) construct the Eklutna River Release Facility; (vii) construct security facilities (e.g., fencing, [cameras]) surrounding the Eklutna River Release Facility; (viii) enable Service Provider to have access at all times, (ix) operate the River Release Structure, which is connected to the Isolation Valve Structure at the Delivery Point, and (x) operate the Customer Isolation Valve for maintenance in close coordination with Service Provider. Upon commissioning, the Customer will provide the Service Provider with all as-built/record drawings and operation/maintenance documentation for all constructed facilities.

	b. **Service Provider Responsibilities**. Following the Effective Date, Service Provider shall be responsible to (i) provide assistance and cooperation to all reasonable requests of Customer regarding the design, engineering, permitting, construction, installation, testing, start-up and commissioning of the Eklutna River Release Facility (including timely written review and approval of Customer's design and engineering), and on obtaining and maintaining all governmental authorizations and third party owned real property interests necessary for the construction, operation, and maintenance of the AWWU Facilities to the Delivery Point, and (ii) operating the AWWU Facilities and the Isolation Valve Structure, but in such a way that allows Customer to access and operate the Customer Isolation Valve for maintenance on a coordinated basis. Service Provider shall further agree to not suspend or otherwise halt access to the AWWU Facilities during the period of construction, except to the extent needed to address reasonable security or safety issues and to avoid putting AWWU's water supply at risk of interruption or contamination. The foregoing responsibilities described in this Subsection b are referred to herein as the "***Service Provider Responsibilities***". c. **Development Costs**. The Customer shall be solely responsible for and shall pay all costs and expenses incurred in connection with performing the responsibilities necessary to build the Eklutna River Release Facility; Customer shall reimburse Service Provider for its actual costs related to or arising out of the development and construction of the Eklutna River Release Facility and related Service Provider Responsibilities, including but not limited to documented direct and indirect costs, overhead, general and administrative costs, staff time, and all other costs related to or arising out of the planning, engineering and project management associated with Eklutna River Release Facility and Service Provider Responsibilities, provided that Service Provider shall use commercially reasonable efforts to minimize such costs.

	d. **Tie-In / Installation Costs.** Customer will be responsible for, and will pay or reimburse Service Provider, all costs required to connect the Eklutna River Release Facility to the AWWU Facilities; provided that, for any easements or other rights-of-way or land use permits required on AWWU-owned land to so connect AWWU Facilities to Eklutna River Release Facility, Service Provider shall provide such easements at a reasonable or no cost to Customer. To the extent necessary but not held by AWWU, Customer shall be solely responsible for obtaining and paying for any and all easements, rights-of-way, or land use rights from third parties which are necessary for the connection of the River Release Structure to the AWWU Facilities through the Isolation Valve Structure. Connection costs include but are not limited to engineering, soil testing, site preparation, demolition, implementation of civil work, mechanical improvements, structural upgrades, piping, electrical improvements, instrumentation and controls upgrades, communications improvements, safety, fire protection, environmental testing, equipment rentals, permitting, and construction support.
10. **Transportation Agreement**	Commencing on Commercial Operation, AWWU shall perform, and the Customer shall take, on an exclusive basis, the Water Transportation Services pursuant to the Transportation Agreement, which shall include, but are not limited to, the following terms: a. **Amount.** During the Delivery Term Service Provider shall transport Customer's water from the Injection Point to the Delivery Point commingled with and undifferentiated from Service Provider's raw water deliveries to the Eklutna Water Treatment Facility ("***EWTF***"). At the Delivery Point, Customer's water (not intended for municipal water) supply may be released to the Eklutna River through the Eklutna River Release Facility. Control valves in the Eklutna River Release Facility downstream of the Delivery Point will be used to set the rate of release of Customer water to the Eklutna River, in accordance with a predetermined dynamic delivery schedule established in the final Fish and Wildlife Program

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documentation. The total amount released will be measured by flow meters at the Delivery Point by the Delivery Point Meter (as defined below). The maximum daily rate of conveyance (the "***Contract Maximum***") will be determined based on hydraulic analysis of the AWWU Facilities and the Eklutna River Release Facility under various operating scenarios. The maximum daily flow available at the Eklutna River Release Facility will not inhibit the ability to deliver a flow rate of at least 41 MGD to the EWTF at a pressure sufficient to allow normal operation of the EWTF as currently configured, or exceed the hydraulic capacity or design criteria of the AWWU Facilities. The Contract Maximum shall be reduced as a result of any Excused Events, force majeure or other unforeseen outages or conditions.

b. **Control.** The AWWU Facilities shall be solely operated, managed, and maintained by Service Provider or its designee materially in accordance with all governmental authorizations and in accordance with applicable law, prudent industry practices, the most current editions of the AWWU Design and Construction Practices Manual, Municipality of Anchorage Standard Specifications and Anchorage Municipal Code, provided that as part of such operation, management and maintenance, Service Provider shall cooperate and provide access as needed to Customer for Customer's operation, management, and maintenance of Customer Isolation Valve on a coordinated basis.

c. **Costs and Exchange of Services.** All costs of water transportation, operations, management and maintenance borne by AWWU (including but not limited to the use of the AWWU Facilities, the tee and the valves described above) will be exchanged on an equal basis for AWWU's continued use of the Customer's intake, hydrotunnel and any other facilities necessary to supply water from the Eklutna Lake to the AWWU tunnel and related water transportation, operations, management and maintenance costs borne by Customer.

	d. **Operating Procedures and Coordination.** Service Provider shall, at Customer's expense, develop proposed written operating procedures for the provision of Water Transportation Services (the "***Operating Procedures***") in close coordination with the Customer as set forth in the Transportation Agreement. The Operating Procedures shall include the Parties' respective obligations for the following considerations: (i) method of day-to-day communication and reporting; (ii) key personnel lists for Service Provider and Customer; (iii) reasonable coordination regarding timing of planned outages; (iv) reporting of emergencies, planned outages and forced outages of AWWU Facilities; (v) reporting of curtailment periods; (vi) ongoing reporting of metered quantities measured at the Delivery Point and Injection Point; and (vii) reasonable coordination regarding requisite permits and all other necessary federal, state, and local Approvals; and (viii) a clear statement of operational priority of the Service Provider's public water supply.
11. **Title**	Control, custody, and risk of loss, of the Customer's water shall transfer to Service Provider between the Injection Point and the Delivery Point. Control, custody, and risk of loss, of the Customer's water shall then revert back to the Customer once the water is delivered to the Customer at the Delivery Point. For the avoidance of doubt, the Customer, as holders of water rights certificate ADL 44944, shall retain title at all times to all its water transported by Service Provider. The AWWU Facilities shall remain the property of AWWU; the Eklutna River Release Facility downstream of the Delivery Point will be owned by the Customer; the Isolation Valve Structure will be owned by AWWU, provided that Customer shall have coordinated control of the Customer Isolation Valve for maintenance throughout the Delivery Term. The Parties shall collaborate in good faith to determine the exact demarcation of ownership of the new facilities in the Interconnection Agreement.
12. **Public Water Supply Agreement and Water Rights Application**	a. **Public Water Supply Agreement.** As part of the negotiations of the Agreements, the Parties shall negotiate a new agreement to replace the Agreement for Public Water Supply and Energy

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	Generation from Eklutna Lake, Alaska, dated February 17, 1984 ("***1984 Agreement***"), as amended, which expires in 2025. The 1984 Agreement and the new agreement are required by Alaska state law, AS 46.15.150, which permits AWWU's preferred water use status only if AWWU agrees to compensate Customer, who holds a senior water right to AWWU, for damages sustained by the preferred use. Such new agreement replacing the 1984 Agreement shall provide that the Service Provider shall: (i) as required under AS 46.15.150, continue to compensate the Customer (or any individual Eklutna Owner, as applicable) for water or replacement energy and use of Customer's facilities pursuant to substantially similar terms as those included in the 1984 Agreement; provided, however, that (x) AWWU's compensation shall be capped at $600,000 per year, which amount shall be adjusted annually to reflect inflationary changes as reflected in Bureau of Labor Statistics' Consumer Price Index (CPI-U) and such compensation payments shall end upon AWWU obtaining priority water rights from Customer pursuant to Subsection b of this Section 12 below or otherwise, (y) such AWWU payments shall be payable to Chugach; and (z) all other costs and losses attributable to AWWU's decreased compensation shall be netted out of the Municipality of Anchorage's (MOA's) ownership share of the water used in the Eklutna Project pursuant to provisions in the two power purchase agreements among the Eklutna Owners, effective October 30, 2020, (ii) be entitled to continued use of the Customer's intake, hydrotunnel and any other facilities necessary to supply water to the AWWU Facilities, so long as such facilities are being used by the Eklutna Owners to generate power for the Eklutna Hydroelectric Project

(iii) receive a first right of refusal to purchase the Customer's intake, hydrotunnel and any other of the Customer's facilities necessary to supply water to the AWWU Facilities in the event Customer's power production facilities are permanently shut down, and

(iv) have the right to approve any successor to Customer as operator of the Eklutna River Release Facility, provided that such approval will not be unreasonably withheld, conditioned, or delayed.

The term of the new agreement replacing the 1984 Agreement shall begin upon approval of the Fish and Wildlife Program by the Governor of Alaska and shall continue through October 30, 2060; provided, however, that in the event that litigation or other legal challenges lead to a final Fish and Wildlife Program that does not include the use of the AWWU Facilities for instream flows as contemplated in this Term Sheet, the new agreement replacing the 1984 Agreement shall be terminated and AWWU and the Eklutna Owners shall meet in good faith to negotiate a replacement agreement with terms and conditions then deemed appropriate, including compensation, risk mitigation, transfer or purchase of priority water rights, etc.

b. **Water Permit and Certificate Application.** Customer acknowledges and agrees that Service Provider has a permit for preferred water use for up to 41 million gallons per day for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823; Alaska Statutes 46.15.150(a), LAS 2569, and Certificate of Appropriation ADL 44944, and the 1984 Agreement and its successor agreement. Customer acknowledges that the Service Provider's water permit provides for public water supply priority and preference for Service Provider's permitted water rights. In addition, upon the earlier of October 31, 2055 or the MOA's sale of its interests in the Eklutna Project, AWWU may exercise an option to exchange its rights for preferred water use for public water supply for an equal portion of Eklutna Owners' priority state

	water rights (i.e., Certificate of Appropriation ADL 44944), but not to exceed 41 million gallons per day, by quitclaim deed (or other then-acceptable means of transfer); provided (i) AWWU must issue notice of its intention to exercise such option no later than October 30, 2050 (which date aligns with a purchase option related to the Eklutna Project in a power purchase agreement among the Eklutna Owners); (ii) no additional compensation will be due from AWWU to the Eklutna Owners; and (iii) adjustments among the Eklutna Owners to accommodate AWWU's rights will be handled separately.
13. **Measurement and Metering**	Water shall be measured at the Injection Point by an existing flow meter in the AWWU Facilities (the "***Injection Point Meter***"). Water shall be measured at the Delivery Point by a new meter installed as part of the River Release Structure (the "***Delivery Point Meter***"). Delivery Point Meter measurements shall be used to calculate the amount of water received by Customer, but both Parties shall have real-time information as to such metering measurements. Reports for both the Delivery Point Meter and Injection Point Meter shall be included in a report by the Customer for each Month throughout the Delivery Term and shared with AWWU on a monthly basis.
14. **Taxes**	Customer shall be responsible for and shall pay any sales, use, gross receipts, occupation, and other taxes (excluding income, and franchise tax imposed upon Service Provider) from time to time payable as a consequence of the Interconnection Agreement and provision of Water Transportation Services.
15. **Standard of Performance; Obligations re Facilities.**	a. During the Term, the Customer shall cause the Eklutna River Release Facility to be constructed, operated, maintained, permitted and serviced in accordance with all prudent industry practices, applicable law, and the Interconnection Agreement. During the Term, Service Provider will cause the AWWU Facilities to be constructed, operated, maintained, permitted and serviced in accordance with all prudent industry practices, applicable law, and the Transportation Agreement.

	Both Parties shall use commercially reasonable efforts to ensure that all employees and contractors engaged in connection with the maintenance, operation, service, and any future modification (to include design, construction, commissioning, and installation) to have the appropriate and necessary experience and skill, and expertise to carry out the tasks efficiently, professionally, and in accordance with prudent industry practice and applicable law. b. Customer shall, in its sole discretion, develop and implement at its own expense an alternative method, plan, or procedures for dealing with emergencies, maintenance, and other planned or unplanned shutdowns or partial shutdowns of the Eklutna River Release Facility, the AWWU Facilities, or any of the Customer's intake, hydrotunnel or other facilities needed for the public water supply, provided that Service Provider (i) in the case of all non-emergency shutdowns, follows the schedules and protocols to be developed pursuant to Subsection c, (ii) in the case of emergency shutdowns, (a) uses best efforts to first address the situation in such way that does not involve a shutdown that would affect the Water Transportation Services; (b) provides as much notice as is practicable prior to any shutdown that will affect the Water Transportation Services; and (c) uses best efforts to minimize the duration of such shutdown. c. Customer and Service Provider shall develop a schedule and protocol for routine planned shutdowns in order to allow for maintenance and inspection activities in their respective facilities to occur in a coordinated manner that minimizes impacts on Service Provider's utility water supply obligations and Customers' obligations under the Fish and Wildlife Program. Such schedule and protocol shall take into account routine hydropower operations to ensure that planned shutdowns only be scheduled at times when there is sufficient water available in Eklutna Lake to allow water releases through the maintenance gate of the diversion dam in the amounts necessary for Customer to meet its obligations under the Fish and Wildlife Program.

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16. **Site Access License**	Service Provider shall provide Customer with a non-exclusive license for the purpose of installation, operation and maintenance of certain equipment, meters and other facilities owned by Customer and reasonable access thereto during the term of the Agreements and a reasonable right to enter upon Service Provider's property for all other purposes contemplated under the Agreements, subject to the reasonable scheduling and security requirements. Customer acknowledges that it may need to seek a site access license from one or more third parties in order to secure access the site.
17. **Road and Bridges**	Service Provider shall be responsible at its own expense for brushing, clearing and maintaining its access road along the AWWU Facilities, both above and below the Isolation Valve Structure. Customer may use such access road as part of its site license granted pursuant to Section 16. At eight (8) locations where such access road crosses the Eklutna River, and which are currently only accessible by ford-style crossings, Customer shall be responsible for installing at its own expense new bridges allowing the access road to cross the Eklutna River. Once installed, Service Provider shall perform, or cause to be performed, all maintenance of the bridges. The cost of such bridge maintenance shall be borne by Service Provider unless such cost is caused, directly or indirectly, by the Customer's negligence or intentional misconduct.
18. **EWTF Power Production**	Service Provider shall continue to be compensated for excess power it produces at the EWTF and delivers to Matanuska Electric Association ("***MEA***") pursuant to terms consistent with the terms of 1984 Agreement, as amended, and the terms of MEA's tariff for purchasing cogenerated power.
19. **Excused Events**	The Parties shall negotiate and include terms related to forced or planned outages or in response to any force majeure event, emergency, or other condition determined by Service Provider in its reasonable discretion to be a threat to any of the AWWU Facilities requiring interruption or reduction of flow to Customer. An Interruption or curtailment in these cases shall be known as an "***Excused Event***" in the Agreements. It is understood that the exercise of an Excused Event will be in accordance with Agreements, Operating Procedures, and in close coordination between Parties and (i) Customer shall not interfere with or otherwise adversely affect Service

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	Provider's provision of water service as a public utility, unless any such Excused Event is closely coordinated with Service Provider, and (ii) Service Provider shall not interfere with or otherwise adversely affect Customer's provision of water for instream flows pursuant to the 1991 Agreement, unless any such Excused Event is closely coordinated with Customer or, if close coordination is not possible, coordination as soon as is reasonable under the circumstances.
20. **Force Majeure**	The Agreements shall contain customary definitions of force majeure events. Neither Party shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a force majeure event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure event shall take all commercially reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require acceleration of labor supply or resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of the Agreements if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a force majeure event. The occurrence and continuation of a force majeure event shall not suspend or excuse the obligation of a Party to make any payments due hereunder.
21. **Liability**	No party to the Agreements shall be liable for any consequential, incidental, indirect, special, or punitive damages with respect to the construction of the Eklutna River Release Facility. Except for a Party's (i) gross negligence or willful misconduct, (ii) third-party indemnity obligation, or (iii) breach of any representation or warranty, the party's maximum liability under the Agreements shall be equal to amount to be set forth in the definitive Agreements.

22. **Governmental Approvals**	Service Provider shall be responsible for obtaining and maintaining all permits, waivers, licenses, authorizations, and governmental approvals ("***Approvals***") required for the operations, maintenance, and management of the AWWU Facilities. The Customer shall be responsible for obtaining and maintaining all Approvals required for the construction, operations, and maintenance of the Eklutna River Release Facility, and Customer shall obtain or provide evidence of lawful Certificates of Appropriation from the Alaska Department of Natural Resources for the use and transport of water as contemplated under the Transportation Agreement, including but not limited to an amendment of existing water rights or other approval(s) authorizing a change of use allowing Eklutna Owners' use of a portion of their certificated water right to establish and continue instream flows. Service Provider shall not object or interfere with Customer's application for such amendment of Customer's water rights. The Parties shall use commercially reasonable efforts to cooperate with each other in obtaining and retaining the foregoing Approvals and water rights amendment.
23. **Governing Law**	This Term Sheet and the Agreements shall be interpreted, construed, and enforced in accordance with, and otherwise governed in all respects by, the laws of the State of Alaska.
24. **Confidentiality**	a. The Parties agree that this Term Sheet, the contents therein, and negotiations of the Agreements shall remain confidential subject to the Common Interest Agreement, dated effective September 15, 2017, as amended and confirmed. Upon execution, however, the Agreements shall become non-confidential, subject to Subsections b-c below. b. The Parties agree that any public release of the Agreements and the Term Sheet, each after execution, shall be the sole responsibility of Customer, and until that date upon which the Fish and Wildlife Program is approved without any pending judicial review or appeal, any public statements to be made by AWWU about the Fish and Wildlife Program or the proposals contained therein, including but not limited to about the use of AWWU infrastructure to transport water into the Eklutna River must first be approved by the Eklutna Owners, such approval not to be unreasonably withheld or

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	delayed. For the purposes of any public release of such information, the Municipality of Anchorage and not AWWU, shall represent the Municipality of Anchorage in its role as an Eklutna Owner. Notwithstanding the foregoing, Service Provider may respond to any inquiries from the Municipal Assembly, RCA, and other regulatory and judicial authorities in a manner consistent with this Term Sheet and the Agreements. c. Service Provider shall make best efforts to ensure that all of the employees, agents, contractors and consultants of AWWU do not engage in activities as employees or agents of AWWU, including making public statements, that are reasonably likely to have an adverse effect on the public's perception of the Fish and Wildlife Program and the proposals contained therein, including but not limited to about the use of AWWU infrastructure to transport water into the Eklutna River, it being understood by both AWWU and the Eklutna Owners that such negative public statements can undermine the ability of the Eklutna Owners to satisfy their obligations under the 1991 Agreement; provided, however, that Service Provider cannot restrict the rights of such people as private citizens.
25. **Representations and Warranties**	Service Provider and the Customer shall provide customary representations and warranties, including (without limitation): due organization and good standing; due authorization, execution, and delivery; enforceability; solvency; and no conflicts.
26. **Indemnification**	Service Provider and the Customer shall provide customary reciprocal third-party indemnities for (i) any breach by such party of the Agreements, or (ii) its negligence or willful misconduct. Customer shall also indemnify and defend, and hold Service Provider harmless from any damage to AWWU's infrastructure, including but not limited to its infrastructure downstream from the Eklutna River Release Facility (*i.e.*, scouring or erosion of the river bed or banks that damages AWWU's water line and/or facilities). Customer shall further be solely responsible for, and shall indemnify, defend and hold Service Provider harmless from all claims or liability of any kind directly related to fish and wildlife mitigation measures and arising out of normal operation of the AWWU Facilities, the

	Eklutna River Release Facility or any other facilities of the Service Provider, in a manner consistent with the definitive Agreements, prudent industry practices, the most current editions of the AWWU Design and Construction Practices Manual, Municipality of Anchorage Standard Specifications and Anchorage Municipal Code unless such claim or liability arose directly out of negligence, violation of law, or intentional misconduct by the Service Provider.
27. **Insurance**	During the Term, each Party shall maintain, at its own cost and expense, such insurance as shall be determined by the Parties in the Agreements. Notwithstanding the foregoing, Service Provider shall at all times during the Term maintain insurance coverage in compliance with Applicable Law in connection with the provision of Water Transportation Services.
28. **Other Terms**	The definitive Agreements will contain other usual and customary terms for transactions of a similar nature to those addressed thereby.
29. **Counterparts**	The Term Sheet may be executed by a number of counterparts, each of which shall be deemed an original, and all of which, together, shall constitute a single agreement.

[Signature page follows]

Confidentiality Waived – 4/25/2024

Execution Version

SERVICE PROVIDER/AWWU:

ANCHORAGE WATER AND WASTEWATER UTILITY,
A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By: Kent Kohlhase
Name: Kent Kohlhase
Title: Municipal Manager
and

By:
Name: Mark Corsentino
Title: General Manager

CUSTOMER/EKLUTNA OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By: Andrew Laughlin
Name: Andrew Laughlin
Title: Chief Operating Officer

MATANUSKA ELECTRIC ASSOCIATION

By:
Name: Tony R. Zellers
Title: Director, Power Supply

MUNICIPALITY OF ANCHORAGE

By:
Name: Kolby Hicks
Title: Deputy Municipal Manager

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Execution Version

EXHIBIT A

OVERVIEW OF EKLUTNA OWNERS' INSTREAM FLOW PROJECT

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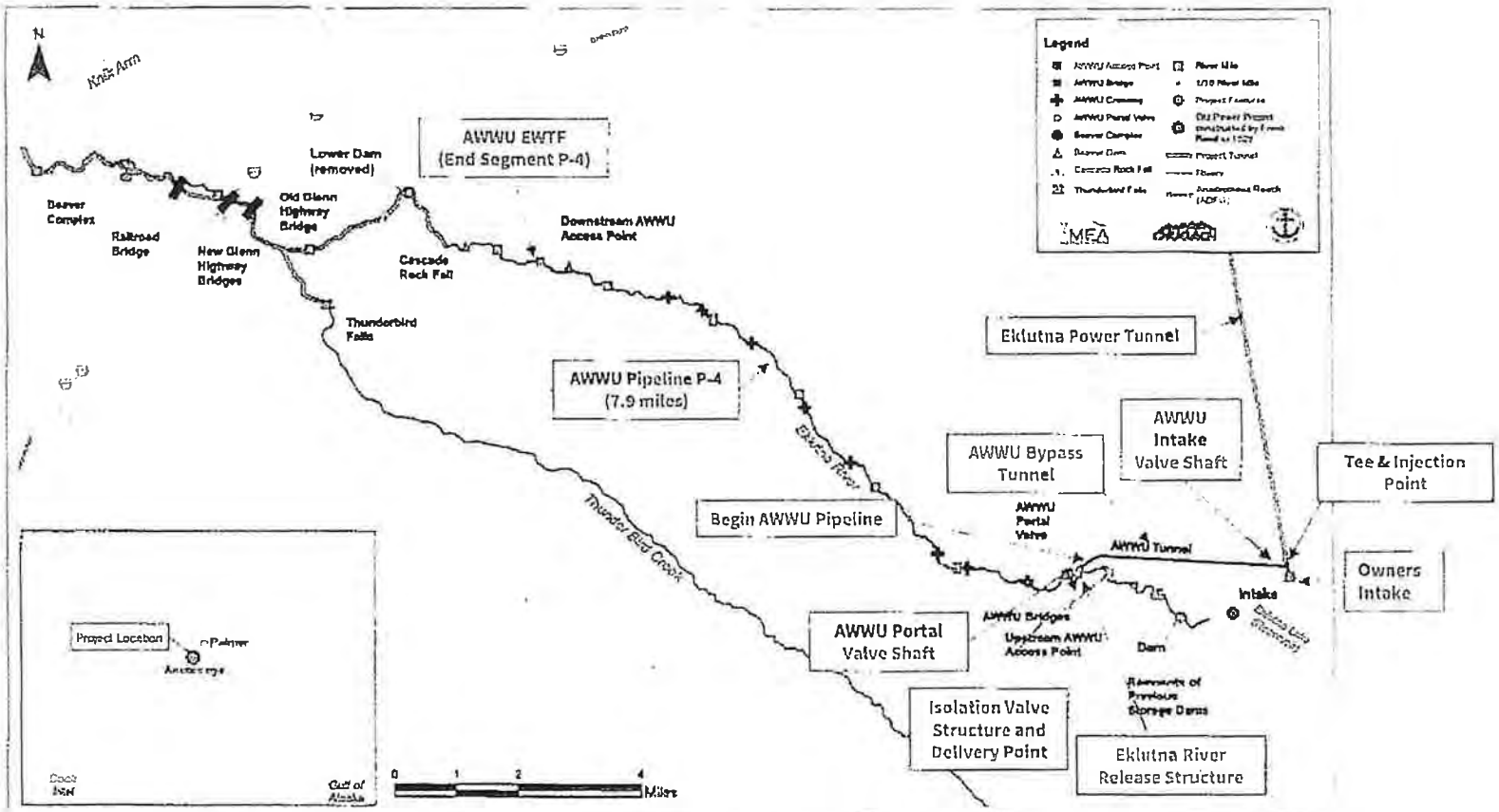
Overview



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Execution Version

EXHIBIT B

EKLUTNA RIVER RELEASE FACILITY

CHUGACH
POWERING ALASKA'S FUTURE

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

McMillen

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
ANCHORAGE, ALASKA

15% DESIGN
OCTOBER 2023

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY
15% DESIGN

LOCATION MAP
NTS

VICINITY MAP
NTS

FACILITY MAP
NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

LOCATION MAP, VICINITY MAP, AND FACILITY MAP

DESIGNED S. ELLENSON
DRAWN F. HAGER
CHECKED J. BOAG
PROJECT MGR 10/6/23

DRAWING
G001

DRAWING INDEX			
15% SUB*	SHEET NO.	DWG NO.	DESCRIPTION
			GENERAL
			COVER SHEET
X	1	G001	LOCATION MAP, VICINITY MAP, AND FACILITY MAP
X	2	G002	DRAWING INDEX
X	3	G003	STANDARD ABBREVIATIONS
X	4	G004	STANDARD SYMBOLS
X	5	G005	PIPING SCHEDULE
X	6	G006	INSTRUMENTATION AND EQUIPMENT LEGEND
			DEMOLITION
X	7	D001	DEMOLITION KEY PLAN
X	8	D100	PORTAL VALVE SHAFT YARD DEMOLITION PLAN
			CIVIL
X	9	GC001	CIVIL GENERAL NOTES AND STANDARD DETAILS
X	10	C001	PORTAL VALVE SHAFT YARD EXISTING SITE PLAN
X	11	C100	PORTAL VALVE SHAFT YARD GRADING PLAN
			STRUCTURAL
X	12	GS001	STRUCTURAL GENERAL NOTES
X	13	GS002	STRUCTURAL STANDARD DETAILS 1
X	14	GS003	STRUCTURAL STANDARD DETAILS 2
X	15	S001	STRUCTURAL KEY PLAN
X	16	S100	ISOLATION VALVE STRUCTURAL PLAN, SECTIONS, AND DETAILS
X	17	S101	ISOLATION VALVE STRUCTURAL SECTIONS
X	18	S200	RIVER RELEASE STRUCTURE PLAN,SECTIONS AND DETAILS
X	19	S201	RIVER RELEASE STRUCTURE SECTIONS
			MECHANICAL
X	20	GM001	MECHANICAL EQUIPMENT SCHEDULE
X	21	GM002	MECHANICAL STANDARD DETAILS
X	22	M001	MECHANICAL KEY PLAN
X	23	M100	ISOLATION VALVE STRUCTURE MECHANICAL PLAN
X	24	M101	ISOLATION VALVE STRUCTURE MECHANICAL SECTIONS
X	25	M200	RIVER RELEASE STRUCTURE MECHANICAL PLAN, SECTIONS
			ELECTRICAL
X	26	GE001	ELECTRICAL ABBREVIATIONS AND DEVICE INDEXES
X	27	GE002	ELECTRICAL STANDARD SYMBOLS 1
X	28	GE003	ELECTRICAL STANDARD SYMBOLS 2
X	29	E001	ELECTRICAL SITE AND KEY PLAN
	30	E002	COMMUNICATIONS BLOCK DIAGRAM
X	31	E003	TRANSMISSION AND COMMUNICATION UPGRADES PLAN
X	32	E100	ISOLATION VALVE STRUCTURE ELECTRICAL PLAN
X	33	E200	RIVER RELEASE STRUCTURE ELECTRICAL PLAN AND SECTION

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
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IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH | MEA Matanuska Electric Association | Municipality of Anchorage

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
DRAWING INDEX

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT MGR 10/6/23

DRAWING
G002

A/C	AIR CONDITIONING
A/E	ARCHITECT/ENGINEER
A	ARCHITECTURAL (DWG DISCIPLINE), AMP
AB	ANCHOR BOLT
ABC	AGGREGATE BASE COURSE
ABAN	ABANDON
AC	ALTERNATING CURRENT
ACST	ACOUSTIC
AD	ADDENDUM, AREA DRAIN
ADDL	ADDITIONAL
ADH	ADHESIVE
ADJ	ADJUSTABLE, ADJACENT
AF	AMP FRAME, AMP FUSE
AFF	ABOVE FINISH FLOOR
AFG	ABOVE FINISH GRADE
AGGR	AGGREGATE
AIC	AMPS INTERRUPTING CAPACITY
ALIG	ALIGNMENT
ALUM	ALUMINUM
ALT	ALTERNATE, ALTITUDE
AMB	AMBIENT
ANC	ANCHOR
AP	ACCESS PANEL
APRX	APPROXIMATE
APVD	APPROVED
ARCH	ARCHITECTURAL
ASSY	ASSEMBLY
AT	AMP TRIP
ATM	ATMOSPHERE
AUTO	AUTOMATIC
AUX	AUXILIARY
AVE	AVENUE
AVG	AVERAGE
AWG	AMERICAN WIRE GAGE
AWWU	ANCHORAGE WATER AND WASTEWATER UTILITY
B/B	BACK TO BACK
BAL	BALANCE
BBD	BULLETIN BOARD
BC	BASE CABINET, BOTTOM CHORD, BOLT CENTER, BOLT CIRCLE
BD	BOARD
BE	BOTH ENDS, BELL END
BF	BOTH FACES, BOTTOM FACE, BLIND FLANGE, BOARD FEET
BFV	BUTTERFLY VALVE
BITUM	BITUMINOUS
BKG	BACKING
BL	BASE LINE
BLDG	BUILDING
BLK	BLOCK
BLKG	BLOCKING
BM	BENCHMARK, BEAM
BOC	BACK OF CURB
BOD	BOTTOM OF DUCT
BOG	BOTTOM OF GRILLE
BOL	BOTTOM OF LOUVER
BOP	BOTTOM OF PIPE
BOR	BOTTOM OF REGISTER
BOT	BOTTOM
BOU	BOTTOM OF UNIT
BP	BASE PLATE
BRG	BEARING
BRGP	BEARING PLATE
BRKT	BRACKET
BS	BOTH SIDES
BTU	BRITISH THERMAL UNIT
BTW	BETWEEN
BTWLD	BUTT WELD
BV	BALL VALVE
BW	BOTH WAYS
BYP	BYPASS
C TO C	CENTER TO CENTER
C&G	CURB & GUTTER
C	CHANNEL SHAPE, CENTIGRADE, CONDUIT, CIVIL (DRAWING DISCIPLINE)
CAB	CABINET
CAP	CAPACITY
CAT	CATALOG
CAV	CAVITY
CB	CATCH BASIN
CCB	CONCRETE BLOCK
CCW	COUNTER CLOCKWISE
CF	CUBIC FEET (FOOT)
CHFR	CHAMFER
CHD	CHORD
CHH	COMMUNICATION HANDHOLE
CI	CURB INLET
CIP	CAST-IN-PLACE
CIPB	CONCRETE INTERLOCKING PAVER BALLAST
CIRC	CIRCULATION, CIRCULAR
CJ	CONSTRUCTION JOINT, CONTROL JOINT

CKT	CIRCUIT
CL	CENTERLINE, CLASS, CLOSE
CLR	CLEAR
CMH	COMMUNICATION MANHOLE
CMU	CONCRETE MASONRY UNIT
CO	CLEAN OUT, CONCRETE OPENING
COL	COLUMN
COM	COMMON
COMB	COMBINATION
COMM	COMMUNICATION
COMP	COMPOSITION, COMPRESSIBLE, COMPOSITE
CONC	CONCENTRIC, CONCRETE
CONN	CONNECTION
CONST	CONSTRUCTION
CONT	CONTINUOUS, CONTINUED
COORD	COORDINATE
CORR	CORROSIVE, CORRUGATED
CP	CHECKER PLATE, CONTROL POINT
CPLG	COUPLING
CSK	COUNTERSINK
CTR	CENTER
CTRL	CONTROL
CU	COPPER, CUBIC
CW	CLOCKWISE
CY	CUBIC YARD
d	PENNY (NAIL MEASURE)
D	DEEP, DIFFUSER
DB	DUCT BANK, DECIBEL, DRY BULB
DBA	DEFORMED BAR ANCHOR
DBL	DOUBLE
DC	DIRECT CURRENT
DEG	DEGREE
DEG C	DEGREE CENTIGRADE
DEG F	DEGREE FAHRENHEIT
DEMO	DEMOLITION
DEP	DEPRESSED
DEPT	DEPARTMENT
DET	DETAIL
DI	DROP INLET, DUCTILE IRON
DIA	DIAMETER
DIAG	DIAGONAL, DIAGRAM
DIFF	DIFFERENTIAL, DIFFERENCE
DIM	DIMENSION
DISCH	DISCHARGE
DIST	DISTANCE, DISTRIBUTION
DIV	DIVISION
DL	DEAD LOAD
DN	DOWN
DP	DEPTH
DS	DOWN SPOUT
DT	DOUBLE TEE, DRIP TRAP ASSEMBLY
DUP	DUPLICATE
DWG	DRAWING
DWL	DOWEL
E	EAST, ELECTRICAL (DWG DISCIPLINE)
EA	EACH, EXHAUST AIR
EC	ELECTRICAL CONTRACTOR
ECC	ECCENTRIC
EDB	ELECTRICAL DUCT BANK
EE	EACH END
EF	EACH FACE
EG	EXISTING GRADE
EGL	ENERGY GRADE LINE
EFF	EFFLUENT, EFFICIENCY
EHH	ELECTRICAL HANDHOLE
EIFS	EXTERIOR INSULATION & FINISH SYSTEM
EJ	EXPANSION JOINT
EL	ELBOW, ELEVATION
ELEC	ELECTRICAL
EMBD	EMBEDDED
EMER	EMERGENCY
EMH	ELECTRICAL MANHOLE
ENCL	ENCLOSURE
ENGR	ENGINEER
ENTR	ENTRANCE
EOP	EDGE OF PAVEMENT
EOW	EDGE OF WATER
EQ	EQUAL
EQUIP	EQUIPMENT
EQUIV	EQUIVALENT
ES	EACH SIDE, EQUAL SPACE, EMERGENCY SHOWER
ESEW	EMERGENCY SHOWER AND EYE WASH
EST	ESTIMATE
EW	EACH WAY, EMERGENCY EYE/FACE WASH
EWC	ELECTRIC WATER COOLER
EWEF	EACH WAY, EACH FACE
EWTB	EACH WAY, TOP AND BOTTOM
EXC	EXCAVATION
EXH	EXHAUST
EXIST	EXISTING
EXP	EXPANSION, EXPOSED

EXT	EXTERIOR, EXTERNAL, EXTENSION
F TO F	FACE TO FACE
FAB	FABRICATE
FBO	FURNISHED BY OWNER
FC	FLUSHING CONNECTION
FCA	FLANGED COUPLING ADAPTER
FCV	FIXED CONE VALVE
FD	FLOOR DRAIN
FDC	FLEXIBLE DUCT CONNECTION
FDR	FEEDER
FE	FLANGED END
FEC	FIRE EXTINGUISHER CABINET
FEXT	FIRE EXTINGUISHER
FF	FAR FACE, FACTORY FINISH, FLAT FACE
FG	FINISHED GRADE
FIG	FIGURE
FH	FIRE HYDRANT
FIN	FINISH
FL	FLOW, FLOW LINE
FLEX	FLEXIBLE
FLG	FLANGE
FLOR	FLUORESCENT
FLR	FLOOR
FLS	FLASHING, FLUSH
FND	FOUNDATION
FNC	FENCE
FO	FINISHED OPENING
FOB	FLAT ON BOTTOM
FOC	FACE OF CONCRETE, FACE OF CURB, FIBER OPTIC CABLE
FOF	FACE OF FINISH
FOM	FACE OF MASONRY
FOS	FACE OF STUDS
FOT	FLAT ON TOP
FPT	FEMALE PIPE THREAD
FR	FRAME
FRP	FIBERGLASS REINFORCED PLASTIC
FS	FLOOR SINK, FAR SIDE
FT	FEET, FOOT
FTG	FOOTING, FITTING FUR FURRED, FURRING
FURN	FURNITURE, FURNISH
FUT	FUTURE
FV	FACE VELOCITY
FW	FIELD WELD, FIRE WALL
FWD	FORWARD
FWE	FURNISHED WITH EQUIPMENT
FXTR	FIXTURE
G	GRILLE, GROUND, GENERAL (DWG DISCIPLINE)
GA	GAGE (METAL THICKNESS)
GAL	GALLON
GALV	GALVANIZED
GB	GRADE BREAK
GD	GUARD
GEN	GENERAL
GFCI	GROUND FAULT CIRCUIT INTERRUPTER
GL	GLASS
GP	GUY POLE
GR	GRADE
GRND	GROUND
GRTG	GRATING
GT	GREASE TRAP
GWB	GYPSUM WALLBOARD
GYP	GYPSUM HARDBOARD
H	HIGH
HB	HOSE BIB
HBD	HARDBOARD
HC	HANDICAPPED, HOLLOW CORE, HORIZONTAL CURVE
HC	HORIZONTAL CENTERLINE
HDR	HEADER
HDW	HARDWARE
HEX	HEXAGONAL
HH	HANDHOLE
HM	HOLLOW METAL
HORIZ	HORIZONTAL
HP	HIGH POINT, HORSEPOWER
HPC	HORIZONTAL POINT OF CURVATURE
HPS	HIGH PRESSURE SODIUM
HPT	HORIZONTAL POINT OF TANGENCY
HR	HOUR
HS	HEADED STUD, HIGH STRENGTH
HSS	HOLLOW STRUCTURAL SHAPE
HT	HEIGHT
HV	HIGH VOLTAGE
HVAC	HEATING, VENTILATION & AIR CONDITIONING
HWD	HARDWOOD
HWL	HIGH WATER LEVEL
HYD	HYDRAULIC HZ HERTZ, CYCLES PER SECOND

I	INSTRUMENTATION (DWG DISCIPLINE)
ID	INSIDE DIAMETER, INTERIOR DIMENSION
IE	INVERT ELEVATION
IF	INSIDE FACE
IH	INTAKE HOOD
IMP	IMPACT
IN	INCH
INC	INCLUDE, INCANDESCENT
INF	INFLUENT
INSTR	INSTRUMENTATION
INSUL	INSULATION
INT	INTERIOR, INTERSECTION
INTR	INTERMEDIATE, INTERIOR
INV	INVERT
IPS	IRON PIPE SIZE
IPT	INTERNAL PIPE THREAD
IRR	IRRIGATION
ISO	ISOMETRIC
JB	JUNCTION BOX
JCT	JUNCTION
JF	JOINT FILLER
JT	JOINT
K	KIP
KB	KNEE BRACE
KCMIL	THOUSAND CIRCULAR MILS
KD	KNOCK DOWN
KIUC	KAUAI ISLAND UTILITY COOPERATIVE
KO	KNOCK OUT
KSI	KIPS PER SQUARE INCH
L	ANGLE, LENGTH, LAVATORY
LAM	LAMINATE
LATL	LATERAL
LB	LAG BOLT, POUND
LDR	LEADER
LF	LINEAR FOOT
LG	LONG
LH	LEFT HAND
LIN	LINEAR
LIQ	LIQUID
LL	LIVE LOAD
LLH	LONG LEG HORIZONTAL
LLV	LONG LEG VERTICAL
LMLU	LIQUID MARKER LECTURE UNIT
LNG	LONGITUDINAL
LOC	LOCATION
LP	LOW POINT
LPS	LOW PRESSURE SODIUM
LR	LONG RADIUS
LT	LEFT
LTD	LIMITED
LTG	LIGHTING
LTL	LINTEL
LTNG	LIGHTNING
LV	LOW VOLTAGE
LVR	LOUVER
LW	LIGHTWEIGHT
LWC	LIGHTWEIGHT CONCRETE
LWL	LOW WATER LEVEL
M	MECHANICAL (DWG DISCIPLINE)
MA	MIXED AIR
MAINT	MAINTENANCE
MAN	MANUAL
MAOP	MAXIMUM ALLOWABLE OPERATING PRESSURE
MATL	MATERIAL
MAX	MAXIMUM
MB	MACHINE BOLT
MBR	MEMBER
MCJ	MASONRY CONTROL JOINT
MECH	MECHANICAL
MED	MEDIUM
MFR	MANUFACTURER
MH	MANHOLE, METAL HALIDE
MIN	MINIMUM
MIR	MIRROR
MISC	MISCELLANEOUS
MJ	MECHANICAL JOINT
MMB	MEMBRANE
MO	MASONRY OPENING
MOD	MODULAR, MODIFY
MON	MONUMENT
MPT	MALE PIPE THREAD
MSL	MEAN SEA LEVEL
MT	MOUNT
MU	MASONRY UNIT
MULL	MULLION
MV	MEDIUM VOLTAGE
MW	MONITORING WELL

N	NORTH, NEUTRAL
NA	NOT APPLICABLE
NAT	NATURAL
NC	NORMALLY CLOSED
NEG	NEGATIVE
NF	NEAR FACE, NON-FUSED
NG	NATURAL GAS
NIC	NOT IN CONTRACT
NO	NORMALLY OPEN, NUMBER
NOM	NOMINAL
NPS	NOMINAL PIPE SIZE
NPT	NATIONAL PIPE THREAD
NS	NEAR SIDE
NTS	NOT TO SCALE
NWL	NORMAL WATER LEVEL
O TO O	OUT-TO-OUT
OA	OUTSIDE AIR, OVERALL
OC	ON CENTER
OCPD	OVER CURRENT PROTECTION DEVICE
OD	OUTSIDE DIAMETER
OH	OVERHEAD
OPNG	OPENING
OPP	OPPOSITE
OPT	OPTIONAL
ORD	OVERFLOW ROOF DRAIN
ORIG	ORIGINAL
OVFL	OVERFLOW
OVHG	OVERHANG
OZ	OUNCE
P	PAINT, PROCESS (DWG DISCIPLINE)
PAR	PARALLEL, PARAPET
PB	PANIC BAR, PULL BOX
PBD	PARTICLE BOARD
PC	POINT OF CURVE, PIECE, PRECAST
PCC	POINT OF COMPOUND CURVATURE
PCF	POUNDS PER CUBIC FOOT
PCT	PERCENT
PE	PLAIN END
PED	PEDESTAL
PEN	PENETRATION
PERF	PERFORATED
PERM	PERMANENT
PERP	PERPENDICULAR
PF	POWER FACTOR
PH	PHASE
PI	POINT OF INTERSECTION
PKG	PACKAGE
PL	PLATE, PROPERTY LINE
PLDG	PLUMBING
PLF	POUNDS PER LINEAR FOOT
PNEU	PNEUMATIC
POL	POLISH
POS	POSITIVE, POSITION
PP	POLYPROPYLENE, POWER POLE
PRC	POINT OF REVERSE CURVATURE
PREF	PREFINISHED
PREFAB	PREFABRICATED
PRELIM	PRELIMINARY
PREP	PREPARE
PRES	PRESSURE
PROP	PROPERTY
PROT	PROTECTION
PSF	POUNDS PER SQUARE FOOT
PSI	POUNDS PER SQUARE INCH
PSIA	POUNDS PER SQUARE INCH ABSOLUTE
PSIG	POUNDS PER SQUARE INCH GAGE
PT	POINT, POINT OF TANGENCY
PTN	PARTITION
PVC	POLYVINYL CHLORIDE
PVMT	PAVEMENT
PWD	PLYWOOD
PZ	PIEZOMETER
Q	RATE OF FLOW
QTR	QUARTER
QTY	QUANTITY
QUAL	QUALITY
R&R	REMOVE AND REPLACE
R&S	REMOVE AND SALVAGE
R	RADIUS, REGISTER, RISER
RA	RETURN AIR
RB	RESILIENT BASE, ROCK DERM
RCPT	RECEPTACLE
RD	ROOF DRAIN
REC	RECESS
RECD	RECEIVED
RECT	RECTANGULAR
RED	REDUCER
REF	REFERENCE
REINF	REINFORCING
REQD	REQUIRED

RESIL	RESILIENT
RET	RETAINING, RETURN
REV	REVISION, REVERSE
RFL	REFLECTED, REFLECTOR
RGS	RIGID GALVANIZED STEEL
RH	RELIEF HOOD, RIGHT HAND, RELATIVE HUMIDITY
RL	REQUIRED LAP
RND	ROUND
RNG	RENEWABLE NATURAL GAS
RO	ROUGH OPENING
ROW	RIGHT-OF-WAY
RPM	REVOLUTIONS PER MINUTE
RR	RAILROAD
RT	RIGHT
S	SOUTH, SINK, STRUCTURAL (DWG DISCIPLINE)
SA	SUPPLY AIR
SAN	SANITARY
SC	SOLID CORE
SCH	SCHEDULE
SCHEM	SCHEMATIC
SCRN	SCREEN
SE	STEEL/ALUMINUM EDGE
SEC	SECONDARY, SECONDS
SECT	SECTION
SEP	SEPARATE
SF	SQUARE FOOT
SH	SHOWER
SHT	SHEET
SHTG	SHEATHING
SIM	SIMILAR
SL	SLOPE
SLTD	SLOTTED
SLV	SLEEVE
SMLS	SEAMLESS
SOG	SLAB ON GRADE
SP	SOUNDPROOF, STANDPIPE
SPC	SPACING
SPEC	SPECIFICATION
SPLY	SUPPLY
SPT	SET POINT
SQ	SQUARE
SR	SHORT RADIUS
SS	SERVICE SINK
SST	STAINLESS STEEL
ST	STREET
STA	STATION
STD	STANDARD
STIF	STIFFENER
STIR	STIRRUP
STL	STEEL
STOR	STORAGE
STR	STRUCTURAL, STRAIGHT
SUB	SUBSTITUTE
SUC	SUCTION
SUSP	SUSPENDED
SY	SQUARE YARD
SYM	SYMBOL
SYMM	SYMMETRICAL
SYN	SYNTHETIC
SYS	SYSTEM
T&B	TOP AND BOTTOM
T&G	TONGUE AND GROOVE
T	TILE, TREAD
TA	TEMPERED AIR
TAN	TANGENT
TBM	TEMPORARY BENCHMARK
TEMP	TEMPORARY, TEMPERATURE
THK	THICK
THRD	THREAD
THRU	THROUGH
TOB	TOP OF BOLT, TOP OF BANK, TOP OF BEAM
TOC	TOP OF CURB, TOP OF CONCRETE
TOD	TOP OF DUCT
TOF	TOP OF FOOTING
TOG	TOP OF GRATING
TOL	TOLERANCE, TOP OF LEDGER
TOM	TOP OF MASONRY
TOP	TOP OF PLATE
TOPO	TOPOGRAPHY
TOS	TOP OF SLAB, TOP OF STEEL
TOW	TOP OF WALL
TP	TELEPHONE POLE, TOE PLATE, TRAP PRIMER
TPG	TOPPING
TRANS	TRANSITION
TRD	TRENCH DRAIN
TYP	TYPICAL

U	URINAL
UG	UNDERGROUND
ULT	ULTIMATE
UNFN	UNFINISHED
UNO	UNLESS NOTED OTHERWISE
UTIL	UTILITY
V	VENT, VELOCITY, VOLT
VA	VOLT AMPERE
VAC	VACUUM
VAR	VARNISH, VARIABLE, VOLT AMPERES REACTIVE
VB	VAPOR BARRIER, VINYL BASE, VALVE BOX
VC	VERTICAL CURVE
VCT	VINYL COMPOSITION TILE, VERTICAL CENTERLINE
VEL	VELOCITY
VENT	VENTILATION
VERT	VERTICAL
VS	VERSES, VAPOR SEAL
VOL	VOLUME
VPC	VERTICAL POINT OF CURVATURE
VPI	VERTICAL POINT OF INTERSECTION
VPT	VERTICAL POINT OF TANGENCY
VTR	VENT THROUGH ROOF
VWC	VINYL WALL COVERING
W/	WITH
W/O	WITHOUT
W	WATT, WEST, WIDE, WINDOW, WIRE, WIDE FLANGE BEAM
WC	WATER CLOSET, WATER COLUMN
WD	WIDTH
WF	WIDE FLANGE, WASH FOUNTAIN
WG	WIRE GLASS, WATER GAGE
WH	WALL HYDRANT, WEEP HOLE
WL	WATER LEVEL
WLD	WELDED
WM	WIRE MESH
WP	WATERPROOF, WORKING POINT
WTHP	WEATHERPROOF
WS	WATERSTOP, WATER SURFACE
WSEL	WATER SURFACE ELEVATION
WT	WEIGHT, WATER TIGHT
WWF	WELDED WIRE FABRIC
XS	EXTRA STRONG
XXS	DOUBLE EXTRA STRONG
XSECT	CROSS SECTION
YH	YARD HYDRANT
YS	YIELD STRENGTH

GENERAL NOTES:

1. THESE ABBREVIATIONS APPLY TO THE ENTIRE SET OF CONTRACT DRAWINGS.
2. LISTING OF ABBREVIATIONS DOES NOT IMPLY ALL ABBREVIATIONS ARE USED IN THE CONTRACT DRAWINGS.
3. ABBREVIATIONS SHOWN ON THIS SHEET INCLUDE VARIATIONS OF THE WORD. FOR EXAMPLE, "MOD" MAY MEAN MODIFY OR MODIFICATION; "INC" MAY MEAN INCLUDED OR INCLUDING; "REINF" MAY MEAN EITHER REINFORCE OR REINFORCING.
4. SCREENING OR SHADING OF WORK IS USED TO INDICATE EXISTING COMPONENTS OR TO DE-EMPHASIZE PROPOSED IMPROVEMENTS TO HIGHLIGHT SELECTED TRADE WORK. REFER TO CONTEXT OF EACH SHEET FOR USAGE.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH

MEA

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

STANDARD ABBREVIATIONS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT MGR 10/6/23

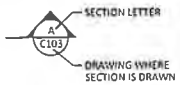
DRAWING
G003

SHEET SYMBOLS

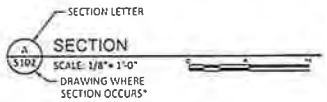
PLAN
SCALE: 1/2" = 1'-0"

SECTION IDENTIFICATION

(1) SECTION CUT ON DRAWING C102:

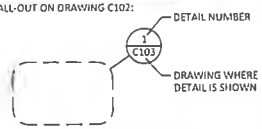


(2) ON DRAWING C103 THIS SECTION IS IDENTIFIED AS:

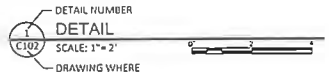


DETAIL IDENTIFICATION

(1) DETAIL CALL-OUT ON DRAWING C102:



(2) ON DRAWING C103 THIS SECTION IS IDENTIFIED AS:



*NOTE: IF PLAN AND SECTION (OR DETAIL CALL-OUT AND DETAIL) ARE SHOWN ON SAME DRAWING, DRAWING NUMBER IS REPLACED BY A LINE.

STANDARD DETAIL IDENTIFICATION

(1) DETAIL CALL-OUT ON PLAN OR SECTION:

(2) ON DETAIL DRAWINGS, IDENTIFIED AS:

ELEVATION/IMAGE IDENTIFICATION

SITE PLAN LINE TYPES

- FENCE LINE
- OVERHEAD POWER
- MAJOR CONTOUR
- MINOR CONTOUR
- EXIST MAJOR CONTOUR
- EXIST MINOR CONTOUR
- EDGE OF WATERLINE
- TOE OF SLOPE
- TOP OF BANK
- SANITARY SEWER
- STORM DRAIN
- EDGE OF PAVEMENT
- EDGE OF GRAVEL
- WATTLE
- SILT FENCE
- CONSTRUCTION FENCE
- GAS LINE
- TURBIDITY CURTAIN
- IRRIGATION LINE
- WATER LINE
- TELEPHONE LINE
- COMMUNICATION LINE
- OHP — OVERHEAD ELECTRICAL/POWER
- UG — UNDERGROUND ELECTRICAL
- P/L — PROPERTY LINE
- EXISTING OVERHEAD POWER LINE
- EXISTING OVERHEAD POWER & TELEPHONE LINE
- EXISTING OVERHEAD TELEPHONE LINE
- EXISTING BURIED TELEPHONE LINE EVIDENCED BY PEDESTALS & WARNING PADDLES
- EXISTING FENCE LINE
- PROJECT BOUNDARY
- TREE PROTECTION FENCE
- LIMITS OF DISTURBANCE
- SHORING

SITE PLAN SYMBOLS

- ARROW INDICATES DIRECTION OF PLAN NORTH
- CONIFER TREE: FIR, SPRUCE, LARCH OR PINE, 8" DIAMETER OR LARGER
- DECIDUOUS TREE: COTTONWOOD, HAWTHORN, ASPEN, 8" DIAMETER OR LARGER
- MH — MANHOLE
- ED — ELECTRIC BOX
- STORM DRAIN MANHOLE
- FH — FIRE HYDRANT
- YH-X — YARD HYDRANT
- SURVEY CONTROL POINT, AS NOTED.
- POLE ANCHOR
- POWER POLE
- LIGHT POLE
- SIGN
- SURVEY HUB
- SECTION CORNER
- BENCH MARK
- EXISTING HEADWALL
- EXISTING MONITORING STATION
- EXISTING FENCE
- STATE PLANE COORDINATE MARKER
- EXISTING TREE LINE
- EXISTING BUILDING, STRUCTURES
- EXISTING SECTION CORNER MONUMENT FOUND AS DESCRIBED
- EXISTING 5/8" REBAR CONTROL POINT MONUMENT, BORING LOCATION
- EW — EXISTING HOSE BIB
- EXISTING PORTABLE IRRIGATION WATER PUMP
- WELL — EXISTING 6" WATER WELL
- EXISTING ELECTRICAL OUTLET
- EXISTING POWER POLE
- EXISTING TELEPHONE PEDESTAL
- CONTROL POINT
- PUMP
- PUMP
- TP — TEST PIT LOCATION

MISCELLANEOUS SYMBOLS

- CHANGE OF PIPE MTL
- OR — END OF PIPE
- ℄ — CENTERLINE
- Ø — DIAMETER
- ∠ — ANGLE
- PL — PLATE
- ± — PLUS/MINUS

GENERAL NOTES:

1. ALL SYMBOLS ARE NOT NECESSARILY USED. THIS IS A STANDARD DRAWING SHOWING COMMON SYMBOLS ON THIS PROJECT.
2. SCREENING OR SHADING OF WORK IS USED TO INDICATE EXISTING COMPONENTS OR TO DE-EMPHASIZE PROPOSED IMPROVEMENTS TO HIGHLIGHT SELECTED TRADE WORK. REFER TO CONTEXT OF EACH DRAWING FOR USAGE.

HATCH SYMBOLS

- ROCK, TYPE AS NOTED (PLAN/SECTION)
- BED ROCK
- EXISTING GRADE (SECTION)
- NEW SOIL (SECTION)
- CONCRETE EXISTING (SECTION/PLAN)
- CONCRETE 1ST STAGE (SECTION/PLAN)
- CONCRETE 2ND STAGE (SECTION/PLAN)
- SAND, GROUT (PLAN/SECTION)
- STEEL (SECTION)
- GRATING (PLAN)
- MASONRY (PLAN)
- WOOD, SIZE/TYPE AS NOTED (PLAN)
- WOOD, SIZE/TYPE AS NOTED (SECTION)
- RIP RAP (PLAN/SECTION)
- RIGID INSULATION (SECTION)
- ASPHALT CONCRETE PAVEMENT SURFACE (PLAN/SECTION)
- GRASS/VEGETATION (PLAN)
- BATT INSULATION (SECTION)
- NEW CONSTRUCTION
- EXISTING
- EXISTING TO BE REMOVED OR DEMOLISHED
- CLEARING AND GRUBBING
- ASPHALT
- GRASS/VEGETATION
- GRAVEL

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	95% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen
CHUGACH
MEA
MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

STANDARD SYMBOLS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT MGR 10/6/23

DRAWING
G004

MOA Exhibit B
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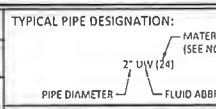
FLUID ABBREVIATION	FUNCTION	ALLOWABLE PIPING MATERIAL GROUP NO. (SEE NOTE 1 AND 4)				FIELD TEST REQUIREMENTS (SEE NOTE 3 AND NOTE 4)		
	THIS LIST MAY INCLUDE FLUIDS NOT USED IN THIS PROJECT	EXPOSED PIPING (SEE NOTE 14)		BURIED PIPING (SEE NOTE 13)		MINIMUM TEST PRESSURE PSI	TEST MEDIUM	LEAKAGE ALLOWANCE (SEE NOTE 2)
		3" DIA AND SMALLER	4" DIA AND LARGER	3" DIA AND SMALLER	4" DIA AND LARGER			
COMMONLY USED FUNCTIONS								
DR	DRAIN	2	2	2	2	NOTE 6	WATER	(D)
RW	RAW WATER	2,8	2,8	8	8	150	WATER	(A)

PIPING MATERIAL SCHEDULE (SEE NOTE 1)			
GROUP NO.	PIPE MATERIAL	FITTINGS / JOINTS	LININGS AND COATINGS (SEE NOTE 13)
2	STEEL, ASTM A53, SCHEDULE 40, BLACK WELDED, GALVANIZED	2 1/2" AND SMALLER, MALLEABLE IRON, ASME B16.3, THREADED, BANDED, GALVANIZED 150 PSI. 3" AND LARGER, CAST IRON, ASME B16.1, 125 PSI FLANGED OR MECHANICAL COUPLING.	SEE SECTION 40 23 15
8	WELDED STEEL PIPE (AWWA C200 & MODIFIED PER SECTION 331111) (ALL PIPE CALLOUT DIAMETERS ARE 'ID' OF MORTAR LINING)	WELDED STEEL, AWWA C208 MODIFIED PER SECTION 331111, FABRICATED.	SEE SECTION 33 11 11

TYPICAL PIPE DESIGNATION:



NOTES:

NOTE 1
ALTHOUGH SEVERAL PIPE MATERIAL GROUPS MAY BE LISTED ON THIS SHEET FOR A GIVEN FLUID SERVICE, CONTRACTOR SHALL PROVIDE ONLY THE PIPE MATERIAL GROUP SHOWN ON THE DRAWINGS AND SPECIFIED FOR THAT FLUID SERVICE.

NOTE 2
LEAKAGE ALLOWANCE IS AS FOLLOWS:
A. PIPES SO DESIGNATED SHALL SHOW ZERO LEAKAGE.
B. PIPES SO DESIGNATED SHALL SHOW ZERO LEAKAGE FOR UNBURIED PIPE AND NOT MORE THAN 0.03 GALLON PER HOUR PER INCH DIAMETER PER 100 FEET OF BURIED PIPE.
C. PIPES SO DESIGNATED SHALL NOT SHOW A LEAKAGE OF MORE THAN 0.15 GALLON PER HOUR PER INCH OF DIAMETER PER 100 FEET OF PIPE.
D. PIPES SO DESIGNATED SHALL NOT SHOW A LOSS OF PRESSURE OF MORE THAN 5 PERCENT.
E. PIPE SO DESIGNATED SHALL NOT SHOW A LOSS OF VACUUM OF MORE THAN 4 INCHES MERCURY COLUMN.

NOTE 3
FOR FIELD TEST PROCEDURES AND ADDITIONAL TEST REQUIREME. SEE PIPING SECTION OF SPECIFICATIONS.

NOTE 4
NO SUBSTITUTIONS U.N.O. IN THE SPECIFICATIONS.

NOTE 5
NOT USED

NOTE 6
STATIC WATER TEST WITH SURFACE 5 FEET ABOVE HIGH POINT OF PIPE.

NOTE 7
INSPECTION AND TESTING SHALL BE IN ACCORDANCE WITH APPLICABLE PLUMBING CODE.

NOTE 8
NOT USED

NOTE 9
NOT USED

NOTE 10
NOT USED

NOTE 11
NOT USED

NOTE 12
CHANGE IN PIPING MATERIAL GROUP NUMBER IS INDICATED THUS: ——<

NOTE 13
FOR FULL PIPE LINING AND COATING REQUIREMENTS, SEE SPECIFICATIONS.

NOTE 14
EXPOSED OUTDOOR PIPING SHALL BE PAINTED IN ACCORDANCE WITH SPECIFICATIONS. COLORS TO BE SELECTED BY OWNER.

NOTE 15
NOT USED

NOTE 16
NOT USED

NOTE 17
NOT USED

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

PIPING SCHEDULE

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT NO. 10/6/23

DRAWING
G005

INSTRUMENTATION / EQUIPMENT TAGS

EXAMPLE INSTRUMENT CALLOUT

INSTRUMENT IDENTIFICATION — CLARIFYING P&ID ABBREVIATIONS; DEVICE TAG NUMBER

EEE-PLU

EXAMPLE EQUIPMENT CALLOUT

EQUIPMENT IDENTIFICATION — DEVICE TAG NUMBER

EEE-PLU

EXAMPLE TAG

GGGG-EEE-EEE-P L U

- PROJECT DESIGNATION
- FEATURE DESIGNATION
- INSTRUMENT / EQUIPMENT IDENTIFICATION(1 TO 3 CHARACTERS)
- DEVICE TAG NUMBER (3 DIGIT)
- UNIT NUMBER WITHIN GIVEN LOOP (1 DIGIT)
- LOOP NUMBER WITHIN GIVEN PROCESS (1 DIGIT)
- PROCESS NUMBER (1 DIGIT)

PROCESS NUMBER:

0 MPH COMMON
1 TURBINE/GENERATOR
2 PUMPS/MOTORS
3 TIV
4 HVAC
5 LUBE/WATER COOLING
6 HPU
7 PLUMBING
8 VFD
9 CONTROLS INSTRUMENTATION

NOTE:

PROJECT AND FEATURE DESIGNATION FOR ALL COMPONENTS ON THIS FEATURE SET SHALL BE "EFWP-DOM" FOR "EKLUTNA FISH & WILDLIFE PROJECT - EKLUTNA RIVER RELEASE FACILITY". THIS HAS BEEN OMITTED ON THE DRAWINGS FOR BREVITY.

GENERAL INSTRUMENT OR FUNCTIONAL SYMBOLS

	FIELD MOUNTED	PRIMARY OR PANEL MOUNTED - ACCESSIBLE (1)	PRIMARY OR PANEL MOUNTED - INACCESSIBLE (2)	SECONDARY OR MCC MOUNTED - ACCESSIBLE (1)	SECONDARY OR MCC MOUNTED INACCESSIBLE (2)
INSTRUMENT	EEE PLU	EEE PLU	EEE PLU	EEE PLU	EEE PLU
SHARED DISPLAY SHARED CONTROL OR HMI	EEE PLU	EEE PLU	EEE PLU	EEE PLU	EEE PLU
INDICATING LIGHTS	EEE PLU	EEE PLU	N/A	EEE PLU	N/A

(1) NORMALLY ACCESSIBLE TO OPERATOR
(2) NORMALLY INACCESSIBLE TO OPERATOR (BEHIND-THE-PANEL)

SPECIAL CASE INSTRUMENT OR FUNCTIONAL SYMBOLS

- SINGLE INSTRUMENT OR OTHER COMPONENT HAVING MULTIPLE FUNCTIONS
- RELAY INTERLOCK LOGIC - SEE SCHEMATICS OR SPECIFICATIONS FOR MORE INFORMATION
- LSH PLU — LEVEL (FLOAT)
- LE PLU — LEVEL (ULTRASONIC)
- 24 VDC — POWER SUPPLY (SIZE AS NOTED)
- AS — AIR SUPPLY
- PRIMARY ELECTRICAL POWER (120V / 60 HZ UNLESS INDICATED OTHERWISE)
- INDICATES VENDOR PACKAGE
- CR — CONTROL RELAY
- LIGHTNING SURGE ARRESTOR
- M — MOTOR

SIGNAL SYSTEM INTERFACES

- AA PLU — ANALOG INPUT
- AA PLU — ANALOG OUTPUT
- AA PLU X — DISCRETE INPUT
- AA PLU X — DISCRETE OUTPUT
- AA PLU YY — DIGITAL DATA SIGNAL

AA = I/O DESIGNATION (MV = MULTIVARIABLE)

YY = DIGITAL PROTOCOL

X: H MAINTAINED/LATCHING
M = MOMENTARY/FOLLOWER

ANALOG I/O DESIGNATORS

CR	CHLORINE RESIDUAL
DP	DIFFERENTIAL PRESSURE
FL	FLOW
LE	LOWER EXPLOSIVE LIMIT
LV	LEVEL
MO	MANIPULATED OUTPUT
PH	ACIDITY
PO	POSITION
PR	PRESSURE
PV	PROCESS VARIABLE
SP	SPEED
TE	TEMPERATURE
TU	TURBIDITY

DIGITAL PROTOCOL DESIGNATORS

DN	DEVICENET
IP	ETHERNET /IP
MD	MODBUS RTU
PD	PROFIBUS
PL	PARALLEL
SL	SERIAL
TC	MODBUS TCP

DISCRETE I/O DESIGNATORS

AM	AUTO-MANUAL
AU	AUTO
CL	CLOSED
EN	ENABLE
EL	POWER AVAILABLE
FA	FIRE ALARM
FW	FORWARD / REVERSE
HH	HI-HI LEVEL
HI	HI LEVEL
LL	LOW-LOW LEVEL
LO	LOW LEVEL
MN	MANUAL
OO	ON OFF
OP	OPEN
RB	RUN BOOSTER
RC	RUN CLOSED
RE	REMOTE
RF	RUN FORWARD
RG	RUNNING
RN	RUN-STOP
RO	RUN-OPEN
RR	RUN-REVERSE
RV	REVERSE
YA	FAULT
SU	SUPERVISORY
SW	SELECTION
TR	TROUBLE

INSTRUMENTATION IDENTIFICATION TABLE (ISA)

LETTER	FIRST LETTER: MEASURED/INITIATING VARIABLE	FIRST LETTER: VARIABLE MODIFIER	SUCCEEDING LETTER(S): READOUT OR PASSIVE FUNCTION	SUCCEEDING LETTER(S): OUTPUT OR ACTIVE FUNCTION	SUCCEEDING LETTER(S): FUNCTION MODIFIER
A	ANALYSIS (*)		ALARM		
B	BURNER, COMBUSTION				
C	CONDUCTIVITY			CONTROL	CLOSED
D	DENSITY (S.G.)	DIFFERENTIAL			
E	VOLTAGE		SENSOR (PRIMARY ELEMENT)		
F	FLOW RATE	RATIO (FRACTION)			
G	GAUGE		GLASS, GAUGE, VIEWING DEVICE	GATE	
H	HAND (MANUAL)				HIGH
I	CURRENT (ELECTRICAL)		INDICATE		
J	POWER	SCAN			
K	TIME, TIME SCHEDULE	TIME RATE OF CHANGE		CONTROL STATION	
L	LEVEL		LIGHT (PILOT)		LOW
M	MOTION	MOMENTARY			MIDDLE, INTERMEDIATE
N	TORQUE		ISOLATE	ISOLATOR	
O	USER CHOICE		ORIFICE, RESTRICTION		OPEN
P	PRESSURE (VACUUM), PNEUMATIC		POINT (TEST) CONNECTION		
Q	QUANTITY	INTEGRATE, TOTALIZE			
R	RADIATION/ RESISTANCE (ELECTRICAL)		RECORD OR PRINT		
S	SPEED, FREQUENCY	SAFETY		SWITCH	
T	TEMPERATURE			TRANSMIT	
U	MULTI VARIABLE		MULTIFUNCTION	MULTIFUNCTION	MULTIFUNCTION
V	VIBRATION, MECHANICAL ANALYSIS			VALVE, DAMPER, LOUVER	
W	WEIGHT, FORCE		WELL		
X	INTRUSION	X-AXIS			
Y	EVENT, STATE OR PRESENCE	Y-AXIS		RELAY, COMPUTE, CONVERT	
Z	POSITION, DIMENSION	Z-AXIS		DRIVER, ACTUATOR, FINAL CONTROL ELEMENT	

EQUIPMENT IDENTIFICATION TABLE

AC	AIR COMPRESSOR
ACC	ACCUMULATOR
ACT	ACTUATOR
AF	AIR FILTER
AFD	ADJUSTABLE FREQUENCY DRIVE
AH	AIR HANDLING UNIT
ARC	ARC PLENUM AND EXHAUST DUCT
ATS	AUTOMATIC TRANSFER SWITCH
BAT	BATTERY
BC	BATTERY CHARGER
BRG	BEARING
BRK	BREAKER
CAM	CAMERA
CSE	COMBINATION SERVICE ENCLOSURE
CV	CHECK VALVE
D	DAMPER
DCU	DISTRIBUTED CONTROL UNIT
DS	DISCONNECT
EAP	ENGINEERING ACCESS POINT
ECP	ENVIRONMENTAL CONTROL PANEL (HVAC)
EEW	EMERGENCY EYEWASH STATION
EF	EXHAUST FAN
EXC	EXCITER
FAS	FIRE ALARM SYSTEM
FD	FLOOR DRAIN
FIL	FILTER
FOR	FIBER OPTIC REPEATER
FOT	FIBER OPTIC TRANSCEIVER
FPP	FIBER PATCH PANEL / CONNECTOR HOUSING
G	GATE
GBK	GENERATOR BRAKE
GEN	GENERATOR
GSU	GENERATOR STEP-UP TRANSFORMER
GTC	GENERATOR POWER TERMINAL CABINET
HB	HOSE BIB
HMI	HUMAN-MACHINE INTERFACE
HOI	HOIST/CRANE
HPU	HYDRAULIC POWER UNIT
HTR	HEATER
INV	INVERTER
LCP	LOCAL CONTROL PANEL
LCS	LOCAL CONTROL STATION
LPU	LUBRICATING OIL PUMP CONTROL UNIT
MB	METER BASE
MC	MECHANICAL COUPLING
MCC	MOTOR CONTROL CENTER
MCP	MAIN CONTROL PANEL
MES	MANAGED ETHERNET SWITCH
MOV	MOTOR OPERATED VALVE
MS	MOTOR STARTER
MTR	MOTOR
MTS	MANUAL TRANSFER SWITCH
NET	NETWORK / COMMUNICATIONS RACK
OWS	OIL WATER SEPARATOR
P	PUMP
PB	PANELBOARD / LOAD CENTER
PCP	PLANT CONTROL PANEL
PCU	POWER CONTROL UNIT
PFL	PRE-FILTER
PLC	PROGRAMMABLE LOGIC CONTROLLER
PRV	PRESSURE REDUCING VALVE
PS	POWER SUPPLY / ISOLATOR / CONVERTER
PV	PHOTOVOLTAIC
RCT	RECTIFIER
RIO	REMOTE I/O UNIT
RTD	RESISTANCE TEMPERATURE DETECTOR
RTU	REMOTE TELEMETRY UNIT
SEC	SECURITY CONTROL PANEL
SEP	SEPTIC SYSTEM
SHG	SODIUM HYPOCHLORITE GENERATOR
SNK	SINK
SPU	SPEED PICKUP SENSOR
STR	STRAINER
SVR	SERVER
SWG	SWITCHGEAR
TIV	TURBINE INLET VALVE
TNK	TANK
TOI	WATER CLOSET
TRS	TRAVELING SCREEN
TUR	TURBINE
UPS	UNINTERRUPTABLE POWER SUPPLY
UVR	UV REACTOR
V	VALVE
VCP	VENDOR CONTROL PANEL
VFD	VARIABLE FREQUENCY DRIVE
VL	VENTILATION LOUVER
VSP	VENDOR SUPPLIED PANEL
WS	WATER SOFTENER
XFR	TRANSFORMER
XVR	TRANSCEIVER
YLT	EVENT PILOT LIGHT
ZZK	SECURITY GATE INTERFACE

INSTRUMENTATION LINE SYMBOLOGY

- PRIMARY PROCESS (CLOSED CONDUIT, DASHED LINE INDICATES ALTERNATE FLOW STREAM)
- PRIMARY PROCESS (OPEN CHANNEL)
- ANALOG SIGNAL (4 TO 20 mAdc, ECT)
- DISCRETE SIGNAL, (ON/OFF, ECT)
- PNEUMATIC SIGNAL
- FILLED SYSTEM SIGNAL
- HYDRAULIC SYSTEM SIGNAL
- DIGITAL DATA LINK
- PACKAGE SYSTEM EQUIPMENT
- STRUCTURE/FACILITY BOUNDARY
- CABLE FURNISHED WITH EQUIPMENT
- MECHANICAL POWER/LINKAGE
- ELECTRICAL POWER

PARALLELING LINES

(2) (A) (B) 3 (2)

(A) TOTAL OF 2 SIGNALS

(B) 3 TYPICAL SETS OF 2 SIGNALS EACH TOTAL OF 6 SIGNALS

CONNECTING LINES

NON-CONNECTING LINES

SYSTEM CONTINUATION INTERFACES

- GG ISSS — SIGNAL INTERFACE — GG IDDD
- HH ISSS — PROCESS INTERFACE — HH IDDD
- INTERFACE TO OR FROM PROCESS EXTERNAL TO PROJECT
- PROCESS OR SIGNAL LINE ON-SHEET CONTINUATION N=1,2,3,ETC

GG SIGNAL INTERFACE NO.
HH PROCESS INTERFACE NO.
DDD DESTINATION DRAWING NO.
SSS SOURCE DRAWING NO.

P&ID ABBREVIATIONS

AC	ALTERNATING CURRENT
AM	AUTO-MANUAL
COD	CHEMICAL OXYGEN DEMAND
DEV	DEVIATION
DC	DIRECT CURRENT
DCS	DISTRIBUTED CONTROL SYSTEM
ECS	ENVIRONMENTAL CONTROL SYSTEM (HVAC)
EPO	EMERGENCY POWER OFF
FOC	FIBER OPTIC CABLE
FOS	FAST-OFF-SLOW
FOSA	FAST-OFF-SLOW-AUTO
FOSR	FAST-OFF-SLOW-REMOTE
HI	HIGH
HML	HIGH-MID-LOW
HOA	HAND-OFF-AUTO
HOR	HAND-OFF-REMOTE
ISR	INTRINSICALLY SAFE RELAY
LEL	LOWER EXPLOSIVE LIMIT
LO	LOW
LOR	LOCAL-OFF-REMOTE
LOS	LOCKOUT STOP
LR	LOCAL-REMOTE
MC	MODULATE-CLOSE
MOA	MANUAL-OFF-AUTO
MSC	MANUFACTURER SUPPLIED CABLE
NC	NORMALLY CLOSED
NO	NORMALLY OPEN
OC	OPEN-CLOSE(D)
OCA	OPEN-CLOSE-AUTO
OCR	OPEN-CLOSE-REMOTE
OI	OPERATOR INTERFACE
OO	ON-OFF
OOA	ON-OFF-AUTO
OOR	ON-OFF-REMOTE
ORP	OXIDATION REDUCTION POTENTIAL
OSC	OPEN-STOP-CLOSE
PC	PERSONAL COMPUTER
PCS	PLANT CONTROL SYSTEM
pH	HYDROGEN ION CONCENTRATION
PID	PROPORTIONAL INTEGRAL DERIVATIVE CONTROL
POT	POTENTIOMETER
RC	RUN CLOSE
RO	RUN OPEN
RL	RAISE-LOWER
RM	REMOTE MULTIPLEXING MODULE
RSL	RAISE-STOP-LOWER
RVSS	REDUCED VOLTAGE SOLID-STATE STARTER
SCADA	SUPERVISORY CONTROL AND DATA ACQUISITION
SEL	SELECT
SET	SET POINT
SF	SLOWER-FASTER
SHC	SODIUM HYPOCHLORITE
SR	START-RESET
SS	START-STOP
SSC	SUPERVISORY SET POINT CONTROL
ST	START
SW	SEAL WATER
TC	THERMOCOUPLE
TCR	TOTAL CHLORINE RESIDUAL
TEMP	TEMPERATURE
TSP	TWISTED SHIELD PAIR
TURB	TURBIDITY
VHC	VOLATILE HYDROCARBONS
VIB	VIBRATION
VSP	VENDOR SUPPLIED PANEL
VTO	VENT TO OUTSIDE
WSEL	WATER SURFACE ELEVATION

NOTES:

1. FOR MECHANICAL ELEMENT SYMBOLS, SEE MECHANICAL LEGEND.
2. FOR ELECTRICAL ELEMENT SYMBOLS, SEE ELECTRICAL LEGEND

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SDE	95% DESIGN

WARNING

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

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CHUGACH

MEA — MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

INSTRUMENTATION AND EQUIPMENT LEGEND

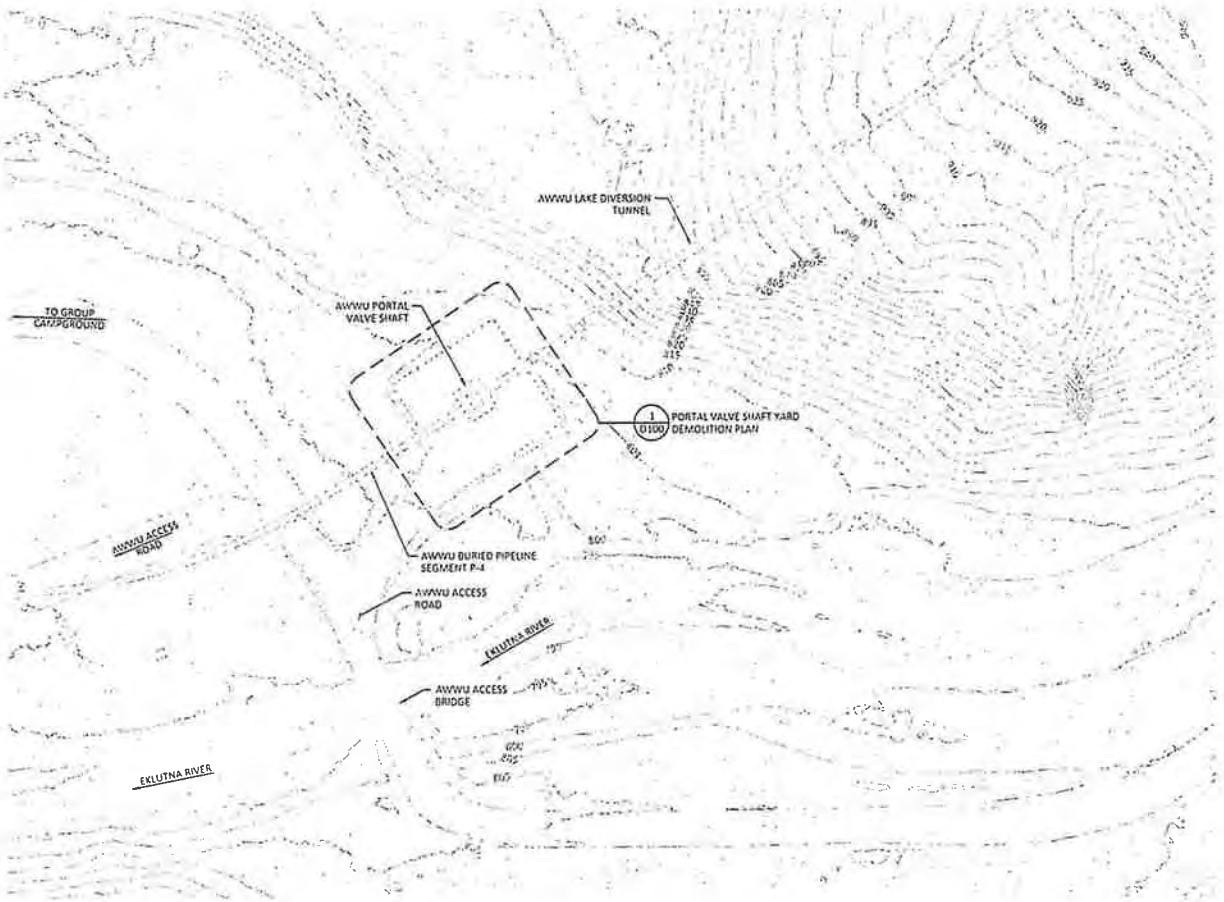
DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT MGR 10/6/23

DRAWING G006

MOA-Exhibit B
Page 30 of 81

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88)



DEMOLITION KEY PLAN
SCALE: 1" = 40'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
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EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

DEMOLITION KEY PLAN

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT MGR 10/6/23

DRAWING
D001

MOA Exhibit B
Page 31 of 61

SHEET NOTES:

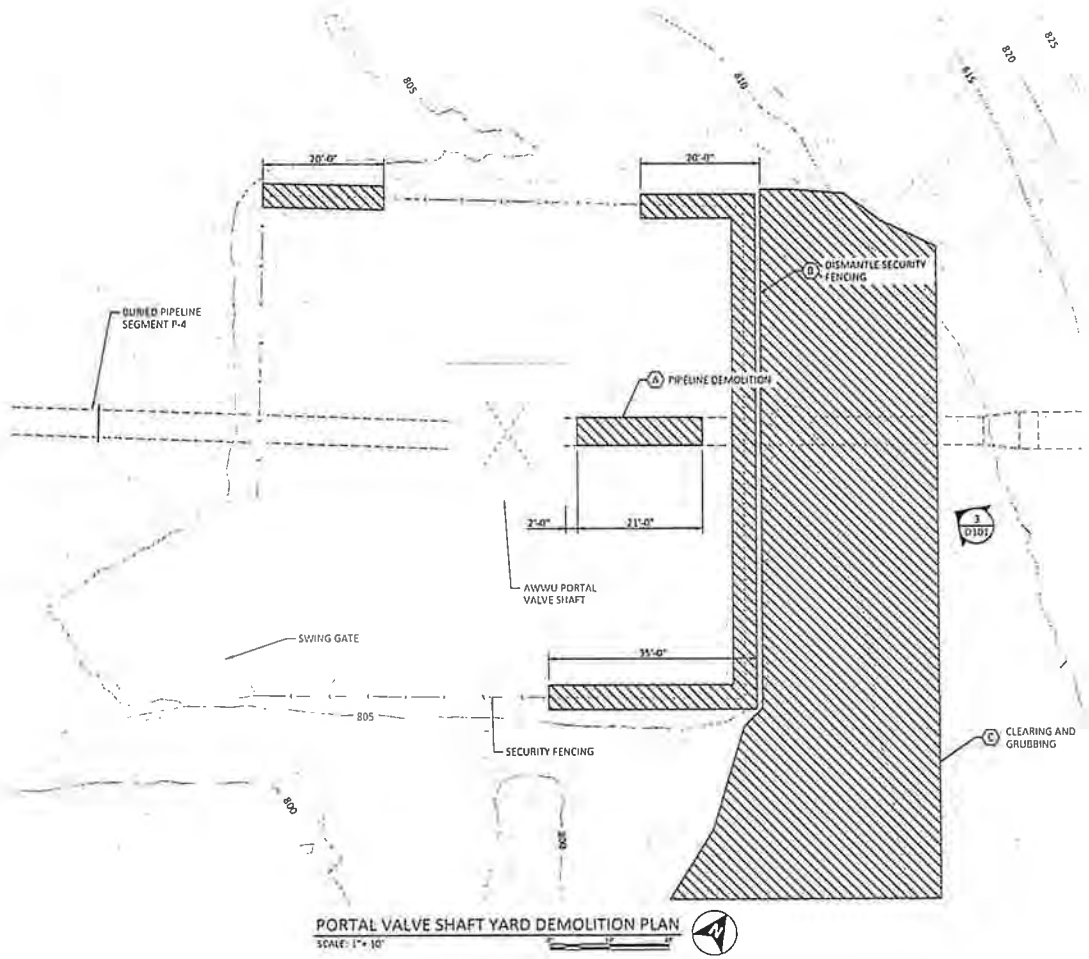
1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88)

SHEET KEY NOTES:

A. EXCAVATE AND EXPOSE BURIED STEEL PIPELINE UPSTREAM OF PORTAL VALVE SHAFT. DEMOLISH AND DISPOSE OF 21-FT SEGMENT OF PIPELINE

B. DISMANTLE SECURITY FENCING TO EXTENTS SHOWN. PRESERVE AND PROTECT FOR RE-INSTALLATION FOLLOWING PROJECT CONSTRUCTION

C. CLEAR AND GRUB LAND NORTHEAST OF PORTAL VALVE SHAFT TO EXTENTS SHOWN.



PORTAL VALVE SHAFT YARD DEMOLITION PLAN

SCALE: 1"= 10'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	95% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH
POWERING ALASKA'S FUTURE

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

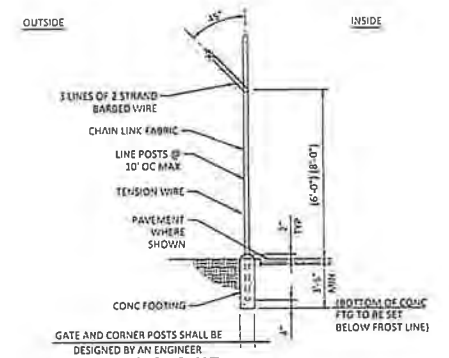
PORTAL VALVE SHAFT YARD
DEMOLITION PLAN

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT MGR 10/6/23

DRAWING
D100

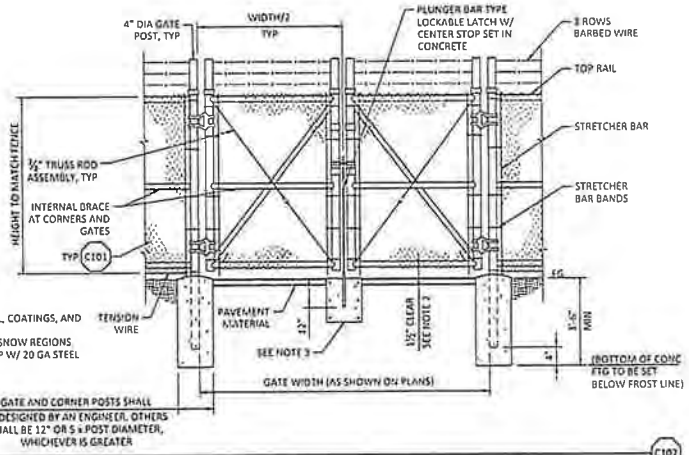
JOB NO. 000000

MOA Exhibit B
Page 32 of 61



NOTES:
1. SEE SPECIFICATIONS FOR FENCE MATERIAL, COATINGS, AND INSTALLATION REQUIREMENTS.
2. EXTENSION ARM MAY BE TURNED IN AT OPTION OF OWNER.

CHAIN LINK FENCE C101
SCALE: NTS



NOTES:
1. SEE SPECIFICATIONS FOR FENCE MATERIAL, COATINGS, AND INSTALLATION REQUIREMENTS.
2. SEE SPECIFICATIONS FOR CLEARANCES IN SNOW REGIONS.
3. 12" DIAMETER x 18" DEEP CONCRETE STOP W/ 20 GA STEEL PLUNGER SLEEVE, DIA = ROD O.D. +½".

DOUBLE LEAF GATE C102
SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

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EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

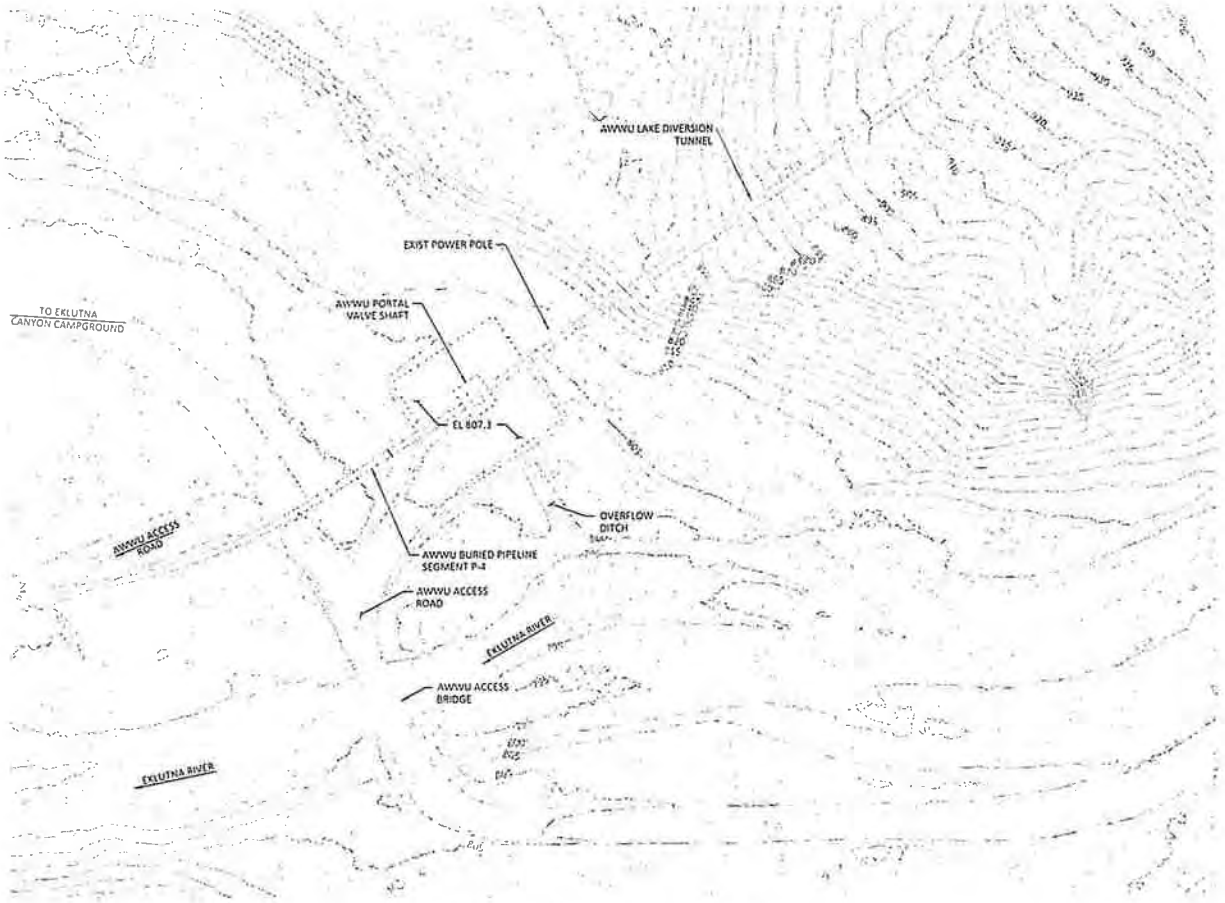
CIVIL GENERAL NOTES AND STANDARD DETAILS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED I. BOAG
PROJECT MGR 10/6/23

DRAWING GC001

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88)



PORTAL VALVE SHAFT YARD EXISTING SITE PLAN

SCALE: 1" = 40'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

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EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

PORTAL VALVE SHAFT YARD
EXISTING SITE PLAN

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT MGR 10/6/23

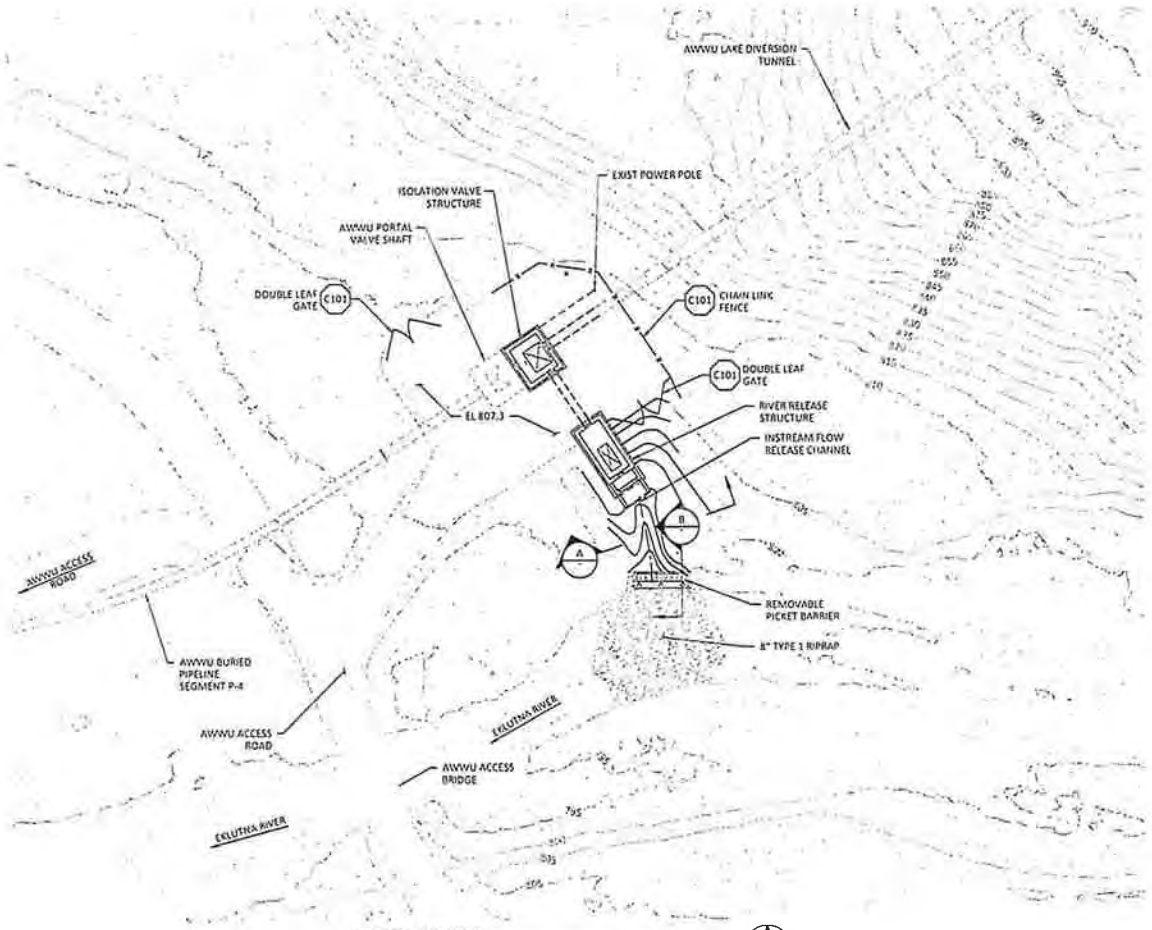
DRAWING
C001

GENERAL NOTES:

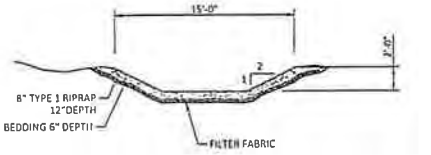
1. SURVEY BASED ON LIGHT DETECTION AND RANGING (LIDAR) AERIAL IMAGERY DATA CAPTURED IN MAY 2022.

PROJECTION: UTM ZONE 6 NORTH
HORIZONTAL DATUM: NAD83 (2011)
VERTICAL DATUM: NAVD88 (GEOID 12B)

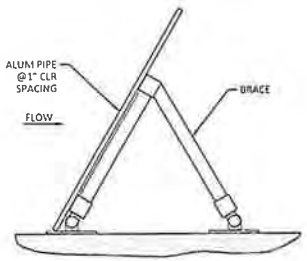
2. ELEVATIONS ARE TO FINISHED GRADE UNLESS OTHERWISE SHOWN.
3. SLOPE UNIFORMLY BETWEEN CONTOURS AND SPOT ELEVATIONS SHOWN



PORTAL VALVE SHAFT YARD EXISTING SITE PLAN
SCALE: 1" = 30'



A SECTION
SCALE: 1" = 5'



B SECTION
SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	35% DESIGN

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

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EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

PORTAL VALVE SHAFT YARD
GRADING PLAN

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT MGR 10/6/23

DRAWING
C100

GENERAL STRUCTURAL NOTES:
THE FOLLOWING NOTES ARE GENERAL AND APPLY TO THE ENTIRE PROJECT, UNLESS SPECIFICALLY NOTED OTHERWISE (UNO)

1) GENERAL:

A. CONSTRUCTION DOCUMENTS:
1. THE CONTRACTOR SHALL REVIEW THE APPROVED CONTRACT DOCUMENTS AND NOTIFY THE ENGINEER OF ANY ERRORS OR DISCREPANCIES PRIOR TO THE START OF CONSTRUCTION.
2. THE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY IF ANY UNIDENTIFIED EXISTING UNDERGROUND UTILITIES ARE DISCOVERED.
3. THE STRUCTURAL CONTRACT DRAWINGS REPRESENT THE FINISHED STRUCTURE. THEY DO *NOT* INDICATE THE METHOD OF CONSTRUCTION. THE CONTRACTOR SHALL PROVIDE ALL MEASURES NECESSARY TO PROTECT THE STRUCTURE DURING CONSTRUCTION. SUCH MEASURES SHALL INCLUDE, BUT ARE NOT LIMITED TO, BRACING AND/OR SHORING FOR LOADS DUE TO CONSTRUCTION EQUIPMENT, ETC
4. UNDER NO CIRCUMSTANCES CAN STRUCTURAL COMPONENTS BE SUBSTITUTED, OMITTED, OR ALTERED FROM THE APPROVED SET OF CONSTRUCTION DOCUMENTS WITHOUT WRITTEN APPROVAL FROM THE ENGINEER.

B. DIMENSIONS AND NOTATIONS:
1. WRITTEN DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS. DO NOT SCALE DRAWINGS.
2. ABBREVIATIONS USED ON THE APPROVED CONSTRUCTION DOCUMENTS SHALL BE CONSIDERED TYPICAL ABBREVIATIONS FOR THE INDUSTRY. THE CONTRACTOR SHALL BE RESPONSIBLE TO NOTIFY THE ENGINEER IMMEDIATELY OF ANY ABBREVIATIONS THAT ARE UNKNOWN TO THE CONTRACTOR.

C. TYPICAL NOTES AND DETAILS:
1. SPECIFIC NOTES AND DETAILS SHALL TAKE PRECEDENCE OVER STANDARD TYPICAL NOTES AND DETAILS.
2. STANDARD TYPICAL NOTES AND DETAILS ARE TO BE USED WHEN REFERRED TO OR WHEN NO OTHER MORE RESTRICTIVE OR DIFFERENT DETAILS ARE SHOWN ON THE DRAWINGS.
3. WORK NOT PARTICULARLY SHOWN OR SPECIFIED SHALL BE THE SAME AS SIMILAR PARTS THAT ARE SHOWN OR SPECIFIED.

D. CODE REQUIREMENTS:
1. ALL WORK SHALL CONFORM TO THE MINIMUM STANDARDS OF REGULATING AGENCIES WHICH MAY HAVE AUTHORITY OVER ANY PORTION OF THE WORK.
2. SPECIFICATIONS, CODES AND STANDARDS NOTED SHALL BE OF THE LATEST APPROVED ISSUE, INCLUDING SUPPLEMENTS, UNLESS NOTED OTHERWISE
3. MINIMUM UNIFORM (BLANKET) ROOF SNOW LOAD, AS DEFINED BY LOCAL BUILDING OFFICIAL OR STATE, SHALL BE DESIGNED FOR, AND IT IS THE RESPONSIBILITY OF THE ENGINEER TO CONFIRM IF ONE EXISTS BY CONTACTING THE LOCAL BUILDING OFFICIAL.

E. DEFERRED SUBMITTALS:
1. DEFERRED STRUCTURE SUBMITTAL ITEMS HAVE NOT BEEN PERMITTED UNDER THE BASE BUILDING APPLICATION.
2. THE CONTRACTOR SHALL SUBMIT COMPONENT SYSTEM DOCUMENTS FOR DEFERRED SUBMITTAL ITEMS, STAMPED BY A PROFESSIONAL ENGINEER LICENSED IN THE JURISDICTION HAVING AUTHORITY, TO THE REGISTERED DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE FOR REVIEW AND FORWARD THE REVIEWED DOCUMENTS TO THE BUILDING OFFICIAL IN COMPLIANCE WITH SECTION 107.3.4.1 OF THE CDC.
3. DEFERRED SUBMITTAL ITEMS SHALL NOT BE INSTALLED UNTIL THE COMPONENT SYSTEM DOCUMENTS HAVE BEEN APPROVED BY THE BUILDING OFFICIAL.
4. THE FOLLOWING CONTRACTOR-DESIGNED PROJECT ELEMENTS ARE DEFINED AS DEFERRED STRUCTURAL SUBMITTAL ITEMS:

PRE-ENGINEERED METAL BUILDINGS

2) CODES, STANDARDS, AND REFERENCES:

A. ASCE 7-16: MINIMUM DESIGN LOADS AND ASSOCIATED CRITERIA FOR BUILDINGS AND OTHER STRUCTURES.
B. ACI 318-14: BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE.
C. ACI 350-06: CODE REQUIREMENTS FOR ENVIRONMENTAL ENGINEERING CONCRETE STRUCTURES.
D. AISC 360-16 SPECIFICATION FOR STRUCTURAL STEEL BUILDINGS

3) FOUNDATIONS AND GEOTECHNICAL:

A. GEOTECHNICAL DESIGN CRITERIA IS BASED ON THE RECOMMENDATIONS DOCUMENTED IN THE DESIGN DOCUMENTATION REPORT:

4) GRATING:

A. WEIGHT OF GRATING SECTION SHALL NOT EXCEED 80 LBS.
B. PROVIDE A MINIMUM OF 4 CLIPS PER GRATING PANEL, APPROX 4" FROM PANEL CORNERS.
C. WIDTH OF GRATING SECTIONS SHALL NOT EXCEED 3'-0"
D. SHOP DRAWINGS BASED ON FIELD DIMENSIONS SHALL BE SUBMITTED TO THE ENGINEER PRIOR TO FABRICATION.
E. PROVIDE GRATING FASTENERS AS REQUIRED.
F. THE HORIZONTAL CLEARANCE BETWEEN THE GRATING AND GRATING SUPPORTS SHALL NOT BE LESS THAN ¼" NOR GREATER THAN ½"
G. ALL GRATING SECTIONS, WHEN IN PLACE, SHALL ALWAYS BE FIRMLY ANCHORED TO THEIR SUPPORTS
H. PROVIDE MINIMUM BEARING PER MANUFACTURERS RECOMMENDATIONS FOR ALL GRATING

5) NON-SHRINK GROUT:
1. ALL GROUT WORK SHALL CONFORM TO THE LATEST EDITION OF ACI 301.
2. FORMWORK: DESIGN, ERECT, SUPPORT, BRACE AND MAINTAIN FORMWORK TO SUPPORT VERTICAL, LATERAL, STATIC AND DYNAMIC LOADS THAT MIGHT BE APPLIED UNTIL STRUCTURE CAN SUPPORT SUCH LOADS.

6) STRUCTURAL AND MISCELLANEOUS STEEL:

A. STRUCTURAL STEEL SHALL CONFORM TO THE FOLLOWING ASTM STANDARDS:
a) WIDE FLANGE SHAPES — A992, GR 50 GALV
b) OTHER SHAPES, PLATES, ANGLES AND BARS — A36 GALV
c) STEEL PIPE — A53, GRADE B GALV
d) HOLLOW STRUCTURAL SECTIONS — A500, GRADE B GALV
C. WELDS: PROVIDE 70KSI LOW HYDROGEN ELECTRODE OR PROCESS IN ACCORDANCE WITH AWS A5.1.
D. BOLTS, U.N.O.:
1. STAINLESS STEEL: ASTM A193, GRADE 8, CLASS 2, AISI TYPE 316
H. DRILL AND EPOXY ANCHOR BOLTS:
1. STAINLESS STEEL ASTM A193, GRADE 8, CLASS 2, AISI TYPE 316 OR EQUAL APPROVED BY ENGINEER
I. EPOXY BOLT OR EXPANSION BOLT SUBSTITUTIONS FOR EMBEDDED BOLTS IS PROHIBITED WITHOUT WRITTEN CONSENT FROM THE ENGINEER.
J. UNLESS NOTED OTHERWISE ON THE DRAWINGS, ALL EPOXY BOLTS SHALL BE AS SPECIFIED.
K. ALL STRUCTURAL STEEL SHALL BE DETAILED, FABRICATED, AND ERECTED IN ACCORDANCE WITH THE AISC CODE OF STANDARD PRACTICE, EXCEPT AS MODIFIED IN THESE NOTES AND THE PROJECT SPECIFICATIONS.
L. ALL STAINLESS STEEL SHALL BE TYPE 316.
M. SPLICING OF STEEL MEMBERS, UNLESS SHOWN ON THE DRAWINGS, IS PROHIBITED WITHOUT WRITTEN APPROVAL OF THE PROJECT ENGINEER.
N. GALVANIC PROTECTION SHALL BE PROVIDED BETWEEN DISSIMILAR METALS
O. WELDING SHOWN FOR STAINLESS STEEL ELEMENTS SHALL COMPLY WITH AWS D1 6/D1 6M

7) CONCRETE:

A. ALL CONCRETE WORK SHALL CONFORM TO THE LATEST EDITION OF ACI 301 AND ACI 117, EXCEPT AS MODIFIED BY THE FOLLOWING SUPPLEMENTAL REQUIREMENTS:
B. ALL CONCRETE SHALL BE NORMAL WEIGHT CONCRETE.
C. CONCRETE MIX DESIGN SHALL BE ESTABLISHED IN ACCORDANCE WITH CHAPTER 5 OF ACI 350.
D. COMPRESSIVE STRENGTH (28 DAYS) F'C — 4,500 PSI
E. REINFORCEMENT FOR CONCRETE:
1. ALL REINFORCING SHALL BE SUPPORTED IN FORMS SPACED WITH NECESSARY ACCESSORIES AND SHALL BE SECURELY WIRED TOGETHER IN ACCORDANCE WITH THE LATEST EDITION OF THE CRSI "MANUAL OF STANDARD PRACTICE"
2. CLEAR COVER
a) CONCRETE CAST AGAINST EARTH = 3"
b) ALL OTHER CONCRETE, UNO = 2"
F. SLAB-ON-GRADE REINFORCEMENT SHALL BE PLACED AT THE MID-DEPTH OF THE SLAB, UNO.
G. FORMWORK: DESIGN, ERECT, SUPPORT, BRACE AND MAINTAIN FORMWORK TO SUPPORT VERTICAL, LATERAL, STATIC AND DYNAMIC LOADS THAT MIGHT BE APPLIED UNTIL STRUCTURE CAN SUPPORT SUCH LOADS

8) ALUMINUM:

A. ALL ALUMINUM WORK SHALL CONFORM TO THE LATEST EDITION OF THE ALUMINUM DESIGN MANUAL BY THE ALUMINUM ASSOCIATION.
B. UNLESS OTHERWISE INDICATED, ALUMINUM METALWORK SHALL BE FABRICATED FROM ALLOY 6061-T6, EXCEPT GRATING WHICH SHALL BE PER DESIGN.

9) REINFORCEMENT:

A. ASTM A615 - FY = 60,000 PSI
B. SEE SPECIFICATIONS FOR REINFORCING PLACEMENT REQUIREMENTS
C. ABSOLUTELY NO WELDING OF REINFORCING BARS OR TORCHING TO BEND REINFORCING BARS SHALL BE ALLOWED WITHOUT SPECIFIC APPROVAL FROM THE STRUCTURAL ENGINEER

10) TESTS AND INSPECTIONS:

A. INSPECTIONS
1. CONSTRUCTION SHALL BE SUBJECT TO INSPECTION BY THE BUILDING OFFICIAL OR THE AUTHORITY HAVING JURISDICTION AND SUCH CONSTRUCTION OR WORK SHALL REMAIN ACCESSIBLE AND EXPOSED FOR INSPECTION PURPOSES UNTIL APPROVED.
2. THE CONTRACTOR IS RESPONSIBLE TO NOTIFY THE BUILDING OFFICIAL OR THE AUTHORITY HAVING JURISDICTION WHEN WORK IS READY FOR INSPECTION. IN ADDITION, THE CONTRACTOR IS RESPONSIBLE TO PROVIDE ACCESS TO AND MEANS FOR INSPECTIONS OF SUCH WORK THAT ARE REQUIRED BY THE BUILDING OFFICIAL OR AUTHORITY HAVING JURISDICTION.

B. STATEMENT OF SPECIAL INSPECTIONS
1. THE DESIGN ENGINEER HAS PREPARED AND SUBMITTED A STATEMENT OF SPECIAL INSPECTIONS TO THE BUILDING OFFICIAL SPECIFYING THE SCOPE OF WORK TO BE INSPECTED BY A SPECIAL INSPECTION AGENCY (IN ADDITION TO THE INSPECTIONS BY THE BUILDING OFFICIAL OR AUTHORITY HAVING JURISDICTION) TO SATISFY THE REQUIREMENTS OF THE CALIFORNIA BUILDING CODE, SECTION 1704. THE CONTRACTOR SHALL REVIEW THIS DOCUMENT AND SUBMIT A WRITTEN STATEMENT OF RESPONSIBILITY TO THE BUILDING OFFICIAL AND OWNER (OR THE OWNER'S AUTHORIZED AGENT) PRIOR TO COMMENCEMENT OF THE WORK THAT ACKNOWLEDGES AWARENESS OF THE REQUIREMENTS CONTAINED IN THE STATEMENT OF SPECIAL INSPECTIONS.
2. THE CONTRACTOR IS RESPONSIBLE FOR COORDINATING THEIR WORK WITH THE SPECIAL INSPECTION AGENCY. THE CONSTRUCTION OR WORK FOR WHICH SPECIAL INSPECTION OR TESTING IS REQUIRED SHALL REMAIN ACCESSIBLE AND EXPOSED FOR SPECIAL INSPECTION AND TESTING PURPOSES UNTIL COMPLETION OF THE REQUIRED SPECIAL INSPECTIONS OR TESTS.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/06/23	SPE	15% DESIGN

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH

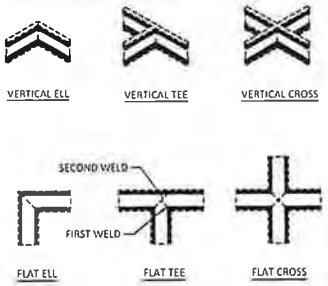
MEA

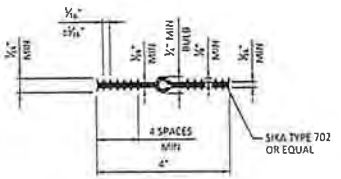
MUNICIPALITY OF ANCHORAGE

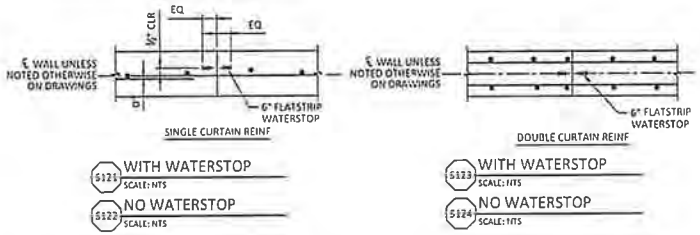
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
STRUCTURAL GENERAL NOTES

DESIGNED K. HEINDEL
DRAWN D. JOHNSTON
CHECKED M. MERKLEIN
PROJECT MGR 10/6/23

DRAWING
GS001







S121 WITH WATERSTOP
SCALE: NTS

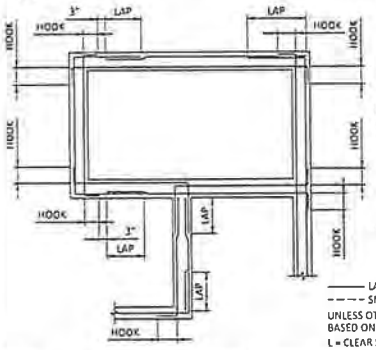
S122 NO WATERSTOP
SCALE: NTS

S123 WITH WATERSTOP
SCALE: NTS

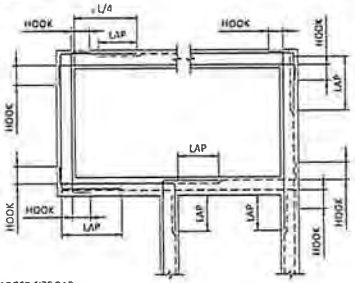
S124 NO WATERSTOP
SCALE: NTS

NOTES:
1. WHERE WATERSTOP IS REQUIRED IN SINGLE CURTAIN WALL REINFORCEMENT, PLACE WATERSTOP ON WATER SIDE OF WALL
2. STAGGER SPLICES UNLESS NOTED OTHERWISE

S107 4" CENTER-BULB WATERSTOP
SCALE: NTS



S108 PREFABRICATED WATERSTOP JOINTS
SCALE: NTS



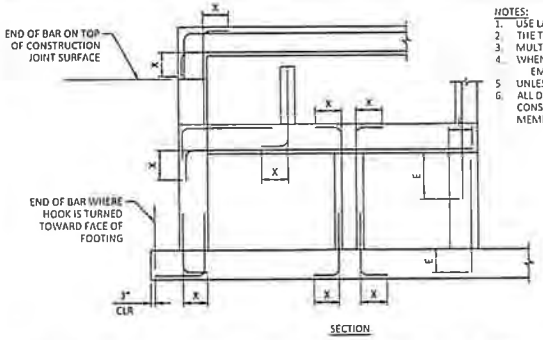
——— LARGER SIZE BAR
– – – – SMALLER SIZE BAR

UNLESS OTHERWISE NOTED LAPS ARE BASED ON THE SMALLER SIZE BARS
L = CLEAR SPAN

*USE THIS DETAILING PROCEDURE WHEN LARGER OR CLOSER SPACED BARS ARE CALLED OUT FOR CORNERS

S141 HORIZONTAL REINFORCEMENT AT WALL INTERSECTIONS
SCALE: NTS

VERTICAL WALL CONSTRUCTION JOINT
SCALE: NTS



NOTES:
1. USE LAP LENGTHS AS DETERMINED FROM THESE TABLES UNLESS SHOWN OTHERWISE
2. THE TABLES SHOWN ARE FOR f'c=4000psi, fy=60,000psi, 1.5" MIN CONCRETE COVER AND 3" MIN BAR SPACING
3. MULTIPLY THE LAP AND E SHOWN IN THESE TABLES BY 1.5 FOR EPOXY COATED REINFORCING
4. WHEN BARS OF DIFFERENT SIZES ARE LAP SPLICED, LAP LENGTH SHALL BE THE LARGER OF: EMBEDMENT LENGTH OF LARGER BAR LAP OR LENGTH OF SMALLER BAR
5. UNLESS NOTED OTHERWISE USE REBAR COUPLERS FOR SPLICES OF #11 AND LARGER BARS
6. ALL DOWEL BARS SHALL EXTEND AN EMBEDMENT LENGTH E INTO ANOTHER MEMBER OR ACROSS A CONSTRUCTION JOINT UNLESS SHOWN TO SPLICE WITH OTHER BARS OR TO EXTEND TO THE FAR FACE OF THE MEMBER AND END WITH A STANDARD HOOK.

BAR SIZE	LENGTH (") HOOK X	LAP	EMBEDMENT E
#3	6"	16" (21")	12" (16")
#4	8"	16" (21")	12" (16")
#5	10"	20" (26")	15" (20")
#6	12"	28" (37")	22" (28")
#7	14"	48" (62")	37" (48")
#8	16"	62" (81")	48" (62")
#9	19"	79" (102")	61" (79")
#10	22"	100" (130")	77" (100")
#11	24"	123" (160")	95" (123")

* USE LENGTH IN PARENTHESIS FOR WALL HORIZONTAL REBARS AND SLAB BARS WITH 12" OR MORE OF FRESH CONCRETE UNDERNEATH

S143 STANDARD 90° BAR HOOKS, EMBEDMENT LENGTHS AND LAP LENGTHS
SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPELLS% DESIGN	

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH | MEA | MUNICIPALITY OF ANCHORAGE

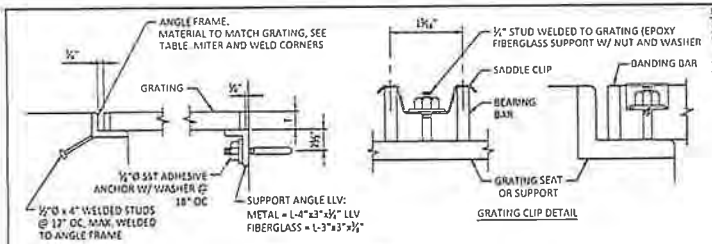
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

STRUCTURAL STANDARD DETAILS 1

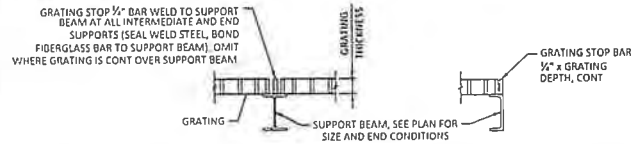
DESIGNED X. HEINDEL
DRAWN D. JOHNSTON
CHECKED M. MERKLEIN
PROJECT NO. 10/6/23

DRAWING
GS002

MOA Exhibit B
Page 37 of 61



GRATING CLIP DETAIL



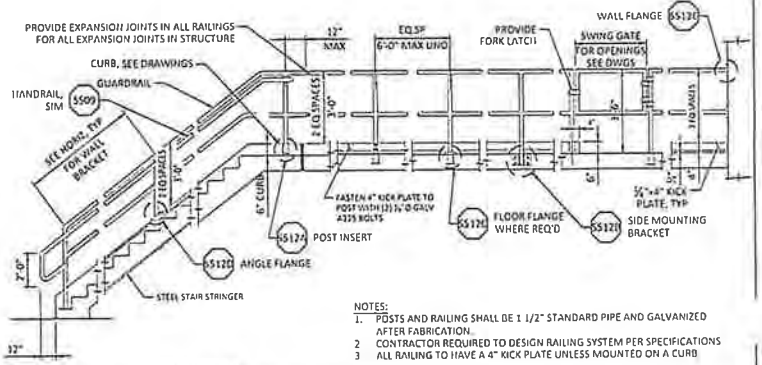
GRATING STOP DETAIL

NOTES:
1. UNLESS INDICATED OTHERWISE, ALL GRATING SHALL BE ALUM
2. GRATING DEPTH TO BE DETERMINED BY MANUFACTURER AND APPROVED BY ENGINEER, UNO.
3. ALL ENDS AND OPENINGS SHALL BE BANDED.
4. WEIGHT OF GRATING SECTION SHALL NOT EXCEED 80 LBS.
5. METAL BEARING BARS SHALL BE DEPTH T x ⅛" @ 1 3/16" OC., CROSS BARS SHALL BE @ 4" OC
6. PROVIDE A MINIMUM OF 4 CLIPS PER GRATING PANEL, APPROX 4" FROM PANEL CORNERS MAXIMUM CLIP SPACING AT 36" OC.
7. MATERIALS:
   - A. ALUM GRATING - USE ALUM ANGLE SUPPORTS AND SST BOLTS AND CLIPS. IF SUPPORTED BY STEEL BEAMS, USE STEEL STOP BARS. ALUM IN CONTACT WITH CONC OR STEEL SHALL BE COATED PER THE PROTECTIVE COATING SPECS.
   - B. GALV STEEL GRATING - USE STEEL ANGLE SUPPORTS, BOLTS AND CLIPS. GALV AFTER FABRICATION.
   - C. SST GRATING - USE SST ANGLE SUPPORTS, BOLTS AND CLIPS
   - D. FIBERGLASS GRATING - USE FIBERGLASS FOR ALL COMPONENTS EXCEPT DRILLED ANCHORS; ALL CUT EDGES SHALL BE SEALED WITH RESIN; BONDING: USE EPOXY ADHESIVE BONDING AGENT

GRATING FRAME TABLE SIZED TO MATCH GRATING (FOR FIBERGLASS USE CONTINUOUS PROTRUDED FIBERGLASS SEAT & ANCHOR)			
GRATING DEPTH (T)	STEEL ANGLE (STEEL)	GRATING DEPTH (T)	STEEL ANGLE (STEEL)
1"	1⅞ x 1⅞ x ⅛ (1⅞ x 1⅞ x ⅜)	2"	*2½ x 2½ x ½
1½"	2" x 1½" x ¼ (1½ x 1½ x ½)	2½"	2½ x 2½ x ½
1⅝"	1½ x 1½ x ½	2¾"	3 x 3 x ½
1¾"	2 x 2 x ½		

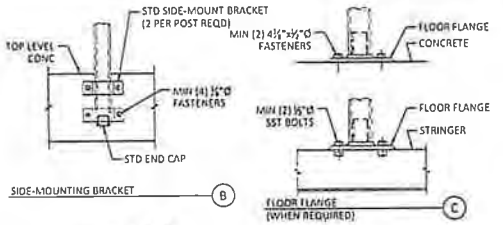
* OR USE 2½" x 2½" x ¼" W/ ½" SHIM PLATE WELDED TO BOTTOM

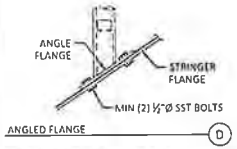
S501 GRATING
SCALE: NTS

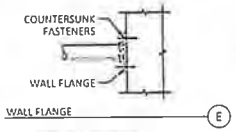


NOTES:
1. POSTS AND RAILING SHALL BE 1 1/2" STANDARD PIPE AND GALVANIZED AFTER FABRICATION.
2. CONTRACTOR REQUIRED TO DESIGN RAILING SYSTEM PER SPECIFICATIONS
3. ALL RAILING TO HAVE A 4" KICK PLATE UNLESS MOUNTED ON A CURB

S510 TWO-RAIL RAILING GUARDRAIL DETAIL
SCALE: NTS

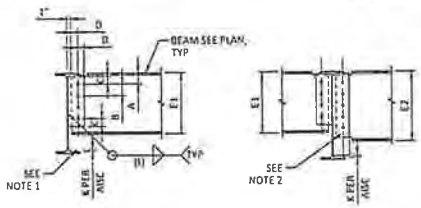






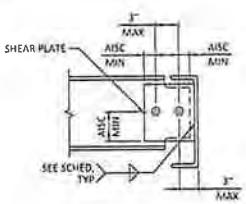
NOTES:
1. IF FASTENING TO CONCRETE, FASTENERS SHALL BE ADHESIVE ANCHORS.
2. CONTRACTOR REQUIRED TO DESIGN RAILING SYSTEM PER SPECIFICATIONS.

S512 RAILING, GUARDRAIL AND HANDRAIL SUPPORT DETAIL
SCALE: NTS



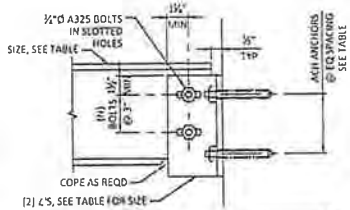
BEAM TO BEAM CONNECTION SCHEDULE								
BEAM SIZE	NO OF A325N BOLTS REQ'D ¾"Ø	NO OF A325N BOLTS REQ'D 1"Ø	CONN PLATE THICKNESS (tPL)	WELD SIZE (w)	A (in)	B (in)	C (in)	D (in)
W8	2		5/16	5/16	2½"	2½"	1½"	1½"
W10	2		5/16	5/16	3	3	1¾"	1¾"

S562 BEAM TO BEAM CONNECTION - PLATE CONNECTION
SCALE: NTS



6" OR LESS CONNECTION

NOTES:
1. EXTEND CONN PLATE WHEN E1 IS GREATER THAN OR EQUAL TO W12 BM.
2. LIMIT OF CONN PLATE WHEN E2-E1 IS LESS THAN OR EQUAL TO 6 INCHES.



BEAM TO CONC CONNECTION SCHEDULE			
BEAM SIZE	DOUBLE ANGLE SIZE	# OF BOLTS (n)	ADHESIVE ANCHORS NUMBER AND SIZE

S563 BEAM TO CONC CONNECTION
SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	35% DESIGN

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH | MEA | MUNICIPALITY OF ANCHORAGE

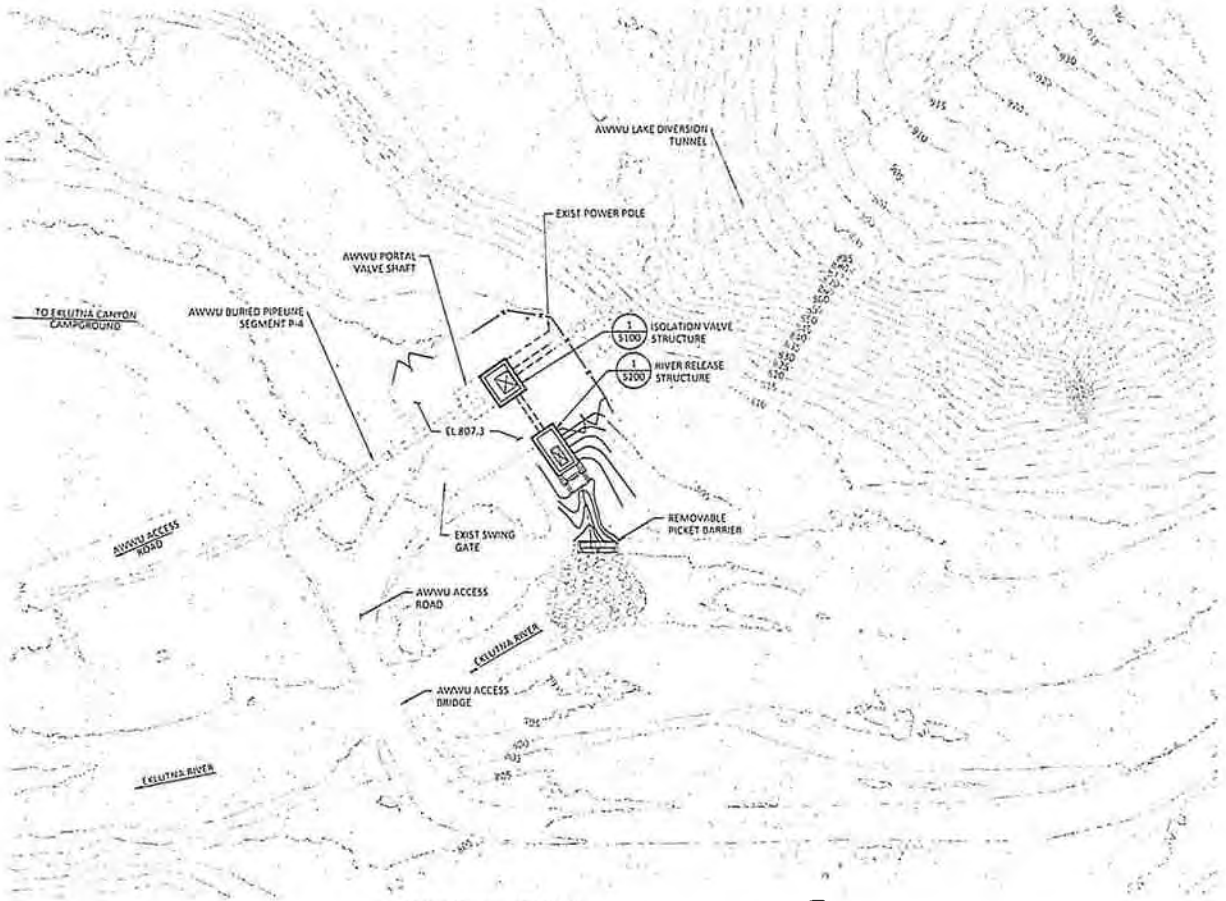
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
STRUCTURAL STANDARD DETAILS 2

DESIGNED K. HEINDEL
DRAWN D. JOHNSTON
CHECKED M. MERKLEIN
PROJECT NO. 10/6/23

DRAWING
GS003

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88)



STRUCTURAL KEY PLAN
SCALE: 1" = 40'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	35% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH | MEA | Municipality of Anchorage

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

STRUCTURAL KEY PLAN

DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT NO. 10/6/23

DRAWING
S001

MOA Exhibit B
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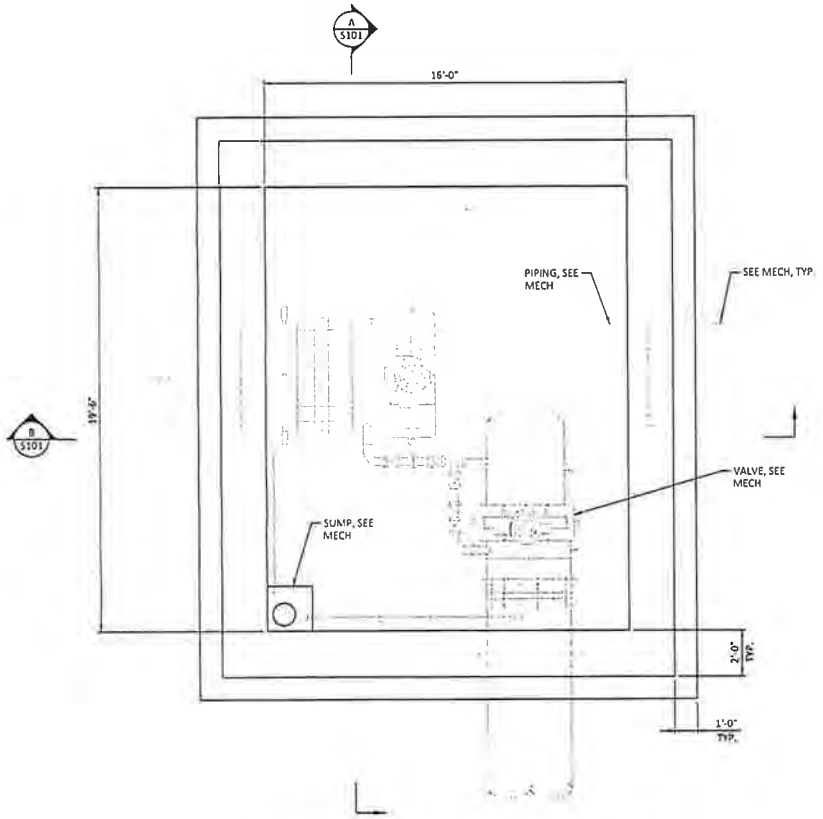
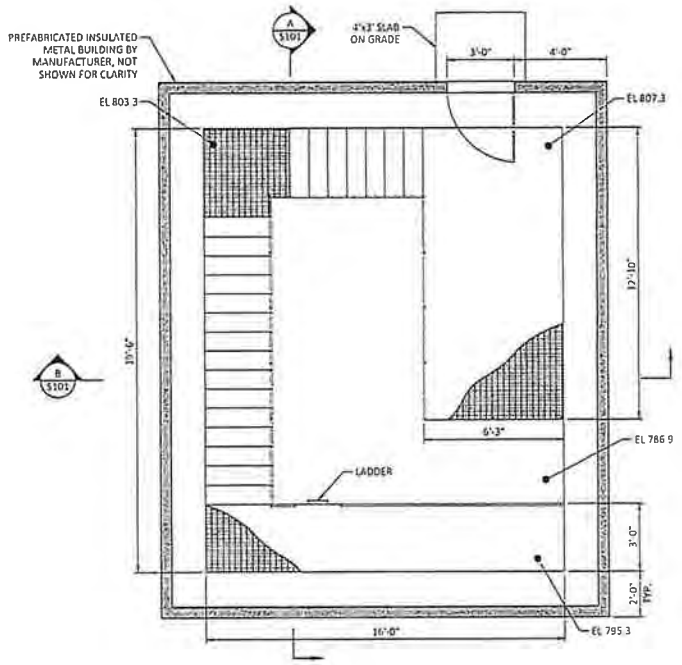
SHEET NOTES:

1 ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



A S001 ISOLATION VALVE STRUCTURE FOUNDATION PLAN
SCALE: 3/8"= 1'-0"



A S001 ISOLATION VALVE STRUCTURE TOP PLAN
SCALE: 3/8"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

NO	DATE	BY	DESCRIPTION
0	10/6/23	SPE	ISSUE DESIGN

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH | MEA | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

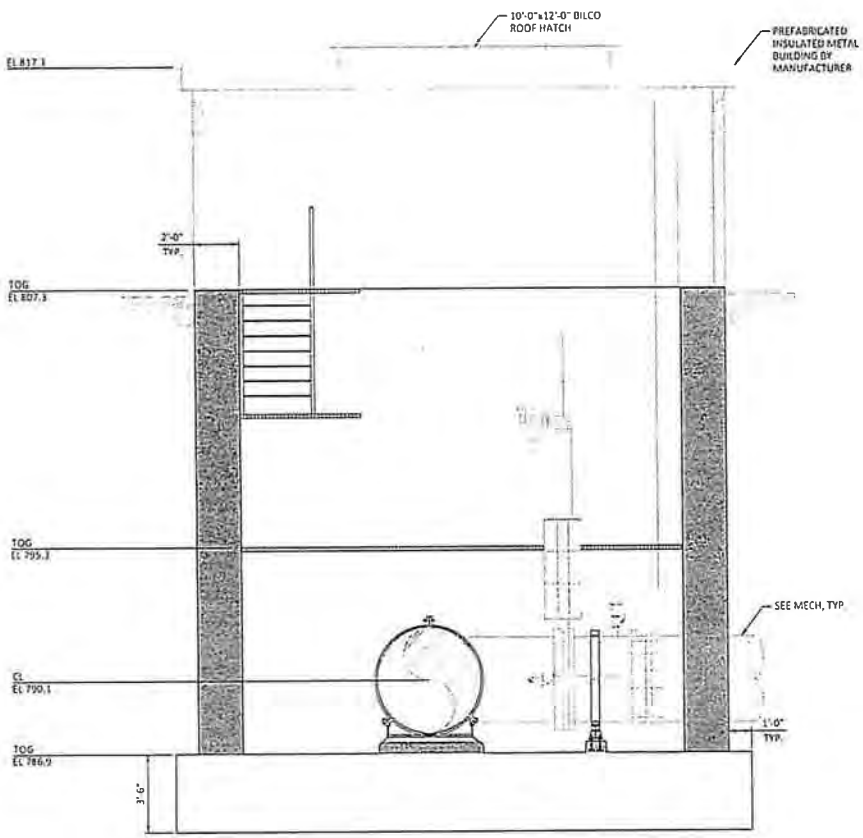
ISOLATION VALVE STRUCTURE PLAN, SECTIONS AND DETAILS

DESIGNED K. HEINDEL
DRAWN J. HOLT
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

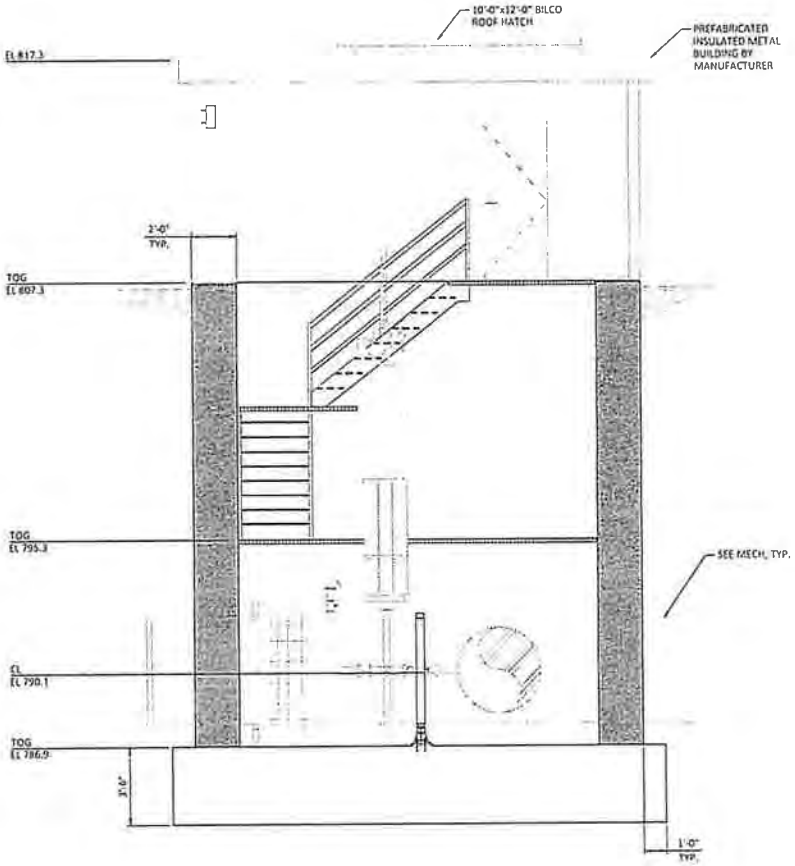
DRAWING
S100

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



A S100 SECTION
SCALE: 3/8"= 1'-0"



B S100 SECTION
SCALE: 3/8"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/0/23	SPE	35% DESIGN

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH | MEA | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

ISOLATION VALVE STRUCTURE SECTIONS

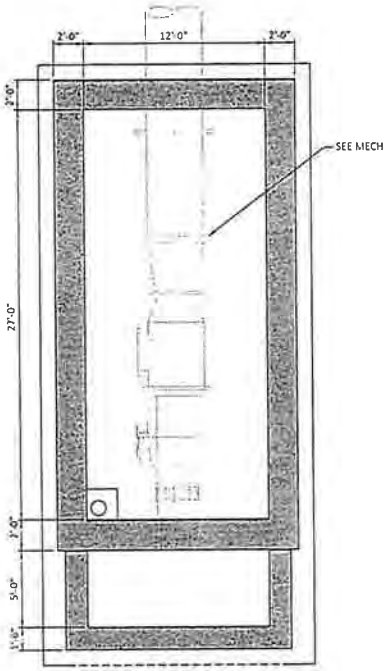
DESIGNED K. HEINDEL
DRAWN J. HOLT
CHECKED M. MERKLEIN
PROJECT NO. 10456/23

DRAWING
S101

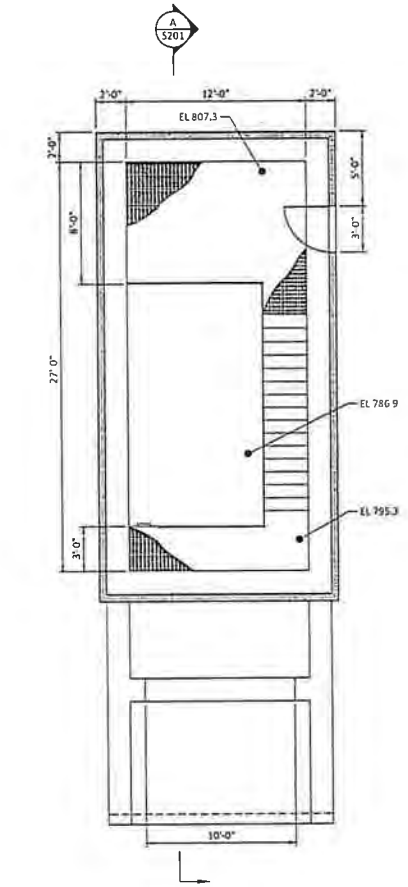
MOA Exhibit B
Page 41 of 61

SHEET NOTES:

1 ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88)



B 5001 RIVER RELASE STRUCTURE FOUNDATION PLAN
SCALE: 1/4" = 1'-0"



D 5001 RIVER RELASE STRUCTURE TOP PLAN
SCALE: 1/4" = 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	35% DESIGN

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH | MEA | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

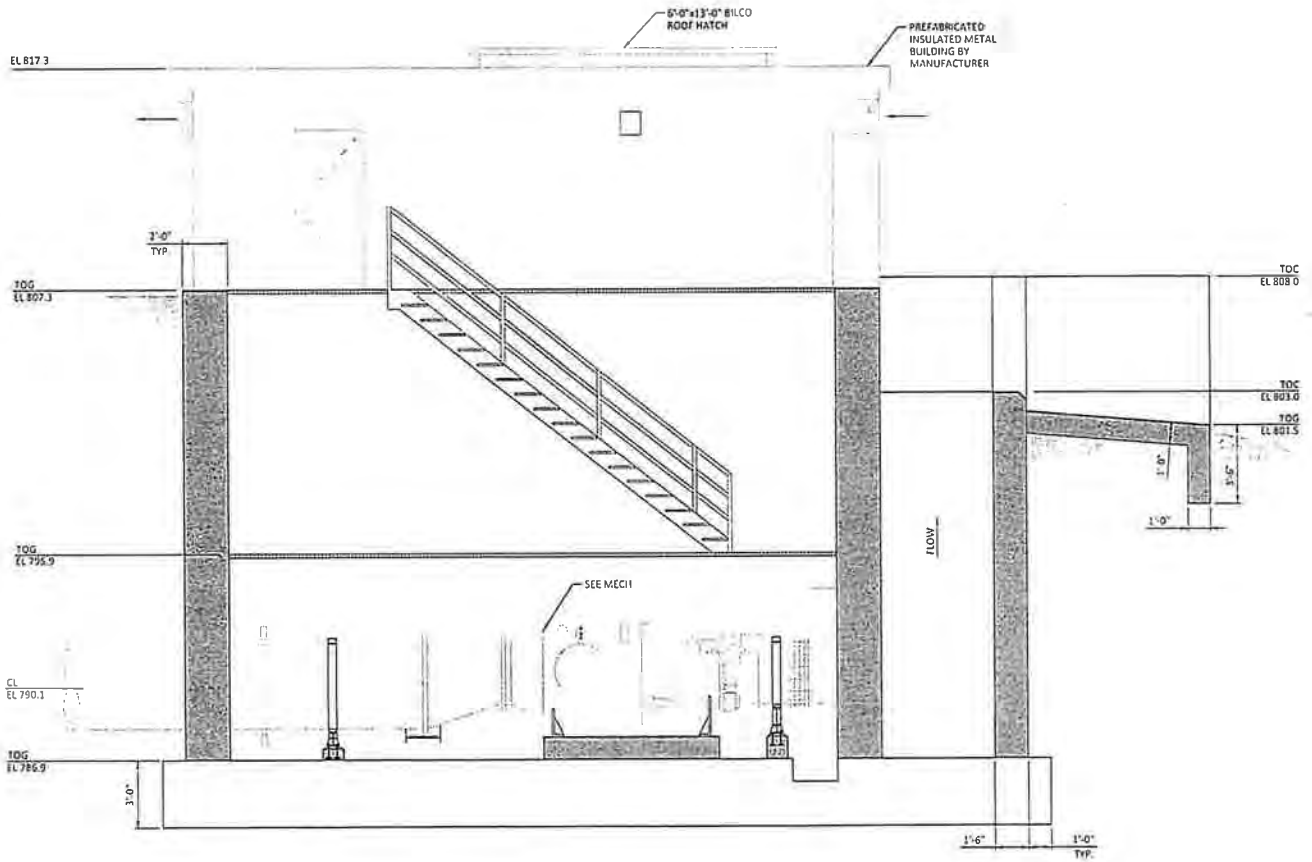
RIVER RELEASE STRUCTURE PLAN, SECTIONS AND DETAILS

DESIGNED K. HEINDEL
DRAWN J. HOLT
CHECKED M. MERKLEIN
PROJECT MGR. 10/6/23

DRAWING
S200

SHEET NOTES:

1 ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88)



A S200 SECTION
SCALE: 3/8" = 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
1/2
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH | MEA | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

RIVER RELEASE STRUCTURE SECTIONS

DESIGNED K. HEINDEL
DRAWN J. HOLT
CHECKED M. MERKLEIN
PROJECT NO. 10/6/23

DRAWING
S201

VALVE SCHEDULE

EQUIPMENT NUMBER	LOCATION	SERVICE	FLUID	TYPE	DIAMETER (IN)	ASME PRESSURE CLASS	ENDS	ACTUATOR TYPE (NORMAL POSITION)	MATERIAL	SPEC SECTION	COMMENTS
V-100	ISOLATION GATE STRUCTURE	ISOLATION VALVE	RAW WATER	GATE	54	150	FLXFL	ELECTRIC (OPEN)			
V-101	ISOLATION GATE STRUCTURE	BYPASS/FILLING	RAW WATER	ECC. PLUG	3	150	FLXFL	MANUAL (HANDWHEEL)			
V-102	ISOLATION GATE STRUCTURE	PRESSURE REDUCTION	RAW WATER	ORIFICE	3	150	FLXFL	N/A			
V-103	ISOLATION GATE STRUCTURE	BYPASS/ISOLATION	RAW WATER	BUTTERFLY	4	150	FLXFL	MANUAL (HANDWHEEL)			
V-104	ISOLATION GATE STRUCTURE	AIR RELEASE/VACUUM	RAW WATER	COMBO AIR VENT	2	150	FLXFL	N/A			
V-110	ISOLATION GATE STRUCTURE	ISOLATION VALVE	RAW WATER	GATE	42	150	FLXFL	ELECTRIC (OPEN)			
V-111	ISOLATION GATE STRUCTURE	BYPASS/FILLING	RAW WATER	ECC. PLUG	3	150	FLXFL	MANUAL (HANDWHEEL)			
V-112	ISOLATION GATE STRUCTURE	PRESSURE REDUCTION	RAW WATER	ORIFICE	3	150	FLXFL	N/A			
V-113	ISOLATION GATE STRUCTURE	BYPASS/ISOLATION	RAW WATER	BUTTERFLY	4	150	FLXFL	MANUAL (HANDWHEEL)			
V-114	ISOLATION GATE STRUCTURE	AIR RELEASE/VACUUM	RAW WATER	COMBO AIR VENT	2	150	FLXFL	N/A			
V-200	EKLUTNA RIVER RELEASE STRUCTURE	FLOW CONTROL	RAW WATER	SLEEVE	30	150	FLXFL	ELECTRIC (OPEN)			BAILEY MODEL B-10 OR EQUIVALENT

PUMP SCHEDULE

EQUIPMENT NUMBER	LOCATION	SERVICE	EQUIPMENT DESCRIPTION	FLUID	FLOW CAPACITY (GPM) AND TDH (FT)	MOTOR SIZE (HP)	ELECTRICAL SERVICE (V/PH/CY)	SPEC SECTION	COMMENTS
P-100	ISOLATION GATE STRUCTURE	SUMP	SUBMERSIBLE PUMP	RAW WATER	50 @ 30	0.75	120 / 1 / 60		
P-200	RIVER RELEASE VALVE STRUCTURE	SUMP	SUBMERSIBLE PUMP	RAW WATER	50 @ 30	0.75	120 / 1 / 60		

FLOW METER SCHEDULE

ISA TAG	LOCATION	SERVICE	FLUID	EQUIPMENT DESCRIPTION	FLOW RANGE (CFS) / DIA (IN)	ELECTRICAL SERVICE (V/PH/CY)	COMMENTS
FE-100	ISOLATION GATE STRUCTURE	FLOW MEASUREMENT	RAW WATER	TRANSIT TIME ULTRASONIC, 4 PATH	0 - 63/ 54"	120/1/60	
FE-200	RIVER RELEASE VALVE STRUCTURE	FLOW MEASUREMENT	RAW WATER	TRANSIT TIME ULTRASONIC, 4 PATH	0 - 80/ 42"	120/1/60	

INSTRUMENTATION SCHEDULE

ISA TAG	LOCATION	SERVICE	EQUIPMENT DESCRIPTION	FLUID	SIGNAL OUTPUT	ELECTRICAL SERVICE	MEASUREMENT RANGE	SPEC SECTION	COMMENTS
LE-010	ISOLATION GATE STRUCTURE	PRESSURE MEASUREMENT	PRESSURE TRANSDUCER	RAW WATER	ANALOG; 4-20 mA	24 VDC	0 - 75 PSI		
LE-011	ISOLATION GATE STRUCTURE	PRESSURE MEASUREMENT	PRESSURE TRANSDUCER	RAW WATER	ANALOG; 4-20 mA	24 VDC	0 - 75 PSI		
LE-012	ISOLATION GATE STRUCTURE	PRESSURE MEASUREMENT	PRESSURE TRANSDUCER	RAW WATER	ANALOG; 4-20 mA	24 VDC	0 - 75 PSI		

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

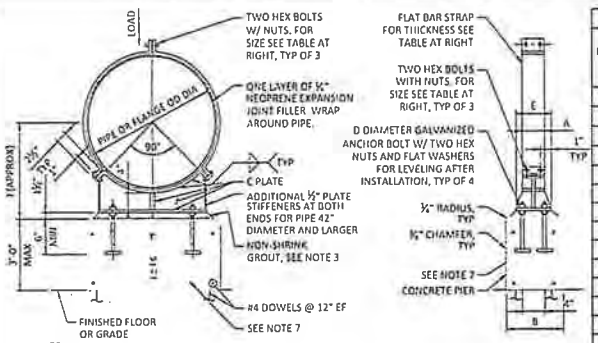
WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
MECHANICAL EQUIPMENT SCHEDULE

DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. DOAG
PROJECT MGR 10/6/23

DRAWING
GM001



DIMENSIONS IN INCHES																
NOMINAL PIPE SIZE	A	B	C	D	E	STRAP		SUPPORTING								
						BOLT SIZE	FLAT BAR	PIPE				FLANGE				
								F	G	H	J	F	G	H	J	
6	4	12	1/8	3/8	6	1/2	1/4	4 1/2	8	14	10	6 1/2	11	16	13	
8	4	12	1/8	5/8	6	1/2	1/4	5	9 1/2	14	11	7 1/2	13	18	14	
10	4	12	1/2	1/8	6	1/2	1/2	6	11	16	12	9	15	20	15	
12	4	12	1/2	5/8	6	1/2	1/4	7	13	18	13	10	17	22	16	
14	4	12	1/8	1/4	6	1/2	1/4	8	13	18	14	11	18	23	17	
16	4	12	1/2	5/8	6	1/2	1/4	9	15	21	15	12	20	26	18	
18	4	12	1/8	1/8	6	5/8	1/4	10	16	22	16	13	21	26	19	
20	5	12	1/8	5/8	6	1/8	1/8	10	18	24	17	15	23	28	21	
22	5	12	1/8	5/8	6	3/8	1/8	12	19	24	18	16	25	30	22	
24	5	12	1/8	3/4	6	3/8	3/8	13	21	26	19	16	26	32	23	
26	5	12	1/8	3/4	6	3/8	1/8	14	22	28	20	18	28	34	24	
30	5	12	1/8	3/4	6	3/8	3/8	16	25	30	22	20	31	36	26	
34	5	15	1/8	3/4	6	3/8	3/8	18	28	33	24	22	35	41	29	
36	6	15	1/8	3/4	6	1/8	3/8	19	29	34	25	24	36	42	30	
42	6	18	1/8	1	8	1/2	1/8	21	33	39	28	27	41	47	33	
48	6	18	1/8	1	8	1/2	1/2	24	38	44	31	30	46	52	37	
54	6	18	1/2	1	8	1/4	1/4	28	42	48	34	34	50	56	40	
60	6	18	1/8	1 1/4	8	1/2	1/4	32	46	52	37	38	56	62	44	
66	6	18	1/8	1 1/2	8	1/2	1/2	33	51	58	40	40	61	68	47	
72	6	18	1/2	1 1/4	8	1/2	1/4	36	56	62	43	44	65	72	50	

NOTES:
1. WHEN SUPPORTING PIPE AND FLANGE ALTERNATELY ON THE SAME LINE, CONCRETE PIERS FOR PIPE SUPPORTS SHALL ALL HAVE THE SAME DIMENSION 'H' FOR FLANGE SUPPORT
2. PIPE SUPPORTS SHALL BE LOCATED IN PLAN AT POINTS MARKED THUS: (X)
3. WHERE DIFFERENTIAL SETTLEMENT IS LIKELY TO OCCUR, OMIT GROUT AS DIRECTED BY THE ENGINEER
4. GALVANIZE ALL PARTS AFTER FABRICATION.
5. WHERE DIRECTED BY THE STRUCTURAL ENGINEER, BOTTOM OF PIERS SHALL EXTEND BELOW BOTTOM OF SLAB
6. WHERE PIPE SUPPORT OCCURS ON GRADE REFER TO STRUCTURAL DRAWINGS FOR DETAILS
7. GALVANIZED ANCHOR BOLT OR CONCRETE ANCHOR WITH TWO NUTS AND ONE LOCKWASHER. PROVIDE BAR 4x3½x4" WELDED TO BOLT, TYP OF 4. SEE SPECIFICATIONS

(A130) PIPE SUPPORT WITH STRAP
SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	35% DESIGN

WARNING
0 1/2 1
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McMillen

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

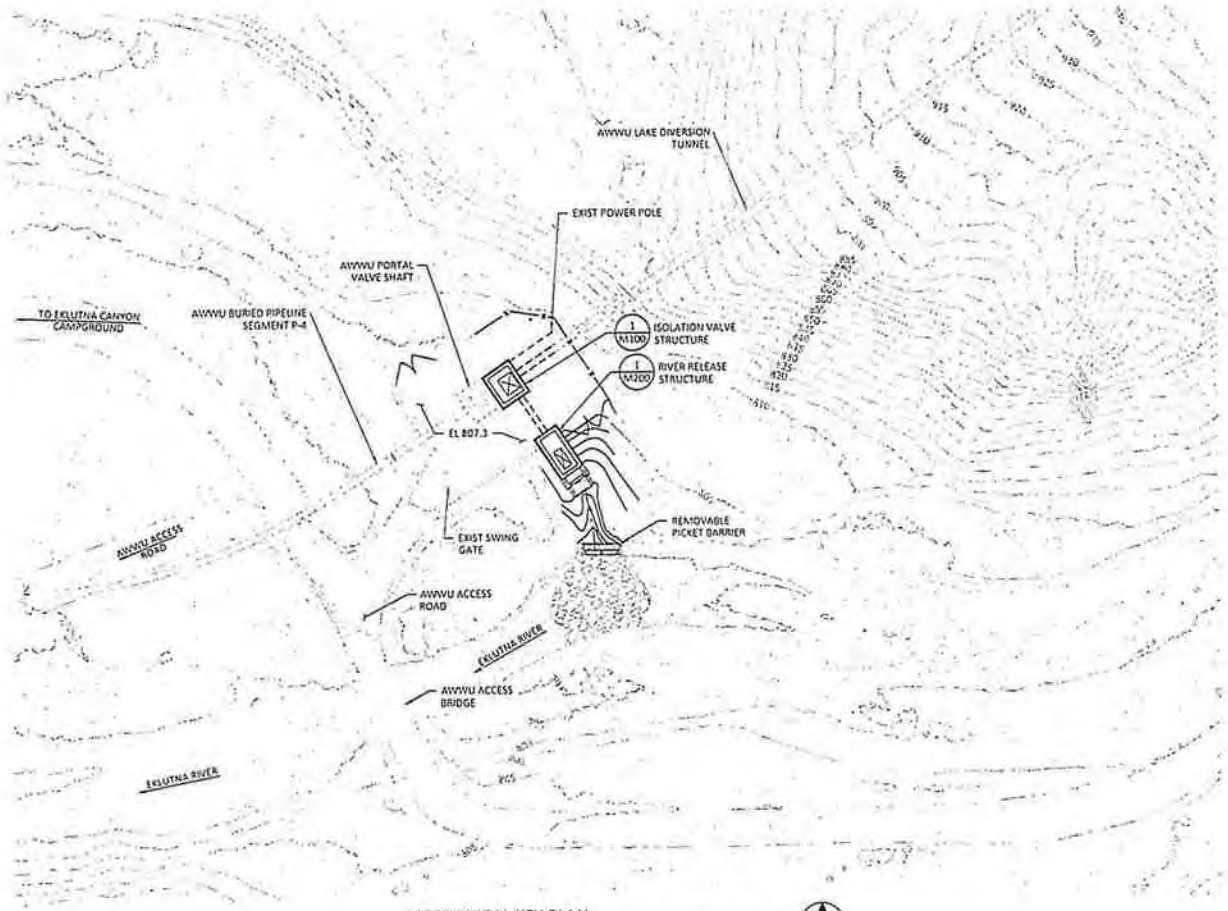
MECHANICAL STANDARD DETAILS

DESIGNED S. ELLENSON
DRAWN D. JOHNSTON
CHECKED J. BOAG
PROJECT NO. 10/6/23

DRAWING
GM002

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



MECHANICAL KEY PLAN
SCALE: 1" = 40'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	35% DESIGN

WARNING
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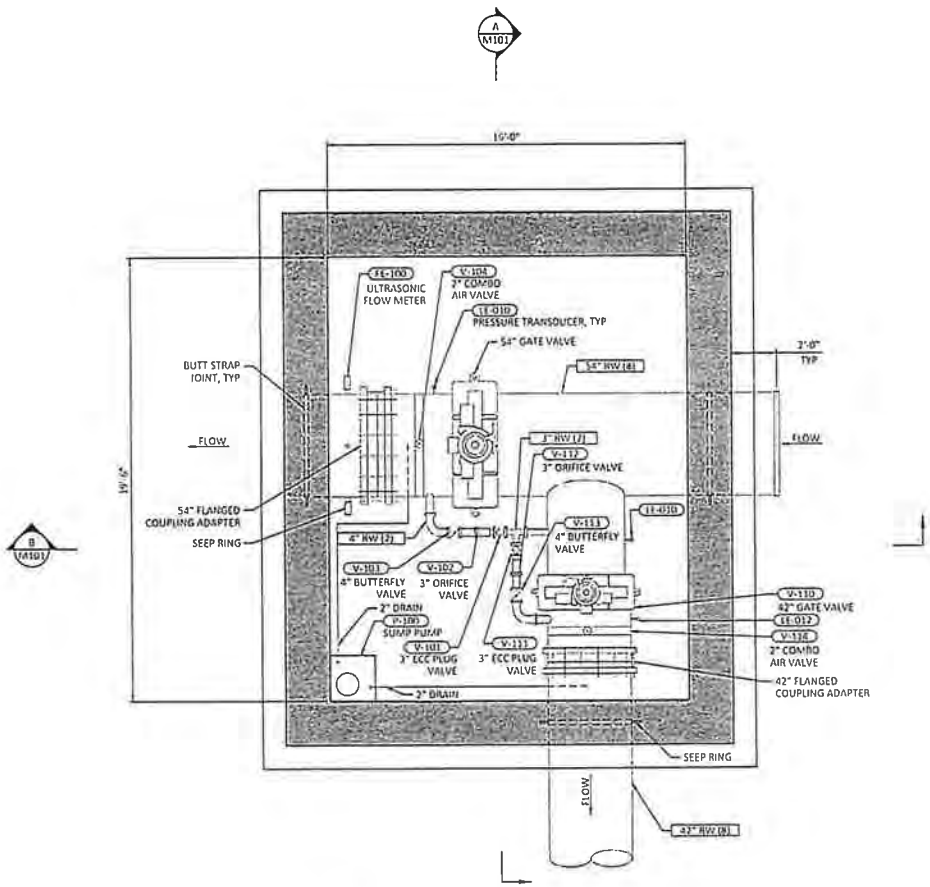
McMillen | CHUGACH | MEA | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
MECHANICAL KEY PLAN

DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT NO. 10456/23

DRAWING
M001



1/M001 ISOLATION VALVE STRUCTURE MECHANICAL PLAN
SCALE: 3/8"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
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McMillen | CHUGACH | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

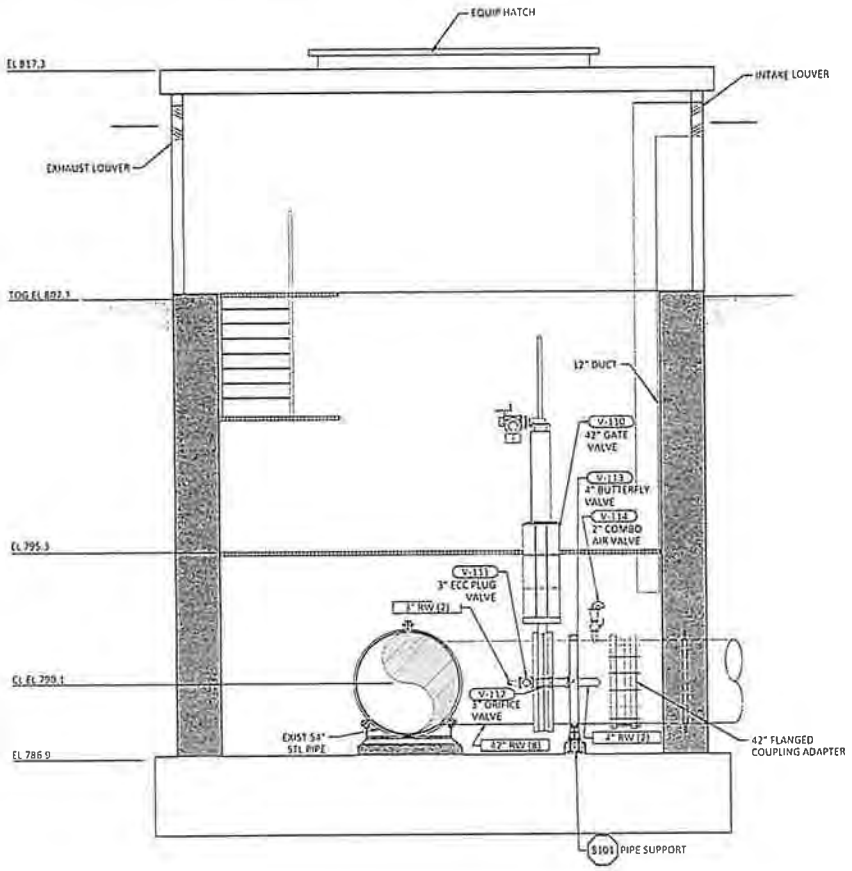
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

ISOLATION VALVE STRUCTURE
MECHANICAL PLAN

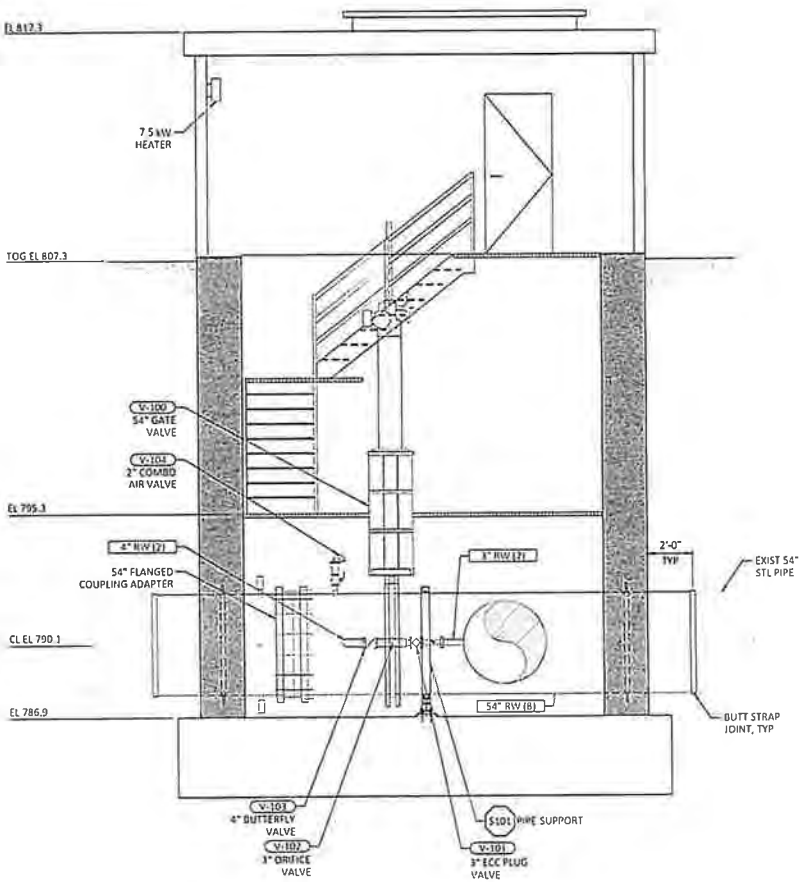
DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT MGR 10/6/23

DRAWING
M100

MOA Exhibit B
Page 47 of 81



A SECTION
SCALE: 3/8" = 1'-0"



B SECTION
SCALE: 3/8" = 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	95% DESIGN

WARNING
0 1/2 1
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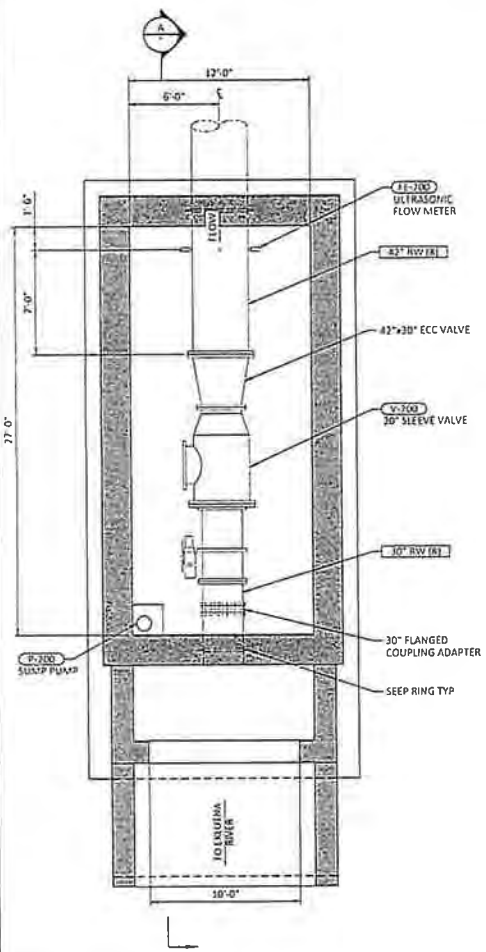
McMillen | CHUGACH | MEA Matanuska Electric Association | Municipality of Anchorage

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

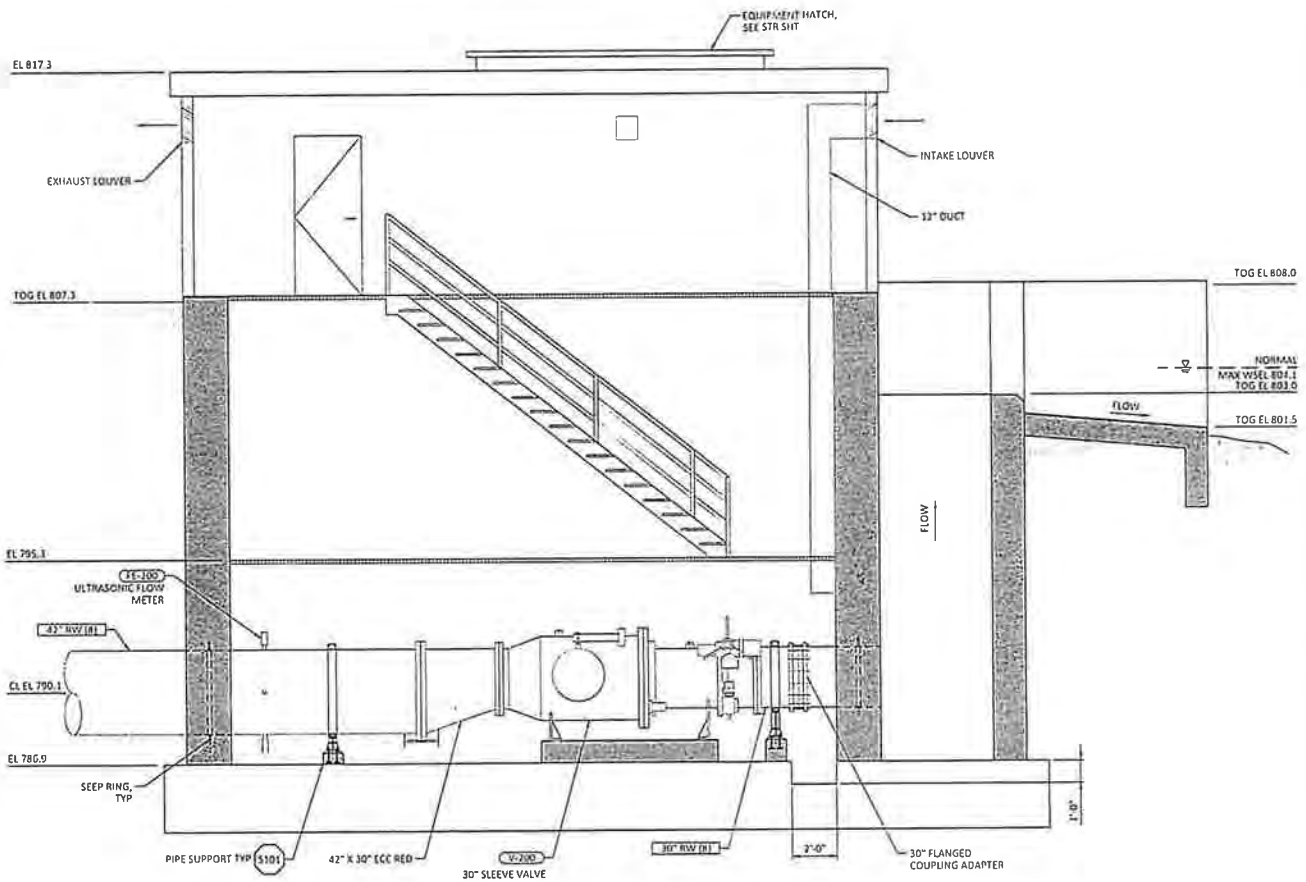
ISOLATION VALVE STRUCTURE MECHANICAL SECTIONS

DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT MGR. [illegible]

DRAWING
M101



1 A/M001 RIVER RELEASE STRUCTURE PLAN
SCALE: 1/4"= 1'-0"



A SECTION
SCALE: 3/8"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SFE	15% DESIGN

WARNING
0 1/2 1
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McMillen | CHUGACH | MEA (Matanuska Electric Association) | Municipality of Anchorage

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

RIVER PORTAL RELEASE VALVE SHAFT MECHANICAL PLAN, SECTIONS AND DETAIL

DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT NO. 10/6/23

DRAWING
M200

IEEE STANDARD CONTROL AND PROTECTION DEVICES FUNCTION NUMBERS

01	MASTER ELEMENT
02	TIME-DELAY STARTING OR CLOSING RELAY (TDPU)
03	CHECKING OR INTERLOCKING RELAY
04	MASTER CONTACTOR
05	STOPPING DEVICE
06	STARTING CIRCUIT BREAKER
07	RATE-OF-CHANGE RELAY
08	CONTROL POWER DISCONNECTING DEVICE
09	REVERSING DEVICE
10	UNIT SEQUENCE SWITCH
11	MULTIFUNCTION DEVICE
12	OVER-SPEED DEVICE
13	SYNCHRONOUS SPEED DEVICE
14	UNDER-SPEED DEVICE
15	SPEED OR FREQUENCY MATCHING DEVICE
16	DATA COMMUNICATIONS DEVICE
17	SHUNTING OR DISCHARGE SWITCH
18	ACCELERATING OR DECELERATING DEVICE
19	STARTING-TO RUNNING TRANSITION CONTACTOR
20	ELECTRONICALLY OPERATED VALVE
21	DISTANCE RELAY
22	EQUALIZER CIRCUIT BREAKER
23	TEMPERATURE CONTROL DEVICE
24	VOLTS PER HERTZ RELAY
25	SYNCHRONIZING OR SYNCHRONISM - CHECK DEVICE
26	APPARATUS THERMAL DEVICE
27	UNDERVOLTAGE RELAY
28	FLAME DETECTOR
29	ISOLATING CONTACTOR
30	ANNUNCIATOR RELAY
31	SEPARATE EXCITATION DEVICE
32	DIRECTIONAL POWER RELAY
33	POSITION SWITCH
34	MASTER SEQUENCE DEVICE
35	BRUSH OPERATING OF SLIP-RING SHORT-CIRCUITING DEVICE
36	POLARITY OR POLARIZING VOLTAGE DEVICE
37	UNDERCURRENT OR UNDERPOWER RELAY
38	BEARING PROTECTIVE DEVICE
39	MECHANICAL CONDITION MONITOR
40	FIELD (OVER/UNDER EXCITATION) RELAY
41	FIELD CIRCUIT BREAKER
42	RUNNING CIRCUIT BREAKER
43	MANUAL TRANSFER OR SELECTOR DEVICE
44	UNIT SEQUENCE STARTING RELAY
45	ATMOSPHERIC CONDITION MONITOR
46	REVERSE-PHASE OR PHASE-BALANCE CURRENT RELAY
47	PHASE-SEQUENCE OR PHASE-BALANCE VOLTAGE RELAY
48	INCOMPLETE SEQUENCE RELAY
49	MACHINE OR TRANSFORMER THERMAL RELAY
50	INSTANTANEOUS OVERCURRENT OR RATE-OF-RISE RELAY
51	AC INVERSE TIME OVERCURRENT RELAY
52	AC CIRCUIT BREAKER
53	EXCITER OR DC GENERATOR RELAY
54	TURNING GEAR ENGAGING DEVICE
55	POWER FACTOR RELAY
56	FIELD APPLICATION RELAY
57	SHORT-CIRCUITING OR GROUNDING DEVICE
58	RECTIFICATION FAILURE RELAY
59	OVERVOLTAGE RELAY
60	VOLTAGE OR CURRENT BALANCE RELAY
61	DENSITY SWITCH OR SENSOR
62	TIME-DELAY STOPPING OR OPENING RELAY (TDDO)
63	PRESSURE SWITCH
64	GROUND DETECTOR RELAY
65	GOVERNOR
66	NOTCHING OR JOGGING DEVICE
67	AC DIRECTIONAL OVERCURRENT RELAY
68	BLOCKING RELAY
69	PERMISSIVE CONTROL DEVICE
70	RHEOSTAT
71	LEVEL SWITCH
72	DC CIRCUIT BREAKER
73	LOAD-RESISTOR CONTACTOR
74	ALARM RELAY
75	POSITION CHANGING MECHANISM
76	DC OVERCURRENT RELAY
77	PULSE TRANSMITTER
78	PHASE-ANGLE MEASURING OR OUT-OF-STEP PROTECTIVE RELAY
79	AC RECLOSING RELAY
80	FLOW SWITCH
81	FREQUENCY RELAY
82	DC RECLOSING RELAY
83	AUTOMATIC SELECTIVE CONTROL OR TRANSFER RELAY
84	OPERATING MECHANISM
85	CARRIER OR PILOT-WIRE RECEIVER RELAY
86	LOCKOUT RELAY
87	DIFFERENTIAL PROTECTIVE RELAY
88	AUXILIARY MOTOR OR MOTOR GENERATOR
89	LINE SWITCH
90	REGULATING DEVICE
91	VOLTAGE DIRECTIONAL RELAY
92	VOLTAGE AND POWER DIRECTIONAL RELAY
93	FIELD-CHANGING CONTACTOR
94	TRIPPING OR TRIP-FREE RELAY
95	RESERVED FOR FUTURE APPLICATION
96	RESERVED FOR FUTURE APPLICATION
97	RESERVED FOR FUTURE APPLICATION
98	CREEP DETECTOR DEVICE
99	RESERVED FOR FUTURE APPLICATION

METERING SYSTEMS AND DEVICES INDEX

A	AMMETER	PB	PUSHBUTTON
AH	AMPERE HOUR METER	PF	POWER FACTOR METER
AS	AMMETER SELECTOR SWITCH	PH	PHASE METER
C	COUNTER	PI	POSITION INDICATOR
CMA	CONTACT MAKING AMMETER	REC	RECORDER
CMC	CONTACT MAKING CLOCK	RF	REACTIVE FACTOR METER
CMV	CONTACT MAKING VOLTMETER	RPM	SPEED INDICATOR
CS	CONTROL STATION	SW	TRANSFER SWITCH
DM	DEMAND METER	SY	SYNCHROSCOPE
ETM	ELAPSE TIME METER	T	TEMPERATURE METER
F	FREQUENCY METER	TLM	TELEMETER
G	GALVANOMETER	TOC	TRUCK-OPERATED CONTACT
GD	GROUND FAULT DETECTOR	TS	TIME SWITCH
KV	KILO-VOLTMETER	V	VOLTMETER
KW	KILO-WATTMETER	VAR	VARMETER
KWH	KILO-WATT HOUR METER	VH	VAR HOUR METER
mA	MILLI AMMETER (TRANSDUCER)	VS	VOLTMETER SELECTOR SWITCH
MOC	MECHANISM-OPERATED CONTACT	W	WATTMETER
OHM	OHMMETER	WH	WATT HOUR METER
OSC	OSCILLOGRAPH	WHDM	WATT HOUR DEMAND METER

NOTE: "R" IN FRONT OF LETTERS INDICATES A RECORDING TYPE METER.

PILOT - INDICATOR LIGHT INDEX

A	AMBER
B	BLUE
C	CLEAR
G	GREEN
NE	NEON
O	ORANGE
OP	OPALESCENT
P	PURPLE
R	RED
W	WHITE
Y	YELLOW

FIRST LETTER SUFFIX OF IEEE DEVICE DESIGNATION

A	GOVERNOR SYSTEM (OR ACTUATOR SYSTEMS - GATES)
B	BATTERY CHARGING AND MONITORING SYSTEM OR BUS
C	HIGH-VOLTAGE CABLE SYSTEM OR CLOSING RELAY/CONTACTOR
D	DATA ACQUISITION SYSTEM
E	EXCITATION SYSTEM INCLUDING TRANSFORMER AND REGULATOR BUT NOT MAIN FIELD
F	FIRE AND CO2 SYSTEM
G	MAIN GENERATOR INCLUDING AUXILIARY SYSTEMS OR GROUND
G/M	GENERATOR MOTOR INCLUDING AUXILIARY SYSTEMS IN PUMPED STORAGE APPLICATIONS
H	TURBINE OR MAIN PUMP INCLUDING AUXILIARY SYSTEMS
I	ISOLATED AND OTHER POWER BUS SYSTEMS (NOT HIGH VOLTAGE CABLE)
J	POWER CIRCUIT BREAKER INCLUDING AUXILIARY SYSTEMS
K	POWER TRANSFORMER INCLUDING AUXILIARY SYSTEMS
L	ANNUNCIATOR SYSTEM, SECURITY SYSTEM, LINE, OR LOWERING RELAY/CONTACTOR
M	MAIN PUMP MOTOR INCLUDING AUXILIARY SYSTEMS AND VARIABLE SPEED DRIVE
N	AIR (PNEUMATIC) SYSTEM OR NEUTRAL
O	OPENING RELAY/CONTACTOR
P	PENSTOCK OR DISCHARGE LINE SYSTEM
Q	OIL STORAGE, HANDLING, PURIFICATION SYSTEM
R	FIELD FLASHING SYSTEM, PHASE REVERSAL SWITCH INCLUDING AUXILIARY SYSTEM, OR RAISING RELAY/CONTACTOR
S	STATION SERVICE SUBSTATION SYSTEM INCLUDING ENGINE/GENERATOR SYSTEM
T	TONE AND TRANSFER TRIP SYSTEM OR TRANSFORMER
U	UNIT CONTROL CIRCUIT SYSTEM OR UNINTERRUPTIBLE POWER SUPPLY SYSTEM
V	INTAKE AND/OR DISCHARGE VALVE SYSTEM
W	WATER SYSTEMS INCLUDING INTAKE/OUTLET WORKS AND PLANT WATER AND SUMP SYSTEMS
X	DEFINED FOR SYSTEMS UNIQUE TO A FACILITY
Y	DEFINED FOR SYSTEMS UNIQUE TO A FACILITY
Z	DEFINED FOR SYSTEMS UNIQUE TO A FACILITY

SECOND AND SUBSEQUENT LETTER SUFFIXES OF THE IEEE DEVICE DESIGNATION

A	ABNORMAL, A.C., ACCELERATION, ADMISSION, ALARM, AMPERES, AUTOMATIC, AUXILIARIES, PHASE A, ECT
B	BACKUP, BEARING, BLOCK, BLOWER, BOOSTER, BRAKES, BUS, BUTTON, BYPASS, PHASE B, ETC.
C	CABLE, CARRIER, CHARGER, CHECK, CHLORINATION, CLOSE, COLLECTOR, COMMON, COMPENSATOR, COMPRESSOR, CONTROL, COOLING, CURRENT, CYCLE, CYLINDER, PHASE C, CONVEYOR, ECT.
D	D.C, DECELERATION, DELAY, DEPRESS, DETECTOR, DIELECTRIC, DIFFERENTIAL, DISCHARGE, DISCONNECT, DISCORDANCE, DOMESTIC, DOWN, DOWNSTREAM, DRAFT TUBE, DRAIN, ETC
E	EJECTOR, ELEVATOR, EMERGENCY, EXPLOSIVE, ETC.
F	FAILURE, FAN, FAULT, FEEDER, FIELD, FILTER, FIRE, FLAME, FLOW, FOLLOWER, FORWARD, FREQUENCY, FULL, FUMES, FUSE, ETC.
G	GAS, GATE, GATING (SCR), GENERATE, GROUND, GUIDE BEARING, ETC.
H	HALON, HAND, HEAT, HEATER, HIGH, HOIST, HORN, IIOT, HOUSING, HYDROPNEUMATIC TANK, ETC.
I	INDICATION, INITIAL, INLET, INOUT, INSTANTANEOUS, INTAKE, INTERFACE, INTERLOCK, INTERRUPT, INVERTER, IONIZATION, ETC.
J	JACKING, JET, ETC
K	KEY, TRANSDUCER
L	LAMPS, LEFT, LEVEL, LIGHTS, LIMITS, LINE, LIQUID, LOCAL, LOGIC, LOSS, LOUVERS, LOW, LOWER, LUBRICATION, ETC.
M	MAIN, MALFUNCTION, MANUAL, METER, METERING, MOTOR, ETC.
N	NEGATIVE, NETWORK, NEUTRAL, NORMAL, ETC.
O	OPEN, OUTLET, OUTPUT, ETC.
P	PACKING BOX, PARALLEL, PARAMETER, PENSTOCK, PHASE, PHASEBACK, PILOT, PIT, POSITION, POTENTIAL, POTHEAD, POWER, PRESSURE, PRIMARY, PROTECTION, PULSE, PUMP, PURIFICATION, PUSH, ETC
Q	OIL, ETC
R	RAISE, REACTOR, RECLOSE, RECORD, RECTIFIER, REED, REFRIGERATION, REGULATE, RELAY, RELEASE, RELIEF, REMOTE, RESERVOIR, RESET, RESISTOR, RIGHT, ROTATION, ROTOR, RUNNER, ETC.
S	SEALS, SECONDARY, SELECTOR, SEWAGE, SHORTING, SHUTDOWN, SIGNAL, SKIMMER, SLUDGE, SMOKE, SOLENOID, SPEED, SPIRAL OR SCROLL CASE, SPLICE, STABILIZER, STANDBY, STARTING, STATOR, STEPPING, STORAGE, STRAINER, SUCTION, SUMP, SUPPLY, SWITCH, SYNCHRONIZING, ETC.
T	TANK, TEMPERATURE, TEST, THERMAL, THRUST BEARING, THYRATRON, TIE, TIME, TRANSDUCER, TRANSFER, TRANSMITTER, TRIP, TROUBLE, TRASHRAKE, ETC.
U	UNIT, UNLOADER, UNWATERING, UP, UPPER, UPSTREAM, ETC.
V	VALVE, VARS, VIBRATION. VOLTAGE, ETC.
W	WATER, WATTS, WINDINGS, ETC
X	AUXILIARY DEVICE, ETC
Y	AUXILIARY TO DEVICE X, ANTIPUMP RELAY, ETC
Z	AUXILIARY TO DEVICE Y

ABBREVIATIONS

A, AMP	AMP, AMPERE
AAAC	ALL ALUMINUM ALLOY CONDUCTOR
AC	ALTERNATING CURRENT
AF	AMPERE FRAME SIZE
AFD	ADJUSTABLE FREQUENCY DRIVE
AFF	ABOVE FINISHED FLOOR
AH	AMPERE HOURS
AHJ	AUTHORITY HAVING JURISDICTION
AHU	AIR HANDLING UNIT
AL	ALUMINUM
A/R	AS REQUIRED
AT	AMPERE TRIP
ATS	AUTOMATIC TRANSFER SWITCH
AVR	AUTOMATIC VOLTAGE REGULATOR
BAT	BATTERY
C	CONDUIT
CB	CIRCUIT BREAKER
CKT	CIRCUIT
CLF	CURRENT LIMITING FUSE
CO	CONDUIT ONLY
CP	CONTROL PANEL
CPT	CONTROL POWER TRANSFORMER
CR	CONTROL RELAY
CS	CONTROL SWITCH
CT	CURRENT TRANSFORMER
DC	DIRECT CURRENT
DCS	DISTRIBUTED CONTROL SYSTEM
DISC	DISCONNECT
DP	DISTRIBUTION PANEL
DPDT	DOUBLE-POLE, DOUBLE-THROW
DPST	DOUBLE-POLE, SINGLE-THROW
EDH	ELECTRIC DUCT HEATER
EG	ENGINE GENERATOR
EPT	EXCITATION POWER TRANSFORMER
EUH	ELECTRIC UNIT HEATER
EV	ELECTRICAL VAULT
F, FU	FUSE
FA	FIRE ALARM
FACP	FIRE ALARM CONTROL PANEL
FAS	FIRE ALARM SYSTEM
FREQ	FREQUENCY
FS	FLOAT SWITCH
FT	FLOW TRANSMITTER
FVNR	FULL VOLTAGE NON-REVERSING
FVR	FULL VOLTAGE REVERSING
GEN	GENERATOR
GFI	GROUND FAULT INTERRUPTION
GFP	GROUND FAULT PROTECTION
GND	GROUND
GPR	GENERATOR PROTECTION RELAY
GSU	GENERATOR STEP-UP TRANSFORMER
HMI	HUMAN-MACHINE INTERFACE
HOA	HAND-OFF-AUTO
HOR	HAND-OFF-REMOTE
HPU	HYDRAULIC POWER UNIT
HTR	HEATER
HZ	HERTZ (CYCLES PER SECOND)
IC	INTERRUPTING CAPACITY
I & C	INSTRUMENTATION AND CONTROL
I/O	INPUT/OUTPUT
INST	INSTANTANEOUS
INTLK	INTERLOCK
IP	INTERNET PROTOCOL
K	KEY INTERLOCK
kV	KILOVOLTS
kVA	KILOVOLT AMPERES (APPARENT POWER)
kVAR	KILOVARS (REACTIVE POWER)
kW	KILOWATTS (REAL POWER)
kWH	KILOWATT HOUR
LC	LIGHTING CONTROLLER
LCP	LOCAL CONTROL PANEL
LE	LEVEL ELEMENT
LIT	LEVEL INDICATING TRANSMITTER
LOR	LOCAL-OFF-REMOTE
LP	LIGHTING PANEL
LS	LEVEL SWITCH
LT	LEVEL TRANSMITTER
mA	MILLIAMPERES
M	MOTOR, MAN, MANUAL
MAG	MAGNETIC
MCC	MOTOR CONTROL CENTER
MDP	MAIN DISTRIBUTION PANEL
MFM	MULTIFUNCTIONAL METER
MPR	MOTOR PROTECTION RELAY
MTS	MANUAL TRANSFER SWITCH
mV	MILLIVOLTS
MVA	MEGAVOLT AMPERES (APPARENT POWER)
MVAR	MEGAVARS (REACTIVE POWER)
MW	MEGAWATTS (REAL POWER)
MWH	MEGAWATT HOUR
NEUT	NEUTRAL
NGR	NEUTRAL GROUNDING RESISTOR
OHM	OHMMETER
OL	OVERLOAD
OPER	OPERATOR, OPERATED
PB	PANELBOARD, PULLBOX, PUSH BUTTON
PC	PHOTOCELL
PCB	POWER CIRCUIT BREAKER
PCC	POINT OF COMMON CONNECTION
PF	POWER FACTOR
PH, Ø	PHASE
PMP	PUMP
PNL	PANEL
PLC	PROGRAMMABLE LOGIC CONTROLLER
POI	POINT OF INTER-CONNECTION
PS	PRESSURE SWITCH
PTT	PUSH-TO-TEST
PWR	POWER
R	RELAY, REVERSE, RUN
RCP	RECEPTACLE
RIO	REMOTE I/O
RTD	RESISTANCE TEMPERATURE DETECTOR
RVNR	REDUCED VOLTAGE NON REVERSING
RVR	REDUCED VOLTAGE REVERSING
S	SYNC SCOPE
SA	SURGE ARRESTER
SC	SURGE CAPACITOR
SDP	STANDBY DISTRIBUTION PANEL
SEL	SELECTOR, SCHWEITZER ENGINEERING LABORATORIES
SPD	SURGE PROTECTION DEVICE
SPDT	SINGLE-POLE, DOUBLE-THROW
SPST	SINGLE-POLE, SINGLE-THROW
S/S	STATION SERVICE
SV	SOLENOID VALVE
SW	SWITCH
SWBD	SWITCHBOARD
SWGR	SWITCHGEAR
T	THERMOSTAT
TB	TERMINAL BLOCK, TERMINAL BOX
TD	TEMPERATURE DETECTOR, TIME DELAY
TEL	TELEPHONE
TS	THERMOSTAT
TSP	TWISTED SHIELDED PAIR
TST	TWISTED SHIELDED TRIAD
TX	TRANSMITTER
UH	UNIT HEATER
UP	UTILITY POWER
UPS	UNINTERRUPTIBLE POWER SUPPLY
V	VOLTS
VAC	VOLTS ALTERNATING CURRENT
VC	VIDEO CAMERA
VCB	VACUUM CIRCUIT BREAKER
VDC	VOLTS DIRECT CURRENT
VFD	VARIABLE FREQUENCY DRIVE
W	WIRE, WATTS
WP	WEATHER PROOF
XD	TRANSDUCER
XFMR	TRANSFORMER
XLP	CROSS LINKED POLYETHYLENE
XP	EXPLOSION PROOF

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	35% DESIGN

WARNING
0 1/2 1
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McMillen | CHUGACH | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

ELECTRICAL ABBREVIATIONS AND DEVICE INDEXES

DESIGNED C. CURTIS
DRAWN J. HOLT
CHECKED J. BAKKEN
PROJECT NO. 19467.03

DRAWING
GE001

DIAGRAMS

HIGH - MEDIUM VOLTAGE SWITCHING

- POWER CIRCUIT BRK, DRAWOUT
- POWER CIRCUIT BRK, NON-DRAWOUT
- HV ISOLATING SW MOTOR OPERATED
- HV INTERRUPTER SW FUSED
- CENTER-BREAK SW MOTOR OPERATED
- DUAL-BREAK SW MOTOR OPERATED
- LOAD-BREAK SW MOTOR OPERATED
- HORN GAP SW

TRANSFORMERS WINDING CONNECTIONS:

- DELTA 3PH3W
- DELTA CENTER TAP GND 3PH4W
- DELTA CORNER GRD 3PH3W
- BROKEN DELTA 3PH2W
- OPEN DELTA 2PH2W
- WYE 3PH3W
- WYE GRD 3PH4W
- ZIG-ZAG 3PH3W
- ZIG-ZAG GRD 3PH4W

MISC DEVICES & CONNECTIONS:

- DEVICE TERMINAL POINT
- TERMINAL BLOCK
- EXTERNAL EQUIPMENT INTERCONNECTION
- RELAY, SOLENOID, OR CONTACTOR COIL (XX / XX)
- TRANSDUCER (TD XX)
- INDICATING METER (I XX)
- TELEMETRY (TLM XX)
- PUSH-TO-TEST LIGHT
- PILOT/INDIC LIGHT
- FUSE, SIZE AS INDICATED (XA)
- FUSE DUMMY
- DISC SW FUSED (XA)
- FUSIBLE LINK
- CAPACITOR
- REACTOR (3X)
- RESISTOR (RES)
- RESISTOR VARIABLE (RES)
- HEATER ELEMENT (OR)
- RECTIFIER SOLID STATE
- RECTIFIER FULLWAVE (AC, DC+, DC-, AC)
- DC BRAKE
- GROUND
- CHASSIS GROUND
- CURRENT SHUNT

LOW VOLTAGE SWITCHING:

- DISCONNECTING SWITCH, MANUALLY GANG-OPERATED
- MOLDED CASE OR AIR CIRCUIT BREAKER
- CONTACTOR WITH THERMAL OL TRIP
- CONTACTOR WITH MAGNETIC OL TRIP
- CONTACTOR WITH THERMAL AND MAGNETIC OL TRIP
- CIR BKR DRAWOUT ELEC OPER (E)
- CIR BKR THERMO O/L DRAWOUT ELEC OPER (E)
- CIR BKR MAG O/L DRAWOUT ELEC OPER (E)
- CIR BKR THERMO/MAG O/L DRAWOUT ELEC OPER (E)

CONTROL SWITCHING:

- XX — PB SWITCH NORM OPEN
- XX — PB SWITCH NORM CLOSED
- XX, OFF, MAN / AUTO — SELECTOR SWITCH
- XX — LIMIT SW NORM OPEN
- XX — LIMIT SW NORM CLOSED
- XX — LIMIT SW NORM OPEN HELD CLOSED
- XX — LIMIT SW NORM CLOSED HELD OPEN
- SOLENOID
- XX — CONTACT NORM OPEN
- XX — CONTACT NORM CLOSED
- XX — FLOW OPER NORM OPEN
- XX — FLOW OPER NORM CLOSED
- XX — LEVEL OPER NORM OPEN
- XX — LEVEL OPER NORM CLOSED
- XX — SWITCH NORM OPEN
- XX — SWITCH NORM CLOSED
- XX — TEMP ACT SW NORM OPEN
- XX — TEMP ACT SW NORM CLOSED
- XX — FOOT OPER NORM OPEN
- XX — FOOT OPER NORM CLOSED
- XX — PRESS OPER NORM OPEN
- XX — PRESS OPER NORM CLOSED

MOMENTARY CONTACTS:

- NO / NC — SINGLE CIRCUIT
- NO & NC — DOUBLE CIRCUIT

MAINTAINED CONTACTS:

- TWO SINGLE CIRCUIT
- ONE DOUBLE CIRCUIT
- ESS — E-STOP, 2NC

INSTANT OPERATION CONTACTS WITH BLOWOUT
- XA — NO
- XA — NC

INSTANT OPERATION CONTACTS WITHOUT BLOWOUT
- XA — NO
- XA — NC

TIMED CONTACTS - CONTACT ACTION DELAYED AFTER COIL IS ENERGIZED
- XX SEC — NOTC
- XX SEC — NCTC

TIMED CONTACTS - CONTACT ACTION DELAYED AFTER COIL IS DE-ENERGIZED
- XX SEC — NOTC
- XX SEC — NCTC

SUPPLEMENTARY CONTACTS SYMBOLS:

- SPST, NO SINGLE-BREAK
- SPST, NO DOUBLE-BREAK
- SPST, NC SINGLE-BREAK
- SPST, NC DOUBLE-BREAK
- SPDT, SINGLE-BREAK
- SPDT, DOUBLE-BREAK
- DPST, NO, SINGLE-BREAK
- DPST, NO, DOUBLE-BREAK
- DPST, NC, SINGLE-BREAK
- DPST, NC, DOUBLE-BREAK
- DPDT, SINGLE-BREAK
- DPDT, DOUBLE-BREAK

SELECTOR:

TWO-POSITION X-CONTACT CLOSED

	J	K
A1	X	
A2		X

THREE-POSITION X-CONTACT CLOSED

	J	K	L
A1	X		
A2			X

TWO-POSITION SELECTOR PUSHBUTTON X-CONTACT CLOSED

CONTACTS	SELECTOR POSITION A		SELECTOR POSITION B	
	BUTTON FREE	BUTTON CONTACTS	BUTTON FREE	BUTTON CONTACTS
1-2	X			
3-4		X	X	X

TRANSFORMERS:

- POWER XFMR
- MAG CORE XFMR
- LOAD TAP CHANGING XFMR
- SPLIT SECONDARY XFMR
- AUTO-XFMR

HIGH - MEDIUM VOLTAGE DEVICES

- LIGHTNING ARRESTER
- WAVE TRAP (WT)
- GROUND SW MOTOR OPER (S7)
- MV CABLE TERMINATION
- CABLE POTHEAD OIL-FILLED

INSTRUMENT TRANSFORMERS:

- POTENTIAL XFMR
- POTENTIAL XFMR DUAL SECONDARY
- (3) 800:5 — CURRENT XFMR, QTY & RATIO AS INDICATED
- (1) 50:5 — CORE BALANCE CURRENT XFMR RATIO AS INDICATED
- (3) 800:5 — BUSHING CURRENT XFMR, QTY & RATIO AS INDICATED
- KWH — KILOWATT-HOUR METER

MISC DEVICES & CONNECTIONS:

- IN/OUT LINE
- 01 / 02 — PROTECTIVE DEVICE ELEMENT, SEE DEVICE FUNCTION INDEX
- TEST SWITCH
- TEST SWITCH, CURRENT SHORTING
- BATTERY
- GROUND
- DISCONNECTING DEVICE
- NEUTRAL CONNECTION
- ISOL PH BUS FLEX CONN
- ISOL PH BUS REMOVEABLE LINK

MACHINES:

- M — MOTOR-DC (XXHP)
- M — MOTOR-AC (XXHP)
- G — AC GENERATOR (XXKW XXPF)

NOTE:

1. "X" OR "XX" SHOWN ON SYMBOLS WILL BE SUBSTITUTED WITH DEVICE FUNCTION NUMBERS, LETTER SUFFIXES, PILOT LIGHT COLORS, OR OTHER DESCRIPTIVE TEXT, WHICH ARE DEFINED ELSEWHERE IN THESE LEGEND DRAWINGS.

PRELIMINARY
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REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
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McMillen | CHUGACH POWER: CLASS-A AUTO | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
ELECTRICAL STANDARD SYMBOLS 1

DESIGNED C. CURTIS
DRAWN J. HOLT
CHECKED J. BAKKEN
PROJECT MGR 10/6/23

DRAWING GE002

PRIVATE TELEPHONE SYSTEM

- SB SWITCHBOARD
- TC TERMINAL CABINET
- D DESK PHONE
- W WALL PHONE

PRIVATE ETHERNET NETWORK SYSTEM

- DATA JACK
- VOICE/DATA JACK

PAGE/SOUND SYSTEM

- A AMPLIFIER
- S SPEAKER, WALL MTD
- S SPEAKER, CEIL MTD
- H HORN, WALL MTD
- H HORN, CEIL MTD
- MIC MICROPHONE
- P HANDSET

INTRUSION ALARM/ACCESS SYSTEM

- S_A SECURITY ALARM
  - A POINT OF CONTACT
  - C SECURITY PROXIMITY CARD READER (+48" AFF)
  - E SECURITY ELEVATOR LOCKOUT CONTROL
  - K SECURITY KEYPAD
  - P SECURITY PANIC BUTTON (MOUNT UNDER CABINET)
- SC_D SECURITY DOOR CONTACT
  - D INTEGRAL TO DOOR HARDWARE OR HINGE SEE ARCHITECTURAL DOOR HARDWARE SCHEDULE
  - S SURFACE MOUNTED CONTACT/MAGNET COMBO WITH TAMPER RESISTANT METAL-CLAD PIGTAIL
  - M FULLY RECESSED CONTACT/MAGNET COMBO INSTALLED IN DOOR FRAME HEADER/TOP OF DOOR
- SL_D SECURITY DOOR LOCK CONNECTION (LOCK BY OTHERS)
  - D INTEGRAL TO DOOR HARDWARE OR HINGE, SEE ARCHITECTURAL DOOR HARDWARE SCHEDULE
  - S ELECTRICAL STRIKE IN DOOR FRAME LATCH
  - M MAGNETIC LOCK ON DOOR FRAME HEADER
- S_M SECURITY MOTION SENSOR - ARROW INDICATES DIRECTION OF SENSING; 360° INDICATES SENSING IN ALL DIRECTIONS
- SM SECURITY MONITOR AND MULTIPLEXOR/DVM
- REX_D REQUEST TO EXIT SIGNAL DEVICE
  - D INTEGRAL TO DOOR HARDWARE OR HINGE. SEE ARCHITECTURAL DOOR HARDWARE SCHEDULE
  - P PASSIVE INFRARED DETECTOR MOUNTED ABOVE DOOR FRAME. PROVIDE J-BOX TYPE 'B' HORIZONTALLY MOUNTED 6" ABOVE DOOR
- P POWERED DOOR OPERATOR ACTUATOR

CCTV SYSTEM

- CCTV CAMERA FIXED POSITION
- PTZ CCTV CAMERA, PAN-TILT-ZOOM
- CCTV CCTV MONITOR
- CCTV CCTV MONITOR

LOW VOLTAGE ELECTRICAL MATERIALS

- CB CIRCUIT BREAKER SWITCH
- UF UNFUSED DISCONNECT SWITCH
- F FUSED DISCONNECT SWITCH
- MOTOR STARTER MANUAL
- MOTOR STARTER MAGNETIC
- CB MOTOR STARTER MAG. COMBINATION C.B. SW.
- F MOTOR STARTER MAG. COMBINATION FUSED D.S.
- VFD VARIABLE FREQUENCY DRIVE
- PUSHBUTTON SW. EMERG. STOP
- PUSHBUTTON SW. STOP/START
- PUSHBUTTON STATION
- SELECTOR SWITCH
- CS CONTROL STATION
- FS FLOAT SWITCH
- LI LEVEL SWITCH
- DI DIH LEVEL SWITCH
- LS LIMIT SWITCH
- PS PRESSURE SWITCH
- PE ELECTRICAL/PNEUMATIC SWITCH
- PT PRESSURE TRANSMITTER
- SV SOLENOID VALVE
- T THERMOSTAT
- TS TEMPERATURE SWITCH
- (2) MOTOR
- POINT OF CONNECTION
- J JUNCTION BOX OR CONDUIT FITTING
- $ WALL SWITCH
  - (1a) NUMBER & LETTER IN PARENTHESES INDICATES PANELBOARD CIRCUIT & SWITCHING ZONE
  - 3 THREE WAY
  - 4 FOUR WAY
  - D DIMMER
  - OS OCC SENSOR
  - T TIMER
  - XP EXPLOSIVE PROOF
  - WP WATERPROOF
- $\$_M$ MOTOR SWITCH
  - M MOTOR RATED TOGGLE SWITCH WITHOUT OVERLOADS
  - MS MANUAL MOTOR STARTER WITH OVERLOADS
- DS DAYLIGHT SENSOR
- OS WALL MOUNTED OCCUPANCY SENSOR
- OS CEILING MOUNTED OCCUPANCY SENSOR
- PC PHOTOCELL, SUBSCRIPT INDICATES CIRCUIT
- CONVENIENCE RECEPTACLE - DUPLEX
  - C CLOCK
  - CR CORROSION RESISTANT
  - GFI GROUND FAULT INTERRUPTER
  - TL TWIST LOCK, NEMA CONFIGURATION AS INDICATED
  - U UPS FED
  - WP WEATHERPROOF

SUBSCRIPT NUMBER AT RECEPTACLE INDICATES CIRCUIT

- QUADRUPLEX RECEPTACLE
- SINGLE RECEPTACLE
- FLOOR RECEPTACLE
- SPECIAL PURPOSE RECEPTACLE, NEMA CONFIGURATION AS INDICATED

SITE ELECTRICAL

- POLE CONCRETE
- POLE WOOD
- POLE MOUNTED TRANSFORMER
- DOWN GUY
- SIDEWALK GUY
- M MANHOLE
- H HANDHOLE
- V VAULT
- S PAD MOUNTED SWITCH
- T TRANSFORMER VAULT
- PAD MOUNTED TRANSFORMER

GROUNDING

- GROUND ROD
- GROUND ROD WITH ACCESS BOX
- GROUND CONNECTION EXOTHERMIC
- GROUND CONNECTION MECHANICAL BOLTED
- GROUND CONNECTION COMPRESSION
- GROUND COIL (PIGTAIL) 5'0" (1.5M)
- GROUND GRADIENT MAT (SAFETY MAT) 4'X 4'
- GROUND GRADIENT MAT (SAFETY MAT) 4'X 6'

ELECTRICAL LIGHTING FIXTURES

- SURFACE/PENDANT LINEAR FIXTURE
- SURFACE/PENDANT LINEAR FIXTURE WITH BATTERY BACKUP
- RECESSED LINEAR FIXTURE
- RECESSED LINEAR FIXTURE WITH BATTERY BACKUP
- DOWNLIGHT FIXTURE SURFACE/PENDANT CEILING MOUNT
- DOWNLIGHT OR SCONCE FIXTURE SURFACE WALL MOUNT
- DOWNLIGHT FIXTURE RECESSED CEILING MOUNT
- DOWNLIGHT OR SCONCE FIXTURE RECESSED WALL MOUNT
- HAZARDOUS AREA LIGHT FIXTURE CEILING MOUNT
- EXIT SIGN, ARROW INDICATES DIRECTION SURFACE/PENDANT CEILING MOUNT, FILLED QUARTER INDICATES NON INDICATING FACE
- EXIT SIGN, ARROW INDICATES DIRECTION SURFACE WALL MOUNT, FILLED QUARTER INDICATES NON-INDICATING FACE
- EXIT SIGN, ARROW INDICATES DIRECTION RECESSED WALL MOUNT, FILLED QUARTER INDICATES NON-INDICATING FACE
- EMERGENCY DOWNLIGHT FIXTURE SURFACE/PENDANT CEILING MOUNT
- EMERGENCY DOWNLIGHT OR SCONCE FIXTURE SURFACE WALL MOUNT
- EMERGENCY DOWNLIGHT FIXTURE RECESSED CEILING MOUNT
- EMERGENCY DOWNLIGHT OR SCONCE FIXTURE RECESSED WALL MOUNT
- EMERGENCY LIGHTING UNIT, 1 HEAD
- EMERGENCY LIGHTING UNIT, 2 HEAD
- EMERGENCY LIGHTING UNIT, 3 HEAD
- SURFACE MTD. DISTR. PANELBOARD
- FLUSH MTD. DISTR. PANELBOARD
- LF-1 LF-1 POLE-MOUNTED AREA LIGHT, NUMBER OF FIXTURES AND CONFIGURATION AS SHOWN AND PER SCHEDULE
- A (2.2) LETTER NEXT TO LUMINAIRE INDICATES TYPE PER SCHEDULE. NUMBER AND LOWER CASE LETTER IN PARENTHESES INDICATES CIRCUIT AND SWITCHING ZONE IN PANELBOARD.

PLAN LINETYPES AND CONVENTIONS

- EXPOSED CONDUCTOR/CONDUIT
- CONCEALED/EMBEDDED CONDUCTOR/CONDUIT
- CONDUCTOR/CONDUIT DOWN
- CONDUCTOR/CONDUIT UP
- G GROUNDING ELECTRODE CONDUCTOR, BARE COPPER
- G GROUND CONNECTION, EXOTHERMIC OR WELDED
- G GROUND CONNECTION, BOLTED
- EOH OH POWER
- EUG UG POWER
- (3/4"C, 3#12, 1#12G) CIRCUIT CALLOUT, CONDUIT AND CONDUCTOR SIZES AS INDICATED; "n-" IN FRONT OF CALLOUT INDICATES "n" PARALLEL SETS
- RXX RACEWAY CALLOUT, INDEX NUMBER AS INDICATED IN RACEWAY SCHEDULE

DIAGRAM LINETYPES AND CONVENTIONS

- ENCLOSURE
- CONDUCTOR, CABLE, CIRCUIT, OR BUS
- INTERCONNECTION WITH EXTERNAL EQUIPMENT
- GANG OPERATED INTERLOCK
- OR CONDUCTOR, CROSSING OF PATHS OR CONDUCTORS NOT CONNECTED
- CONDUCTOR, JUNCTION OF CONNECTED PATHS, CONDUCTORS OR WIRES

PRELIMINARY
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EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

ELECTRICAL STANDARD SYMBOLS 2

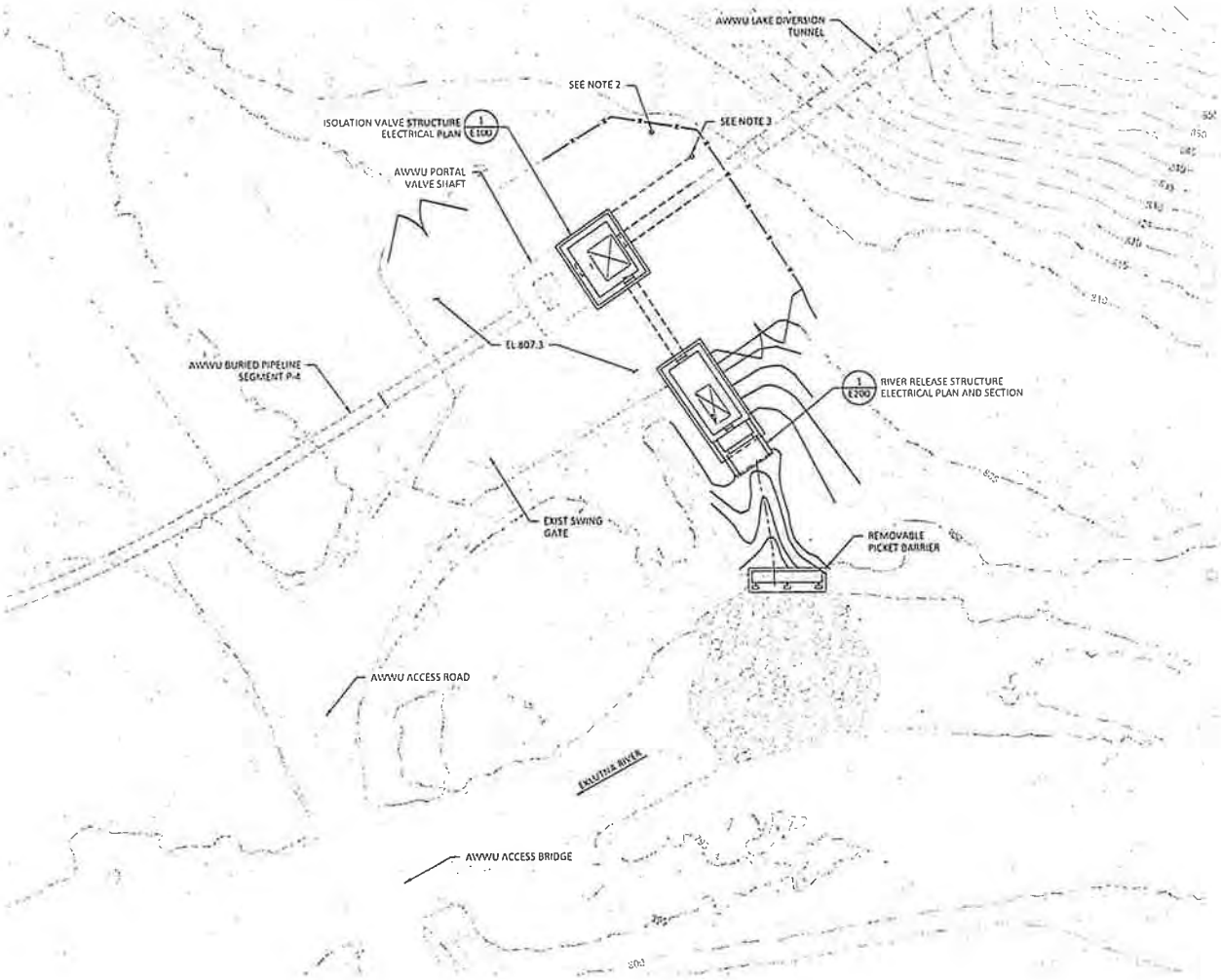
DESIGNED C. CURTIS
DRAWN J. HOLT
CHECKED J. BAKKEN
PROJECT NO. 19XXX

DRAWING
GE003

MOA Exhibit B
Page 52 of 61

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
2. EXISTING 7.2 KV SINGLE-PHASE POWER SERVICE POLE. EXTEND POWER LINE TO NEW DEAD END POLE FOR NEW POWER SERVICE DROP.
3. NEW POWER POLE SERVICE DROP. PROVIDE METER SOCKET AND SERVICE DISCONNECT. COORDINATE REQUIREMENTS WITH UTILITY.



ELECTRICAL SITE AND KEY PLAN

SCALE: 1" = 20'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	35% DESIGN

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH | MEA | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
ELECTRICAL SITE AND KEY PLAN

DESIGNED C. CURTIS
DRAWN J. HOLT
CHECKED J. BAKKEN

DRAWING
E001

AMENDMENT TO

BINDING TERM SHEET

WATER FACILITIES INTERCONNECTION AND LONG-TERM WATER TRANSPORTATION SERVICES

This AMENDMENT TO BINDING TERM SHEET, dated effective as of March 27, 2024, is made and entered into by and between Chugach Electric Association, Inc. ("***Chugach***"), Matanuska Electric Association, Inc. ("***MEA***"), the Municipality of Anchorage, and Anchorage Water and Wastewater Utility ("***Amendment***") to amend that certain Binding Term Sheet related to water facilities interconnection and long-term water transportation services entered into by the same parties on October 27, 2023 ("***Term Sheet***"). The capitalized terms in this Amendment shall have the same meaning as set forth in the Term Sheet unless otherwise defined or revised as set forth in this Amendment.

RECITALS

WHEREAS, the Eklutna Owners and AWWU entered into that certain Term Sheet on October 27, 2023;

WHEREAS, the Eklutna Owners and AWWU have completed negotiations of the Agreements (as such term is amended herein to include and a new Public Water Supply Agreement to replace the 1984 Agreement), each as contemplated in the Term Sheet and have come to agreement on other related matters;

WHEREAS, the effectiveness of the Agreements are conditioned on obtaining the Governor of Alaska's approval of the Fish and Wildlife Program that requires use of AWWU Facilities as contemplated in the Term Sheet without any conditions materially adverse to the Eklutna Owners or AWWU;

WHEREAS, by executing this Amendment, AWWU is reiterating that it does not, and shall not, take any position on whether or not using AWWU's infrastructure is the best alternative for establishing instream water flows in the Eklutna River as the foundation of the Fish and Wildlife Program; AWWU is merely stating its willingness to allow use of its infrastructure under the agreed terms and conditions of the Term Sheet and forms of Agreements, all only as pursuant to a Governor-approved Fish and Wildlife Program; and

WHEREAS, AWWU requires certain approvals before it may enter into one or more of the Agreements and such approvals likely cannot be obtained before the Governor's approval of the Fish and Wildlife Program, with such approval expected by October 2024;

NOW THEREFORE, in consideration for the premises and agreements set forth in this Amendment, the Parties agree as follows:

1. Term. The effective term of the Term Sheet and its commitments shall be extended until December 31, 2024 in order to allow time for: (a) the Eklutna Owners to file the Fish and

Wildlife Program with the Governor of Alaska and seek necessary approval under the 1991 Agreement; and thereafter (b) AWWU to seek and gain approvals necessary for it to enter into one or more of the Agreements. References to March 1, 2024 as an outside date for execution of Agreements as referenced in the preamble and in Section 4 of the Term Sheet shall be accordingly replaced with December 31, 2024.

2. Definition of Agreements. Section 3 of the Term Sheet shall be amended and restated in its entirety as follows:

3. Agreements	(1) Water Facilities Interconnection Agreement ("***Interconnection Agreement***"); (2) Long-Term Water Transportation Agreement ("***Transportation Agreement***"); and (3) Public Water Supply Agreement (collectively with the Interconnection Agreement and the Transportation Agreement, the "***Agreements***").

3. Form of Agreements. The final forms of the Agreements, except for certain exhibits which will be completed later as engineering work is completed or to otherwise ensure accuracy at the time of execution, are attached to this Amendment as follows:

Attachment A - ***Interconnection Agreement***

Attachment B - ***Transportation Agreement***

Attachment C - ***Public Water Supply Agreement***

The Parties agree that the substantive terms of the Agreements are complete and reflect a negotiated balance of interests, terms, and conditions. The Parties agree to support and defend the form of the Agreements and seek all necessary approvals of them in their present form in a timely and expeditious manner. The Parties agree not to reopen issues or renegotiate the Agreements, provided that certain exhibits may be updated as described in footnotes to the forms of the Agreements.

4. Limited Right of First Offer. As consideration for this Amendment, the Eklutna Owners hereby grant to AWWU a limited right of first offer to purchase from certain Eklutna Owners' water rights up to 41 million gallons per day for AWWU's public water supply on the following terms:

a. In the event that the Eklutna Owners' decide to remove, abandon, or sell the Eklutna Hydroelectric Project to the any person other than among the Eklutna Owners themselves, the Eklutna Owners shall provide AWWU with advance written notice of the intended action and opportunity to purchase such water rights at least three (3) months prior to initiating such action or transaction;

b. AWWU shall respond to such notice within thirty (30) days of its desire to its intention to exercise such option; if AWWU wants to purchase the water rights, the Parties shall then meet and negotiate in good faith terms and conditions then deemed appropriate, including compensation, risk mitigation, and means of transfer or purchase of priority water rights (e.g., quitclaim deed or other then-acceptable means of transfer) during the balance of the three (3) month period;

c. The water rights subject to this right of first offer are only that portion of Eklutna Owners' priority state water rights, up to 41 million gallons per day, consistent with, and not in addition to, AWWU's permit for preferred water use for pursuant to the Act of October 30, 1984, 98 Stat. 2823; Alaska Statutes 46.15.150(a), LAS 2569, and Certificate of Appropriation ADL 44944;

d. If AWWU fails to make a written offer within the notice period, if AWWU waives the right to make a first offer in writing, or if the Parties are unable to reach terms, the Eklutna Owners may proceed to remove, abandon, or sell the Eklutna Hydroelectric Project as they deem appropriate; and

e. Except for the potential sale of water rights, nothing in the limited right of first offer is intended to encumber, limit, or condition the Eklutna Owners' disposal or sale of the Eklutna Hydroelectric Project.

5. Execution of Agreements. The Agreements will be executed within thirty (30) days after the later of the following three prerequisites to their execution:

a. Governor approval of the Fish and Wildlife Program that requires use of AWWU Facilities as contemplated in the Term Sheet without any conditions materially adverse to the Eklutna Owners or AWWU;

b. Approval by the Municipality of Anchorage Assembly to the extent necessary for the Municipality of Anchorage to execute and perform under the Agreements; and

c. Board approvals (as may be necessary) for MEA and Chugach to execute and perform under the Agreements.

6. Effective Date and Incorporation of Terms of the Term Sheet. This Amendment shall be deemed effective as of the Effective Date of the Term Sheet and, without limiting the superseding effect of the amendments and the attachments set forth in this Amendment, shall be subject to all the terms and conditions of the Term Sheet, including Confidentiality (Section 24) and Governing Law (Section 23).

7. Failure to Achieve Conditions Precedent. In the event that the Agreements do not become fully effective (i) due to the failure to achieve the Conditions Precedent as set forth in Section 2.2 of Attachment C and Section 5 of this Amendment by June 1, 2025, or (ii) because the Governor of Alaska approves a Fish and Wildlife Program that does not require the use of the AWWU Facilities (as defined in the Agreements) for instream flows as contemplated in the Agreements, the effective term of the 1984 Agreement and its terms shall be extended for one (1) year from the date of the failure to achieve the Conditions Precedent or the date the Governor of

Alaska selects an alternate Fish and Wildlife Program that does not require use of AWWU Facilities as defined in the Agreements (referred to herein as the "***One (1) Year Extension Period***"). The Parties shall then meet promptly after the commencement of the One (1) Year Extension Period to negotiate in good faith an alternate agreement to replace the 1984 Agreement that expires on December 31, 2025 with terms and conditions that include but are not limited to adequate compensation, risk mitigation, potential transfer or purchase of water rights, and other terms and conditions then deemed appropriate by the Parties without prejudice due to the prior existence, or the subsequent termination, of the Agreements and shall execute a replacement for the 1984 Agreement by the end of the One (1) Year Extension period.

8. Counterparts. This Amendment may be executed by a number of counterparts, each of which shall be deemed an original, and all of which, together, shall constitute a single agreement.

[Signature page follows]

SERVICE PROVIDER/AWWU:

ANCHORAGE WATER AND WASTEWATER UTILITY,
A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By:
Name: Kent Kohlhase
Title: Municipal Manager
And

By:
Name: Mark Corsentino
Title: General Manager

CUSTOMER/EKLUTNA OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By:
Name: Andrew Laughlin
Title: Chief Operating Officer

MATANUSKA ELECTRIC ASSOCIATION

By:
Name: Tony R. Zellers
Title: Chief Operating Officer

MUNICIPALITY OF ANCHORAGE

By:
Name: Kolby Hickel
Title: Deputy Municipal Manager

ATTACHMENT A

INTERCONNECTION AGREEMENT

Execution Version

WATER FACILITIES INTERCONNECTION AGREEMENT

by and between

Anchorage Water and Wastewater Utility

as

AWWU Facilities Provider

And

Chugach Electric Association, Inc,

Matanuska Electric Association, Inc., and the Municipality of Anchorage

as

Owners

Dated as of [_____][1]

EKLUTNA RIVER RELEASE FACILITY

---

[1] **Note to Accompany Final Draft**: This Agreement has been form agreed as between the Parties but will not be signed by the MOA until after Governor approval of the Fish and Wildlife Plan has occurred and such signatures have been authorized by the Anchorage Assembly. Prior to execution, this footnote can be deleted from the draft.

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WATER FACILITIES INTERCONNECTION AGREEMENT

This WATER FACILITIES INTERCONNECTION AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered into by and between Anchorage Water and Wastewater Utility ("AWWU"), and Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("MEA"), and the Municipality of Anchorage ("MOA") (each of Chugach, MEA, and MOA is an "Owner" and collectively they are referred to as the "Owners"). The Owners and AWWU are sometimes referred to herein as a "Party" or collectively as the "Parties".

RECITALS

WHEREAS, the Owners own and operate the Eklutna Hydroelectric Project, commissioned in 1954, which includes an earthen dam at the outlet of Eklutna Lake and which, under normal operating conditions, diverts the inflows of all water into the Eklutna Lake for hydroelectric production rather than into the Eklutna River;

WHEREAS, AWWU owns and operates certain existing water diversion and transportation facilities integrated with the Eklutna Hydroelectric Project as further detailed in Exhibit B (the "AWWU Facilities") located near the outlet of Eklutna Lake and adjacent to the Eklutna River, and AWWU uses such AWWU Facilities to provide public water supply for its customers;

WHEREAS, the Owners are parties to the 1991 Agreement (as defined below), pursuant to which they are required to develop and implement a Fish and Wildlife program every thirty-five years to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Eklutna Hydroelectric Project (the "Fish and Wildlife Program");

WHEREAS, as a result of the process set forth in the 1991 Agreement, the Owners have developed a draft Fish and Wildlife Program in which the Owners have proposed to: (1) develop an Eklutna River release facility consisting in part of AWWU Facilities and facilities constructed pursuant to this Agreement, all as further described and depicted in Exhibit A-1, Exhibit A-2, and Exhibit A-3 (the "Facility"); (2) to transport water from Eklutna Lake through the Facility and release it into the Eklutna River; and (3) to operate and maintain the Facility;

WHEREAS, in connection with their proposal to develop the Facility, the Owners have also agreed to install bridges at eight locations across the Eklutna River to improve and preserve access to AWWU Facilities, as further described in Exhibit K (the "Access Bridges");

WHEREAS, in connection with the execution of this Agreement and in order to enable future implementation of the Fish and Wildlife Program (if approved), and to address compensation for AWWU's present and future use of a portion of Owners' water rights, the Parties are also entering into a Long-Term Water Transportation Agreement (the "Transportation Agreement") and a new Public Water Supply Agreement (the "Water Supply Agreement");

WHEREAS, Owners desire to construct the Facility in coordination with AWWU and AWWU is willing to allow for the interconnection and use of AWWU Facilities as part of the

Facility and to otherwise cooperate with Owners all pursuant to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the premises of this Agreement, the Transportation Agreement, and the Water Supply Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners and AWWU, intending to be legally bound, hereby agree as follows:

ARTICLE 1.
DEFINITIONS; INTERPRETATION; EXHIBITS

1.1 Defined Terms. Capitalized terms used in this Agreement without other definition shall have the meanings set forth in Schedule 1.1, unless the context requires otherwise.

1.2 Interpretation. As used in this Agreement, the terms "herein," "herewith" and "hereof" are references to this Agreement, taken as a whole; the terms "includes" or "including" shall mean "including, without limitation"; and references to a "Section," "Article", "Exhibit" or "Schedule" shall mean a Section, Article, Exhibit or Schedule of this Agreement, as the case may be, unless in any such case the context requires otherwise. All references to a given Exhibit, Schedule, agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made. A reference to a Person includes its permitted successors and permitted assigns. The singular shall include the plural and the masculine shall include the feminine and neuter, and vice versa.

ARTICLE 2.
OWNERS RESPONSIBILITIES

2.1 General Responsibilities of Owners. Subject to Sections 4.1, 4.3 and 4.4, the Owners shall be responsible for designing, engineering, obtaining all Approvals for (except with respect to AWWU Approvals), constructing and performing related activities for the successful completion of (i) the Facility and interconnection of the Facility to the AWWU Facilities pursuant to the Facility Criteria; and (ii) the Access Bridges, the costs of which shall be paid for by the Owners.

2.2 Standard of Work; Skill and Expertise. Throughout the performance of all aspects of the Work, the Owners shall comply with, and shall ensure that each Subcontractor complies with, all applicable Laws and Prudent Industry Standards (the "Standard of Work"). The Owners shall, throughout the performance of the Work, use commercially reasonable efforts to ensure that all employees and contractors engaged in connection with the maintenance of, operation of, service of, and any future modification to (to include design, construction, commissioning, and installation) the Facility shall have the appropriate and necessary experience, skill and expertise to carry out the tasks efficiently, professionally, and in accordance with the Standard of Work.

2.3 Scope of Work. Without limiting the generality of Sections 2.1 and **Error! Reference source not found.**, the Owners shall perform all of the specific tasks in accordance with the Scope of Work and the Project Schedule, subject to any Change Orders pursuant to ARTICLE 7, in order to achieve Commercial Operation and Final Acceptance of the Facility in

accordance with ARTICLE 4, and to commence the Parties' obligations under the Transportation Agreement, whereupon the Work under this Agreement shall be concluded and the obligations under the Transportation Agreement shall begin.

2.4 Project Manager. The Owners shall identify to AWWU and at all times during the term of this Agreement maintain a Project Manager. The Project Manager shall act as AWWU's primary point of contact with the Owners with respect to the Work, and shall be available to meet with AWWU as reasonably requested by AWWU to discuss the Work or any issue related thereto. The Project Manager shall have full authority to act for the Owners under this Agreement; provided, that the Project Manager shall under no circumstances have the authority to amend (except for the issuance of Change Orders), terminate, or assign this Agreement. The Owners may change the Project Manager at any time upon written notice to AWWU. As of the Effective Date, the Project Manager is listed in Exhibit E.

2.5 Status of Individual Owners. Each of the Owners shall be jointly and severally liable for the obligations of the Owners under this Agreement. The delineation of specific responsibilities set forth hereunder as among the Owners shall be at the sole discretion of the Owners, not AWWU. If, at any time, the Owners agree that one or two of the Owners need no longer be party to this Agreement, such unnecessary Owner(s) may be removed as parties to this Agreement upon written notice to AWWU and, if agreed, shall retain no liability upon removal, with the remaining Owner(s) automatically assuming the full obligations of the Owners hereunder. If an Event of Default exists hereunder at any time with respect to an Owner, it shall be considered an Event of Default with respect to the Owners together as one Party hereunder, provided, that if another Owner agrees to assume such defaulting Owner's obligations under this Agreement by removing such Owner as a party pursuant to the preceding sentence of this Section 2.5 prior to the expiration of any applicable cure period, this shall not be considered an Event of Default hereunder.

ARTICLE 3.
AWWU RESPONSIBILITIES

3.1 Access to Site. As of the Effective Date, AWWU shall, with respect to the land and AWWU Facilities within its control, provide the Owners with a non-exclusive license to access the Site and the AWWU Facilities necessary to enable the Owners to perform their obligations under this Agreement in accordance with the Project Schedule, provided, that AWWU may from time to time limit access to the Site or the AWWU Facilities under AWWU control temporarily only to the extent necessary to address reasonable security or safety issues, and to avoid putting AWWU's public water supply at risk of interruption or contamination. To the extent that any additional access permissions from third-party landowners adjacent to the Site may be required for Owners to access the Site and conduct the Work pursuant to the site license granted under this Section 3.1, obtaining such Approvals shall be the responsibility of the Owners, provided that (i) AWWU shall be responsible for any such permissions associated with the construction and maintenance of the Access Bridges; (ii) if the Parties agree that in certain other circumstances AWWU responsibility is more appropriate, AWWU shall bear such responsibility; and (iii) AWWU shall assist the Owners with obtaining such Approvals as is reasonably requested by the Owners, including by being the first and primary point of contact with such third party in situations where AWWU has an existing easement or applicable existing relationship with such third party.

To the extent that AWWU adds access or other security limitations to the Site, to the Owners' Portion, or to the AWWU Facilities, the Owners and AWWU shall cooperate to ensure continuous access for the Owners and their contractors, to enable them to perform the Owners' obligations under this Agreement.

3.2 Required Approvals. After the Owners' achievement of the Construction Start CPs, AWWU shall be responsible for obtaining and maintaining those Governmental Approvals and third-party approvals necessary for the completion of the Work as set forth on Exhibit F hereto (the "AWWU Approvals"), any costs of which shall be initially paid for by AWWU and reimbursed by Owners pursuant to Section 5.3. The Owners shall provide AWWU with such reasonable assistance as AWWU may request in obtaining such AWWU Approvals.

3.3 AWWU Representative. AWWU shall designate in writing and maintain at all times during the term of this Agreement an AWWU Representative to represent AWWU and to receive communications from the Owners with regard to the Work and the development of the Facility and the Access Bridges. The AWWU Representative shall act as the Owner's primary point of contact with the AWWU with respect to the Work, and shall be available to meet with the Owners and Project Manager, as reasonably requested, to discuss the Work or any issue related thereto. The AWWU Representative shall have full authority to act for AWWU under this Agreement; provided, that AWWU's Representative shall under no circumstances have the authority to amend (except for the signing of Change Orders), terminate or assign this Agreement. AWWU may change the AWWU Representative at any time upon written notice to the Owners. As of the Effective Date, the AWWU Representative shall be [_____][2].

3.4 Duty to Cooperate. AWWU shall, throughout the performance of the Work, cooperate with the Owners and perform its responsibilities, obligations and services under this Agreement in a timely manner, to facilitate the Owners timely and efficient performance of the Work and the Owners' obligations under this Agreement. AWWU shall provide timely reviews and approvals, including completing the design approval set forth in Section 4.3, such approvals not to be unreasonably withheld or delayed.

3.5 Site and AWWU Facilities Information. Except as set forth on Schedule 3.5, AWWU hereby represents and warrants that the conditions of the Site and of the AWWU Facilities are suitable for the Work and the completion of the Facility. AWWU hereby acknowledges that the Owners shall be entitled to rely on Schedule 3.5 and Exhibit B in preparing their assessment of the Work necessary to complete the Facility, as well as their work preparing the Project Schedule; and that if any information contained in Schedule 3.5 or Exhibit B is later found to be inaccurate, the Owners shall be entitled to a Change Order at their discretion pursuant to Section 7.3.

[2] **Note to Accompany Final Draft**: To be populated after Governor approval and prior to execution.

ARTICLE 4.
CONDITIONS PRECEDENT; PROJECT SCHEDULE, DESIGN APPROVAL

4.1 Construction Start Conditions Precedent.

(a) The obligations of the Owners to design, engineer, permit and construct the Facility as set forth in this Agreement, and the right of the Owners to conduct Work at the Site, and to physically interconnect the Facility with the AWWU Facilities as set forth in this Agreement, shall not be effective until the achievement of the following conditions precedent (the "Construction Start CPs"):

(i) The Owners receive final approval from the Governor of Alaska, with such approval not subject to any pending judicial review or appeal, for a Fish and Wildlife Program that requires the use of the AWWU Facilities as contemplated in this Agreement, provided that such approval includes no unexpected conditions materially adverse to the Owners or to AWWU, as determined in good faith by the Parties and in the exercise of commercially reasonable business judgment;

(ii) The Owners are issued lawful documentation from the Alaska Department of Natural Resources authorizing the use and transport of water as contemplated under the Transportation Agreement, including but not limited to an amendment of the Owners' Water Rights[3] or other approval(s) authorizing a change of use to allow the Owners to use a portion of the Owners' Water Right to establish and continue instream flows in the Eklutna River;

(iii) The Owners and AWWU, with regard to AWWU Approvals, have obtained all Approvals necessary to conduct the Work; and

(iv) The Transportation Agreement and the Water Supply Agreement are in full force and effect and are valid, binding and enforceable against AWWU and the Owners in accordance with their terms.

(b) Notwithstanding Section 4.1(a), nothing in this Agreement shall be construed to prevent the Owners from conducting design and permitting work in preparation for Facility construction prior to the achievement of the Construction Start CPs. Such pre-construction Work shall be done at the sole discretion and financial risk of the Owners, and shall be treated as Work for which all of AWWU's duties and responsibilities hereunder shall apply unless otherwise stated.

4.2 Project Schedule. The Owners shall perform all Work in accordance with the Scope of Work and the Project Schedule. The Owners shall use commercially reasonably efforts to meet all milestones set forth in the Project Schedule, provided that all such milestones may be extended at the discretion of the Owners as may be reasonably necessary to accommodate delays in the

[3] Note to AWWU: "Owners' Water Right" is a defined term already linked to a specific certificate.

achievement of the Construction Start CPs or the receipt of necessary Approvals that are outside the control of the Owners.

4.3 Submission for Design Approval. As of the Effective Date, the proposed design for the Facility is set forth in Exhibit A-3. The Owners may modify such design at their discretion until the achievement of the Construction Start CPs, at which point prior to the commencement of any construction activities at the Site, the Owners shall provide to AWWU final design drawings and proposals (and any applicable calculations, models, and reports developed in support thereof) for the Facility for AWWU's review and approval, such approval to not be unreasonably withheld or delayed. AWWU shall indicate to the Owners within thirty 30 Days after receipt of such design drawings, proposals, calculations, models, and reports whether it approves or denies the design. If AWWU denies the design, the parties shall work in good faith to resolve the applicable issues and develop an updated design for AWWU approval.

4.4 Failure to Obtain Approvals. If, at any point during the Owners performance of the Work, the Owners or AWWU are unable to obtain any Approval necessary to construct or operate the Facility as intended herein and in the Fish and Wildlife Program, despite taking all reasonable commercial efforts to obtain such Approvals, then either Party may terminate this Agreement upon forty-five (45) Days prior written notice; and the Owners shall restore the site pursuant to Section 11.7.

4.5 Installation: Testing Procedures.

(a) Conduct of Tests. As soon as possible after installation of all Equipment necessary, as determined by the Owners in their sole discretion, to render the Facility mechanically and structurally complete, the Owners shall begin to conduct, or cause to be conducted, the Commissioning Procedures, in accordance with this Section 4.5 and the Commissioning Procedures Guidelines. Owners may perform and re-perform any number of Commissioning Procedures in accordance with the Commissioning Procedures Guidelines, and the Owners, at their discretion, may prematurely terminate any Commissioning Procedures so long as the remaining Commissioning Procedures are completed prior to Commercial Operation.

(b) AWWU Personnel. The Owners shall provide AWWU at least two (2) Business Days' prior notice of the intended commencement of the Commissioning Procedures. AWWU shall have at least one representative at the Site throughout the performance of the Commissioning Procedures, in order to monitor the taking of measurements to determine the performance and safety of the Facility, all in accordance with the Commissioning Procedures Guidelines.

4.6 Commercial Operation. When the Owners consider that the criteria for Commercial Operation have been met, including successful completion of the Commissioning Procedures in accordance with Section 4.5, the Owners shall so notify AWWU in writing, and shall provide AWWU with a completed Commercial Operation certificate issued by an independent licensed professional engineer, in the form set forth in Exhibit H (the "Commercial Operation Certificate").

4.7 Final Acceptance. The criteria for achieving Final Acceptance shall be that: (a) Commercial Operation has occurred; (b) AWWU has received from the Owners copies of all as-built drawings for the Work and the Facility; (c) AWWU has received from Owners all Equipment Documentation related to the AWWU Portion; (d) Owners have removed from the Site and properly disposed of all wastes created at or brought onto the Site by the Owners; and (e) an Owners' training program for AWWU's operation and maintenance personnel has been completed in accordance with the Scope of Work. When the Owners consider that the criteria for Final Acceptance have been met, the Owners shall so notify AWWU in writing. Within five (5) Days thereafter, AWWU shall either: (i) notify the Owners in writing that it agrees that Final Acceptance has been achieved, or (ii) advise the Owners of the items in Section **Error! Reference source not found.**7(a) through (e) (collectively, "Final Acceptance Items") that AWWU believes have not yet been satisfied. Upon receipt of any notice from AWWU of an alleged failure to satisfy a Final Acceptance Item, the Owners shall either: (A) satisfy such Final Acceptance Item(s); or (B) advise AWWU in writing that the Owners believes in good faith that all Final Acceptance Item(s) have been satisfied and shall request the commencement of negotiations pursuant to Section **Error! Reference source not found.**.

4.8 Post-Completion Facility O&M. Upon Final Acceptance and the applicable title transfers set forth in ARTICLE 6, AWWU shall be responsible for operating and maintaining the AWWU Facilities and the AWWU Portion; and the Owners shall be responsible for operating and maintaining the Owners' Portion. Each of AWWU and the Owners shall also have further specific ongoing operations and maintenance obligations for portions of the Facility during the "Delivery Term" of the Transportation Agreement, as further detailed in the Transportation Agreement.

4.9 Post-Completion Access Bridge Maintenance. Upon completion of any Access Bridge by the Owners, and possession and applicable title having passed to AWWU pursuant to Section 6.1(d), full responsibility for (and associated costs of) such Access Bridge maintenance shall belong to AWWU, except that the Owners shall use commercially reasonable efforts to obtain a one-year materials and workmanship warranty from the contractor(s) engaged by the Owners to construct the Access Bridges and then shall pass such warranty on to AWWU.

4.10 Skill and Expertise. Each Party shall use commercially reasonable efforts to ensure that all employees and contractors engaged in connection with the maintenance of, operation of, service of, and any future modification to (to include design, construction, commissioning, and installation) the Facility shall have the appropriate and necessary experience, skill and expertise to carry out the tasks efficiently, professionally, and in accordance with Prudent Industry Standards and applicable Laws.

ARTICLE 5.
COSTS; TAXES; REIMBURSEMENT

5.1 Costs. All costs to complete the Facility and perform the Work hereunder shall be the responsibility of Owners. The Owners shall reimburse AWWU pursuant to Section 5.3 for AWWU's reasonable actual costs related to or arising out of the development and construction of the Facility and related to all of AWWU's responsibilities set forth in ARTICLE 3, including but not limited to documented direct and indirect costs, overhead, general and administrative costs, staff time, and all other costs related to or arising out of the planning, engineering and project

management associated with the Facility; provided that AWWU shall use commercially reasonable efforts to minimize such costs.

5.2 Taxes. The Owners shall be responsible for and shall pay any sales, use, gross receipts, occupation, and other taxes (excluding income and franchise tax imposed upon AWWU) that from time to time may become payable as a consequence of this Agreement.

5.3 Payments. For any costs described in Section 5.1 initially borne by AWWU, AWWU shall submit to each of the Owners a detailed accounting of such cost for which AWWU is seeking reimbursement, together with such supporting documentation as the Owners shall reasonably require. Within sixty (60) Days after receiving a properly completed application for reimbursement and all required supporting documentation, each of the Owners shall individually: (i) pay AWWU their respective Cost Responsibility Proportion of the amounts set forth in AWWU's application for payment; or (ii) notify AWWU in writing that such Owner believes in good faith that a requested payment amount is not due and owing and shall request the commencement of negotiations pursuant to Section **Error! Reference source not found.**. In addition to the requirement that each Owner pay its Cost Responsibility Proportion as required in this Section, the Owners shall each be jointly and severally liable for all reimbursement obligations owed to AWWU under this Article 5.

ARTICLE 6.
TITLE; LOSS OR DAMAGE; FORCE MAJEURE

6.1 Title.

(a) Legal title to and ownership of the AWWU Portion shall pass to AWWU upon achievement of Final Acceptance free and clear of any and all liens, claims, security interests or other encumbrances. Title to drawings, specifications and like materials provided by Owners with respect to the AWWU Portion shall also pass to AWWU upon achievement of Final Acceptance. Owners shall deliver to AWWU such assignments, bills of sale or other documents as reasonably requested by AWWU to evidence such transfers of title and ownership.

(b) Legal title to and ownership of the Owners' Portion shall remain with Owners after Final Acceptance and throughout the term of the Transportation Agreement, free and clear of any and all liens, claims, security interests or other encumbrances imposed by AWWU.

(c) Legal title to and ownership of the AWWU Facilities shall remain with AWWU before, during, and after the construction of the Facility.

(d) Legal title to and ownership of any Access Bridge shall pass to AWWU upon completion of such Access Bridge. Owners shall deliver to AWWU such assignments, bills of sale or other documents as reasonably requested by AWWU to evidence such transfers of title and ownership, and if the Parties determine that an additional agreement between the Parties is necessary to detail specific Access Bridge construction and ownership transfer terms and conditions, the Parties shall negotiate such documentation in good faith and in accordance with the terms of this Agreement.

(e) Legal title to and ownership of all Owners' Water shall remain with the Owners at all times during construction of the Facility, including during the performance of the Commissioning Procedures.

6.2 Risk of Loss.

(a) Equipment. Notwithstanding anything herein to the contrary, the Owners shall have the full responsibility for care, custody and control of material and Equipment incorporated into the Work (including all Equipment and materials used in connection therewith), and shall bear the risk of loss thereof, until an applicable transfer of title to the Equipment for the AWWU Portion occurs, at which time risk of loss shall pass to AWWU.

(b) Water. For any quantity of Owners' Water[4] flowing through AWWU's Facilities as part of the Commissioning Procedures or otherwise during the construction of the Facility: control, custody and risk of loss of such Owners' Water shall transfer from the Owners to AWWU at the Injection Point, where such Owners' Water shall comingle with AWWU's Water until reaching the Delivery Point, at which point the custody, control and risk of loss of a quantity of water equal to the original quantity of Owners' Water released into the AWWU Facilities at the Injection Point shall pass back to the Owners.

6.3 Force Majeure. Each Party shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, except for the Owners' obligation to reimburse AWWU for costs pursuant to ARTICLE 5, if and to the extent that such Party's failure of, or delay in, performance is due to a Force Majeure Event; provided, that:

(a) such Party gives the other Party prompt written notice describing the particulars of the Force Majeure Event as soon as is reasonably practicable after becoming aware of the occurrence of the Force Majeure Event;

(b) the suspension of performance is of no greater scope and of no longer duration than are reasonably required by the Force Majeure Event;

(c) no obligations of an affected Party that arose before the occurrence of the Force Majeure Event causing the suspension of performance shall be excused as a result of such Force Majeure Event, unless and only to the extent that the performance of such obligations is impaired by the Force Majeure Event;

(d) the Party uses diligent commercially reasonable efforts to overcome or mitigate the effects of the Force Majeure Event; and

(e) when the Party is able to resume performance of its obligations under this Agreement, such Party shall give the other Party written notice to that effect, and shall promptly resume performance hereunder.

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[4] Note to AWWU: Minor change as Owners' Water is a defined term

ARTICLE 7.
CHANGES

7.1 Change Orders. The Owners may propose Change Orders to AWWU if those Change Orders: (i) improve the Facility; (ii) are required by a Governmental Authority as a condition precedent to issuance of any Governmental Approval; or (iii) are otherwise advisable for the Work. This shall not affect the obligation of the Owners to perform the Work and to install the Facility in accordance with the terms of this Agreement, except as otherwise set forth in the Change Order or in Sections 7.2 or 7.3.

7.2 Changes to Project Schedule. In the event that any Change Order affects the amount of time needed to complete any portion of the Work, there shall be an equitable adjustment of the time of performance and the Project Schedule, as agreed to by the Parties.

7.3 Unanticipated Conditions. If any unusual or unanticipated conditions exist or arise at the Site such as Hazardous Materials, structural or geotechnical deficiencies, environmental conditions, pollution or archeological findings not known to the Owners as of the Effective Date (collectively, "Unanticipated Conditions"), which conditions would involve the Owners incurring any expenses or delays to correct such conditions, the Owners shall submit a request for approval of the corrective work and expense pursuant to a Change Order, the approval of which by AWWU shall not be unreasonably withheld, conditioned or delayed, and such corrective work shall be deemed incorporated into the Scope of Work; provided, however, if any Unanticipated Conditions exist or arise that are contrary to those set forth on Schedule 3.5 or Exhibit B, then the Change Order submitted by the Owners in connection with such Unanticipated Conditions shall be deemed to be automatically approved by AWWU. All change orders under this Agreement shall be fulfilled at the sole expense of the Owners.

ARTICLE 8.
WARRANTIES

8.1 Warranties.

(a) Except as expressly set forth in Section 8.1(b), Owners do not make (and hereby expressly disclaim) any other warranties of any kind whatsoever.

(b) The Owners hereby warrant that as of the Commercial Operation Date: (i) the Facility will meet the requirements set forth in the Facility Criteria; (ii) the Facility will be free from defects in workmanship under normal operating conditions, provided that such warranty shall not apply to existing AWWU Facilities incorporated within the Facility; (iii) all Work will have been performed in accordance with Prudent Industry Standards and all requirements of this Agreement; and (iv) the Work, including but not limited to each item of Equipment incorporated therein, will be new and shall conform in all material respects with the plans and specifications prepared in accordance with this Agreement and all descriptions set forth herein.

(c) In conjunction with achievement of the Commercial Operation Date, the Owners hereby agree to assign to AWWU, and AWWU agrees to assume, all Subcontractor, supplier and manufacturer warranties set forth on Exhibit G relating to the AWWU Portion, and

thereafter AWWU shall pursue all warranty claims thereunder directly with such Subcontractors, suppliers and manufacturers.

8.2 Warranty Period. Owners shall remedy any breach of the warranties set forth in Sections 8.1(b) discovered within 12 months of the Commercial Operation Date (the "Warranty Period").

8.3 Remedies. If the warranty set forth in Section 8.1 is breached or a defect or deficiency is discovered by Owners or AWWU during the Warranty Period, Owners shall repair, replace, and/or correct the applicable Work on a reasonably expedited basis while minimizing any impact of the failure on Facility availability and functionality or AWWU Facilities availability and functionality. AWWU shall permit the Owners access to the AWWU Facilities and the AWWU Portion necessary or useful to perform Owners' warranty obligations under this Agreement. All costs of Owners' performance of their warranty obligations shall be borne by Owners, including any removal, replacement and reinstallation of Equipment and materials necessary to gain access to defective Work.

8.4 Warranty Exclusions. The warranty obligations set forth in this ARTICLE 8 do not extend to Work that is damaged by or other potential warranty claims arising from: (a) the negligent acts or omissions of AWWU or its contractors, agents, employees, representatives or any other Person acting on behalf of AWWU; (b) Force Majeure Events; (c) any Equipment included in the AWWU Portion that is not maintained and operated by AWWU in accordance with all Equipment Documentation; (d) normal wear and tear; (e) any alteration, repair or replacement made without the prior written approval of the Owners or contrary to instructions from the Owners; or (f) conditions that existed prior to the completion of the Work, including any defects or deficiencies in any equipment included in AWWU Facilities not directly caused by the Owners as part of the Work (collectively, "Non-Owner Work"). In the event that the warranty service requested is related to Non-Owner Work or is covered by any warranty set forth on Exhibit G, the Owners shall have no further obligation.

8.5 NO IMPLIED WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE OWNERS MAKE NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, AND AWWU DISCLAIMS ANY WARRANTY OR GUARANTEE IMPLIED BY LAW, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT AND IMPLIED WARRANTIES OF CUSTOM OR USAGE.

ARTICLE 9.
LIMITATIONS ON LIABILITY

9.1 Aggregate Limitation of Liability. Notwithstanding any other provision of this Agreement, the total aggregate liability of the Owners and the total aggregate liability of AWWU arising out of or relating to this Agreement, from any and all causes, whether based on contract, tort (including negligence), strict liability or any other cause of action, shall in no event exceed ten million dollars ($10,000,000) for AWWU, and ten million dollars ($10,000,000) for the Owners collectively, provided that such limit shall not apply in the case of such Party's (i) gross negligence

or willful misconduct, (ii) third-party indemnity obligation, or (iii) breach of any representation or warranty.

9.2 CUMULATIVE REMEDIES. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, OR IF A REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY NON-EXCLUSIVE, THE NON-DEFAULTING PARTY SHALL HAVE THE RIGHT TO EXERCISE ALL RIGHTS AND REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY; PROVIDED, HOWEVER, THAT THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED.

9.3 WAIVER OF CERTAIN DAMAGES. EXCEPT WITH RESPECT TO INDEMNIFICATION OF THIRD PARTY CLAIMS PURSUANT TO ARTICLE 10, OR AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, BUSINESS INTERRUPTION OR SIMILAR DAMAGES, WHETHER BY STATUTE, IN TORT, BY CONTRACT OR OTHERWISE.

ARTICLE 10.
INDEMNIFICATION

10.1 Indemnity. To the fullest extent permitted by Law, each Party shall indemnify, hold harmless and defend the other Party and its directors, officers, shareholders, partners, agents and employees, and the Affiliates of the same (collectively, the "Indemnified Parties"), from and against any and all claims, loss, damage, expense and liability, including court costs and reasonable attorneys' fees (collectively, "Liabilities") incurred by the Indemnified Parties in connection with or arising from (i) the Work; and (ii) any claim for physical damage to or physical destruction of any part of the Facility, the AWWU Facilities, or death of or bodily injury to any person, to the extent any such Liability was caused by the negligence of the Indemnifying Party or its agents or employees or others under such Indemnifying Party's control, except any Liabilities incurred due to the negligence or willful misconduct of an Indemnified Party. For the purpose of the definition of "Indemnified Parties" AWWU shall not be considered to be an "Affiliate" of the MOA.

10.2 Environmental Indemnity. Notwithstanding any other provision hereof, each Party shall indemnify, defend and hold harmless the other Party and its Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Site of any Hazardous Material to the extent such Hazardous Material is deposited, spilled, released or otherwise caused by the Indemnifying Party or its Subcontractors or agents in connection with the Work.

10.3 Defense of Claims. A Party with an indemnification obligation pursuant to this ARTICLE 10 (an "Indemnifying Party") shall have the right to defend the Indemnified Parties pursuant to this ARTICLE 10 by counsel of the Indemnifying Party's selection (including insurance counsel) reasonably satisfactory to the Indemnified Party, unless in the opinion of counsel for the Indemnifying Party a conflict of interest between the Parties may exist with respect to such claim. If the Indemnifying Party does not assume the defense of the Indemnified Party, or if a conflict precludes counsel for the Indemnifying Party from providing the defense, then the

Indemnifying Party shall reimburse the Indemnified Party on a monthly basis for the Indemnified Party's defense through separate counsel of the Indemnified Party's choice. Even if the Indemnifying Party assumes the defense of the Indemnified Party with acceptable counsel, the Indemnified Party, at its sole option, may participate in the defense, at its own expense, with counsel of its own choice without relieving the Indemnifying Party of any of its obligations hereunder. The Parties shall give each other prompt written notice of any asserted claims or actions indemnified against hereunder and shall cooperate with each other in the defense of any such claims or actions. Without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed, no Indemnifying Party shall settle any such claims or actions in a manner that would require any action or forbearance from action by any Indemnified Party.

ARTICLE 11.
DEFAULT AND REMEDIES; TERMINATION; DISPUTE RESOLUTION

11.1 Event of Default. The following shall constitute events of default on the part of either party (each, an "Event of Default") under this Agreement:

(a) If a Party makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of such Party, or if such Party files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition of or readjustment of debts and, in the case of any such proceeding instituted against such Party (but not by such Party) such proceeding is not dismissed within sixty (60) days of such filing;

(b) If a Party fails to comply with any material terms of this Agreement not otherwise set forth as an Event of Default in this Section 12.1(b) and fails to cure or remedy such failure within thirty (30) days after notice and a written demand is made by the non-defaulting Party to the defaulting Party to cure the same or, if such failure cannot be cured within thirty (30) days, the defaulting Party fails to commence to cure such failure within thirty (30) days after such notice and written demand and thereafter diligently pursue such cure to completion, which shall in no event be later than ninety (90) days after such notice;

(c) If a Party fails to make any payment due hereunder within sixty (60) days after written notice from the non-defaulting Party;

(d) If a Party defaults under the Water Supply Agreement or the Transportation Agreement; or

(e) If any representation or warranty of a Party in this Agreement proves to have been false or misleading in any material respect when made, and such Party has not, within thirty (30) days after written notification thereof from the non-defaulting Party, either fully remedied, or commenced and diligently pursued the remedy, of all adverse impacts on the non-defaulting Party resulting therefrom, all to the reasonable satisfaction of the non-defaulting Party.

11.2 Remedies Upon Event of Default. Upon the occurrence and continuation of an Event of Default, the non-defaulting Party shall have the right to terminate this Agreement and the Water Supply Agreement upon ten (10) days' prior written notice, and pursue any other remedy

available to such non-defaulting party at law or in equity arising out of such Event of Default, including a claim for monetary damage or specific performance.

11.3 Site Restoration Upon Termination. If either Party terminates this Agreement for any reason during construction, the Owners shall promptly withdraw from the Site and shall remove all Equipment, returning the Site to its previous condition, all at Owners' cost, provided that if the Owners terminate for an AWWU Event of Default under this Agreement or the Water Supply Agreement or Transportation Agreement, AWWU shall reimburse the Owners for the costs of such removal.

11.4 Automatic Cross-Agreement Termination. If this Agreement is terminated for any reason, the Water Supply Agreement and the Transportation Agreement shall automatically terminate effective as of the same date as this Agreement's termination.

11.5 Dispute Resolution. In the event of any dispute arising under this Agreement (a "Dispute"), within ten (10) Business Days following notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies.

ARTICLE 12.
REPRESENTATIONS

12.1 General Representations and Warranties. Each Owner and AWWU hereby represents and warrants that:

(a) It is duly organized, validly existing and in good standing under the Laws of the state of its formation and is duly qualified to do business in the jurisdiction where the Site is located.

(b) It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate, municipal, or other action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar Laws relating to the enforcement of creditors' rights generally and by general equitable principles.

(c) It is not in violation of any applicable Law, or any judgment entered by any federal, state, local or other Governmental Authority, which violations, individually or in the aggregate, would adversely affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or (to its best knowledge) threatened against it which, if adversely determined, could have a material adverse effect upon its financial condition, operations, prospects or business, as a whole, or its ability to perform under this Agreement.

(d) No authorization, approval, exemption, or consent of or by any Person is required by it in connection with the execution, delivery, and performance of this Agreement. In addition, each Party represents and warrants to the other Party that the Governmental Approvals required to be obtained by such Party either have been obtained by such Party and are in full force and effect on the date hereof or will be obtained by such Party and will be in full force and effect on or prior to the date on which they are required, under applicable Law, to be in full force and effect, so as to permit the Owners to commence and prosecute the Work to completion in accordance with the Project Schedule.

(e) The execution and delivery of this Agreement, and the consummation of the transactions herein contemplated and compliance with the terms and provisions hereof by it, will not conflict with or result in a material breach of, or require any consent under, any of its constitutive documents, or any applicable Law, or any agreement or instrument to which it is a party or by which it is bound or to which it is subject, or constitute a material default under any such agreement or instrument.

ARTICLE 13.
NOTICES

13.1 Writing. Except as set forth in Section 13.2, any notice, statement, demand, claim, offer or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be sent by email, facsimile, hand messenger delivery, overnight courier service, or certified mail (receipt requested) to the other Party at the address set forth in Exhibit L. Each Party shall have the right to change the address information to which notice shall be sent or delivered or to specify additional addresses to which copies of notices may be sent, in either case by similar notice sent or delivered in like manner to the other Party. All notices shall be effective upon receipt.

13.2 Technical Communications. Any technical or other communications pertaining to the Work shall be between the Project Manager and the AWWU Representative or other representatives appointed by the Project Manager or the AWWU Representative. Each Party shall notify the other in writing of the name of such representatives. The Project Manager or other designated representatives shall be reasonably satisfactory to AWWU, have knowledge of the Work, and be available at all reasonable times for consultation.

ARTICLE 14.

CONFIDENTIALITY; PUBLIC STATEMENTS

14.1 Confidentiality. The Parties agree that the Parties' proposals, communications, negotiations, and information exchanged prior to the Effective Date concerning this Agreement and the development thereof, and technical and other information regarding or relating to the Facility, the Access Bridges or the Work exchanged between the Parties that is or otherwise clearly communicated to the receiving Party as "Confidential" constitute "Confidential Information" of the disclosing Party. The Owners and AWWU each agree to hold such Confidential Information wholly confidential. Such Confidential Information may only be used by the Parties for the purposes related to the approval, or administration or enforcement of this Agreement.

14.2 Disclosure. Each Party agrees not to disclose Confidential Information of the other Party to any other Person (other than its Affiliates, counsel, consultants, lenders, partners, members, employees, officers and director, and then only to Persons subject to similar confidentiality restrictions as those set forth herein), without the prior written consent of the other Party, provided, that, either Party may disclose Confidential Information, if such disclosure is required by Law, including without limitation, pursuant to an order of a court or regulatory agency or in order to enforce this Agreement or to seek approval of this Agreement. In the event a Party is required by Law or a Governmental Authority to disclose Confidential Information, such Party, prior to such disclosure, shall provide reasonable advance notice to the other Party of the time and scope of the intended disclosure, in order to permit such non-disclosing Party the opportunity to obtain a protective order or to otherwise seek to prevent or limit the scope or otherwise impose conditions upon such disclosure.

14.3 Injunctive Relief. Each Party agrees that violation of the terms of Sections 14.1 and 14.2 constitutes irreparable harm to the other, and that the harmed Party may seek any and all remedies available to it at law or in equity, including but not limited to injunctive relief.

14.4 Release of Agreement. The Parties agree that this Agreement, upon execution, shall not be considered Confidential Information. Except as required by Law, releasing the Agreement to the public shall be the sole responsibility of the Owners, to be released in the manner at a time decided in their sole discretion.

14.5 AWWU Public Statements.

(a) Until that date upon which the Fish and Wildlife Program is approved by the Governor of Alaska, and absent any pending judicial review or appeal, any public statements made by AWWU about the Fish and Wildlife Program or the development of the Facility must be approved by the Owners, such approval not to be unreasonably withheld or delayed. Notwithstanding the foregoing, AWWU may respond to any inquiries from any Governmental Authority in a manner consistent with this Agreement.

(b) AWWU shall make best efforts to ensure that all of the employees, agents, contractors and consultants of AWWU do not engage in any public activities while acting as employees, agents, contractors or consultants of AWWU, to include the public expression of statements that are reasonably likely to have an adverse effect on the public's perception of the Fish and Wildlife Program and the development of the Facility, it being understood by both AWWU and the Owners that such negative public statements may undermine the ability of the Owners to satisfy their obligations under the 1991 Agreement; provided, however, that the Parties

acknowledge that AWWU cannot restrict the rights of such people to express their personal opinions as private citizens.

ARTICLE 15.
MISCELLANEOUS

15.1 Reasonability. The Parties shall act in a reasonable manner and in accordance with principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement and whether or not stated: (a) where this Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned, or delayed; and (b) wherever this Agreement gives a Party a right to determine, require, request, specify, or take similar action with respect to a matter, such determination, requirement, request, specification, or similar action must be reasonable.

15.2 Entire Agreement. This Agreement, together with all Schedule and Exhibits hereto, embodies the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties, verbal or written, relating to the subject matter hereof.

15.3 Waiver. Any waiver of the provisions of this Agreement must be in writing and shall not be implied by any usage of trade, course of dealing or course of performance. No exercise of any right or remedy by AWWU or the Owners constitutes a waiver of any other right or remedy contained or provided by Law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance hereunder shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

15.4 Assignment. Neither Party shall assign this Agreement or any of its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party, without relieving itself from liability hereunder, and without the need for consent from the other Party, provided that any such assignee shall agree to be bound by all terms and conditions hereof, may transfer, pledge or assign this Agreement: (a) to any person or entity succeeding to all or substantially all of the assets of the assigning Party; or (b) to a successor entity in a merger or acquisition transaction. Any assignment made in contravention of this Section 15.4 shall be void and unenforceable.

15.5 Governing Law; Submission to Jurisdiction; Venue; No Jury Trial.

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALASKA, EXCLUDING ANY CHOICE OF LAW RULES.

(b) Submission to Jurisdiction, Venue. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its Affiliates or designees) with respect to or arising out of this Agreement shall be brought exclusively in the courts of the State of Alaska, in the Municipality of Anchorage, as the Party instituting such suit, action or other legal proceeding

may elect, provided that claims related to federal water rights, federal legislation enabling the Facility or AWWU Facilities, or the 1991 Agreement may be brought in the United States District Court for the District of Alaska. By execution and delivery of this Agreement, each Party (for itself, its Affiliates and its designees) irrevocably and unconditionally consents and submits to the exclusive jurisdiction of such courts and the appellate courts therefrom, and waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding. The Parties irrevocably consent to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, first class postage prepaid to the addresses set forth in Section 13.1.

(c) No Jury Trial. EACH OF THE PARTIES HEREBY WAIVES ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) Duty to Proceed. Pending final resolution of any Dispute, the Owners and AWWU shall continue to fulfill their respective obligations hereunder that are not the subject of the Dispute.

15.6 Construction. This Agreement is to be construed so as to effectuate the normal and reasonable expectations of a sophisticated buyer and seller of the equipment and services covered by this Agreement and shall not be construed either for or against either Party. No provision of this Agreement shall be construed or interpreted for or against either Party because such Party drafted or caused its legal representative to draft the provision.

15.7 Headings. The titles or headings of the various sections, articles and paragraphs hereof are intended solely for convenience and ease of reference and are not intended, and are not to be deemed for any purpose, to modify or explain or place any interpretation or construction upon any of the provisions of this Agreement.

15.8 Status of the Parties. The Owners and its Subcontractors shall be independent contractors in relation to AWWU with respect to the Work; and neither the Owners nor their Subcontractors, nor the employees or agents of either, shall be deemed to be the employees, representatives or agents of AWWU in connection with any matter relating to this Agreement. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties.

15.9 Insurance. The Owners shall maintain the required insurance policies as set forth on Exhibit J-1 and AWWU shall maintain the required insurance policy as set forth on Exhibit J-2.

15.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of the Owners and AWWU, and their permitted successors and assigns, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

15.11 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take all further action, as may be reasonably necessary to

complete performance by the Parties hereunder and to effectuate the purposes and intent of this Agreement.

15.12 Amendments. Except for any Change Order issued pursuant to ARTICLE 7, a removal of an Owner pursuant to Section 2.5, or a redesignation of the Project Manager, the AWWU Representative or notice information under Section 13.1, no change, amendment or modification of this Agreement shall be valid or binding upon the Parties unless such change, amendment or modification shall be in writing and duly executed by the Parties.

15.13 Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provision of this Agreement and all other provisions will remain in full force and effect.

15.14 Conflicting Provisions. In the event of any conflict between this document and any Schedule or Exhibit attached hereto, the terms and provisions of this document, as amended from time to time, shall control. In the event of any conflict among the Exhibits, the Exhibit of the latest date mutually agreed to by the Parties shall control.

15.15 Survival. The provisions of ARTICLE 1, ARTICLE 6, ARTICLE 8, ARTICLE 9, ARTICLE 10, ARTICLE 11, ARTICLE 12, ARTICLE 13, and ARTICLE 15 shall survive termination of this Agreement for any reason.

15.16 Counterparts. This Agreement may be executed in any number of separate counterparts and delivered by electronic means, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the Parties have caused this Water Facilities Interconnection Agreement to be executed by their duly authorized representatives as of the Effective Date.

AWWU:

ANCHORAGE WATER AND WATERWATER UTILITY, A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: Municipal Manager

By: _____

Name: _____

Title: General Manager

OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MATANUSKA ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____
Title: _____

Schedule 1.1

Definitions

"1991 Agreement" means that certain Agreement between the Municipality of Anchorage, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., the United States Fish and Wildlife Service, the National Marine Fisheries Service, the State of Alaska, and the Alaska Energy Authority Relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991, as amended.

"Access Bridges" has the meaning set forth in the Recitals.

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with such first Person. For purposes of this definition and the Agreement, the term "control" (and correlative terms) means (1) the ownership of 50% or more of the equity interest in a Person, or (2) the power, whether by contract, equity ownership or otherwise, to direct or cause the direction of the policies or management of a Person.

"Agreement" has the meaning set forth in the Preamble, and shall include all Exhibits and Schedules hereto.

"Approvals" means Governmental Approvals and third-party approvals.

"AWWU" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of AWWU.

"AWWU Approvals" has the meaning set forth in Section 3.2.

"AWWU Event of Default" has the meaning set forth in Section 4.1.

"AWWU Isolation Valve" has the meaning set forth in Exhibit A-1.

"AWWU Facilities" has the meaning set forth in the Recitals.

"AWWU Representative" means the person designated by AWWU in accordance with Section 3.3 to act as the Owners' primary point of contact with AWWU.

"AWWU's Portion" has the meaning set forth in Exhibit A-1.

"AWWU's Water Permit" means that permit belonging to AWWU (LAS 2569) to use Owners' Water Rights for up to 41 million gallons per day for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823, as may be replaced as described in Section 3.1 of the Water Supply Agreement.

"AWWU's Water" means any and all water belonging to AWWU pursuant to AWWU's Water Permit.

"Business Day" means any day other than a Saturday, Sunday or legal holiday in the state of Alaska.

"Change Order" means a written order signed by Project Manager and AWWU authorizing a change in the Work or an adjustment in the Project Schedule for performance or delivery of the Work.

"Chugach" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of Chugach.

"Commercial Operation" means that: (a) Owners have completed the Commissioning Procedures and the Facility has met the Facility Criteria; and (b) Owners have provided the Commercial Operation Certificate to AWWU.

"Commercial Operation Certificate" has the meaning set forth in Section 4.7.

"Commercial Operation Date" means the date upon which Commercial Operation is achieved.

"Commissioning Procedures" means a test of function of the Facility in accordance with the Commissioning Procedures Guidelines and Section 4.5.

"Commissioning Procedures Guidelines" means the guidelines for the Commissioning Procedures set forth on Exhibit E.

"Confidential Information" has the meaning set forth in Section 14.1.

"Construction Start CPs" has the meaning set forth in Section 4.1.

"Cost Responsibility Proportion" shall mean, with respect to each Owner, the percentage of the total applicable Eklutna Hydroelectric Project costs that such Owner is obligated to pay as agreed to by the Owners, which as of the Effective Date shall be, with respect to MOA, 19.05%, with respect to Chugach, 64.28%, and with respect to MEA, 16.67%, and which may be changed hereunder upon agreement between the Owners at any time.

"Day" or "day" means a calendar day, unless expressly specified otherwise.

"Delivery Point" has the meaning set forth in Exhibit A-1 and is depicted on the schematic included as part of Exhibit B.

"Delivery Point Meter" has the meaning set forth in Exhibit A-1.

"Dispute" has the meaning set forth in Section 11.5.

"Effective Date" has the meaning set forth in the Preamble.

"Eklutna Hydroelectric Project" means the Eklutna Hydroelectric Project initially authorized, constructed and operated pursuant to the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended), including any and all property and facilities acquired or used in connection therewith, all of which was then sold to the Owners by the United States of America on October 2, 1997.

"Equipment" means all of the equipment, materials, apparatus, structures, supplies and other goods required by the terms of this Agreement to complete the Work and to be incorporated into the Facility. Equipment shall not include any materials, apparatus or tools owned by the Owners or any Subcontractor that are used to complete the Work but are not contemplated under this Agreement to become part of the Work or the Facility.

"Equipment Documentation" means copies or originals of all recommended operating specifications, warranties, manuals, test reports, vendor information and all other similar information obtained or prepared, and to be delivered, by the Owners in accordance with the terms of this Agreement.

"Event of Default" has the meaning set forth in Section **Error! Reference source not found.**1.

"Facility" has the meaning set forth in the Recitals.

"Facility Criteria" means the criteria set forth in Exhibit I.

"Final Acceptance" means the final acceptance of the Work by AWWU, as demonstrated by the process set forth in Section 4.5.

"Final Acceptance Items" has the meaning set forth in Section 4.5.

"Fish and Wildlife Program" has the meaning set forth in the Recitals.

"Force Majeure Event" means the occurrence of any act or event beyond the reasonable control of the Party affected that prevents the affected Party from performing its obligations under this Agreement, in full or part, if such act or event is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums), including the following: drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a Governmental Authority. Notwithstanding the foregoing, Force Majeure Events shall expressly not include mechanical or equipment failures (except to the extent any such failure is itself caused by a Force Majeure Event), nor any diminution in water quality in Eklutna Lake.

"Governmental Approvals" means all authorizations, consents, licenses, leases, rulings, certifications, registrations, exemptions, permits, certificates, and approvals from any Governmental Authority.

"Governmental Authority" means any federal, state or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the performance of the Work, the Facility or its operations, or the health, safety or environmental conditions of the Site or otherwise over the Parties.

"Hazardous Material" means any waste, chemical or other substance or material that is defined as "hazardous" or "toxic" or by any other similar term under any applicable Law relating to environmental, health or safety matters.

"Indemnified Parties" has the meaning set forth in Section 10.1.

"Indemnifying Party" has the meaning set forth in Section 10.3.

"Injection Point" means the point where AWWU Facilities meet facilities owned by the Owners near the outlet of the Eklutna Lake, where AWWU receives all of AWWU's Water from Eklutna Lake, as depicted in the schematic included as part of Exhibit B.

"Isolation Valve Structure" has the meaning set forth in Exhibit A-1.

"Isolation Valves" has the meaning set forth in Exhibit A-1.

"Law" means any constitution, charter, act, statute, law, ordinance, code, rule, regulation, order, specified standards or objective criteria contained in any applicable permit or approval (which standards or criteria must be met in order for the Work to be performed lawfully) or other legislative or administrative action of any Governmental Authority or a final decree, judgment or order of a court or tribunal.

"Liabilities" has the meaning set forth in Section 10.1.

"MEA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MEA.

"MOA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MOA.

"Non-Owner Work" has the meaning set forth in Section 8.4.

"Owners" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of the Owners.

"Owner" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of an Owner.

"Owners' Isolation Valve" has the meaning set forth in Exhibit A-1.

"Owners' Portion" has the meaning set forth in Exhibit A-1.

"Owners' Water" means any and all water belonging to the Owners pursuant to the Owners' Water Rights.

"Owners' Water Rights" means that certain senior priority water right held by the Owners for the water in Eklutna Lake for use in generating power for the Eklutna Hydroelectric Project as described in water rights certificate ADL 44944.

"Party" and "Parties" has the meaning set forth in the Preamble.

"Person" means any individual, partnership, corporation, limited liability company, association, business, trust, government or political subdivision thereof, Governmental Authority or other entity.

"Project Manager" means the Project Manager designated by the Owners in accordance with Section 2.5.

"Project Schedule" means the Project Schedule attached hereto as Exhibit D.

"Prudent Industry Standards" means those standards of care and diligence normally practiced by water transportation infrastructure engineering, construction and installation firms in performing services of a similar nature in a similar jurisdiction in which the Work will be performed. Prudent Industry Standards are not intended to be limited to optimum practice or methods, but rather to be a spectrum of reasonable

and prudent practices and methods that must take the conditions specific to any given water transportation facility under consideration.

"River Release Structure" has the meaning set forth in Exhibit A-1.

"Scope of Work" means the Scope of Work attached hereto as Exhibit C.

"Site" means the location of the Facility as further described in Exhibit B.

"Standard of Work" has the meaning set forth in Section 2.2.

"Subcontractor" means any Person with whom the Owners, or any individual Owner, enters into an arrangement for the performance of any portion of the Work, including Persons at any tier with whom any Subcontractor has further subcontracted any portion of the Work, and the legal or personal representatives, successors, and assigns of such Person.

"Transportation Agreement" has the meaning set forth in the Recitals.

"Unanticipated Conditions" has the meaning set forth in Section 7.3.

"Warranty Period" has the meaning set forth in Section 8.2.

"Water Supply Agreement" has the meaning set forth in the Recitals.

"Work" means all phases of Owners' performance of their construction-related obligations under this Agreement, including engineering, design, procurement, construction, erection, installation, training, testing with respect to the Facility, and the installation of the Access Bridges. For the sake of clarity, any operation and maintenance of the Facility occurring after Final Acceptance does not constitute Work hereunder, unless such operation or maintenance is being conducted pursuant to the warranty provisions set forth in ARTICLE 8.

Schedule 3.5[5]

Site and AWWU Facilities Conditions

[5] **Note to Accompany Final Draft**: This Exhibit will be populated by AWWU after Governor approval and prior to signing.

Exhibit A-1[6]

Eklutna River Release Facility Description and Definitions

The "***Eklutna River Release Facility***" shall consist of an Isolation Valve Structure and the River Release Structure.

The "***Isolation Valve Structure***" shall include:

- a new tee to be built in the AWWU pipeline downstream of the AWWU tunnel/pipeline transition and upstream of the AWWU portal valve (the "***Delivery Point***")
- A 54-inch gate valve on the main segment of AWWU pipeline intended to provide dual means of isolation for AWWU's pipeline segment ("***AWWU Isolation Valve***")
- A 42-inch gate valve on the branch segment of AWWU pipeline intended to provide isolation to the river release structure ("***Owners' Isolation Valve***", together with the AWWU Isolation Valve, the "***Isolation Valves***").
- Related controls and communication technology to be installed by the Owners in the main line of the AWWU Facilities.

The "***River Release Structure***" shall include:

- [A new pipeline from the Isolation Valve Structure to the Eklutna River]
- Control valves
- A new meter installed at the Delivery Point ("***Delivery Point Meter***")
- Monitoring and control equipment to be installed by Owners [*describe where*].

"***AWWU's Portion***" of the Facility shall consist of the Isolation Valve Structure [and _____]

The "***Owners' Portion***" of the Facility shall consist of the River Release Structure [and _____]

---

[6] **Note to Accompany Final Draft**: This Exhibit will be revised and finalized by Owners to reflect the proposal approved by the Governor and prior to signing.

Exhibit A-2[7]

Description of Facility Controls, Metering, and Communication Facilities

[7] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit A-3[8]

Design (as of Effective Date)

[8] **Note to Accompany Final Draft**: This Exhibit will be populated by Owners after Governor approval and prior to signing.

Exhibit B[9]

Description and Schematic of Site, AWWU Facilities, and Injection Point and Delivery Point

[9] **Note to Accompany Final Draft**: This Exhibit will be populated by Owners after Governor approval and prior to signing.

Execution Version

Exhibit C

Scope of Work[10]

(a) Supply and Procurement. Owners shall at their own expense procure or supply and pay for all of the Equipment, and arrange and pay for the delivery of all of the Equipment to the Site.

(b) Engineering and Design. Owners shall at their own expense design and provide engineering services with respect to the Facility in a manner that shall be:

(i) Consistent with the actual conditions existing at the Site;

(ii) Consistent with the requirements set forth in this Scope of Work;

(iii) Sufficient, complete, and adequate in all respects necessary to enable the Facility to satisfy (A) the Facility Criteria and (B) all required Governmental Approvals;

(iv) In conformance with applicable Laws, including national, state, and local engineering, construction, safety, and electrical codes and standards, as specified in the Scope of Work, or if none are specified for the particular matter, with Prudent Industry Standards; and

(v) In form and content acceptable to all Governmental Authorities.

(c) Construction and Installation. Owners shall provide, install, complete and pay for all labor, Equipment, tools, supplies, construction equipment and machinery, utilities and consumables, transportation and other facilities and services (including any temporary materials, equipment, supplies and facilities) necessary for the proper execution and completion of the Work. All construction and installation performed by the Owners under this Agreement shall be in accordance with the given manufacturer's written instructions and Prudent Industry Standards, in each case unless otherwise agreed by AWWU in advance in writing.

(d) Utilities. The Owners shall provide all of the transmission, power, and communication facilities necessary for construction.

(e) Equipment Documentation and Equipment Training. The Owners shall provide AWWU with all Equipment Documentation for the AWWU Portion, and shall provide AWWU's personnel with up to five (5) days of on-site training in the use and operation of the AWWU Portion, as further detailed in the Transportation Agreement.

---

[10] **Note to Accompany Final Draft**: This Exhibit is subject to further revisions and will be finalized after Governor approval and prior to signing.

(f) Approvals. Except for applicable AWWU Approvals, the Owners shall obtain and maintain all Approvals (including all fees and permits) required to perform the Work, including (without limitation) approvals and agreements required to interconnect the Facility with the AWWU Facilities. The Owners shall pay for all such Approvals, and shall reimburse AWWU for costs associated with obtaining and maintaining all AWWU Approvals. Owners shall promptly provide AWWU with copies of all such Approvals upon the Owners' obtaining such Approvals. In order to assist the Owners in obtaining such Approvals, AWWU shall provide the Owners with such reasonable assistance as the Owners may request.

(g) Security. The Owners shall be responsible for the security of the Work and shall construct security facilities (e.g. fencing surrounding the Facility at the Site) to ensure the security of the Work. The Owners shall coordinate with AWWU for the ingress and egress of the Owners' personnel to and from the Site to minimize disruption of AWWU operations.

(h) Conduct at Site. AWWU shall have access to the Site at all times, and the Owners shall, and shall require their Subcontractors to, use commercially reasonable efforts to avoid inhibiting the operations of AWWU at the Site, and the operation of the AWWU Facilities. The Owners shall comply with work rules and work hours reasonably established by AWWU with regard to Work involving the AWWU Facilities.

Exhibit D

Project Schedule[11]

[11] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit E

Commissioning Procedures Guidelines[12]

[12] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit F[13]

AWWU Approvals

[13] **NTD**: AWWU to Provide.

Exhibit G

Pass-through Warranties for AWWU Portion[14]

[14] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit H[15]

Form of Commercial Operation Certificate

[15] **Note to Accompany Final Draft**: This Exhibit will be provided by Owners after Governor approval and prior to signing.

Exhibit I[16]

Facility Criteria

[16] **Note to Accompany Final Draft**: This Exhibit will be populated by Owners after Governor approval and prior to signing.

Exhibit J-1[17]

Owners' Insurance Requirements

[17] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit J-2[18]

AWWU Insurance Requirements

[18] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit K[19]

Description of Access Bridges (to be developed by Owners)

[19] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit L[20]

Notice Information; Project Manager; AWWU Representative

If delivered to the Owners, o them at	Chugach Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Matanuska Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____]
If delivered to AWWU, to it at	Anchorage Water and Wastewater Utility, a department of the Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____]
Project Manager AWWU Representative	[_____] [_____]

[20] **Note to Accompany Final Draft**: To be populated immediately prior to execution, after Governor approval, as such information is subject to change.

ATTACHMENT B

TRANSPORTATION AGREEMENT

Execution Version

LONG-TERM WATER TRANSPORTATION AGREEMENT

by and between

Anchorage Water and Wastewater Utility

as

Provider

And

Chugach Electric Association, Inc,

Matanuska Electric Association, Inc., and the Municipality of Anchorage

as

Owners

Dated as of [_____][1]

EKLUTNA RIVER RELEASE FACILITY

[1] **Note to Accompany Final Draft**: This Agreement has been form agreed as between the Parties but will not be signed by the MOA until after Governor approval of the Fish and Wildlife Plan has occurred and such signatures have been authorized by the Anchorage Assembly. Prior to execution, this footnote can be deleted from the draft.

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LONG-TERM WATER TRANSPORTATION AGREEMENT

This LONG-TERM WATER TRANSPORTATION AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered into by and between Anchorage Water and Wastewater Utility ("AWWU"), and Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("MEA"), and the Municipality of Anchorage ("MOA") (each of Chugach, MEA, and MOA is an "Owner" and collectively they are referred to as the "Owners"). The Owners and AWWU are sometimes referred to herein as a "Party" or collectively as the "Parties".

RECITALS

WHEREAS, the Owners own and operate the Eklutna Hydroelectric Project, commissioned in 1954, which includes an earthen dam at the outlet of Eklutna Lake and which, under normal operating conditions, diverts all inflows of water into the Eklutna Lake for hydroelectric production rather than into the Eklutna River;

WHEREAS, AWWU owns and operates certain existing water transportation facilities integrated with the Eklutna Hydroelectric Project as further described and depicted in Exhibit B (the "AWWU Facilities") located near the outlet of Eklutna Lake and adjacent to the Eklutna River, which AWWU uses to provide public water supply for its customers;

WHEREAS, the Owners are parties to the 1991 Agreement (as defined below), pursuant to which they are required to develop and implement a Fish and Wildlife program every thirty-five years to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Eklutna Hydroelectric Project (the "Fish and Wildlife Program");

WHEREAS, as a result of the process set forth in the 1991 Agreement, the Owners have developed a draft Fish and Wildlife Program in which the Owners propose to: (1) develop an Eklutna River release facility consisting in part of AWWU Facilities and facilities constructed pursuant to the Interconnection Agreement, all as further described in Exhibit A and as will be depicted as-built in the Operating Procedures (the "Facility"); (2) to transport water from Eklutna Lake through the Facility and release it into the Eklutna River; and (3) to maintain and operate the Facility;

WHEREAS, in connection with the execution of this Agreement and in order to enable future implementation of the Fish and Wildlife Program (if approved by the Governor of Alaska) and address compensation for AWWU's use of Owners' Water Rights, the Parties also entered into a Water Facilities Interconnection Agreement (the "Interconnection Agreement") pursuant to which the Parties will construct the Facility, and a new Public Water Supply Agreement (the "Water Supply Agreement");

WHEREAS, after the Facility achieves Final Acceptance pursuant to the terms of the Interconnection Agreement and all other conditions precedent set forth herein are achieved, (1) the Owners' desire to engage AWWU to provide, and AWWU desires to provide, the Water Transportation Services; and (2) the Owners and AWWU each desire to operate and maintain portions of the Facility pursuant to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the premises of this Agreement, the Interconnection Agreement, and the Water Supply Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owners and AWWU, intending to be legally bound, hereby agree as follows:

ARTICLE 1.
DEFINITIONS; INTERPRETATION; EXHIBITS

1.1 Defined Terms. Capitalized terms used in this Agreement without other definition shall have the meanings set forth in Schedule 1.1, unless the context requires otherwise.

1.2 Interpretation. As used in this Agreement, the terms "herein," "herewith" and "hereof" are references to this Agreement, taken as a whole; the terms "includes" or "including" shall mean "including, without limitation"; and references to a "Section," "Article", "Exhibit" or "Schedule" shall mean a Section, Article, Exhibit or Schedule of this Agreement, as the case may be, unless in any such case the context requires otherwise. All references to a given Exhibit, Schedule, agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made. A reference to a Person includes its permitted successors and permitted assigns. The singular shall include the plural and the masculine shall include the feminine and neuter, and vice versa.

ARTICLE 2.
TERM

2.1 Term.

(a) The term of this Agreement shall commence on the Effective Date and continue until the conclusion of the Delivery Term or unless earlier terminated pursuant to the terms of this Agreement (the "Term").

(b) AWWU's obligation to provide the Water Transportation Services and the Parties' obligations to commence the Operational Work hereunder shall be effective on the date upon which the Facility achieves Final Acceptance under terms of the Interconnection Agreement (the "Delivery Term Effective Date") and shall continue in full force and effect for 35 years thereafter, subject to any early termination provisions set forth herein (the "Initial Delivery Term"). At the conclusion of the Initial Delivery Term, the Agreement shall automatically renew each year, unless a Party notifies the other Party at least 60 days prior to the expiration of the Initial Delivery Term or each extended year thereafter that it does not wish to renew the Agreement. The Initial Delivery Term as so extended is the "Delivery Term".

ARTICLE 3.
WATER TRANSPORTATION AND SCHEDULING

3.1 Water Transportation Services. During the Delivery Term, AWWU shall, pursuant to the schedules set forth in Section 3.2 and the Operating Procedures developed pursuant to Section 3.3, transport Owners' Water, comingled with and undifferentiated from AWWU's Water, through AWWU Facilities from the Injection Point to the Delivery Point, in any amount requested

by the Owners (the "Water Transportation Services"), provided, that, such requested amount shall under no circumstances: (a) inhibit the ability of AWWU to deliver a daily flow rate of at least 41 MGD to the downstream Eklutna Water Treatment Facility at a pressure sufficient to allow normal operation of the EWTF as currently configured; (b) exceed the hydraulic capacity or design criteria of the AWWU Facilities; or (c) exceed any then-active Curtailment Limit (clauses (a)-(c), the "Water Release Limits").

3.2 Scheduling.

(a) During the first week of each month of each year of the Delivery Term, and in accordance with the Operating Procedures, the Owners shall provide AWWU with a written anticipated daily Owners' Water release schedule for the following month (e.g., on the first Business Day of January, the Owners shall provide the anticipated schedule for each day of February) based on Eklutna Lake levels and Fish and Wildlife Program obligations, all subject to the Water Release Limits (the "Monthly Water Release Schedule").

(b) No later than the last Business Day of each week of the Delivery Term, the Owners may submit in writing in accordance with the Operating Procedures, updated daily Owners' Water release amounts for the following week, provided that under no circumstance shall such updates exceed the Water Release Limits.

3.3 Metering.

(a) At all times during the Delivery Term, AWWU shall maintain an Injection Point Flow Meter to measure real-time water flowing into AWWU's Facilities from Eklutna Lake.

(b) At all times during the Delivery Term, the Owners shall maintain the Delivery Point Meter to measure real-time water quantities flowing into the River Release Structure at the Delivery Point, which shall be used to calculate the amount of Owners' Water received by the Owners as part of the Water Transportation Services.

(c) Each Party shall take reasonable measures to ensure that the other Party has access to real-time water flow quantity information from both the Injection Point Flow Meter and the Delivery Point Meter, as applicable, pursuant to procedures set forth in the Operating Procedures.

(d) For each month of the Delivery Term, the Owners shall prepare a written report for AWWU detailing the actual water flow amounts through the Injection Point Flow Meter and the Delivery Point Meter, and the amount of Owners' Water delivered to the Delivery Point, all as compared with the Monthly Water Release Schedule (as updated by Section 3.2(b) and pursuant to the procedures detailed in the Operating Procedures).

ARTICLE 4.
OPERATION AND MAINTENANCE

4.1 AWWU Facilities and AWWU's Portion. Throughout the Delivery Term, the AWWU Facilities and AWWU's Portion shall be exclusively operated, managed, and maintained by AWWU or any AWWU designee in accordance with all Governmental Approvals, applicable

Law, Prudent Industry Standards, all subject to the Owners' maintenance access rights to the Owners' Isolation Valve as set forth in Section 4.3.

4.2 Owners' Portion. Throughout the Delivery Term, the Owners' Portion shall be exclusively operated, managed, and maintained by the Owners or any designee of the Owners in accordance with all Governmental Approvals, applicable Law, and Prudent Industry Standards.

4.3 Owners' Isolation Valve. Throughout the Delivery Term, the Owners shall be responsible for all operation and maintenance of the Owners' Isolation Valve contained within AWWU's Portion. As part of the Access License granted by AWWU to the Owners pursuant to Section 9.1, AWWU shall ensure that at all times the Owners have access to the Owners' Isolation Valve as necessary to enable the Owners to maintain and operate the Owners' Isolation Valve in accordance with the Operating Procedures, provided, that, AWWU may from time to time assume operational responsibility for the Owners' Isolation Valve temporarily only to the extent necessary to address urgent security or safety issues and to avoid putting AWWU's public water supply at risk of interruption or contamination.

4.4 Approvals. Throughout the Delivery Term, AWWU shall be responsible for obtaining and maintaining all Approvals necessary for the provision of Water Transportation Services and all Operational Work set forth herein, except for those Approvals set forth on Exhibit C hereto, for which the Owners will be responsible for obtaining and maintaining (the "Owners' Approvals"). Each Party shall provide the other Party with such reasonable assistance as such first Party may request in obtaining applicable Approvals.

4.5 Duty to Cooperate. Each Party shall, throughout the Delivery Term, cooperate with the other Party as necessary to facilitate the provision of the Water Transportation Services, the Operational Work and all other responsibilities and obligations under this Agreement in a timely manner.

4.6 Skill and Expertise. Each Party shall, throughout the Delivery Term, use commercially reasonable efforts to ensure that all employees and contractors engaged in connection with the provision of the Water Transportation Services, the Operational Work or any other maintenance of, operation of, service of, and any future modification to (to include design, construction, commissioning, and installation) the Facility shall have the appropriate and necessary experience, skill and expertise to carry out the tasks efficiently, professionally, and in accordance with Prudent Industry Standards and applicable Law.

4.7 Successor Operator. If, during the Term, the Owners wish to no longer be responsible for any of the operation and maintenance responsibilities set forth in Sections 4.2 and 4.3, for any reason, prior to turning over such operation and maintenance to a third-party entity, AWWU must consent to such third-party entity, such consent not to be unreasonably withheld, conditioned, or delayed. For the sake of clarity, this Section 4.7 does not impact the Owners' right to freely use Subcontractors to conduct any of its responsibilities under Sections 4.2 and 4.3; this Section 4.7 only applies in situations where the Owners plan to no longer be ultimately liable for such obligations hereunder.

ARTICLE 5.
OPERATING PROCEDURES

5.1 Operating Procedures.

(a) At least 60 days prior to the commencement of the Delivery Term, AWWU and the Owners shall develop written detailed operating procedures governing the Water Transportation Services pursuant to the terms in this Agreement (the "Operating Procedures"). Such Operating Procedures shall comply with all applicable Approvals, Prudent Industry Standards and applicable Law and shall, at a minimum, set forth (i) the agreed methods for day-to-day communication and reporting requirements of each Party; (ii) key personnel lists for AWWU and for the Owners necessary for the facilitation of the Operational Work and the provision of the Water Transportation Services; (iii) processes for planning and communication between the Parties to coordinate regarding scheduling pursuant to Section 3.2 and Excused Events pursuant to Article 8; (iv) reporting and determining Curtailment Durations and Curtailment Limits for Excused Events pursuant to Article 8; (v) sharing of information from the Delivery Point Meter and the Injection Point Flow Meter pursuant to Section 3.3; (vi) ongoing reporting requirements of the Owners of metered water flow quantities measured at the Delivery Point and the Injection Point pursuant to Section 3.3; (vii) the process for obtaining and maintaining necessary Approvals throughout the Delivery Term; (viii) reference to necessary Facility equipment specifications and operation and maintenance manuals; (ix) inclusion of the final as-built drawings for the Facility developed pursuant to the Interconnection Agreement; (x) a clear process for ensuring that at all times during the Delivery Term, the Water Release Limits are met; (xi) each Party's legal notice address information for the delivery of notices required under this Agreement; and (xii) any other procedures related to the provision of the Water Transportation Services and Operational Work that the Parties deem necessary. Such Operating Procedures shall include any and all detailed definitions, drawings, and descriptions of the AWWU Facilities and the Facility as necessary to facilitate the coordination and responsibilities of the Parties as set forth herein. In the event of any disagreement in the development of the Operating Procedures, the Parties shall work in good faith to promptly resolve differences. AWWU's actual costs of developing such Operating Procedures shall be reimbursed by the Owners pursuant to Section 6.3.

(b) Throughout the Delivery Term, the Operating Procedures shall be updated from time to time by AWWU as needed upon written notice to the Owners, or upon written request by the Owners, to reflect ministerial changes to ensure continued accuracy and relevancy (e.g. personnel, contact/notice information, and Facility equipment upgrades), provided, that, such changes made pursuant to this Section 5.1(b) shall under no circumstances materially modify the obligations and responsibilities of the Parties as set forth herein.

ARTICLE 6.
COSTS; TAXES; REIMBURSEMENT

6.1 Costs and Compensation. Unless specifically stated otherwise, all costs borne initially by each Party in connection with the exercising of its rights and the performance of its obligations under this Agreement shall be the responsibility of such Party initially incurring such costs. In partial consideration of the costs to AWWU incurred in provision of the Water Transportation Services provided under this Agreement for the benefit of the Owners, the Parties

entered into the Water Supply Agreement for the same duration as this Agreement, pursuant to which AWWU shall have access to the use of certain of the Owners' facilities without additional compensation for its provision of public water supply.

6.2 Taxes. The Owners shall be responsible for and shall reimburse AWWU for any sales, use, gross receipts, occupation, and other taxes (excluding income, and franchise tax) imposed upon AWWU from time to time payable related to AWWU's provision of services set forth herein.

6.3 Reimbursement. For those AWWU costs that the Owners are specifically required to reimburse hereunder, AWWU shall submit to each of the Owners a detailed accounting of such cost for which AWWU is seeking reimbursement, together with such supporting documentation as the Owners shall reasonably require, including a reference to the applicable section of this Agreement demonstrating the Owners' responsibility for such costs. Within sixty (60) Days after receiving a properly completed application for reimbursement and all required supporting documentation, each of the Owners shall individually: (i) pay AWWU their respective Cost Responsibility Proportion of the amounts set forth in AWWU's application for payment; or (ii) notify AWWU in writing that such Owner believes in good faith that a requested payment amount is not due and owing and shall request the commencement of negotiations pursuant to **Section Error! Reference source not found.**. In addition to the requirement that each Owner pay its Cost Responsibility Proportion as required in this Section, the Owners shall each be jointly and severally liable for all reimbursement obligations owed to AWWU under this Article 6.

ARTICLE 7.
TITLE

7.1 Title; Custody; Risk of Loss

(a) Legal title to and ownership of all Owners' Water shall remain with the Owners at all times during the provision of Water Transportation Services.

(b) For Owners' Water flowing through AWWU's Facilities as part of the Water Transportation Services: control, custody and risk of loss of such Owners' Water shall transfer from the Owners to AWWU at the Injection Point, where such Owners' Water shall comingle with AWWU's Water until reaching the Delivery Point, at which point the custody, control and risk of loss for an amount of water equal to the original amount of Owners' Water released into the AWWU Facilities at the Injection Point shall pass back to the Owners.

ARTICLE 8.
EMERGENCY CURTAILMENT; FORCE MAJEURE

8.1 Outages

(a) Planned Outages. AWWU shall be excused from the performance of the Water Transportation Services in the event of Planned Outages noticed by and compliant with this Section 8.1(a). AWWU and the Owners shall develop a schedule and protocol, pursuant to the procedures set forth in the Operating Procedures, for Planned Outages of the Facility or the AWWU Facilities in order to allow for routine maintenance and inspection activities. Such

schedule for each Planned Outage shall specify the associated Curtailment Limits and Curtailment Duration. Such schedule and protocol shall take into account routine hydropower operations to ensure that Planned Outages only be scheduled at times when there is sufficient water available in Eklutna Lake to allow water releases through the maintenance gate of the diversion dam in the amounts necessary for the Owners to meet their obligations under the Fish and Wildlife Program. In addressing Planned Outages on AWWU Facilities and the AWWU Portion, AWWU shall use commercially reasonable efforts to minimize the length of the Curtailment Duration and the level of Curtailment Limits. For the sake of clarity, planned outages to AWWU Facilities or other AWWU property downriver of the Isolation Valve Structure do not meet the definition of Planned Outage and are addressed in Section 8.1(c)(i) below.

(b) Forced Outages. AWWU shall be excused from the performance of the Water Transportation Services in the event of Forced Outages noticed by and compliant with this Section 8.1(b). AWWU shall (i) use commercially reasonable efforts to notify the Owners of any Forced Outage, and (ii) provide an initial written or email estimate of the expected Curtailment Duration and Curtailment Limit within two (2) hours thereafter. In managing Forced Outages, AWWU shall use commercially reasonable efforts to minimize the duration of resulting Curtailment Duration and the level of Curtailment Limits. For the sake of clarity, forced outages to AWWU Facilities or other AWWU property downriver of the Isolation Valve Structure do not meet the definition of Forced Outage and are addressed in Section 8.1(c)(ii) below. During a Forced Outage, the Owners shall be responsible for complying with their Fish and Wildlife Program obligations through other means (such as releasing water into the river through the maintenance gate of the diversion dam).

(c) Outages to Downstream AWWU Infrastructure.

(i) In the event of any planned outage in the AWWU Facilities or in other AWWU property downstream of the Isolation Valve Structure that, without the closing of the Owners' Isolation Valve, would have an effect on the flow of water through the AWWU Facilities from the Injection Point to the River Release Structure, AWWU must notify the Owners at least thirty (30) days in advance of such planned outage to allow the Owners to adjust the Owners' Isolation Valve in such a way that allows for continued Water Transportation Services during such outage.

(ii) In the event of any forced, unexpected outage in the AWWU Facilities or at the Eklutna Water Treatment Facility downstream of the Isolation Valve Structure that, without the closing of the Owners' Isolation Valve, would have an effect on the flow of water through the AWWU Facilities from the Injection Point to the River Release Structure, AWWU shall notify the Owners as soon as possible to allow for the Owners to adjust the Owners' Isolation Valve to allow for the greatest possible continued flows of water into the Eklutna River through the River Release Structure during the duration of such forced outage.

8.2 Force Majeure. Each Party shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, except for the Owners' obligation to reimburse AWWU for costs pursuant to Section 6.3, if and to the extent that such Party's failure of, or delay in, performance is due to a Force Majeure Event; provided, that:

(a) such Party gives the other Party prompt written notice describing the particulars of the Force Majeure Event as soon as is reasonably practicable after becoming aware of the occurrence of the Force Majeure Event;

(b) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(c) no obligations of affected Party that arose before the occurrence of the Force Majeure Event causing the suspension of performance shall be excused as a result of such Force Majeure Event, unless and only to the extent that the performance of such obligations is impaired by the Force Majeure Event;

(d) the Party uses diligent commercially reasonable efforts to overcome or mitigate the effects of the Force Majeure Event; and

(e) when the Party is able to resume performance of its obligations under this Agreement, such Party shall give the other Party written notice to that effect and shall promptly resume performance hereunder.

ARTICLE 9.
ACCESS; ROADS AND BRIDGES

9.1 Site Access. Throughout the Delivery Term, AWWU shall, with respect to the land and access roads within its control, provide the Owners with a non-exclusive license to access the Site (through use of AWWU's access road), AWWU's Portion, and the AWWU Facilities as necessary to enable the Owners to operate and maintain the Owners' Isolation Valve and the Owners' Portion, and as otherwise reasonably necessary to facilitate the Owners' rights and obligations hereunder (the "Access License"), provided, that, AWWU may from time to time limit access to the Site or the AWWU Facilities temporarily only to the extent necessary to address reasonable security or safety issues and to avoid putting AWWU's public water supply at risk of interruption or contamination. To the extent that any additional access permissions from third-party landowners adjacent to the Site may be required for the Owners to exercise their rights or perform their obligations hereunder, obtaining such Approvals shall be the responsibility of the Owners, subject to AWWU's duty to assist and cooperate under Section 4.5, and provided that such assistance and cooperation with respect to such third-party approvals may require that AWWU be the first and primary point of contact with such third party in situations where AWWU has an existing easement or applicable existing relationship with such third party. AWWU shall be reimbursed for any and all of its reasonable and documented costs or expenses of providing such assistance and cooperation with respect to such third-party approvals. To the extent that AWWU adds access or other security or safety limitations to the Site, to AWWU's Portion or to the AWWU Facilities, the Owners and AWWU shall cooperate in ensuring continuous access for the Owners and their contractors to enable operation and maintenance of the Owners' Isolation Valve and the Owners' Portion, subject to the new limitations.

9.2 AWWU Access Road. AWWU shall be responsible, at its own expense, for brushing, clearing, plowing, and maintaining its access road and all bridges thereon to the AWWU Facilities, both upstream and downstream of the Facility. The Owners may use such access road

as part of its Access License granted pursuant to Section 9.1, and may, at their discretion, brush, clear, and plow the access road as needed to facilitate the Owners' access to the Facility, provided that under no circumstances shall the Owners be required to conduct such brushing, clearing or plowing.

9.3 Access Bridges. Pursuant to the Interconnection Agreement, the Owners agreed to install Access Bridges to improve Facility access and account for the additional traffic on the AWWU access road connected with the activities described in the Interconnection Agreement and this Agreement. As set forth in the Interconnection Agreement, upon completion of Access Bridge construction, the full responsibility for (and associated costs of) such bridge maintenance passes to AWWU, provided, that the Owners shall be responsible for any maintenance associated with damage caused by the Owners' gross negligence or intentional misconduct.

ARTICLE 10.
LIMITATIONS ON LIABILITY

10.1 Aggregate Limitation of Liability. Notwithstanding any other provision of this Agreement, the total aggregate liability of the Owners and the total aggregate liability of AWWU arising out of or relating to this Agreement, from any and all causes, whether based on contract, tort (including negligence), strict liability or any other cause of action, shall in no event exceed ten million dollars ($10,000,000.00) for AWWU, and ten million dollars ($10,000,000.00) for the Owners collectively, provided that such limit shall not apply in the case of such Party's (i) gross negligence or willful misconduct, (ii) third-party indemnity obligation, or (iii) breach of any representation or warranty.

10.2 CUMULATIVE REMEDIES. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, OR IF A REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY NON-EXCLUSIVE, THE NON-DEFAULTING PARTY SHALL HAVE THE RIGHT TO EXERCISE ALL RIGHTS AND REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY; PROVIDED, HOWEVER, THAT THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED.

10.3 WAIVER OF CERTAIN DAMAGES. EXCEPT WITH RESPECT TO INDEMNIFICATION OF THIRD-PARTY CLAIMS PURSUANT TO ARTICLE 11, OR AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, BUSINESS INTERRUPTION OR SIMILAR DAMAGES, WHETHER BY STATUTE, IN TORT, BY CONTRACT OR OTHERWISE.

ARTICLE 11.
INDEMNIFICATION

11.1 Indemnity. To the fullest extent permitted by Law, each Party shall indemnify, hold harmless and defend the other Party and its directors, officers, shareholders, partners, agents and employees, and the Affiliates of the same (collectively, the "Indemnified Parties"), from and against any and all claims, loss, damage, expense and liability, including court costs and reasonable

attorneys' fees (collectively, "Liabilities") incurred by the Indemnified Parties in connection with or arising from: (i) the Water Transportation Services and (ii) any claim for physical damage to or physical destruction of any part of the Facility, the AWWU Facilities, or death of or bodily injury to any person, to the extent such Liabilities were caused by the negligence of the Indemnifying Party or its agents or employees or others under such Indemnifying Party's control, except any Liabilities incurred due to the negligence or willful misconduct of an Indemnified Party. For the purpose of the definition of "Indemnified Parties" AWWU shall not be considered to be an "Affiliate" of the MOA.

11.2 Additional Owners Indemnity. To the fullest extent permitted by Law, the Owners shall indemnify, hold harmless, and defend AWWU and its Indemnified Parties from any Liabilities incurred by AWWU and its Indemnified Parties arising from damage to AWWU's water line and other infrastructure, including but not limited to its infrastructure downstream of the Facility (*i.e.* conditions caused by scouring or erosion of the river bed or banks that damage AWWU's water line and/or facilities) as a direct result of the instream water flows conveyed into the Eklutna River as part of the Water Transportation Services. The Owners shall further indemnify, defend and hold AWWU harmless from any Liabilities directly related to fish and wildlife mitigation measures and arising out of normal operation of the AWWU Facilities, the Facility, or any other facilities of AWWU, in a manner consistent with this Agreement, the Interconnection Agreement, the Water Supply Agreement, Prudent Industry Standards, the most current edition of the AWWU Design and Construction Practices Manual, the Municipality of Anchorage Standard Specifications and Anchorage Municipal Code, unless such Liabilities arose out of the negligence, violation of Law, or intentional misconduct by AWWU.

11.3 Defense of Claims. A Party with an indemnification obligation pursuant to this ARTICLE 11 (an "Indemnifying Party") shall have the right to defend the Indemnified Parties pursuant to this ARTICLE 11 by counsel of the Indemnifying Party's selection (including insurance counsel) reasonably satisfactory to the Indemnified Party, unless in the opinion of counsel for the Indemnifying Party a conflict of interest between the Parties may exist with respect to such claim. If the Indemnifying Party does not assume the defense of the Indemnified Party, or if a conflict precludes counsel for the Indemnifying Party from providing the defense, then the Indemnifying Party shall reimburse the Indemnified Party on a monthly basis for the Indemnified Party's defense through separate counsel of the Indemnified Party's choice. Even if the Indemnifying Party assumes the defense of the Indemnified Party with acceptable counsel, the Indemnified Party, at its sole option, may participate in the defense, at its own expense, with counsel of its own choice without relieving the Indemnifying Party of any of its obligations hereunder. The Parties shall give each other prompt written notice of any asserted claims or actions indemnified against hereunder and shall cooperate with each other in the defense of any such claims or actions. Without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed, no Indemnifying Party shall settle any such claims or actions in a manner that would require any action or forbearance from action by any Indemnified Party.

ARTICLE 12.
DEFAULT AND REMEDIES; TERMINATION; DISPUTE RESOLUTION

12.1 Event of Default. The following shall constitute events of default on the part of either party (each, an "Event of Default") under this Agreement:

(a) If a Party makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of such Party, or if such Party files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition of or readjustment of debts and, in the case of any such proceeding instituted against such Party (but not by such Party) such proceeding is not dismissed within sixty (60) days of such filing;

(b) If a Party fails to comply with any material terms of this Agreement not otherwise set forth as an Event of Default in this Section 12.1(b) and fails to cure or remedy such failure within thirty (30) days after notice and a written demand is made by the non-defaulting Party to the defaulting Party to cure the same or, if such failure cannot be cured within thirty (30) days, the defaulting Party fails to commence to cure such failure within thirty (30) days after such notice and written demand and thereafter diligently pursue such cure to completion, which shall in no event be later than ninety (90) days after such notice;

(c) If a Party defaults under the Water Supply Agreement or the Interconnection Agreement;

(d) If a Party fails to make any payment due hereunder within sixty (60) days after written notice from the non-defaulting Party; or

(e) If any representation or warranty of a Party in this Agreement proves to have been false or misleading in any material respect when made, and such Party has not, within thirty (30) days after written notification thereof from the non-defaulting Party, either fully remedied, or commenced and diligently pursued the remedy, of all adverse impacts on the non-defaulting Party resulting therefrom, all to the reasonable satisfaction of the non-defaulting Party.

12.2 Remedies Upon Event of Default. Upon the occurrence and continuation of an Event of Default, the non-defaulting Party shall have the right to terminate this Agreement and the Water Supply Agreement upon ten (10) days written notice and pursue any other remedy available to such non-defaulting party at law or in equity arising out of such Event of Default, including a claim for monetary damage or specific performance.

12.3 Automatic Cross-Agreement Termination. If this Agreement is terminated for any reason during the Delivery Term, the Interconnection Agreement and the Water Supply Agreement shall automatically terminate effective as of the same date of this Agreement's termination.

12.4 Termination for Failure of Conditions Precedent. If, prior to the Delivery Term, the Owners, in their reasonable discretion, decide to not construct the Facility due to the failure to achieve the Construction Start CPs as defined in the Interconnection Agreement, the Owners may terminate this Agreement without liability.

12.5 Dispute Resolution. In the event of any dispute arising under this Agreement (a "Dispute"), within ten (10) Business Days following notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies.

ARTICLE 13.
REPRESENTATIONS

13.1 General Representations and Warranties. Each Owner and AWWU hereby represents and warrants as of the Effective Date and the Delivery Term Effective Date that:

(a) It is duly organized, validly existing and in good standing under the Laws of the state of its formation and is duly qualified to do business in the jurisdiction where the Site is located.

(b) It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate, municipal, or other action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar Laws relating to the enforcement of creditors' rights generally and by general equitable principles.

(c) It is not in violation of any applicable Law, or any judgment entered by any federal, state, local or other Governmental Authority, which violations, individually or in the aggregate, would adversely affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or (to its best knowledge) threatened against it which, if adversely determined, could have a material adverse effect upon its financial condition, operations, prospects or business, as a whole, or its ability to perform under this Agreement.

(d) No authorization, approval, exemption, or consent of or by any Person is required by it in connection with the execution, delivery, and performance of this Agreement. In addition, each Party represents and warrants to the other Party that the Governmental Approvals required to be obtained by such Party either have been obtained by such Party and are in full force and effect on the date hereof or will be obtained by such Party and will be in full force and effect on or prior to the date on which they are required, under applicable Law, to be in full force and

effect, so as to permit AWWU to perform the Water Transportation Services and the parties to otherwise complete their obligations hereunder.

(e) The execution and delivery of this Agreement, the consummation of the transactions herein contemplated and compliance with the terms and provisions hereof by it will not conflict with or result in a material breach of, or require any consent under, any of its constitutive documents, or any applicable Law, or any agreement or instrument to which it is a party or by which it is bound or to which it is subject, or constitute a material default under any such agreement or instrument.

ARTICLE 14.
NOTICES

14.1 Writing. Except as set forth in Section 14.2, any notice, statement, demand, claim, offer or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be sent by email, facsimile, hand messenger delivery, overnight courier service, or certified mail (receipt requested) to the other Party as follows: (i) prior to the finalization of the Operating Procedures, such notices shall be sent to the addresses set forth in Exhibit E; and (ii) after the finalization of the Operating Procedures, such notices shall be sent to the legal notice addresses listed in such Operating Procedures. Each Party shall have the right to change the address information to which notice shall be sent or delivered or to specify additional addresses to which copies of notices may be sent, in either case by similar notice sent or delivered in like manner to the other Party, which, after the development of the Operating Procedures, shall be reflected in such Operating Procedures. All notices shall be effective upon receipt.

14.2 Technical Communications. Any technical or other communications pertaining to the Facility, the Water Transportation Services, and the Operational Work shall follow the procedures set forth in the Operating Procedures, to be updated from time to time pursuant to Section 5.2.

ARTICLE 15.

CONFIDENTIALITY; PUBLIC STATEMENTS

15.1 Confidentiality. The Parties agree that the Parties' proposals, communications, negotiations and information exchanged prior to the Effective Date concerning this Agreement and the development thereof, and technical and other information regarding or relating to the Facility, the AWWU Facilities, the Access Bridges, and the provision of the Water Transportation Services exchanged between the Parties that is marked, or otherwise clearly communicated to the receiving Party as "Confidential" constitutes "Confidential Information" of the disclosing Party. The Owners and AWWU each agree to hold such Confidential Information wholly confidential. Such Confidential Information may only be used by the Parties for the purposes related to the approval, or administration or enforcement of this Agreement.

15.2 Disclosure. Each Party agrees not to disclose Confidential Information of the other Party to any other Person (other than its Affiliates, counsel, consultants, lenders, partners, members, employees, officers and director, and then only to Persons subject to similar

confidentiality restrictions as those set forth herein), without the prior written consent of the other Party, provided, that, either Party may disclose Confidential Information, if such disclosure is required by Law, including without limitation, pursuant to an order of a court or regulatory agency or in order to enforce this Agreement or to seek approval of this Agreement. In the event a Party is required by Law or a Governmental Authority to disclose Confidential Information, such Party, prior to such disclosure, shall provide reasonable advance notice to the other Party of the time and scope of the intended disclosure in order to permit such disclosing Party the opportunity to obtain a protective order or otherwise seek to prevent or limit the scope or otherwise impose conditions upon such disclosure.

15.3 Injunctive Relief. Each Party agrees that violation of the terms of Sections 15.1 and 15.2 constitutes irreparable harm to the other, and that the harmed Party may seek any and all remedies available to it at law or in equity, including but not limited to injunctive relief.

15.4 Release of Agreement. The Parties agree that this Agreement, upon execution, shall not be considered Confidential Information. Except as required by Law, releasing the Agreement to the public shall be the sole responsibility of the Owners, to be released in the manner at a time decided in their sole discretion.

ARTICLE 16.
MISCELLANEOUS

16.1 Reasonability. The Parties shall act in a reasonable manner and in accordance with principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement and whether or not stated: (a) where this Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned, or delayed; and (b) wherever this Agreement gives a Party a right to determine, require, request, specify, or take similar action with respect to a matter, such determination, requirement, request, specification, or similar action must be reasonable.

16.2 Entire Agreement. This Agreement, together with all Schedule and Exhibits hereto, embodies the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties, verbal or written, relating to the subject matter hereof.

16.3 Waiver. Any waiver of the provisions of this Agreement must be in writing and shall not be implied by any usage of trade, course of dealing or course of performance. No exercise of any right or remedy by AWWU or the Owners constitutes a waiver of any other right or remedy contained or provided by Law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance hereunder shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

16.4 Assignment. Neither Party shall assign this Agreement or any of its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party,

without relieving itself from liability hereunder, and without the need for consent from the other Party provided that any such assignee shall agree to be bound by all terms and conditions hereof, may transfer, pledge or assign this Agreement: (a) to any person or entity succeeding to all or substantially all of the assets of the assigning Party; or (b) to a successor entity in a merger or acquisition transaction. Any assignment made in contravention of this Section 16.4 shall be void and unenforceable.

16.5 Governing Law; Submission to Jurisdiction; Venue; No Jury Trial.

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALASKA, EXCLUDING ANY CHOICE OF LAW RULES.

(b) Submission to Jurisdiction, Venue. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its Affiliates or designees) with respect to or arising out of this Agreement shall be brought exclusively in the courts of the State of Alaska, in the Municipality of Anchorage, as the Party instituting such suit, action or other legal proceeding may elect, provided that claims related to federal water rights, federal legislation enabling the Facility or AWWU Facilities, or the 1991 Agreement may be brought in the United States District Court for the District of Alaska. By execution and delivery of this Agreement, each Party (for itself, its Affiliates and its designees) irrevocably and unconditionally consents and submits to the exclusive jurisdiction of such courts and the appellate courts therefrom, and waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding. The Parties irrevocably consent to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, first class postage prepaid to the addresses set forth in Section 14.1.

(c) No Jury Trial. EACH OF THE PARTIES HEREBY WAIVES ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) Duty to Proceed. Pending final resolution of any Dispute, the Owners and AWWU shall continue to fulfill their respective obligations hereunder that are not the subject of the Dispute.

16.6 Construction. This Agreement is to be construed so as to effectuate the normal and reasonable expectations of a sophisticated buyer and seller of the equipment and services covered by this Agreement and shall not be construed either for or against either Party. No provision of this Agreement shall be construed or interpreted for or against either Party because such Party drafted or caused its legal representative to draft the provision.

16.7 Headings. The titles or headings of the various sections, articles and paragraphs hereof are intended solely for convenience and ease of reference and are not intended, and are not to be deemed for any purpose, to modify or explain or place any interpretation or construction upon any of the provisions of this Agreement.

16.8 Status of the Parties. AWWU and its Subcontractors shall be independent contractors to the Owners with respect to the Water Transportation Services and neither the AWWU nor its Subcontractors, nor the employees or agents of either, shall be deemed to be the employees, representatives or agents of the Owners in connection with any matter relating to this Agreement. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties.

16.9 Status of Individual Owners. Each of the Owners shall be jointly and severally liable for the obligations of the Owners under this Agreement. The delineation of specific responsibilities set forth hereunder as among the Owners shall be at the sole discretion of the Owners, not AWWU. If at any time, the Owners agree that one or two of the Owners need no longer be party to this Agreement, such unnecessary Owner(s) may be removed as parties to this Agreement upon written notice to AWWU, if agreed, and shall retain no liability upon removal, with the remaining Owner(s) automatically assuming the full obligations of the Owners hereunder. If an Event of Default exists hereunder at any time with respect to an Owner, it shall be considered an Event of Default with respect to the Owners together as one Party hereunder, provided, that if another Owner agrees to assume such defaulting Owner's obligations under this Agreement by removing such Owner as a party pursuant to the preceding sentence of this Section 16.9 prior to the expiration of any applicable cure period, this shall not be considered an Event of Default hereunder.

16.10 Insurance. Throughout the Delivery Term, the Owners shall maintain the required insurance policies as set forth on Exhibit D-1 and AWWU shall maintain the required insurance policy as set forth on Exhibit D-2.

16.11 No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of the Owners and AWWU, and their permitted successors and assigns, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

16.12 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take all further action, as may be reasonably necessary to complete performance by the Parties hereunder and to effectuate the purposes and intent of this Agreement.

16.13 Amendments. No change, amendment or modification of this Agreement shall be valid or binding upon the Parties unless such change, amendment or modification shall be in writing and duly executed by the Parties.

16.14 Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provision of this Agreement and all other provisions will remain in full force and effect.

16.15 Conflicting Provisions. In the event of any conflict between this document and any Schedule or Exhibit attached hereto, the terms and provisions of this document, as amended from time to time, shall control. In the event of any conflict among the Exhibits, the Exhibit of the latest date mutually agreed to by the Parties shall control.

16.16 Survival. The provisions of ARTICLE 1, ARTICLE 7, ARTICLE 10, ARTICLE 11, ARTICLE 12, ARTICLE 13, ARTICLE 14, and ARTICLE 16 shall survive termination of this Agreement for any reason.

16.17 Counterparts. This Agreement may be executed in any number of separate counterparts and delivered by electronic means, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the Parties have caused this Long-Term Water Transportation Agreement to be executed by their duly authorized representatives as of the Effective Date.

AWWU/SERVICE PROVIDER:

ANCHORAGE WATER AND WATERWATER UTILITY, A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: Municipal Manager

By: _____

Name: _____

Title: General Manager

OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MATANUSKA ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____
Title: _____

Schedule 1.1

Definitions

"1991 Agreement" means that certain Agreement between the Municipality of Anchorage, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., the United States Fish and Wildlife Service, the National Marine Fisheries Service, the State of Alaska, and the Alaska Energy Authority Relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991.

"Access Bridges" means those bridges installed by the Owners on the Eklutna River pursuant to the terms of the Interconnection Agreement.

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with such first Person. For purposes of this definition and the Agreement, the term "control" (and correlative terms) means (1) the ownership of 50% or more of the equity interest in a Person, or (2) the power, whether by contract, equity ownership or otherwise, to direct or cause the direction of the policies or management of a Person.

"Access License" has the meaning set forth in Section 9.1.

"Agreement" has the meaning set forth in the Preamble, and shall include all Exhibits and Schedules hereto.

"Approvals" means Governmental Approvals and third-party approvals.

"AWWU" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of AWWU.

"AWWU Design and Construction Practices Manual" means the edition dated _____, 20__, as updated and amended from time to time.[2]

"Event of Default" has the meaning set forth in Section 12.1.

"AWWU's Isolation Valve" has the meaning set forth in Exhibit A-1.

"AWWU Facilities" has the meaning set forth in the Recitals.

"AWWU's Portion" has the meaning set forth in Exhibit A-1.

"AWWU's Water Permit" means that permit belonging to AWWU (LAS 2569) to use Owners' Water Rights for up to 41 MGD for public water supply pursuant to the Act of October

[2] **Note to Accompany Final Draft**: To be populated after Governor approval and prior to execution to reflect the most up to date version.

30, 1984, 98 Stat. 2823, as may be replaced as described in Section 3.1 of the Water Supply Agreement.

"AWWU's Water" means any and all water belonging to AWWU pursuant to AWWU's Water Permit.

"Business Day" means any day other than a Saturday, Sunday or legal holiday in the state of Alaska.

"Chugach" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of Chugach.

"Confidential Information" has the meaning set forth in Section 14.1.

"Cost Responsibility Proportion" shall mean, with respect to each Owner, the percentage of the total applicable Eklutna Hydroelectric Project costs that such Owner is obligated to pay as agreed to by the Owners, which as of the Effective Date shall be, with respect to MOA, 19.05%, with respect to Chugach, 64.28%, and with respect to MEA, 16.67%, and which may be changed hereunder upon agreement between the Owners at any time.

"Curtailment Duration" means, with respect to a curtailment in Water Transportation Services during an Excused Event, the duration of such curtailment.

"Curtailment Limit" means, with respect to each day of the Delivery Term where there exists an Excused Event, the amount of Owners' Water in MGD that can be transported to the Delivery Point on such day. For the avoidance of doubt, this amount can equal zero (0) MGD.

"Day" or "day" means a calendar day, unless expressly specified otherwise.

"Delivery Point" has the meaning set forth in Exhibit A-1 and is depicted on the schematic included as part of Exhibit B.

"Delivery Point Meter" has the meaning set forth in Exhibit A-1.

"Delivery Term" has the meaning set forth in Section 2.1.

"Delivery Term Effective Date" has the meaning set forth in Section 2.1.

"Dispute" has the meaning set forth in Section 12.5.

"Effective Date" has the meaning set forth in the Preamble.

"Eklutna Hydroelectric Project" means the Eklutna Hydroelectric Project initially authorized, constructed and operated pursuant to the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended), including any and all property and facilities acquired or used in connection therewith, all of which was then sold to the Owners by the United States of America on October 2, 1997.

"Eklutna Water Treatment Facility" means the water treatment plant owned by AWWU located alongside the Eklutna River.

"Event of Default" has the meaning set forth in Section 12.1.

"Excused Event" means a Planned Outage, a Forced Outage, or an Force Majeure Event causing a reduction or suspension of the Water Transportation Services.

"Facility" has the meaning set forth in the Recitals.

"Final Acceptance" has the meaning set forth in the Interconnection Agreement.

"Fish and Wildlife Program" has the meaning set forth in the Recitals.

"Force Majeure Event" means the occurrence of any act or event beyond the reasonable control of the Party affected that prevents the affected Party from performing its obligations under this Agreement, in full or part, if such act or event is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums), including the following: drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a Governmental Authority. Notwithstanding the foregoing, Force Majeure Events shall expressly not include mechanical or equipment failures (except to the extent any such failure is itself caused by a Force Majeure Event), diminution in water quality in Eklutna Lake, Planned Outages, or Forced Outages (unless such Forced Outage is caused by a Force Majeure Event).

"Forced Outage" means; (i) any unplanned necessary reduction or suspension of Water Transportation Services available from the Facility; or (2) any other unavailability of the AWWU Facilities of Facility in whole or in part, each in response to an equipment malfunction or other emergency condition determined by AWWU in its reasonable discretion to be a threat to any AWWU Facilities. For the sake of clarity, forced outages in AWWU infrastructure downstream of the Isolation Valve Structure are not considered a Forced Outage.

"Governmental Approvals" means all authorizations, consents, licenses, leases, rulings, certifications, registrations, exemptions, permits, certificates, and approvals from any Governmental Authority.

"Governmental Authority" means any federal, state or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the performance of the Water Transportation Services, the Operational Work, the Facility or its operations, or the health, safety or environmental conditions of the Site or otherwise over the Parties' rights and obligations under this Agreement.

"Indemnified Parties" has the meaning set forth in Section 11.1.

"Indemnifying Party" has the meaning set forth in Section 10.4.

"Initial Delivery Term" has the meaning set forth in Section 3.1.

"Injection Point" means the point where AWWU Facilities meet facilities owned by the Owners near the outlet of the Eklutna Lake, where AWWU receives all of AWWU's Water from Eklutna Lake, as depicted in the schematic included as part of Exhibit B.

"Interconnection Agreement" has the meaning set forth in the Recitals.

"Injection Point Flow Meter" means a meter measuring the flow of water passing into AWWU Facilities at the Injection Point.

"Isolation Valve Structure" has the meaning set forth in Exhibit A-1.

"Isolation Valves" has the meaning set forth in Exhibit A-1.

"Law" means any constitution, charter, act, statute, law, ordinance, code, rule, regulation, order, specified standards or objective criteria contained in any applicable permit or approval (which standards or criteria must be met in order for the Water Transportation Services or Operational Work to be performed lawfully) or other legislative or administrative action of any Governmental Authority or a final decree, judgment or order of a court or tribunal.

"Liabilities" has the meaning set forth in Section 11.1.

"MEA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MEA.

"MGD" means millions of gallons per day.

"MOA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MOA.

"Monthly Water Release Schedule" has the meaning set forth in Section 3.2.

"Operating Procedures" has the meaning set forth in Section 5.1.

"Operational Work" means all phases of AWWU and the Owners' performance of their obligations under this Agreement to operate and maintain the Facility and the AWWU Facilities.

"Owners" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of the Owners.

"Owner" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of such Owner.

"Owners' Isolation Valve" has the meaning set forth in Exhibit A-1.

"Owners' Approvals" has the meaning set forth in Section 4.4.

"Owners' Portion" has the meaning set forth in Exhibit A-1.

"Owners' Water Rights" means that certain senior priority water rights held by the Owners for the water in Eklutna Lake for use in generating power for the Eklutna Hydroelectric Project as described in water rights certificate ADL 44944.

"Owners' Water" means any and all water belonging to the Owners pursuant to the Owners' Water Right.

"Party" and "Parties" has the meaning set forth in the Preamble.

"Person" means any individual, partnership, corporation, limited liability company, association, business, trust, government or political subdivision thereof, Governmental Authority or other entity.

"Planned Outage" means the removal of Facility equipment from service availability for inspection and/or overhaul or repair in such a way that requires a reduction or halt in flow of Owners' Water through the AWWU Facilities to the Delivery Point. For the sake of clarity, planned outages in AWWU infrastructure downstream of the Isolation Valve Structure are not considered a Planned Outage. To qualify as a Planned Outage, the maintenance (a) must actually be conducted during the Planned Outage, and in AWWU's reasonable discretion must be of the type that is necessary to reliably maintain the Facility or the AWWU Facilities, and (b) cannot be reasonably conducted during normal Facility or AWWU Facilities' operations.

"Prudent Industry Standards" means those standards of care and diligence normally practiced by water transportation infrastructure operation and maintenance firms in performing services of a similar nature in a similar jurisdiction in which the Water Transportation Services and Operational Work will be performed. Prudent Industry Standards are not intended to be limited to optimum practice or methods, but rather to be a spectrum of reasonable and prudent practices and methods that must take the conditions specific to any water transportation facility under consideration.

"River Release Structure" has the meaning set forth in Exhibit A-1.

"Site" means the location of the Facility as further described and depicted in Exhibit B.

"Subcontractor" means any Person with whom the Owners, or any Owner, enters into an arrangement for the performance of any portion of the Water Transportation Services or Operational Work, including Persons at any tier with whom any Subcontractor has further subcontracted any portion of the Water Transportation Services or Operational Work, and the legal or personal representatives, successors, and assigns of such Person.

"Term" has the meaning set forth in Section 2.1(a).

"Water Release Limits" has the meaning set forth in Section 3.1.

"Water Supply Agreement" has the meaning set forth in the Recitals.

"Water Transportation Services" has the meaning set forth in Section 3.1.

Exhibit A

Eklutna River Release Facility Description and Definitions[3]

The ***"Eklutna River Release Facility"*** shall consist of an Isolation Valve Structure and the River Release Structure.

The "***Isolation Valve Structure***" shall include:

- a new tee to be built in the AWWU pipeline downstream of the AWWU tunnel/pipeline transition and upstream of the AWWU portal valve (the "***Delivery Point***")
- A 54-inch gate valve on the main segment of AWWU pipeline intended to provide dual means of isolation for AWWU's pipeline segment ("***AWWU's Isolation Valve***")
- A 42-inch gate valve on the branch segment of AWWU pipeline intended to provide isolation to the river release structure ("***Owners' Isolation Valve***", together with AWWU's Isolation Valve, the "***Isolation Valves***").
- Related controls and communication technology to be installed by the Owners in the main line of the AWWU Facilities.

The "***River Release Structure***" shall include:

- [A new pipeline from the Isolation Valve Structure to the Eklutna River]
- Control valves
- A new meter installed at the Delivery Point ("***Delivery Point Meter***")
- Monitoring and control equipment to be installed by Owners [*describe where*].

"***AWWU's Portion***" of the Facility shall consist of the Isolation Valve Structure [and _____]

The "***Owners' Portion***" of the Facility shall consist of the River Release Structure [and _____]

---

[3] **Note to Accompany Final Draft**: This Exhibit will be revised and finalized by Owners to reflect the proposal approved by the Governor and prior to signing.

Exhibit B[4]

Description and Schematic of Site, AWWU Facilities, and Injection Point and Delivery Point

[4] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit C

Owners' Approvals[5]

[5] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit D-1[6]

Owners' Insurance Requirements

[6] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit D-2[7]

AWWU's Insurance Requirements

[7] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit E[8]

Initial Notice Information

If delivered to the Owners, to them at	Chugach Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Matanuska Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____]
If delivered to AWWU, to it at	Anchorage Water and Wastewater Utility, a department of the Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____]

[8] **Note to Accompany Final Draft**: To be populated immediately prior to execution, after Governor approval, as such information is subject to change.

ATTACHMENT C

PUBLIC WATER SUPPLY AGREEMENT

Execution Version

PUBLIC WATER SUPPLY AGREEMENT

by and between

Anchorage Water and Wastewater Utility

as

Service Provider

And

Chugach Electric Association, Inc,

Matanuska Electric Association, Inc., and the Municipality of Anchorage

as

Owners

Dated as of [_____][1]

[1] [**Note to Accompany Final Draft**: This Agreement has been form agreed as between the Parties but will not be signed by the MOA until after Governor approval of the Fish and Wildlife Program has occurred and such signatures have been authorized by the Anchorage Assembly. Prior to execution, this footnote can be deleted from the draft.]

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PUBLIC WATER SUPPLY AGREEMENT

This PUBLIC WATER SUPPLY AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered into by and between Anchorage Water and Wastewater Utility ("AWWU"), and Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("MEA"), and the Municipality of Anchorage ("MOA") (each of Chugach, MEA, and MOA is an "Owner" and collectively they are referred to as the "Owners"). The Owners and AWWU are sometimes referred to herein as a "Party" or collectively as the "Parties".

RECITALS

WHEREAS, the federal Alaska Power Administration ("APA") originally developed, owned and operated the Eklutna Hydroelectric Project, which began operations in 1954 for the production of electric power that APA sold to electric utilities serving the Anchorage and Matanuska Valley areas;

WHEREAS, as then-owner of the Eklutna Hydroelectric Project assets, the APA possessed senior water rights (both federal reserved water rights and water rights granted under State of Alaska law), with a priority date of 1954, to all the water that may be feasibly appropriated from Eklutna Lake for use in generating electric power for the Eklutna Hydroelectric Project as reflected in water rights certificate ADL 44944 ("Project Water Rights");

WHEREAS, in the 1980s, AWWU:

(i) determined that Eklutna Lake was a necessary source of water for the City of Anchorage;

(ii) entered into that certain "Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska" with APA, dated February 17, 1984, as amended (the "1984 Agreement"), which among other things provides terms and conditions relating to (i) AWWU facility interconnection to Eklutna Hydroelectric Project; and (ii) the compensation by AWWU to the Owners for AWWU's diversion of water for public water supply that reduces the Project Water Rights otherwise available for use to generate energy at the Eklutna Hydroelectric Project;

(iii) obtained: (1) "preferred use status" from the Alaska Department of Natural Resources ("DNR") through an application that demonstrated the need for AWWU to take prior-appropriated water for public water supply purposes and which is conditioned upon the validity and existence of the 1984 Agreement (the "Preferred Use Status") pursuant to Alaska Statute 46.15.150(b); (2) a permit (LAS 2569) to use Project Water Rights for up to 41 million gallons per day for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823, (the "AWWU Water Permit"); and

(iv) constructed and began operations of the water project diverting water from the Eklutna Hydroelectric Project intake tunnel to AWWU's water system (the "AWWU Water Project");

WHEREAS, the 1984 Agreement remains in effect "until the year 2025" and the AWWU Water Permit expires on December 31, 2025;

WHEREAS, in October 1997, the Owners purchased from APA the Eklutna Hydroelectric Project and all related project assets, including Project Water Rights and became parties to the 1984 Agreement through assignment (the "Owners' Facilities");

WHEREAS, pursuant to the 1991 Agreement (as defined below), the Owners have studied and developed a Fish and Wildlife program to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Eklutna Hydroelectric Project centered on establishing instream flows in the Eklutna River as part of the implementation of the Fish and Wildlife Program (the "Fish and Wildlife Program");

WHEREAS, in order to establish such instream flows, the Owners and AWWU have negotiated two agreements: (1) a Water Facilities Interconnection Agreement (the "Interconnection Agreement"), which shall govern the construction and interconnection of the Parties' respective facilities for conveyance of water from the Eklutna Lake to the Eklutna River using AWWU facilities; and (2) a Long-Term Water Transportation Services Agreement (the "Transportation Agreement"), which shall govern the provision of conveyance services for transporting water from the Eklutna Lake to the Eklutna River;

WHEREAS, in coordination and joint consideration with the Interconnection Agreement and the Transportation Agreement, the Parties desire to enter into this Agreement in order to replace the 1984 Agreement and set forth new terms and conditions relating to (i) the compensation from AWWU to the Owners for AWWU's use of the Project Water Rights in accordance with Alaska Statute 46.15.150 and; (ii) the extension of other future rights to AWWU; and

NOW, THEREFORE, in consideration of the premises of this Agreement, the Transportation Agreement, and the Interconnection Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners and AWWU, intending to be legally bound, hereby agree as follows:

ARTICLE I
DEFINITIONS; INTERPRETATION

Section 1.1 Defined Terms. Capitalized terms used in this Agreement without other definition shall have the meanings set forth in Schedule 1.1, unless the context requires otherwise.

Section 1.2 Interpretation. As used in this Agreement, the terms "herein," "herewith" and "hereof" are references to this Agreement, taken as a whole; the terms "includes" or "including" shall mean "including, without limitation"; and references to a "Section," "Article", "Exhibit" or "Schedule" shall mean a Section, Article, Exhibit or Schedule of this Agreement, as the case may be, unless in any such case the context requires otherwise. All references to a given Exhibit, Schedule, agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made. A reference to a Person includes its permitted successors and permitted assigns. The singular shall include the plural and the masculine shall include the feminine and neuter, and vice versa.

ARTICLE II
EFFECTIVE DATE; TERM

Section 2.1 Effective Date. This Agreement shall become binding on the Parties on the Effective Date, subject to Section 2.2.

Section 2.2 Conditions Precedent. The rights and obligations of the Parties as set forth in Articles III – VI in this Agreement shall not be effective until the achievement of the following conditions precedent (the "Conditions Precedent"), a written notice of which shall be sent to AWWU by Owners:

(a) The Owners receive final approval from the Governor of Alaska, with such approval for a Fish and Wildlife Program that requires the use of the AWWU Facilities for instream flows as contemplated in this Agreement, provided that such approval includes no unexpected conditions materially adverse to the Owners or to AWWU, as determined in good faith by the Parties and in the exercise of commercially reasonable business judgment, and neither the approval from the Governor of Alaska nor the Fish and Wildlife Program is subject to any pending judicial review or appeal;

(b) Owners and AWWU obtain and provide evidence of lawful water rights from DNR for the use and transport of water as contemplated under the Agreement, including but not limited to a renewal, extension, or replacement of the AWWU Water Permit, Preferred Use Status, and all other approval(s) authorizing continued use of the Owners' Water Rights by AWWU;

(c) Chugach obtains final Regulatory Commission of Alaska ("RCA") approval of its applicable tariff rates necessary to implement the compensation outlined in Section 3.2 below pursuant to, and in a manner consistent with, Section 6.23 of the MOA-Chugach APSA as such terms are defined therein; and

(d) The Interconnection Agreement and the Transportation Agreement are in full force and effect and are valid, binding and enforceable against AWWU and the Owners in accordance with their terms.

Section 2.3 Failure to Achieve Conditions Precedent. In the event that this Agreement does not become fully effective (i) due to the failure to achieve the Conditions Precedent as set forth in Section 2.2 by [June 1, 2025], or (ii) because the Governor of Alaska approves a Fish and Wildlife Program that does not require the use of the AWWU Facilities for instream flows as contemplated in this Agreement, then: (A) this Agreement will be terminated upon thirty (30) days' written notice by either Party (B) the automatic cross-agreement termination provisions of Section 10.3 shall apply; and (C) the Parties shall meet promptly to negotiate in good faith an alternate agreement to replace the 1984 Agreement that expires in 2025 with terms and conditions that include but are not limited to adequate compensation, risk mitigation, potential transfer or purchase of water rights, and other terms and conditions then deemed appropriate by the Parties without prejudice due to the prior existence, or the subsequent termination, of this Agreement.

Section 2.4 Term. Unless agreed to otherwise by the Parties, this Agreement will continue in full force and effect starting on the Effective Date and terminating on October 30, 2060, subject to any early termination provision set forth herein (the "Term").

Section 2.5 Effect on 1984 Agreement. The Parties intend that, upon thirty (30) days' written notice by the Owners of the achievement of the Conditions Precedent as set forth in Section 2.2, this Agreement shall become fully effective and replace the 1984 Agreement in its entirety, and the 1984 Agreement will be terminated.

ARTICLE III
WATER USE AND COMPENSATION

Section 3.1 Water Use. The Owners shall make available and allow AWWU to continue to interconnect the AWWU Water Project to the Eklutna Hydroelectric Project, use the project's intake, tunnel, and other Owners' Facilities necessary to divert and use a portion of Project Water Rights up to 41 million gallons per day for public water supply purposes in a manner consistent with AWWU's Preferred Use Status, the AWWU Water Permit, and Alaska Statute 46.15.150(b). The Parties understand that after the Effective Date, AWWU may initiate a process to replace all or part of the AWWU Water Permit with a certificated water right under Alaska Statute 46.15. The Owners consent to such conversion provided that AWWU's certificated water right does not exceed 41 million gallons per day for public water supply purposes, such certification is subject to all requirements of Alaska Statute 46.15.150 and any and all regulations implementing AWWU's Preferred Use Status, and AWWU remains committed to compensate Owners for such water as set forth in Section 3.2 below.

Section 3.2 Compensation.

(a) Compensation. Subject to the limitation in subsection (b) below, AWWU and the MOA shall compensate the Owners for all reductions in electrical energy generation at the Eklutna Hydroelectric Project, costs, and losses that result from water diversions for the AWWU Water Project as set forth in Exhibit A (collectively, the "Replacement Energy"). The compensation paid by AWWU for the Replacement Energy shall be both in kind through electrical energy recovered by AWWU at the Eklutna Water Treatment Facility ("EWTF") in excess of AWWU's own needs at the EWTF ("Recovered Electrical Energy"), and in cash payments (the cash portion shall be referred to as the "Replacement Energy Payment(s)"). The Recovered Electrical Energy shall act as an offset to the Replacement Energy Payment obligations. All costs associated with such deliveries of Recovered Electrical Energy, including metering, will be borne by AWWU.

(b) Compensation Limitations and Procedures. The compensation owed to the Owners by AWWU, calculated and accounted for as set forth in Exhibit A and Section 3.2(a), shall be subject to the following limitations: (a) in no event shall the Replacement Energy Payment owed and payable to Chugach by AWWU exceed six hundred thousand dollars ($600,000) per year in value in aggregate, as such amount will be adjusted annually for inflation reflected in the Bureau of Labor Statistics' Consumer Price Index; (b) in no event shall any such compensation be required in the event that the Owners permanently cease operations of the Eklutna Hydroelectric Project; and (c) in no event shall any such compensation be required in the event of a transfer of a priority water right from the Owners to AWWU as contemplated in Article VI. For the purposes of clarity, the words "total compensation owed and payable to Chugach by AWWU," in the preceding sentence applies to the Replacement Energy Payment and specifically includes the independent in-kind compensation through the Recovered Electrical Energy. The Recovered Electrical Energy shall not include any power generated by AWWU at any location other than the EWTF, which

power generated at other locations may be sold by AWWU as co-generated power. Notwithstanding the foregoing limitation on compensation to be paid by AWWU, nothing in this Agreement is intended to change the MOA's obligations set forth in any of: (i) the MOA-Chugach Eklutna PPA; (ii) Section 6.23 of the MOA-Chugach APSA; and (iii) the MOA-MEA Eklutna PPA. In any month of the Term, to the extent that AWWU does not fully compensate Chugach for the total amount of Replacement Energy in such month due to application of the AWWU compensation cap set forth above, such matters will be resolved among the Owners and the MOA will make Chugach whole as outlined in Exhibit A.

(c) Costs. Other than the compensation for water diversions set forth in Sections **Error! Reference source not found.** and (b) above, all costs borne initially by each Party in connection with the exercising of its respective rights and the performance of its respective obligations under this Agreement shall be the responsibility of such Party initially incurring such costs. In partial consideration of the costs to Owners incurred in maintaining its facilities necessary for AWWU to continue to interconnect to Eklutna Hydroelectric Project, and to divert and use a portion of Project Water Rights under this Agreement for the benefit of the AWWU, the Parties entered into the Transportation Agreement for the same duration as this Agreement, pursuant to which AWWU will provide conveyance services for transporting water from the Eklutna Lake to the Eklutna River at no cost to Owners.

ARTICLE IV
OWNERS' RESPONSIBILITIES

Section 4.1 Reservoir Operations. Subject to the terms herein, Owners shall retain full authority and responsibility to operate the Eklutna Hydroelectric Project and manage and allocate water in Eklutna Lake in accordance with ADL 44944 and the requirements of the Eklutna Hydroelectric Project.

Section 4.2 Assurance of Water Project Allocation, Quality, and Access. Subject to the terms herein, Owners will operate the Eklutna Lake reservoir in such a manner that the projected allocations of water to the AWWU Water Project are available to MOA upon request at a flow rate of at least 41 MGD to the EWTF at a pressure sufficient to allow normal operation of the EWTF as currently configured. The Owners will take no action regarding Eklutna Lake that has the effect of reducing the quality or increasing the turbidity of the lake water from those conditions which exist as of the Effective Date; nor will the Owners take or authorize any other action with regard to Eklutna Lake that may have the effect of reducing its present suitability for use as a source of public water supply. This Section 4.2 is not intended to preclude or inhibit maintenance and repair activities determined to be necessary by the Owners, nor does it apply to the management of the lake surface and surrounding areas for public recreation, which is outside the scope of this Agreement. For the avoidance of doubt, the Owners shall ensure continued use and access to AWWU of the Owners' Facilities that are necessary to supply water to the AWWU Facilities to the extent that Owners' Facilities continue in commercial operation.

ARTICLE V
AWWU RESPONSIBILITIES

Section 5.1 Compensation. AWWU shall compensate the Owners as set forth in Section 3.2(a) subject to the limitation in Section 3.2(b). To the extent that the total compensation owed to the Owners by AWWU under Section 3.2 is not satisfied by the netting against the MOA's ownership share of the water used in the Eklutna Hydroelectric Project, AWWU will pay the Owners directly within thirty (30) days of receipt of invoice.

Section 5.2 Maintenance, Repair, and Material Modifications to AWWU Water Project.

(a) AWWU Water Project. To the extent AWWU must perform maintenance, repairs, or make any material modification to the AWWU Water Project that adversely affects the Eklutna Hydroelectric Project, prior to the commencement of such action, AWWU shall furnish to the Owners copies of all plans, specifications, and schedules regarding such work. AWWU shall coordinate with the Owners all such activities in order to avoid or minimize disruption of the Owner's activities at the Eklutna Hydroelectric Project, to the maximum extent possible. AWWU will take commercially reasonable steps to minimize any of its actions set forth in this subsection that may adversely affect energy generation from the Eklutna Hydroelectric Project. AWWU shall reimburse the Owners, by payment of lost revenues to the Owners or by Replacement Energy, as may be mutually agreed by the Parties, for any such losses incurred by the Owners that are attributable to such maintenance or material modifications of the AWWU Water Project that impacts the Eklutna Hydroelectric Project, such as maintenance or material modifications to the project's intake tunnel connected to Eklutna Lake.

(b) AWWU Water Project Interconnection. Notwithstanding Section 5.2, AWWU shall obtain specific plan approval from the Owners before initiating any material modification on any existing facilities for the delivery of water from the Eklutna Hydroelectric Project to the AWWU Water Project, including any facilities that are interconnected to the present Owners' water intake tunnel. AWWU will take commercially reasonable steps to minimize any of its actions set forth in this subsection that may adversely affect energy generation from the Eklutna Hydroelectric Project.

ARTICLE VI
RIGHTS UPON CEASING OPERATIONS OR TERMINATION

Section 6.1 Right of First Offer. If the Owners elect to permanently cease operations of the Eklutna Hydroelectric Project, the Owners shall provide written notice to AWWU of such intention. For a period of six (6) months after such notice, neither Owners nor their successors and assigns, nor their respective Affiliates, shall enter into an obligation or agreement to sell or transfer the Eklutna Hydroelectric Project, unless the (i) Owners first offer, in writing, to sell to AWWU that portion of Owners' Facilities that are necessary to supply water from Eklutna Lake to the AWWU Facilities; and (ii) AWWU declines to purchase such portion of Owners' Facilities within thirty days after notification of the offer to sell. If, within thirty days after notification of the offer to sell, AWWU indicates a good faith intention to purchase such portion subject to a need for ongoing review, then this shall trigger an additional 90-day period during which the Parties shall meet and negotiate in good faith terms and conditions then deemed appropriate and the

Owners shall in good faith provide necessary documentation to facilitate such review. If at the end of such 90-day period, AWWU has not yet purchased such portion, then the Owners shall be permitted to pursue other options for the transfer of the Eklutna Hydroelectric Project.

Section 6.2 Option to Acquire Owners' Water Rights and Termination. Upon the earlier of October 31, 2055, or the MOA's sale of its interests in the Eklutna Hydroelectric Project, AWWU may exercise an option to acquire sole ownership of a portion of the Owners' first-priority water rights that is then operative and reflected in the AWWU Water Permit and any subsequent certificate, which shall in no event exceed 41 million gallons per day, by quitclaim deed or other then-acceptable means of transfer, in exchange for relinquishing its AWWU Water Permit and Preferred Use Status (and associated legal rights) as no longer being legally functional or operative; provided, however, that AWWU shall (a) issue a written notice to the Owners of its intention to exercise such option no later than October 30, 2050; (b) prepare all legal documents necessary to transfer such water rights from the Owners to AWWU (subject to Owners' review and approval prior to execution); and (c) obtain all required Governmental Approvals to effectuate such acquisition at AWWU's sole cost and expense (the "AWWU Option"). Upon closing of the AWWU Option, this Agreement and the Parties' obligations hereunder shall terminate except for the right of first offer in Section 6.1 above, which shall survive and continue while Owners continue operations of the Eklutna Hydroelectric Project.

ARTICLE VII
TITLE; LOSS OR DAMAGE; FORCE MAJEURE

Section 7.1 Title.

(a) Legal title to and ownership of the Owners' Facilities, including Owners' Water Rights, shall remain with Owners throughout the Term of this Agreement, free and clear of any and all liens, claims, security interests or other encumbrances imposed by AWWU.

(b) Legal title to and ownership of the AWWU Facilities, including the AWWU Water Permit, and any resulting certificate of appropriation, shall remain with AWWU throughout the Term of this Agreement.

Section 7.2 Force Majeure. Each Party shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, if and to the extent that such Party's failure of, or delay in, performance is due to a Force Majeure Event; provided, that:

(a) such Party gives the other Party prompt written notice describing the particulars of the Force Majeure Event as soon as is reasonably practicable after becoming aware of the occurrence of the Force Majeure Event;

(b) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(c) no obligations of the affected Party that arose before the occurrence of the Force Majeure Event causing the suspension of performance shall be excused as a result of such Force Majeure Event, unless and only to the extent that the performance of such obligations is impaired by the Force Majeure Event;

(d) the Party uses diligent commercially reasonable efforts to overcome or mitigate the effects of the Force Majeure Event; and

(e) when the Party is able to resume performance of its obligations under this Agreement, such Party shall give the other Party written notice to that effect and shall promptly resume performance hereunder.

ARTICLE VIII
LIMITATIONS ON LIABILITY

Section 8.1 Aggregate Limitation of Liability. Notwithstanding any other provision of this Agreement, the total aggregate liability of the Owners and the total aggregate liability of AWWU arising out of or relating to this Agreement, from any and all causes, whether based on contract, tort (including negligence), strict liability or any other cause of action, shall in no event exceed ten million dollars ($10,000,000) for AWWU, or ten million dollar ($10,000,000) for the Owners collectively, provided that such limits shall not apply in the case of such Party's (i) gross negligence or willful misconduct, (ii) third-party indemnity obligation, or (iii) breach of any representation or warranty.

Section 8.2 CUMULATIVE REMEDIES. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, OR IF A REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY NON-EXCLUSIVE, THE NON-DEFAULTING PARTY SHALL HAVE THE RIGHT TO EXERCISE ALL RIGHTS AND REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY; PROVIDED, HOWEVER, THAT THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED.

Section 8.3 WAIVER OF CERTAIN DAMAGES. EXCEPT WITH RESPECT TO INDEMNIFICATION OF THIRD PARTY CLAIMS PURSUANT TO ARTICLE XI, OR AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, BUSINESS INTERRUPTION OR SIMILAR DAMAGES, WHETHER BY STATUTE, IN TORT, BY CONTRACT OR OTHERWISE.

ARTICLE IX
INDEMNIFICATION

Section 9.1 Indemnity. To the fullest extent permitted by Law, each Party shall indemnify, hold harmless and defend the other Party and its directors, officers, shareholders, partners, agents and employees, and the Affiliates of the same (collectively, the "Indemnified Parties"), from and against any and all loss, damage, expense and liability, including court costs and reasonable attorneys' fees (collectively, "Liabilities") arising incurred by the Indemnified Parties in connection with or arising from any claim for physical damage to or physical destruction to any property of any third party, or death of or bodily injury to any person, to the extent caused by the negligence of the Indemnifying Party or its agents or employees or others under such Indemnifying Party's control, except any Liabilities incurred due to the negligence or willful

misconduct of an Indemnified Party. For the purpose of the definition of "Indemnified Parties" AWWU shall not be considered to be an "Affiliate" of the MOA.

Section 9.2 Defense of Claims. A Party with an indemnification obligation pursuant to this Article IX (an "Indemnifying Party") shall have the right to defend the Indemnified Parties pursuant to this Article IX by counsel of the Indemnifying Party's selection (including insurance counsel) reasonably satisfactory to the Indemnified Party, unless in the opinion of counsel for the Indemnifying Party a conflict of interest between the Parties may exist with respect to such claim. If the Indemnifying Party does not assume the defense of the Indemnified Party, or if a conflict precludes counsel for the Indemnifying Party from providing the defense, then the Indemnifying Party shall reimburse the Indemnified Party on a monthly basis for the Indemnified Party's defense through separate counsel of the Indemnified Party's choice. Even if the Indemnifying Party assumes the defense of the Indemnified Party with acceptable counsel, the Indemnified Party, at its sole option, may participate in the defense, at its own expense, with counsel of its own choice without relieving the Indemnifying Party of any of its obligations hereunder. The Parties shall give each other prompt written notice of any asserted claims or actions indemnified against hereunder and shall cooperate with each other in the defense of any such claims or actions. Without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed, no Indemnifying Party shall settle any such claims or actions in a manner that would require any action or forbearance from action by any Indemnified Party.

ARTICLE X
DEFAULT AND REMEDIES; TERMINATION; DISPUTE RESOLUTION

Section 10.1 Event of Default. The following shall constitute events of default on the part of either party (each, an "Event of Default") under this Agreement:

(a) If a Party makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of such Party, or if such Party files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition of or readjustment of debts and, in the case of any such proceeding instituted against such Party (but not by such Party), such proceeding is not dismissed within sixty (60) days of such filing;

(b) If a Party fails to comply with any material terms of this Agreement not otherwise set forth as an Event of Default in this Section 10.1(b) and fails to cure or remedy such failure within thirty (30) days after notice and a written demand is made by the non-defaulting Party to the defaulting Party to cure the same or, if such failure cannot be cured within thirty (30) days, the defaulting Party fails to commence to cure such failure within thirty (30) days after such notice and written demand and thereafter diligently pursue such cure to completion, which shall in no event be later than ninety (90) days after such notice;

(c) If a Party defaults under the Interconnection Agreement or the Transportation Agreement;

(d) If a Party fails to make any payment due hereunder within sixty (60) days after receipt of written notice from the non-defaulting Party; or

(e) If any representation or warranty of a Party in this Agreement proves to have been false or misleading in any material respect when made, and such Party has not, within thirty (30) days after written notification thereof from the non-defaulting Party, either fully remedied, or commenced and diligently pursued the remedy, of all adverse impacts on the non-defaulting Party resulting therefrom, all to the reasonable satisfaction of the non-defaulting Party.

Section 10.2 Remedies Upon Event of Default. Upon the occurrence and continuation of an Event of Default, the non-defaulting Party shall have the right to terminate this Agreement and the Interconnection Agreement and the Transportation Agreement; upon ten (10) days written notice and pursue any other remedy available to such non-defaulting party at law or in equity arising out of such Event of Default, including a claim for monetary damage or specific performance.

Section 10.3 Automatic Cross-Agreement Termination. If this Agreement is terminated for any reason during the Term, the Interconnection Agreement and the Transportation Agreement shall automatically terminate, effective as of the same date as this Agreement's termination date.

Section 10.4 Dispute Resolution. In the event of any dispute arising under this Agreement (a "Dispute"), within ten (10) Business Days following notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies.

ARTICLE XI
REPRESENTATIONS

Section 11.1 General Representations and Warranties. Each Owner and AWWU hereby represents and warrants that:

(a) It is duly organized, validly existing and in good standing under the Laws of the state of its formation and is duly qualified to do business in the State of Alaska.

(b) It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate, municipal, or other action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as the

enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar Laws relating to the enforcement of creditors' rights generally and by general equitable principles.

(c) It is not in violation of any applicable Law, or any judgment entered by any federal, state, local or other Governmental Authority, which violations, individually or in the aggregate, would adversely affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or (to its best knowledge) threatened against it which, if adversely determined, could have a material adverse effect upon its financial condition, operations, prospects or business as a whole, or upon its ability to perform under this Agreement.

(d) No authorization, approval, exemption, or consent of or by any Person is required by it in connection with the execution, delivery, and performance of this Agreement. In addition, each Party represents and warrants to the other Party that the Governmental Approvals required to be obtained by such Party either have been obtained by such Party and are in full force and effect on the date hereof, or will be obtained by such Party and will be in full force and effect on or prior to the date on which they are required, under applicable Law, to be in full force and effect.

(e) The execution and delivery of this Agreement, the consummation of the transactions herein contemplated and compliance with the terms and provisions hereof by it will not conflict with or result in a material breach of, or require any consent under, any of its constitutive documents or any applicable Law, or under any agreement or instrument to which it is a party or by which it is bound or to which it is subject, or will constitute a material default under any such agreement or instrument.

ARTICLE XII
NOTICES

Section 12.1 Writing. Except as set forth in Section 14.2, any notice, statement, demand, claim, offer or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing and signed by the Party giving such notice, and shall be sent by email, facsimile, hand messenger delivery, overnight courier service, or certified mail (receipt requested) to the other Party, and shall be sent to the addresses set forth in Exhibit B. Each Party shall have the right to change the address information to which notice shall be sent or delivered or to specify additional addresses to which copies of notices may be sent. All notices shall be effective upon receipt.

ARTICLE XIII
CONFIDENTIALITY

Section 13.1 Confidentiality. The Parties agree that the Parties' proposals, communications, negotiations and information exchanged prior to the Effective Date concerning this Agreement and the development thereof, and technical and other information regarding or relating to the subject of this Agreement exchanged between the Parties that is marked, or otherwise clearly communicated to the receiving Party as "Confidential," constitutes "Confidential

Information" of the disclosing Party. The Owners and AWWU each agree to hold such Confidential Information wholly confidential. Such Confidential Information may only be used by the Parties for the purposes related to the approval, administration or enforcement of this Agreement.

Section 13.2 Disclosure. Each Party agrees not to disclose Confidential Information of the other Party to any other Person (other than its Affiliates, counsel, consultants, lenders, partners, members, employees, officers and directors, and then only to Persons subject to similar confidentiality restrictions as those set forth herein), without the prior written consent of the other Party, provided, that either Party may disclose Confidential Information if such disclosure is required by Law, including without limitation, pursuant to an order of a court or regulatory agency to enforce this Agreement or to seek approval of this Agreement. In the event a Party is required by Law or a Governmental Authority to disclose Confidential Information, such Party, prior to such disclosure, shall provide reasonable advance notice to the other Party of the time and scope of the intended disclosure in order to permit such other Party the opportunity to obtain a protective order, or to otherwise seek to prevent or limit the scope or otherwise impose conditions upon such disclosure.

Section 13.3 Injunctive Relief. Each Party agrees that a violation of the terms of Sections 13.1 and 13.2 constitutes irreparable harm to the other Party, and that the harmed Party may seek any and all remedies available to it at law or in equity, including but not limited to injunctive relief.

Section 13.4 Release of Agreement. The Parties agree that this Agreement, upon execution, shall not be considered Confidential Information. Except as required by Law, releasing the Agreement to the public shall be the sole responsibility of the Owners, to be released in the manner at a time decided in their sole discretion.

ARTICLE XIV
MISCELLANEOUS

Section 14.1 Reasonability. The Parties shall act in a reasonable manner and in accordance with principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement and whether or not stated: (a) where this Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned, or delayed; and (b) wherever this Agreement gives a Party a right to determine, require, request, specify, or take similar action with respect to a matter, such determination, requirement, request, specification, or similar action must be reasonable.

Section 14.2 Entire Agreement. This Agreement, together with all Schedules and Exhibits hereto, embodies the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties, verbal or written, relating to the subject matter hereof.

Section 14.3 Waiver. Any waiver of the provisions of this Agreement must be in writing and shall not be implied by any usage of trade, course of dealing or course of performance. No exercise of any right or remedy by AWWU or the Owners constitutes a waiver of any other right

or remedy contained in or provided by Law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance hereunder shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

Section 14.4 Assignment. Neither Party shall assign this Agreement or any of its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party, without relieving itself from liability hereunder, and without the need for consent from the other Party provided that any such assignee shall agree to be bound by all terms and conditions hereof, may transfer, pledge or assign this Agreement: (a) to any person or entity succeeding to all or substantially all of the assets of the assigning Party; or (b) to a successor entity in a merger or acquisition transaction. Any assignment made in contravention of this Section 13.4 shall be void and unenforceable.

Section 14.5 Governing Law; Submission to Jurisdiction; Venue; No Jury Trial.

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALASKA, EXCLUDING ANY CHOICE OF LAW RULES.

(b) Submission to Jurisdiction, Venue. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its Affiliates or designees) with respect to or arising out of this Agreement shall be brought exclusively in the courts of the State of Alaska, in the Municipality of Anchorage, as the Party instituting such suit, action or other legal proceeding may elect, provided that claims related to federal water rights, federal legislation enabling the Eklutna Hydroelectric Project or AWWU Facilities, or the 1991 Agreement may be brought in the United States District Court for the District of Alaska. By execution and delivery of this Agreement, each Party (for itself, its affiliates and its designees) irrevocably and unconditionally consents and submits to the exclusive jurisdiction of such courts and the appellate courts therefrom, and waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding. The Parties irrevocably consent to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, first class postage prepaid to the addresses set forth in Exhibit B.

(c) No Jury Trial. EACH OF THE PARTIES HEREBY WAIVES ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) Duty to Proceed. Pending final resolution of any Dispute, the Owners and AWWU shall continue to fulfill their respective obligations hereunder that are not the subject of the Dispute.

Section 14.6 Headings. The titles or headings of the various sections, articles and paragraphs hereof are intended solely for convenience and ease of reference and are not intended,

and are not to be deemed for any purpose, to modify or explain or place any interpretation or construction upon any of the provisions of this Agreement.

Section 14.7 Status of the Parties. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties.

Section 14.8 Status of Individual Owners. Each of the Owners shall be jointly and severally liable for the obligations of the Owners under this Agreement. The delineation of specific responsibilities set forth hereunder as among the Owners shall be at the sole discretion of the Owners, not AWWU. If at any time, the Owners agree that one or two of the Owners need no longer be party to this Agreement, such unnecessary Owner(s) may be removed as parties to this Agreement upon written notice to AWWU, if agreed, and shall retain no liability upon removal, with the remaining Owner(s) automatically assuming the full obligations of the Owners hereunder. If an Event of Default exists hereunder at any time with respect to an Owner, it shall be considered an Event of Default with respect to the Owners together as one Party hereunder, provided, that if another Owner agrees to assume such defaulting Owner's obligations under this Agreement by removing such Owner as a party pursuant to the preceding sentence of this Section 14.8 prior to the expiration of any applicable cure period, this shall not be considered an Event of Default hereunder.

Section 14.9 Insurance. Throughout the Term, the Owners shall maintain the required insurance policies as set forth on Exhibit D-1 and AWWU shall maintain the required insurance policy as set forth on Exhibit D-2.

Section 14.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of the Owners and AWWU, and their permitted successors and assigns, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

Section 14.11 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take all further action, as may be reasonably necessary to complete performance by the Parties hereunder and to effectuate the purposes and intent of this Agreement, including (1) support of amendment of water rights necessary to implement this Agreement; and (2) AWWU's support of Chugach's tariff revisions necessary to implement the compensation and gain RCA approval as outlined in Section 2.2.

Section 14.12 Amendments. No change, amendment or modification of this Agreement shall be valid or binding upon the Parties unless such change, amendment or modification shall be in writing and duly executed by the Parties.

Section 14.13 Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provision of this Agreement and all other provisions will remain in full force and effect.

Section 14.14 Conflicting Provisions. In the event of any conflict between this document and any Schedule or Exhibit attached hereto, the terms and provisions of this document, as

amended from time to time, shall control. In the event of any conflict among the Exhibits, the Exhibit of the latest date mutually agreed to by the Parties shall control.

Section 14.15 Survival. The provisions of Article I, Article VII, Article VIII, Article IX, Article X, Article XI, Article XII, Article XIV, and Article XIV shall survive termination of this Agreement for any reason.

Section 14.16 Counterparts. This Agreement may be executed in any number of separate counterparts and delivered by electronic means, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

2

[*Remainder of page intentionally left blank*]

[2] Note to AWWU: this Agreement will not be signed until Assembly approval has been gained; see note on cover page; 14.17 should be removed because we cannot abide the risk that the Assembly approves, we execute, and then the Assembly subsequently withdraws such approval.

IN WITNESS WHEREOF, the Parties have caused this Public Water Supply Agreement to be executed by their duly authorized representatives as of the Effective Date.

AWWU/SERVICE PROVIDER:

ANCHORAGE WATER AND WATERWATER UTILITY, A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: Municipal Manager

By: _____

Name: _____

Title: General Manager

OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MATANUSKA ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: _____

Schedule 1.1
Definitions

"1984 Agreement" has the meaning set forth in the Recitals.

"1991 Agreement" means that certain Agreement between the Municipality of Anchorage, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., the United States Fish and Wildlife Service, the National Marine Fisheries Service, the State of Alaska, and the Alaska Energy Authority Relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991.

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with such first Person. For purposes of this definition and the Agreement, the term "control" (and correlative terms) means (1) the ownership of 50% or more of the equity interest in a Person, or (2) the power, whether by contract, equity ownership or otherwise, to direct or cause the direction of the policies or management of a Person.

"Agreement" has the meaning set forth in the introductory paragraph, and shall include all Exhibits and Schedules hereto.

"APA" has the meaning set forth in the Recitals.

"AWWU" has the meaning set forth in the introductory paragraph, and shall include all successors and permitted assigns of AWWU.

"AWWU Facilities" means the existing water transportation facilities owned and operated by AWWU, including the AWWU Eklutna Lake raw water diversion bypass tunnel interconnected with the intake tunnel of the Eklutna Hydroelectric Project and pipeline.

"AWWU Option" has the meaning set forth in Section 6.2.

"AWWU Water Permit" has the meaning set forth in the Recitals and as may be replaced as described in Section 3.1.

"AWWU Water Project" has the meaning set forth in the Recitals.

"Business Day" means any day other than a Saturday, Sunday or legal holiday in the state of Alaska.

"Chugach" has the meaning set forth in the introductory paragraph, and shall include all successors and permitted assigns of Chugach.

"Conditions Precedent" has the meaning set forth in Section 2.2.

"Confidential Information" has the meaning set forth in Section 13.1.

"Day" or "day" means a calendar day, unless expressly specified otherwise.

"Dispute" has the meaning set forth in Section 10.4.

"DNR" has the meaning set forth in the Recitals.

"Effective Date" has the meaning set forth in the introductory paragraph.

"Eklutna Hydroelectric Project" means the Eklutna Hydroelectric Project initially authorized, constructed and operated pursuant to the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended), including any and all property and facilities acquired or used in connection therewith, all of which was then sold to the Owners by the United States of America on October 2, 1997.

"Equivalent Energy Production" has the meaning set forth in Exhibit A – Compensation.

"EWTF" has the meaning set forth in Section 3.2(a).

"Fish and Wildlife Program" has the meaning set forth in the Recitals.

"Force Majeure Event" means the occurrence of any act or event beyond the reasonable control of the Party affected that prevents the affected Party from performing its obligations under this Agreement, in full or part, if such act or event is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums), including the following: drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a Governmental Authority. Notwithstanding the foregoing, Force Majeure Events shall expressly not include mechanical or equipment failures (except to the extent any such failure is itself caused by a Force Majeure Event) nor diminution in water quality in Eklutna Lake.

"Governmental Approvals" means all authorizations, consents, licenses, leases, rulings, certifications, registrations, exemptions, permits, certificates, and approvals from any Governmental Authority.

"Governmental Authority" means any federal, state or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the Eklutna Hydroelectric Project or AWWU Water Project or their operations, or the health, safety or environmental conditions or otherwise over the Parties.

"Indemnified Parties" has the meaning set forth in Section 9.1.

"Indemnifying Party" has the meaning set forth in Section 9.2.

"Interconnection Agreement" has the meaning set forth in the Recitals.

"Law" means any constitution, charter, act, statute, law, ordinance, code, rule, regulation, order, specified standards or objective criteria contained in any applicable permit or approval or other legislative or administrative action of any Governmental Authority or a final decree, judgment or order of a court or tribunal.

"Liabilities" has the meaning set forth in Section 9.1.

"MEA" has the meaning set forth in the introductory paragraph, and shall include all successor sand assigns of MEA.

"MOA" has the meaning set forth in the introductory paragraph, and shall include all successor sand assigns of MOA.

"MOA-Chugach APSA" means that certain Asset Purchase and Sale Agreement by and between the MOA and Chugach, as amended on December 28, 2018.

"MOA-Chugach Eklutna PPA" means that certain Power Purchase Agreement by and between the MOA and Chugach, dated December 28, 2018, as amended.

"MOA-MEA Eklutna PPA" means that certain Power Purchase Agreement by and between the MOA and MEA, dated September 16, 2019, as amended.

"Owners" has the meaning set forth in the introductory paragraph, and shall include all successors and permitted assigns of the Owners.

"Owners' Facilities" has the meaning set forth in the Recitals.

"Owners' Water Rights" has the meaning set forth in the Recitals.

"Party" and "Parties" has the meaning set forth in the Recitals.

"Person" means any individual, partnership, corporation, limited liability company, association, business, trust, government or political subdivision thereof, Governmental Authority or other entity.

"Preferred Use Status" has the meaning set forth in the Recitals.

"Project Water Rights" has the meaning set forth in the Recitals.

"RCA" has the meaning set forth in Section 2.2(c).

"Recovered Electrical Energy" has the meaning set forth in Section 3.2(a).

"Replacement Energy" has the meaning set forth in Section 3.2(a).

"Replacement Energy Amount" has the meaning set forth in Exhibit A.

"Replacement Energy Payments" has the meaning set forth in Section 3.2(a).

"Term" has the meaning set forth in Section 2.4.

"Transportation Agreement" has the meaning set forth in the Recitals.

EXHIBIT A

Water Scheduling and Compensation

Scheduling & Reporting:

1. Prior to April 1 of each year, AWWU will furnish to the Owners its estimate of:

    a) Anticipated annual diversions of water for public water supply in the AWWU Water Project for the next five water years (June 1 – May 31), by year, for that same period; and

    b) Anticipated monthly diversions of water for public water supply in the AWWU Water Project for the next water year.

2. Within ten (10) days of the beginning of each month, AWWU will furnish to the Owners, on a monthly basis, the daily actual meter readings showing (a) water used by the AWWU Water Project in the preceding month, and (b) electric energy generated by the AWWU Water Project and delivered to the Owners.

Compensation:

As set forth in Section 3.2(a) and (b) of the Agreement and as was previously agreed to by the Parties in the 1984 Agreement, AWWU's use of the Project Water Rights shall remain a burden solely on the MOA's proportionate ownership share of the Project, and for the avoidance of doubt, shall not be allocated to Chugach's or MEA's proportionate ownership shares. Allocation of cost responsibility to the MOA shall be accounted for in the Eklutna Hydroelectric Project's water balancing account maintained among the Owners rather than through billing or other payment compensation owed by AWWU, except as set forth in Section 3.2 and in this Exhibit A. If the MOA's allocation of the Eklutna Hydroelectric Project's water in any given month is insufficient to cover AWWU's use of the Eklutna Hydroelectric Project's water in that month, AWWU will remain entitled to take its water needs within the parameters set forth in the Agreement and AWWU's Water Permit, and the Owners will make necessary adjustments to the MOA's water position within the Eklutna Hydroelectric Project's water balancing account accordingly.

AWWU will compensate the Owners for Replacement Energy (the reduction in electric energy generation attributable to AWWU's use of the Eklutna Hydroelectric Project's water) through Recovered Electrical Energy and Replacement Energy Payments. In other words, AWWU will pay Owners for MWhs not produced, rather than for the quantity of water used by AWWU.

AWWU will not, however, be required to compensate the Owners for water used by AWWU for public water supply in the AWWU Water Project during unplanned reservoir spill events at the Eklutna Hydroelectric Project (i.e., water spills over Eklutna Hydroelectric

Project's dam or through the spillway other than such releases by Owners as part of their implementation of the Fish and Wildlife Program) as measured on a day for day basis. In other words, during days of unplanned reservoir spill events, AWWU will not be required to compensate the Owners for water and equivalent energy generation.

Each month during the term of the Agreement, Chugach (as the Owners' representative designated by the Owners) shall compute the compensation owed by AWWU to Owners pursuant to Section 3.2 of the Agreement and as provided below. Chugach shall provide an invoice to AWWU showing billing determinants, charges, rebates (if any), total amount due, as well as detail regarding the Replacement Energy Payment calculation and Recovered Electrical Energy accounting. As set forth in Section 5.1 of the Agreement, Chugach shall collect such payments from AWWU, allocate values among the Owners as applicable (e.g., pass through its share of the compensation to the MOA), and maintain records as appropriate.

Monthly Compensation Calculation

1. Following receipt of the meter readings from AWWU, the total number of gallons of water used by AWWU during that month, less water used during days in which the unplanned reservoir spill events described above, shall be converted to acre-feet.

2. The energy equivalent for AWWU's water shall then be calculated by multiplying the acre-feet of water used by AWWU by the Eklutna Hydroelectric Project's average energy production per unit of water (kWh/acre-foot) for the month; the result of this calculation is the Equivalent Energy Production (kWh) attributable to AWWU's water usage. Equivalent Energy Production for a given month will be the Replacement Energy for that month.

3. The Replacement Energy in that month shall then be reduced by metered Recovered Electrical Energy at EWTF delivered to MEA and as reported by MEA meter readings to determine the amount of net Replacement Energy (kWh) for which AWWU owes compensation to Chugach for that billing period (the "Replacement Energy Amount").

4. The billing charges for Replacement Energy Amount shall then be calculated as the product of the Replacement Energy (kWh) (after deduction of the Recovered Electrical Energy) and the monthly energy rate set forth in Chugach's Tariff -- "Replacement Energy Service -AWWU" (as may be amended); such charges for Replacement Energy may be adjusted on a kilowatt-hour basis to recover the cost of power as described in Chugach's Tariff -- Fuel and Purchased Cost of Power Adjustment (comprised of fuel, purchased power, and renewable energy adjustment factors) and the Beluga River Unit Contributed Capital Surcharge and Rebate (when applicable).

5. Compensation for Replacement Energy owed by AWWU to Chugach will be capped at $600,000 per water year in value in aggregate as set forth in Section 3.2(b) of the Agreement, as such amount will be adjusted annually for inflation rate using a 15 year rolling average reflected in the Bureau of Labor Statistics' Urban Alaska Consumer Price Index (CPI-U) (as currently reported by State of Alaska Department of Labor and Workforce Development at https://live.laborstats.alaska.gov/cpi/table) ("AWWU Compensation Cap"). In any month of the Term, to the extent that AWWU does not fully compensate Chugach for the total Replacement Energy Amount owed due to application of the AWWU Compensation Cap, the MOA will make Chugach whole through the calculation of a monetary sum equal to the Replacement Energy Amount multiplied by rates set forth in the Chugach tariff for the Replacement Energy Service -- AWWU that shall paid by the MOA to Chugach (i) as an offset against the MOA's ownership share of AWWU payments owed by Chugach pursuant to Section 6.23 of the MOA-Chugach APSA, (ii) cash payments from the MOA to Chugach, or (iii) if necessary, as an offset against other payment obligations owed by Chugach to the MOA pursuant to the MOA-Chugach Eklutna PPA.

Owners' Allocations

1. The Owners hold the following proportionate ownership shares of the Project: MOA – 53.33%; Chugach – 30.00%; MEA – 16.67%.

2. Pursuant to reallocations, terms and conditions set forth in the (i) the MOA-Chugach Eklutna PPA, (ii) Section 6.23 of the MOA-Chugach APSA, and (iii) the MOA-MEA Eklutna PPA, the Project's water (and resulting power output) is allocated to the Owners in the following proportionate shares: MOA – 0%; Chugach – 64.29%; MEA – 35.71%.

3. The cost responsibility for implementation of the Fish and Wildlife Program is borne by the Owners as follows: MOA – 19.04%; Chugach – 64.29%; MEA – 16.67%.

4. MEA shall compensate the MOA for Recovered Electrical Energy at the EWTF received by MEA through the Eklutna Hydroelectric Project's water balancing account.

EXHIBIT B[3]

Notice Information

If delivered to the Owners, to them at	Chugach Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Matanuska Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____]
If delivered to AWWU, to it at	Anchorage Water and Wastewater Utility, a department of the Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____]

[3] **Note to accompany final draft**: To be filled out immediately prior to execution to ensure most up to date information

Charles J. Gunther
Assistant Municipal Attorney
Email: courtdocs@muni.org

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, vs. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	Case No. 3AN-24-05979CI

NOTICE OF FILING

Municipal Attorney Anne R. Helzer, hereby through undersigned counsel, and pursuant to the Limited Entry of Appearance, hereby gives notice of filing the accompanying three documents marked as Exhibit A-C. These documents are summarized as follows:

- Exhibit A: Cover Letter from Anne R. Helzer
- Exhibit B: Binding Term Sheet
- Exhibit C: Amendment to Binding Term Sheet

These same documents were also delivered to Anchorage Assemby Chairman Christopher Constant and his attorneys on April 25, 2024 prior to this filing.

MUNICIPALITY OF ANCHORAGE

OFFICE OF THE MUNICIPAL ATTORNEY

P.O. Box 196650
Anchorage, Alaska
99519-6650

Telephone: 343-4545
Facsimile: 343-4550

Respectfully submitted this 25th day of April, 2024

ANNE R. HELZER
Municipal Attorney

By: */s Charles Gunther*
Charles J. Gunther
Assistant Municipal Attorney
Alaska Bar No. 9411106

Certificate of Service
I certify that on 04/25/2024, I caused to be hand delivered a true and correct copy of the foregoing to:

Andrew Erickson
Leslie R. Need
Jackson N. Morawski
LANDYE BENNETT BLUMSTEINLLP
701 W. 8th Avenue, #1100
Anchorage, AK 99501

/s Marie Stafford
Marie Stafford, Legal Secretary
Municipal Attorney's Office

MUNICIPALITY OF ANCHORAGE

OFFICE OF THE MUNICIPAL ATTORNEY

P.O. Box 196650
Anchorage, Alaska
99519-6650

Telephone: 343-4545
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Leslie R. Need
Andrew Erickson
Jackson N. Morawski
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701 West 8th Avenue, Suite 1100
Anchorage, Alaska 99501
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Fax: (907) 276-8433
Email: leslien@lbblawyers.com
andye@lbblawyers.com
jacksonm@lbblawyers.com

Attorneys for the Appellant Anchorage Assembly

FILED in the TRIAL COURTS
State of Alaska Third District
APR 2 . 2024
Clerk of the Trial Courts
By ADepue Deputy

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER; ENSTAR NATURAL GAS CO.; PROVIDENCE HEALTH & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.; STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM,	)	Case No. 3AN-24-_____CI RCA Nos. U-18-102/U-19-020/U-19-021

LANDYE BENNETT BLUMSTEIN LLP
701 WEST EIGHTH AVENUE, SUITE 1100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-5152, FAX (907) 276-8433

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

Anchorage Municipal Assembly,
Appellant,

vs.

Regulatory Commission of Alaska et al,
Appellee.

Appeal Court Case No.: 3AN-24-06001CI

NOTICE OF PREPARATION OF RECORD IN AN ADMINISTRATIVE APPEAL

To: Regulatory Commission of Alaska

Attached is a copy of the notice of appeal filed on 04/24/2024 from an order or decision of your agency. Pursuant to the Appellate Rules:

1. Within 10 days of service of this notice, the agency must file with this court a list of names and addresses of all counsel and pro se parties who appeared in the matter before the agency. Please use the enclosed form AP-311. Appellate Rule 602(d)(2).

2. The agency must number the pages of the agency file consecutively throughout all volumes. Form AP-215 (https://public.courts.alaska.gov/web/forms/docs/ap-215.pdf) contains more detailed instructions for preparing the agency file. The agency shall forward to the superior court within 40 days from the date of service of this notice:
   a. A copy of the numbered agency file.
   b. The transcript of proceedings before the agency, unless electronic recordings are authorized by Appellate Rule 604(b)(1)(A) or court order.
   c. All documentary and photographic exhibits no larger than 8.5" x 14" that are not filed in the agency case file, and a list of the exhibits being transmitted.
   d. A list of all exhibits retained by the agency.
   e. A copy of all depositions filed with the agency.
   f. A *Transmittal of Agency Record* (form AP-312, which is enclosed).

   Appellate Rule 604(b).

3. The appellant must arrange and pay for preparation of a transcript unless electronic recordings are authorized by Appellate Rule 604(b)(1)(A) or by court order. The appellant must also pay all reasonable costs incurred by the agency to prepare the court's copy of the agency file, unless otherwise ordered by the court or agreed to by the parties. The agency may require advance payment of the costs. Appellate Rule 604(b)(1)(B)(iv).

CLERK OF COURT

4/25/2024
Date

By: ADePue
Deputy Clerk

I certify that on 4/25/24 a copy of this notice was sent to:
Agency listed above, with forms AP-311 & AP-312

Clerk: ADePue

FILE COPY

AGENCY'S LIST OF PARTIES & ATTORNEYS ON APPEAL

Case Title Anchorage Municipal Assembly vs. Regulatory Commission of Alaska et al

Appeal Case No. 3AN-24-06001CI Admin. Agency No. _____

Agency Name _____ Hearing Officer _____

Name and Address of Party	Name and Address of Attorney of Record

_____ _____

Date Signature of Agency Representative

_____

Type or Print Name

Instructions: Send this list to the superior court where the appeal is filed.

AMENDMENT TO

BINDING TERM SHEET

WATER FACILITIES INTERCONNECTION AND LONG-TERM WATER TRANSPORTATION SERVICES

This AMENDMENT TO BINDING TERM SHEET, dated effective as of March 27, 2024, is made and entered into by and between Chugach Electric Association, Inc. ("***Chugach***"), Matanuska Electric Association, Inc. ("***MEA***"), the Municipality of Anchorage, and Anchorage Water and Wastewater Utility ("***Amendment***") to amend that certain Binding Term Sheet related to water facilities interconnection and long-term water transportation services entered into by the same parties on October 27, 2023 ("***Term Sheet***"). The capitalized terms in this Amendment shall have the same meaning as set forth in the Term Sheet unless otherwise defined or revised as set forth in this Amendment.

RECITALS

WHEREAS, the Eklutna Owners and AWWU entered into that certain Term Sheet on October 27, 2023;

WHEREAS, the Eklutna Owners and AWWU have completed negotiations of the Agreements (as such term is amended herein to include and a new Public Water Supply Agreement to replace the 1984 Agreement), each as contemplated in the Term Sheet and have come to agreement on other related matters;

WHEREAS, the effectiveness of the Agreements are conditioned on obtaining the Governor of Alaska's approval of the Fish and Wildlife Program that requires use of AWWU Facilities as contemplated in the Term Sheet without any conditions materially adverse to the Eklutna Owners or AWWU;

WHEREAS, by executing this Amendment, AWWU is reiterating that it does not, and shall not, take any position on whether or not using AWWU's infrastructure is the best alternative for establishing instream water flows in the Eklutna River as the foundation of the Fish and Wildlife Program; AWWU is merely stating its willingness to allow use of its infrastructure under the agreed terms and conditions of the Term Sheet and forms of Agreements, all only as pursuant to a Governor-approved Fish and Wildlife Program; and

WHEREAS, AWWU requires certain approvals before it may enter into one or more of the Agreements and such approvals likely cannot be obtained before the Governor's approval of the Fish and Wildlife Program, with such approval expected by October 2024;

NOW THEREFORE, in consideration for the premises and agreements set forth in this Amendment, the Parties agree as follows:

1. Term. The effective term of the Term Sheet and its commitments shall be extended until December 31, 2024 in order to allow time for: (a) the Eklutna Owners to file the Fish and

Wildlife Program with the Governor of Alaska and seek necessary approval under the 1991 Agreement; and thereafter (b) AWWU to seek and gain approvals necessary for it to enter into one or more of the Agreements. References to March 1, 2024 as an outside date for execution of Agreements as referenced in the preamble and in Section 4 of the Term Sheet shall be accordingly replaced with December 31, 2024.

2. Definition of Agreements. Section 3 of the Term Sheet shall be amended and restated in its entirety as follows:

3. Agreements	(1) Water Facilities Interconnection Agreement ("***Interconnection Agreement***"); (2) Long-Term Water Transportation Agreement ("***Transportation Agreement***"); and (3) Public Water Supply Agreement (collectively with the Interconnection Agreement and the Transportation Agreement, the "***Agreements***").

3. Form of Agreements. The final forms of the Agreements, except for certain exhibits which will be completed later as engineering work is completed or to otherwise ensure accuracy at the time of execution, are attached to this Amendment as follows:

Attachment A - ***Interconnection Agreement***

Attachment B - ***Transportation Agreement***

Attachment C - ***Public Water Supply Agreement***

The Parties agree that the substantive terms of the Agreements are complete and reflect a negotiated balance of interests, terms, and conditions. The Parties agree to support and defend the form of the Agreements and seek all necessary approvals of them in their present form in a timely and expeditious manner. The Parties agree not to reopen issues or renegotiate the Agreements, provided that certain exhibits may be updated as described in footnotes to the forms of the Agreements.

4. Limited Right of First Offer. As consideration for this Amendment, the Eklutna Owners hereby grant to AWWU a limited right of first offer to purchase from certain Eklutna Owners' water rights up to 41 million gallons per day for AWWU's public water supply on the following terms:

a. In the event that the Eklutna Owners' decide to remove, abandon, or sell the Eklutna Hydroelectric Project to the any person other than among the Eklutna Owners themselves, the Eklutna Owners shall provide AWWU with advance written notice of the intended action and opportunity to purchase such water rights at least three (3) months prior to initiating such action or transaction;

b. AWWU shall respond to such notice within thirty (30) days of its desire to its intention to exercise such option; if AWWU wants to purchase the water rights, the Parties shall then meet and negotiate in good faith terms and conditions then deemed appropriate, including compensation, risk mitigation, and means of transfer or purchase of priority water rights (e.g., quitclaim deed or other then-acceptable means of transfer) during the balance of the three (3) month period;

c. The water rights subject to this right of first offer are only that portion of Eklutna Owners' priority state water rights, up to 41 million gallons per day, consistent with, and not in addition to, AWWU's permit for preferred water use for pursuant to the Act of October 30, 1984, 98 Stat. 2823; Alaska Statutes 46.15.150(a), LAS 2569, and Certificate of Appropriation ADL 44944;

d. If AWWU fails to make a written offer within the notice period, if AWWU waives the right to make a first offer in writing, or if the Parties are unable to reach terms, the Eklutna Owners may proceed to remove, abandon, or sell the Eklutna Hydroelectric Project as they deem appropriate; and

e. Except for the potential sale of water rights, nothing in the limited right of first offer is intended to encumber, limit, or condition the Eklutna Owners' disposal or sale of the Eklutna Hydroelectric Project.

5. Execution of Agreements. The Agreements will be executed within thirty (30) days after the later of the following three prerequisites to their execution:

a. Governor approval of the Fish and Wildlife Program that requires use of AWWU Facilities as contemplated in the Term Sheet without any conditions materially adverse to the Eklutna Owners or AWWU;

b. Approval by the Municipality of Anchorage Assembly to the extent necessary for the Municipality of Anchorage to execute and perform under the Agreements; and

c. Board approvals (as may be necessary) for MEA and Chugach to execute and perform under the Agreements.

6. Effective Date and Incorporation of Terms of the Term Sheet. This Amendment shall be deemed effective as of the Effective Date of the Term Sheet and, without limiting the superseding effect of the amendments and the attachments set forth in this Amendment, shall be subject to all the terms and conditions of the Term Sheet, including Confidentiality (Section 24) and Governing Law (Section 23).

7. Failure to Achieve Conditions Precedent. In the event that the Agreements do not become fully effective (i) due to the failure to achieve the Conditions Precedent as set forth in Section 2.2 of Attachment C and Section 5 of this Amendment by June 1, 2025, or (ii) because the Governor of Alaska approves a Fish and Wildlife Program that does not require the use of the AWWU Facilities (as defined in the Agreements) for instream flows as contemplated in the Agreements, the effective term of the 1984 Agreement and its terms shall be extended for one (1) year from the date of the failure to achieve the Conditions Precedent or the date the Governor of

Alaska selects an alternate Fish and Wildlife Program that does not require use of AWWU Facilities as defined in the Agreements (referred to herein as the "***One (1) Year Extension Period***"). The Parties shall then meet promptly after the commencement of the One (1) Year Extension Period to negotiate in good faith an alternate agreement to replace the 1984 Agreement that expires on December 31, 2025 with terms and conditions that include but are not limited to adequate compensation, risk mitigation, potential transfer or purchase of water rights, and other terms and conditions then deemed appropriate by the Parties without prejudice due to the prior existence, or the subsequent termination, of the Agreements and shall execute a replacement for the 1984 Agreement by the end of the One (1) Year Extension period.

8. Counterparts. This Amendment may be executed by a number of counterparts, each of which shall be deemed an original, and all of which, together, shall constitute a single agreement.

[Signature page follows]

SERVICE PROVIDER/AWWU:

ANCHORAGE WATER AND WASTEWATER UTILITY,
A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By:
Name: Kent Kohlhase
Title: Municipal Manager
And

By:
Name: Mark Corsentino
Title: General Manager

CUSTOMER/EKLUTNA OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By:
Name: Andrew Laughlin
Title: Chief Operating Officer

MATANUSKA ELECTRIC ASSOCIATION

By:
Name: Tony R. Zellers
Title: Chief Operating Officer

MUNICIPALITY OF ANCHORAGE

By:
Name: Kolby Hickel
Title: Deputy Municipal Manager

ATTACHMENT A

INTERCONNECTION AGREEMENT

Confidentiality Waived – 4/25/2024

Execution Version

WATER FACILITIES INTERCONNECTION AGREEMENT

by and between

Anchorage Water and Wastewater Utility

as

AWWU Facilities Provider

And

Chugach Electric Association, Inc,

Matanuska Electric Association, Inc., and the Municipality of Anchorage

as

Owners

Dated as of [_____][1]

EKLUTNA RIVER RELEASE FACILITY

---

[1] **Note to Accompany Final Draft**: This Agreement has been form agreed as between the Parties but will not be signed by the MOA until after Governor approval of the Fish and Wildlife Plan has occurred and such signatures have been authorized by the Anchorage Assembly. Prior to execution, this footnote can be deleted from the draft.

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WATER FACILITIES INTERCONNECTION AGREEMENT

This WATER FACILITIES INTERCONNECTION AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered into by and between Anchorage Water and Wastewater Utility ("AWWU"), and Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("MEA"), and the Municipality of Anchorage ("MOA") (each of Chugach, MEA, and MOA is an "Owner" and collectively they are referred to as the "Owners"). The Owners and AWWU are sometimes referred to herein as a "Party" or collectively as the "Parties".

RECITALS

WHEREAS, the Owners own and operate the Eklutna Hydroelectric Project, commissioned in 1954, which includes an earthen dam at the outlet of Eklutna Lake and which, under normal operating conditions, diverts the inflows of all water into the Eklutna Lake for hydroelectric production rather than into the Eklutna River;

WHEREAS, AWWU owns and operates certain existing water diversion and transportation facilities integrated with the Eklutna Hydroelectric Project as further detailed in Exhibit B (the "AWWU Facilities") located near the outlet of Eklutna Lake and adjacent to the Eklutna River, and AWWU uses such AWWU Facilities to provide public water supply for its customers;

WHEREAS, the Owners are parties to the 1991 Agreement (as defined below), pursuant to which they are required to develop and implement a Fish and Wildlife program every thirty-five years to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Eklutna Hydroelectric Project (the "Fish and Wildlife Program");

WHEREAS, as a result of the process set forth in the 1991 Agreement, the Owners have developed a draft Fish and Wildlife Program in which the Owners have proposed to: (1) develop an Eklutna River release facility consisting in part of AWWU Facilities and facilities constructed pursuant to this Agreement, all as further described and depicted in Exhibit A-1, Exhibit A-2, and Exhibit A-3 (the "Facility"); (2) to transport water from Eklutna Lake through the Facility and release it into the Eklutna River; and (3) to operate and maintain the Facility;

WHEREAS, in connection with their proposal to develop the Facility, the Owners have also agreed to install bridges at eight locations across the Eklutna River to improve and preserve access to AWWU Facilities, as further described in Exhibit K (the "Access Bridges");

WHEREAS, in connection with the execution of this Agreement and in order to enable future implementation of the Fish and Wildlife Program (if approved), and to address compensation for AWWU's present and future use of a portion of Owners' water rights, the Parties are also entering into a Long-Term Water Transportation Agreement (the "Transportation Agreement") and a new Public Water Supply Agreement (the "Water Supply Agreement");

WHEREAS, Owners desire to construct the Facility in coordination with AWWU and AWWU is willing to allow for the interconnection and use of AWWU Facilities as part of the

Facility and to otherwise cooperate with Owners all pursuant to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the premises of this Agreement, the Transportation Agreement, and the Water Supply Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners and AWWU, intending to be legally bound, hereby agree as follows:

ARTICLE 1.
DEFINITIONS; INTERPRETATION; EXHIBITS

1.1 Defined Terms. Capitalized terms used in this Agreement without other definition shall have the meanings set forth in Schedule 1.1, unless the context requires otherwise.

1.2 Interpretation. As used in this Agreement, the terms "herein," "herewith" and "hereof" are references to this Agreement, taken as a whole; the terms "includes" or "including" shall mean "including, without limitation"; and references to a "Section," "Article", "Exhibit" or "Schedule" shall mean a Section, Article, Exhibit or Schedule of this Agreement, as the case may be, unless in any such case the context requires otherwise. All references to a given Exhibit, Schedule, agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made. A reference to a Person includes its permitted successors and permitted assigns. The singular shall include the plural and the masculine shall include the feminine and neuter, and vice versa.

ARTICLE 2.
OWNERS RESPONSIBILITIES

2.1 General Responsibilities of Owners. Subject to Sections 4.1, 4.3 and 4.4, the Owners shall be responsible for designing, engineering, obtaining all Approvals for (except with respect to AWWU Approvals), constructing and performing related activities for the successful completion of (i) the Facility and interconnection of the Facility to the AWWU Facilities pursuant to the Facility Criteria; and (ii) the Access Bridges, the costs of which shall be paid for by the Owners.

2.2 Standard of Work; Skill and Expertise. Throughout the performance of all aspects of the Work, the Owners shall comply with, and shall ensure that each Subcontractor complies with, all applicable Laws and Prudent Industry Standards (the "Standard of Work"). The Owners shall, throughout the performance of the Work, use commercially reasonable efforts to ensure that all employees and contractors engaged in connection with the maintenance of, operation of, service of, and any future modification to (to include design, construction, commissioning, and installation) the Facility shall have the appropriate and necessary experience, skill and expertise to carry out the tasks efficiently, professionally, and in accordance with the Standard of Work.

2.3 Scope of Work. Without limiting the generality of Sections 2.1 and **Error! Reference source not found.**, the Owners shall perform all of the specific tasks in accordance with the Scope of Work and the Project Schedule, subject to any Change Orders pursuant to ARTICLE 7, in order to achieve Commercial Operation and Final Acceptance of the Facility in

accordance with ARTICLE 4, and to commence the Parties' obligations under the Transportation Agreement, whereupon the Work under this Agreement shall be concluded and the obligations under the Transportation Agreement shall begin.

2.4 Project Manager. The Owners shall identify to AWWU and at all times during the term of this Agreement maintain a Project Manager. The Project Manager shall act as AWWU's primary point of contact with the Owners with respect to the Work, and shall be available to meet with AWWU as reasonably requested by AWWU to discuss the Work or any issue related thereto. The Project Manager shall have full authority to act for the Owners under this Agreement; provided, that the Project Manager shall under no circumstances have the authority to amend (except for the issuance of Change Orders), terminate, or assign this Agreement. The Owners may change the Project Manager at any time upon written notice to AWWU. As of the Effective Date, the Project Manager is listed in Exhibit E.

2.5 Status of Individual Owners. Each of the Owners shall be jointly and severally liable for the obligations of the Owners under this Agreement. The delineation of specific responsibilities set forth hereunder as among the Owners shall be at the sole discretion of the Owners, not AWWU. If, at any time, the Owners agree that one or two of the Owners need no longer be party to this Agreement, such unnecessary Owner(s) may be removed as parties to this Agreement upon written notice to AWWU and, if agreed, shall retain no liability upon removal, with the remaining Owner(s) automatically assuming the full obligations of the Owners hereunder. If an Event of Default exists hereunder at any time with respect to an Owner, it shall be considered an Event of Default with respect to the Owners together as one Party hereunder, provided, that if another Owner agrees to assume such defaulting Owner's obligations under this Agreement by removing such Owner as a party pursuant to the preceding sentence of this Section 2.5 prior to the expiration of any applicable cure period, this shall not be considered an Event of Default hereunder.

ARTICLE 3.
AWWU RESPONSIBILITIES

3.1 Access to Site. As of the Effective Date, AWWU shall, with respect to the land and AWWU Facilities within its control, provide the Owners with a non-exclusive license to access the Site and the AWWU Facilities necessary to enable the Owners to perform their obligations under this Agreement in accordance with the Project Schedule, provided, that AWWU may from time to time limit access to the Site or the AWWU Facilities under AWWU control temporarily only to the extent necessary to address reasonable security or safety issues, and to avoid putting AWWU's public water supply at risk of interruption or contamination. To the extent that any additional access permissions from third-party landowners adjacent to the Site may be required for Owners to access the Site and conduct the Work pursuant to the site license granted under this Section 3.1, obtaining such Approvals shall be the responsibility of the Owners, provided that (i) AWWU shall be responsible for any such permissions associated with the construction and maintenance of the Access Bridges; (ii) if the Parties agree that in certain other circumstances AWWU responsibility is more appropriate, AWWU shall bear such responsibility; and (iii) AWWU shall assist the Owners with obtaining such Approvals as is reasonably requested by the Owners, including by being the first and primary point of contact with such third party in situations where AWWU has an existing easement or applicable existing relationship with such third party.

To the extent that AWWU adds access or other security limitations to the Site, to the Owners' Portion, or to the AWWU Facilities, the Owners and AWWU shall cooperate to ensure continuous access for the Owners and their contractors, to enable them to perform the Owners' obligations under this Agreement.

3.2 Required Approvals. After the Owners' achievement of the Construction Start CPs, AWWU shall be responsible for obtaining and maintaining those Governmental Approvals and third-party approvals necessary for the completion of the Work as set forth on Exhibit F hereto (the "AWWU Approvals"), any costs of which shall be initially paid for by AWWU and reimbursed by Owners pursuant to Section 5.3. The Owners shall provide AWWU with such reasonable assistance as AWWU may request in obtaining such AWWU Approvals.

3.3 AWWU Representative. AWWU shall designate in writing and maintain at all times during the term of this Agreement an AWWU Representative to represent AWWU and to receive communications from the Owners with regard to the Work and the development of the Facility and the Access Bridges. The AWWU Representative shall act as the Owner's primary point of contact with the AWWU with respect to the Work, and shall be available to meet with the Owners and Project Manager, as reasonably requested, to discuss the Work or any issue related thereto. The AWWU Representative shall have full authority to act for AWWU under this Agreement; provided, that AWWU's Representative shall under no circumstances have the authority to amend (except for the signing of Change Orders), terminate or assign this Agreement. AWWU may change the AWWU Representative at any time upon written notice to the Owners. As of the Effective Date, the AWWU Representative shall be [_____][2].

3.4 Duty to Cooperate. AWWU shall, throughout the performance of the Work, cooperate with the Owners and perform its responsibilities, obligations and services under this Agreement in a timely manner, to facilitate the Owners timely and efficient performance of the Work and the Owners' obligations under this Agreement. AWWU shall provide timely reviews and approvals, including completing the design approval set forth in Section 4.3, such approvals not to be unreasonably withheld or delayed.

3.5 Site and AWWU Facilities Information. Except as set forth on Schedule 3.5, AWWU hereby represents and warrants that the conditions of the Site and of the AWWU Facilities are suitable for the Work and the completion of the Facility. AWWU hereby acknowledges that the Owners shall be entitled to rely on Schedule 3.5 and Exhibit B in preparing their assessment of the Work necessary to complete the Facility, as well as their work preparing the Project Schedule; and that if any information contained in Schedule 3.5 or Exhibit B is later found to be inaccurate, the Owners shall be entitled to a Change Order at their discretion pursuant to Section 7.3.

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[2] **Note to Accompany Final Draft**: To be populated after Governor approval and prior to execution.

ARTICLE 4.
CONDITIONS PRECEDENT; PROJECT SCHEDULE, DESIGN APPROVAL

4.1 Construction Start Conditions Precedent.

(a) The obligations of the Owners to design, engineer, permit and construct the Facility as set forth in this Agreement, and the right of the Owners to conduct Work at the Site, and to physically interconnect the Facility with the AWWU Facilities as set forth in this Agreement, shall not be effective until the achievement of the following conditions precedent (the "Construction Start CPs"):

(i) The Owners receive final approval from the Governor of Alaska, with such approval not subject to any pending judicial review or appeal, for a Fish and Wildlife Program that requires the use of the AWWU Facilities as contemplated in this Agreement, provided that such approval includes no unexpected conditions materially adverse to the Owners or to AWWU, as determined in good faith by the Parties and in the exercise of commercially reasonable business judgment;

(ii) The Owners are issued lawful documentation from the Alaska Department of Natural Resources authorizing the use and transport of water as contemplated under the Transportation Agreement, including but not limited to an amendment of the Owners' Water Rights[3] or other approval(s) authorizing a change of use to allow the Owners to use a portion of the Owners' Water Right to establish and continue instream flows in the Eklutna River;

(iii) The Owners and AWWU, with regard to AWWU Approvals, have obtained all Approvals necessary to conduct the Work; and

(iv) The Transportation Agreement and the Water Supply Agreement are in full force and effect and are valid, binding and enforceable against AWWU and the Owners in accordance with their terms.

(b) Notwithstanding Section 4.1(a), nothing in this Agreement shall be construed to prevent the Owners from conducting design and permitting work in preparation for Facility construction prior to the achievement of the Construction Start CPs. Such pre-construction Work shall be done at the sole discretion and financial risk of the Owners, and shall be treated as Work for which all of AWWU's duties and responsibilities hereunder shall apply unless otherwise stated.

4.2 Project Schedule. The Owners shall perform all Work in accordance with the Scope of Work and the Project Schedule. The Owners shall use commercially reasonably efforts to meet all milestones set forth in the Project Schedule, provided that all such milestones may be extended at the discretion of the Owners as may be reasonably necessary to accommodate delays in the

[3] Note to AWWU: "Owners' Water Right" is a defined term already linked to a specific certificate.

achievement of the Construction Start CPs or the receipt of necessary Approvals that are outside the control of the Owners.

4.3 Submission for Design Approval. As of the Effective Date, the proposed design for the Facility is set forth in Exhibit A-3. The Owners may modify such design at their discretion until the achievement of the Construction Start CPs, at which point prior to the commencement of any construction activities at the Site, the Owners shall provide to AWWU final design drawings and proposals (and any applicable calculations, models, and reports developed in support thereof) for the Facility for AWWU's review and approval, such approval to not be unreasonably withheld or delayed. AWWU shall indicate to the Owners within thirty 30 Days after receipt of such design drawings, proposals, calculations, models, and reports whether it approves or denies the design. If AWWU denies the design, the parties shall work in good faith to resolve the applicable issues and develop an updated design for AWWU approval.

4.4 Failure to Obtain Approvals. If, at any point during the Owners performance of the Work, the Owners or AWWU are unable to obtain any Approval necessary to construct or operate the Facility as intended herein and in the Fish and Wildlife Program, despite taking all reasonable commercial efforts to obtain such Approvals, then either Party may terminate this Agreement upon forty-five (45) Days prior written notice; and the Owners shall restore the site pursuant to Section 11.7.

4.5 Installation; Testing Procedures.

(a) Conduct of Tests. As soon as possible after installation of all Equipment necessary, as determined by the Owners in their sole discretion, to render the Facility mechanically and structurally complete, the Owners shall begin to conduct, or cause to be conducted, the Commissioning Procedures, in accordance with this Section 4.5 and the Commissioning Procedures Guidelines. Owners may perform and re-perform any number of Commissioning Procedures in accordance with the Commissioning Procedures Guidelines, and the Owners, at their discretion, may prematurely terminate any Commissioning Procedures so long as the remaining Commissioning Procedures are completed prior to Commercial Operation.

(b) AWWU Personnel. The Owners shall provide AWWU at least two (2) Business Days' prior notice of the intended commencement of the Commissioning Procedures. AWWU shall have at least one representative at the Site throughout the performance of the Commissioning Procedures, in order to monitor the taking of measurements to determine the performance and safety of the Facility, all in accordance with the Commissioning Procedures Guidelines.

4.6 Commercial Operation. When the Owners consider that the criteria for Commercial Operation have been met, including successful completion of the Commissioning Procedures in accordance with Section 4.5, the Owners shall so notify AWWU in writing, and shall provide AWWU with a completed Commercial Operation certificate issued by an independent licensed professional engineer, in the form set forth in Exhibit H (the "Commercial Operation Certificate").

4.7 Final Acceptance. The criteria for achieving Final Acceptance shall be that: (a) Commercial Operation has occurred; (b) AWWU has received from the Owners copies of all as-built drawings for the Work and the Facility; (c) AWWU has received from Owners all Equipment Documentation related to the AWWU Portion; (d) Owners have removed from the Site and properly disposed of all wastes created at or brought onto the Site by the Owners; and (e) an Owners' training program for AWWU's operation and maintenance personnel has been completed in accordance with the Scope of Work. When the Owners consider that the criteria for Final Acceptance have been met, the Owners shall so notify AWWU in writing. Within five (5) Days thereafter, AWWU shall either: (i) notify the Owners in writing that it agrees that Final Acceptance has been achieved, or (ii) advise the Owners of the items in Section **Error! Reference source not found.**7(a) through (e) (collectively, "Final Acceptance Items") that AWWU believes have not yet been satisfied. Upon receipt of any notice from AWWU of an alleged failure to satisfy a Final Acceptance Item, the Owners shall either: (A) satisfy such Final Acceptance Item(s); or (B) advise AWWU in writing that the Owners believes in good faith that all Final Acceptance Item(s) have been satisfied and shall request the commencement of negotiations pursuant to Section **Error! Reference source not found.**.

4.8 Post-Completion Facility O&M. Upon Final Acceptance and the applicable title transfers set forth in ARTICLE 6, AWWU shall be responsible for operating and maintaining the AWWU Facilities and the AWWU Portion; and the Owners shall be responsible for operating and maintaining the Owners' Portion. Each of AWWU and the Owners shall also have further specific ongoing operations and maintenance obligations for portions of the Facility during the "Delivery Term" of the Transportation Agreement, as further detailed in the Transportation Agreement.

4.9 Post-Completion Access Bridge Maintenance. Upon completion of any Access Bridge by the Owners, and possession and applicable title having passed to AWWU pursuant to Section 6.1(d), full responsibility for (and associated costs of) such Access Bridge maintenance shall belong to AWWU, except that the Owners shall use commercially reasonable efforts to obtain a one-year materials and workmanship warranty from the contractor(s) engaged by the Owners to construct the Access Bridges and then shall pass such warranty on to AWWU.

4.10 Skill and Expertise. Each Party shall use commercially reasonable efforts to ensure that all employees and contractors engaged in connection with the maintenance of, operation of, service of, and any future modification to (to include design, construction, commissioning, and installation) the Facility shall have the appropriate and necessary experience, skill and expertise to carry out the tasks efficiently, professionally, and in accordance with Prudent Industry Standards and applicable Laws.

ARTICLE 5.
COSTS; TAXES; REIMBURSEMENT

5.1 Costs. All costs to complete the Facility and perform the Work hereunder shall be the responsibility of Owners. The Owners shall reimburse AWWU pursuant to Section 5.3 for AWWU's reasonable actual costs related to or arising out of the development and construction of the Facility and related to all of AWWU's responsibilities set forth in ARTICLE 3, including but not limited to documented direct and indirect costs, overhead, general and administrative costs, staff time, and all other costs related to or arising out of the planning, engineering and project

management associated with the Facility; provided that AWWU shall use commercially reasonable efforts to minimize such costs.

5.2 Taxes. The Owners shall be responsible for and shall pay any sales, use, gross receipts, occupation, and other taxes (excluding income and franchise tax imposed upon AWWU) that from time to time may become payable as a consequence of this Agreement.

5.3 Payments. For any costs described in Section 5.1 initially borne by AWWU, AWWU shall submit to each of the Owners a detailed accounting of such cost for which AWWU is seeking reimbursement, together with such supporting documentation as the Owners shall reasonably require. Within sixty (60) Days after receiving a properly completed application for reimbursement and all required supporting documentation, each of the Owners shall individually: (i) pay AWWU their respective Cost Responsibility Proportion of the amounts set forth in AWWU's application for payment; or (ii) notify AWWU in writing that such Owner believes in good faith that a requested payment amount is not due and owing and shall request the commencement of negotiations pursuant to Section **Error! Reference source not found.**. In addition to the requirement that each Owner pay its Cost Responsibility Proportion as required in this Section, the Owners shall each be jointly and severally liable for all reimbursement obligations owed to AWWU under this Article 5.

ARTICLE 6.
TITLE; LOSS OR DAMAGE; FORCE MAJEURE

6.1 Title.

(a) Legal title to and ownership of the AWWU Portion shall pass to AWWU upon achievement of Final Acceptance free and clear of any and all liens, claims, security interests or other encumbrances. Title to drawings, specifications and like materials provided by Owners with respect to the AWWU Portion shall also pass to AWWU upon achievement of Final Acceptance. Owners shall deliver to AWWU such assignments, bills of sale or other documents as reasonably requested by AWWU to evidence such transfers of title and ownership.

(b) Legal title to and ownership of the Owners' Portion shall remain with Owners after Final Acceptance and throughout the term of the Transportation Agreement, free and clear of any and all liens, claims, security interests or other encumbrances imposed by AWWU.

(c) Legal title to and ownership of the AWWU Facilities shall remain with AWWU before, during, and after the construction of the Facility.

(d) Legal title to and ownership of any Access Bridge shall pass to AWWU upon completion of such Access Bridge. Owners shall deliver to AWWU such assignments, bills of sale or other documents as reasonably requested by AWWU to evidence such transfers of title and ownership, and if the Parties determine that an additional agreement between the Parties is necessary to detail specific Access Bridge construction and ownership transfer terms and conditions, the Parties shall negotiate such documentation in good faith and in accordance with the terms of this Agreement.

(e) Legal title to and ownership of all Owners' Water shall remain with the Owners at all times during construction of the Facility, including during the performance of the Commissioning Procedures.

6.2 Risk of Loss.

(a) Equipment. Notwithstanding anything herein to the contrary, the Owners shall have the full responsibility for care, custody and control of material and Equipment incorporated into the Work (including all Equipment and materials used in connection therewith), and shall bear the risk of loss thereof, until an applicable transfer of title to the Equipment for the AWWU Portion occurs, at which time risk of loss shall pass to AWWU.

(b) Water. For any quantity of Owners' Water[4] flowing through AWWU's Facilities as part of the Commissioning Procedures or otherwise during the construction of the Facility: control, custody and risk of loss of such Owners' Water shall transfer from the Owners to AWWU at the Injection Point, where such Owners' Water shall comingle with AWWU's Water until reaching the Delivery Point, at which point the custody, control and risk of loss of a quantity of water equal to the original quantity of Owners' Water released into the AWWU Facilities at the Injection Point shall pass back to the Owners.

6.3 Force Majeure. Each Party shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, except for the Owners' obligation to reimburse AWWU for costs pursuant to ARTICLE 5, if and to the extent that such Party's failure of, or delay in, performance is due to a Force Majeure Event; provided, that:

(a) such Party gives the other Party prompt written notice describing the particulars of the Force Majeure Event as soon as is reasonably practicable after becoming aware of the occurrence of the Force Majeure Event;

(b) the suspension of performance is of no greater scope and of no longer duration than are reasonably required by the Force Majeure Event;

(c) no obligations of an affected Party that arose before the occurrence of the Force Majeure Event causing the suspension of performance shall be excused as a result of such Force Majeure Event, unless and only to the extent that the performance of such obligations is impaired by the Force Majeure Event;

(d) the Party uses diligent commercially reasonable efforts to overcome or mitigate the effects of the Force Majeure Event; and

(e) when the Party is able to resume performance of its obligations under this Agreement, such Party shall give the other Party written notice to that effect, and shall promptly resume performance hereunder.

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[4] Note to AWWU: Minor change as Owners' Water is a defined term

ARTICLE 7.
CHANGES

7.1 Change Orders. The Owners may propose Change Orders to AWWU if those Change Orders: (i) improve the Facility; (ii) are required by a Governmental Authority as a condition precedent to issuance of any Governmental Approval; or (iii) are otherwise advisable for the Work. This shall not affect the obligation of the Owners to perform the Work and to install the Facility in accordance with the terms of this Agreement, except as otherwise set forth in the Change Order or in Sections 7.2 or 7.3.

7.2 Changes to Project Schedule. In the event that any Change Order affects the amount of time needed to complete any portion of the Work, there shall be an equitable adjustment of the time of performance and the Project Schedule, as agreed to by the Parties.

7.3 Unanticipated Conditions. If any unusual or unanticipated conditions exist or arise at the Site such as Hazardous Materials, structural or geotechnical deficiencies, environmental conditions, pollution or archeological findings not known to the Owners as of the Effective Date (collectively, "Unanticipated Conditions"), which conditions would involve the Owners incurring any expenses or delays to correct such conditions, the Owners shall submit a request for approval of the corrective work and expense pursuant to a Change Order, the approval of which by AWWU shall not be unreasonably withheld, conditioned or delayed, and such corrective work shall be deemed incorporated into the Scope of Work; provided, however, if any Unanticipated Conditions exist or arise that are contrary to those set forth on Schedule 3.5 or Exhibit B, then the Change Order submitted by the Owners in connection with such Unanticipated Conditions shall be deemed to be automatically approved by AWWU. All change orders under this Agreement shall be fulfilled at the sole expense of the Owners.

ARTICLE 8.
WARRANTIES

8.1 Warranties.

(a) Except as expressly set forth in Section 8.1(b), Owners do not make (and hereby expressly disclaim) any other warranties of any kind whatsoever.

(b) The Owners hereby warrant that as of the Commercial Operation Date: (i) the Facility will meet the requirements set forth in the Facility Criteria; (ii) the Facility will be free from defects in workmanship under normal operating conditions, provided that such warranty shall not apply to existing AWWU Facilities incorporated within the Facility; (iii) all Work will have been performed in accordance with Prudent Industry Standards and all requirements of this Agreement; and (iv) the Work, including but not limited to each item of Equipment incorporated therein, will be new and shall conform in all material respects with the plans and specifications prepared in accordance with this Agreement and all descriptions set forth herein.

(c) In conjunction with achievement of the Commercial Operation Date, the Owners hereby agree to assign to AWWU, and AWWU agrees to assume, all Subcontractor, supplier and manufacturer warranties set forth on Exhibit G relating to the AWWU Portion, and

thereafter AWWU shall pursue all warranty claims thereunder directly with such Subcontractors, suppliers and manufacturers.

8.2 Warranty Period. Owners shall remedy any breach of the warranties set forth in Sections 8.1(b) discovered within 12 months of the Commercial Operation Date (the "Warranty Period").

8.3 Remedies. If the warranty set forth in Section 8.1 is breached or a defect or deficiency is discovered by Owners or AWWU during the Warranty Period, Owners shall repair, replace, and/or correct the applicable Work on a reasonably expedited basis while minimizing any impact of the failure on Facility availability and functionality or AWWU Facilities availability and functionality. AWWU shall permit the Owners access to the AWWU Facilities and the AWWU Portion necessary or useful to perform Owners' warranty obligations under this Agreement. All costs of Owners' performance of their warranty obligations shall be borne by Owners, including any removal, replacement and reinstallation of Equipment and materials necessary to gain access to defective Work.

8.4 Warranty Exclusions. The warranty obligations set forth in this ARTICLE 8 do not extend to Work that is damaged by or other potential warranty claims arising from: (a) the negligent acts or omissions of AWWU or its contractors, agents, employees, representatives or any other Person acting on behalf of AWWU; (b) Force Majeure Events; (c) any Equipment included in the AWWU Portion that is not maintained and operated by AWWU in accordance with all Equipment Documentation; (d) normal wear and tear; (e) any alteration, repair or replacement made without the prior written approval of the Owners or contrary to instructions from the Owners; or (f) conditions that existed prior to the completion of the Work, including any defects or deficiencies in any equipment included in AWWU Facilities not directly caused by the Owners as part of the Work (collectively, "Non-Owner Work"). In the event that the warranty service requested is related to Non-Owner Work or is covered by any warranty set forth on Exhibit G, the Owners shall have no further obligation.

8.5 NO IMPLIED WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE OWNERS MAKE NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, AND AWWU DISCLAIMS ANY WARRANTY OR GUARANTEE IMPLIED BY LAW, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT AND IMPLIED WARRANTIES OF CUSTOM OR USAGE.

ARTICLE 9.
LIMITATIONS ON LIABILITY

9.1 Aggregate Limitation of Liability. Notwithstanding any other provision of this Agreement, the total aggregate liability of the Owners and the total aggregate liability of AWWU arising out of or relating to this Agreement, from any and all causes, whether based on contract, tort (including negligence), strict liability or any other cause of action, shall in no event exceed ten million dollars ($10,000,000) for AWWU, and ten million dollars ($10,000,000) for the Owners collectively, provided that such limit shall not apply in the case of such Party's (i) gross negligence

or willful misconduct, (ii) third-party indemnity obligation, or (iii) breach of any representation or warranty.

9.2 CUMULATIVE REMEDIES. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, OR IF A REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY NON-EXCLUSIVE, THE NON-DEFAULTING PARTY SHALL HAVE THE RIGHT TO EXERCISE ALL RIGHTS AND REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY; PROVIDED, HOWEVER, THAT THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED.

9.3 WAIVER OF CERTAIN DAMAGES. EXCEPT WITH RESPECT TO INDEMNIFICATION OF THIRD PARTY CLAIMS PURSUANT TO ARTICLE 10, OR AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, BUSINESS INTERRUPTION OR SIMILAR DAMAGES, WHETHER BY STATUTE, IN TORT, BY CONTRACT OR OTHERWISE.

ARTICLE 10.
INDEMNIFICATION

10.1 Indemnity. To the fullest extent permitted by Law, each Party shall indemnify, hold harmless and defend the other Party and its directors, officers, shareholders, partners, agents and employees, and the Affiliates of the same (collectively, the "Indemnified Parties"), from and against any and all claims, loss, damage, expense and liability, including court costs and reasonable attorneys' fees (collectively, "Liabilities") incurred by the Indemnified Parties in connection with or arising from (i) the Work; and (ii) any claim for physical damage to or physical destruction of any part of the Facility, the AWWU Facilities, or death of or bodily injury to any person, to the extent any such Liability was caused by the negligence of the Indemnifying Party or its agents or employees or others under such Indemnifying Party's control, except any Liabilities incurred due to the negligence or willful misconduct of an Indemnified Party. For the purpose of the definition of "Indemnified Parties" AWWU shall not be considered to be an "Affiliate" of the MOA.

10.2 Environmental Indemnity. Notwithstanding any other provision hereof, each Party shall indemnify, defend and hold harmless the other Party and its Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Site of any Hazardous Material to the extent such Hazardous Material is deposited, spilled, released or otherwise caused by the Indemnifying Party or its Subcontractors or agents in connection with the Work.

10.3 Defense of Claims. A Party with an indemnification obligation pursuant to this ARTICLE 10 (an "Indemnifying Party") shall have the right to defend the Indemnified Parties pursuant to this ARTICLE 10 by counsel of the Indemnifying Party's selection (including insurance counsel) reasonably satisfactory to the Indemnified Party, unless in the opinion of counsel for the Indemnifying Party a conflict of interest between the Parties may exist with respect to such claim. If the Indemnifying Party does not assume the defense of the Indemnified Party, or if a conflict precludes counsel for the Indemnifying Party from providing the defense, then the

Indemnifying Party shall reimburse the Indemnified Party on a monthly basis for the Indemnified Party's defense through separate counsel of the Indemnified Party's choice. Even if the Indemnifying Party assumes the defense of the Indemnified Party with acceptable counsel, the Indemnified Party, at its sole option, may participate in the defense, at its own expense, with counsel of its own choice without relieving the Indemnifying Party of any of its obligations hereunder. The Parties shall give each other prompt written notice of any asserted claims or actions indemnified against hereunder and shall cooperate with each other in the defense of any such claims or actions. Without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed, no Indemnifying Party shall settle any such claims or actions in a manner that would require any action or forbearance from action by any Indemnified Party.

ARTICLE 11.
DEFAULT AND REMEDIES; TERMINATION; DISPUTE RESOLUTION

11.1 Event of Default. The following shall constitute events of default on the part of either party (each, an "Event of Default") under this Agreement:

(a) If a Party makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of such Party, or if such Party files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition of or readjustment of debts and, in the case of any such proceeding instituted against such Party (but not by such Party) such proceeding is not dismissed within sixty (60) days of such filing;

(b) If a Party fails to comply with any material terms of this Agreement not otherwise set forth as an Event of Default in this Section 12.1(b) and fails to cure or remedy such failure within thirty (30) days after notice and a written demand is made by the non-defaulting Party to the defaulting Party to cure the same or, if such failure cannot be cured within thirty (30) days, the defaulting Party fails to commence to cure such failure within thirty (30) days after such notice and written demand and thereafter diligently pursue such cure to completion, which shall in no event be later than ninety (90) days after such notice;

(c) If a Party fails to make any payment due hereunder within sixty (60) days after written notice from the non-defaulting Party;

(d) If a Party defaults under the Water Supply Agreement or the Transportation Agreement; or

(e) If any representation or warranty of a Party in this Agreement proves to have been false or misleading in any material respect when made, and such Party has not, within thirty (30) days after written notification thereof from the non-defaulting Party, either fully remedied, or commenced and diligently pursued the remedy, of all adverse impacts on the non-defaulting Party resulting therefrom, all to the reasonable satisfaction of the non-defaulting Party.

11.2 Remedies Upon Event of Default. Upon the occurrence and continuation of an Event of Default, the non-defaulting Party shall have the right to terminate this Agreement and the Water Supply Agreement upon ten (10) days' prior written notice, and pursue any other remedy

available to such non-defaulting party at law or in equity arising out of such Event of Default, including a claim for monetary damage or specific performance.

11.3 Site Restoration Upon Termination. If either Party terminates this Agreement for any reason during construction, the Owners shall promptly withdraw from the Site and shall remove all Equipment, returning the Site to its previous condition, all at Owners' cost, provided that if the Owners terminate for an AWWU Event of Default under this Agreement or the Water Supply Agreement or Transportation Agreement, AWWU shall reimburse the Owners for the costs of such removal.

11.4 Automatic Cross-Agreement Termination. If this Agreement is terminated for any reason, the Water Supply Agreement and the Transportation Agreement shall automatically terminate effective as of the same date as this Agreement's termination.

11.5 Dispute Resolution. In the event of any dispute arising under this Agreement (a "Dispute"), within ten (10) Business Days following notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies.

ARTICLE 12.
REPRESENTATIONS

12.1 General Representations and Warranties. Each Owner and AWWU hereby represents and warrants that:

(a) It is duly organized, validly existing and in good standing under the Laws of the state of its formation and is duly qualified to do business in the jurisdiction where the Site is located.

(b) It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate, municipal, or other action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar Laws relating to the enforcement of creditors' rights generally and by general equitable principles.

(c) It is not in violation of any applicable Law, or any judgment entered by any federal, state, local or other Governmental Authority, which violations, individually or in the aggregate, would adversely affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or (to its best knowledge) threatened against it which, if adversely determined, could have a material adverse effect upon its financial condition, operations, prospects or business, as a whole, or its ability to perform under this Agreement.

(d) No authorization, approval, exemption, or consent of or by any Person is required by it in connection with the execution, delivery, and performance of this Agreement. In addition, each Party represents and warrants to the other Party that the Governmental Approvals required to be obtained by such Party either have been obtained by such Party and are in full force and effect on the date hereof or will be obtained by such Party and will be in full force and effect on or prior to the date on which they are required, under applicable Law, to be in full force and effect, so as to permit the Owners to commence and prosecute the Work to completion in accordance with the Project Schedule.

(e) The execution and delivery of this Agreement, and the consummation of the transactions herein contemplated and compliance with the terms and provisions hereof by it, will not conflict with or result in a material breach of, or require any consent under, any of its constitutive documents, or any applicable Law, or any agreement or instrument to which it is a party or by which it is bound or to which it is subject, or constitute a material default under any such agreement or instrument.

ARTICLE 13.
NOTICES

13.1 Writing. Except as set forth in Section 13.2, any notice, statement, demand, claim, offer or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be sent by email, facsimile, hand messenger delivery, overnight courier service, or certified mail (receipt requested) to the other Party at the address set forth in Exhibit L. Each Party shall have the right to change the address information to which notice shall be sent or delivered or to specify additional addresses to which copies of notices may be sent, in either case by similar notice sent or delivered in like manner to the other Party. All notices shall be effective upon receipt.

13.2 Technical Communications. Any technical or other communications pertaining to the Work shall be between the Project Manager and the AWWU Representative or other representatives appointed by the Project Manager or the AWWU Representative. Each Party shall notify the other in writing of the name of such representatives. The Project Manager or other designated representatives shall be reasonably satisfactory to AWWU, have knowledge of the Work, and be available at all reasonable times for consultation.

ARTICLE 14.

CONFIDENTIALITY; PUBLIC STATEMENTS

14.1 Confidentiality. The Parties agree that the Parties' proposals, communications, negotiations, and information exchanged prior to the Effective Date concerning this Agreement and the development thereof, and technical and other information regarding or relating to the Facility, the Access Bridges or the Work exchanged between the Parties that is or otherwise clearly communicated to the receiving Party as "Confidential" constitute "Confidential Information" of the disclosing Party. The Owners and AWWU each agree to hold such Confidential Information wholly confidential. Such Confidential Information may only be used by the Parties for the purposes related to the approval, or administration or enforcement of this Agreement.

14.2 Disclosure. Each Party agrees not to disclose Confidential Information of the other Party to any other Person (other than its Affiliates, counsel, consultants, lenders, partners, members, employees, officers and director, and then only to Persons subject to similar confidentiality restrictions as those set forth herein), without the prior written consent of the other Party, provided, that, either Party may disclose Confidential Information, if such disclosure is required by Law, including without limitation, pursuant to an order of a court or regulatory agency or in order to enforce this Agreement or to seek approval of this Agreement. In the event a Party is required by Law or a Governmental Authority to disclose Confidential Information, such Party, prior to such disclosure, shall provide reasonable advance notice to the other Party of the time and scope of the intended disclosure, in order to permit such non-disclosing Party the opportunity to obtain a protective order or to otherwise seek to prevent or limit the scope or otherwise impose conditions upon such disclosure.

14.3 Injunctive Relief. Each Party agrees that violation of the terms of Sections 14.1 and 14.2 constitutes irreparable harm to the other, and that the harmed Party may seek any and all remedies available to it at law or in equity, including but not limited to injunctive relief.

14.4 Release of Agreement. The Parties agree that this Agreement, upon execution, shall not be considered Confidential Information. Except as required by Law, releasing the Agreement to the public shall be the sole responsibility of the Owners, to be released in the manner at a time decided in their sole discretion.

14.5 AWWU Public Statements.

(a) Until that date upon which the Fish and Wildlife Program is approved by the Governor of Alaska, and absent any pending judicial review or appeal, any public statements made by AWWU about the Fish and Wildlife Program or the development of the Facility must be approved by the Owners, such approval not to be unreasonably withheld or delayed. Notwithstanding the foregoing, AWWU may respond to any inquiries from any Governmental Authority in a manner consistent with this Agreement.

(b) AWWU shall make best efforts to ensure that all of the employees, agents, contractors and consultants of AWWU do not engage in any public activities while acting as employees, agents, contractors or consultants of AWWU, to include the public expression of statements that are reasonably likely to have an adverse effect on the public's perception of the Fish and Wildlife Program and the development of the Facility, it being understood by both AWWU and the Owners that such negative public statements may undermine the ability of the Owners to satisfy their obligations under the 1991 Agreement; provided, however, that the Parties

acknowledge that AWWU cannot restrict the rights of such people to express their personal opinions as private citizens.

ARTICLE 15.
MISCELLANEOUS

15.1 Reasonability. The Parties shall act in a reasonable manner and in accordance with principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement and whether or not stated: (a) where this Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned, or delayed; and (b) wherever this Agreement gives a Party a right to determine, require, request, specify, or take similar action with respect to a matter, such determination, requirement, request, specification, or similar action must be reasonable.

15.2 Entire Agreement. This Agreement, together with all Schedule and Exhibits hereto, embodies the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties, verbal or written, relating to the subject matter hereof.

15.3 Waiver. Any waiver of the provisions of this Agreement must be in writing and shall not be implied by any usage of trade, course of dealing or course of performance. No exercise of any right or remedy by AWWU or the Owners constitutes a waiver of any other right or remedy contained or provided by Law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance hereunder shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

15.4 Assignment. Neither Party shall assign this Agreement or any of its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party, without relieving itself from liability hereunder, and without the need for consent from the other Party, provided that any such assignee shall agree to be bound by all terms and conditions hereof, may transfer, pledge or assign this Agreement: (a) to any person or entity succeeding to all or substantially all of the assets of the assigning Party; or (b) to a successor entity in a merger or acquisition transaction. Any assignment made in contravention of this Section 15.4 shall be void and unenforceable.

15.5 Governing Law; Submission to Jurisdiction; Venue; No Jury Trial.

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALASKA, EXCLUDING ANY CHOICE OF LAW RULES.

(b) Submission to Jurisdiction, Venue. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its Affiliates or designees) with respect to or arising out of this Agreement shall be brought exclusively in the courts of the State of Alaska, in the Municipality of Anchorage, as the Party instituting such suit, action or other legal proceeding

may elect, provided that claims related to federal water rights, federal legislation enabling the Facility or AWWU Facilities, or the 1991 Agreement may be brought in the United States District Court for the District of Alaska. By execution and delivery of this Agreement, each Party (for itself, its Affiliates and its designees) irrevocably and unconditionally consents and submits to the exclusive jurisdiction of such courts and the appellate courts therefrom, and waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding. The Parties irrevocably consent to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, first class postage prepaid to the addresses set forth in Section 13.1.

(c) No Jury Trial. EACH OF THE PARTIES HEREBY WAIVES ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) Duty to Proceed. Pending final resolution of any Dispute, the Owners and AWWU shall continue to fulfill their respective obligations hereunder that are not the subject of the Dispute.

15.6 Construction. This Agreement is to be construed so as to effectuate the normal and reasonable expectations of a sophisticated buyer and seller of the equipment and services covered by this Agreement and shall not be construed either for or against either Party. No provision of this Agreement shall be construed or interpreted for or against either Party because such Party drafted or caused its legal representative to draft the provision.

15.7 Headings. The titles or headings of the various sections, articles and paragraphs hereof are intended solely for convenience and ease of reference and are not intended, and are not to be deemed for any purpose, to modify or explain or place any interpretation or construction upon any of the provisions of this Agreement.

15.8 Status of the Parties. The Owners and its Subcontractors shall be independent contractors in relation to AWWU with respect to the Work; and neither the Owners nor their Subcontractors, nor the employees or agents of either, shall be deemed to be the employees, representatives or agents of AWWU in connection with any matter relating to this Agreement. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties.

15.9 Insurance. The Owners shall maintain the required insurance policies as set forth on Exhibit J-1 and AWWU shall maintain the required insurance policy as set forth on Exhibit J-2.

15.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of the Owners and AWWU, and their permitted successors and assigns, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

15.11 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take all further action, as may be reasonably necessary to

complete performance by the Parties hereunder and to effectuate the purposes and intent of this Agreement.

15.12 Amendments. Except for any Change Order issued pursuant to ARTICLE 7, a removal of an Owner pursuant to Section 2.5, or a redesignation of the Project Manager, the AWWU Representative or notice information under Section 13.1, no change, amendment or modification of this Agreement shall be valid or binding upon the Parties unless such change, amendment or modification shall be in writing and duly executed by the Parties.

15.13 Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provision of this Agreement and all other provisions will remain in full force and effect.

15.14 Conflicting Provisions. In the event of any conflict between this document and any Schedule or Exhibit attached hereto, the terms and provisions of this document, as amended from time to time, shall control. In the event of any conflict among the Exhibits, the Exhibit of the latest date mutually agreed to by the Parties shall control.

15.15 Survival. The provisions of ARTICLE 1, ARTICLE 6, ARTICLE 8, ARTICLE 9, ARTICLE 10, ARTICLE 11, ARTICLE 12, ARTICLE 13, and ARTICLE 15 shall survive termination of this Agreement for any reason.

15.16 Counterparts. This Agreement may be executed in any number of separate counterparts and delivered by electronic means, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

[***Remainder of page intentionally left blank***]

IN WITNESS WHEREOF, the Parties have caused this Water Facilities Interconnection Agreement to be executed by their duly authorized representatives as of the Effective Date.

AWWU:

ANCHORAGE WATER AND WATERWATER UTILITY, A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: Municipal Manager

By: _____

Name: _____

Title: General Manager

OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MATANUSKA ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: _____

Schedule 1.1

Definitions

"1991 Agreement" means that certain Agreement between the Municipality of Anchorage, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., the United States Fish and Wildlife Service, the National Marine Fisheries Service, the State of Alaska, and the Alaska Energy Authority Relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991, as amended.

"Access Bridges" has the meaning set forth in the Recitals.

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with such first Person. For purposes of this definition and the Agreement, the term "control" (and correlative terms) means (1) the ownership of 50% or more of the equity interest in a Person, or (2) the power, whether by contract, equity ownership or otherwise, to direct or cause the direction of the policies or management of a Person.

"Agreement" has the meaning set forth in the Preamble, and shall include all Exhibits and Schedules hereto.

"Approvals" means Governmental Approvals and third-party approvals.

"AWWU" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of AWWU.

"AWWU Approvals" has the meaning set forth in Section 3.2.

"AWWU Event of Default" has the meaning set forth in Section 4.1.

"AWWU Isolation Valve" has the meaning set forth in Exhibit A-1.

"AWWU Facilities" has the meaning set forth in the Recitals.

"AWWU Representative" means the person designated by AWWU in accordance with Section 3.3 to act as the Owners' primary point of contact with AWWU.

"AWWU's Portion" has the meaning set forth in Exhibit A-1.

"AWWU's Water Permit" means that permit belonging to AWWU (LAS 2569) to use Owners' Water Rights for up to 41 million gallons per day for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823, as may be replaced as described in Section 3.1 of the Water Supply Agreement.

"AWWU's Water" means any and all water belonging to AWWU pursuant to AWWU's Water Permit.

"Business Day" means any day other than a Saturday, Sunday or legal holiday in the state of Alaska.

"Change Order" means a written order signed by Project Manager and AWWU authorizing a change in the Work or an adjustment in the Project Schedule for performance or delivery of the Work.

"Chugach" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of Chugach.

"Commercial Operation" means that: (a) Owners have completed the Commissioning Procedures and the Facility has met the Facility Criteria; and (b) Owners have provided the Commercial Operation Certificate to AWWU.

"Commercial Operation Certificate" has the meaning set forth in Section 4.7.

"Commercial Operation Date" means the date upon which Commercial Operation is achieved.

"Commissioning Procedures" means a test of function of the Facility in accordance with the Commissioning Procedures Guidelines and Section 4.5.

"Commissioning Procedures Guidelines" means the guidelines for the Commissioning Procedures set forth on Exhibit E.

"Confidential Information" has the meaning set forth in Section 14.1.

"Construction Start CPs" has the meaning set forth in Section 4.1.

"Cost Responsibility Proportion" shall mean, with respect to each Owner, the percentage of the total applicable Eklutna Hydroelectric Project costs that such Owner is obligated to pay as agreed to by the Owners, which as of the Effective Date shall be, with respect to MOA, 19.05%, with respect to Chugach, 64.28%, and with respect to MEA, 16.67%, and which may be changed hereunder upon agreement between the Owners at any time.

"Day" or "day" means a calendar day, unless expressly specified otherwise.

"Delivery Point" has the meaning set forth in Exhibit A-1 and is depicted on the schematic included as part of Exhibit B.

"Delivery Point Meter" has the meaning set forth in Exhibit A-1.

"Dispute" has the meaning set forth in Section 11.5.

"Effective Date" has the meaning set forth in the Preamble.

"Eklutna Hydroelectric Project" means the Eklutna Hydroelectric Project initially authorized, constructed and operated pursuant to the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended), including any and all property and facilities acquired or used in connection therewith, all of which was then sold to the Owners by the United States of America on October 2, 1997.

"Equipment" means all of the equipment, materials, apparatus, structures, supplies and other goods required by the terms of this Agreement to complete the Work and to be incorporated into the Facility. Equipment shall not include any materials, apparatus or tools owned by the Owners or any Subcontractor that are used to complete the Work but are not contemplated under this Agreement to become part of the Work or the Facility.

"Equipment Documentation" means copies or originals of all recommended operating specifications, warranties, manuals, test reports, vendor information and all other similar information obtained or prepared, and to be delivered, by the Owners in accordance with the terms of this Agreement.

"Event of Default" has the meaning set forth in Section **Error! Reference source not found.**1.

"Facility" has the meaning set forth in the Recitals.

"Facility Criteria" means the criteria set forth in Exhibit I.

"Final Acceptance" means the final acceptance of the Work by AWWU, as demonstrated by the process set forth in Section 4.5.

"Final Acceptance Items" has the meaning set forth in Section 4.5.

"Fish and Wildlife Program" has the meaning set forth in the Recitals.

"Force Majeure Event" means the occurrence of any act or event beyond the reasonable control of the Party affected that prevents the affected Party from performing its obligations under this Agreement, in full or part, if such act or event is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums), including the following: drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a Governmental Authority. Notwithstanding the foregoing, Force Majeure Events shall expressly not include mechanical or equipment failures (except to the extent any such failure is itself caused by a Force Majeure Event), nor any diminution in water quality in Eklutna Lake.

"Governmental Approvals" means all authorizations, consents, licenses, leases, rulings, certifications, registrations, exemptions, permits, certificates, and approvals from any Governmental Authority.

"Governmental Authority" means any federal, state or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the performance of the Work, the Facility or its operations, or the health, safety or environmental conditions of the Site or otherwise over the Parties.

"Hazardous Material" means any waste, chemical or other substance or material that is defined as "hazardous" or "toxic" or by any other similar term under any applicable Law relating to environmental, health or safety matters.

"Indemnified Parties" has the meaning set forth in Section 10.1.

"Indemnifying Party" has the meaning set forth in Section 10.3.

"Injection Point" means the point where AWWU Facilities meet facilities owned by the Owners near the outlet of the Eklutna Lake, where AWWU receives all of AWWU's Water from Eklutna Lake, as depicted in the schematic included as part of Exhibit B.

"Isolation Valve Structure" has the meaning set forth in Exhibit A-1.

"Isolation Valves" has the meaning set forth in Exhibit A-1.

"Law" means any constitution, charter, act, statute, law, ordinance, code, rule, regulation, order, specified standards or objective criteria contained in any applicable permit or approval (which standards or criteria must be met in order for the Work to be performed lawfully) or other legislative or administrative action of any Governmental Authority or a final decree, judgment or order of a court or tribunal.

"Liabilities" has the meaning set forth in Section 10.1.

"MEA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MEA.

"MOA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MOA.

"Non-Owner Work" has the meaning set forth in Section 8.4.

"Owners" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of the Owners.

"Owner" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of an Owner.

"Owners' Isolation Valve" has the meaning set forth in Exhibit A-1.

"Owners' Portion" has the meaning set forth in Exhibit A-1.

"Owners' Water" means any and all water belonging to the Owners pursuant to the Owners' Water Rights.

"Owners' Water Rights" means that certain senior priority water right held by the Owners for the water in Eklutna Lake for use in generating power for the Eklutna Hydroelectric Project as described in water rights certificate ADL 44944.

"Party" and "Parties" has the meaning set forth in the Preamble.

"Person" means any individual, partnership, corporation, limited liability company, association, business, trust, government or political subdivision thereof, Governmental Authority or other entity.

"Project Manager" means the Project Manager designated by the Owners in accordance with Section 2.5.

"Project Schedule" means the Project Schedule attached hereto as Exhibit D.

"Prudent Industry Standards" means those standards of care and diligence normally practiced by water transportation infrastructure engineering, construction and installation firms in performing services of a similar nature in a similar jurisdiction in which the Work will be performed. Prudent Industry Standards are not intended to be limited to optimum practice or methods, but rather to be a spectrum of reasonable

and prudent practices and methods that must take the conditions specific to any given water transportation facility under consideration.

"River Release Structure" has the meaning set forth in Exhibit A-1.

"Scope of Work" means the Scope of Work attached hereto as Exhibit C.

"Site" means the location of the Facility as further described in Exhibit B.

"Standard of Work" has the meaning set forth in Section 2.2.

"Subcontractor" means any Person with whom the Owners, or any individual Owner, enters into an arrangement for the performance of any portion of the Work, including Persons at any tier with whom any Subcontractor has further subcontracted any portion of the Work, and the legal or personal representatives, successors, and assigns of such Person.

"Transportation Agreement" has the meaning set forth in the Recitals.

"Unanticipated Conditions" has the meaning set forth in Section 7.3.

"Warranty Period" has the meaning set forth in Section 8.2.

"Water Supply Agreement" has the meaning set forth in the Recitals.

"Work" means all phases of Owners' performance of their construction-related obligations under this Agreement, including engineering, design, procurement, construction, erection, installation, training, testing with respect to the Facility, and the installation of the Access Bridges. For the sake of clarity, any operation and maintenance of the Facility occurring after Final Acceptance does not constitute Work hereunder, unless such operation or maintenance is being conducted pursuant to the warranty provisions set forth in ARTICLE 8.

Schedule 3.5[5]

Site and AWWU Facilities Conditions

[5] **Note to Accompany Final Draft**: This Exhibit will be populated by AWWU after Governor approval and prior to signing.

Exhibit A-1[6]

Eklutna River Release Facility Description and Definitions

The ***"Eklutna River Release Facility"*** shall consist of an Isolation Valve Structure and the River Release Structure.

The "***Isolation Valve Structure***" shall include:

- a new tee to be built in the AWWU pipeline downstream of the AWWU tunnel/pipeline transition and upstream of the AWWU portal valve (the "***Delivery Point***")
- A 54-inch gate valve on the main segment of AWWU pipeline intended to provide dual means of isolation for AWWU's pipeline segment ("***AWWU Isolation Valve***")
- A 42-inch gate valve on the branch segment of AWWU pipeline intended to provide isolation to the river release structure ("***Owners' Isolation Valve***", together with the AWWU Isolation Valve, the "***Isolation Valves***").
- Related controls and communication technology to be installed by the Owners in the main line of the AWWU Facilities.

The "***River Release Structure***" shall include:

- [A new pipeline from the Isolation Valve Structure to the Eklutna River]
- Control valves
- A new meter installed at the Delivery Point ("***Delivery Point Meter***")
- Monitoring and control equipment to be installed by Owners [*describe where]*.

"***AWWU's Portion***" of the Facility shall consist of the Isolation Valve Structure [and _____]

The "***Owners' Portion***" of the Facility shall consist of the River Release Structure [and _____]

---

[6] **Note to Accompany Final Draft**: This Exhibit will be revised and finalized by Owners to reflect the proposal approved by the Governor and prior to signing.

Exhibit A-2[7]

Description of Facility Controls, Metering, and Communication Facilities

[7] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit A-3[8]

Design (as of Effective Date)

[8] **Note to Accompany Final Draft**: This Exhibit will be populated by Owners after Governor approval and prior to signing.

Exhibit B[9]

Description and Schematic of Site, AWWU Facilities, and Injection Point and Delivery Point

[9] **Note to Accompany Final Draft**: This Exhibit will be populated by Owners after Governor approval and prior to signing.

Execution Version

Exhibit C

Scope of Work[10]

(a) Supply and Procurement. Owners shall at their own expense procure or supply and pay for all of the Equipment, and arrange and pay for the delivery of all of the Equipment to the Site.

(b) Engineering and Design. Owners shall at their own expense design and provide engineering services with respect to the Facility in a manner that shall be:

(i) Consistent with the actual conditions existing at the Site;

(ii) Consistent with the requirements set forth in this Scope of Work;

(iii) Sufficient, complete, and adequate in all respects necessary to enable the Facility to satisfy (A) the Facility Criteria and (B) all required Governmental Approvals;

(iv) In conformance with applicable Laws, including national, state, and local engineering, construction, safety, and electrical codes and standards, as specified in the Scope of Work, or if none are specified for the particular matter, with Prudent Industry Standards; and

(v) In form and content acceptable to all Governmental Authorities.

(c) Construction and Installation. Owners shall provide, install, complete and pay for all labor, Equipment, tools, supplies, construction equipment and machinery, utilities and consumables, transportation and other facilities and services (including any temporary materials, equipment, supplies and facilities) necessary for the proper execution and completion of the Work. All construction and installation performed by the Owners under this Agreement shall be in accordance with the given manufacturer's written instructions and Prudent Industry Standards, in each case unless otherwise agreed by AWWU in advance in writing.

(d) Utilities. The Owners shall provide all of the transmission, power, and communication facilities necessary for construction.

(e) Equipment Documentation and Equipment Training. The Owners shall provide AWWU with all Equipment Documentation for the AWWU Portion, and shall provide AWWU's personnel with up to five (5) days of on-site training in the use and operation of the AWWU Portion, as further detailed in the Transportation Agreement.

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[10] **Note to Accompany Final Draft**: This Exhibit is subject to further revisions and will be finalized after Governor approval and prior to signing.

(f) Approvals. Except for applicable AWWU Approvals, the Owners shall obtain and maintain all Approvals (including all fees and permits) required to perform the Work, including (without limitation) approvals and agreements required to interconnect the Facility with the AWWU Facilities. The Owners shall pay for all such Approvals, and shall reimburse AWWU for costs associated with obtaining and maintaining all AWWU Approvals. Owners shall promptly provide AWWU with copies of all such Approvals upon the Owners' obtaining such Approvals. In order to assist the Owners in obtaining such Approvals, AWWU shall provide the Owners with such reasonable assistance as the Owners may request.

(g) Security. The Owners shall be responsible for the security of the Work and shall construct security facilities (e.g. fencing surrounding the Facility at the Site) to ensure the security of the Work. The Owners shall coordinate with AWWU for the ingress and egress of the Owners' personnel to and from the Site to minimize disruption of AWWU operations.

(h) Conduct at Site. AWWU shall have access to the Site at all times, and the Owners shall, and shall require their Subcontractors to, use commercially reasonable efforts to avoid inhibiting the operations of AWWU at the Site, and the operation of the AWWU Facilities. The Owners shall comply with work rules and work hours reasonably established by AWWU with regard to Work involving the AWWU Facilities.

Exhibit D

Project Schedule[11]

[11] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit E

Commissioning Procedures Guidelines[12]

[12] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit F[13]

AWWU Approvals

[13] **NTD**: AWWU to Provide.

Exhibit G

Pass-through Warranties for AWWU Portion[14]

[14] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit H[15]

Form of Commercial Operation Certificate

[15] **Note to Accompany Final Draft**: This Exhibit will be provided by Owners after Governor approval and prior to signing.

Exhibit I[16]

Facility Criteria

[16] **Note to Accompany Final Draft**: This Exhibit will be populated by Owners after Governor approval and prior to signing.

Exhibit J-1[17]

Owners' Insurance Requirements

[17] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit J-2[18]

AWWU Insurance Requirements

[18] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit K[19]

Description of Access Bridges (to be developed by Owners)

[19] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit L[20]

Notice Information; Project Manager; AWWU Representative

If delivered to the Owners, o them at	Chugach Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Matanuska Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____]
If delivered to AWWU, to it at	Anchorage Water and Wastewater Utility, a department of the Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____]
Project Manager	[_____]
AWWU Representative	[_____]

[20] **Note to Accompany Final Draft**: To be populated immediately prior to execution, after Governor approval, as such information is subject to change.

ATTACHMENT B

TRANSPORTATION AGREEMENT

Confidentiality Waived – 4/25/2024

Execution Version

LONG-TERM WATER TRANSPORTATION AGREEMENT

by and between

Anchorage Water and Wastewater Utility

as

Provider

And

Chugach Electric Association, Inc,

Matanuska Electric Association, Inc., and the Municipality of Anchorage

as

Owners

Dated as of [_____][1]

EKLUTNA RIVER RELEASE FACILITY

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[1] **Note to Accompany Final Draft**: This Agreement has been form agreed as between the Parties but will not be signed by the MOA until after Governor approval of the Fish and Wildlife Plan has occurred and such signatures have been authorized by the Anchorage Assembly. Prior to execution, this footnote can be deleted from the draft.

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LONG-TERM WATER TRANSPORTATION AGREEMENT

This LONG-TERM WATER TRANSPORTATION AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered into by and between Anchorage Water and Wastewater Utility ("AWWU"), and Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("MEA"), and the Municipality of Anchorage ("MOA") (each of Chugach, MEA, and MOA is an "Owner" and collectively they are referred to as the "Owners"). The Owners and AWWU are sometimes referred to herein as a "Party" or collectively as the "Parties".

RECITALS

WHEREAS, the Owners own and operate the Eklutna Hydroelectric Project, commissioned in 1954, which includes an earthen dam at the outlet of Eklutna Lake and which, under normal operating conditions, diverts all inflows of water into the Eklutna Lake for hydroelectric production rather than into the Eklutna River;

WHEREAS, AWWU owns and operates certain existing water transportation facilities integrated with the Eklutna Hydroelectric Project as further described and depicted in Exhibit B (the "AWWU Facilities") located near the outlet of Eklutna Lake and adjacent to the Eklutna River, which AWWU uses to provide public water supply for its customers;

WHEREAS, the Owners are parties to the 1991 Agreement (as defined below), pursuant to which they are required to develop and implement a Fish and Wildlife program every thirty-five years to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Eklutna Hydroelectric Project (the "Fish and Wildlife Program");

WHEREAS, as a result of the process set forth in the 1991 Agreement, the Owners have developed a draft Fish and Wildlife Program in which the Owners propose to: (1) develop an Eklutna River release facility consisting in part of AWWU Facilities and facilities constructed pursuant to the Interconnection Agreement, all as further described in Exhibit A and as will be depicted as-built in the Operating Procedures (the "Facility"); (2) to transport water from Eklutna Lake through the Facility and release it into the Eklutna River; and (3) to maintain and operate the Facility;

WHEREAS, in connection with the execution of this Agreement and in order to enable future implementation of the Fish and Wildlife Program (if approved by the Governor of Alaska) and address compensation for AWWU's use of Owners' Water Rights, the Parties also entered into a Water Facilities Interconnection Agreement (the "Interconnection Agreement") pursuant to which the Parties will construct the Facility, and a new Public Water Supply Agreement (the "Water Supply Agreement");

WHEREAS, after the Facility achieves Final Acceptance pursuant to the terms of the Interconnection Agreement and all other conditions precedent set forth herein are achieved, (1) the Owners' desire to engage AWWU to provide, and AWWU desires to provide, the Water Transportation Services; and (2) the Owners and AWWU each desire to operate and maintain portions of the Facility pursuant to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the premises of this Agreement, the Interconnection Agreement, and the Water Supply Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owners and AWWU, intending to be legally bound, hereby agree as follows:

ARTICLE 1.
DEFINITIONS; INTERPRETATION; EXHIBITS

1.1 Defined Terms. Capitalized terms used in this Agreement without other definition shall have the meanings set forth in Schedule 1.1, unless the context requires otherwise.

1.2 Interpretation. As used in this Agreement, the terms "herein," "herewith" and "hereof" are references to this Agreement, taken as a whole; the terms "includes" or "including" shall mean "including, without limitation"; and references to a "Section," "Article", "Exhibit" or "Schedule" shall mean a Section, Article, Exhibit or Schedule of this Agreement, as the case may be, unless in any such case the context requires otherwise. All references to a given Exhibit, Schedule, agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made. A reference to a Person includes its permitted successors and permitted assigns. The singular shall include the plural and the masculine shall include the feminine and neuter, and vice versa.

ARTICLE 2.
TERM

2.1 Term.

(a) The term of this Agreement shall commence on the Effective Date and continue until the conclusion of the Delivery Term or unless earlier terminated pursuant to the terms of this Agreement (the "Term").

(b) AWWU's obligation to provide the Water Transportation Services and the Parties' obligations to commence the Operational Work hereunder shall be effective on the date upon which the Facility achieves Final Acceptance under terms of the Interconnection Agreement (the "Delivery Term Effective Date") and shall continue in full force and effect for 35 years thereafter, subject to any early termination provisions set forth herein (the "Initial Delivery Term"). At the conclusion of the Initial Delivery Term, the Agreement shall automatically renew each year, unless a Party notifies the other Party at least 60 days prior to the expiration of the Initial Delivery Term or each extended year thereafter that it does not wish to renew the Agreement. The Initial Delivery Term as so extended is the "Delivery Term".

ARTICLE 3.
WATER TRANSPORTATION AND SCHEDULING

3.1 Water Transportation Services. During the Delivery Term, AWWU shall, pursuant to the schedules set forth in Section 3.2 and the Operating Procedures developed pursuant to Section 3.3, transport Owners' Water, comingled with and undifferentiated from AWWU's Water, through AWWU Facilities from the Injection Point to the Delivery Point, in any amount requested

by the Owners (the "Water Transportation Services"), provided, that, such requested amount shall under no circumstances: (a) inhibit the ability of AWWU to deliver a daily flow rate of at least 41 MGD to the downstream Eklutna Water Treatment Facility at a pressure sufficient to allow normal operation of the EWTF as currently configured; (b) exceed the hydraulic capacity or design criteria of the AWWU Facilities; or (c) exceed any then-active Curtailment Limit (clauses (a)-(c), the "Water Release Limits").

3.2 Scheduling.

(a) During the first week of each month of each year of the Delivery Term, and in accordance with the Operating Procedures, the Owners shall provide AWWU with a written anticipated daily Owners' Water release schedule for the following month (e.g., on the first Business Day of January, the Owners shall provide the anticipated schedule for each day of February) based on Eklutna Lake levels and Fish and Wildlife Program obligations, all subject to the Water Release Limits (the "Monthly Water Release Schedule").

(b) No later than the last Business Day of each week of the Delivery Term, the Owners may submit in writing in accordance with the Operating Procedures, updated daily Owners' Water release amounts for the following week, provided that under no circumstance shall such updates exceed the Water Release Limits.

3.3 Metering.

(a) At all times during the Delivery Term, AWWU shall maintain an Injection Point Flow Meter to measure real-time water flowing into AWWU's Facilities from Eklutna Lake.

(b) At all times during the Delivery Term, the Owners shall maintain the Delivery Point Meter to measure real-time water quantities flowing into the River Release Structure at the Delivery Point, which shall be used to calculate the amount of Owners' Water received by the Owners as part of the Water Transportation Services.

(c) Each Party shall take reasonable measures to ensure that the other Party has access to real-time water flow quantity information from both the Injection Point Flow Meter and the Delivery Point Meter, as applicable, pursuant to procedures set forth in the Operating Procedures.

(d) For each month of the Delivery Term, the Owners shall prepare a written report for AWWU detailing the actual water flow amounts through the Injection Point Flow Meter and the Delivery Point Meter, and the amount of Owners' Water delivered to the Delivery Point, all as compared with the Monthly Water Release Schedule (as updated by Section 3.2(b) and pursuant to the procedures detailed in the Operating Procedures).

ARTICLE 4.
OPERATION AND MAINTENANCE

4.1 AWWU Facilities and AWWU's Portion. Throughout the Delivery Term, the AWWU Facilities and AWWU's Portion shall be exclusively operated, managed, and maintained by AWWU or any AWWU designee in accordance with all Governmental Approvals, applicable

Law, Prudent Industry Standards, all subject to the Owners' maintenance access rights to the Owners' Isolation Valve as set forth in Section 4.3.

4.2 Owners' Portion. Throughout the Delivery Term, the Owners' Portion shall be exclusively operated, managed, and maintained by the Owners or any designee of the Owners in accordance with all Governmental Approvals, applicable Law, and Prudent Industry Standards.

4.3 Owners' Isolation Valve. Throughout the Delivery Term, the Owners shall be responsible for all operation and maintenance of the Owners' Isolation Valve contained within AWWU's Portion. As part of the Access License granted by AWWU to the Owners pursuant to Section 9.1, AWWU shall ensure that at all times the Owners have access to the Owners' Isolation Valve as necessary to enable the Owners to maintain and operate the Owners' Isolation Valve in accordance with the Operating Procedures, provided, that, AWWU may from time to time assume operational responsibility for the Owners' Isolation Valve temporarily only to the extent necessary to address urgent security or safety issues and to avoid putting AWWU's public water supply at risk of interruption or contamination.

4.4 Approvals. Throughout the Delivery Term, AWWU shall be responsible for obtaining and maintaining all Approvals necessary for the provision of Water Transportation Services and all Operational Work set forth herein, except for those Approvals set forth on Exhibit C hereto, for which the Owners will be responsible for obtaining and maintaining (the "Owners' Approvals"). Each Party shall provide the other Party with such reasonable assistance as such first Party may request in obtaining applicable Approvals.

4.5 Duty to Cooperate. Each Party shall, throughout the Delivery Term, cooperate with the other Party as necessary to facilitate the provision of the Water Transportation Services, the Operational Work and all other responsibilities and obligations under this Agreement in a timely manner.

4.6 Skill and Expertise. Each Party shall, throughout the Delivery Term, use commercially reasonable efforts to ensure that all employees and contractors engaged in connection with the provision of the Water Transportation Services, the Operational Work or any other maintenance of, operation of, service of, and any future modification to (to include design, construction, commissioning, and installation) the Facility shall have the appropriate and necessary experience, skill and expertise to carry out the tasks efficiently, professionally, and in accordance with Prudent Industry Standards and applicable Law.

4.7 Successor Operator. If, during the Term, the Owners wish to no longer be responsible for any of the operation and maintenance responsibilities set forth in Sections 4.2 and 4.3, for any reason, prior to turning over such operation and maintenance to a third-party entity, AWWU must consent to such third-party entity, such consent not to be unreasonably withheld, conditioned, or delayed. For the sake of clarity, this Section 4.7 does not impact the Owners' right to freely use Subcontractors to conduct any of its responsibilities under Sections 4.2 and 4.3; this Section 4.7 only applies in situations where the Owners plan to no longer be ultimately liable for such obligations hereunder.

ARTICLE 5.
OPERATING PROCEDURES

5.1 Operating Procedures.

(a) At least 60 days prior to the commencement of the Delivery Term, AWWU and the Owners shall develop written detailed operating procedures governing the Water Transportation Services pursuant to the terms in this Agreement (the "Operating Procedures"). Such Operating Procedures shall comply with all applicable Approvals, Prudent Industry Standards and applicable Law and shall, at a minimum, set forth (i) the agreed methods for day-to-day communication and reporting requirements of each Party; (ii) key personnel lists for AWWU and for the Owners necessary for the facilitation of the Operational Work and the provision of the Water Transportation Services; (iii) processes for planning and communication between the Parties to coordinate regarding scheduling pursuant to Section 3.2 and Excused Events pursuant to Article 8; (iv) reporting and determining Curtailment Durations and Curtailment Limits for Excused Events pursuant to Article 8; (v) sharing of information from the Delivery Point Meter and the Injection Point Flow Meter pursuant to Section 3.3; (vi) ongoing reporting requirements of the Owners of metered water flow quantities measured at the Delivery Point and the Injection Point pursuant to Section 3.3; (vii) the process for obtaining and maintaining necessary Approvals throughout the Delivery Term; (viii) reference to necessary Facility equipment specifications and operation and maintenance manuals; (ix) inclusion of the final as-built drawings for the Facility developed pursuant to the Interconnection Agreement; (x) a clear process for ensuring that at all times during the Delivery Term, the Water Release Limits are met; (xi) each Party's legal notice address information for the delivery of notices required under this Agreement; and (xii) any other procedures related to the provision of the Water Transportation Services and Operational Work that the Parties deem necessary. Such Operating Procedures shall include any and all detailed definitions, drawings, and descriptions of the AWWU Facilities and the Facility as necessary to facilitate the coordination and responsibilities of the Parties as set forth herein. In the event of any disagreement in the development of the Operating Procedures, the Parties shall work in good faith to promptly resolve differences. AWWU's actual costs of developing such Operating Procedures shall be reimbursed by the Owners pursuant to Section 6.3.

(b) Throughout the Delivery Term, the Operating Procedures shall be updated from time to time by AWWU as needed upon written notice to the Owners, or upon written request by the Owners, to reflect ministerial changes to ensure continued accuracy and relevancy (e.g. personnel, contact/notice information, and Facility equipment upgrades), provided, that, such changes made pursuant to this Section 5.1(b) shall under no circumstances materially modify the obligations and responsibilities of the Parties as set forth herein.

ARTICLE 6.
COSTS; TAXES; REIMBURSEMENT

6.1 Costs and Compensation. Unless specifically stated otherwise, all costs borne initially by each Party in connection with the exercising of its rights and the performance of its obligations under this Agreement shall be the responsibility of such Party initially incurring such costs. In partial consideration of the costs to AWWU incurred in provision of the Water Transportation Services provided under this Agreement for the benefit of the Owners, the Parties

entered into the Water Supply Agreement for the same duration as this Agreement, pursuant to which AWWU shall have access to the use of certain of the Owners' facilities without additional compensation for its provision of public water supply.

6.2 Taxes. The Owners shall be responsible for and shall reimburse AWWU for any sales, use, gross receipts, occupation, and other taxes (excluding income, and franchise tax) imposed upon AWWU from time to time payable related to AWWU's provision of services set forth herein.

6.3 Reimbursement. For those AWWU costs that the Owners are specifically required to reimburse hereunder, AWWU shall submit to each of the Owners a detailed accounting of such cost for which AWWU is seeking reimbursement, together with such supporting documentation as the Owners shall reasonably require, including a reference to the applicable section of this Agreement demonstrating the Owners' responsibility for such costs. Within sixty (60) Days after receiving a properly completed application for reimbursement and all required supporting documentation, each of the Owners shall individually: (i) pay AWWU their respective Cost Responsibility Proportion of the amounts set forth in AWWU's application for payment; or (ii) notify AWWU in writing that such Owner believes in good faith that a requested payment amount is not due and owing and shall request the commencement of negotiations pursuant to Section **Error! Reference source not found.**. In addition to the requirement that each Owner pay its Cost Responsibility Proportion as required in this Section, the Owners shall each be jointly and severally liable for all reimbursement obligations owed to AWWU under this Article 6.

ARTICLE 7.
TITLE

7.1 Title; Custody; Risk of Loss

(a) Legal title to and ownership of all Owners' Water shall remain with the Owners at all times during the provision of Water Transportation Services.

(b) For Owners' Water flowing through AWWU's Facilities as part of the Water Transportation Services: control, custody and risk of loss of such Owners' Water shall transfer from the Owners to AWWU at the Injection Point, where such Owners' Water shall comingle with AWWU's Water until reaching the Delivery Point, at which point the custody, control and risk of loss for an amount of water equal to the original amount of Owners' Water released into the AWWU Facilities at the Injection Point shall pass back to the Owners.

ARTICLE 8.
EMERGENCY CURTAILMENT; FORCE MAJEURE

8.1 Outages

(a) Planned Outages. AWWU shall be excused from the performance of the Water Transportation Services in the event of Planned Outages noticed by and compliant with this Section 8.1(a). AWWU and the Owners shall develop a schedule and protocol, pursuant to the procedures set forth in the Operating Procedures, for Planned Outages of the Facility or the AWWU Facilities in order to allow for routine maintenance and inspection activities. Such

schedule for each Planned Outage shall specify the associated Curtailment Limits and Curtailment Duration. Such schedule and protocol shall take into account routine hydropower operations to ensure that Planned Outages only be scheduled at times when there is sufficient water available in Eklutna Lake to allow water releases through the maintenance gate of the diversion dam in the amounts necessary for the Owners to meet their obligations under the Fish and Wildlife Program. In addressing Planned Outages on AWWU Facilities and the AWWU Portion, AWWU shall use commercially reasonable efforts to minimize the length of the Curtailment Duration and the level of Curtailment Limits. For the sake of clarity, planned outages to AWWU Facilities or other AWWU property downriver of the Isolation Valve Structure do not meet the definition of Planned Outage and are addressed in Section 8.1(c)(i) below.

(b) Forced Outages. AWWU shall be excused from the performance of the Water Transportation Services in the event of Forced Outages noticed by and compliant with this Section 8.1(b). AWWU shall (i) use commercially reasonable efforts to notify the Owners of any Forced Outage, and (ii) provide an initial written or email estimate of the expected Curtailment Duration and Curtailment Limit within two (2) hours thereafter. In managing Forced Outages, AWWU shall use commercially reasonable efforts to minimize the duration of resulting Curtailment Duration and the level of Curtailment Limits. For the sake of clarity, forced outages to AWWU Facilities or other AWWU property downriver of the Isolation Valve Structure do not meet the definition of Forced Outage and are addressed in Section 8.1(c)(ii) below. During a Forced Outage, the Owners shall be responsible for complying with their Fish and Wildlife Program obligations through other means (such as releasing water into the river through the maintenance gate of the diversion dam).

(c) Outages to Downstream AWWU Infrastructure.

(i) In the event of any planned outage in the AWWU Facilities or in other AWWU property downstream of the Isolation Valve Structure that, without the closing of the Owners' Isolation Valve, would have an effect on the flow of water through the AWWU Facilities from the Injection Point to the River Release Structure, AWWU must notify the Owners at least thirty (30) days in advance of such planned outage to allow the Owners to adjust the Owners' Isolation Valve in such a way that allows for continued Water Transportation Services during such outage.

(ii) In the event of any forced, unexpected outage in the AWWU Facilities or at the Eklutna Water Treatment Facility downstream of the Isolation Valve Structure that, without the closing of the Owners' Isolation Valve, would have an effect on the flow of water through the AWWU Facilities from the Injection Point to the River Release Structure, AWWU shall notify the Owners as soon as possible to allow for the Owners to adjust the Owners' Isolation Valve to allow for the greatest possible continued flows of water into the Eklutna River through the River Release Structure during the duration of such forced outage.

8.2 Force Majeure. Each Party shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, except for the Owners' obligation to reimburse AWWU for costs pursuant to Section 6.3, if and to the extent that such Party's failure of, or delay in, performance is due to a Force Majeure Event; provided, that:

(a) such Party gives the other Party prompt written notice describing the particulars of the Force Majeure Event as soon as is reasonably practicable after becoming aware of the occurrence of the Force Majeure Event;

(b) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(c) no obligations of affected Party that arose before the occurrence of the Force Majeure Event causing the suspension of performance shall be excused as a result of such Force Majeure Event, unless and only to the extent that the performance of such obligations is impaired by the Force Majeure Event;

(d) the Party uses diligent commercially reasonable efforts to overcome or mitigate the effects of the Force Majeure Event; and

(e) when the Party is able to resume performance of its obligations under this Agreement, such Party shall give the other Party written notice to that effect and shall promptly resume performance hereunder.

ARTICLE 9.
ACCESS; ROADS AND BRIDGES

9.1 Site Access. Throughout the Delivery Term, AWWU shall, with respect to the land and access roads within its control, provide the Owners with a non-exclusive license to access the Site (through use of AWWU's access road), AWWU's Portion, and the AWWU Facilities as necessary to enable the Owners to operate and maintain the Owners' Isolation Valve and the Owners' Portion, and as otherwise reasonably necessary to facilitate the Owners' rights and obligations hereunder (the "Access License"), provided, that, AWWU may from time to time limit access to the Site or the AWWU Facilities temporarily only to the extent necessary to address reasonable security or safety issues and to avoid putting AWWU's public water supply at risk of interruption or contamination. To the extent that any additional access permissions from third-party landowners adjacent to the Site may be required for the Owners to exercise their rights or perform their obligations hereunder, obtaining such Approvals shall be the responsibility of the Owners, subject to AWWU's duty to assist and cooperate under Section 4.5, and provided that such assistance and cooperation with respect to such third-party approvals may require that AWWU be the first and primary point of contact with such third party in situations where AWWU has an existing easement or applicable existing relationship with such third party. AWWU shall be reimbursed for any and all of its reasonable and documented costs or expenses of providing such assistance and cooperation with respect to such third-party approvals. To the extent that AWWU adds access or other security or safety limitations to the Site, to AWWU's Portion or to the AWWU Facilities, the Owners and AWWU shall cooperate in ensuring continuous access for the Owners and their contractors to enable operation and maintenance of the Owners' Isolation Valve and the Owners' Portion, subject to the new limitations.

9.2 AWWU Access Road. AWWU shall be responsible, at its own expense, for brushing, clearing, plowing, and maintaining its access road and all bridges thereon to the AWWU Facilities, both upstream and downstream of the Facility. The Owners may use such access road

as part of its Access License granted pursuant to Section 9.1, and may, at their discretion, brush, clear, and plow the access road as needed to facilitate the Owners' access to the Facility, provided that under no circumstances shall the Owners be required to conduct such brushing, clearing or plowing.

9.3 Access Bridges. Pursuant to the Interconnection Agreement, the Owners agreed to install Access Bridges to improve Facility access and account for the additional traffic on the AWWU access road connected with the activities described in the Interconnection Agreement and this Agreement. As set forth in the Interconnection Agreement, upon completion of Access Bridge construction, the full responsibility for (and associated costs of) such bridge maintenance passes to AWWU, provided, that the Owners shall be responsible for any maintenance associated with damage caused by the Owners' gross negligence or intentional misconduct.

ARTICLE 10.
LIMITATIONS ON LIABILITY

10.1 Aggregate Limitation of Liability. Notwithstanding any other provision of this Agreement, the total aggregate liability of the Owners and the total aggregate liability of AWWU arising out of or relating to this Agreement, from any and all causes, whether based on contract, tort (including negligence), strict liability or any other cause of action, shall in no event exceed ten million dollars ($10,000,000.00) for AWWU, and ten million dollars ($10,000,000.00) for the Owners collectively, provided that such limit shall not apply in the case of such Party's (i) gross negligence or willful misconduct, (ii) third-party indemnity obligation, or (iii) breach of any representation or warranty.

10.2 CUMULATIVE REMEDIES. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, OR IF A REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY NON-EXCLUSIVE, THE NON-DEFAULTING PARTY SHALL HAVE THE RIGHT TO EXERCISE ALL RIGHTS AND REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY; PROVIDED, HOWEVER, THAT THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED.

10.3 WAIVER OF CERTAIN DAMAGES. EXCEPT WITH RESPECT TO INDEMNIFICATION OF THIRD-PARTY CLAIMS PURSUANT TO ARTICLE 11, OR AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, BUSINESS INTERRUPTION OR SIMILAR DAMAGES, WHETHER BY STATUTE, IN TORT, BY CONTRACT OR OTHERWISE.

ARTICLE 11.
INDEMNIFICATION

11.1 Indemnity. To the fullest extent permitted by Law, each Party shall indemnify, hold harmless and defend the other Party and its directors, officers, shareholders, partners, agents and employees, and the Affiliates of the same (collectively, the "Indemnified Parties"), from and against any and all claims, loss, damage, expense and liability, including court costs and reasonable

attorneys' fees (collectively, "Liabilities") incurred by the Indemnified Parties in connection with or arising from: (i) the Water Transportation Services and (ii) any claim for physical damage to or physical destruction of any part of the Facility, the AWWU Facilities, or death of or bodily injury to any person, to the extent such Liabilities were caused by the negligence of the Indemnifying Party or its agents or employees or others under such Indemnifying Party's control, except any Liabilities incurred due to the negligence or willful misconduct of an Indemnified Party. For the purpose of the definition of "Indemnified Parties" AWWU shall not be considered to be an "Affiliate" of the MOA.

11.2 Additional Owners Indemnity. To the fullest extent permitted by Law, the Owners shall indemnify, hold harmless, and defend AWWU and its Indemnified Parties from any Liabilities incurred by AWWU and its Indemnified Parties arising from damage to AWWU's water line and other infrastructure, including but not limited to its infrastructure downstream of the Facility (*i.e.* conditions caused by scouring or erosion of the river bed or banks that damage AWWU's water line and/or facilities) as a direct result of the instream water flows conveyed into the Eklutna River as part of the Water Transportation Services. The Owners shall further indemnify, defend and hold AWWU harmless from any Liabilities directly related to fish and wildlife mitigation measures and arising out of normal operation of the AWWU Facilities, the Facility, or any other facilities of AWWU, in a manner consistent with this Agreement, the Interconnection Agreement, the Water Supply Agreement, Prudent Industry Standards, the most current edition of the AWWU Design and Construction Practices Manual, the Municipality of Anchorage Standard Specifications and Anchorage Municipal Code, unless such Liabilities arose out of the negligence, violation of Law, or intentional misconduct by AWWU.

11.3 Defense of Claims. A Party with an indemnification obligation pursuant to this ARTICLE 11 (an "Indemnifying Party") shall have the right to defend the Indemnified Parties pursuant to this ARTICLE 11 by counsel of the Indemnifying Party's selection (including insurance counsel) reasonably satisfactory to the Indemnified Party, unless in the opinion of counsel for the Indemnifying Party a conflict of interest between the Parties may exist with respect to such claim. If the Indemnifying Party does not assume the defense of the Indemnified Party, or if a conflict precludes counsel for the Indemnifying Party from providing the defense, then the Indemnifying Party shall reimburse the Indemnified Party on a monthly basis for the Indemnified Party's defense through separate counsel of the Indemnified Party's choice. Even if the Indemnifying Party assumes the defense of the Indemnified Party with acceptable counsel, the Indemnified Party, at its sole option, may participate in the defense, at its own expense, with counsel of its own choice without relieving the Indemnifying Party of any of its obligations hereunder. The Parties shall give each other prompt written notice of any asserted claims or actions indemnified against hereunder and shall cooperate with each other in the defense of any such claims or actions. Without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed, no Indemnifying Party shall settle any such claims or actions in a manner that would require any action or forbearance from action by any Indemnified Party.

ARTICLE 12.
DEFAULT AND REMEDIES; TERMINATION; DISPUTE RESOLUTION

12.1 Event of Default. The following shall constitute events of default on the part of either party (each, an "Event of Default") under this Agreement:

(a) If a Party makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of such Party, or if such Party files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition of or readjustment of debts and, in the case of any such proceeding instituted against such Party (but not by such Party) such proceeding is not dismissed within sixty (60) days of such filing;

(b) If a Party fails to comply with any material terms of this Agreement not otherwise set forth as an Event of Default in this Section 12.1(b) and fails to cure or remedy such failure within thirty (30) days after notice and a written demand is made by the non-defaulting Party to the defaulting Party to cure the same or, if such failure cannot be cured within thirty (30) days, the defaulting Party fails to commence to cure such failure within thirty (30) days after such notice and written demand and thereafter diligently pursue such cure to completion, which shall in no event be later than ninety (90) days after such notice;

(c) If a Party defaults under the Water Supply Agreement or the Interconnection Agreement;

(d) If a Party fails to make any payment due hereunder within sixty (60) days after written notice from the non-defaulting Party; or

(e) If any representation or warranty of a Party in this Agreement proves to have been false or misleading in any material respect when made, and such Party has not, within thirty (30) days after written notification thereof from the non-defaulting Party, either fully remedied, or commenced and diligently pursued the remedy, of all adverse impacts on the non-defaulting Party resulting therefrom, all to the reasonable satisfaction of the non-defaulting Party.

12.2 Remedies Upon Event of Default. Upon the occurrence and continuation of an Event of Default, the non-defaulting Party shall have the right to terminate this Agreement and the Water Supply Agreement upon ten (10) days written notice and pursue any other remedy available to such non-defaulting party at law or in equity arising out of such Event of Default, including a claim for monetary damage or specific performance.

12.3 Automatic Cross-Agreement Termination. If this Agreement is terminated for any reason during the Delivery Term, the Interconnection Agreement and the Water Supply Agreement shall automatically terminate effective as of the same date of this Agreement's termination.

12.4 Termination for Failure of Conditions Precedent. If, prior to the Delivery Term, the Owners, in their reasonable discretion, decide to not construct the Facility due to the failure to achieve the Construction Start CPs as defined in the Interconnection Agreement, the Owners may terminate this Agreement without liability.

12.5 Dispute Resolution. In the event of any dispute arising under this Agreement (a "Dispute"), within ten (10) Business Days following notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies.

ARTICLE 13.
REPRESENTATIONS

13.1 General Representations and Warranties. Each Owner and AWWU hereby represents and warrants as of the Effective Date and the Delivery Term Effective Date that:

(a) It is duly organized, validly existing and in good standing under the Laws of the state of its formation and is duly qualified to do business in the jurisdiction where the Site is located.

(b) It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate, municipal, or other action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar Laws relating to the enforcement of creditors' rights generally and by general equitable principles.

(c) It is not in violation of any applicable Law, or any judgment entered by any federal, state, local or other Governmental Authority, which violations, individually or in the aggregate, would adversely affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or (to its best knowledge) threatened against it which, if adversely determined, could have a material adverse effect upon its financial condition, operations, prospects or business, as a whole, or its ability to perform under this Agreement.

(d) No authorization, approval, exemption, or consent of or by any Person is required by it in connection with the execution, delivery, and performance of this Agreement. In addition, each Party represents and warrants to the other Party that the Governmental Approvals required to be obtained by such Party either have been obtained by such Party and are in full force and effect on the date hereof or will be obtained by such Party and will be in full force and effect on or prior to the date on which they are required, under applicable Law, to be in full force and

effect, so as to permit AWWU to perform the Water Transportation Services and the parties to otherwise complete their obligations hereunder.

(e) The execution and delivery of this Agreement, the consummation of the transactions herein contemplated and compliance with the terms and provisions hereof by it will not conflict with or result in a material breach of, or require any consent under, any of its constitutive documents, or any applicable Law, or any agreement or instrument to which it is a party or by which it is bound or to which it is subject, or constitute a material default under any such agreement or instrument.

ARTICLE 14.
NOTICES

14.1 Writing. Except as set forth in Section 14.2, any notice, statement, demand, claim, offer or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be sent by email, facsimile, hand messenger delivery, overnight courier service, or certified mail (receipt requested) to the other Party as follows: (i) prior to the finalization of the Operating Procedures, such notices shall be sent to the addresses set forth in Exhibit E; and (ii) after the finalization of the Operating Procedures, such notices shall be sent to the legal notice addresses listed in such Operating Procedures. Each Party shall have the right to change the address information to which notice shall be sent or delivered or to specify additional addresses to which copies of notices may be sent, in either case by similar notice sent or delivered in like manner to the other Party, which, after the development of the Operating Procedures, shall be reflected in such Operating Procedures. All notices shall be effective upon receipt.

14.2 Technical Communications. Any technical or other communications pertaining to the Facility, the Water Transportation Services, and the Operational Work shall follow the procedures set forth in the Operating Procedures, to be updated from time to time pursuant to Section 5.2.

ARTICLE 15.

CONFIDENTIALITY; PUBLIC STATEMENTS

15.1 Confidentiality. The Parties agree that the Parties' proposals, communications, negotiations and information exchanged prior to the Effective Date concerning this Agreement and the development thereof, and technical and other information regarding or relating to the Facility, the AWWU Facilities, the Access Bridges, and the provision of the Water Transportation Services exchanged between the Parties that is marked, or otherwise clearly communicated to the receiving Party as "Confidential" constitutes "Confidential Information" of the disclosing Party. The Owners and AWWU each agree to hold such Confidential Information wholly confidential. Such Confidential Information may only be used by the Parties for the purposes related to the approval, or administration or enforcement of this Agreement.

15.2 Disclosure. Each Party agrees not to disclose Confidential Information of the other Party to any other Person (other than its Affiliates, counsel, consultants, lenders, partners, members, employees, officers and director, and then only to Persons subject to similar

confidentiality restrictions as those set forth herein), without the prior written consent of the other Party, provided, that, either Party may disclose Confidential Information, if such disclosure is required by Law, including without limitation, pursuant to an order of a court or regulatory agency or in order to enforce this Agreement or to seek approval of this Agreement. In the event a Party is required by Law or a Governmental Authority to disclose Confidential Information, such Party, prior to such disclosure, shall provide reasonable advance notice to the other Party of the time and scope of the intended disclosure in order to permit such disclosing Party the opportunity to obtain a protective order or otherwise seek to prevent or limit the scope or otherwise impose conditions upon such disclosure.

15.3 Injunctive Relief. Each Party agrees that violation of the terms of Sections 15.1 and 15.2 constitutes irreparable harm to the other, and that the harmed Party may seek any and all remedies available to it at law or in equity, including but not limited to injunctive relief.

15.4 Release of Agreement. The Parties agree that this Agreement, upon execution, shall not be considered Confidential Information. Except as required by Law, releasing the Agreement to the public shall be the sole responsibility of the Owners, to be released in the manner at a time decided in their sole discretion.

ARTICLE 16.
MISCELLANEOUS

16.1 Reasonability. The Parties shall act in a reasonable manner and in accordance with principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement and whether or not stated: (a) where this Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned, or delayed; and (b) wherever this Agreement gives a Party a right to determine, require, request, specify, or take similar action with respect to a matter, such determination, requirement, request, specification, or similar action must be reasonable.

16.2 Entire Agreement. This Agreement, together with all Schedule and Exhibits hereto, embodies the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties, verbal or written, relating to the subject matter hereof.

16.3 Waiver. Any waiver of the provisions of this Agreement must be in writing and shall not be implied by any usage of trade, course of dealing or course of performance. No exercise of any right or remedy by AWWU or the Owners constitutes a waiver of any other right or remedy contained or provided by Law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance hereunder shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

16.4 Assignment. Neither Party shall assign this Agreement or any of its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party,

without relieving itself from liability hereunder, and without the need for consent from the other Party provided that any such assignee shall agree to be bound by all terms and conditions hereof, may transfer, pledge or assign this Agreement: (a) to any person or entity succeeding to all or substantially all of the assets of the assigning Party; or (b) to a successor entity in a merger or acquisition transaction. Any assignment made in contravention of this Section 16.4 shall be void and unenforceable.

16.5 Governing Law; Submission to Jurisdiction; Venue; No Jury Trial.

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALASKA, EXCLUDING ANY CHOICE OF LAW RULES.

(b) Submission to Jurisdiction, Venue. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its Affiliates or designees) with respect to or arising out of this Agreement shall be brought exclusively in the courts of the State of Alaska, in the Municipality of Anchorage, as the Party instituting such suit, action or other legal proceeding may elect, provided that claims related to federal water rights, federal legislation enabling the Facility or AWWU Facilities, or the 1991 Agreement may be brought in the United States District Court for the District of Alaska. By execution and delivery of this Agreement, each Party (for itself, its Affiliates and its designees) irrevocably and unconditionally consents and submits to the exclusive jurisdiction of such courts and the appellate courts therefrom, and waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding. The Parties irrevocably consent to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, first class postage prepaid to the addresses set forth in Section 14.1.

(c) No Jury Trial. EACH OF THE PARTIES HEREBY WAIVES ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) Duty to Proceed. Pending final resolution of any Dispute, the Owners and AWWU shall continue to fulfill their respective obligations hereunder that are not the subject of the Dispute.

16.6 Construction. This Agreement is to be construed so as to effectuate the normal and reasonable expectations of a sophisticated buyer and seller of the equipment and services covered by this Agreement and shall not be construed either for or against either Party. No provision of this Agreement shall be construed or interpreted for or against either Party because such Party drafted or caused its legal representative to draft the provision.

16.7 Headings. The titles or headings of the various sections, articles and paragraphs hereof are intended solely for convenience and ease of reference and are not intended, and are not to be deemed for any purpose, to modify or explain or place any interpretation or construction upon any of the provisions of this Agreement.

16.8 Status of the Parties. AWWU and its Subcontractors shall be independent contractors to the Owners with respect to the Water Transportation Services and neither the AWWU nor its Subcontractors, nor the employees or agents of either, shall be deemed to be the employees, representatives or agents of the Owners in connection with any matter relating to this Agreement. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties.

16.9 Status of Individual Owners. Each of the Owners shall be jointly and severally liable for the obligations of the Owners under this Agreement. The delineation of specific responsibilities set forth hereunder as among the Owners shall be at the sole discretion of the Owners, not AWWU. If at any time, the Owners agree that one or two of the Owners need no longer be party to this Agreement, such unnecessary Owner(s) may be removed as parties to this Agreement upon written notice to AWWU, if agreed, and shall retain no liability upon removal, with the remaining Owner(s) automatically assuming the full obligations of the Owners hereunder. If an Event of Default exists hereunder at any time with respect to an Owner, it shall be considered an Event of Default with respect to the Owners together as one Party hereunder, provided, that if another Owner agrees to assume such defaulting Owner's obligations under this Agreement by removing such Owner as a party pursuant to the preceding sentence of this Section 16.9 prior to the expiration of any applicable cure period, this shall not be considered an Event of Default hereunder.

16.10 Insurance. Throughout the Delivery Term, the Owners shall maintain the required insurance policies as set forth on Exhibit D-1 and AWWU shall maintain the required insurance policy as set forth on Exhibit D-2.

16.11 No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of the Owners and AWWU, and their permitted successors and assigns, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

16.12 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take all further action, as may be reasonably necessary to complete performance by the Parties hereunder and to effectuate the purposes and intent of this Agreement.

16.13 Amendments. No change, amendment or modification of this Agreement shall be valid or binding upon the Parties unless such change, amendment or modification shall be in writing and duly executed by the Parties.

16.14 Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provision of this Agreement and all other provisions will remain in full force and effect.

16.15 Conflicting Provisions. In the event of any conflict between this document and any Schedule or Exhibit attached hereto, the terms and provisions of this document, as amended from time to time, shall control. In the event of any conflict among the Exhibits, the Exhibit of the latest date mutually agreed to by the Parties shall control.

16.16 Survival. The provisions of ARTICLE 1, ARTICLE 7, ARTICLE 10, ARTICLE 11, ARTICLE 12, ARTICLE 13, ARTICLE 14, and ARTICLE 16 shall survive termination of this Agreement for any reason.

16.17 Counterparts. This Agreement may be executed in any number of separate counterparts and delivered by electronic means, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

[***Remainder of page intentionally left blank***]

IN WITNESS WHEREOF, the Parties have caused this Long-Term Water Transportation Agreement to be executed by their duly authorized representatives as of the Effective Date.

AWWU/SERVICE PROVIDER:

ANCHORAGE WATER AND WATERWATER UTILITY, A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: Municipal Manager

By: _____

Name: _____

Title: General Manager

OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MATANUSKA ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: _____

Schedule 1.1

Definitions

"1991 Agreement" means that certain Agreement between the Municipality of Anchorage, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., the United States Fish and Wildlife Service, the National Marine Fisheries Service, the State of Alaska, and the Alaska Energy Authority Relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991.

"Access Bridges" means those bridges installed by the Owners on the Eklutna River pursuant to the terms of the Interconnection Agreement.

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with such first Person. For purposes of this definition and the Agreement, the term "control" (and correlative terms) means (1) the ownership of 50% or more of the equity interest in a Person, or (2) the power, whether by contract, equity ownership or otherwise, to direct or cause the direction of the policies or management of a Person.

"Access License" has the meaning set forth in Section 9.1.

"Agreement" has the meaning set forth in the Preamble, and shall include all Exhibits and Schedules hereto.

"Approvals" means Governmental Approvals and third-party approvals.

"AWWU" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of AWWU.

"AWWU Design and Construction Practices Manual" means the edition dated _____, 20__, as updated and amended from time to time.[2]

"Event of Default" has the meaning set forth in Section 12.1.

"AWWU's Isolation Valve" has the meaning set forth in Exhibit A-1.

"AWWU Facilities" has the meaning set forth in the Recitals.

"AWWU's Portion" has the meaning set forth in Exhibit A-1.

"AWWU's Water Permit" means that permit belonging to AWWU (LAS 2569) to use Owners' Water Rights for up to 41 MGD for public water supply pursuant to the Act of October

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[2] **Note to Accompany Final Draft**: To be populated after Governor approval and prior to execution to reflect the most up to date version.

30, 1984, 98 Stat. 2823, as may be replaced as described in Section 3.1 of the Water Supply Agreement.

"AWWU's Water" means any and all water belonging to AWWU pursuant to AWWU's Water Permit.

"Business Day" means any day other than a Saturday, Sunday or legal holiday in the state of Alaska.

"Chugach" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of Chugach.

"Confidential Information" has the meaning set forth in Section 14.1.

"Cost Responsibility Proportion" shall mean, with respect to each Owner, the percentage of the total applicable Eklutna Hydroelectric Project costs that such Owner is obligated to pay as agreed to by the Owners, which as of the Effective Date shall be, with respect to MOA, 19.05%, with respect to Chugach, 64.28%, and with respect to MEA, 16.67%, and which may be changed hereunder upon agreement between the Owners at any time.

"Curtailment Duration" means, with respect to a curtailment in Water Transportation Services during an Excused Event, the duration of such curtailment.

"Curtailment Limit" means, with respect to each day of the Delivery Term where there exists an Excused Event, the amount of Owners' Water in MGD that can be transported to the Delivery Point on such day. For the avoidance of doubt, this amount can equal zero (0) MGD.

"Day" or "day" means a calendar day, unless expressly specified otherwise.

"Delivery Point" has the meaning set forth in Exhibit A-1 and is depicted on the schematic included as part of Exhibit B.

"Delivery Point Meter" has the meaning set forth in Exhibit A-1.

"Delivery Term" has the meaning set forth in Section 2.1.

"Delivery Term Effective Date" has the meaning set forth in Section 2.1.

"Dispute" has the meaning set forth in Section 12.5.

"Effective Date" has the meaning set forth in the Preamble.

"Eklutna Hydroelectric Project" means the Eklutna Hydroelectric Project initially authorized, constructed and operated pursuant to the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended), including any and all property and facilities acquired or used in connection therewith, all of which was then sold to the Owners by the United States of America on October 2, 1997.

"Eklutna Water Treatment Facility" means the water treatment plant owned by AWWU located alongside the Eklutna River.

"Event of Default" has the meaning set forth in Section 12.1.

"Excused Event" means a Planned Outage, a Forced Outage, or an Force Majeure Event causing a reduction or suspension of the Water Transportation Services.

"Facility" has the meaning set forth in the Recitals.

"Final Acceptance" has the meaning set forth in the Interconnection Agreement.

"Fish and Wildlife Program" has the meaning set forth in the Recitals.

"Force Majeure Event" means the occurrence of any act or event beyond the reasonable control of the Party affected that prevents the affected Party from performing its obligations under this Agreement, in full or part, if such act or event is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums), including the following: drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a Governmental Authority. Notwithstanding the foregoing, Force Majeure Events shall expressly not include mechanical or equipment failures (except to the extent any such failure is itself caused by a Force Majeure Event), diminution in water quality in Eklutna Lake, Planned Outages, or Forced Outages (unless such Forced Outage is caused by a Force Majeure Event).

"Forced Outage" means; (i) any unplanned necessary reduction or suspension of Water Transportation Services available from the Facility; or (2) any other unavailability of the AWWU Facilities of Facility in whole or in part, each in response to an equipment malfunction or other emergency condition determined by AWWU in its reasonable discretion to be a threat to any AWWU Facilities. For the sake of clarity, forced outages in AWWU infrastructure downstream of the Isolation Valve Structure are not considered a Forced Outage.

"Governmental Approvals" means all authorizations, consents, licenses, leases, rulings, certifications, registrations, exemptions, permits, certificates, and approvals from any Governmental Authority.

"Governmental Authority" means any federal, state or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the performance of the Water Transportation Services, the Operational Work, the Facility or its operations, or the health, safety or environmental conditions of the Site or otherwise over the Parties' rights and obligations under this Agreement.

"Indemnified Parties" has the meaning set forth in Section 11.1.

"Indemnifying Party" has the meaning set forth in Section 10.4.

"Initial Delivery Term" has the meaning set forth in Section 3.1.

"Injection Point" means the point where AWWU Facilities meet facilities owned by the Owners near the outlet of the Eklutna Lake, where AWWU receives all of AWWU's Water from Eklutna Lake, as depicted in the schematic included as part of Exhibit B.

"Interconnection Agreement" has the meaning set forth in the Recitals.

"Injection Point Flow Meter" means a meter measuring the flow of water passing into AWWU Facilities at the Injection Point.

"Isolation Valve Structure" has the meaning set forth in Exhibit A-1.

"Isolation Valves" has the meaning set forth in Exhibit A-1.

"Law" means any constitution, charter, act, statute, law, ordinance, code, rule, regulation, order, specified standards or objective criteria contained in any applicable permit or approval (which standards or criteria must be met in order for the Water Transportation Services or Operational Work to be performed lawfully) or other legislative or administrative action of any Governmental Authority or a final decree, judgment or order of a court or tribunal.

"Liabilities" has the meaning set forth in Section 11.1.

"MEA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MEA.

"MGD" means millions of gallons per day.

"MOA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MOA.

"Monthly Water Release Schedule" has the meaning set forth in Section 3.2.

"Operating Procedures" has the meaning set forth in Section 5.1.

"Operational Work" means all phases of AWWU and the Owners' performance of their obligations under this Agreement to operate and maintain the Facility and the AWWU Facilities.

"Owners" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of the Owners.

"Owner" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of such Owner.

"Owners' Isolation Valve" has the meaning set forth in Exhibit A-1.

"Owners' Approvals" has the meaning set forth in Section 4.4.

"Owners' Portion" has the meaning set forth in Exhibit A-1.

"Owners' Water Rights" means that certain senior priority water rights held by the Owners for the water in Eklutna Lake for use in generating power for the Eklutna Hydroelectric Project as described in water rights certificate ADL 44944.

"Owners' Water" means any and all water belonging to the Owners pursuant to the Owners' Water Right.

"Party" and "Parties" has the meaning set forth in the Preamble.

"Person" means any individual, partnership, corporation, limited liability company, association, business, trust, government or political subdivision thereof, Governmental Authority or other entity.

"Planned Outage" means the removal of Facility equipment from service availability for inspection and/or overhaul or repair in such a way that requires a reduction or halt in flow of Owners' Water through the AWWU Facilities to the Delivery Point. For the sake of clarity, planned outages in AWWU infrastructure downstream of the Isolation Valve Structure are not considered a Planned Outage. To qualify as a Planned Outage, the maintenance (a) must actually be conducted during the Planned Outage, and in AWWU's reasonable discretion must be of the type that is necessary to reliably maintain the Facility or the AWWU Facilities, and (b) cannot be reasonably conducted during normal Facility or AWWU Facilities' operations.

"Prudent Industry Standards" means those standards of care and diligence normally practiced by water transportation infrastructure operation and maintenance firms in performing services of a similar nature in a similar jurisdiction in which the Water Transportation Services and Operational Work will be performed. Prudent Industry Standards are not intended to be limited to optimum practice or methods, but rather to be a spectrum of reasonable and prudent practices and methods that must take the conditions specific to any water transportation facility under consideration.

"River Release Structure" has the meaning set forth in Exhibit A-1.

"Site" means the location of the Facility as further described and depicted in Exhibit B.

"Subcontractor" means any Person with whom the Owners, or any Owner, enters into an arrangement for the performance of any portion of the Water Transportation Services or Operational Work, including Persons at any tier with whom any Subcontractor has further subcontracted any portion of the Water Transportation Services or Operational Work, and the legal or personal representatives, successors, and assigns of such Person.

"Term" has the meaning set forth in Section 2.1(a).

"Water Release Limits" has the meaning set forth in Section 3.1.

"Water Supply Agreement" has the meaning set forth in the Recitals.

"Water Transportation Services" has the meaning set forth in Section 3.1.

Exhibit A

Eklutna River Release Facility Description and Definitions[3]

The ***"Eklutna River Release Facility"*** shall consist of an Isolation Valve Structure and the River Release Structure.

The "***Isolation Valve Structure***" shall include:

- a new tee to be built in the AWWU pipeline downstream of the AWWU tunnel/pipeline transition and upstream of the AWWU portal valve (the "***Delivery Point***")
- A 54-inch gate valve on the main segment of AWWU pipeline intended to provide dual means of isolation for AWWU's pipeline segment ("***AWWU's Isolation Valve***")
- A 42-inch gate valve on the branch segment of AWWU pipeline intended to provide isolation to the river release structure ("***Owners' Isolation Valve***", together with AWWU's Isolation Valve, the "***Isolation Valves***").
- Related controls and communication technology to be installed by the Owners in the main line of the AWWU Facilities.

The "***River Release Structure***" shall include:

- [A new pipeline from the Isolation Valve Structure to the Eklutna River]
- Control valves
- A new meter installed at the Delivery Point ("***Delivery Point Meter***")
- Monitoring and control equipment to be installed by Owners [*describe where]*.

"***AWWU's Portion***" of the Facility shall consist of the Isolation Valve Structure [and _____]

The "***Owners' Portion***" of the Facility shall consist of the River Release Structure [and _____]

---

[3] **Note to Accompany Final Draft**: This Exhibit will be revised and finalized by Owners to reflect the proposal approved by the Governor and prior to signing.

Exhibit B[4]

Description and Schematic of Site, AWWU Facilities, and Injection Point and Delivery Point

[4] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit C

Owners' Approvals[5]

[5] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit D-1[6]

Owners' Insurance Requirements

[6] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit D-2[7]

AWWU's Insurance Requirements

[7] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit E[8]

Initial Notice Information

If delivered to the Owners, to them at	Chugach Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Matanuska Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____]
If delivered to AWWU, to it at	Anchorage Water and Wastewater Utility, a department of the Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____]

[8] **Note to Accompany Final Draft**: To be populated immediately prior to execution, after Governor approval, as such information is subject to change.

ATTACHMENT C

PUBLIC WATER SUPPLY AGREEMENT

Confidentiality Waived – 4/25/2024

Execution Version

PUBLIC WATER SUPPLY AGREEMENT

by and between

Anchorage Water and Wastewater Utility

as

Service Provider

And

Chugach Electric Association, Inc,

Matanuska Electric Association, Inc., and the Municipality of Anchorage

as

Owners

Dated as of [_____][1]

---

[1] **[Note to Accompany Final Draft**: This Agreement has been form agreed as between the Parties but will not be signed by the MOA until after Governor approval of the Fish and Wildlife Program has occurred and such signatures have been authorized by the Anchorage Assembly. Prior to execution, this footnote can be deleted from the draft.]

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PUBLIC WATER SUPPLY AGREEMENT

This PUBLIC WATER SUPPLY AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered into by and between Anchorage Water and Wastewater Utility ("AWWU"), and Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("MEA"), and the Municipality of Anchorage ("MOA") (each of Chugach, MEA, and MOA is an "Owner" and collectively they are referred to as the "Owners"). The Owners and AWWU are sometimes referred to herein as a "Party" or collectively as the "Parties".

RECITALS

WHEREAS, the federal Alaska Power Administration ("APA") originally developed, owned and operated the Eklutna Hydroelectric Project, which began operations in 1954 for the production of electric power that APA sold to electric utilities serving the Anchorage and Matanuska Valley areas;

WHEREAS, as then-owner of the Eklutna Hydroelectric Project assets, the APA possessed senior water rights (both federal reserved water rights and water rights granted under State of Alaska law), with a priority date of 1954, to all the water that may be feasibly appropriated from Eklutna Lake for use in generating electric power for the Eklutna Hydroelectric Project as reflected in water rights certificate ADL 44944 ("Project Water Rights");

WHEREAS, in the 1980s, AWWU:

(i) determined that Eklutna Lake was a necessary source of water for the City of Anchorage;

(ii) entered into that certain "Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska" with APA, dated February 17, 1984, as amended (the "1984 Agreement"), which among other things provides terms and conditions relating to (i) AWWU facility interconnection to Eklutna Hydroelectric Project; and (ii) the compensation by AWWU to the Owners for AWWU's diversion of water for public water supply that reduces the Project Water Rights otherwise available for use to generate energy at the Eklutna Hydroelectric Project;

(iii) obtained: (1) "preferred use status" from the Alaska Department of Natural Resources ("DNR") through an application that demonstrated the need for AWWU to take prior-appropriated water for public water supply purposes and which is conditioned upon the validity and existence of the 1984 Agreement (the "Preferred Use Status") pursuant to Alaska Statute 46.15.150(b); (2) a permit (LAS 2569) to use Project Water Rights for up to 41 million gallons per day for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823, (the "AWWU Water Permit"); and

(iv) constructed and began operations of the water project diverting water from the Eklutna Hydroelectric Project intake tunnel to AWWU's water system (the "AWWU Water Project");

WHEREAS, the 1984 Agreement remains in effect "until the year 2025" and the AWWU Water Permit expires on December 31, 2025;

WHEREAS, in October 1997, the Owners purchased from APA the Eklutna Hydroelectric Project and all related project assets, including Project Water Rights and became parties to the 1984 Agreement through assignment (the "Owners' Facilities");

WHEREAS, pursuant to the 1991 Agreement (as defined below), the Owners have studied and developed a Fish and Wildlife program to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Eklutna Hydroelectric Project centered on establishing instream flows in the Eklutna River as part of the implementation of the Fish and Wildlife Program (the "Fish and Wildlife Program");

WHEREAS, in order to establish such instream flows, the Owners and AWWU have negotiated two agreements: (1) a Water Facilities Interconnection Agreement (the "Interconnection Agreement"), which shall govern the construction and interconnection of the Parties' respective facilities for conveyance of water from the Eklutna Lake to the Eklutna River using AWWU facilities; and (2) a Long-Term Water Transportation Services Agreement (the "Transportation Agreement"), which shall govern the provision of conveyance services for transporting water from the Eklutna Lake to the Eklutna River;

WHEREAS, in coordination and joint consideration with the Interconnection Agreement and the Transportation Agreement, the Parties desire to enter into this Agreement in order to replace the 1984 Agreement and set forth new terms and conditions relating to (i) the compensation from AWWU to the Owners for AWWU's use of the Project Water Rights in accordance with Alaska Statute 46.15.150 and; (ii) the extension of other future rights to AWWU; and

NOW, THEREFORE, in consideration of the premises of this Agreement, the Transportation Agreement, and the Interconnection Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners and AWWU, intending to be legally bound, hereby agree as follows:

ARTICLE I
DEFINITIONS; INTERPRETATION

Section 1.1 Defined Terms. Capitalized terms used in this Agreement without other definition shall have the meanings set forth in Schedule 1.1, unless the context requires otherwise.

Section 1.2 Interpretation. As used in this Agreement, the terms "herein," "herewith" and "hereof" are references to this Agreement, taken as a whole; the terms "includes" or "including" shall mean "including, without limitation"; and references to a "Section," "Article", "Exhibit" or "Schedule" shall mean a Section, Article, Exhibit or Schedule of this Agreement, as the case may be, unless in any such case the context requires otherwise. All references to a given Exhibit, Schedule, agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made. A reference to a Person includes its permitted successors and permitted assigns. The singular shall include the plural and the masculine shall include the feminine and neuter, and vice versa.

ARTICLE II
EFFECTIVE DATE; TERM

Section 2.1 Effective Date. This Agreement shall become binding on the Parties on the Effective Date, subject to Section 2.2.

Section 2.2 Conditions Precedent. The rights and obligations of the Parties as set forth in Articles III – VI in this Agreement shall not be effective until the achievement of the following conditions precedent (the "Conditions Precedent"), a written notice of which shall be sent to AWWU by Owners:

(a) The Owners receive final approval from the Governor of Alaska, with such approval for a Fish and Wildlife Program that requires the use of the AWWU Facilities for instream flows as contemplated in this Agreement, provided that such approval includes no unexpected conditions materially adverse to the Owners or to AWWU, as determined in good faith by the Parties and in the exercise of commercially reasonable business judgment, and neither the approval from the Governor of Alaska nor the Fish and Wildlife Program is subject to any pending judicial review or appeal;

(b) Owners and AWWU obtain and provide evidence of lawful water rights from DNR for the use and transport of water as contemplated under the Agreement, including but not limited to a renewal, extension, or replacement of the AWWU Water Permit, Preferred Use Status, and all other approval(s) authorizing continued use of the Owners' Water Rights by AWWU;

(c) Chugach obtains final Regulatory Commission of Alaska ("RCA") approval of its applicable tariff rates necessary to implement the compensation outlined in Section 3.2 below pursuant to, and in a manner consistent with, Section 6.23 of the MOA-Chugach APSA as such terms are defined therein; and

(d) The Interconnection Agreement and the Transportation Agreement are in full force and effect and are valid, binding and enforceable against AWWU and the Owners in accordance with their terms.

Section 2.3 Failure to Achieve Conditions Precedent. In the event that this Agreement does not become fully effective (i) due to the failure to achieve the Conditions Precedent as set forth in Section 2.2 by [June 1, 2025], or (ii) because the Governor of Alaska approves a Fish and Wildlife Program that does not require the use of the AWWU Facilities for instream flows as contemplated in this Agreement, then: (A) this Agreement will be terminated upon thirty (30) days' written notice by either Party (B) the automatic cross-agreement termination provisions of Section 10.3 shall apply; and (C) the Parties shall meet promptly to negotiate in good faith an alternate agreement to replace the 1984 Agreement that expires in 2025 with terms and conditions that include but are not limited to adequate compensation, risk mitigation, potential transfer or purchase of water rights, and other terms and conditions then deemed appropriate by the Parties without prejudice due to the prior existence, or the subsequent termination, of this Agreement.

Section 2.4 Term. Unless agreed to otherwise by the Parties, this Agreement will continue in full force and effect starting on the Effective Date and terminating on October 30, 2060, subject to any early termination provision set forth herein (the "Term").

Section 2.5 Effect on 1984 Agreement. The Parties intend that, upon thirty (30) days' written notice by the Owners of the achievement of the Conditions Precedent as set forth in Section 2.2, this Agreement shall become fully effective and replace the 1984 Agreement in its entirety, and the 1984 Agreement will be terminated.

ARTICLE III
WATER USE AND COMPENSATION

Section 3.1 Water Use. The Owners shall make available and allow AWWU to continue to interconnect the AWWU Water Project to the Eklutna Hydroelectric Project, use the project's intake, tunnel, and other Owners' Facilities necessary to divert and use a portion of Project Water Rights up to 41 million gallons per day for public water supply purposes in a manner consistent with AWWU's Preferred Use Status, the AWWU Water Permit, and Alaska Statute 46.15.150(b). The Parties understand that after the Effective Date, AWWU may initiate a process to replace all or part of the AWWU Water Permit with a certificated water right under Alaska Statute 46.15. The Owners consent to such conversion provided that AWWU's certificated water right does not exceed 41 million gallons per day for public water supply purposes, such certification is subject to all requirements of Alaska Statute 46.15.150 and any and all regulations implementing AWWU's Preferred Use Status, and AWWU remains committed to compensate Owners for such water as set forth in Section 3.2 below.

Section 3.2 Compensation.

(a) Compensation. Subject to the limitation in subsection (b) below, AWWU and the MOA shall compensate the Owners for all reductions in electrical energy generation at the Eklutna Hydroelectric Project, costs, and losses that result from water diversions for the AWWU Water Project as set forth in Exhibit A (collectively, the "Replacement Energy"). The compensation paid by AWWU for the Replacement Energy shall be both in kind through electrical energy recovered by AWWU at the Eklutna Water Treatment Facility ("EWTF") in excess of AWWU's own needs at the EWTF ("Recovered Electrical Energy"), and in cash payments (the cash portion shall be referred to as the "Replacement Energy Payment(s)"). The Recovered Electrical Energy shall act as an offset to the Replacement Energy Payment obligations. All costs associated with such deliveries of Recovered Electrical Energy, including metering, will be borne by AWWU.

(b) Compensation Limitations and Procedures. The compensation owed to the Owners by AWWU, calculated and accounted for as set forth in Exhibit A and Section 3.2(a), shall be subject to the following limitations: (a) in no event shall the Replacement Energy Payment owed and payable to Chugach by AWWU exceed six hundred thousand dollars ($600,000) per year in value in aggregate, as such amount will be adjusted annually for inflation reflected in the Bureau of Labor Statistics' Consumer Price Index; (b) in no event shall any such compensation be required in the event that the Owners permanently cease operations of the Eklutna Hydroelectric Project; and (c) in no event shall any such compensation be required in the event of a transfer of a priority water right from the Owners to AWWU as contemplated in Article VI. For the purposes of clarity, the words "total compensation owed and payable to Chugach by AWWU," in the preceding sentence applies to the Replacement Energy Payment and specifically includes the independent in-kind compensation through the Recovered Electrical Energy. The Recovered Electrical Energy shall not include any power generated by AWWU at any location other than the EWTF, which

power generated at other locations may be sold by AWWU as co-generated power. Notwithstanding the foregoing limitation on compensation to be paid by AWWU, nothing in this Agreement is intended to change the MOA's obligations set forth in any of: (i) the MOA-Chugach Eklutna PPA; (ii) Section 6.23 of the MOA-Chugach APSA; and (iii) the MOA-MEA Eklutna PPA. In any month of the Term, to the extent that AWWU does not fully compensate Chugach for the total amount of Replacement Energy in such month due to application of the AWWU compensation cap set forth above, such matters will be resolved among the Owners and the MOA will make Chugach whole as outlined in Exhibit A.

(c) Costs. Other than the compensation for water diversions set forth in Sections **Error! Reference source not found.** and (b) above, all costs borne initially by each Party in connection with the exercising of its respective rights and the performance of its respective obligations under this Agreement shall be the responsibility of such Party initially incurring such costs. In partial consideration of the costs to Owners incurred in maintaining its facilities necessary for AWWU to continue to interconnect to Eklutna Hydroelectric Project, and to divert and use a portion of Project Water Rights under this Agreement for the benefit of the AWWU, the Parties entered into the Transportation Agreement for the same duration as this Agreement, pursuant to which AWWU will provide conveyance services for transporting water from the Eklutna Lake to the Eklutna River at no cost to Owners.

ARTICLE IV
OWNERS' RESPONSIBILITIES

Section 4.1 Reservoir Operations. Subject to the terms herein, Owners shall retain full authority and responsibility to operate the Eklutna Hydroelectric Project and manage and allocate water in Eklutna Lake in accordance with ADL 44944 and the requirements of the Eklutna Hydroelectric Project.

Section 4.2 Assurance of Water Project Allocation, Quality, and Access. Subject to the terms herein, Owners will operate the Eklutna Lake reservoir in such a manner that the projected allocations of water to the AWWU Water Project are available to MOA upon request at a flow rate of at least 41 MGD to the EWTF at a pressure sufficient to allow normal operation of the EWTF as currently configured. The Owners will take no action regarding Eklutna Lake that has the effect of reducing the quality or increasing the turbidity of the lake water from those conditions which exist as of the Effective Date; nor will the Owners take or authorize any other action with regard to Eklutna Lake that may have the effect of reducing its present suitability for use as a source of public water supply. This Section 4.2 is not intended to preclude or inhibit maintenance and repair activities determined to be necessary by the Owners, nor does it apply to the management of the lake surface and surrounding areas for public recreation, which is outside the scope of this Agreement. For the avoidance of doubt, the Owners shall ensure continued use and access to AWWU of the Owners' Facilities that are necessary to supply water to the AWWU Facilities to the extent that Owners' Facilities continue in commercial operation.

ARTICLE V
AWWU RESPONSIBILITIES

Section 5.1 Compensation. AWWU shall compensate the Owners as set forth in Section 3.2(a) subject to the limitation in Section 3.2(b). To the extent that the total compensation owed to the Owners by AWWU under Section 3.2 is not satisfied by the netting against the MOA's ownership share of the water used in the Eklutna Hydroelectric Project, AWWU will pay the Owners directly within thirty (30) days of receipt of invoice.

Section 5.2 Maintenance, Repair, and Material Modifications to AWWU Water Project.

(a) AWWU Water Project. To the extent AWWU must perform maintenance, repairs, or make any material modification to the AWWU Water Project that adversely affects the Eklutna Hydroelectric Project, prior to the commencement of such action, AWWU shall furnish to the Owners copies of all plans, specifications, and schedules regarding such work. AWWU shall coordinate with the Owners all such activities in order to avoid or minimize disruption of the Owner's activities at the Eklutna Hydroelectric Project, to the maximum extent possible. AWWU will take commercially reasonable steps to minimize any of its actions set forth in this subsection that may adversely affect energy generation from the Eklutna Hydroelectric Project. AWWU shall reimburse the Owners, by payment of lost revenues to the Owners or by Replacement Energy, as may be mutually agreed by the Parties, for any such losses incurred by the Owners that are attributable to such maintenance or material modifications of the AWWU Water Project that impacts the Eklutna Hydroelectric Project, such as maintenance or material modifications to the project's intake tunnel connected to Eklutna Lake.

(b) AWWU Water Project Interconnection. Notwithstanding Section 5.2, AWWU shall obtain specific plan approval from the Owners before initiating any material modification on any existing facilities for the delivery of water from the Eklutna Hydroelectric Project to the AWWU Water Project, including any facilities that are interconnected to the present Owners' water intake tunnel. AWWU will take commercially reasonable steps to minimize any of its actions set forth in this subsection that may adversely affect energy generation from the Eklutna Hydroelectric Project.

ARTICLE VI
RIGHTS UPON CEASING OPERATIONS OR TERMINATION

Section 6.1 Right of First Offer. If the Owners elect to permanently cease operations of the Eklutna Hydroelectric Project, the Owners shall provide written notice to AWWU of such intention. For a period of six (6) months after such notice, neither Owners nor their successors and assigns, nor their respective Affiliates, shall enter into an obligation or agreement to sell or transfer the Eklutna Hydroelectric Project, unless the (i) Owners first offer, in writing, to sell to AWWU that portion of Owners' Facilities that are necessary to supply water from Eklutna Lake to the AWWU Facilities; and (ii) AWWU declines to purchase such portion of Owners' Facilities within thirty days after notification of the offer to sell. If, within thirty days after notification of the offer to sell, AWWU indicates a good faith intention to purchase such portion subject to a need for ongoing review, then this shall trigger an additional 90-day period during which the Parties shall meet and negotiate in good faith terms and conditions then deemed appropriate and the

Owners shall in good faith provide necessary documentation to facilitate such review. If at the end of such 90-day period, AWWU has not yet purchased such portion, then the Owners shall be permitted to pursue other options for the transfer of the Eklutna Hydroelectric Project.

Section 6.2 Option to Acquire Owners' Water Rights and Termination. Upon the earlier of October 31, 2055, or the MOA's sale of its interests in the Eklutna Hydroelectric Project, AWWU may exercise an option to acquire sole ownership of a portion of the Owners' first-priority water rights that is then operative and reflected in the AWWU Water Permit and any subsequent certificate, which shall in no event exceed 41 million gallons per day, by quitclaim deed or other then-acceptable means of transfer, in exchange for relinquishing its AWWU Water Permit and Preferred Use Status (and associated legal rights) as no longer being legally functional or operative; provided, however, that AWWU shall (a) issue a written notice to the Owners of its intention to exercise such option no later than October 30, 2050; (b) prepare all legal documents necessary to transfer such water rights from the Owners to AWWU (subject to Owners' review and approval prior to execution); and (c) obtain all required Governmental Approvals to effectuate such acquisition at AWWU's sole cost and expense (the "AWWU Option"). Upon closing of the AWWU Option, this Agreement and the Parties' obligations hereunder shall terminate except for the right of first offer in Section 6.1 above, which shall survive and continue while Owners continue operations of the Eklutna Hydroelectric Project.

ARTICLE VII
TITLE; LOSS OR DAMAGE; FORCE MAJEURE

Section 7.1 Title.

(a) Legal title to and ownership of the Owners' Facilities, including Owners' Water Rights, shall remain with Owners throughout the Term of this Agreement, free and clear of any and all liens, claims, security interests or other encumbrances imposed by AWWU.

(b) Legal title to and ownership of the AWWU Facilities, including the AWWU Water Permit, and any resulting certificate of appropriation, shall remain with AWWU throughout the Term of this Agreement.

Section 7.2 Force Majeure. Each Party shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, if and to the extent that such Party's failure of, or delay in, performance is due to a Force Majeure Event; provided, that:

(a) such Party gives the other Party prompt written notice describing the particulars of the Force Majeure Event as soon as is reasonably practicable after becoming aware of the occurrence of the Force Majeure Event;

(b) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(c) no obligations of the affected Party that arose before the occurrence of the Force Majeure Event causing the suspension of performance shall be excused as a result of such Force Majeure Event, unless and only to the extent that the performance of such obligations is impaired by the Force Majeure Event;

(d) the Party uses diligent commercially reasonable efforts to overcome or mitigate the effects of the Force Majeure Event; and

(e) when the Party is able to resume performance of its obligations under this Agreement, such Party shall give the other Party written notice to that effect and shall promptly resume performance hereunder.

ARTICLE VIII
LIMITATIONS ON LIABILITY

Section 8.1 Aggregate Limitation of Liability. Notwithstanding any other provision of this Agreement, the total aggregate liability of the Owners and the total aggregate liability of AWWU arising out of or relating to this Agreement, from any and all causes, whether based on contract, tort (including negligence), strict liability or any other cause of action, shall in no event exceed ten million dollars ($10,000,000) for AWWU, or ten million dollar ($10,000,000) for the Owners collectively, provided that such limits shall not apply in the case of such Party's (i) gross negligence or willful misconduct, (ii) third-party indemnity obligation, or (iii) breach of any representation or warranty.

Section 8.2 CUMULATIVE REMEDIES. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, OR IF A REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY NON-EXCLUSIVE, THE NON-DEFAULTING PARTY SHALL HAVE THE RIGHT TO EXERCISE ALL RIGHTS AND REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY; PROVIDED, HOWEVER, THAT THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED.

Section 8.3 WAIVER OF CERTAIN DAMAGES. EXCEPT WITH RESPECT TO INDEMNIFICATION OF THIRD PARTY CLAIMS PURSUANT TO ARTICLE XI, OR AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, BUSINESS INTERRUPTION OR SIMILAR DAMAGES, WHETHER BY STATUTE, IN TORT, BY CONTRACT OR OTHERWISE.

ARTICLE IX
INDEMNIFICATION

Section 9.1 Indemnity. To the fullest extent permitted by Law, each Party shall indemnify, hold harmless and defend the other Party and its directors, officers, shareholders, partners, agents and employees, and the Affiliates of the same (collectively, the "Indemnified Parties"), from and against any and all loss, damage, expense and liability, including court costs and reasonable attorneys' fees (collectively, "Liabilities") arising incurred by the Indemnified Parties in connection with or arising from any claim for physical damage to or physical destruction to any property of any third party, or death of or bodily injury to any person, to the extent caused by the negligence of the Indemnifying Party or its agents or employees or others under such Indemnifying Party's control, except any Liabilities incurred due to the negligence or willful

misconduct of an Indemnified Party. For the purpose of the definition of "Indemnified Parties" AWWU shall not be considered to be an "Affiliate" of the MOA.

Section 9.2 Defense of Claims. A Party with an indemnification obligation pursuant to this Article IX (an "Indemnifying Party") shall have the right to defend the Indemnified Parties pursuant to this Article IX by counsel of the Indemnifying Party's selection (including insurance counsel) reasonably satisfactory to the Indemnified Party, unless in the opinion of counsel for the Indemnifying Party a conflict of interest between the Parties may exist with respect to such claim. If the Indemnifying Party does not assume the defense of the Indemnified Party, or if a conflict precludes counsel for the Indemnifying Party from providing the defense, then the Indemnifying Party shall reimburse the Indemnified Party on a monthly basis for the Indemnified Party's defense through separate counsel of the Indemnified Party's choice. Even if the Indemnifying Party assumes the defense of the Indemnified Party with acceptable counsel, the Indemnified Party, at its sole option, may participate in the defense, at its own expense, with counsel of its own choice without relieving the Indemnifying Party of any of its obligations hereunder. The Parties shall give each other prompt written notice of any asserted claims or actions indemnified against hereunder and shall cooperate with each other in the defense of any such claims or actions. Without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed, no Indemnifying Party shall settle any such claims or actions in a manner that would require any action or forbearance from action by any Indemnified Party.

ARTICLE X
DEFAULT AND REMEDIES; TERMINATION; DISPUTE RESOLUTION

Section 10.1 Event of Default. The following shall constitute events of default on the part of either party (each, an "Event of Default") under this Agreement:

(a) If a Party makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of such Party, or if such Party files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition of or readjustment of debts and, in the case of any such proceeding instituted against such Party (but not by such Party), such proceeding is not dismissed within sixty (60) days of such filing;

(b) If a Party fails to comply with any material terms of this Agreement not otherwise set forth as an Event of Default in this Section 10.1(b) and fails to cure or remedy such failure within thirty (30) days after notice and a written demand is made by the non-defaulting Party to the defaulting Party to cure the same or, if such failure cannot be cured within thirty (30) days, the defaulting Party fails to commence to cure such failure within thirty (30) days after such notice and written demand and thereafter diligently pursue such cure to completion, which shall in no event be later than ninety (90) days after such notice;

(c) If a Party defaults under the Interconnection Agreement or the Transportation Agreement;

(d) If a Party fails to make any payment due hereunder within sixty (60) days after receipt of written notice from the non-defaulting Party; or

(e) If any representation or warranty of a Party in this Agreement proves to have been false or misleading in any material respect when made, and such Party has not, within thirty (30) days after written notification thereof from the non-defaulting Party, either fully remedied, or commenced and diligently pursued the remedy, of all adverse impacts on the non-defaulting Party resulting therefrom, all to the reasonable satisfaction of the non-defaulting Party.

Section 10.2 Remedies Upon Event of Default. Upon the occurrence and continuation of an Event of Default, the non-defaulting Party shall have the right to terminate this Agreement and the Interconnection Agreement and the Transportation Agreement; upon ten (10) days written notice and pursue any other remedy available to such non-defaulting party at law or in equity arising out of such Event of Default, including a claim for monetary damage or specific performance.

Section 10.3 Automatic Cross-Agreement Termination. If this Agreement is terminated for any reason during the Term, the Interconnection Agreement and the Transportation Agreement shall automatically terminate, effective as of the same date as this Agreement's termination date.

Section 10.4 Dispute Resolution. In the event of any dispute arising under this Agreement (a "Dispute"), within ten (10) Business Days following notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies.

ARTICLE XI
REPRESENTATIONS

Section 11.1 General Representations and Warranties. Each Owner and AWWU hereby represents and warrants that:

(a) It is duly organized, validly existing and in good standing under the Laws of the state of its formation and is duly qualified to do business in the State of Alaska.

(b) It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate, municipal, or other action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as the

enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar Laws relating to the enforcement of creditors' rights generally and by general equitable principles.

(c) It is not in violation of any applicable Law, or any judgment entered by any federal, state, local or other Governmental Authority, which violations, individually or in the aggregate, would adversely affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or (to its best knowledge) threatened against it which, if adversely determined, could have a material adverse effect upon its financial condition, operations, prospects or business as a whole, or upon its ability to perform under this Agreement.

(d) No authorization, approval, exemption, or consent of or by any Person is required by it in connection with the execution, delivery, and performance of this Agreement. In addition, each Party represents and warrants to the other Party that the Governmental Approvals required to be obtained by such Party either have been obtained by such Party and are in full force and effect on the date hereof, or will be obtained by such Party and will be in full force and effect on or prior to the date on which they are required, under applicable Law, to be in full force and effect.

(e) The execution and delivery of this Agreement, the consummation of the transactions herein contemplated and compliance with the terms and provisions hereof by it will not conflict with or result in a material breach of, or require any consent under, any of its constitutive documents or any applicable Law, or under any agreement or instrument to which it is a party or by which it is bound or to which it is subject, or will constitute a material default under any such agreement or instrument.

ARTICLE XII
NOTICES

Section 12.1 Writing. Except as set forth in Section 14.2, any notice, statement, demand, claim, offer or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing and signed by the Party giving such notice, and shall be sent by email, facsimile, hand messenger delivery, overnight courier service, or certified mail (receipt requested) to the other Party, and shall be sent to the addresses set forth in Exhibit B. Each Party shall have the right to change the address information to which notice shall be sent or delivered or to specify additional addresses to which copies of notices may be sent. All notices shall be effective upon receipt.

ARTICLE XIII
CONFIDENTIALITY

Section 13.1 Confidentiality. The Parties agree that the Parties' proposals, communications, negotiations and information exchanged prior to the Effective Date concerning this Agreement and the development thereof, and technical and other information regarding or relating to the subject of this Agreement exchanged between the Parties that is marked, or otherwise clearly communicated to the receiving Party as "Confidential," constitutes "Confidential

Information" of the disclosing Party. The Owners and AWWU each agree to hold such Confidential Information wholly confidential. Such Confidential Information may only be used by the Parties for the purposes related to the approval, administration or enforcement of this Agreement.

Section 13.2 Disclosure. Each Party agrees not to disclose Confidential Information of the other Party to any other Person (other than its Affiliates, counsel, consultants, lenders, partners, members, employees, officers and directors, and then only to Persons subject to similar confidentiality restrictions as those set forth herein), without the prior written consent of the other Party, provided, that either Party may disclose Confidential Information if such disclosure is required by Law, including without limitation, pursuant to an order of a court or regulatory agency to enforce this Agreement or to seek approval of this Agreement. In the event a Party is required by Law or a Governmental Authority to disclose Confidential Information, such Party, prior to such disclosure, shall provide reasonable advance notice to the other Party of the time and scope of the intended disclosure in order to permit such other Party the opportunity to obtain a protective order, or to otherwise seek to prevent or limit the scope or otherwise impose conditions upon such disclosure.

Section 13.3 Injunctive Relief. Each Party agrees that a violation of the terms of Sections 13.1 and 13.2 constitutes irreparable harm to the other Party, and that the harmed Party may seek any and all remedies available to it at law or in equity, including but not limited to injunctive relief.

Section 13.4 Release of Agreement. The Parties agree that this Agreement, upon execution, shall not be considered Confidential Information. Except as required by Law, releasing the Agreement to the public shall be the sole responsibility of the Owners, to be released in the manner at a time decided in their sole discretion.

ARTICLE XIV
MISCELLANEOUS

Section 14.1 Reasonability. The Parties shall act in a reasonable manner and in accordance with principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement and whether or not stated: (a) where this Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned, or delayed; and (b) wherever this Agreement gives a Party a right to determine, require, request, specify, or take similar action with respect to a matter, such determination, requirement, request, specification, or similar action must be reasonable.

Section 14.2 Entire Agreement. This Agreement, together with all Schedules and Exhibits hereto, embodies the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties, verbal or written, relating to the subject matter hereof.

Section 14.3 Waiver. Any waiver of the provisions of this Agreement must be in writing and shall not be implied by any usage of trade, course of dealing or course of performance. No exercise of any right or remedy by AWWU or the Owners constitutes a waiver of any other right

or remedy contained in or provided by Law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance hereunder shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

Section 14.4 Assignment. Neither Party shall assign this Agreement or any of its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party, without relieving itself from liability hereunder, and without the need for consent from the other Party provided that any such assignee shall agree to be bound by all terms and conditions hereof, may transfer, pledge or assign this Agreement: (a) to any person or entity succeeding to all or substantially all of the assets of the assigning Party; or (b) to a successor entity in a merger or acquisition transaction. Any assignment made in contravention of this Section 13.4 shall be void and unenforceable.

Section 14.5 Governing Law; Submission to Jurisdiction; Venue; No Jury Trial.

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALASKA, EXCLUDING ANY CHOICE OF LAW RULES.

(b) Submission to Jurisdiction, Venue. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its Affiliates or designees) with respect to or arising out of this Agreement shall be brought exclusively in the courts of the State of Alaska, in the Municipality of Anchorage, as the Party instituting such suit, action or other legal proceeding may elect, provided that claims related to federal water rights, federal legislation enabling the Eklutna Hydroelectric Project or AWWU Facilities, or the 1991 Agreement may be brought in the United States District Court for the District of Alaska. By execution and delivery of this Agreement, each Party (for itself, its affiliates and its designees) irrevocably and unconditionally consents and submits to the exclusive jurisdiction of such courts and the appellate courts therefrom, and waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding. The Parties irrevocably consent to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, first class postage prepaid to the addresses set forth in Exhibit B.

(c) No Jury Trial. EACH OF THE PARTIES HEREBY WAIVES ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) Duty to Proceed. Pending final resolution of any Dispute, the Owners and AWWU shall continue to fulfill their respective obligations hereunder that are not the subject of the Dispute.

Section 14.6 Headings. The titles or headings of the various sections, articles and paragraphs hereof are intended solely for convenience and ease of reference and are not intended,

and are not to be deemed for any purpose, to modify or explain or place any interpretation or construction upon any of the provisions of this Agreement.

Section 14.7 Status of the Parties. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties.

Section 14.8 Status of Individual Owners. Each of the Owners shall be jointly and severally liable for the obligations of the Owners under this Agreement. The delineation of specific responsibilities set forth hereunder as among the Owners shall be at the sole discretion of the Owners, not AWWU. If at any time, the Owners agree that one or two of the Owners need no longer be party to this Agreement, such unnecessary Owner(s) may be removed as parties to this Agreement upon written notice to AWWU, if agreed, and shall retain no liability upon removal, with the remaining Owner(s) automatically assuming the full obligations of the Owners hereunder. If an Event of Default exists hereunder at any time with respect to an Owner, it shall be considered an Event of Default with respect to the Owners together as one Party hereunder, provided, that if another Owner agrees to assume such defaulting Owner's obligations under this Agreement by removing such Owner as a party pursuant to the preceding sentence of this Section 14.8 prior to the expiration of any applicable cure period, this shall not be considered an Event of Default hereunder.

Section 14.9 Insurance. Throughout the Term, the Owners shall maintain the required insurance policies as set forth on Exhibit D-1 and AWWU shall maintain the required insurance policy as set forth on Exhibit D-2.

Section 14.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of the Owners and AWWU, and their permitted successors and assigns, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

Section 14.11 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take all further action, as may be reasonably necessary to complete performance by the Parties hereunder and to effectuate the purposes and intent of this Agreement, including (1) support of amendment of water rights necessary to implement this Agreement; and (2) AWWU's support of Chugach's tariff revisions necessary to implement the compensation and gain RCA approval as outlined in Section 2.2.

Section 14.12 Amendments. No change, amendment or modification of this Agreement shall be valid or binding upon the Parties unless such change, amendment or modification shall be in writing and duly executed by the Parties.

Section 14.13 Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provision of this Agreement and all other provisions will remain in full force and effect.

Section 14.14 Conflicting Provisions. In the event of any conflict between this document and any Schedule or Exhibit attached hereto, the terms and provisions of this document, as

amended from time to time, shall control. In the event of any conflict among the Exhibits, the Exhibit of the latest date mutually agreed to by the Parties shall control.

Section 14.15 Survival. The provisions of Article I, Article VII, Article VIII, Article IX, Article X, Article XI, Article XII, Article XIV, and Article XIV shall survive termination of this Agreement for any reason.

Section 14.16 Counterparts. This Agreement may be executed in any number of separate counterparts and delivered by electronic means, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

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[Remainder of page intentionally left blank]

[2] Note to AWWU: this Agreement will not be signed until Assembly approval has been gained; see note on cover page; 14.17 should be removed because we cannot abide the risk that the Assembly approves, we execute, and then the Assembly subsequently withdraws such approval.

IN WITNESS WHEREOF, the Parties have caused this Public Water Supply Agreement to be executed by their duly authorized representatives as of the Effective Date.

AWWU/SERVICE PROVIDER:

ANCHORAGE WATER AND WATERWATER UTILITY, A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: Municipal Manager

By: _____

Name: _____

Title: General Manager

OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MATANUSKA ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: _____

Schedule 1.1
Definitions

"1984 Agreement" has the meaning set forth in the Recitals.

"1991 Agreement" means that certain Agreement between the Municipality of Anchorage, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., the United States Fish and Wildlife Service, the National Marine Fisheries Service, the State of Alaska, and the Alaska Energy Authority Relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991.

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with such first Person. For purposes of this definition and the Agreement, the term "control" (and correlative terms) means (1) the ownership of 50% or more of the equity interest in a Person, or (2) the power, whether by contract, equity ownership or otherwise, to direct or cause the direction of the policies or management of a Person.

"Agreement" has the meaning set forth in the introductory paragraph, and shall include all Exhibits and Schedules hereto.

"APA" has the meaning set forth in the Recitals.

"AWWU" has the meaning set forth in the introductory paragraph, and shall include all successors and permitted assigns of AWWU.

"AWWU Facilities" means the existing water transportation facilities owned and operated by AWWU, including the AWWU Eklutna Lake raw water diversion bypass tunnel interconnected with the intake tunnel of the Eklutna Hydroelectric Project and pipeline.

"AWWU Option" has the meaning set forth in Section 6.2.

"AWWU Water Permit" has the meaning set forth in the Recitals and as may be replaced as described in Section 3.1.

"AWWU Water Project" has the meaning set forth in the Recitals.

"Business Day" means any day other than a Saturday, Sunday or legal holiday in the state of Alaska.

"Chugach" has the meaning set forth in the introductory paragraph, and shall include all successors and permitted assigns of Chugach.

"Conditions Precedent" has the meaning set forth in Section 2.2.

"Confidential Information" has the meaning set forth in Section 13.1.

"Day" or "day" means a calendar day, unless expressly specified otherwise.

"Dispute" has the meaning set forth in Section 10.4.

"DNR" has the meaning set forth in the Recitals.

"Effective Date" has the meaning set forth in the introductory paragraph.

"Eklutna Hydroelectric Project" means the Eklutna Hydroelectric Project initially authorized, constructed and operated pursuant to the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended), including any and all property and facilities acquired or used in connection therewith, all of which was then sold to the Owners by the United States of America on October 2, 1997.

"Equivalent Energy Production" has the meaning set forth in Exhibit A – Compensation.

"EWTF" has the meaning set forth in Section 3.2(a).

"Fish and Wildlife Program" has the meaning set forth in the Recitals.

"Force Majeure Event" means the occurrence of any act or event beyond the reasonable control of the Party affected that prevents the affected Party from performing its obligations under this Agreement, in full or part, if such act or event is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums), including the following: drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a Governmental Authority. Notwithstanding the foregoing, Force Majeure Events shall expressly not include mechanical or equipment failures (except to the extent any such failure is itself caused by a Force Majeure Event) nor diminution in water quality in Eklutna Lake.

"Governmental Approvals" means all authorizations, consents, licenses, leases, rulings, certifications, registrations, exemptions, permits, certificates, and approvals from any Governmental Authority.

"Governmental Authority" means any federal, state or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the Eklutna Hydroelectric Project or AWWU Water Project or their operations, or the health, safety or environmental conditions or otherwise over the Parties.

"Indemnified Parties" has the meaning set forth in Section 9.1.

"Indemnifying Party" has the meaning set forth in Section 9.2.

"Interconnection Agreement" has the meaning set forth in the Recitals.

"Law" means any constitution, charter, act, statute, law, ordinance, code, rule, regulation, order, specified standards or objective criteria contained in any applicable permit or approval or other legislative or administrative action of any Governmental Authority or a final decree, judgment or order of a court or tribunal.

"Liabilities" has the meaning set forth in Section 9.1.

"MEA" has the meaning set forth in the introductory paragraph, and shall include all successor sand assigns of MEA.

"MOA" has the meaning set forth in the introductory paragraph, and shall include all successor sand assigns of MOA.

"MOA-Chugach APSA" means that certain Asset Purchase and Sale Agreement by and between the MOA and Chugach, as amended on December 28, 2018.

"MOA-Chugach Eklutna PPA" means that certain Power Purchase Agreement by and between the MOA and Chugach, dated December 28, 2018, as amended.

"MOA-MEA Eklutna PPA" means that certain Power Purchase Agreement by and between the MOA and MEA, dated September 16, 2019, as amended.

"Owners" has the meaning set forth in the introductory paragraph, and shall include all successors and permitted assigns of the Owners.

"Owners' Facilities" has the meaning set forth in the Recitals.

"Owners' Water Rights" has the meaning set forth in the Recitals.

"Party" and "Parties" has the meaning set forth in the Recitals.

"Person" means any individual, partnership, corporation, limited liability company, association, business, trust, government or political subdivision thereof, Governmental Authority or other entity.

"Preferred Use Status" has the meaning set forth in the Recitals.

"Project Water Rights" has the meaning set forth in the Recitals.

"RCA" has the meaning set forth in Section 2.2(c).

"Recovered Electrical Energy" has the meaning set forth in Section 3.2(a).

"Replacement Energy" has the meaning set forth in Section 3.2(a).

"Replacement Energy Amount" has the meaning set forth in Exhibit A.

"Replacement Energy Payments" has the meaning set forth in Section 3.2(a).

"Term" has the meaning set forth in Section 2.4.

"Transportation Agreement" has the meaning set forth in the Recitals.

EXHIBIT A

Water Scheduling and Compensation

Scheduling & Reporting:

1. Prior to April 1 of each year, AWWU will furnish to the Owners its estimate of:

    a) Anticipated annual diversions of water for public water supply in the AWWU Water Project for the next five water years (June 1 – May 31), by year, for that same period; and

    b) Anticipated monthly diversions of water for public water supply in the AWWU Water Project for the next water year.

2. Within ten (10) days of the beginning of each month, AWWU will furnish to the Owners, on a monthly basis, the daily actual meter readings showing (a) water used by the AWWU Water Project in the preceding month, and (b) electric energy generated by the AWWU Water Project and delivered to the Owners.

Compensation:

As set forth in Section 3.2(a) and (b) of the Agreement and as was previously agreed to by the Parties in the 1984 Agreement, AWWU's use of the Project Water Rights shall remain a burden solely on the MOA's proportionate ownership share of the Project, and for the avoidance of doubt, shall not be allocated to Chugach's or MEA's proportionate ownership shares. Allocation of cost responsibility to the MOA shall be accounted for in the Eklutna Hydroelectric Project's water balancing account maintained among the Owners rather than through billing or other payment compensation owed by AWWU, except as set forth in Section 3.2 and in this Exhibit A. If the MOA's allocation of the Eklutna Hydroelectric Project's water in any given month is insufficient to cover AWWU's use of the Eklutna Hydroelectric Project's water in that month, AWWU will remain entitled to take its water needs within the parameters set forth in the Agreement and AWWU's Water Permit, and the Owners will make necessary adjustments to the MOA's water position within the Eklutna Hydroelectric Project's water balancing account accordingly.

AWWU will compensate the Owners for Replacement Energy (the reduction in electric energy generation attributable to AWWU's use of the Eklutna Hydroelectric Project's water) through Recovered Electrical Energy and Replacement Energy Payments. In other words, AWWU will pay Owners for MWhs not produced, rather than for the quantity of water used by AWWU.

AWWU will not, however, be required to compensate the Owners for water used by AWWU for public water supply in the AWWU Water Project during unplanned reservoir spill events at the Eklutna Hydroelectric Project (i.e., water spills over Eklutna Hydroelectric

Project's dam or through the spillway other than such releases by Owners as part of their implementation of the Fish and Wildlife Program) as measured on a day for day basis. In other words, during days of unplanned reservoir spill events, AWWU will not be required to compensate the Owners for water and equivalent energy generation.

Each month during the term of the Agreement, Chugach (as the Owners' representative designated by the Owners) shall compute the compensation owed by AWWU to Owners pursuant to Section 3.2 of the Agreement and as provided below. Chugach shall provide an invoice to AWWU showing billing determinants, charges, rebates (if any), total amount due, as well as detail regarding the Replacement Energy Payment calculation and Recovered Electrical Energy accounting. As set forth in Section 5.1 of the Agreement, Chugach shall collect such payments from AWWU, allocate values among the Owners as applicable (e.g., pass through its share of the compensation to the MOA), and maintain records as appropriate.

Monthly Compensation Calculation

1. Following receipt of the meter readings from AWWU, the total number of gallons of water used by AWWU during that month, less water used during days in which the unplanned reservoir spill events described above, shall be converted to acre-feet.

2. The energy equivalent for AWWU's water shall then be calculated by multiplying the acre-feet of water used by AWWU by the Eklutna Hydroelectric Project's average energy production per unit of water (kWh/acre-foot) for the month; the result of this calculation is the Equivalent Energy Production (kWh) attributable to AWWU's water usage. Equivalent Energy Production for a given month will be the Replacement Energy for that month.

3. The Replacement Energy in that month shall then be reduced by metered Recovered Electrical Energy at EWTF delivered to MEA and as reported by MEA meter readings to determine the amount of net Replacement Energy (kWh) for which AWWU owes compensation to Chugach for that billing period (the "Replacement Energy Amount").

4. The billing charges for Replacement Energy Amount shall then be calculated as the product of the Replacement Energy (kWh) (after deduction of the Recovered Electrical Energy) and the monthly energy rate set forth in Chugach's Tariff -- "Replacement Energy Service -AWWU" (as may be amended); such charges for Replacement Energy may be adjusted on a kilowatt-hour basis to recover the cost of power as described in Chugach's Tariff -- Fuel and Purchased Cost of Power Adjustment (comprised of fuel, purchased power, and renewable energy adjustment factors) and the Beluga River Unit Contributed Capital Surcharge and Rebate (when applicable).

5. Compensation for Replacement Energy owed by AWWU to Chugach will be capped at $600,000 per water year in value in aggregate as set forth in Section 3.2(b) of the Agreement, as such amount will be adjusted annually for inflation rate using a 15 year rolling average reflected in the Bureau of Labor Statistics' Urban Alaska Consumer Price Index (CPI-U) (as currently reported by State of Alaska Department of Labor and Workforce Development at https://live.laborstats.alaska.gov/cpi/table) ("AWWU Compensation Cap"). In any month of the Term, to the extent that AWWU does not fully compensate Chugach for the total Replacement Energy Amount owed due to application of the AWWU Compensation Cap, the MOA will make Chugach whole through the calculation of a monetary sum equal to the Replacement Energy Amount multiplied by rates set forth in the Chugach tariff for the Replacement Energy Service -- AWWU that shall paid by the MOA to Chugach (i) as an offset against the MOA's ownership share of AWWU payments owed by Chugach pursuant to Section 6.23 of the MOA-Chugach APSA, (ii) cash payments from the MOA to Chugach, or (iii) if necessary, as an offset against other payment obligations owed by Chugach to the MOA pursuant to the MOA-Chugach Eklutna PPA.

Owners' Allocations

1. The Owners hold the following proportionate ownership shares of the Project: MOA – 53.33%; Chugach – 30.00%; MEA – 16.67%.

2. Pursuant to reallocations, terms and conditions set forth in the (i) the MOA-Chugach Eklutna PPA, (ii) Section 6.23 of the MOA-Chugach APSA, and (iii) the MOA-MEA Eklutna PPA, the Project's water (and resulting power output) is allocated to the Owners in the following proportionate shares: MOA – 0%; Chugach – 64.29%; MEA – 35.71%.

3. The cost responsibility for implementation of the Fish and Wildlife Program is borne by the Owners as follows: MOA – 19.04%; Chugach – 64.29%; MEA – 16.67%.

4. MEA shall compensate the MOA for Recovered Electrical Energy at the EWTF received by MEA through the Eklutna Hydroelectric Project's water balancing account.

EXHIBIT B[3]

Notice Information

If delivered to the Owners, to them at	Chugach Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Matanuska Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____]
If delivered to AWWU, to it at	Anchorage Water and Wastewater Utility, a department of the Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____]

[3] **Note to accompany final draft**: To be filled out immediately prior to execution to ensure most up to date information

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Confidentiality Waived – 4/25/2024

Execution Version

BINDING TERM SHEET

WATER FACILITIES INTERCONNECTION AND LONG-TERM WATER TRANSPORTATION SERVICES

EFFECTIVE DATE: OCTOBER 27, 2023

In furtherance of their obligations to implement a Fish and Wildlife Program (defined below) pursuant to the 1991 Agreement,[1] the Eklutna Owners (defined below) desire to transport a portion of the water reserved for hydroelectric production in their Eklutna Hydroelectric Project through the water utility tunnel and pipeline system owned by Anchorage Water and Wastewater Utility for the purpose of establishing instream water flows in the Eklutna River. Anchorage Water and Wastewater Utility is willing to allow its water utility tunnel, pipeline, and other infrastructure as appropriate to be used for this purpose should the Governor of Alaska approve the Fish and Wildlife Program inclusive of the proposed usage of Anchorage Water and Wastewater Utility's infrastructure. In entering into this Term Sheet and the Agreements (as defined below), however, Anchorage Water and Wastewater Utility does not, and shall not, take any position on whether or not using Anchorage Water and Wastewater Utility's infrastructure is the best alternative for establishing instream water flows in the Eklutna River as the foundation of the Fish and Wildlife Program. Instead, Anchorage Water and Wastewater Utility merely states its willingness to allow use of its infrastructure under the agreed terms and conditions, pursuant to a Governor-approved Fish and Wildlife Program. The parties, as Customer and Service Provider as defined below, have investigated the engineering, interconnection, operational, and regulatory requirements necessary for Service Provider to operate water facilities interconnections and long-term water transportation services to Customer and have agreed to the terms set forth below, which will be memorialized in detailed contractual agreements by March 1, 2024, subject to certain conditions precedent. This Term Sheet shall bind the parties as set forth in this Term Sheet and inure to the benefit of the respective successors and permitted assigns of each of the Parties signatory hereto; provided, however, that neither this Term Sheet nor any rights, benefits, obligations or duties hereunder may be assigned, transferred, hypothecated or otherwise conveyed without the prior express written consent of the other Party. Any such purported assignment, transfer, hypothecation or other conveyance without such prior express written consent shall be void.

1. **Eklutna Owners/ Customer**	Chugach Electric Association, Inc., Matanuska Electric Association, Inc., and the Municipality of Anchorage ("***Eklutna Owners***" or collectively, the "***Customer***").
2. **Service Provider**	Anchorage Water and Wastewater Utility ("***Service Provider***" or "***AWWU***", and collectively with Customer, the "***Parties***").

[1] Agreement between the Municipality of Anchorage, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., the United States Fish and Wildlife Service, the National Marine Fisheries Service, the State of Alaska, and the Alaska Energy Authority Relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991 (the "1991 Agreement").

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3. **Agreements**	(1) Water Facilities Interconnection Agreement ("***Interconnection Agreement***"); and (2) Long-Term Water Transportation Services Agreement ("***Transportation Agreement***") (collectively with the Interconnection Agreement, the "***Agreements***").
4. **Binding Term Sheet**	The Parties will use commercially reasonable efforts to negotiate and execute the Agreements and associated documentation promptly following the date of this binding Term Sheet ("***Term Sheet***") in accordance with the substantive terms set forth below. Until such time as this Term Sheet is replaced by any such further documentation, or is terminated pursuant to the terms herein, this Term Sheet remains binding on the signatory parties, and memorializes the legal and enforceable rights and obligations of, the Parties. If the Parties fail to enter into the Agreements by March 1, 2024, either Party may terminate this Term Sheet upon thirty (30) days written notice. The Parties also acknowledge that design is in its early stages and that the current concept for development of the Eklutna River Release Facility, and use of the AWWU Facilities (as defined below) may be further refined after the date of this Term Sheet. Accordingly, the substantive terms of this Term Sheet are subject to change during the course of the negotiation of the Agreements due to any material refinement of such designs and neither Party shall be in breach of this Term Sheet by seeking to change said substantive terms to address such material refinements arising out of the design process, provided that in seeking such a change or changes, such Party is operating in good faith to preserve the primary purpose of this Term Sheet that the Customer and AWWU cooperate to use AWWU Facilities to transport water from Eklutna Lake into the Eklutna River as part of the Eklutna Owners' implementation of the Fish and Wildlife Program.
5. **Purpose**	The Parties intend to enter into definitive Agreements, the key terms of which are set forth in this Term Sheet (subject to the right to change said terms due to material refinements in design process provided in Article 4 above), to enable the Eklutna Owners to implement a fish and wildlife program as required by the 1991 Agreement (the "***Fish and Wildlife Program***"), upon approval by the Governor of Alaska. Specifically, the Eklutna Owners intend to reestablish and preserve instream flows of the Eklutna River to implement the Fish and Wildlife Program through

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	two primary mechanisms, and to mitigate the impact of the Fish and Wildlife Program on AWWU's public water system as required under Section 2 of the 1991 Agreement: (1) the construction of the Eklutna River Release Facility (as defined in Section 6 below), to consist of a River Release Structure (as defined below) to be owned and managed by Customer and an Isolation Valve Structure (as defined below) to be owned by Service Provider and managed in part by Service Provider and in part by Customer (as further described herein), all to be interconnected to the existing AWWU Facilities (as defined in Subsection (2) below), which shall be used for the ultimate delivery of water to the Eklutna River; and (2) the use of existing water transportation facilities owned and operated by AWWU on terms defined below, including but not limited to the AWWU Eklutna Lake raw water diversion bypass tunnel and pipeline ("***AWWU Facilities***"), which will allow for the transport of Customer's water from the Injection Point to the Delivery Point defined and described below ("***Water Transportation Services***"). A more detailed overview of the Eklutna River Release Facility is set forth in Appendix A. Appendix A also shows: • the "***Injection Point***" (the existing "T" in the tunnel downstream of the Eklutna power plant intake in Eklutna Lake where the AWWU tunnel begins) at which the custody, control, and risk of loss of water is exchanged from Customer to Service Provider, • the AWWU Facilities, an existing tunnel and pipeline covering a distance of roughly 1.6 miles, • the "***Delivery Point***" (the outlet of a new "T" to be built in the AWWU pipeline downstream of the AWWU tunnel/pipeline transition and upstream of the AWWU portal valve) at which the custody, control, and risk of loss of water is exchanged from Service Provider back to Customer, • A 54-inch gate valve on the main segment of AWWU pipeline intended to provide dual means of

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	isolation for AWWU's pipeline segment (the "***AWWU Isolation Valve***"); and • A 42-inch gate valve on the branch segment of AWWU pipeline intended to provide isolation to the river release structure ("***Customer Isolation Valve***", together with the AWWU Isolation Valve, the "***Isolation Valves***"). Accordingly, this binding Term Sheet sets forth key terms of definitive Agreements, wherein the Eklutna Owners desire for (1) the Parties to mutually set forth certain obligations and understandings regarding the development, construction, and operation of the Eklutna River Release Facility, which shall be connected to AWWU Facilities, and (2) compensate AWWU for the provision of Water Transportation Services.
6. **Eklutna River Release Facility Definition**	The "***Eklutna River Release Facility***" shall consist of the proposed Isolation Valve Structure and the River Release Structure. The "Isolation Valve Structure" shall include the tee, the Isolation Valves, controls, and communication technology to be installed in the main line of the AWWU Facilities and owned and operated by Service Provider, provided that Customer shall have coordinated control of the Customer Isolation Valve for maintenance throughout the Delivery Term; and the "River Release Structure" shall include a new pipeline, control valve, the Delivery Point Meter (as defined below) and monitoring and control equipment and will be owned and operated by Customer. The Eklutna River Release Facility shall be designed, engineered, and constructed by Customer, all potentially as shown in Appendix B (the 15% design), which is subject to change and approval by both Parties in all respects during the design and approval stages of project development.
7. **Effective Dates and Conditions Precedent**	The definitive Agreements will become effective upon execution (the "***Execution Date***"), but the construction and operational obligations set forth in the definitive Agreements will become binding upon the Parties only upon the satisfaction of the following conditions precedent (such date, the "***Construction Start Effective Date***"): (1) The Eklutna Owners gain final approval of their Fish and Wildlife Program by the Governor of Alaska that requires use of AWWU Facilities as contemplated in this

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	Term Sheet without any conditions materially adverse to the Eklutna Owners or AWWU, as determined in good faith and in the exercise of commercial reasonable business judgment, and that such Eklutna Owners' Fish and Wildlife Program and the Governor's final approval is not subject to any pending judicial review or appeal; (2) The Eklutna Owners obtain all permits necessary to construct the Eklutna River Release Facility; and (3) The Eklutna Owners obtain or provide evidence of lawful Certificates of Appropriation from the Alaska Department of Natural Resources for the use and transport of water as contemplated under the Transportation Agreement, including but not limited to an amendment of existing water rights or other approval(s) authorizing a change of use allowing Eklutna Owners' use of a portion of their certificated water right to establish and continue instream flows. The Eklutna Owners will commence final engineering and construction of the Eklutna River Release Facility on the Construction Start Effective Date, and endeavor to complete construction within a reasonable time to be defined in the Agreements following the Governor's approval in a manner consistent with the approved Fish and Wildlife Program and the 1991 Agreement. The obligations to provide and take Water Transportation Services shall begin when the Eklutna Owners achieve Commercial Operation of the Eklutna River Release Facility. "***Commercial Operation***" means, with respect to the Eklutna River Release Facility, that all construction, testing and operational conditions have been fulfilled as evidenced by a certificate from a licensed professional engineer.
8. **Term**	The Agreements shall continue for 35 years from the Commercial Operation date (the "***Delivery Term***"), unless terminated earlier in accordance with the terms thereof. The "***Term***" of the Agreements shall begin on the Execution Date and continue until the expiration of the Delivery Term. At the conclusion of the Term, the Agreements shall thereafter renew on a year-to-year basis, unless terminated earlier in accordance with the terms hereof.

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9. **Interconnection Agreement**	Commencing on Effective Date, the Parties shall take all commercially reasonable efforts to develop the Eklutna River Release Facility pursuant to the Interconnection Agreement, which shall include, but not be limited to, the following terms: a. **Customer Responsibilities**. Following the Effective Date, the Customer shall be responsible, solely at its own expense, to (i) design, engineer, permit, and construct the Eklutna River Release Facility to meet the layout and design criteria as presented in Appendix B (15% design), which may be updated and refined from time to time hereafter; for the avoidance of doubt, this shall include all transmission, power, and communication facilities associated with construction; (ii) provide to Service Provider the design drawings pertaining to the Eklutna River Release Facility and any updates to the specifications for the Service Provider's review and approval; (iii) obtain all real property interests necessary for the construction, operation, and maintenance of the Eklutna River Release Facility; (iv) complete all permitting and environmental impact studies necessary for the construction, operation, and maintenance of the Eklutna River Release Facility; (v) acquire and maintain all governmental authorizations and other necessary Approvals for the design, construction, commissioning, ownership, operation, and maintenance of the Eklutna River Release Facility; achieve all milestones to be set forth in a definitive Interconnection Agreement; (vi) construct the Eklutna River Release Facility; (vii) construct security facilities (e.g., fencing, [cameras]) surrounding the Eklutna River Release Facility; (viii) enable Service Provider to have access at all times, (ix) operate the River Release Structure, which is connected to the Isolation Valve Structure at the Delivery Point, and (x) operate the Customer Isolation Valve for maintenance in close coordination with Service Provider. Upon commissioning, the Customer will provide the Service Provider with all as-built/record drawings and operation/maintenance documentation for all constructed facilities.

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b. **Service Provider Responsibilities**. Following the Effective Date, Service Provider shall be responsible to (i) provide assistance and cooperation to all reasonable requests of Customer regarding the design, engineering, permitting, construction, installation, testing, start-up and commissioning of the Eklutna River Release Facility (including timely written review and approval of Customer's design and engineering), and on obtaining and maintaining all governmental authorizations and third party owned real property interests necessary for the construction, operation, and maintenance of the AWWU Facilities to the Delivery Point, and (ii) operating the AWWU Facilities and the Isolation Valve Structure, but in such a way that allows Customer to access and operate the Customer Isolation Valve for maintenance on a coordinated basis. Service Provider shall further agree to not suspend or otherwise halt access to the AWWU Facilities during the period of construction, except to the extent needed to address reasonable security or safety issues and to avoid putting AWWU's water supply at risk of interruption or contamination. The foregoing responsibilities described in this Subsection b are referred to herein as the "***Service Provider Responsibilities***".

c. **Development Costs**. The Customer shall be solely responsible for and shall pay all costs and expenses incurred in connection with performing the responsibilities necessary to build the Eklutna River Release Facility; Customer shall reimburse Service Provider for its actual costs related to or arising out of the development and construction of the Eklutna River Release Facility and related Service Provider Responsibilities, including but not limited to documented direct and indirect costs, overhead, general and administrative costs, staff time, and all other costs related to or arising out of the planning, engineering and project management associated with Eklutna River Release Facility and Service Provider Responsibilities, provided that Service Provider shall use commercially reasonable efforts to minimize such costs.

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	d. **Tie-In / Installation Costs**. Customer will be responsible for, and will pay or reimburse Service Provider, all costs required to connect the Eklutna River Release Facility to the AWWU Facilities; provided that, for any easements or other rights-of-way or land use permits required on AWWU-owned land to so connect AWWU Facilities to Eklutna River Release Facility, Service Provider shall provide such easements at a reasonable or no cost to Customer. To the extent necessary but not held by AWWU, Customer shall be solely responsible for obtaining and paying for any and all easements, rights-of-way, or land use rights from third parties which are necessary for the connection of the River Release Structure to the AWWU Facilities through the Isolation Valve Structure. Connection costs include but are not limited to engineering, soil testing, site preparation, demolition, implementation of civil work, mechanical improvements, structural upgrades, piping, electrical improvements, instrumentation and controls upgrades, communications improvements, safety, fire protection, environmental testing, equipment rentals, permitting, and construction support.
10. **Transportation Agreement**	Commencing on Commercial Operation, AWWU shall perform, and the Customer shall take, on an exclusive basis, the Water Transportation Services pursuant to the Transportation Agreement, which shall include, but are not limited to, the following terms: a. **Amount.** During the Delivery Term Service Provider shall transport Customer's water from the Injection Point to the Delivery Point commingled with and undifferentiated from Service Provider's raw water deliveries to the Eklutna Water Treatment Facility ("***EWTF***"). At the Delivery Point, Customer's water (not intended for municipal water) supply may be released to the Eklutna River through the Eklutna River Release Facility. Control valves in the Eklutna River Release Facility downstream of the Delivery Point will be used to set the rate of release of Customer water to the Eklutna River, in accordance with a predetermined dynamic delivery schedule established in the final Fish and Wildlife Program

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documentation. The total amount released will be measured by flow meters at the Delivery Point by the Delivery Point Meter (as defined below). The maximum daily rate of conveyance (the "***Contract Maximum***") will be determined based on hydraulic analysis of the AWWU Facilities and the Eklutna River Release Facility under various operating scenarios. The maximum daily flow available at the Eklutna River Release Facility will not inhibit the ability to deliver a flow rate of at least 41 MGD to the EWTF at a pressure sufficient to allow normal operation of the EWTF as currently configured, or exceed the hydraulic capacity or design criteria of the AWWU Facilities. The Contract Maximum shall be reduced as a result of any Excused Events, force majeure or other unforeseen outages or conditions.

b. **Control.** The AWWU Facilities shall be solely operated, managed, and maintained by Service Provider or its designee materially in accordance with all governmental authorizations and in accordance with applicable law, prudent industry practices, the most current editions of the AWWU Design and Construction Practices Manual, Municipality of Anchorage Standard Specifications and Anchorage Municipal Code, provided that as part of such operation, management and maintenance, Service Provider shall cooperate and provide access as needed to Customer for Customer's operation, management, and maintenance of Customer Isolation Valve on a coordinated basis.

c. **Costs and Exchange of Services.** All costs of water transportation, operations, management and maintenance borne by AWWU (including but not limited to the use of the AWWU Facilities, the tee and the valves described above) will be exchanged on an equal basis for AWWU's continued use of the Customer's intake, hydrotunnel and any other facilities necessary to supply water from the Eklutna Lake to the AWWU tunnel and related water transportation, operations, management and maintenance costs borne by Customer.

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	d. **Operating Procedures and Coordination.** Service Provider shall, at Customer's expense, develop proposed written operating procedures for the provision of Water Transportation Services (the "***Operating Procedures***") in close coordination with the Customer as set forth in the Transportation Agreement. The Operating Procedures shall include the Parties' respective obligations for the following considerations: (i) method of day-to-day communication and reporting; (ii) key personnel lists for Service Provider and Customer; (iii) reasonable coordination regarding timing of planned outages; (iv) reporting of emergencies, planned outages and forced outages of AWWU Facilities; (v) reporting of curtailment periods; (vi) ongoing reporting of metered quantities measured at the Delivery Point and Injection Point; and (vii) reasonable coordination regarding requisite permits and all other necessary federal, state, and local Approvals; and (viii) a clear statement of operational priority of the Service Provider's public water supply.
11. **Title**	Control, custody, and risk of loss, of the Customer's water shall transfer to Service Provider between the Injection Point and the Delivery Point. Control, custody, and risk of loss, of the Customer's water shall then revert back to the Customer once the water is delivered to the Customer at the Delivery Point. For the avoidance of doubt, the Customer, as holders of water rights certificate ADL 44944, shall retain title at all times to all its water transported by Service Provider. The AWWU Facilities shall remain the property of AWWU; the Eklutna River Release Facility downstream of the Delivery Point will be owned by the Customer; the Isolation Valve Structure will be owned by AWWU, provided that Customer shall have coordinated control of the Customer Isolation Valve for maintenance throughout the Delivery Term. The Parties shall collaborate in good faith to determine the exact demarcation of ownership of the new facilities in the Interconnection Agreement.
12. **Public Water Supply Agreement and Water Rights Application**	a. **Public Water Supply Agreement.** As part of the negotiations of the Agreements, the Parties shall negotiate a new agreement to replace the Agreement for Public Water Supply and Energy

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Generation from Eklutna Lake, Alaska, dated February 17, 1984 ("***1984 Agreement***"), as amended, which expires in 2025. The 1984 Agreement and the new agreement are required by Alaska state law, AS 46.15.150, which permits AWWU's preferred water use status only if AWWU agrees to compensate Customer, who holds a senior water right to AWWU, for damages sustained by the preferred use. Such new agreement replacing the 1984 Agreement shall provide that the Service Provider shall:

(i) as required under AS 46.15.150, continue to compensate the Customer (or any individual Eklutna Owner, as applicable) for water or replacement energy and use of Customer's facilities pursuant to substantially similar terms as those included in the 1984 Agreement; provided, however, that (x) AWWU's compensation shall be capped at $600,000 per year, which amount shall be adjusted annually to reflect inflationary changes as reflected in Bureau of Labor Statistics' Consumer Price Index (CPI-U) and such compensation payments shall end upon AWWU obtaining priority water rights from Customer pursuant to Subsection b of this Section 12 below or otherwise, (y) such AWWU payments shall be payable to Chugach; and (z) all other costs and losses attributable to AWWU's decreased compensation shall be netted out of the Municipality of Anchorage's (MOA's) ownership share of the water used in the Eklutna Project pursuant to provisions in the two power purchase agreements among the Eklutna Owners, effective October 30, 2020,

(ii) be entitled to continued use of the Customer's intake, hydrotunnel and any other facilities necessary to supply water to the AWWU Facilities, so long as such facilities are being used by the Eklutna Owners to generate power for the Eklutna Hydroelectric Project

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(iii) receive a first right of refusal to purchase the Customer's intake, hydrotunnel and any other of the Customer's facilities necessary to supply water to the AWWU Facilities in the event Customer's power production facilities are permanently shut down, and

(iv) have the right to approve any successor to Customer as operator of the Eklutna River Release Facility, provided that such approval will not be unreasonably withheld, conditioned, or delayed.

The term of the new agreement replacing the 1984 Agreement shall begin upon approval of the Fish and Wildlife Program by the Governor of Alaska and shall continue through October 30, 2060; provided, however, that in the event that litigation or other legal challenges lead to a final Fish and Wildlife Program that does not include the use of the AWWU Facilities for instream flows as contemplated in this Term Sheet, the new agreement replacing the 1984 Agreement shall be terminated and AWWU and the Eklutna Owners shall meet in good faith to negotiate a replacement agreement with terms and conditions then deemed appropriate, including compensation, risk mitigation, transfer or purchase of priority water rights, etc.

b. **Water Permit and Certificate Application.** Customer acknowledges and agrees that Service Provider has a permit for preferred water use for up to 41 million gallons per day for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823; Alaska Statutes 46.15.150(a), LAS 2569, and Certificate of Appropriation ADL 44944, and the 1984 Agreement and its successor agreement. Customer acknowledges that the Service Provider's water permit provides for public water supply priority and preference for Service Provider's permitted water rights. In addition, upon the earlier of October 31, 2055 or the MOA's sale of its interests in the Eklutna Project, AWWU may exercise an option to exchange its rights for preferred water use for public water supply for an equal portion of Eklutna Owners' priority state

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	water rights (i.e., Certificate of Appropriation ADL 44944), but not to exceed 41 million gallons per day, by quitclaim deed (or other then-acceptable means of transfer); provided (i) AWWU must issue notice of its intention to exercise such option no later than October 30, 2050 (which date aligns with a purchase option related to the Eklutna Project in a power purchase agreement among the Eklutna Owners); (ii) no additional compensation will be due from AWWU to the Eklutna Owners; and (iii) adjustments among the Eklutna Owners to accommodate AWWU's rights will be handled separately.
13. **Measurement and Metering**	Water shall be measured at the Injection Point by an existing flow meter in the AWWU Facilities (the "***Injection Point Meter***"). Water shall be measured at the Delivery Point by a new meter installed as part of the River Release Structure (the "***Delivery Point Meter***"). Delivery Point Meter measurements shall be used to calculate the amount of water received by Customer, but both Parties shall have real-time information as to such metering measurements. Reports for both the Delivery Point Meter and Injection Point Meter shall be included in a report by the Customer for each Month throughout the Delivery Term and shared with AWWU on a monthly basis.
14. **Taxes**	Customer shall be responsible for and shall pay any sales, use, gross receipts, occupation, and other taxes (excluding income, and franchise tax imposed upon Service Provider) from time to time payable as a consequence of the Interconnection Agreement and provision of Water Transportation Services.
15. **Standard of Performance; Obligations re Facilities.**	a. During the Term, the Customer shall cause the Eklutna River Release Facility to be constructed, operated, maintained, permitted and serviced in accordance with all prudent industry practices, applicable law, and the Interconnection Agreement. During the Term, Service Provider will cause the AWWU Facilities to be constructed, operated, maintained, permitted and serviced in accordance with all prudent industry practices, applicable law, and the Transportation Agreement.

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Both Parties shall use commercially reasonable efforts to ensure that all employees and contractors engaged in connection with the maintenance, operation, service, and any future modification (to include design, construction, commissioning, and installation) to have the appropriate and necessary experience and skill, and expertise to carry out the tasks efficiently, professionally, and in accordance with prudent industry practice and applicable law.

b. Customer shall, in its sole discretion, develop and implement at its own expense an alternative method, plan, or procedures for dealing with emergencies, maintenance, and other planned or unplanned shutdowns or partial shutdowns of the Eklutna River Release Facility, the AWWU Facilities, or any of the Customer's intake, hydrotunnel or other facilities needed for the public water supply, provided that Service Provider (i) in the case of all non-emergency shutdowns, follows the schedules and protocols to be developed pursuant to Subsection c, (ii) in the case of emergency shutdowns, (a) uses best efforts to first address the situation in such way that does not involve a shutdown that would affect the Water Transportation Services; (b) provides as much notice as is practicable prior to any shutdown that will affect the Water Transportation Services; and (c) uses best efforts to minimize the duration of such shutdown.

c. Customer and Service Provider shall develop a schedule and protocol for routine planned shutdowns in order to allow for maintenance and inspection activities in their respective facilities to occur in a coordinated manner that minimizes impacts on Service Provider's utility water supply obligations and Customers' obligations under the Fish and Wildlife Program. Such schedule and protocol shall take into account routine hydropower operations to ensure that planned shutdowns only be scheduled at times when there is sufficient water available in Eklutna Lake to allow water releases through the maintenance gate of the diversion dam in the amounts necessary for Customer to meet its obligations under the Fish and Wildlife Program.

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16. Site Access License	Service Provider shall provide Customer with a non-exclusive license for the purpose of installation, operation and maintenance of certain equipment, meters and other facilities owned by Customer and reasonable access thereto during the term of the Agreements and a reasonable right to enter upon Service Provider's property for all other purposes contemplated under the Agreements, subject to the reasonable scheduling and security requirements. Customer acknowledges that it may need to seek a site access license from one or more third parties in order to secure access the site.
17. **Road and Bridges**	Service Provider shall be responsible at its own expense for brushing, clearing and maintaining its access road along the AWWU Facilities, both above and below the Isolation Valve Structure. Customer may use such access road as part of its site license granted pursuant to Section 16. At eight (8) locations where such access road crosses the Eklutna River, and which are currently only accessible by ford-style crossings, Customer shall be responsible for installing at its own expense new bridges allowing the access road to cross the Eklutna River. Once installed, Service Provider shall perform, or cause to be performed, all maintenance of the bridges. The cost of such bridge maintenance shall be borne by Service Provider unless such cost is caused, directly or indirectly, by the Customer's negligence or intentional misconduct.
18. EWTF Power Production	Service Provider shall continue to be compensated for excess power it produces at the EWTF and delivers to Matanuska Electric Association ("***MEA***") pursuant to terms consistent with the terms of 1984 Agreement, as amended, and the terms of MEA's tariff for purchasing cogenerated power.
19. **Excused Events**	The Parties shall negotiate and include terms related to forced or planned outages or in response to any force majeure event, emergency, or other condition determined by Service Provider in its reasonable discretion to be a threat to any of the AWWU Facilities requiring interruption or reduction of flow to Customer. An Interruption or curtailment in these cases shall be known as an "***Excused Event***" in the Agreements. It is understood that the exercise of an Excused Event will be in accordance with Agreements, Operating Procedures, and in close coordination between Parties and (i) Customer shall not interfere with or otherwise adversely affect Service

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	Provider's provision of water service as a public utility, unless any such Excused Event is closely coordinated with Service Provider, and (ii) Service Provider shall not interfere with or otherwise adversely affect Customer's provision of water for instream flows pursuant to the 1991 Agreement, unless any such Excused Event is closely coordinated with Customer or, if close coordination is not possible, coordination as soon as is reasonable under the circumstances.
20. **Force Majeure**	The Agreements shall contain customary definitions of force majeure events. Neither Party shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a force majeure event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure event shall take all commercially reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require acceleration of labor supply or resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of the Agreements if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a force majeure event. The occurrence and continuation of a force majeure event shall not suspend or excuse the obligation of a Party to make any payments due hereunder.
21. **Liability**	No party to the Agreements shall be liable for any consequential, incidental, indirect, special, or punitive damages with respect to the construction of the Eklutna River Release Facility. Except for a Party's (i) gross negligence or willful misconduct, (ii) third-party indemnity obligation, or (iii) breach of any representation or warranty, the party's maximum liability under the Agreements shall be equal to amount to be set forth in the definitive Agreements.

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22. **Governmental Approvals**	Service Provider shall be responsible for obtaining and maintaining all permits, waivers, licenses, authorizations, and governmental approvals ("***Approvals***") required for the operations, maintenance, and management of the AWWU Facilities. The Customer shall be responsible for obtaining and maintaining all Approvals required for the construction, operations, and maintenance of the Eklutna River Release Facility, and Customer shall obtain or provide evidence of lawful Certificates of Appropriation from the Alaska Department of Natural Resources for the use and transport of water as contemplated under the Transportation Agreement, including but not limited to an amendment of existing water rights or other approval(s) authorizing a change of use allowing Eklutna Owners' use of a portion of their certificated water right to establish and continue instream flows. Service Provider shall not object or interfere with Customer's application for such amendment of Customer's water rights. The Parties shall use commercially reasonable efforts to cooperate with each other in obtaining and retaining the foregoing Approvals and water rights amendment.
23. **Governing Law**	This Term Sheet and the Agreements shall be interpreted, construed, and enforced in accordance with, and otherwise governed in all respects by, the laws of the State of Alaska.
24. **Confidentiality**	a. The Parties agree that this Term Sheet, the contents therein, and negotiations of the Agreements shall remain confidential subject to the Common Interest Agreement, dated effective September 15, 2017, as amended and confirmed. Upon execution, however, the Agreements shall become non-confidential, subject to Subsections b-c below. b. The Parties agree that any public release of the Agreements and the Term Sheet, each after execution, shall be the sole responsibility of Customer, and until that date upon which the Fish and Wildlife Program is approved without any pending judicial review or appeal, any public statements to be made by AWWU about the Fish and Wildlife Program or the proposals contained therein, including but not limited to about the use of AWWU infrastructure to transport water into the Eklutna River must first be approved by the Eklutna Owners, such approval not to be unreasonably withheld or

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	delayed. For the purposes of any public release of such information, the Municipality of Anchorage and not AWWU, shall represent the Municipality of Anchorage in its role as an Eklutna Owner. Notwithstanding the foregoing, Service Provider may respond to any inquiries from the Municipal Assembly, RCA, and other regulatory and judicial authorities in a manner consistent with this Term Sheet and the Agreements. c. Service Provider shall make best efforts to ensure that all of the employees, agents, contractors and consultants of AWWU do not engage in activities as employees or agents of AWWU, including making public statements, that are reasonably likely to have an adverse effect on the public's perception of the Fish and Wildlife Program and the proposals contained therein, including but not limited to about the use of AWWU infrastructure to transport water into the Eklutna River, it being understood by both AWWU and the Eklutna Owners that such negative public statements can undermine the ability of the Eklutna Owners to satisfy their obligations under the 1991 Agreement; provided, however, that Service Provider cannot restrict the rights of such people as private citizens.
25. **Representations and Warranties**	Service Provider and the Customer shall provide customary representations and warranties, including (without limitation): due organization and good standing; due authorization, execution, and delivery; enforceability; solvency; and no conflicts.
26. **Indemnification**	Service Provider and the Customer shall provide customary reciprocal third-party indemnities for (i) any breach by such party of the Agreements, or (ii) its negligence or willful misconduct. Customer shall also indemnify and defend, and hold Service Provider harmless from any damage to AWWU's infrastructure, including but not limited to its infrastructure downstream from the Eklutna River Release Facility (*i.e.*, scouring or erosion of the river bed or banks that damages AWWU's water line and/or facilities). Customer shall further be solely responsible for, and shall indemnify, defend and hold Service Provider harmless from all claims or liability of any kind directly related to fish and wildlife mitigation measures and arising out of normal operation of the AWWU Facilities, the

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	Eklutna River Release Facility or any other facilities of the Service Provider, in a manner consistent with the definitive Agreements, prudent industry practices, the most current editions of the AWWU Design and Construction Practices Manual, Municipality of Anchorage Standard Specifications and Anchorage Municipal Code unless such claim or liability arose directly out of negligence, violation of law, or intentional misconduct by the Service Provider.
27. **Insurance**	During the Term, each Party shall maintain, at its own cost and expense, such insurance as shall be determined by the Parties in the Agreements. Notwithstanding the foregoing, Service Provider shall at all times during the Term maintain insurance coverage in compliance with Applicable Law in connection with the provision of Water Transportation Services.
28. **Other Terms**	The definitive Agreements will contain other usual and customary terms for transactions of a similar nature to those addressed thereby.
29. **Counterparts**	The Term Sheet may be executed by a number of counterparts, each of which shall be deemed an original, and all of which, together, shall constitute a single agreement.

[Signature page follows]

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SERVICE PROVIDER/AWWU:

ANCHORAGE WATER AND WASTEWATER UTILITY,
A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By: Kent Kohlhase
Name: Kent Kohlhase
Title: Municipal Manager
and

By:
Name: Mark Corsentino
Title: General Manager

CUSTOMER/EKLUTNA OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By: Andrew Laughlin
Name: Andrew Laughlin
Title: Chief Operating Officer

MATANUSKA ELECTRIC ASSOCIATION

By: Tony Zellers
Name: Tony R. Zellers
Title: Director, Power Supply

MUNICIPALITY OF ANCHORAGE

By:
Name: Kolby Hicker
Title: Deputy Municipal Manager

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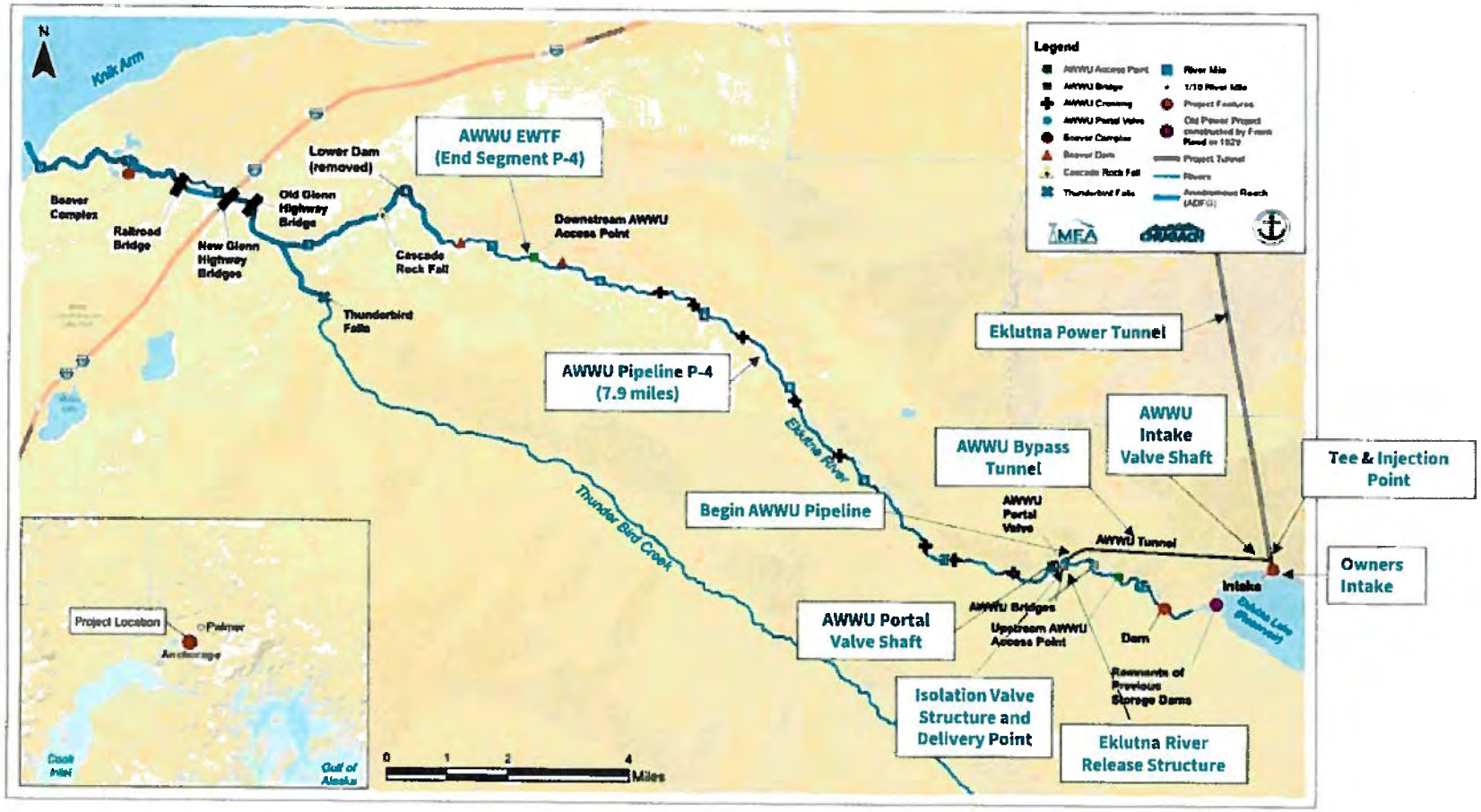
Confidentiality Waived – 4/25/2024

EXHIBIT A

OVERVIEW OF EKLUTNA OWNERS' INSTREAM FLOW PROJECT

Overview



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Confidentiality Waived – 4/25/2024

EXHIBIT B

EKLUTNA RIVER RELEASE FACILITY

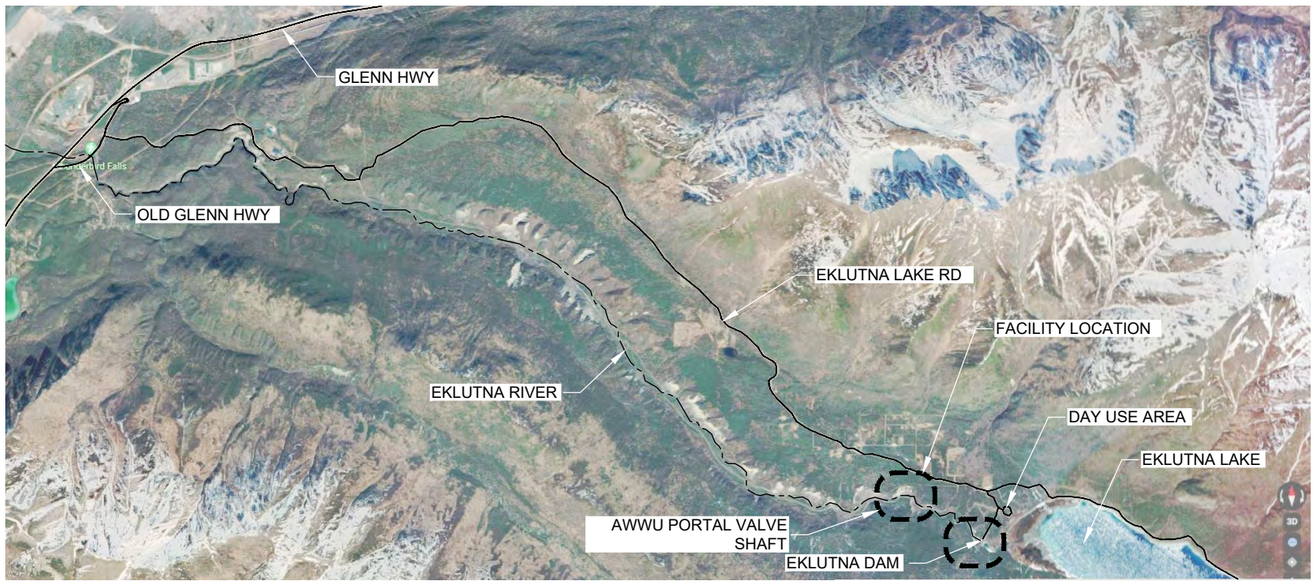
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
ANCHORAGE, ALASKA

15% DESIGN
OCTOBER 2023

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY
15% DESIGN

LOCATION MAP
NTS



VICINITY MAP
NTS

FACILITY MAP
NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

LOCATION MAP, VICINITY MAP, AND FACILITY MAP

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
G001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\G001.dwg Plot date: Sep 28, 2023 10:08am, CAD User: HaberFlavia

DRAWING INDEX

15% SUB*	SHEET NO.	DWG NO.	DESCRIPTION
			GENERAL
			COVER SHEET
X	1	G001	LOCATION MAP, VICINITY MAP, AND FACILITY MAP
X	2	G002	DRAWING INDEX
X	3	G003	STANDARD ABBREVIATIONS
X	4	G004	STANDARD SYMBOLS
X	5	G005	PIPING SCHEDULE
X	6	G006	INSTRUMENTATION AND EQUIPMENT LEGEND
			DEMOLITION
X	7	D001	DEMOLITION KEY PLAN
X	8	D100	PORTAL VALVE SHAFT YARD DEMOLITION PLAN
			CIVIL
X	9	GC001	CIVIL GENERAL NOTES AND STANDARD DETAILS
X	10	C001	PORTAL VALVE SHAFT YARD EXISTING SITE PLAN
X	11	C100	PORTAL VALVE SHAFT YARD GRADING PLAN
			STRUCTURAL
X	12	GS001	STRUCTURAL GENERAL NOTES
X	13	GS002	STRUCTURAL STANDARD DETAILS 1
X	14	GS003	STRUCTURAL STANDARD DETAILS 2
X	15	S001	STRUCTURAL KEY PLAN
X	16	S100	ISOLATION VALVE STRUCTURAL PLAN, SECTIONS, AND DETAILS
X	17	S101	ISOLATION VALVE STRUCTURAL SECTIONS
X	18	S200	RIVER RELEASE STRUCTURE PLAN,SECTIONS AND DETAILS
X	19	S201	RIVER RELEASE STRUCTURE SECTIONS
			MECHANICAL
X	20	GM001	MECHANICAL EQUIPMENT SCHEDULE
X	21	GM002	MECHANICAL STANDARD DETAILS
X	22	M001	MECHANICAL KEY PLAN
X	23	M100	ISOLATION VALVE STRUCTURE MECHANICAL PLAN
X	24	M101	ISOLATION VALVE STRUCTURE MECHANICAL SECTIONS
X	25	M200	RIVER RELEASE STRUCTURE MECHANICAL PLAN, SECTIONS
			ELECTRICAL
X	26	GE001	ELECTRICAL ABBREVIATIONS AND DEVICE INDEXES
X	27	GE002	ELECTRICAL STANDARD SYMBOLS 1
X	28	GE003	ELECTRICAL STANDARD SYMBOLS 2
X	29	E001	ELECTRICAL SITE AND KEY PLAN
	30	E002	COMMUNICATIONS BLOCK DIAGRAM
X	31	E003	TRANSMISSION AND COMMUNICATION UPGRADES PLAN
X	32	E100	ISOLATION VALVE STRUCTURE ELECTRICAL PLAN
X	33	E200	RIVER RELEASE STRUCTURE ELECTRICAL PLAN AND SECTION

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH POWERING ALASKA'S FUTURE | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
DRAWING INDEX

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
G002

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\G002.dwg Plot date: Sep 26, 2023 05:01pm, CAD User: HaberFlavia

A/C	AIR CONDITIONING
A/E	ARCHITECT/ENGINEER
A	ARCHITECTURAL (DWG DISCIPLINE), AMP
AB	ANCHOR BOLT
ABC	AGGREGATE BASE COURSE
ABAN	ABANDON
AC	ALTERNATING CURRENT
ACST	ACOUSTIC
AD	ADDENDUM, AREA DRAIN
ADDL	ADDITIONAL
ADH	ADHESIVE
ADJ	ADJUSTABLE, ADJACENT
AF	AMP FRAME, AMP FUSE
AFF	ABOVE FINISH FLOOR
AFG	ABOVE FINISH GRADE
AGGR	AGGREGATE
AIC	AMPS INTERRUPTING CAPACITY
ALIG	ALIGNMENT
ALUM	ALUMINUM
ALT	ALTERNATE, ALTITUDE
AMB	AMBIENT
ANC	ANCHOR
AP	ACCESS PANEL
APRX	APPROXIMATE
APVD	APPROVED
ARCH	ARCHITECTURAL
ASSY	ASSEMBLY
AT	AMP TRIP
ATM	ATMOSPHERE
AUTO	AUTOMATIC
AUX	AUXILIARY
AVE	AVENUE
AVG	AVERAGE
AWG	AMERICAN WIRE GAGE
AWWU	ANCHORAGE WATER AND WASTEWATER UTILITY
B/B	BACK TO BACK
BAL	BALANCE
BBD	BULLETIN BOARD
BC	BASE CABINET, BOTTOM CHORD, BOLT CENTER, BOLT CIRCLE
BD	BOARD
BE	BOTH ENDS, BELL END
BF	BOTH FACES, BOTTOM FACE, BLIND FLANGE, BOARD FEET
BFV	BUTTERFLY VALVE
BITUM	BITUMINOUS
BKG	BACKING
BL	BASE LINE
BLDG	BUILDING
BLK	BLOCK
BLKG	BLOCKING
BM	BENCHMARK, BEAM
BOC	BACK OF CURB
BOD	BOTTOM OF DUCT
BOG	BOTTOM OF GRILLE
BOL	BOTTOM OF LOUVER
BOP	BOTTOM OF PIPE
BOR	BOTTOM OF REGISTER
BOT	BOTTOM
BOU	BOTTOM OF UNIT
BP	BASE PLATE
BRG	BEARING
BRGP	BEARING PLATE
BRKT	BRACKET
BS	BOTH SIDES
BTU	BRITISH THERMAL UNIT
BTW	BETWEEN
BTWLD	BUTT WELD
BV	BALL VALVE
BW	BOTH WAYS
BYP	BYPASS
C TO C	CENTER TO CENTER
C&G	CURB & GUTTER
C	CHANNEL SHAPE, CENTIGRADE, CONDUIT, CIVIL (DRAWING DISCIPLINE)
CAB	CABINET
CAP	CAPACITY
CAT	CATALOG
CAV	CAVITY
CB	CATCH BASIN
CCB	CONCRETE BLOCK
CCW	COUNTER CLOCKWISE
CF	CUBIC FEET (FOOT)
CHFR	CHAMFER
CHD	CHORD
CHH	COMMUNICATION HANDHOLE
CI	CURB INLET
CIP	CAST-IN-PLACE
CIPB	CONCRETE INTERLOCKING PAVER BALLAST
CIRC	CIRCULATION, CIRCULAR
CJ	CONSTRUCTION JOINT, CONTROL JOINT
CKT	CIRCUIT
CL	CENTERLINE, CLASS, CLOSE
CLR	CLEAR
CMH	COMMUNICATION MANHOLE
CMU	CONCRETE MASONRY UNIT
CO	CLEAN OUT, CONCRETE OPENING
COL	COLUMN
COM	COMMON
COMB	COMBINATION
COMM	COMMUNICATION
COMP	COMPOSITION, COMPRESSIBLE, COMPOSITE
CONC	CONCENTRIC, CONCRETE
CONN	CONNECTION
CONST	CONSTRUCTION
CONT	CONTINUOUS, CONTINUED
COORD	COORDINATE
CORR	CORROSIVE, CORRUGATED
CP	CHECKER PLATE, CONTROL POINT
CPLG	COUPLING
CSK	COUNTERSINK
CTR	CENTER
CTRL	CONTROL
CU	COPPER, CUBIC
CW	CLOCKWISE
CY	CUBIC YARD
d	PENNY (NAIL MEASURE)
D	DEEP, DIFFUSER
DB	DUCT BANK, DECIBEL, DRY BULB
DBA	DEFORMED BAR ANCHOR
DBL	DOUBLE
DC	DIRECT CURRENT
DEG	DEGREE
DEG C	DEGREE CENTIGRADE
DEG F	DEGREE FAHRENHEIT
DEMO	DEMOLITION
DEP	DEPRESSED
DEPT	DEPARTMENT
DET	DETAIL
DI	DROP INLET, DUCTILE IRON
DIA	DIAMETER
DIAG	DIAGONAL, DIAGRAM
DIFF	DIFFERENTIAL, DIFFERENCE
DIM	DIMENSION
DISCH	DISCHARGE
DIST	DISTANCE, DISTRIBUTION
DIV	DIVISION
DL	DEAD LOAD
DN	DOWN
DP	DEPTH
DS	DOWN SPOUT
DT	DOUBLE TEE, DRIP TRAP ASSEMBLY
DUP	DUPLICATE
DWG	DRAWING
DWL	DOWEL
E	EAST, ELECTRICAL (DWG DISCIPLINE)
EA	EACH, EXHAUST AIR
EC	ELECTRICAL CONTRACTOR
ECC	ECCENTRIC
EDB	ELECTRICAL DUCT BANK
EE	EACH END
EF	EACH FACE
EG	EXISTING GRADE
EGL	ENERGY GRADE LINE
EFF	EFFLUENT, EFFICIENCY
EHH	ELECTRICAL HANDHOLE
EIFS	EXTERIOR INSULATION & FINISH SYSTEM
EJ	EXPANSION JOINT
EL	ELBOW, ELEVATION
ELEC	ELECTRICAL
EMBD	EMBEDDED
EMER	EMERGENCY
EMH	ELECTRICAL MANHOLE
ENCL	ENCLOSURE
ENGR	ENGINEER
ENTR	ENTRANCE
EOP	EDGE OF PAVEMENT
EOW	EDGE OF WATER
EQ	EQUAL
EQUIP	EQUIPMENT
EQUIV	EQUIVALENT
ES	EACH SIDE, EQUAL SPACE, EMERGENCY SHOWER
ESEW	EMERGENCY SHOWER AND EYE WASH
EST	ESTIMATE
EW	EACH WAY, EMERGENCY EYE/FACE WASH
EWC	ELECTRIC WATER COOLER
EWEF	EACH WAY, EACH FACE
EWTB	EACH WAY, TOP AND BOTTOM
EXC	EXCAVATION
EXH	EXHAUST
EXIST	EXISTING
EXP	EXPANSION, EXPOSED
EXT	EXTERIOR, EXTERNAL, EXTENSION
F TO F	FACE TO FACE
FAB	FABRICATE
FBO	FURNISHED BY OWNER
FC	FLUSHING CONNECTION
FCA	FLANGED COUPLING ADAPTER
FCV	FIXED CONE VALVE
FD	FLOOR DRAIN
FDC	FLEXIBLE DUCT CONNECTION
FDR	FEEDER
FE	FLANGED END
FEC	FIRE EXTINGUISHER CABINET
FEXT	FIRE EXTINGUISHER
FF	FAR FACE, FACTORY FINISH, FLAT FACE
FG	FINISHED GRADE
FIG	FIGURE
FH	FIRE HYDRANT
FIN	FINISH
FL	FLOW, FLOW LINE
FLEX	FLEXIBLE
FLG	FLANGE
FLOR	FLUORESCENT
FLR	FLOOR
FLS	FLASHING, FLUSH
FND	FOUNDATION
FNC	FENCE
FO	FINISHED OPENING
FOB	FLAT ON BOTTOM
FOC	FACE OF CONCRETE, FACE OF CURB, FIBER OPTIC CABLE
FOF	FACE OF FINISH
FOM	FACE OF MASONRY
FOS	FACE OF STUDS
FOT	FLAT ON TOP
FPT	FEMALE PIPE THREAD
FR	FRAME
FRP	FIBERGLASS REINFORCED PLASTIC
FS	FLOOR SINK, FAR SIDE
FT	FEET, FOOT
FTG	FOOTING, FITTING FUR FURRED, FURRING
FURN	FURNITURE, FURNISH
FUT	FUTURE
FV	FACE VELOCITY
FW	FIELD WELD, FIRE WALL
FWD	FORWARD
FWE	FURNISHED WITH EQUIPMENT
FXTR	FIXTURE
G	GRILLE, GROUND, GENERAL (DWG DISCIPLINE)
GA	GAGE (METAL THICKNESS)
GAL	GALLON
GALV	GALVANIZED
GB	GRADE BREAK
GD	GUARD
GEN	GENERAL
GFCI	GROUND FAULT CIRCUIT INTERRUPTER
GL	GLASS
GP	GUY POLE
GR	GRADE
GRND	GROUND
GRTG	GRATING
GT	GREASE TRAP
GWB	GYPSUM WALLBOARD
GYP	GYPSUM HARDBOARD
H	HIGH
HB	HOSE BIB
HBD	HARDBOARD
HC	HANDICAPPED, HOLLOW CORE, HORIZONTAL CURVE
HC	HORIZONTAL CENTERLINE
HDR	HEADER
HDW	HARDWARE
HEX	HEXAGONAL
HH	HANDHOLE
HM	HOLLOW METAL
HORIZ	HORIZONTAL
HP	HIGH POINT, HORSEPOWER
HPC	HORIZONTAL POINT OF CURVATURE
HPS	HIGH PRESSURE SODIUM
HPT	HORIZONTAL POINT OF TANGENCY
HR	HOUR
HS	HEADED STUD, HIGH STRENGTH
HSS	HOLLOW STRUCTURAL SHAPE
HT	HEIGHT
HV	HIGH VOLTAGE
HVAC	HEATING, VENTILATION & AIR CONDITIONING
HWD	HARDWOOD
HWL	HIGH WATER LEVEL
HYD	HYDRAULIC HZ HERTZ, CYCLES PER SECOND
I	INSTRUMENTATION (DWG DISCIPLINE)
ID	INSIDE DIAMETER, INTERIOR DIMENSION
IE	INVERT ELEVATION
IF	INSIDE FACE
IH	INTAKE HOOD
IMP	IMPACT
IN	INCH
INC	INCLUDE, INCANDESCENT
INF	INFLUENT
INSTR	INSTRUMENTATION
INSUL	INSULATION
INT	INTERIOR, INTERSECTION
INTR	INTERMEDIATE, INTERIOR
INV	INVERT
IPS	IRON PIPE SIZE
IPT	INTERNAL PIPE THREAD
IRR	IRRIGATION
ISO	ISOMETRIC
JB	JUNCTION BOX
JCT	JUNCTION
JF	JOINT FILLER
JT	JOINT
K	KIP
KB	KNEE BRACE
KCMIL	THOUSAND CIRCULAR MILS
KD	KNOCK DOWN
KIUC	KAUAI ISLAND UTILITY COOPERATIVE
KO	KNOCK OUT
KSI	KIPS PER SQUARE INCH
L	ANGLE, LENGTH, LAVATORY
LAM	LAMINATE
LATL	LATERAL
LB	LAG BOLT, POUND
LDR	LEADER
LF	LINEAR FOOT
LG	LONG
LH	LEFT HAND
LIN	LINEAR
LIQ	LIQUID
LL	LIVE LOAD
LLH	LONG LEG HORIZONTAL
LLV	LONG LEG VERTICAL
LMLU	LIQUID MARKER LECTURE UNIT
LNG	LONGITUDINAL
LOC	LOCATION
LP	LOW POINT
LPS	LOW PRESSURE SODIUM
LR	LONG RADIUS
LT	LEFT
LTD	LIMITED
LTG	LIGHTING
LTL	LINTEL
LTNG	LIGHTNING
LV	LOW VOLTAGE
LVR	LOUVER
LW	LIGHTWEIGHT
LWC	LIGHTWEIGHT CONCRETE
LWL	LOW WATER LEVEL
M	MECHANICAL (DWG DISCIPLINE)
MA	MIXED AIR
MAINT	MAINTENANCE
MAN	MANUAL
MAOP	MAXIMUM ALLOWABLE OPERATING PRESSURE
MATL	MATERIAL
MAX	MAXIMUM
MB	MACHINE BOLT
MBR	MEMBER
MCJ	MASONRY CONTROL JOINT
MECH	MECHANICAL
MED	MEDIUM
MFR	MANUFACTURER
MH	MANHOLE, METAL HALIDE
MIN	MINIMUM
MIR	MIRROR
MISC	MISCELLANEOUS
MJ	MECHANICAL JOINT
MMB	MEMBRANE
MO	MASONRY OPENING
MOD	MODULAR, MODIFY
MON	MONUMENT
MPT	MALE PIPE THREAD
MSL	MEAN SEA LEVEL
MT	MOUNT
MU	MASONRY UNIT
MULL	MULLION
MV	MEDIUM VOLTAGE
MW	MONITORING WELL
N	NORTH, NEUTRAL
NA	NOT APPLICABLE
NAT	NATURAL
NC	NORMALLY CLOSED
NEG	NEGATIVE
NF	NEAR FACE, NON-FUSED
NG	NATURAL GAS
NIC	NOT IN CONTRACT
NO	NORMALLY OPEN, NUMBER
NOM	NOMINAL
NPS	NOMINAL PIPE SIZE
NPT	NATIONAL PIPE THREAD
NS	NEAR SIDE
NTS	NOT TO SCALE
NWL	NORMAL WATER LEVEL
O TO O	OUT-TO-OUT
OA	OUTSIDE AIR, OVERALL
OC	ON CENTER
OCPD	OVER CURRENT PROTECTION DEVICE
OD	OUTSIDE DIAMETER
OH	OVERHEAD
OPNG	OPENING
OPP	OPPOSITE
OPT	OPTIONAL
ORD	OVERFLOW ROOF DRAIN
ORIG	ORIGINAL
OVFL	OVERFLOW
OVHG	OVERHANG
OZ	OUNCE
P	PAINT, PROCESS (DWG DISCIPLINE)
PAR	PARALLEL, PARAPET
PB	PANIC BAR, PULL BOX
PBD	PARTICLE BOARD
PC	POINT OF CURVE, PIECE, PRECAST
PCC	POINT OF COMPOUND CURVATURE
PCF	POUNDS PER CUBIC FOOT
PCT	PERCENT
PE	PLAIN END
PED	PEDESTAL
PEN	PENETRATION
PERF	PERFORATED
PERM	PERMANENT
PERP	PERPENDICULAR
PF	POWER FACTOR
PH	PHASE
PI	POINT OF INTERSECTION
PKG	PACKAGE
PL	PLATE, PROPERTY LINE
PLBG	PLUMBING
PLF	POUNDS PER LINEAR FOOT
PNEU	PNEUMATIC
POL	POLISH
POS	POSITIVE, POSITION
PP	POLYPROPYLENE, POWER POLE
PRC	POINT OF REVERSE CURVATURE
PREF	PREFINISHED
PREFAB	PREFABRICATED
PRELIM	PRELIMINARY
PREP	PREPARE
PRES	PRESSURE
PROP	PROPERTY
PROT	PROTECTION
PSF	POUNDS PER SQUARE FOOT
PSI	POUNDS PER SQUARE INCH
PSIA	POUNDS PER SQUARE INCH ABSOLUTE
PSIG	POUNDS PER SQUARE INCH GAGE
PT	POINT, POINT OF TANGENCY
PTN	PARTITION
PVC	POLYVINYL CHLORIDE
PVMT	PAVEMENT
PWD	PLYWOOD
PZ	PIEZOMETER
Q	RATE OF FLOW
QTR	QUARTER
QTY	QUANTITY
QUAL	QUALITY
R&R	REMOVE AND REPLACE
R&S	REMOVE AND SALVAGE
R	RADIUS, REGISTER, RISER
RA	RETURN AIR
RB	RESILIENT BASE, ROCK BERM
RCPT	RECEPTACLE
RD	ROOF DRAIN
REC	RECESS
RECD	RECEIVED
RECT	RECTANGULAR
RED	REDUCER
REF	REFERENCE
REINF	REINFORCING
REQD	REQUIRED
RESIL	RESILIENT
RET	RETAINING, RETURN
REV	REVISION, REVERSE
RFL	REFLECTED, REFLECTOR
RGS	RIGID GALVANIZED STEEL
RH	RELIEF HOOD, RIGHT HAND, RELATIVE HUMIDITY
RL	REQUIRED LAP
RND	ROUND
RNG	RENEWABLE NATURAL GAS
RO	ROUGH OPENING
ROW	RIGHT-OF-WAY
RPM	REVOLUTIONS PER MINUTE
RR	RAILROAD
RT	RIGHT
S	SOUTH, SINK, STRUCTURAL (DWG DISCIPLINE)
SA	SUPPLY AIR
SAN	SANITARY
SC	SOLID CORE
SCH	SCHEDULE
SCHEM	SCHEMATIC
SCRN	SCREEN
SE	STEEL/ALUMINUM EDGE
SEC	SECONDARY, SECONDS
SECT	SECTION
SEP	SEPARATE
SF	SQUARE FOOT
SH	SHOWER
SHT	SHEET
SHTG	SHEATHING
SIM	SIMILAR
SL	SLOPE
SLTD	SLOTTED
SLV	SLEEVE
SMLS	SEAMLESS
SOG	SLAB ON GRADE
SP	SOUNDPROOF, STANDPIPE
SPC	SPACING
SPEC	SPECIFICATION
SPLY	SUPPLY
SPT	SET POINT
SQ	SQUARE
SR	SHORT RADIUS
SS	SERVICE SINK
SST	STAINLESS STEEL
ST	STREET
STA	STATION
STD	STANDARD
STIF	STIFFENER
STIR	STIRRUP
STL	STEEL
STOR	STORAGE
STR	STRUCTURAL, STRAIGHT
SUB	SUBSTITUTE
SUC	SUCTION
SUSP	SUSPENDED
SY	SQUARE YARD
SYM	SYMBOL
SYMM	SYMMETRICAL
SYN	SYNTHETIC
SYS	SYSTEM
T&B	TOP AND BOTTOM
T&G	TONGUE AND GROOVE
T	TILE, TREAD
TA	TEMPERED AIR
TAN	TANGENT
TBM	TEMPORARY BENCHMARK
TEMP	TEMPORARY, TEMPERATURE
THK	THICK
THRD	THREAD
THRU	THROUGH
TOB	TOP OF BOLT, TOP OF BANK, TOP OF BEAM
TOC	TOP OF CURB, TOP OF CONCRETE
TOD	TOP OF DUCT
TOF	TOP OF FOOTING
TOG	TOP OF GRATING
TOL	TOLERANCE, TOP OF LEDGER
TOM	TOP OF MASONRY
TOP	TOP OF PLATE
TOPO	TOPOGRAPHY
TOS	TOP OF SLAB, TOP OF STEEL
TOW	TOP OF WALL
TP	TELEPHONE POLE, TOE PLATE, TRAP PRIMER
TPG	TOPPING
TRANS	TRANSITION
TRD	TRENCH DRAIN
TYP	TYPICAL
U	URINAL
UG	UNDERGROUND
ULT	ULTIMATE
UNFN	UNFINISHED
UNO	UNLESS NOTED OTHERWISE
UTIL	UTILITY
V	VENT, VELOCITY, VOLT
VA	VOLT AMPERE
VAC	VACUUM
VAR	VARNISH, VARIABLE, VOLT AMPERES REACTIVE
VB	VAPOR BARRIER, VINYL BASE, VALVE BOX
VC	VERTICAL CURVE
VCT	VINYL COMPOSITION TILE, VERTICAL CENTERLINE
VEL	VELOCITY
VENT	VENTILATION
VERT	VERTICAL
VS	VERSES, VAPOR SEAL
VOL	VOLUME
VPC	VERTICAL POINT OF CURVATURE
VPI	VERTICAL POINT OF INTERSECTION
VPT	VERTICAL POINT OF TANGENCY
VTR	VENT THROUGH ROOF
VWC	VINYL WALL COVERING
W/	WITH
W/O	WITHOUT
W	WATT, WEST, WIDE, WINDOW, WIRE, WIDE FLANGE BEAM
WC	WATER CLOSET, WATER COLUMN
WD	WIDTH
WF	WIDE FLANGE, WASH FOUNTAIN
WG	WIRE GLASS, WATER GAGE
WH	WALL HYDRANT, WEEP HOLE
WL	WATER LEVEL
WLD	WELDED
WM	WIRE MESH
WP	WATERPROOF, WORKING POINT
WTHP	WEATHERPROOF
WS	WATERSTOP, WATER SURFACE
WSEL	WATER SURFACE ELEVATION
WT	WEIGHT, WATER TIGHT
WWF	WELDED WIRE FABRIC
XS	EXTRA STRONG
XXS	DOUBLE EXTRA STRONG
XSECT	CROSS SECTION
YH	YARD HYDRANT
YS	YIELD STRENGTH

GENERAL NOTES:

1. THESE ABBREVIATIONS APPLY TO THE ENTIRE SET OF CONTRACT DRAWINGS.
2. LISTING OF ABBREVIATIONS DOES NOT IMPLY ALL ABBREVIATIONS ARE USED IN THE CONTRACT DRAWINGS.
3. ABBREVIATIONS SHOWN ON THIS SHEET INCLUDE VARIATIONS OF THE WORD. FOR EXAMPLE, "MOD" MAY MEAN MODIFY OR MODIFICATION; "INC" MAY MEAN INCLUDED OR INCLUDING; "REINF" MAY MEAN EITHER REINFORCE OR REINFORCING.
4. SCREENING OR SHADING OF WORK IS USED TO INDICATE EXISTING COMPONENTS OR TO DE-EMPHASIZE PROPOSED IMPROVEMENTS TO HIGHLIGHT SELECTED TRADE WORK. REFER TO CONTEXT OF EACH SHEET FOR USAGE.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

STANDARD ABBREVIATIONS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
G003

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\G003.dwg Plot date: Sep 29, 2023 01:06pm, CAD User: HaberFlavia

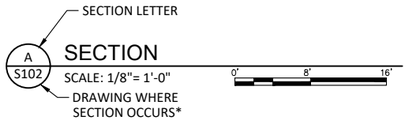
SHEET SYMBOLS

PLAN
SCALE: 1/2"= 1'-0"
0' 2' 4'

SECTION IDENTIFICATION

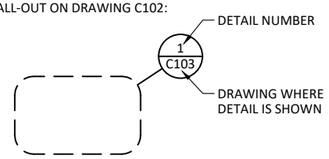
(1) SECTION CUT ON DRAWING C102:

(2) ON DRAWING C103 THIS SECTION IS IDENTIFIED AS:

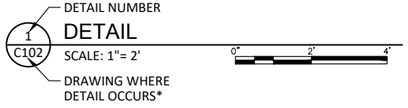


DETAIL IDENTIFICATION

(1) DETAIL CALL-OUT ON DRAWING C102:



(2) ON DRAWING C103 THIS SECTION IS IDENTIFIED AS:

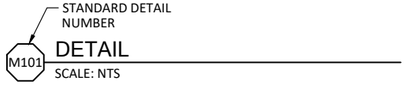


*NOTE: IF PLAN AND SECTION (OR DETAIL CALL-OUT AND DETAIL) ARE SHOWN ON SAME DRAWING. DRAWING NUMBER IS REPLACED BY A LINE.

STANDARD DETAIL IDENTIFICATION

(1) DETAIL CALL-OUT ON PLAN OR SECTION:

(2) ON DETAIL DRAWINGS, IDENTIFIED AS:



ELEVATION/IMAGE IDENTIFICATION

SITE PLAN LINE TYPES

- FENCE LINE
- OVERHEAD POWER
- MAJOR CONTOUR
- MINOR CONTOUR
- EXIST MAJOR CONTOUR
- EXIST MINOR CONTOUR
- EDGE OF WATERLINE
- TOE OF SLOPE
- TOP OF BANK
- SANITARY SEWER
- STORM DRAIN
- EDGE OF PAVEMENT
- EDGE OF GRAVEL
- WATTLE
- SILT FENCE
- CONSTRUCTION FENCE
- GAS LINE
- TURBIDITY CURTAIN
- IRRIGATION LINE
- WATER LINE
- TELEPHONE LINE
- COMMUNICATION LINE
- OVERHEAD ELECTRICAL/POWER
- UNDERGROUND ELECTRICAL
- PROPERTY LINE
- EXISTING OVERHEAD POWER LINE
- EXISTING OVERHEAD POWER & TELEPHONE LINE
- EXISTING OVERHEAD TELEPHONE LINE
- EXISTING BURIED TELEPHONE LINE EVIDENCED BY PEDESTALS & WARNING PADDLES
- EXISTING FENCE LINE
- PROJECT BOUNDARY
- TREE PROTECTION FENCE
- LIMITS OF DISTURBANCE
- SHORING

SITE PLAN SYMBOLS

- ARROW INDICATES DIRECTION OF PLAN NORTH
- CONIFER TREE: FIR, SPRUCE, LARCH OR PINE, 8" DIAMETER OR LARGER.
- DECIDUOUS TREE: COTTONWOOD, HAWTHORN, ASPEN, 8" DIAMETER OR LARGER.
- MH — MANHOLE
- EB — ELECTRIC BOX
- STORM DRAIN MANHOLE
- FH — FIRE HYDRANT
- YH-X — YARD HYDRANT
- SURVEY CONTROL POINT, AS NOTED.
- POLE ANCHOR
- POWER POLE
- LIGHT POLE
- SIGN
- SURVEY HUB
- SECTION CORNER
- BENCH MARK
- EXISTING HEADWALL
- EXISTING MONITORING STATION
- EXISTING FENCE
- STATE PLANE COORDINATE MARKER
- EXISTING TREE LINE
- EXISTING BUILDING, STRUCTURES
- EXISTING SECTION CORNER MONUMENT FOUND AS DESCRIBED
- EXISTING 5/8" REBAR CONTROL POINT MONUMENT, BORING LOCATION
- W — EXISTING HOSE BIB
- EXISTING PORTABLE IRRIGATION WATER PUMP
- WELL — EXISTING 6" WATER WELL
- EXISTING ELECTRICAL OUTLET
- P — EXISTING POWER POLE
- T — EXISTING TELEPHONE PEDESTAL
- CONTROL POINT
- PUMP
- PUMP
- TP — TEST PIT LOCATION

MISCELLANEOUS SYMBOLS

- CHANGE OF PIPE MTL
- OR — END OF PIPE
- ℄ — CENTERLINE
- Ø — DIAMETER
- ∠ — ANGLE
- PL — PLATE
- ± — PLUS/MINUS

GENERAL NOTES:

1. ALL SYMBOLS ARE NOT NECESSARILY USED. THIS IS A STANDARD DRAWING SHOWING COMMON SYMBOLS ON THIS PROJECT.
2. SCREENING OR SHADING OF WORK IS USED TO INDICATE EXISTING COMPONENTS OR TO DE-EMPHASIZE PROPOSED IMPROVEMENTS TO HIGHLIGHT SELECTED TRADE WORK. REFER TO CONTEXT OF EACH DRAWING FOR USAGE.

HATCH SYMBOLS

- ROCK, TYPE AS NOTED (PLAN/SECTION)
- BED ROCK
- EXISTING GRADE (SECTION)
- NEW SOIL (SECTION)
- CONCRETE EXISTING (SECTION/PLAN)
- CONCRETE 1ST STAGE (SECTION/PLAN)
- CONCRETE 2ND STAGE (SECTION/PLAN)
- SAND, GROUT (PLAN/SECTION)
- STEEL (SECTION)
- GRATING (PLAN)
- MASONRY (PLAN)
- WOOD, SIZE/TYPE AS NOTED (PLAN)
- WOOD, SIZE/TYPE AS NOTED (SECTION)
- RIP RAP (PLAN/SECTION)
- RIGID INSULATION (SECTION)
- ASPHALT CONCRETE PAVEMENT SURFACE (PLAN/SECTION)
- GRASS/VEGETATION (PLAN)
- BATT INSULATION (SECTION)
- NEW CONSTRUCTION
- EXISTING
- EXISTING TO BE REMOVED OR DEMOLISHED
- CLEARING AND GRUBBING
- ASPHALT
- GRASS/VEGETATION
- GRAVEL

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

STANDARD SYMBOLS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
G004

JOB NO: 000000

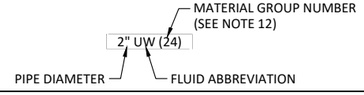
Path: C:\Vault\Chugach Electric\Portal Release Structure\G004.dwg Plot date: Sep 26, 2023 03:57pm, CAD User: HaberFlavia

FLUID ABBREVIATION	FUNCTION	ALLOWABLE PIPING MATERIAL GROUP NO. (SEE NOTE 1 AND 4)				FIELD TEST REQUIREMENTS (SEE NOTE 3 AND NOTE 4)		
	THIS LIST MAY INCLUDE FLUIDS NOT USED IN THIS PROJECT	EXPOSED PIPING (SEE NOTE 14)		BURIED PIPING (SEE NOTE 13)		MINIMUM TEST PRESSURE PSI	TEST MEDIUM	LEAKAGE ALLOWANCE (SEE NOTE 2)
		3" DIA AND SMALLER	4" DIA AND LARGER	3" DIA AND SMALLER	4" DIA AND LARGER			
COMMONLY USED FUNCTIONS								
DR	DRAIN	2	2	2	2	NOTE 6	WATER	(D)
RW	RAW WATER	2,8	2,8	8	8	150	WATER	(A)

PIPING MATERIAL SCHEDULE (SEE NOTE 1)

GROUP NO.	PIPE MATERIAL	FITTINGS / JOINTS	LININGS AND COATINGS (SEE NOTE 13)
2	STEEL, ASTM A53, SCHEDULE 40, BLACK WELDED, GALVANIZED	2 1/2" AND SMALLER, MALLEABLE IRON, ASME B16.3, THREADED, BANDED, GALVANIZED 150 PSI. 3" AND LARGER, CAST IRON, ASME B16.1, 125 PSI FLANGED OR MECHANICAL COUPLING.	SEE SECTION 40 23 15
8	WELDED STEEL PIPE (AWWA C200 & MODIFIED PER SECTION 331111) (ALL PIPE CALLOUT DIAMETERS ARE 'ID' OF MORTAR LINING)	WELDED STEEL, AWWA C208 MODIFIED PER SECTION 331111, FABRICATED.	SEE SECTION 33 11 11

TYPICAL PIPE DESIGNATION:



NOTES:

NOTE 1
ALTHOUGH SEVERAL PIPE MATERIAL GROUPS MAY BE LISTED ON THIS SHEET FOR A GIVEN FLUID SERVICE, CONTRACTOR SHALL PROVIDE ONLY THE PIPE MATERIAL GROUP SHOWN ON THE DRAWINGS AND SPECIFIED FOR THAT FLUID SERVICE.

NOTE 2
LEAKAGE ALLOWANCE IS AS FOLLOWS
A. PIPES SO DESIGNATED SHALL SHOW ZERO LEAKAGE.
B. PIPES SO DESIGNATED SHALL SHOW ZERO LEAKAGE FOR UNBURIED PIPE AND NOT MORE THAN 0.02 GALLON PER HOUR PER INCH DIAMETER PER 100 FEET OF BURIED PIPE.
C. PIPES SO DESIGNATED SHALL NOT SHOW A LEAKAGE OF MORE THAN 0.15 GALLON PER HOUR PER INCH OF DIAMETER PER 100 FEET OF PIPE.
D. PIPES SO DESIGNATED SHALL NOT SHOW A LOSS OF PRESSURE OF MORE THAN 5 PERCENT.
E. PIPE SO DESIGNATED SHALL NOT SHOW A LOSS OF VACUUM OF MORE THAN 4 INCHES MERCURY COLUMN.

NOTE 3
FOR FIELD TEST PROCEDURES AND ADDITIONAL TEST REQUIREMENTS, SEE PIPING SECTION OF SPECIFICATIONS.

NOTE 4
NO SUBSTITUTIONS U.N.O. IN THE SPECIFICATIONS.

NOTE 5
NOT USED

NOTE 6
STATIC WATER TEST WITH SURFACE 5 FEET ABOVE HIGH POINT OF PIPE.

NOTE 7
INSPECTION AND TESTING SHALL BE IN ACCORDANCE WITH APPLICABLE PLUMBING CODE.

NOTE 8
NOT USED

NOTE 9
NOT USED

NOTE 10
NOT USED

NOTE 11
NOT USED

NOTE 12
CHANGE IN PIPING MATERIAL GROUP NUMBER IS INDICATED THUS: ——◆

NOTE 13
FOR FULL PIPE LINING AND COATING REQUIREMENTS, SEE SPECIFICATIONS.

NOTE 14
EXPOSED OUTDOOR PIPING SHALL BE PAINTED IN ACCORDANCE WITH SPECIFICATIONS. COLORS TO BE SELECTED BY OWNER.

NOTE 15
NOT USED

NOTE 16
NOT USED

NOTE 17
NOT USED

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
PIPING SCHEDULE

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

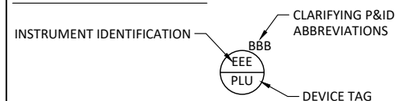
DRAWING
G005

JOB NO: 0000000

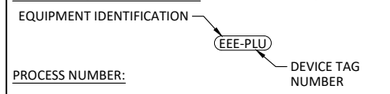
Path: C:\Vault\Chugach Electric\Portal Release Structure\G005.dwg Plot date: Sep 26, 2023 03:57pm, CAD User: HaberFlavia

INSTRUMENTATION / EQUIPMENT TAGS

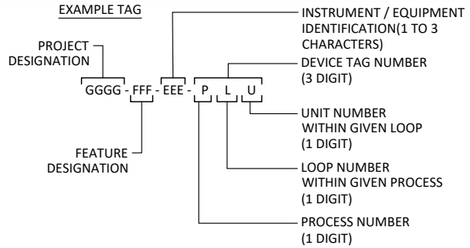
EXAMPLE INSTRUMENT CALLOUT



EXAMPLE EQUIPMENT CALLOUT



EXAMPLE TAG



PROCESS NUMBER:

0 MPH COMMON
1 TURBINE/GENERATOR
2 PUMPS/MOTORS
3 TIV
4 HVAC
5 LUBE/WATER COOLING
6 HPU
7 PLUMBING
8 VFD
9 CONTROLS INSTRUMENTATION

NOTE:

PROJECT AND FEATURE DESIGNATION FOR ALL COMPONENTS ON THIS FEATURE SET SHALL BE "EFWP-DOM" FOR "EKLUTNA FISH & WILDLIFE PROJECT - EKLUTNA RIVER RELEASE FACILITY". THIS HAS BEEN OMITTED ON THE DRAWINGS FOR BREVITY.

GENERAL INSTRUMENT OR FUNCTIONAL SYMBOLS

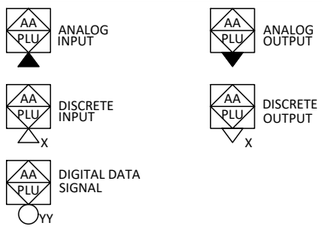
	FIELD MOUNTED	PRIMARY OR PANEL MOUNTED - ACCESSIBLE (1)	PRIMARY OR PANEL MOUNTED - INACCESSIBLE (2)	SECONDARY OR MCC MOUNTED - ACCESSIBLE (1)	SECONDARY OR MCC MOUNTED - INACCESSIBLE (2)
INSTRUMENT	EEE PLU	EEE PLU	EEE PLU	EEE PLU	EEE PLU
SHARED DISPLAY SHARED CONTROL OR HMI	EEE PLU	EEE PLU	EEE PLU	EEE PLU	EEE PLU
INDICATING LIGHTS	EEE PLU	EEE PLU	N/A	EEE PLU	N/A

(1) NORMALLY ACCESSIBLE TO OPERATOR
(2) NORMALLY INACCESSIBLE TO OPERATOR (BEHIND-THE-PANEL)

SPECIAL CASE INSTRUMENT OR FUNCTIONAL SYMBOLS

- SINGLE INSTRUMENT OR OTHER COMPONENT HAVING MULTIPLE FUNCTIONS
- RELAY INTERLOCK LOGIC - SEE SCHEMATICS OR SPECIFICATIONS FOR MORE INFORMATION
- LSH PLU — LEVEL (FLOAT)
- LE PLU — LEVEL (ULTRASONIC)
- 24 VDC — POWER SUPPLY (SIZE AS NOTED)
- AS — AIR SUPPLY
- PRIMARY ELECTRICAL POWER (120V / 60 HZ UNLESS INDICATED OTHERWISE)
- INDICATES VENDOR PACKAGE
- CR — CONTROL RELAY
- LIGHTNING SURGE ARRESTOR
- M — MOTOR

SIGNAL SYSTEM INTERFACES



AA = I/O DESIGNATION (MV = MULTIVARIABLE)

YY = DIGITAL PROTOCOL

X: H-MAINTAINED/LATCHING
M = MOMENTARY/FOLLOWER

ANALOG I/O DESIGNATORS

CR	CHLORINE RESIDUAL
DP	DIFFERENTIAL PRESSURE
FL	FLOW
LE	LOWER EXPLOSIVE LIMIT
LV	LEVEL
MO	MANIPULATED OUTPUT
PH	ACIDITY
PO	POSITION
PR	PRESSURE
PV	PROCESS VARIABLE
SP	SPEED
TE	TEMPERATURE
TU	TURBIDITY

DIGITAL PROTOCOL DESIGNATORS

DN	DEVICENET
IP	ETHERNET /IP
MB	MODBUS RTU
PB	PROFIBUS
PL	PARALLEL
SL	SERIAL
TC	MODBUS TCP

DISCRETE I/O DESIGNATORS

AM	AUTO-MANUAL
AU	AUTO
CL	CLOSED
EN	ENABLE
EL	POWER AVAILABLE
FA	FIRE ALARM
FW	FORWARD / REVERSE
HH	HI-HI LEVEL
HI	HI LEVEL
LL	LOW-LOW LEVEL
LO	LOW LEVEL
MN	MANUAL
OO	ON-OFF
OP	OPEN
RB	RUN BOOSTER
RC	RUN CLOSED
RE	REMOTE
RF	RUN FORWARD
RG	RUNNING
RN	RUN-STOP
RO	RUN-OPEN
RR	RUN-REVERSE
RV	REVERSE
YA	FAULT
SU	SUPERVISORY
SW	SELECTION
TR	TROUBLE

INSTRUMENTATION IDENTIFICATION TABLE (ISA)

FIRST LETTER			SUCCEEDING LETTER(S)		
LETTER	MEASURED INITIATING VARIABLE	VARIABLE MODIFIER	READOUT OR PASSIVE FUNCTION	OUTPUT OR ACTIVE FUNCTION	FUNCTION MODIFIER
A	ANALYSIS (+)		ALARM		
B	BURNER, COMBUSTION				
C	CONDUCTIVITY			CONTROL	CLOSED
D	DENSITY (S.G.)	DIFFERENTIAL			
E	VOLTAGE		SENSOR (PRIMARY ELEMENT)		
F	FLOW RATE	RATIO (FRACTION)			
G	GAUGE		GLASS, GAUGE, VIEWING DEVICE	GATE	
H	HAND (MANUAL)				HIGH
I	CURRENT (ELECTRICAL)		INDICATE		
J	POWER	SCAN			
K	TIME, TIME SCHEDULE	TIME RATE OF CHANGE		CONTROL STATION	
L	LEVEL		LIGHT (PILOT)		LOW
M	MOTION	MOMENTARY			MIDDLE, INTERMEDIATE
N	TORQUE		ISOLATE	ISOLATOR	
O	USER CHOICE		ORIFICE, RESTRICTION		OPEN
P	PRESSURE (VACUUM), PNEUMATIC		POINT (TEST) CONNECTION		
Q	QUANTITY	INTEGRATE, TOTALIZE			
R	RADIATION/ RESISTANCE (ELECTRICAL)		RECORD OR PRINT		
S	SPEED, FREQUENCY	SAFETY		SWITCH	
T	TEMPERATURE			TRANSMIT	
U	MULTI VARIABLE		MULTIFUNCTION	MULTIFUNCTION	MULTIFUNCTION
V	VIBRATION, MECHANICAL ANALYSIS			VALVE, DAMPER, LOUVER	
W	WEIGHT, FORCE		WELL		
X	INTRUSION	X-AXIS			
Y	EVENT, STATE OR PRESENCE	Y-AXIS		RELAY, COMPUTE, CONVERT	
Z	POSITION, DIMENSION	Z-AXIS		DRIVER, ACTUATOR, FINAL CONTROL ELEMENT	

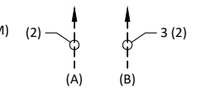
EQUIPMENT IDENTIFICATION TABLE

AC	AIR COMPRESSOR	GEN	GENERATOR	PV	PHOTOVOLTAIC
ACC	ACCUMULATOR	GSU	GENERATOR STEP-UP TRANSFORMER	RCT	RECTIFIER
ACT	ACTUATOR	GTC	GENERATOR POWER TERMINAL CABINET	RIO	REMOTE I/O UNIT
AF	AIR FILTER	HB	HOSE BIB	RTD	RESISTANCE TEMPERATURE DETECTOR
AFD	ADJUSTABLE FREQUENCY DRIVE	HMI	HUMAN-MACHINE INTERFACE	RTU	REMOTE TELEMETRY UNIT
AH	AIR HANDLING UNIT	HOI	HOIST/CRANE	SEC	SECURITY CONTROL PANEL
ARC	ARC PLENUM AND EXHAUST DUCT	HPU	HYDRAULIC POWER UNIT	SEP	SEPTIC SYSTEM
ATS	AUTOMATIC TRANSFER SWITCH	HTR	HEATER	SHG	SODIUM HYPOCHLORITE GENERATOR
BAT	BATTERY	INV	INVERTER	SNK	SINK
BC	BATTERY CHARGER	LCP	LOCAL CONTROL PANEL	SPU	SPEED PICKUP SENSOR
BRG	BEARING	LCS	LOCAL CONTROL STATION	STR	STRAINER
BRK	BREAKER	LPU	LUBRICATING OIL PUMP CONTROL UNIT	SVR	SERVER
CAM	CAMERA	MB	METER BASE	SWG	SWITCHGEAR
CSE	COMBINATION SERVICE ENCLOSURE	MC	MECHANICAL COUPLING	TIV	TURBINE INLET VALVE
CV	CHECK VALVE	MCC	MOTOR CONTROL CENTER	TNK	TANK
D	DAMPER	MCP	MAIN CONTROL PANEL	TOI	WATER CLOSET
DCU	DISTRIBUTED CONTROL UNIT	MES	MANAGED ETHERNET SWITCH	TRS	TRAVELING SCREEN
DS	DISCONNECT	MOV	MOTOR OPERATED VALVE	TUR	TURBINE
EAP	ENGINEERING ACCESS POINT	MS	MOTOR STARTER	UPS	UNINTERRUPTABLE POWER SUPPLY
ECP	ENVIRONMENTAL CONTROL PANEL (HVAC)	MTR	MOTOR	UVR	UV REACTOR
EEW	EMERGENCY EYEWASH STATION	MTS	MANUAL TRANSFER SWITCH	V	VALVE
EF	EXHAUST FAN	NET	NETWORK / COMMUNICATIONS RACK	VCP	VENDOR CONTROL PANEL
EXC	EXCITER	OWS	OIL WATER SEPARATOR	VFD	VARIABLE FREQUENCY DRIVE
FAS	FIRE ALARM SYSTEM	P	PUMP	VL	VENTILATION LOUVER
FD	FLOOR DRAIN	PB	PANELBOARD / LOAD CENTER	VSP	VENDOR SUPPLIED PANEL
FIL	FILTER	PCP	PLANT CONTROL PANEL	WS	WATER SOFTENER
FOR	FIBER OPTIC REPEATER	PCU	POWER CONTROL UNIT	XFR	TRANSFORMER
FOT	FIBER OPTIC TRANSCEIVER	PFL	PRE-FILTER	XVR	TRANSCEIVER
FPP	FIBER PATCH PANEL / CONNECTOR HOUSING	PLC	PROGRAMMABLE LOGIC CONTROLLER	YLT	EVENT PILOT LIGHT
G	GATE	PRV	PRESSURE REDUCING VALVE	ZZK	SECURITY GATE INTERFACE
GBK	GENERATOR BRAKE	PS	POWER SUPPLY / ISOLATOR / CONVERTER		

INSTRUMENTATION LINE SYMBOLOGY

- PRIMARY PROCESS (CLOSED CONDUIT, DASHED LINE INDICATES ALTERNATE FLOW STREAM)
- PRIMARY PROCESS (OPEN CHANNEL)
- ANALOG SIGNAL, (4 TO 20 mAdc, ECT)
- DISCRETE SIGNAL, (ON/OFF, ECT)
- PNEUMATIC SIGNAL
- FILLED SYSTEM SIGNAL
- HYDRAULIC SYSTEM SIGNAL
- DIGITAL DATA LINK
- PACKAGE SYSTEM EQUIPMENT
- STRUCTURE/FACILITY BOUNDARY
- CABLE FURNISHED WITH EQUIPMENT
- M — MECHANICAL POWER/LINKAGE
- E — ELECTRICAL POWER

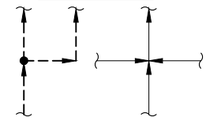
PARALLELING LINES



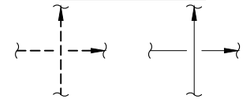
(A) TOTAL OF 2 SIGNALS

(B) 3 TYPICAL SETS OF 2 SIGNALS EACH. TOTAL OF 6 SIGNALS.

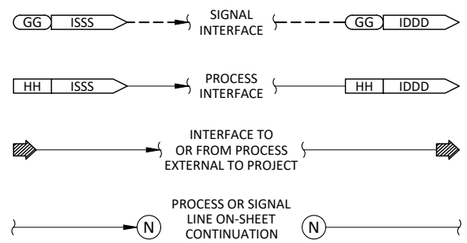
CONNECTING LINES



NON-CONNECTING LINES



SYSTEM CONTINUATION INTERFACES



GG SIGNAL INTERFACE NO.
HH PROCESS INTERFACE NO.
DDD DESTINATION DRAWING NO.
SSS SOURCE DRAWING NO.

P&ID ABBREVIATIONS

AC	ALTERNATING CURRENT
AM	AUTO-MANUAL
COD	CHEMICAL OXYGEN DEMAND
DEV	DEVIATION
DC	DIRECT CURRENT
DCS	DISTRIBUTED CONTROL SYSTEM
ECS	ENVIRONMENTAL CONTROL SYSTEM (HVAC)
EPO	EMERGENCY POWER OFF
FOC	FIBER OPTIC CABLE
FOS	FAST-OFF-SLOW
FOSA	FAST-OFF-SLOW-AUTO
FOSR	FAST-OFF-SLOW-REMOTE
HI	HIGH
HML	HIGH-MID-LOW
HOA	HAND-OFF-AUTO
HOR	HAND-OFF-REMOTE
ISR	INTRINSICALLY SAFE RELAY
LEL	LOWER EXPLOSIVE LIMIT
LO	LOW
LOR	LOCAL-OFF-REMOTE
LOS	LOCKOUT STOP
LR	LOCAL-REMOTE
MC	MODULATE-CLOSE
MOA	MANUAL-OFF-AUTO
MSC	MANUFACTURER SUPPLIED CABLE
NC	NORMALLY CLOSED
NO	NORMALLY OPEN
OC	OPEN-CLOSE(D)
OCA	OPEN-CLOSE-AUTO
OCR	OPEN-CLOSE-REMOTE
OI	OPERATOR INTERFACE
OO	ON-OFF
OOA	ON-OFF-AUTO
OOR	ON-OFF-REMOTE
ORP	OXIDATION REDUCTION POTENTIAL
OSC	OPEN-STOP-CLOSE
PC	PERSONAL COMPUTER
PCS	PLANT CONTROL SYSTEM
pH	HYDROGEN ION CONCENTRATION
PID	PROPORTIONAL INTEGRAL DERIVATIVE CONTROL
POT	POTENTIOMETER
RC	RUN CLOSE
RO	RUN OPEN
RL	RAISE-LOWER
RM	REMOTE MULTIPLEXING MODULE
RSL	RAISE-STOP-LOWER
RVSS	REDUCED VOLTAGE SOLID-STATE STARTER
SCADA	SUPERVISORY CONTROL AND DATA ACQUISITION
SEL	SELECT
SET	SET POINT
SF	SLOWER-FASTER
SHC	SODIUM HYPOCHLORITE
SR	START-RESET
SS	START-STOP
SSC	SUPERVISORY SET POINT CONTROL
ST	START
SW	SEAL WATER
TC	THERMOCOUPLE
TCR	TOTAL CHLORINE RESIDUAL
TEMP	TEMPERATURE
TSP	TWISTED SHIELD PAIR
TURB	TURBIDITY
VHC	VOLATILE HYDROCARBONS
VIB	VIBRATION
VSP	VENDOR SUPPLIED PANEL
VTO	VENT TO OUTSIDE
WSEL	WATER SURFACE ELEVATION

NOTES:

1. FOR MECHANICAL ELEMENT SYMBOLS, SEE MECHANICAL LEGEND.
2. FOR ELECTRICAL ELEMENT SYMBOLS, SEE ELECTRICAL LEGEND.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

INSTRUMENTATION AND EQUIPMENT LEGEND

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING

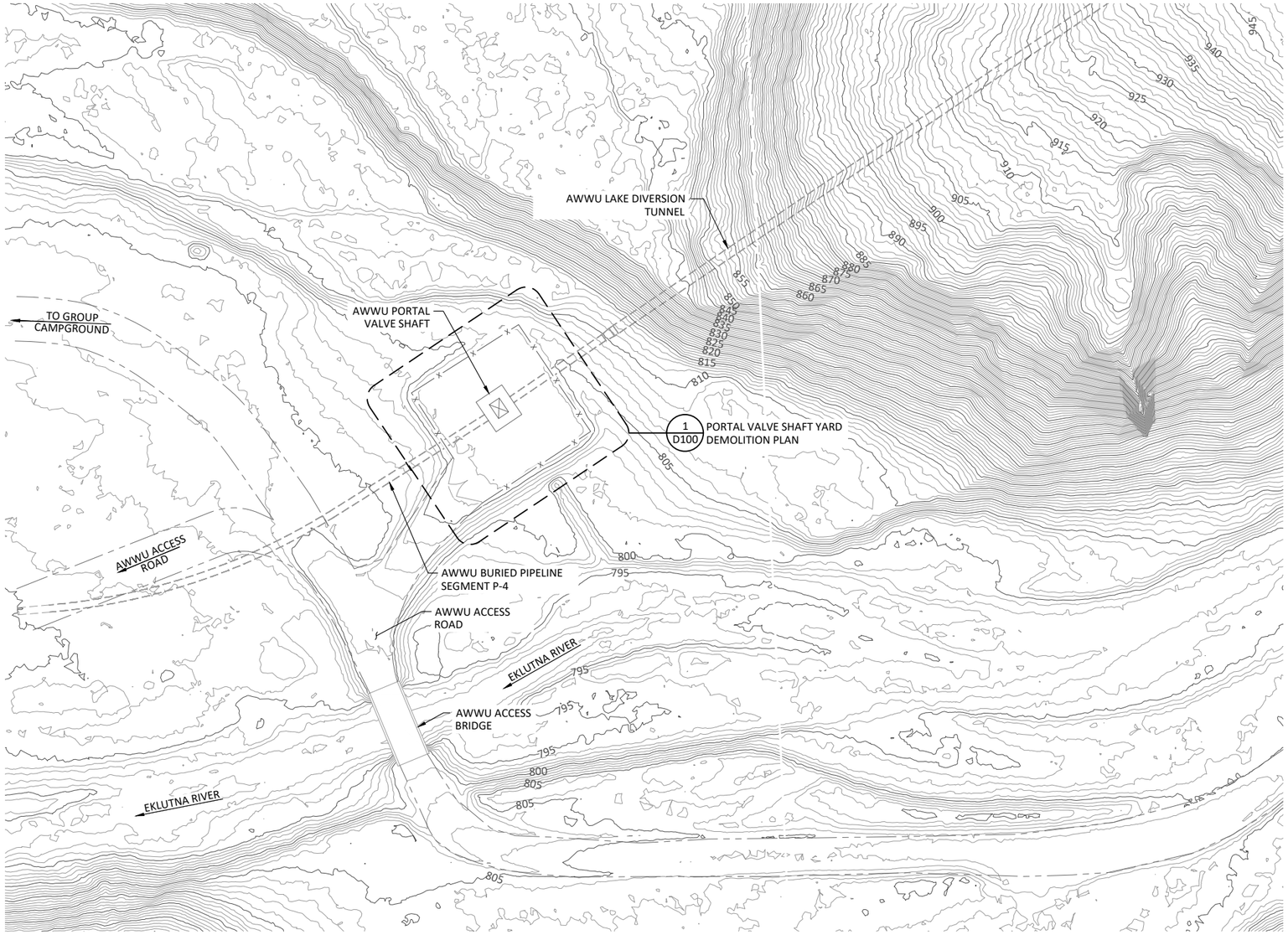
G006

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\G006.dwg Plot date: Sep 26, 2023 03:58pm, CAD User: HaberFlavia

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



DEMOLITION KEY PLAN

SCALE: 1"= 40'

0" 40' 80'

N

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

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McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

DEMOLITION KEY PLAN

DESIGNED S. ELLENSON

DRAWN F. HABER

CHECKED J. BOAG

PROJECT DATE 10/6/23

DRAWING

D001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\D001.dwg Plot date: Sep 26, 2023 04:06pm, CAD User: HaberFlavia

SHEET NOTES:

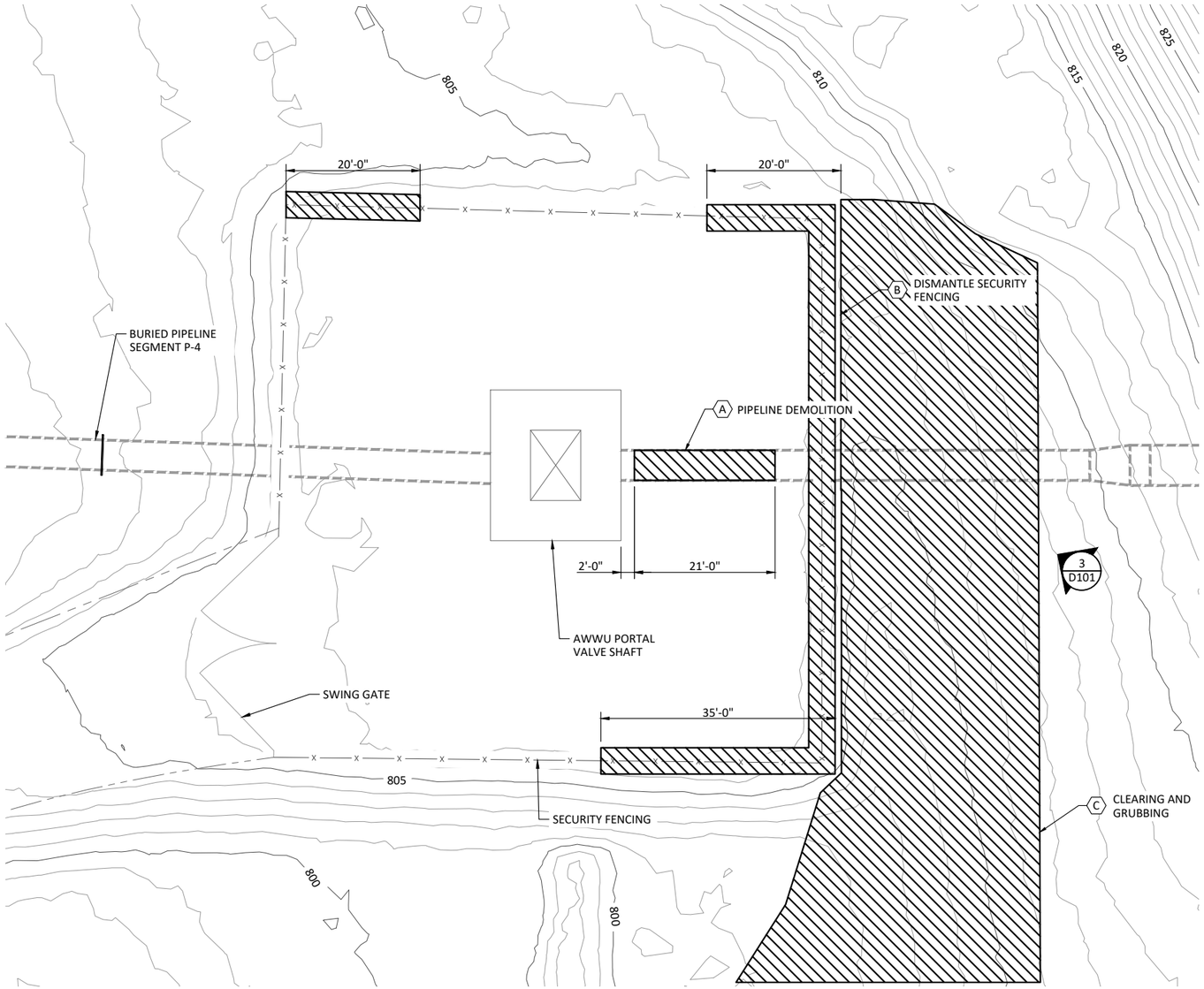
1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).

SHEET KEY NOTES:

A. EXCAVATE AND EXPOSE BURIED STEEL PIPELINE UPSTREAM OF PORTAL VALVE SHAFT. DEMOLISH AND DISPOSE OF 21-FT SEGMENT OF PIPELINE.

B. DISMANTLE SECURITY FENCING TO EXTENTS SHOWN. PRESERVE AND PROTECT FOR RE-INSTALLATION FOLLOWING PROJECT CONSTRUCTION.

C. CLEAR AND GRUB LAND NORTHEAST OF PORTAL VALVE SHAFT TO EXTENTS SHOWN .



PORTAL VALVE SHAFT YARD DEMOLITION PLAN

SCALE: 1"= 10'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

PORTAL VALVE SHAFT YARD DEMOLITION PLAN

DESIGNED S. ELLENSON

DRAWN F. HABER

CHECKED J. BOAG

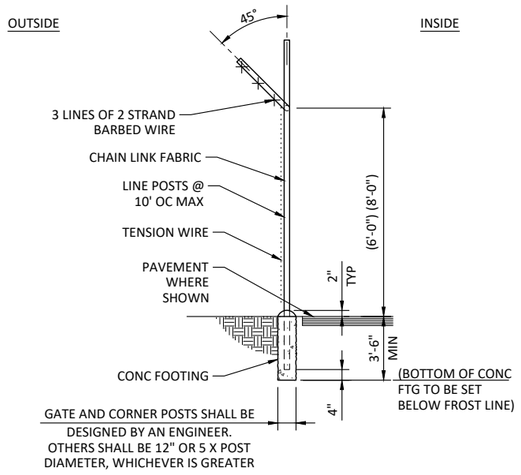
PROJECT DATE 10/6/23

DRAWING

D100

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\D100.dwg Plot date: Sep 28, 2023 12:49pm, CAD User: HaberFlavia

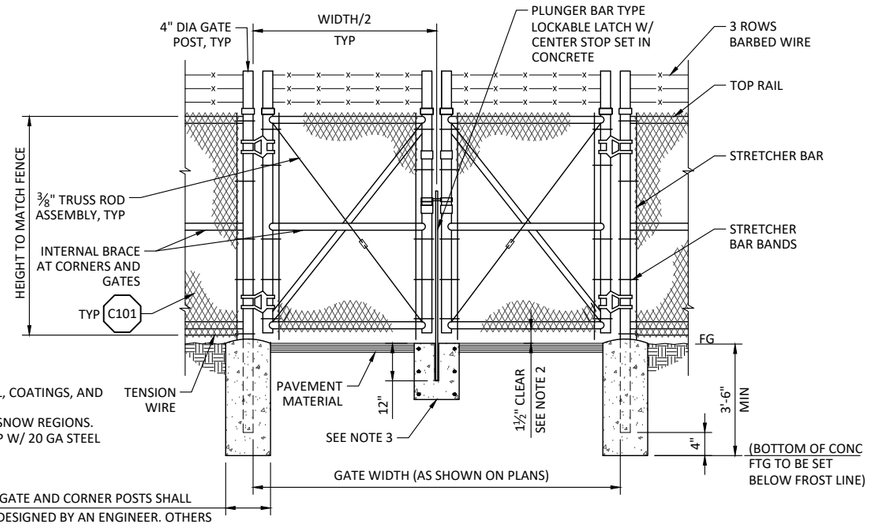


NOTES:
1. SEE SPECIFICATIONS FOR FENCE MATERIAL, COATINGS, AND INSTALLATION REQUIREMENTS.
2. EXTENSION ARM MAY BE TURNED IN AT OPTION OF OWNER.

CHAIN LINK FENCE

SCALE: NTS

C101



NOTES:
1. SEE SPECIFICATIONS FOR FENCE MATERIAL, COATINGS, AND INSTALLATION REQUIREMENTS.
2. SEE SPECIFICATIONS FOR CLEARANCES IN SNOW REGIONS.
3. 12" DIAMETER x 18" DEEP CONCRETE STOP W/ 20 GA STEEL PLUNGER SLEEVE, DIA = ROD O.D. +½".

DOUBLE LEAF GATE

SCALE: NTS

C102

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

CIVIL GENERAL NOTES AND STANDARD DETAILS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING

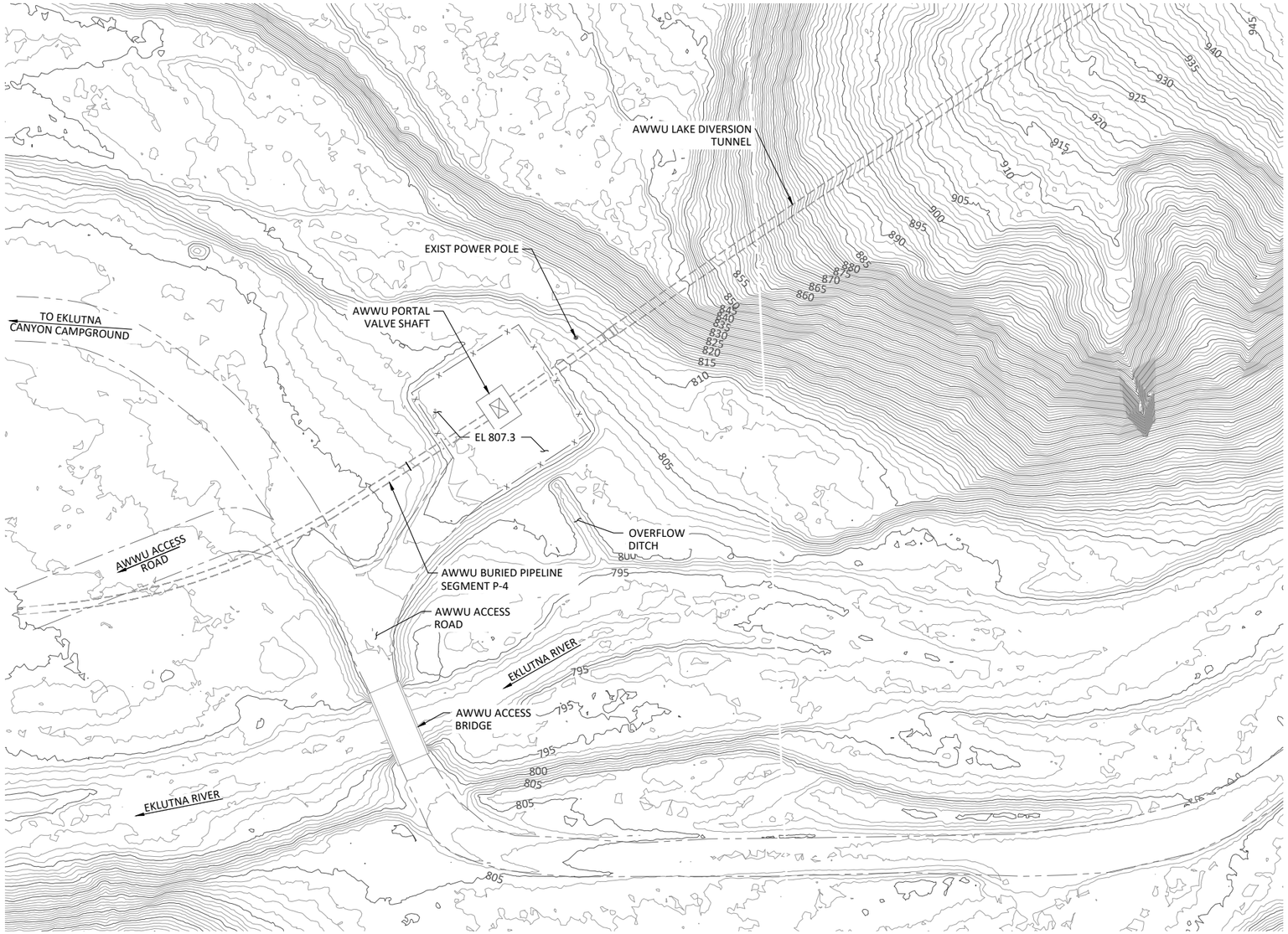
GC001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GC001.dwg Plot date: Sep 28, 2023 01:12pm, CAD User: HaberFlavia

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



PORTAL VALVE SHAFT YARD EXISTING SITE PLAN

SCALE: 1"= 40'

0" 40' 80'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

PORTAL VALVE SHAFT YARD
EXISTING SITE PLAN

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING

C001

JOB NO: 000000

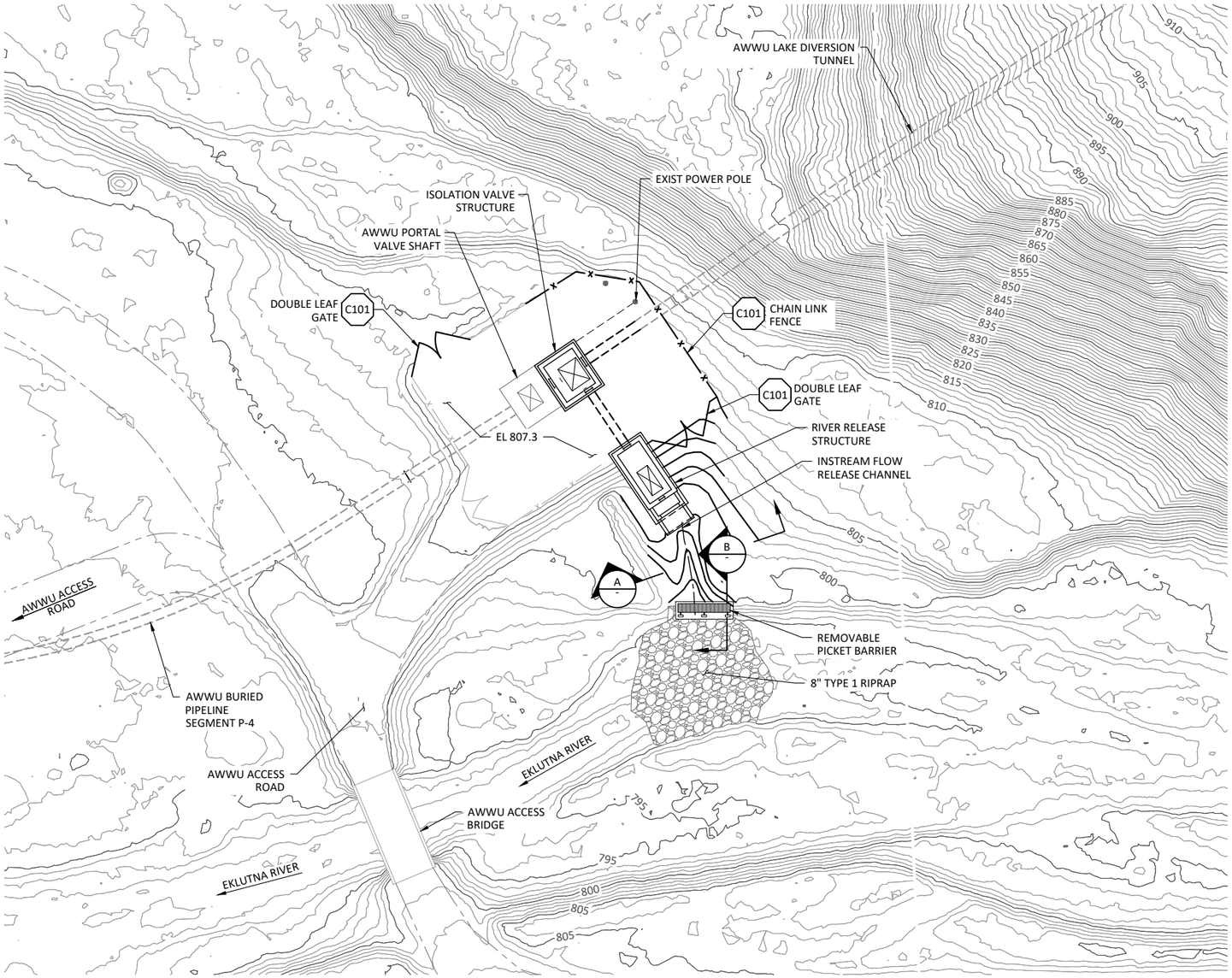
Path: C:\Vault\Chugach Electric\Portal Release Structure\C001.dwg Plot date: Sep 28, 2023 01:13pm, CAD User: HaberFlavia

GENERAL NOTES:

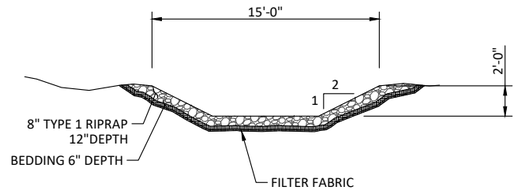
1. SURVEY BASED ON LIGHT DETECTION AND RANGING (LIDAR) AERIAL IMAGERY DATA CAPTURED IN MAY 2022.

PROJECTION: UTM ZONE 6 NORTH
HORIZONTAL DATUM: NAD83 (2011)
VERTICAL DATUM: NAVD88 (GEOID 12B)

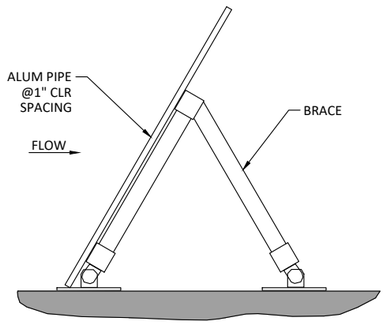
2. ELEVATIONS ARE TO FINISHED GRADE UNLESS OTHERWISE SHOWN.
3. SLOPE UNIFORMLY BETWEEN CONTOURS AND SPOT ELEVATIONS SHOWN



PORTAL VALVE SHAFT YARD EXISTING SITE PLAN
SCALE: 1"= 30'



A
SECTION
SCALE: 1"= 5'



B
SECTION
SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

PORTAL VALVE SHAFT YARD
GRADING PLAN

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
C100

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\C100.dwg Plot date: Sep 28, 2023 01:13pm, CAD User: HaberFlavia

GENERAL STRUCTURAL NOTES:
THE FOLLOWING NOTES ARE GENERAL AND APPLY TO THE ENTIRE PROJECT, UNLESS SPECIFICALLY NOTED OTHERWISE (UNO)

1) GENERAL:

A. CONSTRUCTION DOCUMENTS:
   1. THE CONTRACTOR SHALL REVIEW THE APPROVED CONTRACT DOCUMENTS AND NOTIFY THE ENGINEER OF ANY ERRORS OR DISCREPANCIES PRIOR TO THE START OF CONSTRUCTION.
   2. THE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY IF ANY UNIDENTIFIED EXISTING UNDERGROUND UTILITIES ARE DISCOVERED.
   3. THE STRUCTURAL CONTRACT DRAWINGS REPRESENT THE FINISHED STRUCTURE. THEY DO NOT INDICATE THE METHOD OF CONSTRUCTION. THE CONTRACTOR SHALL PROVIDE ALL MEASURES NECESSARY TO PROTECT THE STRUCTURE DURING CONSTRUCTION. SUCH MEASURES SHALL INCLUDE, BUT ARE NOT LIMITED TO, BRACING AND/OR SHORING FOR LOADS DUE TO CONSTRUCTION EQUIPMENT, ETC.
   4. UNDER NO CIRCUMSTANCES CAN STRUCTURAL COMPONENTS BE SUBSTITUTED, OMITTED, OR ALTERED FROM THE APPROVED SET OF CONSTRUCTION DOCUMENTS WITHOUT WRITTEN APPROVAL FROM THE ENGINEER.

B. DIMENSIONS AND NOTATIONS:
   1. WRITTEN DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS. DO NOT SCALE DRAWINGS.
   2. ABBREVIATIONS USED ON THE APPROVED CONSTRUCTION DOCUMENTS SHALL BE CONSIDERED TYPICAL ABBREVIATIONS FOR THE INDUSTRY. THE CONTRACTOR SHALL BE RESPONSIBLE TO NOTIFY THE ENGINEER IMMEDIATELY OF ANY ABBREVIATIONS THAT ARE UNKNOWN TO THE CONTRACTOR.

C. TYPICAL NOTES AND DETAILS:
   1. SPECIFIC NOTES AND DETAILS SHALL TAKE PRECEDENCE OVER STANDARD TYPICAL NOTES AND DETAILS.
   2. STANDARD TYPICAL NOTES AND DETAILS ARE TO BE USED WHEN REFERRED TO OR WHEN NO OTHER MORE RESTRICTIVE OR DIFFERENT DETAILS ARE SHOWN ON THE DRAWINGS.
   3. WORK NOT PARTICULARLY SHOWN OR SPECIFIED SHALL BE THE SAME AS SIMILAR PARTS THAT ARE SHOWN OR SPECIFIED.

D. CODE REQUIREMENTS:
   1. ALL WORK SHALL CONFORM TO THE MINIMUM STANDARDS OF REGULATING AGENCIES WHICH MAY HAVE AUTHORITY OVER ANY PORTION OF THE WORK.
   2. SPECIFICATIONS, CODES AND STANDARDS NOTED SHALL BE OF THE LATEST APPROVED ISSUE, INCLUDING SUPPLEMENTS, UNLESS NOTED OTHERWISE.
   3. MINIMUM UNIFORM (BLANKET) ROOF SNOW LOAD, AS DEFINED BY LOCAL BUILDING OFFICIAL OR STATE, SHALL BE DESIGNED FOR, AND IT IS THE RESPONSIBILITY OF THE ENGINEER TO CONFIRM IF ONE EXISTS BY CONTACTING THE LOCAL BUILDING OFFICIAL.

E. DEFERRED SUBMITTALS:
   1. DEFERRED STRUCTURE SUBMITTAL ITEMS HAVE NOT BEEN PERMITTED UNDER THE BASE BUILDING APPLICATION.
   2. THE CONTRACTOR SHALL SUBMIT COMPONENT SYSTEM DOCUMENTS FOR DEFERRED SUBMITTAL ITEMS, STAMPED BY A PROFESSIONAL ENGINEER LICENSED IN THE JURISDICTION HAVING AUTHORITY, TO THE REGISTERED DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE FOR REVIEW AND FORWARD THE REVIEWED DOCUMENTS TO THE BUILDING OFFICIAL IN COMPLIANCE WITH SECTION 107.3.4.1 OF THE CBC.
   3. DEFERRED SUBMITTAL ITEMS SHALL NOT BE INSTALLED UNTIL THE COMPONENT SYSTEM DOCUMENTS HAVE BEEN APPROVED BY THE BUILDING OFFICIAL.
   4. THE FOLLOWING CONTRACTOR-DESIGNED PROJECT ELEMENTS ARE DEFINED AS DEFERRED STRUCTURAL SUBMITTAL ITEMS:

      PRE-ENGINEERED METAL BUILDINGS

2) CODES, STANDARDS, AND REFERENCES:

A. ASCE 7-16: MINIMUM DESIGN LOADS AND ASSOCIATED CRITERIA FOR BUILDINGS AND OTHER STRUCTURES.
B. ACI 318-14: BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE.
C. ACI 350-06: CODE REQUIREMENTS FOR ENVIRONMENTAL ENGINEERING CONCRETE STRUCTURES.
D. AISC 360-16 SPECIFICATION FOR STRUCTURAL STEEL BUILDINGS.

3) FOUNDATIONS AND GEOTECHNICAL:

A. GEOTECHNICAL DESIGN CRITERIA IS BASED ON THE RECOMMENDATIONS DOCUMENTED IN THE DESIGN DOCUMENTATION REPORT:

4) GRATING:

A. WEIGHT OF GRATING SECTION SHALL NOT EXCEED 80 LBS.
B. PROVIDE A MINIMUM OF 4 CLIPS PER GRATING PANEL, APPROX 4" FROM PANEL CORNERS.
C. WIDTH OF GRATING SECTIONS SHALL NOT EXCEED 3'-0".
D. SHOP DRAWINGS BASED ON FIELD DIMENSIONS SHALL BE SUBMITTED TO THE ENGINEER PRIOR TO FABRICATION.
E. PROVIDE GRATING FASTENERS AS REQUIRED.
F. THE HORIZONTAL CLEARANCE BETWEEN THE GRATING AND GRATING SUPPORTS SHALL NOT BE LESS THAN ¼" NOR GREATER THAN ½"
G. ALL GRATING SECTIONS, WHEN IN PLACE, SHALL ALWAYS BE FIRMLY ANCHORED TO THEIR SUPPORTS.
H. PROVIDE MINIMUM BEARING PER MANUFACTURERS RECOMMENDATIONS FOR ALL GRATING.

5) NON-SHRINK GROUT:
1. ALL GROUT WORK SHALL CONFORM TO THE LATEST EDITION OF ACI 301.
2. FORMWORK: DESIGN, ERECT, SUPPORT, BRACE AND MAINTAIN FORMWORK TO SUPPORT VERTICAL, LATERAL, STATIC AND DYNAMIC LOADS THAT MIGHT BE APPLIED UNTIL STRUCTURE CAN SUPPORT SUCH LOADS.

6) STRUCTURAL AND MISCELLANEOUS STEEL:

A. STRUCTURAL STEEL SHALL CONFORM TO THE FOLLOWING ASTM STANDARDS:
   a) WIDE FLANGE SHAPES — A992, GR 50 GALV
   b) OTHER SHAPES, PLATES, ANGLES AND BARS — A36 GALV
   c) STEEL PIPE — A53, GRADE B GALV
   d) HOLLOW STRUCTURAL SECTIONS — A500, GRADE B GALV
C. WELDS: PROVIDE 70KSI LOW HYDROGEN ELECTRODE OR PROCESS IN ACCORDANCE WITH AWS A5.1.
D. BOLTS, U.N.O.:
   1. STAINLESS STEEL: ASTM A193, GRADE 8, CLASS 2, AISI TYPE 316
H. DRILL AND EPOXY ANCHOR BOLTS:
   1. STAINLESS STEEL ASTM A193, GRADE 8, CLASS 2, AISI TYPE 316 OR EQUAL APPROVED BY ENGINEER
I. EPOXY BOLT OR EXPANSION BOLT SUBSTITUTIONS FOR EMBEDDED BOLTS IS PROHIBITED WITHOUT WRITTEN CONSENT FROM THE ENGINEER.
J. UNLESS NOTED OTHERWISE ON THE DRAWINGS, ALL EPOXY BOLTS SHALL BE AS SPECIFIED.
K. ALL STRUCTURAL STEEL SHALL BE DETAILED, FABRICATED, AND ERECTED IN ACCORDANCE WITH THE AISC CODE OF STANDARD PRACTICE, EXCEPT AS MODIFIED IN THESE NOTES AND THE PROJECT SPECIFICATIONS.
L. ALL STAINLESS STEEL SHALL BE TYPE 316.
M. SPLICING OF STEEL MEMBERS, UNLESS SHOWN ON THE DRAWINGS, IS PROHIBITED WITHOUT WRITTEN APPROVAL OF THE PROJECT ENGINEER.
N. GALVANIC PROTECTION SHALL BE PROVIDED BETWEEN DISSIMILAR METALS.
O. WELDING SHOWN FOR STAINLESS STEEL ELEMENTS SHALL COMPLY WITH AWS D1.6/D1.6M.

7) CONCRETE:

A. ALL CONCRETE WORK SHALL CONFORM TO THE LATEST EDITION OF ACI 301 AND ACI 117, EXCEPT AS MODIFIED BY THE FOLLOWING SUPPLEMENTAL REQUIREMENTS:
B. ALL CONCRETE SHALL BE NORMAL WEIGHT CONCRETE.
C. CONCRETE MIX DESIGN SHALL BE ESTABLISHED IN ACCORDANCE WITH CHAPTER 5 OF ACI 350.
D. COMPRESSIVE STRENGTH (28 DAYS)
   F'C — 4,500 PSI
E. REINFORCEMENT FOR CONCRETE:
1. ALL REINFORCING SHALL BE SUPPORTED IN FORMS SPACED WITH NECESSARY ACCESSORIES AND SHALL BE SECURELY WIRED TOGETHER IN ACCORDANCE WITH THE LATEST EDITION OF THE CRSI "MANUAL OF STANDARD PRACTICE"
2. CLEAR COVER
   a) CONCRETE CAST AGAINST EARTH = 3"
   b) ALL OTHER CONCRETE, UNO = 2"
F. SLAB-ON-GRADE REINFORCEMENT SHALL BE PLACED AT THE MID-DEPTH OF THE SLAB, UNO.
G. FORMWORK: DESIGN, ERECT, SUPPORT, BRACE AND MAINTAIN FORMWORK TO SUPPORT VERTICAL, LATERAL, STATIC AND DYNAMIC LOADS THAT MIGHT BE APPLIED UNTIL STRUCTURE CAN SUPPORT SUCH LOADS.

8) ALUMINUM:

A. ALL ALUMINUM WORK SHALL CONFORM TO THE LATEST EDITION OF THE ALUMINUM DESIGN MANUAL BY THE ALUMINUM ASSOCIATION.
B. UNLESS OTHERWISE INDICATED, ALUMINUM METALWORK SHALL BE FABRICATED FROM ALLOY 6061-T6, EXCEPT GRATING WHICH SHALL BE PER DESIGN.

9) REINFORCEMENT:

A. ASTM A615 - FY = 60,000 PSI
B. SEE SPECIFICATIONS FOR REINFORCING PLACEMENT REQUIREMENTS.
C. ABSOLUTELY NO WELDING OF REINFORCING BARS OR TORCHING TO BEND REINFORCING BARS SHALL BE ALLOWED WITHOUT SPECIFIC APPROVAL FROM THE STRUCTURAL ENGINEER.

10) TESTS AND INSPECTIONS:

A. INSPECTIONS
   1. CONSTRUCTION SHALL BE SUBJECT TO INSPECTION BY THE BUILDING OFFICIAL OR THE AUTHORITY HAVING JURISDICTION AND SUCH CONSTRUCTION OR WORK SHALL REMAIN ACCESSIBLE AND EXPOSED FOR INSPECTION PURPOSES UNTIL APPROVED.
   2. THE CONTRACTOR IS RESPONSIBLE TO NOTIFY THE BUILDING OFFICIAL OR THE AUTHORITY HAVING JURISDICTION WHEN WORK IS READY FOR INSPECTION. IN ADDITION, THE CONTRACTOR IS RESPONSIBLE TO PROVIDE ACCESS TO AND MEANS FOR INSPECTIONS OF SUCH WORK THAT ARE REQUIRED BY THE BUILDING OFFICIAL OR AUTHORITY HAVING JURISDICTION.

B. STATEMENT OF SPECIAL INSPECTIONS
   1. THE DESIGN ENGINEER HAS PREPARED AND SUBMITTED A STATEMENT OF SPECIAL INSPECTIONS TO THE BUILDING OFFICIAL SPECIFYING THE SCOPE OF WORK TO BE INSPECTED BY A SPECIAL INSPECTION AGENCY (IN ADDITION TO THE INSPECTIONS BY THE BUILDING OFFICIAL OR AUTHORITY HAVING JURISDICTION) TO SATISFY THE REQUIREMENTS OF THE CALIFORNIA BUILDING CODE, SECTION 1704. THE CONTRACTOR SHALL REVIEW THIS DOCUMENT AND SUBMIT A WRITTEN STATEMENT OF RESPONSIBILITY TO THE BUILDING OFFICIAL AND OWNER (OR THE OWNER'S AUTHORIZED AGENT) PRIOR TO COMMENCEMENT OF THE WORK THAT ACKNOWLEDGES AWARENESS OF THE REQUIREMENTS CONTAINED IN THE STATEMENT OF SPECIAL INSPECTIONS.
   2. THE CONTRACTOR IS RESPONSIBLE FOR COORDINATING THEIR WORK WITH THE SPECIAL INSPECTION AGENCY. THE CONSTRUCTION OR WORK FOR WHICH SPECIAL INSPECTION OR TESTING IS REQUIRED SHALL REMAIN ACCESSIBLE AND EXPOSED FOR SPECIAL INSPECTION AND TESTING PURPOSES UNTIL COMPLETION OF THE REQUIRED SPECIAL INSPECTIONS OR TESTS.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

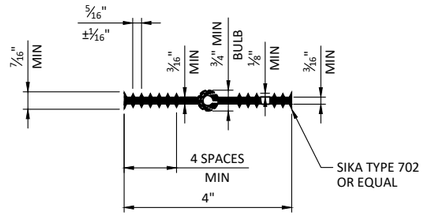
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
STRUCTURAL GENERAL NOTES

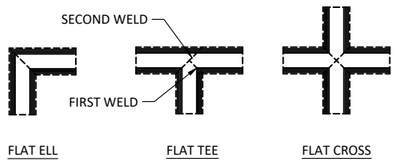
DESIGNED K. HEINDEL
DRAWN D. JOHNSTON
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

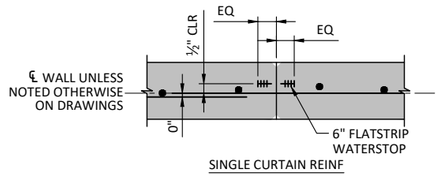
DRAWING
GS001

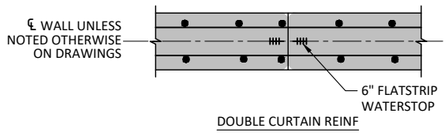
JOB NO: 0000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GS001.dwg Plot date: Sep 26, 2023 04:37pm, CAD User: HaberFlavia









S121 WITH WATERSTOP
SCALE: NTS

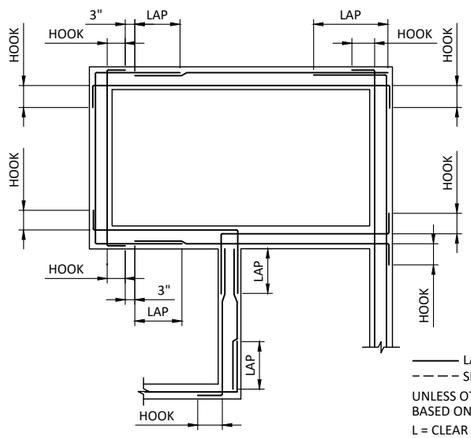
S122 NO WATERSTOP
SCALE: NTS

S123 WITH WATERSTOP
SCALE: NTS

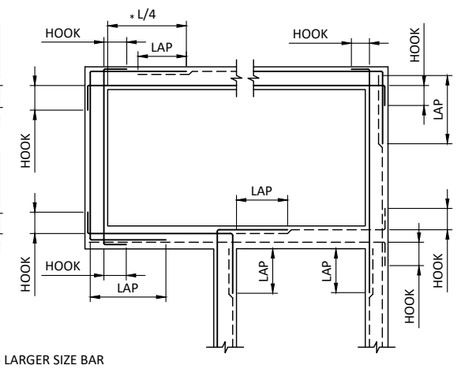
S124 NO WATERSTOP
SCALE: NTS

NOTES:
1. WHERE WATERSTOP IS REQUIRED IN SINGLE CURTAIN WALL REINFORCEMENT, PLACE WATERSTOP ON WATER SIDE OF WALL.
2. STAGGER SPLICES UNLESS NOTED OTHERWISE.

S107 4" CENTER-BULB WATERSTOP
SCALE: NTS



S108 PREFABRICATED WATERSTOP JOINTS
SCALE: NTS

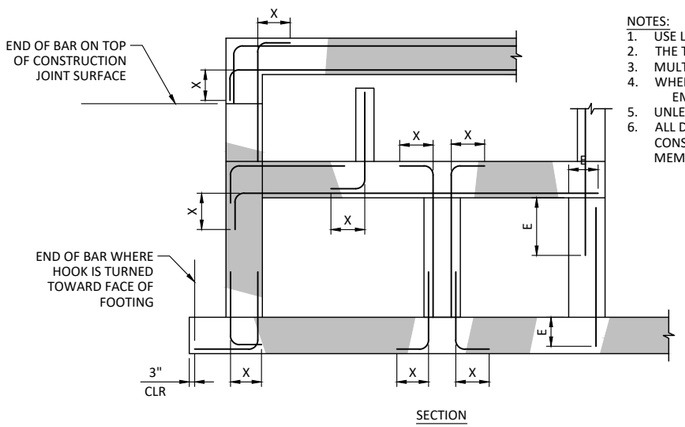


UNLESS OTHERWISE NOTED LAPS ARE BASED ON THE SMALLER SIZE BARS

L = CLEAR SPAN

*USE THIS DETAILING PROCEDURE WHEN LARGER OR CLOSER SPACED BARS ARE CALLED OUT FOR CORNERS

VERTICAL WALL CONSTRUCTION JOINT
SCALE: NTS



SECTION

NOTES:
1. USE LAP LENGTHS AS DETERMINED FROM THESE TABLES UNLESS SHOWN OTHERWISE.
2. THE TABLES SHOWN ARE FOR f'c=4000psi, fy=60,000psi, 1.5" MIN CONCRETE COVER AND 3" MIN BAR SPACING.
3. MULTIPLY THE LAP AND E SHOWN IN THESE TABLES BY 1.5 FOR EPOXY COATED REINFORCING.
4. WHEN BARS OF DIFFERENT SIZES ARE LAP SPLICED, LAP LENGTH SHALL BE THE LARGER OF: EMBEDMENT LENGTH OF LARGER BAR LAP OR LENGTH OF SMALLER BAR.
5. UNLESS NOTED OTHERWISE USE REBAR COUPLERS FOR SPLICES OF #11 AND LARGER BARS.
6. ALL DOWEL BARS SHALL EXTEND AN EMBEDMENT LENGTH E INTO ANOTHER MEMBER OR ACROSS A CONSTRUCTION JOINT UNLESS SHOWN TO SPLICE WITH OTHER BARS OR TO EXTEND TO THE FAR FACE OF THE MEMBER AND END WITH A STANDARD HOOK.

BAR SIZE	LENGTH (*) HOOK X	LAP	EMBEDMENT E
#3	6"	16" (21")	12" (16")
#4	8"	16" (21")	12" (16")
#5	10"	20" (26")	15" (20")
#6	12"	28" (37")	22" (28")
#7	14"	48" (62")	37" (48")
#8	16"	62" (81")	48" (62")
#9	19"	79" (102")	61" (79")
#10	22"	100" (130")	77" (100")
#11	24"	123" (160")	95" (123")

* USE LENGTH IN PARENTHESIS FOR WALL HORIZONTAL REBARS AND SLAB BARS WITH 12" OR MORE OF FRESH CONCRETE UNDERNEATH

S141 HORIZONTAL REINFORCEMENT AT WALL INTERSECTIONS
SCALE: NTS

S143 STANDARD 90° BAR HOOKS, EMBEDMENT LENGTHS AND LAP LENGTHS
SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

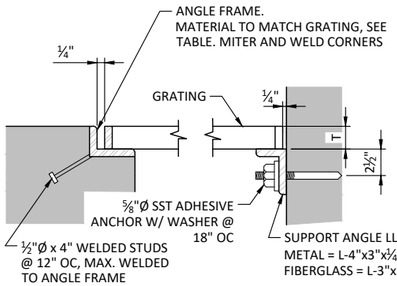
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
STRUCTURAL STANDARD DETAILS 1

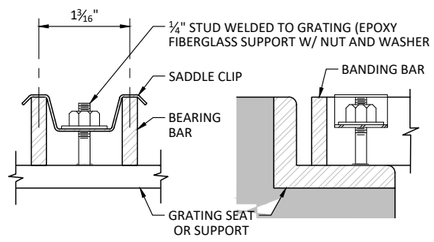
DESIGNED K. HEINDEL
DRAWN D. JOHNSTON
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

DRAWING
GS002

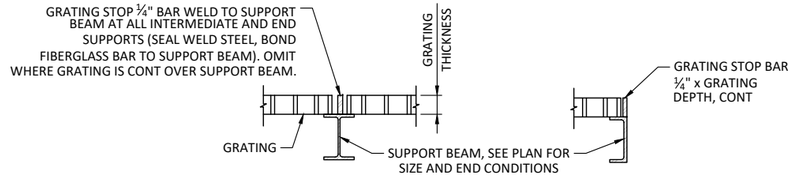
JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GS002.dwg Plot date: Sep 26, 2023 04:37pm, CAD User: HaberFlavia





GRATING CLIP DETAIL



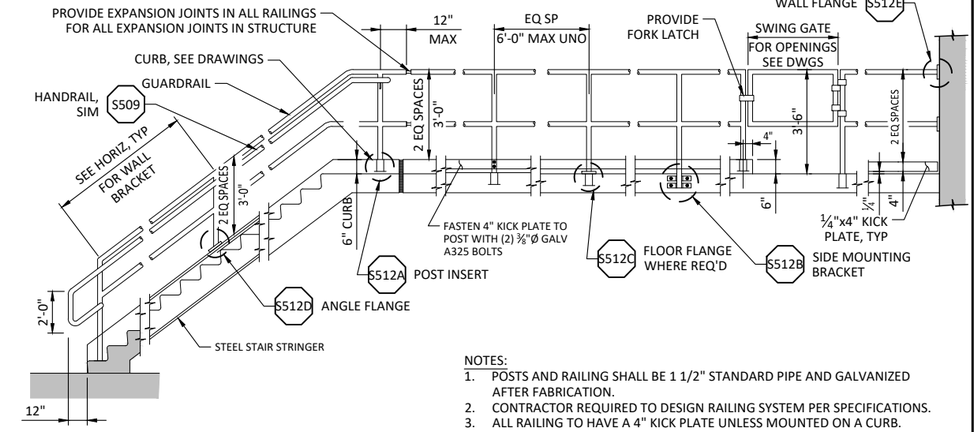
GRATING STOP DETAIL

NOTES:
1. UNLESS INDICATED OTHERWISE, ALL GRATING SHALL BE ALUM.
2. GRATING DEPTH TO BE DETERMINED BY MANUFACTURER AND APPROVED BY ENGINEER, UNO.
3. ALL ENDS AND OPENINGS SHALL BE BANDED.
4. WEIGHT OF GRATING SECTION SHALL NOT EXCEED 80 LBS.
5. METAL BEARING BARS SHALL BE DEPTH T x 3⁄16" @ 1 3⁄16" OC.. CROSS BARS SHALL BE @ 4" OC.
6. PROVIDE A MINIMUM OF 4 CLIPS PER GRATING PANEL, APPROX 4" FROM PANEL CORNERS. MAXIMUM CLIP SPACING AT 36" OC.
7. MATERIALS:
   - A. ALUM GRATING - USE ALUM ANGLE SUPPORTS AND SST BOLTS AND CLIPS. IF SUPPORTED BY STEEL BEAMS, USE STEEL STOP BARS. ALUM IN CONTACT WITH CONC OR STEEL SHALL BE COATED PER THE PROTECTIVE COATING SPECS.
   - B. GALV STEEL GRATING - USE STEEL ANGLE SUPPORTS, BOLTS AND CLIPS. GALV AFTER FABRICATION.
   - C. SST GRATING - USE SST ANGLE SUPPORTS, BOLTS AND CLIPS
   - D. FIBERGLASS GRATING - USE FIBERGLASS FOR ALL COMPONENTS EXCEPT DRILLED ANCHORS; ALL CUT EDGES SHALL BE SEALED WITH RESIN; BONDING: USE EPOXY ADHESIVE BONDING AGENT

GRATING FRAME TABLE SIZED TO MATCH GRATING (FOR FIBERGLASS USE CONTINUOUS PROTRUDED FIBERGLASS SEAT & ANCHOR)			
GRATING DEPTH (T)	STEEL ANGLE (STEEL)	GRATING DEPTH (T)	STEEL ANGLE (STEEL)
1"	1¾ x 1¼ x ¼ (1¼ x 1¼ x ¼)	2"	*2½ x 2½ x ½
1¼"	2 x 1½ x ¼ (1½ x 1½ x ¼)	2¼"	2½ x 2½ x ¼
1½"	1¾ x 1¾ x ¼	2½"	3 x 3 x ½
1¾"	2 x 2 x ¼		

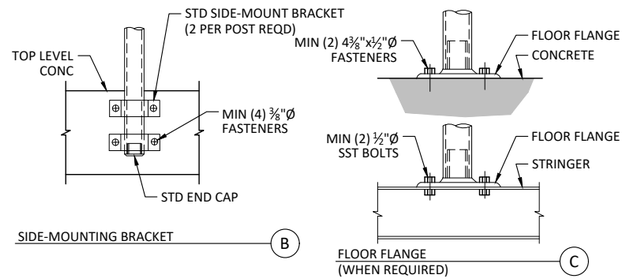
* OR USE 2½"x2½"x¼" W/ ¼" SHIM PLATE WELDED TO BOTTOM

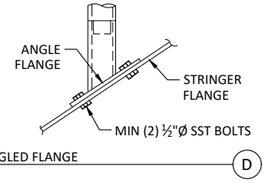
S501 GRATING
SCALE: NTS

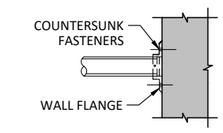


NOTES:
1. POSTS AND RAILING SHALL BE 1 1/2" STANDARD PIPE AND GALVANIZED AFTER FABRICATION.
2. CONTRACTOR REQUIRED TO DESIGN RAILING SYSTEM PER SPECIFICATIONS.
3. ALL RAILING TO HAVE A 4" KICK PLATE UNLESS MOUNTED ON A CURB.

S510 TWO-RAIL RAILING GUARDRAIL DETAIL
SCALE: NTS

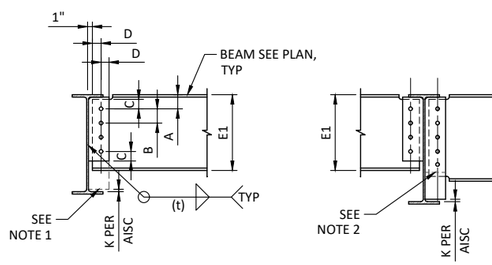




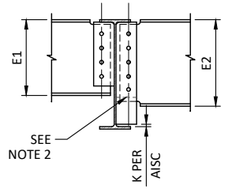


NOTES:
1. IF FASTENING TO CONCRETE, FASTENERS SHALL BE ADHESIVE ANCHORS.
2. CONTRACTOR REQUIRED TO DESIGN RAILING SYSTEM PER SPECIFICATIONS.

S512 RAILING, GUARDRAIL AND HANDRAIL SUPPORT DETAIL
SCALE: NTS



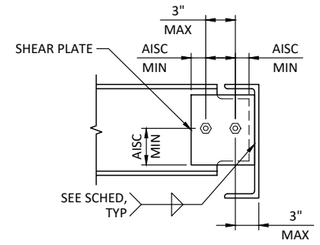
BEAM: ONE SIDE ONLY



BEAM: BOTH SIDES

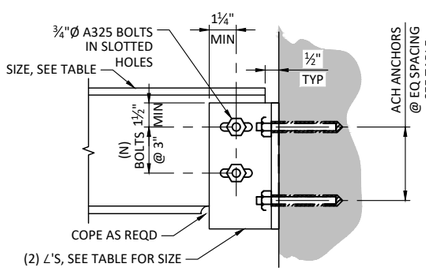
BEAM TO BEAM CONNECTION SCHEDULE								
BEAM SIZE	NO OF A325N BOLTS REQ'D		CONN PLATE THICKNESS (IN)	WELD SIZE (t)	A (IN)	B (IN)	C (IN)	D (IN)
	¾" Ø	1" Ø						
W8	2		5⁄16	3⁄16	2½"	2½"	1½"	1½"
W10	2		5⁄16	3⁄16	3	3	1½"	1½"

S562 BEAM TO BEAM CONNECTION - PLATE CONNECTION
SCALE: NTS



6" OR LESS CONNECTION

NOTES:
1. EXTEND CONN PLATE WHEN E1 IS GREATER THAN OR EQUAL TO W12 BM.
2. LIMIT OF CONN PLATE WHEN E2-E1 IS LESS THAN OR EQUAL TO 6 INCHES.



BEAM TO CONC CONNECTION SCHEDULE			
BEAM SIZE	DOUBLE ANGLE SIZE	# OF BOLTS (N)	ADHESIVE ANCHORS NUMBER AND SIZE

S563 BEAM TO CONC CONNECTION
SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
STRUCTURAL STANDARD DETAILS 2

DESIGNED K. HEINDEL
DRAWN D. JOHNSTON
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

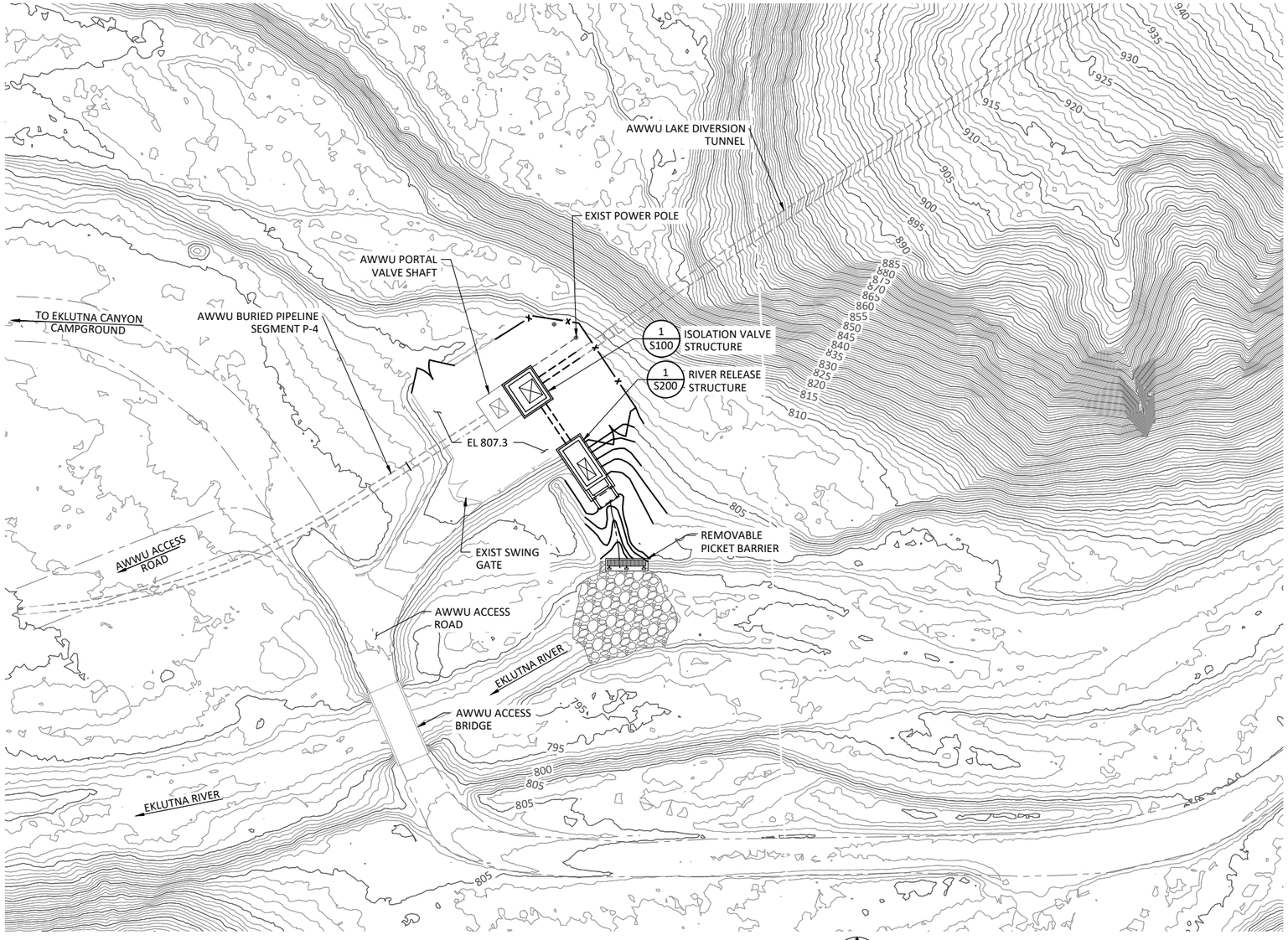
DRAWING
GS003

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GS003.dwg Plot date: Sep 26, 2023 04:39pm, CAD User: HaberFlavia

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



STRUCTURAL KEY PLAN
SCALE: 1"= 40'

0' 40' 80'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
STRUCTURAL KEY PLAN

DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT DATE 10/6/23

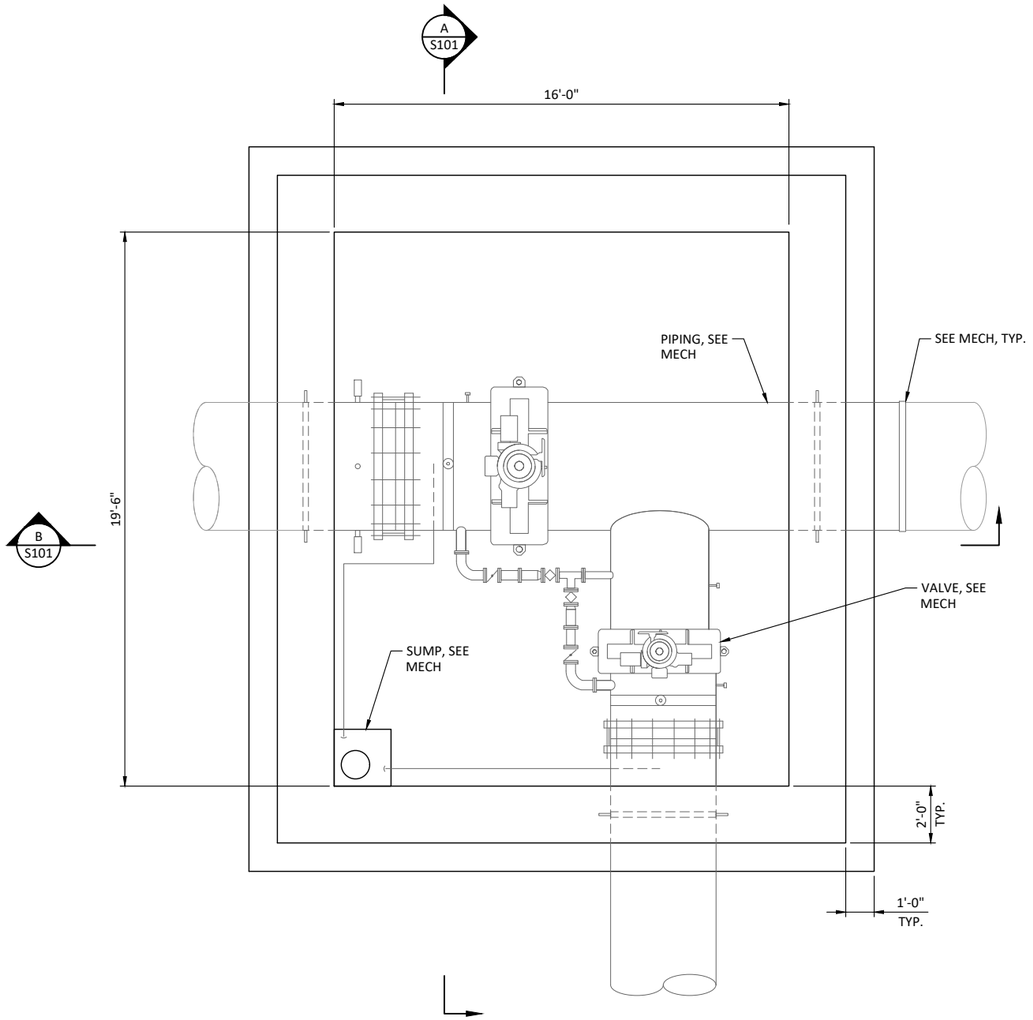
DRAWING
S001

JOB NO: 000000

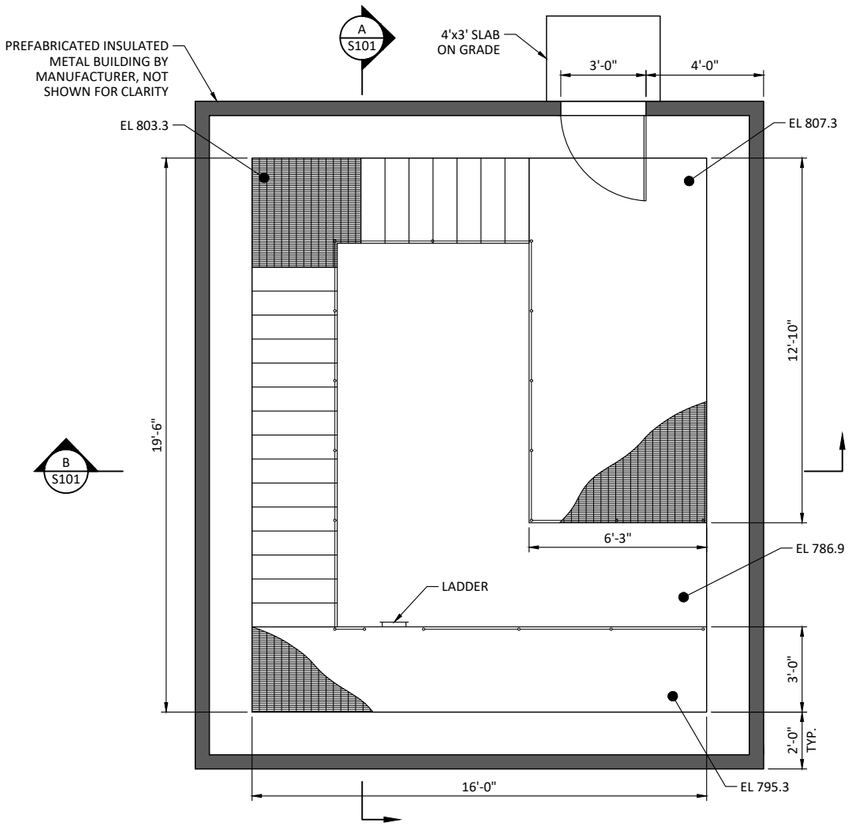
Path: C:\Vault\Chugach Electric\Portal Release Structure\S001.dwg Plot date: Sep 28, 2023 01:32pm, CAD User: HaberFlavia

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



A S001 ISOLATION VALVE STRUCTURE FOUNDATION PLAN
SCALE: 3/8"= 1'-0"



A S001 ISOLATION VALVE STRUCTURE TOP PLAN
SCALE: 3/8"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

ISOLATION VALVE STRUCTURE PLAN, SECTIONS AND DETAILS

DESIGNED K. HEINDEL
DRAWN J. HOLT
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

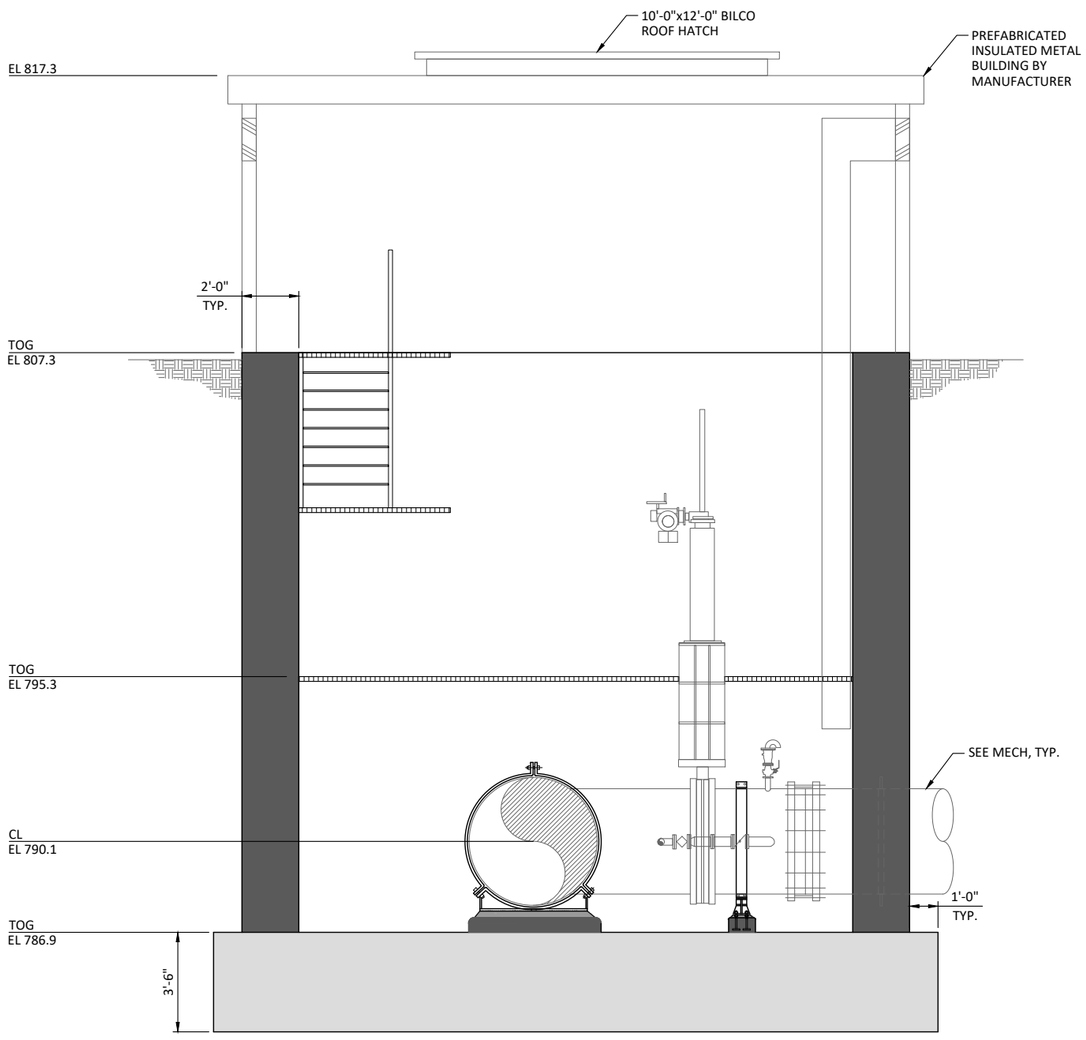
DRAWING
S100

JOB NO: 000000

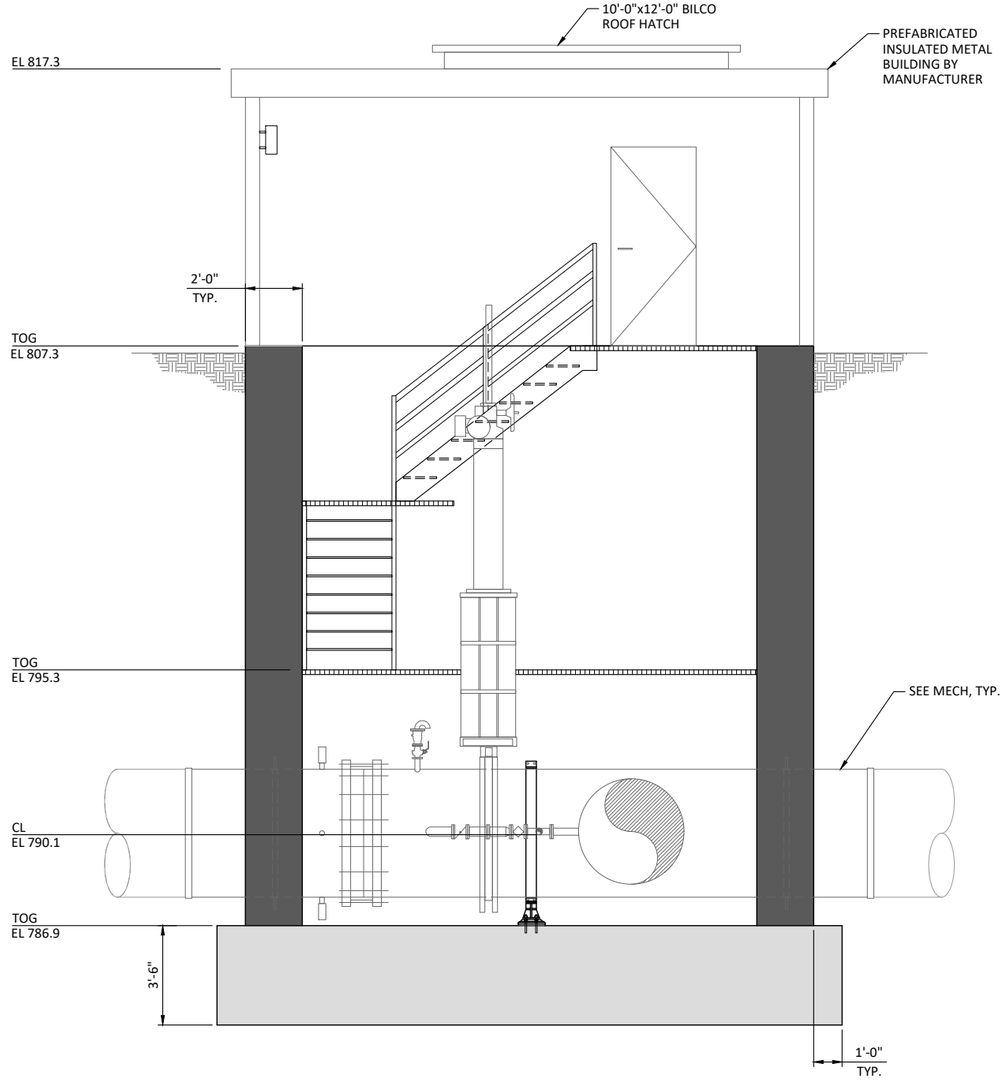
Path: C:\Vault\Chugach Electric\Portal Release Structure\S100.dwg Plot date: Sep 28, 2023 01:41pm, CAD User: HaberFlavia

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



A S100 SECTION
SCALE: 3/8"= 1'-0"



B S100 SECTION
SCALE: 3/8"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

ISOLATION VALVE STRUCTURE SECTIONS

DESIGNED K. HEINDEL
DRAWN J. HOLT
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

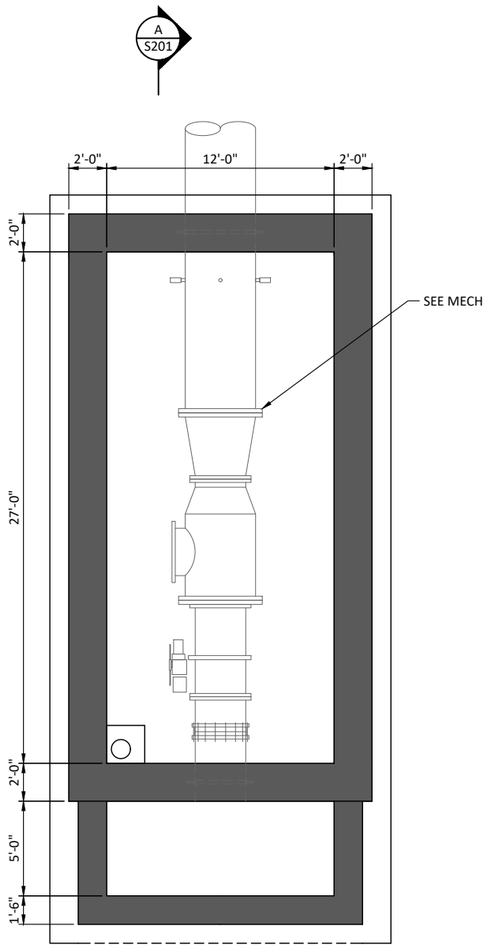
DRAWING
S101

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\S101.dwg Plot date: Sep 26, 2023 04:42pm, CAD User: HaberFlavia

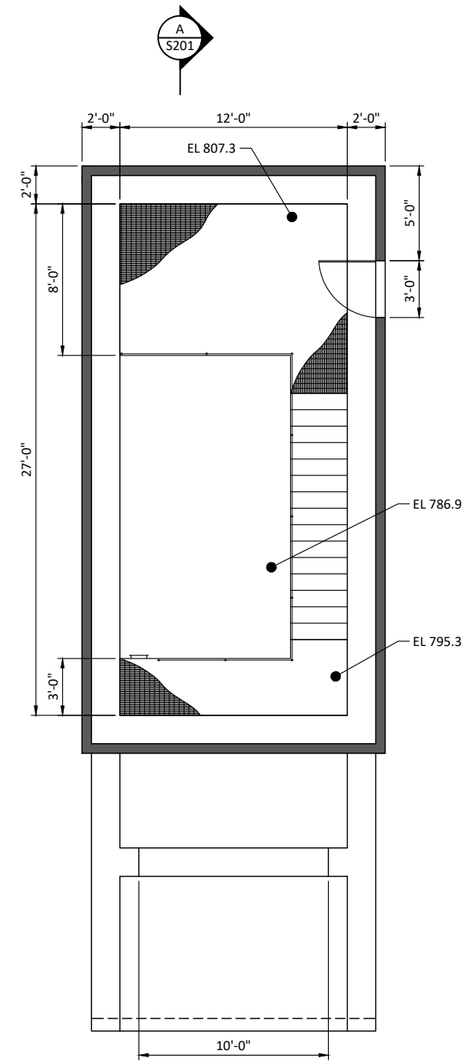
SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



B S001 RIVER RELEASE STRUCTURE FOUNDATION PLAN

SCALE: 1/4"= 1'-0"



B S001 RIVER RELEASE STRUCTURE TOP PLAN

SCALE: 1/4"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

RIVER RELEASE STRUCTURE PLAN, SECTIONS AND DETAILS

DESIGNED K. HEINDEL

DRAWN J. HOLT

CHECKED M. MERKLEIN

PROJECT DATE 10/6/23

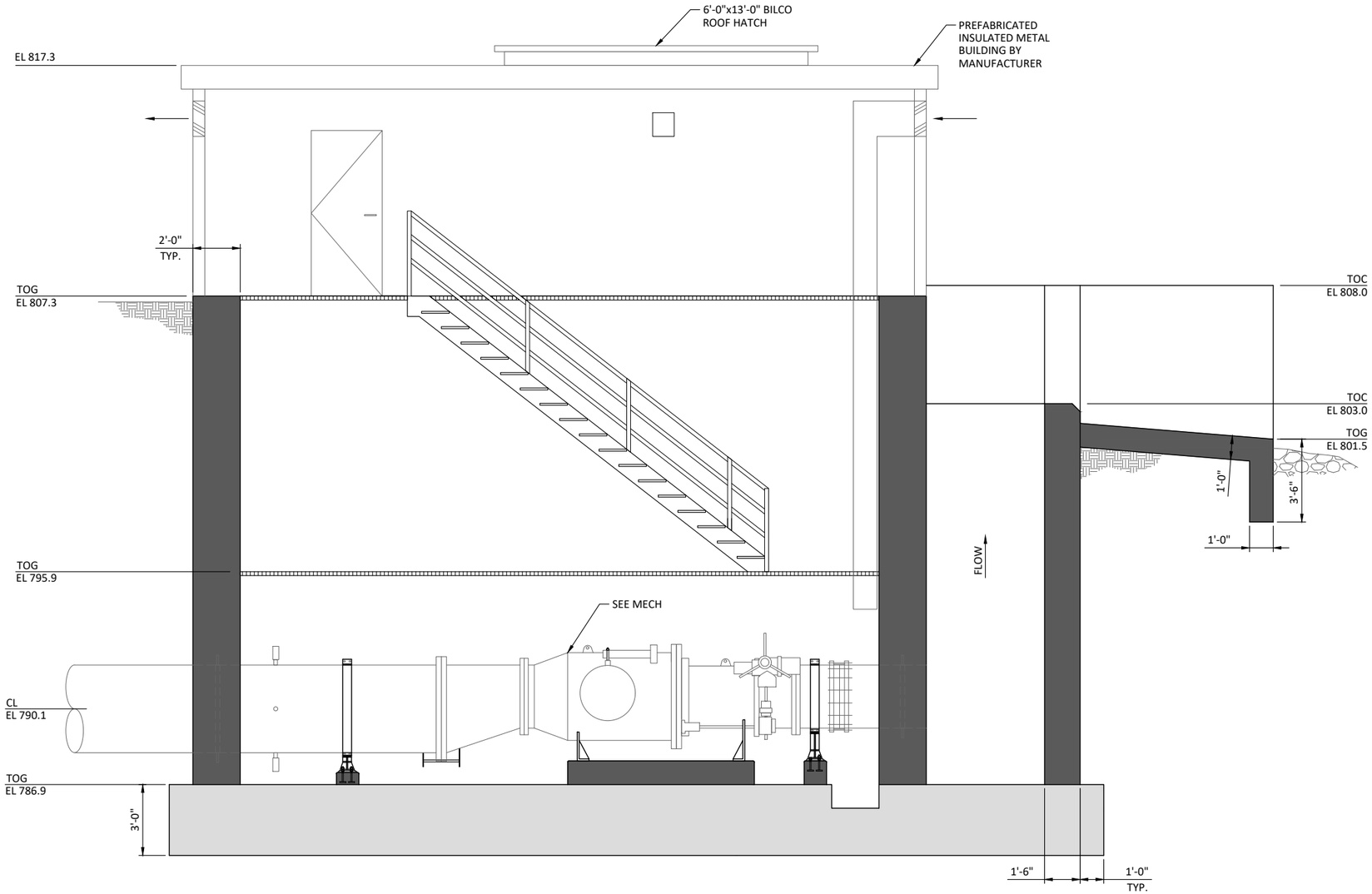
DRAWING

S200

Path: C:\Vault\Chugach Electric\Portal Release Structure\S200.dwg Plot date: Sep 26, 2023 04:43pm, CAD User: HaberFlavia
JOB NO: 000000

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



A S200 SECTION
SCALE: 3/8"= 1'-0"

0' 2' 4'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

RIVER RELEASE STRUCTURE SECTIONS

DESIGNED K. HEINDEL
DRAWN J. HOLT
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

DRAWING
S201

JOB NO: 0000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\S201.dwg Plot date: Sep 28, 2023 01:41pm, CAD User: HaberFlavia

VALVE SCHEDULE

EQUIPMENT NUMBER	LOCATION	SERVICE	FLUID	TYPE	DIAMETER (IN)	ASME PRESSURE CLASS	ENDS	ACTUATOR TYPE (NORMAL POSITION)	MATERIAL	SPEC SECTION	COMMENTS
V-100	ISOLATION GATE STRUCTURE	ISOLATION VALVE	RAW WATER	GATE	54	150	FLXFL	ELECTRIC (OPEN)			
V-101	ISOLATION GATE STRUCTURE	BYPASS/FILLING	RAW WATER	ECC. PLUG	3	150	FLXFL	MANUAL (HANDWHEEL)			
V-102	ISOLATION GATE STRUCTURE	PRESSURE REDUCTION	RAW WATER	ORIFICE	3	150	FLXFL	N/A			
V-103	ISOLATION GATE STRUCTURE	BYPASS/ISOLATION	RAW WATER	BUTTERFLY	4	150	FLXFL	MANUAL (HANDWHEEL)			
V-104	ISOLATION GATE STRUCTURE	AIR RELEASE/VACUUM	RAW WATER	COMBO AIR VENT	2	150	FLXFL	N/A			
V-110	ISOLATION GATE STRUCTURE	ISOLATION VALVE	RAW WATER	GATE	42	150	FLXFL	ELECTRIC (OPEN)			
V-111	ISOLATION GATE STRUCTURE	BYPASS/FILLING	RAW WATER	ECC. PLUG	3	150	FLXFL	MANUAL (HANDWHEEL)			
V-112	ISOLATION GATE STRUCTURE	PRESSURE REDUCTION	RAW WATER	ORIFICE	3	150	FLXFL	N/A			
V-113	ISOLATION GATE STRUCTURE	BYPASS/ISOLATION	RAW WATER	BUTTERFLY	4	150	FLXFL	MANUAL (HANDWHEEL)			
V-114	ISOLATION GATE STRUCTURE	AIR RELEASE/VACUUM	RAW WATER	COMBO AIR VENT	2	150	FLXFL	N/A			
V-200	EKLUTNA RIVER RELEASE STRUCTURE	FLOW CONTROL	RAW WATER	SLEEVE	30	150	FLXFL	ELECTRIC (OPEN)			BAILEY MODEL B-10 OR EQUIVALENT

PUMP SCHEDULE

EQUIPMENT NUMBER	LOCATION	SERVICE	EQUIPMENT DESCRIPTION	FLUID	FLOW CAPACITY (GPM) AND TDH (FT)	MOTOR SIZE (HP)	ELECTRICAL SERVICE (V/PH/CY)	SPEC SECTION	COMMENTS
P-100	ISOLATION GATE STRUCTURE	SUMP	SUBMERSIBLE PUMP	RAW WATER	50 @ 30	0.75	120 / 1 / 60		
P-200	RIVER RELEASE VALVE STRUCTURE	SUMP	SUBMERSIBLE PUMP	RAW WATER	50 @ 30	0.75	120 / 1 / 60		

FLOW METER SCHEDULE

ISA TAG	LOCATION	SERVICE	FLUID	EQUIPMENT DESCRIPTION	FLOW RANGE (CFS) / DIA (IN)	ELECTRICAL SERVICE (V/PH/CY)	COMMENTS
FE-100	ISOLATION GATE STRUCTURE	FLOW MEASUREMENT	RAW WATER	TRANSIT TIME UTRASONIC, 4 PATH	0 - 63/ 54"	120/1/60	
FE-200	RIVER RELEASE VALVE STRUCTURE	FLOW MEASUREMENT	RAW WATER	TRANSIT TIME UTRASONIC, 4 PATH	0 - 80/ 42"	120/1/60	

INSTRUMENTATION SCHEDULE

ISA TAG	LOCATION	SERVICE	EQUIPMENT DESCRIPTION	FLUID	SIGNAL OUTPUT	ELECTRICAL SERVICE	MEASUREMENT RANGE	SPEC SECTION	COMMENTS
LE-010	ISOLATION GATE STRUCTURE	PRESSURE MEASUREMENT	PRESSURE TRANSDUCER	RAW WATER	ANALOG; 4-20 mA	24 VDC	0 - 75 PSI		
LE-011	ISOLATION GATE STRUCTURE	PRESSURE MEASUREMENT	PRESSURE TRANSDUCER	RAW WATER	ANALOG; 4-20 mA	24 VDC	0 - 75 PSI		
LE-012	ISOLATION GATE STRUCTURE	PRESSURE MEASUREMENT	PRESSURE TRANSDUCER	RAW WATER	ANALOG; 4-20 mA	24 VDC	0 - 75 PSI		

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen JACOBS

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

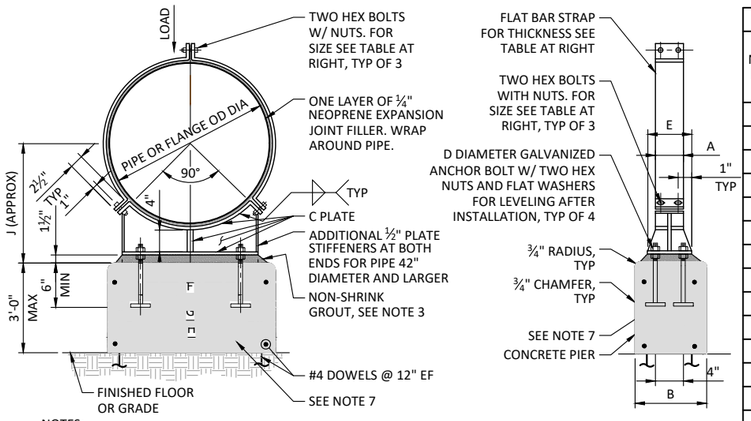
MECHANICAL EQUIPMENT SCHEDULE

DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
GM001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GM001.dwg Plot date: Sep 28, 2023 02:09pm, CAD User: HaberFlavia



DIMENSIONS IN INCHES																
NOMINAL PIPE SIZE	A	B	C	D	E	STRAP		SUPPORTING								
						BOLT SIZE	FLAT BAR	PIPE				FLANGE				
								F	G	H	J	F	G	H	J
6	4	12	⅜	⅝	6	½	¼	4½	8	14	10	6½	11	16	13
8	4	12	⅜	⅝	6	½	¼	5	9½	14	11	7½	13	18	14
10	4	12	⅜	⅝	6	½	¼	6	11	16	12	9	15	20	15
12	4	12	⅜	⅝	6	½	¼	7	13	18	13	10	17	22	16
14	4	12	⅜	⅝	6	½	¼	8	13	18	14	11	18	23	17
16	4	12	⅜	⅝	6	½	¼	9	15	21	15	12	20	26	18
18	4	12	⅜	⅝	6	½	¼	10	16	22	16	13	21	26	19
20	5	12	⅜	⅝	6	⅝	⅜	10	18	24	17	15	23	28	21
22	5	12	⅜	⅝	6	⅝	⅜	12	19	24	18	16	25	30	22
24	5	12	⅜	⅝	6	⅝	⅜	13	21	26	19	16	26	32	23
26	5	12	⅜	¾	6	⅝	⅜	14	22	28	20	18	28	34	24
30	5	12	⅜	¾	6	⅝	⅜	16	25	30	22	20	31	36	26
34	5	15	⅜	¾	6	⅝	⅜	18	28	33	24	22	35	41	29
36	6	15	⅜	¾	6	¾	⅜	19	29	34	25	24	36	42	30
42	6	18	½	1	8	¾	⅜	21	33	39	28	27	41	47	33
48	6	18	½	1	8	¾	⅜	24	38	44	31	30	46	52	37
54	6	18	½	1	8	¾	⅜	28	42	48	34	34	50	56	40
60	6	18	½	1⅛	8	¾	⅜	32	46	52	37	36	56	62	44
66	6	18	½	1⅛	8	¾	⅜	33	51	58	40	40	61	68	47
72	6	18	½	1⅛	8	¾	⅜	36	55	62	43	44	65	72	50

NOTES:
1. WHEN SUPPORTING PIPE AND FLANGE ALTERNATELY ON THE SAME LINE, CONCRETE PIERS FOR PIPE SUPPORTS SHALL ALL HAVE THE SAME DIMENSION 'H' FOR FLANGE SUPPORT
2. PIPE SUPPORTS SHALL BE LOCATED IN PLAN AT POINTS MARKED THUS: (X)
3. WHERE DIFFERENTIAL SETTLEMENT IS LIKELY TO OCCUR, OMIT GROUT AS DIRECTED BY THE ENGINEER.
4. GALVANIZE ALL PARTS AFTER FABRICATION.
5. WHERE DIRECTED BY THE STRUCTURAL ENGINEER, BOTTOM OF PIERS SHALL EXTEND BELOW BOTTOM OF SLAB
6. WHERE PIPE SUPPORT OCCURS ON GRADE REFER TO STRUCTURAL DRAWINGS FOR DETAILS.
7. GALVANIZED ANCHOR BOLT OR CONCRETE ANCHOR WITH TWO NUTS AND ONE LOCKWASHER. PROVIDE BAR 4x½x4" WELDED TO BOLT, TYP OF 4. SEE SPECIFICATIONS.

M110 PIPE SUPPORT WITH STRAP

SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
MECHANICAL STANDARD DETAILS

DESIGNED S. ELLENSON
DRAWN D. JOHNSTON
CHECKED J. BOAG
PROJECT DATE 10/6/23

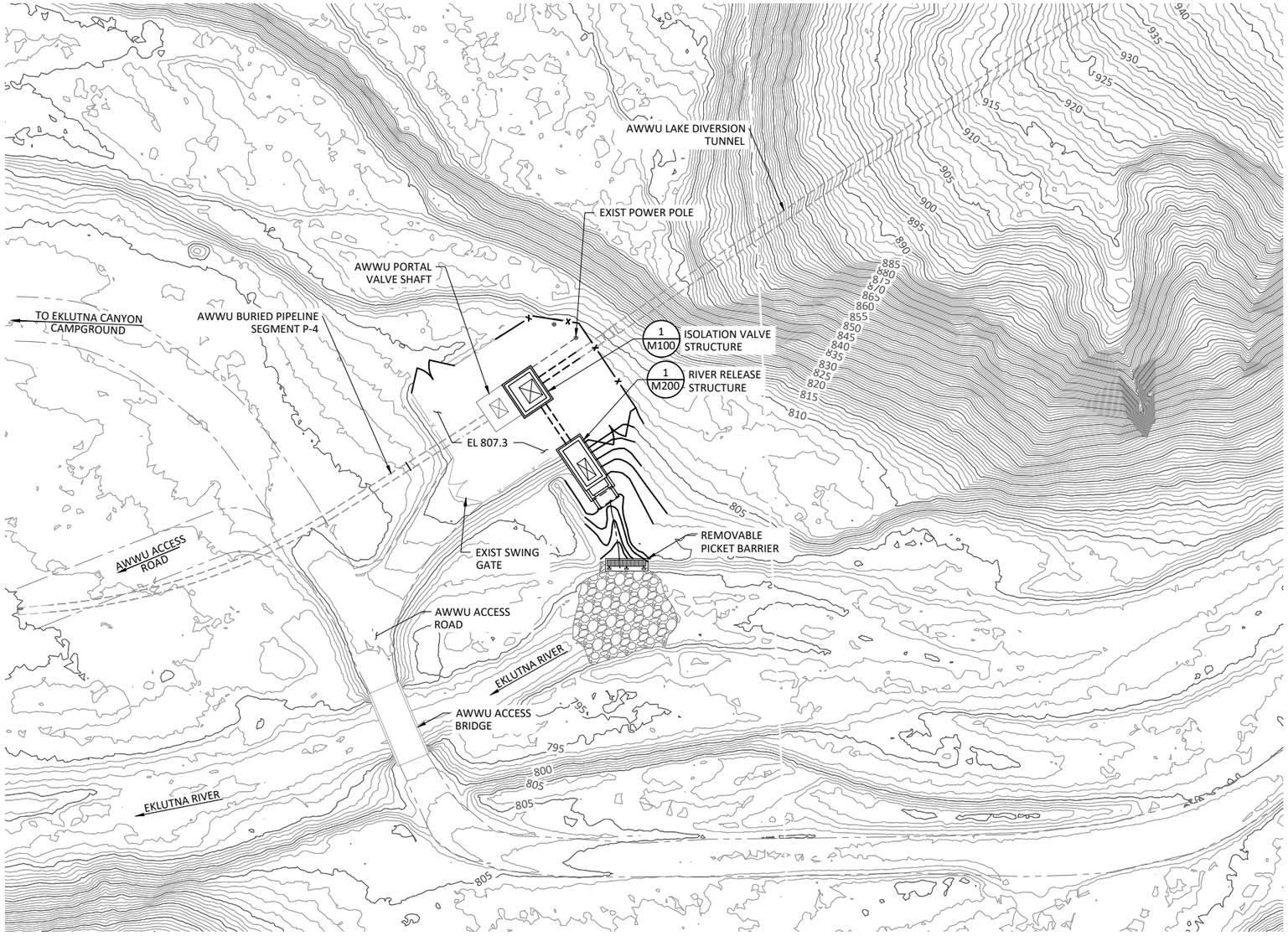
DRAWING
GM002

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GM002.dwg Plot date: Sep 26, 2023 04:49pm, CAD User: HaberFlavia

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



MECHANICAL KEY PLAN

SCALE: 1"= 40'

0" 40' 80'

N

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

MECHANICAL KEY PLAN

DESIGNED S. ELLENSON

DRAWN J. HOLT

CHECKED J. BOAG

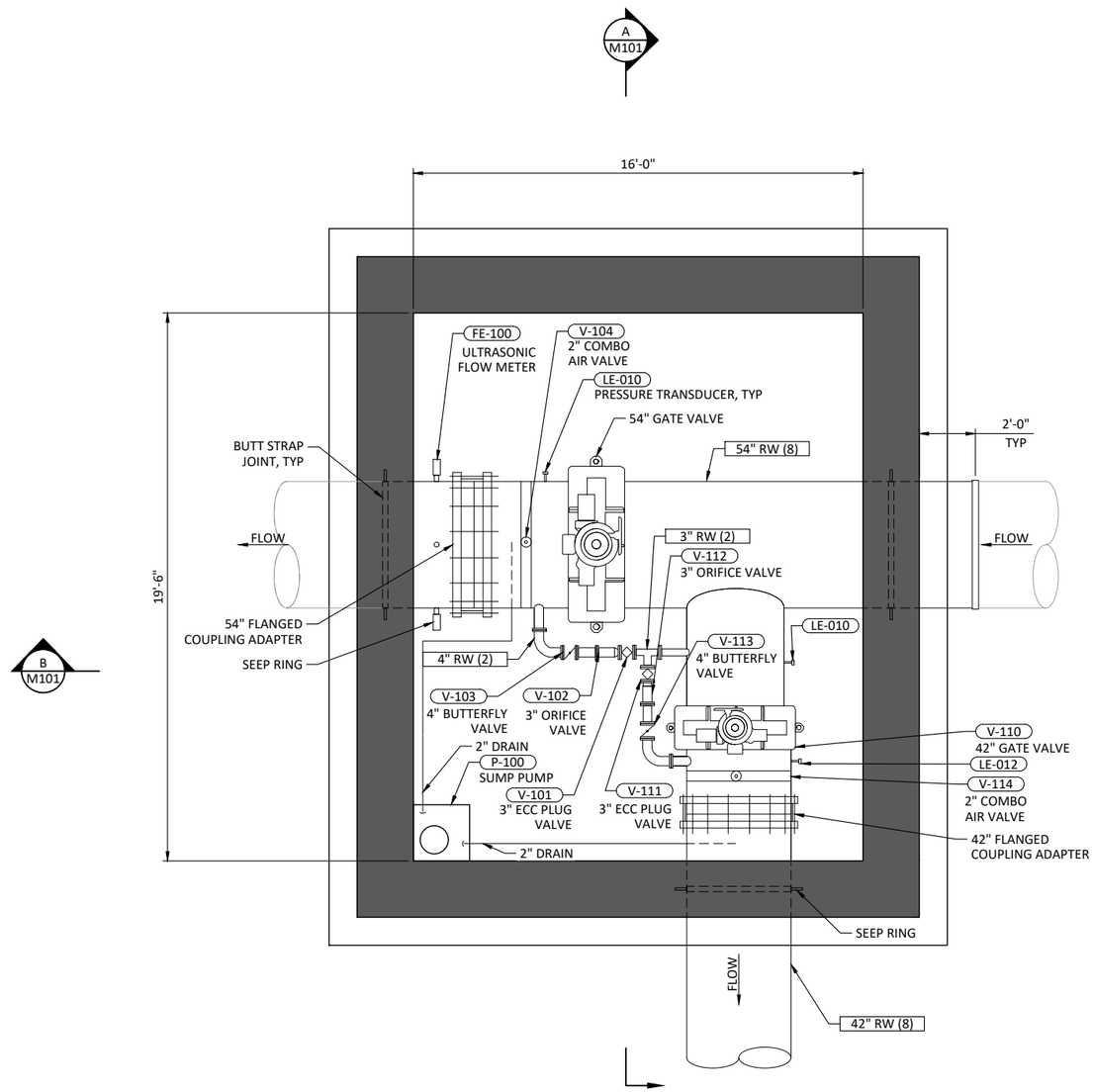
PROJECT DATE 10/6/23

DRAWING

M001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\M001.dwg Plot date: Sep 28, 2023 02:10pm, CAD User: HaberFlavia



1 M001 ISOLATION VALVE STRUCTURE MECHANICAL PLAN

SCALE: 3/8"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

ISOLATION VALVE STRUCTURE
MECHANICAL PLAN

DESIGNED S. ELLENSON

DRAWN J. HOLT

CHECKED J. BOAG

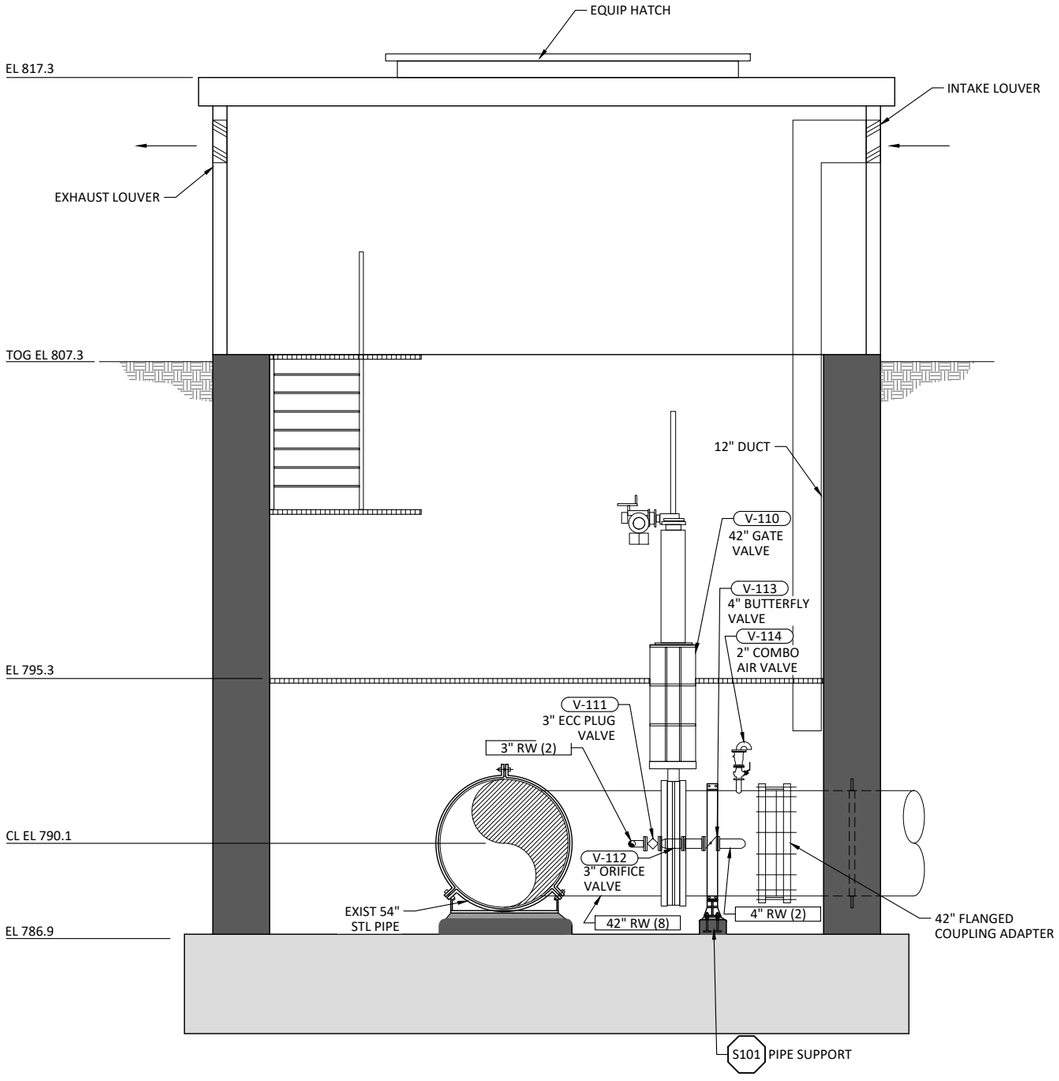
PROJECT DATE 10/6/23

DRAWING

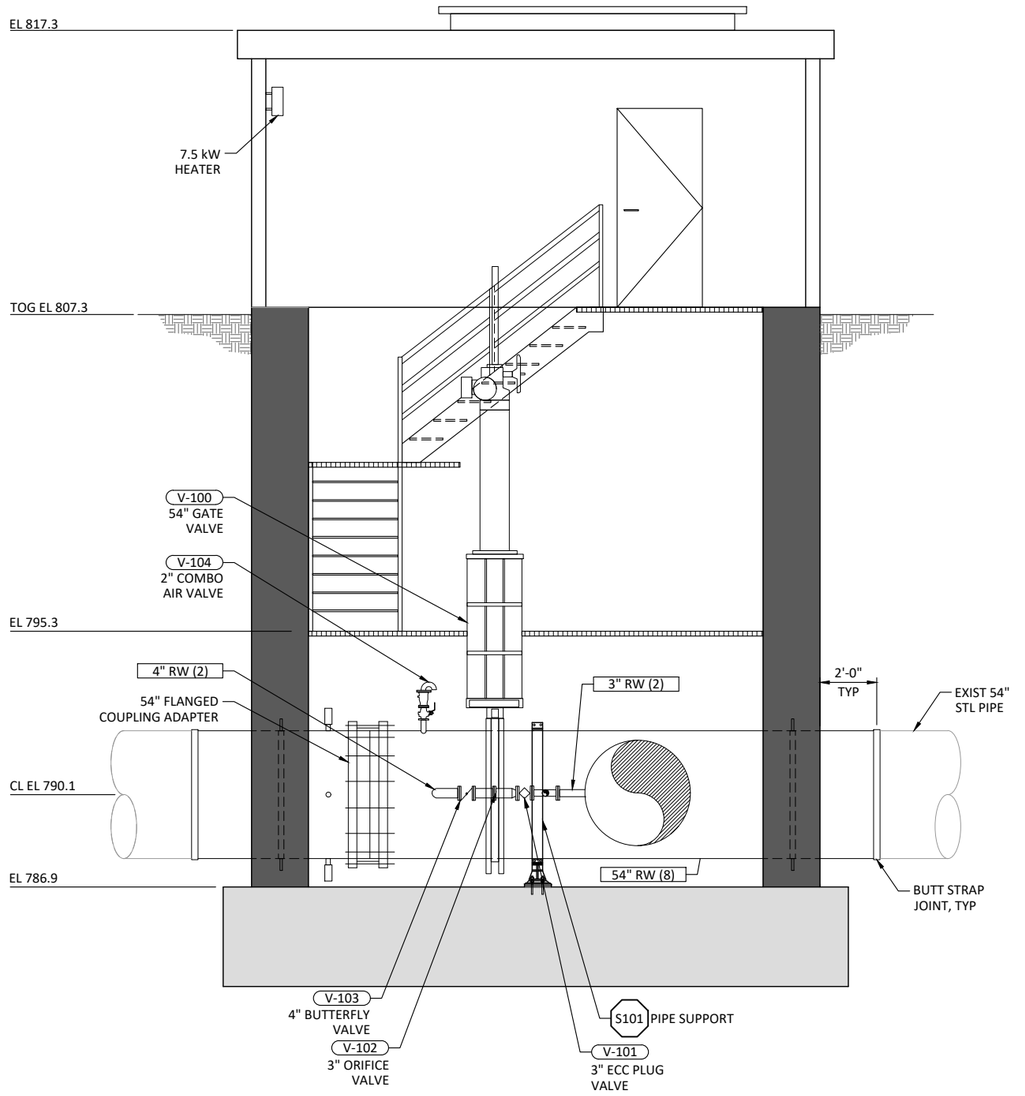
M100

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\M100.dwg Plot date: Sep 28, 2023 02:31pm, CAD User: HaberFlavia



A SECTION
SCALE: 3/8"= 1'-0"
0' 2' 4'



B SECTION
SCALE: 3/8"= 1'-0"
0' 2' 4'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
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McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

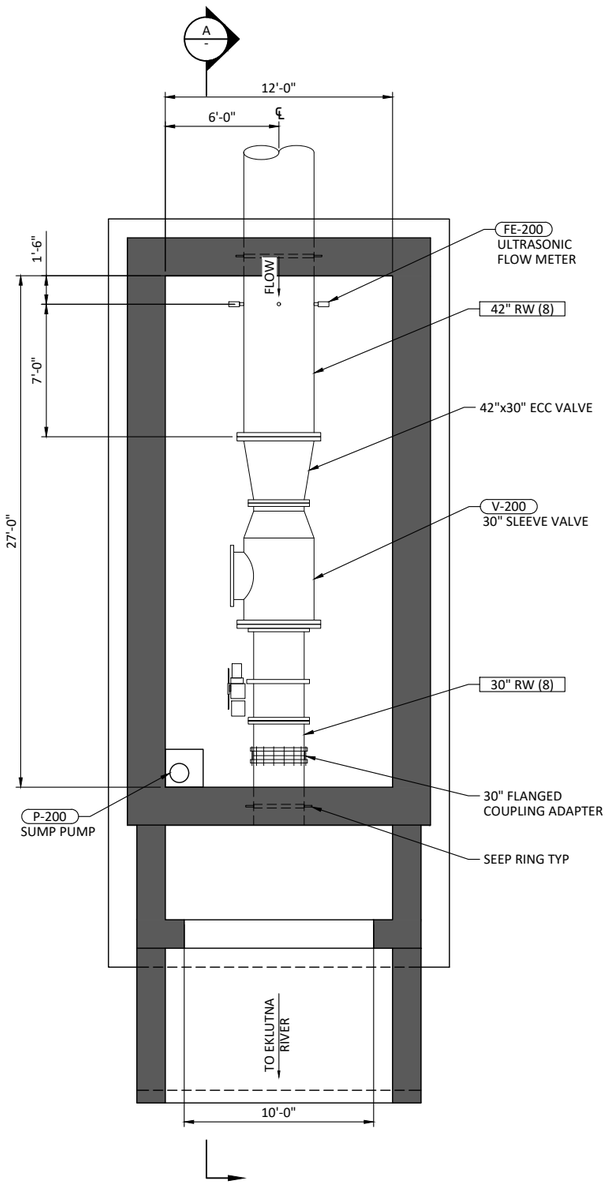
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

ISOLATION VALVE STRUCTURE MECHANICAL SECTIONS

DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
M101

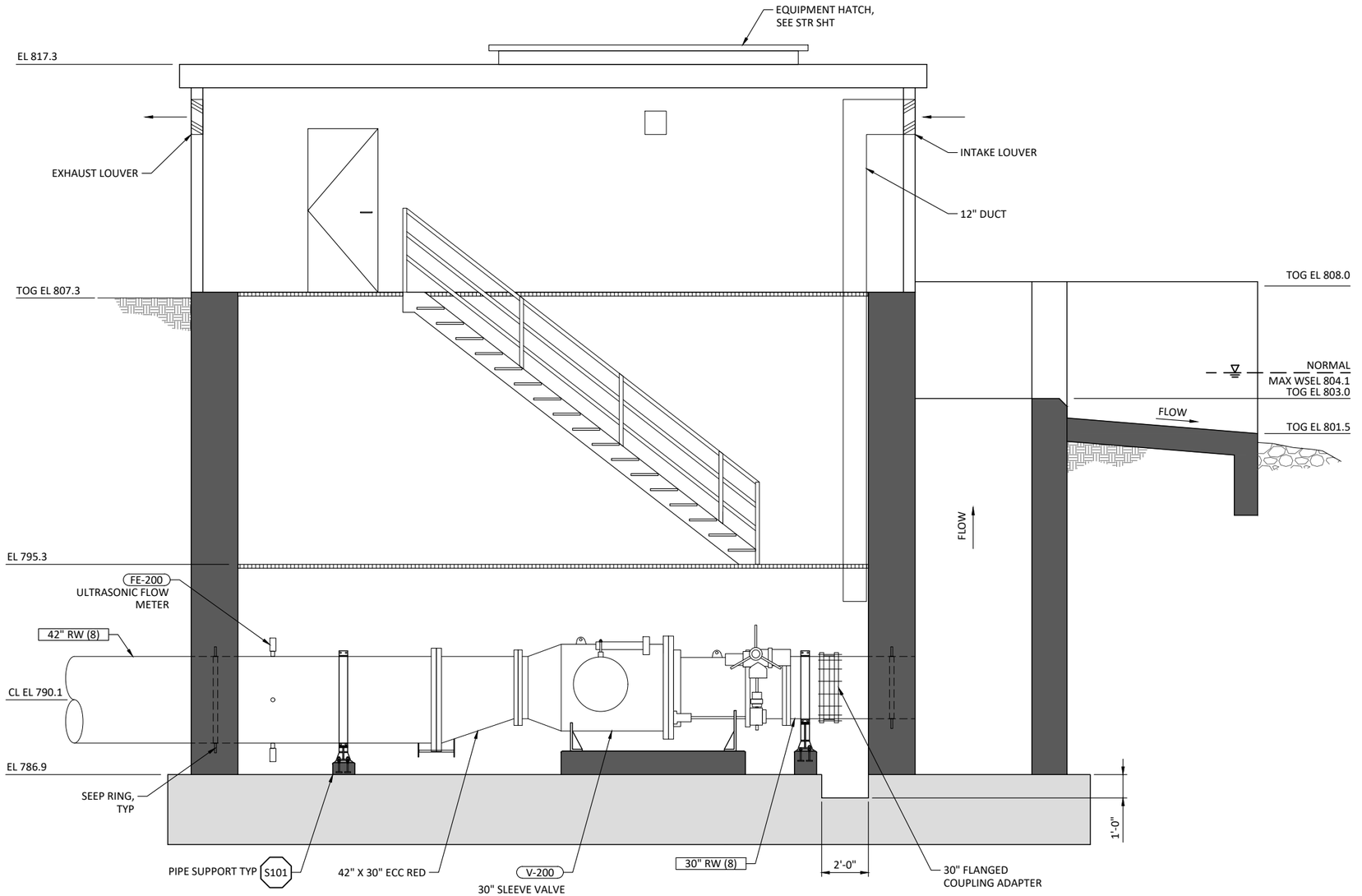
Path: C:\Vault\Chugach Electric\Portal Release Structure\M101.dwg Plot date: Sep 28, 2023 02:31pm, CAD User: HaberFlavia
JOB NO: 000000



1 M001 RIVER RELEASE STRUCTURE PLAN

SCALE: 1/4"= 1'-0"

0' 4' 8'



A - SECTION

SCALE: 3/8"= 1'-0"

0' 2' 4'

PRELIMINARY
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REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH
POWERING ALASKA'S FUTURE

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

RIVER PORTAL RELEASE VALVE SHAFT MECHANICAL PLAN, SECTIONS AND DETAIL

DESIGNED S. ELLENSON

DRAWN J. HOLT

CHECKED J. BOAG

PROJECT DATE 10/6/23

DRAWING

M200

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\M200.dwg Plot date: Sep 28, 2023 02:31pm, CAD User: HaberFlavia

IEEE STANDARD CONTROL AND PROTECTION DEVICES FUNCTION NUMBERS

01	MASTER ELEMENT
02	TIME-DELAY STARTING OR CLOSING RELAY (TDPU)
03	CHECKING OR INTERLOCKING RELAY
04	MASTER CONTACTOR
05	STOPPING DEVICE
06	STARTING CIRCUIT BREAKER
07	RATE-OF-CHANGE RELAY
08	CONTROL POWER DISCONNECTING DEVICE
09	REVERSING DEVICE
10	UNIT SEQUENCE SWITCH
11	MULTIFUNCTION DEVICE
12	OVER-SPEED DEVICE
13	SYNCHRONOUS-SPEED DEVICE
14	UNDER-SPEED DEVICE
15	SPEED OR FREQUENCY MATCHING DEVICE
16	DATA COMMUNICATIONS DEVICE
17	SHUNTING OR DISCHARGE SWITCH
18	ACCELERATING OR DECELERATING DEVICE
19	STARTING-TO-RUNNING TRANSITION CONTACTOR
20	ELECTRONICALLY OPERATED VALVE
21	DISTANCE RELAY
22	EQUALIZER CIRCUIT BREAKER
23	TEMPERATURE CONTROL DEVICE
24	VOLTS PER HERTZ RELAY
25	SYNCHRONIZING OR SYNCHRONISM - CHECK DEVICE
26	APPARATUS THERMAL DEVICE
27	UNDERVOLTAGE RELAY
28	FLAME DETECTOR
29	ISOLATING CONTACTOR
30	ANNUNCIATOR RELAY
31	SEPARATE EXCITATION DEVICE
32	DIRECTIONAL POWER RELAY
33	POSITION SWITCH
34	MASTER SEQUENCE DEVICE
35	BRUSH-OPERATING OF SLIP-RING SHORT-CIRCUITING DEVICE
36	POLARITY OR POLARIZING VOLTAGE DEVICE
37	UNDERCURRENT OR UNDERPOWER RELAY
38	BEARING PROTECTIVE DEVICE
39	MECHANICAL CONDITION MONITOR
40	FIELD (OVER/UNDER EXCITATION) RELAY
41	FIELD CIRCUIT BREAKER
42	RUNNING CIRCUIT BREAKER
43	MANUAL TRANSFER OR SELECTOR DEVICE
44	UNIT SEQUENCE STARTING RELAY
45	ATMOSPHERIC CONDITION MONITOR
46	REVERSE-PHASE OR PHASE-BALANCE CURRENT RELAY
47	PHASE-SEQUENCE OR PHASE-BALANCE VOLTAGE RELAY
48	INCOMPLETE SEQUENCE RELAY
49	MACHINE OR TRANSFORMER THERMAL RELAY
50	INSTANTANEOUS OVERCURRENT OR RATE-OF-RISE RELAY
51	AC INVERSE TIME OVERCURRENT RELAY
52	AC CIRCUIT BREAKER
53	EXCITER OR DC GENERATOR RELAY
54	TURNING GEAR ENGAGING DEVICE
55	POWER FACTOR RELAY
56	FIELD APPLICATION RELAY
57	SHORT-CIRCUITING OR GROUNDING DEVICE
58	RECTIFICATION FAILURE RELAY
59	OVERVOLTAGE RELAY
60	VOLTAGE OR CURRENT BALANCE RELAY
61	DENSITY SWITCH OR SENSOR
62	TIME-DELAY STOPPING OR OPENING RELAY (TDDO)
63	PRESSURE SWITCH
64	GROUND DETECTOR RELAY
65	GOVERNOR
66	NOTCHING OR JOGGING DEVICE
67	AC DIRECTIONAL OVERCURRENT RELAY
68	BLOCKING RELAY
69	PERMISSIVE CONTROL DEVICE
70	RHEOSTAT
71	LEVEL SWITCH
72	DC CIRCUIT BREAKER
73	LOAD-RESISTOR CONTACTOR
74	ALARM RELAY
75	POSITION CHANGING MECHANISM
76	DC OVERCURRENT RELAY
77	PULSE TRANSMITTER
78	PHASE-ANGLE MEASURING OR OUT-OF-STEP PROTECTIVE RELAY
79	AC RECLOSING RELAY
80	FLOW SWITCH
81	FREQUENCY RELAY
82	DC RECLOSING RELAY
83	AUTOMATIC SELECTIVE CONTROL OR TRANSFER RELAY
84	OPERATING MECHANISM
85	CARRIER OR PILOT-WIRE RECEIVER RELAY
86	LOCKOUT RELAY
87	DIFFERENTIAL PROTECTIVE RELAY
88	AUXILIARY MOTOR OR MOTOR GENERATOR
89	LINE SWITCH
90	REGULATING DEVICE
91	VOLTAGE DIRECTIONAL RELAY
92	VOLTAGE AND POWER DIRECTIONAL RELAY
93	FIELD-CHANGING CONTACTOR
94	TRIPPING OR TRIP-FREE RELAY
95	RESERVED FOR FUTURE APPLICATION
96	RESERVED FOR FUTURE APPLICATION
97	RESERVED FOR FUTURE APPLICATION
98	CREEP DETECTOR DEVICE
99	RESERVED FOR FUTURE APPLICATION

METERING SYSTEMS AND DEVICES INDEX

A	AMMETER
AH	AMPERE HOUR METER
AS	AMMETER SELECTOR SWITCH
C	COUNTER
CMA	CONTACT MAKING AMMETER
CMC	CONTACT MAKING CLOCK
CMV	CONTACT MAKING VOLTMETER
CS	CONTROL STATION
DM	DEMAND METER
ETM	ELAPSE TIME METER
F	FREQUENCY METER
G	GALVANOMETER
GD	GROUND FAULT DETECTOR
KV	KILO-VOLTMETER
KW	KILO-WATTMETER
KWH	KILO-WATT HOUR METER
mA	MILLI-AMMETER (TRANSDUCER)
MOC	MECHANISM-OPERATED CONTACT
OHM	OHMMETER
OSC	OSCILLOGRAPH
PB	PUSHBUTTON
PF	POWER FACTOR METER
PH	PHASE METER
PI	POSITION INDICATOR
REC	RECORDER
RF	REACTIVE FACTOR METER
RPM	SPEED INDICATOR
SW	TRANSFER SWITCH
SY	SYNCHROSCOPE
T	TEMPERATURE METER
TLM	TELEMETER
TOC	TRUCK-OPERATED CONTACT
TS	TIME SWITCH
V	VOLTMETER
VAR	VARMETER
VH	VAR HOUR METER
VS	VOLTMETER SELECTOR SWITCH
W	WATTMETER
WH	WATT HOUR METER
WHDM	WATT HOUR DEMAND METER

NOTE: "R" IN FRONT OF LETTERS INDICATES A RECORDING TYPE METER.

PILOT - INDICATOR LIGHT INDEX

A	AMBER
B	BLUE
C	CLEAR
G	GREEN
NE	NEON
O	ORANGE
OP	OPALESCENT
P	PURPLE
R	RED
W	WHITE
Y	YELLOW

FIRST LETTER SUFFIX OF IEEE DEVICE DESIGNATION

A	GOVERNOR SYSTEM (OR ACTUATOR SYSTEMS - GATES)
B	BATTERY CHARGING AND MONITORING SYSTEM OR BUS
C	HIGH-VOLTAGE CABLE SYSTEM OR CLOSING RELAY/CONTACTOR
D	DATA ACQUISITION SYSTEM
E	EXCITATION SYSTEM INCLUDING TRANSFORMER AND REGULATOR BUT NOT MAIN FIELD
F	FIRE AND CO2 SYSTEM
G	MAIN GENERATOR INCLUDING AUXILIARY SYSTEMS OR GROUND
G/M	GENERATOR MOTOR INCLUDING AUXILIARY SYSTEMS IN PUMPED STORAGE APPLICATIONS
H	TURBINE OR MAIN PUMP INCLUDING AUXILIARY SYSTEMS
I	ISOLATED AND OTHER POWER BUS SYSTEMS (NOT HIGH VOLTAGE CABLE)
J	POWER CIRCUIT BREAKER INCLUDING AUXILIARY SYSTEMS
K	POWER TRANSFORMER INCLUDING AUXILIARY SYSTEMS
L	ANNUNCIATOR SYSTEM, SECURITY SYSTEM, LINE, OR LOWERING RELAY/CONTACTOR
M	MAIN PUMP MOTOR INCLUDING AUXILIARY SYSTEMS AND VARIABLE SPEED DRIVE
N	AIR (PNEUMATIC) SYSTEM OR NEUTRAL
O	OPENING RELAY/CONTACTOR
P	PENSTOCK OR DISCHARGE LINE SYSTEM
Q	OIL STORAGE, HANDLING, PURIFICATION SYSTEM
R	FIELD FLASHING SYSTEM, PHASE REVERSAL SWITCH INCLUDING AUXILIARY SYSTEM, OR RAISING RELAY/CONTACTOR
S	STATION SERVICE SUBSTATION SYSTEM INCLUDING ENGINE/GENERATOR SYSTEM
T	TONE AND TRANSFER TRIP SYSTEM OR TRANSFORMER
U	UNIT CONTROL CIRCUIT SYSTEM OR UNINTERRUPTIBLE POWER SUPPLY SYSTEM
V	INTAKE AND/OR DISCHARGE VALVE SYSTEM
W	WATER SYSTEMS INCLUDING INTAKE/OUTLET WORKS AND PLANT WATER AND SUMP SYSTEMS
X	DEFINED FOR SYSTEMS UNIQUE TO A FACILITY
Y	DEFINED FOR SYSTEMS UNIQUE TO A FACILITY
Z	DEFINED FOR SYSTEMS UNIQUE TO A FACILITY

SECOND AND SUBSEQUENT LETTER SUFFIXES OF THE IEEE DEVICE DESIGNATION

A	ABNORMAL, A.C., ACCELERATION, ADMISSION, ALARM, AMPERES, AUTOMATIC, AUXILIARIES, PHASE A, ECT.
B	BACKUP, BEARING, BLOCK, BLOWER, BOOSTER, BRAKES, BUS, BUTTON, BYPASS, PHASE B, ETC.
C	CABLE, CARRIER, CHARGER, CHECK, CHLORINATION, CLOSE, COLLECTOR, COMMON, COMPENSATOR, COMPRESSOR, CONTROL, COOLING, CURRENT, CYCLE, CYLINDER, PHASE C, CONVEYOR, ECT.
D	D.C, DECELERATION, DELAY, DEPRESS, DETECTOR, DIELECTRIC, DIFFERENTIAL, DISCHARGE, DISCONNECT, DISCORDANCE, DOMESTIC, DOWN, DOWNSTREAM, DRAFT TUBE, DRAIN, ETC.
E	EJECTOR, ELEVATOR, EMERGENCY, EXPLOSIVE, ETC.
F	FAILURE, FAN, FAULT, FEEDER, FIELD, FILTER, FIRE, FLAME, FLOW, FOLLOWER, FORWARD, FREQUENCY, FULL, FUMES, FUSE, ETC.
G	GAS, GATE, GATING (SCR), GENERATE, GROUND, GUIDE BEARING, ETC.
H	HALON, HAND, HEAT, HEATER, HIGH, HOIST, HORN, HOT, HOUSING, HYDROPNEUMATIC TANK, ETC.
I	INDICATION, INITIAL, INLET, INOUT, INSTANTANEOUS, INTAKE, INTERFACE, INTERLOCK, INTERRUPT, INVERTER, IONIZATION, ETC.
J	JACKING, JET, ETC.
K	KEY, TRANSFORMER
L	LAMPS, LEFT, LEVEL, LIGHTS, LIMITS, LINE, LIQUID, LOCAL, LOGIC, LOSS, LOUVERS, LOW, LOWER, LUBRICATION, ETC.
M	MAIN, MALFUNCTION, MANUAL, METER, METERING, MOTOR, ETC.
N	NEGATIVE, NETWORK, NEUTRAL, NORMAL, ETC.
O	OPEN, OUTLET, OUTPUT, ETC.
P	PACKING BOX, PARALLEL, PARAMETER, PENSTOCK, PHASE, PHASEBACK, PILOT, PIT, POSITION, POTENTIAL, POTHEAD, POWER, PRESSURE, PRIMARY, PROTECTION, PULSE, PUMP, PURIFICATION, PUSH, ETC.
Q	OIL, ETC.
R	RAISE, REACTOR, RECLOSE, RECORD, RECTIFIER, REED, REFRIGERATION, REGULATE, RELAY, RELEASE, RELIEF, REMOTE, RESERVOIR, RESET, RESISTOR, RIGHT, ROTATION, ROTOR, RUNNER, ETC.
S	SEALS, SECONDARY, SELECTOR, SEWAGE, SHORTING, SHUTDOWN, SIGNAL, SKIMMER, SLUDGE, SMOKE, SOLENOID, SPEED, SPIRAL OR SCROLL CASE, SPLICE, STABILIZER, STANDBY, STARTING, STATOR, STEPPING, STORAGE, STRAINER, SUCTION, SUMP, SUPPLY, SWITCH, SYNCHRONIZING, ETC.
T	TANK, TEMPERATURE, TEST, THERMAL, THRUST BEARING, THYRATRON, TIE, TIME, TRANSDUCER, TRANSER, TRANSMITTER, TRIP, TROUBLE, TRASHRAKE, ETC.
U	UNIT, UNLOADER, UNWATERING, UP, UPPER, UPSTREAM, ETC.
V	VALVE, VARS, VIBRATION. VOLTAGE, ETC.
W	WATER, WATTS, WINDINGS, ETC.
X	AUXILIARY DEVICE, ETC.
Y	AUXILIARY TO DEVICE X, ANTIPUMP RELAY, ETC.
Z	AUXILIARY TO DEVICE Y

ABBREVIATIONS

A, AMP	AMP, AMPERE
AAAC	ALL ALUMINUM ALLOY CONDUCTOR
AC	ALTERNATING CURRENT
AF	AMPERE FRAME SIZE
AFD	ADJUSTABLE FREQUENCY DRIVE
AFF	ABOVE FINISHED FLOOR
AH	AMPERE HOURS
AHJ	AUTHORITY HAVING JURISDICTION
AHU	AIR HANDLING UNIT
AL	ALUMINUM
A/R	AS REQUIRED
AT	AMPERE TRIP
ATS	AUTOMATIC TRANSFER SWITCH
AVR	AUTOMATIC VOLTAGE REGULATOR
BAT	BATTERY
C	CONDUIT
CB	CIRCUIT BREAKER
CKT	CIRCUIT
CLF	CURRENT LIMITING FUSE
CO	CONDUIT ONLY
CP	CONTROL PANEL
CPT	CONTROL POWER TRANSFORMER
CR	CONTROL RELAY
CS	CONTROL SWITCH
CT	CURRENT TRANSFORMER
DC	DIRECT CURRENT
DCS	DISTRIBUTED CONTROL SYSTEM
DISC	DISCONNECT
DP	DISTRIBUTION PANEL
DPDT	DOUBLE-POLE, DOUBLE-THROW
DPST	DOUBLE-POLE, SINGLE-THROW
EDH	ELECTRIC DUCT HEATER
EG	ENGINE GENERATOR
EPT	EXCITATION POWER TRANSFORMER
EUH	ELECTRIC UNIT HEATER
EV	ELECTRICAL VAULT
F, FU	FUSE
FA	FIRE ALARM
FACP	FIRE ALARM CONTROL PANEL
FAS	FIRE ALARM SYSTEM
FREQ	FREQUENCY
FS	FLOAT SWITCH
FT	FLOW TRANSMITTER
FVNR	FULL VOLTAGE NON-REVERSING
FVR	FULL VOLTAGE REVERSING
GEN	GENERATOR
GFI	GROUND-FAULT INTERRUPTION
GFP	GROUND-FAULT PROTECTION
GND	GROUND
GPR	GENERATOR PROTECTION RELAY
GSU	GENERATOR STEP-UP TRANSFORMER
HMI	HUMAN-MACHINE INTERFACE
HOA	HAND-OFF-AUTO
HOR	HAND-OFF-REMOTE
HPU	HYDRAULIC POWER UNIT
HTR	HEATER
HZ	HERTZ (CYCLES PER SECOND)
IC	INTERRUPTING CAPACITY
I & C	INSTRUMENTATION AND CONTROL
I/O	INPUT/OUTPUT
INST	INSTANTANEOUS
INTLK	INTERLOCK
IP	INTERNET PROTOCOL
K	KEY INTERLOCK
kV	KILOVOLTS
kVA	KILOVOLT AMPERES (APPARENT POWER)
kVAR	KILOVARS (REACTIVE POWER)
kW	KILOWATTS (REAL POWER)
kWH	KILOWATT HOUR
LC	LIGHTING CONTROLLER
LCP	LOCAL CONTROL PANEL
LE	LEVEL ELEMENT
LIT	LEVEL INDICATING TRANSMITTER
LOR	LOCAL-OFF-REMOTE
LP	LIGHTING PANEL
LS	LEVEL SWITCH
LT	LEVEL TRANSMITTER
mA	MILLIAMPERES
M	MOTOR, MAN, MANUAL
MAG	MAGNETIC
MCC	MOTOR CONTROL CENTER
MDP	MAIN DISTRIBUTION PANEL
MFM	MULTIFUNCTIONAL METER
MPR	MOTOR PROTECTION RELAY
MTS	MANUAL TRANSFER SWITCH
mV	MILLIVOLTS
MVA	MEGAVOLT AMPERES (APPARENT POWER)
MVAR	MEGAVARS (REACTIVE POWER)
MW	MEGAWATTS (REAL POWER)
MWH	MEGAWATT HOUR
NEUT	NEUTRAL
NGR	NEUTRAL GROUNDING RESISTOR
OHM	OHMMETER
OL	OVERLOAD
OPER	OPERATOR, OPERATED
PB	PANELBOARD, PULLBOX, PUSH BUTTON
PC	PHOTOCELL
PCB	POWER CIRCUIT BREAKER
PCC	POINT OF COMMON CONNECTION
PF	POWER FACTOR
PH, Ø	PHASE
PMP	PUMP
PNL	PANEL
PLC	PROGRAMMABLE LOGIC CONTROLLER
POI	POINT OF INTER-CONNECTION
PS	PRESSURE SWITCH
PTT	PUSH-TO-TEST
PWR	POWER
R	RELAY, REVERSE, RUN
RCP	RECEPTACLE
RIO	REMOTE I/O
RTD	RESISTANCE TEMPERATURE DETECTOR
RVNR	REDUCED VOLTAGE NON-REVERSING
RVR	REDUCED VOLTAGE REVERSING
S	SYNC SCOPE
SA	SURGE ARRESTER
SC	SURGE CAPACITOR
SDP	STANDBY DISTRIBUTION PANEL
SEL	SELECTOR, SCHWEITZER ENGINEERING LABORATORIES
SPD	SURGE PROTECTION DEVICE
SPDT	SINGLE-POLE, DOUBLE-THROW
SPST	SINGLE-POLE, SINGLE-THROW
S/S	STATION SERVICE
SV	SOLENOID VALVE
SW	SWITCH
SWBD	SWITCHBOARD
SWGR	SWITCHGEAR
T	THERMOSTAT
TB	TERMINAL BLOCK, TERMINAL BOX
TD	TEMPERATURE DETECTOR, TIME DELAY
TEL	TELEPHONE
TS	THERMOSTAT
TSP	TWISTED SHIELDED PAIR
TST	TWISTED SHIELDED TRIAD
TX	TRANSMITTER
UH	UNIT HEATER
UP	UTILITY POWER
UPS	UNINTERRUPTIBLE POWER SUPPLY
V	VOLTS
VAC	VOLTS ALTERNATING CURRENT
VC	VIDEO CAMERA
VCB	VACUUM CIRCUIT BREAKER
VDC	VOLTS DIRECT CURRENT
VFD	VARIABLE FREQUENCY DRIVE
W	WIRE, WATTS
WP	WEATHER PROOF
XD	TRANSDUCER
XFMR	TRANSFORMER
XLP	CROSS LINKED POLYETHYLENE
XP	EXPLOSION PROOF

PRELIMINARY
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REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH POWERING ALASKA'S FUTURE | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
ELECTRICAL ABBREVIATIONS AND DEVICE INDEXES

DESIGNED C. CURTIS
DRAWN J. HOLT
CHECKED J. BAKKEN
PROJECT DATE 10/6/23

DRAWING
GE001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GE001.dwg Plot date: Sep 26, 2023 05:07pm, CAD User: HaberFlavia

DIAGRAMS

HIGH - MEDIUM VOLTAGE SWITCHING

- POWER CIRCUIT BRK, DRAWOUT
- POWER CIRCUIT BRK, NON-DRAWOUT
- HV ISOLATING SW MOTOR OPERATED
- HV INTERRUPTER SW FUSED
- CENTER-BREAK SW MOTOR OPERATED
- DUAL-BREAK SW MOTOR OPERATED
- LOAD-BREAK SW MOTOR OPERATED
- HORN GAP SW

TRANSFORMERS:

- POWER XFMR
- MAG CORE XFMR
- LOAD TAP CHANGING XFMR
- SPLIT SECONDARY XFMR
- AUTO-XFMR

INSTRUMENT TRANSFORMERS:

- POTENTIAL XFMR
- POTENTIAL XFMR DUAL SECONDARY
- (3) 800:5 CURRENT XFMR, QTY & RATIO AS INDICATED
- (1) 50:5 CORE BALANCE CURRENT XFMR RATIO AS INDICATED
- (3) 800:5 BUSHING CURRENT XFMR, QTY & RATIO AS INDICATED
- kWH KILOWATT-HOUR METER

MACHINES:

- M XXHP MOTOR-DC
- M XXHP MOTOR-AC
- G XXKW XXPF AC GENERATOR

TRANSFORMERS WINDING CONNECTIONS:

- DELTA 3PH3W
- DELTA CENTER TAP GND 3PH4W
- DELTA CORNER GRD 3PH3W
- BROKEN DELTA 3PH2W
- OPEN DELTA 2PH2W
- WYE 3PH3W
- WYE GRD 3PH4W
- ZIG-ZAG 3PH3W
- ZIG-ZAG GRD 3PH4W

HIGH - MEDIUM VOLTAGE DEVICES

- L/A OR LIGHTNING ARRESTER
- WT WAVE TRAP
- M 57 GROUND SW MOTOR OPER
- MV CABLE TERMINATION
- CABLE POTHEAD OIL-FILLED

MISC DEVICES & CONNECTIONS:

- IN/OUT LINE
- 01 02 PROTECTIVE DEVICE ELEMENT, SEE DEVICE FUNCTION INDEX
- TEST SWITCH
- TEST SWITCH, CURRENT SHORTING
- BATTERY
- GROUND
- DISCONNECTING DEVICE
- NEUTRAL CONNECTION
- ISOL PH BUS FLEX CONN
- ISOL PH BUS REMOVEABLE LINK

MISC DEVICES & CONNECTIONS:

- DEVICE TERMINAL POINT
- TERMINAL BLOCK
- EXTERNAL EQUIPMENT INTERCONNECTION
- XX XX RELAY, SOLENOID, OR CONTACTOR COIL
- TD XX TRANSDUCER
- I XX INDICATING METER
- TLM XX TELEMETRY
- X PUSH-TO-TEST LIGHT
- X PILOT/INDIC LIGHT
- XA FUSE, SIZE AS INDICATED
- FUSE DUMMY
- XA DISC SW FUSED
- FUSIBLE LINK
- CAPACITOR
- 3% REACTOR
- RES RESISTOR
- RES RESISTOR VARIABLE
- OR HEATER ELEMENT
- RECTIFIER SOLID STATE
- AC DC+ DC- AC RECTIFIER FULLWAVE
- DC BRAKE
- GROUND
- CHASSIS GROUND
- CURRENT SHUNT

LOW VOLTAGE SWITCHING:

- DISCONNECTING SWITCH, MANUALLY GANG-OPERATED
- MOLDED CASE OR AIR CIRCUIT BREAKER
- CONTACTOR WITH THERMAL OL TRIP
- CONTACTOR WITH MAGNETIC OL TRIP
- CONTACTOR WITH THERMAL AND MAGNETIC OL TRIP
- E CIR BKR DRAWOUT ELEC OPER
- E CIR BKR THERMO O/L DRAWOUT ELEC OPER
- E CIR BKR MAG O/L DRAWOUT ELEC OPER
- E CIR BKR THERMO/MAG O/L DRAWOUT ELEC OPER

SELECTOR:

J K A1 A2 — TWO-POSITION X-CONTACT CLOSED

	J	K
A1	X	
A2		X

J K L A1 A2 — THREE-POSITION X-CONTACT CLOSED

	J	K	L
A1	X		
A2			X

A B 1 2 3 4 — TWO-POSITION SELECTOR PUSHBUTTON X-CONTACT CLOSED

CONTACTS	SELECTOR POSITION			
	A		B	
	BUTTON		BUTTON	
	FREE	CONTACTS	FREE	CONTACTS
1-2	X			
3-4		X	X	X

CONTROL SWITCHING:

- XX PB SWITCH NORM OPEN
- XX PB SWITCH NORM CLOSED
- XX OFF MAN AUTO SELECTOR SWITCH
- XX LIMIT SW NORM OPEN
- XX LIMIT SW NORM CLOSED
- XX LIMIT SW NORM OPEN HELD CLOSED
- XX LIMIT SW NORM CLOSED HELD OPEN
- SOLENOID
- XX CONTACT NORM OPEN
- XX CONTACT NORM CLOSED
- XX FLOW OPER NORM OPEN
- XX FLOW OPER NORM CLOSED
- XX LEVEL OPER NORM OPEN
- XX LEVEL OPER NORM CLOSED
- XX SWITCH NORM OPEN
- XX SWITCH NORM CLOSED
- XX TEMP ACT SW NORM OPEN
- XX TEMP ACT SW NORM CLOSED
- XX FOOT OPER NORM OPEN
- XX FOOT OPER NORM CLOSED
- XX PRESS OPER NORM OPEN
- XX PRESS OPER NORM CLOSED

PRELIMINARY
NOT FOR CONSTRUCTION

MOMENTARY CONTACTS:

- NO NC SINGLE CIRCUIT
- NO & NC DOUBLE CIRCUIT

MAINTAINED CONTACTS:

- TWO SINGLE CIRCUIT
- ONE DOUBLE CIRCUIT
- ESS E-STOP, 2NC

INSTANT OPERATION CONTACTS WITH BLOWOUT

- XA NO
- XA NC

INSTANT OPERATION CONTACTS WITHOUT BLOWOUT

- XA NO
- XA NC

TIMED CONTACTS - CONTACT ACTION DELAYED AFTER COIL IS ENERGIZED

- XX SEC NOTC
- XX SEC NCTC

TIMED CONTACTS - CONTACT ACTION DELAYED AFTER COIL IS DE-ENERGIZED

- XX SEC NOTC
- XX SEC NCTC

SUPPLEMENTARY CONTACTS SYMBOLS:

- SPST, NO SINGLE-BREAK
- SPST, NO DOUBLE-BREAK
- SPST, NC SINGLE-BREAK
- SPST, NC DOUBLE-BREAK
- SPDT, SINGLE-BREAK
- SPDT, DOUBLE-BREAK
- DPST, NO, SINGLE-BREAK
- DPST, NO, DOUBLE-BREAK
- DPST, NC, SINGLE-BREAK
- DPST, NC, DOUBLE-BREAK
- DPDT, SINGLE-BREAK
- DPDT, DOUBLE-BREAK

NOTE:

1. "X" OR "XX" SHOWN ON SYMBOLS WILL BE SUBSTITUTED WITH DEVICE FUNCTION NUMBERS, LETTER SUFFIXES, PILOT LIGHT COLORS, OR OTHER DESCRIPTIVE TEXT, WHICH ARE DEFINED ELSEWHERE IN THESE LEGEND DRAWINGS.

REV	DATE	BY	DESCRIPTION
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McMillen | CHUGACH POWERING ALASKA'S FUTURE | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

ELECTRICAL STANDARD SYMBOLS 1

DESIGNED C. CURTIS
DRAWN J. HOLT
CHECKED J. BAKKEN
PROJECT DATE 10/6/23

DRAWING
GE002

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GE002.dwg Plot date: Sep 28, 2023 02:48pm, CAD User: HaberFlavia

PRIVATE TELEPHONE SYSTEM

- SB SWITCHBOARD
- TC TERMINAL CABINET
- D DESK PHONE
- W WALL PHONE

PRIVATE ETHERNET NETWORK SYSTEM

- DATA JACK
- VOICE/DATA JACK

PAGE/SOUND SYSTEM

- A AMPLIFIER
- WS SPEAKER, WALL MTD
- CS SPEAKER, CEIL MTD
- WH HORN, WALL MTD
- CH HORN, CEIL MTD
- MIC MICROPHONE
- P HANDSET

INTRUSION ALARM/ACCESS SYSTEM

SA SECURITY ALARM
- A POINT OF CONTACT
- C SECURITY PROXIMITY CARD READER (+48" AFF)
- E SECURITY ELEVATOR LOCKOUT CONTROL
- K SECURITY KEYPAD
- P SECURITY PANIC BUTTON (MOUNT UNDER CABINET)

SCD SECURITY DOOR CONTACT
- D INTEGRAL TO DOOR HARDWARE OR HINGE. SEE ARCHITECTURAL DOOR HARDWARE SCHEDULE
- S SURFACE MOUNTED CONTACT/MAGNET COMBO WITH TAMPER RESISTANT METAL-CLAD PIGTAIL.
- M FULLY RECESSED CONTACT/MAGNET COMBO INSTALLED IN DOOR FRAME HEADER/TOP OF DOOR.

SLD SECURITY DOOR LOCK CONNECTION (LOCK BY OTHERS)
- D INTEGRAL TO DOOR HARDWARE OR HINGE. SEE ARCHITECTURAL DOOR HARDWARE SCHEDULE
- S ELECTRICAL STRIKE IN DOOR FRAME LATCH.
- M MAGNETIC LOCK ON DOOR FRAME HEADER.

SM SECURITY MOTION SENSOR - ARROW INDICATES DIRECTION OF SENSING; 360° INDICATES SENSING IN ALL DIRECTIONS

SM SECURITY MONITOR AND MULTIPLEXOR/DVM

REXD REQUEST TO EXIT SIGNAL DEVICE
- D INTEGRAL TO DOOR HARDWARE OR HINGE. SEE ARCHITECTURAL DOOR HARDWARE SCHEDULE
- P PASSIVE INFRARED DETECTOR MOUNTED ABOVE DOOR FRAME. PROVIDE J-BOX TYPE 'B' HORIZONTALLY MOUNTED 6" ABOVE DOOR.

P POWERED DOOR OPERATOR ACTUATOR

CCTV SYSTEM

- CCTV CAMERA FIXED POSITION
- PTZ CCTV CAMERA, PAN-TILT-ZOOM
- CCTV CCTV MONITOR
- CCTV CCTV MONITOR

LOW VOLTAGE ELECTRICAL MATERIALS

- CB CIRCUIT BREAKER SWITCH
- UF UNFUSED DISCONNECT SWITCH
- F FUSED DISCONNECT SWITCH
- MOTOR STARTER MANUAL
- MOTOR STARTER MAGNETIC
- CB MOTOR STARTER MAG. COMBINATION C.B. SW.
- F MOTOR STARTER MAG. COMBINATION FUSED D.S.
- VFD VARIABLE FREQUENCY DRIVE
- PUSHBUTTON SW. EMERG. STOP
- PUSHBUTTON SW. STOP/START
- PUSHBUTTON STATION
- SELECTOR SWITCH
- CS CONTROL STATION
- FS FLOAT SWITCH
- LI LEVEL SWITCH
- BI BIN LEVEL SWITCH
- LS LIMIT SWITCH
- PS PRESSURE SWITCH
- PE ELECTRICAL/PNEUMATIC SWITCH
- PT PRESSURE TRANSMITTER
- SV SOLENOID VALVE
- T THERMOSTAT
- TS TEMPERATURE SWITCH

- 2 MOTOR
- POINT OF CONNECTION
- J JUNCTION BOX OR CONDUIT FITTING

$ WALL SWITCH
- (1a) NUMBER & LETTER IN PARENTHESES INDICATES PANELBOARD CIRCUIT & SWITCHING ZONE
- 3 THREE WAY
- 4 FOUR WAY
- D DIMMER
- OS OCC SENSOR
- T TIMER
- XP EXPLOSIVE PROOF
- WP WATERPROOF

$M MOTOR SWITCH
- M MOTOR RATED TOGGLE SWITCH WITHOUT OVERLOADS
- MS MANUAL MOTOR STARTER WITH OVERLOADS

- DS DAYLIGHT SENSOR
- OS WALL MOUNTED OCCUPANCY SENSOR
- OS CEILING MOUNTED OCCUPANCY SENSOR
- PC PHOTOCELL, SUBSCRIPT INDICATES CIRCUIT

CONVENIENCE RECEPTACLE - DUPLEX
- C CLOCK
- CR CORROSION RESISTANT
- GFI GROUND FAULT INTERRUPTER
- TL TWIST LOCK, NEMA CONFIGURATION AS INDICATED
- U UPS FED
- WP WEATHERPROOF

SUBSCRIPT NUMBER AT RECEPTACLE INDICATES CIRCUIT

- QUADRUPLEX RECEPTACLE
- SINGLE RECEPTACLE
- FLOOR RECEPTACLE
- SPECIAL PURPOSE RECEPTACLE, NEMA CONFIGURATION AS INDICATED

SITE ELECTRICAL

- POLE CONCRETE
- POLE WOOD
- POLE MOUNTED TRANSFORMER
- DOWN GUY
- SIDEWALK GUY
- M MANHOLE
- H HANDHOLE
- V VAULT
- S PAD MOUNTED SWITCH
- T TRANSFORMER VAULT
- PAD MOUNTED TRANSFORMER

GROUNDING

- GROUND ROD
- GROUND ROD WITH ACCESS BOX
- GROUND CONNECTION EXOTHERMIC
- GROUND CONNECTION MECHANICAL BOLTED
- GROUND CONNECTION COMPRESSION
- GROUND COIL (PIGTAIL) 5'0" (1.5M)
- GROUND GRADIENT MAT (SAFETY MAT) 4'X 4'
- GROUND GRADIENT MAT (SAFETY MAT) 4'X 6'

ELECTRICAL LIGHTING FIXTURES

- SURFACE/PENDANT LINEAR FIXTURE
- SURFACE/PENDANT LINEAR FIXTURE WITH BATTERY BACKUP
- RECESSED LINEAR FIXTURE
- RECESSED LINEAR FIXTURE WITH BATTERY BACKUP
- DOWNLIGHT FIXTURE SURFACE/PENDANT CEILING MOUNT
- DOWNLIGHT OR SCONCE FIXTURE SURFACE WALL MOUNT
- R DOWNLIGHT FIXTURE RECESSED CEILING MOUNT
- R DOWNLIGHT OR SCONCE FIXTURE RECESSED WALL MOUNT
- H HAZARDOUS AREA LIGHT FIXTURE CEILING MOUNT
- EXIT SIGN, ARROW INDICATES DIRECTION SURFACE/PENDANT CEILING MOUNT, FILLED QUARTER INDICATES NON-INDICATING FACE
- EXIT SIGN, ARROW INDICATES DIRECTION SURFACE WALL MOUNT, FILLED QUARTER INDICATES NON-INDICATING FACE
- R EXIT SIGN, ARROW INDICATES DIRECTION RECESSED WALL MOUNT, FILLED QUARTER INDICATES NON-INDICATING FACE

- R EMERGENCY DOWNLIGHT FIXTURE SURFACE/PENDANT CEILING MOUNT
- EMERGENCY DOWNLIGHT OR SCONCE FIXTURE SURFACE WALL MOUNT
- R EMERGENCY DOWNLIGHT FIXTURE RECESSED CEILING MOUNT
- R EMERGENCY DOWNLIGHT OR SCONCE FIXTURE RECESSED WALL MOUNT
- EMERGENCY LIGHTING UNIT, 1 HEAD
- EMERGENCY LIGHTING UNIT, 2 HEAD
- EMERGENCY LIGHTING UNIT, 3 HEAD
- SURFACE MTD. DISTR. PANELBOARD
- FLUSH MTD. DISTR. PANELBOARD
- LF-1 LF-1 POLE-MOUNTED AREA LIGHT, NUMBER OF FIXTURES AND CONFIGURATION AS SHOWN AND PER SCHEDULE
- A (2a) LETTER NEXT TO LUMINAIRE INDICATES TYPE PER SCHEDULE. NUMBER AND LOWER CASE LETTER IN PARENTHESES INDICATES CIRCUIT AND SWITCHING ZONE IN PANELBOARD.

PLAN LINETYPES AND CONVENTIONS

- EXPOSED CONDUCTOR/CONDUIT
- CONCEALED/EMBEDDED CONDUCTOR/CONDUIT
- CONDUCTOR/CONDUIT DOWN
- CONDUCTOR/CONDUIT UP
- G GROUNDING ELECTRODE CONDUCTOR, BARE COPPER
- G GROUND CONNECTION, EXOTHERMIC OR WELDED
- G GROUND CONNECTION, BOLTED
- EOH OH POWER
- EUG UG POWER
- [3/4"C, 3#12, 1#12G] CIRCUIT CALLOUT, CONDUIT AND CONDUCTOR SIZES AS INDICATED; "n-" IN FRONT OF CALLOUT INDICATES "n" PARALLEL SETS
- RXX RACEWAY CALLOUT, INDEX NUMBER AS INDICATED IN RACEWAY SCHEDULE

DIAGRAM LINETYPES AND CONVENTIONS

- ENCLOSURE
- CONDUCTOR, CABLE, CIRCUIT, OR BUS
- INTERCONNECTION WITH EXTERNAL EQUIPMENT
- GANG OPERATED INTERLOCK
- OR CONDUCTOR, CROSSING OF PATHS OR CONDUCTORS NOT CONNECTED
- CONDUCTOR, JUNCTION OF CONNECTED PATHS, CONDUCTORS OR WIRES

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

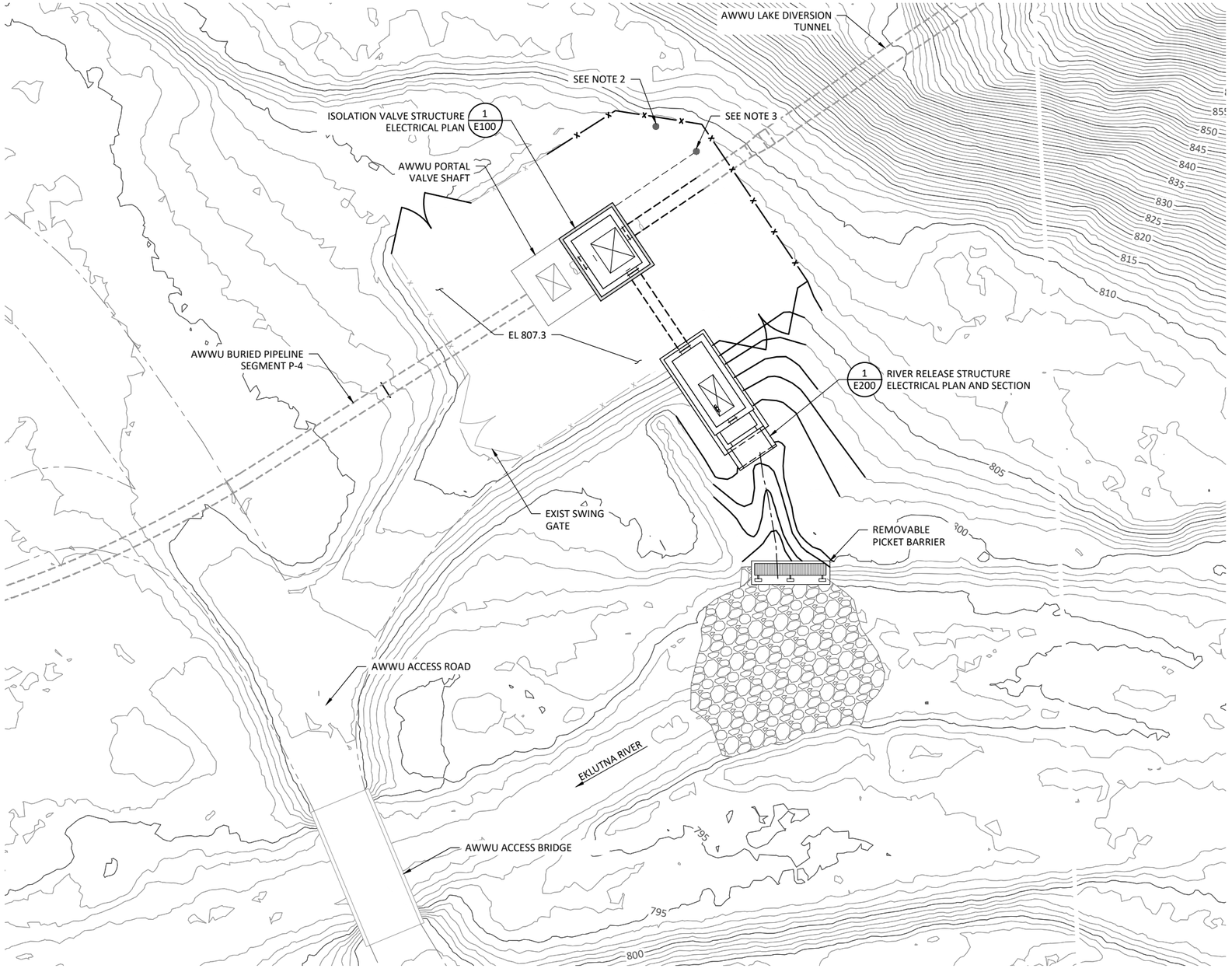
ELECTRICAL STANDARD SYMBOLS 2

DESIGNED C. CURTIS
DRAWN J. HOLT
CHECKED J. BAKKEN
PROJECT DATE 10/6/23

DRAWING
GE003

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GE003.dwg Plot date: Sep 26, 2023 05:08pm, CAD User: HaberFlavia



ELECTRICAL SITE AND KEY PLAN

SCALE: 1"= 20'

0" 20' 40'

N

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
2. EXISTING 7.2 kV SINGLE-PHASE POWER SERVICE POLE. EXTEND POWER LINE TO NEW DEAD-END POLE FOR NEW POWER SERVICE DROP.
3. NEW POWER POLE SERVICE DROP. PROVIDE METER SOCKET AND SERVICE DISCONNECT. COORDINATE REQUIREMENTS WITH UTILITY.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

ELECTRICAL SITE AND KEY PLAN

DESIGNED C. CURTIS

DRAWN J. HOLT

CHECKED J. BAKKEN

PROJECT DATE 10/6/23

DRAWING

E001

JOB NO: 000000

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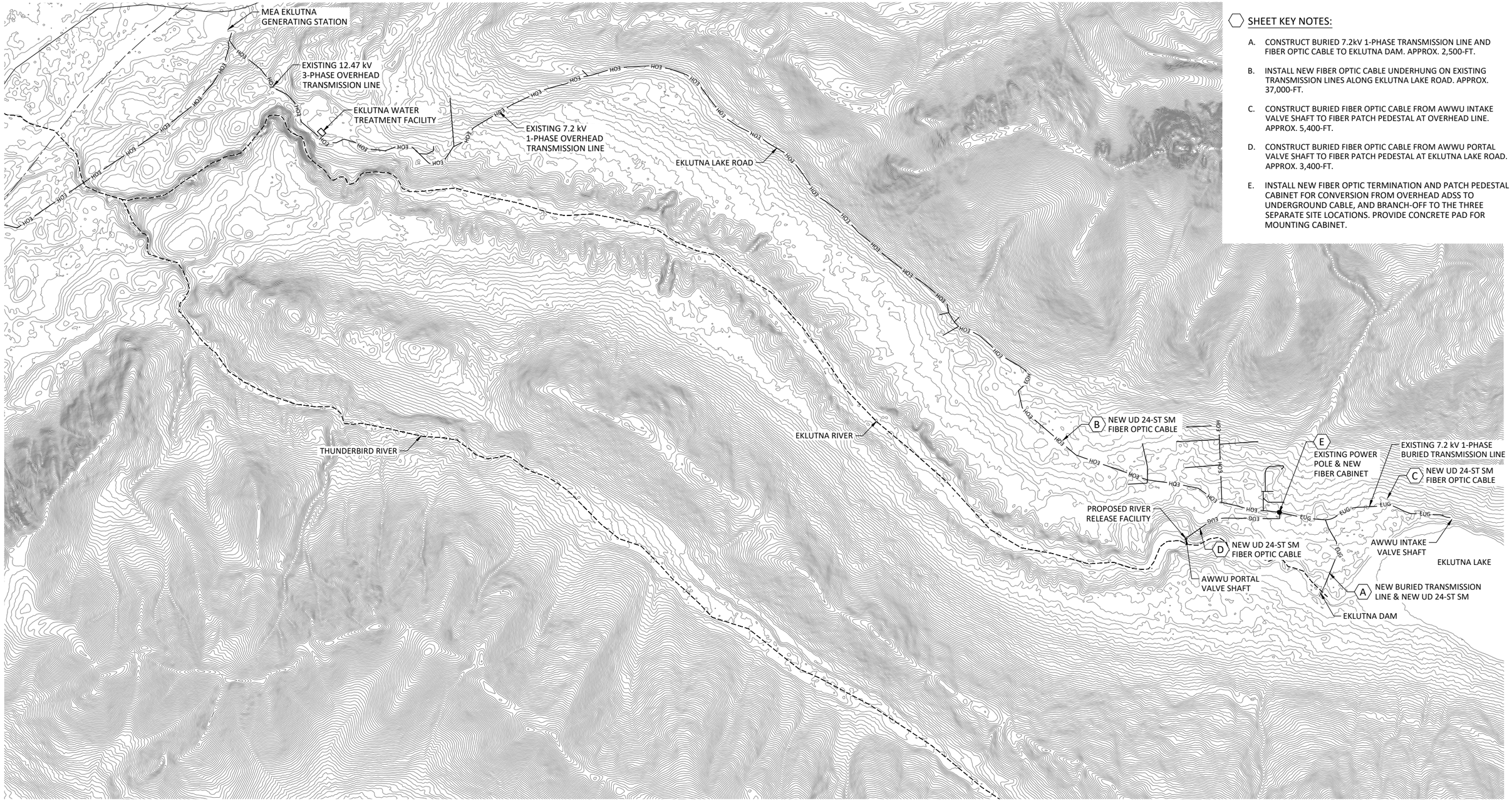

SHEET KEY NOTES:

A. CONSTRUCT BURIED 7.2kV 1-PHASE TRANSMISSION LINE AND FIBER OPTIC CABLE TO EKLUTNA DAM. APPROX. 2,500-FT.

B. INSTALL NEW FIBER OPTIC CABLE UNDERHUNG ON EXISTING TRANSMISSION LINES ALONG EKLUTNA LAKE ROAD. APPROX. 37,000-FT.

C. CONSTRUCT BURIED FIBER OPTIC CABLE FROM AWWU INTAKE VALVE SHAFT TO FIBER PATCH PEDESTAL AT OVERHEAD LINE. APPROX. 5,400-FT.

D. CONSTRUCT BURIED FIBER OPTIC CABLE FROM AWWU PORTAL VALVE SHAFT TO FIBER PATCH PEDESTAL AT EKLUTNA LAKE ROAD. APPROX. 3,400-FT.

E. INSTALL NEW FIBER OPTIC TERMINATION AND PATCH PEDESTAL CABINET FOR CONVERSION FROM OVERHEAD ADSS TO UNDERGROUND CABLE, AND BRANCH-OFF TO THE THREE SEPARATE SITE LOCATIONS. PROVIDE CONCRETE PAD FOR MOUNTING CABINET.

TRANSMISSION AND COMMUNICATION UPGRADES PLAN

SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH POWERING ALASKA'S FUTURE | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
TRANSMISSION AND COMMUNICATION UPGRADES PLAN

DESIGNED C. CURTIS
DRAWN J. HOLT
CHECKED J. BAKKEN
PROJECT DATE 10/6/23

DRAWING
E003

JOB NO: 000000

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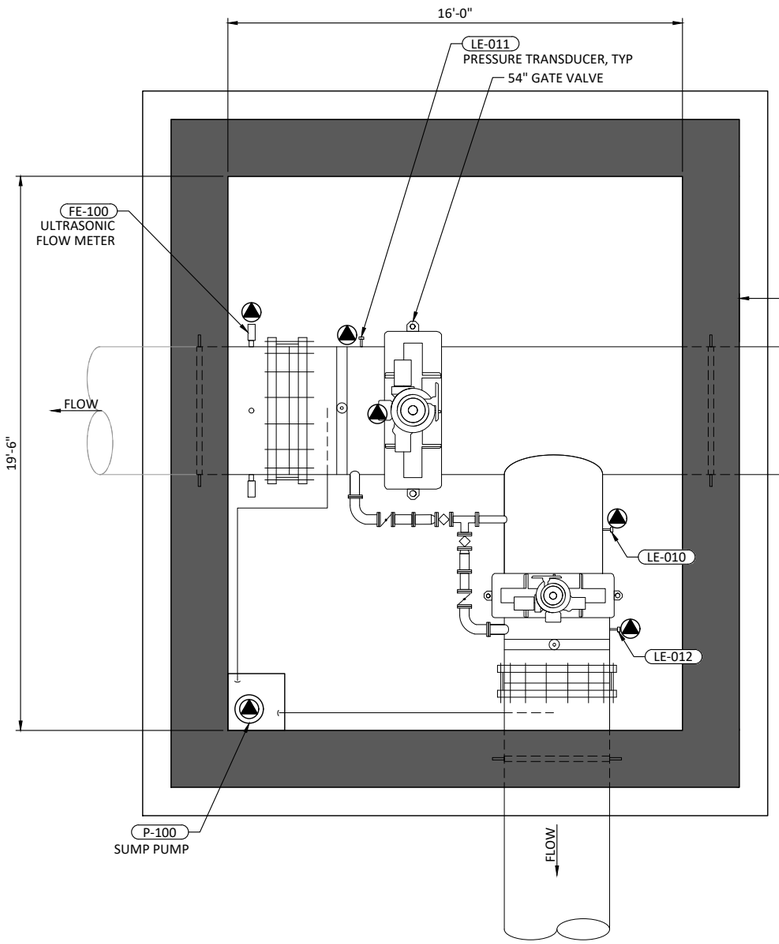


1 M001 ISOLATION VALVE STRUCTURE ELECTRICAL PLAN

SCALE: 3/8"= 1'-0"

0' 2' 4'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

ISOLATION VALVE STRUCTURE ELECTRICAL PLAN

DESIGNED C. CURTIS

DRAWN J. HOLT

CHECKED J. BAKKEN

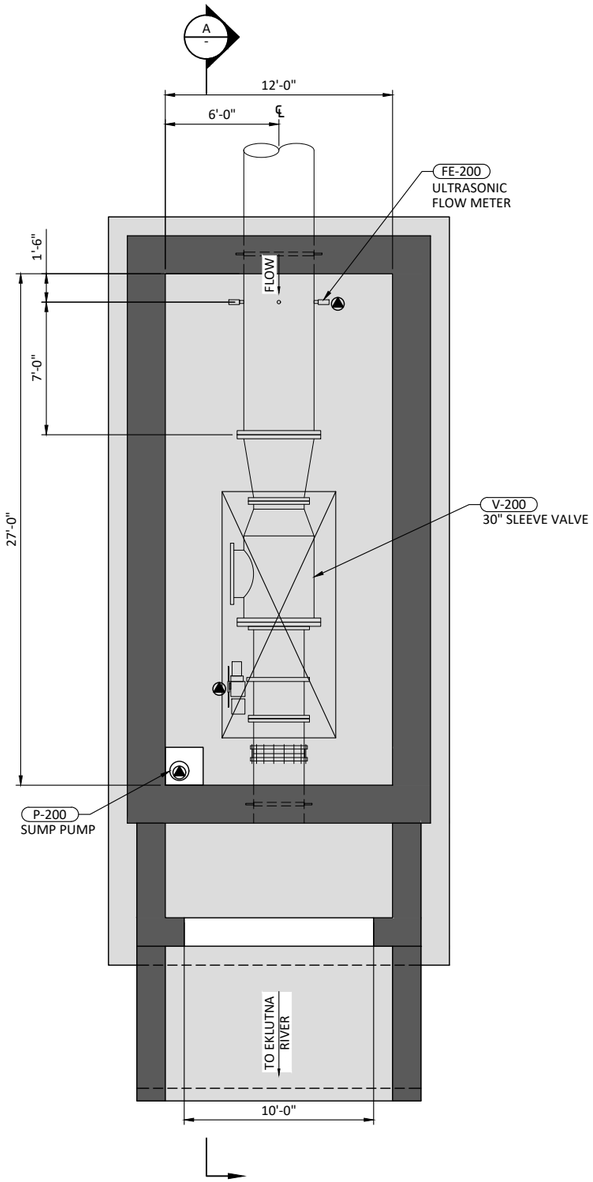
PROJECT DATE 10/6/23

DRAWING

E100

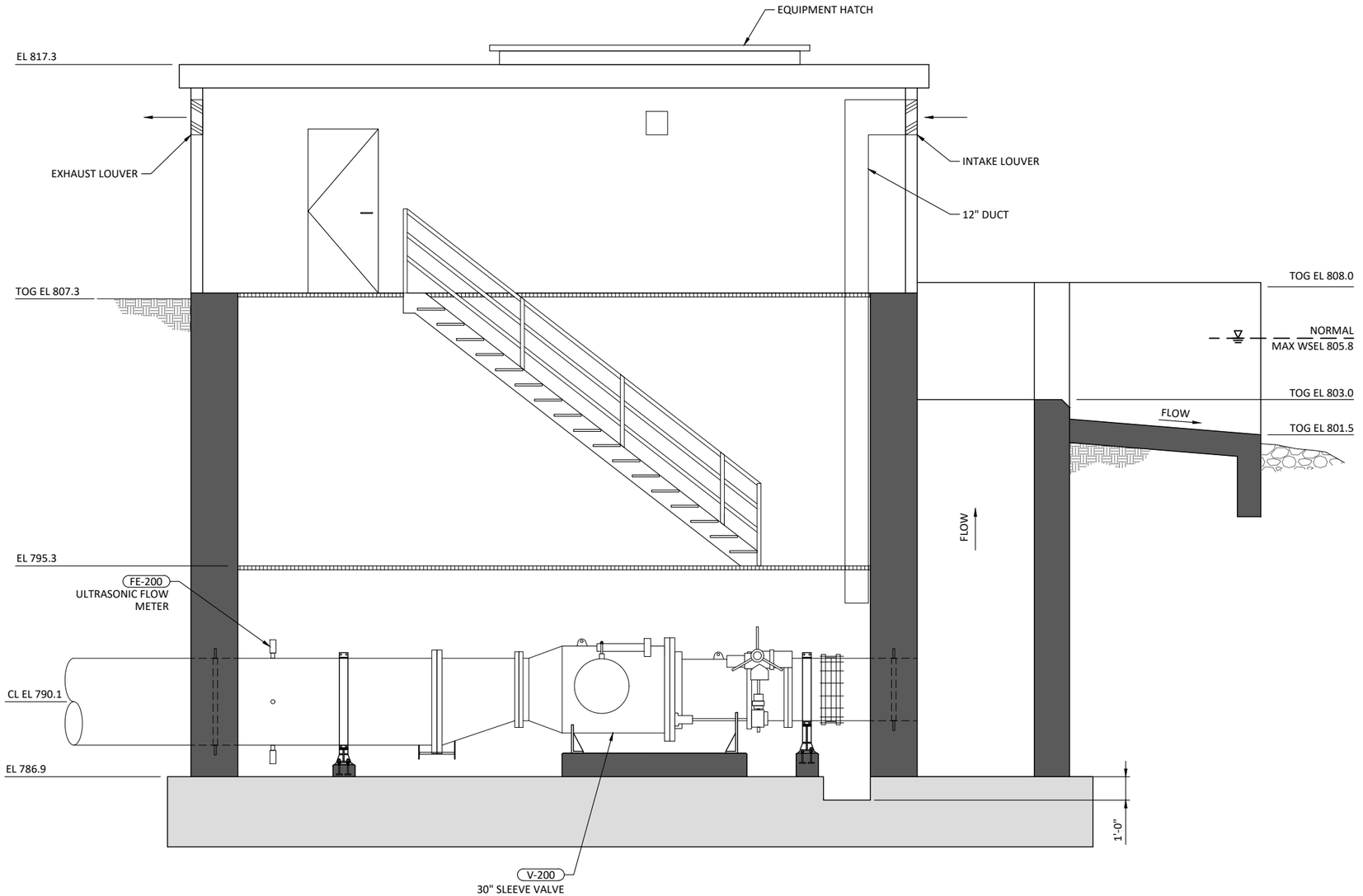
JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\E100.dwg Plot date: Sep 28, 2023 02:48pm, CAD User: HaberFlavia



1 M001 RIVER RELEASE ELECTRICAL PLAN

SCALE: 1/4"= 1'-0"



A - SECTION

SCALE: 3/8"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH
POWERING ALASKA'S FUTURE

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

RIVER RELEASE STRUCTURE ELECTRICAL PLAN AND SECTION

DESIGNED C. CURTIS

DRAWN J. HOLT

CHECKED J. BAKKEN

PROJECT DATE 10/6/23

DRAWING

E200

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\E200.dwg Plot date: Sep 28, 2023 02:49pm, CAD User: HaberFlavia

DocuSign

Certificate Of Completion

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Document Pages: 23
Signatures: 1
Certificate Pages: 2
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EnvelopeId Stamping: Enabled
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Envelope Originator:
Sharon Lane
632 W 6th Ave
Anchorage, AK 99501
sharon.lane@anchorageak.gov
IP Address: 209.193.41.5

Record Tracking

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Storage Appliance Status: Connected

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sharon.lane@anchorageak.gov
Pool: StateLocal
Pool: MOA

Location: DocuSign

Location: DocuSign

Signer Events	Signature	Timestamp
Kent Kohlhase kent.kohlhase@anchorageak.gov Municipal Manager MOA Security Level: Email, Account Authentication (None)	kent kohlhase Signature Adoption: Pre-selected Style Using IP Address: 209.193.41.5	Sent: 10/27/2023 2:45:20 PM Viewed: 10/27/2023 5:47:56 PM Signed: 10/27/2023 5:56:42 PM

Electronic Record and Signature Disclosure:
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In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Sharon Lane sharon.lane@anchorageak.gov Mayor's Office Security Level: Email, Account Authentication (None)	COPIED	Sent: 10/27/2023 5:56:42 PM

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Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

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Municipality of Anchorage
Mayor Dave Bronson

Office of the Municipal Manager

DATE: October 27, 2023

TO: Distribution

FROM: Kent Kohlhase, P.E, Municipal Manager

SUBJECT: Acting Manager for Anchorage Hydropower.

Effective immediately, Kolby Hickel is the designated Acting Manager of Anchorage Hydropower. Kolby has been delegated authority to sign all documents and take any needed actions on behalf of Anchorage Hydropower.

This authority is in effect until revoked in writing by the Municipal Manager.

Thank you,

Kent Kohlhase

Kent Kohlhase

DocuSign

Certificate Of Completion

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Initials: 0
Sharon Lane
AutoNav: Enabled
632 W 6th Ave
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Anchorage, AK 99501
Time Zone: (UTC-08:00) Pacific Time (US & Canada)
sharon.lane@anchorageak.gov
IP Address: 209.193.41.5

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sharon.lane@anchorageak.gov
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Pool: MOA
Location: DocuSign

Signer Events	Signature	Timestamp
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Kolby Hickel kolby.hickel@anchorageak.gov Deputy Municipal Manager MOA Security Level: Email, Account Authentication (None)	COPIED	Sent: 10/27/2023 6:00:14 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
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Notary Events	Signature	Timestamp
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Completed	Security Checked	10/27/2023 6:00:14 PM
Payment Events	**Status**	**Timestamps**

April 25, 2024

Office of the Governor
P.O. Box 110001
Juneau, AK 99811

Re: Eklutna Hydroelectric Project, Proposed Final Fish and Wildlife Program

Dear Governor Dunleavy:

We, the owners (the "Project Owners") of the Eklutna Hydroelectric Project ("Project"), are delighted to submit for your approval the Proposed Final Fish and Wildlife Program and supporting information in compliance with the requirements of the 1991 Agreement.[1]

The complete attached package includes the Proposed Final Fish and Wildlife Program (Proposed Final Program), Explanatory Statement, and Supporting Information Document with applicable hyperlinks to the Project website (www.eklutnahydro.com). Copies are also being distributed to the other Parties to the 1991 Agreement and the Native Village of Eklutna (NVE) and have been posted for public review on the Project website.

As required by the 1991 Agreement, the Parties have 60 days from the submittal of the Proposed Final Program to submit written comments on the Proposed Final Program, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources, to the Governor. The Project Owners then have 30 days to submit written reply comments to the Governor.

The Project Owners understand that the 1991 Agreement calls for the Governor to review the Proposed Final Program, the comments, testimony, summary and analysis materials, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources, and that the Governor shall attempt to reconcile any differences between the Parties, giving due weight to the recommendations, expertise, and statutory responsibilities of U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), the state resource management agencies (Alaska Department of Fish and Game [ADFG], Alaska Department of Natural Resources [ADNR], and the Alask Department of environmental Conservation [ADEC]), and the Project Owners. Further, in order to ensure that the Project is best adapted for power generation and other beneficial public uses, the Governor shall give equal consideration to the purposes of efficient and economical power production, energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), the protection of recreation opportunities, municipal water supplies, the

[1] Agreement among the Municipality of Anchorage, d/b/a Anchorage Municipal Light and Power, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., U.S. Fish and Wildlife Service, National Marine Fisheries Services, Alaska Energy Authority, and the State of Alaska, relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991 (the "1991 Agreement").

preservation of other aspects of environmental quality, other beneficial public uses, and requirements of state law.

Please note that, while this submission is being made on behalf of all three Project Owners, the decision to submit the Proposed Final Program at this time has been made by Chugach Electric Association, Inc. and Matanuska Electric Association, Inc. following board approval of both utilities. While representatives of the third owner of the Project, the Municipality of Anchorage's Anchorage Hydropower Utility ("Anchorage Hydropower"), have participated at every step in the process leading to the Proposed Final Program, Anchorage Hydropower does not currently have voting rights with respect to compliance with the 1991 Agreement due to the Municipality's Surrender of Eklutna Operating Committee Voting Rights on October 30, 2020 and the Regulatory Commission of Alaska's ("RCA's) Order No. U-18-102(44)/U-19-020(39)/U-19-021(39). Just last Friday, the RCA reaffirmed this situation,[2] so we find a process of seeking Municipality approval to be both unnecessary and contrary to the RCA's orders.

We are proud of the Proposed Final Program and believe our significant commitments to establish instream flows in the Eklutna River and support fish habitat will protect, mitigate, and enhance the environment as required under the 1991 Agreement. We look forward to working with the Governor through the final steps of the 1991 Agreement process and stand ready to support these efforts.

Sincerely,

Arthur W. Miller

Arthur Miller
Chief Executive Officer
Chugach Electric Association, Inc.

Tony Izzo

Tony Izzo
Chief Executive Officer
Matanuska Electric Association, Inc.

[2] Regulatory Commission of Alaska, ORDER REDESIGNATING COMMISSION PANEL; DENYING MOTION TO REOPEN DOCKETS AND MODIFY ORDER NO. 39 DATED MAY 28, 2020; DENYING PETITION TO INTERVENE; DENYING MOTION FOR EXPEDITED CONSIDERATION OF PETITION TO INTERVENE AND MOTION TO REOPEN DOCKET AND MODIFY ORDER 39 DATED MAY 28, 2020; AND ADDRESSING ANCHORAGE ORDINANCE, Order U-18-102(52)/U-19-020(49)/U-19-021(49) (corrected), April 19, 2024.

cc: Mayor Dave Bronson, MOA
Andrew Jensen, Office of the Governor
Curtis Thayer, AEA
Ron Benkert, ADFG
Tom Barrett, ADNR, Water Section
Ben Corwin, ADNR, Chugach State Park
Sarah Meitl, ADNR, Office of History and Archaeology
Gary Mendivil, ADEC
Sean McDermott, NMFS
Doug Cooper, USFWS
Aaron Leggett, NVE

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	Case No. 3AN-24-05979CI

~~(PROPOSED)~~ ORDER GRANTING EXPEDITED CONSIDERATION #2

The Plaintiff's Motion for Expedited Consideration is GRANTED.

DATED this 16th day of April, 2024, at Anchorage, Alaska.

Superior Court Judge

I certify that on 4/26/24 a copy of the following was mailed/ faxed/ hand-delivered to each of the following at their addresses of record. A. Erickson / L. Weed / J. Morawski C. Gunther / A. Helzer

Administrative Assistant

LANDYE BENNETT BLUMSTEIN LLP
701 WEST EIGHTH AVENUE, SUITE 1100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-5152, FAX (907) 276-8433

JAN 24 2024

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, vs. ANNE HELZER, in her official Capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-05979CI

ORDER ON PLAINTIFF'S MOTION FOR ORDER TO SHOW CAUSE AND TO ENFORCE SUBPOENA

This matter comes before the court on Plaintiff's *Ex Parte* Motion for Order to Show Cause and to Enforce Subpoena, filed pursuant to Alaska Rule of Civil Procedure 90(b) and Anchorage Municipal Code 2.30.085. Plaintiffs contacted Defendant regarding the *ex parte* motion prior to filing it with the court.

The court has considered Plaintiff's motion on an expedited basis and will hold a hearing on the motion on May 1, 2024, at 11:00 a.m. Defendant is invited to respond to Plaintiff's motion in writing but must do so before the close of business on Tuesday, April 30, 2024. Should Defendant choose to file a written response, Defendant shall provide a courtesy copy to chambers. The show-cause hearing may be vacated if Defendant complies with the subpoena by close of business on Tuesday, April 30, 2024. In that event, the parties shall file a Joint Notice of Compliance and provide a courtesy copy to chambers.

IT IS SO ORDERED.

DATED this 26th day of April, 2024, at Anchorage, Alaska.

David A. Nesbett
Superior Court Judge

I certify that on 4/26/24 a copy of the following was mailed/ faxed/ hand-delivered to each of the following at their addresses of record. A. Erickson/L. Meed
J. Morawski / C. Gunther/A. Helzer

Administrative Assistant

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-_____CI

AFFIDAVIT OF MATTHEW HURT IN SUPPORT OF THE ANCHORAGE ASSEMBLY'S EX PARTE MOTION FOR ORDER TO SHOW CAUSE AND TO ENFORCE SUBPOENA

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

Matthew Hurt, being duly sworn, states that:

1. I have personal knowledge of the facts and information set forth in this affidavit, and if called as a witness, I could and would testify to them.

2. I currently serve as an attorney for the Anchorage Assembly in the position of Legislative Counsel.

3. This affidavit is submitted in support of the Assembly's *Ex Parte* Motion for Order to Show Cause and to Enforce Subpoena.

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4. I have reviewed the Assembly's Complaint to Enforce Subpoena Issued Issued by the Anchorage Assembly and can verify that each of the factual allegations stated therein are true and correct to the best of my knowledge.

5. **Exhibit 1** is a true and accurate copy of AO No. 2023-133, amending AMC 2.30.085.

6. **Exhibit 2** is a true and accurate copy of AO No. 2024-28, As Amended.

7. **Exhibit 3** is a true and accurate copy of AR No. 2024-103.

8. **Exhibit 4** is a true and accurate copy of the March 27, 2024 subpoena and cover letter to Municipal Manager Kent Kohlhase.

9. **Exhibit 5** is a true and accurate copy of the March 27, 2024 subpoena and cover letter to Anchorage Water and Wastewater Utility General Manager Mark Corsentino.

10. **Exhibit 6** is a true and accurate copy (with redactions) of the response emails from Mr. Kohlhase and Mr. Corsentino in response to the Assembly's March 27 subpoenas.

11. **Exhibit 7** is a true and accurate copy (with redactions) of the April 16, 2024 subpoena and cover letter to Municipal Attorney Anne Helzer.

12. **Exhibit 8** is a true and accurate copy of an email exchange between myself and Ms. Helzer regarding the April 16 subpoena.

13. On April 16, 2024, at 5:08 p.m. I emailed a true and accurate copy of the Subpoena (Exhibit 7) to Ms. Helzer. *See* Exhibit 8 at 2.

14. On April 17, 2024, at 2:32 p.m., Ms. Helzer responded by email acknowledging receipt of the Subpoena (Exhibit 7). Ms. Helzer stated that she was "in receipt of a subpoena delivered to my office after 4:00 PM on April 16, 2024." Ms. Helzer also stated that she was "unable to substantively respond within the limited time provided." *See* Exhibit 8 at 2.

15. On April 17, 2024, at 6:59 p.m., I emailed Ms. Helzer to ask "[h]ow much time would [she] request to provide a response" to the Subpoena. *See* Exhibit 8 at 1.

16. On April 18, 2024, at 11:15 a.m., Ms. Helzer emailed me, stating, "I think the 30th is reasonable . . . I will need time to consult with the affected Municipal departments in order to meaningfully respond." *See* Exhibit 8 at 1.

17. Based on my knowledge of the Assembly meetings in 2024 and Assembly interactions with Ms. Helzer, I know that Assembly members have requested the documents described in the Subpoena since at least February 2, 2024. I also know that Ms. Helzer has had time to consult, and stated she did consult, with the affected Municipal departments regarding production of the requested documents to the Assembly, prior to April 17, 2024.

18. On April 18, 2024, at 5:02 p.m., at the direction of Assembly Chair Christopher Constant and Vice-Chair Meg Zaletel, I responded to Ms. Helzer's April 18 email. My email stated that "we are willing to wait until the close of business Monday, April 22 . . . we understand that the documents to be readily accessible and,

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at this time, see no reason that counsel [for third parties and the Municipal agencies] would be unreachable by phone or email."

19. At the time of this filing, Ms. Helzer has not provided any substantive response to the Subpoena and has not filed an action to limit or quash the Subpoena.

FURTHER AFFIANT SAYETH NAUGHT.

4/29/2024
Date

Matthew Hurt

SUBSCRIBED AND SWORN to before me this ____ day of April 2024.

STATE OF ALASKA
NOTARY PUBLIC
Riza Smith
My Commission Expires Dec 18, 2027

Smith
Notary Public in and for Alaska
My Commission expires: DEC 18 2027

LANDYE BENNETT BLUMSTEIN LLP
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TELEPHONE (907) 276-5152. FAX (907) 276-8433

Anne R. Helzer
Municipal Attorney
Email: courtdocs@muni.org

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, vs. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendants.	)	Case No. 3AN-24-05979CI

JOINT NOTICE REGARDING PROVISION OF DOCUMENTS DEMANDED BY SUBPOENA

On April 24, 2024, Plaintiffs Anchorage Municipal Assembly, through its Chair, Christopher Constant (collectively the "Assembly"), concurrently filed a Complaint to Enforce Subpoena Issued by the Municipal Assembly, an *Ex Parte* Motion for Order to Show Cause and to Enforce Subpoena, and a Motion for Expedited Consideration. At issue in this case are various documents negotiated between at least three entities under a confidentiality agreement signed in 2017. By the morning of April 25, 2024, all three parties to the confidentiality agreement had waived both lawyer-client privilege and confidentiality as to the documents requested by Plaintiffs in this case. Given the waiver of lawyer-client privilege and confidentiality, Defendant Anne Helzer—through the

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OFFICE OF THE MUNICIPAL ATTORNEY

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assistance of the Deputy Municipal Attorney—provided the documents to Plaintiffs and this Court on April 25, 2024.

Neither party to this litigation disputes that Plaintiffs are in the possession of the requested documents. While the Defendant does not concede that AMC 2.30.085 and the subpoena issued under its authority are valid under Alaska law, the Alaska Constitution, and the United States Constitution, the parties agree that the Defendant has substantially complied with the subpoena. Therefore, the parties agree a show cause hearing is unnecessary.

Neither party to this joint notice waives their right to make any arguments related to the underlying dispute. And both parties agree to meet and confer to determine whether the matter can be dismissed.

Respectfully submitted this 30th day of April, 2024

ANNE R. HELZER
Municipal Attorney

/s/ Anne R. Helzer

Anne R. Helzer
Municipal Attorney
Alaska Bar No. 0911054

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

Andrew Erickson, Alaska Bar No. 1605049
Leslie R. Need, Alaska Bar No. 0712113
Jackson Morawski, Alaska Bar No. 2310113

Attorneys for the Plaintiffs Anchorage Assembly and Christopher Constant, in his official capacity as Chair of the Anchorage Assembly

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99519-6650

Telephone: 343-4545
Facsimile: 343-4550

Certificate of Service
I certify that on 4/30/24 I caused to be emailed
a true and correct copy of the foregoing to:

Andrew Erickson
andye@lbblawyers.com
Leslie R. Need
leslien@lbblawyers.com
Jackson N. Morawski
jacksonm@lbblawyers.com

/s/ Anne R. Helzer
Anne R. Helzer, Municipal Attorney

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly,	)	
Plaintiffs,	)	
vs.	)	
ANNE HELZER, in her official Capacity as the Anchorage Municipal Attorney,	)	
Defendant.	)	
	)	Case No. 3AN-24-05979CI

NOTICE TO PARTIES: VACATING HEARING ON PLANTIFFS' ORDER TO SHOW CAUSE

The court is in receipt of the joint notice from the parties regarding compliance with the outstanding subpoena in this case. The parties agree that defendant have provided the requested documents to plaintiffs. The court notes that defendants provided the requested documents without conceding the validity of the issued subpoena.

The parties agree that a hearing on the plaintiffs' motion for an order to show cause is unnecessary and, therefore, the hearing scheduled for Wednesday, May 1, 2024 at 11:00 a.m., is hereby vacated. The court notes that by filing this notice, neither party waives their right to make any argument related to the underlying dispute, and that the parties agree to meet and confer to decide whether the matter can be dismissed.

The parties shall notify the court in writing with a status of the parties' discussion no later than noon on Friday, May 10, 2024.

IT IS SO ORDERED.

DATED this 30th day of April, 2024, at Anchorage, Alaska.

David A. Nesbett
Superior Court Judge

I certify that on 4/30/2024
A copy of the above was sent to:

C.GUNTHER/J.MORAWSKI
L.NEED/A.ERICKSON/A.HELZER

Erika LeNorman, Judicial Assistant

Jason A. Thomas
Kate M. Buerer
Assistant Municipal Attorneys
Email: courtdocs@muni.org

Attorneys for Defendant

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, vs. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-05979CI

ENTRY OF APPEARANCE

The Municipal Attorney's Office hereby enters Assistant Municipal Attorneys Jason A. Thomas and Kate M. Buerer as counsel on behalf of defendant, Anne Helzer, in her official capacity as the Anchorage Municipal Attorney. All pleadings and other documents should be mailed and/or emailed to:

Jason A. Thomas
Kate M. Buerer
Assistant Municipal Attorneys
Municipality of Anchorage
Department of Law, Civil Division
P.O. Box 196650, Anchorage, Alaska 99519-6650

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courtdocs@muni.org
Jason.thomas@anchorageak.gov
Kate.buerer@anchorageak.gov

Respectfully submitted this 8th day of May, 2024.

ANNE R. HELZER
Municipal Attorney

By: */s Jason A. Thomas*
Jason A. Thomas
Assistant Municipal Attorney
Alaska Bar No. 2005028

By: */s Kate M. Buerer*
Kate M. Buerer
Assistant Municipal Attorney
Alaska Bar No. 2301002

Certificate of Service
I certify that on 05/08/2024, I caused to be emailed a true and correct copy of the foregoing to:

Andrew Erickson
andye@lbblawyers.com
Leslie R. Need
leslien@lbblawyers.com
Jackson N. Morawski
jacksonm@lbblawyers.com
LANDYE BENNETT BLUMSTEINLLP
701 W. 8th Avenue, #1100
Anchorage, AK 99501

/s Marie Stafford
Marie Stafford, Legal Secretary
Municipal Attorney's Office

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Jason A. Thomas
Kate M. Buerer
Assistant Municipal Attorneys
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Attorneys for Defendant

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, vs. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendants.	)	Case No. 3AN-24-05979CI

STATUS REPORT REGARDING DISMISSAL

Pursuant to the Court's April 30, 2024 Order, Municipal Attorney Anne Helzer provides notice to the court that the Parties met and conferred regarding whether this matter can be dismissed. The Municipal Attorney encourages dismissal of this matter at this time and offered to stipulate to the dismissal of this matter pursuant to Rules of Civil Procedure Rule 41(a)(1)(B). The Plaintiffs did not agree to that offer and indicated they would file their own Notice to the Court.

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This lawsuit was initiated to enforce a subpoena for documents now in the Plaintiffs' possession. There is no dispute that the Plaintiffs have the documents as stated in the Joint Notice Regarding Provision of Documents Demanded by Subpoena filed on April 30, 2024. The Municipal Attorney's position is that because the underlying document dispute is resolved, there is no live controversy before the Court and the case should be dismissed.

Because Plaintiff was unwilling to agree to a stipulated dismissal, the Municipal Attorney's Office respectfully requests 20 days to prepare a motion to dismiss.

Respectfully submitted this 10th day of May, 2024.

ANNE R. HELZER
Municipal Attorney

By: */s Kate M. Buerer*
Kate M. Buerer
Assistant Municipal Attorney
Alaska Bar No. 2301002

Attorney for Defendant

Certificate of Service
I certify that on 5/10/24 I caused to be emailed a true and correct copy of the foregoing to:

Andrew Erickson
andye@lbblawyers.com
Leslie R. Need
leslien@lbblawyers.com
Jackson N. Morawski
jacksonm@lbblawyers.com

/s/ Kate M. Buerer
Kate M. Buerer, Assistant Municipal Attorney
Municipal Attorney's Office

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-05979CI

ASSEMBLY'S RESPONSE TO NOTICE TO PARTIES: VACATING HEARING ON PLAINTFFS' ORDER TO SHOW CAUSE

Plaintiffs Anchorage Municipal Assembly, though its Chair, Christopher Constant (collectively the "Assembly"), submit this response to the Court's Notice to Parties: Vacating Hearing on Plaintiffs' Order to Show Cause. On May 9, 2024, the undersigned counsel for the Assembly conferred with Assistant Municipal Attorney Kate Buerer, counsel for the Defendant Anne Helzer. The undersigned informed Ms. Buerer that following Ms. Helzer's substantial compliance with the Subpoena on April 25, the Assembly believed that this matter was fully resolved and could be dismissed. However, on April 30, Ms. Helzer filed a Joint Notice Regarding Provision of Documents Demanded by Subpoena in which Ms. Helzer represented that "the

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Defendant does not concede that AMC 2.30.085 and the subpoena issued under its authority are valid under Alaska law, the Alaska Constitution, and the United States Constitution." The Assembly strenuously disagrees with Ms. Helzer's stated position regarding the validity of AMC 2.30.085 and the Subpoena.

Ms. Helzer calls into question the Assembly's authority to issue *any* subpoena under AMC 2.30.085, undermining the Assembly's exercise of its legitimate legislative functions, including gathering information necessary for legislative oversight of municipal agencies and utilities. At issue here is the Assembly's ongoing legislative oversight of the Administration's handling of the Eklutna Project, which was the subject of the Subpoena. Accepting dismissal of this case under the specter of Ms. Helzer's representation that the Assembly lacked authority to issue the Subpoena in the first place would mean that any further efforts to shed light on the Administration's secret negotiations with the private Eklutna Project Owners would be effectively ended.[1] The Assembly agreed to the Joint Notice with the expectation that this important legal issue would be litigated.[2]

On May 9, the undersigned advised Ms. Buerer that if Ms. Helzer does not disavow her representation regarding the validity of AMC 2.30.085 and the Subpoena,

---

[1] Here, the requested documents were only provided to the Assembly after the private utilities had released the documents publicly.

[2] *See EEOC v. Fed. Express Corp.*, 558 F.3d 842, 846-47 (9th Cir. 2009) (reviewing validity and authority to issue a subpoena *after* the recipient had substantially complied with the subpoena).

the Assembly intends to move forward in this case by seeking declaratory relief, as requested in the Complaint at Prayer for Relief ¶ E. In an email response on May 9, Ms. Buerer reiterated Ms. Helzer's position that the Assembly's subpoena powers are invalid and that Ms. Helzer would not withdraw her representation, further demonstrating the need for a judicial resolution of this issue.[3]

The Assembly believes that this matter can and should resolved as quickly as possible. During the May 9 meet-and-confer, Ms. Buerer expressed optimism that the Municipal Attorney's Office could meet all deadlines, and she did not mention the need for any extensions of time.

DATED: May 10, 2024.

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

Andrew Erickson, Alaska Bar No. 1605049
Leslie R. Need, Alaska Bar No. 0712113
Jackson Morawski, Alaska Bar No. 2310113

Attorneys for the Plaintiffs Anchorage Assembly and Christopher Constant, in his official capacity as Chair of the Anchorage Assembly

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[3] *See* Exhibit 1 (Email from Kate Buerer to Andy Erickson, May 9, 2024). The admission that Ms. Helzer's statement "preserved issues relating to how the subpoena was applied to her in this case" is telling; there would be no need to "preserve" any issues if Ms. Helzer believed that compliance with the subpoena ended this case.

Certificate of Service

On May 10, 2024, a true and correct copy of the foregoing document was served by email to the following:

Jason A. Thomas
Kate M. Buerer
Assistant Municipal Attorneys
Department of Law, Civil Division
courtdocs@muni.org
Jason.thomas@anchorageak.gov
Kate.buerer@anchorageak.gov

/s/ Riza Smith

_____
Riza Smith, Legal Assistant

LANDYE BENNETT BLUMSTEIN LLP
701 WEST EIGHTH AVENUE, SUITE 1100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-5152. FAX (907) 276-8433

From: Buerer, Kate
To: Andy Erickson; Thomas, Jason A
Cc: Leslie R. Need; Jackson N. Morawski; Riza Smith; Stafford, Marie L.
Subject: RE: Meet and Confer Response
Date: Thursday, May 9, 2024 5:50:51 PM
Attachments: image[illegible].png

Hi Andy,

As we discussed today on the phone during the meet and confer, the documents requested by your client were provided on April 25, 2024 by the Municipal Attorney. My understanding from our conversation is that your client is willing to dismiss the lawsuit if the Municipal Attorney "retracts" her statement in the Joint Notice that she did not "concede that AMC 2.30.085 and the subpoena issued under its authority are valid under Alaska law, the Alaska Constitution, and the United States Constitution." However, that statement had no legal effect in the case beyond preserving potential issues if the case continued beyond the provision of the documents. Accordingly, we see no reason to retract a statement that has no legal effect.

Please see the Municipal Attorney's position below on the issue of whether the matter can be dismissed per the Court's April 30, 2024 order in 3AN-24-05979CI.

This case should be dismissed. The documents requested by your client were provided to you on April 25, 2024. The Municipal Attorney was served with electronic notice of this suit on April 24, 2024, at 4:25pm. The requested documents were made public within hours after the lawsuit was filed. As stipulated in the Joint Notice, there is no dispute that your client has possession of the requested documents.

The Joint Notice did not place additional issues before the court. The Joint Notice simply did not concede the lawfulness of AMC 2.30.085 as it was applied in this case. The Municipal Attorney has not challenged the validity of the Assembly's legislative subpoena powers if those powers are lawfully executed. The Municipal Attorney merely preserved issues relating to how the subpoena power was applied to her in this case.

The subpoena addressed to Ms. Helzer, as Municipal Attorney, did not name a specific Municipal department or Director with actual control and authority to release the requested documents. The Subpoena supplied only 25 hours for compliance while the Municipal Attorney was out of state on Municipal business and attending a funeral that day.

The State's legislative subpoena powers provide far more due process protections to the recipient than were afforded to the Municipal Attorney. Some reasonable protections include requirements that the subpoena provide reasonable notice, be addressed to a person with custody and control of the requested documents and provide a means to raise applicable privileges. The Municipal Attorney did not neglect to respond or refuse to comply with the subpoena but did assert a privilege and requested more time. Your client declined to acknowledge the asserted privilege and declined to provide a reasonable amount of time, but instead chose to file this lawsuit seeking to hold the Municipal Attorney in "contempt of court."

Dismissal is appropriate in this case because your clients have possession of the requested documents and there is no current case or controversy properly before the Court.

With my best regards,

Kate Buerer
Assistant Municipal Attorney

Municipality of Anchorage
632 W. 6th Avenue, Suite 730 Anchorage, AK 99501
Main: (907) 343-4545
Direct: (907) 343-4325
kate.buerer@anchorageak.gov
www.muni.org/Departments/Legal/

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Jason A. Thomas
Kate M. Buerer
Assistant Municipal Attorneys
Email: courtdocs@muni.org

Attorneys for Defendant

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, vs. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-05979CI

AFFIDAVIT OF COUNSEL IN SUPPORT OF THE MUNICIPAL ATTORNEY'S MOTION FOR EXPEDITED CONSIDERATION

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

I, Kate M. Buerer, being first duly sworn upon oath, states as follows:

1. I am an Assistant Municipal Attorney for the Municipality of Anchorage.

2. I am an attorney of record for the Municipal Attorney in this case.

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OFFICE OF THE MUNICIPAL ATTORNEY

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3. Jason A. Thomas and I became counsel of record in this case on May 8, 2024.

4. May 14, 2024, is the current deadline for any motions allowable before a responsive pleading is filed as allowed under Alaska Rules of Civil Procedure and the responsive pleading, unless the Court grants an extension.

5. The Municipal Attorney's Office needs further time to review the Complaint and file appropriate responses in this case to adequately represent the Municipal Attorney.

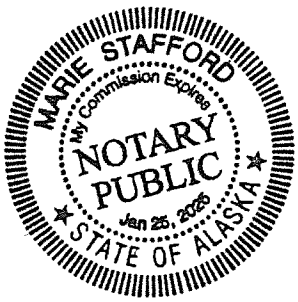
6. Upon information and belief, on May 6, 2024, the Municipal Attorney requested opposing counsel agree to an unopposed extension of time and opposing counsel declined to agree to an extension of time. *See* Exhibit A.

7. Because opposing counsel declined to agree to an extension of time one week ago, the undersigned did not repeat the request that opposing counsel agree to an unopposed extension of time for motions allowable before a responsive pleading is filed as allowed under Alaska Rules of Civil Procedure and to file a responsive pleading.

FURTHER AFFIANT SAYETH NAUGHT

KateM Buerer

SUBSCRIBED AND SWORN to before me this 13th day of May, 2024.



Notary Public in and for Alaska
My commission expires: 1-25-25

MUNICIPALITY OF ANCHORAGE

OFFICE OF THE MUNICIPAL ATTORNEY

P.O. Box 196650
Anchorage, Alaska
99519-6650

Telephone: 343-4545
Facsimile: 343-4550

Respectfully submitted this 13th day of May, 2024

ANNE R. HELZER
Municipal Attorney

By: */s Jason A. Thomas*
Jason A. Thomas
Assistant Municipal Attorney
Alaska Bar No. 2005028

By: */s Kate M. Buerer*
Kate M. Buerer
Assistant Municipal Attorney
Alaska Bar No. 2301002

Certificate of Service
I certify that on 5-13-24 I caused to be emailed a true and correct copy of the foregoing to:

Andrew Erickson
andye@lbblawyers.com
Leslie R. Need
leslien@lbblawyers.com
Jackson N. Morawski
jacksonm@lbblawyers.com

/s Marie Stafford
Marie Stafford, Legal Secretary
Municipal Attorney's Office

MUNICIPALITY OF ANCHORAGE

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From: Andy Erickson <andye@lbblawyers.com>
Sent: Monday, May 6, 2024 1:48:34 PM
To: Helzer, Anne <Anne.Helzer@anchorageak.gov>
Cc: Leslie R. Need <leslien@lbblawyers.com>; Jackson N. Morawski <jacksonm@lbblawyers.com>; Riza Smith <rizas@lbblawyers.com>
Subject: RE: Extension request

[EXTERNAL EMAIL]

Anne,

Given the important issues that you raised in the Joint Notice, in which you disputed the validity of AMC 2.30.085 and the Assembly's subpoena powers, we're not inclined to agree to an extension for filing an answer. It may be helpful to schedule a call tomorrow or Wednesday to discuss the next steps in this case, as required by the Court's April 30 order. We're interested in setting a briefing schedule for resolving those legal issues as quickly as possible.

Are you available for a call either Tuesday, 2:15-3:30 pm; or Wednesday before 11:30 am or after 2:15 pm?

Andy

Andy Erickson | Partner
LANDYE BENNETT BLUMSTEIN LLP | 701 West 8th Avenue, Suite 1100 | Anchorage, AK 99501
Main: (907) 276-5152 | Direct: (907) 868-9233 | Fax: (907) 276-8433 | andye@lbblawyers.com

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From: Helzer, Anne <Anne.Helzer@anchorageak.gov>
Sent: Monday, May 6, 2024 11:35 AM
To: Andy Erickson <andye@lbblawyers.com>; Leslie R. Need <leslien@lbblawyers.com>
Subject: Extension request

Hi Andy,
Would you oppose a 30 day extension on the answer and of the May 10 date?
Thanks,
Anne
Anne R. Helzer
Municipal Attorney
Municipality of Anchorage

Jason A. Thomas
Kate M. Buerer
Assistant Municipal Attorneys
Email: courtdocs@muni.org

Attorneys for Defendant

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, vs. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-05979CI

MOTION FOR EXPEDITED CONSIDERATION

The Municipal Attorney, by and through the Municipal Attorney's Office, hereby moves the Court for expedited consideration of the Motion to Extend Deadlines. The principal motion was filed on May 13, 2024, and a decision is needed no later than May 14, 2024, to preserve the ability of the undersigned to meet current Court deadlines. This motion is supported by the facts and circumstances as stated in the accompanying affidavit, attached to this motion.

MUNICIPALITY OF ANCHORAGE

OFFICE OF THE MUNICIPAL ATTORNEY

P.O. Box 196650
Anchorage, Alaska
99519-6650

Telephone: 343-4545
Facsimile: 343-4550

Respectfully submitted this 13th day of May, 2024.

ANNE R. HELZER
Municipal Attorney

By: */s Jason A. Thomas*
Jason A. Thomas
Assistant Municipal Attorney
Alaska Bar No. 2005028

By: */s Kate M. Buerer*
Kate M. Buerer
Assistant Municipal Attorney
Alaska Bar No. 2301002

Certificate of Service
I certify that on 5/13/24 I caused to be emailed
a true and correct copy of the foregoing to:

Andrew Erickson
andye@lbblawyers.com
Leslie R. Need
leslien@lbblawyers.com
Jackson N. Morawski
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/s Marie Stafford
Marie Stafford, Legal Secretary
Municipal Attorney's Office

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PROPOSED ORDER ON MOTION FOR EXPEDITED CONSIDERATION

Having considered the Municipal Attorney's Motion for Expedited Consideration of her Motion to Extend Deadlines to Respond, and good cause appearing therefore, the motion is hereby GRANTED.

DATED: _____

_____
Hon. David A. Nesbett
Superior Court Judge

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/s Marie Stafford
Marie Stafford, Legal Secretary
Municipal Attorney's Office

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MOTION TO EXTEND DEADLINES

The Municipal Attorney, by and through the Municipal Attorney's Office, hereby moves the court to extend the deadlines and preserve the ability of the defendant to make motions allowable before a responsive pleading is filed as allowed under Alaska Rules of Civil Procedure, file a responsive pleading, and for the court to not enter an entry of default or a judgment of default.

1. The undersigned became counsel of record in this case on May 8, 2024.

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2. Any motions allowable before a responsive pleading is filed as allowed under Alaska Rules of Civil Procedure and the responsive pleading must be filed in this case by May 14, 2024, unless the Court grants an extension.

3. The undersigned needs further time to review the Complaint and file appropriate responses in this case to adequately represent the Municipal Attorney.

4. Upon information and belief, on May 6, 2024, the Municipal Attorney requested opposing counsel agree to an unopposed extension of time and opposing counsel declined to agree to an extension of time. *See* Exhibit A.

5. Because opposing counsel declined to agree to an extension of time one week ago, the undersigned did not repeat the request that opposing counsel agree to an unopposed extension of time for motions allowable before a responsive pleading is filed as allowed under Alaska Rules of Civil Procedure and to file a responsive pleading.

WHEREFORE, the undersigned moves the court:

1. To extend any and all deadlines to file motions before a responsive pleading as allowed by the Alaska Rules of Civil Procedure and/or file a responsive pleading by thirty days from the effective date of such order;

2. That no entry of default or default judgment issue; and/or

3. Any other needed and appropriate relief.

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Respectfully submitted this 13th day of May, 2024.

ANNE R. HELZER
Municipal Attorney

By: */s Jason A. Thomas*
Jason A. Thomas
Assistant Municipal Attorney
Alaska Bar No. 2005028

By: */s Kate M. Buerer*
Kate M. Buerer
Assistant Municipal Attorney
Alaska Bar No. 2301002

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/s Marie Stafford
Marie Stafford, Legal Secretary
Municipal Attorney's Office

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Attorneys for Defendant

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

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PROPOSED ORDER ON MOTION TO EXTEND DEADLINES

Having considered the Municipal Attorney's Motion to Extend Deadlines, requesting the deadline to file a pre-response motion and/or file a responsive pleading be set for 30 days after the entry of this order, and good cause appearing therefore, the motion is hereby GRANTED.

DATED: _____

_____
Hon. David A. Nesbett
Superior Court Judge

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/s Marie Stafford
Marie Stafford, Legal Secretary
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MUNICIPAL ATTORNEY'S MOTION TO DISMISS

The Municipal Attorney, by and through the Municipal Attorney's Office, hereby moves the Court to dismiss this case pursuant to Alaska Rules of Civil Procedure Rule 12. The Court should dismiss this case, in whole or in part pursuant to Alaska R. Civ. P. Rule 12(b)(6) for failure to state a claim upon which relief can be granted, because there is no live controversy properly before the Court, and the request for declaratory relief is not ripe.

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FACTS

On March 27, 2024, the Assembly passed and approved AR No. 2024-103. In AR No. 2024-103, the Assembly resolved to approve the use of "subpoenas to compel testimony and document production related to the 1991 Fish and Wildlife Agreement . . ."[1] On March 27, 2024, the Assembly Chair issued subpoenas to produce documents.[2] Those subpoenas were addressed to the Municipal Manager and the Anchorage Water and Wastewater Utility ("AWWU") General Manager.[3] The subpoenas sought documents the Assembly had previously viewed during a February 2, 2024 Assembly Meeting Executive Session and related documents.[4] The Assembly stated it sought possession of the documents "so that the Assembly may share the agreement with its counsel for legal review prior to a determination by the Assembly regarding whether it is appropriate and in the public interest to make the agreement a disclosable public record."[5] Those subpoenas provided one week for compliance with a deadline of April 3, 2024.[6]

On April 2, 2024, the Mayor vetoed AR No. 2024-103.[7] In that veto, the Mayor stated "Indeed, disclosure has already been made, and is available to members of the Assembly and their paid outside counsel – if the confidentiality is properly maintained, and the Common Interest Agreement is not breached." On April 3, 2024, the Municipal Manager and AWWU General Manager responded to the subpoenas by email.[8] That response stated

[1] Compl., Ex. 3 (AR No. 2024-103)
[2] Compl, Ex. 4, 5.
[3] *Id.*
[4] Compl. at 6 ¶14.
[5] Compl., Ex. 3 at p. 2 line 13-16.
[6] *Id.*
[7] Compl., Ex. 3.
[8] Compl. at 9 ¶19, Ex. 6.

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that they had already "substantially complied" with the subpoenas and asserted that the documents were subject to lawyer-client privilege.[9] This assertion of lawyer-client privilege incorporated the privilege recognized by Anchorage Municipal Code ("AMC") 2.30.085A. stating that Assembly subpoenas are "[s]ubject to the privileges which witnesses have in courts of this state."[10] Alaska Rules of Evidence Rule 503 delineates the parameters of the lawyer-client privilege in Alaska.

On April 4, 2024, the Assembly Chair, Assembly Counsel, and the Assembly's outside legal counsel reviewed copies of the Common Interest Agreement, Term Sheet, and an amendment to the Term Sheet ("Subject Documents") for several hours in the Municipal Attorney's Office.[11] On April 9, 2024, during an Assembly meeting, Assembly members continued to request (personal) possession of copies of the Subject Documents.[12]

At 5:08 p.m. on April 16, 2024, the Assembly Chair issued another subpoena—this time addressed to the Municipal Attorney ("Subpoena").[13] The new Subpoena, on its face, required the Municipal Attorney to produce the Subject Documents by 5 p.m. the next day, April 17, 2024.[14] The Municipal Attorney responded to that Subpoena by asserting the Subject Documents were lawyer-client privileged, stating that she was out of state on Municipal business, and stating that she would not be able to substantively confer with the affected Municipal clients within twenty-four hours.[15] This response renewed the lawyer-

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[9] Compl., Ex. 6 at p. 1-2.
[10] Compl. at 3 ¶5.
[11] Compl. at 8 ¶20.
[12] Compl. at 8-9 ¶21.
[13] Compl., Ex. 8.
[14] Compl., Ex. 7.
[15] Compl., Ex. 8 at p. 2.

client privilege in response to Assembly subpoena as previously asserted by the Municipal Manager and AWWU General Manager. In response to being asked "[h]ow much time would you request to provide a response?," the Municipal Attorney stated that April 30th would be reasonable due to her current travel plans and need for "time to consult with the affected Municipal departments."[16] Assembly Counsel, in consultation with Assembly leadership, chose to require compliance with the Subpoena by April 22, 2024. Assembly Counsel appears to have misunderstood with whom the Municipal Attorney needed to consult because he stated that they "see no reason that counsel for the other Eklutna Owners would be unreachable by phone or email."[17] Assembly Counsel further stated that "[the Assembly and Assembly Counsel] have reason to believe that the owners intend to transmit the document to the State by the 30th."[18] This statement indicates that Plaintiffs were aware that as of April 30, the subpoenaed documents would be public.

This case was filed by Plaintiffs on April 24, 2024, against the Municipal Attorney in her official capacity.[19] Plaintiffs requested the Court enforce the subpoena by granting various forms of relief.[20] Those forms of relief include requesting the Court hold the Municipal Attorney "in contempt of court for willfully refusing to comply with the Subpoena;" order the Municipal Attorney to show cause why she "should not be punished for the contempt," or alternatively, be ordered to comply with the Subpoena; impose punishment for contempt including "referring the Defendant's conduct to the Alaska Bar

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[16] *Id.* at p. 1.
[17] *Id.* at p. 1.
[18] *Id.* at p. 1.
[19] Compl. at 2 ¶2.
[20] Compl. at 11-12.

Association and/or holding the Defendant personally liable for civil fines and the Assembly's attorney's fees;" other relief; and "subsequent declaratory or injunctive relief that may be appropriate after the documents described in the Subpoena have been produced by the Assembly and reviewed by the Assembly Counsel."[21]

Concurrently with filing the Complaint, the Plaintiffs filed an Ex Parte Motion to Show Cause requesting the Court "require immediate compliance with the Subpoena"[22] and a Motion for Expedited Consideration. The following morning, the Municipal Attorney provided a Cover Letter, the Binding Term Sheet, and Amendment to Binding Term Sheet to Plaintiffs and filed the same with the Court. On April 26, 2024, the Court set a hearing for May 1, 2024, and ordered the parties to file a Joint Notice of Compliance if the Municipal Attorney produced the documents "by close of business on Tuesday, April 30, 2024."[23] On April 30, 2024, the parties filed a Joint Notice with the Court agreeing "that the Defendant has substantially complied with the subpoena" and "a show cause hearing is unnecessary."[24] That same day, the Court vacated the May 1 hearing and ordered the parties to meet and confer to decide whether the matter can be dismissed and notify the Court in writing with a status of the parties' discussion by noon on Friday, May 10, 2024.[25] The parties met and conferred regarding dismissal and filed separate status reports with the Court.

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[21] *Id.*
[22] *Ex Parte* Mot. For Order to Show Cause & to Enforce Subpoena, at 9.
[23] Order on Pls. Mot. For Order to Show Cause and to Enforce Subpoena.
[24] Joint Notice Re Provision of Documents Demanded by Subpoena, at 2.
[25] Notice to Parties: Vacating Hearing on Plaintiff's Order to Show Cause.

LEGAL STANDARD

A. *Motion to Dismiss Under Rule 12(b)(6)*

Alaska Rules of Civil Procedure Rule 12(b)(6) allows dismissal of a complaint for "failure to state a claim upon which relief can be granted."[26] Generally, motions to dismiss for failure to state a claim under Rule 12(b)(6) "are viewed with disfavor and should only be granted on the rare occasion where it appears beyond doubt that the plaintiff can prove no set of facts in support of the claims that would entitle the plaintiff to relief."[27] The Complaint must allege "a set of facts consistent with and appropriate to some enforceable cause of action."[28]

When reviewing a Rule 12(b)(6) motion, the court "assume[s] the factual allegations pled in the complaint are true for purposes of deciding the motion but unwarranted factual inferences and conclusions of law are not considered admitted in resolving the merits of such motion[]."[29] A complaint is subject to dismissal under this rule if an affirmative defense appears clearly on the face of the pleading.[30] The party raising an affirmative defense generally carries the burden of proof.[31] In considering a motion to dismiss, a court can rely on attachments incorporated into the complaint.[32] The superior court can also "consider

[26] AK R. Civ. P. 12(b)(6).
[27] *Clemensen v. Providence Alaska Med. Ctr.*, 203 P.3d 1148, 1151 (Alaska 2009) (internal citation and quotations omitted)).
[28] *Id.* (internal citation and quotations omitted)).
[29] *Shooshanian v. Wagner*, 672 P.2d 455, 461 (Alaska 1983).
[30] *Aspen Exploration Corp. v. Sheffield*, 739 P.2d 150, 152 (Alaska 1987).
[31] *Morrow v. New Moon Homes, Inc.*, 548 P2d 279, 295 (Alaska 1976).
[32] *Adkins v. Stansel*, 204 P.3d 1031, 1035 n. 20 (Alaska 2009) (citing *Kaiser v. Umialik Ins.*, 108 P.3d 876, 878 n. 1 (Alaska 2005)) ("Attachments to a complaint are properly considered a part of the complaint in connection with a motion to dismiss."); *see also Ahwinona v. State*, 922 P.2d 884, 886 (Alaska 1996) (stating the trial court could properly rely on documents attached to the plaintiff's complaint without converting the defendant's motion to dismiss to a motion for summary judgment).

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matters of public record, including [ ] court files . . . although normally a motion to dismiss under Civil Rule 12(b)(6) is determined solely on the basis of the pleadings."[33]

B. *Mootness*

Courts "will refrain from deciding questions where events have rendered the legal issue moot."[34] A claim is moot "if it has lost its character as a present, live controversy."[35] A "controversy" is one that is "appropriate for judicial determination," is "definite and concrete, touching the legal relations of parties having adverse legal interests."[36]

C. *Ripeness for declaratory judgment under AS 22.10.020(g).*

Declaratory judgment is available in Alaska courts through AS 22.10.020(g) providing that "[i]n case of an actual controversy in the state, the superior court, upon the filing of an appropriate pleading, may declare the rights and legal relations of an interested party seeking the declaration, whether or not further relief is or could be sought."[37] "The 'actual controversy' language 'reflects a general limitation on the power of courts to entertain cases ... [and] encompasses a number of more specific reasons for not deciding cases, including lack of standing, mootness, and lack of ripeness.'"[38]

"A ripe suit for declaratory judgment will present 'a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality.'"[39] "[T]here is 'no set formula' for determining whether a case is ripe for adjudication. Instead, '[courts]

[33] *Nizinski v. Currington*, 517 P.2d 754, 756 (Alaska 1973).
[34] *Kodiak Seafood Processors Ass'n v. State*, 900 P.2d 1191, 1195 (Alaska 1995).
[35] *Id.*
[36] *Id.*
[37] AS 22.10.020(g) (emphasis added).
[38] *Hahn v. GEICO Choice Ins. Co.*, 420 P.3d 1160, 1167 (Alaska 2018) (quoting *Jacko v. State, Pebble Ltd. P'ship*, 353 P.3d 337, 340 (Alaska 2015) (alterations in original)).
[39] *Id.* (quoting *Jacko*, 353 P.3d at 359).

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examine the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration' in an effort to 'balance[ ] the need for decision against the risks of decision.'"[40]

ARGUMENT

A. *The Complaint Fails to State a Claim Upon Which Relief Can Be Granted.*

The Plaintiffs' Complaint is based on a claim for enforcement of the Subpoena.[41] The stated grounds for relief are (1) "[t]he Subpoena is proper in all respects" and (2) "[t]he Defendant has willfully refused to comply with the Subpoena without a valid legal basis."[42]

Because the Court recognized that the parties agreed that the Municipal Attorney provided the requested documents to the Assembly before the Court's deadline, there does not appear to be any set of facts the Plaintiffs can prove in support of the claim for enforcement of the Subpoena that would entitle the plaintiff to relief.[43] The Municipal Attorney has not disputed the Assembly's ability to issue a legislative subpoena.

Regarding the claim that the Municipal Attorney "willfully refused to comply with the Subpoena without a valid legal basis," the Plaintiffs' Complaint, on its face, shows that the Municipal Attorney responded to the Subpoena by asserting that the Subject Documents were privileged under lawyer-client privilege.

Lawyer-client privilege is incorporated by reference in AMC 2.30.085A. which states that Assembly subpoenas are "[s]ubject to the privileges which witnesses have in courts of

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[40] *Id.* (alterations in original except substitution of [courts] for "[w]e").
[41] Compl. at 11.
[42] *Id.*
[43] Joint Notice Re Provision of Documents Demanded by Subpoena, at 2; Notice to Parties: Vacating Hearing on Plaintiffs' Order to Show Cause.

this state."[44] Lawyer-client privilege is available to witnesses in Alaska courts through Alaska Rule of Evidence 503. The lawyer-client privilege recognizes a client's "privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client . . ." "A communication is confidential if not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication."

Here, the Subject Documents were communications from Municipal clients to the Municipal Attorney. Those communications were made to obtain the legal services of the Municipal Attorney and the Municipal Attorney's Office. As such, the Municipal Attorney properly responded to the Subpoena by the only method available to her—asserting that she, in her capacity as Municipal Attorney, was not able to produce the Subject Documents because they were lawyer-client privileged. She responded to the Assembly Subpoena by stating that she would consult with her clients—the only persons who could waive lawyer-client privilege and authorize her to produce the Subject Documents to the Assembly.[45] This proper assertion of lawyer-client privilege is an available defense utilized by the Defendant and is present on the face of the Complaint and attached documents. Therefore, the Defendant is entitled to an order to dismiss for failure to state a claim upon which relief can be granted.

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[44] Compl. at 3.
[45] Compl., Ex. 8.

B. *This Case Is Moot.*

A claim is moot "if it has lost its character as a present, live controversy."[46] A "controversy" is one that is "appropriate for judicial determination," is "definite and concrete, touching the legal relations of parties having adverse legal interests."[47]

Here, as discussed above, the claims against the Municipal Attorney are based on the enforcement of the Subpoena and the production of documents in response to the Subpoena. As discussed above, the documents are in the possession of the Assembly, the Municipal Attorney has not disputed the Assembly's ability to subpoena documents for legislative purposes, and it is clear that the Municipal Attorney did not "willfully refuse[] to comply with the Subpoena without a valid legal basis."

Further, there is no longer any definite and concrete controversy properly before the Court that is appropriate for judicial determination. As discussed below, the request for further declaratory relief is not sufficiently definite and concrete so as to affect the legal relations of parties having adverse legal interests.

C. *This Case Is Not Ripe for Declaratory Judgment Under AS 22.10.020(g).*

"A ripe suit for declaratory judgment will present 'a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality.'"[48] Here, the Plaintiffs' Complaint presents a controversy about *when* production of the documents demanded by the Subpoena should be required.[49] Because the Court recognized that the

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[46] *Kodiak Seafood Processors Ass'n v. State*, 900 P.2d 1191, 1195 (Alaska 1995).
[47] *Id.*
[48] *Hahn*, 420 P.3d at 1167 (quoting *Jacko*, 353 P.3d at 359).
[49] Compl. at 10 ¶26-28; *Id.* at Ex. 8

Municipal Attorney provided the documents to the Assembly before the Court's deadline, the underlying controversy no longer exists.[50] The issue of whether the Assembly has the ability to issue a legislative subpoena was never at issue before this Court.

Further, Plaintiffs' request in the Complaint asking the Court to retain jurisdiction for subsequent declaratory relief does not provide sufficient "information from which a court could conclude that a valid claim is alleged showing the pleader is entitled to relief."[51] Nor does it meet the main purpose of the Complaint—"to provide notice to the opposing party of the nature of the claim being asserted."[52] The Plaintiffs state as follows in the Prayer for Relief: "That this Court retain jurisdiction over this matter to issue any subsequent declaratory or injunctive relief that may be appropriate after the documents described in the Subpoena have been produced by the Assembly and reviewed by the Assembly Counsel."[53]

Here, the Plaintiffs have not provided the Defendant notice in a pleading or motion before the Court of the Plaintiffs' basis for declaratory relief. Nor have the Plaintiffs amended the Complaint to provide notice to the Court and the Defendant of their basis for requesting the Court continue to exercise jurisdiction over this case for the purpose of granting declaratory relief.

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[50] Joint Notice Re Provision of Documents Demanded by Subpoena, at 2; Notice to Parties: Vacating Hearing on Plaintiffs' Order to Show Cause.
[51] *Martin v. Mears*, 602 P.2d 421, 427 (Alaska 1979).
[52] *Id.*
[53] Compl. at 12.

CONCLUSION

The Municipal Attorney respectfully requests that this Court dismiss the Complaint, in whole or in part, because there is no longer any live controversy before the Court upon which relief can be granted, the case is moot, and/or the request for declaratory relief is not ripe.

Respectfully submitted this 14th day of May, 2024.

ANNE R. HELZER
Municipal Attorney

By: */s Jason A. Thomas*
Jason A. Thomas
Assistant Municipal Attorney
Alaska Bar No. 2005028

By: */s Kate M. Buerer*
Kate M. Buerer
Assistant Municipal Attorney
Alaska Bar No. 2301002

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, vs. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-05979CI

PROPOSED ORDER ON THE MUNICIPAL ATTORNEY'S MOTION TO DISMISS

The Court having considered the Municipal Attorney's Motion to Dismiss, and any opposition or reply thereto, and being advised in all respects, hereby GRANTS the Defendant Municipal Attorney's Motion to Dismiss.

DATED: _____

_____
Hon. David A. Nesbett
Superior Court Judge

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ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, vs. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	Case No. 3AN-24-05979CI

#4 **PROPOSED ORDER ON MOTION FOR EXPEDITED CONSIDERATION**

Having considered the Municipal Attorney's Motion for Expedited Consideration of her Motion to Extend Deadlines to Respond, and good cause appearing therefore, the motion is hereby GRANTED.

DATED: 5/14/24

Hon. David A. Nesbett
Superior Court Judge

I certify that on 5/15/24 a copy of the following was mailed/ faxed/ hand-delivered to each of the following at their addresses of record. A. Erickson/L. Weed J. Norawski/C. Gunther K. Buerer/J.A. Thomas

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#3 **PROPOSED ORDER ON MOTION TO EXTEND DEADLINES**

Having considered the Municipal Attorney's Motion to Extend Deadlines, (AND THE ASSEMBLY'S "RESPONSE" DATED 5/10/24,) requesting the deadline to file a pre-response motion and/or file a responsive pleading be set for 30 days after the entry of this order, and good cause appearing therefore, the motion is hereby GRANTED. DUE THURSDAY, JUNE 13, 2024.

DATED: 5/14/24

Hon. David A. Nesbett
Superior Court Judge

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THIRD JUDICIAL DISTRICT AT ANCHORAGE

Anchorage Municipal Assembly, Appellant, vs. Regulatory Commission of Alaska, et al., Appellees.	Case No. 3AN-24-06001CI

NOTICE OF NON-PARTICIPATION

PLEASE TAKE NOTICE that appellee, Providence Health and Services, does not intend to participate in the appeal in this case. Providence Health and Services requests that it be kept on the service list so that it may receive orders, notices and pleadings as they are filed in the case.

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DATED this 15th day of May, 2024.

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THIRD JUDICIAL DISTRICT AT ANCHORAGE

Anchorage Municipal Assembly, Appellant, vs. Regulatory Commission of Alaska et al., Appellees.	Case No. 3 AN-24-06001CI

NOTICE OF NON-PARTICIPATION

PLEASE TAKE NOTICE that appellees, Homer Electric Association, Inc. (HEA) and Alaska Electric and Energy Cooperative, Inc. (AEEC) do not intend to participate in the appeal in this case. HEA and AEEC request that they be removed from the service list of all future orders, notices and pleadings filed in this case.

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DATED: this 16th day of May, 2024.

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THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, vs. REGULATORY COMMISSION OF ALASKA, et al. Appellees.	Case No. 3AN-24-06001 CI

NOTICE OF NON-PARTICIPATION

PLEASE TAKE NOTICE that appellee, JL Properties, Inc. ("JLP"), does not intend to participate in the appeal in this case. JLP requests that it be kept on the service list so that it may receive orders, notices, and pleadings as they are filed in this case.

DATED this 16th day of May, 2024.

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FILED in the TRIAL COURTS
State of Alaska Third District

MAY 17 2024

Clerk of the Trial Courts
By _____ Deputy

AGENCY'S LIST OF PARTIES & ATTORNEYS ON APPEAL

Case Title Anchorage Municipal Assembly vs. REGULATORY COMMISSION OF ALASKA ET ALL

Appeal Case No. 3AN-24-06001 CI Admin. Agency No. U-18-102A/U-19-020A/U-19-021A

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05/17/2024
Date

Caleb Budd
Signature of Agency Representative

Caleb Budd
Type or Print Name

Instructions: Send this list to the superior court where the appeal is filed.

Amanda DePue

From: Budd, Caleb Z (RCA) <caleb.budd@alaska.gov>
Sent: Friday, May 17, 2024 1:11 PM
To: ANC Civil
Cc: Johnston, Naomi A (RCA); Walker, Jim L (RCA); Davis, Jeffrey F (RCA)
Subject: Amendment to Agency's List of Parties & Attorneys on Appeal - Anchorage Muni. vs RCA - 3AN-24-06001 C1
Attachments: ap-311 V3.pdf

Good afternoon,

Please see the attached amended form AP-311 for Case # 3AN-24-06001 C1

ANCHORAGE MUNICIPAL ASSEMBLY vs. REGULATORY COMMISSION OF ALASKA ET ALL

Please let me know if you have any questions.

Thank you,

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FILED in the TRIAL COURTS
State of Alaska Third District
MAY 06 2024
Clerk of the Trial Courts
By _____ Deputy

AGENCY'S LIST OF PARTIES & ATTORNEYS ON APPEAL

Case Title Anchorage Municipal Assembly vs. REGULATORY COMMISSION OF ALASKA ET ALL

Appeal Case No. 3AN-24-06001 CI Admin. Agency No. U-18-102A/U-19-020A/U-19-021A

Agency Name REGULATORY COMMISSION OF ALASKA Hearing Officer _____

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05/03/2024
Date

Caleb Budd
Signature of Agency Representative

Caleb Budd
Type or Print Name

Instructions: Send this list to the superior court where the appeal is filed.

Jacqueline Lee

From:	Budd, Caleb Z (RCA) <caleb.budd@alaska.gov>
Sent:	Friday, May 3, 2024 6:07 PM
To:	ANC Civil
Cc:	Johnston, Naomi A (RCA); Walker, Jim L (RCA); Davis, Jeffrey F (RCA)
Subject:	Agency's List of Parties & Attorneys on Appeal - Anchorage Muni. vs RCA - 3AN-24-06001 C1
Attachments:	Ap-311 (FINAL).pdf

Good evening,

Please see the attached form AP-311 for Case # 3AN-24-06001 C1

ANCHORAGE MUNICIPAL ASSEMBLY vs. REGULATORY COMMISSION OF ALASKA ET ALL

Please let me know if you have any questions.

Thank you,

Caleb Budd
Administrative Assistant 2
Regulatory Commission of Alaska
State of Alaska
701 W 8th Avenue, Suite 400
Anchorage, AK. 99501-3469
Phone: (907) 263-2170

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-05979CI

STIPULATION TO EXTEND RESPONSIVE DEADLINES FOR MOTION TO DISMISS

The parties to this action, the Anchorage Municipal Assembly, Christopher Constant, in his official capacity as Chair of the Anchorage Assembly, and Anne Helzer, in her official capacity as the Anchorage Municipal Attorney, by and through counsel, agree to extend responsive deadlines related to the Motion to Dismiss as follows:

- The Assembly shall have until June 7, 2024 to file its Opposition to the Motion.
- The Municipal Attorney shall have until June 17, 2024 to file a Reply.

//

//

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DATED: May 21st, 2024.

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

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Leslie R. Need, Alaska Bar No. 0712113
Jackson Morawski, Alaska Bar No. 2310113

Attorneys for the Plaintiffs Anchorage Assembly and Christopher Constant, in his official capacity as Chair of the Anchorage Assembly

ANNE R. HELZER
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/s/ Jason A. Thomas

Jason A. Thomas
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-05979CI

(PROPOSED) ORDER TO EXTEND DEADLINES

The Court, having received the Parties' Stipulation to extend responsive deadlines related to the Municipal Attorney's Motion to Dismiss HEREBY GRANTS THE PARTIES' REQUESTS. The Assembly's opposition to the Motion is due on or before June 7, 2024; the Municipal Attorney's Reply is due on or before June 17, 2024. **IT IS SO ORDERED.**

DATED this _____ day of _____, 2024, at Anchorage, Alaska.

_____

The Honorable David A. Nesbett
Superior Court Judge

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/s/ Dana Cupp

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	Case No. 3AN-24-05979CI

6

(PROPOSED) ORDER TO EXTEND DEADLINES

The Court, having received the Parties' Stipulation to extend responsive deadlines related to the Municipal Attorney's Motion to Dismiss HEREBY GRANTS THE PARTIES' REQUESTS. The Assembly's opposition to the Motion is due on or before June 7, 2024; the Municipal Attorney's Reply is due on or before June 17, 2024. **IT IS SO ORDERED.**

DATED this 21st day of May, 2024, at Anchorage, Alaska.

The Honorable David A. Nesbett
Superior Court Judge

I certify that on 5/23/24 a copy of the following was mailed/ faxed/ hand-delivered to each of the following at their addresses of record. A. Erickson/L. Mead
J. Morawski/C. Gunther
J. A. Thomas/K. M. Brierer

Administrative Assistant

MAY 21 2024

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant v. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	)	Case No. 3AN-24-06001CI

MOTION FOR EXTENSION OF TIME FOR TRANSMITING THE RECORD ON APPEAL

Appellant Anchorage Municipal Assembly (the "Assembly"), through counsel and pursuant to Alaska Rules of Appellate Procedure 503 and 612(b)(2), respectfully requests a 60-day extension of time to prepare the Record on Appeal.

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On April 25, 2024, the Clerk of Court issued a Notice of Preparation of Record in Administrative Appeal pursuant to Appellate Rule 604(b), ordering the Regulatory Commission of Alaska ("RCA") to forward to the Court a copy of the agency file in this matter within 40 days, or by June 4. According to the RCA, the agency file is voluminous—spanning 6 years of proceedings, involving over 14 different parties, and consisting of over 35,000 pages of filings. However, not all of the documents contained in the RCA file may be necessary for resolving this appeal.

Pursuant to AS 44.62.560(b), the Assembly intends to designate parts of the RCA file that are relevant to the issues presented in this appeal. Based on the volume of the RCA record and the work required to identify and designate relevant parts of the record, and the need for the RCA to number the pages consecutively and transmit the designated record to the Court, the Assembly requests a 60-day extension of time. If this motion for an extension is granted the new due date for preparation of the administrative record will be **August 5, 2024**.

DATED: May 22, 2024.

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

_____

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I hereby certify that on May 22, 2024, a copy of the foregoing was served by email to the following:

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant v. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	)	Case No. 3AN-24-06001CI

(PROPOSED) ORDER GRANTING EXTENSION OF TIME FOR TRANSMITTING THE RECORD ON APPEAL

Upon consideration of Appellant Anchorage Municipal Assembly's Motion for Extension of Time for Transmitting the Record on Appeal, and good cause appearing, it is ordered that the Motion is GRANTED. The agency shall comply with Paragraph 2 of the Notice of Preparation of the Record in an Administrative Appeal by August 5, 2024.

IT IS SO ORDERED.

DATED this _____ day of _____, 2024, at Anchorage, Alaska.

_____
The Honorable Jack R. McKenna
Superior Court Judge

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Plaintiff, v. REGULATORY COMMISSION OF ALASKA, et. al. Defendants.	Case No. 3AN-24-06001 CI

ENSTAR'S NOTICE OF NON-PARTICIPATION

Appellee, ENSTAR Natural Gas Company, LLC (ENSTAR)[1], does not intend to participate in the appeal in this matter. ENSTAR requests that it be kept on the service list so that it may receive orders, notices, and pleadings as they are filed in the case.

DATED this 5th day of June 2024, at Anchorage, Alaska.

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[1] ENSTAR Natural Gas Company, a Division of SEMCO Energy, Inc. was recently acquired by Alaska Utility Holdings Inc., a subsidiary of TriSummit Utilities Inc. Under its new ownership structure, ENSTAR Natural Gas Company has been subsumed by ENSTAR Natural Gas Company, LLC.

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	Case No. 3AN-24-05979CI

ASSEMBLY'S NOTICE OF DISMISSAL

Plaintiffs Anchorage Municipal Assembly, though its Chair, Christopher Constant (collectively the "Assembly") provide notice of voluntary dismissal pursuant to Alaska Rule of Civil Procedure 41(a)(1).

On May 14, 2024, Ms. Helzer filed a Motion to Dismiss in which she conceded that the Assembly's authority to issue a subpoena pursuant to AMC 2.30.085 is not at issue in this case: "The Municipal Attorney has not disputed the Assembly's ability to issue a legislative subpoena."[1] Ms. Helzer's concession represents a reversal of her earlier position that "AMC 2.30.085 and the subpoena issued under its authority" are *invalid* under "Alaska law, the Alaska Constitution, and the United States

[1] Motion to Dismiss at 8.

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Constitution."[2] Because Ms. Helzer has conceded the key remaining legal issue in this case, dismissal is appropriate.

Accordingly, the Assembly hereby voluntarily dismisses its Complaint in this action. This dismissal is without prejudice. Counsel for Ms. Helzer indicated that they do not oppose voluntary dismissal.

DATED: June 7, 2024.

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/s/ Andrew Erickson

Andrew Erickson, Alaska Bar No. 1605049
Leslie R. Need, Alaska Bar No. 0712113
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[2] Joint Notice Regarding Provision of Documents Demanded by Subpoena at 2.

Certificate of Service

On June 7, 2024, a true and correct copy of the foregoing document was served by email to the following:

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly,	)	
Plaintiffs,	)	
v.	)	Case No. 3AN-24-05979CI
ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney,	)	
Defendant.	)	

(PROPOSED) FINAL JUDGMENT

Plaintiffs have voluntarily dismissed their complaint pursuant to Alaska Rule of Civil Procedure 41(a)(1), without prejudice. Each party is to bear its own costs and fees. This case is CLOSED.

DATED this _____ day of _____, 2024, at Anchorage, Alaska.

_____

The Honorable David A. Nesbett
Superior Court Judge

LANDYE BENNETT BLUMSTEIN LLP
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Certificate of Service

On June 7, 2024, a true and correct copy of the foregoing document was served by email to the following:

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Jason A. Thomas
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Attorneys for Defendant

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, vs. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	)	Case No. 3AN-24-05979CI

NOTICE TO COURT RE: ASSEMBLY'S NOTICE OF DISMISSAL

The Municipal Attorney, by and through counsel, provides the following notice to the Court. Plaintiff asserted to the court that the Municipal Attorney "conceded that the Assembly's authority to issue a legislative subpoena pursuant to AMC 2.30.085 is not at issue in this case."[1] However, these assertions are a mischaracterization of the Municipal

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OFFICE OF THE MUNICIPAL ATTORNEY

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[1] Assembly's Notice of Dismissal at 1.

Attorney's actual position. The Municipal Attorney has not conceded any legal issues in this case. However, the Municipal Attorney does not oppose dismissal.

Respectfully submitted this 7th day of June, 2024.

ANNE R. HELZER
Municipal Attorney

By: */s Kate M. Buerer*
Kate M. Buerer
Assistant Municipal Attorney
Alaska Bar No. 2301002

Certificate of Service
I certify that on June 7, 2024 I caused to be emailed a true and correct copy of the foregoing to:

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	Case No. 3AN-24-05979CI

(PROPOSED) FINAL JUDGMENT

Plaintiffs have voluntarily dismissed their complaint pursuant to Alaska Rule of Civil Procedure 41(a)(1), without prejudice. Each party is to bear its own costs and fees. This case is CLOSED.

DATED this 11th day of June, 2024, at Anchorage, Alaska.

The Honorable David A. Nesbett
Superior Court Judge

I certify that on 6/11/24 a copy of the following was mailed/faxed/hand delivered to each of the following at their addresses of record.
Gunther | Morawski | Reed | Erickson
Thomas | Brewer

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, and CHRISTOPHER CONSTANT, in his official capacity as Chair of the Anchorage Assembly, Plaintiffs, v. ANNE HELZER, in her official capacity as the Anchorage Municipal Attorney, Defendant.	Case No. 3AN-24-05979CI

ASSEMBLY'S NOTICE OF CLARIFICATION

Plaintiffs Anchorage Municipal Assembly, though its Chair, Christopher Constant (collectively the "Assembly") provide this Clarification in response to the Municipal Attorney's Notice to Court Re: Assembly's Notice of Dismissal, in which the Municipal Attorney stated that the Assembly's "assertions are a mischaracterization of the Municipal Attorney's actual position." The Assembly stands by its characterization of the record in this case. The Assembly's Notice of Voluntary Dismissal was premised on the fact that the Municipal Attorney does not dispute the Assembly's authority to issue a legislative subpoena. Based on the Municipal Attorney's Motion to Dismiss, it is apparent that the parties are now in agreement that the Assembly's legislative subpoena power is valid.

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DATED: June 12, 2024.

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

_____

Andrew Erickson, Alaska Bar No. 1605049
Leslie R. Need, Alaska Bar No. 0712113
Jackson Morawski, Alaska Bar No. 2310113

Attorneys for the Plaintiffs Anchorage Assembly and Christopher Constant, in his official capacity as Chair of the Anchorage Assembly

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/s/ Riza Smith

_____

Riza Smith, Legal Assistant

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant v. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	)	Case No. 3AN-24-06001CI

~~(PROPOSED)~~ ORDER GRANTING EXTENSION OF TIME FOR TRANSMITTING THE RECORD ON APPEAL

Upon consideration of Appellant Anchorage Municipal Assembly's Motion for Extension of Time for Transmitting the Record on Appeal, and good cause appearing, it is ordered that the Motion is GRANTED. The agency shall comply with Paragraph 2 of the Notice of Preparation of the Record in an Administrative Appeal by August 5, 2024.

IT IS SO ORDERED.

DATED this 2nd day of July, 2024, at Anchorage, Alaska.

The Honorable Jack R. McKenna
Superior Court Judge

I certify that on 7/3/24 a copy of the following was mailed/emailed to each of the following at their addresses of record.

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MAY 23 2024

RECEIVED
By the Regulatory Commission of Alaska on Jul 18, 2024

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Robert A. Doyle, Chair
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Notice and Request for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee, filed by the MUNICIPALITY OF ANCHORAGE, d/b/a ANCHORAGE HYDROPOWER	U-24-024

NOTICE AND REQUEST FOR ACKNOWLEDGMENT OF ANCHORAGE HYDROPOWER'S ACQUISITION OF EXPERTISE REQUIRED TO PARTICIPATE AS A VOTING MEMBER OF THE EKLUTNA OPERATING COMMITTEE

The Municipality of Anchorage ("MOA"), d/b/a Anchorage Hydropower ("AHP") hereby provides notice of its acquisition of the expertise required to participate as a voting member of the Eklutna Operating Committee ("EOC"). AHP respectfully requests that the Regulatory Commission of Alaska ("Commission") provide written acknowledgment that AHP has acquired the expertise required to participate as a voting member of the Eklutna Operating Committee ("EOC"), within **30 days** of this filing, in order to facilitate reasonably timely certainty regarding reinstatement of voting rights.[1]

[1] Pursuant to the October 27, 2020 Surrender of Eklutna Operating Committee Voting Rights, the Municipality of Anchorage's prior surrender will automatically terminate with Commission approval, reinstating voting rights. Exhibit 1, Surrender of Eklutna Operating Committee Voting Rights, October 27, 2020 ("Surrender") (stating that the surrender of voting rights "shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC").

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I. Background

In Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order No. 39"),[2] the Commission approved, subject to conditions, the sale of most of the electric utility assets of the Municipality, d/b/a Municipal Light and Power ("ML&P"), to Chugach Electric Association, Inc. ("Chugach") (the "Transaction" or "Acquisition"). The MOA retained its ownership interest in the Eklutna Hydroelectric Project ("Eklutna"), from which it sells wholesale electric power to Chugach and Matanuska Electric Association, Inc. ("MEA"), pursuant to power purchase agreements approved by the Commission.[3] Since the closing of the Transaction on October 30, 2020,[4] the MOA has conducted its wholesale electric generation business under the name "Anchorage Hydropower."[5] The Commission issued Certificate of Public Convenience and Necessity ("CPCN") No. 780 authorizing the MOA d/b/a Anchorage Hydropower to provide wholesale electric public utility service.

In Order 39, the Commission conditioned the issuance of a CPCN to the MOA on the filing of documentation that the MOA has surrendered its voting rights on the Eklutna

[2] May 28, 2020.

[3] Order No. 39 at 75 (approving the Chugach Purchase Power Agreement as amended; Letter Order #L2000410, TA379-121 (approving the MEA Purchase Power Agreement).

[4] *See,* Chugach's October 30, 2020 "Notice of Transaction Closing – Chugach Electric Association Inc.'s Acquisition of the Municipality of Anchorage d/b/a Municipal Light & Power; Compliance with Order No. U-18-102(44)/U-19-020(39)/U-19-021(39)."

[5] *See* Anchorage Ordinance No. 2020-109 (October 13, 2020) ("An Ordinance of the Anchorage Assembly Amending Anchorage Municipal Code Chapters 3.20, 4.70, 26.10, 26.20, and 26.30 Governing the Municipality's Provision of Electric Utility Service").

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Operating Committee ("EOC").[6] On October 30, 2020, ML&P filed notice with the Commission of its October 27, 2020 Surrender of Eklutna Operating Committee Voting Rights.[7] Order 39 required that the surrender must remain in effect until the MOA "has shown to [the Commission's] satisfaction that MHP[8] has acquired the expertise required to fully participate as a voting member of the EOC."[9]

II. AHP has acquired the expertise required for the MOA to exercise voting rights and full participation on the EOC.

With this filing, AHP provides notice that it has acquired the expertise that the Commission requires for the MOA to exercise voting rights and participate fully on the EOC. In Order 39, the Commission identified two characteristics for an owner representative on the EOC that are required to lift surrender of voting rights: knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system.[10] Mark Corsentino, P.E., was unanimously approved by the Anchorage Assembly to be the Utility Director of Anchorage Hydropower on July 2, 2024.[11] As such, Mr. Corsentino will also serve as AHP's representative

[6] Order No. 39 at 67.

[7] "Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights," October 30, 2020 (filed in Docket U-18-102/U-19-020/U-19-021).

[8] For the purposes of Order No. 39, the Commission referred to the "post-transaction electric utility owned by the MOA as Municipal Hydro Power (MHP)." Order No. 39 at 4, n. 1.

[9] *Id.* at 67.

[10] *Id*. at 66.

[11] July 3, 2024 Press Release: Assembly Confirms Anchorage Hydropower Utility Director. *Available at* https://www.muni.org/Departments/Assembly/PressReleases/Pages/Assembly-Confirms-Anchorage-Hydropower-Utility-Director.aspx.

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on the EOC, and has the requisite expertise to exercise voting rights and fully participate on the EOC.[12]

Mr. Corsentino, a licensed engineer with approximately 20 years of utilities experience, has extensive experience in prudent utility practice, including as defined in the Chugach and MEA Purchase Power Agreements ("PPAs").[13] He also has experience in Railbelt electric generation and a sound knowledge of the Railbelt transmission system.[14] Mr. Corsentino has been the General Manager of the Anchorage Water and Wastewater Utility ("AWWU") since February 2019, directing and overseeing two economically regulated utilities, with a combined annual revenue of $130 million, annual capital budgets of $35 million, and a net book value of over one billion dollars.[15] Mr. Corsentino also oversees over 280 full-time AWWU employees, as well as AWWU's two water treatment plants, three wastewater treatment plants, 1,600 miles of underground pipelines, and 200 water and sewer remote facilities.[16]

In his role as General Manager, and previously in his AWWU roles of Director of Operations and Maintenance and Project Management Engineer/Supervisor, Mr. Corsentino has gained significant experience with operation capital expenditures, leading projects such as SCADA control system upgrades and providing project management design and construction

[12] Exhibit 2, Resume of Mark A. Corsentino, P.E.

[13] Appendix D to Order No. 39, Chugach Purchase Power Agreement ("Eklutna PPA" in Order No. 39) at Exhibit A-6; Appendix H to Order No. 39, MEA Purchase Power Agreement ("MEA PPA" in Order No. 39) at Exhibit A-6 – A-7.

[14] Exhibit 2.

[15] *Id.*

[16] *Id.*

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expertise in water transmission main projects, sewer pump station projects, and wastewater treatment process improvement projects (e.g., replacing chlorination with UV disinfection, clarifier rehabilitation, etc.).[17] He has overseen several utility rate cases,[18] and is versed in compliance with the uniform system of accounts pursuant to 3 AAC 48.277 (including subsections (9) through (13) (electric public utilities) and subsections (14) through (17) (water utilities).[19]

Of particular relevance for EOC owner representation, Mr. Corsentino is experienced with hydropower generation, scheduling, maintenance, and integration with other Railbelt resources. AWWU generates electricity totaling up to one megawatt capacity, spread across three existing units, with at least one additional unit under consideration for development.[20] As General Manager, Mr. Corsentino oversees AWWU operation and maintenance of the hydropower generation from AWWU's Eklutna Energy Recovery Station (equivalent to roughly 750KW capacity, which connects to and feeds power back into the MEA system), as well as AWWU's Reservoir 3&4 Facility and AWWU's 92nd Street PRV Facility, which together provide another combined approximate 100KW capacity to the Chugach system.[21] Additionally, Mr. Corsentino oversees AWWU's co-location with Chugach's Plant 2A, which increases the efficiency of the plant (colocation provides cooling to the Chugach infrastructure, simultaneously

[17] *Id.*

[18] *Id*.

[19] Additionally, since the Acquisition, day-to-day accounting and annual reporting for AHP has been performed by MOA finance employees knowledgeable in the uniform system of accounts pursuant to 3 AAC 48.277.

[20] Exhibit 2.

[21] *Id.*

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warming AWWU's infrastructure, reducing the natural gas needed to heat water in homes and businesses).

In addition to his direct experience with hydropower generation, Mr. Corsentino's educational background and career experience provide additional expertise in electric generation and transmission. As a licensed engineer with a background in electrical engineering, Mr. Corsentino understands the mechanics and theory of electricity generation and transmission.[22] Through his employment at AWWU, one of CEA and MEA's largest customers, Mr. Corsentino is regularly involved in the construction of pump stations and other projects requiring significant power supply from the grid.[23] As such, Mr. Corsentino understands power systems and related issues such as power correction, phase, amplitude, and frequency of AC power.

Further, Mr. Corsentino has specific experience previously representing AHP on the EOC in a non-voting capacity.[24] Thus, Mr. Corsentino has knowledge of Eklutna Project matters including hydropower generation, scheduling, integration with other Railbelt resources, SCADA (as managed through CEA), and project maintenance.

Finally, in the event Mr. Corsentino encounters an issue where any assistance is required, he has access to additional resources through both in-house engineering expertise at the MOA and the ability to engage the expertise of MOA consultants and contractors. Mark Schimscheimer, Engineering Director of AWWU, has been designated to provide additional

[22] *Id.*

[23] *Id.*

[24] Mr. Corsentino served as a non-voting representative for AHP from approximately January 2022 until September 2023.

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technical and engineering support to AHP (at AHP's expense).[25] Mr. Schimscheimer has extensive experience with infrastructure development projects, including over a decade of experience as a project development manager with the Alaska Industrial Development and Export Authority ("AIDEA") and the Alaska Energy Authority ("AEA").[26] Mr. Schimscheimer's experience with AIDEA and AEA included projects involving rural power systems, the Healy Clean Coal Project, the Alaska Intertie, Railbelt generation and transmission studies, and Southcentral Alaska energy analysis.[27] Mr. Schimscheimer has experience in negotiation of agreements regarding power sales, fuel source, plant purchase and sale, and operations and maintenance.[28] Additionally, Mr. Schimscheimer's work has included negotiation of federal compliance orders, state and federal power plant permitting, federal grants management, and overall financial due diligence for such work including: village to village electric interties, modular power plant size and placement, and general utility business agreements.[29]

In addition to the auxiliary in-house expertise that Mr. Schimscheimer provides, AHP will also have access to, and the right to use (at AHP's expense), contracts of the MOA in order to access any additional technical and engineering expertise necessary.[30]

---

[25] Exhibit 3, Memorandum of Understanding Between Anchorage Water and Wastewater Utility and Anchorage Hydropower Utility re Resolution of Conflicts of Interest, July 18, 2024.

[26] Exhibit 4, Resume, Mark A. Schimscheimer, P.E, at 2-3.

[27] *Id*.

[28] *Id.* at 2.

[29] *Id*.

[30] Exhibit 3 at 2. Such firms include Electric Power Systems, Inc., EDC, Inc., CRW Engineering Group, Inc., and Taku Engineering.

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Given Mr. Corsentino's background and experience (and his ability to access additional MOA expertise as needed), AHP now has the managerial and technical expertise to fully participate as a voting member of the EOC. Mr. Corsentino has the requisite knowledge of prudent utility practice and the Railbelt electric generation and transmission system required to be a voting owner representative on the EOC.

III. Pursuant to a Memorandum of Understanding between AWWU and AHP, Mr. Corsentino will act solely as director of AHP, with loyalty to AHP's interests, in any instances of competing interests between AHP and AWWU.

A Memorandum of Understanding between AWWU and AHP ("Memorandum") establishes that in any instance of conflicting interests between AHP and AWWU, Mr. Corsentino will act solely as the Utility Director of AHP, and he will abstain from any decisions that need to be made by the General Manager of AWWU.[31] Under the Memorandum, Mr. Corsentino will not take any action in his role as General Manager on "issues that affect the interests, operations, or obligations" of AHP.[32] Instead, AWWU's interests will be represented by the AWWU Assistant General Manager (currently David A. Persinger).[33] Thus, if a voting issue arises which directly affects AWWU, Mr. Corsentino will "act solely as director of [AHP], with loyalty to [AHP's] interests."[34] This ensures that all decisions by Mr. Corsentino in his role as the AHP representative on the EOC are made consistent with (1) prudent utility practices (as defined in the Chugach and

[31] *Id.*

[32] *Id.* at 1.

[33] *Id.* at 1-2.

[34] *Id.* at 1.

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MEA PPAs) and (2) the rights and obligations of Chugach and MEA (pursuant to the Chugach and MEA PPAs).

These procedures will also be followed by Mark Schimscheimer, AWWU's Engineering Director, who has also been designated to provide technical and engineering support to AHP.[35] Further, management expenses, including compensation for Mr. Corsentino and Mr. Schimscheimer, will be apportioned on a cost-causer, cost-payer basis.[36] Thus, as AHP's EOC representative, Mr. Corsentino will make any required decision as AHP Utility Director—e.g., consistent with prudent utility practices and the rights and obligations of Chugach and MEA.

IV. CONCLUSION

As described above, AHP hereby provides notice that it has acquired the expertise required to fully participate as a voting member of the EOC. AHP requests that the Commission provide a written acknowledgment notifying AHP that AHP has acquired the expertise required to participate as a voting member of the EOC. With this acknowledgment, the October 27, 2020 Surrender of EOC voting rights by MOA, d/b/a ML&P, will automatically terminate, reinstating AHP as a voting member of the EOC. To provide reasonably timely certainty to AHP and Mr. Corsentino regarding the restoration of EOC voting rights, AHP respectfully requests that the Commission provide this acknowledgment within **30 days** of AHP's request.

[35] *Id.*

[36] *Id.* at 1-2.

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RESPECTFULLY SUBMITTED this 18th day of July, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: /s/ *Dean D. Thompson*

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CERTIFICATE OF SERVICE

I hereby certify that on July 18, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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NOTICE AND REQUEST FOR ACKNOWLEDGMENT OF ANCHORAGE HYDROPOWER'S ACQUISITION OF EXPERTISE REQUIRED TO PARTICIPATE AS A VOTING MEMBER OF THE EKLUTNA OPERATING COMMITTEE
Docket U-24-_
July 18, 2024

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NOTICE AND REQUEST FOR ACKNOWLEDGMENT OF ANCHORAGE HYDROPOWER'S ACQUISITION OF EXPERTISE REQUIRED TO PARTICIPATE AS A VOTING MEMBER OF THE EKLUTNA OPERATING COMMITTEE
Docket U-24-_
July 18, 2024

LAW OFFICES OF
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A PROFESSIONAL CORPORATION
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Exhibit 1

October 27, 2020

Surrender of Eklutna Operating Committee (EOC) Voting Rights

In accordance with the requirements of order U-18-102(44), the Municipality of Anchorage, dba Municipal Light & Power(ML&P), hereby surrenders its voting rights as an EOC member and under the Fish and Wildlife Agreement effective as of the Closing of the Asset Purchase Agreement between ML&P and Chugach Electric Association (Chugach). This surrender of voting rights shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC.

Until ML&P's successor complies with the qualification terms of RCA order U-18-102(44), all EOC decisions will be by unanimous vote of Chugach and Matanuska Electric Association, Inc. (MEA). Eklutna hydro operations, dispatch and maintenance will continue to follow past practices and policies unless changes are approved through the EOC process.

MUNICPALITY OF ANCHORAGE

By: _____
Name: William Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____
Name: Lee Thibert
Title: Chief Executive Officer

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____
Name: Anthony Izzo
Title: Chief Executive Officer

Exhibit 2

Mark A. Corsentino, P.E.

[redacted]

Phone: [redacted]
Email: [redacted]

EDUCATION

Water and Wastewater Leadership Center, University of North Carolina, March 2017

Cold Regions Engineering Short Course, University of Washington, November 2005

Master of Science Civil Engineering, Marquette University, August 2002

Bachelor of Science Biomedical Engineering*, *Magna Cum Laude*, Marquette University, May 2000

*Minors in Electrical Engineering and Biology

EXPERIENCE

February 2019 –Present *General Manager of the Anchorage Water and Wastewater Utility (AWWU), Anchorage, AK*

Directs and oversees all operations of a Municipal Department with two separate State Economically Regulated Utilities with a combined annual revenue of $130M, annual capital budgets over $35M, over 280 full time employees, 8 work divisions, a net book value of over $1B with a replacement value over $10B, with over 1,600 miles of underground pipelines, 2 water treatment plants, 3 wastewater treatment plants, 200 water and sewer remote facilities, 1 MW hydropower generation across three units (Eklutna Energy Recovery Station, Reservoir 3&4 Facility, 92nd Street PRV Facility), with a Utility wide SCADA network, including 35 lift stations, 20 finished water reservoirs, 12 high production wells, dozens of booster stations and PRV facilities with 55 pressure zones, 7,500 fire hydrants, 15,000 mainline valves, and approximately 60,000 customer parcels and service lines all within a certificated service area larger than the state of Rhode Island with a population served of approximately 230,000. Oversaw several successful utility rate cases and multiple NACWA Peak Performance Awards, FEMA earthquake recovery reimbursement efforts, lean and green utility operations, COOP through the COVID pandemic. Represented the Municipality in the Anchorage Hydropower Plant Operations Committee as part of the Municipality's ownership of 40MW hydropower plant and its associated federal fish and wildlife study in lieu of FERC relicensing. Oversaw the Stormwater Utility Evaluation and Implementation Program for the Municipality.

August 201 –January 2019 *Director of Operations and Maintenance with the Anchorage Water and Wastewater Utility (AWWU), Anchorage, AK*

Lead and managed a group of ninety five employees, mostly union represented, whose mission is to operate and maintain the Utility's plant, collection and distribution facilities. As a member of the Utility Leadership Team, was integrally engaged in the execution and implementation of the Utility 2016-2021 Strategic Plan. Initiated large diameter line cleaning program and reclassified employee positions to improve retention and to be in alignment with ADEC Operator Certification program. Oversaw emergency recovery of utility assets during magnitude 7.1 earthquake and oversaw implementation of computerized maintenance management system upgrade and integration with Municipal ERP system and Utility asset management system.

August 2007–July 2016 *Project Management Engineer/Supervisor with the Anchorage Water and Wastewater Utility (AWWU), Anchorage, AK*

Managed engineering design and construction projects and supervised employees for the AWWU Engineering capital program. Communicated and coordinated with multiple stakeholders, including all divisions within the Utility, municipal departments, permitting agencies, the public and consultants. Additional duties consisted of managing Utility soil remediation projects, providing corrosion technical assistance for projects, and providing technical input to the AWWU Asset Management Plans and the AWWU DCPM and MASS re-writes. Project Management design and construction experience in water transmission main projects, large diameter sewer conveyance projects, water storage reservoir projects, sewer pump station projects, water booster stations projects, water distribution main projects, sewer collection system projects, and wastewater treatment process improvement projects (eg replacing wastewater chlorination with UV disinfection, clarifier rehab, etc.)

August 2002–August 2007 *Project Management Engineer with the Water Business Group in CH2M HILL's Anchorage, AK and Seattle, WA offices. In Anchorage since May 2005.*

Duties consisted of project management, project engineering and construction management services for water and wastewater projects throughout the Pacific Northwest including water treatment plant design and construction (Cedar Water Treatment Plant, Skagit Water Plant Expansion), wastewater plant design and construction (Centralia, Barrow), large diameter sewer conveyance (King County), water transmission main design and construction (Tacoma and Anchorage) and water transmission main impressed current design support efforts.

September 2000–July 2002 *Civil Engineer Trainee (GS-7), United States Geological Survey, Water Resources Division), Middleton, Wisconsin.*

Collected and processed water quality samples for an airport stormwater toxicity study and a cryptosporidium and urban stormwater runoff study. Processed and analyzed the collected field data. Performed maintenance and calibration of gaging stations and automatic data samplers.

July 2001-May 2002 *Graduate Research Assistant, Marquette University, Milwaukee, Wisconsin.*

Studied aerobic and anaerobic biodegradation of the suspected endocrine disrupter precursor nonylphenol ethoxylate found in aircraft deicing fluid. Operated a system of biological reactors under differing environmental conditions.

PUBLIC SPEAKING, PAPERS, PRESENTATIONS, CERTIFICATIONS AND MORE:

- Experienced and versed in creating presentations and speaking publicly to community councils, business associations, Municipal Boards, Municipal and Borough Assemblies, Regulatory Commission of Alaska, State of Alaska Legislature Senate Finance Committee, ADEC Commissioner, and Mayoral Administrations
- Registered Professional Civil Engineer, State of Alaska; AELC11653
- 2006: PNCWA Lead & Copper Rule Lessons Learned for SE Alaska Communities
- 2007: ASCE Pipelines Paper & Presentation: Design and Construction of a Large Welded Steel Pipe Bridge Crossing for Potable Water Supply in Anchorage, Alaska
- 2010: NACE AK Chapter presentation; Corrosion Mitigation of AWWU Infrastructure
- 2011: AWWMA Corrosion presentation: Corrosion Mitigation of AWWU Infrastructure
- 2011-2018: UAA ME 664, Corrosion Processes and Engineering course guest lecturer: Presented Corrosion Problems and Solutions in the Water & Wastewater Industry
- 2013: NACE International Corrosion Conference paper/presentation; DIP External Surface Preparation and Coatings for Buried Water Service from an Owner's Perspective
- 2013: NASTT No Dig presentation; Sewer Condition Assessment in the Far North
- 2023: AWWMA Presentation: Disinfection with On-Site Generation
- NACE International past certifications, 2016; (CP2-Cathodic Protection Technician, CIP2-Coating Inspector Level 2, CP3-Cathodic Protection Technologist successful test)
- Master's thesis; Aquatic toxicity of aircraft deicing runoff on adult fathead minnows, 2002
- Master's thesis work supported September 2003 EST paper; Nonylphenol Ethoxylates and other Additives in Aircraft Deicers, Anti-icers and Airport Runoff
- FEMA ICS 100 Certifications, 2013
- AK CESL and CPR past certifications, 2013, 2015
- OSHA 10 Hour Safety Course
- Volunteer Member of Local Road Service Area Board, 2022-present
- Volunteer high school wrestling coach, 2007-2009
- College summer internship at Abbott Laboratories Diagnostics Division, 1999

Exhibit 3

Docusign Envelope ID: C04BC1CE-4428-45FF-BC6C-F1930FFA46FD

MEMORANDUM OF UNDERSTANDING BETWEEN ANCHORAGE WATER AND WASTEWATER UTILITY AND ANCHORAGE HYDROPOWER UTILITY RE RESOLUTION OF CONFLICTS OF INTEREST

WHEREAS, Mark Corsentino has been appointed and confirmed as the general manager of Anchorage Water and Wastewater Utility (AWWU), but has also been appointed and confirmed as the director of Anchorage Hydropower Utility (AHU);

WHEREAS, Mark Schimscheimer is the Engineering Director of AWWU, but has also been designated to provide technical and engineering support to AHU;

WHEREAS, both AWWU and AHU utilize Eklutna Lake as part of their operations; AWWU as a source of drinking water and AHU as a hydropower production water source and storage; and

WHEREAS, AWWU currently purchases its water from the Eklutna Hydroelectric Owners ("Owners"), comprised of Chugach Electric Association, Inc., Matanuska Electric Association, Inc., and AHU;

WHEREAS, decisions regarding the management of AHU and AWWU may impact and conflict with the other utility, rendering it essential to address and resolve potential conflict issues that Mr. Corsentino and Mr. Schimscheimer may face in their performance of their duties;

WHEREAS, it is also necessary to apportion management expenses for both AWWU and AHU on a cost-causer, cost-payer basis;

NOW THEREFORE, AWWU and AHU agree as follows:

1. Mr. Corsentino and Mr. Schimscheimer shall not take any action in their roles as AWWU employees on issues that affect the interests, operations, or obligations of AHU. Specifically, in all instances of conflicting interest between AWWU and AHU:
    a. Mark Corsentino shall abstain from any decisions that need to be made by the General Manager of AWWU, and he shall instead act solely as director of AHU, with loyalty to AHU's interests.
    b. AWWU's interests shall be represented by, and the General Manager's authority delegated to, the AWWU Assistant General Manager (currently David Persinger).

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   c. Mr. Schimsheimer shall similarly abstain and his AWWU duties shall be delegated to another AWWU staff member. When acting on behalf of AHU, Mark Schimscheimer shall not act in his role as an employee of AWWU or represent AWWU's interests.
2. AHU may utilize Mr. Schimscheimer, at its own expense, to provide additional technical and engineering support of AHU operations.
3. AHU will have access to and right to use, at AHU's expense, contracts of the MOA to access technical and engineering expertise necessary to oversee and conduct operations.
4. To reflect this arrangement, Mr. Corsentino's and Mr. Schimscheimer's salaries shall be apportioned as follows, effective July 8, 2024:
   a. AWWU shall pay 80% of Mr. Corsentino's salary and AHU shall pay 20% of his salary; and
   b. AWWU shall pay 90% of Mr. Schimscheimer's salary and AHU shall pay 10% of his salary.

ANCHORAGE HYDROPOWER UTILITY

DocuSigned by:
E960BEA42A314B7...

7/18/2024

Mark Corsentino
Director
Anchorage Hydropower Utility

Date

ANCHORAGE WATER AND WASTEWATER UTILITY

DocuSigned by:
David Persinger
7D854C3A601F4B4...

7/18/2024

David Persinger
Delegated General Manager
Anchorage Water and Wastewater Utility

Date

MUNICIPALITY OF ANCHORAGE

Kent Kohlhase
Municipal Manager
Municipality of Anchorage

7/18/24

Date

Exhibit 4

MARK A. SCHIMSCHEIMER, PE

[redacted]

Education & Registration

BS - Civil Engineering; CSUC; 1993
MSPM - (Master of Science in Project Management) UAA, various classes
PE - State of Alaska, Civil Engineer 10955
PMP - Project Management Professional 1925650 (lapsed)
Arctic Engineering – University of Alaska, 1993
CDT - Contract Document Technologist, Construction Specification Institute (CSI)
IEDC/CDFA – Development Finance, various classes

Experience

2019-present: ***Director of Engineering, Anchorage Water and Wastewater Utility (AWWU):*** Responsible for a staff of 45 and annual budgets more than $50 million. Sections of the Engineering Division includes Development Services, Project Management, and Asset Management Planning. Utility serves a metropolitan population of 300,000, processes and distributes 50 MGPD of drinking water and process 45 MGPD of wastewater. Distribution and collection systems are deep-bury for frost conditions. All assets are located in a high seismic region. Step-up General Manager as required. Significant interface with Municipal Assembly, Administration, and State and Federal elected officials. Accomplishments include:

- Division & Utility reorganization: reconfigured division to achieve cost and deliverable efficiencies (eliminated former position).
- Pioneered utility first Public-Private Partnership to develop infrastructure in support of economic development projects

2017- 2019: ***Planning and Development Services Manager*** AWWU, Anchorage, Alaska. Responsible for special assessment districts, development services, real estate management, third party project coordination, and addressing miscellaneous public and utility concerns. Position requires diplomatic abilities towards conflict resolution and negotiations with municipal departments, government officials, and the public at large.

- Water Master Plan: 50,000 customers with a peak daily demand of 40 MGD.
- Risk and Resiliency Assessment: Federal requirements stipulate Assessment be completed to AWWA J100 standards by March 2020.
- Asset Management Plan(s): facility assessments, O&M procedures, break rates, ROI

2015: ***Managing Partner***: Alaska LNG Exporters, Anchorage, Alaska. In conjunction with international business partners created a Delaware based LLC with the goal of exporting excess and stranded Cook Inlet Basin natural gas to Pacific Rim customers. Formulated business plan, confidentiality agreements, and qualified investor presentations. Currently on hold pending Natural Gas price recovery.

2010- 2017: ***Managing Partner***: SMR Developers, Anchorage, Alaska. Formed in 2010, Owner and Managing Partner of a real estate development company. Responsible for all aspects of the corporation: Investor management, financing, accounting, subcontractor management, engineering & permitting, financial and risk analysis.

2013-2015: ***Project Manager***: NANA WorleyParsons, Anchorage, Alaska. Project Manager for mining and energy related projects. Clients include Teck Alaska, Pebble Limited Partnership (PLP) and ConocoPhillips Alaska (CPAI). Specific activities include preparation of proposals, management of work share partners, client interface and overall project management activities. Project types included green-field North Slope drill sites, power grid extensions, subcontracting (EPS), water treatment facilities and LNG handling facilities

2001-2013: ***Project Development Manager***: AIDEA/AEA, Anchorage, Alaska (AIDEA is a small capital-intensive enterprise investment corporation of the State of Alaska wherein each person has wide authority and responsibilities, AEA is a similar not-for-profit energy authority)

- AIDEA: Responsible for approximately $1 Billion of projects at any given time. Duties included all development (concept through execution and closure) and operational aspects of mining, power generation, and vertical construction projects financed by AIDEA.
- AEA: Bulk fuel upgrade and replacement projects throughout rural Alaska (20 projects with a value of $50 million). Responsible for all project phases from conception through close-out including contract negotiation, award and management of Multi-Discipline Design Contracts and Construction Management contracts.
- Projects included village to village electric interties, modular power plant size and placement, utility business agreements

Specific AIDEA activities included:

- Oversee the planning and conceptual design study for an Arctic deep-water port proposed to serve both the Red Dog Mine District and the Western Arctic Coal
- Responsible for an Arctic-grade ore concentrate trans-shipment
- Manage professional technical, legal and construction (EPC, CM, DB, DBB) and asset specific operations contracts
- Reviews all specialty inspection reports such as feasibility, design, design review, value engineering
- Facility inspection to observe condition, maintenance activities, and operation procedures
- Highly familiar with applicable regulations and permitting agencies (EPA, State) regarding NEPA, Clean Air Act, EIS, NPDES
- Negotiation of contracts and litigation settlements in excess of $150 million
- Healy Clean Coal, a 50MW coal-fired power plant: management of litigation team in an unresolved $175 million dispute, plant permitting, negotiation of power sales agreement, project development agreement, coal supply contract, O&M, custodial and transmission contracts, and various agreements and contracts as required. Negotiated sale of asset.
- Negotiated Consent Decree for Title V air permit for plant.

Specific AEA activities included:

- Authored and negotiated master Business Plan requiring sustainability of a rural Alaskan village utility (power & bulk fuel) that became a funding requirement of the Denali Commission. Interfaced with Denali Commission (Federal Agency), USDA/RUS funding program, HUD funding, State and Federal regulators, and village leaders and communities throughout Alaska.

- Authored program manual for $200 million energy program, created master funding schedule. Negotiated all aspects of the program with local leaders, and funding agencies (Federal & State Grants)

1998-2001: ***Project Manager****:* Arctic Slope Consulting Inc., (full time in Barrow) Barrow, Alaska (This company was a subsidiary of ASRC, sold to NANA and is now DBA WHPacific)

- Sr. Project Manager on all Alaska Arctic North Slope village water & sewer projects (approx. $350 million). Responsible for client contact (marketing), office workload management among various project managers, financial tracking and reporting, construction administration proposals & budgeting. Reorganized office and revised & updated document control system including creation of project control tracking procedures. Part of negotiation team on multiple $50 million projects.

- Owner's Construction Representative (OCR) on Alaska Arctic North Slope water and sewer projects for Pt Hope, Nuiqsut, & Anaktuvuk Pass (combined cost approx. $150 million). Projects included construction of sewer treatment and water treatment facilities, all direct-bury collection and distribution systems, and related auxiliary construction. Responsible for pay requests, DC/VRs, change orders, site visits, inspectors, and communication between the owner & the contractor.

1998: ***Superintendent, Surveyor***: UIC Construction, Inc., Anchorage, Alaska

- Site Supervisor and General Foreman for 20-person Alaska Native crew ($4 million per season). Responsibilities included all site paperwork, time sheets, quantity tracking, and scheduling, HR issues, interface with the owner's representative.
- Survey Party Chief on NSB Village Sewer and Water Projects (Anaktuvuk Pass & Pt. Lay). Included project layout, and substantial redesign work.

1994-1998: ***Project Engineer***: Bristol Environmental Services Corporation, Anchorage, Alaska (The business unit no longer exists in the same form)

- Environmental site investigations, geophysical surveys, product recovery systems, large-scale HAZMAT cleanups.
- Experience in environmental cleanup associated with Arctic production facilities

1995 (summer): ***Project Engineer***: South Coast, Inc., Ketchikan, Alaska (This company no longer exists)

- Survey Party Chief and Construction Engineer for Bethel runway rebuild project. ($4 million). Surveyor of road realignment and utilities placement ($1.5 million).
- Survey Party Chief and Construction Supervisor of new airport runway, apron, and access roads ($5.5 million).
- Surveyor for marine ferry terminal dock ($7.75 million). Redesigned highway alignment, drainage flows and culvert placement and utility conflicts on highway and bridge reconstruction project ($4 million).
- General Foreman on Petersburg seaplane float dredging and construction project ($2.5 million).

1993-1994: ***Project Engineer***: Arctic GeoScience, Inc., Anchorage, Alaska, (This company no longer exists)

- Engineered and designed drill pad and road system to support oil exploration activities in Arctic Russia. Design issues included geotechnical analysis, thermal analysis of permafrost stability, and layout of man-camp, flare pit, tank farm, and power modals.
- Served as CONOCO's on-site representative overseeing the winter construction of the system and the placement of the drill rig and ancillary equipment units.

Public Service Activities

- Chair, South Golden View Rural Road Service Area
    - Public Official, seat won through Municipal Election, April 2008, re-elected 2010, 2013, 2016
    - Annual budget $750K of direct tax revenue, grants of up to $4.5 million

- **Candidate for Assembly:** April 2016
- **Participant**: November 2014 Governor Walker/Mallott "Transition Team Member" for Consumer Energy Issues.
- **Participant**: June 2015 "Conversations with Alaskan", Fairbanks, Alaska. Three-day event to give feedback to the Administration on current budget issues and proposed solutions.
- **Storm Water Utility Steering Committee (2017-18)**: member representing rural road service areas

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Attorneys for Appellee Golden Valley Electric Association, Inc.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

Anchorage Municipal Assembly, Appellant, vs. Regulatory Commission of Alaska, et al., Appellees.	Case No. 3AN-24-06001CI

NOTICE OF NON-PARTICIPATION

PLEASE TAKE NOTICE that appellee, Golden Valley Electric Association, Inc., does not intend to participate in the appeal in this case. Golden Valley Electric Association, Inc. requests that it be kept on the service list so that it may receive orders, notices and pleadings as they are filed in the case.

Davis Wright Tremaine LLP
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DATED this 7th day of May, 2024.

Davis Wright Tremaine LLP
Attorneys for Appellee
Golden Valley Electric Association, Inc.

By Sarah M Gillstrom
Sarah Gillstrom, ABA #1003004

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Certificate of Service

On the 7th day of May, 2024, a true and correct copy of the foregoing document was sent by electronic mail, to the following parties:

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Notice of Utility Request

The REGULATORY COMMISSION OF ALASKA (Commission) gives notice that on July 18, 2024, the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP) filed a request that we acknowledge AHP's acquisition of the expertise required to fully participate as a voting member of the Eklutna Operating Committee (EOC). Docket No. U-24-024 was opened to address this matter.

AHP, Chugach Electric Association, Inc. (Chugach), and Matanuska Electric Association, Inc. (MEA) own the Eklutna Hydroelectric Project and operate it through the EOC. AHP is authorized under Certificate of Public Convenience and Necessity (Certificate) No. 780 to provide wholesale public electric utility service through its ownership share of the Eklutna Hydroelectric Project but currently does not have voting rights on the EOC. In Order U-19-021(39), the Commission required AHP to acquire the expertise required to fully participate as a voting member of the EOC before those voting rights could be reinstated.

You may obtain information about this request by contacting Dean Thompson, Counsel for AHP, at 255 East Fireweed Lane, Suite 200, Anchorage, AK 99503; phone: (907) 277-1604. The complete filing is also available for inspection at the Commission's office, 701 West 8th Avenue, Suite 300, Anchorage, AK, 99501; Phone: (907) 276-6222, or may be viewed at the Commission's website, http://rca.alaska.gov/ by typing Docket No. "U-24-024" in the *Find a Matter* search box.

To comment on this filing, please file your comments by 5:00 p.m., August 26, 2024, at the Commission's address above or via our website at:

https://rca.alaska.gov/RCAWeb/WhatsNew/PublicNoticesComments.aspx

Please reference Docket No. U-24-024 and include a statement that you have filed a copy of the comments with AHP at the address given above. Individuals or groups of people with disabilities, who require special accommodations, auxiliary aids or service, or alternative communications formats, please contact Naomi Johnston at (907) 276-6222, toll-free at 1-800-390-2782, TTY/Alaska Relay: 7–1–1 or 1 (800) 770-8973, or send a request via electronic mail to rca.mail@alaska.gov by August 19, 2024.

DATED at Anchorage, Alaska, this 26th day of July 2024.

REGULATORY COMMISSION OF ALASKA

John Paul Manaois

for John Paul Manaois (Jul 26, 2024 15:01 AKDT)
Robert A. Doyle
Chairman

REGULATORY COMMISSION OF ALASKA

Certification of Electronic Transmission

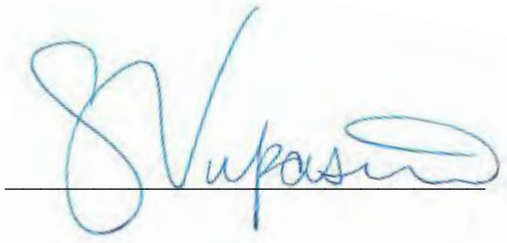
I, Samantha Vukasin, a Law Office Assistant III for the Regulatory Commission of Alaska, 701 West Eighth Avenue, Suite 300, Anchorage, Alaska, hereby certify that on July 30, 2024, I transmitted by electronic mail true and accurate copies of:

Order U-24-024(1)

ORDER DENYING REQUEST FOR DECISION IN 30 DAYS; DESIGNATING PARTIES; INVITING PARTICIPATION BY THE ATTORNEY GENERAL AND INTERVENTION; ADDRESSING TIMELINE FOR DECISION; SCHEDULING PREHEARING CONFERENCE; DESIGNATING COMMISSION PANEL; AND APPOINTING ADMINISTRATIVE LAW JUDGE
(Issued July 30, 2024)

to the persons set out on the attached email list.

DATED at Anchorage, Alaska, this 30th day of July, 2024.



Samantha.Vukasin@alaska.gov

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert A. Doyle, Chairman
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024 ORDER NO. 1

ORDER DENYING REQUEST FOR DECISION IN 30 DAYS; DESIGNATING PARTIES; INVITING PARTICIPATION BY THE ATTORNEY GENERAL AND INTERVENTION; ADDRESSING TIMELINE FOR DECISION; SCHEDULING PREHEARING CONFERENCE; DESIGNATING COMMISSION PANEL; AND APPOINTING ADMINISTRATIVE LAW JUDGE

BY THE COMMISSION:

Summary

We deny the request filed by the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP) for a decision in 30 days without prejudice to filing a motion for expedited consideration. We designate Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA) as parties, subject to filing a notice of non-participation. The chairman invites participation by the Office of the Attorney General (AG) and we invite intervention by interested persons. We address a timeline for a final decision in this proceeding. We schedule a prehearing conference. The chairman designates a Commission Panel and Commission Docket Manager and appoints an administrative law judge.

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
(907) 276-6222; TTY 1-800-770-8973

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
(907) 276-6222; TTY 1-800-770-8973

Background

The Eklutna Hydroelectric Project (Eklutna Project) is a 39-MegaWatt (MW) generation facility jointly owned by AHP (53.33%), Chugach (30%), and MEA (16.67%). The three utilities operate the Eklutna Project through the Eklutna Operating Committee (EOC). As part of its sale of most Municipal Light and Power Department (ML&P) assets to Chugach, the Municipality of Anchorage (Municipality) proposed retaining its ownership interest in the Eklutna Project under a new business name. The Municipality indicated that it would retain no employees qualified to sit on the EOC. Under these circumstances, we could not unconditionally find that the Municipality was managerially or technically fit to maintain a majority ownership interest in the Eklutna Project. We allowed the Municipality to maintain its ownership interest in the Eklutna Project subject to the condition that it surrender its vote on the EOC.[1]

However, we stated AHP could regain those voting rights if certain conditions were met:

> We can only find that [the Municipality] is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without [the Municipality] having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as [the Municipality] has shown to our satisfaction that [the Municipality] has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit [the Municipality] from attending EOC meetings, but may not allow [the Municipality] any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[2]

---

[1]Order U-18-102(44)/U-19-020(39)/U-19-021(39), *Order Accept Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third-Party Sales Gas Pricing; and Requiring Filings*, dated May 28,2020 (Order U-18-102(44)), at 60-67.

[2]Order U-18-102(44) at 67.

The Municipality surrendered its voting rights on the EOC effective October 27, 2020.[3] We issued Certificate of Public Convenience and Necessity No. 780 authorizing AHP to provide Wholesale Electric Service from the Eklutna Project on April 9, 2021.[4] On July 18, 2024, AHP filed a petition requesting that we acknowledge its acquisition of the expertise required to participate as a voting member of the EOC and reinstatement of those voting rights.[5]

Discussion

Request for Early Decision

AHP requests that we acknowledge that it has acquired the expertise required to participate as a voting member of the EOC within 30 days of the date it filed its Request. The only justification provided for this request is to "facilitate timely certainty regarding reinstatement of voting rights."[6]

AS 42.05.175(i) states in relevant part:

> In adjudicated docket matters that come before the commission under state law or federal law and are not subject to a timeline under federal law or (a) – (e) of this section, the commission shall issue a final order not later than 180 days after the filing of an initiating petition.

3 AAC 48.091(g) states:

> In a separate motion, a party may move for expedited consideration of its principal motion by requesting relief in less time than would normally be required for the commission to issue a decision. If the party files electronically under 3 AAC 48.095, the party shall also use the commission's website features to indicate that the filing includes a motion for expedited consideration, if the motion is required to be submitted with

[3] *Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights*, filed October 30, 2020, in Dockets U-18-102, U-19-020, U-19-021, and the Tariff filing designated as TA379-121.

[4] Certificate of Public Convenience and Necessity No. 780.

[5] *Notice and Request for Acknowledgments of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee,* filed July 18, 2024 (Request).

[6] Request at 1, 9.

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> the filing. A failure to properly indicate that the filing includes a motion for expedited consideration may delay commission review of the request. Courtesy copies of an electronically filed motion, regardless of when or how they are received by the commission, will not be considered part of the official record of the proceeding, and the commission will not base a timeline upon their receipt. The motion must
>
> (1) be captioned "Motion for Expedited Consideration";
>
> (2) comply with other applicable provisions of this section;
>
> (3) include an affidavit or other evidence showing the facts that justify expedited consideration and the date by which a decision on the principal motion is needed;
>
> and (4) if the motion requests a decision before the usual time for response to the motion, include a certificate indicating when and how the opposing party was served with the motion, or, if the opposing party was not notified, what efforts were made to notify the opposing party and why it was not practical to notify the opposing party in a manner and at a time that a response could be made; in the certificate, the moving party shall indicate the position of the other parties on the request for expedited consideration if that position is known by the party.

With its Request, AHP is asking for a decision in this matter within less time than we are required to issue a final order under AS 42.05.175(i). AHP failed to file a motion for expedited consideration with its Request, or otherwise provide evidence showing facts that justify expedited consideration of its Request. Therefore, we deny that portion of AHP's Request seeking a decision in this matter within 30 days of the date the Request was filed. This denial is without prejudice to AHP's filing a motion for expedited consideration in this matter consistent with the requirements of 3 AAC 48.091(g).

Designation of Parties

The Eklutna Project is an integral part of the generation and transmission system providing electric public utility service to consumers in the Municipality of Anchorage and the Matanuska-Susitna Borough. Chugach and MEA are the certificated public utilities with responsibility for providing safe and reliable electric utility services to these consumers. Chugach and MEA are also part-owners of the Eklutna Project and members of the EOC who will have to work directly with AHP if we reinstate AHP's voting

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rights on the EOC. Additionally, we relied on the expertise of Chugach in determining that we needed to condition the Municipality's continued ownership of an interest in the Eklutna Project on surrender of its EOC voting rights.[7]

Therefore, we designate Chugach and MEA as parties, subject to filing a notice of non-participation, and anticipate being informed by their expertise on the question of whether AHP has acquired the expertise required to fully participate as a voting member of the EOC.

Participation by AG and Petitions to Intervene

We believe it is in the public interest for the AG to participate in this proceeding as a party. The chairman invites the AG to do so.[8]

We invite others with an interest in this proceeding to consider filing a petition for permission to intervene as a party after examining 3 AAC 48.110.

Decision Timeline

In adjudicated docket matters that come before the Commission under state or federal law and are not subject to a timeline under federal law or AS 42.05.175(a)–(e), we are required by AS 42.05.175(i) to issue a final decision not later than 180 days after the filing of an initiating petition. Therefore, we will issue a final order in this proceeding no later than January 14, 2025.

Prehearing Conference

We schedule a prehearing conference to establish a procedural schedule and address any other matters that may expedite the orderly conduct and disposition of

[7]Order U-18-102(44) at 65-67.

[8]AS 42.04.070(c).

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this proceeding. We will hold a prehearing conference at 10:00 a.m. on Thursday, August 29, 2024, via Cisco WebEx video conferencing.[9]

Any representative, witness, or public person wishing to participate in the prehearing conference should email our law office assistants at LOA.RCA@alaska.gov to request an invitation by 12:00 p.m., Tuesday, August 27, 2024

Commission Panel

The chairman designates Commissioners John M. Espindola, Robert M. Pickett, and John C. Springsteen and himself as the Commission Panel and further designates Commissioner Springsteen as the Commission Docket Manager for this docket.[10]

Administrative Law Judge

Under AS 42.04.070(b), the chairman appoints Administrative Law Judge James L. Walker to facilitate conduct of the docket. Orders issued by the administrative law judge will be considered orders of the Commission for purposes of petitions for reconsideration.

ORDER

THE COMMISSION FURTHER ORDERS:

[9]If you are a person with a disability who may need a special accommodation, auxiliary aid or service, or alternative communication format in order to participate in the scheduled event, please contact Naomi Johnston at 1-907-276-6222, toll free at 1-800-390-2782, or TTY/Alaska Relay: 7-1-1 or 1-800-770-8973, or send your request by electronic mail to rca.mail@alaska.gov by Tuesday, August 27, 2024.

Teleconferencing can be arranged if requested in advance of the scheduled conference by contacting the Law Office Assistants at 907-276-6222 or LOA.RCA@alaska.gov. Please note that all visitors must sign in and out at the front desk when visiting the RCA.

[10]Under AS 42.04.080(a), the chairman designates a Commission Panel to hear, or, if a hearing is not required, to otherwise consider and decide docketed matters.

Regulatory Commission of Alaska
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1. The request for a decision in 30 days by the Municipality of Anchorage d/b/a Anchorage Hydropower is denied without prejudice to filing a motion for expedited consideration in conformance with 3 AAC 48.091.

2. Chugach Electric Association, Inc. and Matanuska Electric Association, Inc. are designated as parties to this docket subject to filing a notice of non-participation by Tuesday, August 27, 2024, 2024.

3. By Tuesday, August 27, 2024, interested persons may file a petition to intervene in accordance with 3 AAC 48.110.

4. A prehearing conference is scheduled to convene at 10:00 a.m Thursday, August 29, 2024, via Cisco WebEx as discussed in the body of this order.

5. Commissioners Robert A. Doyle, John M. Espindola, Robert M. Pickett, and John C. Springsteen are designated as the Commission Panel for this docket.

6. Commissioner John C. Springsteen is designated as the Commission Docket Manager for this docket.

7. James L. Walker is appointed as the administrative law judge for this docket.

DATED AND EFFECTIVE at Anchorage, Alaska, this 30th day of July, 2024.

BY DIRECTION OF THE COMMISSION

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RECEIVED
By the Regulatory Commission of Alaska on Aug 02, 2024

From: Brenda Hewitt
To: Mail, RCA (RCA sponsored)
Subject: Anchorage Muni and RCA
Date: Friday, August 2, 2024 10:07:08 AM
Attachments: RCA letter to RCA.pdf

You don't often get email from bhewitt@eklutna.org. Learn why this is important

CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please see the attached letter in support of the Municipality of Anchorage receiving their voting rights back for the Anchorage Hydropower.

Brenda Hewitt
Tribal Administrator
Native Village of Eklutna
(907) 390-9336
bhewitt@eklutna.org

RECEIVED
By the Regulatory Commission of Alaska on Aug 02, 2024

NATIVE VILLAGE OF EKLUTNA

Robert Doyle
Chairman
Regulatory Commission of Alaska
701 West 8th Ave. Ste #300
Anchorage, Alaska 99501

Via email rca.mail@alaska.gov

Re: Docket Number U-~~19~~ 24SN-024

Dear Chairman Doyle:

The Native Village of Eklutna strongly endorses the return of the Anchorage Hydropower's voting rights on the Eklutna Operating Committee (EOC). We believe the Municipality of Anchorage has retained an individual with the required expertise to fully participate as a voting member of the EOC.

We have filed a statement with Alaska Hydropower at 255 East Fireweed Lane, Suite 200, Anchorage, Alaska, 99503 as well.

Thank you for the RCA's consideration.

Sincerely,

Aaron Leggett

Aaron Leggett
President
Native Village of Eklutna

Cc: Dean Thompson
Counsel for Alaska Hydropower

26339 Eklutna Village Rd. • Chugiak, Alaska 99567 • (907) 688-6020 • Fax (907) 688-6021

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Attorneys for the Appellant Anchorage Assembly

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	)	Case No. 3AN-24-06001CI

NOTICE OF COMPLETION OF THE RECORD ON APPEAL

Appellant Anchorage Municipal Assembly hereby provides notice that the agency record on appeal is complete and was transmitted to the Court on May 31, 2024. The record on appeal consists of Bates numbered documents R. 000001-

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024936 and Confidential Documents R. 024937-025666, as well as seven volumes of unlabeled Transcripts, designated as Transcripts Parts 1-7.

DATED: August 5, 2024.

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

_____

Andrew Erickson, Alaska Bar No. 1605049
Leslie R. Need, Alaska Bar No. 0712113
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CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2024, a copy of the foregoing was served by email to the following:

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/s/ Riza Smith

_____
Riza Smith, Legal Assistant

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RECEIVED
By the Regulatory Commission of Alaska on Aug 07, 2024

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert A. Doyle, Chairman
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

ENTRY OF APPEARANCE

Please take notice that JC Croft, Assistant Attorney General, hereby enters his appearance on behalf of the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section, and requests that all notices and pleadings be sent to him at the following address:

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DATED August 7, 2024, at Anchorage, Alaska.

TREG TAYLOR
ATTORNEY GENERAL

By: JC Croft
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Alaska Bar No. 1711060

CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2024, a true and correct copy of the Office of the Attorney General's **Entry of Appearance** (Croft) was served via e-mail on the following:

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Arthur Miller, Chief Executive Officer
Deborah Gardino
Cona Carroll
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/s/ Deborah A. Mitchell
Deborah A. Mitchell
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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert A. Doyle, Chairman
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

ENTRY OF APPEARANCE

Please take notice that Jeffrey J. Waller, Chief Assistant Attorney General, hereby enters his appearance on behalf of the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section, and requests that all notices and pleadings be sent to him at the following address:

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DATED August 7, 2024, at Anchorage, Alaska.

TREG TAYLOR
ATTORNEY GENERAL

By: /s/ Jeffrey J. Waller
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Alaska Bar No. 0703005

CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2024, a true and correct copy of the Office of the Attorney General's **Entry of Appearance** (Waller) was served via e-mail on the following:

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Arthur Miller, Chief Executive Officer
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RECEIVED
By the Regulatory Commission of Alaska on Aug 07, 2024

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert A. Doyle, Chairman
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

NOTICE OF ELECTION TO PARTICIPATE

The Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA) gives notice that RAPA elects to participate as a party to this docket. This notice is provided under authority of AS 44.23.020(e).

DATED August 7, 2024, at Anchorage, Alaska.

TREG TAYLOR
ATTORNEY GENERAL

By: /s/ Jeffrey J. Waller

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CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2024, a true and correct copy of the **Office of the Attorney General's Notice of Election to Participate** was served via e-mail on the following:

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Matthew Clarkson, VP & Gen Counsel
Arthur Miller, Chief Executive Officer
Deborah Gardino
Cona Carroll
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Attorneys for the Appellant Anchorage Assembly

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	)	Case No. 3AN-24-06001CI

MOTION FOR SCHEDULING CONFERENCE

Appellant Anchorage Municipal Assembly respectfully moves this Court to hold a scheduling conference in this appeal. There are several issues that should be addressed in a scheduling conference, including the complexity of this appeal and

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the possibility that a decision may be needed on an expedited basis. The Assembly requests that this Court order a scheduling conference be held during the week of August 19-23, 2024.

DATED: August 9, 2024.

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

Andrew Erickson, Alaska Bar No. 1605049
Leslie R. Need, Alaska Bar No. 0712113
Jackson Morawski, Alaska Bar No. 2310113

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CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2024, a copy of the foregoing was served by email to the following:

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	)	Case No. 3AN-24-06001CI

(PROPOSED) ORDER GRANTING MOTION FOR SCHEDULING CONFERENCE

Appellant Anchorage Municipal Assembly's Motion for Scheduling Conference is GRANTED. Counsel for all parties that intend to participate in this appeal shall appear at a scheduling conference to be held on _____, 2024, at _____ a.m./p.m. in Courtroom _____, Nesbett Courthouse, Anchorage, Alaska.

IT IS SO ORDERED.

DATED this _____ day of _____, 2024, at Anchorage, Alaska.

_____
The Honorable Jack R. McKenna
Superior Court Judge

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From:	Walker, Jim L (RCA)
To:	RCA Commissioners; RCA Administrative Law; RCA Law Office Assistants; RCA Records & Filing; Manaois, John Paul R (RCA); Saupe, Megan J (RCA); Egan, Erin K (LAW); ddt@khe.com; acb@khe.com; Waller, Jeffery J (LAW); Croft, JC (LAW); Matthew.Clarkson@chugachelectric.com; david.pease@mea.coop; kwparker@hollandhart.com; JLTipton@hollandhart.com
Subject:	RE: Correction to Order U-24-024(2) (Anchorage Hydropower)
Date:	Wednesday, August 14, 2024 10:34:11 AM

BY ORDER OF ADMINISTRATIVE LAW JUDGE JAMES L. WALKER

The order below went out with the correct order number in the Subject line, and the wrong order number in the body of the text. That error is corrected in this re-distribution of Order U-24-024(2).

From: Walker, Jim L (RCA) <jim.walker@alaska.gov>
Sent: Wednesday, August 14, 2024 9:54 AM
To: RCA Commissioners <Commissioners.RCA@alaska.gov>; RCA Administrative Law <ALS.RCA@alaska.gov>; RCA Law Office Assistants <LOA.RCA@alaska.gov>; RCA Records & Filing <Records.RCA@alaska.gov>; Manaois, John Paul R (RCA) <john.paul.manaois@alaska.gov>; Saupe, Megan J (RCA) <megan.saupe@alaska.gov>; Egan, Erin K (LAW) <erin.egan@alaska.gov>; ddt@khe.com; acb@khe.com; Waller, Jeffery J (LAW) <jeff.waller@alaska.gov>; Croft, JC (LAW) <JC.Croft@alaska.gov>; Matthew.Clarkson@chugachelectric.com; david.pease@mea.coop; kwparker@hollandhart.com
Subject: Order U-24-024(2) (Anchorage Hydropower)

BY ORDER OF ADMINISTRATIVE LAW JUDGE JAMES L. WALKER

Order U-24-024(2)

ORDER VACATING AND RESCHEDULING PREHEARING CONFERENCE

By Order U-24-024(1), a prehearing conference was scheduled in this proceeding for 10:00 a.m. on August 29, 2024 via Cisco WebEx video conferencing. Counsel for the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP) requested that this prehearing conference be rescheduled by one day to avoid conflict with a Federal Bar Association conference scheduled for August 29, 2024. I reviewed the Commission's calendar, conferred with the Commission Panel, and determined that 2:00 p.m. on August 30, 2024, was available for the prehearing conference in this proceeding. I forwarded AHP's request to counsel for AHP, the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA), and designated parties Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA), and inquired if it would be acceptable to reschedule the prehearing conference to 2:00 p.m. on August 30, 2024. Counsel for AHP responded that holding the prehearing conference at 2:00 p.m. on August 30, 2024, was acceptable to AHP. Counsel for RAPA responded that holding the prehearing conference at 2:00 p.m. on August 30, 2024, was acceptable to RAPA so long as the conference was concluded by 3:00 p.m. Counsel for Chugach and MEA have

not responded.

In the absence of objection and to accommodate the rescheduling request of AHP I vacate the prehearing conference scheduled in this proceeding for 10:00 a.m. on August 29, 2024, and reschedule that prehearing conference for 2:00 p.m. on August 30, 2024. The purpose of this prehearing conference will be to establish a procedural schedule and address any other matters that may expedite the orderly conduct and disposition of this proceeding. This prehearing conference will be held via Cisco WebEx video conferencing. If you are a person with a disability who may need a special accommodation, auxiliary aid or service, or alternative communication format in order to participate in the scheduled event, please contact Naomi Johnston at 1-907-276-6222, toll free at 1-800- 390-2782, or TTY/Alaska Relay: 7-1-1 or 1-800-770-8973, or send your request by electronic mail to rca.mail@alaska.gov by Tuesday, August 27, 2024. Participation in the teleconference can be arranged by request in advance of the scheduled conference by contacting the Law Office Assistants at 907-276-6222 or LOA.RCA@alaska.gov. Please note that all visitors must sign in and out at the front desk when visiting the RCA.

I electronically notified the following:

AHP
Dean D. Thompson (ddt@khe.com)
Ashley C. Brown (acb@khe.com)

RAPA
Jefferey J. Waller (jeff.waller@alaska.gov)
JC Croft (jc.croft@alaska.gov)

Chugach
Matthew C. Clarkson (matthew_clarkson@chugachelectric.com)

MEA
David Pease (david.pease@mea.coop)
Kyle W. Parker (kwparker@hollandhart.com)

This order can be reconsidered in its current form within the time established by regulation.

Please place a copy of this order in the formal file in this proceeding.

James L. Walker
Administrative Law Judge
Regulatory Commission of Alaskaa
701 W. 8th Avenue, Suite 300
Anchorage, AK 99501

Phone: 907.263.2190
Email: jim.walker@alaska.gov

RECEIVED
By the Regulatory Commission of Alaska on Aug 15, 2024

STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Robert A. Doyle, Chairman
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

CHUGACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S ENTRY OF APPEARANCE

Please take notice that Todd G. Glass and Stephanie McFall enter their appearance as counsel on behalf of Chugach Electric Association, Inc. and Matanuska Electric Association, Inc., with respect to the Municipality of Anchorage d/b/a Anchorage Hydropower's petition for acknowledgment that it has acquired the expertise required to participate as a voting member of the Eklutna Operating Committee, filed on July 18, 2024.

We request that all pleadings and other documents in the above captioned docket be served upon them at:

Todd G. Glass
Stephanie McFall
Wilson Sonsini Goodrich & Rosati, P.C.
701 Fifth Avenue, Suite 5100
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smcfall@wsgr.com

Please also provide a courtesy copy of pleadings and discovery to Adam M. Fryer at afryer@wsgr.com. Please also note that Matthew Clarkson (Chugach Electric

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PHONE 206.883.2500

Association, Inc.) and David Pease (Matanuska Electric Association, Inc.) should remain on the service list, but Donald W. Edwards may be removed.

RESPECTFULLY SUBMITTED this 15th day of August, 2024.

By: /s/ Todd G. Glass
Todd G. Glass, Alaska Bar # 1810083
Stephanie McFall

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Attorneys for Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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By: /s/ Adam M. Fryer
Adam M. Fryer

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OFFICE OF THE GOVERNOR
Governor Mike Dunleavy
STATE OF ALASKA

August 15, 2024

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Mr. Aaron Leggett
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The Honorable Suzanne LaFrance
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Mr. Curtis Thayer
Executive Director
Alaska Energy Authority
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RE: Final Proposed Fish and Wildlife Program, Eklutna Hydro Project

Dear Parties:

On behalf of Governor Dunleavy, thank you for your recent submissions concerning the Final Proposed Fish and Wildlife Program for the Eklutna Hydro Project in accordance with the 1991 Fish and Wildlife Agreement (Agreement). The Governor is cognizant of the importance of this issue to all involved. Pursuant to his responsibilities under the Agreement – to review the final proposed program and attempt to reconcile differences – the Governor wants to obtain additional

information from the parties to the Agreement, and the Native Village of Eklutna, concerning the Owners' final proposed program and all subsequently received comments.

With the assistance of the Alaska Department of Law, I will conduct a meeting on the Governor's behalf where each of you can present your position, respond to questions about the submissions, and make arguments on various legal issues that have arisen in the submissions. Although your participation is not mandatory, your involvement will certainly assist the Governor in rendering his decision as required by the Agreement.

Accordingly, the meeting is scheduled for September 9, 2024, at 1 P.M., in the North Conference Room on the 17th floor of the Atwood Building. This meeting is not open to the public, and due to space limitations, each party will be permitted to bring two representatives, including attorneys, that may participate concerning the legal issues outlined below. Each party will be provided 15 minutes to present their position on the program and legal issues. For this purpose, the Owners' group will be allotted two 15 minute slots divided as follows: a combined 15 minutes for Chugach Electric Association, Inc. (CEA) and Matanuska Electric Association, Inc. (MEA); and 15 minutes for the Municipality of Anchorage (MOA). Additionally, the Fish and Wildlife Service, the National Marine Fisheries Service, the Alaska Energy Authority, and the Native Village of Eklutna will each be provided with 15 minutes for a presentation. Your attendance is encouraged, even if your party chooses not to provide a presentation.

To adequately prepare for the meeting, I request each of the parties, and the Native Village of Eklutna, provide a legal brief (Brief) to share your perspective on the following issues:

1. The Governor is required to give equal consideration to eight factors identified in Section 5 of the Agreement. Please identify how the proposed final program or an alternate program promoted by any other parties, or the Native Village of Eklutna, does or does not meet those eight factors.
2. Does the Agreement require complete connection between the river and the lake to support fish passage?
3. Is MOA Assembly approval required for approval of the Owners' program?
4. What effect, if any, did the MOA's lack of a vote on the Owners' program have on the process set forth in the Agreement?
5. Does the Governor have the authority under the Agreement to impose a two-year extension on the process as requested by the MOA?
6. Whether the Owners and Anchorage Water and Wastewater Utility ("AWWU") have reached a final and binding agreement concerning the use of AWWU infrastructure as outlined in the Owners' program. If a final agreement has not been reached, what effect will that have on the Owners' ability to implement the final proposed program?

The Briefs shall be limited to 25 pages per party. Similar to above, for purposes of the Briefs CEA and MEA are considered one party and should submit a joint Brief. Please submit Briefs via email to rachel.bylsma@alaska.gov, with a copy to all parties, and the Native Village of Eklutna, by close of business on September 4, 2024. Parties shall not submit responses to the submission of other parties. If a party does not plan to submit a Brief, please let me know in advance of the deadline. Your attendance and participation is encouraged, even if your party

chooses not to submit a Brief. For questions regarding the meeting please contact Gene Hickey, Senior Assistant Attorney General, at 907-465-6713 or via email at gene.hickey@alaska.gov. Please RSVP by August 29, 2024, and provide the names of your attendees to Juliana Soane at 907-269-7450 or via email at juliana.soane@alaska.gov.

The Governor appreciates the efforts of all involved and we look forward to the meeting on September 9, 2024.

Sincerely,

Rachel Bylsma
Deputy Chief of Staff

RECEIVED
By the Regulatory Commission of Alaska on Aug 15, 2024

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Robert A. Doyle, Chair
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S, MOTION FOR EXPEDITED CONSIDERATION OF REQUEST FOR ACKNOWLEDGMENT OF ACQUISITION OF EXPERTISE REQUIRED TO PARTICIPATE AS A VOTING MEMBER OF THE EKLUTNA OPERATING COMMITTEE

Pursuant to 3 AAC 48.091(g), the Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") respectfully moves for expedited consideration of its July 18, 2024, Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee ("Request for Acknowledgment"). For the reasons stated below, AHP requests that the Regulatory Commission of Alaska ("Commission") require written briefing on the Request for Acknowledgment, conduct a hearing for Commission questions if necessary, and issue a decision on AHP's Request for Acknowledgment by no later than **October 2, 2024**. This motion is supported by the August 15, 2024, Affidavit of Mark A. Corsentino, P.E.,[1] and Exhibits 1-6.

[1] "Corsentino Affidavit."

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Counsel for AHP consulted with counsel for Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("MEA"), and the Attorney General, Regulatory Affairs & Public Advocacy Section ("RAPA"). Chugach did not reply to AHP by the time of this filing. Counsel for MEA represented that MEA opposes AHP's Motion for Expedited Consideration. RAPA does not oppose expedited consideration or AHP's proposed schedule.

I. Proposed Schedule

AHP proposes the following schedule in this matter to provide the parties and the Commission time to consider AHP's Request for Acknowledgment and for the Commission to issue a decision no later than October 2, 2024:

August 30, 2024: Prehearing Conference (already scheduled)

September 11, 2024: Responses to AHP's Request for Acknowledgment due

September 18, 2024: AHP reply to responses due

September 23, 2024: Parties available for Commission questions as required

October 2, 2024: Issuance of Order regarding Request for Acknowledgment

AHP proposes the following schedule for responses to this Motion for Expedited Consideration, which will provide the other parties adequate time to prepare their responses to AHP's Request for Acknowledgment if this Motion for Expedited Consideration is granted:

August 19, 2024 Responses to Motion for Expedited Consideration due

August 20, 2024 AHP Reply for the Motion for Expedited Consideration due

August 23, 2024 Issuance of Decision on Motion for Expedited Consideration

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II. Discussion

On July 18, 2024, AHP requested that the Commission provide written acknowledgment that AHP had acquired the expertise required to participate as a voting member of the Eklutna Operating Committee ("EOC"). AHP requested that the Commission issue acknowledgment within 30 days, in order to facilitate reasonably timely certainty regarding reinstatement of voting rights.[2] The Commission denied the request for a decision in 30 days, stating that a final order would be issued no later than January 14, 2025, pursuant to AS 42.05.175(i).[3] The Commission noted that the denial of the request for a decision in 30 days was, "without prejudice to AHP's filing a motion for expedited consideration in this matter consistent with the requirements of 3 AAC 48.091(g)."[4]

AHP moves for expedited consideration of this matter so that AHP can begin to meaningfully participate on the EOC—in particular, with any planning and budgeting decisions that will commence as a result of the Governor's establishment of a final Fish and Wildlife Program ("Final Program"), pursuant to the August 8, 1991, "Fish and Wildlife Agreement Snettisham and Eklutna Projects" ("1991 Fish and Wildlife Agreement"), by October 2, 2024.[5]

---

[2] *Id.* at 1.

[3] Order No. 1, at 3-4.

[4] *Id.* at 4.

[5] Corsentino Aff. ¶ 3; Exhibit 1, 1991 Fish and Wildlife Agreement (Section 7). Pursuant to Section 7 of the August 8, 1991, "Fish and Wildlife Agreement Snettisham and Eklutna Projects," ("1991 Fish and Wildlife Agreement"), the "consultation process leading to the [Fish and Wildlife Program] shall **be initiated no later than 25 years** after the Transaction Date," which is **October 2, 2022,** because the **Transaction Date was October 2, 1997**. *Id.* (emphasis added). The Study Plans referenced in the 1991 Fish and Wildlife Agreement "shall include a **schedule for the**

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Therefore, AHP respectfully requests that the Commission issue a final decision regarding AHP's Request for Acknowledgment no later than October 2, 2024.

A. Expedited consideration is required because the EOC will soon be making significant decisions about operations, maintenance, and budgeting related to the issuance of the Final Program, regardless of how the Governor acts on the Proposed Program.

Once the Governor issues a Final Program, implementation of the program by the Eklutna Project owner utilities (AHP, Chugach, and MEA) is scheduled to begin no later than October 2, 2027.[6] The EOC will therefore need to begin making decisions related to operation, maintenance, and budgeting for the Final Program.[7] The Governor might choose to adopt the Proposed Final Fish & Wildlife Program submitted to Governor Dunleavy on April 25, 2024

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consultation, comments, and decisionmaking, called for in [the 1991 Fish and Wildlife Agreement], which shall be adopted by the parties in consultation with the Governor." *Id.* (emphasis added). That **schedule** "shall call for **implementation** of all provisions of the Fish and Wildlife Program [(Final Program")] by the Eklutna Purchasers **to begin** no later than **30 years** after the Transaction Date," which is **October 2, 2027**. *Id.* (emphasis added). That schedule also shall call for the Fish Final Program "to be **completed** no later than **35 years** after the Transaction Date," which is **October 2, 2032**. *Id.* (emphasis added). That schedule also "shall call for the issuance of the [Final Program] by the Governor at least **three years prior** to the **commencement** of the period for implementation," which is **October 2, 2024**. *Id.* (emphasis added). A copy of the Fish and Wildlife Agreement and other documents relevant to the process under the Fish and Wildlife Agreement can be found at https://eklutnahydro.com/background/ and https://eklutnahydro.com.

[6] *Id.*

[7] Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) (May 28, 2020) at 61 ("Order No. 39") (describing duties of the EOC); Corsentino Aff. ¶ 5. Many of these tasks will require long-lead planning, permitting, evaluation, etc., and binding votes by the EOC on those matters. *Id.*

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("Proposed Program"),[8] adopt an alternative idea submitted to him,[9] or issue a Final Program that contains some, or none, of the proposed ideas before him. Regardless of how the Governor acts on the Proposed Program, EOC decisions will need to be made promptly.[10] For instance, the Proposed Program contemplates a one-time payment of $234,000 to Chugach State Park for lakeside trail repairs will occur within 120 days of the Governor's approval or by January 31, 2025 (whichever comes later).[11] It also contemplates commencing a detailed feasibility study of installing a fixed wheel gate within three years of the Governor's issuance of a Final Program.[12]

Further, whether the Final Program is the same as, or different from, the Proposed Program, the EOC will need to commence planning and decisions to implement the Final Program. For instance, in June 21, 2024, public comments to the Governor, the Native Village of Eklutna ("NVE") proposed an alternative final program ("NVE Proposal") that would involve construction of a pump station that takes water from the bottom of Eklutna Lake, discharging it in "the glacial moraine area upstream of the dam," then releasing the water "downstream through the existing dam outlet gate instead of the [Anchorage Water and Wastewater Utility ("AWWU")] Portal Valve

[8] Corsentino Aff. ¶ 7; Exhibit 2, "Proposed Final Fish and Wildlife Program," April 25, 2024. The full submission, including a cover letter to the Governor, explanatory statement, supporting information document, and attachments can be found at https://eklutnahydro.com/documents/#April2024Final|1. Corsentino Aff. ¶ 8.

[9] For example, the Native Village of Eklutna ("NVE") proposed an alternative final program in its June 21, 2024, comments to the Governor. Corsentino Aff. ¶ 8; Exhibit 3, June 21, 2024, Native Village of Eklutna Comments on Proposed Final Program ("NVE Comments").

[10] Corsentino Aff. ¶ 5.

[11] Exhibit 2 at 16.

[12] *Id.* at 21-22.

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facility."[13] NVE noted in its public comments that under its proposal, "the Eklutna Project Owners would have two years from [the Governor's] decision to design and permit [its proposed "Eklutna River Release Facility] (no later than Oct. 2, 2026)."[14] In addition, the MOA has supported use of "two years of the three-year implementation period to identify an alternative infrastructure and engineering solution . . ." as set out in Anchorage Assembly Resolution 2024-218(S) and Mayor LaFrance's July 9, 2024, letter to Governor Dunleavy.[15] If one of these alternative proposals were adopted by the Governor, the EOC would need topromptly begin making decisions related to operation, maintenance, and budgeting to implement the proposal according to schedule.

The EOC typically prepares and discusses the next year's (e.g., 2025) operating and capital budgets for the Eklutna Project starting in September/October, and they are voted on by the end of the year.[16] Therefore, regardless of what Final Program is issued by the Governor, the need for the EOC to expeditiously commence decision-making to implement any such program (including 2025 costs) will be certain. AHP, as a majority interest owner of the Project, should be able to actively engage and vote on such important financial commitments.[17]

Additionally, any Final Program will likely require there to be significant coordination and consultation with AWWU. For instance, the Proposed Program includes

[13] Exhibit 3, June 21, 2024, NVE Comments at 5.

[14] *Id.*

[15] Corsentino Aff. ¶ 9; Exhibit 4, MOA Comments dated July 22, 2024, at 4 (AR 2024-28(S), As Amended); *Id.* at 7-8 (AM 557-2024(A)).

[16] Corsentino Aff. ¶ 4.

[17] *Id.*

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construction of a new valve and release structure adjacent to the existing AWWU portal valve.[18] As noted in the Proposed Program, AWWU approval would need to be obtained on all final designs, and resolution of water transportation services, compensation, and water rights issues will need to be resolved in order to use AWWU infrastructure.[19] In order to avoid delays, discussions with AWWU would need to commence promptly if the Proposed Program were adopted. This potential for prompt discussions to commence with AWWU is likely regardless of the nature of the Final Program.[20]

AHP previously attached to its Request for Acknowledgment a Memorandum of Understanding between AWWU and AHP ("Memorandum") that establishes that in any instance of conflicting interests between AHP and AWWU, Mr. Corsentino will act solely as director of AHP, and AWWU's interests will be represented by the AWWU Assistant General Manager.[21] However, if the Commission determines in the course of this matter that any additional procedures are needed to clarify the independence of AHP's EOC representative, those procedures should be in place *before* decisions are made by the EOC regarding whatever program the Governor issues, as virtually any potential program will require early coordination with AWWU. This will ensure that Mr. Corsentino will be able to serve as AHP's EOC representative in full compliance with any requirements from the Commission.

[18] Exhibit 2, Proposed Program at 9.

[19] *Id.* at 10.

[20] Corsentino Aff. ¶ 6.

[21] Exhibit 3 to AHP's Notice and Request for Acknowledgment.

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B. Expedited consideration is required because AHP will be responsible for a portion of the costs of decisions that the EOC will soon make regarding the Final Program.

Expedited consideration is also required because AHP will be responsible for a portion of the costs resulting from EOC decisions about operations, maintenance, and capital investments for any Final Program issued by the Governor. AHP, even now, without voting representation on the EOC, is responsible for 19.05% of Eklutna Project operations, maintenance, capital, and environmental compliance costs ("Eklutna Project Costs").[22] AHP's 19.05% share of Eklutna Project Costs comprises the portion of AHP's share of project output that it sells to MEA through the MEA Purchase Power Agreement ("PPA").[23] Expedited consideration is necessary so that AHP can participate in cost decisions that will occur following issuance of a Final Program by the Governor. This is true even if, as contemplated for the Proposed Program, AHP's share of Eklutna Project Costs is expected to be less than its revenues as a result of the Chugach and MEA PPAs.[24] First, final costs could exceed expected costs, whatever program is adopted as final.

[22] Corsentino Aff. ¶ 11.

[23] Order No. 39 at 76; Appendix H to Order No. 39, MEA Purchase Power Agreement ("MEA PPA" in Order No. 39) at 5. Pursuant to the Eklutna PPA, Chugach receives 64.29% of AHP's share of output, and also has "the obligation to pay a proportionate share of [AHP's] Eklutna Project costs, including capital and Fish and Wildlife Agreement costs, for the 35-year term of the Eklutna PPA." Order No. 39 at 73. Thus, Chugach is responsible for 64.29% of Eklutna Project Costs (costs related to the 64.29% of AHP's 53.33% ownership interest share of output which Chugach receives, as well as costs related to Chugach's own 33% project ownership interest). Finally, MEA is responsible for 16.67% of Eklutna Project Costs (MEA's ownership interest). *Id.* at 60.

[24] *See, e.g.,* Exhibit 5, Response to Comments on Proposed Final Program, July 24, 2024 at 27; Corsentino Aff. ¶ 10.

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Second, even if AHP's costs do not exceed PPA revenues, expedited consideration will still ensure that AHP can be part of the decision-making for these important cost decisions, providing input that could assist the other project owners and provide AHP with a voice in capital and operational cost decisions.

Further, depending on what program the Governor adopts as the Final Fish and Wildlife Program, AHP's costs—even only in the short term—could potentially exceed its revenues. Based on AHP's 2024 approved budget,[25] there are scenarios that could be selected by the Governor in which the annualized costs of AHP's share of any Final Program costs would exceed future revenues, even with the $3,000,000 fund that AHP created to support Eklutna Project capital expenditures.[26]

AHP cannot increase Eklutna Project revenues to address increased costs resulting from any Final Program. Through the MEA PPA, AHP receives revenues based on MEA's Avoided Cost Rate.[27] Pursuant to the Eklutna PPA with Chugach, AHP receives payments yearly from Chugach, pursuant to a schedule set out in the PPA.[28] Because the payments from the PPAs with MEA and Chugach are not based in any part on AHP's actually incurred costs, the costs of

[25] Exhibit 6, "2024 Approved Utility/Enterprise Budget for Anchorage Hydropower"; Corsentino Aff. ¶ 12.

[26] Corsentino Aff. ¶ 12; Order 39 at 65 (requiring AHP to "maintain a $3,000,000 reserve fund to support the Eklutna Project capital expenditures it is obligated to make under the MEA PPA").

[27] Corsentino Aff. ¶ 11; Order No. 39 at 62, Order 39, Appendix H (MEA PPA) at 45.

[28] Corsentino Aff. ¶ 11; Order 39, Appendix D (Eklutna PPA) at 48-49.

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any Final Program could exceed PPA revenues, potentially impacting AHP and the MOA budget.[29] Without a vote on the EOC, AHP has no control over these costs, which could impact whether its PPAs remain profitable. Expedited consideration will ensure that AHP's Utility Director will timely participate in implementation of the Final Fish and Wildlife Program and decision-making regarding any such costs.

C. A Commission decision by October 2, 2024, will not prejudice the other parties.

Issuance of a decision by October 2, 2024, will not prejudice the other parties. The other parties and the public will have ample time to provide input through the public comment period, which ends August 26, 2024, and through the briefing schedule for parties proposed in this Motion for Expedited Consideration. If the Commission issues a decision on AHP's Request for Acknowledgment in this matter by October 2, 2024, AHP will have a voice on the EOC regarding budgeting and implementation of the Final Fish and Wildlife Program. Its participation and input will not only benefit AHP and the MOA, but also the other owners of the Eklutna Project and the public.

The only issue in this docket is a straightforward one—whether AHP "has shown to [the Commission's] satisfaction that [it] has acquired the expertise required to fully participate as a voting member of the EOC."[30] AHP's proposed expedited schedule provides ample time for parties to brief the issue after the conclusion of the public comment period, and for AHP and the

[29] Corsentino Aff. ¶ 11, 12.

[30] Order 39 at 67.

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other parties to be available for any questions the Commission might have on the topic before making its decision.

III. Conclusion

For the reasons discussed above, AHP respectfully requests that the Commission grant AHP's Motion for Expedited Consideration, and issue a decision on the Request for Acknowledgment by October 2, 2024, pursuant to the schedule proposed above. AHP suggests that any additional scheduling issues can be discussed at the August 30, 2024, prehearing conference.

RESPECTFULLY SUBMITTED this 15th day of August, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: */s/ Dean D. Thompson*

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VERIFICATION

I, Dean D. Thompson, say on oath or affirm that I have read the foregoing document and believe all statements made in the document are true.

By: _____
Dean D. Thompson

SUBSCRIBED AND SWORN to or affirmed before me at Anchorage, Alaska, on this 15th day of August, 2024.

JOHN A. LEMAN NOTARY PUBLIC STATE OF ALASKA

_____
Notary Public in and for the State of Alaska
My commission expires: 6-9-27

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CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
By: */s/ Ashley Brown*
Ashley Brown

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert A. Doyle, Chair
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

AFFIDAVIT OF MARK A. CORSENTINO, P.E.

STATE OF ALASKA)
) **SS:**
)

Mark A. Corsentino, P.E., being first duly sworn, deposes and states:

1. I have personal knowledge of the facts set forth in this affidavit.

2. I am the Utility Director of Anchorage Hydropower ("AHP"). I previously served as a non-voting member of the Eklutna Operating Committee ("EOC") in a non-voting capacity for AHP from approximately January 2022 until September 2023. I am familiar with utility decision-making processes in general, and the EOC decision-making process in particular.

3. Pursuant to Section 7 of the August 8, 1991, "Fish and Wildlife Agreement Snettisham and Eklutna Projects," ("1991 Fish and Wildlife Agreement"), the "consultation process leading to the [Fish and Wildlife Program] shall **be initiated no later than 25 years** after the Transaction Date," which is **October 2, 2022,** because the **Transaction**

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Date was October 2, 1997. The Study Plans referenced in the 1991 Fish and Wildlife Agreement "shall include a **schedule for the consultation, comments, and decisionmaking**, called for in [the 1991 Fish and Wildlife Agreement], which shall be adopted by the parties in consultation with the Governor." That **schedule** "shall call for **implementation** of all provisions of the Fish and Wildlife Program [(Final Program")] by the Eklutna Purchasers **to begin** no later than **30 years** after the Transaction Date," which is **October 2, 2027**. That schedule also shall call for the Fish Final Program "to be **completed** no later than **35 years** after the Transaction Date," which is **October 2, 2032**. That schedule also "shall call for the issuance of the [Final Program] by the Governor at least **three years prior** to the **commencement** of the period for implementation," which is **October 2, 2024**. **Exhibit 1** is a true and accurate copy of the 1991 Fish and Wildlife Agreement.

4. In addition to the above, the EOC typically prepares and discusses the 2025 operating and capital budgets for the Eklutna Project starting in September/October, and they are voted on by the end of the year. AHP, as a majority interest owner of the Project should be able to actively engage and vote on such important financial commitments.

5. Once a Final Program is issued by October 2, 2024, the EOC will need to start making decisions regarding engineering, planning, budgeting, funding, and legal issues and challenges for implementation of the Final Program, which must begin by October 2, 2027. Many of these tasks will require long-lead planning, permitting, evaluation, etc., and binding votes by the EOC on those matters.

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6. As part of EOC decision-making to implement any potential Final Program, consultation and discussion with Anchorage Water and Wastewater Utility ("AWWU") will be necessary, and will need to commence promptly.

7. **Exhibit 2** is a true and accurate copy of the "Proposed Final Fish and Wildlife Program," April 25, 2024 ("Proposed Program"). The full submission, including a cover letter to the Governor, explanatory statement, supporting information document, and attachments, can be found at: https://eklutnahydro.com/documents/#April2024Final|1.

8. **Exhibit 3** is a true and correct copy of the June 21, 2024 Native Village of Eklutna Comments on Proposed Final Program ("NVE Comments").

9. **Exhibit 4** is a true and correct copy of the Municipality of Anchorage ("MOA") Comments dated July 22, 2024.

10. **Exhibit 5** is a true and correct copy of the July 24, 2024, "Response to Comments on Proposed Final Program."

11. AHP is responsible for 19.05% of Eklutna Project operations, maintenance, capital, and environmental compliance costs ("Eklutna Project Costs"). Through the Matanuska Electric Association Purchase Power Agreement ("MEA PPA"), AHP receives revenues based on MEA Avoided Cost Rate.[1] Pursuant to the Eklutna Purchase Power Agreement ("Eklutna PPA") with Chugach Electric Association, Inc. ("Chugach"), AHP receives payments yearly from Chugach pursuant to a schedule set out in Exhibit

[1] Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) (May 28, 2020) at 62 ("Order No. 39"), Appendix H (MEA PPA) at 45.

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D to the PPA.[2] Because the revenues from the PPAs with MEA and Chugach are not based on AHP's costs, AHP's portion of costs for any Final Program could potentially exceed PPA revenues.

12. **Exhibit 6** is a true and correct copy of the "2024 Approved Utility/Enterprise Budget for Anchorage Hydropower." Based on AHP's 2024 approved budget, there are scenarios that could be selected by the Governor in which the annualized costs of AHP's share of any Final Program could exceed future annual revenues, even with the $3,000,000 fund which AHP created to support Eklutna Project capital expenditures. In other words, if AHP's expenses exceed its revenues, MOA could be responsible for the difference.

13. This completes my affidavit.

Dated this 15th day of August, 2024 at Anchorage, Alaska.

Mark A. Corsentino, P.E.

Utility Director, Anchorage Hydropower

Subscribed and sworn to before me

this 15th day of August, 2024

Deatra Davidson

Notary Public

STATE OF ALASKA
NOTARY PUBLIC
Deatra Davidson
My Commission Expires Mar 26, 2025

My commission expires 03/26/2025

[2] *Id.* at Appendix D (Eklutna PPA) at 48-49.

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Exhibit 1

August 7, 1991

Fish and Wildlife Agreement

Snettisham and Eklutna Projects

Municipality of Anchorage
d/b/a Anchorage Municipal Light and Power

Chugach Electric Association, Inc.

Matanuska Electric Association, Inc.

Alaska Energy Authority

United States Department of Commerce
National Marine Fisheries Service

United States Department of Interior
Fish and Wildlife Service

State of Alaska

AGREEMENT

AGREEMENT BETWEEN
THE MUNICIPALITY OF ANCHORAGE,
DBA ANCHORAGE MUNICIPAL LIGHT AND POWER,
CHUGACH ELECTRIC ASSOCIATION, INC.,
MATANUSKA ELECTRIC ASSOCIATION, INC.,
U.S. FISH AND WILDLIFE SERVICE,
NATIONAL MARINE FISHERIES SERVICE,
ALASKA ENERGY AUTHORITY,
AND THE
STATE OF ALASKA,
RELATIVE TO THE EKLUTNA AND SNETTISHAM
HYDROELECTRIC PROJECTS

This Agreement is entered into on August 7, 1991, between The Municipality of Anchorage, dba, Anchorage Municipal Light and Power, Chugach Electric Association, Inc., and Matanuska Electric Association, Inc. (hereinafter collectively "Eklutna Purchasers"), the United States Fish and Wildlife Service (hereinafter "USFWS"), the National Marine Fisheries Service (hereinafter "NMFS"), the Alaska Energy Authority (hereinafter "AEA") and the State of Alaska (hereinafter "the State"), regarding protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat) affected by hydroelectric development of the Eklutna and Snettisham Projects. With respect to the implementation provisions called for in this Agreement, the Eklutna Purchasers will be responsible for the consultation, study and implementation provisions applicable to the Eklutna Project and AEA shall be responsible for the consultation, study and implementation provisions applicable to the Snettisham Project.

WITNESSETH THAT:

WHEREAS, subject to the approval of Congress, the Eklutna and Snettisham Projects will be transferred from the Federal Alaska Power Administration to the Eklutna Purchasers and AEA (collectively, "the Purchasers") without the necessity of their having to obtain a Federal Energy Regulatory Commission (FERC) License for project operation; and

WHEREAS, the Eklutna and Snettisham hydroelectric developments may have resulted in a yet to be quantified impact to fish and wildlife resources; and

WHEREAS, concerns have been expressed that without FERC licensing, there is no opportunity to determine the extent of that fish and wildlife impact, develop measures to protect, mitigate

damages to, and enhance fish and wildlife (including related spawning grounds and habitat), and implement fish and wildlife measures found to be in the public interest.

NOW THEREFORE, the parties agree as follows:

1. **FERC Licensing.**

NMFS, USFWS and the State agree that the following mechanism to develop and implement measures to protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat) obviate the need for the Eklutna Purchasers and AEA to obtain FERC licenses.

2. **Study Plan.**

The Purchasers agree to fund studies to examine, and quantify if possible, the impacts to fish and wildlife from the Eklutna and Snettisham Projects. The studies will also examine and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by such hydroelectric development. This examination shall consider the impact of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use, as well as available means to mitigate these impacts.

3. **Carrying Out The Study Plan.**

Study Plans shall be developed by the Purchasers in consultation with the USFWS, NMFS, the Alaska Department of Fish and Game, the Alaska Department of Environmental Conservation and the Alaska Department of Natural Resources (the "State Resource Management Agencies"), or their successors to aid in the formulation of the Program called for in this Agreement. Prior to implementation, the parties to this Agreement shall review the plans and concur with their scope of work.

The Purchasers shall conduct the studies and prepare the evaluations called for in the plans, seeking input from the USFWS, NMFS, the State Resource Management Agencies and other interested parties as the studies progress. The USFWS, NMFS, and State Resource Management Agencies shall have an opportunity to comment on draft study reports, and their comments and a response to their comments shall be included in the final study reports. All study plans, data, reports and comments will be made available to the parties and, upon request, to the public.

4. **Review of Findings.**

After final study reports are prepared, the Purchasers shall prepare a draft Summary of Study Results and prepare a draft Fish and Wildlife Program. The draft Fish and Wildlife Program shall consist of the measures recommended by the Purchasers for the protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat) and set a tentative schedule for their implementation. The Purchasers shall provide copies of the draft Summary and draft Fish and Wildlife Program to the USFWS, NMFS, and State Resource Management Agencies for comments or recommendations. If USFWS, NMFS, or the State Resource Management Agencies' comments or recommendations differ from those of the Purchasers, the Purchasers will attempt to resolve such differences giving due weight to the recommendations, expertise, and statutory responsibilities of USFWS, NMFS, and the State Resource Management Agencies.

Once comments and recommendations have been received, the Purchasers shall hold at least one public meeting each in Anchorage and the Matanuska Valley (with respect to the Eklutna Project) and in Juneau (with respect to the Snettisham Project) to receive public comment on the draft Summary, the draft Fish and Wildlife Program, and the comments and recommendations of the USFWS, NMFS, and the State Resource Management Agencies. At least thirty days prior to the proposed public meetings, copies of the draft Fish and Wildlife Program, reports and recommendations will be distributed to representative public libraries in the Anchorage and Matanuska Valley areas (in the case of the Eklutna Project) and in the Juneau area (in the case of the Snettisham Project). Public notice will also be posted in at least two newspapers serving the Anchorage and Matanuska Valley areas (for Eklutna) and the Juneau area (for Snettisham). The public notice shall specify meeting places, times and dates; where studies, reports and recommendations may be obtained for review; and where written comments may be sent. The Purchasers will provide copies of the draft Summary, draft Fish and Wildlife Program, and the comments and recommendations of the USFWS, NMFS, and State to interested members of the public at no charge.

5. **Public Interest Determination.**

The Purchasers shall compile all comments and testimony received; prepare a summary and analysis of them; develop a Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources; and prepare an explanatory statement describing the basis for its Proposed Final Fish and Wildlife Program. All comments, testimony, summary, and analysis materials and the Proposed Final Fish and Wildlife Program shall be provided to the parties to this Agreement and to the Governor

of Alaska. The parties shall have 60 days to submit written comments on the proposed Fish and Wildlife Program, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources, to the Governor. The Purchasers shall have 30 days to submit written reply comments to the Governor.

The Governor shall review the Proposed Final Fish and Wildlife Program, the comments, testimony, summary and analysis materials, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources. The Governor shall attempt to reconcile any differences between the parties, giving due weight to the recommendations, expertise, and statutory responsibilities of USFWS, NMFS, the State Resource Management Agencies and the Purchasers. In order to ensure that Eklutna and Snettisham are best adapted for power generation and other beneficial public uses, the Governor shall give equal consideration to the purposes of efficient and economical power production, energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), the protection of recreation opportunities, municipal water supplies, the preservation of other aspects of environmental quality, other beneficial public uses, and requirements of State law. Based on his/her review and consideration, the Governor shall establish a final Fish and Wildlife Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources (including affected spawning grounds and habitat) affected by the Eklutna Project and the Snettisham Project.

6. **Implementation**.

The Purchasers shall implement the Fish and Wildlife Program established by the Governor, subject to their right to judicial review as provided in Section 9 hereof. However, the Purchasers will implement all provisions of the Program that do not require major capital expenditures pending judicial review, unless otherwise agreed among the Parties or unless a stay is granted by the Court.

7. **Schedule**.

The consultation process leading to the Programs shall be initiated no later than 25 years after the Transaction Date specified in the respective Eklutna and Snettisham Agreements. The Study Plans shall include a schedule for the consultation, comment, and decision making, called for in this Agreement, which shall be adopted by the parties in consultation with the Governor. The schedule shall call for implementation of all provisions of the Fish and Wildlife Program by the Eklutna Purchasers to begin no

later than 30 years after the Transaction Date, and to be completed no later than 35 years after the Transaction Date. The schedule shall call for implementation of all provisions of the Fish and Wildlife Program by AEA (Snettisham) to begin no later than 35 years after the Transaction Date, and to be completed no later than 40 years after the Transaction Date. The schedules shall call for the issuance of the Fish and Wildlife Program by the Governor at least three years prior to the commencement of the period for implementation.

The Purchasers shall repeat the process called for in Sections 2 through 6 of this Agreement on a recurring basis every 35 years, beginning within 25 years of the time implementation of the Fish and Wildlife Program has been completed for the prior consultation process. In addition, prior to undertaking any major structural or operational modification substantially affecting water usage or fish and wildlife at the projects, the Purchasers shall follow the process called for in Sections 2 through 6 of this Agreement. Compliance with the terms of the Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, entered into between the Alaska Power Administration and the Municipality of Anchorage on February 17, 1984, as amended by a Supplemental Agreement dated August 2, 1988, shall not be construed to be a major structural or operational modification. However, the Eklutna Purchasers will discuss major structural or operational changes from current operations with NMFS and USFWS and will consider any recommendations they have for fisheries mitigation related to such changes.

8. **Dam Construction, Modification, Removal or Abandonment.**

The Purchasers agree to comply with 11 AAC 93.151-.201 with respect to safety inspections, new construction or modifications to existing structures, removal and/or abandonment of all or part of the project.

9. **Enforcement of Fish and Wildlife Program and Agreement.**

The provisions of this Agreement, including the decisions of the Governor and the provisions of the Fish and Wildlife Program, shall be reviewable and enforceable in the United States District Court for the District of Alaska and the Court may order specific performance thereof.

At least thirty days prior to seeking review or enforcement in the United States District Court for the District of Alaska, a party shall send written notice of its concerns to all parties and hold a meeting to attempt informal resolution of its concerns. During the period of informal resolution, any statute of limitations shall toll.

10. Authority of Parties.

Each party to this Agreement warrants that it has the legal authority to sign this Agreement and be fully bound by its terms, subject to any administrative or regulatory approval, if required. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns.

11. Term of Agreement.

This Agreement shall be effective, as to each project, upon the Transaction Date specified in the respective Purchase Agreement and shall remain in full force and effect so long as that project remains in operation. The Agreement shall terminate, as to either project, if that Project becomes subject to the provisions of the Federal Power Act.

12. Severability.

If any section, paragraph, clause or provision of this Agreement or any agreement referred to in this Agreement shall be finally adjudicated by a court of competent jurisdiction or administrative agency to be invalid or unenforceable as to either project, the Agreement shall nonetheless remain in full force and effect as to the other project.

13. Cooperation With Studies.

The Parties agree that they will cooperate with one another in conducting studies pertaining to fish and wildlife other than those called for in this Agreement by:

a. Notifying and consulting with the other parties before beginning a new fish and wildlife study,

b. Providing each other with data on flows, fish populations, and other data already in their possession,

c. Having the option of funding fish and wildlife studies before the process called for in Sections 2 and 3 of this Agreement would otherwise require, whether such studies are conducted by the parties themselves, or by third parties.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

MUNICIPALITY OF ANCHORAGE, DBA ANCHORAGE MUNICIPAL LIGHT & POWER

By: _____ 7/30/91
Tom Fink, Mayor — Date

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____ 7/30/91
Thomas D. Humphrey, President — Date

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____ 7/29/91
Jess Lee, President — Date

ALASKA ENERGY AUTHORITY

By: _____ 8-1-91
Charles Bussell, Executive Director — Date

U.S. DEPARTMENT OF COMMERCE, NATIONAL MARINE FISHERIES SERVICE

By: _____ JUL 12 1991
John A. Knauss, Under Secretary of Commerce for Oceans and Atmopshere — Date

U.S. DEPARTMENT OF INTERIOR, FISH AND WILDLIFE SERVICE

By: _____ 7/19/91
For S. Scott Sewell, Principal Deputy Assistant Secretary for Fish and Wildlife and Parks — Date

STATE OF ALASKA

By: _____ 8/7/91
Walter Hickel, Governor — Date

Exhibit 2

Eklutna Hydroelectric Project

Proposed Final Fish and Wildlife Program

April 2024

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Terms, Acronyms, and Abbreviations

1991 Agreement	1991 Fish and Wildlife Agreement
ADEC	Alaska Department of Environmental Conservation
ADFG	Alaska Department of Fish and Game
ADNR	Alaska Department of Natural Resources
AEA	Alaska Energy Authority
AWWU	Anchorage Water and Wastewater Utility
cfs	cubic feet per second
Draft Program	Draft Fish and Wildlife Program
fish and wildlife measures	PME measures for fish and wildlife
Final Program	Final Fish and Wildlife Program
Governor	Governor of Alaska
mgd	million gallons per day
MW	megawatt
NMFS	National Marine Fisheries Service
NVE	Native Village of Eklutna
Parties	Chugach, MEA, MOA, NMFS, USFWS, and the State of Alaska
PME measures	protection, mitigation, and enhancement measures
Project	Eklutna Hydroelectric Project
Project Owners	Chugach, MEA, and MOA
Proposed Final Program	Proposed Final Fish and Wildlife Program
USFWS	U.S. Fish and Wildlife Service

1.0 Introduction

The Eklutna Hydroelectric Project (Project) is located in Southcentral Alaska, approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna (NVE). The federal government completed construction of the Project in 1955. Decades later, Chugach Electric Association, Matanuska Electric Association, and the Municipality of Anchorage (collectively the "Project Owners") agreed to purchase the Project and entered into a Purchase Agreement with the federal government in 1989. Shortly thereafter, concerns were raised about the Project's potential impacts on fish and wildlife. This led to the execution of a binding agreement in 1991 (referred to as the "1991 Agreement") amongst the Project Owners, National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the State of Alaska (collectively the "Parties") that requires the Project Owners to (1) study the Project's impacts to fish and wildlife, (2) develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the development of the Project, (3) consider the impact of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use, and (4) identify available means to mitigate these impacts. The Project Owners must repeat this process every 35 years and it replaces regulation by the Federal Energy Regulatory Commission. The sale of the Project was authorized by U.S. Congress in 1995, and the Project was sold to the Project Owners in October 1997.

Per the 1991 Agreement, the Project Owners were required to initiate this process no later than 25 years after the sale of the Project. Since the Project was sold in October 1997, the Project Owners were not required to initiate this process until October 2022. However, in order to allow adequate time for a comprehensive analysis, the Project Owners initiated the process in March 2019, more than three years early. After several years of study and consultation with all interested stakeholders detailed in the Supporting Information Document, the Project Owners issued a Draft Fish and Wildlife Program (Draft Program) as required in the 1991 Agreement in October 2023. The Project Owners met with the Parties and the Native Village of Eklutna several times from December 2023 through March 2024 to attempt to resolve differences. They also held six public meetings in January 2024 to solicit public comments. After considering all comments received, and giving due weight to the recommendations and expertise of the Parties and the Native Village of Eklutna, the Project Owners have developed this Proposed Final Fish and Wildlife Program (Proposed Final Program) for submittal to the Governor.

Accordingly, the Project Owners are excited for the next phase of the Project. Details of the Proposed Final Program are described in subsequent sections and include the following:

- Construction of the Eklutna River Release Facility and establishment of year-round instream flows in the Eklutna River;
- Automation of the existing outlet gate at the dam to provide periodic channel maintenance flows in the Eklutna River;
- Construction of eight new bridges along the Anchorage Water and Wastewater Utility (AWWU) access road to enable AWWU's access to critical infrastructure year-round following the establishment of instream flows;
- Payment to Chugach State Park for lakeside trail repairs;
- Establishment of a Committee to oversee implementation of the Monitoring and Adaptive Management Plan;
- Funding to conduct monitoring studies in the Eklutna River throughout the 35-year program;
- Funding for physical habitat enhancement in the Eklutna River based on the monitoring results;
- Procedures for the Committee to adaptively manage the flow regime in the Eklutna River based on the monitoring results;
- Provisions for banking water in Eklutna Lake and potentially increasing the water budget for instream flows in the future;
- Potential installation of a fixed wheel gate to accommodate higher inflows in the future and/or allow higher channel maintenance flows if needed; and
- Potential installation of upstream and downstream fish passage facilities that meet specific criteria.

Approval of the Proposed Final Program will enable the Project Owners to implement these significant fish and wildlife measures at the Project, while simultaneously protecting the municipal water supply and continuing to provide low cost, renewable energy to Southcentral Alaska. The Project Owners anticipate the Governor's issuance of a Final Fish and Wildlife Program by October 2024.

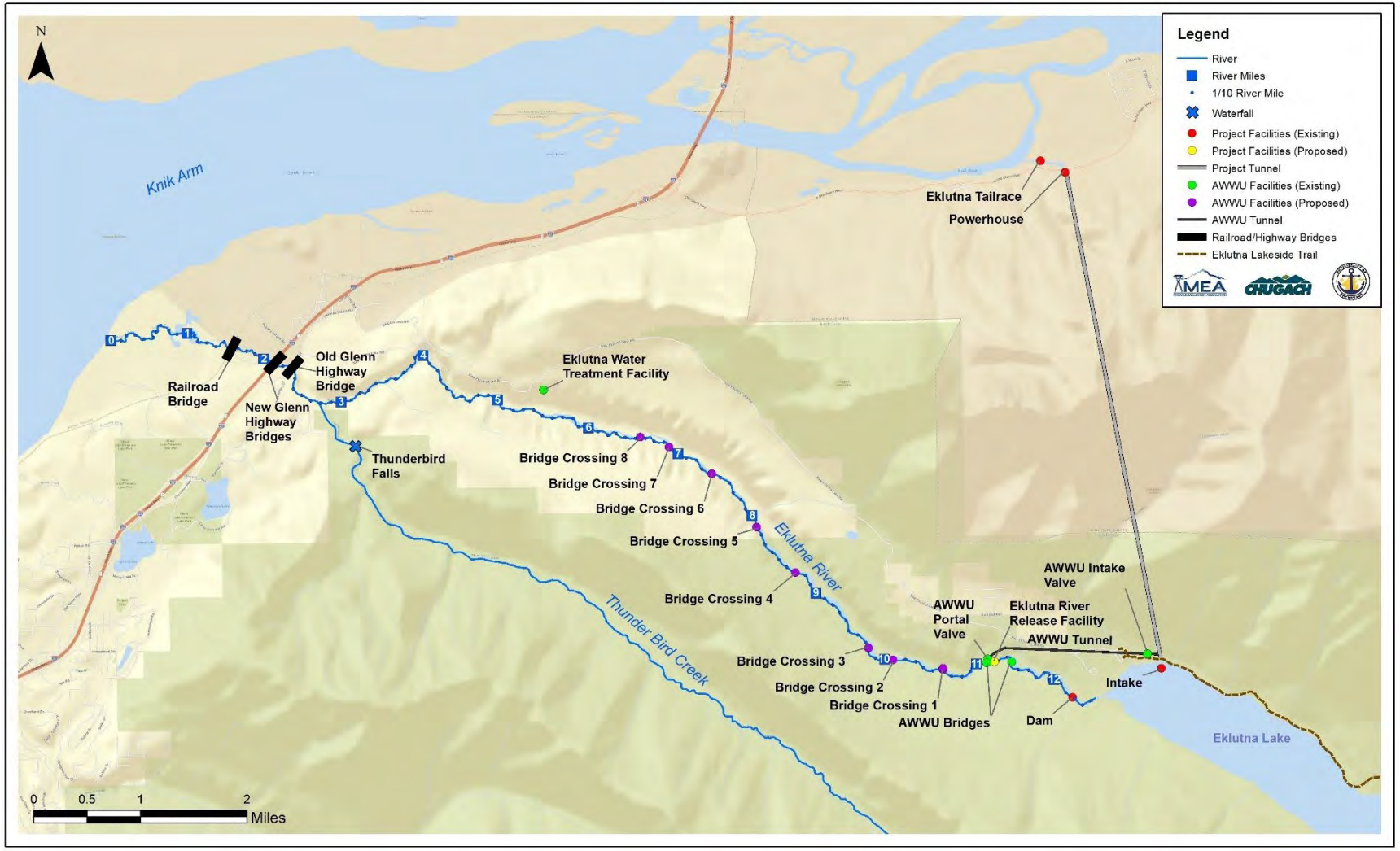


Figure 1-1. Existing and Proposed Infrastructure.

2.0 Protection, Mitigation, and Enhancement Measures

The Project Owners will continue to operate the Project in a manner consistent with the current operating procedures. In addition, The Project Owners will implement the following protection, mitigation, and enhancement (PME) measures for fish and wildlife habitat, the municipal water supply, and recreational facilities.

2.1 Year-Round Instream Flows

2.1.1 Eklutna River Release Facility

In order to provide year-round instream flows to the Eklutna River for fish and wildlife habitat, the Project Owners will construct a new valve and release structure located adjacent to the existing Anchorage Water and Wastewater Utility (AWWU) portal valve approximately one mile downstream of Eklutna Dam. The proposed infrastructure, referred to as the Eklutna River Release Facility, will consist of a tee off the existing 54-inch pipeline that conveys water from Eklutna Lake as part of AWWU's Eklutna Water Project and new control valves to bypass water into the Eklutna River. The 30% design drawings for the Eklutna River Release Facility are provided in the Supporting Information Document. The infrastructure included as part of the 30% level of design for the Eklutna River Release Facility is as follows:

- Construction of a new isolation gate structure immediately upstream of the AWWU portal valve shaft;
- Replacement of approximately 25-ft of existing pipeline with a newly fabricated steel 54-inch x 42-inch tee;
- Installation of a 54-inch gate valve on the main segment of pipe intended to provide dual means of isolation for AWWU's pipeline segment P-4;
- Installation of a 42-inch gate valve on the branch segment intended to provide isolation to the river release structure;
- Installation of a draining and filling system around each isolation valve;
- Installation of a pressure monitoring system and flow meter to provide dual redundancy to AWWU's portal release valve facility;
- Construction of a new river release structure approximately 30-ft downstream of the isolation gate structure;

- Installation of a 30-inch sleeve valve or alternative energy dissipation valve to control flow into the Eklutna River;
- Installation of a flow monitoring system to monitor flow releases into the Eklutna River;
- Construction of a bypass channel from the river release structure to the Eklutna River; and
- Upgrades to communication infrastructure to provide direct communication between the Eklutna River Release Facility, AWWU portal valve shaft, AWWU intake valve shaft, Eklutna Water Treatment Facility, and the Eklutna Power Plant.

The addition of this release facility on the existing Eklutna Water Project will not reduce or impact flow available for water supply purposes, as required by state law. Flow releases through the facility will be limited to a maximum of 80 cfs to protect the AWWU valves and pipeline. The closure rate of the proposed river release valve will be set to keep transient pressures within the rating of the lake diversion tunnel and AWWU pipeline. Additional instrumentation including new flow meters and pressure transducers will be installed to monitor the new facility and protect AWWU infrastructure in the event of an emergency.

The current design allows the AWWU pipeline to be dewatered for maintenance, and in the event of a pipeline rupture, it allows for emergency closure at the AWWU portal valve, in both cases allowing continued operation of the Eklutna River Release Facility. Any maintenance activities that may be required to replace the intake valve shaft will be planned for the fall when the lake level is high and instream flows can be released through the existing outlet gate at the dam.

The Project Owners have closely coordinated with AWWU throughout the preliminary design of the Eklutna River Release Facility and will obtain AWWU approval on all final designs related to AWWU infrastructure. The Project Owners and AWWU have also discussed the water transportation services, compensation, and water rights issues that need to be resolved in order to utilize AWWU infrastructure for providing instream flows to the Eklutna River. A summary of proposed arrangements with AWWU is set forth in the Supporting Information Document. Upon the Governor's approval, the Project Owners will enter into long-term agreements with AWWU following, and subject to, all necessary approvals. If such approvals are delayed or are not able to be obtained, the Project Owners will continue with the other PME measures outlined in this program to the degree possible.

2.1.2 Default Year-Round Instream Flow Regime

Once construction is complete, the Project Owners will utilize the existing Project intake, excess capacity in the AWWU tunnel, and new Eklutna River Release Facility to provide year-round instream flows to approximately 11 out of 12 miles of the Eklutna River. The default year-round instream flow regime, shown in Table 2-1 and Figure 2-1, varies seasonally and was developed based on field studies and modeling.

Table 2-1. Default Year-Round Instream Flow Regime.

Month	Flow (cfs)	Volume (acre-feet)
January	27	1,660
February	27	1,500
March	27	1,660
April	27	1,607
May	34	2,060
June	40	2,380
July	40	2,460
August	40	2,460
September	40	2,380
October	40	2,460
November	34	1,993
December	27	1,660
Total	-	**24,280**

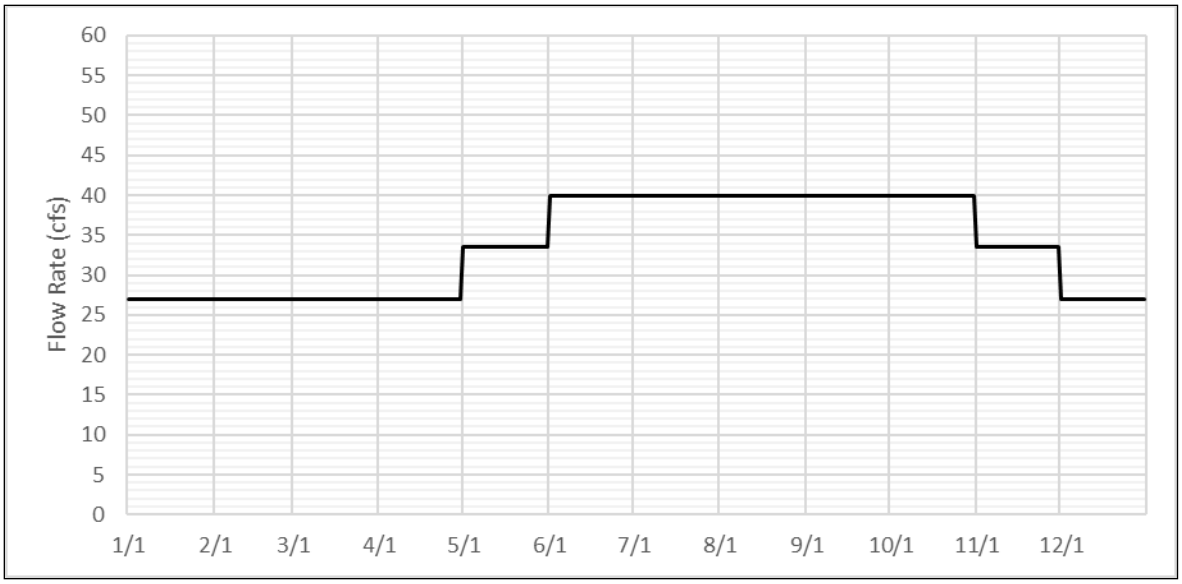


Figure 2-1. Default Year-Round Instream Flow Regime.

The default winter flow releases (27 cfs) when combined with natural accretion in the Eklutna River should promote favorable ice conditions to protect redds during incubation and provide overwintering habitat for juvenile salmon in the Eklutna River.

The default summer flow releases (40 cfs) when combined with natural accretion in the Eklutna River should (1) significantly increase the available spawning habitat for Chinook, coho, pink, and chum salmon, (2) provide sufficient flows for migrating adult salmon to navigate the potential upstream passage barriers identified in the confined canyon reach, and 3) provide additional rearing habitat for salmon.

The default November flow releases (34 cfs) reflect a downramping rate of less than 1 to 2 inches per hour to reduce the risk of any fish stranding downstream when transitioning from summer flows to winter flows.

The total volume of water to be released annually from Eklutna Lake into the Eklutna River for year-round base flows is 24,280 acre-ft/yr, equivalent to approximately 10% of the average annual inflow to the lake.

2.2 Channel Maintenance Flows

2.2.1 Existing Outlet Gate

In order to provide periodic channel maintenance flows to the Eklutna River, the Project Owners will automate the existing outlet gate within the base of the spillway at Eklutna Dam so that it can be controlled remotely. The 30% design drawings for automating the gate are

provided in the Supporting Documentation Document. The infrastructure included as part of the 30% level of design for automating the existing outlet gate is as follows:

- Replacement of existing manual actuator for the dam outlet gate with electric motor actuator with position sensing;
- Construction of new access platform and stilling well with level transducer to measure water surface elevation in Eklutna Lake; and
- Installation of 0.5 miles of new buried power line from Eklutna Lake Road to the dam.

The 30-inch by 30-inch outlet gate has a maximum capacity of approximately 190 cfs at the normal maximum water surface elevation of El 871.0 ft.

2.2.2 Channel Maintenance Flow Regime

Once year-round instream flows have been established in the Eklutna River and the existing outlet gate has been automated, the Project Owners will use both the Eklutna River Release Facility and the automated outlet gate to provide periodic channel maintenance flows to the Eklutna River. The default channel maintenance flow, shown in Table 2-2 and Figure 2-2, was developed based on field studies, modeling, and peak flow statistics in similar unmanaged Alaskan rivers and is shaped to resemble a natural peak flow hydrograph.

Table 2-2. Default Channel Maintenance Flow Releases.

Steps	Duration (hours)	Total Flow (cfs)	Base Flow (cfs)	Additional Flow (cfs)	Additional Volume (acre-feet)
1	3	150	40	110	27
2	3	200	40	160	40
3	36	220	40	180	535
4	12	200	40	160	159
5	6	160	40	120	59
6	6	140	40	100	50
7	6	110	40	70	35
8	6	90	40	50	25
9	6	80	40	40	20
10	6	70	40	30	15
11	4	60	40	20	7
Total for 1 flow	**94**	-	-	-	**971**
Total for 3 flows	**282**	-	-	-	**2,913**

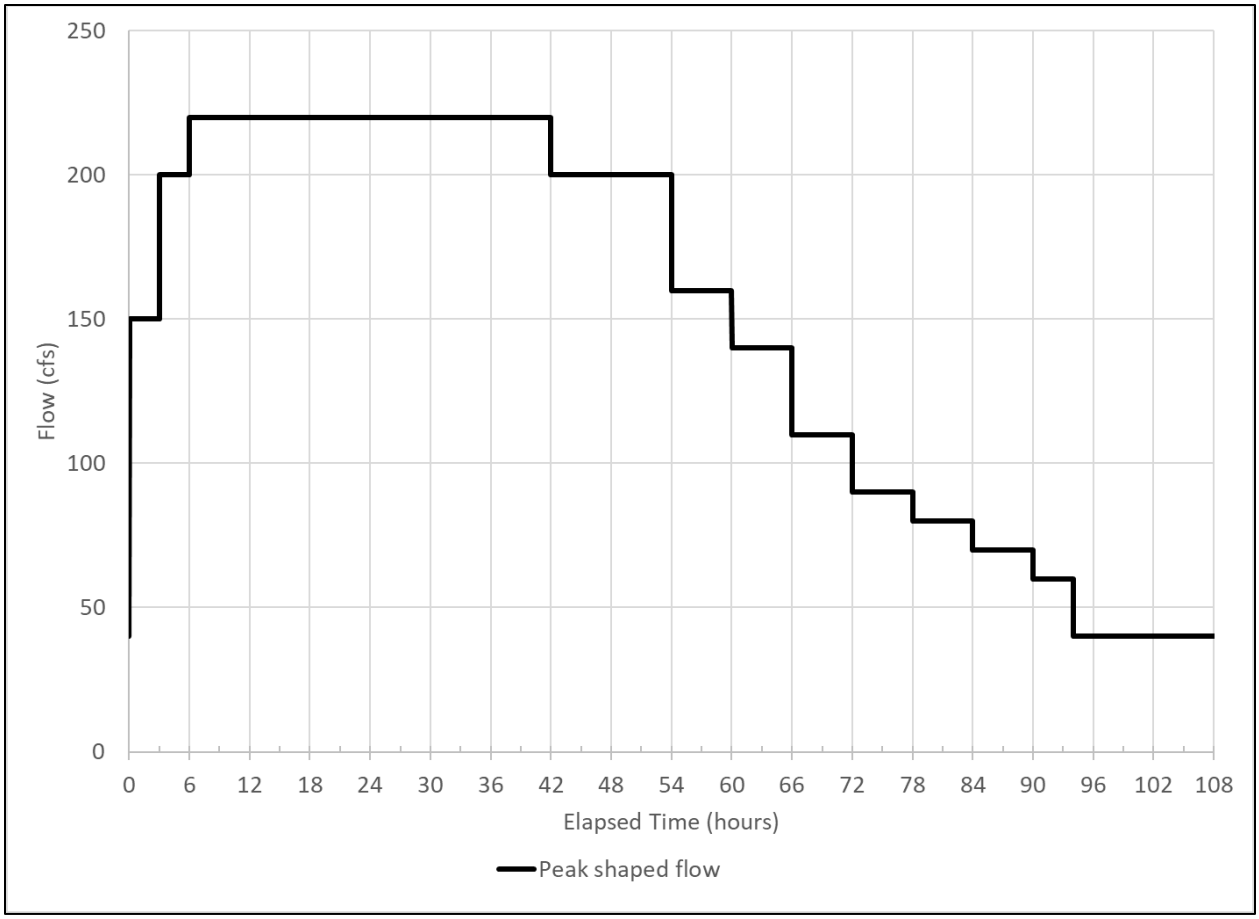


Figure 2-2. Default Channel Maintenance Flow Releases.

The default channel maintenance flow (peaking at 220 cfs for 36 hours) should complement the base flow regime and help create and maintain channel dimensions and substrate characteristics to support physical fish habitat over the long term.

The default downramping schedule (steps 4-11 in Table 2-2) reflects a downramping rate of less than 1 to 2 inches per hour to reduce the risk of any fish stranding downstream when transitioning back to base flows.

Channel maintenance flows will be conducted in the fall when the lake level is highest. The default schedule calls for the Project Owners to conduct a channel maintenance flow in years 2, 5, and 8 of each 10-year period. The first 10-year period will start with the first full calendar year after year-round instream flows are established. The total volume of water to be released in a 10-year period from Eklutna Lake into the Eklutna River for channel maintenance flows is 2,913 acre-ft. Any spill event that exceeds 220 cfs for 36 hours will count as one of the required channel maintenance flows for the current 10-year period.

The intent of providing flexibility in scheduling channel maintenance flows is to allow the Project Owners to take advantage of wet water years. If a planned channel maintenance flow coincides with a dry water year, the Project Owners may choose to postpone the channel maintenance flow to a subsequent year in the current 10-year period. However, if it is already the final year in the current 10-year period, then to the extent possible the Project Owners will curtail generation in order to raise the lake level high enough to achieve the desired flow rate. If due to unforeseen circumstances the Project Owners are unable to provide all three channel maintenance flows in any given 10-year period, then the Project Owners will provide the missed channel maintenance flows in the subsequent 10-year period.

2.3 Flow Monitoring

In order to monitor the year-round flow releases into the Eklutna River, the Project Owners will install a flow meter on the river release pipeline within the Eklutna River Release Facility. The accuracy of this meter is anticipated to utilize the ultrasonic transit time method and have an accuracy of ±1%.

In order to monitor channel maintenance flow releases into the Eklutna River, the Project Owners will utilize the rating curve for the existing outlet gate to calculate flow as a function of gate position and water surface elevation in the reservoir. The gate position will be monitored remotely via a new position feedback sensor within the electric motor operator of the gate. To monitor the water surface elevation of the reservoir, a new stilling well and pressure transducer will be located upstream of the gate within the entrance to the Eklutna Dam spillway channel. The addition of this transducer will avoid any potential inaccuracies with the existing USGS gauge measuring water surface elevation near the Project intake. The flow measurement at the gate is anticipated to have an accuracy of ±2%.

2.4 AWWU Bridges

Providing year-round instream flows to the Eklutna River will likely make all of the existing ford crossings along the AWWU access road impassable for most of the year. To mitigate these potential impacts, the Project Owners will construct eight new bridges, one at each of the existing ford crossings to allow AWWU year-round access to the AWWU pipeline for maintenance. The new bridges will be designed to pass the same flows as the two existing AWWU bridges. The existing ford crossings will be removed to prevent anyone from attempting to drive through the riverbed in the future. The 15% design drawings for the new AWWU bridges are provided in the Supporting Information Document. The Project Owners will obtain AWWU approval on all final designs related to AWWU infrastructure and will work with AWWU to obtain all necessary permits and easements as may be necessary.

2.5 Recreation

2.5.1 Lakeside Trail Repairs

The Project Owners operate the Project to not spill any water. However, due to various circumstances, spill events have occurred in the past. During past spill events, high lake levels have caused erosion along discrete segments of the lakeside trail. Chugach State Park has received $234,000 in funding for general lakeside trail repairs. Within 120 days of the Governor's approval or by January 31, 2025, whichever comes later, the Project Owners will provide a one-time payment of $234,000 to Chugach State Park (or another entity as directed by Chugach State Park) for lakeside trail repairs that address erosion impacts. This funding match brings the total budget for lakeside trail repairs to $468,000. State Parks will be responsible for seeking and obtaining approval from Eklutna, Inc. if needed. The Project Owners will not be responsible for funding the repair of any future erosion impacts to the lakeside trail that may result from continued Project operations.

2.5.2 Annual Powerhouse Maintenance

The Project Owners conduct annual maintenance activities that require Project shutdown for approximately two weeks every year. In order to avoid having multiple generation assets offline at the same time, the Project Owners coordinate with the other Railbelt utilities when scheduling the annual maintenance shutdown for the Project. In some previous years, this annual maintenance shutdown has coincided with peak fishing times and has had a negative impact on the tailrace fishery. The Project Owners will endeavor to avoid peak fishing times when scheduling the annual maintenance shutdown and any other maintenance activities that would require Project shutdown, taking into consideration the overall system maintenance needs.

2.5.3 Public Access to the Eklutna River

There is currently no free, un-permitted public access to most of the Eklutna River. The land under and surrounding the Eklutna River is largely owned by Eklutna, Inc., which requires permits for access to the Eklutna River. The Project Owners are therefore requesting that Eklutna, Inc. provide free, non-permitted public access to the Eklutna River once the ADFG Board of Fisheries has determined that the Eklutna River fishery for Chinook, coho, or sockeye salmon is sustainable and can be opened for recreational fishing.

3.0 Monitoring and Adaptive Management Plan

The PME measures described in the previous sections are based on the results of field studies, modeling, and extensive consultation. However, the Project Owners recognize there is some inherent uncertainty in modeling and physical habitat conditions in the Eklutna River will evolve over time. Therefore, the following Monitoring and Adaptive Management Plan will be implemented. This approach allows for flexibility and adjustments to PME measures, if needed.

3.1 Committee

Upon the Governor's issuance of the Final Fish and Wildlife Program, a Monitoring and Adaptive Management Committee (Committee) will be established to execute the Monitoring and Adaptive Management Plan. The Committee will consist of one voting representative from each of the following entities: ADFG, ADNR, NMFS, USFWS, and NVE. The Committee will make decisions through consensus, and the Committee chair will be selected by the members of the Committee. One or more representatives from the Project Owners will serve as non-voting participants on the Committee to provide technical expertise about Project operations. All voting and non-voting representatives named to serve on the Committee should possess the technical expertise necessary to carry out the responsibilities of the Committee and should ideally be local to the Project area. Each entity shall bear all costs for its representative to participate on the Committee.

Once the Committee is established, it will develop appropriate evaluation criteria for the Fish and Wildlife Program. These evaluation criteria will help inform monitoring efforts and adaptive management decisions. Decisions made by the Committee shall not be imputed to the Project Owners; implementation of actions pursuant to guidance provided by the Committee shall not create liability to the Project Owners.

3.2 Monitoring

The Project Owners will provide a total of $450,000 in April 2024 U.S. dollars (see Section 5.0) to ADFG over the length of the Program to fund additional monitoring efforts in the Eklutna River. The Committee will develop a plan to monitor aquatic habitat conditions and fish utilization in the Eklutna River and the straying rate of hatchery fish from the Eklutna Tailrace to the Eklutna River. The Committee may pursue other funding sources to supplement the monitoring budget if desired. ADFG will implement the monitoring plan based on direction from the Committee and must request funds from the Project Owners by July 1 each year based on the planned monitoring efforts for the subsequent year. The Project Owners will then budget accordingly and submit payment to ADFG by January 31 of the subsequent year.

Reports that summarize the various monitoring results will be prepared by ADFG and provided to the Committee by February 1 each year. The Committee will review and provide a composite report to the Project Owners by March 1 each year. The Committee shall maintain a database/archive for all monitoring results and reports.

3.3 Adaptive Management

3.3.1 Water Budget

The total volume of water available for release into the Eklutna River in the first water year (June 1 to May 31) following completion of the Eklutna River Release Facility is 24,280 acre-feet. This is based on the default year-round instream flow regime. An additional 24,280 acre-feet will become available at the beginning of each subsequent water year. An additional 2,913 acre-feet of water will become available at the beginning of each 10-year period, starting the first water year after instream flows are initiated. This is based on the default channel maintenance flow being released three times in each 10-year period.

3.3.2 Water Banking

If the entire annual water budget (24,280 acre-feet) is not released into the Eklutna River in a given water year, either intentionally or unintentionally, then that "banked water" can be released in subsequent water years with the following limitations: (1) water can only be banked for up to 5 years, (2) no more than 50% of the total annual water budget can be banked at any given time; and (3) in the event of any unplanned spill event at the Project, banked water is spilled first.

The additional water budget for each 10-year period (2,913 acre-feet) must be used within that period and cannot be carried over to the following 10-year period. However, as described in Section 2.2.2, if due to unforeseen circumstances the Project Owners are unable to provide all of the planned channel maintenance flows in any given 10-year period, then the Project Owners will provide the missed channel maintenance flows in the subsequent 10-year period.

3.3.3 Allocation of Additional Inflow

Climate change is anticipated to cause increased glacial melt in the coming decades. Increased glacial melt would likely result in more inflow to Eklutna Lake, and therefore more water available for both hydropower generation and instream flows. Because of this, the Project Owners will calculate the inflows to Eklutna Lake each year using the available lake level and flow monitoring data. Then 10 years after instream flows are established, the Project Owners will compare the average annual inflows to Eklutna Lake for the last 10 years to the previous 10-year period. Any increase in average annual inflows will be split 50/50 between

hydropower and the annual water budget for instream flows. If there is a decrease in average annual inflows, the annual water budget for instream flows will not be decreased. The Project Owners will repeat this process every 10 years.

3.3.4 Water Accounting Report

The Project Owners will prepare an annual report that summarizes (1) the inflows to Eklutna Lake, (2) instream flow releases, and (3) channel maintenance flow releases for all prior water years as well as the available water budget for the upcoming water year and provide it to the Committee by March 1 each year.

3.3.5 Requests to Modify the Flow Regime

Based on the results of the monitoring program, the Committee may request modifications to the default year-round instream flow regime and/or the magnitude, duration, frequency, or shape of the scheduled channel maintenance flow releases, as long as (1) the requested flows do not exceed the operational limitations of the Project infrastructure, and (2) the ramping rates conform to fisheries ramping rate requirements. If the total volume of water to be released exceeds the available water budget (which includes any banked water that may be available), then that deficit will be carried over into the next water year.

The Committee must provide a 60-day notice to the Project Owners for any requests to modify the default year-round instream flow regime or the default channel maintenance flow schedule. If the requested flows exceed the operational limitations of the Project infrastructure, the available water budget, or the approved ramping rates, then the Project Owners may reject the requested flow modifications. If the Project Owners reject the requested flow modifications, then they must notify the Committee so that the Committee may request alternative flows if desired. The Committee may request modifications to flows within 60 days; however, the Project Owners are not required to meet the request if it is not operationally feasible.

3.3.6 Physical Habitat Enhancement

The Project Owners will provide a total of $350,000 in April 2024 U.S. dollars (see Section 5.0) to ADFG during the Program to fund physical habitat enhancement and vegetation management efforts in the Eklutna River. The Committee will develop a plan to implement physical habitat enhancement and vegetation management efforts in the Eklutna River. These efforts will focus on enhancing rearing habitat in the Eklutna River. All physical habitat enhancement and vegetation management efforts must occur downstream of the Eklutna River Release Facility. The Committee may pursue other funding sources to supplement the physical habitat enhancement and vegetation management budget if desired. ADFG will implement the

plan based on direction from the Committee and must request funds from the Project Owners by July 1 each year based on the planned physical habitat enhancement and vegetation management efforts for the subsequent year. The Project Owners will then budget accordingly and submit payment to ADFG by January 31 of the subsequent year.

Reports that summarize the various physical habitat enhancement and vegetation management efforts will be prepared by ADFG and provided to the Committee by February 1 each year. The Committee will review and provide a composite report to the Project Owners by March 1 each year. The Committee shall maintain a database/archive for all physical habitat enhancement and vegetation management reports.

The Project Owners are not responsible for responding to natural processes that result in undesirable conditions in the river such as debris flow associated with precipitation or earthquakes, beaver activity, large wood build-up, etc.

3.4 Annual Meeting

The Committee will meet annually in April of each year to (1) review the results of the monitoring efforts conducted in the previous calendar year, (2) review the available water budget for the upcoming water year, (3) discuss any potential adaptive management actions for the upcoming water year, and (4) determine what monitoring efforts and/or physical habitat enhancement should be conducted in the subsequent calendar year. The Committee must notify the Project Owners of any planned monitoring efforts and/or physical habitat enhancement activities for the subsequent calendar year by July 1 so that the Project Owners can budget accordingly.

4.0 Limited Reopeners

Per the 1991 Agreement, the Project Owners are required to repeat this process every 35 years and must initiate the next process by October 2057. In addition, the Project Owners are required to repeat this process before making any major structural or operational modification to the Project that would substantially affect water usage or fish and wildlife. The following two limited reopeners are intended to enable consideration and potential execution of the specified structural and operational modifications during the period between processes without triggering the need to repeat this entire process outlined in the 1991 Agreement.

As set forth below, the two limited reopeners may occur no sooner than 10 years following completion of the Eklutna River Release Facility (Section 2.1.1) and establishment of year-round instream flows (Section 2.1.2). If the Eklutna River Release Facility and instream flows are delayed due to any reason such as litigation or appeals of the Final Fish and Wildlife Program or a failure to complete permitting or gain necessary approvals, the 10-year timeframe leading to the reopeners will be delayed until such time as the Eklutna River Release Facility is completed and the instream flows established.

4.1 Fixed Wheel Gate

During the consultation process, several stakeholders requested that the existing overflow spillway be replaced with a fixed wheel gate because either (1) climate change may cause inflows to the reservoir to increase significantly, which may increase the likelihood of future spill events, and a fixed wheel gate will allow the Project Owners to better manage those future spill events, or (2) while modeling results show that the default channel maintenance flow regime will maintain spawning gravels in the wetted reach of the Eklutna River, future monitoring may show that a higher magnitude channel maintenance flow that exceeds the combined hydraulic capacity of the existing outlet gate and the Eklutna River Release Facility may be warranted. Replacement of the existing overflow spillway with a new fixed wheel gate was evaluated during the study program and alternatives analysis and the Project Owners determined that it was not warranted at this time due to significant dam safety concerns, and the need for future monitoring. Recognizing that the fixed wheel gate might be warranted in the future, however, the Project Owners will continue to investigate the fixed wheel gate as described below and will construct it if certain criteria are met.

Within three years of the Governor's issuance of the Final Fish and Wildlife Program, the Project Owners will conduct a more detailed feasibility study of the fixed wheel gate (including a stability analysis and Class 3 cost estimate). The Project Owners will report the results of that analysis to the Committee.

If the fixed wheel gate is considered feasible and cost effective, then on the 10th anniversary after initiating instream flows, the Project Owners will confer with the Committee to reevaluate the need for the fixed wheel gate. If the monitoring efforts during that 10-year period indicate that (1) average annual inflows to the lake have increased by 20,000 acre-feet, or (2) the Committee determines that higher channel maintenance flows are warranted to maintain spawning gravels, then the Project Owners will commit up to $10M in April 2024 U.S. dollars (see Section 5.0) to demolish the existing overflow spillway and construct a new fixed wheel gate.

If the demolition/construction costs are estimated to be less than $10M in April 2024 U.S. dollars, then the Project Owners will obtain necessary permits, demolish the existing overflow spillway, and construct a new fixed wheel gate. If the demolition/construction costs are estimated to be greater than $10M in April 2024 U.S. dollars, then the Committee may seek supplemental funding payable to the Project Owners from other sources. If the supplemental funding is federal funding and triggers additional NEPA requirements, then the Committee will be responsible for ensuring that outside funding is available and payable to the Project Owners in order to meet those requirements. Upon receipt of such supplemental funding, the Project Owners will obtain necessary permits, demolish the existing overflow spillway, and construct a new fixed wheel gate.

This is a limited reopener and will not reopen any other components of the Fish and Wildlife Program or trigger the process requirements outlined in the 1991 Agreement. Governor approval of the decision to replace the fixed wheel gate will not be required.

4.2 Fish Passage

During the consultation process, several stakeholders requested that upstream fish passage of adult salmon into Eklutna Lake and downstream fish passage of juvenile salmon out of Eklutna Lake be evaluated. All fish passage measures proposed by the Project Owners and other stakeholders were evaluated during the study program and alternatives analysis. See alternatives analysis in Supplemental Information Document. All of the volitional upstream fish passage measures that were evaluated either (1) would have significant impacts to the hydropower project (i.e., would reduce the storage capacity of the reservoir by approximately 40% or would require the Project to be shutdown throughout the winter when energy is needed most), or (2) are cost prohibitive (the estimated present worth for the stakeholders' preferred alternatives that included volitional fish passage ranged from $221M to $385M including capex, operations and maintenance, and replacement energy). In addition, there are still significant concerns regarding the effectiveness of all the downstream fish passage facilities studied (i.e., low attraction flow velocities and/or the inability to operate the

downstream fish passage facilities while the lake is frozen over). Therefore, fish passage measures are not proposed at this time.

Nonetheless, the Project Owners recognize that fish passage may become feasible in the future and fish passage is important to NVE, the federal and state agencies, and others who have commented on the Draft Program. If a new, proven methodology or technology becomes available, then the Committee may reevaluate the potential for the construction and operation of fish passage facilities both into and out of Eklutna Lake on its own initiative or at the request of any of the resource agencies or NVE. Any fish passage measures must meet the following criteria:

1. Fish passage facilities must be safe and effective for human health, the environment, and operations of the Project, the Eklutna River Release Facility, and AWWU's Eklutna Water Project and its water supply;

2. Fish passage facilities must address both upstream and downstream fish passage for anadromous fish (i.e., no effective upstream passage without effective downstream passage);

3. Fish passage facilities cannot affect reservoir operations in a manner that would cause AWWU operation shutdown for any amount of time or Project shutdown for more than two weeks annually (except during construction);

4. Fish passage facilities cannot result in more than 10% loss of storage capacity in the reservoir (i.e., the active storage capacity in the reservoir cannot be reduced by more than 17,480 acre-feet);

5. Fish passage facilities must operate within the available water budget administered by the Committee.

Because fish passage into the lake has the potential to impact recreational use or facilities within Chugach State Park and/or the water quality of the municipal water supply, both of these potential impacts must be evaluated by the Committee. The Committee must also consult with the State Park and AWWU regarding any such impacts and the appropriate mitigation for those impacts. The Committee must ultimately obtain written consent or approval from both the State Park and AWWU for any proposed fish passage measures, including the construction schedule.

The cost of any fish passage measures (including scientific studies, engineering, construction, operation, maintenance, and mitigation for any impacts to recreational use or facilities and/or

the municipal water supply, etc.) must be completely funded by parties other than the Project Owners.

At any time more than 10 years after initiating instream flows, if (1) the Committee has identified fish passage measures that meet all of the listed criteria, (2) the Committee has obtained written consent or approval from both the State Park and AWWU, (3) the Committee has obtained the necessary funding for all fish passage measures, and (4) the Anadromous Waters Catalog maintained by ADFG has been updated to reflect that migrating or spawning adult sockeye salmon have been documented within 1 mile of the Eklutna River Release Facility, then the Committee may propose those fish passage measures to the Project Owners with supporting information. As long as all of the above criteria and prerequisites are met, then the Project Owners will support the development and operation of the proposed fish passage facilities. The Project Owners may choose to waive criteria numbers 3, 4, and/or 5 upon unanimous decision, provided that AWWU must independently consent or approve fish passage measures affecting its facilities or its water supply.

Upon receiving a statement of support from the Project Owners, the Committee and the Project Owners will coordinate and cooperate to obtain the Governor's approval of the proposed fish passage measures. Governor approval of the decision to add the fish passage facilities will be required.

If the Governor approves the proposed fish passage measures, then the 35-year timeframe requirement to repeat the consultation process required by the 1991 Agreement will restart from the date the Governor's approval.

The construction schedule must minimize impacts to Project operations. The Project Owners will oversee all construction activities and will support the development and operation of the fish passage facilities. However, the Project Owners will not operate the fish passage facilities and will be held harmless from the development and operation of such facilities.

This is a limited reopener and will not reopen any other components of the Fish and Wildlife Program.

5.0 Funding Commitments and Inflation Adjustment

All monetary amounts in this Proposed Final Program are in 2024 U.S. dollars, unless otherwise stated. All monetary amounts will be adjusted annually for inflation using a 15-year rolling average reflected in the Bureau of Labor Statistics' Urban Alaska Consumer Price Index (CPI-U) (as currently reported by State of Alaska Department of Labor and Workforce Development at https://live.laborstats.alaska.gov/cpi/table).

Exhibit 3

Native Village of Eklutna
Tribal Government

June 21, 2024

Submitted via Email

The Honorable Mike Dunleavy
Governor of Alaska
Office of the Governor
P.O. Box 110001
Juneau, AK 99811

Dear Governor Dunleavy:

The Native Village of Eklutna (NVE) respectfully provides the following comments on the Chugach Electric Association (CEA) and Matanuska Electric Association (MEA)'s (collectively, the utilities) proposed final Eklutna Fish and Wildlife Program (proposed final program) pursuant to the 1991 Fish and Wildlife Agreement for the Snettisham and Eklutna Projects (1991 Agreement).[1] NVE is deeply disappointed in the utilities' proposed final program, which will cost ratepayers and taxpayers up to $72 million, threaten public drinking water infrastructure, and fail to meaningfully recover and maintain salmon in the Eklutna River for the benefit of our people and all Alaskans.

As a matter of fact, in promulgating such a problematic proposal, the utilities have stepped far beyond their authority under the 1991 Agreement and assumed the job of the Governor. The 1991 Agreement is clear that the utilities' only consideration in drafting and submitting a proposed final program to the Governor is meeting the purpose of the Agreement, which is "the protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat)."[2] The Governor of Alaska, not the utilities, is then responsible for evaluating and considering the criteria listed in the Agreement in making your final program determination.[3] The utilities overreach their authority under the Agreement by claiming that they are charged not just with undertaking the study process and drafting a program of measures to protect, mitigate damages to, and enhance fish and wildlife and their habitat but also with undertaking the policy analysis explicitly left to the Governor.[4] They are neither qualified nor authorized to make policy determinations and have plain conflicts of interest.

[1] We also submit our previous comments on the utilities' Draft Program and references cited for your consideration.
[2] CEA & MEA, Eklutna Draft Fish and Wildlife Program at 3 (2023).
[3] *Id.* at 4.
[4] *Id.* at 44.

The good news is that per the 1991 Agreement, you have the sole ability to decide on a final Eklutna Fish and Wildlife Program (final program) and are in no way required to adopt the utilities' proposed final program. Per the 1991 Agreement, you may choose from any alternatives suggested by the utilities, other signatories to the 1991 Agreement, or members of the public; alter any of the alternatives as you see fit; promulgate a final program that combines various alternatives provided; or decide on a completely novel alternative.

The utilities have submitted a proposed final program that fails NVE, Alaskans, salmon, and the Eklutna watershed. We urge you to use your powers to reject it for failing to equitably balance myriad public interests, specifically protecting, mitigating damage to, and enhancing salmon in the Eklutna River and protecting municipal water supplies. As discussed below, the primary reason for the 1991 Agreement was to restore and maintain sockeye salmon that depend on free passage into and out of Eklutna Lake, their preferred spawning habitat. The utilities admit their proposed final program fails to meet this primary objective, and for that reason alone, it does not meet the purpose, intent, and terms of the 1991 Agreement.

We instead provide an alternative: a visionary solution for the Eklutna River that is supported by Eklutna, Inc., the Native village corporation whose lands surround the area, the Alaska Federation of Natives, the late Congressman Don Young, and many others; takes into account public feedback, which overwhelmingly rejected the utilities' proposal; secures the Anchorage drinking water supply; and will truly restore salmon and the Eklutna River, providing a thriving personal use and sport fishery for all Alaskans to enjoy.

Our Vision for the Eklutna River

Our elders tell us that Eklutna (*Idlughet*) is an old, old Village located by the Eklutna River, which was once an abundant salmon system. The Eklutna River (*Idluytnu*) has provided nutritional and cultural benefits to Eklutna Dena'ina since time immemorial, but hydroelectric dams have severely degraded its productivity. Eklutna Dena'ina's health, families, and culture depend on restoring salmon to the Eklutna River. NVE has adopted a vision for fully restoring the Eklutna River for fish and wildlife habitat, traditional subsistence uses, and sustainable natural resource development from the top of the watershed to Cook Inlet.[5]

NVE has broad support for this vision.[6] Eklutna Inc. recently remarked that "the restoration of the Eklutna River is more than a conservation effort; it is a strategic investment that will protect salmon habitat, boost tourism, elevate recreational activities, and increase property values.

including all Southcentral Alaska."[7] The Alaska Federation of Natives passed a resolution in 2020 proclaiming that "[AFN] supports efforts to restore traditional rivers and streams for fish and wildlife habitat, traditional subsistence uses, and sustainable natural resources development, and in particular, supports tribes like Native Village of Eklutna […] to restore the Eklutna River for salmon habitat."[8] Alaska's late Representative Don Young, who was largely responsible for the sale and divestiture of the Eklutna Project, affirmed his "keen[] interest[] in seeing the timely restoration of the Eklutna River and the recovery of salmon for the

[5] Native Village of Eklutna, "Our Vision for the Eklutna River" (accessed Nov. 20, 2023).
[6] *See* Additional resolutions and letters of support from CIRI, Inc., Matanuska-Susitna Borough Fish and Wildlife Commission, Kenaitze Tribe, Ninilchik Tribal Council, and the National Tribal Water Council included in the attached references.
[7] Eklutna, Inc., Letter to Anchorage Assembly Re: Eklutna Draft Fish and Wildlife Program (Nov. 21, 2023).
[8] Alaska Federation of Natives, Restoration of Traditional Salmon Habitat Resolution 20-7 (2020).

benefit of the Native people of Eklutna," and further that "[r]estoring healthy salmon runs in the Eklutna River will benefit a great many Alaskans who live in Anchorage and the Mat-Su Valley."[9] Alaska's current Congresswoman, Mary Peltola, maintains that commitment, stating that "[l]ike my predecessor, Congressman Don Young, I support the efforts of the Eklutna Dena'ina to restore their river and the salmon runs they depend on."[10] The Assembly of the Municipality of Anchorage passed a resolution in February 2024 committing to "the restoration of the Eklutna watershed, including providing instream flow and fish passage the length of the Eklutna River and into Eklutna Lake […]."[11]

1991 Fish & Wildlife Agreement Background

Since the Eklutna Hydroelectric Project ("Project") became operational in 1955, it has caused the Eklutna River to run dry. Currently, no water spills over the Eklutna Lake Dam down the river except during floods. A 4.5-mile bypass tunnel diverts water from the lake to the power plant. Of the water diverted, 90% is diverted to the Knik River for hydropower, while 10% is diverted for Anchorage drinking and wastewater, effectively blocking the remaining 12 miles of Eklutna River from its water source.[12]

The Project's adverse effects on fish and wildlife resources in the Eklutna River were not evaluated for almost 70 years after project construction due, in part, to the existence of the lower diversion dam, which prevented salmon from ascending to Eklutna Lake (*Idlu bena*) and the upper reaches of the river, which are critical for sockeye, Chinook, and chum salmon, in particular. However, since Eklutna Inc. and partners 2018 removed the lower diversion dam, the Project's continued diversion of all controllable flow at Eklutna Lake to the Project's powerhouse on Knik Arm (*Nuti*) and the complete disconnection of the river to the lake and upper tributaries are, and will continue to be under the Project Owners' Program, the primary causes for ongoing degradation of fish and wildlife habitat in the Eklutna River system.

The purpose of the 1991 Eklutna Fish and Wildlife Agreement ("Agreement") and the resultant Fish and Wildlife Program is to develop and implement measures to "protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat)" from the harms of the Project.[13] Salmon spawning grounds and habitat harmed and disconnected by the project include the lower Eklutna river below the dam, Eklutna Lake, and the upper tributaries to Eklutna Lake. The Divestiture Summary Report for the Sale of Eklutna and Snettisham Hydroelectric Projects ("Divestiture Report"), to which the Agreement is an appendix, notes that mitigating harms to sockeye salmon and their spawning habitat was particularly important in creating the Agreement. The Divestiture Report explained that "[d]uring reviews of the legislative proposal, loss of a sockeye salmon run that once spawned in Eklutna Lake was identified[...] This

[9] Congressman Don Young, Letter to Matanuska Electric Association (Aug. 6, 2018).
[10] Congresswoman Mary Peltola, Letter to Chugach Electric Association (May 12, 2023).
[11] Anchorage Assembly, A Resolution of the Anchorage Municipal Assembly in Support of Efforts to Restore the Eklutna River AR No. 2022-262 (Sept. 13, 2022); *see also* Anchorage Assembly, AO No. 2023-131, As Amended (2023); *see also* Anchorage Assembly AR No. 2024-40, As Amended (2024); *see also* Anchorage Assembly Leadership, Project Issues Paper (Feb. 16, 2024).
[12] Native Village of Eklutna, "Eklutna River: Idlughetnu" (2023); *see also,* Kleinschmidt Associates, Draft Instream Flow Technical Memo at 2 (Sept. 28, 2022) ("In 1955, the federal government completed construction of a new hydropower project and in 1964 a new storage dam which *effectively eliminated any flow releases from Eklutna Lake to the Eklutna River*." (emphasis added)).
[13] Fish and Wildlife Agreement Snettisham and Eklutna Projects at 1 (Aug. 7, 1991); *See also* Eklutna Draft Fish and Wildlife Program at 45; *See also* Alaska Power Administration Asset Sale and Termination, Pub. L 104-58, title I § 104(a)(2) (Nov. 28 1995).

specific problem and the desires of the fish and wildlife agencies to provide appropriate consideration to fish and wildlife resources over the long run led to the August 7, 1991 Agreement."[14]

The Utilities' Proposed Final Program is a Failure and Should Be Rejected

In their proposed final program, the utilities' "AWWU Portal" plan completely disconnects Eklutna Lake and its upper tributaries from the lower Eklutna River and maintains over a mile of dry streambed.[15] Furthermore, the flows the utilities propose to release from the AWWU Portal are severely inadequate to restore and maintain fish in the Eklutna River and are lower than any flows considered by signatory parties to the Agreement during the study process.[16] The proposed final program also proposes similarly inadequate channel maintenance high flow events in only three out of every ten years.[17] This proposal provides no solution for the complete blockage of salmon reaching the extensive lake spawning habitat required by sockeye salmon (which was the key driver for the Agreement in the first place). In addition, 15 miles of upper tributary spawning habitat above the lake that would otherwise be highly suitable to Chinook and coho salmon are left completely stranded.[18] Without a connection to Eklutna Lake and its upper tributaries, restoring those key spawning and rearing grounds and habitat is impossible. The utilities admit in the Draft Program that "no change in sockeye rearing habitat is anticipated."[19] The proposed nominal flow releases from the AWWU Portal will only minimally enhance Chinook and coho salmon and their habitat in the lower Eklutna River. In their comments on the utilities' draft program, the Alaska Department of Fish and Game, U.S. Fish and Wildlife Service, and NOAA Fisheries agreed that the AWWU Portal combined with the minimal flow releases would not adequately provide for the recovery and maintenance of salmon populations in the Eklutna River, nor would it restore natural river processes.[20] We do not believe any of the utilities changes from the draft program to the proposed final program meaningfully alleviate the issues articulated by the state and federal fish and wildlife agencies.[21]

As such, we reject the AWWU Portal alternative because it:

1. Fails to remedy the harms to sockeye salmon and their spawning habitat that instigated the 1991 Agreement process;
2. Leaves one mile of dry riverbed that prevents fish from reaching Eklutna Lake;[22]

[14] Divestiture Summary Report, Sale of Eklutna and Snettisham Hydroelectric Projects at 19 (Apr. 1992).
[15] Eklutna Draft Fish and Wildlife Program at 46-56.
[16] *Id.* at 39, 40; *see*, *e.g.*, Trout Unlimited, Eklutna River Workshop: Summary of Outcomes, Recommendations, and Future Needs at 4-6; *see also, e.g.*, U.S. Fish and Wildlife Service, Upper Eklutna River Survey Preliminary Fish Habitat Flow Assessment (July 14, 2019).
[17] *Id.*
[18] *See, e.g.*, Native Village of Eklutna, Eklutna Lake and Tributaries Salmon Habitat (2024); *See also* McMillian Jacobs Associates, Eklutna Lake Aquatic Habitat and Fish Utilization, Year 2 Study Report Draft (2023); *See also* Native Village of Eklutna, TWG 2021-2022 Final Report.
[19] Eklutna Draft Fish and Wildlife Program at Appendix B-4.
[20] ADFG, Letter to Eklutna Hydroelectric Project Owners Re: Draft Fish and Wildlife Program (Nov. 27, 2023); USFWS, Letter for Samantha Owen Re: Draft Eklutna Fish and Wildlife Program (Service file number 2022-0074477) at 3 (Dec. 2023); USFWS, Enclosure: US Fish and Wildlife Service Comments on the Draft Fish and Wildlife Program and Draft Summary of Study Results for the Eklutna Hydroelectric Project (Dec. 2023); NOAA Fisheries, Comment Letter to Samantha Owen Re: Draft Program (Dec. 6, 2023); *See also* NVE, Consultation Requests to DOI and NMFS (2024).
[21] *See* NVE Letters to USFWS and NOAA Fisheries Requesting Tribal Consultation (May 2024).
[22] Eklutna Draft Fish and Wildlife Program at 46 ("Release of water from the portal valve will provide year-round flow to 11 of the 12 river miles.").

3. Blocks access to the majority of sockeye, Chinook, and coho salmon spawning and rearing habitat in the lake and its tributaries.
4. Delivers inadequate flows for fish below the Eklutna Lake dam;[23]
5. Ignores the requests of the Eklutna Dena'ina for the recovery of a natural river after 94 years of harm;
6. Jeopardizes the Anchorage drinking water system; and,
7. Burdens ratepayers and taxpayers with up to $72 million in unnecessary cost increases. [24]

The "limited reopeners" proposed by the utilities are mere apparitions of action and are completely discretionary. As such, they do not constitute actual provisions of a fish and wildlife program but are merely statements of potential action for future utility boards to consider. The fish passage reopener is the worst of the reopeners. It specifically makes it *more difficult* to implement fish passage in the future because of the addition of novel criteria and funding barriers that are nowhere to be found in the 1991 Agreement.

NVE's Proposed Alternative Final Program

NVE's proposed alternative final program is guided by the following principles:

- We seek a fair balance of energy production, drinking water protection, river conservation, public recreation, and cultural restoration.
- The Eklutna River must flow with adequate water for abundant salmon habitat, continuously and without interruption from its source to the sea.
- Fish must be able to freely swim the entire length of the Eklutna River, upstream to the lake and its headwater tributaries and back downstream.
- A healthy salmon population will support a thriving personal use and sport fishery, boosting the local and regional economy.
- Restoration of the Eklutna River and its fisheries will address 100 years of cultural harm to the Eklutna Dena'ina and enhance Southcentral Alaska.

Following our principles, we propose the following alternative final program:

1. Alternative "Eklutna River Release Facility"
    a. Construct a pump station that takes water directly from the bottom of Eklutna Lake and discharges it at the glacial moraine area upstream of the dam. The water would be released downstream through the existing dam outlet gate instead of the AWWU Portal Valve facility.[25]
    b. This alternative system would provide continuous instream flow to all 12 miles of the Eklutna River below the dam, operate completely independent from any existing AWWU or hydropower infrastructure, and support future fish passage by ensuring that AWWU can maintain its full drinking water withdrawals.
    c. The Eklutna Project Owners would have two years from your decision to design and permit the facility (no later than Oct. 2, 2026) and two more years for construction and implementation (no later than Oct. 2, 2028).

[23] *See, e.g.*, USFWS, Upper Eklutna River Survey Preliminary Fish Habitat Flow Assessment; *see also*, *e.g.*, Trout Unlimited, Eklutna River Workshop: Summary of Outcomes, Recommendations, and Future Needs at 4-6.
[24] Eklutna Draft Fish and Wildlife Program at 64.
[25] *See* Alternative Eklutna River Release Facility Engineering Drawings and Description (2024). If this can be achieved through a gravity system without pumps, we are amenable to that solution.

2. Existing Outlet Gate & Other Infrastructure Improvements
    a. Automate the existing outlet gate at the Eklutna Lake dam as proposed by the utilities following the same implementation schedule as the Alternative Eklutna River Release Facility (implemented no later than Oct. 2, 2028).
    b. Construct new AWWU bridges as proposed by the utilities, but to have the hydraulic capacity for a free-flowing river, also following the same implementation schedule as the Alternative Eklutna River Release Facility (implemented no later than Oct. 2, 2028).

3. Mandatory 1991 Agreement Reopener for Dam Removal or Other Fish Passage Solution No Later than 2034
    a. No later than ten years from your decision (Oct. 2, 2034), the Project Owners must reopen the 1991 Agreement and follow the process called for in sections 2 through 6, proposing a solution to the Governor of Alaska that meets our resource goal principles that "fish must be able to freely swim the entire length of the Eklutna River, upstream to the lake and its headwater tributaries and back downstream" and "the Eklutna River must flow with adequate water for abundant salmon habitat, continuously and without interruption from its source to the sea."[26]
    b. While any solution that meets these resource goal principles may be considered in the reopener, our preferred solution is the removal of Eklutna Lake Dam.[27]

4. Waters Flows, Water Budget & Monitoring and Adaptive Management Plan
    a. We do not believe the flow regime in the utilities proposed final program is adequate to attract, maintain, and recover fish nor restore natural river processes.[28] However, should you adopt all of the core components outlined above, we are willing to accept the utilities' inadequate proposed year-round instream flow regime, as well as the channel maintenance flow regime, the annual water budget, and the monitoring and adaptive management plan as proposed until the dam is removed or other acceptable fish passage solutions are implemented. The Alternative Eklutna River Release Facility and the automated existing outlet gate must deliver this flow regime.
    b. The flows would be implemented once the Alternative Eklutna River Release Facility was completed and no later than Oct. 2, 2028.

5. Seek Federal Funding
    a. The Native Village of Eklutna will assist in seeking federal funding through grants and/or direct appropriation from the federal government in partnership with the Eklutna Project Owners to implement this program, reducing the burden of Alaska residents and governments to levy additional burdensome taxes and utility rate increases.

6. Adaptive Management Committee Membership

[26] Per section 7 of the 1991 Agreement, the Project Owners may reopen the 1991 Agreement at any time.
[27] *See* NVE's letter to Samantha Owen Re: Technical Risk Assessment of the Removal of Eklutna Dam (April 9, 2024).
[28] *See* CEA, MEA, MOA, Supporting Information Document at 40, 41 (April 2024) (we believe that the Year-Round Instream Flow Regimes and Channel Maintenance Flows alternatives proposed by NMFS, USFWS, TCF, TU, and NVE are supported by scientific expert flow studies (*see supra* note 22) and would provide the minimum flow amounts necessary to recover and maintain salmon in the Eklutna River).

a. As proposed by the utilities, NVE shall be a permanent voting member of the Eklutna River Adaptive Management Committee, which can propose changes to the flow regimes to increase further and improve fish and river restoration.

We believe our alternative proposed final program is the best compromise: continuing to allow the Eklutna Project to provide needed power to the Railbelt in the short term while protecting Anchorage's water supply and taking a phased but timely approach to transitioning to full fish passage and recovery in the Eklutna watershed.

The Eklutna Hydroelectric Project only produces ~2-4% of the Railbelt's power supply. While we understand the need to avoid putting any more strain on the Railbelt's power mix right now, over the next decade, continued electric grid improvements and efficiencies, installation of battery banks, large-scale new alternative renewable energy sources, and more will make the small amount of energy produced by Eklutna hydroelectric power ever more inconsequential, and certainly unnecessary to continue to sacrifice this river and the tremendous salmon restoration opportunity possible. The utilities certainly can and should plan for a future without Eklutna. It's time for a new future for the Eklutna River, replacing a destructive power project of diminishing importance with a thriving personal use and sport fishery in the heart of Southcentral Alaska.

With agreement from all signatories to the 1991 Agreement, we would also support a two-year extension of the 1991 Agreement process to continue to collaboratively explore alternatives that would adequately meet the purpose, intent, and requirements of the 1991 Agreement, as requested by the Anchorage Assembly.[29]

Conclusion

The utilities' Proposed Final Program to maintain a dead-end river is inadequate to protect, mitigate, and enhance the Project's harm to fish and wildlife. Adequate and equitable fish and wildlife protection, mitigation, and enhancement require the lake and upper tributary streams to be connected to the lower river and adequate flows for salmon to thrive. Without more meaningful measures, fish in the Eklutna River will continue to exist only in exceedingly low numbers and will not be able to recover, let alone flourish. As such, we respectfully request that you consider our proposed alternative to comply with the Agreement's purpose, intent, and requirements and provide myriad public interest benefits, including restoring fish to the Eklutna watershed for our people and all Alaskans to enjoy.

Łiq'a nagh qinqtudeł – We are hopeful the salmon will return to us.

Aaron Leggett
Chair/President
Native Village of Eklutna
aaronleggett@eklutna.org

[29] *See* Water and Power Law Group PC, Memo Re: Potential amendment of the schedule for the Fish and Wildlife Program for the Eklutna Project (Apr. 9, 2024).

Exhibit 4

Municipality of Anchorage
Mayor Suzanne LaFrance

July 22, 2024

The Honorable Mike Dunleavy
Governor of Alaska
Office of the Governor
P.O. Box 110001
Juneau, AK 99811

Governor Dunleavy:

I write to you in a spirit of collaboration and opportunity for Southcentral Alaska.

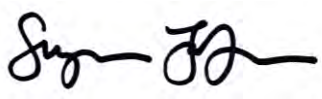
While we are often facing difficult tradeoffs, we have an opportunity before us now to achieve simultaneous goals: a reliable, affordable energy future in Southcentral Alaska; continuous water flow in the Eklutna River; and a reliable drinking water supply for Anchorage residents. We can achieve these goals if we work creatively and collaboratively.

Attached you will find comments from the Municipality of Anchorage (MOA), the majority owner of the Eklutna Hydroelectric Project, in response to stakeholder comments received regarding the Proposed Final Fish and Wildlife Program.

The Municipality of Anchorage is aligned in our position and in our ask, as detailed in the attached letter and Assembly Resolution – AR 2024-218 (S). We ask that you consider a final program that requires the owners to use two years of the three-year pre-implementation period to identify an alternative infrastructure and engineering solution for the Eklutna Hydroelectric Project. Our goal is not mere delay, but for the time to work together with the other owners and stakeholders toward a better solution.

I thank you and your team for the work you do, and look forward to more collaboration ahead on behalf of Alaskans.

Sincerely,



Mayor Suzanne LaFrance

Municipal Clerk's Office
Amended and Approved
Date: July 19, 2024

Submitted by: Assembly Chair Constant
Assembly Vice Chair Zaletel
Prepared by: Assembly Counsel's Office
For reading: July 19, 2024

ANCHORAGE, ALASKA
AR No. 2024-218(S), As Amended

A RESOLUTION OF THE ANCHORAGE ASSEMBLY FORMALLY SUBMITTING ITS COMMENT AS THE MAJORITY OWNER OF THE EKLUTNA HYDROELECTRIC PROJECT AS REQUIRED BY 1991 FISH AND WILDLIFE AGREEMENT INCLUDING A REQUEST FOR A TWO-YEAR EXTENSION TO RESOLVE DISAGREEMENTS REGARDING THE PROPOSED FINAL FISH AND WILDLIFE PROGRAM OF THE EKLUTNA HYDROELECTRIC PROJECT FOR GUBERNATORIAL APPROVAL.

WHEREAS, the Municipality of Anchorage, Chugach Electric Association (CEA), and Matanuska Electric Association (MEA) (collectively "the Hydroelectric Project Owners") jointly own the Eklutna Hydroelectric Project and are parties to the 1991 Fish and Wildlife Agreement (the "1991 Agreement") with the State of Alaska, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service (an agreement that notably excludes a key stakeholder, the Native Village of Eklutna ("NVE"), the federally recognized tribe whose ancestral homelands are encompassed by this project) to fund studies to examine and quantify the impacts of the Eklutna Power Project on fish and wildlife; examine and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by such hydroelectric development; and prepare a Proposed Final Fish and Wildlife Program (the "Fish and Wildlife Program") for approval by the Governor; and

WHEREAS, if approved by the Governor, the Proposed Fish and Wildlife Program will have significant impacts on the operations of the Eklutna Hydroelectric Project and the Anchorage Water and Wastewater Utility ("AWWU"), as well as Anchorage taxpayers and ratepayers for the next 35 years; and

WHEREAS, the 1991 Agreement directs the Governor to give equal consideration to the purposes of

- efficient and economical power production,
- energy conservation,
- the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat),
- the protection of recreation opportunities,
- municipal water supplies,
- the preservation of other aspects of environmental quality,
- other beneficial public uses, and
- requirements of State law;

and

WHEREAS, in their Proposed Final Fish and Wildlife Program to mitigate their impacts to fish and wildlife pursuant to the 1991 Agreement, the Chugach Electric Association and Matanuska Electric Association propose to utilize AWWU

infrastructure to deliver water into the Eklutna River via a Portal Valve (the "Portal Valve Alternative") one mile downstream of Eklutna Lake, leaving that mile dewatered and impassable to salmon; and

WHEREAS, the policy of the Municipality of Anchorage has been to support restoration of the full length Eklutna River since the Anchorage Assembly adopted AR 2017-324(S), "A Resolution in Support of Efforts to Restore the Eklutna River," AR 2022–262, As Amended, "A Resolution of the Anchorage Municipal Assembly in Support of Efforts to Restore the Eklutna River," and AR 2024-40, As Amended, "A Resolution of the Anchorage Assembly Submitting Public Comment on the Draft Fish and Wildlife Program for the Eklutna Hydroelectric Project"; and

WHEREAS, through the passage of AO 2023-131, As Amended, the Assembly, through the creation of a specific law enacting Anchorage Municipal Code section 26.30.025, reinforced and declared that it is the official policy of the Municipality of Anchorage, inclusive of the Anchorage Hydropower Utility, to "restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991 Agreement"; and

WHEREAS, the Assembly, through the passage of both AR 2024-40, As Amended, and AR 2024-182(S-1), has repeatedly requested the other Hydroelectric Project Owners to seek a two-year extension of the 1991 Agreement from the signatories to perform additional analysis, consultation, and coordination with affected parties, including the Anchorage Assembly and the Native Village of Eklutna; and

WHEREAS, on April 26, 2024, the former mayor submitted a letter in support of the Eklutna Hydroelectric Project, however, those comments were not adopted or approved by the Assembly as required by AMC 26.30.025 and cannot be considered official comments of the Municipality as a matter of law; and.

WHEREAS, on July 2, 2024, a Director of the Anchorage Hydropower Utility was appointed by Mayor LaFrance and was confirmed by the Assembly through AM 550-2024; this Director is a licensed professional engineer with extensive experience in utility operations and knowledge of the Railbelt generation and transmission systems, and is the Municipality's voting seat on the Eklutna Hydroelectric Project owners' group which has been vacant in recent years disenfranchising the Municipality of its vote; and

WHEREAS, with the appointment and confirmation of this Director, the Municipality of Anchorage has filed expediently with the Regulatory Commission of Alaska ("RCA") a notice and request for acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee, submitted to the RCA on July 18, 2024, that the Municipality has acquired the expertise required to fully participate as a voting member of the Eklutna Operating Committee and regain its 53.33% voting right; now, therefore

THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1. For the reasons described in this Resolution, in addition to the process

and technical concerns put forth through AR 2024-182(S-1), the Anchorage Assembly requests the Governor attempt to reconcile differences between the parties as called for in the 1991 Agreement by establishing a final program that requires the owners group use two years of the three-year pre-implementation period to identify an alternative infrastructure and engineering solution to ensure continuous water flow to all 12 miles of the Eklutna River. Since the AWWU Portal Valve must not be used to implement this measure, this will enable the owners to define and develop a practical alternative that will:

- Ensure river restoration of continuous waterflow to all 12 miles of the Eklutna River,
- Protect drinking water supply for Anchorage residents, and
- Further contribute to a reliable, affordable energy future for Southcentral Alaska.

We also urge the Governor to remove the "limited reopeners" from the final program to enable the owners to remain open on an ongoing basis to additional river restoration solutions as technology and conditions evolve. The MOA's position is clear: the proposed final Program should not be adopted in its current form. Ultimately, the policy direction of the Eklutna River should reflect the will of Anchorage residents, who will bear significant financial, social, and environmental costs of the final restoration plan into the future.

Section 2. The Anchorage Assembly hereby finds the letter attached to AM 557-2024 from Mayor LaFrance to Governor Dunleavy dated July 19, 2024, regarding this matter is aligned with the official adopted policy of the Municipality and approves the comments therein.

Section 3. This resolution shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 19th day of July, 2024.

Christopher Constant

Chair

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE

Assembly Memorandum

No. AM 557- 2024 (A)

Meeting Date: July 19, 2024

From: **MAYOR**

Subject: Comments to the Governor from the Municipality of Anchorage, in response to stakeholder comments to the Eklutna Hydroelectric Project's Proposed Final Fish and Wildlife Program put forth on April 25, 2024.

Attached are the Mayor's updated comments for submittal to the Governor from the Municipality of Anchorage, the majority owner of the Eklutna Hydroelectric Project, in response to stakeholder comments to the Proposed Final Fish and Wildlife Program put forth on April 25, 2024. Pursuant to AMC 26.30.025B.2., as amended by AO 2024-28, these comments are put forth for approval by the Anchorage Assembly before the comment deadline on July 24, 2024.

Updates have been made to pp. 2-3 of the mayor's July 15 letter to the governor. The updated version, dated July 19, clarifies the Municipality's request to the governor to establish a final program that requires the owners to use two years of the three-year implementation period to identify an alternative infrastructure and engineering solution to ensure continuous water flow to all 12 miles of the Eklutna River.

THE ADMINISTRATION RECOMMENDS APPROVAL.

Prepared by:	Katie Scovic, Chief of Staff
Approved by:	Lance Wilber, Acting Municipal Manager
Concur:	Mark Corsentino, Anchorage Hydropower Director
Concur:	Eva Gardner, Municipal Attorney
Respectfully submitted:	Suzanne LaFrance, Mayor

Municipality of Anchorage
Mayor Suzanne LaFrance

July 19, 2024

The Honorable Mike Dunleavy
Governor of Alaska
Office of the Governor
P.O. Box 110001
Juneau, AK 99811

Governor Dunleavy:

I write to you on behalf of the Municipality of Anchorage (MOA), the majority owner of the Eklutna Hydroelectric Project. On April 25, 2024, Chugach Electric Association and Matanuska Electric Association, on behalf of the Eklutna Hydroelectric Project Owners, submitted to you a Proposed Final Fish and Wildlife Program.

Stakeholders subsequently provided comments on the proposed Program. This letter represents the MOA's formal response to the stakeholder comments received.

Under prior mayoral administrations, the MOA lost its right to vote on the Owners' Council and thus did not have the option to approve or disapprove the proposed Program; but my Administration is working to regain the MOA's vote, which reflects a majority ownership.[1]

The MOA has, by law, adopted an official position on Eklutna River restoration:

> It is the policy of the Municipality of Anchorage and the Anchorage Hydropower utility to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991 Fish and Wildlife Agreement.[2]

It is also a priority of my Administration to protect our local water supply and ensure a reliable energy future for Anchorage residents.

In this, the MOA is aligned with the Native Village of Eklutna (NVE). In its comments, NVE notes that it, like the MOA, "seek[s] a fair balance of energy production, drinking water protection, river conservation, public recreation, and cultural restoration."

Of note, the majority of comments submitted by stakeholders express doubt about whether the optimal "balance" between these interests would actually be achieved by the alternative advanced

[1] As part of the 2018 sale of Municipal Light & Power to Chugach Electric, Inc., the Regulatory Commission of Alaska (RCA) required the Municipality to temporarily surrender its vote on all matters regarding the implementation of the 1991 Fish and Wildlife Agreement until the Municipality hired a qualified manager for the Anchorage Hydropower utility. The Anchorage Assembly currently has a challenge to the legality of the RCA's order pending in Alaska Superior Court (Case No. 3AN-24-06001CI), and, additionally, the Municipality has placed Mark Corsentino in that role and filed with the RCA to regain its vote (Notice and Request for Acknowledgement of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee, submitted to the RCA on July 18, 2024).

[2] Anchorage Municipal Code 26.30.025A.

by the proposed Program.

The current Proposed Final Fish and Wildlife Program would not result in a "continuous water flow of the Eklutna River," or restoration of "fish populations...to Eklutna Lake."[3] The agencies that submitted stakeholder comments recognized that the proposed Program therefore "has limitations" [4] and "does not meet the goal of full ecosystem connectivity."[5] They expressed preferences for an alternative that would "re-water[] the river with staged implementation of meaningful mitigation measures to support restoration and resilience of salmon runs in the Eklutna River watershed,"[6] and "[return] flows to the river that provide wetland connectivity, both instream and off-channel spawning and rearing habitats, and the return of salmon runs and marine derived nutrients into the entire river, lake, and its tributaries."[7]

Alternatives that would preserve power production while also resulting in this majority-preferred "continuous water flow" were proposed. As a result of time pressures, at least one received only an "initial analysis."[8]

My Administration believes that all practical alternatives to the proposed Program should be fully developed. Some of these alternatives have already been identified. The best alternative may not yet be discovered.

It is incumbent upon us to take the time to convene the necessary stakeholders and seriously consider practical alternatives to the proposed Program—including those, as yet generally undeveloped, that could lead to better outcomes.

The 1991 Agreement gives you the authority to establish the final program, which could incorporate and include further process. The 1991 Agreement also states: "The Governor shall attempt to reconcile any differences between the parties."[9]

The Municipality respectfully requests that you consider its position and reconcile the Parties' differences by establishing a final program that requires the owners to use two years of the three-year pre-implementation period to identify an alternative infrastructure and engineering solution to ensure continuous water flow to all 12 miles of the Eklutna River. This will enable the owners to define and develop a practical alternative that will:

- Ensure continuous water flow to all 12 miles of the Eklutna River,
- Protect drinking water supply for Anchorage residents, and
- Further contribute to a reliable, affordable energy future for Southcentral Alaska.

In addition, the "limited reopeners" in the proposed final Program are unnecessary, as under the existing 1991 Agreement, the Owners can and should remain open on an ongoing basis to additional river restoration solutions as technology and conditions evolve. We propose you

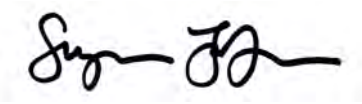
3 *Id.*
4 Comments of the National Oceanic and Atmospheric Association at (June 21, 2024) 2.
5 Comments of the United States Fish and Wildlife Service (June 24, 2024) at 1.
6 Comments of the NOAA at 2.
7 Comments of the FWS at 1.
8 *See* Chugach Electric Association, Letter to the Anchorage Assembly (May 23, 2024) at 9.
9 1991 Fish and Wildlife Agreement, Section 5

remove the limited reopeners from the final program to ensure clarity on this point.

Ultimately, the Proposed Final Program should reflect the will of Anchorage residents, who will bear significant financial, social, and environmental costs of the final restoration plan for the next several decades.

MOA welcomes the opportunity to collaborate with your administration and stakeholders to identify a productive path forward.

Respectfully,



Mayor Suzanne LaFrance

Exhibit 5

Eklutna Hydroelectric Project

Responses to Comments on
Proposed Final Fish and Wildlife Program

July 2024

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Appendix B. Project Owners' Letter to the Anchorage Assembly, dated February 12, 2024

Appendix C. Chugach's Board Chair and CEO Letter to the Anchorage Assembly, dated May 23, 2024

Appendix D. Cost and Risk Assessment of NVE's Eklutna Pump Station Alternative

Terms, Acronyms, and Abbreviations

1991 Agreement	1991 Fish and Wildlife Agreement
ADFG	Alaska Department of Fish and Game
ADNR	Alaska Department of Natural Resources
AEA	Alaska Energy Authority
AF	acre-feet
Assembly	Anchorage Assembly
AWWU	Anchorage Water and Wastewater Utility
CEA	Chugach Electric Association, Inc.
cfs	cubic feet per second
Committee	Monitoring and Adaptive Management Committee
Draft Program	Draft Fish and Wildlife Program
FERC	Federal Energy Regulatory Commission
Final Program	Final Fish and Wildlife Program
Ft	feet
Governor	Governor of Alaska
IIP	Initial Information Package
MEA	Matanuska Electric Association, Inc.
MGD	million gallons per day
MOA	Municipality of Anchorage
MW	megawatt
NMFS	National Marine Fisheries Service
NVE	Native Village of Eklutna
Parties	CEA, MEA, MOA, NMFS, USFWS, and the State of Alaska
PME	protection, mitigation, and enhancement
Project	Eklutna Hydroelectric Project
Project Owners	CEA, MEA, and MOA
Proposed Final Program	Proposed Final Fish and Wildlife Program
RCA	Regulatory Commission of Alaska
SID	Supporting Information Document
State	State of Alaska
TEK	Traditional Ecological Knowledge
Transaction Date	October 2, 1997
TWG	Technical Work Group
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service

1.0 Introduction

The Eklutna Hydroelectric Project (Project) is located in Southcentral Alaska, approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna (NVE). The federal government completed construction of the Project in 1955. Decades later, Chugach Electric Association (CEA), Matanuska Electric Association (MEA), and the Municipality of Anchorage (MOA) (Project Owners) agreed to purchase the Project and entered into a Purchase Agreement with the federal government in 1989. Shortly thereafter, concerns were raised about the Project's potential impacts on fish and wildlife. This led to the execution of a binding agreement in 1991 (1991 Agreement) amongst the Project Owners, National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the State of Alaska (Parties) that requires the Project Owners to, beginning no later than 25 years after the Project sale, and every 35 years thereafter: (1) study the Project's impacts to fish and wildlife, (2) develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the development of the Project, (3) consider the impact of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use, and (4) identify available means to mitigate these impacts.

The Project Owners initiated the process required in the 1991 Agreement for the first time in March 2019. After four years of consultation, studies, and alternatives analysis, the Project Owners issued a Draft Fish and Wildlife Program (Draft Program) in October 2023 as required by the 1991 Agreement. The Project Owners met with the Parties and NVE several times from December 2023 through April 2024 to attempt to resolve differences, as required by the 1991 Agreement.

The Project Owners also held six public meetings in January 2024 to solicit public comments. After considering all comments received and giving due weight to the recommendations and expertise of the Parties and NVE, the Project Owners developed the Proposed Final Fish and Wildlife Program (Proposed Final Program) and submitted it to the Governor on April 25, 2024.[1] The schedule outlined in the 1991 Agreement calls for Governor issuance of a Final Fish and Wildlife Program no later than October 2024.

The 1991 Agreement allows a 60-day period during which the other Parties to the 1991 Agreement may review the Proposed Final Program and submit comments to the Governor.

[1] While the MOA did not sign on to submission of the Proposed Final Program given the fact that they did not have decision-making authority with respect to the 1991 Agreement, Anchorage Mayor Dave Bronson, who was mayor during the development of the Proposed Final Program, submitted a letter to the Governor in support of the Proposed Final Program on April 26, 2024 in his role representing the MOA as a Project Owner-Party to the 1991 Agreement.

Two non-Project Owner Parties to the 1991 Agreement, NMFS and USFWS, submitted public comment letters on the Proposed Final Program on June 21, 2024, and June 24, 2024, respectively. In addition, NVE submitted comments on June 21, 2024, and the Anchorage Assembly (Assembly) submitted comments on June 26, 2024.

The 1991 Agreement allows the Project Owners a 30-day period in which to respond to comments on the Proposed Final Program. This document sets forth the Project Owners' responses to the four comment letters on the Proposed Final Program.

2.0 Short Summary of Proposed Final Program

The Project Owners' Draft Program included the following fish and wildlife protection, mitigation, and enhancement measures:

- Construction of an Eklutna River Release Facility to provide year-round instream flows to the Eklutna River, and establishment of a default flow regime and water budget for year-round instream flows;
- Automation of the existing outlet gate at the dam to provide periodic channel maintenance flows in the Eklutna River, and establishment of a default schedule and water budget for periodic channel maintenance flows;
- Construction of eight new bridges along the Anchorage Water and Wastewater Utility (AWWU) access road to enable AWWU's access to critical infrastructure year-round following the establishment of instream flows;
- Establishment of a Committee to oversee implementation of the Monitoring and Adaptive Management Plan (Committee), which would include the resource management agencies and NVE;
- Funding to conduct monitoring studies in the Eklutna River throughout the 35-year program;
- Procedures for the Committee to adaptively manage the flow regime in the Eklutna River based on the monitoring results; and
- Provisions for the Committee to bank water in Eklutna Lake.

The Project Owners met with the Parties and NVE several times from December 2023 through April 2024 to attempt to resolve differences. These good faith discussions led to significant changes to the Draft Program, which are reflected in the Project Owners' Proposed Final Program. These changes included:

- Adding a funding commitment for lakeside trail repairs;
- Having the Committee chair be elected by members of the Committee, instead of designated by the Governor;
- Adding a commitment for the Project Owners to participate in the Committee as non-voting members;

- Increasing the funding commitment for monitoring studies;
- Specifying that ADFG would implement the monitoring studies as directed by the Committee;
- Adding a commitment for the Committee to define success criteria that will inform monitoring and adaptive management decisions;
- Combining the water budgets for instream flows and channel maintenance flows in order to provide as much flexibility as possible;
- Increasing the Committee's ability to bank water in the reservoir;
- Increasing the Committee's ability to request changes to the flow regime;
- Adding procedures for allocating any additional inflows to the reservoir in the future, which will be split 50/50 between instream flows and hydropower;
- Adding a funding commitment for physical habitat enhancement focused on fish rearing habitat;
- Adding a commitment for the Project Owners to conduct a more detailed feasibility study for the fixed wheel gate, and a limited reopener for implementing the fixed wheel gate 10 years after initiating instream flows; and
- Adding a framework for the Committee to continue discussions regarding potential fish passage into and out of Eklutna Lake, and a second limited reopener (in addition to the fixed wheel gate reopener) for fish passage 10 years after initiating instream flows or anytime thereafter.

Governor approval of the Proposed Final Program as the Final Fish and Wildlife Program will enable the Project Owners to implement these significant fish and wildlife measures at the Project, while simultaneously protecting the municipal water supply and continuing to provide low cost, renewable energy to Southcentral Alaska.

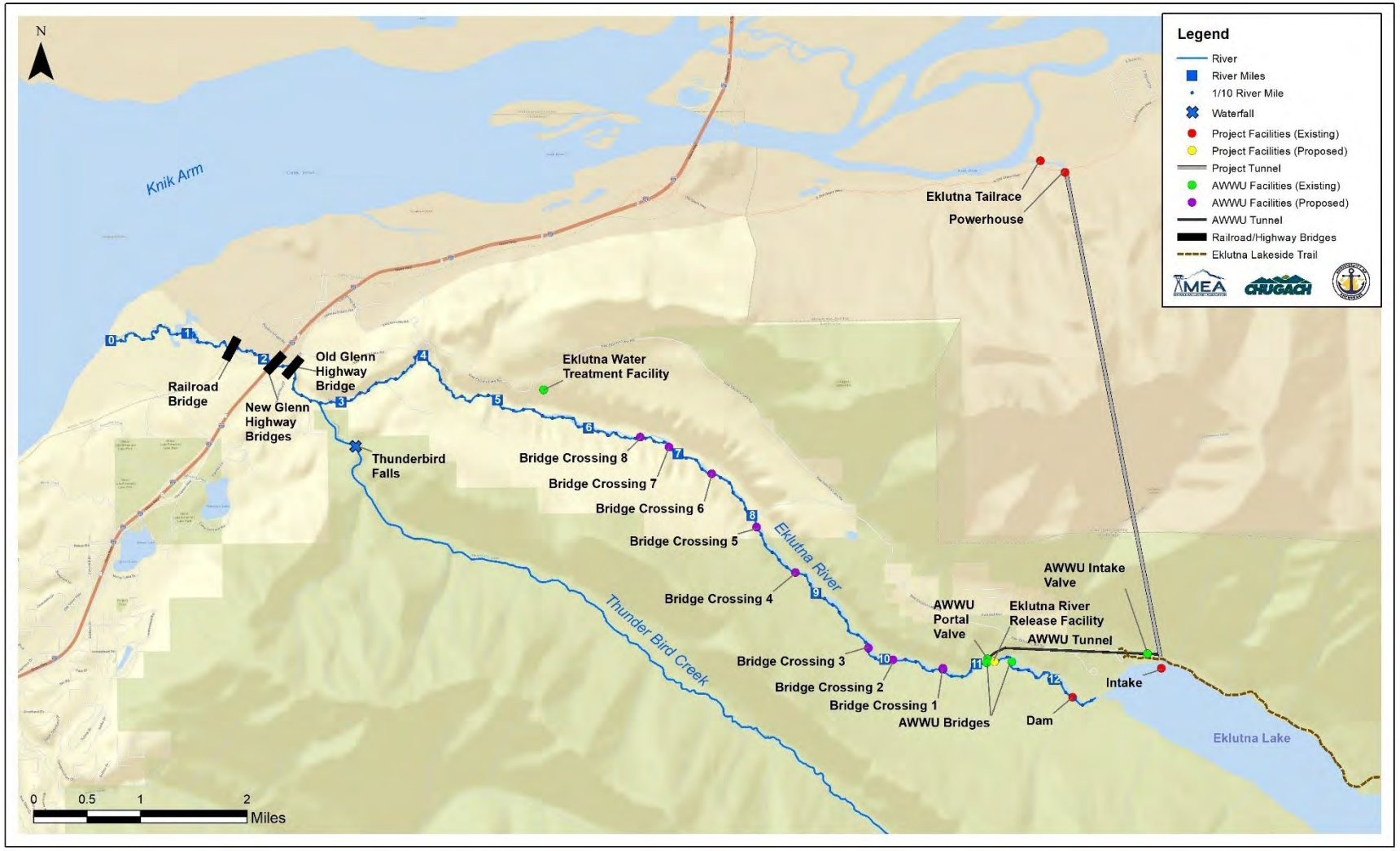


Figure 2-1. Existing and Proposed Infrastructure.

3.0 Response to Comments Submitted by Parties to the 1991 Agreement

Two non-Project Owner Parties to the 1991 Agreement submitted public comment letters on the Proposed Final Program: NMFS on June 21, 2024, and USFWS on June 24, 2024. The comment letters from the federal agencies followed a similar cadence. Both agencies reiterated their overall resource management goals, described their preferred alternatives, compared their preferred alternatives to the Proposed Final Program, and described how the Proposed Final Program met many of their resource management goals. In addition, both letters identified some limitations of the Proposed Final Program, but they also acknowledged the reason for these limitations and the need to balance the associated costs and impacts to hydropower generation. Finally, both agencies made one additional request to modify the limited reopener for the fixed wheel gate. This request for modification and the areas of agreement are described below in more detail.

3.1 Agencies' Agreement on Components on Proposed Final Program

In their letter, NMFS stated that the Proposed Final Program "includes provisions supporting habitat restoration initiatives" and that "several provisions will support near-term and long-term mitigation actions, such as the mitigation and monitoring funds, overseen by the Monitoring and Adaptive Management Committee, and the future flows allocation provision." They acknowledge that these provisions will take time to complete; however, they anticipate that these provisions, once completed, "will have substantive results toward mitigating Project related effects." NMFS concluded that the Proposed Final Program "provides a framework to initiate the protection, mitigation and enhancement of fish and wildlife resources, and will support the next iteration of a mitigation plan" in 35 years. They also "look forward to assisting in the implementation of the Program as proposed."

At multiple points in their letter, NMFS acknowledged the Project Owners' efforts to address their concerns and resource management goals in the Proposed Final Program. For example, NMFS stated that "the climate change related provisions for potential new infrastructure, such as a new gate at the dam, and water allocations… address the messages of the Fifth National Climate Assessment for Alaska and our overall management interests." NMFS also pointed out their concern that one mile of the river below the dam will remain dewatered, and that the proposed flows are less than their preferred alternative. But they also acknowledged that as a means to address this concern, the Proposed Final Program "includes an adaptive management strategy that adjusts the overall mitigation water budget based on future inflows to Eklutna Lake. This adaptive and forward-looking approach considers a changing

environment to support the long-term advancement of mitigating Project related impacts on fish and wildlife while balancing water availability for hydropower generation."

Similarly, the USFWS recognized "the reality of the current infrastructure's constraints on instream and maintenance flows and the high capital investment necessary for a new dam and fish passage structures." Therefore, in September 2023, they requested "a phased approach to fish passage and ecosystem connectivity, whereby water would be returned to the river as soon as possible, with additional time provided for planning, fund raising, and construction." They go on to state that the Proposed Final Program, with the commitment of all stakeholders, could be an interim step to reconnecting the river, consistent with their request for a phased approach.

Both agencies pointed out that the 1991 Agreement was designed to function "at least as well as Federal regulation for the intended purpose of mitigation and enhancement of affected fish and wildlife resources." However, they also acknowledged that they do not have authority to prescribe fish passage under the 1991 Agreement, and that the Federal Energy Regulatory Commission (FERC) does not have jurisdiction over the Project. That said, they both consider the fish passage limited reopener in the Proposed Final Program to be analogous to reserving their authority to prescribe fish passage under Section 18 of the Federal Power Act (FPA), and the USFWS further states that they "appreciate the Owners including a mechanism to explore fish passage opportunities in the future."

The Project Owners appreciate the federal agencies' continued participation in this process and feel that their valuable input has led to a more robust and balanced Proposed Final Program, and the Project Owners look forward to continuing to work with both federal agencies during implementation.

3.2 Agencies' Request for Modification of Proposed Final Program

The Proposed Final Program includes a provision for the Project Owners to conduct a detailed feasibility study of a new fixed wheel gate at the existing dam (including a stability analysis and Class 3 cost estimate). If the new gate is structurally feasible and monitoring efforts during the defined 10-year period indicate that average annual inflows to the lake have increased by 20,000 acre-feet or the Committee determines that higher channel maintenance flows are warranted to maintain spawning gravels, then the Project Owners will commit up to $10M in 2024 U.S. dollars to install the new gate.

The NMFS recommended one change to the Proposed Final Program in reference to the funds for a fixed wheel gate: "If the feasibility study indicates the dam is insufficiently stable to support a new gate structure and this action does not proceed, then one of two alternatives

should be given consideration. In lieu of a new gate, we recommend further analysis for the construction of a pump station that takes water from Eklutna Lake and discharges it through, or adjacent to, the existing dam outlet gate. We reviewed the Owner's response to this alternative by NVE and understand their concerns. However, a more in-depth analysis is warranted if the feasibility study for a new gate indicates an unfavorable stability result… Alternatively, if the new gate is infeasible, the funds identified for the potential new gate should be designated for other mitigation measures related to water management for the protection, mitigation, and enhancement of fish and wildlife in the Eklutna River in coordination with the Monitoring and Adaptive Management Committee. We propose this modification to the Program to ensure the value of the negotiated mitigation program is not lost but instead may be used to improve habitat through other means."

The USFWS recommended the same change, although they did not specifically mention the pump station alternative: "If a fixed wheel gate is not found to be structurally feasible, those funds should be used for other infrastructure related to water management for protection, mitigation, and enhancement measures for fish and wildlife including impacted habitat loss and other effects related to the Project. Thus, if a fixed wheel gate is not feasible, the funding included for proposed mitigation is not lost, but instead funds may be used to improve habitat through other means."

In the event that the fixed wheel gate is not found to be structurally feasible, the Project Owners are willing to discuss with the Committee the possibility of allocating some of that funding not spent on the fixed wheel gate due to infeasibility to other mitigation activities that would, like the fixed wheel gate, benefit both fish and wildlife and Project operations, subject to board approval. Regarding the pump station proposed by NVE in April 2024, the Project Owners have since conducted a more in-depth analysis of the pump station and have decided not to adopt this alternative for reasons discussed in Section 4.4.1 of this document. The full Cost and Risk Assessment of NVE's Pump Station Alternative has been included in **Appendix D**.

4.0 Responses to Other Comments

NVE submitted comments on the Proposed Final Program on June 21, 2024, and the Assembly submitted comments on June 26, 2024. Both sets of comments disagree with the Project Owners Proposed Final Program.

The Project Owners appreciate the importance of the Proposed Final Program to NVE and the Assembly, which is why both were included in the program development process from the beginning. In June 2020, the Project Owners formally elevated NVE's participating status over all other interested non-Parties, as detailed in **Appendix A** and discussed more below. Beginning in February 2020, the Project Owners regularly presented the status of the study, consultation, and program development process to the Assembly. This included presentations in February 2020, October 2020, March 2021, June 2021, October 2021, February 2022, July 2022, November 2022, March 2023, July 2023, and December 2023.

Ultimately, despite these efforts, the process followed by the Project Owners reached outcomes that the Assembly and NVE believe do not go far enough to mitigate all impacts on fish and wildlife in the Eklutna River and on the Eklutna Dena'ina people by hydroelectric development since the 1920s. The Project Owners acknowledge this perspective but find that the Assembly and NVE's desired outcomes and obligations of the Project Owners go well beyond the scope of that required under the 1991 Agreement. While the Proposed Final Program does significantly improve habitat for fish and wildlife in the Eklutna River affected by the Project and allows the Governor to appropriately balance numerous other public interests as required by the 1991 Agreement, it is not surprising generally that a process that requires the balancing of so many objectives simply cannot fully satisfy all interested parties. There are, however, numerous statements from the Assembly and NVE in their comments that are inaccurate and not supported by facts. The Project Owners have attempted in good faith to explain and correct these inaccuracies on numerous occasions. For examples of such previous attempts, please refer to the Project Owners' letter to the Anchorage Assembly, dated February 12, 2024, attached as **Appendix B**, and Chugach's Board Chair and CEO's letter to the Anchorage Assembly, dated May 23, 2024, attached as **Appendix C**.

The Project Owners provide the following responses to the comments of both NVE and the Assembly, which have been organized by topic for ease of review due to their similarity.

4.1 Process

The Assembly states that the process engaged in by the Project Owners is not as robust as a FERC license process, the federal National Environmental Policy Act analysis, and the alternative analyses that the Assembly uses on its own capital projects. These same assertions

were made in the Assembly's AR-2024-40 (as amended). In short, how this process compares to other processes does not change the fact that the Project Owners were required by law to follow a certain process and timeline set forth in the 1991 Agreement, and which the Project Owners did, carefully and fully. Additionally, where permitted by the 1991 Agreement, the Project Owners used industry best practices, hired FERC licensing expertise, and used FERC relicensing processes to do more than required of the Project Owners by the 1991 Agreement. The Project Owners refer the Governor to their response to "Concern 1.A" in their February 12, 2024, letter (**Appendix B**) and Section 1 of Chugach's Board Chair and CEO's letter to the Anchorage Assembly, dated May 23, 2024 (**Appendix C)**. Note that Attachment 1 to **Appendix C** sets forth a short summary of the process with hyperlinks to key documents in the Project website, found at www.eklutnahydro.com. Please also see a more detailed description of the Project Owners' compliance with process requirements of the 1991 Agreement in Section 4 of the Supporting Information Document (SID).

4.2 Objectives

In their comments, NVE and the Assembly take issue with the Project Owners' treatment of the public interest objectives laid out in the 1991 Agreement. They are concerned both that the Project Owners have overreached by considering all objectives listed in the 1991 Agreement, while also alleging the Projects Owners missed objectives and purposes to the 1991 Agreement that are not there. To each such concern, the Project Owners again point to the fact that in conducting this process, they followed the 1991 Agreement to the letter. To do any less, or to read objectives into the agreement that are not there, would potentially be a violation of the rights of the Parties, rights that were negotiated carefully in 1991 leading up to the sale of the Project from the federal government to the Project Owners in 1997 and rights that informed Congressional authorization of such sale.

4.2.1 The Eight Objectives in the 1991 Agreement

NVE states that the Project Owners engaged in overreach when considering all the objectives listed in the 1991 Agreement that the Governor must weigh when reviewing of a Proposed Final Program. For reference, the Governor is required to review the Proposed Final Program as well as any comments or recommendations for alternative PME measures while giving equal consideration to:

1. Efficient and economical power production
2. Energy conservation
3. The protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat)

4. The protection of recreational opportunities
5. Municipal water supplies
6. The protection of other aspects of environmental quality
7. Other beneficial public uses
8. Other requirements of State law

NVE suggests, however, that the Project Owners *should have* focused solely on objective number 3 and reserved solely for the Governor consideration objective numbers 1, 2, 4, 5, 6, 7, and 8. The Project Owners believe that creating a Proposed Final Program that ignores the impacts it has on the other objectives would be irresponsible given the Governor's responsibilities to consider all eight objectives. Further, under Section 2 of the 1991 Agreement, the Project Owners are required to conduct studies to "consider the impact of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use." Because the Project Owners are required to study the impacts of fish and wildlife measures on such interests and because the Project Owners are required to present a Proposed Final Program to the Governor who is then required to weigh multiple objectives when reviewing it, the Project Owners had a responsibility to develop a Program that had all such considerations and objectives in mind. The alternatives analysis exercise voluntarily conducted by the Project Owners with all of the Parties and NVE was intended to ensure that the Governor is provided with consistent, apples-to-apples comparisons of information across all evaluated alternatives as a starting point for his consideration, with the full expectation that the Governor would then conduct his own independent assessment.

4.2.2 Sockeye Restoration is Not a Requirement of the 1991 Agreement

NVE and the Assembly further take issue with the fact that the Project Owners did not read a requirement to restore sockeye salmon into the 1991 Agreement. This requirement, however, is not listed in the 1991 Agreement and to do so would have been an overreach of the Project Owners authority under the 1991 Agreement.

NVE points to a selective reading of the Divestiture Summary Report , which was written a year after the 1991 Agreement was negotiated in support of the federal legislation necessary for the federal government to sell the Project to the Project Owners. The full quote is instructive:

Specific fish and wildlife measures were not contemplated in the earlier divestiture studies and reports or in negotiations for the Purchase Agreements. This was because the projects were generally viewed as not involving fish and wildlife problems.

During reviews of the legislative proposal, loss of a sockeye salmon run that once spawned in Eklutna Lake was identified. The loss was caused by a small private power project constructed in the 1920's. The loss was not identified in pre-authorization studies for the Federal Eklutna Project and the Federal project does not include mitigation. This specific problem and the desires of the fish and wildlife agencies to provide appropriate consideration to fish and wildlife resources over the long run led to the August 7, 1991 Agreement.

The formal process to develop fish and wildlife programs is to begin no later than 25 years after the Transaction Date with formal fish and wildlife programs to be in place within 30 years for Eklutna and 35 years for Snettisham. The agreement provides for an earlier start if the parties find that to be desirable. These timing provisions are designed primarily to reduce uncertainties in financing and repayment of new debt while recognizing that known fish and wildlife concerns are not of the type that will require near future action.

Nowhere in the Divestiture Summary Report does it state that "restoring the Eklutna River to its natural habitat" or "restoring sockeye runs" is, or should be, a requirement of the 1991 Agreement. Rather, the Divesture Summary Report states that the intent of the fish and wildlife agencies in negotiating the 1991 Agreement was to "provide appropriate consideration to fish and wildlife resources over the long run" in recognition that sockeye salmon runs had been eliminated by hydroelectric development in the 1920s completely independent of the Project that the Project Owners purchased. Further, neither the 1991 Agreement nor the Divesture Summary Report place upon the Project Owners an obligation to address or remedy the damage to fish by others long before and beyond effects of the Project. Rather the Divestiture Summary Report makes clear that the Project did not eliminate sockeye runs in the Eklutna River.

4.2.3 Dam Removal

The Assembly includes comments stating that dam removal is the only alternative to meet the purpose of the 1991 Agreement.[2] While the Project Owners understand that there are some

[2] The comments that the Assembly quotes state that this is the purpose of the "Purchase Agreement" at AR No. 2024-182(S-1), 1.E.2. Based on context and the Assembly's header, the Project Owners understood this to be an error in identifying the correct agreement and is intended to reference the 1991 Agreement. The Purchase Agreement's purpose was entirely unrelated to fish and wildlife, with the sole purpose of such agreement being to facilitate the sale of the Eklutna Hydroelectric Project from the federal government to the Project Owners. Please refer to Section 2 of the Eklutna Purchase Agreement.

who wish to see the dam removed, dam removal was not the desired intent behind the 1991 Agreement. At its core, the 1991 Agreement was written and signed in support of the sale to – and continued long-term operation of the Project by – the Project Owners. It was negotiated to address concerns that impacts of the Project on fish and wildlife were not otherwise going to be accounted for if the Project remained in Federal ownership or Congress granted the Project Owners an exemption to FERC relicensing requirements related to fish and wildlife that would otherwise apply to a privately owned dam. The process required by the 1991 Agreement is clearly supposed to be repeated every 35 years – which indicates that the intent was not to remove the Project the first time the Project Owners go through the process. The Project Owners would have never entered into the 1991 Agreement and purchased the Project to operate it for 35 years and then incur the costs, risks and liabilities associated with removing the dam and decommissioning the Project. As discussed above, the 1991 Agreement balances multiple objectives in its text, and further it contemplates an indefinite repetition of the study and program development process over the life of the Project, suggesting clearly that this agreement was intended to protect, mitigate damages to, and enhance fish and wildlife over the long run in the vicinity of an operating facility.

As the Project Owners outlined in the Proposed Final Program and the SID, the Project Owners have carefully followed the process outlined in the 1991 Agreement to meet its stated objectives. The Project Owners are unable to comply with suggestions that the Project Owners ignore those stated objectives or follow those not stated as asserted by the Assembly and NVE. The Project Owners will not depart from prudent utility practices to incur costs or take on risks to attempt to satisfy objectives not in the 1991 Agreement.

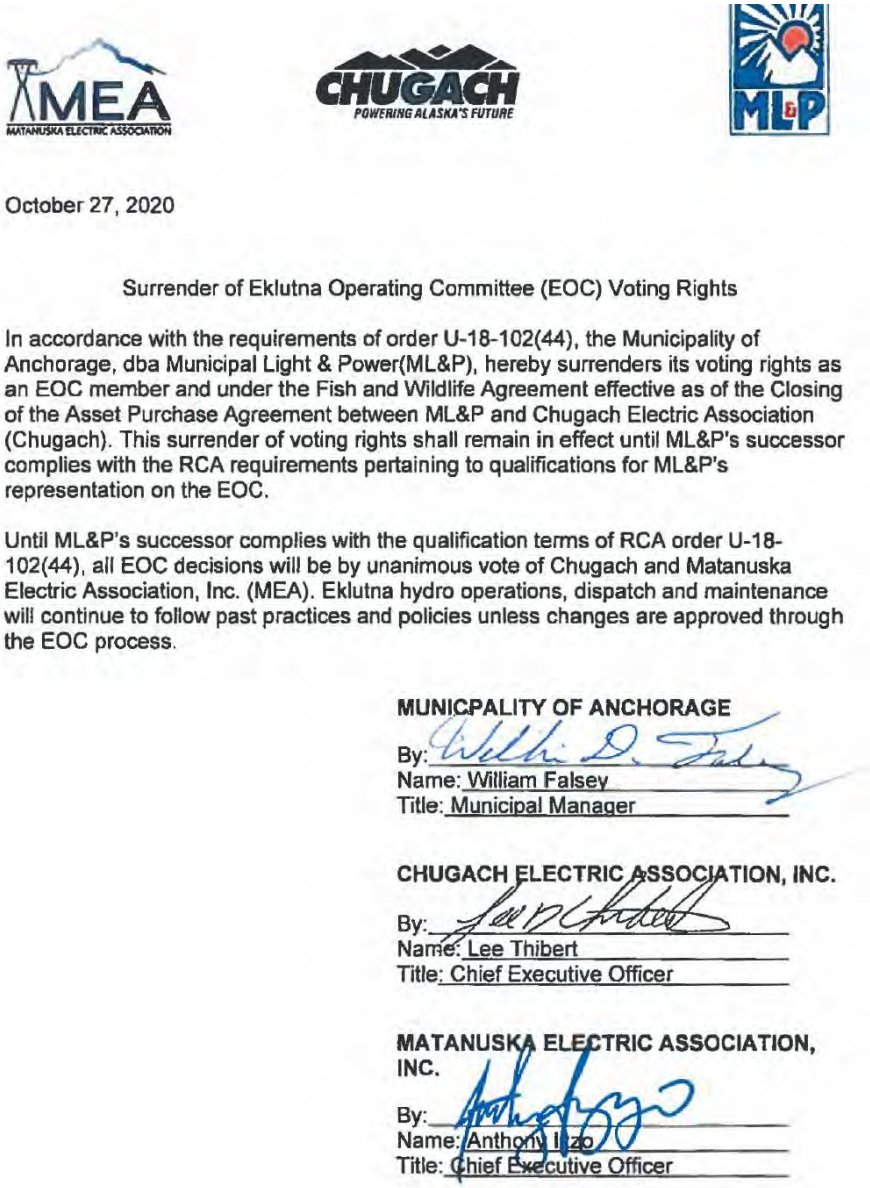
4.2.4 The Assembly's Attempt to Impose New Objectives

Through the passage of various ordinances (such as AO 2023-131, As Amended) and resolutions (such as AR 2017-342(S), AR 2022-262, As Amended, and AR 2024-182(S-1), the Assembly has attempted to impose new objectives and requirements on the Project Owners. Specifically, the Assembly has argued that the Project Owners must "restore the Eklutna River" and "restore continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible. . . ." No such words or concepts appear within the four corners of the 1991 Agreement.

While the Municipality of Anchorage is a governmental entity duly organized under Alaska state law, it has no authority under the 1991 Agreement or through legislative or regulatory powers under state or federal common law to unilaterally impose new provisions into a contract to which it is one of several parties. No single party to the 1991 Agreement can simply add new provisions into the 1991 Agreement or demand that its interpretation of objectives must include objectives that do not appear in the 1991 Agreement. As explained

in Section 4.5.1 below, no provisions allowing such amendment exist within the 1991 Agreement, creating legal ambiguity about whether such an amendment requires an act of Congress.

In short, the Assembly has no special powers with respect to interpreting the 1991 Agreement or mandating any particular result. Of course, it can declare its policy position, but its policy determination pertains only to the MOA -- one of the seven parties to the 1991 Agreement. Even as one of the three Project Owners, it cannot impose its view on the other Project Owners because it surrendered its rights to determine how the 1991 Agreement would be implemented to Chugach and MEA on October 27, 2020:



October 27, 2020

Surrender of Eklutna Operating Committee (EOC) Voting Rights

In accordance with the requirements of order U-18-102(44), the Municipality of Anchorage, dba Municipal Light & Power(ML&P), hereby surrenders its voting rights as an EOC member and under the Fish and Wildlife Agreement effective as of the Closing of the Asset Purchase Agreement between ML&P and Chugach Electric Association (Chugach). This surrender of voting rights shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC.

Until ML&P's successor complies with the qualification terms of RCA order U-18-102(44), all EOC decisions will be by unanimous vote of Chugach and Matanuska Electric Association, Inc. (MEA). Eklutna hydro operations, dispatch and maintenance will continue to follow past practices and policies unless changes are approved through the EOC process.

MUNICPALITY OF ANCHORAGE
By:
Name: William Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.
By:
Name: Lee Thibert
Title: Chief Executive Officer

MATANUSKA ELECTRIC ASSOCIATION, INC.
By:
Name: Anthony Izzo
Title: Chief Executive Officer

4.3 The Project Owners' Proposed Final Program

The Assembly criticizes the Proposed Final Program for misrepresentation of data, incomplete analysis, and insufficient mitigation. These same assertions were made in the Assembly's AR-2024-40 (as amended). The Project Owners refer the Governor to their response to Concern 1.B and 1.C in their February 12, 2024 letter (**Appendix B**). Also, the Project Owners refer the Governor to Sections 3-4 of the SID which demonstrate that the Project Owners completed a thorough study program, analysis of alternatives, and engineering cost and risk analysis.

NVE criticizes the Proposed Final Program for several reasons. The Project Owners respond to each below.

"1. Fails to remedy the harms to the sockeye salmon and their spawning habitat"

Response: As overviewed above, the 1991 Agreement does not require that the Project Owners remedy harms to sockeye salmon and habitat caused by all historical hydroelectric project development in the Eklutna River. As detailed in the Initial Information Package (IIP), the Study Reports, and the SID, the sockeye salmon runs, to the extent they existed, were eliminated by the construction of a private hydroelectric dam in the 1920s, nearly three decades before the current Project was built upriver by the federal government, and more than 70 years before the Project Owners purchased the Project from the federal government. The Project Owners bear no legal or contractual *liability* for a loss that long predated the Project, and even longer predated the Project Owners' ownership of the Project, and therefore bear no legal or contractual *responsibility* to restore the sockeye salmon runs or remove all impediments to allowing sockeye salmon, should they return, to swim to Eklutna Lake or its tributaries.

Despite this lack of obligation, in order to be thorough and responsive to community requests, all fish passage measures proposed by NVE, NMFS, USFWS, and other stakeholders were evaluated during the study program and alternatives analysis. All of the volitional upstream fish passage measures that were evaluated either (1) would have significant impacts to the hydropower project (i.e., would reduce the storage capacity of the reservoir by approximately 40% or would require the Project powerhouse to be shutdown throughout the winter when energy is needed most), or (2) were found to be cost prohibitive (the estimated present worth for the stakeholders' preferred alternatives that included volitional fish passage ranged from $221M to $385M including capex, operations and maintenance, and replacement energy). In addition, there are still significant concerns regarding the effectiveness of all the downstream fish passage facilities studied (i.e., low attraction flow velocities and/or the inability to operate

the downstream fish passage facilities while the lake is frozen over). Therefore, fish passage measures are not proposed at this time.

Nonetheless, the Project Owners recognize that fish passage may become feasible in the future and that fish passage is important to NVE and the federal resource management agencies. The Project Owners have therefore included a limited reopener for fish passage in the Proposed Final Program, which provides an opportunity 10 years after flows begin to assess whether fish passage measures are warranted and technically feasible. If, for instance, sockeye salmon return to the Eklutna River and travel in numbers sufficient to warrant investigation of fish passage, the Committee is specifically charged with initiating that investigation. As noted in the NMFS and USFWS letters, the Project Owners believe that the Proposed Final Program is a significant first phase of measures as part of a long-term program.

"2. Leaves one mile of dry riverbed that prevents fish from reaching Eklutna Lake"

Response: The Project that the Project Owners purchased, and that had been in operation at that time for over 40 years, eliminated the flow of water from Eklutna Lake into the Eklutna River. The water is instead primarily used for Anchorage drinking water and hydroelectric power. This was the fundamental design of the Project. The lack of water in the river has had impacts on the fish and wildlife in the river. The 1991 Agreement simply charged the Project Owners to study these impacts and then develop a Proposed Final Program to protect, mitigate, and enhance fish and wildlife resources affected by hydroelectric development of the Project. The 1991 Agreement does not require restoration of flows (natural or controlled) through the entire Eklutna River.

From the outset, however, the Project Owners were committed to returning water to the Eklutna River in flows sufficient to enhance fish habitat. The Project Owners have submitted a Proposed Final Program that capitalizes on efficiencies of existing infrastructure to rewater 11 out of 12 miles of a currently un-watered riverbed, achieving 96.5% of maximum spawning habitat for Chinook below the AWWU portal valve and 99.5% of maximum spawning habitat for coho, and indirectly benefiting the wildlife the depend on these salmon. In addition, the default flow regime should increase the available rearing habitat by 53% for Chinook and by 67% for coho. The Proposed Final Program's monitoring, adaptive management and habitat funding provisions will provide the Committee with the tools and opportunity to further increase rearing habitat as the river adjusts to the new flow regime. It also includes significant reopener provisions that would allow for (1) the replacement of the existing overflow spillway with a fixed wheel gate to provide higher magnitude channel maintenance flows if needed, and (2) the construction and operation of fish passage facilities both into and out of Eklutna Lake based on specific criteria.

On the whole, this Proposed Final Program meets and exceeds the requirement to protect, mitigate damages to, and enhance fish and wildlife resources affected by development of the Project. It also does so while keeping costs manageable, preserving the year-round benefits available from the Project as a low-cost electric power generation and capacity resource, which is particularly essential during extremely cold weather as discussed in greater detail in Section 4.4.3 to this document, protecting the public water supply, avoiding impacts to recreation, and decreasing carbon emissions.

There is no basis for the idea that the only way to meet the obligations of the 1991 Agreement would be to fully re-water all 12 miles of the river, and in fact doing so would present exorbitant cost for ratepayers and could significantly impair the many other beneficial public uses that the Proposed Final Program effectively balances.

"3. Blocks access to the majority of sockeye, Chinook, and coho salmon spawning and rearing habitat in the lake and its tributaries"

Response: As discussed in Section 4.11.9 of the SID, the Project Owners fully acknowledge that the Traditional Ecological Knowledge (TEK) from NVE indicates that there was a sockeye salmon run in Eklutna Lake before the lower dam was constructed in 1929. Furthermore, as part of their study program, the Project Owners did identify some potentially suitable spawning habitat around the lake shoreline (~1.5 acres) and in the East and West Forks of Eklutna Creek (0.765 – 3.61 acres). However, in a 2011 report, the USACE stated "It is doubtful that significant numbers of sockeye salmon ever spawned in the Eklutna River drainage because suitable spawning area upstream of the lake is limited and water quality in the lake would likely have limited opportunities for spawning in the littoral zone of the lake. Fully 80 percent of the water entering Eklutna Lake comes from two glacial streams that would not be conducive to the consistent survival of sockeye salmon from egg to fry, and the remaining spawning area would not be sufficient to support large numbers of spawning anadromous salmon. In addition, the physical limnology studies of Eklutna Lake suggest that the turbidity in Eklutna Lake during much of the year is not conducive to significant primary production." The USACE's statements are supported by the Project Owners' study results. The kokanee in Eklutna Lake are much smaller than those reported in many other lake systems (4.5-6.5 inches vs. 10-12 inches), have low fecundity (only 20-30 eggs compared to hundreds or thousands), and lack sexual dimorphism and development of spawning color that is typical of the species. This is likely due to the poor nutrient conditions and high turbidity levels in the lake, which causes low primary productivity and limited food sources in the environment.

It should also be noted that a separate study was conducted by Loso et al. several years ago to try to determine "whether there was an anadromous salmon run into Eklutna Lake prior to 1929" by using marine derived nutrients (MDN) as a biochemical marker in lake sediment. The

study found that there was no significant difference in the composition of sediment layers from before and after 1929. However, a sensitivity test was conducted to assess the possibility that a small salmon run may have gone undetected by the isotopic analysis. It was determined that "a salmon run of up to 1,000 per year, and potentially as many as 15,000 per year, would be possible without noticeably altering the measured isotopic composition of the sediments in Eklutna Lake." Therefore, the results "provide no evidence that such runs occurred, but do not preclude the possible existence of a relatively small sockeye fishery in Eklutna Lake before 1929."

"4. Delivers inadequate flows for fish below the Eklutna Lake Dam"

Response: The proposed flows were established following numerous detailed studies to quantify habitat. Based on these modeling results, and as discussed in Section 4.10.1 of the SID, the default flow regime should achieve 96.5% of the maximum available Chinook spawning habitat in the Eklutna River below the AWWU Portal Valve, and 99.6% for coho (Figure 4-1).

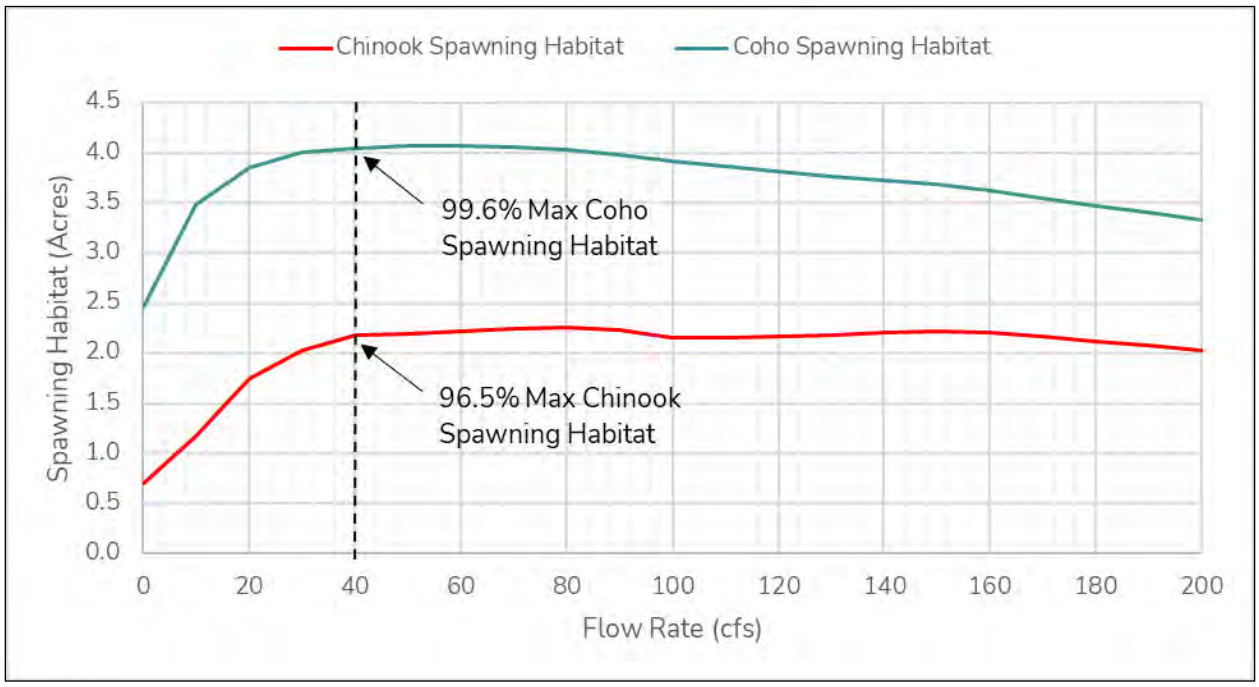


Figure 4-1. Spawning Habitat Curves for the Eklutna River below the AWWU Portal Valve.

In addition, the default flow regime should increase the available rearing habitat by 53% for Chinook and by 67% for coho. Study results also show that the proposed summer flows should allow adult salmon to migrate through the entirety of the canyon reach in order to access the habitat created in the upper reaches of the river, and the proposed winter flows

should promote the creation of surface ice (instead of anchor ice) to maintain over wintering habitat for juveniles.

"5. Ignores the requests of the Eklutna Dena'ina for the recovery of a natural river after 94 years of harm"

Response: The Project Owners acknowledge the losses and injustices experienced by the Eklutna Dena'ina on their historical lands along the Eklutna River. For this reason, and due to NVE's status as a government, and Eklutna, Inc.'s significant land ownership in lands under and adjacent to the Eklutna River, the Project Owners have from the outset accorded NVE a significantly elevated role in the consultation and program development process under the 1991 Agreement, despite the fact that they are not a named party to the 1991 Agreement. For further background on how the Project Owners have included NVE and recognized its interests, the Project Owners refer the Governor to (1) the letter that the Project Owners sent to NVE on June 30, 2020 committing to work closely with NVE during the 1991 Agreement process pursuant to an NVE-specific participation framework, elevating their role to more closely resemble the role of a Party to the 1991 Agreement, attached as **Appendix A** hereto, (2) Section 5 of Chugach's Board Chair and CEO's letter to the Anchorage Assembly, dated May 23, 2024, attached as **Appendix C**, and (3) Section 4.1.6 of the SID. NVE has been an important partner to the Project Owners in the development of the Proposed Final Program and will continue to be essential to implementation.

Ultimately, however, the 1991 Agreement itself is not the vehicle for remedying all harms done to the Eklutna Dena'ina in and along the Eklutna River. As overviewed above, the 1991 Agreement was drafted to accompany the sale transaction of the Project from the federal government to the Project Owners and is narrowly drafted to require the Project Owners to propose protection, mitigation of damages to, and enhancement measures for fish and wildlife affected only by the Project that can be balanced effectively by the Governor against other public benefit objectives. It is not a legal vehicle for remedying nearly a century of harm, and it does not require a recovery of the natural river, and in fact, adhering to this request would significantly, negatively impact numerous other public uses of Eklutna Lake.

The Project Owners have employed a methodical, scientific process closely following the requirements of the 1991 Agreement, including extensive consultation with NVE, to develop a Proposed Final Program that does exactly what the 1991 Agreement calls for. Contrary to NVE's conclusion that the Proposed Final Program is a failure, the Project Owners believe that it will meet NVE's first stated primary objective: to return substantial flows to the Eklutna River for fish and wildlife and all those will benefit (including the Eklutna Dena'ina).

"6. Jeopardizes the Anchorage drinking water system"

Response: The Assembly writes in Section 1.B of its comments that the Project Owners have not adequately assessed the potential impacts of the Proposed Final Program on the Anchorage water supply with respect to the Project Owners' preferred alternative to use existing AWWU infrastructure. The Project Owners have previously, and continue to, strongly disagree with this unsubstantiated assertion. The design of the Eklutna River Release Facility was and continues to be developed in close collaboration with AWWU. AWWU's engineers have reviewed and provided feedback on all plans to date and incorporated additional design elements to ensure that the municipal water supply is not put at risk. The Project Owners know of no unaddressed or outstanding concerns from AWWU or requests for changes to the Proposed Final Program.

As described in Section 4.6 of the SID, the Project Owners worked closely with AWWU leadership over many months to develop carefully crafted legal terms and agreements by which AWWU would be comfortable with the potential use of their infrastructure should the Governor approve an option which uses the AWWU Lake Diversion Tunnel to release water into the Eklutna River. The forms of agreement detailing this arrangement are attached as Attachment D to the SID. They include robust protections for and benefits to AWWU, AWWU's infrastructure, and the public water supply. The Project Owners commit expressly to not taking any action that would compromise the Anchorage water supply and expressly take on the liability should they do so. The Project Owners are covering all costs of constructing and interconnecting new facilities and are indemnifying AWWU for risks associated with the Proposed Final Program, but AWWU still has design approval rights, and a say over the development of long-term operating procedures. AWWU will receive eight new bridges over the Eklutna River at the Project Owners' cost, along with the replacement of outdated communication systems, the installation of new flow meters, and the installation of a new isolation valve structure for safer maintenance of their facilities. The agreements will also address and extend AWWU's access to the Project Owners' water rights for Anchorage drinking water at a capped compensation rate lower than current costs; the new agreement dealing with such water rights and compensation replaces the 1984 agreement that expires in 2025. AWWU would also be gaining a right to purchase the Project Owners' water infrastructure used to transport AWWU's water allocation in the event that the Project Owners cease operating the Project, as well as rights to priority water rights without the need for further compensation at the end of the new public water supply agreement in 2060.

Many of the same concerns raised by the Assembly about the drinking water system (including Mr. Spiegel's assessment) were made in the Assembly's AR-2024-40 (as amended). The Project Owners refer the Governor to their response to "Concern 1.B Potential Impacts to Anchorage Drinking Water" in their February 12, 2024 letter attached as **Appendix B**.

The Assembly also details its frustrations with the Project Owners' confidential negotiations with AWWU of the terms by which AWWU's infrastructure could be used for the Eklutna River Release Facility if approved by the Governor. Such negotiations included first a binding term sheet, and then three final agreements attached as Attachment D to the SID. Confidentiality in negotiation was a necessary part of reaching agreement, and all such documents have since been made fully public. For a more detailed response on why such confidentiality was necessary and reasonable, the Project Owners refer the Governor to sections 3 and 4 of Chugach's Board Chair and CEO's letter to the Anchorage Assembly, dated May 23, 2024, attached as **Appendix C**.

"7. Burdens ratepayers and taxpayers with up to $72 million in unnecessary cost increases"

Response: The Assembly asserts that the Proposed Final Program reflects poor coordination and questionable use of public funds. In fact, as detailed throughout the SID, in both letters attached hereto, and in numerous public forums, briefings and meetings, the Project Owners conducted a methodical years-long study and consultation process with regular, systematic coordination with the 1991 Agreement Parties, NVE, and numerous interested stakeholders. The Assembly was regularly updated on the status of the studies and consultation process. Costs of multiple options were transparently shared and compared as part of a robust alternatives analysis. The Project Owners' preferred alternative was selected because it meaningfully protects, mitigates, and enhances fish and wildlife impacted by the Project, while balancing costs and all requirements of the 1991 Agreement. In total, the Project Owners' preferred alternative will come with $16.47M (without the fixed wheel gate) to $20.48M (with the fixed wheel gate) in capital costs, $1.33M in annual replacement energy costs, and $315,900 in annual operations and maintenance costs, coming to a total of $58.2M to $63.8M in total annualized costs.[3]

The alternatives favored by NVE and the Assembly, on the other hand, would cost significantly more than the Owners' preferred alternative for ratepayers and taxpayers. As detailed in Section 4.4 below, NVE's Alternative Final Program, which the Assembly also favors, would cost the Project Owners and their ratepayers and taxpayers significantly more than the Project Owners' Proposed Final Program. From dam replacement, dam removal, and NVE's Alternative Final Program (pump station alternative, plus dam removal), neither NVE nor the Assembly have identified any alternative that is less expensive or poses less risk than the Proposed Final Program.

[3] This is the estimated present value of total annualized costs; please see Section 4.10.2 (and Table 4-12) of the SID for more information.

In the face of such costly proposals, the Governor should recognize that pursuant to the power purchase agreements between the MOA and Chugach and MEA approved by the Regulatory Commission of Alaska (RCA) in October 2020, the cost allocation with respect to Proposed Final Program costs is as follows:

- Chugach is responsible for 64.29% of all fish and wildlife costs, including capital costs, operations and maintenance costs, and the cost to replace any power output lost due to associated changes in operations due to implementation of the 1991 Agreement (Replacement Energy Costs);

- MEA is responsible for 16.67% of the capital costs and operations and maintenance costs, and 35.71% of Replacement Energy Costs; and

- MOA is responsible for 19.04% (this is the portion of the Project from which it sells power to MEA) of the capital costs and operations and maintenance costs but, because it does not have any rights to any of the power output, it would incur no Replacement Energy Costs.

Thus, despite the MOA's protests about cost burden on the MOA, **the MOA will only be responsible for 8-9% of the total annualized costs of the Proposed Final Program**, all of which will be more than offset by the revenues the MOA receives from Chugach and MEA under the PPAs.

For a more detailed and accurate overview of costs and allocations, the Project Owners also refer the Governor to section 2 of Chugach's Board Chair and CEO's letter to the Anchorage Assembly, dated May 23, 2024 (**Appendix C**).

4.4 NVE's Proposed Alternative Final Program

NVE's Proposed Alternative Final Program is based on its own set of principles not found in the 1991 Agreement and includes (1) a pump station alternative release facility, (2) existing outlet gate and other infrastructure improvements, (3) mandatory reopener for dam removal, (4) flow regime and adaptive management, (5) assistance in seeking federal funding, and (6) adaptive management committee membership. Responses to each are included below in turn. Broadly, however, NVE's Alternative Final Program would impose exorbitant costs and risks on the Project Owners and member-ratepayers that the Project Owners simply cannot accept.

4.4.1 NVE's Pumped Station Alternative: Cost and Risk Assessment

NVE proposes an alternative Eklutna River Release Facility centered on a pump station. This proposal is substantially the same as what NVE proposed on April 9, 2024 (NVE's Pumped

Station Alternative). The Project Owners first addressed this alternative in Section 4.12.3 of the SID, submitted on April 25, 2024. The timeframe for responding at the time was truncated; however, since then the Project Owners have had more time to analyze and consider NVE's alternative.

NVE does not provide any evidence that in developing this alternative, it conducted any detailed engineering studies, cost estimations, or risk assessments. In order to consider the proposal, compare the proposal to the Proposed Final Program and other options analyzed by the Project Owners in developing the Proposed Final Program, and respond to NVE's proposed alternative, the Project Owners therefore commissioned McMillen to conduct such analysis. The resulting "Cost and Risk Assessment of the Eklutna Pump Station Alternative" is attached to this document as **Appendix D**.

In summary, McMillen found:

- The capital cost of the NVE's Pumped Station Alternative is significantly more expensive than the Project Owners' preferred alternative. As detailed in the SID, the Project Owners' Eklutna River Release Facility using AWWU infrastructure has an estimated capital cost of $10,106,000. As detailed in **Appendix D**, NVE's proposed pump station has an estimated capital cost of $38,524,000.

- There are significant risks associated with NVE's Pump Station Alternative, including:

    - Reliability – The pump station is a mechanical system, which has a much higher risk of failure than the gravity fed system proposed by the Project Owners. In the event of failure, the pumps would "fail closed" and dry up the river until they can be restarted. The Project Owners are unaware of any existing Project in the United States that provides year-round instream flows via a mechanical system.

    - Feasibility – NVE's proposal calls for the installation of a 36-inch diameter pipe for a length of 2,800 feet at a depth of up to 75 feet adjacent to and underneath Eklunta Lake. Based on consultation with NVE's engineer, it is assumed that microtunneling would be the preferred approach. However, the overall length of the proposed microtunnel is on the upper end of what has been performed to date in the United States. This is a significant engineering challenge and brings significant risk.

    - Geotechnical – The region around Eklutna Lake is capable of generating strong earthquakes which pose a significant risk to the proposed facilities. The 1964 earthquake caused densification of unconsolidated sediments within Eklutna Lake resulting in substantial movement of the lakebed, damaging the Project

intake and dam. A subsurface pipeline spanning 2,800 feet underneath the lakebed is at substantial risk of separation or failure during a seismic event.

- NVE's proposal does not allow for the proposed channel maintenance flows to occur without an unregulated spill over Eklutna Dam. The Project Owners have proposed to provide the default channel maintenance flows (220 cfs) through a combination of the Eklutna River Release Facility near the AWWU portal valve (which would have a capacity of 80 cfs) and the existing outlet gate at the dam (which has a capacity of 190 cfs when the lake is at full pool). Without an additional mechanism for releasing water downstream of the dam, controlled flow releases would be limited to the capacity of the drainage outlet gate and would heavily rely on lake level.

In view of increased costs and increased risks noted above, the Project Owners find that it would be unnecessary and contrary to prudent utility practice to choose a more costly and risky alternative for purposes (restoring historical sockeye runs) not required by the 1991 Agreement. As a result, the Project Owners decline NVE's proposed Pumped Station Alternative.

4.4.2 Existing Outlet Gate and Other Infrastructure Improvements

The Project Owners have already proposed to automate the outlet gate at the Eklutna Dam as part of the Proposed Final Program (Section 2.2.1). Clarification of the implementation dates, however, is required here: the 1991 Agreement requires that the Project Owners begin implementation of the Final Program by October 2, 2027, and complete such implementation no later than October 2, 2032. Please refer to Section 3.2 of the SID.

The Project Owners have committed to building eight new AWWU bridges as part of the Proposed Final Program (Section 2.4) according to the implementation schedule outlined above. Note, however, that the Project Owners have not designed the AWWU bridges to withstand "the hydraulic capacity of a free-flowing river" as NVE proposes. Based on the flow data developed by its consultants and set forth in Appendix F of the SID, the location and design of the bridges would not withstand flows up to 6,600 cfs. The location, design, and cost of bridges that could withstand such flows is completely unknown because it has not been studied. Indeed, it may be impossible or prohibitively costly to locate bridges that AWWU requires that can sustain such flows. Consequently, the Project Owners cannot agree to build AWWU bridges to withstand "the hydraulic capacity of a free-flowing river" as NVE proposes. Additionally, as noted in the Dam Removal Assessment (Appendix F of the SID, Section 4.1.2.5), the AWWU pipeline within the river is at significant risk of damage or failure under a free-flowing river, which may require re-routing of the pipeline outside of the valley or

abandonment of Eklutna Lake as a water supply, which would negate the need for O&M bridges within the Eklutna River valley entirely.

4.4.3 Mandatory Reopener for Dam Removal

In addition to the considerable costs of the NVE's Pumped Station Alternative outlined above, NVE proposes to replace the Project Owners' proposed limited reopener for fish passage and turn it into an unlimited mandatory reopener to restart the process outlined in the 1991 Agreement with its "preferred solution to remove the dam", NVE proposes that the Project Owners spend more than $43M on the pump station and AWWU bridges and then more than $460M in estimated capital costs on dam removal, decommissioning of the project, construction of a new power project, and mitigating risks to downstream infrastructure including potential rerouting of the AWWU pipeline and replacement of the railroad and highway bridges. Details associated with the costs and risk assessment of the NVE alternative are presented in **Appendix D**.

At the most fundamental level, the Project Owners cannot agree to any requirement to start a process to remove the Project "no later than 2034". Dam removal is not required under the 1991 Agreement and is inconsistent with several criteria that must be considered equally under the 1991 Agreement. It is also at odds with the background and reasoning behind the 1991 Agreement, which was developed to accompany the sale of the Project to the Project Owners for ongoing operation and was drafted such that the Fish and Wildlife Program development process repeats every 35 years. It would fundamentally frustrate power purchase transactions centered around the ongoing operation of the Project, transactions that were approved by the Anchorage Assembly and were essential to the sale of Anchorage-owned Municipal Light & Power to Chugach in October of 2020. Fundamentally, it is simply not prudent or rational for the Project Owners, as public utilities with public service obligations to member-ratepayers and the communities served by the Project Owners, to agree to such a costly and risky alternative during the first cycle of the 1991 Agreement. At some point in the future, the Project may be considered for decommissioning, but it is currently a critical generating asset that the Project Owners need now and for the foreseeable future for its low-cost clean energy and support of Railbelt reliability.

The current energy supply situation in Southcentral Alaska is very dynamic and challenging given the declining natural gas fuel supplies and considerable unknowns surrounding the development of new renewable generation resources which will require new transmission lines and regulating resources due to their intermittent natures. There are many open questions relating to how such resources will be contracted, permitted, financed, constructed, interconnected, and integrated within the existing Railbelt electric system. Considering wind or solar resources as an equivalent replacement for the Project is simply not a valid assumption

as those types of resources are not an adequate substitute for the firm dispatchable energy, capacity, and ancillary services that the Project provides.

The importance of the Project was recently demonstrated during an extended period of cold weather in the Anchorage area when ENSTAR experienced gas deliverability problems with CINGSA, the gas storage facility that the Railbelt depends on. During this time of ENSTAR's difficulties, Chugach and MEA voluntarily maximized their usage of the Project (and other hydro resources) to maintain system reliability during a time of critical operations, saving 87,300 MCF of natural gas during the cold snap, and avoiding significantly increased gas bills for ENSTAR customers. The role that the Project played during this cold spell is further described in the Project Owners' letter to the Anchorage Assembly, dated February 12, 2024 (**Appendix B)**.

Considering new hydroelectric development as a replacement is also unrealistic within NVE's proposed 10-year timeframe. New hydroelectric facilities typically take far longer than 10 years to license, finance, and construct even after a project site has been located. The Project Owners are already working hard to meet existing clean energy development and acquisition goals but creating a critical 40 MW hole in the Project Owners' generation portfolio will make attaining such clean energy goals even more difficult and costly and will be operationally, economically, and reliably detrimental to overall electric generation supply in the Southcentral region of the state. The Project Owners are not willing to impose such costs and risks on ratepayers. The Project Owners respectfully request that the Governor consider these logistical, contractual, reliability, and regulatory hurdles associated with meeting existing renewable portfolio goals also in the context of considering any request to replace the Project in 10 years.

The Project Owners also cannot ignore the significant costs of Project removal. Such costs will include replacement power, dam removal, power plant decommissioning, rerouting AWWU pipelines, replacing highway and railroad bridges, and more. As not-for-profit, member-owned cooperatives and a municipal hydro utility, the Project Owners' ratepayers and taxpayers – not investors or shareholders – will ultimately have to pay for the costs of all new generation, interconnection, and transmission facilities. Replacing the Project's low-cost, firm, renewable generation with replacement firm, renewable energy and capacity will increase the cost of such generation at least three to four times more than it costs today, and those costs will be borne by member-ratepayers in the rates charged by the Project Owners. Additionally, the Project Owners have no intention of upsetting the 35-year long-term power purchase agreements through which the MOA receives significant compensation (>$4M per year) for the Project's generation.

Beyond the logistics and costs of replacement energy, capacity, and integration, the Project Owners have determined that the physical removal of the Project would be unreasonably expensive and risky to the Project Owners as utilities, as well as to AWWU and other downstream owners of land and infrastructure. After receiving NVE proposed Project removal as its "recommended alternative" in December 2023, the Project Owners engaged engineers and hydrologists at McMillen to conduct a high-level analysis of the technical risks and cost implications associated with the removal of the Project. This investigation evaluated the effects that an unregulated river hydrograph may have on infrastructure in or adjacent to the Eklutna River downstream of the existing dam, summarized the costs associated with dam removal and decommissioning of Project infrastructure, investigated potential mitigation measures where necessary to address such risks, and analyzed the use of other comparable renewable energy sources to determine how to offset the lost generation from the Project. This analysis revealed that if the Project were removed, AWWU water pipeline infrastructure would be at significant risk and the new Glenn Highway bridges and Alaska Railroad bridge would need to be replaced. Note that this analysis was limited to large public infrastructure and did not include an assessment of negative effects (and potential liabilities) arising from the inundation of lands of downstream landowners during high water flood events, including Eklutna, Inc. and the Native Village of Eklutna.

The Project Owners submitted that analysis to the Governor in April as Appendix F of the SID. See Section 4.12.2 of the SID.

4.4.4 Flow Regime and Adaptive Management

NVE has stated it is willing to accept the instream flow regime set forth in Sections 2.1 and 2.2 of the Proposed Final Program. The Project Owners welcome this acceptance, along with agreement of the agencies to such flows (see Section 3.1). Note, however, that the Project Owners do not support NVE's Pumped Station Alternative because it is more costly and creates additional risks as outlined in the "Cost and Risk Assessment of the Eklutna Pump Station Alternative" attached to this document as **Appendix D**. Additionally, the Project Owners note the flows will begin only when the Eklutna River Release Facility is completed within the timeframe outlined in the 1991 Agreement: begin implementation of the Final Program by October 2, 2027 and complete such implementation no later than October 2, 2032.

4.4.5 NVE's Assistance in Seeking Federal Funding

NVE's commitment to assist the Project Owners in seeking federal funding support is welcomed and acknowledged, but the Project Owners see no plausible path to gaining federal funding at a level that would adequately fund the costs, risks, and liabilities of removing the

Project. The Project Owners have investigated all available federal programs and found none for which they are eligible (as municipal and cooperative utilities) to pay for such costs.

4.4.6 NVE's Adaptive Management Committee Membership.

The Project Owners will continue to welcome NVE to participate in the Adaptive Management Committee if one is approved as part of the Final Program.

4.5 Two Year Extension

In their comments on the Proposed Final Program, the Assembly and NVE have asked the Project Owners to "seek a two-year extension of the 1991 Agreement from the signatories" to delay obligations under the Agreement for two years for additional study, consultation, and negotiations. Given the content of, and history surrounding the development of, the 1991 Agreement, the Project Owners do not believe the Parties are authorized to amend the 1991 Agreement and therefore decline to do so, and they will continue to work hard to meet the deadlines of the 1991 Agreement. Furthermore, a two-year delay will increase costs and delay the very thing all parties agree to which is instream flows in the Eklutna River for fish habitat.

4.5.1 Legal Problems with a Two-Year Delay

At the outset, it is worth stating that the Project Owners do not enter into contracts lightly or interpret them with creativity. Rather, as regulated utilities, the Project Owners endeavor to comply with, and expect enforcement of, every term of the contracts they negotiate and execute in a manner consistent with state and federal law. While this is a conservative approach as compared to some others, the Project Owners believe it is foundational to how they operate as utilities and that it is what is expected by their member-ratepayers and regulators. This approach also governs how the Project Owners have looked at their implementation of the 1991 Agreement, but with an even further added level of scrutiny given the fact that multiple government agencies are party to the 1991 Agreement and given the fact that Congress reviewed and relied upon the 1991 Agreement as drafted when it authorized the sale of the Project to the Project Owners.

The Project Owners and its lawyers reviewed the Water and Power Law Group's memorandum cited by NVE in its comments, and its conclusion that the parties to the 1991 Agreement have a clear right to modify the 1991 Agreement without Congressional action. The Project Owners find this analysis falls short by failing to acknowledge key facts and legal considerations behind the 1991 Agreement that add significant ambiguity to the question of a right to amend without Congressional approval.

The 1991 Agreement as currently written reflects the negotiated consensus of three utilities, two federal agencies, and the State of Alaska in coming up with an alternative to FERC hydropower licensing pursuant to Part I of the Federal Power Act for two hydroelectric projects in Alaska. (Note that the 1991 Agreement also deals with the Snettisham Project and any amendment of the 1991 Agreement would impact that project too.) It is well documented in the Congressional record that such consensus and the resulting 1991 Agreement were the reason why federal agencies and Congress were comfortable with, and ultimately provided, an exemption to Part I of the Federal Power Act for the Project in the Alaska Power Administration Asset Sale and Termination Act ("Sale Act") in 1995.

Had the parties intended to allow for amendment to the 1991 Agreement in the future, they could have and would have done so. Contractual provisions for amendment of agreements were as common in 1991 as they are today. Yet, all of the principals and lawyers representing the utilities, federal agencies, and the State of Alaska omitted any provision for amendment of the 1991 Agreement. The Project Owners cannot assume such omission was simply an oversight. If anything, federal contractual interpretation principles require us to assume that there was either a lack of consensus regarding amendment or that such a right was intentionally excluded in order to ensure the preservation of the consensus reached in the 1991 Agreement.

The 1991 Agreement (with this omission) was reviewed and acknowledged and made enforceable by Congress in the act authorizing the sale of the Project to the Project Owners – the Alaska Power Administration Asset Sale and Termination Act (Sale Act) – and Congress also omitted any mention of future amendments. Section 3(c) of the Sale Act conveys full authority to implement the 1991 Agreement to the parties on an "as-is" basis by making it legally enforceable and reviewable in federal court. When Congress refers to the 1991 Agreement in this section and throughout the Sale Act, there is no language stating "as may be amended" or otherwise contemplating further changes. The Sale Act refers simply to the "Memorandum of Agreement entered into among the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection of, mitigation of damages to, and enhancement of fish and wildlife, dated August 7, 1991" and the "Memorandum of Agreement". Interpretation of the 1991 Agreement must respect the due weight of Congressional review and action.

Despite the lack of clear authority to amend the 1991 Agreement within the 1991 Agreement, or as subsequently granted by Congress, the Water and Power Law Group invites the Project Owners to depend upon a common law principle that parties have an inherent authority to modify contracts by unanimous consent. Attorneys supporting the Project Owners reviewed the cited cases and freely acknowledge that such state common law exists. Here, however, the Project Owners cannot rely on any such state common law. The 1991 Agreement is unique in

many ways from its parties to its unlimited term, but not the least of which is that it is not grounded on any state law; rather it is based in federal law and enforceable only in federal court. Federal contracts are governed by federal common law, and the Project Owner attorneys found no such federal common law principle that would automatically grant amendment authority, and the Project Owners also see substantial risk in assuming that federal common law would recognize a right to amend the 1991 Agreement without Congressional approval.

This leaves the following facts: (1) there is no stated mechanism for amendment in the 1991 Agreement, (2) there is no mention of future amendment when the 1991 Agreement is mentioned in the Sale Act, including in those provisions which make the 1991 Agreement legally enforceable in federal court, (3) there is no clear federal common law principle that would enable amendment of the 1991 Agreement without Congressional approval, and (4) the 1991 Agreement represents the result of negotiation of private and public entities agreeing on a unique fish and wildlife mitigation process that was (a) carefully modeled off a FERC regulatory processes, and (b) used as justification for including a major regulatory exemption for the Eklutna Project in a federal statute. Congress therefore built significant public policy based on the existence of the 1991 Agreement in its exact current form and did not contemplate amendment of the 1991 Agreement when referencing it directly in federal law.

Given this unique history, the significant value that the 1991 Agreement brought in its current form to the transfer of the Project to the Eklutna Purchasers from the federal government, and the Project Owners' responsibility to comply with the exact terms of the 1991 Agreement, the Project Owners decline to depend on any ambiguous assumed amendment possibility for the 1991 Agreement absent clear authority to do so.

4.5.2 Cost and Program Impacts of a Two-Year Delay

The Project Owners have spent approximately $8M over five years executing on the process outlined in the 1991 Agreement. The Project Owners conducted study scoping and planning with a wide range of interested entities and NVE that went well beyond the Parties to the 1991 Agreement, engaged in numerous studies requested by the participants in the study process, drafted study reports and sought interested entity review. The Project Owners engaged in an open, inclusive, and transparent alternatives analysis process in which more than 36 alternatives were reviewed (all those requested by the participants in the alternative analysis process), plus two more alternatives submitted by NVE after the alternatives process was concluded. The Project Owners regularly engaged the MOA, at both the Mayor's office and the Assembly, as well as with AWWU management and technical staff throughout the five years of efforts conducted to date. The opportunities to identify needed information, design and conduct studies and evaluate alternatives were fully available for the MOA to

participate in and indeed the record shows that these opportunities were taken full advantage of.

Following this robust process, the Project Owners issued a Draft Program, held public meetings, conducted good faith negotiations with the Parties to the 1991 Agreement, and modified the Program to gain their agreement (including reopeners to accommodate future possibilities), and negotiated with NVE. The Project Owners then submitted the Proposed Final Program reflecting those efforts to the Governor for review and approval.

NVE and the Assembly are now not satisfied because their specific objectives (not in the 1991 Agreement) and preferred alternative(s) have not been adopted by the Project Owners. They now request that the Governor delay the implementation of the Program for two more years for further discussions, studies, and negotiations. Yet, they have not put forth any specific process, study, or analysis details as to what could be accomplished with such a delay, nor how it would be paid for.

In truth, there are no more opportunities to "reconcile the Parties' differences" that can be solved with more time and more process because there is a fundamental disagreement about what is required under the 1991 Agreement, and what are the responsibilities of the Project Owners. There are no known alternatives not yet studied and there are no further possibilities for compromise. NVE wants what the Project Owners cannot give without unacceptable cost and impacts: a restored, free-flowing Eklutna River with full upstream and downstream fish passage.

The Project Owners are proud to have submitted a Proposed Fish and Wildlife Program that is based off significant effort, cost, public participation, and scientific study. Any year of delay will be another year without water in the river and without increased habitat for fish and wildlife, as well as increased costs of construction and implementation due to inflation and rising labor and equipment costs. With Governor approval, the Project Owners are eager to begin implementing measures to protect, mitigate impacts to, and enhance fish and wildlife affected by the Project.

4.5.3 Assembly's AR No. 2024-218(S)

On Friday, July 19, 2024, the Assembly passed another resolution related to the Eklutna Project purportedly conveying the MOA's response to the comments submitted by NMFS, USFWS, NVE and the Assembly. Yet AR2024-218(S) does not mention any such comments. Rather, in AR2024-218(S), the Assembly requests that the Governor establish "a final program that requires the owners group use two years of the three-year pre-implementation

period to identify an alternative infrastructure and engineering solution to ensure continuous flow to all 12 miles of the Eklutna River."

The Project Owners have reviewed the Assembly's AR No. 2024-218(S), As Amended, and its attached MOA letter, dated July 19, 2024. Based on this review, AR No. 2024-218(S) and its requests are inconsistent with the 1991 Agreement and fail to respect the five-year implementation process executed by the Project Owners (with the MOA's active involvement) and the resulting negotiated Proposed Final Program and its reopeners.

1) As noted in Section 4.5.2 above, a two-year delay in implementation of the Final Fish and Wildlife Program will increase costs, risks, and liability consequences to Chugach and MEA and their member-ratepayers. The requested delay in implementation of the Final Program by two years in order to further explore alternatives (unknown at this time) and fails to recognize that implementation cannot begin until the additional alternatives process is complete. The 1991 Agreement provides for three years between Governor decision and the start of implementation for good reason because the Project Owners must obtain land rights and permits, amend water rights, advancing project design, contract for construction, etc. Eliminating two of those three years for further evaluation of alternatives is not acceptable or consistent with prudent utility practices because requires the Project Owners to initiate and complete three years of work in one year, thereby increasing costs, risk, and liability. The Governor has no authority to unilaterally change the implementation schedule set forth in the 1991 Agreement.

2) While the MOA accurately states that it is the majority owner of the Project, it fails to acknowledge the contractual commitments between the MOA and Chugach and MEA, such as the long-term power purchase agreements that reallocate the costs of implementing the 1991 Agreement. As noted in Section 4.3, the MOA will only be responsible for 8-9% of the total annualized costs of the Proposed Final Program, all of which will be more than offset by the revenues the MOA receives from Chugach and MEA under the PPAs. Presumably, because the MOA bears such a minor portion of the costs, it has no problem committing Chugach and MEA to two more years of process and a more expensive program that will inevitably result.

3) AR No. 2024-218(S) ignores the contractual commitments among the Project Owners relating to the 1991 Agreement, including the MOA's obligation to act in a manner consistent with prudent utility practice (e.g., the obligation to "accomplish the desired result at the lowest reasonable cost consistent with good business practice, reliability,

safety, expedition and the requirements of any governing authority having jurisdiction.").

4) AR No. 2024-218(S) also fails to acknowledge RCA's Order 39[4] that states that during the surrender period, Anchorage Hydropower shall not have "any ability to delay or change the Eklutna Project decisions made by [Chugach and MEA]":

> Under these circumstances, we cannot unconditionally find that MHP is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.

5) Notably, the positions outlined in AR No. 2024-218(S) depart from previous positions taken by Anchorage Hydropower and its representatives throughout the five-year implementation process. The changing of municipal leadership should not be allowed to negate the efforts incurred by all the Parties to the 1991 Agreement or unilaterally force a do-over.

6) Finally, AR No. 2024-218(S) requests that the Governor eliminate the two reopeners negotiated into the Proposed Final Program, which directly contradicts the desires and interests of the Parties (and their managements and boards) that devoted years

[4] Regulatory Commission of Alaska, Order No. U-18-102(44)/U-19-020(39)/U-19-021(39), May 28, 2020, (Order 39), at 67 of 152.

involved in the process leading to the Proposed Final Program. Further, NMFS, USFWS and the State Resource Agencies found great value in these two reopeners, as discussed above.

While the Project Owners recognize the desire to find a solution that will satisfy all Parties, NVE, the Assembly and others, the Project Owners do not believe it is possible to satisfy those who seek more time to pursue costly and risky alternatives (such as dam removal) to meet objectives not found in the 1991 Agreement. No party to the 1991 Agreement has the unilateral right to add new decision-making criteria or requirements to the process outlined in the 1991 Agreement.

Appendix A. Project Owners' Letter to Aaron Leggett, President, Native Village of Eklutna, dated June 30, 2020

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CHUGACH
POWERING ALASKA'S FUTURE

ML&P

MEA
MATANUSKA ELECTRIC ASSOCIATION

June 30, 2020

Aaron Leggett, President
Native Village of Eklutna
Chugiak, Alaska 99567

Dear Mr. Leggett:

Thank you for your letters on April 24, 2020 and May 13, 2020 regarding your request for the Native Village of Eklutna (NVE) to be added as a party to the 1991 Fish and Wildlife Agreement (Agreement) through a formal amendment to the Agreement.

We, the owners of the Eklutna Project, greatly appreciate the unique importance of the Eklutna River to the members of the Native Village of Eklutna (NVE). We also honor and acknowledge the breadth and depth of knowledge the Dena'ina people have to share regarding the Eklutna River and the adjacent lands that serve the people of Eklutna and the surrounding communities in many critical ways.

Respectfully receiving your input and hearing your voice is critical to the owners of the Eklutna project as we satisfy our contractual obligations as detailed in the Agreement. It is with the utmost respect that we invite you to join us in the conversation and specifically seek your input in the review and development of the Study Plan and Fish and Wildlife Program we are developing as required under the Agreement. We look forward to a close and productive working relationship with NVE in the development of the Fish and Wildlife Program.

We have conferred and are happy to send you this joint letter committing to work closely with NVE based on NVE's significant and long-term interests in the Eklutna River, its fish, wildlife and other resources, and adjacent lands.

As you correctly noted in your letter, the process necessary to amend the Agreement to include NVE as a party to the Agreement would take a significant amount of time, effort and legal process. We do not want to slow down the study program and fish and wildlife program development process required under the Agreement to wait for the Agreement to be amended. Time, however, is not the only factor. The Agreement itself does not lay out a process for amendment and there are numerous open questions about how such an amendment might be procured, and whether and how an amendment would be enforceable absent further federal legislation.

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We understand from your letter, however, that we share in a common goal of moving forward with focus and efficiency in developing the Fish and Wildlife Program with NVE's critical input and participation. We are confident that we also share in the goal of devoting the time and resources necessary to craft a Fish and Wildlife Program consisting of measures for the protection, mitigation of damages to, and enhancement fish and wildlife (including related spawning grounds and habitat) – the requirement of the Agreement. We therefore thank you very much for proposing an alternative approach for facilitating NVE's participation in the process, rather than delaying the process and redirecting resources to an uncertain, lengthy, and complex amendment process.

The Agreement requires that the Eklutna Owners studiously consider the impacts of any proposed fish and wildlife measures on other uses of the Eklutna River.

We therefore commit to the following review and participation framework to ensure that information NVE and its members share regarding the Eklutna River and development of the Fish and Wildlife Program is appropriately considered and addressed:

1) The Eklutna Owners commit to providing significance and due weight to NVE's expertise throughout the development of the Fish and Wildlife Program;

2) The Eklutna Owners commit to recognizing and including Traditional Environmental Knowledge (TEK) in their review and development of the Study Plan and Fish and Wildlife Program;

3) The Eklutna Owners will work with NVE to schedule additional meetings with the goal of hearing input from NVE and its members (one after the Study Program is completed and another following the development of the draft Fish and Wildlife Program); and will coordinate with NVE on developing the agenda items for these meetings, which will be conducted by a neutral facilitator to ensure all voices are honored and heard.

4) Understanding that NVE is requesting heightened involvement, the Eklutna Owners will recommit to sharing all study plans, data, reports, and comments directly with NVE when developed to seek feedback; and

5) When submitting materials to the Governor, the Owners will submit an NVE-specific comment summary to the Governor for consideration along with a Proposed Fish and Wildlife Program.

We value the unique perspectives of NVE's members regarding the Eklutna River, and we also understand that NVE is primarily interested in the presence of both water and salmon in the lower Eklutna River. While we are contractually and legally bound by the terms of the Agreement, please know that if the process set forth in the Agreement bears out the release of water from Eklutna Lake and the addition of salmon into the Eklutna River as part of the Fish and Wildlife Program, we will be prepared to support it.

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As our study program continues to move forward this summer, we would also like to request a meeting with the leadership of NVE at your earliest convenience at a place of your choosing. We would be delighted to meet with you to hear your feedback on this participating framework, understand your interests first-hand, and discuss next steps.

Sincerely,

Eklutna Project Owners

DocuSigned by:
Anna C Henderson
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Anna C. Henderson
General Manager
Municipal Light & Power

Lee D. Thibert
CEO
Chugach Electric Association, Inc.

Tony Izzo
General Manager
Matanuska Electric Association, Inc.

Appendix B. Project Owners' Letter to the Anchorage Assembly, dated February 12, 2024

February 12, 2024
sent via email

Assembly Chair Constant
Assembly Vice Chair Zaletel
Municipal Assembly
Municipality of Anchorage
PO Box 196650
Anchorage, AK 99519-6650

Re: AR No. 2024-40: Corrections and Responses

Dear Chair Constant, Vice Chair Zaletel, and Members of the Municipal Assembly:

We, the owners of the Eklutna Hydroelectric Project ("Project"), are writing to respond to your Assembly Resolution AR-2024-40, as amended ("AR-2024-40"). We appreciate the Municipal Assembly's interest in the Project and our implementation of the 1991 Agreement.

With due respect, however, we cannot abide by certain incorrect factual and legal assertions in AR-2024-40 and in your public statements made during the Anchorage Assembly's special meeting on February 2, 2024. We only received a draft of AR-2024-40 on February 1 and were not given an opportunity to appear at the special meeting and respond in detail before AR-2024-40 was introduced, discussed, and passed, so we are doing so now.

Concern 1.A "Non-Compliant Process"

We agree that the process required under the 1991 Agreement is very similar to a FERC licensing process under Part I of the Federal Power Act. Thus, we hired a team of FERC hydroelectric consultant experts to run this process for the Project – the very team that led the FERC relicensing process for Chugach's Cooper Lake Hydroelectric Project that ended in a successful FERC order and approved settlement requiring measures to enhance fish and wildlife in 2006. We know what a FERC process entails and are following and implementing the modified process outlined in the 1991 Agreement to the letter.

The major differences between the FERC process and that required under the 1991 Agreement are that the final decision for approving the Proposed Final Fish and Wildlife Program will belong to the Governor of Alaska, rather than FERC, and the federal agencies do not have mandatory conditioning authority. These differences were agreed to in 1991 when authorized representatives of NMFS and USFWS, the Governor of the State of Alaska, the CEOs of Chugach and MEA, and the Mayor of Anchorage (on behalf of the Municipality of Anchorage) signed the 1991 Agreement. It is wrong to read provisions and requirements into the 1991 Agreement that are simply not there.

We disagree that the process outlined in the 1991 Agreement requires an analysis and process under the federal National Environmental Policy Act ("NEPA"). The process prescribed in the 1991 Agreement leading to the Governor's approval is simply not a federal process, does

not trigger a federal action, and does not fall within FERC licensing jurisdiction; no provision of the 1991 Agreement requires compliance with NEPA. Throughout the consultation, study, and alternatives assessment processes, however, we have been and remain fully engaged with federal and state resource agencies as required in the 1991 Agreement. We have met and are continuing to meet with the agencies to understand their comments and critiques of the Draft Fish and Wildlife Program and attempt to resolve differences. As contemplated in the 1991 Agreement, we are revising the program such that the Final Proposed Fish and Wildlife Program better meets the expectation of the agencies with expertise. We are also meeting with and continue to seek to resolve differences with the Native Village of Eklutna ("NVE"); we hope that the improvements we have discussed with the agencies will provide an acceptable path forward for agreement with NVE when we meet with them again.

We agree that the process under the 1991 Agreement "diverges substantially" from the process the Municipality of Anchorage uses for its own capital projects. The 1991 Agreement is simply a different process, based on different legal precedents and requirements. The 1991 Agreement does not call for the Project owners to bring a handful of alternative proposals to the Anchorage Assembly for it to make a selection. Rather, Section 4 of the 1991 Agreement specifically requires us to propose a Draft Fish and Wildlife Program to the parties of the 1991 Agreement (as we did on October 27, 2023) and work to resolve differences, hold public meetings, and receive and consider comments and suggestions before preparing a Proposed Final Fish and Wildlife Program.

It is categorically incorrect for anyone to assert that we have not studied more than one alternative. Rather we have analyzed dozens of alternatives. Starting in April 2023, the Project owners, parties to the 1991 Agreement, NVE, members of the Technical Work Groups (including state and federal fish and wildlife agencies, Trout Unlimited, and The Conservation Fund) engaged in a robust examination of alternatives. Attendees at six meetings over five months were invited to submit comprehensive alternatives for analysis using a form listing the various component options; then these alternatives were discussed at subsequent alternatives analysis meetings. Alternatives such as dam replacement were proposed and analyzed, along with over 30 comprehensive alternatives submitted by the Project owners and several stakeholders. Each of the comprehensive alternatives was analyzed using engineering analysis and a Cost Effectiveness and Incremental Cost Analysis (CE/ICA) model, examining outputs such as water flows and effects on fish habitat, operations, and costs. The results of these analyses were presented at the meetings and attendees were invited to revise and resubmit their comprehensive alternatives, if desired, for further discussion at upcoming alternatives analysis meetings with the aim of narrowing down potential alternatives. At the end of the process, we had thoroughly examined all suggested alternatives (36 in total).

The first time that any participant proposed dam removal as an "alternative solution" to be studied and recommended in the alternative analysis process was by NVE on December 4, 2023 – more than a month after we circulated the Draft Fish and Wildlife Program. We are now studying that alternative, but it was not proposed for study during the April – August period

during which the 36 alternatives were studied, so it was not studied and presented in the Draft Fish and Wildlife Program.

Concern 1.B "Potential Impacts to Anchorage Drinking Water"

We fundamentally disagree with the assertion that we have not considered implications related to Anchorage's drinking water supplies from Eklutna Lake. To be clear, we would never propose any action that would compromise or threaten the Municipal water supply. Rather, we recognize, and have been living up to, our commitment set forth in Section 7 of the 1984 "Public Water Supply and Energy Generation from Eklutna Lake, Alaska" (the "1984 Agreement") to "take no action regarding Eklutna Lake of reducing the quality or increasing the turbidity of the lake water from those conditions which presently exist; nor will the [Project owners] take or authorize any other action with regard to Eklutna Lake which may have the effect of reducing its present suitability for use as a source of public water supply."

During the alternative analysis process, we met and engaged with AWWU senior executives and its board regarding the possibility of using AWWU infrastructure to create instream flows in Eklutna River. Our engineers engaged with AWWU's engineers to ensure that we understood AWWU's system, operations, and concerns, and AWWU understood what we were trying to achieve through the construction and operation of the alternative Eklutna River Release Facility to establish instream flows in Eklutna River. We even compensated AWWU for its engineering time and review of our proposed plans.

Our respect for AWWU, its mission, its water rights, and the 1984 Agreement led us to engage with AWWU *before* we publicly proposed use of AWWU facilities to create instream flows. We explored whether AWWU would be amenable to such cooperation in support of instream flows *if, and only if,* the use of AWWU infrastructure is included in the Final Fish and Wildlife Program approved by the Governor. It would have been imprudent for the Project owners to propose publicly such an alternative without exploring whether AWWU, the owner of the facilities, is willing to do so.

In late October 2023, AWWU and the Project owners executed a binding term sheet that outlines the basic contractual terms that would govern the interconnection of a new water release facility to the AWWU pipeline, water transportation through AWWU's infrastructure, associated compensation, and associated water rights. At this time, the term sheet is protected as confidential and privileged under an agreement between the MOA, Chugach, and MEA. Accordingly, all parties must treat the document as confidential in order to protect privileges such as the attorney-client privilege.

Importantly, the term sheet and its commitments are expressly conditioned on the contemplated usage of the AWWU infrastructure being in the Final Fish and Wildlife Program approved by the Governor as required in the 1991 Agreement. To be clear, if the Project owners' final Fish and Wildlife Program does not include the use of the AWWU facilities or if the Governor does not approve the Fish and Wildlife Program with such use, the term sheet and its commitments will be terminated. Furthermore, the term sheet expressly recognizes that

AWWU takes no position as to whether using AWWU infrastructure is the best alternative for the Fish and Wildlife Program. Rather, the term sheet outlines the terms and conditions under which AWWU would be willing to provide the requested services *if* the AWWU infrastructure is in the Project owners' final Fish and Wildlife Program approved by the Governor.

While the term sheet is binding with respect to its basic terms, it is still preliminary to the execution of definitive contracts between the Project owners and AWWU that are currently under negotiation and will include a greater level of detail. Term sheets are not complete legal contracts. As is typical with contractual negotiations, the parties may choose to voluntarily agree to deviate from or refine terms as written in the term sheet when negotiating and finalizing definitive contracts. Disclosure of the term sheet now would violate agreed confidentiality obligations and also interfere with, and potentially disadvantage, the parties' ability to freely engage in the negotiation process necessary to move from the term sheet to the definitive documentation.

With all due respect to the consultant hired by the Anchorage Assembly, we view the analysis referenced in Section 1.B of AR-2024-40 as fundamentally flawed and out of date. While the analysis is accurate that a 70 million gallons per day (MGD) flow rate was the planned full buildout capacity of the Eklutna Water Treatment Facility in the 1980s, we were told by AWWU that this is not a flow rate they envision pursuing in the future. The actual capacity of the tunnel and pipeline is 100 MGD, but AWWU's water permit (LAS 2569) is limited to 41 MGD which corresponds to the maximum capacity of the water treatment facility. Our direction was to use 41 MGD for the basis of our design, which is about double what AWWU currently takes (an annual average 22-24 MGD). Furthermore, the consultant asserts that planned maintenance or emergency events will stop flow to the Eklutna River. While it is true that either a failure of the intake shaft valve or a collapse of the tunnel will stop flow to the Eklutna River, the current design allows the pipeline to be dewatered for maintenance, and in the event of a pipeline rupture, it allows for emergency closure at the portal valve, in both cases allowing continued operation of the Eklutna River Release Facility. In the event planned maintenance is required to replace the intake valve shaft, we have also discussed proposing that this be planned for the fall when water could alternately be released at the dam.

Concern 1.C "Incomplete Analysis and Insufficient Mitigation"

We believe you may not fully understand our proposal with regard to construction and operation of the alternative Eklutna River Release Facility to establish instream flows in Eklutna River. Contrary to the suggestion in AR-2024-40, our engineers have designed the Eklutna River Release Facility, interconnections, and controls to be able to operate at all lake levels contemplated under the operation of the Project while also maintaining AWWU's full operational flexibility up to 41 MGD. As mentioned above, we have anticipated regular and unplanned maintenance and discussed such operations with AWWU. We have specifically designed the Eklutna River Release Facility to avoid dewatering the Eklutna River and fish kills.

We understand that the Anchorage Assembly is intrigued by the dam removal alternative proposed by NVE. We are assessing the costs, risks, and benefits of NVE's new alternative and will release our assessment to NVE, the Anchorage Assembly, and the public in due course. In the meantime, it is worthwhile to point out two considerations to the dam removal alternative. First, NVE asserted that one of the benefits of removing the Project and enabling a "free-flowing Eklutna River" would be "[s]ecuring the AWWU drinking water system". Given our past conversations about the AWWU infrastructure and instream flows, however, NVE's assessment does not seem consistent with AWWU's assessment of risks to the AWWU water supply system with increased flows in the Eklutna River. Based on hydrologic calculations of flows into Eklutna Lake, removal of the Project dam would result in instream flows peaking at 2,500 cfs every few years to 4,000 cfs every 10 years. We asked AWWU for its assessment of dam removal on its infrastructure. Please see **Attachments A (our request)** and **B (AWWU's response)**. We are reviewing AWWU's preliminary assessment and intend to engage AWWU as we study dam removal, but as AWWU's response points out, AWWU has concerns about the effects of dam removal on Anchorage's water supply.

Second, we caution the Anchorage Assembly from relying too heavily on the assertion that two environmental organizations will pay for dam removal. Removal of hydroelectric facilities and associated restoration requirements are not minimal financial commitments. Removal and restoration work at the Elwha and Glines Canyon projects in Washington State was estimated to cost more than $350 million (2011 Dollars)[1], including $79 million for water treatment facilities to protect municipal and industrial water supplies during and after dam removal.[2] The ongoing removal of the Lower Klamath River dams has been estimated to be $397.7 million (2018 Dollars).[3] These numbers for these dam removal efforts may or may not be indicative of the costs of removing the Project, restoring the Eklutna River, and hardening the downstream infrastructure to withstand increased flows, but it would be imprudent to assume that all such costs would be borne by environmental organizations who have put forth no such commitment to pay in writing.

Concern 1.D "Poor Coordination and Questionable Use of Public Funds"

As stated above, we reject the characterizations that we investigated only one alternative, that such alternative is "stand alone", and that such alternative is self-serving and fails to meet the goals and objectives of the 1991 Agreement. To be frank, we know of no alternative that, when compared with the Eklutna River Release Facility alternative, (i) establishes similar year-round instream flows, (ii) creates as much fish spawning and rearing habitat, while (iii) also

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[1] Ker Than, *Largest U.S. Dam Removal to Restore Salmon Runs*, NATIONAL GEOGRAPHIC, Sept. 1, 2011, https://www.nationalgeographic.com/science/article/110831-dam-removal-elwha-freshwater-science-salmon.
[2] National Park Service, *Dam Removal*, https://www.nps.gov/olym/learn/nature/dam-removal.htm (last visited Feb. 8, 2024).
[3] Klamath River Renewal Corp., DEFINITE PLAN FOR THE LOWER KLAMATH PROJECT, APPENDIX P – ESTIMATE OF PROJECT COSTS 64 (2018), https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/lower_klamath_ferc14803/lkp_def_plnp_q.pdf.

protecting the public water supply, and (iv) without exposing ratepayers and taxpayers to significantly higher costs.

That said, we are not done considering and analyzing all alternatives, comments, suggestions, and public input necessary to put forward our Proposed Final Fish and Wildlife Program. Please note, however, that the 1991 Agreement does not set forth only one criterion we must optimize – whether fish habitat or cost. Rather, the 1991 Agreement sets forth the following approval criteria for a final Fish and Wildlife Program: "In order to ensure that [the Project is] best adapted for power generation and other beneficial uses, the Governor shall give equal consideration to the purposes of efficient and economical power production, energy conservation, the protection, mitigation or damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), the protection of recreation opportunities, municipal water supplies, the preservation of the other aspects of environmental quality, other beneficial uses, and requirements of State law".

Concern 2 No MOA Funding for F&W Program that Does Not Restore Full Length of Eklutna River

While we recognize that NVE, the Conservation Fund, Trout Unlimited, and the Anchorage Assembly prefer full "restoration" of the Eklutna River, no such requirement exists in the 1991 Agreement. The word "restore" does not appear in the 1991 Agreement; similarly, neither "fish passage into Eklutna Lake" nor "restoration of sockeye salmon" are required. Rather, the 1991 Agreement requires us to develop a Proposed Final Fish and Wildlife Program "to protect, mitigate and enhance fish and wildlife resources."

It is important to note that anadromous fish runs were eliminated in the Eklutna River decades before the Project we purchased was built in 1953-55. Contrary to assertions by some, the hydroelectric developments in the lower Eklutna River that blocked fish passage in the 1920s are distinct from, and were <u>not</u> part of, the Eklutna Project we purchased in 1997. While we fully acknowledge the consequential impacts of all hydroelectric projects on NVE and its members, the 1991 Agreement simply does not place upon us (and our ratepayers and taxpayers) the legal or contractual requirement or responsibility to address *all* adverse effects of all hydroelectric development in the Eklutna River basin over the past 100 years. We are fully committed to doing the one thing that only we can do: establish year-round flows of water in the Eklutna River for fish spawning and rearing habitat as a foundation of our Proposed Final Fish and Wildlife Program, while balancing all the other interests required under the 1991 Agreement. We continue to work towards creating the best means to provide such instream flows and create fish habitat that satisfies all the criteria set forth in the 1991 Agreement.

Concern 3 RCA Investigation Before Governor Approval

As regulated public utilities, we understand very well the jurisdiction and authorities that the Regulatory Commission of Alaska ("RCA") has over our decisions, actions, and the rate recovery of the costs we incur in providing electric service to our member-ratepayers. We completely disagree that it is appropriate for the RCA to initiate an investigation regarding the

development of the Fish and Wildlife Program required under the 1991 Agreement. The 1991 Agreement does not contemplate such RCA investigation or approval. Rather, the RCA will have its opportunity to review and approve costs incurred under the Fish and Wildlife Program in the normal course of utility rate cases filed with the RCA pursuant to its authorities under AS 42.05.

The Anchorage Assembly is correct, however, to point out that we should remain focused on impacts to ratepayers and their access to uninterrupted electric service. As we have repeatedly stated, this Project is very important to providing low cost, reliable, and dispatchable power year-round. The importance of this generation asset was recently demonstrated during an extended period of cold weather in the Anchorage area when ENSTAR experienced gas deliverability problems with CINGSA, the gas storage facility that the Railbelt depends on. During this time of ENSTAR's difficulties, Chugach and MEA voluntarily maximized their usage of the Project (and other hydro resources) to maintain system reliability during a time of critical operations. The Project provided 8% and 9% of their respective energy needs to meet MEA's load and Chugach's load during the cold snap; The Project's operations created an estimated fuel savings of over 27,300 thousand cubic feet (MCF) of natural gas for MEA consumers at a time when ENSTAR was seeing record high natural gas demand compounded by deliverability issues. Likewise, Chugach also voluntarily maximized its use of the Project during the cold snap and accordingly reduced its gas consumption by approximately 60,000 MCF over the same period. Chugach and MEA's combined use of the Project saved 87,300 MCF of natural gas during the cold snap and allowed the gas utility to avoid issuing a yellow designation for natural gas delivery. A yellow designation from ENSTAR would have included requiring MEA and Chugach to shift to available diesel generation to provide additional gas to ENSTAR. Diesel generation by both utilities is more than twice as expensive as natural gas and would have increased bills for all ENSTAR customers under the terms of utility cooperation agreements. This recent situation demonstrated how critical the Project's hydro capacity and energy can be to Railbelt reliability and cost during critical times.

Concern 4 Request for Two Year Extension

The 1991 Agreement is a contract between the State of Alaska, two federal agencies, and the three owners of the Project. The 1991 Agreement does not have any provision for extensions or amendment; it has no decision-making process or authority empowered to grant an extension or impose changes to the 1991 Agreement. Consequently, the Project owners see no path to pausing the process required under the 1991 Agreement without liability. Accordingly, we will not delay the implementation of the Fish and Wildlife Program for two years in order to perform additional analysis, consultations and coordination.

We have been fully engaged in this process since 2019 and we have performed each step of the process deliberately and with consultation with the Parties to the 1991 Agreement, NVE, State and federal resource agencies, and others interested in the Project or the 1991 Agreement. We excluded no key stakeholders. Even though they were not a party to the 1991 Agreement, we afforded NVE enhanced opportunities for engagement. Additionally, we have presented

status reports to, and have held quarterly updates with, the Assembly and its Enterprise and Utility Oversight Committee 11 times as listed on https://eklutnahydro.com/project-updates/.

There has been no "rush to judgment" or effort to "exclude stakeholders". Rather, we have been developing and continue to seek a measured and comprehensive approach guided by respectful coordination to reach a solution the enjoys broad consensus. We are now revising our draft Fish and Wildlife Program to reflect input from the parties to the 1991 Agreement, NVE, state and federal resource agencies, and the general public as solicited in six public meetings and as received in the form of hundreds of comments submitted by email and via our website. We hope that the Proposed Final Fish and Wildlife Program we deliver to the Governor for approval meets all legal requirements of the 1991 Agreement and provides a set of protection, mitigation, and enhancement measures grounded on year-round flows in the Eklutna River that all parties will accept and appreciate.

Sincerely,

Andrew Laughlin
Chief Operating Officer
Chugach Electric Association, Inc.

Tony R. Zellers
Chief Operating Officer
Matanuska Electric Association, Inc.

Kolby Hickel
Deputy Municipal Manager
Municipality of Anchorage

Attachments

cc: Parties to the 1991 Agreement
Native Village of Eklutna
Anchorage Water and Wastewater Utility

Attachment A

Request to AWWU re NVE's Dam Removal Alternative

[See Attached]

December 15, 2023
sent via email

Mark A. Corsentino, P.E.
General Manager
Anchorage Water and Wastewater Utility
3000 Arctic Blvd
Anchorage, AK 99503

Re: Assessment of Dam Removal

Dear Mark:

We, the owners of the Eklutna Hydroelectric Project, are writing to request that Anchorage Water and Wastewater Utility (AWWU) provide us with an assessment of a new alternative for the Fish and Wildlife Program proposed by the Native Village of Eklutna (NVE).

As you are well aware, we are in the process of developing a Fish and Wildlife Program related to fish and wildlife protection, mitigation, and enhancement measures pursuant to the 1991 Agreement. We circulated our Draft Fish and Wildlife Program on October 27, 2023, and requested comments and input from the parties to the 1991 Agreement and the NVE. We received comments from all of the parties and NVE in the past few weeks and met with each of them independently this week in an attempt to resolve differences as required under the 1991 Agreement.

Among the comments and feedback, we received one new preferred alternative that we had not previously studied as part of our analysis of alternatives during the past six months. NVE's new recommended alternative states:

> To meaningfully meet the purpose of the Agreement, NVE proposes an alternative solution – removing the Eklutna Lake dam within ten years when sufficient renewable power generation is available to offset the lost power generation from dam removal.[14] In 2011, the U.S. Army Corps of Engineers ("USACE") proclaimed that "[t]rue restoration of the Eklutna River ecosystem would require removal of both dams [...]."[15] The Eklutna Lake dam does not impound Eklutna Lake but merely increases lake storage capacity for hydropower generation. Doing so severs the connection between the lower Eklutna River, Eklutna Lake, and upper tributaries, blocking all outflow of water, drying up the Eklutna River, and decimating the salmon runs.[16] Now that the lower Eklutna dam is gone, it is time to plan for a future with a free-flowing Eklutna River and salmon runs truly restored.

See attached NVE letter, dated December 4, 2023.

We are planning to assess the costs, risks, and benefits of NVE's new alternative to the extent possible given the limited available time before our April 2024 filing with the Governor and we need your input. NVE states that one of the benefits of removing the Eklutna Project and enabling a "free-flowing Eklutna River" would be "[s]ecuring the AWWU drinking water system". Given our past conversations about the AWWU infrastructure and instream flows, NVE's assessment does not seem consistent with your assessment of risks to the AWWU water

supply system with increased flows in the Eklutna River and fish migration into Eklutna Lake. We have estimated that, based on calculations of historical inflows into Eklutna Lake, removal of the Eklutna Project dam would result in uncontrolled instream flows into the Eklutna River peaking at ~1,200 cfs every July/August on average. Every few years flows would exceed 2,000 cfs, and every ten years flows would exceed 4,000 cfs for a significant period. We have not conducted a scour analysis, but we would guess that such flows might significantly impact AWWU pipeline infrastructure below the existing portal valve facility. That being said, we know that you know your infrastructure far better than we do, so we would like AWWU's assessment of NVE dam removal alternative.

If possible, please provide us with your assessment of potential effects of the NVE's dam removal alternative on AWWU infrastructure and operations by February 2, 2024, so that we can include the information in our assessment of alternatives and deliberations on the best path forward. In the meantime, we can make members of our team available to meet and discuss this topic with you and your staff if that would be helpful.

Sincerely,

Andrew Laughlin
Chief Operating Officer
Chugach Electric Association

Tony R. Zellers
Chief Operating Officer
Matanuska Electric Association

Kolby Hickel
Deputy Municipal Manager
Municipality of Anchorage

Attachment B

AWWU Response re NVE's Dam Removal Alternative

[See Attached]

February 1, 2024

Attention: **Andrew Laughlin, Chief Operating Officer, CEA**
Tony Zellers, Chief Operating Officer, MEA
Kolby Hickel, Deputy Municipal Manager, MOA
Eklutna Hydroelectric Project
Sent via email

Re: Assessment of Dam Removal

Dear Eklutna Hydroelectric Project Owners,

Anchorage Water and Wastewater Utility (AWWU) appreciates the request to provide initial comments on the Native Village of Eklutna proposed alternative to remove the existing Eklutna Lake Dam under the Fish and Wildlife Program as part of the mitigation measures for fish and wildlife protection, mitigation, and enhancement pursuant to the 1991 Agreement for your consideration.

AWWU understands that the alternative described in the letter dated December 16, 2023, will include the eventual removal of the Eklutna Lake Dam and allow for a free-flowing river with full connection between Eklutna Lake and the Knik Arm. Further details of the dam removal alternative were not provided; nor did the letter indicate what changes may occur to operations of the Eklutna Hydroelectric Project (EHP).

The importance of Eklutna Lake for public health to meet community drinking water and fire protection needs cannot be overstated, as it provides over 90% of Anchorage's water supply. Eklutna Lake provides resilience to Anchorage's water supply by operating via gravity supply versus pumped, so it can continue to operate during emergency power outages.

It is important to note that AWWU is not taking a position with respect to the benefits of any of the proposed fish and wildlife alternatives, including this one. Our obligation is to provide feedback specifically about the impacts of any proposed alternative on Anchorage's water supply and the evaluation and mitigation measures necessary to protect that essential community service.

To that end, your letter of December 16 asks AWWU to assess potential effects of this dam removal alternative. More details about dam removal are needed to make a full assessment; however, the following list reflects some of AWWU's general concerns and topics requiring further consideration and study.

1. **Water Rights:** Eklutna Lake is the primary source of potable water and public fire protection for the Municipality of Anchorage and its nearly 300,000 residents. AWWU began diverting Eklutna Lake water for its Eklutna Water Treatment Facility (EWTF) in 1988, and it will soon apply to the Alaska Department of Natural Resources (ADNR) to transform its water use permit into a permanent certificate of appropriation. The EHP also holds a certificate of appropriation for Eklutna Lake water. The removal of the dam and resulting changes to EHP operations will likely impact EHP's water appropriation certificate for power production, and this, in turn, may affect AWWU's portion of the water certificate.

   As stated in our comments on the Draft Study Plan, dated January 4, 2021, AWWU needs its full appropriation quantity from Eklutna Lake to support Anchorage's public water and fire safety demands. *There are no other practical public water supply sources known that can match the existing Eklutna Lake diversions; further analysis would be necessary to find, locate and fund other water sources to meet Anchorage's public water supply needs.*

2. **Intake and Lake Level Evaluation:** There is substantial annual variation in the level of Eklutna Lake. Modeling anticipated water surface elevations and lake depths after dam removal will be essential to forecasting the impact removing the dam will have on AWWU's water rights, operations, and infrastructure.

   Changes in lake water levels and water quality impact AWWU's existing intake and other mechanical equipment (i.e., valves and gates). The effect of removing the dam on velocities, temperature, sediment and debris loading, and water quality will need to be studied. These factors may affect the design of water intake infrastructure and its maintenance.

   If it is determined that the existing intake will cease to function at lower lake levels, then an alternative water supply or a new water intake system needs to be evaluated as part of the dam removal alternative.

   Agreements between the EHP and AWWU are likely to require updating to account for impacts to the cost of water, ownership, and operations resulting from changes to EHP operations.

3. **Raw Water Quality & Supply:** Evaluation of Eklutna Lake impacts relate both to the intake systems and the raw water supplied to EWTF. A determination of whether Eklutna Lake can provide sufficient capacity for continuous raw water supply after dam removal is needed, especially in the winter when there are minimal flows into the lake.

Increased fish counts in the lake may impact biological loading. Lake level and velocity changes can be expected to change debris and sediment loads. These potential changes may affect lake water quality. Further study of the impact on AWWU operations, including the equipment needed for treatment and operator certification, is required as part of studying the dam removal alternative.

4. **Pipe Protection, Stream, and Scour Modeling:** AWWU is concerned that scour action from uncontrolled flows by the reestablished river may expose the water main, which could damage the water main and threaten AWWU's ability to reliably provide water to the Municipality.

   The impacts to AWWU's raw water infrastructure are unknown and will require further study. Stream and scour modeling analysis would need to be updated and extensively studied. The AWWU raw water main lies within the Eklutna River floodplain for over five miles from the AWWU portal valve shaft to the canyon's terminus exit, with the crown of the pipe as little as six feet below ground currently. The pipeline is a large prestressed concrete cylinder pipe that ranges in size from 54 to 60 inches in diameter. According to as-built drawings, the pipeline closely parallels the existing channel and crosses underneath it at eight locations.

   The original raw water pipe design contemplated irregular dam spillage into the river with flows up to 2,240 cubic feet per second (cfs). Measures were put in place to protect the pipe as part of the original design conditions. However, the current location and depth of the streambed has likely changed in the past 30 or more years. Critical sections of the pipeline vulnerable to damage with increased flows will need to be identified for mitigation measures.

5. **Meandering River Channels:** AWWU anticipates that the reestablished river may meander over time, exposing AWWU's infrastructure to damage at locations that are not currently predicted to be at risk. A risk assessment will be necessary to identify how a meandering river will impact canyon walls, sloughing, and erosion. Such a risk assessment will be needed to assess potential increasing soil loading over the pipe or scouring. A meandering river may also hinder AWWU's ability to access the pipeline to perform maintenance.

6. **Maintenance Road & Bridge Analysis:** Reestablished Eklutna River flows can be expected to impact maintenance access. AWWU must maintain the ability to inspect, physically access, and service all segments of its water main. An overall assessment of the existing maintenance access road and associated bridge crossings will be necessary to provide for appropriate mitigation. Existing and proposed bridge designs will need to be evaluated for stability based on anticipated flows, updating span, freeboard, and scour protection, as needed.

7. **Pipeline Maintenance:** The segments of the water main located under the reestablished Eklutna River will require access for maintenance and operations. The effect of increased river flows, and the presence of salmon on maintenance of AWWU infrastructure, needs to be studied, and appropriate mitigation considered.

   If a pipe failure occurs, a mechanism for permitting will be needed for AWWU to complete repairs, including, but not limited to, obtaining permits for excavation dewatering and diversions of the river. Analysis will be necessary to define the requirements for AWWU to inspect, repair, and possibly replace segments of its water main.

   For segments not directly under the reestablished Eklutna River, increased groundwater in the vicinity will likely impact pipeline stability and access. Buried access points, cathodic protection, etc., will be harder to expose and access when maintenance or repairs are required. Changes to overall operations will need to be assessed.

This concludes our initial assessment of the potential effects of the dam removal proposed alternative on Anchorage's primary source of drinking water and fire protection.

When reviewing this letter, understand that AWWU has limited information on the dam removal proposal.

As such, the assessment is, by nature, not comprehensive, and other items and issues could be revealed later.

I hope this provides you with information of value in your analysis. AWWU appreciates the opportunity to comment on the proposed alternative.

Regards,

Mark A. Corsentino, P.E.
General Manager
(907) 786-5511
mark.corsentino@awwu.biz

Appendix C. Chugach's Board Chair and CEO Letter to the Anchorage Assembly, dated May 23, 2024

May 23, 2024

Assembly Chair Constant
Assembly Vice Chair Zaletel
Anchorage Assembly
Municipality of Anchorage
PO Box 196650
Anchorage, AK 99519-6650

Subject: ***The Proposed Final Fish and Wildlife Program Process; Correcting Misunderstandings***

Dear Chair Constant, Vice Chair Zaletel, and Members of the Anchorage Assembly:

We, as senior leadership representatives of Chugach Electric Association, Inc. (Chugach), are writing to you to explain certain key aspects of our joint process with Matanuska Electric Association, Inc. (MEA) and the Municipality of Anchorage (MOA) (collectively, Project Owners) in developing the Proposed Final Fish and Wildlife Program (Proposed Final Program) that was submitted to the Governor on April 25, 2024. We would like to use this letter as an opportunity to correct certain misunderstandings that appear to be at the heart of the many negative public statements made to date about the Proposed Final Program, the Project Owners, and our team. Fundamentally, despite our differences with respect to the Proposed Final Program to date, we share many common interests, as Chugach's membership includes most Anchorage residents.

It is our responsibility to provide the people of Anchorage – your constituents and our members – with electricity that is essential to their lives and livelihoods and at a cost that does not overburden them. We take that responsibility very seriously. We do not take on excessive operational or legal risks. We do not enter into contracts lightly, and we approach our work and our obligations methodically. In this vein, we have approached each step of our work on the Proposed Final Program with the necessary level of integrity and care required to effectively serve our members pursuant to our mission. Below, we provide a detailed overview of our process, focusing broadly on the points which have been of greatest concern to the Anchorage Assembly to date.

1. **Proposed Final Program Process Was the Culmination of a Careful Years-Long Study, Consultation and Negotiation Process Involving Federal and State Agencies, the Native Village of Eklutna, Other Interested Stakeholders, and the Public**

In connection with the 1997 sale of the Eklutna Hydroelectric Project (Project) from the federal government to the MOA d/b/a Municipal Light & Power (ML&P), MEA, and Chugach, the Project Owners had entered into the 1991 Agreement with federal and state agencies, and the Governor of Alaska, for the protection, mitigation of damages to, and enhancement of fish and wildlife affected by the development of the Eklutna Project. The 1991 Agreement lays out a process for developing and carrying out study plans, reviewing findings, and developing a fish and wildlife program, modeled off a traditional Federal Energy Regulatory Commission (FERC) hydroelectric

relicensing process. Yet, there are key differences and departures from federal law, including the fact that the Governor of Alaska, rather than FERC, has final approval authority over the resulting fish and wildlife program. Distinctly, the Governor is required to "give equal consideration to" a broader set of considerations than under the Federal Power Act: efficient and economical power production, energy conservation, the protection, mitigation of damage to and enhancement of fish and wildlife (including relating spawning grounds and habitat), the protection of recreational opportunities, municipal water supplies, the preservation of other aspects of environmental quality, other beneficial public uses, and requirements of State law. See Section 5 of the 1991 Agreement. This public interest determination, along with the process requirements and lack of guiding precedent, makes the 1991 Agreement completely unique. In total, it contains only six-pages of text and therefore is limited in detail.

We have taken the view that it is essential to follow each of the enumerated requirements of the 1991 Agreement carefully and fully. We have also, however, where there is either no specific requirement on a process in the 1991 Agreement or only a minimum "floor" requirement, opted to look to industry best practice and FERC relicensing processes to do more than required of us by the 1991 Agreement. This approach has allowed us to provide consultation, documentation, and alternatives analysis well above and beyond the minimum of what is required in the 1991 Agreement. It has also limited us, however, when there is a clear process or timeline requirement laid out in the 1991 Agreement, as we see no path to changing or ignoring such requirements and have therefore followed them strictly.

For example, the 1991 Agreement required the Project Owners to begin a consultation process "no later than" 25 years after the sale of the Project or October 2022. To ensure a robust and meaningful process, we started three years early in 2019. However, the 1991 Agreement also states that implementation of the Fish and Wildlife Program shall begin no later than 30 years after the sale of the Project. It was important to us to release the Proposed Final Program to the public as soon as possible before that deadline and provide the Governor with ample time for review. We therefore worked backward from such 30-year hard implementation deadline of October 2027, and developed the schedule set forth in Sections 3.2 and 4.10.3 of the Supporting Information Document (SID). While we were free to start early, the schedule requirements of the 1991 Agreement afford no room for delaying implementation.

Since initiating the process in 2019, the Project Owners have similarly followed and where permissible under the 1991 Agreement, expanded upon each requirement of the 1991 Agreement in developing the Proposed Final Program. The five-year process was methodical, scientific, and robust in complete adherence to the requirements of the 1991 Agreement. We engaged with experts across federal and state agencies, the Native Village of Eklutna (NVE), and other interested stakeholders, and we worked closely with interested parties to review alternatives and revise our plans to address concerns. We have included a detailed overview of only some of the key steps taken by the Project Owners as we moved through the process as **Attachment 1** hereto.

Overall, we are proud of this work and have submitted a Proposed Final Program that meaningfully protects, mitigates, and enhances fish and wildlife impacted by the Project, while balancing costs and all requirements of the 1991 Agreement, including potential impacts to municipal water supply, power generation, and recreation. With our Proposed Final Program, significant flows of water

will return to all but one mile of the Eklutna River, where it has not been since long before the Project Owners bought the Project from the federal government. It will create new habitat for Chinook and coho. Modeling results indicate that spawning and rearing habitat for Chinook will increase by 209% and 53% respectively, and that spawning and rearing habitat for coho will increase by 65% and 67% respectively.[1] The increased flow and salmon abundance will directly benefit several other wildlife species.

The Proposed Final Program also includes robust monitoring and adaptive management principles. As compared with other alternatives that were proposed and studied, it balances costs to ratepayers and taxpayers with habitat gains and limits impacts to municipal water supply and recreation.

The Proposed Final Program is just the beginning of a decades long process to protect, mitigate damages to, and enhance fish and wildlife affected the Project. The Proposed Final Program's provisions and limited reopeners leave open the possibility of increased water flows and fish passage in the future – before the 1991 Agreement calls upon the Project Owners to begin the process again – based on ongoing monitoring.[2] We are committed to continuing to work with stakeholders, including NVE, during implementation, to adapt and improve the program based on new data, and these reopeners allow for this. The federal agencies involved in the process to date have commended our work, and ultimately, we believe that the federal and state agencies that were engaged in the process of developing the Proposed Final Program will support it.

Finally, we note that the Assembly was kept up to date throughout the process. Beginning in February 2020, the Project Owners regularly presented the status of the study, consultation, and program development process to the Assembly. This included presentations in February 2020, October 2020, March 2021, June 2021, October 2021, February 2022, July 2022, November 2022, March 2023, July 2023, and December 2023. Information about and recordings of each of these meetings – and other relevant community meetings – are available here.

2. Costs Allocation Among Project Owners; MOA Will Pay Less Than 10% and Has Already Committed Contractually To Pay Its Share of Program Costs

Throughout the development of the Proposed Final Program, many questions have been asked about costs, how ratepayers and taxpayers will potentially be impacted, and such how impacts were analyzed. Before reviewing such background, it is important to note that the alternative ultimately selected by the Project Owners was the most cost-effective alternative by far in producing significant habitat gains without soaring, unmanageable costs. Alternatives that requested replacement dams with volitional fish passage, for example, were estimated to have capital costs up to $170.8 million, where the Project Owners' alternative is projected to cost $16.47 to $20.48 million in capital costs (depending on whether the fixed wheel gas is installed). Still, the up to $20.48 million in capital expenses (and the $63.8 to $72.2 million in total costs) will be significant for the Project Owners,[3] and some of this will be borne by the MOA.

[1] For more information, please see Section 4.10.1 of the SID.

[2] Please read the reopeners set forth in Section 4 of the Proposed Final Program, pages 16-19.

[3] For a breakdown of such costs, please see Section 4.10.2 of the SID.

At the time of their purchase of the Project in October 1997, the Project Owners agreed to allocate all capital and operational costs of the Project among themselves directly according to their respective ownership shares, with MOA responsible at the time for 53.33% of all costs.

On October 30, 2020, this cost allocation was significantly altered when Chugach acquired ML&P. In connection with that transaction, while the MOA retained its ownership interests in the Project in what became Anchorage Hydroelectric Utility (Anchorage Hydro), the MOA executed two long-term power purchase agreements (PPAs) pursuant to which it sells its allocation of the power output to MEA and Chugach. Under its PPA, Chugach agreed to pay for the operating costs, including the fish and wildlife cost responsibility, associated with the portion of Anchorage Hydro's power output that it is purchasing. Under MEA's PPA, however, the MOA remains responsible for the fish and wildlife program costs associated with the output that MEA is purchasing from Anchorage Hydro. The Anchorage Assembly approved the terms of the ML&P acquisition and PPA[4], as did the Regulatory Commission of Alaska (RCA).

Today, therefore, the cost breakdown with respect to Proposed Final Program costs is as follows:

- Chugach is responsible for **64.29%** of all fish and wildlife costs, including capital costs, O&M costs, and the cost to replace any power output lost due to associated changes in operations due to implementation of the 1991 Agreement (Replacement Energy Costs);
- MEA is responsible for **16.67%** of the capital costs and O&M costs, and **35.71%** of Replacement Energy Costs; and
- MOA is responsible for **19.04%** (this is the portion of the Project from which it sells power to MEA) of the capital costs and O&M costs but, because it does not have any rights to any of the power output, it would incur **no** (0.00%) of Replacement Energy Costs.

Chugach's annual payments to the MOA under its PPA are set according to a schedule in the PPA, rising from $2,614,483 in the year starting November 1, 2024, to $3,523,928 in the final year of the 35 year contract. In total, Chugach is paying the MOA $48.2 million under the MOA-Chugach PPA. MEA's annual payments under its PPA are not fixed like Chugach's, but instead are set at 85% of its MEA's avoided cost rate, adjusted annually. In 2020, the MOA estimated that its total annual revenue under the PPAs and compensation from AWWU for diversion of water to domestic use will be $4,654,793.

In 2020, the Regulatory Commission of Alaska (RCA) examined the financial fitness of Anchorage Hydro as a utility in consideration of whether to issue a certificate of public convenience and necessity. As part of the examination, the MOA then estimated that its annual costs of operations of the Project to be $143,762, depreciation expense to be $210,035, and working capital requirement to be $17,970. The RCA then considered that Anchorage Hydro would have to pay its portion of the costs of the fish and wildlife program, then estimated to be $30 million (in capital costs and O&M costs, but not Replacement Energy) and noted that Anchorage Hydro would establish and maintain a $3 million reserve account. The RCA specifically concluded that Anchorage Hydro "will have sufficient Eklutna Project revenue to cover its allocated share of normal Project operations and maintenance expenses."

[4] See AO 2018-89 and AO 2019-387.

Due to such 2020 reallocation of costs, and the fact that the MOA does not bear any of the Replacement Energy costs, the MOA will actually only be required to pay **8.3%** of the total estimated annualized costs of the Proposed Final Program without the fixed wheel gate ($297,160/year) or **8.8%** of the total annualized costs of the Proposed Final Program if the fixed wheel gate is installed ($343,848/year). These numbers are *less* than what was anticipated and modeled in 2020 as part of the ML&P acquisition.

Based on the foregoing information, Anchorage Hydro has ample revenues from the PPAs to cover the annual costs of operations of the Project, depreciation expense, working capital requirements, as well as its portion of the total estimated annualized costs of the Proposed Final Program. Further, these costs were already anticipated by the MOA as part of the ML&P acquisition. The terms of the acquisition were approved by the Anchorage Assembly before the RCA approved the acquisition, and should already be more than accounted for in Anchorage Hydro's budget with respect to its receipt of Chugach and MEA funds and its reserve account. Finally, the MOA has also already committed in its contract with MEA to paying these expenses.[5]

Therefore, (1) due to the considerable revenues received from Chugach and MEA under the PPAs, the MOA should not need to increase taxes or issue debt to be able to pay its portion of the Project costs; and (2) additional approvals from the MOA or Assembly to cover its share of the costs - which have already been modeled, allocated, contractually committed to, approved and relied upon by Chugach and MEA when executing the PPAs with the MOA, and by the RCA, when approving the PPAs – are not necessary.

3. The Agreements Between AWWU and the Project Owners Were Necessary for the Proposed Final Program Approval; the AWWU Agreements Contemplate Assembly Approval Before Execution

As part of the alternatives analysis process, we proposed the "AWWU Portal Valve" option for instream flows, the option which we subsequently selected. Multiple participants in addition to the Project Owners also selected this option for analysis. The reasoning is self-explanatory: AWWU water transportation infrastructure already takes water from Eklutna Lake (from Project infrastructure) and transports water downstream in close proximity to the Eklutna River. Modifying such infrastructure to establish instream flows in the river presented an attractive possible solution that would allow us to create habitat in all but one mile of the river while minimizing the huge capital costs associated with dam replacement or new water transportation infrastructure, and minimizing Project operational impacts, allowing us to balance the 1991 Agreement priorities.

As we moved through the alternatives analysis and began to see the data on habitat and cost indicate that this option could indeed be a valuable piece of our Proposed Final Program, the

[5] Section 4.2 of the MOA-MEA PPA expressly confirms the MOA "shall be responsible for all capital costs, all operations and maintenance expenses, and all costs and expenses for environmental compliance and compliance with Applicable Laws related to the MEA portion." In both PPAs, the MOA waived sovereign immunity. At no time before or during its joint ownership of the Project has the MOA ever asserted that its payment of its proportionate costs of the Project been subject to appropriation approval.

Project Owners knew we would not be able to release a draft proposal containing such option unless we were certain that using AWWU infrastructure for this purpose was even feasible. This required that we come to some level of understanding with AWWU about the unused capacity of its facilities, what exactly the use of such infrastructure might look like, and how certain key operational and legal issues would be addressed.

In August 2023, after the alternatives analysis pointed toward the Portal Valve Option, we began discussions with AWWU about what the potential use of their infrastructure for this purpose would look like. After multiple rounds of discussion and negotiation, we executed a term sheet in October, prior to Draft Program release, laying out the fundamental terms such an arrangement would take if included in a Final Program approved by the Governor. This term sheet was then extended in March 2024. We also then negotiated and agreed upon forms of three key agreements further detailing this arrangement and attached them as Attachments D to the SID.

It is very important to note what these agreements **are** and what they are **not**.

These agreements **are**, based on their terms, positive for AWWU. AWWU drove a hard bargain. Setting aside whether the AWWU Portal Valve option and the Proposed Final Program is adequate under the 1991 Agreement, the terms in the agreements are beneficial to AWWU and its ratepayers, and it therefore makes commercial sense for AWWU, as a utility, to agree to these terms. The Project Owners are covering all costs of constructing and interconnecting new facilities and indemnifying AWWU for risks associated with the Proposed Final Program, but AWWU still has design approval rights, and a say over the development of long-term operating procedures. AWWU will receive eight new bridges over the Eklutna River at the Project Owners' cost. The agreements will also address and extend AWWU's access to the Project Owners' water rights for Anchorage drinking water at a capped compensation rate lower than current costs; the new agreement dealing with such water rights and compensation replaces the 1984 agreement that expires in 2025. AWWU would also be gaining a right to purchase the Project Owners' water infrastructure used to transport AWWU's water allocation in the event that the Project Owners cease operating the Project, as well as rights to priority water rights without the need for further compensation at the end of the new public water supply agreement in 2060.

These agreements **are not**, however, effective without Governor approval of a Final Program with the AWWU Portal Valve option included. They reflect the negotiations of utility operators, engineers, and lawyers practically allocating costs, responsibility, and risks in a situation only where the AWWU Portal Valve option becomes a reality. **The agreements also contemplate Assembly approval**. The agreements, therefore, show the Governor that this option is fundamentally feasible and on what terms AWWU would be willing to proceed with such an option should it receive necessary approvals.

4. **Confidentiality During Negotiations Was Customary and Necessary; Documents Have All Since Been Released**

There has been significant concern from the Assembly about the fact that the AWWU term sheet and form of agreements were negotiated confidentially, and that certain final aspects of the development of the Proposed Final Program were completed in secrecy. We find negative

aspersions related to our maintaining confidentiality during negotiations to be unfair and reflective of unreasonable expectations.

For the period from when the Project Owners filed the Draft Program on October 27, 2023, until we released our Proposed Final Program on April 25, 2024, we have been operating under a set of confidentiality commitments and expectations. When we started meeting with the federal and state agencies and NVE to attempt to resolve differences related to the Draft Program, as required by the 1991 Agreement, we agreed that, in order to foster open and frank discussions to reach agreement, we would hold such conversations and exchanges as confidential. Similarly, as we negotiated form agreements for water interconnection, transportation, and compensation for water supply with AWWU, we also agreed to keep those negotiations confidential until we reached agreement and submitted all materials to the Governor. Sensitive discussions and negotiations involving compromise are simply not conducted in an open public forum. As public utilities, we also do not negotiate our legal agreements about our important assets in public. We rely on being able to discuss operations, costs, and risks among ourselves and with our counterparties in confidence. Like any major business transaction, we also need to be able to deliberate and negotiate with counterparties and opposing parties with the candor and efficiency that confidentiality provides. The need for this type of confidentiality is widely understood, and in our experience, both private and public entities do not typically negotiate terms of agreements in public; when public approval is required, it is the final form of agreement that is released.

We always intended to release the final forms of term sheets and agreements to the public along with the Proposed Final Program, and we have now done so. Now that we have concluded both sets of negotiations, submitted the Proposed Final Program to the Governor, and released the AWWU form agreements, we can speak more freely about the component parts of the Proposed Final Program, significant changes since the Draft Program and our rationales, as well as the agreements reached with AWWU which remain subject to your approval.

5. NVE Has Been an Important Partner Throughout the Process and Will Continue to Be Included During Implementation

NVE has been and will continue to be an important partner to the Project Owners in the Proposed Final Program development process. We acknowledge and appreciate the losses and injustices experienced by the Eklutna Dena'ina on their historical lands along the Eklutna River. We are sympathetic to their ongoing desire to be a formal part of the decision-making processes about the Eklutna River and its habitat going forward. At this time, absent any clear authority to amend the 1991 Agreement, we have been and are committed to accord NVE a significant role in the consultation and program development process under the 1991 Agreement.

We first met with NVE as part of our initial consultation efforts when the process started. In April 2020, NVE requested formal recognition as a consulting government, with their Land and Environment Department analogous to other governmental signatories, for purpose and processes of the 1991 Agreement applicable to the Project. In a May 2020 letter to the Project Owners, NVE recognized that amending the 1991 Agreement may entail substantial time and effort, and as an alternative invited a joint letter from the Project Owners to the effect that the Project Owners will act in good faith to help mitigate impacts to the Eklutna River and that the Project Owners will

recognize NVE as a consulting government on a basis comparable to the governmental signatories to the 1991 Agreement. In June 2020, the Project Owners responded to NVE's request and committed to the following:

- Providing significance and due weight to NVE's expertise throughout the development of the Fish and Wildlife Program;
- Recognizing and including Traditional Ecological Knowledge (TEK) in the review and development of the study plans and Fish and Wildlife Program;
- Working with NVE to schedule additional meetings with the goal of hearing input from NVE and its members (one after the study program is completed and another following the development of the Draft Program) and coordinating with NVE on developing the agenda items for these meetings;
- Recommitting to sharing all study plans, data, reports, and comments directly with NVE when developed to seek feedback; and,
- Submitting an NVE-specific comment summary to the Governor for consideration along with the Project Owners' Proposed Final Program.

As part of the process, NVE was involved in all Technical Working Groups, the alternatives analysis, and attempts to resolve differences. The Project Owners also met with the NVE Tribal Council on several occasions, and NVE submitted three preferred alternatives for analysis. All NVE comments are also summarized in their own Section 4.12 of the SID.

As part of this participation, in July 2023, NVE identified a replacement dam as a first preferred alternative, with year-round instream flows ranging from 350 cfs in July and August, 150 cfs in September and October, and 65 cfs throughout the winter, with channel maintenance flows of 700 cfs annually provided through a fixed wheel gate with upstream fish passage provided through a fish ladder. Downstream fish passage would be provided through spill. The Project Owners analyzed this alternative along with all others. It was not selected given high costs significant impacts on reservoir operations. In recognition of NVE's and the agencies' desires for more flows and fish passage, however, we included significant reopener provisions that would allow for (1) increased water flows through a fixed wheel gate based on ongoing monitoring of annual inflows to the lake and other criteria; and, (2) the construction and operation of fish passage facilities both into and out of Eklutna Lake based on increased feasibility (e.g. technological improvements or new, proven methodologies).

Following the completion of the alternatives analysis and after the publication of the Draft Program, in December 2023, NVE proposed a second preferred alternative requesting removal of the dam and decommissioning of the Project. The Project Owners responded by engaging engineers and hydrologists to conduct a high-level analysis of the technical risks and cost implications of this request. A memorandum documenting this analysis and the results is included in Attachment F to the SID. We did not select this alternative because we found that that the alternative would put Anchorage's water supply at risk and require substantial infrastructure changes to downstream infrastructure, with a cost of more than $500 million.

Finally, on April 9, 2024, NVE proposed a third preferred alternative still centered on dam removal but also including requirements to obtain 40 MW of replacement renewable energy within 10 years

and the obligation to construct and operate an alternative Eklutna River Release Facility through the construction of a pump station that would pump water from Eklutna Lake to the small pond upstream of Eklutna Dam, and then release water from the dam into the river year round. Even though such alternative came only two weeks before our planned submission to the Governor, the Project Owners still included initial analysis of this proposal in the SID (see page 71-73).

Further, throughout the entire study, consultation, and party negotiation process, we have been working closely with the federal agencies that are signatories to the 1991 Agreement and that have government-to-government consultation responsibilities with NVE. We understand that the agencies have been engaging with NVE as part of their responses to and collaboration with the Project Owners. NVE has therefore had a significant role, both with the Project Owners, and with the federal agency parties in developing the Proposed Final Program.

We recognize that ultimately, NVE may be disappointed that we determined we cannot agree to its alternatives to replace the dam, remove the Project, or build an alternative Eklutna River Release Facility. We remain, however, committed to working with NVE through implementation of the program. We have invited NVE to participate in the Monitoring and Adaptive Management Committee as an equal partner to the federal and state agencies. In that role, NVE will have equal voice in implementation of the limited reopeners as described above, and we will continue to look to NVE for their input going forward.

Summary

As stated earlier in this letter, we are proud of the work we have done over the past five years culminating in the submission of the Proposed Final Program. It represents an enormous amount of work from dedicated members of our team and stakeholders who have been integral to the process. It was conducted scientifically, transparently, and methodically, and met and exceeded all requirements of the 1991 Agreement. The resulting Proposed Final Program appropriately balances the many interests highlighted in the 1991 Agreement and includes meaningful measures to protect, mitigate damages to, and enhance fish and wildlife in the Eklutna River. The Proposed Final Program is also just the start of a long process to protect, mitigate damages to, and enhance fish and wildlife affected the Project. We look forward to the Governor's decision and are eager to begin planning for implementation.

Sincerely,

CHUGACH ELECTRIC ASSOCIATION, INC.

Mark C. Wiggin
Chair, Board of Director
Chugach Electric Association, Inc.

Arthur W. Miller
Chief Executive Officer
Chugach Electric Association, Inc.

Attachment 1 – Proposed Final Program Development Process

- Beginning in March and April of 2019, the Project Owners conducted in-person consultation meetings with 14 agencies and interested stakeholders, including NVE and identified additional interested stakeholders to be subsequently included in the consultation process. See Section 4.1 of the SID and Attachment A.

- Although not required by the 1991 Agreement, in 2020, the Project Owners also developed an Initial Information Package (IIP) for the process participants and the public, establishing a baseline of existing information and information for the study planning process to follow. A draft was distributed to stakeholders in March 2020 for review and comment, comments were incorporated, and the final was released in September of 2020. The Draft and Final IIP and all comments received are available on the Project website. All reference documents used to develop the IIP are available here.

- In April 2020, a Technical Working Group (TWG) of stakeholder and agency experts focused on aquatic resources was established to solicit technical input throughout study planning, implementation, and reporting. In October 2021, three more TWGs were established to address other resource areas, including the Terrestrial TWG, Cultural TWG, and Recreation TWG. The TWGs met regularly to assist in study planning and review technical information developed by the study program and by others. A total of 28 TWG meetings were held during the study program. The table below shows the entities that participated in each TWG.

Table 4-1. Technical Working Group Members.

Entity	Aquatics	Terrestrial	Recreation	Cultural
Native Village of Eklutna	x	x	x	x
Alaska Department of Fish and Game	x	x	x	
ADNR Chugach State Park			x	
ADNR Office of History and Archaeology				x
U.S. Fish and Wildlife Service	x	x		x
National Marine Fisheries Service	x			
Trout Unlimited	x		x	
Alaska Pacific University	x	x		
Project Owners	x	x	x	x

- Early study consultation efforts by the Project Owners began in 2020 and based on this work, the Project Owners then developed a Proposed Study Program Framework and presented it to the Aquatics TWG for comment, leading to revisions to the draft study plans based on such comments. Multiple agency and stakeholder meetings were held and the Project Owners received concurrence letters from all state and federal agencies signatory to the 1991 Agreement. Each version of the year 1 study plans, all comments received, and each of the concurrence letters are available on the Project website.

- Year 1 studies were then initiated in 2021 including an instream flow study, a geomorphology and sediment transport study, a fish species composition and distribution

study, a water quality study, a macroinvertebrate study, stream gaging, a lake aquatic habitat and fish utilization study, a lakeside trail erosion study, hydro operations model development, and an existing infrastructure assessment. TWG meetings were held in November 2021 to discuss preliminary results, and draft reports were distributed for TWG and other interested party review and comment in February 2022. Study reports were finalized based on comments. The year 1 study reports and all comments received are available on the Project website.

- Year 2 studies were then developed with certain studies from year 1 continuing and with the addition of an engineering feasibility and cost assessment, a hydropower valuation study, a wetland and wildlife habitat study, a terrestrial wildlife study, a recreation study, a cultural resources study, and LiDAR and ortho imagery acquisition. Draft year 2 study plans were distributed to the TWGs in February 2022 for review and comment and meetings were held in March 2022 to address comments. The Project Owners received concurrence letters from each of the state agencies. The NMFS and USFWS also provided concurrence letters but only concurred with 10 of the 12 study plans. The federal agencies did not concur with the Geomorphology and Sediment Transport Study Plan or the Instream Flow Study Plan due to their uncertainty about the Project Owners ability to model higher flows without a significantly higher calibration flow. The Project Owners documented this area of non-agreement and distributed the Proposed Final Year 2 Study Plans and State concurrence letters to the Alaska Energy Authority (AEA) as the Governor's representative for review and feedback; however, the Project Owners did not receive any additional feedback from AEA. The Year 2 Study Plans, all comments received, and each of the concurrence letters are available on the Project website.

- Study results were presented to the Aquatics TWG, which then determined which potential engineering solutions should be advanced to phase 1 engineering which involved the development of 5% conceptional designs and cost estimates. Preliminary study results, potential fish and wildlife protection, mitigation and enhancement measures, and all comments received are available on the Project website.

- Over the spring and summer of 2023, the Project Owners then engaged in an alternatives analysis, another process not required by the 1991 Agreement but also not prohibited by it, and which we felt was necessary to bridge the gap between study reporting and development of a Draft Fish and Wildlife Program (Draft Program). The Project Owners reached out to the 1991 Agreement parties, the TWGs, and other stakeholders about participating. In sum, five meetings were held, and participants asked us to evaluate their preferred alternatives for facilitating Eklutna River instream flows, channel maintenance flows, upstream and downstream fish passage and other items. We analyzed each alternative carefully, looking at potential ratepayer and taxpayer impacts, acres of potential habitat gains for multiple fish species, capital costs, O&M costs, Replacement Energy costs, and costs per year per acre of habitat gained. The results were released at successive meetings to encourage discussion; with results summarized in the Draft Program distributed in October 2023 and the presentations are available on the Project website.

- After release of the Draft Program, per the requirements of the 1991 Agreement, the Agreement parties and NVE had 30 days to review and provide comments to the Project Owners. The Draft Program, Draft Summary of Study Results, and all comments received are available on the Project website. Responses to comments on the Draft Program are available as Attachment E to the SID.

- Per the 1991 Agreement, the Project Owners were required to attempt to resolve differences with the 1991 Agreement parties giving due weight to their recommendations, expertise, and statutory responsibilities. The Project Owners held individual meetings with each of the parties in December 2023 to discuss their comments. The Project Owners continued to meet and negotiate with the parties through April 2024 and made substantive changes to the program based on these discussions. The Project Owners also met with NVE in December 2023 to discuss their comments on Draft Program and underlying interests.

- After meeting with the parties and NVE in December 2023 to attempt to resolve differences, the Project Owners were required to hold at least two public meetings, one in Anchorage and one in the Matanuska-Susitna Valley. The Project Owners ultimately held six public meetings, two in Anchorage, two in Palmer, and two in Eagle River. All six meetings were held in January 2024 and were an open house format with a brief presentation followed by an opportunity for participants to meet with the Project Owners and their subject matter experts, ask questions, and submit comments. The public comment period was open from October 27, 2023, through February 19, 2024. The Project Owners received a total of 1,672 public comments, including 1,299 form letters. Individual comments primarily addressed dam removal and the Draft Program, with comments supporting and opposing both dam removal and the Draft Program essentially evenly split. All of the form letters called for removal of Eklutna Dam; however, most of these form letters were from individuals out of state. The Public Comment Summary and Analysis is provided in Attachment G to the SID.

Appendix D. Cost and Risk Assessment of NVE's Eklutna Pump Station Alternative

Technical Memorandum

To:	Eklutna Project Owners	Project:	Eklutna Fish & Wildlife Program
From:	Sean P. Ellenson, P.E. McMillen, Inc.	cc:	Samantha Owen McMillen, Inc.
Date:	July 10, 2024	Job No:	24-021
Subject:	Cost and Risk Assessment of the Eklutna Pump Station Alternative		

Revision Log

Revision No.	Date	Revision Description
0	06/19/2024	Initial Draft
1	07/10/2024	Final Draft

1.0 Introduction

The Eklutna Hydroelectric Project (Project) is located in Southcentral Alaska approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna. The Project was originally constructed by the Federal government in the 1950s but was later sold to and is currently owned by Chugach Electric Association (Chugach), Matanuska Electric Association (MEA), and the Municipality of Anchorage (MOA), collectively the "Project Owners". As part of the sale of the Project, the current Project Owners entered into the 1991 Fish and Wildlife Agreement (1991 Agreement) with the National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the State of Alaska (the Parties). The 1991 Agreement requires the Project Owners to develop and propose to the Governor of Alaska (Governor) a program to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Project. The Project Owners submitted their Proposed Final Fish and Wildlife Program to the Governor on April 25, 2024.

1.1 Background

Beginning in 2019, the Project Owners consulted with agencies and interested stakeholders regarding the availability of existing information and development of a study program. This study program took place over the course of two years to investigate the impact of the Project on fish and wildlife. The results of the study program indicated that releasing water back into

the Eklutna River would provide benefits to fish and wildlife, particularly in terms of providing new fish habitat. Subsequently, the Project Owners conducted an alternatives analysis process between April and August 2023 to compare potential methods for providing water into the Eklutna River as well as other protection, mitigation, and enhancement (PME) measures as part of the future Fish and Wildlife Program.

Ultimately the alternatives analysis process evaluated over 36 comprehensive alternatives proposed by agencies and stakeholders. A cost effectiveness and incremental cost analysis was performed to identify the relative benefits and costs of each measure to help narrow down the list of proposed alternatives. The final list of preferred alternatives proposed by each participant in the alternatives analysis effort encompassed variations on infrastructural improvements (i.e. upstream and downstream fish passage, spillway gates, water release facilities in the river), flow release regimes, and habitat improvement measures to mitigate impacts from the Project. The alternatives analysis and selection of a preferred alternative was presented in the Draft Fish and Wildlife Program (Draft Program) published in October 2023[1].

Following the publication of the Draft Program, the Native Village of Eklutna (NVE) proposed on December 4, 2023 an alternative to remove Eklutna Dam. The Project Owners evaluated the costs and risks of this alternative in a separate technical memorandum dated April 24, 2024, submitted with the Final Fish & Wildlife Program[2]. The Project Owners then met with each of the parties to the 1991 agreements and NVE to attempt to resolve differences. These meetings continued throughout April 2024. On April 9, 2024 NVE proposed a new alternative Fish and Wildlife Program that consists of the following core components[3]:

1. Construct a new instream flow release facility consisting of a pump station located upstream of Eklutna Dam with an intake pipe located within Eklutna Lake;

2. Automate the existing outlet gate and construct new AWWU bridges;

3. Secure 40 MW of replacement renewable energy no later than 2034 and remove Eklutna Dam;

[1] Chugach Electric Association, Matanuska Electric Association, and Municipality of Anchorage. Eklutna Hydroelectric Project Draft Fish and Wildlife Program (Oct 27,2023) https://eklutnahydro.com/wp-content/uploads/2023/10/2023-10-27-Eklutna-Draft-Fish-and-Wildlife-Program_with-Appendices.pdf
[2] Chugach Electric Association, Matanuska Electric Association, and Municipality of Anchorage. Attachment F – Technical Risk Assessment of the Removal of Eklutna Dam. (Apr 24,2024) https://eklutnahydro.com/wp-content/uploads/2024/04/Attachment-F-Eklutna-Dam-Removal-Assessment.pdf
[3] Native Village of Eklutna. Proposed Eklutna Final Fish & Wildlife Program. (April 9, 2024) https://s3.documentcloud.org/documents/24563457/nve-eklutna-river-proposal-all-documents-4172024.pdf

4. Deliver the instream flow regime and channel maintenance flow regime within the annual water budgets as described in the Project Owner's Proposed Final Fish and Wildlife Program through the proposed pump station and outlet gate;

5. Establish a fund reserve, consisting of an interest-bearing account holding all earnings from the Eklutna Hydro project over and above the cost to operate it, to be used to pay for the alternatives stated above;

6. Seek federal funding for the alternatives stated above in partnership with the Project Owners; and

7. Appoint NVE as a permanent member of the Eklutna River Committee.

In response to the letter, the Project Owners provided an initial written reply on April 25, 2024 to the counterproposal identifying which of the core components have been included in the Proposed Final Fish and Wildlife Program and explaining the reasoning why other proposed components are not being incorporated into the program. In addition, the Project Owners pledged to perform a more detailed analysis of the costs and risks associated with the proposed construction of a new pump station at Eklutna Lake as an alternative to the currently proposed Eklutna River Release Facility.

1.2 Purpose

The purpose of this memorandum is to conduct a high-level analysis of the proposed design of the pump station, document the risks associated with utilizing the structure for meeting the objectives of the Fish and Wildlife Program, and to develop a cost estimate for the construction of the facility. This memorandum does not provide an assessment on the other core components of the NVE counterproposal such as the removal of Eklutna Dam or methods for funding the implementation of the facility. Refer to Attachment F of the proposed Final Program for the Technical Risk Assessment for the removal of Eklutna Dam.

2.0 Description of Alternative

This section defines the project description for the Pump Station Alternative as proposed by NVE in their April 2024 letter and following further consultation with NVE's engineer in May 2024. The following subsections document the components associated with the alternative, the preliminary design features, and the assumptions made for the construction methodology of each feature for use in developing the cost estimate.

2.1 General Description

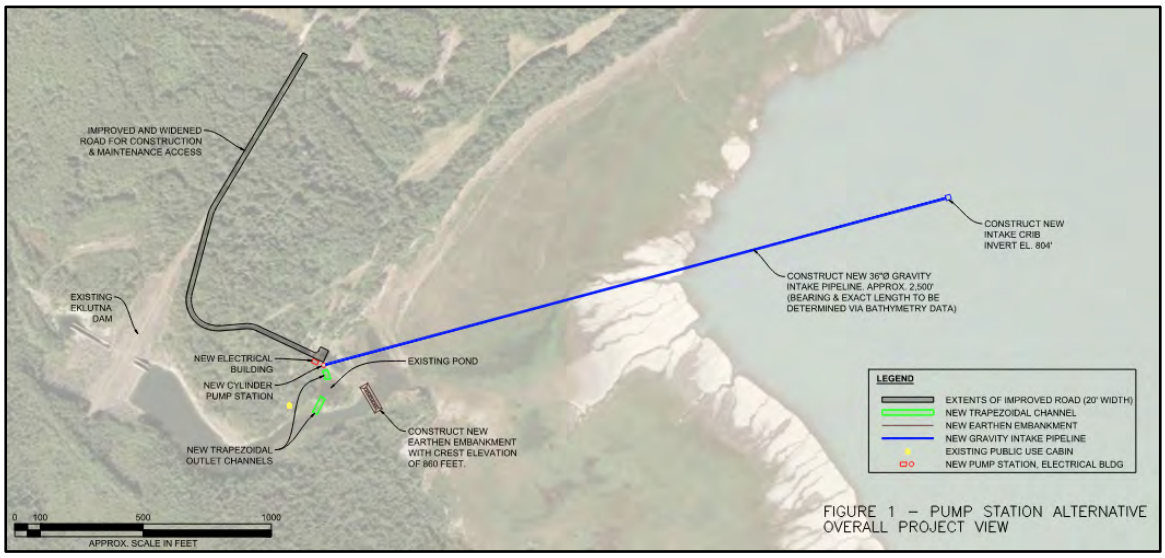


Figure 2-1. Pump Station Alternative - Overall Project View[4].

The general layout of the alternative consists of a new pump station located atop a cylindrical wet well constructed on the shore of Eklutna Lake approximately 650-feet to the east of Eklutna Dam. The wet well would draw water from the lake through a new buried gravity flow intake pipeline spanning a distance of approximately 2,500-feet to a screened intake crib located on the lakebed. The pumps would discharge to the pond located upstream of the dam which exists year-round independent of the water surface elevation of Eklutna Lake.

To release instream flows from the dam into the river before ultimate dam removal as proposed by NVE, it is proposed that the existing drainage outlet gate located within the base of the dam spillway would be automated to control flow from the pond into the river based on the seasonal variation of the instream flow regime. To operate the pumps and perform the gate actuation, a new three phase power supply would be brought to the dam from the Eklutna Water Treatment Facility located approximately 6 miles down the road from the project site. A new electrical and controls building would be constructed to house all electrical and instrumentation equipment.

The primary benefit associated with this alternative is that it continues to allow the lake to be drawn down seasonally for water supply and hydroelectric generation purposes while also allowing for releases to be made to the full 12 miles of Eklutna River year-round during the

[4] Native Village of Eklutna. Final Eklutna Figures. (April 9, 2024).
Note – This figure is not representative of the final configuration assessed within this report and includes features such as the earthen embankment that are not necessary for the operation of this alternative.

initial 10-year period of operation. It shall be noted that fish passage around the dam is not incorporated as part of the pump station alternative prior to dam removal and costs associated with this are excluded from this assessment.

Following the removal of the dam and implementation of fish passage into the lake, it is assumed that the pump station would remain in place as a safety measure to prevent the river from running dry. During dry years, the withdrawals from the lake for public water supply purposes have the potential to draw down the reservoir from the outlet during the winter. The pump station would then be able to operate periodically to maintain a wetted river until the lake inflows are such that the river resumes its natural flow.

The following sections provide additional details on the proposed design of each feature and the assumptions made regarding the constructability of each component for the cost estimate.

2.2 Intake Crib

2.2.1 Description

The intake crib is proposed to be a precast concrete structure with dimensions 8'-0"W x 6'-0"L x 6'-0"H. The front face and sides of the structure would be screened utilizing a steel trash rack with a spacing of 1.5" for debris and fish exclusion. The structure is sized to reduce the maximum approach velocities to the intake to less than 0.3 ft/s which is typically suitable to reduce the risk of fish entrainment. The crib would be located on the lakebed at an invert elevation of El. 804.0 ft (local datum[5]), sufficient to prevent vortexing or air entrainment within the intake at low lake water surface elevations.

2.2.2 Constructability

It is assumed that the concrete structure would be precast, and the screens prefabricated and assembled prior to being delivered to the site. The intake crib would be delivered by barge to the proposed location, lowered to the lakebed and secured to the pump intake pipe by a dive team.

2.3 Intake Pipe

2.3.1 Description

The intake pipe is proposed to be a 36-inch diameter reinforced concrete drainage pipe with bell and spigot connections, conforming to ASTM C76 or equal. The pipe is proposed by NVE

[5] Multiple vertical survey datums are reported in and around the main features of the Project. Throughout this document, the elevation datum that shall be used is the "local datum" tied to the crest of Eklutna Dam.

to be approximately 2,500 linear feet to reach a lakebed elevation of El. 804.0 ft, however a review of the lake bathymetry by McMillen requires this length to increase to approximately 2,800 linear feet to achieve the proposed depth. The pipe would start at the bottom of the wet well at El. 801.0 ft and end at the intake crib invert El. 804.0 ft with a uniform slope of approximately 0.1 percent. The topography of the ground surface along the proposed alignment requires this pipe to be buried at a depth of up to 75-feet at the wet well, increasing the complexity of the installation and limiting the available methodologies for construction.

2.3.2 Constructability

Installing a 36-inch diameter pipe for a length of 2,800 feet at a depth of up to 75-feet adjacent to and underneath a lake is a significant engineering challenge that would require in-depth studies prior to selecting the preferred construction methodology. Options such as horizontal directional drilling, microtunneling, or the development of an open cut trench (with benching) may be suitable means for construction. Each would require careful planning to understand the quality of the rock and substrate the pipe would be installed in, groundwater impacts, the suitability to connect into the lake via a wet tap, and the necessity of building a coffer dam for construction.

The assumption used as the basis for the cost estimate is that a microtunneling approach may be utilized for this application, as it would likely be preferable to an open cut trench due to the proposed depth of the pipe. The wet well would serve as the launch shaft for the microtunnel boring machine (MTBM) and would be expanded to a footprint of approximately 25’-0”L x 15’-0”W. The MTBM would have a diameter of approximately 44-inches to accommodate the jacking pipe to drive a pipe with a finished diameter of 36-inches as specified. The profile of the intake pipe is assumed to pass primarily through relatively soft grounds consisting of silt, sand, and clay based on drilling records from boreholes investigated during the initial construction of the project. Based on the assumed geologic conditions, the MTBM would likely use a pressure balanced cutting head suitable for soft soils for this construction. The overall length of the proposed microtunnel is on the upper end of what has been performed to date in the United States and may necessitate the use of an intermediate jacking station located at the midpoint of the alignment. The microtunnel connection to Eklutna Lake is assumed to take place underwater as a lake tap, with bulkheads within the MTBM preventing flooding of the tunnel during the breakout into the lake. Following the lake tap, the MTBM would be removed by a dive team and the ground prepared for placement of the intake crib.

2.4 Pump Station

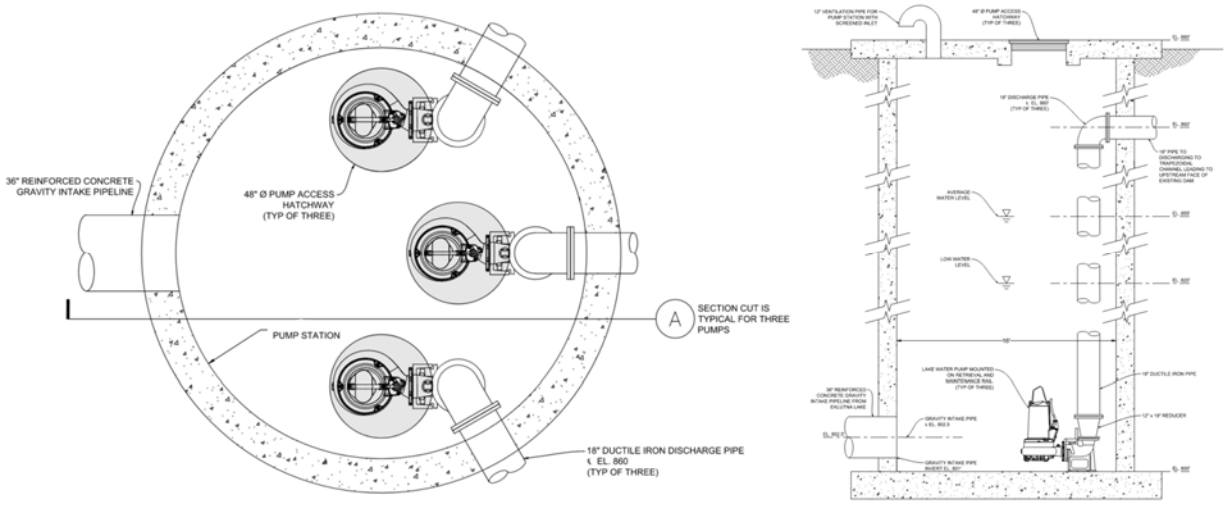


Figure 2-2. Proposed Pump Station Plan (Left) and Profile (Right).

2.4.1 Description

The proposed pump station design consists of a wet pit triplex sump with a diameter of 16-feet and a depth of 80-feet. The sump would house three wet pit submersible style pumps with a rated flow of 13.3 cubic feet per second (cfs) at a rated head of 45-feet and a motor sizing of 100 horsepower (HP) each. The pumps would be located at the base of the sump and attached to a guide rail for ease of removal and maintenance. Each pump would discharge to an 18-inch diameter discharge pipe exiting the structure approximately 20-feet below grade. The outlet pipes would require a throttling and isolation valve at the discharge to prevent the pumps from operating at a run-out condition at low head.

The structure as proposed in the alternative has a top elevation of El. 880.0 ft. This indicates that the structure would be located below the maximum spillway water surface elevation of El. 884.8 ft. To prevent inundation during an extreme spill event, the structure would likely be relocated to a point higher in elevation, which has not been accounted for as part of the cost estimate.

2.4.2 Constructability

To accommodate the staging requirements for the MTBM launch shaft as proposed in the previous section, the wet well would likely be larger than proposed and reconfigured to a rectangular pit or alternate intake style. Due to the presence of clays, silt, and sand in the vicinity of the proposed wet well location, the structure is anticipated to be constructed of secant pile walls with a base slab for mounting the pumps and a reinforced concrete thrust

wall for driving the MTBM. Groundwater would likely be continuously pumped out of the well during construction until the structure is complete, and the base slab fully formed. Care must be taken to ensure the structure is designed to prevent buoyancy or uplift and may require a substantially thick base slab or larger diameter secant pile wall construction than proposed as part of the cost estimate.

2.5 Discharge Channel

2.5.1 Description

The discharge piping from each pump is proposed to exit the wet pit sump and discharge directly onto a reinforced shotcrete pad and into the existing pond formed upstream of the dam. NVE had additionally proposed the construction of a new earthen embankment structure with a crest elevation of 860.0 ft located at the eastern edge of the pond, to ensure that the outlet gate has sufficient driving head to make releases year-round and so that the pumps do not simply recirculate water back to Eklutna Lake when the lake elevation is low. In consultation with NVE's engineer in the development of this assessment, it was determined that this earthen embankment is not necessary from a hydraulic design standpoint as the glacial moraine at the eastern edge of the pond has an existing crest elevation of ± 860.0 ft msl and has sufficient depth to deliver the required flow rate through the drainage outlet gate. The costs associated with the structure have been excluded from this assessment.

2.5.2 Constructability

The channel connecting the pump station with the existing pond would be excavated when the lake levels are low. To avoid the use of a cofferdam for construction activities, the existing pond would be drained through the dam prior to work being performed.

2.6 Access Road

2.6.1 Description

A 20-ft wide, 1,600-foot-long gravel access road would be developed from the Eklutna Lake Day Use Area to the proposed pump station. Approximately 700-feet of the road would involve the improvement and widening of an existing unnamed access road to the right abutment of Eklutna Dam, and the remaining 900-feet would be newly developed, partially following the alignment of the existing trail to the Dolly Varden cabin.

2.6.2 Constructability

The road would be constructed as a low-speed rural access road with no public access. Trees would be cleared along the proposed alignment, existing material removed, and aggregate base would be places with gravel for the road surfacing,

2.7 Electrical Supply

2.7.1 Description

A three-phase power supply would be brought to the Eklutna Dam and proposed pump station to provide electrical service to the pumps. Approximately 6 miles of the existing single-phase line was proposed by NVE to be upgraded to three-phase, however a secondary review indicates approximately 8.2 miles of line must be upgraded to support this alternative. Additionally, a new transmission line would run approximately 1 mile from the nearest distribution pole to the project site. Portions of the line running along the access road would be buried. For reliability purposes two 300 kVA transformers would be provided and arranged in a main-tie-main arrangement to provide power to the pumps. An electrical building would be constructed adjacent to the pump station to house all electrical equipment and instrumentation.

In the event of a power outage the proposed design includes the use of a standby diesel generator set rated at 300 kW with an automatic transfer switch to maintain power to the pumps. The generator would come with a tank of roughly 750 gallons of fuel rated for 24 hours of continuous load.

2.7.2 Constructability

The existing single phase transmission line would be converted by MEA to a 1/0 ACSR three-phase line and the poles would be upgraded accordingly. The electrical and control building and pump house is anticipated to be of concrete masonry unit (CMU) block wall construction with lighting and associated heating, ventilation, and cooling needs.

3.0 Risk Assessment Summary

The proposed design and construction of the pump station alternative to provide instream flows to the Eklutna River presents some unique challenges and risks when compared to other alternatives that have been studied. This section documents some of the risks associated with the alternative proposed by NVE.

3.1 Reliability

The design aspects of the proposed pump station alternative present reliability risks for the project that may restrict the ability to provide year-round, uninterrupted flow to the Eklutna River. Some of the reliability risks identified are as follows:

1. The pumps are intended to operate continuously for the duration of the year that the lake is disconnected from the dam. This necessitates being reliant on a constant supply of power from the existing and upgraded transmission line on Eklutna Lake Road. Loss of power to the pumps caused by a regional blackout, downed line, downed pole, malfunctioning transformer or other event would result in the pump station shutting off unexpectedly. The emergency standby diesel generator would provide power to the pumps for approximately 24 hours at full load. If power is not restored or more fuel is not delivered to the site within approximately 24 hours, stored water within the pond may provide a few hours of continued release, after which the river would run dry.

   It shall be noted that there are additional risks with being reliant on a diesel generator to supply flow to the Eklutna River in the event of an emergency. There are known concerns with fuel gelation, water contamination, and general starting issues in cold temperatures. Additionally, loss of battery capacity over time may prevent the unit from starting up when needed and ice and snow may restrict operation of the engine and proper ventilation. Routine maintenance of the generator would be critical to ensuring the reliability of the pump system in the event of an outage.

2. The proposed pump station layout consists of three pumps, each with a rated flow of 13.3 cfs for a total station capacity of 40 cfs. With an instream flow of 40 cfs required in the river between June and October, there is no redundancy proposed in the design to eliminate a single point of failure or allow for maintenance of one pump during the high flow season. This introduces some risk to the pump station's ability to provide the necessary flow to the river year-round.

3.2 Flow Regime

Being reliant on the pumping station and dam outlet gate to provide flow to the Eklutna River introduces some risks and technical challenges to being able to meet the instream flow and peak flow regime as proposed in the Proposed Final Fish & Wildlife Program. These risks are summarized as follows:

1. Controlling the flow rate into the river requires coordination of the number of pumps in operation, the speed of the pumps in operation, the position of the throttling valve on each discharge line, and the position of the drainage outlet gate to meet the instream

flow criteria. The flow rate required in the river, which varies seasonally as well as annually within the water budget, is highly sensitive to changes in valve position, gate position, and pump speed, all of which must be carefully monitored as part of this alternative.

2. A periodic channel maintenance flow is required to be released in the river in three years out of every 10 years as indicated in the Proposed Final Fish & Wildlife Program. The channel maintenance flow regime as proposed ramps up to 220 cfs and is held for 36 hours before ramping back down to 40 cfs over the course of approximately two days. The drainage outlet gate has the potential to release a maximum of 190 cfs at a water surface elevation of 871.0 ft. The proposed pump station alternative does not allow for the periodic channel maintenance flows to occur without an unregulated spill over Eklutna Dam. This introduces considerable risk to all downstream infrastructure, as the magnitude and duration of an unregulated spill is unable to be controlled by the Project Owners.

3.3 Geotechnical

The construction of the intake pipe and lake tap presents some significant risks and challenges from a geotechnical standpoint. These risks are summarized as follows:

1. The various methodologies that may be used for construction of the intake pipe such as microtunneling or directional drilling would present some unique challenges for the designer and the contractor due to the distance required, ground conditions, and proximity to the lake. The soft soils of the lakebed may present some stability concerns including the potential for ground settlement and subsidence. Water infiltration is a significant concern for this application underneath the lake, presenting risks to workers and to the tunneling operation during construction. Detailed geotechnical investigations must be performed to reduce some of the unknowns associated with the tunneling operation, the costs of which have not been included in this assessment.

2. Mapped geologic structures in the Upper Cook Inlet and the region around Eklutna Lake are capable of generating strong earthquakes which pose a significant risk to the proposed project facilities. During the Great Alaska Earthquake in 1964, the earthquake caused densification of unconsolidated sediments within Eklutna Lake resulting in substantial movement of the lakebed. The existing intake within the lake experienced lateral movement of up to 10 inches at conduit joints, causing failure of the structure. A subsurface pipeline spanning 2,800 feet underneath the lakebed is at substantial risk of separation or failure during a seismic event.

3. The geology of the lakebed may vary, and trenchless excavation may encounter unforeseen geologic intrusions. These unexpected conditions could cause significant delays or substantially increase the costs of the tunneling project.

3.4 Environmental

The location of the pump station and proximity to the lake, cabins, campsites and recreation areas may present some additional risks and environmental impacts that would need further study. These risks are summarized as follows:

1. The structure as proposed by NVE is within 150 feet of an existing public use cabin, within 1,000 feet of public campsites, and on the shore of Eklutna Lake. Impacts to recreational opportunities during construction must be further studied and better understood for this alternative.

2. The storage of at least 750 gallons of diesel adjacent to the shore of Eklutna Lake poses potential risk of spill and discharge of fuel into the public water supply. This risk may be mitigated by appropriate spill prevention, control, and countermeasure plans but would be an ongoing risk for the life of the project.

4.0 Anticipated Costs

4.1 Capital Costs

An Opinion of Probable Construction Costs (OPCC) was developed for the pump station alternative based on the construction methodologies and assumptions discussed within this memorandum. We have utilized historical cost data from similarly technical projects which we have designed or constructed as a self-performing general contractor, as the basis of our estimate. Appropriate overhead and profit markups have been included below the subtotal to account for the competitive bidders' markups they are likely to apply on their bid prices. Additionally, a 25% contingency has been included at this stage to account for details and minor project features which are not yet included in the project documents at the conceptual level of detail. This OPCC is consistent with a Class 5 estimate as defined by the Association for the Advancement of Cost Engineering (AACE) standard practice 69R-12. A summary of the OPCC is provided in Table 4-1 and the complete document is provided in Appendix A.

Table 4-1. Capital Cost Summary.

Description	Cost ($2024)
Mobilization	$1,770,000
General Requirements	$2,650,000
Site Construction and Access Roads	$377,500
Pump Station Construction	$18,294,000
Dam Outlet Modifications	$350,155
Electrical and Transmission	$3,072,250
Subtotal	**$26,513,905**
GC Overhead and Profit	$3,924,563
Construction Bonds	$380,481
Contingency (25%)	$7,704,737
Total Cost	**$38,523,685**
Lower Limit (-50%)	$19,261,842
Upper Limit (+100%)	$77,047,370

4.2 Operations and Maintenance Costs

Operations and maintenance costs associated with this facility include time for the operator to monitor and control the flow releases for the facility and a technician to visit the site weekly. Additionally, each pump is assumed to undergo an annual maintenance check by a trained mechanic and electrical technician. A significant portion of the operations costs for this facility include the energy costs to operate the pumps.

To determine the average annual energy estimates for operation of the pumps, an operations model was developed. This model considered the number of pumps in operation, the speed of operation to control the flow rate, and an estimated hydraulic efficiency of 80%. During the portions of the year that the lake is connected with the existing pond (i.e. elevation of El. 861 or higher), then the pumps are powered down. The monthly energy consumption of the pumps is presented in Figure 4-1.

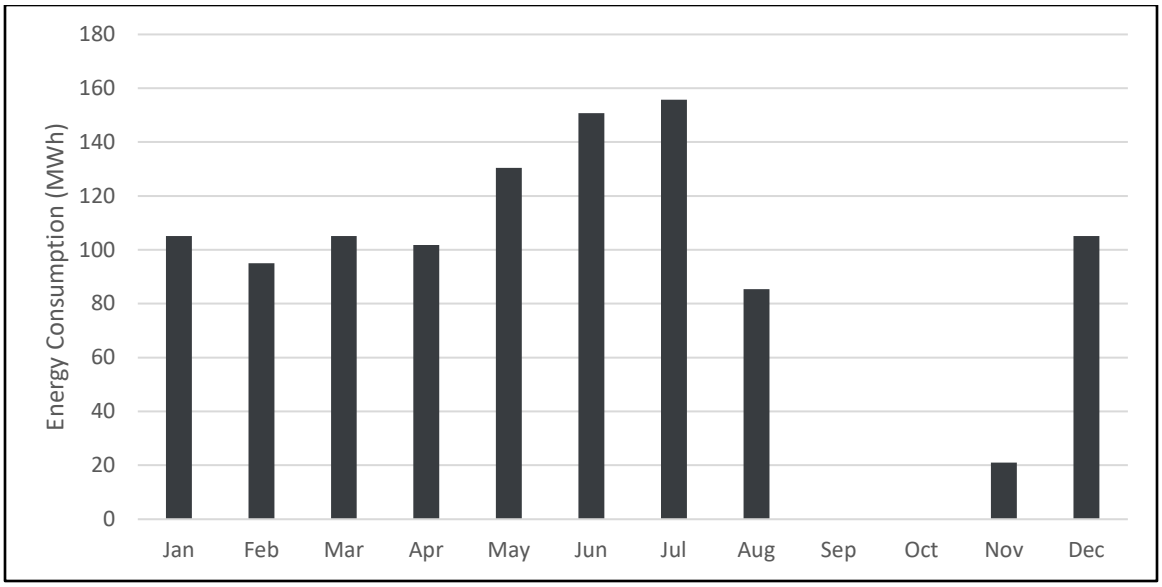


Figure 4-1. Estimated Energy Consumption of Pumps by Month.

The average annual energy consumed by the pumps to deliver the instream flow as proposed in the Fish and Wildlife Program is 1,056 MWh/Yr. At an average energy cost of $84.65/MWh the annual costs for operating the pumps are approximately $89,400/Yr. The summary of operating and maintenance costs for the facility is presented in Table 4-2. A detailed breakdown of the operations and maintenance costs is provided in Appendix A.

Table 4-2. O&M Cost Summary.

Description	Annual Cost ($2024)
Operations Personnel	
Facility Technician	$76,700
Facility Operator	$57,500
Maintenance Personnel	
Electrician	$14,500
Mechanic	$13,300
Power	
Pump Operations	$89,400
Pump Controls	$800
General Site Consumption	$3,000
Materials	
Valves/Seals	$6,000
Pumps/Seals/Repair	$10,500
O&M Subtotal	$272,000

Contingency	$81,600
O&M Annual Total	**$353,600**

4.3 Replacement Energy Costs

The estimated replacement energy cost for the alternative is derived from the reduction in energy generation potential of the powerhouse due to flows being released in the Eklutna River. The replacement energy cost for the pump station alternative is identical to that of the Project Owner's preferred alternative presented in the Fish and Wildlife Program and equates to a reduction in generation of 15,749 MWh/Yr at a cost of $1,333,000/Yr.

4.4 Present Value of Annualized Costs

To better understand the anticipated costs of the alternative, the capital costs are annualized over the life of the project and added to the O&M and replacement energy costs. The annualized costs are then used to calculate utility rate impacts, projected spending, or can be combined and converted to a present value for comparison purposes. For this alternative, the costs for the pump station are annualized over 10 years. The present value of these annualized costs is then calculated using a 5% discount rate and added to the capital costs associated with dam removal. Additional information on the calculation for determining the present worth is provided in Attachment C of the Proposed Final Fish & Wildlife Program[6]. The summary of the present worth of the proposed alternative is presented in Table 4-3.

Table 4-3. Overall Cost Summary.

Cost Description	Value ($2024)
Capital Costs	
Pump Station and Outlet Gate Capital Cost	$38,523,685
AWWU Bridges Capital Cost	$4,558,256
Subtotal Capital Costs	$43,081,941
O&M Costs	
Pump Station and Outlet Gate O&M Cost	$353,600
Replacement Energy Costs	
Average Annual Energy Reduction	15,749
Replacement Energy Costs ($/MWh)	$84.65
Replacement Energy Costs ($/MWh)	$1,333,188

[6] Chugach Electric Association, Matanuska Electric Association, and Municipality of Anchorage. Attachment C – Supporting Data for Cost Effectiveness Modeling. (Aug 30,2023) https://eklutnahydro.com/wp-content/uploads/2024/04/Attachment-C-Supporting-Data-for-Cost-Effectiveness-Modeling.pdf

Pump Station Annualized Costs	
Annualized Costs for 10 Years of Operation	$8,617,807
CEA Share of Pump Station Annualized Costs ($/Yr)	$5,693,522
MEA Share of Pump Station Annualized Costs ($/Yr)	$1,743,556
MOA Share of Pump Station Annualized Costs ($/Yr)	$1,180,729
10-Year Present Value of Pump Station Annualized Costs ($)	$66,546,709
Dam Removal Capital Costs[7]	
Eklutna Dam Removal	$10,496,000
Eklutna Power Plant Decommissioning	$3,439,000
New Hydroelectric Project	$243,820,000
Re-route AWWU Pipeline	$37,880,000
New Glenn Highway Bridge Replacement	$39,830,000
Railroad Bridge Replacement	$65,639,000
Total Costs	
Estimated Present Value of Complete Alternative	$467,650,709

[7] Chugach Electric Association, Matanuska Electric Association, and Municipality of Anchorage. Attachment F – Technical Risk Assessment of the Removal of Eklutna Dam. (Apr 24,2024) https://eklutnahydro.com/wp-content/uploads/2024/04/Attachment-F-Eklutna-Dam-Removal-Assessment.pdf

Appendix A. Class 5 Opinion of Probable Construction Costs

Line Item	Item	Quantity	Unit	Unit Cost	Total Cost	Total
01	**DIVISION 01 INDIRECTS**					**$4,420,000**
	Mobilization and Establishment of Site Infrastructure	8	%	0.08	$1,770,000	
	Contractor General Requirements (Percentage of Direct Cost)	12	%	0.12	$2,650,000	
02	**SITE CONSTRUCTION AND ACCESS ROADS**					**$377,500**
	Site Access - Construct Laydown Areas, Turnarounds and Crane Pads	0.5	ACRE	$160,000.00	$80,000	
	Tree Clearing	0.5	ACRE	$15,000.00	$7,500	
	Road Construction - New	1000	LF	$200	$200,000	
	Access Road Improvements	750	LF	$120	$90,000	
03	**PUMP STATION CONSTRUCTION**					**$18,294,000**
	Wet Well Secant Pile Wall. 25-ft x 15-ft; 80-ft depth	6,400	SF	$300	$1,920,000	
	Wet Well Excavation	1,600	CY	$40.00	$64,000	
	Excavation Spoils Disposal	1,600	CY	$10.00	$16,000	
	Concrete Slab/MTB Thrust Restraint; 5-Ft Thickness	100	CY	$1,500	$150,000	
	Microtunnel Launch Seal (assumes no ground stabilization)	1	LS	$200,000	$200,000	
	Microtunnel Boring Wet Tap; 44" Jacking Pipe, 36" ID Pipeline install	2,800	LF	$5,000	$14,000,000	
	Demobilize Equipment; Site Cleanup	1	LS	$75,000	$75,000	
	Barge / Equipment Mobilization for MTBM Retrieval	1	LS	$350,000	$350,000	
	Microtunnel Underwater Head Retrieval	1	LS	$200,000	$200,000	
	Intake Crib Concrete	6	CY	$2,500	$15,000	
	Intake Crib Trashrack	140	SF	$350	$49,000	
	Intake Crib Installation	1	LS	$200,000	$200,000	
	Submersible Pumps; 100 HP; 6,000 gpm	3	EA	$230,000	$690,000	
	Mechanical Gates, Valves	3	SETS	$50,000	$150,000	
	Pump Station House 25' x 15'	375	SF	$200	$75,000	
	Discharge Piping; 20" Dia; 50-ft (qty = 4)	150	LF	$300	$45,000	
	Misc Fittings (incl. dismantling joints, flanges, etcv.)	1	LS	$30,000	$30,000	
	Channel Excavation to Pond	500	CY	$50	$25,000	
	Channel Excavation to Channel	800	CY	$50	$40,000	
04	**DAM OUTLET MODIFICATIONS**					**$350,155**
	Steel Access Platform w/ Grating	72	SF	$180.00	$12,960	
	Guardrail	32	FT	$200.00	$6,400	
	Chainlink Fence 6' Tall	56	FT	$138.00	$7,728	
	Stilling Well Supply and Installation	33	LF	$482.00	$16,051	
	Stilling Well Level Sensor	1	EA	$5,000.00	$5,000	
	Electric Motor Operator	1	LS	$21,516.00	$21,516	
	Gate Actuator Installation	1	LS	$14,500.00	$14,500	
	Main Panelboard	1	EA	$10,000.00	$10,000	
	Instrumentation & Gate Controls	1	LS	$81,000.00	$81,000	
	Channel Excavation to Pond	1	LS	$100,000	$100,000	
	Channel Excavation to Channel	1	LS	$75,000	$75,000	
05	**ELECTRICAL AND TRANSMISSION**					**$3,072,250**
	Overhead Transmission Line 13.47kV - 3P.	0.7	mi	$150,000	$105,000	
	Buried Power/Controls Conduit	0.4	mi	$300,000	$123,000	
	25 kVA Transformer, Pole Mount	1	LS	$15,000	$15,000	
	300 kVA Dry Type Transformer	2	LS	$35,000	$70,000	
	Main Panelboard	3	EA	$10,000	$30,000	
	Instrumentation, Flow Meters	1	LS	$25,000	$25,000	
	Pump Controls	1	LS	$70,000	$70,000	
	3-Phase Upgrade Transmission Line - Overhead	8.2	mi	$150,000	$1,230,000	
	3-Phase Upgrade Transmission Line - Underground	1.0	mi	$300,000	$300,000	
	Voltage Regulator	1	LS	$100,000	$100,000	
	Fiber Optic Cable - Buried - Eklutna Dam	2500	LF	$17.50	$43,750	
	Fiber Optic Cable - Underhung - Eklutna Lake Road	37000	LF	$12.50	$462,500	
	Fiber Optic Cable - Buried - Intake Valve Shaft	5400	LF	$17.50	$94,500	
	Fiber Optic Cable - Buried - Portal Valve Shaft	3400	LF	$17.50	$59,500	
	Fiber Optic Cable - Termination and Patch Pedestals	3	EA	$10,000.00	$30,000	
	Electrical & Control Building 15' x 15'	225	SF	$200	$45,000	
	Building Lighting	600	SF	$15.00	$9,000	
	Building HVAC	600	SF	$100.00	$60,000	
	300 kW Emergency Standby Generator w/ Diesel Storage Tank	1	LS	$175,000.00	$175,000	
	Automatic Transfer Equipment and Controls	1	LS	$25,000.00	$25,000	
	Project Subtotal (without Division 01)					**$22,093,905**
	Project Subtotal					**$26,513,905**

AACE International CLASS 5 Cost Estimate - Class 5 estimates are generally prepared based on very limited information, and subsequently have wide accuracy ranges. Typically, engineering is 0% to 2% complete. They are typically prepared for any number of strategic business planning purposes, such as but not limited to market studies, assessment of initial viability, evaluation of alternate schemes, project screening, project location studies, evaluation of resource needs and budgeting, long-range capital planning, etc. Virtually all Class 5 estimates use stochastic estimating methods such as cost/capacity curves and factors, scale of operations factors, Lang factors, Hand factors, Chilton factors, Peters-Timmerhaus factors, Guthrie factors, and other parametric and modeling techniques. Expected accuracy ranges are from -20% to -50% on the low side and +30% to 100% on the high side, depending on the technological complexity of the project, appropriate reference information, and the inclusion of an appropriate contingency determination. Ranges could exceed those shown in unusual circumstances. As little as 1 hour or less to perhaps more than 200 hours may be spent preparing the estimate depending on the project and estimating methodology (AACE International Recommended Practices and Standards).

Project: Eklutna Engineering Feasibility Study
Location: AK

Direct Construction Cost

Item	Direction Construction Cost		Amount
01	DIVISION 01 INDIRECTS		$4,420,000
02	SITE CONSTRUCTION AND ACCESS ROADS		$377,500
03	PUMP STATION CONSTRUCTION		$18,294,000
04	DAM OUTLET MODIFICATIONS		$350,155
05	ELECTRICAL AND TRANSMISSION		$3,072,250
		Total Construction Cost	**$26,513,905**
	Overhead		
	GC Overhead and Profit	15.00%	$3,924,563
	Construction Bonds	1.25%	$380,481
		Total - Overhead	**$4,305,043**
	Direct Cost Contingency		
	*Overall Project Contingency:	25.00%	$7,704,737
		Total - Contingency	**$7,704,737**
	Taxes		
	AK Sales Tax	0.00%	$0
		Total - Taxes	**$0**
	Median Construction Price - Direct and Indirect		**$38,523,685**
	Total Construction Price Range (-50% to +100%)		**$19,261,842 to $77,047,370**

Notes:
All costs based on 2024 Construction Dollars
Does not include: interest during construction, legal, financing, or administration costs.
* Overall Project Contingency is set at 15% due to the current level of project definition and it may be reduced at later stages of design.

McMillen

Eklutna Fish & Wildlife Program
Engineering Feasibility Study
Annual Operation and Maintenance Cost Summary
NVE Pump Station Alternative

Date: 6/18/2024
By: S. Ellenson
Checked By: J. Boag

Line Item	Item	Full Time Equivalent	Total Hours	Quantity	Unit	Unit Cost (2024)	Cost	Total Cost
1	**Personnel**							**$ 162,000**
2	**Operation**							
3	Facility Technician	0.33	973			$ 78.79	$ 76,688	
4	Facility Operator	0.25	730			$ 78.79	$ 57,517	
5								
6	**Maintenance**							
7	Electrician	0.06	168			$ 86.00	$ 14,488	
8	Mechanic	0.06	168			$ 78.79	$ 13,273	
9								
10	**Power**							**$ 93,000**
11	Pump Operations			1,055,545	kWh	$ 0.08	$ 89,352	
12	Pump Controls			9,286	kWh	$ 0.08	$ 786	
13	General Site Consumption			1.0	LS	3000	$ 3,000	
14								
15	**Materials**							**$ 16,500**
16	Valves			3.0	LS	2000	$ 6,000	
17	Pumps			3.0	LS	3500	$ 10,500	
18								
19	**Project Subtotal**							**$ 272,000**
20								
21	**Contingency**			30%	LS			**$ 81,600**
22								
23	**Project Total**							**$ 353,600**

Assumptions:
(1) Flow released through pumps year-round
(2) Facility operator is required to visit the site twice per week.
(3) Power consumption is estimated based on daily valve position changes and general site power consumption.
(4) A one week outage was assumed for performing inspection and maintenance of each pump.
(5) Electrical and mechanical maintenance support assumes ongoing support for valves and instrumentation system.
(6) Facility operator is a trained local operator with general mechanical skills.
(7) Labor Wages Per State of Alaska Minimum Rates of Pay; April 2024

	Class	Monthly	Hourly
Electrician	A0707		$ 86.00
Mechanic - Maint. & Ops. Supervisor	A1601		$ 78.79

Exhibit 6

Anchorage Hydropower Utility

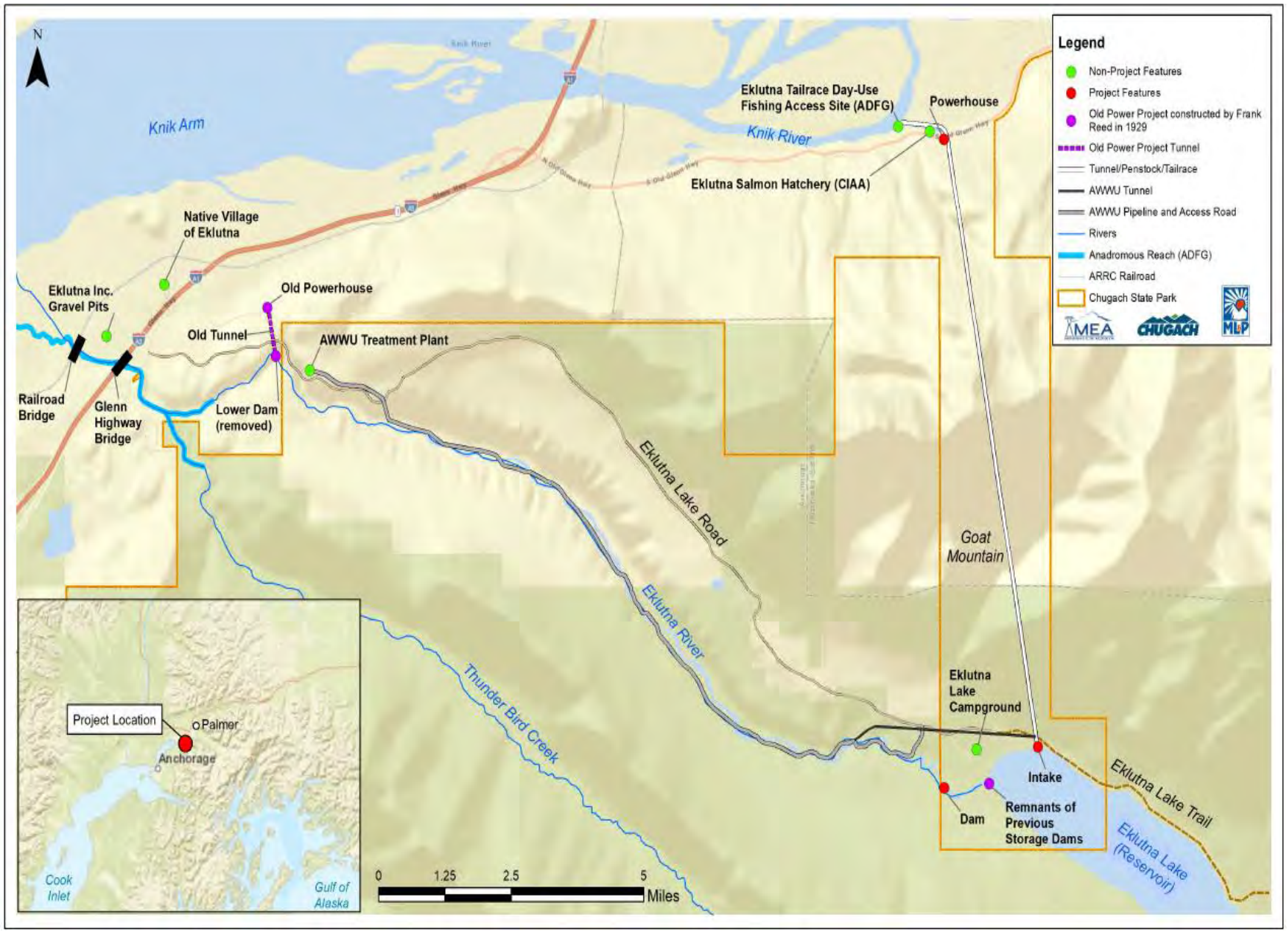
Anchorage Hydropower Utility
Organizational Overview

The Anchorage Hydropower Utility is an enterprise function of the Municipality of Anchorage (MOA).

In 2020, the MOA sold Municipal Light & Power (ML&P) and with the closing of the sale transaction to Chugach Electric Association, Inc. (CEA), the nature of the electric service provided by the MOA converted from the provision of retail electric service to a significant portion of Anchorage, through generation, transmission, and distribution facilities, to the far more limited provision of wholesale generation service through long-term contracts with two utility customers. MOA's ownership interest in the generation assets of the Eklutna Hydroelectric Project ("Eklutna Project") was not transferred to CEA and was retained by the MOA, as the Anchorage Hydropower Utility.

Anchorage Hydropower Utility is located approximately 30 miles northeast of Anchorage on the Old Glenn Highway. MOA, CEA, and Matanuska Electric Association, Inc. (MEA) share the project costs through a proportionate share of ownership. Under separate power purchase agreements (PPAs), for a term of 35 years, CEA will purchase its proportionate share (64.29%) of ML&P's share, and MEA will purchase its proportionate share (35.71%), of the Eklutna output. Through these PPAs, CEA and MEA have agreed to purchase the entire output of the MOA's Eklutna Project ownership interest.

Visit the Eklutna Project website at: https://www.eklutnahydro.com/background/


N
Knik Arm
Knik River
Eklutna Tailrace Day-Use Fishing Access Site (ADFG)
Powerhouse
Eklutna Salmon Hatchery (CIAA)
Native Village of Eklutna
Eklutna Inc. Gravel Pits
Old Powerhouse
Old Tunnel
AWWU Treatment Plant
Railroad Bridge
Glenn Highway Bridge
Lower Dam (removed)
Eklutna Lake Road
Goat Mountain
Eklutna River
Thunder Bird Creek
Eklutna Lake Campground
Intake
Dam
Remnants of Previous Storage Dams
Eklutna Lake Trail
Eklutna Lake (Reservoir)
Project Location
Palmer
Anchorage
Cook Inlet
Gulf of Alaska
0
1.25
2.5
5
Miles
Legend
Non-Project Features
Project Features
Old Power Project constructed by Frank Reed in 1929
Old Power Project Tunnel
Tunnel/Penstock/Tailrace
AWWU Tunnel
AWWU Pipeline and Access Road
Rivers
Anadromous Reach (ADFG)
ARRC Railroad
Chugach State Park
MEA
CHUGACH
MLP

Anchorage Hydropower
Business Plan

Mission
Provide energy that is safe and reliable to meet purchase power agreement (PPA) requirements.

Services
Anchorage Hydropower owns 53.33% of the generation assets of the Eklutna Hydroelectric Project. Anchorage Hydropower sells all its electric output to Chugach Electric Association (CEA) and Matanuska Electric Association (MEA) pursuant to PPAs. Anchorage Hydropower is currently subject to economic regulation by the Regulatory Commission of Alaska (RCA).

Business Goals
- Provide electricity to satisfy the PPAs.
- Maintain $3 million cash reserve in accordance with RCA Order U-19-020(39).
- Maintain 180 days of cash on hand to cover operating expenses.
- Maintain equity and earn net income at a level sufficient to continue to ensure the long-term financial stability of the utility.
- Operate the electrical system with optimum economic efficiency and strict adherence to environmental standards.

Strategies to Achieve Goals
- Implement industry best practices and streamline business processes to ensure the financial and operational integrity of the utility.
- Contract with an individual with knowledge of the Railbelt generation and transmission system and prudent utility practice to advise on power plant operations.
- Work collaboratively as owners of the Eklutna Hydropower Project to implement predictive maintenance program to reduce or eliminate outages and interruptions

Performance Measures to Track Progress in Achieving Goals
1. Maintain positive Net Income

About Anchorage Hydropower Utility

History
In 1929, the privately owned, Anchorage Power & Light Company (AP&L) began supplying electricity from a hydroelectric power plant on the Eklutna River, 30 miles northeast of Anchorage. In 1943, the city acquired the Eklutna plant from AP&L. In 1955, the U.S. Bureau of Reclamation completed construction of a new, larger plant on the Eklutna River. The city contracted for 16,000 kilowatts of generating capacity from that plant and "little" Eklutna was transferred to the federal government. In 1997, Municipal Light & Power (ML&P), Chugach Electric Association, Inc. (CEA), and Matanuska Electric Association, Inc. (MEA) jointly took ownership of the Eklutna Hydroelectric Plant. In 2020, through the sale of ML&P, the Municipality of Anchorage (MOA) retained its ownership interest in the generation assets of the Eklutna Hydroelectric Project (Eklutna Project). MOA, CEA, and MEA each own an undivided interest in the Eklutna Project in the following percentages: MOA, 53.33 percent; Chugach, 30 percent; and MEA, 16.67 percent.

Services
The Eklutna Project has 40 megawatts of generation capacity and produces approximately 130,000 kilowatt-hours of electricity per year.

In 2021, the project produced 142,979 megawatt hours (MWh) of clean energy. This is enough energy to power more than 24,600 residential homes for an entire year. Eklutna hydroelectric power is the lowest cost renewable energy in Southcentral Alaska.

Regulation
The utility is regulated by the Regulatory Commission of Alaska (RCA) and subject to abide by the rules and regulations in the utility's tariff, if any, or in special contracts with customers.

Under sections 13.11(a) and 16.04.B. of the Anchorage Municipal Charter, the revenue received from CEA under the power purchase agreement must be distributed in the MOA Trust Fund. The new section 26.10.068 provides that revenue received from CEA must be distributed to the MOA Trust Fund. It also provides that additional revenue may be distributed to the general government budget, subject to the requirement that the utility maintain sufficient reserves to meet anticipated capital and operating expenses and as required by the RCA.

The RCA requires that the MOA maintain a reserve fund of not less than $3,000,000 to support the MOA's share of anticipated operations. If for any reason these reserves are not met, the utility is prohibited from paying a dividend to general government and depositing CEA's payments to the trust.

Physical Plant
The 40-megawatt (MW) Eklutna Project is in Southcentral Alaska approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna. The U.S. Bureau of Reclamation (USBR) constructed the project in 1955, which included rehabilitation of an existing dam at the outlet of Eklutna Lake.

The rehabilitated dam was damaged in the 1964 earthquake, at which point a new and taller embankment dam was constructed just downstream. The new dam is an earth and rockfill structure 815 feet long and 41 feet high with a rectangular concrete spillway that runs through the dam. Eklutna Lake, approximately 7 miles long and 1 mile wide, is located within Chugach

State Park and provides almost 90 percent of the domestic water supply for the MOA. The intake structure for the Eklutna Project is located 36 feet below the natural lake level. From there, water is diverted north into a 4.6-mile-long tunnel through Goat Mountain and then into a 1,370-foot-long penstock before reaching the powerhouse located on Old Glenn Highway. The tailrace flows under the highway and then discharges into the Knik River. The powerhouse contains two generating units.

Visit the Eklutna Hydropower website at: https://www.eklutnahydro.com/background/

Anchorage Hydropower Utility
Highlights and Future Events

The 1991 Fish and Wildlife Agreement (Agreement) gives deadlines for specific milestones in the consultation, program development, and implementation processes. These deadlines, listed below, are all relative to the date on which ownership of the project was officially transferred from the federal government to the three local utilities (October 2, 1997). This date is referred to as the Transaction.

Before the Governor issues the final Fish and Wildlife Program, the Agreement requires the owners to develop study plans, conduct the necessary studies, prepare study reports, develop a draft Fish and Wildlife Program, engage the public, and to consult with agencies and interested parties multiple times throughout the process. In order to allow adequate time to meet these requirements, the owners have initiated the consultation process early.

- 2022 – Initiate the consultation process no later than 25 years after the transaction date
- 2024 – Issuance of the Final Program by the Governor at least 3 years prior to implementation
- 2027 – Begin implementation of the Program no later than 30 years after the transaction
- 2032 – Complete implementation of the Program no later than 35 years after the transaction

The planned schedule to provide the Governor with a Proposed Fish and Wildlife Program is shown below, with updates through Fall of 2021.

2019 – During the last week of August, the owners' team conducted a site reconnaissance of the Eklutna River. The primary goal was to provide the project owners' technical and regulatory staff with the chance to review and observe site conditions and project facilities. In addition, the site reconnaissance allowed technical staff to assess the potential scope of study efforts needed to provide the Governor and his/her staff with data to establish the Fish and Wildlife Program required by the 1991 Fish and Wildlife Agreement. For more information, please reference the trip report which can be found under Final Documents at: Documents - Eklutna Hydro

2020 – In June 2020, a Technical Work Group (TWG) was established for study planning purposes. The TWG consists of technical experts and representatives from the following entities:

- Native Village of Eklutna
- Alaska Department of Fish and Game
- U.S. Fish and Wildlife Service
- National Marine Fisheries Service
- Trout Unlimited
- Alaska Pacific University
- Alaska Institute for Climate and Energy
- Hydropower Project Owners

Earlier in the year, the project owners acquired aerial imagery, spherical videography, and LiDAR of the entire Eklutna River as well as the northeastern shoreline of Eklutna Lake along the lakeside trail. The spherical videography is now available online at: https://biglook360.com/eklutna/ Segments 1-7 show the river and lake shoreline going upstream at a higher altitude, while segments 8-14 are going downstream at a lower altitude. The imagery, videography, and LiDAR will be utilized during the ongoing study planning process this year and during subsequent study implementation.

The following information can be found at the project website: https://www.eklutnahydro.com/project-schedule/

September 2020 – the project owners' technical team held several meetings with the TWG to establish a study program framework. The project owners then developed Draft Study Plans and distributed them to the TWG on October 26, 2020, for review and comment. The comment deadline was November 25, 2020. A subsequent TWG meeting was held on November 30, 2020, to review the TWG's comments on the Draft Study Plans.

March 2021 – After receiving comments from the Technical Work Group (TWG) and others on the Draft Study Plans, the project owners held multiple meetings with the TWG in November and December 2020 to discuss their comments. The project owners then revised the study plans based on all comments received and distributed the Revised Draft Study Plans to the TWG on January 18, 2021, for a second round of review and comment. Another meeting with the TWG was held on January 25, 2021, to review the major revisions to the study plans and to answer any clarifying questions from the TWG before the comment deadline on January 29, 2021. The project owners revised the study plans again to address the second round of comments from the TWG, and then distributed the Proposed Final Study Plans to the parties to the 1991 Fish and Wildlife Agreement on February 24, 2021, for review and concurrence. The project owners are currently working to obtain all necessary permits and authorizations for the planned summer field work season.

The project owners were happy to report that letters had been received from all of the parties in the 1991 agreement officially concurring with the scope of work in the Study Plans. Following the process outlined by the state agencies, the concurrence letters from the four state agencies and the Proposed Final Study Plans were then sent to the Alaska Energy Authority (AEA) as the governor's representative for review. The AEA provided no additional comments, and the Study Plans were finalized in May 2021.

June - August 2021 – Two of the primary studies being conducted in 2021 were an instream flow study and a geomorphology/sediment transport study. Both of these studies require a team to establish transects (cross sections) in the river for data collection. The project team conducted a site visit with the Technical Work Group (TWG) to establish exact transect locations. In order to collect data for both the instream flow and geomorphology/sediment transport studies, the project owners planned to use the drainage outlet gate at the base of the spillway in the dam to release specific flows into the river in the fall of 2021. However, this gate is not used on a regular basis and a large pile of rocks and debris had accumulated in front of it over the years. The project owners hired a team of divers to remove the rocks from the front of the gate so the gate could be inspected and determine if it was operational to conduct the study flows. The rock and debris removal was initiated and was scheduled to be completed in August. Upon inspection, there was some concern that the gate was not in good enough condition to conduct the flow releases in the fall 2021, so the decision was made to replace the gate in August at the same time as the remaining rock and debris are removed.

September 2021 – During the study planning process, concerns were raised that the study flow releases would result in unusually high flow conditions in the Eklutna River resulting in potentially hazardous conditions. Although there is no official public access to the Eklutna River, the river is still open for fishing, and trespassing to access the river does occur. With that in mind, the project owners have developed a Public Safety Plan in coordination with the Native Village of Eklutna, Eklutna, Inc., Chugach State Park, and the Anchorage Water and Wastewater Utility. The plan includes placing warning signs at all known access points to the Eklutna River and near the pond upstream of the dam, as well as, a formal notification of the flow release schedule to all of the project stakeholders, downstream landowners, and Native Village of Eklutna.

The study flow releases are also likely to mobilize and transport a large portion of the accumulated sediment from behind the lower dam site. Both the Alaska Department of Transportation and Public Facilities and the Alaska Railroad Corporation have expressed concern that the sediment would deposit downstream near their respective bridges and potentially cause negative impacts. The project owners reviewed all relevant available data and did not anticipate any negative impacts to downstream infrastructure. However, out of an abundance of caution, the project owners will monitor the streambed near the highway and railroad bridges daily during the study flow releases for any unanticipated sediment deposition or scour that would be cause for concern.

After replacing the drainage outlet gate at the spillway, consulting with the downstream landowners, and obtaining all of the necessary permits and authorizations, the project owners initiated the study flow releases. Drone footage of the flow releases at the dam can be viewed **here.**

- Monday, September 13 – Initiated flow releases at 150 cfs
- Friday, September 24 – Decrease flows to 75 cfs
- Wednesday, September 29 – Decrease flows to 25 cfs
- Wednesday, October 6 – Decrease flows to 0 cfs

On September 14, representatives from the Anchorage Water and Wastewater Utility and the Native Village of Eklutna joined board members and CEOs from Chugach Electric and Matanuska Electric at the Eklutna Canyon campground to observe the study flow releases and learn more about the necessary preparation and expected outcomes of this part of the study program.

October 2021 – The study flow releases ended on October 6. The project owners were happy to report that field crews successfully collected data at established transects throughout the Eklutna River during each of the study flow releases. Additional transects in the river were surveyed before and after the study flow releases to examine how sediment would move under various flows. As expected, a large portion of the accumulated sediment from behind the lower dam site was mobilized and transported downstream by the study flow releases. Time-lapse videos of the sediment wedge can be viewed **here**. However, no significant sediment deposition or scour was observed at the downstream highway or railroad bridges, and no public safety incidents were reported. The project team started analyzing the data that was collected in 2021 and drafting study reports.

The first year of field work has been completed, the project owners have initiated the study planning process for 2022. The project owners planned on continuing some of the aquatics studies that were initiated in 2021, as well as conducting new studies that will focus on other resource areas including terrestrial, recreation, and cultural resources. With that in mind, the

project owners have established three new Technical Work Groups (TWGs) for each of the new focus areas. The following entities are currently participating in one or more of the TWGs.

- Native Village of Eklutna (aquatics, terrestrial, recreation, cultural)
- Alaska Department of Fish and Game (aquatics, terrestrial, recreation)
- Alaska Department of Natural Resources – Chugach State Park (recreation)
- Alaska Department of Natural Resources – Office of History and Archaeology (cultural)
- U.S. Fish and Wildlife Service (aquatics, terrestrial, cultural)
- National Marine Fisheries Service (aquatics)
- Trout Unlimited (aquatics, recreation)
- Alaska Pacific University (aquatics, terrestrial)
- Hydropower Project Owners (aquatics, terrestrial, recreation, cultural)

November 2021 – Preliminary results from the studies in 2021 were presented to the aquatics Technical Work Group (TWG). The team continued to work on drafting year 1 study reports, which were planned to be distributed to the aquatics TWG in February, 2022, for review and comment.

Also, a proposed study program framework for year 2 was presented to all four TWGs. After receiving feedback from the TWGs regarding the studies to be conducted next year, the team immediately started drafting the year 2 study plans, which were distributed in February for review and comment. The year 2 study plans were planned to be distributed to all four TWGs as well as the parties to the 1991 agreement.

February 2022 – The draft year 1 study reports and the draft year 2 study plans were distributed to the Technical Work Groups (TWGs) and the parties to the 1991 Agreement (parties) on February 11. The TWGs and the parties had one month to review and provide comments to the project owners. Shortly after the comment deadline, the project owners scheduled a series of TWG meetings to address any substantive comments that would warrant further discussion. The project team revised as appropriate and distributed the Proposed Final Year 2 Study Plans to the parties for concurrence. The goal of the project owners was to receive concurrence from all of the parties by mid-May so that a second field season by late May could be initiated. The year 1 study reports and year 2 study plans were posted to the documents page of the project website.

March 2022 – The comment deadline for the draft year 1 study reports and year 2 study plans was March 11. A series of TWG meetings were scheduled for the week of March 21 to review the substantive comments that warranted further discussion. The draft year 2 study plans, and all of the comment letters were posted to the documents page of the project website.

April 2022 – The project team conducted a series of TWG meetings the week of March 21 to review the substantive comments on the draft year 2 study plans that warranted further discussion. This included comments on the study area, methods, and schedule for several key studies being conducted this year, including the geomorphology and sediment transport study, instream flow study, water quality study, fisheries studies, terrestrial wildlife studies, recreation study, cultural resources study, and engineering studies. The project team then developed a comprehensive comment-response table, revised the year 2 study plans, and distributed the proposed final year 2 study plans to the parties to the 1991 Agreement on April 1 for review and concurrence. The proposed final year 2 study plans, which includes the comment-response table as an appendix, will be posted to the documents page of the project website.

The project team has started to develop fish habitat and sediment transport models using the instream flow and geomorphology data that was collected last year. Part of this process includes establishing Habitat Suitability Criteria (HSC) curves for the Eklutna River. The project team distributed a draft technical memorandum with recommended HSC curves to the Aquatics TWG on February 25 for review and comment and then met with the Aquatics TWG on April 18 to discuss further. The project team is now working to finalize the HSC curves for the Eklutna River and will post the final tech memo to the documents page of the website. Modeling results will be presented to the Aquatics TWG later this year.

May 2022 – The project owners have received concurrence letters from all of the parties to the 1991 Agreement. The three state agencies (Alaska Department of Fish and Game, Alaska Department of Natural Resources, and the Alaska Department of Environmental Conservation) concurred with the proposed scope of work for all of the proposed studies. The two federal agencies concurred with the proposed scope of work for 10 of the proposed studies but have reserved their concurrence on the proposed year 2 efforts for both the instream flow study and the geomorphology and sediment transport study until modeling results are available later this year. The project team will finalize the study plans and post them to the documents page of the website along with all of the concurrence letters.

June 2022 – After obtaining all of the necessary permits, the project team initiated the second study year by conducting some early season study efforts this spring, which included:

- Collecting new LiDAR data and aerial imagery of the Eklutna River to further assess how the flow releases last year moved sediment throughout the river
- Downloading winter flow data from the stream gages in the river and winter temperature data from the thermistor strings in the lake
- Deploying both time-lapse and motion-sensitive wildlife cameras at key locations along the river to determine what species are using the study area
- Sampling for moose browse to help assess if moose numbers now are below the habitat carrying capacity
- Surveying for migratory waterfowl, shorebirds, and raptors to assess their seasonal use of wetlands and other habitat

September 2022 – During field work this week, two hand-hewn logs from the Eklutna Alex cabin were found on the lake shoreline near the Eklutna Lake Campground, nearly seven miles from where they originated at the head of the lake. Since this is a well-used area of the park known for people making campfires, there was concern that the cabin logs may be vulnerable to burning or damage. McMillen Jacobs notified the Native Village of Eklutna, Chugach State Park, and State Historic Preservation Office within 24 hours so that a plan could be developed to move/protect them. The cabin logs have since been returned to Eklutna Village. The tribe intends to preserve the remnants and perhaps feature the cabin logs in a display with interpretive information.

October 2022 - Leadership from the Native Village of Eklutna (NVE) and the owners of the Eklutna Hydroelectric Project met on October 19 to discuss continued opportunities to work together and collaborate on the efforts around the 1991 Fish & Wildlife Agreement. Led by NVE Tribal Council President and Chair Aaron Leggett, several members of the Council joined Anchorage Municipal Manager Amy Demboski, Chugach Electric CEO Arthur Miller, Matanuska Electric (MEA) CEO Tony Izzo, along with board members and staff from the organizations. The Tribal Council members recounted some of the history of the Eklutna people, the Eklutna River, and surrounding land, as well as compelling stories of individual experiences and relationships

with the area. The meeting also focused on opportunities for the stakeholders to work together on possible funding sources as the study efforts are finalized and potential fish and wildlife mitigation and enhancement projects are studied.

November 2022 – Using the data that was collected before, during, and after the study flow releases last year, the project team has developed an instream flow model and a sediment transport model for the Eklutna River. Preliminary results from both of these models, as well as some preliminary fisheries and water quality results from the lake studies, were presented to the Aquatics Technical Work Group (TWG) during a series of three meetings this fall. At each of these meetings, the project team also presented ideas for potential engineering solutions that would provide flows into the Eklutna River and fish passage into Eklutna Lake. Next steps include phase 1 of the engineering feasibility and cost assessment, which includes developing conceptual designs and high-level cost estimates. Supplemental instream flow analysis and phase 1 engineering results (conceptual designs and high-level cost estimates) will be presented to the Aquatics TWG this winter.

February 2023 – On February 13, the project team presented the preliminary 2D fish habitat modeling results to the Aquatics Technical Work Group (TWG). This supplemental analysis was conducted for specific reaches of the Eklutna River that could not be evaluated as part of the 1D fish habitat modeling effort due to hydraulic complexity, channel instability, and access issues. The full year 2 study results were distributed to the TWGs in March for review and comment, including the conceptual designs and cost estimates developed during phase 1 of the engineering feasibility and cost assessment. These results will inform the comprehensive alternatives analysis to be initiated in the spring of this year.

March 2023 – The Alaska Section of the American Water Resources Association held their annual conference in Anchorage on March 6 – 8, 2023. The Eklutna Hydroelectric Project team was invited to present at the conference. Samantha Owen, the Project Manager, presented an overview of the hydro project, the requirements of the Fish and Wildlife Agreement, and the overall study program. Kathy Dubé, the Geomorphology and Sediment Transport Study Lead, presented her study results and discussed how these results will be used to inform the development of a future Fish and Wildlife Program. The draft Year 2 study reports were distributed to the Technical Work Groups (TWGs) on March 24. During the week of March 27th, the project owners held a series of TWG meetings to provide a broad overview of the study results, answer questions, and go over the next steps. The TWGs will have one month to review and provide comments to the project owners by April 21st. The project team will then revise the reports as appropriate and distribute the Final Year 2 Study Reports and comment responses in May.

April 2023 – The alternatives analysis process has begun. The first in a series of 5 alternatives analysis meetings was held April 6th with the project owners, members of the Technical Work Groups (TWGs), and parties to the 1991 Fish and Wildlife Agreement in attendance. The alternatives analysis process was presented including the Cost Effectiveness and Incremental Cost Analysis model. Attendees were invited to submit comprehensive alternatives for analysis using a form listing the various component options. These alternatives will be discussed at upcoming alternatives analysis meetings.

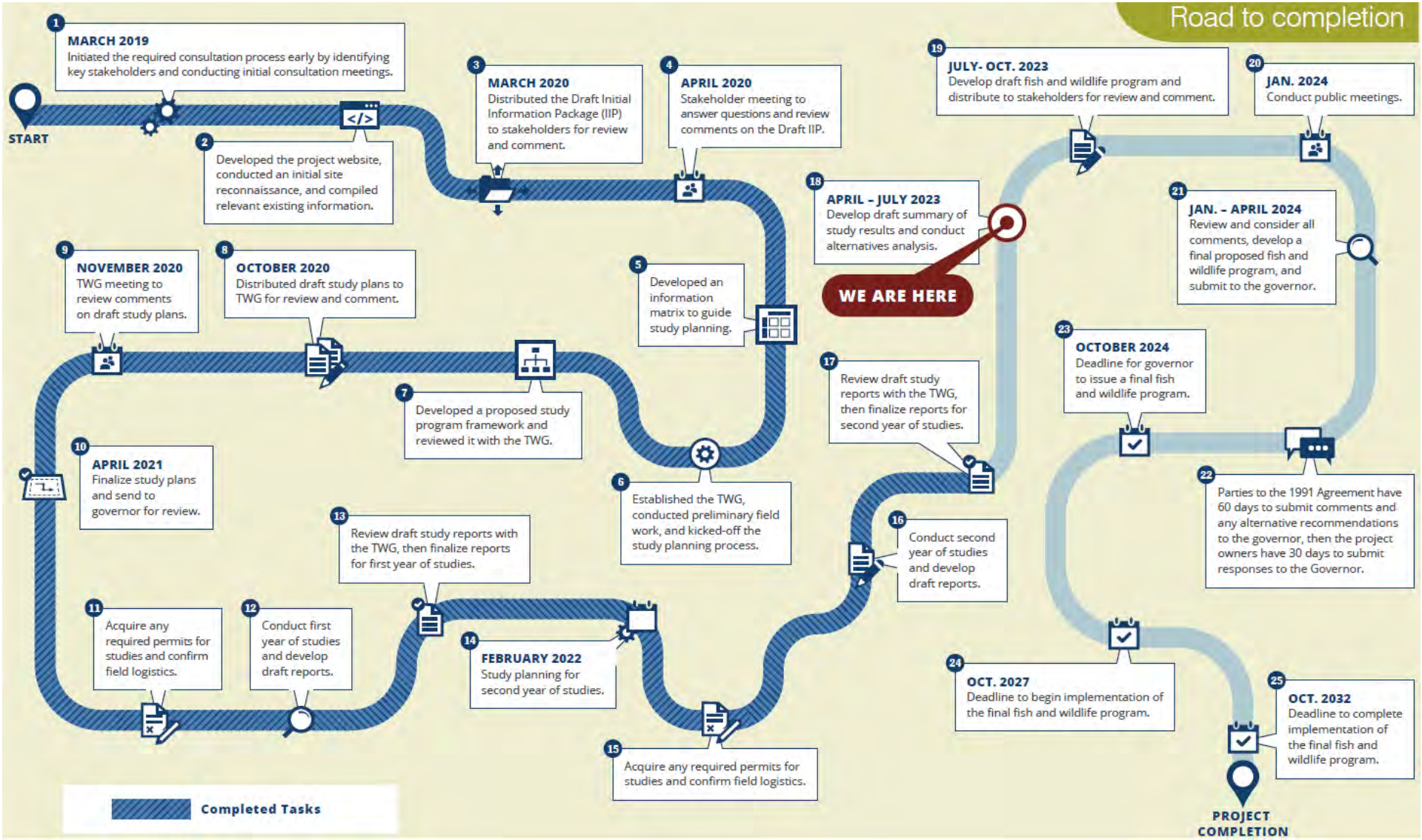
May 2023 – The second alternatives analysis meeting was held May 17th. The Phase 1 engineering for the replacement dam alternative was presented, followed by a review of over 30 comprehensive alternatives submitted by the hydro project owners and several stakeholders including the Native Village of Eklutna, Alaska Department of Fish and Game, Chugach State

Park, National Marine Fisheries Service, U.S. Fish and Wildlife Service, Trout Unlimited, and The Conservation Fund. Each of the comprehensive alternatives was analyzed using a cost effectiveness model, and results were presented at the meeting. Attendees were invited to revise and resubmit their comprehensive alternatives, if desired, for further discussion at upcoming alternatives analysis meetings with an aim of narrowing down potential alternatives.

2023 - 2024 – Conduct public meetings, resolve any disagreements, and submit proposal to the Governor.

Check in on the progress at: https://www.eklutnahydro.com/project-schedule/

Source: Eklutna Hydro. Accessed September 11, 2023. https://www.eklutnahydro.com/project-schedule/,
Source: Eklutna Hydro. Accessed September 11, 2023. Eklutna-Newsletter-Spring-2023.pdf (eklutnahydro.com)


Road to completion
START
1 MARCH 2019
Initiated the required consultation process early by identifying key stakeholders and conducting initial consultation meetings.
2 Developed the project website, conducted an initial site reconnaissance, and compiled relevant existing information.
3 MARCH 2020
Distributed the Draft Initial Information Package (IIP) to stakeholders for review and comment.
4 APRIL 2020
Stakeholder meeting to answer questions and review comments on the Draft IIP.
5 Developed an information matrix to guide study planning.
6 Established the TWG, conducted preliminary field work, and kicked-off the study planning process.
7 Developed a proposed study program framework and reviewed it with the TWG.
8 OCTOBER 2020
Distributed draft study plans to TWG for review and comment.
9 NOVEMBER 2020
TWG meeting to review comments on draft study plans.
10 APRIL 2021
Finalize study plans and send to governor for review.
11 Acquire any required permits for studies and confirm field logistics.
12 Conduct first year of studies and develop draft reports.
13 Review draft study reports with the TWG, then finalize reports for first year of studies.
14 FEBRUARY 2022
Study planning for second year of studies.
15 Acquire any required permits for studies and confirm field logistics.
16 Conduct second year of studies and develop draft reports.
17 Review draft study reports with the TWG, then finalize reports for second year of studies.
18 APRIL – JULY 2023
Develop draft summary of study results and conduct alternatives analysis.
WE ARE HERE
19 JULY- OCT. 2023
Develop draft fish and wildlife program and distribute to stakeholders for review and comment.
20 JAN. 2024
Conduct public meetings.
21 JAN. – APRIL 2024
Review and consider all comments, develop a final proposed fish and wildlife program, and submit to the governor.
22 Parties to the 1991 Agreement have 60 days to submit comments and any alternative recommendations to the governor, then the project owners have 30 days to submit responses to the Governor.
23 OCTOBER 2024
Deadline for governor to issue a final fish and wildlife program.
24 OCT. 2027
Deadline to begin implementation of the final fish and wildlife program.
25 OCT. 2032
Deadline to complete implementation of the final fish and wildlife program.
PROJECT COMPLETION
Completed Tasks

Anchorage Hydropower Utility
External Impacts

A Fish & Wildlife Agreement in 1991, with the United States Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), and the State of Alaska (the State) came to an agreement that requires the owners to:

- examine, and quantify if possible, the impacts to fish and wildlife from the Eklutna Hydroelectric Project
- examine proposals for the protection, mitigation and enhancement of fish and wildlife affected by the hydroelectric development
- consider the impacts of any protection, mitigation, or enhancement (PME) measures on other environmental resources and beneficial public uses as well as available means to mitigate those impacts
- develop and propose a Fish & Wildlife Program to the Governor.

The Governor will then review the proposal and issue a final Fish & Wildlife Program giving equal consideration to:

- the purposes of efficient and economical power production
- the protection, mitigation of damage to, and enhancement of fish and wildlife
- the protection of recreation opportunities
- municipal water supplies
- the preservation of other aspects of environmental quality
- other beneficial public uses
- requirements of State law

Throughout this process, the owners are required to consult with the USFWS, the NMFS, State resource agencies including the Alaska Department of Fish & Game (ADF&G), the Alaska Department of Environmental Conservation (ADEC), the Alaska Department of Natural Resources (ADNR), and any other interested parties. The USFWS, NMFS, and the State agreed that this process obviates the need for the owners to obtain a license for the project from the Federal Energy Regulatory Commission (FERC). The Native Village of Eklutna and Anchorage Water & Wastewater Utility are also included in the process.

Source: Eklutna Hydro. Accessed September 11, 2023. https://www.eklutnahydro.com/background/

Anchorage Hydropower Utility
Capital Overview

Capital Project Selection Process
The Eklutna Operating Committee (EOC), of which the Municipality is a member, reviews engineering and operating reports, maintenance schedules, and other information about the condition of the generation assets of the Eklutna Power Project (the Project). The EOC develops a five-year capital plan and develops and approves a current year capital project budget based on need, available resources, and schedule.

Significant Projects
Fish & Wildlife Project – In compliance with the 1991 Fish and Wildlife Agreement between the Eklutna project owners, the Federal government, and the State of Alaska, Anchorage Hydropower is responsible to pay for 19.04% of the costs associated with developing and implementing a Fish & Wildlife Study Plan, designed to mitigate any effects of the hydroelectric activity of the Project on fish and wildlife in the area.

Impacts on Future Operating Budgets
The entity must retain equity for the payment of capital projects in the future. The Municipality is responsible for 19.04% of the Eklutna generation capital expenditures and any future Fish & Wildlife project expenditures.

Anchorage Hydropower Utility
8 Year Summary
($ in thousands)

Financial Overview	2022 Actuals Unaudited	2023 Proforma	2024 Approved	2025	2026	2027	2028	2029
				Forecast				
Revenues	4,992	4,952	4,797	4,845	4,890	4,935	4,980	5,025
Expenses and Transfers [1]	3,167	3,441	3,601	3,650	3,699	3,748	3,797	3,846
Net Income(Loss)	**1,825**	**1,511**	**1,196**	**1,195**	**1,191**	**1,187**	**1,183**	**1,179**
Charges by/to Other Departments	35	35	35	36	37	38	39	40
Dividend to General Government	300	300	300	300	300	300	300	300
Transfers to General Government [2]	**335**	**335**	**335**	**336**	**337**	**338**	**339**	**340**
Operating Cash	804	300	515	533	551	572	592	592
Construction Cash Pool	-	1,654	1,075	872	724	786	780	1,300
Restricted Cash	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
Total Cash	**3,804**	**4,954**	**4,590**	**4,405**	**4,275**	**4,358**	**4,372**	**4,892**
Net Position/Equity 12/31	5,200	10,900	12,096	13,291	14,482	15,669	16,852	18,031
Capital Assets Beginning Balance	-	8,175	8,883	9,483	10,083	10,683	12,445	14,608
Asset Additions Placed in Service	8,175	708	600	600	600	1,762	2,163	3,431
Net Capital Assets (12/31)	8,175	8,883	9,483	10,083	10,683	12,445	14,608	18,039
Equity Funding Available for Capital	-	-	600	600	600	1,762	2,163	3,431

[1] Expenses shown include all transfers to General Government and all non-cash items: depreciation (including depreciation on assets purchased with grant funds) and amortization activities.

[2] Included in total expenses calculated in Net Income.

Anchorage Hydropower Utility
Statement of Revenues and Expenses

	2022 Actuals Unaudited	2023 Proforma	$ Change	2023 Revised	$ Change	2024 Approved	24 v 23 % Change
Operating Revenue							
Wholesale Power Sales	2,274,149	2,274,000	(560,284)	1,713,716	(97,725)	1,615,991	-5.70%
Water Diversion Income	238,926	90,168	159,832	250,000	-	250,000	0.00%
Total Operating Revenue	**2,513,075**	**2,364,168**	**(400,452)**	**1,963,716**	**(97,725)**	**1,865,991**	**-4.98%**
Non Operating Revenue							
Chugach Revenues	2,539,706	2,587,845	-	2,587,845	(25,886)	2,561,959	-1.00%
Investment Income	(61,138)	-	308,000	308,000	61,000	369,000	19.81%
Other Income	10	-	-	-	-	-	0.00%
Total Non Operating Revenue	**2,478,577**	**2,587,845**	**308,000**	**2,895,845**	**35,114**	**2,930,959**	1.21%
Total Revenue	**4,991,652**	**4,952,013**	**(92,452)**	**4,859,561**	**(62,611)**	**4,796,950**	**-1.29%**
Operating Expense							
Salaries and Benefits	-	-	181,507	181,507	7,010	188,517	3.86%
Total Labor	-	-	181,507	181,507	7,010	188,517	3.86%
Travel	-	-	-	-	-	-	0.00%
Contractual/Other Services	204,096	216,426	(2,426)	214,000	-	214,000	0.00%
Transfers to Other Funds	2,326,125	2,587,845	-	2,587,845	(25,886)	2,561,959	-1.00%
Dividend to General Government	300,000	300,000	-	300,000	-	300,000	0.00%
Manageable Direct Cost Total	2,830,221	3,104,271	(2,426)	3,101,845	(25,886)	3,075,959	-0.83%
Municipal Enterprise/Utility Service Assessment	-	-	-	-	-	-	0.00%
Depreciation/Amortization	301,806	301,362	-	301,362	-	301,362	0.00%
Non-Manageable Direct Cost Total	301,806	301,362	-	301,362	-	301,362	0.00%
Charges by/to Other Departments	34,954	34,954	-	34,954	-	34,954	0.00%
Total Operating Expense	**3,166,981**	**3,440,587**	**179,081**	**3,619,668**	**(18,876)**	**3,600,792**	**-0.52%**
Total Expense	**3,166,981**	**3,440,587**	**179,081**	**3,619,668**	**(18,876)**	**3,600,792**	**-0.52%**
Net Income (Loss)	**1,824,671**	**1,511,426**	**(271,533)**	**1,239,893**	**(43,735)**	**1,196,158**	**-3.53%**
Appropriation:							
Total Expense		**3,440,587**	**179,081**	**3,619,668**	**(18,876)**	**3,600,792**	**-0.52%**
Less: Non Cash Items							
Depreciation/Amortization		300,966	396	301,362	-	301,362	0.00%
Total Non-Cash		300,966	396	301,362	-	301,362	0.00%
Amount to be Appropriated (Function Cost/Cash Expense)		**3,139,621**	**178,685**	**3,318,306**	**(18,876)**	**3,299,430**	**-0.57%**

Anchorage Hydropower Utility
Reconciliation from 2023 Revised Budget to 2024 Approved Budget

		Positions		
	Expenses	FT	PT	Temp/ Seas
2023 Revised Budget (Appropriation)	3,318,306	1	-	-
Changes in Existing Programs/Funding for 2024				
- Salaries and Benefits Adjustments	7,010	-	-	-
- Transfer to Municipal Trust to align to CEA payment amount	(25,886)	-	-	-
2024 Continuation Level	**3,299,430**	1	-	-
2024 Proposed Budget Changes				
- None	-	-	-	-
2024 Approved Budget	**3,299,430**	**1**	**-**	**-**
2024 Budget Adjustment for Accounting Transactions (Appropriation)				
- None	-	-	-	-
2024 Approved Budget (Appropriation)	**3,299,430**	**1**	**-**	**-**
	2024 Approved FTE			
	1.0	**1.0**	**-**	**-**

Anchorage Hydropower Utility
2024 Capital Improvement Budget

(in thousands)

Projects	Debt	State	Federal	Equity	Total
Fish & Wildlife	-	-	-	325	325
Total	**-**	**-**	**-**	**325**	**325**

Anchorage Hydropower Utility
2024 - 2029 Capital Improvement Program

(in thousands)

Projects	Year	Debt	State	Federal	Equity	Total
Anchorage Hydropower Utility						
Fish & Wildlife	2024	-	-	-	325	325
	2025	-	-	-	325	325
	2026	-	-	-	325	325
	2027	-	-	-	325	325
	2028	-	-	-	325	325
	2029	-	-	-	325	325
		-	-	-	1,950	1,950
	Total	**-**	**-**	**-**	**1,950**	**1,950**

Fish & Wildlife

Project ID	2021003	**Department**	Anchorage Hydropower Utility
Project Type	New	**Start Date**	January 2021
District		**End Date**	December 2029
Community Council			

Description

Fish and Wildlife costs are for the development of studies required by the agreement.

Comments

The Eklutna Operations Committee has approved projects that are required for components of generators. The Chugach Electric Association (CEA), Municipality of Anchorage (MOA), and Matanuska Electric Association (MEA) proportionately share the costs as approved in the sale agreement:
CEA - 64.29%
MOA - 19.04%
MEA - 16.67%

Version 2024 Approved

		2024	2025	2026	2027	2028	2029	Total
Revenue Sources	**Fund**							
Net Position	531200 - Anchorage Hydropower CIP	325	325	325	325	325	325	1,950
Total (in thousands)		**325**	**325**	**325**	**325**	**325**	**325**	**1,950**

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Attorney for *Chugach Electric Association, Inc., and Matanuska Electric Association, Inc.*

IN THE SUPERIOR COURT OF THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, vs. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	CASE NO. 3AN-24-06001CI **NOTICE OF APPEARANCE OF TODD G. GLASS AS COUNSEL** Before: Hon. Jack R. McKenna

WILSON SONSINI GOODRICH & ROSATI, P.C.
701 Fifth Avenue, Suite 5100
Seattle, WA 98104-7036
PHONE 206.883.2500

PLEASE TAKE NOTICE that Todd G. Glass of Wilson Sonsini Goodrich & Rosati, hereby enters his appearance in the above-captioned matter as counsel on behalf of Chugach Electric Association, Inc. and Matanuska Electric Association, Inc. We request that all pleadings and other documents in the above-captioned matter be served upon him at:

Todd G. Glass
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Please also provide a courtesy copy of pleadings and discovery to Candida Malferrari at cmalferrari@wsgr.com.

Please also note that Matthew Clarkson (Chugach Electric Association, Inc.) and David Pease (Matanuska Electric Association, Inc.) should remain on the service list, but Donald W. Edwards may be removed.

DATED: August 16, 2024.

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

By: _____
Todd G. Glass, Alaska Bar # 1810083

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CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2024, a copy of the foregoing document was served *by email* to the following:

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From:	Walker, Jim L (RCA)
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Cc:	jltipton@hollandhart.com
Subject:	Order U-24-024(3) (Anchorage Hydropower)
Date:	Tuesday, August 20, 2024 9:54:32 AM

BY ORDER OF ADMINISTRATIVE LAW JUDGE JAMES L. WALKER

Order U-24-024(3)

ORDER DENYING MOTION FOR EXPEDITED CONSIDERATION IN PART

On August 15, 2024, the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP) filed a motion for expedited consideration of their pending request for acknowledgement and reinstatement of voting rights on the Eklutna Operating Committee. AHP specifically requested adoption of a procedural schedule in this docket that would result in issuance of a final order by October 2, 2024, substantially earlier than the statutory timeline under AS 42.05.175(i) of January 14, 2025. AHP stated the basis for this request in the body of its motion. AHP also requested expedited consideration of their motion for expedited consideration. AHP requested that the other parties be required to respond to the motion for expedited consideration by August 19, 2024, with reply due August 20, 2024, and a decision on the motion for expedited consideration by August 23, 2024. In the motion, AHP stated that Matanuska Electric Association, Inc. (MEA) opposed expedited consideration, Chugach Electric Association, Inc. (Chugach) had not responded to AHP's inquiry about expedited consideration, and that the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA) was not opposed to expedited consideration.

Under 3 AAC 48.091(c), a party opposing or supporting a motion has ten days to respond to that motion. This would make responses to AHP's motion for expedited consideration due Monday, August 26, 2024. Under 3 AAC 48.091(e), replies by the movant are due three business days after responses are filed. In this instance that would make any reply to responses to AHP's motion for expedited consideration due, at the latest, by Thursday, August 29, 2024. With Order U-24-024(1), as modified by Order U-24-024(2), the Commission has scheduled a prehearing conference in this matter for August 30, 2024. AHP has not requested a revision to this prehearing conference date.

Under 3 AAC 48.091(g)(3), a request for expedited consideration must be accompanied by an affidavit or other evidence showing the facts that justify expedited consideration. The Affidavit of Mark A. Corsentino, P.E., accompanying AHP's motion for expedited consideration does not address the request for expedited consideration of the motion for expedited consideration. Due to AHP's failure to provide evidence of a reason for expedited consideration of its motion for expedited consideration, I deny that portion of AHP's motion for expedited consideration.

Responses to AHP's motion for expedited consideration are due by August 26, 2024. Any reply to those responses are due within three business days of the date the response is filed. If there is a dispute on the AHP motion for expedited consideration, the parties should be prepared to present limited oral argument at the prehearing conference on August 30, 2024. Oral argument will be limited to not more than 5 minutes per party due to RAPA's need to leave the conference by 3:00 p.m.

I electronically notified the following:

AHP
Dean D. Thompson (ddt@khe.com)
Ashley C. Brown (acb@khe.com)

RAPA
Jeffrey J. Waller (jeff.waller@alaska.gov)
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This order can be reconsidered in its current form within the time established by regulation.

Please place a copy of this order in the formal file in this proceeding.

James L. Walker
Administrative Law Judge
Regulatory Commission of Alaska
701 W. 8th Avenue, Suite 300
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	)	Case No. 3AN-24-06001CI

AUG 09 2024

(PROPOSED) ORDER GRANTING MOTION FOR SCHEDULING CONFERENCE

Appellant Anchorage Municipal Assembly's Motion for Scheduling Conference is GRANTED. Counsel for all parties that intend to participate in this appeal shall appear at a scheduling conference to be held on 9/6/, 2024, at 8:30 a.m. in Courtroom 402, Nesbett Courthouse, Anchorage, Alaska.

IT IS SO ORDERED.

DATED this 23rd day of August, 2024, at Anchorage, Alaska.

I certify that on 8/23/24 a copy of the following was mailed/emailed to each of the following at their addresses of record.

Administrative Assistant

The Honorable Jack R. McKenna
Superior Court Judge

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, vs. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER; ENSTAR NATURAL GAS CO.; PROVIDENCE HEALTH & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.; STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	)	Case No. 3AN-24-06001CI RCA Nos. U-18-102/U-19-020/ U-19-021

ENTRY OF APPEARANCE

The Municipal Attorney's Office, by and through Deputy Municipal Attorney, Joseph F. Busa and Assistant Municipal Attorney, Benjamin R. Bowman, hereby enter

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OFFICE OF THE MUNICIPAL ATTORNEY

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appearances as counsel of record on behalf of defendants, Municipality of Anchorage d/b/a Municipal Light & Power, and requests that all future correspondence and documents pertaining to this action be forwarded by mail and/or emailed to:

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Respectfully submitted this 26th day of August, 2024.

EVA R. GARDNER
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I certify that on 08/26/2024, I caused to be emailed a true and correct copy of the foregoing to:

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RECEIVED
By the Regulatory Commission of Alaska on Aug 26, 2024

STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Robert A. Doyle, Chairman
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

CHUGACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S JOINT OPPOSITION TO AHP'S MOTION FOR EXPEDITED CONSIDERATION

Pursuant to 3 AAC 48.091(c), Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA") jointly oppose the Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower's ("AHP's") Motion for Expedited Consideration ("AHP's Motion for Expedited Consideration") of its Request for Acknowledgement of Acquisition of Expertise Required to Participate As A Voting Member of the Eklutna Operating Committee ("AHP's Request for Acknowledgement"). As explained below, there is no need for the Commission to rush its consideration of AHP's request, and more importantly, there are significant issues related to AHP's request that the Commission should consider and resolve as part of its review of AHP's Request for Acknowledgement.

I. Many Significant Issues Posed in This Proceeding Must be Considered and Resolved

In AHP's Motion for Expedited Consideration, AHP states that there is only one, straightforward issue in this docket relating to AHP's expertise to participate on

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the Eklutna Operating Committee ("EOC").[1] While Chugach and MEA agree that AHP's expertise is central to the Commission's consideration, they submit that there are many related issues that must also be considered. Pursuant to the Commission's Notice of Utility Request, the CEOs of Chugach and MEA have timely filed today joint comments on AHP's Request for Acknowledgement of Acquisition of Expertise Required to Participate As A Voting Member of the Eklutna Operating Committee ("Chugach and MEA's Joint Comments"). As set forth in the Chugach and MEA's Joint Comments, Chugach and MEA have concerns and maintain that there are significant questions to be addressed in this docket related to AHP's potential resumption of voting rights as an EOC member and under the 1991 Agreement[2] related to fish and wildlife protection, mitigation, and enhancement measures at the Eklutna Hydroelectric Project ("Eklutna Project"), including:

1) May AHP follow the direction of the Anchorage Assembly ("Assembly") to attempt to either un-do the significant efforts of all the Parties to the 1991 Agreement or unilaterally force a do-over of the carefully negotiated and now-complete lengthy process required under the 1991 Agreement?
2) May the Assembly exert its political and policy preferences in a manner that overrides the three utility Project Owners' considerations of prudent utility practice, applicable utility regulation, and the reliable operation of the Railbelt electric generation and transmission system?

[1] AHP's Motion for Expedited Consideration at 10.

[2] Agreement among the Municipality of Anchorage d/b/a Anchorage Municipal Light and Power, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., U.S. Fish and Wildlife Service, National Marine Fisheries Services, Alaska Energy Authority, and the State of Alaska, relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991 ("1991 Agreement"), attached as Exhibit 1 to AHP's Motion for Expedited Consideration.

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3) May AHP take a position that the Project Owners cannot take any action under the 1991 Agreement or operating the project without first securing Assembly approval?

4) Is AHP's proposal for dealing with conflicts of interest adequate and is there a better approach for when AHP's representative, in his role as AHP's representative, engages with the utility he manages -- Anchorage Water and Wastewater Utility ("AWWU") -- the MOA, or the Assembly?

Please see Chugach and MEA's Joint Comments, which are incorporated herein by reference. Chugach and MEA believe that these issues require due process, review of applicable standards (statutory, regulatory and those set forth by the Commission in Order 39[3]), the development of a record (potentially following discovery), its presentation to the Commission, and potential briefing, before the Commission can render a fully considered decision. Additionally, Chugach and MEA believe that the Commission must consider how AS 42.05.641[4] applies to this situation and the questions posed in Chugach and MEA's Joint Comments. For instance, are Assembly's actions with respect to the 1991 Agreement consistent with AHP's obligations of a certificated public utility? Can the Assembly compel AHP to disregard its RCA-approved power purchase agreements (PPAs) and take actions detrimental to its power purchase customers?

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[3] Order U-18-102(44)/U-19-020(39)/U-19-021(39), Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third-Party Sales Gas Pricing; and Requiring Filings, dated May 28, 2020 (Order 39), at 60-67.

[4] AS 42.05.641 ("The commission's jurisdiction and authority extend to public utilities operating within a municipality, whether home rule or otherwise. In the event of a conflict between a certificate, order, decision, or regulation of the commission and a charter, permit, franchise, ordinance, rule, or regulation of such a local governmental entity, the certificate, order, decision, or regulation of the commission shall prevail.")

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AHP has requested that the Commission issue its acknowledgement of expertise by October 2, 2024. Given that the prehearing conference has been set for August 30, 2024 to determine the necessary process, Chugach and MEA simply do not think that 33 days between those dates is sufficient. If nothing else, the numerous exhibits attached to AHP's Motion for Expedited Consideration demonstrate the complexity and intensity of the disagreements between the Assembly and the Project Owners related to the Project Owners' implementation of the 1991 Agreement. The Commission should take the time necessary to understand what it is being asked to do and what might result from its actions. As the Commission noted in Order U-18-102(52)/U-19-020(49)/U-19-021(49),[5] the Commission consideration and resolution of these matters must be accomplished in a manner consistent with the requirements of due process.

II. The EOC Will Not Make Significant Financial Decisions Implementing the Final Fish and Wildlife Program before January 2025

As a starting point, Chugach and MEA note that the factors leading to AHP's purported demonstration of expertise have existed long before its filing on July 18, 2024. As noted in its AHP's Request, Mr. Corsentino has served as the General Manager of AWWU since February 2019, the same year that the Project Owners initiated the process set forth in the 1991 Agreement.[6] Since that time, AHP assigned representatives (including Mr. Corsentino) to participate in the Eklutna Owners' collaborative process leading to the Proposed Final Fish and Wildlife Program filed

[5] Order Redesignating Commission Panel; Denying Motion to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020; Denying Petition to Intervene; Denying Motion for Expedited Consideration of Petition to Intervene and Motion to Reopen Docket and Modify Order 30 Dated May 28, 2020; And Addressing Anchorage Ordinances, dated April 19, 2024.

[6] Exhibit 2 to AHP's Request for Acknowledgement, at 1.

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with the Governor in April 2024, which was expressly supported by Mayor Bronson.[7] As noted in Chugach and MEA's Joint Comments, the Eklutna Owners (including AHP's representatives) agreed unanimously on every process and substantive decision through the five year process required under the 1991 Agreement. AHP surrendered its voting rights on the EOC only one year into this process and since then, neither the MOA nor AHP sought to demonstrate sufficient expertise exists within the MOA to end the surrender of its voting rights on the EOC and under the 1991 Agreement per Commission's Order 39.[8] That view of its expertise apparently changed when the Assembly approved Mr. Corsentino's additional role as the Utility Director of AHP on July 2, 2024, but MOA's change in view of its expertise following a change in leadership does not itself create the need for an expedited approval by the Commission.

Rather, AHP argues that the Commission should set its compressed schedule because the EOC will start making significant capital outlays and decisions related to operation, maintenance, and budgeting to implement the Final Fish and Wildlife Program the day after the Governor issues that decision in October 2024 and that AHP's portion of such costs would exceed the revenues AHP receives under its long-term PPAs with Chugach and MEA. Chugach and MEA disagree with these assessments because no such financial commitments of the Project Owners will be committed in the time period between October 2024 and January 2025 – when the Commission is scheduled to issue a final order in this docket.

First, the Governor's issuance of the Final Fish and Wildlife Program starts a review period during which actions by the Parties to the 1991 Agreement may seek review of the Final Fish and Wildlife Program or the Governor's actions in United

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[7] *See* Mayor Dave Bronson's letter "Re: Eklutna Hydroelectric Project, Proposed Final Fish and Wildlife Program", April 26, 2024, available at https://eklutnahydro.com/wp-content/uploads/2024/05/2024-04-26-Comments-on-Proposed-Final_Mayor.pdf

[8] Order 39, at 60-67.

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States District Court for the District of Alaska.[9] Chugach and MEA will not implement the Final Fish and Wildlife Program during this appeal period or the pendency of any appeals as it would be imprudent to make significant financial commitments to implement a Final Fish and Wildlife Program that may be overturned on appeal.

Second, the Assembly's AR No. 2024-218(S), As Amended (and the MOA) requests that the Governor delay in implementation of the Final Fish and Wildlife Program by two years to further explore alternatives (unknown at this time).[10] If the Governor grants this request, the Project Owners would not be able to implement the Final Fish and Wildlife Program for years. Because this request disregards the express terms of the 1991 Agreement and Order 39 and fails to recognize that implementation cannot begin until the additional alternatives process is complete, Chugach and MEA oppose such delay, but note that they will not implement the Final Fish and Wildlife Program if any delay is ordered by the Governor, or is still being sought via judicial challenge.

Third, Chugach and MEA disagree with AHP's assertions about the costs that would be committed and incurred between October 2024 and January 2025. The current 2024 budget for the Eklutna Project does not provide any capital to implement the Final Fish and Wildlife Program that the Governor approves in the next few months. The EOC (on behalf of the Project Owners) will not be able to develop a 2025 budget that implements the Final Fish and Wildlife Program until after the Governor's approval and the Project Owners have had a chance to review it and decide how to proceed under the 1991 Agreement. (To be clear, the EOC must establish a 2025 budget for standard operations of the Eklutna Project in the next few months in a

[9] Section 104(c), Alaska Power Administration Asset Sale and Termination Act, Pub. Law 104-58, 109 Stat. 559 (November 28, 1995).

[10] Exhibit 4 to AHP's Motion for Expedited Consideration, at 3-4 and 7.

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manner consistent with the decision-making process set forth in the Surrender and Order 39, but the EOC will not develop a supplemental budget to include expenditures to implement the Final Fish and Wildlife Program at that time.) Any vote by the EOC will necessarily follow that process so it is unlikely that the EOC will be voting on the 2025 supplemental budget until early 2025 -- after such time of consideration.

To allay such concerns, however, Chugach and MEA will commit to AHP that it will not make any budget commitments, capital expenditures or significant decisions related to operation, maintenance, and budgeting to implement the Final Fish and Wildlife Program until the earlier of (i) the Commission's final order on AHP's Request for Acknowledgement in this docket; and (ii) January 15, 2025. Notwithstanding this good-faith commitment, pursuant to the Commission's direction in Order 39 and the Surrender of EOC Voting Rights, dated October 27, 2020, executed by AHP, Chugach and MEA,[11] the EOC will continue to operate, dispatch, and maintain the Eklutna Project and follow through on the process outlined under the 1991 Agreement as it has since October 2020 through unanimous decisions by Chugach and MEA on behalf of the Project Owners. Chugach and MEA will also continue to resolutely defend the Project Owners' implementation of the 1991 Agreement and the Proposed Final Fish and Wildlife Program.

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[11] Exhibit 1 to AHP's Request for Acknowledgement, at 1.

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III. Conclusion

The Commission should deny AHP's Motion for Expedited Consideration and proceed deliberately and thoroughly to examine AHP's Request for Acknowledgement and the issues it presents.

RESPECTFULLY SUBMITTED this 26th day of August, 2024.

By:/s/ Todd G. Glass
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CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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August 26, 2024

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
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Re: RCA Docket U-24-024; In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee; Initial Comments of Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.

Dear Commissioners:

We are writing on behalf of Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA), two of the three owners of the Eklutna Hydroelectric Project (Project). We are jointly submitting the following initial comments on the petition filed by the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP), the third owner of the Project, regarding AHP's acquisition of expertise necessary for it to regain voting rights on the Eklutna Operating Committee (EOC) and under the 1991 Agreement.[1] AHP's petition is required by the Regulatory Commission of Alaska's Order 39 issued in August 2020[2] and the agreement set forth in the Surrender of EOC Voting Rights, dated October 27, 2020, executed by AHP, Chugach and MEA (collectively, the "Project Owners").

1. Participation In Proceeding

We will participate jointly as parties in this proceeding through our counsel at Wilson Sonsini.

2. Qualifications

At this point, we do not oppose AHP's nomination of Mr. Corsentino to become a voting member of the EOC. We will defer to the Commission's investigation of Mr. Corsentino's qualifications and whether AHP has gained sufficient expertise necessary for it to regain voting rights on the EOC pursuant to the criteria outlined in Order 39, but we reserve the right to take a position later in this proceeding.

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[1] Agreement among the Municipality of Anchorage d/b/a Anchorage Municipal Light and Power, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., U.S. Fish and Wildlife Service, National Marine Fisheries Services, Alaska Energy Authority, and the State of Alaska, relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991 (1991 Agreement).

[2] Order U-18-102(44)/U-19-020(39)/U-19-021(39), Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third-Party Sales Gas Pricing; and Requiring Filings, dated May 28, 2020 (Order 39), at 60-67.

3. Issues to be Addressed in this Proceeding

Chugach and MEA have certain issues and concerns related to AHP's notice and request that the Commission should address them in this proceeding.

First, we are concerned that the Anchorage Assembly (Assembly) does not appear to appreciate and respect the Commission's authority, our role as public utilities, and the Eklutna Owners' faithful execution of the process required under 1991 Agreement over the past five years leading to the Proposed Final Program we submitted to the Governor on April 25, 2024 and the Governor's expected decision in October 2024. In Order 39, the Commission specifically stated that during the surrender period, [AHP][3] "shall not have any ability to delay or change the Eklutna Project decisions made by Chugach and MEA". In the Surrender, AHP agreed that decisions related to the 1991 Agreement would be made pursuant to unanimous vote of Chugach and MEA. At every step of the process leading to and including the Proposed Final Program filed on April 25, 2024, Chugach, MEA and AHP's representatives agreed unanimously on each procedural and substantive decision without the need for any votes. Yet, the Assembly has taken numerous actions attempting to influence Eklutna Project decisions with respect to the Fish and Wildlife Program required under the 1991 Agreement, including recent actions seeking to both delay and change the Proposed Final Fish and Wildlife Program. For example, the Assembly added language to the Anchorage Municipal Code stating that it is the MOA's policy to restore continuous water into the Eklutna River (Anchorage Municipal Code 26.30.025A) – a requirement not found in the 1991 Agreement. On April 24, 2024, the Assembly appealed Order 39 itself and asserted that the "RCA lacked jurisdiction to enter Order 39" and "Order 39 violates state and federal law".[4] Most recently, the Assembly passed AR No. 2024-218(S), As Amended, that calls upon the Governor to (1) modify the process outlined in the 1991 Agreement to require the Project Owners to use two years of the three year pre-implementation period to identify an alternative infrastructure and engineering solution to what is proposed in the Proposed Final Fish and Wildlife Program; and (ii) remove substantive aspects (the "limited reopeners") from the Proposed Final Fish and Wildlife Program. In support, the MOA (under new leadership) submitted a letter that called for a two-year delay to program implementation to allow for consideration of additional alternatives not included in the Proposed Final Fish and Wildlife Program.

Through such resolutions, ordinances, and legal actions, the Assembly has disregarded the RCA's requirements in Order 39 and the Surrender by encouraging the Governor to take actions that conflict with the 1991 Agreement process and unanimous decisions (by all three Project Owners) that created the Proposed Final Fish and Wildlife Program, filed with the Governor in April 2024. The Assembly does not respect the significant resources expended, the five-year study and consultation process, contractual obligations, previous municipality

[3] At the time, the Commission referred to the "post-transaction electric utility owned by the MOA as Municipal Hydro Power (MHP)", which is now referred to as Anchorage Hydropower (AHP).
[4] *Anchorage Municipal Assembly v. Regulatory Comm'n of Alaska*, Case No. 3AN-24-06001CI (Assembly's Statement of Points on Appeal, filed on April 24, 2024).

positions, and the resulting negotiated Proposed Final Fish and Wildlife Program and its reopeners (with the MOA's active involvement every step of the way). Specifically:

- AR No. 2024-218(S) requests a delay in implementation of the Final Fish and Wildlife Program by two years to further explore alternatives (unknown at this time) that disregards the express terms of the 1991 Agreement and fails to recognize that implementation cannot begin until the additional alternatives process is complete;
- AR No. 2024-218(S)'s request to eliminate the two reopeners negotiated into the Proposed Final Program directly contradicts the intentions and interests of the Parties to the 1991 Agreement (and their managements and boards) that devoted years working on the process leading to the Proposed Final Program – including fisheries experts and two federal agencies and the Alaska Department of Fish and Game who sought and helped craft the two reopeners through negotiations;
- AR No. 2024-218(S) ignores (i) the contractual commitments among the Project Owners relating to the 1991 Agreement, including an obligation to act in a manner consistent with prudent utility practice, and (ii) power delivery obligations under the power purchase agreements approved by the RCA;
- The actions requested in AR No. 2024-218(S) would increase costs, risks, and liability consequences to the member-ratepayers of Chugach and MEA;
- The positions outlined in AR No. 2024-218(S) depart from unanimous positions agreed to by Chugach and MEA per the Surrender and even positions previously taken by MOA and AHP and its representatives throughout the five-year process executing the 1991 Agreement; and
- The MOA's unilateral mandate (to restore the continuous flow of the Eklutna River and the fish populations of the Eklutna River and Eklutna Lake) seeks to supersede AHP's obligations to follow prudent utility practice and consider all public interest objectives required to be balanced with equal consideration under the 1991 Agreement.

As a result, Chugach and MEA have serious concerns that upon regaining any voting rights on the EOC and with respect to the Fish and Wildlife Program and the 1991 Agreement, AHP will seek to follow the direction of the Assembly and either negate the significant efforts of all the Parties to the 1991 Agreement or unilaterally force a do-over of the carefully negotiated and now-complete lengthy process required under the 1991 Agreement. We doubt that the Commission intended that result when creating a mechanism for AHP to regain its voting rights.

Second, in Order 39, the Commission recognized that AHP's representative must be able to exercise knowledge of prudent utility practice and the Railbelt electric generation and transmission system. AHP holds Certificate of Public Convenience and Necessity No. 780 and as such AHP is regulated by this Commission pursuant to applicable statutes and regulations. Setting aside Mr. Corsentino's knowledge and qualifications, based on its numerous actions and negative public statements with regard to our implementation of the 1991 Agreement, we have seen no indication that the Assembly appreciates and has respect for these requirements and we

expect that it will attempt to exert its political and policy preferences in a manner that seeks to override considerations of prudent utility practice, applicable utility regulation, and the reliable operation of the Railbelt electric generation and transmission system. We anticipate that AHP will take a position that the Project Owners cannot take any action without Assembly approval. The representatives on the EOC (and the Project Owners as regulated public utilities) must be able to operate the Eklutna Project and implement their contractual and regulatory obligations without regard for political pressure.

Third, the Commission should recognize the contractual bounds of what decisions will be made by the EOC and those that will be made by the three Project Owners after the MOA gets its voting rights back. As the Commission noted in Order 39, the EOC is charged with all management decisions related to the operation, maintenance, and budgeting for the Project; to the extent voting is necessary, a double majority of ownership shares consisting of at least 51% applies. Yet, the Project Owners hold ownership of the Project through their undivided interests as three tenants in common, which gives each owner equal rights to the ownership of the whole. Over the past nearly 30 years, the Project Owners have treated each other as equals in certain ownership level decisions by the CEOs and Municipal Manager. We anticipate that this needs to continue going forward and recommend that the bounds of authority and course of dealing should be acknowledged by the Commission.

Finally, we have concerns about AHP's proposed means to deal with conflicting interests between AHP and AWWU. While we have no question about Mr. Corsentino's integrity, we do not see how Mr. Corsentino can act independently in a role as AHP's representative of the EOC adversely to the interests of AWWU—the utility he has led ably since February of 2019. For instance, he will not be able to unlearn or ignore confidential information learned from one utility when making decisions for the other. It would seem more appropriate for Mr. Corsentino to recuse himself from both roles in contractual and legal matters between the AHP (and the other Eklutna Owners) and AWWU, allow Chugach and MEA to represent the interests of the Eklutna Owners, and have Mr. Schimscheimer and the rest of the AWWU team represent the interests of AWWU. This approach would be more in line with how conflicts of interlocking directors are typically dealt with among utilities and in corporate law.

Thank you for your time and consideration. We look forward to participating in this proceeding.

Sincerely,

Arthur W. Miller
Chief Executive Officer
Chugach Electric Association, Inc.

Anthony M. Izzo
Chief Executive Officer
Matanuska Electric Association, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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By:/s/ Adam M. Fryer _____
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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert A. Doyle, Chairman
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	))))))	U-24-024

OFFICE OF THE ATTORNEY GENERAL'S RESPONSE TO ANCHORAGE HYDROPOWER'S (AHP) MOTION FOR EXPEDITED CONSIDERATION OF ITS REQUEST FOR ACKNOWLEDGMENT

The Office of the Attorney General, Regulatory Affairs & Public Advocacy Section (RAPA) responds to AHP's motion for expedited consideration of AHP's request for acknowledgement of AHP's acquisition of expertise required to participate as a voting member of the Eklutna Operating Committee (EOC). AHP requests that the parties file written briefs responding to AHP's Request for Acknowledgement, that the Commission conduct a hearing (if needed), and the Commission issue a decision on AHP's request no later than October 2, 2024.

RAPA agrees with AHP: "The only issue in this docket is a straightforward one—whether AHP 'has shown to [the Commission's] satisfaction that [it] has acquired

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the expertise required to fully participate as a voting member of the EOC.'"[1] RAPA agrees that: (1) responsive briefing by the parties is appropriate and useful; (2) a hearing should be held (meaning that RAPA believes a hearing is needed); and (3) based on briefing and a hearing, the Commission could issue an order either granting or denying AHP's request by October 2, 2024.

By not opposing AHP's request for expedited consideration, that does not mean that RAPA agrees (or disagrees) at this time on the ultimate question of whether AHP has met its burden of proof necessary for the Commission to acknowledge that AHP has obtained the needed expertise. Rather, it means that briefing, a hearing, and a Commission decision by October 2 all seem appropriate for this Docket that addresses a straightforward issue.

DATED August 26, 2024, at Anchorage, Alaska.

TREG TAYLOR
ATTORNEY GENERAL

By: /s/ Jeffrey J. Waller
Jeffrey J. Waller
Chief Assistant Attorney General
Office of the Attorney General
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Alaska Bar No. 0703005

[1] MOA's Motion for Expedited Consideration of Request for Acknowledgment at 10.

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CERTIFICATE OF SERVICE

I certify that on August 26, 2024, a true and correct copy of the **Office of the Attorney General's Response to Anchorage Hydropower's (AHP) Motion for Expedited Consideration of its Request for Acknowledgment** was served via e-mail on the following:

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert A. Doyle, Chairman John M. Espindola Robert M. Pickett John C. Springsteen
In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

ANCHORAGE ASSEMBLY'S PETITION TO INTERVENE

On August 26, 2024, Chugach Electric Association ("Chugach") and Matanuska Electric Association ("MEA") jointly filed two pleadings: an "Opposition to AHP's Motion for Expedited Consideration" and "Initial Comments in U-24-024" outlining their position regarding the Municipality of Anchorage's Request for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee.

Chugach and MEA's Opposition and Initial Comments attempt to place at issue the Assembly's role in determining the Municipality's policies with respect to the Eklutna Project and call into question the propriety of the Assembly's actions regarding the 1991 Fish and Wildlife Agreement. Those arguments are outside the scope of the Municipality's Petition currently before the Commission. However, if

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the Commission takes up those outside issues, the Assembly's rights may be directly implicated. Thus, the Assembly respectfully petitions to intervene in this action pursuant to 3 AAC 48.110.

Under 3 AAC 48.110, "[a]ny person who has a statutory right to be made a party to that proceeding will be permitted to intervene," and "[a]ny person whose intervention will be conducive to the ends of justice and will not unduly delay the conduct of the proceeding will, in the commission's discretion, be permitted to intervene."[1] In ruling on a petition for intervention, the Commission considers seven factors:

> (1) the nature of the petitioner's right under statute to be made a party to the proceeding;
>
> (2) the nature and extent of the property, financial, or other interest of the petitioner;
>
> (3) the effect on petitioner's interest of the order which may be entered in the proceeding;
>
> (4) the availability of other means by which the petitioner's interest may be protected;
>
> (5) the extent to which petitioner's interest will be represented by existing parties;
>
> (6) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, including the

[1] 3 AAC 48.110(a).

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issues that petitioner intends to address in the proceeding; and

(7) the extent to which participation of the petitioner will broaden the issue or delay the proceeding.[2]

Although the Assembly does not assert a statutory right to intervention (factor one), the Assembly's Petition satisfies each of factors two through six for permissive intervention.

Under the second factor, Chugach and MEA's filings, if considered by the Commission, directly implicate the Assembly's interest in exercising policymaking authority consistent with Municipal ordinances. According to Chugach and MEA's Opposition, the following "significant questions" must be addressed in this docket:

1) May AHP follow the direction of the Anchorage Assembly ("Assembly") to attempt to either un-do the significant efforts of all the Parties to the 1991Agreement or unilaterally force a do-over of the carefully negotiated and now-complete lengthy process required under the 1991 Agreement?

2) May the Assembly exert its political and policy preferences in a manner that overrides the three utility Project Owners' considerations of prudent utility practice, applicable utility regulation, and the reliable operation of the Railbelt electric generation and transmission system?

3) May AHP take a position that the Project Owners cannot take any action under the 1991 Agreement or operating the project without first securing Assembly approval?

[2] 3 AAC 48.110(b).

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4) Is AHP's proposal for dealing with conflicts of interest adequate and is there a better approach for when AHP's representative, in his role as AHP's representative, engages with the utility he manages -- Anchorage Water and Wastewater Utility ("AWWU") -- the MOA, or the Assembly?[3]

Each of those "significant questions" explicitly references the Assembly and bears on the Assembly's substantive interests.

Accordingly, under the third factor, any order that the Commission enters that addresses those questions may directly affect the Assembly's ability to exercise its oversight and authority of AHP going forward. If the Commission forbids AHP or Mr. Corsentino from taking Assembly direction on certain matters, or mandates a resolution procedure for conflicts of interest that affects the Assembly's policymaking authority, such an order may be in direct conflict with relevant Municipal ordinances. The Assembly must be given the opportunity to express its position on such issues.

Under the fourth factor, if the Commission were to enter an order that limits Assembly authority to act, the Assembly will have no opportunity to undo such a decision or assert its own proper authority, other than by seeking judicial review of the Commission's decision.

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[3] Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Opposition to AHP's Motion For Expedited Consideration at 2-3.

Fifth, the existing parties will not sufficiently represent the Assembly's interests. Although the Administration and the Assembly are generally aligned on certain substantive goals, their legal interests are not identical. The Assembly is the co-equal legislative body of the Municipality. If the Commission considers the arguments raised by Chugach and MEA, the Assembly's interest in maintaining its authority to determine policy could be affected and its position may not be adequately represented by the Administration. Related to the sixth consideration, allowing the Assembly to intervene will ensure a sound record in the docket.

Seventh and finally, there is no danger that the Assembly's intervention will unnecessarily delay the proceeding or broaden the issues. The Assembly seeks limited intervention only to the extent it becomes necessary to respond to where Chugach and MEA have called into question the Assembly's authority, or where they have sought to prospectively limit such authority. The Assembly does not anticipate taking a position or submitting briefs on matters beyond that issue.

For the foregoing reasons, the Assembly has demonstrated that its intervention will be conducive to the ends of justice and will not delay the conduct of the proceeding. Accordingly, the Assembly's petition to intervene should be granted.

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DATED: August 27, 2024.

LANDYE BENNETT BLUMSTEIN LLP

/s/ Leslie R. Need

Leslie R. Need, Alaska Bar No. 0712113
Andrew Erickson, Alaska Bar No. 1605049
Jackson Morawski, Alaska Bar. No. 2310113

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I hereby certify that on August 27, 2024, a copy of the foregoing was served on the following persons by electronic means authorized by the RCA:

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert A. Doyle, Chairman John M. Espindola Robert M. Pickett John C. Springsteen
In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

ENTRY OF APPEARANCE

Please take notice that Leslie R. Need, Andrew Erickson, and Jackson Morawski of the law firm Landye Bennett Blumstein LLP hereby enter their appearances in this matter on behalf of the Anchorage Assembly and request that all notices and pleadings be sent to:

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Andrew Erickson
Jackson Morawski
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cc: rizas@lbblawyers.com

DATED: August 28, 2024.

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/s/ Leslie R. Need

Leslie R. Need, Alaska Bar No. 0712113
Andrew Erickson, Alaska Bar No. 1605049
Jackson Morawski, Alaska Bar. No. 2310113

Attorneys for Petitioner-Intervenor
Anchorage Assembly

Certificate of Service

I hereby certify that on August 28, 2024, a copy of the foregoing was served on the following persons by electronic means authorized by the RCA:

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/s/ Riza Smith

Riza Smith

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From: Walker, Jim L (RCA)
To: RCA Records & Filing; RCA Law Office Assistants; ddt@khe.com; acb@khe.com; Waller, Jeffery J (LAW); Croft, JC (LAW); Glass, Todd; smcfall@wsgr.com; Matthew.Clarkson@chugachelectric.com; david.pease@mea.coop; kwparker@hollandhart.com
Subject: Docket U-24-024 (AHP) Prehearing Conference
Date: Tuesday, August 27, 2024 11:16:48 AM

Counsel,

Order U-24-024(1), as modified by Order U-24-024(2), specifies that the prehearing conference scheduled for 2:00 p.m. this Friday will be via Cisco WebEx video conferencing. Counsel for Alaska Hydropower has left me a message asking if the Commission's East Hearing Room will also be available for this conference so that any participant who wants to do so can appear in person. Mr. Thompson indicated that he believed this would better accommodate the oral argument scheduled on the motion for expedited consideration. The Commission's East Hearing Room will be available for any participant who desires to attend the prehearing conference in person. I plan on attending the conference in person myself to facilitate the proceeding. However, I want to clearly state that no party is required to participate in the August 30 prehearing conference in person.

Please place a copy of this correspondence in the formal file in this proceeding.

James L. Walker
Administrative Law Judge

REGULATORY COMMISSION OF ALASKA

PREHEARING CONFERENCE

August 30, 2024

accu•type
depositions, inc.

STATE OF ALASKA

REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert A. Doyle, Chairman
John M. Espindola
Robert M. Pickett
John C. Springsteen

IN THE MATTER OF THE PETITION FILED BY THE MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER FOR ACKNOWLEDGMENT OF ACQUISITION OF EXPERTISE REQUIRED TO PARTICIPATE AS A VOTING MEMBER OF THE EKLUTNA OPERATING COMMITTEE.	U-24-024

REGULATORY COMMISSION OF ALASKA
701 West 8th Avenue, Suite 300
Anchorage, Alaska 99501

PREHEARING CONFERENCE

Friday, August 30th, 2024

2:00 p.m.

BEFORE JAMES L. WALKER
Administrative Law Judge

APPEARANCES:

For Municipality of Anchorage d/b/a Anchorage Hydropower:
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255 East Fireweed Lane
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Anchorage, Alaska 99503
BY: Dean Thompson
Mark Corsentino of AWWU

For RAPA:
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Anchorage, Alaska 99501
BY: Jeff Waller

For Chugach Electric and Matanuska Electric:
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BY: Todd Glass
Matt Clarkson
David Pease

For Municipality of Anchorage Assembly:
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701 West Eighth Avenue
Suite 1200
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BY: Leslie Need

P-R-O-C-E-E-D-I-N-G-S

(On record - 2:00 p.m.)

ALJ WALKER: Good afternoon, it is approximately 2:00 p.m. on August 30th, 2024. This conference is being held in the Commission's East Hearing Room in Anchorage, Alaska and via Cisco Webex Video Teleconferencing.

This is the time and place set for a Prehearing Conference, Docket U-24-024, entitled In the Matter of the Petition filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee.

This Prehearing Conference was scheduled by Order No. U-24-024(1) dated July 30th, 2024, as amended by Order No. U-24-024(2) dated August 14th, 2024.

James L. Walker, Administrative Law Judge presiding. Attending in person are Commission Docket Manager, John C. Springsteen. Online, it looks like, are Commissioner Doyle and Commissioner Espindola. Is that correct?

CHAIRMAN DOYLE: That is correct.

COMMISSIONER ESPINDOLA: Yes, that is correct.

ALJ WALKER: Thank you. This Prehearing Conference is being recorded. To ensure a clear record, I encourage all participants to mute their microphone or interconnection device whenever they are not speaking. I ask the Court Reporter to

speak up whenever background noise is sufficient to interfere with her ability to obtain a clear record.

At this time, I want to take entries of appearance from the parties starting with the Municipality of Anchorage, d/b/a Anchorage Hydropower.

MR. THOMPSON: Good morning, Your Honor, Commissioners. Dean Thompson with the law firm of Kemppel Huffman & Ellis appearing on behalf of Municipal Hydropower. And with me is Mark Corsentino who is the Director of Anchorage Hydropower.

ALJ WALKER: Thank you. For the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section.

MR. WALLER: Good afternoon, Jeff Waller.

ALJ WALKER: Thank you. Chugach Electric Association and Matanuska Electric Association.

MR. GLASS: Good afternoon, my name is Todd Glass, Wilson Sonsini on behalf of both Chugach Electric and Matanuska Electric jointly. With me is Stephanie McFall also with Wilson Sonsini and I believe that both Matt Clarkson as well as David Pease are either in the room or on the line.

MADAM COURT REPORTER: Could you please spell your last name?

MR. GLASS: Glass, G-l-a-s-s.

MADAM COURT REPORTER: Thank you.

ALJ WALKER: And I will confirm that Mr. Clarkson is in the room. I don’t see -- oh, Mr. Pease is back there, he’s

hiding.

Okay, under Order U-24-024(1), petitions to intervene in this docket were due by August 27th, 2024. The Municipality of Anchorage Assembly has timely filed a petition to intervene in this matter. The parties to this proceeding have until September 3rd, 2024, to file an answer to this petition. The Commission will issue its decision on this petition sometime after that. I note that I will be out of the office the week of September 3rd, and thus, there might be delay in issuance of that decision.

To ensure that the Municipality of Anchorage Assembly has an opportunity to be heard, I will allow them to participate in that part of this conference addressing scheduling issues; however, I will not be allowing them to participate in oral argument on the motion for expedited consideration as they have not filed a brief on that issue and it is not clearly related to grounds asserted in their petition to intervene.

Can I have counsel for the Municipality of Anchorage Assembly enter their appearance?

MS. NEED: Good afternoon, Leslie Need from the Landye Bennett Blumstein.

MR. MORAWSKI: Good afternoon, Jackson Morawski, also Landye Bennett Blumstein for the Assembly.

MR. ERICKSON: Andrew Erickson for the Assembly.

ALJ WALKER: Thank you. I am aware of no other petitions

to intervene that have been timely filed. Is any person present at this conference aware of any petitions? Seeing none. Is there anyone else attending this conference who wants to be recognized on the record? I'm seeing none there, okay.

The purpose of this Prehearing Conference is to establish a procedural schedule and address any other matters required to resolve this docket. I note that, in its notice and request for acknowledgment filed in this docket on July 18th, 2024, at page three, Anchorage Hydropower stated, "Order 39 required that the surrender must remain in effect until the MOA has shown to the Commission's satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC." And I omitted the footnotes in that quote.

This statement is an incomplete quotation of what was required by Order U-18-102(44). The complete quotation is as follows. "This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA as those agreements may be extended and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC."

What I do not find in either the notice and request for acknowledgment or in the motion for expedited consideration or the attachments to these filings is any evidence or discussion of why the Commission should set aside the minimum term of voting rights surrender required in Order 44.

I also find nothing in Mr. Corsentino or Mr. Schimscheimer and I apologize for butchering the names, will continue to be employed by the Municipality at the time the Eklutna PPA and the MEA PPA are currently scheduled to expire. I raise this issue at this time because it appears that the Commission should be considering dismissal of the notice and request for acknowledgment as being prematurely filed and that there may -- and that may require a substantially different procedural schedule than would be required to consider the merits of Anchorage Hydropower's request.

I ask the parties to think about this issue in recommending a procedural schedule at this conference. We have a pending motion for expedited consideration by Anchorage Hydropower. In that motion, Anchorage Hydropower has proposed a procedural schedule that would result in a final decision in this docket by October 2, 2024. Under Order U-24-024(3), oral argument on the motion for expedited consideration was authorized with a limit of no more than five minutes of argument per party. Is Anchorage Hydropower prepared to present oral argument on this motion for expedited consideration?

MR. THOMPSON: Yes, Your Honor.

ALJ WALKER: And are you reserving any time for reply?

MR. THOMPSON: Yes.

ALJ WALKER: How much?

MR. THOMPSON: The five minutes, I'll reserve two minutes for reply.

ALJ WALKER: Thank you. Please proceed.

MR. THOMPSON: Okay. Very quickly, I will stand on the arguments in MHP's request for expedited consideration and particularly in the reply. The -- MHP believes that the issue is very narrow here and under Order 39, it is solely whether MHP has acquired the expertise required to fully participate as a member. And the Commission, in Order 39, clarified what are the factors in that decision and there are two. Knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system. So, that is the only question before the Commission and it is something that can be decided on the schedule that MHP has proposed.

The need for expedited consideration is that MHP has not been able to exercise its voting rights since the acquisition closed and it owns 53 percent of the project, it's liable for various cost responsibilities. It is a certificated utility. MHP needs to be able to represent its interests.

And why sooner than later? Because things are going to start happening on October 2nd, don't know exactly what's going to happen, but that is when this Fish and Wildlife final program may be issued. There may be litigation, who knows? But MHP thinks it's reasonable that it have a vote on the EOC given that it owns 53 percent of the assets.

The arguments by Chugach and MEA against expedited consideration is that they want to broaden the scope of this docket to include issues about the Assembly's authority over MHP and whether it can exert political influence on the appointed representative and all of that is beyond the scope of this. There are other forums for that to be addressed, there's an appeal going on right now.

ALJ WALKER: Thirty seconds.

MR. THOMPSON: And so, none of those negate the need for the expedited consideration and MHP believes that the schedule it has proposed is reasonable and certainly enough to settle the very narrow topic of this motion.

ALJ WALKER: Does RAPA wish to present oral argument?

MR. WALLER: Yes, Your Honor, please.

ALJ WALKER: Please proceed.

MR. WALLER: All right, so this is Jeff Waller, I will try to be brief. I'm going to let everybody know that there's going to be a slight modification of what we filed in light of recent filings, but staying with what we've originally filed, this is seen as a straightforward thing. I think of it like when you're at Disney World and there's a sign that says you must be this tall to ride the ride. Either Mr. Corsentino was that tall or he's not and so, either he has the qualifications or he doesn't.

The reason that RAPA thinks we should proceed forward in

the way we suggested, which would be briefing and a hearing, is right now, some information is missing and I'll give you a very brief example. Mr. Corsentino's resume points out that he has experience supervising a one-megawatt hydropower plant. The filing Anchorage Hydropower submitted says it's connected to MEA and to Chugach, but it's not in the exhibits, it's not in the evidence presented, not in the record.

So, we need a hearing to flesh out that record; a chance for Mr. Corsentino to explain his expertise, his knowledge, whether he understands what it means to be a prudent electric utility operator, and his experience otherwise. And that can also include, a point that Your Honor brought up, is for AHP to explain how are they going to cover that expertise for the time period the Commission set out.

So, to RAPA, this is fairly simple. Let's do some briefing, let's have a hearing and then either, as I said, Mr. Corsentino is this tall and he can ride the ride or he's not that tall and he doesn't get to ride the ride.

My other last point would be the slight modification in our presentation of our briefing. We did not consider any of these political things to be coming up to be part of the docket. If this docket does expand as Chugach/MEA have indicated and that the Assembly coming in, RAPA is a lot less certain that we can get it done in this short time. But we still believe it is the simple you're this tall or you're not.

Thank you.

ALJ WALKER: Thank you. Mr. Glass, is Matanuska Electric and Chugach Electric prepared to do oral argument?

MR. GLASS: Yes, we are.

ALJ WALKER: Please proceed.

MR. GLASS: Thank you. Thank you, Commissioners, Your Honor.

We refer the Commission to our joint petition or our joint opposition to AHP's motion for expedited consideration. In short, we see that there are significant issues that need to be examined and addressed by the Commission and there exists no need to cram all of the work that needs to be done in 33 days as requested by AHP.

The scope of the issues can be broken down into four topics. Whether AHP's recently realized expertise in the form of Mr. Corsentino meets the requirements of the Commission's Order 39. As you referred to both over time as most common utility practice and knowledge of Railbelt electric generation and transmission system.

We take no position on that at this time. We think there needs to be a processed to figure out whether he has that and we'll follow the Commission's lead on that and provide support of our understanding per the utility practices as well as the Railbelt electric system as required in that process.

We also think that we need to look deeper at the

conflicts of interest proposal that AHP has proposed. We don't think they're adequate.

Two more issue I think we need to dive into in order for the Commission to understand what happens following the return of voting rights, (indiscernible) to understand what order 39 required, and specifically, can the Municipality now force a redo or a do-over with regard to actions that were taken by -- unanimously by Chugach and MEA during the time of clearing their surrender of voting rights. We don't think that that was the intent of Order 39 and we think that it would be contrary to both ourselves as well as the other parties in the 91 agreement who have been implementing it.

We also think that we need to look at what is going to happen going forward. The Municipal Assembly has made very clear that it intends to override per utility practice and long-term PPA obligations with regard to utility practice as well as other things that would impede the ability to do operational budget and legal matters in -- specifically with regard to implementing the 91 agreement and the potential Fish and Wildlife (indiscernible).

Contrary to AHP positions, these are not hypothetical and these are not some separate questions from another docket. We really want the Commission to deal with them now because, you know, the Commission's order on 39 -- Order 39 and the explanation will determine how that --- the voting goes

forward.

Similarly, the orders -- requirements on the return of voting rights and what those duties will be, how AHP will behave on the EOC matters to how we meet our obligations.

Finally, we don't think that there's a rush because, as we stated in the joint opposition and the CEO comments, there is no rush because we won't be making large financial commitments of -- or significant financial commitments, but we do need to be able to continue operating our project in pushing the 91 agreement process forward.

ALJ WALKER: Are you done?

MR. GLASS: Yes.

ALJ WALKER: Thank you.

MR. GLASS: I'll reserve with one minute left, so there you go.

ALJ WALKER: Well, I'm not going to allow you to reserve time. You're not the proponent, so you don't get to reply.

MR. GLASS: Understood.

ALJ WALKER: Okay. Mr. Thompson, now you have two minutes reserved.

MR. THOMPSON: Thank you. Very quickly, MHP understands why Chugach and MEA and maybe others would like the issues -- these other issues regarding the Assembly and these other issues that they identified at page two and three of their response, we can understand why they would like to get some

advisory opinions on that or a declaratory ruling, but this isn't the place. I mean, the Order 39, this is as Mr. Waller said, is Mr. Corsentino tall enough and that's a very limited question, so we believe that those other issues do not justify denying the request for expedited consideration.

And I would also venture to say I doubt, if we're going to go down that road, that that will -- that there's enough time with 180 days if we're going to expand into declaratory ruling and advisory opinions. So, we need to keep this simple and focused and the other issues can and will be addressed in the proper forum.

Finally, I've avoided talking about the merits of the ultimate request. We are here solely to determine the schedule for resolving that issue and we stand by our proposed schedule, we note that Chugach and MEA, in their comments, indicated that, at this point, they don't have a substantive problem with Mr. Corsentino, but.....

ALJ WALKER: Thirty seconds.

MR. THOMPSON: .....whatever issues there are -- pardon me?

ALJ WALKER: Thirty seconds.

MR. THOMPSON: Okay. Whatever issues there are, they can be easily resolved under the schedule that we have proposed including the conflict of interest issue. If there is a conflict of interest issue, that can be addressed during that

period of time.

I would note also that whether there is a conflict of interest, it's the same conflict of interest potentially that would have existed since the beginning of Eklutna, ML&P and AWWU.

Finally, just for the record, if I understand Your Honor correctly, MHP does disagree with the interpretation of Order 39 that you indicated. We don't believe that the first -- that it indicated that we can never get our voting rights back until the expiration of the power purchase agreements, and at the appropriate time, we'll elaborate on that argument. Thank you.

ALJ WALKER: Thank you. Okay, I am authorized to announce at this time that the Commission denies Alaska Hydropower's motion for expedited consideration. This decision will be explained in a written order to follow.

With the denial of the motion for expedited consideration, we need to develop a procedural schedule for the timely resolution of this docket. In the expedited schedule proposed by AHP, there is no scheduled time for discovery. Does any party see a need for discovery in this proceeding? RAPA's indicating they want to say something.

MR. WALLER: Yeah, Jeff Waller. Your Honor, if we are not going to do expedited consideration and not have to have an open hearing where Mr. Corsentino could get on the stand and answer anybody's questions about his qualifications, then RAPA

would probably like to do some discovery. We're going to try to keep it short and then I also have a question, if this is an appropriate time, does the Commission have an idea of how much time it would like to make a decision after the last day of close -- of the hearing until the statutory deadline, because that will help us develop a schedule.

ALJ WALKER: To the best of my knowledge, the Commission has not discussed the answer to your question.

MR. WALLER: Thank you.

ALJ WALKER: So, I would presume that the standard 90 days recognizing that that might not be possible in a 180-day proceeding and so, we will consider what the parties propose. With the discovery question then, my follow-up order is do any of the parties see a need for an order governing confidential discovery in this docket?

MR. GLASS: Your Honor, if I could go back to the previous question? We too see a time -- I mean, a need and a time for discovery to be put into the schedule. Not only do we have questions that could be -- discovery could be served on the Municipality's expertise and prudent utility practice and the (indiscernible - audio over-modulating) in Order 39, but we also understand that there might be the desire from the Commission to have us provide information regarding expertise needed to operate big plant and do other things that the EOC does as we did in previous proceedings. Just a question

regarding, you know, that -- would there be that opportunity or expectation from the Commission that we would provide that in the form of prefiled testimony or otherwise.

ALJ WALKER: It is my expectation, since the Commission is required to base its final orders on evidence in record, that it would be appropriate to have testimony addressing those issues. And the reason I was asking about confidential discovery order is I see the possibility that we might be getting into some personnel history records and so, I realize there are confidentiality rules related to those things that may be applicable and that's why I'm asking.

MR. THOMPSON: Yes, and Your Honor, I don't know exactly what the other parties are going to seek in discovery, but yes, MHP would like a confidentiality order.

ALJ WALKER: Do you want to.....

MR. THOMPSON: (Indiscernible - simultaneous speech).....

ALJ WALKER: Do you want to propose one as a model or just have me pick a recent one and.....

MR. THOMPSON: What I would request is that the parties -- we can probably agree on a.....

ALJ WALKER: Discuss it?

MR. THOMPSON: .....model order and let Your Honor know.

ALJ WALKER: Okay. The other thing I see since AHP disagrees with the Commission's interpretation of Order 44, I would like to see briefing on that issue built into the

procedural schedule as well. And with that guidance, do the parties want to take a break and talk about a procedural schedule?

MR. THOMPSON: Yes.

ALJ WALKER: Okay. And.....

MR. THOMPSON: MHP would like to.

ALJ WALKER: .....are the parties willing to allow the Municipality of Anchorage Assembly's counsel to participate in that?

MR. THOMPSON: MHP is -- agrees to that.

ALJ WALKER: Mr. Glass?

MR. GLASS: We're willing to allow that today, yes.

ALJ WALKER: Okay.

MR. GLASS: Subject, of course, to what the Commission's decision is in the participation factor period next Tuesday.

ALJ WALKER: Yes, I just want to allow their participation so we don't hit any roadblocks that they are granted intervention. With that, and because of the -- Mr. Glass is connected through the conferencing, I'm going to propose that we take a -- what do you think, 15-minute break?

MR. WALLER: Twenty.

ALJ WALKER: Twenty?

MR. WALLER: Twenty.

ALJ WALKER: Twenty-minute break. We will -- we, myself and Commissioner Springsteen and Commission staff will leave

the room and the parties can talk with the system live so Mr. Glass can participate. Does that work?

MR. WALLER: Your Honor, it's Jeff Waller. One more thing. I believe we have several -- we're going to have to talk to Mr. Glass through Webex, we're going to have to call him and if we have Commission people on the Webex, then.....

ALJ WALKER: Oh, that's true and.....

MR. WALLER: .....that's a problem, so.....

ALJ WALKER: .....it's going to be difficult for people to get off.

MR. WALLER: Dean, is it something we could call him and put him on speaker phone?

MR. THOMPSON: Yes, that would be my idea and I don't know if you can keep Webex going, but just mute or.....

ALJ WALKER: Would you guys want to do your meeting in the library where you could call in privacy?

MR. WALLER: That sounds -- that's workable for me.

MR. THOMPSON: Yeah, we could do that.

ALJ WALKER: Okay. Then.....

MR. WALLER: Does that work for you, Todd?

MR. GLASS: That works fine and both David and Matt have my cell number and that would be perfectly fine.

ALJ WALKER: Okay. Then it is currently 2:28 p.m. on August 30th, 2024. We will go off record in Docket U-24-024 for approximately 20 minutes to allow the parties to confer on

a proposed procedural schedule.

MR. THOMPSON: And.....

ALJ WALKER: Off record, please.

MR. THOMPSON: Okay.

(Off record)

ALJ WALKER: Okay, it is 3:00 p.m. on August 30th, 2024, and the parties for Docket U-24-024 are back present in the hearing room. I'm not sure if Mr. Glass is back on or not. Yes, he is, okay.

So, with that, do we have a report from the parties and a procedural schedule?

MR. THOMPSON: Yes, Your Honor. I will read through these dates. Mr. Glass put together a schedule, but we've adjusted it, so I will read these off and if I misspeak, someone will jump in and correct me.

September 18th, AHP's prefiled direct testimony is due as well as AHP's brief on the Order 39 issue that Your Honor requested.

UNIDENTIFIED VOICE: (Indiscernible - microphone not on).

MR. THOMPSON: Term of surrender issue. Okay. Then September 18th, discovery opens on AHP's direct testimony. And then October -- is this October 8th or October 3rd?

MR. WALLER: October 3rd, discovery closes.

MR. THOMPSON: Yeah, October 3rd, discovery closes on AHP's direct testimony. That's the last date of propound.

Then October 8th is intervenor's prefiled testimony and intervenor's brief on the -- what did you call it? Surrender issue?

ALJ WALKER: By intervenor, are you also including RAPA?

MR. THOMPSON: Yes, intervenor and RAPA.

ALJ WALKER: Okay.

MR. THOMPSON: And it would be responsive testimony as well as their brief regarding the vote surrender issue. Discovery opens on.....

ALJ WALKER: (Indiscernible - microphone not on).

MR. THOMPSON: I'm sorry. Okay.

(Pause)

ALJ WALKER: Please proceed.

MR. THOMPSON: Okay. Also on October 8th, discovery opens on intervenor's responsive prefiled responsive testimony and that's the last date of propound as well. Or no, discovery.....

ALJ WALKER: I'm sorry?

MR. THOMPSON: .....opens on October 8th, then -- yeah. October 23rd is the last date of propound discovery on intervenor and RAPA responsive testimony.

ALJ WALKER: Okay.

MR. THOMPSON: And then October 29th is AHP's prefiled reply testimony due date as well as the due date for AHP's reply brief regarding the vote surrender issue. Then October

29th, discovery opens on AHP's reply testimony.

MR. WALLER: This is Jeff Waller. Mr. Thompson.....

MR. THOMPSON: I'm sorry, October 29th.

MR. WALLER: .....did you mean October 25th -- or excuse me, October 29th, yes.

MR. THOMPSON: October 29th.

MR. WALLER: Yeah.

MR. THOMPSON: Yeah.

MR. WALLER: Yeah, thank you.

MR. THOMPSON: Yes, thank you. And then November 8th is the last date to propound discovery on AHP's reply testimony.

ALJ WALKER: Okay.

MR. THOMPSON: November 11th, witness lists and statements of issues are due and any errata to testimony, I assume. And then November 18th, Prehearing Conference followed with a Hearing commencing on November 18th and scheduling the Hearing through November 22nd. And then the statutory timeline is January 14th, so that would give the Commission roughly, what would that be, almost two months after the Hearing ends to issue a decision.

ALJ WALKER: Okay, give me a second here, I'm calling up the calendar for November to look at those hearing dates. Okay, so 19, 20, 21.

(Pause)

ALJ WALKER: Okay, so those dates do appear to be

available on the Commission's calendar. Okay, Mr. Waller, you agree with those dates or do you want me to repeat what I have just to be sure?

MR. WALLER: No, sir. This is Jeff Waller, you don't need to repeat them. RAPA agrees with those dates. The one clarification I was going to give is, in case Your Honor notices, that there's no dispositive or discovery deadline motion deadline. We purposely excluded that from the schedule just because of the really, really short time period. People will just be adults and get their motions in appropriately on time, but trying to set a schedule that allows full briefing and time for the Commission to decide on an 180-day schedule is just not doable. But otherwise, RAPA -- well, not otherwise, RAPA does agree with this schedule, thank you.

ALJ WALKER: Thank you. Mr. Glass, you agree with the schedule that was presented?

MR. GLASS: Yes, Chugach and MEA agree to the schedule.

ALJ WALKER: And I'm not sure just who it is, is it Ms. Need? Do -- is that -- if the Municipality of Anchorage Assembly is granted intervention or granted party status, will those dates work for the Municipality of Anchorage Assembly?

MS. NEED: They will, Your Honor, thank you.

ALJ WALKER: Thank you. Oh, did the parties come up with a model for a confidential discovery order?

MR. THOMPSON: We have not, Your Honor, but I'm sure we

can do that pretty quickly and get back to you at least by Tuesday.

ALJ WALKER: By when?

MR. THOMPSON: By Tuesday, the 1st -- I mean, by next Tuesday.

ALJ WALKER: Okay.

MR. THOMPSON: I mean, Mr. Waller, I think, turned into a pumpkin five minutes ago and we just haven't had a chance to talk about it.

ALJ WALKER: Okay. I.....

MR. WALLER: This is a holiday weekend, I'm not working Monday.

ALJ WALKER: I'm just -- I'm off all next week, so it will be a little slow getting there, but discovery doesn't open for a bit, so.....

MR. THOMPSON: Yeah.

ALJ WALKER: .....it'll be out before discovery opens. Okay, one additional issue I saw raised in the Chugach/MEA joint opposition is a reference to AS 42.05.641 and I note that the Commission does not routinely follow the legislative or administrative actions of any local government entity including the Municipality of Anchorage, so if the utilities believe that the Municipality of Anchorage has taken legislative or administrative action that should be reviewed by the Commission under AS 42.05.641, I just want to give you a heads up that

it's incumbent on the utilities to timely file a complaint requesting such review because the Commission does not initiate it or at least has not.

Do the parties have anything else that need to be considered on the record of this conference?

MR. THOMPSON: Your Honor, when the procedural schedule is issued, with respect to the hearing, I guess my request is that there be some clarity about whether the hearing -- the extent to which the hearing is going to be in person or on Webex or both, and in particular, I guess I would want to make sure that witnesses are expected to appear in person unless they request otherwise. So, I guess I would just -- there have been some recent hearings where it was not clear whether attorneys were required to appear in person or even required to appear online and witnesses saying we're now going to appear virtually, so I guess some clarity on that might be helpful and maybe the parties can stipulate regarding that as well, but I just thought I would raise it.

ALJ WALKER: I would prefer to see a written stipulation just so whatever wording I put into an order is consistent with what the parties desire. You know, I.....

MR. THOMPSON: Okay.

ALJ WALKER: I -- as you may realize, I haven't done a hearing in a while and I'm not up on current practices, so your language would probably be more relevant than anything I could

craft.

MR. THOMPSON: Okay. We will see if we can do that.

ALJ WALKER: Okay. Anything else? Mr. Waller is shaking his head no.

MR. THOMPSON: Nothing else.

ALJ WALKER: Mr. Thompson is shaking his head no.

MR. THOMPSON: Nothing else for AHP.

ALJ WALKER: Mr. Glass, did you have anything further?

MR. GLASS: Nothing, thank you, Your Honor.

ALJ WALKER: And forget who it is, Ms. Need, do you have anything further?

MS. NEED: No, I could have helped you on that. No, thank you, Your Honor.

ALJ WALKER: Okay. Well, then do you have anything? Commissioner Doyle or Commissioner Espindola, do you have anything further you want to address in this record?

CHAIRMAN DOYLE: No, thank you, Judge.

COMMISSIONER ESPINDOLA: Judge Walker, I just wanted to note that November 11th is Veterans Day. I don't know if the parties were aware of that during their procedural schedule discussions, but I just wanted to flag that for situational awareness. No further comments.

ALJ WALKER: Okay. So, your filings on November 11th will not actually be received until November 12th. Thank you, Commissioner Espindola.

MR. THOMPSON: I wonder, Your Honor, should we just change the deadline for statements of issues and witness lists to November 12th?

ALJ WALKER: Okay, I can do that. It is certainly not cast in stone yet or not even in real ink. Okay, with that, I want to thank everyone very much for their participation. It is approximately 3:13 p.m. on August 30th, 2024 and this conference is adjourned. We are off record in Docket U-24-024. Thank you. And Mr. Waller, enjoy the retirement party.

(Off record)

(This Prehearing Conference was concluded at 3:13 p.m.)

TRANSCRIBER'S CERTIFICATE

I, Sonya Hewes, Transcriber with Accu-Type Depositions, do hereby certify that the foregoing pages numbers 1 through 27 are a true, accurate, and complete transcript of the Prehearing Conference held at the Regulatory Commission of Alaska, on Friday, August 30th, 2024, as transcribed by me to the best of my knowledge and ability.

8-31-2024
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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Robert A. Doyle, Chair
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S REPLY TO CHUGACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S JOINT OPPOSITION TO AHP'S MOTION FOR EXPEDITED CONSIDERATION

The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") hereby replies to Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc.'s ("MEA's") joint opposition ("Opposition") to AHP's Motion for Expedited Consideration ("Motion for Expedited Consideration") of its Request for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee ("Request for Acknowledgment").

Chugach and MEA's opposition relies on an assumption that the Regulatory Commission of Alaska ("Commission") will accept Chugach and MEA's invitation to expand the scope of this docket and provide advisory opinions on issues related to the August 8, 1991, "Fish and Wildlife Agreement, Snettisham and Eklutna Projects," ("1991 Fish and Wildlife Agreement") and on issues regarding the Anchorage Assembly's authority and past or potential actions. Such

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expansion of the docket would be unnecessary and improper. Pursuant to Order U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39"), the only issue in this docket is whether AHP "has shown to [the Commission's] satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC [Eklutna Operating Committee]."[1] This question is one that can be thoroughly and adequately addressed under AHP's proposed expedited schedule, particularly because Chugach and MEA have already opined that, as to qualifications, "[a]t this point, we do not oppose AHP's nomination of Mr. Corsentino to become a voting member of the EOC."[2]

While AHP appreciates that Chugach and MEA are willing to make a "good-faith commitment" to not make any "budget commitments, capital expenditures or significant decisions" to implement the final Fish and Wildlife Program ("Final Program") until the resolution of this docket,[3] Chugach and MEA might not be able to satisfy that commitment, e.g., if it conflicts with prudent utility management. Additionally, expedited consideration is needed for majority owner AHP to effectively participate *generally* on the EOC this fall.

I. DISCUSSION

A. Chugach and MEA fail to raise any "significant questions" that could not be addressed under AHP's proposed expedited schedule.

[1] Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) (May 28, 2020) at 67.

[2] "Initial Comments of Chugach Electric Association, Inc., and Matanuska Electric Association, Inc.," dated August 26, 2024, at 1.

[3] Opposition at 7.

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None of the concerns or "significant questions" that Chugach and MEA assert must be addressed in this docket preclude expedited consideration.[4] Chugach and MEA argue that the "complexity and intensity of the disagreements between the Assembly and the Project Owners related to the Project Owners' implementation of the 1991 Agreement" is a reason why expedited consideration should be denied.[5] However, the Commission need not, and should not, wade into any such "complex" or "intense" disagreements that are ongoing in the 1991 Fish and Wildlife Agreement Process. Pursuant to Order 39, this docket is limited to the question of whether AHP:

> "has shown to [the Commission's] satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC."[6]

Chugach and MEA provide no adequate reason why a decision cannot be made on an expedited basis on this single, limited question. In comments, they asserted that they "do not oppose AHP's nomination of Mr. Corsentino to become a voting member of the EOC," and also recognized that the standard for this decision is the standard articulated in Order 39, stating:

> "We will defer to the Commission's investigation of Mr. Corsentino's qualifications and whether AHP has gained sufficient expertise necessary for it to regain voting rights on the EOC *pursuant to the criteria outlined in order 39*, but we reserve the right to take a position later in this proceeding" (emphasis added).[7]

They provide no reason why an examination of Mr. Corsentino's credentials by the Commission will require more time than provided by AHP's proposed schedule.

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[4] *Id.* at 2-3.

[5] *Id.* at 4.

[6] Order 39 at 67.

[7] "Initial Comments of Chugach Electric Association, Inc., and Matanuska Electric Association, Inc.," dated August 26, 2024, at 1.

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Instead, Chugach and MEA argue expedition is not possible because more time is needed to address their concerns regarding interpretation and application of the 1991 Fish and Wildlife Agreement, as well as their questions about the Anchorage Assembly's authority and past or potential actions.[8] These are not issues relevant to the question of whether Mr. Corsentino has "knowledge of prudent utility practice and the Railbelt generation and transmission system."[9]

Further, the Commission is not a party to the 1991 Fish and Wildlife Agreement.[10] Nor is it a designated decisionmaker pursuant to the Agreement, which provides that the Governor will issue the Final Program,[11] and that any review of the Governor's action will occur in the United States District Court for the District of Alaska.[12] In fact, some of the questions raised by Chugach and MEA's Opposition relate to questions that the Governor has requested briefing on in the 1991 Fish and Wildlife proceedings.[13] While the questions and issues raised by Chugach and MEA might be important or relevant to the 1991 Fish and Wildlife process, this docket is not the appropriate forum to resolve them.

Similarly, theoretical questions about the Anchorage Assembly's authority or actions (whether past or potential) are irrelevant to the issue of whether AHP has acquired the

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[8] Opposition at 2-3.

[9] Order 39 at 66.

[10] *See* Exhibit 1 to Motion to Expedite (1991 Fish and Wildlife Agreement).

[11] *Id*. at 6.

[12] *Id.; see also* Section 104(c), Alaska Power Administration Asset Sale and Termination Act, Pub. Law 104-58, 109 Stat. 559 (November 28, 1995)).

[13] See, Exhibit A, August 15, 2024, Letter re: Final Proposed Fish and Wildlife Program, Eklutna Hydro Project, at 2; Affidavit of Ashley C. Brown, August 29, 2024, at ¶ 4.

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expertise to participate as a voting member of the EOC. Chugach and MEA ask the Commission to answer completely speculative questions such as, "[c]an the Assembly compel AHP to disregard its RCA-approved purchase power agreements (PPAs) and take actions detrimental to its power purchase customers?"[14] Again, while these may be important or legally interesting questions, that does not mean they should be addressed in this docket. The question in this docket is straightforward, and can be addressed thoroughly within the expedited timeline proposed by AHP.

To the extent the last issue raised by Chugach and MEA addresses AHP's proposal for dealing with conflicts of interest with Anchorage Water and Wastewater ("AWWU"),[15] any questions about AHP's proposal can be thoroughly resolved on AHP's proposed expedited schedule. Government entities, and utilities, often deal with conflicts of interest. Discussions about any proposed alternative methods of addressing conflicts do not require extensive time or briefing. To the extent that Chugach and MEA may attempt to use arguments about conflicts of interest to request commission rulings on broader questions of how the municipality should conduct its internal management, or the authority of the Anchorage Assembly, these issues are again, outside of the scope of this proceeding, and should not be addressed in this docket.

B. Chugach and MEA's proposed promise to abstain from "budget commitments, capital expenditures or significant decisions"[16] about implementation of the Final Program is not binding, and also does not address the general importance of AHP having meaningful participation on the EOC.

[14] Opposition at 3.

[15] *Id.*

[16] *Id.* at 7.

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A good faith commitment to "not make any budget commitments, capital expenditures or significant decisions related to operation, maintenance, and budgeting to implement the Final Program" until January 15, 2025, does not resolve AHP's concerns and request for expedited consideration.[17] First, despite the good faith attempt, it does not appear that Chugach and MEA can make such a commitment in a binding manner. While they note that implementation could be delayed through the Governor's final decision itself, or through litigation, it is also possible that the Governor will issue a Final Program that requires EOC decisions to be made before January 2025. In that event, prudent utility management would require those decisions despite Chugach and MEA's commitment. Second, even if Chugach and MEA were ultimately able to fulfill their promise to not make any "significant" decisions related to the Final Program before January 2025, there still will likely be at least *some* decisions about the Final Program made before then.

Third, expedited consideration is necessary to provide AHP with meaningful participation on the EOC *generally*.[18] Participation this fall will provide AHP's representative, Mr. Corsentino, the ability to become familiarized with the 2025 budget and operational issues, including general operating and capital expenditure decisions.[19] If Chugach and MEA are ultimately correct that no major decisions about the Final Program will occur in the fall of 2024,

[17] *Id.*

[18] Motion to Expedite at 3.

[19] *See, e.g.,* Affidavit of Mark A. Corsentino, P.E., August 15, 2024, (filed in support of AHP's Motion to Expedite) at ¶ 4.

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that does not necessarily negate the value of providing AHP meaningful participation in the management of a utility that it is 53.33% owner of sooner rather than later. The sooner Mr. Corsentino begins serving as a voting member on the EOC, the more time he will have to become well-versed in operational and budgeting issues generally. If no decisions on the Final Program occur this fall, this "ramp up" period will allow Mr. Corsentino to have a solid understanding of operations and budgeting *before* decisions on implementation of the Final Program occur. This will increase efficiency of the EOC when implementation does begin.

Finally, if the Commission ultimately decided to deny AHP's Request for Acknowledgment, a decision sooner rather than later would facilitate AHP finding a replacement to participate in decision-making on the Final Program as soon as possible.

II. Conclusion

For the reasons stated above, the Commission should grant AHP's request for expedited consideration. The issue in this docket is discrete and AHP's proposed expedited schedule provides adequate time to resolve it. Expedition will provide AHP the ability to have a say in decision-making on operations, capital projects, and budgeting for the Eklutna Project, especially for decision-making to implement a Final Program.

RESPECTFULLY SUBMITTED this 29th day of August, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: */s/ Dean D. Thompson*

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CERTIFICATE OF SERVICE

I hereby certify that on August 29, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S REPLY TO CHUGACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S JOINT OPPOSITION TO AHP'S MOTION FOR EXPEDITED CONSIDERATION
Docket U-24-024
August 29, 2024

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert A. Doyle, Chair
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

AFFIDAVIT OF ASHLEY C. BROWN

STATE OF ALASKA)
) **SS:**
)

Ashley C. Brown, being first duly sworn, deposes and states:

1. I have personal knowledge of the facts set forth in this affidavit.
2. I am an attorney at the law firm Kemppel, Huffman and Ellis and counsel for the Municipality of Anchorage d/b/a Anchorage Hydropower ("AHP").
3. This affidavit is submitted in support of AHP's Reply to Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc.'s ("MEA's") joint opposition ("Opposition") to AHP's Motion for Expedited Consideration ("Motion for Expedited Consideration") of its Request for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee ("Request for Acknowledgment").

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4. **Exhibit A** is a true and correct copy of the August 15, 2024 Letter re: Final Proposed Fish and Wildlife Program, Eklutna Hydro Project, from Governor Dunleavy to the parties to the August 8, 1991, "Fish and Wildlife Agreement, Snettisham and Eklutna Projects" and the Native Village of Eklutna.

5. This completes my affidavit.

Dated this 29th day of August, 2024 at Anchorage, Alaska.

Ashley C. Brown

Subscribed and sworn to before me

this 29th day of August, 2024

JOHN A. LEMAN NOTARY PUBLIC STATE OF ALASKA

Notary Public

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Exhibit A

OFFICE OF THE GOVERNOR
Governor Mike Dunleavy
STATE OF ALASKA

August 15, 2024

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RE: Final Proposed Fish and Wildlife Program, Eklutna Hydro Project

Dear Parties:

On behalf of Governor Dunleavy, thank you for your recent submissions concerning the Final Proposed Fish and Wildlife Program for the Eklutna Hydro Project in accordance with the 1991 Fish and Wildlife Agreement (Agreement). The Governor is cognizant of the importance of this issue to all involved. Pursuant to his responsibilities under the Agreement – to review the final proposed program and attempt to reconcile differences – the Governor wants to obtain additional

information from the parties to the Agreement, and the Native Village of Eklutna, concerning the Owners' final proposed program and all subsequently received comments.

With the assistance of the Alaska Department of Law, I will conduct a meeting on the Governor's behalf where each of you can present your position, respond to questions about the submissions, and make arguments on various legal issues that have arisen in the submissions. Although your participation is not mandatory, your involvement will certainly assist the Governor in rendering his decision as required by the Agreement.

Accordingly, the meeting is scheduled for September 9, 2024, at 1 P.M., in the North Conference Room on the 17th floor of the Atwood Building. This meeting is not open to the public, and due to space limitations, each party will be permitted to bring two representatives, including attorneys, that may participate concerning the legal issues outlined below. Each party will be provided 15 minutes to present their position on the program and legal issues. For this purpose, the Owners' group will be allotted two 15 minute slots divided as follows: a combined 15 minutes for Chugach Electric Association, Inc. (CEA) and Matanuska Electric Association, Inc. (MEA); and 15 minutes for the Municipality of Anchorage (MOA). Additionally, the Fish and Wildlife Service, the National Marine Fisheries Service, the Alaska Energy Authority, and the Native Village of Eklutna will each be provided with 15 minutes for a presentation. Your attendance is encouraged, even if your party chooses not to provide a presentation.

To adequately prepare for the meeting, I request each of the parties, and the Native Village of Eklutna, provide a legal brief (Brief) to share your perspective on the following issues:

1. The Governor is required to give equal consideration to eight factors identified in Section 5 of the Agreement. Please identify how the proposed final program or an alternate program promoted by any other parties, or the Native Village of Eklutna, does or does not meet those eight factors.
2. Does the Agreement require complete connection between the river and the lake to support fish passage?
3. Is MOA Assembly approval required for approval of the Owners' program?
4. What effect, if any, did the MOA's lack of a vote on the Owners' program have on the process set forth in the Agreement?
5. Does the Governor have the authority under the Agreement to impose a two-year extension on the process as requested by the MOA?
6. Whether the Owners and Anchorage Water and Wastewater Utility ("AWWU") have reached a final and binding agreement concerning the use of AWWU infrastructure as outlined in the Owners' program. If a final agreement has not been reached, what effect will that have on the Owners' ability to implement the final proposed program?

The Briefs shall be limited to 25 pages per party. Similar to above, for purposes of the Briefs CEA and MEA are considered one party and should submit a joint Brief. Please submit Briefs via email to rachel.bylsma@alaska.gov, with a copy to all parties, and the Native Village of Eklutna, by close of business on September 4, 2024. Parties shall not submit responses to the submission of other parties. If a party does not plan to submit a Brief, please let me know in advance of the deadline. Your attendance and participation is encouraged, even if your party

chooses not to submit a Brief. For questions regarding the meeting please contact Gene Hickey, Senior Assistant Attorney General, at 907-465-6713 or via email at gene.hickey@alaska.gov. Please RSVP by August 29, 2024, and provide the names of your attendees to Juliana Soane at 907-269-7450 or via email at juliana.soane@alaska.gov.

The Governor appreciates the efforts of all involved and we look forward to the meeting on September 9, 2024.

Sincerely,

Rachel Bylsma
Deputy Chief of Staff

STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert A. Doyle, Chairman John M. Espindola Robert M. Pickett John C. Springsteen
In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

CHUGACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S JOINT OPPOSITION TO ANCHORAGE ASSEMBLY'S PETITION TO INTERVENE

Pursuant to 3 AAC 48.091(c), Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA") jointly oppose the Anchorage Assembly's ("Assembly's") Petition to Intervene, filed on August 27, 2024. As explained below, the Assembly does not meet the standard for permissive intervention under 3 AAC 48.110(b). Simply stated, the Assembly has no independent standing or legal interests to support its intervention in this docket because the Municipality of Anchorage is already a party to this proceeding – having filed the petition that gave rise to this docket – and the Assembly's interests are represented by the MOA and its counsel.

I. The MOA Is Already A Party to this Proceeding

On July 18, 2024, the Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") provided notice of, and requested the Commission provide acknowledgement of, AHP's purported acquisition of expertise required to participate

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as a voting member of the Eklutna Operating Committee.[1] Specifically, the MOA provided notice that "Mark Corsentino, P.E., was unanimously approved by the Anchorage Assembly to be the Utility Director of Anchorage Hydropower on July 2, 2024. As such, Mr. Corsentino will also serve as AHP's representative on the EOC . . . ." MOA Request, at 3-4. Consequently, in response to that filing, the Commission gave public notice and opened this docket to consider AHP's request and the MOA thereby became the first named party to the docket.

By the MOA's statement in its request, therefore, this docket was initiated because the MOA administration and the Assembly exercised their powers together within the MOA governance structure to put forth Mr. Corsentino to fill this role on the EOC. This coordinated effort makes sense. Pursuant to AS 29.20.050 and Section 4.01 of the MOA Charter, "[t]he legislative power of Anchorage is vested in an assembly of 12 members." Pursuant to AS 29.20.220 and Section 5.01 of the MOA Charter, "[t]he executive and administrative power of Anchorage is vested in the mayor." The Assembly and the Mayor together govern the MOA. When the MOA makes a request of the Commission, the Commission and other interested parties expect that the MOA's position reflects all component parts of the MOA.

Accordingly, it makes no sense that the Assembly would petition to intervene in a docket before the Commission in which the MOA itself is already a recognized party. Chugach and MEA are aware of no state law that recognizes the Assembly as an independent legal entity distinct from the MOA itself. Rather, Chugach and MEA understand that the Assembly is an integral part of MOA (a unified home rule municipality that was established in 1975 under Alaska), just like the Mayor, the Administration, and the Municipal Attorney. Further, the Assembly's petition points to

[1] Notice and Request for Acknowledgement of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee,, July 18, 2024 ("MOA Request").

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no state law that recognizes that the Assembly as independent and not part of the MOA and makes no demonstration that the Assembly is legally independent or distinct from the MOA itself.

The Assembly claims no statutory right to intervene pursuant to 3 AAC 48.110(a), so it petitions for permissive intervention according to the factors set forth in 3 AAC 48.110(a). The Assembly argues that "although the Administration and the Assembly are generally aligned on certain substantive goals, their legal interests are not identical." Assembly Petition to Intervene, at 5. The Assembly claims unique interests in policymaking, oversight, and authority of AHP that are not identical to the interests of the MOA Administration. Assembly Petition to Intervene, at 4-5. Yet, policymaking, oversight, and authority differences internal to the MOA do not create distinct legal interests recognized by state law. Again, the Assembly points to no state law or precedent that recognizes differentiated legal interests as between the Assembly and the Administration. The mere assertion of non-identical legal interests within any single municipal or corporate organization recognized as a single entity under Alaska law is not enough to give rise to independent legal standing.

Similarly, the Commission would not grant intervention to the board of directors of a corporation that is a party to a proceeding if the board asserted that its policies and oversight were at issue. While differences may arise from time to time between a corporation management and its board, such differences do not give rise to distinct legal interests meriting independent intervention before the Commission. Furthermore, the Commission should not spend its valuable time refereeing policy and oversight differences internal to corporations and their boards. The same logic applies to a municipality and its assembly.

As a result, due to a fundamental lack of interests distinct from those of the MOA, the Assembly's petition fails to satisfy factors (2) - (5) set forth in 3 AAC 48.110(b).

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II. The Assembly's Interests Are Represented by the MOA and its Counsel

The Assembly argues that the MOA itself "will not sufficiently represent the Assembly's interests" before this Commission and it should therefore be allowed to intervene. Assembly Petition to Intervene, at 5. Chugach and MEA disagree.

First, the Commission should require that MOA to represent all of the MOA's various governmental interests, including the Assembly, the Mayor, the Administration, the Municipal Attorney, and AHP. To the extent that the Assembly wants its policies or oversight to drive AHP in a particular direction, the MOA's position in this docket should reflect the outcome of discussions between the Assembly, the Administration, and AHP related to those policies. The Commission should not be required to act as an arbiter of interbranch disputes or policies differences between the Assembly and the other municipal government interests involved. Other parties to the proceeding should not have to ascertain which of two MOA parties speaks for the MOA. That work should be done within the MOA, subject to the system of checks and balances laid out in the MOA Charter, before the MOA takes any positions in this docket.

Second, counsel for the MOA, Mr. Dean Thompson of Kemppel, Huffman and Ellis, P.C., has ably represented the MOA before this Commission for more than 20 years for Anchorage Municipal Light & Power (ML&P) and now AHP. Mr. Thompson served as lead counsel for the MOA in the proceeding related to the sale of ML&P's assets to Chugach, briefed the legal matters presented, and advised and represented the MOA in implementing the conditions set forth in the Commission's Order No. U-18-102(44)/U-19-020(39)/U-19-021(39). Indeed, Mr. Thompson drafted and filed the "Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights", filed with the Commission in that docket on October 30, 2020. Accordingly, Chugach and MEA see no reason to assume that he would not be able to represent the

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MOA (and its component parts – AHP, the Administration, and the Assembly) and its legal interests in this proceeding.

III. Conclusion

The Commission should deny the Assembly's Petition for Intervention.

RESPECTFULLY SUBMITTED this 3rd day of September, 2024.

By:/s/ Todd G. Glass
Todd G. Glass, Alaska Bar # 1810083
Stephanie McFall

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I hereby certify that on September 3, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Robert A. Doyle, Chair
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S NON-OPPOSITION TO THE ANCHORGE ASSEMBLY'S PETITION TO INTERVENE

The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") hereby responds to the Anchorage Assembly's ("Assembly") August 27, 2024, Petition to Intervene ("Petition"). In its Petition, the Assembly stated:

> The Assembly seeks limited intervention only to the extent it becomes necessary to respond to where [Chugach Electric Association, Inc. ("Chugach")] and [Matanuska Electric Association ("MEA")] have called into question the Assembly's authority, or where they have sought to prospectively limit such authority. The Assembly does not anticipate taking a position or submitting briefs on matters beyond that issue.[1]

AHP does not oppose the Assembly's intervention as requested in the Petition.

As AHP argued in its August 29, 2024, reply to Chugach and MEA's opposition to AHP's motion for expedited consideration, the Assembly-related issues (the Assembly's authority or proposed advisory opinions regarding that authority), among others, are well beyond the proper

[1] Petition at 5.

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scope of this docket—whether AHP "has acquired the expertise required to fully participate as a voting member of the EOC."[2] AHP notes that if the scope of the proceeding is limited to the question of expertise, the Assembly's participation will not be necessary.

RESPECTFULLY SUBMITTED this 3rd day of September, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

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[2] Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) (May 28, 2020) at 67.

CERTIFICATE OF SERVICE

I hereby certify that on September 3, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
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September 3, 2024

Governor Mike Dunleavy
Office of the Governor
P.O. Box 110001
Juneau, Ak 99811

Re: Eklutna Hydropower Project, 1991 Agreement Fish and Wildlife Program Brief

Dear Governor Dunleavy:

Thank you for inviting us to participate in a meeting to discuss your review of the Eklutna Hydropower Project's Fish and Wildlife Program pursuant to the 1991 Fish and Wildlife Agreement. The purpose of the meeting is to provide the signatories and the Native Village of Eklutna an opportunity to present our position on the proposed Program. Representatives from my staff will be present at the meeting to support our position and address your questions.

The meeting invitation also offered the opportunity to provide a legal brief addressing a series of questions. Our position on the proposed Fish and Wildlife program is outlined in the June 21, 2024 comment letter provided to your office and comports with the answers provided below. We look forward to the discussion on September 9.

Sincerely,

Jonathan M. Kurland

Regional Administrator

BRIEF IN RESPONSE TO QUESTIONS RAISED BY THE GOVERNOR TO CLARIFY RESPONSIBILITIES UNDER THE 1991 AGREEMENT

Under the 1991 Fish and Wildlife Agreement for the Snettisham and Eklutna Projects (1991 Agreement), the Eklutna Purchasers (Owners) are required to create a program to protect, mitigate damages to, and enhance fish and wildlife impacted by the Eklutna hydropower project (Program), in consultation with the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the State of Alaska resource management agencies (1991 Agreement Preamble and Para. 4). The Owners proposed a Final Program and NMFS submitted comments on that Final Program to the Governor on June 21, 2024 (1991 Agreement Para. 5). NMFS's comments summarize our position on the Owner's proposed Final Program, based on our expertise and statutory authorities (such as those under the Magnuson-Stevens Fishery Conservation and Management Act, 16 USC 181 et seq.). Pursuant to his responsibilities under the 1991 Agreement, the Governor requested additional information from the parties and the Native Village of Eklutna, concerning the Owners' Final Program and all subsequently received comments, asking a response to six questions. NMFS's response to those questions are addressed below.

1. **The Governor is required to give equal consideration to eight factors identified in Section 5 of the Agreement. Please identify how the proposed final program or an alternate program promoted by any other parties, or the Native Village of Eklutna, does or does not meet those eight factors.**

The eight factors listed in Paragraph 5 of the 1991 Agreement are: (i) efficient and economical power production, (ii) energy conservation, (iii) protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), (iv) protection of recreation opportunities, (v) municipal water supplies, (vi) preservation of other aspects of environmental quality, (vii) other beneficial public uses, and (viii) requirements of state law. Of these factors, the National Marine Fisheries Service (NMFS) has expertise and statutory authorities that apply to factor (iii) protection, mitigation of damage to, and enhancement of fish and wildlife. Under the 1991 Agreement, we hold an advisory role, but the Owners must give due weight to our recommendations, expertise, and authorities (1991 Agreement Paras. 4, 5).

As a party to the 1991 Agreement, we have actively participated in all stages of its implementation which encompassed the development of study plans, review of findings, and assessment of various protection and mitigation alternatives. We negotiated in good faith with the Owners, and signoratores, as well as in discussions with NVE, to develop the proposed Fish and Wildlife Program. Based on those discussions, our review of the proposed Program, and consideration of potential alternatives, it is our conclusion that the proposed Program provides a framework to initiate the protection, mitigation and enhancement of fish and wildlife resources, and will support the next iteration of a mitigation plan. The Program includes provisions supporting habitat restoration initiatives, monitoring the effectiveness of the mitigation, a

technical working group (TWG) to inform the mitigation decision making process, and provisions to address changing technology and climate conditions.

Our comments on the proposed Program considered alternatives for water flow at the dam rather than sourced from the AWWU portal. Presently, the primary source of water into the river would be discharged from the AWWU portal approximately one mile downstream of the dam. The Program includes a provision for the Owners to conduct a detailed feasibility study of a new fixed wheel gate at the existing dam (including a stability analysis and Class 3 cost estimate). If the new gate is structurally feasible and monitoring efforts during the defined 10-year period indicate that average annual inflows to the lake have increased by 20,000 acre-feet or the Monitoring and Adaptive Management Committee determines that higher channel maintenance flows are warranted to maintain spawning gravels, then the Owners will commit up to $10 million in 2024 U.S. dollars to install the new gate. We recommended one alternative in reference to the funds proposed in the Program for a fixed wheel gate. If the feasibility study indicates the dam is insufficiently stable to support a new gate structure and this action does not proceed, then one of two alternatives should be given consideration. In lieu of a new gate, we recommend further analysis for the construction of a pump station that takes water from Eklutna Lake and discharges it through, or adjacent to, the existing dam outlet gate. We reviewed the Owner's response to this alternative by NVE and understand their concerns. However, a more in depth analysis is warranted if the feasibility study for a new gate indicates an unfavorable stability result. A pump station would add functionality for controlling water levels, preventing uncontrolled spill, and managing the mitigation water budget. Alternatively, if the new gate is infeasible, the funds identified for the potential new gate should be designated for other mitigation measures related to water management for the protection, mitigation, and enhancement of fish and wildlife in the Eklutna River in coordination with the Monitoring and Adaptive Management Committee. This alternative also supports a framework for the protection, mitigation and enhancement of fish and wildlife resources, and will support the next iteration of a mitigation plan.

2. Does the Agreement require complete connection between the river and the lake to support fish passage?

The 1991 Agreement preamble states that the Agreement is "...regarding protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat) affected by hydroelectric development of the Eklutna…Project." During the study plan phase, the 1991 Agreement directs the Owners to examine and develop proposals for the protection, mitigation of damages to, and enhancement of fish and wildlife affected by the hydropower development, taking into consideration impacts on electric ratepayers, municipal water utilities, recreation users and adjacent land use, and available means to mitigate any of those impacts (1991 Agreement Para. 2). The Owners then created the Final Program based on those studies and input by the Parties (as well as various other stakeholders not included in the 1991 Agreement) (1991 Agreement Paras. 4, 5). Finally, the 1991 Agreement directs the Governor to consider the eight factors listed above in making his decision on the Program (1991

Agreement Para. 5). The 1991 Agreement does not specifically mention fish passage or river connectivity to the lake.

3. **Is MOA Assembly approval required for approval of the Owners' program?**

NMFS lacks knowledge or information sufficient to answer this question.

4. **What effect, if any, did the MOA's lack of a vote on the Owners' program have on the process set forth in the Agreement?**

The process established by Anchorage Municipal Light and Power, Chugach Electric Association, and Matanuska Electric Association, owners of the Eklutna Project (collectively, the "Owners"), has been, to the best of NMFS's knowledge, consistent with the intent of the 1991 Agreement provisions and inclusive of significant stakeholders who are not parties

5. **Does the Governor have the authority under the Agreement to impose a two-year extension on the process as requested by the MOA?**

The 1991 Agreement lays out the timeline (1991 Agreement Para. 7) and allows the Governor to reconcile differences and establish the final program (1991 Agreement Para. 5). The 1991 Agreement does not speak to an extension of the process.

6. **Whether the Owners and Anchorage Water and Wastewater Utility ("AWWU") have reached a final and binding agreement concerning the use of A WWU infrastructure as outlined in the Owners' program. If a final agreement has not been reached, what effect will that have on the Owners' ability to implement the final proposed program?**

NMFS lacks knowledge or information sufficient to answer this question.

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert A. Doyle, Chairman
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

OFFICE OF THE ATTORNEY GENERAL'S NON-OPPOSITION TO PETITION TO INTERVENE

The Office of the Attorney General, Regulatory Affairs & Public Advocacy Section does not oppose the petition to intervene filed by the Municipality of Anchorage Assembly.

DATED September 3, 2024, at Anchorage, Alaska.

TREG TAYLOR
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BEFORE THE OFFICE OF GOVERNOR MIKE DUNLEAVY

IN RESPONSE TO GOVERNOR'S STAFF REQUEST ON EKLUTNA PROJECT PROPOSED FINAL FISH AND WILDLIFE PROGRAM

CHUGACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC. JOINT BRIEF

September 4, 2024

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I. INTRODUCTION

On August 15, 2024, Rachel Bylsma, Deputy Chief of Staff to Governor Mike Dunleavy, requested ("Governor's Staff Request") that the parties to the 1991 Fish and Wildlife Agreement[1] ("1991 Agreement") and the Native Village of Eklutna ("NVE") prepare and submit briefs in answer to six legal questions related to the Proposed Final Fish and Wildlife Program ("Proposed Final Program") submitted to the Governor on April 25, 2024 by Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA"), and supported by the Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") (collectively, the "Project Owners").

The Eklutna Hydroelectric Project (the "Project") was developed by the federal government and became operational in 1955. The Project Owners purchased the Project from the federal government in 1997. In connection with that transaction, the Project Owners entered into the 1991 Agreement with two federal agencies and the State of Alaska committing to, every 35 years, study the impacts of the Project on fish and wildlife and propose – for Governor approval – a program to protect, mitigate damages to, and enhance fish and wildlife affected by the Project.

The Project Owners began the first process to implement the 1991 Agreement in 2019; over the last five years, the Project Owners have spent approximately $8 million, countless staff resources, and significant management time conducting a process of consultation with state and federal resource agencies, rigorous scientific and engineering studies, stakeholder engagement, and careful analysis of dozens of fish and wildlife protection, mitigation, and enhancement proposals. These efforts culminated in the Project Owners' release of a Draft Fish and Wildlife Program ("Draft Program") in October 2023. After subsequent public comment, meetings to reconcile differences, and negotiations with the other parties to the 1991 Agreement and NVE, the Project Owners

[1] Agreement Between the Municipality of Anchorage d/b/a Anchorage Municipal Light and Power, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., U.S. Fish and Wildlife Service, National Marine Fisheries Service, Alaska Energy Authority, and the State of Alaska Relative to the Eklutna and Snettisham Hydroelectric Projects (Aug. 7, 1991) ("1991 Agreement").

modified the program to account for such comments and negotiations, while still conforming to the 1991 Agreement requirements. The Project Owners submitted the Proposed Final Program to the Governor on April 25, 2024, who must issue a Final Fish and Wildlife Program ("Final Program") by October 2024.

The Proposed Final Program meaningfully protects, mitigates damages to, and enhances fish and wildlife affected by the Project while balancing numerous public uses of the Eklutna River and Eklutna Lake, including power production and municipal water supply. The process conducted by the Project Owners followed and exceeded the 1991 Agreement's requirements and the Proposed Final Program represents the consensus of the Project Owners and multiple negotiated compromises among the 1991 Agreement parties, and is supported on balance by the state and federal agencies that are party to the 1991 Agreement, as reflected in their comment letters to the Governor on the Proposed Final Program.[2] Consequently, the Project Owners respectfully request the Governor adopt the Proposed Final Program as the Final Program without material modification.

In support of such approval, the following brief responds to each of the six questions posed in the Governor's Staff Request. Please note that the Project Owners have previously addressed the substance of the questions at across hundreds of pages of documents submitted to the Governor in connection with the Proposed Final Program. **Appendix A** provides a reference to such additional Project Owner provided information.

II. RESPONSES TO GOVERNOR'S STAFF REQUEST QUESTIONS

A. Question 1 Response: The Proposed Final Program meets and successfully balances the eight factors set forth in the 1991 Agreement; NVE's proposal does not.

The Governor's Staff Request asks how the Proposed Final Program, or an alternate program promoted by any other party to the 1991 Agreement, or NVE, meets the eight factors in Section 5 of the 1991 Agreement: (1) efficient and economical power

[2] Letter from Jonathan M. Kurland, Regional Administrator, National Marine Fisheries Service to Mike Dunleavy, Governor of Alaska (June 21, 2024), ("NMFS Comment Letter"); Letter from Sara Boario, Regional Director, U.S. Fish and Wildlife Service to Mike Dunleavy, Governor of Alaska (Jun. 24, 2024).

production; (2) energy conservation; (3) the protection, mitigation of damages to, and enhancement ("PME") of fish and wildlife (including spawning grounds and habitat); (4) the protection of recreational opportunities; (5) municipal water supplies; (6) the protection of other aspects of environmental quality; (7) other beneficial public uses; and (8) requirements of State law (the "Eight Factors").

The Proposed Final Program represents a well-balanced approach to each of the Eight Factors. This balance reflects intention. While no language in the 1991 Agreement required the Project Owners to analyze each of the Eight Factors directly when developing the Proposed Final Program, they did. Section 2 of the 1991 Agreement requires that the Project Owners fund studies to examine and quantify, if possible, the impacts to fish and wildlife from the Project, and to examine the impacts of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use. As a result, during the study process, the Project Owners amassed and analyzed a significant amount of scientific data and engineering information about how various fish and wildlife PME proposals would impact power production, surrounding land, recreation, and water supply.[3] Based on this data, the Project Owners crafted their Proposed Final Program with the goal of ensuring that the Governor could meet his obligations to give equal consideration to the Eight Factors.

The federal and state resource agency parties do not oppose the negotiated Proposed Final Program and consequently did advance alternative proposals to the Governor for consideration. NVE's most recent proposal[4], like its previous proposals[5], is not a balanced approach in that it focuses only on one factor (fish and wildlife impacts) and is centered on dam removal, which would be costly to power production, reliability, and rates, and risk the municipal water supply.

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[3] *See, e.g.,* Proposed Final Fish and Wildlife Program, Eklutna Hydroelectric Project Supporting Information Document (Apr. 25, 2024) ("SID"); Final Summary of Study Results, Attachment B to SID ("Final Study Summary").
[4] Letter from Aaron Leggett, Chair/President, Native Village of Eklutna to Mike Dunleavy, Governor of Alaska (June 21, 2024) ("NVE Comment Letter").
[5] *See* SID at §§ 4.12.1-4.12.3 (summarizes NVE alternatives).

1. Factors 1-2: Efficient and Economic Power Production and Energy Conservation

As member-owned cooperatives and public utilities regulated by the Regulatory Commission of Alaska ("RCA"), with corporate and legal obligations to provide reliable electricity to their ratepayers[6] at just and reasonable rates,[7] Chugach and MEA are legally constrained in their ability to put forth a Proposed Final Program that would put place power production or grid/service reliability at risk or significantly increase rates for member-ratepayers in pursuit of speculative or unknown resource benefits. Both natural gas supply constraints and renewable generation acquisition goals also necessitate the conservation of existing reliable and clean energy baseload resources like the Project. Considering these realities, ensuring that the Proposed Final Program appropriately considers Factors 1 and 2 of the 1991 Agreement is both essential to the 1991 Agreement and Chugach and MEA's obligations to their member-ratepayers.

The Project produces nearly 6 percent of the Project Owners' combined total generation portfolio, about 25 percent of Chugach's renewable energy, about 44 percent of MEA's renewable energy, and is also consistently the lowest-cost resource for power in the Alaska Railbelt.[8] Additionally, the Project is also critical to grid reliability and has been particularly essential in emergency situations as demonstrated in early 2024 during an extended period of cold weather in Anchorage. When ENSTAR Natural Gas Company ("ENSTAR") experienced gas deliverability problems, Chugach and MEA voluntarily maximized their usage of the Project (and other hydro resources) to maintain system reliability.[9] The Project provided 8 percent and 9 percent of their respective energy needs

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[6] AS 42.05.291(a) ("[e]ach public utility shall furnish and maintain adequate, efficient, and safe service and facilities. This service shall be reasonably continuous and without unreasonable interruption or delay.").
[7] AS 42.05.381(a) ("[a]ll rates demanded… by a public utility… for a service furnished… shall be just and reasonable…").
[8] *See* SID at § 2.2.2.
[9] *See* Letter from Andrew Laughlin, Chief Operating Officer, Chugach Electric Association, Tony R. Zellers, Chief Operating Officer, Matanuska Electric Association, and Kolby Hickel, Deputy Municipal Manager, Municipality of Anchorage, to Assembly

to meet MEA's load and Chugach's load during the cold snap and created significant natural gas savings, decreased emissions, and allowed ENSTAR to avoid issuing a yellow alert designation for natural gas delivery to its customers, which would have included, in part, requiring MEA and Chugach to shift to available diesel generation to provide additional gas to ENSTAR, and use fuel more than twice as expensive as natural gas that would have increased bills for utility customers.[10]

Based on the study results, the Project Owners committed to establish year-round instream flows in the Eklutna River as the foundation of the fish and wildlife program.[11] All water that is released into the Eklutna River, however, is no longer available to be sent through the Project powerhouse and is lost generation of the Project's reliable, low-cost clean power that provides significant benefits to customers and region. To be clear, all lost generation as a result of a Final Program will need to be replaced with more expensive power, the costs of which will be borne by ratepayers.[12] The amount of water released and the timing also impacts the amount of lost generation and its costs; proposals that require shutdowns of the Project create exorbitant costs and would even cause MEA to violate its power capacity reserve reliability standard requirements if not replaced with costly new diesel generation. Accordingly, the Project Owners sought to minimize the cost and operational impacts of releasing instream flows, used cost effectiveness, cost-benefit, and incremental cost analyses to find the most efficient means to provide instream flows, and rejected all proposals that would have shut down the project operations for a significant portion of the year and undermined the value of the Project to capacity reserves and grid reliability.[13]

Vice Chair Zaletel and Members of the Municipal Assembly, Municipality of Anchorage at 7 (February 12, 2024) ("Owners' 2/12/24 Letter to Assembly").

[10] *Id.*

[11] *See* SID at § 4.5.

[12] *See id.* at § 4.5.4.4 (showing the replacement energy costs associated with different proposed flow regimes and fish passage proposals), § 2.2.2 (discussing value capacity).

[13] *Id.* at § 4.5.

As a result of this work, the Proposed Final Program reflects a balanced approach to the efficient and economic power production and energy conservation criteria with its annual replacement energy cost of $1.3 million per year, and limited estimated ratepayer increases of 0.53 percent for Chugach and 0.84 percent for MEA.[14] Other options analyzed by the Project Owners were unacceptable because they were technologically or operationally infeasible and replacement energy would have cost up to $4 million *annually*, resulting in ratepayer increases of 4.7 percent for Chugach and 5.8 percent for MEA.[15] The Proposed Final Program capitalizes on existing infrastructure efficiencies, conserves a reliable and clean source of affordable electricity that has proven system benefits in times of gas shortages, and keeps impacts on Railbelt energy and costs manageable, while still providing for meaningful instream flows, habitat increases, and benefits to fish and wildlife.

2. Factor 3: Fish and Wildlife Protection, Mitigation and Enhancement

The 1991 Agreement requires consideration of the protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat). The benefits to fish and wildlife of the Proposed Final Program were analyzed and discussed in great length in the Proposed Final Program itself and in the hundreds of pages of supporting materials submitted to the Governor.[16] In short, the Proposed Final Program meaningfully protects, mitigates, and enhances fish and wildlife impacted by the Project: it proposes to release significant monthly instream flows of water from Eklutna Lake into Eklutna River in rates ranging from 27 cubic feet per second ("cfs") in winter months to 40 cfs in summer months,[17] along with additional periodic channel maintenance flows up to 220 cfs.[18] The Proposed Final Program

[14] *Id.* at § 4.5.4.4.
[15] *Id.*
[16] *See, e.g.*, *id* at 50-53; *see generally* Final Study Summary; Comparison to Existing Conditions, Attachment H to SID ("Comparison to Existing Conditions").
[17] Eklutna Hydroelectric Project Proposed Final Fish and Wildlife Program (Apr. 25, 2024), § 2.1.2 ("Proposed Final Program").
[18] *Id.* at § 2.2.

empowers a Monitoring and Adaptive Management Committee ("Committee") of agency and NVE experts[19] to evaluate and modify flow regimes within a water budget to increase fish habitat and effectiveness.[20] These releases will rewater 11 out of 12 river miles year-round, where regular flows have not existed for decades before the Project Owners bought the Project from the federal government.[21] Modeling results indicate that spawning and rearing habitat for Chinook will increase by 209 percent and 53 percent respectively, and that spawning and rearing habitat for coho will increase by 65 percent and 67 percent respectively.[22] Models of the increased flows and potential resulting salmon reveal benefits to other wildlife species such as bear and moose.[23]

The Proposed Final Program is also just the beginning of a decades long process to protect, mitigate damages to, and enhance fish and wildlife affected by the Project through adaptive management led by the Committee's fisheries experts, with significant reopeners for installation of a fixed wheel gate and fish passage – before the 1991 Agreement calls upon the Project Owners to begin the process again – based on ongoing monitoring.[24] The reopeners are the result of negotiations between the state and federal agencies and the Project Owners to address unknowns in the future after instream flows start to enhance fish and wildlife. For instance, the Project Owners and agencies recognized that water inflows into Eklutna Lake are likely to increase due to climatic effects on glaciers and negotiated an ongoing monitoring mechanism that allocates any such increase in water between the instream flow budget and hydro production.[25] Additionally, while no party knows of means to achieve successful upstream and downstream volitional fish passage within the project's operational constraints *now*, the

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[19] *Id.* at § 3.1.
[20] *Id.* at § 3.3.
[21] Proposed Final Program at § 2.1.2; *see* BUREAU OF RECLAMATION, U.S. DEP'T INTERIOR, TECHNICAL RECORD OF DESIGN AND CONSTRUCTION: EKLUTNA DAM, POWERPLANT AND TUNNEL (1958).
[22] SID at § 4.10.1.
[23] *Id.*
[24] Proposed Final Program at § 4.0.
[25] *Id.* at § 3.3.3.

parties recognized opportunities might arise in the *future* and created a mechanism and a process through which the Committee of experts may reopen the program to take additional steps to add fish passage.[26]

3. Factor 4: Protection of Recreational Opportunities

The 1991 Agreement requires consideration of the protection of recreational opportunities. The Project Owners assessed the recreational opportunities existing near the Project and ensured that the Proposed Final Program enhances, does not adversely impact, or mitigates against any negative impacts to, such opportunities. [27]

The Project Owners identified the following recreational activities related to the Project near Eklutna Lake and Eklutna River: (i) the use of a lakeside trail and other Chugach State Park infrastructure around Eklutna Lake, (ii) potential fishing opportunities in the Eklutna River; (iii) kayaking on Eklutna Lake; (iv) camping (including in cabins) nearby to Eklutna Lake; (v) hunting nearby to Eklutna Lake and Eklutna River; and (vi) wildlife viewing.[28] Fishing is also popular at the Eklutna tailrace fishery where the water through the Project is released into the Knik River.

Implementation of the Proposed Final Program will not impact camping or kayaking, and increases in hunting opportunities, wildlife viewing, and Eklutna River fishing opportunities are expected with any return of fish and the wildlife that benefit from any increased salmon abundance.[29] Bear-human interactions may also increase as a result; the release of water one mile downstream of the dam, however, helps to mitigate against potential increased bear presence at Eklutna Lake-area campsites.[30] While no impacts are expected to the lakeside trail from the Proposed Final Program directly, high lake levels during past spill events have caused erosion along discrete segments of the

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[26] *Id.* at § 4.2.
[27] *See, e.g.,* Comparison to Existing Conditions at 11-12.
[28] *Id.*
[29] *Id.*; *see also* Proposed Final Program at § 2.5.3.
[30] ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF PARKS AND OUTDOOR RECREATION, CHUGACH STATE PARK MANAGEMENT PLAN (2016) at 33; *see also* Comparison to Existing Conditions at 12 (Safety).

trail and the Project Owners committed $234,000 for lakeside trail repairs (to match other funds already secured) to improve recreation around the lake.[31] The Proposed Final Program also protects the existing Eklutna Tailrace fishery by (1) continuing to provide water to the fishing area and avoiding operational changes that could adversely impact fishing opportunities; and (2) monitoring any straying of fish from the Tailrace fishing to the Eklutna River and developing appropriate mitigation measures if needed.[32]

4. Factor 5: Municipal Water Supplies

The 1991 Agreement requires consideration of municipal water supplies. The Project and Anchorage's water supply have been inextricably linked as a matter of physical infrastructure, operations, contract, water rights, and authorizing law since the 1980s when AWWU connected its intake pipe to the Project's intake structure. The Project provides infrastructure necessary for AWWU to collect and deliver water to Anchorage.[33] Accordingly, before proposing using AWWU infrastructure for instream flows, the Project Owners worked closely with AWWU leadership and engineers over many months in advance of the Draft Program release, and again in advance of Proposed Final Program submission to the Governor, to develop legal terms and agreements by which AWWU would be comfortable should the Governor issue a Final Program requiring the use of AWWU infrastructure to release water into the Eklutna River.[34]

These efforts resulted first in the execution of a binding term sheet in October of 2023 ("Binding Term Sheet"), prior to the release of the Draft Program, pursuant to which AWWU and the Project Owners agreed to key terms to be included in agreements to govern the construction and use of an "Eklutna River Release Facility", along with an agreement governing the long-term sharing of Eklutna Lake water rights between the

[31] Proposed Final Program at § 2.5.1 - 2.5.2.
[32] *Id.*
[33] *See* Project Owner Responses to Comments on Proposed Final Program (Jul. 24, 2024), at 19-21 ("Owners' Comment Responses").
[34] *See* Proposed Final Program at § 2.1.1; Owners' Comment Responses at 19-21.

Project Owners and AWWU.[35] As contemplated in the term sheet, AWWU and the Project Owners then negotiated three agreements to detail and govern the arrangement, which were submitted to the Governor in final agreed form (the "AWWU Final Agreements") along with the Proposed Final Program.[36]

Pursuant to the Proposed Final Program and the terms of the AWWU Final Agreements, there is no reduction in the amount of water guaranteed to be provided to AWWU for municipal water supplies.[37] The Project Owners also commit to not take any action in connection with the Fish and Wildlife Program that would compromise the Anchorage water supply and they expressly take on the liability should they do so.[38] The Project Owners will cover all costs of constructing and interconnecting new facilities for the purpose of the Final Program[39] and AWWU has design approval rights.[40] In order to accommodate instream flows and coordinated operations, the Project Owners will pay for eight new bridges over the Eklutna River for AWWU to maintain access to its infrastructure,[41] new communication systems, new flow meters, and a new isolation valve structure for safer maintenance of their facilities.[42] The AWWU Final Agreements also address and extend AWWU's interconnection rights to the Project, use of the Project Owners' water rights for Anchorage drinking water at a compensation rate capped at

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[35] *See* Binding Term Sheet for Water Facilities Interconnection and Long-Term Water Transportation Services, by and between Chugach Electric Association, Matanuska Electric Association, the Municipality of Anchorage, and Anchorage Water & Wastewater Utility (Oct. 27, 2023), ("Binding Term Sheet"); *see also* Letter from Mark C. Wiggin, Chair, Board of Director, and Arthur W. Miller, Chief Executive Officer, Chugach Electric Association to Members of the Municipal Assembly, Municipality of Anchorage, at 5-7 (May 23, 2024).
[36] *See* the form of Long-Term Water Transportation Agreement, the form of Public Water Supply Agreement, and the Form of Water Facilities Interconnection Agreement, each attached as Attachment D to the SID.
[37] *See* form of Public Water Supply Agreement § 2.4.
[38] *See* form of Long-Term Water Transportation Agreement § 11.2.
[39] *See* form of Water Facilities Interconnection Agreement § 5.1.
[40] *Id.* at § 4.3.
[41] *See* form of Water Facilities Interconnection Agreement § 2.1; *see also* SID at § 2.4.
[42] *See id.* at. Exhibit A-1.

roughly half of its current costs, and replaces a 1984 agreement that expires in 2025.[43] AWWU would also gain a right to purchase the Project Owners' water infrastructure used to transport AWWU's water allocation in the event that the Project Owners cease operating the Project[44], as well as rights to priority water rights without the need for further compensation at the end of the new public water supply agreement in 2060.[45]

AWWU engineers have closely reviewed and contributed to the Proposed Final Program and current design drawings of the Eklutna River Release Facility and AWWU presented no concerns with respect to safety or feasibility to the Project Owners. AWWU has also raised no concerns to the Project Owners as to the impacts of the Proposed Final Program on municipal water supplies. Rather, AWWU has agreed to the AWWU Final Agreements and on balance, if executed, such agreements will represent a net positive benefit to AWWU and municipal water supplies as compared with the status quo.

5. Factor 6: Other Aspects of Environmental Quality

Factor 6 requires consideration of other aspects of environmental quality. As a renewable resource, the Project currently offsets approximately 72,500 metric tons of CO_2 equivalent each year and represents 25 percent and 44 percent of Chugach's and MEA's renewable electricity portfolio, respectively.[46] Because all water released through the Eklutna River Release Facility and not into the Project powerhouse will reduce the generation of carbon-free power in the Railbelt and at least in the short term, will need to be replaced with natural gas generation, the Proposed Final Program, which will cause increased carbon emissions of 6,900 metric tons of CO_2 annually[47], therefore weights negatively when considering the preservation of other aspects of environmental quality.

While this is a negative result in analyzing Factor 6, all proposals that were analyzed by the Project Owners required the release of water and reduction in Project generation, and therefore a direct associated increase in carbon emissions. Nonetheless,

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[43] *See* form of Public Water Supply Agreement.
[44] *See id.* at § 6.1.
[45] *Id.* at § 6.2.
[46] *Id.* at §§ 2.2 and 2.2.2.
[47] *See, e.g.,* Comparison to Existing Conditions at 13.

all parties and all stakeholders want to see some level of flows in the Eklutna River. This emissions result is therefore unavoidable. Given, however, that the Proposed Final Program represents a measured approach to water release that still allows for significant hydroelectric generation from the Project, the Proposed Final Program ultimately has the least negative carbon emissions impact of all alternatives proposed.

6. Factor 7: Other Beneficial Public Uses

Factor 7 requires consideration of other beneficial public uses. The Proposed Final Program relates to at least two other such beneficial uses, both positively and neutrally.

First, the Proposed Final Program creates benefits to cultural resources. NVE has informed the Project Owners on numerous occasions of the important cultural benefit of the Eklutna River as a salmon river.[48] While the Project Owners acknowledged that NVE and Eklutna, Inc. do not believe that the Proposed Final Program goes far enough,[49] nonetheless, the measures outlined in the Proposed Final Program will unequivocally provide year-round instream flows in the Eklutna River and increase salmon habitat for all four known species of salmon currently observed spawning in the Eklutna River.

Second, the Old Glenn Highway Bridge, the New Glenn Highway Bridges and the Railroad Bridge pass over the Eklutna River downstream of the Project.[50] While increases in flows certainly increase risk to downstream infrastructure, each of these bridges has a hydraulic capacity of at least 1800 cfs (or higher) and the proposed flows in the Proposed Final Program are therefore well within the hydraulic capacity of each of the existing bridges and will not impact the beneficial public use of such bridges.[51]

7. Factor 8: Requirements of State Law

The 1991 Agreement requires consideration of the requirements of State law. While multiple State laws are relevant to the Proposed Final Program, throughout the

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[48] *See, e.g.,* Letter from Aaron Leggett, President of NVE to Eklutna Hydroelectric Project Owners at 1 (April 24, 2020) ("The Eklutna River has provided salmon for nutritional and cultural benefit to Eklutna Dena'ina throughout time immemorial…")
[49] *See, e.g.,* Owners' 2/12/24 Letter to Assembly at 2.
[50] *See* Comparison to Existing Conditions at 9-10.
[51] *Id.*

process leading to the Proposed Final Program, the Project Owners engaged with state officials with respect to dam safety, water rights, fish and wildlife, cultural resources, and public access for recreation; at this point, they know of no legal impediments beyond permits, approvals, and water rights amendment. Specifically, the Project Owners will seek an amendment to their current Certificate of Appropriation from the Alaska Department of Natural Resources to allow for conveyance and release of Project water for instream flows.[52] Numerous state permits[53] will also be required for the construction of the Eklutna River Release Facility and implementation of the Proposed Final Program.

The Project Owners anticipate obtaining these permits during the three-year period of 2024-2027.[54] The Project Owners anticipate that these permits and permissions will be obtainable in due course given the measured and well-supported approach of the Proposed Final Program, and assuming the Project Owners are able to obtain all necessary permits and permissions for the implementation of the Proposed Final Program, the Project Owners have identified no violations of or needed modifications in State law to implement the Proposed Final Program by the stage agencies involved.

8. NVE's Proposals Do Not Equally Consider the Eight Factors

NVE has proposed three different program alternatives since July 2023 and the Project Owners have studied, conducted engineering analyses, and responded to each.[55] Like the earlier proposals, NVE's alternative overviewed to the Governor on June 21, 2024[56] is not a balanced approach with respect the Eight Factors because it fundamentally centers on dam removal in order to promote one factor above all others (Factor 3: fish and wildlife), would be costly to power production, reliability, and utility rates, and

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[52] 11 AAC 93.930.
[53] *See* SID at § 4.10.3.3 (including a discussion of anticipated required permissions).
[54] *See* Eklutna Hydroelectric Project Draft Fish and Wildlife Program (Oct. 27, 2023), 81.
[55] *See* SID at § 4.12; *see also* Eklutna Dam Removal Assessment, Attachment F to SID (Apr. 24, 2024), ("Dam Removal Assessment"); Owners' Comment Responses at § 4.4; *see also* Letter from Kolby Hickel, Deputy Municipal Manager, AHP, Andrew Laughlin, COO, Chugach Electric Association, and Tony R. Zellers, COO, Matanuska Electric Association to Aaron Leggett, President, Native Village of Eklutna (April 25, 2024).
[56] NVE Comment Letter at 5-7.

would risk municipal water supplies and downstream infrastructure. It poses significant cost, engineering and feasibility challenges and risks that the Project Owners analyzed at great length in their Cost and Risk Assessment submitted to the Governor as Appendix D to the Project Owners Responses to Comments in July[57] and as Attachment F to the Supporting Information Document submitted with the Proposed Final Program.

NVE's proposed alternative contains two core components that if adopted by the Governor in a Final Program, would unreasonably harm efficient and economical power production, downstream infrastructure, recreational opportunities, other aspects of environmental quality, municipal water supplies, and in the event of an engineering failure, could also have extremely harmful impacts on fish and wildlife populations. First, NVE's proposal calls for a pump station at Eklutna Lake to pump water into the pond between a glacial berm and the Eklutna Lake dam for ultimate release into Eklutna River.[58] While the Project Owners considered variations of this approach during their analysis of alternatives, it was ultimately not selected because it depends on a powered mechanical system; if that powered mechanical system fails, the consequence could be devastating to the downstream fish populations and habitat that would depend on future flow releases.[59] Unlike the pump station, if a power outage occurs (which is likely given its remote location), then the Project Owners' Eklutna River Release Facility would continue to function by simple gravity flow from the river release valve.[60]

Second, NVE's proposal is centered on establishing complete connection between Eklutna Lake and Eklutna River by 2034 by dam removal.[61] The Project Owners have analyzed dam removal in depth[62] and have concluded that if the Project were removed and Eklutna River flows were unregulated, AWWU's pipeline infrastructure would be at significant risk and the New Glenn Highway bridges and Alaska Railroad bridge, which

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[57] *See* Owners' Comment Responses at § 4.4.
[58] NVE Comment Letter at 5-6.
[59] *See* Owners' Comment Responses at § 4.4.
[60] *Id.*
[61] NVE Comment Letter ("preferred solution is the removal of the Eklutna Lake Dam").
[62] *See* Dam Removal Assessment.

were not built to withstand a free-flowing river, would need to be replaced.[63] Replacing the Project energy and capacity with firm renewable energy would cost more than $500 million in total known costs in 2034, and if full replacement by renewable energy is not possible, additional carbon-intense resources would need to come online.[64] It would also eliminate the Eklutna Tailrace fishery. These are very harmful results to multiple public uses that the Governor is required to give equal consideration to. The Governor adopting NVE's approach would be a clear violation of the 1991 Agreement and would require significant state agency action, including the authorizing of new bridges, new municipal water supply infrastructure, and significant new electric generation infrastructure.[65]

B. Question 2: The 1991 Agreement is silent on specific measures and does not require complete connection between the river and the lake to support fish passage.

The Governor's Staff Request asks if the 1991 Agreement requires complete connection between the Eklutna River and Eklutna Lake to support fish passage. The 1991 Agreement contains no such requirement – explicitly or implicitly. Like the Federal Energy Regulatory Commission ("FERC") hydroelectric relicensing process upon which the 1991 Agreement is modeled,[66] the 1991 Agreement sets forth a *process* for the scientific development of a plan to protect, mitigate, and enhance fish and wildlife affected by the Project. The 1991 Agreement neither requires nor prohibits specific protection, mitigation, and enhancement *measures*. Contrary to NVE's demands and the Anchorage Assembly's ("Assembly") attempts to impose new objectives,[67] neither the language of the 1991 Agreement nor the history behind it support a requirement for complete river-lake connection or fish passage.

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[63] Owners' Comment Responses at § 4.4.
[64] *See* Owners' Comment Responses § 4.12.2.
[65] *See, e.g.,* AS 46.03.720; AS 19.05.040.
[66] *See* 18 CFR §§ 5.1 et seq.
[67] *See* Owners' Comment Responses at §§ 4.2.1 – 4.2.2; *see also* Anchorage Municipal Code 26.30.025A ("[i]t is the policy of the [MOA] and [AHP] to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the [1991 Agreement]").

First, none of the phrases "fish passage", "river restoration", "river connection" nor any similar phrases or objectives appear in the 1991 Agreement. The 1991 Agreement requires the Project Owners to develop, fund and carry out study plans, to review and summarize findings and facilitate a comment period, to develop a draft program to protect, mitigate and enhance fish and wildlife, to attempt to resolve differences among the parties, to develop a final proposed program and to submit it to the Governor, who then is required to weigh the Eight Factors, seven of which are unrelated to fish habitat. The only content-based requirement of the program to be submitted is that it includes measures to "protect, mitigate, and enhance fish and wildlife resources."[68]

The plain language of the 1991 Agreement (including its omissions) controls. Except where Congress has explicitly adopted another standard or where doing so would "frustrate specific objectives of federal programs",[69] the interpretation of federal government contracts is generally governed by federal common law, which incorporates the "core principles" of common law in force in most states.[70] A core principle of common law regarding the interpretation of contracts is the plain-meaning rule, which requires that where contract terms are "clear and unambiguous," they must be given their "plain and ordinary meaning."[71] A contract is only ambiguous if reasonable people could find its terms "susceptible to more than one interpretation," and the fact that parties dispute the meaning of a contract does not establish that it is ambiguous.[72] The 1991 Agreement terms are clear: they include no reference to river restoration or fish passage. Given that Congress passed the Alaska Power Administration Asset Sale and Termination Act[73] ("Sale Act") in 1995 based in part on the language of the 1991

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[68] 1991 Agreement at § 5.
[69] United States v. Kimbell Foods, Inc., 440 U.S. 715, 728 (1979).
[70] Equal Emp't Opportunity Comm'n v. Fed. Express Corp., 268 F. Supp. 2d 192, 204 (E.D.N.Y. 2003).
[71] George Hyman Constr. Co. v. United States, 832 F.2d 574, 579 (Fed. Cir. 1987).
[72] Klamath Water Users Protective Ass'n v. Patterson, 204 F.3d 1206, 1210 (9th Cir. 1999).
[73] Public Law 104-58 (Nov. 28, 1995).

Agreement, no reasonable argument can be made to add language into its text that isn't there.

Second, while the 1991 Agreement is not ambiguous so evidence outside of its plain meaning is not relevant, an examination of extrinsic evidence even further reveals that no party intended river restoration or fish passage to be required as part of a Proposed Final Program. The Project was built by the federal government in 1955, decades after a dam in the Eklutna River below it had eliminated historical fish runs.[74] Prior to 1991 there is no evidence that fish and wildlife was even considered in connection with the Project.[75] In 1991, in connection with the then-proposed sale of the Project from the federal government to the Project Owners and associated proposed Federal Power Act exemption of the Project, exempting it specifically from FERC licensing requirements, concerns were raised that the impacts to fish and wildlife from the Project had not been, and as a result of the exemption, would never be examined or addressed and the 1991 Agreement was the compromise reached.[76] While it was based on the FERC relicensing process, the 1991 Agreement deviates in significant ways, including by adding additional non-fish habitat related factors to what the Governor is required to balance upon reviewing a the Proposed Final Program.[77] Congress subsequently approved the sale of the Project to the Project Owners, inclusive of the FPA

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[74] ALASKA POWER ADMINISTRATION, U.S. DEPARTMENT OF ENERGY, DIVESTITURE SUMMARY REPORT, SALE OF EKLUTNA AND SNETTISHAM PROJECTS (April 1992) ("Divestiture Report") at 1, Appendix E at 11 ("Complete loss of the anadromous salmon run (Sockeye) undoubtedly occurred with the construction of the 1929 dam").

[75] *Id.* at 19 ("Specific fish and wildlife measures were not contemplated in earlier divestiture summaries and reports… this was because the projects were generally viewed as not involving fish and wildlife.").

[76] *Id.*

[77] *See* 1991 Agreement at § 5; *compare* Section 4(e) the Federal Power Act: ". . . equal consideration to the purposes of energy conservation, the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat), the protection of recreational opportunities, and the preservation of other aspects of environmental quality." *See* 16 U.S.C. § 797(e). Factors (1) efficient and economical power production, (5) municipal water supplies, (7) other beneficial public uses; and (8) requirements of State law are therefore unique to the 1991 Agreement.

exemption, via the Sale Act in 1995.[78] Given this history, there are therefore ample records available that deal with the intentions behind the 1991 Agreement, including federal agency and Congressional records.[79] None, including the Divestiture Summary Report written in 1992 by the Alaska Power Administration in support of the Project sale transaction, reference "fish passage" or "river restoration." Notably, the National Marine Fisheries Services has also specifically written that, unlike the analog in federal law, the federal government does not have the authority to prescribe fish passage pursuant to the 1991 Agreement.[80] There is therefore simply no evidence suggesting that any party, or Congress, intended the 1991 Agreement to require fish passage or river connection.

C. Question 3: Assembly Approval is not required for the Proposed Final Program.

The Governor's Staff Request asks whether Assembly approval is required for the Proposed Final Program. In short, the Assembly has no approval authority over the Fish and Wildlife Program developed by the Project Owners pursuant to the 1991 Agreement process. The Assembly's authority only applies to the MOA and AHP, but the MOA surrendered all decision-making rights over the Project management, and development and implementation of the Proposed Final Program in October 2020.

When the Project Owners purchased the Project in 1997, Chugach obtained 30 percent of undivided interests in the Project, MEA obtained 16.67 percent, and MOA, doing business as Municipal Light and Power ("ML&P), obtained 53.33 percent.[81] The Project Owners agreed to jointly manage the Project through an Eklutna Operating Committee ("EOC")[82] and did so until October 2020. In 2019, MOA sought approval

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[78] Public Law 104-58 (Nov. 28, 1995).
[79] *See* Divestiture Report; *see also See* Conference Report 104-312 to accompany S. 395, 104th Cong. (Nov. 6, 1995) ("Conference Committee Report")
[80] *See* NMFS Comment Letter at 5.
[81] *See* 1996 Eklutna Hydroelectric Project Transition Plan by and among the United State of America d/b/a Alaska Power Administration. . . MOA d/b/a ML&P, Chugach, and MEA, May 29, 1996, as extended by the Agreement for Extension by and among MOA d/b/a ML&P, Chugach and MEA ("Transition Plan") at Recitals, Exhibit E.
[82] *See id.* at Exhibit E.

from the RCA to sell ML&P's assets to Chugach, to terminate ML&P's Certificate of Public Convenience and Necessity and to eliminate staff and cease to operate as an electric utility, with one notable exception.[83] The MOA proposed to retain its ownership interests in the Project and to enter into two long-term power purchase agreements ("PPAs") with Chugach and MEA, pursuant to which MOA would sell its share of the power generated by the Project to Chugach and MEA for a period of 25 years each.[84] These PPAs include requirements that MOA operate "consistent with prudent utility practice and the rights and obligations of the parties to the [PPAs]" and "not curtail Project power deliveries except as required by law or Prudent Utility Practice."[85] For the purpose of owning MOA's share of the Project and performing under the PPAs, a Municipal Hydropower utility (now AHP) was to be maintained.[86]

The RCA, when reviewing this proposal, noted that such municipal hydropower utility would not, after the transaction, have the staff or expertise of the Railbelt electric generation system necessary to effectively participate in the EOC, writing:

> . . . we can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that… ML&P surrenders its vote on the EOC… so that Chugach and MEA can jointly manage and operate the Eklutna Project, *including negotiating compliance with the Fish and Wildlife Agreement*, without MHP having a vote on operation or management decisions.[87]

Accordingly, the RCA issued Order 39 approving the transaction, but conditioning its approval of the ML&P transaction upon the MOA's surrender of its voting rights until

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[83] *See* Application of the Municipality of Anchorage d/b/a Municipal Light and Power to Amend Certificate of Public Convenience and Necessity No. 121 and to Terminate Dividend Restriction, April 5, 2019, RCA Docket U-18-102/U-19-020/U-19-021.
[84] *See* RCA Order U-18-102(44)/U-19-020(39)/U-19-021(39), Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third-Party Sales Gas Pricing; and Requiring Filings, dated May 28, 2020 (Order 39), at 17.
[85] *Id.* at 61-62.
[86] *Id.* at 59-60.
[87] *Id.* at 67 (emphasis added).

such time as it could demonstrate the necessary technical and managerial fitness.[88] The MOA complied, executed a binding surrender of voting rights with Chugach and MEA, and filed it on October 30, 2020.[89] After the MOA willingly surrendered its EOC decision-making authority in 2020, neither the MOA's approval, nor the Assembly's approval, is not required for decisions related to implementing the 1991 Agreement, including approval of the Proposed Final Program.

Despite the surrender and in contravention to the RCA's explicit requirement that the MOA should not have "any ability to delay or change the Eklutna Project decisions made by Chugach or MEA" during such surrender period,[90] the Assembly has taken several actions in an attempt to change, delay and undermine the Proposed Final Program, including (1) adding language to the Anchorage Municipal Code stating that it is the MOA's policy to restore continuous water into the Eklutna River;[91] and (2) passing an ordinance calling upon the Governor to modify the process outlined in the 1991 Agreement and require the Project Owners to use two years of the three-year implementation period to identify an alternative solution and to remove substantive aspects (the "limited reopeners") from the Proposed Final Program.[92] Yet, the Assembly has no authority over the decisions that Chugach and MEA make with respect to the 1991 Agreement pursuant to the RCA's Order 39. Under Alaska law, in all situations where municipal ordinances conflict with the RCA's jurisdiction and authority over public utilities operating within that municipality, RCA regulatory authority shall prevail.[93] The

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[88] *Id.* at 67.
[89] Surrender of Eklutna Operation Committee (EOC) Voting Rights dated as of October 27, 2020, and filed with the RCA in docket number U-18-102(44) ("Surrender").
[90] Order 39 at 67 (the MOA shall not have "any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC").
[91] Anchorage Municipal Code 26.30.025A.
[92] AR No. 2024-218(S), As Amended.
[93] AS 42.05.641 ("[i]n the event of a conflict between a … regulation of the commission and a … regulation of such a local governmental entity, the … regulation of the commission shall prevail.")

Assembly's actions are "substantially irreconcilable"[94] with the RCA's clear order regarding the MOA's surrender of its rights regarding implementation of the 1991 Agreement and operations of the Project. Therefore, the Assembly actions attempting to modify the Proposed Final Program are superseded by RCA plenary authority over public utilities in the State of Alaska.

Consequently, no Assembly approval of the Proposed Final Program is required. Chugach and MEA acknowledge that the MOA has requested that the RCA approve return of its AHP's voting rights.[95] Until it regains such voting rights, however, the Assembly has no approval authority over the Proposed Final Program.

D. Question 4: The lack of MOA voting rights had no effect on the process and the Proposed Final Program.

The Governor's Staff Request asks if the MOA's lack of a vote on the Proposed Final Program affected the process set forth in the 1991 Agreement. No, the lack of a MOA vote had no effect on process or the result. Even though the MOA surrendered its vote on the EOC, per the direction of Chugach and MEA's Chief Executive Officers and MOA's Municipal Manager, the three Project Owners conducted themselves as equals and made all decisions through unanimous consent. No formal vote among the Project Owners was ever taken with respect to the process, the Draft Program, or the Proposed Final Program. All three Project Owners maintained complete agreement on the Proposed Final Program process, development, and submission; and the MOA's support of the process and the Proposed Final Program is clearly reflected in Mayor Dave Bronson's letter to the Governor on April 26, 2024.[96] The subsequent election of Mayor Suzanne LaFrance – and potential associated changes in policy position – could not have impacted the process given that she took office after the Proposed Final Program was submitted.[97]

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[94] *See* Jefferson v. State, 527 P.2d 37, 43 (Alaska 1974).
[95] This proceeding is open in RCA Docket No. U-24-024; the RCA expects to issue an order no later than the statutory deadline which is January 14, 2025.
[96] Letter from Dave Bronson, Mayor, Municipality of Anchorage to Mike Dunleavy, Governor of Alaska (Apr. 26, 2024).
[97] Letter to Governor Dunleavy from Mayor Suzanne LaFrance (July 19, 2024).

E. Question 5: The 1991 Agreement does not give the Governor authority to impose a two-year delay.

The Governor's Staff Request asks if the Governor has the authority to impose a two-year extension on the process. The 1991 Agreement grants no such authority to the Governor or any other 1991 Agreement party. The 1991 Agreement is a contract that sets forth certain scheduled requirements with dates calculated from October 2, 1997, which is the date that the Project Owners took ownership of the Project: the Project Owners were required to initiate the consultation, study and program development process by October 2, 2022, the Governor should issue a Final Program by October 2, 2024, and implementation should begin by October 2, 2027 and be complete by October 2, 2032.[98] No provisions for delay or extension exist within the 1991 Agreement.[99]

Central to this analysis is the fact that the Governor, in reviewing the Proposed Final Program, is not acting as a governmental authority providing a regulatory approval; rather, the Governor is fulfilling contractual obligations on behalf of the State of Alaska as a party to the 1991 Agreement. No federal or Alaska law empowers the Governor to exercise regulatory authority over the Project's fish and wildlife program.[100] Rather, the Governor has the authority to weigh the Eight Factors and issue a Final Program because the parties to the 1991 Agreement gave him that authority. Governor Walter Hickel signed the 1991 Agreement on behalf of the State, agreeing that the future Governor would serve this role under the 1991 Agreement.[101] Without a formal amendment to the 1991 Agreement, Governor actions to delay the issuance or implementation of a Final Program beyond October 2, 2024, and October 2, 2027, respectively, would be a breach of the State's obligations under the 1991 Agreement.

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[98] 1991 Agreement at § 7.

[99] *Id.; see also* Closing Agreement between the United States of America, acting through the Alaska Power Administration… the MOA d/b/a ML&P, Chugach and MEA, October 2, 1997 (evidencing closing date of October 2, 1997).

[100] Compare the Governor's lack of statutory authority over the Eklutna Project with the statutory authority that FERC wields with respect to hydroelectric project licensing under Part 1 of the Federal Power Act, §§ 4-36, 16 U.S.C. §§ 797-823d (2024).

[101] *See* 1991 Agreement.

Further, given the unique history and circumstances surrounding the 1991 Agreement, there is no clear path forward to so amend the 1991 Agreement. The 1991 Agreement reflects the negotiated consensus of three utilities, two federal agencies, and the State of Alaska in agreeing to an alternative to FERC hydropower licensing requirements for two federal hydroelectric projects to be purchased (the Project and the Snettisham Hydroelectric Project).[102] The Congressional record demonstrates that such consensus and the resulting 1991 Agreement were the reason why federal agencies and Congress were comfortable with, and ultimately provided, an exemption for the Project to Part I of the Federal Power Act for the Project in Sale Act in 1995.[103]

While the 1991 Agreement is silent on extensions and excused delays, it is also silent on amendment that would allow for such extensions and delays. Had the parties intended to allow for amendment to the 1991 Agreement in the future, they could have and would have done so. Yet, all of the principals and lawyers representing the utilities, federal agencies, and the State of Alaska omitted any provision for amendment. The parties to the 1991 Agreement cannot assume today that such omission was simply an oversight, particularly because the 1991 Agreement was an essential component behind the passage of the Sale Act authorizing the sale of the Project to the Project Owners. The 1991 Agreement (without a provision for amendment) was reviewed and acknowledged and made enforceable by Congress in the Sale Act and Congress also omitted any mention of future amendments.[104] Interpretation of the 1991 Agreement must respect the due weight of Congressional review and action and there exists no basis to amend the 1991 Agreement or authority of the Governor to unilaterally delay implementation.

Because the 1991 Agreement is an agreement with federal agencies that was approved by Congress, it is a federal contract that must be analyzed in accordance with

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[102] *Id.* at § 1.
[103] *See* Conference Committee Report ("…as a result of the [1991 Agreement], the Department of Energy, the Department of the Interior and NMFS all agree that the two hydroelectric projects warrant exemption from the Federal Energy Regulatory Commission (FERC) licensing under Part I of the Federal Power Act.")
[104] Public Law 104-58 (Nov. 28, 1995).

federal common law. Section 3(c) of the Sale Act also makes the 1991 Agreement legally enforceable and reviewable in federal court.[105] While when reviewing federal contracts, federal courts often adopt state common law principles to govern federal contract disputes, as discussed in Section II.B, but only to the point that doing so "would not frustrate specific objectives of federal programs"[106], or if incorporating state common law "would not give due regard to the federal interest in maintaining"[107] the existing terms. To allow for an amendment to delay the 1991 Agreement schedule, a federal court would need to read in a general right to amend any provision of the 1991 Agreement. This would "frustrate the specific objectives"[108] of the Sale Act, which directly references the 1991 Agreement, and would be without "due regard to the federal interest in maintaining"[109] the terms of the 1991 Agreement as they are, which informed and were relied upon by Congress in passing the Sale Act.

F. Question 6: AWWU and the Project Owners have reached final agreement concerning the use of AWWU infrastructure, subject to certain conditions precedent.

The Governor's Staff Request asks if the Project Owners and AWWU have reached a final and binding agreement concerning the use of AWWU's infrastructure as outlined in the Proposed Final Program. Yes, subject to necessary approvals, AWWU and the Project Owners must execute the AWWU Final Agreements in their current form.

In connection with the negotiations between AWWU and the Project Owners about how AWWU infrastructure could be used for the Proposed Final Program, AWWU and the Project Owners initially signed the Binding Term Sheet.[110] After this, the AWWU Final Agreements were negotiated and fully agreed to, with the exception of a

[105] *Id.* at § 104(3)(c).
[106] United States v. Kimbell Foods, Inc., 440 U.S. 715, 734 (1979).
[107] West Virginia v. United States, 479 U.S. 305, 309 (1987).
[108] Kimbell Foods, 440 U.S. at 734.
[109] West Virginia v. United States, 479 U.S. at 309.
[110] Binding Term Sheet as amended by the Amendment to Binding Term Sheet between the Project Owners and Anchorage Water & Wastewater Utility dated March 27, 2024.

handful of non-substantive or technical exhibits to be completed before execution.[111] AWWU and the Project Owners then entered into an amendment to the Binding Term Sheet, pursuant to which they agreed to execute the AWWU Final Agreements without any substantive revisions thereto, within 30 days of the following limited conditions precedent being met: (1) the Governor issuing a Final Program including the use of AWWU facilities; (2) the Assembly approving the agreements to the extent necessary for the MOA to execute and perform under them; and (3) Chugach and MEA obtaining necessary board approvals.[112] If either Governor approval or Chugach and MEA board approval fail, then the AWWU Final Agreements will not be signed and the Project Owners will have to pursue other means to implement the Final Program.

The Assembly's approval was also included as a condition precedent given that (1) AWWU is an MOA utility and (2) the Assembly expressly requires such approval.[113] The Project Owners hope that if the Governor issues a Final Program including the joint use of AWWU infrastructure, the Assembly would limit its review of the AWWU Final Agreements to their content and assess whether they are beneficial to the residents of Anchorage, rather than attempt to block the implementation of the Final Program. If the Assembly rejects the AWWU Final Agreements, however, the Project Owners will pursue other available avenues to implement the Final Program.

III. CONCLUSION

The Proposed Final Program is the result of a 5-year $8 million process of rigorous scientific study and stakeholder consultation and represents a balanced approach that allows for equal consideration of the Eight Factors and meets all requirements of the 1991 Agreement. It was developed by consensus by the Project Owners. It also meets the scheduling requirements of the 1991 Agreement, which does not authorize delay. The Governor should therefore approve the Proposed Final Program without material changes and allow the Project Owners to begin the process of implementation on schedule.

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[111] *See* Final AWWU Agreements.
[112] *Id.*
[113] Anchorage Municipal Code 7.15.040A; 7.14.040F(2).

APPENDIX A

SUPPLEMENTAL MATERIALS WRITTEN BY PROJECT OWNERS

	Proposed Final Program and Supporting Information Document ("SID")	**Project Owner Responses to Comments on Proposed Final Program ("Owners' Comment Responses")**	**Other Documents**
Question 1: Eight Factor Analysis	1. Section 4.5 of the SID overviews the alternative proposals analyzed by the Project Owners. 2. Attachment B to the SID is a "Final Summary of Study Results". 3. Attachment C to the SID provides "Supporting Data for Cost Effectiveness Modeling". 4. Attachment H to the SID is a "Comparison to Existing Conditions". It overviews how the Proposed Final Program will compare to the status quo and includes information directly relevant to each of the Eight Factors. 5. Section 4.12 of the SID includes an overview and analysis of NVE's requested alternatives (as of April 25, 2024).	1. Section 4.2.1 of the Owners' Comment Responses analyzes why the Project Owners focused on all Eight Factors in developing the Proposed Final Program, rather than just Factor 3. 2. In Section 4.3 of the Owners' Comment Responses, the Project Owners respond to comments that the Proposed Final Program "jeopardizes the Anchorage drinking water system". 3. Section 4.4 of the Owners' Comment Responses overview NVE's Proposed Alternative Final Program. 4. Appendix D to the Owners' Comment Responses includes a cost and risk assessment of NVE's proposed alternative centered on a pump station and a dam removal reopener.	1. On April 25, 2024, all three Project Owners sent a letter to NVE ("4/25/24 Letter to NVE"), which includes an overview of the Project Owners' analysis of and response to NVE's proposed alternative.

	Proposed Final Program and Supporting Information Document ("SID")	Project Owner Responses to Comments on Proposed Final Program ("Owners' Comment Responses")	Other Documents
Question 2: Fish Passage Requirement		1. Section 4.2.2 of the Owners' Comment Responses includes an analysis as to why Sockeye restoration or restoring the Eklutna River is not a requirement of the 1991 Agreement and includes relevant language from the Divestiture Summary Report written a year after the 1991 Agreement describing the 1991 Agreement.	1. On April 3, 2024, the Project Owners sent a letter to Michael Curry, Board Chair and President of Eklutna, Inc. which includes a response regarding the lack of a restoration requirement in the 1991 Agreement.
Question 3: Assembly Approval	1. Each of the forms of AWWU Final Agreements (Long Term Water Transportation Agreement; Public Water Supply Agreement; Water Facilities Interconnection Agreement) attached to the SID as Attachment D. In each, the first footnote states that the MOA will not sign until signatures have been authorized by the Assembly.	1. Section 4.5.3 of the Owners' Comment Responses responds to the Assembly's AR No. 2024-218(S). 2. A copy of MOA's surrender of voting rights on the EOC is also included in Section 4.5.3 of the Owners' Comment Responses.	
Question 4: Impact of MOA Lack of Vote			1. Mayor Bronson sent a letter detailing his support of the Proposed Final Program to the Governor on April 26, 2024. 2. The Draft Program, AWWU Binding Term Sheet and amendment thereto were signed by all Project Owners, demonstrating consensus.

	Proposed Final Program and Supporting Information Document ("SID")	Project Owner Responses to Comments on Proposed Final Program ("Owners' Comment Responses")	Other Documents
Question 5: 2-Year Extension		1. Sections 4.5.1 – 4.5.2 of the Owners' Comment Responses overviews the legal problems and costs associated with a 2-year delay. 2. Appendix A to the Owners' Comment Responses is a letter that the Project Owners sent to NVE on June 30, 2020, outlining the reasons behind denying to pursue an amendment to the 1991 Agreement.	1. The 4/24/25 Letter to NVE includes an overview of why the Project Owners do not see a path to 1991 Agreement amendment.
Question 6 – AWWU Agreements	1. Section 4.6 of the SID includes an overview of the AWWU negotiation process. 2. The Binding Term Sheet and amendment to the Binding Term Sheet were linked within the SID in Section 4.6 and are here and here on the Eklutna Hydro website. 3. All forms of agreements made with AWWU are attached to the Proposed Final Program as Attachment D (see Question 3 above).	1. Appendix B to the Owners' Comment Responses is a letter that the Project Owners sent to the Assembly on February 12, 2024, which includes an overview of the AWWU negotiation process to date and responses to concerns about impacts on AWWU water supply. 2. Appendix C to the Owners' Comment Responses is a letter that Chugach's Board Chair and CEO wrote to the Anchorage Assembly on May 23, 2024, which overviews the AWWU agreement and process.	

MUNICIPALITY OF ANCHORAGE

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Mayor Suzanne LaFrance

September 4, 2024

Rachel Bylsma
Deputy Chief of Staff
Office of the Governor
State of Alaska

Ms. Bylsma,

On behalf of the Municipality of Anchorage, including Mayor LaFrance and the Anchorage Assembly, the Municipal Attorney's Office respectfully submits the enclosed brief in response to the Governor's August 15, 2024, letter regarding the Final Proposed Fish and Wildlife Program, Eklutna Hydro Project, which requested the Municipality's perspective on six specific issues to aid the Governor's efforts to review the final program and reconcile differences between the parties.

The Municipality looks forward to presenting its position at the upcoming September 9, 2024, meeting.

Sincerely,

Eva R. Gardner, Municipal Attorney

/s/ Joseph F. Busa

Joseph F. Busa, Deputy Municipal Attorney

The Municipality of Anchorage's Brief Addressing the Governor's Questions about the Final Proposed Fish and Wildlife Program, Eklutna Hydro Project

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INTRODUCTION AND SUMMARY

The Governor has a unique opportunity to make a decision that could lead to unprecedented public benefits and unleash innovation. He is not limited to choosing from a small menu of disappointing options. He is instead empowered to review all proposals, reconcile differences between them, and render the decision that best serves the public interest by protecting, mitigating damage to, and enhancing fish and wildlife. This gives the Governor the freedom to take the best of each proposal and craft a final program that could result in re-watering the entire Eklutna River, providing the conditions necessary for the return of sockeye salmon, increasing the available water for Anchorage, *increasing* useful power generation utilizing existing infrastructure, and providing badly needed energy storage for the Railbelt at a time of constrained energy supplies.

The Municipality respectfully requests that the Governor promote the public interest by making a modest modification, described below, to the flawed fish and wildlife program proposed by Chugach Electric Association ("CEA") and Matanuska Electric Association, Inc. ("MEA"), the Minority Owners of the Eklutna Hydroelectric Project (collectively, "Minority Owners"). The Minority Owners propose an experimental program that appears to have never been used anywhere else in the country, which would tap into municipal water infrastructure and re-water only a portion of the Eklutna River starting a full mile downstream of the dam, leaving the last mile high, dry, and fish-free.

That disappointing proposal emerged from a broken process. The Municipality—the majority owner of the Project—had no voting rights on the owners' committee during the development and submission of that proposal and thus had no formal power to ensure

that the studies and proposal accounted for and balanced *all* of the relevant public interests at stake. The result is a proposal not supported by the majority owner of the Project, the democratically elected representatives of the people directly affected by the Project (including residents, taxpayers and ratepayers), and the municipal government charged with protecting their interests. As explained further below, the Minority Owners' proposal—by requiring the disposal of the Municipality's interests in land and modification of municipal drinking water infrastructure—could be implemented only with the approval of the Anchorage Assembly. The other owners have not sought and do not have such approval. Nor did the other owners present the proposed program to the Municipality for its formal approval. They have instead imprudently asked the Governor to approve a program that, without Municipal approval, could not be implemented.

In addition to these flaws in the development and implementation of the proposed program, the program scores poorly on the merits. The Governor's job under the agreement that created this process is to protect the public interest. But the proposed program would have an *annualized* cost of $3.7 million. It would lead to a 10% *decrease* in power production. And it would fail to actually mitigate harms to the last mile of the river, the entire lake, and all upper tributaries suitable for fish spawning.

The public interest would be better served by modifying the proposed program in one important respect. The final program should devote the first two years of the required three-year pre-implementation period to reviewing proven technological alternatives, such as pumped storage hydro using existing infrastructure, that the Minority Owners have not yet considered. Pumped storage hydro is widely used in the U.S. and eligible for

federal funding. It could re-water all 12 miles of the Eklutna River, reconnect the River to the Lake, create the conditions for the return of sockeye salmon to the Lake, and provide improved fishing and recreation for all Alaskans in a crown jewel of the Chugach State Park—all while also *increasing* useful power production by providing what would essentially be an enormous battery to save variable wind-and-solar power for later usage any time of the day or year, regardless of whether the wind is blowing or the sun is shining at any given moment. The inclusion of limited "reopeners" in the Minority Owners' proposed program confirms that all three owners agree that the Governor has authority to adopt a flexible final program. The specific design need not be definitively established in the final program, but can and should allow for further innovation and development. The Municipality simply asks the Governor to provide such flexibility during the first two years of the pre-implementation period to refine the best alternative by exploring promising projects not yet adequately evaluated, including but not limited to pumped storage hydro—a project that could unleash energy abundance and economic opportunity throughout the Railbelt—and the alternative pump proposal submitted by the Native Village of Eklutna.

The Municipality—including the Mayor, the Anchorage Assembly, and the Anchorage Hydropower Utility—are united in thanking the Governor for the opportunity to submit this brief; to further advocate for the potential win-win alternatives at the upcoming meeting convened by the Governor on September 9, 2024; and to explain why the public interest would be best served by declining the Minority Owners' request that

the Governor approve their flawed proposal without any changes that would better protect the public interest.

BACKGROUND

A. The Federal Government Sold the Eklutna Hydroelectric Project to New Owners And Required Protections for Fish and Wildlife.

The federal government built a dam at the natural outflow of Eklutna Lake in 1955. The water impounded by the dam spins hydroelectric turbines that generate electricity. From 1989 to 1997, the federal government initiated and completed the process of selling this hydroelectric project to a group of three buyers: CEA, MEA, and the Municipality, then doing business as Municipal Light and Power ("ML&P").[1]

During that process, concerns arose "that without [Federal Energy Regulatory Commission ("FERC")] licensing," there would be "no opportunity" for "measures to protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat), and implement fish and wildlife measures found to be in the public interest."[2] The parties thus signed the 1991 Fish and Wildlife Agreement to create a "mechanism to develop and implement measures to protect, mitigate damages to, and enhance fish and wildlife" that would "obviate the need" for FERC review.[3]

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[1] *See generally* Eklutna Hydroelectric Project: Proposed Final Fish and Wildlife Program 1 (April 2024), https://eklutnahydro.com/wp-content/uploads/2024/04/Proposed-Final-Fish-and-Wildlife-Program.pdf.

[2] Fish and Wildlife Agreement: Snettisham and Eklutna Projects, Whereas Clauses, at 1-2 (Aug. 7, 1991), https://eklutnahydro.com/wp-content/uploads/2020/03/Fish-and-Wildlife-Agreement-1991.pdf.

[3] *Id.* § 1.

B. The Governor Was Charged with Protecting the Public's Interest in Enhancing Fish and Wildlife on the Eklutna River and Lake.

Under the 1991 Agreement, the project owners must submit to the Governor of the State of Alaska "a Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources."[4] The Governor "shall review the Proposed Final Fish and Wildlife Program, the comments, testimony, summary and analysis materials, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources."[5] "The Governor shall attempt to reconcile any differences between the parties, giving due weight to the recommendations, expertise, and statutory responsibilities of" the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, "the state Resource Management Agencies and the Purchasers."[6]

In conducting that review, the Governor "shall give equal consideration to the purposes of efficient and economical power production, energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), the protection of recreation opportunities, municipal water supplies, the preservation of other aspects of environmental quality, other beneficial public uses, and requirements of state law."[7] "Based on" the Governor's analysis, the Governor must then make a "Public Interest Determination."[8] The Governor "shall establish a final Fish and Wildlife program that adequately and equitably protects,

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[4] *Id.* § 5.
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *Id.*

mitigates damage to, and enhances fish and wildlife resources (including affected spawning grounds and habitat) affected by the Eklutna project."[9]

The 1991 Agreement thus draws on the standards by which FERC and other regional federal councils license and regulate hydroelectric projects, but puts the Governor in the position otherwise normally occupied by FERC and other regional federal councils.[10] In 1995, Congress authorized the sale of the project to the new owners, recognized the 1991 Fish and Wildlife Agreement, concluded that the Governor's public-interest review should stand in for FERC review and thus generally should displace FERC licensing requirements, and provided for judicial review.[11]

C. The Municipality of Anchorage Lost Its Vote on the Owners' Committee and the Minority Owners Submitted a Proposed Fish and Wildlife Program with Limited Benefits.

The Municipality sold its electric utility, ML&P, to CEA in 2020. CEA did not purchase all ML&P assets, however, and the Municipality, through the Anchorage Hydropower Utility, retained a 53.33% majority stake in the Eklutna Hydroelectric Project. The Municipality entered into long-term power purchase agreements with the other owners, in which CEA (but not MEA) agreed to pay a significant share of the

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[9] *Id.*

[10] *Compare* 16 U.S.C. §§ 797(e), 803(j) (providing for FERC's "equal consideration" of "the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat), the protection of recreational opportunities, and the preservation of other aspects of environmental quality," as well as "the power and development purposes for which licenses are issued"); *id.* § 839b (requiring a regional federal council overseeing hydroelectric projects in the Pacific Northwest to "adequately protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by such projects or facilities in a manner that provides equitable treatment for such fish and wildlife with the other purposes for which such system and facilities are managed and operated").

[11] Alaska Power Administration Asset Sale and Termination Act, Sec. 104(a), (c), Pub. L. 104-58, 109 Stat. 557, 558-59 (1995).

Municipality's portion of costs associated with the Eklutna Hydroelectric Project including any final fish and wildlife program. Accordingly, in addition to retaining its majority ownership of the Project, the Municipality also remains responsible for 19.04% of the capital, operation, and maintenance costs of any final fish and wildlife program.[12]

In order to retain its majority ownership interest in the project after the sale of ML&P, the Municipality was required by state regulators in 2020 to relinquish its voting rights on the project owners' committee until such time as the new Anchorage Hydropower Utility acquired necessary expertise in utility management.[13] Anchorage Hydropower, now headed by an engineer who has led the Anchorage Water and Wastewater Utility ("AWWU"), has acquired the necessary expertise and has petitioned regulators to regain its voting rights in a pending proceeding.[14] The Municipality has been without voting rights within the Eklutna Project, of which it remains the majority owner, for over four years, including during the critical phases of the development and submission of the Minority Owners' proposed fish and wildlife program.

The Minority Owners ultimately chose to propose a program that would tap into municipal water infrastructure a mile downstream of the Eklutna Dam and divert water into the lower Eklutna River using that municipal infrastructure.[15] The proposed program would not rewater the last mile of river or otherwise enhance fish or wildlife on the

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[12] *See* Letter from Chugach Electric Association to Anchorage Assembly 4 (May 23, 2024), https://eklutnahydro.com/wp-content/uploads/2024/05/2021-05-23-Chugach-Letter-to-Assembly.pdf.

[13] Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) (Regulatory Comm'n of Alaska, May 28, 2020).

[14] *In Re. Acquisition of Expertise*, Dkt. No. U-24-024 (Regulatory Comm'n of Alaska, filed July 18, 2024).

[15] Proposed Final Fish and Wildlife Program 4-5.

lake.[16] The program would monitor and adjust flow below mile 11 and try to maintain the river channel to provide some new spawning and rearing habitat for Chinook, coho, pink, and chum salmon.[17] Draft ancillary agreements to the program would attempt to compensate AWWU for using its drinking water infrastructure in various ways,[18] and it would provide modest one-time payments to repair a trail near the lake and enhance some vegetation on the lower river.[19] Finally, the program would reopen for consideration of alternatives in two limited circumstances: (i) if lake inflows from melting glaciers increase due to climate change to warrant installation of a fixed wheel gate, and (ii) if a means for fish passage is found that satisfies five narrow criteria.[20]

The Governor has scheduled a meeting on September 9, 2024, to discuss the proposed project and has requested briefs addressing six questions:

1. The Governor is required to give equal consideration to eight factors identified in Section 5 of the Agreement. Please identify how the proposed final program or an alternate program promoted by any other parties, or the Native Village of Eklutna, does or does not meet those eight factors.

2. Does the Agreement require complete connection between the river and the lake to support fish passage?

3. Is MOA Assembly approval required for approval of the Owners' program?

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[16] *Id.*
[17] *Id.* at 6-9.
[18] *Id.* at 5.
[19] *Id.* at 11, 15.
[20] *Id.* at 16-19.

4. What effect, if any, did the MOA's lack of a vote on the Owners' program have on the process set forth in the Agreement?

5. Does the Governor have the authority under the Agreement to impose a two-year extension on the process as requested by the MOA?

6. Whether the Owners and Anchorage Water and Wastewater Utility ("AWWU") have reached a final and binding agreement concerning the use of AWWU infrastructure as outlined in the Owners' program. If a final agreement has not been reached, what effect will that have on the Owners' ability to implement the final proposed program?

RESPONSES TO GOVERNOR'S QUESTIONS

The Municipality greatly appreciates this opportunity to answer the Governor's questions regarding the public interest in enhancing fish and wildlife on the Eklutna River and Eklutna Lake. The Minority Owners' disappointing proposal emerged from a broken process in which the Municipality had no formal vote and in which the Minority Owners did not seek or obtain Municipal approval of the final proposal before submitting it to the Governor. The proposal disserves the public interest because it has an annualized cost of $3.7 million each year on an experimental program that taps into municipal infrastructure, decreases power output, and leaves the last mile high and dry. Crucially, implementation of that proposal hinges on Assembly approval of the use of municipal property, but the Minority Owners have not sought or obtained such approval.

The public would be better served by devoting the first two years of the three-year pre-implementation period for consideration of proven technologies overlooked by the Minority Owners, including but not limited to pumped storage hydro using existing

infrastructure. Such alternatives could better serve the public interest by re-watering the entire river, providing the conditions necessary for the return of sockeye salmon to the full river and the lake (and its tributaries), increasing power generation, and providing badly needed energy storage for the Railbelt at a time of constrained energy supplies. The Minority Owners mistakenly overlooked the pumped storage hydropower alternative without realizing that using existing infrastructure would sharply limit costs. The Minority Owners' inclusion of limited reopeners in their proposed program confirms that they agree the Governor has authority to build flexibility for innovation into the final program. The 1991 Agreement allows reopeners at any time under Section 7. And the public interest would be best served by getting this process right from the outset.

A. (Answer to Governor's Question 1) The Proposed Program Does Not Serve the Public Interest Nearly as Well as Proven Technologies that Can and Should Be Evaluated.

The 1991 Agreement protects the public by giving "equal consideration to [i] the purposes of efficient and economical power production, [ii] energy conservation, [iii] the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), [iv] the protection of recreation opportunities, [v] municipal water supplies, [vi] the preservation of other aspects of environmental quality, [vii] other beneficial public uses, and [viii] requirements of State law."[21]

[21] 1991 Agreement, § 5.

1. The Minority Owners' Proposal to Tap into Municipal Drinking Water Infrastructure Reduces Power Generation and Does Not Enhance Fish and Wildlife on the Upper River and the Lake.

The Minority Owners' proposal scores poorly on nearly all of the relevant factors. Rather than increase power production or conserve energy, the proposed program would have an annualized cost of $3.7 million[22] and *reduce* power production by 10%.[23]

The other side of the ledger is also in the red. The preservation, mitigation of damage to, and enhancement of fish and wildlife is the reason the 1991 Agreement exists. As explained in Part C below, reconnecting the river to the lake is a crucial component of the public's interest in this process. But the Minority Owners chose an option that fails to rewater the full Eklutna River or provide fish passage from the river to the lake, and thus fails to actually protect, mitigate harm to, or enhance fish and wildlife on those crucial segments of the affected waterways. By the same token, the proposed program fails to adequately advance recreational and other beneficial public uses such as fishing or taking in the beauty of a real mountain river with real water in it. And, as explained in more detail in Part D below, the implementation of this proposal hinges on Assembly approval that, under applicable requirements of State law, the Assembly is free to withhold.

The Municipality is not alone in concluding that a proposed program that re-waters only part of the river falls short. That view is shared by the other agencies whose

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[22] Explanatory Statement 5, https://eklutnahydro.com/wp-content/uploads/2024/04/Explanatory-Statement.pdf.

[23] Proposed Fish and Wildlife Program, Attachment H: Comparison to Existing Conditions 12, https://eklutnahydro.com/wp-content/uploads/2024/04/Attachment-H-Comparison-to-Existing-Conditions.pdf.

expertise the Governor "giv[es] due weight" under the 1991 Agreement.[24] The U.S. Fish and Wildlife Service criticizes the proposal for failing to achieve "full ecosystem connectivity" and "fish passage."[25] The National Marine Fisheries Service criticizes the proposal for not establishing "continuous flow of water in the full length of the Eklutna River" and "safe and effective upstream and downstream fish passage."[26] The Native Village of Eklutna has criticized the proposal as "deeply disappoint[ing]" because it "will cost ratepayers and taxpayers up to $72 million, threaten public drinking water infrastructure, and fail to meaningfully recover and maintain salmon in the Eklutna River for the benefit of our people and all Alaskans."[27] And individual public commenters similarly disfavor the draft program.[28]

2. Considering Proven Technologies in the First Two Years of the Pre-Implementation Period Would Best Serve the Public Interest.

A better program is possible. The proposed program acknowledges its own shortcomings: to offset its failure to provide for fish passage in the proposed design, it includes a reopener for an alternative program for fish passage in narrow circumstances post-implementation.[29] This recognition that fish passage is the ideal goal of any program

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[24] 1991 Agreement, § 5.

[25] U.S. Fish and Wildlife Service, Comments on Proposed Program 1 (June 24, 2024), https://eklutnahydro.com/wp-content/uploads/2024/07/2024-6-24-Comments-on-Proposed-Final_USFWS.pdf.

[26] National Marine Fisheries Service, Comments on Proposed Program 3 (June 21, 2024), https://eklutnahydro.com/wp-content/uploads/2024/07/2024-6-21-Comments-on-Proposed-Final_NMFS.pdf.

[27] Native Village of Eklutna, Comments on Proposed Program 1 (June 21, 2024), https://eklutnahydro.com/wp-content/uploads/2024/07/2024-6-21-Comments-on-Proposed-Final-Program_NVE.pdf.

[28] *See* Proposed Program Attachment G: Erratum Addendum 3, https://eklutnahydro.com/wp-content/uploads/2024/06/Attachment-G-Public-Comment-Summary-and-Analysis_Erratum-Addendum.pdf.

[29] *See* Proposed Final Fish and Wildlife Program 17-19.

highlights the failings of the proposed program to set up a procedure designed to maximize the odds of achieving that goal.

The search for better alternatives should not wait or be constrained to the scope of the limited reopeners in the proposed program. As explained in more detail in Part B below, if the proposed program can be reopened under limited circumstances at some uncertain date in the future under the limited reopeners proposed by the Minority Owners, then the first two years of the three-year pre-implementation period certainly can and should be used to develop the best alternative. All parties and stakeholders should commit during that period to creatively and cooperatively evaluating and incorporating promising alternatives that would better serve the public interest and fully restore the Eklutna River and provide for fish passage into Eklutna Lake, while also improving on the current proposal's performance under other public-interest factors. If such an alternative is identified during that period, it should be proposed to the Governor and, upon the Governor's approval, should become a component of the fish and wildlife program. If no such alternative is identified, the best of bad options currently available could be implemented, subject to obtaining all required approvals and further subject to revision under Section 7 of the 1991 Agreement whenever a better option is found.

Several alternatives not yet adequately considered by the Minority Owners appear promising. A preliminary proposal for pumped storage hydro, for example, was presented to a worksession of the Anchorage Assembly on August 23, 2024, by the head of the

Anchorage Hydropower utility and received favorable discussion.[30] That proposal would use wind and solar energy, when it is abundant, to pump water from the Knik River up to Eklutna Lake through the existing hydroelectric tunnel. The stored water would act as a battery, saving the renewable energy generated on an intermittent basis and making it available for reliable dispatch through the same hydroelectric tunnel back down to the Knik River and through hydroelectric turbines when more power is required, such as in the depths of winter, at night, or when the wind is not blowing. "Existing infrastructure is in place" for the initial phase of this proposal, "keeping costs low"—unlike the Minority Owners' proposal.[31] Pumped storage hydro is a proven technology in widespread use. Though its application here would require more evaluation, it shows promise as a means of increasing the available water in Eklutna Lake for power generation and use by AWWU, restoring the entire Eklutna River, and creating a new source of abundant, reliable energy storage for the Railbelt for generations to come.

Modifying the proposed final program as the Municipality suggests would give the owners adequate time over the next two years to properly evaluate and incorporate this option or others, such as the option suggested by the Native Village of Eklutna of pumping water from Eklutna Lake to the pond next to the Eklutna Dam and modifying the dam's gate to re-water the entire river. The public interest is best served by taking every available opportunity to improve the proposed program. In the third year of the pre-implementation

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[30] Anchorage Hydropower Utility, *Modified PSH Concept with Wind & Solar at Eklutna Lake with River Restoration and Fish Passage* (Aug. 23, 20204), https://www.muni.org/Departments/Assembly/Documents/EklutnaRiver_PSH_rev1.pdf.

[31] *Id.* at 9.

period, and starting earlier if necessary (simultaneous with the two-year reopening), the owners could obtain needed permits and conduct any other necessary preparatory work for proceeding with the proposed program if no superior alternative is identified.

B. (Q5) The Governor Has Undisputed Authority to Require that the Final Program Consider Additional Alternatives.

The Governor has the power to do what the Municipality requests. A final fish and wildlife program can use the first two years of the three-year pre-implementation period for further study or alteration of the program in the event that a better solution is found. FERC orders regarding fish and wildlife programs for other hydroelectric projects, issued under a federal statute on which the 1991 Agreement was modeled, routinely include so-called "reopener" provisions that trigger studies and adoption of additional or alternative measures even after FERC's issuance of a final license or fish and wildlife program.[32] And the 1991 Agreement itself contemplates the program can be reopened at any time. Section 7 provides that "prior to undertaking any major structural or operational modification substantially affecting water usage or fish and wildlife at the projects, the Purchasers shall follow the process called for in Sections 2 through 6 of this Agreement."[33]

Indeed, the Minority Owners' own proposed program contains two such reopeners.[34] One of those reopeners calls for "a more detailed feasibility study of the fixed wheel gate"

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[32] *See Idaho Rivers United v. FERC*, 189 F. App'x 629, 635-36 (9th Cir. 2006) ("approv[ing] deferral of FERC's decisions on certain fishery issues pending post-licensing studies and monitoring" regarding "sturgeon mitigation"); *State of California v. Fed. Power Comm'n*, 345 F.2d 917, 924–25 (9th Cir. 1965) (a final license may "outlin[e] procedures to be followed in the interim looking to the development of a proper solution").

[33] 1991 Agreement, § 7.

[34] Proposed Final Fish and Wildlife Program 16-19.

during the first three years of the final program and provides that the fixed wheel gate solution may be implemented, if appropriate under certain conditions, ten years after the Governor's approval of the final program and up to a cost of $10 million to the parties.[35] There is no material distinction between the reopeners the Minority Owners' have already proposed, which no one disputes may legally be included in a final program, and the change the Municipality is requesting. If a final program can contain provisions requiring additional study and implementation of additional solutions favored by the Minority Owners, then the final program at issue here can do the same for promising alternatives put forward by the Municipality, the Native Village of Eklutna, or other stakeholders.

The Minority Owners have argued that the Municipality's request "fails to acknowledge" the Regulatory Commission of Alaska's order that allowed Anchorage to retain its majority ownership of the Project by surrendering its vote on the owners' committee.[36] That regulatory order is irrelevant to the Municipality's request to the Governor. Because the Municipality lost its voting rights on the owners' committee, the Municipality had no formal power to protect its own interests and the interests of the residents of Anchorage by voting as part of the that committee to "delay or change" any "Eklutna Project decisions made by the Chugach and MEA representatives" on the owners' committee.[37] But the Municipality's lack of voting rights on the committee does not change the fact that, outside of that committee, the Municipality is a party to the 1991 Agreement

[35] *Id.* at 16.
[36] Minority Owners' Responses to Comments on Proposed Final Fish and Wildlife Program 33 (July 2024).
[37] *Id.*

and, as such, fully entitled to make its case to the Governor, who, under the Agreement, reviews such comments and "attempt[s] to reconcile any differences between the parties."[38] The Minority Owners thus correctly stop short of suggesting that the state regulatory order directed at voting rights on the project owners' committee somehow also deprived the Municipality of Anchorage of a right unrelated to any voting power on the owners committee—a right that derives from a federal contract recognized by federal statute.

C. (Q2) Fully Mitigating Harms to Fish and Wildlife Means Re-Connecting the River to the Lake to Support Fish Passage.

The core purpose of the 1991 Agreement is to mitigate harm to fish and wildlife. Fully mitigating those harms means re-connecting the river to the lake to support fish passage. The focus of analysis during the first two years of the three-year implementation program should thus be on identifying alternatives that achieve that goal *and* advance the public's other interests by increasing useful power production at a reasonable cost.

Eklutna River and Eklutna Lake were once hydrologically connected from the headwaters to the mouth and supported fish passage and personal use and sport or subsistence fishing along the full length of the waterway. Hydroelectric projects including the Eklutna Hydroelectric Project severed that connection and de-watered the river for much of the year, thus destroying fish spawning and rearing habitat and denying fish passage. The core purpose of the 1991 Agreement, as explained by the Agreement itself in its very first section, is to address that problem by creating a "mechanism to develop

[38] 1991 Agreement, § 5.

and implement measures to protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat)."[39] Re-watering the river and providing for fish passage is the most obvious means of accomplishing those goals. It was also the intent of those who drafted and signed the Agreement as documented shortly after it was executed: the "loss of a sockeye salmon run" was the "specific problem" that "led to the August 7, 1991 Agreement."[40] Accordingly, for every section of riverbed that the final fish and wildlife program leaves dry, the program fails to actually protect, mitigate damage to, and enhance fish and fish spawning and rearing grounds currently affected by the Project. It also fails to deliver the benefits of marine-derived nutrients that only an anadromous fish run can provide throughout the ecosystem, including for other wildlife.

The Minority Owners have emphasized that fish passage was first disrupted in the 1920s by a private dam on the lower river before the Eklutna Hydroelectric Project was built. On that basis, they have argued that the 1991 Agreement does not provide for re-watering the full river to enable fish passage into and out of the lake.[41] That is incorrect.

The core purpose of the 1991 Agreement was to solve the problem of the salmon run that was first lost in the 1920s. State and federal agencies examined in 1992 how federal divestiture of Eklutna might be accomplished. Their report formed the basis for

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[39] 1991 Agreement, § 1.

[40] Alaska Power Admin. & U.S. Dep't of Energy, Divestiture Summary Report 19 (April 1992), https://eklutnahydro.com/wp-content/uploads/2020/03/APA-1992-Divestiture-Summary-Report.pdf; *see* Nat'l Marine Fisheries Serv. Comments 5 ("Restoring fish passage, specifically for sockeye salmon, was a driving factor in establishing the 1991 Agreement."); Fish & Wildlife Serv. Comments 1 ("[T]he loss of a historic sockeye salmon run is what prompted the development of the 1991 Agreement.").

[41] *E.g.*, Responses to Comments on Proposed Final Fish and Wildlife Program 12, 15 (July 2024), https://eklutnahydro.com/wp-content/uploads/2024/07/2024-7-24-Owners-Responses-to-Comments-on-Proposed-Final-Program.pdf.

the federal legislation that authorized selling the Project in 1995 and gave federal recognition to the 1991 Agreement. That report explained that "[d]uring reviews of the legislative proposal, loss of a sockeye salmon run that once spawned in Eklutna Lake was identified," caused "by a small private power project constructed in the 1920s."[42] "That loss was not identified in pre-authorization studies for the Federal Eklutna Project and the Federal project does not include mitigation" of that loss.[43] "*This specific problem* and the desires of the fish and wildlife agencies to provide appropriate consideration to fish and wildlife resources over the long run led to the August 7, 1991 Agreement."[44] The Minority Owners thus cannot reasonably deny that solving the problem of the lost sockeye run was the intent of the parties in executing the 1991 Agreement.

The plain terms of the 1991 Agreement require that the lost sockeye run be addressed. The FERC procedure that the 1991 Agreement was modeled on provides for FERC review of cumulative impacts of hydroelectric projects "when added to other past … actions." *American Rivers v. FERC*, 201 F.3d 1186, 1198 n.19 (9th Cir. 1999). The 1991 Agreement requires the same equal consideration of the same factors as the FERC statute and should be interpreted to provide for the same cumulative assessment of the impacts of the Eklutna Hydroelectric Project. In any event, the lower dam is now gone and is not an obstacle to restoring fish passage today. The remaining obstacle is the Eklutna Project, as all parties recognize. Any effort to "mitigate" the effects of the Project

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[42] Divestiture Summary Report 19.
[43] *Id.*
[44] *Id.* (emphasis added).

today must thus take the watershed as it is now and recognize that the river is currently dry because of the Eklutna Dam and fish passage is currently blocked because of the Eklutna Dam. Finally, the 1991 Agreement requires not only mitigation but "enhancement" of fish and wildlife. Enhancement plainly encompasses leaving fish and wildlife better off. The Minority Owner's attempts to unduly constrain the goals of the fish and wildlife program should be rejected as contrary to the Agreement.

The Minority Owners incorrectly assert that the Municipality's position on this issue has shifted due to "[t]he changing of municipal leadership."[45] For nearly seven years, the Municipality has consistently maintained that re-watering the river and re-establishing a hydrological connection between the river and the lake for fish passage, consistent with the other considerations under the 1991 Agreement, would best serve the public interest.[46] The Minority Owners intentionally overlooked that position and chose to propose a final program that fails to restore a hydrological connection between the river and the lake and nonetheless hinges on Assembly approval. That decision to play hard ball reflects the Minority Owners' strategic choices. It does not reflect any shift in

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[45] Minority Owners' Responses to Comments on Proposed Final Fish and Wildlife Program 33 (July 2024)

[46] AR No. 2017-324(S), Sec. 1, (Oct. 24, 2017) (calling to "restore the hydrology and fisheries of the Eklutna River subject to all provisions of the Fish & Wildlife agreement of August 7, 1991"); AR No. 2022-262, As Amended (Sept. 27, 2022) (declaring that "the restoration of instream flow to the Eklutna River and restored fish passage to and from Eklutna Lake are the most desirable forms of mitigation for impacts caused by the Eklutna Power Project" and "commit[ting] to the restoration of the Eklutna watershed, including providing instream flow and fish passage the length of the Eklutna River and into Eklutna Lake"); AO No. 2023-131, As Amended (Dec. 19, 2023) (same); AR No. 2024-40, As Amended (Feb. 2, 2024) ("The Municipality of Anchorage does not intend to issue authorizations or provide funds or any other form of support of the Draft Fish and Wildlife Program or any alternative that doesn't restore the full length of the Eklutna River and comply with policy of the Municipality."); AMC 26.30.025A ("It is the policy of the Municipality of Anchorage and the Anchorage Hydropower utility to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991 Fish & Wildlife Agreement.").

the Municipality's clear and consistent position regarding the scope of the problem to be solved under the 1991 Agreement: the lack of a hydrological connection between the river and the lake.

There is no basis for the Minority Owners' apparent position that protecting, mitigating damage to, and enhancing fish and wildlife cannot include reconnecting the river to the lake to support fish passage. Approving the Minority Owners' proposed program, which is apparently predicated on that proposition,[47] would create litigation risk that could upend the entire program. The Municipality simply requests that the Governor, in assessing the protection, mitigation of damage to, and enhancement of fish and wildlife, recognize that re-watering the river and re-connecting it to the lake is plainly within the goals of the 1991 Agreement and that any program that accomplishes those goals is superior on that public-interest factor than any alternative that does not.

The Municipality acknowledges that the Governor must give equal consideration to several public-interest factors, not only the goal of protecting, mitigating damage to, and enhancing fish and wildlife. And "the reconciliation of power and other development needs with fish and wildlife needs in cases of conflict is ultimately left to the public interest judgment" of the Governor.[48] The Municipality respectfully requests that the Governor use his public-interest judgment to create a final program that evaluates alternatives that incorporate proven technologies that could surpass the existing proposal

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[47] *E.g.*, Responses to Comments on Proposed Final Fish and Wildlife Program 12, 15.

[48] *State of Cal. ex rel. State Water Res. Control Bd. v. FERC*, 966 F.2d 1541, 1550 (9th Cir. 1992) (quoting 132 Cong. Rec. S. 15107 (statement of Sen. Johnston)) (addressing FERC statute comparable to 1991 Agreement).

by, among other things, restoring a hydrological connection between the river and the lake for fish passage, which was the driving intent behind the 1991 Agreement.

D. (Q3, Q4, Q6) Because the Municipality Had No Vote on the Owner's Committee, the Municipality Could Not Advance Its View of the Public Interest and Secure a Program with the Necessary Approvals.

Municipal code provides that "[i]t is the policy of the Municipality of Anchorage and the Anchorage Hydropower utility to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991 Fish & Wildlife Agreement."[49] Code further provides that "[t]he Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources in the Eklutna River shall be subject to assembly approval, prior to its submission to the Governor of Alaska."[50]

If the Municipality's representatives on the owners' committee had full voting rights commensurate with the Municipality's 53.3% ownership of the Project, the Municipality would have had the formal power to vote consistent with municipal policy to seek to re-water the entire river, increase useful power generation and storage, and otherwise advance the public interest at reasonable cost using existing infrastructure. Action on behalf of the owners of the Project generally requires a majority of the total voting interest and the support of at least two of the owners.[51] The Municipality's 53.3% ownership would have thus given the Municipality the option of functionally vetoing

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[49] AMC 26.30.025A.
[50] AMC 26.30.025B.2.
[51] 1996 Eklutna Transition Plan, Exhibit E, § 3.

proposed actions by the Minority Owners in appropriate circumstances. That option would have given the Minority Owners the incentive to take the Municipality's understanding of the public interest and prudent decision-making more seriously and would have helped all three owners reach consensus and avoid the necessity of the Municipality filing this opposition to the Minority Owners' disappointing final proposal.

The Municipality recognizes that the Governor's formal power to approve, disapprove, or modify the proposed plan is not curtailed by Anchorage's municipal code. But approval is merely the first step in actually implementing a fish and wildlife program. And implementation cannot occur without Assembly approval of the heart of the program: the construction of a new valve and release structure that taps into municipally owned infrastructure on municipally owned rights of way and easements.[52]

There is no final and binding agreement to permit a final fish and wildlife program to tap into municipally owned pipes on municipally owned rights of way or easements, as desired by the Minority Owners' proposal. The Municipal Manager and head of AWWU, without the approval of the Assembly, entered into a then-confidential binding term sheet with the Eklutna Hydroelectric Project, agreeing to negotiate three formal agreements that could be executed later.[53] None of the three draft agreements between the Eklutna Hydroelectric Project and AWWU related to the proposed program have been signed or executed.[54] The cover page of each draft agreement notes that it "will not be signed by

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[52] Proposed Final Fish & Wildlife Program 4; Supporting Information Document 12.

[53] *See* Binding Term Sheet (Oct. 27, 2023), https://eklutnahydro.com/wp-content/uploads/2024/04/AWWU-Owners-Term-Sheet-confidentiality-waived-4-25-2024.pdf

[54] *See generally* Proposed Fish and Wildlife Program, Attachment D.

the MOA until … such signatures have been authorized by the Anchorage Assembly."[55] Numerous portions of the drafts remain incomplete, and accompanying text notes that the missing information "will be populated by the Parties … prior to signing."[56]

An amendment to the binding term sheet expressly recognizes that there will be no final and binding agreement to use municipal infrastructure on municipal rights of way or easements without Assembly approval. The preamble to the agreement states that AWWU "requires certain approvals before it may enter into one or more of the Agreements."[57] The amendment extends the time for executing final agreements to provide time for "AWWU to seek and gain approvals necessary for it to enter into" the contemplated agreements.[58] And the amendment provides that the "prerequisites" to the execution of the draft agreements include "[a]pproval by the Municipality of Anchorage Assembly to the extent necessary for the Municipality of Anchorage to execute and perform under the Agreements."[59] The proposal submitted to the Governor similarly recognizes that "Project Owners will enter into long-term agreements with AWWU following, and subject to, all necessary approvals," and "[i]f such approvals are delayed or are not able to be obtained," the heart of the program will not be able to be implemented and the parties will proceed only with the modest handful of "other" mitigation efforts "outlined" in the proposal.[60]

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[55] *E.g.*, Water Facilities Interconnection Agreement i.

[56] *See* Water Transportation Agreement Exhibit B through D-2; Interconnection Agreement Schedule 3.5, Exhibits A-2 through B, and Exhibits D through K.

[57] Amendment to Binding Term Sheet 1, https://eklutnahydro.com/wp-content/uploads/2024/04/AWWU-Owners-Amendment-to-Term-Sheet-confidentiality-waived-4-25-2024.pdf

[58] *Id.* § 1.

[59] *Id.* § 5.b.

[60] Proposed Fish and Wildlife Program 5.

State and local law also recognizes that Assembly approval will be required before the proposed program could be implemented. State law provides that the legislative body of a municipality is empowered to "establish a formal procedure for acquisition and disposal of land and interests in land by the municipality."[61] The Anchorage Municipal Charter and Municipal Code provide that a conveyance of an interest in land of the Municipality and improvements thereon, including rights of way of substantial value, must be approved by the Municipal Assembly via ordinance.[62] And agreements respecting water rights at issue in the drafts must also be approved by the Assembly.[63]

Successful implementation of the Minority Owners' proposed program thus hinges on Assembly approval. The Assembly has not given such approval. Indeed, it has indicated that it will not give such approval to a program that does not address the public interest in rewatering the entire river, consistent with the other public interest factors.[64]

CONCLUSION

The Municipality respectfully requests that the Governor set us on a path to a solution that works for everyone at the table by adopting the Municipality's modest request to modify the Minority Owners' proposal and use the first two years of the three-year pre-implementation period of the final program to consider prudent alternatives that have been overlooked and that may better serve the public interest.

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[61] AS 29.35.090(a).
[62] Anchorage Municipal Charter 10.02(8), 17.13(e); AMC 25.30.020A.
[63] AMC 26.40.090.
[64] AR No. 2024-40, As Amended, Sec. 2 (Feb. 2, 2024) ("The Municipality of Anchorage does not intend to issue authorizations" for "any alternative that doesn't restore the full length of the Eklutna River.").

NATIVE VILLAGE OF EKLUTNA

September 4, 2024

Submitted via Email

The Honorable Mike Dunleavy
Governor of Alaska
Office of the Governor
State of Alaska
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Dear Governor Dunleavy:

We are deeply appreciative of you taking the time to obtain additional information regarding the 1991 Agreement process and alternatives for the Eklutna River, and your acknowledgement of the importance of this issue. This process will result in a Fish and Wildlife Program ("Program") that will last 35 years – this is a generational opportunity. We aspire for this process to result in a visionary solution that meets the purpose and intent of the 1991 Agreement and provides benefits not just for our Tribe but for all Southcentral Alaska. As the late Don Young, who was largely responsible for the sale of the Eklutna Project and the 1991 Agreement, said in 2018, it is time to "see[] the timely restoration of the Eklutna River and the recovery of salmon for the benefit of the Native people of Eklutna," and that "[r]estoring healthy salmon runs in the Eklutna River will benefit a great many Alaskans…"[1]

The Eklutna River has provided cultural and nutritional benefits to Eklutna Dena'ina throughout time immemorial, especially its once abundant salmon runs. The river remains at the heart of our people and our home. Yet over the last century, hydroelectric dams have destroyed these salmon runs and degraded the watershed. We acknowledge the importance of energy production at Eklutna for the Railbelt, particularly in this moment of an acute gas shortage. We also acknowledge that Eklutna Lake has become the primary municipal drinking water supply for Anchorage. In addition, Eklutna Lake is one of the most loved outdoor recreation areas in Southcentral Alaska. In short, the Eklutna River is now an important resource for many people. Because of that, we have sought to be collaborative partners with the hydroelectric project owners, other parties to the Agreement, and the public since the very beginning of the 1991 Agreement process. We understand the need to take thoughtful and informed action at Eklutna and have worked hard to advance balanced solutions.

Overall, we are guided by our commitment to seeing adequate water returned to all 12 miles of river below Eklutna Lake and for the full reconnection of the Eklutna River to Eklutna Lake and

[1] Congressman Don Young, Letter to Matanuska Electric Association (Aug. 6, 2018).

the upper tributary streams. This is also the purpose and intent of the 1991 Agreement. The Eklutna people's health, families, and culture depend on restoring salmon to the Eklutna River. We believe there are solutions available that can meet all the various needs of Southcentral Alaska from Eklutna, including power production (at least in the short to medium term, if not indefinitely), drinking water, recreation, and a thriving fishery. Unfortunately, we do not believe the proposed final Program submitted by the Chugach Electric Association and the Matanuska Electric Association (collectively, "the utilities") achieves this outcome and thus does not meet the objective of the 1991 Agreement. Fortunately, there are numerous proposed alternatives to achieve that objective and would have much greater public support. We thank you for considering these alternatives that can set a more positive, visionary, and wise future for the Eklutna River and our people.

In response to the inquiry from your office, the Native Village of Eklutna ("NVE") will address issues 1, 2, and 5 below. These are the issues that are most relevant to our expertise. Issues 3, 4, and 6 pertain to matters better answered by the Municipality of Anchorage ("MOA") and other parties to the 1991 Agreement. We are grateful for you and your office taking the time to better understand these important issues related to the 1991 Agreement and we look forward to meeting in person on September 9.

Issue 1: "*The Governor is required to give equal consideration to eight factors identified in Section 5 of the Agreement. Please identify how the proposed final program or an alternate program promoted by any other parties, or the Native Village of Eklutna, does or does not meet those eight factors*."

The Eight Factors Must All Be Considered, But the Governor's Ultimate Responsibility Is to Protect, Mitigate, and Enhance Fish and Wildlife and Affected Habitat.

It is first important to establish the role and sequence of the eight factors in the Governor's public interest determination process to establish the final Program under the 1991 Agreement. The ultimate responsibility of the Governor in relation to the 1991 Agreement is to establish a final Program "that adequately and equitably protects, mitigates damages to, and enhances fish and wildlife resources (including affected spawning grounds and habitat) affected by the Eklutna Project…"[2] There is no requirement that the Governor's final Program "meets" or balances all eight factors equally. He only must give all factors equal consideration as he conducts his multi-step review. The Governor's final Program can favor fish and wildlife and affected habitat over other factors to ensure adequate and equitable protection, mitigation, and enhancement of those resources.

In making his decision, the 1991 Agreement requires the Governor to undertake a thorough, multi-step process of review, reconciliation, and consideration. This process includes: reviewing the proposed final Program, other alternative recommendations, summary and analysis materials, and comments and testimony from other parties and the public; attempting to "reconcile any differences between the parties"; and equally considering eight factors from efficient and economical power production and energy conservation, to municipal water supplies, to the

[2] Fish and Wildlife Agreement Snettisham and Eklutna Projects (Aug. 7, 1991); *See also* Alaska Power Administration Asset Sale and Termination, Pub. L 104-58, title I § 104(a)(2) (Nov. 28, 1995).

protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), among other factors.

After undertaking this multi-step review process, the Governor's ultimate responsibility is to ensure the final Program adequately and equitably protects, mitigates damages to, and enhances fish and wildlife including affected spawning grounds and habitat. As such, while giving equal consideration to the eight factors identified in Section 5 of the Agreement is an important step in the Governor's decision-making process, it is not the sole consideration or final step in his process.

Moreover, there is a marked difference between equally considering the eight factors in the multi-step review process, and equitably protecting, mitigating, and enhancing fish and wildlife and affected spawning grounds and habitat in the Governor's final decision. According to the Merriam-Webster dictionary, equal means providing the same to all, whereas equity means fairness, justice, or rightness.[3] The dictionary further explains the difference between equality and equity, stating that "[t]he idea that sometimes sameness of treatment (*equality*) does not result in proportional fairness (*equity*) is one way that these words are distinguished from each other, even in similar contexts."[4] Therefore, the Agreement does not require nor envision that the Governor's final Program would necessarily equally reconcile the eight factors, just that he will equally consider each of the eight factors as a part of his decision-making process. The Agreement, rather, gives the Governor the full flexibility – and requires him – to establish a program that equitably protects, mitigates, and enhances fish and wildlife resources and affected spawning grounds and habitat. The Governor's final Program can certainly favor fish and wildlife and affected spawning grounds and habitat over the other eight factors.

Understood in the proper context, the question as to whether the proposed final Program or any alternatives "meet" the eight factors is perhaps misguided. As stated above, there is no requirement that the Governor's final Program "meets" all eight factors, and certainly not equally. He only must give them equal consideration as he conducts his multi-step review. The standard of the Governor's final decision is whether the final Program adequately and equitably protects, mitigates, and enhances fish and wildlife and affected spawning grounds and habitat. For the Governor's consideration, we will thus outline the merits of the proposed final Program and other alternatives, focusing on whether they adequately and equitably protect, mitigate, and enhance fish and wildlife and affected spawning grounds and habitat. We will also note how they may positively or negatively affect other of the eight factors such as power production and municipal water supplies.

The Proposed Final Program Does Not Meet the Objective of the 1991 Agreement

The proposed final Program submitted to the Governor by utilities fails to meet the objective of the 1991 Agreement to adequately and equitably protect, mitigate, and enhance fish and wildlife and affected spawning grounds and habitat. As discussed in more detail below, the driving force behind the 1991 Agreement was to restore and maintain sockeye salmon that depend on free passage into and out of Eklutna Lake, their preferred spawning habitat. The utilities admit that

[3] https://www.merriam-webster.com/grammar/equality-vs-equity-difference
[4] *Id.*

their proposed final Program fails to meet this primary objective and for that reason alone, it does not meet the purpose, intent, and terms of the 1991 Agreement. In addition, the proposed final Program, by tapping into and relying upon municipal water infrastructure, would threaten municipal water supplies. Due to these inadequacies and concerns, four out of five public comments rejected the utilities' proposed Program. Moreover, the utilities plan diminishes power production at the Eklutna hydroelectric project. If the Governor is going to choose an alternative that reduces power production, the Program should at least substantially benefit fish and wildlife and reconnect affected habitat, which the utilities' Program does not. Their proposal fails on all counts – there is little gained for fish and wildlife and affected spawning grounds and habitat, it threatens municipal water supplies and reduces power generation.

Specifically, the utilities' "AWWU Portal" plan leaves Eklutna Lake and its upper tributaries completely disconnected from the lower Eklutna River and maintains over a mile of dry streambed. The proposal provides no solution for the complete blockage of salmon reaching the extensive lake spawning habitat required by sockeye salmon. In addition, 15 miles of upper tributary spawning habitat above the lake that would otherwise be highly suitable to Chinook and coho salmon are left completely stranded.[5] Without a connection to Eklutna Lake and its upper tributaries, restoring those key spawning and rearing grounds and habitat is impossible. The utilities admit that "no change in sockeye rearing habitat is anticipated."[6]

Furthermore, the flows the utilities propose to release from the AWWU Portal are severely inadequate to restore and maintain fish in the Eklutna River and are lower than any flows considered by signatory parties to the Agreement during the study process.[7] The proposed final Program also proposes similarly inadequate channel maintenance high flow events in only three out of every ten years. As such, the proposed nominal flow releases from the AWWU Portal will only minimally enhance Chinook and coho salmon and their habitat in the lower Eklutna River. Alaska Department of Fish and Game, U.S. Fish and Wildlife Service, and NOAA Fisheries in their comments on the utilities' draft program agreed that the AWWU Portal combined with the minimal flow releases would not adequately provide for the recovery and maintenance of salmon populations in the Eklutna River, nor would it restore natural river processes. We do not believe any of the utilities' changes from the draft Program to the proposed final Program meaningfully alleviate the issues articulated by the state and federal fish and wildlife agencies.

Moreover, the "limited reopeners" by which the utilities propose to re-open the 1991 Agreement process to consider further infrastructure and water flow changes are speculative at best. The fish passage re-opener is fully discretionary, and the fixed wheel gate re-opener is contingent on factors beyond the utilities or the Governor's control. As such, they do not constitute actual provisions of a Fish and Wildlife Program but are merely statements of potential action for future consideration. For example, the utilities state they will not pay more than $10 million dollars to implement the fixed wheel gate, which could enable larger flows into the river, and any

[5] *See* Native Village of Eklutna, Eklutna Lake and Tributaries Salmon Habitat (2024).
[6] Draft Fish and Wildlife Program at Appendix B-4 (Oct. 2023).
[7] *See* Native Village of Eklutna Comments on the Draft Program (Dec. 4, 2023); *See also* Native Village of Eklutna Comments to the Governor on the Final Proposed Program (Jun. 21, 2024). (Both of these comment letters are attached and incorporated by reference to this letter. These letters are extensively researched, and the letters and cited references support many of the propositions in this brief).

additional funds will need to be secured from unidentified "other sources."[8] Costs will likely be far higher than $10 million when considering demolition, construction, permitting, and other costs (the AWWU Portal is estimated at a minimum of $58 million[9]). As such, the fixed wheel gate is entirely speculative. The fish passage reopener is even more problematic because in addition to the utilities confirming that they will not provide any money for a future fish passage solution, it specifically makes it more difficult to implement fish passage because of the addition of novel criteria that are nowhere to be found in the 1991 Agreement. Even if all such criteria are met, the utilities only commit to considering fish passage, not actually implementing it.

For all the reasons articulated above, the utilities' final proposed Program does not adequately and equitably protect, mitigate, and enhance fish and wildlife and affected spawning grounds and habitat, and should be rejected by the Governor.

The Alternative Proposal from the Native Village of Eklutna Satisfies the Requirements of the 1991 Agreement

NVE proposed to the Governor an alternative final Program that would return water to all 12 miles of the Eklutna River and require the project owners to reopen the 1991 Agreement no later than 10 years from the Governor's decision date (by Oct. 2, 2034) to propose a solution for fish passage into and out of Eklutna Lake.[10] This proposal improves upon the utilities' proposed final Program because it evaluates all eight factors and achieves the purpose, intent, and requirements of the 1991 Agreement by returning water into the full length of the river and requiring full connection of the Eklutna River to the lake.

NVE's proposed solution to return water to all 12 miles of the river avoids any use of or interference with the public water supply infrastructure, negating those acute concerns with the utilities' proposal. To support the resolution of differences with the utilities and consider energy production, NVE proposed to release the same amount of water as the utilities proposed in their proposed final Program through this infrastructure, therefore diminishing power production at the Eklutna hydroelectric facility to the same extent as the utilities propose. While we do not believe the flow regime in the utilities proposed final program is adequate to attract, maintain, and recover fish nor restore natural river processes, we understand the need to avoid extensive power production reductions in the short term. NVE adopted the proposed Monitoring and Adaptive Management Plan put forth by the utilities to provide a mechanism to increase flows into the river over time.

NVE's proposed infrastructure solution rewaters all 12 miles of river and begins to lay the groundwork for future reconnection between the lake and upper tributaries and lower river. NVE proposed to build a system to take water directly from the bottom of Eklutna Lake and discharge it at the glacial moraine area upstream of the dam. The water would be released downstream into the river through the existing dam outlet gate. This alternative system would provide continuous instream flow to all 12 miles of the Eklutna River below the dam, operate completely independent from any existing AWWU infrastructure, and support future fish passage by

[8] Proposed Final Fish and Wildlife Program at 17 (Apr. 2024).
[9] Proposed Final Fish and Wildlife Program, Supporting Information Document at 54, 55 (Apr. 2024).
[10] *See* Native Village of Eklutna Comments to the Governor on the Final Proposed Program (June 21, 2024).

ensuring that AWWU can maintain its full drinking water withdrawals throughout the year at any lake level.

NVE's proposal to require the project owners to reopen the 1991 Agreement process to provide a solution for fish passage within ten years from the Governor's decision date acknowledges that the current power situation in the Railbelt requires some patience in potentially significant reductions or shutdowns of Eklutna hydroelectric power. Yet we believe, based on numerous discussions with power experts, that within the next decade Eklutna hydroelectric power will be a less important component (or not critical at all) to a stable, reliable, and affordable Railbelt power supply. Therefore, we propose that fish passage be delayed no further than necessary and that the project owners should be required to provide fish passage in a timely yet reasonable timeframe as part of this 1991 Agreement process, meeting the purpose, intent, and requirements of the 1991 Agreement. NVE's preferred solution for providing fish passage is the removal of the Eklutna Lake dam, but NVE remains open to any solution that meets the resource goal of fully reconnecting the lake to the river (including pumped storage hydropower as currently being explored by MOA).

NVE considered all eight factors in proposing its alternative, from safeguarding municipal water supplies to protecting energy production, and the alternative adequately and equitably protects, mitigates, and enhances fish and wildlife and related spawning grounds and habitat. Taken together, this alternative provides water into all 12 miles of the river now and ensures full fish passage, satisfying the 1991 Agreement requirements.

The Alternative Proposal from the Municipality of Anchorage Could Satisfy the Requirements of the 1991 Agreement and Warrants Review and Consideration

MOA has also submitted an alternative proposal to the Governor that could satisfy the requirements of the 1991 Agreement and thus merits review and consideration.[11] MOA has, by law, adopted an official position on Eklutna River restoration, which is "to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible."[12] Achieving the two implied objectives in MOA code – restoring continuous water to all 12 miles of river and fish passage into and out of Eklutna Lake – would satisfy the requirements of the 1991 Agreement.

MOA's alternative suggests the Governor's final Program require the project owners to return continuous water to all 12 miles of river below the dam, using two years of the three-year pre-implementation period to define a technical engineering solution to achieve that measure. We find this alternative fully within the legal boundaries of the 1991 Agreement and discuss the legality and mechanics of this alternative in more detail below. NVE supports this approach to use the pre-implementation period to identify alternatives that were not given adequate consideration by the utilities, although only returning continuous flows to all 12 miles of river without providing any measure for fish passage would not meet the requirements of the 1991 Agreement.

[11] Letter from Mayor Suzanne LaFrance to Governor Mike Dunleavy, MOA Project Owner Formal Fish and Wildlife Program Comment Letter and Alternative Proposal (Jun. 19, 2024).
[12] Anchorage Municipal Code § 26.30.025(A).

One such alternative MOA has started exploring is pumped storage hydropower, which could provide both continuous water into all 12 miles of river and full reconnection between Eklutna Lake and River. In addition, pumped storage hydropower could protect and enhance drinking water supplies and power production at Eklutna. The utilities rejected exploring pumped storage hydropower during their alternatives analysis. In addition to considering NVE's alternative proposal, we encourage the Governor to consider MOA's alternative proposal to use two years of the three-year implementation period to provide time to explore superior solutions that meet the requirements of the 1991 Agreement, including pumped storage hydropower.

Issue 2: "*Does the Agreement require complete connection between the river and the lake to support fish passage?*"

The 1991 Agreement Requires Complete Connection Between the River and Lake to Support Fish Passage

The purpose of the 1991 Agreement and the resultant Fish and Wildlife Program is to develop and implement measures to "protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat)" from the harms of the Eklutna hydroelectric project. Salmon spawning grounds and habitat harmed by the project include the lower Eklutna River below the dam, Eklutna Lake, and the upper tributaries to Eklutna Lake. Eklutna Lake provides critical spawning grounds and habitat for sockeye salmon, and the upper tributaries to Eklutna Lake contain at least 15 miles of excellent spawning grounds and habitat for Chinook and coho salmon.[13] Without fully reconnecting the river and the lake and providing fish passage for salmon and other aquatic wildlife, the harms of the Eklutna hydroelectric project on fish and wildlife and related spawning grounds and habitat cannot be adequately and equitably mitigated.

The Eklutna hydroelectric project, including Eklutna Lake dam, is currently the only cause of damage to these spawning grounds and habitat. In the 1920s, a diversion dam was built on the lower Eklutna river below the outlet to the lake where the Eklutna Lake dam, built in the 1950s, is located. The lower diversion dam originally blocked the passage of salmon from the lower Eklutna River to Eklutna Lake, and once constructed, the Eklutna Lake dam added yet another barrier to fish passage. However, the lower diversion dam was removed by Eklutna Inc. and partners with privately raised funds in 2018 to begin the process of river restoration. Therefore, the Eklutna hydroelectric project's continued diversion of all controllable flow at Eklutna Lake and the complete disconnection of the river to the lake and upper tributaries by the Eklutna Lake dam are the primary causes for ongoing degradation of fish spawning grounds and habitat in the Eklutna River system, and the project owners are the sole responsible party for mitigating such damages.

While the 1991 Agreement does not define "mitigation," mitigation is a common term in relation to harms from development to wetlands or waterways. The primary goal in considering development in wetlands or waterways is to avoid and minimize any adverse impacts, after which mitigation is the next step. The U.S. Army Corps of Engineers and the Environmental Protection Agency define mitigation to mean "restoration, establishment, enhancement, or in

[13] *See* Native Village of Eklutna, Eklutna Lake and Tributaries Salmon Habitat (2024).

certain circumstances, preservation of wetlands, streams and other aquatic resources."[14] U.S. Fish and Wildlife Service's Mitigation Policy states that mitigation is achieved through "restoration, establishment, enhancement, or preservation of resources and their values, services, or functions."[15] As you can see, in the "hierarchy" of mitigation, restoration is always the primary objective and first step after avoidance and minimization.[16] As such, the primary goal of adequately and equitably mitigating damages to fish and wildlife including affected spawning grounds and habitat and thus meeting the requirements of the 1991 Agreement is restoring the very spawning grounds and habitat most affected by the development of the Eklutna hydroelectric project. Restoration and thus reconnection is at the heart of the 1991 Agreement.

Documents surrounding the 1991 Agreement provide additional context for the Agreement's requirement to provide complete reconnection between Eklutna River and Lake. The Divestiture Summary Report for the Sale of Eklutna and Snettisham Hydroelectric Projects ("Divestiture Report"), to which the Agreement is an appendix, notes that mitigating harms to sockeye salmon and their spawning habitat was particularly important in creating the Agreement. The Divestiture Report explained that "[d]uring reviews of the legislative proposal, loss of a sockeye salmon run that once spawned in Eklutna Lake was identified… This specific problem and the desires of the fish and wildlife agencies to provide appropriate consideration to fish and wildlife resources over the long run led to the August 7, 1991 Agreement."[17] Given that the Congressional intent of the 1991 Agreement was to recover the loss of a sockeye salmon run that once spawned in Eklutna Lake, and that sockeye salmon uncontroversially prefer to spawn in lake habitats, the clear primary Congressional intent of the 1991 Agreement was to reconnect the Eklutna River to Eklutna Lake.

The Divestiture Report also notes that the Agreement's fish and wildlife measures were intended to "work at least as well as Federal regulation for the intended purpose of mitigation and enhancement of affected fish and wildlife resources," and were to be "quite similar to that under the [Federal Energy Regulatory Commission ("FERC")] licensing" process for hydroelectric projects.[18] NOAA Fisheries in their Dec. 2023 comment letter on the utilities' draft Program stated that under a similar FERC process, the agency would require fish passage as a long-term measure, ensuring that fish and wildlife protection, mitigation, and enhancement measures supported comprehensive recovery plans for Pacific salmon and Cook Inlet beluga whales.[19] NOAA Fisheries also cited numerous FERC licenses where it required minimum flows the entire reach of the river affected by project operations, stating it was a "common FERC license requirement."[20]

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[14] EPA, Background about Compensatory Mitigation Requirements, https://www.epa.gov/cwa-404/background-about-compensatory-mitigation-requirements-under-cwa-section-404#facts (accessed Aug. 28, 2024); *See also* 73 Fed. Reg. 19,594 (Apr. 10, 2008).
[15] U.S. Fish and Wildlife Service, Endangered Species Act Compensatory Mitigation Policy, Appendix 1, 501 FW 3 at 1 (May 2023).
[16] *See* Smithsonian, Mitigation Hierarchy https://nationalzoo.si.edu/ccs/mitigation-hierarchy (accessed Aug. 28, 2024).
[17] Divestiture Summary Report, Sale of Eklutna and Snettisham Hydroelectric Projects at 19 (Apr. 1992) https://eklutnahydro.com/wp-content/uploads/2020/03/APA-1992-Divestiture-Summary-Report.pdf.
[18] Divestiture Summary Report at 20, 18.
[19] NOAA Fisheries, Comment Letter to Samantha Owen Re: Draft Program at 5, 6 (Dec. 6, 2023).
[20] *Id.* at 2.

Throughout the current 1991 Agreement process, the utilities have significantly discounted the potential of Eklutna Lake as vital salmon habitat. The draft Program concludes that there was never a large run of sockeye to the lake, pointing to limiting factors such as the lake's turbidity, nutrient levels, and size of kokanee.[21] This current condition of the lake may be due to the lack of marine derived nutrients from salmon carcasses and harms from the current 40-60 foot zone that experiences water level fluctuations resulting from hydroelectric power water drawdowns around the lake, including such impacts as reduced aquatic vegetation. Moreover, a primary source for the Project Owner's conclusion is a 2017 study, which they misrepresent. The study concluded that its results "can[not be] construed as evidence that [salmon runs to the lake] did not [exist]."[22] The 2017 study, rather, found that, based on the lake's water volume and turnover rate, as many as 15,000 sockeye could have spawned in the lake annually, which is far from an insignificant number.[23] A co-author of the study recently stated that "[a]nyone who cites the study to argue that Eklutna Lake had no salmon or an 'insignificant' number isn't using it scientifically, they are using it politically."[24] There are myriad glacially-fed lakes in Alaska with thriving sockeye salmon runs, and Eklutna Lake would have been no exception before being dammed.

Additionally, the Agreement's protection, mitigation, and enhancement purpose is not limited to salmon but instead includes all wildlife impacted by the Project that would substantially benefit from a fully reconnected river. The Eklutna Lake dam reduces the ecological function of the tidal wetlands, lower river, lake, and upper tributaries and thus the project's impacts reduce the health of wildlife throughout the watershed. For example, the Summary of Study Results notes that "[w]aterfowl and shorebird numbers in the study area were moderate and low, respectively, during the field surveys" and that "[s]horebirds were noticeably absent during the spring surveys."[25] This may be an example of a system that is in depression from nearly a century of harms from hydroelectric dams. Moreover, salmon bring essential marine nutrients up into watersheds, and the lack of marine nutrients has likely degraded vegetation and negatively impacted many terrestrial mammals throughout the Eklutna watershed.

Regarding marine mammals, the proposed final Program fails to consider the protection, mitigation, and enhancement of Cook Inlet beluga whales, one of the nation's most critically endangered marine mammals. The best available science shows that Cook Inlet belugas could significantly benefit from increased salmon runs in the Eklutna River. Given the mouth of the Eklutna River is within designated critical habitat in upper Cook Inlet where the Cook Inlet beluga population forages during the summer and fall, the critically endangered whales should be a primary concern for the Program. The proposed final Program provides no solution for the complete blockage of salmon reaching the extensive lake spawning habitat required by sockeye salmon and miles of upper tributaries spawning habitat above the lake that is highly amenable to Chinook and coho salmon, all of which are primary forage species for Cook Inlet belugas.

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[21] *Id.* at 68-71.
[22] Loso, Michael et al., Evaluating Evidence for Historical Anadromous Salmon Runs in Eklutna Lake, Alaska 70 Arctic at 270 (Sept. 2017);
[23] *Id.* at 259.
[24] Email from Rick Sinnott to Dustin Lorah, NVE (Nov. 30, 2023 at 6:50PM).
[25] Draft Summary of Study Results at 47 (Oct. 2023).

Without connection to Eklutna Lake, protecting, mitigating, and enhancing those key spawning grounds and habitat is impossible. In turn, mitigation and enhancement for Cook Inlet beluga whales is likely to be minimal as well.

Reviewing the Congressional intent behind the 1991 Agreement, both in the problem it was primarily intended to solve (loss of a sockeye salmon run) and the process it was intended to be "at least as good as" (a FERC relicensing proceeding), and the biological and ecological implications of meeting the primary objective of the 1991 Agreement, it is clear that fully reconnecting the lower Eklutna River to Eklutna Lake and the upper tributaries was the primary purpose and requirement of the Agreement.

Issue 5: ***"Does the Governor have the authority under the Agreement to impose a two-year extension on the process as requested by the MOA?"***

The 1991 Agreement Process Envisions and Allows the Use of the Three-Year Pre-Implementation Period to Define and Finalize a Technical Engineering Solution to Meet the Governor's Final Program.

Our understanding of MOA's proposal to the Governor is not for the Governor to impose a two-year extension on the 1991 Agreement process. MOA proposes that the Governor's final Program require the project owners to return continuous water to all 12 miles of river below the dam. MOA simply proposes to use two years of the three-year pre-implementation period for the project owners to define the technical engineering solution to meet the Governor's final Program and use the final year to secure necessary permits and authorizations.[26]

The 1991 Agreement sets out a clear timeline for establishing the final Program and beginning and completing its implementation. NVE acknowledge this timeline must be adhered to unless all the Parties agree to modify the 1991 Agreement. These deadlines, tied to the Transaction Date of Oct. 2, 1997, are as follows:

- Oct. 2, 2024 – Governor must establish the final Program no later than this date
- Oct. 2, 2027 – Implementation of the final Program must begin no later than this date
- Oct. 2, 2032 – Implementation of the final Program must be completed no later than this date

Under the 1991 Agreement, the final Program is intended to consist of "measures" to protect, mitigate, and enhance fish and wildlife including related spawning grounds and habitat. Per the 1991 Agreement, the Governor has wide latitude to define such measures as long as they adequately and equitably meet the objective of the Agreement. As such, these measures can articulate specific technical engineering solutions that meet the Agreement's objectives, or they can articulate design requirements that the project owners would need to meet with specific technical engineering solutions. MOA has offered an alternative for the Governor to adopt that does the latter. MOA has proposed that the Governor's measure to meet the objective of the 1991

[26] Letter from Mayor Suzanne LaFrance to Governor Mike Dunleavy, Re: MOA's formal response to CEA and MEA's proposed final Program (July 19, 2024); *See also* AR No. 2024-182(S) (July 19, 2024).

Agreement should require the project owners to "identify an alternative infrastructure and engineering solution to ensure continuous water flow to all 12 miles of the Eklutna River."[27]

The 1991 Agreement clearly envisions that the Governor may establish measures such as this one by providing three years before implementation must begin for the project owners to articulate and finalize designs, complete any required environmental assessments, and secure any necessary permits and authorizations. MOA simply proposes to use two years of the three-year pre-implementation period for the project owners to define the technical engineering solution to meet the Governor's measure and use the final year to secure necessary permits and authorizations. The1991 Agreement then allows for five years for implementation to be completed. While we aspire for water to flow into the Eklutna long before it is required, in total, the 1991 Agreement provides for up to eight years from Oct. 2, 2024 for the final Program to be fully implemented (no later than Oct. 2, 2032).

The utilities' proposed final Program both proposes to use the full length of the three-year pre-implementation period to finalize the design and secure necessary permits and authorizations (the proposed final Program provides only 30% design drawings[28]) and use the full five-year implementation period before releasing any water into 11 of 12 miles of river, as the figure below shows.

Entity	Milestone	Deadline
Parties	Provide comments to the Governor	June 24, 2024
Project Owners	Provide responses to the Governor	July 24, 2024
Governor	Issues the Final Program	October 2, 2024
Project Owners	Feasibility study for the fixed wheel gate	October 2, 2027
Project Owners	Begin implementation	October 2, 2027
Project Owners	Complete implementation (establish instream flows)	October 2, 2032

Figure 1 – The implementation schedule in the utilities' proposed final Program.[29]

Therefore, the schedule MOA is proposing to the Governor is no different than what the utilities have proposed, and MOA is not proposing any extensions to the 1991 Agreement schedule. Moreover, the utilities propose to not release a drop of water into the Eklutna River before the day they are legally required to under the 1991 Agreement – October 2, 2032. MOA places no such limitation on when river flows could be re-established.

For these reasons, the view that MOA has requested the Governor to impose an extension on the 1991 Agreement process is incorrect. Rather, MOA is proposing that the Governor establish a different kind of measure than proposed by the utilities, requiring the project owners to use the existing pre-implementation period to fulfill the Governor's measure articulated in the final Program.

[27] *Id.*
[28] Proposed Final Program at 4.
[29] Supporting Information Document at 56 (Table 1-14).

Conclusion

We again wish to thank you for the opportunity to respond to your inquiries, and for your thorough consideration of alternative proposals for the future of the Eklutna River.

Łiq'a nagh qinqtudeł – We are hopeful the salmon will return to us.

Aaron Leggett
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cc:
The Honorable Suzanne LaFrance, Mayor, Municipality of Anchorage
Sara Boario, Alaska Regional Director, U.S. Fish & Wildlife Service
Jon Kurland, Alaska Regional Administrator, NOAA Fisheries
Curtis Thayer, Executive Director, Alaska Energy Authority
Anthony Izzo, Matanuska Electric Association
Arthur Miller, Chugach Electric Association

United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE
1011 East Tudor Road
Anchorage, Alaska 99503

In Reply Refer to:
FWS/R7/AFES

Mike Dunleavy, Governor
Office of the Governor
P.O. Box 110001
Juneau, Alaska 99811-0001

Subject: Eklutna Hydroelectric Project Final Fish and Wildlife Program

Dear Governor Dunleavy:

The U.S. Fish and Wildlife Service (Service) appreciates your August 15, 2024, invitation seeking input on the Eklutna Hydropower Owner's proposed Fish and Wildlife Program (Program) for the Eklutna Hydroelectric Project (Project). You have invited us to attend a meeting on September 9, 2024, with the stated purpose of providing information to assist in fulfilling your responsibilities under the Agreement – to review the proposed Program and attempt to reconcile differences – and to obtain additional information from the Parties to Agreement and the Native Village of Eklutna concerning the Owner's final proposed Program and subsequent comments.

You requested each of the parties and the Native Village of Eklutna provide a legal brief addressing specific questions to share each entities perspective. The Service's responses to the specific questions are listed in the enclosed brief. Our perspectives on the proposed Owner's Program are detailed in our comment letter, June 24, 2024, and are reflected in the attached responses. We look forward to engaging in further discussion during the upcoming meeting.

Sincerely,

Sara Boario
Regional Director

Enclosure

LEGAL BRIEF FOR EKLUTNA HYDROELECTRIC PROJECT

9/4/2024

Thank you for providing this opportunity to further discuss the Final Proposed Fish and Wildlife Program (Program) for the Eklutna Hydroelectric Project (Project) and the comments you have received about the Program from the parties of the 1991 Fish and Wildlife Agreement (1991 Agreement) and the Native Village of Eklutna (NVE). To assist in your preparation for the meeting, you requested each of the parties and NVE provide a legal brief to share our perspectives concerning these eight issues:

1. The Governor is required to give equal consideration to eight factors identified in Section 5 of the Agreement. Please identify how the proposed final program or an alternate program promoted by any other parties, or the Native Village of Eklutna, does or does not meet those eight factors.
2. Does the Agreement require complete connection between the river and the lake to support fish passage?
3. Is Municipality of Anchorage (MOA) Assembly approval required for approval of the Owners' program?

4. What effect, if any, did the MOA's lack of a vote on the Owners' program have on the process set forth in the Agreement?
5. Does the Governor have the authority under the Agreement to impose a two-year extension on the process as requested by the MOA?
6. Whether the Owners and Anchorage Water and Wastewater Utility ("AWWU") have reached a final and binding agreement concerning the use of AWWU infrastructure as outlined in the Owners' program. If a final agreement has not been reached, what effect will that have on the Owners' ability to implement the final proposed program?

Given our role under the 1991 Agreement and our special expertise concerning fish, wildlife, and habitat, we focus our response on issues 1 and 2, have minimal input for issue 5, and no comment for issues 3, 4, and 6. Below is our perspective on issues 1, 2, and 5.

1. The Governor is required to give equal consideration to eight factors identified in Section 5 of the Agreement. Please identify how the proposed final program or an alternate program promoted by any other parties, or the Native Village of Eklutna, does or does not meet those eight factors.

In order to ensure that Eklutna and Snettisham are best adapted for power generation and other beneficial public uses, the 1991

Agreement requires that the Governor give equal consideration to the following eight factors:

1) the purposes of efficient and economical-power production,
2) energy conservation,
3) the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat),
4) the protection of recreation opportunities,
5) municipal water supplies,
6) the preservation of other aspects of environmental quality,
7) other beneficial public uses, and
8) requirements of State law

Notably, social justice and impacts to communities such as NVE were not expressly noted in this list of factors, nor was NVE included as an official party to the 1991 Agreement. NVE should have been included as an official party, and their exclusion was a gross oversight. Throughout this process, the parties of the 1991 Agreement have recognized the profound impact that development, from gravel mining to hydropower, has had on NVE. NVE has played a key role in Project study plans and alternative development, and we support your consideration of its comments as you weigh the eight factors.

Our primary interest in this process is specific to the development and implementation of measures to protect, mitigate

damages to, and enhance (PME) fish and wildlife, and the preservation of other aspects of environmental quality. Our recommended PME measures included year-round instream flows throughout the entire river that are of sufficient magnitude to connect floodplain and off-channel habitats; channel maintenance flows of sufficient magnitude, duration, and frequency to maintain habitat; and fish passage into and out of Eklutna Lake. Our two preferred alternatives to accomplish these PME measures were to either modify the existing dam with a fish ladder while also changing hydropower operations to provide year-round connectivity from the lake to the river; or constructing a new dam with excavation deep enough to provide year-round connectivity from the lake to the river while also minimizing impacts to hydropower operations, a fish passage structure, and a fixed-wheel gate for wide-ranging channel maintenance flows. Although it is not our role to evaluate all eight factors, we understand the estimated costs associated with constructing a new dam are appreciable. Therefore, we have considered a Fish and Wildlife Program with a phased approach so short-term PME measures can begin while solutions are being developed for long-term PME measures. For federally licensed projects, major infrastructure actions can take several years to complete, and specific mitigation measures may change as new information becomes available through monitoring or studies. In a process

that intends to be as protective as the federal licensing process, we believe a phased approach is appropriate for addressing long-term mitigation goals that may appear difficult to achieve at present.

While the Program does not immediately meet Service goals of ecological connectivity – one mile of river would remain dewatered and the proposed flows are not adequate for recreating spawning and off-channel habitat below the lake in quantities comparable to what was lost – the Program, if coupled with firm Owner commitments and continuing opportunities to reconnect the river and reestablish fish passage in the long term, would be consistent with the negotiated alternative for a phased approach.

While we believe our two preferred alternatives best addressed factor 3 for fish and wildlife, we remain open to considering any engineering solution that could accomplish our recommended PME measures, and other creative solutions to improve connectivity and habitat for fish and wildlife.

2. Does the Agreement require complete connection between the river and the lake to support fish passage?

While the 1991 Agreement does not expressly mention complete connection between the river and the lake to support fish passage, it does require development of a Program to protect, mitigate, and enhance fish and wildlife resources. This broad

requirement is best interpreted as applying to all affected portions of the watershed, not just the portions of watershed addressed by the Program, i.e., those portions located a mile or more below the current dam.

The process set forth in the Agreement was also intended to be as protective as the Federal Power Act (FPA)[1,2,3] such that it would obviate the need for federal licensing processes[4]. However, there are disparities between what has occurred here and what would have occurred under a FERC licensing process. Under the FERC process, section 18 of the FPA would have provided the Service and NMFS with authority to issue fishway prescriptions. Section 10(j) of the FPA would have required license conditions

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[1] 1992 Divestiture Summary Report, Page 20, top paragraph: "Given the nature of the projects and the river basins affected, there is good reason to believe that the proposed arrangements will work at least as well as Federal regulation for the intended purpose of mitigation and enhancement of affected fish and wildlife resources. The August 7, 1991, Agreement affords fish and wildlife interests a stronger voice in project management than would be available under continued Federal ownership."

[2] 1992 Environmental Assessment, Alaska Energy Authority, Page 10, second paragraph from the top: "The approach for fish and wildlife measures is novel. Given the nature of the projects and the river basins affected, there is good reason to believe that the proposed arrangements will work at least as well as Federal regulation for the intended purpose of mitigation and enhancement of affected fish and wildlife resources."

[3] House Report 104-187, Alaska Power Administration Sale Act, July 13, 1995: "H.R. 1122 and separate formal agreements provide for the full protection of fish and wildlife. The purchasers, the State of Alaska, the U.S. Department of Commerce, the National Marine Fisheries Service (NMFS) and the U.S. Department of the Interior have entered into a formal agreement providing for post-sale protection, mitigation and enhancement of fish and wildlife resources affected by Eklutna and Snettisham."

[4] Section 1 of the 1991 Agreement: "NMFS, USFWS and the state agree that the following mechanism to develop and implement measures to protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat) obviate the need for the Eklutna Purchasers and AEA to obtain FERC licenses."

for protection, mitigation of damages to, and enhancement of fish and wildlife resources and related habitat based on recommendations from Federal and State fish and wildlife agencies, pursuant to the Fish and Wildlife Coordination Act. Section 10(j) recommendations typically address water quantity, water quality, instream flows, ramping rates, and habitat management, and may also include recommendations for the development and improvement of fish and wildlife in the project area. Under the FPA, FERC would then have considered any rejected Section 10(j) conditions as Section 10(a) recommendations. Fish passage is an important component of protecting, mitigating, and enhancing fish habitat pursuant to the 1991 Agreement, which was developed in response to concerns over [5][obj],[obj]. Given that 1) the loss of a historical anadromous sockeye salmon run is what prompted the development of the 1991 Agreement;; 2) lakes are important habitat for sockeye salmon spawning and rearing; 3) there are no other lakes connected to the river; and 5) Eklutna Lake still supports kokanee, or land

[5] 1992 Environmental Assessment, Alaska Energy Authority, Page 9, second paragraph from the bottom: "During initial reviews of the legislative proposal, one significant problem was identified; namely, loss of a sockeye salmon run that once spawned in Eklutna Lake. The loss was caused by a small private power development constructed in 1929. This problem was not identified in pre-authorization studies for the Federal Eklutna Project, and the Federal project does not include any mitigation. This specific problem and the desires of the fish and wildlife agencies to provide appropriate consideration to fish and wildlife resources over the long run led first to recommendation that the two projects be placed under FERC jurisdiction; and subsequently to the August 7, 1991, Agreement that provides a process similar to FERC's but without a requirement for Federal regulation."

locked sockeye salmon, the Service believes the intention of the 1991 Agreement was to develop a Program that reconnects the river and lake.

The approach of using the Agreement in lieu of the federal licensing process for fish and wildlife measures is novel, and the absence of precedent or comparable examples from other projects appears to contribute to disagreement concerning PME measure requirements in the 1991 Agreement. Consideration of the analogous federal relicensing process can help clarify the intent of the Agreement. Under the federal relicensing process, PME measures and fishway prescriptions can change where (as here) downstream fish barriers are removed, or where new information becomes available to indicate additional measures are warranted[6,7,8]. Recent federal relicensing processes also demonstrate growing recognition of the importance of connectivity, and a trend toward finding creative solutions that repair impacted ecosystems. Given this process established by

[6] Klamath Hydroelectric Project (P-2082-062) – During relicensing proceedings, new fishway prescriptions and protection, mitigation, and enhancement measures were required for the new license. Ultimately, four dams were slated for removal, and the two remaining dams have fish passage facilities.
[7] Penobscot River Hydropower Projects – As dams came up for relicensing, federal and state agencies, the Penobscot Indian Nation, conservation organizations, and project owners developed a trust to both maintain hydropower and restore sea-run fisheries. As a result, the Great Works Dam (P-2312) and the Veazie Dam (P-2403) were removed, and a stream-like bypass channel was installed around the Howland Dam (P-2721).
[8] Hells Canyon Hydroelectric Project (P-1971) – The three dams of this project have been blocking fish passage since their construction in the 1950s and 1960s. This project has been operating under annual licenses as the terms and conditions are negotiated for the new long-term license to address fish passage and other concerns.

the Agreement was intended to be as protective as federal licensing, and the Project is the final obstruction to fish passage in the Eklutna Watershed, the Service believes fish passage and full watershed connectivity are important components of a long-term mitigation strategy in the Program.

5. Does the Governor have the authority under the Agreement to impose a two-year extension on the process as requested by the MOA?

The Service would not stand in the way of a two-year extension as proposed by the MOA; we would be open to considering this type of amendment. According to the Agreement, one of the Service's roles is to review the timeline set out by the Program.

A two-year extension could minimize the probability of unresolved disagreements being challenged in court and could conserve financial resources as well. Given the short period of time previously devoted to identifying potential engineering solutions, May through August 2023, some options may not have been identified, while others may not have been fully conceptualized or analyzed. A two-year extension on the timeline for the MOA and other engineers to identify long-term solutions could improve PME measures for fish and wildlife while conserving money that would otherwise be spent on a short-term

solution that leaves one mile of river dewatered and delays re-establishing connectivity.

In summary, we want to work together to implement PME measures with the long-term goal of connectivity, and for there to be as much engagement and support as possible for finding long-term solutions that reconnect the river. We also believe NVE should have a meaningful role as this process moves forward to ensure their concerns are addressed.

The Service's goal for the future of the Project is full ecosystem connectivity. Our vision is eventual return of a sockeye salmon run that is ecologically and culturally important to the people of Alaska and the Native Village of Eklutna. Our hope is that it does not take an additional 30 years to achieve. This goal is consistent with the Agreement's requirement to "protect, mitigate damages to, and enhance" fish and wildlife resources.

We encourage all stakeholders and the public to adopt a mindset of curiosity and flexibility when considering new and innovative technologies regarding future scenarios around energy use and production, facility structure, funding, administration, and fish passage into and out of Eklutna Lake. We support the NVE's full participation in the administration of all aspects of the Program moving forward (including monitoring, adaptive

management, reopeners, and alternatives analyses and negotiations).

In The Matter Of:

Alaska Office of the Governor
1991 Fish and Wildlife Program

September 9, 2024

Northern Lights Realtime & Reporting, Inc.
545 East 12th Avenue
Anchorage, Alaska 99501

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Min-U-Script® with Word Index

ALASKA OFFICE OF THE GOVERNOR

1991 FISH AND WILDLIFE PROGRAM

September 9, 2024
1:00 p.m.

Taken at:
Alaska Office of the Governor
550 West 7th Avenue, Suite 1700
Anchorage, Alaska 99501

Representing Governor Dunleavy:
Rachel Bylsma, Chief of Staff
Eugene Hickey, Senior Assistant Attorney General

Representing the Alaska Energy Authority:
Curtis Thayer, Executive Director
Mark Billingsley

Representing the Municipality of Anchorage:
Joseph Busa, Deputy Municipal Attorney
Mark Corsentino, Director

Representing the National Marine Fisheries Service from the National Oceanic and Atmospheric Administration:
Sean McDermott
Alisha Falberg (telephonic)

Representing the United States Fish and Wildlife Service:
Doug Cooper
Mike Routhier

Representing Chugach Electric Association:
Andrew Laughlin, Chief Operating Officer
Samantha Owen

Representing Matanuska Electric Association:
Tony Zellers, Chief Operating Officer
Todd Glass

Representing the Native Village of Eklutna:
Aaron Leggett, President
Curtis McQueen

Also present:
Juliana Soane, Executive Assistant

PROCEEDINGS

MS. BYLSMA: Good afternoon, everyone. Thank you so much for coming this afternoon. Name is Rachel Bylsma. I'm deputy chief of staff to Governor Dunleavy.

First, I just want to take roll call if everyone's here, for the record. So if you could please respond for the transcription.

First, there's myself, Rachel Bylsma, representing Governor Dunleavy.

Gene Hickey, senior assistant attorney general, representing the State of Alaska.

MR. HICKEY: Present.

MS. BYLSMA: Representing Alaska Energy Authority, Executive Director Curtis Thayer.

MR. THAYER: Here.

MS. BYLSMA: And Mark Billingsley.

MR. BILLINGSLEY: Here.

MS. BYLSMA: Representing the Municipality of Anchorage, Deputy Municipal Attorney General Joseph Busa.

MR. BUSA: Here.

MS. BYLSMA: And Director Mark Corsentino.

MR. CORSENTINO: Here.

MS. BYLSMA: Representing the National Marine Fisheries Service from the National Oceanic and Atmospheric Administration, Sean McDermott.

MR. McDERMOTT: Here.

MS. BYLSMA: And via phone, Alisha Falberg.

MS. FALBERG: Yes. Thank you.

MS. BYLSMA: Representing the U.S. Fish and Wildlife Service, Doug Cooper.

MR. COOPER: Present.

MS. BYLSMA: And Mike Routhier. Did I say that correctly?

MR. ROUTHIER: Here. Routhier.

MS. BYLSMA: Routhier. Okay.

Representing the Chugach Electric Association, Chief Operating Officer Andrew Laughlin.

MR. LAUGHLIN: Here.

MS. BYLSMA: And Samantha Owen.

MS. OWEN: Here.

MS. BYLSMA: Representing

Matanuska Electric Association, Chief Operating Officer Tony Zellers.

MR. ZELLERS: Here.

MS. BYLSMA: And Todd Glass.

MR. GLASS: Here.

MS. BYLSMA: And representing the Native Village of Eklutna, President Aaron Leggett.

MR. LEGGETT: Here.

MS. BYLSMA: And Curtis McQueen.

MR. McQUEEN: Here.

MS. BYLSMA: Wonderful.

Also present is Sandra Mierop. Did I say that correctly? She's our court reporter to provide the transcription of the meeting.

And then also Juliana Soane, she's executive assistant in the Office of the Governor to help with any technical or administrative assistance.

I appreciate you all making the time to come this afternoon and provide some additional information for the Governor on some of the various issues and questions related to the Eklutna Hydro Project and the proposed

final Fish & Wildlife program.

As noted in the 1991 Agreement, the Governor is required to review the final proposed fish and wildlife program, the comments, the testimony, summary and analysis materials, and any alternative recommendations made for the protection, mitigation, and enhancement of fish and wildlife resources.

He's required to attempt to reconcile differences among the party and -- among the parties and give due weight to the recommendations, expertise, and statutory responsibilities of the U.S. Fish & Wildlife Service, National Marine Fisheries Service, the state resource management agencies, and the purchasers.

The Governor is required to give equal consideration to eight different elements: The purposes of efficient and economical power production, energy conservation; the protection, mitigation of damage to and enhancement of fish and wildlife resources, including the related spawning grounds and habitat; and the protection of recreational opportunities; municipal water

supplies; preservations of other aspects of environmental quality; other beneficial public uses; and the requirements of State law.

Based on this review, the Governor shall establish a final Fish and Wildlife Program that adequately and equitably protects, mitigates damages to, and enhances fish and wildlife resources affected by the Eklutna project.

The Governor is very conscious of the critical importance of this decision to all parties present, as well as the public at large.

So pursuant to the Governor's responsibilities under this agreement, this meeting was convened to try and obtain some additional information from the 1991 Agreement parties, as well as the Native Village of Eklutna. And then in an effort to be consistent with, you know, aspects of the 1991 Agreement about the public process and the comments process, we requested that the documents be submitted to all parties and the Native Village of Eklutna, and then we have a transcription of the meeting so that it can be

posted on the website, again, for all parties and for the public, upon request, per the agreement.

So, as stated in the invitation, the parties and the Native Village of Eklutna will each have 15 minutes to present their position, should you choose to. You may not have a presentation, and that's fine. But during the course of the presentation, either I or Attorney Hickey may have some questions, and we will not count time spent on questions against your 15 minutes.

We'll start with the owners, since it's their proposed program for Chugach and MEA, followed by the Municipality. Then I'll call on each of the other parties in succession and the Native Village of Eklutna to give you your turn, if you choose. And then since this is the utility's final proposed program, the project owners' final proposed program, if you would like to reserve some time at the end for rebuttal, you may do so.

Juliana is going to run our technology and advance your slides, so, if you could say "next" for her benefit, and then also

for the transcription and for the attorney on the phone so that we can help people keep track of where we are as we move along.

And if for some reason you need to step out, you can go through this door and just knock when you need to get back in, and Juliana will let you back in.

So, with all that said, why don't we get started?

So if I can turn it over then to Chugach and MEA.

MR. GLASS: Great. Thank you.

MR. HICKEY: Before we get started, do you want to reserve any time?

MR. GLASS: We'll see how we go. Hopefully we will, but you never know.

Very good. Thank, Juliana.

Hello again. Todd Glass, Wilson Sonsini energy lawyer. I've been working on hydro for 25 years.

With me today is Samantha Owen. She's a senior regulatory consultant at McMillen, and she led the process from consulting, studies, and the alternative processing, leading to the proposed final

program.

Also you have Andrew Laughlin, the COO of Chugach, and Tony Zellers, the COO of Matanuska. Their jobs are to keep the lights on and to both implement and enforce prudent utility practice at their organizations, and the Eklutna project is a critical part of that.

We're here to explain, support, defend the proposed final Fish and Wildlife Program, the owners' implementation of the program over the last five years, and whatnot. I'm going to hand it over to Sam who's going to talk through the first response, and I'll handle the balance when she's done.

MS. OWEN: Perfect. Thank you, Todd.

So, yes, I get one question; Todd gets five; that's cool.

The proposed final program we believe does meet and successfully balance all eight criteria that are found in the 1991 Agreement, and I'm just going to briefly pop through them really quick?

Again, this is all in the

briefing we provided last week, so I won't spend too, too much time.

I'm going to combine the first two, "Efficient and Economical Power Production and Energy Conservation."

So amongst all the alternatives that were evaluated, this is the one that allowed us to maintain full reservoir fluctuation. It allows us to operate the project year-round, and it had minimal need for replacement energy rate. If the water goes down the river, it can't go through the powerhouse, and all of that will require replacement of energy. So as far as these first two bullets are concerned, this is one that had the least impact on the hydro project as a whole.

The third bullet is: "Fish and Wildlife Protection, Mitigation, and Enhancement."

We firmly believe that this proposal will provide significant benefits for fish and wildlife in the watershed. It puts water in 11 out of 12 miles of the river; it should benefit all four species of salmon that

are currently spawning in that river, including Chinook, coho, pinks, and chums.

And then, based on the models that were developed and all the model runs that we executed with U.S. Fish and Wildlife and NMFS and NVE through our technical working groups, we believe it should provide 96 percent of the available spawning habitat for Chinook, and 99 percent of the available spawning habitat for coho below the AWWU portal bow, which is the point of flow releases.

The fourth bullet, protection of recreation opportunities, we've added several measures in the proposed final program that specifically speak to recreation. I'm going to hit on three major points.

One, because there's no change to reservoir fluctuations, there would be no increased or any additional kind of erosion impacts on the lakeside trail, which is one of the most popular recreational facilities out there.

Also, because the water releases are about a mile below that campground right at the lake outlet, in our conversations with

AD & R they believe that it has limited risk of introducing additional negative bear-human interactions through the campground.

And then, third, the tailrace fishery, which is actually not in the Eklutna watershed but down in the tailrace of the power project itself, is a pretty popular recreational fishery; and this proposal has the least impact on that tailrace fishery. And we actually think it probably might have no impact, but there is the potential for strain, and so we recommended that that be included in the monitoring program as a whole that is part of the monitoring impact and management approach.

As far as Municipal water supplies are concerned, as we all know, the Eklutna Lake provides 90 percent of the municipal water supply for the Municipality of Anchorage. We've coordinated with AWWU thoroughly throughout this entire process, and we think our proposal has no significant impact or threat to the municipal water supply, whether that be the infrastructure, the water availability, or the water quality. And there

are several measures that were included in the proposed final program to achieve just that.

AWWU was involved throughout the entire concept, design, and process, and has also been involved in several negotiations leading up to the submittal of the proposal to the Governor.

Then we move on to preservation of other aspects of environmental quality. We've interpreted this to be carbon offset; so because it has the minimal impact on replacement energy, it also has the minimal impact on carbon offset.

And then other beneficial public uses, we did a cultural resource study, and we've heard extensively from the tribe that water in the river and salmon returning to the Eklutna River is an important cultural resource; and since it will have, we believe, significant benefits to that natural resource, we believe it will have significant benefits to cultural resources, as well.

And then requirements of state law, we coordinated with all the state agencies throughout this process and fully intend to

achieve all permitting that might be needed in order to implement the process.

So, that said, we would like to point out that we do believe some of the other proposals put forward maybe don't balance all eight criteria as well and focus more in on that third bullet, just the "Fish and Wildlife Protection, Mitigation, and Enhancement," and hope that's taken into consideration going forward.

This also jump-starts me into my next slide.

So, recently, pumped hydro -- Mark -- was put forward to the Assembly on August 23rd, 2024; and pumped hydro was a concept that was looked at maybe four years or so ago in relation to Eklutna. This old concept which was much bigger, right, closed loop, five reservoirs, paired with new wind, almost $5 billion, was proposed by the Alaska Institute of Climate and Energy in 2020. That actually ended up in our -- the project owners' initial information package back in 2020.

AEA actually looked further into this, but my understanding is that it

ultimately was not pursued for various reasons.

Then and now, the project owners do maintain that the purpose of the 1991 Agreement is to mitigate the existing project, not build a new project that we firmly believe would need to be further regulated. So, again, kind of outside the scope of the 1991 Agreement.

But, that said, new concept put forward to the Assembly in late August, and this is a -- I would just kind of want to point out this is different than what was looked at before. This would be -- and, Mark, correct me if I get anything wrong -- an open-loop concept. It would have one reservoir, which would be Eklutna Lake itself. It would also be paired with new wind and solar. And I don't think any costs were put forward for this one.

We haven't had a lot of time to look at this, but we have had time to evaluate it at a high level and wanted to share some of our initial thoughts. And first being that -- well, one, we were a little surprised because open loop means that there would not be a closed reservoir at the bottom. We'd be

drawing water straight from the Knik River. And at that point, the tailrace is within the zone of tidal influence that, at certain points throughout the month, there would be brackish water in that area and very heavy sediment load.

So the way it's currently proposed, that would actually be the public water supply for about four months out of the year. And then that water would then be pumped up into Eklutna Lake and down into the Eklutna River. So off the head, we think it would have pretty significant impacts on the public water supply and overall ecosystem.

And then there are some other more engineering feasibility concerns that we have, and we can go to the next slide.

I'm not going to read all of that, I promise. But, the two things I wanted to point out is I think what we heard -- and I was not at the Assembly meeting, but having watched the YouTube version of it, I think one of the points that was brought forward was that there's a lot of existing infrastructure there, and therefore it will probably be very cost

effective.

We really want to highlight that, yes, there's an existing intake; yes, there's an existing tunnel; yes, there's an existing powerhouse; none of which was designed for pumped hydro. So, I mean, this would basically involve gutting the powerhouse, putting in new turbines. Turbines that are currently there are not designed for reversible flow. It's totally unknown if the penstock and the tunnel would withstand that pressure going uphill and pumping water up into the lake.

And then, third, the intake itself is definitely not designed for reversible flow.

So, yes, there's existing infrastructure; it was not designed for this purpose back in the '50s.

And then the last thing here is just based on, again, what we saw in that presentation, we just don't think there's enough storage. When you limit the -- part of the proposal is to limit the storage in the reservoir between elevation 850 and 870, and that reduces the storage capacity of the lake

by about 60 percent. So, the amount of water that we're talking about, there isn't enough storage to contain that within that elevation bracket, and you would start spilling -- per the map that we've run, pumping the water uphill over the summertime for four months, you would actually start spilling only about after a month or so. And then even the water that you do have in the lake between those two elevations, letting it go back downhill in the winter, you'd -- running at about half capacity, you'd get about a hundred days' worth of generation, or about 40-some-odd -- 47 or so gigawatt hours compared to the 169 that we currently do.

So those are our initial thoughts. We put it all down because we know you got a copy of the presentation, so if you want to have more questions about that, I'd be happy to answer them.

But I think, with that, I'm going to turn it over to Todd.

MR. GLASS: Juliana, next slide, please.

Thank you.

I'm not going to go over each of the legal points in the briefs or our responses to Questions 2 through 6. I think they're fairly laid out in the brief; references to contracts and the laws and the various facts.

What I do want to do is make a few points; five in particular.

The first one is is it's important for the Governor and Governor's legal staff to actually look at what's in the 1991 Agreement, not what people want to be in the 1991 Agreement in 2024.

There is -- unlike FERC licensing, there is not a body of State or Federal law and regulations that can add things in. You have to look at the 1991 Agreement on its face. So one-of-a-kind contracting has to be written in a straightforward manner.

The second thing is that if you do take a look at the FERC process and precedent that were in the briefing, don't fall for selective references. You have to look at the entire body of FERC licensing law.

A few of them.

The first one is sure, licensees

in the FERC process do have to look at the cumulative impact, but they don't have to address cumulative impacts. It is simply wrong to tell the Eklutna project owners that they have to correct everything back to 1929 when they only bought the project in 1997. That's just not the way it's done in FERC. It's not done anywhere.

We don't have to require every impact to be addressed, either. That's not the way things are at FERC. If that were the case, every one of the more than 2,000 FERC projects would have been pulled out through pre-licensing.

And, finally, as both NMFS, as well as National Fish and Wildlife Service, there is no Section 18 fishway mandatory condition.

So let's keep going on.

As you start to look at the Assembly approval in voting, the Assembly approval was not required, but it didn't really matter. Like, the one critique I would say of the Municipality's briefing is they had a selective history that they chose to

acknowledge.

In reality, lawyers for the Municipality have been involved every step of the way from 2017 through April of this year. Ralph Duerre and then Ben Bowman, assistant Municipal attorney showed up at every single meeting and participated in every single decision we made.

Similarly, Kolby Hickel, and also Mr. Corsentino. Kolby Hickel participated for three years; Mark Corsentino for over a year and a half.

All of the decisions were made at a unanimous basis. There were no votes taken. And the owners acted as one in producing, through the process, the official proposed final program.

The second thing worth noting here is that the Municipality didn't just lose its rights; it surrendered them voluntarily as a means to gain regulatory approval for a billion-dollar transaction, which the Municipality gave a billion dollars. They didn't lose them; they gave them up.

And we appreciate that the change

in Administration may change views on that history; but Chugach and MEA and the owners should not have to suffer them.

The fourth thing that I want to say is that the Governor's staff, especially, should recognize the RCA's authority. HP, just like Chugach and MEA and AWWU, are regulated utilities, and they have to behave like public utilities. They have to engage in prudent utility practice.

Second thing under that subpoint there is that the RCA has clear authority that to supercedes and voids Assembly actions that are seeking to override them or interfere or slow down.

The voting rights that were given up and that Assembly is appealing now just simply, you know, won't override what the RCA wants.

Which gets to the final slide, if you don't mind, which is, there was a critical oversight in the briefing in that there is an assumption by some that the lack of Assembly approval of the AWWU documents is the end of the road. That's simply not true. While it's

not something that we've been attempting to threaten the Municipality in the least with, if the Assembly were to not approve these things, we would simply go through the Doctrine of Joint Use.

Joint Use in AS 42.05.321, and whatnot, sets forth a very clear system whereas if a utility that is allowed to use another utility's property or any facilities for public convenience is the necessity, they can go to the Commission and have the Commission sort it out and set that compensation at cost.

Now, we think in the negotiations that we have with AWWU, that AWWU is far better off with its water rights and compensation levels and all of that to do it. But if the Assembly chooses not to, for whatever reason, we will simply go to the RCA and we will be able to implement the proposed final fish and wildlife program.

So, with that, I think I've got about a minute left, but I'll reserve that.

MS. BYLSMA: Right. Thank you. I do have a few questions.

MR. GLASS: Sure.

MS. BYLSMA: So, you -- and some of them, you probably sort of addressed, but just trying to expand on that a little bit.

You stated in your brief that this final proposed program was a negotiated agreement. What does that mean and how -- can you talk about that process a little bit?

MR. GLASS: Sam, you want to talk about how we attempted to reconcile differences?

MS. OWEN: Absolutely.

So we put out our draft program October 27th, 2023, and then the agencies, the parties, the State resource management agency and NVE all provided comments on that draft in late November, early December of that year.

We met with each of them individually in the month of December.

And after that, we reconvened in January, February, March and April with all of the agencies involved and talked through their recommendations, tried to work things out. Lawyers were present, closed-door sessions.

We also had separate meetings with NVE, and what is put forward in front of

you as the proposed final program is the results of those negotiations.

MR. GLASS: And the reopeners.

MS. OWEN: The reopeners, everything in the proposed final program came out of that.

I think there's a significant clause in there that Doug or Sean fought hard for, which was what I call the climate change clause where future water coming into the reservoir will be split 50/50 between hydropower and fish resources. The limited reopener for fish passage, the limited reopener for the fixed wheel gate, all of that is the product of those negotiations over that about five-month period.

MR. HICKEY: If I can follow up on that. When you say that they were part of the negotiation, to me, then, the final plan, the draft final plan that you guys produced is a result of those negotiations, meaning it's been agreed to. That's what I interpret as negotiated.

MS. OWEN: No pen was put to paper.

MR. HICKEY: No, no. I understand. I understand there's no written agreement.

MS. OWEN: Sure.

MR. HICKEY: But when you say it was negotiated, you indicated that NVE and, I believe, the Municipality of Anchorage both agreed to those components.

MS. OWEN: Well, in this instance, the Municipality of Anchorage was functioning as part of the hydro owners group. NVE was involved in these conversations, albeit separate from the agencies. And I would say -- and I hope the agencies would agree -- that those negotiations did happen in good faith over that five-month period.

MR. HICKEY: I get that. But was there agreement from NVE as an outside --

MR. GLASS: I'll clarify that from a legal standpoint. I would say that there was an agreement in principle among the parties, but not with NVE. And I think you should ask each of one of the agencies as to whether they were in the room, whether it was the equivalent of a handshake or not. But I

would not in any way overstate that. I don't think that NVE agreed. I don't think that that would be --

MR. HICKEY: Okay. That's what I want to clarify. Thanks.

MR. GLASS: To be clear, if the Municipality was involved, and the Municipality supported the agreement at that time, things changed, obviously, subsequent to that.

MR. HICKEY: Because of the change in administrations?

MR. GLASS: (Nods head.)

MR. HICKEY: Got it.

MS. BYLSMA: So, one of the parties stated in their brief that you rejected exploring the pump storage hydro during the alternatives analysis.

Was that the case? Was it rejected? And if it wasn't analyzed, why was it not analyzed?

MS. OWEN: So, alternatives analysis, we've been defining that as a very specific period in time between April and August of 2023. So, that said, pump storage hydro was brought forth, like as I said

previously, in 2020. So at the very beginning of this process, and at the time, we maintained and we continue to maintain that, you know, pump storage hydro, from our perspective, would be a brand new project that we think would be a FERC-regulated project and, therefore, outside the scope of the 1991 agreement? Right?

From our perspective, and everything that we've read, we think it's supported that the purpose of the 1991 Agreement is to mitigate the existing project, not remove it and not build another one.

So that's the reason why it was not pursued in 2020.

I don't recall -- although I would have to go back to my notes to be 100 percent sure -- anyone bringing it forward again during the alternatives analysis between April and August of 2023.

MS. BYLSMA: One of the parties also stated in their brief that you, the project owners, have a position that the protection, mitigation, and enhancement of fish and wildlife resources cannot include reconnecting the river to the lake to support

fish passage.

Do you feel like that's an accurate reflection of your position?

MS. OWEN: No.

MR. GLASS: I think we both agree on this. Within the four corners of the document, the document is silent with respect to fish passage; it's silent with regard to connection. Therefore, it could be included or not included as part of the bundle of PME measures. I don't think the 1991 Agreement says anything about that specifically.

MS. OWEN: To further expand on that, I would argue that we actually spent a lot of time and money looking at the potential for fish passage over the past several years. Right? I don't -- I would never characterize the owners as being anti fish passage.

But the agencies and NVE, they both are very set on volitional fish passage, which means the fish can swim from the river up into the lake on their own accord, going upstream. We still have a lot of feasibility concerns regarding downstream fish passage, which is getting the juveniles from the lake

back into the river with the functioning hydro project at the same time.

So, that said, if there had been identified a solution that allowed fish passage that did not have significant impacts to the hydro project, and was feasible, then I think it's something the project owners definitely would have considered.

Everything that was brought forward and that was analyzed had either required the project to be shut off for seven, eight months out of the year; required the project to be removed altogether; or was, quite frankly, cost prohibitive.

MS. BYLSMA: So that kind of leads into my follow-up question there. If there's a feasible cost-effective alternative that is identified to restore full river connectivity and allow for fish passage, is that something that you believe can be implemented under your current proposed program?

MS. OWEN: Through the fish passage reopener, yes.

MR. GLASS: That's what that is

all about. The fish passage reopener recognized that we don't know of any engineering means to achieve fish passage -- volitional fish passage upstream/downstream right now. But at some point in the future, ten years after flows are reestablished, if the committee, the management and adaptive -- management committee, identifies a means by which to do it, the owners are open to going forward as set forth in the limited reopener.

MS. BYLSMA: Are there any current alternatives that you looked at that include forward restoration that you feel you can support?

MS. OWEN: Well, I think you would have to define "forward restoration."

But if we're talking about fish passage into and out of the lake, trap-and-haul fish passage from the current proposed flow release point would achieve upstream fish passage into the lake with the current proposal.

That said, I don't believe any of the agencies or NVE were particularly fond of traffic on fish passage. It's not very

natural, right? It's exactly what it sounds like. Trap them, you put them in the truck, you drive them up to the lake.

That said, we still have yet to find a feasible solution for getting the juvenile fish back out of the lake.

MS. BYLSMA: Final question here, at least on my part, and you addressed it somewhat, I believe, in this last slide, but just to make sure that I understand.

In your brief on Page 29 -- or 25, you said that if the Anchorage Assembly fails to approve the AWWU final agreements, you will pursue other available avenues to implement the program.

When you are talking about other available avenues, what are you referring to? Is it this process to --

MR. GLASS: Yeah. We're talking about the joint use. And it's something I actually discussed with both Mr. Bowman at one point and Mr. McLaughlin, the outside attorney for AWWU at one point.

This is not something we wanted to threaten or anything like that, but per the

briefs, it has been brought up that somehow or another this is the end of the road, and it is not the end of the road.

As public utilities, as I was mentioning before, public utilities are paid for by the public, right? Public utilities. And as such, there's a longstanding doctrine in all states where one utility can use the facilities of another utility so long as it doesn't interfere or cause any damage or anything like that. Public necessity requires it; they can use those facilities. And there is a specific state process under the Alaska statutes to allow for the RCA to do that.

And there's two actual statutes. One says joint use is the policy and it should be allowed. And then there's the second very thing which is on the screen here, is that where there is a failure to agree among the two utilities on this joint use, there is a means by which to apply to the Regulatory Commission of Alaska and have the Regulatory Commission of Alaska set forth the terms by which this joint use would occur.

So, we still prefer -- I'm happy

to answer any questions. We still prefer to enter into and implement the three agreements that we have negotiated in full with AWWU to achieve this, but if that -- if that doesn't come to pass, then we'll have to go to the RCA through the joint use process.

MR. HICKEY: May I ask a follow-up on that then?

As I understand this, AWWU has already signaled its agreement to this process of what's already been proposed. It's really the new administration and the Assembly who are taking the position that that's not our position. And even if AWWU signs off, as I understand looking at the briefs, the Municipality of Anchorage still has to approve.

How is that approval interplayed between the two utilities? I mean, that's not something that the RCA may have jurisdiction over if you still require the Municipality's signing on the dotted line.

MR. GLASS: Let me break that up into a few pieces here.

First one is AWWU itself has committed to go forward with the three

agreements and to seek Assembly approval as a precondition, just like the Governor's approval is a precondition to going forward with the agreements.

To my information, I don't know whether the new administration has taken any position with regard to the agreements yet or not. They're probably better to answer that than I am.

However, AHP, or Anchorage Hydropower is a public utility regulated by the RCA. The Municipality, and I think in the brief I quoted the actual -- the superseding authority by the RCA over the Municipality. So if the Assembly votes those agreements down, we can go to the RCA to seek it. If the Municipality says no, the AHP cannot do that, same answer, we go to the RCA, the RCA orders it, and it can be dealt with. And I know of no -- we looked for it. The Regulatory Commission of Alaska has Authority over any Municipal decision, and anywhere where there is conflict between the two, the RCA wins.

MS. BYLSMA: Do you have any other questions? Okay.

Well, those are all the questions I had. So thank you, Chugach and MEA.

So next we'll have the Municipality of Anchorage.

MR. BUSA: Thank you.

Good afternoon. My name is Joseph Busa. I'm the deputy Municipal attorney for Anchorage, and I'm here on behalf of the entire Municipal Government to make three simple points.

One, the minority owners' proposal is really disappointing. At a high level -- we'll get into more detail later -- it would spend $3.7 million on an annualized basis to decrease power production at a critical time for the Railbelt while still leaving an entire mile of river dry and failing to bring the fish back to the lake.

Two, a better proposal is on the table. Pump storage hydropower can use the existing dam -- not changing the project -- the existing dam to increase power production for the whole Railbelt while also re-watering the whole river and letting the fish come back.

No. 3, the Governor has the power

to make that generational opportunity a reality. I just want to highlight, I actually don't understand my friends on the other side to have said otherwise during this morning's proceedings. I think everyone agrees, the Governor has the power to do that.

He can require a modest modification to the minority owners' proposal to use the first two years of the three-year pre-implementation period to consider this proven technology the minority owners never adequately studied as part of this broken process.

Now, I want to go over those three points in a lot more detail, but I also want to make sure I answer all of your questions. So I want to invite you to please interrupt me at any point if you have questions about anything I've said.

The first big point, the minority owners' proposal is really disappointing. It scores poorly on all the public interest factors under the 1991 Agreement. Again, that's $3.7 million at a minimum on an annualized basis to do something that's

relatively experimental. To our knowledge, no other fish and wildlife mitigation project has tapped into Municipal drinking water infrastructure in the way that is proposed here. And it does that in order to decrease power production by about 10 percent at a time when we all know the Railbelt needs as much power as it can get during this critical time.

It does nothing to help fish or wildlife on the entire last mile of the river, the entire lake, or all of the tributaries to the lake. It will keep blocking fish and continue to disappoint subsistence and sport fishermen, as well as the hunters whose prey depends on the marine and anadromous fish run to bring back.

It's an unpopular proposal. It was opposed by most public commenters. And it emerged from a broken process in which the Municipality of Anchorage, the majority owner of this project and the local government responsible for protecting the public interest, was sidelined.

That's the first point.

The second point, the Governor

doesn't need to settle for that disappointing proposal because pump storage hydro beats it on every metric. As the Governor already knows, because he's been proposing pump storage hydro since at least 2020, pump storage hydro is a simple and proven technology. When the wind is blowing and the sun is shining and we're producing more of that renewable energy than can be reliably consumed elsewhere and otherwise go to waste, you can pump that water up from the Knik tailrace impoundment to the Eklutna Lake through the existing infrastructure. All we have to do is change those turbines to make them bidirectional. Then we can store that energy for later usage.

Then when the sun isn't shining, the wind isn't blowing, or there's an energy crunch like there was last winter, you reverse the flow and you let that water come back down, as we always have, to produce reliable, low-cost, dispatchable energy.

And now the key point there is that there's now more water in the lake for everyone for all uses. It cracks that problem, and we can increase total power production,

increase the supply of water for Anchorage, and re-water the whole river so the fish come back. That's a win, win, win.

It's proven technology at work in 43 states in the United States as of 2019. There's 67 more pump storage hydro projects in the pipeline throughout the United States. Again, that's as of 2019. There's for sure more now.

This proposal keeps costs low by using existing infrastructure, including the existing dam and the existing tunnels. We need to swap out those turbines for bidirectional turbines.

By the way, those turbines get swapped out periodically anyway because of normal wear and tear. I don't think anyone thinks that replacing turbines creates a new project. I generally don't understand that argument. And it keeps the cost low.

By the way, there's billions of dollars in Federal funds that are available for projects just like this, as last week's announcements of Federal grants in sort of related areas makes clear.

It's a popular proposal. It achieved unanimous support of all elements of the Municipality of Anchorage, including the mayor, all of the Assembly members, and importantly, the Native Village of Eklutna in a historic joint resolution just last week.

Again, this is a win, win, win, for fish and for power, and for the public interest.

Finally, the Governor has the power to make this generational opportunity a reality. I think everyone at this table agrees that a final fish and wildlife mitigation plan can include flexibility to consider additional alternatives and then implement that flexibility during the existence of a final plan.

That's what a reopener is. They've proposed several that are, in our view, too narrow and kick in too late. We think that the proven technology of pump storage hydro is sufficiently promising that it makes all the sense in the world for -- just to have a modest modification to their proposed program.

Use those first two years in the

pre-implementation period to study this proven technology. Finally, like, adequately study it in this process, which really never happened, to make sure that we're maximizing the public interest here for the generations to come.

We think that the public interest on all of those factors is just too important to defer for the long run through the 200 reopeners that exist.

In closing, the minority owners' proposal is disappointing. A better proposal is on the table by making a modest modification. And the Governor has the undisputed power to do that. His job under the agreement is to reconcile the proposals and to achieve a win, win, win for increased power production and increased water for fish and wildlife.

Thank you, and I'd love to address all of your questions.

MS. BYLSMA: Sure. Thank you.

So one of them is timing. I mean, this was just brought forth in the Assembly work session on August 23rd and approved via the joint resolution with Native

Village of Eklutna on the 5th.

Why was it not raised earlier or raised more strongly earlier in the process?

MR. BUSA: So I think I've got several lines of response, and I want to make sure I get them all out.

First, I think the broken process does come into play here. As has been discussed, the Municipality didn't have its vote on the operating committee during all of the relevant time period here. And my friends on the other side say it doesn't matter, we still operate it by consensus.

I think everyone understands in their daily life that the formal rules actually have a huge impact on how the informal process plays out.

And so if you know going in that, you know, so and so, their view, won't actually matter all that much because they've got no vote, it'll give you a certain incentive not to necessarily take them all that seriously.

Secondly, even separate from the formal vote, sort of power, I think everyone should have recognized very early on that the

proposed final program here would have required Municipality buy-in for successful implementation. But I think that was sort of swept under the rug in an attempt to, you know, sort of strongarm the Municipality. I don't think that's a healthy way of running this process.

Now I hear from my friends on the other side that they think there's an Alaska statute that would let them, I suppose, bring suit against the Municipality, sort of an experimental lawsuit. I'm not sure I know of any precedent directly on point that would allow them to do that. I think there's going to be a high degree of litigation risk. Again, it's the first time I'm hearing the proposal personally. And so I apologize, I don't have, like, a fully worked through thought process.

I do know that a separate Alaska statute says that the Assembly -- that the Municipality's legislative arm -- gets to make provision for disposition of real interests in property. I'm not sure why they're so confident that a different Alaska statute obviously overrides that separate Alaska

statute. I think there could be a lot of litigation risk there. I think it could be messy and expensive and take time.

I think it's a problem that results from the broken process here. I think if we these -- if the Municipality's understanding of the public interest had been taken seriously earlier on, we could have avoided this.

But I think the Governor can avoid that problem here. Again, he can reconcile the various proposals. And it's within the Governor's power to require to take the first two years of that pre-implementation period just to study this very promising proposal.

Now, I understand my friends on the other side have a slide where they say, you know, we don't think this would pan out, technically. Well, my friend, Mr. Corsentino, the very distinguished director, new director of Anchorage Hydropower, disagrees. And I think that's worthy of study. I think that's worthy of taking, you know, that first bit of time to really work through it to maximize the

public interest.

This is a tough technology that works in so many other areas; it's not entirely clear to me why it wouldn't work here. Again, using existing infrastructure; the existing dam; the existing tunnels.

MR. HICKEY: Attorney Glass indicated that pumped hydro might require FERC approval rather than this 1991 Agreement approval. What are your thoughts on that?

MR. BUSA: I disagree. I'm not sure why they think it would require FERC approval. As I understand it, the thinking is, well, that's a different project, this doesn't count as a program under the 1991 Agreement and, therefore, it would just have to go through FERC as a matter of course.

But, I mean, I think if you look at every alternative they studied in the course of developing this proposal, you see lots of things that -- you know, you can scale it up or down. You can do more or less. And all of those options can involve constructing lots of things at different locations or not. It can be very technologically complicated or very

simple. But if they're all aiming to re-water the river and bring back the fish, I think they're clearly within the program.

Again, the proposal from a technical point of view really is to swap out those unidirectional turbines for bidirectional turbines and swap out the controls.

To be clear, those controls actually need to be swapped oat anyway pretty soon, is my understanding, from a technical point of view. So, you're really just talking about new turbines, and I didn't hear one reason from my friends on the other side as to why changing turbines would count as a new project.

Again, to my understanding, they actually swap out those turbines from time to time due to normal wear and tear. We could just buy different types of turbines that are bidirectional.

On the other side of the page -- on the other side of the ledger, I hear in their preferred proposal they would like to dig a hole, dig into municipal water infrastructure, build a new facility there, a

new location that's actually not at the dam or inside an existing location. I think that's all within the '91 Agreement.

To be clear, I just think that our proposal is obviously with the '91 Agreement if we're going to use the same, you know, pump storage house with different turbines and, like, new controls, which, by the way, have to be updated anyway.

MS. BYLSMA: So, in your brief, you acknowledge that alternative may -- a better alternative may not be found, even after two years.

Is there a reason that the approval and permitting shouldn't advance on the current schedule for the portal valve alternative so as to not lose valuable time protecting, mitigating, and enhancing fish and wildlife resources?

MR. BUSA: We don't want to lose any valuable time, but I've also not heard my friends on the other side say that all three years would be necessary for permitting, that -- their preferred project. I think that you can take a staged approach here.

It doesn't make a lot of sense just in terms of cost savings. I think you can immediately do a technical feasibility analysis of this proven technology and get to a pretty solid understanding relatively quickly within that two-year time frame of how it's going to turn out.

Once you have that information in hand, you can make a reasoned determination of how to proceed with the other permitting decisions.

MS. BYLSMA: Thank you.

What, if any, impacts does the pump storage hydro have on the Eklutna tailrace fishery?

MR. BUSA: I'm sorry, that's a question I haven't thought about until today. I think that's something that should be studied during the first two years.

Mark, what's your thought?

MR. CORSENTINO: No, I mean, that's the whole point. I mean, even the pumps storage are a concept. Rig has looked at that, but that was a concept, and there's at least a dozen variations of that that can be done. And

they would include increasing the impoundment down there to close the bar, increasing it bigger. Putting it in a different place where you can get the watering so it -- to your point, is that the tidal influence? Well, not all the time during all the years.

The whole point of this is that, yes, we want to take a little bit of time. You know, the two years is just to address all concerns and comments, if it's feasible, within, say, the first six months. On that injury side, that's pretty swift and easy. But you want to look at all alternatives. You want to collaborate. Otherwise, you're missing on the key points.

Obviously, no one liked the Governor's proposal in 2020 because it didn't go anywhere, unfortunately, because of $4.7 billion.

This proposal, there are various ways to stick. But even he acknowledged back then, the proposal is scalable, right? Start small in expense -- and by the way, with all the VRE penetration with solar wind because it's being pushed on the -- all these companies

are being pushed to do VREs. That stuff is intermittent; it's unreliable; it's not firm. This makes it firm and beneficial.

By the way, you're probably going to have to do pump storage no matter what. That's why I would take advantage in lieu of FERC process now, because you'll save another $8 million because you don't have to spend $8 million on another FERC process down the road. This is a smart move.

And to your point, yes, there are some unknowns, a whole reason to address things like the tailrace hatchery and other things need to be addressed. Have we thought through it? Yes. Is there a silver bullet solution? No. But that's the whole point of going through discussion and a conversation to look at this.

I mean, Dixon Diversion, it's a great project. How they -- what are they doing there? Increasing the capacity.

Eklutna Lake right now doesn't produce the maximum at capacity of water even today. It doesn't have enough water. It's a 40 megawatt plant.

If you pump that thing at 40 megawatts every day of the year, you get 354 gigawatt hours per year instead of 150 or so, whatever you get now. It just doesn't have enough water. You don't run that thing at 40 megawatts. You run that at 25 wattage on an average per the year. That's the whole concept of Bradley Lake, same thing, you don't run that thing at 120 gigawatts every day of the year. You run a portion of that. You're getting water and there's two you can do just then.

Stetson Creek was the same thing that at Bradley Lake -- Cooper Lake. The whole point is getting water out of there to give you better product, bring the renaissance of hydro that you need, and make it compatible with fish and wildlife. That's the whole concept here. Look, this is the smart move with VRE. You want to do this. And it actually gives the stigma where -- the nasty stigma of hydro is that it's bad for fish and wildlife. Fix that, and you will want to do that, though.

MS. BYLSMA: So your -- the pump storage concept as -- you know, as presented -- and I'll admit that it's new to me, too -- but

it requires some additional capacity brought on through solar and wind; is that correct?

MR. CORSENTINO: Or you can use existing solar. So it would be better to do new, especially if you can get it economically.

Yes, to your point, you're going to have to use power to supply power down the road. But the whole concept is right now, if you're going to have natural gas issues and natural gas cost increases, your power for thermal is going to increase those costs.

When is solar not going to become competitive? I mean, you've even got articles where it shows that, you know, the solar farm in Houston is less expensive than the thermal generation now. So if you can pump up at a lower rate than you use thermal, then you're money ahead. But you also want to drive that cost down.

You're right. If you can get inexpensive wind to solar online -- and by the way, you've got so much wind and solar out there that's not being used all the time because you've already got other units on line on the thermal side, so it's going to waste.

This actually benefits and enhances the VRE.

So, yes, you will need that, and it needs to be cost competitive. I'd agree. That's the whole concept of looking at this.

MR. BUSA: And I just want to add onto that. My understanding is that, like, additional wind and solar is coming regardless. Like, Chugach and MEA are committed to that anyway, and so this just works with that. It facilitates it so it can work as efficiently as possible and at a time of like, you know, big energy problem in the entire Railbelt.

MR. HICKEY: Is there a -- a few questions. Have you guys look at the costs associated with this type of project? No. 1.

And then No. 2, is there a reason why there should be a two-year wait on implementing the proposed draft plan because this proposal may not pan out in the end anyway, and we just lost two years of potential restoration of fish habitat.

Can the two go on the same time frame together rather than this two-year wait versus let's do everything all at one time?

MR. BUSA: Yeah, so I think -- I

just want to reiterate something that I hope I made clear in my first answer, but I guess I didn't. I apologize for that. That's on me.

We think that the permitting can happen sort of smartly on two tracks in a way that minimizes overall costs while still allowing for further study.

So, for example, the further study of technical feasibility of pump storage hydro we don't think would take, you know, two full years. We think we're going to get a pretty good sense, relatively early on in that period of how that's going to go. Moreover, I don't think the other side has said that, you know, all three years are necessary for permitting. So I think you can shift the permitting applications back a bit to allow for technical feasibility on the front end. But I think you can make a smart choice within that two-year period to go down the road on starting the job on permitting the existing proposal while still going down the road of, you know, proving out the other proposal.

You just want to be careful on how you're balancing that to minimize your

costs overall. But you'd want to start well in advance, I agree.

MR. CORSENTINO: And the cost, though, you know, we'd want to go further in depth, that's the whole point, but it's going to be part of our option as far as initial cost.

MR. HICKEY: I'm sorry, I couldn't hear what you said.

MR. CORSENTINO: The initial cost would be on part of the infrastructure costs of the option, just somewhere between $5 and 10 million. Those turbines, to replace not just themselves, are going to be in that same bandwidth, but that's going to be firmed up the nest. And then the advantage is you don't lose from power down the road. You actually maintain, if not potentially improve it down the road.

MR. HICKEY: Thank you.

MS. BYLSMA: So kind of transitioning to maybe more, not just about the specific option, but kind of just a little broader, is: Does the Municipality believe that re-watering the entire river and providing

for fish passage, is that the only means of protecting, mitigating, and enhancing the fish and wildlife habitat?

MR. BUSA: No. I mean, I think people have come forward with lots of means of mitigation. And mitigation is a spectrum. You know, I think we're trying to be reasonable here in recognizing that mitigation is a spectrum. I think the key part, though, is that, like, everyone ought to recognize that re-watering the whole river and fighting for fish passage is just obviously way better on that factor than not doing it. Right?

And so if you can do that while also improving the other public interest factors at a reasonable, prudent cost, it just makes a lot of sense to do.

I think that that's the point of the '91 Agreement, is as the Governor sort of made that kind of reconciliation decision, really tried to maximize the public benefit on all of these dimensions.

MS. BYLSMA: Is there any alternative on the table currently short of, you know, what you've proposed with your pumped

storage hydro that you feel you could support in whole or in part?

MR. BUSA: I want to highlight that the Native Village of Eklutna has also proposed -- so I want to highlight, first of all, that sort of in a historic joint resolution last week, the Native Village of Eklutna and the Anchorage Assembly unanimously all supported pursuing pump storage hydro, so I think that's why it's been the focus of our presentation here.

But I also want to be clear that the Native Village of Eklutna has also put forward a separate proposal to pump water from Eklutna Lake into the pond that's sort of right behind the dam and re-water the full river through the existing gate in that dam, and we think that deserves further study.

MS. BYLSMA: So can you talk a little bit about your perspective on the reopeners? You know, if the position is that reopeners are permitted under the 1991 Agreement and the final program, are those something that from your view need to be included in the final program? Can the parties

just get together and agree on reopening at a point of time? What's your thought process on that?

MR. BUSA: We think that under Section 7 of the agreement, that the parties, if they were to ever propose significantly altering the project, that would sort of restart an automatic reopening proceeding. Right? Because you have to go through this process of alternative studies and proposing to the Governor for the Governor to choose among them.

We think that basically just looks a lot like sort of the far too limited reopeners they've proposed, and also looks like the flexibility we have called for in the first two years of this program.

MS. BYLSMA: So, also in your brief in the Municipality, you stated the Municipal code requiring the final proposed Fish and Wildlife program was subject to Assembly approval prior to submission to the Governor.

When was this code passed? And do you believe that the Municipal code

supersedes the terms outlined in the 1991 Agreement which, according to your brief, was a Federal contract authorized by Federal statute?

MR. BUSA: I apologize. I don't recall immediately the specific date on which that requirement was approved by the Assembly. I know -- I hope I know before the submission of the final program to the Governor, I believe almost certainly that was true.

MR. HICKEY: It was certainly after the 1991 Agreement, right?

MR. BUSA: No, no, so I want to get to that because I think that's the big question, right? Like, no, we're not taking the position that any ordinance can supersede the 1991 Agreement, but obviously the Assembly is in charge of setting the public policy direction of the Municipality and, to that extent, you know, insure that the Municipality's representative on the owner's committee is sort of fighting for the public interest and to maximize all those public interest benefits; not just fish passage and then fish, but also, you know, improving power production and improving all these beneficial

uses, like fishing on the lake.

So, I think our simple point is that the Municipality has that power over the public policy of the Municipality, and I think this also ties back into the sort of broken process here where the Municipality's understanding of the public interest, a very reasonable -- to understand the public interest, again, the understanding is that any proposal that actually brings the fish back and re-waters the whole river is clearly better than any proposal that does not on that one public interest factor. And if you can also boost the other public interest factors at the same time, that's great.

So, the Municipality, by being cut off, by having lost its vote, being cut off from this process, I think that really was a disservice to how this process could have and should have played out. Again, we want to be cooperative and work cooperatively with the other owners here.

I would just highlight, though, that now that we have Mr. Corsentino as head of Anchorage Hydropower, we have sought to get our

voting rights back on the owners' committee and proceeding before the RCA, and I think, pretty remarkably, the minority owners here have strenuously objected to doing that and to doing it on an expeditious timeline.

They actually, I think, all but admit that Mr. Corsentino is more than capable of operating Anchorage Hydro prudently on that committee. But they're still making sure we don't have our vote on that owners' committee. And that's about the '91 Agreement, but it's also about so much more. We're the majority owner of that project. And there are decisions that get made all the time, and we just think that's indicative of the program process here, as well.

MS. BYLSMA: And just a follow-up question on your description of what you've described as a broken process.

So, the project owners have said that the vote was surrendered; you have said that you lost your vote. Did the Municipality feel it was a broken process when this was ordered and agreed to in 2020?

MR. BUSA: So I think when we

agreed to voluntarily surrender that vote in 2020 in order to maintain our majority ownership, I think, obviously, going forward, our hope would be that we would retain -- reclaim that vote expeditiously and then continue to work cooperatively with the other owners going forward.

Obviously, if the Municipality had gotten its vote back earlier, that would have been better for us and for everyone.

I also just have to point out, though, that we've moved expeditiously, reclaim our vote, and no one objects to Mr. Corsentino's engineering skills or says that he does not have the skills to run that utility.

But, we're still being obstructed in our attempt to get that vote back. I think that just speaks to the broken process here.

MR. HICKEY: And just following up on that line of questioning.

If the Municipality wanted to maintain a vote, they could have done that when they negotiated the loss of the vote back in 2020, couldn't they have?

MR. BUSA: I apologize. I didn't mean to cut you off.

MR. HICKEY: I just want to make sure I understand it, because it seems to me that the record is pretty clear that the Municipality willingly gave up its vote. There's no dispute about that, right?

MR. BUSA: No.

MR. HICKEY: So there was a willing agreement to eliminate the vote back in 2020. And then what we've heard today has been that, albeit it wasn't the best of all worlds, the Municipality was part of the process going from 2020 forward in discussing these different alternatives and options to come up with the final program.

And it just seems disingenuous to me to say that the process was broken when the Municipality controlled the process at that point.

MR. BUSA: I think there's two points I want to make.

First is, yes, there were lawyers from the Municipality in the room during those discussions, but I think we need to understand

that there are multiple elements of municipal government. I think it's inaccurate to say that the Municipality was on board with everything that was going on during the study period here.

I think the Anchorage Assembly has been very clear in enacting and passing ordinances as far back as 2017, making its view very clear about that, you know, re-watering the river and providing for fish passage to maximize that element with the public benefit, consistent with all the other factors, would be the goal here.

And I think that the owners' committee has not taken that view seriously during all of that time.

Now, obviously, if we had been able to regain our vote earlier, that would have been better. That's just absolutely true.

I don't think that we should sort of focus on that process point to deprive the public of the maximum public benefit we can possibly give them at this point going forward.

MR. HICKEY: Thanks.

MS. BYLSMA: Just one final

question.

Were there any portions of your recommendations that were incorporated into the final proposed program?

MR. BUSA: I'm sorry, maybe I'm misunderstanding the question, or I'm just -- possibly I just don't know the answer.

MS. BYLSMA: Yeah. From alternatives, you know, presented earlier in the process and, you know, then the alternatives were considered and, you know, the project owners have said that then there was this negotiation to incorporate different elements into it. Were any of the things that the Municipality suggested incorporated into the final proposed program?

MR. BUSA: Not that I'm aware of.

MS. BYLSMA: Okay. I don't have any other questions.

Thank you, Attorney Busa and Director Corsentino.

MR. McDERMOTT: Just a reminder, we have one person on the phone, and I'm doing a lot of texting to make sure she --

MS. BYLSMA: Hears?

MR. McDERMOTT: Yes. So just be aware of when you're speaking that she needs to hear, as well.

Thank you.

MS. BYLSMA: Yeah, thank you.

All right. Next, then, we're going to move on from the project owners.

And Fish and Wildlife Service.

MR. COOPER: Thank you.

Good afternoon. My name is Doug Cooper. For those who don't know me, I represent U.S Fish and Wildlife Service. There, I supervise our ecological services regulatory program out of our Anchorage field office. So my office has been the Fish and Wildlife Services primary technical review and subject-matter expertise on the Eklutna hydropower project.

I'm here today representing our Regional Director Sara Boario.

So Regional Director Boario, on her behalf, I thank everyone for the opportunity here today to discuss the Governor's important decision.

We recognize that there are a lot

of parties to this agreement, and we've participated in this process. Sara did ask me to convey our appreciation to the Governor for this opportunity to work together in a collaborative, solution-based process.

And I do want to open with -- in acknowledgment that the Native Village of Eklutna was not part of the 1991 Agreement. We believe they should have been a party to the agreement, and that was -- their exclusion was a gross oversight. None of the individuals in this room were part of that process.

So, just acknowledging their lack of a formal role in this process.

I think throughout the process, the parties of the agreement have recognized the profound impact that the development from gravel mining to hydropower has had on the Native Village of Eklutna, or NVE. And under the Department of Interior, Secretary of Interior Deb Haaland has made it clear that our department prioritizes and plays a central role in how the United States stewards its public lands, increases environmental protections, pursues environmental justice, and honors our

Nation-to-Nation relationship with tribes.

NVE has played an important role throughout the process in participating in the development of project study plans and developing alternatives.

We do definitely support the Governor's consideration of NVE's comments in weighing the eight factors that factor into his decision, and we do very much appreciate just the opportunity that the Governor and all parties to the agreement have made for NVE to have a voice in this process.

So our Fish and Wildlife Service agency interest in this process is specific to the development and implementation of the measures to protect, mitigate for and enhance the damage to and preservation of the other fish, wildlife, and other aspects of the environmental quality.

So we -- Fish and Wildlife Service and NVE -- have a shared vision and a mission to support the eventual return of the historical sockeye salmon run that was ecologically and culturally important to both the people of Alaska and specifically the

people of NVE.

So salmon are really a life blood of Alaska. They feed people, fuel the economy, shape cultures and the ways of life, and support productive and resilient ecosystems. We think this overall effort is an opportunity to protect, mitigate, and enhance or develop those PME measures: Protect, Mitigate, and Enhance.

The Eklutna salmon contribute to the larger shared vision of salmon conservation throughout the state of Alaska.

As we've detailed in our several comment letters regarding the Fish and Wildlife Program, we believe the intent behind the 1991 Agreement did consider ecological connectivity and fish passage. Fish passage is an important component of protecting, mitigating, and enhancing fish habitat, pursuant to the agreement which was then developed in response to the concerns that were identified over the loss of a historical sockeye salmon run.

And that was stated in the 1992 divesture summary report where it was stated that during reviews of the legislative

proposal, loss of sockeye salmon run that once spawned in the Eklutna Lake was identified. The report goes on to state that this specific problem and the desires of fish and wildlife agencies to provide appropriate consideration to fish and wildlife resources over a long run led to the August 7th, 1991, agreement.

And then, in summary, the intent of the sale -- in summarizing the intent of the sale, the report does say that, given the nature of the projects and the river basins affected, there's good reason to believe that the proposed arrangements will work at least as well as Federal regulation for the intended purpose of mitigation and enhancement of affected fish and wildlife resources.

So, as I stated, we do believe fish passage was part of the intent behind the agreement. The agreement itself does not speak to fish passage as a specific measure that needs to be obtained or achieved; however, given that the loss of historical management of sockeye salmon is what prompted the development of the agreement that lakes are an important part of sockeye salmon spawning and rearing,

that there are no other lakes connected to the river to support that spawning and rearing habitat, and that the Eklutna Lake still does support kokanee, which are landlocked sockeye salmon. The Service does believe, then, the intention of the '91 Agreement was to develop a program that connects the river and the lake.

So we're not -- the Service isn't here today to advocate for a specific alternative or a particular alternative, but we're really here just to emphasize our long-term goal and vision for all the parties here today to intentionally, creatively, and urgently pursue full connectivity in the years ahead.

We hope that we should not wait another 30 years to achieve that fish passage and take action towards that goal. And we believe this vision is consistent with the 1991 Agreement.

All that being said, we do recognize that there are infrastructure and financial limitations that present current challenges to immediately achieving that ecological connectivity and fish passage. So

the program -- the proposed program that's before the Governor today does not meet -- does not immediately meet the Service's goals of ecological connectivity. There is one mile of river remaining de-watered, and we don't believe the proposed flows will adequately fully re-create spawning an off-channel habit in quantities comparable to what was lost.

But, we do believe the program, if coupled with firm owner commitments and continuing opportunities to reconnect the river and reestablish fish passage in the long term, would be consistent with the negotiated alternative for a phased approach.

We do -- as the owners suggested, we do believe all parties did in good faith negotiate measures for inclusion in the fish passage -- or, sorry, fish and wildlife program. And we're still here prepared to work collaboratively with all parties here today so the owners, the Municipality, the Native Village of Eklutna, and other agencies to achieve these long-term goals and missions that can support each of the parties' goals and vision for the project.

So, in summary, we want to work together to implement protection, mitigation, and enhancement measures with the long-term goal of ecological connectivity, for there to be as much engagement and support as possible for finding long-term solutions to reconnect the river, and the Service's goal for the future of the project is full ecosystem connectivity.

Our vision is an eventual return of the sockeye salmon run that is ecologically and culturally important to the people of Alaska and the Native Village of Eklutna. And our hope is that it doesn't take an additional 30 years to achieve. We think this goal is consistent with the agreement's requirements to protect, mitigate damages to, and enhance fish and wildlife resources, and we hope that we can continue to work together for those long-term ecological goals.

Thanks for the opportunity to speak today.

MS. BYLSMA: Thank you. I want to go back to something you said, talking about, you know, negotiating in good faith.

MR. COOPER: Sure.

MS. BYLSMA: Were any of the alternatives or recommendations that the Fish and Wildlife Service suggested incorporated into the proposed final program? And can you talk about that a little bit?

MR. COOPER: Sure. So the -- the negotiation process had a number of steps. So we did -- the owners group did ask for all parties to submit their preferred alternatives. Those were part of the alternatives development and alternatives analysis. Through that process, we submitted alternatives that we felt would achieve those habitat creation and restoration opportunities to support salmon rearing throughout the river system. We did prefer alternatives that would water the entirety of the river, including connectivity to the dam.

Through the negotiation process, we recognized that the infrastructure and financial limitations may preclude achieving that goal in the very near term. So the final program included those limited reopeners.

We wanted some form of phased

approach and adaptive management that would allow for incorporation of additional measures over time, and we've consistently stated that that ecological connectivity that would include restoration of sockeye salmon fish passage was an important part of the long-term vision for the program, with the recognition that current limitations may preclude it in the short term.

So, we believe that the limited reopeners give us some of that flexibility. They fall short of what our goal and vision is in the near term, but we believe at least it provides that adaptive management possibility as we look into the future.

MS. BYLSMA: Any questions?

I don't think I have any other questions for you.

MR. COOPER: Great. Thank you.

MS. BYLSMA: Thank you.

Next, NOAA, for National Marine Fisheries Service.

MR. McDERMOTT: Well, thank you.

I think being this far deep into the process, I might be reiterating a few comments.

Anyway.

But thank you for providing this forum for discussion of the proposed program. We really appreciate it, and to be able to give you additional information to support the Governor's decision.

So, as provided in our brief to the Governor, we focus our response on areas relevant to our role in the 1991 Agreement process and our statutory authority.

So those comments were consistent with our comments from June 21st on the proposed plan.

So our interests are to restore habitat functions and values in the Eklutna River, and we support NVE's interest in restoring water to the full river and fish to the watershed. That includes the lake.

While the '91 Agreement does not speak to fish passage as a requirement, in review of early correspondence strongly indicate that fish process was contemplated by NMFS staff at the time.

Likewise, in consultation with NVE, we maintain an interest in reestablishing

flow to the full length of the river and returning salmon to the full range of habitat below and above the dam.

To that end, the limited reopeners provided -- or they provide an opportunity to address this interest, similar to a reservation of authority in the Federal licensing process.

So as party to the '91 Agreement, we participated in all stages of implementation, from onset of process to finalizing the draft for the Governor's review.

We contributed to the process and negotiated in good faith to develop the proposed Fish and Wildlife Program that met the -- that meets the intent of the agreement.

And based on those discussions, our review of the proposed program and consideration of potential alternatives, we view the proposed program as a framework to initiate the protection, mitigation, and enhancement of fish and wildlife resources in the Eklutna River.

The program -- excuse me.

The program will support habitat

restoration initiatives and monitor the effectiveness of the mitigation. It forms a technical work group to inform decision-making and includes provisions to address changing technology and climate conditions.

So, if implemented, the proposed actions will also provide a foundation for the next iteration of the mitigation plan.

So the program includes a provision for the owners to conduct a detailed feasibility study of a new gate of the existing dam, and this is related to the question of water at mile -- between the dam and the portal.

If the described criteria within the plan are met, then the owners will commit to a capped amount of funds to install the new gate.

In our comments from June, we recommended a modification to the program to ensure that the value of the funds are available for other mitigation actions if the feasibility study indicates the dam is insufficiently stable to support the new gate structure and this action does not proceed.

We also recommended further analysis for the construction of the pump station and the alternative to bring water from the lake past the dam.

Now I lost my place.

Anyway, so we also put that forward as an alternative to be further reviewed.

And we reviewed the owners' response to our comments and understand their position.

I'll start with that one.

So implementing mitigation measures at hydropower projects is typically a multi-year process. We have been supportive of a phased approach to implementing the mitigation plan from very early on.

There are actions that should happen as soon as reasonable, such as adding water to the river -- that wasn't my 15 minutes -- was the metric system.

MR. HICKEY: It was your government counterpart.

He just winked. He said you could use all his remaining time, as well.

MR. McDERMOTT: And that I'll do, as a good Irishman telling a story.

Oh, my gosh.

All right. So, what do we do? So, there are actions that should happen as soon as reasonable, such as adding water to the river, forming the working group, and initiating the on-the-ground restoration.

At the same time, the parties could continue evaluating bigger actions for mitigation that would otherwise take many years to achieve, well beyond the five years to implement that are contemplated in the agreement.

That's all. Thank you.

MS. BYLSMA: Thank you.

So I'll ask you a very similar question to what I asked Fish and Wildlife Service. You mentioned the negotiation and the good faith. Were there any -- you mentioned a couple of recommendations that you put forward in your final comments. And were there any other of your alternative recommendations that were incorporated into the proposed final program?

MR. McDERMOTT: So just to clarify, from the -- from our last comments or throughout the process?

From our last comments on the draft, because then the --

MR. HICKEY: No, I think you're referring to prior to the last comments, correct?

MS. BYLSMA: Yes.

MR. HICKEY: Yeah, what was -- before your comments on the final program, were there any recommendations that you made -- that NOAA made that were included within the owners' plan? Or if there were other recommendations that were not included, how did you get to that point?

MR. McDERMOTT: I think the answer is similar to Fish and Wildlife Service. We had a position for -- you know, the bigger picture, fish passage, et cetera, and so on. And there were definitely things that were not incorporated. But there were things that were very important to us that were.

The reopeners which mimic the FERC processes for reservation of authority.

And in knowing that there were limitations here that perhaps future technology would address for fish passage.

And then the second one is, we know that things are changing. Rain events, warmer temperatures, et cetera, that we wanted that addition of how to manage the -- how do we manage the water that benefits the mitigation plan? And, of course, other interests, too.

So in that respect, there were several items that we put forward that they incorporated through the negotiation that wasn't originally on the table.

Did that answer your question? I don't know.

MS. BYLSMA: Yes. Yes, it did.

Well, thank you.

Then I think next we have AEA, if you had anything that you wanted to present.

MR. THAYER: Yes, just a couple points, and that is since we -- since this started -- this process started over four years ago, AEA has been involved in it, mainly making sure that the process was followed correctly and according to the agreement. That was

something we had worked out very early on with the Governor's Office.

I do want to comment that I think everything was done in good faith and it was open. We were kept abreast. As developments occurred, we had chances to comment on the process and saw no fatal flaws in the process as it was laid out into the 1991 Agreement.

There's been a couple of references to pumped hydro. I will just make this general statement that AEA in 2019 and 2020 did look at pumped hydro. It had nothing to do with this agreement. We were looking at alternatives for hydro opportunities in Southcentral Alaska. Pumped hydro was one that we looked at with Eklutna. We also looked at pumped hydro at Bradley Lake. We also looked at expansion of Dixon. We've looked at Susitna-Watana. So, it was a package deal in the sense this was -- I just want to make sure there was not a standalone look or an opinion given on Bradley -- I mean, on Eklutna.

We looked at various -- we were looking at the FERC jurisdiction, the cost, water quality. Also looking at the

feasibility, and especially the geotechnical work. And I'll just be upfront on that, the geotechnical work hasn't been done on Eklutna as much as it's been done with Bradley. There was an existing dam, as well as Susitna-Watana.

So we were looking at it from different aspects of it, but not from this -- not looking at it from this agreement.

So with that, I think that concludes my comments, unless there's some questions.

MS. BYLSMA: I don't have any questions for AEA.

MR. HICKEY: Nothing from me.

MS. BYLSMA: All right. The Native Village of Eklutna.

MR. LEGGETT: Where to begin? Well, I mean, I think you've heard a lot about how the process has been, and I just want to comment from the Native Village of Eklutna's perspective.

We entered these negotiations in good faith. I think, time and time again, Eklutna and the Eklutna people have proven that we are willing to compromise when it comes to

the betterment of the Municipality.

For example, when Matanuska Electric was looking to build a new power plant, Eklutna was approached. Initially, we're not in the business of selling land these days. We wanted to lease that power plant to MEA. We were told that due to the funding structure, that that would be impossible, given that, so we agreed that for the betterment of everybody, we would sell that piece of land.

We've -- you know, over the decades, gravel has been pulled out of our lands. We've continued to lease to the Anchorage School district six school sites at a $10 a year rate. And I could go on and on, transmission lines, easements, you name it.

When we entered this process, we've been very clear that from the very beginning what we want is full restoration of the entire river. That has never changed. And that will never change from our perspective.

What we believed is that we could negotiate and come up with some sort of compromise that would create salmon habitat for the entire Eklutna River.

One of the comments that was brought up earlier about holding utilities responsible since 1929, I would just respond to that by saying we're not trying to hold utilities responsible back to 1929. And a clear example of that is when the Native Village of Eklutna and the community partners pulled out the old dam at no cost to the utilities. It was what, 8.5 million -- $8.5 million project that was done.

Native Village of Eklutna also feels that working collaboratively and thinking about doing it in a new way, that we can secure funding that is out there to achieve our goal of full restoration for the entire Eklutna River.

I can tell you, having been in all the meetings, even though we're not an official participant and we were reminded of that on many occasions, that we felt that this is a deeply flawed process, as it's been laid out by others in the room here today.

And at the end of the day, what we're trying to do is put another major salmon-producing stream into Upper Cook Inlet.

We believe that this is not only a benefit to our community, but specifically, this is a benefit to over 60 percent of the residents that live in Southcentral Alaska, and that having all five species of salmon is critically important.

This year, if you looked at every river in Cook Inlet, with the exception of a few that are stocked, including the Eklutna tailrace, there have been virtually no opportunities for -- King Salmon fishing was shut down for everything. Silver salmon fishing was open for a very limited time and was closed down early due to not seeing the returns.

One of the other things, I think, that is important that's been brought up is that, yes, we do want to see something happen sooner rather than later. But for 95 years, we've had an impediment on our river, and we want to see it done right and fully -- or not fully because we'll probably never get there fully, but to see a more robust enhancement and mitigation.

We think, again, also having a

thriving, healthy river through the entire corridor also creates new opportunities for development in the area: Recreational opportunities, habitat restoration, and the list goes on.

I also want to point out that in 2020 or 2019, the Alaska Federation of Natives passed -- 2020, the Alaska Federation of Natives passed a unanimous resolution supporting our effort to see full restoration of the Eklutna River.

We found this to be a deeply flawed process, and the only, I guess, silver lining that we can see coming out of this is that some of our other entities that have been involved can see it as well. Oftentimes we've been the only ones fighting these sorts of fights and have been told why something can't be done.

We still do truly believe that we can work with the utilities to find a solution that is more equitable and that balances all eight criteria set out in the 1991 Agreement.

I also want to point out that the architect of the 1991 Agreement, the late

Congressman Don Young, had several meetings with us and was in full support of seeing full restoration of the Eklutna River, and he found that it was deeply -- that it was a mistake that he made in 1991 by not making the Native Village of Eklutna a full partner in this work, and that he regretted doing that, and that he was working to support our efforts on multiple occasions --

MR. McQUEEN: Including drafting a letter.

MR. LEGGETT: -- including drafting a letter, which we have submitted on multiple occasions.

And we also have support from the former Governor of Alaska also to that effect.

Any questions?

MS. BYLSMA: Thank you.

Can you -- you mentioned that you believe that this is a flawed process. Can you expand a little bit more on that? Is that solely to the fact that Native Village of Eklutna was not a party to the original agreement, or are there other things that you're referring to?

MR. LEGGETT: No, I don't think that was -- when I was talking about a flawed process, I mean, I think in some ways -- yeah, that was an inherent flaw, but we were willing to work within that inherent flaw. We were working for really up until about a year ago, when it became clear that there was not really any serious consideration to any of the alternatives, and that the one put forth by utilities as their preferred alternative was the one that they had had in mind the entire time. And despite various working sessions and feedback and then technical reviews and all those things, that that's ultimately what was submitted.

After the first plan was submitted, there were a few tiny additions, I would say very nominal. An increase of a couple hundred thousand dollars in mitigation funding and a few small things with the reopeners, some word changes. But it wasn't anything substantial.

So we felt that our -- our voice wasn't really heard or the voices of people throughout, and as you've heard from, you know,

the voice of the Municipality, U.S. Fish and Wildlife, and so on for various reasons. Not all the same, obviously, but...

Yeah, go ahead.

MR. McQUEEN: We've been a good partner with the utilities, and I can think of going all the way back, not just the power plant, but years back when they wanted to do a separate power line that would connect the utilities to that hydro project, that needed Eklutna land. The Eklutna people have put lots of land available for the development of Anchorage, for the development of Eagle River, and lots of new clients have come on board as we developed.

And one of the things that we really wanted to be focused on was not just the '91 Agreement and electricity, but to celebrate or at least acknowledge economic impact that the Eklutna people have brought to the community through the real estate, through the land that they made, what that would continue to be. That math is out there. And that was a little bit concerning that that wasn't -- wasn't really embraced.

And so how do you take a people who, when they had no control, a lot of impact happened to them, and then when they did have control, they continued to be a great partner? Where's the value of that relationship? So that was a sensitive thing in some of the meetings at the council. I just add that.

MS. BYLSMA: Thank you.

And to follow up on what you said, President Leggett, you said there wasn't serious considerations to some of your recommendations and alternatives, but some nominal things were added in.

Can you expand on what part of your alternatives and recommendations was incorporated into the final program from your perspective?

MR. LEGGETT: It had to do with some of the reopeners and a few minor technical things. I don't have them. I'm sure they know what they were. They could tell you what they were. But they didn't -- in our mind, it didn't amount to -- to very much. It wasn't, you know -- it wasn't a fundamental shift. It was some of the dates and then some of the

timing and, like I said, a little bit of money, you know, doubling from $125,000 to a quarter million for mitigation.

I mean, I guess the other thing I just wanted to say is what we're looking for is not maintaining the status quo. We want to be a partner in the future. We want to think about, as our Municipality grows, how do we create opportunities? We see massive out-migration in our city. How can we create -- with a healthy, thriving river, how can we create developments that build new housing, new ratepayers, something you've heard quite a bit about.

And a good example of what I would call negotiating in bad faith was that in -- I believe it was June of 2023, we attended a meeting with the project owners, and one of the things they said as to why they didn't think that our preferred alternatives would work is that they had to take into consideration the increase to the ratepayers for the utilities. And that they kind of pinned it on that.

Well, three days later,

unbeknownst to us, they announce a 6 percent rate increase; and I believe there's some lawsuits involved with that, and then how that all works out.

That wasn't disclosed to us. So to me, that was just an example of not really being a good partner and negotiating in good faith.

MS. BYLSMA: To follow up on a couple of things that you stated in your brief, one of the things that you mentioned was that you believe the current alternative or the current final proposed program threatens the municipal water supply.

Can you expand a little bit upon that?

MR. LEGGETT: Well, there's concern about, yeah, the threat to the Municipal water supply. I'm not an expert specifically on how that works.

Again, we've heard all sorts of reasons why -- I mean, I guess we have the expert from AWWU. I think he can speak to what that is.

So, yeah.

I'm not a technical engineer, though.

MS. BYLSMA: Okay.

MR. CORSENTINO: Do you want me to answer? I mean, that will be tacked to your time.

MR. BUSA: Mark is here representing Anchorage Hydropower.

MS. BYLSMA: One of the other things you stated in your brief, and in your previous comments is that you think in the next ten years Eklutna Hydropower won't be as critical to the energy security profile of here in the Railbelt. Are there -- are there specific projects coming online that you're aware of that kind of support that assertion? Do we know that it's going to sufficiently replace the amount of energy that will be lost, just looking at the energy security profile of what that Eklutna hydro dam provides?

MR. LEGGETT: We're aware of a number of solar projects that are coming online. I know that there -- I was happy to serve on the mayor's transition team and was -- had the opportunity to co-chair the energy

securities position. And there's a commitment from the Municipality of Anchorage to look at putting solar onto school district buildings.

I know my regional corporation, Cook Inlet Region, Incorporated, who has Fire Island Wind, would love to double the capacity of the project there, but has been told by the utilities that that's not feasible for the reasons that have been stated about it not being a consistent source of energy. So, again, the pumped hydro, the solution -- or the proposal that we have put would be another attempt there.

I know there's been many other, you know, energy projects that have been put out. We know there's a natural gas shortage, so we know that energy -- new ways of producing energy is on the forefront of many people's minds.

You know, I've heard all sorts of -- you know, expanding the capacity out at the dump is another alternative looking at perhaps tapping into the old dump.

And -- there was another one.

You know, the -- you know, there

was ideas floated for geothermal at Chakachamna. Developing the coal over at Beluga and expanding that out. I mean, I'm not saying these are absolutes, but I know that these have been looked at. And again, I think we are trying to figure out how to create more stable energy because far too long I think we've relied on natural gas.

And I should point out, I also believe that -- this is a different conversation -- but there isn't an energy -- there isn't a natural gas shortage in Cook Inlet. There's a shortage of people and the incentives to develop it moving forward.

MS. BYLSMA: So, of some of those -- and obviously, you're not a technical expert, so, you know, that's a fair caveat. You know, some of those proposed projects you articulated, are those, to your knowledge, reliable through the winter months when that natural gas supply is of the greatest concern?

MR. LEGGETT: I believe they would be, again, if we had the pumped hydro. The battery solution would do that.

MS. BYLSMA: And then -- one

final question from me. When looking at some of the alternatives proposed in the dam removal alternative, you know, there was identified as some risks to some of the downstream infrastructure, including the existing AWWU pipeline access road, highway and railway bridges. Do you agree that there's risk to that infrastructure? And how do you see those concerns being mitigated?

MR. LEGGETT: I think there is potential risks, but I think some of that's a smokescreen. It should be pointed out that -- for example, the Alaska Railroad. The railroad was completed in 1923 and had a bridge across the full-flowing Eklutna River and did not have an impact. So I think these can all be worked through.

Again, I'm not -- with regard to the AWWU pipe, I'm less certain of that, but I think impacts downstream with the highway bridge and the railroad bridge, I think those can be worked out.

And we've had releases go downriver -- test releases done. Again, not at full levels for, you know, hot points, but it

has show that that river can take a lot more water.

And, again, it should be pointed out also that this is the Eklutna River; it's not the Eklutna Creek. We have Ship Creek here. We have the Eklutna River. And I think pre dam estimates somewhere in the neighborhood of up to 1,000 cubic feet per second. What's being proposed now would be anywhere between 60 and maybe 130, 140 cubic feet per second. So between 6 and 13 percent of what historically flowed down that river.

MS. BYLSMA: Okay. Thank you.

Do you have any other questions, Gene?

Well, thank you, President Leggett and Mr. McQueen. We really appreciate it.

MR. HICKEY: Do we have any rebuttal time?

MS. BYLSMA: I think we had about a minute or so.

MR. GLASS: I'm not going to take a minute.

We categorically reject counsel

for the Municipality's characterization that we strongarmed anybody or anything of that nature.

But, more importantly, I'd like to hand it over to the engineer that actually keeps the lights on to respond to pump storage hydro.

MR. LAUGHLIN: Yeah. Just a few comments in response to the pumped storage hydro project or the proposed project there. You know, we believe that costs would be significantly more than what is in our proposed program right now.

And just as a frame of reference, we went to look at a turbine rotor, which is a component of a turbine, last winter, it was 4 to $10 million, and a year and a half to three years of lead just to purchase a component of a turbine. We believe it's going to be significantly more to replace turbines and to put them into operation, to flange them up to the existing infrastructure to make sure the existing infrastructure operates safely and prudently and does not suffer any kind of failures.

Of course, this is a major detour

from what the existing operations does look like right now. So we would see that as appropriate licensing or something we need to really reassess there.

And I know we're only supposed to have a minute, so just to kind of draw it back to the operation of this, this pump storage hydro implies there's an excess or surplus of renewable -- renewables available to use this thing as a battery for, and that just doesn't exist right now. We have a few interval projects online. We have Fire Island, we have -- sorry, I forget the name of your solar project out there.

But there's -- this is looking at significantly more variable renewables than is available right now to harness the excess or unusable or non-dispatchable component of that and pump water uphill, going through all the efficiency losses that there are when you do this process to again have efficiency losses as you bring it back downhill to make that viable.

I think I'm within my minute.

MR. HICKEY: And thanks, again, everyone, for their thoughts and comments.

It's been really helpful, I think, from this side of the room.

We had a lot of discussion about the pump hydro technology; pros, cons.

It seems that that's an issue that the Municipality and the Native Village of Eklutna are pushing.

It seems like the utility owners have looked at it in various ways over the past several years. And we keep hearing about these alternative reopeners and whether or not they're going to be viable or not viable.

But it seems on all the reopeners, whether it's the ones that are included in the draft plan or the ones -- the reopener that Anchorage and Native Village are talking about, the pumped hydro, you have to start somewhere, right? So there's going to be a study done on something to try to get fish passage up to the lake.

Is there a consensus in the room that everybody would be in agreement on to look at pumped hydro first versus one of the other reopeners from a study perspective while still moving forward with the program as it's

currently designed?

Is there an appetite for that?

MR. GLASS: I'm just throwing this out. I think that part of the utility project owners' comfort with the reopeners and the way that they work is that we start moving through the process to start reestablishing flows in the river for 11 of the 12 miles, and that when we're doing that, we gain knowledge -- and we heard this from the agencies -- state agencies in particular. They like that process, to lead to more informed decision-making in the future.

I think that we're comfortable with that approach rather than -- than studying pump storage hydro now and doing nothing until we get there.

MR. HICKEY: Let me back up, because I want to make sure everybody understands the question.

I'm not suggesting by the question that you don't start the 11 miles of re-watering. That's not what my question assumes.

My question assumes let's start

that process of the re-watering; you're going to learn things.

Is there an appetite in the room with respect to then instead of looking at those other reopeners, the first one you review is you study pumped hydro and you go down that road first versus one of the other reopeners, whether it's the fixed wheel or anything else?

MR. GLASS: I'll let my client speak to that.

Andrew?

MR. LAUGHLIN: So, you know, we studied many different alternatives during the alternatives analysis. I would think we'd be open to looking at this in the same light, right, where we have a defined set of criteria, this is what we're looking at, this level of engineering, this level of cost analysis, and it's a pretty straightforward process we've been through many times. Even after the alternatives analysis, when they provided another proposal, we had looked at that as well. So I think something similar to that.

MR. ZELLERS: We'd be open -- I mean, part of the first process is we've got to

see if the plan can even do it. You know, you hear a lot of this, but it's a feasibility study if we could actually physically do it with the existing structure, not the turbines -- not the existing turbines. Those would have to be replaced. I mean, that's not a hard study to do. Not a long process.

MR. GLASS: With one more criteria that I wanted to mention, is under the 1984 agreement whereby AWWU interconnected with the project, we made -- the utilities made a commitment to not do anything that compromises the quality -- the water quality that has to be part of the feasibility study.

And regardless of which hat Mark is wearing in any particular point, we are contractually obliged to not do a darn thing that messes with the water. And we think that that needs to be part of the feasibility.

MR. HICKEY: Yeah, I get that. I think what we're trying to understand is it seems like everyone is in agreement in the room that fish passage to the lake is something we would all strive for. I don't hear anybody saying anything differently.

I think from the Municipality side, MEA side, what it seems like they're saying is why study these other things when we think we have a viable alternative right here that will get us to that point. And so I just want to make sure that's what you're saying.

And does that kind of option work for NVE and the Municipality to move forward on that before you move forward on the other ones?

MR. BUSA: I want to lead just a clarifying question, I guess, on the proposal. I think it's important --

MR. HICKEY: It's not a process to question.

MR. BUSA: No, I know. I know. Sorry, I didn't mean to get ahead of my skis.

I think we've proposed, using the first two years of a three-year pre-implementation period because we think it's so important to get it right right from the outset. And you had said, you know, study this before the other reopeners.

My recollection is that one of the reopeners waits until ten years after 2032, potentially. I don't want to get the details

wrong. Please tell me if I'm wrong about that.

But we just think it's really important to do it, like, now.

MR. HICKEY: Yeah, and that's -- the suggestion would be, look, start the process, start the re-watering. But the first thing we're going to look at from Day One, whatever it is, let's look at pumped hydro, and is that a viable option going forward? That's really all I'm asking.

MS. BYLSMA: Because currently on the table one of the things that you're going to study first is this fixed wheel gate with feasibility. So I think what Attorney Hickey is trying to say, is: Is it an option that would be amenable to everybody to instead study pumped hydro first?

MR. GLASS: What's the -- for everybody, what is the timing for the fixed wheel gate process?

MS. OWEN: Sure. So, the fixed wheel gate is something that NMFS and U.S. Fish and Wildlife and MEA and others really pushed for. The only reason it was not firmly committed to in this process is because there

are serious stability issues associated with cutting a -- I want to make sure I'm being very clear about this. We're proposing to cut out the middle of the dam and put in a brand new gate in the existing spillways placed. That's not a small proposal.

And so we felt that there was an additional level of engineering analysis needed before that could be fully committed to.

But given, I would say, some pretty limited criteria, as long as those criteria could be met, the dam can still be stable. And I think we even, quite frankly, got rid of the cost effective criteria; we instead just committed to a cap on a sum of money, saying if it costs more than that, then we need to find money elsewhere.

But let me be clear: The current estimate for that fixed wheel gate is 4 million. We committed up to 10 million in 2024 dollars.

For those reasons, we wanted to set aside, use that first three years before starting implementation to really looking into fixed wheel gate further.

And then, also, I know Fish & Game is not here, and I am in no way want to speak for them, but I know it was primarily coming from Fish & Game. Ten years after first water, the reason for that ten years after first water is because we're talking about a salmon run of returning to the river, over eight miles that has been, quite frankly, dry for decades. That's not going to happen tomorrow. Right?

So the ten years is two cycles of a Chinook -- two Chinook life cycles. And that's where it came from from Fish & Game. Let's see what happens after two full Chinook life cycles.

And then, we don't even know how long it will take for fish to get that high in the river anyways.

So, during that ten-year period, there will be ongoing monitoring. And if during that monitoring program it shows one of two things, or both, that higher magnitude channel maintenance flows would be beneficial -- and honestly, we will defer to the fish agencies for that. All they have to

say is it would be beneficial.

Or two, there is so much significant excess water coming in -- and we even put a number on it. It was 20,000 acre feet of water over that 10-year period, if that increases, and that's really only a slight increase over what our projections are currently showing.

Quite frankly, the owners would like that fixed wheel gate because it gives them more control over future spill events.

So, given what I would consider those limited criteria, they are committed to fixed wheel gate, up to $10 million.

But that's the rationale for those two time periods. We want more -- that three years to really look at it from an engineering perspective, and then that 10 years is two Chinook life cycles to give us more information from a biological perspective.

MR. HICKEY: Understood. I guess -- and we haven't heard from the Federal agencies, but I think we should on what their thoughts are on pumped hydro and looking at that initially rather than as time progresses.

MR. COOPER: One of my statements, as I indicated, we're not really here to advocate for any particular alternative. Our goal is the fish passage and ecological connectivity. So we would largely defer to the engineers who can speak towards the operation of those facilities.

I think in our good-faith negotiations, jointly, we've been trying to find solutions that allow their operations to continue while achieving our ecological roles.

The fixed wheel gate was important from our perspective because the current proposal, absent the fixed wheel gate, we don't believe provides adequate maintenance or flushing flows in the system. So we're not convinced that we'll fully create and restore a fish habitat for rearing and spawning as was lost. Fixed wheel gate allows for increased flows, so that was an important component, is just getting additional water in the system.

The fixed wheel gate in and of itself isn't the critical piece for us. It's getting more water into the system. So if there was an alternative method of getting that

water into the system, we'd be open to that.

I think our agency position is we're open to any alternative that meets those goals of additional water and ecological connectivity.

And I think, also consistent with the concept of identifying an alternative as quickly as possible, that's our goal is to take action as soon as we reasonably can to achieve those longer-term goals of our agency.

MR. HICKEY: Is NOAA on the same page with that?

MR. McDERMOTT: That certainly sounded good.

(Chuckles.)

MR. McDERMOTT: One second, I'm checking.

MS. BYLSMA: Did Alisha hear that?

MR. McDERMOTT: She did, yes.

I'm being advised to stick with more to why we want the gate, which is outlined by Samantha.

I do have concerns with the pump storage option, but I'm no engineer, no expert.

I just a little familiarity based on my past work. But we're not -- we're not opposed to evaluating that option.

I think the one add-on that I would say is: Does it have to be instead of evaluating the fixed wheel gate option?

MR. HICKEY: We're not suggesting that at all. My question doesn't suggest that.

MR. BUSA: That should be done in conjunction with.

MR. HICKEY: Yeah. The question was: If the owners' plan as proposed is moving forward, is there any barrier to looking at what's been proposed by NVE -- hang on, one second -- NVE and the Municipality of Anchorage of saying we think we ought to be looking at this pump storage solution immediately? Let's not wait, right? I want to make sure I'm understanding that correctly.

So does the ability to get that feasibility study done in the beginning while the program is still moving forward, does that work? Before we come back to the ownership group, I don't think we've heard from NVE or the Municipality yet.

MR. BUSA: So I think potentially, yes. I just want to learn more about what would potentially be on the table. I suppose it's sort of questions for my friends on the other side, as well.

One, I would want to know if that study that's being contemplated would then generate a proposal that then makes a decision-point for the Governor regarding the content of the Fish and Wildlife Program, or is it just sort of a study and then potentially the other side doesn't want us to have our vote and then, you know, nothing happens.

MR. HICKEY: You guys can correct me if I'm wrong, but as I understand the reopeners, if you go down the road, we follow the agreement again, and you go through steps two through six, and it eventually comes back to the Governor.

MR. BUSA: I just want to double check on that.

MR. HICKEY: I don't think anybody is in disagreement on that, are they?

MR. ZELLERS: I agree that if you come up with a new thing, you have to go back

through the process.

MR. HICKEY: Right. Okay.

Yeah, that's the way I read the agreement.

MR. ZELLERS: We don't want to go back through the process. I mean, we've already spent almost $8 million on this process and five years of my time. That's -- there's a reason why FERC licensing has now moved to about 50 years, normal, versus 30, 35 years. Which is what the agreement repeats itself, every 35 years. We don't want to repeat the process every five years. That creates a great burden on our taxpayers.

And I just want to mention, you know, we talk a lot about Anchorage here. But for Matanuska, we're also -- represent probably 75 percent of the Valley. 75 of our membership is the Valley. So I just want to add that. And the actual physical powerhouse is in the Mat-Su Valley; not Anchorage. I just need to state that, so, for our membership.

MR. HICKEY: Understood.

MR. BUSA: And the other two things, if I could just put more on the table,

I would want to know if my friends representing the utilities would agree that, you know, if the feasibility study pans out, that it would be within the scope of the 1991 Agreement.

MS. OWEN: So I think I have something I can put forward for the owners as an olive branch, of sorts.

One, we would really like to agree to a set level of engineering on what this feasibility study would entail. That's a very broad concept. Is this 5 percent engineering? Is this 15 percent engineering? There needs to be an end goal.

Two, we don't think -- if we were being consistent with how all the other alternatives were being evaluated, 5 percent engineering would be appropriate. Quite frankly, we would have looked at other alternatives that were brought forward, even after the alternatives analysis in good faith.

So if we were to do something in lines with the same level of effort that was done for other alternatives to look at this, and we would need a firm proposal that's not endless iterations of various pump storage

concepts, right, something gets put forward, we say well, that doesn't work for this reason. And then we, well, what about this. And then that doesn't work for this reason. And there's an endless number of concepts.

Speaking to Tony's proposal -- or Tony's comment here about how we've already spent a significant amount of time and money on this process and are looking for firm end dates.

And then, also, would Anchorage -- Municipality of Anchorage be willing to pay for the study, seeing as how it was brought forward literally within the last month or two of a five-year process? Is that a burden -- a financial burden that the Municipality of Anchorage would be willing to look for?

And we would also very much insist that we get a FERC determination of jurisdiction on whether or not this would be a FERC regulated process or FERC regulated project within that time frame.

That's a lot.

MR. BUSA: That is a lot.

MR. HICKEY: How about from the Native Village of Eklutna's position -- point of view?

MR. LEGGETT: I mean, there's so many variables here. I mean, we're up against it. We're showing up to a baseball field and told what the rules are. So, you know, and they keep changing. So, I don't know. I mean, I'd like to believe it. I'd like to believe that that could happen, but I'm cautiously, you know -- we'll look at it. I think that it would take --

MR. HICKEY: I'm not trying to get a binding agreement by any stretch of the imagination here, okay? That's not the purpose of the question.

The question was just put out there because there seems to be a difference of opinion on what's the proper approach to go forward, and so I was just asking with respect to we've got this late proposal in, where are you guys at, and what do you guys think about that? Because nobody has addressed it within the documents. That's the only reason for the question.

I'm not trying to broker a settlement here, guys, okay? That's not the purpose.

MR. LEGGETT: Yeah, we'd like to look at it.

MR. BUSA: If I could just note a couple things, if that'd be appropriate.

I don't think we have interest in proposing endless concepts. We really do want to work, like, in good faith, collaboratively on achieving actual consideration of a finite set of ideas.

I would think it would be important for Anchorage to be fully participating in that process. I wonder what you think about allowing Anchorage to actually have a vote when we're considering this idea going forward.

MR. GLASS: It's a complex question, just to respond to that, if you don't mind.

Is that right now, the Municipality is signed up to pay for 19 percent, or less, actually. It depends upon the value of power. But, so as much as we're

the minority owners, we're the majority cost holders of what gets determined here. So are you -- are you saying that you get your 54 percent vote and you can -- whereby the cost's on the other 81 percent holders? Is that what you're proposing?

MR. BUSA: I guess what I'm proposing is that the existing agreements that govern the project should be fully operable. We should have our vote back. Like, I think there should be agreement on that, right?

MR. GLASS: Honestly, I don't want to get into RCA's Commission --

MR. HICKEY: We're beyond our scope here, as well, right? That's not the jurisdiction --

MR. BUSA: If we're paying for the whole thing, then we're going to take lead. I mean, but I think we should agree that there's a probably better pathway that's there, a reasonable and quick and efficient for the betterment of the process.

MR. HICKEY: I don't have anything else.

MR. LEGGETT: I just want to say,

if the burden falls on the Municipality of Anchorage, the Native Village of Eklutna is fully committed to securing funding to help assist that.

MS. BYLSMA: I don't have any other questions.

So, thank you, again, everybody, for coming and for sharing your thoughts and perspectives and the discussion. I really appreciate the time and effort spent both on submitting the briefs and then taking the time to answer questions today.

Certainly, the briefs and transcript will be helpful to the Governor as he's looking to make his decision.

So, with that note, then I'm going to say we're adjourned.

(Meeting adjourned at 3:10 p.m.)

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REGULATORY COMMISSION OF ALASKA

Certification of Electronic Transmission

I, Tina Osgood, a Law Office Assistant II for the Regulatory Commission of Alaska, 701 West Eighth Avenue, Suite 300, Anchorage, Alaska, hereby certify that on September 12, 2024, I transmitted by electronic mail true and accurate copies of

Order U-24-024(4)

ORDER ADOPTING PROCEDURAL SCHEDULE, DENYING PETITION TO INTERVENE, AND REDESIGNATING COMMISSION PANEL

to the persons set out on the attached email list.

DATED at Anchorage, Alaska, this 12th day of September, 2024.

tina.osgood@alaska.gov

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert A. Doyle
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024 ORDER NO. 4

ORDER ADOPTING PROCEDURAL SCHEDULE, DENYING PETITION TO INTERVENE, AND REDESIGNATING COMMISSION PANEL

BY THE COMMISSION:

Summary

We adopt a procedural schedule for resolution of this docket. We deny the petition to intervene filed by the Municipality of Anchorage Assembly (Assembly). The chairman redesignates the Commission Panel.

Background

The Commission opened this docket to investigate the *Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee* filed by the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP) on July 18, 2024.[1] The

[1]Order U-24-024(1), *Order Denying Request for Decision in 30 Days; Designating Parties; Inviting Participation by the Attorney General and Intervention; Addressing Timeline for Decision; Scheduling Prehearing Conference; Designating Commission Panel; and Appointing Administrative Law Judge*, dated July 30, 2024 (Order U-24-024(1)).

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Native Village of Eklutna filed comments.[2] The Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA) elected to participate in this docket.[3] We designated Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA) as parties to this docket.[4] Chugach and MEA have elected to participate jointly.[5]

AHP filed a motion for expedited consideration with a final decision in this docket by October 2, 2024.[6] RAPA agreed with AHP that a final decision in this matter could be reached by October 2, 2024.[7] Chugach and MEA jointly opposed expedited consideration, and separately filed joint comments in this docket.[8] The Municipality of Anchorage Assembly (Assembly) filed a petition to intervene in this matter on August 27, 2024.[9]

At the prehearing conference held on August 30, 2024, the administrative law judge (ALJ) announced our denial of the motion for expedited consideration filed by

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[2]Correspondence by Aaron Leggett, President, Native Village of Eklutna, filed August 2, 2024.

[3]*Notice of Election to Participate*, filed August 7, 2024.

[4]Order U-24-024(1) at 4-5.

[5]*Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Entry of Appearance*, filed August 15, 2024.

[6]*Municipality of Anchorage d/b/a Anchorage Hydropower's Motion for Expedited Consideration of Request for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*, filed August 15, 2024.

[7]*Office of the Attorney General's Response to Anchorage Hydropower's (AHP) Motion for Expedited Consideration of its Request for Acknowledgment*, filed August 26, 2024.

[8]*Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Opposition to AHP's Motion for Expedited Consideration*, filed August 26, 2024; Correspondence from Arthur W. Miller, Chief Executive Officer, Chugach Electric Association, Inc. and from Antony M. Izzo, Chief Executive Officer, Matanuska Electric Association, Inc., filed August 26, 2024

[9]*Anchorage Assembly's Petition to Intervene*, filed August 27, 2024 (Assembly Petition).

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AHP.[10] The ALJ also announced our desire for briefing on the minimum term of the Eklutna Operating Committee voting rights surrender required by Order U-18-102(44). This term is stated as follows:

> We can only find that [AHP] is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreement so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without [AHP] having a vote on operating or management decisions. **This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended,** and cannot be lifted until such time as [AHP] has shown to our satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC.[11]

The parties then proposed a procedural schedule to resolve this matter within the statutory timeline.

Discussion

Procedural Schedule

We have reviewed the procedural schedule proposed by the parties, and it limits the time for issuance of a final order to only 57 days after conclusion of the public hearing, a substantially shorter time than normally required. We adopt the proposed procedural schedule but caution the parties that any requests for extensions of time are unlikely to be granted without agreement of all parties to also extend the statutory timeline under AS 42.05.175(f). The adopted procedural schedule is set out in the ordering paragraphs below.

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[10]The transcript of this conference is not yet available. An explanation of this denial will be included in a future order.

[11]Order U-18-102(44)/U-19-020(39)/U-19-021(39), *Order Accepting Stipulation in Part, Subject to Conditions; Amending, Transferring, and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third Party Sales Gas Pricing; and Requiring Filings*, dated May 28, 2020, at 67 (emphasis added).

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Petition to Intervene

Any person who has a statutory right to be made a party will be permitted to intervene and we have the discretionary authority to grant intervention to others.[12] In passing on a petition to intervene we will consider the following factors:

> (1) the nature of the petitioner's right under statute to be made a party to the proceeding;
>
> (2) the nature and extent of the property, financial, or other interest of the petitioner;
>
> (3) the effect on petitioner's interest of the order which may be entered in the proceeding;
>
> (4) the availability of other means by which the petitioner's interest may be protected;
>
> (5) the extent to which petitioner's interest will be represented by existing parties;
>
> (6) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, including the issues that petitioner intends to address in the proceeding; and
>
> (7) the extent to which participation of the petitioner will broaden the issue or delay the proceeding.[13]

The Assembly petitioned to intervene in this docket claiming that the issues raised in the Chugach and MEA opposition to the motion for expedited consideration and in the Chugach and MEA comments attempt to impose legislative limits on the Assembly.[14] The Assembly does not assert that it has a statutory right to party status in this docket.[15] RAPA and AHP both filed non-oppositions to the Assembly Petition.[16] Chugach and MEA opposed intervention by the Assembly on the ground that the Municipality of Anchorage

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[12] 3 AAC 48.110(a).

[13] 3 AAC 48.110(b).

[14] Assembly Petition at 1-2.

[15] Assembly Petition at 3.

[16] *Office of the Attorney General's Non-opposition to Petition to Intervene*, filed September 3, 2024; *Municipality of Anchorage d/b/a Anchorage Hydropower's Non-opposition to the Anchorage Assembly's Petition to Intervene*, filed September 3, 2024.

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is already represented in this docket by AHP and the Assembly has made no showing that its interests cannot be adequately represented by AHP.[17]

In addressing the extent that its interest will be represented as set out in 3 AAC 48.110(b)(5), the Assembly states:

> Fifth, the existing parties will not sufficiently represent the Assembly's interests. Although the Administration and the Assembly are generally aligned on certain substantive goals, their legal interests are not identical. The Assembly is the co-equal legislative body of the Municipality. If the Commission considers the arguments raised by Chugach and MEA, the Assembly's interest in maintaining its authority to determine policy could be affected and its position may not be adequately represented by the Administration.[18]

This assertion does not explain a material difference in the interests of the Municipality of Anchorage and the Assembly. We find no facts that the Municipality of Anchorage's varied interests in this docket, including the Assembly's interests, will not be adequately represented by AHP. Therefore, we deny the Assembly's Petition under the factor set forth in 3 AAC 48.110(b)(5).

Redesignation of Commission Panel

The chairman redesignates the Commission Panel for this docket. The chairman designates Commissioners Robert M. Pickett, John C. Springsteen and himself as the Commission Panel.[19] Commissioner Springsteen remains Commission Docket Manager.

ORDER

THE COMMISSION FURTHER ORDERS:

1. The following procedural schedule is adopted:

[17] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Opposition to Anchorage Assembly's Petition to Intervene*, filed September 3, 2024.

[18] Assembly Petition at 5.

[19] Under AS 42.04.080(a) the chairman designates a Commission Panel to hear, or if a hearing is not required, to otherwise consider and decide docketed matters.

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	Date	Procedural Matter
A.	September 18, 2024	The Municipality of Anchorage d/b/a Anchorage Hydropower's direct testimony and brief on term of surrender issue due.
B.	September 18, 2024	Discovery opens on the Municipality of Anchorage d/b/a Anchorage Hydropower's direct testimony.
C.	October 3, 2024	Discovery closes on the Municipality of Anchorage d/b/a Anchorage Hydropower's direct testimony (last day to propound discovery requests).
D.	October 8, 2024	Office of the Attorney General, Regulatory Affairs & Public Advocacy Section; Chugach Electric Association, Inc.; and Matanuska Electric Association, Inc. responsive testimony and brief on term of surrender issue due.
E.	October 8, 2024	Discovery opens on Office of the Attorney General, Regulatory Affairs & Public Advocacy Section; Chugach Electric Association, Inc.; and Matanuska Electric Association, Inc. responsive testimony.
F.	October 23, 2024	Discovery closes on Office of the Attorney General, Regulatory Affairs & Public Advocacy Section; Chugach Electric Association, Inc.; and Matanuska Electric Association, Inc. responsive testimony (last day to propound discovery questions).
G.	October 29, 2024	Municipality of Anchorage d/b/a Anchorage Hydropower reply testimony and reply brief on term of surrender issue due.
H.	October 29, 2024	Discovery opens on Municipality of Anchorage d/b/a Anchorage Hydropower reply testimony.
I.	November 8, 2024	Discovery closes on Municipality of Anchorage d/b/a Anchorage Hydropower reply testimony (last day to propound discovery questions).
J.	November 12, 2024	Deadline for parties to file sequential witness list, statement of issues, and any errata.

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K.	9:00 a.m. November 18, 2024	A prehearing conference shall convene in the East Hearing Room of the Regulatory Commission of Alaska, 701 West Eighth Avenue, Suite 300, Anchorage, Alaska, and via Cisco WebEx, unless other arrangements are ordered.[20]
L.	10:30 a.m. November 18, 2024, and continuing through November 22, 2024, as necessary.	A hearing shall convene in the East Hearing Room of the Regulatory Commission of Alaska, 701 West Eighth Avenue, Suite 300, Anchorage, Alaska, and via Cisco WebEx, unless other arrangements are ordered.[21]

2. The Municipality of Anchorage Assembly's Petition to Intervene, filed August 27, 2024, is denied.

3. Commissioners John M. Espindola, Robert M. Pickett, and John C. Springsteen are designated as the Commission Panel.

DATED AND EFFECTIVE at Anchorage, Alaska, this 12th day of September, 2024.

BY DIRECTION OF THE COMMISSION
(Commissioner Robert A. Doyle, not participating)

[20]Any person that wishes to participate in the prehearing conference or hearing via Cisco Webex should email our law office assistants at LOA.RCA@alaska.gov to request an invitation by 12 p.m., Thursday, November 14, 2024.

If you are a person with a disability who may need a special accommodation, auxiliary aid, service, or alternative communication format in order to participate in the scheduled event, please contact Sam Vukasin at 907-276-6222, TTY/Alaska Relay at 7-1-1 or 1-800-770-8973, toll free at 1-800-390-2782, or send your request via electronic mail to rca.mail@alaska.gov, at least three business days before the scheduled event to make the necessary arrangements.

[21]*Id.*

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Robert A. Doyle, Chair
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S NOTICE OF FILING DIRECT TESTIMONY

The Municipality of Anchorage ("MOA"), d/b/a/a Anchorage Hydropower ("AHP") hereby submits the prefiled testimony of the following witness:

1. Mark A. Corsentino, P.E.

RESPECTFULLY SUBMITTED this 18th day of September, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: */s/ Dean D. Thompson*

Dean D. Thompson, Alaska Bar No. 9810049
Ashley C. Brown, Alaska Bar No. 1105022
Kemppel, Huffman and Ellis, P.C.
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CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
By: */s/ Ashley Brown*
Ashley Brown

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Chugach Electric Association, Inc.
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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert A. Doyle
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	)))))	U-24-024

PREFILED DIRECT TESTIMONY OF MARK A. CORSENTINO, P.E.

I. INTRODUCTION

Q.1 Please state your name and title.

A.1 My name is Mark A. Corsentino, P.E., and I am the Utility Director of Anchorage Hydropower ("AHP") and the General Manager of Anchorage Water and Wastewater Utility ("AWWU"), except for matters involving both AHP and AWWU, for which Assistant General Manager David Persinger serves as Acting General Manager of AWWU and I serve only as Utility Director of Anchorage Hydropower.

Q.2 What is the purpose of your testimony?

A.2 The purpose of my testimony is to support AHP's notice and request for acknowledgement that is has acquired the expertise required to participate as a voting member of the Eklutna Operating Committee ("EOC").

Q.3 Have you testified previously before the Commission?

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A.3 Yes. I filed prefiled direct testimony in AWWU's rate cases U-19-005/U-19-006, U-22-002/U-22-003, and U-24-005/U-24-006, and prefiled direct testimony and oral testimony in the January 11, 2022, Public Hearing on the stipulation filed in AWWU's rate case U-21-010/U-21-011. I filed prefiled direct testimony in AWWU's tariff filings in TA176-122 and TA177-126 and for AWWU's tariff revision in U-24-008. I also filed an affidavit in support of AWWU's Petition to Create a Regulatory Asset for Recovery of Costs from Earthquake Damage filed on December 23, 2019, in U-19-102/U-19-103.

Q.4 Please summarize your professional qualifications.

A.4 See my resume enclosed as **Exhibit MAC-1**.

Q.5 Please describe how your testimony is organized.

A.5 First, I will summarize AHP's notice and request for acknowledgement that it has acquired the expertise required to participate as a voting member of the EOC. Second, I will describe the purpose of the EOC and how it functions. Third, I will describe my qualifications as they pertain to the expertise needed for AHP to participate as a voting member of the EOC. Fourth, I will discuss the measures in place to address any potential conflicts of interest that may arise due to my roles as both the Utility Director of AHP and the General Manager of AWWU.

II. SUMMARY OF AHP'S NOTICE AND REQUEST FOR ACKNOWLEDGEMENT

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Q.6 Please summarize AHP's notice and request for acknowledgement that it has acquired the expertise required to participate as a voting member of the EOC.

A.6 In Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order No. 39"), the Commission approved the sale of most of the electric utility assets of the Municipality of Anchorage ("MOA") d/b/a Municipal Light & Power ("ML&P") to Chugach Electric Association, Inc. ("Chugach"). The MOA retained its ownership interest in the Eklutna Hydroelectric Project ("Eklutna Project"), from which it sells wholesale electric power to Chugach and Matanuska Electric Association, Inc. ("MEA"), pursuant to power purchase agreements approved by the Commission. The Commission issued Certificate of Public Convenience and Necessity No. 780 authorizing the MOA d/b/a AHP to provide wholesale electric public utility service on the condition that the MOA surrender its voting rights on the EOC. Order No. 39 required that the surrender remain in effect until the MOA "has shown to [the Commission's] satisfaction that MHP[1] has acquired the expertise required to fully participate as a voting member of the EOC." The Commission identified two characteristics that AHP's owner representative must have in order to lift the MOA's surrender of voting rights: knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system.[2]

On October 27, 2020, the MOA surrendered its voting rights as an EOC member, effective as of the closing date of the asset purchase agreement between ML&P and Chugach. The surrender of voting rights remains "in effect until ML&P's successor

[1] In Order No. 39, the Commission referred to the "post-transaction electric utility owned by the MOA as Municipal Hydro Power (MHP)." Order No. 39 at 4, n. 1.
[2] *Id.* at 66.

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complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC."[3] "Until ML&P's successor complies with the qualification terms of RCA [Order No. 39], all EOC decisions will be by unanimous vote of [Chugach] and [MEA]."[4]

On July 2, 2024, I was unanimously approved by the Anchorage Assembly to be the Utility Director of AHP. As such, I will serve as AHP's owner representative on the EOC. I have the knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system required by the Commission to lift the MOA's surrender of voting rights and to fully participate on the EOC. As Utility Director of AHP, 20%of my salary is now paid by AHP.

Q.7 Are there other requirements for AHP's owner representative on the EOC?

A.7 Yes. In conjunction with Order No. 39, AHP's owner representative must make all decisions on the EOC consistent with prudent utility practice and the rights and obligations of Chugach and MEA under the Eklutna Power Purchase Agreement ("Eklutna PPA") and the MEA Power Purchase Agreement ("MEA PPA") and consistent with all other requirements of law.

III. THE EOC

Q.8 What is the EOC?

[3] Surrender of Eklutna Operating Committee (EOC) Voting Rights (Oct. 27, 2020).
[4] *Id.*

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A.8 The EOC was created to make all management decisions regarding the operation, maintenance, and budgeting for the Eklutna Project, including the "Fish and Wildlife Agreement Snettisham and Eklutna Projects." The EOC essentially makes decisions that would be made by a wholly-owned utility by its management team. For instance, it makes the type of decisions that I make for AWWU as General Manager. Such decisions could include decisions about operations, capital investments, budgeting, and maintenance.

Q.9 Please describe the Eklutna Project.

A.9 The Eklutna Project was constructed by the federal government from 1951 to 1955 to provide wholesale electric utility service to ML&P, Chugach, and MEA. The Eklutna Project includes a tap into Eklutna Lake, a tunnel to divert the water from the tap to a powerhouse located in the Matanuska-Susitna Borough ("MSB") containing two generating units, and a trailrace that discharges into the Knik River. The Eklutna Project connects to MEA substations in Anchorage and the MSB, and to Chugach and AHP substations in Anchorage.

Q.10 Please describe the ownership structure of the Eklutna Project.

A.10 In 1995, ML&P, Chugach, and MEA entered into the Eklutna Purchase Agreement with the federal government. Ownership was transferred to ML&P, Chugach, and MEA in 1997. ML&P acquired an undivided ownership interest in the Eklutna Project capacity, energy, and assets of 53.33%. Chugach and MEA acquired undivided ownership interests in the Eklutna Project capacity, energy, and assets of 33% and 16.67% respectively.

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Q.11 How are decisions made by the EOC?

A.11 Since ML&P surrendered its voting rights in 2020, all EOC decisions are made by unanimous vote of Chugach and MEA.[5]

Q.12 How would decisions be made if AHP's notice and request for acknowledgement that it has acquired the expertise required to participate as a voting member of the EOC is approved by the Commission?

A.12 If AHP's notice and request for acknowledgement that it has acquired the expertise required to participate as a voting member of the EOC is approved by the Commission and AHP's voting rights are restored, the decision-making process would revert to the one outlined in the Eklutna Transition Plan. Decisions will be made based upon a double majority consisting of an affirmative vote by at least two utilities whose ownership shares total at least 51% of the Eklutna Project ownership. Since ML&P has more than 50% of the ownership, it will have to approve the action with an affirmative vote from either Chugach or MEA, or both.

IV. QUALIFICATIONS

Q.13 Please summarize your knowledge of prudent utility practice.

A.13 I am a licensed engineer with approximately 20 years of utilities experience. I have been the General Manager of the AWWU since February 2019 and was the Director of

[5] *Id.*

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Operations and Maintenance and a Project Management Engineer/Supervisor before that. As the General Manager, I direct and oversee two economically regulated utilities with a combined annual revenue of $139 million, annual capital budgets of $35 million, and a net book value of over one billion dollars. I oversee 280 full-time AWWU employees as well as AWWU's two water treatment plants, three wastewater treatment plants, 1,600 miles of underground pipelines, and 200 water and sewer remote facilities.

During my time at AWWU, I have gained significant experience with operation capital expenditures, leading projects such as SCADA control system upgrades, and providing project management design and construction expertise in water transmission main projects, sewer pump station projects, and wastewater treatment process improvement projects. I have overseen several utility rate cases. I am also versed in compliance with the uniform system of accounts pursuant to 3 AAC 48.277, particularly subsections (9) through (13) for electric public utilities and (14) through (17) for water utilities.

Q.14 Please summarize your knowledge of the Railbelt generation and transmission system.

A.14 As a licensed engineer with a background in electrical engineering, I understand the mechanics and theory of electricity generation and transmission. I have direct experience with hydropower generation, scheduling, maintenance, and integration with other Railbelt resources. As General Manager of AWWU, I oversee the operation and maintenance of the hydropower generation from AWWU's Eklutna Energy Station, as well as AWWU's Reservoir 3&4 Facility and 92nd Street PRV Facility. I also oversee AWWU's co-location

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with Chugach's Plant 2A. I am regularly involved in the construction of pump stations and other projects requiring significant power supply from the grid. This has given me a greater understanding of power systems and related issues such as power correction, phase, amplitude, and frequency of AC power.

In addition, I have experience representing AHP on the EOC in a non-voting capacity. As such, I have knowledge of Eklutna Project matters including hydropower generation, scheduling, integration with other Railbelt resources, SCADA (as managed through Chugach), and project maintenance. Further, if there is an issue in which I require assistance, I have access to additional resources through both in-house engineering expertise at the MOA and the ability to engage the expertise of MOA consultant and contractors. In particular, Mark Schimsheimer, the Engineering Director of AWWU, has been designated to provide additional technical and engineering support to AHP, at AHP's expense. Ten percent of his salary is now paid for by AHP. His resume is attached as **Exhibit MAC-2**.

Q.15 Do you believe AHP has the expertise required to fully participate as a voting member of the EOC as required by the Commission?

A.15 Yes. In Order No. 39, the Commission stated that "[u]nder the circumstances, [it] cannot unconditionally find that MHP is managerially or technically fit to maintain majority ownership of the Eklutna Project."[6] The circumstances the Commission were referring to included MHP having a seat on the EOC even though it had no employees and that MHP

[6] Order No. 39 at 67.

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would be managed by the Municipal Manager. The Municipal Manager at the time was William D. Falsey, who had a Bachelor of Science degree in physics from Stanford University and a law degree from Yale Law School. Mr. Falsey had worked in legal positions before becoming the MOA's Municipal Manager but did not have any knowledge of the Railbelt generation and transmission system or prudent utility practice. ML&P had suggested that it could use consulting services for industry-specific expertise to help it make informed decisions, but it was not sure if such expertise was available. This is no longer the case. AHP is now managed by its Utility Director who has knowledge and experience with both the Railbelt generation and transmission system and prudent utility practice.

V. CONFLICTS OF INTEREST

Q.16 How has AHP addressed any potential conflicts of interest that may arise due to your roles as the Utility Director of AHP and the General Manager of AWWU?

A.16 AHP and AWWU have entered into a Memorandum of Understanding ("MOU") (**MAC-3**) that established that I will act solely as the Utility Director of AHP and will abstain from any decisions that need to be made by the General Manager of AWWU in any instance of conflicting interests between AHP and AWWU. Under the MOU, I will not take any action in my role as the General Manager of AWWU on "issues that affect the interest, operations, or obligations" of AHP. In this instances, AWWU's interests will be represented by AWWU's Assistant General Manager. All decisions I will make in my role as the AHP

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representative on the EOC will be consistent with prudent utility practices and the rights and obligations of Chugach and MEA as required by the Eklutna PPA and MEA PPA.

Q.17 Is your position - General Manager of AWWU, and Utility Director of AHP - unique from a conflict perspective?

A.17 No. Historically, for ML&P and AWWU, even when a different individual represented ML&P and AWWU, these two individuals would both report to the municipal manager because both utilities are part of the municipality. Here, the municipality created an additional layer of protection to ensure prudent utility management through the MOU, one which normally would not exist in a municipality with more than one utility. Another layer of protection is the language of both the MEA and Chugach PPAs, stating that " the Municipality EOC representative shall "make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties" under the PPAs. Chugach and MEA have procedural remedies both through the PPAs and through the Commission's authorities in the event either believes that the MOA representative is not meeting these requirements or the requirements of its certificate.

Q.18 Does this conclude your prefiled direct testimony?

A.18 Yes, thank you.

Dated this 18th day of September, 2024, at Anchorage, Alaska.

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EXHIBIT MAC-1

Mark A. Corsentino, P.E.

[redacted]

Phone: [redacted]
Email: [redacted]

EDUCATION

Water and Wastewater Leadership Center, University of North Carolina, March 2017

Cold Regions Engineering Short Course, University of Washington, November 2005

Master of Science Civil Engineering, Marquette University, August 2002

Bachelor of Science Biomedical Engineering*, *Magna Cum Laude*, Marquette University, May 2000

*Minors in Electrical Engineering and Biology

EXPERIENCE

February 2019 –Present *General Manager of the Anchorage Water and Wastewater Utility (AWWU), Anchorage, AK*

Directs and oversees all operations of a Municipal Department with two separate State Economically Regulated Utilities with a combined annual revenue of $130M, annual capital budgets over $35M, over 280 full time employees, 8 work divisions, a net book value of over $1B with a replacement value over $10B, with over 1,600 miles of underground pipelines, 2 water treatment plants, 3 wastewater treatment plants, 200 water and sewer remote facilities, 1 MW hydropower generation across three units (Eklutna Energy Recovery Station, Reservoir 3&4 Facility, 92nd Street PRV Facility), with a Utility wide SCADA network, including 35 lift stations, 20 finished water reservoirs, 12 high production wells, dozens of booster stations and PRV facilities with 55 pressure zones, 7,500 fire hydrants, 15,000 mainline valves, and approximately 60,000 customer parcels and service lines all within a certificated service area larger than the state of Rhode Island with a population served of approximately 230,000. Oversaw several successful utility rate cases and multiple NACWA Peak Performance Awards, FEMA earthquake recovery reimbursement efforts, lean and green utility operations, COOP through the COVID pandemic. Represented the Municipality in the Anchorage Hydropower Plant Operations Committee as part of the Municipality's ownership of 40MW hydropower plant and its associated federal fish and wildlife study in lieu of FERC relicensing. Oversaw the Stormwater Utility Evaluation and Implementation Program for the Municipality.

August 201 –January 2019 *Director of Operations and Maintenance with the Anchorage Water and Wastewater Utility (AWWU), Anchorage, AK*

Lead and managed a group of ninety five employees, mostly union represented, whose mission is to operate and maintain the Utility's plant, collection and distribution facilities. As a member of the Utility Leadership Team, was integrally engaged in the execution and implementation of the Utility 2016-2021 Strategic Plan. Initiated large diameter line cleaning program and reclassified employee positions to improve retention and to be in alignment with ADEC Operator Certification program. Oversaw emergency recovery of utility assets during magnitude 7.1 earthquake and oversaw implementation of computerized maintenance management system upgrade and integration with Municipal ERP system and Utility asset management system.

August 2007–July 2016 *Project Management Engineer/Supervisor with the Anchorage Water and Wastewater Utility (AWWU), Anchorage, AK*

Managed engineering design and construction projects and supervised employees for the AWWU Engineering capital program. Communicated and coordinated with multiple stakeholders, including all divisions within the Utility, municipal departments, permitting agencies, the public and consultants. Additional duties consisted of managing Utility soil remediation projects, providing corrosion technical assistance for projects, and providing technical input to the AWWU Asset Management Plans and the AWWU DCPM and MASS re-writes. Project Management design and construction experience in water transmission main projects, large diameter sewer conveyance projects, water storage reservoir projects, sewer pump station projects, water booster stations projects, water distribution main projects, sewer collection system projects, and wastewater treatment process improvement projects (eg replacing wastewater chlorination with UV disinfection, clarifier rehab, etc.)

August 2002–August 2007 *Project Management Engineer with the Water Business Group in CH2M HILL's Anchorage, AK and Seattle, WA offices. In Anchorage since May 2005.*

Duties consisted of project management, project engineering and construction management services for water and wastewater projects throughout the Pacific Northwest including water treatment plant design and construction (Cedar Water Treatment Plant, Skagit Water Plant Expansion), wastewater plant design and construction (Centralia, Barrow), large diameter sewer conveyance (King County), water transmission main design and construction (Tacoma and Anchorage) and water transmission main impressed current design support efforts.

September 2000–July 2002 *Civil Engineer Trainee (GS-7), United States Geological Survey, Water Resources Division), Middleton, Wisconsin.*

Collected and processed water quality samples for an airport stormwater toxicity study and a cryptosporidium and urban stormwater runoff study. Processed and analyzed the collected field data. Performed maintenance and calibration of gaging stations and automatic data samplers.

July 2001-May 2002 *Graduate Research Assistant, Marquette University, Milwaukee, Wisconsin.*

Studied aerobic and anaerobic biodegradation of the suspected endocrine disrupter precursor nonylphenol ethoxylate found in aircraft deicing fluid. Operated a system of biological reactors under differing environmental conditions.

PUBLIC SPEAKING, PAPERS, PRESENTATIONS, CERTIFICATIONS AND MORE:

- Experienced and versed in creating presentations and speaking publicly to community councils, business associations, Municipal Boards, Municipal and Borough Assemblies, Regulatory Commission of Alaska, State of Alaska Legislature Senate Finance Committee, ADEC Commissioner, and Mayoral Administrations
- Registered Professional Civil Engineer, State of Alaska; AELC11653
- 2006: PNCWA Lead & Copper Rule Lessons Learned for SE Alaska Communities
- 2007: ASCE Pipelines Paper & Presentation: Design and Construction of a Large Welded Steel Pipe Bridge Crossing for Potable Water Supply in Anchorage, Alaska
- 2010: NACE AK Chapter presentation; Corrosion Mitigation of AWWU Infrastructure
- 2011: AWWMA Corrosion presentation: Corrosion Mitigation of AWWU Infrastructure
- 2011-2018: UAA ME 664, Corrosion Processes and Engineering course guest lecturer: Presented Corrosion Problems and Solutions in the Water & Wastewater Industry
- 2013: NACE International Corrosion Conference paper/presentation; DIP External Surface Preparation and Coatings for Buried Water Service from an Owner's Perspective
- 2013: NASTT No Dig presentation; Sewer Condition Assessment in the Far North
- 2023: AWWMA Presentation: Disinfection with On-Site Generation
- NACE International past certifications, 2016; (CP2-Cathodic Protection Technician, CIP2-Coating Inspector Level 2, CP3-Cathodic Protection Technologist successful test)
- Master's thesis; Aquatic toxicity of aircraft deicing runoff on adult fathead minnows, 2002
- Master's thesis work supported September 2003 EST paper; Nonylphenol Ethoxylates and other Additives in Aircraft Deicers, Anti-icers and Airport Runoff
- FEMA ICS 100 Certifications, 2013
- AK CESL and CPR past certifications, 2013, 2015
- OSHA 10 Hour Safety Course
- Volunteer Member of Local Road Service Area Board, 2022-present
- Volunteer high school wrestling coach, 2007-2009
- College summer internship at Abbott Laboratories Diagnostics Division, 1999

EXHIBIT MAC-2

MARK A. SCHIMSCHEIMER, PE

[redacted]

Education & Registration

BS - Civil Engineering; CSUC; 1993
MSPM - (Master of Science in Project Management) UAA, various classes
PE - State of Alaska, Civil Engineer 10955
PMP - Project Management Professional 1925650 (lapsed)
Arctic Engineering – University of Alaska, 1993
CDT - Contract Document Technologist, Construction Specification Institute (CSI)
IEDC/CDFA – Development Finance, various classes

Experience

2019-present: ***Director of Engineering, Anchorage Water and Wastewater Utility (AWWU):*** Responsible for a staff of 45 and annual budgets more than $50 million. Sections of the Engineering Division includes Development Services, Project Management, and Asset Management Planning. Utility serves a metropolitan population of 300,000, processes and distributes 50 MGPD of drinking water and process 45 MGPD of wastewater. Distribution and collection systems are deep-bury for frost conditions. All assets are located in a high seismic region. Step-up General Manager as required. Significant interface with Municipal Assembly, Administration, and State and Federal elected officials. Accomplishments include:

- Division & Utility reorganization: reconfigured division to achieve cost and deliverable efficiencies (eliminated former position).
- Pioneered utility first Public-Private Partnership to develop infrastructure in support of economic development projects

2017- 2019: ***Planning and Development Services Manager*** AWWU, Anchorage, Alaska. Responsible for special assessment districts, development services, real estate management, third party project coordination, and addressing miscellaneous public and utility concerns. Position requires diplomatic abilities towards conflict resolution and negotiations with municipal departments, government officials, and the public at large.

- Water Master Plan: 50,000 customers with a peak daily demand of 40 MGD.
- Risk and Resiliency Assessment: Federal requirements stipulate Assessment be completed to AWWA J100 standards by March 2020.
- Asset Management Plan(s): facility assessments, O&M procedures, break rates, ROI

2015: ***Managing Partner***: Alaska LNG Exporters, Anchorage, Alaska. In conjunction with international business partners created a Delaware based LLC with the goal of exporting excess and stranded Cook Inlet Basin natural gas to Pacific Rim customers. Formulated business plan, confidentiality agreements, and qualified investor presentations. Currently on hold pending Natural Gas price recovery.

2010- 2017: ***Managing Partner***: SMR Developers, Anchorage, Alaska. Formed in 2010, Owner and Managing Partner of a real estate development company. Responsible for all aspects of the corporation: Investor management, financing, accounting, subcontractor management, engineering & permitting, financial and risk analysis.

2013-2015: ***Project Manager***: NANA WorleyParsons, Anchorage, Alaska. Project Manager for mining and energy related projects. Clients include Teck Alaska, Pebble Limited Partnership (PLP) and ConocoPhillips Alaska (CPAI). Specific activities include preparation of proposals, management of work share partners, client interface and overall project management activities. Project types included green-field North Slope drill sites, power grid extensions, subcontracting (EPS), water treatment facilities and LNG handling facilities

2001-2013: ***Project Development Manager***: AIDEA/AEA, Anchorage, Alaska (AIDEA is a small capital-intensive enterprise investment corporation of the State of Alaska wherein each person has wide authority and responsibilities, AEA is a similar not-for-profit energy authority)

- AIDEA: Responsible for approximately $1 Billion of projects at any given time. Duties included all development (concept through execution and closure) and operational aspects of mining, power generation, and vertical construction projects financed by AIDEA.
- AEA: Bulk fuel upgrade and replacement projects throughout rural Alaska (20 projects with a value of $50 million). Responsible for all project phases from conception through close-out including contract negotiation, award and management of Multi-Discipline Design Contracts and Construction Management contracts.
- Projects included village to village electric interties, modular power plant size and placement, utility business agreements

Specific AIDEA activities included:

- Oversee the planning and conceptual design study for an Arctic deep-water port proposed to serve both the Red Dog Mine District and the Western Arctic Coal
- Responsible for an Arctic-grade ore concentrate trans-shipment
- Manage professional technical, legal and construction (EPC, CM, DB, DBB) and asset specific operations contracts
- Reviews all specialty inspection reports such as feasibility, design, design review, value engineering
- Facility inspection to observe condition, maintenance activities, and operation procedures
- Highly familiar with applicable regulations and permitting agencies (EPA, State) regarding NEPA, Clean Air Act, EIS, NPDES
- Negotiation of contracts and litigation settlements in excess of $150 million
- Healy Clean Coal, a 50MW coal-fired power plant: management of litigation team in an unresolved $175 million dispute, plant permitting, negotiation of power sales agreement, project development agreement, coal supply contract, O&M, custodial and transmission contracts, and various agreements and contracts as required. Negotiated sale of asset.
- Negotiated Consent Decree for Title V air permit for plant.

Specific AEA activities included:

- Authored and negotiated master Business Plan requiring sustainability of a rural Alaskan village utility (power & bulk fuel) that became a funding requirement of the Denali Commission. Interfaced with Denali Commission (Federal Agency), USDA/RUS funding program, HUD funding, State and Federal regulators, and village leaders and communities throughout Alaska.

- Authored program manual for $200 million energy program, created master funding schedule. Negotiated all aspects of the program with local leaders, and funding agencies (Federal & State Grants)

1998-2001: ***Project Manager****:* Arctic Slope Consulting Inc., (full time in Barrow) Barrow, Alaska (This company was a subsidiary of ASRC, sold to NANA and is now DBA WHPacific)

- Sr. Project Manager on all Alaska Arctic North Slope village water & sewer projects (approx. $350 million). Responsible for client contact (marketing), office workload management among various project managers, financial tracking and reporting, construction administration proposals & budgeting. Reorganized office and revised & updated document control system including creation of project control tracking procedures. Part of negotiation team on multiple $50 million projects.

- Owner's Construction Representative (OCR) on Alaska Arctic North Slope water and sewer projects for Pt Hope, Nuiqsut, & Anaktuvuk Pass (combined cost approx. $150 million). Projects included construction of sewer treatment and water treatment facilities, all direct-bury collection and distribution systems, and related auxiliary construction. Responsible for pay requests, DC/VRs, change orders, site visits, inspectors, and communication between the owner & the contractor.

1998: ***Superintendent, Surveyor***: UIC Construction, Inc., Anchorage, Alaska

- Site Supervisor and General Foreman for 20-person Alaska Native crew ($4 million per season). Responsibilities included all site paperwork, time sheets, quantity tracking, and scheduling, HR issues, interface with the owner's representative.
- Survey Party Chief on NSB Village Sewer and Water Projects (Anaktuvuk Pass & Pt. Lay). Included project layout, and substantial redesign work.

1994-1998: ***Project Engineer***: Bristol Environmental Services Corporation, Anchorage, Alaska (The business unit no longer exists in the same form)

- Environmental site investigations, geophysical surveys, product recovery systems, large-scale HAZMAT cleanups.
- Experience in environmental cleanup associated with Arctic production facilities

1995 (summer): ***Project Engineer***: South Coast, Inc., Ketchikan, Alaska (This company no longer exists)

- Survey Party Chief and Construction Engineer for Bethel runway rebuild project. ($4 million). Surveyor of road realignment and utilities placement ($1.5 million).
- Survey Party Chief and Construction Supervisor of new airport runway, apron, and access roads ($5.5 million).
- Surveyor for marine ferry terminal dock ($7.75 million). Redesigned highway alignment, drainage flows and culvert placement and utility conflicts on highway and bridge reconstruction project ($4 million).
- General Foreman on Petersburg seaplane float dredging and construction project ($2.5 million).

1993-1994: ***Project Engineer***: Arctic GeoScience, Inc., Anchorage, Alaska, (This company no longer exists)

- Engineered and designed drill pad and road system to support oil exploration activities in Arctic Russia. Design issues included geotechnical analysis, thermal analysis of permafrost stability, and layout of man-camp, flare pit, tank farm, and power modals.
- Served as CONOCO's on-site representative overseeing the winter construction of the system and the placement of the drill rig and ancillary equipment units.

Public Service Activities

- Chair, South Golden View Rural Road Service Area
    - Public Official, seat won through Municipal Election, April 2008, re-elected 2010, 2013, 2016
    - Annual budget $750K of direct tax revenue, grants of up to $4.5 million

- **Candidate for Assembly:** April 2016
- **Participant**: November 2014 Governor Walker/Mallott "Transition Team Member" for Consumer Energy Issues.
- **Participant**: June 2015 "Conversations with Alaskan", Fairbanks, Alaska. Three-day event to give feedback to the Administration on current budget issues and proposed solutions.
- **Storm Water Utility Steering Committee (2017-18)**: member representing rural road service areas

EXHIBIT MAC-3

Docusign Envelope ID: C04BC1CE-4428-45FF-BC6C-F1930FFA46FD

MEMORANDUM OF UNDERSTANDING BETWEEN ANCHORAGE WATER AND WASTEWATER UTILITY AND ANCHORAGE HYDROPOWER UTILITY RE RESOLUTION OF CONFLICTS OF INTEREST

WHEREAS, Mark Corsentino has been appointed and confirmed as the general manager of Anchorage Water and Wastewater Utility (AWWU), but has also been appointed and confirmed as the director of Anchorage Hydropower Utility (AHU);

WHEREAS, Mark Schimscheimer is the Engineering Director of AWWU, but has also been designated to provide technical and engineering support to AHU;

WHEREAS, both AWWU and AHU utilize Eklutna Lake as part of their operations; AWWU as a source of drinking water and AHU as a hydropower production water source and storage; and

WHEREAS, AWWU currently purchases its water from the Eklutna Hydroelectric Owners ("Owners"), comprised of Chugach Electric Association, Inc., Matanuska Electric Association, Inc., and AHU;

WHEREAS, decisions regarding the management of AHU and AWWU may impact and conflict with the other utility, rendering it essential to address and resolve potential conflict issues that Mr. Corsentino and Mr. Schimscheimer may face in their performance of their duties;

WHEREAS, it is also necessary to apportion management expenses for both AWWU and AHU on a cost-causer, cost-payer basis;

NOW THEREFORE, AWWU and AHU agree as follows:

1. Mr. Corsentino and Mr. Schimscheimer shall not take any action in their roles as AWWU employees on issues that affect the interests, operations, or obligations of AHU. Specifically, in all instances of conflicting interest between AWWU and AHU:
    a. Mark Corsentino shall abstain from any decisions that need to be made by the General Manager of AWWU, and he shall instead act solely as director of AHU, with loyalty to AHU's interests.
    b. AWWU's interests shall be represented by, and the General Manager's authority delegated to, the AWWU Assistant General Manager (currently David Persinger).

c. Mr. Schimsheimer shall similarly abstain and his AWWU duties shall be delegated to another AWWU staff member. When acting on behalf of AHU, Mark Schimscheimer shall not act in his role as an employee of AWWU or represent AWWU's interests.

2. AHU may utilize Mr. Schimscheimer, at its own expense, to provide additional technical and engineering support of AHU operations.
3. AHU will have access to and right to use, at AHU's expense, contracts of the MOA to access technical and engineering expertise necessary to oversee and conduct operations.
4. To reflect this arrangement, Mr. Corsentino's and Mr. Schimscheimer's salaries shall be apportioned as follows, effective July 8, 2024:
   a. AWWU shall pay 80% of Mr. Corsentino's salary and AHU shall pay 20% of his salary; and
   b. AWWU shall pay 90% of Mr. Schimscheimer's salary and AHU shall pay 10% of his salary.

ANCHORAGE HYDROPOWER UTILITY

DocuSigned by:
E960BEA42A314B7...

7/18/2024

Mark Corsentino
Director
Anchorage Hydropower Utility

Date

ANCHORAGE WATER AND WASTEWATER UTILITY

DocuSigned by:
David Persinger
7D854C3A601F4B4...

7/18/2024

David Persinger
Delegated General Manager
Anchorage Water and Wastewater Utility

Date

MUNICIPALITY OF ANCHORAGE

7/18/24

Kent Kohlhase
Municipal Manager
Municipality of Anchorage

Date

RECEIVED
By the Regulatory Commission of Alaska on Sep 18, 2024

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Robert A. Doyle, Chair
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S BRIEF REGARDING INTERPRETATION OF ORDER 39

The Municipality of Anchorage ("MOA"), d/b/a Anchorage Hydropower ("AHP"), submits this brief regarding interpretation of language in Order U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39")[1] pertaining to the terms of the MOA's surrender of voting rights on the Eklutna Operating Committee ("EOC"). The EOC was formed to make all management decisions related to operation, maintenance, and budgeting for the Eklutna Hydroelectric Project ("Eklutna Project"), owned by the MOA (53.33% interest), Chugach Electric Association, Inc. ("Chugach") (30% interest), and Matanuska Electric Association ("MEA") (16.67% interest).[2]

As part of the approval of the MOA's sale of most of its electric utility assets to Chugach in dockets U-18-102/U-19-020/U-19-021 ("Acquisition dockets"), the Regulatory Commission of Alaska ("Commission") granted the MOA a new certificate of public convenience

[1] May 28, 2020.

[2] Order 39 at 61.

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and necessity ("CPCN") to authorize the MOA's provision of wholesale public electric utility service through its part ownership of the Eklutna Project's generation facility, subject to certain conditions. One condition the Commission placed on the new CPCN for the MOA was the surrender of the MOA's voting rights on the EOC, due to the Commission's concerns that after the merger and loss of its utility employees, the MOA would no longer be "managerially and technically fit" to hold a CPCN without such surrender.[3] With the surrender, the Eklutna Project would be "jointly manage[d] and operate[d]" by Chugach and MEA, "including negotiating compliance with the Fish and Wildlife Agreement."[4] The Commission stated that the surrender "must have a term at least equal to the term of the [Eklutna Power Purchase Agreement ("Eklutna PPA") with Chugach] and the [Matanuska Electric Association Power Purchase Agreement ("MEA PPA")], as those agreements may be extended, and cannot be lifted until such time as MHP[5] has shown to [the Commission's] satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC."[6]

In the pre-hearing conference on August 30, 2024, Administrative Law Judge ("ALJ") Walker requested briefing from the parties on the question of whether this language in Order 39 regarding the MOA's surrender of its voting rights on the EOC mandates that a "minimum term" of the surrender, equal to the (at least 35-year) terms of the PPAs, must elapse

[3] Order 39 at 67.

[4] *Id*.

[5] In Order 39, the Commission referred to the post-transaction electric utility owned by the MOA as Municipal Hydro Power ("MHP") and not AHP.

[6] *Id.*

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before the MOA is able to request acknowledgment that it has acquired the expertise required to fully participate as a voting member of the EOC.[7] It does not.

As documented in the Acquisition dockets and the MEA PPA approval docket (TA379-121), as well as in subsequent filings in this docket, the Commission, the owners of the Eklutna Project, and the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section ("RAPA") all had a public, contemporaneous and continuing understanding that while Order 39 required the term of the surrender to be equal to the terms of the Eklutna and MEA PPAs, that term was subject to termination, and the surrender was subject to being "lifted" at any time after the MOA made a showing to the Commission's satisfaction that MHP had acquired the expertise required to fully participate as a voting member of the EOC. As discussed further below, to interpret the language otherwise would be contrary to the language of the PPAs, Order 39, and subsequent Commission approvals. It also would be anf unreasonable and arbitrary restriction on the MOA's ability to participate in management of its ownership hydropower asset for *decades*, despite continued MOA responsibility for costs and other liabilities.

I. PROCEDURAL HISTORY

A. In Order 39, the Commission's approval of the acquisition of MOA's electric utility assets by Chugach included conditional approvals of (1) a new CPCN for the MOA for the Eklutna Project and (2) approval of the power purchase agreements between the MOA and Chugach and the MOA and MEA.

In Order 39, the Commission approved, subject to conditions, the sale of most of the electric utility assets of the MOA, d/b/a Municipal Light and Power ("ML&P"), to Chugach (the "Transaction" or "Acquisition"). As part of that approval, the Commission accepted, in part,

[7] Order No. U-24-024(4) at 3 (September 12, 2024).

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a stipulation filed by less than all of the parties of record (subject to conditions).[8] It conditionally approved the Eklutna PPA and the MEA PPA. The Commission granted, subject to conditions, regulatory approvals filed by Chugach in Docket U-19-020, and denied the application to amend CPCN No. 8 filed by Chugach and CPCN No. 121 filed by ML&P.[9] The Commission instead transferred CPCN No. 121 to Chugach, subject to closure of the transaction and other conditions.[10]

As a result of the transfer of the MOA's CPCN No. 121 to Chugach, the Commission granted a new certificate to the MOA, "[s]ubject to transaction closure and other conditions."[11] One such condition was surrender of the MOA's EOC voting rights.[12] The new certificate would "authorize[] the provision of wholesale public electric utility service through part ownership of the Eklutna Hydroelectric Project ("Eklutna Project") generation facility" to Chugach and MEA.[13] The Commission described the Eklutna Project as follows:

> "The Eklutna Project was built and operated by the federal government pursuant to the Eklutna Power Act of 1950. In 1995, Congress authorized sale of the Eklutna Project to ML&P, Chugach, and MEA under the terms of the 1989 Eklutna Purchase Agreement. Under this agreement, the three utilities received an undivided interest in all of the Eklutna Project, water rights, generation plant and the transmission assets interconnecting the Eklutna Project with ML&P, Chugach, and MEA.171 ML&P obtained a 53.33% ownership interest, Chugach obtained a 30% ownership interest, and MEA obtained a 16.67% interest in the Eklutna Project. Eklutna Project energy, capacity, and costs are to be allocated based on these ownership interests."[14]

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[8] Order 39 at 3.

[9] Order 39 at 4.

[10] *Id*.

[11] *Id*.

[12] *Id.* at 67.

[13] *Id.* at 4.

[14] *Id.* at 60-61.

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> The Eklutna Project was managed, for over 60 years, as follows:
>
> "The three utilities created the Eklutna Operating Committee (EOC) to make all management decisions related to operation, maintenance, and budgeting for the Eklutna Project. ML&P, Chugach, and MEA each have a representative on the EOC. Decisions by the EOC are made based upon a double majority consisting of affirmative votes by at least two of the three utilities whose ownership shares total at least 51% of the Eklutna Project ownership. Effectively, management of the Eklutna Project is limited to actions approved by ML&P and at least one of Chugach or MEA."[15]

In Order 39, the Commission examined whether the services to be authorized (sale by the MOA of power to Chugach and MEA pursuant to the PPAs), were "required for the convenience and necessity of the public."[16] Further, the Commission examined whether the MOA was "fit, willing, and able to provide the utility services applied for."[17]

The Commission found that MHP was financially fit "to own an interest in the Eklutna Project, subject to the condition that MHP maintain a $3,000,000 reserve fund to support the Eklutna Project capital expenditures it is obligated to make under the MEA PPA."[18] The Commission then discussed ML&P's proposal that after the acquisition, MHP would be managed by the Municipal Manager, a position that was at that time held by William D. Falsey, an attorney and the municipal manager for approximately three years at the time of Order 39's issuance.[19] It also discussed testimony from Chugach witness Dustin Highers, stating that based on his

[15] *Id.* at 61 (internal citations and quotations omitted); Exhibit 1, Eklutna Transition Plan at Exhibit E (filed by ML&P as a supplement to TA329-121 on July 17, 2013).

[16] *Id.* at 63.

[17] AS 42.05.241.

[18] Order 39 at 65.

[19] *Id.* at 66.

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experience as EOC chair, "that to be an owner representative on the EOC, it was essential that the representative have knowledge of prudent utility practice and the Railbelt electric generation and transmission system."[20] The Commission reviewed Mr. Falsey's resume, and determined that nothing in his resume indicated that he had knowledge of the Railbelt generation and transmission system, or prudent utility practice, which the Commission noted "is the management standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA PPA."[21]

While ML&P proposed it likely would utilize consultant services to provide industry-specific expertise and staffing "to help us make informed decisions as a continuing member of the [EOC]," the Commission determined it could not "unconditionally" find that MHP was managerially or technically fit to maintain majority ownership of the Eklutna Project.[22] The Commission instead conditioned issuance of a CPCN to MHP on the MOA's surrendering its vote on the EOC, before the effective date of either the Eklutna PPA or the MEA PPA.[23] As a result of that surrender, Chugach and MEA would jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement.[24] The Commission stated that the surrender "must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member

[20] Id.

[21] *Id*.

[22] *Id.* at 67.

[23] *Id*.

[24] *Id*.

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of the EOC."[25] The surrender requirement was also a condition for the approval of the PPAs, as in approving the Eklutna and MEA PPA's, the Commission noted that "we can approve neither of these Eklutna Project agreements unless we can first find that MHP is fit, willing, and able to serve as an owner of the Eklutna Project. Therefore, a condition to our approval of these Eklutna Project agreements is that MHP obtain a certificate under the conditions established above."[26]

The Commission approved the Eklutna PPA in Order 39, determining it was not a wholesale power contract "subject to the requirements and protections of AS 42.05.431(b)," but required the MOA to separately file for approval of the MEA PPA because it was a wholesale power contract.[27] The Acquisition transaction closed on October 30, 2020.[28] On October 30, 2020, the MOA filed notice of its surrender of EOC voting rights with the Commission.[29] The MOA also submitted Tariff Advice Letter 379-121 on September 30, 2020, requesting approval of the MEA PPA and Amendment No. 1 to the MEA PPA. On November 20, 2020, the Commission

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[25] Id.

[26] *Id.* at 72.

[27] *Id.* at 76. The Eklutna PPA was approved, as amended by Amendments 2, 3, and the Original Stipulation in dockets U-18-102/U-19-020/U-19-021, as a "deferred payment mechanism for Chugach's acquisition of most ML&P assets." *Id.*

[28] *See*, Chugach's October 30, 2020 "Notice of Transaction Closing – Chugach Electric Association Inc.'s Acquisition of the Municipality of Anchorage d/b/a Municipal Light & Power; Compliance with Order No. U-18-102(44)/U-19-020(39)/U-19-021(39)."

[29] Exhibit 2, Notice of Surrender of Voting Rights, October 30, 2020 ("Surrender").

approved the MEA PPA and Amendment No. 1 to the MEA PPA.[30] On April 9, 2021, the Commission issued CPCN No. 780 for the MOA, d/b/a AHP.[31]

B. AHP filed a request for acknowledgment of AHP's acquisition of expertise required to participate as a voting member of the EOC, and the Commission requested briefing regarding the "minimum term" of the EOC voting rights surrender.

On July 18, 2024, AHP filed a Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee ("Request for Acknowledgment"). The Commission opened this docket, and during the August 30, 2024, prehearing conference in this matter regarding the Request for Acknowledgment, as well as in a subsequent order, ALJ Walker referred to the language in Order 39 regarding the terms of the MOA's surrender of its vote on the Eklutna Operating Committee, emphasizing the bolded language below:

> "Under these circumstances, we cannot unconditionally find that MHP is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions. **This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended**, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC."[32]

[30] TA379-121, Letter Order L2000410, dated November 20, 2020.

[31] April 9, 2021, Letter to Anna C. Henderson, MOA d/b/a Anchorage Hydropower, with attached certificate.

[32] *Id.* at 67 (emphasis added); *see also* Order No. U-24-024(4).

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ALJ Walker "announced [the Commission's] desire for briefing on the minimum term of the Eklutna Operating Committee voting rights surrender required by Order U-18-102(44)."[33] In other words, ALJ Walker asked whether the language in Order 39 provided that the surrender of the MOA's voting rights could only be lifted based on a showing that (1) the MOA acquired the expertise required to participate as a EOC voting member (2) that was made *after* the "minimum term" of the surrender, a term that would be "at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended."[34] Under this understanding, the MOA would *never* have voting rights on the EOC until the terms of both PPAs had elapsed, and both contracts ended—which could be thirty years, or more, from today.

As explained below, the correct reading of the language in question is the understanding that has been held by the Commission, the Eklutna Project owners, and RAPA: that while the surrender may have a minimum term, this surrender may be lifted (and the minimum term terminated) at the time that the MOA "complies with the RCA requirements pertaining to qualifications for [MOA's] representation on the EOC."[35]

II. DISCUSSION

A. If the Commission intended in Order 39 that the MOA would never have voting rights reinstituted during the term of the PPAs, it would have explicitly disapproved the terms in the Eklutna and MEA PPAs regarding MOA representation on the EOC, as it removed other inapplicable or disapproved terms from the PPAs and other Acquisition-related agreements.

[33] Order No. U-24-024(4) at 3.

[34] Id.

[35] *See, e.g.,* Exhibit 2, October 27, 2020, Surrender.

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If the Commission intended to prohibit the MOA from reinstituting EOC voting rights for the duration of the PPAs, it would have explicitly disapproved the terms in both PPAs regarding MOA representation on the EOC. Instead, Order 39 itself, as well as the subsequent approval of the MEA PPA in a separate proceeding, explicitly referenced to, and ultimately approved, the terms in both the Eklutna and MEA PPAs regarding the requirements for an MOA representative on the EOC. These relevant terms are as follows (bold emphasis added):

Eklutna PPA, Section 4.2(B) (Operation of the Facility):

> "(B) **During the Term**, Seller shall, in consultation with Purchaser, select the person to serve as Seller's representative to the Operating Committee (the "Seller's Representative"). The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA. Seller's Representative shall also be Seller's representative for any consultation, study, and implementation processes required under the Fish and Wildlife Agreement relating to the Facility. The Seller's Representative shall make all decisions with respect to any processes required under the Fish and Wildlife Agreement with due regard for the rights and obligations of the Parties under this PPA.[36]"

MEA PPA Section 4.2 (Operation of the Facility):

> "(A) **During the Term** Seller shall, at its cost and expense, manage, control, operate, and maintain the MEA Portion in accordance with the Operations Agreement and in a manner consistent with Prudent Utility Practice. Without limiting the foregoing, during the Term, as between Seller and Purchaser. Seller shall be responsible for all capital costs, all operations and maintenance expenses, and all costs and expenses for environmental compliance and compliance with Applicable Laws relating to the MEA Portion.
>
> (B) **During the Term**. Seller shall, after giving Purchaser a reasonable opportunity to consult with Seller. but without in any way limiting Seller's discretion as a result of any such consultation, select the person to serve as Seller's representative to the Operating Committee (the "Seller's Representative"). The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties

[36] Eklutna PPA.

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> under this PPA and the rights and obligations of the parties under the Chugach Power Purchase Agreement. The Seller's Representative shall also be Seller's representative for any consultation, study. and implementation processes required under the Fish and Wildlife Agreement relating to the Facility. The Seller's Representative shall make all decisions with respect to any processes required under the Fish and Wildlife Agreement with due regard for the rights and obligations of the Parties under this PPA."[37]

In Order 39, the Commission "approv[ed] the Eklutna PPA as amended by Amendment No. 2, Amendment No. 3, and the Original Stipulation."[38] It did *not* approve Amendment 1 (stating that the Eklutna PPA was a wholesale power agreement subject to AS 42.05.431(b)).[39] Thus, Section 4.2(B) of the Eklutna PPA was approved. Similarly, in Letter Order #L2000410,[40] the Commission approved, in its entirety, the MEA PPA (with Amendment 1). Thus, Sections 4.2(A) and (B) of the MEA PPA were approved by the Commission.

If the Commission intended to prohibit a voting MOA representative on the EOC for the entire duration of both the Eklutna and MEA PPAs, the above contract terms would have been rendered superfluous and potentially misleading, and the Commission would have either explicitly disapproved these terms, or conditioned approval on the removal of those terms. Elsewhere in the Acquisition docket, the Commission clearly excluded or disapproved terms in other agreements where applicable. For instance, the Commission explicitly disapproved Amendment 1 to the Eklutna PPA (stating that the Eklutna PPA was a wholesale power agreement

[37] MEA PPA.

[38] Order 39 at 75 (internal citations omitted).

[39] *Id*.

[40] November 20, 2020.

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under AS 42.05.431(b)).[41] Similarly, the Commission approved the Payment in Lieu of Taxes Agreement ("PILT") between the MOA and Chugach, as revised, subject to explicit conditions including, "that Sections 2.02 and 2.12 are not part of the approved agreement."[42] The Commission also rejected most of the Amended and Restated BRU Fuel Agreement between the MOA and Chugach, but explicitly provided for adherence to certain provisions of the agreement, such as the valuation of natural gas for economy energy sales or natural gas sales to other parties (Section 2.05).[43] In contrast, the Commission stated that the Eklutna PPA was approved subject to "the condition that it is not a power purchase agreement under AS 42.05.431(b) and the other conditions set out in the body of this order," but did not disapprove Section 4.2 (MOA EOC representative) from the approval.[44]

Nor could it be said that the failure to disapprove these terms was merely a Commission oversight in Order 39, as the Commission explicitly discussed and cited to the Section 4.2 terms as an integral part of its decision to require the surrender of voting rights. The Commission explicitly referenced the MOA EOC Committee Member requirements in the PPAs in its discussion as a reason requiring surrender, stating that the "standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA PPA" was "prudent utility practice."[45] If the Commission intended to *never* allow AHP to serve on the EOC for the duration of the PPAs,

[41] Order 39 at 74 (disapproving Amendment 1 because "we find that the Eklutna PPA is not a wholesale power agreement entitled to the protections of AS 42.05.431(b)").

[42] Order 39 at 145.

[43] *Id.* at 144-145.

[44] *Id.* at 142.

[45] *Id.* at 66.

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there would be no reason to include the term regarding the AHP EOC voting member requirements in the finalized Eklutna and MEA PPAs, especially after such an explicit discussion of the PPA requirements for the MOA representative.

It is a principle of both contract law and statutory interpretation that contracts and statutes should not be interpreted in a manner that renders language superfluous.[46] To the extent there is any ambiguity in the language of a past Commission Order, the Commission should apply the same rules of interpretation here. Interpreting Order 39 as prohibiting reinstatement of the MOA's voting rights on the EOC for the duration of the Eklutna and MEA PPAs would render sections 4.2 of both PPAs superfluous in a manner contrary such principles of interpretation. A better reading in compliance with principles of interpretation would be that Sections 4.2 were not disapproved because it was understood that voting rights could be reinstated during the terms of the PPAs.

The general meaning of the term "lifted" as used in the legal context also affirms the understanding that the term, as used in Order 39 (the surrender "cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC"), was intended to indicate that the otherwise

[46] *See, e.g., Titus v. Dep't of Corr.*, 496 P.3d 412, 416 (Alaska 2021) (stating "[w]e generally give effect to all of a statute's "provisions, so that no part will be inoperative or superfluous, void or insignificant"); *Maine Cmty. Health Options v. United States,* 590 U.S. 296, 314, 140 S. Ct. 1308, 1323, 206 L. Ed. 2d 764 (2020) (stating that "[t]he Court likewise hesitates to adopt an interpretation of a congressional enactment which renders superfluous another portion of that same law"); *Jarvis v. Ensminger*, 134 P.3d 353, 360 (Alaska 2006) (stating that "in reaching a reasonable interpretation of a contract, we attempt to give effect to all of its terms," and that appellant's interpretation in that matter would render a timing provision of the contract "superfluous") (internal quotations and citations omitted).

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"minimum term" of the surrender could be cut short by a showing that the MOA had acquired the relevant expertise. The word "lifted" is often applied to stays or injunctions, relief which is typically contingent on an additional (usually final) determination being made by a court in a matter. Sometimes however, a stay can be "lifted" before that "minimum term" expires, on application of a party and by order of the court.[47] Similarly, here, to give effect to the term "lifted" in its typical understanding in the legal or general context, the term would mean that it would otherwise terminate or cut short the "minimum term" of the surrender, not be one of *two* requirements in order for reinstatement of voting rights to occur.

B. Filings subsequent to Order 39 in the Acquisition docket and the MEA PPA approval docket show that the consistent and public understanding of the Commission, the Eklutna Project owners, and the public has been that the minimum term of the MOA surrender could be lifted by a showing that the MOA had acquired the expertise required to participate as a voting member of the EOC.

Since Order 39 was issued, subsequent filings in the Acquisition docket and the MEA PPA approval process manifest a consistent and public understanding by the Commission and the Eklutna Project Owners that the "term" of the MOA's surrender was subject to being lifted by a showing to the Commission that the MOA had acquired the relevant expertise to participate as a voting member of the EOC again.[48]

1. The Commission explicitly questioned the MOA regarding language in the PPA about the MOA's EOC representative in Section 4.2 of the

[47] *See, e.g.,* Alaska R. Civ. P. 62 (stay of proceedings to enforce a judgment); *Dep't of Nat. Res. v. Greenpeace, Inc*., 96 P.3d 1056, 1060 (Alaska 2004) (discussing whether administrative agency correctly "lifted" a stay otherwise automatic by regulation).

[48] *See also, Jarvis,* 134 P.3d at 361 (noting that in interpreting contracts, courts favor "express manifestations of each party's understanding of the contract in attempting to give effect to the intent behind the agreement").

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MEA PPA decided to approve the MEA PPA in its entirety with no modifications after the MOA explained that the language in Section 4.2 could become relevant if and when the MOA voting rights were reinstated during the term of the PPA.

Pursuant to the requirements of Order 39, on September 30, 2020, the MOA, d/b/a ML&P, filed TA379-121, seeking approval of the MEA PPA (with Amendment 1).[49] The version of the MEA PPA submitted for approval included Section 4.2 (Operation of the Facility), which was ultimately approved, contained the language regarding the MOA's EOC voting representative.[50] The question of whether that language referencing the EOC conflicted with the surrender requirements of Order 39 was *explicitly* addressed through a Staff question and response during the MEA PPA approval process. On October 22, 2020, staff Engineering Analyst James Layne emailed counsel for ML&P the following query:

> "I believe there is an inconsistency between the MEA Eklutna PPA and the final order (U-18- 102(44)/U-19-020(39)/U-19-021(39)) (U-18-102(44).
>
> At page 67 of U-18-102(44) the Commission required MOA/ML&P to surrender its vote on the EOC so Chugach and MEA could manage the Eklutna Hydro project.
>
> The MEA Eklutna PPA, at page 8 of Exhibit A, Section 4.2(B) appears to allow MOA/ML&P to keep its vote on the EOC.
>
> Does MOA/ML&P believe the language between the final order and the MEA Eklutna PPA as summarized above are in conflict? Please explain your response and provide a remedy if appropriate."[51]

MOA's counsel responded:

> "The MOA/ML&P do not believe that the MEA Eklutna PPA is inconsistent Order No. U-18- 102(44)/U-19-020(39)/U-19-021(39) ("Order 39"). The part of Order 39 that you cite states:

[49] Tariff Advice Filing 379-121.

[50] Exhibit A to TA379-121.

[51] Exhibit 3, Tariff- Supplemental Filing, dated October 27, 2020, available on the Commission website as a public document.

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> 'We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the [Chugach] Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions.' Order 39 at 67.
>
> To comply with the Order, ML&P will surrender its vote on the EOC prior to the closing of the ML&P sale to Chugach, which will be before the effective date of the Chugach Eklutna PPA and of the MEA Eklutna PPA. ML&P will promptly file a notice of that surrender with the RCA.
>
> **The surrender will have a term at least equal to the term of the two PPAs, subject to termination of the surrender upon MHP showing to the RCA's satisfaction "that MHP has acquired the expertise required to fully participate as a voting member of the EOC."** Order 39 at 67. If and when MHP has a proposed EOC representative that satisfies the qualifications, MHP will file that information and request that the RCA make the necessary finding for termination of the EOC vote surrender.
>
> Like Section 4.2(B) of the Chugach Eklutna PPA, Section 4.2(B) of the MEA Eklutna PPA requires MHP, in consultation with the Purchaser, to select MHP's representative on the EOC. As a result of Order 39, MHP won't have any voting representative on the EOC **until the surrender is terminated upon a positive finding by the RCA that MHP's proposed representative is qualified. Thus, Section 4.2(B) of neither PPAs need to be amended. In addition, Section 4.2(B) should remain as written as it will be relevant if and when MHP's voting rights surrender is terminated in the future upon the necessary finding of the RCA**."[52]

This response was placed in the publicly available file on the Commission website as a supplemental tariff filing.

2. Additional filings in TA379-12 and the Acquisition docket confirmed the universal understanding that a showing of acquisition of expertise could terminate the surrender of voting rights.

[52] *Id.* (emphasis added).

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Additional filings in the TA379-12 docket confirm the understanding articulated by counsel for ML&P—that the term of the surrender was "subject to termination" upon a showing that the MOA had acquired the relevant expertise to regain voting rights—was also held, unquestioned, by Chugach and MEA. On October 30, 2020, the MOA filed a notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights simultaneously in dockets U-18-102/U-19-020/U-19-021 and in docket TA379-121 (MEA PPA approval). The notice stated that it was filed in compliance with Order 39's requirements and included a copy of the Surrender.[53] The Surrender, signed by ML&P, Chugach, and MEA, stated:

> "In accordance with the requirements of order U-18-102(44), the Municipality of Anchorage, dba Municipal Light & Power(ML&P), hereby surrenders its voting rights as an EOC member and under the Fish and Wildlife Agreement effective as of the Closing of the Asset Purchase Agreement between ML&P and Chugach Electric Association (Chugach). **This surrender of voting rights shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC.**
>
> **Until ML&P's successor complies with the qualification terms of RCA order U-18-102(44),** all EOC decisions will be by unanimous vote of Chugach and Matanuska Electric Association, Inc. (MEA). Eklutna hydro operations, dispatch and maintenance will continue to follow past practices and policies unless changes are approved through the EOC process."[54]

Like the response to staff's question, the Surrender's language makes clear that the MOA's voting rights could be restored by compliance with *one* requirement—that AHP shows to the Commission's satisfaction that it complies with the qualification requirements of Order 39. This

[53] Exhibit 2, October 27, 2020, Surrender of Eklutna Operating Committee (EOC) Voting Rights.
[54] *Id.* (emphasis added).

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showing of meeting the qualification requirements would terminate and cut short any "minimum term" that otherwise applied to the surrender.

3. The Commission's approval of the MEA PPA with no modifications or discussion of the issue whether Section 4.2 should be removed shows that it also understood that the "minimum term" of the surrender was subject to being lifted if qualifications conditions were met.

The Commission's approval of the MEA PPA, with no modifications to exclude the language in Section 4.2, after the documented staff discussion with ML&P counsel and the filing of the MOA's surrender, shows that the Commission also understood that the surrender could be lifted before the expiration of the "minimum term" by a showing that the MOA had acquired the required expertise to be a voting member of the EOC. On November 20, 2020, the Commission issued Letter Order #L2000410, approving, in its entirety, the MEA PPA (with Amendment 1), with no attempt to exclude Section 4.2 or to refute the understanding articulated in the filings (including the Surrender document itself) that the "minimum term" of the surrender was subject to being "lifted" or "terminated" by a showing of meeting the expertise requirements. The filings and decision in the MEA PPA approval docket make unequivocally clear that the reinstatement of the MOA's voting member of the EOC could be lifted (before the expiration of the PPAs) if the MOA meets the Commission's requirements regarding the expertise required to fully participate as a voting member of the EOC.

It would be difficult to argue that the Commission committed an oversight by not disapproving Section 4.2 in the MEA PPA, after explicitly inquiring about the language of Section 4.2 considering Order 39, and receiving a response from ML&P, and later after reviewing the language of the Surrender document signed by all three Eklutna Project owners. It was clear and

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explicit during the approval process of the MEA PPA that Section 4.2(B) properly remained in both the MEA PPA and the Eklutna PPA, because the surrender term could be terminated by a showing that AHP had acquired the expertise required to fully participate as a voting member of the EOC.

C. The Eklutna owners and the public have continued to understand that the MOA's surrender rights was subject to the MOA, d/b/a AHP, showing that it had acquired the expertise required to reinstate voting rights.

It is clear from the comments and filings in this matter that, until the pre-hearing conference of August 30, 2024, the (immediate) reinstatement upon proof of expertise was the universal, contemporaneous, continuous, and public understanding. One need look no further than the filings in this docket to see that the public understanding of the MOA, Chugach, MEA, and the RAPA has been that if the MOA could show to the Commission's satisfaction that it had acquired the necessary expertise, its surrender of EOC voting rights would be (immediately) terminated. AHP makes that understanding clear in its Request for Acknowledgment.[55] This understanding was also articulated in public Anchorage Assembly Meetings.[56] While Chugach and MEA raised several issues with AHP's Request for Acknowledgement in public comments, their comments manifest their understanding that AHP did not need to wait for the terms of the PPAs to expire in order to reinstate its voting rights.[57] RAPA's Response to AHP's Motion for Expedited

[55] Request for Acknowledgment at 2-3.

[56] *See, e.g.,* July 3, 2024, Press Release: Assembly Confirms Anchorage Hydropower Utility Director. *Available at:*

https://www.muni.org/Departments/Assembly/PressReleases/Pages/Assembly-Confirms-Anchorage-Hydropower-Utility-Director.aspx.

[57] "RCA Docket U-24-024; In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to

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Consideration similarly manifests an understanding that "[t]he only issue in this docket is a straightforward one—whether AHP 'has shown to [the Commission's] satisfaction that [it] has acquired the expertise required to fully participate as a voting member of the EOC."[58] All of these positions were articulated in filings available to the public and through a public comment period.

D. An unbreakable minimum surrender term requirement the MOA's surrender of voting rights, which could not be lifted by later Commission approval of qualifications for participation on the EOC, would have been an unprecedented and superfluous method of addressing the Commission's substantive concerns, and an unreasonable restriction under AS 42.05.241.

If Order 39 had required the MOA to surrender voting rights on the EOC irrevocably for 35-plus years—in other words, surrender for decades the only way to have a say in the management of a utility for which it still maintains cost and other legal liability—such a decision would be (1) unnecessary to address the Commission's concerns in light of the requirement to show the Commission it had obtained the necessary expertise to reinstate voting rights and (2) an unreasonable use (and abuse) of the Commission's authority under AS 42.05.241 (conditions of certificate issuance).

The Commission's concerns articulated in Order 39 were substantive, but also discrete. The Commission was concerned that the post-transaction MOA utility would no longer have the in-house expertise required for a representative to participate as a voting member of the EOC, specifically that the proposed representative, the current municipal manager, did not have

Participate as a Voting Member of the Eklutna Operating Committee; Initial Comments of Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.," dated August 26, 2024.

[58] RAPA Response to AHP's Motion for Expedited Consideration, August 26, 2024, at 1-2.

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such expertise.[59] The Commission's requirement of a minimum term was reasonable in order to let the parties know how long the surrender would last if undisturbed by further action on the part of the MOA. The Commission's placement of a condition that the MOA make a showing it has acquired the expertise in order to lift the surrender was intended to ensure that the MOA was "managerially or technically fit" when it did resume a position on the EOC. To also require the surrender to last for at *least* 35 years (the terms of the PPAs) would be arbitrary and provides no additional protection that the MOA will be "managerially and technically fit." There is no reason the MOA must wait 35 years to present a suitable EOC representative to the Commission.

Such a condition would provide the Eklutna Project owners and the public no benefit. It limits the number of voices on the EOC, reducing potentially helpful input. It arbitrarily diminishes, for an extended period, the MOA's ability to manage its own property. It would be an excessive and arbitrary application of the Commission's authority to place conditions on certificates under AS 42.05.241. Indeed, it would be an unfair surprise for the MOA to have surrendered its vote voluntarily, and chosen not to appeal Order 39, based on the contemporaneous understanding of all involved that it would be able to recover its vote once it acquired the necessary expertise, only to be informed years later that the surrender was essentially irredeemable for a generation.

[59] Order 39 at 66 (noting that "ML&P proposes that MHP will have a seat on the EOC, even though it will have no employees" and that there was nothing in the current Municipal Manager's resume indicating "that he has any knowledge of the Railbelt generation and transmission system, or prudent utility practice which is the management specific standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA PPA").

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The present situation exhibits why a 35-year ban on MOA EOC participation would be unnecessary and unhelpful. With a 35-year ban, although the MOA *has* acquired the relevant expertise in the form of an AHP utility director, currently Mr. Mark Corsentino, P.E., it would need to wait—for no discernable reason—for another 35-plus years to be able to obtain approval to reinstate its voting rights. Such a requirement to wait is excessive, because, as here, the AHP Director, starting with the recently appointment Mr. Corsentino, will not simply be a municipal manager tasked with attending EOC meetings, but will be a utility professional well qualified to participate in such meetings.

If, in the future, the Commission does have concerns about an AHP utility director, or who the AHP EOC representative may be, the Commission, as well as Chugach and MEA, have tools to address these concerns if and when they arise. Remedies exist within the terms of both PPAs.[60] The Commission *always* has authority under AS 42.05.261, upon "complaint or upon its own motion," to amend a certificate after notice and opportunity for hearing, where good cause exists. Any future concerns can be addressed at that time through such avenues, as such concerns would be for any other utility.

III. CONCLUSION

For the reasons explained above, any "minimum term" on the MOA's surrender is subject to the MOA's showing to the Commission that it has acquired the required expertise to participate as a voting member of the EOC.

[60] *See, e.g.*, Article 10 of the Eklutna PPA; Article 12 of MEA PPA.

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RESPECTFULLY SUBMITTED this 18th day of September, 2024, at Anchorage, Alaska.

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CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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Exhibit 1

1	1996 Eklutna Hydroelectric Project Transition Plan
2	Exhibit A
3	Exhibit B
4	Exhibit C
5	Exhibit D
6	Exhibit E
7	Argeement for Extension of 1996 Eklutna Hydroelectric Project Transition Plan
8	Exhibit A
9	Exhibit B
10	Exhibit C
11	Exhibit D
12	

1996 EKLUTNA HYDROELECTRIC PROJECT

TRANSITION PLAN

by and among

THE UNITED STATES OF AMERICA d/b/a ALASKA POWER ADMINISTRATION, a unit of the DEPARTMENT OF ENERGY; THE MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC.

1996 EKLUTNA HYDROELECTRIC PROJECT

TRANSITION PLAN

by and among

THE UNITED STATES OF AMERICA d/b/a ALASKA POWER ADMINISTRATION, a unit of the DEPARTMENT OF ENERGY; THE MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC.

This plan comprises:

- Transition Plan, consisting of 13 Sections contained on 10 pages;
- Exhibit A, consisting of 33 pages;
- Exhibit B, consisting of 5 pages;
- Exhibit C, consisting of 12 pages;
- Exhibit D, consisting of 25 pages;
- Exhibit E, consisting of 9 pages; and

THIS PLAN ("PLAN") dated as of May 28, 1996, is adopted by and among, namely, The United States of America d/b/a Alaska Power Administration (APA) a unit of the Department of Energy (DOE); The Municipality of Anchorage (ML&P); the Chugach Electric Association, Inc.(CEA); and the Matanuska Electric Association, Inc. (MEA). Unless specifically referred to herein, the above are hereinafter designated the "Parties."

RECITALS:

WHEREAS, by the Alaska Power Administration Asset Sale and Termination Act, APA is authorized to sell to the undersigned Utilities (hereinafter the "Eklutna Purchasers"), physical assets, property interests, and all other interests the DOE may have in the Eklutna Hydroelectric Generation Plant, tunnels, transmission lines, rights-of-way, equipment, rolling stock, and other rights in contract (hereinafter the "Eklutna Project") as set forth in the Eklutna Purchase Agreement, dated August 2, 1989, attached hereto and incorporated below by reference as

Exhibit A (hereinafter referred to as the Purchase Agreement) together with all amendments thereto; and

WHEREAS, the Eklutna Purchasers are required prior to May 28, 1996, pursuant to the Purchase Agreement to jointly develop and adopt specific transition plans setting forth the arrangements and a timetable for completing the sale and transfer; and

WHEREAS, the Eklutna Purchasers have signed a Memorandum of Understanding dated July 25, 1989, attached hereto as Exhibit B, in which they mutually declare their respective proportionate shares of the Eklutna Project's capacity, energy, and undivided interest in Eklutna assets to be 16/30 to ML&P (53.33%); 9/30 to CEA (30%); and 5/30 to MEA (16.67%), and further declare that the Eklutna Project operating costs will be borne in these same proportions; and

WHEREAS, the Eklutna Purchasers, subject to the rights of the Parties to amend the terms of the Purchase Agreement subsequent to adoption of this Plan, desire to formalize transition plans and arrangements by the terms of this Plan; and

WHEREAS, the Parties intend that this Plan shall foster an efficient, orderly, and expeditious transfer of the Eklutna Project and its operation to the Eklutna Purchasers, and further intend that the transfer be accomplished with minimum costs and minimum adverse impacts to APA employees.

NOW THEREFORE, IN CONSIDERATION of the mutual covenants set forth herein, the Parties agree as follows:

SECTION 1. PARTIES

Parties to This Plan: The Parties to this Plan are the United States of America d/b/a Alaska Power Administration (APA) a unit of the Department of Energy (DOE), and the Eklutna Purchasers: The Municipality of Anchorage d/b/a Municipal Light & Power (ML&P), purchaser of 16/30ths of the Eklutna Project (53.33%); the Chugach Electric Association, Inc. (CEA), purchaser of 9/30ths of the Eklutna Project (30%); and the Matanuska Electric Association (MEA), purchaser of 5/30ths of the Eklutna Project (16.67%). The Eklutna Purchasers shall, after the Transaction Date, own an undivided interest in the Eklutna Project assets identified in Section 4 of the Purchase Agreement that are the subject of this Plan, and will exercise the rights and bear the responsibilities of such ownership in proportion to their respective shares.

SECTION 2. TERM OF PLAN

(a) Effective Date. This Plan shall become effective upon execution by all of the Parties ("Effective Date").

(b) Expiration Date. Unless earlier terminated pursuant to other provisions of this Plan, this Plan shall expire upon completion of the tasks herein defined or as otherwise mutually agreed upon by all of the Parties.

SECTION 3. SELECTION OF A TRANSACTION DATE

The date upon which ownership of the Eklutna Project transfers to the Eklutna Purchasers is the "Transaction Date" and shall be within 30 days of the completion of all items listed in Exhibit C and section 10 of this Plan to the satisfaction of all Parties or as late as November 28, 1997, or later if mutually agreed upon.

SECTION 4. SCHEDULE FOR PAYMENTS TO THE UNITED STATES TREASURY

(a) Section 5(a) of the Purchase Agreement specifies the selling price of the Eklutna Project as the discounted present value of the remaining payment stream (as described in the 1987 repayment study) plus $1,000,000.00. The present value using the 9% discount rate will be determined by APA using the methodology of Section 5 of the Purchase Agreement and the remaining payments described in Exhibit B of Amendment No. 3 to the Purchase Agreement dated June 22, 1995. The price estimated in the Purchase Agreement assumes adjustments for a Transaction Date that is other than the beginning of a federal fiscal year. If the established Transaction Date is a date other than the start of the federal fiscal year, the selling price will be established and payments scheduled in accordance with the Purchase Agreement.

The payment to the U.S. Treasury will be fully paid within five years of the Transaction Date. The portion paid to the U.S. Treasury following the Transaction Date will carry interest of 9% per annum.

(b) The Eklutna Purchasers intend to make payments to the U.S. Treasury or deposits in an escrow account with certified funds (by check or wire transfer) on the Transaction Date. If any Eklutna Purchaser should otherwise choose to make payments within the allowable five year window, such election must be announced prior to the Transaction Date. A schedule will then be developed and any and all interest charges associated with the established schedule will be borne by the Eklutna Purchaser (or Purchasers) that so elect to make payments.

An interest bearing escrow account may be established in which the Eklutna Purchasers may deposit payment amounts. Funds will be held in this escrow account to cover completion of outstanding land, property, or other issues identified on the Transaction Date. Funds will be released to the U.S. Treasury as mutually agreed to by the Parties. Interest on funds held in this escrow account shall be credited toward the 9% per annum interest to be paid by the

Eklutna Purchasers to the U.S. Treasury on the portion paid following the Transaction Date, from the Transaction Date until the date the payments are actually made to the U.S. Treasury.

SECTION 5. ARRANGEMENTS AND TIMETABLE FOR TRANSFER OF OPERATIONS, MAINTENANCE, POWER MARKETING, AND ADMINISTRATION OF THE EKLUTNA PROJECT

EVENT	TIMETABLE
APA and the Eklutna Purchasers set mutually agreeable functional transfer date of October 1, 1996 ("Transition Date").	Complete
Eklutna Purchasers provide APA with proposed organization and staffing requirements related to employees currently at the Eklutna Project.	May 28, 1996
Eklutna Purchasers representatives meet with the Eklutna Project personnel to discuss detailed transition staffing plans.	Jun 10, 1996
Eklutna Operating Committee (EOC), as established in this Plan, begins to meet, develops coordination procedures for functional control in consultation with APA, and conduct other business.	Jun 28, 1996
Parties determine the budgetary offsets to current Eklutna Project rates and propose new power rates for the transition period.	Jul 1, 1996
APA initiates personnel actions necessary to facilitate the functional transfer to the utilities.	Aug 15, 1996
Detailed plans, agreements, and SOP's in place and executed for October 1, 1996 change in functional control.	Aug 30, 1996
Eklutna personnel transition to their respective utility employer.	Oct 1, 1996
EOC manages the operation and adjusts procedures as required in consultation with APA.	Commences Oct 1, 1996
Office space and full access to all government records for an APA real estate person and rewind contracting officer's representative will be provided by Eklutna Purchasers.	Commences Oct 1, 1996

SECTION 6. ACTIVITIES AND SCHEDULES FOR COMPLETION OF SALE

EVENT	TIMETABLE
Formal environmental, engineering, and safety inspections continue until complete.	Aug 1, 1996
Parties agree on resolution of inspection issues.	Aug 30, 1996
Generator rewind, plant modifications, and inspection corrective actions continue until completed.	As Required
Title and land conveyance issues continue until complete.	Transaction Date
Conveyance documents in final draft.	Aug 30, 1996
Transaction Date and the Eklutna Project sale executed.	Nov 28, 1997 (unless earlier agreed upon)

SECTION 7. TRANSFER OF DATA AND OTHER RECORDS TO PURCHASERS

EVENT	TIMETABLE
APA Listing of Eklutna Project data and records to be transferred which will include their current location.	May 24, 1996
Site selection by Eklutna Purchasers for data and document relocation plan.	Aug 1, 1996
Data and documents transferred to Eklutna Purchasers after the Transaction Date as mutually agreed to by Parties.	To Be Determined

SECTION 8. INSPECTION RESULTS AND REQUIRED DOE WORK PLAN

Inspection results and a required DOE work plan are attached hereto as Exhibit C. The Parties agree that this list may not be all inclusive, and other work items may be added by any Eklutna Purchaser if, in their judgment, new information warrants. The Parties will mutually agree who has the responsibility to correct the added work items and set the schedule for their completion. All formal inspection results and action plans to deal with outstanding issues shall be finalized by August 1, 1996. Description of inspection lists in this Exhibit C:

(a) Listing of engineering inspection results as known when this Plan is executed, the timetable of work to be completed by APA, and the resolution of other inspection issues.

(b) Listing of environmental and safety inspection results and the APA responses are in draft form as of the Effective Date of this Plan, and shall be included in this Exhibit C upon receipt of same.

SECTION 9. EKLUTNA ASSETS

Attached as Exhibit D are the Physical assets list of APA and asset lists of each of the utilities for those assets located on APA property. APA intends to transfer, on the Transaction Date, full title to all such assets to Eklutna Purchasers. If the Eklutna Purchasers should choose to operate and/or maintain the Eklutna Project prior to the Transaction Date, they shall be authorized to use listed APA equipment, tools, and vehicles. All assets listed by each utility as their own are not intended to be, and shall not be, transferred to the other Eklutna Purchasers, but shall remain available for the benefit of the Eklutna Project.

APA is in the process of finalizing its survey results on all rights-of-way, easements, and structures intended to be transferred. All parcels, rights-of-way, and easements shall be fully described upon completion and compiled for inclusion in the transfer documents executed on the Transaction Date. Any discrepancies shall be dealt with pursuant to Section 10 below.

SECTION 10. TITLE CONDITION TO ALL EKLUTNA ASSETS AND PLANNED REMEDIES

All personal property transferred to Eklutna Purchasers by APA shall be free and clear of any rights of third parties on the Transaction Date. Pursuant to the Purchase Agreement, APA represents to the Eklutna Purchasers that it, or its designated successor or assigns, shall provide without cost to the Eklutna Purchasers real property interests described as follows:

(a) Titles to APA fee owned property, including Reed and Palmer substations free and clear of encumbrances or conditions of title which would restrict the Eklutna Purchasers' rights to continue to operate the Eklutna Project,

including the transmission lines and facilities located within described rights-of-way, easements, or permitted areas;

(b) The generation facility free of any encumbrances, covenants, and/or restrictions which would arise from its designation as historically significant and would prevent the Eklutna Purchasers from use, maintenance, repair, remodel, modification or upgrade of the buildings or equipment of the Eklutna Project assets;

(c) Fee title to the Anchorage Substation property and other Eklutna Project land rights free and clear of claims of Cook Inlet Region Inc.;

(d) Access rights-of-way or easements allowing access for line maintenance of the transmission lines presently being used as disclosed by the 1996 survey;

(e) Easement rights to cross military reserve and fee owned properties owned or controlled by the United States Army within Ft. Richardson, Alaska on the existing transmission line right-of-way;

(f) Easements, rights-of-way, or permits as required to provide for 115 KV transmission line facilities located in the CEA double circuit portion of the transmission line as set forth in contract No. 85-80AP10022.000;

(g) Easement rights for the existing transmission lines across private property, including those areas of easements presently authorized under 44LD513 and section 17(b) of ANCSA, free and clear of claims of Eklutna Inc. or other underlying landowners and free of encroachments disclosed by the APA 1996 survey;

(h) Transfer of all other agreements and rights and obligations with parties who are not purchasers under this agreement; and

(i) Easement and access rights for the Wasilla Radio Relay facility free and clear of third party claims.

(j) Rights-of-way across property owned by the United States and managed by the Bureau of Land Management.

(k) Questions as to any limitations that there may be on the use of or interference with all natural inflows to and waters of the Eklutna Reservoir will be resolved.

In the event any of these rights can not be transferred to the Eklutna Purchasers, or must be acquired by APA to be transferred to the Eklutna Purchasers, APA and its successor or assigns warrant that they will proceed to acquire such rights through the legal acquisition process, even if such process is not completed by the Transaction Date. APA and its successor or assigns warrant that they have the staff and resources necessary to acquire the interests outlined above and will use such staff and other resources to complete the acquisition in a timely manner. Resolution of any real property issues will be identified in the transaction documents.

SECTION 11. EKLUTNA PURCHASERS MANNER OF ACTING, FUNCTIONAL RESPONSIBILITY, AND STAFFING

Attached hereto as Exhibit E is the Eklutna Purchasers' plan for delineation of responsibilities and activities to effect the transition of the currently employed APA personnel at Eklutna and Eklutna Project operations.

SECTION 12. NO THIRD-PARTY BENEFICIARIES

The provisions of this Plan shall not create any rights in favor of any person, corporation, or association not a Party to this Plan, and the obligations herein assumed are solely for the use and benefit of the Parties to this Plan and their successors and assigns.

SECTION 13. MODIFICATIONS TO THIS PLAN

The provisions of this Plan have been negotiated by the Parties and represent their best effort to follow the intent of the APA Asset Sale and Termination Act pursuant to the Purchase Agreement. Should modifications to this Plan become necessary, the Parties agree to continue their best effort to work toward changes that are mutually agreeable to the Parties, and in timely enough fashion that this agreement and any such modifications are adopted by the Parties on or before the Transaction Date.

Alaska Power Administration, a unit of the U.S. Department Of Energy

Nicki J. French
Assistant Administrator

Municipality of Anchorage

Larry A. Crawford
Municipal Manager

Chugach Electric Association, Inc.

Eugene N. Bjornstad
General Manager

Matanuska Electric Association, Inc.

Wayne D. Carmony
General Manager

RECOMMENDED:

Anchorage Municipal Light & Power

Thomas R. Stahr
General Manager

APPROVED AS TO FORM:

MUNICIPALITY OF ANCHORAGE

Mary K. Hughes
Municipal Attorney

RECOMMENDED:

MUNICIPALITY OF ANCHORAGE

George J. Vakalis
Operations Manager

August 2, 1989

Eklutna Purchase Agreement

Chugach Electric Association, Inc.

Matanuska Electric Association, Inc.

Municipality of Anchorage
d/b/a Municipal Light and Power

Alaska Power Administration
United States Department of Energy

Eklutna Purchase Agreement

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Exhibit A: Lands, Easements and Rights-of-Ways, Including Map Marked Exhibit A, Dated February 3, 1989

Exhibit B: Future Principal & Interest Payments Projected Selling Price

August 2, 1989

EKLUTNA PURCHASE AGREEMENT

1. Parties to the Agreement.

The parties to this Agreement are the Alaska Power Administration (APAd), a unit of the United States Department of Energy, and the Municipality of Anchorage d/b/a Municipal Light and Power (ML&P), the Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA) (Purchasers).

2. Purpose.

This Agreement sets out arrangements, terms and conditions for sale of the Eklutna Hydroelectric Project (Eklutna) to Purchasers, such arrangements, terms and conditions to be implemented if the United States Congress authorizes such sale.

3. Definitions. As used in this Agreement:

"ADNR" means the Alaska Department of Natural Resources.

"ANCSA" means the Alaska Native Claims Settlement Act (PL-92-203).

"APAd" means the Alaska Power Administration, a unit of the United States Department of Energy (including any successor entity).

"Chugach" means the Chugach Electric Association, Inc.

"BLM" means the United States Bureau of Land Management.

"Eklutna" means the Eklutna Hydroelectric Project authorized, constructed and operated pursuant to the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended), including any and all property and facilities acquired or used in connection with Eklutna.

"MEA" means the Matanuska Electric Association, Inc.

"ML&P" means the Municipality of Anchorage, d\b\a Municipal Light and Power.

"Purchasers" means ML&P, Chugach, and MEA.

"Actions" means actions, inaction, and omissions.

"Transaction Date" means the date on which ownership of Eklutna is to be transferred to the Purchasers as set forth in Sections 4 and 9.

4. Assets to be Sold and Transferred.

a. The Eklutna assets to be sold and transferred consist of the power production, transmission, associated real property and all other facilities and assets provided or otherwise acquired for Eklutna under the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended) including but not limited to:

(1) Eklutna Dam; power intake structure; power tunnel and penstock; the Eklutna powerplant containing two complete turbine-generator sets with ratings of 15,000 kilowatts, each; auxiliary electrical and mechanical systems; a tailrace and tailrace embankment; switchyard, transformers, 115 kilovolt transmission lines connecting the powerplant with Palmer and Anchorage; Anchorage, Palmer and Reed Substations; access roads; maintenance facilities and vehicles; supervisory control and communications systems; various buildings including office, warehouse, and garage; personal property, including spare parts and equipment; and any improvements, replacements and renewals of such major items;

(2) Title in acquired land at Palmer Substation, and easements or rights-of-way for Eklutna facilities on privately owned land as described in Exhibit A; and for title to lands at Anchorage Substation if the Department of Interior determines that the lands are available under law for conveyance to the Purchasers;

(3) Granted rights-of-way for existing Eklutna facilities located on BLM managed lands and military lands as described in Exhibit A;

(4) Studies, records, drawings, operating data, technical information; water rights including the reservoir rights; licenses and any other permits; accurate location maps of Eklutna facilities tied to public land surveys; acceptable land descriptions of the areas of the easements, permits and licenses showing the location of the Eklutna facilities within the described areas; other tangible rights as required for operations and maintenance of Eklutna facilities; and warranties or other intangible rights associated with the assets to be transferred and sold.

b. Granted rights-of-way for existing Eklutna facilities located on BLM managed lands including lands selected by the State of Alaska and military lands shall:

(1) Be sufficient for operation, maintenance, repairs, renewals and replacements of Eklutna facilities located on such lands, including provisions for access.

(2) Be issued consistent with existing Federal statutes, at no cost to the Purchasers, and remain effective for a period equal to the life of Eklutna as extended by any improvements, repairs, renewals or replacements; provided further that if Eklutna is further sold or transferred to private ownership, BLM may assess such reasonable and customary fees for continued use of the rights-of-way on BLM managed lands and military lands as consistent with law or regulation.

c. The life of Eklutna shall continue as long as Eklutna is capable of generating and transmitting electricity. Temporary interruptions in service or generation of power shall not constitute a termination of the life of Eklutna. Disuse of one portion of the project system shall not cause the life to Eklutna as a whole to terminate.

d. APAd shall provide satisfactory assurance that ANCSA 17(b) easement rights crossing native lands are sufficient for continued operation, maintenance, repair and replacement of Eklutna facilities by the Purchasers.

e. The above description of assets is intended to be general and not precise or all inclusive. As part of the transition activities, the parties will jointly prepare a particularized listing of the assets to be sold and transferred.

f. APAd intends that the sale and transfer of Eklutna to the Purchasers not result in additional costs to the Purchasers for licenses, permits or other rights for Eklutna, which costs would not have been incurred under continued Federal ownership of Eklutna.

g. Nothing in this Agreement shall prevent Purchasers from seeking substantial change in Eklutna. Purchasers shall be responsible for any appropriate approvals by affected government and non-governmental entities required for such substantial change.

h. On the Transaction Date, the APAd shall convey or cause to be conveyed title to all Eklutna assets to the Purchasers by bill of sale or other instrument of conveyance, provided that Purchasers pay or make arrangement for payment under Section 5 of

this Agreement, and provided further that for any assets not available for transfer at the Transaction Date, APAd shall provide:

(1) Mutually satisfactory assurance that such remaining assets will be transferred to the Purchasers subsequently and in a timely fashion, and

(2) Clear authority to the Purchasers for the beneficial use, enjoyment and occupancy of such remaining assets pending their conveyance to the Purchasers.

(3) If APAd fails to perform any of the requirements stated in paragraphs 4(h), 4(h)(1) or 4(h)(2) above, the parties agree to discuss appropriate remedies. The parties may agree to mediation, arbitration or other means to resolve issues presented by a failure of APAd to perform such requirements. Purchasers shall also have an absolute right to terminate the Agreement in the event APAd fails to perform such requirements.

i. If after the Transaction Date some event occurs which prevents APAd from transferring title and beneficial use, enjoyment and occupancy of Eklutna to the Purchasers, the parties agree to discuss and implement appropriate remedies including resolution through negotiation, arbitration or litigation, as appropriate.

5. Price and Payment Terms.

a. If the Transaction Date is October 1, 1989, the selling price shall be $10,435,000.

If the Transaction Date is October 1, 1990, the selling price shall be $9,580,000.

If the Transaction Date is October 1, 1991, the selling price shall be $8,631,000.

If the Transaction Date is other than one of the three above dates, the selling price will be calculated by APAd as the discounted present value as of the Transaction Date of all remaining principal and interest payments after the Transaction Date according to the payment schedule shown on Exhibit B of this agreement plus $1,000,000 ($1 million). Exhibit B payments for the first year will be prorated to reflect the portion of the year remaining after the Transaction Date. Subsequent Exhibit B payments will be assumed at mid-year (April).

The price determination is to be included in the transition plan required under Section 9 below.

b. The Purchasers shall pay the full selling price to the United States Treasury within five years after the Transaction Date. Any portion of the selling price paid after the Transaction Date will carry interest charges payable to the United States Treasury as discussed below. If the full price is paid by the Transaction Date, there will be no interest charges.

The purpose for allowing up to five years for the payments is to provide some flexibility to the Purchasers in arranging for payment and start up costs so as to minimize adverse impacts on Purchasers' ratepayers. The purpose of the interest charge is to assure that the United States Treasury receives the full value of the selling price. The Purchasers shall not seek Federal financing for the purchase.

c. The discount rate to be used for determination of the selling price shall be nine percent (9%).

The interest rate to be charged for payments after the Transaction Date shall be nine percent (9%).

The sales price described above is full consideration for all Eklutna assets described in Section 4 (Assets to be Sold and Transferred).

d. APAd shall not change its rate criteria for the purpose of accelerating principal payments before the Transaction Date. The Purchasers shall not delay their take of allocated power for the purpose of shifting revenues beyond the Transaction Date.

6. Responsibilities.

a. As of the Transaction Date, the Purchasers shall assume all ownership responsibilities for Eklutna and ownership responsibilities of APAd and its successors for Eklutna shall cease, except as follows:

(1) APAd shall be solely responsible for all costs to close out APAd responsibilities including but not limited to Federal employee entitlements and benefits for APAd employees.

(2) The parties recognize that there may be unfinished work as of the Transaction Date which is the responsibility of APAd to complete. Such unfinished work could include incomplete transfer of some assets to be completed by APAd under Sections 4 and 10 or specific APAd responsibilities

arising out of the joint determination of maintenance activities to be completed by APAd under Sections 9 and 10. APAd shall be solely responsible for such unfinished work.

(3) APA shall be solely responsible for any claims or other legal proceedings arising from actions or alleged actions by APAd while APAd managed or operated Eklutna or from actions or alleged actions by APAd in carrying out remaining APAd responsibilities under this agreement after the Transaction Date."

7. Operation and Maintenance Expenses, Revenues.

Operation and maintenance expenses up to the Transaction Date, including all obligations incurred by APAd which require payments after the Transaction Date shall be the responsibility of APAd. Subsequent operation and maintenance expenses shall be the responsibility of the Purchasers. APAd fund balances from Congressional appropriations as of the Transaction Date shall remain with APAd.

All revenues for power sold up to the Transaction Date will be returned to the United States Treasury. The Purchasers shall be responsible for sales of power after the Transaction Date, including the collection and disposition of revenues therefrom.

8. Non-Power Users.

a. The parties do not intend to adversely affect non-power users' rights as a result of transfer of ownership and control of Eklutna from the Federal government to the Purchasers.

As of the Transaction Date, the Purchasers shall assume all APAd responsibilities and benefits with respect to the following agreements, including amendments and supplemental agreements made or entered into prior to the Transaction Date, provided that after the effective date of this Agreement, APAd shall consult with the Purchasers prior to making additional amendments and supplemental agreements:

(1) The agreement dated February 17, 1984, between APAd and the Municipality of Anchorage concerning the Eklutna Water Project; as amended by Supplemental Agreement No. 1 dated August 24, 1988;

(2) The agreement dated November 1, 1982, between APAd and Cook Inlet Aquaculture Association concerning the Eklutna hatchery.

b. The Purchasers shall consult with BLM and ADNR to ensure effective and proper management of lands required for Eklutna.

c. Except to the extent Purchasers determine public recreational uses shall be limited by safety and operational requirements, the Purchasers will continue to make Eklutna lands and water available to the public for recreation uses.

9. Transition Plans and Activities.

a. Within six months after the Congressional authorization is obtained, the Purchasers and APAd shall adopt specific transition plans setting forth the arrangements and a timetable for completing the sale and transfer. The parties intend that the transition plans shall foster an efficient, orderly and expeditious transfer of Eklutna and its operation to the Purchasers, minimize transition costs and minimize adverse impacts on employees. The transition plans and activities shall be developed jointly by the Purchasers and APAd and, among other items, shall include:

(1) The selection of a "Transaction Date" on which ownership of Eklutna would transfer to the Purchasers;

(2) A schedule for payments to the United States Treasury including provisions for reasonable grace periods;

(3) Arrangements and timetable for the transfer of operations, maintenance, power marketing and administration of Eklutna;

(4) A definition of activities and schedules for completing the sale and the assignment of responsibilities for such activities;

(5) A continuation of the consultations and access to records and data, and arrangements and timetable for transfer of data and other records to the Purchasers;

(6) Provisions for environmental, engineering and safety inspections by the Purchasers and APAd and a joint determination by the Purchasers and APAd of specific maintenance activities, including procurement, to be completed by the APAd;

(7) If necessary, provisions for completing any asset transfer actions that may not be completed as of the Transaction Date;

(8) A particularized listing of all the Eklutna assets to be sold and transferred, including photocopies of all

rights-of-way obtained from BLM, accurate location maps of the Eklutna facilities tied to public land surveys, and suitable legal descriptions of all real property interest. The parties to this Agreement recognize that the lands work will not be completed before the date of the transition plans.

(9) A description of the condition of title to the Eklutna assets as of the date of the transition plans, identifying with particularity third party interests and rights and other matters affecting title that may materially impair the ability of the Purchasers to have the full beneficial use, enjoyment, occupancy and operation of the Eklutna assets, and a description of APAd's intended course of action prior to the Transaction Date to remove, resolve or limit such matters.

(10) Transition staffing plans as necessary to assure continuity of operations and minimizing adverse impacts on APAd employees. In this regard, the parties agree that for two years after the Transaction Date APAd Eklutna personnel have first call on post-transfer Eklutna jobs for which they are qualified subject to the labor agreements of Purchasers. The staffing plans shall also consider transferring portions or all of the operations and maintenance functions to the Purchasers in advance of the Transaction Date, if that course of action is found to be feasible and helpful in minimizing adverse impacts to employees. In a manner consistent with their personnel policies and staffing requirements, the Purchasers will assist in locating suitable employment opportunities for displaced APAd employees for a period of two years after the Transaction Date; and

(11) Other matters as may be considered necessary by the parties.

10. Interim Activities.

The parties to this Agreement recognize that, in addition to the transition plans and activities described above, a number of actions need to be taken by the parties and other entities. The asset transfer and sale involves several entities including the Federal, State and local governments and two Alaska Native corporations. The parties intend to maintain full coordination with each of those entities and ensure that legislation authorizing the sale and transfer provides appropriate authority to implement the sale and transfer. The parties shall take all actions necessary to complete the sale and transfer including, but not limited to, the following listed actions:

a. APAd shall prepare Congressional legislation needed to implement this Agreement. The legislation, among other items, shall include provisions to accomplish the following:

(1) Authorize in accordance with this Agreement the sale and transfer of Eklutna to the Purchasers.

(2) Direct and authorize other Federal agencies, including the United States Department of the Interior, to assist and cooperate in sale implementation including transfer of Eklutna assets under their jurisdiction.

(3) Authorize and direct the Secretary of Interior to issue rights-of-way to Alaska Power Administration for subsequent assignment to Purchasers at no cost to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals or replacements, sufficient for operation, maintenance, repair and replacement of Eklutna facilities located on lands managed by the BLM including land selected by the State of Alaska, and military lands, including access; provided that if Eklutna is further sold or transferred to private ownership, the BLM may assess such reasonable and customary fees for continued use of the rights-of-way on BLM managed lands and military lands as consistent with current law or regulation; provided further that at no additional cost fee title to lands at Anchorage Substation shall be transferred to Purchasers if the Department of Interior determines that the lands are available under law for conveyance to the Purchasers.

(4) Authorize the State of Alaska (State) to select and direct the Secretary of Interior to convey to the State certain Eklutna lands identified in Exhibit A, including the lake bed of Eklutna Lake if not navigable under the Submerged Lands Act and approximately 853 acres of improved lands housing the powerhouse, intake structure, dam facilities, and a portion of the power tunnel under the provision of Section 6 of the Alaska Statehood Act of July 7, 1958, Public Law 85-508, and the North Anchorage Land Agreement of January 31, 1983, such conveyances to be subject to the rights-of-way being provided to Purchasers under Section 10(a)(3) above.

(5) Exempt Eklutna and the Purchasers, including but not limited to subsequent facilities modifications, from jurisdiction of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791), unless such modifications impact Federal lands other than those presently used for Eklutna.

(6) Authorize expenditure of such sums as are necessary to prepare Eklutna assets for sale and conveyance, such preparations to provide sufficient title to ensure the beneficial use, enjoyment and occupancy to the Purchasers of the assets to be sold.

b. APAd shall, in addition to the responsibilities set forth in Section 4:

(1) Prepare all Eklutna assets including but not limited to those assets described in Section 4 (Assets to be Sold and Transferred) for conveyance to the Purchasers including all actions necessary to establish sufficient title to ensure the beneficial use, enjoyment and occupancy to the Purchasers of such assets.

(2) Apply for and obtain BLM rights-of-way necessary for operation, maintenance, repair and replacement of Eklutna facilities located on Federal lands, managed by the BLM, such rights-of-way to be subsequently transferred to the Purchasers.

(3) Provide satisfactory assurance that the Purchasers have sufficient ANCSA 17(b) easement rights for continued operation, maintenance, repair and replacement of Eklutna facilities.

(4) Continue to maintain Eklutna in accordance with prudent utility practices, and Federal, and utility industry standards.

(5) Appoint one person and an alternate to represent APAd for all activities required of APAd after the execution of this Agreement and prior to the Transaction Date.

(6) Manage and operate Eklutna in accordance with prudent utility practices, and Federal and utility industry standards in such a manner as to not diminish the capability of Eklutna to produce energy and power at historic levels.

c. Purchasers shall:

(1) Establish organizational, functional and staffing arrangements for operations, maintenance and administration of Eklutna to be in effect on or before the Transaction Date including the following:

(A) Purchasers agree with each other and the APAd that each Purchaser shall appoint one person and an

alternate to represent that Purchaser for all activities required of Purchasers after the execution of this Agreement and prior to the Transaction Date.

(B) By the Transaction Date, Purchasers shall agree in writing to have an effective organization which shall be responsible for the sale of power, operation and maintenance of Eklutna and, if necessary, Purchasers shall execute power sales agreements to purchase power from Eklutna.

(C) Purchasers shall provide in their organizational agreements that if one or more of the Purchasers are unable or unwilling to purchase its share of Eklutna, then the other Purchasers may purchase that share.

(2) Arrange for the payment of the amounts set out in Section 5 (Price and Payment Terms) to be paid to the United States Treasury.

d. The Purchasers and APAd shall conduct engineering, environmental and safety inspections at Eklutna and jointly determine a list of items or matters they consider necessary to be changed or modified prior to transfer. APAd shall make such changes and modifications prior to the Transaction Date, or provide appropriate assurances that those changes or modifications shall be made. The Purchasers and APAd shall also consensually and jointly determine the acceptability of Eklutna for transfer to the Purchasers. Failure to reach agreement on the joint determination of either the list of necessary changes or modifications or the acceptability of Eklutna for transfer shall constitute grounds for termination of the Agreement.

e. This Agreement may be terminated by Purchasers if, prior to the Transaction Date, the value of Eklutna or its capability to produce energy and power has been diminished by any cause after the execution of this Agreement. Any notice of termination shall be provided to APAd in writing.

f. The parties agree that the above-listed action in subsections (a) through (d) are crucial to the sale and transfer of Eklutna. The Purchasers may elect to terminate this Agreement if the authorizing legislation does not contain substantially the same provisions set forth in Section 10(a) or if APAd fails to complete its obligations under Sections 10(b) and 10(d). APAd may elect to terminate this Agreement if the Purchasers fail to complete their obligations under Sections 10(c) and 10(d).

11. Post-sale Operations, Maintenance and Power Marketing Arrangements.

The Purchasers shall establish appropriate organizational, staffing and administrative arrangements for Eklutna on or before the Transaction Date.

To assist in implementation of these post-sale arrangements, APAd shall make available for inspection and use by the Purchasers all Eklutna records and data and shall consult with the Purchasers on operation procedures, replacement schedules, staffing plans and training on a continuing basis starting on the effective date of this Agreement.

These provisions are intended to ensure that the Purchasers have full opportunity to become fully familiar with Eklutna and to help identify further specific actions that shall facilitate the transfer of operation of Eklutna to the Purchasers.

12. Effective Date.

This Agreement shall become effective as of the calendar date on which all parties have executed this Agreement.

13. Environmental Management.

The parties intend that the transfer of ownership be accomplished in a manner that assures continued compliance with environmental and public safety standards and laws including appropriate dam safety measures. The parties note that, under applicable Department of Energy instructions, APAd is required to prepare a management plan for Eklutna covering environmental and safety requirements.

APAd shall develop and implement such management plan prior to the date on which the transaction plans are adopted and in full consultation with the Purchasers. Failure by the Purchasers to agree to such a plan shall be grounds for termination of this Agreement by the Purchasers.

The Purchasers agree to continue the implementation of such management plan after the Transaction Date, including periodic updates of the plan as needed.

14. Term.

This Agreement shall remain in effect for such time as is necessary to complete the sale of Eklutna to the Purchasers and payments for such sale to the United States Treasury, provided that this Agreement shall terminate two years after the effective date if authorization by Congressional legislation has not been obtained within those two years, and provided further

that this Agreement shall terminate two years after the date of the Congressional authorization if transfer of Eklutna to the Purchasers has not occurred by that time. The above termination dates may be extended by mutual agreement of the parties.

The above termination provisions are intended to provide ample time to obtain Congressional authorization and complete the transaction. However, it is the intent of the parties to obtain such authorization as quickly as possible and complete the sale as quickly thereafter as is reasonably practicable.

This Agreement shall be terminated if, at any time prior to the Transaction Date, the Purchasers determine they are not able to meet the payment terms and so notify APAd in writing.

15. Dispute Resolution.

The parties shall attempt to settle any claim or controversy arising out of this Agreement in good faith. The parties may agree to submit any claim or controversy to a mutually-acceptable mediator, the cost of which shall be borne equally by APAd and Purchasers. The use of such a procedure shall not be construed to affect adversely the rights of either party under the doctrines of laches, waiver or estoppel. Nothing in this section shall prevent any party from resorting to judicial procedures. Any judicial action shall be filed in the Federal court at Anchorage, Alaska.

16. Notice.

All notices under this Agreement shall be in writing directed to the Purchasers through the General Managers of the Purchasers, and to the APAd through the Administrator of the APAd or its successor.

17. Amendment.

This Agreement may be modified only by mutual agreement in writing between the Purchasers and APAd. Any such modifications must be consistent with applicable State and Federal law.

18. Approvals.

Any final sale and transfer of Eklutna shall become effective only on the obtaining of all required regulatory and administrative approvals or on receiving satisfactory assurance that such approvals are forthcoming.

19. Assignment.

This Agreement shall inure to the benefit of, and be binding upon the respective successors and assigns of the parties to this Agreement, provided however, that neither this Agreement nor any interest therein shall be transferred or assigned by any party to any other party, except to the United States or an agency thereof, without the written consent of the others whose written consent shall not be unreasonably withheld.

However, any assignment by Purchasers must be made to a successor in interest to the Purchasers and such assignment shall provide that the power from Eklutna be used for the benefit of customers in the service area of the Purchasers. Any of the Purchasers may assign its interest to the Alaska Electric Generation & Transmission Cooperative, Inc. (AEG&T) subject to any existing agreements, including amendments, between Chugach, AEG&T and MEA.

20. Force Majeure.

Failure by either APAd or the Purchasers to perform any of the requirements of this Agreement brought about by causes beyond their control and without fault or negligence of the parties shall constitute an excusable delay. In any instance where excusable delay occurs, the time for completing the work shall be extended by negotiation of the parties.

21. Continuing Support and Assistance.

The parties agree to support and assist each other in the mutually satisfactory resolution of any unforeseen problems associated with the transfer. APAd and the Purchasers recognize that new issues involving the transfer process may arise prior to and after transfer, or that issues considered resolved may need further clarification, implementation or other resolution. APAd and the Purchasers agree that open lines of communication are desirable after the date of this Agreement and after transfer to facilitate the transfer process. To that end, APAd and the Purchasers each agree to exercise their good faith efforts in implementing the terms of this Agreement expeditiously. APAd further agrees to use its best efforts to make available an appropriate Federal entity to implement this section in the event that APAd as an identifiable Federal entity ceases to exist.

22. Relationship of Purchasers.

The covenants, obligations and liabilities of the Purchasers are intended to be several and not joint or collective, and nothing contained herein shall be construed to

create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation or liability on or with regard to any of the Purchasers. Each Purchaser shall be individually responsible for its own covenants, obligations and liabilities as provided in this Agreement. No Purchaser shall, by virtue of this Agreement, be under the control of, or be deemed to control, the other Purchaser. No Purchaser shall be the agent of, or have a right or power to bind, the other Purchasers without its express written consent, except as may be expressly provided in this Agreement, or as may be otherwise provided by existing law. The provisions of this Section may be modified by the final approved agreements provided for under Section 10(c)(1).

23. Agreement for Benefit of Parties Only.

As provided in Section 8, above, the parties intend to protect fully the rights of non-power users of Eklutna land and water. The parties do not intend by this Agreement to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement, or as a beneficiary of any duty, covenant, obligation or undertaking established by, or performed pursuant to, this Agreement.

24. Miscellaneous Provisions.

a. The parties agree, upon request of the other parties, to make, execute and deliver any and all documents reasonably required to implement this Agreement.

b. Captions and headings appearing in this Agreement are included to facilitate reference to the Agreement, and they are not to be read as a part of this Agreement, nor shall they have bearing on its interpretation.

c. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREFORE, the parties have caused this Agreement to be executed the day and year written hereafter.

DATED this 2nd day of August, 1989.

CHUGACH ELECTRIC ASSOCIATION, INC.

by: _____
Lee Walls
President

MATANUSKA ELECTRIC ASSOCIATION, INC.

by: _____
Robert L. Hunt
President

MUNICIPALITY OF ANCHORAGE
D/B/A MUNICIPAL LIGHT AND POWER

by: _____
Tom Fink
Mayor

ALASKA POWER ADMINISTRATION

by: _____
Robert J. Cross
Administrator

Eklutna Purchase Agreement
Exhibit A

August 2, 1989
Page 1 of 2

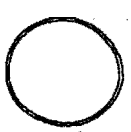
Lands, Easements and Rights-of-Way

Exhibit A consists of this narrative (pages 1 and 2 of 2) and the map prepared by BLM, signed and dated February 3, 1989.

This exhibit describes and displays present land status for the Eklutna Hydroelectric Project and describes in general terms the conveyances of land and land rights contemplated in the purchase agreement.

1. BLM - managed lands and military lands used for Eklutna Project for which BLM is to provide APAd rights-of-way sufficient for operation, maintenance, repair and replacement of Eklutna facilities, such rights-of-way to be assigned by APAd to the Purchasers.

Legend Symbols and Description.



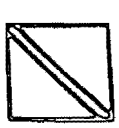
Withdrawals. Refers to approximately 863 acres of public lands withdrawn for Eklutna at the "Intake Area," "Power Tunnel," "Eklutna Powerplant" and "Anchorage Substation." The total acreage is comprised of the following land:

a. Approximately 320 acres withdrawn for the "Power Tunnel" under Public Land Order 1231 dated September 28, 1955.

b. Approximately 230 acres utilized for the "Intake Area" and approximately 60 acres for a portion of "Eklutna Powerplant" as described by ANCSA 3(c) determination AA-51183 dated July 30, 1986.

c. Approximately 243 acres utilized for "Eklutna Powerplant" as described by ANCSA 3(e) determination AA-42534 dated September 1, 1982.

d. Approximately 10 acres withdrawn for "Anchorage Substation" under Secretarial Order dated April 4, 1952.



State Land-R/W. Refers to rights-of-way across State-selected lands covering the transmission line east of "Eklutna Powerplant" to the Knik River.

Military Land-R/W. Refers to rights-of-way across military lands used for Eklutna transmission lines.

Acquired-3(e). Refers to approximately 2.5 acres of acquired land used for "Reed Substation" as described by ANCSA 3(e) determination AA-45155 dated July 30, 1985.

2. ANCSA 17(b) Easements.

Map symbol: Native Land - 17(b) Easements.

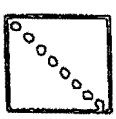
Refers to rights-of-way that are reserved for portions of the 115kV transmission line, access roads and other Eklutna facilities located on Native corporation lands, and exist as easement reservations in the ANCSA conveyances to the Native corporations pursuant to Section 17(b) of ANCSA. Those easements will not be altered by the sale of Eklutna and the Purchasers may use these easements for their intended purposes.

3. APAd Acquired Land and Easements.

Refers to land and easements acquired by the Bureau of Reclamation (predecessor of APAd) during construction of Eklutna and now controlled by APAd. APAd will assign the land and easements to the Purchasers.

Legend Symbols and Description:

Acquired. Refers to approximately 0.8 acres of land owned by APAd at Palmer Substation.



Acquired-Easements. Refers to approximately 33 easements across private lands acquired by the Bureau of Reclamation (predecessor of APAd) and now held by APAd.

4. Other Easements on Private Land.

Map [Symbol]:

Note: Other Easements on Private Lands To Be Acquired - See Exhibit A Narrative

Refers to approximately two hundred and fifty (250) parcels of private land located along the 115kV transmission line, many of which require title curative action for purposes of perfecting assignable easement rights or rights-of-way for the Purchasers. APAd shall be responsible for acquiring assignable easement rights or rights-of-way across those lands, for subsequent assignment to Purchasers.

5. Reservoir.

Eklutna Lake as designated on the map is the reservoir described in the body of the Agreement.

Exhibit B
Eklutna Purchase Agreement

Future Principal and Interest Payments.
(FY 1987 Power Repayment Study Data)

Units: $1000's

FISCAL YEAR	PRINCIPAL	INTEREST	TOTAL
1989	693	346	1,039
1990	1,316	316	1,632
1991	1,383	283	1,666
1992	0	265	265
1993	629	258	887
1994	1,476	231	1,707
1995	0	213	213
1996	1,318	196	1,514
1997	1,548	160	1,708
1998	1,586	121	1,707
1999	1,624	81	1,705
2000	0	61	61
2001	1,472	43	1,515
2002	952	12	964
TOTAL '89 - 02	$13,997	$2,586	$16,583
TOTAL '90 - 02	$13,304	$2,240	$15,544
TOTAL '91 - 02	$11,988	$1,924	$13,912
TOTAL '92 - 02	$10,605	$1,641	$12,246

Projected Selling Price

Units: $1000's

Transaction Date	Present Value of 1/ Remaining Payments	Selling Price
Oct. 1, 1989 (start of FY 1990)	$9,435	$10,435
Oct. 1, 1990 (start of FY 1991)	$8,580	$ 9,580
Oct. 1, 1991 (start of FY 1992)	$7,631	$ 8,631

1/ Discount Rate of 9.0%; payments assumed at mid year.

Eklutna Purchase Agreement
August 2, 1989

Amendment No. 1

1. Purpose.

This Amendment No. 1 reflects new information with respect to lands, extends the term of the August 2, 1989, Eklutna Purchase Agreement ("Agreement"), and states the selling price if the Transaction Date is October 1, 1992, or October 1, 1993.

2. Amendment to Section 10. Interim Activities.

Section 10a.(4) of the Agreement is amended to read as follows:

"10.a.(4) Authorize the State of Alaska (State) to select and direct the Secretary of the Interior to convey to the State certain Eklutna lands identified in Exhibit A, including approximately 853 acres of improved lands housing the powerhouse, intake structure, dam facilities, and a portion of the power tunnel under the provision of Section 6(a) of the Alaska Statehood Act of July 7, 1958, Public Law 85-508, and the North Anchorage Land Agreement of January 31, 1983, such conveyances to be subject to the rights-of-way being provided to Purchasers under Section 10(a)(3) above."

3. Amendment to Section 5. Price and Payment Terms.

Section 5 (a) of the Agreement is amended to read as follows:

"a. If the Transaction Date is October 1, 1991, the selling price shall be $8,613,000.

If the Transaction Date is October 1, 1992, the selling price shall be $9,022,000.

If the Transaction Date is October 1, 1993, the selling price shall be $9,818,000.

If the Transaction Date is other than one of the three above dates, the selling price will be calculated by APAA as the discounted present value as of the Transaction Date of all remaining principal and interest payments after the Transaction Date according to the payment schedule shown on Exhibit B of this agreement plus $1,000,000 ($1 million). Exhibit B payments for the first year will be prorated to reflect the portion of the year remaining after the Transaction Date. Subsequent Exhibit B payments will be assumed at mid-year (April).

The price determination is to be included in the transition plan required under Section 9 below."

4. Now Exhibit B.

A new Exhibit B dated June 25, 1991, reflecting the above amendment to Section 5, Price and Payment Terms, is incorporated in the Agreement in place of the original Exhibit B.

5. Extended Term.

The first paragraph of Section 14 of the Agreement is amended to read as follows:

"This Agreement shall remain in effect for such time as is necessary to complete the sale of Eklutna to the Purchasers and payments for such sale to the United States Treasury, provided that this Agreement shall terminate four years after the effective date if authorization by Congressional legislation has not been obtained within these four years, and provided further that this Agreement shall terminate two years after the date of the Congressional authorization if transfer of Eklutna to the Purchasers has not occurred by that time. The above termination dates may be extended by mutual agreement of the parties."

6. Effective Date

This Amendment No. 1 to the Agreement shall become effective as of the calendar date on which all parties have executed this Amendment.

DATED this 30th day of July, 1991.

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____
Thomas D. Humphrey
President

7/30/91
Date

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____
Jack Lee
President

7/29/91
Date

MUNICIPALITY OF ANCHORAGE
D/B/A MUNICIPAL LIGHT AND POWER

By: _____
Tom Fink
Mayor

7/30/91
Date

ALASKA POWER ADMINISTRATION

By: _____
Robert J. Cross
Administrator

July 24, 1991
Date

Eklutna Purchase Agreement
August 2, 1989

Amendment No. 2

1. Purpose.

This Amendment No. 2 extends the term of the August 2, 1989, Eklutna Purchase Agreement ("Agreement"), and states the selling price if the Transaction Date is October 1, 1993, October 1, 1994, or October 1, 1995.

2. Amendment to Section 5, Price and Payment Terms.

Section 5 (a) of the Agreement is amended to read as follows:

"a. If the Transaction Date is October 1, 1993, the selling price shall be $8,810,000.

If the Transaction Date is October 1, 1994, the selling price shall be $7,733,000.

If the Transaction Date is October 1, 1995, the selling price shall be $8,117,000.

If the Transaction Date is other than one of the three above dates, the selling price will be calculated by APAd as the discounted present value as of the Transaction Date of all remaining principal and interest payments after the Transaction Date according to the payment schedule shown on Exhibit B of this agreement plus $1,000,000 ($1 million). Exhibit B payments for the first year will be prorated to reflect the portion of the year remaining after the Transaction Date. Subsequent Exhibit B payments will be assumed at mid-year (April).

The price determination is to be included in the transition plan required under Section 9 below."

3. New Exhibit B.

A new Exhibit B dated March 8, 1993, reflecting the above amendment to Section 5, Price and Payment Terms, is incorporated in the Agreement in place of the Amendment No. 1 Exhibit B.

4. Extended Term.

The first paragraph of Section 14 of the Agreement is amended to read as follows:

"This Agreement shall remain in effect for such time as is necessary to complete the sale of Eklutna to the Purchasers and payments for such sale to the United States Treasury, provided that this Agreement shall terminate six years after the effective date if authorization by Congressional legislation has not been obtained within these six years, and provided further that this Agreement shall terminate two years after the date of the Congressional authorization if transfer of Eklutna to the Purchasers has not occurred by that time. The above termination dates may be extended by mutual agreement of the parties."

5. Effective Date.

This Amendment No. 2 to the Agreement shall become effective as of the calendar date on which all parties have executed this Amendment.

Eklutna Purchase Agreement
April 21, 1995

Amendment No. 3

1. Purpose.

This Amendment No. 3 extends the term of the August 2, 1989, Eklutna Purchase Agreement ("Agreement"), and states the selling price if the Transaction Date is October 1, 1995, October 1, 1996, or October 1, 1997.

2. Amendment to Section 5. Price and Payment Terms.

Section 5 (a) of the Agreement is amended to read as follows:

"a. If the Transaction Date is October 1, 1995, the selling price shall be $8,117,000.

If the Transaction Date is October 1, 1996, the selling price shall be $7,178,000.

If the Transaction Date is October 1, 1997, the selling price shall be $5,953,000.

If the Transaction Date is other than one of the three above dates, the selling price will be calculated by APAd as the discounted present value as of the Transaction Date of all remaining principal and interest payments after the Transaction Date according to the payment schedule shown on Exhibit B of this agreement plus $1,000,000 ($1 million). Exhibit B payments for the first year will be prorated to reflect the portion of the year remaining after the Transaction Date. Subsequent Exhibit B payments will be assumed at mid-year (April).

The price determination is to be included in the transition plan required under Section 9 below."

3. New Exhibit B.

A new Exhibit B dated February 23, 1995, reflecting the above amendment to Section 5, Price and Payment Terms, is incorporated in the Agreement in place of the Amendment No. 1 Exhibit B.

4. Extended Terms.

The first paragraph of Section 14 of the Agreement is amended to read as follows:

"This Agreement shall remain in effect for such time as is necessary to complete the sale of Eklutna to the Purchasers and payments for such sale to the United States Treasury, provided that this Agreement shall terminate eight years after the effective date if authorization by Congressional legislation has not been obtained within these eight years, and provided further that this Agreement shall terminate two years after the date of the Congressional authorization if transfer of Eklutna to the Purchasers has not occurred by that time. The above termination dates may be extended by mutual agreement of the parties."

5. Effective Date.

This Amendment No. 3 to the Agreement shall become effective as of the calendar date on which all parties have executed this Amendment.

Eklutna Purchase Agreement
Amendment No. 3

DATED this 22 day of June, 1995.

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____ 4/25/95
Elizabeth Page Kennedy — Date
President

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____ May 4, 1995
Barbara J. Miller — Date
President

MUNICIPALITY OF ANCHORAGE
D/B/A MUNICIPAL LIGHT AND POWER

By: _____ 6/22/95
Larry D. Crawford — Date
Municipal Manager

ALASKA POWER ADMINISTRATION

By: _____ April 24, 1995
Michael A. Deihl — Date
Administrator

02/23/95

Exhibit B
Eklutna Purchase Agreement
Amendment No. 3

FUTURE PRINCIPAL AND INTEREST PAYMENTS
(FY 1987 POWER REPAYMENT STUDY DATA)

Units: $1,000's

FISCAL YEAR	PRINCIPAL	INTEREST	TOTAL
1996	1,318	196	1,514
1997	1,548	160	1,708
1998	1,586	121	1,707
1999	1,624	81	1,705
2000	0	61	61
2001	1,472	43	1,515
2002	952	12	964
TOTAL '96 - 02	8,500	674	9,174
TOTAL '97 - 02	7,182	478	7,660
TOTAL '98 - 02	5,634	318	5,952

PROJECTED SELLING PRICE

Units: $1,000's

Transaction Date	Present Value of Remaining Payments (Discount Rate = 9%)	Selling Price
October 1, 1995 (start of FY 1996)	7,117	8,117
October 1, 1996 (start of FY 1997)	6,178	7,178
October 1, 1997 (start of FY 1998)	4,953	5,953

NOTE: Payments assumed at mid-year.

DATED this 14 day of June, 1993.

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____ 5/19/93
William L. Ryan
President
Date

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____ June 8, 1993
Barbara J. Miller
President
Date

MUNICIPALITY OF ANCHORAGE
D/B/A MUNICIPAL LIGHT AND POWER

By: _____ 4/27/93
Tom Fink
Mayor
Date

ALASKA POWER ADMINISTRATION

By: _____ 5/26/93
Michael A. Dahl
Administrator
Date

Exhibit B 03/26/93
Eklutna Purchase Agreement
Amendment No. 2

Future Principal and Interest Payments
(FY 1987 Power Repayment Study Data)

Units: $1,000's

FISCAL YEAR	PRINCIPAL	INTEREST	TOTAL
1994	1,476	231	1,707
1995	0	213	213
1996	1,318	196	1,514
1997	1,548	160	1,708
1998	1,586	121	1,707
1999	1,624	81	1,705
2000	0	61	61
2001	1,472	43	1,515
2002	952	12	964
TOTAL '94 - 02	$9,976	$1,118	$11,094
TOTAL '95 - 02	$8,500	$887	$9,387
TOTAL '96 - 02	$8,500	$674	$9,174

Projected Selling Price

Units: $1,000's

Transaction Date	Present Value of Remaining Payments	Selling Price
Oct. 1, 1993 (start of FY 1994)	$7,810	$8,810
Oct. 1, 1994 (start of FY 1995)	$6,733	$7,733
Oct. 1, 1995 (start of FY 1996)	$7,117	$8,117

Discount Rate 9.0%; payments assumed at mid-year.

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is made this 29th day of July, 1989, by and among MATANUSKA ELECTRIC ASSOCIATION, INC. ("MEA"), CHUGACH ELECTRIC ASSOCIATION, INC. ("Chugach"), and the MUNICIPALITY OF ANCHORAGE d/b/a ANCHORAGE MUNICIPAL LIGHT & POWER ("ML&P"). MEA, Chugach and ML&P are hereinafter collectively called the "Purchasers."

1. Recital. The Purchasers are parties to that certain Eklutna Purchase Agreement ("Purchase Agreement") dated as of March 31, 1989, with the Alaska Power Administration ("APAD") which concerns the purchase by Purchasers of certain real and personal property referred to therein as "Eklutna." It is understood that the Purchase Agreement has not yet been executed by ML&P and is therefore not yet effective. The parties expect that the Purchase Agreement will be so executed and, upon that assumption, enter into this Memorandum of Understanding.

2. Cost, Power and Firm Interests of Purchasers. It is mutually understood by the Purchasers that the allocation of output power (capacity and energy) from Eklutna (as defined in Section 3 of the Purchase Agreement) under the Purchase Agreement will continue as under the present participation in the following proportions: 16/30 to ML&P, 9/30 to Chugach and 5/30 to MEA, and that these same proportionate shares will determine the Purchasers' respective proportionate shares of their undivided interest in the Eklutna assets identified in Section 4 of the

Purchase agreement, the Purchasers' respective shares of the purchase price identified in Section 9 of the Purchase Agreement, and the Purchasers' respective shares of Eklutna's operating costs.

3. Operation of Eklutna. It is further understood and agreed that the Purchasers and their successors and assigns shall operate Eklutna in accordance with prudent electric utility practices in order to produce power in the most efficient manner possible for the maximum beneficial use of customers in the service area of the Purchasers, subject to compliance with those water usage agreements that the Purchasers have agreed to assume pursuant to Section 8 of the Purchase Agreement.

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____

Its: General Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____

Its: General Manager

MUNICIPALITY OF ANCHORAGE d/b/a
ANCHORAGE MUNICIPAL LIGHT & POWER

By: _____

Its: _____

JAC/dmj
K:MBA

MUNICIPALITY OF ANCHORAGE

AC7-2

ASSEMBLY MEMORANDUM

No. AM 614-89

C[illegible]T ✓
R[illegible]S & TARIFFS ✓
AC[illegible]TING ✓
FIX[illegible] ASSETS
GENERAL MGR. ✓

Meeting Date:

From: Mayor Fink

Subject: Eklutna Purchase Agreement

In its AR87-41(S-1) as amended and dated March 3, 1987, the Anchorage Municipal Assembly resolved that (1) the best interest of the public may be served by federal transfer of the Eklutna Hydroelectric Facility to the Municipality or other local entities with all rights, title and interest of the United States, including reserved and acquired water rights; and (2) the administration may commence formal negotiations with the Department of Energy regarding divestiture of the project.

On May 20, 1987, the Alaska Power Association (APA) formally requested proposals from the Municipality of Anchorage, Chugach Electric Association (CEA), and the Matanuska Electric Association (MEA) for the purchase and transfer of the Eklutna Power Project. The Municipality of Anchorage d/b/a Municipal Light and Power (ML&P), CEA, and MEA (cumulatively the "Purchasers") have developed a joint proposal for purchase of the Eklutna Project. The joint proposal, presently under review by the Municipality of Anchorage, Chugach Electric Association and Matanuska Electric Association, is entitled "Eklutna Purchase Agreement" and sets out arrangements, terms, and conditions for sale of Eklutna to purchasers, such arrangements, terms, and conditions to be implemented if the United States Congress authorizes such sale. The following are essential terms of the proposed agreement:

a. The Eklutna assets to be sold and transferred generally consist of the power production, transmission, associated real property and all other facilities and assets, provided for Eklutna under the Eklutna Project Act of July 31, 1950; all rights-of-way and easements for existing Eklutna facilities located on BLM managed lands and military lands; and water rights, including the reservoir rights.

b. Within six (6) months of Congressional authorization, transition plans are to be adopted which will, among other things, identify the Transaction Date on which ownership of the Eklutna facilities will transfer to Purchasers; determine a schedule for payment of the purchase price to the United States Treasury; provide for the orderly transfer of the operations and related activities of Eklutna; provide for environmental, engineering and safety inspections by Purchasers; provide for completion of any asset transfer; develop a particularized listing of assets to be sold or transferred; and address other matters as may be considered necessary by the parties.

c. Total or combined Purchase Price to the three purchasing utilities is dependent on the timing of the Transaction Date: $10,435,000 if on October 1, 1989; $9,580,000 if on October 1, 1990; $8,631,000 if on October 1, 1991. Any other Transaction Date shall result in a selling price calculated as the discounted present value of all remaining principal and interest payments plus $1 million. The full selling price is to be paid within five (5) years after the Transaction Date using an interest rate of 9 percent. The discount rate to be used in determining the selling price is also 9 percent. ML&P's share of the purchase price is 16/30 or initially $5,565,333.33, which moneys will be committed upon the effective date of the Agreement.

d. Effective date of the Purchase Agreement is the calendar date on which all parties have executed the Agreement. The Agreement requires authorization by Congressional legislation within two years of the effective date of the Agreement, and further requires transfer of Eklutna assets within two years of Congressional legislation authorizing the transfer.

e. The covenants, obligations and liabilities of the Purchasers are intended to be several and not joint or collective. ML&P, CEA, and MEA shall each acquire an undivided interest of 16/30, 9/30 and 5/30, respectively, in the Eklutna Power Project.

f. Purchasers of Eklutna are assuming all responsibilities associated with the Agreement dated February 17, 1984 between AFA and the Municipality of Anchorage concerning the Eklutna Water Project and the Supplemental Agreement No. 1 dated August 24, 1988. AWWU's entitlement to secure a long range source of water for Anchorage with the Eklutna Water Project is thereby preserved.

g. The Purchasers are executing a memorandum of understanding concerning the possible election by the Municipality to internally reassign its interest in the Eklutna Power Project. In the event of a sale or transfer of ML&P or for other reasons the Municipality may retain its interest in the Eklutna Power Project for the benefit of the Municipality and the Eklutna Water Project.

ASSEMBLY MEMORANDUM
Eklutna Purchase Agreement
Page 3

The subject Eklutna Purchase Agreement will result in lower costs to ML&P for Eklutna power than under existing federal ownership. The Agreement ensures that ML&P will retain its current share of Eklutna output for the life of the Project. Since Eklutna is and will continue to be ML&P's lowest cost energy source, retention of ML&P's share will continue to stabilize rates.

It is recommended that the Assembly authorize the Administration to enter into an agreement for the purchase of Eklutna under the basic terms and conditions outlined above.

Concur:

Lee Nunn
Executive Manager
Enterprise Activities

Concur:

Larry D. Crawford
Municipal Manager

Respectfully Submitted:

Tom Fink
Mayor

Submitted by:

Thomas R. Stahr
General Manager
Municipal Light & Power

Funds Certification:

(0530 Operating)
8300-8605-2328-0000
$3,563,333.33

Bob Nelson
Chief Fiscal Officer

Concur:

Richard D. Kibby
Municipal Attorney

Concur:

Richard L. Besse, P.E.
General Manager
Anchorage Water & Wastewater Utility

EXHIBIT C

Engineering inspection results listing (to date) including APA's response to the Stone & Webster report in 12 pages to ML&P dated May 13, 1996.

Environmental and safety inspection results and APA's response will not be available from Stone & Webster until after the Effective Date of this Plan. These results are incorporated into Exhibit C by reference, and will be included by mutual consent of the Parties upon receipt from Stone & Webster.

Stone & Webster

FOUNDED
1889

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JAKARTA, INDONESIA
SEOUL, KOREA
TORONTO, CANADA

Mr. Moe T. Aslam, P.E.
Chief Engineer
Anchorage Municipal Light & Power
821 East First Avenue
Anchorage, AK 99501

May 13, 1996

J.O.No. 05450.07

TRANSFER OF THE
EKLUTNA HYDROELECTRIC PROJECT
PALMER, ALASKA
ANCHORAGE MUNICIPAL LIGHT AND POWER

Dear Moe:

The following items are suggested for inclusion in your list of major items to be discussed among APA and the Purchasing Utilities:

- Survey of Dam and comparison with 1987 Survey
- APA's current program for routine inspections of the dam
- Rehabilitation of Power Tunnel Adit
- APA's Environmental, Health and Safety Management Plan
- Environmental Issues
- Health and Safety Issues
- Environmental Permits and Plans
- List of Physically separated sites to be included in the transfer, together with information on land and land rights
- List of vehicles and off road equipment to be transferred
- Transmission Line Survey

Stone & Webster Engineering Corporation
P.O. Box 2325, Boston, Massachusetts 02107-2325
245 Summer Street, Boston, Massachusetts 02210
Tel: 617-600-6111 Fax: 617-600-6180

A more comprehensive list of Technical and Miscellaneous Items is attached.

The list of environmental issues, prepared by Jim Rogers, and the list of Health and Safety issues, prepared by Mike Daniels, Mike Schowen and Sterling Larson will follow.

Best Regards,

Fred R. Harty, Jr.
Task Coordinator

Attachment

FRH:bjt

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION
DURING THE TRANSFER INSPECTIONS FOR THE
EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
Remote Sites		
◦ Possibilities for relocating or discontinuing the use of the Reed substation should be considered due to the security problem.		
◦ Ownership of the old Eklutna powerhouse should be established with respect to the transfer process.		
◦ At the Palmer substation, the transformer should be checked for damage because of the deformed stud.	APA has advised that MEA performed a detailed inspection (letter of February 27, 1996)	
◦ Grounds maintenance should be performed at the Repeater Station. Also, the provisions for future snow removal and vehicle access to the MEA substation should be established with respect to the Repeater Station.	APA will remove brush, weeds and logs (letter of February 27, 1996) Future maintenance to be established	
Eklutna Dam and Spillway	APA will remove logs and debris (letter of February 27, 1996)	
◦ The area upstream from the spillway is heavily encumbered with floating logs and other debris. This material should be removed.		

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION DURING THE TRANSFER INSPECTIONS FOR THE EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
° There is an area of subsidence at the downstream edge of the dam crest, about two thirds of the way between the right abutment and the spillway structure. The subsidence is on the order of 2 ft to 3 ft over an area that is large enough to make this a grade depression. We were unable to find a solution of the condition in previous reports. A survey of this area and institution of a monitoring program is suggested.	APA will perform the survey (letter of February 27, 1996)	
° A survey program is also suggested for the road that leads from the main road to the right abutment. This survey would determine if there is a spot in the road which is lower than the crest of the dam.	APA will perform the survey (letter of February 27, 1996)	
° A survey of the various dam monitoring monuments should also be made and compared with previous measurements. Other areas of interest for a survey are described in the detailed report.	APA will perform the survey (letter of February 27, 1996)	
° Some means should be provided for removal of water which accumulates in the spillway outlet gate access gallery. There was standing water in this gallery at the time of the inspection.		

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION
DURING THE TRANSFER INSPECTIONS FOR THE
EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering:
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
◦ An area of standing water was noted downstream from the toe of the dam toward the outlet of the spillway channel. This condition was noted in previous reports with the comment that it was not clear whether the wet spot was related to the reservoir or originated downstream. This area should continue to be observed in future inspections, particularly when the area between the two dams is dry.		
◦ Brush and small trees were noted on the downstream embankment and abutments of the dam. This vegetation should be removed.	APA will remove vegetation (letter of February 27, 1996)	
Intake Gate Area ◦ The surface drainage should be improved around the intake gate silo.		
◦ It is suggested that this gate operating system be renovated and updated.		
◦ Cracks noted in the silo concrete at the level of the gate operating system should be monitored to determine if any changes are being experienced.		
◦ The steel items such as ladders, platforms, gate operator and gate operator supports should be cleaned and painted.		
◦ It is suggested that the provision of a permanent power supply be considered for this structure.		

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION DURING THE TRANSFER INSPECTIONS FOR THE EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
• The access road was washed out at the time of the site visit. It is suggested that improvements be made to permit uninterruptible vehicle access on this road, which serves the intake gate silo and the Anchorage Water District diversion structure.	APA has restored the road to its original condition (letter of February 27, 1995) An upgrade has been requested for consideration by the Purchasing Utilities	
Gage House for Reservoir Water Level Monitoring • The ownership of this gage house should be verified with respect to the project transfer.		
• The identity of the floating cable, noted during the inspection, should be established and any necessary remedial action taken.	Repaired by USGS (letters of February 27, 1995 and March 13, 1995)	
Adit to the Power Tunnel • Remedial measures should be taken to restore access to the watertight bulkhead in the adit and to prevent unauthorized entry into this area.	APA will only patch the holes of the power tunnel access entrance (letter of February 27, 1995)	
Surge Tank • The area around the surge tank should be monitored for erosion of surface material. Corrective measures should be taken if necessary.		
• The inside of the surge tank should be inspected when the opportunity presents itself.		

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION DURING THE TRANSFER INSPECTIONS FOR THE EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering:
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
◦ The free turning operation of the wheels on the wheeled gate should be verified to be sure that they will function under load during an emergency gate closure (previous closure operations are understood to have been with no flow).		
◦ The gate may need painting or other maintenance.	There is no record of when the gate was last painted (letter of March 13, 1995)	
◦ A broken grounding strap needs to be repaired.		
◦ Restrictions related to operation at high lake level should be noted.		
Tailrace Channel ◦ Obstructions caused by the presence of cables sticking up on the embankment roadway should be addressed.		

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION
DURING THE TRANSFER INSPECTIONS FOR THE
EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
◦ Confirm or adjust the values of minimum tailwater level based on project datum: 20 ft elev - one unit 21 ft elev - two units (It has been reported that all project elevations following the 1964 earthquake are 2.6 ft. to 2.9 ft. lower than those shown on the drawings. If sea level forms the basis for tailwater level, the new tailwater, based on project datum, could be higher when affected by high tides)	Levels not confirmed per letter of March 13, 1996	
Powerhouse ◦ Acceptability of the sump oil separation method should be reviewed.		
◦ Redesign of the exhaust system should be considered to avoid the present situation in which the battery room exhaust is ducted through the main control panel. Also, the potential for inadvertent passage of oil room exhaust into the control room should be reviewed.	APA will replace the batteries with a different type (letter of February 27, 1996)	
◦ Rehabilitation of the butterfly valves should be considered to correct leaking which has been reported to be unfixable through normal seal adjustment.		
◦ Greaseless wicket gate bearings should be considered for installation on the turbines.		

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION
DURING THE TRANSFER INSPECTIONS FOR THE
EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering:
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
◦ A thin walled section of cooling water pipe, noted in the Bureau of Reclamation Inspection Report, should be replaced.	Two sections have been patched. APA will correct the last section this year (letter of February 27, 1996)	
◦ The cable trays presently have 1/4 inch asbestos fiberboard underneath the cables. Other arrangements should be established so that this asbestos material can be removed.		
◦ The immovability of the transformers on their rails should be verified to prevent damaging movement in the event of an earthquake.	APA will add restraints (letter of February 27, 1996)	
◦ Consideration should be given to more conventional distribution methods of supplying power to the Government Camp.		
EKLUTNA TO PALMER TRANSMISSION LINE ◦ On Structure 2/7, a broken bell should be replaced in the right insulator string	APA will be responding to these items during the normal maintenance program (letter of March 13, 1996)	
◦ On Structure 10/5, two broken bells in the center insulator string and one broken bell in each of the outside strings should be replaced	APA will be responding to these items during the normal maintenance program (letter of March 13, 1996)	
◦ Vibration on the center phase between structures 7/1-7/2 should be addressed	APA will be responding to these items during the normal maintenance program (letter of March 13, 1996)	

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION
DURING THE TRANSFER INSTRUCTIONS FOR THE
EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering:
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
• Remedial measures or changes should be considered at three areas on the line that are subject to damage, as described in the detailed report (overbuilds near between 3/7 and 3/8, old Knik River bridge, and the Matanuska River crossing between 9/3 and 10/3)	APA has no plans for any major work in this area (letter of February 27, 1996)	
• The out of plumb condition of the insulator strings should be addressed at structures 1/7, 1/8, 9/1 and 9/2	APA has no plans for any major work in this area (letter of February 27, 1996)	
• Excess brush and trees should be removed from the rights of way as described in the detailed report	APA has no plans for any major work in this area (letter of February 27, 1996)	
• Structure 10/4 should be made plumb	APA has no plans for any major work in this area (letter of February 27, 1996)	
TRANSMISSION LINE FROM EKLUTNA TO ANCHORAGE • Deterioration of the cross arm at Structure 10/3 should be addressed	APA will be responding to these items under the normal maintenance program (letter of March 13, 1996)	
• Broken bells, as described in the detailed report, should be replaced	APA will be responding to these items under the normal maintenance program (letter of March 13, 1996)	
• Excess brush and trees should be monitored for timely removal as described in the detailed report	APA will be responding to these items under the normal maintenance program (letter of March 13, 1996)	
MISCELLANEOUS • Plan and profile of each transmission line	APA will provide the original drawings. You should be aware that APA presently has a surveying contract under way to make an as-built plan of the entire transmission line.	

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION DURING THE TRANSFER NEGOTIATIONS FOR THE EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering:
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
• Land and Land rights data for: 1. The power plant and associated structures including the tailrace channel 2. The substations and switchyard 3. The transmission line rights-of-way and access to the rights-of-way 4. Other properties to be transferred	This will be compiled as part of transition activities (letter of March 13, 1996)	
◦ List of all outstanding contracts and commitments, including informal agreements: For example, it is understood that APA has an understanding that the Fish Hatchery may use some storage areas in the Eklutna warehouse. It is also understood that APA sometimes provides road maintenance and snow removal services in the park area. Such agreements and understandings should be listed.	This has been provided to The McCormick (and other purchasers) as part of transition activities (letter of March 13, 1996)	
◦ List of vehicles and other on road and off road equipment.	This will be compiled as part of transition activities (letter of March 13, 1996)	
◦ List of all major items of spare parts and spare equipment.	This will be compiled as part of transition activities (letter of March 13, 1996)	

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION
DURING THE TRANSFER NEGOTIATIONS FOR THE
EKLUTNA HYDRO-SUSITNA PROJECT

(see also the separate list covering
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
• List of physically separated sites that are to be included in the transfer, such as the power plant itself, the USGS station house, the separate cabins, storage yards, transmission line and substation.	APA is collecting this and will provide this as part of the transition process (letter of March 13, 1996)	

EXHIBIT D

The Eklutna Asset List comprises:

1. **Eklutna Project Personal Property in 8 pages**
2. **Eklutna Property Inventory, Major Equipment, in 7 pages**
3. **Eklutna Project Furniture Inventory in 4 Pages**

The Eklutna Purchasers Asset Lists of Utility owned items on Eklutna Project sites:

1. **CEA Inventory Letter of May 22, 1996 in 2 pages**
2. **MEA Inventory Letter of April 1, 1996 in 2 pages**
3. **ML&P Inventory Letter of April 24, 1996 in 2 pages**

TOTAL PAGES 25

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
1	1966 Allis Chalmers Dozer	6606	1ea	Warehouse	Fair	8410.6
2	1993 John Deere Dozer	T0450GF795714	1 ea	Warehouse	Good	00382
3	1994 Ford Dump Truck	1FDXK84EXRVA26419	1 ea	Warehouse	Good	48761
4	1962 Studebaker Dump Truck	7E40A	1 ea	Warehouse	Fair	48766
5	1960 2-1/2 Ton Boom Truck	140285	1 ea	Warehouse	Fair	48768
6	1957 Caterpillar Motor Grader	8T21663	1 ea	Warehouse	Fair	48769
7	1987 Ford 555B Backhoe	C771016	1ea	Warehouse	Good	23
8	Thiokol Rangemaster	67B9370	1 ea	Yard	Fair	5122.1A
9	1988 Jeep Cherokee	1JCML7710JT157056	1 ea	Garage	Good	48777
10	1989 Chevy Pickup	2GCEK2ZXK1194266	1 ea	Power Plant	Good	48762
11	1988 Chevy Pickup	1GCDK14H4JE124133	1 ea	Power Plant	Good	48776
12	1994 Chevy Pickup	1GCEK14H2PE224566	1 ea	Power Plant	Good	48770
13	1994 Chevy 1- Ton/Snow Plow	1GDHK34K9PE563972	1ea	Garage	Good	48758
14	1985 Dodge Pickup	1B7HW14HXFS657165	1 ea	Warehouse	Fair	48765
15	1984 Dodge Line Truck	1B7KW34W2ES311402	1 ea	Warehouse	Fair	48767
16	Stihl Chainsaw	227850872	1 ea	Warehouse	Good	331
17	Stihl Chainsaw	227850894	1 ea	Warehouse	Good	332
18	Stihl Chainsaw	227850861	1 ea	Warehouse	Good	330
19	Stihl Chainsaw	227850901	1ea	Warehouse	Good	333
20	Homelite Chainsaw	8L14907A1	1 ea	Warehouse	Fair	116
21	Homelite Chainsaw	HK2230297	1 ea	Warehouse	Fair	117
22	Homelite Chainsaw	HK2190954	1 ea	Warehouse	Fair	118
23	Homelite Chainsaw	7E2772322	1 ea	Warehouse	Fair	6625.27
24	Onan Generator	25C815072	1 ea	Warehouse	Fair	3375.9
25	Onan Generator	3375.8	1 ea	Warehouse	Fair	3375.8
26	Johnson Outboard Motor	1188798	1 ea	Warehouse	Fair	5055.1
27	Lawn Mower - Wheeler	228270	1 ea	Warehouse	Good	7

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
28	Lawn Mower - Toro	T 236	1 ea	Warehouse	Fair	N/A
29	Riding Lawn Mower - Sears	3264	1 ea	Garage	Fair	4445.5
30	Lawn Rake	60102	1 ea	Warehouse	Poor	945.1
31	Water Pump	1456266	1 ea	Warehouse	Fair	5940.4
32	Hydraulic Line Press	75L2286	1 ea	Warehouse	Fair	5770.1
33	Hydraulic Pump	2718809	1 ea	Warehouse	Fair	N/A
34	Snow Blower - MTD	314610E000	1 ea	Warehouse	Good	381
35	Homelite Weed Eater	HJ3350430	1 ea	Warehouse	Good	112
36	Lincoln Welder/Generator	3451173	1 ea	Warehouse	Fair	8920.2B
37	Thiokol Range Master		1 ea	Yard	Fair	N/A
38	Capstan Hoist	280097	1 ea	Warehouse	Fair	3850.17
39	1985 Wisconsin Tilting Trailer	1W91SC205F1008162	1 ea	Yard	Good	N/A
40	Shaper Cincinnati		1 ea	Machine Shop	Good	N/A
41	Turret Milling Machine	1011 505367	1 ea	Machine Shop	Good	N/A
42	Lathe Model #957		1 ea	Machine Shop	Good	N/A
43	Metal Cutting Band Saw Model 8C-W	6540581	1 ea	Machine Shop	Good	N/A
44	Bench Grinder Model #508	1338	1 ea	Machine Shop	Good	3490.1
45	Lincoln Welder	A320510	1 ea	Machine Shop	Good	8920.2
46	Pipe threader (Ridgid)	396385	1 ea	Machine Shop	Good	14
47	Black & Decker 10" Bench Saw		1 ea	Machine Shop	Good	N/A
48	Hinsey Bench Grinder	210422	1 ea	Machine Shop	Fair	N/A
49	14" Chop Saw	110037 9309	1 ea	Machine Shop	Good	N/A
50	Cincinnati Drill Press		1 ea	Machine Shop	Good	N/A
51	LeBlond 10" Lathe		1 ea	Machine Shop	Good	N/A
52	Manley Hand Press		1 ea	Machine Shop	Good	N/A
53	Miller CP-300 Welder		1 ea	Machine Shop	Good	N/A
54	HotPoint Clothes Dryer		1 ea	Machine Shop	Fair	N/A

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
55	Norge Clothes Washer		1 ea	Machine Shop	Fair	8865.2
56	Kleen-Flo Parts Washer	606284	1 ea	Machine Shop	Good	N/A
57	Pyrotronics Fire Alarm System System 3		1 ea	Machine Shop	Good	N/A
58	Radionics Security Alarm System		1 ea	Machine Shop	Good	N/A
59	HomeMade Sand Blaster		1 ea	Machine Shop	Good	N/A
60	National Champion Oil Furnace	541920	1 ea	Machine Shop	Fair	21
61	PMG Bearing Puller		1 ea	Machine Shop	Fair	N/A
62	Jet Pump Profile for turning jet pump nozzles		1 ea	Machine Shop	Fair	N/A
63	Oxygen & Acetylene Bottles, Torch & Cart		1 ea	Machine Shop	Good	N/A
64	Vacuum Pump & Motor		1 ea	Machine Shop	Good	N/A
65	2200 lb Portable Crane Hoist (OTC)		1 ea	Generator Floor	Good	N/A
66	Puller	22007	1 ea	Second Level Floor	Good	N/A
67	23 lb Weights for Tightwire readings		4 ea	Second Level Floor	Fair	N/A
68	Portable Oil Press Pump, Oil Filtering System		1 ea	Oil Room	Good	N/A
69	Aluminum Ladder for Draft Tube		1 ea	Third Level	Good	N/A
70	Wicket Gate Stans		1 ea	Third Level	Fair	N/A
71	30 for Hyd Jack	47353	6 ea	Third Level	Fair	5770.3
72	10 to Track Jack		2 ea	Third Level	Fair	N/A
73	Screw Jacks		3 ea	Third Level	Fair	N/A
74	60 ton Portable Hyd 3-in stroke		1 ea	Third Level	Good	N/A
75	10,000 Pst Air Hyd Pump		1 ea	Third Level	Good	N/A
76	20 ton Portable Hyd Ram 1-3/4 in stroke		1 ea	Third Level	Good	N/A
77	20 ton Portable Hyd Ram 3 in stroke		1 ea	Third Level	Good	N/A
78	Hand Portapower Pump		1 ea	Third Level	Good	N/A
79	Portable Oil Furnace with Day Tank		1 ea	Third Level	Fair	N/A
80	Assorted Hand Tools			Machine Shop Office	Fair	N/A
81	Hand Tools			Machine Shop	Fair	N/A

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
82	Assorted Slings, Cables, Eye Bolts, Metric Wrenches, S Hook			Generator Floor	Good	N/A
83	Deck Hatch Eyebolts, Shackles			Generator Floor	Good	N/A
84	Push Button Cord for Stop Log Hoist			Generator Floor	Good	N/A
85	Snugging Wrenches 1" drive sockets			Second Level	Fair	N/A
86	Assorted Spanner Wrenches, Lifting Eye Bolt, Open End Wren			Second Level	Fair	N/A
87	Hatch Lifting Eye Bolt			Second Level	Good	N/A
88	Assorted Allen Wrenches, Open-end Wrenches			Second Level	Fair	N/A
89	Spare Parts: Gov Lube Pump & PMG's			Second Level	Good	N/A
90	Spare Parts: Flyball Prerun Tester			Second Level	Good	N/A
91	Innertube for Butterfly Valve			Second Level	Fair	N/A
92	Turbine Nut Remover for Porta-Power			Second Level	Fair	N/A
93	Turbine Nut Spanner Wrench, Manhole Door Wrench			Third Level	Fair	N/A
94	1 in electric Impact Wrench		1 ea	Third Level	Good	N/A
95	120V AC to 12V DC Light Transformer w/Drop Light		1 ea	Third Level	Good	N/A
96	449 V electric heater		1 ea	Third Level	Fair	N/A
97	Generator Rotor Floor-mount with Bolts		1 ea	Third Level	Good	N/A
98	Generator Rotor Lifting Device		1 ea	Third Level	Good	N/A
99	Runner Shaft Lifting Device		1 ea	Third Level	Good	N/A
100	Floor-mount Hyd Press Rotors		1 ea	Third Level	Fair	N/A
101	Partial Spools ACSR		8 ea	Warehouse	Good	N/A
102	Full Spools ACSR		3 ea	Warehouse	Good	N/A
103	X Braces		25 ea	Warehouse	Used	N/A
104	10" Suspension Insulators		500 ea	Warehouse	Used	N/A
105	7 1/2" Phase Hangers		21 ea	Warehouse	Used	N/A
106	8" Phase Hangers		64 ea	Warehouse	Used	N/A
107	9 1/2" Phase Hangers		117 ea	Warehouse	Used	N/A
108	11" Phase Hangers		21 ea	Warehouse	Used	N/A

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
109	10' Cross Arms		2 ea	Warehouse	Used	N/A
110	25' Cross Arms		6 ea	Warehouse	Good	N/A
111	Boxes Pole Toppers		11 ea	Warehouse	Good	N/A
112	Boxes Aluminum Armor Rod		5 ea	Warehouse	Good	N/A
113	Box Guy Guards		1 ea	Warehouse	Good	N/A
114	Boxes Crossplates Anchors		2 ea	Warehouse	Good	N/A
115	Guy Anchor Rods		24 ea	Warehouse	Good	N/A
116	Vibration Dampers		15 ea	Warehouse	Used	N/A
117	3 Bolt Guy Clamps		120 ea	Warehouse	Used	N/A
118	4 Bolt Guy Clamps		45 ea	Warehouse	Used	N/A
119	3/4" X 2 1/2" Cone Head Bolts		100 ea	Warehouse	Used	N/A
120	Miscellaneous Lag Bolts		75 ea	Warehouse	Used	N/A
121	Square Washers 5/8" Hole		600 ea	Warehouse	Used	N/A
122	Square Washers 1/2" Hole		350 ea	Warehouse	Used	N/A
123	3" X 3" Curved Washers		25 ea	Warehouse	Used	N/A
124	1/2" Lock Washers		100 ea	Warehouse	Used	N/A
125	5/8" Lock Washers		300 ea	Warehouse	Used	N/A
126	3/4" Lock Washers		75 ea	Warehouse	Used	N/A
127	7/8" Lock Washers		150 ea	Warehouse	Used	N/A
128	5/8" Hex Palnuts		150 ea	Warehouse	Used	N/A
129	1/2" Square Lock Nuts		75 ea	Warehouse	Used	N/A
130	5/8" Square Lock Nuts		250 ea	Warehouse	Used	N/A
131	3/4" Square Lock Nuts		200 ea	Warehouse	Used	N/A
132	7/8" Square Lock Nuts		25 ea	Warehouse	Used	N/A
133	1/2" Square Nuts		75 ea	Warehouse	Used	N/A
134	5/8" Square Nuts		250 ea	Warehouse	Used	N/A
135	3/4" Square Nuts		200 ea	Warehouse	Used	N/A

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
136	7/8" Square Nuts		100 ea	Warehouse	Used	N/A
137	7/8" Square Nuts		100 ea	Warehouse	Used	N/A
138	2" X 5/8" Bolts		50 ea	Warehouse	Used	N/A
139	6" X 5/8" Bolts		300 ea	Warehouse	Used	N/A
140	13" X 7/8" Bolts		80 ea	Warehouse	Used	N/A
141	11" X 5/8" Bolts		18 ea	Warehouse	Used	N/A
142	13" X 7/8" Bolts		36 ea	Warehouse	Used	N/A
143	Serving Sleeves		150 ea	Warehouse	Used	N/A
144	Deadend Straps		48 ea	Warehouse	Used	N/A
145	4 Section Pole Band Assemblies		12 ea	Warehouse	Used	N/A
146	3 Section Pole Band Assemblies		22 ea	Warehouse	Used	N/A
147	9" Extension Links		45 ea	Warehouse	Used	N/A
148	3" "U" Bolts		60 ea	Warehouse	Used	N/A
149	Extended Parallel Groove Clamps		22 ea	Warehouse	Used	N/A
150	Offset Guy Clam ps		6 ea	Warehouse	Used	N/A
151	3" X 10" Extension Links		90 ea	Warehouse	Used	N/A
152	Aluminum ACSR "T" Connectors		10 ea	Warehouse	Used	N/A
153	5" Chain Shackles		4 ea	Warehouse	Used	N/A
154	Ball Eyes - Round		4 ea	Warehouse	Used	N/A
155	Hot Line Strain Clamps - Steel		2 ea	Warehouse	Used	N/A
156	Yoke sets - double Strain		2 ea	Warehouse	Used	N/A
157	3" Galvanized Staples		1 bx	Warehouse	Used	N/A
158	15" X 7/8" Bolts		98 ea	Warehouse	Used	N/A
159	17" X 7/8" Bolts		38 ea	Warehouse	Used	N/A
160	21" X 7/8" Threaded Rod		44 ea	Warehouse	Used	N/A
161	7" X 7/8" Threaded Rod		32 ea	Warehouse	Used	N/A
162	9" X 3/4" Threaded Rod		10 ea	Warehouse	Used	N/A

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
163	9" X 7/8" Threaded Rod		10 ea	Warehouse	Used	N/A
164	9" X 1/2" Double Arming Bolts		64 ea	Warehouse	Used	N/A
165	ACSR Splices		69 ea	Warehouse	Good	N/A
166	Suspension Clamps		80 ea	Warehouse	Used	N/A
167	Ball Hooks		50 ea	Warehouse	Used	N/A
168	Ball Clevises		14 ea	Warehouse	Used	N/A
169	Oval Ball Eyes		50 ea	Warehouse	Used	N/A
170	Socket Eyes		200 ea	Warehouse	Used	N/A
171	Twisted Shackles		100 ea	Warehouse	Used	N/A
172	"Y" Clevis Eyes		3 ea	Warehouse	Used	N/A
173	Turn buckles		8 ea	Warehouse	Used	N/A
174	Rod Ground Clamps		10 ea	Warehouse	Used	N/A
175	Straight Line Strain Clamps - Aluminum		5 ea	Warehouse	Used	N/A
176	Guy Hooks		32 ea	Warehouse	Used	N/A
177	Cross Arm Plates		180 ea	Warehouse	Used	N/A
178	Monitor, TV 19"	T6G011789	1 ea	Office	Good	4
179	Recorder, VCR	B6500616	1 ea	Office	Good	5
180	Monitor, Service	2787	1 ea	Warehouse	Good	9
181	Weedeater	1216	1 ea	Warehouse	Good	8
182	Crane, Mobile Lifting	0612P00017	1 ea	Warehouse	Good	102
183	Video Cam 8MM	215700	1 ea	Office	Good	303
184	Microwave Oven		1 ea	Office	Good	305
185	Radio Transceiver Portable	251581	1 ea	Office	Good	321
186	Radio Transceiver Portable	251733	1 ea	Office	Good	322
187	Radio Transceiver Portable	251730	1 ea	Office	Good	323
188	Radio Transceiver Portable	251732	1 ea	Office	Good	324
189	Radio Mobile w/charger	C17002	1 ea	Office	Good	325

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
190	Radio Mobile w/charger	C20041	1 ea	Office	Good	326
191	Radio Mobile w/charger	C38034	1 ea	Office	Good	327
192	Radio Hand Held Portable w/charger	EPU 4142A 223931	1 ea	Office	Good	335
193	Radio Hand Held Portable	EPU-4142A-225904	1 ea	Office	Good	336
194	Canon Telefax	WBL09376	1 ea	Office	Good	338
195	Copier, Monroe Office Copier		1 ea	Office	Good	383
196	Binoculars		1 ea	Office	Good	560.5
197	Blueprint Machine	7394	1 ea	Garage	Good	680.2
198	Camera 35 MM		1ea	Office	Good	1155.2
199	Freezer, Upright		1 ea	Office	Good	2800.4
200	Freezer, Chest	42M0551WW-1053528	1 ea	Office	Good	3260
201	Radio Transceiver, Walki-Talkie	738160847	1 ea	Office	Good	6036.36
202	Radio Transceiver, Walki-Talkie	738161047	1 ea		Good	6036.38
203	Radio, Transceiver, Walki-Talkie	841377501	1 ea		Good	6036.47
204	Radio, Transceiver, Walki-Talkie	843225402	1 ea		Good	6036.48
205	Table Radial-Arm Saw	107112	1 ea		Good	6625.14
206	Table Saw	KSSSFN-349	1 ea		Good	6625.23
207	Chain Saw	200530067	1 ea	Warehouse	Good	6625.25
208	Chain Saw	35431879	1 ea	Warehouse	Good	6625.26A
209	BandSaw	80754	1 ea	Warehouse	Good	6625.29
210	Trlr Diesel Tank	AV-255119	1 ea		Good	8450.8
211	Welder & Generator Combo	AC-225-S	1 ea	Warehouse		8920.3A
212	Welder High Frequency	8326	1 ea	Warehouse	Good	8920.6
213	Wrench, Electric Impact	ASL 13941	1 ea	Warehouse	Good	8990.2
214						
215						
216						

EKLUTNA PROPERTY INVENTORY

TRANSFORMER ROOM

2-EA POWER TRANSFORMERS

- Tierney Electrical Manufacturing Co.
- Enclosure Type-1
- KVA - 300
- PH=3
- H2 - 60
- Pri. Volts - 7200
- Sec. Volts - 408/277
- Ser. # 188-6 (SS Buss #2)
- Ser. # 188-5 (SS Buss #1)

2-EA STATION SERVICE DISCONNECT

- Elseco Switchgear Electric Service Engineering Co.
- DS 115 & DS 215

2-EA SINGLE-PHASE TRANSFORMER (Lightening)

- 60 cy 50 KVA
- Volts 480 to 120/240
- Class A-A
- Type DB
- Ser. # 63033 (KCD)
- Ser. # 63034 (KCC)

4-EA AIR CURRENT BREAKER

- GE
- Type AM - 13.8-250-1
- KV - 13.8
- Amps - 2000
- Interrupting KVA - 22,000
- Ser. # 376A355-25-4 (112)
- Ser. # 376A355-25-1 (212)
- Ser. # 376A355-25-5 (118)
- Ser. # 376A355-25-3 (218)

GENERATOR ROOM

2-EA SUMP PUMP MOTOR

- GE
- Model 5K324XA11A
- H.P. 7.5
- Nema Class B
- Type K
- Code G
- Frame - 324PH
- 60 cy - 3 PH
- Volts - 220/440
- FL Speed @ 60 cy - 1160
- FL Amp @ 60 cy - 21.1/10.6
- SER. # RHJ6877121 (#1)
- SER.. # SSSFJ6793973

2-EA TRANSFORMER

- GE
- Dry Type
- Indoor
- 3-phase
- 60 Hz
- Class AA
- Model # 9T26G3106
- kVA - 200
- Hv - 6900
- LV - 260
- SER. # DX

2-EA REGULATOR

- GE
- 1C-7932
- CAT - 05502X0798701
- Elem - 228B9856
- ASM - 228B9864
- Outl. - 228B9852

2-EA GENERATOR

1-EA OVERHEAD CRANE

- Ederer
- 40-ton

BATTERY ROOM

1-EA UPS

- *Best Power Systems*

1-EA EXTERNAL BYPASS SW

- *Best*
- *BYE100-MBB-1*
- *Volts - 277*
- *Cont. AMPS - 80*
- *Max Amps - 100*
- *1 Ph 60 Hz*

2-EA AIR COMP. MOTOR

- *Peerless electric Co.*
- *15 HP*
- *1450/1750 RPM*
- *40°C*
- *3 pH*
- *208-220/440 Volts*
- *50/60 cy*
- *-38/19 Amps*
- *Frame - P326*
- *SER. #LD11287 (#1)*
- *SER. #LD11306 (#2)*

2 EA BATTERY CHARGER

- *Exide*
- *Model SCRF 130-3-100L*
- *Input volts - 480 AC*
- *Input Amps - 28*
- *pH 3 60 Hz*
- *DC Amps 100 DC Volts 130*
- *Cell No. 60*
- *Type Cell - Lead*
- *(A) SER. # 85256-1/7150-1 MG*
- *(B) SER. # 85256-1/7150-2 MG*

60-EA BATTERIES

- *Exide*
- *Norm. Cap. - 320 Amp HR*
- *CAT # 74431*

1-EA WATER STILL

- *Barnstead*
- *SER. # 54839*
- *PH 1*
- *Volts 110*
- *Amps 12*
- *Watts 1300*
- *60 cy*
- *Cap. Gal./Hr - 1/2*
- *Mfg. Cat. No. EL 1/2*

OIL ROOM

1-EA OIL PUMP MOTOR

- *GE*
- *Model 5K225D70*
- *HP 3*
- *Type K*
- *Code J*
- *FR. 225*
- *PH 3*
- *Volts 220/440*
- *60 cy*
- *FL Amps 8.45/4.23*
- *FL Speed 1725*
- *#ZK17054*

GOVERNOR CABINET

2-EA INDUCTION MOTOR

- *Fairbank Morse*
- *10 HP*
- *3 PH*
- *60 cy*
- *220/440 Volts*
- *28/14 Amps*
- *S.F. 1.15*
- *Code G*
- *Type QZK*
- *FR RS326*
- *# F208018 (U-1)*
- *# F208019 (U-2)*

TURBINE ROOM

2-EA AC LUBE OIL PUMP MOTOR

- *BROWN & SHARPE MFG. CO.*
- *3 PH 60 cy*
- *Type PA*
- *FR: H56SP*
- *HP 1/2*
- *Volts - 208-220/440*
- *Amps - 1.6/.8*
- *RPM - 1725/1425*
- *SER. # CZ4726 (U-1)*
- *SER. # AS9225 (U-2)*
- *SER. # AS9213 (Spare)*

2-EA DC LUBE OIL PUMP MOTOR

- Brown & Sharpe Mfg. Co.
- Type - DM
- FR: HJ6SSP
- HP- 1/2
- Volts - 125
- AMPS - 4.1
- RPM - 1725
- SER. # AW2985 (U-2)
- SER. # AW2986 (U-1)
- SER. # DP5299 (Spare)

2-EA GROUNDING TRANSFORMER

JET PUMP ROOM

2-EA LIMITORQUE

- Limitorque Corp.
- SMC - 041
- Order # 10967501
- Duty - 5 min.
- SER. # M058356 (U-2)
- SER. # M058357 (U-1)

2-EA DC MOTOR - RELIANCE

- Type - T
- HP - 33
- Arm. volts - 125
- AMPS - 3.6
- Field volts - 125
- AMP - .4
- FR - FY56
- RPM - 1900
- Duty - 5 min
- ID # W7800783M-RN (U-1)
- ID # W7800783M-RN (U-2)

WATER ROOM

1-EA FIRE WATER PUMP MOTOR

- Fairbanks Morse
- HP 30 - 3-ph - 60 cy
- RPM - 3505
- Volts - 220/440
- AMPS - 72/36
- sf - 1.15
- Code - F
- Type - Q2K
- FR - RW3645
- SER. # F230825

CONTROL ROOM

3-EA AIR CIRCUIT BREAKER

- *Roller-Smith*
- *Type - RS25A*
- *Volts - 600*
- *60 cy*
- *Frame - 600 AMPS*
- *Int. AMP - 25,000*
- *Overload AMP - 400 AMP*
- *SER. # 39165 A1 (022)*
- *SER. # 39165 A2 (033)*
- *SER. # 39165 B1 (012)*

BUTTERFLY CONTROL CABINETS

2-EA PUMP MOTOR

- *Reliance Electric*
- *Type - ML*
- *FR - 284*
- *HP - 5*
- *RMP - 1200*
- *Volts - 230/460*
- *AMPS - 16/8*
- *SER. # 85707 (U-2)*
- *SER. # 85706 (U-1)*

TURBINE ROOM

2-EA JACKING PUMP MOTOR

- *Oerlikon*
- *RPM - 645*
- *Volts - 460*
- *HP - 1.8*
- *3 PH*
- *SER. # 878000L01.2 (U-2)*
- *SER. # 878000L01.1 (U-1)*

SWITCHYARD

2-EA TRANSFORMERS

- *Hevi-Duty Electric*
- *KVA 20000 - Class OA - Rise 65^{0}C*
- *KVA 25000 - Class FA - Rise 65^{0}C*
- *HVV - 115000 GRD Y*
- *LV - 6600 DELTA*
- *3 PH*
- *Impedance 10.74 cy at 20000 kVA*
- *YR. of MFG - 1995*
- *SER. # GM 931037 (KW2A)*
- *SER. # GM 931036 (KW1A)*

MACHINE SHOP

1-EA TRANSFORMER

- Dry Type
- 3 PH
- High Voltage - 480
- Low Voltage - 208Y/120
- 60 Hz
- CRT # 223-3234
- kVA - 75
- SER. # J8201-A

ROOF

2-EA POWER CIRCUIT BREAKERS

- ABB
- Type - 121 PA 40-12B
- Max Volts - 121 kV
- Short Circuit Current - 40KA
- Freq - 60 Hz
- Cont. Current - 1200 AMPS
- Interrupting Time - 3 cy
- SER. # 000901-02 (462)
- SER. # 000901-01 (362)

EKLUTNA PROJECT FURNITURE INVENTORY

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
1	Metal Desks		2 ea	Bob's Office	Fair	N/A
2	Chairs		3 ea	Bob's Office	Worn	N/A
3	Van Seat		1 ea	Bob's Office	N/A	N/A
4	File Cabinet		1 ea	Bob's Office	Fair	N/A
5	Metal Desks		2 ea	Bill's Office	Fair	N/A
6	Storage Cabinets		1 ea	Bill's Office	Fair	N/A
7	Tables		2 ea	Control Room	Good	N/A
8	Chairs		2 ea	Control Room	Good	N/A
9	Metal Desk		1 ea	Control Room	Good	N/A
10	File Cabinet		2 ea	Control Room	Fair	N/A
11	Storage Cabinet		1 ea	Control Room	Fair	N/A
12	Storage Cabinet		3 ea	Transformer Room	Fair	N/A
13	File Cabinet		5 ea	Transformer Room	Fair	N/A
14	Shelf Units		4 ea	Transformer Room	Fair	N/A
15	Blueprint Storage Cabinets		5 ea	Transformer Room	Fair	N/A
16	Tables		2 ea	Transformer Room	Fair	N/A
17	Roll-out Storage Unit		1 ea	Transformer Room	Fair	N/A
18	Metal Desk		1 ea	Transformer Room	Fair	N/A
19	Blueprint Storage Rack		1 ea	Transformer Room	Good	N/A
20	Stool		1 ea	Transformer Room	Fair	N/A
21	Roll-out Stand		1 ea	Transformer Room	Fair	N/A
22	Shelving Units		2 ea	Powerhouse Basement	Fair	N/A
23	Chair		1 ea	Powerhouse Governor Level	Fair	N/A
24	Work Bench		1 ea	Powerhouse Governor Level	Poor	N/A
25	Storage Cabinet		1 ea	Powerhouse Governor Level	Fair	N/A
26	Shelf Unit		1 ea	Powerhouse Governor Level	Fair	N/A
27	Locker		1 ea	Powerhouse Governor Level	Fair	N/A

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
28	Locker		14 ea	Powerhouse High Bay	Fair	N/A
29	Storage Cabinet		1 ea	Powerhouse High Bay	Fair	N/A
30	Display Cabinet		1 ea	Vestibule	Good	N/A
31	Work Bench		1 ea	Machine Shop	Poor	N/A
32	Multiple Drawer Storage Units		4 ea	Machine Shop	Fair	N/A
33	Storage Cabinets		4 ea	Machine Shop	Fair	N/A
34	Storage Bins		1 ea	Machine Shop	Fair	N/A
35	Flammable Storage Cabinets		2 ea	Machine Shop	Good	N/A
36	File Cabinets		13 ea	Office	Good	N/A
37	Storage Cabinets		2 ea	Office	Good	N/A
38	Blueprint Storage Cabinets		10 ea	Office	Good	N/A
39	Bookcases		9 ea	Office	Good	N/A
40	Roll-out Shelf Unit		1 ea	Office	Good	N/A
41	Tables		9 ea	Office	Good	N/A
42	Metal Desks		3 ea	Office	Good	N/A
43	Crendenza		1 ea	Office	Good	N/A
44	Telephone tables		2 ea	Office	Fair	N/A
45	Television Stand		1 ea	Office	Good	N/A
46	Computer Center		1 ea	Office	Good	N/A
47	Shelf Unit		1 ea	Office	Good	N/A
48	Work Bench		1 ea	Office	Poor	N/A
49	Stool		1 ea	Office	Fair	N/A
50	Step Stool		1 ea	Office	Fair	N/A
51	Safe		1 ea	Office	Fair	N/A
52	Chairs		14 ea	Office	Fair	N/A
53	Metal Desk		1 ea	Garage	Fair	N/A
54	Bookcases		1 ea	Garage	Fair	N/A

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
55	Chair		1 ea	Garage	Fair	N/A
56	File Cabinet		1 ea	Garage	Fair	N/A
57	Flammable Storage Cabinet		1 ea	Garage	Good	N/A
58	Work Bench		1 ea	Garage	Poor	N/A
59	Multiple Drawer Storage Cabinet		3 ea	Garage	Fair	N/A
60	Shelving Units		4 ea	Garage	Fair	N/A
61	Storage Cabinet		1 ea	Garage	Fair	N/A
62	Metal Shelving Units		60 ea	Warehouse	Fair	N/A
63	Metal circular Shelf Bin		1 ea	Warehouse	Fair	N/A
64	Storage Cabinet		1 ea	Warehouse	Fair	N/A
65	Flammable Storage Cabinet		2 ea	Warehouse	Fair	N/A
66	Tables		4 ea	Warehouse	Fair	N/A
67	Drafting Tables		2 ea	Warehouse	Fair	N/A
68	File Cabinet		1 ea	Warehouse	Good	N/A
69	Chairs		3 ea	Warehouse	Fair	N/A
70	Metal Desks		1 ea	Warehouse	Fair	N/A
71	Wood Storage Bin Unit		2 ea	Warehouse	Fair	N/A
72						N/A
73	Zenith 386-25 Computer	ZBV-3629-GK	1 ea	Office	Good	83
74	IBM 286 Computer	5170	1 ea	Warehouse	Poor	N/A
75	ADS 486 DX66	9405133001	1 ea	Office	Good	339
76	IBM 8088	5150	1 ea	Warehouse	Good	310
77	Zenith 386- Lap Top	ZTC3034-MO	1 ea	Office	Good	N/A
78	COMPUADD 386	516403	1 ea	Office	Good	254
79	Zenith ZCM-1490-Z	941NC0368NOM	1 ea	Warehouse	Good	N/A
80	Zenith ZCM-1490-Z	944ND0164NOM	1 ea	Warehouse	Good	N/A
81	ADS RE 1450	US9405133002	1 ea	Office	Good	N/A

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
82	IBM	478117	1 ea	Warehouse	Good	N/A
83	Okidata 93 DM Printer	10333294	1 ea	Office	Good	311
84	Epson FX1050 Printer	0E11020765	1 ea	Warehouse	Good	N/A
85	Citizen Premier 35 Printer	6X125215	1 ea	Warehouse	Good	308
86	HP LazerJet IIIP	FANB327377	1 ea	Office	Good	179
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CHUGACH ELECTRIC
ASSOCIATION, INC.

The following is an inventory of Chugach owned equipment at the Anchorage Substation:

- One (1) 115 kV circuit breaker, Westinghouse
  Breaker # 2409

- Four (4) 115 kV capacitor voltage transformers, Trench Electric
  Each transformer is mounted on a steel support structure
  CEA #'s: PT 125
  PT 126
  PT 127
  PT 128

- Two (2) 115 kV disconnect switches, Royal/Powerdyne
  Mounted on wood pole structure
  - Switch #'s SS201 and SS301

- Three guyed poles terminating 115 kV line from University Substation

- Three guyed poles terminating 115 kV line from Elmendorf Power Plant

- Satellite receiver system, Trimble
  Mounted on wood pole adjacent control building

The following equipment is located inside the control building:

- One (1) RTU cabinet

- One (1) dip-link cabinet

- One (1) Relay panel containing relays, switches, meters, and satellite clock receiver
  Relay panel designation: "CEA 115 kV Line to University"

- One (1) AC distribution panel and meterbase with meter
  Panel designation: Panel DH0

5601 Minnesota Drive • P.O. Box 196300 • Anchorage, Alaska 99519-6300
Phone 907-563-7494 • FAX 907-562-0027

Chugach also owns the following equipment located at the Eklutna Generation Plant:

- One (1) Harris-Westronic D-20 SCADA Remote Terminal Unit (RTU) and a slip link option mounted on the adjacent wall. This equipment is located downstairs below the control room in approximately vicinity of the State of Alaska microwave equipment.

Sincerely,

Jim K. Topalski
Manager, Land Services

Concur:

Michael V. Dillon
General Foreman, APA

U.S. Department of Energy
Alaska Power Administration
Eklutna Project
4 Mile Old Glenn Hwy.
HC 02, Box 7785
Palmer, AK 99645
(907) 745-3931

April 1, 1996

Mr. Jim Hall, Projects Manager
P.O. Box 2929
Palmer, AK 99645

Dear Jim:

The following is the result of our area inventory on March 28, 1996:

On this date Jim Hall, Matanuska Electric Association (MEA) and Michael V. Dillon, Alaska Power Administration (APA) toured the listed facilities. Ownership of various equipment at these facilities was established and mutually agreed upon. In some cases it is better to indicate by exception the equipment owned by one or the other organization.

PALMER SUBSTATION

All APA owned except:
Breaker B627 - MEA
Station Service Transformer 3237 - MEA

DOW TAP

Disconnect Switch #365 - APA
Disconnect Switch #371 - MEA

EKLUTNA POWER PLANT

All APA except:
RTU - MEA
4 ea 833 kVA Single Phase 6600-7200 Transformers- MEA
3 installed (Camp Line) - MEA
1 Spare - MEA

REED SUBSTATION

All MEA except:
High Side Dead End - APA
781 Disc SW - APA
760 GND SW - APA
115 kV Fuses - APA
Property and fence - APA

PIPPLE TAP

MEA - RTU house and all contents including the DC supply for the switch motor operators

Take Off Structure

APA - 561 Disc SW
560 GND SW
571 Disc SW
570 GND SW
Motor Operators for 561 and 571
Dead End Structures
Property and fence

BRIGGS TAP

All MEA except: 1271 Disc SW less motor operator- APA
1261 Disc SW manual Op only- APA
Property and fence - APA

CEA: Power Pot 115 kV 50 kVA

Sincerely,

Michael V. Dillon
General Foreman

cc: Nick French, APA
Tim McConnell, AML&P

CONCUR:

Michael V. Dillon 4-1-96
Michael V. Dillon Date
General Foreman

CONCUR:

James Hall 4-1-96
Jim Hall Date
Projects Manager

Municipality of Anchorage
Rick Mystrom, Mayor

Municipal Light & Power
1300 East First Avenue
Anchorage, Alaska 99501-1685
Telephone: (907) 279-7671, Telecopier: (907) 263-5304, 277-9273

ML&P Inventory of Property at Eklutna
April 24, 1996

ANCHORAGE SUBSTATION YARD:

- Two (2) pilot wire protection cabinets, Lloyd Controls
- One (1) three-phase 115 kV oil circuit breaker, type V, Allis Chalmers, Breaker #1162
- One (1)Switching structure and attached switches and insulators
- Switches
  One (1) ABS 1163
  One (1) ABS 1161
  One (1) GND Switch 1160
  One (1) By Pass Switch 1169
- Three (3) Potential transformers, three-phase, low side
- Six (6) line poles (dead end) and insulators

ANCHORAGE SUBSTATION CONTROL BUILDING:

- One (1) Center panel left side Quantum Watt Hour Meter #84878233, KVA & KVAR in-and-out
- Center panel right side ML&P:
  Three (3) Amp Meter
  Two (2) Volt Meter
  One (1) Synch Scope and Control Switches
- ML&P RTU relays for APA South line:
  Two (2) phase zone timers
  One (1) KD11 (phase-to-ground)

ANCHORAGE SUBSTATION CONTROL BUILDING (continued):

- Panel 6R: Relays for APA South line:
  Two (2) phase zone timers
  One (1) Inst. overcurrent relay
  One (1) pilot wire relay

- Panel 9R:
  Two (2) Timers
  One (1) Instantaneous fault Detection
  Three (3) Synch Check Relays
  One (1) Pilot Wire Relay
  One (1) KD 10 relay
  Two (2) Phase zone timers
  One (1) Instantaneous fault detector
  Three (3) Synch check relays

- Back Wall
  One (1) 19" Rack
  One (1) Granger Radio Equipment

- One (1) ML&P Padmounted Transformer #5217 7200V/120/240V

- One (1) ML&P Station Service Meter
  Miscellaneous Antennas on pole adjacent to control building

EKLUTNA PLANT:

- One (1) ML&P RTU

- Dunstan Controller and computer equipment for AGC/SCADA

As inventoried on April 24, 1996, by:

Timothy F. McConnell
Manager, Power Management, ML&P

Michael V. Dillon
Eklutna General Foreman, APA

EXHIBIT E

Eklutna Purchasers
Manner of Acting, Functional Responsibilities, and Staffing

EXHIBIT E

Eklutna Purchasers
Manner of Acting, Functional Responsibilities, and Staffing

PREAMBLE: The following is the general delineation of responsibilities for the Eklutna Project under ownership and operation of the Eklutna Purchasers and will provide for efficient management during normal and contingency operation. The Eklutna Purchasers expect these responsibilities will normally be carried out by the utility so assigned in this Exhibit E. Any Purchaser desiring to contract out or transfer between Eklutna Purchasers the performance of its responsibilities as designated in this Exhibit E shall first obtain approval for the change from APA and an operating committee (herein later defined as the Eklutna Operating Committee) which will be established prior to the Transition Date. The Parties intend to execute detailed transition agreements prior to the Transition Date.

(A) Manner of Acting.

(1) Transition Period. A transition period commencing on the Transition Date and concluding on the Transaction Date is anticipated to enable the Eklutna Purchasers to become familiar with the skills and work load necessary for prudent operation of the Eklutna Project. During that time, the current staff, now employed by APA, who may be offered employment by the Eklutna Purchasers and who may accept such offers will serve in the capacities described below, and the costs associated with their work on the Eklutna Project shall be paid by the Eklutna Purchasers in proportion to their respective Eklutna Project shares. Should those offered employment choose not to remain, their function(s) shall continue to be performed by the Purchasing Utility(s) responsible for those functions as that Utility

determines and with the approval of the Eklutna Operating Committee (EOC).

(2) Post Transaction Date Period. The Eklutna Purchasers agree that unless modified by the double majority voting provisions set forth in Section (A)(3) below, division of responsibilities set forth in this Exhibit E will form the basis for operations subsequent to the Transaction Date.

(3) Eklutna Operating Committee (EOC). The EOC consisting of one representative from each of CEA, MEA, and ML&P shall be formed for the management of the Eklutna Project. The EOC shall manage the Eklutna Project as authorized by APA and as agreed to by the Parties, commencing on the Transition Date. The EOC shall meet at least quarterly or more often at the request of any member with the first meeting to be held not later than June 30, 1996. The Chairman of the EOC shall be the ML&P representative until the end of the calendar year 1997. The Chairmanship thereafter shall rotate among the Eklutna Purchasers at the first meeting of each calendar year in the following order: CEA, MEA, and ML&P. Decisions of the EOC will be by double majority (a vote of two of the three Eklutna Purchasers whose shares total at least 51% of the Eklutna Project shares) unless otherwise agreed to by the Eklutna Purchasers in the Ownership and Operating Agreement to be executed by and among the Eklutna Purchasers not later than one year prior to the Transaction Date or at such time as otherwise agreed to by the Eklutna Purchasers. During the Transition Period, decisions by the EOC will be advisory in nature to APA unless specific authority is granted to the EOC by APA under mutually agreeable terms.

(4) Responsibilities of the EOC. Responsibilities of the EOC shall include:

(a) Prompt and Effective Oversight. The prompt and effective attention of the EOC shall be given to major maintenance and operating concerns or other conditions interfering with the safe and efficient operation of the Eklutna Project.

(b) The EOC shall ensure preparation of:

(i) An Eklutna Project Budget;

(ii) An Eklutna Project Status Report for distribution to each Eklutna Purchaser (and to APA prior to the Transaction Date) that will include monthly summaries, by each Eklutna Purchaser, of Eklutna Project energy, capacity, and wheeling schedules (to include losses and inadvertent power flows);

(iii) A monthly revenue report;

(iv) Reliability and scheduling occurrences causing significant power quality or scheduling deviations to the Eklutna Purchasers;

(v) Status report of EOC action items;

(vi) An annual energy allocation for each of the Eklutna Purchasers prior to each water year; and

(vii) Notification of any known limiting factors through the following quarter that would constrain any capacity or energy (including any transmission constraints).

(B) Functional Responsibilities. Duties and responsibilities may be revised and clarified under the terms of the Ownership and Operating Agreement to be executed prior to the Transaction Date or by action of the EOC. The functional responsibilities for the administration, operation, and maintenance of the Eklutna Project are as follows:

(1) Operation of the Eklutna Plant and Switchyard. MEA will operate the Eklutna Plant and Switchyard. CEA and ML&P will provide advice and assistance to MEA as requested by MEA or the EOC. The operator's duties, to the extent authorized by the Eklutna Project operating budget or as otherwise funded shall include:

(a) Providing on-site personnel as required to meet the needs of the Eklutna Project as determined by the EOC and the Eklutna Project operating budget;

(b) Bringing to the attention of the Eklutna Project Maintenance Superintendent or the EOC required Eklutna Project work essential to the safe and prudent operation of the Plant and Switchyard; and

(c) Coordinating the daily activities pursuant to these responsibilities with the ML&P Dispatch Center. The ML&P Dispatch Center shall have supervisory control over all switching functions and generator loading.

(2) Maintenance of the Eklutna Plant and Switchyard. ML&P will maintain the Plant and Switchyard. ML&P's general duties, to the extent authorized by the Eklutna Project operating budget or as otherwise funded shall include:

(a) Maintaining the Plant and Switchyard, including SCADA and communication equipment, to meet the needs of the Eklutna Purchasers as determined by the EOC and the Eklutna operating budget; and

(b) Providing a qualified and designated Eklutna Project Maintenance Superintendent who shall be responsible for:

(i) Developing a daily maintenance schedule for the Eklutna Plant in coordination with the operating utility's management, and as approved by the EOC;

(ii) Developing and implementing the preventive maintenance plans for the Eklutna Project as approved by APA and the EOC; and

(iii) Overseeing, on behalf of the EOC, all Eklutna Project maintenance in progress, with authority to suspend or modify such work as required to comply with the schedules and plans approved by APA and the EOC;

(iv) Bringing to the attention of the EOC required Eklutna Project work essential to the safe and prudent operation and maintenance of the Plant and Switchyard and performing or causing to be performed such required Eklutna Project work;

(v) Preparation of preliminary annual budget estimates for the Eklutna Project for submittal to MEA; and

(vi) Other Eklutna Project duties as assigned by ML&P pursuant to the above responsibilities, and with the concurrence of the EOC.

(3) Dispatch of the Eklutna Project. ML&P will dispatch the Eklutna Project. ML&P's general duties, to the extent authorized by the Eklutna Project operating budget or as otherwise funded shall include:

(a) Scheduling and dispatching plant capacity and energy to meet the needs of the Eklutna Purchasers in accordance with procedures established by the EOC, and under the ML&P automatic generation control (AGC) system. This will include the collection of SCADA data and other information sufficient to record all wheeling over Eklutna Project transmission lines; and

(b) Directing and controlling all switching, tagging and clearance activities for the Eklutna Project; and

(c) Honoring each Eklutna Purchaser's scheduling requests to the extent possible within the operating guidelines established by the EOC.

(4) Transmission Line and Substation Operation, Maintenance, and Repair.

(a) Facilities. As directed by the EOC and within the limitations of the Eklutna Project operating budget, CEA, ML&P, and MEA will be responsible for the operation, maintenance, and repair of the transmission segments and substations as follows:

(i) CEA—for the dual circuits on steel towers from Fossil Creek to the tap behind the Totem Theater in accordance with its May 1, 1980, agreement with APA;

(ii) ML&P—for the tap and lines from the above CEA maintained circuit to the Anchorage Substation, and the Anchorage Substation; and

(iii) MEA—for all remaining Eklutna Project transmission lines, the Palmer and Reed Substations, and the Wasilla radio relay site.

(iv) All costs for construction, operation, or maintenance of taps and facilities owned individually by ML&P, CEA, and MEA will be borne by that respective utility and not considered an Eklutna Project cost.

(b) Maintenance Activities. Transmission line and substation maintenance shall be performed in accordance with the plans approved by the EOC. As directed by the EOC and within the limitations of the Eklutna Project operating budget, the daily activities pursuant to these responsibilities shall be coordinated with the Eklutna Project Dispatcher in accordance with procedures approved by the EOC. General duties,

to the extent authorized by the Eklutna Project operating budget or as otherwise funded shall include:

(i) Maintaining Eklutna Project transmission lines and Eklutna Project substations so as to meet the needs of the Eklutna Purchasers; and

(ii) Bringing to the attention of the EOC required Eklutna Project work essential to the safe and prudent operation and maintenance of the Eklutna Project transmission lines and Eklutna Project substation equipment, and performing or causing to be performed such required Eklutna Project work to the extent existing obligations require or funds are made available for such work.

(5) Dam Maintenance and Inspections. As directed by the EOC and within the limitations of the Eklutna Project operating budget, CEA is responsible for advising the EOC on dam and waterway maintenance to include penstock, tailrace, and embankments, for ensuring required safety inspections are completed as may be prudent or required, and for bringing to the attention of the EOC such required Eklutna Project work on and along the waterways necessary to ensure safe and efficient operation of the Eklutna Project. The daily activities pursuant to these responsibilities shall be coordinated with the Eklutna Project Maintenance Superintendent and the Eklutna Project Dispatcher.

(6) Environmental Regulatory Compliance. CEA is responsible for advising the EOC on required procedures, inspections, and other actions required to ensure compliance with environmental mandates. General duties shall include periodic inspection of Eklutna Project related operations and review and coordination with APA of Eklutna Project environmental requirements.

(7) Fleet Maintenance. MEA has the responsibility for fleet maintenance, and shall take title to the titled vehicles subject to the rights of the other

Eklutna Purchasers on the Transaction Date. The daily activities pursuant to these responsibilities shall be coordinated with the Eklutna Project Maintenance Superintendent.

(8) Annual Budgeting, Billing, and Accounting. MEA will prepare the annual budget estimates; customary financial reports; billings for Eklutna Project Power, wheeling, and other benefits; other reports now being accomplished by the APA administrative staff at the Eklutna Plant; and other tasks as may be requested by the EOC. The Eklutna Project Maintenance Superintendent will provide preliminary Eklutna Project cost estimates for the annual budget to MEA to begin the annual budget process. MEA will also be responsible for billing the Eklutna Purchasers for all advanced costs and for payment of same, subject to cash management procedures established by the EOC. Each utility shall submit its requested reimbursement items to MEA for payment on a monthly basis. During the transition period, APA will calculate billing per the Power Sales Contract, and will submit a single combined monthly bill to the Eklutna Purchasers.

(9) Purchasing. Individual Eklutna Project invoices for tools, equipment, supplies, and contract services up to $2,000 may be approved by each utility pursuant to its responsibilities as described herein, but may not exceed a quarterly limit as prescribed by the EOC in its annual operating budget. All contracts or payment of invoices for more than $2,000 will normally require EOC approval, but this is not intended to constrain or delay necessary purchases to meet an emergency.

(10) Right-of-Way Authority. Right-of-way authority for third party requests will remain the responsibility of APA until such time as it is transferred to the Eklutna Purchasers.

(C) Staffing.

Beginning on the Transition Date, the Eklutna Purchasers anticipate the following APA employees shall, effective on the Transition Date, become employees of the utilities as follows.

Planned Eklutna Project Staff Assignments For The Transition Period:

Mike Dillon	Eklutna Project Maintenance Superintendent to ML&P
Amerilis Foster	Administrative Assistant to MEA
Bill Murphy	Maintenance Mechanic to MEA
Bob Plumley	Plant Mechanic to MEA
John Rivera	Plant Electrician to MEA

Terms and conditions of employment shall be developed as soon as practicable to enable a smooth transition to operation of the Eklutna Project by the Eklutna Purchasers.

EKLUTNA HYDROELECTRIC PROJECT

Agreement for Extension of

"1996 EKLUTNA HYDROELECTRIC PROJECT TRANSITION PLAN"

by and among

THE MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER;
CHUGACH ELECTRIC ASSOCIATION, INC.; and
MATANUSKA ELECTRIC ASSOCIATION, INC.

EKLUTNA HYDROELECTRIC PROJECT

Agreement for Extension of

"1996 EKLUTNA HYDROELECTRIC PROJECT TRANSITION PLAN"

by and among

THE MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC.

The parties to this Agreement are the Eklutna Purchasers as defined in the 1996 Eklutna Hydroelectric Project Transition Plan (Transition Plan). The Eklutna Purchasers recognize that common interests exist regarding the ownership, operation, and maintenance of the Eklutna Project. The Eklutna Purchasers hereby extend the Transition Plan as modified by this Agreement.

The Eklutna Purchasers further recognize that obligations of the Eklutna Purchasers under the terms of the Alaska Power Administration Asset Sale and Termination Act, as well as obligations of the Alaska Power Administration and successor agencies, continue beyond the Transaction Date, and that the execution of this Agreement in no way relieves the Alaska Power Administration nor any Purchaser of such continuing obligations.

All capitalized terms not defined herein shall have the same meaning given them in the Transition Plan (including exhibits).

Therefore, the Parties agree to extend the Transition Plan as follows:

THIS Agreement for the Extension of the Transition Plan incorporates by reference the following documents and all of the rights, obligations, requirements, and provisions therein:

The 1996 Transition Plan, consisting of thirteen Sections contained on ten pages; incorporating therein, specifically:

Exhibit A, consisting of 33 pages;
Exhibit B, consisting of 5 pages;
Exhibit C, consisting of 12 pages;
Exhibit D, consisting of 25 pages; and,
Exhibit E, consisting of 9 pages.

THE Parties further agree to the following modifications with regard to the 1996 Transition Plan by this Agreement:

1. The Transition Plan will not expire upon completion of the tasks specified therein. However, the arrangements and timetable for transfer of operations, maintenance, and power marketing, as well as operation, maintenance, and administration of the Project will no longer require consultation with APA, nor will office space and access be provided for an APA real estate person after the Transaction Date. (Reference: Transition Plan Section 2 and Section 5)

2. The transfer of data and documents to the Eklutna Purchasers after the Transaction Date shall occur no later than January 1, 1998. (Reference: Transition Plan Section 7)

3. The effective date of this Agreement shall be the Transaction Date, but in any event no later than November 28, 1997.

4. The division of responsibilities among the Eklutna Purchasers after the Transaction Date will be as described in Exhibit E, Paragraph (A)(2).

5. The sixth sentence of Paragraph (A) (3) of Exhibit E is modified to delete reference to an "Ownership and Operating Agreement," and as so modified reads as follows: "Decisions of the EOC will be by double majority (a vote of two of the three Eklutna Purchasers whose shares total at least 51% of the Eklutna Project shares) unless otherwise agreed to by the Eklutna Purchasers."

THE parties further agree to the following in regard to the ownership, operation, and maintenance of the Eklutna Project:

1. An Eklutna Purchaser's interest in the Eklutna Project will not be modified or changed by any assignment or transfer, except upon consent of each Eklutna Purchaser. An Eklutna Purchaser's interest may be transferred or assigned among the Eklutna Purchasers in proportion to their respective Project interest or by such other allocation as to which each Eklutna Purchaser agrees. Transfer or assignment of an Eklutna Purchaser's interest to entities other than an Eklutna Purchaser will be subject to a first right of refusal by the remaining Eklutna Purchasers, with such right to be exercised within 180 days of receipt of written notification. If no remaining Eklutna Purchaser elects to acquire such interest, the transferring Eklutna Purchaser shall indemnify the remaining Eklutna Purchasers for all expenditures which would not otherwise be required, but for which the Eklutna Project becomes obligated in meeting licensing requirements and regulations which were exempted for the original Eklutna Purchasers under the Alaska Power Administration Asset Sale and Termination Act.

2. The terms and conditions of this Agreement will apply to any successor or assign of an Eklutna Purchaser, whether such succession or assignment results from security assignment, merger, acquisition, or any other disposition by the Eklutna Purchaser of its Eklutna Project share.

3. Exhibits A through D of the CONTRACT FOR ELECTRIC SERVICE TO THE CHUGACH ELECTRIC ASSOCIATION, INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; AND MUNICIPALITY OF ANCHORAGE, MUNICIPAL LIGHT & POWER, Contract No. DE-SC85-95AP10042 shall continue in effect until such time as revised or terminated by action of the EOC. Should any part of these Exhibits A through D conflict with the Transition Plan as modified by this Agreement, the Transition Plan shall prevail.

Dated at Anchorage, Alaska this 2nd day of October 1997.

Municipality of Anchorage

Larry D. Crawford
Municipal Manager

Chugach Electric Association, Inc.

Eugene N. Bjornstad
General Manager

Matanuska Electric Association, Inc.

Wayne D. Carmony
General Manager

The APA hereby states its non-objection to the foregoing Agreement for Extension of "1996 EKLUTNA HYDROELECTRIC PROJECT TRANSITION PLAN"

Alaska Power Administration, a unit of the U.S. Department of Energy

Rodney L. Adelman
Administrator

RECOMMENDED:

Anchorage Municipal Light & Power

Hank Nikkels
Acting General Manager

APPROVED AS TO FORM:

MUNICIPALITY OF ANCHORAGE

Mary K. Hughes
Municipal Attorney

RECOMMENDED:

MUNICIPALITY OF ANCHORAGE

George J. Vakalis
Operations Manager

EXHIBIT A

OPERATING AGREEMENT

EXHIBIT A

OPERATING AGREEMENT

1. An operating committee consisting of one representative from each of APA, Chugach, MEA and ML&P shall be formed to decide or resolve operational matters not specified in the contract. The committee shall meet as necessary but not less than annually. The committee is not empowered to change any of the contract provisions. Committee decisions shall be by majority vote with each representative having equal weight.

2. Chugach's share of capacity and energy is 9/30, MEA's share of capacity and energy is 5/30, and ML&P's share of capacity and energy is 16/30.

3. Each Contracting Utilities shall have the right to schedule during any hour its share of the plant capacity to generate power using its own energy allocation as needed to meet its own system loads, provided its energy account is not less negative than 22500 times its share of capacity. (Example: Chugach -6750 MWh= -22500x9/30) A Contracting Utilities may utilize the capacity share of another Contracting Utilities with its own energy allocation if that other Contracting Utilities is not using the capacity and agrees to the use.

4. Spinning reserves from the plant shall be allocated to each Contracting Utilities on a pro rata basis on its share of project capacity net of any project generation scheduled by the Contracting Utilities. Any Contracting Utilities may schedule its full capacity share, if both units are then capable of operation at full output, by scheduling at least 5 MW of energy for that hour in which case both units will be operated by the dispatcher.

5. The net energy diverted by AWWU shall be deemed to have been energy delivered to and purchased by ML&P. The net energy diverted shall be calculated by subtracting the energy delivered to MEA by the Eklutna Water Treatment Plant energy recovery system from the amount of energy that could have been produced by the Eklutna Power Plant if the water delivered to the water treatment plant had instead been run through the power plant. AWWU shall either pay ML&P for the net energy diverted or replace it in kind as determined by separate agreements among APA, AWWU and ML&P.

6. At the beginning of each year, APA shall allocate all energy available for that year among the Contracting Utilities in proportion to their shares. All energy available shall be allocated unless there is a significant planned outage for that year. Whenever conditions significantly change the total energy available, APA shall allocate the change among the Contracting Utilities in proportion to their shares. For purposes of

allocating power and keeping track of energy account balances only, the year will start November 1 and end October 31.

7. APA shall maintain an energy account for each Contracting Utilities. Allocations of energy shall be credited to the accounts and energy deliveries shall be debited from the accounts at the end of each month.

8. Should a spill condition occur, APA shall calculate the amount of energy spilled and the energy accounts shall be reduced by an amount equal to the lessor of 1) the amount of energy spilled or 2) the amount in the energy accounts at the start of the spill as follows: The reduction shall be allocated among Contracting Utilities in proportion to the ratio that Contracting Utilities energy account at the start of the spill divided by the sum of all Contracting Utilities energy accounts at the start of the spill. (A negative energy account shall be treated as a zero value for the purpose of the ratio allocation. An energy account cannot become more negative as a result of the spill.) All energy generated during the period of the spill shall not be added to nor subtracted from the energy accounts. APA will take meter readings at the beginning and end of the spill period.

E X A M P L E S

	Share	Account before Spill	Share of Spill	Account after Spill
Chugach	30%	2,700	319	2,381
MEA	17%	4,500	531	3,969
ML&P	53%	18,200	2,150	16,050
Total	100%	25,400	3,000	22,400

	Share	Account before Spill	Share of Spill	Account after Spill
Chugach	30%	2,700	1,125	1,575
MEA	17%	4,500	1,875	2,625
ML&P	53%	-2,000	0	-2,000
Total	100%	5,200	3,000	2,200

	Share	Account before Spill	Share of Spill	Account after Spill
Chugach	30%	2,700	2,700	-
MEA	17%	1,500	1,500	-
ML&P	53%	500	500	-
Total	100%	4,700	4,700	-

9. Should Eklutna Lake elevation rise to the spill level, then the plant shall be run at the maximum output possible, to the extent system reliability and operating

conditions allow, until the lake elevation is reduced below the spill level. Each Contracting Utilities shall be entitled to its project share of the energy generated during this period. If a Contracting Utilities does not utilize its full project share, the remainder shall be apportioned among the other Contracting Utilities in proportion to their project shares. This extra energy shall not be subtracted from the energy account.

10. The Eklutna generator output voltages shall be controlled to maintain system voltage profiles as adopted by the operating committee but remaining within the reactive and real power limits for the units. Operation of the Eklutna generators at less than .90 power factor will be avoided unless unanimously agreed upon by the operating committee. If the production of reactive power reduces the real power output, the reduction shall be apportioned among the Contracting Utilities in proportion to that hour's generation schedule for each Contracting Utilities.

11. The energy produced and delivered to the Contracting Utilities shall be metered at the Eklutna power Plant (net outputs on the Anchorage line and Palmer line plus output on the Twin Peaks line minus any APA use outside this boundary) and the AWWU Eklutna energy recovery unit. Three percent (3%) of the net plant output shall be delivered to supply Contracting Utilities system losses and shall not be counted as energy delivered to the Contracting Utilities. The intent of the 3% is to compensate for the historical level of transmission losses incurred in transferring Eklutna power to Palmer, Eagle River and Anchorage.

12. APA shall contract with one of the Contracting Utilities to be the Eklutna Dispatcher. The Eklutna Dispatcher shall operate the power plant within that Contracting Utilities' "control area" which is defined as "a system capable of regulating its generation in order to maintain its interchange schedule with other systems and contribute its frequency bias obligation to the Interconnection". APA shall make best efforts to have the Eklutna Power Plant included in its dispatcher's automatic generation control (AGC) system. The Eklutna Dispatcher shall operate the plant in accordance with this Exhibit A and honor each Contracting Utilities' scheduling request to the extent possible within the operating guidelines prescribed by APA. At the end of each month, the Eklutna Dispatcher shall provide APA with an accounting of the energy scheduled by each Contracting Utilities.

13. APA shall provide its dispatcher with the most flexible operating guidelines possible within good engineering practices. These guidelines should at least include: minimum down time before restarting a unit; maximum number of unit starts per day; minimum unit output while operating; maximum unit output while operating; and, any unit operating ranges to be avoided.

14. "ML&P Net Delivered kWh" shall be the balance remaining after subtracting from the APA energy delivered to the purchasers; CEA, MEA, and APA quantities of energy

invoiced, as if it were taken at the Anchorage Substation. "ML&P Net Delivered kWh" is used in the wheeling calculations for ML&P and CEA in Exhibit B. (The assumption is that ML&P's energy from Eklutna is delivered to Anchorage Substation.) The preceding definition applies while ML&P is operating the Eklutna project within their control area. If the project is operated by Chugach within its control area, then "ML&P Net Delivered kWh" shall be the amount of energy scheduled to be delivered to ML&P as if it were taken at the Anchorage Substation.

15. IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CHUGACH ELECTRIC ASSOCIATION, INC;
ANCHORAGE, ALASKA

By Eugene N. Bjornstad
Eugene N. Bjornstad

Title General Manager

Address _____

_____

MUNICIPALITY OF ANCHORAGE
ANCHORAGE, ALASKA

By _____

Title Municipal Manager

Address _____

_____

MATANUSKA ELECTRIC ASSOCIATION, INC;
PALMER, ALASKA

By Wayne Carmony
Wayne Carmony

Title General Manager

Address _____

_____

ALASKA POWER ADMINISTRATION
JUNEAU, ALASKA

By _____
Michael A. Deihl

Title Administrator

Address _____

_____

RECOMMEND FOR APPROVAL

George J. Vakalis
Operations Manager
Municipality of Anchorage

RECOMMEND FOR APPROVAL

Thomas R. Stahr
General Manager
Municipal Light and Power

FUNDS AVAILABLE

0530 8500 8701 65502000 $1,600,000.00
1995 Operating Budget

Jerry Anderson
Chief Fiscal Officer
Department of Finance

ATTEST

Vickie Cantrell, Deputy
for Municipal Clerk
Municipality of Anchorage

EXHIBIT B

ESTIMATE OF FIRM AND NON-FIRM ENERGY QUANTITIES AND COMPUTATIONS OF ANNUAL ENERGY AND WHEELING CHARGES

EXHIBIT B

Estimate of Firm and Non-Firm Energy ~~(APA PRS)~~

Year	Firm Energy (MWH)	Non-Firm Energy (MWH)
1994	153,000	11,000
1995	145,000	0
1996	153,000	11,000
1997	134,000	0
1998	153,000	11,000
1999	153,000	11,000
2000	153,000	11,000
2001	153,000	11,000
2002	153,000	11,000
2003	153,000	11,000
2004	153,000	11,000
2005	153,000	11,000

Computation of Annual Energy and Wheeling Payment

The total Annual Payment will be the sum of the Annual Energy Payment plus Annual Wheeling Payment. The Contracting Utilities will be billed for electric energy calculated annually each fiscal year beginning October 1, payable in twelve equal monthly payments. The amount of each annual energy installment shall be established in advance by the contracting officer in consultation with the Contracting Utilities and submitted to the Contracting Utilities in the form of Contract Exhibit B on or before October 1 of the year preceding the appropriate fiscal year.

1) Annual Energy Payment: multiply the FERC-approved rates for firm and non-firm energy times the projected energy sales shown in the APA Power Repayment Study (PRS); used to support the FERC-approved rates, except when provision in Article 16 of the contract determines the amount of energy to be billed; plus

2) Annual Wheeling Payment: Each year multiply the respective metered amounts of power and energy wheeled for each Contracting Utilities over APA transmission lines in the previous year (12 months) by the FERC-approved rate. Each Contracting Utilities will pay their respective wheeling charges for the previous year.

Wheeling Calculations:

The previous years wheeling will be calculated using the following formulas:

CEA: The energy wheeled for CEA shall be the sum of the net metered flow North on the APA North Line at ML&P Plant Two plus "ML&P Net Delivered" plus the metered flow out of the APA system into CEA University Substation (CB 2005).

EXAMPLE:		
	APA North Line net North	+2,000,000 kWh
	ML&P Net Delivered	+6,000,000 kWh
	University CB 2005 APA OUT	+1,000,000 kWh
	Total	9,000,000 kWh

MEA: The energy wheeled for MEA shall be the sum of the metered flow into the Dow and Palmer Substations minus the 115 kV Palmer Line NET quantity. The 115 kV Palmer NET quantity shall be metered flow OUT minus the metered flow IN values on the 362 meter. A negative energy value for wheeling shall be treated as zero energy flow.

EXAMPLE:		
	Dow Substation	+3,000,000 kWh
	Palmer Substation	+1,000,000 kWh
	115 kV Palmer Line NET	- 1,000,000 kWh
	Total	3,000,000 kWh

ML&P: The energy wheeled for ML&P shall be the sum of the total metered flow into the APA South Line at ML&P Plant Two (circuit breakers 115-18 and 115-19), at Anchorage Substation (ML&P CB 1162), and at CEA's University Substation (CB 2005 OUT (APA IN)) minus "ML&P Net Delivered."

EXAMPLE:		
	APA South Line Plant 2 IN	+ 23,000,000 kWh
	ML&P CB 1162 IN	+ 0 kWh
	CEA CB 2005 APA IN	+ 0 kWh
	ML&P Net Delivered	- 6,000,000 kWh
		17,000,000 kWh

NOTE: + is into APA
- is out of APA

ML&P Delivered Net will be calculated as follows:

Net Eklutna Energy Delivered shall be the sum of the net values of the Eklutna Powerplant delivery points known as the 115 kV Anchorage line (CB 462), the 115 kV Palmer line (CB 362), AWWU energy depleted, and the 12.47 kV Twin Peaks line. System losses are calculated to be 3% of the total Net Eklutna Energy Delivered. APA ENERGY DELIVERED TO THE

PURCHASERS shall equal the NET Eklutna Energy Delivered minus the 3% calculated system losses.

MEA monthly energy delivered shall be determined by a monthly scheduled amount as provided by MEA and it shall be shown as MEA DELIVERED.

CEA monthly energy delivered shall be determined by a monthly scheduled amount plus the AWWU recovery amount minus APA Use and shown as CEA DELIVERED. The scheduled delivered amount is the monthly scheduled interchange with ML&P (from Eklutna) minus MEA Delivered and the losses (both scheduled and month end true-up) supplied by the Eklutna Project.

ML&P energy delivered shall be the balance remaining after subtracting from the APA Energy Delivered to the Purchasers; CEA Delivered, MEA Delivered, and APA Use, as if it were taken at the Anchorage Substation, and shown as ML&P NET DELIVERED.

An example of the above is:

Net Eklutna Energy Delivered	+21,000,000 kWh (Metered)
3% Loss	- 630,000 kWh (21,000,000 x .03)
APA Energy Delivered to the Purchasers	+20,370,000 kWh
APA Use	- 1,000 kWh (Metered)
CEA Delivered	- 6,000,000 kWh (Scheduled)
MEA Delivered	- 2,000,000 kWh (Calculated)
ML&P Net Delivered	+12,369,000 kWh

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CHUGACH ELECTRIC ASSOCIATION, INC;
ANCHORAGE, ALASKA

By Eugene N. Bjornstad
Eugene N. Bjornstad

Title General Manager

Address

MUNICIPALITY OF ANCHORAGE
ANCHORAGE, ALASKA

By

Title Municipal Manager

Address

MATANUSKA ELECTRIC ASSOCIATION, INC;
PALMER, ALASKA

By Wayne Carmony
Wayne Carmony

Title General Manager

Address

ALASKA POWER ADMINISTRATION
JUNEAU, ALASKA

By
Michael A. Deihl

Title Administrator

Address

RECOMMEND FOR APPROVAL

George J. Vakalis
Operations Manager
Municipality of Anchorage

RECOMMEND FOR APPROVAL

Thomas R. Stahr
General Manager
Municipal Light and Power

FUNDS AVAILABLE
0530 8500 8201 5550 2000 $1,600,000.00
1995 Operating Budget

Jerry Anderson
Chief Fiscal Officer
Department of Finance

ATTEST

Vickie Cantrell, Deputy
for Municipal Clerk
Municipality of Anchorage

EXHIBIT C

POINTS OF DELIVERY

EXHIBIT C

Electric power and energy furnished and wheeled by APA to Chugach shall be delivered and measured at the following points:

A. At the one hundred fifteen (115) kilovolt line side span to terminal of APA CB 462 and disconnect 569 located in the Eklutna Powerplant switchyard. Power and energy will be delivered at the nominal voltage of one hundred fifteen (115) kilovolt at the point of delivery specified.

B. At the one hundred fifteen (115) kilovolt line side span to terminal of APA CB 362 and disconnect 569 located in the Eklutna Powerplant switchyard. Power and energy will be delivered at the nominal voltage of one hundred fifteen (115) kilovolt at the point of delivery specified.

C. At the one hundred fifteen (115) kilovolt slack span entering the Anchorage Substation attached to CEA circuit breaker 2400. Power and energy will be delivered at the nominal voltage of one hundred fifteen (115) kilovolt and will be measured at the one hundred fifteen (115) kilovolt at Chugach University Substation CB 2005 using CEA metering equipment.

Electric power and energy furnished and wheeled by APA to Matanuska shall be delivered and measured at the following points:

A. At the one hundred fifteen (115) kilovolt line side span to terminal of APA CB 462 and disconnect 569 located in the Eklutna Powerplant switchyard. Power and energy will be delivered at the nominal voltage of one hundred fifteen (115) kilovolt at the point of delivery specified.

B. At the one hundred fifteen (115) kilovolt line side span to terminal of APA CB 362 and disconnect 569 located in the Eklutna Powerplant switchyard. Power and energy will be delivered at the nominal voltage of one hundred fifteen (115) kilovolt at the point of delivery specified.

C. At the six thousand nine hundred (6,900) volt terminal of the MEA 6.9-12.47 KV power transformer for the 12.47 KV Twin Peaks line located at the Eklutna Powerplant. Power and energy will be delivered at the nominal voltage of six thousand nine hundred (6,900) volts and will be measured at six thousand nine hundred (6,900) volts at the point of delivery specified.

D. At the point near structure #7/6 where the MEA one hundred fifteen thousand (115) volt line taps the APA Eklutna-Palmer 115 KV line. Power and energy will be delivered at the nominal voltage of one hundred fifteen thousand (115) volts and will be measured at twelve thousand four hundred

seventy (12,470) volts at the Dow Substation low side of power transformer using MEA metering equipment.

E. At the low voltage twelve thousand four hundred seventy (12,470) volt terminal of the APA 115-12.47 KV power transformer in the Palmer Substation. Power and energy will be delivered at the nominal voltage of twelve thousand four hundred seventy (12,470) volts at the point of delivery using MEA metering equipment.

F. At the twelve thousand four hundred seventy (12,470) volt bus of the Municipality of Anchorage/Anchorage Water and Wastewater Utility's Eklutna Water Project. Power and energy will be delivered at the nominal voltage of twelve thousand four hundred seventy (12,470) volts at the point of delivery using MEA metering equipment.

Electric power and energy furnished and wheeled by APA to ML&P shall be delivered and measured at the following points:

A. At the one hundred fifteen (115) kilovolt line side span to terminal of APA CB 462 and disconnect 569 located in the Eklutna Powerplant switchyard. Power and energy will be delivered at the nominal voltage of one hundred fifteen (115) kilovolt at the point of delivery specified.

B. At the one hundred fifteen (115) kilovolt line side span to terminal of APA CB 362 and disconnect 569 located in the Eklutna Powerplant switchyard. Power and energy will be delivered at the nominal voltage of one hundred fifteen (115) kilovolt at the point of delivery specified.

C. At the one hundred fifteen thousand (115) volt bus in the Anchorage Substation attached to ML&P CB 1162 known as APA South Line. Power and energy will be delivered at the nominal voltage of one hundred fifteen thousand (115) volts and will be measured at one hundred fifteen thousand (115) volts at the point of delivery specified using ML&P metering equipment.

D. At the one hundred fifteen thousand (115) volt bus in the ML&P Plant Two Substation for CB 115-21 and 115-22 known as APA North Line. Power and energy will be delivered at the nominal voltage of one hundred fifteen thousand (115) volts and will be measured at one hundred fifteen thousand (115) volts at the point of delivery specified using ML&P metering equipment.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CHUGACH ELECTRIC ASSOCIATION, INC;
ANCHORAGE, ALASKA

By _____
Eugene N. Bjornstad

Title General Manager

Address _____

MUNICIPALITY OF ANCHORAGE
ANCHORAGE, ALASKA

By _____

Title Municipal Manager

Address _____

MATANUSKA ELECTRIC ASSOCIATION, INC;
PALMER, ALASKA

By _____
Wayne Carmony

Title General Manager

Address _____

ALASKA POWER ADMINISTRATION
JUNEAU, ALASKA

By _____
Michael A. Dethl

Title Administrator

Address _____

RECOMMEND FOR APPROVAL

George J. Vakalis
Operations Manager
Municipality of Anchorage

RECOMMEND FOR APPROVAL

Thomas R. Stahr
General Manager
Municipal Light and Power

FUNDS AVAILABLE

0530 P500 P201 5550 2000 $1,600,000.00
1995 operating Budget.

Jerry Anderson
Chief Fiscal Officer
Department of Finance

ATTEST

Vickie Cantrell, Deputy
for Municipal Clerk
Municipality of Anchorage

EXHIBIT D

SCHEDULE OF RATES FOR FIRM ENERGY, NON-FIRM ENERGY, AND WHEELING

UNITED STATES
DEPARTMENT OF ENERGY
ALASKA POWER ADMINISTRATION

Eklutna Project, Alaska

SCHEDULE OF RATES FOR WHOLESALE FIRM POWER SERVICE

EFFECTIVE:

October 1, 1994 for a maximum of five years.

AVAILABLE:

In the area served by the Eklutna Project, Alaska.

CHARACTER AND CONDITIONS OF SERVICE:

Alternating current, sixty cycles, three-phase, delivered and metered at the low-voltage side of substation.

MONTHLY RATE:

Capacity charge: None.

Energy charge: All energy at 18.7 mills per kilowatthour.

MINIMUM ANNUAL CAPACITY CHARGE:

None.

BILLING DEMAND:

Not applicable.

ADJUSTMENTS:

For transformer losses: If delivery is made at the high-voltage side of the customer's substation but metered at the low-voltage side, the meter readings will be increased 2 percent to compensate for transformer losses.

For power factor: None. The customer will normally be required to maintain power factor at the point of delivery of between 90 percent lagging and 90 percent leading.

For auxiliary power service: Auxiliary power supplies may be used in conjunction with the service hereunder if the parties hereto, prior to the Contracting Utilities' utilization of any such auxiliary power supply, have entered into a written operating agreement defining the procedure by which the amount of power and energy will be determined.

UNITED STATES
DEPARTMENT OF ENERGY
ALASKA POWER ADMINISTRATION

Eklutna Project, Alaska

SCHEDULE OF RATES FOR WHOLESALE NON-FIRM POWER SERVICE

EFFECTIVE:

October 1, 1994 for a maximum of five years.

AVAILABLE:

In the area served by the Eklutna Project, Alaska.

APPLICABLE:

To firm power customers normally maintaining generating facilities or other sources of energy sufficient to supply their requirements.

CHARACTER AND CONDITIONS OF SERVICE:

Alternating current, sixty cycles, three-phase, delivered and metered at the low-voltage side of substation.

MONTHLY RATE:

Capacity charge: None.

Energy charge: All energy at 10.0 mills per kilowatthour.

MINIMUM CHARGE:

None.

BILLING DEMAND:

Not applicable.

ADJUSTMENTS:

For character and conditions of service: None.

For transformer losses: If delivery is made at the high-voltage side of the customer's substation but metered at the low-voltage side, the meter readings will be increased 2 percent to compensate for transformer losses.

UNITED STATES
DEPARTMENT OF ENERGY
ALASKA POWER ADMINISTRATION

Eklutna Project, Alaska

SCHEDULE OF RATES FOR WHOLESALE WHEELING SERVICE

EFFECTIVE:

October 1, 1994 for a maximum of five years.

AVAILABLE:

In the area served by the Eklutna Project, Alaska.

APPLICABLE:

To all non-Federal power transmitted over Eklutna Project transmission facilities for the benefit of Project customers.

CHARACTER AND CONDITIONS OF SERVICE:

Alternating current, sixty cycles, three-phase, delivered and metered at the low-voltage side of substation.

MONTHLY RATE:

Capacity charge: None.

Energy charge: All energy wheeled for others at .3 mills per kilowatthour.

MINIMUM CHARGE:

None.

BILLING DEMAND:

Not applicable.

ADJUSTMENTS:

For character and conditions of service: None.

For transformer and transmission losses: As specified in wheeling contracts.

Exhibit 2

RECEIVED
By the Regulatory Commission of Alaska on Oct 30, 2020

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert M. Pickett, Chairman Stephen McAlpine Antony G. Scott Daniel A. Sullivan Janis W. Wilson
In the Matter of the Investigation Into the Beluga River Unit Management Practices of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	U-18-102
In the Matter of the Petition Filed by CHUGACH ELECTRIC ASSOCIATION, INC. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend Its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	U-19-020
In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT to Amend Its Certificate of Public Convenience and Necessity No. 121, to Eliminate Its Retail Electric Service Area and Add the Eklutna Hydroelectric Project to Its Service Area, and to Lift the Dividend Restriction	U-19-021
In the Matter of the Request for Approval of Special Contract Designated as TA379-121 Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	TA379-121

NOTICE OF ML&P'S SURRENDER OF EKLUTNA OPERATING COMMITTEE VOTING RIGHTS

LAW OFFICES OF
KEMPPEL, HUFFMAN AND ELLIS
A PROFESSIONAL CORPORATION
255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2025
(907) 277-1604

In Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39"), the Regulatory Commission of Alaska ("RCA") approved, subject to conditions, the sale to Chugach Electric Association, Inc. ("Chugach") of most of the electric utility assets of the Municipality of Anchorage d/b/a Municipal Light and Power ("ML&P") ("Transaction"). Order 39 also approved the MOA-Chugach Eklutna Power Purchase Agreement ("Chugach PPA"), subject to conditions, effective on the date of closing of the Transaction. In Order 39, the RCA granted to the MOA, effective upon the date of closing of the Transaction, a certificate of public convenience and necessity authorizing ownership and provision of generation electric utility service to the public for compensation from its share of Eklutna, subject to conditions, including that before the effective date of the Chugach PPA or the MOA-Matanuska Electric Association, Inc. ("MEA") Power Purchase Agreement ("MEA PPA"), the MOA has filed documentation that it has surrendered its voting rights on the Eklutna Operating Committee ("EOC").[1] In Order 39, the RCA required that the MOA's surrender of its EOC voting rights "cannot be lifted until such time as [the MOA] has shown to our satisfaction that [the MOA] has acquired the expertise required to fully participate as voting member of the EOC."[2]

Enclosed as Exhibit 1 is a Surrender of Eklutna Operating Committee Voting Rights document, signed by ML&P, Chugach, and MEA. The Surrender will remain in effect until the MOA shows to the RCA's satisfaction that the MOA has acquired the expertise required to participate as a voting member of the EOC (or upon expiration or termination of the terms of the Chugach PPA and the MEA PPA).

---

[1] Order 39 at 147, Ordering ¶ 11; *see also* Order 39 at 66-67.
[2] *Id.* at 67.

LAW OFFICES OF
KEMPPEL, HUFFMAN AND ELLIS
A PROFESSIONAL CORPORATION
255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2025
(907) 277-1604

RESPECTFULLY SUBMITTED this 30th day of October, 2020, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage d/b/a Municipal Light and Power

By: */s/ Dean D. Thompson*

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Paul J. Jones
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255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2025
(907) 277-1604

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2020, a copy of the foregoing document was electronically filed with the RCA and served on the following persons by electronic means authorized by the RCA.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
By: /s/ *Tina M. Torrey*
Tina M. Torrey, Legal Assistant

RAPA
Jeffrey J. Waller — jeff.waller@alaska.gov
deborah.mitchell@alaska.gov
amber.henry@alaska.gov

CHUGACH
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Thomas Schulman — tom_schulman@chugachelectric.com

PHS
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Craig Gannett — craiggannett@dwt.com
Walker Stanovsky — walkerstanovsky@dwt.com

HEA
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Chelsea Guintu — chelsea.guintu@enstarnaturalgas.com
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hailey@dillonfindley.com

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Sean R. Parnell — srparnell@hollandhart.com
David Pease — david.pease@mea.coop
David Mayberry — djmayberry@hollandhart.com

AEA
Curtis Thayer — cthayer@akenergyauthority.org
Stefan Saldanha — stefan.saldanha@alaska.gov

LAW OFFICES OF
KEMPPEL, HUFFMAN AND ELLIS
A PROFESSIONAL CORPORATION
255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2025
(907) 277-1604

Exhibit 1

October 27, 2020

Surrender of Eklutna Operating Committee (EOC) Voting Rights

In accordance with the requirements of order U-18-102(44), the Municipality of Anchorage, dba Municipal Light & Power(ML&P), hereby surrenders its voting rights as an EOC member and under the Fish and Wildlife Agreement effective as of the Closing of the Asset Purchase Agreement between ML&P and Chugach Electric Association (Chugach). This surrender of voting rights shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC.

Until ML&P's successor complies with the qualification terms of RCA order U-18-102(44), all EOC decisions will be by unanimous vote of Chugach and Matanuska Electric Association, Inc. (MEA). Eklutna hydro operations, dispatch and maintenance will continue to follow past practices and policies unless changes are approved through the EOC process.

MUNICPALITY OF ANCHORAGE

By: _____
Name: William Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____
Name: Lee Thibert
Title: Chief Executive Officer

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____
Name: Anthony Izzo
Title: Chief Executive Officer

Exhibit 3

RECEIVED
By the Regulatory Commission of Alaska on Oct 27, 2020

From: Layne, James O (RCA)
To: RCA Records & Filing
Subject: FW: TA379-121 Question
Date: Wednesday, October 28, 2020 10:11:21 AM

Please place this email into TA379-121 as a supplemental filing dated October 27, 2020.

This is in response to a Staff request.

Thanks.

From: Dean Thompson <ddt@khe.com>
Sent: Tuesday, October 27, 2020 4:05 PM
To: Layne, James O (RCA) <james.layne@alaska.gov>
Subject: Re: TA379-121 Question

Mr. Layne:

The MOA/ML&P do not believe that the MEA Eklutna PPA is inconsistent Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39"). The part of Order 39 that you cite states:

"We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the [Chugach] Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions." Order 39 at 67.

To comply with the Order, ML&P will surrender its vote on the EOC prior to the closing of the ML&P sale to Chugach, which will be before the effective date of the Chugach Eklutna PPA and of the MEA Eklutna PPA. ML&P will promptly file a notice of that surrender with the RCA. The surrender will have a term at least equal to the term of the two PPAs, subject to termination of the surrender upon MHP showing to the RCA's satisfaction "that MHP has acquired the expertise required to fully participate as a voting member of the EOC." Order 39 at 67. If and when MHP has a proposed EOC representative that satisfies the qualifications, MHP will file that information and request that the RCA make the necessary finding for termination of the EOC vote surrender.

Like Section 4.2(B) of the Chugach Eklutna PPA, Section 4.2(B) of the MEA Eklutna PPA requires MHP, in consultation with the Purchaser, to select MHP's representative on the EOC. As a result of Order 39, MHP won't have any voting representative on the EOC until the surrender is terminated upon a positive finding by the RCA that MHP's proposed representative is qualified. Thus, Section 4.2(B) of neither PPAs need to be amended. In addition, Section 4.2(B) should remain as written as it will be relevant if and when MHP's voting rights surrender is terminated in the future upon the necessary finding of the RCA.

Please contact me if you have any questions.
####
Dean Thompson
Kemppel, Huffman & Ellis, P.C.
255 E. Fireweed Lane, Suite 200

Anchorage, Alaska 99503
(907) 277-1604; fax (907) 276-2493; cell (907) 360-6391
e-mail: ddt@khe.com

_____
NOTICE: The information contained in, and attached to, this e-mail may be confidential attorney-client communication or otherwise privileged and protected from disclosure and is for the sole use of the intended recipient(s). Any review, use, distribution, or disclosure by others is strictly prohibited. If you are not the intended recipient (or authorized to receive for the recipient), please notify the sender immediately by e-mail at ddt@khe.com or by telephone (collect at 907-277-1604) and immediately delete this e-mail and all its attachments.
_____

From: "Layne, James O (RCA)" <james.layne@alaska.gov>
Date: Thursday, October 22, 2020 at 10:18 AM
To: Dean Thompson Private <ddt@khe.com>
Subject: TA379-121 Question

Mr. Thompson,

I have a question regarding the Eklutna Power Purchase Agreement between MOA and MEA (MEA Eklutna PPA) filed in TA379-121 as Exhibit A. MEA has filed TA525-18 seeking to add the MEA Eklutna PPA to its tariff and seeks approval of a new COPA cost element and I have asked them the same question below in TA525-18 regarding the MEA Eklutna PPA. A joint response by MEA and MOA is welcomed, or each party can file its own response.

I believe there is an inconsistency between the MEA Eklutna PPA and the final order (U-18-102(44)/U-19-020(39)/U-19-021(39)) (U-18-102(44).

At page 67 of U-18-102(44) the Commission required MOA/ML&P to surrender its vote on the EOC so Chugach and MEA could manage the Eklutna Hydro project.

The MEA Eklutna PPA, at page 8 of Exhibit A, Section 4.2(B) appears to allow MOA/ML&P to keep its vote on the EOC.

Does MOA/ML&P believe the language between the final order and the MEA Eklutna PPA as summarized above are in conflict? Please explain your response and provide a remedy if appropriate.

Please respond by Monday, October 26, 2020 by 5:00pm.

Thank you for your attention to this request and contact me with any questions.

James “Jay” Layne
Engineering Analyst
907-263-2179

RECEIVED
By the Regulatory Commission of Alaska on Sep 30, 2024

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chair
Robert A. Doyle
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S ADDITIONAL ENTRY OF APPEARANCE

The law firm of Kemppel, Huffman and Ellis, P.C. hereby enters the appearance of an additional attorney, Emily M. Walker, on behalf of the Municipality of Anchorage, d/b/a Anchorage Hydropower in the above-captioned matter, and requests that copies of all pleadings and other documents in this matter be served upon the undersigned at the address stated below:

Dean D. Thompson
Ashley C. Brown
Emily M. Walker
Kemppel, Huffman and Ellis, P.C.
255 E. Fireweed Lane, Suite 200
Anchorage, Alaska 99503
Telephone: (907) 277-1604
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LAW OFFICES OF
KEMPPEL, HUFFMAN AND ELLIS
A PROFESSIONAL CORPORATION
255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2025
(907) 277-1604

RESPECTFULLY SUBMITTED this 30th day of September, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: */s/ Emily M. Walker*

Dean D. Thompson, Alaska Bar No. 9810049
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(907) 277-1604

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
By: */s/ Emily M. Walker*
Emily M. Walker

Chugach Electric Association, Inc.
Matthew Clarkson
Chugach Electric Association, Inc.
P.O. Box 196300
Anchorage, AK 99519-6300
Email: matthew_clarkson@chugachelectric.com

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Governor Mike Dunleavy
STATE OF ALASKA

October 2, 2024

Mr. Anthony M. Izzo
Matanuska Electric Association
163 E. Industrial Way
Palmer, AK 99645

Mr. Arthur W. Miller
Chugach Electric Association
5601 Electron Drive
Anchorage, AK 99518

Ms. Sara Boario
Regional Director
United States of America
Department of the Interior
U.S. Fish & Wildlife Service
1011 East Tudor Road
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Mr. Jonathan M. Kurland
Regional Administrator
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Department of Commerce
National Oceanic & Atmospheric Admin.
P.O. Box 21668
Juneau, AK 99802-1668

Mr. Aaron Leggett
Chair/President
Native Village of Eklutna
26339 Eklutna Village Road
Chugiak, AK 99567

The Honorable Suzanne LaFrance
Mayor
Municipality of Anchorage
P.O. Box 196650
Anchorage, AK 99519-6650

Mr. Curtis Thayer
Executive Director
Alaska Energy Authority
813 Northern Lights Boulevard
Anchorage, AK 99503

Dear Parties,

Thank you to the Owners for your submission on April 25, 2024, of the Proposed Final Fish and Wildlife Program (Proposed Final Program) for the Eklutna Hydropower Project (Project) and to the remaining parties for their comments and participation in developing the Proposed Final Program.

As you know, through an act of Congress, the Project was sold by the federal government to Chugach Electric Association (CEA), Matanuska Electric Association (MEA), and Anchorage

Municipal Light & Power (through the Municipality of Anchorage). As part of this transaction, the 1991 Fish and Wildlife Agreement (Agreement) laid out the process for the purchasers of the Project to fund studies to examine and quantify impacts to fish and wildlife from the Project, and to develop a proposed Final Program for the protection, mitigation, and enhancement of fish and wildlife effected by the Project and for the other Parties to offer their comments.

As Governor, my duties under the Agreement are to evaluate the Proposed Final Program, attempt to reconcile differences between the Parties to the Agreement, and establish a Final Program that "adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources."

The evaluation process requires me to give "equal consideration" to eight factors to "ensure that Eklutna [is] best adapted for power generation and other beneficial public uses." The factors are: purposes of efficient and economical power production; energy conservation; the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat); the protection of recreational opportunities; municipal water supplies; the preservation of other aspects of environmental quality; other beneficial public uses; and requirements of State law.

The Final Program established today includes my evaluation of these eight criteria and my amendments to the Proposed Final Program that attempt to reconcile differences among the Parties and the Native Village of Eklutna.

The Proposed Final Program restored year-round water flows to the Eklutna River by connecting Eklutna Lake to the existing Anchorage Water and Wastewater Utility (AWWU) infrastructure; required the Purchasers to provide funding for ongoing monitoring studies, physical habitat enhancement, and lakeside trail repairs; the creation of a Monitoring and Adaptive Management Committee (Committee); and two limited reopeners of the Program for the potential construction of a Fixed Wheel Gate to replace the existing outlet and spillway and for the potential construction of fish passage into and out of Eklutna Lake.

In accordance with my responsibilities to attempt to reconcile differences, I have adopted the Proposed Final Program with the establishment of three amendments to the Proposed Final Program:

1. I added a Governor-appointed seat to the Monitoring and Adaptative Management Committee. This allows future Governors and myself to continue our responsibility under the Agreement as the work of the Committee is ongoing in the final Program.

2. I accepted the request by federal signatories, U.S. Fish and Wildlife Service, and National Marine Fisheries Service, to modify the Proposed Final Program. The Proposed Final Program allocated up to $10 million to study and potentially construct the Fixed Wheel Gate at the Eklutna Dam. If the Fixed Wheel Gate is determined to not be structurally or economically feasible, as requested by the federal parties, the remaining funds not expended of up to $10 million will be made available to the Monitoring and Adaptive

Management Committee for additional studies or measures that protect, mitigate damage to, or enhance fish and wildlife habitat.

3. I am accepting the request by the Municipality of Anchorage and Native Village of Eklutna in their joint resolution of September 5, 2024, to evaluate the Pumped Storage Hydro alternative. However, the Agreement does not provide any party the authority to unilaterally suspend or delay implementation of the Final Program and therefore the necessary work to design, permit, and construct the connection to AWWU's infrastructure and to evaluate the Fixed Wheel Gate is required to begin immediately.

The Final Fish and Wildlife Program established today under the Agreement balances the eight factors I am required to consider, and the Program is designed to be an iterative one that will be able to adapt to changing conditions and technologies well before the process is required to repeat itself.

I want to thank the Parties, the Native Village of Eklutna, and the members of the public who helped shape this Final Program with their time, resources, input, and participation over the past five years. This is not the end of the process, and I am committed to seeing this Final Program successfully enacted. I encourage everyone to join me in working together to implement this Program without delay.

Sincerely,

Mike Dunleavy
Governor

BEFORE GOVERNOR MIKE DUNLEAVY

IN THE MATTER OF THE EKLUTNA	**:**	**DECISION**
RIVER FISH & WILDLIFE PROGRAM	**:**	**October 2, 2024**

This matter comes before the Governor pursuant to the 1991 Agreement ("Agreement") among the Municipality of Anchorage ("MOA"), Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("Matanuska") (MOA, Chugach and Matanuska are collectively referred to as "Eklutna Purchasers" or "Owners"; when discussing issues where the Owners disagree, Chugach and Matanuska will be referred to as the "Operators" and MOA will be listed separately), the United States Fish & Wildlife Service ("FWS"), The National Marine Fisheries Service ("NMFS"), the Alaska Energy Authority ("AEA") and the State of Alaska ("State") concerning the protection, mitigation of damages to, and enhancement of fish and wildlife affected by the Eklutna Hydroelectric Project ("Project") near the Native Village of Eklutna ("NVE").[1] Per the Agreement the Governor is required to establish a "final Fish and Wildlife Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources affected by the Project".[2]

I. PROJECT HISTORY

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[1] The Agreement also involved the Snettisham Hydroelectric Project, but that project is not part of this decision.

[2] Agreement, Section 5 at P. 4.

The U. S. Bureau of Reclamation built the Project in the 1950s and it was rehabilitated over time. It currently consists of a dam which is an earth and rockfill structure 815 feetlong and 41 feet high with a rectangular spillway that runs through the dam.[3] The intake structure for the Project is located 36 feet below the natural Eklutna Lake level. From there, water is diverted north into a 4.6-mile-long tunnel through Goat Mountain and then into a 1,370-foot-long penstock before reaching the powerhouse located on Old Glenn Highway. The tailrace flows under the highway and then discharges into the Knik River. The powerhouse contains two generating units.[4] Eklutna Lake, approximately seven miles long and one mile wide, is located within Chugach State Park and provides almost 90 percent of the domestic water supply for the Municipality of Anchorage. As of 2018 the Project produced 177,438 megawatt hours of clean energy, enough to power more than 24,600 residential homes for an entire year.[5]

The federal government owned and operated the project until October 1997 when it sold it to the Eklutna Purchasers and is currently owned by Chugach (30%), Matanuska (16.67%) and MOA (53.33%), however, it has been operated exclusively by Chugach and Matanuska since October 30, 2020.[6] The purchase by the Eklutna Purchasers also included a requirement that the Eklutna Purchasers enter into the Agreement with NMFS,

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3 https://eklutnahydro.com/background/.

4 Id.

5 Id.

6 MOA was required to surrender its right to operate the Project. RCA Order U-18-102(44)/U-19-020(39)/U-19-021(39). Surrender of Eklutna Operation Committee (EOC) Voting Rights dated as of October 27, 2020, and filed with the RCA in docket number U-18-102(44).

FWS, AEA, and the State (the Eklutna Purchasers, NMFS, FWS, AEA and State are collectively referred to as the "Parties[7]").

II. THE AGREEMENT

To obtain Congressional approval of the Project sale to the Eklutna Purchasers and as a substitute for federal licensing under the Federal Power Act[8] and its accompanying regulations[9], the Parties were required to enter into the Agreement to develop a fish and wildlife program that provides for the protection, mitigation of damages to, and enhancement of fish and wildlife affected by the Project.[10] The Agreement outlined a 35 year timeline to develop the fish and wildlife program. The timeline ran from the date of the sale, i.e., October 2, 1997, and initially culminates with the complete implementation of the fish and wildlife program by October 2, 2032. This process is designed to reoccur every 35 years.

A. Agreement Requirements

The Agreement set forth a comprehensive process to arrive at a final fish and wildlife plan. It required the Parties to perform the following:

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7 For purposes of this decision, Parties will also include NVE, unless stated otherwise, even though they are not an actual party to the Agreement.

8 16 U.S. C. §791a et seq.

9 18 C.F.R. 4.1 et seq.

10 The Agreement was a substitute for the requirements of the Federal Power Act and its regulations and there are no requirements in the Agreement imposing those laws on the Parties. Rather, the Agreement specifically spells out all requirements the Parties must follow to develop a fish and wildlife program.

a. Purchasers to fund and perform studies in consultation with the other Parties and other State of Alaska agencies to "examine, and quantify, if possible, the impacts to fish and wildlife from the Project and to develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the Project."[11]

b. Purchasers develop a draft program, the remaining Parties and other interested persons comment on the draft program, and the Purchasers reply to the comments, with all comments and the replies to be made part of the public record.[12]

c. Preparation of draft summary of the study results and a draft Fish and Wildlife Program by Purchasers.[13] Purchasers to hold public meetings and receive public comments on the program.[14]

d. Purchasers develop a Proposed Final Fish and Wildlife Program ("Proposed Final Program"), an explanation of its reasons for the final program, and provide them and all public comments to the other Parties and the Governor.[15]

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11 Agreement, Section 2, P. 2.
12 Id. Section 3, P. 2.
13 Id. Section 4, P. 3.
14 Id. Section 5, P. 3.
15 Id. Section 5, P. 4.

e. The remaining Parties prepare written comments to the Proposed Final Program and Purchasers prepare a reply. The comments and reply are provided to the Governor.[16]

f. The Governor establishes a Final Fish and Wildlife Program.[17]

g. The Agreement requires the Owners to implement the final Program within 30 years of the transaction date and for the Governor to approve the Final Fish and Wildlife Program three years prior to commencement of the implementation of the Program.[18]

III. PROPOSED FINAL PROGRAM AND PARTIES' COMMENTS[19]

The Proposed Final Program was provided to the Parties and the Governor on April 25, 2024. The Proposed Final Program can be summarized as follows[20]:

1. Proposed Final Program

a. Construction of a new valve and release structure ("Eklutna River Release Facility") located adjacent to the existing Anchorage Water and Wastewater Utility ("AWWU") portal valve to restore year-round water

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16 Id. Section 5, P. 4.

17 Id.

18 Id. Section 7, P. 4-5. The transaction date is October 2, 1997, which is the date of the sale of the Eklutna Project to the Owners. Program implementation must therefore begin by October 2, 2027, and the Governor's approved final Plan must be issued by October 2, 2024, i.e., three years prior to the commencement of Plan implementation.

19 AEA did not provide comments to the Final Proposed Fish and Wildlife Program. NVE did provide comments even though it was not a party to the Agreement. I will consider those comments as part of this decision.

20 The Final Proposed Fish and Wildlife Program is attached hereto as Appendix "A".

flow to the Eklutna River ("River") one mile downstream from the Eklutna Dam;[21]

1. The Eklutna River Release Facility is projected to provide year-round water flow to the River one mile below the dam at rates of 27 cubic feet per second to 40 cubic feet per second;[22]
2. The Eklutna River Release Facility is designed to increase available spawning habitat for chinook, coho, pink and chum salmon;

b. Automation of the existing outlet gate at the base of the spillway at the Eklutna Dam for remote operation;[23]

c. Development of a channel maintenance flow regime to support fish habitat over the long term;[24]

d. Construction of eight new bridges for Anchorage Water and Wastewater Utility (AWWU) at each existing ford crossing to be designed and built to withstand the projected flows;[25]

e. One-time payment of $234,000 for lakeside trail repairs;[26]

f. Monitoring and Adaptive Management Plan;[27]

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21 Proposed Final Fish and Wildlife Program, Section 2.1.1 at P. 4-5.
22 Id. at Section 2.1.2 at P. 6-7. And
23 Id. Section 2.2.1 at P. 7.
24 Id. Section 2.2.2 at Pp. 8-10.
25 Id. Section 2.5 at P. 10.
26 Id. Section 2.4.1 at P. 11.
27 Id. Section 3.0 – 3.4 at P. 12 - 15. This plan includes the creation of a Monitoring and Adaptive Management Committee consisting of five voting members, one each from the following entities: Alaska Department of Fish and Game, Alaska Department of Natural Resources, NMFS, FWS and NVE. Id. Section 3.1 at P. 12.

g. Two limited reopeners, i.e., the study and potential construction of a fixed wheel gate to replace the existing overflow spillway and provisions to review fish passage alternatives to allow adult salmon to pass into the lake from the River and juvenile salmon to pass from the lake downstream into the River ("Limited Reopeners")[28].

2. MOA Comments

MOA raised the following issues in response to the Proposed Final Program[29]:

a. Although the prior Mayor supported the Proposed Final Program, the new Administration believed that Anchorage Assembly approval was necessary, and the prior Mayor failed to obtain it[30];

b. Requests full water restoration to the Eklutna River for the full 12 miles from the Eklutna River Dam downstream and permit fish passage to and from Eklutna Lake;

c. Removal of the limited reopeners; and

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[28] The Fixed Wheel Gate Limited Reopener does not trigger the process terms of the 1991 Agreement; the Fish Passage Limited Reopener does not alter any other components of the Final Program. Proposed Final Program, Section 4.0, Pgs. 17, 20.

[29] Letter from Mayor Susanne LaFrance to Governor Dunleavy, July 19, 2024, and accompanying AR No. 2024-218(S).

[30] Mayor LaFrance was sworn into office on July 1, 2024. David Bronson previously served as Mayor of Anchorage from July 1, 2021 – June 30, 2024. The Proposed Final Program was drafted during and completed while Mayor Bronson served as Mayor of Anchorage. Former Mayor Bronson submitted a letter of support to the Governor's office on April 26, 2024.

d. Requested a two-year extension for the purpose of studying pumped storage hydropower as a potential alternative.

3. FWS Comments

In general, FWS agreed with the Proposed Final Program, but it believed full restoration of water flow to the Eklutna River and fish passage to and from Eklutna Lake was an "important component of a long-term mitigation strategy and that the Proposed Final Program was a starting point to reconnecting the River with their phased approach." They also commented that "[n]either an engineering solution nor funding support have yet been identified that can accomplish all criteria, but we look forward to exploring opportunities to accomplish river connectivity and return an anadromous sockeye salmon run to the Eklutna River". [31]

FWS requested one modification to the Proposed Final Program. FWS requested that if the Fixed Wheel Gate is determined to not be feasible, that the $10 million in funding committed for that purpose be allocated for other protection, mitigation, and enhancement measures "to improve habitat by other means." [32]

4. NMFS Comments

NMFS raised similar issues raised by FWS but did not object to the Proposed Final Program. It concluded the "Program provides a framework to initiate the protection, mitigation and enhancement of fish and wildlife resources and will support the next

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31 Sara Boario, Regional Director, FWS, letter to Governor Dunleavy, June 24, 2024.

32 Id.

iteration of a mitigation plan."[33] NMFS had one request for a modification of the Proposed Final Plan. NMFS requested that if the Fixed Wheel Gate was determined to not be feasible or did not proceed, that either the $10 million committed for that purpose be allocated for other protection, mitigation, and enhancement measures in coordination with the Monitoring and Adaptive Management Committee, or that the NVE pump station alternative be studied.[34]

5. NVE Comments

NVE maintains the primary purpose of the Agreement was to "restore and maintain sockeye salmon that depend on free passage into and out of Eklutna Lake, their preferred spawning habitat."[35] NVE further states the Program is deficient in the following ways:

a. Failure to restore water to all 12 miles of the Eklutna River from the dam downstream at sufficient volumes to support salmon habitat;
b. Failure to permit passage of sockeye salmon to and from Eklutna Lake;
c. Low water flows only minimally enhance chinook and coho salmon habitat;
d. Jeopardizes Anchorage drinking water; and
e. Burdens ratepayers and taxpayers with excessive costs.[36]

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33 Jonathan M. Kurland, Regional Administrator, National Marine Fisheries Service, letter to Governor Dunleavy June 21, 2024. Mr. Kurland's letter acknowledges that the mitigation process is ongoing and repeats every 35 years beginning 25 years after implementation of the Final Fish and Wildlife Program has been implemented.

34 Id.

35 Aaron Leggett, Chair/President, NVE, letter to Governor Dunleavy, June 21, 2024.

36 Id.

6. Operators' Reply to Comments

The Operators replied to the comments from the other Parties and NVE and continued to maintain the Proposed Final Program was consistent with the Agreement. The Operators identified the federal Parties generally approved the Proposed Final Program with some reservations and they identified some key disagreement with MOA and NVE, including:

a. Flow regimes will enhance spawning habitat for chinook, coho, chum and pink salmon that currently exist in the Eklutna River;

b. Included a limited reopener in the Proposed Final Program for the Monitoring and Adaptive Management Committee to address fish passage to and from the Eklutna Lake in the future;

c. Operators worked with AWWU to negotiate agreements that protected the supply of drinking water to Anchorage;

d. NVE's proposed Pumped Station alternative posed higher costs and increased risks to the Project;

e. Removal of the Eklutna Dam in 10 years was not feasible due to foreseeable energy needs, inhibition of renewable energy goals, excessive replacement and removal costs, and damage to infrastructure and property downstream; and

f. The two-year delay requested by MOA for further study will thwart implementation of the Final Approved Program in the timeline required by the Agreement.[37]

7. Joint MOA/NVE Resolution for Pumped Storage Hydropower

Well after the comment period had expired and even after the deadline for Owners' reply to the comments, MOA and NVE provided the Governor and the other Parties a joint resolution recommending a new alternative, pumped storage hydropower, they believed "could result in full restoration of waterflow to the River, protection of Anchorage's drinking water source, and increased power generation, potentially with lower costs to municipal taxpayers and ratepayers".[38] MOA and NVE claim that pumped storage hydropower is used worldwide and it has the "potential to maintain and improve existing power production, meet municipal water supply needs and provide full river hydrological function and connection into and out of Eklutna Lake for fish passage". They requested the Governor require, as part of the Final Approved Program, Owners to use two years of the three year pre-implementation period in the Agreement to explore alternative infrastructure options, including pumped storage hydropower, so water could be restored to the entire Eklutna River and permit fish passage to and from the Eklutna Lake.[39] This joint resolution was virtually identical to MOA's prior request to delay the Governor's decision on a final

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37 Operators Response to Comments, July 24, 2024.
38 Anchorage Assembly and NVE Joint Resolution, No. 2024-001.
39 Id.

program, with the exception of it now identified a proposed alternative to pursue, i.e., pumped storage hydropower. The Operators did not have an opportunity to respond to this joint resolution, but it was addressed in the meeting of the Parties with the Governor's office on September 9, 2024.

IV. DISCUSSION

The Proposed Final Program and the comment period that followed ends a long public process that started with the Agreement in 1991. The most recent process started in March 2019 and included:

- Years of studies, consultations, and alternative analysis;
- Several public meetings;
- Extensive public comments;
- A draft fish and wildlife program;
- Numerous parties' comments, meetings, and discussions; and
- A Proposed Final Program.[40]

Almost all the Parties have described the process of reaching the Proposed Final Program as a negotiation.[41] As with any negotiation, participants do not always come away with

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[40] Operators Response to Comments on Proposed final Fish & Wildlife Program, July 2024 at P. 1.

[41] Transcript of Proceedings before the Governor's Office, September 9, 2024 at Pp. 26 (Operators); P. 73 (FWS); and P. 83 (NMFS). NVE although not a Party to the Agreement also commented that the process included negotiations. Id. at P. 85. MOA did not describe the process as a negotiation, but is now represented by a different administration than the one in place when the Proposed Final Program was drafted. However, see Former Mayor Bronson's letter of support to the Governor's office on April

what they want, and the end result is a resolution that neither side may be completely happy with but nevertheless agree to the terms to move the matter forward. This is certainly the case with the Proposed Final Program put forth by the Operators. The Parties have disagreements as to what should be included and how far the Final Program should go. The Parties, at the time they entered the Agreement, clearly understood that not everyone would get what it desired. The Agreement includes provisions on how to resolve those differences.

A. Governor as Final Decision Maker

1. Review Standard

The Agreement sets forth the role of the Governor in establishing a Final Program. The Governor is required to "review the Proposed Final Program, comments, testimony, summary and analysis materials, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources".[42] He is then tasked with "attempting to reconcile any differences between the Parties, giving due weight to the recommendations, expertise, and statutory responsibilities of FWS, NMFS, the State Resource Management Agencies and the Purchasers".[43] Finally, the Agreement provides:

> In order to ensure that Eklutna . . . [is] best adapted for power generation and other beneficial public uses, the Governor shall give equal consideration to the purposes of efficient and economical power production, energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), the protection of recreation opportunities, municipal water

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26, 2024, wherein he states MOA (Anchorage Hydropower) was involved in the process every step of the way.

42 Agreement at Section 5, P. 4.

43 Id.

supplies, the preservation of other aspects of environmental quality, other beneficial public uses, and requirements of State law ("Eight Factors").[44]

The Governor is then tasked with establishing the Final Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources affected by the Project.

2. Operators' Proposed Final Program and Analysis of Eight Factors

We must first evaluate the Proposed Final Program in light of the Eight Factors outlined in the Agreement.

a. Efficient and Economic Power Production and Energy Conservation - Factors One and Two

The Operators assert the Project "produces nearly six percent of the Owners' combined generation portfolio, which also amounts to roughly 25% of Chugach's renewable energy and 44% for Matanuska."[45] This power is also alleged to be the lowest cost resource for power in the Alaska Railbelt.[46] The Project also assists with power reliability for the region.[47] None of the Parties challenge these assertions. Obviously, the downside to restoring water flow to the River from a power production standpoint is the loss of the water for that production. This comes at a cost, both financial and in terms of

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44 Id.

45 Operators' Brief to Governor, September 4, 2024 at P. 4.

46 Id. citing SID at 2.2.2

47 Operators' Brief, September 4, 2024, P.p. 4-5. Operators also cite an example of how the Project assists other power production in the region. When a natural gas company experienced delivery problem, Operators were able to maximize their usage of the Project to maintain system reliability. Id. (Citing Tony Zellers, et al, letter to MOA, February 12, 2024).

power availability, which cannot be overlooked. Maximizing the Project's power output results in energy conservation by reducing natural gas usage, avoidance of diesel usage for power generation and thus lower emissions, and thus reduced costs if these other power production methods were employed.

The Operators chosen method for restoring instream water flow to the River was also based on using cost effective means to achieve the goal and consideration of the costs to the rate payer. They also rejected alternatives that shut the Project down for lengthy periods of time which would have impacted the Project's value for capacity reserves and grid reliability.[48] These facts are likewise not challenged by any Party.

b. Protection, Mitigation of Damage to, and Enhancement of Fish and Wildlife (including related spawning grounds and habitat) – Factor Three

The Proposed Final Program provides several steps for restoring water flow to the River and thus enhancing, protecting, and mitigating damage to fish and wildlife. The Program restores water flow to the River at rates between 27cfs and 40cfs throughout the year.[49] It also requires periodic channel maintenance flows up to 220cfs.[50] It rewaters 11 of the 12 miles of River at the rates noted above thus restoring water flow to the River that has not existed for years. The plan also creates a Monitoring and Adaptive Management Committee of experts to review, evaluate and modify flow regimes within a water budget to increase and enhance fish habitat. Likewise, the increased flow and enhancement of fish habitat will have a corresponding effect on other wildlife, including

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48 Id.

49 Proposed Final Fish and Wildlife Program, Section 2.1.2.

50 Id. at Section 2.2.

bear and moose populations. Operators' modeling projects increases in chinook spawning and rearing habitat by 209 and 53 percent respectively with increases for coho by 65 and 67 percent, respectively.[51] Limited Reopeners are also included, i.e., potential installation of a fixed wheel gate and fish passage in the future.

The federal Parties, NVE, and MOA correctly point out that the Proposed Final Program fails to include rewatering of the entire River and allow for fish passage to and from Eklutna Lake. NVE and MOA believe that this failure alone makes the Proposed Final Program deficient. They also challenge whether the flows proposed will result in any substantial benefit to salmon habitat. The federal Parties, although proponents of full water flow and fish passage, realize that this process is long and with technological advancements in the future, the goals can be achieved. For that reason, they did not reject the Proposed Final Program. The Agreement provides the Governor must give due weight to the recommendations, expertise, and statutory responsibilities of the Parties, including FWS and NMFS.[52] Due weight is given to the FWS and NMFS' expertise and the fact that they have not objected to proceeding with the Proposed Final Program is a very strong indicator that it meets Factor Three.

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51 SID at Section 4.10.1.

52 Agreement at Section 5, P. 4. The Agreement also permits the Governor to give due weight to the Purchasers, which includes MOA. However, MOA gave up their right to vote on operations at the Project and conceded they lacked the expertise to participate in the Project's operations, which included establishing the Proposed Final Program per the Agreement. See RCA Order U-18-102(44)/U-19-020(39)/U-19-021(39) and Surrender of Eklutna Operation Committee (EOC) Voting Rights dated as of October 27, 2020, and filed with the RCA in docket number U-18-102(44).

As stated earlier herein, fish passage is not a requirement in the Agreement, nor is restoration of complete waterflow to the River and fish passage. However, from a review of the record, it appears all parties recognize the importance of eventual complete waterflow restoration and fish passage. The difference between the Parties is focused on the methods and timeline to achieve those goals. The Proposed Final Program includes a Limited Reopener to achieve full water restoration and fish passage, understanding that as technology advances, those goals may be cost effective or technically feasible to achieve in the future.[53]

c. The Protection of Recreation Opportunities – Factor Four

Several positive impacts on recreational activities are included within the Proposed Final Program:

- Commitment of $234,000 as a match to Chugach State Park or its designee for lakeside trail repairs;
- Potential fishing in the River;
- Kayaking on the Eklutna Lake
- Hunting opportunities;
- Camping;
- Wildlife viewing; and
- Protection of the tailrace fishery.[54]

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[53] See Section IV.A.3. herein for further discussion on restoration of complete waterflow and fish passage.

[54] Operators' Brief, September 4, 2024, P.p. 8-9.

The other Parties did not address this issue in their briefs.[55] There are clear benefits and protections from the Proposed Final Program as outlined above.

d. Municipal Water Supplies – Factor Five

The Parties once again disagree on the impacts the Proposed Final Program will have on municipal water supply. Operators acknowledge they will use AWWU infrastructure to restore water flow to the River. They assert it will not negatively affect the water supply and, in some ways, enhance the water supply infrastructure. MOA and NVE on the other hand believe it will negatively affect municipal water supply. However, neither MOA nor NVE have been able to adequately detail these alleged negative effects. Once again, the Agreement permits the Governor to rely on the expertise of the Operators and give due weight to their findings.[56]

Operators maintain the Project's infrastructure and Anchorage's municipal water supply have been "inextricably linked as a matter of physical infrastructure, operations, contract, water rights, and authorizing law since the 1980s when AWWU connected its intake pipe to the Project's intake structure".[57] Operators assert they worked closely with AWWU leadership and engineers to develop legal terms and agreements by which AWWU will be comfortable with the use of AWWU infrastructure to release water into

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55 MOA makes a passing reference that the "proposed program fails to adequately advance recreational and other beneficial public uses such as fishing or taking in the beauty of a real mountain river with real water in it". MOA Brief at P. 11.

56 See also, Footnote 51.[57] Operators' Brief, September 4, 2024, P. 9.

57 Operators' Brief, September 4, 2024, P. 9.

the River.[58] AWWU and Operators have agreed on key terms for an agreement to govern the construction and use of the Eklutna River Release Facility and an agreement for the long term sharing of Eklutna Lake water rights. AWWU and Operators also negotiated three agreements to detail and govern the arrangement if the Governor approves the Proposed Final Program. Finally, Operators agreed to commit to not take any action in connection with the Fish and Wildlife Program that would compromise Anchorage's water supply, and they agreed to accept liability if they did so. Additionally, other benefits flowed to AWWU, including design approval rights, the construction of eight new bridges over Eklutna River for AWWU to maintain access to its infrastructure, new communications systems, flow meters and a new isolation valve structure for safer maintenance of their facilities, as well as other benefits. AWWU receives its water under a contract with the Eklutna Owners; the proposed term sheet according to Operators would reduce the current water supply costs by half under the new contract to replace contract expiring at end of 2025. For all these reasons, the Proposed Final Program does meet the requirements of the Agreement concerning municipal water supply.

The central issue here is not whether the water supply is protected and/or enhanced, as the evidence clearly demonstrates it is, but rather, whether the Operators and AWWU's agreements must be approved by MOA and to date that approval has not been achieved. In Resolution 2024-182(S-1), the Assembly stated "The Municipality of Anchorage does not intend to issue authorizations or provide funds or any other form of

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58 Id.

support of the Proposed Final Program or any alternative that doesn't work toward the restoration of the full length of the River…"[59]. The Operators believe they have legal avenues to pursue the agreements even if MOA withholds approval, but litigation does not move the Final Program forward, creates delay in restoring water flows to the River, and impedes implementation of the Final Program.

e. The Preservation of Other Aspects of Environmental Quality – Factor Six

The redirection of lake water to the River instead of the Project's powerhouse reduces the generation of carbon free power that will most likely be replaced by natural gas generation. However, all alternatives considered reduce the power generation from the Project. The Proposed Final Program has the smallest impact in this regard of all the alternatives considered.

f. Other Beneficial Public Uses – Factor Seven

The Operators cite restoration of salmon habitat in the River as another beneficial public use and that flows will not impact infrastructure downriver, including bridges over the River. Enhanced salmon habitat is important to the public and to NVE and its people. Protecting existing infrastructure used by the public is also a beneficial public use.

g. Requirements of State Law – Factor Eight

Numerous areas of State law are impacted by this Proposed Final Program, including permitting, safety, fish and game, natural resources to list a few. The Operators

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[59] MOA Resolution 2024-182(S-1), June 25, 2024

acknowledge the need to comply with all State laws that apply to the Proposed Final Program and their need to obtain an amendment to their certificate of authority from DNR to permit the conveyance and release of water into the River. Additionally, as operators of an electric utility, Operators also have an obligation to comply with all State laws related to utility operations.

h. MOA and NVE Proposed Alternatives

Neither MOA nor NVE have provided any analysis with respect to how their proposed alternatives consider the Eight Factors. Rather, they seem to rely on the belief that their proposed alternatives, such as dam removal or pumped storage hydro, will result in full water restoration to the River and allow for fish passage thus promoting the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat). While that is one factor that must be considered, the Governor is required to give equal consideration to all Eight Factors. They have not provided any evidence or analysis of how these proposed alternatives will impact the other seven factors. For example, there is no evidence of how these alternatives will promote the purposes of efficient and economical power production and energy conservation or impact municipal water supplies.

3. Differences Between the Parties

In addition to giving equal consideration to the Eight Factors, the Governor must also attempt to reconcile differences among the Parties. Although the Parties have generally agreed that the Proposed Final Program was arrived at through rigorous studies, public review, comment, and negotiation, two glaring differences were identified, 1)

water flow for the entire Eklutna River from the dam downstream; and 2) fish passage to and from Eklutna Lake.[60]

The Operators believe that current technology and cost are major prohibitions to obtaining full water flow throughout the River and fish passage to and from the lake at the present time. They posit that the agreement provides a mechanism to continually review these goals and as technology evolves and costs decline, the goals may be achievable, and have provided for this to be regularly evaluated by the Monitoring and Adaptive Management Committee.

FWS and NMFS believe that complete water flow and fish passage were intended as part of the Agreement, but they also indicate that the process must start somewhere and

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[60] MOA and NVE allege the process to arrive at the Operators' Final Proposed Program was flawed. MOA asserts it was denied a viable way to participate due to the fact it lost its vote as an Owner of the Project via an RCA order. However, MOA's assertion in this regard is misguided for three reasons. First, MOA voluntarily gave up its right to vote on matters affecting the operation of the Project and the 1991 Agreement. Secondly, Mayor Bronson formally acknowledged the MOA's complete participation in "every step in the process that led to the Proposed Final Program" and that MOA supported the agreement with the Proposed Final Program. See Mayor Bronson letter to Governor Dunleavy, April 26, 2024. Thirdly, the Operators assert that they and MOA conducted themselves as equals throughout the process and made all decision on the Proposed Final Program through unanimous consent. The record contains no evidence to the contrary. NVE asserts that the Operators failed to pursue alternatives that would have provided for rewatering the entire river and allowed fish passage. Operators counter that they did look at several other alternatives, including NVE's pump station alternative and dam removal, and for various reasons, including economics and other risks, it chose to proceed as outlined in the Proposed Final Program. See NVE comments, June 21, 2024 and Operators' Reply to Comments, July 2024 at Pp. 22-23.

there is time to achieve both and still comply with the Agreement's requirements.[61] They are each committed to pursuit of any alternatives that will achieve those goals.

MOA and NVE however, believe that both goals should be pursued now and absent complete River waterflow and fish passage, the Program should not be adopted. First, the Agreement does not require complete waterflow and fish passage. Had the Parties intended to make those requirements of the Program, they could have and should have so stated in the Agreement itself.[62] Rather, the Agreement outlines requirements to protect, mitigates damage to, and enhances fish and wildlife resources affected by the Project. At the time the Agreement was signed, the River did not enjoy complete waterflow nor were fish able to pass from River to lake and lake to River. As NVE acknowledges, these goals were not achievable until the lower diversion dam was removed in 2018.[63] Courts cannot add words to the contract that would impermissibly re-write that contract, nor can the Governor in this situation.[64] Simply put, the Agreement is not ambiguous. Rather, complete waterflow and fish passage can be adopted in a final

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61 ". . . the Program provides a framework to initiate the protection, mitigation and enhancement of fish and wildlife resources, and will support the next iteration of a mitigation plan". NMFS Comments to Proposed Final Fish and Wildlife Program, June 21, 2024 at P. 2. "Although the proposed Program does not immediately meet the FWS's goals of ecological connectivity . . . the Program, with commitment of all stakeholders, could be an interim step to reconnecting the river, consistent with our request for a phased approach". FWS comments on the Proposed Final Program, June 24, 2024 at P. 4.

62 *McConnell v. Pickering Lumber Corp.*, 217 F.2d 44, 47 (9th Cir. 1954) ("Appellants would have the court under the guise of construction add words to the contract which are not to be found in it. We do not understand such to be the function of the court.").

63 NVE Brief to Governor Dunleavy, September 4, 2024 at P. 7.

64 *JAE Properties, Inc. v. AMTAX Holdings 2001-XX, LLC*, __ F. Supp. Ed __, 2024 WL 538570 (USDC S. D. Cal. 2024).

program if supported by an analysis of the factors in the Agreement, but the Agreement did not mandate it.

NVE and MOA also seem to place all their emphasis on Factor Three, i.e., protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat) without providing for equal consideration of the other seven factors. The Agreement clearly and unequivocally requires the Governor to give "equal consideration" to all Eight Factors.[65] Although Factor Three is an extremely important element of this process, it cannot be viewed alone or to the detriment of the other factors. Each factor has an impact on the final program.

However, with that said, it does not mean that the Governor cannot alter or improve the Proposed Final Program. The Proposed Final Program meets the requirements of the Agreement, giving equal consideration to the Eight Factors, and provides for the protection, mitigation of damage to, and enhancement of fish and wildlife habitat. It can, however, be improved in certain ways to try to reconcile the differences between the Parties per the requirements in the Agreement.

4. Governor's Amendments to Final Proposed Program

The Proposed Final Program is established with the following amendments. Discussion on the amendments will follow this section.

Section 3.1 Committee

This section is amended as follows:

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[65] Agreement at Section 5, P. 4.

The Committee will consist of one voting representative from each of the following:

Alaska Department of Fish and Game – member appointed by the Commissioner;

Alaska Department of Natural Resources – member appointed by the Commissioner;

NMFS – member appointed by its Regional Director;

FWS – member appointed by its Regional Director;

NVE - member appointed by its Chair/President; and

Governor of Alaska – appoints one member.

The Committee will make decisions by consensus and four members shall constitute a quorum.

Section 4.1 Fixed Wheel Gate

If it is determined that the construction of the fixed wheel gate is not structurally or economically feasible, the Owners shall make available any remaining funds not expended of the $10,000,000.00 (up to $10,000,000.00 in April 2024 U. S. dollars)[66] for other protection, mitigation, and enhancement measures for fish and wildlife including impacted habitat loss and other effects

[66] The current estimate for that fixed wheel gate is $4 million. Operators committed up to $10 million in 2024 dollars. See Transcript of Proceedings, September 9, 2024 at P. 109.

related the Project in accordance with the terms and process previously outlined in Section 3.3.6.[67]

Section 4.0 Limited Reopeners

New Section 4.3 is added.

Section 4.3 Pumped Storage Hydropower

Pumped Storage Hydropower is added as a Limited Reopener.

The Parties are directed to study this upon terms and conditions they mutually agree to. The terms and conditions will include level of engineering, level of cost analysis, what Party or Parties will fund the study and in what amounts and any other matters the Parties find necessary to implement this Limited Reopener. The study should be consistent with studies performed for other alternatives reviewed by Operators. The Parties, assuming they agree on the above requirements, are directed to undertake the study immediately, but this study will not delay the implementation of the Governor's Approved Final Program or the review and study of the fixed wheel alternative. The results of the study will be reported to the Monitoring and Adaptive Management Committee ("Committee").

The Committee will analyze the study findings and perform the Eight Factor analysis required by the Agreement. The Committee will then provide the study findings and Eight Factor analysis to the Owners for the Owners review. If

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67 See FWS comments to the Proposed Final Program, June 24, 2024 at Pp. 4-5.

the Owners approve the study findings and Eight Factors analysis, they will provide a statement of support to the Committee and the Committee and Owners will coordinate and cooperate to obtain the Governor's approval. Governor approval of the decision to pursue Pumped Storage Hydropower is required. If the Governor approves the proposal, then the 35-year timeframe requirement to repeat the consultation process required by the Agreement will restart from the date the Governor's approval. The construction of Pumped Storage Hydropower must minimize impacts to Project operations. The Project Owners will oversee all construction activities and will support the development and operation of Pumped Storage Hydropower facilities and infrastructure. This is a limited reopener and will not reopen any other components of the Fish and Wildlife Program.

Discussion of Amendments

Amendment to 3.1

Since the Proposed Final Program provides for ongoing review through the Monitoring and Adaptive Management Committee, and it is the Governor's role under the Agreement to establish a Final Program, adding a Governor appointed seat to the Monitoring and Adaptive Management Committee allows the Governor, and future Governors, to continue to fulfill his or her role under the Agreement to establish the Final Program as the work of the committee is ongoing. The definition of a quorum is added to assist in governance and ensure the recommendations made by the committee have robust involvement from the entities represented.

Amendment to 4.1

As one of the purposes of the Agreement and Final Program is to protect, mitigate damage to, and enhance fish and wildlife habitat, ensuring the funds already set aside for the fixed wheel gate alternative are available to be used for other protection, mitigation, and enhancement measures is consistent with the intent of the Agreement in the event the fixed wheel gate is found to be infeasible. This amendment is responsive to the modification of the Proposed Final Plan requested by NMFS and FWS.

Amendment to 4.0, addition of Section 4.3

MOA and NVE have suggested that Pumped Storage Hydropower ("PSH") is a viable alternative to the Proposed Final Program. They passed a joint resolution on September 5, 2024, advocating for PSH. They claim it is a "proven energy storage solution used worldwide that provides carbon free power production, storage and grid stabilization and that it has the potential to maintain or improve power production, meet municipal water needs and provide full River hydrological function and connection into and out of Eklutna Lake for fish passage.[68] They suggested that the Governor require the Owners use the first two years of the three year implementation period to explore this option.[69]

Neither MOA nor NVE have studied this potential alternative. The Operators have reviewed it but admittedly did not get to any final conclusions on its viability, nor did they engineer or model it to see if it was economically or engineeringly feasible at this location. At the meeting with the Governor's office, MOA, NVE and Operators each

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68 MOA/NVE Joint Resolution, September 5, 2024

69 Id.

agreed that this was a potential option that could be explored.[70] However, Operators and the federal Parties do not want to delay implementation of the Final Approved Program to explore this option.

Implementation of the Final Approved Program should not be delayed or extended for an option of unknown cost and feasibility. However, if PSH is as promising as MOA and NVE indicate, there are numerous potential benefits and improvements to the Eight Factors which must be considered when evaluating this Program. As such, conducting this study, under terms agreeable to the Parties, will provide more information relevant to those factors and the potential benefit or harm to the protection, mitigation of damage to, and enhancement of fish and wildlife resources.

All other components and requirements of the Final Proposed Program are adopted herein unless otherwise amended hereby. The Owners are directed to begin implementation of the Final Approved Program as approved herein as soon as possible.

V. CONCLUSION

The Final Approved Program established today is the culmination of many years of difficult work, analysis, evaluation, discussion, and negotiation by the Parties. Each party did not get all they wanted in this Final Approved Program. However, this is a long-standing problem with no readily available easy solutions and implementation of this

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[70] Transcript of Proceedings, September 9, 2024 at Pp. 105-122. The federal parties did not take a position other than to state they are in favor of exploring options that restores full waterflow to the river and allows for fish passage. Id. at Pp. 112-113.

Final Approved Program will put the River on track towards potential full water flow and fish passage.

Mike Dunleavy
Governor
Date: 10-2-2024

RECEIVED
By the Regulatory Commission of Alaska on Oct 07, 2024

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	))))))	U-24-024

OFFICE OF THE ATTORNEY GENERAL'S
NOTICE OF NO SUBMISSION OF PREFILED TESTIMONY

The Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA) gives notice that it will not be filing any prefiled responsive testimony in the above-captioned matter. RAPA reserves all rights to cross-examine the witnesses of any other party.

DATED October 7, 2024, at Anchorage, Alaska.

TREG TAYLOR
ATTORNEY GENERAL

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CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2024, a true and correct copy of the **Office of the Attorney General's Notice of No Submission of Prefiled Testimony** was served via e-mail on the following:

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STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

CHUCACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S NOTICE OF PREFILED RESPONSIVE TESTIMONIES

Pursuant to Order U-24-024(4), Chugach Electric Association, Inc. and Matanuska Electric Association, Inc. give notice of the filing of the Profiled Responsive Testimonies of Eugene A. Ori and Tony R. Zeller in the above-captions docket.

RESPCTFULLY SUBMITTED this 8th day of October, 2024.

By: _____
Todd G. Glass, Alaska Bar # 1810083
Stephanie McFall

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I hereby certify that on October 8, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	))))))	U-24-024

CHUCACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S JOINT BRIEF REGARDING SURRENDER TERM

Pursuant to Order U-24-024(4),[1] Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association ("MEA") hereby submit this joint brief regarding the interpretation of the following Commission language in Order U-18-102(44)/U-19-020(39)/U19-021(39) ("Order 39"):

> We can only find that [AHP][2] is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without [AHP] having a vote on operation or management decisions. **This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended**, and cannot be lifted until such time as [AHP] has shown to our satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC.

It would presumptuous and inappropriate for any party in this proceeding to tell the Commission what the Commission intended in a previous order. This is especially true

[1] U-24-024(4), Order Adopting Procedural Schedule, Denying Petition to Intervene, and Redesignating Commission Panel at 3 (emphasis in original).

[2] As the Commission is aware, the "stub utility" owned by the MOA was referred to in Order 39 as Municipal Hydro Power and "MHP"; we use Anchorage Hydropower or "AHP" herein because that is the name the MOA now uses when referring to the utility.

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with respect to a single substantive condition in an order dealing with a complicated docket approving, subject to conditions, an acquisition of over $800M in utility assets. Chugach and MEA recognize that Order 39 reflected the Commission's careful consideration of statutory requirements, public interest determinations, and a desire to "find a way to approve this transaction while leaving as much of the parties' bargain intact as possible."[3]

Consequently, Chugach and MEA offer the following considerations that might be useful to the Commission in evaluating its interpretation of (1) the required term length to be applied to the Municipality of Anchorage's ("MOA") surrender of voting rights ("Surrender") on the Eklutna Operating Committee ("EOC") and "under the Fish and Wildlife Agreement"[4] and (2) if, and how, such Surrender required term length can be set aside by the Commission upon MOA d/b/a Anchorage Hydropower ("AHP") request or otherwise. Chugach and MEA take no firm position on what the Commission meant with respect to consideration (1) above and will defer to the Commission's interpretation of its language in Order 39, but they do take a firm position with respect to consideration (2) above: if AHP proves to the Commission that AHP has acquired the expertise to participate as a voting member of the EOC, its return to the EOC must not be allowed to override decisions made by Chugach and MEA during the Surrender period, including with respect to 1991 Agreement fish and wildlife obligations, and must be restrained to focus on considerations of prudent utility practice and the Eklutna Hydroelectric Project's ("Eklutna Project's") operations within the Railbelt electric generation and transmission system.

I. BACKGROUND TO ORDER 39

The Commission's (i) Order 39 and (ii) conditional issuance of a certificate of public convenience and necessity ("CPCN") authorizing AHP's provision of wholesale public electric utility service from its ownership share of the Eklutna Project, were both

[3] Order 39 at 11.

[4] See Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights, attached to the Prefiled Responsive of Eugene A. Ori as EAO-3, at 6.

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based on, and must be interpreted with an understanding of, the extensive record that the Commission developed in its consideration of the various requests in dockets U-18-102/U-19-020/U19-021 (the "Acquisition Transaction Proceeding"). Chugach and MEA find the following parts of that record important to answering questions about the Surrender term.

A. The EOC, its Function, and Operation

The EOC was formed in connection with the 1997 purchase of the Eklutna Project from the federal government by Chugach, MEA, and MOA, which was then doing business as ML&P, a substantial municipal public utility providing electric service directly to a significant portion of Anchorage.[5] In that transaction, ML&P acquired 53.33% of the Eklutna Project, Chugach acquired 30% and MEA acquired 16.67%, with each having rights to the Eklutna Project's power and responsibility for operation costs equal to such percentages.[6] Each of the owners appointed a representative to the EOC, which was charged with operating and maintaining the Eklutna Project. EOC decisions were subject to vote by double majority, requiring a vote of at least two owners whose shares totaled 51% of the Eklutna Project shares, effectively granting MOA, as the majority owner of the Project, a veto right over decisions.[7]

As the Commission heard during Acquisition Transaction Proceeding testimony, the EOC acts as "an operations and maintenance type of committee" that is not charged with "higher-level functions" like "agreements and the transition agreements".[8] The Commission asked witnesses about the qualifications needed to sit on the EOC and perform its duties and was given somewhat differing answers from (i) Chugach through Dustin

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[5] Order 39 at 14-15 and 60-61.

[6] *Id.*; *see also* Transition Plan referenced in Order 39 at n. 9 and attached to the Municipality of Anchorage d/b/a Anchorage Hydropower's Briefing Regarding Interpretation of Order 39 submitted in this proceeding on September 18, 2024 ("MOA Brief") as Exhibit 1 thereto.

[7] Order 39 at 14-15 and 60-61; *see also* T-3 Prefiled Direct Testimony of Tony Zellers ("Zellers"), at 7.

[8] U-19-020/U19-021 Hearing, at Tr. 604.

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Highers, Vice President of Production who spoke to prudent utility practices and knowledge of the Railbelt electric generation and transmission system;[9] (ii) ML&P through Anna Henderson, ML&P's General Manager who stated that while there were no unique requirements to serve on the EOC, no ML&P employees seeking employment with the MOA after the Acquisition Transaction were qualified to sit on the EOC,[10] and that if specific engineering type of expertise were needed, the MOA "would contract out for it";[11] and (iii) the MOA through Rebecca Windt Pearson, Municipal Attorney for the MOA.[12]

During the Acquisition Transaction Proceeding, the Commission also asked about EOC voting rights and was informed that, while ML&P possessed a double-majority voting right, the utilities were generally aligned and the EOC functioned without many contentious issues.[13]

B. The Chugach – MOA ML&P Transaction

Beginning in 2019, ML&P sought approval from the Commission to sell the majority of its electric utility assets to Chugach, except for the Eklutna Project ("Acquisition Transaction").[14] While some of the terms of the deal changed during the Commission's consideration, broadly ML&P sought to retain ownership over its share of the Eklutna Project through a newly created "Municipal Hydropower[15]", or a "stub

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[9] *Id*. at Tr. 605.

[10] *Id*. at Tr. 3175, lines 2-4.

[11] *Id*. at Tr. 3180, line 13; Tr. 318, line 13.

[12] *Id*. at Tr. 2708, lines 23-25; Tr. 2709, lines 14-16.

[13] Docket No. U-19-020/U19-021, Tr. 3234, lines 24-25; Docket No. U-19-020/U19-021, Tr. 3235, lines 5-15 ("Well, I think, you know, all the parties are in the same position, so it's probably difficult to be at odds with another. I mean, everybody is after [all] trying to run the project as cost effectively as possible and the allocation of water is predetermined. So there's, I guess, very little – there's not a lot of contentious issues that are surrounding the project, so I'd say, for the most part, all of the parties are aligned towards, you know, operating the project efficiently and getting that capacity, so there's I can't remember too many times when there's been any, you know, consternation about, you know, a particular decision.").

[14] Order 39 at 7.

[15] See note 2, *supra*; (the entity is now referred to herein as "AHP").

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utility"[16] that in function, would only retain ML&P's interests in the Eklutna Project and sell its output created by such interests wholesale through two long-term power purchase agreements with each of Chugach and MEA.

Under the power purchase agreement with Chugach ("Eklutna PPA"), Chugach agreed to take over operational and cost responsibility for 64% of MOA's share of the Eklutna Project, to obtain rights to all power associated with that portion of the project, and to pay the MOA an annual predetermined payment for power not tied to the amount of power generation.[17] Chugach was provided the option – at its discretion – to purchase that portion of the Eklutna Project at the end of the Eklutna PPA term for the net book value at the end of the PPA term.[18] Following examination of the Eklutna PPA (the risks and costs borne by Chugach as "Buyer" therein), the Commission ultimately found the Eklutna PPA in Order 39 to not actually be a wholesale power purchase agreement, but rather a "deferred payment mechanism for Chugach's acquisition of most ML&P assets."[19]

Under the more classic power purchase agreement with MEA ("MEA PPA"), on the other hand, MEA obtained the rights to the power from 37.51% of the MOA's share of the Eklutna Project, paying for delivered energy every month, with MOA retaining cost and operational responsibility for that share.[20] Similarly to the Eklutna PPA, MEA also has a purchase option at the end of the 35 year term for such 37.51% share.[21]

Under both agreements, language was included that MOA would stay on the EOC, with a requirement in both the Eklutna PPA and the MEA PPA that Seller consult with Purchaser when selecting such representative, and an additional requirement that the

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[16] U-19-020/U19-021 Hearing, at Tr. 2960.

[17] *See* Prefiled Responsive Testimony of Eugene Ori ("Ori"), at 7; Ori, EAO-2 at § 14.3 ("Eklutna PPA"); Zellers at 9.

[18] Eklutna PPA at § 14.3.

[19] Order 39 at 74-75.

[20] Zellers, Exhibit TRZ-02 at § 4.2(A).

[21] *Id.* at § 17.3.

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MOA's EOC representative act consistent with prudent utility practice.[22] The term of each agreement is 35 years and may be extended if the purchase options are not exercised.[23]

During the Acquisition Transaction Proceeding, the Commission sought information related to how the stub utility would be staffed with respect to the Eklutna Project and its role on the EOC. In connection with the Acquisition Transaction, witnesses explained that such MOA majority ownership role would transition from ML&P, a fully staffed electric utility providing public electric utility service to 31,081 service locations with 444.3 megawatts of installed generation capacity[24], to the stub utility (AHP) with no employees that would exist solely for the purpose of owning part of the Eklutna Project. The MOA initially proposed that the Municipal Manager would run AHP[25] and sit on the EOC and if necessary, AHP would hire outside consultants to fill the position,[26] although at the time MOA was not aware if such experience existed in the consulting community:

> ALJ WALKER: Is the Municipality, after the closure of this transaction, retaining any employees of ML&P?
>
> MS. WINDT PEARSON: The plan is not to. And I know that we have discussed what we would to do to have the necessary advice, expertise, and personnel in order to continue to participate in the Eklutna Operating Committee. I think that we envision the stub utility being a department that reports to the municipal manager. And that, more likely than not, we would utilize consultant services to provide that industry-specific expertise and staffing to help us make informed decisions as a continuing member of the Eklutna Operating Committee. Because we would not be retaining any employees of Municipal Light & Power.
>
> ALJ WALKER: Have you investigated to see if any such expertise exists in the consulting community?
>
> MS. WINDT PEARSON: We have not done so yet.[27]

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[22] *Id.* at § 4.2(B); Eklutna PPA at § 4.2(B).

[23] Eklutna PPA at § 3.3(a); MEA PPA at § 3.3(a).

[24] Order 39 at 49.

[25] *Id.* at 66.

[26] *Id.* at 39 at 66-67; *see also* Docket No. U-19-020/U19-021, Tr. 3034, lines 16-18.

[27] Docket No. U-19-020/U19-021, Tr. 2708, lines 23-25; Docket No. U-19-020/U19-021, Tr. 2709, lines 1-18.

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ML&P further acknowledged that (i) "ML&P's current operating and maintenance responsibilities at the [Eklutna] Project [would] be transitioned to the other two owners, Chugach and MEA",[28] (ii) AHP's main responsibility after the Acquisition Transaction would be "rendering of the bill and receiving payment", and (iii) "the stub utility appears more than adequate to meet the very diminished responsibilities that the stub utility will have post-closing."[29]

When asked, ML&P's witness told the Commission that if the Commission found that the MOA through AHP was not "managerially fit under AS 42.05.241 to hold a certificate of public convenience and necessity," the entire Acquisition Transaction would have to be renegotiated.[30] So, the facts before the Commission in 2020 were that if the Commission wanted to approve the Acquisition Transaction, it would have to issue a CPCN to a "utility" clearly lacking the expertise to participate in, let alone sit in a role with majority owner veto power over, the management and operation of the Eklutna Project.

On May 20, 2020, the Commission approved the requested Acquisition Transaction subject to certain conditions in Order 39. The Commission found that as the Acquisition Transaction was proposed, AHP would be a public utility "required to hold" a CPCN pursuant to AS 42.05.241 in "order to provide **wholesale** public electric utility service **through its ownership share of the Eklutna Project**".[31] In assessing whether AHP was technically and managerially fit to hold the newly sought CPCN in the capacity of providing its public utility service as a **majority owner** of the Eklutna Project, however, the Commission wrote that:

> …we cannot unconditionally find that [AHP] is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that [AHP] is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna

[28] *Id*. at Tr. 3033, lines 12-14; Docket No. U-19-020/U19-021, Tr. 3033, lines 1-4.

[29] *Id*. at Tr. 3034, lines 12-14; Docket No. U-19-020/U19-021, Tr. 3034, lines 4-6.

[30] *Id*. at Tr. 2961, lines 14-12.

[31] Order 39 at 67 (emphasis added).

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> PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without [AHP] having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as [AHP] has shown to our satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit [AHP] from attending EOC meetings, but may not allow [AHP] any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[32]

While the Commission did not specifically enumerate a process to be followed by AHP to demonstrate that AHP had acquired the expertise required to fully participate as a voting member of the EOC in the future, the Commission makes clear that at a minimum, any EOC voting member must have knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system.[33]

C. The Surrender Period

On October 30, 2020, in order to close the Acquisition Transaction, the MOA filed a notice complying with the Commission's surrender condition and attached the Surrender specifically with respect to voting rights "as an EOC member and under the Fish and Wildlife Agreement."[34] It was signed by all three Project Owners and states that "the surrender shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC".[35] The Surrender itself, however, was silent on a specific term length.

Over the past four years, the MOA has at times sent different representatives to participate in EOC meetings, including Mark Corsentino who has been employed by the MOA in his current role at AWWU since 2019.[36] Since that time, as explained by Eugene

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[32] Order 39 at 67.

[33] Order 39 at 66.

[34] Ori, EAO-3, at 6.

[35] *Id.*

[36] Prefiled Direct Testimony of Mark A. Corsentino, P.E., ("Corsentino"), Exhibit MAC-1.

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Ori and Tony Zellers in their prefiled responsive testimonies herein, all decisions on the EOC have been made unanimously by the technical experts from Chugach and MEA, but Chugach and MEA have nonetheless continued to seek the input of any MOA representatives in attendance and there have been no significant areas of contention or disagreement from such representatives with the Project Owners' decisions.[37]

Both before and during this Surrender period, all three owners of the Eklutna Project also worked collaboratively and devoted a significant number of resources to complying with their implementation responsibilities under the 1991 Agreement[38], a process that has not yet significantly involved the EOC (the EOC will, however, be involved in future implementation).[39] As with the EOC, the MOA, despite surrendering its vote on this process, has also participated and until after the submission of a Proposed Final Program to the Governor in April 2024[40], such participating representatives had been in complete agreement with all decisions of Chugach and MEA.[41] In the background, however, of this work, was a clear opposition from the Anchorage Assembly ("Assembly"), who, despite the MOA's lack of voting powers on the EOC or lack of voting rights to impact the Fish and Wildlife implementation process, have taken numerous actions in a clear attempt to delay or modify the Final Fish and Wildlife Program.[42] The Assembly also petitioned the Commission to intervene out of time in the closed Acquisition Transaction Proceeding dockets, requesting the Commission reopen the docket on an expedited basis and fundamentally change Order 39 to restore AHP voting rights without

[37] Ori at 9; Zellers at 8.

[38] Zellers, Exhibit TRZ-3 (Agreement Between the Municipality of Anchorage d/b/a Anchorage Municipal Light and Power, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., U.S. Fish and Wildlife Service, National Marine Fisheries Service, Alaska Energy Authority, and the State of Alaska Relative to the Eklutna and Snettisham Hydroelectric Projects (Aug. 7, 1991) ("1991 Agreement").

[39] Ori at 9.

[40] *See* Zellers at 12.

[41] Zellers at 13.

[42] Zellers at 14.

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any regard for the reasoning behind the Surrender condition or the underlying Acquisition Transaction facts. The Commission denied the Assembly's petitions in Order U-18-102(52)/U-19-020(49)/U19-021(49) and the Assembly has since appealed the Commission's order.[43]

Despite the fact that (i) Mr. Corsentino has been employed by the MOA in his current role at AWWU since before the Acquisition Transaction closed, and (ii) at the time of the Acquisition Transaction, the General Manager of ML&P nonetheless stated that there was no one at the MOA to fill the AHP role on the EOC, it was only soon after the change in Anchorage municipal leadership and during the Governor's review of the Proposed Final Program, that the MOA decided it did have the requisite expertise and took action to regain its voting rights on the EOC. On July 2, 2024, the Assembly appointed Mr. Corsentino as the Utility Director of Anchorage Hydropower.[44] On July 18, 2024, AHP submitted a notice and request for acknowledgement from the Commission ("Request for Acknowledgement") stating that it had "acquired" the expertise through Mr. Corsentino and Mr. Schimscheimer, the Engineering Director at AWWU, to participate as a voting member of the EOC, writing that "Order 39 required that the surrender must remain in effect until the MOA 'has shown to [the Commission's] satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC."[45]

II. DISCUSSION

In the Prehearing Conference in this proceeding, Administrative Law Judge ("ALJ") Walker noted that the quote used by AHP in its initial request was incomplete, omitting entirely the language requiring that the term of the surrender be at least equal to

[43] Notice of Appeal, Anchorage Municipal Assembly v. Regulatory Commission of Alaska, 3AN-24-06001CI (filed April 24, 2024).

[44] Notice and Request for Acknowledgement of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee, July 18, 2024 ("Request for Acknowledgement"), at 3.

[45] *Id.* at 3, 6.

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the terms of the PPA.[46] ALJ Walker also noted that the AHP had neither requested or acknowledged in its motion any evidence or discussion of why the Commission should set aside the minimum term. Further, ALJ Walker noted the lack of discussion about the length Mr. Corsentino's employment with the MOA as compared with the term length of the PPAs.[47] ALJ Walker then stated that "the Commission should be considering dismissal of the notice and request for acknowledgement as being prematurely filed" for failing to acknowledge or address the required term length.[48] Based on the understanding, however, the MOA disagreed with the ALJ's reading of the term length requirements of its own Order 39, and ALJ Walker requested briefing from the parties on the term length issue.[49]

In the MOA brief on this issue,[50] the MOA argues that there was a "universal, contemporaneous, continuous, and public understanding" that, while Order 39 required the term of the surrender to be equal to the terms of the Eklutna and MEA PPAs, that term was subject to termination, and the surrender was subject to being "lifted", at any time after the MOA made a showing to the Commission's satisfaction that MHP had acquired the expertise required to fully participate as a voting member of the EOC.[51]

Chugach and MEA admit that until ALJ Walker raised this issue in this proceeding, they had not examined this issue closely and were theoretically comfortable with an interpretation of the Surrender that if and when the MOA could demonstrate technical and managerial fitness, potentially with certain conditions imposed on the MOA to require MOA act consistently with prudent utility practice, to prevent the MOA from undermining the Project Owners' work in implementing the Final Fish and Wildlife Program, and to

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[46] U-24-024 Prehearing Conference, Tr. 6, lines 14-15.

[47] *Id.* at Tr. 7, lines 1-4.

[48] *Id.* at Tr. 7, lines 5-7.

[49] *Id.* at Tr. 17, lines 23-25; Tr. 18, line 1; Tr. 15, lines 6-11.

[50] The MOA d/b/a AHP submitted its "Brief Regarding Interpretation of Order 39" briefing herein on September 18, 2024 ("MOA Brief").

[51] *Id.* at 19.

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protect the Eklutna Project as a valuable resource in the Railbelt, the MOA would be entitled to regain its voting rights on the EOC and with respect to the Fish and Wildlife Agreement before the end of the PPA terms.

Upon further review in this proceeding, however, Chugach and MEA no longer think that this matter is so simple for two primary reasons. First, with respect to this narrow issue, the Commission is asking the parties if they agree or disagree with the Commission's interpretation of the applicability of the term length language, and because Chugach and MEA do see ambiguity in the language, the Commission is in the best position to explain what it intended. There also exists ample reasonable legal basis, well supported by facts, for the Commission's interpretation that the Surrender must last for the duration of the PPA terms centered on the fact that MOA has ceded most of its rights and responsibilities to the Eklutna Project during the duration of those PPAs. Further, the facts that justified the Surrender requirement in the first place are materially unchanged. Second, even if the Commission intended, through its language, to create a path for MOA to regain its voting rights before the end of the PPA terms, such process should not render the length of term requirement language meaningless as MOA's Brief position would. Rather, there must be an acknowledgement of the Surrender term requirement and a demonstration that the concerns behind such requirement will be addressed for the duration of the PPA terms.

Finally, if the Commission finds that that AHP has acquired the expertise to fully participate as a voting member of the EOC, its return to the EOC must not be allowed to override decisions made by Chugach and MEA during the Surrender period and must be restrained to focus on considerations of prudent utility practice and the Eklutna Project's operations within the Railbelt electric generation and transmission system.

A. The Commission's interpretation of its own requirements should be given deference in this situation without regard to any inconsistent understanding of any of the parties to the PPAs.

ALJ Walker indicated in the Prehearing Conference that he had already reached an initial conclusion about the meaning behind the Commission's inclusion of the term length

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requirement, stating that he sees no "evidence or discussion of why the Commission should set aside the **minimum term of voting rights surrender required** in Order 44."[52] AHP then indicated in response that it did "disagree with the interpretation of Order 39 that [ALJ Walker] indicated," to which ALJ Walker later responded "since AHP disagrees with the Commission's interpretation of Order 44, I would like to see briefing on that issue." [53]

This back and forth in the Prehearing Conference indicated that ALJ Walker's initial read of Order 39 was that the language stating that, as a condition to issuing a CPCN to AHP under AS 42.05,[54] the surrender "must have a term at least equal to the term of the PPAs, as those agreements may be extended, and cannot be lifted until such time as AHP has shown to the Commission's satisfaction that AHP has acquired the expertise required to fully participate as a voting member of the EOC" means, at the very least, that AHP may not obtain its voting rights back at any point while the PPAs are in effect without, in addition to showing technical and managerial fitness, acknowledging that it is prematurely ending the surrender requirement and provided evidence to the Commission as to why it is reasonable to set aside such requirement.[55]

The language in question is ambiguous and upon a plain reading, can be interpreted in at least two ways. First, the use of "at least equal to the term of the [PPAs]"[56] could be interpreted as ALJ Walker has indicated: that absent a demonstration to the Commission justifying that such a requirement be set aside, the term of the Surrender shall not be shorter than the length of the PPAs, regardless of any expertise gained or not, but that it could

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[52] U-24-024 Prehearing Conference, Tr. 6, lines 21-25 (emphasis added).

[53] *Id.* at Tr. 17, lines 23-25; Tr. 18, line 1; Tr. 15, lines 6-11.

[54] Order 39 at 60 ("We review an application for a certificate to determine whether the applicant is fit, willing, and able to provide the utility services applied for, and that those services are required for the public convenience and necessity.") (Citing to AS 42.05.241); Order 39 at 67 ("Under these circumstances, we cannot unconditionally find that [AHP] is managerially or technically fit to maintain majority ownership of the Eklutna Project.").

[55] Order 39 at 67.

[56] *Id.*

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potentially be longer. Alternatively, a second interpretation – that the MOA is arguing for – is that while the Surrender term has to match the minimum PPA term length per the first part of the clause, the second part creates a pathway to shorten that term by AHP showing that is has acquired the expertise required to fully participate.

1. The Context Leading to Order 39 Surrender Matters.

As a starting point, interpretation of this ambiguity in Order 39 must be conducted within the context of the Acquisition Transaction hearing record and the underlying situation. A review of the hearing transcripts in the Acquisition Transaction Proceeding shows that ALJ Walker was on point for the Commission throughout the hearings in 2019 on this very issue. ALJ Walker therefore likely had a hand in fashioning the solution to the problem that the lack of AHP's expertise created and which threatened the entire Acquisition Transaction: how to approve a CPCN for a stub utility without requisite expertise. From the hearing transcripts cited above, the Commission could have reasonably assumed from ML&P's witnesses' statements that the MOA had little or no interest in managing the Eklutna Project or participating in its operations and maintenance through its seat the EOC. The record reflects that: (i) the MOA planned to have no staff or expertise at AHP; (ii) the MOA had not even inquired as to whether any outside consultants could be hired to fill that role; (iii) the MOA affirmatively planned that management of the Eklutna Project "[would] be transitioned to the other two owners, Chugach and MEA", and (iv) AHP's main responsibility would be "rendering of the bill and receiving payment."[57] Order 39 reflects these findings in explaining the need for the Surrender. Upon such understanding, ALJ Walker's read of the section requiring for Surrender for the term of the PPAs would seem quite reasonable. If the MOA had no interest in managing the Eklutna Project during the terms of the two PPAs, it makes sense that MOA would only be considered "managerially or technically fit" to "maintain majority ownership of the

[57] See references and quotes in notes 25-29 above.

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Eklutna Project" if it surrendered its vote on the EOC for at least the duration of the two PPAs to the utility offtakers that possess the requisite fitness and expertise.[58]

2. Actions and Statements Since Order 39 Reflect Ambiguity.

The ambiguous understanding of the term length language by the parties has been prevalent since soon after Order 39 was released, and was clearly demonstrated on October 22, 2020 when Commission staff indicated to MEA and MOA in an exchange that has since been added to the docket for TA379-121, that it believed that Section 4.2(B) of the MEA PPA "appears to allow MOA/ML&P to keep its vote on the EOC" and that this was inconsistent with the requirement that MOA/ML&P surrender its vote on the EOC so Chugach and MEA could manage the Project. The MOA responded to the RCA that it was not inconsistent because after the Surrender there would simply be no MOA voting representative on the EOC so long as the Surrender was in place, and as a result, during such time, 4.2(B) would have no affect.[59] While MOA's response clearly demonstrates its view that it could seek to regain its rights during the terms of the PPAs, contrary to the argument in the MOA Brief that this issue was explicitly addressed[60], this exchange is by no means dispositive of the underlying ambiguity. There is no indication that the Commission responded, nor was a response necessary because Section 4.2(B) of the PPA is simply not applicable so long as there is no MOA voting member, a reality that could easily last indefinitely if Chugach and MEA exercise their purchase options.

Such ambiguity was then only further cemented through the language of the Surrender document itself, which states that "this surrender of voting rights shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC…" and "until ML&P's successor

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[58] Order 39 at 67.

[59] *See* MOA Brief at Exhibit 3, Tariff- Supplemental Filing, dated October 27, 2020, available on the Commission website as a public document.

[60] MOA Brief at 15.

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complies with the qualification terms of RCA order U-18-102(44), all EOC decisions will be by unanimous vote of Chugach and [MEA]."[61] The Surrender itself is therefore silent on the term length issue, instead tying any lifting to just "RCA requirements pertaining to qualifications," which is exactly where such ambiguity lies.[62]

3. Chugach and MEA Defer to the Commission in Addressing the Ambiguity in Order 39.

Broadly, Chugach and MEA's joint position is that the Commission's interpretation of its own Order language – both what it means and how to apply it to the facts at hand – should generally be given reasonable deference, as it is the Commission who has the broadest understanding of (i) how it reached the conclusion to include the Surrender language, inclusive of the term length, in Order 39 after the completion of a complex proceeding, (ii) exactly what meaning and requirements were intended by this language, and (iii) how such decision is within the clear purview of the Commission's authority to issue conditions over CPCNs in the name of public interests rooted in ratepayer obligations, prudent utility practice and other matters of Commission expertise. Alaska courts, in reviewing agency actions, take the same view, that in situations where a matter involves agency expertise, agency interpretation received deference so long as they are rooted in a reasonable basis in fact and law.[63]

The central question therefore is whether the Commission's reading of a term length requirement "is supported by the facts and has a reasonable basis in law."[64] As overviewed in the above summary of the record, and as further discussed in the next section, the underlying record and circumstances supporting the complex Acquisition

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[61] Ori, EAO-3, at 6.

[62] *Id.*

[63] See *Alaska Exchange Carriers Ass'n v. Regulatory Comm'n of Alaska*, 262 P.3d 204, 208-09 (Alaska 2011) ("When a matter involves agency expertise we apply a 'reasonable basis" test, giving deference to the agency's specialized knowledge and expertise.").

[64] *W. States Fire Protection Co. v. Municipality of Anchorage*, 146 P.3d 986, 989 (Alaska 2006).

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Transaction and Surrender created multiple reasonable reasons for tying the Surrender to the PPA term lengths, each directly relevant to the Commission's authority to protect the public interest and ensure utility fitness for providing utility service under AS 42.05.241. Further, despite the MOA's statements in its MOA Brief in this proceeding that such an action would be "unreasonable and arbitrary"[65] and "unfair"[66], since 2020, there have been no material changes in fact with respect to MOA's technical and managerial fitness or with respect to the Acquisition Transaction, those same facts which initially led the Commission to issue the Surrender requirement, inclusive of its term length, in the first place.

4. The factual circumstances of the acquisition transaction created numerous public interest reasons within the RCA's legal authority that justify the Commission's interpretation of a strict term length.

A strict PPA-term Surrender term limit reading by the Commission is clearly supported by at least five key factual aspects from the Acquisition Transaction Proceeding.

First, the CPCN for the stub utility was fundamentally much more limited in scope than that of ML&P's CPCN or those CPCNs held by Chugach and MEA. Such CPCNs authorize the utilities to provide retail electric service to a customers in a set territory, and which come with significant responsibilities to ratepayers, including providing service to the public at large,[67] avoiding discrimination between similarly-situated customers,[68] and complying with various RCA regulations, such as the obligation to locate staff and business officers such that the general public has "reasonably convenient access to qualified personnel, including supervisors."[69] AHP's CPCN on the other hand, only authorizes AHP to provide wholesale electric power "from the Eklutna Hydroelectric Project

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[65] MOA Brief at 3.

[66] MOA Brief at 21.

[67] U-22-081(1), Order Rejecting Application, Denying Petition for Confidential Treatment as Moot, Dismissing Petition for Exemption as Moot, Appointing Commission Panel, and Closing Docket, at 3.

[68] U-05-100(3), Order Approving Application, Requiring Filing, and Denying Request for Exemption from Economic Regulation, at 5-6.

[69] 3 AAC 52.405(a).

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Switchyard."[70] All wholesale power provided by MOA from the Eklutna Hydroelectric Project Switchyard is then contractually obligated to be sold to Chugach or MEA pursuant to the Eklutna PPAs for the term length of the Eklutna PPAs. In essence, therefore, the CPCN held by AHP serves one purpose: to enable MOA to meet its obligations under the Eklutna PPAs for at least the next 35 years.

Second, through the Eklutna PPA, which, as the Commission made clear, is more akin to a deferred payment mechanism than a power purchase agreement, the MOA ceded to Chugach a significant amount of management and cost responsibility, and the associated risks, of the long-term operation of the Eklutna Project. For example, Chugach is tasked with managing, controlling, operating, and maintaining its portion of AHP's ownership share, Chugach is responsible for payment of all capital expenditures and operating and maintenance expenses that are payable with respect to the Chugach portion, and Chugach is required to pay AHP an annual payment unconnected to the amount the Project generates.[71] While MOA is still the legal Owner of the portion subject to the Eklutna PPA, MOA clearly ceded its liabilities and all of its costs associated with approximately 64% of its ownership share to Chugach. This also means that Chugach, when totaling its own share and its rights to 64% of MOA's share, currently bears the benefits and burdens of an Owner for approximately 64% of the entire Eklutna Project.[72] In this context, during the term of the Eklutna PPA, the MOA's voting seat on the EOC could be determined to be less

[70] In fact, when issuing CPCN 780, the RCA noted that, "due to the scope of the operation of the Anchorage Hydropower, the Regulatory Commission of Alaska has determined that a description of the authorized service area is not applicable under these circumstances." *See* Letter to Anna C. Henderson, MOA d/b/a Anchorage Hydropower, with attached certificate in U-18-102/U-19-020/U-19-021 (April 9, 2021).

[71] Eklutna PPA at § 4.2 ("Operation of the Facility"); § 7.2 ("Additional Consideration"); § 7.1 ("Annual Payment").

[72] *Id.* at § 2.2(A) ("the 'Chugach Portion' shall equal 64.29% of the Seller's Interest. Such percentage interest, when combined with the Purchaser's existing ownership of 30% of the Facility, will give Purchaser rights to 62.29% of the Facility").

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important under a deferred payment mechanism contract, rather than under a long-term PPA with typical performance obligations on the seller rather than on the offtaker.

Third, while the MEA PPA is structured differently, with AHP maintaining cost and operational responsibility for the 35.71% of the MOA's share in the Project that is allocated for power delivery to MEA (19% of the Project overall), MOA still has prudent operation obligations under the MEA PPA that will last the duration of the MEA PPA.

Fourth, both MEA and Chugach have the options to purchase the subject portions of MOA's ownership shares for then book-value, as set forth in each of their PPAs, at the end of the 35-year terms.[73] If these are exercised, the MOA will have no interest or stake in the Eklutna Project beyond the PPA terms.

Fifth, in the event of disagreement, prior to the Acquisition Transaction, EOC decisions were decided by a double majority or a vote of two of the three Eklutna Purchasers whose shares total at least 51% of the Eklutna Project shares. This means that ML&P previously had formal veto rights over Eklutna Project operating decisions. As was overviewed by Lee Thibert in the Order 39 proceeding transcripts, however, when ML&P – as an operating utility with a stake in and technical expertise regarding the performance of the Eklutna Project – was part of the EOC, disagreements resulting in formal votes were not common given that all parties were incented to run the project as cost effectively as possible.[74] After the Acquisition Transaction, however, the MOA was no longer in the same position (with no ratepayer obligations and significantly diminished cost responsibility and risk in the Eklutna Project). Yet, if AHP's voting rights are now restored to match that of ML&P prior to the Acquisition Transaction, the MOA would gain the right to impose veto power over decisions of Chugach and MEA with respect to the operation of the Eklutna Project despite the facts that (1) only Chugach and MEA rely on the ongoing operation of the Project as part of their ratepayer obligations, (2) the MOA

[73] *Id.* at § 14.3; MEA PPA at § 17.3.

[74] Docket No. U-19-020/U19-021, Tr. 3235, lines 5-15.

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is only responsible for 19% of Project costs, and (3) both MEA and Chugach have purchase options at the end of the PPA terms. Such veto power simply makes no sense.

Taken together, these facts clearly demonstrate ample support for linking the MOA's surrender of voting rights to the terms of the Eklutna PPAs even if the MOA regains technical and managerial expertise, given that the management of the Eklutna Project and the purpose of the MOA utility has so fundamentally changed after the Acquisition Transaction, a fact that will remain for the duration of the Eklutna PPA terms.

Building off this strong factual support, a reading by the Commission of a strict term length is clearly within the purview of the Commission's broad regulatory authorities under AS 42.05.241 to (i) ensure that an applicant for a CPCN be fit, willing and able to provide the utility services applied for – in this case only the wholesale sale of electric power from the Eklutna Project, and (ii) to impose "conditions [on such CPCN] necessary to protect and promote the public interest."[75] Such public interests include (i) ensuring the ongoing operation of the Eklutna Project – a critical Railbelt resource providing low cost, reliable power – in accordance with prudent utility practice and (ii) protecting each of Chugach's and the MEA's rights under the Eklutna PPAs.

5. The Underlying Material Facts Behind the Surrender Remain Unchanged.

None of the above facts have changed materially during the past four years and the MOA has taken no practical action to become more technically or managerially fit to serve the majority owner role on the EOC then when the Commission issued the surrender condition in the first place. Mark Corsentino has worked for AWWU in his current role since 2019.[76] The only thing that has changed is that the Fish and Wildlife implementation process progressed and the Anchorage Assembly did not like Chugach and MEA's Proposed Program and has sought multiple avenues to try to influence that program.[77]

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[75] AS 42.05.141.

[76] Corsentino at 8-9 and MAC-1.

[77] Zellers at 13-14.

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While the Proposed Fish and Wildlife Program was a significant undertaking, the EOC actually had little to do with the implementation process to date as this was an Owner-run process, and going forward, implementation will only be a small part of the many responsibilities of the EOC.[78] All of the relevant facts and associated concerns related to allowing a stub utility to hold a majority owner right over a major Railbelt resource management body remain unchanged. It would therefore be reasonable for the Commission to find – as it did in 2020 based on the same facts – that the Surrender must continue or that voting rights must be changed during the PPA terms.

B. Failing to give any weight to the term length requirement and its underlying reasoning would run counter to clear Commission intent and principles of statutory interpretation.

The MOA, in its Request for Acknowledgement and MOA Brief, has failed to acknowledge any real purpose behind the term length requirement of the Surrender. In its Request for Acknowledgement, it was not mentioned at all. And in its MOA Brief, it is suggested that it was intended to serve only as a base term if the AHP took no action, despite the use of the words "at least" before "equal to the term of" the PPAs.[79]

If, however, the Commission had truly intended to just allow the MOA to regain voting rights upon a demonstration that it has found a single staffer at another department with knowledge of prudent utility practice and Railbelt electricity assets, there simply would have been no reason to include the PPA term length reference in the first place. The same sentence, omitting the term length reference, would have the same effect through stating that "the Surrender cannot be lifted until such time as [AHP] has shown to our satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC." Any reading, therefore, that gives no significant import to the term length language would render that entire clause unnecessary. The Alaska Supreme Court has adopted a rule for statutory construction in which "every word, sentence, or provision

[78] Ori at 8-9; Zellers at 13.

[79] MOA Brief at 9.

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of a statute to have some purpose, force, and effect, and that no words or provisions are superfluous."[80] In U-08-005(6), the RCA adopted this rule of statutory construction to aid its interpretation of an RCA regulation.[81] The Commission must assume, therefore, that there was a clear reason behind its linking the surrender to the PPA terms, and therefore at a minimum, in order for the MOA to regain voting rights prematurely, the MOA must acknowledge the importance and meaning behind the term length requirement and require that the MOA address the concerns underlying the original requirement (e.g. the lack of operational responsibility and risk given how much responsibility has been ceded to Chugach in the Eklutna PPA, and the impact of decision making on the purchase options, AHP's very limited CPCN scope). The MOA should also demonstrate that such concerns will remain addressed throughout the life of the PPAs despite any MOA staffing changes or MOA administrative or Assembly changes.[82] The MOA includes no such acknowledgments or demonstration in its MOA Brief and rather its arguments lead only to an unreasonable conclusion that the term length reference was superfluous.

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[80] *See, e.g.*, *Vazquez v. State*, 544 P.3d 1178, 1187 (Alaska 2024) ("When interpreting statutes, we 'presume that the legislature intended every word, sentence, or provision of a statute to have some purpose, force, and effect, and that no words or provisions are superfluous.'") (quoting *McDonnell v. State Farm Mut. Auto. Ins. Co.* 299 P.3d 715, 721 (Alaska 2013); *Maine Cmty. Health Options v. United States*, 590 U.S. 296, 314, 140 S. Ct. 1308, 1323, 206 L. Ed. 2d 764 (2020) (stating that "[t]he Court likewise hesitates to adopt an interpretation of a congressional enactment which renders superfluous another portion of that same law"); *Matanuska Elec. Ass'n v. Chugach Elec. Ass'n*, 99 P.3d 553, 562 (Alaska 2004) ("In reaching a reasonable interpretation of a contract, we attempt to give effect to all of its terms, if possible.")

[81] P-08-005(6)/P-08-011, at 18-19 ("The Alaska Supreme Court has established rules of statutory construction, which rules apply equally to the interpretation of regulations … In light of the clarity of the wording, the apparent lack of ambiguity, **and the requirement that every word of the regulation be given meaning**, we conclude that there is a heavy burden on the State and Anadarko to convincingly demonstrate that the interpretation of the definition of 'test year' should be limited to a calendar or fiscal year." (emphasis added)).

[82] This issue was previewed by ALJ Walker in the Prehearing Conference, Tr. 7, lines 1-7 ("I also find nothing in Mr. Corsentino or Mr. Schimscheimer… will continue to be employed by the Municipality at the time the Eklutna PPA and the MEA PPA are currently set to expire. I raise this issue at this time because it appears that the Commission should be considering dismissal of the notice and request for acknowledgement as being prematurely filed…").

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C. If the Commission decides to allow the MOA or AHP to regain its voting Rights and end the Surrender, the Commission must ensure that actions under the Surrender are not undone.

If the Commission allows AHP to regain voting rights on the EOC and with respect to the Fish and Wildlife Agreement during the term of the PPAs and AHP proves to the Commission that AHP has acquired the expertise to fully participate as a voting member of the EOC and has otherwise made demonstrations required by the Commission, the return of its EOC voting rights must not be allowed to override decisions that were made by the Chugach and MEA during the Surrender period and must be restrained to focus on considerations of prudent utility practice and the Eklutna Project's operations within the Railbelt electric generation and transmission system.

To be clear, Chugach and MEA will welcome on the EOC any AHP expertise that the Commission finds sufficient under the tests that it established in Order 39 whenever the Commission deems that to be appropriate provided that the Commission also clarify that AHP must accept the following understandings before it can regain voting rights:

1) the EOC is, and should remain, an operations and maintenance committee for the Project, dealing with project operations, maintenance, water reservoir planning, hydroelectric turbines, systems and controls, engineering, and budgets, that works best on decisions made by consensus of those with appropriate expertise, knowledge of prudent utility practices, and how the Eklutna Project operates within the Railbelt;[83]

2) the proper place to discuss the 1991 Agreement process and implementation the Final Fish and Wildlife Program is within the Project Owners group of collaborative co-equal owners that created and negotiated what became the Final Fish and Wildlife Program, as explained in testimony by Tony Zellers;[84]

3) both EOC's and the Owners' decisions previously made during the Surrender period, including, but not limited to, budgets, expenses, and the Final Fish and Wildlife

[83] Ori at 6-9; Zellers at 13.

[84] Zellers at 13.

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Program must be accepted "as-is"; regaining voting rights on the EOC does not give AHP power to undo, or force a review of, prior EOC and Project Owners' decisions;

4) to the extent that AHP loses its expertise that the Commission found sufficient for its EOC voting rights, AHP must notify Chugach, MEA, and the Commission and surrender its voting rights on the EOC until such time as it makes similar demonstration of expertise to the Commission;

5) AHP's representative must focus on considerations of prudent utility practice and the Eklutna Project's operations within the Railbelt electric generation and transmission systems; these obligations must preempt any directives from the Assembly or MOA leadership that would require a vote in contravention of such practices and obligations; and if such representative is unable to vote in line with such practice and obligations because of such a contradictory Assembly or leadership directive on a particular decision, such representative will recuse himself from the applicable vote; and

6) in the event that strategy must be discussed, or a contractual or legal decision must be made, in the Project Owners group or within the EOC in which the interests of AWWU or other parts of the MOA conflict or are otherwise substantially involved, AHP's representative(s) will recuse themselves and Chugach's and MEA's representatives will make decisions through consensus just as they have during the Surrender period.[85]

III. CONCLUSION

For the reasons explained above, there is ample factual and legal support for the Commission's strict term limit reading of the Surrender, however the Commission is best positioned to decide whether the minimum term of the surrender extends the full term of the PPAs. If, however, the Commission determines that AHP may regain voting rights during the Surrender term and if the Commission finds AHP's expertise and qualifications sufficient under the tests it established in Order 39, the Commission should

[85] Zellers at 19-20.

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condition AHP's resumption of voting rights on the AHP acceptance of the set forth in Section II.C above.

RESPCTFULLY SUBMITTED this 8th day of October, 2024.

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I hereby certify that on October 8, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

OFFICE OF THE ATTORNEY GENERAL'S BRIEF ON INTERPRETATION OF ORDER 39

I. Introduction

Order U-18-102(44)/U-19-020(39)/U-19-021(39) (Order 39) did not find that AHP[1] was managerially or technically fit to maintain majority ownership in the Eklutna Project and required the Municipality of Anchorage d/b/a Municipal Light & Power to surrender its voting rights on the Eklutna Operating Committee (EOC). Order 39 stated in part:

> This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC.[2]

[1] Anchorage Hydropower, referred to in Order 39 as MHP.

[2] Order 39 at 67.

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At the August 30, 2024, prehearing conference, the Commission—through ALJ Walker—noted two things. First, that neither AHP's request for acknowledgement nor the motion for expedited consideration discussed why the Commission should set aside the minimum time-period for the voting rights surrender.[3] And second, "it appears that the Commission should be considering dismissal of the notice and request for acknowledgment as being prematurely filed…."[4]

When examining AHP's Notice and Request for Acknowledgment, the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section (RAPA) incorrectly focused on the second half of the above-quoted language from Order 39 and not the issues raised by the Commission. RAPA now addresses those issues.

- The language of Order 39 establishes a minimum time-period for the surrender of voting rights.
- Conflicts in language between Order 39 and the PPAs do not show that the Commission intended to have the PPAs override the requirements of Order 39.
- Any conflict between the PPAs and Order 39 is resolved because PPA provisions provide that the language in Order 39 controls.

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[3] Docket U-24-024 Prehearing Conference Transcript, August 30,2024, at 6:21-25.

[4] *Id*. at 7:5-7.

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II. Argument

A. Does Order 39 establish a minimum time-period for the surrender of voting rights?

The above-quoted language from Order 39[5] consists of an independent clause (the first part of the sentence before the word "and") and a subordinate clause (the second part of the sentence). The independent clause is a complete sentence that requires the surrender to have a "term at least equal to…" the duration of the PPAs. The second part of the sentence is not a complete sentence and is also subordinate to the independent clause's stated requirements. Unless AHP shows that the subordinate clause (the second part of the sentence) sets aside the minimum time-period for the surrender of voting rights, the Commission should consider dismissing the notice and request for acknowledgment as being prematurely filed.

As noted above, the language from Order 39 includes two clauses: (1) "This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended" and (2) "cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC." The grammar principle of subordinating conjunctions helps in understanding this sentence.

[5] RAPA does not pretend to be able to tell the Commission what it meant in the Commission's own order. Instead, RAPA provides this briefing as requested.

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The second clause is connected to the first, independent clause, with subordinating conjunctions: being "and" and "until." Grammerly.com explains:

> A subordinating conjunction is a word or phrase that links a dependent clause to an independent clause. This word or phrase indicates that a clause has informative value to add to the sentence's main idea, signaling a cause-and-effect relationship or a shift in time and place between the two clauses.
>
> A dependent clause, also known as a subordinate clause, is a clause with two specific qualities. Firstly, it does not express a complete unit of thought on its own; it cannot stand as its own sentence. Secondly, it *depends* upon an independent clause—one that can stand on its own as a complete sentence—to form a complete idea. If independent and dependent clauses could be likened to Batman and Robin, the dependent, or *subordinate,* clause would be Robin, Batman's assistant. The independent, main clause would be Batman, his superhero boss.[6]

Grammerly.com lists subordinating conjunctions and includes the word "until."[7]

The second clause satisfies the above dependent (subordinate) clause description. First, the second part of the sentence cannot stand on its own. That is because there is no subject (e.g., "it" or "the Surrender") in the clause: "and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC." Second, it depends on the first clause. That part of Order 39 is an independent clause that can stand on its own as a complete

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[6] *See* https://www.grammarly.com/blog/subordinating-conjunctions/ (emphasis in original) (visited September 30, 2024).

[7] *Id*.

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sentence: "This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended[.]" Third, the second clause uses the word "until" making it subordinate[8] to the first clause in Order 39.

The subordinate clause relies on the language of the independent clause for the subordinate clause to have any cause or effect. Without the first clause, the second clause has no meaning. Stated another way, if the independent clause was removed from Order 39 then the subordinate clause would not make any sense. If the subordinate clause basically cannot exist without the independent clause, then the subordinate clause cannot overrule the requirements of the independent clause.

Examining the grammar principles for the language in Order 39 indicates that the surrender of voting rights was for a term at least equal to the duration of the PPA. The subordinate clause shows that AHP cannot seek to have the surrender lifted until the PPAs have expired.

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[8] Black's Law Dictionary at 1426 defines "subordinate" as "Placed in a lower order, class, or rank; occupying a lower position in a regular descending series; inferior in order, nature, dignity, power, importance, or the like; belonging to an inferior order in classification, and having a lower position in a recognized scale; secondary, minor." (6th ed. 1990).

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B. Do conflicts in language between Order 39 and the PPAs show that the Commission intended to have the PPAs override the requirements of Order 39?

AHP asserts that Order 39 could not have required a minimum time-period for the surrender because the idea of a minimum time-period is contradicted by the language in the approved PPAs.[9] There are two PPAs involved: the Eklutna PPA and the MEA PPA.

1. The Eklutna PPA

In Order 39 the Commission held "that the Eklutna PPA is a deferred payment mechanism for Chugach's acquisition of most ML&P assets."[10] The Commission recently restated this holding:

> We also found that the Eklutna PPA was not a power purchase agreement. We found that the Eklutna PPA might be considered a lease, or merely a secured acquisition payment mechanism, but it was not entitled to the protections offered to wholesale power purchase agreements under AS 42.05.431(b).[11]

AHP does not explain how a provision in a deferred payment mechanism is sufficient to override the language in Order 39. Stated another way, Order 39 stated that AHP was not managerially or technically fit until the conditions in Order 39 were met. There is no indication in the Commission's approval of the deferred payment

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9 APH Brief at 9.

10 Order 39 at 75.

11 Order U-23-047(12)/U-23-048(12) at 11.

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mechanism that the Eklutna PPA was meant to override Order 39's managerial and technically fit requirements.

Further, Order 39 required that the AHP representative have knowledge of prudent utility practice and the Railbelt electric generation and transmission system. But the Eklutna PPA does not require AHP's representative to have knowledge of the Railbelt electric generation and transmission system: "The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA."[12] Accepting AHP's argument means that the Commission set forth requirements in Order 39 and then immediately countermanded part of those requirements—knowledge of Railbelt generation and transmission system—by approving the Eklutna PPA.

Further, AHP's Notice and Request for Acknowledgement undermines AHP's own assertions. AHP advocates that Mr. Corsentino has both knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system.[13] If the language in the Eklutna PPA shows that the Commission intended to allow the AHP to have a representative on the EOC as provided in the PPA, then AHP's Notice and Request for Acknowledgement would have followed the requirements of the PPA rather than Order 39.

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[12] Order 39 at Appendix D at 9 of 92.

[13] AHP Notice and Request for Acknowledgement at 3-4.

There is no indication that the Commission intended the Eklutna PPA to override the stated requirements in Order 39.

2. The MEA PPA

After Order 39, AHP and MEA made tariff filings for approval of the MEA PPA.[14] Commission Staff noted a possible inconsistency between the MEA PPA and Order 39.[15] Commission Staff pointed out that page 67 of Order 39 required MOA/ML&P to surrender its vote on the EOC so that Chugach and MEA could manage the project, but that section 4.2 of the MEA PPA appeared to allow the MOA/ML&P to keep its vote on the EOC.[16]

Commission Staff asked if this was a conflict.[17] The MOA/ML&P responded that there was no conflict.[18] The MOA/ML&P asserted:

> Like Section 4.2(B) of the Chugach Eklutna PPA, Section 4.2(B) of the MEA Eklutna PPA requires MHP, in consultation with the Purchaser, to select MHP's representative on the EOC. As a result of Order 39, MHP won't have any voting representative on the EOC until the surrender is terminated upon a positive finding by the RCA that MHP's proposed representative is qualified. Thus,

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14 *See* TA379-121 (AHP) and TA525-15 (MEA).

15 TA379-121 Oct. 27, 2020 Supplemental Tariff Filing; TA525-15 Oct. 23, 2020 Supplemental Tariff Filing.

16 TA379-121 Oct. 27, 2020 Supplemental Tariff Filing; TA525-15 Oct. 23, 2020 Supplemental Tariff Filing.

17 TA379-121 Oct. 27, 2020 Supplemental Tariff Filing; TA525-15 Oct. 23, 2020 Supplemental Tariff Filing.

18 TA379-121 Oct. 27, 2020 Supplemental Tariff Filing.

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> Section 4.2(B) of neither PPAs need to be amended. In addition, Section 4.2(B) should remain as written as it will be relevant if and when MHP's voting rights surrender is terminated in the future upon the necessary finding of the RCA.[19]

But MEA had a different response and admitted that a conflict existed.

> The MEA Eklutna Hydro PPA, by and between MEA and the MOA, was entered into and executed in September 2019, several months prior to the RCA's May 2020 decision requiring ML&P to surrender its vote on the EOC as a condition of approving the sale of ML&P. This appears to be the reason for the "conflict" you reference because at the time the PPA was negotiated, the parties had no way of knowing the future RCA decision regarding ML&P's surrendering of EOC voting rights. MEA notes that the provision you reference and cite as a conflict in the MEA Eklutna Hydro PPA is contained verbatim in the Chugach Eklutna Hydro PPA (see Appendix D of Order U-18-102(44), Section 4.2(B) at page 9 of 92), which the RCA conditionally approved as part of Order U-18-102(44).
>
> In MEA's view, if the RCA wishes to resolve this perceived conflict, the remedy should be similar and consistent with how the RCA remedied the same conflict in the Chugach Eklutna Hydro PPA, which could include approving the MEA PPA subject to the same conditions the RCA previously imposed in Order U-18-102(44). Specifically, MEA is agreeable to having the same vote surrender language in order U-18-102(44) at page 67 apply to the MEA Eklutna Hydro PPA. Hopefully this helps resolves this matter.[20]

[19] *Id.*

[20] TA525-18 Oct. 23, 2020 Supplemental Tariff Filing.

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MEA disagreed with MOA/ML&P about a potential conflict. When the parties do not agree on the meaning of an essential part of the MEA PPA, being Section 4.2, there is no "meeting of the minds."[21] If there is no meeting of the minds there is no agreement on this aspect.[22]

The above undercuts AHP's argument that when the Commission approved the MEA PPA that Order 39 could not have had a minimum time-period for surrendering voting rights. And like the Eklutna PPA, the MEA PPA also conflicts with Order 39 because it does not require the AHP representative to have knowledge of the Railbelt generation and transmission system.[23]

There is no indication that the Commission intended the language in the MEA PPA to override the requirements of Order 39. But regardless of any potential or actual conflict, the PPAs themselves resolve this issue.

C. Any conflict between the PPAs and Order 39 is resolved because the PPA provisions provide that the language in Order 39 controls.

The PPAs provide that after approval each PPA will at all times be "subject to the RCA's continuing authority over wholesale power agreements."[24] The PPAs address applicable laws and require "[e]ach Party shall at all times comply with all Applicable

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21 *Young v. Hobbs*, 916 P.2d 485, 488 (Alaska 1996).

22 *Young v. Hobbs*, 916 P.2d 485, 488 (Alaska 1996).

23 TA379-121 at Exhibit A at 8 of 65.

24 TA379-121 at Section 18.11 at Exhibit A at 28 of 65 (MEA PPA); Order 39 at Appendix D Revision to Section 15.11 at 83 of 92 (Eklutna PPA).

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Laws."[25] Applicable Law is defined as "any statute law ordinance, regulation, rule, code, *order*, constitution, treaty, common law judgment, decree, Permit requirement, other binding requirement or rule of law of, or compulsory standard established by, any Governmental Authority."[26]

The terms of the PPA require the parties to comply with an order, which includes the Commission's Order 39. This shows that the requirements of Order 39 control over provisions in the PPA. Also, each PPA contains a severability provision that invalidates or renders unenforceable any provision that conflicts with the law—in this case Order 39—and allows the PPA to remain in effect without the violating provision.[27]

To the extent that the PPAs provisions conflict with Order 39, the language in the PPAs is severable and unenforceable. The remainder of the PPAs remains intact. The above language contained in the PPAs resolves any dispute in favor of the requirements from Order 39.

III. Conclusion

In response to the Commission's question of whether it should set aside the minimum time-period for the voting rights surrender and if it appears that the

[25] TA379-121 at Section 18.3 at Exhibit A at 26 of 65; Order 39 at Appendix D at Section 15.3 at 27 of 92.

[26] TA379-121 at Exhibit A at 33 of 65; Order 39 at Appendix D at 35 of 92 (emphasis added).

[27] TA379-121 at Exhibit A at 30 of 65; Order 39 at Appendix D at Section 15.17 at 31 of 92.

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Commission should be considering dismissal of the notice and request for acknowledgment as being prematurely filed:

- The language of Order 39 establishes a minimum time-period for the surrender of voting rights.
- Conflicts in language between Order 39 and the PPAs do not show that the Commission intended to have the PPAs override the requirements of Order 39.
- Any conflict between the PPAs and Order 39 is resolved because PPA provisions provide that the language in Order 39 controls.

RAPA reserves the right to address any additional arguments at hearing, if a hearing occurs.

DATED October 8, 2024, at Anchorage, Alaska.

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STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

PREFILED RESPONSIVE TESTIMONY OF EUGENE A. ORI

I. Introduction

1. Q. Please state your name, present position, and business address.

A. My name is Eugene A. Ori. I am employed by Chugach Electric Association, Inc. (Chugach) as Vice President, Power Production. My business address is 5601 Electron Drive, Anchorage, Alaska 99518.

2. Q. What is the purpose of your testimony?

A. The purpose of my testimony is to provide the Commission with information related to the Eklutna Operating Committee (EOC), its function and processes, how the EOC operates and maintains the Eklutna Hydroelectric Project (Eklutna Project), and how the EOC determines and applies prudent utility practices to ensure that the Eklutna Project continues to provide lowest cost energy and capacity (that is also renewable) for the benefit of its owners, ratepayers, taxpayers, and system reliability in the Railbelt.

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3. Q. Have you previously submitted testimony before the Commission?

A. Yes. I provided prefiled direct and prefiled responsive testimony for the Municipality of Anchorage (MOA) d/b/a Anchorage Municipal Light & Power (ML&P's) in its rate cases U-13-184 and U-16-094/U-17-008.

4. Q. Please describe how your testimony is organized.

A. First, I will describe my professional qualifications. Second, I will describe the functions and responsibilities of the EOC in its role operating and maintaining the Eklutna Project. Third, I will describe the Eklutna Project's ownership and management history, with specific focus on the 2020 transaction in which Chugach acquired most of the assets of ML&P and how this affected and continues to affect Eklutna Project management. Fourth, I will describe my understanding of prudent utility practices, specifically in the context of the EOC and its functions related to the Eklutna Project.

II. Qualifications

5. Q. Please summarize your professional qualifications.

A. I have been managing and operating electric generation assets in the Railbelt for 19 years. Before working for Chugach, I worked at ML&P for 15 years, including eight years as its Generation Manager following seven years as Assistant Generation Manager. Four years ago, when Chugach acquired ML&P, I joined Chugach where I managed integration of ML&P's generation portfolio into the Chugach system. For the past two years, I have run the power production team at Chugach as Vice President of Power Production. My resume is attached as **Exhibit EAO-01.**

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6. Q. What is your experience with operating and maintaining generation assets and, in particular, hydroelectric projects?

A. During my professional career, I have worked on and managed teams that operated and maintained most of the turbine electric generation assets in Alaska's Railbelt, including those listed in the table below:

Project	Type	Capacity
Eklutna Project	Hydro	40 MW
Cooper Lake Power Plant	Hydro	19 MW
Beluga Power Plant	Natural gas	332 MW
Hank Nikkels Plant	Natural gas	66.5 MW
George M. Sullivan Plant	Natural gas	293.5 MW
Southcentral Power Project	Natural gas	200 MW

Among these projects, I have extensive experience with the two hydroelectric projects: the Eklutna Project and Cooper Lake Hydroelectric Project. For 15 years at ML&P and for the last two years at Chugach, I was, and continue to be, involved in and responsible for the maintenance and operation of the Eklutna Project, including managing turbine and generator overhauls, controls updates, equipment updates, and managing other work to maintain the operational reliability of the Eklutna Project.

This has been a significant and specialized undertaking and responsibility for a few reasons (1) the Eklutna Project was built in the 1950s by the federal government, which, at the time, did not need to comply with any state or federal dam safety or OSHA requirements with respect to design, and (2) the federal government operated the Eklutna Project until Chugach, the MOA, and Matanuska Electric Association (MEA, and together with the other two owners, the Project Owners) purchased it in 1997, and for those years of operation, the federal

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government was not subject to the same ongoing hydroelectric operational regulatory compliance obligations required of private hydroelectric project owners.

With respect to the Cooper Lake Project, in addition to operations and maintenance of that project, I have also had experience with, and responsibility for, operating facilities built to benefit fish and wildlife impacted by the project pursuant to Chugach's ongoing federal hydropower relicensing obligations.

7. Q. Please explain why your prior experience with hydroelectric projects and specifically turbines is important in your current role?

A. All of the electric generation projects I have been involved with have complex integrated generators, electrical controls, and other equipment unique to electric generation projects, including turbines as the prime moving generation mechanism, whether powered by the movement of water directly or from the combustion of fuel. I have extensive experience in installing, commissioning, operating, and managing maintenance/overhaul practices of combustion turbines. While with GE earlier in my career, I commissioned over 2500MW of combustion turbines of various types and sizes in various states and countries.

Maintenance of these types of turbines is complex and vital to the reliability of the systems in which they operate, and requires a specific set of knowledge and skills that I have acquired over my career. For example, upon my arrival at ML&P, I found that it was common practice to shut down Eklutna Unit 2 at night via the butterfly isolation valve because the air brake system could not stop the shaft rotation due to wicket gate leakage. This is not the correct application for continued operation because the butterfly valve was designed as an emergency device, not one for consistent actuation. When the major overhaul was undertaken years later to fix the leaky wicket gates, the butterfly valve needed extensive overhaul, and damaged equipment downstream of the valve also needed extensive repairs. This is just one example of understanding proper application and use of equipment.

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In addition, hydroelectric projects require operational knowledge of the gates, valves, penstock, intake, water levels and reservoir operations, and performance curves, as well as how the project interacts with other generation assets (e.g., wind generation), the assets of other utilities, and the grid generally. Operating these projects also requires extensive knowledge of their capabilities and limits to maintain readiness and flexibility to serve load and maintain system reliability in all seasons and conditions (include system-wide emergencies). While there are differences between hydroelectric projects that require unique knowledge, prior experience with projects of a similar size and technology to the Eklutna Project has proved very valuable in my current work with the Eklutna Project.

8. Q. Please describe your role at Chugach broadly and then particularly with respect to the Eklutna Project and others involved with the project.

A. I lead a 90-person team of professionals that operate and maintain all six of Chugach's power plants, including the two hydroelectric projects and four natural gas combustion turbine generation projects. I am ultimately responsible for all aspects of staffing, reliable and safe operation, maintenance, operation expenses and capital expenditure planning and budgeting. All environmental air permit and pollution compliance of these plants is also my responsibility. I work closely with the System Control team in planning for N-2+ generation contingency scenarios and other aspects of reliable plant operation.

I also represent Chugach with respect to the collaborative management decision process for the two projects that Chugach owns jointly with other utilities: the Eklutna Project and the Bradley Lake Project. I am the current chair of the EOC and have served on it for several years. Like all utility-designated members of the EOC, I have an alternate member of the EOC: Nat Lewis. I also coordinate closely with Russ Thornton, Vice President G&T System Control at Chugach, who dispatches the Eklutna Project, Kevin Skiba, Manager, Fuel Supply & Operations,

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and Susan Imlach, our Fuel Supply and Operations Analyst who accounts for water and energy usage for the Eklutna Project.

III. The EOC

9. Q. Please describe the history of the ownership and management of the Eklutna Project from 1997 to 2020.

A. The Project Owners purchased the Eklutna Project from the federal government in October 1997. Since that time, the Project Owners have delegated operations and management of the Eklutna Project to the EOC -- a committee of designated representatives of each utility with the qualifications and knowledge to operate and maintain the Eklutna Project.

Since the initial Eklutna Project purchase and until October 2020, both the energy output and the costs of operating and maintaining the Eklutna Project were allocated according to ownership of the Eklutna Project, and each member of the EOC had voting rights equal to their ownership shares. While there were disagreements among the Project Owners' representatives on the EOC from time to time, most decisions about Eklutna Project operations were made on a consensus basis and were centered around the goal of taking the actions to maximize capacity and generation of the Eklutna Project safely and consistent with prudent utility practices. Over time, the few disagreements lessened even more as the assets were brought into full compliance with industry standards, ownership of portions of the transmission lines from the Eklutna Project were transferred to MEA and Chugach, and matters related to encroachments and easements were eliminated.

10. Q. What are the typical annual responsibilities of the EOC?

A. The EOC is responsible for the Eklutna Project's: (1) oversight of major maintenance and operations (power plant and switchyard) and dam safety and inspections; and (2) preparation of the annual project budget, reliability and scheduling occurrences, project status reports, monthly revenue reports and

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energy usage among members, and notifications related to factors that limit energy or capacity, such as reservoir levels and transmission constraints.

11. Q. What was your role in the 2020 transaction by which Chugach acquired most of ML&P's assets?

A. As the MOA prepared to sell most of the ML&P assets to Chugach, I was tasked with integrating the generation plants and the teams operating them into a single, well-functioning generation system and team.

12. Q. How was the ownership of the Eklutna Project treated within the terms of that transaction?

A. When Chugach purchased the ML&P assets in 2020, it did not purchase the Eklutna Project. As I understand it, Chugach and the MOA executed a long-term 35-year power purchase agreement in which Chugach would pay a large fixed sum to the MOA over time, Chugach would operate and control all (or a part if MEA opted to also enter into a power purchase agreement, which they later did) the MOA's interests in the Eklutna Project and receive the energy associated with those interests, Chugach would pay the costs of operations and the implementation of the 1991 Agreement,[1] and at the end of the term, Chugach could buy the applicable portion of the MOA's interests in the Eklutna Project at then net book value. This agreement between the MOA and Chugach is referred to in this testimony as the "MOA - Chugach PPA" and is attached as **Exhibit EAO-02**. Relatedly, MEA also entered into a separate power purchase agreement with MOA for a portion of MOA's interest in the Eklutna Project, pursuant to which MEA would purchase power from the MOA for a period of 35 years.

[1] Agreement Between the Municipality of Anchorage d/b/a Anchorage Municipal Light and Power, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., U.S. Fish and Wildlife Service, National Marine Fisheries Service, Alaska Energy Authority, and the State of Alaska Relative to the Eklutna and Snettisham Hydroelectric Projects (Aug. 7, 1991) (1991 Agreement) (a copy is attached to Tony Zeller's testimony as **TRZ-03**).

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The asset acquisition transaction between the MOA and Chugach, and the related PPAs, required approval by this Commission. In examining the aspects of the deals related to the Eklutna Project, the Commission found that after the transaction closed, the MOA would no longer have the requisite expertise and capabilities to manage the asset through a representative on the EOC.[2] Most of the team with significant knowledge about the generation assets formerly at ML&P (including myself) took positions at Chugach. The Commission therefore required that the MOA surrender its voting rights on the EOC for a term length at least equal to the terms of the related PPAs and until the MOA could attain the requisite sufficient knowledge of prudent utility practice and of the Railbelt electric system.[3] The MOA also surrendered voting rights with respect to the Project Owners' responsibility to implement fish and wildlife obligations under the 1991 Agreement. The MOA surrendered these voting rights in the form of a three-party agreement on October 27, 2020 (Surrender) and provided notice to the Commission of this Surrender on October 30, 2020, the day that the acquisition transaction closed. The MOA's notice and Surrender are attached as **Exhibit EAO-03**.

13. Q. How did the 2020 transaction impact the EOC and how has it operated since the Surrender?

A. Pursuant to the Surrender, all decisions related to the EOC have been made unanimously by Chugach and MEA. Consequently, there have been no formal votes taken on the EOC with respect to any major decisions related to the Eklutna Project, including with respect to the budgets implementing the Project Owners' fish and wildlife mitigation responsibilities pursuant to the 1991 Agreement.

[2] Commission Order U-18-102(44)/U-19-020(39)/U-19-021(39), Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third-Party Sales Gas Pricing; and Requiring Filings, dated May 28, 2020 (Order 39), at 61-62.

[3] *Id.* at 67.

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Chugach and MEA have continued to seek the input of the MOA in these meetings; the MOA has sent representatives during this period who participated in the meetings, including Anna Henderson (MOA Deputy Municipal Manager, who was ML&P's General Manager), Ben Bowman (Assistant Municipal Attorney), and Mark Corsentino (AWWU General Manager).

14. Q. What major decisions has the EOC made with respect to the 1991 Agreement or otherwise since the MOA surrendered its voting rights in 2020?

A. None. The EOC did not play a significant role in the development of the fish and wildlife program required under the 1991 Agreement. Rather, we provided certain technical information and support related to the operations, capabilities, and limitations of the Eklutna Project. Each of the three Project Owners appointed representatives that, with an outside consulting team, made all decisions through consensus as an owners group implementing the 1991 Agreement in the five-year process leading to a final fish and wildlife program approved by the Governor on October 2, 2024 (Final Program). I did not typically participate in the Project Owners' group meetings implementing the 1991 Agreement process, but Tony Zellers was MEA's representative and can answer questions about that.

15. Q. What role will the EOC play with respect to the Final Program approved by the Governor on October 2, 2024?

A. The EOC will implement the Final Program that was approved by the Governor on October 2, 2024, as directed by the Project Owners and in a manner consistent with its requirements, applicable law, and prudent utility practice. Specifically, we will develop the budgets, contract with engineers and contractors who will build the facilities necessary to manage instream flows, and then operate and maintain these flows as an integral part of the Eklutna Project operations.

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IV. Prudent Utility Practice

16. Q. What is your knowledge of prudent utility practice?

A. "Prudent Utility Practice" is a standard of acceptable behavior by utility managers regarding the operations, maintenance, and safety standards for utility operations that has a long established and accepted usage in the utility industry. With respect to a hydropower asset specifically, it is, in essence, "the right thing to do" based on the reasonable judgment of a typical prudent hydropower or utility owner in maintaining and operating utility assets in accordance with manufacturer specifications, operating and reliability standards, permits, and applicable state and federal law. I have been studying and implementing evolving prudent utility practices for most of my professional career.

"Prudent Utility Practice" is sometimes further specifically defined in statutes or regulations, but it is also almost always found defined in formalized contracts related to power and operations of utility assets based on industry expectations. In Alaska, the definition of "Prudent Utility Practice" is usually defined in contracts.

17. Q. How is prudent utility practice defined in the Chugach PPA?

A. The MOA – Chugach PPA defines the "Prudent Utility Practice" as follows:

> "**Prudent Utility Practice**" means any applicable practices, methods, and acts engaged in or approved by a significant portion of (a) as to Seller, the hydroelectric generating industry in the United States of America, or (b) as to Purchaser, the electric utility industry in the United States of America, during the relevant time period, or the practices, methods and acts which, in the exercise of reasonable judgment by a prudent hydroelectric generator operator (or prudent utility operator, if applicable to Purchaser) in light of the facts known or which should reasonably have been known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, expedition and the requirements of any governing authority having jurisdiction. Without limitation of the foregoing, "Prudent Utility Practice" shall include the applicable operating policies, standards, criteria, or guidelines of any applicable governing authority and any manufacturer of a component of the Project. "Prudent Utility Practice" is

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not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to the acceptable practices, methods or acts generally accepted (a) as to Seller, by the hydroelectric energy electric generating industry in the United States of America or (b) as to Purchaser, by the electric utility industry in the United States of America.

18. Q. Are costs and efficiency elements of "Prudent Utility Practice"?

A. Yes. As a prudent utility operator, Chugach is obligated to use the least cost, most efficient means to operate and maintain our assets. The "Prudent Utility Practice" definition in the MOA – Chugach PPA also requires the "lowest reasonable cost consistent with good business practices, reliability, safety, expedition and the requirements of any governing authority having jurisdiction". Our management, regulators, and member-ratepayers therefore expect that we will spend capital conservatively.

19. Q. Should AHP regain voting rights on the EOC, what does the Chugach PPA require of MOA with respect to the EOC?

A. Section 4.2(B) of the MOA – Chugach PPA provides:

> (B) During the Term, Seller shall, in consultation with Purchaser, select the person to serve as Seller's representative to the Operating Committee (the "**Seller's Representative**"). The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA. Seller's Representative shall also be Seller's representative for any consultation, study, and implementation processes required under the Fish and Wildlife Agreement relating to the Facility. The Seller's Representative shall make all decisions with respect to any processes required under the Fish and Wildlife Agreement with due regard for the rights and obligations of the Parties under this PPA.

The underlined portions of this quoted section of the MOA - Chugach PPA makes clear that if the MOA regains voting rights on the EOC, the MOA's representative must act in a manner consistent with the "Prudent Utility Practice" and with due regard for Chugach's rights under the PPA.

20. Q. In your view, is the Fish and Wildlife Program approved by the Governor consistent with prudent utility practice?

A. Yes. While I did not develop and negotiate the Final Fish and Wildlife

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Program, I understand its key operational components and I am confident that the EOC can implement it in a manner consistent with prudent utility practices. Implementation of the Final Fish and Wildlife Program will have significant costs, but the expected costs reflect the most efficient means to achieve the objectives set forth in the 1991 Agreement.

21. Q. In your view, is the pumped storage hydro alternative currently being proposed by the MOA consistent with prudent utility practice?

A. No. While I have not studied the proposal in depth, I do know that the Eklutna Project designed and built in the 1950s was not designed to be operated in a bidirectional manner. Replacing the existing turbines alone would be quite costly. Based on my professional experience, I expect that retrofitting the project to operate in a manner it was never intended to operate, but consistent with prudent utility practices, would be very costly.

22. Q. Does this conclude your testimony?

A. Yes, thank you.

Dated: October 8, 2024

EUGENE A. ORI

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EXHIBITS

Exhibit	Document
EAO-01	Resume
EAO-02	MOA – Chugach PPA (and amendments)
EAO-03	MOA's Notice and Surrender

EXHIBIT EAO-01

EUGENE A. ORI

[redacted] [redacted]

Key Accomplishments/Projects

- Successfully integrated ML&P's Generation Division into Chugach's Electric Power Production Division (including team, assets, controls).
- Project Manager/Project Sponsor for $300MM new 2 X 1 LM6000 combined cycle project (ML&P Plant 2A, now George M Sullivan Plant):
  -Managed every aspect from concept, land acquisition and development, owner's engineering, all permitting, obtaining political approval, and EPC project development and successful execution.
  -Most efficient thermal plant in Alaska saving more than $10MM annually in natural gas while reducing NOX pollution 90% and CO2 25% respectively.
- Designed and implemented large district heating system in the form of waste heat sharing and inlet air chilling with Anchorage Water and Wastewater utility.
- Responsible for overhaul and upgrades of Eklutna Project's 60 year old Francis hydroelectric turbines and various power plant upgrades to power plants and safe retirement of older turbines at legacy plants.
- Project Manager and Representative for utility's 30% interest in construction of Southcentral Power Plant $400MM thermal power plant; completed under budget.
- Project Manager for safe and timely installation of new $30MM LM2500+ gas turbine installation at Hank Nikkels Plant and environmental site remediation.

Experience

Chugach Electric Association, Anchorage, Alaska

VP Power Production Aug 2022-Present
With 90 employees over 6 power plants, responsible for the reliable and safe production of power in varied circumstances and locations and situations. Stepped into role running, bringing calm and thoughtful management to unsettled situations.

Sullivan Plant Manager Nov 2020-Jul 2022
Responsible for the reliable and safe production of power at Alaska's newest and most efficient thermal power plant. Continued integration of plant and team into new entity.

Anchorage Municipal Light & Power, Anchorage, Alaska 2005-2020

Generation Manager 2012-2020
Responsible for the safe, reliable, operation and maintenance of electricity generation for ML&P's native and economic electricity needs via owned or ownership interest in 4 thermal and/or hydroelectric power plants. Exceled at hiring processes and overseeing

generational shift in operating workforce. Integrated ML&P Generation into CEA as a part of utility asset acquisition.

Plant 1 Manager/ Assistant Generation Manager 2007-2012
Responsible for daily, reliable, and safe production of power. Adhered to all HSE rules and promotes safety culture in all policies and decisions. Thorough understanding of IBEW union contract issues; Representative in collective bargaining agreement negotiations. Proficient at spill response plan and ADEC air permit compliance. Compliant with NEC/NESC, NFPA, and all other relevant codes with projects and maintenance activities.

Assistant Generation Manager 2005-2007
Exceled at operational, personnel, and budget decisions for 70 generation personnel at 3 power plants. Managed $10MM capital and $20MM expense budget annually. Member of the Incident Management Team, for the city's Emergency Operations Center.

GE Energy Services – Installation & Field Services, Atlanta, Georgia 2003-2005

Field Engineering Manager
Direct Manager for 55 controls field engineers. Analyzed needs and matched properly skilled Controls Field Engineer with gas and steam turbine jobs throughout the world. Responsible for the training and development needs all of the Controls Field Engineers.

GE Controls Field Engineer/F-class Turbine Tuner, Atlanta, GA 2000 – 2003

Field Engineer/DLN Tuner
Lead Controls Field Engineer for multi-turbine power plant startups. Commissioned E & F-class turbines for Southern Company, Reliant Energy, and Duke Energy. Excelled at MKV/MKVI turbine controls commissioning, troubleshooting, and training of customer technicians. Mentored/Certified new controls Field Engineers and DLN tuners.

GE Energy Services – Inspection & Repair Services, Houston, TX 1998-1999

Production/Process Engineer
Responsible for inspection, diagnosis, and repair of $27MM worth of GE gas turbine hot gas path components. Excelled at managing plant processes and repair quality control. Developed weld repair advanced process, WRAP, of single crystal alloy turbine blades.

Control Craft Inc , Anchorage, AK 1996-1997

SCADA Engineer/ Controls Fabricator
Designed, Built, Tested, and Commissioned control panels and PLCs for various industrial processes.

Education

GE Advanced Controls/Tuning Program
Gas Turbine Controls and F-Class Turbine Combustion System Tuning
Schenectady, New York 2001

GE Field Engineering Program – FEP
Gas/Steam Turbine Installation/Maintenance/Operations Training
Schenectady, New York 2000

TEXAS A&M UNIVERSITY
Bachelor of Science in Mechanical Engineering
College Station, Texas 1999

Leadership and Seminars

- NRECA – MIP, Management Intern Program, 2024
- ENR Northwest's 2015 Owner of the Year: Anchorage Municipal Light & Power
- Program on Labor Negotiation - Harvard Law School- Interest Based Bargaining
- ASME Alaska Section – Treasurer – 2005-2013
- Arctic Engineering, CE603, UAA
- IRIS Power Partial Discharge Conference, Scottsdale, AZ
- 64th Power Relay conference, College Station, TX
- Municipality of Anchorage – Employee of the year Runner Up – 2007
- Leadership Anchorage – Graduate Leadership Anchorage Class – Year 9, 2006
- GE Technical Excellence in Service Award – 2003
- GE Controls Field Engineer – "Rookie of the Year Award" – 2001

EXHIBIT EAO-02

EKLUTNA
POWER PURCHASE AGREEMENT

BETWEEN

CHUGACH ELECTRIC ASSOCIATION, INC.
("PURCHASER")

AND

MUNICIPALITY OF ANCHORAGE
("SELLER")

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EKLUTNA
POWER PURCHASE AGREEMENT
BETWEEN
CHUGACH ELECTRIC ASSOCIATION, INC.
AND
MUNICIPALITY OF ANCHORAGE

This Eklutna Power Purchase Agreement (this "**PPA**"), dated as of December 28, 2018 (the "**Effective Date**"), is made and entered into by and between (i) **CHUGACH ELECTRIC ASSOCIATION, INC.**, an Alaska not-for-profit electric cooperative corporation ("**Purchaser**"), and (ii) the **MUNICIPALITY OF ANCHORAGE,** a political subdivision organized under the laws of the State of Alaska ("**Seller**"). Purchaser and Seller are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

WHEREAS, as of the Effective Date, Purchaser is the owner of a 30% undivided interest in the Facility (as defined herein) (the "**Purchaser's Interest**") and Seller is the owner of a 53.33% undivided interest in the Facility (the "**Seller's Interest**"); and

WHEREAS, the Facility is subject to the terms of the Transition Plan (as defined herein), which provides for the sale of interests in the Facility by the Owners (as defined herein); and

WHEREAS, Seller desires to sell and deliver and Purchaser desires to accept and receive and pay for certain Power (as defined herein) delivered from the Facility to the Delivery Point on the terms and conditions, including the prices, set forth in this PPA; and

WHEREAS, in connection with the sale of such Power, Seller desires to grant to Purchaser an option to purchase all or a portion of the Seller's Interest, subject to the terms of the Transition Plan; and

WHEREAS, in order to determine the size of the interest in the Facility that will be subject to the terms of this PPA, the Parties intend to comply with the terms of the Transition Plan by following the procedure set forth herein.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

ARTICLE 1
RULES OF INTERPRETATION

Section 1.1 Interpretation.

(A) Capitalized terms listed in this PPA shall have the meanings set forth in Exhibit A or as otherwise defined in this PPA, whether in the singular or the plural or in the present or past tense. Words not otherwise defined in this PPA shall (i) have meanings as

commonly used in the English language, (ii) be given their generally accepted meaning consistent with Prudent Utility Practice, and (iii) be given their well-known and generally accepted technical or trade meanings.

(B) For purposes of this PPA, (1) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (2) the word "or" is not exclusive; (3) the masculine shall include the feminine and neuter; and (4) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this PPA as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections, and Exhibits means the Articles, Sections and Exhibits contained in and attached to this PPA; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This PPA shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

Section 1.2 Consents and Approvals; Commercially Reasonable Standard. Unless expressly provided otherwise in this PPA, (a) when this PPA requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned or delayed, and (b) wherever this PPA gives a Party a right to determine, require, specify or take similar action with respect to a matter, such determination, requirement, specification or similar action shall be Commercially Reasonable.

Section 1.3 Waiver. The failure of either Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions of this PPA, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions, or rights, but the same shall be and remain at all times in full force and effect.

ARTICLE 2
DETERMINATION OF CHUGACH PORTION

Section 2.1 Offer to MEA. MEA is the owner of a 16.67% undivided interest in the Facility. Seller has offered to MEA the option either to (A) purchase from Seller at fair market value a portion of the Seller's Interest, on a pro rata basis with Purchaser, equal to a 35.71% share of the Seller's Interest and a 19.04% interest in the Facility (the "**MEA Proportionate Interest**"), or (B) enter into a power purchase agreement with Seller with respect to the MEA Proportionate Interest on terms and conditions comparable to those set forth herein, in each case on the terms set forth in Exhibit C (such alternative offers, collectively, the "**MEA Offer**").

Section 2.2 Determination of Chugach Portion.

(A) If, prior to the fulfillment or waiver of all PPA Contingencies, MEA accepts the MEA Offer and consummates a purchase of the MEA Proportionate Interest (or enters into a binding power purchase agreement for the purchase of all of the Power attributable to the MEA Proportionate Interest), the "**Chugach Portion**" shall equal 64.29% of the Seller's

Interest. Such percentage interest, when combined with Purchaser's existing ownership of 30% of the Facility, will give Purchaser rights to 64.29% of the Facility.

(B) If, prior to the fulfillment or waiver of all other PPA Contingencies, MEA conclusively rejects (or is deemed to have conclusively rejected) the MEA Offer, the "**Chugach Portion**" shall, for the duration of the Term, be a percentage interest equal to the Seller's Interest.

(C) If, on the day that all other PPA Contingencies have been fulfilled or waived, MEA has either accepted or has not conclusively rejected the MEA Offer but has not yet either (i) consummated a purchase of the MEA Proportionate Interest or (ii) entered into a binding power purchase agreement without contingencies for all of the Power attributable to the MEA Proportionate Interest, the "**Chugach Portion**" shall be deemed to be a percentage interest equal to the Seller's Interest; *provided, however,* that if MEA consummates a purchase of the MEA Proportionate Interest or a lesser portion of the Seller's Interest (or enters into a binding power purchase agreement without contingencies for all of the Power attributable to the MEA Proportionate Interest or a lesser portion of the Seller's Interest) at the Closing under the Asset Purchase Agreement, the Chugach Portion shall, effective as of the effectiveness of such acquisition or such power purchase agreement, be reduced by that portion of the Seller's Interest acquired by MEA (or by the Power attributable to that portion of the Seller's Interest with respect to which MEA enters into a binding power purchase agreement).

ARTICLE 3
TERM AND TERMINATION

Section 3.1 PPA Contingencies. This PPA and the Parties' obligations set forth herein are contingent upon the occurrence or waiver of each of the following events (the "**PPA Contingencies**"):

(A) The Parties shall have determined the Chugach Portion in accordance with ARTICLE 2 and shall have memorialized the determination in a writing agreed to by the Parties;

(B) The Closing (as defined in the Asset Purchase Agreement) shall have occurred;

(C) RCA PPA Approval shall have been obtained;

(D) Seller shall have received an original, fully executed copy of the Officers' Certificate of Excludable Property, and evidence of delivery and recording of the Trustee's release of its lien in such Excludable Property, pursuant to Section 15.14(B); and

(E) The representations and warranties of Purchaser in Section 15.14(B) shall have been true and correct as of the Effective Date and the Commencement Date.

Section 3.2 Commencement Date. The commencement date under this PPA (the "**Commencement Date**") shall be the date that is the later of (a) the Effective Date and (b) the date on which each of the PPA Contingencies has occurred or has been waived by the Parties.

Section 3.3 Term.

(A) The term of this PPA shall commence on the Commencement Date, and shall continue in full force and effect until 11:59 p.m. (Facility local time) on the Scheduled Termination Date, subject to early termination or extension as provided in this PPA or otherwise agreed to by the Parties (the "**Term**").

(B) The effectiveness of this Agreement is expressly contingent upon the occurrence of the Closing provided for under the Asset Purchase Agreement. In the event that the Asset Purchase Agreement is terminated before the Commencement Date, this PPA shall automatically terminate, and become null and void, at the same time as the termination of the Asset Purchase Agreement.

ARTICLE 4
FACILITY DESCRIPTION AND OPERATION

Section 4.1 Description. The Facility is described in Exhibit B. A scaled map that identifies the Site, the location of the Facility, the Delivery Point and other important facilities, is included in Exhibit B.

Section 4.2 Operation of the Facility.

(A) In accordance with the Operations Agreement (as may be amended by the Operations Agreement Amendment), during the Term Purchaser shall manage, control, operate and maintain the Chugach Portion in a manner consistent with Prudent Utility Practice.

(B) During the Term, Seller shall, in consultation with Purchaser, select the person to serve as Seller's representative to the Operating Committee (the "**Seller's Representative**"). The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA. Seller's Representative shall also be Seller's representative for any consultation, study, and implementation processes required under the Fish and Wildlife Agreement relating to the Facility. The Seller's Representative shall make all decisions with respect to any processes required under the Fish and Wildlife Agreement with due regard for the rights and obligations of the Parties under this PPA.

(C) The Parties acknowledge and agree that Seller has prior rights to not less than 41 million gallons of water per day from Eklutna Lake for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823; Alaska Statutes 46.15.150(a); and Certificate of Appropriation ADL 44944. The Parties agree that during the Term, the supply of water available for production of Power by the Seller's Interest shall be net of all water taken by Anchorage Water and Wastewater Utility for public water supply purposes.

Section 4.3 Books and Records. Seller and Purchaser shall each keep complete and accurate books and records and all other data required by each of them for the purposes of metering, billing, payment, and administration of this PPA, including such Operating Records and other records as may be required by Applicable Law, Governmental Authorities, NERC, or any ERO or ISO. Each Party shall maintain such books and records in accordance with relevant accounting standards, as applicable, and shall provide the other Party Commercially Reasonable access to such books and records. All books and records pertaining to the operation of the Facility shall be maintained on the premises of the Facility or such other location as is mutually agreed to by the Parties. Either Party may audit and examine any such books and records from time to time upon request and during normal business hours. Each Party shall maintain any books and records that it is required to keep under this Section 4.3 for a period of at least six (6) years after the preparation of such books or records.

ARTICLE 5
DELIVERY

Section 5.1 Electric Delivery Arrangements.

(A) During the Term, Purchaser shall be responsible for maintaining and paying the costs associated with the interconnection of the Facility to Purchaser's transmission system at the Delivery Point.

(B) Purchaser shall be responsible for all electric losses, transmission and ancillary service arrangements, and costs and expenses required for delivery of the Power from the Facility to the Delivery Point and for transportation and delivery of the Power from and after the Delivery Point.

Section 5.2 Electric Metering. The Facility Metering used to measure Energy delivered to the Delivery Point under this PPA shall be owned, installed, and maintained by Purchaser at the Delivery Point, or as close thereto as is reasonably possible.

Section 5.3 Scheduling. Purchaser shall nominate and schedule for delivery to Purchaser (in accordance with Prudent Utility Practice) all Energy attributable to the Chugach Portion.

ARTICLE 6
SALE AND PURCHASE

Section 6.1 General Obligation.

(A) Beginning on the Commencement Date and continuing thereafter throughout the Term, Seller shall generate from the Facility, deliver to the Delivery Point, and sell to Purchaser, and Purchaser shall receive and purchase at the Delivery Point, all Energy, Capacity, Renewable Attributes, and Ancillary Services (collectively, the "**Power**") that are

available from the Facility and attributable to the Chugach Portion, in accordance with Applicable Law.

(B) Seller shall not curtail or interrupt deliveries of Power from the Facility except as required by Applicable Law or Prudent Utility Practice.

(C) Title to the Power shall transfer from Seller to Purchaser at the Delivery Point free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any other Person.

Section 6.2 Additional Products; Ancillary Services.

(A) The Parties acknowledge that existing and future Applicable Laws create value in the ownership, use, or allocation of Renewable Attributes. To the full extent allowed by Applicable Law, Purchaser shall own and be entitled to claim all Renewable Attributes attributable to the Chugach Portion from the Commencement Date until the end of the Term, to the extent such Renewable Attributes may exist or be created during such period. For purposes of effectuating the foregoing, the following shall apply:

1. Seller hereby automatically and irrevocably assigns to Purchaser all rights, title and authority for Purchaser to register the Facility and own, hold, and manage the Renewable Attributes attributable to the Chugach Portion in Purchaser's own name and to Purchaser's account, including any rights associated with any renewable energy information or tracking system that exists or may be established (including but not limited to participants in any applicable REC Registration Program and the United States government) with regard to monitoring, registering, tracking, certifying, or trading Renewable Attributes. Seller hereby authorizes Purchaser to act as its agent for the purposes of registering the Facility for such purposes, and tracking and certifying Renewable Attributes, and Purchaser shall have full authority to hold, sell, or trade Renewable Attributes attributable to the Chugach Portion for its own account in connection with any renewable energy information or tracking systems. Upon the request of Purchaser, at Purchaser's cost and expense, (i) Seller shall deliver or cause to be delivered to Purchaser such attestations/certifications of Renewable Attributes attributable to the Chugach Portion, and (ii) Seller shall cooperate with Purchaser's registration and certification of Renewable Attributes attributable to the Chugach Portion.

2. Prior to the Commencement Date and as required thereafter for Purchaser to claim, own, or realize the available benefits of any Renewable Attributes attributable to the Chugach Portion, Seller shall, at Purchaser's cost and expense, make all applications or filings required by Applicable Law for Renewable Attribute accreditation and for the provision of such Renewable Attributes to Purchaser.

(B) On and after the Commencement Date until the end of the Term, Seller shall make available to Purchaser all Ancillary Services attributable to the Chugach Portion at no additional charge under this PPA. Any compensation that Seller receives under Applicable Law or otherwise for Ancillary Services attributable to the Chugach Portion during such period shall be provided to Purchaser at no additional cost to Purchaser under this PPA. Seller shall credit

Purchaser, as a reduction to Seller's monthly invoice or other mutually-agreed mechanism, for any compensation that Seller receives for Ancillary Services attributable to the Chugach Portion during such period.

1. Seller shall, at the request of Purchaser, use Commercially Reasonable Efforts to maximize the availability of such Ancillary Services during such period; *provided, however*, that Seller shall not be required to make any capital expenditures or incur any operating expenses in connection with such efforts.

2. In the event any Governmental Authority implements new or revised requirements for generators to create, modify, change, or supply Ancillary Services requiring Seller to install additional equipment after the Commencement Date to meet such requirements, Purchaser shall, in accordance with the provisions of Section 7.2, be responsible for payment of any costs and expenses of such additional equipment; provided that such costs and expenses shall be includable in the net book value of the Chugach Portion for purposes of determination of the Purchase Price pursuant to Section 14.3(B).

ARTICLE 7
PAYMENT FOR POWER

Section 7.1 Annual Payment.

(A) As consideration for Seller's sale of the Power attributable to the Chugach Portion, Purchaser shall pay Seller for such Power at the annual rate set forth in Exhibit D (the "**Annual Payments**"). Purchaser and Seller acknowledge and agree that the Annual Payments are structured to include all required compensation for any and all Power (including, for the avoidance of doubt, any and all Capacity, Ancillary Services, and Renewable Attributes) required to be delivered to Purchaser under this PPA during the Term and that Purchaser is not required to make any additional payments to Seller therefor.

(B) From and after the Commencement Date, Purchaser's obligation to make all Annual Payments hereunder throughout the Term, and the rights of the Seller in and to such Annual Payments, shall, except as expressly provided in Section 8.2 and Section 8.3, be absolute, unconditional, and irrevocable and shall not be affected by any circumstance of any nature or character whatsoever. Without limiting the foregoing, the following events shall not affect Purchaser's obligation to make all Annual Payments:

1. Any occurrence of Force Majeure;

2. Any Forced Outage or any other interruption or curtailment of the output of the Facility for any environmental, economic, or other reason other than by Seller in breach of this PPA;

3. Any casualty to or condemnation of the Facility or any of the property of either Party;

4. Any change in Applicable Law;

5. Any decision by the Owners to modify, reduce, or cease operations of the Facility; and

6. Any Event of Default with respect to Purchaser.

Section 7.2 Additional Consideration. As additional consideration for Seller's sale of the Power attributable to the Chugach Portion, Purchaser shall during the Term be responsible for payment of all capital expenditures and operating and maintenance expenses that are payable with respect to the Chugach Portion, including any expenditures or capital investment related to any environmental compliance or other compliance with requirements of Governmental Authorities applicable to the Chugach Portion. In the event that Seller pays any such expenditure or expense, Purchaser shall reimburse Seller for such expenditure or expense within thirty (30) days after Purchaser's receipt of an invoice or other Commercially Reasonable evidence of such expenditure or expense.

ARTICLE 8
BILLING AND PAYMENT

Section 8.1 Billing.

(A) The billing period shall be the calendar month. Purchaser shall pay in arrears one-twelfth of the Annual Payment due to Seller for the applicable Contract Year by ACH (automated clearinghouse) transfer (or any other mutually acceptable method) on or before the fifteenth (15th) Day of the calendar month, or if such fifteenth (15th) Day falls on a Day that is not a Business Day, the next Business Day.

(B) If a payment by either Party under this PPA is late, interest, calculated using the annual prime rate of interest as published on the date of the invoice in *The Wall Street Journal* (or, if unavailable, an equivalent publication on or about that date) plus two percent (2%) per year, shall accrue on the unpaid balance for the number of days payment was late and shall be added to the next billing statement.

(C) Seller and Purchaser shall net their obligations to each other under this PPA, and payment of the net amount will discharge all mutual undisputed obligations between the Parties.

Section 8.2 Set Off.

(A) In the event that (i) Purchaser has notified Seller under Section 8.05 of the Asset Purchase Agreement that Purchaser is entitled to indemnification from Seller with respect to any Third Party Claim (as defined in the Asset Purchase Agreement) or Direct Claim (as defined in the Asset Purchase Agreement), (ii) Seller has notified Purchaser that (A) Seller has determined that it will assume the defense of such Third Party Claim or (B) Seller acknowledges that Purchaser is entitled to indemnification from Seller for such Direct Claim, and (iii) either

(A) Seller has not, within sixty (60) days after delivery of any such notice to Purchaser, requested an appropriation of funds from the Assembly of Seller for purposes of paying any amount required to be paid or reimbursed in connection with such Third Party Claim or Direct Claim, or (B) Seller has requested an appropriation of funds from the Assembly of Seller for such purposes but has not received an appropriation of such funds, Purchaser will be entitled to withhold all or part of any amount due to Seller under this PPA for purposes of paying or reimbursing any Losses (as defined in the Asset Purchase Agreement) that have been determined, in accordance with the provisions of ARTICLE VIII of the Asset Purchase Agreement, to be due and owing from Seller to any Purchaser Indemnitee under ARTICLE VIII of the Asset Purchase Agreement in connection with such Third Party Claim or Direct Claim. In the event that (i) Purchaser has notified Seller under Section 8.05 of the Asset Purchase Agreement, that Purchaser is entitled to indemnification from Seller with respect to any Third Party Claim or Direct Claim, (ii) Seller fails to assume the defense of such Third Party Claim or provide indemnification for such Direct Claim, (iii) Purchaser, in accordance with the provisions of ARTICLE VIII of the Asset Purchase Agreement, pursues its available legal remedies against Seller for such failure and obtains a final judgment requiring Seller to indemnify Purchaser in accordance with ARTICLE VIII of the Asset Purchase Agreement for Purchaser's Losses in connection with such Third Party Claim or Direct Claim, and (iv) either (A) Seller has not, within sixty (60) days after issuance of such judgment, requested an appropriation of funds from the Assembly of Seller for purposes of paying such Losses, or (B) Seller has requested an appropriation of funds from the Assembly of Seller for such purposes but has not received an appropriation of such funds, Purchaser will be entitled to withhold all or part of any amount due to Seller under this PPA for purposes of paying or reimbursing such Losses.

(B) Set-off shall not be Purchaser's exclusive remedy with respect to any indemnification claim.

Section 8.3 Subordination. The Parties agree that Purchaser's payment obligations hereunder are payable on a parity with Purchaser's other operating expenditures, but subordinate to (i.e., neither on a parity with nor superior to) Purchaser's payment obligations under the Bradley Lake Agreement only if and to the extent, and for the period, that making such payments would prevent Purchaser from making timely payment of any amounts due from it under the Bradley Lake Agreement.

Section 8.4 Billing Disputes. Either Party may dispute invoiced amounts, but shall pay at least the undisputed portion on or before the date due. To resolve any billing dispute, the Parties shall use the procedures set forth in Article 10. When the billing dispute is resolved, the Party owing any amount shall pay such amount within five (5) Business Days after the date of such resolution, together with late payment interest as provided in Section 8.1(B).

ARTICLE 9
DEFAULT AND REMEDIES

Section 9.1 Events of Default. Any of the following events shall constitute an Event of Default with respect to the specified Party, which shall be the defaulting Party with respect to

such Event of Default, if such event has not been cured within the cure period specified for such event:

(A) Such Party's failure to pay any amount due to the other Party as required by this PPA, Actual Damages, any required indemnification, or any other required payment, and such amount remains unpaid for a period of ten (10) Business Days after the date such Party receives Notice from the non-defaulting Party that the amount is overdue.

(B) Such Party's application for, or consent (by admission of material allegations of a petition or otherwise) to, or failure to oppose the appointment of a receiver, trustee or liquidator for a Party or for all or substantially all of its assets, or its authorization of such application or consent, or the commencement or institution of any proceedings seeking such appointment against a Party which proceedings continue undismissed or unstayed for a period of sixty (60) Days from their inception.

(C) Such Party's authorization or filing of a voluntary petition in bankruptcy, or its application for, or consent (by admission of material allegations of a petition or otherwise) to, or failure to oppose an involuntary petition in bankruptcy, or the application of any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction to a Party, or the commencement or institution of any such proceedings against a Party which proceedings remain undismissed or unstayed for sixty (60) Days from its inception or which result in adjudication of bankruptcy or insolvency within such time.

(D) Such Party's unauthorized assignment of this PPA, which unauthorized assignment shall be an Event of Default immediately upon its occurrence and without further notice from the non-defaulting Party.

(E) There is any lien or security interest in or on any assets of Purchaser that encumbers the Collateral as of the Commencement Date, and such lien or security interest continues to encumber the Collateral thirty (30) Days after Notice thereof shall have been given by Seller to Purchaser.

(F) The failure by either Party to perform or observe any other material obligation to the other Party under this PPA, which failure is not excused by Force Majeure and remains unremedied for thirty (30) Days after Notice thereof shall have been given by the non-defaulting Party; *provided, however*, that if the failure is not reasonably capable of being cured within the thirty (30) Day period, the defaulting Party will have such additional time (not exceeding an additional ninety (90) Days) as is reasonably necessary to cure the failure, so long as the Party promptly commences and diligently pursues the cure.

(G) An event of default has occurred with respect to such Party under the Asset Purchase Agreement or the PILT Agreement (as defined in the Asset Purchase Agreement), and such event of default has not been cured within any applicable cure, notice, or grace period.

Section 9.2 Remedies. Upon the occurrence of any Event of Default of this PPA, the non-defaulting Party may pursue all rights and remedies available to it at law and in equity and in accordance with the terms of this PPA. Except as explicitly provided to the contrary in this PPA, each right or remedy of the Parties provided for in this PPA shall be cumulative of and shall be in addition to every other right or remedy provided for in this PPA, and the exercise of one or more of the rights or remedies provided for herein shall not preclude the simultaneous or later exercise by such Party of any other rights or remedies provided for herein.

(A) Termination and Damages. For any uncured Event of Default, the non-defaulting Party may, at its option do any, some, or all of the following:

1. Net from any payments due from the non-defaulting Party any amount otherwise due from the defaulting Party under or in connection with this PPA, including any unpaid Actual Damages;

2. Seek Actual Damages in such amounts and on such basis for the default as authorized by this PPA;

3. Terminate this PPA immediately upon Notice, without penalty or further obligation to the defaulting Party. Upon the termination of this PPA under this Section 9.2, the non-defaulting Party shall be entitled to receive from the defaulting Party all of the Actual Damages in connection with the Event of Default resulting in such termination.

(B) Damages for Events of Default. The non-defaulting Party shall be entitled to receive from the defaulting Party all direct damages incurred by the non-defaulting Party that are proximately caused by Event of Default ("**Actual Damages**").

Section 9.3 Limitation on Damages. The Parties confirm that the express remedies and measures of damages provided in this PPA satisfy the essential purposes hereof. If no remedy or measure of damages is expressly herein provided, the obligor's liability shall be limited to Actual Damages only. Neither Party shall be liable to the other Party for consequential, incidental, punitive, exemplary, special, equitable or indirect damages, lost profits or other business interruption damages by statute, in tort or contract (except to the extent expressly provided herein); *provided, however*, that if either Party is held liable to a third party for such damages and the Party held liable for such damages is entitled to indemnification from the other Party hereto, the indemnifying Party shall be liable for, and obligated to reimburse the indemnified Party for, such damages. To the extent any damages required to be paid hereunder are liquidated, the Parties acknowledge that the damages are difficult or impossible to determine, that otherwise obtaining an adequate remedy is inconvenient, and that the liquidated damages constitute a reasonable approximation of the harm or loss.

ARTICLE 10
DISPUTE RESOLUTION

Section 10.1 Dispute Resolution. In the event of any dispute arising under this PPA (a "**Dispute**"), within ten (10) Business Days following Notice by either Party, (i) each Party shall

appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies; *provided, however*, that if and to the extent that a Dispute involves the Justness or Reasonableness Conditions, and the Dispute is not resolved by negotiations of senior management representatives of the Parties, neither Party shall have any right to pursue any further legal remedies to resolve such Dispute and such Dispute shall be deemed to be resolved finally and conclusively by enforcement of the obligation of Purchaser under this PPA to pay the Annual Payments set forth in Exhibit D.

ARTICLE 11
FORCE MAJEURE

Section 11.1 Applicability of Force Majeure. Except as explicitly provided otherwise herein, a Party shall be relieved of its obligations to perform this PPA and shall not be considered to be in default with respect to any obligation under this PPA to the extent that such Party is prevented from fulfilling such obligation by Force Majeure, *provided, however*, that: (i) such Party gives prompt Notice describing the circumstances and impact of the Force Majeure; (ii) the relief from its obligations sought by such Party is of no greater scope and of no longer duration than is required by the Force Majeure; (iii) such Party proceeds with due diligence to overcome the Force Majeure and resume performance of its obligations under this PPA; and (iv) such Party provides prompt Notice of the conclusion of the Force Majeure.

Section 11.2 Limitations on Effect of Force Majeure.

(A) Force Majeure shall relieve a Party from performing only such obligations as are actually prevented by the Force Majeure.

(B) Except to the extent that Force Majeure prevents a Party from completing a transfer of money to the other Party, Force Majeure shall not excuse a Party from making any payment to the other on or before the date that such payment becomes due and payable.

(C) In no event will the existence of Force Majeure extend this PPA beyond its stated Term.

ARTICLE 12
INSURANCE

Section 12.1 General Insurance Requirements. On or prior to the Commencement Date and thereafter throughout the Term, Purchaser shall use Commercially Reasonable efforts to obtain and maintain at its own cost and expense insurance coverages for the Chugach Portion satisfying the requirements of this ARTICLE 12 and of Exhibit E. No later than the Commencement Date and on or before June 1 of each year during the Term, Purchaser shall provide Seller with a copy of insurance certificates reasonably acceptable to Seller evidencing that insurance coverages for the Facility are in compliance with such requirements. Such certificates shall (a) name Seller as an additional insured (except worker's compensation); (b) provide that Seller shall receive thirty (30) Days prior Notice of non-renewal, cancellation of, or significant modification to any of the corresponding policies (except that such Notice shall be ten (10) Days for non-payment of premiums); (c) provide a waiver of any rights of subrogation against Seller, its Affiliates and their officers, directors, agents, subcontractors, and employees; and (d) indicate that the policies have been endorsed in accordance with the requirements set forth herein. All policies shall be written with insurers with an AM Best rating of at least A-VII. All policies shall be written on an occurrence basis, except as provided in Section 12.2. All policies shall contain an endorsement that Purchaser's policy shall be primary in all instances regardless of like coverages, if any, carried by Seller. Purchaser's liability under this PPA is not limited to the amount of insurance coverage required herein.

Section 12.2 Term and Modification of Insurance.

(A) All insurance required under this PPA shall cover occurrences during the Term and for a period of two (2) years after the Term. In the event that any insurance as required herein is commercially available only on a "claims-made" basis, such insurance shall provide for a retroactive date not later than the date of this PPA and such insurance shall be maintained by Seller for a minimum of six (6) years after the Term.

(B) If any insurance required to be maintained by Purchaser hereunder ceases to be reasonably available and commercially feasible in the commercial insurance market, Purchaser shall provide Notice to Seller, accompanied by a certificate from an independent insurance advisor of recognized national standing, certifying that such insurance is not reasonably available and commercially feasible in the commercial insurance market for electric generating plants of similar type, geographic location and capacity. Upon receipt of such Notice, Purchaser shall use Commercially Reasonable attempts to obtain other insurance that would provide comparable protection against the risk to be insured.

Section 12.3 Application of Proceeds. Purchaser and Seller agree that, in the event of a catastrophic loss of all or a portion of the Facility, unless the Parties mutually agree otherwise, the Facility shall be repaired, replaced, or rebuilt, and any insurance proceeds received in connection with such loss shall be used only for such repair, replacement, or rebuilding. If the Parties have agreed that the Facility is to not be repaired, replaced, or rebuilt, any insurance proceeds received in connection with such loss shall be used first for purposes of the payment of remaining Annual Payments.

ARTICLE 13
INDEMNITY

Section 13.1 Indemnification. Each Party (the "**Indemnifying Party**") agrees (but in the case of Seller as the Indemnifying Party, only subject to appropriation of the requisite funds by the Assembly of Seller) to indemnify, defend, and hold harmless the other Party (the "**Indemnified Party**") from and against all third party claims, demands, losses, liabilities, penalties, and expenses (including attorneys' fees) for personal injury or death to persons and damage to the Indemnified Party's real property and tangible personal property or facilities or the property of any other Person to the extent arising out of, resulting from, or caused by any (i) Event of Default or other breach under this PPA, (ii) violation of Applicable Laws, (iii) negligent or tortious acts, errors, or omissions, or (iv) willful misconduct, in each case of the Indemnifying Party or any of its Affiliates, directors, officers, employees, or agents.

(A) The indemnification obligations of the Indemnifying Party shall apply notwithstanding any negligence of the Indemnified Party, but the Indemnifying Party's liability to indemnify the Indemnified Party shall be reduced in proportion to the percentage by which the Indemnified Party's negligent acts, errors, or omissions caused the damages.

(B) Neither Party shall be indemnified for its damages resulting from its sole negligence or willful misconduct. The indemnity provisions of this PPA shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

(C) Nothing in this Section 13.1 shall enlarge any liability of either Party to the other Party for any breach of this PPA or relieve either Party of any liability to the other Party for any breach of this PPA.

(D) A Party will not be liable more than once for the same losses, even if those losses may be recovered under multiple sections or subsections of this PPA or under both this PPA and the Asset Purchase Agreement. By way of example, if the Indemnified Party experiences losses for which the Indemnifying Party would be liable under the Asset Purchase Agreement, the Indemnifying Party's liability for those specific losses under this ARTICLE 13 will be reduced or eliminated to the extent of any indemnification, payment, or reimbursement in respect of the same losses under the Asset Purchase Agreement to avoid a double recovery by the Indemnified Party with respect to such losses. Accordingly, the amount owing to the Indemnified Party under this ARTICLE 13 shall be reduced by any amount paid to the Indemnified Party under the indemnification provisions of the Asset Purchase Agreement for the same breach, event, violation, circumstance, act, error, omission, or condition.

Section 13.2 Notice of Claim. Promptly after receipt by a Party of any claim or notice of the commencement of any action, administrative proceeding, legal proceeding, or investigation as to which the indemnity provided for in this ARTICLE 13 may apply, the Indemnified Party shall provide Notice thereof to the Indemnifying Party. The Indemnifying Party shall assume the defense thereof with counsel designated by such Party and satisfactory to the Indemnified Party, *provided, however*, that if the defendants in any such action include both

the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer has agreed to pay such costs.

Section 13.3 Settlement of Claim. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may, at the expense of the Indemnifying Party, contest, settle, or pay such claim, *provided, however*, that settlement or full payment of any such claim may be made only following consent of the Indemnifying Party, which consent will not be unreasonably withheld, conditioned, or delayed, or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement.

Section 13.4 Amounts Owed. Except as otherwise provided in this ARTICLE 13, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this ARTICLE 13, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's actual loss net of any insurance proceeds received by the Indemnified Party following a Commercially Reasonable effort by the Indemnified Party to obtain such insurance proceeds (which Commercially Reasonable effort will not in any event include any obligation to initiate litigation or any other dispute resolution proceeding against any insurer).

Section 13.5 Survival. The provisions of this ARTICLE 13 shall survive the expiration or earlier termination of this PPA.

ARTICLE 14
ASSIGNMENT AND OTHER TRANSFER RESTRICTIONS; LENDER PROVISIONS

Section 14.1 Transfer Without Consent is Null and Void. Except as provided in ARTICLE 2, any sale, transfer, or assignment of any interest in the Seller's Interest or in this PPA made without fulfilling the requirements of this ARTICLE 14 shall be null and void and a breach of this PPA.

(A) Except as permitted in this Section 14.1, neither Party shall assign this PPA, or any right, title or interest therein, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed; *provided, however*, that: (i) Notice of any proposed assignment requiring consent of the other Party shall be given to such other Party at least thirty (30) Days prior to the proposed effective date of such assignment; and (ii) with respect to any assignment hereunder, whether requiring consent or not, (a) except with respect to any assignment under Section 14.2, any assignee shall expressly assume the assignor's obligations under this PPA unless otherwise agreed by the other Party; (b) no assignment shall relieve the assignor of its obligations under this PPA in the event the assignee fails to perform, unless the other Party waives or releases in writing the assignor's continuing

obligations under this PPA; and (c) the assignment shall be subject to receipt of all such approvals as may be required by any applicable Governmental Authorities.

(B) Except as set forth in Section 15.14(B) with respect to the Collateral and Seller's consent rights with respect thereto, Purchaser shall have the right to assign all or a portion of its rights or obligations under this PPA without the prior written consent of Seller as follows:

1. to a Lender as collateral security for obligations under the Financing Documents entered into with such Lender, *provided* that: (i) Purchaser provides Seller with written Notice of such proposed collateral assignment not less than thirty (30) Days prior to such collateral assignment, and (ii) the applicable form of collateral assignment and related documentation is reasonably acceptable to Seller, as provided in Section 14.2;

2. to an Affiliate of Purchaser that is either (i) a Creditworthy Entity and Qualified Operator or (ii) a Creditworthy Entity that contracts with a Qualified Operator;

3. pursuant to Section 14.2, to a Creditworthy Entity and Qualified Operator or to a Creditworthy Entity that contracts with a Qualified Operator to operate the Facility after a Lender has exercised its foreclosure rights with respect to this PPA; and

4. to a Person succeeding to all or substantially all of the assets of Purchaser, *provided* that such Person's creditworthiness is equal to or better than that of Purchaser and such Person is a Qualified Operator or has contracted with a Qualified Operator to operate the Facility.

(C) Seller acknowledges that upon an event of default under any Financing Documents relating to this PPA, a Lender may (but shall not be obligated to) assume, or cause its designee to assume, all of the interests, rights, and obligations of Purchaser thereafter arising under this PPA, in which case such Lender or such designee shall assume and agree to be bound by all the terms and provisions of this PPA arising on or after the date of such assumption by such Lender or such designee; *provided* that, such designee shall be required to be a Qualified Operator; and *provided, further*, that, regardless of whether any such Lender or such designee assumes all of the interests, rights, and obligations of Purchaser thereafter arising under this PPA, Seller's interests, rights, and obligations under this PPA will remain in full force and effect.

Section 14.2 Lender Provisions.

(A) Except as set forth in Section 15.14(B) with respect to the Collateral and Seller's consent rights with respect thereto, Purchaser may, without approval of Seller, charge or otherwise encumber its interest under this PPA for security purposes in accordance with the provisions of Section 14.1 and this Section 14.2.

(B) Promptly after making any such encumbrance, Purchaser shall notify Seller in writing of the name, address, and telephone and facsimile numbers of each Lender to which Purchaser's interest under this PPA has been encumbered. Such Notice shall include the

names of the account managers or other representatives of the Lenders to whom all written and telephonic communications may be addressed.

(C) After giving Seller the initial Notice under Section 14.2(B), Purchaser shall promptly give Seller Notice of any change in the information provided in the initial Notice or any subsequent Notice.

(D) If Purchaser encumbers its interest under this PPA as permitted by this Section 14.2, the following provisions shall apply:

1. The Parties, except as provided by the terms of this PPA, shall not modify or cancel this PPA without the prior written consent of the Lender, such consent not to be unreasonably withheld, conditioned or delayed.

2. The Lender or its designees shall have the right, but not the obligation, to perform any act required to be performed by Purchaser under this PPA to prevent or cure an Event of Default with respect to Purchaser and such act performed by the Lender or its designees shall be as effective to prevent or cure an Event of Default as if done by Purchaser, *provided* that, if any such Lender or any such designee elects to perform any act required to be performed by Purchaser under this PPA to prevent or cure an Event of Default by Purchaser, Seller will not be deemed to have waived or relinquished any of its rights and remedies as provided in this PPA; and *provided, further*, that Purchaser hereby releases Seller, to the fullest extent permitted by Applicable Law, from any and all liability arising from Seller's performance under this PPA pursuant to instructions of the Lender following an event of default with respect to Purchaser under Lender's Financing Documents.

3. Seller shall, promptly following any request by Purchaser, execute statements certifying that this PPA is unmodified (or, if modified, stating the nature of the modification), in full force and effect and the absence or existence (and the nature thereof), to Seller's actual knowledge, of Events of Default hereunder by Purchaser and documents of consent to such assignment to the encumbrance and any assignment to such Lender, all in form and substance reasonably acceptable to Seller.

4. Promptly following the receipt of a written request from Purchaser or any Lender, Seller shall execute, or arrange for the delivery of, such reasonable certificates and other documents as may be reasonably necessary and appropriate in order for Purchaser to consummate any financing or refinancing of the Facility or any part thereof and enter into such reasonable agreements as may be reasonably requested by such Lender, which agreements will grant such rights to the Lender as are specifically provided for in such documents, including that (a) this PPA shall not be terminated (otherwise than pursuant to the terms of this PPA) without the consent of the Lender, which consent shall not be unreasonably withheld, conditioned, or delayed; (b) the Lender shall be given notice of, and the opportunity to cure any breach or default of this PPA by Purchaser in accordance with this PPA; (c) if the Lender forecloses, takes a deed in lieu of foreclosure, or otherwise exercises its remedies pursuant to any security documents, then (i) Seller shall, at the Lender's request, continue to perform all of its obligations hereunder, and the Lender or (without in any way limiting any obligation or liability of the Lender) its

nominee may perform in the place of Purchaser, and may assign this PPA to another Person that is a Creditworthy Entity and Qualified Operator in place of Purchaser, (ii) the Lender shall have no liability under this PPA except during the period of such Lender's ownership of the Purchaser's Interest or operation of the Facility, and (iii) Seller shall accept performance in accordance with this PPA by the Lender or its nominee; and (d) Seller shall make such representations and warranties to the Lender as Lender may reasonably request with regard to (1) Seller's authority to execute, deliver, and perform this PPA, (2) the binding nature on Seller of the document evidencing Seller's consent to assignment to the Lender and this PPA, and (3) the receipt of regulatory approvals by Seller with respect to its execution and performance under this PPA.

5. Purchaser shall reimburse Seller for the out-of-pocket costs and expenses (including the fees and expenses of counsel) incurred by Seller in connection with the preparation, negotiation, or execution of any statements, certificates, agreements, or other documents required under this Section 14.2.

Section 14.3 Purchase Option. Purchaser (or its designated Affiliate) shall have the option to purchase the Chugach Portion effective as of the expiration of the Term on the terms and conditions hereinafter set forth (the "**Purchase Option**"). On or before the thirtieth (30th) anniversary of the Commencement Date, Seller will deliver to Purchaser Notice of the date, location, and time of a joint meeting between Seller and Purchaser to discuss Purchaser's plan regarding the potential exercise the Purchase Option. During the last five (5) Contract Years, Purchaser shall have the right at any time prior to the last day of the Term to deliver Notice to Seller that Purchaser is exercising the Purchase Option. If Seller fails to provide Notice of such joint meeting or fails to meet with Purchaser, Seller shall not be in breach of this Agreement, but if Purchaser then fails to deliver Notice of exercise of the Purchase Option prior to the last day of the Term, the Term shall be extended for a period of one year beyond such date (the "**Term Extension**"), during which (i) Purchaser may deliver its Notice of exercise of the Purchase Option at any time prior to the last day of the Term Extension, and (ii) Purchaser shall continue to make Annual Payments equal to (x) the amount for Contract Year 35 as set forth on Exhibit D hereto, plus (y) an amount equal to one percent (1%) of such amount, until the earlier of the expiration of the Term Extension or the closing of the purchase and sale agreement for the Purchase Option. If Purchaser exercises its Purchase Option, Seller and Purchaser shall enter into a purchase and sale agreement for the Chugach Portion in a form to be mutually agreed by the Parties prior to the Closing under the Asset Purchase Agreement.

(A) Determination of Chugach Portion for Purposes of Purchase Option. If MEA has not accepted the MEA Offer and consummated a purchase of the MEA Proportionate Interest prior to the Commencement Date, the Chugach Portion shall be deemed to be a percentage interest equal to the Seller's Interest for purposes of the Purchase Option; *provided, however*, that if MEA, in connection with the exercise of the Purchase Option by Purchaser, exercises any rights that MEA may have under the Transition Plan to consummate a purchase of the MEA Proportionate Interest effective as of the expiration of the Term, the Chugach Portion shall, for purposes of the Purchase Option, be reduced by the MEA Proportionate Interest.

(B) Purchase Price. Upon any exercise of the Purchase Option, the purchase price for the Chugach Portion shall be the Purchase Price; *provided* that Purchaser may offset any Purchase Price Adjustment against the Purchase Price. The Parties agree that, for the purposes of calculating the Purchase Price, the following expenditures shall be capitalized or, if necessary, deferred and amortized, for purposes of determining the "net book value" of the Chugach Portion for purposes of determining the Purchase Price:

1. all overhaul costs for the Facility, whether treated as expenses or otherwise for purposes other than determining the Purchase Price, that have been paid by Purchaser with respect to the Seller's Interest prior to any acquisition by MEA of all or any portion of the Seller's Interest; and

2. any other expenditures or regulatory assets related to compliance with Applicable Law made by Purchaser with respect to the Seller's Interest prior to any acquisition by MEA of all or any portion of the Seller's Interest; and

3. any other improvement, contribution, or expense (other than operating expenses) made or paid by or on behalf of Purchaser with respect to the Facility to the extent that such improvement, contribution or expense increases the value of the Facility above the value of the Facility immediately before such improvement, contribution or expense is made or paid and that, after amortization, has a positive value that extends beyond the Term.

If, for any reason, any generation unit overhaul costs or expenditures related to environmental compliance or other compliance with Applicable Law are not capitalized on Seller's financial statements, then such costs or expenditures shall be imputed as a capital investment in Seller's Interest and deferred and amortized for the purposes of establishing "net book value."

(C) Purchase Price Adjustment. If MEA acquires any portion of the Seller's Interest from Seller at or prior to the time set forth in Section 14.3(D) so that the portion of the Seller's Interest available to be purchased by Purchaser under the Purchase Option is less than the Chugach Portion as of the Effective Date, Seller will reimburse Purchaser, from the proceeds of such sale to MEA, for Purchaser's pro-rata portion of the sum of the following amounts (the "**Purchase Price Adjustment**"):

1. All capital improvements or other capital contributions made by Purchaser with respect to such portion of the Seller's Interest prior to MEA's acquisition of such portion of the Seller's Interest;

2. all overhaul costs for the Facility, whether treated as expenses or otherwise for purposes other than determining the Purchase Price or Purchase Price Adjustment, that have been paid by Purchaser with respect to such portion of the Seller's Interest prior to MEA's acquisition of such portion of the Seller's Interest;

3. any other expenditures or regulatory assets related to compliance with Applicable Law made by Purchaser with respect to such portion of the Seller's Interest prior to the date of such acquisition; and

4. any other improvement, contribution, or expense (other than operating expenses) made or paid by or on behalf of Purchaser with respect to the Facility to the extent that such improvement, contribution or expense increases the value of the Facility above the value of the Facility immediately before such improvement, contribution or expense is made or paid and that, after amortization, has a positive value that extends beyond the Term.

As used in this Section 14.3(C), "pro-rata" means in accordance with the ratio of (i) that portion of the Seller's Interest acquired by MEA to (ii) the entire Seller's Interest. It is the intent of the Parties that the Purchase Price Adjustment fully reimburse Purchaser for any improvements to, or increased value of, the Facility to the extent that such improvement is acquired by MEA rather than by Purchaser pursuant to the Purchase Option.

(D) Closing. The closing of the purchase pursuant to any exercise of the Purchase Option will occur on a date selected by Purchaser, which date will be not less than five (5) months and not more than nine (9) months after Purchaser has exercised the Purchase Option. Purchaser will select the closing date by giving a minimum of 30 days written notice to Seller.

ARTICLE 15
MISCELLANEOUS

Section 15.1 Forward Contract; Forward Agreement. The Parties acknowledge and intend that (a) this PPA, the transactions contemplated hereby, and any instruments that may be provided by either Party hereunder will each, and together, constitute one and the same "forward contract" and "forward agreement" within the meaning of the Bankruptcy Code; (b) Purchaser and Seller are "forward contract merchants," "swap participants," and "master netting agreement participants" within the meaning of the Bankruptcy Code; (c) all payments made or to be made by one Party to the other Party pursuant to this PPA constitute "settlement payments" within the meaning of the Bankruptcy Code; (d) this PPA constitutes a "master netting agreement" within the meaning of the Bankruptcy Code; (e) the Annual Payments (including each monthly payment thereof) and all other amounts due from Purchaser hereunder are (i) settlement payments (as defined in the Bankruptcy Code), (ii) transfers in connection with a forward contract, swap agreement and master netting agreement (as used in Sections 546(e), 546(g) and 546(j) of the Bankruptcy Code), and (iii) attributable solely to the expected costs of acquiring the Energy attributable to the Chugach Portion during the Term (based on the anticipated minimum amount of Energy that will be generated by the Facility and attributable to the Chugach Portion during the Term), as determined as of the date hereof; (f) the date of each monthly payment of the Annual Payments is a "maturity date" (as used in the definition of "forward contract" in Section 101 of the Bankruptcy Code) with respect to the Energy attributable to the Chugach Portion delivered to Purchaser during the period since the prior monthly payment; and (h) this PPA was entered into by Purchaser for the purpose of hedging against price fluctuations in the market for

electricity, by paying a fixed price for the Energy attributable to the Chugach Portion during the Term; (i) Purchaser intends to pass on the costs of its Energy purchases hereunder to its own customers, subject to Applicable Law; and (j) all remedies for a non-defaulting Party hereunder (including as set forth in Section 9.2) are "contractual rights" as used in Sections 362(b)(6), 362(b)(17), 362(b)(27), 556, 560 and 561 of the Bankruptcy Code. Each Party agrees that it will not make any assertion or claim, in any dispute or otherwise, or otherwise take any position to the effect that this PPA, the transactions contemplated hereby, and any instrument(s) that may be provided by either Party hereunder do not each, and together, constitute one and the same "forward contract," "commodity forward agreement," and "master netting agreement" within the meaning of the Bankruptcy Code, or that Purchaser and Seller are not "forward contract merchants," "swap participants," and "master netting agreement participants" within the meaning of the Bankruptcy Code.

Section 15.2 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (any of the foregoing, a "**Notice**") shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 15.1):

If to Seller:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: william.falsey@anchorageak.gov Attention: William D. Falsey, Municipal Manager
with a copy to:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: rebecca.windtpearson@anchorageak.gov Attention: Rebecca A. Windt Pearson, Municipal Attorney
and a copy to:	K&L Gates LLP 925 Fourth Avenue, Suite 2900 Seattle, WA 98104-1158 E-mail: eric.freedman@klgates.com Attention: Eric E. Freedman

If to Purchaser:	Chugach Electric Association, Inc. 5601 Electron Drive Anchorage, AK 99518 E-mail: Lee_Thibert@chugachelectric.com Attention: Lee D. Thibert, Chief Executive Officer
with a copy to:	Chugach Electric Association, Inc. 5601 Electron Drive Anchorage, AK 99518 E-mail: Matthew_Clarkson@chugachelectric.com Attention: Matthew C. Clarkson, General Counsel
and a copy to:	Stinson Leonard Street LLP Suite 2600 50 South Sixth Street Minneapolis, MN 55402 E-mail: james.bertrand@stinson.com Attention: James J. Bertrand

Section 15.3 Compliance With Applicable Laws. Each Party shall at all times comply with all Applicable Laws; *provided, however* that any non-compliance with Applicable Law that, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on the business or financial condition of the Party or its ability to fulfill its commitments hereunder shall not be deemed to be a breach of this PPA. Each Party shall promptly disclose to the other, any material violation of any Applicable Laws arising out of or in connection with the Facility and this PPA. This PPA will not take effect until the prior approval of the RCA as required by AS 42.05.431(b).

Section 15.4 Rates, Terms, and Conditions Binding. The Parties agree that the rates (including Annual Payments), terms, and conditions for products and services specified in this PPA shall remain in effect for the Term. In addition, to the fullest extent permitted by Applicable Law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably (i) waives any rights that it may have, now or in the future, whether under AS 42.05.431(a), AS 42.05.431(b), or otherwise, to seek to obtain from the RCA by any means, directly or indirectly (through complaint, investigation, or otherwise), and (ii) covenants and agrees not at any time to seek so to obtain, an order from the RCA changing any section of this PPA specifying the rate, charge, or classification ("**Justness or Reasonableness Conditions**") agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by Applicable Law, neither Party will unilaterally seek to obtain from the RCA any relief changing the Justness or Reasonableness Conditions of this PPA, notwithstanding any subsequent changes that may occur in Applicable Law or market conditions.

Section 15.5 Public Announcements. Neither Party shall at any time make, with respect to the transactions to be consummated by this PPA, publish, or communicate to any

Person in any public forum any defamatory, maliciously false, or disparaging remarks, comments, or statements concerning the other Party or any of its employees, officers, officials or directors.

Section 15.6 No Third-Party Beneficiaries. This PPA is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this PPA.

Section 15.7 Amendment and Modification; Waiver. This PPA may only be amended, modified or supplemented by an agreement in writing signed by each Party. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No waiver by any Party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this PPA shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 15.8 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(A) This PPA shall be governed by and construed in accordance with the internal laws of the State of Alaska, without regard to conflict of law principles that would result in the application of the laws of any other jurisdiction.

(B) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS PPA OR THE TRANSACTIONS CONTEMPLATED HEREBY MAY BE INSTITUTED IN THE SUPERIOR COURT OF THE STATE OF ALASKA IN IN THE THIRD JUDICIAL DISTRICT, LOCATED IN ANCHORAGE, ALASKA, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURT AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(C) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS PPA IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR

RELATING TO THIS PPA OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY TO THIS PPA CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS PPA BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 15.8.

Section 15.9 Specific Enforcement. The Parties agree that irreparable damage would occur if any provision of this PPA were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity. The Parties acknowledge and agree that (A) the Parties shall be entitled to an injunction, specific performance or other equitable relief to prevent breaches of this PPA and to enforce specifically the terms and provisions hereto, without proof of damages, this being in addition to any other remedy to which they are entitled under this PPA and (B) the right to specific enforcement is an integral part of the transactions contemplated by this PPA and without that right, neither Seller nor Purchaser would have entered into this PPA. Each Party agrees that it will not oppose the granting of specific performance and other equitable relief on the basis that the other Party has an adequate remedy at law or that an award of specific performance is not an appropriate remedy for any reason at law or equity. The Parties acknowledge and agree that any Party seeking an injunction to prevent breaches of this PPA and to enforce specifically the terms and provisions of this PPA in accordance with this Section 15.9 shall not be required to provide any bond or other security in connection with any such injunction.

Section 15.10 Waiver of Sovereign Immunity. Seller agrees that it is subject to civil and commercial suit for any breach of contract obligations under this PPA. To the extent that Seller may be entitled to claim sovereign, governmental, or municipal immunity from any liability in such a civil or commercial suit by Purchaser, Seller hereby agrees not to claim, and hereby waives, such sovereign, governmental, or municipal immunity.

Section 15.11 RCA PPA Approval. Seller and Purchaser will use Commercially Reasonable efforts to cooperate and each advocate to obtain an order from the Regulatory Commission of Alaska (the "**RCA**") approving the amendment of the certificate of public convenience and necessity of each of Purchaser and Seller to reflect the transactions to be consummated hereby, which order includes approval of (A) recovery by Purchaser in future rates of payments made under this PPA and (B) this PPA; and which order from the RCA shall not contain any condition or conditions materially adverse to either Purchaser or Seller, as determined by Purchaser or Seller with respect to itself in good faith and in the exercise of its Commercially Reasonable business judgment ("**RCA PPA Approval**"). In addition, Seller and Purchaser will use commercially reasonable efforts to cooperate and advocate to obtain an order from the RCA approving, as part of the transactions to be consummated hereby, recovery by Buyer in future rates of the costs associated with consummating the transactions to be consummated hereby.

Section 15.12 Relationship of the Parties. This PPA shall not be interpreted to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Except as specifically provided for in this PPA to the contrary, neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

Section 15.13 Successors and Assigns. Subject to the provisions of Section 14.1, Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns. No assignment shall relieve the assigning party of any of its obligations hereunder.

Section 15.14 Security Interest.

(A) The Parties agree, acknowledge and intend that the legal status of this PPA is and shall be as a power purchase agreement, a forward contract (as defined in the Bankruptcy Code), a commodity forward agreement (and thus a swap agreement as defined in the Bankruptcy Code), and a master netting agreement (as defined in the Bankruptcy Code), and not a secured purchase of the Chugach Portion or any other alternative form of transaction, and that Seller will at all times during the Term have and retain full undivided ownership of the Chugach Portion. Accordingly, each Party acknowledges and agrees that: (1) it shall not assert that the transactions contemplated under this PPA are a secured financing of any sort; and (2) it shall cooperate with the other Party in defending against any assertion by a third party that the transactions contemplated hereunder constitute a secured financing.

(B) Notwithstanding the foregoing, as security for the prompt payment and performance of all obligations of Purchaser under this PPA, including the payment of all Annual Payments to Seller, and solely as a precaution in the event that this PPA should be construed as a secured financing such that Purchaser shall be deemed to have acquired title to the Chugach Portion at any time (other than by exercise of the Purchase Option under Section 14.3), Purchaser hereby grants to Seller a senior, first priority purchase money lien on and security interest in and to, and right of set-off with respect to, all right, title, and interest of Purchaser in and to the Chugach Portion (including all right, title, and interest in and to any Power attributable to the Chugach Portion, except as and to the extent that such Power is delivered to Purchaser at the Delivery Point under and in accordance with the express provisions of this PPA) and all proceeds thereof (collectively, the "**Collateral**"). In addition, notwithstanding ARTICLE 14, Purchaser (i) represents and warrants to Seller as of each of the Effective Date and the Commencement Date that (a) Purchaser has provided Seller with a true and correct copy of the Trust Indenture, including all supplements and amendments thereto that were executed after January 20, 2011 and (b) there are no liens or security interests in or on the assets of Purchaser that encumber the Collateral as of the Effective Date, and that there will be no liens or security interests in or on the assets of Purchaser that will encumber the Collateral as of the Commencement Date; (ii) covenants and agrees that Purchaser shall provide to Seller, at or prior to the Closing under the Asset Purchase Agreement, (a) an original, fully executed copy of an Officers' Certificate of Excludable Property (as such terms are defined in the Trust Indenture), in form and substance reasonably satisfactory to Seller, identifying the Collateral as Excludable Property under the Trust Indenture and including a confirmation by the Trustee (as defined in the

Trust Indenture) that the Collateral is Excludable Property and is not subject to the lien of the Trust Indenture pursuant to a release under Section 6.10 of the Trust Indenture, in form and substance reasonably satisfactory to Seller, (b) evidence of Purchaser's delivery of such Officers' Certificate to the Trustee and the Trustee's execution of such release, and (c) evidence of the recording of such release in all recording offices in the State of Alaska in which the lien of the Trust Indenture has been recorded; and (iii) covenants and agrees that Purchaser shall not, without Seller's prior written consent, grant any security interest in the Collateral, including (a) in connection with this PPA, the Asset Purchase Agreement, and the transactions contemplated hereunder and thereunder, or (b) any grant of a lien to the Trustee pursuant to Granting Clause Third of the Trust Indenture or otherwise. In connection with the lien and security interest granted in this Section 15.14(B), Seller shall have the rights and remedies of a secured party or mortgagee under Applicable Law, including the UCC. Purchaser hereby authorizes Seller to file UCC financing statements and to record instruments with any appropriate Governmental Authority, and to make other similar filings and recordings with respect hereto as Seller shall elect in its sole discretion for the purposes of recording and perfecting its lien and security interest in the Collateral.

Section 15.15 Survival of Obligations. The applicable provisions of this PPA shall continue in effect after termination to the extent necessary to (A) provide for final billings, payments, and adjustments, (B) enforce or complete the duties, obligations, or responsibilities of the Parties, and (C) address any remedies or indemnification rights arising prior to termination. Cancellation, expiration, or earlier termination of this PPA shall not relieve the Parties of obligations, including warranties, remedies, or indemnities, that by their nature should survive such cancellation, expiration, or termination, which obligations shall survive for the period of the applicable statute(s) of limitation.

Section 15.16 Further Assurances. Upon the receipt of a written request from the other Party, each Party shall execute such reasonable additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition, or delay its compliance with any reasonable request made pursuant to this Section 15.16.

Section 15.17 Severability. If any term or provision of this PPA is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this PPA or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this PPA so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 15.18 Complete Agreement. This PPA constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of a conflict between the terms of this PPA and the Asset Purchase Agreement, the terms of the Asset Purchase Agreement shall control.

Section 15.19 Headings. The headings in this PPA are for reference only and shall not affect the interpretation of this PPA.

Section 15.20 Counterparts. This PPA may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this PPA delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this PPA.

Section 15.21 Exhibits. Exhibits may be changed to the extent allowed by specific provisions of this PPA or with the mutual consent of both Parties.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this PPA as of the Effective Date.

Seller:

MUNICIPALITY OF ANCHORAGE

By _____

Name: William D. Falsey
Title: Municipal Manager

Purchaser:

CHUGACH ELECTRIC ASSOCIATION, INC.

By _____

Name: Lee D. Thibert
Title: Chief Executive Officer

IN WITNESS WHEREOF, the Parties have executed this PPA as of the Effective Date.

Seller:

MUNICIPALITY OF ANCHORAGE

By_____

Name: William D. Falsey
Title: Municipal Manager

Purchaser:

CHUGACH ELECTRIC ASSOCIATION, INC.

By_____

Name: Lee D. Thibert
Title: Chief Executive Officer

EXHIBIT A

DEFINITIONS

The following terms shall have the meanings set forth herein:

"**Actual Damages**" has the meaning set forth in Section 9.2(B).

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

"**Ancillary Services**" all ancillary products associated, in accordance with Prudent Utility Practice, with the generation of Energy, including spinning reserves, non-spinning reserves, reactive power and voltage control.

"**Annual Payments**" has the meaning set forth in Section 7.1(A).

"**Applicable Law**" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, Permit requirement, other binding requirement or rule of law of, or compulsory standard established by, any Governmental Authority.

"**Asset Purchase Agreement**" means that certain Asset Purchase and Sale Agreement dated as of December 28, 2018, 2018 pursuant to which Purchaser has acquired substantially all of the assets of Seller's electric utility referred to as Municipal Light and Power ("**ML&P**") other than the Seller's Interest.

"**Bankruptcy Code**" means 11 U.S.C. §§ 101 et seq. (Title 11, United States Code).

"**Bradley Lake Agreement**" means the Bradley Lake Hydroelectric Project Agreement for the Sale and Purchase of Electric Power dated as of December 8, 1987 by and among the Alaska Energy Authority as successor to The Alaska Power Authority, Purchaser, The Golden Valley Electric Association, Inc., Seller, The City of Seward d/b/a/Seward Electric System, The Alaska Electric Generation & Transmission Cooperative, Inc., The Homer Electric Association, Inc., and MEA.

"**Business Day**" means any Day that is not a Saturday, a Sunday, NERC recognized holiday, or any other Day on which commercial banks in Anchorage, Alaska are required to be closed for business.

"**Capacity**" means the total electrical generating capacity of the Facility, including any capacity products that are able to be accredited under Applicable Law.

"**Chugach Portion**" means that portion of the Seller's Interest as determined pursuant to Section 2.2 or Section 14.3(A).

"**Collateral**" shall have the meaning set forth in Section 15.14(B).

"**Commencement Date**" shall have the meaning set forth in Section 3.2.

"**Commercially Reasonable**" or "**Commercially Reasonable Efforts**" means, with respect to any action required to be made, attempted or taken by a Party under this PPA, the level of effort in light of the facts known to such Party at the time a decision is made that: (a) can reasonably be expected to accomplish the desired action at a reasonable cost; (b) is consistent with Prudent Utility Practice; and (c) takes into consideration the amount of advance notice required to take such action, the duration and type of action and the competitive environment in which such action occurs.

"**Contract Year**" has the following meaning: the first Contract Year means the period beginning on the Commencement Date and ending on the last calendar day of the month of the first anniversary of the Commencement Date. The second Contract Year and each subsequent Contract Year means the period beginning on the first day after the last day of the previous Contract Year and ending on the last day of the twelfth calendar month thereafter.

"**Credit Rating**" means (i) with respect to any entity other than a financial institution, the current (A) rating issued or maintained by S&P or Moody's with respect to such entity's long-term senior, unsecured, unsubordinated debt obligations (not supported by insurance provider or other third-party credit enhancements) or (B) corporate credit rating or long-term issuer rating issued or maintained with respect to such entity by S&P or Moody's, or (ii) if such entity is a financial institution, the ratings issued or maintained by S&P or Moody's with respect to such entity's long-term, unsecured, unsubordinated deposits.

"**Creditworthy Entity**" means a Person having at the applicable time a Credit Rating of (a) BBB or better from S&P, or (b) Baa2 or better from Moody's, or (c) if such Person has a Credit Rating at such time from both S&Ps and Moody's, BBB or better from S&P and Baa2 or better from Moody's.

"**Day**" means a calendar day.

"**Delivery Point**" means the low side of the step-up transformer(s) within the Facility switchyard.

"**Dispute**" shall have the meaning set forth in Section 10.1.

"**Effective Date**" shall have the meaning set forth in the preamble.

"**Eligible Energy Resource**" means any resource that qualifies as a renewable energy resource eligible to be certified to receive, claim, own or use renewable energy certificates pursuant to the protocols and procedures under any applicable REC Registration Program.

"**Energy**" means the net electric energy that is generated from the Facility (or capable of being generated by any water spilled from the Facility) that is delivered to the Delivery Point, as measured in accordance with Section 5.2. Energy shall be net of energy self-generated and concurrently consumed by the Facility, and net of all losses prior to the Delivery Point, including line, inverter, and transformer losses.

"**ERO**" means the Electric Reliability Organization certified by FERC pursuant to Section 215 of the Federal Power Act or any successor organization.

"**Event of Default**" shall have the meaning set forth in Section 9.1.

"**Extension Agreement**" means that certain Agreement for Extension of 1996 Eklutna Hydroelectric Project Transition Plan dated October 2, 1997 by and among the Owners.

"**Facility**" means the Eklutna Hydroelectric Project, as further described in Exhibit B, including all of the following: all equipment, buildings, generators, inverters, step-up transformers, output breakers, protective and associated equipment, improvements, and other tangible assets, contract rights, easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for construction, operation, maintenance, generation and delivery of the Energy, Ancillary Services, and Capacity subject to this PPA.

"**Facility Metering**" means revenue quality meters, metering equipment and data processing equipment used to measure, record or transmit data relating to the output from the Facility, including the metering current transformers and the metering voltage transformers.

"**Federal Power Act**" means the provisions of 16 U.S.C. 791(A) et seq. and amendments or supplements thereto.

"**FERC**" means the Federal Energy Regulatory Commission or any successor agency.

"**Financing Documents**" means the loan and credit agreements, notes, bonds, indentures, security agreements, lease financing agreements, mortgages, deeds of trust, interest rate exchanges, swap agreements, and other documents relating to a Party's financing transactions, including any credit enhancement, credit support, working capital financing, or refinancing documents, and any and all amendments, modifications, or supplements to the foregoing that may be entered into from time to time at the discretion of the Party.

"**Fish and Wildlife Agreement**" is the August 7, 1991 Agreement Between The Municipality of Anchorage, DBA Anchorage Municipal Light And Power, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., U. S. Fish and Wildlife Service, National Marine Fisheries Service, Alaska Energy Authority and The State of Alaska, Relative to the Eklutna and Snettisham Hydroelectric Projects .

"**Force Majeure**" means an event or circumstance that prevents a Party from performing its obligations under this PPA, which event or circumstance (i) was not reasonably anticipated as of the Date of this PPA, (ii) is not within the reasonable control of or the result of the fault or negligence of the Party claiming its occurrence, and (iii) which by exercise of due diligence and

foresight could not reasonably have been avoided, *provided, however*, that such an event or circumstance shall not include: (a) inability, or excess cost, to procure any equipment necessary to perform the obligations of this PPA; (b) delays or nonperformance by suppliers, vendors, or other third parties with which a Party has contracted, except to the extent that such delays or nonperformance were due to circumstances that would constitute "Force Majeure" as defined above; (c) mechanical or equipment breakdown or inability to operate unless caused by reason of Force Majeure; (d) changes in market conditions; (e) any labor strikes, slowdowns, work stoppages, or other labor disruptions limited only to a Party or a Party's Affiliates; (f) Seller's inability to obtain any credit or incentive in connection with the Facility, including any such inability that is attributable to any failure to meet placed-in-service or safe harbor provisions regardless of whether an event of Force Majeure may have caused or contributed to such failure, (g) the loss of Purchaser's markets or Purchaser's inability economically to use or resell any of the Power purchased hereunder, except to the extent that such loss of markets or inability to use or resell were due to circumstances that would constitute "Force Majeure" as defined above; (h) Purchaser's failure to contract for and reserve sufficient firm transmission capacity to deliver the Power to any transmission point(s) of receipt or any delivery point(s); (i) Seller's ability to sell Power to a market at a more advantageous price; or (j) Purchaser's ability to purchase Power in or from any market at a more advantageous price.

"**Forced Outage**" means any condition at the Facility that requires the immediate and unplanned removal of the Facility, or at least ten percent thereof, from service, another outage state, or a reserve shutdown state, resulting from immediate mechanical/electrical/hydraulic control system trips and operator-initiated trips in response to abnormal Facility conditions or alarms.

"**Governmental Authority**" means any federal, state, local or foreign government, or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations, or orders of such organization or authority have the force of Law), or any arbitrator, court, or tribunal of competent jurisdiction. References to "Governmental Authority" shall exclude Seller except Seller is acting in a legislative or regulatory capacity as expressly authorized by Applicable Law.

"**Indemnified Party**" shall have the meaning set forth in Section 13.1.

"**Indemnifying Party**" shall have the meaning set forth in Section 13.1.

"**ISO**" means an independent system operator or regional transmission organization that coordinates, controls and monitors the operation of a public electrical power system or any similar operator or organization created by Applicable Law after the date of this PPA.

"**Justness or Reasonableness Conditions**" shall have the meaning set forth in Section 15.4.

"**Lender**" means any commercial bank, investment bank or trustee under Financing Documents that makes a loan to or extends other credit in favor of Purchaser.

"**MEA**" means Matanuska Electric Association, Inc., a not-for-profit Alaska electric cooperative corporation.

"**MEA Offer**" shall have the meaning set forth in Section 2.1.

"**MEA Proportionate Interest**" shall have the meaning set forth in Section 2.1.

"**Moody's**" means Moody's Investors Services, Inc.

"**NERC**" means the North American Electric Reliability Council or any successor organization.

"**Notice**" shall have the meaning set forth in Section 15.1.

"**Operating Committee**" shall mean the "Eklutna Operating Committee" or "EOC" set forth in the Operations Agreement.

"**Operating Records**" means all agreements associated with the Facility, operating logs, blueprints for construction, operating manuals, all warranties on equipment, and all documents, whether in printed or electronic format, that Seller uses or maintains for the operation of the Facility.

"**Operations Agreement**" means the Eklutna Purchasers Manner of Acting, Functional Responsibilities, and Staffing, attached as Exhibit E to the Transition Plan, as the same has been amended from time to time by the Owners.

"**Operations Agreement Amendment**" shall have the meaning set forth in Section 3.1.

"**Owners**" means the owners of the Facility. As of the Effective Date, the Owners are Seller (with respect to the Seller's Interest), Purchaser (with respect to the Purchaser's Interest), and MEA (with respect to the remaining 5/30 (approximately 16.7%) undivided ownership interest in the Facility).

"**Party**" and "**Parties**" shall have the meanings set forth in the introductory paragraph.

"**Permit(s)**" means all applicable construction, land use, air quality, emissions control, environmental and other permits, licenses and approvals from any Governmental Authority required under Applicable Laws for construction, ownership, operation and maintenance of the Facility and the generation and delivery of any output from the Facility to Purchaser.

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

"**Power**" shall have the meaning set forth in Section 6.1(A).

"**PPA Contingencies**" shall have the meaning set forth in Section 3.1.

"**Prudent Utility Practice**" means any applicable practices, methods, and acts engaged in or approved by a significant portion of (a) as to Seller, the hydroelectric generating industry in the United States of America, or (b) as to Purchaser, the electric utility industry in the United States of America, during the relevant time period, or the practices, methods and acts which, in the exercise of reasonable judgment by a prudent hydroelectric generator operator (or prudent utility operator, if applicable to Purchaser) in light of the facts known or which should reasonably have been known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, expedition and the requirements of any governing authority having jurisdiction. Without limitation of the foregoing, "Prudent Utility Practice" shall include the applicable operating policies, standards, criteria, or guidelines of any applicable governing authority and any manufacturer of a component of the Project. "Prudent Utility Practice" is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to the acceptable practices, methods or acts generally accepted (a) as to Seller, by the hydroelectric energy electric generating industry in the United States of America or (b) as to Purchaser, by the electric utility industry in the United States of America.

"**Purchase Option**" shall have the meaning set forth in Section 14.3.

"**Purchase Price**" means the sum of the net book value (or its equivalent) of the Chugach Portion as of the last day of the Term, as reduced (although not below zero) by the aggregate amount of the net book value of any capital expenditures made by Purchaser with respect to the Chugach Portion during the Term. For purposes of the Chugach Portion, "net book value" means gross plant in service (including customer-contributed plant) at original cost, less accumulated depreciation and amortization.

"**Purchase Price Adjustment**" shall have the meaning set forth in Section 14.3(C).

"**Purchaser**" shall have the meaning set forth in the first paragraph of this PPA.

"**Purchaser's Interest**" shall have the meaning set forth in the second paragraph of this PPA.

"**Qualified Operator**" means an operator that operates one or more hydropower generating facilities of a type and size comparable to the Facility, is nationally recognized, and has not less than three years' experience in the operation of one or more hydropower generating facilities.

"**RCA**" shall have the meaning set forth in Section 15.10.

"**RCA PPA Approval**" shall have the meaning set forth in Section 15.10.

"**REC Registration Program**" means any state, regional or federal program established to register Eligible Energy Resources and create and certify renewable energy certificates arising from energy generated from such Resource, including any rights associated with any renewable energy information or tracking system that exists or may be established by Applicable Law with regard to monitoring, registering, tracking, certifying, or trading such credits.

"**Renewable Attributes**" means any and all renewable resource attributes (including renewable energy certificates or credits or similar rights arising out of any applicable REC Registration Program), green tags, emissions or carbon credits, reductions, offsets, and allowances, and any other environmentally related attributes that are, or in the future may be, recognized by any Governmental Authority, and that are attributable to the availability, production, purchase or sale of Energy from the Facility. For the avoidance of doubt, "Renewable Attributes" do not include any Tax Benefits.

"**S&P**" means the Standard & Poor's Rating Group, a division of The McGraw-Hill Companies.

"**Scheduled Termination Date**" means the last day of the calendar month thirty-five (35) years after the Commencement Date.

"**Seller**" shall have the meaning set forth in the first paragraph of this PPA.

"**Seller's Interest**" shall have the meaning set forth in the recitals to this PPA.

"**Seller's Representative**" shall have the meaning set forth in Section 4.2.

"**Site**" means the parcel of real property on which the Facility is constructed and located, including any easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the operation and maintenance of the Facility. The Site is more specifically described in Exhibit B to this PPA.

"**Tax Benefits**" means any and all (i) tax credits based on ownership of, investment in or energy production from the Facility or any portion thereof, (ii) grants based on ownership of, investment in or energy production from the Facility or any portion thereof, including the grant described in Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 and (iii) other tax benefits, including depreciation and other cost recovery deductions, arising in connection with ownership of, investment in, or operation of the Facility, or any portion thereof, in each case allocated, allowed, allowable, assigned, awarded, certified or otherwise transferred or granted to Seller or Purchaser by any Governmental Authority in any jurisdiction in connection with the Facility.

"**Term**" means the period of time during which this PPA shall remain in full force and effect as further defined in Section 3.3 and as may be extended pursuant to Section 14.3.

"**Term Extension**" shall have the meaning set forth in Section 14.3.

"**Transition Plan**" means the 1996 Eklutna Hydroelectric Project Transition Plan dated May 28, 1996 by and among the United States of America d/b/a Alaska Power Administration, a unit of the Department of Energy, and the Owners, as the same has been amended and extended by the Extension Agreement.

"**Trust Indenture**" means that certain Second Amended and Restated Indenture of Trust, dated as of January 20, 2011, between Purchaser and U.S. Bank National Association, as Trustee, as recorded in Recording Dist.: 301 - Anchorage, State of Alaska, on January 20, 2011, under

reference no. 2011-003688-0, in Recording Dist.: 302 - Kenai, State of Alaska, on January 20, 2011, under reference no. 2011-000608-0, in Recording Dist.: 314 - Seward, State of Alaska, on January 20, 2011, under reference no. 2011-000062-0, and in the Palmer, State of Alaska, Recording District on January 20, 2011, under reference no. 2011-001410-0, as the same has been or may be amended or supplemented from time to time.

"**UCC**" means the Uniform Commercial Code of the State of Alaska.

EXHIBIT B

FACILITY DESCRIPTION AND SITE MAPS

Eklutna Purchase Agreement
Exhibit A

August 2, 1989
Page 1 of 2

Lands, Easements and Rights-of-Way

Exhibit A consists of this narrative (pages 1 and 2 of 2) and the map prepared by BLM, signed and dated February 3, 1989.

This exhibit describes and displays present land status for the Eklutna Hydroelectric Project and describes in general terms the conveyances of land and land rights contemplated in the purchase agreement.

1. BLM - managed lands and military lands used for Eklutna Project for which BLM is to provide APAd rights-of-way sufficient for operation, maintenance, repair and replacement of Eklutna facilities, such rights-of-way to be assigned by APAd to the Purchasers.

Legend Symbols and Description.

Withdrawals. Refers to approximately 863 acres of public lands withdrawn for Eklutna at the "Intake Area," "Power Tunnel," "Eklutna Powerplant" and "Anchorage Substation." The total acreage is comprised of the following land:

a. Approximately 320 acres withdrawn for the "Power Tunnel" under Public Land Order 1231 dated September 28, 1955.

b. Approximately 230 acres utilized for the "Intake Area" and approximately 60 acres for a portion of "Eklutna Powerplant" as described by ANCSA 3(e) determination AA-51183 dated July 30, 1986.

c. Approximately 243 acres utilized for "Eklutna Powerplant" as described by ANCSA 3(e) determination AA-42534 dated September 1, 1982.

d. Approximately 10 acres withdrawn for "Anchorage Substation" under Secretarial Order dated April 4, 1952.

State Land-R/W. Refers to rights-of-way across State-selected lands covering the transmission line east of "Eklutna Powerplant" to the Knik River.

Military Land-R/W. Refers to rights-of-way across military lands used for Eklutna transmission lines.

Acquired-3(e). Refers to approximately 2.5 acres of acquired land used for "Reed Substation" as described by ANCSA 3(e) determination AA-45155 dated July 30, 1985.

2. ANCSA 17(b) Easements.

Map symbol: Native Land - 17(b) Easements.

Refers to rights-of-way that are reserved for portions of the 115kV transmission line, access roads and other Eklutna facilities located on Native corporation lands, and exist as easement reservations in the ANCSA conveyances to the Native corporations pursuant to Section 17(b) of ANCSA. These easements will not be altered by the sale of Eklutna and the Purchasers may use these easements for their intended purposes.

3. APAd Acquired Land and Easements.

Refers to land and easements acquired by the Bureau of Reclamation (predecessor of APAd) during construction of Eklutna and now controlled by APAd. APAd will assign the land and easements to the Purchasers.

Legend Symbols and Description:

Acquired. Refers to approximately 0.8 acres of land owned by APAd at Palmer Substation.

Acquired-Easements. Refers to approximately 33 easements across private lands acquired by the Bureau of Reclamation (predecessor of APAd) and now held by APAd.

4. Other Easements on Private Land.

Map [Symbol]: Note: Other Easements on Private Lands To Be Acquired - See Exhibit A Narrative

Refers to approximately two hundred and fifty (250) parcels of private land located along the 115kV transmission line, many of which require title curative action for purposes of perfecting assignable easement rights or rights-of-way for the Purchasers. APAd shall be responsible for acquiring assignable easement rights or rights-of-way across these lands, for subsequent assignment to Purchasers.

5. Reservoir.

Eklutna Lake as designated on the map is the reservoir described in the body of the Agreement.

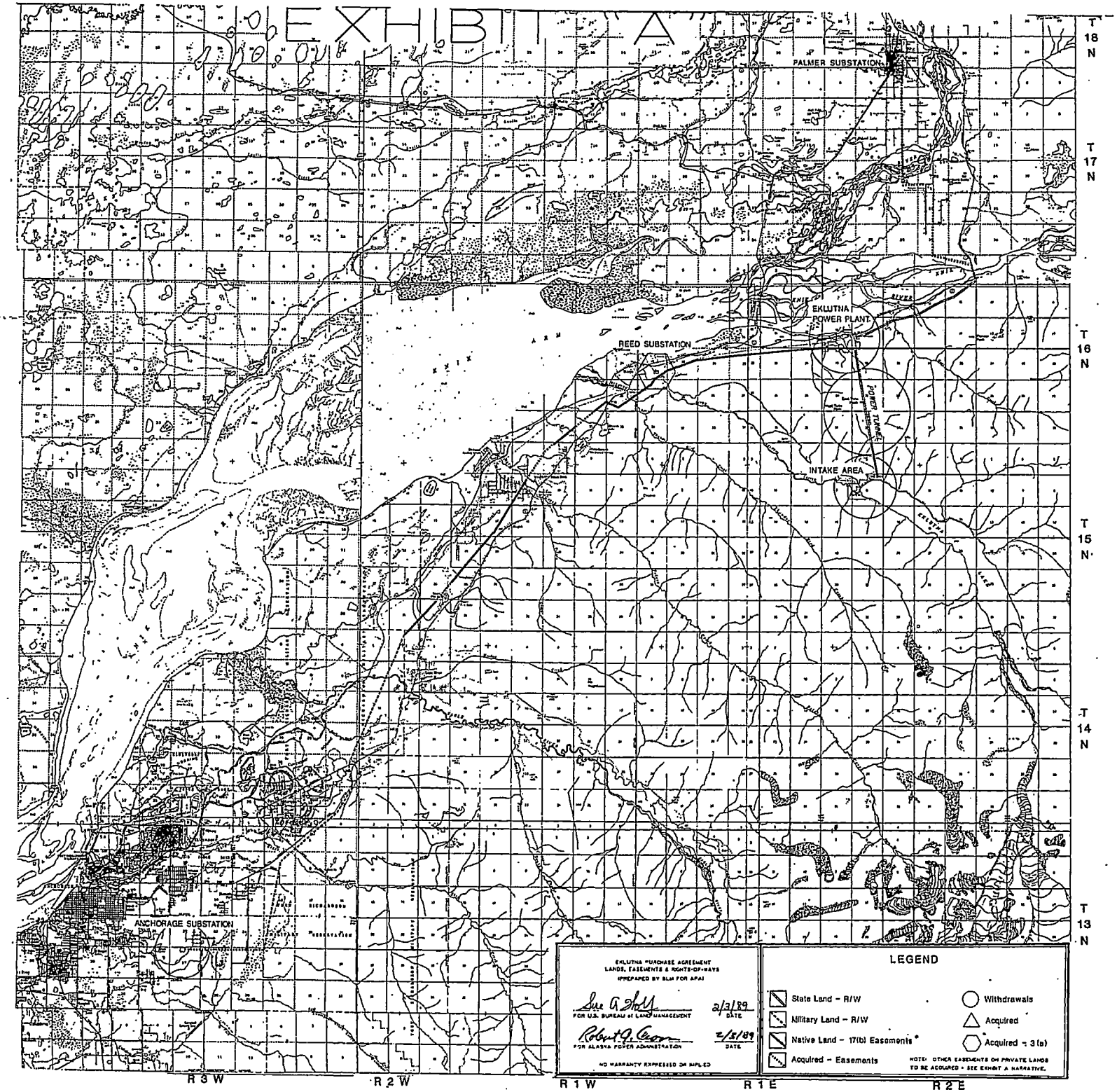
EXHIBIT A
PALMER SUBSTATION
EKLUTNA POWER PLANT
REED SUBSTATION
POWER TUNNEL
INTAKE AREA
ANCHORAGE SUBSTATION
T 18 N
T 17 N
T 16 N
T 15 N
T 14 N
T 13 N
R 3 W
R 2 W
R 1 W
R 1 E
R 2 E
EKLUTNA PURCHASE AGREEMENT
LANDS, EASEMENTS & RIGHTS-OF-WAYS
(PREPARED BY BLM FOR APA)
FOR U.S. BUREAU OF LAND MANAGEMENT
2/3/89
DATE
FOR ALASKA POWER ADMINISTRATION
2/5/89
DATE
NO WARRANTY EXPRESSED OR IMPLIED
LEGEND
State Land - R/W
Military Land - R/W
Native Land - 17(b) Easements
Acquired - Easements
Withdrawals
Acquired
Acquired - 3(a)
NOTE: OTHER EASEMENTS ON PRIVATE LANDS TO BE ACQUIRED - SEE EXHIBIT A NARRATIVE.

EXHIBIT C

TERMS OF MEA OFFER

The MEA Offer must provide that the effectiveness of any purchase by MEA of the MEA Proportionate Interest and the effectiveness of any binding power purchase agreement between Seller and MEA with respect to the MEA Proportionate Interest must be conditioned on the occurrence of the Closing under the Asset Purchase Agreement.

Any purchase option for the MEA Portion in a PPA must be on terms and conditions substantially the same as those set forth in Section 14.3.

EXHIBIT D

ANNUAL PAYMENTS

Annual Payments to the Municipality of Anchorage: 35-Year Term

	PPA Annual Payments (Nominal $)	
	Chugach Portion: 100%	*Chugach Portion: 64.29%*
Contract Year		
1	$3,908,021	$2,512,467
2	$3,947,101	$2,537,591
3	$3,986,572	$2,562,967
4	$4,026,438	$2,588,597
5	$4,066,702	$2,614,483
6	$4,107,369	$2,640,628
7	$4,148,443	$2,667,034
8	$4,189,927	$2,693,704
9	$4,231,827	$2,720,641
10	$4,274,145	$2,747,848
11	$4,316,886	$2,775,326
12	$4,360,055	$2,803,080
13	$4,403,656	$2,831,110
14	$4,447,692	$2,859,421
15	$4,492,169	$2,888,016
16	$4,537,091	$2,916,896
17	$4,582,462	$2,946,065
18	$4,628,287	$2,975,525
19	$4,674,569	$3,005,281
20	$4,721,315	$3,035,334
21	$4,768,528	$3,065,687
22	$4,816,214	$3,096,344
23	$4,864,376	$3,127,307
24	$4,913,019	$3,158,580
25	$4,962,150	$3,190,166
26	$5,011,771	$3,222,068
27	$5,061,889	$3,254,288
28	$5,112,508	$3,286,831
29	$5,163,633	$3,319,700
30	$5,215,269	$3,352,897
31	$5,267,422	$3,386,426
32	$5,320,096	$3,420,290
33	$5,373,297	$3,454,493
34	$5,427,030	$3,489,038
35	$5,481,300	$3,523,928

In the event that the Chugach Portion is neither 100% or 64.29%, the Annual Payment shall be pro-rated based on the percentage of the Chugach Portion.

EXHIBIT E

INSURANCE COVERAGE

INSURANCE PROVISIONS SHOULD PROVIDE THAT CASUALTY COVERAGE SHOULD EQUAL OR EXCEED THE NET PRESENT VALUE OF THE AMOUNT OF REMAINING ANNUAL PAYMENTS USING A 5% DISCOUNT RATE; PROVIDED THAT IN NO EVENT SHALL PURCHASER BE REQUIRED TO PROVIDE CASUALTY INSURANCE IN EXCESS OF THE ACTUAL CASH VALUE OF THE CHUGACH PORTION.

AMENDMENT NO. 1 TO EKLUTNA POWER PURCHASE AGREEMENT

This AMENDMENT NO. 1 TO EKLUTNA POWER PURCHASE AGREEMENT, dated as of the 27th day of September, 2019 (this "**Eklutna PPA Amendment**"), is made and entered into by and between (i) **CHUGACH ELECTRIC ASSOCIATION, INC.**, an Alaska not-for-profit electric cooperative corporation ("**Purchaser**"), and (ii) the **MUNICIPALITY OF ANCHORAGE,** a political subdivision organized under the laws of the State of Alaska ("**Seller**"). Purchaser and Seller are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

WHEREAS, Purchaser and Seller entered into that certain Eklutna Power Purchase Agreement dated as of December 28, 2018 (the "**Eklutna PPA**");

WHEREAS, Section 15.7 of the Eklutna PPA provides that Purchaser and Seller may amend the Eklutna PPA upon the execution and delivery of a written agreement executed by each Party; and

NOW, THEREFORE, pursuant to Section 15.7 of the Eklutna PPA and in consideration for the premises and agreements hereinafter set forth, the Parties, intending to be legally bound, agree as follows:

1. Revision to Section 15.11. The following sentence is added at the end of Section 15.11 of the Eklutna PPA:

> It is the understanding of the Parties that this PPA, as a wholesale power agreement between public utilities governed by AS 42.05.431(b), will not take effect without the prior approval of the RCA, and will at all times after any such approval be subject to the RCA's continuing authority over wholesale power agreements.

2. Effective Date and Incorporation of Terms of Eklutna PPA. This Amendment shall be deemed effective as of the Effective Date as defined in Exhibit A to the Eklutna PPA and, without in any way limiting the effect of the amendment set forth in Section 1 of this Amendment, shall be subject to all the terms and conditions of the Eklutna PPA.

3. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Amendment.

[Remainder of the page intentionally left blank]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By _____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By _____

Name: Lee D. Thibert
Title: Chief Executive Officer

AMENDMENT NO. 2 TO EKLUTNA POWER PURCHASE AGREEMENT

This AMENDMENT NO. 2 TO EKLUTNA POWER PURCHASE AGREEMENT, dated as of the 28th day of October, 2019 (this "**Eklutna PPA Amendment**"), is made and entered into by and between (i) **CHUGACH ELECTRIC ASSOCIATION, INC.**, an Alaska not-for-profit electric cooperative corporation ("**Purchaser**"), and (ii) the **MUNICIPALITY OF ANCHORAGE,** a political subdivision organized under the laws of the State of Alaska ("**Seller**"). Purchaser and Seller are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

WHEREAS, Purchaser and Seller entered into that certain Eklutna Power Purchase Agreement dated as of December 28, 2018 (the "**Eklutna PPA**");

WHEREAS, Section 15.7 of the Eklutna PPA provides that Purchaser and Seller may amend the Eklutna PPA upon the execution and delivery of a written agreement executed by each Party; and

NOW, THEREFORE, pursuant to Section 15.7 of the Eklutna PPA and in consideration for the premises and agreements hereinafter set forth, the Parties, intending to be legally bound, agree as follows:

1. Revision to Section 10.1. Section 10.1 of the Eklutna PPA is deleted in its entirety and replaced with the following:

> **Section 10.1 Dispute Resolution.** In the event of any dispute arising under this PPA (a "**Dispute**"), within ten (10) Business Days following Notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies.

2. Effective Date and Incorporation of Terms of Eklutna PPA. This Amendment shall be deemed effective as of the Effective Date as defined in Exhibit A to the Eklutna PPA and, without in any way limiting the effect of the amendment set forth in Section 1 of this Amendment, shall be subject to all the terms and conditions of the Eklutna PPA.

3. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Amendment.

[*Remainder of the page intentionally left blank*]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By _____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By _____

Name: Lee D. Thibert
Title: Chief Executive Officer

AMENDMENT NO. 3 TO EKLUTNA POWER PURCHASE AGREEMENT

This AMENDMENT NO. 3 TO EKLUTNA POWER PURCHASE AGREEMENT, dated as of the 9th day of July, 2020 (this "**Eklutna PPA Amendment**"), is made and entered into by and between (i) **CHUGACH ELECTRIC ASSOCIATION, INC.**, an Alaska not-for-profit electric cooperative corporation ("**Purchaser**"), and (ii) the **MUNICIPALITY OF ANCHORAGE,** a political subdivision organized under the laws of the State of Alaska ("**Seller**"). Purchaser and Seller are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

WHEREAS, Purchaser and Seller entered into that certain Eklutna Power Purchase Agreement dated as of December 28, 2018 (the "**Eklutna PPA**");

WHEREAS, the Regulatory Commission of Alaska on May 28, 2020 issued Order No. U-18-102(44)/ U-19-020(39)/ U-19-021(39), *Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third Party Sales Gas Pricing; and Requiring Filings* (the "**Final Order**");

WHEREAS, Section 15.7 of the Eklutna PPA provides that Purchaser and Seller may amend the Eklutna PPA upon the execution and delivery of a written agreement executed by each Party; and

NOW, THEREFORE, pursuant to Section 15.7 of the Eklutna PPA, Section III.E of the Stipulation (as defined in Exhibit A as amended pursuant to this Eklutna PPA Amendment), and the Final Order, and in consideration for the premises and agreements in the Stipulation and as hereinafter set forth, the Parties, intending to be legally bound, agree as follows:

1. Revision to Section 8.2. Section 8.2 of the Eklutna PPA is hereby amended by the addition of a new subsection (C) reading in its entirety as follows:

> (C) If (i) Seller has not, on or before the fifth anniversary of the Closing (as defined in the Asset Purchase Agreement) (the "**Expenditure Deadline**"), received an appropriation of funds from the Assembly of Seller in the amount of $15 million for purposes of the planning, permitting, design, and construction (including any required demolition of existing structures) of the Alaska Center for Treatment, all as provided in Section III.E of the Stipulation (such purposes, the "**Required Use**"), or such appropriation ceases, at any time prior to the expenditure by Seller of the full amount of such $15 million for the Required Use, to remain in full force and effect, (ii) such funds have not, on or before the Expenditure Deadline, been deposited into a dedicated fund for use only for the Required Use, or any such funds (other than any of such funds that have been expended for the Required Use) cease, at any time prior to the expenditure by Seller of the full amount of such $15 million for the Required Use,

to remain in such dedicated fund, (iii) one or more contracts requiring payment by Seller of the entire unexpended amount of such funds for the Required Use has not, on or before the Expenditure Deadline, been awarded by Seller pursuant to Title 7 of Anchorage Municipal Code, or (iv) Seller has not, on or before the Expenditure Deadline, become, or Seller ceases, at any time prior to the expenditure by Seller of the full amount of such $15 million for the Required Use, to remain, a party to such contract or contracts, then Purchaser shall offset against any amounts due to Seller under this PPA any portion of such $15 million amount that has not been spent by Seller for the Required Use.

2. Revision to Section 15.3. Section 15.3 of the Eklutna PPA is hereby deleted in its entirety and replaced as follows:

Section 15.3. Compliance with Laws. Each Party shall at all times comply with all Applicable Laws; *provided, however*, that any non-compliance with Applicable Law that, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on the business or financial condition of the Party or its ability to fulfill its commitments hereunder shall not be deemed to be a breach of this PPA. Each Party shall promptly disclose to the other any material violation of any Applicable Laws arising out of or in connection with the Facility and this PPA.

3. Revision to Section 15.11. Section 15.11 of the Eklutna PPA is hereby amended to delete in its entirety the sentence that was added at the end thereof by Section 1 of Amendment No. 1 to the Eklutna PPA, dated as of September 27, 2019.

4. Amendment of Exhibit A. Exhibit A to the Eklutna PPA is hereby amended to add the following new defined terms:

"**Expenditure Deadline**" has the meaning set forth in Section 8.2(C).

"**Stipulation**" means the Stipulation Resolving All Issues entered into by and among Seller, Purchaser, Providence Health & Services, the Federal Executive Agencies, MEA, Homer Electric Association, Inc., Alaska Energy Authority, and ENSTAR Natural Gas Company, a Division of SEMCO Energy, Inc. dated October 25, 2019, and accepted and approved, subject to conditions, by the RCA on May 28, 2020 in the Final Order.

"**Required Use**" has the meaning set forth in Section 8.2(C).

5. Effective Date and Incorporation of Terms of Eklutna PPA. This Amendment shall be deemed effective as of the Effective Date as defined in Exhibit A to the Eklutna PPA and, without in any way limiting the effect of the amendment set forth in Section 1 of this Amendment, shall be subject to all the terms and conditions of the Eklutna PPA.

6. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail or other means of

electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Amendment.

[*Remainder of the page intentionally left blank*]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By_____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By_____

Name: Lee D. Thibert
Title: Chief Executive Officer

AMENDMENT NO. 4 TO EKLUTNA POWER PURCHASE AGREEMENT

This AMENDMENT NO. 4 TO EKLUTNA POWER PURCHASE AGREEMENT, dated as of the 23rd day of September, 2020 (this "**Amendment**"), is made and entered into by and between (i) **CHUGACH ELECTRIC ASSOCIATION, INC.**, an Alaska not-for-profit electric cooperative corporation ("**Purchaser**"), and (ii) the **MUNICIPALITY OF ANCHORAGE,** a political subdivision organized under the laws of the State of Alaska ("**Seller**"). Purchaser and Seller are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties.**"

RECITALS

WHEREAS, Purchaser and Seller entered into that certain Eklutna Power Purchase Agreement dated as of December 28, 2018 (the "**Eklutna PPA**");

WHEREAS, Section 15.7 of the Eklutna PPA provides that Purchaser and Seller may amend the Eklutna PPA upon the execution and delivery of a written agreement executed by each Party;

WHEREAS, the last sentence of the first paragraph of Section 14.3 of the Eklutna PPA provides as follows: "If Purchaser exercises its Purchase Option, Seller and Purchaser shall enter into a purchase and sale agreement for the Chugach Portion in a form to be mutually agreed by the Parties prior to the Closing under the Asset Purchase Agreement"; and

WHEREAS, Purchaser and Seller wish to replace the last sentence of the first paragraph of Section 14.3 of the Eklutna PPA with a new last sentence as set forth in this Amendment.

NOW, THEREFORE, pursuant to Section 15.7 of the Eklutna PPA, and in consideration for the premises and agreements as hereinafter set forth, the Parties, intending to be legally bound, agree as follows:

1. Revision to Section 14.3. The last sentence of the first paragraph of Section 14.3 of the Eklutna PPA is hereby deleted and replaced with the following sentence:

> If Purchaser exercises its Purchase Option, Seller and Purchaser shall enter into a purchase and sale agreement for the Chugach Portion in a form to be mutually agreed by the Parties within one (1) year after the Closing under the Asset Purchase Agreement.

2. Effective Date and Incorporation of Terms of Eklutna PPA. This Amendment shall be deemed effective as of the Effective Date as defined in Exhibit A to the Eklutna PPA and, without in any way limiting the effect of the amendment set forth in Section 1 of this Amendment, shall be subject to all the terms and conditions of the Eklutna PPA.

3. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Amendment.

[*Remainder of the page intentionally left blank*]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By _____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By _____

Name: Lee D. Thibert
Title: Chief Executive Officer

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By_____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By_____

Name: Lee D. Thibert
Title: Chief Executive Officer

EXHIBIT EAO-03

RECEIVED
By the Regulatory Commission of Alaska on Oct 30, 2020

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert M. Pickett, Chairman Stephen McAlpine Antony G. Scott Daniel A. Sullivan Janis W. Wilson
In the Matter of the Investigation Into the Beluga River Unit Management Practices of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	U-18-102
In the Matter of the Petition Filed by CHUGACH ELECTRIC ASSOCIATION, INC. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend Its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	U-19-020
In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT to Amend Its Certificate of Public Convenience and Necessity No. 121, to Eliminate Its Retail Electric Service Area and Add the Eklutna Hydroelectric Project to Its Service Area, and to Lift the Dividend Restriction	U-19-021
In the Matter of the Request for Approval of Special Contract Designated as TA379-121 Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	TA379-121

NOTICE OF ML&P'S SURRENDER OF EKLUTNA OPERATING COMMITTEE VOTING RIGHTS

October 30, 2020

LAW OFFICES OF
KEMPPEL, HUFFMAN AND ELLIS
A PROFESSIONAL CORPORATION
255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2025
(907) 277-1604

In Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39"), the Regulatory Commission of Alaska ("RCA") approved, subject to conditions, the sale to Chugach Electric Association, Inc. ("Chugach") of most of the electric utility assets of the Municipality of Anchorage d/b/a Municipal Light and Power ("ML&P") ("Transaction"). Order 39 also approved the MOA-Chugach Eklutna Power Purchase Agreement ("Chugach PPA"), subject to conditions, effective on the date of closing of the Transaction. In Order 39, the RCA granted to the MOA, effective upon the date of closing of the Transaction, a certificate of public convenience and necessity authorizing ownership and provision of generation electric utility service to the public for compensation from its share of Eklutna, subject to conditions, including that before the effective date of the Chugach PPA or the MOA-Matanuska Electric Association, Inc. ("MEA") Power Purchase Agreement ("MEA PPA"), the MOA has filed documentation that it has surrendered its voting rights on the Eklutna Operating Committee ("EOC").[1] In Order 39, the RCA required that the MOA's surrender of its EOC voting rights "cannot be lifted until such time as [the MOA] has shown to our satisfaction that [the MOA] has acquired the expertise required to fully participate as voting member of the EOC."[2]

Enclosed as Exhibit 1 is a Surrender of Eklutna Operating Committee Voting Rights document, signed by ML&P, Chugach, and MEA. The Surrender will remain in effect until the MOA shows to the RCA's satisfaction that the MOA has acquired the expertise required to participate as a voting member of the EOC (or upon expiration or termination of the terms of the Chugach PPA and the MEA PPA).

[1] Order 39 at 147, Ordering ¶ 11; *see also* Order 39 at 66-67.
[2] *Id.* at 67.

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RESPECTFULLY SUBMITTED this 30th day of October, 2020, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage d/b/a Municipal Light and Power

By: */s/ Dean D. Thompson*

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CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2020, a copy of the foregoing document was electronically filed with the RCA and served on the following persons by electronic means authorized by the RCA.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
By: */s/ Tina M. Torrey*
Tina M. Torrey, Legal Assistant

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Exhibit 1

October 27, 2020

Surrender of Eklutna Operating Committee (EOC) Voting Rights

In accordance with the requirements of order U-18-102(44), the Municipality of Anchorage, dba Municipal Light & Power(ML&P), hereby surrenders its voting rights as an EOC member and under the Fish and Wildlife Agreement effective as of the Closing of the Asset Purchase Agreement between ML&P and Chugach Electric Association (Chugach). This surrender of voting rights shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC.

Until ML&P's successor complies with the qualification terms of RCA order U-18-102(44), all EOC decisions will be by unanimous vote of Chugach and Matanuska Electric Association, Inc. (MEA). Eklutna hydro operations, dispatch and maintenance will continue to follow past practices and policies unless changes are approved through the EOC process.

MUNICPALITY OF ANCHORAGE

By: _____
Name: William Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____
Name: Lee Thibert
Title: Chief Executive Officer

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____
Name: Anthony Izzo
Title: Chief Executive Officer

RECEIVED
By the Regulatory Commission of Alaska on Oct 08, 2024

STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

PREFILED RESPONSIVE TESTIMONY OF TONY R. ZELLERS

I. Introduction

1. Q. Please state your name, present position, and business address.

A. My name is Tony Zellers. I am the Chief Operating Officer of Matanuska Electric Association, Inc. (MEA). My business address is 163 East Industrial Way, Palmer, Alaska 99645.

2. Q. What is the purpose of your testimony?

A. The purpose of my testimony is to provide the Commission with information related to: (1) the Eklutna Hydroelectric Project (Eklutna Project), the Eklutna Operating Committee (EOC), its function and processes, and how its members use prudent utility practices to operate and maintain the Eklutna Project; (2) the importance of the Eklutna Project to providing lowest cost energy and capacity for the benefit of its owners, ratepayers, taxpayers, and maintaining system reliability in the Railbelt interconnected electric generation and transmission system (Railbelt); and (3) how the three owners of the Eklutna Project (Project

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Owners) have implemented the 1991 Agreement[1] leading to the Final Fish and Wildlife Program approved by the Governor on October 2, 2024.

3. Q. Have you previously submitted testimony before the Commission?

A. Yes. I provided prefiled direct and prefiled responsive testimony for MEA's rate case in 2017 (TA485-18).

4. Q. Please describe how your testimony is organized.

A. First, I will describe my qualifications and experience operating and maintaining the Eklutna and other hydroelectric projects. Second, I will offer my perspectives on the importance of the Eklutna Project to the operations and reliability of the Railbelt generation and transmission system. Third, I will describe the functions and responsibilities of the EOC and its role operating and maintaining the Eklutna Project in a manner consistent with prudent utility practice. Fourth, I will give an overview of the 1991 Agreement and describe how the Project Owners have implemented it both before and after the MOA's surrender of its voting rights. Finally, I describe potential conflicts of interests with AWWU that might arise in implementing the Final Fish and Wildlife Program going forward.

II. <u>Qualifications</u>

5. Q. Please summarize your professional qualifications.

A. I have been dispatching, managing and operating electric generation assets in the Railbelt for 19 years. I started my career with MEA as a dispatcher in 2005 where I was responsible for dispatching assets to meet distribution utility reliability standards and working with other utility dispatchers to maintain system reliability throughout the Railbelt. I then became the Director of Operations for MEA for two

[1] Agreement Between the Municipality of Anchorage d/b/a Anchorage Municipal Light and Power, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., U.S. Fish and Wildlife Service, National Marine Fisheries Service, Alaska Energy Authority, and the State of Alaska Relative to the Eklutna and Snettisham Hydroelectric Projects (Aug. 7, 1991) (1991 Agreement).

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years and then spent four years as the project manager for the construction of Eklutna Generation Station (EGS) power project before becoming the Senior Director of Power Supply in 2015. In that role for eight years, I managed a team that operated and maintained MEA's entire power supply portfolio, including its hydroelectric generation assets and related power purchase arrangements. In November 2023, I became the Chief Operating Officer for MEA. In that role, I am responsible for all aspects of utility operations, including generation, transmission, and distribution systems and activities, compliance, and short-term and long-term planning. My resume is attached as **Exhibit TRZ-01**.

6. Q. What is your experience with operating and maintaining generation assets and, in particular, hydroelectric projects?

A. During my professional career, I have been directly involved with the management teams that operate and maintain the following electric generating assets in Alaska's Railbelt (from oldest to newest):

Project	Type	Capacity
Eklutna Hydro	Hydro	44 MW
Bradley Lake	Hydro	126 MW
Eklutna Generation Station	Thermal	171 MW
Battle Creek Diversion	Hydro	added 10% more energy to Bradley Lake

Among these projects, I have extensive experience with the Eklutna and Bradley Lake Hydroelectric Projects. During most of my career at MEA, I have been involved in and responsible for the management of the Eklutna Project, including oversight of turbine and generator overhauls, controls updates, equipment updates, dam safety, water rights, and other work all to maintain the operational reliability of the project. The Eklutna Project is located in MEA service territory and interconnects with MEA's transmission and distribution system, so I have

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significant experience managing the systems interconnecting the Eklutna Project with the MEA system electrically. The sale of ML&P assets to Chugach resulted in the Eklutna Project transmission assets being separated from the Eklutna Project and sold to MEA and Chugach. The transmission line from the Eklutna Project to Chugach plant 2 is now owned 50/50 between Chugach and MEA. The line from the Eklutna Project to Palmer Substation is now wholly-owned by MEA.

With respect to the Bradley Lake Project, I have been MEA's alternate on the Bradley Lake Management Committee (BPMC) since October 2017. MEA has rights to 13.8% of Bradley Lake's water. The BPMC is the body that oversees the management of the project. As MEA's representative on the BPMC, I am responsible for representing MEA's interests and ensuring the project is operated and maintained in a manner consistent with prudent utility practices.

7. Q. Please describe your role at MEA with respect to the Eklutna Project.

A. In 2009-2010, I was MEA's primary representative on the EOC – the technical committee that operates and maintains the Eklutna Project; between 2016-2022, I served as the primary representative on the EOC; and since 2022, I have served as MEA's alternate. Josh Crowell (Senior Manager of Power Supply) is now MEA's primary representative on the EOC. Josh Crowell reports to me, so I am aware of everything that goes on at the EOC even when I am not at a meeting.

In addition, over the past five years, I have served as MEA's representative with respect to the Project Owners' implementation of the 1991 Agreement as discussed in Section IV below.

III. <u>The Eklutna Project and the Railbelt</u>

8. Q. Please describe your knowledge of the Railbelt generation and transmission system.

A. After having served in the roles described above, I am comfortable that I have a solid command of how the Railbelt operates generally (generation,

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transmission, and distribution) and a specific expertise on how the Eklutna Project operates to provide a vital and integrated source of energy and capacity to the Railbelt, its utilities, and their customers, as well as the how the Eklutna Project operates within the Railbelt transmission grid.

9. Q. Why is the Eklutna Project important to MEA and the Railbelt?

A. The Eklutna Project produces nearly 6 percent of the Project Owners' combined total generation portfolio and about 44 percent of MEA's renewable energy, and is also consistently the lowest-cost resource for power in MEA's generation portfolio.

Additionally, the Eklutna Project is critical to grid reliability and has been particularly essential in emergency situations as demonstrated in early 2024 during an extended period of cold weather in Anchorage. When ENSTAR Natural Gas Company ("ENSTAR") experienced gas deliverability problems, Chugach and MEA voluntarily maximized their usage of the Eklutna Project (and other hydro resources) to maintain system reliability. The Eklutna Project provided 8 percent and 9 percent of the respective energy needs to meet MEA's load and Chugach's load during the cold snap and created significant natural gas savings, decreased emissions, and allowed ENSTAR to avoid issuing a yellow alert designation for natural gas delivery to its customers, which would have included, in part, requiring MEA and Chugach to shift to available diesel generation to provide additional gas to ENSTAR, and use fuel more than twice as expensive as natural gas that would have increased bills for utility customers.

The Eklutna Project also provides important inertia (spinning mass) for the benefit of the entire Railbelt system. As the Railbelt's generation assets have moved from heavier turbines to lighter aeroderivative generating units, the Railbelt system has become "lighter" meaning there is less inertia on the system. Inertia is needed to keep a system stable and helps keep the frequency within an acceptable

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range until the system constantly rebalances load and generation resources. Inverter based generation like solar and wind generation does not provide inertia to the system. Eklutna hydroelectric turbines provide that important inertia for the benefit of its utility owners as well as Railbelt system reliability.

10. Q. If the Eklutna Project were to stop generating power or significantly reduce power generation, what impact would that have on MEA and its ratepayers?

A. All lost generation will need to be replaced with more expensive power (energy and capacity), the costs of which will be borne by ratepayers. The most likely source of such replacement energy is thermal generation that, besides being more expensive, would also increase carbon emissions. MEA would likely need to add an additional natural gas/diesel thermal generation unit at the Eklutna Generation Station. The amount of water released from the Eklutna Project, and the timing of such releases also impacts the amount of lost generation and its costs; proposals that require shutdowns of the Eklutna Project create exorbitant costs and would even cause MEA to violate its power capacity reserve reliability standard requirements if not replaced with costly new fossil generation.

11. Q. Please explain why the Eklutna Project is important to MEA's power capacity reserve reliability standard requirements?

A. Like all utilities in the Railbelt, MEA must maintain operating reserves of 130 percent. Currently, Railbelt utilities maintain this percent of firm power of their rolling three year average of the highest hourly peak in a year. This requirement ensures a utility has the firm capacity to meet load requirements even when a generating unit or plant is out of service for scheduled maintenance or in a forced outage situation. MEA relies, in part, on its share of the Eklutna Project to meet this reserve requirement.

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12. Q. MEA purchases the output of AWWU's Eklutna Water Station. Is it a significant source of energy or capacity to MEA or the Railbelt?

A. No. AWWU's Eklutna Water Station is an automated generation station that provides about 750kW of energy recovery generation as a byproduct of AWWU's use water from the Eklutna Project for Anchorage's water supply. AWWU's energy recovery generation system is not actively managed by any utility or dispatchable, so while it provides a modest amount of renewable energy, I would not characterize it as an important generating asset to MEA or the Railbelt when compared to the utility generating assets described above, like the Eklutna Project. AWWU's non-firm generator is small and not dispatchable; from an operational perspective, its output is more like wind or solar generation where we use the generation when it is delivered, but we cannot rely upon it to meet load obligations.

IV. The EOC & Prudent Utility Practices

13. Q. In his Prefiled Responsive Testimony in this proceeding, Mr. Ori describes the history of the ownership and management of the Eklutna Project and the role of the EOC; do you have anything to add?

A. I would only add that it is important for the EOC to follow prudent utility practices to maintain and operate the Eklutna Project in such a way as to maximize its benefit to all members.

14. Q. How have EOC-decision making processes evolved over time?

A. I would agree with Mr. Ori's assessment in his Prefiled Responsive Testimony in this proceeding that many of the more contentious issues related to operating and maintaining the Eklutna Project have declined since the sale of ML&P and the surrender of the MOA's voting rights on the EOC and under the 1991 Agreement. Prior to the sale, voting on the EOC was by double majority. After the surrender, the voting changed to a system in which only Chugach and MEA had to agree before an item would be moved forward. This arrangement

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has lessened contentious issues at the EOC because consensus must be achieved on every decision rather than out-voting someone who disagrees. Additionally, Chugach and MEA are now operating the Power Pool together and the Eklutna Project is a generating asset that is scheduled through the Power Pool. With the divestiture of the transmission assets from the Eklutna Project as described above, the EOC now focuses on plant maintenance and operations to ensure that the plant provides value to our members and Railbelt.

At this point, the EOC is largely focused on plant related issues, such as dam safety, water tracking, and maintenance and controls that require knowledge and expertise of operating aging hydroelectric projects. As described below, the EOC will now have to implement the Final Fish and Wildlife Program along with tracking and ensuring its compliance.

15. Q. In your experience, what is required to be an effective member of the EOC?

A. An effective member of the EOC should have deep knowledge of hydroelectric facilities, their operations and maintenance, and applicable prudent utility practices, as well as a broad understanding of the Railbelt, its systems, reliability standards, how utilities interact with each other to maintain the Railbelt system, and how the Eklutna Project plays a key role in the Railbelt.

16. Q. Mr. Ori describes the 2020 transaction in which Chugach acquired most of the ML&P's assets, Chugach entered into a 35 year PPA, and the MOA surrendered its voting rights on the EOC; how did this transaction affect MEA?

A. The Chugach-MOA transaction regarding the ML&P Assets created an opportunity for MEA to purchase a greater portion of the output of the Eklutna Project from the MOA. This resulting agreement between the MOA and MEA is referred to as the "MOA – MEA PPA", attached as **Exhibit TRZ-02**. As a result

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of the Chugach-MOA transaction and PPAs, MEA takes 35.71% of the power output of the Eklutna Project and Chugach takes 64.29%.

17. Q. Do the ownership interests align with the cost responsibilities?

A. No. The Chugach and MEA PPAs with the MOA differ significantly with respect to which offtaker bears the MOA's costs of operating and maintaining the Eklutna Project and paying the costs associated with implementing the 1991 Agreement. In short, Chugach bears the costs of the Eklutna Project associated with the generation it buys from the MOA, while the MOA bears the costs of the costs associated with the generation of the power it sells to MEA. Before the acquisition transaction, the costs were allocated among the Project Owners in a manner consistent with ownership interests: MOA – 53.33%; Chugach – 30%; MEA 16.67%. After the transaction (and effectiveness of the PPAs) this became: Chugach – 64.29%; MOA – 19.04%; MEA 16.67%.

18. Q. **How is "prudent utility practice" defined in the MOA-MEA PPA?**

A. The definition is the same as in the MOA – Chugach PPA:

> "**Prudent Utility Practice**" means any applicable practices, methods, and acts engaged in or approved by a significant portion of (a) as to Seller, the hydroelectric generating industry in the United States of America, or (b) as to Purchaser, the electric utility industry in the United States of America, during the relevant time period, or the practices, methods and acts which, in the exercise of reasonable judgment by a prudent hydroelectric generator operator (or prudent utility operator, if applicable to Purchaser) in light of the facts known or which should reasonably have been known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, expedition and the requirements of any governing authority having jurisdiction. Without limitation of the foregoing, "Prudent Utility Practice" shall include the applicable operating policies, standards, criteria, or guidelines of any applicable governing authority and any manufacturer of a component of the Project. "Prudent Utility Practice" is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to the acceptable practices, methods or acts generally accepted (a) as to Seller, by the hydroelectric energy electric generating industry in the United States of America or (b) as to Purchaser, by the electric utility industry in the United States of America.

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19. Q. As the Chief Operating Officer of the second largest utility in Alaska, would you like to add any further understanding of "prudent utility practice" to the definition and explanation Mr. Ori offered?

A. What often gets lost in the concept of "prudent utility practice" is the difference between reasonable costs and lowest cost. At times, this may mean deferring or accelerating maintenance to a time when a unit may be taken down to lessen the impact of the outage on not just the generating plant but the overall Railbelt system. I am constantly balancing decisions or actions that may affect cost, reliability or safety. As the MOA-MEA PPA states, we make decisions that are "expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, expedition and the requirements of any governing authority having jurisdiction."

V. <u>The Surrender and Implementation of the 1991 Agreement</u>

20. Q. What were the specific terms and requirements of MOA's surrender of voting rights?

A. During the approval process regarding the Chugach-MOA transaction and the two PPAs, the Commission recognized that the MOA would not, after the transaction, have the staff or expertise with regard to prudent utility practices and the Railbelt electric generation system within the newly created Anchorage hydropower utility necessary to effectively participate in the EOC, writing:

> . . . we can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that… ML&P surrenders its vote on the EOC… **so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement**, without MHP having a vote on operation or management decisions.[2]

[2] Commission Order U-18-102(44)/U-19-020(39)/U-19-021(39), Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third-Party Sales Gas Pricing; and Requiring Filings, dated May 28, 2020 (Order 39), at 67 (emphasis added).

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Accordingly, when the Commission issued Order 39 approving the transaction, it conditioned its approval upon the MOA's surrender of its voting rights so that Chugach and MEA could manage the Eklutna Project and the 1991 Agreement process, during the term of the Chugach and MOA PPAs and until such time as MOA could demonstrate the necessary technical and managerial fitness. The MOA complied and executed a binding surrender of voting rights with Chugach and MEA, and filed it on October 30, 2020. See **EAO–03** attached to Mr. Ori's prefiled responsive testimony. After the MOA willingly surrendered these voting rights in 2020, the MOA had no voting rights with respect to operating or maintaining the Eklutna Project or implementing the 1991 Agreement.

21. Q. Please give an overview of the implementation of the 1991 Agreement?

A. As the Commission knows, the Project Owners purchased the Eklutna Project from the federal government in 1997. In connection with that transaction, the Project Owners entered into the 1991 Agreement with two federal agencies and the State of Alaska committing to, every 35 years, study the impacts of the Project on fish and wildlife and propose – for Governor approval – a program to protect, mitigate damages to, and enhance fish and wildlife affected by the Eklutna Project. The 1991 Agreement is attached as **Exhibit TRZ-03**.

The Project Owners began the first process to implement the 1991 Agreement in 2019; over the last five years, the Project Owners have spent approximately $8 million, countless staff resources, and significant management time conducting a process of consultation with state and federal resource agencies, rigorous scientific and engineering studies, stakeholder engagement, and careful analysis of dozens of fish and wildlife protection, mitigation, and enhancement proposals. These efforts culminated in the Project Owners' release of a Draft Fish and Wildlife Program in October 2023. After subsequent public comment, meetings to reconcile differences, and negotiations with the other parties to the

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1991 Agreement and NVE, the Project Owners modified the program to account for such comments and negotiations, while still conforming to the 1991 Agreement requirements. The Project Owners submitted the Proposed Final Fish and Wildlife Program to the Governor on April 25, 2024. For an overview of the process, see sections 3 and 4 of the Supporting Information Document, submitted to the Governor on April 25, 2024, attached hereto as **Exhibit TRZ-04**.

22. Q. During the period following the Surrender, the MOA had no EOC voting rights. How did this affect the implementation of the 1991 Agreement?

A. As a starting point, it is important to recognize that the EOC did not manage the process implementing the 1991 Agreement. Rather, in 2019 the Owners created a Project Owners group of appointed representatives of each utility who, along with an outside consulting team with expertise in hydro relicensing, managed and led the five-year process for the Project Owners. The EOC's only responsibility was tracking and billing of the budgets for the 1991 Agreement process.

When the MOA surrendered its voting rights on the EOC and under the Fish and Wildlife Agreement in October 2020, the Project Owners group were already fully engaged in the process implementing the 1991 Agreement. At the direction of Chugach's and MEA's Chief Executive Officers and MOA's Municipal Manager, the three Project Owners continued to conduct themselves as equals through the Project Owners group and made all decisions through unanimous consent. I served as MEA's primary representative and participated in nearly all of the Project Owners group meetings and discussions. No formal vote among the Project Owners was ever needed or taken with respect to the process, the Draft Program, or the Proposed Final Program submitted to the Governor in April 2024. All three Project Owners maintained complete agreement on the Proposed Final Program process, development, and submission. The MOA's support of the

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process and the Proposed Final Program is clearly reflected in Mayor Dave Bronson's letter to the Governor on April 26, 2024.[3]

The Governor approved our Proposed Final Program as the Final Fish and Wildlife Program last Wednesday, on October 2, 2024, attached hereto as **Exhibit TRZ-05**. MEA and Chugach will faithfully implement the Final Program in its entirety in a manner consistent with prudent utility practices, but the Commission should know that Final Program included an additional provision not included in the Proposed Final Program requested by the MOA in contravention of Order 39.

23. Q. What role will the EOC play with respect to the Final Program approved by the Governor on October 2, 2024?

A. Mr. Ori is correct in that the EOC did not play a significant role in the development of the fish and wildlife program required under the 1991 Agreement. To date, the EOC's role was limited to providing certain technical information and support related to the operations, capabilities, and limitations of the Eklutna Project and maintained budgets. Going forward, however, as Mr. Ori explains, the EOC will be charged with implementing the Final Fish and Wildlife Program in a manner consistent with its requirements, applicable law, and prudent utility practice.

24. Q. Did the MOA act in a manner consistent with the Surrender?

A. The Municipal Administration actively participated in the Project Owners group implementing the 1991 Agreement from 2019 through June 2024 in a manner consistent with the Surrender, but the Anchorage Assembly did not.

Despite the Surrender and in contravention to the RCA's explicit requirement in Order 39 that the MOA should not have "any ability to delay or change the Eklutna Project decisions made by Chugach or MEA" during such

[3] Letter from Dave Bronson, Mayor, Municipality of Anchorage to Mike Dunleavy, Governor of Alaska (Apr. 26, 2024).

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Surrender period,[4] the Assembly took several actions attempting to change, delay and undermine the Proposed Final Program, including (1) adding language to the Anchorage Municipal Code stating that it is the MOA's policy to restore continuous water flows into the Eklutna River; (2) passing an ordinance asserting an Assembly approval requirement over the Draft Program; and (3) passing an ordinance calling upon the Governor to modify the process outlined in the 1991 Agreement and requiring the Project Owners to use two years of the three-year implementation period to identify an alternative pumped storage hydropower solution and to remove substantive aspects (the "limited reopeners") from the Proposed Final Program. The Assembly's proposal to study an alternative made it into the Final Program as a third reopener, which is a change to what Chugach and MEA proposed, but they were not successfully able to delay to the implementation of the Final Program.

25. Q. Did MEA and Chugach follow the Assembly's directives?

A. While the MOA administration participated in the Project Owners group at every stage of the process, we also met with and engaged with the Anchorage Assembly more than ten times through the process. When the MOA administration and Assembly's directions differed, we decided to continue proceeding through the entire process through the consensus of Chugach, MEA, and the MOA administration. We recognized that the Assembly had no authority over Chugach and MEA with respect to implementation of the 1991 Agreement or no right to seek to impose additional requirements into the Proposed Final Program pursuant to the RCA's Order 39 and the Surrender. Where municipal ordinances conflict with the RCA's jurisdiction and authority over public utilities operating within that municipality, the Commission's regulatory authority set forth in Order 39 takes

[4] Order 39 at 67.

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precedence.[5] So we understood that the Assembly actions attempting to modify the Proposed Final Program are superseded by RCA's authority in Order 39 and the Surrender.

26. Q. Why are these Assembly's actions during the Surrender period relevant now that the Governor has issued the Final Program?

A. The Assembly has sought to influence and override the decisions of MEA and Chugach during the time during which the MOA had no voting rights on the EOC and with respect to the 1991 Agreement. Specifically, the Assembly sought to, and was ultimately partially successful in imposing, its views on the fish and wildlife program under the 1991 Agreement, overriding the proposed program designed by utilities that know prudent utility practices and understand the value of the Eklutna Project to the Railbelt. Should the MOA regain its voting rights, we expect that the Assembly will attempt to undo, redo or otherwise block the Project Owners' implementation of the Final Fish and Wildlife Program approved by the Governor on October 2, 2024 in pursuit of its own policy goals. We do not trust how the MOA might act if it regains majority voting rights in matters related to the Eklutna Project, the 1991 Agreement, and implementation of the Final Fish and Wildlife Program.

We read the Commission's surrender requirements in Order 39 as a fundamental requirement that the MOA should only regain its voting rights with respect to the EOC, implementation of the 1991 Agreement, and operations and maintenance of the Eklutna Project when and only when the MOA demonstrates its representatives will act in a manner consistent with prudent utility practices and with due respect for how the Eklutna Project plays a key role in the generation,

[5] AS 42.05.641 ("[i]n the event of a conflict between a … regulation of the commission and a … regulation of such a local governmental entity, the … regulation of the commission shall prevail.").

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transmission, and overall reliability of the Railbelt. We have no confidence that the Assembly respects that the Commission's requirements on a certificated utility cannot be overridden by the policy desires of a political body that does not have the requisite expertise that the Commission specifically requires. The Assembly's dictates may ultimately lead to the MOA representative not acting in a manner consistent with prudent utility practice.

27. Q. What did the Governor include in Final Program at the request of the MOA?

A. Along with two other amendments to the Proposed Final Program that the Project Owners find acceptable, the Governor included a limited reopener requirement to study a pumped storage hydropower alternative that the Assembly submitted to the Governor after the comment period had expired and the deadline for Project Owners to reply had run. See Section III.7 of the Final Program (at p. 14 of **Exhibit TRZ-05**) and new Section 4.3 (at p. 29 of **Exhibit TRZ-05**), and Discussion of Amendments (at p. 31-32 of **Exhibit TRZ-05**).

Chugach and MEA did not receive any information regarding the MOA's pumped storage hydropower alternative directly from the MOA, but in the MOA's Brief Addressing the Governor's Questions about the Final Proposed Fish and Wildlife Program, MOA referenced a presentation by Mr. Corsentino that formed the basis of the proposal available on the Assembly's website: "Modified PSH Concept with Wind & Solar at Eklutna Lake with River Restoration and Fish Passage, Municipality of Anchorage, Anchorage Hydropower Utility, Presentation to the Joint Worksession of the Anchorage Assembly and the Native Village of Eklutna, Friday August 23, 2024" attached hereto as **Exhibit TRZ-06**.

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28. Q. Will MEA and Chugach implement the Final Program approved by the Governor?

A. Yes. MEA and Chugach will faithfully implement the Final Program in its entirety in a manner consistent with prudent utility practices, the 1991 Agreement, and state and federal law.

29. Q. What do you know of MOA's pumped storage hydro alternative that the parties to the 1991 Agreement and NVE must now study and potentially implement if various levels of approval are sought and gained?

A. Chugach and MEA know very little about the MOA's pumped storage hydro alternative, other than what is in the powerpoint (**Exhibit TRZ-06**) and what Mr. Corsentino's stated before the "Joint Worksession of the Anchorage Assembly and Native Village of Eklutna re Eklutna Hydropower Discussion", on August 23, 2024.[6] We sought discovery of the work papers, supporting documents, and cost estimates of the proposal, but the MOA refused to provide any such documents on the grounds that the information is irrelevant.

30. Q. Based on what you know, do you have concerns with the pumped storage hydropower alternative?

A. As a starting point, we think that the purpose of the 1991 Agreement is to mitigate the effects of the existing Eklutna Project, not build a new project. We are uncertain at this point, but we preliminarily expect that the pumped storage hydropower alternative would constitute a new hydroelectric project and would be subject to regulation by the Federal Energy Regulatory Commission.

Our engineering consultants, with extensive experience in both the Eklutna Project and pumped storage project development, have also evaluated the MOA's alternative to the extent possible, and determined that converting the Eklutna

[6] Meeting Transcript "In The Matter Of: Alaska Office of the Governor 1991 Fish and Wildlife Program" (September 9, 2024).

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Project to a pumped storage project would present significant technical and logistical challenges, making the proposal infeasible from an engineering perspective and likely economically prohibitive.

For instance, the MOA's pumped storage hydropower alternative proposes to use Knik River water for additional supply into the Eklutna Project reservoir (TRZ-06 at 6). Yet, the Eklutna Project's tailrace is within the range of tidal influence so suspended sediment and brackish water from the Knik River could be pumped into Eklutna Lake. It would seem that such result would severely impact the public water supply and the Eklutna Lake and River ecosystem. While this would seemingly offend the 1991 Agreement's objective to protect municipal water supplies, I believe this would potentially breach the 1984 agreement regarding use of the Eklutna Project water rights for Anchorage water supply, which obligates the Project Owners:

> … take no action regarding Eklutna Lake which has the effect of reducing the quality or increasing the turbidity of the lake reducing the quality or increasing the turbidity of the lake water from those conditions which presently exist; nor will [Project Owners] take or authorize any other action with regard to Eklutna Lake which may have the effect of reducing its present suitability for use as a source of public water supply.[7]

[7] "Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska", dated February 17, 1984, as amended (provides terms and conditions relating to (i) AWWU facility interconnection to Eklutna Project; and (ii) the compensation by AWWU to the Owners for AWWU's diversion of water for public water supply that reduces the Project Water Rights otherwise available for use to generate energy at the Eklutna Project).

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The Eklutna Project was built in the 1950s, and similar to other hydroelectric projects developed during that time, was never designed to be operated in a bidirectional manner, so the engineering and retrofitting costs will be substantial and the risks to the Project could be well beyond those that a prudent utility operator would take.

31. Q. In your view, is the MOA's pumped storage hydro alternative consistent with prudent utility practice?

A. While a pumped-storage hydroelectric project could be built and operated in a manner consistent with prudent utility practices, the MOA's pumped storage hydro alternative is nowhere near that standard now. More importantly, the MOA's pumped storage hydro alternative and the process by which it was advanced and included in the Governor's Final Program reflects the outcome of a policy goal rather than prudent utility practice and knowledge of the Eklutna Project and its fundamental part of the Railbelt. At the bottom line, the alternative set forth in **Exhibit TRZ-06** does not reflect an approach taken by utilities acting prudently.

VI. <u>Conflicts of Interest</u>

32. Q. When implementing the Final Program, will the Project Owners need to deal with AWWU?

A. Yes. The Project Owners and AWWU have reached final agreements concerning the use of AWWU's infrastructure as outlined in the Final Program, which are subject to Assembly approval. For a summary of those agreements, see Section 4.6 of the Supporting Information Document (**TRZ-04** at 54-57).

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33. Q. What happens if the Assembly does not approve the agreements between the Project Owners and AWWU?

A. The Project Owners will consider other options to implement the Final Fish and Wildlife Program, such as an application to the Commission for the joint use and interconnection of AWWU's facilities pursuant to the policies outlined in AS 42.051.321(a).

34. Q. Do you think it would be reasonable for any AWWU executive to represent or make decisions relative to these matters for the Project Owners given that contractual or legal adversity with AWWU?

A. No. I don't think that it would be reasonable or possible for such an executive to take a position against his own organization in negotiating agreements or filing an application for joint use and interconnection rights before the Commission. I would think that the executive should recuse himself and let those not conflicted make the decisions. As we move forward implementing the 1991 Agreement and the Final Program, the Project Owners will need to have confidential discussions about various matters and strategy as it relates to AWWU. It makes no sense and is a direct conflict of interest to have the General Manager of AWWU in those discussions.

35. Q. Does this conclude your testimony?

A. Yes, thank you.

Dated: October 8, 2024

TONY ZELLERS

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EXHIBITS

Exhibit	Document
TRZ-01	Resume
TRZ-02	MOA – MEA PPA
TRZ-03	1991 Agreement
TRZ-04	Supporting Information Document
TRZ-05	Final Fish and Wildlife Program
TRZ-06	Powerpoint "Joint Worksession of the Anchorage Assembly and Native Village of Eklutna re Eklutna Hydropower Discussion"

EXHIBIT TRZ-01

Tony Zellers

Current Position **Chief Operating Officer**

Education

U.S. Air Force Academy Colorado Springs, Colorado 1985
B.S. Civil Engineering

Embry Riddle Aeronautical University Elmendorf AFB, Alaska 1996
Aviation/Aerospace Simulation, Communication, Control

Wisconsin School of Business Madison, Wisconsin 2012
Executive Education
The Managers Role as Leader
Gaining Commitment: Coaching and Motivating in the Workplace
Project Leadership Communication
Persuasion & Influence Skills for the Project Manager

Courses of Study
Civil Engineering specializing in structural and architectural. Electrical Engineering, Aeronautical Engineering and Mechanical Engineering. Electronic combat courses, Power System Analysis course and Fundamentals of Project Management course.

Employment Experience

Matanuska Electric Association, Inc, Palmer, Alaska
2005 to Present

Positions

Chief Operating Officer
2023 to Present
Duties: Manage the Association's power presence including energy efficiency services and programs. Sets the Association's vision for Power Delivery and Supply activities to meet short- and long-term goals.

Sr. Director of Power Supply
2015 to 2023
Duties: Manage and oversees MEA's power supply portfolio to include EGS, Eklutna Hydro, and Bradley Lake to ensure the plants are being operated efficiently and fully integrated into the electrical system.

EGS Project Director
2012 to 2015
Duties: Project Manager for the EGS plant.

Director of Operations
2010 to 2012
Duties: Manages operations side of utility. Responsible for the day to day operations of Line crews, Clearing, Meter Relay, Dispatch, Shop and Warehouse.

Dispatcher
2005 to 2010
Duties: Operation and dispatching throughout the utility's electrical power system. Responsible for maintaining adequate specified voltage levels and other specified operating parameters to maintain stability in the system. Coordinated power restoration activities.

EXHIBIT TRZ-02

EKLUTNA
POWER PURCHASE AGREEMENT

BETWEEN

MUNICIPALITY OF ANCHORAGE
("SELLER")

AND

MATANUSKA ELECTRIC ASSOCIATION, INC.
("PURCHASER")

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EKLUTNA
POWER PURCHASE AGREEMENT
BETWEEN
MUNICIPALITY OF ANCHORAGE
AND
MATANUSKA ELECTRIC ASSOCIATION, INC.

This Eklutna Power Purchase Agreement (this "**PPA**"), dated as of September 16, 2019 (the "**Effective Date**"), is made and entered into by and between the **MUNICIPALITY OF ANCHORAGE,** a political subdivision organized under the laws of the State of Alaska ("**Seller**"), and **MATANUSKA ELECTRIC ASSOCIATION, INC.**, an Alaska not-for-profit electric cooperative corporation ("**Purchaser**"). Seller and Purchaser are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

WHEREAS, as of the Effective Date, Seller is the owner of a 53.33% undivided interest in the Facility (as defined herein) (the "**Seller's Interest**") and Purchaser is the owner of a 16.67% undivided interest in the Facility (the "**Purchaser's Interest**"), and if all of the PPA Contingencies (as hereinafter defined) have been fulfilled or waived, the "**MEA Portion**" shall, effective as of the Commencement Date (as hereinafter defined) and for the remainder of the Term (as hereinafter defined), equal a 35.71% share of the Seller's Interest and a 19.05% interest in the Facility. Such percentage interest, when combined with Purchaser's existing ownership of 16.67% of the Facility, will give Purchaser rights to 35.71% of the Facility; and

WHEREAS, the Facility is subject to the terms of the Transition Plan (as defined herein), which provides for the sale of interests in the Facility by the Owners (as defined herein), and it is the intent of the Parties that the Transition Plan will continue to govern the rights and obligations of the Owners in such capacity; and

WHEREAS, Seller desires to sell and deliver and Purchaser desires to accept and receive and pay for certain Power (as defined herein) delivered from the Facility to the Delivery Point on the terms and conditions, including the price, set forth in this PPA; and

WHEREAS, in connection with the sale of such Power, Seller desires to grant to Purchaser an option to purchase the MEA Portion (as defined herein), subject to the terms of the Transition Plan; and

WHEREAS, Seller intends to operate the MEA Portion during the Term in a manner consistent with Prudent Utility Practice, the Transition Plan, and the directives and decisions of the Operating Committee (as hereinafter defined), acting as a reasonable owner would, and bearing all the risks and responsibilities of such ownership in accordance with the provisions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

ARTICLE 1
RULES OF INTERPRETATION

Section 1.1 Interpretation.

(A) Capitalized terms listed in this PPA shall have the meanings set forth in Exhibit A or as otherwise defined in this PPA, whether in the singular or the plural or in the present or past tense. Words not otherwise defined in this PPA shall (i) have meanings as commonly used in the English language, (ii) be given their generally accepted meaning consistent with Prudent Utility Practice, and (iii) be given their well-known and generally accepted technical or trade meanings.

(B) For purposes of this PPA, (1) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (2) the word "or" is not exclusive: (3) the masculine shall include the feminine and neuter; and (4) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this PPA as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections, and Exhibits means the Articles, Sections and Exhibits contained in and attached to this PPA; (y) to an agreement, instrument or other document means such agreement, instrument, or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This PPA shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

Section 1.2 Consents and Approvals; Commercially Reasonable Standard. Unless expressly provided otherwise in this PPA, (a) when this PPA requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned or delayed, and (b) wherever this PPA gives a Party a right to determine, require, specify or take similar action with respect to a matter, such determination, requirement, specification or similar action shall be Commercially Reasonable.

Section 1.3 Waiver. The failure of either Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions of this PPA, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions, or rights, but the same shall be and remain at all times in full force and effect.

ARTICLE 2
CHUGACH ASSET PURCHASE AGREEMENT; CHUGACH POWER PURCHASE AGREEMENT

Section 2.1 Chugach Asset Purchase Agreement; Chugach Power Purchase Agreement. Purchaser acknowledges that Seller and Chugach have entered into an Asset Purchase and Sale Agreement dated as of December 28, 2018, pursuant to which Seller has agreed to sell to Chugach, and Chugach has agreed to purchase from Seller, substantially all of the assets of ML&P other than the Seller's Interest (the "**Chugach Asset Purchase**

Agreement"). The assets that Seller has agreed to sell to Chugach, and that Chugach has agreed to purchase from Seller, under the Chugach Asset Purchase Agreement include all of Seller's right, title, and interest in and to the Eklutna Transmission Assets. Purchaser further acknowledges that Seller and Chugach have entered into that certain Eklutna Power Purchase Agreement dated as of December 28, 2018, pursuant to which Seller has agreed to sell to Chugach, and Chugach has agreed to purchase from Seller, power produced by the Facility and attributable to the "Chugach Portion" (as hereinafter defined) (the "**Chugach Power Purchase Agreement**").

ARTICLE 3
TERM AND TERMINATION

Section 3.1 PPA Contingencies. This PPA and the Parties' obligations set forth herein are contingent upon the occurrence or waiver of each of the following events (the "**PPA Contingencies**"):

(A) RCA PPA Approval shall have been obtained;

(B) The Chugach Power Purchase Agreement shall have been approved by the RCA in accordance with the terms and conditions of the Chugach Power Purchase Agreement;

(C) The Closing under the Chugach Asset Purchase Agreement shall have occurred; and

(D) The representations and warranties of Purchaser in Section 18.14(B) shall have been true and correct as of the Effective Date and the Commencement Date, and Seller shall have received an original, fully executed copy of the CFC Subordination Agreement (including the acknowledgement and acceptance attached thereto, as executed by Purchaser) and evidence of recording of the CFC Subordination Agreement pursuant to Section 18.14(B).

Section 3.2 Commencement Date. The commencement date under this PPA (the "**Commencement Date**") shall be the date on which each of the PPA Contingencies has occurred or has been waived by the Parties.

Section 3.3 Term.

(A) The term of this PPA shall commence on the Commencement Date, and shall continue in full force and effect until 11:59 p.m. (Facility local time) on the Scheduled Termination Date, subject to early termination or extension as provided in this PPA or otherwise agreed to by the Parties (the "**Term**"). No interruption or curtailment of purchases or sales, whether due to Force Majeure or otherwise, will operate to extend the Term.

(B) The effectiveness of this PPA is expressly contingent upon the occurrence of the Closing under the Chugach Asset Purchase Agreement. In the event that the Chugach Asset Purchase Agreement is terminated before the Commencement Date, this PPA shall

automatically terminate, and become null and void, at the same time as the termination of the Chugach Asset Purchase Agreement.

ARTICLE 4
FACILITY DESCRIPTION AND OPERATION

Section 4.1 Description. The Facility is described in Exhibit B. A scaled map that identifies the Site, the location of the Facility, the Delivery Point and other important facilities, is included in Exhibit B.

Section 4.2 Operation of the Facility.

(A) During the Term Seller shall, at its cost and expense, manage, control, operate, and maintain the MEA Portion in accordance with the Operations Agreement and in a manner consistent with Prudent Utility Practice. Without limiting the foregoing, during the Term, as between Seller and Purchaser, Seller shall be responsible for all capital costs, all operations and maintenance expenses, and all costs and expenses for environmental compliance and compliance with Applicable Laws relating to the MEA Portion.

(B) During the Term, Seller shall, after giving Purchaser a reasonable opportunity to consult with Seller, but without in any way limiting Seller's discretion as a result of any such consultation, select the person to serve as Seller's representative to the Operating Committee (the "**Seller's Representative**"). The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA and the rights and obligations of the parties under the Chugach Power Purchase Agreement. The Seller's Representative shall also be Seller's representative for any consultation, study, and implementation processes required under the Fish and Wildlife Agreement relating to the Facility. The Seller's Representative shall make all decisions with respect to any processes required under the Fish and Wildlife Agreement with due regard for the rights and obligations of the Parties under this PPA.

(C) The Parties acknowledge and agree that Seller has prior rights to not less than 41 million gallons of water per day from Eklutna Lake for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823; Alaska Statutes 46.15.150(a); and Certificate of Appropriation ADL 44944. The Parties agree that during the Term, the supply of water available for production of Power by the Seller's Interest shall be net of all water taken by Anchorage Water and Wastewater Utility for public water supply purposes consistent with the aforementioned water rights.

Section 4.3 Books and Records. Seller and Purchaser shall each keep complete and accurate books and records and all other data required by each of them for the purposes of metering, billing, payment, and administration of this PPA, including such Operating Records and other records as may be required by Applicable Law, Governmental Authorities, or any ERO or ISO. Each Party shall maintain such books and records in accordance with relevant accounting standards, as applicable, and shall provide the other Party Commercially Reasonable access to such books and records. All books and records pertaining to the operation of the Facility shall be

maintained on the premises of the Facility or such other location as is mutually agreed to by the Parties. Either Party may audit and examine any such books and records from time to time upon request and during normal business hours. Each Party shall maintain any books and records that it is required to keep under this Section 4.3 for a period of at least six (6) years after the preparation of such books or records.

ARTICLE 5
DELIVERY; SCHEDULING; FACILITY METERING

Section 5.1 Power Delivery Arrangements. Seller shall be responsible for all electric losses, transmission and ancillary service arrangements, and costs and expenses required for delivery of the Power from the Facility to the Delivery Point. Purchaser shall be responsible for all electric losses, transmission and ancillary service arrangements, and costs and expenses required for transportation and delivery of the Power from and after the Delivery Point.

Section 5.2 Scheduling. Purchaser shall at all times during the Term nominate and schedule for delivery to Purchaser, consistent with past practice at the Facility and in accordance with Prudent Utility Practice and the provisions of this PPA and the Transition Plan, the maximum quantity of Power that is available at such time for scheduling and delivery from the MEA Portion in accordance with the provisions of this PPA.

Section 5.3 Facility Metering. The Facility Metering used to measure Power delivered to the Delivery Point under this PPA shall be located at the Delivery Point, or as close thereto as is reasonably possible.

Section 5.4 Facility Metering Testing. Purchaser will provide to Seller copies of all Facility Metering calibration test results. If any test of the Facility Metering discloses an inaccuracy of more than one-half percent (0.5%) fast or one-half percent (0.5%) slow, any payments or adjustments made or calculated under this PPA that would have been affected by the inaccuracy will be recalculated to correct for the inaccuracy. For purposes of such correction, if the inaccuracy is traceable to a specific event or occurrence at a reasonably ascertainable time, then the adjustment will extend back to that time; otherwise, it will be assumed that the error has existed for a period equal to one-half of the time elapsed since the Facility Metering was installed or one-half of the time since the last Facility Metering test, whichever is later. Either Party may, at its option and expense, have check Facility Metering installed. If any such check Facility Metering is installed, it will be used, in accordance with practices and procedures established by the Parties, for billing adjustments of discovered Facility Metering inaccuracies. If at any time both the billing and check Facility Metering at any location should fail to register, Purchaser will determine the delivered Power from the best available data, unless Seller objects to such determination within sixty (60) days after receipt of such determination. Any such disagreement will be resolved pursuant to the dispute resolution provisions set forth in Section 12.1. If either Party determines, as a result of correction of measurements made by inaccurate Facility Metering, that any payments or adjustments made pursuant to this PPA are incorrect, the Parties will use the corrected measurements to recompute such payments or adjustments. Any amounts that are determined to be payable or subject to refund as a result of such recomputation

will be paid to the Party entitled to such amounts within twenty (20) days after the paying Party is notified of the recomputation, with interest at the Interest Rate from the original payment due date to the date of payment or refund of such adjustment.

ARTICLE 6
SALE AND PURCHASE OF POWER

Section 6.1 General Obligation.

(A) Beginning on the Commencement Date and continuing thereafter throughout the Term, Seller shall generate from the Facility and deliver and sell to Purchaser, and Purchaser shall schedule and receive and purchase at the Delivery Point, any and all Energy, Capacity, Environmental Attributes, and Ancillary Services (collectively, the "**Power**") that is available from the Facility and attributable to the MEA Portion.

(B) The Power sold under this PPA is unit contingent. The Facility will be considered to be available for purposes of producing Power for delivery to Purchaser only when and to the extent that the Facility is capable of producing such Power in accordance with the provisions of this PPA, the Transition Agreement, Applicable Law, and Prudent Utility Practice. Seller shall have no obligation to sell and deliver Power, and Purchaser shall have no right to schedule or receive Power, at any time when the Facility is unavailable to generate such Power, whether in whole or in part, as a result of any Force Majeure, Forced Outage, or Planned Outage: *provided, however*, that if the Facility is partially available, Purchaser shall schedule, and Seller shall deliver, such amount of Power as is available on a proportionate basis from the MEA Portion at such time.

(C) Title to and risk of loss of the Power shall transfer from Seller to Purchaser at the Delivery Point. Title to the Power shall transfer from Seller to Purchaser free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any other Person.

Section 6.2 Additional Products; Ancillary Services.

(A) The Parties acknowledge that existing and future Applicable Laws create value in the ownership, use, or allocation of Environmental Attributes. To the full extent allowed by Applicable Law, Purchaser shall own and be entitled to claim all Environmental Attributes attributable to the MEA Portion from the Commencement Date until the end of the Term, to the extent such Environmental Attributes may exist or be created during such period. For purposes of effectuating the foregoing, the following shall apply:

1. Seller hereby automatically and irrevocably assigns to Purchaser all rights, title and authority for Purchaser to register the Facility and own, hold, and manage the Environmental Attributes attributable to the MEA Portion in Purchaser's own name and to Purchaser's account, including any rights associated with any renewable energy information or tracking system that exists or may be established (including but not limited to participants in any applicable REC Registration Program and the United States government) with regard to

monitoring, registering, tracking, certifying, or trading Environmental Attributes. Seller hereby authorizes Purchaser to act as its agent for the purposes of registering the Facility for such purposes, and tracking and certifying Environmental Attributes, and Purchaser shall have full authority to hold, sell, or trade Environmental Attributes attributable to the MEA Portion for its own account in connection with any renewable energy information or tracking systems. Upon the request of Purchaser, at Purchaser's cost and expense, (i) Seller shall deliver or cause to be delivered to Purchaser such attestations/certifications of Environmental Attributes attributable to the MEA Portion, and (ii) Seller shall cooperate with Purchaser's registration and certification of Environmental Attributes attributable to the MEA Portion.

2. Prior to the Commencement Date and as required thereafter for Purchaser to claim, own, or realize the available benefits of any Environmental Attributes attributable to the MEA Portion, Seller shall, at Purchaser's reasonable cost and expense, make all applications or filings required by Applicable Law for Environmental Attribute accreditation and for the provision of such Environmental Attributes to Purchaser.

(B) On and after the Commencement Date until the end of the Term, Seller shall make available to Purchaser all Ancillary Services attributable to the MEA Portion at no additional charge under this PPA. Any compensation that Seller receives under Applicable Law or otherwise for Ancillary Services attributable to the MEA Portion during such period shall be provided to Purchaser at no additional cost to Purchaser under this PPA. Seller shall credit Purchaser, as a reduction to Seller's monthly invoice or other mutually-agreed mechanism, for any compensation that Seller receives for Ancillary Services attributable to the MEA Portion during such period.

1. Seller shall, at the request of Purchaser, use Commercially Reasonable Efforts to maximize the availability of such Ancillary Services during such period; *provided, however*, that Seller shall not be required to make any capital expenditures or incur any operating expenses in connection with such efforts.

2. In the event any Governmental Authority implements new or revised requirements for generators to create, modify, change, or supply Ancillary Services requiring Seller to install additional equipment after the Commencement Date to meet such requirements, Seller shall be responsible for payment of any costs and expenses of such additional equipment.

ARTICLE 7
PAYMENT FOR POWER

Section 7.1 Contract Price. In consideration for Seller's sale to Purchaser of the Power attributable to the MEA Portion and delivered to Purchaser under this PPA, Purchaser shall pay Seller for such Power an amount determined in accordance with the provisions of Exhibit C (the "**Contract Price**"). Purchaser and Seller acknowledge and agree that the Contract Price is structured to include all required compensation for any and all Power (including, for the avoidance of doubt, any and all Capacity, Ancillary Services, and Environmental Attributes)

delivered by Seller and received by Purchaser under this PPA during the Term and that Purchaser is not required to make any additional payments to Seller therefor.

ARTICLE 8
GOVERNMENTAL CHARGES

Section 8.1 Allocation of Governmental Charges.

(A) Seller will pay or cause to be paid all Governmental Charges that are imposed on or with respect to the generation of Power and the sale and delivery to Purchaser of Power before delivery of such Power to the Delivery Point.

(B) Purchaser will pay or cause to be paid all Governmental Charges that are imposed on or with respect to the purchase and receipt by Purchaser of Power at and from the Delivery Point.

(C) If a Party is required to remit or pay Governmental Charges that are the other Party's responsibility under this Section 8.1, such Party will promptly reimburse the other Party for such Governmental Charges. Both Parties will use reasonable efforts to administer this PPA and implement the provisions in accordance with their intent to minimize Governmental Charges, so long as no Party is materially adversely affected by such efforts. For greater certainty, each Party is responsible for any Governmental Charges levied on the basis of its own net income.

(D) Nothing in this Section 8.1 will obligate or cause a Party to pay or be liable to pay any Governmental Charge for which it is exempt under Applicable Law. If any sale of Power under this PPA is exempt from or not subject to any particular Governmental Charge, the Party subject to such exemption or exclusion shall timely provide the other Party with all reasonable documentation to evidence such exemption or exclusion.

(E) Either Party may deduct or withhold any Governmental Charges that such Party may be legally obligated to deduct or withhold from any amounts payable to the other Party under this PPA, and payment to such other Party as reduced by such deductions or withholdings will constitute full payment and settlement to such other Party under this PPA.

(F) Seller will provide Purchaser with any forms, documents, or certifications as may be required for Purchaser to satisfy any information reporting or withholding tax obligations with respect to any payments under this PPA.

ARTICLE 9
BILLING AND PAYMENT

Section 9.1 Billing and Payment.

(A) Each month following a full or partial month during the Term, Seller will render to Purchaser by email to the address provided in Section 18.2 an invoice setting forth the

total Contract Price and resulting total amount due for all Power delivered to Purchaser in accordance with the requirements of this PPA during such preceding month, any amounts payable to Seller under ARTICLE 10, and any credits to Purchaser under ARTICLE 10. Billing and payment will be based on the Contract Price and on delivered Power quantities. Payment of any such invoice will be made by Purchaser to Seller, via ACH or wire transfer of immediately available funds, on or before the later of (a) the 15th day of the month in which the invoice was rendered or (b) the 10th day following presentation of such invoice; *provided*, that if such due date is not a Business Day, payment will be due on the next Business Day following such date.

(B) If a payment by either Party under this PPA is late, interest shall accrue at the Interest Rate on the unpaid balance for the number of days payment was late and shall be added to the next billing statement.

(C) Seller and Purchaser shall net their obligations to each other under this PPA, and payment of the net amount will discharge all mutual undisputed obligations between the Parties.

Section 9.2 Subordination. The Parties agree that Purchaser's payment obligations hereunder are payable on a parity with Purchaser's other operating expenditures, but subordinate to (i.e., neither on a parity with nor superior to) Purchaser's payment obligations under the Bradley Lake Agreement only if and to the extent, and for the period, that making such payments would prevent Purchaser from making timely payment of any amounts due from it under the Bradley Lake Agreement.

Section 9.3 Billing Disputes. Either Party may dispute invoiced amounts, but shall pay at least the undisputed portion on or before the date due. To resolve any billing dispute, the Parties shall use the procedures set forth in ARTICLE 12. When the billing dispute is resolved, the Party owing any amount shall pay such amount within five (5) Business Days after the date of such resolution, together with late payment interest as provided in Section 9.1(B).

ARTICLE 10
LIABILITY FOR FAILURE TO DELIVER OR RECEIVE

Section 10.1 Failure to Deliver. Unless excused by Purchaser's failure to perform or Force Majeure, if Seller fails to deliver scheduled Power in accordance with the requirements of this PPA, Seller will pay to Purchaser the positive difference, if any, obtained by subtracting (a) the Contract Price for the scheduled Power not delivered by Seller from (b) the Replacement Price.

Section 10.2 Failure to Receive. Unless excused by Seller's failure to perform or Force Majeure, if Purchaser fails to receive (or to cause to be received) scheduled Power in accordance with the requirements of this PPA. Purchaser will pay to Seller the positive difference, if any, obtained by subtracting (a) the Sales Price from (b) the Contract Price for the scheduled Power not received by Purchaser.

Section 10.3 Payment for Nonperformance. Invoicing and payment of any amounts due under this ARTICLE 10 will be made in accordance with the provisions of ARTICLE 9.

Section 10.4 Acknowledgement of the Parties. The Parties hereby stipulate that the payment obligations set forth in this ARTICLE 10 are reasonable in light of the anticipated harm and the difficulty of estimation or calculation of actual damages, and each Party hereby waives the right to contest such payments as unfair, unreasonable, inadequate or void as a penalty. Without limiting to any extent the provisions of ARTICLE 11, the remedy set forth in this ARTICLE 10 will be the sole and exclusive remedy of Purchaser for the failure of Seller to deliver, or of Seller for the failure of Purchaser to receive, the required Power and all other damages and remedies are hereby waived.

ARTICLE 11
EVENTS OF DEFAULT AND REMEDIES

Section 11.1 Events of Default. Any of the following events shall constitute an Event of Default with respect to the specified Party, which shall be the defaulting Party with respect to such Event of Default, if such event has not been cured within the cure period specified for such event:

(A) Such Party's failure to pay any amount due to the other Party as required by this PPA, Actual Damages, any required indemnification, or any other required payment, and such amount remains unpaid for a period of ten (10) Business Days after the date such Party receives Notice from the non-defaulting Party that the amount is overdue.

(B) Such Party's application for, or consent (by admission of material allegations of a petition or otherwise) to, or failure to oppose the appointment of a receiver, trustee or liquidator for a Party or for all or substantially all of its assets, or its authorization of such application or consent, or the commencement or institution of any proceedings seeking such appointment against a Party which proceedings continue undismissed or unstayed for a period of sixty (60) days from their inception.

(C) (i) Such Party's authorization or filing of a voluntary petition in bankruptcy, or its application for, or consent (by admission of material allegations of a petition or otherwise) to, or failure to oppose an involuntary petition in bankruptcy or the application of any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction to such Party, or (ii) the commencement or institution of any such proceedings against such Party which proceedings remain undismissed or unstayed for sixty (60) days from their inception or which result in adjudication of bankruptcy or insolvency within such time.

(D) Such Party's unauthorized assignment of this PPA, which unauthorized assignment shall be an Event of Default immediately upon its occurrence and without further notice from the non-defaulting Party.

(E) The failure by either Party to perform or observe any other material obligation to the other Party under this PPA (other than any events that are otherwise specifically covered in this Section 11.1 as a separate Event of Default, or Seller's obligation to deliver, and Purchaser's obligation to receive, for which a separate remedy is provided in ARTICLE 10), which failure is not excused by Force Majeure and remains unremedied for thirty (30) days after Notice thereof shall have been given by the non-defaulting Party; *provided, however*, that if the failure is not reasonably capable of being cured within the thirty (30) day period, the defaulting Party will have such additional time (not exceeding an additional ninety (90) days) as is reasonably necessary to cure the failure, so long as the Party promptly commences and diligently pursues the cure.

Section 11.2 Remedies. Upon the occurrence of any Event of Default of this PPA, the non-defaulting Party may pursue all rights and remedies available to it at law and in equity and in accordance with the terms of this PPA. Except as explicitly provided to the contrary in this PPA, each right or remedy of the Parties provided for in this PPA shall be cumulative of and shall be in addition to every other right or remedy provided for in this PPA, and the exercise of one or more of the rights or remedies provided for herein shall not preclude the simultaneous or later exercise by such Party of any other rights or remedies provided for herein.

(A) Termination and Damages. For any uncured Event of Default, the non-defaulting Party may, at its option do any, some, or all of the following:

1. Net from any payments due from the non-defaulting Party any amount otherwise due from the defaulting Party under or in connection with this PPA, including any unpaid Actual Damages;

2. Seek Actual Damages in such amounts and on such basis for the default as authorized by this PPA;

3. Terminate this PPA immediately upon Notice, without penalty or further obligation to the defaulting Party. Upon the termination of this PPA under this Section 11.2, the non-defaulting Party shall be entitled to receive from the defaulting Party all of the Actual Damages in connection with the Event of Default resulting in such termination.

(B) Damages for Events of Default. The non-defaulting Party shall be entitled to receive from the defaulting Party all direct damages incurred by the non-defaulting Party that are proximately caused by Event of Default ("**Actual Damages**").

(C) Seller Security Interest. In the event Purchaser shall be deemed to have acquired title to the MEA Portion at any time (other than by exercise of the Purchase Option under Section 17.3), Seller shall have all of the rights and remedies of a secured party with respect to the Seller Security Interest under Article 9 of the UCC and other Applicable Law, including the right to foreclose on the Seller Security Interest upon an Event of Default.

Section 11.3 Limitation on Damages. The Parties confirm that the express remedies and measures of damages provided in this PPA satisfy the essential purposes hereof. If no

remedy or measure of damages is expressly herein provided, the obligor's liability shall be limited to Actual Damages only. Neither Party shall be liable to the other Party for consequential, incidental, punitive, exemplary, special, equitable or indirect damages, lost profits or other business interruption damages by statute, in tort or contract (except to the extent expressly provided herein); *provided, however*, that if either Party is held liable to a third party for such damages and the Party held liable for such damages is entitled to indemnification from the other Party hereto, the indemnifying Party shall be liable for, and obligated to reimburse the indemnified Party for, such damages. To the extent any damages required to be paid hereunder are liquidated, the Parties acknowledge that the damages are difficult or impossible to determine, that otherwise obtaining an adequate remedy is inconvenient, and that the liquidated damages constitute a reasonable approximation of the harm or loss.

ARTICLE 12
DISPUTE RESOLUTION

Section 12.1 Dispute Resolution. In the event of any dispute arising under this PPA (a "**Dispute**"), within ten (10) Business Days following Notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) days thereafter, either Party may pursue any available legal remedies; *provided, however*, that if and to the extent that a Dispute involves the Justness or Reasonableness Conditions, and the Dispute is not resolved by negotiations of senior management representatives of the Parties, neither Party shall have any right to pursue any further legal remedies to resolve such Dispute and such Dispute shall be deemed to be resolved finally and conclusively by enforcement of the obligation of Purchaser under this PPA to pay the Contract Price and resulting amount due in accordance with the requirements of this PPA.

ARTICLE 13
FORCE MAJEURE

Section 13.1 Applicability of Force Majeure. Except as explicitly provided otherwise herein, a Party shall be relieved of its obligations to perform this PPA and shall not be considered to be in default with respect to any obligation under this PPA to the extent that such Party is prevented from fulfilling such obligation by Force Majeure, *provided, however*, that: (i) such Party gives prompt Notice describing the circumstances and impact of the Force Majeure; (ii) the relief from its obligations sought by such Party is of no greater scope and of no longer duration than is required by the Force Majeure; (iii) such Party proceeds with due diligence to overcome

the Force Majeure and resume performance of its obligations under this PPA; and (iv) such Party provides prompt Notice of the conclusion of the Force Majeure.

Section 13.2 Limitations on Effect of Force Majeure.

(A) Force Majeure shall relieve a Party from performing only such obligations as are actually prevented by the Force Majeure.

(B) Except to the extent that Force Majeure prevents a Party from completing a transfer of money to the other Party, Force Majeure shall not excuse a Party from making any payment to the other on or before the date that such payment becomes due and payable.

(C) In no event will the existence of Force Majeure extend this PPA beyond its stated Term.

Section 13.3 Termination Relating to Force Majeure Events.

(A) If Seller is excused from its obligations under this PPA for ninety (90) consecutive days because of a Force Majeure event, Purchaser may, at any time prior to the termination of the Force Majeure event, terminate this PPA effective upon not less than three (3) days' notice to Seller; *provided*, that in the event that Seller holds Purchaser harmless from the effects of such non-performance, such ninety (90)-day period will be suspended for such period, not in any event to exceed one hundred and eighty (180) days' suspension, as Seller continues so to hold Purchaser harmless. For purposes of this Section 13.3(A), "hold harmless" means the implementation by Seller of alternative arrangements for the delivery to Buyer of Power, the delivery of which has been affected by the relevant Force Majeure event.

(B) In the event of termination pursuant to this Section 13.3, neither Party will have any liability whatsoever to the other Party under or in connection with this PPA; *provided*, that no such termination will relieve either Party of liability for any costs or other obligations incurred prior to the effectiveness of such termination.

ARTICLE 14
CHANGE IN LAWS

Section 14.1 Change in Laws.

(A) If a Party becomes aware that there has occurred or is reasonably likely to occur a Change in Laws that directly prohibits, prevents, or materially impedes a Party from performing its obligations under this PPA or materially impacts or alters the rights, benefits, or allocation of risks under this PPA, such Party shall notify the other Party of such Change in Laws. The Parties shall promptly following any such notice negotiate in good faith amendments to or a replacement of this PPA that will result in substantially the same allocation of rights, benefits, and risks as this PPA as of the Effective Date. If such good faith negotiations do not result in such an amendment to or replacement of this PPA within a period of ninety (90) days following the start of such negotiations (or any longer time period to which the Parties may

agree), either Party may, effective upon not less than sixty (60) days' prior written notice to the other Party, terminate this PPA at any time while such Change in Laws is continuing, without any penalty or liability of either Party to the other Party; *provided, however*, that in no event will any such termination excuse any obligation to make payments due or becoming due under this PPA for performance rendered prior to such termination. Unless and until any such termination of this PPA, each Party shall continue to perform its obligations under this PPA to the fullest extent not actually prohibited, prevented, or impeded by such Change in Laws.

(B) Consistent with Section 14.1(A), nothing in this PPA shall require either Party to perform any obligations that are prohibited or prevented by a Change in Laws. To the extent a Change in Laws occurs that directly prohibits, prevents, or materially impedes either Party from performing its obligations under this PPA and the Parties are unable to follow the procedures set forth in Section 14.1(A), such Change in Laws will be treated as an event of Force Majeure and the affected Party will be entitled to relief therefor in accordance with the provisions of ARTICLE 13 to the extent and for the period necessary to allow the Parties to complete the process set forth in Section 14.1(A).

(C) A Party that actively petitions for or otherwise requests a Change in Laws shall not be entitled to obtain relief from such Change in Laws under this Section 14.1 without the consent of the other Party.

(D) For purposes of this Section 14.1, "materially" means a level of significance that would, as of the Effective Date, have been reasonably likely to have affected any decision of a reasonable person in the applicable Party's position regarding whether or not to enter into this PPA or consummate the transaction(s) contemplated in this PPA on the terms and conditions thereof.

ARTICLE 15
INSURANCE

Section 15.1 General Insurance Requirements. On or prior to the Commencement Date and thereafter throughout the Term, Seller shall use Commercially Reasonable efforts to obtain and maintain at its own cost and expense insurance coverages for the MEA Portion satisfying the requirements of this ARTICLE 15. No later than the Commencement Date and on or before June 1 of each year during the Term, Seller shall provide Purchaser with a copy of insurance certificates reasonably acceptable to Purchaser evidencing that insurance coverages for the Facility are in compliance with such requirements. Such certificates shall (a) name Purchaser as an additional insured (except worker's compensation); (b) provide that Purchaser shall receive thirty (30) days' prior Notice of non-renewal, cancellation of, or significant modification to any of the corresponding policies (except that such Notice shall be ten (10) days for non-payment of premiums); (c) provide a waiver of any rights of subrogation against Purchaser, its Affiliates and their officers, directors, agents, subcontractors, and employees; and (d) indicate that the policies have been endorsed in accordance with the requirements set forth herein. All policies shall be written with insurers with an AM Best rating of at least A-VII. All policies shall be written on an occurrence basis, except as provided in Section 15.2. All policies shall contain an endorsement

that Seller's policy shall be primary in all instances regardless of like coverages, if any, carried by Seller. Neither Party's liability under this PPA shall be limited to the amount of insurance coverage required herein.

Section 15.2 Term and Modification of Insurance.

(A) All insurance required under this PPA shall cover occurrences during the Term and for a period of two (2) years after the Term. In the event that any insurance as required herein is commercially available only on a "claims-made" basis, such insurance shall provide for a retroactive date not later than the date of this PPA and such insurance shall be maintained by Seller for a minimum of six (6) years after the Term.

(B) If any insurance required to be maintained by Seller hereunder ceases to be reasonably available and commercially feasible in the commercial insurance market, Seller shall provide Notice to Purchaser, accompanied by a certificate from an independent insurance advisor of recognized national standing, certifying that such insurance is not reasonably available and commercially feasible in the commercial insurance market for electric generating plants of similar type, geographic location and capacity. Notwithstanding such Notice, Seller shall use Commercially Reasonable attempts to obtain other insurance that would provide comparable protection against the risk to be insured.

ARTICLE 16
INDEMNITY

Section 16.1 Indemnification. Each Party (the "**Indemnifying Party**") agrees (but in the case of Seller as the Indemnifying Party, only subject to appropriation of the requisite funds by the Assembly of Seller) to indemnify, defend, and hold harmless the other Party (the "**Indemnified Party**") from and against all third party claims, demands, losses, liabilities, penalties, and expenses (including attorneys' fees) for personal injury or death to persons and damage to the Indemnified Party's real property and tangible personal property or facilities or the property of any other Person to the extent arising out of, resulting from, or caused by any (i) Event of Default or other breach under this PPA, (ii) violation of Applicable Laws, (iii) negligent or tortious acts, errors, or omissions, or (iv) willful misconduct, in each case of the Indemnifying Party or any of its Affiliates, directors, officers, employees, or agents.

(A) The indemnification obligations of the Indemnifying Party shall apply notwithstanding any negligence of the Indemnified Party, but the Indemnifying Party's liability to indemnify the Indemnified Party shall be reduced in proportion to the percentage by which the Indemnified Party's negligent acts, errors, or omissions caused the damages.

(B) Neither Party shall be indemnified for its damages resulting from its sole negligence or willful misconduct. The indemnity provisions of this PPA shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

(C) Nothing in this Section 16.1 shall enlarge any liability of either Party to the other Party for any breach of this PPA or relieve either Party of any liability to the other Party for any breach of this PPA.

(D) A Party will not be liable more than once for the same losses, even if those losses may be recovered under multiple sections or subsections of this PPA.

Section 16.2 Notice of Claim. Promptly after receipt by a Party of any claim or notice of the commencement of any action, administrative proceeding, legal proceeding, or investigation as to which the indemnity provided for in this ARTICLE 16 may apply, the Indemnified Party shall provide Notice thereof to the Indemnifying Party. The Indemnifying Party shall assume the defense thereof with counsel designated by such Party and satisfactory to the Indemnified Party, *provided, however*, that if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer has agreed to pay such costs.

Section 16.3 Settlement of Claim. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may, at the expense of the Indemnifying Party, contest, settle, or pay such claim, *provided, however*, that settlement or full payment of any such claim may be made only following consent of the Indemnifying Party, which consent will not be unreasonably withheld, conditioned, or delayed, or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement.

Section 16.4 Amounts Owed. Except as otherwise provided in this ARTICLE 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this ARTICLE 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's actual loss net of any insurance proceeds received by the Indemnified Party following a Commercially Reasonable effort by the Indemnified Party to obtain such insurance proceeds (which Commercially Reasonable effort will not in any event include any obligation to initiate litigation or any other dispute resolution proceeding against any insurer).

Section 16.5 Survival. The provisions of this ARTICLE 16 shall survive the expiration or earlier termination of this PPA.

ARTICLE 17
ASSIGNMENT AND OTHER TRANSFER RESTRICTIONS; LENDER PROVISIONS

Section 17.1 Transfer Without Consent Is Null and Void. Except as provided in ARTICLE 2, any sale, transfer, or assignment of any interest in the Seller's Interest or in this PPA made without fulfilling the requirements of this ARTICLE 17 shall be null and void and a breach of this PPA.

(A) Except as permitted in this Section 17.1, neither Party shall assign this PPA, or any right, title or interest therein, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed; *provided, however*, that: (i) Notice of any proposed assignment requiring consent of the other Party shall be given to such other Party at least thirty (30) days prior to the proposed effective date of such assignment; and (ii) with respect to any assignment hereunder, whether requiring consent or not, (a) except with respect to any assignment under Section 17.2, any assignee shall expressly assume the assignor's obligations under this PPA unless otherwise agreed by the other Party; (b) no assignment shall relieve the assignor of its obligations under this PPA in the event the assignee fails to perform, unless the other Party waives or releases in writing the assignor's continuing obligations under this PPA; and (c) the assignment shall be subject to receipt of all such approvals as may be required by any applicable Governmental Authorities.

(B) Except as set forth in Section 18.14(B) with respect to the Collateral and Seller's consent rights with respect thereto, Purchaser shall have the right to assign all or a portion of its rights or obligations under this PPA without the prior written consent of Seller as follows:

1. to a Lender as collateral security for obligations under the Financing Documents entered into with such Lender, *provided* that: (i) Purchaser provides Seller with written Notice of such proposed collateral assignment not less than thirty (30) days prior to such collateral assignment, and (ii) the applicable form of collateral assignment and related documentation is reasonably acceptable to Seller, as provided in Section 17.2;

2. to an Affiliate of Purchaser that is a Creditworthy Entity;

3. pursuant to Section 17.2, to a Creditworthy Entity after a Lender has exercised its foreclosure rights with respect to this PPA; and

4. to a Person succeeding to all or substantially all of the assets of Purchaser, *provided* that such Person's creditworthiness is equal to or better than that of Purchaser.

(C) Seller acknowledges that upon an event of default under any Financing Documents relating to this PPA, a Lender may (but shall not be obligated to) assume, or cause its designee to assume, all of the interests, rights, and obligations of Purchaser thereafter arising under this PPA, in which case such Lender or such designee shall assume and agree to be bound by all the terms and provisions of this PPA arising on or after the date of such assumption by such Lender or such designee; *provided* that, regardless of whether any such Lender or such designee assumes all of the interests, rights, and obligations of Purchaser thereafter arising under this PPA, Seller's interests, rights, and obligations under this PPA will remain in full force and effect.

Section 17.2 Lender Provisions.

(A) Except as set forth in Section 18.14(B) with respect to the Collateral and Seller's consent rights with respect thereto, Purchaser may, without approval of Seller, charge or otherwise encumber its interest under this PPA for security purposes in accordance with the provisions of Section 17.1 and this Section 17.2.

(B) Promptly after making any such encumbrance, Purchaser shall notify Seller in writing of the name, address, and telephone and facsimile numbers of each Lender to which Purchaser's interest under this PPA has been encumbered. Such Notice shall include the names of the account managers or other representatives of the Lenders to whom all written and telephonic communications may be addressed.

(C) After giving Seller the initial Notice under Section 17.2(B), Purchaser shall promptly give Seller Notice of any change in the information provided in the initial Notice or any subsequent Notice.

(D) If Purchaser encumbers its interest under this PPA as permitted by this Section 17.2, the following provisions shall apply:

1. The Parties, except as provided by the terms of this PPA, shall not modify or cancel this PPA without the prior written consent of the Lender, such consent not to be unreasonably withheld, conditioned or delayed.

2. The Lender or its designees shall have the right, but not the obligation, to perform any act required to be performed by Purchaser under this PPA to prevent or cure an Event of Default with respect to Purchaser and such act performed by the Lender or its designees shall be as effective to prevent or cure an Event of Default as if done by Purchaser, *provided* that, if any such Lender or any such designee elects to perform any act required to be performed by Purchaser under this PPA to prevent or cure an Event of Default by Purchaser, Seller will not be deemed to have waived or relinquished any of its rights and remedies as provided in this PPA; and *provided, further*, that Purchaser hereby releases Seller, to the fullest extent permitted by Applicable Law, from any and all liability arising from Seller's performance under this PPA pursuant to instructions of the Lender following an event of default with respect to Purchaser under Lender's Financing Documents.

3. Seller shall, promptly following any request by Purchaser, execute statements certifying that this PPA is unmodified (or, if modified, stating the nature of the modification), in full force and effect and the absence or existence (and the nature thereof), to Seller's actual knowledge, of Events of Default hereunder by Purchaser and documents of consent to such assignment to the encumbrance and any assignment to such Lender, all in form and substance reasonably acceptable to Seller.

4. Promptly following the receipt of a written request from Purchaser or any Lender, Seller shall execute, or arrange for the delivery of, such reasonable certificates and other documents as may be reasonably necessary and appropriate in order for Purchaser to

consummate any financing or refinancing of the Facility or any part thereof and enter into such reasonable agreements as may be reasonably requested by such Lender, which agreements will grant such rights to the Lender as are specifically provided for in such documents, including that (a) this PPA shall not be terminated (otherwise than pursuant to the terms of this PPA) without the consent of the Lender, which consent shall not be unreasonably withheld, conditioned, or delayed; (b) the Lender shall be given notice of, and the opportunity to cure any breach or default of this PPA by Purchaser in accordance with this PPA; (c) if the Lender forecloses, takes a deed in lieu of foreclosure, or otherwise exercises its remedies pursuant to any security documents, then (i) Seller shall, at the Lender's request, continue to perform all of its obligations hereunder, and the Lender or (without in any way limiting any obligation or liability of the Lender) its nominee may perform in the place of Purchaser, and may assign this PPA to another Person that is a Creditworthy Entity in place of Purchaser, (ii) the Lender shall have no liability under this PPA except during the period of such Lender's ownership of the Purchaser's Interest, and (iii) Seller shall accept performance in accordance with this PPA by the Lender or its nominee; and (d) Seller shall make such representations and warranties to the Lender as Lender may reasonably request with regard to (1) Seller's authority to execute, deliver, and perform this PPA, (2) the binding nature on Seller of the document evidencing Seller's consent to assignment to the Lender and this PPA, and (3) the receipt of regulatory approvals by Seller with respect to its execution and performance under this PPA.

5. Purchaser shall reimburse Seller for the out-of-pocket costs and expenses (including the fees and expenses of counsel) incurred by Seller in connection with the preparation, negotiation, or execution of any statements, certificates, agreements, or other documents required under this Section 17.2.

Section 17.3 Purchase Option. Purchaser (or its designated Affiliate) shall have the option to purchase the MEA Portion effective as of the expiration of the Term on the terms and conditions hereinafter set forth (the "**Purchase Option**"). On or before the thirtieth (30th) anniversary of the Commencement Date, Seller will deliver to Purchaser Notice of the date, location, and time of a joint meeting between Seller and Purchaser to discuss Purchaser's plan regarding the potential exercise the Purchase Option. During the last five (5) Contract Years, Purchaser shall have the right at any time prior to the last day of the Term to deliver Notice to Seller that Purchaser is exercising the Purchase Option. If Seller fails to provide Notice of such joint meeting or fails to meet with Purchaser, Seller shall not be in breach of this PPA, but if Purchaser then fails to deliver Notice of exercise of the Purchase Option prior to the last day of the Term, the Term shall be extended for a period of one year beyond such date (the "**Term Extension**"), during which (i) Purchaser may deliver its Notice of exercise of the Purchase Option at any time prior to the last day of the Term Extension, and (ii) Purchaser shall continue to pay the Contract Price in the amount applicable to Contract Year 35 as calculated in accordance with Exhibit C hereto, plus an amount equal to one percent (1%) of such amount, until the earlier of the expiration of the Term Extension or the closing of the purchase and sale agreement for the Purchase Option. If Purchaser exercises its Purchase Option, Seller and Purchaser shall enter into a purchase and sale agreement for the MEA Portion in a form to be mutually agreed by the Parties prior to the Closing under the Chugach Asset Purchase Agreement.

(A) **Purchase Price.** Upon any exercise of the Purchase Option, the purchase price for the MEA Portion shall be the Purchase Price. If, for any reason, any generation unit overhaul costs or expenditures related to environmental compliance or other compliance with Applicable Law that have a positive value that extends beyond the Term are not capitalized on Seller's financial statements, then such costs or expenditures shall be imputed as a capital investment in Seller's Interest and deferred and amortized over a reasonable period of projected benefit for the purposes of establishing Net Book Value.

(B) **Closing.** The closing of the purchase pursuant to any exercise of the Purchase Option will occur on a date selected by Purchaser, which date will be not less than five (5) months and not more than nine (9) months after Purchaser has exercised the Purchase Option. Purchaser will select the closing date by giving a minimum of 30 days written notice to Seller.

(C) **Satisfaction of Requirements of Transition Plan.** Purchaser acknowledges and agrees that the rights granted to Purchaser in this PPA and the rights granted to Chugach in the Chugach Power Purchase Agreement are in compliance with each and all of the requirements of the Transition Plan, including the requirements of Section 1 of the Extension Agreement. Purchaser further acknowledges and agrees that the rights granted to Purchaser in this PPA, including the rights granted with respect to the Purchase Option, satisfy each and all of the obligations of Seller to Purchaser and of Chugach to Purchaser under the Transition Plan, including each and all of the obligations of Seller to Purchaser and of Chugach to Purchaser under Section 1 of the Extension Agreement, and that no further action and no further consents or approvals are required in order to satisfy any rights of Purchaser or obligations to Purchaser under Section 1 of the Extension Agreement. Purchaser agrees that it will not make any claim or assertion, and will not (either directly or indirectly) support any claim or assertion by any other Person, including in any proceeding before the RCA, that is contrary to or inconsistent with the acknowledgements and agreements of Purchaser in this Section 17.3(C).

ARTICLE 18
MISCELLANEOUS

Section 18.1 Forward Contract; Forward Agreement. The Parties acknowledge and intend that (a) this PPA, the transactions contemplated hereby, and any instruments that may be provided by either Party hereunder will each, and together, constitute one and the same "forward contract" and "forward agreement" within the meaning of the Bankruptcy Code; (b) Purchaser and Seller are "forward contract merchants," "swap participants," and "master netting agreement participants" within the meaning of the Bankruptcy Code; (c) all payments made or to be made by one Party to the other Party pursuant to this PPA constitute "settlement payments" within the meaning of the Bankruptcy Code; (d) this PPA constitutes a "master netting agreement" within the meaning of the Bankruptcy Code; (e) the Contract Price (including each monthly payment thereof) and all other amounts due from Purchaser hereunder are (i) settlement payments (as defined in the Bankruptcy Code), (ii) transfers in connection with a forward contract, swap agreement and master netting agreement (as used in Sections 546(e), 546(g) and 546(j) of the Bankruptcy Code), and (iii) attributable solely to the expected costs of acquiring the Power attributable to the MEA Portion during the Term (based on the anticipated minimum amount of

Power that will be generated by the Facility and attributable to the MEA Portion during the Term), as determined as of the date hereof; (f) the date of each monthly payment of the Contract Price is a "maturity date" (as used in the definition of "forward contract" in Section 101 of the Bankruptcy Code) with respect to the Power attributable to the MEA Portion delivered to Purchaser during the period since the prior monthly payment: (g) this PPA was entered into by Purchaser for the purpose of hedging against price fluctuations in the market for electricity. by paying a fixed price for the Power attributable to the MEA Portion during the Term; (h) Purchaser intends to pass on the costs of its Power purchases hereunder to its own customers, subject to Applicable Law; and (i) all remedies for a non-defaulting Party hereunder (including as set forth in Section 11.2) are "contractual rights" as used in Sections 362(b)(6), 362(b)(17), 362(b)(27), 556, 560 and 561 of the Bankruptcy Code. Each Party agrees that it will not make any assertion or claim, in any dispute or otherwise, or otherwise take any position to the effect that this PPA, the transactions contemplated hereby, and any instrument(s) that may be provided by either Party hereunder do not each, and together, constitute one and the same "forward contract," "commodity forward agreement," and "master netting agreement" within the meaning of the Bankruptcy Code, or that Purchaser and Seller are not "forward contract merchants," "swap participants," and "master netting agreement participants" within the meaning of the Bankruptcy Code.

Section 18.2 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (any of the foregoing, a "**Notice**") shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 18.1):

If to Seller:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: william.falsey@anchorageak.gov Attention: William D. Falsey, Municipal Manager
with a copy to:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: rebecca.windtpearson@anchorageak.gov Attention: Rebecca A. Windt Pearson, Municipal Attorney
and a copy to:	K&L Gates LLP 925 Fourth Avenue, Suite 2900 Seattle, WA 98104-1158

	E-mail: eric.freedman@klgates.com Attention: Eric E. Freedman
If to Purchaser:	Matanuska Electric Association, Inc. 163 E. Industrial Way Palmer, AK 99645 E-mail: tony.izzo@mea.coop Attention: Tony Izzo, CEO
with a copy to:	Matanuska Electric Association, Inc. 163 E. Industrial Way Palmer, AK 99645 E-mail: Matthew.Reisterer@mea.coop Attention: Matt Reisterer, CFO

Section 18.3 Compliance With Applicable Laws. Each Party shall at all times comply with all Applicable Laws. Without limiting the foregoing, but subject to the provisions of Section 14.1, Seller shall during the Term comply with all applicable requirements of Applicable Law relating to the ownership and operation of the MEA Portion. Notwithstanding the foregoing or any other provision of this Agreement, any non-compliance with Applicable Law that, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on the business or financial condition of the Party or its ability to fulfill its commitments hereunder shall not be deemed to be a breach of this PPA. Each Party shall promptly disclose to the other, any material violation of any Applicable Laws arising out of or in connection with the Facility and this PPA. This PPA will not take effect until the prior approval of the RCA as required by AS 42.05.431(b).

Section 18.4 Rates, Terms, and Conditions Binding. The Parties agree that the rates (including Contract Price), terms, and conditions for products and services specified in this PPA shall remain in effect for the Term. In addition, to the fullest extent permitted by Applicable Law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably (i) waives any rights that it may have, now or in the future, whether under AS 42.05.431(a), AS 42.05.431(b), or otherwise, to seek to obtain from the RCA by any means, directly or indirectly (through complaint, investigation, or otherwise), and (ii) covenants and agrees not at any time to seek so to obtain, an order from the RCA changing any section of this PPA specifying the rate, charge, or classification ("**Justness or Reasonableness Conditions**") agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by Applicable Law, neither Party will unilaterally seek to obtain from the RCA any relief changing the Justness or Reasonableness Conditions of this PPA, notwithstanding any subsequent changes that may occur in Applicable Law or market conditions.

Section 18.5 Public Announcements. Neither Party shall at any time make, with respect to the transactions to be consummated by this PPA, publish, or communicate to any Person in any public forum any defamatory, maliciously false, or disparaging remarks,

comments, or statements concerning the other Party or any of its employees, officers, officials or directors.

Section 18.6 No Third-Party Beneficiaries. This PPA is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this PPA.

Section 18.7 Amendment and Modification; Waiver. This PPA may only be amended, modified or supplemented by an agreement in writing signed by each Party. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No waiver by any Party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this PPA shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 18.8 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(A) This PPA shall be governed by and construed in accordance with the internal laws of the State of Alaska, without regard to conflict of law principles that would result in the application of the laws of any other jurisdiction.

(B) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS PPA OR THE TRANSACTIONS CONTEMPLATED HEREBY MAY BE INSTITUTED IN THE SUPERIOR COURT OF THE STATE OF ALASKA IN IN THE THIRD JUDICIAL DISTRICT, LOCATED IN ANCHORAGE, ALASKA, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURT AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(C) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS PPA IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS PPA OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY TO THIS PPA

CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS PPA BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 18.8.

Section 18.9 Specific Enforcement. The Parties agree that irreparable damage would occur if any provision of this PPA were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity. The Parties acknowledge and agree that (A) the Parties shall be entitled to an injunction, specific performance or other equitable relief to prevent breaches of this PPA and to enforce specifically the terms and provisions hereto, without proof of damages, this being in addition to any other remedy to which they are entitled under this PPA and (B) the right to specific enforcement is an integral part of the transactions contemplated by this PPA and without that right, neither Seller nor Purchaser would have entered into this PPA. Each Party agrees that it will not oppose the granting of specific performance and other equitable relief on the basis that the other Party has an adequate remedy at law or that an award of specific performance is not an appropriate remedy for any reason at law or equity. The Parties acknowledge and agree that any Party seeking an injunction to prevent breaches of this PPA and to enforce specifically the terms and provisions of this PPA in accordance with this Section 18.9 shall not be required to provide any bond or other security in connection with any such injunction.

Section 18.10 Waiver of Sovereign Immunity. Seller agrees that it is subject to civil and commercial suit for any breach of contract obligations under this PPA. To the extent that Seller may be entitled to claim sovereign, governmental, or municipal immunity from any liability in such a civil or commercial suit by Purchaser, Seller hereby agrees not to claim, and hereby waives, such sovereign, governmental, or municipal immunity.

Section 18.11 RCA PPA Approval. Seller and Purchaser will use Commercially Reasonable efforts to cooperate and each advocate to obtain an order from the Regulatory Commission of Alaska (the "**RCA**") approving this PPA; and which order from the RCA shall not contain any condition or conditions materially adverse to either Purchaser or Seller, as determined by Purchaser or Seller with respect to itself in good faith and in the exercise of its Commercially Reasonable business judgment ("**RCA PPA Approval**"). It is the understanding of the Parties that this PPA, as a wholesale power agreement between public utilities governed by AS 42.05.431(b), will not take effect without the prior approval of the RCA, and will at all times after any such approval be subject to the RCA's continuing authority over wholesale power agreements.

Section 18.12 Relationship of the Parties. This PPA shall not be interpreted to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Except as specifically provided for in this PPA to the contrary, neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

Section 18.13 Successors and Assigns. Subject to the provisions of Section 17.1, Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns. No assignment shall relieve the assigning party of any of its obligations hereunder.

Section 18.14 Security Interest.

(A) The Parties agree, acknowledge and intend that the legal status of this PPA is and shall be as a power purchase agreement, a forward contract (as defined in the Bankruptcy Code), a commodity forward agreement (and thus a swap agreement as defined in the Bankruptcy Code), and a master netting agreement (as defined in the Bankruptcy Code), and not a secured purchase of the MEA Portion or any other alternative form of transaction, and that Seller will at all times during the Term have and retain full undivided ownership of the MEA Portion. Accordingly, each Party acknowledges and agrees that: (1) it shall not assert that the transactions contemplated under this PPA are a secured financing of any sort; and (2) it shall cooperate with the other Party in defending against any assertion by a third party that the transactions contemplated hereunder constitute a secured financing.

(B) Notwithstanding the foregoing, as security for the prompt payment and performance of all obligations of Purchaser under this PPA, including the payment of the Contract Price to Seller, and solely as a precaution in the event that this PPA should be construed as a secured financing such that Purchaser shall be deemed to have acquired title to the MEA Portion at any time (other than by exercise of the Purchase Option under Section 17.3), Purchaser hereby grants to Seller a senior, first priority purchase money lien on and security interest in and to, and right of set-off with respect to, all right, title, and interest of Purchaser in and to the MEA Portion (including all right, title, and interest in and to any Power attributable to the MEA Portion, except as and to the extent that such Power is delivered to Purchaser at the Delivery Point under and in accordance with the express provisions of this PPA) and all proceeds thereof (collectively, the "**Collateral**") (such senior, first priority purchase money lien on and security interest in and to the Collateral, the "**Seller Security Interest**"). In addition, notwithstanding ARTICLE 17, Purchaser (i) represents and warrants to Seller as of each of the Effective Date and the Commencement Date that (a) Purchaser has provided Seller with a true and correct copy of the Mortgage, including all supplements and amendments thereto and (b) there are no liens or security interests in or on the assets of Purchaser that encumber the Collateral as of the Effective Date, and that there will be no liens or security interests in or on the assets of Purchaser that will encumber the Collateral as of the Commencement Date; (ii) covenants and agrees that Purchaser shall provide to Seller, at or prior to the Closing under the Chugach Asset Purchase Agreement, (a) an original subordination agreement, executed by the Mortgagees and in the form set forth in Exhibit D, subordinating the priority of any lien that the Mortgagees may acquire in the Collateral, including as a result of any lien granted under the Mortgage in after-acquired property of Purchaser or any liens granted to the Mortgagees in any bankruptcy proceeding of Purchaser, to the priority of the Seller Security Interest (the "**CFC Subordination Agreement**"), and acknowledged by Purchaser through its execution of the acknowledgment and acceptance attached thereto; and (b) evidence of the recording of the CFC Subordination Agreement in all recording offices in the State of Alaska in which the lien of the Mortgage has been recorded: and (iii) covenants and agrees that Purchaser shall not, without

Seller's prior written consent, grant any security interest in the Collateral, including (a) in connection with this PPA and the transactions contemplated hereunder, or (b) any grant of a lien to the Mortgagees pursuant to Granting Clause 2.01 of the Mortgage or otherwise. In connection with the lien and security interest granted to Seller in this Section 18.14(B), Seller shall have the rights and remedies of a secured party or mortgagee under Applicable Law, including the UCC. Purchaser hereby authorizes Seller to file UCC financing statements and to record instruments with any appropriate Governmental Authority, and to make other similar filings and recordings with respect hereto as Seller shall elect in its sole discretion for the purposes of recording and perfecting its lien and security interest in the Collateral.

Section 18.15 Survival of Obligations. The applicable provisions of this PPA shall continue in effect after termination to the extent necessary to (A) provide for final billings, payments, and adjustments, (B) enforce or complete the duties, obligations, or responsibilities of the Parties, and (C) address any remedies or indemnification rights arising prior to termination. Cancellation, expiration, or earlier termination of this PPA shall not relieve the Parties of obligations, including warranties, remedies, or indemnities, that by their nature should survive such cancellation, expiration, or termination, which obligations shall survive for the period of the applicable statute(s) of limitation.

Section 18.16 Further Assurances. Upon the receipt of a written request from the other Party, each Party shall execute such reasonable additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition, or delay its compliance with any reasonable request made pursuant to this Section 18.16.

Section 18.17 Severability. If any term or provision of this PPA is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this PPA or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this PPA so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 18.18 Complete Agreement. This PPA constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

Section 18.19 Headings. The headings in this PPA are for reference only and shall not affect the interpretation of this PPA.

Section 18.20 Counterparts. This PPA may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this PPA delivered by facsimile, e-mail or other means of electronic

transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this PPA.

Section 18.21 Exhibits. Exhibits may be changed to the extent allowed by specific provisions of this PPA or with the mutual consent of both Parties.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this PPA as of the Effective Date.

Seller:

MUNICIPALITY OF ANCHORAGE

By _____

Name: William D. Falsey
Title: Municipal Manager

Purchaser:

MATANUSKA ELECTRIC ASSOCIATION, INC.

By _____ 9/11/19

Name: Anthony M. Izzo
Title: Chief Executive Officer

EXHIBIT A

DEFINITIONS

The following terms shall have the meanings set forth herein:

"**Actual Damages**" has the meaning set forth in Section 11.2(B).

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

"**Ancillary Services**" all ancillary products associated, in accordance with Prudent Utility Practice, with the generation of Energy, including spinning reserves, non-spinning reserves, reactive power and voltage control.

"**Applicable Law**" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, Permit requirement, other binding requirement or rule of law of, or compulsory standard established by, any Governmental Authority.

"**Bankruptcy Code**" means 11 U.S.C. §§ 101 et seq. (Title 11, United States Code).

"**Bradley Lake Agreement**" means the Bradley Lake Hydroelectric Project Agreement for the Sale and Purchase of Electric Power dated as of December 8, 1987 by and among the Alaska Energy Authority as successor to The Alaska Power Authority, Chugach, The Golden Valley Electric Association, Inc., Seller, The City of Seward d/b/a/Seward Electric System, The Alaska Electric Generation & Transmission Cooperative, Inc., The Homer Electric Association, Inc., and Purchaser.

"**Business Day**" means any day that is not a Saturday, a Sunday, or any other day on which commercial banks in Anchorage, Alaska are required to be closed for business.

"**Capacity**" means the total electrical generating capacity of the Facility, including any capacity products that are able to be accredited under Applicable Law.

"**CFC Subordination Agreement**" shall have the meaning set forth in Section 18.14(B).

"**Change in Laws**" means any addition, amendment, decision, ruling, order, or binding interpretation to or regarding any Applicable Laws, by or of a Governmental Authority having jurisdiction or authority, that is enacted, issued, or becomes legally effective after the Effective Date.

"**Chugach**" means Chugach Electric Association, Inc., a not-for-profit Alaska electric cooperative corporation.

"**Chugach Asset Purchase Agreement**" has the meaning set forth in Section 2.1.

"**Chugach Portion**" means a portion of the Seller's Interest equal to a 64.29% share of the Seller's Interest; *provided, however*, that if this PPA is terminated for any reason at any time prior to the Scheduled Termination Date, the "Chugach Portion" shall, from the effectiveness of such termination until the Scheduled Termination Date (but only so long as the Chugach Power Purchase Agreement remains in full force and effect), be deemed to be a percentage interest equal to the Seller's Interest.

"**Chugach Power Purchase Agreement**" has the meaning set forth in Section 2.1.

"**Collateral**" shall have the meaning set forth in Section 18.14(B).

"**Commencement Date**" shall have the meaning set forth in Section 3.2.

"**Commercially Reasonable**" or "**Commercially Reasonable Efforts**" means, with respect to any action required to be made, attempted or taken by a Party under this PPA, the level of effort in light of the facts known to such Party at the time a decision is made that: (a) can reasonably be expected to accomplish the desired action at a reasonable cost; (b) is consistent with Prudent Utility Practice; and (c) takes into consideration the amount of advance notice required to take such action, the duration and type of action and the competitive environment in which such action occurs.

"**Contract Price**" has the meaning set forth in Section 7.1.

"**Contract Year**" has the following meaning: the first Contract Year means the period beginning on the Commencement Date and ending on the last day of the month of the first anniversary of the Commencement Date. The second Contract Year and each subsequent Contract Year means the period beginning on the first day after the last day of the previous Contract Year and ending on the last day of the twelfth calendar month thereafter.

"**Credit Rating**" means (i) with respect to any entity other than a financial institution, the current (A) rating issued or maintained by S&P or Moody's with respect to such entity's long-term senior, unsecured, unsubordinated debt obligations (not supported by insurance provider or other third-party credit enhancements) or (B) corporate credit rating or long-term issuer rating issued or maintained with respect to such entity by S&P or Moody's, or (ii) if such entity is a financial institution, the ratings issued or maintained by S&P or Moody's with respect to such entity's long-term, unsecured, unsubordinated deposits.

"**Creditworthy Entity**" means a Person having at the applicable time a Credit Rating of (a) BBB or better from S&P, or (b) Baa2 or better from Moody's, or (c) if such Person has a Credit Rating at such time from both S&Ps and Moody's, BBB or better from S&P and Baa2 or better from Moody's.

"**day**" means a calendar day.

"**Delivery Point**" means the low side of the step-up transformer(s) within the Facility switchyard.

"**Dispute**" shall have the meaning set forth in Section 12.1.

"**Effective Date**" shall have the meaning set forth in the preamble.

"**Eklutna Transmission Assets**" means the Transmission Assets of the Eklutna Hydroelectric Project set forth on Exhibit F to the Chugach Asset Purchase Agreement.

"**Eligible Energy Resource**" means any resource that qualifies as a renewable energy resource eligible to be certified to receive, claim, own or use renewable energy certificates pursuant to the protocols and procedures under any applicable REC Registration Program.

"**Energy**" means the net electric energy that is generated from the Facility that is delivered to the Delivery Point, as measured in accordance with Section 5.2. Energy shall be net of energy self-generated and concurrently consumed by the Facility, and net of all losses prior to the Delivery Point, including line, inverter, and transformer losses.

"**Environmental Attributes**" means any and all renewable resource attributes (including renewable energy certificates or credits or similar rights arising out of any applicable REC Registration Program), green tags, emissions or carbon credits, reductions, offsets, and allowances, and any other environmentally related attributes that are, or in the future may be, recognized by any Governmental Authority, and that are attributable to the availability, production, purchase or sale of Energy from the Facility. For the avoidance of doubt, "Environmental Attributes" do not include any Tax Benefits.

"**ERO**" means the Electric Reliability Organization certified by FERC pursuant to Section 215 of the Federal Power Act or any successor organization.

"**Event of Default**" shall have the meaning set forth in Section 11.1.

"**Extension Agreement**" means that certain Agreement for Extension of 1996 Eklutna Hydroelectric Project Transition Plan dated October 2, 1997 by and among the Owners.

"**Facility**" means the Eklutna Hydroelectric Project, as further described in Exhibit B, including all of the following: all equipment, buildings, generators, inverters, step-up transformers, output breakers, protective and associated equipment, improvements, and other tangible assets, contract rights, easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for construction, operation, maintenance, generation, and delivery of the Energy, Ancillary Services, and Capacity subject to this PPA; *provided, however*, that the Facility does not include any right, title, or interest of Seller in or to the Eklutna Transmission Assets.

"**Facility Metering**" means revenue quality meters, metering equipment and data processing equipment used to measure, record or transmit data relating to the output from the Facility, including the metering current transformers and the metering voltage transformers.

"**Federal Power Act**" means the provisions of 16 U.S.C. 791(A) et seq. and amendments or supplements thereto.

"**FERC**" means the Federal Energy Regulatory Commission or any successor agency.

"**Financing Documents**" means the loan and credit agreements, notes, bonds, indentures, security agreements, lease financing agreements, mortgages, deeds of trust, interest rate exchanges, swap agreements, and other documents relating to a Party's financing transactions, including any credit enhancement, credit support, working capital financing, or refinancing documents, and any and all amendments, modifications, or supplements to the foregoing that may be entered into from time to time at the discretion of the Party.

"**Fish and Wildlife Agreement**" means the August 7, 1991 Agreement between the Municipality of Anchorage, dba Anchorage Municipal Light and Power, Chugach, Purchaser, U. S. Fish and Wildlife Service, National Marine Fisheries Service, Alaska Energy Authority and the State of Alaska, Relative to the Eklutna and Snettisham Hydroelectric Projects.

"**Force Majeure**" means an event or circumstance that prevents a Party from performing its obligations under this PPA, which event or circumstance (i) was not reasonably anticipated as of the Effective Date, (ii) is not within the reasonable control of or the result of the fault or negligence of the Party claiming its occurrence, and (iii) which by exercise of due diligence and foresight could not reasonably have been avoided. *provided, however*, that such an event or circumstance shall not include: (a) delays or nonperformance by suppliers, vendors, or other third parties with which a Party has contracted, except to the extent that such delays or nonperformance were due to circumstances that would constitute "Force Majeure" as defined above; (b) mechanical or equipment breakdown or inability to operate unless caused by reason of Force Majeure; (c) changes in market conditions; (d) any labor strikes, slowdowns, work stoppages, or other labor disruptions limited only to a Party or a Party's Affiliates; (e) Seller's inability to obtain any credit or incentive in connection with the Facility, including any such inability that is attributable to any failure to meet placed-in-service or safe harbor provisions regardless of whether an event of Force Majeure may have caused or contributed to such failure, (f) the loss of Purchaser's markets or Purchaser's inability economically to use or resell any of the Power purchased hereunder, except to the extent that such loss of markets or inability to use or resell were due to circumstances that would constitute "Force Majeure" as defined above; (g) Purchaser's failure to contract for and reserve sufficient firm transmission capacity to deliver the Power to any transmission point(s) of receipt or any delivery point(s); (h) Seller's ability to sell Power to a market at a more advantageous price; or (i) Purchaser's ability to purchase Power in or from any market at a more advantageous price.

"**Forced Outage**" means any condition at the Facility that requires the immediate and unplanned removal of the Facility, or at least ten percent (10%) thereof, from service, another outage state, or a reserve shutdown state, resulting from immediate mechanical/electrical/hydraulic control system trips and operator-initiated trips in response to abnormal Facility conditions or alarms.

"**Governmental Authority**" means any federal, state, local or foreign government, or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations, or orders of such organization or authority have the force of Law), or any arbitrator, court, or tribunal of competent

jurisdiction. References to "Governmental Authority" shall exclude Seller except Seller is acting in a legislative or regulatory capacity as expressly authorized by Applicable Law.

"**Governmental Charges**" means any taxes, charges or costs that are assessed or levied by any Governmental Authority or other Person (other than charges imposed by any transmission provider), including local, state, or federal regulatory or taxing authorities that would affect the sale and purchase of Power contemplated by this PPA, either directly or indirectly.

"**Indemnified Party**" shall have the meaning set forth in Section 16.1.

"**Indemnifying Party**" shall have the meaning set forth in Section 16.1.

"**Interest Rate**" means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day, on the most recent preceding day on which published), plus two percent (2%), and (b) the maximum rate permitted by Applicable Law.

"**ISO**" means an independent system operator or regional transmission organization that coordinates, controls and monitors the operation of a public electrical power system or any similar operator or organization created by Applicable Law after the date of this PPA.

"**Justness or Reasonableness Conditions**" shall have the meaning set forth in Section 18.4.

"**Lender**" means any commercial bank, investment bank or trustee under Financing Documents that makes a loan to or extends other credit in favor of Purchaser.

"**MEA Avoided Cost Rate**" means the rate (in $/MWh) as filed by Purchaser with the RCA in MEA Tariff Sheet No. 107, Line J or its successor.

"**MEA Portion**" shall have the meaning set forth in the recitals to this Agreement.

"**ML&P**" means Municipal Light and Power, an electric utility that, as of the Effective Date, is owned and operated by Seller and serves customers in the Municipality of Anchorage, Alaska.

"**Moody's**" means Moody's Investors Services, Inc.

"**Mortgage**" means the Amended and Restated Open End Mortgage and Security Agreement, dated as of June 11, 2012, by and among Purchaser, as Mortgagor, National Rural Utilities Cooperative Finance Corporation, as Mortgagee, and National Cooperative Services Corporation, as Mortgagee, as the same has been or may be amended or supplemented from time to time.

"**Mortgagees**" means, collectively, National Rural Utilities Cooperative Finance Corporation, as Mortgagee under the Mortgage, and National Cooperative Services Corporation, as Mortgagee under the Mortgage.

"**Net Book Value**" means, for purposes of determining the Purchase Price for the MEA Portion, gross plant in service (including customer-contributed plant) at original cost, less accumulated depreciation and amortization.

"**Notice**" shall have the meaning set forth in Section 18.1.

"**Operating Committee**" shall mean the "Eklutna Operating Committee" or "EOC" set forth in the Operations Agreement.

"**Operating Records**" means all agreements associated with the Facility, operating logs, blueprints for construction, operating manuals, all warranties on equipment, and all documents, whether in printed or electronic format, that Seller uses or maintains for the operation of the Facility.

"**Operations Agreement**" means the Eklutna Purchasers Manner of Acting, Functional Responsibilities, and Staffing, attached as Exhibit E to the Transition Plan, as the same has been or may be amended or supplemented from time to time.

"**Owners**" means the owners of the Facility. As of the Effective Date, the Owners are Seller (with respect to the Seller's Interest), Purchaser (with respect to the Purchaser's Interest), and Chugach (with respect to the remaining 9/30 (30.0%) undivided ownership interest in the Facility).

"**Party**" and "**Parties**" shall have the meanings set forth in the introductory paragraph.

"**Permit(s)**" means all applicable construction, land use, air quality, emissions control, environmental and other permits, licenses and approvals from any Governmental Authority required under Applicable Laws for construction, ownership, operation and maintenance of the Facility and the generation and delivery of any output from the Facility to Purchaser.

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

"**Planned Outage**" means any planned outage of the Facility or any portion thereof that is required for maintenance purposes.

"**Power**" shall have the meaning set forth in Section 6.1(A).

"**PPA Contingencies**" shall have the meaning set forth in Section 3.1.

"**Prudent Utility Practice**" means any applicable practices, methods, and acts engaged in or approved by a significant portion of (a) as to Seller, the hydroelectric generating industry in the United States of America, or (b) as to Purchaser, the electric utility industry in the United States of America, during the relevant time period, or the practices, methods and acts which, in the exercise of reasonable judgment by a prudent hydroelectric generator operator (or prudent utility operator, if applicable to Purchaser) in light of the facts known or which should reasonably have been known at the time the decision was made, could have been expected to

accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, expedition and the requirements of any governing authority having jurisdiction. Without limitation of the foregoing, "Prudent Utility Practice" shall include the applicable operating policies, standards, criteria, or guidelines of any applicable governing authority and any manufacturer of a component of the Project. "Prudent Utility Practice" is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to the acceptable practices, methods or acts generally accepted (a) as to Seller, by the hydroelectric energy electric generating industry in the United States of America or (b) as to Purchaser, by the electric utility industry in the United States of America.

"**Purchase Option**" shall have the meaning set forth in Section 17.3.

"**Purchase Price**" means the Net Book Value of the MEA Portion as of the last day of the Term.

"**Purchaser**" shall have the meaning set forth in the first paragraph of this PPA.

"**Purchaser's Interest**" shall have the meaning set forth in the recitals to this PPA.

"**RCA**" shall have the meaning set forth in Section 18.11.

"**RCA PPA Approval**" shall have the meaning set forth in Section 18.11.

"**REC Registration Program**" means any state, regional or federal program established to register Eligible Energy Resources and create and certify renewable energy certificates arising from energy generated from such Resource, including any rights associated with any renewable energy information or tracking system that exists or may be established by Applicable Law with regard to monitoring, registering, tracking, certifying, or trading such credits.

"**Replacement Price**" means the price at which Purchaser, acting in a commercially reasonable manner, purchases a replacement for any scheduled Power not delivered by Seller, plus (i) costs reasonably incurred by Purchaser in purchasing such substitute Power and (ii) additional transmission charges, if any, reasonably incurred by Purchaser to the Delivery Point, or, absent a purchase, the market price for such Power not delivered as determined by Purchaser in a commercially reasonable manner; *provided, however*, in no event will the Replacement Price include any penalties, ratcheted demand or similar charges, nor will Purchaser be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller's liability.

"**S&P**" means the Standard & Poor's Rating Group, a division of The McGraw-Hill Companies.

"**Sales Price**" means the price at which Seller, acting in a commercially reasonable manner, resells any scheduled Power not received by Purchaser, deducting from such proceeds any (i) costs reasonably incurred by Seller in reselling such Power and (ii) additional transmission charges, if any, reasonably incurred by Seller in delivering such Power to the third party purchasers, or, absent a sale (assuming that a sale could have been made by Seller with the

exercise of commercially reasonable efforts), the market price for such scheduled Power as determined by Seller in a commercially reasonable manner; *provided, however*, if Seller is unable after using commercially reasonable efforts to resell all or a portion of the Power not received by Purchaser, the Sales Price with respect to such Power will be deemed equal to zero; *provided, further*, in no event will the Sales Price include any penalties, ratcheted demand or similar charges, nor will Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Purchaser's liability.

"**Scheduled Termination Date**" means the last day of the calendar month thirty-five (35) years after the Commencement Date.

"**Seller**" shall have the meaning set forth in the first paragraph of this PPA.

"**Seller Security Interest**" shall have the meaning set forth in Section 18.14(B).

"**Seller's Interest**" shall have the meaning set forth in the recitals to this PPA.

"**Seller's Representative**" shall have the meaning set forth in Section 4.2.

"**Site**" means the parcel of real property on which the Facility is constructed and located, including any easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the operation and maintenance of the Facility. The Site is more specifically described in Exhibit B to this PPA.

"**Tax Benefits**" means any and all (i) tax credits based on ownership of, investment in or energy production from the Facility or any portion thereof, (ii) grants based on ownership of, investment in or energy production from the Facility or any portion thereof, including the grant described in Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 and (iii) other tax benefits, including depreciation and other cost recovery deductions, arising in connection with ownership of, investment in, or operation of the Facility, or any portion thereof, in each case allocated, allowed, allowable, assigned, awarded, certified or otherwise transferred or granted to Seller or Purchaser by any Governmental Authority in any jurisdiction in connection with the Facility.

"**Term**" means the period of time during which this PPA shall remain in full force and effect as further defined in Section 3.3 and as may be extended pursuant to Section 17.3.

"**Term Extension**" shall have the meaning set forth in Section 17.3.

"**Transition Plan**" means the 1996 Eklutna Hydroelectric Project Transition Plan dated May 28, 1996 by and among the United States of America d/b/a Alaska Power Administration, a unit of the Department of Energy, and the Owners, as the same has been amended and extended by the Extension Agreement, including the exhibits to such agreement, and as the same may be amended or supplemented from time to time.

"**UCC**" means the Uniform Commercial Code of the State of Alaska.

EXHIBIT B

FACILITY DESCRIPTION AND SITE MAPS

Eklutna Purchase Agreement
Exhibit A

August 2, 1989
Page 1 of 2

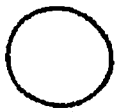
Lands, Easements and Rights-of-Way

Exhibit A consists of this narrative (pages 1 and 2 of 2) and the map prepared by BLM, signed and dated February 3, 1989.

This exhibit describes and displays present land status for the Eklutna Hydroelectric Project and describes in general terms the conveyances of land and land rights contemplated in the purchase agreement.

1. BLM - managed lands and military lands used for Eklutna Project for which BLM is to provide APAd rights-of-way sufficient for operation, maintenance, repair and replacement of Eklutna facilities, such rights-of-way to be assigned by APAd to the Purchasers.

   Legend Symbols and Description.



   Withdrawals. Refers to approximately 863 acres of public lands withdrawn for Eklutna at the "Intake Area," "Power Tunnel," "Eklutna Powerplant" and "Anchorage Substation." The total acreage is comprised of the following land:

   a. Approximately 320 acres withdrawn for the "Power Tunnel" under Public Land Order 1231 dated September 28, 1955.

   b. Approximately 230 acres utilized for the "Intake Area" and approximately 60 acres for a portion of "Eklutna Powerplant" as described by ANCSA 3(e) determination AA-51183 dated July 30, 1986.

   c. Approximately 243 acres utilized for "Eklutna Powerplant" as described by ANCSA 3(e) determination AA-42534 dated September 1, 1982.

   d. Approximately 10 acres withdrawn for "Anchorage Substation" under Secretarial Order dated April 4, 1952.

   State Land-R/W. Refers to rights-of-way across State-selected lands covering the transmission line east of "Eklutna Powerplant" to the Knik River.

   Military Land-R/W. Refers to rights-of-way across military lands used for Eklutna transmission lines.

Acquired-3(e). Refers to approximately 2.5 acres of acquired land used for "Reed Substation" as described by ANCSA 3(e) determination AA-45155 dated July 30, 1985.

2. ANCSA 17(b) Easements.

Map symbol: Native Land - 17(b) Easements.

Refers to rights-of-way that are reserved for portions of the 115kV transmission line, access roads and other Eklutna facilities located on Native corporation lands, and exist as easement reservations in the ANCSA conveyances to the Native corporations pursuant to Section 17(b) of ANCSA. These easements will not be altered by the sale of Eklutna and the Purchasers may use these easements for their intended purposes.

3. APAd Acquired Land and Easements.

Refers to land and easements acquired by the Bureau of Reclamation (predecessor of APAd) during construction of Eklutna and now controlled by APAd. APAd will assign the land and easements to the Purchasers.

Legend Symbols and Description:

Acquired. Refers to approximately 0.8 acres of land owned by APAd at Palmer Substation.

Acquired-Easements. Refers to approximately 33 easements across private lands acquired by the Bureau of Reclamation (predecessor of APAd) and now held by APAd.

4. Other Easements on Private Land.

Map [Symbol]: Note: Other Easements on Private Lands To Be Acquired - See Exhibit A Narrative

Refers to approximately two hundred and fifty (250) parcels of private land located along the 115kV transmission line, many of which require title curative action for purposes of perfecting assignable easement rights or rights-of-way for the Purchasers. APAd shall be responsible for acquiring assignable easement rights or rights-of-way across these lands, for subsequent assignment to Purchasers.

5. Reservoir.

Eklutna Lake as designated on the map is the ~~Exhibit~~ Reservoir described in the body of the Agreement.

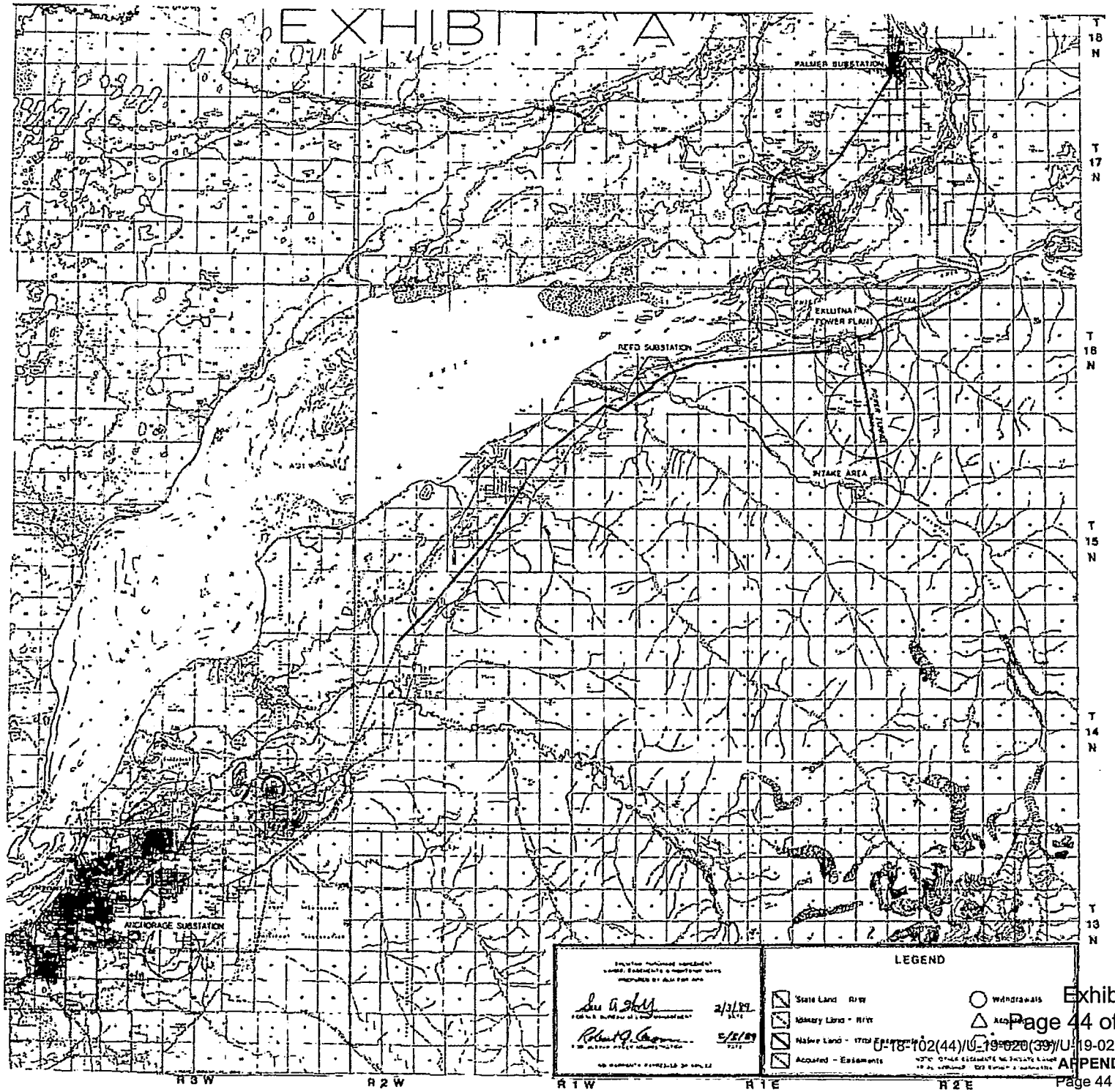


EXHIBIT "A"
PALMER SUBSTATION
EKLUTNA POWER PLANT
REED SUBSTATION
INTAKE AREA
ANCHORAGE SUBSTATION
T 18 N
T 17 N
T 16 N
T 15 N
T 14 N
T 13 N
R 3 W
R 2 W
R 1 W
R 1 E
R 2 E
LEGEND
State Land - R/W
Military Land - R/W
Native Land - R/W
Acquired - Easements
Withdrawals
2/3/89
5/5/89

EXHIBIT C

CONTRACT PRICE

The Contract Price during each year of the Term will be a fixed dollar amount for each MWh (or portion thereof) of Power delivered from the MEA Portion to the Delivery Point. The Contract Price during the first year of the Term will be an amount equal to 85% of the MEA Avoided Cost Rate effective on January 1 of the first year of the Term. The Contract Price will escalate at the rate of one percent (1%) on January 1 of each year of the Term thereafter; *provided, however*, that the Contract Price will reset on January 1 of every third year during the Term to 85% of the then effective MEA Avoided Cost Rate.

EXHIBIT D

FORM OF CFC SUBORDINATION AGREEMENT

SUBORDINATION AGREEMENT

This **SUBORDINATION AGREEMENT** (this "Agreement") dated as of _____, 2019, is by and between:

NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION, a cooperative association organized and existing under the laws of the District of Columbia ("CFC"), and **NATIONAL COOPERATIVE SERVICES CORPORATION**, a cooperative association organized and existing under the laws of the District of Columbia ("NCSC," and together with CFC, "Subordinated Creditor"); and

MUNICIPALITY OF ANCHORAGE, a political subdivision organized under the laws of the State of Alaska ("Senior Creditor," and together with Subordinated Creditor, the "Parties" and each a "Party").

W I T N E S E T H T H A T:

Pursuant to the Amended and Restated Open End Mortgage and Security Agreement, dated as of June 11, 2012, by and among **MATANUSKA ELECTRIC ASSOCIATION, INC.**, an Alaska not-for-profit electric cooperative corporation ("MEA"), as mortgagor, and CFC and NCSC, as mortgagees, as the same has been or may be amended or supplemented from time to time, including without limitation by that certain Modification dated June 20, 2013 and Second Modification dated October 2, 2014 (the "Mortgage"), MEA has granted a security interest to Subordinated Creditor in certain of MEA's real and personal property (including after-acquired property) as security for loans by CFC and NCSC, evidenced by certain promissory notes (referred to as "Notes" under the Mortgage, and hereunder as the "Notes") and loan agreements (referred to collectively as the "Loan Agreement" under the Mortgage, and hereunder as the "Loan Agreement").

Pursuant to the Eklutna Power Purchase Agreement, dated as of _____, 2019, between MEA and Senior Creditor, as the same has been or may be amended or supplemented from time to time (the "PPA"),[1] and solely as a precaution in the event that the PPA should be construed as a secured financing such that MEA shall be deemed to have acquired title to the MEA Portion at any time (other than by exercise of the Purchase Option under Section 17.3 of the PPA) (a "Title Transfer Ruling"), MEA has a granted a senior, first priority purchase money lien on and security interest to Senior Creditor in and to, and right of set-off with respect to, all right, title, and interest of MEA in and to the MEA Portion, including all right, title, and interest in and to any Power attributable to the MEA Portion, except as and to the extent that such Power is delivered to MEA at the Delivery Point under and in accordance with the express provisions of

[1] Pursuant to Section 1.5 below, capitalized terms used but not defined in the body of this Agreement are from the PPA, a copy of which is attached as Exhibit "A" hereto.

the PPA, and all proceeds thereof (collectively, the "Collateral, and such senior, first priority purchase money lien on and security interest in and to the Collateral, the "Seller Security Interest"), as security for the prompt payment and performance of all obligations of MEA under the PPA, including the payment of the Contract Price to Senior Creditor.

As a condition precedent to the effectiveness of the PPA (and referred to as a "PPA Contingency" under Section 3.1 thereof), and in order to induce Senior Creditor to enter into the PPA and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Subordinated Creditor hereby agrees with Senior Creditor that, so long as any Senior Indebtedness (as hereinafter defined) is outstanding, each Party shall comply with such of the following provisions as are applicable to it.

1. Certain Definitions.

1.1 Insolvency Proceeding. The term "Insolvency Proceeding" shall mean any voluntary or involuntary dissolution, winding-up, total or partial liquidation, reorganization or bankruptcy, insolvency, receivership or other statutory or common law proceedings involving MEA or any assignment by MEA for the benefit of creditors (an "ABC") or any marshalling of the assets or liabilities of MEA.

1.2 Senior Indebtedness. The term "Senior Indebtedness" shall mean any and all indebtedness, obligations and liabilities, now existing or hereafter arising, direct or contingent, of MEA now or hereafter owing to Senior Creditor, outstanding from time to time, pursuant to, in connection with or related to the PPA, the Seller Security Interest, and any related security agreements, instruments and financing statements (collectively, the "Senior Agreements"), whether accrued and owing prior to, during or following any Insolvency Proceeding, together with interest thereon and all fees, expenses and other amounts (including costs of collection and reasonable attorneys' fees) at any time owing to Senior Creditor, and which the Parties agree shall expressly include without limitation the Net Present Value (as determined under Section 1.2(c) below) of any and all amounts due as the Contract Price during the entirety of the Term of the PPA through the Scheduled Termination Date that have not yet been paid at the time of determination. All Senior Indebtedness shall be entitled to the benefits of this Agreement without notice thereof being given to Subordinated Creditor.

For the purpose of calculating the outstanding balance of Senior Indebtedness:

(a) The above definition shall apply regardless of the terms of any Title Transfer Ruling, the extent to which the PPA or the Seller Security Interest is enforceable against MEA or the Collateral, or the extent to which such amounts are allowed as claims against MEA or its bankruptcy, receivership or ABC estate in any Insolvency Proceeding, and shall include any interest accruing on the Senior Indebtedness after the commencement of any Insolvency Proceeding and any other interest that would have accrued thereon but for the commencement of such Insolvency Proceeding.

(b) In the event that all or any part of payment of the Senior Indebtedness is rescinded or recovered directly or indirectly from Senior Creditor as a preference,

fraudulent transfer or otherwise (whether by demand, settlement, litigation or otherwise), such rescinded or recovered payments shall constitute Senior Indebtedness for all purposes hereunder and the obligations of Subordinated Creditor hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, as to such rescinded or recovered amounts.

(c) For the purpose of determining the "Net Present Value" of the Contract Price during the entirety of the Term, as provided above:

(i) the PPA shall be presumed not to have been terminated prior to the Scheduled Termination Date, and the Term shall be calculated through the Scheduled Termination Date as if a Title Transfer Ruling had not occurred;

(ii) the calculation of the Contract Price (pursuant to Exhibit C of the PPA) for portions of the Term that have not yet occurred, as of the date of determination, shall be based on average daily deliveries of Power during the most recently completed twelve (12) calendar months prior to such determination date;

(iii) the annual escalation of the Contract Price (pursuant to such Exhibit C) shall be applied for portions of the Term that have not yet occurred based on the Contract Price then in effect on such determination date, but (notwithstanding the proviso in such Exhibit C) there shall be no resettings of the Contract Price for such future portions of the Term based on any projected changes in the MEA Avoided Cost Rate; and

(iv) the applicable discount rate for Contract Price payments during such future portions of the Term shall be determined based on the return on investments comparable to the MEA Portion as of the date the PPA was executed, it being acknowledged and agreed by the Parties that a risk-adjusted rate for damages claims from the breach of a long-term power purchase agreement is inappropriate for calculating the Senior Indebtedness hereunder and shall not adequately compensate Senior Creditor for the risk of loss of ownership of the MEA Portion through a Title Transfer Ruling.

1.3 Subordinated Indebtedness. The term "Subordinated Indebtedness" shall mean all existing and hereafter arising indebtedness, obligations and liabilities of MEA to Subordinated Creditor, whether direct or contingent, including all rights of subrogation, reimbursement, or contribution against MEA which might arise by reason of such Subordinated Creditor's execution or performance of this Agreement, and all claims, rights, causes of action, judgments and decrees in respect of the foregoing, including, without limitation:

(a) all indebtedness and obligations under the Notes and the Loan Agreement;

(b) all indebtedness and obligations under any financing provided to MEA by Subordinated Creditor (whether by CFC and/or NCSC, together or separately) in connection with or during any Insolvency Proceeding ("Bankruptcy Financing"); and

(c) the obligations of each party (other than Subordinated Creditor) to, under or in respect of the Mortgage (including without limitation any replacement liens, substitute collateral or other adequate protection granted to Subordinated Creditor for the Mortgage in any Insolvency Proceeding), any liens or security interests securing the Bankruptcy Financing and any other agreement or instrument securing or guaranteeing any of MEA's obligations to Subordinated Creditor (the "Subordinated Security Documents") under the Notes, the Loan Agreement and any Bankruptcy Financing (the Notes, the Loan Agreement, the Bankruptcy Financing and the Subordinated Security Documents and any other agreements evidencing or relating to Subordinated Indebtedness being hereinafter collectively referred to as the "Subordinated Agreements").

For the purposes hereof, the term "Subordinated Creditor" shall mean Subordinated Creditor as named in the preamble to this Agreement, its successors and assigns, and any and all assignees or holders of Subordinated Indebtedness.

1.4 Collateral. Collateral, as used herein, shall include any property subject to replacement liens, any substitute collateral and any other adequate protection granted with respect to the Collateral in any Insolvency Proceeding, and any proceeds thereof.

1.5 Other Capitalized Terms from the PPA. Except as otherwise specified herein, capitalized terms used in this Agreement but not defined in the body hereof are from the PPA, a copy of which is attached as Exhibit "A" hereto.

2. Terms of Subordination.

2.1 Payment and Liens Subordinated. (a) Anything in the Subordinated Agreements to the contrary notwithstanding, except for payments of the Subordinated Indebtedness expressly permitted by the terms hereof:

(i) The payment of the Subordinated Indebtedness from the Collateral or any proceeds thereof is and shall be expressly subordinate and junior in right of payment and exercise of remedies to the prior indefeasible payment in full in cash of the Senior Indebtedness;

(ii) The Subordinated Indebtedness is hereby subordinated as a claim against the Collateral, whether such claim be (A) in the event of any distribution of the assets of MEA in any Insolvency Proceeding or (B) other than in connection with an Insolvency Proceeding, to the prior indefeasible payment in full in cash of the Senior Indebtedness;

(iii) Except as expressly permitted by the terms hereof or unless Senior Creditor shall otherwise consent in writing, MEA shall not make, and no holder of Subordinated Indebtedness shall demand, accept or receive, any payment from the Collateral or any proceeds thereof until all the Senior Indebtedness has been indefeasibly paid in full in cash; and

(iv) In the event that, notwithstanding the foregoing, any payment or distribution of the Collateral or any proceeds thereof of any kind or character, whether in cash, property or securities, shall be received by a holder of Subordinated Indebtedness in violation of the foregoing provisions before all Senior Indebtedness is indefeasibly paid in full in cash, such holder shall hold

in trust and immediately pay over such payment or distribution to Senior Creditor or the holder of the Senior Indebtedness, for application to the payment of all Senior Indebtedness remaining unpaid until all Senior Indebtedness shall have been indefeasibly paid in full in cash, after giving effect to any concurrent payment or distribution to the holders of Senior Indebtedness.

(b) Except for payments expressly permitted by the terms hereof, Subordinated Creditor hereby subordinates and makes junior any liens and security interests in the Collateral that are or may be created by the Subordinated Agreements (including without limitation any liens in after-acquired property of MEA), any obligations of MEA under the Subordinated Agreements with respect to such liens and security interests, and all rights, remedies, terms and covenants related to such liens and security interests to (i) the Senior Indebtedness, (ii) the Seller Security Interest, (iii) all of the terms, covenants, conditions, rights and remedies contained in the Senior Agreements, and (iv) all rights of Senior Creditor under this Agreement.

(c) No amendments, modifications, supplements, extensions, renewals, restatements, replacements or refinancings of either the Senior Indebtedness or the Subordinated Indebtenedess, or of the Senior Agreements or the Subordinated Agreements, nor any action or inaction which Senior Creditor or Subordinated Creditor may take or fail to take in respect of the Collateral, shall affect the subordination set forth herein.

(d) In furtherance thereof, Subordinated Creditor hereby acknowledges and agrees that notwithstanding the relative times and method of attachment or perfection thereof (or any failure to perfect) or the order of filing of any financing statement, mortgage, deed of trust or other perfection document, or anything in the Subordinated Agreements to the contrary, Senior Creditor's interest in the Collateral to the extent of the Senior Indebtedness shall, in all respects, be a first priority and senior security interest and lien, superior to any security interests and liens granted or to be granted to Subordinated Creditor in the Collateral pursuant to the Subordinated Agreements or otherwise (including without limitation in any Insolvency Proceeding), it being the express intention of the parties that, notwithstanding anything in this Agreement to the contrary, all liens and security interests granted to Senior Creditor in the Collateral from time to time, whether previously or hereafter, shall be prior and superior to any liens or security interests granted to Subordinated Creditor in the Collateral. Furthermore, Subordinated Creditor shall not in any manner interfere with the security interests in and liens on the Collateral in favor of Senior Creditor, unless and until Senior Creditor advises Subordinated Creditor that MEA has satisfied in full in cash the Senior Indebtedness and that Senior Creditor has terminated its security interests in and liens on the Collateral.

(e) In foreclosing on Senior Creditor's security interests and liens in the Collateral, so long as Senior Creditor proceeds in a commercially reasonable manner, Senior Creditor may proceed to foreclose on Senior Creditor's security interests and liens in any manner which Senior Creditor, in its sole discretion, chooses, even though a higher price might have been realized if Senior Creditor had proceeded to foreclose on Senior Creditor's security interests and liens in another manner.

2.2 Attorneys-in-Fact; Permitted Subordinated Creditor Actions.

(a) Attorneys-in-Fact. Subordinated Creditor, for itself and its successors and assigns, hereby irrevocably authorizes and directs Senior Creditor and any trustee in bankruptcy, receiver, custodian or assignee for the benefit of creditors of MEA in any Insolvency Proceeding, on Subordinated Creditor's behalf to take such action as may be necessary or appropriate to effectuate the subordination provided for in this Agreement and irrevocably appoints, which appointment is coupled with an interest, upon any Event of Default under the Senior Agreements and during the continuance thereof or any failure to comply with the terms of this Agreement, Senior Creditor and any such trustee, receiver, custodian or assignee, its attorneys-in-fact for such purpose with full powers of substitution and revocation.

(b) Permitted Subordinated Creditor Actions. With respect to the Collateral, Subordinated Creditor may, so long as any such actions do not contravene the rights of Senior Creditor hereunder:

(i) If an Insolvency Proceeding has been commenced by or against MEA, file a claim or statement of interest with respect to the Subordinated Indebtedness and take any other actions necessary vis-à-vis unsecured creditors to preserve its claim rights and lien rights;

(ii) Take any action (not adverse to the priority status of the liens on the Collateral securing the Senior Indebtedness, or the rights of Senior Creditor to exercise any remedies under the Senior Agreements, this Agreement or at law) in order to create or perfect its lien in and to the Collateral;

(iii) File any necessary responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding, or other pleading made by any Person objecting to or otherwise seeking the disallowance of the claims of Subordinated Creditor, including any claims secured by the Collateral, if any;

(iv) Vote on any plan of reorganization and make any filings and motions that are, in each case, in accordance with, the terms of this Agreement, with respect to the Subordinated Indebtedness and the Collateral;

(v) Join (but not exercise any control with respect to) any judicial foreclosure proceeding or other judicial lien enforcement proceeding with respect to the Collateral initiated by Senior Creditor to the extent that any such action could not reasonably be expected, in any material respect, to restrain, hinder, limit, delay for any material period or otherwise interfere with the exercise of remedies under the Senior Agreements, this Agreement or at law by Senior Creditor (it being understood that Subordinated Creditor shall not be entitled to receive any proceeds thereof until the Senior Indebtedness is paid in full in cash or unless otherwise expressly permitted herein); and/or

(vi) Bid for or purchase Collateral at any public, private, or judicial foreclosure upon such Collateral initiated by Senior Creditor, or any sale of Collateral during an Insolvency Proceeding.

2.3 Effect of Provisions. The provisions hereof as to subordination are solely for the purpose of defining the relative rights of the holders of Senior Indebtedness on the one hand, and the holders of the Subordinated Indebtedness on the other hand, and none of such provisions shall impair, as between MEA and the holders of its Subordinated Indebtedness, the obligations of MEA, which are unconditional and absolute, to pay to such holders all of the Subordinated Indebtedness in accordance with the terms thereof, nor, except as provided in Section 2.4 (Exercise of Remedies by Subordinated Creditor) below, shall any such provisions prevent the holders of Subordinated Indebtedness from exercising all remedies otherwise permitted by applicable law or under the terms of such Subordinated Indebtedness upon a default thereunder, subject to the rights, if any, of the holders of Senior Indebtedness under the provisions of this Agreement.

2.4 Exercise of Remedies by Subordinated Creditor.

2.4.1 Exclusive Enforcement Rights. Until the indefeasible payment in full, in cash, of the Senior Indebtedness has occurred, whether or not any Insolvency Proceeding has been commenced by or against MEA, Senior Creditor shall have the exclusive right to exercise any rights and remedies with respect to the Collateral without any consultation with or the consent of Subordinated Creditor; provided, that any liens securing the Subordinated Indebtedness may attach to the proceeds of such Collateral released or disposed of, subject to the relative priorities described in Section 2.1. In connection with any exercise of rights or remedies, Senior Creditor may enforce the provisions of the Senior Agreements and this Agreement and exercise any remedies thereunder, all in such order and in such manner as Senior Creditor may determine at its sole option. Such exercise and enforcement shall include the rights of an agent appointed by Senior Creditor to dispose of Collateral, to incur expenses in connection with such disposition, and to exercise all the rights and remedies of a secured creditor under applicable law.

2.4.2 Retention of Proceeds. Subordinated Creditor shall not be permitted to retain any proceeds of Collateral in connection with any exercise of rights and remedies in any circumstance unless and until the Senior Indebtedness has been indefeasibly paid in full in cash.

2.4.3 Non-Interference. Subject to Section 2.2(b), Subordinated Creditor hereby:

(a) agrees that Subordinated Creditor shall not, directly or indirectly, take any action that would restrain, hinder, limit, delay, or otherwise interfere with any exercise of rights and remedies by Senior Creditor with respect to the Collateral, or that is otherwise prohibited hereunder, including any disposition of the Collateral, whether by enforcement, foreclosure or otherwise, and that it shall not oppose any motion filed or supported by Senior Creditor in any Insolvency Proceeding for relief from stay or for adequate protection in respect of its interest in the Collateral;

(b) waives any and all rights it may have as a junior lien creditor or otherwise, directly or indirectly, to object to the manner in which Senior Creditor seeks to enforce the Seller Security Interest or any other liens or security interests of Senior Creditor in the Collateral, regardless of whether any action or failure to act by or on behalf of Senior Creditor is adverse to the interest of Subordinated Creditor; and

(c) acknowledges and agrees that no covenant, agreement or restriction contained in the Subordinated Agreements shall be deemed to restrict in any way the

rights and remedies of Senior Creditor with respect to the Collateral as set forth in this Agreement and the Senior Agreements.

2.4.4 Unsecured Creditor Remedies. In the event that Subordinated Creditor becomes an execution creditor with a lien or a judgment lien creditor in respect of the Collateral as a result of its enforcement of its rights as an unsecured creditor with respect to the Subordinated Indebtedness, such lien shall be subject to the same terms of this Agreement for all purposes as apply hereunder to the other liens securing the Subordinated Indebtedness.

2.5 Agreements Relating to Collateral. Unless and until such time as the Senior Indebtedness has been paid in full, in cash:

(a) Subordinated Creditor shall have no right to participate in the adjustment or settlement of any insurance losses or condemnation claims with respect to the Collateral; provided that (i) Subordinated Creditor may participate in any such losses or claims that exceed the amount of the outstanding balance of the Senior Indebtedness and after payment in full of such outstanding balance, and (ii) any such participation by Subordinated Creditor is subject to Section 2.1 hereof.

(b) Subordinated Creditor hereby agrees, upon the request and at the direction of Senior Creditor, to endorse in favor of Senior Creditor any and all checks payable to Subordinated Creditor which represent insurance and/or condemnation proceeds paid for claims relating to the Collateral in any manner.

(c) Subordinated Creditor agrees, upon request by Senior Creditor, to assign to Senior Creditor any and all insurance proceeds and condemnation awards payable to Subordinated Creditor for claims relating to the Collateral, to the full extent of the outstanding balance of the Senior Indebtedness.

(d) Subordinated Creditor hereby appoints Senior Creditor as Subordinated Creditor's attorney-in-fact to settle all insurance and/or condemnation claims relating to the Collateral and to receive all payments and endorse all checks with respect to such claims to the full extent of the Senior Indebtedness; provided that (i) Subordinated Creditor may participate in any such claims that exceed the amount of the outstanding balance of the Senior Indebtedness and after payment in full of such outstanding balance, and (ii) any such participation by Subordinated Creditor is subject to Section 2.1 hereof.

(e) Subordinated Creditor shall have no right to possession of any portion of the Collateral or to foreclose upon any portion of the Collateral, whether by judicial action or otherwise, unless and until all of the Senior Indebtedness shall have been paid in full, in cash, and except as otherwise provided in Section 2.2(b) (Permitted Subordinated Creditor Actions).

(f) Senior Creditor shall provide prompt notice to Subordinated Creditor that a Title Transfer Ruling has occurred.

3. **Marshaling.** Subordinated Creditor, for itself and its successors and assigns, hereby expressly waives any right that it otherwise might have to require Senior Creditor or the holders of Senior Indebtedness to marshal any of the property of MEA or any guarantor (if any) of the Senior Indebtedness, to resort to Collateral in any particular order or manner, whether provided for by common law or statute, or to enforce any guaranty or any lien given by MEA as a condition precedent or concurrent to the exercise of any of their remedies.

4. **Additional Rights of Senior Creditor.** If Subordinated Creditor, in violation of this Agreement, shall commence, prosecute or participate in any suit, action or proceeding against MEA with respect to the Collateral. MEA may interpose as a defense or plea the making of this Agreement and Senior Creditor may intervene and interpose such defense or plea in Senior Creditor's name or in the name of MEA. If Subordinated Creditor, in violation of this Agreement, shall attempt to enforce any security agreement, real estate mortgage, deed of trust, guaranty, lien instrument or other encumbrance with respect to the Collateral, Senior Creditor may by virtue of this Agreement restrain the enforcement thereof in Senior Creditor's name or in the name of MEA.

5. **Waivers.** Subordinated Creditor hereby expressly waives: (a) the right to receive notice of the demand by Senior Creditor against MEA for observance or performance of, or enforcement of, any terms or provisions of the Senior Agreements; (b) all other notices and demands otherwise required by law with respect to the Collateral or the Seller Security Interest which Subordinated Creditor may lawfully waive; (c) all rights (statutory or otherwise) that require Senior Creditor to make an election of remedies where Senior Creditor holds security interests and liens in Collateral that consists of different types of property of MEA or to take recourse first or solely against any particular Collateral securing the Senior Agreements; (d) all rights (statutory or otherwise) that restrict, affect or impair the rights or remedies of Senior Creditor to collect any deficiency after the application to the Senior Indebtedness of any proceeds arising from foreclosure on the Collateral; (e) any defense based on the adequacy of a remedy at law which might be asserted as a bar to the remedy of specific performance of this Agreement in any action brought therefor by any Party hereto, and (f) so long as this Agreement remains in effect, the benefit of all other principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof.

6. **Indulgences Not Waivers.** Neither the failure nor any delay on the part of Senior Creditor or Subordinated Creditor to exercise any right, remedy, power or privilege hereunder shall operate as a waiver thereof or give rise to an estoppel, nor be construed as an agreement to modify the terms of this Agreement, nor shall any single or partial exercise of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver by a Party hereunder shall be effective unless it is in writing and signed by the Party making such waiver, and then only to the extent specifically stated in such writing.

7. **Covenant Not to Challenge.** This Agreement has been negotiated by the parties with the expectation and in reliance upon the assumption that the instruments and documents evidencing the Senior Indebtedness and the Subordinated Indebtedness are valid and enforceable. In determining whether to enter into this Agreement, Subordinated Creditor, on the one hand, and Senior Creditor, on the other hand, have assumed such validity and enforceability, and have agreed

to the provisions contained herein, without relying upon any reservation of a right to challenge or call into question such validity or enforceability. As between Subordinated Creditor, on the one hand, and Senior Creditor, on the other hand, such Parties hereby covenant and agree, to the fullest extent permitted by law, that neither Senior Creditor nor Subordinated Creditor shall initiate in any proceeding a challenge to the validity or enforceability of the documents and instruments evidencing or securing the Senior Indebtedness or the Subordinated Indebtedness, as applicable.

8. Effect of Bankruptcy. This Agreement is intended to be enforceable as a subordination agreement under Bankruptcy Code section 510 notwithstanding the commencement of any bankruptcy or other Insolvency Proceeding by or against MEA and, to the full extent permitted by law, shall apply with full force and effect to any indebtedness arising pursuant to debtor-in-possession financing arrangements or pursuant to financing arrangements entered into in connection with the confirmation of a plan of reorganization under Chapter 11 of the Bankruptcy Code.

9. Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (any of the foregoing, a "Notice") shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third Business Day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such Notices must be sent to the respective parties at the following addresses (or at such other address for a Party as shall be specified in a Notice given in accordance with this Section 9).

If to Senior Creditor:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 Facsimile: (907) 343-7180 Attention: William D. Falsey, Municipal Manager
with a copy to:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 Facsimile: (907) 343-4550 Attention: Rebecca A. Windt Pearson, Municipal Attorney
and a copy to:	K&L Gates LLP 925 Fourth Avenue, Suite 2900 Seattle, WA 98104-1158 Facsimile: (206) 370-6065 Attention: Eric E. Freedman

If to Subordinated Creditor: National Rural Utilities Cooperative Finance Corporation
20701 Cooperative Way
Dulles, VA 20166
Facsimile: 866-230-5635
Attention: General Counsel

and

National Cooperative Services Corporation
20701 Cooperative Way
Dulles, VA 20166
Facsimile: 866-230-5635
Attention: General Counsel

or, as to each Party, at such other address as shall be designated by such Party in a Notice to the other Party complying as to delivery with the terms of this Section.

10. Successors; Continuing Effect, Etc. This Agreement is being entered into for the benefit of Senior Creditor, Subordinated Creditor and the holders of the Senior Indebtedness and the Subordinated Indebtedness, and their respective successors and assigns. This Agreement shall be a continuing agreement and shall be irrevocable and shall remain in full force and effect so long as there are both Senior Indebtedness and Subordinated Indebtedness outstanding, *provided, however,* that this Agreement shall terminate as to Subordinated Creditor at such time as Senior Creditor provides the notice set forth in the last sentence of Section 2.1(d) hereof.

11. Entire Agreement; Amendment. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and no modification or waiver of any provision of this Agreement shall in any event be effective unless the same shall be in writing signed by Senior Creditor and Subordinated Creditor.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Alaska, without regard to conflict of law principles that would result in the application of the laws of any other jurisdiction.

13. Headings. The headings in this Agreement are for convenience of reference only and shall not alter or otherwise affect the meaning hereof.

14. CONSENT TO VENUE; WAIVER OF JURY TRIAL.

(a) VENUE AND SERVICE OF PROCESS. ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY MAY BE INSTITUTED IN THE SUPERIOR COURT OF THE STATE OF ALASKA IN THE THIRD JUDICIAL DISTRICT, LOCATED IN ANCHORAGE, ALASKA, OR THE UNITED STATES DISTRICT COURT LOCATED IN

ANCHORAGE, ALASKA. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURT AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(b) **WAIVER OF JURY TRIAL.** EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 14.

15. **Specific Enforcement.** The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity. The Parties acknowledge and agree that (A) the Parties shall be entitled to an injunction, specific performance or other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereto, without proof of damages, this being in addition to any other remedy to which they are entitled under this Agreement and (B) the right to specific enforcement is an integral part of the transactions contemplated by this Agreement and without that right, neither Party would have entered into this Agreement. Each Party agrees that it shall not oppose the granting of specific performance and other equitable relief on the basis that the other Party has an adequate remedy at law or that an award of specific performance is not an appropriate remedy for any reason at law or equity. The Parties acknowledge and agree that any Party seeking an injunction to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in accordance with this Section 15 shall not be required to provide any bond or other security in connection with any such injunction.

16. **No Third Party Beneficiaries.** This Agreement is solely for the benefit of Senior Creditor, Subordinated Creditor, and their respective successors and assigns, and neither MEA nor any other Person is intended to be a third party beneficiary hereunder or to have any right, benefit, priority or interest under, or because of the existence of, or to have any right to enforce, this

Agreement. Senior Creditor and Subordinated Creditor shall have the right to modify or terminate this Agreement at any time without notice to or approval of MEA or any other Person.

17. **Inconsistent or Conflicting Provisions.** In the event a provision of the documents evidencing or governing the Senior Indebtedness or the Subordinated Indebtedness is inconsistent or conflicts with the provisions of this Agreement, the provisions of this Agreement shall govern and prevail.

18. **Counterparts**. This Agreement may be executed and delivered in counterparts, including counterpart signatures delivered by telefacsimile or other electronic method of transmission (to be followed in due course by delivery of original signature counterparts, but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement), and shall be effective when each Party has delivered its counterpart signature, and all counterparts taken together shall be deemed a single original agreement.

19. **Recording.** This Agreement may be recorded by Senior Creditor in all recording offices in the State of Alaska in which the lien of the Mortgage has been recorded.

20. **Several Liability**. Each of CFC and NCSC shall be severally liable for all obligations of Subordinated Creditor hereunder, to the extent of its interest in the Subordinated Indebtedness, and shall comply with all obligations of Subordinated Creditor hereunder with respect to such interest.

The next page is a signature page

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under seal as of the day and year first above written.

SENIOR CREDITOR:

MUNICIPALITY OF ANCHORAGE, a political subdivision organized under the laws of the State of Alaska

By:_____
Name:_____
Title:_____

Exhibit D-14

SUBORDINATED CREDITOR:

NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION, a cooperative association incorporated under the laws of the District of Columbia

By:_____
Name:_____
Title:_____

NATIONAL COOPERATIVE SERVICES CORPORATION, a cooperative association incorporated under the laws of the District of Columbia

By:_____
Name:_____
Title:_____

ACKNOWLEDGED AND ACCEPTED AND AGREED TO BY MEA:

MEA hereby assents to the foregoing Subordination Agreement (and the terms thereof) and agrees to abide thereby and to keep, observe and perform the several matters and things therein intended to be kept, observed and performed by it, and specifically agrees not to make or permit to be made any payments or distributions with respect to the Collateral contrary to the intention and terms of such agreement.

Executed as of the
___th day of _____, 2019.

MEA:

MATANUSKA ELECTRIC ASSOCIATION, INC.,
an Alaska not-for-profit electric cooperative corporation

By:_____
Name:_____
Title:_____

EXHIBIT "A"

COPY OF PPA

See attached.

EXHIBIT TRZ-03

AGREEMENT

**AGREEMENT BETWEEN
THE MUNICIPALITY OF ANCHORAGE,
DBA ANCHORAGE MUNICIPAL LIGHT AND POWER,
CHUGACH ELECTRIC ASSOCIATION, INC.,
MATANUSKA ELECTRIC ASSOCIATION, INC.,
U.S. FISH AND WILDLIFE SERVICE,
NATIONAL MARINE FISHERIES SERVICE,
ALASKA ENERGY AUTHORITY,
AND THE
STATE OF ALASKA,
RELATIVE TO THE EKLUTNA AND SNETTISHAM
HYDROELECTRIC PROJECTS**

This Agreement is entered into on August 7, 1991, between The Municipality of Anchorage, dba, Anchorage Municipal Light and Power, Chugach Electric Association, Inc., and Matanuska Electric Association, Inc. (hereinafter collectively "Eklutna Purchasers"), the United States Fish and Wildlife Service (hereinafter "USFWS"), the National Marine Fisheries Service (hereinafter "NMFS"), the Alaska Energy Authority (hereinafter "AEA") and the State of Alaska (hereinafter "the State"), regarding protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat) affected by hydroelectric development of the Eklutna and Snettisham Projects. With respect to the implementation provisions called for in this Agreement, the Eklutna Purchasers will be responsible for the consultation, study and implementation provisions applicable to the Eklutna Project and AEA shall be responsible for the consultation, study and implementation provisions applicable to the Snettisham Project.

WITNESSETH THAT:

WHEREAS, subject to the approval of Congress, the Eklutna and Snettisham Projects will be transferred from the Federal Alaska Power Administration to the Eklutna Purchasers and AEA (collectively, "the Purchasers") without the necessity of their having to obtain a Federal Energy Regulatory Commission (FERC) License for project operation; and

WHEREAS, the Eklutna and Snettisham hydroelectric developments may have resulted in a yet to be quantified impact to fish and wildlife resources; and

WHEREAS, concerns have been expressed that without FERC licensing, there is no opportunity to determine the extent of that fish and wildlife impact, develop measures to protect, mitigate

damages to, and enhance fish and wildlife (including related spawning grounds and habitat), and implement fish and wildlife measures found to be in the public interest.

NOW THEREFORE, the parties agree as follows:

1. **FERC Licensing.**

NMFS, USFWS and the State agree that the following mechanism to develop and implement measures to protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat) obviate the need for the Eklutna Purchasers and AEA to obtain FERC licenses.

2. **Study Plan.**

The Purchasers agree to fund studies to examine, and quantify if possible, the impacts to fish and wildlife from the Eklutna and Snettisham Projects. The studies will also examine and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by such hydroelectric development. This examination shall consider the impact of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use, as well as available means to mitigate these impacts.

3. **Carrying Out The Study Plan.**

Study Plans shall be developed by the Purchasers in consultation with the USFWS, NMFS, the Alaska Department of Fish and Game, the Alaska Department of Environmental Conservation and the Alaska Department of Natural Resources (the "State Resource Management Agencies"), or their successors to aid in the formulation of the Program called for in this Agreement. Prior to implementation, the parties to this Agreement shall review the plans and concur with their scope of work.

The Purchasers shall conduct the studies and prepare the evaluations called for in the plans, seeking input from the USFWS, NMFS, the State Resource Management Agencies and other interested parties as the studies progress. The USFWS, NMFS, and State Resource Management Agencies shall have an opportunity to comment on draft study reports, and their comments and a response to their comments shall be included in the final study reports. All study plans, data, reports and comments will be made available to the parties and, upon request, to the public.

4. Review of Findings.

After final study reports are prepared, the Purchasers shall prepare a draft Summary of Study Results and prepare a draft Fish and Wildlife Program. The draft Fish and Wildlife Program shall consist of the measures recommended by the Purchasers for the protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat) and set a tentative schedule for their implementation. The Purchasers shall provide copies of the draft Summary and draft Fish and Wildlife Program to the USFWS, NMFS, and State Resource Management Agencies for comments or recommendations. If USFWS, NMFS, or the State Resource Management Agencies' comments or recommendations differ from those of the Purchasers, the Purchasers will attempt to resolve such differences giving due weight to the recommendations, expertise, and statutory responsibilities of USFWS, NMFS, and the State Resource Management Agencies.

Once comments and recommendations have been received, the Purchasers shall hold at least one public meeting each in Anchorage and the Matanuska Valley (with respect to the Eklutna Project) and in Juneau (with respect to the Snettisham Project) to receive public comment on the draft Summary, the draft Fish and Wildlife Program, and the comments and recommendations of the USFWS, NMFS, and the State Resource Management Agencies. At least thirty days prior to the proposed public meetings, copies of the draft Fish and Wildlife Program, reports and recommendations will be distributed to representative public libraries in the Anchorage and Matanuska Valley areas (in the case of the Eklutna Project) and in the Juneau area (in the case of the Snettisham Project). Public notice will also be posted in at least two newspapers serving the Anchorage and Matanuska Valley areas (for Eklutna) and the Juneau area (for Snettisham). The public notice shall specify meeting places, times and dates; where studies, reports and recommendations may be obtained for review; and where written comments may be sent. The Purchasers will provide copies of the draft Summary, draft Fish and Wildlife Program, and the comments and recommendations of the USFWS, NMFS, and State to interested members of the public at no charge.

5. Public Interest Determination.

The Purchasers shall compile all comments and testimony received; prepare a summary and analysis of them; develop a Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources; and prepare an explanatory statement describing the basis for its Proposed Final Fish and Wildlife Program. All comments, testimony, summary, and analysis materials and the Proposed Final Fish and Wildlife Program shall be provided to the parties to this Agreement and to the Governor

of Alaska. The parties shall have 60 days to submit written comments on the proposed Fish and Wildlife Program, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources, to the Governor. The Purchasers shall have 30 days to submit written reply comments to the Governor.

The Governor shall review the Proposed Final Fish and Wildlife Program, the comments, testimony, summary and analysis materials, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources. The Governor shall attempt to reconcile any differences between the parties, giving due weight to the recommendations, expertise, and statutory responsibilities of USFWS, NMFS, the State Resource Management Agencies and the Purchasers. In order to ensure that Eklutna and Snettisham are best adapted for power generation and other beneficial public uses, the Governor shall give equal consideration to the purposes of efficient and economical power production, energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), the protection of recreation opportunities, municipal water supplies, the preservation of other aspects of environmental quality, other beneficial public uses, and requirements of State law. Based on his/her review and consideration, the Governor shall establish a final Fish and Wildlife Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources (including affected spawning grounds and habitat) affected by the Eklutna Project and the Snettisham Project.

6. Implementation.

The Purchasers shall implement the Fish and Wildlife Program established by the Governor, subject to their right to judicial review as provided in Section 9 hereof. However, the Purchasers will implement all provisions of the Program that do not require major capital expenditures pending judicial review, unless otherwise agreed among the Parties or unless a stay is granted by the Court.

7. Schedule.

The consultation process leading to the Programs shall be initiated no later than 25 years after the Transaction Date specified in the respective Eklutna and Snettisham Agreements. The Study Plans shall include a schedule for the consultation, comment, and decision making, called for in this Agreement, which shall be adopted by the parties in consultation with the Governor. The schedule shall call for implementation of all provisions of the Fish and Wildlife Program by the Eklutna Purchasers to begin no

later than 30 years after the Transaction Date, and to be completed no later than 35 years after the Transaction Date. The schedule shall call for implementation of all provisions of the Fish and Wildlife Program by AEA (Snettisham) to begin no later than 35 years after the Transaction Date, and to be completed no later than 40 years after the Transaction Date. The schedules shall call for the issuance of the Fish and Wildlife Program by the Governor at least three years prior to the commencement of the period for implementation.

The Purchasers shall repeat the process called for in Sections 2 through 6 of this Agreement on a recurring basis every 35 years, beginning within 25 years of the time implementation of the Fish and Wildlife Program has been completed for the prior consultation process. In addition, prior to undertaking any major structural or operational modification substantially affecting water usage or fish and wildlife at the projects, the Purchasers shall follow the process called for in Sections 2 through 6 of this Agreement. Compliance with the terms of the Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, entered into between the Alaska Power Administration and the Municipality of Anchorage on February 17, 1984, as amended by a Supplemental Agreement dated August 2, 1988, shall not be construed to be a major structural or operational modification. However, the Eklutna Purchasers will discuss major structural or operational changes from current operations with NMFS and USFWS and will consider any recommendations they have for fisheries mitigation related to such changes.

8. Dam Construction, Modification, Removal or Abandonment.

The Purchasers agree to comply with 11 AAC 93.151-.201 with respect to safety inspections, new construction or modifications to existing structures, removal and/or abandonment of all or part of the project.

9. Enforcement of Fish and Wildlife Program and Agreement.

The provisions of this Agreement, including the decisions of the Governor and the provisions of the Fish and Wildlife Program, shall be reviewable and enforceable in the United States District Court for the District of Alaska and the Court may order specific performance thereof.

At least thirty days prior to seeking review or enforcement in the United States District Court for the District of Alaska, a party shall send written notice of its concerns to all parties and hold a meeting to attempt informal resolution of its concerns. During the period of informal resolution, any statute of limitations shall toll.

10. **Authority of Parties.**

Each party to this Agreement warrants that it has the legal authority to sign this Agreement and be fully bound by its terms, subject to any administrative or regulatory approval, if required. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns.

11. **Term of Agreement.**

This Agreement shall be effective, as to each project, upon the Transaction Date specified in the respective Purchase Agreement and shall remain in full force and effect so long as that project remains in operation. The Agreement shall terminate, as to either project, if that Project becomes subject to the provisions of the Federal Power Act.

12. **Severability.**

If any section, paragraph, clause or provision of this Agreement or any agreement referred to in this Agreement shall be finally adjudicated by a court of competent jurisdiction or administrative agency to be invalid or unenforceable as to either project, the Agreement shall nonetheless remain in full force and effect as to the other project.

13. **Cooperation With Studies.**

The Parties agree that they will cooperate with one another in conducting studies pertaining to fish and wildlife other than those called for in this Agreement by:

a. Notifying and consulting with the other parties before beginning a new fish and wildlife study,

b. Providing each other with data on flows, fish populations, and other data already in their possession,

c. Having the option of funding fish and wildlife studies before the process called for in Sections 2 and 3 of this Agreement would otherwise require, whether such studies are conducted by the parties themselves, or by third parties.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

MUNICIPALITY OF ANCHORAGE, DBA ANCHORAGE MUNICIPAL LIGHT & POWER

By: _____ 7/30/91
Tom Fink, Mayor — Date

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____ 7/30/91
Thomas D. Humphrey, President — Date

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____ 7/29/91
Jess Lee, President — Date

ALASKA ENERGY AUTHORITY

By: _____ 8-7-91
Charles Bussell, Executive Director — Date

U.S. DEPARTMENT OF COMMERCE, NATIONAL MARINE FISHERIES SERVICE

By: _____ JUL 12 1991
John A. Knauss, Under Secretary of Commerce for Oceans and Atmosphere — Date

U.S. DEPARTMENT OF INTERIOR, FISH AND WILDLIFE SERVICE

By: _____ 7/19/91
S. Scott Sewell, Principal Deputy Assistant Secretary for Fish and Wildlife and Parks — Date

STATE OF ALASKA

By: _____ 8/7/91
Walter Hickel, Governor — Date

EXHIBIT TRZ-04

Eklutna Hydroelectric Project

Supporting Information Document

April 2024

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Terms, Acronyms, and Abbreviations

1991 Agreement	1991 Fish and Wildlife Agreement
ADEC	Alaska Department of Environmental Conservation
ADFG	Alaska Department of Fish and Game
ADNR	Alaska Department of Natural Resources
ADOT&PF	Alaska Department of Transportation and Public Facilities
AEA	Alaska Energy Authority
AF	acre-feet
AL&P	Anchorage Light & Power
APU	Alaska Pacific University
ARRC	Alaska Railroad Corporation
AWWU	Anchorage Water and Wastewater Utility
CEA	Chugach Electric Association, Inc.
cfs	cubic feet per second
CIAA	Cook Inlet Aquaculture Association
Draft Program	Draft Fish and Wildlife Program
EPA	Environmental Protection Agency
EUOC	Enterprise and Utility Oversight Committee
FERC	Federal Energy Regulatory Commission
Final Program	Final Fish and Wildlife Program
ft	feet
Governor	Governor of Alaska
IHN	Infectious Hematopoietic Necrosis
IIP	Initial Information Package
MEA	Matanuska Electric Association, Inc.
MGD	million gallons per day
MOA	Municipality of Anchorage
MW	megawatt
NMFS	National Marine Fisheries Service
NVE	Native Village of Eklutna
OHA	Office of History and Archaeology
OPCC	Opinion of Probable Construction Costs
Parties	CEA, MEA, MOA, NMFS, USFWS, and the State of Alaska
PME	protection, mitigation, and enhancement
Project	Eklutna Hydroelectric Project
Project Owners	CEA, MEA, and MOA
Proposed Final Program	Proposed Final Fish and Wildlife Program
RCA	Regulatory Commission of Alaska

resource management agencies	USFWS, NMFS, ADFG, ADEC, and ADNR
RM	river mile
State	State of Alaska
State Parks	ADNR Division of Parks and Outdoor Recreation
TCF	The Conservation Fund
TEK	Traditional Ecological Knowledge
Transaction Date	October 2, 1997
TU	Trout Unlimited
TWG	Technical Work Group
USACE	U.S. Army Corps of Engineers
USBR	U.S. Bureau of Reclamation
USFWS	U.S. Fish and Wildlife Service

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1.0 Introduction

The Eklutna Hydroelectric Project (Project) is located in Southcentral Alaska, approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna (NVE). The federal government completed construction of the Project in 1955. Decades later, Chugach Electric Association (CEA), Matanuska Electric Association (MEA), and the Municipality of Anchorage (MOA) (collectively the "Project Owners") agreed to purchase the Project and entered into a Purchase Agreement with the federal government in 1989. Shortly thereafter, concerns were raised about the Project's potential impacts on fish and wildlife and a desire to avoid federal regulation. This led to the execution of a binding agreement in 1991 (referred to as the "1991 Agreement") amongst the Project Owners, National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the State of Alaska (collectively the "Parties") that requires the Project Owners to (1) study the Project's impacts to fish and wildlife, (2) develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the development of the Project, (3) consider the impact of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use, and (4) identify available means to mitigate these impacts. The Project Owners must repeat this process every 35 years and it replaces regulation by the Federal Energy Regulatory Commission (FERC). The sale of the Project was authorized by U.S. Congress in 1995, and the Project was sold to the Project Owners in October 1997.

Per the 1991 Agreement, the Project Owners were required to initiate this process no later than 25 years after the sale of the Project. Since the Project was sold in October 1997, the Project Owners were not required to initiate this process until October 2022. In order to allow meaningful consultation process and adequate time for a comprehensive analysis, the Project Owners initiated the process in March 2019, more than three years early. After several years of study and consultation with all interested stakeholders detailed in the Supporting Information Document, the Project Owners issued a Draft Fish and Wildlife Program (Draft Program) as required in the 1991 Agreement in October 2023. The Project Owners met with the Parties and NVE several times from December 2023 through March 2024 to attempt to resolve differences. They also held six public meetings in January 2024 to solicit public comments. After considering all comments received, and giving due weight to the recommendations and expertise of the Parties and NVE, the Project Owners have developed this Proposed Final Fish and Wildlife Program (Proposed Final Program) for submittal to the Governor.

Accordingly, the Project Owners are excited for the next phase of the Project. The Proposed Final Program includes the following:

- Construction of the Eklutna River Release Facility and establishment of year-round instream flows in the Eklutna River;
- Automation of the existing outlet gate at the dam to provide periodic channel maintenance flows in the Eklutna River;
- Construction of eight new bridges along the Anchorage Water and Wastewater Utility (AWWU) access road to enable AWWU's access to critical infrastructure year-round following the establishment of instream flows;
- Payment to Chugach State Park for lakeside trail repairs;
- Establishment of a Committee to oversee implementation of the Monitoring and Adaptive Management Plan;
- Funding to conduct monitoring studies in the Eklutna River throughout the 35-year program;
- Funding for physical habitat enhancement in the Eklutna River based on the monitoring results;
- Procedures for the Committee to adaptively manage the flow regime in the Eklutna River based on the monitoring results;
- Provisions for banking water in Eklutna Lake and potentially increasing the water budget for instream flows in the future;
- Potential installation of a fixed wheel gate to accommodate higher inflows in the future and/or allow higher channel maintenance flows if needed; and
- Potential installation of upstream and downstream fish passage facilities that meet specific criteria.

Approval of the Proposed Final Program will enable the Project Owners to implement these significant fish and wildlife measures at the Project, while simultaneously protecting the municipal water supply and continuing to provide low cost, renewable energy to Southcentral Alaska. The Project Owners anticipate the Governor's issuance of a Final Fish and Wildlife Program (Final Program) by October 2024.

This Supplement Information Document sets forth in a single document a description of the Project, its components and operations, the requirements of the 1991 Agreement, and a detailed summary of process and considerations leading to the Proposed Final Program. This

document also provides a guide to the large quantity of supporting information gathered and prepared by the Project Owners through the process that began in 2019. Some of that information is presented in text, tables, and figures in this Supporting Information Document or Attachments, while other information is referenced, hyperlinked, and made publicly available on the Project website (www.eklutnahydro.com). All such information is incorporated in the Proposed Final Program by reference.

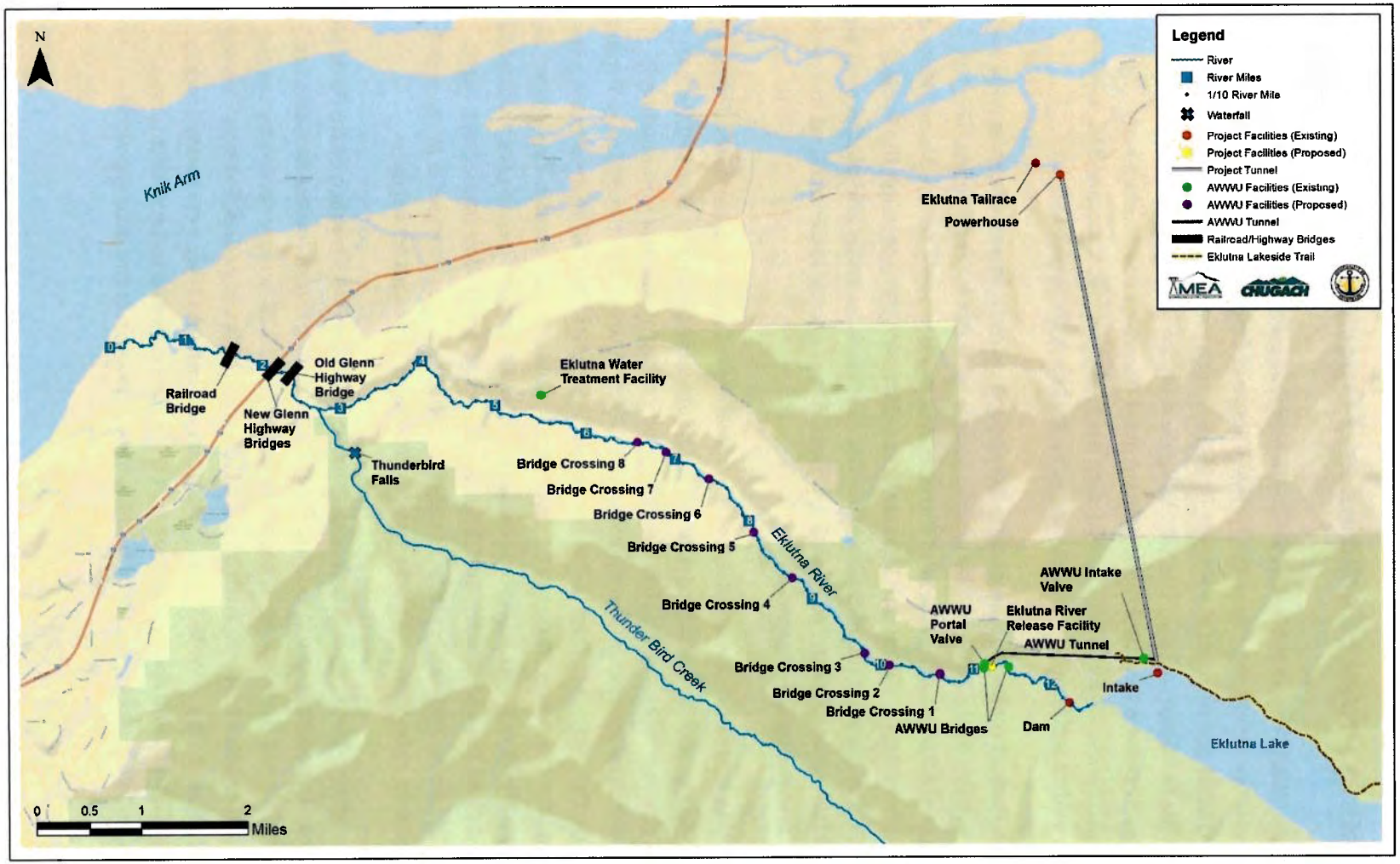

Figure 1-1. Existing and Proposed Infrastructure.

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2.0 Existing Project Facilities and Operations

The 40-megawatt (MW) Project is located in Southcentral Alaska, approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna (NVE). The U.S. Bureau of Reclamation (USBR) constructed the Project in 1955, which included rehabilitation of the old dam at the outlet of Eklutna Lake. The rehabilitated dam was damaged in the 1964 earthquake, at which point a new and taller embankment dam was constructed just downstream. This new dam (the existing dam) is an earth and rockfill structure 815 feet long and 41 feet high with a rectangular concrete spillway that runs through the dam.

Eklutna Lake (the Project reservoir) is approximately seven miles long and one mile wide and is located within Chugach State Park. The lake is the source of water for the Project. The reservoir also provides almost 90 percent of the domestic water supply for the Municipality of Anchorage to the Anchorage Water and Wastewater Utility (AWWU) through the Project intake. Typically, the reservoir fills during the summer months from snow and glacial melt and is drained during the winter months to generate power. The reservoir is generally at its lowest elevation in May and peaks in September.

The Project facilities and operation are designed to minimize release of water to the Eklutna River from the existing dam by capturing runoff during late spring/summer and taking that water out of the storage reservoir/Eklutna Lake over the course of the year and sending it through the powerhouse located on the Knik Arm. The Project water right entitles the Project Owners to operate the Project to fully utilize the water in Eklutna Lake for hydroelectric power production, except for the water that may be diverted for public water supply. The Project also provides other important benefits to electric customers including spinning reserve, frequency and voltage regulation, load following, and firming up electric generation from intermittent renewables. Additionally, the Project tailrace below the powerhouse provides a popular put-and-take Chinook and coho fishery. This fishery is public and handicap accessible.

Figure 1-1 above shows the Project location, legislative boundary for Chugach State Park, and the current extent of anadromy in the Eklutna River. The existing hydro project facilities are shown as red dots, an old hydropower project constructed in 1929 is represented by purple dots, and other non-project features such as the Eklutna Lake Campground, Eklutna Tailrace Day-Use Fishing Access Site, AWWU Water Treatment Plant, and NVE are represented by green dots. Other AWWU infrastructure shown in the figure includes the AWWU tunnel, portal valve, and buried pipeline. All three bridges in the lower river are also shown in Figure 1-1.

2.1 Existing Project Facilities

The Project consists of several components that allow water from Eklutna Lake to be diverted through a 4.5-mile-long tunnel to the powerhouse and eventually discharged into the Knik River for the purpose of power generation. The Project facilities and AWWU water supply infrastructure that is connected to Project facilities are briefly described below. More detailed information on Project facilities is provided in the IIP document available on the Project website (www.eklutnahydro.com).

2.1.1 Dam and Spillway

The existing dam is located approximately 1,400 feet downstream of the natural outlet of Eklutna Lake. It is an earth and rock fill embankment dam with a crest length of 815 feet, a crest width of 30 feet, and a crest elevation (El.) of 891 feet[1]. The crest of the dam is finished with crushed rock material to form a stable road surface (Figure 2-1). An ungated overflow spillway is incorporated within the middle of the dam. The spillway crest is El. 871 feet and the crest length is 18 feet. The dam allows for storage of water in Eklutna Lake for use throughout the year for power generation. The dam also prevents water from flowing into the Eklutna River unless the lake level exceeds the spillway crest elevation and water "spills" from the lake into the river via the spillway (see Section 2.2.3).

Figure 2-1. Dam crest and ungated overflow spillway, looking north.

There is a natural glacial moraine at the outlet of Eklutna Lake. When the lake level is below the crest of the moraine (El. 860 feet), a pond is created between the moraine and the current dam (Figure 2-2). The water level in the pond is not monitored; however, the pond level can

[1] Multiple vertical survey datums are reported in and around the main features of the Project. Throughout this document, the elevation datum that shall be used is the "local datum" tied to the crest of Eklutna Dam. Engineering documentation and design drawings, as presented in Attachment I utilizes the NAVD88, GEOID12B datum for consistency purposes throughout all of the Project Features, which is offset from the Local Datum by approximately 3.6-feet.

differ from the lake level by up to 30 feet in an average year. A small tributary entering the pond approximately 400-ft upstream of the dam keeps the water level steady in the pond when the lake is disconnected from the dam, with a small outflow leaving the pond and entering Eklutna Lake.

There is a 30-inch by 30-inch drainage outlet gate in the base of the spillway crest at El. 852 feet that was designed to drain the pond when water becomes trapped there during late fall or early winter. At the time, it was thought that this water would cause detrimental frost action against the toe of the current dam and at the spillway inlet. However, no detrimental frost action has been observed, and the gate is currently not used for this purpose. This cast iron gate was replaced in 2021 with a stainless-steel gate to allow for study flow releases that same year.

Figure 2-2. Pond between the natural glacial moraine and existing dam in May 2020.

2.1.2 Reservoir

Eklutna Lake is a natural lake formed by the retreating Eklutna glacier. It is approximately 7 miles long, one mile wide, and 200 feet deep at its deepest. The natural lake elevation is El. 850 feet.

The current dam raises the water level of Eklutna Lake by 21 feet to a maximum regulated lake level of El. 871 feet (the elevation of the spillway crest). At this elevation, the lake has a surface area of 3,420 acres. The minimum regulated lake level is El. 814 feet, which provides an active storage capacity of 174,800 acre-feet. Storage between the spillway crest (El. 871 feet) and the dam crest (El. 891 feet) is an additional 72,800 acre-feet.

2.1.3 Intake

The intake is located on the north shore of Eklutna Lake approximately one mile east of the dam. Water is diverted from the lake through an inlet channel 100 feet wide and originally about 720 feet long excavated at the lake bottom (the original intake structure and portions of the original intake conduit damaged in the 1964 earthquake remain in the intake channel). The intake channel leads to the intake structure, which consists of a rectangular reinforced concrete box structure, open and protected by trash racks on its top, front, and both sides. Elevation of the invert (i.e., the base elevation of the intake) is El. 793.6 feet.

2.1.4 Tunnel and Surge Tank

A 4.5-mile-long tunnel through Goat Mountain conveys water from the intake to the penstock. The tunnel is a circular, concrete-lined pressure tunnel with a 9-foot inside diameter. The tunnel terminates in a surge chamber located directly over the tunnel prior to entering the project penstock. The surge tank is used to dampen pressure surges within the conveyance during operation.

2.1.5 Penstock

Extending from the surge tank at the end of the tunnel is the penstock, which conveys water to the power plant turbines. The overall length of the penstock is about 1,088 feet. The penstock is a variable-diameter (91-, 83-, and 75-inch-outside-diameter) welded and coupled steel pipe encased in concrete in a tunnel extending from the surge tank to the power plant. At the powerplant, the penstock bifurcates into two 51-inch-diameter 23-foot-long branches, which are connected to the spiral cases of the turbines. A 66-inch butterfly valve is installed in each penstock branch upstream from the turbines to provide means of dewatering the turbines for servicing or maintenance. These valves also serve as emergency shutoff valves in the event of damage to the turbines.

2.1.6 Power Plant and Switchyard

The Eklutna Power Plant (Figure 2-3) is located on the Old Glenn Highway. It houses two vertical-shaft Francis-style hydroelectric generating units with an installed nameplate capacity

of 44.4 MW. The switchyard equipment, consisting of the power circuit breakers, disconnecting switches, and main buses, is on the roof of the Eklutna Power Plant.

Figure 2-3. Eklutna Power Plant.

2.1.7 Tailrace

Water discharged from the turbines in the Eklutna Power Plant enters a 209-foot-long tailrace conduit through which the water is conducted under the Old Glenn Highway to a 2,000-foot-long open tailrace channel which discharges into the Knik River (Figure 2-4). The channel has a top width of about 75 feet, a bottom width of 25 feet, and a depth of about 12 feet 6 inches.

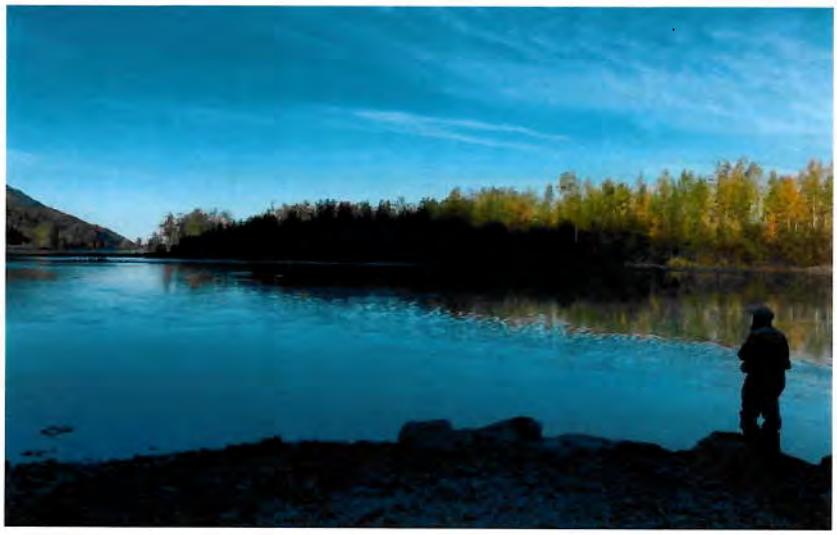

Figure 2-4. Fisherman at the Eklutna Tailrace.

2.1.8 AWWU Connection to Project Tunnel

A water supply project was constructed in 1988 to supply water to Anchorage from Eklutna Lake (Eklutna Water Project). It is now the main source of drinking water for the Anchorage service area. The Eklutna Water Project diverts Eklutna Lake water from the Project tunnel to a diversion tunnel that connects to a buried pipeline. Water flows by gravity through the one-mile-long diversion tunnel and the approximately six-mile-long buried pipeline down the Eklutna River valley to a 750-kW energy recovery station at the Eklutna Water Treatment Plant (see Figure 1-1).

A portal valve at the intersection of the AWWU tunnel and pipeline, located approximately one mile downstream of the existing dam, is used to shut down the pipeline for emergency or maintenance purposes. The pipeline drain valve is located approximately six miles downstream of Eklutna Dam. AWWU maintains an access road that roughly parallels the pipeline and crosses the riverbed in a series of bridges and fords. After treatment, water flows by gravity through a 23-mile-long buried pipeline to the distribution system. This system supplies water to the Anchorage service area, from Eklutna Village to Potter Marsh in South Anchorage. Approximately 10% of the water diverted from Eklutna Lake provides up to 90% of the public water supply for the Municipality of Anchorage. The remaining 90% of water diverted from Eklutna Lake is used for power production.

2.1.9 Water Rights

When the Project was originally authorized in the Eklutna Project Act of 1950,[2] Congress also created a federal reserved water right in Eklutna Lake and its tributaries for the purposes of operating the Project. Under federal and state law, the Project's water right dates back to December 31, 1954, when the Project began operations.[3]

Later, after Alaska statehood, the then-federal owner of the Project, the Alaska Power Administration (APA), applied for a Certificate of Appropriation from the State of Alaska in order to comply with newly-created state law. This permanent Certificate of Appropriation (Certificate) was originally granted in 1973 and is now referred to as "ADL 44944." As subsequently amended, ADL 44944 mirrors the federal reserved water right and authorizes the Project Owners to use any and all of the natural inflow to Eklutna Lake for hydroelectric power generation subject to other terms of the Certificate.

In 1984, MOA sought to use Eklutna Lake for public water supply. Typically, under Alaska law, such a new use would be disallowed due to the senior water right of the APA, but Alaska law

[2] Public Law 81-628, 64 Stat. 383 (1950).
[3] ALASKA STAT. § 46.15.050(b) (2022).

also permits the use of Alaska waters for public water supply even where there are prior appropriators given the importance of maintaining a sufficient water supply.[4] Such use is referred to as "preferred use".[5] In acknowledgement that such preferred use can burden or harm a prior appropriator (water right holder), Alaska law requires that such use be subject to compensation in order to minimize such burden or harm.[6] Accordingly, the MOA and the then-owner (APA) entered a long-term compensation agreement entitled "Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska" dated February 17, 1984, that expires in 2025 (Water Supply Agreement).

Further, MOA and APA worked with Congress to amend the *Eklutna Project Act* to include the additional public water usage of the Eklutna Lake that was otherwise reserved for the purposes of the Project.[7] MOA also obtained a 40-year permit to appropriate water from the State of Alaska to utilize water from Eklutna Lake, referred to as "LAS 2569." LAS 2569 expires on December 31, 2025, and may be replaced with a certificate of appropriation subject to the continuing obligation to compensate the holder of ADL 44944 (the Project Owners).

Upon the sale of the Project to the Project Owners in October 1997, the federal reserved water right and ADL 44944 were conveyed to the Project Owners in a quitclaim deed[8] and the Water Supply Agreement was assigned to by the Project Owners.[9]

2.1.10 Land Ownership and Management

Land ownership and management in the Project area are shown below in Figure 2-5. A majority of the land adjacent to the Eklutna River was once owned by the federal government and due to a number of Alaska Native Claims Settlement Act conveyances, is now owned by Eklutna, Inc. Such ownership includes the area where the lower dam on the Eklutna River was once located, and which Eklutna, Inc. subsequently removed.

Notable exceptions to this Eklutna, Inc. area ownership today remain, however, including that: (1) the land around the AWWU portal valve is owned by BLM, and (2) the land surrounding the Eklutna Dam is owned by the State of Alaska. When the Eklutna Dam was built, this land

[4] ALASKA STAT. § 46.15.150 (2022).
[5] ALASKA STAT. § 46.15.150 (2022). "Preferred use" is further defined under Title 11 of the Alaska Administrative Code Section 93.230, which provides: "Preferred use status allows the use of water for a preferred use when adequate water is not available from the same source to supply all lawful appropriators."
[6] ALASKA ADMIN. CODE tit. 11 § 93.240 (2023).
[7] Public Law 98-552, 98 Stat. 2824 (1984).
[8] "Quitclaim Deed, Federal Reserved Water Right Under the Eklutna Project Act of 1950, 64 Stat. 382, As Amended, Including State of Alaska Water Rights Certificate of Appropriation (Amended) ADL 44944", dated October 2, 1997.
[9] Assignment and Transfer of Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, as Supplemented, dated October 2, 1997.

surrounding the Eklutna Dam was still owned by the federal government, but when the Project was transferred to the Project Owners in 1997, the federal government gave the Project Owners a perpetual right-of-way to access this land for operating the Project (serial number AA-70133) so long as the Project exists.[10] When that same land was subsequently transferred by the federal government to the State of Alaska in 1998, such transfer was subject to AA-70133.[11] AWWU also has all necessary rights-of-way to access and operate its facilities adjacent to the Eklutna River, including the AWWU portal valve, access road, and buried pipeline.

A majority of the land adjacent to Eklutna Lake is also owned by Eklutna, Inc. but is managed by ADNR as part of Chugach State Park.

[10] UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, RIGHT-OF-WAY GRANT, Serial Number AA-70133 (September 15, 1997).
[11] United States of America Patent No. 50-2019-0080.

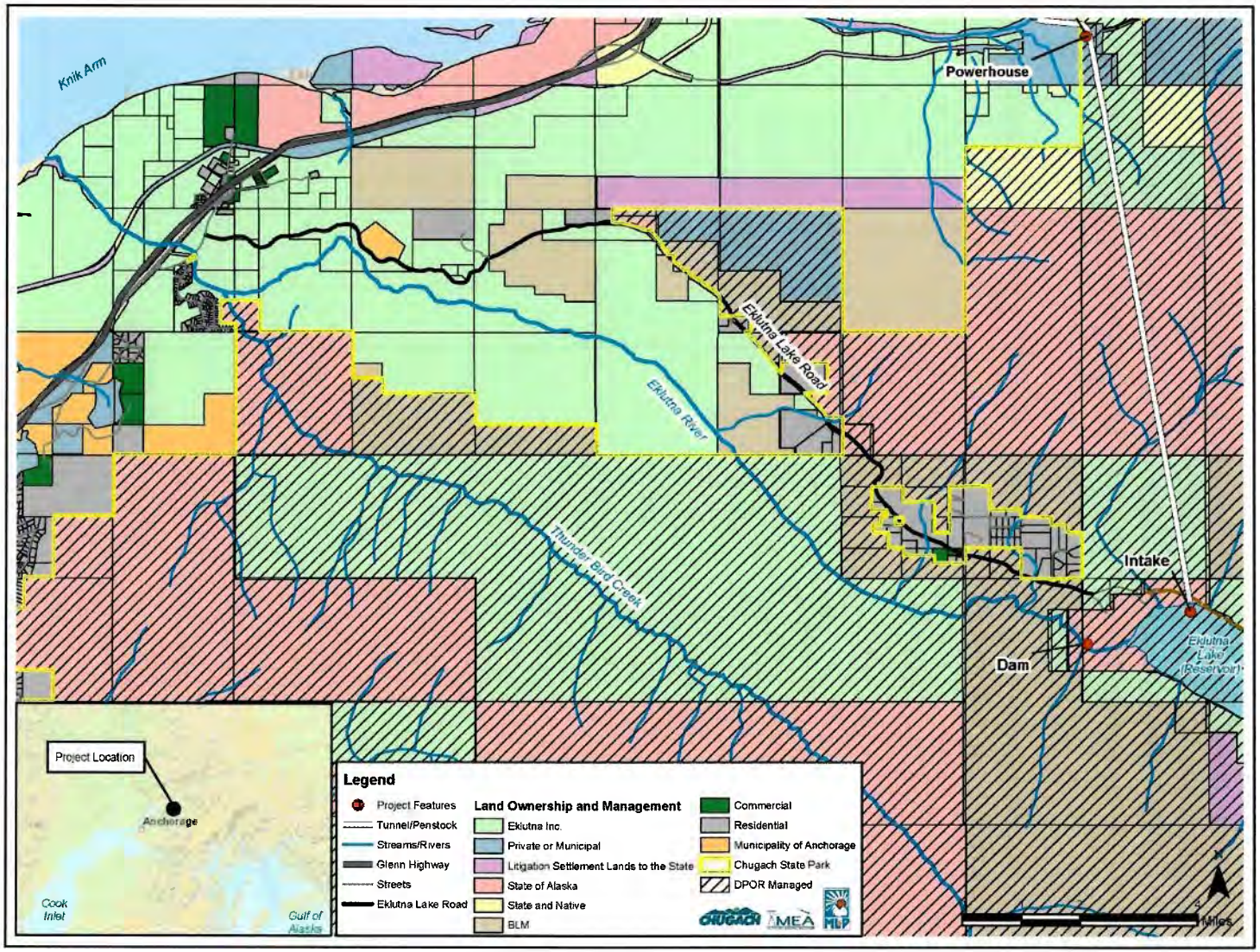

Figure 2-5. Land Ownership and Management in the Project Area.

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2.2 Existing Project Operations

The Project Owners operate the Project to provide firm, low-cost, renewable energy. Project-generated renewable energy offsets approximately 72,500 metric tons of CO_2 equivalent each year and can be used to regulate other renewable energy sources like wind and solar in the future. The Eklutna Dam allows storage of spring and summer runoff for power generation in the winter when it is needed most.

2.2.1 Reservoir Operations

Typical operation of the Project is to fill the reservoir during the summer and drain it during the winter months. The Project operators try to refill the reservoir as much as possible without spilling, and the extent of winter drawdown is based on power requirements and the operator's estimates of the winter snowpack. The lake level is generally at its lowest elevation in May and then peaks in September. As shown in Figure 2-6, the lake level is drawn down below the natural lake level (El. 850 feet) for about six months out of the year, and below the crest of the natural glacial moraine (El. 860 feet) for about 9 months out of the year.

The lake level increases as a result of inflows (mostly glacial melt) and is drawn down by operation of the tunnel/penstock system. Assuming no inflow, the lake can be drawn down by approximately four inches per day when the Eklutna Power Plant is generating at max capacity (660 cfs). Water conveyance can be closed at the lake intake structure by closing the intake bulkhead gate or by closing the turbine wicket gates or the turbine inlet valves within the powerhouse.

Flow through the Eklutna Power Plant is the primary means of controlling the water level in Eklutna Lake. In addition, the 30-inch by 30-inch drainage outlet in the base of the spillway (see Section 2.1.1) is controlled by a manually operated slide gate conduit and can release up to 190 cfs (with reservoir at the spillway crest). Operation of the spillway slide gate is checked on an annual basis and the operating mechanism lubricated.

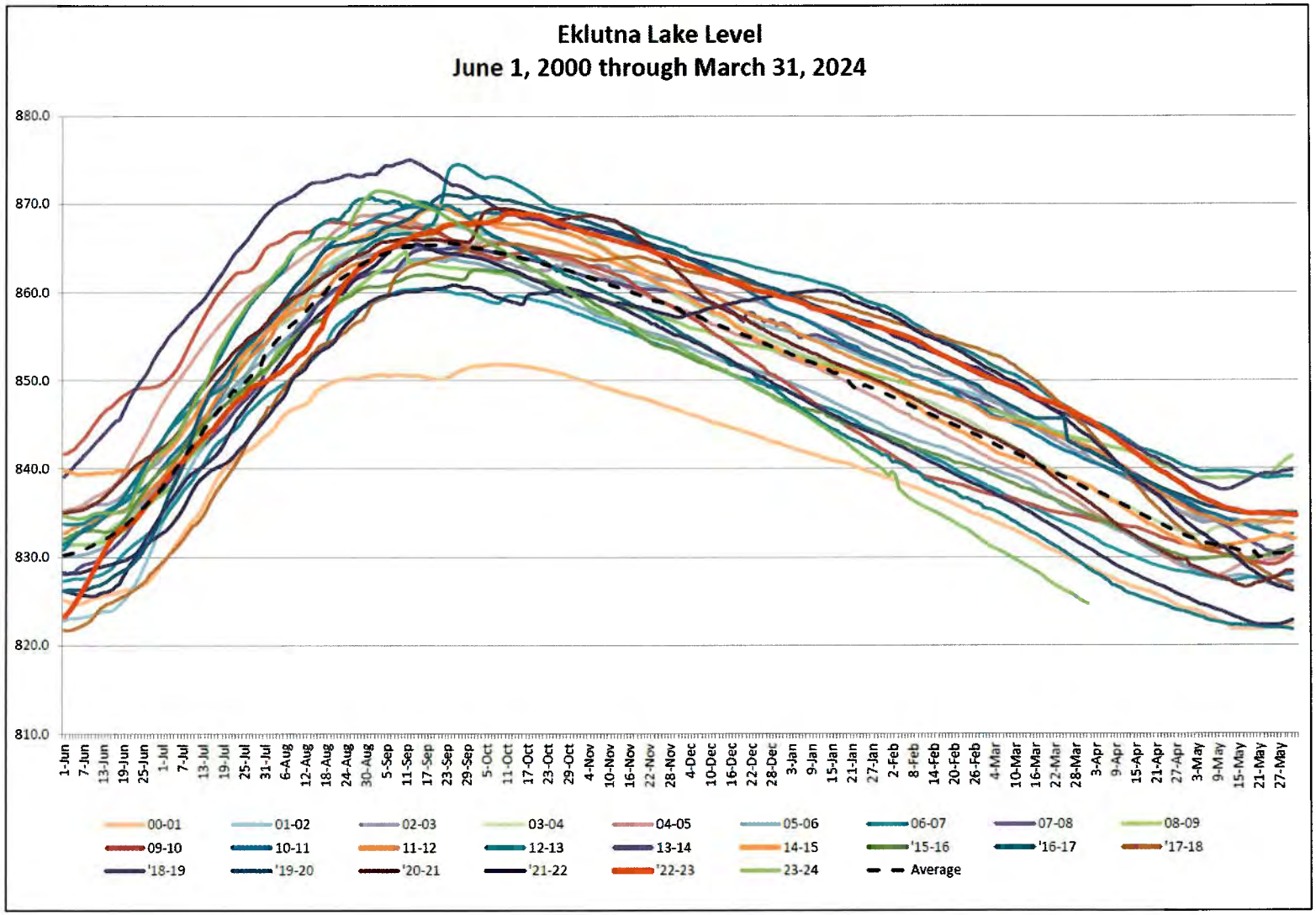

Figure 2-6. Eklutna Lake Level from June 1, 2000, through March 31, 2024.

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2.2.2 Energy Generation and Cost of Power

The Project produces nearly 6% of the Project Owners' combined total generation portfolio, approximately 44% of MEA's renewable generation portfolio, and approximately 25% of CEA's renewable generation portfolio. The Project is consistently the lowest-cost resource for power in the Railbelt (i.e., the inter-connected transmission line system that runs from Fairbanks to Homer) and is necessary for MEA to meet their power capacity reserve reliability standard requirements. The average monthly energy generation output of the project is presented in Figure 2-7.

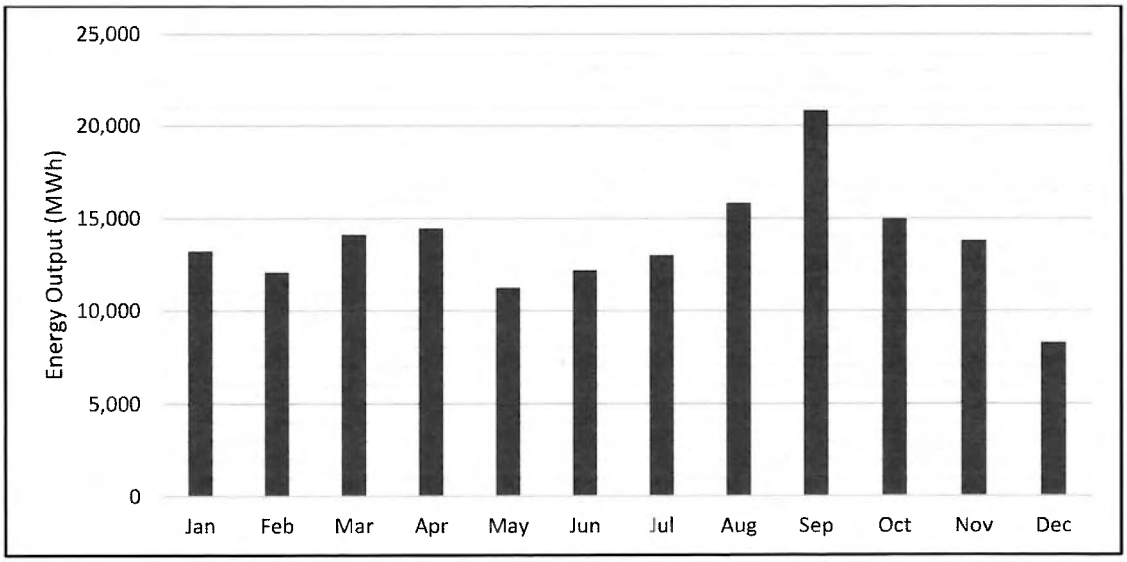

Figure 2-7. Eklutna Power Plant Average Monthly Energy Output.

One of the other major benefits of the Project is increased grid reliability through diversification of fuel for generation. With an uncertain future regarding natural gas supply and costs, hydropower plays an important alternate energy source if there is an interruption to the availability of natural gas. In addition, Project generation offsets approximately 72,500 metric tons of CO_2 equivalent each year.

The Project's value is underscored by the difficulty in locating replacement generation of similar characteristics. CEA and MEA are looking to add renewable resources to meet their respective clean energy goals, and they are grappling with considerable unknowns such as how renewable generation resources and the necessary new transmission lines for such resources can be contracted, permitted, financed, constructed, interconnected, and integrated with the existing Railbelt electric system. The cost of energy storage, integration, and regulation of intermittent generation resources adds considerable complexity and cost.

2.2.3 Spill Events

Spill occurs when water flows from Eklutna Lake into the Eklutna River via the ungated spillway (El. 871 feet). Since the spillway is ungated, the Project operators cannot control spill. Ten spill events have occurred since the existing dam was constructed in 1965. Table 2-1 summarizes the historical data and calculated values for each of these spill events.

Table 2-1. Summary of Spill Events at Eklutna Dam from 1965 to 2023.

Year	Spill Period	Duration (Days)	Peak Lake Level Elevation (ft)	Average Lake Level Elevation (ft)	Peak Spillway Flow (cfs)	Average Spillway Flow (cfs)	Total Volume Spilled (AF)
1967	9/20 – 10/11	22	872.99	-	160	-	-
1977	8/15 – 9/26	43	874.60	-	396	-	-
1981	8/15 – 9/23	40	873.50	-	226	-	-
1989	9/5 – 10/7	33	873.73	872.40	259	107	7,018
1990	9/12 – 9/27	16	872.31	871.78	85	43	1,370
1995	9/21 – 10/20	30	877.62	874.40	1,022	426	25,356
1997	8/19 – 10/31	74	875.51	873.33	561	242	35,591
2012	9/23 – 10/19	27	874.52	873.10	383	188	10,055
2013	8/9 – 10/1	54	874.99	873.18	464	201	21,567
2023	9/1 – 9/8	8	871.51	871.36	18	10	157

The highest lake level elevation ever recorded in Eklutna Lake was 877.62 feet on September 25, 1995. At this elevation, the flow through the spillway was calculated to be 1,022 cfs. The longest spill event at Eklutna Dam occurred in 1997 and lasted for a total of 74 days. The calculated total volume of water spilled during this time was 35,591 acre-feet.

3.0 Requirements of the 1991 Agreement

The 1991 Agreement is the guiding document that the Project Owners have followed during development of the Proposed Final Program and is available here on the Project website for reference. The Project Owners recognize that there is a high level of interest in the Eklutna River and are committed to meeting their obligations as outlined in the 1991 Agreement. The overarching goal of the Project Owners is to provide the information that will allow the Governor to make an informed decision with regard to the Final Program.

The main focus of the 1991 Agreement concerns protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat) affected by hydroelectric development of the Eklutna Project. It specifies that the Project Owners are responsible for the consultation, study, and implementation provisions called for in the 1991 Agreement.

3.1 Procedural Requirements

The 1991 Agreement required the Project Owners to fund and conduct studies to examine and quantify, if possible, the impacts to fish and wildlife from the hydroelectric development of the Project. The studies were also designed to examine and develop proposed protection, mitigation, and enhancement (PME) measures to address those impacts. This examination also had to consider the impact of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users, and adjacent land use, as well as available means to mitigate those impacts.

Per the 1991 Agreement, the study plans had to be developed by the Project Owners in consultation with the USFWS, NMFS, the Alaska Department of Fish and Game (ADFG), the Alaska Department of Environmental Conservation (ADEC), and the Alaska Department of Natural Resources (ADNR), collectively the "resource management agencies." The study plans had to include a schedule for the consultation, comment, and decision making required by the 1991 Agreement to be adopted by the Parties[12] in consultation with the Governor. Prior to implementation of the studies, the Parties had to review the study plans and concur with their scope of work. The Project Owners were required to seek input from the resource management agencies and other interested stakeholders as the studies progressed and provide the resource management agencies with an opportunity to comment on the Draft Study Reports. All comments and responses had to be included in the Final Study Reports.

[12] The Parties to the 1991 Agreement as it pertains to the Eklutna Hydroelectric Project are CEA, MEA, MOA, NMFS, USFWS, and the State of Alaska.

After the Final Study Reports were prepared, the Project Owners were required to prepare a Draft Summary of Study Results and a Draft Program. The Draft Program had to include the PME measures recommended by the Project Owners and set a tentative schedule for their implementation. The Project Owners were required to provide the resource management agencies with an opportunity to comment on the Draft Summary of Study Results and the Draft Program and/or provide recommendations. If the resource management agencies' comments or recommendations differ from those of the Project Owners, the Project Owners had to attempt to resolve such differences giving due weight to the recommendations, expertise, and statutory responsibilities of the resource management agencies.

Once comments and recommendations had been received, the Project Owners were required to hold at least one public meeting each in Anchorage and the Matanuska Valley to receive public comment on the Draft Summary of Study Results, the Draft Program, and the comments and recommendations of the resource management agencies. The Project Owners were required to prepare a summary and analysis of all comments received, develop a Proposed Final Program, and prepare an explanatory statement describing the basis for the Proposed Final Program. All of this information must be provided to the Parties and the Governor.

The Parties then have 60 days to submit written comments on the Proposed Final Program, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources, to the Governor. The Project Owners then have 30 days to submit written reply comments to the Governor. The Governor is required to review the Proposed Final Program as well as any comments or recommendations for alternative PME measures while giving equal consideration to:

1. Efficient and economical power production
2. Energy conservation
3. The protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat)
4. The protection of recreational opportunities
5. Municipal water supplies
6. The protection of other aspects of environmental quality
7. Other beneficial public uses
8. Requirements of State law

Based on his review and consideration, the Governor is required to establish a Final Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources (including affected spawning grounds and habitat) affected by the Project. The Project Owners are required to implement the Final Program established by the Governor. Pursuant to the 1991 Agreement and APA Asset Sale Act, the Governor's decision regarding the provisions of the Final Program is reviewable and enforceable by the Parties in the U.S District Court for the District of Alaska.

3.2 Schedule Requirements

The 1991 Agreement gives deadlines for specific milestones in the consultation, program development, and implementation processes. These deadlines, listed below, are all relative to the date on which ownership of the Project was officially transferred from the Federal government to the current Project Owners (October 2, 1997). This date is referred to as the Transaction Date.

- Initiate the consultation process no later than 25 years after the Transaction Date (October 2, 2022)
- Issuance of the Final Program by the Governor at least 3 years prior to implementation (October 2, 2024)
- Begin implementation of the Final Program no later than 30 years after the Transaction Date (October 2, 2027)
- Complete implementation of the Final Program no later than 35 years after the Transaction Date (October 2, 2032)

The Project Owners are required to repeat the process called for in the 1991 Agreement on a recurring basis every 35 years, beginning within 25 years of the time implementation of the Final Program has been completed for the prior consultation process. In addition, the Project Owners are required to repeat the process called for in the 1991 Agreement prior to undertaking any major structural or operational modifications substantially affecting water usage or fish and wildlife at the Project.

4.0 Compliance with the 1991 Agreement

The Project Owners have fully met the procedural and schedule requirements of the 1991 Agreement to date. In fact, the Project Owners have gone well beyond the requirements of the 1991 Agreement in terms of consultation, documentation, and analysis of alternatives. In terms of schedule requirements, the Project Owners began the process more than three years prior to the prescribed initiation date. The following sections describe the efforts undertaken by the Project Owners to date to comply with the 1991 Agreement and highlight the efforts that have gone beyond the requirements.

4.1 Early Consultation

The 1991 Agreement states that the Project Owners shall consult with the USFWS, NMFS, ADF&G, ADEC, and ADNR regarding the development of study plans and that "the consultation process shall be initiated no later than 25 years after the Transaction Date," (i.e., October 2, 2022).

The Project Owners began the consultation process in 2019, three years earlier than required by the 1991 Agreement. Recognizing the high level of public and tribal interest in the Project, the Project Owners did not limit consultation to the five federal and state agencies identified in the 1991 Agreement, but they reached out to many other entities with an interest in the Project. Their consultation efforts included in-person meetings, quarterly calls and newsletters, technical work groups, and involvement of interested stakeholders in the alternatives analysis process. A summary of consultation undertaken by the Project Owners is included in Attachment A; early consultation efforts are highlighted below.

4.1.1 Initial Consultation Meetings

In March and April of 2019, more than three years earlier than required by the 1991 Agreement, the Project Owners conducted in-person initial consultation meetings with multiple agencies and interested stakeholders. In total, the Project Owners met with 14 agencies and interested stakeholders as part of their initial consultation efforts, including:

- National Marine Fisheries Service (NMFS)
- U.S. Fish and Wildlife Service (USFWS)
- Alaska Department of Fish and Game (ADFG)
- Alaska Department of Environmental Conservation (ADEC)

- Alaska Department of Natural Resources (ADNR), including:
    - Division of Mining, Land, and Water
    - Division of Parks and Outdoor Recreation (State Parks)
    - Office of History and Archaeology (OHA)
- Alaska Department of Transportation & Public Facilities (ADOT&PF)
- Alaska Railroad Corporation (ARRC)
- Anchorage Water and Wastewater Utility (AWWU)
- U.S. Army Corps of Engineers (USACE)
- Eklutna, Inc.
- Native Village of Eklutna (NVE)
- The Conservation Fund (TCF)

After these initial consultation meetings, the Project Owners identified additional interested stakeholders and consulted with them as appropriate, including Cook Inlet Region, Inc. (CIRI), Cook Inlet Aquaculture Association (CIAA), The Alaska Center, Trout Unlimited (TU), the Alaska Energy Authority (AEA), the Alaska Institute for Climate and Energy (ALICE), staff from Alaska Pacific University (APU), the Anchorage Watershed and Natural Resources Advisory Commission (WNRC), and the U.S. Bureau of Land Management (BLM).

Some entities, while interested in the Project, declined to participate in the consultation process, including the U.S. Environmental Protection Agency (EPA), U.S. Geological Survey (USGS), National Weather Service (NWS), and the Anchorage Waterways Council.

4.1.2 Group Stakeholder Meeting

During the initial consultation meetings, several entities requested a follow-up group meeting to promote technical discussion amongst the agencies and interested stakeholders. In response to those requests, the Project Owners conducted an in-person follow-up group meeting on July 16, 2019. Discussion topics included a review of the contact list and existing information gathered to date, updates on on-going data collection by others, an overview of current Project operations, discussion regarding the initial comments and concerns of agencies and interested stakeholders, and next steps.

4.1.3 Project Website

In 2019 the Project Owners developed and launched a Project website, www.eklutnahydro.com. The purpose of this website is to provide information on the efforts being undertaken by the Project Owners to comply with the 1991 Agreement, including background information, the Project schedule, Project updates, reference and final documents, frequently asked questions, and a contact form.

4.1.4 Quarterly Update Calls

During the July 2019 Group Stakeholder Meeting, it was suggested that the Project Owners conduct quarterly calls to update the agencies and interested stakeholders on Project activities. The Project Owners conducted the first quarterly update call in November 2019, and since that time, have continued to conduct these calls approximately every three months.

4.1.5 Anchorage Assembly

In February 2020, the Project Owners were invited to give a brief presentation to the Anchorage Assembly at a work session regarding the Eklutna River. The Project Owners have continued to provide subsequent updates to the Anchorage Assembly's Enterprise and Utility Oversight Committee on a quarterly basis. All of the presentations that have been given to the Anchorage Assembly are available here on the Project website.

4.1.6 Native Village of Eklutna

Eklutna Village is located near the mouth of the Eklutna River. The historical and current presence of the Eklutna Dena'ina in the area is described in the IIP. The Project Owners first met with NVE as part of their initial consultation efforts (Section 4.1.1) and have continued to engage with NVE throughout this process.

In April 2020, NVE requested formal recognition as a consulting government, with their Land and Environment Department analogous to other governmental signatories, for purpose and processes of the 1991 Agreement applicable to the Project. In a May 2020 letter to the Project Owners, NVE recognized that amending the 1991 Agreement may entail substantial time and effort, and as an alternative invited a joint letter from the Project Owners to the effect that the Project Owners will act in good faith to help mitigate impacts to the Eklutna River and that the Project Owners will recognize NVE as a consulting government on a basis comparable to the governmental signatories to the 1991 Agreement.

In June 2020, the Project Owners responded to NVE's request by committing to a review and participation framework that ensures information NVE and its members share regarding the

Eklutna River and development of the Fish and Wildlife Program is appropriately considered and addressed. This includes:

- Providing significance and due weight to NVE's expertise throughout the development of the Fish and Wildlife Program
- Recognizing and including traditional ecological knowledge (TEK) in the review and development of the study plans and Fish and Wildlife Program
- Working with NVE to schedule additional meetings with the goal of hearing input from NVE and its members (one after the study program is completed and another following the development of the Draft Program) and coordinating with NVE on developing the agenda items for these meetings
- Recommitting to sharing all study plans, data, reports, and comments directly with NVE when developed to seek feedback
- Submitting an NVE-specific comment summary to the Governor for consideration along with the Project Owners' Proposed Final Program (see Section 4.12)

The Project Owners' letter also stated: "We value the unique perspectives of NVE's members regarding the Eklutna River, and we also understand that NVE is primarily interested in the presence of both water and salmon in the lower Eklutna River. While we are contractually and legally bound by the terms of the Agreement, please know that if the process set forth in the Agreement bears out the release of water from Eklutna Lake and the addition of salmon into the Eklutna River as part of the Fish and Wildlife Program, we will be prepared to support it."

Since then, NVE has been involved in all four Technical Work Groups (TWGs) (see Section 4.3), the alternatives analysis (see Section 4.5), and attempts to resolve differences (see Section 4.8). The Project Owners have also met with the NVE Tribal Council on several occasions, including meetings with the Boards of Directors for both CEA and MEA and the Anchorage Assembly.

4.1.7 Project Newsletter

In December 2020, the Project Owners published their first Project newsletter. These newsletters provided a status update regarding the Project Owners' efforts to comply with the 1991 Agreement and next steps. They have been issued quarterly and are all available here on the Project website.

4.2 Initial Information Package

Although not required by the 1991 Agreement, the Project Owners developed an Initial Information Package (IIP) document. The IIP established a baseline of existing information and informed the study planning process required by the 1991 Agreement. The Draft IIP was distributed to stakeholders in March 2020 for review and comment. The Project Owners received comments from NMFS, ADNR, ADOT&PF, NVE, TCF, TU, ALICE, and two members of the public. The Project Owners revised the document based on comments received and issued the Final IIP in September 2020. The Draft and Final IIP and all comments received are available here on the Project website. All reference documents used to develop the IIP are available here.

4.3 Technical Working Groups

In April 2020, a Technical Working Group (TWG) focused on aquatic resources was established to solicit technical input throughout study planning, implementation, and reporting. In October 2021, three more TWGs were established to address other resource areas, including the Terrestrial TWG, Cultural TWG, and Recreation TWG. Table 4-1 shows the entities that participated in each of the TWGs.

Table 4-1. Technical Working Group Members.

Entity	Aquatics	Terrestrial	Recreation	Cultural
Native Village of Eklutna	x	x	x	x
Alaska Department of Fish and Game	x	x	x	
ADNR Chugach State Park			x	
ADNR Office of History and Archaeology				x
U.S. Fish and Wildlife Service	x	x		x
National Marine Fisheries Service	x			
Trout Unlimited	x		x	
Alaska Pacific University	x	x		
Project Owners	x	x	x	x

The TWGs met regularly to assist in study planning and review technical information developed by the study program and by others. A total of 28 TWG meetings were held during the study program (see Attachment A).

4.4 Study Program

The 1991 Agreement required the Project Owners to fund studies to examine and quantify, if possible, the impacts to fish and wildlife from the Project. Per the 1991 Agreement, the studies had to examine and develop proposed PME measures to address those impacts. This examination had to also consider the impact of potential fish and wildlife measures on electric rate payers, municipal water utilities, recreational users, and adjacent land use, as well as available means to mitigate these impacts.

Beginning in 2020, the Project Owners consulted with the TWGs regarding the development of a comprehensive, 2-year study program implemented in 2021 and 2022. During that same time period, several other entities were also conducting studies in the Eklutna watershed. These studies included:

- Aquatic habitat monitoring conducted by ADFG, originally under an agreement with Eklutna Inc., then under a new agreement with TU. These study results were shared with the Project Owners.
- Sediment transport monitoring at the highway and railroad bridges conducted by Eklutna, Inc. These study results were shared with the Project Owners.
- Adult salmon spawner surveys conducted by NVE. The data collected in 2021-2022 were shared with the Project Owners.
- Minnow trapping in the lower Eklutna River conducted by NVE. The data collected in 2021-2022 were shared with the Project Owners.
- Habitat assessment of the East and West Forks of Eklutna Creek conducted by NVE. This study has not been completed yet.
- Stream gaging in the East and West Forks of Eklutna Creek conducted by APU. The data from this ongoing effort is publicly available.
- State-wide pumped hydro study conducted by AEA. This study has not been made publicly available.
- Pumped hydro system flow analysis and animation conducted by ALICE in coordination with NVE. This analysis has not been completed yet.
- Formal TEK assessment of the historic and cultural importance of the Eklutna River conducted by NVE in partnership with TU. This assessment has not been completed yet.

The Project Owners coordinated with each of these entities during study planning regarding relevant study methods, monitoring locations, etc. When available, the Project Owners incorporated the results of these other studies in their study reports. Of note, NVE shared their fish survey and habitat study data with the Project Owners, which were included in the Fish Species Composition and Distribution Study Report and the Eklutna Lake Aquatic Habitat and Fish Utilization Study Report (see Section 4.4.2).

4.4.1 Early Study Efforts

In May 2020 the Project Owners acquired LiDAR, aerial imagery, and spherical video of the entire Eklutna River as well as the northeastern shoreline of Eklutna Lake along the lakeside trail. The spherical video is available at https://biglook360.com/eklutna/.

In July 2020, the Project Owners conducted a site reconnaissance with ADFG staff to support study planning efforts. The Aquatics TWG met on July 23, 2020, to review the observations made during the site reconnaissance and to kick-off the study planning process. This meeting included initial discussions regarding the planned Instream Flow Study (see Section 4.4.2), potential study methods, and associated challenges with providing study flow releases.

In August 2020, the Project Owners conducted an initial condition assessment of the drainage outlet gate at the base of the spillway to determine if it could be used to provide study flow releases into the Eklutna River for the planned Instream Flow Study. In the same month, the Project Owners also established several monitoring transects and installed scour monitors in the Eklutna River in advance of any potential unplanned spill events to allow for subsequent data collection that could benefit the study program. There were no spill events in 2020; however, the established transects and scour monitors were later utilized during the Geomorphology and Sediment Transport Study (see Section 4.4.2) to assess erosion and sediment transport through the Eklutna River downstream from Eklutna Lake and to help calibrate the sediment transport model.

The final Eklutna River LiDAR and aerial imagery report, spillway and drainage outlet inspection report, geomorphology monitoring plan and transect locations are all available here on the Project website.

4.4.2 Year 1 Study Planning

Based on this early work, the Project Owners developed a Proposed Study Program Framework and presented it to Aquatics TWG on September 3, 2020. This meeting included discussion regarding how study efforts would occur over a two-year period, the goals and objectives, general study area, proposed methods for each study, the study plan outline, and the study planning schedule.

Draft Study Plans were distributed to the Aquatics TWG on October 26, 2020, for review and comment. The deadline for written comments was November 25, 2020. The Project Owners received comments from NVE, ADFG, USFWS, NMFS, TU, APU staff, and a member of the WNRC. Two meetings were held with the Aquatics TWG on November 30, 2020, and December 21, 2020, to review and address the Aquatics TWG's comments on the Draft Study Plans.

The Project Owners revised the Draft Study Plans based on the comments received, and the Revised Draft Study Plans were distributed to the Aquatics TWG on January 18, 2021, for review and comment. The deadline for written comments on the Revised Draft Study Plans was January 29, 2021.

Since several of the Aquatics TWG's comments on the Draft Study Plans were questions related to the operational capabilities of the Project, the Project Owners decided to start developing the proposed hydro operations model early and presented the preliminary modeling results to the Aquatics TWG at a meeting on January 26, 2021, to help inform the Aquatics TWG's comments on the Revised Draft Study Plans. The Project Owners also addressed additional clarifying questions from the Aquatics TWG at the January 2021 meeting in advance of the comment deadline.

The Project Owners received comments from ADFG, NMFS, TU, and APU staff and revised the study plans again based on comments received. As required by the 1991 Agreement, the Proposed Final Study Plans were distributed to the Parties on February 24, 2021, for review and concurrence on the scope of work.

A meeting amongst the State agencies involved in the Project was held on February 25, 2021, to determine how the State of Alaska, as a party to the 1991 Agreement, would concur on the scope of work in the study plans. The State agencies determined that it would be most appropriate for the Commissioners of each State agency (ADFG, ADEC, ADNR, and ADOT&PF) to sign a letter stating that they concur on the scope of work in the study plans, and then the Project Owners would send those concurrence letters to AEA, the Governor's representative, with the Proposed Final Study Plans for review and feedback.

The Project Owners received concurrence letters from all of the state and federal agencies, including the NMFS, USFWS, ADFG, ADEC, ADNR, and ADOT&PF. The State agency concurrence letters and the Proposed Final Study Plans were sent to AEA as the Governor's representative for review and feedback; however, the Project Owners did not receive any additional feedback from AEA. Each version of the Year 1 Study Plans, all comments received, and each of the concurrence letters are available here on the Project website.

Studies initiated in 2021 included the following:

- **Instream Flow Study** – informed how much habitat would be created by a range of potential flows for various species (Chinook, coho, sockeye) and life stages (spawning and rearing).
- **Geomorphology and Sediment Transport Study** – informed what peak flows might be needed in conjunction with year-round instream flows.
- **Fish Species Composition and Distribution Study** – identified what fish species were present in the Eklutna River, what habitat they were utilizing, and when.
- **Water Quality Study** – monitored various water quality parameters (temperature, dissolved oxygen, pH, turbidity, nutrients, etc.) in both the Eklutna River and Eklutna Lake.
- **Macroinvertebrate Study** – assessed the baseline community of aquatic organisms at three locations in the Eklutna River.
- **Stream Gaging** – collected continuous flow data at various points in the Eklutna River and select tributaries to Eklutna Lake.
- **Lake Aquatic Habitat and Fish Utilization Study** – examined the presence and health of fish in Eklutna Lake, as well as the availability of potential spawning habitat around the lake shoreline and in its tributaries.
- **Lakeside Trail Erosion Study** – identified areas along the Eklutna Lakeside Trail that were experiencing shoreline erosion and the potential causes.
- **Hydro Operations Model Development** – allows the assessment of different potential operational scenarios for the hydroelectric project.
- **Existing Infrastructure Assessment** – evaluated the condition and hydraulic capacity of downstream infrastructure, including the AWWU infrastructure, railroad bridge, and highway bridges.

One of the major components of the year 1 study program was the need to conduct study flow releases for both the Instream Flow Study and the Geomorphology and Sediment Transport Study. With the current infrastructure, the drainage outlet gate at the base of spillway in the dam is the only mechanism for providing controlled flow releases from the lake into the river. However, this gate had not been used regularly, and upon inspection, it was determined that the gate needed to be replaced. The Project Owners were able to design, procure, permit, and

install the new drainage outlet gate during the summer of 2021 before the planned study flow releases in the fall of 2021, which ranged from 150 cfs to 25 cfs over 3 weeks.

It should be noted that in 2018, a different dam (non-operational since 1955) was removed from the lower stretch of the Eklutna River by Eklutna, Inc. After the removal of this lower dam, a significant portion of the sediment wedge that had accumulated behind the lower dam for decades was left in the river. During year 1 study planning, some TWG members requested a flushing flow as part of the study program to flush the remaining sediment from behind the lower dam site. It was determined that this flushing flow was not necessary for study purposes. However, the Project Owners did commit to evaluating the need for conducting a higher calibration flow as part of the second study year.

In June 2021, before the study flow releases, the Project Owners organized a site visit with the Aquatics TWG (Figure 4-1) to identify and establish transect locations. A total of 30 transects were established throughout the river for the Instream Flow Study in relatively stable areas of the river that were not likely to change significantly as a result of the study flow releases. Additional transects were established throughout the river for the Geomorphology and Sediment Transport Study in relatively dynamic areas of the river that were more likely to change significantly as a result of the study flow releases.

Figure 4-1. Site Visit with the Aquatics TWG in June 2021.

In preparation for study flow releases, the Project Owners requested consent and waiver of liability from the principal landowners downstream of the dam for any damage that may result from the potential movement of Eklutna Inc.'s sediment wedge during the planned study flow

releases. The principal downstream landowners include Eklutna, Inc., ADOT&PF, ARRC, and the MOA/AWWU. Among them, only the MOA/AWWU consented and waived such potential liability.

4.4.3 Year 1 Study Reporting

The Project Owners held a series of TWG meetings in November 2021 to discuss the preliminary results of the year 1 studies. Draft year 1 study reports were distributed to the TWGs and other interested parties (including AWWU) in February 2022 for review and comment. The Project Owners received comments on the draft study reports from ADFG, NMFS, and AWWU. The study reports were then revised and finalized based on comments received. The year 1 study reports and all comments received are available here on the Project website.

4.4.4 Year 2 Study Planning

Based on observations made after the study flow releases and the preliminary results from the first year of studies, the Project Owners revised the Study Program Framework for year 2 and presented it to the TWGs during the November 2021 TWG meetings. As stated above, these meetings included discussions regarding preliminary results from year 1 (if applicable), what studies were being proposed for year 2 (Table 4-2), and the goals, general study area, and proposed methods for each study.

Table 4-2. Year 2 Study Program.

Studies Continued from Year 1 (2021)	Studies Initiated in Year 2 (2022)
Instream Flow Study	Engineering Feasibility and Cost Assessment
Geomorphology and Sediment Transport Study	Hydropower Valuation Study
Fish Species Composition and Distribution Study	Wetland and Wildlife Habitat Study
Lake Aquatic Habitat and Fish Utilization Study	Terrestrial Wildlife Study
Water Quality Study	Recreation Study
Stream Gaging	Cultural Resources Study
	LiDAR and Ortho Imagery Acquisition

Following their commitment in 2021, the Project Owners evaluated the need for a higher calibration flow in 2022. However, based on the data collected in 2021, it was determined that reasonably reliable models could be developed using the collected data, and that a higher calibration flow in 2022 was not necessary for study purposes.

The Draft Year 2 Study Plans were distributed to the Parties and TWGs on February 11, 2022, for review and comment. The deadline for written comments on the Draft Year 2 Study Plans was March 11, 2022. The Project Owners received comments from NVE, USFWS, NMFS, ADFG, ADEC, OHA, TU, and TCF.

A series of TWG meetings were held in March 2022 to address substantive comments on the Draft Year 2 Study Plans that required further discussion. The Project Owners then revised the study plans based on comments received and distributed the Proposed Final Year 2 Study Plans to the Parties on April 1, 2022, for review and concurrence.

The Project Owners received concurrence letters from each of the state agencies. The NMFS and USFWS also provided concurrence letters but only concurred with 10 of the 12 study plans. The federal agencies did not concur with the Geomorphology and Sediment Transport Study Plan or the Instream Flow Study Plan due to their uncertainty about the Project Owners ability to model higher flows without a significantly higher calibration flow.[13] The Project Owners documented this area of non-agreement and distributed the Proposed Final Year 2 Study Plans and State concurrence letters to AEA as the Governor's representative for review and feedback; however, the Project Owners did not receive any additional feedback from AEA. Each version of the Year 2 Study Plans, all comments received, and each of the concurrence letters are available here on the Project website.

It should be noted that although it was not included in the Year 2 Study Plans, the Project Owners also conducted a winter flow analysis to determine the range of flows that would be needed to promote favorable ice conditions. These study results were presented to the Aquatics TWG in March 2023 (see Section 4.4.6).

4.4.5 Year 2 Interim Reporting

The Project Owners held a series of meetings with the Aquatics TWG in September, October, and November 2022 to present the preliminary year 2 study results and potential engineering solutions (PME measures) for providing year-round instream flows, periodic peak flows, and fish passage both into and out of the lake. During those meetings, the Aquatics TWG determined which potential engineering solutions should be advanced to phase 1 engineering, which involved the development of 5% conceptual designs and Class 5 Opinion of Probable Construction Costs (OPCC) for each PME measure. The preliminary study results, potential PME measures, and all comments received are available here on the Project website.

[13] The Project Owners acknowledge the uncertainty associated with any modeling effort. And after reviewing the modeling results, both federal agencies have confirmed the validity of both models.

The proposed PME measures and those that were advanced to phase 1 engineering are shown below in Table 4-3.

Table 4-3. Proposed PME Measures.

Proposed PME Measures	Phase 1 Engineering
Year-round flow releases from the existing dam (RM 12)	Yes
Year-round flow releases from the existing dam (RM 12) and excavate the lake outlet	Yes
Year-round flow releases from a new siphon (RM 12)	Yes
Year-round flow releases from a new bypass tunnel (RM 11.5)	Yes
Year-round flow releases from the existing AWWU portal valve (RM 11)	Yes
Year-round flow releases from the existing AWWU pipeline (RM 5.5)	Yes
Reroute Lach Q'atnu Creek back into the Eklutna River	Yes
Groundwater pumping downstream of the existing dam	No
Channel maintenance flows with existing overflow spillway	Yes
Channel maintenance flows with a new radial gate	Yes
Channel maintenance flows with a new fixed wheel gate	Yes
Upstream fish passage with a fish ladder (gravity flow)	Yes
Upstream fish passage with a fish ladder (variable exits)	Yes
Upstream fish passage with a fish ladder (pump station and slide)	Yes
Upstream fish passage with trap and haul	Yes
Downstream fish passage with a spill event	Yes
Downstream fish passage with a floating surface collector	Yes
Downstream fish passage with a rotary screw and guide nets	No
Downstream fish passage through the existing intake	No
Trapping facility with hatchery spawning, rearing, and release	No
Physical habitat enhancement	Yes
New AWWU bridges	Yes
Lakeside trail improvements	Yes

The Project Owners held another Aquatics TWG meeting in February 2023 to present the preliminary 2D modeling results for the river. It was during this meeting that USFWS proposed a nature-like fishway that would go around the existing dam and NVE proposed dam replacement as potential PME measures. The Project Owners held two meetings with USFWS and NVE in March 2023 to discuss both options further. The Project Owners also had several subsequent meetings with Eklutna, Inc. to discuss details of the potential replacement dam.

Ultimately, the stand-alone nature-like fishway was not advanced, but the potential replacement dam was advanced through phase 1 engineering as quickly as possible.

4.4.6 Year 2 Study Reporting

Draft year 2 study reports and phase 1 engineering deliverables were distributed to the TWGs and other interested parties in March 2023 for review and comment. The Project Owners also held a series of TWG meetings in March 2023 to review and discuss the study results. The Project Owners received comments on the draft study reports from ADFG, ADNR, and USFWS. The study reports were then revised and finalized based on comments received. The year 2 study reports and all comments received are available here on the Project website.

4.4.7 Summary of Study Results

In addition to the individual study reports, the Project Owners developed a Draft Summary of Study Results as required by the 1991 Agreement. This document was distributed in October 2023 with the Draft Program (see Section 4.7). The Project Owners did not receive any comments on the Draft Summary of Study Results. The Final Summary of Study Results is provided in Attachment B.

4.5 Alternatives Analysis

The purpose of the alternatives analysis was to evaluate the costs, benefits, and impacts of a range of comprehensive alternatives (which may consist of multiple PME measures) in a consistent manner. This process was not required by the 1991 Agreement; however, the Project Owners felt that it was necessary to bridge the gap between study reporting and issuance of a Draft Program.

Based on the study results, the Project Owners made a commitment early in the alternatives analysis process to provide year-round flow releases into the Eklutna River as part of their Proposed Final Program. Based on this commitment, the primary objectives during the alternatives analysis were to determine how to release water into the Eklutna River and how much water to release for both year-round flows and periodic channel maintenance flows while considering estimated costs and potential impacts.

The alternatives analysis helped to narrow down the list of comprehensive alternatives by removing those that either did not provide a significant benefit, or where multiple alternatives provided similar benefits, those that were more costly could be removed from consideration. The following subsections detail the method of analysis, participation in the process, the purpose of each alternatives analysis meeting, and the comprehensive alternatives that were ultimately evaluated.

4.5.1 Cost Effectiveness and Incremental Cost Analysis

To help inform decision making, a cost effectiveness and incremental cost analysis was conducted to assess the relative benefits and costs of comprehensive alternatives. This method of analysis is an industry standard, developed by the USACE to compare environmental outputs and the economic costs of alternative plans for environmental restoration or mitigation projects. The cost effectiveness analysis compares the annual cost of a proposed alternative with the ecological lift it provides to help identify the least cost alternatives for a given level of environmental benefits.

The ecological lift used as a basis for comparison was the improvements in spawning and rearing habitat for Chinook, coho, and sockeye salmon that would result from providing flow to the Eklutna River, adding fish passage into and out of the lake, changing operation of the lake levels to provide additional lakeshore spawning habitat, or some combination of these measures. The specific gains in habitat were determined using the models that were developed as part of the Instream Flow Study and the results from the Lake Aquatic Habitat and Fish Utilization Study.

To determine the costs of each proposed alternative, the total capital costs, operations and maintenance costs, and replacement energy costs were combined and annualized over 35 years with appropriate escalation factors as described in Attachment C.

4.5.2 Participation

In March 2023, the Project Owners reached out to the Parties, the TWGs, and other stakeholders regarding their interest to participate in the alternatives analysis process. The following entities participated in one or more of the alternatives analysis meetings.

- Alaska Energy Authority (AEA)
- Alaska Department of Fish and Game (ADFG)
- Alaska Department of Natural Resources (ADNR)
    - Water Section
    - Chugach State Park
    - Office of History and Archaeology (OHA)
- National Marine Fisheries Service (NMFS)

- U.S. Fish and Wildlife Service (USFWS)
- Native Village of Eklutna (NVE)
- Eklutna, Inc.
- Anchorage Water and Wastewater Utility (AWWU)
- Trout Unlimited (TU)
- The Conservation Fund (TCF)
- Project Owners

4.5.3 Meetings

The Project Owners held a series of five meetings between April and August 2023 for the alternatives analysis. The general discussion topics for each meeting are summarized below, and the presentations from each meeting are available here on the Project website.

4.5.3.1 Meeting 1

The first alternatives analysis meeting was held on April 6, 2023. At this meeting, seven potential year-round instream flow levels were presented to the group. When developing these potential flow levels, the Project Owners considered the minimum flows needed for upstream migration through the canyon reach, the flows that provide the maximum amount of spawning habitat for Chinook and coho salmon below the dam, the range of flows that would optimize overwintering habitat, and the hydraulic limitations of the proposed PME measures. Corresponding channel maintenance flows for each potential flow level were also presented. The Project Owners also described how the cost effectiveness and incremental cost analysis would be conducted. At the end of the meeting, participants were invited to submit any potential comprehensive alternatives to the Project Owners within two weeks so they could be evaluated before the next meeting. A request form was provided to participants that allowed them to select one of the seven identified flow regimes (or write in a different flow regime) and any combination of the PME measures that were advanced though phase 1 engineering.

After the first meeting, the Project Owners received 33 comprehensive alternatives from eight entities (including the Project Owners). These alternatives were comprised of various flow regimes and PME measures, including flow releases from the existing dam (with and without fish passage), a replacement dam, a new bypass tunnel, the existing AWWU portal valve, or the existing AWWU pipeline. Alternatives also included periodic channel maintenance flows with uncontrolled spill or with a fixed wheel gate. None of the alternatives included the

siphon, rerouting Lach Q'atnu Creek, the radial gate, gravity flow fish ladder, the fish ladder with a pump station and slide, or trap and haul. The Project Owners conducted a cost effectiveness and incremental cost analysis for all 33 comprehensive alternatives.

4.5.3.2 Meeting 2

The second alternatives analysis meeting was held on May 17, 2023. At the beginning of the meeting, the conceptual design and cost estimate for the replacement dam (proposed by NVE in March 2023) were presented to the group. The sediment transport modeling results for each of the proposed channel maintenance flows were also presented. The Project Owners then reviewed the results of the cost effectiveness and incremental cost analysis for each of the 33 comprehensive alternatives that were submitted for evaluation. During the meeting, the group decided to discard the alternatives that involved flow releases from the existing AWWU pipeline (RM 5.5) or a new bypass tunnel because they did not make sense from a cost benefit perspective. Participants were then invited to revise their alternatives based on the information provided and resubmit them for analysis and discussion at Meeting 3.

After the second meeting, the Project Owners received 36 comprehensive alternatives from eight entities (including the Project Owners). Three of the entities had no changes to their alternatives, but five entities submitted revisions, including the Project Owners. The Project Owners conducted a cost effectiveness and incremental cost analysis for all 36 comprehensive alternatives.

4.5.3.3 Meeting 3

The third alternatives analysis meeting was held on June 14, 2023. In response to questions during the previous meeting regarding the feasibility and benefits of fish passage, the Project Owners began this meeting with a review of the downstream fish passage options/challenges and the documented fish habitat in Eklutna Lake and its tributaries. The Project Owners then presented the revised results for each of the revised alternatives. At the end of the meeting, participants were asked to consider the information presented and submit their preferred alternative(s) for analysis and discussion at Meeting 4.

After the third meeting, the Project Owners received 12 preferred alternatives from seven entities (including the Project Owners). Most entities provided one preferred alternative; however, some entities provided more than one preferred alternative (see Section 4.5.4). The Project Owners conducted a cost effectiveness and incremental cost analysis for all 12 preferred alternatives.

4.5.3.4 Meeting 4

The fourth alternatives analysis meeting was held on July 12, 2023. In response to a question from ADFG during the previous meeting regarding potential velocity barriers, the Project Owners presented modeling results for a range of higher flows (80 to 350 cfs) in the canyon reach. It was concluded that these higher flows would not create a barrier to upstream fish migration in the canyon reach. The Project Owners then presented the revised results for each of the preferred alternatives. The total present value of annualized costs (capital, O&M, and replacement energy) for each alternative ranged from $44 million to $385 million over the 35-year program. Potential impacts to CEA and MEA ratepayers and MOA taxpayers were also reviewed, along with results of the cost effectiveness and incremental cost analysis. During the meeting, TCF proposed a hybrid flow release alternative, releasing flows from the existing dam in the summer and the AWWU portal valve in the winter. The Project Owners committed to evaluating this alternative and discussing it at the next meeting. For the remainder of the meeting, the Project Owners reviewed the potential effects, both positive and negative, of the preferred alternatives on other resources including wetlands and wildlife, public water supply, and recreational use and facilities.

4.5.3.5 Meeting 5

The fifth and final alternatives analysis meeting was held on August 9, 2023. The meeting began with a discussion on the potential effects, both positive and negative, of the preferred alternatives on cultural resources. The Project Owners then presented their evaluation of the hybrid flow release alternative that was proposed by TCF in the previous meeting. This alternative ultimately had the same impacts to reservoir operations as releasing flows from the dam year-round and therefore was not advanced any further. The Project Owners then discussed potential adaptive management strategies and proposed using water budgets for both year-round instream flows and periodic channel maintenance flows. A water budget establishes a total amount of water available for release into the Eklutna River each year; adjustments can be made to the flow regime as long as the total volume of water to be released does not exceed the water budget. The remainder of the meeting was an open discussion regarding potential monitoring efforts. At the end of the meeting, the Project Owners invited participants to revise and resubmit their preferred alternatives if needed.

4.5.4 Preferred Alternatives

After the fifth meeting, the Project Owners received 12 preferred alternatives from eight entities (including the Project Owners). Most entities provided one preferred alternative; however, some entities provided more than one preferred alternative. The following subsections detail the components of each entity's preferred alternative(s).

4.5.4.1 Infrastructure Modifications

The infrastructure modifications proposed by each entity for their preferred alternative(s) are shown below in Table 4-4. If an entity provided more than one preferred alternative, then their alternatives were labeled in descending order of preference.

Table 4-4. Infrastructure Modifications for Preferred Alternatives.

Entity	Instream Flows	Channel Maintenance Flows	Upstream & Downstream Fish Passage	Other
NMFS[1]	AWWU Portal Valve	Fixed Wheel Gate	None	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
	Replacement Dam	Fixed Wheel Gate	Variable Exit Fish Ladder[2] & Floating Surface Collector	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
USFWS Alt A	Replacement Dam	Fixed Wheel Gate	Variable Exit Fish Ladder[2] & Juvenile Bypass Gate[3]	Physical Habitat Enhancement New AWWU Bridges Lakeside Trial Repairs
NVE	Replacement Dam	Fixed Wheel Gate	Variable Exit Fish Ladder[2] & Spill	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
TCF	Replacement Dam	Fixed Wheel Gate	Variable Exit Fish Ladder[2] & Spill	None
USFWS Alt B	Existing Dam	Fixed Wheel Gate	Variable Exit Fish Ladder & Floating Surface Collector	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
TU	Existing Dam	Fixed Wheel Gate	Variable Exit Fish Ladder & Spill	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
USFWS Alt C[4]	Existing Dam	Fixed Wheel Gate	None	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
USFWS Alt D[4]	AWWU Portal Valve	Fixed Wheel Gate	None	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs

Entity	Instream Flows	Channel Maintenance Flows	Upstream & Downstream Fish Passage	Other
ADFG Alt A[5]	AWWU Portal Valve	Fixed Wheel Gate	None	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
ADFG Alt B[5]	AWWU Portal Valve	Fixed Wheel Gate	None	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
ADNR Parks	AWWU Portal Valve	Existing Gate	None	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
Project Owners	AWWU Portal Valve	Existing Gate	None	Physical Habitat Manipulation New AWWU Bridges Lakeside Trail Repairs

1 NMFS's preferred alternative involved implementing the AWWU portal valve and fixed wheel gate as an immediate action (within 5 years as required by the 1991 Agreement), followed by the replacement dam and fish passage as long-term actions to be implemented after the implementation period specified in the 1991 Agreement.

2 The conceptual design for the replacement dam included a variable exist fish ladder with a nature-like entrance for upstream fish passage.

3 The conceptual design for the replacement dam included a juvenile bypass gate for downstream fish passage.

4 USFWS alternatives C and D were only if public and financial support for alternatives A and B could not be obtained.

5 ADFG alternatives A and B had the same infrastructure modifications but different flow regimes.

4.5.4.2 Year-Round Instream Flow Regimes

The year-round instream flow regimes proposed by each entity for their preferred alternative(s) are presented below in Table 4-5.

Table 4-5. Year-Round Instream Flow Regimes for Preferred Alternatives.

Entity	Flow Releases (cfs)											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
NMFS[1]	75	75	75	75	75	160	160	160	160	160	75	75
USFWS Alt A	75	75	75	75	75	160	160	160	160	160	75	75
NVE[2]	65	65	65	65	160	255	350	350	150	150	108	65
TCF[2]	60	60	60	60	100	180	180	180	180	100	60	60
USFWS Alt B	75	75	75	75	75	160	160	160	160	160	75	75
TU[2]	61	61	61	61	134	206	206	206	134	61	61	61

Entity	Flow Releases (cfs)											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
USFWS Alt C	75	75	75	75	75	160	160	160	160	160	75	75
USFWS Alt D[1]	75	75	75	75	75	160	160	160	160	160	75	75
ADFG Alt A	35	35	35	35	50	65	80	80	57	57	46	35
ADFG Alt B	31	31	31	31	41	50	60	60	48	48	39	31
ADNR Parks	27	27	27	27	34	40	40	40	40	40	34	27
Project Owners	27	27	27	27	34	40	40	40	40	40	34	27

[1] Given the infrastructure selected for the NMFS alternative and USFWS Alt D (the AWWU portal valve), the preferred flow regimes shown for these alternatives are not technically feasible.

[2] The NVE, TU, and TCF preferred alternatives include additional releases from the dam for downstream fish passage in April – June, which is not reflected in the instream flow regime presented.

4.5.4.3 Channel Maintenance Flow Regimes

The channel maintenance flow regime proposed by each entity for preferred alternative(s) are presented below in Table 4-6.

Table 4-6. Stakeholders' Preferred Channel Maintenance Flows.

Entity	Flow (cfs)	Duration (Hrs)	Recurrence (Yrs)
NMFS	700	72	3 of 10
USFWS Alt A	700	72	3 of 9
NVE	700	72	Annually
TCF	600	72	3 of 10
USFWS Alt B	700	72	3 of 9
TU	400	72	3 of 10
USFWS Alt C	700	72	3 of 9
USFWS Alt D	700	72	3 of 9
ADFG Alt A	400	72	3 of 10
ADFG Alt B	325	72	3 of 10
ADNR Parks	220	72	3 of 10
Project Owners	220	72	3 of 10

4.5.4.4 Cost Benefit Summary

Each of the preferred alternatives were analyzed as part of the cost effectiveness and incremental cost analysis. A summary of the total annualized costs and present worth of each preferred alternative for the 35-year program is presented below in Table 4-7 and Figure 4-2.

Table 4-7. Cost Summary for Stakeholders' Preferred Alternatives.

Entity	Capital Cost ($M)[1]	O&M Cost ($M)	Replacement Energy Cost ($M)	35-Year Annualized Cost ($M)	35-Year Present Worth ($M)
NMFS	170.8	1.7	4.9	23.5	385
USFWS Alt A	158.7	1.7	4.9	22.4	366
NVE	122.9	0.3	8.4	21.1	346
TCF	118.1	0.3	6.9	18.9	310
USFWS Alt B	88.6	2.1	5.2	17.7	289
TU	28.9	0.6	7.2	13.5	221
USFWS Alt C	18.0	0.5	5.2	8.7	142
USFWS Alt D	16.9	0.2	2.0	4.3	70
ADFG Alt A	16.9	0.2	2.0	4.3	70
ADFG Alt B	16.9	0.2	1.7	3.8	63
ADNR Parks	8.9	0.2	1.3	2.7	44
Project Owners	8.9	0.2	1.3	2.7	44

[1] Capital costs are based on Class 5 OPCC's and carry an expected accuracy range of -50% to +100%.

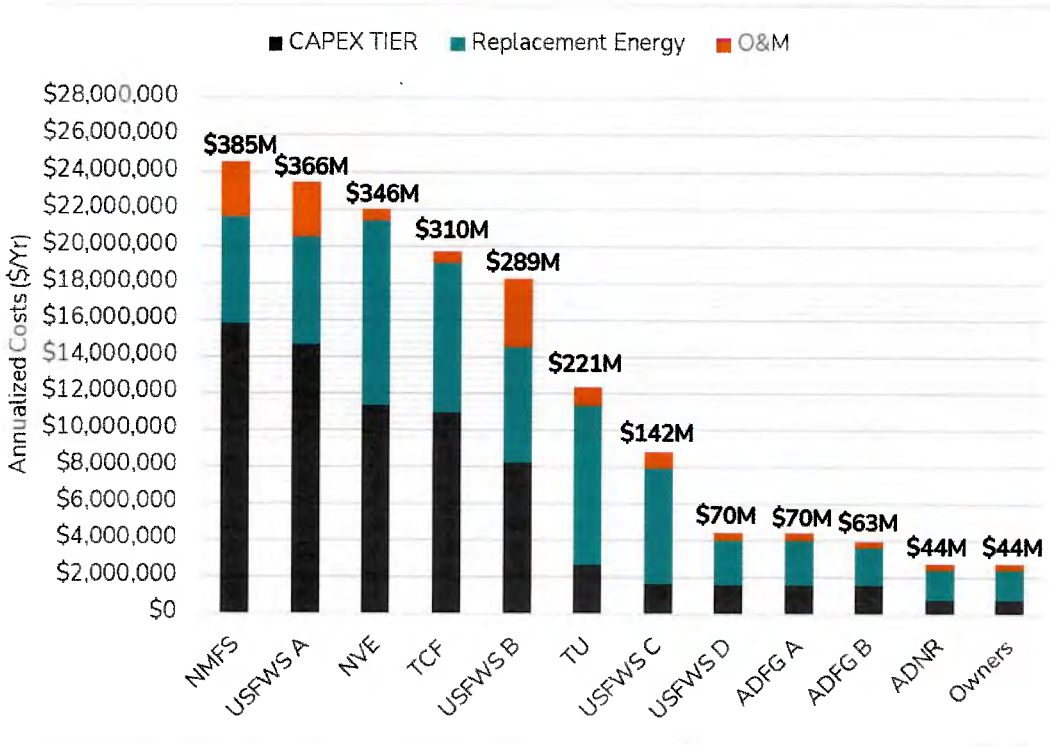

Figure 4-2. Comparison of Annualized Costs and Present Worth for Preferred Alternatives.

The associated ratepayer/taxpayer impacts are presented in Table 4-8. The supporting data for the cost effectiveness modeling is provided in Attachment C.

Table 4-8. Ratepayer/Taxpayer Impacts for Preferred Alternatives.

Entity	Ratepayer Impacts		Property Tax Increase	
	CEA	MEA	MOA	
	(%)	(%)	(mils)	($/100k)
NMFS	+ 4.73%	+ 5.81%	0.076	$7.63
USFWS Alt A	+ 4.53%	+ 5.45%	0.072	$7.21
NVE	+ 4.24%	+ 6.10%	0.046	$4.62
TCF	+ 3.80%	+ 5.29%	0.045	$4.46
USFWS Alt B	+ 3.53%	+ 4.66%	0.052	$5.23
TU	+ 2.38%	+ 4.11%	0.016	$1.60
USFWS Alt C	+ 1.70%	+ 2.96%	0.011	$1.13
USFWS Alt D	+ 0.84%	+ 1.31%	0.008	$0.81
ADFG Alt A	+ 0.84%	+ 1.31%	0.008	$0.81

Entity	Ratepayer Impacts		Property Tax Increase	
	CEA	MEA	MOA	
	(%)	(%)	(mils)	($/100k)
ADFG Alt B	+ 0.76%	+ 1.13%	0.008	$0.81
ADNR Parks	+ 0.53%	+ 0.84%	0.005	$0.51
Project Owners	+ 0.53%	+ 0.84%	0.005	$0.51

The models developed as part of the Instream Flow Study and the results of the Lake Aquatic Habitat and Fish Utilization Study were used to quantify habitat gains for three species (Chinook, coho, and sockeye) and two life stages (spawning and rearing). A summary of the habitat gains for each preferred alternative is presented below in Table 4-9.

Table 4-9. Summary of Habitat Gains for Stakeholders' Preferred Alternatives.

Stakeholder	Habitat Gains (Acres)				
	Chinook Spawning	Coho Spawning	Sockeye Spawning	Chinook Rearing	Coho Rearing
NMFS	3.9	4.0	3.0	15.5	22.8
USFWS Alt A	3.9	4.0	3.0	15.5	22.8
NVE	3.1	3.6	2.5	21.0	31.0
TCF	3.8	3.9	2.7	19.0	28.1
USFWS Alt B	4.9	5.0	4.0	19.1	28.2
TU	4.7	5.0	4.2	18.2	27.1
USFWS Alt C	2.0	2.1	1.1	19.1	28.2
USFWS Alt D	1.5	1.2	0.5	12.6	18.5
ADFG Alt A	1.6	1.6	1.2	8.7	12.7
ADFG Alt B	1.5	1.6	1.2	7.7	11.6
ADNR Parks	1.5	1.6	1.2	6.3	9.9
Project Owners	1.5	1.6	1.2	6.3	9.9

To further assess each preferred alternative, the incremental costs were analyzed to determine the annual spending per acre of habitat gained in the river and lake. This exercise helps to inform the consequences of increasing unit costs to achieve additional habitat gains. A summary of the incremental costs is presented below in Table 4-10.

Table 4-10. Incremental Costs Per Acre of Habitat for Preferred Alternatives.

Entity	Incremental Cost ($/Yr/Acre)				
	Chinook Spawning	Coho Spawning	Sockeye Spawning	Chinook Rearing	Coho Rearing
NMFS	$1,800,000	$1,700,000	$2,300,000	$400,000	$300,000
USFWS Alt A	$6,000,000	$5,900,000	$7,800,000	$1,500,000	$1,000,000
NVE	$5,700,000	$5,600,000	$7,500,000	$1,400,000	$1,000,000
TCF	$7,100,000	$6,100,000	$8,800,000	$1,000,000	$700,000
USFWS Alt B	$5,200,000	$5,100,000	$7,300,000	$1,000,000	$700,000
TU	$2,900,000	$2,700,000	$3,200,000	$700,000	$500,000
USFWS Alt C	$4,400,000	$4,100,000	$7,900,000	$500,000	$300,000
USFWS Alt D	$2,700,000	$2,700,000	$3,600,000	$500,000	$300,000
ADFG Alt A	$2,500,000	$2,400,000	$3,200,000	$500,000	$300,000
ADFG Alt B	$1,800,000	$1,700,000	$2,300,000	$400,000	$300,000
ADNR Parks	$1,800,000	$1,700,000	$2,300,000	$400,000	$300,000
Project Owners	$1,800,000	$1,700,000	$2,300,000	$400,000	$300,000

4.6 AWWU Agreements

After the alternatives analysis, the Project Owners initiated conversations with AWWU in August 2023 to ascertain if AWWU would be willing to allow for potential the use of its infrastructure to release water into the Eklutna River. These conversations concluded with a confidential binding term sheet in October 2023, pursuant to which the Project Owners and AWWU agreed to: (1) broad commercial terms to allow for the construction, interconnection, and operation of the Eklutna River Release Facility and transportation of water for instream flows if the AWWU portal valve alternative was included in the Final Program approved by the Governor; (2) negotiate three definitive contracts elaborating upon such terms prior to the submission of the Proposed Final Program to the Governor:

- A **Water Facilities Interconnection Agreement** to govern the rights and responsibilities of the Project Owners and AWWU with respect to the construction of the Eklutna River Release Facility and eight AWWU bridges over the Eklutna River that will be needed for year-round access to AWWU infrastructure;
- A **Long-Term Water Transportation Agreement** to govern the rights and responsibilities of the Project Owners and AWWU with respect to the transportation of

water from Eklutna Lake, through AWWU infrastructure and the Eklutna River Release Facility, and into the Eklutna River; and

- A **Public Water Supply Agreement** to replace a 1984 agreement between AWWU and the Project Owners governing AWWU's compensation for and use of the Project Owners' water rights to provide drinking water to AWWU customers from Eklutna Lake that expires in 2025.

In March 2024, the Project Owners and AWWU reached agreement on final drafts of these documents, which are provided in Attachment D. While these agreements themselves have not yet been signed by the parties, the parties have signed an amendment to the binding term sheet agreeing that the substantive terms of such documents are complete, provided that certain technical and procedural exhibits will still need to be finalized. The Project Owners and AWWU further agreed that they will execute the agreements upon (1) the approval of the Governor of a Final Program including the use of AWWU facilities as set forth in the Proposed Final Program, (2) the approval by the Anchorage Assembly to the extent necessary for the MOA to execute and perform under the agreements; and (3) any necessary MEA and CEA board approvals.

The binding term sheet and amendment are available here on the Project website.

4.6.1 Water Facilities Interconnection Agreement

The negotiated terms of the Water Facilities and Interconnection Agreement are summarized below.

- The Project Owners shall be responsible for the design, engineering, permitting, constructing, and testing the Eklutna River Release Facility and AWWU Bridges, and shall do such work in compliance with prudent industry standards.
- The proposed design for the Eklutna River Release Facility as developed by the Project Owners must be approved by AWWU.
- The Project Owners shall bear all the costs associated with constructing the Eklutna River Release Facility and will provide certain workmanship and other warranties with respect to the Eklutna River Release Facility for one year after commercial operation.
- AWWU shall provide access to the necessary land and AWWU facilities within its control to allow for such work. The Project Owners shall be responsible for obtaining any necessary third-party approvals for land access, with AWWU assistance.

- After the Eklutna River Release Facility is commercially operable, legal title to a certain portion of the Eklutna River Release Facility including the portions necessary for isolating AWWU's pipeline segment shall pass to AWWU. Legal title to AWWU bridges shall also pass to AWWU.

4.6.2 Long-Term Water Transportation Agreement

The negotiated terms of the Long-Term Water Transportation Agreement are summarized below.

- Beginning upon the commercial operation of the Eklutna River Release Facility and for at least 35 years thereafter, AWWU shall transport water belonging to the Project Owners upon request through AWWU's facilities to the Eklutna River Release Facility to be released into the Eklutna River.

- Under no circumstance shall AWWU be required to deliver water in such a way that will inhibit its ability to deliver a daily flow rate of at least 41 million gallons per day (MGD) to the downstream Eklutna Water Treatment Facility or to exceed the hydraulic capacity or design criteria of the AWWU facilities.

- The parties shall together develop detailed operating procedures before the beginning of the term which will be regularly updated throughout the term.

- As with the Water Facilities Interconnection Agreement, AWWU shall provide access to the necessary land and AWWU facilities within its control to allow for these water transportation services.

4.6.3 Public Water Supply Agreement

The negotiated terms of the Public Water Supply Agreement are summarized below.

- As partial consideration for the services and access to AWWU infrastructure being provided by AWWU pursuant to the Water Facilities Interconnection Agreement and the Long-Term Water Transportation Agreement, the Project Owners have agreed to make available and allow AWWU to continue to interconnect the Eklutna Water Treatment Facility to the Project infrastructure, to use certain of the Project Owners' facilities, and to use a portion of the Project Owners' water rights, up to 41 MGD, all for the public water supply through October 2060.

- In 2055, AWWU will have an option to obtain by transfer of title from the Project Owners' a portion of their first priority water rights up to 41 MGD at no cost to AWWU other than documentation and approvals.

- AWWU shall pay significantly reduced compensation to the Project Owners for associated reductions in electric energy generation.
- The Project Owners will remain responsible for Eklutna Lake reservoir operations and shall operate the reservoir in such a way that the projected allocations of water to AWWU are available upon request at a flow rate of 41 MGD.
- The Project Owners recommit to take no action regarding Eklutna Lake that has the effect of reducing the quality or increasing the turbidity of the lake water or otherwise allow any other action that might have the effect of reducing its suitability for use as a source of public water supply.

4.7 Draft Fish and Wildlife Program

Per the 1991 Agreement, the Project Owners distributed a Draft Program (with the Draft Summary of Study Results) to the Parties in October 2023. Both documents were also provided to NVE.

In the Draft Program, the Project Owners proposed to utilize the existing AWWU water supply infrastructure to provide a robust year-round base instream flow regime to 11 out of 12 miles of the Eklutna River and benefit all four species of salmon that are currently observed spawning in the lower river, while implementing measures to protect the public water supply and minimizing impacts to ratepayers, taxpayers, carbon emissions, and recreation. The proposed flows were determined based on modeling results and were designed to optimize habitat gains while minimizing the costs of replacement energy. The Draft Program also proposed periodic peak flows to maintain downstream fish habitat, construction of eight new bridges for the AWWU water supply access road, a funding commitment for monitoring studies, and an adaptive management framework. Due to the significant costs, impacts, and uncertainty regarding the viability of introducing anadromous species above the Project dam, no fish passage related facilities or changes in operations were proposed at that time.

The Parties and NVE had 30 days to review and provide comments to the Project Owners. The Project Owners received comment letters from ADFG, ADNR, NMFS, USFWS, NVE, and Eklutna, Inc. The Draft Program, Draft Summary of Study Results, and all comments received are available here on the Project website. Responses to comments on the Draft Program are provided in Attachment E.

In their comment letter dated December 4, 2023, NVE proposed a new alternative that involved the removal of Eklutna Dam "within ten years when sufficient renewable power generation is available to offset the lost power generation from dam removal." In response to this letter, the Project Owners committed to evaluate dam removal in further detail. A

memorandum documenting this evaluation is provided in Attachment F. This alternative was not selected for the Proposed Final Program for reasons described in Section 4.12.2.

4.8 Attempt to Resolve Differences

Per the 1991 Agreement, the Project Owners were required to attempt to resolve differences with the Parties giving due weight to their recommendations, expertise, and statutory responsibilities. The Project Owners held individual meetings with each of the Parties in December 2023 to discuss their comments on the Draft Program. The Project Owners continued to meet with the Parties through April 2024 and made substantive changes to the proposed program based on these discussions.

The Project Owners also met with NVE in December 2023 to discuss their comments on Draft Program and underlying interests. NVE declined to meet with the Project Owners again until March 2023, at which point the Project Owners presented the substantive changes to the program that had been negotiated with the Parties. Subsequent to this meeting, NVE proposed a new alternative that still involved the removal of Eklutna Dam by 2034 once 40 MW of replacement renewable energy is secured. In addition, NVE's new proposal also included the construction of a pump station that would pump water from deep in Eklutna Lake to the pond upstream of Eklutna Dam, and then release water from the dam into the river year-round. This alternative was not selected for the Proposed Final Program for reasons described in Section 4.12.3.

4.9 Public Meetings

After meeting with the Parties and NVE in December 2023 to attempt to resolve differences, the Project Owners were required to hold at least two public meetings, one in Anchorage and one in the Matanuska-Susitna Valley. The Project Owners ultimately held six public meetings, two in Anchorage, two in Palmer, and two in Eagle River. For each location, one meeting was held in the afternoon and one in the evening. All six meetings were held in January 2024 and were an open house format with a brief presentation followed by an opportunity for participants to meet with the Project Owners and their subject matter experts, ask questions, and submit comments. Members of the public had an opportunity to submit both written comments to the Project Owners using the comment forms provided at the public meetings or electronically via the Project website or email. Members of the public also had an opportunity to record their verbal comments at the public meetings.

The public comment period was open from October 27, 2023, when the Draft Program was issued, through February 19, 2024, one month after the last public meeting. The Project Owners received a total of 1,672 public comments, including 1,299 form letters. Individual

comments primarily addressed dam removal and the Draft Program, with comments supporting and opposing both dam removal and the Draft Program essentially evenly split. All of the form letters called for removal of Eklutna Dam; however, most of these form letters were from out of state. The Public Comment Summary and Analysis is provided in Attachment G.

4.10 Proposed Final Fish and Wildlife Program

After five years consultation, study, and analysis, the Project Owners are excited to submit their Proposed Final Program to the Governor. The Project Owners believe that the Proposed Final Program substantively protects, mitigates, and enhances fish and wildlife impacted by the Project, while balance costs and potential impacts to municipal water supply and recreation. The primary components of the Proposed Final Program are summarized below.

- Construction of the Eklutna River Release Facility adjacent to the AWWU portal valve and establishment of year-round instream flows in the Eklutna River.
- Automation of the existing outlet gate at the dam to provide periodic channel maintenance flows in the Eklutna River.
- Construction of eight new bridges along the AWWU access road to enable AWWU's access to critical infrastructure year-round following the establishment of instream flows.
- Payment to Chugach State Park for lakeside trail repairs.
- Establishment of a Committee to oversee implementation of the Monitoring and Adaptive Management Plan.
- Funding to conduct monitoring studies in the Eklutna River throughout the 35-year program.
- Funding for physical habitat enhancement in the Eklutna River based on the monitoring results.
- Procedures for the Committee to adaptively manage the flow regime in the Eklutna River based on the monitoring results.
- Provisions for banking water in Eklutna Lake and potentially increasing the water budget for instream flows in the future.

- Potential installation of a fixed wheel gate to accommodate higher inflows in the future and/or allow higher channel maintenance flows if needed.
- Potential installation of upstream and downstream fish passage facilities in the future if specific criteria are met.

Approval of the Proposed Final Program will enable the Project Owners to implement these significant fish and wildlife measures at the Project, while simultaneously protecting the municipal water supply and continuing to provide low cost, renewable energy to Southcentral Alaska. A comparison to existing conditions is provided in Attachment H. The Design Documentation Reports (DDRs) are provided in Attachment I.

4.10.1 Anticipated Benefits to Fish and Wildlife

Based on modeling results, the default flow regime should create significant new spawning and rearing habitat for salmon in the Eklutna River. The expected spawning and rearing habitat gains for Chinook and coho salmon are presented in Table 4-11.

Table 4-11. Chinook and Spawning and Rearing Habitat Gains.

	Chinook Habitat		Coho Habitat	
Criteria	Spawning	Rearing*	Spawning	Rearing*
Baseline Habitat (Acres)	0.7	11.8	2.5	14.7
Total Habitat with Proposed Base Flows (Acres)	2.2	18.1	4.1	24.6
Percent Gain	209%	53%	65%	67%
% of Maximum Available Habitat Below the AWWU Portal Valve	96.5%	n/a	99.6%	n/a
% of Maximum Available Habitat in the Eklutna River	81.7%	n/a	83.7%	n/a

*The % of maximum available habitat is not shown for Chinook or coho rearing habitat because the flow needed to achieve maximum rearing habitat for both species appears to be higher than the range of flows that was modeled.

The spawning habitat curves for Chinook and coho salmon habitat downstream of the AWWU Portal Valve are presented in Figure 4-3. Spawning and rearing habitat gains are presented graphically in Figure 4-4 and Figure 4-5, respectively.

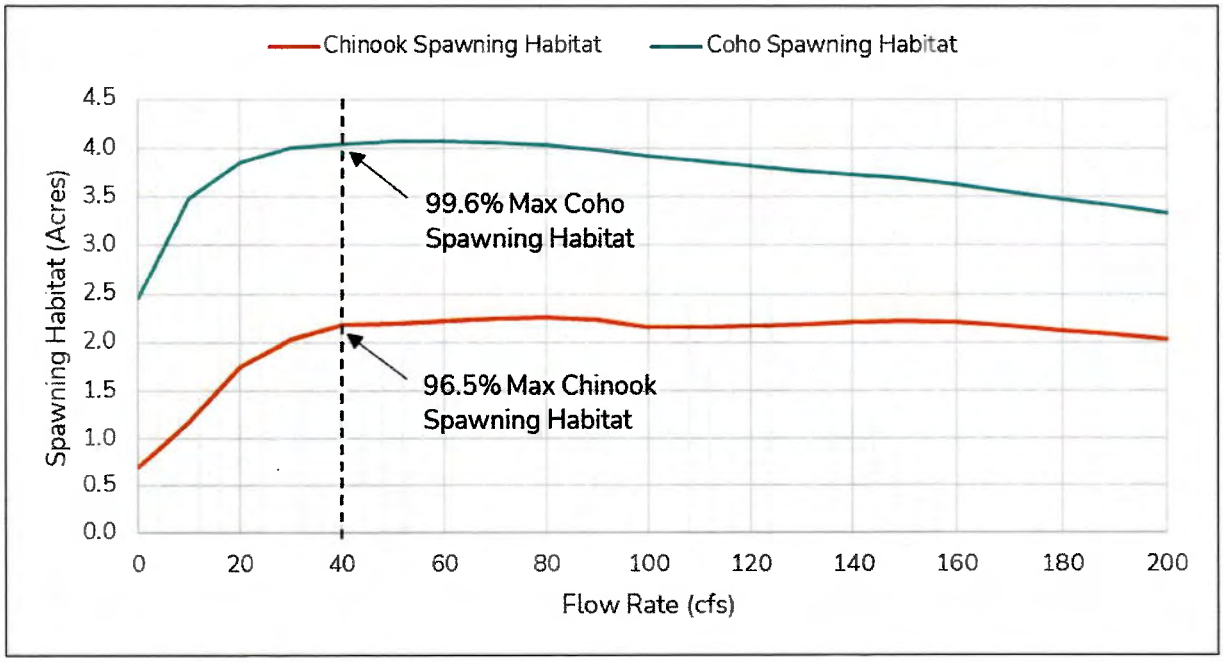

Figure 4-3. Spawning Habitat Curves for the Eklutna River below the AWWU Portal Valve.

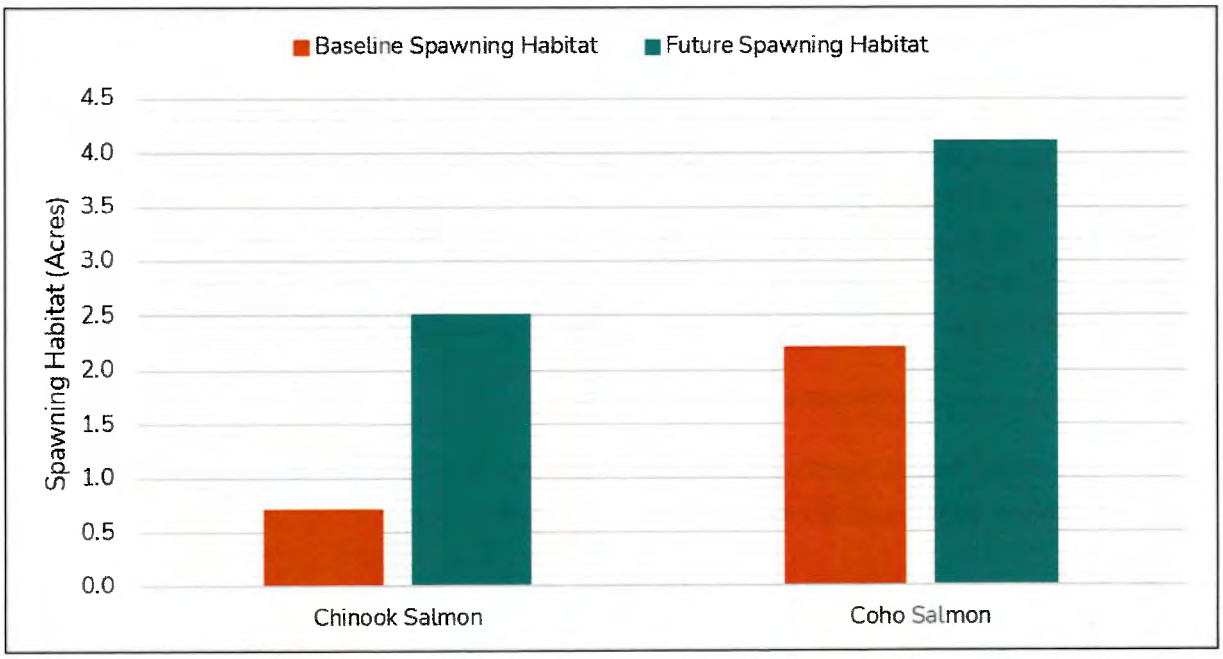

Figure 4-4. Spawning Habitat Comparison, Baseline vs. Future Flow Conditions.

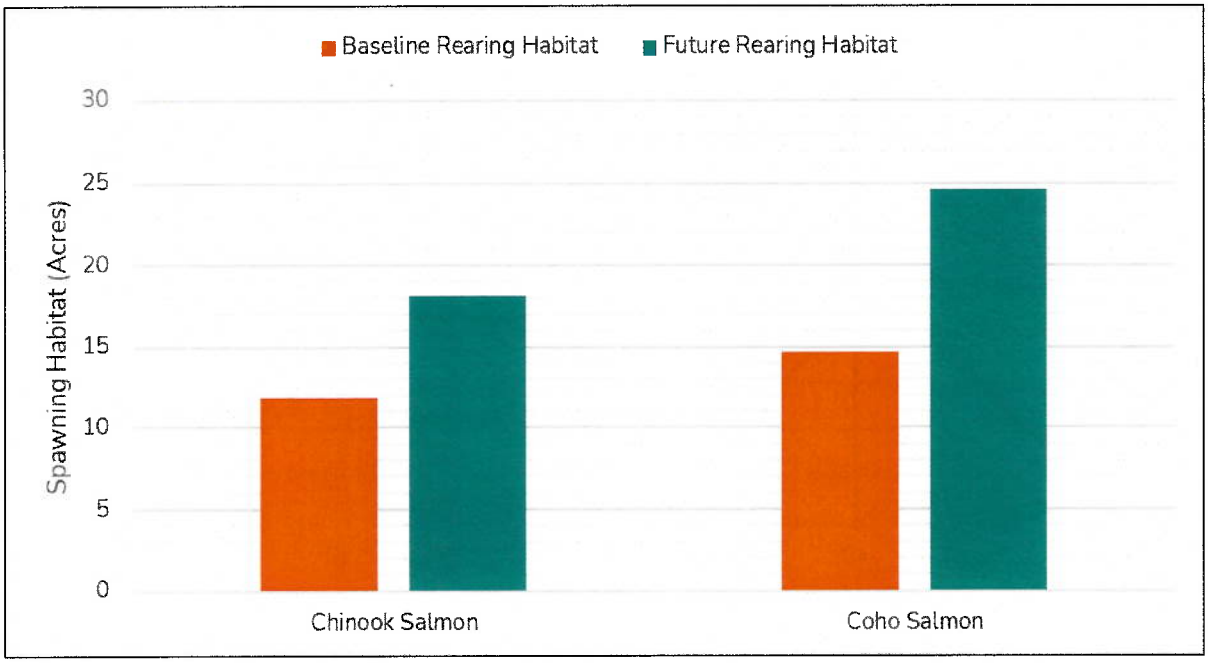

Figure 4-5. Rearing Habitat Comparison, Baseline vs. Future Flow Conditions.

Additional habitat gains for pink and chum salmon are expected to be similar to the prior two species but were not quantified as part of the study program. While these flow releases may also create potential spawning habitat for sockeye in the river, they are unlikely to create rearing habitat for sockeye since sockeye typically rear in lakes. Therefore, the potential spawning habitat for sockeye in the river is not shown. It should be noted that the limited reopener for fish passage (Section 4.2 of the Proposed Final Program) creates the opportunity to benefit sockeye in the future. Increased flow and salmon abundance will also directly or indirectly benefit several ecologically and/or culturally important wildlife species, including:

- Bears, especially brown bears (direct foraging)
- Moose (increased plant nutrients and forage; however, moose could also be negatively impacted as a result of increased bear densities)
- Wolves (direct foraging and potentially higher prey base)
- River otters and mink (direct foraging)
- Beavers (beaver dams would also create salmon rearing habitat)
- Piscivorous birds
- Marine mammals

Exhibit TRZ-04
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4.10.2 Anticipated Costs

A Class 4 OPCC with an accuracy range of -30% to +50% was developed for the capital improvements proposed in the Proposed Final Program. Both the capital costs and the O&M costs for the proposed improvements increased from the Class 5 OPCC in part due to modifications to the design that were requested by AWWU. Due to uncertainties whether the fixed wheel gate PME measure will be implemented in the future, the costs are broken out into total program costs with and without the fixed wheel gate.

The costs for implementing the Proposed Final Program will be distributed among the Project Owners based on their ownership percentages and long-term power purchase agreements that modify allocations of costs related to the 1991 Agreement. The resulting allocations are as follows:

- CEA is responsible for 64.29% of all costs, including Capital Costs, O&M Costs, and Replacement Energy Costs.
- MEA is responsible for 16.67% of the Capital Costs and O&M Costs, and 35.71% of Replacement Energy Costs.
- MOA is responsible for 19.04% of the Capital Costs and O&M Costs but does not incur any Replacement Energy Costs.

The total anticipated costs for the Project Owners to implement the Proposed Final Program are presented below in Table 4-12.

Table 4-12. Cost Summary for the Proposed Final Program.

Cost Description	Value
Capital Costs	
ERRF Capital Cost ($)[1]	$10,106,130
Dam Outlet Modifications Capital Cost ($)[1]	$769,373
AWWU Bridges Capital Cost ($)[1]	$4,558,256
Lakeside Trail Repairs ($)	$234,000
Monitoring Program Cost ($)	$450,000
Physical Habitat Enhancement ($)	$350,000
Fixed Wheel Gate ($)[1] *if implemented*	$4,015,100[2]
Subtotal Capital Costs w/o Fixed Wheel Gate ($)	$16,467,759
Subtotal Capital Costs w/ Fixed Wheel Gate ($)	$20,482,860

Cost Description	Value
O&M Costs	
ERRF O&M Cost ($/Yr)	$227,500
Dam Outlet Modifications O&M Cost ($/Yr)	$88,400
Subtotal O&M Costs ($/Yr)	$315,900
Replacement Energy Costs	
Average Annual Energy Reduction (MWh)	15,749
Replacement Energy Costs ($/MWh)	$84.65
Replacement Energy Cost ($/Yr)	$1,333,188
Annualized Costs w/o Fixed Wheel Gate	
Total Annualized Cost ($/Yr)	$3,555,527
CEA Share of Total Annualized Cost ($/Yr)	$2,360,729
MEA Share of Total Annualized Cost ($/Yr)	$897,638
MOA Share of Total Annualized Cost ($/Yr)	$297,160
Estimated Present Value of Total Annualized Costs ($)	$58,218,000
Annualized Costs w/ Fixed Wheel Gate	
Total Annualized Cost ($/Yr)	$3,898,161
CEA Share of Total Annualized Cost ($/Yr)	$2,599,245
MEA Share of Total Annualized Cost ($/Yr)	$955,068
MOA Share of Total Annualized Cost ($/Yr)	$343,848
Estimated Present Value of Total Annualized Costs ($)	$63,828,000[2]

[1] Capital costs at this level of design have an expected accuracy range of -30% to +50%.

[2] The Project Owners' maximum commitment to the fixed wheel gate is $10M, which would raise the Program's capital costs to about $26.5M and its 35-year present value to $72.2M.

Each Project Owner will be responsible for paying its proportionate share of the costs associated with implementing the Final Program. It is too early to determine whether and when such costs will be recovered in rates because any rate recovery will be determined through a rate-setting regulatory process before the Regulatory Commission of Alaska (RCA). Similarly, it is premature to estimate that the costs incurred by the MOA ill exceed its revenues under its long-term power purchase agreements such that the MOA will have to raise taxes Assuming that all such costs are passed directly through as increases to rates and taxes, however, the maximum ratepayer impacts for each utility and potential tax implications of these annualized costs are summarized in the following table.

Table 4-13. Summary of Ratepayer Impacts for Proposed Program.

Fish and Wildlife Program w/ Fixed Wheel Gate	
Cost Description	Value
CEA Rate Impact	+0.78%
MEA Rate Impact	+1.07%
MOA Property Tax Impact	.010 mils[1]

[1] 1 mil is $100 per $100,000 of taxable property value.

4.10.3 Implementation Schedule

The schedule for the remainder of the consultation process and implementation of the Final Program is outlined below in Table 4-14.

Table 4-14. Remaining Consultation Process and Implementation Schedule.

Entity	Milestone	Deadline
Parties	Provide comments to the Governor	June 24, 2024
Project Owners	Provide responses to the Governor	July 24, 2024
Governor	Issues the Final Program	October 2, 2024
Project Owners	Feasibility study for the fixed wheel gate	October 2, 2027
Project Owners	Begin implementation	October 2, 2027
Project Owners	Complete implementation (establish instream flows)	October 2, 2032
Project Owners	Reallocation of any additional inflows to the reservoir	October 2, 2042[1]
Committee	Limited reopener for the fixed wheel gate	October 2, 2042[1]
Committee	Limited reopener for fish passage	Any time after October 2, 2042[1]
Project Owners	Reallocation of any additional inflows to the reservoir	October 2, 2052[1]
Project Owners	Repeat the process called for by the 1991 Agreement	October 2, 2057

[1] These dates may change based on the actual date instream flows are established.

4.10.3.1 Review and Comment Period

The Parties will have 60 days to submit written comments on the Proposed Final Program and any alternative recommendations to the Governor. The Project Owners will then have 30 days to submit written responses to the Governor.

4.10.3.2 Final Fish and Wildlife Program

The Governor shall review the Proposed Final Program, supporting information, comments, and any alternative recommendations. The Governor shall attempt to reconcile any differences between the Parties, giving due weight to the recommendations, expertise, and statutory responsibilities of the resource management agencies and the Project Owners. In order to ensure that the Project is best adapted for power generation and other beneficial public uses, the Governor is required by the 1991 Agreement to give equal consideration to:

1. Efficient and economical power production
2. Energy conservation
3. The protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat)
4. The protection of recreational opportunities
5. Municipal water supplies
6. The preservation of other aspects of environmental quality
7. Other beneficial public uses
8. Other requirements of State law

Based on his review, the Governor shall establish a Final Program that adequately and equitably protects, mitigates damages to, and enhances fish and wildlife resources affected by the Project. The Project Owners anticipate the Governor's issuance of a Final Program no later than October 2, 2024.

4.10.3.3 Additional Requirements to Implementing the Final Program

After the Governor's issuance of the Final Program in October 2024, the Project Owners will have three years to achieve the following additional requirements that are preconditions to the Project Owners' ability to implement the Final Program. Should any of these requirements fail to be achieved, the Project Owners may not be able to execute the Final Program.

- **AWWU Agreements:** As described in Section 4.6, the Project Owners and AWWU have reached agreement on the final drafts of all three agreements provided in Attachment D. The Project Owners and AWWU will execute these agreements upon (1) the approval by the Anchorage Assembly to the extent necessary for the MOA to

execute and perform under the agreements; and (2) any necessary MEA and CEA board approvals.

- **Water Right:** As described in Section 2.1.9, the Project Owners' current Certificate of Appropriation (ADL 44944) allows the Project Owners to use any and all of the natural inflow to Eklutna Lake for hydroelectric power generation, except that which is used for public water supply (up to 41 MGD). Therefore, in order for the Project Owners to intentionally release water into the Eklutna River for the purposes of creating fish habitat, ADNR must amend the current water right to allow for such use.

- **Land Rights:** As described in Section 2.1.10, the proposed Eklutna River Release Facility is located within AWWU's easement on BLM land that's managed as part of Chugach State Park. Therefore, the Project Owners anticipate that various land rights (rights of way, easements, etc.) will be required for both temporary and permanent infrastructure related to constructing the Eklutna River Release Facility. The Project Owners will also evaluate the need for any land rights that may be needed for both temporary and permanent infrastructure related to constructing the new AWWU bridges. Chugach State Park is responsible for obtaining any approvals that might be needed for the lakeside trail repairs. The Project Owners do not need any additional land rights for automation of the existing gate at the dam.

- **Dam Safety:** Per ADNR, the Project Owners will be required to update the current O&M manual for Project and seek approval from ADNR to maintain compliance with state dam safety regulations. Automation of the existing gate at the dam may also require a Certificate of Approval to Modify the Dam from ADNR. If the fixed wheel gate is implemented, the Project Owners will work closely with the State Dam Safety Engineer throughout design and construction to ensure compliance with all regulations.

- **Historic Properties:** Per ADNR, the automation of the existing gate at the dam would likely not be considered an adverse effect to the historic property. The Project Owners will seek concurrence from the State Historic Preservation Officer (SHPO) on this determination. If the fixed wheel gate is implemented, the Project Owners will consult with the SHPO at that time regarding a new determination of effect.

- **Permits:** The Project Owners will work with the relevant entities to determine if any other permits may be required and will seek to obtain such permits as needed.

4.11 Measures Not Selected for the Proposed Final Program

This section presents alternative means of mitigating Project impacts that were identified by others and evaluated during the alternatives analysis process described in Section 4.5.

4.11.1 Higher Flow Releases from the AWWU Portal Valve

Of the 12 preferred alternatives, five included using the AWWU portal valve to deliver flow into the Eklutna River. Three of these preferred alternatives proposed flow regimes higher than that of the Project Owners' Proposed Final Program. The increased flows are technically feasible to be released at the AWWU portal valve and provide increased habitat; however, the incremental gains in habitat are minor and result in significantly larger incremental unit costs, as presented in Figure 4-6.

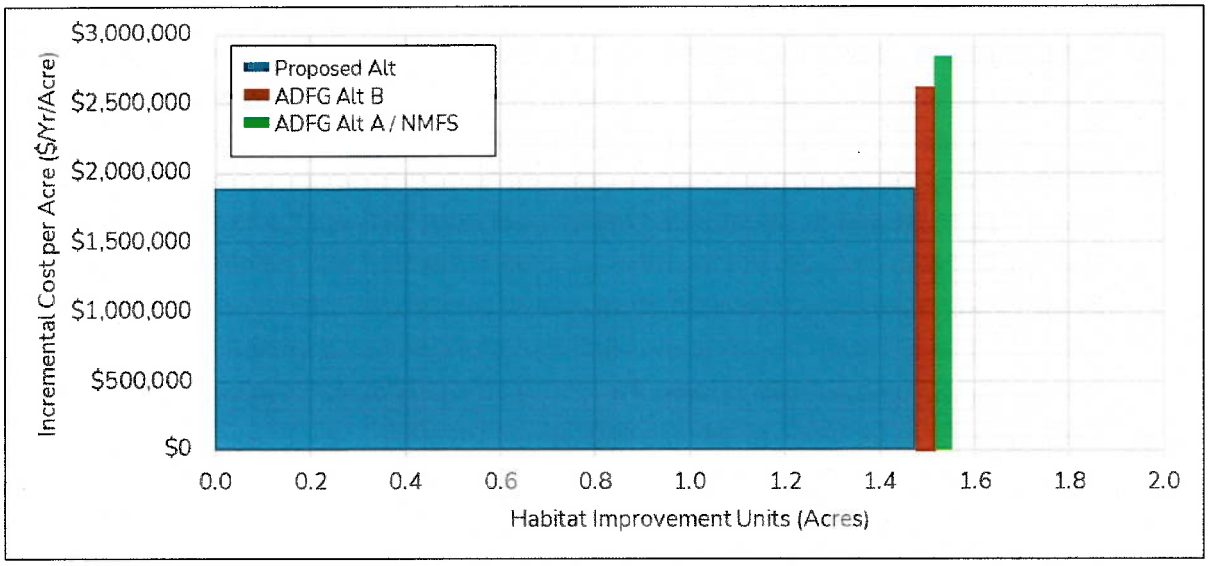

Figure 4-6. Incremental Cost Comparison – AWWU Portal Release Facility.

An additional means of analyzing the incremental gains of higher flow releases from the AWWU portal release facility is to quantify habitat improvements as a function of the maximum spawning habitat in the river. The Proposed Final Program year-round flow release enhances 82% of maximum spawning habitat for Chinook and 84% of the maximum spawning habitat for coho. In comparison, the higher flow release alternatives from the Eklutna River Release Facility have minor gains of approximately 1% - 3% of Chinook spawning habitat and 0.2% - 0.3% of coho spawning habitat. A comparison of the habitat change as a percentage of maximum available riverine habitat is presented in Table 4-15.

Table 4-15. Habitat Gains Comparison – AWWU Portal Release Facility.

Comprehensive Alternative	Chinook		Coho	
	Flow Rate in July/Aug (cfs)	Habitat Gain (% of Max River Habitat)	Flow Rate in Sep/Oct (cfs)	Habitat Gain (% of Max River Habitat)
Selected Alternative	40	82%	40	84%
ADFG Alt B	60	83%	48	84%
ADFG Alt A	80	85%	57	84%

4.11.2 Flow Releases from the Existing AWWU Pipeline

The AWWU pipeline segment P-4 runs along the Eklutna River from RM 5.5 to RM 11.0. Similar to the design of the Eklutna River Release Facility at the AWWU portal valve, an alternative was originally proposed to build a river release structure on the existing pipeline at or near RM 5.5, to take advantage of additional pipeline pressure resulting in a more compact facility. This location would have also eliminated the need to improve upstream AWWU road fords. This alternative was ultimately not selected as a preferred alternative due to the significant reduction in habitat that would benefit from releases. A summary of the gains in habitat if the preferred flow regime is released at the AWWU portal valve rather than RM 5.5 is presented in Table 4-16.

Table 4-16. Habitat Gains Comparison – AWWU Pipeline Release Facility.

Description	Chinook Spawning	Coho Spawning	Chinook Rearing	Coho Rearing
Habitat Gains (Acres) with AWWU Portal Releases	1.5	1.6	6.3	9.9
Habitat Gains (Acres) with AWWU Pipeline Releases	0.3	0.8	3.3	4.7
Incremental Cost ($/Yr/Acre) for AWWU Portal Releases	$1,833,000	$1,696,000	$428,000	$273,000
Incremental Cost ($/Yr/Acre) for AWWU Pipeline Releases	$8,486,000	$3,594,000	$860,000	$601,000

4.11.3 Flow Releases from a New Bypass Tunnel

As an alternative to the Eklutna River Release Facility at the AWWU portal valve, which utilizes the existing AWWU diversion tunnel, an alternative was brought forth to construct a new bypass tunnel in parallel to the existing AWWU tunnel complete with a river release facility at RM 11.5. This alternative was ultimately not selected due to the substantial capital costs to provide the same environmental benefits as using the AWWU portal valve. A comparison of the new bypass tunnel with the AWWU portal valve is presented in Table 4-17.

Table 4-17. Habitat Gains Comparison – New Bypass Tunnel Release Facility.

Description	Chinook Spawning	Coho Spawning	Chinook Rearing	Coho Rearing
Habitat Gains (Acres) with Portal Releases	1.5	1.6	6.3	9.9
Habitat Gains (Acres) with New Bypass Tunnel	1.5	1.6	6.3	9.9
Incremental Cost ($/Yr/Acre) for Portal Releases	$1,833,000	$1,696,000	$428,000	$273,000
Incremental Cost ($/Yr/Acre) for New Bypass Tunnel	$5,373,000	$5,037,000	$1,279,000	$814,000

4.11.4 Flow Releases from the Existing Dam

A measure that was included in three of the 12 comprehensive alternatives proposed by stakeholder groups was to modify the existing dam to release water into the river continuously. In doing so, operations of the reservoir would need to change substantially from current operations. In an average year, the water surface elevation fluctuates from El. 867.0 ft (local datum) to El. 830.0 ft with the ability to draw down to El. 814 ft if necessary. Releases year-round at the existing dam would require the reservoir to remain above El. 861 ft to maintain connectivity with the existing outlet gate at the dam. A representation of the proposed reservoir operation if flow releases were made at the existing dam compared to current operations is presented in Figure 4-7.

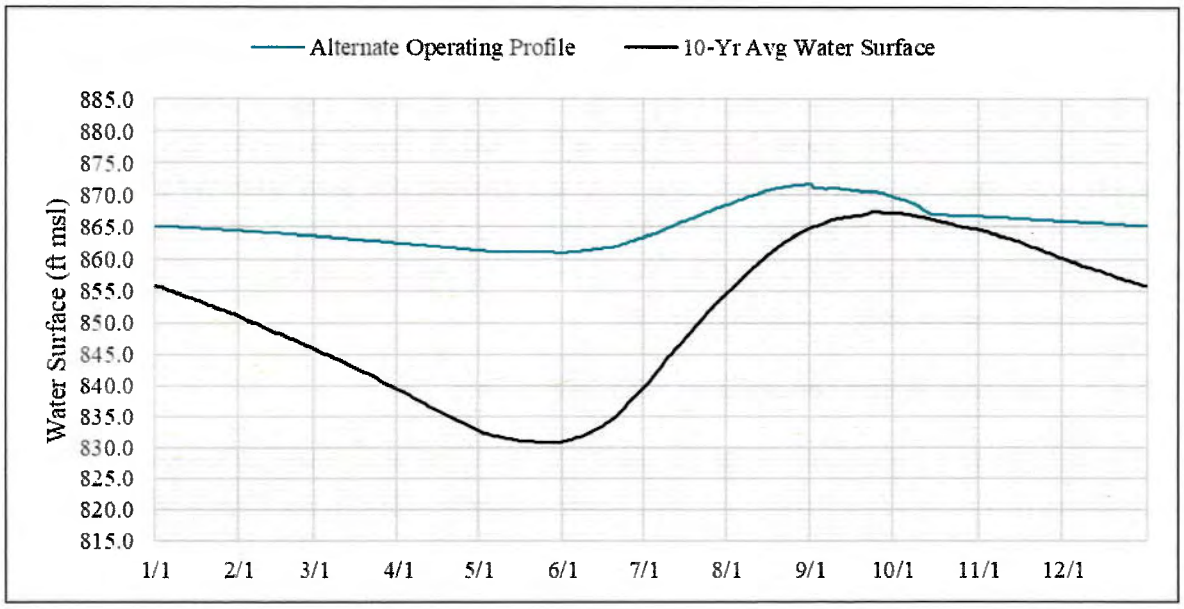

Figure 4-7. Water Surface Elevation Comparison – Existing Dam Releases.

This alternative was ultimately not selected due to the elimination of over 80% of the reservoir storage from being utilized for power generation purposes. Due to the reduction of inflows throughout the winter and the need for maintaining the reservoir above El. 861 ft for river release purposes, the powerhouse is unable to operate for up to eight months of the year. This results in a substantial loss of power generation when grid demand is highest, violates power capacity reserve requirements throughout the winter for MEA, and presents an unacceptable risk to the Project Owners.

4.11.5 Lach Q'atnu Creek Reroute

A proposal to provide year-round natural flows into the Eklutna River included the re-route of Lach Q'atnu Creek from its current path into Eklutna Lake to a location approximately 1,000 feet downstream of Eklutna Dam. Stream gauging records of the creek as part of the study program revealed negligible inflows in the winter (<1 cfs) with daily mean flow rates >10 cfs for about 30 days in the summer. Engineering challenges with the proposed reroute of the creek involve the risk of channel migration through the alluvial fan over time and the encroachment onto private property in the vicinity of the proposed alignment. For these reasons the cost associated with the re-routing combined with the risk of impacting private property deemed this alternative unsuitable for further analysis and was excluded from all preferred alternatives.

4.11.6 Channel Maintenance Flows with Uncontrolled Spill

Intentionally spilling water through the existing overflow spillway was considered for providing periodic channel maintenance flows to the Eklutna River. However, this PME measure was ultimately not selected because of the inherent risk associated with an uncontrolled spill event. In addition, it would require the reservoir to be raised above El. 871 ft which would cause more erosion of the lakeside trail and would limit the time of year when channel maintenance flows could be provided.

4.11.7 Channel Maintenance Flows with Radial Gate

The Project Owners considered adding a radial gate on top of the existing overflow spillway in order to provide controlled spill for periodic channel maintenance flows. However, this PME was ultimately not selected because it would still require the reservoir to be raised above El. 871 ft which would cause more erosion of the lakeside trail and would limit the time of year when channel maintenance flows could be provided.

4.11.8 Channel Maintenance Flows with Fixed Wheel Gate

During the consultation process, several stakeholders requested that the existing overflow spillway be replaced with a fixed wheel gate because either (1) climate change may cause inflows to the reservoir to increase significantly, which may increase the likelihood of future spill events, and a fixed wheel gate will allow the Project Owners to better manage those future spill events, or (2) while modeling results show that the default channel maintenance flow regime will maintain spawning gravels in the wetted reach of the Eklutna River, future monitoring may show that a higher magnitude channel maintenance flow that exceeds the combined hydraulic capacity of the existing outlet gate and the Eklutna River Release Facility may be warranted. Replacement of the existing overflow spillway with a new fixed wheel gate was evaluated during the study program and alternatives analysis and the Project Owners determined that it was not warranted at this time due to the need to perform additional design analysis to confirm whether significant dam safety concerns might exist, and the need for future monitoring of habitat conditions under the proposed flow regime. Recognizing that the fixed wheel gate might be warranted in the future, however, the Project Owners will continue to investigate the fixed wheel gate and will construct it if certain criteria are met.

4.11.9 Fish Passage

The Traditional Ecological Knowledge (TEK) from NVE indicates that there was a sockeye salmon run in Eklutna Lake before the lower dam was constructed in 1929. However, in a 2011 report, the USACE stated "It is doubtful that significant numbers of sockeye salmon ever spawned in the Eklutna River drainage because suitable spawning area upstream of the lake is

limited and water quality in the lake would likely have limited opportunities for spawning in the littoral zone of the lake. Fully 80 percent of the water entering Eklutna Lake comes from two glacial streams that would not be conducive to the consistent survival of sockeye salmon from egg to fry, and the remaining spawning area would not be sufficient to support large numbers of spawning anadromous salmon. In addition, the physical limnology studies of Eklutna Lake suggest that the turbidity in Eklutna Lake during much of the year is not conducive to significant primary production."

A separate study was conducted by Loso et al. to try to determine "whether there was an anadromous salmon run into Eklutna Lake prior to 1929" by using marine derived nutrients (MDN) as a biochemical marker in lake sediment. The study found that there was no significant difference in the composition of sediment layers from before and after 1929. However, a sensitivity test was conducted to assess the possibility that a small salmon run may have gone undetected by the isotopic analysis. It was determined that "a salmon run of up to 1,000 per year, and potentially as many as 15,000 per year, would be possible without noticeably altering the measured isotopic composition of the sediments in Eklutna Lake." Therefore, the results "provide no evidence that such runs occurred, but do not preclude the possible existence of a relatively small sockeye fishery in Eklutna Lake before 1929."

During the consultation process, several stakeholders requested that upstream fish passage of adult salmon into Eklutna Lake and downstream fish passage of juvenile salmon out of Eklutna Lake be evaluated. All fish passage measures proposed by the Project Owners and other stakeholders were evaluated during the study program and alternatives analysis (see Section 4.5). All of the volitional upstream fish passage measures that were evaluated either (1) would have significant impacts to the hydropower project (i.e., would reduce the storage capacity of the reservoir by approximately 40% or would require the Project powerhouse to be shutdown throughout the winter when energy is needed most), or (2) are cost prohibitive (the estimated present worth for the stakeholders' preferred alternatives that included volitional fish passage ranged from $221M to $385M including capex, operations and maintenance, and replacement energy). In addition, there are still significant concerns regarding the effectiveness of all the downstream fish passage facilities studied (i.e., low attraction flow velocities and/or the inability to operate the downstream fish passage facilities while the lake is frozen over). Therefore, fish passage measures are not proposed at this time. The lake study results and justification for the exclusion of each measure from the Project Owners' Proposed Final Program are presented in the following subsections.

Nonetheless, the Project Owners recognize that fish passage may become feasible in the future and that fish passage is important to NVE and the federal resource management agencies. The Project Owners have therefore included a limited reopener for fish passage in the Proposed Final Program.

4.11.9.1 Lake Studies

Much of the Eklutna Lake shoreline is steep, bouldery, or characterized by fine silt and grasses. The remaining shorelines that could be accessed during the study program (above the waterline) contained ~1.5 acres of potential habitat for lakeshore-spawning ocean-run salmon such as sockeye.

Most tributaries to Eklutna Lake are too steep to provide significant spawning or rearing habitat for ocean-run salmon. The only lake tributaries with accessible low-gradient habitat suitable for the migration and spawning of ocean-run salmon are the East and West Forks of Eklutna Creek where an estimated 0.77 – 3.61 acres of potential spawning habitat was documented based on water depth and substrate size. A small tributary to the West Fork of Eklutna Creek adds between 0.02 – 0.24 acres of potential spawning habitat.

Low water transparency (caused by high turbidity) and low nutrients levels in Eklutna Lake correlate with low levels of chlorophyll *a* (an indirect indicator of primary production). The low algal biomass within Eklutna Lake likely corresponds to low zooplankton densities (secondary production) and appears to be a limiting factor (i.e., food resource) for fish production in the lake, especially for the resident kokanee population.

A majority of the spawning kokanee collected from Eklutna Lake have Infectious Hematopoietic Necrosis (IHN) and were smaller (4.5-6.5 inches) than those reported in many other lake systems (10–12 inches). The kokanee in Eklutna Lake also differ from other kokanee in their low fecundity (only 20-30 eggs), lack of sexual dimorphism, and lack of spawning color that is typical of the species (Figure 4-8). These are likely an indication of low nutrient concentrations and limited food sources in the environment, and may indicate that Eklutna Lake, in its existing condition, may not provide productive potential rearing habitat for large populations of ocean-run salmon.

Figure 4-8. Typical spawning Kokanee in Eklutna Lake (left) vs. other lake systems (right).

It has been theorized, but not studied, that if fish passage was provided into Eklutna Lake, the spawning salmon would bring enough marine derived nutrients with them. However, high turbidity in Eklutna Lake would still limit light penetration. The high turbidity in the lake is caused by runoff from the retreating Eklutna Glacier. Like the Eklutna Glacier, the nearby Skilak Glacier is also retreating. Elevated runoff from the retreating Skilak Glacier produces more silt (i.e. turbidity), blocking sunlight, reducing the euphotic zone, and diminishing zooplankton densities. The result is fewer zooplankton (e.g. copepods) available as a food resource for juvenile sockeye. Research by ADFG in 2004 showed that the average weight of juvenile sockeye in Skilak Lake was almost half of what was typical. If a critical summer weight size isn't achieved, overwinter survival of juvenile sockeye will be poor and at some point, will have a substantial impact on sockeye returns. As the Eklutna Glacier retreats further, we can expect a similar trend of increasing turbidity in Eklutna Lake as well.

It also important to note that no adult sockeye were observed spawning in the lower river during the 2-year study program. Therefore, any attempt to establish a sockeye salmon run in the Eklutna watershed would either rely on sockeye straying from other river systems or intentional stocking efforts.

4.11.9.2 Upstream Fish Passage

Gravity Flow Fish Ladder

The gravity flow fish ladder measure includes the construction of a new technical fishway at the existing Eklutna Dam. The fish ladder would be of the weir and orifice or vertical slot style with an entrance below the dam and exit at fixed elevation on the upstream side of the dam. For proper function, the water surface elevation of the lake must maintain relatively constant during spawning season, resulting in the inability to utilize any of the reservoir storage for power generation purposes. For this reason, this alternative was not included in any of the preferred comprehensive alternatives.

Variable Exit Fish Ladder

The variable exit fish ladder measure is included in three of the 12 comprehensive alternatives proposed by stakeholders. The design and construction are similar to the gravity flow fish ladder measure; however, the exit includes a series of gates corresponding to varying water surface elevations which allow for approximately 15-feet of reservoir fluctuation. While allowing for some operational flexibility and continued hydropower generation, this alternative being combined with the existing dam structure for flow releases still requires the hydroelectric powerhouse to be offline throughout the winter, when power demand is the

highest. For this reason, the variable exit fish ladder and release through the existing dam was not included as part of the Project Owners' Proposed Final Program.

Fish Ladder with Pumped Water Supply and Slide

The fish ladder with pumped supply and slide measure includes the construction of a new technical fishway at the existing Eklutna Dam with a chute or slide to return fish to a lower water surface elevation within the lake. The fish ladder would be of the weir and orifice or vertical slot style with an entrance below the dam and exit at a false weir located at the dam. Water from the lake would be pumped continuously over the weir during spawning season providing attraction flow for salmon. From the false weir, migrating adults would fall into a chute or slide and enter Eklutna Lake at a reduced water surface elevation. While this alternative allows for operations of the reservoir for power supply purposes, the reliance on pumps for providing flow to the ladder presents a significant risk. Additionally, this method of fish passage has little to no precedence at existing dams. For these reasons this measure was not included in any of the stakeholder comprehensive alternatives.

Trap and Haul

A trap and haul facility was proposed for analysis early on by the Project Owners to be combined with either the AWWU Portal Release or AWWU Pipeline Release measures. The proposal included the addition of a false weir, holding pond with crowder, and lift to transport migrating adults to a truck for transport to Eklutna Lake. While this measure would allow the Project Owners to maintain current reservoir operations and operate the powerhouse year-round, it was ultimately not selected as part of the Project Owners' Proposed Final Program due to the lake studies concluding that Eklutna Lake has little to no productivity potential and would likely not support a healthy fishery as evidenced by the condition of kokanee residing in the lake. In addition, this upstream fish passage option received no support from any of the stakeholders.

4.11.9.3 Downstream Fish Passage

Spill

One measure proposed for allowing downstream passage of out-migrating juvenile salmonids is to release a significant flow from the dam via a new spillway gate, or by uncontrolled release over the existing spillway from April through June. While this approach is viable, due to the size, depth, and layout of Eklutna Lake, a spill event on the order of 300-500 cfs would provide very low attraction velocities within the lake itself, resulting in substantially reduced efficacy of downstream passage. Additionally, the volume of water released in a spill event of this magnitude for a duration of up to 3 months results in a significant portion of the reservoir

annual inflow volume being utilized for downstream passage rather than for power generation purposes. For these reasons spill was not proposed for downstream passage as part of the Project Owners' Proposed Final Program.

Floating Surface Collector

To preserve water for power supply purposes, an alternate method for downstream passage was proposed, consisting of a floating surface collector located at or near the intake or the lake outlet. This floating barge structure would consist of guidance screens and attraction flow pumps moving approximately 500 cfs through the screens to attract and capture migrating juveniles. A primary concern with the usage of floating surface collector for downstream passage is that the barge must operate in ice-free conditions. At Eklutna Lake, ice breakups typically occur in May to June, which results in the floating surface collector being inoperable for 50%-70% of the theorized outmigration window. Additionally, as presented in the cost estimate summary, these structures have substantial capital and operating expenses. For these reasons, the floating surface collector was not included as part of the Project Owners' Proposed Final Program.

Other Downstream Passage Measures

During the Aquatics TWG meeting on November 9, 2022, two other downstream fish passage measures were discussed: 1) volitional downstream fish passage through the existing intake, and 2) trap and haul downstream fish passage utilizing a rotary screw trap and guide net. However, after preliminary evaluation, it was determined that neither of these measures would have a high success rate; therefore, neither measure was selected by the Aquatics TWG for further evaluation.

4.11.10 Trapping Facility with Hatchery Spawning, Rearing, and Release

During the Aquatics TWG meeting on November 9, 2022, the concept of a trapping adult salmon at the flow release point, spawning the adult salmon and rearing the juvenile salmon at a hatchery, and then releasing the juvenile salmon back into the Eklutna River. This method would likely result in a higher survival rate which would accelerate the salmon population growth in the river. However, the Aquatics TWG strongly opposed the idea of a hatchery; therefore, this measure was not selected by the Aquatics TWG for further evaluation.

4.11.11 Replacement Dam

The base of the existing Eklutna Dam is located on a depositional shelf approximately 200-ft higher in elevation than the deepest portion of Eklutna Lake and approximately 60-ft higher in elevation than the intake elevation for the power tunnel. As described in Section 4.11.4,

providing continuous releases to the Eklutna River from the existing dam significantly curtails power generation and reduces the active storage volume of the reservoir by over 80%. An alternative proposed to reduce restrictions on reservoir operations while providing year-round hydroelectric generation involves the excavation of the depositional shelf at the existing dam and construction of a replacement dam in its place. The excavation would require construction of a channel approximately 20-ft deep, 50- to 350-ft in width, and 1-mile in length resulting in removal of approximately 550,000 cubic yards of material. The replacement dam would have an overall height of approximately 56-feet and incorporate a spillway and fish passage structures.

This alternative would restrict the minimum reservoir operating elevation to El. 840 ft, removing approximately 40% of the storage capacity of the reservoir. While this allows operation of the Eklutna Power plant year-round in an average water year, it requires some operational restrictions and reduces flexibility in hydropower generation seasonally.

The replacement dam is included in four of 12 comprehensive alternatives proposed by stakeholder groups. While the replacement dam concept continues to allow hydroelectric generation year-round, the cost of this measure and loss of reservoir capacity are the primary reasons it is not included within the Project Owners' Proposed Final Program. Dependent on the measure chosen for downstream fish passage, the replacement dam alternatives range from a capital cost of approximately $120M to $180M[14] which results in a significant additional burden on ratepayers and taxpayers. A summary of the costs of the replacement dam alternatives compared to the Project Owners' AWWU portal valve alternative is presented in Table 4-4.

Table 4-18. Cost Comparison Summary – Replacement Dam.

Entity	Alternative Measure	Capital Cost ($)	Annualized Cost ($/Yr)	CEA Rate Impact (%)	MEA Rate Impact (%)	MOA Tax Impact ($/100k)
Project Owners	AWWU Portal Valve	$20,482,860	$3,898,161	0.78%	1.07%	$1.03
TCF	Replacement Dam	$118,129,000	$19,776,000	3.81%	5.31%	$4.46

[14] The cost estimate for the replacement dam measure was developed in close coordination with Eklutna Inc. and has a median construction cost of $113M with a class 5 estimate range of $57M to $220M. Following development of the original estimate, Eklutna Inc. had recommended a few revisions to the costs including providing a new location for material disposal which resulted in a potential cost savings of approximately $25M. The revision falls within the price range of the original estimate and will be considered if the design of this measure is advanced.

NVE	Replacement Dam	$122,853,000	$22,006,000	4.24%	6.10%	$4.62
USFWS Alt A	Replacement Dam	$158,719,000	$23,483,000	4.61%	5.50%	$7.48
NMFS	Replacement Dam	$177,833,000	$25,465,000	4.91%	5.89%	$8.32

4.12 NVE Comment Summary

As stated in their June 2020 letter to NVE, the Project Owners committed to submitting an NVE-specific comment summary to the Governor for consideration along with the Project Owners' Proposed Final Program.

4.12.1 Dam Replacement – NVE's First Preferred Alternative

In July 2023, NVE identified the replacement dam as their preferred alternative (see Section 4.5.4). NVE's preferred year-round instream flow regime was 350 cfs in July and August, 150 cfs in September and October, and 65 cfs throughout the winter. NVE's preferred channel maintenance flow regime was 700 cfs annually. Channel maintenance flows would be provided through a fixed wheel gate and upstream fish passage would be provided through a fish ladder (both consistent with the conceptual design of the replacement dam). Downstream fish passage would be provided through spill.

As described in Section 4.11.11, the replacement dam was not selected by the Project Owners primarily because of the associated costs and the 40% reduction in storage capacity for the reservoir.

4.12.2 Dam Removal – NVE's Second Preferred Alternative

Following the publication of the Draft Program, NVE proposed a new preferred alternative that requires removal of Eklutna Dam and decommissioning of the Project. NVE stated the following in their comment letter dated December 4, 2023:

> "To meaningfully meet the purpose of the Agreement, NVE proposes an alternative solution – removing the Eklutna Lake dam within ten years when sufficient renewable power generation is available to offset the lost power generation from dam removal."

NVE's second preferred alternative proposal contained no analysis of costs or risks of removing the Project dam or replacing its energy and capacity. In response to the letter, the Project Owners engaged engineers and hydrologists to conduct a high-level analysis of the

technical risks and cost implications associated with the removal of the Project. This investigation evaluated the effects that an unregulated river hydrograph may have on infrastructure on or adjacent to the Eklutna River downstream of the existing dam, summarized the costs associated with dam removal and decommissioning of Project infrastructure, investigated potential mitigation measures where necessary to address such risks, and analyzed the use of other comparable renewable energy sources to determine how to offset the lost generation from the Project. A memorandum documenting this analysis and the results is included in Attachment F.

The dam removal analysis revealed that if the Project were removed and the expected stream flows were allowed to flow unregulated down the Eklutna River, AWWU's water pipeline infrastructure would be at significant risk and the New Glenn Highway bridges and Alaska Railroad bridge would need to be replaced. Note that this analysis was limited to large public infrastructure and did not include an assessment of negative effects (or potential liabilities) arising from the inundation of lands on downstream landowners during high water flood events, including Eklutna, Inc. and NVE. Additionally, the assessment showed that mitigating the risks to the downstream infrastructure and replacing the Project energy and capacity with firm renewable energy would cost more than $500 million in total known costs in 2034 dollars.

Ultimately, given (1) the likely adverse impacts to the municipal water supply and downstream infrastructure, including the buried AWWU pipeline, New Glenn Highway bridges, and railroad bridge, (2) the cost of replacing the Project's capacity and energy generation, (3) the Project Owners' overall renewable energy goals, and (4) the dwindling natural gas supply in Cook Inlet, the Project Owners determined it would not be prudent or rational for the Project Owners to include dam removal in the Proposed Final Program.

4.12.3 Pump Station and Dam Removal – NVE's Third Preferred Alternative

On April 9, 2024, NVE proposed a new alternative still centered on the removal of Eklutna Dam "by 2034." However, in addition to all the costs and risks that would be created by dam removal outlined in Section 4.12.2 and Attachment F, NVE's third alternative also included additional requirements to obtain "40 MW of replacement renewable energy" within 10 years and the obligation to construct and operate an alternative Eklutna River Release Facility through the construction of a pump station that would pump water from Eklutna Lake to the small pond upstream of Eklutna Dam, and then release water from the dam into the river year-round (see Section 4.8). This pump station would remain in place and operating after the dam is removed to ensure that AWWU can maintain its full withdrawals and, if necessary, keep the river watered during dry winter months. NVE's third alternative also proposed other Program elements, such as creation of an earnings fund reserve, amending the 1991 Agreement to

delay its process and implementation, and including NVE as a permanent member of the Monitoring and Adaptive Management Committee.

As with its second preferred alternative, NVE's third preferred alternative proposal contained no analysis of costs or risks to the Project Owners or any other entity. The Project Owners acknowledge that NVE's proposed pump station is a viable alternative to the proposed Eklutna River Release Facility from an engineering perspective, and the Project Owners actually studied and considered variations of the pump station alternative during early analysis of all potential alternatives that were identified. Ultimately, however, the idea was not advanced as a preferred alternative because the pump station depends on the proper functioning of a powered mechanical system; if that powered mechanical system fails, the consequence could be catastrophic to the downstream fish populations and habitat that would depend on future flow releases. The Project Owners' proposed Eklutna River Release Facility does not depend upon a powered mechanical system to provide instream flows; rather it requires only gravity. Unlike the pump station, if there is a power outage for an extended time (which is somewhat likely given its location), then the Project Owners' Eklutna River Release Facility would continue to function by simple gravity flow from the river release valve. The Project Owners know of no instream flows established at any hydroelectric project in the U.S. that depends upon the proper functioning of a powered mechanical system to convey water, especially one in a remote location with complex supporting infrastructure.

The Project Owners expect that the capital costs of the pump station would significantly exceed the $10 million of estimated capital costs for the proposed Eklutna River Release Facility. The Project Owners disagree with NVE's statement that the $8.4 million capex figure developed for the siphon alternative as part of phase 1 engineering is reflective of what the pump station would cost. The pump station would be significantly more expensive due to the cost of the deep wet well excavation and boring of the intake pipe as proposed. Additionally, the Project Owners expect that the operational and maintenance costs of the pump station would far exceed the proposed Eklutna River Release Facility as the pumps require a continuous energy draw to operate and the emergency generator would need regular servicing and maintenance. The new access road construction, distribution line, and electrical building required by the pump station, all to be located so close to the state park recreation and campground facilities, may raise potential sound and aesthetic concerns.

Furthermore, the Project Owners do not believe that the proposal to provide power to the pump station using the existing system's 12.47 KV single-phase line on wooden poles would be adequate. A more robust distribution system would need to be erected at a much higher expense. Seven miles of 3-phase distribution lines in that territory would cost roughly $2 million. Finally, the Project Owners estimated that NVE's pump station alternative would not accommodate channel maintenance flows allowed under the Proposed Final Program.

Consequently, the Project Owners determined it would not be prudent or rational for the Project Owners to agree to the costs and risks of NVE's third preferred alternative (dam removal starting in 2034, 40 MW of replacement renewable energy, and the pump station). With all due respect to NVE, the Project Owners must observe prudent utility practices and our obligations to our member-ratepayers. The Project Owners also reject the need for fund reserve and ability to amend the 1991 Agreement without Congressional approval. The Project Owners did agree to name NVE as a permanent member of the Committee as set forth in Section 3.1 of the Proposed Final Program.

Attachments

Attachment A. Consultation Record

Attachment B. Final Summary of Study Results

Attachment C. Supporting Data for Cost Effectiveness Modeling

Attachment D. Draft AWWU Agreements

Attachment E. Responses to Comments on the Draft Program

Attachment F. Dam Removal Assessment

Attachment G. Public Comment Summary and Analysis

Attachment H. Comparison to Existing Conditions

Attachment I. Design Documentation Reports

EXHIBIT TRZ-05

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Governor Mike Dunleavy
STATE OF ALASKA

October 2, 2024

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Dear Parties,

Thank you to the Owners for your submission on April 25, 2024, of the Proposed Final Fish and Wildlife Program (Proposed Final Program) for the Eklutna Hydropower Project (Project) and to the remaining parties for their comments and participation in developing the Proposed Final Program.

As you know, through an act of Congress, the Project was sold by the federal government to Chugach Electric Association (CEA), Matanuska Electric Association (MEA), and Anchorage

Municipal Light & Power (through the Municipality of Anchorage). As part of this transaction, the 1991 Fish and Wildlife Agreement (Agreement) laid out the process for the purchasers of the Project to fund studies to examine and quantify impacts to fish and wildlife from the Project, and to develop a proposed Final Program for the protection, mitigation, and enhancement of fish and wildlife effected by the Project and for the other Parties to offer their comments.

As Governor, my duties under the Agreement are to evaluate the Proposed Final Program, attempt to reconcile differences between the Parties to the Agreement, and establish a Final Program that "adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources."

The evaluation process requires me to give "equal consideration" to eight factors to "ensure that Eklutna [is] best adapted for power generation and other beneficial public uses." The factors are: purposes of efficient and economical power production; energy conservation; the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat); the protection of recreational opportunities; municipal water supplies; the preservation of other aspects of environmental quality; other beneficial public uses; and requirements of State law.

The Final Program established today includes my evaluation of these eight criteria and my amendments to the Proposed Final Program that attempt to reconcile differences among the Parties and the Native Village of Eklutna.

The Proposed Final Program restored year-round water flows to the Eklutna River by connecting Eklutna Lake to the existing Anchorage Water and Wastewater Utility (AWWU) infrastructure; required the Purchasers to provide funding for ongoing monitoring studies, physical habitat enhancement, and lakeside trail repairs; the creation of a Monitoring and Adaptive Management Committee (Committee); and two limited reopeners of the Program for the potential construction of a Fixed Wheel Gate to replace the existing outlet and spillway and for the potential construction of fish passage into and out of Eklutna Lake.

In accordance with my responsibilities to attempt to reconcile differences, I have adopted the Proposed Final Program with the establishment of three amendments to the Proposed Final Program:

1. I added a Governor-appointed seat to the Monitoring and Adaptative Management Committee. This allows future Governors and myself to continue our responsibility under the Agreement as the work of the Committee is ongoing in the final Program.

2. I accepted the request by federal signatories, U.S. Fish and Wildlife Service, and National Marine Fisheries Service, to modify the Proposed Final Program. The Proposed Final Program allocated up to $10 million to study and potentially construct the Fixed Wheel Gate at the Eklutna Dam. If the Fixed Wheel Gate is determined to not be structurally or economically feasible, as requested by the federal parties, the remaining funds not expended of up to $10 million will be made available to the Monitoring and Adaptive

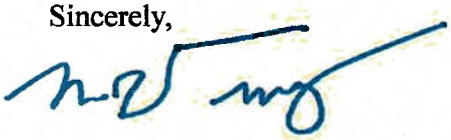
Management Committee for additional studies or measures that protect, mitigate damage to, or enhance fish and wildlife habitat.

3. I am accepting the request by the Municipality of Anchorage and Native Village of Eklutna in their joint resolution of September 5, 2024, to evaluate the Pumped Storage Hydro alternative. However, the Agreement does not provide any party the authority to unilaterally suspend or delay implementation of the Final Program and therefore the necessary work to design, permit, and construct the connection to AWWU's infrastructure and to evaluate the Fixed Wheel Gate is required to begin immediately.

The Final Fish and Wildlife Program established today under the Agreement balances the eight factors I am required to consider, and the Program is designed to be an iterative one that will be able to adapt to changing conditions and technologies well before the process is required to repeat itself.

I want to thank the Parties, the Native Village of Eklutna, and the members of the public who helped shape this Final Program with their time, resources, input, and participation over the past five years. This is not the end of the process, and I am committed to seeing this Final Program successfully enacted. I encourage everyone to join me in working together to implement this Program without delay.

Sincerely,



Mike Dunleavy
Governor

BEFORE GOVERNOR MIKE DUNLEAVY

IN THE MATTER OF THE EKLUTNA	**:**	**DECISION**
RIVER FISH & WILDLIFE PROGRAM	**:**	**October 2, 2024**

This matter comes before the Governor pursuant to the 1991 Agreement ("Agreement") among the Municipality of Anchorage ("MOA"), Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("Matanuska") (MOA, Chugach and Matanuska are collectively referred to as "Eklutna Purchasers" or "Owners"; when discussing issues where the Owners disagree, Chugach and Matanuska will be referred to as the "Operators" and MOA will be listed separately), the United States Fish & Wildlife Service ("FWS"), The National Marine Fisheries Service ("NMFS"), the Alaska Energy Authority ("AEA") and the State of Alaska ("State") concerning the protection, mitigation of damages to, and enhancement of fish and wildlife affected by the Eklutna Hydroelectric Project ("Project") near the Native Village of Eklutna ("NVE").[1] Per the Agreement the Governor is required to establish a "final Fish and Wildlife Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources affected by the Project".[2]

I. PROJECT HISTORY

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[1] The Agreement also involved the Snettisham Hydroelectric Project, but that project is not part of this decision.

[2] Agreement, Section 5 at P. 4.

The U. S. Bureau of Reclamation built the Project in the 1950s and it was rehabilitated over time. It currently consists of a dam which is an earth and rockfill structure 815 feetlong and 41 feet high with a rectangular spillway that runs through the dam.[3] The intake structure for the Project is located 36 feet below the natural Eklutna Lake level. From there, water is diverted north into a 4.6-mile-long tunnel through Goat Mountain and then into a 1,370-foot-long penstock before reaching the powerhouse located on Old Glenn Highway. The tailrace flows under the highway and then discharges into the Knik River. The powerhouse contains two generating units.[4] Eklutna Lake, approximately seven miles long and one mile wide, is located within Chugach State Park and provides almost 90 percent of the domestic water supply for the Municipality of Anchorage. As of 2018 the Project produced 177,438 megawatt hours of clean energy, enough to power more than 24,600 residential homes for an entire year.[5]

The federal government owned and operated the project until October 1997 when it sold it to the Eklutna Purchasers and is currently owned by Chugach (30%), Matanuska (16.67%) and MOA (53.33%), however, it has been operated exclusively by Chugach and Matanuska since October 30, 2020.[6] The purchase by the Eklutna Purchasers also included a requirement that the Eklutna Purchasers enter into the Agreement with NMFS,

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3 https://eklutnahydro.com/background/.

4 Id.

5 Id.

6 MOA was required to surrender its right to operate the Project. RCA Order U-18-102(44)/U-19-020(39)/U-19-021(39). Surrender of Eklutna Operation Committee (EOC) Voting Rights dated as of October 27, 2020, and filed with the RCA in docket number U-18-102(44).

FWS, AEA, and the State (the Eklutna Purchasers, NMFS, FWS, AEA and State are collectively referred to as the "Parties[7]").

II. THE AGREEMENT

To obtain Congressional approval of the Project sale to the Eklutna Purchasers and as a substitute for federal licensing under the Federal Power Act[8] and its accompanying regulations[9], the Parties were required to enter into the Agreement to develop a fish and wildlife program that provides for the protection, mitigation of damages to, and enhancement of fish and wildlife affected by the Project.[10] The Agreement outlined a 35 year timeline to develop the fish and wildlife program. The timeline ran from the date of the sale, i.e., October 2, 1997, and initially culminates with the complete implementation of the fish and wildlife program by October 2, 2032. This process is designed to reoccur every 35 years.

A. Agreement Requirements

The Agreement set forth a comprehensive process to arrive at a final fish and wildlife plan. It required the Parties to perform the following:

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[7] For purposes of this decision, Parties will also include NVE, unless stated otherwise, even though they are not an actual party to the Agreement.

[8] 16 U.S. C. §791a et seq.

[9] 18 C.F.R. 4.1 et seq.

[10] The Agreement was a substitute for the requirements of the Federal Power Act and its regulations and there are no requirements in the Agreement imposing those laws on the Parties. Rather, the Agreement specifically spells out all requirements the Parties must follow to develop a fish and wildlife program.

a. Purchasers to fund and perform studies in consultation with the other Parties and other State of Alaska agencies to "examine, and quantify, if possible, the impacts to fish and wildlife from the Project and to develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the Project."[11]

b. Purchasers develop a draft program, the remaining Parties and other interested persons comment on the draft program, and the Purchasers reply to the comments, with all comments and the replies to be made part of the public record.[12]

c. Preparation of draft summary of the study results and a draft Fish and Wildlife Program by Purchasers.[13] Purchasers to hold public meetings and receive public comments on the program.[14]

d. Purchasers develop a Proposed Final Fish and Wildlife Program ("Proposed Final Program"), an explanation of its reasons for the final program, and provide them and all public comments to the other Parties and the Governor.[15]

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11 Agreement, Section 2, P. 2.
12 Id. Section 3, P. 2.
13 Id. Section 4, P. 3.
14 Id. Section 5, P. 3.
15 Id. Section 5, P. 4.

e. The remaining Parties prepare written comments to the Proposed Final Program and Purchasers prepare a reply. The comments and reply are provided to the Governor.[16]

f. The Governor establishes a Final Fish and Wildlife Program.[17]

g. The Agreement requires the Owners to implement the final Program within 30 years of the transaction date and for the Governor to approve the Final Fish and Wildlife Program three years prior to commencement of the implementation of the Program.[18]

III. PROPOSED FINAL PROGRAM AND PARTIES' COMMENTS[19]

The Proposed Final Program was provided to the Parties and the Governor on April 25, 2024. The Proposed Final Program can be summarized as follows[20]:

1. Proposed Final Program

a. Construction of a new valve and release structure ("Eklutna River Release Facility") located adjacent to the existing Anchorage Water and Wastewater Utility ("AWWU") portal valve to restore year-round water

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16 Id. Section 5, P. 4.

17 Id.

18 Id. Section 7, P. 4-5. The transaction date is October 2, 1997, which is the date of the sale of the Eklutna Project to the Owners. Program implementation must therefore begin by October 2, 2027, and the Governor's approved final Plan must be issued by October 2, 2024, i.e., three years prior to the commencement of Plan implementation.

19 AEA did not provide comments to the Final Proposed Fish and Wildlife Program. NVE did provide comments even though it was not a party to the Agreement. I will consider those comments as part of this decision.

20 The Final Proposed Fish and Wildlife Program is attached hereto as Appendix "A".

flow to the Eklutna River ("River") one mile downstream from the Eklutna Dam;[21]

1. The Eklutna River Release Facility is projected to provide year-round water flow to the River one mile below the dam at rates of 27 cubic feet per second to 40 cubic feet per second;[22]
2. The Eklutna River Release Facility is designed to increase available spawning habitat for chinook, coho, pink and chum salmon;

b. Automation of the existing outlet gate at the base of the spillway at the Eklutna Dam for remote operation;[23]

c. Development of a channel maintenance flow regime to support fish habitat over the long term;[24]

d. Construction of eight new bridges for Anchorage Water and Wastewater Utility (AWWU) at each existing ford crossing to be designed and built to withstand the projected flows;[25]

e. One-time payment of $234,000 for lakeside trail repairs;[26]

f. Monitoring and Adaptive Management Plan;[27]

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21 Proposed Final Fish and Wildlife Program, Section 2.1.1 at P. 4-5.
22 Id. at Section 2.1.2 at P. 6-7. And
23 Id. Section 2.2.1 at P. 7.
24 Id. Section 2.2.2 at Pp. 8-10.
25 Id. Section 2.5 at P. 10.
26 Id. Section 2.4.1 at P. 11.
27 Id. Section 3.0 – 3.4 at P. 12 - 15. This plan includes the creation of a Monitoring and Adaptive Management Committee consisting of five voting members, one each from the following entities: Alaska Department of Fish and Game, Alaska Department of Natural Resources, NMFS, FWS and NVE. Id. Section 3.1 at P. 12.

g. Two limited reopeners, i.e., the study and potential construction of a fixed wheel gate to replace the existing overflow spillway and provisions to review fish passage alternatives to allow adult salmon to pass into the lake from the River and juvenile salmon to pass from the lake downstream into the River ("Limited Reopeners")[28].

2. MOA Comments

MOA raised the following issues in response to the Proposed Final Program[29]:

a. Although the prior Mayor supported the Proposed Final Program, the new Administration believed that Anchorage Assembly approval was necessary, and the prior Mayor failed to obtain it[30];

b. Requests full water restoration to the Eklutna River for the full 12 miles from the Eklutna River Dam downstream and permit fish passage to and from Eklutna Lake;

c. Removal of the limited reopeners; and

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[28] The Fixed Wheel Gate Limited Reopener does not trigger the process terms of the 1991 Agreement; the Fish Passage Limited Reopener does not alter any other components of the Final Program. Proposed Final Program, Section 4.0, Pgs. 17, 20.

[29] Letter from Mayor Susanne LaFrance to Governor Dunleavy, July 19, 2024, and accompanying AR No. 2024-218(S).

[30] Mayor LaFrance was sworn into office on July 1, 2024. David Bronson previously served as Mayor of Anchorage from July 1, 2021 – June 30, 2024. The Proposed Final Program was drafted during and completed while Mayor Bronson served as Mayor of Anchorage. Former Mayor Bronson submitted a letter of support to the Governor's office on April 26, 2024.

d. Requested a two-year extension for the purpose of studying pumped storage hydropower as a potential alternative.

3. FWS Comments

In general, FWS agreed with the Proposed Final Program, but it believed full restoration of water flow to the Eklutna River and fish passage to and from Eklutna Lake was an "important component of a long-term mitigation strategy and that the Proposed Final Program was a starting point to reconnecting the River with their phased approach." They also commented that "[n]either an engineering solution nor funding support have yet been identified that can accomplish all criteria, but we look forward to exploring opportunities to accomplish river connectivity and return an anadromous sockeye salmon run to the Eklutna River". [31]

FWS requested one modification to the Proposed Final Program. FWS requested that if the Fixed Wheel Gate is determined to not be feasible, that the $10 million in funding committed for that purpose be allocated for other protection, mitigation, and enhancement measures "to improve habitat by other means." [32]

4. NMFS Comments

NMFS raised similar issues raised by FWS but did not object to the Proposed Final Program. It concluded the "Program provides a framework to initiate the protection, mitigation and enhancement of fish and wildlife resources and will support the next

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31 Sara Boario, Regional Director, FWS, letter to Governor Dunleavy, June 24, 2024.

32 Id.

iteration of a mitigation plan."[33] NMFS had one request for a modification of the Proposed Final Plan. NMFS requested that if the Fixed Wheel Gate was determined to not be feasible or did not proceed, that either the $10 million committed for that purpose be allocated for other protection, mitigation, and enhancement measures in coordination with the Monitoring and Adaptive Management Committee, or that the NVE pump station alternative be studied.[34]

5. NVE Comments

NVE maintains the primary purpose of the Agreement was to "restore and maintain sockeye salmon that depend on free passage into and out of Eklutna Lake, their preferred spawning habitat."[35] NVE further states the Program is deficient in the following ways:

a. Failure to restore water to all 12 miles of the Eklutna River from the dam downstream at sufficient volumes to support salmon habitat;

b. Failure to permit passage of sockeye salmon to and from Eklutna Lake;

c. Low water flows only minimally enhance chinook and coho salmon habitat;

d. Jeopardizes Anchorage drinking water; and

e. Burdens ratepayers and taxpayers with excessive costs.[36]

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33 Jonathan M. Kurland, Regional Administrator, National Marine Fisheries Service, letter to Governor Dunleavy June 21, 2024. Mr. Kurland's letter acknowledges that the mitigation process is ongoing and repeats every 35 years beginning 25 years after implementation of the Final Fish and Wildlife Program has been implemented.

34 Id.

35 Aaron Leggett, Chair/President, NVE, letter to Governor Dunleavy, June 21, 2024.

36 Id.

6. Operators' Reply to Comments

The Operators replied to the comments from the other Parties and NVE and continued to maintain the Proposed Final Program was consistent with the Agreement. The Operators identified the federal Parties generally approved the Proposed Final Program with some reservations and they identified some key disagreement with MOA and NVE, including:

a. Flow regimes will enhance spawning habitat for chinook, coho, chum and pink salmon that currently exist in the Eklutna River;
b. Included a limited reopener in the Proposed Final Program for the Monitoring and Adaptive Management Committee to address fish passage to and from the Eklutna Lake in the future;
c. Operators worked with AWWU to negotiate agreements that protected the supply of drinking water to Anchorage;
d. NVE's proposed Pumped Station alternative posed higher costs and increased risks to the Project;
e. Removal of the Eklutna Dam in 10 years was not feasible due to foreseeable energy needs, inhibition of renewable energy goals, excessive replacement and removal costs, and damage to infrastructure and property downstream; and

f. The two-year delay requested by MOA for further study will thwart implementation of the Final Approved Program in the timeline required by the Agreement.[37]

7. Joint MOA/NVE Resolution for Pumped Storage Hydropower

Well after the comment period had expired and even after the deadline for Owners' reply to the comments, MOA and NVE provided the Governor and the other Parties a joint resolution recommending a new alternative, pumped storage hydropower, they believed "could result in full restoration of waterflow to the River, protection of Anchorage's drinking water source, and increased power generation, potentially with lower costs to municipal taxpayers and ratepayers".[38] MOA and NVE claim that pumped storage hydropower is used worldwide and it has the "potential to maintain and improve existing power production, meet municipal water supply needs and provide full river hydrological function and connection into and out of Eklutna Lake for fish passage". They requested the Governor require, as part of the Final Approved Program, Owners to use two years of the three year pre-implementation period in the Agreement to explore alternative infrastructure options, including pumped storage hydropower, so water could be restored to the entire Eklutna River and permit fish passage to and from the Eklutna Lake.[39] This joint resolution was virtually identical to MOA's prior request to delay the Governor's decision on a final

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37 Operators Response to Comments, July 24, 2024.
38 Anchorage Assembly and NVE Joint Resolution, No. 2024-001.
39 Id.

program, with the exception of it now identified a proposed alternative to pursue, i.e., pumped storage hydropower. The Operators did not have an opportunity to respond to this joint resolution, but it was addressed in the meeting of the Parties with the Governor's office on September 9, 2024.

IV. DISCUSSION

The Proposed Final Program and the comment period that followed ends a long public process that started with the Agreement in 1991. The most recent process started in March 2019 and included:

- Years of studies, consultations, and alternative analysis;
- Several public meetings;
- Extensive public comments;
- A draft fish and wildlife program;
- Numerous parties' comments, meetings, and discussions; and
- A Proposed Final Program.[40]

Almost all the Parties have described the process of reaching the Proposed Final Program as a negotiation.[41] As with any negotiation, participants do not always come away with

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[40] Operators Response to Comments on Proposed final Fish & Wildlife Program, July 2024 at P. 1.

[41] Transcript of Proceedings before the Governor's Office, September 9, 2024 at Pp. 26 (Operators); P. 73 (FWS); and P. 83 (NMFS). NVE although not a Party to the Agreement also commented that the process included negotiations. Id. at P. 85. MOA did not describe the process as a negotiation, but is now represented by a different administration than the one in place when the Proposed Final Program was drafted. However, see Former Mayor Bronson's letter of support to the Governor's office on April

what they want, and the end result is a resolution that neither side may be completely happy with but nevertheless agree to the terms to move the matter forward. This is certainly the case with the Proposed Final Program put forth by the Operators. The Parties have disagreements as to what should be included and how far the Final Program should go. The Parties, at the time they entered the Agreement, clearly understood that not everyone would get what it desired. The Agreement includes provisions on how to resolve those differences.

A. Governor as Final Decision Maker

1. Review Standard

The Agreement sets forth the role of the Governor in establishing a Final Program. The Governor is required to "review the Proposed Final Program, comments, testimony, summary and analysis materials, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources".[42] He is then tasked with "attempting to reconcile any differences between the Parties, giving due weight to the recommendations, expertise, and statutory responsibilities of FWS, NMFS, the State Resource Management Agencies and the Purchasers".[43] Finally, the Agreement provides:

> In order to ensure that Eklutna . . . [is] best adapted for power generation and other beneficial public uses, the Governor shall give equal consideration to the purposes of efficient and economical power production, energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), the protection of recreation opportunities, municipal water

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26, 2024, wherein he states MOA (Anchorage Hydropower) was involved in the process every step of the way.

42 Agreement at Section 5, P. 4.

43 Id.

supplies, the preservation of other aspects of environmental quality, other beneficial public uses, and requirements of State law ("Eight Factors").[44]

The Governor is then tasked with establishing the Final Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources affected by the Project.

2. Operators' Proposed Final Program and Analysis of Eight Factors

We must first evaluate the Proposed Final Program in light of the Eight Factors outlined in the Agreement.

a. Efficient and Economic Power Production and Energy Conservation - Factors One and Two

The Operators assert the Project "produces nearly six percent of the Owners' combined generation portfolio, which also amounts to roughly 25% of Chugach's renewable energy and 44% for Matanuska."[45] This power is also alleged to be the lowest cost resource for power in the Alaska Railbelt.[46] The Project also assists with power reliability for the region.[47] None of the Parties challenge these assertions. Obviously, the downside to restoring water flow to the River from a power production standpoint is the loss of the water for that production. This comes at a cost, both financial and in terms of

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44 Id.

45 Operators' Brief to Governor, September 4, 2024 at P. 4.

46 Id. citing SID at 2.2.2

47 Operators' Brief, September 4, 2024, P.p. 4-5. Operators also cite an example of how the Project assists other power production in the region. When a natural gas company experienced delivery problem, Operators were able to maximize their usage of the Project to maintain system reliability. Id. (Citing Tony Zellers, et al, letter to MOA, February 12, 2024).

power availability, which cannot be overlooked. Maximizing the Project's power output results in energy conservation by reducing natural gas usage, avoidance of diesel usage for power generation and thus lower emissions, and thus reduced costs if these other power production methods were employed.

The Operators chosen method for restoring instream water flow to the River was also based on using cost effective means to achieve the goal and consideration of the costs to the rate payer. They also rejected alternatives that shut the Project down for lengthy periods of time which would have impacted the Project's value for capacity reserves and grid reliability.[48] These facts are likewise not challenged by any Party.

b. Protection, Mitigation of Damage to, and Enhancement of Fish and Wildlife (including related spawning grounds and habitat) – Factor Three

The Proposed Final Program provides several steps for restoring water flow to the River and thus enhancing, protecting, and mitigating damage to fish and wildlife. The Program restores water flow to the River at rates between 27cfs and 40cfs throughout the year.[49] It also requires periodic channel maintenance flows up to 220cfs.[50] It rewaters 11 of the 12 miles of River at the rates noted above thus restoring water flow to the River that has not existed for years. The plan also creates a Monitoring and Adaptive Management Committee of experts to review, evaluate and modify flow regimes within a water budget to increase and enhance fish habitat. Likewise, the increased flow and enhancement of fish habitat will have a corresponding effect on other wildlife, including

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48 Id.

49 Proposed Final Fish and Wildlife Program, Section 2.1.2.

50 Id. at Section 2.2.

bear and moose populations. Operators' modeling projects increases in chinook spawning and rearing habitat by 209 and 53 percent respectively with increases for coho by 65 and 67 percent, respectively.[51] Limited Reopeners are also included, i.e., potential installation of a fixed wheel gate and fish passage in the future.

The federal Parties, NVE, and MOA correctly point out that the Proposed Final Program fails to include rewatering of the entire River and allow for fish passage to and from Eklutna Lake. NVE and MOA believe that this failure alone makes the Proposed Final Program deficient. They also challenge whether the flows proposed will result in any substantial benefit to salmon habitat. The federal Parties, although proponents of full water flow and fish passage, realize that this process is long and with technological advancements in the future, the goals can be achieved. For that reason, they did not reject the Proposed Final Program. The Agreement provides the Governor must give due weight to the recommendations, expertise, and statutory responsibilities of the Parties, including FWS and NMFS.[52] Due weight is given to the FWS and NMFS' expertise and the fact that they have not objected to proceeding with the Proposed Final Program is a very strong indicator that it meets Factor Three.

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51 SID at Section 4.10.1.

52 Agreement at Section 5, P. 4. The Agreement also permits the Governor to give due weight to the Purchasers, which includes MOA. However, MOA gave up their right to vote on operations at the Project and conceded they lacked the expertise to participate in the Project's operations, which included establishing the Proposed Final Program per the Agreement. See RCA Order U-18-102(44)/U-19-020(39)/U-19-021(39) and Surrender of Eklutna Operation Committee (EOC) Voting Rights dated as of October 27, 2020, and filed with the RCA in docket number U-18-102(44).

As stated earlier herein, fish passage is not a requirement in the Agreement, nor is restoration of complete waterflow to the River and fish passage. However, from a review of the record, it appears all parties recognize the importance of eventual complete waterflow restoration and fish passage. The difference between the Parties is focused on the methods and timeline to achieve those goals. The Proposed Final Program includes a Limited Reopener to achieve full water restoration and fish passage, understanding that as technology advances, those goals may be cost effective or technically feasible to achieve in the future.[53]

c. The Protection of Recreation Opportunities – Factor Four

Several positive impacts on recreational activities are included within the Proposed Final Program:

- Commitment of $234,000 as a match to Chugach State Park or its designee for lakeside trail repairs;
- Potential fishing in the River;
- Kayaking on the Eklutna Lake
- Hunting opportunities;
- Camping;
- Wildlife viewing; and
- Protection of the tailrace fishery.[54]

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[53] See Section IV.A.3. herein for further discussion on restoration of complete waterflow and fish passage.

[54] Operators' Brief, September 4, 2024, P.p. 8-9.

The other Parties did not address this issue in their briefs.[55] There are clear benefits and protections from the Proposed Final Program as outlined above.

d. Municipal Water Supplies – Factor Five

The Parties once again disagree on the impacts the Proposed Final Program will have on municipal water supply. Operators acknowledge they will use AWWU infrastructure to restore water flow to the River. They assert it will not negatively affect the water supply and, in some ways, enhance the water supply infrastructure. MOA and NVE on the other hand believe it will negatively affect municipal water supply. However, neither MOA nor NVE have been able to adequately detail these alleged negative effects. Once again, the Agreement permits the Governor to rely on the expertise of the Operators and give due weight to their findings.[56]

Operators maintain the Project's infrastructure and Anchorage's municipal water supply have been "inextricably linked as a matter of physical infrastructure, operations, contract, water rights, and authorizing law since the 1980s when AWWU connected its intake pipe to the Project's intake structure".[57] Operators assert they worked closely with AWWU leadership and engineers to develop legal terms and agreements by which AWWU will be comfortable with the use of AWWU infrastructure to release water into

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55 MOA makes a passing reference that the "proposed program fails to adequately advance recreational and other beneficial public uses such as fishing or taking in the beauty of a real mountain river with real water in it". MOA Brief at P. 11.

56 See also, Footnote 51.[57] Operators' Brief, September 4, 2024, P. 9.

57 Operators' Brief, September 4, 2024, P. 9.

the River.[58] AWWU and Operators have agreed on key terms for an agreement to govern the construction and use of the Eklutna River Release Facility and an agreement for the long term sharing of Eklutna Lake water rights. AWWU and Operators also negotiated three agreements to detail and govern the arrangement if the Governor approves the Proposed Final Program. Finally, Operators agreed to commit to not take any action in connection with the Fish and Wildlife Program that would compromise Anchorage's water supply, and they agreed to accept liability if they did so. Additionally, other benefits flowed to AWWU, including design approval rights, the construction of eight new bridges over Eklutna River for AWWU to maintain access to its infrastructure, new communications systems, flow meters and a new isolation valve structure for safer maintenance of their facilities, as well as other benefits. AWWU receives its water under a contract with the Eklutna Owners; the proposed term sheet according to Operators would reduce the current water supply costs by half under the new contract to replace contract expiring at end of 2025. For all these reasons, the Proposed Final Program does meet the requirements of the Agreement concerning municipal water supply.

The central issue here is not whether the water supply is protected and/or enhanced, as the evidence clearly demonstrates it is, but rather, whether the Operators and AWWU's agreements must be approved by MOA and to date that approval has not been achieved. In Resolution 2024-182(S-1), the Assembly stated "The Municipality of Anchorage does not intend to issue authorizations or provide funds or any other form of

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[58] Id.

support of the Proposed Final Program or any alternative that doesn't work toward the restoration of the full length of the River…"[59]. The Operators believe they have legal avenues to pursue the agreements even if MOA withholds approval, but litigation does not move the Final Program forward, creates delay in restoring water flows to the River, and impedes implementation of the Final Program.

e. The Preservation of Other Aspects of Environmental Quality – Factor Six

The redirection of lake water to the River instead of the Project's powerhouse reduces the generation of carbon free power that will most likely be replaced by natural gas generation. However, all alternatives considered reduce the power generation from the Project. The Proposed Final Program has the smallest impact in this regard of all the alternatives considered.

f. Other Beneficial Public Uses – Factor Seven

The Operators cite restoration of salmon habitat in the River as another beneficial public use and that flows will not impact infrastructure downriver, including bridges over the River. Enhanced salmon habitat is important to the public and to NVE and its people. Protecting existing infrastructure used by the public is also a beneficial public use.

g. Requirements of State Law – Factor Eight

Numerous areas of State law are impacted by this Proposed Final Program, including permitting, safety, fish and game, natural resources to list a few. The Operators

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[59] MOA Resolution 2024-182(S-1), June 25, 2024

acknowledge the need to comply with all State laws that apply to the Proposed Final Program and their need to obtain an amendment to their certificate of authority from DNR to permit the conveyance and release of water into the River. Additionally, as operators of an electric utility, Operators also have an obligation to comply with all State laws related to utility operations.

h. MOA and NVE Proposed Alternatives

Neither MOA nor NVE have provided any analysis with respect to how their proposed alternatives consider the Eight Factors. Rather, they seem to rely on the belief that their proposed alternatives, such as dam removal or pumped storage hydro, will result in full water restoration to the River and allow for fish passage thus promoting the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat). While that is one factor that must be considered, the Governor is required to give equal consideration to all Eight Factors. They have not provided any evidence or analysis of how these proposed alternatives will impact the other seven factors. For example, there is no evidence of how these alternatives will promote the purposes of efficient and economical power production and energy conservation or impact municipal water supplies.

3. Differences Between the Parties

In addition to giving equal consideration to the Eight Factors, the Governor must also attempt to reconcile differences among the Parties. Although the Parties have generally agreed that the Proposed Final Program was arrived at through rigorous studies, public review, comment, and negotiation, two glaring differences were identified, 1)

water flow for the entire Eklutna River from the dam downstream; and 2) fish passage to and from Eklutna Lake.[60]

The Operators believe that current technology and cost are major prohibitions to obtaining full water flow throughout the River and fish passage to and from the lake at the present time. They posit that the agreement provides a mechanism to continually review these goals and as technology evolves and costs decline, the goals may be achievable, and have provided for this to be regularly evaluated by the Monitoring and Adaptive Management Committee.

FWS and NMFS believe that complete water flow and fish passage were intended as part of the Agreement, but they also indicate that the process must start somewhere and

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[60] MOA and NVE allege the process to arrive at the Operators' Final Proposed Program was flawed. MOA asserts it was denied a viable way to participate due to the fact it lost its vote as an Owner of the Project via an RCA order. However, MOA's assertion in this regard is misguided for three reasons. First, MOA voluntarily gave up its right to vote on matters affecting the operation of the Project and the 1991 Agreement. Secondly, Mayor Bronson formally acknowledged the MOA's complete participation in "every step in the process that led to the Proposed Final Program" and that MOA supported the agreement with the Proposed Final Program. See Mayor Bronson letter to Governor Dunleavy, April 26, 2024. Thirdly, the Operators assert that they and MOA conducted themselves as equals throughout the process and made all decision on the Proposed Final Program through unanimous consent. The record contains no evidence to the contrary. NVE asserts that the Operators failed to pursue alternatives that would have provided for rewatering the entire river and allowed fish passage. Operators counter that they did look at several other alternatives, including NVE's pump station alternative and dam removal, and for various reasons, including economics and other risks, it chose to proceed as outlined in the Proposed Final Program. See NVE comments, June 21, 2024 and Operators' Reply to Comments, July 2024 at Pp. 22-23.

there is time to achieve both and still comply with the Agreement's requirements.[61] They are each committed to pursuit of any alternatives that will achieve those goals.

MOA and NVE however, believe that both goals should be pursued now and absent complete River waterflow and fish passage, the Program should not be adopted. First, the Agreement does not require complete waterflow and fish passage. Had the Parties intended to make those requirements of the Program, they could have and should have so stated in the Agreement itself.[62] Rather, the Agreement outlines requirements to protect, mitigates damage to, and enhances fish and wildlife resources affected by the Project. At the time the Agreement was signed, the River did not enjoy complete waterflow nor were fish able to pass from River to lake and lake to River. As NVE acknowledges, these goals were not achievable until the lower diversion dam was removed in 2018.[63] Courts cannot add words to the contract that would impermissibly re-write that contract, nor can the Governor in this situation.[64] Simply put, the Agreement is not ambiguous. Rather, complete waterflow and fish passage can be adopted in a final

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61 ". . . the Program provides a framework to initiate the protection, mitigation and enhancement of fish and wildlife resources, and will support the next iteration of a mitigation plan". NMFS Comments to Proposed Final Fish and Wildlife Program, June 21, 2024 at P. 2. "Although the proposed Program does not immediately meet the FWS's goals of ecological connectivity . . . the Program, with commitment of all stakeholders, could be an interim step to reconnecting the river, consistent with our request for a phased approach". FWS comments on the Proposed Final Program, June 24, 2024 at P. 4.

62 *McConnell v. Pickering Lumber Corp.*, 217 F.2d 44, 47 (9th Cir. 1954) ("Appellants would have the court under the guise of construction add words to the contract which are not to be found in it. We do not understand such to be the function of the court.").

63 NVE Brief to Governor Dunleavy, September 4, 2024 at P. 7.

64 *JAE Properties, Inc. v. AMTAX Holdings 2001-XX, LLC*, __ F. Supp. Ed __, 2024 WL 538570 (USDC S. D. Cal. 2024).

program if supported by an analysis of the factors in the Agreement, but the Agreement did not mandate it.

NVE and MOA also seem to place all their emphasis on Factor Three, i.e., protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat) without providing for equal consideration of the other seven factors. The Agreement clearly and unequivocally requires the Governor to give "equal consideration" to all Eight Factors.[65] Although Factor Three is an extremely important element of this process, it cannot be viewed alone or to the detriment of the other factors. Each factor has an impact on the final program.

However, with that said, it does not mean that the Governor cannot alter or improve the Proposed Final Program. The Proposed Final Program meets the requirements of the Agreement, giving equal consideration to the Eight Factors, and provides for the protection, mitigation of damage to, and enhancement of fish and wildlife habitat. It can, however, be improved in certain ways to try to reconcile the differences between the Parties per the requirements in the Agreement.

4. Governor's Amendments to Final Proposed Program

The Proposed Final Program is established with the following amendments. Discussion on the amendments will follow this section.

Section 3.1 Committee

This section is amended as follows:

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65 Agreement at Section 5, P. 4.

The Committee will consist of one voting representative from each of the following:

Alaska Department of Fish and Game – member appointed by the Commissioner;

Alaska Department of Natural Resources – member appointed by the Commissioner;

NMFS – member appointed by its Regional Director;

FWS – member appointed by its Regional Director;

NVE - member appointed by its Chair/President; and

Governor of Alaska – appoints one member.

The Committee will make decisions by consensus and four members shall constitute a quorum.

Section 4.1 Fixed Wheel Gate

If it is determined that the construction of the fixed wheel gate is not structurally or economically feasible, the Owners shall make available any remaining funds not expended of the $10,000,000.00 (up to $10,000,000.00 in April 2024 U. S. dollars)[66] for other protection, mitigation, and enhancement measures for fish and wildlife including impacted habitat loss and other effects

[66] The current estimate for that fixed wheel gate is $4 million. Operators committed up to $10 million in 2024 dollars. See Transcript of Proceedings, September 9, 2024 at P. 109.

related the Project in accordance with the terms and process previously outlined in Section 3.3.6.[67]

Section 4.0 Limited Reopeners

New Section 4.3 is added.

Section 4.3 Pumped Storage Hydropower

Pumped Storage Hydropower is added as a Limited Reopener.

The Parties are directed to study this upon terms and conditions they mutually agree to. The terms and conditions will include level of engineering, level of cost analysis, what Party or Parties will fund the study and in what amounts and any other matters the Parties find necessary to implement this Limited Reopener. The study should be consistent with studies performed for other alternatives reviewed by Operators. The Parties, assuming they agree on the above requirements, are directed to undertake the study immediately, but this study will not delay the implementation of the Governor's Approved Final Program or the review and study of the fixed wheel alternative. The results of the study will be reported to the Monitoring and Adaptive Management Committee ("Committee").

The Committee will analyze the study findings and perform the Eight Factor analysis required by the Agreement. The Committee will then provide the study findings and Eight Factor analysis to the Owners for the Owners review. If

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[67] See FWS comments to the Proposed Final Program, June 24, 2024 at Pp. 4-5.

the Owners approve the study findings and Eight Factors analysis, they will provide a statement of support to the Committee and the Committee and Owners will coordinate and cooperate to obtain the Governor's approval. Governor approval of the decision to pursue Pumped Storage Hydropower is required. If the Governor approves the proposal, then the 35-year timeframe requirement to repeat the consultation process required by the Agreement will restart from the date the Governor's approval. The construction of Pumped Storage Hydropower must minimize impacts to Project operations. The Project Owners will oversee all construction activities and will support the development and operation of Pumped Storage Hydropower facilities and infrastructure. This is a limited reopener and will not reopen any other components of the Fish and Wildlife Program.

Discussion of Amendments

Amendment to 3.1

Since the Proposed Final Program provides for ongoing review through the Monitoring and Adaptive Management Committee, and it is the Governor's role under the Agreement to establish a Final Program, adding a Governor appointed seat to the Monitoring and Adaptive Management Committee allows the Governor, and future Governors, to continue to fulfill his or her role under the Agreement to establish the Final Program as the work of the committee is ongoing. The definition of a quorum is added to assist in governance and ensure the recommendations made by the committee have robust involvement from the entities represented.

Amendment to 4.1

As one of the purposes of the Agreement and Final Program is to protect, mitigate damage to, and enhance fish and wildlife habitat, ensuring the funds already set aside for the fixed wheel gate alternative are available to be used for other protection, mitigation, and enhancement measures is consistent with the intent of the Agreement in the event the fixed wheel gate is found to be infeasible. This amendment is responsive to the modification of the Proposed Final Plan requested by NMFS and FWS.

Amendment to 4.0, addition of Section 4.3

MOA and NVE have suggested that Pumped Storage Hydropower ("PSH") is a viable alternative to the Proposed Final Program. They passed a joint resolution on September 5, 2024, advocating for PSH. They claim it is a "proven energy storage solution used worldwide that provides carbon free power production, storage and grid stabilization and that it has the potential to maintain or improve power production, meet municipal water needs and provide full River hydrological function and connection into and out of Eklutna Lake for fish passage.[68] They suggested that the Governor require the Owners use the first two years of the three year implementation period to explore this option.[69]

Neither MOA nor NVE have studied this potential alternative. The Operators have reviewed it but admittedly did not get to any final conclusions on its viability, nor did they engineer or model it to see if it was economically or engineeringly feasible at this location. At the meeting with the Governor's office, MOA, NVE and Operators each

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68 MOA/NVE Joint Resolution, September 5, 2024

69 Id.

agreed that this was a potential option that could be explored.[70] However, Operators and the federal Parties do not want to delay implementation of the Final Approved Program to explore this option.

Implementation of the Final Approved Program should not be delayed or extended for an option of unknown cost and feasibility. However, if PSH is as promising as MOA and NVE indicate, there are numerous potential benefits and improvements to the Eight Factors which must be considered when evaluating this Program. As such, conducting this study, under terms agreeable to the Parties, will provide more information relevant to those factors and the potential benefit or harm to the protection, mitigation of damage to, and enhancement of fish and wildlife resources.

All other components and requirements of the Final Proposed Program are adopted herein unless otherwise amended hereby. The Owners are directed to begin implementation of the Final Approved Program as approved herein as soon as possible.

V. CONCLUSION

The Final Approved Program established today is the culmination of many years of difficult work, analysis, evaluation, discussion, and negotiation by the Parties. Each party did not get all they wanted in this Final Approved Program. However, this is a long-standing problem with no readily available easy solutions and implementation of this

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[70] Transcript of Proceedings, September 9, 2024 at Pp. 105-122. The federal parties did not take a position other than to state they are in favor of exploring options that restores full waterflow to the river and allows for fish passage. Id. at Pp. 112-113.

Final Approved Program will put the River on track towards potential full water flow and fish passage.

Mike Dunleavy
Governor
Date: 10-2-2024

Eklutna Hydroelectric Project

Proposed Final Fish and Wildlife Program

April 2024

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Terms, Acronyms, and Abbreviations

1991 Agreement	1991 Fish and Wildlife Agreement
ADEC	Alaska Department of Environmental Conservation
ADFG	Alaska Department of Fish and Game
ADNR	Alaska Department of Natural Resources
AEA	Alaska Energy Authority
AWWU	Anchorage Water and Wastewater Utility
cfs	cubic feet per second
Draft Program	Draft Fish and Wildlife Program
fish and wildlife measures	PME measures for fish and wildlife
Final Program	Final Fish and Wildlife Program
Governor	Governor of Alaska
mgd	million gallons per day
MW	megawatt
NMFS	National Marine Fisheries Service
NVE	Native Village of Eklutna
Parties	Chugach, MEA, MOA, NMFS, USFWS, and the State of Alaska
PME measures	protection, mitigation, and enhancement measures
Project	Eklutna Hydroelectric Project
Project Owners	Chugach, MEA, and MOA
Proposed Final Program	Proposed Final Fish and Wildlife Program
USFWS	U.S. Fish and Wildlife Service

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1.0 Introduction

The Eklutna Hydroelectric Project (Project) is located in Southcentral Alaska, approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna (NVE). The federal government completed construction of the Project in 1955. Decades later, Chugach Electric Association, Matanuska Electric Association, and the Municipality of Anchorage (collectively the "Project Owners") agreed to purchase the Project and entered into a Purchase Agreement with the federal government in 1989. Shortly thereafter, concerns were raised about the Project's potential impacts on fish and wildlife. This led to the execution of a binding agreement in 1991 (referred to as the "1991 Agreement") amongst the Project Owners, National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the State of Alaska (collectively the "Parties") that requires the Project Owners to (1) study the Project's impacts to fish and wildlife, (2) develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the development of the Project, (3) consider the impact of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use, and (4) identify available means to mitigate these impacts. The Project Owners must repeat this process every 35 years and it replaces regulation by the Federal Energy Regulatory Commission. The sale of the Project was authorized by U.S. Congress in 1995, and the Project was sold to the Project Owners in October 1997.

Per the 1991 Agreement, the Project Owners were required to initiate this process no later than 25 years after the sale of the Project. Since the Project was sold in October 1997, the Project Owners were not required to initiate this process until October 2022. However, in order to allow adequate time for a comprehensive analysis, the Project Owners initiated the process in March 2019, more than three years early. After several years of study and consultation with all interested stakeholders detailed in the Supporting Information Document, the Project Owners issued a Draft Fish and Wildlife Program (Draft Program) as required in the 1991 Agreement in October 2023. The Project Owners met with the Parties and the Native Village of Eklutna several times from December 2023 through March 2024 to attempt to resolve differences. They also held six public meetings in January 2024 to solicit public comments. After considering all comments received, and giving due weight to the recommendations and expertise of the Parties and the Native Village of Eklutna, the Project Owners have developed this Proposed Final Fish and Wildlife Program (Proposed Final Program) for submittal to the Governor.

Accordingly, the Project Owners are excited for the next phase of the Project. Details of the Proposed Final Program are described in subsequent sections and include the following:

- Construction of the Eklutna River Release Facility and establishment of year-round instream flows in the Eklutna River;
- Automation of the existing outlet gate at the dam to provide periodic channel maintenance flows in the Eklutna River;
- Construction of eight new bridges along the Anchorage Water and Wastewater Utility (AWWU) access road to enable AWWU's access to critical infrastructure year-round following the establishment of instream flows;
- Payment to Chugach State Park for lakeside trail repairs;
- Establishment of a Committee to oversee implementation of the Monitoring and Adaptive Management Plan;
- Funding to conduct monitoring studies in the Eklutna River throughout the 35-year program;
- Funding for physical habitat enhancement in the Eklutna River based on the monitoring results;
- Procedures for the Committee to adaptively manage the flow regime in the Eklutna River based on the monitoring results;
- Provisions for banking water in Eklutna Lake and potentially increasing the water budget for instream flows in the future;
- Potential installation of a fixed wheel gate to accommodate higher inflows in the future and/or allow higher channel maintenance flows if needed; and
- Potential installation of upstream and downstream fish passage facilities that meet specific criteria.

Approval of the Proposed Final Program will enable the Project Owners to implement these significant fish and wildlife measures at the Project, while simultaneously protecting the municipal water supply and continuing to provide low cost, renewable energy to Southcentral Alaska. The Project Owners anticipate the Governor's issuance of a Final Fish and Wildlife Program by October 2024.

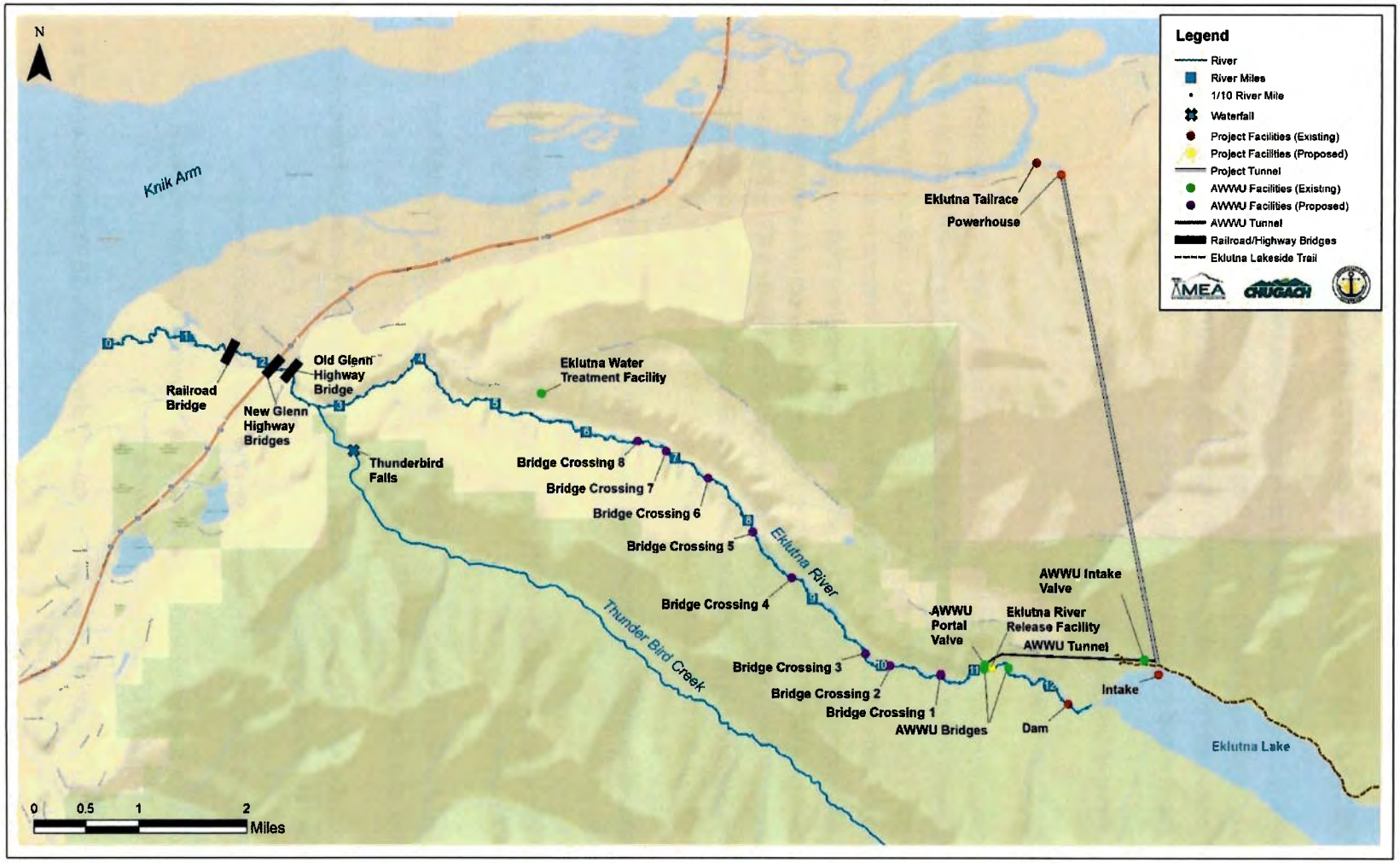

Figure 1-1. Existing and Proposed Infrastructure.

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2.0 Protection, Mitigation, and Enhancement Measures

The Project Owners will continue to operate the Project in a manner consistent with the current operating procedures. In addition, The Project Owners will implement the following protection, mitigation, and enhancement (PME) measures for fish and wildlife habitat, the municipal water supply, and recreational facilities.

2.1 Year-Round Instream Flows

2.1.1 Eklutna River Release Facility

In order to provide year-round instream flows to the Eklutna River for fish and wildlife habitat, the Project Owners will construct a new valve and release structure located adjacent to the existing Anchorage Water and Wastewater Utility (AWWU) portal valve approximately one mile downstream of Eklutna Dam. The proposed infrastructure, referred to as the Eklutna River Release Facility, will consist of a tee off the existing 54-inch pipeline that conveys water from Eklutna Lake as part of AWWU's Eklutna Water Project and new control valves to bypass water into the Eklutna River. The 30% design drawings for the Eklutna River Release Facility are provided in the Supporting Information Document. The infrastructure included as part of the 30% level of design for the Eklutna River Release Facility is as follows:

- Construction of a new isolation gate structure immediately upstream of the AWWU portal valve shaft;
- Replacement of approximately 25-ft of existing pipeline with a newly fabricated steel 54-inch x 42-inch tee;
- Installation of a 54-inch gate valve on the main segment of pipe intended to provide dual means of isolation for AWWU's pipeline segment P-4;
- Installation of a 42-inch gate valve on the branch segment intended to provide isolation to the river release structure;
- Installation of a draining and filling system around each isolation valve;
- Installation of a pressure monitoring system and flow meter to provide dual redundancy to AWWU's portal release valve facility;
- Construction of a new river release structure approximately 30-ft downstream of the isolation gate structure;

- Installation of a 30-inch sleeve valve or alternative energy dissipation valve to control flow into the Eklutna River;
- Installation of a flow monitoring system to monitor flow releases into the Eklutna River;
- Construction of a bypass channel from the river release structure to the Eklutna River; and
- Upgrades to communication infrastructure to provide direct communication between the Eklutna River Release Facility, AWWU portal valve shaft, AWWU intake valve shaft, Eklutna Water Treatment Facility, and the Eklutna Power Plant.

The addition of this release facility on the existing Eklutna Water Project will not reduce or impact flow available for water supply purposes, as required by state law. Flow releases through the facility will be limited to a maximum of 80 cfs to protect the AWWU valves and pipeline. The closure rate of the proposed river release valve will be set to keep transient pressures within the rating of the lake diversion tunnel and AWWU pipeline. Additional instrumentation including new flow meters and pressure transducers will be installed to monitor the new facility and protect AWWU infrastructure in the event of an emergency.

The current design allows the AWWU pipeline to be dewatered for maintenance, and in the event of a pipeline rupture, it allows for emergency closure at the AWWU portal valve, in both cases allowing continued operation of the Eklutna River Release Facility. Any maintenance activities that may be required to replace the intake valve shaft will be planned for the fall when the lake level is high and instream flows can be released through the existing outlet gate at the dam.

The Project Owners have closely coordinated with AWWU throughout the preliminary design of the Eklutna River Release Facility and will obtain AWWU approval on all final designs related to AWWU infrastructure. The Project Owners and AWWU have also discussed the water transportation services, compensation, and water rights issues that need to be resolved in order to utilize AWWU infrastructure for providing instream flows to the Eklutna River. A summary of proposed arrangements with AWWU is set forth in the Supporting Information Document. Upon the Governor's approval, the Project Owners will enter into long-term agreements with AWWU following, and subject to, all necessary approvals. If such approvals are delayed or are not able to be obtained, the Project Owners will continue with the other PME measures outlined in this program to the degree possible.

2.1.2 Default Year-Round Instream Flow Regime

Once construction is complete, the Project Owners will utilize the existing Project intake, excess capacity in the AWWU tunnel, and new Eklutna River Release Facility to provide year-round instream flows to approximately 11 out of 12 miles of the Eklutna River. The default year-round instream flow regime, shown in Table 2-1 and Figure 2-1, varies seasonally and was developed based on field studies and modeling.

Table 2-1. Default Year-Round Instream Flow Regime.

Month	Flow (cfs)	Volume (acre-feet)
January	27	1,660
February	27	1,500
March	27	1,660
April	27	1,607
May	34	2,060
June	40	2,380
July	40	2,460
August	40	2,460
September	40	2,380
October	40	2,460
November	34	1,993
December	27	1,660
Total	-	**24,280**

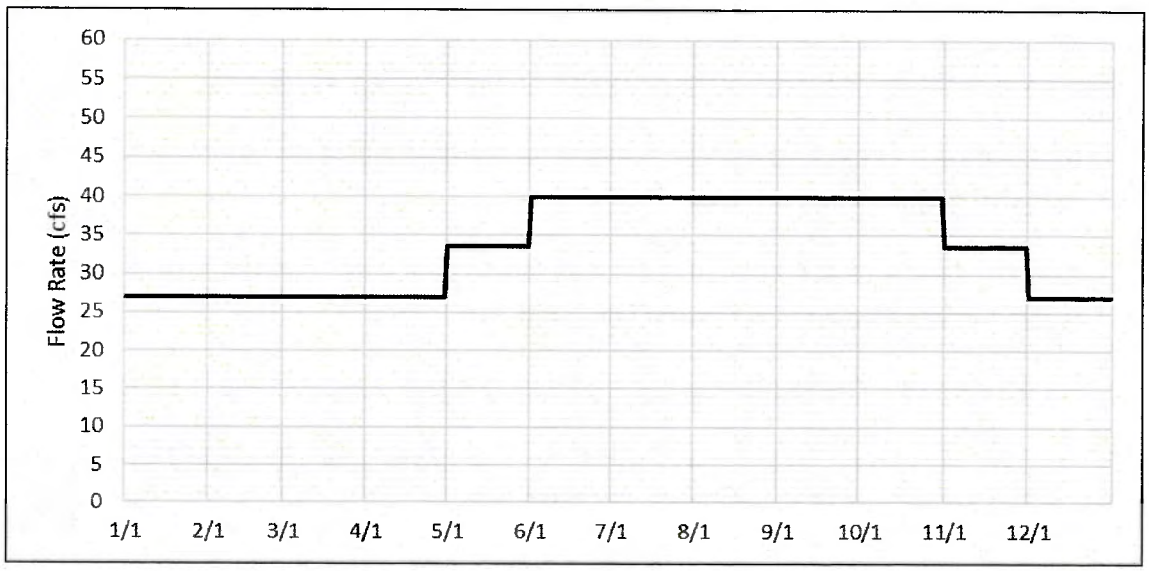

Figure 2-1. Default Year-Round Instream Flow Regime.

The default winter flow releases (27 cfs) when combined with natural accretion in the Eklutna River should promote favorable ice conditions to protect redds during incubation and provide overwintering habitat for juvenile salmon in the Eklutna River.

The default summer flow releases (40 cfs) when combined with natural accretion in the Eklutna River should (1) significantly increase the available spawning habitat for Chinook, coho, pink, and chum salmon, (2) provide sufficient flows for migrating adult salmon to navigate the potential upstream passage barriers identified in the confined canyon reach, and 3) provide additional rearing habitat for salmon.

The default November flow releases (34 cfs) reflect a downramping rate of less than 1 to 2 inches per hour to reduce the risk of any fish stranding downstream when transitioning from summer flows to winter flows.

The total volume of water to be released annually from Eklutna Lake into the Eklutna River for year-round base flows is 24,280 acre-ft/yr, equivalent to approximately 10% of the average annual inflow to the lake.

2.2 Channel Maintenance Flows

2.2.1 Existing Outlet Gate

In order to provide periodic channel maintenance flows to the Eklutna River, the Project Owners will automate the existing outlet gate within the base of the spillway at Eklutna Dam so that it can be controlled remotely. The 30% design drawings for automating the gate are

provided in the Supporting Documentation Document. The infrastructure included as part of the 30% level of design for automating the existing outlet gate is as follows:

- Replacement of existing manual actuator for the dam outlet gate with electric motor actuator with position sensing;
- Construction of new access platform and stilling well with level transducer to measure water surface elevation in Eklutna Lake; and
- Installation of 0.5 miles of new buried power line from Eklutna Lake Road to the dam.

The 30-inch by 30-inch outlet gate has a maximum capacity of approximately 190 cfs at the normal maximum water surface elevation of El 871.0 ft.

2.2.2 Channel Maintenance Flow Regime

Once year-round instream flows have been established in the Eklutna River and the existing outlet gate has been automated, the Project Owners will use both the Eklutna River Release Facility and the automated outlet gate to provide periodic channel maintenance flows to the Eklutna River. The default channel maintenance flow, shown in Table 2-2 and Figure 2-2, was developed based on field studies, modeling, and peak flow statistics in similar unmanaged Alaskan rivers and is shaped to resemble a natural peak flow hydrograph.

Table 2-2. Default Channel Maintenance Flow Releases.

Steps	Duration (hours)	Total Flow (cfs)	Base Flow (cfs)	Additional Flow (cfs)	Additional Volume (acre-feet)
1	3	150	40	110	27
2	3	200	40	160	40
3	36	220	40	180	535
4	12	200	40	160	159
5	6	160	40	120	59
6	6	140	40	100	50
7	6	110	40	70	35
8	6	90	40	50	25
9	6	80	40	40	20
10	6	70	40	30	15
11	4	60	40	20	7
Total for 1 flow	**94**	-	-	-	**971**
Total for 3 flows	**282**	-	-	-	**2,913**

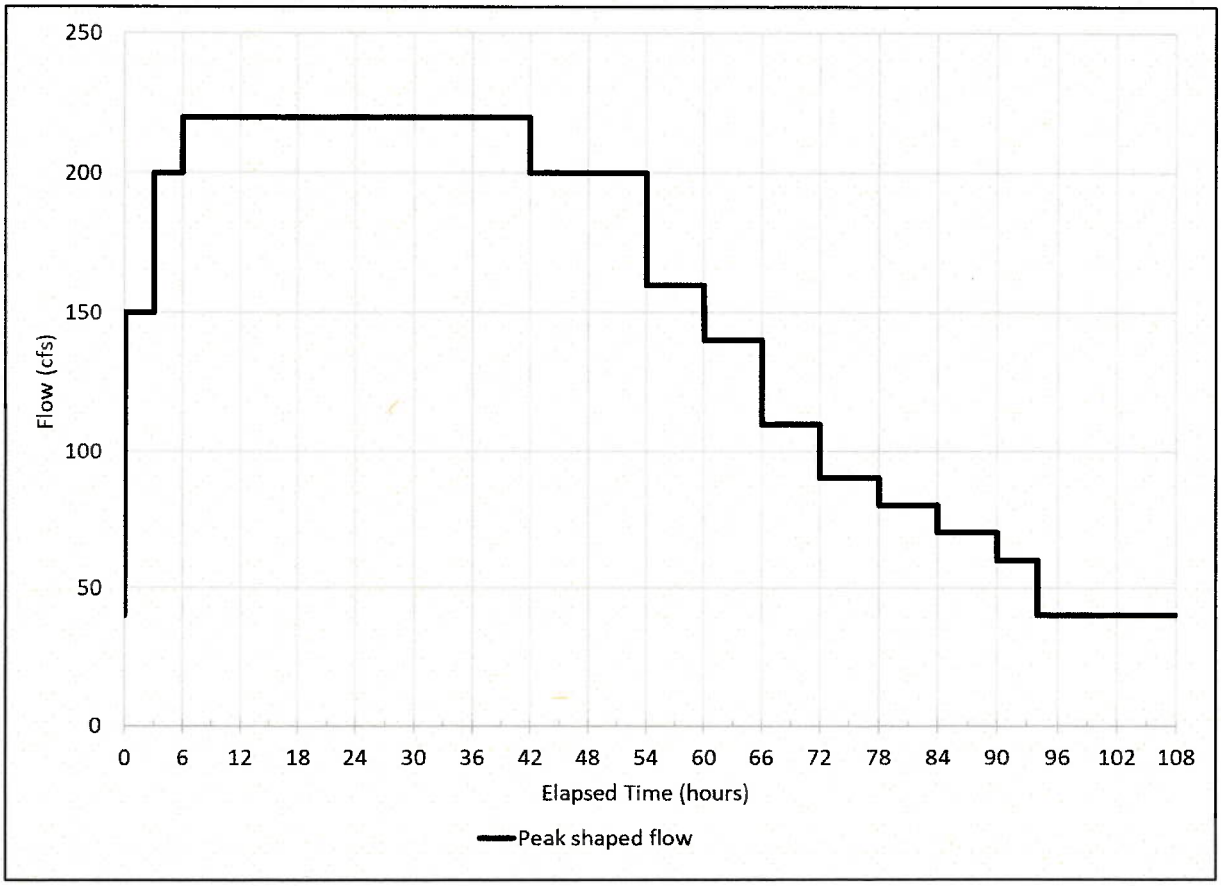

Figure 2-2. Default Channel Maintenance Flow Releases.

The default channel maintenance flow (peaking at 220 cfs for 36 hours) should complement the base flow regime and help create and maintain channel dimensions and substrate characteristics to support physical fish habitat over the long term.

The default downramping schedule (steps 4-11 in Table 2-2) reflects a downramping rate of less than 1 to 2 inches per hour to reduce the risk of any fish stranding downstream when transitioning back to base flows.

Channel maintenance flows will be conducted in the fall when the lake level is highest. The default schedule calls for the Project Owners to conduct a channel maintenance flow in years 2, 5, and 8 of each 10-year period. The first 10-year period will start with the first full calendar year after year-round instream flows are established. The total volume of water to be released in a 10-year period from Eklutna Lake into the Eklutna River for channel maintenance flows is 2,913 acre-ft. Any spill event that exceeds 220 cfs for 36 hours will count as one of the required channel maintenance flows for the current 10-year period.

The intent of providing flexibility in scheduling channel maintenance flows is to allow the Project Owners to take advantage of wet water years. If a planned channel maintenance flow coincides with a dry water year, the Project Owners may choose to postpone the channel maintenance flow to a subsequent year in the current 10-year period. However, if it is already the final year in the current 10-year period, then to the extent possible the Project Owners will curtail generation in order to raise the lake level high enough to achieve the desired flow rate. If due to unforeseen circumstances the Project Owners are unable to provide all three channel maintenance flows in any given 10-year period, then the Project Owners will provide the missed channel maintenance flows in the subsequent 10-year period.

2.3 Flow Monitoring

In order to monitor the year-round flow releases into the Eklutna River, the Project Owners will install a flow meter on the river release pipeline within the Eklutna River Release Facility. The accuracy of this meter is anticipated to utilize the ultrasonic transit time method and have an accuracy of ±1%.

In order to monitor channel maintenance flow releases into the Eklutna River, the Project Owners will utilize the rating curve for the existing outlet gate to calculate flow as a function of gate position and water surface elevation in the reservoir. The gate position will be monitored remotely via a new position feedback sensor within the electric motor operator of the gate. To monitor the water surface elevation of the reservoir, a new stilling well and pressure transducer will be located upstream of the gate within the entrance to the Eklutna Dam spillway channel. The addition of this transducer will avoid any potential inaccuracies with the existing USGS gauge measuring water surface elevation near the Project intake. The flow measurement at the gate is anticipated to have an accuracy of ±2%.

2.4 AWWU Bridges

Providing year-round instream flows to the Eklutna River will likely make all of the existing ford crossings along the AWWU access road impassable for most of the year. To mitigate these potential impacts, the Project Owners will construct eight new bridges, one at each of the existing ford crossings to allow AWWU year-round access to the AWWU pipeline for maintenance. The new bridges will be designed to pass the same flows as the two existing AWWU bridges. The existing ford crossings will be removed to prevent anyone from attempting to drive through the riverbed in the future. The 15% design drawings for the new AWWU bridges are provided in the Supporting Information Document. The Project Owners will obtain AWWU approval on all final designs related to AWWU infrastructure and will work with AWWU to obtain all necessary permits and easements as may be necessary.

2.5 Recreation

2.5.1 Lakeside Trail Repairs

The Project Owners operate the Project to not spill any water. However, due to various circumstances, spill events have occurred in the past. During past spill events, high lake levels have caused erosion along discrete segments of the lakeside trail. Chugach State Park has received $234,000 in funding for general lakeside trail repairs. Within 120 days of the Governor's approval or by January 31, 2025, whichever comes later, the Project Owners will provide a one-time payment of $234,000 to Chugach State Park (or another entity as directed by Chugach State Park) for lakeside trail repairs that address erosion impacts. This funding match brings the total budget for lakeside trail repairs to $468,000. State Parks will be responsible for seeking and obtaining approval from Eklutna, Inc. if needed. The Project Owners will not be responsible for funding the repair of any future erosion impacts to the lakeside trail that may result from continued Project operations.

2.5.2 Annual Powerhouse Maintenance

The Project Owners conduct annual maintenance activities that require Project shutdown for approximately two weeks every year. In order to avoid having multiple generation assets offline at the same time, the Project Owners coordinate with the other Railbelt utilities when scheduling the annual maintenance shutdown for the Project. In some previous years, this annual maintenance shutdown has coincided with peak fishing times and has had a negative impact on the tailrace fishery. The Project Owners will endeavor to avoid peak fishing times when scheduling the annual maintenance shutdown and any other maintenance activities that would require Project shutdown, taking into consideration the overall system maintenance needs.

2.5.3 Public Access to the Eklutna River

There is currently no free, un-permitted public access to most of the Eklutna River. The land under and surrounding the Eklutna River is largely owned by Eklutna, Inc., which requires permits for access to the Eklutna River. The Project Owners are therefore requesting that Eklutna, Inc. provide free, non-permitted public access to the Eklutna River once the ADFG Board of Fisheries has determined that the Eklutna River fishery for Chinook, coho, or sockeye salmon is sustainable and can be opened for recreational fishing.

3.0 Monitoring and Adaptive Management Plan

The PME measures described in the previous sections are based on the results of field studies, modeling, and extensive consultation. However, the Project Owners recognize there is some inherent uncertainty in modeling and physical habitat conditions in the Eklutna River will evolve over time. Therefore, the following Monitoring and Adaptive Management Plan will be implemented. This approach allows for flexibility and adjustments to PME measures, if needed.

3.1 Committee

Upon the Governor's issuance of the Final Fish and Wildlife Program, a Monitoring and Adaptive Management Committee (Committee) will be established to execute the Monitoring and Adaptive Management Plan. The Committee will consist of one voting representative from each of the following entities: ADFG, ADNR, NMFS, USFWS, and NVE. The Committee will make decisions through consensus, and the Committee chair will be selected by the members of the Committee. One or more representatives from the Project Owners will serve as non-voting participants on the Committee to provide technical expertise about Project operations. All voting and non-voting representatives named to serve on the Committee should possess the technical expertise necessary to carry out the responsibilities of the Committee and should ideally be local to the Project area. Each entity shall bear all costs for its representative to participate on the Committee.

Once the Committee is established, it will develop appropriate evaluation criteria for the Fish and Wildlife Program. These evaluation criteria will help inform monitoring efforts and adaptive management decisions. Decisions made by the Committee shall not be imputed to the Project Owners; implementation of actions pursuant to guidance provided by the Committee shall not create liability to the Project Owners.

3.2 Monitoring

The Project Owners will provide a total of $450,000 in April 2024 U.S. dollars (see Section 5.0) to ADFG over the length of the Program to fund additional monitoring efforts in the Eklutna River. The Committee will develop a plan to monitor aquatic habitat conditions and fish utilization in the Eklutna River and the straying rate of hatchery fish from the Eklutna Tailrace to the Eklutna River. The Committee may pursue other funding sources to supplement the monitoring budget if desired. ADFG will implement the monitoring plan based on direction from the Committee and must request funds from the Project Owners by July 1 each year based on the planned monitoring efforts for the subsequent year. The Project Owners will then budget accordingly and submit payment to ADFG by January 31 of the subsequent year.

Reports that summarize the various monitoring results will be prepared by ADFG and provided to the Committee by February 1 each year. The Committee will review and provide a composite report to the Project Owners by March 1 each year. The Committee shall maintain a database/archive for all monitoring results and reports.

3.3 Adaptive Management

3.3.1 Water Budget

The total volume of water available for release into the Eklutna River in the first water year (June 1 to May 31) following completion of the Eklutna River Release Facility is 24,280 acre-feet. This is based on the default year-round instream flow regime. An additional 24,280 acre-feet will become available at the beginning of each subsequent water year. An additional 2,913 acre-feet of water will become available at the beginning of each 10-year period, starting the first water year after instream flows are initiated. This is based on the default channel maintenance flow being released three times in each 10-year period.

3.3.2 Water Banking

If the entire annual water budget (24,280 acre-feet) is not released into the Eklutna River in a given water year, either intentionally or unintentionally, then that "banked water" can be released in subsequent water years with the following limitations: (1) water can only be banked for up to 5 years, (2) no more than 50% of the total annual water budget can be banked at any given time; and (3) in the event of any unplanned spill event at the Project, banked water is spilled first.

The additional water budget for each 10-year period (2,913 acre-feet) must be used within that period and cannot be carried over to the following 10-year period. However, as described in Section 2.2.2, if due to unforeseen circumstances the Project Owners are unable to provide all of the planned channel maintenance flows in any given 10-year period, then the Project Owners will provide the missed channel maintenance flows in the subsequent 10-year period.

3.3.3 Allocation of Additional Inflow

Climate change is anticipated to cause increased glacial melt in the coming decades. Increased glacial melt would likely result in more inflow to Eklutna Lake, and therefore more water available for both hydropower generation and instream flows. Because of this, the Project Owners will calculate the inflows to Eklutna Lake each year using the available lake level and flow monitoring data. Then 10 years after instream flows are established, the Project Owners will compare the average annual inflows to Eklutna Lake for the last 10 years to the previous 10-year period. Any increase in average annual inflows will be split 50/50 between

hydropower and the annual water budget for instream flows. If there is a decrease in average annual inflows, the annual water budget for instream flows will not be decreased. The Project Owners will repeat this process every 10 years.

3.3.4 Water Accounting Report

The Project Owners will prepare an annual report that summarizes (1) the inflows to Eklutna Lake, (2) instream flow releases, and (3) channel maintenance flow releases for all prior water years as well as the available water budget for the upcoming water year and provide it to the Committee by March 1 each year.

3.3.5 Requests to Modify the Flow Regime

Based on the results of the monitoring program, the Committee may request modifications to the default year-round instream flow regime and/or the magnitude, duration, frequency, or shape of the scheduled channel maintenance flow releases, as long as (1) the requested flows do not exceed the operational limitations of the Project infrastructure, and (2) the ramping rates conform to fisheries ramping rate requirements. If the total volume of water to be released exceeds the available water budget (which includes any banked water that may be available), then that deficit will be carried over into the next water year.

The Committee must provide a 60-day notice to the Project Owners for any requests to modify the default year-round instream flow regime or the default channel maintenance flow schedule. If the requested flows exceed the operational limitations of the Project infrastructure, the available water budget, or the approved ramping rates, then the Project Owners may reject the requested flow modifications. If the Project Owners reject the requested flow modifications, then they must notify the Committee so that the Committee may request alternative flows if desired. The Committee may request modifications to flows within 60 days; however, the Project Owners are not required to meet the request if it is not operationally feasible.

3.3.6 Physical Habitat Enhancement

The Project Owners will provide a total of $350,000 in April 2024 U.S. dollars (see Section 5.0) to ADFG during the Program to fund physical habitat enhancement and vegetation management efforts in the Eklutna River. The Committee will develop a plan to implement physical habitat enhancement and vegetation management efforts in the Eklutna River. These efforts will focus on enhancing rearing habitat in the Eklutna River. All physical habitat enhancement and vegetation management efforts must occur downstream of the Eklutna River Release Facility. The Committee may pursue other funding sources to supplement the physical habitat enhancement and vegetation management budget if desired. ADFG will implement the

plan based on direction from the Committee and must request funds from the Project Owners by July 1 each year based on the planned physical habitat enhancement and vegetation management efforts for the subsequent year. The Project Owners will then budget accordingly and submit payment to ADFG by January 31 of the subsequent year.

Reports that summarize the various physical habitat enhancement and vegetation management efforts will be prepared by ADFG and provided to the Committee by February 1 each year. The Committee will review and provide a composite report to the Project Owners by March 1 each year. The Committee shall maintain a database/archive for all physical habitat enhancement and vegetation management reports.

The Project Owners are not responsible for responding to natural processes that result in undesirable conditions in the river such as debris flow associated with precipitation or earthquakes, beaver activity, large wood build-up, etc.

3.4 Annual Meeting

The Committee will meet annually in April of each year to (1) review the results of the monitoring efforts conducted in the previous calendar year, (2) review the available water budget for the upcoming water year, (3) discuss any potential adaptive management actions for the upcoming water year, and (4) determine what monitoring efforts and/or physical habitat enhancement should be conducted in the subsequent calendar year. The Committee must notify the Project Owners of any planned monitoring efforts and/or physical habitat enhancement activities for the subsequent calendar year by July 1 so that the Project Owners can budget accordingly.

4.0 Limited Reopeners

Per the 1991 Agreement, the Project Owners are required to repeat this process every 35 years and must initiate the next process by October 2057. In addition, the Project Owners are required to repeat this process before making any major structural or operational modification to the Project that would substantially affect water usage or fish and wildlife. The following two limited reopeners are intended to enable consideration and potential execution of the specified structural and operational modifications during the period between processes without triggering the need to repeat this entire process outlined in the 1991 Agreement.

As set forth below, the two limited reopeners may occur no sooner than 10 years following completion of the Eklutna River Release Facility (Section 2.1.1) and establishment of year-round instream flows (Section 2.1.2). If the Eklutna River Release Facility and instream flows are delayed due to any reason such as litigation or appeals of the Final Fish and Wildlife Program or a failure to complete permitting or gain necessary approvals, the 10-year timeframe leading to the reopeners will be delayed until such time as the Eklutna River Release Facility is completed and the instream flows established.

4.1 Fixed Wheel Gate

During the consultation process, several stakeholders requested that the existing overflow spillway be replaced with a fixed wheel gate because either (1) climate change may cause inflows to the reservoir to increase significantly, which may increase the likelihood of future spill events, and a fixed wheel gate will allow the Project Owners to better manage those future spill events, or (2) while modeling results show that the default channel maintenance flow regime will maintain spawning gravels in the wetted reach of the Eklutna River, future monitoring may show that a higher magnitude channel maintenance flow that exceeds the combined hydraulic capacity of the existing outlet gate and the Eklutna River Release Facility may be warranted. Replacement of the existing overflow spillway with a new fixed wheel gate was evaluated during the study program and alternatives analysis and the Project Owners determined that it was not warranted at this time due to significant dam safety concerns, and the need for future monitoring. Recognizing that the fixed wheel gate might be warranted in the future, however, the Project Owners will continue to investigate the fixed wheel gate as described below and will construct it if certain criteria are met.

Within three years of the Governor's issuance of the Final Fish and Wildlife Program, the Project Owners will conduct a more detailed feasibility study of the fixed wheel gate (including a stability analysis and Class 3 cost estimate). The Project Owners will report the results of that analysis to the Committee.

If the fixed wheel gate is considered feasible and cost effective, then on the 10th anniversary after initiating instream flows, the Project Owners will confer with the Committee to reevaluate the need for the fixed wheel gate. If the monitoring efforts during that 10-year period indicate that (1) average annual inflows to the lake have increased by 20,000 acre-feet, or (2) the Committee determines that higher channel maintenance flows are warranted to maintain spawning gravels, then the Project Owners will commit up to $10M in April 2024 U.S. dollars (see Section 5.0) to demolish the existing overflow spillway and construct a new fixed wheel gate.

If the demolition/construction costs are estimated to be less than $10M in April 2024 U.S. dollars, then the Project Owners will obtain necessary permits, demolish the existing overflow spillway, and construct a new fixed wheel gate. If the demolition/construction costs are estimated to be greater than $10M in April 2024 U.S. dollars, then the Committee may seek supplemental funding payable to the Project Owners from other sources. If the supplemental funding is federal funding and triggers additional NEPA requirements, then the Committee will be responsible for ensuring that outside funding is available and payable to the Project Owners in order to meet those requirements. Upon receipt of such supplemental funding, the Project Owners will obtain necessary permits, demolish the existing overflow spillway, and construct a new fixed wheel gate.

This is a limited reopener and will not reopen any other components of the Fish and Wildlife Program or trigger the process requirements outlined in the 1991 Agreement. Governor approval of the decision to replace the fixed wheel gate will not be required.

4.2 Fish Passage

During the consultation process, several stakeholders requested that upstream fish passage of adult salmon into Eklutna Lake and downstream fish passage of juvenile salmon out of Eklutna Lake be evaluated. All fish passage measures proposed by the Project Owners and other stakeholders were evaluated during the study program and alternatives analysis. See alternatives analysis in Supplemental Information Document. All of the volitional upstream fish passage measures that were evaluated either (1) would have significant impacts to the hydropower project (i.e., would reduce the storage capacity of the reservoir by approximately 40% or would require the Project to be shutdown throughout the winter when energy is needed most), or (2) are cost prohibitive (the estimated present worth for the stakeholders' preferred alternatives that included volitional fish passage ranged from $221M to $385M including capex, operations and maintenance, and replacement energy). In addition, there are still significant concerns regarding the effectiveness of all the downstream fish passage facilities studied (i.e., low attraction flow velocities and/or the inability to operate the

downstream fish passage facilities while the lake is frozen over). Therefore, fish passage measures are not proposed at this time.

Nonetheless, the Project Owners recognize that fish passage may become feasible in the future and fish passage is important to NVE, the federal and state agencies, and others who have commented on the Draft Program. If a new, proven methodology or technology becomes available, then the Committee may reevaluate the potential for the construction and operation of fish passage facilities both into and out of Eklutna Lake on its own initiative or at the request of any of the resource agencies or NVE. Any fish passage measures must meet the following criteria:

1. Fish passage facilities must be safe and effective for human health, the environment, and operations of the Project, the Eklutna River Release Facility, and AWWU's Eklutna Water Project and its water supply;

2. Fish passage facilities must address both upstream and downstream fish passage for anadromous fish (i.e., no effective upstream passage without effective downstream passage);

3. Fish passage facilities cannot affect reservoir operations in a manner that would cause AWWU operation shutdown for any amount of time or Project shutdown for more than two weeks annually (except during construction);

4. Fish passage facilities cannot result in more than 10% loss of storage capacity in the reservoir (i.e., the active storage capacity in the reservoir cannot be reduced by more than 17,480 acre-feet);

5. Fish passage facilities must operate within the available water budget administered by the Committee.

Because fish passage into the lake has the potential to impact recreational use or facilities within Chugach State Park and/or the water quality of the municipal water supply, both of these potential impacts must be evaluated by the Committee. The Committee must also consult with the State Park and AWWU regarding any such impacts and the appropriate mitigation for those impacts. The Committee must ultimately obtain written consent or approval from both the State Park and AWWU for any proposed fish passage measures, including the construction schedule.

The cost of any fish passage measures (including scientific studies, engineering, construction, operation, maintenance, and mitigation for any impacts to recreational use or facilities and/or

the municipal water supply, etc.) must be completely funded by parties other than the Project Owners.

At any time more than 10 years after initiating instream flows, if (1) the Committee has identified fish passage measures that meet all of the listed criteria, (2) the Committee has obtained written consent or approval from both the State Park and AWWU, (3) the Committee has obtained the necessary funding for all fish passage measures, and (4) the Anadromous Waters Catalog maintained by ADFG has been updated to reflect that migrating or spawning adult sockeye salmon have been documented within 1 mile of the Eklutna River Release Facility, then the Committee may propose those fish passage measures to the Project Owners with supporting information. As long as all of the above criteria and prerequisites are met, then the Project Owners will support the development and operation of the proposed fish passage facilities. The Project Owners may choose to waive criteria numbers 3, 4, and/or 5 upon unanimous decision, provided that AWWU must independently consent or approve fish passage measures affecting its facilities or its water supply.

Upon receiving a statement of support from the Project Owners, the Committee and the Project Owners will coordinate and cooperate to obtain the Governor's approval of the proposed fish passage measures. Governor approval of the decision to add the fish passage facilities will be required.

If the Governor approves the proposed fish passage measures, then the 35-year timeframe requirement to repeat the consultation process required by the 1991 Agreement will restart from the date the Governor's approval.

The construction schedule must minimize impacts to Project operations. The Project Owners will oversee all construction activities and will support the development and operation of the fish passage facilities. However, the Project Owners will not operate the fish passage facilities and will be held harmless from the development and operation of such facilities.

This is a limited reopener and will not reopen any other components of the Fish and Wildlife Program.

5.0 Funding Commitments and Inflation Adjustment

All monetary amounts in this Proposed Final Program are in 2024 U.S. dollars, unless otherwise stated. All monetary amounts will be adjusted annually for inflation using a 15-year rolling average reflected in the Bureau of Labor Statistics' Urban Alaska Consumer Price Index (CPI-U) (as currently reported by State of Alaska Department of Labor and Workforce Development at https://live.laborstats.alaska.gov/cpi/table).

Exhibit TRZ-05
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EXHIBIT TRZ-06

Modified PSH Concept with Wind & Solar at Eklutna Lake with River Restoration and Fish Passage

Municipality of Anchorage

Anchorage Hydropower Utility

Presentation to the Joint Worksession of the Anchorage Assembly and the Native Village of Eklutna

Friday August 23, 2024

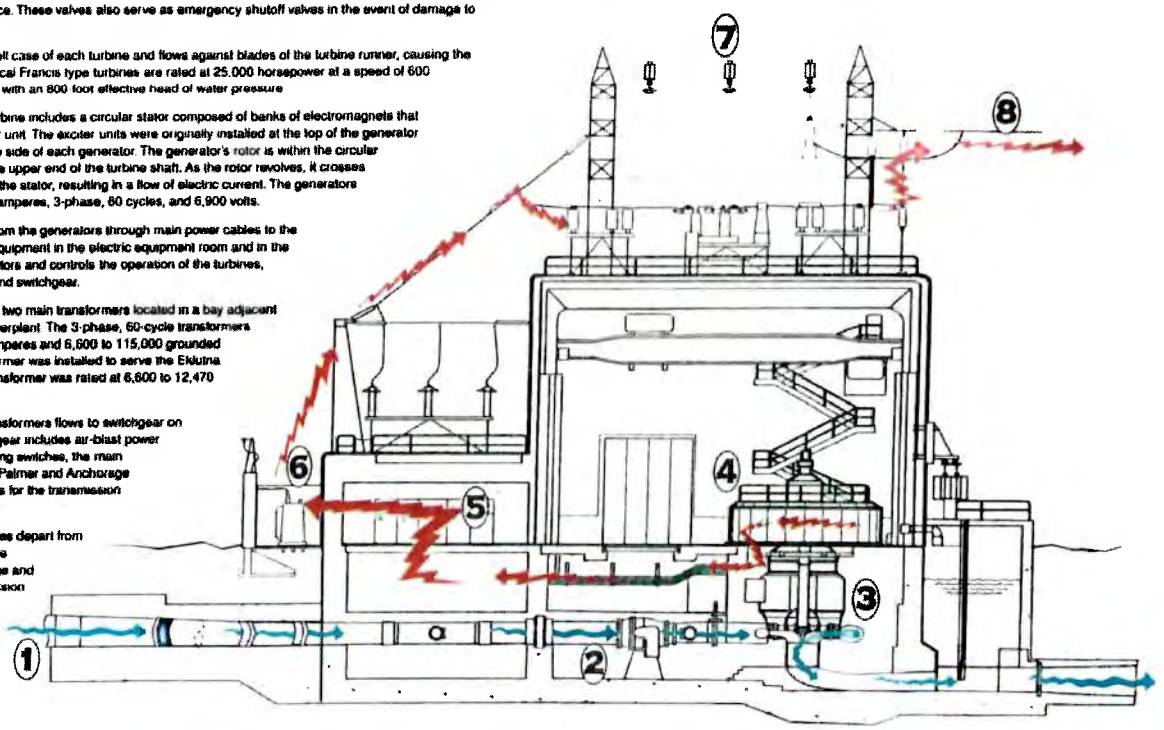
1pm Conf 155 City Hall

Presentation Topics/Goals:

- Eklutna Water Resource Background
- What is PSH?
- Why PSH?
- Preliminary Eklutna Reservoir Baseline Analysis
- Variations (there are numerous variations of PSH at Eklutna that can be considered)
- Disclaimers (many assumptions have taken place and much vetting and analysis is needed)
- We are looking for feedback to determine if this is worth evaluating and pursuing any further as part of proposed 2-year pre-implementation period

Generating Electricity at the Eklutna Project

1. Water enters the powerplant in two steel penstock branches, each one 51 inches in diameter.
2. A 66-inch butterfly valve is installed on each penstock branch to provide a means of dewatering the turbines for servicing or maintenance. These valves also serve as emergency shutoff valves in the event of damage to the turbines
3. Water enters the spiral scroll case of each turbine and flows against blades of the turbine runner, causing the runner to revolve. The vertical Francis type turbines are rated at 25,000 horsepower at a speed of 600 revolutions per minute and with an 800 foot effective head of water pressure
4. A generator above each turbine includes a circular stator composed of banks of electromagnets that are energized by an exciter unit. The exciter units were originally installed at the top of the generator but now are attached to the side of each generator. The generator's rotor is within the circular stator and is attached to the upper end of the turbine shaft. As the rotor revolves, it crosses magnetic fields created by the stator, resulting in a flow of electric current. The generators are rated at 16,667 kilovoltamperes, 3-phase, 60 cycles, and 6,900 volts.
5. The electric current flows from the generators through main power cables to the electric equipment room. Equipment in the electric equipment room and in the adjacent control room monitors and controls the operation of the turbines, generators, transformers, and switchgear.
6. The electric current flows to two main transformers located in a bay adjacent to the south side of the powerplant. The 3-phase, 60-cycle transformers operate at 20,000 kilovoltamperes and 6,600 to 115,000 grounded wye-volts. A smaller transformer was installed to serve the Eklutna Government Camp; this transformer was rated at 6,600 to 12,470 volts.
7. Electric current from the transformers flows to switchgear on the powerplant roof. Switchgear includes air-blast power circuit breakers, disconnecting switches, the main 115,000-volt busses for the Palmer and Anchorage transmission lines, and a bus for the transmission line.
8. 115,000-volt transmission lines depart from the main busses on top of the powerplant toward Anchorage and Palmer. The Palmer transmission line originally departed from the north side of the powerplant, but it was rebuilt to leave from the east side after flood damage required reconstruction of a portion of the line



Existing/Current Setup:

Eklutna Lake currently feeds hydropower & municipal public water supply, but it is not providing downstream river flows or fish passage

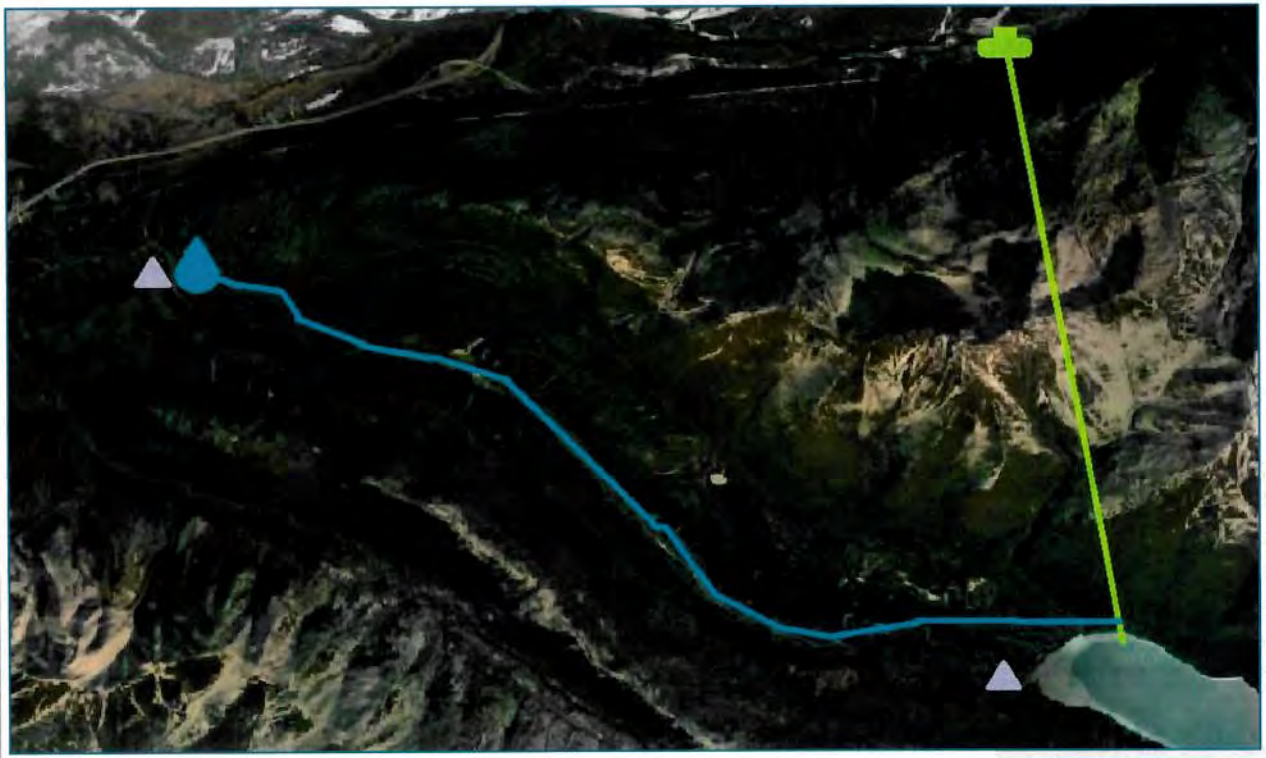


Table 2. 2022 Railbelt Utility Generation Mix[a]

Technology	Capacity (MW)	Energy (GWh)	Generation Fraction
Natural gas	1,332.6	3,052	64%
Coal	117.5	545	11%
Oil	268.9	444	9%
Hydropower	189.8	578	12%
Wind	44.5	107	2%
Landfill gas	11.5	41	1%
Total	**1,965**	**4,766**	**100%**

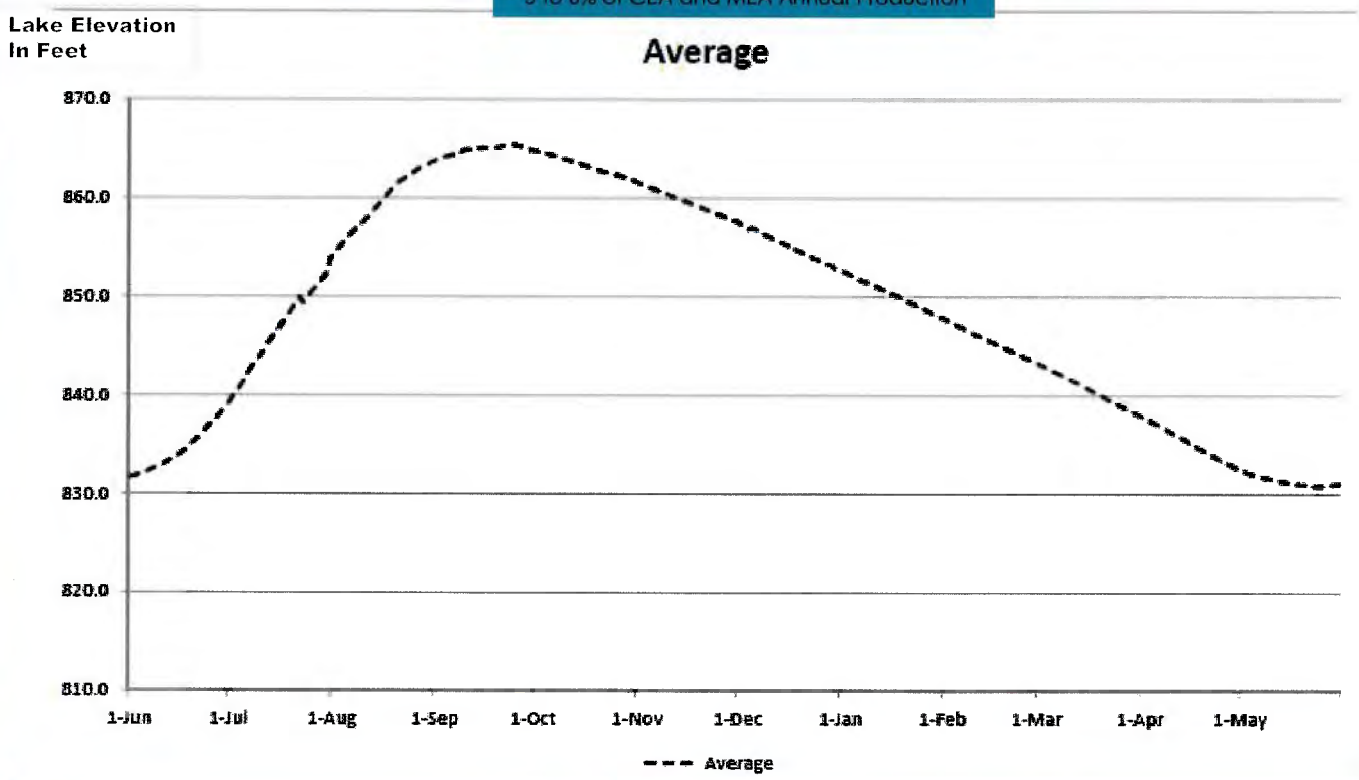
Utility	Annual Sales (GWh)	Customer Accounts (thousands)	Fraction of Railbelt Annual Demand (%)
Chugach Electric Association	1,903	113	43
Golden Valley Electric Association	1,244	48	28
Matanuska Electric Association	766	69	17
Homer Electric Association	453	33	10
City of Seward Electric Department	53	3	1
Total[b]	**4,404**	**266**	**100**

[a] "Annual Electric Power Industry Report, Form EIA-861 detailed data files." EIA,

Existing/Current Operations:

Eklutna Lake level varies by @ 40 feet seasonally
Approx 250k acre-ft/year water diverted for Power*
Approx 163 GW-hr/year Power Produced**

**5 to 6% of CEA and MEA Annual Production



	WY1718 ACRE-FT	CALC MWH
JUN	37,084	24,105
JUL	66,598	43,289
AUG	54,582	35,478
SEP	40,127	26,082
OCT	16,759	10,894
NOV	6,676	4,340
DEC	6,275	4,079
JAN	5,222	3,395
FEB	3,736	2,428
MAR	3,165	2,057
APR	2,704	1,758
MAY	8,639	5,616
TOTALS	251,569	163,520

*Another @25k acre-ft/year diverted for Municipal Water Use

*25k acre-ft/year proposed for year-round instream flows by Hydro Owners Proposed Final F&W Program

Table 2-1. Default Year-Round Instream Flow Regime.

Month	Flow (cfs)	Volume (acre-feet)
January	27	1,660
February	27	1,500
March	27	1,660
April	27	1,607
May	34	2,060
June	40	2,380
July	40	2,460
August	40	2,460
September	40	2,380
October	40	2,460
November	34	1,993
December	27	1,660
Total	-	24,280

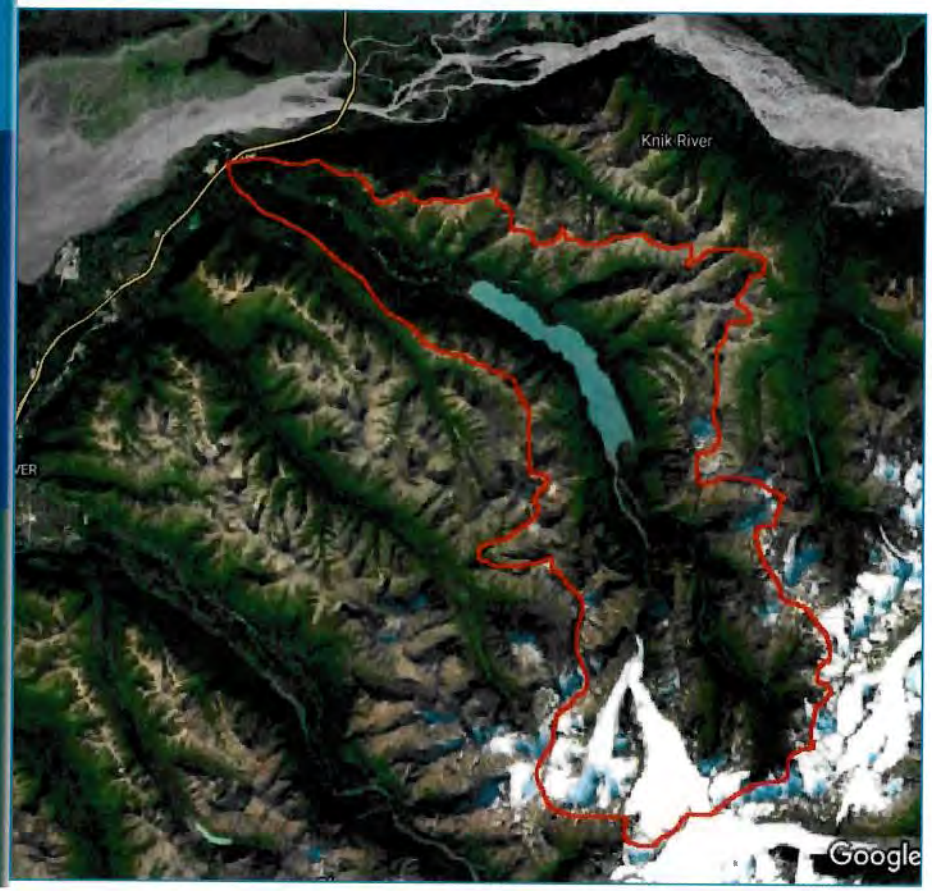
Water is a shared resource and the identified competing interests for the *limited* water at Eklutna Lake are:

- Power Generation
- Municipal Water Supply
- Instream River Flows

Photo 14: General view of the natural bypass channel at

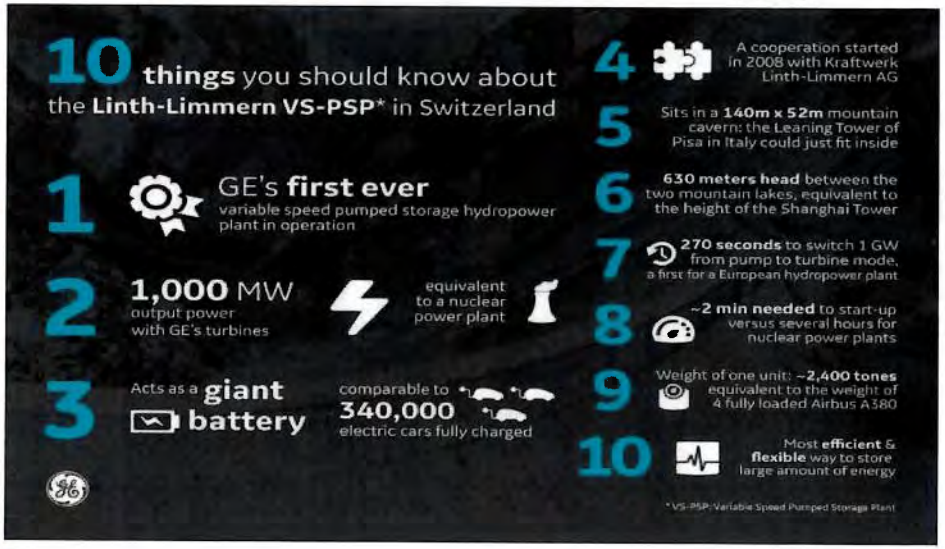
- How do we achieve a fair balance with the limited water that is recharged in Eklutna Lake annually?
- **What if we could add more water to maintain or improve existing power production, meet municipal water supply needs and provide full instream river flows with a river connection to Eklutna Lake for fish passage?**

We recognize that Eklutna watershed goes from glaciers to tidewater; as does the Knik River watershed; watersheds are adjacent to one another, both have large glacial lakes, and water quality is *likely* very similar; this begs the question, can pumped storage hydro (PSH) be analyzed in 'another' way to utilize existing infrastructure and additional supplemental water?



"Unlike batteries, PHS absorbs all that excess energy from renewables, which avoids waste, and then it gives you long-term, reliable and flexible power dispatch," he adds. Engineers at GE Renewable Energy built pumpec storage units for a massive project in Linthal, Switzerland. It is capable of quickly producing or absorbing 1 gigawatt (1,000 MW) of power, while storing up to 34 GWh of energy. "You cannot reasonably do that with traditional battery storage," Alex Schwery, chief consulting engineer at GE Renewable Energy's Hydro Power unit, told GE Reports. "It doesn't work."

Building a battery on top of the Alps is certainly extreme engineering. But there are few other options now. The scale and penetration of renewables on the grid makes smoothing over intermittency a herculean challenge.

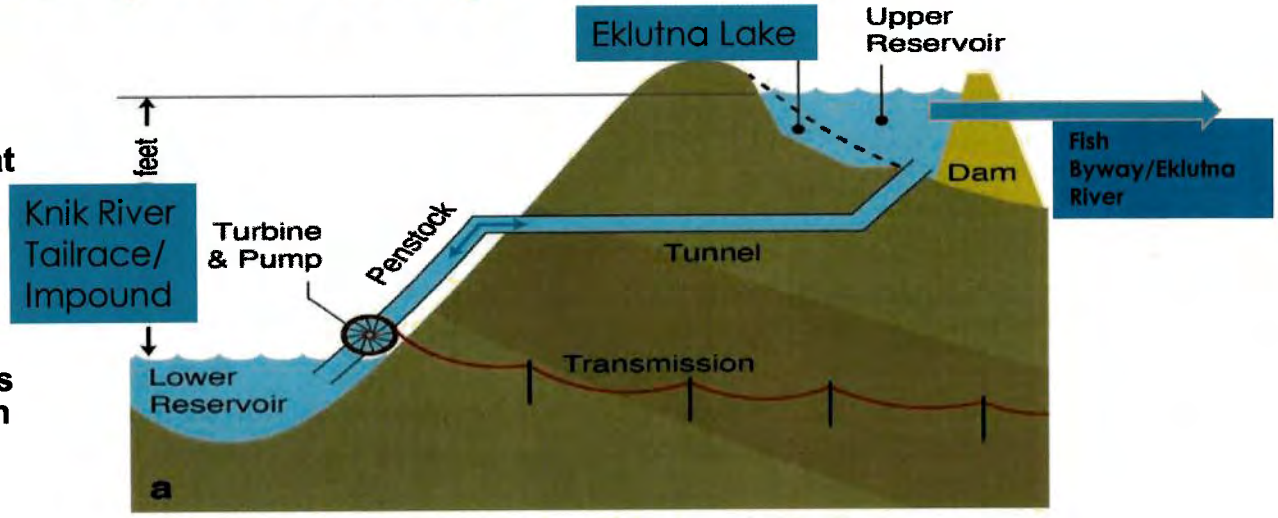


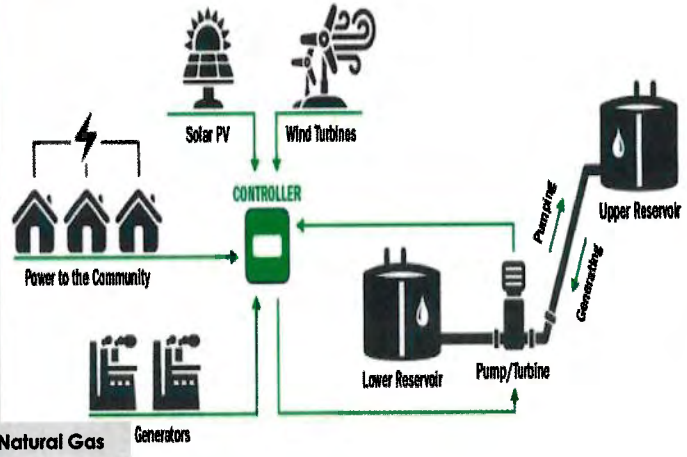
Infographic credit: GE Renewable Energy

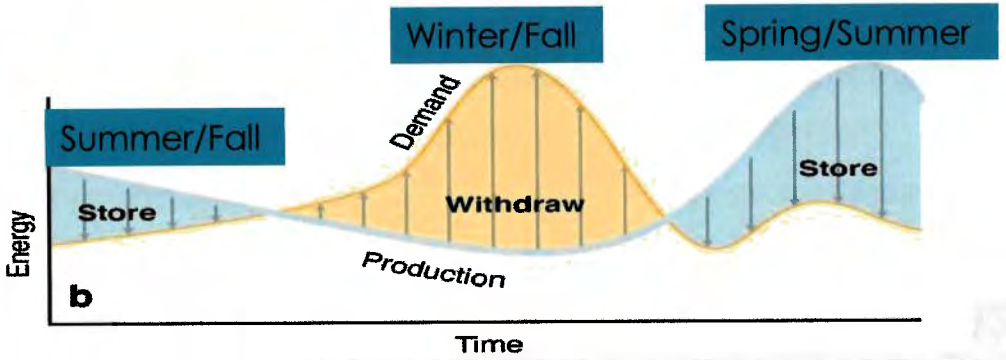
What is Pumped Storage Hydro?

- Pumped Storage Hydro (PSH)
- **Proven natural large scale energy storage solution* used worldwide that provides carbon free power production, storage and grid stabilization**
- **aka Pumped Energy Storage (PES) and Pumped Hydro Storage (PHS)**
- **The Eklutna Concept proposed builds upon and is a variation and extension of a prior proposed PSH idea**

*PSH is the bulk current energy storage capacity in the US (Hydrowires USDOE)







Why PSH? As we contemplate the fact that Southcentral AK is in a natural gas crisis with expensive imported natural gas for heat and power expected by 2028

- First, we recognize the following:
- Electric rates will increase; estimates range from 10 to 50% (fuel is @25% of CEA and @50% of MEA rates)
- Natural gas/heating rates will increase more than electric rates (fuel is @85% of gas bill)
- @80% of railbelt electricity comes from natural gas turbine generators; very little wind or solar
- Solar & Wind are fuel free and are eligible for ITC and PTC, but are not reliably dispatchable without storage solutions (batteries*, hydro) *batteries only provide short term storage, typically only hours

Alaska regulators back Enstar's plan to build $57 million pipeline to import natural gas

By Alex DeMarban
Updated: 1 day ago
Published: 1 day ago

Hilcorp warns Alaska utilities about uncertain Cook Inlet natural gas supplies

By Alex DeMarban
Updated: May 17, 2022
Published: May 17, 2022

Investment Tax Credit and Production Tax Credit

The Investment Tax Credit (ITC) and Production Tax Credit (PTC) allow taxpayers to deduct a percentage of the cost of renewable energy systems from their federal taxes. These credits are available to taxable businesses entities and certain tax-exempt entities eligible for direct payment of tax credits (see Tax Credit Monetization below).

Certain projects are eligible for either the ITC or PTC, but not both.

Eligible for ITC or PTC	Eligible for ITC	Eligible for PTC
multiple solar and wind technologies, municipal solid waste, geothermal (electric), and tidal	energy storage technologies, microgrid controllers, fuel cells, geothermal (heat pump and direct use), combined heat & power, microturbines, and interconnection costs	biomass, landfill gas, hydroelectric, marine and hydrokinetic

Through at least 2025, the Inflation Reduction Act extends the Investment Tax Credit (ITC) of 30% and Production Tax Credit (PTC) of $0.0275/kWh (2023 value), as long as projects meet prevailing wage & apprenticeship requirements for projects over 1 MW AC.

Why Pumped Storage Hydro?

- Pumped Storage Hydro
  - **Complements fuel free renewable power and can store weeks/months of spring/summer power for peak winter demand when wind/solar unavailable, offsetting natural gas demand**
  - **Balances wind output variability and solar seasonality and maximize their benefit by generating artificial demand, that has a critical and delayed beneficial use**
  - **Can maintain higher lake level for increased hydro efficiency and power production**
  - **AND can provide river/lake connectivity for full fish passage and all 12 miles of river restoration**
  - **Existing infrastructure is in place for initial phase keeping costs low**
  - **Scalable; allows for future build out and benefit if energy conditions change**

Table B-5. Existing Railbelt Renewable Generators

Name	Nameplate Capacity (MW)	Type
Fire Island Wind	18	Wind
Eva Creek Wind	24.6	Wind
Delta Wind Farm	1.9	Wind
JBER	11.5	LFG
Willow Solar	1	Solar
Houston Solar	6 (8.5 DC Rating)	Solar

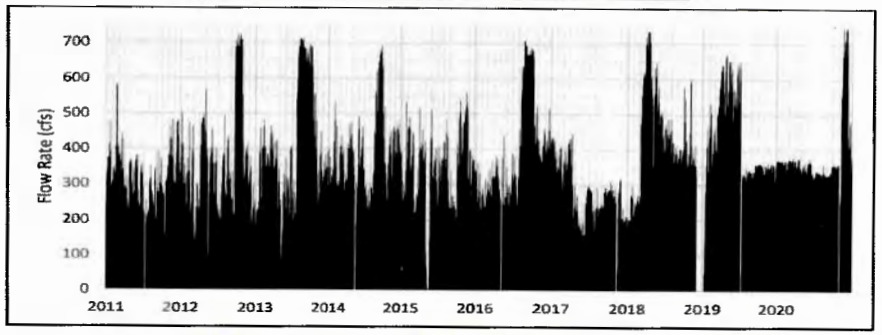


Figure 4.4-1. Daily Flow Rate (Total) to Eklutna Power Plant; 2011-2021.

Table 4.3-2. Eklutna Turbine Hill Curve.

Flow Rate (cfs)	Net Head (ft) 650	668	686	705	723	741	759	777	795	814	832	850
0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
40	35.8%	36.4%	36.7%	37.5%	38.0%	38.3%	38.5%	38.8%	38.8%	39.1%	39.4%	39.9%
80	66.3%	66.5%	66.5%	66.6%	66.6%	66.5%	66.5%	66.4%	66.3%	66.2%	65.9%	65.7%
120	78.5%	78.5%	78.6%	78.5%	78.5%	78.5%	78.3%	78.2%	78.0%	77.8%	77.6%	77.1%
160	85.0%	85.2%	85.2%	85.3%	85.3%	85.2%	85.1%	85.0%	84.9%	84.7%	84.5%	84.0%
200	88.5%	88.7%	88.8%	89.1%	89.1%	89.1%	89.1%	89.1%	89.0%	88.9%	88.7%	88.3%
240	89.7%	90.1%	90.4%	90.9%	91.0%	91.1%	91.1%	91.1%	91.1%	91.0%	91.0%	90.7%
280	89.4%	90.0%	90.5%	91.1%	91.4%	91.5%	91.6%	91.7%	91.8%	91.8%	91.7%	91.6%
320	88.0%	88.4%	88.8%	89.7%	90.0%	90.4%	90.7%	91.0%	91.2%	91.4%	91.5%	91.5%
360	88.0%	88.4%	88.8%	89.3%	89.5%	89.7%	89.9%	90.0%	90.1%	90.1%	90.1%	90.0%
400	88.0%	88.4%	88.8%	89.3%	89.5%	89.7%	89.9%	90.0%	90.1%	90.1%	90.1%	90.0%

The Eklutna Battery

BY CRAIGMEDRED ON MARCH 9, 2018 • (31 COMMENTS)

Graphic courtesy AlaskansKnowClimateChange.com

If Alaska was Switzerland, the natural equivalent of a giant, rechargeable battery able to provide renewable power for the state's largest city forever would likely be up and running in the Chugach Mountains above Eklutna by now.

Switzerland switched on its most powerful "green battery" in the Linthal Valley four years ago. Even before that project was complete, Norway saw the potential to combine wind, solar and hydropower into contained, rechargeable systems and began trying to position itself to become the green battery for all of Europe.

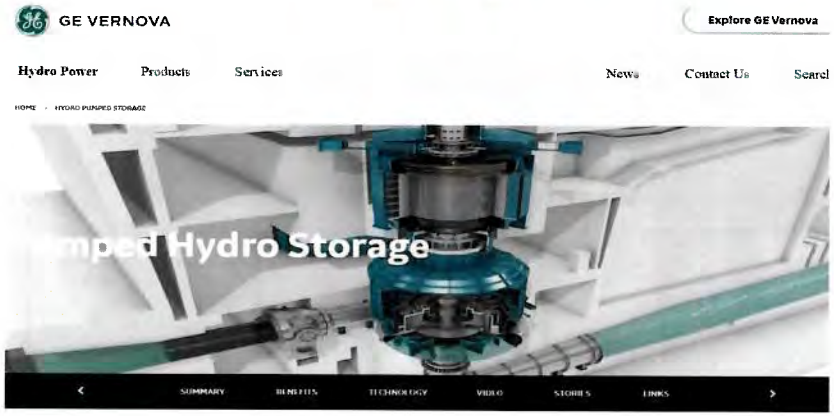
The workings of these systems that have come to be called green-batteries are fundamentally simple: Renewable energy that would otherwise go to waste is used to pump water uphill where it is stored for future use as hydropower.

If wind turbines or solar panels are producing more power than can be used in the moment, the extra energy is shifted to pumps that move water from lower elevation reservoirs to higher elevation reservoirs. If water is spinning through hydro turbines when electric demand is low, as often happens, the excess power is shunted away to pump water back uphill and store it.

PSH is not a new Concept at Eklutna:

Integrating Renewables to the Grid with Closed Loop pumped storage hydro (PSH) has been considered at Eklutna, but it was dismissed because it not well understood as it was perceived to require new and very expensive infrastructure*, and it didn't appear to offer additional water or provide downstream river flows

*in the billions of dollars



THE MOST ECONOMICAL STORAGE TECHNOLOGY FOR LONG DISCHARGE DURATION

Pumped Hydro Storage

ENABLING THE ENERGY TRANSITION

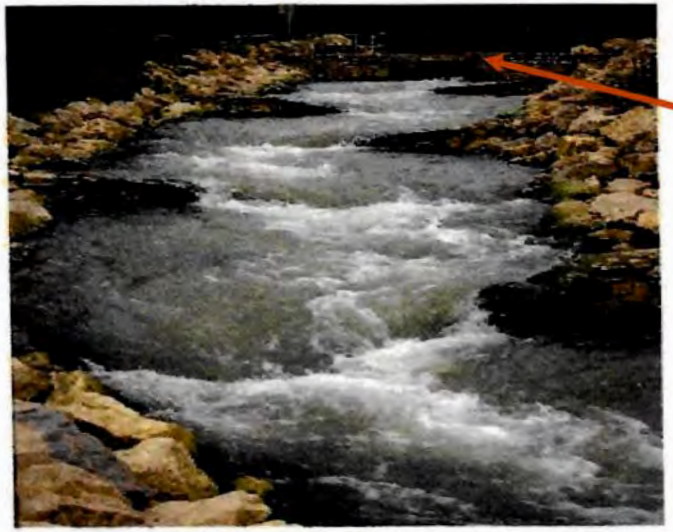
Centralized synchronous plants will be less dominant in the future energy mix and with the massive penetration of intermittent renewables such as wind and solar and their impact on the grid reliability is huge. Supply of energy is variable and services to maintain voltage or frequency of the grid cannot be met by inverter-based resources.

Hydropower can play a defining role in the energy transition thanks to the balancing and system services to the grid that facilitate the integration of variable renewables.

With higher needs for storage and grid support services, Pumped Hydro Storage is the natural large-scale energy storage solution. It provides all services from reactive power support to frequency control, synchronous or virtual inertia and black-start capabilities. It brings support that was previously managed by fossil-fueled power plants but with even more reactivity and in a sustainable manner without CO_2 emissions.

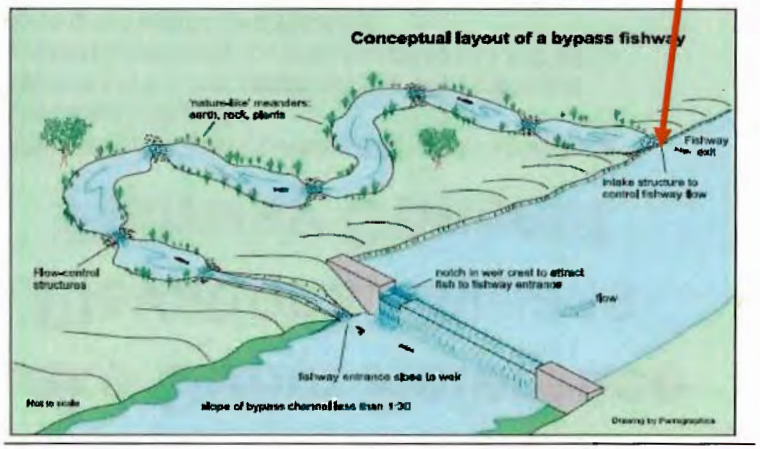
For years, Pumped Hydro Storage has offered a cost-effective way to provide reliable large-scale balancing and grid services. New pumped hydro storage technologies—such as variable speed capability—give plant owners even more flexibility by providing grid

This Proposal Modifies and Scales Back the Original Concept:
Eklutna Lake & Knik River offer an opportunity for an Open Looped PSH System backed by Renewable Wind & Solar with Fish Passage



Fish Gate Structure

Photo 15: Natural bypass channel for salmonids on the river Loue (Chatillon sur



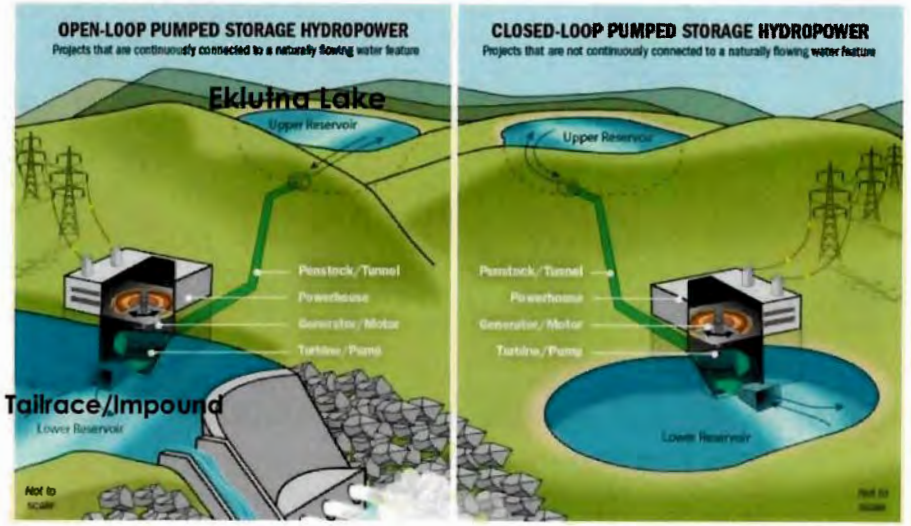


Figure 4-7 Illustration of Open-loop and Closed-loop PSH Systems (Source: DOE, undated)

For a small-scale PSH projects, a common approach is to install independent pump and generato sets, rather than customized, reversible pump-turbines. Such sets allow systems operators to use off-the-shelf components and scale them by increasing or decreasing the number of sets installed to reduce equipment costs. Scaling the size and number of pump and generator sets can also allow for greater control of the rate of pumping into the upper reservoir.

Certain conventional hydroelectric plants can be converted to pumped storage plants, known as pump-back PSH plants. This conversion adds separate pumps or reversible turbines to allow water to be moved from a lower reservoir back to an upper reservoir. Water can be pumped back during periods of low energy demand when excess energy from wind and/or solar generation is available. This approach reduces the need for curtailment of variable wind/solar generation and can conserve water in the upper reservoir, which can be important during dry seasons or periods of high energy demand and when there is not much wind/solar energy available.

Lake Outlet Reference Elevations, Bypass Fishway Concept

Eklutna Pond Gate Operates 860 to 870 when lake connects with pond
Eklutna Lake Gate operates from 850 to 870 but preferred and only route between 850 to 860 when lake is not connected to pond

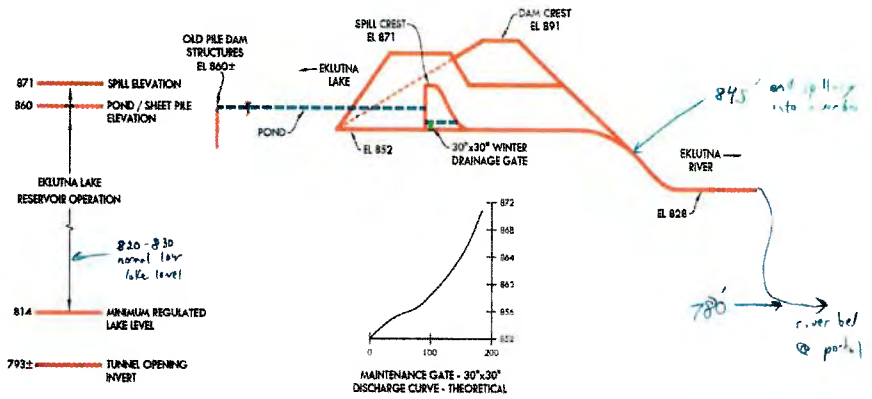
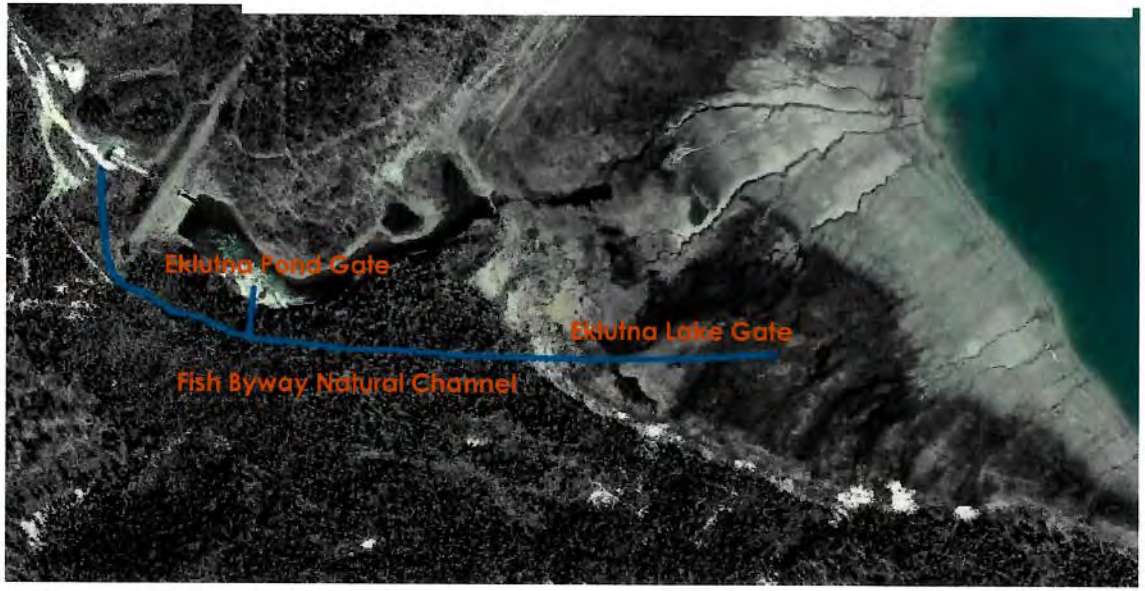


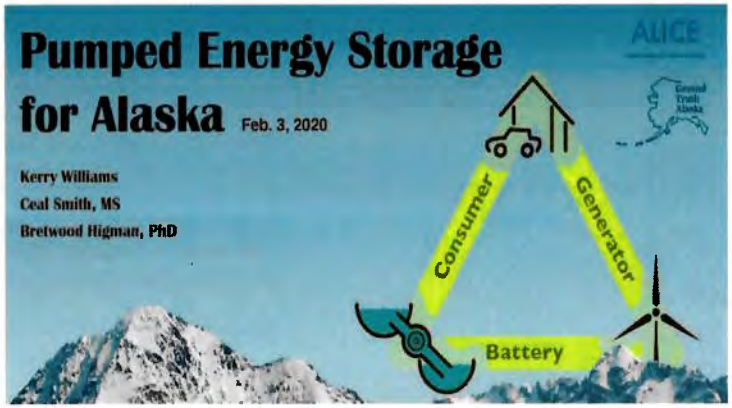
Figure 2-6. Profile of Project Dam and Spillway, Critical Elevations, and Drainage Gate Discharge Curve



In Summary:

PSH/PES/PHS is a tried, trued, and sustainable energy practice and is backed by a statewide study and by others including historically by the Governor

HydroWIRES
U.S. DEPARTMENT OF ENERGY



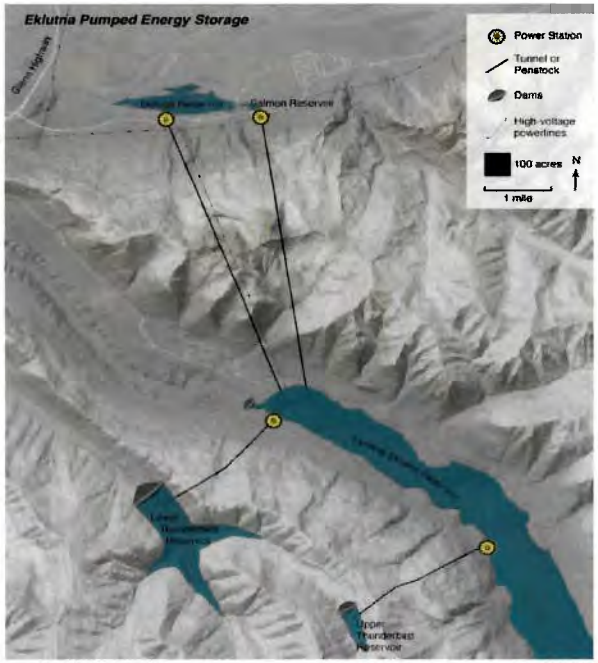


Figure 7. Eklutna Pumped Energy Storage. *This complex consists of five reservoirs, two in the Thunderbird watershed, two in the Knik River floodplain, plus Eklutna Lake*

The Prospects for Pumped Storage Hydropower in Alaska

July 2023

ANL-23/17

Siting at Eklutna: While PES can potentially work in other locations, the primary focus of this paper is on the Eklutna project, at the request of the governor. Eklutna is located inside Chugach State Park, centrally located near existing high-capacity transmission, the highway, the port of Anchorage, and the majority of the Railbelt energy consumers. As a result, it is likely to provide the greatest energy benefits at the lowest cost.

Additionally, the Eklutna PES project has the potential to help mitigate long-standing water resource conflicts in the Eklutna watershed. By raising the level of Eklutna Lake, increasing downstream flows and improving water management, the Eklutna PES could increase water availability for energy generation, stabilize the water supply for Anchorage and assist salmon restoration efforts currently underway.[10] It would also help Chugach and Matanuska Electric Association fulfill their legal obligations to mitigate fish and wildlife resources affected by the original Eklutna Hydroelectric project.[11] Analysis of these additional potential benefits exceeds the scope of this paper.

Acknowledgements

The authors compiled this report at the request of Governor Dunleavy at no cost to the State of Alaska. Thanks to Kachemak Geospatial, Dr. Anna Liljedahl and Scott Gruhn for their valuable insights and contributions to this report.

Executive Summary

Alaska's Railbelt has expensive electricity, generated from expensive fuel. Most of it comes from a single source -- Cook Inlet Natural Gas -- leaving us vulnerable to swings in price or supply. Prices may increase further, due to taxes and regulations aimed at emissions reductions, or decreases in fossil fuel subsidies. Here we outline a way to meet our power needs more economically and cleanly by combining two proven cost-effective technologies: wind power and pumped energy storage (PES). Wind power is exploding across the lower 48, as technology has improved and costs have dropped. One thing that has stymied power producers from bringing wind into Alaska is the challenge of integrating large amounts of variable power into our small and isolated grid. PES can solve this problem, pumping water uphill when energy is abundant, and running it back down when power is needed. This decades-old technology is long-proven, fish-friendly, and can create the cheapest "batteries" in the world.

Finally: Modified Proposed Eklutna PSH Preliminary Baseline Reservoir Analysis

Modified Eklutna PSH Baseline Reservoir Analysis

175,000 acre-ft between 814 to 871 feet (57 feet) theoretical operational zone

Assume* vertical walls and that is 3,000 acre-ft of water storage per foot of lake elevation

*In reality, with likley bathtub bathymetry, there will be slightly less storage/foot at lower lake levels

Current active operations average range between 830 to 870

For Fish byway operations, lake levels will need to be held between 850 to 870 (dam invert to spillway)

Will lose 20 feet of active operations (btw 830 to 850)

That equates to 60,000 acre-feet of lost potential water, plus 25,000 acre-ft lost to proposed instream flows

Need to make up at least 85,000 acre-ft of water to allow for fish passage and keep gross power production at parody**

****this is an improvement over existing proposed Hydro Owner F&W Plan as they will lose 10% of gross power prodcution**

as noted above, the storage loss will be less b/c of likely bathtub bathymetry

85,000 acre-ft equates to 3,700,000,000 cubic feet

3 months is 7,776,000 seconds

Need 475 cfs of flow pumped into Eklutna Lake for 90 days (3 summer months June, July, August)***

@240 cfs per reversible turbine pump

240 cfs at 900 ft of head (with losses) @90% efficiency is 20MW of power needed per pump

*** If more time is allocated to pumping beyond 90 days, then pumping flows can go decrease for less power demand,

or more water can be pumped into the lake for larger instream flows

*** Selected peak summer months based on much lower power demand and much higher solar/wind power potential

Analysis is not complete: Need to consider the fact that during pumping, no water will be diverted for power, which averages 350 cfs

Therefore, when the diversions take place for power production, diversions will likely need to increase to the 600 to 700 cfs flows

more often to drawn down the lake level and prevent unintended lake spills and power production loss, which ideally could occur during winter peak power demands

Natural peak inflows occur during June, July and August, and lowest lake levels are in May and June, but they will go from lows of 830 to lows of 850

Because of bathtub bathymetry and extra pond storage, there could be up to 100,000 acre-ft storage (850 to 870) to accommodate

850 cfs of natural lake inflows, plus 425 cfs of pumped inflows, minus 40 cfs of instream flows and 30 cfs of water supply diversions

This nets to 1,200 cfs a total lake inflow for June, July, August...or 215,000 acre-ft, meaning the pump schedule will need to be shifted and/or not continuous

to avoid a 115,000 acre-feet overflow. This should not problematic as the sun and wind are not continuous either.

This is an iterative process with multiple water budgeting variations to evaluate

Table 4.1-1. Eklutna Lake Technical Parameters.

Description	Value
Max Regulated Water Surface Elevation	871.0 ft
Minimum Operating Water Surface Elevation	814.0 ft
Max Water Surface Area	3,500 Acres
Active Storage	174,860 Acre-Ft

115k acre-ft overflow would provide increased instream river flows that would much more closely match the proposed NVE instream river flows over 100 cfs

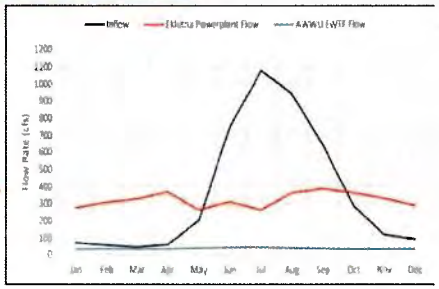
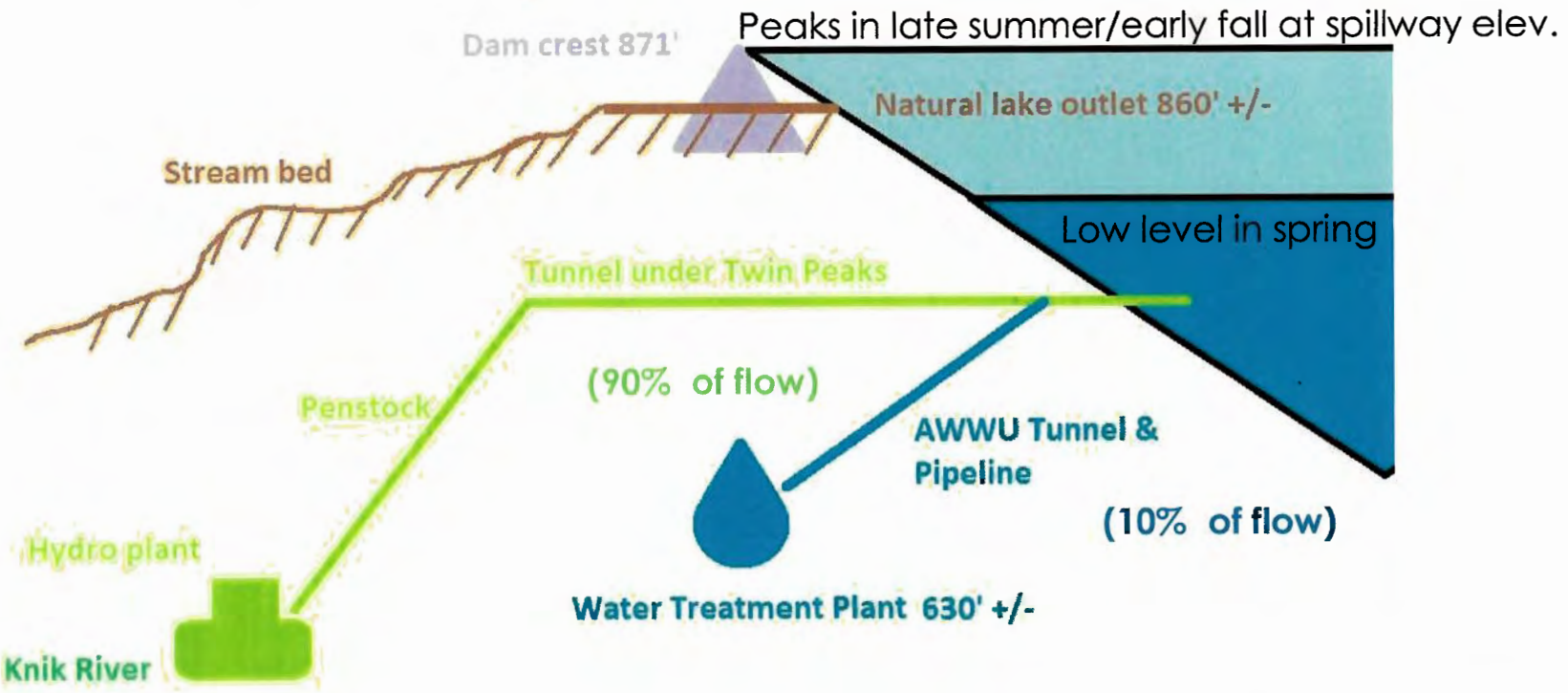


Figure 4.1-4. Eklutna Lake Average Inflows/Outflows, 2011 - 2021

- **Much Vetting is necessary**, but if done judicially at Eklutna it could offer:
- No loss of power production and potentially more; offsetting natural gas
- Full instream river flows, fish passage and lake connectivity
- Provide for downstream control and protection of municipal water supply infrastructure
- Require minimal infrastructure investment (assuming existing tunnel infrastructure can be reused) other than turbine/pump/control upgrades, bypass fish channel and hydro owners/MOA/IPP would need to build new solar/wind and/or negotiate with existing wind/solar operators to maximize their renewable output, when possible, to fill the lake for @90 days annually

Questions, Gaps, Variations and Discussion?



- Does this meet full restoration objectives of stakeholders?
- Does this meet prudent utility practices?
- Eklutna tailrace fishery impact?
- Is there a tidal impact? Turbidity control measures?
- Will fish return with a blended water (imprint markers)?
- Solar and wind generation siting, funding, existing?
- Reversible Turbine Pump? Separate?
- Turbidity control, Other?

- **<u>Multiple Variations Available (not a fully inclusive list)</u>**
- Open Loop vs. Closed Loop, lower impoundment
- Assortment of flow regime and seasonal variations to model
- Additional/redundant penstocks, additional/redundant pump/turbines, upper impoundments, etc.
- Blending water variations with Knik River
- Lower or higher fish gate elevations

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

OFFICE OF THE ATTORNEY GENERAL'S MOTION TO DISMISS AS MOOT

I. Introduction

The Office of the Attorney General, Regulatory Affairs & Public Advocacy Section (RAPA) moves to dismiss this matter as moot. In this matter, the Municipality of Anchorage d/b/a Anchorage Hydro Power (the Municipality[1]) sought to have a seat at the table—the ability to vote on the Eklutna Operating Committee (EOC)—when it comes to the Fish and Wildlife Program and process involving Eklutna Hydropower. The Governor of Alaska approved the final Fish and Wildlife Program on October 2, 2024, rendering moot the Municipality's desire to have a voting member on the EOC.

[1] The Municipality also includes the Assembly. "[The Commission] find[s] no facts that the Municipality of Anchorage's varied interests in this docket, including the Assembly's interests, will not be adequately represented by AHP." Order U-24-024(4) at 5.

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RAPA also moves that this matter be dismissed as prematurely filed unless AHP establishes that the Commission should set aside the minimum term of voting rights surrender in Order 39.[2]

II. Relevant Background

On May 28, 2020, Order 39 approved Chugach Electric Association's (Chugach) acquisition of most of the assets and service obligations of the Municipality of Anchorage d/b/a Municipal Light & Power Department.[3] The Regulatory Commission of Alaska (Commission) made the approval of the acquisition subject to several conditions including that the Municipality would surrender its voting rights on the EOC.[4] The Municipality surrendered its EOC voting rights on October 27, 2020.[5]

The Eklutna Project Owners released a draft Fish and Wildlife Program in October of 2023.[6] On February 2, 2024, the Assembly passed resolution No. 2024-40, as amended, opposing the draft Fish and Wildlife plan.[7] Assembly resolution

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2 Order U-18-102(44)/U-19-020(39)/U-19-021(39).

3 Order 39 at 3-4.

4 *Id*. at 67.

5 AHP Notice and Request for Acknowledgement at Exhibit 1.

6 Docket U-18-102/U-19-020/U-19-021 Anchorage Assembly Motion to Reopen Dockets and Modify Order No. 39 at 6.

7 Docket U-18-102/U-19-020/U-19-021 Anchorage Assembly Motion to Reopen Dockets and Modify Order No. 39 at 6; AR No. 2024-40 available at https://www.muni.org/Departments/Assembly/pages/publicportalassemblydocuments.aspx (visited October 10, 2024).

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No. 2024-40 stated, among other things, that (1) "the Anchorage Assembly cannot endorse and thus opposes the Draft Fish and Wildlife Program[,]" (2) "[t]he Municipality of Anchorage does not intend to issue authorizations or provide funds or any other form of support of the Draft Fish and Wildlife Program or any alternative that doesn't restore the full length of the Eklutna River and comply with policy of the Municipality, as recently enacted by AO 2023-131, As Amended, and codified at AMC 26.30.025A., as well as AR 2022-262, As Amended, and AR 2017-324(S)," and (3) requested that the Project Owners seek a two-year extension to the 1991 Agreement. On April 3, the Project Owners declined to include the Municipality's alternative analyses and indicated that the Project Owners intended to submit the proposed final Fish and Wildlife Program to the governor without Assembly approval.[8]

On April 15, 2024, the Assembly moved the Commission to reopen dockets and to modify Order 39 to allow the Municipality to exercise its vote "specifically on the proposed final Fish and Wildlife Program[.]"[9] In its motion seeking expedited consideration for the return of its voting rights, the Assembly asserted that "[t]he current draft Fish and Wildlife Program was developed by the minority Project owners, Chugach Electric Association ("Chugach") and Matanuska Electric Association

[8] Docket U-18-102/U-19-020/U-19-021 Anchorage Assembly Motion to Reopen Dockets and Modify Order No. 39 at 7-8.

[9] Docket U-18-102/U-19-020/U-19-021 Anchorage Assembly Motion to Reopen Dockets and Modify Order No. 39 at 2.

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("MEA"), but it has not been submitted to or approved by the Assembly as required by law."[10]

In its motion to intervene in Docket U-18-102 *et al*, the Assembly asserted that "the Assembly has exercised its legislative authority to require that the proposed final Fish and Wildlife Program be submitted to the Assembly for approval before being transmitted to the governor."[11] The Assembly also asserted that "[t]he Assembly's Petition and Motion are focused on a single, narrow issue: whether the Municipality should be allowed to vote on the EOC's decision to submit a proposed final Fish and Wildlife Program to the governor."[12] On April 19, 2024, the Commission denied the Assembly's motion.

On July 2, 2024, the Assembly held a work session for the confirmation of Mr. Corsentino as the Director of Anchorage Hydropower (AHP). That hearing is available online.[13] At the beginning of the work session, after putting Mr. Corsentino forward for the AHP Director position, Mayor LeFrance stated: "As you all know, the hydropower director position has been unfilled for years and is important to ensuring

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[10] Docket U-18-102/U-19-020/U-19-021 Anchorage Assembly Motion to Reopen Dockets and Modify Order No. 39 at 2-3.

[11] Docket U-18-102/U-19-020/U-19-021 Anchorage Assembly Petition to Intervene at 4.

[12] Docket U-18-102/U-19-020/U-19-021 Anchorage Assembly Petition to Intervene at 7-8.

[13] https://www.youtube.com/watch?v=mxUAj-yoxxw.

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the municipality has a seat at the table when it comes to the fish and wildlife process, and the future of Eklutna."[14] Mr. Corsentino was unanimously approved by the Assembly to be the director of AHP.[15]

On July 18, 2024, the Municipality filed its Notice and Request for Acknowledgment with the Commission. The Governor of Alaska approved the final Fish and Wildlife Program on October 2, 2024.

For the time-period from the date of Order 39, through the time of the Municipality's surrender of voting rights, to the present, Mr. Corsentino was employed by the Municipality.[16] After the Municipality surrender of voting rights, Mr. Corsentino represented the Municipality on the EOC in a non-voting capacity.[17]

III. Argument

A. AHP's Notice and Request for Acknowledgement is moot because the Governor has already approved the Fish and Wildlife Program.

The Municipality sought to have Mr. Corsentino become its voting representative because the Municipality wanted a vote on the Fish and Wildlife Program. That program was submitted to and has been approved by the Governor. That makes AHP's Notice and Request for Acknowledgement moot.

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14 https://www.youtube.com/watch?v=mxUAj-yoxxw at 2:32 minutes.

15 Prefiled Direct Testimony of Mark A. Corsentino, P.E. at p.4, lns 5-6.

16 AHP Notice and Request for Acknowledgment at Exhibit 2.

17 Prefiled Direct Testimony of Mark A. Corsentino, P.E. at p.8, lns 5-6.

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A matter is moot if it does not present a live controversy.[18] A matter is moot if the party bringing the case would not be entitled to relief.[19] Where events have rendered the issue moot, the matter is not considered.[20]

The above background section shows that the Municipality took no action for Mr. Corsentino to become its voting representative for three years and eight months (October 27, 2020 to July 2, 2024). This is true despite the fact that Mr. Corsentino was a Municipal employee[21] and was already serving as the Municipality's non-voting member on the EOC.[22]

Only after the Municipality disagreed with the draft Fish and Wildlife Program and after the Assembly's bid to reopen the Acquisition failed did the Municipality seek to have a voting representative on the EOC. The Municipality has made its position clear:

> Although the Municipality has attempted to fill the open position with Anchorage Hydropower but has not succeeded, the lack of qualified employees is now a moot point. All policy decisions, including whether to approve the Fish and Wildlife Program, may only be made by the Assembly.[23]

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18 *Ulmer v. Alaska Restaurant & Beverage Ass'n*, 33 P.3d 773, 776 (Alaska 2001).

19 *Id*.

20 *Mullins v. Local Boundary Comm'n*, 226 P.3d 1012, 1017 (Alaska 2010).

21 AHP Notice and Request for Acknowledgment at Exhibit 2.

22 Prefiled Direct Testimony of Mark A. Corsentino, P.E. at p.8, lns 5-6.

23 Docket U-18-102/U-19-020/U-19-021 Anchorage Assembly Motion to Reopen Dockets and Modify Order No. 39 at 10-11.

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> According to the Resolution [No. 2024-40], the "Municipality does not intend to issue authorizations or provide funds or any other form of support of the Draft Fish and Wildlife Program or any alternative that doesn't restore the full length of the Eklutna River or comply with policy of the Municipality, as recently enacted by AO 2023-131."[24]

The Municipality presented a proposed voting representative on the EOC only after its bid to reopen the acquisition docket failed. The Municipality wanted a voting representative so it could exercise a vote on the proposed Fish and Wildlife Program. The individual proposed, Mr. Corsentino, worked for the Municipality at the time the Municipality submitted its surrender of voting rights and through the present day. The Municipality brought Mr. Corsentino forward after the Municipality realized the Fish and Wildlife Program that would be submitted to the Governor was not to the Municipality's liking. But, the Fish and Wildlife Program has since been approved by the Governor.

B. This matter should be dismissed because AHP's Notice and Request for Acknowledgement appears to have been prematurely filed.

At the August 30, 2024 prehearing conference, ALJ Walker noted " …it appears that the Commission should be considering dismissal of the notice and request for acknowledgement as being prematurely filed …."[25] ALJ Walker further observed that AHP's notice and request for acknowledgment did not present "any evidence or

[24] Docket U-18-102/U-19-020/U-19-021 Anchorage Assembly Motion to Reopen Dockets and Modify Order No. 39 at 7.

[25] Transcript at 7:5-7.

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discussion of why the Commission should set aside the minimum term of voting rights surrender required in Order [39].[26]"

The parties agreed to brief the meaning of Order 39, but there is no request by a party for Commission action on the issue raised by ALJ Walker. RAPA officially makes that request now.

After reviewing the already-scheduled briefing by the parties on the impact and meaning of Order 39, and unless AHP establishes through evidence, discussion, and response to the briefing by the other parties to this Docket that the minimum term of voting rights surrender should be set aside, the Commission should dismiss this matter as being prematurely filed.

IV. Conclusion

The Municipality can no longer vote against the proposed Fish and Wildlife Program. It is now final. The program and the financial obligations arising from the approved program are set. AHP's Notice and Request for Acknowledgement is moot because of the Governor's subsequent approval of the Fish and Wildlife Program. AHP's Notice and Request for Acknowledgement should be dismissed as moot.

Unless AHP establishes through evidence, discussion, and response to the briefing by the other parties to this Docket that the minimum term of voting rights surrender should be set aside, the Commission should dismiss this matter as being prematurely filed.

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[26] Transcript at 6:23-25.

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DATED October 15, 2024, at Anchorage, Alaska.

TREG TAYLOR
ATTORNEY GENERAL

By: /s/ Jeffrey J. Waller

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CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2024, a true and correct copy of the **Office of the Attorney General's Motion to Dismiss as Moot** was served via e-mail on the following:

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024 ORDER NO. 5

ORDER GOVERNING CONFIDENTIAL DISCOVERY MATERIAL

BY ADMINISTRATIVE LAW JUDGE JAMES L. WALKER:

On August 30, 2024, the Regulatory Commission of Alaska held a prehearing conference in this docket. At the prehearing conference, the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP) requested that an order governing confidential discovery be issued in this docket. No parties to this docket opposed AHP's request.[1] On October 15, 2024, the parties proposed a mutually acceptable model for this order.[2]

I grant AHP's request and issue this Order Governing Confidential Discovery Material (Order) to establish procedures for the protection and use of confidential discovery material in these proceedings. This Order does not determine whether any specific information is confidential in accordance with 3 AAC 48.045, it establishes the procedures for the production and use of discovery material that is

[1]August 30, 2024, Prehearing Conference Tr. 17, 23-24.

[2]Correspondence from D. Thompson filed October 15, 2024.

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confidential. Pursuant to 3 AAC 48.049(g), a party with a confidentiality interest who does not file a petition for confidential treatment waives that confidentiality interest.

IT IS HEREBY ORDERED

Confidential Information

1. This Order shall govern the use of all information, in any form, produced by a party ("producing party") for the purpose of discovery. The producing party must have a good faith belief that good cause, as defined under 3 AAC 48.045(b), exists to mark any materials as confidential under this Order. The producing party must indicate materials are confidential through using the following specific designation which refers to the specific docket and order number under which those materials are to be held confidential, such as "Confidential Order U-24-024(5)." Absent this or similar designation clearly indicating a claim of confidentiality, the receiving party is free to treat the materials received as non-confidential materials. All confidential discovery materials shall be treated as confidential pursuant to 3 AAC 48.040 - 3 AAC 48.049.

Use of Confidential Discovery Material

2. All confidential material and the information contained therein shall be made available to and shall be used by each recipient party solely for the purpose of these proceedings.

Qualified Persons

3. Access to confidential material shall be restricted to counsel of record for the parties, including the Attorney General and any intervenor, associated attorneys and their paralegals and support staff; party representatives, employees, experts or consultants engaged in these proceedings; and duplicating or copying centers.

Nondisclosure Agreement

4. Each Person to whom confidential material is disclosed shall agree in writing to the nondisclosure agreement attached hereto as an appendix and, by this

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reference, incorporated herein. A copy of the executed nondisclosure agreement shall be filed with the Commission and served on all other parties in the docket prior to having access to confidential information. In the event that any person to whom such confidential material was disclosed ceases to be engaged in these proceedings, access to and possession of such material by such person shall be terminated and such person shall immediately return all confidential information to the producing party and destroy all electronic versions of the confidential information. The provisions of this Order and the certification shall remain in full force and effect as to any such person in any subsequent employment. In lieu of signing a nondisclosure agreement, state employees, including both Attorney General employees and Commission employees, are bound by the Executive Branch Ethics Act not to disclose confidential information pursuant to AS 39.52.010, *et. seq.*

Challenge to Confidentiality

5. If a recipient party disagrees with a designation of confidentiality, the recipient party and the producing party shall attempt to resolve the dispute on an informal basis. If the parties are unable to resolve the dispute, the recipient party may file a motion requesting that the information be released to the public record. The motion shall specifically identify the contested information and assert the reason(s) why the information does not fall within the definition of 3 AAC 48.045.

6. Within seven (7) calendar days of the date of service of a motion contesting confidentiality, the producing party must file a response. The producing party has the burden of proving that the challenged information is confidential as defined by 3 AAC 48.045.

7. Pending resolution of the motion by the Commission, the challenged information shall not be disclosed.

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Use of Confidential Information

8. If a recipient party determines that its prefiled testimony or other submission will include or incorporate material gathered during discovery which was designated as confidential by the producing party, the recipient party must both file electronically a redacted version of the prefiled testimony or other submission, and file and serve an un-redacted version of the prefiled testimony or other submission. If the producing party objects to making the material which it has designated as confidential public, unless the confidentiality of such information is already before the Commission pursuant to paragraphs 5 and 6 above, the producing party must petition the Commission to classify the records as confidential as provided in 3 AAC 48.045, within five (5) business days of the date the confidential information is served. Unless the producing party timely files a petition to keep the material confidential, it will become public as provided in 3 AAC 48.049(g).

9. If a party wishes to refer to confidential material during oral examination, then the Commission will establish procedures consistent with due process for referring to the confidential material, examination of witnesses concerning the confidential material, handling the transcript, and ultimate disposition of any confidential material.

Amendment or Modification

10. The Commission may modify this Order upon motion by a party or upon its own motion after reasonable notice and an opportunity to be heard.

Disposition of Confidential Material

11. Within sixty (60) days of the conclusion of these proceedings, all confidential information, all copies thereof, and all extracts shall be returned to the producing party or destroyed by counsel of record for the recipient party. The producing party shall determine whether the information is to be returned or destroyed. Counsel of

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record for each recipient party shall certify in writing the return or destruction of all confidential material, file the certification with the Commission, and serve the certification on the producing party.

12. The Commission will retain the confidential materials contained in the administrative record under seal and pursuant to its record retention schedule.

Sanctions

13. Violation of this Order by reasons of unauthorized use of or unauthorized divulgence of confidential information, or any other violation, may subject such person to civil penalties and/or other penalties and remedies, as provided by law.

No Waiver

14. Nothing in this Order shall preclude or constitute a waiver of the right of any party to seek, with respect to any type of information, a protective order providing for limitations on the dissemination of, use of, or access to that information, that are in addition to the limitations set forth in this Order.

Definitions

15. In this Order, the following definitions are applicable:

a. "*producing party*" means a party that provides information in its possession or control to another party for the purpose of discovery.

b. "*recipient party*" means a party that receives confidential information through the discovery process, receipt of prefiled testimony or other documents or pleadings, presence in an *in camera* hearing, or by any other means.

c. "*confidential information*" or "*confidential material*" means information designated as confidential, trade secret, private commercial or financial information, or other nonpublic information by the producing party, unless confidentiality is subsequently waived by the producing party or denied by the Commission.

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d. "*counsel of record*" means any attorney, including assistant attorneys general, or non-attorneys representing a party pursuant to 3 AAC 48.080(a)(3) - (8).

e. "*conclusion of these proceedings*" means the exhaustion of all available administrative and judicial appeals or the expiration of the time for taking such appeals, as provided by applicable law.

DATED AND EFFECTIVE at Anchorage, Alaska, this 17th day of October, 2024.

James L. Walker
James L. Walker
Administrative Law Judge

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STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

CHUGACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S MOTION TO COMPEL DISCOVERY RESPONSES

Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA"), pursuant to 3 AAC 48.144(e), hereby jointly move the Commission for an order compelling responses to its discovery requests sent to the Municipality of Anchorage d/b/a Anchorage Hydropower ("AHP"). Undersigned counsel certifies that they have attempted to resolve the discovery dispute with AHP's counsel but such efforts have been unsuccessful. **This is a motion concerning discovery. A response must be filed within five (5) business days pursuant to 3 AAC 48.144(h).**

I. BACKGROUND

On September 18, 2024, Chugach and MEA propounded its Joint First Set of Discovery Requests on AHP in this proceeding (the "Requests"). A copy of the Requests is attached hereto as **Exhibit A**. On September 30, 2024, AHP responded to the Requests (the "Response"). A copy of the Response is attached hereto as **Exhibit B**.

Request numbers CEA&MEA-AHP-1 through CEA&MEA-AHP-9 all requested information about an alternative proposal that AHP developed and formally proposed to Governor Mike Dunleavy to substantially redesign, rebuild and replace the existing Eklutna Project with a pumped storage hydro ("PSH") facility (the "MOA PSH

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Alternative"). AHP advanced this MOA PSH Alternative during the Governor's review of the Proposed Final Fish and Wildlife Program ("Proposed Program") for the Eklutna hydroelectric project ("Eklutna Project") owned by Chugach, MEA, and the MOA, and which was developed and submitted to the Governor pursuant to the 1991 Agreement[1] by Chugach and MEA in consultation with the MOA. The MOA developed and advanced the MOA PSH Alternative and formally sought a two year delay to consider such alternatives despite having surrendered associated decision-making authority over such matters in October 2020 in response to the Commission's Order U-18-102(44)/U-19-020(39)/U19-021(39) ("Order 39") requirement central to this proceeding – that the MOA surrender from the Eklutna Operating Committee ("EOC") and not be allowed any ability to delay or change Eklutna Project decisions made by the Chugach and MEA representatives on the EOC, including with respect to the Proposed Program).

The relevant background surrounding the MOA PSH Alternative is as follows:

- The Proposed Program was developed by Chugach, MEA, and MOA over five years and was submitted to the Governor on April 25, 2024, opening a 60-day comment period for the parties to the 1991 Agreement to comment on the Proposed Program and any proposed alternatives.[2] The Proposed Program did not include any PSH facility proposal. It was supported by

[1] Agreement Between the Municipality of Anchorage d/b/a Anchorage Municipal Light and Power, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., U.S. Fish and Wildlife Service, National Marine Fisheries Service, Alaska Energy Authority, and the State of Alaska Relative to the Eklutna and Snettisham Hydroelectric Projects (Aug. 7, 1991) ("1991 Agreement").

[2] Supporting Information Document attached as **TRZ-04** to Tony Zellers Prefiled Responsive Testimony at 19 ("the "Parties then have 60 days to submit written comments on the Proposed Final Program, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources, to the Governor").

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Mayor Dave Bronson[3], although opposed by the Anchorage Assembly.[4] At the time, however, the Anchorage Assembly had not raised a PSH facility proposal to MEA or Chugach.

- The 60-day comment period closed on June 24, 2024, and no comments were submitted about a PSH facility proposal from any party or person.
- On July 1, 2024, Mayor Suzanne LaFrance was sworn in, replacing Mayor Dave Bronson.
- On July 2, 2024, Mark Corsentino was approved by the Anchorage Assembly to be the Utility Director of AHP.[5]
- On July 18, 2024, the MOA filed its Notice and Request for Acknowledgement of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the EOC in this proceeding seeking to regain the voting rights it surrendered in 2020 with respect to the EOC.
- On July 24, 2024, MEA and Chugach responded to 1991 Agreement party comments submitted on the Proposed Program.[6]
- On August 23, 2024, in his new role as Utility Director of AHP, Mr. Corsentino participated in a Joint Worksession of the Anchorage Assembly and Native Village of Eklutna where he presented and discussed the new

[3] Mayor Dave Bronson's April 26, 2024 letter in support of the Proposed Program is available at https://eklutnahydro.com/wp-content/uploads/2024/05/2024-04-26-Comments-on-Proposed-Final_Mayor.pdf.

[4] *See* Tony Zellers Prefiled Responsive Testimony at Question 25.

[5] *See* Notice and Request for Acknowledgement of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee in this proceeding, at page 3 lines 12-15 (July 18, 2024).

[6] *See* Chugach and MEA's Responses to Comments on the Proposed Final Fish and Wildlife Program available at https://eklutnahydro.com/wp-content/uploads/2024/07/2024-7-24-Owners-Responses-to-Comments-on-Proposed-Final-Program.pdf .

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MOA PSH Alternative proposal, accompanied with PowerPoint slides that were attached to Tony Zellers' Prefiled Responsive Testimony as **TRZ-06**. No other background or technical materials have been shared directly with the MEA and Chugach (the other two Eklutna Project owners) about the MOA PSH Alternative at any time, so the presentation (TRZ-06) and Mr. Corsentino's statements to the Anchorage Assembly[7] are all the information that Chugach and MEA have about the MOA PSH Alternative.

- On September 4, 2024, the MOA advanced the MOA PSH Alternative to the Governor in a brief requested by the Governor's Staff, asserting: "Several alternatives [have] not yet [been] adequately considered by [MEA and Chugach]…A preliminary proposal for pumped storage hydro, for example, was presented to a work session of the Anchorage Assembly on August 23, 2024, by the head of the Anchorage Hydropower utility and received favorable discussion."[8]
- On September 9, 2024, during a meeting conducted by the Governor's chief of staff as part of their review of the Proposed Program and in which Mr. Corsentino advanced the MOA PSH Alternative, MOA representatives told the Governor's office in a meeting and, that the MOA's "pump storage hydro [proposal] beats the [Proposed Program] on every metric."[9]

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[7] Mr. Corsentino's presentation to the Joint Worksession of the Anchorage Assembly and Native Village of Eklutna is a public record available at https://www.youtube.com/watch?v=hw3AGSUGlac .

[8] "The Municipality of Anchorage's Brief Addressing the Governors' Questions about the Final Proposed Fish and Wildlife Program, Eklutna Hydro Project", at 13-14, available at https://eklutnahydro.com/wp-content/uploads/2024/09/2024-9-4-MOA-Legal-Brief.pdf .

[9] Transcript, "In the Matter of: *Alaska Office of the Governor 1991 Fish and Wildlife Program"*, September 9, 2024, at 39; available at https://eklutnahydro.com/wp-content/uploads/2024/09/2024-9-9-Meeting-Transcript.pdf .

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- On October 2, 2024, the Governor issued the Final Fish and Wildlife Program and included a requirement that the parties to the 1991 Agreement and the Native Village of Eklutna study the pumped storage hydropower alternative as a limited program reopener upon terms and conditions they mutually agree to, and also noted that MEA and Chugach did not have an opportunity to respond to the MOA's joint resolution outside of the September 9, 2024, Governor's office meeting.[10]

In submitting CEA&MEA-AHP-1-1 through CEA&MEA-AHP-1-9 to AHP in the Request (the "PSH Discovery"), MEA and Chugach sought more information and background from AHP and Mr. Corsentino regarding the MOA PSH Alternative as such information is directly relevant to the scope of this proceeding. The AHP Response, however, contained the following objection to each PSH Discovery request: "AHP objects to this request to the extent that it seeks information that is irrelevant."

Pursuant to 3 AAC 48.144(d), on October 17, 2024, undersigned Counsel had a telephone discussion with Dean Thompson, Counsel for AHP, in an effort to resolve the dispute surrounding the relevancy of the PSH Discovery. Unfortunately, as re-confirmed on October 28, 2024, the parties have not been able to resolve the issue and AHP remained unwilling to provide information in response to the PSH Discovery based on AHP's understanding of the scope of this proceeding. Chugach and MEA now bring this motion to compel, requesting that the Commission determine that the information requested by MEA and Chugach in the PSH Discovery is relevant to this proceeding.

II. ARGUMENT

A. *The Applicable Broad Discovery Standard*

AHP has an obligation to comply with discovery requests propounded on it. The scope of discovery for this proceeding is set forth in 3 AAC 48.141:

[10] *See* Governor's Decision, dated October 2024, Final Fish and Wildlife Program, attached to Tony Zellers Prefiled Responsive Testimony at **TRZ-05**, at 14-15 of 58.

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> A party may obtain discovery from another party regarding any matter, not privileged, that is relevant to the subject matter of the proceeding, if the matter is admissible in evidence under 3 AAC 48.154 or appears reasonably calculated to lead to the discovery of admissible evidence.

This is a broad discovery standard. The Alaska Supreme Court has held that discovery rules should be liberally construed to effectuate the underlying purpose of those rules,[11] including to ensure that the parties may have a just determination of their case upon the merits.[12] With respect to relevancy disputes specifically, the Alaska Supreme Court has held that it will reverse a grant of discovery that is attacked on relevancy grounds "only **if** the information could not be reasonably expected to lead to the discovery of admissible evidence."[13] The Commission has also reiterated the broad nature of its applicable discovery rules, stating, for example, that "the scope of discovery is very broad and includes not only matters that would be admissible at hearing but also matters that are reasonably calculated to lead to the discovery of admissible evidence."[14]

B. ***The PSH Discovery Is Reasonably Calculated to Lead to the Discovery of Admissible Evidence Directly Relevant to Interpretation of this Proceeding's Scope.***

The PSH Discovery – which asks for specific information about the development and basis of the MOA PSH Alternative, including information about the data and research involved and relied upon, the staff involved, the anticipated costs, the equipment and technical specifications, and the anticipated impacts of the MOA PSH Alternative – is reasonably calculated to lead to the discovery of admissible evidence in this proceeding.

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[11] *See Van Alen v. Anchorage Ski Club Inc.,* 536 P.2d 784,787 (Alaska 1975) ("We have repeatedly stated that Alaska's discovery rules should be given a liberal interpretation in order to effectuate the underlying purpose of those rules.").

[12] *Ketchikan Cold Storage Co. v. State,* 491 P.2d 143, 147 (Alaska 1971) ("We cannot, however, allow a procedural rule to frustrate the major purpose of Rule 37, and in fact all the rules of civil procedure, which is to ensure that an individual may have a just determination of his case upon the merits.").

[13] *Doe v. Alaska Superior Court,* 721 P .2d 617, 620-21 (Alaska 1986).

[14] Order U-06-002(6) at 4; Alaska R. Civ. P 26(b)(l).

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Mr. Corsentino and AHP developed, and MOA advanced, the MOA PSH Alternative to replace the proposal developed and advanced by the Eklutna Owners over the past five years. The requests about the MOA PSH Alternative are both directly relevant to (i) the most narrow reading of the scope of this proceeding: whether Mr. Corsentino and AHP have sufficient knowledge of Prudent Utility Practice and the Railbelt transmission system to vote AHP's interests on the EOC and (ii) expanded potential scopes of proceeding relating to the Commission determining – if it were to find that AHP had "acquired the expertise required to fully participate as a voting member of the EOC"[15] – whether it should set specific requirements or guardrails on AHP's powers on the EOC, as requested by MEA and Chugach in their Joint Brief to ensure that actions taken during the Surrender period are not undone and to ensure compliance by all Eklutna Project owners of contractual and legal obligations.[16]

To be clear, this discovery was not posed in order to litigate the MOA PSH Alternative or whether it is better or worse than the Proposed Program or Final Fish and Wildlife Program; rather this discovery is propounded to elicit information regarding Mr. Corsentino's and AHP's knowledge of Prudent Utility Practice and the Railbelt transmission system and how they have and will apply this knowledge to decisions related to the Eklutna Project.

1. *The PSH Discovery Is Reasonably Calculated to Lead to the Discovery of Relevant Evidence About the Depth of Mr. Corsentino's Understanding of Prudent Utility Practice*

If the Commission does not grant the Office of the Attorney General's Motion to Dismiss as Moot in this proceeding, and instead, the Commission proceeds with holding a hearing in this proceeding, Chugach and MEA anticipate that at the very minimum, the narrowest scope of such hearing will be centered on whether Mark Corsentino has the

[15] Order 39 at 67.

[16] *See* Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Brief Regarding Surrender Term ("Joint Brief") at 23-24.

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necessary knowledge of Prudent Utility Practice and knowledge of the Railbelt generation and transmission system to adequately represent AHP on the EOC. MEA and Chugach further anticipate that part of the hearing, even in such a narrow scope only, will be spent ascertaining what Prudent Utility Practice is, particularly within the confines of AHP's limited utility function and obligations as only a wholesale provider of electricity from the Eklutna Project.[17] At a minimum, however, Chugach and MEA will assert that Prudent Utility Practice for AHP specifically will require an understanding of the Eklutna Project as AHP's only generating asset. Chugach and MEA will also broadly assert that Prudent Utility Practice when applied to proposing significant changes to utility infrastructure also typically mandates detailed examinations of cost, impacts, and technical feasibility. Because Mr. Corsentino was only recently appointed Utility Director of AHP, the actions he has taken in that role that can be examined to potentially demonstrate the degree of his knowledge of applicable Prudent Utility Practice is limited.

Mr. Corsentino has taken one notable public action in his first months as Utility Director of AHP relevant to the Eklutna Project: develop and present the MOA PSH Alternative to the Anchorage Assembly and assist in advancing such proposal to the Governor for consideration, who then included requirements related to such proposal in the Final Fish and Wildlife Program. Information about how this MOA PSH Alternative was developed and how Mr. Corsentino was involved, and information about what documents, analysis, studies, cost reports and impact analysis were used and relied upon by Mr. Corsentino in deciding to present this MOA PSH Alternative to the Anchorage Assembly and the Governor is not only reasonably calculated to lead to the discovery of admissible evidence, but is actually perhaps the *only* and *best* information currently available that could demonstrate the degree of his knowledge of Prudent Utility Practice applicable in his role at AHP. Furthermore, this information could showcase how he applies such

[17] *See* Joint Brief at page 6-7 for discussion of AHP as a "stub utility".

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knowledge in deciding to propose major changes to AHP's sole operating asset to the MOA and the Governor. This discovery is therefore directly relevant to the scope of this proceeding – whether Mr. Corsentino has the necessary expertise (e.g., knowledge of Prudent Utility Practice) to fully participate as a voting member of the EOC.

2. *The PSH Discovery Is Reasonably Calculated to Lead to the Discovery of Evidence About AHP's Understanding of Applicable Law and AHP Contractual Obligations That Are Relevant to Prudent Utility Practice*

It is widely understood that Prudent Utility Practice requires operating within the bounds of applicable law and contractual obligations.[18] The MOA PSH Alternative and information about its development is therefore relevant to ascertaining whether Mr. Corsentino has sufficient knowledge of the legal and contractual requirements applicable to AHP. In its two PPAs with Chugach and MEA, the MOA, acting through AHP, currently has contractual obligations to make Eklutna Project operational decisions in a manner consistent with Prudent Utility Practice.[19] All of the Project Owners also have certain obligations to preserve the quality of the Eklutna Lake water for the Anchorage drinking water system.[20] The requested evidence on the MOA PSH Alternative is reasonably calculated to lead to admissible evidence about: (i) whether Mr. Corsentino and AHP have the knowledge of applicable law and AHP's contractual obligations that are required as part of Prudent Utility Practice (which is relevant to examination of AHP's expertise); and

[18] *See e.g.,* the definition of "Prudent Utility Practice" in the Chugach-MOA PPA ("…. Consistent with good business practices, reliability, safety, expedition and the requirements of any governing authority having jurisdiction"), cited in Mr. Ori's Prefiled Responsive Testimony at 10-11.

[19] *See* Section 4.2(A) of both the Chugach-MOA PPA and MEA-MOA PPA, attached to Mr. Ori's testimony as **EAO-2** and Mr. Zeller's testimony as **TRZ-02**, respectively.

[20] Eklutna Owners' shall "take no action regarding Eklutna Lake which has the effect of reducing the quality or increasing the turbidity of the lake water from those conditions which presently exist" nor "take or authorize any other action with regard to Eklutna Lake which may have the effect of reducing its present suitability for use as a source of public water supply" under Section 7 of the "Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska" with APA, dated February 17, 1984, as amended (the "1984 Agreement").

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(ii) whether AHP's actions are out of step with Prudent Utility Practice by proposing the MOA PSH Alternative (which is relevant to examination of whether placing limits on the scope of AHP's future participation on the EOC with respect to the Final Fish and Wildlife Program specifically is appropriate).

Furthermore, in proposing the MOA PSH Alternative to the Governor after the submission by MEA and Chugach of the Proposed Program, the MOA violated its requirements under Order 39 to not delay or change the Eklutna Project decisions made by Chugach and MEA representatives on the MEA, including with respect to the Fish and Wildlife Program.[21] The PSH Discovery may demonstrate whether the MOA, AHP, or Mr. Corsentino knows or acknowledges such contractual and legal obligations.

3. *The PSH Discovery Is Reasonably Calculated to Lead to the Discovery of Evidence About the AHP's Development of a Pumped Storage Hydro Facility Proposal Now Included in the Final Fish and Wildlife Program and Directly Relevant to Future EOC Obligations.*

As a direct result of MOA's, AHP's, and Mr. Corsentino's joint efforts and advocacy, a requirement to study the MOA PSH Alternative has now been included in the Final Fish and Wildlife Program issued by the Governor.[22] As a result, the EOC may soon be charged with carrying out related studies, or making recommendations about feasibility, costs, and impacts to other parties to the 1991 Agreement and the Project owners group that will make decisions related to the 1991 Agreement. The PSH Discovery is therefore reasonably calculated to lead to the discovery of evidence directly relevant to the degree of Mr. Corsentino's and AHP's knowledge in, development of, and involvement with the MOA PSH Alternative, as well as more information about the MOA PSH Alternative,

[21] Order 39 at 67 ("This does not prohibit [AHP] from attending EOC meetings, but may not allow [AHP] any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.").

[22] *See* Governor's Decision, dated October 2024, Final Fish and Wildlife Program, attached to Tony Zellers' Prefiled Responsive Testimony at **TRZ-05**, at 14-15 and 29-32 of 58.

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including its potential impacts on the Eklutna Project, its impacts on fish and wildlife, and its costs as compared with the Proposed Program. Such evidence would be directly relevant to a broader scope of this proceeding where the Commission is ascertaining if and how it should limit AHP's ability to fundamentally change decisions made about the Final Fish and Wildlife Program during the Surrender period through future votes on the EOC, including votes on the MOA PSH Alternative reopener. Once again, this discovery was not posed in order to litigate the MOA PSH Alternative; rather this discovery is propounded to elicit directly relevant information regarding Mr. Corsentino's and AHP's knowledge of Prudent Utility Practice and the Railbelt transmission system and how they have and will apply this knowledge to decisions related to the Eklutna Project.

C. ***Each PSH Discovery Request is Reasonably Calculated to Lead to the Discovery of Evidence Reasonably Calculated and Relevant to the Scope of the Commission Proceeding***

Each specific PSH Question and response to that PSH Question is quoted and discussed below.

> **CEA&MEA-AHP-1-1:** Please provide all documents reviewed in development or preparation of the MOA PSH Alternative, including without limitation, (i) any engineering, cost estimates, feasibility studies and other materials related to Eklutna Lake, other Alaska projects, other United States' or international pumped storage hydro projects; and (ii) "Modified Eklutna PSH Baseline Reservoir Analysis", referenced on page 14 of the MOA PSH Alternative.
>
> **Response:** AHP objects to this request to the extent that it seeks information that is irrelevant.
>
> **Persons(s) Supplying Information:** Mark Corsentino, Counsel

This request is relevant because it is likely to lead to the discovery of evidence that will showcase the process used, information relied upon by, and application of judgment by Mr. Corsentino in deciding to bring the MOA PSH Alternative before the Anchorage Assembly and advance the proposal to the Governor; it will demonstrate the depth of his knowledge of Prudent Utility Practice and the Eklutna Project, how he applies such knowledge and discipline in important decisions (or not), and the level of information he deems necessary to make such decisions. This request may also lead to the discovery of

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evidence relevant to what specific information – or lack thereof – actually led to the inclusion of the MOA PSH Alternative in the Final Fish and Wildlife Program that the EOC may be involved with studying and implementing going forward.

> **CEA&MEA-AHP-1-2:** Please identify each person that was involved in the development or approval of, or otherwise provided input on, the MOA PSH Alternative, and identify each person's employer and role, whether the MOA, AHP, Anchorage Water and Wastewater Utility ("AWWU"), or some other entity.
>
> **Response:** AHP objects to this request to the extent that it is overbroad and seeks information that is irrelevant.
>
> **Persons(s) Supplying Information:** Mark Corsentino, Counsel

This request is relevant because it is reasonably calculated to lead to the discovery of evidence that will showcase the people, process and resources used, as well as the skill and experience of staff relied upon, by Mr. Corsentino in deciding to bring the MOA PSH Alternative before the Anchorage Assembly and the Governor, and will therefore help to demonstrate the depth of his knowledge of Prudent Utility Practice and how it may have been used in consulting with such people. This request may also lead to the discovery of evidence relevant to what specific people – and their knowledge and application of Prudent Utility Practice – were involved within the MOA in the investigation and development of the alternative and the decision leading to the inclusion of the MOA PSH Alternative in the Final Fish and Wildlife Program that the EOC may be involved with studying and implementing going forward.

> **CEA&MEA-AHP-1-3:** On September 9, 2024, Mr. Corsentino stated in a meeting with the Governor's Staff that the infrastructure costs associated with the MOA PSH Alternative would total "somewhere between $5 and $10 million". Please provide the MOA's cost estimates and any supporting documents for the MOA PSH Alternative.
>
> **Response:** AHP objects to this request to the extent that it seeks information that is irrelevant.
>
> **Persons(s) Supplying Information:** Mark Corsentino, Counsel.
>
> This request is relevant because it is reasonably calculated to lead to the discovery

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of evidence that will showcase the level of cost analysis developed and relied upon by Mr. Corsentino in deciding to bring the MOA PSH Alternative before the Anchorage Assembly and the Governor and will therefore help to demonstrate his judgment, the depth of his knowledge and application of Prudent Utility Practice, and his appreciation of the lowest reasonable cost responsibilities typically contained therein. Of course, if the cost information is sufficient to warrant giving the cost information to the Governor's Chief of Staff in support of the PSH Alternative, it would seem sufficiently relevant to the Commission in support of its decision about the MOA's voting rights requested by the MOA in this docket. This request may also lead to the discovery of evidence relevant to what specific cost information was and is available to AHP and how such information may impact the implementation of the Final Fish and Wildlife Program now that requirements related to a MOA PSH Alternative are included therein at the MOA's request.

> **CEA&MEA-AHP-1-4:** Please identify the manufacturer of, and provide the MOA's cost estimate for, the "reversible turbine pump" referenced in the MOA PSH Alternative as well as any supporting documents.
>
> **Response:** AHP objects to this request to the extent that it seeks information that is irrelevant.
>
> **Persons(s) Supplying Information:** Mark Corsentino, Counsel.

This request is relevant because it is reasonably calculated to lead to the discovery of evidence that will showcase the process used, technical feasibility and investigation, and cost information relied upon by Mr. Corsentino in deciding to bring the MOA PSH Alternative before the Anchorage Assembly and the Governor, and will help to demonstrate the depth of his knowledge and application of Prudent Utility Practice and the Eklutna Project in assessing such technical and cost information. Turbines are critical and expensive equipment in any hydroelectric project. AHP's proposal to replace the Eklutna's turbines must have been based on an investigation and assessment of whether such equipment is available and how costly it would be. AHP's responses to this request will demonstrate AHP's knowledge and application of Prudent Utility Practice in the past

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regarding the MOA PSH Alternative and going forward if sitting on the EOC.

> **CEA&MEA-AHP-1-5:** Please provide the MOA's cost estimates and any supporting documents for demolition of each turbine bay to accommodate the size and geometry of reversible turbine pump, replacement of all electrical systems and controls, rebuilding the surge shaft, replacing the intake, and constructing a new lower reservoir.
>
> **Response:** AHP objects to this request to the extent that it seeks information that is irrelevant.
>
> **Persons(s) Supplying Information:** Mark Corsentino, Counsel.

Similar to CEA&MEA-AHP-1-4, this request is reasonably calculated to lead to the discovery of evidence that will showcase the process used – and technical feasibility and cost information relied upon by – Mr. Corsentino in deciding to bring the MOA PSH Alternative before the Anchorage Assembly and advance it to the Governor, and will help to demonstrate the depth of his knowledge, and application, of Prudent Utility Practice in assessing such technical and cost information. The Eklutna Project was built in the 1950s for a specific geometry of turbine, intake and outflow structures, and standard operation for the flow of water in one direction for hydroelectric production. Chugach and MEA assume that AHP gathered and assessed such technical and cost information and applied Prudent Utility Practice in making the MOA PSH Alternative proposal to alter the Eklutna Project; this request merely seeks to have AHP show its work and demonstrate Prudent Utility Practice.

> **CEA&MEA-AHP-1-6:** Please admit or deny that the Eklutna Project's tailrace, powerhouse, penstock, tunnel, surge tanks, and intake structures were not designed for reversible flows of water from the Knik River into Eklutna Lake as proposed in the MOA PSH Alternative. If the answer to this interrogatory is anything other than an unqualified admission, please state all facts and reasons that support such answer.
>
> **Response:** AHP objects to this request to the extent that it seeks information that is irrelevant.
>
> **Persons(s) Supplying Information:** Mark Corsentino, Counsel

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This request is reasonably calculated to elicit relevant evidence of AHP's understanding of the Eklutna Project and whether it understands the Eklutna Project and Prudent Utility Practice adequately enough to be able to regain its voting rights on the EOC. If either admitted or if denied with supporting information, this evidence would also provide information about whether the MOA PSH Alternative is consistent with Prudent Utility Practice and would therefore help to showcase Mr. Corsentino's knowledge and application of Prudent Utility Practice given that (i) AHP is obligated to act in line with Prudent Utility Practice and (ii) he brought this proposal before the Anchorage Assembly and Governor. This request is also relevant in that it is reasonably calculated to lead to admissible evidence about the potential impacts of the MOA PSH Alternative which is relevant to any Commission analysis of whether AHP's roles with respect to implementing such MOA PSH Alternative should be limited.

> **CEA&MEA-AHP-1-7:** Please admit or deny that the Eklutna Project tail race and its outflow into the Knik River that are proposed to be the lower reservoir supply in the MOA PSH Alternative are within the range of tidal influence of the Knik Arm of the Cook Inlet. If the answer to this interrogatory is anything other than an unqualified admission, please state all facts and reasons that support such answer.
>
> **Response:** AHP objects to this request to the extent that it seeks information that is irrelevant.
>
> **Persons(s) Supplying Information:** Mark Corsentino, Counsel

This request is reasonably calculated to elicit relevant evidence of AHP's understanding of the Eklutna Project – including the importance of its location and proximity to salt water – and Prudent Utility Practice and if such understanding is adequate enough for AHP to be able to regain its voting rights on the EOC. This request is relevant because if either admitted or if denied with supporting information, this evidence would provide information about whether the MOA PSH Alternative is consistent with Prudent Utility Practice and would therefore help to showcase Mr. Corsentino's knowledge and application of Prudent Utility Practice given that (i) AHP is obligated to act in line with

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Prudent Utility Practice and (ii) he brought this proposal before the Anchorage Assembly and Governor. This request is also relevant because it is reasonably calculated to lead to admissible evidence about the potential impacts of the MOA PSH Alternative on the Eklutna Project (i.e., movement of salt or brackish water into the project works and Eklutna Lake/reservoir) which is relevant to any Commission analysis of whether AHP's roles with respect to implementing such MOA PSH Alternative on the EOC should be limited.

> **CEA&MEA-AHP-1-8:** Please admit or deny that brackish water and suspended sediment from the Eklutna Project tail race and the Knik River that are proposed to be the lower reservoir supply in the MOA PSH Alternative could severely impact AWWU's public water supply and the Eklutna Lake and River ecosystem. If the answer to this interrogatory is anything other than an unqualified admission, please state all facts and reasons that support such answer.
>
> **Response:** AHP objects to this request to the extent that it seeks information that is irrelevant.
>
> **Persons(s) Supplying Information:** Mark Corsentino, Counsel

Similar to CEA&MEA-AHP-1-7, this request is reasonably calculated to elicit relevant evidence of AHP's understanding of the Eklutna Project and whether it understands (i) the Eklutna Project's location and proximity to salt water, (ii) the environmental responsibilities borne by the Project owners, and (iii) Prudent Utility Practice adequately enough to be able to regain its voting rights on the EOC. If either admitted or if denied with supporting information, this evidence would provide information about whether the MOA PSH Alternative is consistent with Prudent Utility Practice and the environmental responsibilities borne by the Project owners, and would therefore help to showcase Mr. Corsentino's knowledge and application of Prudent Utility Practice given that (i) AHP is obligated to act in line with Prudent Utility Practice and (ii) he brought the MOA PSH Alternative before the Anchorage Assembly and Governor. This request is also reasonably calculated to lead to admissible evidence about the potential impacts of the MOA PSH Alternative on the Eklutna Project, MEA and Chugach's contractual obligations to AWWU, and fish and wildlife, all of which is relevant to any Commission analysis of

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whether AHP's roles with respect to implementing such MOA PSH Alternative on the EOC should be limited.

> **EA&MEA-AHP-1-9:** Please admit or deny that introduction of brackish water and suspended sediment from the Eklutna Project tail race and Knik River into the Eklutna Lake ecosystem would constitute a breach of the Eklutna Owners' contractual obligations to the MOA and AWWU to "take no action regarding Eklutna Lake which has the effect of reducing the quality or increasing the turbidity of the lake water from those conditions which presently exist" nor "take or authorize any other action with regard to Eklutna Lake which may have the effect of reducing its present suitability for use as a source of public water supply" under Section 7 of the "Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska" with APA, dated February 17, 1984, as amended (the "1984 Agreement"). If the answer to this interrogatory is anything other than an unqualified admission, please state all facts and reasons that support such answer.
>
> **Response:** AHP objects to this request to the extent that it seeks information that is irrelevant.
>
> **Persons(s) Supplying Information:** Mark Corsentino, Counsel

Similar to CEA&MEA-AHP-1-7 and CEA&MEA-AHP-1-8, this request is reasonably calculated to elicit relevant evidence about AHP's understanding of the Eklutna Project and whether it understands (i) the Eklutna Project's location and proximity to salt water, (ii) the contractual responsibilities owed to AWWU under the 1984 Agreement, and (iii) Prudent Utility Practice adequately enough to be able to regain its voting rights on the EOC. If either admitted or if denied with supporting information, this evidence would provide information about whether the MOA PSH Alternative is consistent with Prudent Utility Practice, including obligations to comply with contracts like the 1984 Agreement and applicable law within, and would therefore help to showcase Mr. Corsentino's knowledge and application of Prudent Utility Practice given that (i) AHP is obligated to act in line with Prudent Utility Practice and (ii) he brought the MOA PSH Alternative before the Anchorage Assembly and Governor. This request is also relevant in that it is reasonably calculated to lead to admissible evidence about the potential impacts of the

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MOA PSH Alternative on the Anchorage drinking water system and on Eklutna Project owner contractual obligations, all of which is relevant to any Commission analysis of whether AHP's roles with respect to implementing such MOA PSH Alternative on the EOC should be limited.

III. CONCLUSION

The discovery sought in the PSH Discovery is reasonably calculated to lead to the discovery of admissible evidence and is relevant to both a narrow interpretation and broad interpretation of the scope of this proceeding. AHP should be compelled by Order of the Commission to provide the information requested in the PSH Discovery.

RESPECTFULLY SUBMITTED this 28th day of October, 2024.

By: /s/ Todd G. Glass
Todd G. Glass, Alaska Bar # 1810083
Stephanie McFall

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EXHIBITS

Exhibit	Document
A	CEA and MEA's First Discovery Request of AHP
B	CEAMEA-AHP-1 Response

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I hereby certify that on October 28, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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By: /s/ Adam M. Fryer
Adam M. Fryer

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EXHIBIT A

STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	John M. Espindola, Chairman Robert M. Pickett John C. Springsteen
In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

CHUGACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S JOINT FIRST REQUEST FOR DISCOVERY TO MUNICIPALITY OF ANCHORAGE d/b/a ANCHORAGE HYDROPOWER (CEA&MEA-AHP-1)

Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA) jointly provide their first set of discovery requests to the Municipality of Anchorage (MOA) d/b/a Anchorage Hydropower (AHP). These discovery requests are propounded in accordance with 3 AAC 48.141-.145. Please provide responses as soon as possible, but within ten (10) calendar days.

INSTRUCTIONS

1. These discovery requests are deemed to be continuing in nature. Should AHP, its counsel, consultants, or its witnesses learn of additional information or documents relating to the matters inquired into in these requests after they have been initially answered, AHP is requested to supplement its response to provide all responsive information and documents.

2. Where a document or information is responsive to a request but is withheld based on a claim of privilege, state in detail the basis for the claim and all facts and reasons relied on in support of the privilege. Provide an index identifying the document's dates, authors, recipients, title and subject areas, and identify the requests to which the claim of

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privilege applies. For each document that is withheld due to a claim of attorney work product, indicate whether the document was prepared for litigation purposes, and identify the litigation on which the claim is based.

3. Where it is not possible to respond because responsive documents or information no longer exist (or because AHP does not have access to such documents or information), and AHP has reason to believe that such documents or information at one time existed, explain how or why the documents and information were lost or destroyed (or why AHP does not have access to such documents or information), describe the subject matter of the documents or information to the extent possible, indicate the requests to which the documents or information apply, and identify persons having knowledge of the content of the documents or information.

4. A discovery request may request documents, be an interrogatory, seek an admission, or combine elements of these types of discovery requests. Please respond as applicable. These requests apply to all information and documents in the possession of AHP, its consultants, and its witnesses and all information and documents subject to AHP's control or access. Please provide the requested information electronically. For any response that requires or includes calculations, please also provide any and all relevant calculations electronically in Excel format, with all formulae and calculations intact.

5. If any portion of AHP's response to a request is that the requested information or document has been previously provided, provide a clear, specific reference (including page numbers) where the information or document was previously provided.

6. The discovery requests below are directed to AHP, including its affiliates, employees, witnesses, and consultants.

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DEFINITIONS

The following definitions apply to these discovery requests. Any term that is not specifically defined herein should be construed in accordance with the usage of the term in the referenced testimony, its accepted usage in the relevant field, or if neither, its ordinary and plain meaning.

"Document," "documents" or "documentation" mean, without limitation, emails, drawings, graphs, charts, photographs, images, models, spreadsheets, studies, accounting journals (including all general, subsidiary and fixed asset books and ledgers), workpapers, other data or data compilations, the original and non-conforming drafts and copies of any written, typed, recorded (on magnetic tape or through any other means), computer-generated, or graphic material of any kind, whether prepared by AHP or any other person, that is in AHP's possession, custody, or control. The terms "document," "documents" and "documentation" include copies where the original is not in AHP's possession, custody, or control, and include any voice recordings or videotapes or tape recordings. With regard to information maintained by electronic means, the terms "document," "documents" and "documentation" include data processing and computer printouts, tapes, disks, and materials stored in computers or data processing equipment, together with programs and program documents necessary to retrieve, read, interpret, understand, and manipulate such data, and all other mechanical or electronic means of storing or recording data.

"Support," as limited by the context of the particular discovery requests asking for support for any particular proposition or conclusion, includes any of the following material that AHP views as supporting the particular proposition or conclusion: 1) state and federal statutes and regulations; 2) judicial or administrative adjudicatory or rulemaking decisions or orders from any state, federal, or local judicial or administrative body; 3) any other form of administrative guidance and pronouncements; 4) industry and professional standards promulgated by appropriate standard-setting bodies; 5)

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authoritative text, treatises, and articles, and 6) any other material actually relied on in formulating the particular proposition or conclusion.

"MOA PSH Alternative" refers to the powerpoint presentation "Municipality of Anchorage, Anchorage Hydropower Utility, Modified PSH Concept with Wind & Solar at Eklutna Lake with River Restoration and Fish Passage", Mr. Corsentino presented to the Joint Worksession of the Anchorage Assembly and the Native Village of Eklutna on August 23, 2024 and discussed in the MOA's presentation to the Governor's Staff on September 9, 2024.

CHUGACH AND MEA'S DISCOVERY REQUESTS

CEA&MEA-AHP-1-1:

Please provide all documents reviewed in development or preparation of the MOA PSH Alternative, including without limitation, (i) any engineering, cost estimates, feasibility studies and other materials related to Eklutna Lake, other Alaska projects, other United States' or international pumped storage hydro projects; and (ii) "Modified Eklutna PSH Baseline Reservoir Analysis", referenced on page 14 of the MOA PSH Alternative.

Response:

Witness/Individual(s) supplying information:

CEA&MEA-AHP-1-2:

Please identify each person that was involved in the development or approval of, or otherwise provided input on, the MOA PSH Alternative, and identify each person's employer and role, whether the MOA, AHP, Anchorage Water and Wastewater Utility ("AWWU"), or some other entity.

Response:

Witness/Individual(s) supplying information:

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CEA&MEA-AHP-1-3:

On September 9, 2024, Mr. Corsentino stated in a meeting with the Governor's Staff that the infrastructure costs associated with the MOA PSH Alternative would total "somewhere between $5 and $10 million". Please provide the MOA's cost estimates and any supporting documents for the MOA PSH Alternative.

Response:

Witness/Individual(s) supplying information:

CEA&MEA-AHP-1-4:

Please identify the manufacturer of, and provide the MOA's cost estimate for, the "reversible turbine pump" referenced in the MOA PSH Alternative as well as any supporting documents.

Response:

Witness/Individual(s) supplying information:

CEA&MEA-AHP-1-5:

Please provide the MOA's cost estimates and any supporting documents for demolition of each turbine bay to accommodate the size and geometry of reversible turbine pump, replacement of all electrical systems and controls, rebuilding the surge shaft, replacing the intake, and constructing a new lower reservoir.

Response:

Witness/Individual(s) supplying information:

CEA&MEA-AHP-1-6:

Please admit or deny that the Eklutna Project's tailrace, powerhouse, penstock, tunnel, surge tanks, and intake structures were not designed for reversible flows of water from the Knik River into Eklutna Lake as proposed in the MOA PSH Alternative. If the

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answer to this interrogatory is anything other than an unqualified admission, please state all facts and reasons that support such answer.

Response:

Witness/Individual(s) supplying information:

CEA&MEA-AHP-1-7:

Please admit or deny that the Eklutna Project tail race and its outflow into the Knik River that are proposed to be the lower reservoir supply in the MOA PSH Alternative are within the range of tidal influence of the Knik Arm of the Cook Inlet. If the answer to this interrogatory is anything other than an unqualified admission, please state all facts and reasons that support such answer.

Response:

Witness/Individual(s) supplying information:

CEA&MEA-AHP-1-8:

Please admit or deny that brackish water and suspended sediment from the Eklutna Project tail race and the Knik River that are proposed to be the lower reservoir supply in the MOA PSH Alternative could severely impact AWWU's public water supply and the Eklutna Lake and River ecosystem. If the answer to this interrogatory is anything other than an unqualified admission, please state all facts and reasons that support such answer.

Response:

Witness/Individual(s) supplying information:

CEA&MEA-AHP-1-9:

Please admit or deny that introduction of brackish water and suspended sediment from the Eklutna Project tail race and Knik River into the Eklutna Lake ecosystem would

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constitute a breach of the Eklutna Owners' contractual obligations to the MOA and AWWU to "take no action regarding Eklutna Lake which has the effect of reducing the quality or increasing the turbidity of the lake water from those conditions which presently exist" nor "take or authorize any other action with regard to Eklutna Lake which may have the effect of reducing its present suitability for use as a source of public water supply" under Section 7 of the "Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska" with APA, dated February 17, 1984, as amended (the "1984 Agreement"). If the answer to this interrogatory is anything other than an unqualified admission, please state all facts and reasons that support such answer.

Response:

Witness/Individual(s) supplying information:

CEA&MEA-AHP-1-10:

Please admit or deny that the MOA did not consult with Chugach Electric Association, Inc., prior to appointing Mark Corsentino as its representative to the Eklutna Operating Committee as required under Section 4.2(B) of the Eklutna Power Purchase Agreement, by and between MOA and Chugach Electric Association, Inc., dated as of December 28, 2018 (as amended). If the answer to this interrogatory is anything other than an unqualified admission, please state all facts and reasons that support such answer.

Response:

Witness/Individual(s) supplying information:

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DATED this 18th day of September, 2024.

By: /s/ Todd G. Glass
Todd G. Glass, Alaska Bar # 1810083
Stephanie McFall

WILSON SONSINI GOODRICH & ROSATI, P.C.

Attorneys for Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.

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I hereby certify that on September 18, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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By: /s/ Todd G. Glass
Todd G. Glass

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EXHIBIT B

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	John M. Espindola, Chair Robert A. Doyle Robert M. Pickett John C. Springsteen
In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S RESPONSE TO CHUGACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S JOINT FIRST REQUEST FOR DISCOVERY (CEA&MEA-AHP-1)

The Municipality of Anchorage ("MOA"), d/b/a Anchorage Hydropower ("AHP") hereby responds to Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc.'s ("MEA's") Joint **First** Set of Discovery Requests, dated **September 18, 2024**. All responses to discovery are prepared by AHP in consultation with counsel.

PRELIMINARY STATEMENT

As discovery proceeds, facts, information, evidence, documents, and other matters may be discovered which are not set forth in these responses, but which may be responsive to these discovery requests. Except as otherwise indicated, the following responses are complete based on AHP's current knowledge, information, and belief. Furthermore, these responses were prepared based on AHP's good faith interpretation of the discovery requests and are subject to correction for inadvertent errors or omissions, if any.

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GENERAL OBJECTIONS

1. AHP objects to requests for documents relating to confidential settlement negotiations. Any and all answers AHP provides in response to these discovery requests will be provided subject to, and without waiving, this objection.

2. AHP objects to the production of documents, calculations, and analyses that do not exist. A document is not within a party's "possession, custody, or control" if it does not exist.

3. AHP objects to each and every discovery request to the extent that they are vague, ambiguous, overbroad, unduly burdensome, or use terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these discovery requests. Any and all answers AHP provides in response to these discovery requests will be provided subject to, and without waiving, this objection.

4. AHP objects to each and every discovery request to the extent that it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding.

5. AHP objects to providing information to the extent that such information is already a matter of public record. The requesting party is not entitled to require other parties to gather information that is equally available and accessible to it.

6. AHP objects to each and every discovery request to the extent that it seeks documents or information protected by the attorney-client privilege or the work product privilege.

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Nothing contained in these responses is intended as, or shall in any way be deemed, a waiver of any such privilege or protection, or any other applicable privilege or doctrine.

7. AHP objects to the instructions contained in Chugach and MEA's Joint **First** Set of Discovery Requests. In responding to the requests, AHP will abide by the Regulatory Commission of Alaska's ("RCA" or "Commission") discovery regulations and, where applicable, the Alaska Rules of Civil Procedure.

8. AHP objects to the requests for identification of answering witnesses and designation of hearing witnesses as part of the responses. All responses to discovery are prepared by AHP in consultation with counsel. Witnesses at hearing will be available for cross-examination on their testimony. In accordance with Commission regulations, AHP will identify the persons supplying information for a particular response where appropriate.

DISCOVERY RESPONSES

CEA&MEA-AHP-1-1: Please provide all documents reviewed in development or preparation of the MOA PSH Alternative, including without limitation, (i) any engineering, cost estimates, feasibility studies and other materials related to Eklutna Lake, other Alaska projects, other United States' or international pumped storage hydro projects; and (ii) "Modified Eklutna PSH Baseline Reservoir Analysis", referenced on page 14 of the MOA PSH Alternative.

Response: AHP objects to this request to the extent that it seeks information that is irrelevant.

Persons(s) Supplying Information: Mark Corsentino, Counsel

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CEA&MEA-AHP-1-2: Please identify each person that was involved in the development or approval of, or otherwise provided input on, the MOA PSH Alternative, and identify each person's employer and role, whether the MOA, AHP, Anchorage Water and Wastewater Utility ("AWWU"), or some other entity.

Response: AHP objects to this request to the extent that it is overbroad and seeks information that is irrelevant.

Persons(s) Supplying Information: Mark Corsentino, Counsel

CEA&MEA-AHP-1-3: On September 9, 2024, Mr. Corsentino stated in a meeting with the Governor's Staff that the infrastructure costs associated with the MOA PSH Alternative would total "somewhere between $5 and $10 million". Please provide the MOA's cost estimates and any supporting documents for the MOA PSH Alternative.

Response: AHP objects to this request to the extent that it seeks information that is irrelevant.

Persons(s) Supplying Information: Mark Corsentino, Counsel

CEA&MEA-AHP-1-4: Please identify the manufacturer of, and provide the MOA's cost estimate for, the "reversible turbine pump" referenced in the MOA PSH Alternative as well as any supporting documents.

Response: AHP objects to this request to the extent that it seeks information that is irrelevant.

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Persons(s) Supplying Information: Mark Corsentino, Counsel

CEA&MEA-AHP-1-5: Please provide the MOA's cost estimates and any supporting documents for demolition of each turbine bay to accommodate the size and geometry of reversible turbine pump, replacement of all electrical systems and controls, rebuilding the surge shaft, replacing the intake, and constructing a new lower reservoir.

Response: AHP objects to this request to the extent that it seeks information that is irrelevant.

Persons(s) Supplying Information: Mark Corsentino, Counsel

CEA&MEA-AHP-1-6: Please admit or deny that the Eklutna Project's tailrace, powerhouse, penstock, tunnel, surge tanks, and intake structures were not designed for reversible flows of water from the Knik River into Eklutna Lake as proposed in the MOA PSH Alternative. If the answer to this interrogatory is anything other than an unqualified admission, please state all facts and reasons that support such answer.

Response: AHP objects to this request to the extent that it seeks information that is irrelevant.

Persons(s) Supplying Information: Mark Corsentino, Counsel

CEA&MEA-AHP-1-7: Please admit or deny that the Eklutna Project tail race and its outflow into the Knik River that are proposed to be the lower reservoir supply in the MOA PSH

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Alternative are within the range of tidal influence of the Knik Arm of the Cook Inlet. If the answer to this interrogatory is anything other than an unqualified admission, please state all facts and reasons that support such answer.

Response: AHP objects to this request to the extent that it seeks information that is irrelevant.

Persons(s) Supplying Information: Mark Corsentino, Counsel

CEA&MEA-AHP-1-8: Please admit or deny that brackish water and suspended sediment from the Eklutna Project tail race and the Knik River that are proposed to be the lower reservoir supply in the MOA PSH Alternative could severely impact AWWU's public water supply and the Eklutna Lake and River ecosystem. If the answer to this interrogatory is anything other than an unqualified admission, please state all facts and reasons that support such answer.

Response: AHP objects to this request to the extent that it seeks information that is irrelevant.

Persons(s) Supplying Information: Mark Corsentino, Counsel

CEA&MEA-AHP-1-9: Please admit or deny that introduction of brackish water and suspended sediment from the Eklutna Project tail race and Knik River into the Eklutna Lake ecosystem would constitute a breach of the Eklutna Owners' contractual obligations to the MOA and AWWU to "take no action regarding Eklutna Lake which has the effect of reducing the quality or increasing the turbidity of the lake water from those conditions which presently exist" nor "take

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or authorize any other action with regard to Eklutna Lake which may have the effect of reducing its present suitability for use as a source of public water supply" under Section 7 of the "Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska" with APA, dated February 17, 1984, as amended (the "1984 Agreement"). If the answer to this interrogatory is anything other than an unqualified admission, please state all facts and reasons that support such answer.

Response: AHP objects to this request to the extent that it seeks information that is irrelevant.

Persons(s) Supplying Information: Mark Corsentino, Counsel

CEA&MEA-AHP-1-10: Please admit or deny that the MOA did not consult with Chugach Electric Association, Inc., prior to appointing Mark Corsentino as its representative to the Eklutna Operating Committee as required under Section 4.2(B) of the Eklutna Power Purchase Agreement, by and between MOA and Chugach Electric Association, Inc., dated as of December 28, 2018 (as amended). If the answer to this interrogatory is anything other than an unqualified admission, please state all facts and reasons that support such answer.

Response: Denied. Among other times, prior to February 3, 2022, the MOA consulted with Chugach and MEA prior to appointing Mark Corsentino as its representative to the Eklutna Operating Committee. Two documents are responsive to this request (February 3, 2022, letter from Matt Clarkson, Chugach Executive VP, General Counsel to Kolby A. Hickel, Deputy Municipal Manager, and Benjamin Bowman, Assistant Municipal Attorney; and February 3, 2022,

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e-mail from David Pease, MEA In-House Counsel, to Benjamin Bowman, Matthew Clarkson, and Todd Glass, Counsel for Chugach and MEA). Those documents are not being produced due to Chugach/MEA Counsel Todd Glass asserting that those documents are attorney-client privileged.

Persons(s) Supplying Information: Mark Corsentino, Counsel

DATED this 30th day of September, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: */s/ Dean D. Thompson*

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CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
By: */s/ Emily M. Walker*
Emily M. Walker

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.: PROVIDENCE HEALTHY & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.: STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	Case No. 3AN-24-06001 CI

UNOPPOSED MOTION FOR ONE-WEEK EXTENSION OF DISPOSITIVE MOTIONS DEADLINE

The Regulatory Commission of Alaska, by and through counsel, hereby requests a one-week extension of the deadline for parties to file dispositive motions. The parties had previously agreed to a deadline of October 21, 2024, but due to interceding events and counsel's schedule, the RCA is requesting the deadline be extended by one week, to October 28, 2024. Counsel for the other active parties to this appeal (the Assembly, MEA/CEA, and RAPA) have stated that they do not oppose a one-week extension of this deadline.

DATED October 21, 2024.

TREG TAYLOR
ATTORNEY GENERAL

By: /s/Erin K. Egan/
Erin K. Egan
Assistant Attorney General
Alaska Bar No. 0111060

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.: PROVIDENCE HEALTHY & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.: STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	Case No.: 3AN-24-06001 CI

ORDER FOR EXTENSION OF TIME

The RCA's unopposed motion for a one-week extension of time for filing dispositive motions is GRANTED. Any dispositive motions are now due on October 28, 2024.

DATED _____.

_____

The Honorable Jack R. McKenna
Superior Court Judge

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.: PROVIDENCE HEALTHY & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.: STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	Case No. 3AN-24-06001 CI

CERTIFICATE OF SERVICE

I certify that on October 21, 2024, true and correct copies of the **UNOPPOSED MOTION FOR ONE-WEEK EXTENSION OF DISPOSITIVE MOTIONS DEADLINE with ORDER** and this *Certificate of Service* were served on the following via email without error:

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/s/Kris H. Knox/
Kris H. Knox
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY,

Appellant,

v.

REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.: PROVIDENCE HEALTHY & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.: STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM,

Appellees.

Case No.: 3AN-24-06001 CI

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OCT 21 2024

3 ORDER FOR EXTENSION OF TIME

The RCA's unopposed motion for a one-week extension of time for filing dispositive motions is GRANTED. Any dispositive motions are now due on October 28, 2024.

DATED 10/22/24.

The Honorable Jack R. McKenna
Superior Court Judge

I certify that on 10/23/24 a copy of the following was mailed/emailed to each of the following at their addresses of record.

Ericson | Egan | Busa
Administrative Assistant

Brewman | Waller | Stoback | Billingslea | Ross
Parker | Glass | Clarkson | Grovier | Keithley

RECEIVED
By the Regulatory Commission of Alaska on Oct 24, 2024

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	)))))))	U-24-024

AFFIDAVIT OF JEFF WALLER IN SUPPORT OF OFFICE OF THE ATTORNEY GENERAL'S MOTION FOR EXPEDITED CONSIDERATION

STATE OF ALASKA)
) SS
THIRD JUDICIAL DISTRICT)

Jeff Waller, being duly sworn, states as follows:

1. I am the Chief Assistant Attorney General for the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section (RAPA), assigned to the above-captioned matter.

2. On October 24, 2024, RAPA filed a request to defer ruling until after hearing on RAPA's previously filed motion to dismiss.

3. The current deadline under 3 AAC 48.091 for any party to respond/oppose RAPA's motion to dismiss is currently October 30, 2024.

4. RAPA requests that the deadline to respond/oppose RAPA's motion to dismiss be changed to the last business day before hearing on the merits for this matter,

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being November 15. That deadline is later than the current deadline to respond/oppose RAPA's motion to dismiss.

5. A ruling on RAPA's Request to Defer Ruling before October 30, 2024 is needed so that the parties will know whether they have to respond/oppose RAPA's motion to dismiss by October 30 or by the last business day before hearing on the merits.

6. I contacted Counsels for AHP and Chugach and MEA regarding expedited consideration.

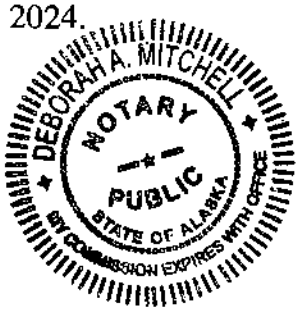
7. Counsel for AHP stated that his client did not oppose expedited consideration.

8. Counsel for Chugach and MEA conveyed that his clients oppose expedited consideration.

DATED October 24, 2024, at Anchorage, Alaska.

Jeff Waller
Chief Assistant Attorney General

SWORN AND SUBSCRIBED before me at Anchorage, Alaska, this 24th day of October, 2024.



Deborah A. Mitchell
Notary Public in and for the State of Alaska
Commission Expires: With Office

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RECEIVED
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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

OFFICE OF THE ATTORNEY GENERAL'S MOTION FOR EXPEDITED CONSIDERATION OF REQUEST TO DEFER RULING

Pursuant to 3 AAC 48.091(g) the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section (RAPA) moves for expedited consideration of RAPA's Request to Defer Ruling on Motion to Dismiss.

Expedited consideration is appropriate because RAPA's request seeks a change in the standard motion practice deadline to respond/oppose the motion to dismiss (October 30) which occurs before the deadline for response/opposition to RAPA's Request to Defer Ruling (November 4). RAPA suggests that any opposition to this motion for expedited consideration be due by noon October 29. Because of the compressed time-lines, RAPA will waive its reply to any opposition.

RAPA requests a decision by the Regulatory Commission of Alaska on RAPA's Request to Defer Ruling by close of business on October 29, 2024. A decision by that date would allow any party responding to RAPA's motion to dismiss to still make a

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timely response/opposition filing by the current October 30, 2024 deadline, if required. This motion is supported by the Affidavit of Chief Assistant Attorney General Jeff Waller.

Counsel for RAPA has addressed this motion for expedited consideration with counsel for the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP) and counsel for Chugach Electric Association, Inc., and Matanuska Electric Association, Inc. (Chugach & MEA). AHP does not oppose this motion for expedited consideration. Chugach & MEA oppose this motion.

DATED October 24, 2024, at Anchorage, Alaska.

TREG TAYLOR
ATTORNEY GENERAL

By: /s/ Jeffrey J. Waller
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CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2024, a true and correct copy of the **Office of the Attorney General's Motion for Expedited Consideration of Request to Defer Ruling** and the accompanying **Affidavit of Jeff Waller in Support of Office of the Attorney General's Motion for Expedited Consideration** was served via e-mail on the following:

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RECEIVED
By the Regulatory Commission of Alaska on Oct 24, 2024

STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

CHUCACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S JOINDER IN MOTION TO DISMISS REGARDING SURRENDER TERM

Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association ("MEA") hereby joins in the Office of Attorney General's Motion to Dismiss as Moot for the following limited purpose. The briefing ordered by the Commission in Order U-24-024(4) with respect to surrender issue will be complete on October 29 and will be ripe for decision. If the Commission finds that the surrender term required the Order 39 has a minimum term of 35 years before the Municipality's voting rights may be regained, there is no reason to continue the process (including holding a hearing) in this docket.

RESPCTFULLY SUBMITTED this 24th day of October, 2024.

By: /s/ Todd G. Glass
Todd G. Glass, Alaska Bar # 1810083
Stephanie McFall

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Attorneys for Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.

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I hereby certify that on October 24, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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By: /s/ Adam M. Fryer
Adam M. Fryer

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RECEIVED
By the Regulatory Commission of Alaska on Oct 24, 2024

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

OFFICE OF THE ATTORNEY GENERAL'S REQUEST TO DEFER RULING ON MOTION TO DISMISS

The Office of the Attorney General, Regulatory Affairs & Public Advocacy Section (RAPA) requests that the Regulatory Commission of Alaska (Commission) defer ruling on RAPA's motion to dismiss until after the conclusion of the hearing on the merits in this matter.

On October 15, 2024, RAPA filed a motion to dismiss the above-captioned matter. Pursuant to 3 AAC 48.091(d) any response/opposition to RAPA's motion would be due October 30, 2024. RAPA would have three business days to reply, making the motion ripe for decision after November 4 (two weeks before hearing).

Considering the short time-lines and compressed schedule for this matter, RAPA believes that it makes sense for the Commission to defer ruling on RAPA's motion until after conclusion of the hearing on the merits. This will provide sufficient time for the Commission to consider the motion, and for the parties and the Commission to examine

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witnesses and any relevant evidence that bears upon the issues raised in RAPA's motion to dismiss.

RAPA also proposes a change to the deadlines so that any opposition/response to RAPA's motion to dismiss shall be due no later than the last business day before the first day of hearing in this matter. As stated above, this Docket has a compressed timeline. Allowing the other parties ample time to respond to RAPA's motion will ensure that the Commission has been presented with full information and arguments before ruling on RAPA's motion. RAPA waives its right to file a reply to any opposition/response, thereby making sure that motion practice is complete before hearing.

In summary, RAPA requests the Commission defer ruling on RAPA's motion to dismiss until after the close of the hearing. RAPA also requests that the motion practice deadlines be changed so that any response/opposition to RAPA's motion is due no later than the last business day before the start of the hearing. RAPA waives its right to a reply.

The Municipality of Anchorage d/b/a Anchorage Hydropower supports this request and has signed below. Chugach Electric Association, Inc., and Matanuska Electric Association, Inc., are aware of this request and will file their response.

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DATED October 24, 2024, at Anchorage, Alaska.

TREG TAYLOR
ATTORNEY GENERAL

By: /s/ Jeffrey Waller

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KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

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CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2024, a true and correct copy of the **Office of the Attorney General's Request to Defer Ruling on Motion to Dismiss** was served via e-mail on the following:

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Law Office Assistant II

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From:	Walker, Jim L (RCA)
To:	RCA Commissioners; RCA Administrative Law; RCA Records & Filing; CED RCA Law Office Assistants (RCA sponsored); Manaois, John Paul R (RCA); Egan, Erin K (LAW); ddt@khe.com; acb@khe.com; emw@khe.com; Glass, Todd; smcfall@wsgr.com; Fryer, Adam; matthew_clarkson@chugachelectric.com; david.pease@mea.coop; tyler.clark@mea.coop; Waller, Jeffery J (LAW); Croft, JC (LAW)
Cc:	Saupe, Megan J (RCA)
Subject:	Order U-24-024(6) (AHP)
Date:	Friday, October 25, 2024 3:15:09 PM

BY ORDER OF THE COMMISSION

Order U-24-024(6)

ORDER DENYING REQUEST TO DEFER RULING AND MOTION FOR EXPEDITED CONSIDERATION OF REQUEST TO DEFER RULING

Background

At the pre-hearing conference held August 30, 2024, the Administrative Law Judge raised with the parties the issue of dismissal of the Notice and Request for Acknowledgment filed by the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP) on July 18, 2024. The basis for such dismissal was that the Notice and Request for Acknowledgment appeared to be premature under the minimum term of Eklutna Operating Committee (EOC) voting rights surrender specified in Order U-18-102(44)/U-19-020(39)/U-19-021(39) (Order U-18-102(44)). AHP stated its disagreement that the minimum term of EOC voting rights surrender was meant to apply to its Notice and Request for Acknowledgment, and the parties agreed to a briefing schedule on this issue which is documented in Order U-24-024(4).

In conformance with this briefing schedule AHP filed its initial brief on September 18, 2024; Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA) jointly filed a responsive brief on October 8, 2024; and the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA) filed a responsive brief of October 8, 2024. AHP's reply brief is due October 29, 2024.

On October 15, 2024, RAPA filed a motion to dismiss AHP's Notice and Request for Acknowledgment on the grounds that it was now moot and on the grounds that it was premature under the minimum term of EOC voting rights surrender specified in Order U-18-102(44). On October 24, 2024, Chugach and MEA filed notice of their joinder in RAPA's motion to dismiss. Under 3 AAC 48.091(d), AHP has until October 30, 2024, to file its response to RAPA's motion to dismiss. Under 3 AAC 48.091(e), RAPA can file a reply to any response up to three business days after AHP files its response. Therefore, RAPA's motion to dismiss should be ripe for our decision by November 5, 2024. A public hearing is scheduled to begin in this docket on November 18, 2024.

On October 24, 2024, RAPA filed a request to defer ruling on its motion to dismiss. In this Request, RAPA specifically requested that the time for AHP to file its response to RAPA's motion to dismiss be extended to November 15, 2024, and that we not decide the motion to dismiss until after the hearing

in this docket concludes. RAPA represented that AHP supports this request. RAPA represented that Chugach and MEA were aware of this request but had not yet responded to it. Also on October 24, 2024, RAPA filed a motion for expedited consideration of its request to defer ruling. In this motion, RAPA requested that we require any responses to its request to defer ruling be filed by noon on October 29, 2024, and that we issue an order on the request to defer ruling by no later than the close of business on October 29, 2024. RAPA represented the counsel for AHP does not oppose the motion for expedited consideration. RAPA represented that counsel for Chugach and MEA does oppose the motion for expedited consideration. RAPA supported the motion for expedited consideration with the Affidavit of Jeff Waller, dated October 24, 2024.

Discussion

In support of its request to defer ruling, RAPA asserts that this proposed deferral will provide us with time to consider the motion. RAPA also asserts that that this deferral will allow the parties and us an opportunity "to examine witnesses and any relevant evidence that bears upon the issues raised in RAPA's motion to dismiss." The parties have submitted written direct testimony in this docket by Mark A. Corsentino on behalf of AHP, responsive testimony by Eugene A. Ori on behalf of Chugach, and responsive testimony by Tony R. Zellers on behalf of MEA. We have reviewed this testimony and have not found any of the testimony or related exhibits to be relevant to the issues raised in RAPA's motion to dismiss. We recognize that AHP could introduce new witnesses on reply, but reply testimony is generally limited to the scope of responsive testimony and given the lack of responsive testimony relevant to the issues raised in the motion to dismiss it appears unlikely that reply testimony will be relevant to those issues. Thus, we see no benefit in deferring our decision on the motion to dismiss until after the hearing scheduled to begin on November 18, 2024.

We try to resolve dispositive motions as early in docketed proceedings as possible to minimize the costs incurred by the parties and us to resolve a docket. In this docket, briefing on the minimum term of EOC voting rights surrender required by Order U-18-102(44) will be fully briefed on October 29, 2024, regardless of what action we take on RAPA's request to defer ruling. AHP has not requested or justified an extension of time to file its response to RAPA's motion to dismiss. If briefing on the motion to dismiss is completed by November 4, 2024, as required under 3 AAC 48.091, we believe that we have time to reach a decision on the motion to dismiss prior to the scheduled start of the public hearing for this docket. That schedule presents the possibility that we can prevent the parties and us from incurring the costs and commitment of resources required to hold that hearing. For these reasons, we deny RAPA's request to defer ruling filed October 24, 2024.

With this decision on RAPA's request to defer ruling, RAPA's motion for expedited consideration of the request to defer ruling is moot. For this reason, we also deny the motion for expedited consideration.

ORDER

1. The *Office of the Attorney General's Request to Defer Ruling on Motion to Dismiss*, filed October 24, 2024, is denied.

2. The *Office of the Attorney General's Motion for Expedited Consideration of Request to Defer Ruling*, filed October 24, 2024, is denied.

DATED AND EFFECTIVE at Anchorage, Alaska, this 25th day of October, 2024.

BY DIRECTION OF THE COMMISSION

I electronically notified the following:

Anchorage Hydropower
Dean D. Thompson – ddt@khe.com
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Emily M. Walker – emw@khe.com

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This order can be reconsidered in its current form within the time established by regulation.

Please place a copy of this order in the formal file in this proceeding.

James L. Walker
Administrative Law Judge
Regulatory Commission of Alaska
701 W. 8th Avenue, Suite 300
Anchorage, AK 99501

Phone: (907) 263-2190
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.: PROVIDENCE HEALTHY & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.: STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	)	Case No. 3AN-24-06001 CI

**MOTION TO DISMISS OR,
IN THE ALTERNATIVE, TO STAY APPEAL**

Under Appellate Rule 203,[1] the Regulatory Commission of Alaska (RCA) moves to dismiss the Anchorage Municipal Assembly's appeal. The Assembly's appeal should be dismissed for three reasons. First, the appeal attempts to challenge RCA orders in dockets that were closed four years ago—the Assembly failed to exhaust administrative remedies in those dockets in 2020 and cannot now timely appeal those orders. Second, the core issues raised by the Assembly, both in its petition to the RCA and on appeal,

[1] Alaska R. App. P. 203 ("The appellate court may at any time entertain a motion to dismiss the appeal . . . .").

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have been mooted or resolved by Alaska Governor Mike Dunleavy's approval of the Final Fish and Wildlife Program on October 2, 2024. Third, because the Assembly lacked a direct interest in the underlying RCA proceedings, was not factually aggrieved by them, and failed to participate when the dockets were open, the Assembly lacks standing to challenge and appeal the RCA's decisions in the underlying dockets.[2]

Alternatively, the RCA requests that this appeal be stayed pending the resolution of a related RCA matter, RCA Docket U-24-024, *In the Matter of the Petition filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee.* In that matter, the Municipality of Anchorage is seeking acknowledgement by the RCA that it has acquired the expertise required for it to participate as a voting member on the Eklutna Operating Committee (EOC). That matter directly relates to the issues raised by the Assembly in this appeal. Here, the Assembly asserts that the "RCA erred when it denied the Assembly's request to modify RCA Order 39 to allow the Municipality to vote as a member of the [EOC]," and otherwise seeks to deem unlawful the RCA's May 2020 Order 39.[3] The RCA's decision in the Municipality's pending petition may fundamentally change or resolve some or all of the issues on appeal. If this appeal is not wholly dismissed, the Court should stay the appellate proceedings until RCA docket U-24-024 is resolved and all administrative and appellate remedies from that docket are exhausted.

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2 RCA Dockets U-19-020, U-19-021, and U-18-102.

3 Statement of Points on Appeal ¶¶ 4, 10-11, Apr. 24, 2024.

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I. Relevant Background[4]

In 1997, the Eklutna Hydroelectric Project was sold by the federal government to three utilities: Matanuska Electric Company, Inc. (MEA), Chugach Electric Company, Inc (Chugach), and the Municipality of Anchorage d/b/a Municipal Light and Power (ML&P). The utilities agreed to operate the project through the Eklutna Operating Committee (EOC). As part of the sale, the utilities were required to submit a proposed Fish and Wildlife Plan to the governor for final approval by October 2, 2024.

Beginning in 2019, ML&P sought approval from the RCA to sell to Chugach most of the ML&P's assets. As part of the transaction, the Municipality would retain a 53.33% ownership interest in the Eklutna Hydroelectric Project. RCA opened Dockets U-19-020, U-19-021, and U-18-102 to consider approval of the sales agreement. On May 28, 2020, the RCA issued a conditional approval of the sale (Order 39). One of the conditions of the sale was that the Municipality would surrender its voting rights on the EOC for a specified term, The Municipality's voting rights would not be restored until it could demonstrate to the satisfaction of the RCA that it had acquired the requisite expertise to participate as a voting member of the EOC. On October 30, 2020, the MOA filed a notice of surrender of its voting rights on the EOC in conformance with the RCA's condition. On the same date, Chugach filed notice that the sales transaction had closed. On December 23, 2020, the RCA closed it dockets on the matter.

[4] Factual and procedural background for this appeal can be found in RCA's April 19, 2024 Order U-10-102(52)/U-19-020(47)/U-19-021(47). Attachment A to Notice of Appeal, Apr. 24, 2024. Relevant portions will be summarized here to assist the Court in reviewing this motion.

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More than three years later, on April 15, 2024, the Assembly filed motions requesting that the RCA allow it to intervene, reopen the dockets related to the sale, and modify its May 2020 Order 39 conditionally approving the sale. In its motions, the Assembly asserted that it disagreed with a proposed Fish and Wildlife plan prepared by the EOC. The Assembly sought to regain its vote on the EOC in order to delay or prevent the transmittal of the EOC's proposed Fish and Wildlife Plan to the governor. The Assembly asserted that it should be allowed to approve the final Fish and Wildlife Program before the plan was transmitted to the governor.

On April 19, 2024, the RCA denied the Assembly's motion to reopen the dockets and modify Order 39. The RCA found that the motion was a request for reconsideration of Order 39. Under RCA regulation 3 AAC 48.105, a petition for reconsideration is due within fifteen days of the date of the order, making the Assembly's motion over three years late. The RCA denied the motion as untimely. The RCA also denied the motion to intervene as the dockets had been closed for over three years and therefore the request was moot.

The Assembly filed the current appeal on April 24, 2024.

On October 2, 2024, the governor approved the final Fish and Wildlife Program. The program incorporated requests from the Municipality, including a request to evaluate a pumped storage hydro alternative.

II. Arguments for Dismissal of Appeal

A. The appeal should be dismissed because the Assembly failed to exhaust administrative remedies and cannot now appeal a 2020 order.

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The Assembly's appeal relates back to the RCA's order from May 28, 2020 in dockets U-19-020, U-19-021, and U-18-102 (Order 39). In its Statement of Points on Appeal, the Assembly asserts that the RCA lacked jurisdiction to issue Order 39, that Order 39 violates the law, that the RCA should have modified Order 39, and that the RCA should have allowed the Assembly to intervene to pursue its challenge to Order 39.[5] The time for the Assembly to challenge Order 39 has long passed.

To the extent the Assembly now attempts to appeal the RCA's substantive rulings in Order 39, that appeal is clearly untimely. The Assembly filed its motion with the RCA to reopen dockets and to modify Order 39 on April 15, 2024—more than three years after Order 39 was issued (May 28, 2020) and the dockets were closed (December 23, 2020). The RCA does not have a procedure to reopen dockets. In fact, the RCA is required to abide by strict statutory deadlines for issuing a final order and closing a docket.[6] The Assembly's attempt to reopen a docket from 2020 runs contrary to these statutory deadlines. Due to its inability to reopen a docket that had been closed for many years, the RCA construed the Assembly's motion as a request for reconsideration of the RCA's 2020 decision approving the sale of ML&P assets to Chugach. Under RCA regulations at 3 AAC 48.105, a petition for reconsideration must filed within fifteen days of the date the order is issued. The Assembly's petition was filed several *years* beyond that deadline. Now, the Assembly asserts on appeal that Order should be modified "to allow the Municipality to vote on the EOC," that "Order 39 violates state

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5 Statement of Points on Appeal 1-3, Apr. 24, 2024.

6 AS 42.05.175.

and federal law," and that the "RCA lacked jurisdiction to enter Order 39."[7] Under Alaska Rule of Appellate Procedure 602(a)(2), an appeal may be filed from an administrative agency within thirty days from the date the decision is mailed or distributed. The Assembly's attempts to challenge Order 39 either through an RCA motion or the present appeal are untimely and should therefore be dismissed.

To the extent the Assembly attempts to appeal the RCA's procedural rulings in refusing reopen the dockets or allow intervention so that Order 39 can be modified, the Assembly failed to exhaust administrative remedies that would have been available to it had it attempted to participate in 2020. The exhaustion doctrine forecloses judicial relief "until the available administrative remedies have been exhausted."[8] In evaluating exhaustion, courts consider whether it is required, whether the complainant exhausted remedies, and whether a failure to do so is excused.[9]

The Assembly needed to exhaust administrative remedies by timely attempting to participate in the dockets in 2020, but it failed to do so. The Alaska Supreme Court has held that exhaustion of administrative remedies at the RCA is required before a party can challenge an RCA ruling because exhaustion allows the RCA to "make a factual record, apply its expertise, and to correct its own errors so as to moot judicial

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7 Statement of Points on Appeal ¶¶ 6, 10-11, Apr. 24, 2024.

8 *City of Valdez v. Regulatory Comm'n of Alaska*, 548 P.3d 1067, 1081 (Alaska 2024) (quoting *Winterrowd v. State, Dep't of Admin., Div. of Motor Vehicles*, 288 P.3d 446, 450 (Alaska 2012)).

9 *Id.*

controversies."[10] These factors weigh heavily in favor of a similar exhaustion requirement here. As the RCA explained, the Assembly could have attempted to modify Order 39 before the dockets and underlying transaction closed by moving to intervene and filing a petition for reconsideration.[11] If the Assembly had pursued that remedy at that time, the RCA "could have either found an alternative solution to the lack of managerial and technical fitness of [the Municipality] or . . . could have rejected the [ML&P–Chugach purchase agreement] entirely." That is, if the Assembly had pursued administrative remedies when they were available the RCA could have made a record, applied its expertise, and mooted this controversy.

The Assembly's failure to exhaust administrative remedies should not be excused. The time for the Assembly to attempt to intervene and participate in this matter happened years ago. In *City of Valdez v. Regulatory Commission of Alaska*, the RCA approved the transfer of the Trans-Alaska Pipeline certificate of public convenience and necessity from BP to Harvest, and after the underlying sale had already closed, the City of Valdez appealed the RCA's final order.[12] The Alaska Supreme Court held Valdez failed to exhaust administrative remedies to challenge the order.[13] Valdez never petitioned to intervene, never filed a protest, and failed to otherwise "engage meaningfully in the administrative process"—giving the RCA no "opportunity to

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[10] *Id.* at 1082 (quoting *Standard Alaska Prod. Co. v. State, Dep't of Revenue*, 773 P.2d 201, 206 (Alaska 1989)).

[11] RCA Order U-10-102(52)/U-19-020(47)/U-19-021(47) at 3 (Apr. 19, 2024), Attachment A to Notice of Appeal, Apr. 24, 2024.

[12] *City of Valdez*, 548 P.3d at 1075.

[13] *Id.* at 1084-85.

address Valdez's objections by developing a factual record, applying its expertise, or correcting any errors it may have made."[14] The Assembly's failure to act here before the closure of the ML&P–Chugach transaction is directly parallel. The Assembly failed to take any action for over three years and not until after the EOC released its draft plan for the Fish and Wildlife Program and neared transmittal to the governor. The Assembly may argue that it waited to file its motions with the RCA until the Assembly had passed ordinances purporting to prohibit the EOC from submitting the Fish and Wildlife Program to the governor without assembly approval.[15] But new ordinances do no excuse the Assembly's failure to participate before the RCA, move to intervene, seek to participate when the dockets were open—or seek timely reconsideration—to set aside Order 39 or modify it to preserve the Municipality's vote. The Assembly should not be permitted to now reopen issues that have been resolved for years. As noted in the RCA's order denying the Assembly's motions, "The relief the Anchorage Assembly seeks in these dockets will affect the substantive rights of others"—the transaction under which Chugach acquired the majority of ML&P assets has been closed for years and "Chugach has expended considerable resources incorporating those assets into Chugach's operations, that transaction can no longer be undone."[16]

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14 *Id.* at 1084-85.

15 *See* RCA Order U-10-102(52)/U-19-020(47)/U-19-021(47) at 4 (Apr. 19, 2024), Attachment A to Notice of Appeal, Apr. 24, 2024.

16 *See* RCA Order U-10-102(52)/U-19-020(47)/U-19-021(47) at 3 (Apr. 19, 2024), Attachment A to Notice of Appeal, Apr. 24, 2024.

For these reasons, the Assembly's appeal should be dismissed as untimely and for failing to exhaust administrative remedies.

B. The appeal should be dismissed as moot.

The Assembly has been clear that the original underlying motions before the RCA, and this appeal of those motions, are directed towards restoring the Municipality's voting rights on the EOC—specifically as they relate to the development of the Fish and Wildlife program—and giving the Assembly the opportunity to approve or reject the proposed Fish and Wildlife Program before it was transmitted to the governor. But Fish and Wildlife Program was sent to the governor and, on October 2, 2024, the governor approved it.[17] The Assembly's attempt to reopen the RCA docket, modify Order 39, and appeal to the superior court in order to prevent the transmittal of the Fish and Wildlife Program to the governor is now moot.

The governor's approval of the final Fish and Wildlife Program renders the Assembly's appeal moot because it ends the controversy that led to the actions before the RCA and this appeal. "A claim is moot if it is no longer a present, live controversy, and the party bringing the action would not be entitled to relief, even if it prevails."[18] The Assembly has been clear that the reason for its actions before the RCA have been

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[17] Because it is a matter of "public record," this Court can take judicial notice of the Governor's decision on the Fish and Wildlife Program. *See Pedersen v. Blythe*, 292 P.3d 182, 185 (Alaska 2012) (explaining that "matters of public record (including other court proceedings)" fall within the scope of "strict judicial notice"); *see also* Exhibit A, Governor Mike Dunleavy, In the matter of the Eklutna River Fish & Wildlife Program (Oct. 2, 2024).

[18] *City of Valdez*, 548 P.3d at 1080 (quoting *Fairbanks Fire Fighters Ass'n, Loc. 1324 v. City of Fairbanks*, 48 P.3d 1165, 1167 (Alaska 2002)).

directed at reinstating the Municipality's voting rights so that it could vote on the Fish and Wildlife Program before it goes to the governor. But the governor has received the plan, reviewed it, and with modifications, approved it. The final decision on the Fish and Wildlife Program indicates that the governor considered comments from interests outside of the EOC, including a joint resolution from the Municipality of Anchorage and the Native Village of Eklutna dated September 5, 2024. The governor accepted the request from this joint resolution to evaluate a pumped storage hydro alternative.

The result that the Assembly was seeking in these matters is now foreclosed. The RCA can neither go back in time, give the Municipality a vote on the EOC and the Assembly a veto on the Fish and Wildlife Program, and prevent the governor's decision, nor can the RCA stop the EOC's implementation of the governor-approved plan.[19] The Assembly might cite the mootness holding in *City of Valdez*, where the Alaska Supreme Court held that Valdez's challenge to RCA rulings related to the then-closed Trans–Alaska Pipeline System transfer were not moot because they included disputes over access to confidential documents that may be "relevant to Valdez's interests in future proceedings before the RCA."[20] But there are no present controversies here that could give the Assembly similar prospective relief. If the Assembly wishes to challenge or modify Order 39 to *preserve* the Municipality's voting rights on the EOC, it had to do

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[19] The governor's letter relating to the Final Fish and Wildlife Program notes that it "does not provide any party the authority to unilaterally suspend or delay implementation of the Final Program and therefore necessary the necessary work to design, permit, and construct" the infrastructure contemplated by the plan and to "evaluate" a gate system "is required to begin immediately." Exhibit A at 3.

[20] *Id.* at 1080.

that in 2020, but it failed to act—those issues are not timely and were not exhausted before the RCA when they were. If the Assembly wishes to *restore* the Municipality's voting rights by demonstrating its managerial and technical fitness, it must do that before the RCA in the separate pending matter, not by reopening the dockets here. And if the Assembly wishes to enforce ordinances that purport to *prohibit submission* of the Fish and Wildlife Program to the governor without Assembly approval, that issue is now plainly moot.

The Assembly failed to take any action for over three years and not until after the EOC released its draft plan for the Fish and Wildlife Program in April 2024. The governor's review of the plan has been moving forward since then. The issue is now resolved and this appeal should be dismissed as moot.

C. The Assembly lacks standing to challenge Order 39.

To have standing to appeal an RCA decision, a party "must (1) be directly interested in the proceeding, (2) be factually aggrieved by the decision, and (3) have participated in the proceeding."[21] The Assembly had no direct interest in the RCA's dockets below that were not already represented by the Municipality, it was not factually aggrieved by decisions that limited the Municipality's authority (not the Assembly's), and it wholly failed to participate in the dockets when they were open. The Assembly lacks standing to challenge or otherwise press for modifications of the RCA's Order 39.

[21] *City of Valdez*, 548 P.3d at 1076.

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The Assembly had no direct interest in the RCA proceeds leading to Order 39. A "direct interest" requires a showing of a "'material' interest that is 'discrete' to some party or class of parties."[22] Regardless of how material the Assembly's interest may be in the RCA's Order 39, it is by no means *discrete*. The Assembly seeks to modify Order 39 "to allow the Municipality to vote."[23] That is the Municipality's interest, not the Assembly's. And that interest was represented by the Municipality in the underlying transaction and RCA dockets—where the Municipality "filed notice of surrender of its voting rights on the EOC" and then closed its transaction with Chugach.[24] The Assembly does not have the discrete interest needed to show standing; nor can it pursue changes to Order 39 on the Municipality's behalf.[25] The sole interest that the Assembly has articulated that is arguably its own is its asserted goal of fulfilling "its role as the Municipality's policy-making body responsible for reviewing and approving the proposed Fish and Wildlife Program."[26] But as explained above, any appeal on that basis is mooted by the governor's recent decision.

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22 *Id.* at 1077.

23 Statement of Points on Appeal ¶ 4; *see also id.* at ¶¶ 6, 10-11.

24 *See* RCA Order U-10-102(52)/U-19-020(47)/U-19-021(47) at 2 (Apr. 19, 2024), Attachment A to Notice of Appeal, Apr. 24, 2024.

25 *Cf. Keller v. French*, 205 P.3d 299, 303 (Alaska 2009) (holding legislators lacked citizen-taxpayer standing to sue over investigation of governor's dismissal of commissioner when parties that were allegedly mistreated and the governor could have brought claims and did not); *Tuluksak Native Community v. Dep't of Health & Soc. Servs.*, 530 P.3d 359, 380 (Alaska 2023) (holding tribe lacked standing to raise violations of child's due process rights).

26 Statement of Points on Appeal ¶ 5.

For the same reason the Assembly has no direct interest, it is likewise not factually aggrieved by the RCA's decision. Factual aggrievement requires a "personal stake in the proceedings and an interest that was adversely affected."[27] Again, it is the Municipality's voting rights—not the Assembly's—that were removed in Order 39. The Assembly asserts that "Municipality ratepayers and taxpayers will be obligated to fund a plan and project into which their elected government has no input or ability to influence," and blames RCA Order 39 disallowing the *Municipality's* vote on the EOC.[28] The Municipality's voting rights are not the Assembly's personal stake and interest. To the extent that the Assembly argues that it had a personal stake and was aggrieved by the RCA's procedural rulings on its motions to reopen the docket and intervene, that is inapposite. The Assembly cannot acquire standing simply to challenge bare procedural rulings without a sufficient stake in the underlying merits.[29]

Finally, the Assembly did not participate in the proceedings leading to Order 39. The Assembly waited more than three years after Order 39 before it sought to intervene, reopen the dockets, and modify the proceedings. That untimely participation is not enough to provide the Assembly with standing.

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27 *City of Valdez*, 548 P.3d at 1078.

28 Statement of Points on Appeal at ¶ 6.

29 *City of Valdez*, 548 P.3d at 1076 ("Standing 'is a rule of judicial self-restraint based on the principle that courts should not resolve abstract questions or issue advisory opinions.'" (quoting *Trs. for Alaska v. State, Dep't of Nat. Res.*, 736 P.2d 324, 327 (Alaska 1987))).

III. Argument for Stay of Appeal

There is currently a pending matter before the Regulatory Commission of Alaska, RCA docket number U-24-024, that relates to substantially similar issues, including whether the Municipality's voting rights on the EOC should be restored and issues related to the governor's recent decision related to the Fish and Wildlife program.

In that RCA matter, the Municipality is seeking acknowledgement by the RCA that it has acquired the expertise required for it to participate as a voting member of the Eklutna Operating Committee (EOC), which was a condition of the RCA's Order 39 for restoration of voting rights. As that matter directly relates to the issues pending in this appeal, and the RCA's final decision may fundamentally change or resolve some or all issues on appeal, the RCA asks that if this Court declines to dismiss the Assembly's appeal that it stay the appeal until such time as the RCA issues a final decision in U-24-024 and all administrative remedies and appellate avenues are exhausted.

IV. Conclusion

For the reasons stated above, the RCA asks this Court to dismiss the Assembly's appeal. If the Court denies the motion to dismiss, the RCA alternatively requests that the appeal be stayed pending the resolution of the related matter at RCA Docket U-24-024.

DATED October 28, 2024.

TREG TAYLOR
ATTORNEY GENERAL

By: /s/ Erin K. Egan/
Erin K. Egan
Assistant Attorney General
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STATE OF ALASKA

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Dear Parties,

Thank you to the Owners for your submission on April 25, 2024, of the Proposed Final Fish and Wildlife Program (Proposed Final Program) for the Eklutna Hydropower Project (Project) and to the remaining parties for their comments and participation in developing the Proposed Final Program.

As you know, through an act of Congress, the Project was sold by the federal government to Chugach Electric Association (CEA), Matanuska Electric Association (MEA), and Anchorage

Municipal Light & Power (through the Municipality of Anchorage). As part of this transaction, the 1991 Fish and Wildlife Agreement (Agreement) laid out the process for the purchasers of the Project to fund studies to examine and quantify impacts to fish and wildlife from the Project, and to develop a proposed Final Program for the protection, mitigation, and enhancement of fish and wildlife effected by the Project and for the other Parties to offer their comments.

As Governor, my duties under the Agreement are to evaluate the Proposed Final Program, attempt to reconcile differences between the Parties to the Agreement, and establish a Final Program that "adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources."

The evaluation process requires me to give "equal consideration" to eight factors to "ensure that Eklutna [is] best adapted for power generation and other beneficial public uses." The factors are: purposes of efficient and economical power production; energy conservation; the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat); the protection of recreational opportunities; municipal water supplies; the preservation of other aspects of environmental quality; other beneficial public uses; and requirements of State law.

The Final Program established today includes my evaluation of these eight criteria and my amendments to the Proposed Final Program that attempt to reconcile differences among the Parties and the Native Village of Eklutna.

The Proposed Final Program restored year-round water flows to the Eklutna River by connecting Eklutna Lake to the existing Anchorage Water and Wastewater Utility (AWWU) infrastructure; required the Purchasers to provide funding for ongoing monitoring studies, physical habitat enhancement, and lakeside trail repairs; the creation of a Monitoring and Adaptive Management Committee (Committee); and two limited reopeners of the Program for the potential construction of a Fixed Wheel Gate to replace the existing outlet and spillway and for the potential construction of fish passage into and out of Eklutna Lake.

In accordance with my responsibilities to attempt to reconcile differences, I have adopted the Proposed Final Program with the establishment of three amendments to the Proposed Final Program:

1. I added a Governor-appointed seat to the Monitoring and Adaptative Management Committee. This allows future Governors and myself to continue our responsibility under the Agreement as the work of the Committee is ongoing in the final Program.

2. I accepted the request by federal signatories, U.S. Fish and Wildlife Service, and National Marine Fisheries Service, to modify the Proposed Final Program. The Proposed Final Program allocated up to $10 million to study and potentially construct the Fixed Wheel Gate at the Eklutna Dam. If the Fixed Wheel Gate is determined to not be structurally or economically feasible, as requested by the federal parties, the remaining funds not expended of up to $10 million will be made available to the Monitoring and Adaptive

Management Committee for additional studies or measures that protect, mitigate damage to, or enhance fish and wildlife habitat.

3. I am accepting the request by the Municipality of Anchorage and Native Village of Eklutna in their joint resolution of September 5, 2024, to evaluate the Pumped Storage Hydro alternative. However, the Agreement does not provide any party the authority to unilaterally suspend or delay implementation of the Final Program and therefore the necessary work to design, permit, and construct the connection to AWWU's infrastructure and to evaluate the Fixed Wheel Gate is required to begin immediately.

The Final Fish and Wildlife Program established today under the Agreement balances the eight factors I am required to consider, and the Program is designed to be an iterative one that will be able to adapt to changing conditions and technologies well before the process is required to repeat itself.

I want to thank the Parties, the Native Village of Eklutna, and the members of the public who helped shape this Final Program with their time, resources, input, and participation over the past five years. This is not the end of the process, and I am committed to seeing this Final Program successfully enacted. I encourage everyone to join me in working together to implement this Program without delay.

Sincerely,

Mike Dunleavy
Governor

BEFORE GOVERNOR MIKE DUNLEAVY

IN THE MATTER OF THE EKLUTNA	**:**	**DECISION**
RIVER FISH & WILDLIFE PROGRAM	**:**	**October 2, 2024**

This matter comes before the Governor pursuant to the 1991 Agreement ("Agreement") among the Municipality of Anchorage ("MOA"), Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("Matanuska") (MOA, Chugach and Matanuska are collectively referred to as "Eklutna Purchasers" or "Owners"; when discussing issues where the Owners disagree, Chugach and Matanuska will be referred to as the "Operators" and MOA will be listed separately), the United States Fish & Wildlife Service ("FWS"), The National Marine Fisheries Service ("NMFS"), the Alaska Energy Authority ("AEA") and the State of Alaska ("State") concerning the protection, mitigation of damages to, and enhancement of fish and wildlife affected by the Eklutna Hydroelectric Project ("Project") near the Native Village of Eklutna ("NVE").[1] Per the Agreement the Governor is required to establish a "final Fish and Wildlife Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources affected by the Project".[2]

I. PROJECT HISTORY

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[1] The Agreement also involved the Snettisham Hydroelectric Project, but that project is not part of this decision.

[2] Agreement, Section 5 at P. 4.

The U. S. Bureau of Reclamation built the Project in the 1950s and it was rehabilitated over time. It currently consists of a dam which is an earth and rockfill structure 815 feetlong and 41 feet high with a rectangular spillway that runs through the dam.[3] The intake structure for the Project is located 36 feet below the natural Eklutna Lake level. From there, water is diverted north into a 4.6-mile-long tunnel through Goat Mountain and then into a 1,370-foot-long penstock before reaching the powerhouse located on Old Glenn Highway. The tailrace flows under the highway and then discharges into the Knik River. The powerhouse contains two generating units.[4] Eklutna Lake, approximately seven miles long and one mile wide, is located within Chugach State Park and provides almost 90 percent of the domestic water supply for the Municipality of Anchorage. As of 2018 the Project produced 177,438 megawatt hours of clean energy, enough to power more than 24,600 residential homes for an entire year.[5]

The federal government owned and operated the project until October 1997 when it sold it to the Eklutna Purchasers and is currently owned by Chugach (30%), Matanuska (16.67%) and MOA (53.33%), however, it has been operated exclusively by Chugach and Matanuska since October 30, 2020.[6] The purchase by the Eklutna Purchasers also included a requirement that the Eklutna Purchasers enter into the Agreement with NMFS,

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3 https://eklutnahydro.com/background/.

4 Id.

5 Id.

6 MOA was required to surrender its right to operate the Project. RCA Order U-18-102(44)/U-19-020(39)/U-19-021(39). Surrender of Eklutna Operation Committee (EOC) Voting Rights dated as of October 27, 2020, and filed with the RCA in docket number U-18-102(44).

FWS, AEA, and the State (the Eklutna Purchasers, NMFS, FWS, AEA and State are collectively referred to as the "Parties[7]").

II. THE AGREEMENT

To obtain Congressional approval of the Project sale to the Eklutna Purchasers and as a substitute for federal licensing under the Federal Power Act[8] and its accompanying regulations[9], the Parties were required to enter into the Agreement to develop a fish and wildlife program that provides for the protection, mitigation of damages to, and enhancement of fish and wildlife affected by the Project.[10] The Agreement outlined a 35 year timeline to develop the fish and wildlife program. The timeline ran from the date of the sale, i.e., October 2, 1997, and initially culminates with the complete implementation of the fish and wildlife program by October 2, 2032. This process is designed to reoccur every 35 years.

A. Agreement Requirements

The Agreement set forth a comprehensive process to arrive at a final fish and wildlife plan. It required the Parties to perform the following:

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7 For purposes of this decision, Parties will also include NVE, unless stated otherwise, even though they are not an actual party to the Agreement.

8 16 U.S. C. §791a et seq.

9 18 C.F.R. 4.1 et seq.

10 The Agreement was a substitute for the requirements of the Federal Power Act and its regulations and there are no requirements in the Agreement imposing those laws on the Parties. Rather, the Agreement specifically spells out all requirements the Parties must follow to develop a fish and wildlife program.

a. Purchasers to fund and perform studies in consultation with the other Parties and other State of Alaska agencies to "examine, and quantify, if possible, the impacts to fish and wildlife from the Project and to develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the Project."[11]

b. Purchasers develop a draft program, the remaining Parties and other interested persons comment on the draft program, and the Purchasers reply to the comments, with all comments and the replies to be made part of the public record.[12]

c. Preparation of draft summary of the study results and a draft Fish and Wildlife Program by Purchasers.[13] Purchasers to hold public meetings and receive public comments on the program.[14]

d. Purchasers develop a Proposed Final Fish and Wildlife Program ("Proposed Final Program"), an explanation of its reasons for the final program, and provide them and all public comments to the other Parties and the Governor.[15]

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11 Agreement, Section 2, P. 2.
12 Id. Section 3, P. 2.
13 Id. Section 4, P. 3.
14 Id. Section 5, P. 3.
15 Id. Section 5, P. 4.

e. The remaining Parties prepare written comments to the Proposed Final Program and Purchasers prepare a reply. The comments and reply are provided to the Governor.[16]

f. The Governor establishes a Final Fish and Wildlife Program.[17]

g. The Agreement requires the Owners to implement the final Program within 30 years of the transaction date and for the Governor to approve the Final Fish and Wildlife Program three years prior to commencement of the implementation of the Program.[18]

III. PROPOSED FINAL PROGRAM AND PARTIES' COMMENTS[19]

The Proposed Final Program was provided to the Parties and the Governor on April 25, 2024. The Proposed Final Program can be summarized as follows[20]:

1. Proposed Final Program

a. Construction of a new valve and release structure ("Eklutna River Release Facility") located adjacent to the existing Anchorage Water and Wastewater Utility ("AWWU") portal valve to restore year-round water

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16 Id. Section 5, P. 4.

17 Id.

18 Id. Section 7, P. 4-5. The transaction date is October 2, 1997, which is the date of the sale of the Eklutna Project to the Owners. Program implementation must therefore begin by October 2, 2027, and the Governor's approved final Plan must be issued by October 2, 2024, i.e., three years prior to the commencement of Plan implementation.

19 AEA did not provide comments to the Final Proposed Fish and Wildlife Program. NVE did provide comments even though it was not a party to the Agreement. I will consider those comments as part of this decision.

20 The Final Proposed Fish and Wildlife Program is attached hereto as Appendix "A".

flow to the Eklutna River ("River") one mile downstream from the Eklutna Dam;[21]

1. The Eklutna River Release Facility is projected to provide year-round water flow to the River one mile below the dam at rates of 27 cubic feet per second to 40 cubic feet per second;[22]
2. The Eklutna River Release Facility is designed to increase available spawning habitat for chinook, coho, pink and chum salmon;

b. Automation of the existing outlet gate at the base of the spillway at the Eklutna Dam for remote operation;[23]

c. Development of a channel maintenance flow regime to support fish habitat over the long term;[24]

d. Construction of eight new bridges for Anchorage Water and Wastewater Utility (AWWU) at each existing ford crossing to be designed and built to withstand the projected flows;[25]

e. One-time payment of $234,000 for lakeside trail repairs;[26]

f. Monitoring and Adaptive Management Plan;[27]

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21 Proposed Final Fish and Wildlife Program, Section 2.1.1 at P. 4-5.
22 Id. at Section 2.1.2 at P. 6-7. And
23 Id. Section 2.2.1 at P. 7.
24 Id. Section 2.2.2 at Pp. 8-10.
25 Id. Section 2.5 at P. 10.
26 Id. Section 2.4.1 at P. 11.
27 Id. Section 3.0 – 3.4 at P. 12 - 15. This plan includes the creation of a Monitoring and Adaptive Management Committee consisting of five voting members, one each from the following entities: Alaska Department of Fish and Game, Alaska Department of Natural Resources, NMFS, FWS and NVE. Id. Section 3.1 at P. 12.

g. Two limited reopeners, i.e., the study and potential construction of a fixed wheel gate to replace the existing overflow spillway and provisions to review fish passage alternatives to allow adult salmon to pass into the lake from the River and juvenile salmon to pass from the lake downstream into the River ("Limited Reopeners")[28].

2. MOA Comments

MOA raised the following issues in response to the Proposed Final Program[29]:

a. Although the prior Mayor supported the Proposed Final Program, the new Administration believed that Anchorage Assembly approval was necessary, and the prior Mayor failed to obtain it[30];

b. Requests full water restoration to the Eklutna River for the full 12 miles from the Eklutna River Dam downstream and permit fish passage to and from Eklutna Lake;

c. Removal of the limited reopeners; and

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[28] The Fixed Wheel Gate Limited Reopener does not trigger the process terms of the 1991 Agreement; the Fish Passage Limited Reopener does not alter any other components of the Final Program. Proposed Final Program, Section 4.0, Pgs. 17, 20.

[29] Letter from Mayor Susanne LaFrance to Governor Dunleavy, July 19, 2024, and accompanying AR No. 2024-218(S).

[30] Mayor LaFrance was sworn into office on July 1, 2024. David Bronson previously served as Mayor of Anchorage from July 1, 2021 – June 30, 2024. The Proposed Final Program was drafted during and completed while Mayor Bronson served as Mayor of Anchorage. Former Mayor Bronson submitted a letter of support to the Governor's office on April 26, 2024.

d. Requested a two-year extension for the purpose of studying pumped storage hydropower as a potential alternative.

3. FWS Comments

In general, FWS agreed with the Proposed Final Program, but it believed full restoration of water flow to the Eklutna River and fish passage to and from Eklutna Lake was an "important component of a long-term mitigation strategy and that the Proposed Final Program was a starting point to reconnecting the River with their phased approach." They also commented that "[n]either an engineering solution nor funding support have yet been identified that can accomplish all criteria, but we look forward to exploring opportunities to accomplish river connectivity and return an anadromous sockeye salmon run to the Eklutna River". [31]

FWS requested one modification to the Proposed Final Program. FWS requested that if the Fixed Wheel Gate is determined to not be feasible, that the $10 million in funding committed for that purpose be allocated for other protection, mitigation, and enhancement measures "to improve habitat by other means." [32]

4. NMFS Comments

NMFS raised similar issues raised by FWS but did not object to the Proposed Final Program. It concluded the "Program provides a framework to initiate the protection, mitigation and enhancement of fish and wildlife resources and will support the next

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31 Sara Boario, Regional Director, FWS, letter to Governor Dunleavy, June 24, 2024.

32 Id.

iteration of a mitigation plan."[33] NMFS had one request for a modification of the Proposed Final Plan. NMFS requested that if the Fixed Wheel Gate was determined to not be feasible or did not proceed, that either the $10 million committed for that purpose be allocated for other protection, mitigation, and enhancement measures in coordination with the Monitoring and Adaptive Management Committee, or that the NVE pump station alternative be studied.[34]

5. NVE Comments

NVE maintains the primary purpose of the Agreement was to "restore and maintain sockeye salmon that depend on free passage into and out of Eklutna Lake, their preferred spawning habitat."[35] NVE further states the Program is deficient in the following ways:

a. Failure to restore water to all 12 miles of the Eklutna River from the dam downstream at sufficient volumes to support salmon habitat;
b. Failure to permit passage of sockeye salmon to and from Eklutna Lake;
c. Low water flows only minimally enhance chinook and coho salmon habitat;
d. Jeopardizes Anchorage drinking water; and
e. Burdens ratepayers and taxpayers with excessive costs.[36]

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33 Jonathan M. Kurland, Regional Administrator, National Marine Fisheries Service, letter to Governor Dunleavy June 21, 2024. Mr. Kurland's letter acknowledges that the mitigation process is ongoing and repeats every 35 years beginning 25 years after implementation of the Final Fish and Wildlife Program has been implemented.

34 Id.

35 Aaron Leggett, Chair/President, NVE, letter to Governor Dunleavy, June 21, 2024.

36 Id.

6. Operators' Reply to Comments

The Operators replied to the comments from the other Parties and NVE and continued to maintain the Proposed Final Program was consistent with the Agreement. The Operators identified the federal Parties generally approved the Proposed Final Program with some reservations and they identified some key disagreement with MOA and NVE, including:

a. Flow regimes will enhance spawning habitat for chinook, coho, chum and pink salmon that currently exist in the Eklutna River;

b. Included a limited reopener in the Proposed Final Program for the Monitoring and Adaptive Management Committee to address fish passage to and from the Eklutna Lake in the future;

c. Operators worked with AWWU to negotiate agreements that protected the supply of drinking water to Anchorage;

d. NVE's proposed Pumped Station alternative posed higher costs and increased risks to the Project;

e. Removal of the Eklutna Dam in 10 years was not feasible due to foreseeable energy needs, inhibition of renewable energy goals, excessive replacement and removal costs, and damage to infrastructure and property downstream; and

f. The two-year delay requested by MOA for further study will thwart implementation of the Final Approved Program in the timeline required by the Agreement.[37]

7. Joint MOA/NVE Resolution for Pumped Storage Hydropower

Well after the comment period had expired and even after the deadline for Owners' reply to the comments, MOA and NVE provided the Governor and the other Parties a joint resolution recommending a new alternative, pumped storage hydropower, they believed "could result in full restoration of waterflow to the River, protection of Anchorage's drinking water source, and increased power generation, potentially with lower costs to municipal taxpayers and ratepayers".[38] MOA and NVE claim that pumped storage hydropower is used worldwide and it has the "potential to maintain and improve existing power production, meet municipal water supply needs and provide full river hydrological function and connection into and out of Eklutna Lake for fish passage". They requested the Governor require, as part of the Final Approved Program, Owners to use two years of the three year pre-implementation period in the Agreement to explore alternative infrastructure options, including pumped storage hydropower, so water could be restored to the entire Eklutna River and permit fish passage to and from the Eklutna Lake.[39] This joint resolution was virtually identical to MOA's prior request to delay the Governor's decision on a final

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37 Operators Response to Comments, July 24, 2024.
38 Anchorage Assembly and NVE Joint Resolution, No. 2024-001.
39 Id.

program, with the exception of it now identified a proposed alternative to pursue, i.e., pumped storage hydropower. The Operators did not have an opportunity to respond to this joint resolution, but it was addressed in the meeting of the Parties with the Governor's office on September 9, 2024.

IV. DISCUSSION

The Proposed Final Program and the comment period that followed ends a long public process that started with the Agreement in 1991. The most recent process started in March 2019 and included:

- Years of studies, consultations, and alternative analysis;
- Several public meetings;
- Extensive public comments;
- A draft fish and wildlife program;
- Numerous parties' comments, meetings, and discussions; and
- A Proposed Final Program.[40]

Almost all the Parties have described the process of reaching the Proposed Final Program as a negotiation.[41] As with any negotiation, participants do not always come away with

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[40] Operators Response to Comments on Proposed final Fish & Wildlife Program, July 2024 at P. 1.

[41] Transcript of Proceedings before the Governor's Office, September 9, 2024 at Pp. 26 (Operators); P. 73 (FWS); and P. 83 (NMFS). NVE although not a Party to the Agreement also commented that the process included negotiations. Id. at P. 85. MOA did not describe the process as a negotiation, but is now represented by a different administration than the one in place when the Proposed Final Program was drafted. However, see Former Mayor Bronson's letter of support to the Governor's office on April

what they want, and the end result is a resolution that neither side may be completely happy with but nevertheless agree to the terms to move the matter forward. This is certainly the case with the Proposed Final Program put forth by the Operators. The Parties have disagreements as to what should be included and how far the Final Program should go. The Parties, at the time they entered the Agreement, clearly understood that not everyone would get what it desired. The Agreement includes provisions on how to resolve those differences.

A. Governor as Final Decision Maker

1. Review Standard

The Agreement sets forth the role of the Governor in establishing a Final Program. The Governor is required to "review the Proposed Final Program, comments, testimony, summary and analysis materials, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources".[42] He is then tasked with "attempting to reconcile any differences between the Parties, giving due weight to the recommendations, expertise, and statutory responsibilities of FWS, NMFS, the State Resource Management Agencies and the Purchasers".[43] Finally, the Agreement provides:

> In order to ensure that Eklutna . . . [is] best adapted for power generation and other beneficial public uses, the Governor shall give equal consideration to the purposes of efficient and economical power production, energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), the protection of recreation opportunities, municipal water

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26, 2024, wherein he states MOA (Anchorage Hydropower) was involved in the process every step of the way.

42 Agreement at Section 5, P. 4.

43 Id.

supplies, the preservation of other aspects of environmental quality, other beneficial public uses, and requirements of State law ("Eight Factors").[44]

The Governor is then tasked with establishing the Final Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources affected by the Project.

2. Operators' Proposed Final Program and Analysis of Eight Factors

We must first evaluate the Proposed Final Program in light of the Eight Factors outlined in the Agreement.

a. Efficient and Economic Power Production and Energy Conservation - Factors One and Two

The Operators assert the Project "produces nearly six percent of the Owners' combined generation portfolio, which also amounts to roughly 25% of Chugach's renewable energy and 44% for Matanuska."[45] This power is also alleged to be the lowest cost resource for power in the Alaska Railbelt.[46] The Project also assists with power reliability for the region.[47] None of the Parties challenge these assertions. Obviously, the downside to restoring water flow to the River from a power production standpoint is the loss of the water for that production. This comes at a cost, both financial and in terms of

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44 Id.

45 Operators' Brief to Governor, September 4, 2024 at P. 4.

46 Id. citing SID at 2.2.2

47 Operators' Brief, September 4, 2024, P.p. 4-5. Operators also cite an example of how the Project assists other power production in the region. When a natural gas company experienced delivery problem, Operators were able to maximize their usage of the Project to maintain system reliability. Id. (Citing Tony Zellers, et al, letter to MOA, February 12, 2024).

power availability, which cannot be overlooked. Maximizing the Project's power output results in energy conservation by reducing natural gas usage, avoidance of diesel usage for power generation and thus lower emissions, and thus reduced costs if these other power production methods were employed.

The Operators chosen method for restoring instream water flow to the River was also based on using cost effective means to achieve the goal and consideration of the costs to the rate payer. They also rejected alternatives that shut the Project down for lengthy periods of time which would have impacted the Project's value for capacity reserves and grid reliability.[48] These facts are likewise not challenged by any Party.

b. Protection, Mitigation of Damage to, and Enhancement of Fish and Wildlife (including related spawning grounds and habitat) – Factor Three

The Proposed Final Program provides several steps for restoring water flow to the River and thus enhancing, protecting, and mitigating damage to fish and wildlife. The Program restores water flow to the River at rates between 27cfs and 40cfs throughout the year.[49] It also requires periodic channel maintenance flows up to 220cfs.[50] It rewaters 11 of the 12 miles of River at the rates noted above thus restoring water flow to the River that has not existed for years. The plan also creates a Monitoring and Adaptive Management Committee of experts to review, evaluate and modify flow regimes within a water budget to increase and enhance fish habitat. Likewise, the increased flow and enhancement of fish habitat will have a corresponding effect on other wildlife, including

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48 Id.

49 Proposed Final Fish and Wildlife Program, Section 2.1.2.

50 Id. at Section 2.2.

bear and moose populations. Operators' modeling projects increases in chinook spawning and rearing habitat by 209 and 53 percent respectively with increases for coho by 65 and 67 percent, respectively.[51] Limited Reopeners are also included, i.e., potential installation of a fixed wheel gate and fish passage in the future.

The federal Parties, NVE, and MOA correctly point out that the Proposed Final Program fails to include rewatering of the entire River and allow for fish passage to and from Eklutna Lake. NVE and MOA believe that this failure alone makes the Proposed Final Program deficient. They also challenge whether the flows proposed will result in any substantial benefit to salmon habitat. The federal Parties, although proponents of full water flow and fish passage, realize that this process is long and with technological advancements in the future, the goals can be achieved. For that reason, they did not reject the Proposed Final Program. The Agreement provides the Governor must give due weight to the recommendations, expertise, and statutory responsibilities of the Parties, including FWS and NMFS.[52] Due weight is given to the FWS and NMFS' expertise and the fact that they have not objected to proceeding with the Proposed Final Program is a very strong indicator that it meets Factor Three.

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51 SID at Section 4.10.1.

52 Agreement at Section 5, P. 4. The Agreement also permits the Governor to give due weight to the Purchasers, which includes MOA. However, MOA gave up their right to vote on operations at the Project and conceded they lacked the expertise to participate in the Project's operations, which included establishing the Proposed Final Program per the Agreement. See RCA Order U-18-102(44)/U-19-020(39)/U-19-021(39) and Surrender of Eklutna Operation Committee (EOC) Voting Rights dated as of October 27, 2020, and filed with the RCA in docket number U-18-102(44).

As stated earlier herein, fish passage is not a requirement in the Agreement, nor is restoration of complete waterflow to the River and fish passage. However, from a review of the record, it appears all parties recognize the importance of eventual complete waterflow restoration and fish passage. The difference between the Parties is focused on the methods and timeline to achieve those goals. The Proposed Final Program includes a Limited Reopener to achieve full water restoration and fish passage, understanding that as technology advances, those goals may be cost effective or technically feasible to achieve in the future.[53]

c. The Protection of Recreation Opportunities – Factor Four

Several positive impacts on recreational activities are included within the Proposed Final Program:

- Commitment of $234,000 as a match to Chugach State Park or its designee for lakeside trail repairs;
- Potential fishing in the River;
- Kayaking on the Eklutna Lake
- Hunting opportunities;
- Camping;
- Wildlife viewing; and
- Protection of the tailrace fishery.[54]

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[53] See Section IV.A.3. herein for further discussion on restoration of complete waterflow and fish passage.

[54] Operators' Brief, September 4, 2024, P.p. 8-9.

The other Parties did not address this issue in their briefs.[55] There are clear benefits and protections from the Proposed Final Program as outlined above.

d. Municipal Water Supplies – Factor Five

The Parties once again disagree on the impacts the Proposed Final Program will have on municipal water supply. Operators acknowledge they will use AWWU infrastructure to restore water flow to the River. They assert it will not negatively affect the water supply and, in some ways, enhance the water supply infrastructure. MOA and NVE on the other hand believe it will negatively affect municipal water supply. However, neither MOA nor NVE have been able to adequately detail these alleged negative effects. Once again, the Agreement permits the Governor to rely on the expertise of the Operators and give due weight to their findings.[56]

Operators maintain the Project's infrastructure and Anchorage's municipal water supply have been "inextricably linked as a matter of physical infrastructure, operations, contract, water rights, and authorizing law since the 1980s when AWWU connected its intake pipe to the Project's intake structure".[57] Operators assert they worked closely with AWWU leadership and engineers to develop legal terms and agreements by which AWWU will be comfortable with the use of AWWU infrastructure to release water into

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55 MOA makes a passing reference that the "proposed program fails to adequately advance recreational and other beneficial public uses such as fishing or taking in the beauty of a real mountain river with real water in it". MOA Brief at P. 11.

56 See also, Footnote 51.[57] Operators' Brief, September 4, 2024, P. 9.

57 Operators' Brief, September 4, 2024, P. 9.

the River.[58] AWWU and Operators have agreed on key terms for an agreement to govern the construction and use of the Eklutna River Release Facility and an agreement for the long term sharing of Eklutna Lake water rights. AWWU and Operators also negotiated three agreements to detail and govern the arrangement if the Governor approves the Proposed Final Program. Finally, Operators agreed to commit to not take any action in connection with the Fish and Wildlife Program that would compromise Anchorage's water supply, and they agreed to accept liability if they did so. Additionally, other benefits flowed to AWWU, including design approval rights, the construction of eight new bridges over Eklutna River for AWWU to maintain access to its infrastructure, new communications systems, flow meters and a new isolation valve structure for safer maintenance of their facilities, as well as other benefits. AWWU receives its water under a contract with the Eklutna Owners; the proposed term sheet according to Operators would reduce the current water supply costs by half under the new contract to replace contract expiring at end of 2025. For all these reasons, the Proposed Final Program does meet the requirements of the Agreement concerning municipal water supply.

The central issue here is not whether the water supply is protected and/or enhanced, as the evidence clearly demonstrates it is, but rather, whether the Operators and AWWU's agreements must be approved by MOA and to date that approval has not been achieved. In Resolution 2024-182(S-1), the Assembly stated "The Municipality of Anchorage does not intend to issue authorizations or provide funds or any other form of

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58 Id.

support of the Proposed Final Program or any alternative that doesn't work toward the restoration of the full length of the River…"[59]. The Operators believe they have legal avenues to pursue the agreements even if MOA withholds approval, but litigation does not move the Final Program forward, creates delay in restoring water flows to the River, and impedes implementation of the Final Program.

e. The Preservation of Other Aspects of Environmental Quality – Factor Six

The redirection of lake water to the River instead of the Project's powerhouse reduces the generation of carbon free power that will most likely be replaced by natural gas generation. However, all alternatives considered reduce the power generation from the Project. The Proposed Final Program has the smallest impact in this regard of all the alternatives considered.

f. Other Beneficial Public Uses – Factor Seven

The Operators cite restoration of salmon habitat in the River as another beneficial public use and that flows will not impact infrastructure downriver, including bridges over the River. Enhanced salmon habitat is important to the public and to NVE and its people. Protecting existing infrastructure used by the public is also a beneficial public use.

g. Requirements of State Law – Factor Eight

Numerous areas of State law are impacted by this Proposed Final Program, including permitting, safety, fish and game, natural resources to list a few. The Operators

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[59] MOA Resolution 2024-182(S-1), June 25, 2024

acknowledge the need to comply with all State laws that apply to the Proposed Final Program and their need to obtain an amendment to their certificate of authority from DNR to permit the conveyance and release of water into the River. Additionally, as operators of an electric utility, Operators also have an obligation to comply with all State laws related to utility operations.

h. MOA and NVE Proposed Alternatives

Neither MOA nor NVE have provided any analysis with respect to how their proposed alternatives consider the Eight Factors. Rather, they seem to rely on the belief that their proposed alternatives, such as dam removal or pumped storage hydro, will result in full water restoration to the River and allow for fish passage thus promoting the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat). While that is one factor that must be considered, the Governor is required to give equal consideration to all Eight Factors. They have not provided any evidence or analysis of how these proposed alternatives will impact the other seven factors. For example, there is no evidence of how these alternatives will promote the purposes of efficient and economical power production and energy conservation or impact municipal water supplies.

3. Differences Between the Parties

In addition to giving equal consideration to the Eight Factors, the Governor must also attempt to reconcile differences among the Parties. Although the Parties have generally agreed that the Proposed Final Program was arrived at through rigorous studies, public review, comment, and negotiation, two glaring differences were identified, 1)

water flow for the entire Eklutna River from the dam downstream; and 2) fish passage to and from Eklutna Lake.[60]

The Operators believe that current technology and cost are major prohibitions to obtaining full water flow throughout the River and fish passage to and from the lake at the present time. They posit that the agreement provides a mechanism to continually review these goals and as technology evolves and costs decline, the goals may be achievable, and have provided for this to be regularly evaluated by the Monitoring and Adaptive Management Committee.

FWS and NMFS believe that complete water flow and fish passage were intended as part of the Agreement, but they also indicate that the process must start somewhere and

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[60] MOA and NVE allege the process to arrive at the Operators' Final Proposed Program was flawed. MOA asserts it was denied a viable way to participate due to the fact it lost its vote as an Owner of the Project via an RCA order. However, MOA's assertion in this regard is misguided for three reasons. First, MOA voluntarily gave up its right to vote on matters affecting the operation of the Project and the 1991 Agreement. Secondly, Mayor Bronson formally acknowledged the MOA's complete participation in "every step in the process that led to the Proposed Final Program" and that MOA supported the agreement with the Proposed Final Program. See Mayor Bronson letter to Governor Dunleavy, April 26, 2024. Thirdly, the Operators assert that they and MOA conducted themselves as equals throughout the process and made all decision on the Proposed Final Program through unanimous consent. The record contains no evidence to the contrary. NVE asserts that the Operators failed to pursue alternatives that would have provided for rewatering the entire river and allowed fish passage. Operators counter that they did look at several other alternatives, including NVE's pump station alternative and dam removal, and for various reasons, including economics and other risks, it chose to proceed as outlined in the Proposed Final Program. See NVE comments, June 21, 2024 and Operators' Reply to Comments, July 2024 at Pp. 22-23.

there is time to achieve both and still comply with the Agreement's requirements.[61] They are each committed to pursuit of any alternatives that will achieve those goals.

MOA and NVE however, believe that both goals should be pursued now and absent complete River waterflow and fish passage, the Program should not be adopted. First, the Agreement does not require complete waterflow and fish passage. Had the Parties intended to make those requirements of the Program, they could have and should have so stated in the Agreement itself.[62] Rather, the Agreement outlines requirements to protect, mitigates damage to, and enhances fish and wildlife resources affected by the Project. At the time the Agreement was signed, the River did not enjoy complete waterflow nor were fish able to pass from River to lake and lake to River. As NVE acknowledges, these goals were not achievable until the lower diversion dam was removed in 2018.[63] Courts cannot add words to the contract that would impermissibly re-write that contract, nor can the Governor in this situation.[64] Simply put, the Agreement is not ambiguous. Rather, complete waterflow and fish passage can be adopted in a final

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61 ". . . the Program provides a framework to initiate the protection, mitigation and enhancement of fish and wildlife resources, and will support the next iteration of a mitigation plan". NMFS Comments to Proposed Final Fish and Wildlife Program, June 21, 2024 at P. 2. "Although the proposed Program does not immediately meet the FWS's goals of ecological connectivity . . . the Program, with commitment of all stakeholders, could be an interim step to reconnecting the river, consistent with our request for a phased approach". FWS comments on the Proposed Final Program, June 24, 2024 at P. 4.

62 *McConnell v. Pickering Lumber Corp.*, 217 F.2d 44, 47 (9th Cir. 1954) ("Appellants would have the court under the guise of construction add words to the contract which are not to be found in it. We do not understand such to be the function of the court.").

63 NVE Brief to Governor Dunleavy, September 4, 2024 at P. 7.

64 *JAE Properties, Inc. v. AMTAX Holdings 2001-XX, LLC*, __ F. Supp. Ed __, 2024 WL 538570 (USDC S. D. Cal. 2024).

program if supported by an analysis of the factors in the Agreement, but the Agreement did not mandate it.

NVE and MOA also seem to place all their emphasis on Factor Three, i.e., protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat) without providing for equal consideration of the other seven factors. The Agreement clearly and unequivocally requires the Governor to give "equal consideration" to all Eight Factors.[65] Although Factor Three is an extremely important element of this process, it cannot be viewed alone or to the detriment of the other factors. Each factor has an impact on the final program.

However, with that said, it does not mean that the Governor cannot alter or improve the Proposed Final Program. The Proposed Final Program meets the requirements of the Agreement, giving equal consideration to the Eight Factors, and provides for the protection, mitigation of damage to, and enhancement of fish and wildlife habitat. It can, however, be improved in certain ways to try to reconcile the differences between the Parties per the requirements in the Agreement.

4. Governor's Amendments to Final Proposed Program

The Proposed Final Program is established with the following amendments. Discussion on the amendments will follow this section.

Section 3.1 Committee

This section is amended as follows:

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[65] Agreement at Section 5, P. 4.

The Committee will consist of one voting representative from each of the following:

Alaska Department of Fish and Game – member appointed by the Commissioner;

Alaska Department of Natural Resources – member appointed by the Commissioner;

NMFS – member appointed by its Regional Director;

FWS – member appointed by its Regional Director;

NVE - member appointed by its Chair/President; and

Governor of Alaska – appoints one member.

The Committee will make decisions by consensus and four members shall constitute a quorum.

Section 4.1 Fixed Wheel Gate

If it is determined that the construction of the fixed wheel gate is not structurally or economically feasible, the Owners shall make available any remaining funds not expended of the $10,000,000.00 (up to $10,000,000.00 in April 2024 U. S. dollars)[66] for other protection, mitigation, and enhancement measures for fish and wildlife including impacted habitat loss and other effects

[66] The current estimate for that fixed wheel gate is $4 million. Operators committed up to $10 million in 2024 dollars. See Transcript of Proceedings, September 9, 2024 at P. 109.

related the Project in accordance with the terms and process previously outlined in Section 3.3.6.[67]

Section 4.0 Limited Reopeners

New Section 4.3 is added.

Section 4.3 Pumped Storage Hydropower

Pumped Storage Hydropower is added as a Limited Reopener.

The Parties are directed to study this upon terms and conditions they mutually agree to. The terms and conditions will include level of engineering, level of cost analysis, what Party or Parties will fund the study and in what amounts and any other matters the Parties find necessary to implement this Limited Reopener. The study should be consistent with studies performed for other alternatives reviewed by Operators. The Parties, assuming they agree on the above requirements, are directed to undertake the study immediately, but this study will not delay the implementation of the Governor's Approved Final Program or the review and study of the fixed wheel alternative. The results of the study will be reported to the Monitoring and Adaptive Management Committee ("Committee").

The Committee will analyze the study findings and perform the Eight Factor analysis required by the Agreement. The Committee will then provide the study findings and Eight Factor analysis to the Owners for the Owners review. If

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67 See FWS comments to the Proposed Final Program, June 24, 2024 at Pp. 4-5.

the Owners approve the study findings and Eight Factors analysis, they will provide a statement of support to the Committee and the Committee and Owners will coordinate and cooperate to obtain the Governor's approval. Governor approval of the decision to pursue Pumped Storage Hydropower is required. If the Governor approves the proposal, then the 35-year timeframe requirement to repeat the consultation process required by the Agreement will restart from the date the Governor's approval. The construction of Pumped Storage Hydropower must minimize impacts to Project operations. The Project Owners will oversee all construction activities and will support the development and operation of Pumped Storage Hydropower facilities and infrastructure. This is a limited reopener and will not reopen any other components of the Fish and Wildlife Program.

Discussion of Amendments

Amendment to 3.1

Since the Proposed Final Program provides for ongoing review through the Monitoring and Adaptive Management Committee, and it is the Governor's role under the Agreement to establish a Final Program, adding a Governor appointed seat to the Monitoring and Adaptive Management Committee allows the Governor, and future Governors, to continue to fulfill his or her role under the Agreement to establish the Final Program as the work of the committee is ongoing. The definition of a quorum is added to assist in governance and ensure the recommendations made by the committee have robust involvement from the entities represented.

Amendment to 4.1

As one of the purposes of the Agreement and Final Program is to protect, mitigate damage to, and enhance fish and wildlife habitat, ensuring the funds already set aside for the fixed wheel gate alternative are available to be used for other protection, mitigation, and enhancement measures is consistent with the intent of the Agreement in the event the fixed wheel gate is found to be infeasible. This amendment is responsive to the modification of the Proposed Final Plan requested by NMFS and FWS.

Amendment to 4.0, addition of Section 4.3

MOA and NVE have suggested that Pumped Storage Hydropower ("PSH") is a viable alternative to the Proposed Final Program. They passed a joint resolution on September 5, 2024, advocating for PSH. They claim it is a "proven energy storage solution used worldwide that provides carbon free power production, storage and grid stabilization and that it has the potential to maintain or improve power production, meet municipal water needs and provide full River hydrological function and connection into and out of Eklutna Lake for fish passage.[68] They suggested that the Governor require the Owners use the first two years of the three year implementation period to explore this option.[69]

Neither MOA nor NVE have studied this potential alternative. The Operators have reviewed it but admittedly did not get to any final conclusions on its viability, nor did they engineer or model it to see if it was economically or engineeringly feasible at this location. At the meeting with the Governor's office, MOA, NVE and Operators each

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68 MOA/NVE Joint Resolution, September 5, 2024

69 Id.

agreed that this was a potential option that could be explored.[70] However, Operators and the federal Parties do not want to delay implementation of the Final Approved Program to explore this option.

Implementation of the Final Approved Program should not be delayed or extended for an option of unknown cost and feasibility. However, if PSH is as promising as MOA and NVE indicate, there are numerous potential benefits and improvements to the Eight Factors which must be considered when evaluating this Program. As such, conducting this study, under terms agreeable to the Parties, will provide more information relevant to those factors and the potential benefit or harm to the protection, mitigation of damage to, and enhancement of fish and wildlife resources.

All other components and requirements of the Final Proposed Program are adopted herein unless otherwise amended hereby. The Owners are directed to begin implementation of the Final Approved Program as approved herein as soon as possible.

V. CONCLUSION

The Final Approved Program established today is the culmination of many years of difficult work, analysis, evaluation, discussion, and negotiation by the Parties. Each party did not get all they wanted in this Final Approved Program. However, this is a long-standing problem with no readily available easy solutions and implementation of this

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[70] Transcript of Proceedings, September 9, 2024 at Pp. 105-122. The federal parties did not take a position other than to state they are in favor of exploring options that restores full waterflow to the river and allows for fish passage. Id. at Pp. 112-113.

Final Approved Program will put the River on track towards potential full water flow and fish passage.

Mike Dunleavy
Governor
Date: 10-2-2024

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.: PROVIDENCE HEALTHY & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.: STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	)	Case No. 3AN-24-06001 CI

CERTIFICATE OF SERVICE

I certify that on October 28, 2024, true and correct copies of the **MOTION TO DISMISS OR, IN THE ALTERNATIVE, TO STAY APPEAL** and this *Certificate of Service* were served on the following via email without error:

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By the Regulatory Commission of Alaska on Oct 29, 2024

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chair
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S REPLY BRIEF REGARDING INTERPRETATION OF ORDER 39

The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") submits this reply brief regarding interpretation of language in Order U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39")[1] pertaining to the terms of the MOA's surrender of voting rights on the Eklutna Operating Committee ("EOC"). In Docket U-18-102/U-19-020/U-19-021 ("Acquisition Docket"), the Commission required that the MOA surrender its voting rights on the EOC because the Commission found that the individual who the MOA proposed to manage the remaining municipal utility in the immediate wake of Chugach's acquisition of ML&P assets ("Acquisition" or "Transaction") then-Municipal Manager William D. Falsey (an attorney), did not have the relevant background experience to participate as a member of the EOC.[2] Specifically, the Commission found that Mr. Falsey did not have the required "knowledge of the Railbelt generation and transmission system, or prudent utility practice which is the management standard specified for the MHP EOC representative in both the Eklutna PPA [power purchase agreement

[1] May 28, 2020.

[2] Order 39 at 66.

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with Chugach Electric Association, Inc. ("Chugach"] and the MEA PPA [power purchase agreement with Matanuska Electric Association, Inc. ("MEA")]."[3] On July 18, 2024, AHP filed a Notice and Request for Acknowledgement ("Request for Acknowledgment") with the Commission stating it had acquired the expertise required to participate as a voting member of the EOC when Mark Corsentino, P.E., was unanimously approved by the Anchorage Assembly to be the Utility Director of AHP on July 2, 2024.[4]

The other parties in this matter now argue that in order to address its determination that the single proposed individual was not qualified to be the MOA's EOC representative, the Commission placed a requirement on the reinstatement of voting rights that AHP could not even *present* a new EOC representative for acknowledgment by the Commission acquisition of the relevant expertise until more than *three decades* had passed (or possibly never, if the power purchase agreements ("PPAs") with Chugach and MEA are extended for the life of the project). The Office of the Attorney General, Regulatory Affairs & Public Advocacy Section ("RAPA"), Chugach, and MEA, all now take this position—contrary to their prior articulations in this docket that showed they, like AHP, interpreted Order 39 as having no such requirement. For the reasons explained below, the reasoning articulated for this changed position should be rejected. As RAPA noted in the prehearing conference, similar to an amusement park ride where the only question is whether the potential rider is tall enough to be on the ride, here, the only issue is whether Mr.

[3] *Id*. In Order 39, the Commission referred to the post-transaction electric utility owned by the MOA as Municipal Hydro Power ("MHP") and not AHP.

[4] Request for Acknowledgment.

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Corsentino is qualified to be AHP's EOC representative.[5] RAPA, Chugach, and MEA articulate no factual support or legal reason why AHP, despite being qualified now, must arbitrarily wait over three more decades in order to regain voting rights on the EOC. If the Commission panel in the Acquisition Docket had intended to require a 35-plus year forfeiture of all of the MOA's rights to participate in the management and operation of its certificated hydropower utility, it would have done so in unambiguous and unequivocal language, following additional process that would have been required as the issue of surrender was not addressed in the Acquisition Docket hearing.

DISCUSSION

I. The responsive briefing reflects changed positions from the other parties in this docket regarding interpretation of Order 39.

In the prehearing conference on August 30, 2024, Administrative Law Judge ("ALJ") Walker stated that AHP had not addressed in its initial filings "any evidence or discussion of why the Commission should set aside the minimum term of voting rights surrender required in Order 44."[6] Order U-24-024(4) articulated the Commission's "desire for briefing on the minimum term of the Eklutna Operating Committee voting rights surrender required" by Order 39.[7] As explained below and in AHP's September 18, 2024, opening brief, the language of Order 39 is clear that (1) there must be a "term" for the surrender of voting rights that must be of at least the length of the PPAs with Chugach and MEA (including any extensions); and (2) this finite term can also be curtailed if AHP makes a showing of acquisition of the required expertise to regain EOC

[5] See, e.g., August 30, 2024, Hearing Tr. at 9.

[6] August 30, 2024, Hearing Tr. at 6, lines 21-25.

[7] Order No. U-24-024(4) at 3 (September 12, 2024).

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voting rights. In other words, if before the expiration of the term, AHP showed to the Commission's satisfaction that AHP had acquired the expertise required, then the surrender would be "lifted."

In their responsive briefs on the issue, RAPA, Chugach, and MEA all admitted that prior to the prehearing conference on August 30, 2024, each had shared AHP's interpretation of the Order 39 language. Specifically, Chugach and MEA both, "admit[ted] that until ALJ Walker raised this issue in this proceeding, they had not examined this issue closely and were theoretically comfortable with an interpretation of the Surrender that if and when the MOA could demonstrate technical and managerial fitness," then at that time the MOA "would be entitled to regain its voting rights on the EOC and with respect to the Fish and Wildlife Agreement before the end of the PPA terms."[8] Further, Chugach and MEA's August 26, 2024, comments on AHP's Request for Acknowledgment unequivocally manifest an understanding by Chugach and MEA at the time that AHP voting rights could be immediately restored upon a showing that it had acquired the necessary expertise, with no mention of a "minimum term."[9] RAPA's response to AHP's Motion to Expedite this proceeding also reflected an understanding that "RAPA agrees with AHP" that "[t]he only issue in this docket is a straightforward one—whether AHP 'has shown to [the Commission's]

[8] Chugach and MEA's Joint Br. re Surrender Term at 11 (October 8, 2024). Chugach and MEA also stated that such reinstatement should, "potentially [be] with certain conditions imposed on the MOA." *Id.*

[9] Chugach and MEA Joint Initial Comments at 1. Chugach and MEA stated "we do not oppose AHP's nomination of Mr. Corsentino to become a voting member of the EOC. We will defer to the Commission's investigation of Mr. Corsentino's qualifications and whether AHP has gained sufficient expertise necessary for it to regain voting rights on the EOC pursuant to the criteria outlined in Order 39, but we reserve the right to take a position later in this proceeding."

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satisfaction that [it] has acquired the expertise required to fully participate as a voting member of the EOC."[10]

However, in its responsive briefing, RAPA conducted a 13-page (and as discussed below, incorrect) grammatical and syntax[11] analysis to determine that the rules of grammar and syntax demand nothing less than that AHP be deprived of voting rights regarding operation and management of its 53.33% ownership interest in the Eklutna Hydropower Project ("Eklutna Project") by the EOC, with no discussion of how such a requirement would be reasonable.[12] RAPA does not address any of AHP's arguments raised in its opening brief on this topic. Similarly, upon further reflection, Chugach and MEA conclude in their responsive brief that "the language in question is ambiguous and upon a plain reading, can be interpreted in at least two ways," either "as ALJ Walker has indicated," or the interpretation "that the MOA is arguing for . . . that the Surrender term has to match the minimum PPA term length per the first part of the clause," and that "the second part creates a pathway to shorten that term by AHP showing that it has acquired the expertise required to fully participate."[13] Chugach and MEA argue that in the face of ambiguous language, the context of the decision to require the surrender should be considered, as well as the public interest, and that these factors weigh in favor of a mandatory term equal to the length of the PPAs, with the surrender continuing indefinitely after the conclusion of such 35-year

[10] RAPA's Response to AHP's Motion for Expedited Consideration at 1-2, August 26, 2024.

[11] Syntax is the study of sentence structure.

[12] RAPA's Br. on Interpretation of Order 39, October 8, 2024.

[13] Chugach and MEA's Joint Br. re Surrender Term at 13-14.

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or more term, at which point the surrender may be terminated by a showing of acquisition of expertise by AHP.

As explained below, RAPA's grammatical arguments are based on incorrect application of principles of grammar and logic, and the language regarding surrender of EOC voting rights in Order 39 is not ambiguous. This is evidenced by the fact that prior to the prehearing conference, the four parties to this matter, representing three different types of interests (PPA customers, PPA seller, and RAPA, who "speak[s] for the public interest"[14]) all agreed upon the interpretation that there was no "minimum" period of time AHP had to wait before reinstatement of its voting rights. However, even if the Commission were to determine that the surrender language of Order 39 was ambiguous, the principles of interpretation as described by AHP in its opening brief, as well as described by Chugach and MEA in their responsive brief, support an interpretation of the surrender language as providing for termination of the surrender at any time by a showing that AHP has acquired the expertise required. Additionally, to the extent the Commission were to resolve the ambiguity to require a mandatory 35-plus-year surrender term, the Commission could always still choose to modify that certificate condition either *sua sponte* or at the request of AHP, and should do so here.

[14] "About the Regulatory Affairs & Public Advocacy Section," *available at* https://law.alaska.gov/department/civil/RAPA.html.

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II. RAPA's reliance on an incorrect grammar and syntax analysis is misplaced.

A. RAPA makes an unsupported and illogical conclusion based on its flawed grammar and analysis.

RAPA's attempt to discern the correct interpretation of the surrender language by parsing the grammar and syntax misses the mark. RAPA's entire analysis relies on its faulty understanding of which clause is the relevant "subordinate clause." More importantly, RAPA fails to connect its sentence diagramming exercise to any legal precedent or principles of legal interpretation, including the principles and precedent AHP discussed in its opening brief.

RAPA relies on the website "Grammarly.com" for its legal interpretation analysis of the surrender term language, which relies on the classification of "independent" and "subordinate" (dependent) clauses.[15] RAPA focuses on the below sentence from Order 39:

> This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as [AHP] has shown to our satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC.[16]

RAPA argues that Order 39 consists of (1) an independent clause (everything before the word "and") and (2) a subordinate clause (the word "and" and everything following it). RAPA correctly notes that from a sentence structure perspective, a subordinate clause[17] cannot stand on its own as

[15] RAPA's Br. on Interpretation of Order 39 at 4.

[16] Order 39 at 67.

[17] Subordinate clauses are also referred to as dependent clauses.

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an independent sentence.[18] However, as discussed below, RAPA incorrectly describes the "subordinate clause" at issue. RAPA then compounds this mistake by committing a syllogistic fallacy in concluding that because a subordinate clause cannot stand alone as a sentence or "exist without the independent clause," it "cannot overrule the requirements of the independent clause."[19] Counsel for AHP was unable to find discussion in grammar authorities referencing clauses "overruling" each other. RAPA continues its errors in logic by taking a *giant* leap to conclude that therefore, (1) the surrender of voting rights was for a term at least equal to the duration of the PPA, and (2) because the subordinate clause cannot "overrule" the independent clause, then "AHP cannot seek to have the surrender lifted until the PPAs have expired."[20] RAPA cites to nothing to support this final (il)logical leap, besides the definition of "subordinate" in Black's Law Dictionary, which does not address the use of the term "subordinate" in the grammatical context.[21]

Below, the "independent clause identified by RAPA is denoted in bold text, and the "subordinate clause" identified by RAPA is italicized:

> **This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended**, *and cannot be lifted until such time as [AHP] has shown to our satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC*.[22]

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[18] RAPA's Br. on Interpretation of Order 39 at 3. RAPA incorrectly extrapolates this statement, without reference, to state that a subordinate clause "is also subordinate to the independent clause's stated requirements."

[19] *Id.* at 5.

[20] *Id*.

[21] *Id*.

[22] Order 39 at 67 (bold and italics added).

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RAPA incorrectly characterizes the phrase beginning with the word "and" as the subordinate clause. It is not.

The sentence in question is a complex sentence, with an underlying subject-verb-verb structure.[23] The subject is "this surrender." If the sentence were to be diagrammed, the line for the first verb would have "must have" written on it, and the line for the second verb would have "cannot be lifted" written on it.[24] A subject-verb-verb structure does not in itself create two "clauses" in a sentence—it can still be a simple sentence.[25] However, the sentence in question includes at least two subordinate clauses. The first is the phrase "as those agreements may be extended," which modifies the noun "term," and is not relevant to this grammar/syntax analysis.[26] The second subordinate clause is:

> "until such time as AHP has shown to our satisfaction that AHP has acquired the expertise required to fully participate as a voting member of the EOC."

[23] *See, e.g.,* https://www.cambridge.org/us/files/5716/1800/4404/Skills_for_Effective_Writing_Level_2_Sample_Content.pdf (last accessed October 29, 2024). Cambridge University Press is the publishing division of the University of Cambridge in Cambridge. *See also* https://www.grammarly.com/blog/sentences/simple-sentence/.

[24] The verbs "must have" and "cannot be lifted" both have an auxiliary or modal verb ("must" and "cannot") that are diagrammed as part of the verb. Modal verbs are a type of auxiliary verb ("helping verbs") that express modalities such as likelihoods, permission, or ability. https://www.merriam-webster.com/dictionary/helping%20verb (last accessed October 29, 2024).

[25] Even a "simple sentence" can include a subject-verb-verb structure. https://www.cambridge.org/us/files/5716/1800/4404/Skills_for_Effective_Writing_Level_2_Sample_Content.pdf (last accessed October 29, 2024).

[26] https://www.merriam-webster.com/dictionary/subordinate%20clause (last accessed October 29, 2024).

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This subordinate clause modifies the verb "cannot be lifted."[27]

RAPA incorrectly identifies the word "and" as a "subordinating conjunction,"[28] but it is a "coordinating conjunction," used here to link the two verbs in the sentence.[29] "Coordinating conjunctions" are used to "join like elements" and to "join clauses of equal stature."[30] Therefore, RAPA identifies the wrong language as the subordinate clause. The language RAPA identifies as a subordinate clause is:

> "and cannot be lifted until such time as AHP has shown to our satisfaction that AHP has acquired the expertise required to fully participate as a voting member of the EOC."[31]

Instead, the relevant subordinate clause actually begins with the subordinating conjunction "until," and is the language "until such time as AHP has shown to our satisfaction that AHP has acquired the expertise required to fully participate as a voting member of the EOC." This clause modifies the verb "cannot be lifted." Thus, to the extent that RAPA's argument that a subordinate clause cannot "overrule" the (correct) independent clause ("This surrender must have a term . . . and cannot be lifted") would apply, then under RAPA's reasoning, the clause "until AHP has shown to our satisfaction" is legally superfluous, because the verb "cannot be lifted" embodies a

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[27] *Id*. See also footnote 24 re: modal verbs.

[28] RAPA's Br. on Interpretation of Order 39 at 4.

[29] GARNER, BRYAN. THE REDBOOK: A MANUAL ON LEGAL STYLE 178 (2006). RAPA's own internet source similarly identifies "and" as a coordinating, not subordinating, conjunction. *See* https://www.grammarly.com/blog/parts-of-speech/coordinating-conjunctions/; https://www.grammarly.com/blog/parts-of-speech/subordinating-conjunctions/ (last accessed October 29, 2024).

[30] GARNER, BRYAN. THE REDBOOK: A MANUAL ON LEGAL STYLE 178 (2006).

[31] Order 39 at 67.

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requirement that cannot be overruled by the subordinate clause. This would result in a legal interpretation from RAPA that the surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, and that the surrender cannot be lifted—ever. Clearly this is not what the Acquisition Docket panel intended.

B. A plain reading of the language in question results in an understanding that AHP need not wait decades for the surrender "term" to be completed in order to have its EOC voting rights restored.

To the extent grammar and syntax analysis provides helpful interpretative guidance as to the plain meaning of the language, it supports AHP's interpretation. Looking at the subject and the first verb of the sentence, and any related subordinate clauses: the surrender (1) must have a term. A term is a "limited or definite extent of time."[32] This term, we learn through a subordinate clause modifying the noun, must be at least equal to the PPA and MEA terms, as extended. It arguably could be longer. On to the next verb (same subject), this surrender, which will last for a "definite extent of time" (2) "cannot be lifted." However, the subordinate clause "until AHP has acquired the expertise required . . ." modifies the verb "cannot be lifted." The word "until" means "up to (the time that)"[33] or "not before a particular time or event."[34] Thus the surrender cannot be lifted before AHP shows that it has acquired the requisite expertise. But it can be lifted after that showing. So, the sentence states that (1) the surrender must have a term (of at least the length of

[32] Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/term (last accessed October 29, 2024).

[33] *Id.* https://www.merriam-webster.com/dictionary/until (last accessed October 29, 2024).

[34] Cambridge Dictionary, https://dictionary.cambridge.org/dictionary/english/until (last accessed October 29, 2024).

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the PPAs) and (2) the surrender cannot be lifted until a requisite showing of expertise.[35] What this sentence *does not* say is that the surrender cannot be lifted during the term. Nor does this sentence say that the surrender cannot be lifted until (1) the expiration of the term of the surrender *and* (2) AHP has made a showing of the requisite expertise.

This comports with a plain reading of the surrender language that the surrender should have a term that is at least as long as the PPAs, but that this term could be lifted by a showing of requisite expertise.[36] Use of the word "term" indicates a finite period, that could be even *longer* than the term of the PPAs. If this were the case, under RAPA's reading, would RAPA argue that even after the PPAs elapsed, AHP would still need to wait for the term of its surrender to make its showing of expertise? A better reading is the reading that all the parties originally held: absent a showing that AHP has acquired the expertise required, the surrender must have a term that is at least as long as the PPAs.

As discussed in AHP's opening brief, the meaning of the term "lifted" is key in interpreting the sentence.[37] The term "lift" is defined in Black's Law Dictionary as "[t]o stop or put an end to; to revoke or rescind."[38] The term "revoke" is defined as "to annul or make void by taking back or recalling; to cancel, rescind, repeal, or reverse."[39] "Rescind" means to "abrogate

[35] Another way of putting it would be that the surrender *can* be lifted with a requisite showing of expertise.

[36] *See, e.g.,* AS 01.10.040(a) ("[w]ords and phrases shall be construed according to the rules of grammar *and according to their common and approved usage*") (emphasis added).

[37] AHP Br. Regarding Interpretation of Order 39 at 13-14, September 18, 2024.

[38] Black's Law Dictionary, 12th Ed. (2024).

[39] *Id.*

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or cancel (a contract) unilaterally or by agreement," or "[t]o make void; to repeal or annul."[40] All of these definitions denote cutting something short, which would not be necessary language to use if the surrender term needed to be over before a showing of acquisition of expertise were allowed.

This interpretation is consistent with the way in which the Commission has typically used the term "lift" in prior orders referencing termination of conditions that had terms that had not yet expired. For instance, in Docket U-97-120, the Commission issued a stay that was to "remain in effect until the Federal Communications Commission (FCC) issues a final decision."[41] The Commission later lifted the stay despite the FCC not having issued a ruling,[42] after a determination that the stay should be "lifted" before the termination event (FCC ruling) in order to "balance the needs of all entities affected" and upon consideration of a new factor.[43] In that matter, unlike here, there had not even been a statement in the initial order outlining the conditions upon which the stay could be lifted before the end of the term of the stay, yet the Commission found it had authority to lift (e.g., end before the termination date) the stay nevertheless.

If the Commission panel in the Acquisition Docket had taken the unusual step of requiring a surrender of management of a certificated utility for a period that at a *minimum* would last decades, and could last the life of the utility, it would have done so clearly. If the panel *had*

[40] *Id*.

[41] Order No. U-97-120(5) at 1 (Aug. 1, 2003).

[42] Order No. U-03-049(5) at 8 (Apr. 28, 2004).

[43] *Id.* at 8-9. *See also*, Order No. R-03-007(7) at 2-3 (June 24, 2004) (where the Commission issued a stay pending a review of the FCC's Triennial Review Order, the Commission temporarily lifted the stay to review and accept a stipulation before reinstituting the stay).

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intended to require *both* the expiration of the surrender term *and* a showing of acquisition of expertise, it would have included the term requirement *after* the word "until" in the relevant subordinate clause. For instance, the language of Order 39 would have said:

> ". . . and [the surrender] cannot be lifted until (1) the expiration of the surrender term and (2) AHP has shown to our satisfaction . . . ."

A plain language reading of the sentence in question, including consideration of grammar and syntax, results in AHP's interpretation of the surrender language, not RAPA's. If the Acquisition Docket panel had intended to create a requirement that would impact the ability of the Anchorage municipality to manage its majority ownership interest and property right in the Eklutna Project for over 35 years, it would have been crystal clear and express in doing so. As described below in Section III(B), due process would have demanded nothing less.

C. RAPA's remaining arguments are merely attempts to refute strawman arguments that AHP has not made.

RAPA's remaining arguments fail because they are all premised on its incorrect grammar and syntax argument, they attack strawman arguments that AHP did not make, and are irrelevant regardless. For instance, RAPA argues that AHP has not shown that the Chugach and MEA PPA language "override the requirements of Order 39."[44] But AHP never argued that the PPAs *did* override the language of Order 39. AHP argued that the fact that the Commission did not disapprove or otherwise order the removal of the language in the PPAs regarding AHP's role on the EOC and obligations under the two agreements related to that role shows that the Commission did not intend for Order 39 to prohibit the MOA from reinstituting EOC voting rights

[44] RAPA Br. on Interpretation of Order 39 at 10.

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until *after* the term of the PPAs. If the Commission intended the surrender to irrevocably last for the duration of the PPAs, the Commission would have conditioned its approval of the PPAs on the removal of that language or included an explicit disapproval of the language as it did for disapproved contractual provisions elsewhere in Order 39.[45] RAPA makes no attempt to square its analysis that the language of Section 4.2(B) of the PPAs would be void with the failure of the Commission to explicitly disapprove the language, even after it make a detailed inquiry about the language in the MEA PPA approval docket.[46]

RAPA also places reliance on the fact that the PPAs do not reference a requirement to have knowledge of the Railbelt electric generation and transmission system, but that AHP admits that requirement is a condition for reinstatement of voting rights. AHP does not disagree, but that fact is irrelevant to an analysis of the language of Order 39. The requirement of knowledge of Railbelt electric generation is not an explicit contractual PPA requirement, it is an explicit requirement from the Commission in order to lift the condition on AHP's certificate.

Finally, RAPA argues that while the MEA PPA approval record includes correspondence from AHP stating clearly that there was not a conflict between Order 39 and the MEA PPA language addressing AHP's voting rights, because AHP's voting rights could be restored, that this correspondence is contradicted by correspondence from MEA in a parallel docket regarding MEA PPA approval. The correspondence from MEA does *not* admit a conflict existed between the MEA PPA and Order 39 as RAPA asserts. The Commission staff asked if

[45] *See* AHP Br. Regarding Interpretation of Order 39 at 9-14.

[46] *Id.* at 14-19.

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there was a conflict between the surrender language of Order 39 and the language in the MEA PPA that appeared to allow AHP to keep its vote on the EOC.[47] And MEA's response language merely repeats the Commission staff language, putting the word "conflict" in quotations or referring to it as a "perceived conflict."[48] MEA stated that the PPAs were entered into before Order 39 which required surrender, and that "[t]his appears to be the reason for the 'conflict' you reference."[49] MEA never stated that it understood that voting rights could not be restored for the duration of the PPAs. Instead, it noted that the same language existed in the Eklutna PPA already approved, and that if the Commission wanted to "resolve this perceived conflict, the remedy should be similar and consistent with how the RCA remedied the same conflict in the [Chugach PPA], which could include approving the MEA PPA subject to the same conditions the RCA previously imposed in [Order 39]."[50] Nothing in this language indicates that MEA "disagreed with MOA/ML&P about a potential conflict" as asserted by RAPA.[51]

Looking to Order 39, the Eklutna PPA was approved subject to various conditions, including that certain language (Amendment 1) was explicitly not approved. One of the conditions of approval of the Eklutna PPA was that "[t]his approval is subject to the condition that MHP complies with the certificate conditions set out above," including the surrender language.[52] MEA

[47] TA379-121 Oct 27, 2020 Supplemental Tariff Filing; TA525-15 Oct. 23, 2020, Supplemental Tariff Filing.

[48] TA525-15 Oct. 23, 2020, Supplemental Tariff Filing.

[49] *Id.*

[50] *Id.*

[51] RAPA Br. on Interpretation of order 39 at 10.

[52] Order 39 at 75.

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simply stated that, "MEA is agreeable to having the same vote surrender language in [Order 39] at page 67 apply to the [MEA PPA]."[53] Of course, because the surrender requirement was a certificate condition, it would apply whether or not the MEA PPA approval required it. Further, AHP could not practically have a voting member for purposes of the MEA PPA, but not the Eklutna PPA. Thus, the MEA response does not conflict with the MOA response that Section 4.2(B) of the PPAs "will be relevant if and when MHP's voting rights surrender is terminated in the future upon the necessary finding of the RCA."[54] Instead, the MEA response is completely silent on how any such surrender could be reinstated.[55] It seems MEA merely believed Commission Staff was asking MEA if the EOC voting right surrender would also apply to the MEA PPA, and MEA found such a condition reasonable (and likely obvious, as it couldn't be a one-sided surrender applicable just to Chugach). MEA did *not* state that it believed the surrender would irrevocably last the duration of the MEA PPA, rendering the language about AHP's EOC representative in the MEA PPA invalid.[56] Indeed, if MEA understood that to be the case, it would have likely suggested that the Commission could merely disapprove that provision. And MEA

[53] TA525-15 Oct. 23, 2020, Supplemental Tariff Filing.

[54] TA379-121 Oct 27, 2020 Supplemental Tariff Filing.

[55] TA525-15 Oct. 23, 2020, Supplemental Tariff Filing.

[56] Further, while RAPA cites to the severability provision in the MEA PPA to determine the case was closed, and AHP cannot regain voting rights during the terms of the PPAs under its interpretation of Order 39, it makes an incomplete reference, ignoring the language that even if it were determined that a term of the PPA is invalid, illegal or unenforceable (and thus severable), "the Parties shall negotiate in good faith to modify this PPA so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible." Order 39 at Appendix H at Section 18.17.

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itself filed comments in the present docket consistent with the understanding that voting rights could be restored before the PPA expired,[57] and admits in its brief it had not previously held the position that voting rights could not be restored during the PPA terms.[58]

RAPA concludes its argument with the determination that any conflict between the PPAs and Order 39 is resolved because the language in Order 39 controls. However, this logic brings RAPA full circle to the starting line with no conclusion, since the question the Commission has asked parties to brief is essentially, "what is the interpretation of the language of Order 39?"

RAPA's convoluted grammar-based interpretation fails. RAPA makes no attempt to refute or even address AHP's arguments in its opening brief, or examine whether RAPA's conclusion makes any logical sense in the context of Order 39, or public policy. RAPA's reliance on its grammar argument also fails to attempt to answer the question of what possible policy goal is implemented by RAPA's interpretation that a majority municipal government owner of a hydropower plant can be deprived of any say in the operational or managerial control of that plant for *at least decades,* with no articulated reason for such a lengthy mandatory deprivation.

[57] Chugach and MEA Joint Initial Comments at 1.

[58] Chugach and MEA's Joint Br. re Surrender Term at 11. To the extent RAPA argues the responses to Commission Staff about the MEA PPA conflict, and that therefore there is no "meeting of the minds" regarding that crucial term of the contract, such a serious allegation would raise the troubling question of whether the MEA PPA would be a valid contract. *Lewis v. Lewis,* 285 P.3d 273, 275 (Alaska 2012) (holding that if there is no "meeting of the minds," there is no contract).

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III. To the extent that the Commission determines that the surrender language is ambiguous, AHP agrees with Chugach and MEA that the "[c]ontext leading to Order 39 [s]urrender matters," as well as the context of the Commission's own subsequent implementation of Order 39.

To that the extent that the Commission finds ambiguity in the surrender language, AHP agrees with Chugach and MEA that the language of Order 39 should be interpreted in the context of the record leading up to the issuance of the order and surrounding the Surrender. Additionally, the context of the issuance of AHP's certificate and the Commission's approval of the MEA PPA and the subsequent understanding of the parties to the PPAs and the Eklutna Transition Agreement must be considered.

Chugach and MEA argue that the surrender language is ambiguous, and that in choosing an interpretation, the "Commission's reading of a term length requirement" should be "supported by the facts and [have] a reasonable basis in law."[59] As explained below, here, the imposition of a decades-long, unbreakable minimum term requirement for surrender is not supported by the facts and evidence in the acquisition docket, and does not has a reasonable basis in law. Conversely, the interpretation that the minimum term of the surrender can be lifted by a showing from AHP of acquisition of the expertise required to fully participate as a voting member of the EOC is supported by the Acquisition Docket record and subsequent Commission approvals, as well as by the understanding of all parties until the August 30, 2024, prehearing conference. This interpretation further has a reasonable basis in the law.

[59] Chugach and MEA's Joint Brief re Surrender Term at 16 (citing *Alaska Exchange Carriers Ass'n v. Regulatory Comm'n of Alaska*, 262 P.3d 204, 208-09 (Alaska 2011)).

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A. Alaska and federal precedent and rules of interpretation support interpreting an ambiguous order in a manner that is harmonious with the record and subsequent actions of the decisional body and parties.

1. Decisional language should be read in the context of the facts surrounding the decision.

Chugach and MEA suggest that to the extent the language is ambiguous, the Commission should interpret Order 39 in a manner that is supported by the facts of the case and that has a reasonable basis in law. This approach is supported by Alaska and federal case law on how one court should interpret another court's decisions. While here, the Commission is interpreting its own order, that order is a complicated and lengthy one (the decision *without* its appendixes is 152 pages) that was issued over four years ago. Three out of the four Commissioners on the panel for the decision have since left the Commission. Thus, to the extent the Commission determines the surrender language in Order 39 is ambiguous, the panel in the present matter is arguably similar to a court reviewing another court's decision.

The Alaska Supreme Court has held that, "[j]udgments are to be given that interpretation which will render them reasonable, effective, conclusive and in harmony with the facts and law of the case."[60] The Alaska Supreme Court has also considered post-trial evidence in interpreting judgments pursuant to this standard.[61] Similarly, the Ninth Circuit has found that,

[60] *Pennington v. Employer's Liab. Assur. Corp*., 520 P.2d 96, 97 (Alaska 1974); *Luckart v. State*, 270 P.3d 816, 820 (Alaska Ct. App. 2012).

[61] *Matanuska Elec. Ass'n, Inc. v. Weissler,* 723 P.2d 600, 609–10 (Alaska 1986) (in affirming a Superior Court judgment, the Alaska Supreme Court considered an affidavit submitted with post-trial briefing in the Superior Court which provided additional information clarifying that an oral assignment of interest in the cause of action had occurred between plaintiffs before the dismissal of one of the plaintiffs).

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"[w]hen interpreting an ambiguous prior judgment, the reviewing court should 'construe a judgment so as to give effect to the intention of the issuing court.'"[62] "Where the judgment is ambiguous or fails to express the rulings with clarity, the entire record before the issuing court and the findings of fact may be referenced in determining what was decided."[63]

2. Principles of contract interpretation and statutory interpretation support this precedent.

This precedent parallels principles of statutory interpretation and interpretation of contracts. For contracts, the goal of interpretation "is to give effect to the parties' reasonable expectations . . . [which] must be gleaned not only from the contract language, but also from extrinsic evidence, including evidence of the parties' conduct, goals sought to be accomplished, and surrounding circumstances when the contract was negotiated."[64] Interpretation of contracts is typically considered a matter of law, but it "becomes a task for the trier of fact when the parties present extrinsic evidence to clarify a contract's meaning, when this evidence points towards conflicting interpretations of the contract, and when the contract itself is reasonably susceptible of either meaning."[65] Similarly, for statutory construction:

> [t]he goal of statutory construction is to give effect to the legislature's intent, with due regard for the meaning the statutory

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[62] *Muckleshoot Tribe v. Lummi Indian Tribe*, 141 F.3d 1355, 1359 (9th Cir. 1998); *see also Narramore v. United States,* 852 F.2d 485, 490 (9th Cir. 1988).

[63] *Id.* (internal citations and quotations omitted).

[64] *Zamarello v. Reges*, 321 P.3d 387, 393 (Alaska 2014) (internal quotations and citations omitted). "Typically, in resolving disputes concerning . . . an agreement, we begin by viewing the contract as a whole and the extrinsic evidence surrounding the disputed terms, in order to determine if those terms are ambiguous—that is, if they are reasonably subject to differing interpretation, and if those differing interpretations are both reasonable." *Id.*

[65] *Norville v. Carr-Gottstein Foods Co*., 84 P.3d 996, 1004 (Alaska 2004).

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> language conveys to others. We give unambiguous statutory language its ordinary and common meaning, but the 'plain meaning rule' is not an exclusionary rule; we will look to legislative history as a guide to construing a statute's words. We must, whenever possible, interpret each part or section of a statute with every other part or section, so as to create a harmonious whole. We also must presume that the legislature intended every word, sentence, or provision of a statute to have some purpose, force, and effect, and that no words or provisions are superfluous.[66]

Applying these various and similar principles of construction to the surrender language results in only one interpretation that "is supported by the facts and has a reasonable basis in law."[67] Contrary to Chugach and MEA's assertions, to the extent there is any ambiguity in Order 39's surrender language, the record of the Acquisition Docket, subsequent decisions from the Commission, understanding of the parties, and due process all support the interpretation that the term of the surrender may be "lifted" by a showing of acquisition of expertise by AHP.

B. An interpretation that the surrender can be "lifted" at any time on a showing of acquisition of expertise is the only interpretation that renders the Order 39 language "reasonable, effective, conclusive and in harmony with the facts and law of the case."[68]

1. The Acquisition Docket and Order 39 discussion supports this interpretation.

The record of the acquisition docket and the language surrounding the "surrender" language of Order 39 support the interpretation that the term of the surrender can be lifted by a

[66] *Roberge v. ASRC Constr. Holding Co*., 503 P.3d 102, 104 (Alaska 2022).

[67] Chugach and MEA's Joint Brief re Surrender Term at 16 (quoting the standard of review of decisions within an agency's technical expertise or "the determination of fundamental policies within the scope of the [agency's] statutory function," as articulated in *W. States Fire Protection Co. v. Municipality of Anchorage*, 146 P.3d 986, 989 (Alaska 2006)).

[68] *Pennington*, 520 P.2d at 97.

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showing of acquisition of expertise by AHP. First, in the hearing itself, there was *no* discussion of whether the MOA should surrender its voting rights temporarily, let alone completely relinquish them for decades. Discussion of the EOC and voting rights and the Fish and Wildlife Agreement was limited. On August 29, 2019, ALJ Walker noted that Chugach witness Dustin Highers had indicated in his prefiled direct testimony that he had served twice on the EOC. ALJ Walker then initiated the following brief exchange:

> ALJ WALKER: "[b]ased on that experience, would you say that knowledge of prudent utility practice and the railbelt electric generation and transmission system elements are essential to being a functional member of the Eklutna Operating Committee?
>
> MR. HIGHERS: Sounds reasonable.
>
> ALJ WALKER: And would knowledge of the Eklutna Hydroelectric Project transition plan and the related agreements also be essential to participating on the Eklutna Operating Committee?
>
> MR. HIGHERS: Not necessarily. The Eklutna Operating Committee, the way we've functioned, is as an operations and maintenance type of committee. Not necessarily dealing with higher-level functions like the original purchase, you know, agreements and the transition agreements and so on. It's a tool that the utilities use to -- to memorialize decisions and move forward on major projects. But it's not necessary in order to be that person that's sitting on that committee in order to make those higher level decisions[.][69]

The exchange continues with Mr. Highers responding to whether he knew anybody at the MOA who would "have the knowledge base to serve on the [EOC]" and Mr. Highers responded that the two persons he knew of would both be moving over to Chugach.[70] ALJ

[69] U-19-020 Hearing Tr. August 29, 2019, at 604-605.

[70] *Id.* at 605.

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Walker continued to ask Mr. Highers about the costs for compliance with the 1991 Fish and Wildlife Agreement, and Mr. Highers responded that he had not done any estimation of the costs.[71]

Later, ALJ Walker questioned then-municipal attorney Rebecca Windt Pearson about whether the municipality would be retaining employees from ML&P after the Transaction:

> MS. WINDT PEARSON:· The plan is not to. And I know that we have discussed what we would need to do to have the necessary advice, expertise, and personnel in order to continue to participate in the Eklutna Operating Committee. I think that we envision the stub utility being the department that reports up to the municipal manager. And that, more likely than not, we would utilize consultant services to provide that industry-specific expertise and staffing to help us make informed decisions as a continuing member of the Eklutna Operating Committee. Because we would not be retaining any employees of Municipal Light & Power.
>
> ALJ WALKER:· Have you investigated to see if any such expertise exists in the consulting community?
>
> MS. WINDT PEARSON:· We have not done so yet.[72]

This is the extent of the discussion in the record. No other party raised any issues or questions on the topic. The discussion focused on MOA retaining an employee who could serve on the EOC in the immediate aftermath of the Acquisition.

Order 39 referenced these hearing exchanges in its analysis, and noted that:

> ML&P proposes that MHP will have a seat on the EOC, even though it will have no employees. ML&P states that MHP will be managed by the Municipal Manager, a position currently filled by William D. Falsey. Falsey has a law degree from Yale Law School and a Bachelor of Science degree in physics from Stanford University. Falsey has worked as the MOA's manager since 2017 and worked in legal positions from 2003 through 2017.[73]

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[71] *Id.* at 605-606.

[72] U-19-020 Hearing Tr. at 2709.

[73] Order 39 at 66.

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Order 39 continued that "Chugach witness Dustin Highers testified based on his experience as chair of the EOC that to be an owner representative on the EOC, it was essential that the representative have knowledge of prudent utility practice and the Railbelt electric generation and transmission system."[74] The order noted that the specific individuals identified by Mr. Highers as being so qualified would be moving to Chugach with the Acquisition, and that ML&P "proposes that MHP will have a seat on the EOC, even though it will have no employees," and that "ML&P states that MHP will be managed by the Municipal Manager, currently filled by William D. Falsey."[75] The Commission then determined that "[t]here is nothing in Falsey's resume indicating that he has any knowledge of the Railbelt generation and transmission system, or prudent utility practice which is the management standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA PPA."[76] Order 39 continued to note that while the MOA stated it would hire consultants on an as-needed basis to help make informed decisions as a voting member of the EOC, that it admitted it had not confirmed if such expertise existed in the consulting community.[77]

This analysis of the immediate "circumstances" of the post-acquisition landscape is then referenced in the imposition surrender requirement condition on the MOA's Certificate of Public Convenience and Necessity ("CPCN"):

> Under *these circumstances*, we cannot unconditionally find that MHP is managerially or technically fit to maintain majority

[74] *Id*.

[75] *Id.* at 66.

[76] *Id*.

[77] *Id.* at 66-67.

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> ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[78]

The "circumstances" are simply that the Commission found Mr. Falsey an unsuitable candidate for an EOC representative once ML&P employees transitioned to Chugach. In making this determination, the Commission explicitly focused on and referenced the PPAs, stating there was no evidence that Mr. Falsey had the requisite knowledge of "prudent utility practice which is the management standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA PPA."[79] Thus, the Acquisition Docket and the language of Order 39 stressed that the qualifications requirement was important because of the requirements of Section 4.2(B) of the PPAs. This contextual language supports the interpretation that the Commission (1) found it important to keep the surrender in place for the duration of the PPAs if no qualified EOC representative was proposed, thus proposing that the surrender term must last for at least the length

[78] *Id.* at 67 (emphasis added).

[79] *Id.* at 66.

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of the PPAs, and (2) that the surrender could only be lifted once the MOA had acquired the expertise required by the PPAs. This language, focused on the PPA requirements, supports the interpretation that the surrender "term" could be lifted by a showing of acquisition of requisite expertise as required by the PPAs, that that the MOA can only make the showing it has the requisite expertise, including knowledge of "prudent utility practice *which is the management standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA* PPA" *after* the PPAs have expired.[80]

The record and language or Order 39 provide *no* evidence that the Commission was concerned about the MOA's long-term ability to manage a certificated utility such that it would impose a near-permanent prohibition on MOA participation on the EOC. The entire focus of the Commission's analysis was on whether MOA's proposed *immediate* candidate for the EOC had the requisite background and qualifications. To read the surrender as having a mandatory 35-plus year term despite AHP now having a Utility Director with the requisite expertise to serve on the EOC makes no sense in the context of the acquisition docket record and Order 39 discussion. Nothing in the record or Order 39 provides evidence or analysis that acquisition of the requisite expertise could not happen before the close of the PPAs. And if the primary reason for the requirement was the management standard articulated in the PPAs, it makes no sense to provide that the MOA could only make a showing that it met the PPA standard *after* the PPA contracts expired. In fact, if the PPAs are extended for the life of the Eklutna Project, there might *never* be an AHP EOC voting member. Further, the Commission explicitly discussed the PPA management

[80] *Id*.

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standard in its analysis, and did not indicate that Section 4.2(b) of the relevant PPAs regarding the MOA's EOC voting member were disapproved or would be rendered void by Order 39.

2. The record for the issuance of a certificate to AHP and approval of the MEA PPA also support this interpretation.

As discussed in AHP's opening brief, the related proceedings following the Acquisition Docket provide further support for the interpretation that the surrender could be lifted by a showing that AHP had acquired the expertise required to participate as a voting member of the EOC.[81] The Commission's (1) approval of the MEA PPA, with no modifications to exclude the language in Section 4.2(B), after the documented staff discussion with MOA counsel on the topic and (2) issuance of a CPCN to AHP and acceptance of the MOA's surrender of voting rights, with language that made clear the surrender could be lifted at any time by a showing of acquisition of the requisite expertise, show that in the aftermath of Order 39, the Commission also understood that the surrender could be lifted before the expiration of the surrender "term."

The filings and decision in the MEA PPA approval docket make it unequivocally clear that the reinstatement of the MOA's voting member of the EOC could occur (before the expiration of the PPAs) if the MOA meets the Commission's requirements regarding the expertise required to fully participate as a voting member of the EOC. On November 20, 2020, the Commission issued Letter Order #L2000410, approving, in its entirety, the MEA PPA (with Amendment 1), with no attempt to exclude Section 4.2(b) (discussing the MOA EOC representative) or to refute the understanding articulated in the docket filings that the "minimum term" of the surrender was subject to being "lifted" or "terminated" by a showing of the MOA

[81] AHP Br. Regarding Interpretation of Order 39 at 14-20.

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meeting the expertise requirements. It would be difficult to argue that the Commission merely committed an oversight by not disapproving Section 4.2(B) in the MEA PPA, after Commission Staff explicitly inquired in the docket whether the language of Section 4.2(B) conflicted with Order 39, and received a response from MOA which was made part of the public docket for the MEA PPA approval. MOA counsel responded:

> Like Section 4.2(B) of the Chugach Eklutna PPA, Section 4.2(B) of the MEA Eklutna PPA requires MHP, in consultation with the Purchaser, to select MHP's representative on the EOC. As a result of Order 39, MHP won't have any voting representative on the EOC *until the surrender is terminated upon a positive finding by the RCA that MHP's proposed representative is qualified. Thus, Section 4.2(B) of neither PPAs need to be amended. In addition, Section 4.2(B) should remain as written as it will be relevant if and when MHP's voting rights surrender is terminated in the future upon the necessary finding of the RCA.*"[82]

MOA counsel made it unequivocally clear that the language of Section 4.2(B) of the MEA PPA should remain because it would be relevant "if and when" voting rights were restored. If the Commission had a different understanding, this would have been its opportunity to clarify and disabuse the parties and public of this understanding. Instead, it approved the MEA PPA in its entirety as filed.

Similarly, it would be difficult to argue the Commission *repeated* this oversight when it later reviewed the language of the October 27, 2020, Surrender document (signed by all three Eklutna Project owners) and issued AHP a CPCN. The surrender stated:

> In accordance with the requirements of order U-18-102(44), the Municipality of Anchorage, dba Municipal Light & Power(ML&P), hereby surrenders its voting rights as an EOC member and under the Fish and Wildlife Agreement effective as of

[82] *Id.* (emphasis added).

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> the Closing of the Asset Purchase Agreement between ML&P and Chugach Electric Association (Chugach). *This surrender of voting rights shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC.*
>
> Until ML&P's successor complies with the qualification terms of RCA order U-18-102(44), all EOC decisions will be by unanimous vote of Chugach and Matanuska Electric Association, Inc. (MEA). Eklutna hydro operations, dispatch and maintenance will continue to follow past practices and policies unless changes are approved through the EOC process.[83]

The surrender language states reinstatement can occur when the "requirements pertaining to qualifications," are met, not also when the PPAs expire. Again, the Commission issued CPCN 780 without any statement that the surrender language was incorrect or needed to be modified.

It was clear and explicit during the approval process of the MEA PPA and the certificate issuance that Section 4.2(B) properly remained in both the MEA PPA and the Eklutna PPA because the surrender term could be terminated by a showing that AHP had acquired the expertise required to fully participate as a voting member of the EOC.

B. Thus, the reading of the surrender requirement which gives effect to all provisions of the PPA contracts and Order 39 is the reading that the surrender term could be "lifted" by a showing of requisite expertise.

Interpreting the surrender requirement as having a term which can be cut short and lifted if AHP acquires the relevant expertise is the interpretation that renders Order 39 (as well as the subsequent, related decisions), "reasonable, effective, conclusive and in harmony with the facts

[83] *Id.* (emphasis added).

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and law of the case."[84] In order to require an inviolable 35-plus year term to be required, the Commission would have needed to make findings articulating *why* such a requirement was legally necessary and supported by the evidence in the Acquisition Docket. It did not. No evidence in the record or discussion from the Commission supports this interpretation. Further, the interpretation that the surrender has no "mandatory" minimum term that cannot change with changed circumstances comports with Commission practice and precedent. It is not unusual for the Commission to put conditions on a certificate which may be "lifted" by future showings or events.[85]

Indeed, to the extent that Order 39 language regarding the surrender were "ambiguous" in the manner suggested by the parties, it raises troubling statutory and due process concerns. A final order of the Commission "denying a right or privilege" "may not be entered without giving the interested party reasonable notice and an opportunity to be heard."[86] Similarly

[84] *Pennington*, 520 P.2d at 97.

[85] In Docket U-96-040, the Commission approved ATU-LD's application for a CPCN, with conditions. Order No. U-96-040(3) at 23-27 (Nov. 15, 1996). The Commission vacated one of the conditions after finding "competition in the local exchange market of ATU has reached a sufficient level to relax the prohibition." Order No. U-96-040(5) at 4-5 (Apr. 15, 1998). The Commission reminded ATU-LD that "any further relaxation of the conditions on its certificate imposed in Order U-96-40(3) may be accomplished only through Commission Order." *Id.* at 5.ATU-LD later filed a petition to have most of the remained conditions vacated but withdrew the petition before the Commission ruled on it. The Commission noted that only one of the remaining conditions was "subject to vacation based on a finding of sufficient competition," and ATU-LD had the burden "to show that sufficient competition exists to support vacating [that condition]." Order No. U-98-082(1) at 14 (Oct. 20, 1998). The Commission also "determined that good cause exists to conduct an evidentiary hearing to allow all parties to present evidence on the issue of whether the Commission should vacate the conditions imposed on ATU-LD's certificate by Order U-96-40(3)." *Id*. at 14-15.

[86] AS 42.05.181.

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due process requirements of the state and federal constitutions require notice and an opportunity to be heard before deprivation of a property right.[87] Here, the other parties suggest that the Commission *ambiguously* placed a condition on the MOA's ability to manage its property interest in the Eklutna Project, for decades at a minimum, and the life of the project potentially, through a proceeding where there was no argument, briefing, testimony, or other discussion on the topic of surrender of voting rights during the proceeding. There was no notice or right to be heard on the issue of surrender before the decision in Order 39. If the Commission had intended to put such a permanent and inviolable condition on AHP's certificate, it would have needed to have done so *unambiguously*. Principles of due process thus also weigh in favor of a reading that puts no such permanent and unbreakable restrictions on the MOA's property interest.[88]

Chugach and MEA also focus on the principle of statutory and contract interpretation that statutes and contracts should not be interpreted in a manner that renders language superfluous in order to argue that an interpretation that the term of surrender could be lifted renders the alleged "minimum term" language superfluous.[89] First, it does not. The

[87] *Heitz v. State, Dep't of Health & Soc. Servs.*, 215 P.3d 302, 305 (Alaska 2009) (stating "'[d]ue process of law requires that before valuable property rights can be taken directly or infringed upon by governmental action, there must be notice and an opportunity to be heard"); *City of Homer v. State, Dep't of Nat. Res.*, 566 P.2d 1314, 1319 (Alaska 1977) (applying a due process analysis regarding a city's right to a city's property interests).

[88] The interpretation that there is a decades-long mandatory forfeiture, contrary to the clear understanding of MOA and the other parties as articulated in post-Transaction proceedings, also may raise issues regarding the effectiveness of the Surrender. Such an interpretation in light of the proceedings subsequent to Order 39 would also raise questions of estoppel. *Jamison v. Consolidated Utilities, Inc*., 576 P.2d 97, 101-102 (1978) (describing the elements of equitable estoppel and quasi-estoppel).

[89] Chugach and MEA Joint Br. re Surrender Term at 22.

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Commission tied the period of the surrender to the PPAs because of its focus on the PPA language regarding the MOA's EOC representative and the MOA's obligations under the PPAs regarding that language. Its language ensures that as long as the PPAs are in force, the MOA will either have surrendered its voting rights or made a showing of acquisition of expertise. The term language allows the parties to know how long the surrender would last if undisturbed by further action on the part of the MOA. To the extent the Chugach and MEA PPAs were the primary focus of the Commission's concern in Order 39 about the MOA's voting member, an inviolable surrender for the duration of the PPAs would actually render an *additional* requirement to make a showing of an acquisition of expertise to lift the surrender *after* the PPAs expired moot and pointless.

Second, Chugach and MEA ignore the fact that the interpretation they propose the Commission now adopt would render Section 4.2(B) of the PPAs superfluous, contrary to the principles of contract interpretation. Chugach and MEA also ignore that a key motivation for the qualification requirements for reinstatement was the Commission's concern that the MOA EOC representative meet the PPA requirements.

Finally, while the principles regarding statutory and contract interpretation might be a helpful one to examine in reviewing agency or court decision language, it is not a controlling principle in this context. Order 39 is a 152-page decision. Most court decisions and agency decisions will have language that might be considered superfluous upon examination four years after their issuance. The surrender term should, as Chugach and MEA suggested, be read in the way that is supported by the facts of the record and has a reasonable basis in the law. There are no facts or principles of law to support a three-plus decade surrender that cannot be terminated by a showing of requisite expertise. Nothing in the record references or supports a need to wait that

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long, and as explained below, the *post hoc* reasons Chugach and MEA propose are not supported by the record or reasonable. There is no reason for the Commission to have placed such a restriction simply because it found that the municipal manager at the time of the sale was not qualified enough to sit on the EOC, and because the MOA had not at that time hired any other permanent employee who did meet the qualifications to do so at that time. The MOA is as well positioned today as it will be 35 years from now to acquire the requisite expertise to regain voting rights on the EOC, and as stated in its request for acknowledgment, it has done so now.

C. The record of the Acquisition Docket and context leading to Order 39 provides *no* support for Chugach and MEA's *post hoc* arguments that the Commission intended to require that surrender of EOC voting rights could only be lifted at the conclusion of the PPAs.

1. Continued MOA participation on the EOC, with continued majority voting rights and resulting "veto power" was *exactly* what the parties bargained for in the Chugach and MEA PPAs.

Continued MOA participation on the EOC, pursuant to the terms of the Transition Agreement,[90] was explicitly contemplated in Section 4.2(B) of each of the PPAs. Chugach and MEA argue that the factual circumstances of the Acquisition and docket support an understanding that the surrender could not be lifted until the termination of the PPAs because otherwise, if AHP's voting rights are restored, the MOA will have veto power over decisions of Chugach and MEA with respect to the operation of the Eklutna project, "despite the facts that (1) only Chugach and MEA rely on the ongoing operation of the Project as part of their ratepayer obligations, (2) the MOA is only responsible for 19% of Project costs, and (3) both MEA and Chugach have purchase

[90] *See* Exhibit 1 to AHP's Opening Br. re Order 39 Language.

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options at the end of the PPA terms."[91] These are all concerns that are exclusive to Chugach and MEA, not the public interest. To the extent that Chugach and MEA might have had these concerns about AHP having veto power over decisions of Chugach and MEA with respect to the operation of the Eklutna project, these concerns would have all existed at the time the agreements were negotiated and before presentation to the Commission in the acquisition docket. The PPAs represent the bargained-for agreement between the MOA and Chugach and MEA, respectively. Neither Chugach nor MEA indicate that they believe they bargained for the MOA to give up its voting rights. Nothing in the record shows Chugach and MEA argued for such a requirement in the Acquisition Docket. If such a relinquishment term had been a requirement for the PPAs, the MOA likely would have required additional consideration for the concession of a decades-long relinquishment of its voting rights on the EOC for the duration of the PPAs.

Instead, the respective Sections 4.2(B) of both PPAs are unambiguous, and evince the clear understanding of all the parties to the agreements. Both agreements explicitly reference the MOA's EOC representative, and contain explicit terms and requirements regarding the MOA's EOC representative, such as the requirement that the MOA representative "shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties" under the PPAs.[92] As previously briefed by AHP,[93] the Commission explicitly referenced this language in Order 39 and subsequent proceedings, but did not disapprove or require the removal of the language in Section 4.2 of the PPAs regarding the AHP representative. This is

[91] Chugach and MEA Joint Br. re Surrender Term at 19-20.

[92] Order 39, Appendix D; Order 39, Appendix H, at Section 4.2(B).

[93] AHP Br. Regarding Interpretation of Order 39 at 10-13.

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consistent with the understanding that if AHP acquires the expertise to again fully participate on the EOC, these terms will apply to implement the parties' bargained-for agreements. To the extent that Chugach and MEA ask the Commission to now reinterpret the surrender language to provide Chugach and MEA with a more advantageous agreement than which they bargained for, this request should be rejected. To the extent that part of the interpretation of Order 39 involves interpretation of the PPA contracts, this interpretation should "give effect to the parties' reasonable expectations."[94]

Chugach and MEA's other arguments that "[a] strict PPA-term Surrender term limit reading by the Commission is clearly supported" by other aspects from the Acquisition Docket similarly fail upon an examination of the record and the subsequent decisions of the Commission related to the Acquisition.

2. The fact that AHP sells power only to Chugach and MEA provides no support for a "strict PPA-term Surrender term limit reading" of the surrender language.

Chugach and MEA argue that a "strict PPA-term Surrender term limit" is supported by the fact that AHP's CPCN authorizes it only to sell wholesale power "from the Eklutna Hydroproject Switchyard" to Chugach and MEA pursuant to the two PPAs.[95] It is unclear why Chugach and MEA believe that the fact that the CPCN (currently) "serves one purpose: to enable MOA to meet its obligations under the Eklutna PPAs for at least the next 35 years" requires

[94] *Zamarello*, 321 P.3d at 393.

[95] Chugach and MEA Joint Br. re Surrender Term at 18-19.

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relinquishment of any say in operations of its property interest. The acquisition record is similarly silent on the issue. This argument fails.

3. Whether the Eklutna PPA is "more akin to a deferred payment mechanism [for the acquisition] than a power purchase agreement" has no bearing on the importance of AHP's voting seat on the EOC.

Chugach and MEA argue that because the terms that Chugach bargained for and agreed to in its PPA provide for Chugach to be responsible for "payment of all capital expenditures and operating and maintenance expenses that are payable with respect to the Chugach Portion," of AHP power, and because Chugach's payments to AHP are not correlated with the amount of generation, that the MOA has therefore "ceded its liabilities and all of its costs associated with approximately 64% of its ownership share to Chugach."[96] Chugach and MEA argue that because of its increased responsibility for the "Chugach portion" during the PPA, the MOA's voting seat could be "determined to be less important under a deferred payment mechanism contract, rather than under a long-term PPA with typical performance obligations on the seller rather than on the offtaker."[97]

Even if this statement were true, it ignores the MOA's continued ownership responsibilities under the MEA PPA. Additionally, the MOA asks, "important to *whom*?" Perhaps Chugach and MEA believe it is less important, but the MOA does not. At a minimum, the MOA continues to be responsible for 19.05% of Eklutna Project operations, maintenance, capital, and environmental compliance costs. The MOA has a duty under its Charter to manage its certificated

[96] *Id.*

[97] *Id.*

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utility in a manner that is "in accordance with the general standards common to utilities providing the same utility service,"[98] and has a duty to the citizens of Anchorage to responsibly manage its property assets.[99] Chugach and MEA's subjective opinion on the "importance" of the MOA's voting rights on the EOC fails to support how a mandatory 35-plus year surrender of voting rights in order to obtain a CPCN has any "reasonable basis in the law" or is supported by the facts of the record. Nor is it supported by the language of Order 39. In issuing a CPCN, the Commission is concerned with the relevant standards for a CPCN, not what might be subjectively important to certain contract parties. It considers whether the "public convenience and necessity require or will require the service."[100] Conditions put on certificates therefore must be linked to public convenience and necessity, rather than micromanagement of how the Commission might prefer to arrange contractual agreements or see a utility managed. The Commission has consistently held that its role is not to second guess utility management decisions or make strategic decisions for utilities.[101]

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[98] Anchorage Municipal Charter § 16.01(a).

[99] *See, e.g.,* Article Anchorage Municipal Charter § 16.01(b); Anchorage Municipal Charter § 13.05.

[100] AS 52.05.221(a).

[101] *See, e.g.,* Order No. U-07-060(3) (finding that while MEA's decision to not to renew its power purchase agreement with Chugach "could adversely affect the cost or quality of service to customers," that the "MEA Board . . . apparently believes that this decision could instead reduce its power supply costs," and that **"[d]iffering opinions on this kind of management decision are normal and do not by themselves require or warrant a regulatory investigation**"); Order No. U-87-067(4) at 24 (Feb. 9, 1988) (stating "[n]onetheless, even though the Commission is not convinced that Chugach's proposal is the best policy, the Commission will approve the creation of the fund as a **reasonable exercise of management discretion**," and that "[t] he appropriate balance between the interest of Chugach's present and future ratepayers is best decided by Chugach's elected Board of Directors, not the Commission"); Order No. U-06-134(21) at 16 (Apr. 1, 2008) (stating that "[t]he standard of our analysis is not whether we should affirm or reject

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Chugach and MEA cite to the MOA's continued prudent operation obligations under the MEA PPA that will last the "duration of the MEA PPA" as another reason the MOA should not be allowed to reinstitute its voting rights. But this continued responsibility supports the opposite conclusion, that the Commission should allow the MOA to meet its contractual obligations by participating in the prudent operation of the Eklutna Project once it had acquired the relevant expertise during the duration of the MEA PPA.

4. There is no evidence in the record that the Commission considered the purchase option in the PPAs in establishing the surrender term.

Chugach and MEA argue that the fact that the PPAs contain purchase options for the subject portions of MOA's ownership shares for "then-book value" means that MOA will in that event have no interest or stake in the Eklutna project beyond the PPA terms. Thus, they argue,

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Chugach's plan to replace Beluga Unit 8, which is a management decision, but to ascertain whether Chugach's plan is the outcome of rigorous and disciplined economic analysis and logical construct, i.e., Chugach has not made this plan on a whim, as a means of penalizing wholesale customers with additional depreciation charges before the termination of the wholesale contract but has made **a decision that has its foundation in disciplined analysis and is supported by the actions of its Board of Directors**"); Order No. U-96-037(46) at 12-13 (March 15, 2002) (discussing how certain debt management decisions "**are best left to the expertise of the utility as long as the practices followed by the utility are within the range of reasonable management practices**"); Order No. U-85-013(11) at 12-13 (June 26, 1986) (stating that "[w] hat is clear . . . is that the alleged economies advanced by Chugach were precisely the sort anticipated by HEA management as the near term cost of pursuing an individual power production policy, that over the longer run, would be calculated to result in lower costs and other benefits for HEA ratepayers," and that "this is a **prime area of cooperative utility management discretion and the Commission has been presented with no cause to question the soundness of management's decision**"); Order No. U-81-052(28)/U-81-053(8)/U-83-010(1) at 21 (Feb. 18, 1983) (holding that "[i] n an effort to carry out this responsibility [of ensuring ratepayers are provided satisfactory service at the least possible cost, consistent with prudent and efficient management practices] judiciously and **without interposing Commission preference in place of management discretion**, the Commission expressly adopts, as modified infra, the three part standard developed by the Maine Public Service Commission in *Pollis v. New England Telephone Company* to determine whether utility management practices and services are unreasonable or inadequate") (bold emphasis added).

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a surrender lasting as long as the PPAs, that cannot be lifted, makes sense. First, Chugach and MEA (one or both) *might* not ultimately purchase the MOA's interest, in which case, the MOA will continue to have an ownership interest. Second, the MOA has an interest in participating on the EOC to ensure that prudent utility practices are continued for the duration of the PPA terms.

5. There is no evidence in the record to support Chugach and MEA's assertion that the existence of MOA's "veto" power associated with its voting rights supports a decades-long surrender.

Finally, Chugach and MEA cite again to the "veto" power that the MOA has as majority owner on the EOC. First, Chugach argues that in practice, this "veto" power was rarely exercised, as "disagreements resulting in formal votes were not common given that all parties were incented to run the project as cost effectively as possible."[102] This statement does not appear to weigh in favor of *preventing* the MOA's participation for the next three decades, as the MOA will continue to be required to make EOC voting decisions consistent with prudent utility practice—including under its own municipal charter,[103] under the enforceable terms of the PPAs regarding prudent utility practice,[104] and under its certificate. Second, Chugach and MEA argue that because only they rely on the ongoing operation of the Eklutna Project as part of their ratepayer obligations, and the MOA is only responsible for 19% of the costs, that the MOA should not have voting rights. This argument ignores that (1) the MOA continues to have a majority 53.3% ownership interest, (2) the MOA continues to be responsible for a larger percentage of costs than MEA (16.67%), and

[102] Chugach and MEA Joint Br. re Surrender Term at 19.

[103] Article XVI, Section 16.01(a) (stating that "[e]ach municipal utility shall be operated in accordance with the general standards common to utilities providing the same utility service").

[104] Section 4.2(B) of both the PPAs.

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(3) Chugach and MEA previously *agreed* to the terms of the PPAs with continued MOA voting rights, for the 35-plus year term of the PPAs. Chugach and MEA now argue that protecting themselves from their own bargained-for agreement is a "public interest" consideration under the grant of a CPCN and that the Commission should reinterpret its surrender language to prevent AHP from reinstatement of voting rights. This argument fails, as does the argument that AHP is somehow not incentivized to conduct prudent utility practice or to comply with the PPAs.

More importantly, Chugach and MEA point to *nothing* in the record that shows the Commission previously considered any of these arguments and as a result determined the surrender should last a minimum of 35 years with no ability to lift it. Chugach and MEA argue that the record shows "[t]he underlying material facts behind the surrender remain unchanged."[105] They argue that Mark Corsentino worked at Anchorage Water and Wastewater Utility ("AWWU") in his current role at the time of the acquisition as well, and attempt to argue that "[t]he only thing that has changed is that the Fish and Wildlife implementation process progressed and the Anchorage Assembly did not like Chugach and MEA's Proposed Program."[106] They note that "going forward, implementation [of the Fish and Wildlife Program] will only be a small part of the many responsibilities of the EOC."[107]

To the extent that Chugach and MEA assert that the Commission needs to make factual determinations about issues such as the relevance of Mr. Corsentino's presence at the municipality at the time of the acquisition, or what types of decisions the EOC makes or will make

[105] Chugach and MEA Joint Br. re Surrender Term at 20.

[106] *Id.*

[107] *Id.* at 21.

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in the future, such determinations cannot be made on briefing limited to the question of a legal interpretation, and would need to be made in the context of the evidentiary hearing.[108] Further, these assertions are completely irrelevant to the question of what the language of the surrender means.

6. The Commission should decline to accept Chugach and MEA's invitation to expand the scope of this briefing and this docket.

Chugach and MEA next use their brief on interpretation of the language of Order 39 to argue that if the Commission does determine that AHP does not need to wait several more decades to reinstate voting rights, then the Commission should expand the scope of this docket and expand the requirements that AHP must meet beyond the condition placed on AHP's certificate through Order 39. Chugach and MEA make various factual arguments in support of this invitation for the Commission to expand the scope of this docket. Chugach and MEA cite to their prefiled responsive testimony in support of these arguments,[109] and ask the Commission to engage in detailed decision-making about how AHP can vote if its voting rights are restored. They also ask the Commission to modify the Transition Agreement and determine what decisions the EOC can and cannot make.[110] The Commission should reject this invitation to expand the scope of this docket in order to renegotiate the PPAs at this late date. The Commission has already held that nothing raised at hearing impacts the legal issues in this briefing, noting that "given the lack

[108] Further, whether or not Mr. Corsentino was employed at AWWU at the time was irrelevant. He was not, at the time, put forward as a possible EOC voting representative.

[109] Chugach and MEA Joint Br. re Surrender Term at 23.

[110] *Id.* at 23-24.

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of responsive testimony relevant to the issues raised in the motion to dismiss it appears unlikely that reply testimony will be relevant to those issues."[111]

IV. Certificates can always be modified for good cause shown, and the Commission should do so here.

Even if the Commission were to determine that Order 39 mandated a minimum surrender term of at least 35 years that could not be lifted, CPCNs are not ossified documents set in stone. CPCNs and their conditions may be modified, "[u]pon complaint or upon its own motion," after notice and opportunity to be heard "and for good cause shown."[112] Good cause includes "the requirements of public convenience and necessity."[113] Good cause exists here because to the extent the language of Order 39 indicated a decades-long surrender of voting rights, it was ambiguous. Further, AHP has a right to participate in management of its own property, and there is no reason why it must wait three more decades to do so when it is able to present a suitable EOC representative to the Commission now. Here, the Commission could choose to construe AHP's Request for Acknowledgment as a request to modify its certificate to conform with AHP's understanding of the surrender requirement, and respectively modify procedures accordingly in this matter to ensure fairness to all parties, or AHP could simply file a new application to modify its certificate.

[111] Order No. U-24-024(6), October 25, 2024.

[112] AS 42.05.271(a).

[113] *Id.*

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CONCLUSION

For the reasons explained above, and in AHP's September 18, 2024, brief, any "minimum term" on the MOA's surrender is subject to the MOA's showing to the Commission that it has acquired the required expertise to participate as a voting member of the EOC.

RESPECTFULLY SUBMITTED this 29th day of October, 2024, at Anchorage, Alaska.

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I hereby certify that on October 29, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert A. Doyle
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	)))))	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S NOTICE OF FILING REPLY TESTIMONY

The Municipality of Anchorage ("MOA"), d/b/a/a Anchorage Hydropower ("AHP") hereby submits the prefiled reply testimony of the following witness:

1. Mark A. Corsentino, P.E.

RESPECTFULLY SUBMITTED this 29th day of October, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

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THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
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In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	)))))	U-24-024

PREFILED REPLY TESTIMONY OF MARK A. CORSENTINO, P.E.

I. INTRODUCTION

Q.1 Please state your name and title.

A.1 My name is Mark A. Corsentino, P.E., and I am the Utility Director of Anchorage Hydropower ("AHP") and the General Manager of Anchorage Water and Wastewater Utility ("AWWU"), except for matters involving both AHP and AWWU, for which Assistant General Manager David Persinger serves as Acting General Manager of AWWU, and I serve only as Utility Director of Anchorage Hydropower.

Q.2 Are you the same Mark Corsentino that prepared direct testimony in this case?

A.2 Yes.

Q.3 What is the purpose of your testimony?

A.3 The purpose of my testimony is to respond to the prefiled responsive testimony of Tony Zellers and Eugene Ori on behalf of Chugach Electric Association, Inc. ("Chugach") and

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Matanuska Electric Cooperative, Inc. ("MEA"). Specifically, I will respond to Mr. Zellers's and Mr. Ori's testimony regarding membership on the EOC, prudent utility practice, and the MOA's surrender of its voting rights on the EOC. In addition, I will provide provisional testimony regarding pumped storage hydropower ("PSH"). That provisional testimony and associated exhibits are presented for consideration only if the Commission issues a decision expanding the scope of this docket to include PSH options at the Eklutna Project.

Q.4 Will other witnesses provide reply testimony?

A.4 No.

Q.5 Please describe how your testimony is organized.

A.5 First, I will discuss the importance of Commission lifting the MOA's surrender of its voting rights. Second, I will clarify the qualifications the MOA must acquire before the Commission will lift the MOA's surrender of its voting rights. Third, I will discuss the meaning of prudent utility practice. Fourth, I will discuss the effect that the Commission's lifting of the MOA's surrender of its voting rights will have. Fifth, I will discuss the conflict of interest issue. Finally, in my "provisional" testimony, I will discuss PSH at the Eklutna Project.

II. LIFTING THE MOA'S SURRENDER OF ITS VOTING RIGHTS

Q.6 What is the MOA's interest in getting its surrender of its voting rights on the EOC lifted?

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A.6 First, the MOA wants to meaningfully participate on the EOC. The MOA is the majority owner of the Eklutna Hydroelectric Project ("Eklutna Project"). Like any owner of any property, the MOA has a legitimate interest in exercising all of the rights of ownership. Every EOC decision directly impacts the MOA's property. Moreover, although Chugach and MEA have options to purchase the Eklutna Project after the PPAs expire, there is no guarantee they will do so, and the MOA should have the power to protect its long-term interests in the Eklutna Project. For example, the MOA should have the power to protect its interests regarding a future sale of its assets, a subject regarding which Chugach and MEA have potential conflicts of interest with the MOA, since they have an incentive to minimize the ultimate sales price. Chugach and MEA should not be able to control property they do not own in such a way that could be adverse to the interests of the owner. Second, the MOA is one of Chugach's largest electric customers and relies on electric rates to be reliable and affordable. Decisions made by the EOC regarding its budget and capital expenditures directly affect the rates the MOA pays. Third, the MOA is a home rule city and has an obligation to look out for the public interest, which gives it a different perspective than Chugach and MEA. Fourth, while Chugach and MEA claim the MOA's surrender of its voting rights has resulted in less contentious decision making on the EOC because all decisions require a consensus, there are times when having a third party is necessary to avoid an impasse. On information and belief, there are matters that the EOC can and should resolve which Chugach and MEA have long put off because of the lack of any mechanism to resolve disagreements between Chugach and MEA. Finally, the EOC is responsible for implementing the Final Fish and Wildlife Program ("F&W Program"),

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which the Governor established on October 2, 2024. Implementing the F&W Program will involve important decisions affecting the F&W Project and the people of Anchorage. AHP is responsible for a portion of the costs resulting from EOC decisions about operations, maintenance, and capital investments for the F&W Program. The payments AHP receives from Chugach and MEA from the PPAs are not based in any part on AHP's actually incurred costs and it is possible the costs of the F&W Program could exceed PPA revenues, potentially impacting AHP and the MOA budget. AHP cannot increase Eklutna Project revenues to address increased costs resulting from the F&W Program. Without a vote on the EOC, AHP has no control over the costs. The MOA deserves to exercise its full voting rights on the EOC with respect to the F&W Program just as much as Chugach and MEA do.

Q.7 Prior to your approval to be the Utility of Director of AHP on June 2, 2024, what efforts did the MOA make to acquire the expertise required to fully participate as a voting member of the EOC?

A.7 The MOA publicly advertised a job posting for AHP General Manager from April 28, 2021 to May 28, 2021, which yielded 10 applicants. The MOA conducted additional recruitment efforts outside of formal job postings over the last several years, which yielded at least three candidates. Among other times, prior to February 3, 2022, the MOA consulted with Chugach and MEA prior to appointing me as its representative to the EOC. For example, there are two documents that reflect such consultation (February 3, 2022, letter from Matt Clarkson, Chugach Executive VP, General Counsel to Kolby A. Hickel, Deputy Municipal

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Manger, and Benjamin Bowman, Assistant Municipal Attorney; and February 3, 2022, e-mail from David Pease, MEA In-House Counsel, to Benjamin Bowman, Matthew Clarkson, and Todd Glass, Counsel for Chugach and MEA). Chugach and MEA have asserted attorney-client privilege for those documents.

Q.8 In his prefiled testimony, at p.8:7-10 (Q/A 12), Mr. Ori stated, "[t]he Commission therefore required that the MOA surrender its voting rights on the EOC for a term length at least equal to the terms of the related PPAs and until the MOA could attain the requisite sufficient knowledge of prudent utility practice and of the Railbelt electric system." How do you respond?

A.8 In Order U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39"), the Commission stated that MOA's surrender of its voting rights on the EOC "must have a term at least equal to the term of the [Eklutna Power Purchase Agreement ("Eklutna PPA") with Chugach] and the [MEA Power Purchase Agreement ("MEA PPA")], as those agreements may be extended, and cannot be lifted until such time as [AHP] has shown to [the Commission's] satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC."[1]

As AHP has argued in its Brief Regarding Interpretation of Order 39, filed with the Commission on September 18, 2024, my interpretation of Order 39 is that the Commission can lift the MOA's surrender and reinstate the MOA's voting rights before the terms of the Eklutna PPA and MEA PPA expire, so long as the MOA and AHP show AHP has acquired

[1] Order 39 at 67 (May 28, 2020) (emphasis added).

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the expertise required to fully participate as a voting member of the EOC to the Commission's satisfaction. I do not believe Order 39 barred the MOA from regaining its voting rights on the EOC until after the Eklutna PPA and MEA PPA expire, regardless of whether AHP has acquired the necessary expertise.

Q.9 In his prefiled testimony, at pp. 15:19 – 16:1 (Q/A 26), Mr. Zellers stated, "We read the Commission's surrender requirements in Order 39 as a fundamental requirement that the MOA should only regain its voting rights with respect to the EOC, implementation of the 1991 Agreement, and operations and maintenance of the Eklutna Project when and only when the MOA demonstrates its representatives will act in a manner consistent with prudent utility practices and with due respect for how the Eklutna Project plays a key role in the generation, transmission, and overall reliability of the Railbelt."

A.9 Mr. Zellers misstates what the Commission has stated it requires from the AHP owner representative in order for the MOA's surrender of its voting rights to be lifted. In Order 39, the Commission identified two characteristics that AHP's owner representative must have in order to lift the MOA's surrender of voting rights: knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system.[2]

III. EOC REPRESENTITIVE QUALIFICATIONS

Q.10 In his prefiled testimony, at pp. 6:14 – 7:2 (Q/A 10), Mr. Ori stated "[t]he EOC is responsible for the Eklutna Project's: (1) oversight of major maintenance and operations

[2] *Id.* at 66.

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(power plant and switchyard) and dam safety and inspections; and (2) preparation of the annual project budget, reliability and scheduling occurrences, project status reports, monthly revenue reports and energy usage among members, and notifications related to factors that limit energy or capacity, such as reservoir levels and transmission constraints." Please describe how you are qualified to fulfill these responsibilities.

A.10 I am a licensed engineer with a background in electrical engineering and approximately 20 years of utilities experience. As a licensed engineer, I understand the mechanics and theory of electricity generation and transmission. I have been the General Manager of the AWWU since February 2019 and was the Director of Operations and Maintenance and a Project Management Engineer/Supervisor before that. As the General Manager of AWWU, I oversee the operation and maintenance of the hydropower generation from AWWU's Eklutna Energy Station, as well as AWWU's Reservoir 3&4 Facility and 92nd Street PRV Facility. I also oversee AWWU's co-location with Chugach's Plant 2A. I am regularly involved in the construction of pump stations and other projects requiring significant power supply from the grid. This has given me a greater understanding of power systems and related issues such as power correction, phase, amplitude, and frequency of AC power.

I direct and oversee two economically regulated utilities with a combined annual revenue of $139 million, annual capital budgets of $35 million, and a net book value of over one billion dollars. I oversee 280 full-time AWWU employees as well as AWWU's two water treatment plants, three wastewater treatment plants, 1,600 miles of underground pipelines, and 200 water and sewer remote facilities.

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During my time at AWWU, I have gained significant experience with operation capital expenditures, leading projects such as SCADA control system upgrades, and providing project management design and construction expertise in water transmission main projects, sewer pump station projects, and wastewater treatment process improvement projects. I have overseen several utility rate cases. I am also versed in compliance with the uniform system of accounts pursuant to 3 AAC 48.277, particularly subsections (9) through (13) for electric public utilities and (14) through (17) for water utilities.

In addition, I have experience representing AHP on the EOC in a non-voting capacity for the last several years. As such, I have knowledge of Eklutna Project matters including hydropower generation, scheduling, integration with other Railbelt resources, SCADA (as managed through Chugach), and project maintenance. I have also completed the National Hydropower Association ("NHA") Hydropower Systems Principals Course that covers topics such as operations, maintenance and dam safety.

Q.11 In his prefiled testimony, at p. 8:15-19 (Q/A 15), Mr. Zellers stated, "An effective member of the EOC should have deep knowledge of hydroelectric facilities, their operations and maintenance, and applicable prudent utility practices, as well as a broad understanding of the Railbelt, its systems, reliability standards, how utilities interact with each other to maintain the Railbelt system, and how the Eklutna Project plays a key role in the Railbelt." How do you respond?

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A.11 As I discussed above, the Commission, in Order 39, identified two characteristics that AHP's owner representative must have in order to lift the MOA's surrender of voting rights: knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system.[3] While the characteristics listed by Mr. Zellers might be ideal, they go far above and beyond what the Commission has stated it requires of AHP's owner representative in order for the MOA's surrender of its voting rights to be lifted.

Q.12 How did the Commission identify knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system as the two characteristics that AHP's owner representative must have in order to lift the MOA's surrender of voting rights?

A.12 The Commission discussed testimony from Chugach Witness Dustin Highers, stating that based on his experience as EOC chair, "that to be an owner representative on the EOC, it was essential that the representative have knowledge of prudent utility practice and the Railbelt electric generation and transmission system."[4] The Commission also noted that knowledge of the Railbelt generation and transmission system and prudent utility practice are "the management standard specified for the [AHP] EOC representative in both the Eklutna PPA and the MEA PPA."[5]

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[3] *Id.* at 66.
[4] *Id.*
[5] *Id.* (citing to the Eklutna PPA at 9 and the MEA PPA at 8).

IV. PRUDENT UTILITY PRACTICES

Q.13 In his prefiled testimony, at p. 10:5-6 (Q/A 18), Mr. Ori stated, "As a prudent utility operator, Chugach is obligated to use the least cost, most efficient means to operate and maintain our assets." Do you agree that a prudent utility operator is obligated to use the least cost, most efficient means to operate and maintain our assets?

A.13 No, minimizing costs of operation and maintenance, to the exclusion of all other considerations, is not prudent utility practice. As defined in the PPAs between the MOA and Chugach and the MOA and MEA, Prudent Utility Practice requires, among other things, the application of "reasonable judgment" to "accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, expedition and the requirements of any governing authority having jurisdiction."[6] Moreover, even simply with respect to costs, there are short term costs and total lifecycle costs that sometimes are in competition and need to be considered and balanced.

Q.14 Are there guidelines for Prudent Utility Practice other than the definitions in the PPAs between the MOA and Chugach and the MOA and MEA as discussed above?

A.14 As a regulated utility, AHP must follow the standards under 3 AAC 52.400 – 3 AAC 52.500, "which ensure that electric utilities will render safe, reliable, and prompt service to the public "and "implement them with diligence and good faith to maintain the proper balance between economic effectiveness and the provision of safe, adequate service to the

[6] Appendix D to Order 39 at 40; Appendix H to Order 39 at 38-39.

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public."[7] In addition, the Anchorage Municipal Charter, § 16.01(a), states "[e]ach municipal utility shall be operated in accordance with the general standards common to utilities providing the same utility service."

Q.15 In his prefiled testimony, at p.7:17-19 (Q/A 13), Mr. Zellers stated, "[I]t is important for the EOC to follow prudent utility practices to maintain and operate the Eklutna Project in such a way as to maximize its benefit to all members." How do you respond?

A.15 The statement appears to be true and supports the MOA's request to lift the surrender of its voting rights. The only way the MOA can guarantee the EOC maximizes its benefit to all members is for the MOA to participate fully as a voting member.

Q.16 In his prefiled testimony, at p. 10:9-12 (Q/A 19), Mr. Zellers stated, "As the MOA-MEA PPA states, we make decisions that are 'expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, expedition and the requirements of any governing authority having jurisdiction.'" How do you respond?

A.16 The statement appears to be true and supports the MOA's request to lift the surrender of its voting rights. The only way the MOA has a say determining the desired result and the lowest reasonable cost is for the MOA to participate fully on the EOC as a voting member.

[7] 3 AAC 52.400(b).

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V. EFFECT OF MOA REGAINING VOTING RIGHTS

Q.17 In his prefiled testimony, at p. 9:9-13 (Q/A 17), Mr. Zellers stated, "Before the acquisition transaction, the costs were allocated among the Project Owners in a manner consistent with ownership interests: MOA – 53.33%; Chugach – 30%; MEA 16.67%. After the transaction (and effectiveness of the PPAs) this became: Chugach – 64.29%; MOA – 19.04%; MEA 16.67%." Should the fact the MOA's cost allocation is less than its ownership interest have an effect on the MOA's voting rights?

A.17 No. First, the MOA's ownership interest has not changed. The MOA is still the majority owner with 53.33%. Second, voting rights were set by contract among the Project owners based on ownership, not based on then-current cost allocations or any cost allocations as they may change in the future. Chugach's acquisition of substantially all of the assets of ML&P did not change those contractually assigned voting rights or assign any portion of the MOA's voting rights to Chugach. If Chugach had wanted to purchase the MOA's voting rights in its acquisition of ML&P or purchase the right to exercise the MOA's voting rights commensurate with cost allocation, Chugach could and should have bargained for that valuable right and provided the MOA with valuable consideration. Third, after the PPAs expire, the cost allocation could revert back to what it was previously, consistent with ownership interests. Until then, the MOA needs its voting rights to protect the valuable assets that it still owns and may continue to own even after the expiration of the PPAs.

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Q.18 In his prefiled testimony, at p. 15:12-18 (Q/A 26), Mr. Zellers stated, "Should the MOA regain its voting rights, we expect that the Assembly will attempt to undo, redo or otherwise block the Project Owners' implementation of the Final Fish and Wildlife Program approved by the Governor on October 2, 2024 in pursuit of its own policy goals. We do not trust how the MOA might act if it regains majority voting rights in matters related to the Eklutna Project, the 1991 Agreement, and implementation of the Final Fish and Wildlife Program." How do you respond?

A.18 According to the Anchorage Municipal Charter, § 16.01(a), which binds every element of the Municipality, "Each municipal utility," including AHP, "shall be operated in accordance with the general standards common to utilities providing the same utility service." There is thus no risk that the MOA will use its vote on the EOC in a manner that is inconsistent with prudent utility practice. Mr. Zellers appears to speculate that, within the zone of choices available to all the Project Owners under prudent utility practice, he might end up having different preferences from the Municipality. Any such good faith disagreements among the Project Owners, if they do occur, can and should be resolved using the traditional mechanisms that have always been used to resolve disputes among the Project Owners. The mere possibility of future disagreement among the Project Owners is no basis on which to deny the majority owner its voting rights under the applicable contracts and Order 39.

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Q.19 Assuming the Commission finds that you have the expertise required to fully participate as a voting member of the EOC and lifts the MOA's surrender of its voting rights, what would happen if or when you leave your position as Utility Director of AHP?

A.19 The MOA would hire a qualified replacement and would rely on the expertise and knowledge of any other AHP executives or employees that may exist at the time of such an event. My replacement, in conjunction with the other officers and employees of AHP, must possess such knowledge. Additionally, as stated in my prefiled direct testimony, the MOA has contracts with professional engineering firms that have knowledge of generation and transmission and there are other members of the MOA Administration that have prudent management experience.

VI. CONFLICT OF INTEREST

Q.20 Prior to AHP filing its Request for Acknowledge of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee with the Commission, has either Chugach or MEA raised concerns about actual or potential conflicts of interest between ML&P or AHP and AWWU that may impact AHP's participation on the EOC?

A.20 I am not aware of Chugach or MEA raising any such concerns. During discovery, Mr. Ori stated he "was not aware of any concerns raised by Chugach to the MOA about potential or actual conflicts of interests between ML&P and AWWU that impacted ML&P's participation on the EOC.[8] Mr. Zellers stated that "as the current MEA representative on the EOC, is not aware of any concerns raised by MEA to the MOA during Mr. Zellers's

[8] **Exhibit MAC-4** at 2-3.

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term on the EOC, about potential conflict of interest between ML&P and AWWU that arose during his time on the EOC."[9] Mr. Zellers noted "that water rights and allocation of water related benefits were allocated to, and subsumed within, ML&P's interests, and to his knowledge, no conflicts between ML&P and AWWU related to water rights and allocation were managed at the EOC."[10]

Q.21 As AHP's owner representative on the EOC, you may be involved in confidential discussions about matters and strategy relating to AWWU. Do you believe your role as both the Utility Director of AHP and the General Manager of AWWU would present a conflict of interest ?

A.21 No. As I stated in my prefiled direct testimony, under the Memorandum of Understanding between AHP and AWWU ("MOU"),[11] I will act solely as the Utility Director of AHP and will abstain from any decisions that need to be made by the General Manager of AWWU in any instance of conflicting interests between AHP and AWWU.

Under the MOU, I will not take any action in my role as the General Manager of AWWU on "issues that effect the interest, operations, or obligations" of AHP. In such instances, AWWU's interests will be represented by AWWU's Assistant General Manager. All decisions I will make in my role as the AHP representative on the EOC will be consistent with prudent utility practices and the rights and obligations of Chugach and MEA as required by the Eklutna PPA and MEA PPA.

[9] **Exhibit MAC-5** at 2.
[10] *Id. at* 2-3.
[11] Previously produced as **Exhibit MAC-3**.

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Q.22 In his prefiled testimony, at p. 20:14-18 (Q/A 34), Mr. Zellers stated, "As we move forward implementing the 1991 Agreement and the Final Program, the Project Owners will need to have confidential discussions about various matters and strategy as it related to AWWU. It makes no sense and is a direct conflict of interest to have the General Manager of AWWU in those discussions." How do you respond?

A.22 As I stated above, under the MOU, I will make all decisions as they related to AWWU in my role as the AHP representative on the EOC and not as the General Manger of AWWU. My decisions will be consistent with prudent utility practices and the rights and obligations of Chugach and MEA as required by the Eklutna PPA and MEA PPA. AHP and AWWU have entered into a Supplemental MOU, dated October 29, 2024.[12] Under this Supplemental MOU, I will not exercise the powers of the General Manger of AWWU until a final decision is issued in this docket and any judicial review is compete. As the Director of AHP, I will advise AWWU on matters provided there is no risk of convict between the interests of AHP and the interests of AWWU regarding the Eklutna Hydroelectric Project. If the MOA regains its voting rights, I will promptly resign from AWWU.

VII. PUMPED STORAGE HYDROPOWER ** PROVISIONAL TESTIMONY **

The provisional testimony below and associated exhibits are presented for consideration only if the Commission issues a decision expanding the scope of this docket to include PSH options at the Eklutna Project.

[12] **Exhibit MAC-6**.

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Q.23 In his prefiled testimony, at p. 12:8-13 (Q/A 21), Mr. Ori stated, "I do know that the Eklutna Project designed and built in the 1950s was not designed to be operated in a bidirectional manner. Replacing the existing turbines alone would be quite costly. Based on my professional experience, I expect that retrofitting the project to operate in a manner it was never intended to operate, but consistent with prudent utility practices, would be very costly." In his prefiled testimony, at Q/A 31, Mr. Zellers stated, "The Eklutna Project was built in the 1950s, and similar to other hydroelectric projects developed during that time, was never designed to be operated in a bidirectional manner, so the engineering and retrofitting costs will be substantial and the risks to the Project could be well beyond those that a prudent utility operator would take." How do you respond?

A.23 First, the MOA's proposed PSH options were a "concept." The MOA presented PSH concepts to get feedback from the Assembly to request pursuing an evaluation through the Governor's F&W Program review process. As noted in the MOA's presentation, there are data gaps to be filled and much vetting and analysis still to be done, hence why the MOA request was simply to further evaluate the PSH options that are available at Eklutna.

Second, regardless of whether 80 years ago the Eklutna Project was originally designed for bidirectional PSH, like most systems, including the Eklutna tunnel, the Eklutna Project can be modified or retrofitted to uses that were not specifically foreseen. And Chugach and MEA have not "engineer[ed] or model[ed] [PSH options] to see if it was economically or engineeringly feasible at [Eklutna]."[13]

[13] **Exhibit MAC-7** at 31.

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Q.24 In his prefiled testimony, at pp. 17:23 – 18:3 (Q/A 30), Mr. Zellers stated, "Our engineering consultants . . . determined that converting the Eklutna Project to a pumped storage project would present significant technical and logistical challenges, making the proposal infeasible from an engineering perspective and likely economically prohibitive." How do you respond?

A.24 Without a formal engineering evaluation to review, those statements are premature. And more importantly, PSH is a concept with many options and variations that can be used to convert variable renewable energy sources ("VREs") to firm power to benefit the Utilities and Railbelt, as noted by the Owners themselves in their November 2022 response to the USF&W comments requesting PSH be evaluated with fish bypass.[14] Further, considering the looming Cook Inlet gas shortage, it is prudent and reasonable to explore alternative energy sources. But without an evaluation, the feasibility and economics cannot be known. After the further evaluation of PSH that is mandated by the Governor's F&W Program has been conducted, I will evaluate in good faith whether, in my professional opinion, implementing any PSH option at Eklutna Lake is feasible and consistent with prudent utility practice, and I will also evaluate in good faith how a PSH option scores under the public interest factors set out in the 1991 Fish and Wildlife Agreement. I will not vote on the EOC to advance a PSH option that I believe to be inconsistent with prudent utility practice.

[14] *See* **Exhibit MAC-8** at 15.

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Q.25 Does this conclude your prefiled reply testimony?

A.25 Yes, thank you.

Dated this 29th day of October, 2024, at Anchorage, Alaska.

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EXHIBIT
MAC-4

STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	John M. Espindola, Chairman Robert M. Pickett John C. Springsteen
In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

CHUGACH ELECTRIC ASSOCIATION, INC.'S RESPONSE TO MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S SECOND SET OF DISCOVERY REQUESTS TO CHUGACH ELECTRIC ASSOCIATION, INC. (AHP-CEA-2)

Chugach Electric Association ("Chugach") hereby provides its response to the Municipality of Anchorage ("MOA"), d/b/a Anchorage Hydropower's ("AHP") Second Set of Discovery Requests to Chugach Electric Association, Inc., dated October 11, 2024. All responses to discovery are prepared by Chugach in consultation with counsel.

PRELIMINARY STATEMENT

Discovery in this docket is not complete. Chugach reserves the right to supplement these responses as discovery proceeds and additional facts, information, evidence, documents, and other matters are discovered. The following responses are complete based on Chugach's current knowledge, information, and belief. These responses were prepared based on Chugach's good faith interpretation of the discovery requests and are subject to correction for inadvertent errors or omissions.

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representation on the EOC," complied with Order 39. If the answer to this request for admission is anything other than an unqualified admission, please state all facts and reasons that support such answer.

Response: Chugach objects to this request to the extent that it requests a legal conclusion regarding a legal issue currently being considered by the Commission in this proceeding. Please see the Joint Brief for Chugach's legal reasoning addressing the Commission's meaning behind including a surrender requirement and specified term in Order 39. Refer to the Joint Brief, which discusses Chugach's views regarding the ambiguity in the Surrender's reference to "RCA requirements" in the above-mentioned surrender document. Additionally, Chugach objects to this request to the extent it requests Chugach to speculate on the intention of the RCA in Order 39. Without waiving this objection, Chugach responds as follows: Mr. Ori admits that, at the time the MOA's surrender was signed by all three owner parties and submitted to the Commission, his understanding was that MOA had fully complied with Order 39's requirements regarding the surrender.

Person(s) Supplying Information: Eugene A. Ori, Counsel.

AHP-CEA-2-3: Please admit or deny that before the acquisition of ML&P's assets by Chugach, Chugach never raised any concerns to the MOA about potential or actual conflicts of interest between ML&P and Anchorage Water and Wastewater Utility ("AWWU") that impacted ML&P's participation on the EOC. If the answer to this request for admission is anything other than an unqualified admission, please state all facts and reasons that support such answer.

Response: Chugach objects to this request to the extent that it is overly broad, unduly burdensome, seeks information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence, and is vague or ambitious,

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particularly regarding the time period during which the question seeks information. Without waiving this objection, Chugach responds as follows: During his time working at ML&P's – during which Mr. Ori oversaw operations and maintenance for all electric generation assets, including the Eklutna Project, and when he participated in the EOC on ML&P's behalf – Mr. Ori was not aware of any concerns raised by Chugach to the MOA about potential or actual conflicts of interest between ML&P and AWWU that impacted ML&P's participation on the EOC.

Person(s) Supplying Information: Eugene A. Ori, Counsel.

AHP-CEA-2-4: Please refer to the prefiled responsive testimony of Tony Zellers at page 13, Q/A 24, that references a "Project Owners group" that "implement[ed] the 1991 Agreement from 2019 through June 2024 . . . ." Please respond to the following:

(a) Please produce any documents that establish this group and its operating procedures, including any voting and decision-making methods.

(b) Please identify Chugach's representative(s) on this group.

(c) Please identify what decisions this group was established to make.

(d) Please describe the qualifications required to be a representative member of this group.

Response:

(a) Chugach objects to this request to the extent that it is it is vague or ambiguous and not relevant to the scope of Mr. Ori's Prefiled Responsive Testimony. As Mr. Ori notes in his answer to Question 14 in his Prefiled Responsive Testimony, he has not typically participated in such Project Owners group while he worked at ML&P or at Chugach. Notwithstanding such objections, Chugach refers to Mr. Zellers's response and the documents that he is producing in answer to this request in MEA-2-4(a).

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EXHIBIT
MAC-5

STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	John M. Espindola, Chairman Robert M. Pickett John C. Springsteen
In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MATANUSKA ELECTRIC ASSOCIATION, INC.'S RESPONSE TO MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S SECOND SET OF DISCOVERY REQUESTS TO MATANUSKA ELECTRIC ASSOCIATION, INC. (AHP-MEA-2)

Matanuska Electric Association ("MEA") hereby provides its response to the Municipality of Anchorage ("MOA"), d/b/a Anchorage Hydropower's ("AHP") Second Set of Discovery Requests to Matanuska Electric Association, Inc, dated October 11, 2024. All responses to discovery are prepared by MEA in consultation with counsel.

PRELIMINARY STATEMENT

Discovery in this docket is not complete. MEA reserves the right to supplement these responses as discovery proceeds and additional facts, information, evidence, documents, and other matters are discovered. The following responses are complete based on MEA's current knowledge, information, and belief. These responses were prepared based on MEA's good faith interpretation of the discovery requests and are subject to correction for inadvertent errors or omissions.

GENERAL OBJECTIONS

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EXHIBIT MAC-5
Page 1 of 3

Response: MEA objects to this request to the extent that it requests a legal conclusion regarding a legal issue currently being considered by the Commission in this proceeding. Please see (i) the Joint Brief for MEA's legal reasoning addressing the Commission's meaning behind including a surrender requirement and specified term in Order 39, and (ii) the AG Motion to Dismiss. Refer to the Joint Brief, which discusses MEA's views regarding the ambiguity in the Surrender's reference to "RCA requirements" in the above-mentioned surrender document. Additionally, MEA objects to these discovery requests to the extent they request MEA to speculate on the intention of the RCA in Order 39. Without waiving this objection, MEA admits that, to the best of its knowledge at the time the MOA's surrender was signed by Tony Izzo, MEA's CEO and submitted to the Commission, the MOA had fully complied with Order 39's requirements regarding the surrender requirement.

Person(s) Supplying Information: Tony Zellers, Counsel.

AHP-MEA-2-3: Please admit or deny that before the acquisition of ML&P's assets by Chugach Electric Association, Inc. ("Chugach"), MEA never raised any concerns to the MOA about potential or actual conflicts of interest between ML&P and Anchorage Water and Wastewater Utility ("AWWU") that impacted ML&P's participation on the EOC. If the answer to this request for admission is anything other than an unqualified admission, please state all facts and reasons that support such answer.

Response: MEA objects to this request to the extent that it is vague or ambiguous, particularly regarding the time period during which the question seeks information. Without waiving this objection, MEA responds as follows: Mr. Zellers, as the current MEA representative on the EOC, is not aware of any concerns raised by MEA to the MOA during Mr. Zellers's term on the EOC, about potential or actual conflicts of interest between ML&P and AWWU that arose during his time on the EOC. Mr. Zellers notes that

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water rights and allocation of water related benefits were allocated to, and subsumed within, ML&P's interests, and to his knowledge, no conflicts between ML&P and AWWU related to water rights and allocation of water were managed at the EOC.

Person(s) Supplying Information: Tony Zellers, Counsel.

AHP-MEA-2-4: Please refer to the prefiled responsive testimony of Tony Zellers at page 13, Q/A 24, that references a "Project Owners group" that "implement[ed] the 1991 Agreement from 2019 through June 2024 . . . ." Please respond to the following:

(a) Please produce any documents that establish this group and its operating procedures, including any voting and decision-making methods.

(b) Please identify MEA's representative(s) on this group.

(c) Please identify what decisions this group was established to make.

(d) Please describe the qualifications required to be a representative member of this group.

Response:

(a) MEA makes reference to the January 10, 2019 Eklutna Operating Committee Meeting Minutes, which is attached as MEA00001 to MEA00007, the Eklutna Fish & Wildlife Program Kickoff – Meeting Agenda, which is attached as MEA00008 to MEA00009, the Eklutna Hydroelectric Project, Kick-off Meeting with Project Owners, which is attached as MEA00010 to MEA00011, and the Project Charter, Eklutna Fish & Wildlife Project – Phase 1 January 2019, which is attached as MEA00012 to MEA00018.

(b) MEA objects to this request to the extent that it is vague or ambiguous, particularly regarding the time period during which the question seeks information. Without waiving this objection, MEA responds as follows: Since the 2019 kickoff meeting, the

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EXHIBIT
MAC-6

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SUPPLEMENTAL MEMORANDUM OF UNDERSTANDING BETWEEN ANCHORAGE WATER AND WASTEWATER UTILITY AND ANCHORAGE HYDROPOWER UTILITY RE RESOLUTION OF POTENTIAL CONFLICTS OF INTEREST

WHEREAS, Anchorage Water and Wastewater Utility (AWWU) and Anchorage Hydropower Utility (AHP) both utilize Eklutna Lake as part of their operations; AWWU as a source of drinking water and AHP as a hydropower production water source and storage;

WHEREAS, AWWU currently purchases water from the Eklutna Hydroelectric Owners, comprised of Chugach Electric Association, Inc., Matanuska Electric Association, Inc., and AHP;

WHEREAS, in light of the above circumstances, certain decisions regarding the management of AHP and AWWU may impact the other utility;

WHEREAS, Mark Corsentino has been appointed and confirmed as the general manager of AWWU and has also been appointed and confirmed as the Director of AHP;

WHEREAS, Mark Schimscheimer is the Engineering Director of AWWU and has also been designated to provide technical and engineering support to AHP;

WHEREAS, a memorandum of understanding was executed on July 18, 2024, between representatives of AWWU, AHP, and the Municipal Manager to address and resolve potential conflict issues;

WHEREAS, that memorandum of understanding provided that "in all instances of conflicting interest between AWWU and AH[P]" "Mark Corsentino shall abstain from any decisions that need to be made by the General Manager of AWWU" and "AWWU's interests shall be represented by, and the General Manager's authority delegated to, the AWWU Assistant General Manager (currently David Persinger)" and provided that AHP shall pay 20% of Mr. Corsentino's salary; and

WHEREAS, the Governor issued a final Fish and Wildlife Program on October 2, 2024, that, among other things, requires the Eklutna Hydroelectric Owners to consider pumped storage hydropower on Eklutna Lake and creates a pathway to implementation; and

WHEREAS, in light of the final Fish and Wildlife Program, the Director of AHP will need to devote substantially more time and attention to AHP duties going forward;

NOW THEREFORE, AWWU and AHP agree to supplement the memorandum of understanding dated July 18, 2024, as follows:

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1. The Director of AHP (currently Mark Corsentino) will not exercise the powers of the General Manager of AWWU. The Director of AHP will not advise or otherwise assist or act for AWWU and will act for the Municipality solely in his capacity as Director of AHP, except that the AHP Director may continue to advise AWWU on the following matters in which there is no risk of conflict between the interests of AHP and the interests of AWWU regarding the Eklutna Hydroelectric Project:
    a. All Anchorage Sewer Utility (wastewater) matters;
    b. Certain Anchorage Water Utility matters, but only to the extent they are unrelated to the Eklutna Hydroelectric Project:
        i. Environmental Protection Agency and Alaska Department of Environmental Conversation regulatory matters;
        ii. AWWU Board, Assembly, stakeholder, and customer coordination;
        iii. Strategic planning;
        iv. Ship Creek and well water rights;
        v. Human resources related issues;
        vi. Legal and Risk issues;
        vii. Capital planning and budgeting;
        viii. Regulatory Commission of Alaska matters;
        ix. Health, safety and security; and
        x. Finance and auditing.

    The AHP Director's salary will be paid by AHP, and AWWU will not be responsible for any portion of that salary.
2. The AWWU Assistant General Manager (currently David Persinger) is delegated all powers of the AWWU General Manager. If that delegation continues for longer than 60 days from the date of execution of this supplemental memorandum, the administration will submit to the assembly a proposed resolution pursuant to AMC 3.20.020A.5.iii.
3. This supplemental memorandum of understanding is effective immediately upon the date of the final signature below.
4. The arrangements provided in Sections 1 and 2 will persist until final resolution of AHP's pending Request for Acknowledge of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee, filed with the Regulatory Commission of Alaska (Docket U-24-024), and any judicial review thereof.
    a. If the Municipality regains its voting rights, the Director of AHP will act for the Municipality solely in his or her capacity as Director of AHP and will not hold (and will promptly resign from) any office or employment with AWWU. The AHP Director will not advise or otherwise assist AWWU except in matters listed in Section 1.a and b above. The Mayor shall appoint, subject to Assembly confirmation, a General Manager of AWWU, who shall not simultaneously hold any office or employment with AHP. The AHP Director shall be compensated from AHP's budget and shall not be compensated from AWWU's budget. The AHP Director, and any successor,

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shall be appointed based on consideration of that person's ability, in conjunction with any other AHP officer or employee, to exercise AHP's voting rights on the Eklutna Owner's Committee consistent with all applicable legal requirements, including prudent utility practice.

b. If the Municipality does not regain its voting rights, the delegation of power to the Assistant General Manager under Section 2 above will cease and the General Manager of AWWU will once again exercise all powers of that office regardless of his or her contemporaneous services as Director of AHP. The AHP Director and AWWU General Manager may assist and advise each other on any matter, including those related to the Eklutna Hydroelectric Project. The salary of the AHP Director and AWWU General Manager will be drawn from the AHP and AWWU budgets as provided for by the administration and by law, as appropriate.

5. The provisions of the memorandum of understanding dated July 18, 2024, including the provisions regarding Mr. Schimscheimer, shall remain in effect to the extent they do not conflict with the provisions of this supplemental memorandum of understanding.
6. The AHP Director, the AWWU General Manager, the AWWU Assistant General Manager, and the Municipal Manager, with the advice of the Municipal Attorney, are responsible for ensuring the provisions of the memorandum of understanding dated July 18, 2024, and this supplemental memorandum of understanding are carried into effect.
7. This supplemental memorandum of understanding is not intended to, and does not, create any right or claim, substantive or procedural, enforceable at law or equity, by any party against the Municipality, its agencies, its officers, or any person.

Executed by:

_____ Date: 10/29/2024 | 7:13:46 AM AKDT
Mark Corsentino
Director
Anchorage Hydropower Utility

David Persinger Date: 10/29/2024 | 7:42:13 AM AKDT
David Persinger
Assistant General Manager, exercising the delegated functions of the General Manager
Anchorage Water and Wastewater Utility

Rebecca Windt Pearson Date: 10/28/2024 | 5:54:22 PM AKDT
Rebecca Windt Pearson
Municipal Manager
Municipality of Anchorage

EXHIBIT
MAC-7

STATE CAPITOL
P.O. Box 110001
Juneau, AK 99811-0001
907-465-3500

550 West Seventh Avenue, Suite 1700
Anchorage, AK 99501
907-269-7450

Governor Mike Dunleavy
STATE OF ALASKA

October 2, 2024

Mr. Anthony M. Izzo
Matanuska Electric Association
163 E. Industrial Way
Palmer, AK 99645

Mr. Arthur W. Miller
Chugach Electric Association
5601 Electron Drive
Anchorage, AK 99518

Ms. Sara Boario
Regional Director
United States of America
Department of the Interior
U.S. Fish & Wildlife Service
1011 East Tudor Road
Anchorage, AK 99811-0001

Mr. Jonathan M. Kurland
Regional Administrator
United States of America
Department of Commerce
National Oceanic & Atmospheric Admin.
P.O. Box 21668
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Mr. Aaron Leggett
Chair/President
Native Village of Eklutna
26339 Eklutna Village Road
Chugiak, AK 99567

The Honorable Suzanne LaFrance
Mayor
Municipality of Anchorage
P.O. Box 196650
Anchorage, AK 99519-6650

Mr. Curtis Thayer
Executive Director
Alaska Energy Authority
813 Northern Lights Boulevard
Anchorage, AK 99503

Dear Parties,

Thank you to the Owners for your submission on April 25, 2024, of the Proposed Final Fish and Wildlife Program (Proposed Final Program) for the Eklutna Hydropower Project (Project) and to the remaining parties for their comments and participation in developing the Proposed Final Program.

As you know, through an act of Congress, the Project was sold by the federal government to Chugach Electric Association (CEA), Matanuska Electric Association (MEA), and Anchorage

Municipal Light & Power (through the Municipality of Anchorage). As part of this transaction, the 1991 Fish and Wildlife Agreement (Agreement) laid out the process for the purchasers of the Project to fund studies to examine and quantify impacts to fish and wildlife from the Project, and to develop a proposed Final Program for the protection, mitigation, and enhancement of fish and wildlife effected by the Project and for the other Parties to offer their comments.

As Governor, my duties under the Agreement are to evaluate the Proposed Final Program, attempt to reconcile differences between the Parties to the Agreement, and establish a Final Program that "adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources."

The evaluation process requires me to give "equal consideration" to eight factors to "ensure that Eklutna [is] best adapted for power generation and other beneficial public uses." The factors are: purposes of efficient and economical power production; energy conservation; the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat); the protection of recreational opportunities; municipal water supplies; the preservation of other aspects of environmental quality; other beneficial public uses; and requirements of State law.

The Final Program established today includes my evaluation of these eight criteria and my amendments to the Proposed Final Program that attempt to reconcile differences among the Parties and the Native Village of Eklutna.

The Proposed Final Program restored year-round water flows to the Eklutna River by connecting Eklutna Lake to the existing Anchorage Water and Wastewater Utility (AWWU) infrastructure; required the Purchasers to provide funding for ongoing monitoring studies, physical habitat enhancement, and lakeside trail repairs; the creation of a Monitoring and Adaptive Management Committee (Committee); and two limited reopeners of the Program for the potential construction of a Fixed Wheel Gate to replace the existing outlet and spillway and for the potential construction of fish passage into and out of Eklutna Lake.

In accordance with my responsibilities to attempt to reconcile differences, I have adopted the Proposed Final Program with the establishment of three amendments to the Proposed Final Program:

1. I added a Governor-appointed seat to the Monitoring and Adaptative Management Committee. This allows future Governors and myself to continue our responsibility under the Agreement as the work of the Committee is ongoing in the final Program.

2. I accepted the request by federal signatories, U.S. Fish and Wildlife Service, and National Marine Fisheries Service, to modify the Proposed Final Program. The Proposed Final Program allocated up to $10 million to study and potentially construct the Fixed Wheel Gate at the Eklutna Dam. If the Fixed Wheel Gate is determined to not be structurally or economically feasible, as requested by the federal parties, the remaining funds not expended of up to $10 million will be made available to the Monitoring and Adaptive

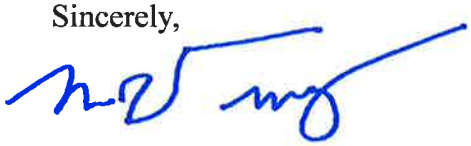
Management Committee for additional studies or measures that protect, mitigate damage to, or enhance fish and wildlife habitat.

3. I am accepting the request by the Municipality of Anchorage and Native Village of Eklutna in their joint resolution of September 5, 2024, to evaluate the Pumped Storage Hydro alternative. However, the Agreement does not provide any party the authority to unilaterally suspend or delay implementation of the Final Program and therefore the necessary work to design, permit, and construct the connection to AWWU's infrastructure and to evaluate the Fixed Wheel Gate is required to begin immediately.

The Final Fish and Wildlife Program established today under the Agreement balances the eight factors I am required to consider, and the Program is designed to be an iterative one that will be able to adapt to changing conditions and technologies well before the process is required to repeat itself.

I want to thank the Parties, the Native Village of Eklutna, and the members of the public who helped shape this Final Program with their time, resources, input, and participation over the past five years. This is not the end of the process, and I am committed to seeing this Final Program successfully enacted. I encourage everyone to join me in working together to implement this Program without delay.

Sincerely,



Mike Dunleavy
Governor

BEFORE GOVERNOR MIKE DUNLEAVY

IN THE MATTER OF THE EKLUTNA	**:**	**DECISION**
RIVER FISH & WILDLIFE PROGRAM	**:**	**October 2, 2024**

This matter comes before the Governor pursuant to the 1991 Agreement ("Agreement") among the Municipality of Anchorage ("MOA"), Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("Matanuska") (MOA, Chugach and Matanuska are collectively referred to as "Eklutna Purchasers" or "Owners"; when discussing issues where the Owners disagree, Chugach and Matanuska will be referred to as the "Operators" and MOA will be listed separately), the United States Fish & Wildlife Service ("FWS"), The National Marine Fisheries Service ("NMFS"), the Alaska Energy Authority ("AEA") and the State of Alaska ("State") concerning the protection, mitigation of damages to, and enhancement of fish and wildlife affected by the Eklutna Hydroelectric Project ("Project") near the Native Village of Eklutna ("NVE").[1] Per the Agreement the Governor is required to establish a "final Fish and Wildlife Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources affected by the Project".[2]

I. PROJECT HISTORY

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[1] The Agreement also involved the Snettisham Hydroelectric Project, but that project is not part of this decision.

[2] Agreement, Section 5 at P. 4.

The U. S. Bureau of Reclamation built the Project in the 1950s and it was rehabilitated over time. It currently consists of a dam which is an earth and rockfill structure 815 feetlong and 41 feet high with a rectangular spillway that runs through the dam.[3] The intake structure for the Project is located 36 feet below the natural Eklutna Lake level. From there, water is diverted north into a 4.6-mile-long tunnel through Goat Mountain and then into a 1,370-foot-long penstock before reaching the powerhouse located on Old Glenn Highway. The tailrace flows under the highway and then discharges into the Knik River. The powerhouse contains two generating units.[4] Eklutna Lake, approximately seven miles long and one mile wide, is located within Chugach State Park and provides almost 90 percent of the domestic water supply for the Municipality of Anchorage. As of 2018 the Project produced 177,438 megawatt hours of clean energy, enough to power more than 24,600 residential homes for an entire year.[5]

The federal government owned and operated the project until October 1997 when it sold it to the Eklutna Purchasers and is currently owned by Chugach (30%), Matanuska (16.67%) and MOA (53.33%), however, it has been operated exclusively by Chugach and Matanuska since October 30, 2020.[6] The purchase by the Eklutna Purchasers also included a requirement that the Eklutna Purchasers enter into the Agreement with NMFS,

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3 https://eklutnahydro.com/background/.

4 Id.

5 Id.

6 MOA was required to surrender its right to operate the Project. RCA Order U-18-102(44)/U-19-020(39)/U-19-021(39). Surrender of Eklutna Operation Committee (EOC) Voting Rights dated as of October 27, 2020, and filed with the RCA in docket number U-18-102(44).

FWS, AEA, and the State (the Eklutna Purchasers, NMFS, FWS, AEA and State are collectively referred to as the "Parties[7]").

II. THE AGREEMENT

To obtain Congressional approval of the Project sale to the Eklutna Purchasers and as a substitute for federal licensing under the Federal Power Act[8] and its accompanying regulations[9], the Parties were required to enter into the Agreement to develop a fish and wildlife program that provides for the protection, mitigation of damages to, and enhancement of fish and wildlife affected by the Project.[10] The Agreement outlined a 35 year timeline to develop the fish and wildlife program. The timeline ran from the date of the sale, i.e., October 2, 1997, and initially culminates with the complete implementation of the fish and wildlife program by October 2, 2032. This process is designed to reoccur every 35 years.

A. Agreement Requirements

The Agreement set forth a comprehensive process to arrive at a final fish and wildlife plan. It required the Parties to perform the following:

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7 For purposes of this decision, Parties will also include NVE, unless stated otherwise, even though they are not an actual party to the Agreement.

8 16 U.S. C. §791a et seq.

9 18 C.F.R. 4.1 et seq.

10 The Agreement was a substitute for the requirements of the Federal Power Act and its regulations and there are no requirements in the Agreement imposing those laws on the Parties. Rather, the Agreement specifically spells out all requirements the Parties must follow to develop a fish and wildlife program.

a. Purchasers to fund and perform studies in consultation with the other Parties and other State of Alaska agencies to "examine, and quantify, if possible, the impacts to fish and wildlife from the Project and to develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the Project."[11]

b. Purchasers develop a draft program, the remaining Parties and other interested persons comment on the draft program, and the Purchasers reply to the comments, with all comments and the replies to be made part of the public record.[12]

c. Preparation of draft summary of the study results and a draft Fish and Wildlife Program by Purchasers.[13] Purchasers to hold public meetings and receive public comments on the program.[14]

d. Purchasers develop a Proposed Final Fish and Wildlife Program ("Proposed Final Program"), an explanation of its reasons for the final program, and provide them and all public comments to the other Parties and the Governor.[15]

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11 Agreement, Section 2, P. 2.
12 Id. Section 3, P. 2.
13 Id. Section 4, P. 3.
14 Id. Section 5, P. 3.
15 Id. Section 5, P. 4.

e. The remaining Parties prepare written comments to the Proposed Final Program and Purchasers prepare a reply. The comments and reply are provided to the Governor.[16]

f. The Governor establishes a Final Fish and Wildlife Program.[17]

g. The Agreement requires the Owners to implement the final Program within 30 years of the transaction date and for the Governor to approve the Final Fish and Wildlife Program three years prior to commencement of the implementation of the Program.[18]

III. PROPOSED FINAL PROGRAM AND PARTIES' COMMENTS[19]

The Proposed Final Program was provided to the Parties and the Governor on April 25, 2024. The Proposed Final Program can be summarized as follows[20]:

1. Proposed Final Program

a. Construction of a new valve and release structure ("Eklutna River Release Facility") located adjacent to the existing Anchorage Water and Wastewater Utility ("AWWU") portal valve to restore year-round water

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16 Id. Section 5, P. 4.

17 Id.

18 Id. Section 7, P. 4-5. The transaction date is October 2, 1997, which is the date of the sale of the Eklutna Project to the Owners. Program implementation must therefore begin by October 2, 2027, and the Governor's approved final Plan must be issued by October 2, 2024, i.e., three years prior to the commencement of Plan implementation.

19 AEA did not provide comments to the Final Proposed Fish and Wildlife Program. NVE did provide comments even though it was not a party to the Agreement. I will consider those comments as part of this decision.

20 The Final Proposed Fish and Wildlife Program is attached hereto as Appendix "A".

flow to the Eklutna River ("River") one mile downstream from the Eklutna Dam;[21]

1. The Eklutna River Release Facility is projected to provide year-round water flow to the River one mile below the dam at rates of 27 cubic feet per second to 40 cubic feet per second;[22]
2. The Eklutna River Release Facility is designed to increase available spawning habitat for chinook, coho, pink and chum salmon;

b. Automation of the existing outlet gate at the base of the spillway at the Eklutna Dam for remote operation;[23]

c. Development of a channel maintenance flow regime to support fish habitat over the long term;[24]

d. Construction of eight new bridges for Anchorage Water and Wastewater Utility (AWWU) at each existing ford crossing to be designed and built to withstand the projected flows;[25]

e. One-time payment of $234,000 for lakeside trail repairs;[26]

f. Monitoring and Adaptive Management Plan;[27]

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21 Proposed Final Fish and Wildlife Program, Section 2.1.1 at P. 4-5.
22 Id. at Section 2.1.2 at P. 6-7. And
23 Id. Section 2.2.1 at P. 7.
24 Id. Section 2.2.2 at Pp. 8-10.
25 Id. Section 2.5 at P. 10.
26 Id. Section 2.4.1 at P. 11.
27 Id. Section 3.0 – 3.4 at P. 12 - 15. This plan includes the creation of a Monitoring and Adaptive Management Committee consisting of five voting members, one each from the following entities: Alaska Department of Fish and Game, Alaska Department of Natural Resources, NMFS, FWS and NVE. Id. Section 3.1 at P. 12.

g. Two limited reopeners, i.e., the study and potential construction of a fixed wheel gate to replace the existing overflow spillway and provisions to review fish passage alternatives to allow adult salmon to pass into the lake from the River and juvenile salmon to pass from the lake downstream into the River ("Limited Reopeners")[28].

2. MOA Comments

MOA raised the following issues in response to the Proposed Final Program[29]:

a. Although the prior Mayor supported the Proposed Final Program, the new Administration believed that Anchorage Assembly approval was necessary, and the prior Mayor failed to obtain it[30];

b. Requests full water restoration to the Eklutna River for the full 12 miles from the Eklutna River Dam downstream and permit fish passage to and from Eklutna Lake;

c. Removal of the limited reopeners; and

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[28] The Fixed Wheel Gate Limited Reopener does not trigger the process terms of the 1991 Agreement; the Fish Passage Limited Reopener does not alter any other components of the Final Program. Proposed Final Program, Section 4.0, Pgs. 17, 20.

[29] Letter from Mayor Susanne LaFrance to Governor Dunleavy, July 19, 2024, and accompanying AR No. 2024-218(S).

[30] Mayor LaFrance was sworn into office on July 1, 2024. David Bronson previously served as Mayor of Anchorage from July 1, 2021 – June 30, 2024. The Proposed Final Program was drafted during and completed while Mayor Bronson served as Mayor of Anchorage. Former Mayor Bronson submitted a letter of support to the Governor's office on April 26, 2024.

d. Requested a two-year extension for the purpose of studying pumped storage hydropower as a potential alternative.

3. FWS Comments

In general, FWS agreed with the Proposed Final Program, but it believed full restoration of water flow to the Eklutna River and fish passage to and from Eklutna Lake was an "important component of a long-term mitigation strategy and that the Proposed Final Program was a starting point to reconnecting the River with their phased approach." They also commented that "[n]either an engineering solution nor funding support have yet been identified that can accomplish all criteria, but we look forward to exploring opportunities to accomplish river connectivity and return an anadromous sockeye salmon run to the Eklutna River". [31]

FWS requested one modification to the Proposed Final Program. FWS requested that if the Fixed Wheel Gate is determined to not be feasible, that the $10 million in funding committed for that purpose be allocated for other protection, mitigation, and enhancement measures "to improve habitat by other means." [32]

4. NMFS Comments

NMFS raised similar issues raised by FWS but did not object to the Proposed Final Program. It concluded the "Program provides a framework to initiate the protection, mitigation and enhancement of fish and wildlife resources and will support the next

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31 Sara Boario, Regional Director, FWS, letter to Governor Dunleavy, June 24, 2024.

32 Id.

iteration of a mitigation plan."[33] NMFS had one request for a modification of the Proposed Final Plan. NMFS requested that if the Fixed Wheel Gate was determined to not be feasible or did not proceed, that either the $10 million committed for that purpose be allocated for other protection, mitigation, and enhancement measures in coordination with the Monitoring and Adaptive Management Committee, or that the NVE pump station alternative be studied.[34]

5. NVE Comments

NVE maintains the primary purpose of the Agreement was to "restore and maintain sockeye salmon that depend on free passage into and out of Eklutna Lake, their preferred spawning habitat."[35] NVE further states the Program is deficient in the following ways:

a. Failure to restore water to all 12 miles of the Eklutna River from the dam downstream at sufficient volumes to support salmon habitat;
b. Failure to permit passage of sockeye salmon to and from Eklutna Lake;
c. Low water flows only minimally enhance chinook and coho salmon habitat;
d. Jeopardizes Anchorage drinking water; and
e. Burdens ratepayers and taxpayers with excessive costs.[36]

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33 Jonathan M. Kurland, Regional Administrator, National Marine Fisheries Service, letter to Governor Dunleavy June 21, 2024. Mr. Kurland's letter acknowledges that the mitigation process is ongoing and repeats every 35 years beginning 25 years after implementation of the Final Fish and Wildlife Program has been implemented.

34 Id.

35 Aaron Leggett, Chair/President, NVE, letter to Governor Dunleavy, June 21, 2024.

36 Id.

6. Operators' Reply to Comments

The Operators replied to the comments from the other Parties and NVE and continued to maintain the Proposed Final Program was consistent with the Agreement. The Operators identified the federal Parties generally approved the Proposed Final Program with some reservations and they identified some key disagreement with MOA and NVE, including:

a. Flow regimes will enhance spawning habitat for chinook, coho, chum and pink salmon that currently exist in the Eklutna River;
b. Included a limited reopener in the Proposed Final Program for the Monitoring and Adaptive Management Committee to address fish passage to and from the Eklutna Lake in the future;
c. Operators worked with AWWU to negotiate agreements that protected the supply of drinking water to Anchorage;
d. NVE's proposed Pumped Station alternative posed higher costs and increased risks to the Project;
e. Removal of the Eklutna Dam in 10 years was not feasible due to foreseeable energy needs, inhibition of renewable energy goals, excessive replacement and removal costs, and damage to infrastructure and property downstream; and

f. The two-year delay requested by MOA for further study will thwart implementation of the Final Approved Program in the timeline required by the Agreement.[37]

7. Joint MOA/NVE Resolution for Pumped Storage Hydropower

Well after the comment period had expired and even after the deadline for Owners' reply to the comments, MOA and NVE provided the Governor and the other Parties a joint resolution recommending a new alternative, pumped storage hydropower, they believed "could result in full restoration of waterflow to the River, protection of Anchorage's drinking water source, and increased power generation, potentially with lower costs to municipal taxpayers and ratepayers".[38] MOA and NVE claim that pumped storage hydropower is used worldwide and it has the "potential to maintain and improve existing power production, meet municipal water supply needs and provide full river hydrological function and connection into and out of Eklutna Lake for fish passage". They requested the Governor require, as part of the Final Approved Program, Owners to use two years of the three year pre-implementation period in the Agreement to explore alternative infrastructure options, including pumped storage hydropower, so water could be restored to the entire Eklutna River and permit fish passage to and from the Eklutna Lake.[39] This joint resolution was virtually identical to MOA's prior request to delay the Governor's decision on a final

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37 Operators Response to Comments, July 24, 2024.
38 Anchorage Assembly and NVE Joint Resolution, No. 2024-001.
39 Id.

program, with the exception of it now identified a proposed alternative to pursue, i.e., pumped storage hydropower. The Operators did not have an opportunity to respond to this joint resolution, but it was addressed in the meeting of the Parties with the Governor's office on September 9, 2024.

IV. DISCUSSION

The Proposed Final Program and the comment period that followed ends a long public process that started with the Agreement in 1991. The most recent process started in March 2019 and included:

- Years of studies, consultations, and alternative analysis;
- Several public meetings;
- Extensive public comments;
- A draft fish and wildlife program;
- Numerous parties' comments, meetings, and discussions; and
- A Proposed Final Program.[40]

Almost all the Parties have described the process of reaching the Proposed Final Program as a negotiation.[41] As with any negotiation, participants do not always come away with

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[40] Operators Response to Comments on Proposed final Fish & Wildlife Program, July 2024 at P. 1.

[41] Transcript of Proceedings before the Governor's Office, September 9, 2024 at Pp. 26 (Operators); P. 73 (FWS); and P. 83 (NMFS). NVE although not a Party to the Agreement also commented that the process included negotiations. Id. at P. 85. MOA did not describe the process as a negotiation, but is now represented by a different administration than the one in place when the Proposed Final Program was drafted. However, see Former Mayor Bronson's letter of support to the Governor's office on April

what they want, and the end result is a resolution that neither side may be completely happy with but nevertheless agree to the terms to move the matter forward. This is certainly the case with the Proposed Final Program put forth by the Operators. The Parties have disagreements as to what should be included and how far the Final Program should go. The Parties, at the time they entered the Agreement, clearly understood that not everyone would get what it desired. The Agreement includes provisions on how to resolve those differences.

A. Governor as Final Decision Maker

1. Review Standard

The Agreement sets forth the role of the Governor in establishing a Final Program. The Governor is required to "review the Proposed Final Program, comments, testimony, summary and analysis materials, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources".[42] He is then tasked with "attempting to reconcile any differences between the Parties, giving due weight to the recommendations, expertise, and statutory responsibilities of FWS, NMFS, the State Resource Management Agencies and the Purchasers".[43] Finally, the Agreement provides:

> In order to ensure that Eklutna . . . [is] best adapted for power generation and other beneficial public uses, the Governor shall give equal consideration to the purposes of efficient and economical power production, energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), the protection of recreation opportunities, municipal water

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26, 2024, wherein he states MOA (Anchorage Hydropower) was involved in the process every step of the way.

42 Agreement at Section 5, P. 4.

43 Id.

supplies, the preservation of other aspects of environmental quality, other beneficial public uses, and requirements of State law ("Eight Factors").[44]

The Governor is then tasked with establishing the Final Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources affected by the Project.

2. Operators' Proposed Final Program and Analysis of Eight Factors

We must first evaluate the Proposed Final Program in light of the Eight Factors outlined in the Agreement.

a. Efficient and Economic Power Production and Energy Conservation - Factors One and Two

The Operators assert the Project "produces nearly six percent of the Owners' combined generation portfolio, which also amounts to roughly 25% of Chugach's renewable energy and 44% for Matanuska."[45] This power is also alleged to be the lowest cost resource for power in the Alaska Railbelt.[46] The Project also assists with power reliability for the region.[47] None of the Parties challenge these assertions. Obviously, the downside to restoring water flow to the River from a power production standpoint is the loss of the water for that production. This comes at a cost, both financial and in terms of

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44 Id.

45 Operators' Brief to Governor, September 4, 2024 at P. 4.

46 Id. citing SID at 2.2.2

47 Operators' Brief, September 4, 2024, P.p. 4-5. Operators also cite an example of how the Project assists other power production in the region. When a natural gas company experienced delivery problem, Operators were able to maximize their usage of the Project to maintain system reliability. Id. (Citing Tony Zellers, et al, letter to MOA, February 12, 2024).

power availability, which cannot be overlooked. Maximizing the Project's power output results in energy conservation by reducing natural gas usage, avoidance of diesel usage for power generation and thus lower emissions, and thus reduced costs if these other power production methods were employed.

The Operators chosen method for restoring instream water flow to the River was also based on using cost effective means to achieve the goal and consideration of the costs to the rate payer. They also rejected alternatives that shut the Project down for lengthy periods of time which would have impacted the Project's value for capacity reserves and grid reliability.[48] These facts are likewise not challenged by any Party.

b. Protection, Mitigation of Damage to, and Enhancement of Fish and Wildlife (including related spawning grounds and habitat) – Factor Three

The Proposed Final Program provides several steps for restoring water flow to the River and thus enhancing, protecting, and mitigating damage to fish and wildlife. The Program restores water flow to the River at rates between 27cfs and 40cfs throughout the year.[49] It also requires periodic channel maintenance flows up to 220cfs.[50] It rewaters 11 of the 12 miles of River at the rates noted above thus restoring water flow to the River that has not existed for years. The plan also creates a Monitoring and Adaptive Management Committee of experts to review, evaluate and modify flow regimes within a water budget to increase and enhance fish habitat. Likewise, the increased flow and enhancement of fish habitat will have a corresponding effect on other wildlife, including

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48 Id.

49 Proposed Final Fish and Wildlife Program, Section 2.1.2.

50 Id. at Section 2.2.

bear and moose populations. Operators' modeling projects increases in chinook spawning and rearing habitat by 209 and 53 percent respectively with increases for coho by 65 and 67 percent, respectively.[51] Limited Reopeners are also included, i.e., potential installation of a fixed wheel gate and fish passage in the future.

The federal Parties, NVE, and MOA correctly point out that the Proposed Final Program fails to include rewatering of the entire River and allow for fish passage to and from Eklutna Lake. NVE and MOA believe that this failure alone makes the Proposed Final Program deficient. They also challenge whether the flows proposed will result in any substantial benefit to salmon habitat. The federal Parties, although proponents of full water flow and fish passage, realize that this process is long and with technological advancements in the future, the goals can be achieved. For that reason, they did not reject the Proposed Final Program. The Agreement provides the Governor must give due weight to the recommendations, expertise, and statutory responsibilities of the Parties, including FWS and NMFS.[52] Due weight is given to the FWS and NMFS' expertise and the fact that they have not objected to proceeding with the Proposed Final Program is a very strong indicator that it meets Factor Three.

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51 SID at Section 4.10.1.

52 Agreement at Section 5, P. 4. The Agreement also permits the Governor to give due weight to the Purchasers, which includes MOA. However, MOA gave up their right to vote on operations at the Project and conceded they lacked the expertise to participate in the Project's operations, which included establishing the Proposed Final Program per the Agreement. See RCA Order U-18-102(44)/U-19-020(39)/U-19-021(39) and Surrender of Eklutna Operation Committee (EOC) Voting Rights dated as of October 27, 2020, and filed with the RCA in docket number U-18-102(44).

As stated earlier herein, fish passage is not a requirement in the Agreement, nor is restoration of complete waterflow to the River and fish passage. However, from a review of the record, it appears all parties recognize the importance of eventual complete waterflow restoration and fish passage. The difference between the Parties is focused on the methods and timeline to achieve those goals. The Proposed Final Program includes a Limited Reopener to achieve full water restoration and fish passage, understanding that as technology advances, those goals may be cost effective or technically feasible to achieve in the future.[53]

c. The Protection of Recreation Opportunities – Factor Four

Several positive impacts on recreational activities are included within the Proposed Final Program:

- Commitment of $234,000 as a match to Chugach State Park or its designee for lakeside trail repairs;
- Potential fishing in the River;
- Kayaking on the Eklutna Lake
- Hunting opportunities;
- Camping;
- Wildlife viewing; and
- Protection of the tailrace fishery.[54]

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[53] See Section IV.A.3. herein for further discussion on restoration of complete waterflow and fish passage.

[54] Operators' Brief, September 4, 2024, P.p. 8-9.

The other Parties did not address this issue in their briefs.[55] There are clear benefits and protections from the Proposed Final Program as outlined above.

d. Municipal Water Supplies – Factor Five

The Parties once again disagree on the impacts the Proposed Final Program will have on municipal water supply. Operators acknowledge they will use AWWU infrastructure to restore water flow to the River. They assert it will not negatively affect the water supply and, in some ways, enhance the water supply infrastructure. MOA and NVE on the other hand believe it will negatively affect municipal water supply. However, neither MOA nor NVE have been able to adequately detail these alleged negative effects. Once again, the Agreement permits the Governor to rely on the expertise of the Operators and give due weight to their findings.[56]

Operators maintain the Project's infrastructure and Anchorage's municipal water supply have been "inextricably linked as a matter of physical infrastructure, operations, contract, water rights, and authorizing law since the 1980s when AWWU connected its intake pipe to the Project's intake structure".[57] Operators assert they worked closely with AWWU leadership and engineers to develop legal terms and agreements by which AWWU will be comfortable with the use of AWWU infrastructure to release water into

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55 MOA makes a passing reference that the "proposed program fails to adequately advance recreational and other beneficial public uses such as fishing or taking in the beauty of a real mountain river with real water in it". MOA Brief at P. 11.

56 See also, Footnote 51.[57] Operators' Brief, September 4, 2024, P. 9.

57 Operators' Brief, September 4, 2024, P. 9.

the River.[58] AWWU and Operators have agreed on key terms for an agreement to govern the construction and use of the Eklutna River Release Facility and an agreement for the long term sharing of Eklutna Lake water rights. AWWU and Operators also negotiated three agreements to detail and govern the arrangement if the Governor approves the Proposed Final Program. Finally, Operators agreed to commit to not take any action in connection with the Fish and Wildlife Program that would compromise Anchorage's water supply, and they agreed to accept liability if they did so. Additionally, other benefits flowed to AWWU, including design approval rights, the construction of eight new bridges over Eklutna River for AWWU to maintain access to its infrastructure, new communications systems, flow meters and a new isolation valve structure for safer maintenance of their facilities, as well as other benefits. AWWU receives its water under a contract with the Eklutna Owners; the proposed term sheet according to Operators would reduce the current water supply costs by half under the new contract to replace contract expiring at end of 2025. For all these reasons, the Proposed Final Program does meet the requirements of the Agreement concerning municipal water supply.

The central issue here is not whether the water supply is protected and/or enhanced, as the evidence clearly demonstrates it is, but rather, whether the Operators and AWWU's agreements must be approved by MOA and to date that approval has not been achieved. In Resolution 2024-182(S-1), the Assembly stated "The Municipality of Anchorage does not intend to issue authorizations or provide funds or any other form of

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58 Id.

support of the Proposed Final Program or any alternative that doesn't work toward the restoration of the full length of the River…"[59]. The Operators believe they have legal avenues to pursue the agreements even if MOA withholds approval, but litigation does not move the Final Program forward, creates delay in restoring water flows to the River, and impedes implementation of the Final Program.

e. The Preservation of Other Aspects of Environmental Quality – Factor Six

The redirection of lake water to the River instead of the Project's powerhouse reduces the generation of carbon free power that will most likely be replaced by natural gas generation. However, all alternatives considered reduce the power generation from the Project. The Proposed Final Program has the smallest impact in this regard of all the alternatives considered.

f. Other Beneficial Public Uses – Factor Seven

The Operators cite restoration of salmon habitat in the River as another beneficial public use and that flows will not impact infrastructure downriver, including bridges over the River. Enhanced salmon habitat is important to the public and to NVE and its people. Protecting existing infrastructure used by the public is also a beneficial public use.

g. Requirements of State Law – Factor Eight

Numerous areas of State law are impacted by this Proposed Final Program, including permitting, safety, fish and game, natural resources to list a few. The Operators

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[59] MOA Resolution 2024-182(S-1), June 25, 2024

acknowledge the need to comply with all State laws that apply to the Proposed Final Program and their need to obtain an amendment to their certificate of authority from DNR to permit the conveyance and release of water into the River. Additionally, as operators of an electric utility, Operators also have an obligation to comply with all State laws related to utility operations.

h. MOA and NVE Proposed Alternatives

Neither MOA nor NVE have provided any analysis with respect to how their proposed alternatives consider the Eight Factors. Rather, they seem to rely on the belief that their proposed alternatives, such as dam removal or pumped storage hydro, will result in full water restoration to the River and allow for fish passage thus promoting the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat). While that is one factor that must be considered, the Governor is required to give equal consideration to all Eight Factors. They have not provided any evidence or analysis of how these proposed alternatives will impact the other seven factors. For example, there is no evidence of how these alternatives will promote the purposes of efficient and economical power production and energy conservation or impact municipal water supplies.

3. Differences Between the Parties

In addition to giving equal consideration to the Eight Factors, the Governor must also attempt to reconcile differences among the Parties. Although the Parties have generally agreed that the Proposed Final Program was arrived at through rigorous studies, public review, comment, and negotiation, two glaring differences were identified, 1)

water flow for the entire Eklutna River from the dam downstream; and 2) fish passage to and from Eklutna Lake.[60]

The Operators believe that current technology and cost are major prohibitions to obtaining full water flow throughout the River and fish passage to and from the lake at the present time. They posit that the agreement provides a mechanism to continually review these goals and as technology evolves and costs decline, the goals may be achievable, and have provided for this to be regularly evaluated by the Monitoring and Adaptive Management Committee.

FWS and NMFS believe that complete water flow and fish passage were intended as part of the Agreement, but they also indicate that the process must start somewhere and

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[60] MOA and NVE allege the process to arrive at the Operators' Final Proposed Program was flawed. MOA asserts it was denied a viable way to participate due to the fact it lost its vote as an Owner of the Project via an RCA order. However, MOA's assertion in this regard is misguided for three reasons. First, MOA voluntarily gave up its right to vote on matters affecting the operation of the Project and the 1991 Agreement. Secondly, Mayor Bronson formally acknowledged the MOA's complete participation in "every step in the process that led to the Proposed Final Program" and that MOA supported the agreement with the Proposed Final Program. See Mayor Bronson letter to Governor Dunleavy, April 26, 2024. Thirdly, the Operators assert that they and MOA conducted themselves as equals throughout the process and made all decision on the Proposed Final Program through unanimous consent. The record contains no evidence to the contrary. NVE asserts that the Operators failed to pursue alternatives that would have provided for rewatering the entire river and allowed fish passage. Operators counter that they did look at several other alternatives, including NVE's pump station alternative and dam removal, and for various reasons, including economics and other risks, it chose to proceed as outlined in the Proposed Final Program. See NVE comments, June 21, 2024 and Operators' Reply to Comments, July 2024 at Pp. 22-23.

there is time to achieve both and still comply with the Agreement's requirements.[61] They are each committed to pursuit of any alternatives that will achieve those goals.

MOA and NVE however, believe that both goals should be pursued now and absent complete River waterflow and fish passage, the Program should not be adopted. First, the Agreement does not require complete waterflow and fish passage. Had the Parties intended to make those requirements of the Program, they could have and should have so stated in the Agreement itself.[62] Rather, the Agreement outlines requirements to protect, mitigates damage to, and enhances fish and wildlife resources affected by the Project. At the time the Agreement was signed, the River did not enjoy complete waterflow nor were fish able to pass from River to lake and lake to River. As NVE acknowledges, these goals were not achievable until the lower diversion dam was removed in 2018.[63] Courts cannot add words to the contract that would impermissibly re-write that contract, nor can the Governor in this situation.[64] Simply put, the Agreement is not ambiguous. Rather, complete waterflow and fish passage can be adopted in a final

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61 ". . . the Program provides a framework to initiate the protection, mitigation and enhancement of fish and wildlife resources, and will support the next iteration of a mitigation plan". NMFS Comments to Proposed Final Fish and Wildlife Program, June 21, 2024 at P. 2. "Although the proposed Program does not immediately meet the FWS's goals of ecological connectivity . . . the Program, with commitment of all stakeholders, could be an interim step to reconnecting the river, consistent with our request for a phased approach". FWS comments on the Proposed Final Program, June 24, 2024 at P. 4.

62 *McConnell v. Pickering Lumber Corp.*, 217 F.2d 44, 47 (9th Cir. 1954) ("Appellants would have the court under the guise of construction add words to the contract which are not to be found in it. We do not understand such to be the function of the court.").

63 NVE Brief to Governor Dunleavy, September 4, 2024 at P. 7.

64 *JAE Properties, Inc. v. AMTAX Holdings 2001-XX, LLC*, __ F. Supp. Ed __, 2024 WL 538570 (USDC S. D. Cal. 2024).

program if supported by an analysis of the factors in the Agreement, but the Agreement did not mandate it.

NVE and MOA also seem to place all their emphasis on Factor Three, i.e., protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat) without providing for equal consideration of the other seven factors. The Agreement clearly and unequivocally requires the Governor to give "equal consideration" to all Eight Factors.[65] Although Factor Three is an extremely important element of this process, it cannot be viewed alone or to the detriment of the other factors. Each factor has an impact on the final program.

However, with that said, it does not mean that the Governor cannot alter or improve the Proposed Final Program. The Proposed Final Program meets the requirements of the Agreement, giving equal consideration to the Eight Factors, and provides for the protection, mitigation of damage to, and enhancement of fish and wildlife habitat. It can, however, be improved in certain ways to try to reconcile the differences between the Parties per the requirements in the Agreement.

4. Governor's Amendments to Final Proposed Program

The Proposed Final Program is established with the following amendments. Discussion on the amendments will follow this section.

Section 3.1 Committee

This section is amended as follows:

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65 Agreement at Section 5, P. 4.

The Committee will consist of one voting representative from each of the following:

Alaska Department of Fish and Game – member appointed by the Commissioner;

Alaska Department of Natural Resources – member appointed by the Commissioner;

NMFS – member appointed by its Regional Director;

FWS – member appointed by its Regional Director;

NVE - member appointed by its Chair/President; and

Governor of Alaska – appoints one member.

The Committee will make decisions by consensus and four members shall constitute a quorum.

Section 4.1 Fixed Wheel Gate

If it is determined that the construction of the fixed wheel gate is not structurally or economically feasible, the Owners shall make available any remaining funds not expended of the $10,000,000.00 (up to $10,000,000.00 in April 2024 U. S. dollars)[66] for other protection, mitigation, and enhancement measures for fish and wildlife including impacted habitat loss and other effects

[66] The current estimate for that fixed wheel gate is $4 million. Operators committed up to $10 million in 2024 dollars. See Transcript of Proceedings, September 9, 2024 at P. 109.

related the Project in accordance with the terms and process previously outlined in Section 3.3.6.[67]

Section 4.0 Limited Reopeners

New Section 4.3 is added.

Section 4.3 Pumped Storage Hydropower

Pumped Storage Hydropower is added as a Limited Reopener.

The Parties are directed to study this upon terms and conditions they mutually agree to. The terms and conditions will include level of engineering, level of cost analysis, what Party or Parties will fund the study and in what amounts and any other matters the Parties find necessary to implement this Limited Reopener. The study should be consistent with studies performed for other alternatives reviewed by Operators. The Parties, assuming they agree on the above requirements, are directed to undertake the study immediately, but this study will not delay the implementation of the Governor's Approved Final Program or the review and study of the fixed wheel alternative. The results of the study will be reported to the Monitoring and Adaptive Management Committee ("Committee").

The Committee will analyze the study findings and perform the Eight Factor analysis required by the Agreement. The Committee will then provide the study findings and Eight Factor analysis to the Owners for the Owners review. If

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67 See FWS comments to the Proposed Final Program, June 24, 2024 at Pp. 4-5.

the Owners approve the study findings and Eight Factors analysis, they will provide a statement of support to the Committee and the Committee and Owners will coordinate and cooperate to obtain the Governor's approval. Governor approval of the decision to pursue Pumped Storage Hydropower is required. If the Governor approves the proposal, then the 35-year timeframe requirement to repeat the consultation process required by the Agreement will restart from the date the Governor's approval. The construction of Pumped Storage Hydropower must minimize impacts to Project operations. The Project Owners will oversee all construction activities and will support the development and operation of Pumped Storage Hydropower facilities and infrastructure. This is a limited reopener and will not reopen any other components of the Fish and Wildlife Program.

Discussion of Amendments

Amendment to 3.1

Since the Proposed Final Program provides for ongoing review through the Monitoring and Adaptive Management Committee, and it is the Governor's role under the Agreement to establish a Final Program, adding a Governor appointed seat to the Monitoring and Adaptive Management Committee allows the Governor, and future Governors, to continue to fulfill his or her role under the Agreement to establish the Final Program as the work of the committee is ongoing. The definition of a quorum is added to assist in governance and ensure the recommendations made by the committee have robust involvement from the entities represented.

Amendment to 4.1

As one of the purposes of the Agreement and Final Program is to protect, mitigate damage to, and enhance fish and wildlife habitat, ensuring the funds already set aside for the fixed wheel gate alternative are available to be used for other protection, mitigation, and enhancement measures is consistent with the intent of the Agreement in the event the fixed wheel gate is found to be infeasible. This amendment is responsive to the modification of the Proposed Final Plan requested by NMFS and FWS.

Amendment to 4.0, addition of Section 4.3

MOA and NVE have suggested that Pumped Storage Hydropower ("PSH") is a viable alternative to the Proposed Final Program. They passed a joint resolution on September 5, 2024, advocating for PSH. They claim it is a "proven energy storage solution used worldwide that provides carbon free power production, storage and grid stabilization and that it has the potential to maintain or improve power production, meet municipal water needs and provide full River hydrological function and connection into and out of Eklutna Lake for fish passage.[68] They suggested that the Governor require the Owners use the first two years of the three year implementation period to explore this option.[69]

Neither MOA nor NVE have studied this potential alternative. The Operators have reviewed it but admittedly did not get to any final conclusions on its viability, nor did they engineer or model it to see if it was economically or engineeringly feasible at this location. At the meeting with the Governor's office, MOA, NVE and Operators each

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68 MOA/NVE Joint Resolution, September 5, 2024

69 Id.

agreed that this was a potential option that could be explored.[70] However, Operators and the federal Parties do not want to delay implementation of the Final Approved Program to explore this option.

Implementation of the Final Approved Program should not be delayed or extended for an option of unknown cost and feasibility. However, if PSH is as promising as MOA and NVE indicate, there are numerous potential benefits and improvements to the Eight Factors which must be considered when evaluating this Program. As such, conducting this study, under terms agreeable to the Parties, will provide more information relevant to those factors and the potential benefit or harm to the protection, mitigation of damage to, and enhancement of fish and wildlife resources.

All other components and requirements of the Final Proposed Program are adopted herein unless otherwise amended hereby. The Owners are directed to begin implementation of the Final Approved Program as approved herein as soon as possible.

V. CONCLUSION

The Final Approved Program established today is the culmination of many years of difficult work, analysis, evaluation, discussion, and negotiation by the Parties. Each party did not get all they wanted in this Final Approved Program. However, this is a long-standing problem with no readily available easy solutions and implementation of this

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[70] Transcript of Proceedings, September 9, 2024 at Pp. 105-122. The federal parties did not take a position other than to state they are in favor of exploring options that restores full waterflow to the river and allows for fish passage. Id. at Pp. 112-113.

Final Approved Program will put the River on track towards potential full water flow and fish passage.

Mike Dunleavy
Governor
Date: 10-2-2024

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Final Technical Memorandum

To:	Project Owners	Project:	Eklutna Hydroelectric Project
From:	Chuck Sauvageau	cc:	Samantha Owen
Date:	November 14, 2022	Job No.:	22-028
Subject:	Eklutna Lake Water Quality and Trophic Status Summary		

1.0 Introduction and Purpose

As summarized in the Initial Information Package (IIP), there is limited historic water quality data for Eklutna Lake. In addition, the United States Army Corps of Engineers (USACE) reported in 2011 that "…physical limnology studies of Eklutna Lake suggest that the turbidity in Eklutna Lake during much of the year is not conducive to significant primary production. Low numbers and small size of the native land locked sockeye salmon (kokanee) found in the lake supports these biological assumptions." (USACE, 2011). Therefore, one of the goals of the overall Water Quality Study was to gain a better understanding of seasonal water quality parameters in the lake as well as assess the lake's trophic status based on methods described by Carlson (1977).

The results from these water quality assessments will serve as a component to aid in the decision making process for the potential of instream flow release locations into the Eklutna River and well as development of potential fish passage facilities into Eklutna Lake. A detailed summary of study and data collection objectives include the following:

- Collect continuous water temperature data in Eklutna Lake as well as *in situ* profiles of temperature, pH and dissolved oxygen (DO).
- Collect total phosphorus, chlorophyll *a*, and Secchi depth data in Eklutna Lake to determine the trophic status index (TSI) value.

2.0 Eklutna Lake Study Areas

Eklutna Lake sampling occurred at locations where water may be released downstream into the Eklutna River. Water quality study site locations in Eklutna Lake are depicted in Figure 2-2; these locations are:

- Thermistor String 1 – located in Eklutna Lake near the Project intake structure (temperature, DO, pH, total phosphorus, chlorophyll *a* Secchi depth)
- Thermistor String 2 – located in the "pond" near the Project dam in front of the spillway (temperature, DO, pH, total phosphorus, chlorophyll *a*, Secchi depth)

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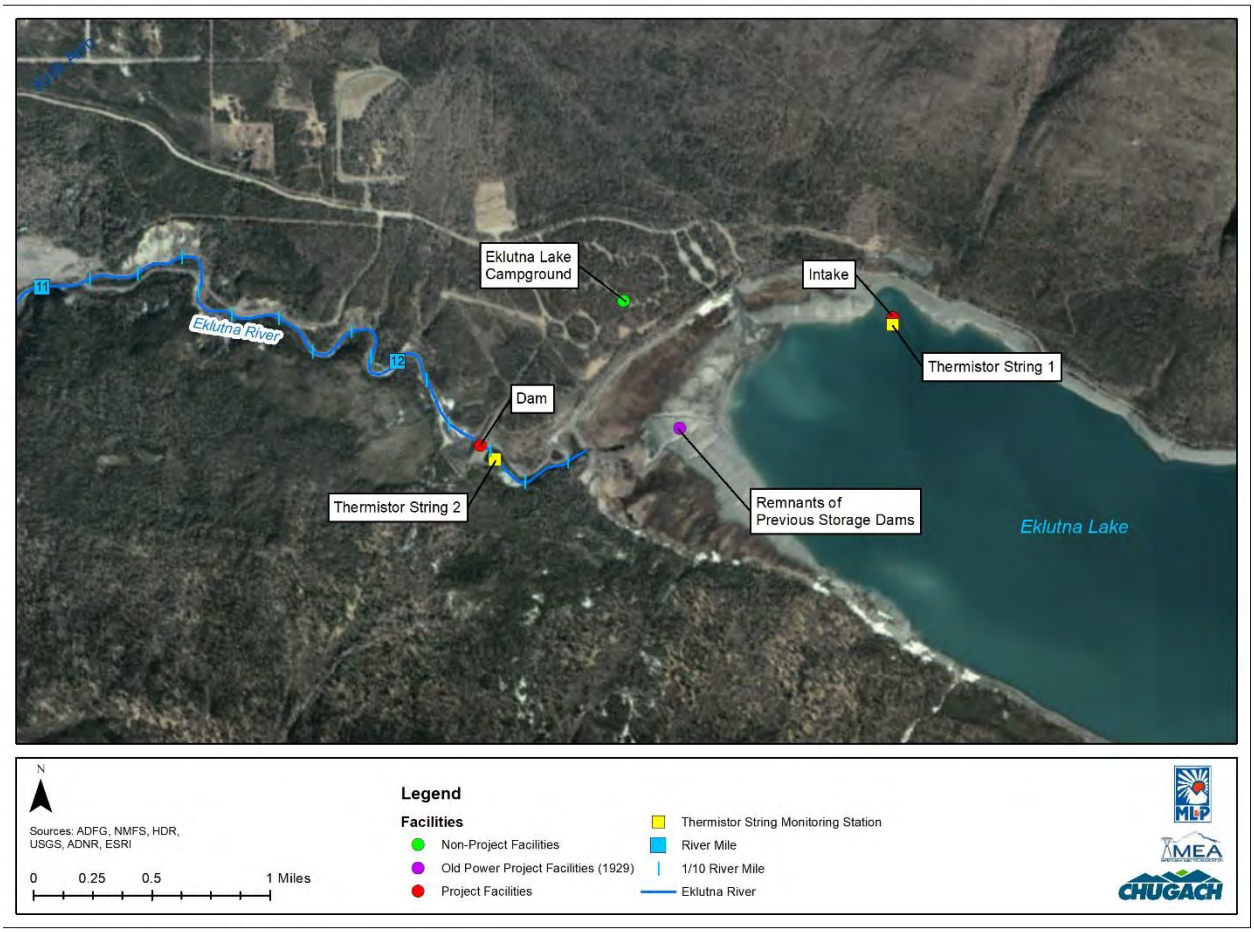

Figure 2-2. Water quality study site locations in Eklutna Lake

3.0 Methods

3.1 Water Temperature

Calibrated thermographs were utilized to continuously record water temperatures in the "pond" (Thermistor String 2) from May of 2021 through October of 2022. The Eklutna Lake thermistor string could not be installed in May due to unsafe lake conditions, and Eklutna Lake data could not be downloaded in September or October of 2022 due to high lake levels; therefore, at the Eklutna Lake intake site (Thermistor Sting 1) continuous temperature data are available from June of 2021 through August of 2022. Field procedures, as well as pre-deployment instrument calibration, followed techniques detailed by Ward (2011). A thermistor string was deployed using a buoy and anchor system at each of the two lake sites (Figure 3-1). Continuous temperature sampling occurred at two distinct depths in the water column. For the thermistor string near the Project intake , temperature sampling occurred at 0.5 meters below the water surface and at approximately El. 793.6 feet (the approximate elevation of the intake). For the thermistor string in the pond near the existing dam in front of the spillway, temperature sampling occurred at 0.5 meters below the water surface and at approximately El. 852 feet (the invert elevation of the drainage outlet gate). In addition to the continuous temperature monitoring efforts, *in situ* measurements of water temperature were taken every 6-8 weeks during the ice free season (May-October) with a calibrated water quality sonde. These *in situ* data were collected to validate logger data during

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each field maintenance and data download effort as well as providing a temperature profile throughout the entire depth of the water column.

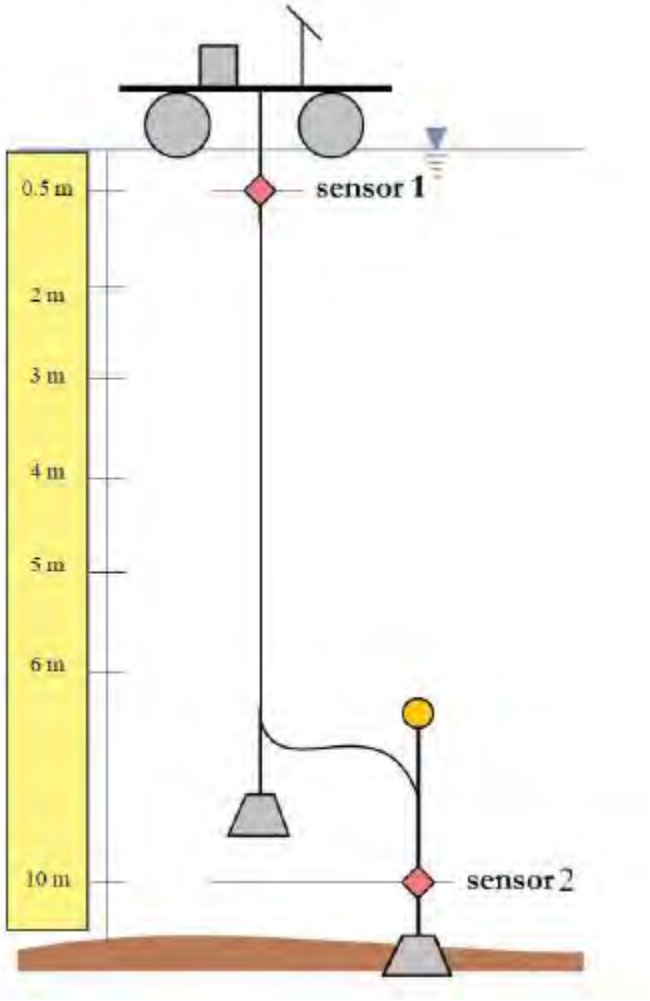

Figure 3-1. Thermistor string schematic for water temperature monitoring in Eklutna Lake.

3.2 Eklutna Lake DO and pH

Monthly DO and pH data were collected as *in situ* profile readings at the two lake stations during the ice-free period from May 20 to September 29 2021, in the pond and from June 23 to September 29, 2021 in Eklutna Lake. DO and pH profile data were collected at 3-foot depth intervals for the entire water column utilizing a water quality sonde calibrated to manufacturer recommendations.

3.3 Eklutna Lake Trophic Status

The mid-summer lake profiling on July 14, 2021, also included the determination of Secchi depth, as well as the collection of total phosphorus and chlorophyll *a* samples. The assessment of these three lake parameters were utilized to provide an index of lake productivity based on Carslon (1977). Water samples for phosphorus and chlorophyll *a* were collected near the surface of the lake utilizing a Van Dorn sampler at the two lake monitoring sites. The Van Dorn sampler was flushed with on-site lake water prior to collection at each site. Collected water samples for total phosphorus were transferred to pre-labeled

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laboratory-supplied bottles while chlorophyll *a* water samples were filtered through 0.45 µm filters and wrapped in aluminum foil. Both the phosphorus and chlorophyll *a* samples were placed immediately on ice then delivered to analytical laboratories on the same day that the samples were collected. Total phosphorus samples were processed and analyzed by SGS Laboratories in Anchorage, AK. Chlorophyll *a* concentrations were quantified by Professor Erin Larson, PhD at Alaska Pacific University.

4.0 Results

4.1 Eklutna Lake Water Temperatures

Figures 4-1 and 4-2 show the daily maximum water temperatures recorded at Eklutna Lake and the pond, respectively. Overall, both monitoring stations meet the Alaska Department of Environmental Conservation (ADEC) criteria for water use category (C) *Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife,* meaning that water temperatures did not exceed 20°C at any time. However, ADEC also delineates a 15°C maximum temperature criteria for rearing areas (ADEC, 2020). Based on this rearing criteria, the Eklutna Lake and pond sites exceeded the 15°C standard intermittently during 2021 and 2022. At the Eklutna Lake site, only surface water temperatures exceed 15°C from mid-July to mid-August 2021, while in 2022 the 15°C threshold is intermittently exceeded at both depth strata from mid-July to mid-August. At the pond site, water temperatures at depth never exceed 15°C, while surface water temperatures exceeded 15°C at times from early July to mid-August of 2021. In 2022, surface water temperatures exceed the 15°C rearing criteria for four days in early and late July.

Figures 4-3 and 4-4 show water temperature profile data collected every 4-6 weeks at Eklutna Lake and the pond, respectively. These data confirm periods of minor stratification (~1°C) in the summer months as well as the turnover or breakup of temperature gradient in mid to late September. In addition, when Eklutna Lake and the pond were connected during the September 2021 and September 2022 sampling efforts, each basin retained its unique temperature profile.

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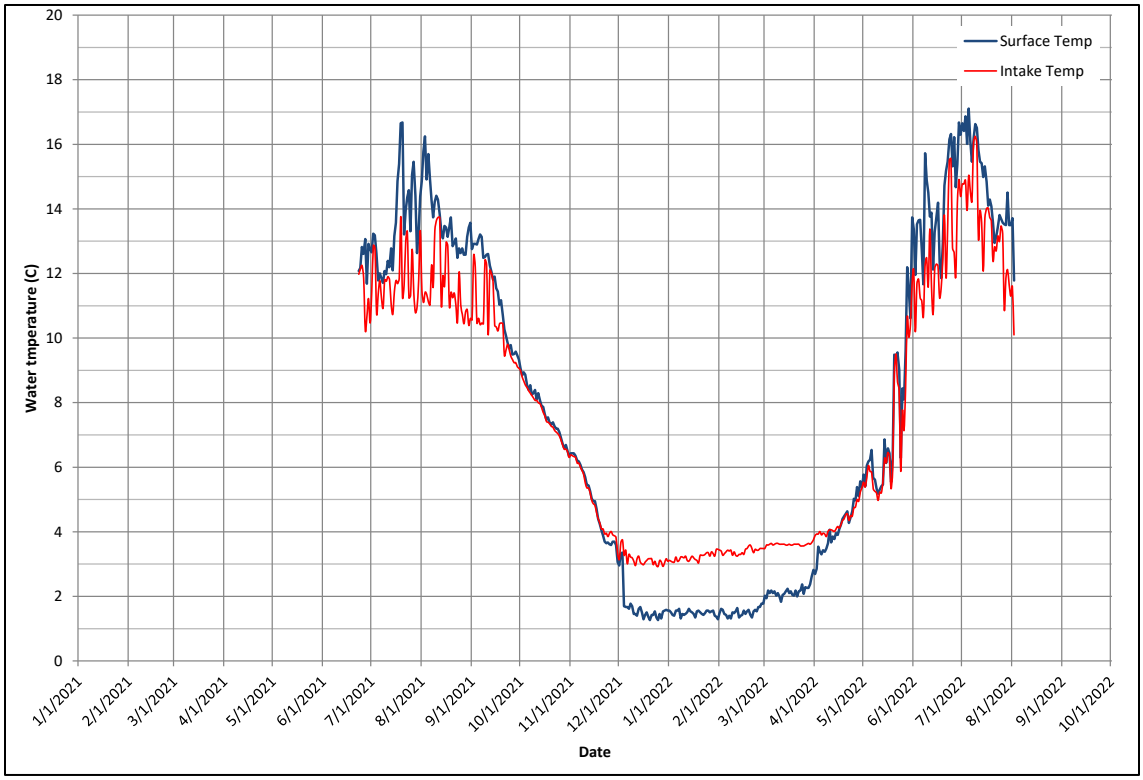

Figure 4-1. Eklutna Lake maximum daily water temperatures 2021-2022.

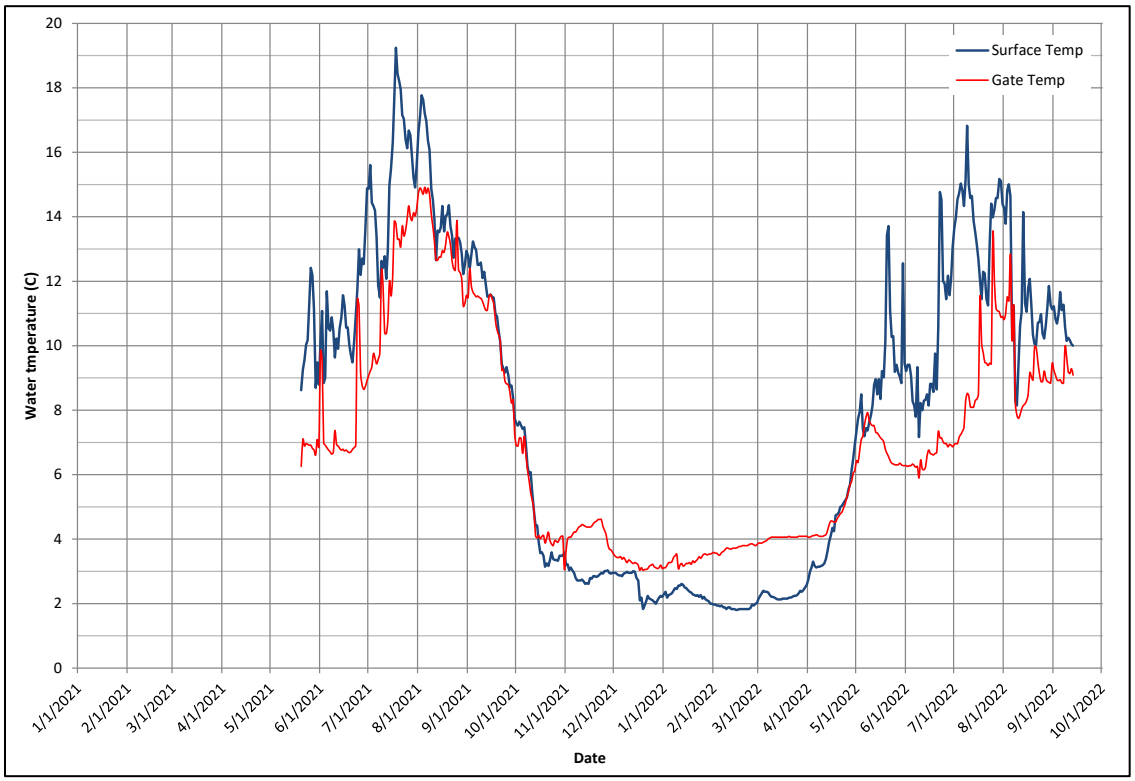

Figure 4-2. Eklutna Pond maximum daily water temperature 2021-2022.

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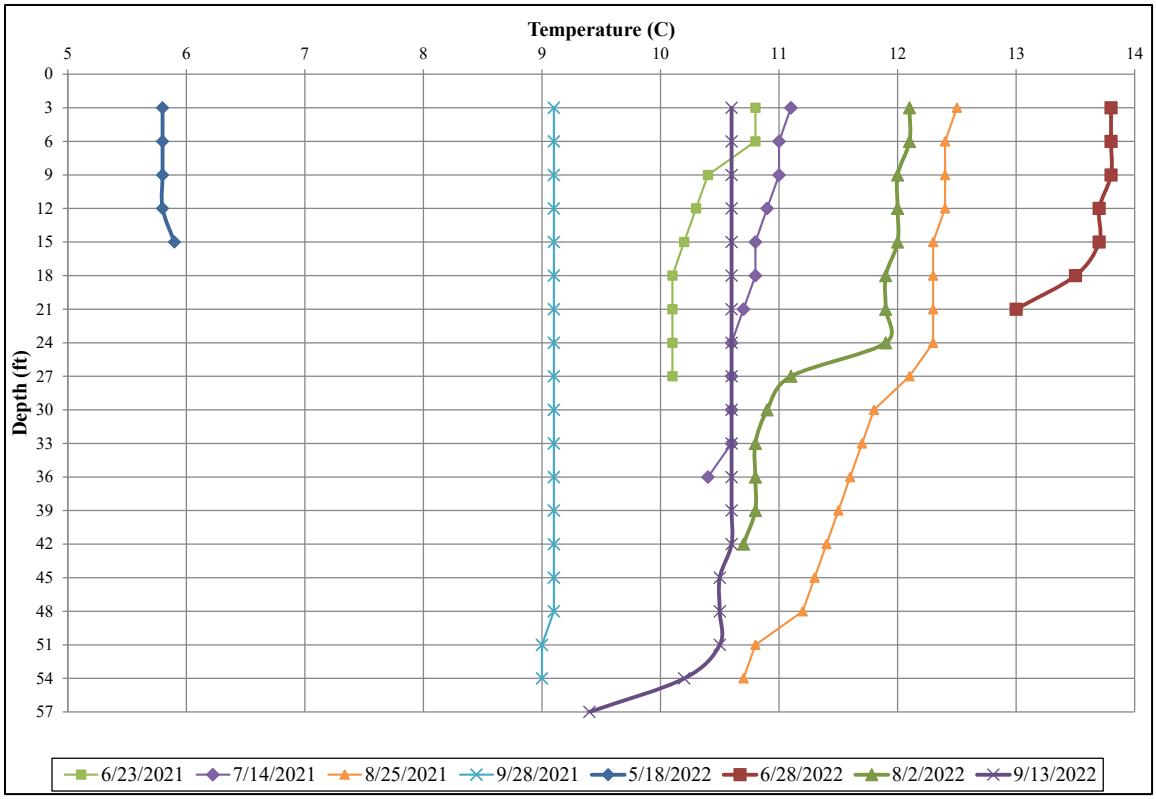

Figure 4-3. Eklutna Lake water temperature depth profiles 2021-2022.

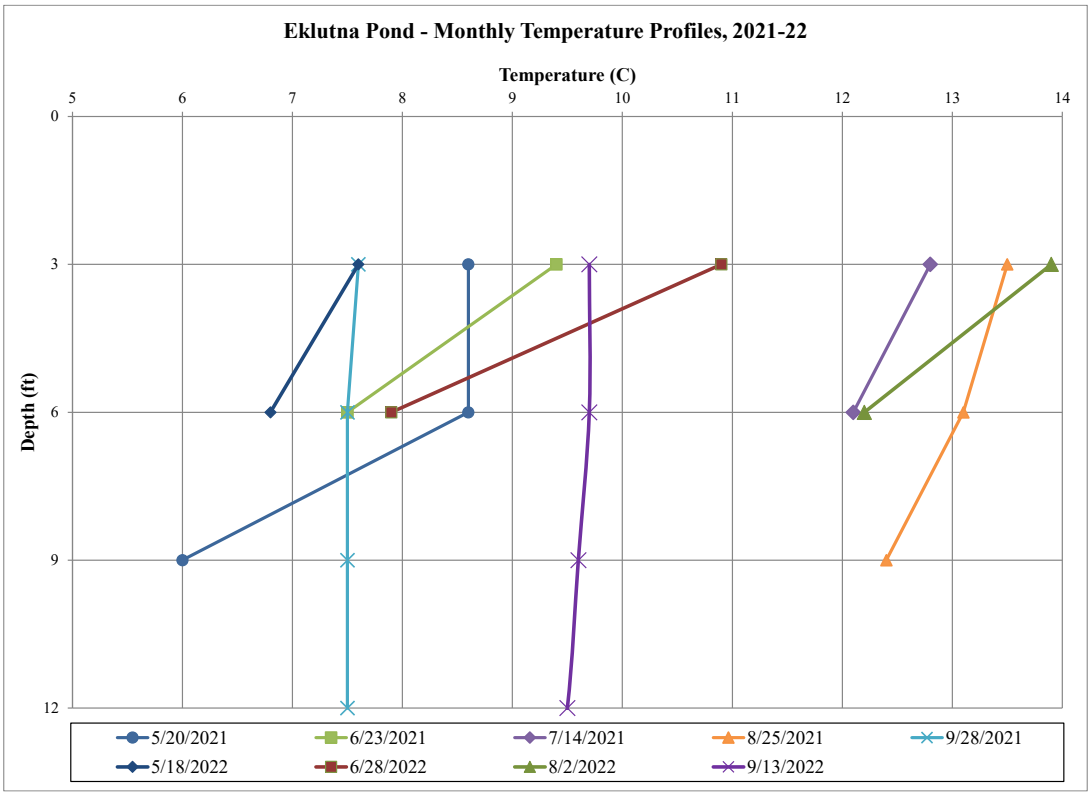

Figure 4-4. Eklutna Pond water temperature depth profiles 2021-2022.

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4.2 Eklutna Lake Dissolved Oxygen (DO) and pH

4.2.1 Dissolved Oxygen (DO)

Figures 4-5 and 4-6 show DO profile data collected monthly at Eklutna Lake and the pond, respectively. Eklutna Lake has a relatively uniform DO profile throughout the water column and easily meets ADEC criteria of 7 mg/l (ADEC, 2020). In the pond, DO dropped below the 7 mg/l criteria at a depth of 9 feet and 6 feet in late May and late June of 2021, respectively. Freshwater macrophytes were not observed in the pond, so it is likely that these depleted DO concentrations were a result of leaf litter decomposition near the bottom of the pond. Finally, DO profiles between Eklutna Lake and the pond are nearly identical when both basins were connected in September of 2021.

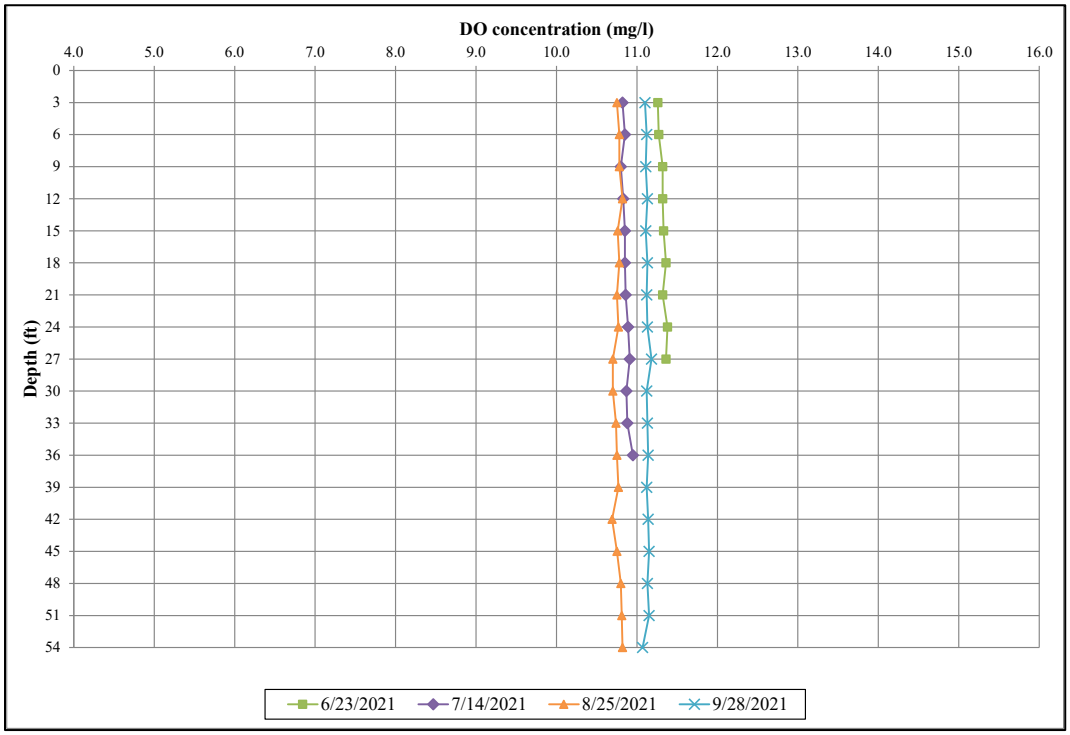

Figure 4-5. Eklutna Lake dissolved oxygen concentration profiles.

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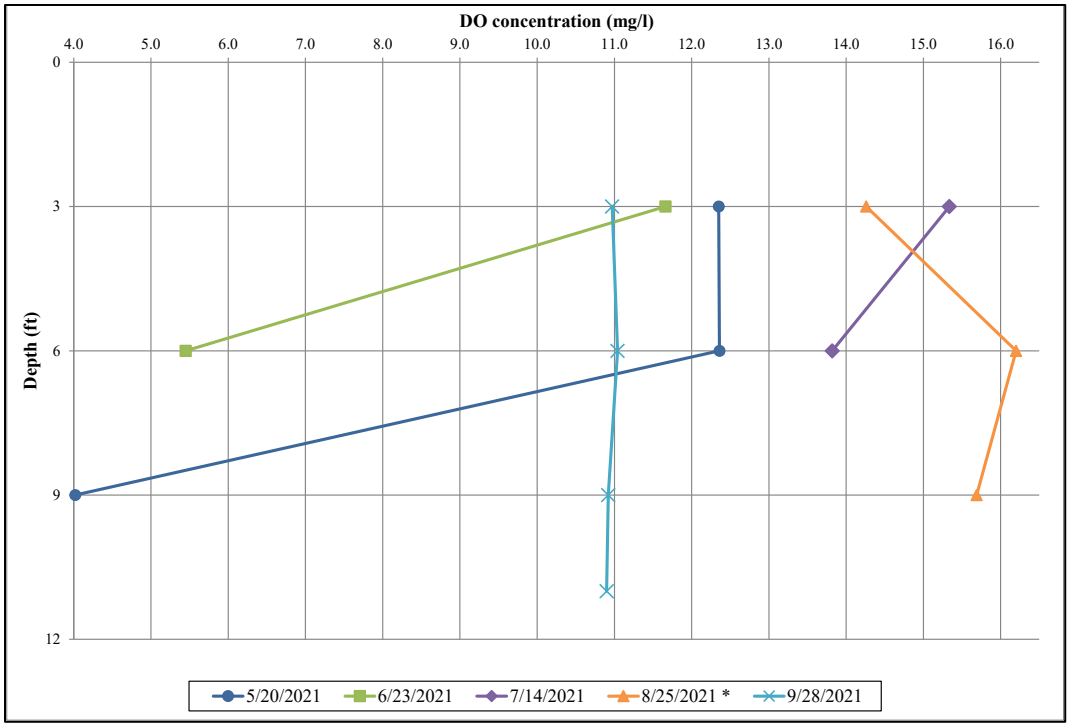

Figure 4-6. Eklutna Pond dissolved oxygen concentration profiles.

4.2.2 pH

Figures 4-7 and 4-8 summarize pH profile data collected monthly at Eklutna Lake and the Eklutna Lake pond, respectively. Values for pH in Eklutna Lake vary seasonally and throughout the water column, but the relatively narrow data range of 7.9-8.3 meet ADEC criteria of 6.5 – 8.5 (ADEC, 2020). Conversely, the pond exceeds the pH 8.5 criteria during the summer profiles collected in mid-July and late August of 2021. Similar to the water temperature results, pH data for Eklutna Lake and the pond remain unique despite being hydrologically connected during the September 2021 sampling effort.

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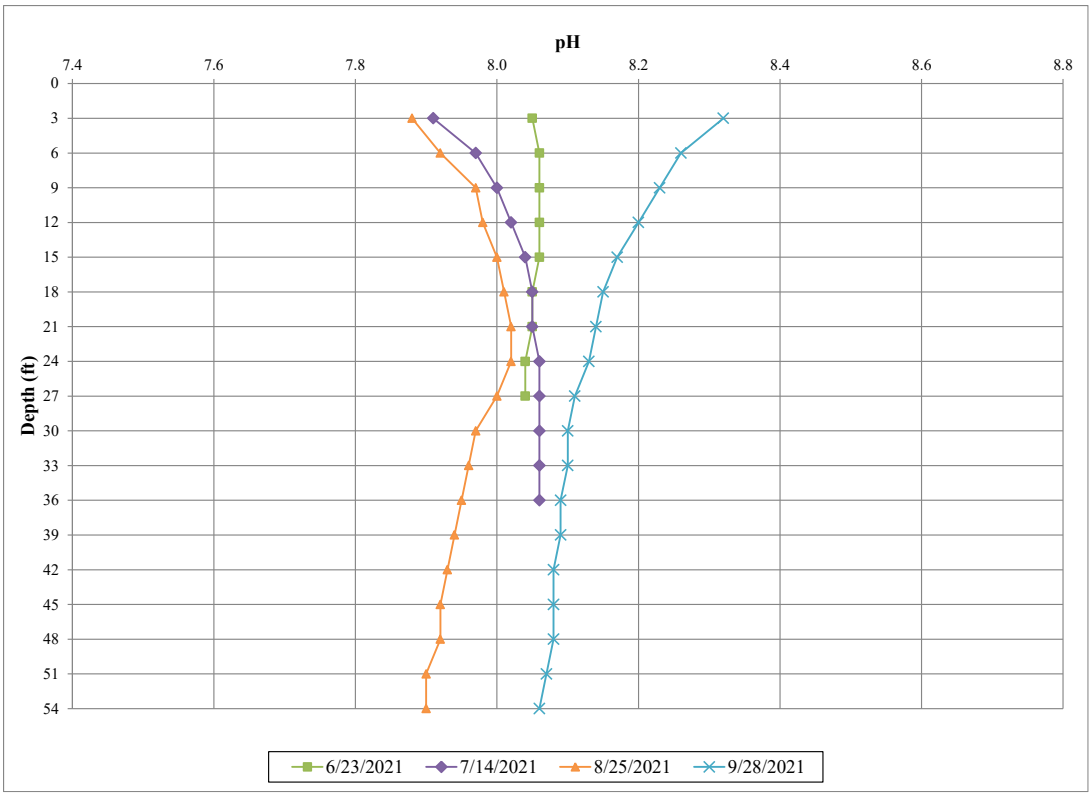

Figure 4-7. Eklutna Lake pH profiles.

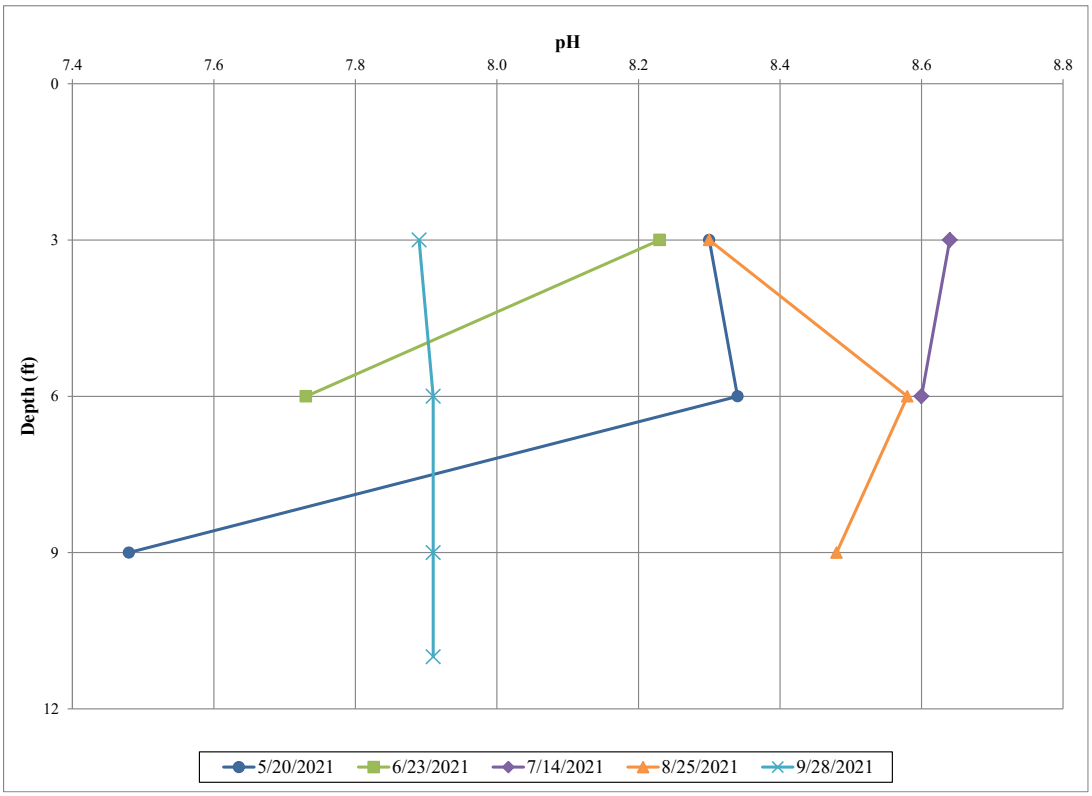

Figure 4-8. Eklutna Pond pH profiles.

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4.3 Eklutna Lake Nutrients and Trophic Status

Table 4-1 summarizes the results from samples taken for TSI assessment in Eklutna Lake and the pond in 2021 and 2022. Results from 2021 revealed that Secchi depth and total phosphorus (TP) concentrations were not suitable factors to assess the trophic status of Eklutna Lake or the pond. Glacial runoff from the primary inflow tributaries create a turbid lake that greatly diminishes water clarity and confounds the Secchi depth results in relationship to the other parameters. TP concentrations below the detection limit of 0.04 mg/l (parts per million) does not provide the resolution needed to utilize TP as an index for trophic assessment. TP concentrations in µg/l or parts per trillion would be required to use as an index factor. However, discussions with SGS laboratories confirmed that mg/l or parts per million was the lowest analytical level that could be quantified. Therefore, in 2022, only chlorophyll *a* samples were collected to calculate the trophic index of Eklutna Lake based on the formula summarized Equation 4-1 (Carlson and Simpson, 1996). Based on 2021 results, Eklutna Lake and the pond would have a TSI of 18.5 and 23.2 while the 2022 results show both waterbodies with a TSI Index near 10.0 (10.6 for Eklutna Lake and 9.8 for the pond). Overall, these results would classify Eklutna Lake and the pond as oligotrophic (TSI <30; chlorophyll *a* <0.95 ug/l) or a lake with low primary productivity most likely due to nutrient deficiency. However, the low levels of algal biomass may also be attributed to the glacial turbidity of the lake that limits light penetration.

Table 4-1. Eklutna Lake and Eklutna Pond trophic factors, July 14, 2021, and July 7, 2022.

Sample Source	Chlorophyll *a* (ug/l)	Total Phosphorus (mg/l)	Secchi Depth (m)	TSI Value
Eklutna Lake (2021)	0.29	<0.04	0.85	18.5
Eklutna Pond (2021)	0.47	<0.04	2.04	23.2
Eklutna Lake (2022)	0.13	*not collected*	*not collected*	10.6
Eklutna Pond (2022)	0.12	*not collected*	*not collected*	9.8

Equation 4-1. Trophic State Index calculation utilizing chlorophyll *a* results

$$TSI = 9.81 * \ln(CHL\ a) + 30.6$$

5.0 Conclusions and Discussion

In both Eklutna Lake and the pond, surface water temperatures met the 20°C criteria established by ADEC, but had intermittent periods exceeding ADEC's 15°C rearing criteria in July and August. The water temperature profile data revealed a very mild thermocline of approximately 1°C in the summer with turnover or an isothermal profile occurring in mid to late September. The Eklutna Lake temperature profile data reflect peak surface water temperatures (~14°C) and a similar timeframe for turnover observed in limnology studies conducted in the 1980's (APA, 1984; R&M, 1985). However, the temperature profile data from the 1980s were collected at a deeper location (~200 feet) than the intake station (~57 feet). Temperature data from the deeper monitoring station showed a more substantial thermocline from mid-July to mid-August with surface temperatures ranging from 13°C to 14°C and bottom temperatures from 5.2°C to 5.4°C.

Eklutna Lake near the intake met ADEC criteria for DO (>7 mg/l) and pH (6.5-8.5) at all sampling dates in 2021. However, the pond had DO concentrations <7 mg/l at depth near the outlet gate on May 20 and June 23, 2021. Values for pH in the pond also slightly exceeded the upper end of ADEC criteria (8.5)

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with readings of 8.60 to 8.64 on July 14, 2021 and 8.58 on August 25, 2021 at a depth of 6 feet. In general, water quality conditions within Eklutna Lake are suitable for the ADEC water use category (C) *Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife.* However, there are depth strata and times of the year in which optimal temperature, DO, and pH conditions are not met, most notably in the pond.

As summarized in Section 4.3, the low TSI values from 2021 and 2022 correspond to an oligotrophic classification indicating low primary productivity based on algal biomass. With low primary productivity (phytoplankton), there is likely to be limited secondary production (zooplankton) as well. In addition, nutrient sampling of total phosphorus was below detections limits and reveals that nutrients may be limited within the watershed. Historical nutrient sampling by the USGS from 1972-1973 also indicated low phosphorus concentrations within water conveyed from Eklutna Lake to the Project's tailrace (<0.01 mg/l to 0.01 mg/l) (USGS, 1973). These results, coupled with low levels of nitrogen (0.4-0.18 mg/l) detected in 1972-1973 show that low nutrient concentrations have remained a stable condition within Eklutna Lake over time.

The limited limnological investigations addressed in this study indicate an overall lake productivity that is lower than what would likely be required to maintain complex, abundant planktonic communities and populations (the primary food source for juvenile Sockeye/kokanee populations in nursery lakes). And while these data serve to compliment the results from the fisheries studies conducted in Eklutna Lake and its tributaries in 2021 and 2022, it's important to note that they do not establish a carrying capacity or population potential of anadromous fish for Eklutna Lake. However, these data do confirm USACE conclusions from 2011 that Eklutna Lake is a waterbody with low productivity. Finally, it should be noted that the low TSI values and oligotrophic classification for Eklutna Lake does confirm why the waterbody serves as an excellent drinking water resource.

6.0 References

APA (Alaska Power Authority). 1984. Susitna Hydroelectric Project Eklutna Lake Temperature and Ice Study. 16 pp with 39 Figures. Submitted January 1984.

Carlson, R.E. 1977. A trophic state index for lakes. Limnology and Oceanography. 22:2 361-369.

Carlson, R.E. and J. Simpson 1996. A coordinator's guide to volunteer lake monitoring methods. North American Lake Management Society. 96pp.

Department of Environmental Conservation. State of Alaska. 18 AAC 70. Water Quality Standards. Amended as of March 5, 2020. Register 233, April 2022. 65 pp

R&M (R&M Consultants, Inc.). 1985. Eklutna Lake Suspended Sediment, Turbidity, and Temperature Data 1982-1984. Memorandum submitted 5/1/1985 to Aquatic Study Team Members in support of Project No. 452418. 27 pp.

USACE (United States Army Corps of Engineers). 2011. Eklutna River Aquatic Ecosystem Restoration Technical Report. Submitted November 2011. 72 pp.

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USGS (United States Geological Survey). 1973. USGS 612836149084800 EKLUTNA R BL POWER PLANT NR EKLUTNA AK. Accessed April 19, 2020. https://waterdata.usgs.gov/nwis/inventory/?site_no=612836149084800&agency_cd=USGS

Washington State Department of Ecology Environmental Assessment Program, 2011. Standard Operating Procedures for Continuous Temperature Monitoring of Fresh Water Rivers and Streams. Version 2.0. Author: William J. Ward, Reviewers: Dan Sherratt and Dave Hallock. Approved 10/26/2011, Recertified: 3/25/2015.

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Technical Memo Comment-Response Table

Comment #	Agency/Interested Party	Draft Eklutna Lake Water Quality and Trophic Status Summary Technical Memo Section (Page) *"Text"*	Comment	Response
Section 4.0 Results				
1	USFWS	Section 4 and Figures 4-3 and 4-4 (Pages 4-5). *"In addition, when Eklutna Lake and the pond were connected during the September 2021 and September 2022 sampling efforts, each basin retained its unique temperature profile."*	Pages 4 to 5: Section 4 and Figures 4-3 and 4-4, describe how water temperatures in the basins of the pond and lake remained unique even when they were connected in September of 2021 and 2022. There were questions during the TWG meeting about how much of the pond and lake are shallow. This is important because shallower areas allow more sunlight which can result in more phytoplankton and zooplankton. The TWG also questioned if a future scenario of more static lake levels may result in greater areas of vegetated shoreline. Please discuss how lake and pond depths may be impacting fish habitat and lake productivity.	The general bathymetry of Eklutna Lake indicates limited shallow areas as it is steep banked along near shore areas with a deep, off-shore basin up to a depth of 208 ft. Based on the depth of the thermistor string deployment and profile data, it is evident that the pond would be considered a shallow area (~6 ft -18 ft deep). However, the pond represents such a small area in comparison to Eklutna Lake that even if the shallow pond were more productive (which the 2021 and 2022 data *have not* validated), it's effect on the overall productivity of Eklutna would be limited. Finally, the impacts of the high turbity from Eklutna Glacier runoff similarly affects the photic zone of the shallow and deep areas of the lake by limiting light penetration.
2	USFWS	Section 4.3 Eklutna Lake Nutrients and Trophic Status (Page 10). *"Glacial runoff from the primary inflow tributaries create a turbid lake that greatly diminishes water clarity and confounds the Secchi depth results in relationship to the other parameters."*	Page 10: Section 4.3, stated, the glacier runoff from the primary tributaries is causing turbidity in the lake that limits sunlight penetration and primary productivity. The rate of glacier-melt and subsequent turbidity levels in the lake will likely change as the glacier recedes (Sass et al. 2017), and levels of suspended glacial sediment and primary productivity in the lake may also change. Furthermore, Alaska has several examples of productive glacier-fed lakes, including Kenai Lake and Skilak Lake, and sockeye salmon (Oncorhynchus nerka) are known to rear in oligotrophic lakes. We request comparisons of similar glacier fed lakes in Alaska. Sass, L., M. Loso, J. Geck, E. Thoms, and D. McGrath. 2017. Geometry, mass balance and thinning at Eklutna Glacier, Alaska: An altitude-mass-balance feedback with implications for water resources. Journal of Glaciology, 63(238), 343-354. 12 pp. doi:10.1017/jog.2016.146	Sass et al. (2017) primarily conclude that the diminishing Eklutna Glacier (i.e. glacial loss) is providing "...7 $\pm$ 1% of the average inflow to Eklutna Reservoir..." and that the percent of inflows from glacial loss will likely increase over time. There is no timeframe provided for the end of glacial-melt within the watershed, nor are there any conclusions regarding impacts to turbidity in the receiving waterbody, (Eklutna Reservor). A search for data summarizing liminological parameters that assess productivity in Kenai Lake, Skilak Lake, or other productive glacial fed lakes will be conducted and compared to the Eklutna Reservoir in the Year 2 Study Report.

Technical Memo Comment-Response Table

Comment #	Agency/Interested Party	Draft Eklutna Lake Water Quality and Trophic Status Summary Technical Memo Section (Page) *"Text"*	Comment	Response
General Comments				
3	USFWS	General	During the TWG meeting there were discussions surrounding the Eklutna Lake system going decades without marine derived nutrients and if this could have contributed to the lack of nutrients in the lake. We recommend further analysis of how the lack of marine derived nutrients may be impacting productivity in the lake system.	We agree that Eklutna Lake has lacked marine derived nutirents since the 1929 diversion dam was constructed. Also, the literature is pretty clear on the impacts of marine derived nutrients in sockeye nursery lakes. As described by Stockner and MacIssac (1996) "...declining adult escapements have also resulted in a significant loss of nitrogen (N) and phosphorus (P) nutrients supplied by decomposing adult carcasses and the lakes have become less productive (oligotrophication) for rearing sockeye fry." However, we are not aware of a peer reviewed technique that can model, predict, or quantify how marine dervied nutrients would impact lake productivity. The Stockner and MacIssac (1996) study was based on 20+ years of studying Canada's Lake Enrichment Program, not a predictive model. The addition of liquid fertilizers did increase phytoplankton concentrations (primary production), but this did not always result in zooplankton increases (secondary production) of the primary species consumed by sockeye fry (*Dapnia spp.*). Daphnid zooplanton "...occupy a keystone position in the pelagic food-web and are thought to be one of the principal reasons why interior lakes produce larger smolts than coastal systems [in British Columbia]..." . Finally, it should be noted that "glacially turbid lakes with cold, poorly stratified epilimnia and strong light extinction from high concentrations of suspended glacial silt were rejected for nutrient enrichment." Stockner, J.G. and E.A. MacIsaac. 1996 British Columbia Lake Enrichment Programme: Two Decades of Habitat Enhancement for Sockeye Salmon, Regulated Rivers: Research and Management. Vol 12, 547-561.
4	USFWS	General	It appears productivity in Eklutna Lake has been impaired because of alterations to natural processes. The dam structure is preventing flushing flows from moving sediment through the system, and is preventing marine derived nutrients from getting into the system. The large variances in lake levels are inhibiting shallow habitat vegetated shorelines from producing nutrients. We would like to see more analysis on the impacts that the dam and fluctuating lake levels have had on the Eklutna Lake habitat and nutrients. The lake system could be compared to other functioning systems in Alaska such as Kenai Lake and Skilak Lake.	See answer above related to marine derived nutrients and productivity. Water level fluctuations are not likely to have much effect on pelagic productivity since the same photic zone would be present offshore as it is inshore, and plankton are not place-bound to the near shore environment. Furthermore, without lake level data for Kenai and Skilak Lake, a comparison to these waterbodies would be speculative.

Technical Memo Comment-Response Table

Comment #	Agency/Interested Party	Draft Eklutna Lake Water Quality and Trophic Status Summary Technical Memo Section (Page) *"Text"*	Comment	Response
Comments on Preliminary Engineering for Fish Passage Presentation				
5	USFWS	General	During the potential engineering solutions portion of TWG meeting, we learned that natural river system fish passage measures were determined to be not feasible and were not considered further. However, we are interested in exploring what some natural channel options could look like, and what the costs and benefits of those options would be.	The owners have communicated that dam removal is not a PME measure being explored. However, multiple fish ladder alternatives are being investigated for upstream passage into Eklutna lake. The current gravity flow fish ladder alternative is shown as a weir and orifice style ladder, however other ladder types may be investigated as this alternative is advanced into more detailed design.
6	USFWS	Upstream Fish Passage Scenarios	For upstream fish passage some scenarios could include dam removal, a constructed natural bypass channel, and a hybrid scenario with a bypass channel supported by trap and haul during low lake levels. With these options elevated lake levels may no longer be possible, however pumped energy storage to uphill reservoirs could provide a means for storing water for Eklutna when energy is more abundant (Williams et al. 2020). Williams, K., C. Smith, and B. Higman. 2020. Pumped energy storage for Alaska: A path to lower energy costs for Alaska's future. Alaska Institute for Climate and Energy. 21 pp.	The intent of the engineering alternatives analysis is to mitigate impacts of the existing project, rather than development of a new project. While the implementation of a pumped storage scheme in the railbelt may be attractive at a point in the future to firm excess renewables, it is not something being looked into at this time as part of the Eklutna Project.
7	USFWS	Downstream Fish Passage Scenarioes	Downstream fish passage scenarios could include dam removal both with and without lake fluctuations, resulting in a more run of the river scenario for power generation. We are interested in other options to facilitate outmigration such as a multi-level intake structure with a conduit around the dam (Hansen et al. 2017), and use of induced turbulence or injection of dissolved oxygen to attract outmigrants to safe passage routes (Perry et al. 2005; Biomark 2022). Hansen, A., T. Kock, and G. Hansen. 2017. Synthesis of downstream fish passage information at projects owned by the U. S. Army Corps of Engineers in the Willamette River Basin, Oregon: U.S. Geological Survey Open File Report 2017-1101. 118 pp. https://doi.org/10.3133/ofr20171101. Perry, R., M. Farley, G. Hansen, J. Morse, and D. Rondorf. 2005. Turbulence investigation and reproduction for assisting downstream migrating juvenile salmonids, part ii of ii; effects of induced turbulence on behavior of juvenile salmon. 2001-2005 Final Report, Project No. 200101000. BPA Report DOE/BP-00007427-1. 61 pp.	Multiple downstream passage alternatives are being investigated, including a natural outflow at the dam. Secondary attraction measures (beyond attraction flow) such as induced turbulence or D.O. injection may be analyzed as part of the detailed design.
8	USFWS	Additional Discussions Request	We request focused meetings to discuss dam engineering options. We would like to see more options based on fish passage and biological factors such as seasonal migration, timing, and other fish and aquatic habitat needs.	We will be meeting with stakelholders to review the engineering alternatives in early 2023.

Technical Memo Comment-Response Table

Comment #	Agency/Interested Party	Draft Eklutna Lake Water Quality and Trophic Status Summary Technical Memo Section (Page) *"Text"*	Comment	Response
9	USFWS	Data Request	During the TWG meeting graphs were provided illustrating the 10-year average water surface elevation overlain with water surface elevation per measure proposed. We would like to provide more in-depth analysis based on the biological needs of fish; to do this we request the last few years of actual head/pond fluctuation be provided on a daily scale instead of the 10-year average.	Daily water surface elevation data for Eklutna Lake over the prior 3 years is located at the following link: https://nwis.waterdata.usgs.gov/usa/nwis/uv/?cb_00065=on&cb_72192=on&format=gif_default&site_no=15278000&legacy=1&period=1095&begin_date=2022-12-08&end_date=2022-12-15
10	NVE	General	Trap and haul should not be necessary even at low lake levels with appropriate new “plumbing” engineering at the Eklutna Lake outlet. The lake should be kept high enough to cover the profuse potential sockeye spawning habitat around the lake now in the varial zone.	Fish passage alternatives that do not involve trap and haul and keep the lake level high are being investigated and will be presented as part of the phase 1 engineering analysis.
11	NVE	General	Our analysis recommends a deeper channel through the natural moraine dam, likely with a new hoist gate dam there, which should allow seasonally adequate and continuous flow release, and fish passage like a fish ladder (or “… constructed natural bypass channel” (as per USFWS comments)) without needing trap and haul even at lower lake levels. Dam removal, as per FWS could be nice for the salmon, but probably not so advantageous for power operations. Trap and haul capacity might be retained as an emergency option for abnormally low water years. We are counting on your team to design such options for us.	A deeper channel option as well as a new hoist gate located at the dam are PME measures being investigated, to be presented as part of the phase 1 engineering results.

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Nesbett Courthouse
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TO:
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CASE NAME: Anchorage Municipal Assembly vs Regulatory Commission of Alaska et al
CLERK: LT 1-2
DATE: October 30, 2024

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chair
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S OPPOSITION TO THE OFFICE OF THE ATTORNEY GENERAL'S MOTION TO DISMISS AS MOOT

The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") opposes the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section's ("RAPA's") Motion to Dismiss as Moot ("Motion"). RAPA argues that AHP's Request for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee ("Request for Acknowledgment") is now moot because the MOA only wanted voting rights restored for the limited purpose of participating in the 1991 Fish and Wildlife Agreement process up until the October 2, 2024 Governor's establishment of a Final Fish and Wildlife Program ("Final Program").[1] RAPA also argues that the Commission should dismiss AHP's Request for Acknowledgment as premature because the "surrender language" of Order U-18-102/U-19-020/U-19-021(39) ("Order 39")[2] requires a "minimum" surrender term of at least 35 years.

[1] Motion at 5.

[2] May 28, 2020.

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RAPA's motion should be denied because RAPA is wrong that the MOA only wanted its voting rights restored because the MOA "wanted a vote on the Fish and Wildlife Program" prior to the Governor's issuance of a Final Program.[3] As stated by AHP in its filings in this docket, the MOA wants its voting rights on the Eklutna Operating Committee ("EOC") reinstated—period. Thus, AHP's Request for Acknowledgment is not moot because if AHP prevails it will be entitled to *exactly* the relief it requested: the Commission will acknowledge AHP's acquisition of the required expertise such that AHP will have voting rights on the EOC. Further, as explained in AHP's briefing on the language of Order 39, there is no "minimum" surrender term required to lapse before AHP may file a request for acknowledgment of acquisition of the expertise required to participate as a voting member of the EOC. AHP's Request for Acknowledgement is not premature.

DISCUSSION

I. RAPA's Motion misconstrues the reasons that the MOA filed its Request for Acknowledgment.

RAPA argues that the MOA filed its Request for Acknowledgment solely because the MOA "wanted a vote on the [Final] Fish and Wildlife Program," prior to its issuance by the Governor, which occurred on October 2, 2024.[4] RAPA concludes that the issuance of a Final Program negated the sole reason the MOA wanted to reinstate its voting rights and that AHP's Request for Acknowledgment is now moot.[5]

[3] Motion at 5.

[4] *Id.* at 5.

[5] *Id.* at 5-7.

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RAPA is incorrect. AHP did not file its Request for Acknowledgment for the limited purpose of participation in the Fish and Wildlife process leading up to the Governor's issuance of a Final Program. First, AHP's July 18, 2024, Request for Acknowledgment put no such temporal or topical limitations on the requested participation on the EOC.[6] Second, AHP's proposed timeline in its August 15, 2024, Request for Expedited Consideration contradicts RAPA's assertions that the Request for Acknowledgment was filed only for purposes of participation in the Fish and Wildlife process prior to the Governor's October 2, 2024 decision regarding a final program:

> AHP moves for expedited consideration of this matter so that AHP can begin to meaningfully participate on the EOC—in particular, with any planning and budgeting decisions that will commence *as a result of the Governor's establishment of a final Fish and Wildlife Program ("Final Program")*, pursuant to the August 8, 1991, "Fish and Wildlife Agreement Snettisham and Eklutna Projects" ("1991 Fish and Wildlife Agreement"), by October 2, 2024.[7]

In moving for expedited consideration, AHP expressly contemplated that it would participate on the EOC *after* the issuance of the Final Program.

Third, AHP argued that expedition was required because operation, maintenance, and budgeting decisions to implement the Final Program would begin shortly after the Governor's

[6] AHP's Request for Acknowledgment at 9 (stating "AHP requests that the Commission provide a written acknowledgment notifying AHP that AHP has acquired the expertise required to participate as a voting member of the EOC," and that [w]ith this acknowledgment, the October 27, 2020 Surrender of EOC voting rights by MOA, d/b/a ML&P, will automatically terminate, reinstating AHP as a voting member of the EOC").

[7] AHP Motion for Expedited Consideration at 3 (citing Corsentino Aff. ¶ 3; Exhibit 1, 1991 Fish and Wildlife Agreement (Section 7)) (emphasis added).

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October 2, 2024, establishment of a Final Program,[8] and AHP will be responsible for a portion of the costs of such decisions.[9] While Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA") disagreed with AHP on the exact timing of decision-making to implement the Final Program, they did not disagree that the EOC would be making such decisions in the future as a result of the Governor's action.[10]

In its reply regarding its motion for expedited consideration, AHP again expressed its broad interest in participation on the EOC:

> [e]xpedited consideration is necessary to provide AHP with meaningful participation on the EOC generally. Participation this fall will provide AHP's representative, Mr. Corsentino, the ability to become familiarized with the 2025 budget and operational issues, including general operating and capital expenditure decisions. If Chugach and MEA are ultimately correct that no major decisions about the Final Program will occur in the fall of 2024, that does not necessarily negate the value of providing AHP meaningful participation in the management of a utility that it is 53.33% owner of sooner rather than later. The sooner Mr. Corsentino begins serving as a voting member on the EOC, the more time he will have to become well-versed in operational and budgeting issues generally. If no decisions on the Final Program occur this fall, this "ramp up" period will allow Mr. Corsentino to have a solid understanding of operations and budgeting before decisions on implementation of the Final Program occur. This will increase efficiency of the EOC when implementation does begin.[11]

[8] *Id.* at 4-8.

[9] *Id.* at 8-13.

[10] Chugach and MEA's Joint Opposition to Motion to Expedite at 4-9.

[11] AHP Reply re Motion to Expedite at 6-7.

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Fourth, AHP's opening and reply briefs regarding the interpretation of Order 39 also address the MOA's reasons for filing a Request for Acknowledgment.[12] In its opening brief, AHP stated that a 35-plus year minimum term would be an "unreasonable and arbitrary restriction on the MOA's ability to participate in management of its ownership hydropower asset for decades, *despite continued MOA responsibility for costs and other liabilities*."[13] In its reply brief, AHP noted that:

> [t]he MOA continues to be responsible for 19.05% of Eklutna Project operations, maintenance, capital, and environmental compliance costs. The MOA has a duty under its Charter to manage its certificated utility in a manner that is "in accordance with the general standards common to utilities providing the same utility service,"[14] and has a duty to the citizens of Anchorage to responsibly manage its property assets.[15]

Finally, pages 2-5 of the Pre-filed Reply Testimony of Mark Corsentino, P.E., also addressed the MOA's interest in having the surrender of voting rights lifted, stating, in part, that like "any owner of any property, the MOA has a legitimate interest in exercising all of the rights of ownership."[16]

In summary, the MOA has *never* stated that it filed its Request for Acknowledgment with the intention of only exercising its voting rights for the limited purpose of

[12] AHP Br. re Order 39 Language (September 18, 2024); AHP Reply Br. re Order 39 Language (October 29, 2024).

[13] AHP Br. re Order 39 Language at 3 (emphasis added).

[14] Anchorage Municipal Charter § 16.01(a).

[15] AHP Reply Br. re Order 39 Language at 37-38 (citing Anchorage Municipal Charter § 16.01(b); Anchorage Municipal Charter § 13.05).

[16] Pre-filed Reply Testimony of Mark Corsentino, P.E. at 3, lines 2-3 (October 29, 2024).

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participating in the Fish and Wildlife process prior to Final Program issuance. The Alaska Supreme Court has held that "a case is moot if the party bringing the action would not be entitled to any relief even if it prevails."[17] If AHP's Request for Acknowledgment is granted, AHP will receive not just "any relief," but *exactly* the relief that it requested: an acknowledgment that it has acquired expertise required to participate—fully—as a voting member of the EOC.

II. RAPA relies on its incorrect analysis of the Order 39 surrender language to argue that AHP's Request for Acknowledgment is prematurely filed.

RAPA moves for the Commission to take "action" on the issue of the surrender term raised by ALJ Walker in the August 30, 2024 Prehearing Conference. RAPA argues that the Commission should, now that briefing on Order 39 is complete, dismiss the matter as prematurely filed because the Commission cannot reinstate voting rights until the terms of the power purchase agreements between Chugach and the MOA and MEA and the MOA have expired.

In response, in the interest of administrative economy, AHP will not repeat its arguments on the interpretation of the Order 39 surrender language here, but instead incorporates by reference its September 18, 2024 and October 29, 2024 briefs on the topic of interpretation of the surrender language. For the Commission's convenience, copies of those briefs are attached as Exhibit 1 and Exhibit 2. As AHP argued in its briefs, the "surrender" language of Order 39 does not require a decades-long minimum surrender term as RAPA proposes. Any such term would in fact be arbitrary and capricious. If the Commission panel in Docket U-18-102/U-19-020/U-19-021 ("Acquisition Docket") had intended to require a 35-plus year forfeiture of all of

[17] *Ulmer v. Alaska Rest. & Beverage Ass'n (ARBA),* 33 P.3d 773, 776 (Alaska 2001) (emphasis added).

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the MOA's rights to participate in the management and operation of its certificated hydropower utility, it would have done so in unambiguous and unequivocal language, following additional process that would have been required as the issue of surrender was not addressed in the Acquisition Docket hearing.

CONCLUSION

For the reasons stated about and in the attached September 18, 2024 and October 29, 2024 briefs, the AG's Motion should be denied.

RESPECTFULLY SUBMITTED this 30th day of October, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
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CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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EXHIBIT 1

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S BRIEF REGARDING INTERPRETATION OF ORDER 39

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert A. Doyle, Chair
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S BRIEF REGARDING INTERPRETATION OF ORDER 39

The Municipality of Anchorage ("MOA"), d/b/a Anchorage Hydropower ("AHP"), submits this brief regarding interpretation of language in Order U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39")[1] pertaining to the terms of the MOA's surrender of voting rights on the Eklutna Operating Committee ("EOC"). The EOC was formed to make all management decisions related to operation, maintenance, and budgeting for the Eklutna Hydroelectric Project ("Eklutna Project"), owned by the MOA (53.33% interest), Chugach Electric Association, Inc. ("Chugach") (30% interest), and Matanuska Electric Association ("MEA") (16.67% interest).[2]

As part of the approval of the MOA's sale of most of its electric utility assets to Chugach in dockets U-18-102/U-19-020/U-19-021 ("Acquisition dockets"), the Regulatory Commission of Alaska ("Commission") granted the MOA a new certificate of public convenience

[1] May 28, 2020.

[2] Order 39 at 61.

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and necessity ("CPCN") to authorize the MOA's provision of wholesale public electric utility service through its part ownership of the Eklutna Project's generation facility, subject to certain conditions. One condition the Commission placed on the new CPCN for the MOA was the surrender of the MOA's voting rights on the EOC, due to the Commission's concerns that after the merger and loss of its utility employees, the MOA would no longer be "managerially and technically fit" to hold a CPCN without such surrender.[3] With the surrender, the Eklutna Project would be "jointly manage[d] and operate[d]" by Chugach and MEA, "including negotiating compliance with the Fish and Wildlife Agreement."[4] The Commission stated that the surrender "must have a term at least equal to the term of the [Eklutna Power Purchase Agreement ("Eklutna PPA") with Chugach] and the [Matanuska Electric Association Power Purchase Agreement ("MEA PPA")], as those agreements may be extended, and cannot be lifted until such time as MHP[5] has shown to [the Commission's] satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC."[6]

In the pre-hearing conference on August 30, 2024, Administrative Law Judge ("ALJ") Walker requested briefing from the parties on the question of whether this language in Order 39 regarding the MOA's surrender of its voting rights on the EOC mandates that a "minimum term" of the surrender, equal to the (at least 35-year) terms of the PPAs, must elapse

[3] Order 39 at 67.

[4] *Id*.

[5] In Order 39, the Commission referred to the post-transaction electric utility owned by the MOA as Municipal Hydro Power ("MHP") and not AHP.

[6] *Id.*

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before the MOA is able to request acknowledgment that it has acquired the expertise required to fully participate as a voting member of the EOC.[7] It does not.

As documented in the Acquisition dockets and the MEA PPA approval docket (TA379-121), as well as in subsequent filings in this docket, the Commission, the owners of the Eklutna Project, and the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section ("RAPA") all had a public, contemporaneous and continuing understanding that while Order 39 required the term of the surrender to be equal to the terms of the Eklutna and MEA PPAs, that term was subject to termination, and the surrender was subject to being "lifted" at any time after the MOA made a showing to the Commission's satisfaction that MHP had acquired the expertise required to fully participate as a voting member of the EOC. As discussed further below, to interpret the language otherwise would be contrary to the language of the PPAs, Order 39, and subsequent Commission approvals. It also would be anf unreasonable and arbitrary restriction on the MOA's ability to participate in management of its ownership hydropower asset for *decades*, despite continued MOA responsibility for costs and other liabilities.

I. PROCEDURAL HISTORY

A. In Order 39, the Commission's approval of the acquisition of MOA's electric utility assets by Chugach included conditional approvals of (1) a new CPCN for the MOA for the Eklutna Project and (2) approval of the power purchase agreements between the MOA and Chugach and the MOA and MEA.

In Order 39, the Commission approved, subject to conditions, the sale of most of the electric utility assets of the MOA, d/b/a Municipal Light and Power ("ML&P"), to Chugach (the "Transaction" or "Acquisition"). As part of that approval, the Commission accepted, in part,

[7] Order No. U-24-024(4) at 3 (September 12, 2024).

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a stipulation filed by less than all of the parties of record (subject to conditions).[8] It conditionally approved the Eklutna PPA and the MEA PPA. The Commission granted, subject to conditions, regulatory approvals filed by Chugach in Docket U-19-020, and denied the application to amend CPCN No. 8 filed by Chugach and CPCN No. 121 filed by ML&P.[9] The Commission instead transferred CPCN No. 121 to Chugach, subject to closure of the transaction and other conditions.[10]

As a result of the transfer of the MOA's CPCN No. 121 to Chugach, the Commission granted a new certificate to the MOA, "[s]ubject to transaction closure and other conditions."[11] One such condition was surrender of the MOA's EOC voting rights.[12] The new certificate would "authorize[] the provision of wholesale public electric utility service through part ownership of the Eklutna Hydroelectric Project ("Eklutna Project") generation facility" to Chugach and MEA.[13] The Commission described the Eklutna Project as follows:

> "The Eklutna Project was built and operated by the federal government pursuant to the Eklutna Power Act of 1950. In 1995, Congress authorized sale of the Eklutna Project to ML&P, Chugach, and MEA under the terms of the 1989 Eklutna Purchase Agreement. Under this agreement, the three utilities received an undivided interest in all of the Eklutna Project, water rights, generation plant and the transmission assets interconnecting the Eklutna Project with ML&P, Chugach, and MEA.171 ML&P obtained a 53.33% ownership interest, Chugach obtained a 30% ownership interest, and MEA obtained a 16.67% interest in the Eklutna Project. Eklutna Project energy, capacity, and costs are to be allocated based on these ownership interests."[14]

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[8] Order 39 at 3.

[9] Order 39 at 4.

[10] *Id*.

[11] *Id*.

[12] *Id.* at 67.

[13] *Id.* at 4.

[14] *Id.* at 60-61.

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The Eklutna Project was managed, for over 60 years, as follows:

> "The three utilities created the Eklutna Operating Committee (EOC) to make all management decisions related to operation, maintenance, and budgeting for the Eklutna Project. ML&P, Chugach, and MEA each have a representative on the EOC. Decisions by the EOC are made based upon a double majority consisting of affirmative votes by at least two of the three utilities whose ownership shares total at least 51% of the Eklutna Project ownership. Effectively, management of the Eklutna Project is limited to actions approved by ML&P and at least one of Chugach or MEA."[15]

In Order 39, the Commission examined whether the services to be authorized (sale by the MOA of power to Chugach and MEA pursuant to the PPAs), were "required for the convenience and necessity of the public."[16] Further, the Commission examined whether the MOA was "fit, willing, and able to provide the utility services applied for."[17]

The Commission found that MHP was financially fit "to own an interest in the Eklutna Project, subject to the condition that MHP maintain a $3,000,000 reserve fund to support the Eklutna Project capital expenditures it is obligated to make under the MEA PPA."[18] The Commission then discussed ML&P's proposal that after the acquisition, MHP would be managed by the Municipal Manager, a position that was at that time held by William D. Falsey, an attorney and the municipal manager for approximately three years at the time of Order 39's issuance.[19] It also discussed testimony from Chugach witness Dustin Highers, stating that based on his

[15] *Id.* at 61 (internal citations and quotations omitted); Exhibit 1, Eklutna Transition Plan at Exhibit E (filed by ML&P as a supplement to TA329-121 on July 17, 2013).

[16] *Id.* at 63.

[17] AS 42.05.241.

[18] Order 39 at 65.

[19] *Id.* at 66.

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experience as EOC chair, "that to be an owner representative on the EOC, it was essential that the representative have knowledge of prudent utility practice and the Railbelt electric generation and transmission system."[20] The Commission reviewed Mr. Falsey's resume, and determined that nothing in his resume indicated that he had knowledge of the Railbelt generation and transmission system, or prudent utility practice, which the Commission noted "is the management standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA PPA."[21]

While ML&P proposed it likely would utilize consultant services to provide industry-specific expertise and staffing "to help us make informed decisions as a continuing member of the [EOC]," the Commission determined it could not "unconditionally" find that MHP was managerially or technically fit to maintain majority ownership of the Eklutna Project.[22] The Commission instead conditioned issuance of a CPCN to MHP on the MOA's surrendering its vote on the EOC, before the effective date of either the Eklutna PPA or the MEA PPA.[23] As a result of that surrender, Chugach and MEA would jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement.[24] The Commission stated that the surrender "must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member

[20] Id.

[21] *Id*.

[22] *Id.* at 67.

[23] *Id*.

[24] *Id*.

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of the EOC."[25] The surrender requirement was also a condition for the approval of the PPAs, as in approving the Eklutna and MEA PPA's, the Commission noted that "we can approve neither of these Eklutna Project agreements unless we can first find that MHP is fit, willing, and able to serve as an owner of the Eklutna Project. Therefore, a condition to our approval of these Eklutna Project agreements is that MHP obtain a certificate under the conditions established above."[26]

The Commission approved the Eklutna PPA in Order 39, determining it was not a wholesale power contract "subject to the requirements and protections of AS 42.05.431(b)," but required the MOA to separately file for approval of the MEA PPA because it was a wholesale power contract.[27] The Acquisition transaction closed on October 30, 2020.[28] On October 30, 2020, the MOA filed notice of its surrender of EOC voting rights with the Commission.[29] The MOA also submitted Tariff Advice Letter 379-121 on September 30, 2020, requesting approval of the MEA PPA and Amendment No. 1 to the MEA PPA. On November 20, 2020, the Commission

[25] Id.

[26] *Id.* at 72.

[27] *Id.* at 76. The Eklutna PPA was approved, as amended by Amendments 2, 3, and the Original Stipulation in dockets U-18-102/U-19-020/U-19-021, as a "deferred payment mechanism for Chugach's acquisition of most ML&P assets." *Id.*

[28] *See*, Chugach's October 30, 2020 "Notice of Transaction Closing – Chugach Electric Association Inc.'s Acquisition of the Municipality of Anchorage d/b/a Municipal Light & Power; Compliance with Order No. U-18-102(44)/U-19-020(39)/U-19-021(39)."

[29] Exhibit 2, Notice of Surrender of Voting Rights, October 30, 2020 ("Surrender").

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approved the MEA PPA and Amendment No. 1 to the MEA PPA.[30] On April 9, 2021, the Commission issued CPCN No. 780 for the MOA, d/b/a AHP.[31]

B. AHP filed a request for acknowledgment of AHP's acquisition of expertise required to participate as a voting member of the EOC, and the Commission requested briefing regarding the "minimum term" of the EOC voting rights surrender.

On July 18, 2024, AHP filed a Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee ("Request for Acknowledgment"). The Commission opened this docket, and during the August 30, 2024, prehearing conference in this matter regarding the Request for Acknowledgment, as well as in a subsequent order, ALJ Walker referred to the language in Order 39 regarding the terms of the MOA's surrender of its vote on the Eklutna Operating Committee, emphasizing the bolded language below:

> "Under these circumstances, we cannot unconditionally find that MHP is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions. **This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended**, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC."[32]

[30] TA379-121, Letter Order L2000410, dated November 20, 2020.

[31] April 9, 2021, Letter to Anna C. Henderson, MOA d/b/a Anchorage Hydropower, with attached certificate.

[32] *Id.* at 67 (emphasis added); *see also* Order No. U-24-024(4).

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ALJ Walker "announced [the Commission's] desire for briefing on the minimum term of the Eklutna Operating Committee voting rights surrender required by Order U-18-102(44)."[33] In other words, ALJ Walker asked whether the language in Order 39 provided that the surrender of the MOA's voting rights could only be lifted based on a showing that (1) the MOA acquired the expertise required to participate as a EOC voting member (2) that was made *after* the "minimum term" of the surrender, a term that would be "at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended."[34] Under this understanding, the MOA would *never* have voting rights on the EOC until the terms of both PPAs had elapsed, and both contracts ended—which could be thirty years, or more, from today.

As explained below, the correct reading of the language in question is the understanding that has been held by the Commission, the Eklutna Project owners, and RAPA: that while the surrender may have a minimum term, this surrender may be lifted (and the minimum term terminated) at the time that the MOA "complies with the RCA requirements pertaining to qualifications for [MOA's] representation on the EOC."[35]

II. DISCUSSION

A. If the Commission intended in Order 39 that the MOA would never have voting rights reinstituted during the term of the PPAs, it would have explicitly disapproved the terms in the Eklutna and MEA PPAs regarding MOA representation on the EOC, as it removed other inapplicable or disapproved terms from the PPAs and other Acquisition-related agreements.

[33] Order No. U-24-024(4) at 3.

[34] Id.

[35] *See, e.g.,* Exhibit 2, October 27, 2020, Surrender.

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If the Commission intended to prohibit the MOA from reinstituting EOC voting rights for the duration of the PPAs, it would have explicitly disapproved the terms in both PPAs regarding MOA representation on the EOC. Instead, Order 39 itself, as well as the subsequent approval of the MEA PPA in a separate proceeding, explicitly referenced to, and ultimately approved, the terms in both the Eklutna and MEA PPAs regarding the requirements for an MOA representative on the EOC. These relevant terms are as follows (bold emphasis added):

Eklutna PPA, Section 4.2(B) (Operation of the Facility):

> "(B) **During the Term**, Seller shall, in consultation with Purchaser, select the person to serve as Seller's representative to the Operating Committee (the "Seller's Representative"). The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA. Seller's Representative shall also be Seller's representative for any consultation, study, and implementation processes required under the Fish and Wildlife Agreement relating to the Facility. The Seller's Representative shall make all decisions with respect to any processes required under the Fish and Wildlife Agreement with due regard for the rights and obligations of the Parties under this PPA.[36]"

MEA PPA Section 4.2 (Operation of the Facility):

> "(A) **During the Term** Seller shall, at its cost and expense, manage, control, operate, and maintain the MEA Portion in accordance with the Operations Agreement and in a manner consistent with Prudent Utility Practice. Without limiting the foregoing, during the Term, as between Seller and Purchaser. Seller shall be responsible for all capital costs, all operations and maintenance expenses, and all costs and expenses for environmental compliance and compliance with Applicable Laws relating to the MEA Portion.
>
> (B) **During the Term**. Seller shall, after giving Purchaser a reasonable opportunity to consult with Seller. but without in any way limiting Seller's discretion as a result of any such consultation, select the person to serve as Seller's representative to the Operating Committee (the "Seller's Representative"). The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties

[36] Eklutna PPA.

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> under this PPA and the rights and obligations of the parties under the Chugach Power Purchase Agreement. The Seller's Representative shall also be Seller's representative for any consultation, study. and implementation processes required under the Fish and Wildlife Agreement relating to the Facility. The Seller's Representative shall make all decisions with respect to any processes required under the Fish and Wildlife Agreement with due regard for the rights and obligations of the Parties under this PPA."[37]

In Order 39, the Commission "approv[ed] the Eklutna PPA as amended by Amendment No. 2, Amendment No. 3, and the Original Stipulation."[38] It did *not* approve Amendment 1 (stating that the Eklutna PPA was a wholesale power agreement subject to AS 42.05.431(b)).[39] Thus, Section 4.2(B) of the Eklutna PPA was approved. Similarly, in Letter Order #L2000410,[40] the Commission approved, in its entirety, the MEA PPA (with Amendment 1). Thus, Sections 4.2(A) and (B) of the MEA PPA were approved by the Commission.

If the Commission intended to prohibit a voting MOA representative on the EOC for the entire duration of both the Eklutna and MEA PPAs, the above contract terms would have been rendered superfluous and potentially misleading, and the Commission would have either explicitly disapproved these terms, or conditioned approval on the removal of those terms. Elsewhere in the Acquisition docket, the Commission clearly excluded or disapproved terms in other agreements where applicable. For instance, the Commission explicitly disapproved Amendment 1 to the Eklutna PPA (stating that the Eklutna PPA was a wholesale power agreement

[37] MEA PPA.

[38] Order 39 at 75 (internal citations omitted).

[39] *Id*.

[40] November 20, 2020.

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under AS 42.05.431(b)).[41] Similarly, the Commission approved the Payment in Lieu of Taxes Agreement ("PILT") between the MOA and Chugach, as revised, subject to explicit conditions including, "that Sections 2.02 and 2.12 are not part of the approved agreement."[42] The Commission also rejected most of the Amended and Restated BRU Fuel Agreement between the MOA and Chugach, but explicitly provided for adherence to certain provisions of the agreement, such as the valuation of natural gas for economy energy sales or natural gas sales to other parties (Section 2.05).[43] In contrast, the Commission stated that the Eklutna PPA was approved subject to "the condition that it is not a power purchase agreement under AS 42.05.431(b) and the other conditions set out in the body of this order," but did not disapprove Section 4.2 (MOA EOC representative) from the approval.[44]

Nor could it be said that the failure to disapprove these terms was merely a Commission oversight in Order 39, as the Commission explicitly discussed and cited to the Section 4.2 terms as an integral part of its decision to require the surrender of voting rights. The Commission explicitly referenced the MOA EOC Committee Member requirements in the PPAs in its discussion as a reason requiring surrender, stating that the "standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA PPA" was "prudent utility practice."[45] If the Commission intended to *never* allow AHP to serve on the EOC for the duration of the PPAs,

[41] Order 39 at 74 (disapproving Amendment 1 because "we find that the Eklutna PPA is not a wholesale power agreement entitled to the protections of AS 42.05.431(b)").

[42] Order 39 at 145.

[43] *Id.* at 144-145.

[44] *Id.* at 142.

[45] *Id.* at 66.

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there would be no reason to include the term regarding the AHP EOC voting member requirements in the finalized Eklutna and MEA PPAs, especially after such an explicit discussion of the PPA requirements for the MOA representative.

It is a principle of both contract law and statutory interpretation that contracts and statutes should not be interpreted in a manner that renders language superfluous.[46] To the extent there is any ambiguity in the language of a past Commission Order, the Commission should apply the same rules of interpretation here. Interpreting Order 39 as prohibiting reinstatement of the MOA's voting rights on the EOC for the duration of the Eklutna and MEA PPAs would render sections 4.2 of both PPAs superfluous in a manner contrary such principles of interpretation. A better reading in compliance with principles of interpretation would be that Sections 4.2 were not disapproved because it was understood that voting rights could be reinstated during the terms of the PPAs.

The general meaning of the term "lifted" as used in the legal context also affirms the understanding that the term, as used in Order 39 (the surrender "cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC"), was intended to indicate that the otherwise

[46] *See, e.g., Titus v. Dep't of Corr.*, 496 P.3d 412, 416 (Alaska 2021) (stating "[w]e generally give effect to all of a statute's "provisions, so that no part will be inoperative or superfluous, void or insignificant"); *Maine Cmty. Health Options v. United States,* 590 U.S. 296, 314, 140 S. Ct. 1308, 1323, 206 L. Ed. 2d 764 (2020) (stating that "[t]he Court likewise hesitates to adopt an interpretation of a congressional enactment which renders superfluous another portion of that same law"); *Jarvis v. Ensminger*, 134 P.3d 353, 360 (Alaska 2006) (stating that "in reaching a reasonable interpretation of a contract, we attempt to give effect to all of its terms," and that appellant's interpretation in that matter would render a timing provision of the contract "superfluous") (internal quotations and citations omitted).

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"minimum term" of the surrender could be cut short by a showing that the MOA had acquired the relevant expertise. The word "lifted" is often applied to stays or injunctions, relief which is typically contingent on an additional (usually final) determination being made by a court in a matter. Sometimes however, a stay can be "lifted" before that "minimum term" expires, on application of a party and by order of the court.[47] Similarly, here, to give effect to the term "lifted" in its typical understanding in the legal or general context, the term would mean that it would otherwise terminate or cut short the "minimum term" of the surrender, not be one of *two* requirements in order for reinstatement of voting rights to occur.

B. Filings subsequent to Order 39 in the Acquisition docket and the MEA PPA approval docket show that the consistent and public understanding of the Commission, the Eklutna Project owners, and the public has been that the minimum term of the MOA surrender could be lifted by a showing that the MOA had acquired the expertise required to participate as a voting member of the EOC.

Since Order 39 was issued, subsequent filings in the Acquisition docket and the MEA PPA approval process manifest a consistent and public understanding by the Commission and the Eklutna Project Owners that the "term" of the MOA's surrender was subject to being lifted by a showing to the Commission that the MOA had acquired the relevant expertise to participate as a voting member of the EOC again.[48]

1. The Commission explicitly questioned the MOA regarding language in the PPA about the MOA's EOC representative in Section 4.2 of the

[47] *See, e.g.,* Alaska R. Civ. P. 62 (stay of proceedings to enforce a judgment); *Dep't of Nat. Res. v. Greenpeace, Inc*., 96 P.3d 1056, 1060 (Alaska 2004) (discussing whether administrative agency correctly "lifted" a stay otherwise automatic by regulation).

[48] *See also, Jarvis,* 134 P.3d at 361 (noting that in interpreting contracts, courts favor "express manifestations of each party's understanding of the contract in attempting to give effect to the intent behind the agreement").

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MEA PPA decided to approve the MEA PPA in its entirety with no modifications after the MOA explained that the language in Section 4.2 could become relevant if and when the MOA voting rights were reinstated during the term of the PPA.

Pursuant to the requirements of Order 39, on September 30, 2020, the MOA, d/b/a ML&P, filed TA379-121, seeking approval of the MEA PPA (with Amendment 1).[49] The version of the MEA PPA submitted for approval included Section 4.2 (Operation of the Facility), which was ultimately approved, contained the language regarding the MOA's EOC voting representative.[50] The question of whether that language referencing the EOC conflicted with the surrender requirements of Order 39 was *explicitly* addressed through a Staff question and response during the MEA PPA approval process. On October 22, 2020, staff Engineering Analyst James Layne emailed counsel for ML&P the following query:

> "I believe there is an inconsistency between the MEA Eklutna PPA and the final order (U-18- 102(44)/U-19-020(39)/U-19-021(39)) (U-18-102(44).
>
> At page 67 of U-18-102(44) the Commission required MOA/ML&P to surrender its vote on the EOC so Chugach and MEA could manage the Eklutna Hydro project.
>
> The MEA Eklutna PPA, at page 8 of Exhibit A, Section 4.2(B) appears to allow MOA/ML&P to keep its vote on the EOC.
>
> Does MOA/ML&P believe the language between the final order and the MEA Eklutna PPA as summarized above are in conflict? Please explain your response and provide a remedy if appropriate."[51]

MOA's counsel responded:

> "The MOA/ML&P do not believe that the MEA Eklutna PPA is inconsistent Order No. U-18- 102(44)/U-19-020(39)/U-19-021(39) ("Order 39"). The part of Order 39 that you cite states:

[49] Tariff Advice Filing 379-121.

[50] Exhibit A to TA379-121.

[51] Exhibit 3, Tariff- Supplemental Filing, dated October 27, 2020, available on the Commission website as a public document.

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> 'We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the [Chugach] Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions.' Order 39 at 67.
>
> To comply with the Order, ML&P will surrender its vote on the EOC prior to the closing of the ML&P sale to Chugach, which will be before the effective date of the Chugach Eklutna PPA and of the MEA Eklutna PPA. ML&P will promptly file a notice of that surrender with the RCA.
>
> **The surrender will have a term at least equal to the term of the two PPAs, subject to termination of the surrender upon MHP showing to the RCA's satisfaction "that MHP has acquired the expertise required to fully participate as a voting member of the EOC."** Order 39 at 67. If and when MHP has a proposed EOC representative that satisfies the qualifications, MHP will file that information and request that the RCA make the necessary finding for termination of the EOC vote surrender.
>
> Like Section 4.2(B) of the Chugach Eklutna PPA, Section 4.2(B) of the MEA Eklutna PPA requires MHP, in consultation with the Purchaser, to select MHP's representative on the EOC. As a result of Order 39, MHP won't have any voting representative on the EOC **until the surrender is terminated upon a positive finding by the RCA that MHP's proposed representative is qualified. Thus, Section 4.2(B) of neither PPAs need to be amended. In addition, Section 4.2(B) should remain as written as it will be relevant if and when MHP's voting rights surrender is terminated in the future upon the necessary finding of the RCA**."[52]

This response was placed in the publicly available file on the Commission website as a supplemental tariff filing.

2. Additional filings in TA379-12 and the Acquisition docket confirmed the universal understanding that a showing of acquisition of expertise could terminate the surrender of voting rights.

[52] *Id.* (emphasis added).

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Additional filings in the TA379-12 docket confirm the understanding articulated by counsel for ML&P—that the term of the surrender was "subject to termination" upon a showing that the MOA had acquired the relevant expertise to regain voting rights—was also held, unquestioned, by Chugach and MEA. On October 30, 2020, the MOA filed a notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights simultaneously in dockets U-18-102/U-19-020/U-19-021 and in docket TA379-121 (MEA PPA approval). The notice stated that it was filed in compliance with Order 39's requirements and included a copy of the Surrender.[53] The Surrender, signed by ML&P, Chugach, and MEA, stated:

> "In accordance with the requirements of order U-18-102(44), the Municipality of Anchorage, dba Municipal Light & Power(ML&P), hereby surrenders its voting rights as an EOC member and under the Fish and Wildlife Agreement effective as of the Closing of the Asset Purchase Agreement between ML&P and Chugach Electric Association (Chugach). **This surrender of voting rights shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC.**
>
> **Until ML&P's successor complies with the qualification terms of RCA order U-18-102(44),** all EOC decisions will be by unanimous vote of Chugach and Matanuska Electric Association, Inc. (MEA). Eklutna hydro operations, dispatch and maintenance will continue to follow past practices and policies unless changes are approved through the EOC process."[54]

Like the response to staff's question, the Surrender's language makes clear that the MOA's voting rights could be restored by compliance with *one* requirement—that AHP shows to the Commission's satisfaction that it complies with the qualification requirements of Order 39. This

[53] Exhibit 2, October 27, 2020, Surrender of Eklutna Operating Committee (EOC) Voting Rights.
[54] *Id.* (emphasis added).

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showing of meeting the qualification requirements would terminate and cut short any "minimum term" that otherwise applied to the surrender.

3. The Commission's approval of the MEA PPA with no modifications or discussion of the issue whether Section 4.2 should be removed shows that it also understood that the "minimum term" of the surrender was subject to being lifted if qualifications conditions were met.

The Commission's approval of the MEA PPA, with no modifications to exclude the language in Section 4.2, after the documented staff discussion with ML&P counsel and the filing of the MOA's surrender, shows that the Commission also understood that the surrender could be lifted before the expiration of the "minimum term" by a showing that the MOA had acquired the required expertise to be a voting member of the EOC. On November 20, 2020, the Commission issued Letter Order #L2000410, approving, in its entirety, the MEA PPA (with Amendment 1), with no attempt to exclude Section 4.2 or to refute the understanding articulated in the filings (including the Surrender document itself) that the "minimum term" of the surrender was subject to being "lifted" or "terminated" by a showing of meeting the expertise requirements. The filings and decision in the MEA PPA approval docket make unequivocally clear that the reinstatement of the MOA's voting member of the EOC could be lifted (before the expiration of the PPAs) if the MOA meets the Commission's requirements regarding the expertise required to fully participate as a voting member of the EOC.

It would be difficult to argue that the Commission committed an oversight by not disapproving Section 4.2 in the MEA PPA, after explicitly inquiring about the language of Section 4.2 considering Order 39, and receiving a response from ML&P, and later after reviewing the language of the Surrender document signed by all three Eklutna Project owners. It was clear and

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explicit during the approval process of the MEA PPA that Section 4.2(B) properly remained in both the MEA PPA and the Eklutna PPA, because the surrender term could be terminated by a showing that AHP had acquired the expertise required to fully participate as a voting member of the EOC.

C. The Eklutna owners and the public have continued to understand that the MOA's surrender rights was subject to the MOA, d/b/a AHP, showing that it had acquired the expertise required to reinstate voting rights.

It is clear from the comments and filings in this matter that, until the pre-hearing conference of August 30, 2024, the (immediate) reinstatement upon proof of expertise was the universal, contemporaneous, continuous, and public understanding. One need look no further than the filings in this docket to see that the public understanding of the MOA, Chugach, MEA, and the RAPA has been that if the MOA could show to the Commission's satisfaction that it had acquired the necessary expertise, its surrender of EOC voting rights would be (immediately) terminated. AHP makes that understanding clear in its Request for Acknowledgment.[55] This understanding was also articulated in public Anchorage Assembly Meetings.[56] While Chugach and MEA raised several issues with AHP's Request for Acknowledgement in public comments, their comments manifest their understanding that AHP did not need to wait for the terms of the PPAs to expire in order to reinstate its voting rights.[57] RAPA's Response to AHP's Motion for Expedited

[55] Request for Acknowledgment at 2-3.

[56] *See, e.g.,* July 3, 2024, Press Release: Assembly Confirms Anchorage Hydropower Utility Director. *Available at:*

https://www.muni.org/Departments/Assembly/PressReleases/Pages/Assembly-Confirms-Anchorage-Hydropower-Utility-Director.aspx.

[57] "RCA Docket U-24-024; In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to

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Consideration similarly manifests an understanding that "[t]he only issue in this docket is a straightforward one—whether AHP 'has shown to [the Commission's] satisfaction that [it] has acquired the expertise required to fully participate as a voting member of the EOC."[58] All of these positions were articulated in filings available to the public and through a public comment period.

D. An unbreakable minimum surrender term requirement the MOA's surrender of voting rights, which could not be lifted by later Commission approval of qualifications for participation on the EOC, would have been an unprecedented and superfluous method of addressing the Commission's substantive concerns, and an unreasonable restriction under AS 42.05.241.

If Order 39 had required the MOA to surrender voting rights on the EOC irrevocably for 35-plus years—in other words, surrender for decades the only way to have a say in the management of a utility for which it still maintains cost and other legal liability—such a decision would be (1) unnecessary to address the Commission's concerns in light of the requirement to show the Commission it had obtained the necessary expertise to reinstate voting rights and (2) an unreasonable use (and abuse) of the Commission's authority under AS 42.05.241 (conditions of certificate issuance).

The Commission's concerns articulated in Order 39 were substantive, but also discrete. The Commission was concerned that the post-transaction MOA utility would no longer have the in-house expertise required for a representative to participate as a voting member of the EOC, specifically that the proposed representative, the current municipal manager, did not have

Participate as a Voting Member of the Eklutna Operating Committee; Initial Comments of Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.," dated August 26, 2024.

[58] RAPA Response to AHP's Motion for Expedited Consideration, August 26, 2024, at 1-2.

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such expertise.[59] The Commission's requirement of a minimum term was reasonable in order to let the parties know how long the surrender would last if undisturbed by further action on the part of the MOA. The Commission's placement of a condition that the MOA make a showing it has acquired the expertise in order to lift the surrender was intended to ensure that the MOA was "managerially or technically fit" when it did resume a position on the EOC. To also require the surrender to last for at *least* 35 years (the terms of the PPAs) would be arbitrary and provides no additional protection that the MOA will be "managerially and technically fit." There is no reason the MOA must wait 35 years to present a suitable EOC representative to the Commission.

Such a condition would provide the Eklutna Project owners and the public no benefit. It limits the number of voices on the EOC, reducing potentially helpful input. It arbitrarily diminishes, for an extended period, the MOA's ability to manage its own property. It would be an excessive and arbitrary application of the Commission's authority to place conditions on certificates under AS 42.05.241. Indeed, it would be an unfair surprise for the MOA to have surrendered its vote voluntarily, and chosen not to appeal Order 39, based on the contemporaneous understanding of all involved that it would be able to recover its vote once it acquired the necessary expertise, only to be informed years later that the surrender was essentially irredeemable for a generation.

[59] Order 39 at 66 (noting that "ML&P proposes that MHP will have a seat on the EOC, even though it will have no employees" and that there was nothing in the current Municipal Manager's resume indicating "that he has any knowledge of the Railbelt generation and transmission system, or prudent utility practice which is the management specific standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA PPA").

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The present situation exhibits why a 35-year ban on MOA EOC participation would be unnecessary and unhelpful. With a 35-year ban, although the MOA *has* acquired the relevant expertise in the form of an AHP utility director, currently Mr. Mark Corsentino, P.E., it would need to wait—for no discernable reason—for another 35-plus years to be able to obtain approval to reinstate its voting rights. Such a requirement to wait is excessive, because, as here, the AHP Director, starting with the recently appointment Mr. Corsentino, will not simply be a municipal manager tasked with attending EOC meetings, but will be a utility professional well qualified to participate in such meetings.

If, in the future, the Commission does have concerns about an AHP utility director, or who the AHP EOC representative may be, the Commission, as well as Chugach and MEA, have tools to address these concerns if and when they arise. Remedies exist within the terms of both PPAs.[60] The Commission *always* has authority under AS 42.05.261, upon "complaint or upon its own motion," to amend a certificate after notice and opportunity for hearing, where good cause exists. Any future concerns can be addressed at that time through such avenues, as such concerns would be for any other utility.

III. CONCLUSION

For the reasons explained above, any "minimum term" on the MOA's surrender is subject to the MOA's showing to the Commission that it has acquired the required expertise to participate as a voting member of the EOC.

[60] *See, e.g.*, Article 10 of the Eklutna PPA; Article 12 of MEA PPA.

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RESPECTFULLY SUBMITTED this 18th day of September, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

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CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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Exhibit 1

1	1996 Eklutna Hydroelectric Project Transition Plan
2	Exhibit A
3	Exhibit B
4	Exhibit C
5	Exhibit D
6	Exhibit E
7	Argeement for Extension of 1996 Eklutna Hydroelectric Project Transition Plan
8	Exhibit A
9	Exhibit B
10	Exhibit C
11	Exhibit D
12	

1996 EKLUTNA HYDROELECTRIC PROJECT

TRANSITION PLAN

by and among

THE UNITED STATES OF AMERICA d/b/a ALASKA POWER ADMINISTRATION, a unit of the DEPARTMENT OF ENERGY; THE MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC.

1996 EKLUTNA HYDROELECTRIC PROJECT

TRANSITION PLAN

by and among

THE UNITED STATES OF AMERICA d/b/a ALASKA POWER ADMINISTRATION, a unit of the DEPARTMENT OF ENERGY; THE MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC.

This plan comprises:

- Transition Plan, consisting of 13 Sections contained on 10 pages;
- Exhibit A, consisting of 33 pages;
- Exhibit B, consisting of 5 pages;
- Exhibit C, consisting of 12 pages;
- Exhibit D, consisting of 25 pages;
- Exhibit E, consisting of 9 pages; and

THIS PLAN ("PLAN") dated as of May 28, 1996, is adopted by and among, namely, The United States of America d/b/a Alaska Power Administration (APA) a unit of the Department of Energy (DOE); The Municipality of Anchorage (ML&P); the Chugach Electric Association, Inc.(CEA); and the Matanuska Electric Association, Inc. (MEA). Unless specifically referred to herein, the above are hereinafter designated the "Parties."

RECITALS:

WHEREAS, by the Alaska Power Administration Asset Sale and Termination Act, APA is authorized to sell to the undersigned Utilities (hereinafter the "Eklutna Purchasers"), physical assets, property interests, and all other interests the DOE may have in the Eklutna Hydroelectric Generation Plant, tunnels, transmission lines, rights-of-way, equipment, rolling stock, and other rights in contract (hereinafter the "Eklutna Project") as set forth in the Eklutna Purchase Agreement, dated August 2, 1989, attached hereto and incorporated below by reference as

Exhibit A (hereinafter referred to as the Purchase Agreement) together with all amendments thereto; and

WHEREAS, the Eklutna Purchasers are required prior to May 28, 1996, pursuant to the Purchase Agreement to jointly develop and adopt specific transition plans setting forth the arrangements and a timetable for completing the sale and transfer; and

WHEREAS, the Eklutna Purchasers have signed a Memorandum of Understanding dated July 25, 1989, attached hereto as Exhibit B, in which they mutually declare their respective proportionate shares of the Eklutna Project's capacity, energy, and undivided interest in Eklutna assets to be 16/30 to ML&P (53.33%); 9/30 to CEA (30%); and 5/30 to MEA (16.67%), and further declare that the Eklutna Project operating costs will be borne in these same proportions; and

WHEREAS, the Eklutna Purchasers, subject to the rights of the Parties to amend the terms of the Purchase Agreement subsequent to adoption of this Plan, desire to formalize transition plans and arrangements by the terms of this Plan; and

WHEREAS, the Parties intend that this Plan shall foster an efficient, orderly, and expeditious transfer of the Eklutna Project and its operation to the Eklutna Purchasers, and further intend that the transfer be accomplished with minimum costs and minimum adverse impacts to APA employees.

NOW THEREFORE, IN CONSIDERATION of the mutual covenants set forth herein, the Parties agree as follows:

SECTION 1. PARTIES

Parties to This Plan: The Parties to this Plan are the United States of America d/b/a Alaska Power Administration (APA) a unit of the Department of Energy (DOE), and the Eklutna Purchasers: The Municipality of Anchorage d/b/a Municipal Light & Power (ML&P), purchaser of 16/30ths of the Eklutna Project (53.33%); the Chugach Electric Association, Inc. (CEA), purchaser of 9/30ths of the Eklutna Project (30%); and the Matanuska Electric Association (MEA), purchaser of 5/30ths of the Eklutna Project (16.67%). The Eklutna Purchasers shall, after the Transaction Date, own an undivided interest in the Eklutna Project assets identified in Section 4 of the Purchase Agreement that are the subject of this Plan, and will exercise the rights and bear the responsibilities of such ownership in proportion to their respective shares.

SECTION 2. TERM OF PLAN

(a) **Effective Date.** This Plan shall become effective upon execution by all of the Parties ("Effective Date").

(b) Expiration Date. Unless earlier terminated pursuant to other provisions of this Plan, this Plan shall expire upon completion of the tasks herein defined or as otherwise mutually agreed upon by all of the Parties.

SECTION 3. SELECTION OF A TRANSACTION DATE

The date upon which ownership of the Eklutna Project transfers to the Eklutna Purchasers is the "Transaction Date" and shall be within 30 days of the completion of all items listed in Exhibit C and section 10 of this Plan to the satisfaction of all Parties or as late as November 28, 1997, or later if mutually agreed upon.

SECTION 4. SCHEDULE FOR PAYMENTS TO THE UNITED STATES TREASURY

(a) Section 5(a) of the Purchase Agreement specifies the selling price of the Eklutna Project as the discounted present value of the remaining payment stream (as described in the 1987 repayment study) plus $1,000,000.00. The present value using the 9% discount rate will be determined by APA using the methodology of Section 5 of the Purchase Agreement and the remaining payments described in Exhibit B of Amendment No. 3 to the Purchase Agreement dated June 22, 1995. The price estimated in the Purchase Agreement assumes adjustments for a Transaction Date that is other than the beginning of a federal fiscal year. If the established Transaction Date is a date other than the start of the federal fiscal year, the selling price will be established and payments scheduled in accordance with the Purchase Agreement.

The payment to the U.S. Treasury will be fully paid within five years of the Transaction Date. The portion paid to the U.S. Treasury following the Transaction Date will carry interest of 9% per annum.

(b) The Eklutna Purchasers intend to make payments to the U.S. Treasury or deposits in an escrow account with certified funds (by check or wire transfer) on the Transaction Date. If any Eklutna Purchaser should otherwise choose to make payments within the allowable five year window, such election must be announced prior to the Transaction Date. A schedule will then be developed and any and all interest charges associated with the established schedule will be borne by the Eklutna Purchaser (or Purchasers) that so elect to make payments.

An interest bearing escrow account may be established in which the Eklutna Purchasers may deposit payment amounts. Funds will be held in this escrow account to cover completion of outstanding land, property, or other issues identified on the Transaction Date. Funds will be released to the U.S. Treasury as mutually agreed to by the Parties. Interest on funds held in this escrow account shall be credited toward the 9% per annum interest to be paid by the

Eklutna Purchasers to the U.S. Treasury on the portion paid following the Transaction Date, from the Transaction Date until the date the payments are actually made to the U.S. Treasury.

SECTION 5. ARRANGEMENTS AND TIMETABLE FOR TRANSFER OF OPERATIONS, MAINTENANCE , POWER MARKETING, AND ADMINISTRATION OF THE EKLUTNA PROJECT

EVENT	TIMETABLE
APA and the Eklutna Purchasers set mutually agreeable functional transfer date of October 1, 1996 ("Transition Date").	Complete
Eklutna Purchasers provide APA with proposed organization and staffing requirements related to employees currently at the Eklutna Project.	May 28, 1996
Eklutna Purchasers representatives meet with the Eklutna Project personnel to discuss detailed transition staffing plans.	Jun 10, 1996
Eklutna Operating Committee (EOC), as established in this Plan, begins to meet, develops coordination procedures for functional control in consultation with APA, and conduct other business.	Jun 28, 1996
Parties determine the budgetary offsets to current Eklutna Project rates and propose new power rates for the transition period.	Jul 1, 1996
APA initiates personnel actions necessary to facilitate the functional transfer to the utilities.	Aug 15, 1996
Detailed plans, agreements, and SOP's in place and executed for October 1, 1996 change in functional control.	Aug 30, 1996
Eklutna personnel transition to their respective utility employer.	Oct 1, 1996
EOC manages the operation and adjusts procedures as required in consultation with APA.	Commences Oct 1, 1996
Office space and full access to all government records for an APA real estate person and rewind contracting officer's representative will be provided by Eklutna Purchasers.	Commences Oct 1, 1996

SECTION 6. ACTIVITIES AND SCHEDULES FOR COMPLETION OF SALE

EVENT	TIMETABLE
Formal environmental, engineering, and safety inspections continue until complete.	Aug 1, 1996
Parties agree on resolution of inspection issues.	Aug 30, 1996
Generator rewind, plant modifications, and inspection corrective actions continue until completed.	As Required
Title and land conveyance issues continue until complete.	Transaction Date
Conveyance documents in final draft.	Aug 30, 1996
Transaction Date and the Eklutna Project sale executed.	Nov 28, 1997 (unless earlier agreed upon)

SECTION 7. TRANSFER OF DATA AND OTHER RECORDS TO PURCHASERS

EVENT	TIMETABLE
APA Listing of Eklutna Project data and records to be transferred which will include their current location.	May 24, 1996
Site selection by Eklutna Purchasers for data and document relocation plan.	Aug 1, 1996
Data and documents transferred to Eklutna Purchasers after the Transaction Date as mutually agreed to by Parties.	To Be Determined

SECTION 8. INSPECTION RESULTS AND REQUIRED DOE WORK PLAN

Inspection results and a required DOE work plan are attached hereto as Exhibit C. The Parties agree that this list may not be all inclusive, and other work items may be added by any Eklutna Purchaser if, in their judgment, new information warrants. The Parties will mutually agree who has the responsibility to correct the added work items and set the schedule for their completion. All formal inspection results and action plans to deal with outstanding issues shall be finalized by August 1, 1996. Description of inspection lists in this Exhibit C:

(a) Listing of engineering inspection results as known when this Plan is executed, the timetable of work to be completed by APA, and the resolution of other inspection issues.

(b) Listing of environmental and safety inspection results and the APA responses are in draft form as of the Effective Date of this Plan, and shall be included in this Exhibit C upon receipt of same.

SECTION 9. EKLUTNA ASSETS

Attached as Exhibit D are the Physical assets list of APA and asset lists of each of the utilities for those assets located on APA property. APA intends to transfer, on the Transaction Date, full title to all such assets to Eklutna Purchasers. If the Eklutna Purchasers should choose to operate and/or maintain the Eklutna Project prior to the Transaction Date, they shall be authorized to use listed APA equipment, tools, and vehicles. All assets listed by each utility as their own are not intended to be, and shall not be, transferred to the other Eklutna Purchasers, but shall remain available for the benefit of the Eklutna Project.

APA is in the process of finalizing its survey results on all rights-of-way, easements, and structures intended to be transferred. All parcels, rights-of-way, and easements shall be fully described upon completion and compiled for inclusion in the transfer documents executed on the Transaction Date. Any discrepancies shall be dealt with pursuant to Section 10 below.

SECTION 10. TITLE CONDITION TO ALL EKLUTNA ASSETS AND PLANNED REMEDIES

All personal property transferred to Eklutna Purchasers by APA shall be free and clear of any rights of third parties on the Transaction Date. Pursuant to the Purchase Agreement, APA represents to the Eklutna Purchasers that it, or its designated successor or assigns, shall provide without cost to the Eklutna Purchasers real property interests described as follows:

(a) Titles to APA fee owned property, including Reed and Palmer substations free and clear of encumbrances or conditions of title which would restrict the Eklutna Purchasers' rights to continue to operate the Eklutna Project,

including the transmission lines and facilities located within described rights-of-way, easements, or permitted areas;

(b) The generation facility free of any encumbrances, covenants, and/or restrictions which would arise from its designation as historically significant and would prevent the Eklutna Purchasers from use, maintenance, repair, remodel, modification or upgrade of the buildings or equipment of the Eklutna Project assets;

(c) Fee title to the Anchorage Substation property and other Eklutna Project land rights free and clear of claims of Cook Inlet Region Inc.;

(d) Access rights-of-way or easements allowing access for line maintenance of the transmission lines presently being used as disclosed by the 1996 survey;

(e) Easement rights to cross military reserve and fee owned properties owned or controlled by the United States Army within Ft. Richardson, Alaska on the existing transmission line right-of-way;

(f) Easements, rights-of-way, or permits as required to provide for 115 KV transmission line facilities located in the CEA double circuit portion of the transmission line as set forth in contract No. 85-80AP10022.000;

(g) Easement rights for the existing transmission lines across private property, including those areas of easements presently authorized under 44LD513 and section 17(b) of ANCSA, free and clear of claims of Eklutna Inc. or other underlying landowners and free of encroachments disclosed by the APA 1996 survey;

(h) Transfer of all other agreements and rights and obligations with parties who are not purchasers under this agreement; and

(i) Easement and access rights for the Wasilla Radio Relay facility free and clear of third party claims.

(j) Rights-of-way across property owned by the United States and managed by the Bureau of Land Management.

(k) Questions as to any limitations that there may be on the use of or interference with all natural inflows to and waters of the Eklutna Reservoir will be resolved.

In the event any of these rights can not be transferred to the Eklutna Purchasers, or must be acquired by APA to be transferred to the Eklutna Purchasers, APA and its successor or assigns warrant that they will proceed to acquire such rights through the legal acquisition process, even if such process is not completed by the Transaction Date. APA and its successor or assigns warrant that they have the staff and resources necessary to acquire the interests outlined above and will use such staff and other resources to complete the acquisition in a timely manner. Resolution of any real property issues will be identified in the transaction documents.

SECTION 11. EKLUTNA PURCHASERS MANNER OF ACTING, FUNCTIONAL RESPONSIBILITY, AND STAFFING

Attached hereto as Exhibit E is the Eklutna Purchasers' plan for delineation of responsibilities and activities to effect the transition of the currently employed APA personnel at Eklutna and Eklutna Project operations.

SECTION 12. NO THIRD-PARTY BENEFICIARIES

The provisions of this Plan shall not create any rights in favor of any person, corporation, or association not a Party to this Plan, and the obligations herein assumed are solely for the use and benefit of the Parties to this Plan and their successors and assigns.

SECTION 13. MODIFICATIONS TO THIS PLAN

The provisions of this Plan have been negotiated by the Parties and represent their best effort to follow the intent of the APA Asset Sale and Termination Act pursuant to the Purchase Agreement. Should modifications to this Plan become necessary, the Parties agree to continue their best effort to work toward changes that are mutually agreeable to the Parties, and in timely enough fashion that this agreement and any such modifications are adopted by the Parties on or before the Transaction Date.

Alaska Power Administration, a unit of the U.S. Department Of Energy

Nicki J. French
Assistant Administrator

Municipality of Anchorage

Larry A. Crawford
Municipal Manager

Chugach Electric Association, Inc.

Eugene N. Bjornstad
General Manager

Matanuska Electric Association, Inc.

Wayne D. Carmony
General Manager

RECOMMENDED:

Anchorage Municipal Light & Power

Thomas R. Stahr
General Manager

APPROVED AS TO FORM:

MUNICIPALITY OF ANCHORAGE

Mary K. Hughes
Municipal Attorney

RECOMMENDED:

MUNICIPALITY OF ANCHORAGE

George J. Vakalis
Operations Manager

August 2, 1989

Eklutna Purchase Agreement

Chugach Electric Association, Inc.

Matanuska Electric Association, Inc.

Municipality of Anchorage
d/b/a Municipal Light and Power

Alaska Power Administration
United States Department of Energy

Eklutna Purchase Agreement

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Appended Material:

Exhibit A: Lands, Easements and Rights-of-Ways, Including Map Marked Exhibit A, Dated February 3, 1989

Exhibit B: Future Principal & Interest Payments Projected Selling Price

August 2, 1989

EKLUTNA PURCHASE AGREEMENT

1. Parties to the Agreement.

The parties to this Agreement are the Alaska Power Administration (APAd), a unit of the United States Department of Energy, and the Municipality of Anchorage d/b/a Municipal Light and Power (ML&P), the Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA) (Purchasers).

2. Purpose.

This Agreement sets out arrangements, terms and conditions for sale of the Eklutna Hydroelectric Project (Eklutna) to Purchasers, such arrangements, terms and conditions to be implemented if the United States Congress authorizes such sale.

3. Definitions. As used in this Agreement:

"ADNR" means the Alaska Department of Natural Resources.

"ANCSA" means the Alaska Native Claims Settlement Act (PL-92-203).

"APAd" means the Alaska Power Administration, a unit of the United States Department of Energy (including any successor entity).

"Chugach" means the Chugach Electric Association, Inc.

"BLM" means the United States Bureau of Land Management.

"Eklutna" means the Eklutna Hydroelectric Project authorized, constructed and operated pursuant to the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended), including any and all property and facilities acquired or used in connection with Eklutna.

"MEA" means the Matanuska Electric Association, Inc.

"ML&P" means the Municipality of Anchorage, d\b\a Municipal Light and Power.

"Purchasers" means ML&P, Chugach, and MEA.

"Actions" means actions, inaction, and omissions.

"Transaction Date" means the date on which ownership of Eklutna is to be transferred to the Purchasers as set forth in Sections 4 and 9.

4. Assets to be Sold and Transferred.

a. The Eklutna assets to be sold and transferred consist of the power production, transmission, associated real property and all other facilities and assets provided or otherwise acquired for Eklutna under the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended) including but not limited to:

(1) Eklutna Dam; power intake structure; power tunnel and penstock; the Eklutna powerplant containing two complete turbine-generator sets with ratings of 15,000 kilowatts, each; auxiliary electrical and mechanical systems; a tailrace and tailrace embankment; switchyard, transformers, 115 kilovolt transmission lines connecting the powerplant with Palmer and Anchorage; Anchorage, Palmer and Reed Substations; access roads; maintenance facilities and vehicles; supervisory control and communications systems; various buildings including office, warehouse, and garage; personal property, including spare parts and equipment; and any improvements, replacements and renewals of such major items;

(2) Title in acquired land at Palmer Substation, and easements or rights-of-way for Eklutna facilities on privately owned land as described in Exhibit A; and for title to lands at Anchorage Substation if the Department of Interior determines that the lands are available under law for conveyance to the Purchasers;

(3) Granted rights-of-way for existing Eklutna facilities located on BLM managed lands and military lands as described in Exhibit A;

(4) Studies, records, drawings, operating data, technical information; water rights including the reservoir rights; licenses and any other permits; accurate location maps of Eklutna facilities tied to public land surveys; acceptable land descriptions of the areas of the easements, permits and licenses showing the location of the Eklutna facilities within the described areas; other tangible rights as required for operations and maintenance of Eklutna facilities; and warranties or other intangible rights associated with the assets to be transferred and sold.

b. Granted rights-of-way for existing Eklutna facilities located on BLM managed lands including lands selected by the State of Alaska and military lands shall:

(1) Be sufficient for operation, maintenance, repairs, renewals and replacements of Eklutna facilities located on such lands, including provisions for access.

(2) Be issued consistent with existing Federal statutes, at no cost to the Purchasers, and remain effective for a period equal to the life of Eklutna as extended by any improvements, repairs, renewals or replacements; provided further that if Eklutna is further sold or transferred to private ownership, BLM may assess such reasonable and customary fees for continued use of the rights-of-way on BLM managed lands and military lands as consistent with law or regulation.

c. The life of Eklutna shall continue as long as Eklutna is capable of generating and transmitting electricity. Temporary interruptions in service or generation of power shall not constitute a termination of the life of Eklutna. Disuse of one portion of the project system shall not cause the life to Eklutna as a whole to terminate.

d. APAd shall provide satisfactory assurance that ANCSA 17(b) easement rights crossing native lands are sufficient for continued operation, maintenance, repair and replacement of Eklutna facilities by the Purchasers.

e. The above description of assets is intended to be general and not precise or all inclusive. As part of the transition activities, the parties will jointly prepare a particularized listing of the assets to be sold and transferred.

f. APAd intends that the sale and transfer of Eklutna to the Purchasers not result in additional costs to the Purchasers for licenses, permits or other rights for Eklutna, which costs would not have been incurred under continued Federal ownership of Eklutna.

g. Nothing in this Agreement shall prevent Purchasers from seeking substantial change in Eklutna. Purchasers shall be responsible for any appropriate approvals by affected government and non-governmental entities required for such substantial change.

h. On the Transaction Date, the APAd shall convey or cause to be conveyed title to all Eklutna assets to the Purchasers by bill of sale or other instrument of conveyance, provided that Purchasers pay or make arrangement for payment under Section 5 of

this Agreement, and provided further that for any assets not available for transfer at the Transaction Date, APAd shall provide:

(1) Mutually satisfactory assurance that such remaining assets will be transferred to the Purchasers subsequently and in a timely fashion, and

(2) Clear authority to the Purchasers for the beneficial use, enjoyment and occupancy of such remaining assets pending their conveyance to the Purchasers.

(3) If APAd fails to perform any of the requirements stated in paragraphs 4(h), 4(h)(1) or 4(h)(2) above, the parties agree to discuss appropriate remedies. The parties may agree to mediation, arbitration or other means to resolve issues presented by a failure of APAd to perform such requirements. Purchasers shall also have an absolute right to terminate the Agreement in the event APAd fails to perform such requirements.

i. If after the Transaction Date some event occurs which prevents APAd from transferring title and beneficial use, enjoyment and occupancy of Eklutna to the Purchasers, the parties agree to discuss and implement appropriate remedies including resolution through negotiation, arbitration or litigation, as appropriate.

5. Price and Payment Terms.

a. If the Transaction Date is October 1, 1989, the selling price shall be $10,435,000.

If the Transaction Date is October 1, 1990, the selling price shall be $9,580,000.

If the Transaction Date is October 1, 1991, the selling price shall be $8,631,000.

If the Transaction Date is other than one of the three above dates, the selling price will be calculated by APAd as the discounted present value as of the Transaction Date of all remaining principal and interest payments after the Transaction Date according to the payment schedule shown on Exhibit B of this agreement plus $1,000,000 ($1 million). Exhibit B payments for the first year will be prorated to reflect the portion of the year remaining after the Transaction Date. Subsequent Exhibit B payments will be assumed at mid-year (April).

The price determination is to be included in the transition plan required under Section 9 below.

b. The Purchasers shall pay the full selling price to the United States Treasury within five years after the Transaction Date. Any portion of the selling price paid after the Transaction Date will carry interest charges payable to the United States Treasury as discussed below. If the full price is paid by the Transaction Date, there will be no interest charges.

The purpose for allowing up to five years for the payments is to provide some flexibility to the Purchasers in arranging for payment and start up costs so as to minimize adverse impacts on Purchasers' ratepayers. The purpose of the interest charge is to assure that the United States Treasury receives the full value of the selling price. The Purchasers shall not seek Federal financing for the purchase.

c. The discount rate to be used for determination of the selling price shall be nine percent (9%).

The interest rate to be charged for payments after the Transaction Date shall be nine percent (9%).

The sales price described above is full consideration for all Eklutna assets described in Section 4 (Assets to be Sold and Transferred).

d. APAd shall not change its rate criteria for the purpose of accelerating principal payments before the Transaction Date. The Purchasers shall not delay their take of allocated power for the purpose of shifting revenues beyond the Transaction Date.

6. Responsibilities.

a. As of the Transaction Date, the Purchasers shall assume all ownership responsibilities for Eklutna and ownership responsibilities of APAd and its successors for Eklutna shall cease, except as follows:

(1) APAd shall be solely responsible for all costs to close out APAd responsibilities including but not limited to Federal employee entitlements and benefits for APAd employees.

(2) The parties recognize that there may be unfinished work as of the Transaction Date which is the responsibility of APAd to complete. Such unfinished work could include incomplete transfer of some assets to be completed by APAd under Sections 4 and 10 or specific APAd responsibilities

arising out of the joint determination of maintenance activities to be completed by APAd under Sections 9 and 10. APAd shall be solely responsible for such unfinished work.

(3) APA shall be solely responsible for any claims or other legal proceedings arising from actions or alleged actions by APAd while APAd managed or operated Eklutna or from actions or alleged actions by APAd in carrying out remaining APAd responsibilities under this agreement after the Transaction Date."

7. Operation and Maintenance Expenses, Revenues.

Operation and maintenance expenses up to the Transaction Date, including all obligations incurred by APAd which require payments after the Transaction Date shall be the responsibility of APAd. Subsequent operation and maintenance expenses shall be the responsibility of the Purchasers. APAd fund balances from Congressional appropriations as of the Transaction Date shall remain with APAd.

All revenues for power sold up to the Transaction Date will be returned to the United States Treasury. The Purchasers shall be responsible for sales of power after the Transaction Date, including the collection and disposition of revenues therefrom.

8. Non-Power Users.

a. The parties do not intend to adversely affect non-power users' rights as a result of transfer of ownership and control of Eklutna from the Federal government to the Purchasers.

As of the Transaction Date, the Purchasers shall assume all APAd responsibilities and benefits with respect to the following agreements, including amendments and supplemental agreements made or entered into prior to the Transaction Date, provided that after the effective date of this Agreement, APAd shall consult with the Purchasers prior to making additional amendments and supplemental agreements:

(1) The agreement dated February 17, 1984, between APAd and the Municipality of Anchorage concerning the Eklutna Water Project; as amended by Supplemental Agreement No. 1 dated August 24, 1988;

(2) The agreement dated November 1, 1982, between APAd and Cook Inlet Aquaculture Association concerning the Eklutna hatchery.

b. The Purchasers shall consult with BLM and ADNR to ensure effective and proper management of lands required for Eklutna.

c. Except to the extent Purchasers determine public recreational uses shall be limited by safety and operational requirements, the Purchasers will continue to make Eklutna lands and water available to the public for recreation uses.

9. Transition Plans and Activities.

a. Within six months after the Congressional authorization is obtained, the Purchasers and APAd shall adopt specific transition plans setting forth the arrangements and a timetable for completing the sale and transfer. The parties intend that the transition plans shall foster an efficient, orderly and expeditious transfer of Eklutna and its operation to the Purchasers, minimize transition costs and minimize adverse impacts on employees. The transition plans and activities shall be developed jointly by the Purchasers and APAd and, among other items, shall include:

(1) The selection of a "Transaction Date" on which ownership of Eklutna would transfer to the Purchasers;

(2) A schedule for payments to the United States Treasury including provisions for reasonable grace periods;

(3) Arrangements and timetable for the transfer of operations, maintenance, power marketing and administration of Eklutna;

(4) A definition of activities and schedules for completing the sale and the assignment of responsibilities for such activities;

(5) A continuation of the consultations and access to records and data, and arrangements and timetable for transfer of data and other records to the Purchasers;

(6) Provisions for environmental, engineering and safety inspections by the Purchasers and APAd and a joint determination by the Purchasers and APAd of specific maintenance activities, including procurement, to be completed by the APAd;

(7) If necessary, provisions for completing any asset transfer actions that may not be completed as of the Transaction Date;

(8) A particularized listing of all the Eklutna assets to be sold and transferred, including photocopies of all

rights-of-way obtained from BLM, accurate location maps of the Eklutna facilities tied to public land surveys, and suitable legal descriptions of all real property interest. The parties to this Agreement recognize that the lands work will not be completed before the date of the transition plans.

(9) A description of the condition of title to the Eklutna assets as of the date of the transition plans, identifying with particularity third party interests and rights and other matters affecting title that may materially impair the ability of the Purchasers to have the full beneficial use, enjoyment, occupancy and operation of the Eklutna assets, and a description of APAd's intended course of action prior to the Transaction Date to remove, resolve or limit such matters.

(10) Transition staffing plans as necessary to assure continuity of operations and minimizing adverse impacts on APAd employees. In this regard, the parties agree that for two years after the Transaction Date APAd Eklutna personnel have first call on post-transfer Eklutna jobs for which they are qualified subject to the labor agreements of Purchasers. The staffing plans shall also consider transferring portions or all of the operations and maintenance functions to the Purchasers in advance of the Transaction Date, if that course of action is found to be feasible and helpful in minimizing adverse impacts to employees. In a manner consistent with their personnel policies and staffing requirements, the Purchasers will assist in locating suitable employment opportunities for displaced APAd employees for a period of two years after the Transaction Date; and

(11) Other matters as may be considered necessary by the parties.

10. Interim Activities.

The parties to this Agreement recognize that, in addition to the transition plans and activities described above, a number of actions need to be taken by the parties and other entities. The asset transfer and sale involves several entities including the Federal, State and local governments and two Alaska Native corporations. The parties intend to maintain full coordination with each of those entities and ensure that legislation authorizing the sale and transfer provides appropriate authority to implement the sale and transfer. The parties shall take all actions necessary to complete the sale and transfer including, but not limited to, the following listed actions:

a. APAd shall prepare Congressional legislation needed to implement this Agreement. The legislation, among other items, shall include provisions to accomplish the following:

(1) Authorize in accordance with this Agreement the sale and transfer of Eklutna to the Purchasers.

(2) Direct and authorize other Federal agencies, including the United States Department of the Interior, to assist and cooperate in sale implementation including transfer of Eklutna assets under their jurisdiction.

(3) Authorize and direct the Secretary of Interior to issue rights-of-way to Alaska Power Administration for subsequent assignment to Purchasers at no cost to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals or replacements, sufficient for operation, maintenance, repair and replacement of Eklutna facilities located on lands managed by the BLM including land selected by the State of Alaska, and military lands, including access; provided that if Eklutna is further sold or transferred to private ownership, the BLM may assess such reasonable and customary fees for continued use of the rights-of-way on BLM managed lands and military lands as consistent with current law or regulation; provided further that at no additional cost fee title to lands at Anchorage Substation shall be transferred to Purchasers if the Department of Interior determines that the lands are available under law for conveyance to the Purchasers.

(4) Authorize the State of Alaska (State) to select and direct the Secretary of Interior to convey to the State certain Eklutna lands identified in Exhibit A, including the lake bed of Eklutna Lake if not navigable under the Submerged Lands Act and approximately 853 acres of improved lands housing the powerhouse, intake structure, dam facilities, and a portion of the power tunnel under the provision of Section 6 of the Alaska Statehood Act of July 7, 1958, Public Law 85-508, and the North Anchorage Land Agreement of January 31, 1983, such conveyances to be subject to the rights-of-way being provided to Purchasers under Section 10(a)(3) above.

(5) Exempt Eklutna and the Purchasers, including but not limited to subsequent facilities modifications, from jurisdiction of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791), unless such modifications impact Federal lands other than those presently used for Eklutna.

(6) Authorize expenditure of such sums as are necessary to prepare Eklutna assets for sale and conveyance, such preparations to provide sufficient title to ensure the beneficial use, enjoyment and occupancy to the Purchasers of the assets to be sold.

b. APAd shall, in addition to the responsibilities set forth in Section 4:

(1) Prepare all Eklutna assets including but not limited to those assets described in Section 4 (Assets to be Sold and Transferred) for conveyance to the Purchasers including all actions necessary to establish sufficient title to ensure the beneficial use, enjoyment and occupancy to the Purchasers of such assets.

(2) Apply for and obtain BLM rights-of-way necessary for operation, maintenance, repair and replacement of Eklutna facilities located on Federal lands, managed by the BLM, such rights-of-way to be subsequently transferred to the Purchasers.

(3) Provide satisfactory assurance that the Purchasers have sufficient ANCSA 17(b) easement rights for continued operation, maintenance, repair and replacement of Eklutna facilities.

(4) Continue to maintain Eklutna in accordance with prudent utility practices, and Federal, and utility industry standards.

(5) Appoint one person and an alternate to represent APAd for all activities required of APAd after the execution of this Agreement and prior to the Transaction Date.

(6) Manage and operate Eklutna in accordance with prudent utility practices, and Federal and utility industry standards in such a manner as to not diminish the capability of Eklutna to produce energy and power at historic levels.

c. Purchasers shall:

(1) Establish organizational, functional and staffing arrangements for operations, maintenance and administration of Eklutna to be in effect on or before the Transaction Date including the following:

(A) Purchasers agree with each other and the APAd that each Purchaser shall appoint one person and

alternate to represent that Purchaser for all activities required of Purchasers after the execution of this Agreement and prior to the Transaction Date.

(B) By the Transaction Date, Purchasers shall agree in writing to have an effective organization which shall be responsible for the sale of power, operation and maintenance of Eklutna and, if necessary, Purchasers shall execute power sales agreements to purchase power from Eklutna.

(C) Purchasers shall provide in their organizational agreements that if one or more of the Purchasers are unable or unwilling to purchase its share of Eklutna, then the other Purchasers may purchase that share.

(2) Arrange for the payment of the amounts set out in Section 5 (Price and Payment Terms) to be paid to the United States Treasury.

d. The Purchasers and APAd shall conduct engineering, environmental and safety inspections at Eklutna and jointly determine a list of items or matters they consider necessary to be changed or modified prior to transfer. APAd shall make such changes and modifications prior to the Transaction Date, or provide appropriate assurances that those changes or modifications shall be made. The Purchasers and APAd shall also consensually and jointly determine the acceptability of Eklutna for transfer to the Purchasers. Failure to reach agreement on the joint determination of either the list of necessary changes or modifications or the acceptability of Eklutna for transfer shall constitute grounds for termination of the Agreement.

e. This Agreement may be terminated by Purchasers if, prior to the Transaction Date, the value of Eklutna or its capability to produce energy and power has been diminished by any cause after the execution of this Agreement. Any notice of termination shall be provided to APAd in writing.

f. The parties agree that the above-listed action in subsections (a) through (d) are crucial to the sale and transfer of Eklutna. The Purchasers may elect to terminate this Agreement if the authorizing legislation does not contain substantially the same provisions set forth in Section 10(a) or if APAd fails to complete its obligations under Sections 10(b) and 10(d). APAd may elect to terminate this Agreement if the Purchasers fail to complete their obligations under Sections 10(c) and 10(d).

11. Post-sale Operations, Maintenance and Power Marketing Arrangements.

The Purchasers shall establish appropriate organizational, staffing and administrative arrangements for Eklutna on or before the Transaction Date.

To assist in implementation of these post-sale arrangements, APAd shall make available for inspection and use by the Purchasers all Eklutna records and data and shall consult with the Purchasers on operation procedures, replacement schedules, staffing plans and training on a continuing basis starting on the effective date of this Agreement.

These provisions are intended to ensure that the Purchasers have full opportunity to become fully familiar with Eklutna and to help identify further specific actions that shall facilitate the transfer of operation of Eklutna to the Purchasers.

12. Effective Date.

This Agreement shall become effective as of the calendar date on which all parties have executed this Agreement.

13. Environmental Management.

The parties intend that the transfer of ownership be accomplished in a manner that assures continued compliance with environmental and public safety standards and laws including appropriate dam safety measures. The parties note that, under applicable Department of Energy instructions, APAd is required to prepare a management plan for Eklutna covering environmental and safety requirements.

APAd shall develop and implement such management plan prior to the date on which the transaction plans are adopted and in full consultation with the Purchasers. Failure by the Purchasers to agree to such a plan shall be grounds for termination of this Agreement by the Purchasers.

The Purchasers agree to continue the implementation of such management plan after the Transaction Date, including periodic updates of the plan as needed.

14. Term.

This Agreement shall remain in effect for such time as is necessary to complete the sale of Eklutna to the Purchasers and payments for such sale to the United States Treasury, provided that this Agreement shall terminate two years after the effective date if authorization by Congressional legislation has not been obtained within those two years, and provided further

that this Agreement shall terminate two years after the date of the Congressional authorization if transfer of Eklutna to the Purchasers has not occurred by that time. The above termination dates may be extended by mutual agreement of the parties.

The above termination provisions are intended to provide ample time to obtain Congressional authorization and complete the transaction. However, it is the intent of the parties to obtain such authorization as quickly as possible and complete the sale as quickly thereafter as is reasonably practicable.

This Agreement shall be terminated if, at any time prior to the Transaction Date, the Purchasers determine they are not able to meet the payment terms and so notify APAd in writing.

15. Dispute Resolution.

The parties shall attempt to settle any claim or controversy arising out of this Agreement in good faith. The parties may agree to submit any claim or controversy to a mutually-acceptable mediator, the cost of which shall be borne equally by APAd and Purchasers. The use of such a procedure shall not be construed to affect adversely the rights of either party under the doctrines of laches, waiver or estoppel. Nothing in this section shall prevent any party from resorting to judicial procedures. Any judicial action shall be filed in the Federal court at Anchorage, Alaska.

16. Notice.

All notices under this Agreement shall be in writing directed to the Purchasers through the General Managers of the Purchasers, and to the APAd through the Administrator of the APAd or its successor.

17. Amendment.

This Agreement may be modified only by mutual agreement in writing between the Purchasers and APAd. Any such modifications must be consistent with applicable State and Federal law.

18. Approvals.

Any final sale and transfer of Eklutna shall become effective only on the obtaining of all required regulatory and administrative approvals or on receiving satisfactory assurance that such approvals are forthcoming.

19. Assignment.

This Agreement shall inure to the benefit of, and be binding upon the respective successors and assigns of the parties to this Agreement, provided however, that neither this Agreement nor any interest therein shall be transferred or assigned by any party to any other party, except to the United States or an agency thereof, without the written consent of the others whose written consent shall not be unreasonably withheld.

However, any assignment by Purchasers must be made to a successor in interest to the Purchasers and such assignment shall provide that the power from Eklutna be used for the benefit of customers in the service area of the Purchasers. Any of the Purchasers may assign its interest to the Alaska Electric Generation & Transmission Cooperative, Inc. (AEG&T) subject to any existing agreements, including amendments, between Chugach, AEG&T and MEA.

20. Force Majeure.

Failure by either APAd or the Purchasers to perform any of the requirements of this Agreement brought about by causes beyond their control and without fault or negligence of the parties shall constitute an excusable delay. In any instance where excusable delay occurs, the time for completing the work shall be extended by negotiation of the parties.

21. Continuing Support and Assistance.

The parties agree to support and assist each other in the mutually satisfactory resolution of any unforeseen problems associated with the transfer. APAd and the Purchasers recognize that new issues involving the transfer process may arise prior to and after transfer, or that issues considered resolved may need further clarification, implementation or other resolution. APAd and the Purchasers agree that open lines of communication are desirable after the date of this Agreement and after transfer to facilitate the transfer process. To that end, APAd and the Purchasers each agree to exercise their good faith efforts in implementing the terms of this Agreement expeditiously. APAd further agrees to use its best efforts to make available an appropriate Federal entity to implement this section in the event that APAd as an identifiable Federal entity ceases to exist.

22. Relationship of Purchasers.

The covenants, obligations and liabilities of the Purchasers are intended to be several and not joint or collective, and nothing contained herein shall be construed to

create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation or liability on or with regard to any of the Purchasers. Each Purchaser shall be individually responsible for its own covenants, obligations and liabilities as provided in this Agreement. No Purchaser shall, by virtue of this Agreement, be under the control of, or be deemed to control, the other Purchaser. No Purchaser shall be the agent of, or have a right or power to bind, the other Purchasers without its express written consent, except as may be expressly provided in this Agreement, or as may be otherwise provided by existing law. The provisions of this Section may be modified by the final approved agreements provided for under Section 10(c)(1).

23. Agreement for Benefit of Parties Only.

As provided in Section 8, above, the parties intend to protect fully the rights of non-power users of Eklutna land and water. The parties do not intend by this Agreement to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement, or as a beneficiary of any duty, covenant, obligation or undertaking established by, or performed pursuant to, this Agreement.

24. Miscellaneous Provisions.

a. The parties agree, upon request of the other parties, to make, execute and deliver any and all documents reasonably required to implement this Agreement.

b. Captions and headings appearing in this Agreement are included to facilitate reference to the Agreement, and they are not to be read as a part of this Agreement, nor shall they have bearing on its interpretation.

c. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREFORE, the parties have caused this Agreement to be executed the day and year written hereafter.

DATED this 2nd day of August, 1989.

CHUGACH ELECTRIC ASSOCIATION, INC.

by: _____
Lee Walls
President

MATANUSKA ELECTRIC ASSOCIATION, INC.

by: _____
Robert L. Hunt
President

MUNICIPALITY OF ANCHORAGE
D/B/A MUNICIPAL LIGHT AND POWER

by: _____
Tom Fink
Mayor

ALASKA POWER ADMINISTRATION

by: _____
Robert J. Cross
Administrator

Eklutna Purchase Agreement
Exhibit A

August 2, 1989
Page 1 of 2

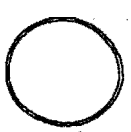
Lands, Easements and Rights-of-Way

Exhibit A consists of this narrative (pages 1 and 2 of 2) and the map prepared by BLM, signed and dated February 3, 1989.

This exhibit describes and displays present land status for the Eklutna Hydroelectric Project and describes in general terms the conveyances of land and land rights contemplated in the purchase agreement.

1. BLM - managed lands and military lands used for Eklutna Project for which BLM is to provide APAd rights-of-way sufficient for operation, maintenance, repair and replacement of Eklutna facilities, such rights-of-way to be assigned by APAd to the Purchasers.

Legend Symbols and Description.



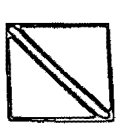
Withdrawals. Refers to approximately 863 acres of public lands withdrawn for Eklutna at the "Intake Area," "Power Tunnel," "Eklutna Powerplant" and "Anchorage Substation." The total acreage is comprised of the following land:

a. Approximately 320 acres withdrawn for the "Power Tunnel" under Public Land Order 1231 dated September 28, 1955.

b. Approximately 230 acres utilized for the "Intake Area" and approximately 60 acres for a portion of "Eklutna Powerplant" as described by ANCSA 3(e) determination AA-51183 dated July 30, 1986.

c. Approximately 243 acres utilized for "Eklutna Powerplant" as described by ANCSA 3(e) determination AA-42534 dated September 1, 1982.

d. Approximately 10 acres withdrawn for "Anchorage Substation" under Secretarial Order dated April 4, 1952.



State Land-R/W. Refers to rights-of-way across State-selected lands covering the transmission line east of "Eklutna Powerplant" to the Knik River.

Military Land-R/W. Refers to rights-of-way across military lands used for Eklutna transmission lines.

Acquired-3(e). Refers to approximately 2.5 acres of acquired land used for "Reed Substation" as described by ANCSA 3(e) determination AA-45155 dated July 30, 1985.

2. ANCSA 17(b) Easements.

Map symbol: Native Land - 17(b) Easements.

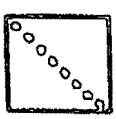
Refers to rights-of-way that are reserved for portions of the 115kV transmission line, access roads and other Eklutna facilities located on Native corporation lands, and exist as easement reservations in the ANCSA conveyances to the Native corporations pursuant to Section 17(b) of ANCSA. Those easements will not be altered by the sale of Eklutna and the Purchasers may use these easements for their intended purposes.

3. APAd Acquired Land and Easements.

Refers to land and easements acquired by the Bureau of Reclamation (predecessor of APAd) during construction of Eklutna and now controlled by APAd. APAd will assign the land and easements to the Purchasers.

Legend Symbols and Description:

Acquired. Refers to approximately 0.8 acres of land owned by APAd at Palmer Substation.



Acquired-Easements. Refers to approximately 33 easements across private lands acquired by the Bureau of Reclamation (predecessor of APAd) and now held by APAd.

4. Other Easements on Private Land.

Map [Symbol]: Note: Other Easements on Private Lands To Be Acquired - See Exhibit A Narrative

Refers to approximately two hundred and fifty (250) parcels of private land located along the 115kV transmission line, many of which require title curative action for purposes of perfecting assignable easement rights or rights-of-way for the Purchasers. APAd shall be responsible for acquiring assignable easement rights or rights-of-way across those lands, for subsequent assignment to Purchasers.

5. Reservoir.

Eklutna Lake as designated on the map is the reservoir described in the body of the Agreement.

Exhibit B
Eklutna Purchase Agreement

Future Principal and Interest Payments.
(FY 1987 Power Repayment Study Data)

Units: $1000's

FISCAL YEAR	PRINCIPAL	INTEREST	TOTAL
1989	693	346	1,039
1990	1,316	316	1,632
1991	1,383	283	1,666
1992	0	265	265
1993	629	258	887
1994	1,476	231	1,707
1995	0	213	213
1996	1,318	196	1,514
1997	1,548	160	1,708
1998	1,586	121	1,707
1999	1,624	81	1,705
2000	0	61	61
2001	1,472	43	1,515
2002	952	12	964
TOTAL '89 - 02	$13,997	$2,586	$16,583
TOTAL '90 - 02	$13,304	$2,240	$15,544
TOTAL '91 - 02	$11,988	$1,924	$13,912
TOTAL '92 - 02	$10,605	$1,641	$12,246

Projected Selling Price

Units: $1000's

Transaction Date	Present Value of 1/ Remaining Payments	Selling Price
Oct. 1, 1989 (start of FY 1990)	$9,435	$10,435
Oct. 1, 1990 (start of FY 1991)	$8,580	$ 9,580
Oct. 1, 1991 (start of FY 1992)	$7,631	$ 8,631

1/ Discount Rate of 9.0%; payments assumed at mid year.

Eklutna Purchase Agreement
August 2, 1989

Amendment No. 1

1. Purpose.

This Amendment No. 1 reflects new information with respect to lands, extends the term of the August 2, 1989, Eklutna Purchase Agreement ("Agreement"), and states the selling price if the Transaction Date is October 1, 1992, or October 1, 1993.

2. Amendment to Section 10. Interim Activities.

Section 10a.(4) of the Agreement is amended to read as follows:

"10.a.(4) Authorize the State of Alaska (State) to select and direct the Secretary of the Interior to convey to the State certain Eklutna lands identified in Exhibit A, including approximately 853 acres of improved lands housing the powerhouse, intake structure, dam facilities, and a portion of the power tunnel under the provision of Section 6(a) of the Alaska Statehood Act of July 7, 1958, Public Law 85-508, and the North Anchorage Land Agreement of January 31, 1983, such conveyances to be subject to the rights-of-way being provided to Purchasers under Section 10(a)(3) above."

3. Amendment to Section 5. Price and Payment Terms.

Section 5 (a) of the Agreement is amended to read as follows:

"a. If the Transaction Date is October 1, 1991, the selling price shall be $8,613,000.

If the Transaction Date is October 1, 1992, the selling price shall be $9,022,000.

If the Transaction Date is October 1, 1993, the selling price shall be $9,818,000.

If the Transaction Date is other than one of the three above dates, the selling price will be calculated by APA4 as the discounted present value as of the Transaction Date of all remaining principal and interest payments after the Transaction Date according to the payment schedule shown on Exhibit B of this agreement plus $1,000,000 ($1 million). Exhibit B payments for the first year will be prorated to reflect the portion of the year remaining after the Transaction Date. Subsequent Exhibit B payments will be assumed at mid-year (April).

The price determination is to be included in the transition plan required under Section 9 below."

4. New Exhibit B.

A new Exhibit B dated June 25, 1991, reflecting the above amendment to Section 5, Price and Payment Terms, is incorporated in the Agreement in place of the original Exhibit B.

5. Extended Term.

The first paragraph of Section 14 of the Agreement is amended to read as follows:

"This Agreement shall remain in effect for such time as is necessary to complete the sale of Eklutna to the Purchasers and payments for such sale to the United States Treasury, provided that this Agreement shall terminate four years after the effective date if authorization by Congressional legislation has not been obtained within these four years, and provided further that this Agreement shall terminate two years after the date of the Congressional authorization if transfer of Eklutna to the Purchasers has not occurred by that time. The above termination dates may be extended by mutual agreement of the parties."

6. Effective Date

This Amendment No. 1 to the Agreement shall become effective as of the calendar date on which all parties have executed this Amendment.

DATED this 30th day of July, 1991.

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____
Thomas D. Humphrey
President

7/30/91
Date

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____
Jack Lee
President

7/29/91
Date

MUNICIPALITY OF ANCHORAGE
D/B/A MUNICIPAL LIGHT AND POWER

By: _____
Tom Fink
Mayor

7/30/91
Date

ALASKA POWER ADMINISTRATION

By: _____
Robert J. Cross
Administrator

July 24, 1991
Date

Eklutna Purchase Agreement
August 2, 1989

Amendment No. 2

1. Purpose.

This Amendment No. 2 extends the term of the August 2, 1989, Eklutna Purchase Agreement ("Agreement"), and states the selling price if the Transaction Date is October 1, 1993, October 1, 1994, or October 1, 1995.

2. Amendment to Section 5, Price and Payment Terms.

Section 5 (a) of the Agreement is amended to read as follows:

"a. If the Transaction Date is October 1, 1993, the selling price shall be $8,810,000.

If the Transaction Date is October 1, 1994, the selling price shall be $7,733,000.

If the Transaction Date is October 1, 1995, the selling price shall be $8,117,000.

If the Transaction Date is other than one of the three above dates, the selling price will be calculated by APAd as the discounted present value as of the Transaction Date of all remaining principal and interest payments after the Transaction Date according to the payment schedule shown on Exhibit B of this agreement plus $1,000,000 ($1 million). Exhibit B payments for the first year will be prorated to reflect the portion of the year remaining after the Transaction Date. Subsequent Exhibit B payments will be assumed at mid-year (April).

The price determination is to be included in the transition plan required under Section 9 below."

3. New Exhibit B.

A new Exhibit B dated March 8, 1993, reflecting the above amendment to Section 5, Price and Payment Terms, is incorporated in the Agreement in place of the Amendment No. 1 Exhibit B.

4. Extended Term.

The first paragraph of Section 14 of the Agreement is amended to read as follows:

"This Agreement shall remain in effect for such time as is necessary to complete the sale of Eklutna to the Purchasers and payments for such sale to the United States Treasury, provided that this Agreement shall terminate six years after the effective date if authorization by Congressional legislation has not been obtained within these six years, and provided further that this Agreement shall terminate two years after the date of the Congressional authorization if transfer of Eklutna to the Purchasers has not occurred by that time. The above termination dates may be extended by mutual agreement of the parties."

5. Effective Date.

This Amendment No. 2 to the Agreement shall become effective as of the calendar date on which all parties have executed this Amendment.

Eklutna Purchase Agreement
April 21, 1995

Amendment No. 3

1. Purpose.

This Amendment No. 3 extends the term of the August 2, 1989, Eklutna Purchase Agreement ("Agreement"), and states the selling price if the Transaction Date is October 1, 1995, October 1, 1996, or October 1, 1997.

2. Amendment to Section 5. Price and Payment Terms.

Section 5 (a) of the Agreement is amended to read as follows:

"a. If the Transaction Date is October 1, 1995, the selling price shall be $8,117,000.

If the Transaction Date is October 1, 1996, the selling price shall be $7,178,000.

If the Transaction Date is October 1, 1997, the selling price shall be $5,953,000.

If the Transaction Date is other than one of the three above dates, the selling price will be calculated by APAd as the discounted present value as of the Transaction Date of all remaining principal and interest payments after the Transaction Date according to the payment schedule shown on Exhibit B of this agreement plus $1,000,000 ($1 million). Exhibit B payments for the first year will be prorated to reflect the portion of the year remaining after the Transaction Date. Subsequent Exhibit B payments will be assumed at mid-year (April).

The price determination is to be included in the transition plan required under Section 9 below."

3. New Exhibit B.

A new Exhibit B dated February 23, 1995, reflecting the above amendment to Section 5, Price and Payment Terms, is incorporated in the Agreement in place of the Amendment No. 1 Exhibit B.

4. Extended Terms.

The first paragraph of Section 14 of the Agreement is amended to read as follows:

"This Agreement shall remain in effect for such time as is necessary to complete the sale of Eklutna to the Purchasers and payments for such sale to the United States Treasury, provided that this Agreement shall terminate eight years after the effective date if authorization by Congressional legislation has not been obtained within these eight years, and provided further that this Agreement shall terminate two years after the date of the Congressional authorization if transfer of Eklutna to the Purchasers has not occurred by that time. The above termination dates may be extended by mutual agreement of the parties."

5. Effective Date.

This Amendment No. 3 to the Agreement shall become effective as of the calendar date on which all parties have executed this Amendment.

DATED this 22 day of June, 1995.

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____ 4/25/95
Elizabeth Page Kennedy
President
Date

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____ May 4, 1995
Barbara J. Miller
President
Date

MUNICIPALITY OF ANCHORAGE
D/B/A MUNICIPAL LIGHT AND POWER

By: _____ 6/22/95
Larry D. Crawford
Municipal Manager
Date

ALASKA POWER ADMINISTRATION

By: _____ April 24, 1995
Michael A. Deihl
Administrator
Date

02/23/95

Exhibit B
Eklutna Purchase Agreement
Amendment No. 3

FUTURE PRINCIPAL AND INTEREST PAYMENTS
(FY 1987 POWER REPAYMENT STUDY DATA)

Units: $1,000's

FISCAL YEAR	PRINCIPAL	INTEREST	TOTAL
1996	1,318	196	1,514
1997	1,548	160	1,708
1998	1,586	121	1,707
1999	1,624	81	1,705
2000	0	61	61
2001	1,472	43	1,515
2002	952	12	964
TOTAL '96 - 02	8,500	674	9,174
TOTAL '97 - 02	7,182	478	7,660
TOTAL '98 - 02	5,634	318	5,952

PROJECTED SELLING PRICE

Units: $1,000's

Transaction Date	Present Value of Remaining Payments (Discount Rate = 9%)	Selling Price
October 1, 1995 (start of FY 1996)	7,117	8,117
October 1, 1996 (start of FY 1997)	6,178	7,178
October 1, 1997 (start of FY 1998)	4,953	5,953

NOTE: Payments assumed at mid-year.

DATED this 14 day of June, 1993.

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____ 5/19/93
William L. Ryan
President
Date

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____ June 8, 1993
Barbara J. Miller
President
Date

MUNICIPALITY OF ANCHORAGE
D/B/A MUNICIPAL LIGHT AND POWER

By: _____ 4/27/93
Tom Fink
Mayor
Date

ALASKA POWER ADMINISTRATION

By: _____ 5/26/93
Michael A. Dahl
Administrator
Date

Exhibit B
Eklutna Purchase Agreement
Amendment No. 2

03/26/93

Future Principal and Interest Payments
(FY 1987 Power Repayment Study Data)

Units: $1,000's

FISCAL YEAR	PRINCIPAL	INTEREST	TOTAL
1994	1,476	231	1,707
1995	0	213	213
1996	1,318	196	1,514
1997	1,548	160	1,708
1998	1,586	121	1,707
1999	1,624	81	1,705
2000	0	61	61
2001	1,472	43	1,515
2002	952	12	964
TOTAL '94 - 02	$9,976	$1,118	$11,094
TOTAL '95 - 02	$8,500	$887	$9,387
TOTAL '96 - 02	$8,500	$674	$9,174

Projected Selling Price

Units: $1,000's

Transaction Date	Present Value of Remaining Payments	Selling Price
Oct. 1, 1993 (start of FY 1994)	$7,810	$8,810
Oct. 1, 1994 (start of FY 1995)	$6,733	$7,733
Oct. 1, 1995 (start of FY 1996)	$7,117	$8,117

Discount Rate 9.0%; payments assumed at mid-year.

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is made this 29th day of July, 1989, by and among MATANUSKA ELECTRIC ASSOCIATION, INC. ("MEA"), CHUGACH ELECTRIC ASSOCIATION, INC. ("Chugach"), and the MUNICIPALITY OF ANCHORAGE d/b/a ANCHORAGE MUNICIPAL LIGHT & POWER ("ML&P"). MEA, Chugach and ML&P are hereinafter collectively called the "Purchasers."

1. Recital. The Purchasers are parties to that certain Eklutna Purchase Agreement ("Purchase Agreement") dated as of March 31, 1989, with the Alaska Power Administration ("APAD") which concerns the purchase by Purchasers of certain real and personal property referred to therein as "Eklutna." It is understood that the Purchase Agreement has not yet been executed by ML&P and is therefore not yet effective. The parties expect that the Purchase Agreement will be so executed and, upon that assumption, enter into this Memorandum of Understanding.

2. Cost, Power and Firm Interests of Purchasers. It is mutually understood by the Purchasers that the allocation of output power (capacity and energy) from Eklutna (as defined in Section 3 of the Purchase Agreement) under the Purchase Agreement will continue as under the present participation in the following proportions: 16/30 to ML&P, 9/30 to Chugach and 5/30 to MEA, and that these same proportionate shares will determine the Purchasers' respective proportionate shares of their undivided interest in the Eklutna assets identified in Section 4 of the

Purchase agreement, the Purchasers' respective shares of the purchase price identified in Section 5 of the Purchase Agreement, and the Purchasers' respective shares of Eklutna's operating costs.

3. Operation of Eklutna. It is further understood and agreed that the Purchasers and their successors and assigns shall operate Eklutna in accordance with prudent electric utility practices in order to produce power in the most efficient manner possible for the maximum beneficial use of customers in the service area of the Purchasers, subject to compliance with those water usage agreements that the Purchasers have agreed to assume pursuant to Section 8 of the Purchase Agreement.

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____

Its: General Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____

Its: General Manager

MUNICIPALITY OF ANCHORAGE d/b/a
ANCHORAGE MUNICIPAL LIGHT & POWER

By: _____

Its: _____

JAC/dmj
X:MBA

MUNICIPALITY OF ANCHORAGE

AC 7-2

ASSEMBLY MEMORANDUM

AM 614-87

No. _____

L ... T
R ... S & TARIFFS
AC ... TING
FIX ... ASSETS
GENERAL MGR.

Meeting Date:

From: Mayor Fink

Subject: Eklutna Purchase Agreement

In its AR87-41(S-1) as amended and dated March 3, 1987, the Anchorage Municipal Assembly resolved that (1) the best interest of the public may be served by federal transfer of the Eklutna Hydroelectric Facility to the Municipality or other local entities with all rights, title and interest of the United States, including reserved and acquired water rights; and (2) the administration may commence formal negotiations with the Department of Energy regarding divestiture of the project.

On May 20, 1987, the Alaska Power Association (APA) formally requested proposals from the Municipality of Anchorage, Chugach Electric Association (CEA), and the Matanuska Electric Association (MEA) for the purchase and transfer of the Eklutna Power Project. The Municipality of Anchorage d/b/a Municipal Light and Power (ML&P), CEA, and MEA (cumulatively the "Purchasers") have developed a joint proposal for purchase of the Eklutna Project. The joint proposal, presently under review by the Municipality of Anchorage, Chugach Electric Association and Matanuska Electric Association, is entitled "Eklutna Purchase Agreement" and sets out arrangements, terms, and conditions for sale of Eklutna to purchasers, such arrangements, terms, and conditions to be implemented if the United States Congress authorizes such sale. The following are essential terms of the proposed agreement:

a. The Eklutna assets to be sold and transferred generally consist of the power production, transmission, associated real property and all other facilities and assets, provided for Eklutna under the Eklutna Project Act of July 31, 1950; all rights-of-way and easements for existing Eklutna facilities located on BLM managed lands and military lands; and water rights, including the reservoir rights.

b. Within six (6) months of Congressional authorization, transition plans are to be adopted which will, among other things, identify the Transaction Date on which ownership of the Eklutna facilities will transfer to Purchasers; determine a schedule for payment of the purchase price to the United States Treasury; provide for the orderly transfer of the operations and related activities of Eklutna; provide for environmental, engineering and safety inspections by Purchasers; provide for completion of asset transfer; develop a particularized listing of assets to be sold or transferred; and address other matters as may be considered necessary by the parties.

c. Total or combined Purchase Price to the three purchasing utilities is dependent on the timing of the Transaction Date: $10,435,000 if on October 1, 1989; $9,580,000 if on October 1, 1990; $8,631,000 if on October 1, 1991. Any other Transaction Date shall result in a selling price calculated as the discounted present value of all remaining principal and interest payments plus $1 million. The full selling price is to be paid within five (5) years after the Transaction Date using an interest rate of 9 percent. The discount rate to be used in determining the selling price is also 9 percent. ML&P's share of the purchase price is 16/30 or initially $5,565,333.33, which moneys will be committed upon the effective date of the Agreement.

d. Effective date of the Purchase Agreement is the calendar date on which all parties have executed the Agreement. The Agreement requires authorization by Congressional legislation within two years of the effective date of the Agreement, and further requires transfer of Eklutna assets within two years of Congressional legislation authorizing the transfer.

e. The covenants, obligations and liabilities of the Purchasers are intended to be several and not joint or collective. ML&P, CEA, and MEA shall each acquire an undivided interest of 16/30, 9/30 and 5/30, respectively, in the Eklutna Power Project.

f. Purchasers of Eklutna are assuming all responsibilities associated with the Agreement dated February 17, 1984 between AFA and the Municipality of Anchorage concerning the Eklutna Water Project and the Supplemental Agreement No. 1 dated August 24, 1988. AWWU's entitlement to secure a long range source of water for Anchorage with the Eklutna Water Project is thereby preserved.

g. The Purchasers are executing a memorandum of understanding concerning the possible election by the Municipality to internally reassign its interest in the Eklutna Power Project. In the event of a sale or transfer of ML&P or for other reasons the Municipality may retain its interest in the Eklutna Power Project for the benefit of the Municipality and the Eklutna Water Project.

ASSEMBLY MEMORANDUM
Eklutna Purchase Agreement
Page 3

The subject Eklutna Purchase Agreement will result in lower costs to ML&P for Eklutna power than under existing federal ownership. The Agreement ensures that ML&P will retain its current share of Eklutna output for the life of the Project. Since Eklutna is and will continue to be ML&P's lowest cost energy source, retention of ML&P's share will continue to stabilize rates.

It is recommended that the Assembly authorize the Administration to enter into an agreement for the purchase of Eklutna under the basic terms and conditions outlined above.

Concur:

Lee Nunn
Executive Manager
Enterprise Activities

Concur:

Larry D. Crawford
Municipal Manager

Respectfully Submitted:

Tom Fink
Mayor

Submitted by:

Thomas R. Stahr
General Manager
Municipal Light & Power

Funds Certification:

(0530 Operating)
8300-8605-2328-0000
$3,563,333.33

Bob Nelson
Chief Fiscal Officer

Concur:

Richard D. Kibby
Municipal Attorney

Concur:

Richard L. Besse, P.E.
General Manager
Anchorage Water & Wastewater Utility

EXHIBIT C

Engineering inspection results listing (to date) including APA's response to the Stone & Webster report in 12 pages to ML&P dated May 13, 1996.

Environmental and safety inspection results and APA's response will not be available from Stone & Webster until after the Effective Date of this Plan. These results are incorporated into Exhibit C by reference, and will be included by mutual consent of the Parties upon receipt from Stone & Webster.

Stone & Webster

FOUNDED
1889

ATLANTA, GA
BOSTON, MA
CHATTANOOGA, TN
CHERRY HILL, NJ
DENVER, CO
HOUSTON, TX
NEW YORK, NY
WASHINGTON, DC
MIAMI, FL
PLEASANTON, CA

ABU DHABI, UAE
AL KHOBAR, SAUDI ARABIA
BANGKOK, THAILAND
BARIKAH, SAUDI ARABIA
KUALA LUMPUR, MALAYSIA
LIVONIA CITY, MICHIGAN
MILTON KEYNES, ENGLAND
JAKARTA, INDONESIA
SEOUL, KOREA
TORONTO, CANADA

Mr. Moe T. Aslam, P.E.
Chief Engineer
Anchorage Municipal Light & Power
821 East First Avenue
Anchorage, AK 99501

May 13, 1996

J.O.No. 05450.07

TRANSFER OF THE
EKLUTNA HYDROELECTRIC PROJECT
PALMER, ALASKA
ANCHORAGE MUNICIPAL LIGHT AND POWER

Dear Moe:

The following items are suggested for inclusion in your list of major items to be discussed among APA and the Purchasing Utilities:

- Survey of Dam and comparison with 1987 Survey
- APA's current program for routine inspections of the dam
- Rehabilitation of Power Tunnel Adit
- APA's Environmental, Health and Safety Management Plan
- Environmental Issues
- Health and Safety Issues
- Environmental Permits and Plans
- List of Physically separated sites to be included in the transfer, together with information on land and land rights
- List of vehicles and off road equipment to be transferred
- Transmission Line Survey

Stone & Webster Engineering Corporation
P.O. Box 2325, Boston, Massachusetts 02107-2325
245 Summer Street, Boston, Massachusetts 02210
Tel: 617-600-6111 Fax: 617-600-6180

A more comprehensive list of Technical and Miscellaneous Items is attached.

The list of environmental issues, prepared by Jim Rogers, and the list of Health and Safety issues, prepared by Mike Daniels, Mike Schowen and Sterling Larson will follow.

Best Regards,

Fred R. Harty, Jr.
Task Coordinator

Attachment

FRH:bjt

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION
DURING THE TRANSFER INSPECTIONS FOR THE
EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
Remote Sites		
° Possibilities for relocating or discontinuing the use of the Reed substation should be considered due to the security problem.		
° Ownership of the old Eklutna powerhouse should be established with respect to the transfer process.		
° At the Palmer substation, the transformer should be checked for damage because of the deformed shell.	APA has advised that MEA performed a detailed inspection (letter of February 27, 1996)	
° Grounds maintenance should be performed at the Repeater Station. Also, the provisions for future snow removal and vehicle access to the MEA substation should be established with respect to the Repeater Station.	APA will remove brush, weeds and logs (letter of February 27, 1996) Future maintenance to be established	
Eklutna Dam and Spillway	APA will remove logs and debris (letter of February 27, 1996)	
° The area upstream from the spillway is heavily encumbered with floating logs and other debris. This material should be removed.		

EKLUTNA TRANSITION PLAN
EXHIBIT C, PAGE 3 OF 12

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51396.ATT - 5/13/96

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION DURING THE TRANSFER INSPECTIONS FOR THE EKLUTNA HYDROELECTRIC PROJECT

(see also the reports that comprise
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
° There is an area of subsidence at the downstream edge of the dam crest, about two thirds of the way between the right abutment and the spillway structure. The subsidence is on the order of 2 ft to 3 ft over an area that is large enough to make this a grade depression. We were unable to find a solution of the condition in previous reports. A survey of this area and institution of a monitoring program is suggested.	APA will perform the survey (letter of February 27, 1996)	
° A survey program is also suggested for the road that leads from the main road to the right abutment. This survey would determine if there is a spot in the road which is lower than the crest of the dam.	APA will perform the survey (letter of February 27, 1996)	
° A survey of the various dam monitoring instruments should also be made and compared with previous measurements. Other areas of interest for a survey are described in the detailed report.	APA will perform the survey (letter of February 27, 1996)	
° Some means should be provided for removal of water which accumulates in the spillway outlet gate access gallery. There was standing water in this gallery at the time of the inspection.		

EKLUTNA TRANSITION PLAN
EXHIBIT C, PAGE 4 OF 12

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51396.AFT - 5/13/96

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION
DURING THE TRANSFER INSPECTIONS FOR THE
EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering:
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
° An area of standing water was noted downstream from the toe of the dam toward the outlet of the spillway channel. This condition was noted in previous reports with the comment that it was not clear whether the wet spot was related to the reservoir or originated downstream. This area should continue to be observed in future inspections, particularly when the area between the two dams is dry.		
° Brush and small trees were noted on the downstream embankment and abutments of the dam. This vegetation should be removed.	APA will remove vegetation (letter of February 27, 1996)	
Intake Gate Area		
° The surface drainage should be improved around the intake gate silo.		
° It is suggested that this gate operating system be renovated and updated.		
° Cracks noted in the silo concrete at the level of the gate operating system should be monitored to determine if any changes are being experienced.		
° The steel items such as ladders, platforms, gate operator and gate operator supports should be cleaned and painted.		
° It is suggested that the provision of a permanent power supply be considered for this structure.		

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TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION DURING THE TRANSFER INSPECTIONS FOR THE EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
• The access road was washed out at the time of the site visit. It is suggested that improvements be made to permit uninterruptible vehicle access on this road, which serves the intake gate #5 and the Anchorage Water District diversion structure.	APA has restored the road to its original condition (letter of February 27, 1995) An upgrade has been requested for consideration by the Purchasing Utilities	
Gage House for Reservoir Water Level Monitoring • The ownership of this gage house should be verified with respect to the project transfer.		
• The identity of the floating cable, noted during the inspection, should be established and any necessary remedial action taken.	Repaired by USGS (letters of February 27, 1995 and March 13, 1995)	
Adit to the Power Tunnel • Remedial measures should be taken to restore access to the watertight bulkhead in the adit and to prevent unauthorized entry into this area.	APA will only patch the holes of the power tunnel access entrance (letter of February 27, 1995)	
Surge Tank • The area around the surge tank should be monitored for erosion of surface material. Corrective measures should be taken if necessary.		
• The inside of the surge tank should be inspected when the opportunity presents itself.		

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION
DURING THE TRANSFER INSPECTIONS FOR THE
EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering:
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
○ The free turning operation of the wheels on the wheeled gate should be verified to be sure that they will function under load during an emergency gate closure (previous closure operations are understood to have been with no flow).		
○ The gate may need painting or other maintenance.	There is no record of when the gate was last painted (letter of March 13, 1995)	
○ A broken grounding strap needs to be repaired.		
○ Restrictions related to operation at high lake level should be noted.		
Tailrace Channel ○ Obstructions caused by the presence of cables sticking up on the embankment roadway should be addressed.		

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION
DURING THE TRANSFER INSPECTIONS FOR THE
EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
◦ Confirm or adjust the values of minimum tailwater level based on project datum: 20 ft elev - one unit 21 ft elev - two units (It has been reported that all project elevations following the 1964 earthquake are 2.6 ft. to 2.9 ft. lower than those shown on the drawings. If sea level forms the basis for tailwater level, the new tailwater, based on project datum, could be higher when affected by high tides)	Levels not confirmed per letter of March 13, 1996	
Powerhouse ◦ Acceptability of the sump oil separation method should be reviewed.		
◦ Redesign of the exhaust system should be considered to avoid the present situation in which the battery room exhaust is ducted through the main control panel. Also, the potential for inadvertent passage of oil room exhaust into the control room should be reviewed.	APA will replace the batteries with a different type (letter of February 27, 1996)	
◦ Rehabilitation of the butterfly valves should be considered to correct leaking which has been reported to be unfixable through normal seal adjustment.		
◦ Greaseless wicket gate bearings should be considered for installation on the turbines.		

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION
DURING THE TRANSFER INSPECTIONS FOR THE
EKLUTNA HYDROELECTRIC PROJECT

(not also the separate lists covering
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
◦ A thin walled section of cooling water pipe, noted in the Bureau of Reclamation Inspection Report, should be replaced.	Two sections have been patched. APA will correct the last section this year (letter of February 27, 1996)	
◦ The cable trays presently have 1/4 inch asbestos fiberboard underneath the cables. Other arrangements should be established so that this asbestos material can be removed.		
◦ The immovability of the transformers on their rails should be verified to prevent damaging movement in the event of an earthquake.	APA will add restraints (letter of February 27, 1996)	
◦ Consideration should be given to more conventional distribution methods of supplying power to the Government Camp.		
EKLUTNA TO PALMER TRANSMISSION LINE ◦ On Structure 2/7, a broken bell should be replaced in the right insulator string	APA will be responding to these items during the normal maintenance program (letter of March 13, 1996)	
◦ On Structure 10/5, two broken bells in the center insulator string and one broken bell in each of the outside strings should be replaced	APA will be responding to these items during the normal maintenance program (letter of March 13, 1996)	
◦ Vibration on the center phase between structures 7/1-7/2 should be addressed	APA will be responding to these items during the normal maintenance program (letter of March 13, 1996)	

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION
DURING THE TRANSFER INSTRUCTIONS FOR THE
EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering:
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
• Remedial measures or changes should be considered at three areas on the line that are subject to damage, as described in the detailed report (overbuilds near between 3/7 and 3/8, old Knik River bridge, and the Matanuska River crossing between 9/3 and 10/3)	APA has no plans for any major work in this area (letter of February 27, 1996)	
• The out of plumb condition of the insulator strings should be addressed at structures 1/7, 1/8, 9/1 and 9/2	APA has no plans for any major work in this area (letter of February 27, 1996)	
• Excess brush and trees should be removed from the rights of way as described in the detailed report	APA has no plans for any major work in this area (letter of February 27, 1996)	
• Structure 10/4 should be made plumb	APA has no plans for any major work in this area (letter of February 27, 1996)	
TRANSMISSION LINE FROM EKLUTNA TO ANCHORAGE • Deterioration of the cross arm at Structure 10/3 should be addressed	APA will be responding to these items under the normal maintenance program (letter of March 13, 1996)	
• Broken bells, as described in the detailed report, should be replaced	APA will be responding to these items under the normal maintenance program (letter of March 13, 1996)	
• Excess brush and trees should be monitored for timely removal as described in the detailed report	APA will be responding to these items under the normal maintenance program (letter of March 13, 1996)	
MISCELLANEOUS • Plan and profile of each transmission line	APA will provide the original drawings. You should be aware that APA presently has a surveying contract under way to make an as-built plan of the entire transmission line.	

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION
DURING THE TRANSFER NEGOTIATIONS FOR THE
EKLUTNA HYDROELECTRIC PROJECT

(see also the separate lists covering:
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
• Land and Land rights data for: 1. The power plant and associated structures including the tailrace channel 2. The substations and switchyard 3. The transmission line rights-of-way and access to the rights-of-way 4. Other properties to be transferred	This will be compiled as part of transition activities (letter of March 13, 1996)	
◦ List of all outstanding contracts and commitments, including informal agreements: For example, it is understood that APA has an understanding that the Fish Hatchery may use some storage areas in the Eklutna warehouse. It is also understood that APA sometimes provides road maintenance and snow removal services in the park area. Such agreements and understandings should be listed.	This has been provided to The McCormick (and other purchasers) as part of transition activities (letter of March 13, 1996)	
◦ List of vehicles and other on road and off road equipment.	This will be compiled as part of transition activities (letter of March 13, 1996)	
◦ List of all major items of spare parts and spare equipment.	This will be compiled as part of transition activities (letter of March 13, 1996)	

TECHNICAL AND MISCELLANEOUS ITEMS NOTED FOR FURTHER CONSIDERATION
DURING THE TRANSFER NEGOTIATIONS FOR THE
EKLUTNA HYDRO-ELECTRIC PROJECT

(see also the separate list covering
- Environmental Items
- Safety and Health Items)

	APA POSITION	TRANSITION TEAM RESOLUTION
• List of physically separated sites that are to be included in the transfer, such as the power plant itself, the USGS station house, the separation station, storage yards, transmission line and substation.	APA is collecting this and will provide this as part of the transition process (letter of March 13, 1996)	

EXHIBIT D

The Eklutna Asset List comprises:

1. **Eklutna Project Personal Property in 8 pages**
2. **Eklutna Property Inventory, Major Equipment, in 7 pages**
3. **Eklutna Project Furniture Inventory in 4 Pages**

The Eklutna Purchasers Asset Lists of Utility owned items on Eklutna Project sites:

1. **CEA Inventory Letter of May 22, 1996 in 2 pages**
2. **MEA Inventory Letter of April 1, 1996 in 2 pages**
3. **ML&P Inventory Letter of April 24, 1996 in 2 pages**

TOTAL PAGES 25

EKLUTNA PROJE[illegible] PERSONAL PROPERTY

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
1	1966 Allis Chalmers Dozer	6606	1ea	Warehouse	Fair	8410.6
2	1993 John Deere Dozer	T0450GF795714	1 ea	Warehouse	Good	00382
3	1994 Ford Dump Truck	1FDXK84EXRVA26419	1 ea	Warehouse	Good	48761
4	1962 Studebaker Dump Truck	7E40A	1 ea	Warehouse	Fair	48766
5	1960 2-1/2 Ton Boom Truck	140285	1 ea	Warehouse	Fair	48768
6	1957 Caterpillar Motor Grader	8T21663	1 ea	Warehouse	Fair	48769
7	1987 Ford 555B Backhoe	C771016	1ea	Warehouse	Good	23
8	Thiokol Rangemaster	67B9370	1 ea	Yard	Fair	5122.1A
9	1988 Jeep Cherokee	1JCML7710JT157056	1 ea	Garage	Good	48777
10	1989 Chevy Pickup	2GCEK2ZXK1194266	1 ea	Power Plant	Good	48762
11	1988 Chevy Pickup	1GCDK14H4JE124133	1 ea	Power Plant	Good	48776
12	1994 Chevy Pickup	1GCEK14H2PE224566	1 ea	Power Plant	Good	48770
13	1994 Chevy 1- Ton/Snow Plow	1GDHK34K9PE563972	1ea	Garage	Good	48758
14	1985 Dodge Pickup	1B7HW14HXFS657165	1 ea	Warehouse	Fair	48765
15	1984 Dodge Line Truck	1B7KW34W2ES311402	1 ea	Warehouse	Fair	48767
16	Stihl Chainsaw	227850872	1 ea	Warehouse	Good	331
17	Stihl Chainsaw	227850894	1 ea	Warehouse	Good	332
18	Stihl Chainsaw	227850861	1 ea	Warehouse	Good	330
19	Stihl Chainsaw	227850901	1ea	Warehouse	Good	333
20	Homelite Chainsaw	8L14907A1	1 ea	Warehouse	Fair	116
21	Homelite Chainsaw	HK2230297	1 ea	Warehouse	Fair	117
22	Homelite Chainsaw	HK2190954	1 ea	Warehouse	Fair	118
23	Homelite Chainsaw	7E2772322	1 ea	Warehouse	Fair	6625.27
24	Onan Generator	25C815072	1 ea	Warehouse	Fair	3375.9
25	Onan Generator	3375.8	1 ea	Warehouse	Fair	3375.8
26	Johnson Outboard Motor	1188798	1 ea	Warehouse	Fair	5055.1
27	Lawn Mower - Wheeler	228270	1 ea	Warehouse	Good	7

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
28	Lawn Mower - Toro	T 236	1 ea	Warehouse	Fair	N/A
29	Riding Lawn Mower - Sears	3264	1 ea	Garage	Fair	4445.5
30	Lawn Rake	60102	1 ea	Warehouse	Poor	945.1
31	Water Pump	1456266	1 ea	Warehouse	Fair	5940.4
32	Hydraulic Line Press	75L2286	1 ea	Warehouse	Fair	5770.1
33	Hydraulic Pump	2718809	1 ea	Warehouse	Fair	N/A
34	Snow Blower - MTD	314610E000	1 ea	Warehouse	Good	381
35	Homelite Weed Eater	HJ3350430	1 ea	Warehouse	Good	112
36	Lincoln Welder/Generator	3451173	1 ea	Warehouse	Fair	8920.2B
37	Thiokol Range Master		1 ea	Yard	Fair	N/A
38	Capstan Hoist	280097	1 ea	Warehouse	Fair	3850.17
39	1985 Wisconsin Tilting Trailer	1W91SC205F1008162	1 ea	Yard	Good	N/A
40	Shaper Cincinnati		1 ea	Machine Shop	Good	N/A
41	Turret Milling Machine	1011 505367	1 ea	Machine Shop	Good	N/A
42	Lathe Model #957		1 ea	Machine Shop	Good	N/A
43	Metal Cutting Band Saw Model 8C-W	6540581	1 ea	Machine Shop	Good	N/A
44	Bench Grinder Model #508	1338	1 ea	Machine Shop	Good	3490.1
45	Lincoln Welder	A320510	1 ea	Machine Shop	Good	8920.2
46	Pipe threader (Ridgid)	396385	1 ea	Machine Shop	Good	14
47	Black & Decker 10" Bench Saw		1 ea	Machine Shop	Good	N/A
48	Hinsey Bench Grinder	210422	1 ea	Machine Shop	Fair	N/A
49	14" Chop Saw	110037 9309	1 ea	Machine Shop	Good	N/A
50	Cincinnati Drill Press		1 ea	Machine Shop	Good	N/A
51	LeBlond 10" Lathe		1 ea	Machine Shop	Good	N/A
52	Manley Hand Press		1 ea	Machine Shop	Good	N/A
53	Miller CP-300 Welder		1 ea	Machine Shop	Good	N/A
54	HotPoint Clothes Dryer		1 ea	Machine Shop	Fair	N/A

EXHIBIT 1
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Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
55	Norge Clothes Washer		1 ea	Machine Shop	Fair	8865.2
56	Kleen-Flo Parts Washer	606284	1 ea	Machine Shop	Good	N/A
57	Pyrotronics Fire Alarm System System 3		1 ea	Machine Shop	Good	N/A
58	Radionics Security Alarm System		1 ea	Machine Shop	Good	N/A
59	HomeMade Sand Blaster		1 ea	Machine Shop	Good	N/A
60	National Champion Oil Furnace	541920	1 ea	Machine Shop	Fair	21
61	PMG Bearing Puller		1 ea	Machine Shop	Fair	N/A
62	Jet Pump Profile for turning jet pump nozzles		1 ea	Machine Shop	Fair	N/A
63	Oxygen & Acetylene Bottles, Torch & Cart		1 ea	Machine Shop	Good	N/A
64	Vacuum Pump & Motor		1 ea	Machine Shop	Good	N/A
65	2200 lb Portable Crane Hoist (OTC)		1 ea	Generator Floor	Good	N/A
66	Puller	22007	1 ea	Second Level Floor	Good	N/A
67	23 lb Weights for Tightwire readings		4 ea	Second Level Floor	Fair	N/A
68	Portable Oil Press Pump, Oil Filtering System		1 ea	Oil Room	Good	N/A
69	Aluminum Ladder for Draft Tube		1 ea	Third Level	Good	N/A
70	Wicket Gate Stans		1 ea	Third Level	Fair	N/A
71	30 for Hyd Jack	47353	6 ea	Third Level	Fair	5770.3
72	10 to Track Jack		2 ea	Third Level	Fair	N/A
73	Screw Jacks		3 ea	Third Level	Fair	N/A
74	60 ton Portable Hyd 3-in stroke		1 ea	Third Level	Good	N/A
75	10,000 Pst Air Hyd Pump		1 ea	Third Level	Good	N/A
76	20 ton Portable Hyd Ram 1-3/4 in stroke		1 ea	Third Level	Good	N/A
77	20 ton Portable Hyd Ram 3 in stroke		1 ea	Third Level	Good	N/A
78	Hand Portapower Pump		1 ea	Third Level	Good	N/A
79	Portable Oil Furnace with Day Tank		1 ea	Third Level	Fair	N/A
80	Assorted Hand Tools			Machine Shop Office	Fair	N/A
81	Hand Tools			Machine Shop	Fair	N/A

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
82	Assorted Slings, Cables, Eye Bolts, Metric Wrenches, S Hook			Generator Floor	Good	N/A
83	Deck Hatch Eyebolts, Shackles			Generator Floor	Good	N/A
84	Push Button Cord for Stop Log Hoist			Generator Floor	Good	N/A
85	Snugging Wrenches 1" drive sockets			Second Level	Fair	N/A
86	Assorted Spanner Wrenches, Lifting Eye Bolt, Open End Wren			Second Level	Fair	N/A
87	Hatch Lifting Eye Bolt			Second Level	Good	N/A
88	Assorted Allen Wrenches, Open-end Wrenches			Second Level	Fair	N/A
89	Spare Parts: Gov Lube Pump & PMG's			Second Level	Good	N/A
90	Spare Parts: Flyball Prerun Tester			Second Level	Good	N/A
91	Innertube for Butterfly Valve			Second Level	Fair	N/A
92	Turbine Nut Remover for Porta-Power			Second Level	Fair	N/A
93	Turbine Nut Spanner Wrench, Manhole Door Wrench			Third Level	Fair	N/A
94	1 in electric Impact Wrench		1 ea	Third Level	Good	N/A
95	120V AC to 12V DC Light Transformer w/Drop Light		1 ea	Third Level	Good	N/A
96	449 V electric heater		1 ea	Third Level	Fair	N/A
97	Generator Rotor Floor-mount with Bolts		1 ea	Third Level	Good	N/A
98	Generator Rotor Lifting Device		1 ea	Third Level	Good	N/A
99	Runner Shaft Lifting Device		1 ea	Third Level	Good	N/A
100	Floor-mount Hyd Press Rotors		1 ea	Third Level	Fair	N/A
101	Partial Spools ACSR		8 ea	Warehouse	Good	N/A
102	Full Spools ACSR		3 ea	Warehouse	Good	N/A
103	X Braces		25 ea	Warehouse	Used	N/A
104	10" Suspension Insulators		500 ea	Warehouse	Used	N/A
105	7 1/2" Phase Hangers		21 ea	Warehouse	Used	N/A
106	8" Phase Hangers		64 ea	Warehouse	Used	N/A
107	9 1/2" Phase Hangers		117 ea	Warehouse	Used	N/A
108	11" Phase Hangers		21 ea	Warehouse	Used	N/A

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
109	10' Cross Arms		2 ea	Warehouse	Used	N/A
110	25' Cross Arms		6 ea	Warehouse	Good	N/A
111	Boxes Pole Toppers		11 ea	Warehouse	Good	N/A
112	Boxes Aluminum Armor Rod		5 ea	Warehouse	Good	N/A
113	Box Guy Guards		1 ea	Warehouse	Good	N/A
114	Boxes Crossplates Anchors		2 ea	Warehouse	Good	N/A
115	Guy Anchor Rods		24 ea	Warehouse	Good	N/A
116	Vibration Dampers		15 ea	Warehouse	Used	N/A
117	3 Bolt Guy Clamps		120 ea	Warehouse	Used	N/A
118	4 Bolt Guy Clamps		45 ea	Warehouse	Used	N/A
119	3/4" X 2 1/2" Cone Head Bolts		100 ea	Warehouse	Used	N/A
120	Miscellaneous Lag Bolts		75 ea	Warehouse	Used	N/A
121	Square Washers 5/8" Hole		600 ea	Warehouse	Used	N/A
122	Square Washers 1/2" Hole		350 ea	Warehouse	Used	N/A
123	3" X 3" Curved Washers		25 ea	Warehouse	Used	N/A
124	1/2" Lock Washers		100 ea	Warehouse	Used	N/A
125	5/8" Lock Washers		300 ea	Warehouse	Used	N/A
126	3/4" Lock Washers		75 ea	Warehouse	Used	N/A
127	7/8" Lock Washers		150 ea	Warehouse	Used	N/A
128	5/8" Hex Palnuts		150 ea	Warehouse	Used	N/A
129	1/2" Square Lock Nuts		75 ea	Warehouse	Used	N/A
130	5/8" Square Lock Nuts		250 ea	Warehouse	Used	N/A
131	3/4" Square Lock Nuts		200 ea	Warehouse	Used	N/A
132	7/8" Square Lock Nuts		25 ea	Warehouse	Used	N/A
133	1/2" Square Nuts		75 ea	Warehouse	Used	N/A
134	5/8" Square Nuts		250 ea	Warehouse	Used	N/A
135	3/4" Square Nuts		200 ea	Warehouse	Used	N/A

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
136	7/8" Square Nuts		100 ea	Warehouse	Used	N/A
137	7/8" Square Nuts		100 ea	Warehouse	Used	N/A
138	2" X 5/8" Bolts		50 ea	Warehouse	Used	N/A
139	6" X 5/8" Bolts		300 ea	Warehouse	Used	N/A
140	13" X 7/8" Bolts		80 ea	Warehouse	Used	N/A
141	11" X 5/8" Bolts		18 ea	Warehouse	Used	N/A
142	13" X 7/8" Bolts		36 ea	Warehouse	Used	N/A
143	Serving Sleeves		150 ea	Warehouse	Used	N/A
144	Deadend Straps		48 ea	Warehouse	Used	N/A
145	4 Section Pole Band Assemblies		12 ea	Warehouse	Used	N/A
146	3 Section Pole Band Assemblies		22 ea	Warehouse	Used	N/A
147	9" Extension Links		45 ea	Warehouse	Used	N/A
148	3" "U" Bolts		60 ea	Warehouse	Used	N/A
149	Extended Parallel Groove Clamps		22 ea	Warehouse	Used	N/A
150	Offset Guy Clam ps		6 ea	Warehouse	Used	N/A
151	3" X 10" Extension Links		90 ea	Warehouse	Used	N/A
152	Aluminum ACSR "T" Connectors		10 ea	Warehouse	Used	N/A
153	5" Chain Shackles		4 ea	Warehouse	Used	N/A
154	Ball Eyes - Round		4 ea	Warehouse	Used	N/A
155	Hot Line Strain Clamps - Steel		2 ea	Warehouse	Used	N/A
156	Yoke sets - double Strain		2 ea	Warehouse	Used	N/A
157	3" Galvanized Staples		1 bx	Warehouse	Used	N/A
158	15" X 7/8" Bolts		98 ea	Warehouse	Used	N/A
159	17" X 7/8" Bolts		38 ea	Warehouse	Used	N/A
160	21" X 7/8" Threaded Rod		44 ea	Warehouse	Used	N/A
161	7" X 7/8" Threaded Rod		32 ea	Warehouse	Used	N/A
162	9" X 3/4" Threaded Rod		10 ea	Warehouse	Used	N/A

EXHIBIT 1
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Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
163	9" X 7/8" Threaded Rod		10 ea	Warehouse	Used	N/A
164	9" X 1/2" Double Arming Bolts		64 ea	Warehouse	Used	N/A
165	ACSR Splices		69 ea	Warehouse	Good	N/A
166	Suspension Clamps		80 ea	Warehouse	Used	N/A
167	Ball Hooks		50 ea	Warehouse	Used	N/A
168	Ball Clevises		14 ea	Warehouse	Used	N/A
169	Oval Ball Eyes		50 ea	Warehouse	Used	N/A
170	Socket Eyes		200 ea	Warehouse	Used	N/A
171	Twisted Shackles		100 ea	Warehouse	Used	N/A
172	"Y" Clevis Eyes		3 ea	Warehouse	Used	N/A
173	Turn buckles		8 ea	Warehouse	Used	N/A
174	Rod Ground Clamps		10 ea	Warehouse	Used	N/A
175	Straight Line Strain Clamps - Aluminum		5 ea	Warehouse	Used	N/A
176	Guy Hooks		32 ea	Warehouse	Used	N/A
177	Cross Arm Plates		180 ea	Warehouse	Used	N/A
178	Monitor, TV 19"	T6G011789	1 ea	Office	Good	4
179	Recorder, VCR	B6500616	1 ea	Office	Good	5
180	Monitor, Service	2787	1 ea	Warehouse	Good	9
181	Weedeater	1216	1 ea	Warehouse	Good	8
182	Crane, Mobile Lifting	0612P00017	1 ea	Warehouse	Good	102
183	Video Cam 8MM	215700	1 ea	Office	Good	303
184	Microwave Oven		1 ea	Office	Good	305
185	Radio Transceiver Portable	251581	1 ea	Office	Good	321
186	Radio Transceiver Portable	251733	1 ea	Office	Good	322
187	Radio Transceiver Portable	251730	1 ea	Office	Good	323
188	Radio Transceiver Portable	251732	1 ea	Office	Good	324
189	Radio Mobile w/charger	C17002	1 ea	Office	Good	325

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
190	Radio Mobile w/charger	C20041	1 ea	Office	Good	326
191	Radio Mobile w/charger	C38034	1 ea	Office	Good	327
192	Radio Hand Held Portable w/charger	EPU 4142A 223931	1 ea	Office	Good	335
193	Radio Hand Held Portable	EPU-4142A-225904	1 ea	Office	Good	336
194	Canon Telefax	WBL09376	1 ea	Office	Good	338
195	Copier, Monroe Office Copier		1 ea	Office	Good	383
196	Binoculars		1 ea	Office	Good	560.5
197	Blueprint Machine	7394	1 ea	Garage	Good	680.2
198	Camera 35 MM		1ea	Office	Good	1155.2
199	Freezer, Upright		1 ea	Office	Good	2800.4
200	Freezer, Chest	42M0551WW-1053528	1 ea	Office	Good	3260
201	Radio Transceiver, Walki-Talkie	738160847	1 ea	Office	Good	6036.36
202	Radio Transceiver, Walki-Talkie	738161047	1 ea		Good	6036.38
203	Radio, Transceiver, Walki-Talkie	841377501	1 ea		Good	6036.47
204	Radio, Transceiver, Walki-Talkie	843225402	1 ea		Good	6036.48
205	Table Radial-Arm Saw	107112	1 ea		Good	6625.14
206	Table Saw	KSSSFN-349	1 ea		Good	6625.23
207	Chain Saw	200530067	1 ea	Warehouse	Good	6625.25
208	Chain Saw	35431879	1 ea	Warehouse	Good	6625.26A
209	BandSaw	80754	1 ea	Warehouse	Good	6625.29
210	Trlr Diesel Tank	AV-255119	1 ea		Good	8450.8
211	Welder & Generator Combo	AC-225-S	1 ea	Warehouse		8920.3A
212	Welder High Frequency	8326	1 ea	Warehouse	Good	8920.6
213	Wrench, Electric Impact	ASL 13941	1 ea	Warehouse	Good	8990.2
214						
215						
216						

EXHIBIT 1
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EKLUTNA PROPERTY INVENTORY

TRANSFORMER ROOM

2-EA POWER TRANSFORMERS

- Tierney Electrical Manufacturing Co.
- Enclosure Type-1
- KVA - 300
- PH=3
- H2 - 60
- Pri. Volts - 7200
- Sec. Volts - 408/277
- Ser. # 188-6 (SS Buss #2)
- Ser. # 188-5 (SS Buss #1)

2-EA STATION SERVICE DISCONNECT

- Elseco Switchgear Electric Service Engineering Co.
- DS 115 & DS 215

2-EA SINGLE-PHASE TRANSFORMER (Lightening)

- 60 cy 50 KVA
- Volts 480 to 120/240
- Class A-A
- Type DB
- Ser. # 63033 (KCD)
- Ser. # 63034 (KCC)

4-EA AIR CURRENT BREAKER

- GE
- Type AM - 13.8-250-1
- KV - 13.8
- Amps - 2000
- Interrupting KVA - 22,000
- Ser. # 376A355-25-4 (112)
- Ser. # 376A355-25-1 (212)
- Ser. # 376A355-25-5 (118)
- Ser. # 376A355-25-3 (218)

GENERATOR ROOM

2-EA SUMP PUMP MOTOR

- GE
- Model 5K324XA11A
- H.P. 7.5
- Nema Class B
- Type K
- Code G
- Frame - 324PH
- 60 cy - 3 PH
- Volts - 220/440
- FL Speed @ 60 cy - 1160
- FL Amp @ 60 cy - 21.1/10.6
- SER. # RHJ6877121 (#1)
- SER.. # SSSFJ6793973

2-EA TRANSFORMER

- GE
- Dry Type
- Indoor
- 3-phase
- 60 Hz
- Class AA
- Model # 9T26G3106
- kVA - 200
- Hv - 6900
- LV - 260
- SER. # DX

2-EA REGULATOR

- GE
- 1C-7932
- CAT - 05502X0798701
- Elem - 228B9856
- ASM - 228B9864
- Outl. - 228B9852

2-EA GENERATOR

1-EA OVERHEAD CRANE

- Ederer
- 40-ton

BATTERY ROOM

1-EA UPS

- *Best Power Systems*

1-EA EXTERNAL BYPASS SW

- *Best*
- *BYE100-MBB-1*
- *Volts - 277*
- *Cont. AMPS - 80*
- *Max Amps - 100*
- *1 Ph 60 Hz*

2-EA AIR COMP. MOTOR

- *Peerless electric Co.*
- *15 HP*
- *1450/1750 RPM*
- *40°C*
- *3 pH*
- *208-220/440 Volts*
- *50/60 cy*
- *-38/19 Amps*
- *Frame - P326*
- *SER. #LD11287 (#1)*
- *SER. #LD11306 (#2)*

2 EA BATTERY CHARGER

- *Exide*
- *Model SCRF 130-3-100L*
- *Input volts - 480 AC*
- *Input Amps - 28*
- *pH 3 60 Hz*
- *DC Amps 100 DC Volts 130*
- *Cell No. 60*
- *Type Cell - Lead*
- *(A) SER. # 85256-1/7150-1 MG*
- *(B) SER. # 85256-1/7150-2 MG*

60-EA BATTERIES

- *Exide*
- *Norm. Cap. - 320 Amp HR*
- *CAT # 74431*

1-EA WATER STILL

- *Barnstead*
- *SER. # 54839*
- *PH 1*
- *Volts 110*
- *Amps 12*
- *Watts 1300*
- *60 cy*
- *Cap. Gal./Hr - 1/2*
- *Mfg. Cat. No. EL 1/2*

OIL ROOM

1-EA OIL PUMP MOTOR

- *GE*
- *Model 5K225D70*
- *HP 3*
- *Type K*
- *Code J*
- *FR. 225*
- *PH 3*
- *Volts 220/440*
- *60 cy*
- *FL Amps 8.45/4.23*
- *FL Speed 1725*
- *#ZK17054*

GOVERNOR CABINET

2-EA INDUCTION MOTOR

- *Fairbank Morse*
- *10 HP*
- *3 PH*
- *60 cy*
- *220/440 Volts*
- *28/14 Amps*
- *S.F. 1.15*
- *Code G*
- *Type QZK*
- *FR RS326*
- *# F208018 (U-1)*
- *# F208019 (U-2)*

TURBINE ROOM

2-EA AC LUBE OIL PUMP MOTOR

- *BROWN & SHARPE MFG. CO.*
- *3 PH 60 cy*
- *Type PA*
- *FR: H56SP*
- *HP 1/2*
- *Volts - 208-220/440*
- *Amps - 1.6/.8*
- *RPM - 1725/1425*
- *SER. # CZ4726 (U-1)*
- *SER. # AS9225 (U-2)*
- *SER. # AS9213 (Spare)*

2-EA DC LUBE OIL PUMP MOTOR

- Brown & Sharpe Mfg. Co.
- Type - DM
- FR: HJ6SSP
- HP- 1/2
- Volts - 125
- AMPS - 4.1
- RPM - 1725
- SER. # AW2985 (U-2)
- SER. # AW2986 (U-1)
- SER. # DP5299 (Spare)

2-EA GROUNDING TRANSFORMER

JET PUMP ROOM

2-EA LIMITORQUE

- Limitorque Corp.
- SMC - 041
- Order # 10967501
- Duty - 5 min.
- SER. # M058356 (U-2)
- SER. # M058357 (U-1)

2-EA DC MOTOR - RELIANCE

- Type - T
- HP - 33
- Arm. volts - 125
- AMPS - 3.6
- Field volts - 125
- AMP - .4
- FR - FY56
- RPM - 1900
- Duty - 5 min
- ID # W7800783M-RN (U-1)
- ID # W7800783M-RN (U-2)

WATER ROOM

1-EA FIRE WATER PUMP MOTOR

- Fairbanks Morse
- HP 30 - 3-ph - 60 cy
- RPM - 3505
- Volts - 220/440
- AMPS - 72/36
- sf - 1.15
- Code - F
- Type - Q2K
- FR - RW3645
- SER. # F230825

CONTROL ROOM

3-EA AIR CIRCUIT BREAKER

- Roller-Smith
- Type - RS25A
- Volts - 600
- 60 cy
- Frame - 600 AMPS
- Int. AMP - 25,000
- Overload AMP - 400 AMP
- SER. # 39165 A1 (022)
- SER. # 39165 A2 (033)
- SER. # 39165 B1 (012)

BUTTERFLY CONTROL CABINETS

2-EA PUMP MOTOR

- Reliance Electric
- Type - ML
- FR - 284
- HP - 5
- RMP - 1200
- Volts - 230/460
- AMPS - 16/8
- SER. # 85707 (U-2)
- SER. # 85706 (U-1)

TURBINE ROOM

2-EA JACKING PUMP MOTOR

- Oerlikon
- RPM - 645
- Volts - 460
- HP - 1.8
- 3 PH
- SER. # 878000L01.2 (U-2)
- SER. # 878000L01.1 (U-1)

SWITCHYARD

2-EA TRANSFORMERS

- Hevi-Duty Electric
- KVA 20000 - Class OA - Rise 65^0C
- KVA 25000 - Class FA - Rise 65^0C
- HVV - 115000 GRD Y
- LV - 6600 DELTA
- 3 PH
- Impedance 10.74 cy at 20000 kVA
- YR. of MFG - 1995
- SER. # GM 931037 (KW2A)
- SER. # GM 931036 (KW1A)

MACHINE SHOP

1-EA TRANSFORMER

- Dry Type
- 3 PH
- High Voltage - 480
- Low Voltage - 208Y/120
- 60 Hz
- CRT # 223-3234
- kVA - 75
- SER. # J8201-A

ROOF

2-EA POWER CIRCUIT BREAKERS

- ABB
- Type - 121 PA 40-12B
- Max Volts - 121 kV
- Short Circuit Current - 40KA
- Freq - 60 Hz
- Cont. Current - 1200 AMPS
- Interrupting Time - 3 cy
- SER. # 000901-02 (462)
- SER. # 000901-01 (362)

EKLUTNA PROJECT FURNITURE INVENTORY

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
1	Metal Desks		2 ea	Bob's Office	Fair	N/A
2	Chairs		3 ea	Bob's Office	Worn	N/A
3	Van Seat		1 ea	Bob's Office	N/A	N/A
4	File Cabinet		1 ea	Bob's Office	Fair	N/A
5	Metal Desks		2 ea	Bill's Office	Fair	N/A
6	Storage Cabinets		1 ea	Bill's Office	Fair	N/A
7	Tables		2 ea	Control Room	Good	N/A
8	Chairs		2 ea	Control Room	Good	N/A
9	Metal Desk		1 ea	Control Room	Good	N/A
10	File Cabinet		2 ea	Control Room	Fair	N/A
11	Storage Cabinet		1 ea	Control Room	Fair	N/A
12	Storage Cabinet		3 ea	Transformer Room	Fair	N/A
13	File Cabinet		5 ea	Transformer Room	Fair	N/A
14	Shelf Units		4 ea	Transformer Room	Fair	N/A
15	Blueprint Storage Cabinets		5 ea	Transformer Room	Fair	N/A
16	Tables		2 ea	Transformer Room	Fair	N/A
17	Roll-out Storage Unit		1 ea	Transformer Room	Fair	N/A
18	Metal Desk		1 ea	Transformer Room	Fair	N/A
19	Blueprint Storage Rack		1 ea	Transformer Room	Good	N/A
20	Stool		1 ea	Transformer Room	Fair	N/A
21	Roll-out Stand		1 ea	Transformer Room	Fair	N/A
22	Shelving Units		2 ea	Powerhouse Basement	Fair	N/A
23	Chair		1 ea	Powerhouse Governor Level	Fair	N/A
24	Work Bench		1 ea	Powerhouse Governor Level	Poor	N/A
25	Storage Cabinet		1 ea	Powerhouse Governor Level	Fair	N/A
26	Shelf Unit		1 ea	Powerhouse Governor Level	Fair	N/A
27	Locker		1 ea	Powerhouse Governor Level	Fair	N/A

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
28	Locker		14 ea	Powerhouse High Bay	Fair	N/A
29	Storage Cabinet		1 ea	Powerhouse High Bay	Fair	N/A
30	Display Cabinet		1 ea	Vestibule	Good	N/A
31	Work Bench		1 ea	Machine Shop	Poor	N/A
32	Multiple Drawer Storage Units		4 ea	Machine Shop	Fair	N/A
33	Storage Cabinets		4 ea	Machine Shop	Fair	N/A
34	Storage Bins		1 ea	Machine Shop	Fair	N/A
35	Flammable Storage Cabinets		2 ea	Machine Shop	Good	N/A
36	File Cabinets		13 ea	Office	Good	N/A
37	Storage Cabinets		2 ea	Office	Good	N/A
38	Blueprint Storage Cabinets		10 ea	Office	Good	N/A
39	Bookcases		9 ea	Office	Good	N/A
40	Roll-out Shelf Unit		1 ea	Office	Good	N/A
41	Tables		9 ea	Office	Good	N/A
42	Metal Desks		3 ea	Office	Good	N/A
43	Crendenza		1 ea	Office	Good	N/A
44	Telephone tables		2 ea	Office	Fair	N/A
45	Television Stand		1 ea	Office	Good	N/A
46	Computer Center		1 ea	Office	Good	N/A
47	Shelf Unit		1 ea	Office	Good	N/A
48	Work Bench		1 ea	Office	Poor	N/A
49	Stool		1 ea	Office	Fair	N/A
50	Step Stool		1 ea	Office	Fair	N/A
51	Safe		1 ea	Office	Fair	N/A
52	Chairs		14 ea	Office	Fair	N/A
53	Metal Desk		1 ea	Garage	Fair	N/A
54	Bookcases		1 ea	Garage	Fair	N/A

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
55	Chair		1 ea	Garage	Fair	N/A
56	File Cabinet		1 ea	Garage	Fair	N/A
57	Flammable Storage Cabinet		1 ea	Garage	Good	N/A
58	Work Bench		1 ea	Garage	Poor	N/A
59	Multiple Drawer Storage Cabinet		3 ea	Garage	Fair	N/A
60	Shelving Units		4 ea	Garage	Fair	N/A
61	Storage Cabinet		1 ea	Garage	Fair	N/A
62	Metal Shelving Units		60 ea	Warehouse	Fair	N/A
63	Metal circular Shelf Bin		1 ea	Warehouse	Fair	N/A
64	Storage Cabinet		1 ea	Warehouse	Fair	N/A
65	Flammable Storage Cabinet		2 ea	Warehouse	Fair	N/A
66	Tables		4 ea	Warehouse	Fair	N/A
67	Drafting Tables		2 ea	Warehouse	Fair	N/A
68	File Cabinet		1 ea	Warehouse	Good	N/A
69	Chairs		3 ea	Warehouse	Fair	N/A
70	Metal Desks		1 ea	Warehouse	Fair	N/A
71	Wood Storage Bin Unit		2 ea	Warehouse	Fair	N/A
72						N/A
73	Zenith 386-25 Computer	ZBV-3629-GK	1 ea	Office	Good	83
74	IBM 286 Computer	5170	1 ea	Warehouse	Poor	N/A
75	ADS 486 DX66	9405133001	1 ea	Office	Good	339
76	IBM 8088	5150	1 ea	Warehouse	Good	310
77	Zenith 386- Lap Top	ZTC3034-MO	1 ea	Office	Good	N/A
78	COMPUADD 386	516403	1 ea	Office	Good	254
79	Zenith ZCM-1490-Z	941NC0368NOM	1 ea	Warehouse	Good	N/A
80	Zenith ZCM-1490-Z	944ND0164NOM	1 ea	Warehouse	Good	N/A
81	ADS RE 1450	US9405133002	1 ea	Office	Good	N/A

Item Number	Item Description	Serial No.	QTY	Location	Condition	APA Number
82	IBM	478117	1 ea	Warehouse	Good	N/A
83	Okidata 93 DM Printer	10333294	1 ea	Office	Good	311
84	Epson FX1050 Printer	0E11020765	1 ea	Warehouse	Good	N/A
85	Citizen Premier 35 Printer	6X125215	1 ea	Warehouse	Good	308
86	HP LazerJet IIIP	FANB327377	1 ea	Office	Good	179
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CHUGACH ELECTRIC
ASSOCIATION, INC.

The following is an inventory of Chugach owned equipment at the Anchorage Substation:

- One (1) 115 kV circuit breaker, Westinghouse
  Breaker # 2409

- Four (4) 115 kV capacitor voltage transformers, French Electric
  Each transformer is mounted on a steel support structure
  CEA #'s: PT 125
  PT 126
  PT 127
  PT 128

- Two (2) 115 kV disconnect switches, Royal Powerdyne
  Mounted on wood pole structure
  - Switch #'s SS201 and SS301

- Three guyed poles terminating 115 kV line from University Substation

- Three guyed poles terminating 115 kV line from Elmendorf Power Plant

- Satellite receiver system, Truetime
  Mounted on wood pole adjacent control building

The following equipment is located inside the control building:

- One (1) RTU cabinet

- One (1) dip-link cabinet

- One (1) Relay panel containing relays, switches, meters, and satellite clock receiver
  Relay panel designation: "CEA 115 kV Line to University"

- One (1) AC distribution panel and meterbase with meter
  Panel designation: Panel DH0

5601 Minnesota Drive • P.O. Box 196300 • Anchorage, Alaska 99519-6300
Phone 907-563-7494 • FAX 907-562-0027

Chugach also owns the following equipment located at the Eklutna Generation Plant:

- One (1) Harris-Westronic D-20 SCADA Remote Terminal Unit (RTU) and a slip link option mounted on the adjacent wall. This equipment is located downstairs below the control room in approximately vicinity of the State of Alaska microwave equipment.

Sincerely,

Jim K. Topalski
Manager, Land Services

Concur:

Michael V. Dillon
General Foreman, APA

U.S. Department of Energy
Alaska Power Administration
Eklutna Project
4 Mile Old Glenn Hwy.
HC 02, Box 7785
Palmer, AK 99645
(907) 745-3931

April 1, 1996

Mr. Jim Hall, Projects Manager
P.O. Box 2929
Palmer, AK 99645

Dear Jim:

The following is the result of our area inventory on March 28, 1996:

On this date Jim Hall, Matanuska Electric Association (MEA) and Michael V. Dillon, Alaska Power Administration (APA) toured the listed facilities. Ownership of various equipment at these facilities was established and mutually agreed upon. In some cases it is better to indicate by exception the equipment owned by one or the other organization.

PALMER SUBSTATION

All APA owned except:
Breaker B627 - MEA
Station Service Transformer 3237 - MEA

DOW TAP

Disconnect Switch #365 - APA
Disconnect Switch #371 - MEA

EKLUTNA POWER PLANT

All APA except:
RTU - MEA
4 ea 833 kVA Single Phase 6600-7200 Transformers- MEA
3 installed (Camp Line) - MEA
1 Spare - MEA

REED SUBSTATION

All MEA except:
High Side Dead End - APA
781 Disc SW - APA
760 GND SW - APA
115 kV Fuses - APA
Property and fence - APA

PIPPLE TAP

MEA - RTU house and all contents including the DC supply for the switch motor operators

Take Off Structure

APA - 561 Disc SW
560 GND SW
571 Disc SW
570 GND SW
Motor Operators for 561 and 571
Dead End Structures
Property and fence

BRIGGS TAP

All MEA except: 1271 Disc SW less motor operator- APA
1261 Disc SW manual Op only- APA
Property and fence - APA

CEA: Power Pot 115 kV 50 kVA

Sincerely,

Michael V. Dillon
General Foreman

cc: Nick French, APA
Tim McConnell, AML&P

CONCUR:

Michael V. Dillon 4-1-96
Michael V. Dillon Date
General Foreman

CONCUR:

James Hall 4-1-96
Jim Hall Date
Projects Manager

Municipality of Anchorage
Rick Mystrom, Mayor

Municipal Light & Power
1300 East First Avenue
Anchorage, Alaska 99501-1685
Telephone: (907) 279-7671, Telecopier: (907) 263-5304, 277-9273

ML&P Inventory of Property at Eklutna
April 24, 1996

ANCHORAGE SUBSTATION YARD:

- Two (2) pilot wire protection cabinets, Lloyd Controls
- One (1) three-phase 115 kV oil circuit breaker, type V, Allis Chalmers, Breaker #1162
- One (1)Switching structure and attached switches and insulators
- Switches
  One (1) ABS 1163
  One (1) ABS 1161
  One (1) GND Switch 1160
  One (1) By Pass Switch 1169
- Three (3) Potential transformers, three-phase, low side
- Six (6) line poles (dead end) and insulators

ANCHORAGE SUBSTATION CONTROL BUILDING:

- One (1) Center panel left side Quantum Watt Hour Meter #84878233, KVA & KVAR in-and-out
- Center panel right side ML&P:
  Three (3) Amp Meter
  Two (2) Volt Meter
  One (1) Synch Scope and Control Switches
- ML&P RTU relays for APA South line:
  Two (2) phase zone timers
  One (1) KD11 (phase-to-ground)

ANCHORAGE SUBSTATION CONTROL BUILDING (continued):

- Panel 6R: Relays for APA South line:
  Two (2) phase zone timers
  One (1) Inst. overcurrent relay
  One (1) pilot wire relay

- Panel 9R:
  Two (2) Timers
  One (1) Instantaneous fault Detection
  Three (3) Synch Check Relays
  One (1) Pilot Wire Relay
  One (1) KD 10 relay
  Two (2) Phase zone timers
  One (1) Instantaneous fault detector
  Three (3) Synch check relays

- Back Wall
  One (1) 19" Rack
  One (1) Granger Radio Equipment

- One (1) ML&P Padmounted Transformer #5217 7200V/120/240V

- One (1) ML&P Station Service Meter
  Miscellaneous Antennas on pole adjacent to control building

EKLUTNA PLANT:

- One (1) ML&P RTU

- Dunstan Controller and computer equipment for AGC/SCADA

As inventoried on April 24, 1996, by:

Timothy F. McConnell
Manager, Power Management, ML&P

Michael V. Dillon
Eklutna General Foreman, APA

EXHIBIT E

Eklutna Purchasers
Manner of Acting, Functional Responsibilities, and Staffing

EXHIBIT E

Eklutna Purchasers
Manner of Acting, Functional Responsibilities, and Staffing

PREAMBLE: The following is the general delineation of responsibilities for the Eklutna Project under ownership and operation of the Eklutna Purchasers and will provide for efficient management during normal and contingency operation. The Eklutna Purchasers expect these responsibilities will normally be carried out by the utility so assigned in this Exhibit E. Any Purchaser desiring to contract out or transfer between Eklutna Purchasers the performance of its responsibilities as designated in this Exhibit E shall first obtain approval for the change from APA and an operating committee (herein later defined as the Eklutna Operating Committee) which will be established prior to the Transition Date. The Parties intend to execute detailed transition agreements prior to the Transition Date.

(A) Manner of Acting.

(1) Transition Period. A transition period commencing on the Transition Date and concluding on the Transaction Date is anticipated to enable the Eklutna Purchasers to become familiar with the skills and work load necessary for prudent operation of the Eklutna Project. During that time, the current staff, now employed by APA, who may be offered employment by the Eklutna Purchasers and who may accept such offers will serve in the capacities described below, and the costs associated with their work on the Eklutna Project shall be paid by the Eklutna Purchasers in proportion to their respective Eklutna Project shares. Should those offered employment choose not to remain, their function(s) shall continue to be performed by the Purchasing Utility(s) responsible for those functions as that Utility

determines and with the approval of the Eklutna Operating Committee (EOC).

(2) Post Transaction Date Period. The Eklutna Purchasers agree that unless modified by the double majority voting provisions set forth in Section (A)(3) below, division of responsibilities set forth in this Exhibit E will form the basis for operations subsequent to the Transaction Date.

(3) Eklutna Operating Committee (EOC). The EOC consisting of one representative from each of CEA, MEA, and ML&P shall be formed for the management of the Eklutna Project. The EOC shall manage the Eklutna Project as authorized by APA and as agreed to by the Parties, commencing on the Transition Date. The EOC shall meet at least quarterly or more often at the request of any member with the first meeting to be held not later than June 30, 1996. The Chairman of the EOC shall be the ML&P representative until the end of the calendar year 1997. The Chairmanship thereafter shall rotate among the Eklutna Purchasers at the first meeting of each calendar year in the following order: CEA, MEA, and ML&P. Decisions of the EOC will be by double majority (a vote of two of the three Eklutna Purchasers whose shares total at least 51% of the Eklutna Project shares) unless otherwise agreed to by the Eklutna Purchasers in the Ownership and Operating Agreement to be executed by and among the Eklutna Purchasers not later than one year prior to the Transaction Date or at such time as otherwise agreed to by the Eklutna Purchasers. During the Transition Period, decisions by the EOC will be advisory in nature to APA unless specific authority is granted to the EOC by APA under mutually agreeable terms.

(4) Responsibilities of the EOC. Responsibilities of the EOC shall include:

(a) Prompt and Effective Oversight. The prompt and effective attention of the EOC shall be given to major maintenance and operating concerns or other conditions interfering with the safe and efficient operation of the Eklutna Project.

(b) The EOC shall ensure preparation of:

(i) An Eklutna Project Budget;

(ii) An Eklutna Project Status Report for distribution to each Eklutna Purchaser (and to APA prior to the Transaction Date) that will include monthly summaries, by each Eklutna Purchaser, of Eklutna Project energy, capacity, and wheeling schedules (to include losses and inadvertent power flows);

(iii) A monthly revenue report;

(iv) Reliability and scheduling occurrences causing significant power quality or scheduling deviations to the Eklutna Purchasers;

(v) Status report of EOC action items;

(vi) An annual energy allocation for each of the Eklutna Purchasers prior to each water year; and

(vii) Notification of any known limiting factors through the following quarter that would constrain any capacity or energy (including any transmission constraints).

(B) Functional Responsibilities. Duties and responsibilities may be revised and clarified under the terms of the Ownership and Operating Agreement to be executed prior to the Transaction Date or by action of the EOC. The functional responsibilities for the administration, operation, and maintenance of the Eklutna Project are as follows:

(1) Operation of the Eklutna Plant and Switchyard. MEA will operate the Eklutna Plant and Switchyard. CEA and ML&P will provide advice and assistance to MEA as requested by MEA or the EOC. The operator's duties, to the extent authorized by the Eklutna Project operating budget or as otherwise funded shall include:

(a) Providing on-site personnel as required to meet the needs of the Eklutna Project as determined by the EOC and the Eklutna Project operating budget;

(b) Bringing to the attention of the Eklutna Project Maintenance Superintendent or the EOC required Eklutna Project work essential to the safe and prudent operation of the Plant and Switchyard; and

(c) Coordinating the daily activities pursuant to these responsibilities with the ML&P Dispatch Center. The ML&P Dispatch Center shall have supervisory control over all switching functions and generator loading.

(2) Maintenance of the Eklutna Plant and Switchyard. ML&P will maintain the Plant and Switchyard. ML&P's general duties, to the extent authorized by the Eklutna Project operating budget or as otherwise funded shall include:

(a) Maintaining the Plant and Switchyard, including SCADA and communication equipment, to meet the needs of the Eklutna Purchasers as determined by the EOC and the Eklutna operating budget; and

(b) Providing a qualified and designated Eklutna Project Maintenance Superintendent who shall be responsible for:

(i) Developing a daily maintenance schedule for the Eklutna Plant in coordination with the operating utility's management, and as approved by the EOC;

(ii) Developing and implementing the preventive maintenance plans for the Eklutna Project as approved by APA and the EOC; and

(iii) Overseeing, on behalf of the EOC, all Eklutna Project maintenance in progress, with authority to suspend or modify such work as required to comply with the schedules and plans approved by APA and the EOC;

(iv) Bringing to the attention of the EOC required Eklutna Project work essential to the safe and prudent operation and maintenance of the Plant and Switchyard and performing or causing to be performed such required Eklutna Project work;

(v) Preparation of preliminary annual budget estimates for the Eklutna Project for submittal to MEA; and

(vi) Other Eklutna Project duties as assigned by ML&P pursuant to the above responsibilities, and with the concurrence of the EOC.

(3) Dispatch of the Eklutna Project. ML&P will dispatch the Eklutna Project. ML&P's general duties, to the extent authorized by the Eklutna Project operating budget or as otherwise funded shall include:

(a) Scheduling and dispatching plant capacity and energy to meet the needs of the Eklutna Purchasers in accordance with procedures established by the EOC, and under the ML&P automatic generation control (AGC) system. This will include the collection of SCADA data and other information sufficient to record all wheeling over Eklutna Project transmission lines; and

(b) Directing and controlling all switching, tagging and clearance activities for the Eklutna Project; and

(c) Honoring each Eklutna Purchaser's scheduling requests to the extent possible within the operating guidelines established by the EOC.

(4) Transmission Line and Substation Operation, Maintenance, and Repair.

(a) Facilities. As directed by the EOC and within the limitations of the Eklutna Project operating budget, CEA, ML&P, and MEA will be responsible for the operation, maintenance, and repair of the transmission segments and substations as follows:

(i) CEA—for the dual circuits on steel towers from Fossil Creek to the tap behind the Totem Theater in accordance with its May 1, 1980, agreement with APA;

(ii) ML&P—for the tap and lines from the above CEA maintained circuit to the Anchorage Substation, and the Anchorage Substation; and

(iii) MEA—for all remaining Eklutna Project transmission lines, the Palmer and Reed Substations, and the Wasilla radio relay site.

(iv) All costs for construction, operation, or maintenance of taps and facilities owned individually by ML&P, CEA, and MEA will be borne by that respective utility and not considered an Eklutna Project cost.

(b) Maintenance Activities. Transmission line and substation maintenance shall be performed in accordance with the plans approved by the EOC. As directed by the EOC and within the limitations of the Eklutna Project operating budget, the daily activities pursuant to these responsibilities shall be coordinated with the Eklutna Project Dispatcher in accordance with procedures approved by the EOC. General duties,

to the extent authorized by the Eklutna Project operating budget or as otherwise funded shall include:

(i) Maintaining Eklutna Project transmission lines and Eklutna Project substations so as to meet the needs of the Eklutna Purchasers; and

(ii) Bringing to the attention of the EOC required Eklutna Project work essential to the safe and prudent operation and maintenance of the Eklutna Project transmission lines and Eklutna Project substation equipment, and performing or causing to be performed such required Eklutna Project work to the extent existing obligations require or funds are made available for such work.

(5) Dam Maintenance and Inspections. As directed by the EOC and within the limitations of the Eklutna Project operating budget, CEA is responsible for advising the EOC on dam and waterway maintenance to include penstock, tailrace, and embankments, for ensuring required safety inspections are completed as may be prudent or required, and for bringing to the attention of the EOC such required Eklutna Project work on and along the waterways necessary to ensure safe and efficient operation of the Eklutna Project. The daily activities pursuant to these responsibilities shall be coordinated with the Eklutna Project Maintenance Superintendent and the Eklutna Project Dispatcher.

(6) Environmental Regulatory Compliance. CEA is responsible for advising the EOC on required procedures, inspections, and other actions required to ensure compliance with environmental mandates. General duties shall include periodic inspection of Eklutna Project related operations and review and coordination with APA of Eklutna Project environmental requirements.

(7) Fleet Maintenance. MEA has the responsibility for fleet maintenance, and shall take title to the titled vehicles subject to the rights of the other

Eklutna Purchasers on the Transaction Date. The daily activities pursuant to these responsibilities shall be coordinated with the Eklutna Project Maintenance Superintendent.

(8) Annual Budgeting, Billing, and Accounting. MEA will prepare the annual budget estimates; customary financial reports; billings for Eklutna Project Power, wheeling, and other benefits; other reports now being accomplished by the APA administrative staff at the Eklutna Plant; and other tasks as may be requested by the EOC. The Eklutna Project Maintenance Superintendent will provide preliminary Eklutna Project cost estimates for the annual budget to MEA to begin the annual budget process. MEA will also be responsible for billing the Eklutna Purchasers for all advanced costs and for payment of same, subject to cash management procedures established by the EOC. Each utility shall submit its requested reimbursement items to MEA for payment on a monthly basis. During the transition period, APA will calculate billing per the Power Sales Contract, and will submit a single combined monthly bill to the Eklutna Purchasers.

(9) Purchasing. Individual Eklutna Project invoices for tools, equipment, supplies, and contract services up to $2,000 may be approved by each utility pursuant to its responsibilities as described herein, but may not exceed a quarterly limit as prescribed by the EOC in its annual operating budget. All contracts or payment of invoices for more than $2,000 will normally require EOC approval, but this is not intended to constrain or delay necessary purchases to meet an emergency.

(10) Right-of-Way Authority. Right-of-way authority for third party requests will remain the responsibility of APA until such time as it is transferred to the Eklutna Purchasers.

(C) Staffing.

Beginning on the Transition Date, the Eklutna Purchasers anticipate the following APA employees shall, effective on the Transition Date, become employees of the utilities as follows.

Planned Eklutna Project Staff Assignments For The Transition Period:

Mike Dillon	Eklutna Project Maintenance Superintendent to ML&P
Amerilis Foster	Administrative Assistant to MEA
Bill Murphy	Maintenance Mechanic to MEA
Bob Plumley	Plant Mechanic to MEA
John Rivera	Plant Electrician to MEA

Terms and conditions of employment shall be developed as soon as practicable to enable a smooth transition to operation of the Eklutna Project by the Eklutna Purchasers.

EKLUTNA HYDROELECTRIC PROJECT

Agreement for Extension of

"1996 EKLUTNA HYDROELECTRIC PROJECT TRANSITION PLAN"

by and among

THE MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER;
CHUGACH ELECTRIC ASSOCIATION, INC.; and
MATANUSKA ELECTRIC ASSOCIATION, INC.

EKLUTNA HYDROELECTRIC PROJECT

Agreement for Extension of

"1996 EKLUTNA HYDROELECTRIC PROJECT TRANSITION PLAN"

by and among

THE MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER;
CHUGACH ELECTRIC ASSOCIATION, INC.; and
MATANUSKA ELECTRIC ASSOCIATION, INC.

The parties to this Agreement are the Eklutna Purchasers as defined in the 1996 Eklutna Hydroelectric Project Transition Plan (Transition Plan). The Eklutna Purchasers recognize that common interests exist regarding the ownership, operation, and maintenance of the Eklutna Project. The Eklutna Purchasers hereby extend the Transition Plan as modified by this Agreement.

The Eklutna Purchasers further recognize that obligations of the Eklutna Purchasers under the terms of the Alaska Power Administration Asset Sale and Termination Act, as well as obligations of the Alaska Power Administration and successor agencies, continue beyond the Transaction Date, and that the execution of this Agreement in no way relieves the Alaska Power Administration nor any Purchaser of such continuing obligations.

All capitalized terms not defined herein shall have the same meaning given them in the Transition Plan (including exhibits).

Therefore, the Parties agree to extend the Transition Plan as follows:

THIS Agreement for the Extension of the Transition Plan incorporates by reference the following documents and all of the rights, obligations, requirements, and provisions therein:

The 1996 Transition Plan, consisting of thirteen Sections contained on ten pages; incorporating therein, specifically:

Exhibit A, consisting of 33 pages;
Exhibit B, consisting of 5 pages;
Exhibit C, consisting of 12 pages;
Exhibit D, consisting of 25 pages; and,
Exhibit E, consisting of 9 pages.

THE Parties further agree to the following modifications with regard to the 1996 Transition Plan by this Agreement:

1. The Transition Plan will not expire upon completion of the tasks specified therein. However, the arrangements and timetable for transfer of operations, maintenance, and power marketing, as well as operation, maintenance, and administration of the Project will no longer require consultation with APA, nor will office space and access be provided for an APA real estate person after the Transaction Date. (Reference: Transition Plan Section 2 and Section 5)

2. The transfer of data and documents to the Eklutna Purchasers after the Transaction Date shall occur no later than January 1, 1998. (Reference: Transition Plan Section 7)

3. The effective date of this Agreement shall be the Transaction Date, but in any event no later than November 28, 1997.

4. The division of responsibilities among the Eklutna Purchasers after the Transaction Date will be as described in Exhibit E, Paragraph (A)(2).

5. The sixth sentence of Paragraph (A) (3) of Exhibit E is modified to delete reference to an "Ownership and Operating Agreement," and as so modified reads as follows: "Decisions of the EOC will be by double majority (a vote of two of the three Eklutna Purchasers whose shares total at least 51% of the Eklutna Project shares) unless otherwise agreed to by the Eklutna Purchasers."

THE parties further agree to the following in regard to the ownership, operation, and maintenance of the Eklutna Project:

1. An Eklutna Purchaser's interest in the Eklutna Project will not be modified or changed by any assignment or transfer, except upon consent of each Eklutna Purchaser. An Eklutna Purchaser's interest may be transferred or assigned among the Eklutna Purchasers in proportion to their respective Project interest or by such other allocation as to which each Eklutna Purchaser agrees. Transfer or assignment of an Eklutna Purchaser's interest to entities other than an Eklutna Purchaser will be subject to a first right of refusal by the remaining Eklutna Purchasers, with such right to be exercised within 180 days of receipt of written notification. If no remaining Eklutna Purchaser elects to acquire such interest, the transferring Eklutna Purchaser shall indemnify the remaining Eklutna Purchasers for all expenditures which would not otherwise be required, but for which the Eklutna Project becomes obligated in meeting licensing requirements and regulations which were exempted for the original Eklutna Purchasers under the Alaska Power Administration Asset Sale and Termination Act.

2. The terms and conditions of this Agreement will apply to any successor or assign of an Eklutna Purchaser, whether such succession or assignment results from security assignment, merger, acquisition, or any other disposition by the Eklutna Purchaser of its Eklutna Project share.

3. Exhibits A through D of the CONTRACT FOR ELECTRIC SERVICE TO THE CHUGACH ELECTRIC ASSOCIATION, INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; AND MUNICIPALITY OF ANCHORAGE, MUNICIPAL LIGHT & POWER, Contract No. DE-SC85-95AP10042 shall continue in effect until such time as revised or terminated by action of the EOC. Should any part of these Exhibits A through D conflict with the Transition Plan as modified by this Agreement, the Transition Plan shall prevail.

Dated at Anchorage, Alaska this 2nd day of October 1997.

Municipality of Anchorage

Larry D. Crawford
Municipal Manager

Chugach Electric Association, Inc.

Eugene N. Bjornstad
General Manager

Matanuska Electric Association, Inc.

Wayne D. Carmony
General Manager

The APA hereby states its non-objection to the foregoing Agreement for Extension of "1996 EKLUTNA HYDROELECTRIC PROJECT TRANSITION PLAN"

Alaska Power Administration, a unit of the U.S. Department of Energy

Rodney L. Adelman
Administrator

RECOMMENDED:

Anchorage Municipal Light & Power

Hank Nikkels
Acting General Manager

APPROVED AS TO FORM:

MUNICIPALITY OF ANCHORAGE

Mary K. Hughes
Municipal Attorney

RECOMMENDED:

MUNICIPALITY OF ANCHORAGE

George J. Vakalis
Operations Manager

EXHIBIT A

OPERATING AGREEMENT

EXHIBIT A

OPERATING AGREEMENT

1. An operating committee consisting of one representative from each of APA, Chugach, MEA and ML&P shall be formed to decide or resolve operational matters not specified in the contract. The committee shall meet as necessary but not less than annually. The committee is not empowered to change any of the contract provisions. Committee decisions shall be by majority vote with each representative having equal weight.

2. Chugach's share of capacity and energy is 9/30, MEA's share of capacity and energy is 5/30, and ML&P's share of capacity and energy is 16/30.

3. Each Contracting Utilities shall have the right to schedule during any hour its share of the plant capacity to generate power using its own energy allocation as needed to meet its own system loads, provided its energy account is not less negative than 22500 times its share of capacity. (Example: Chugach -6750 MWh= -22500x9/30) A Contracting Utilities may utilize the capacity share of another Contracting Utilities with its own energy allocation if that other Contracting Utilities is not using the capacity and agrees to the use.

4. Spinning reserves from the plant shall be allocated to each Contracting Utilities on a pro rata basis on its share of project capacity net of any project generation scheduled by the Contracting Utilities. Any Contracting Utilities may schedule its full capacity share, if both units are then capable of operation at full output, by scheduling at least 5 MW of energy for that hour in which case both units will be operated by the dispatcher.

5. The net energy diverted by AWWU shall be deemed to have been energy delivered to and purchased by ML&P. The net energy diverted shall be calculated by subtracting the energy delivered to MEA by the Eklutna Water Treatment Plant energy recovery system from the amount of energy that could have been produced by the Eklutna Power Plant if the water delivered to the water treatment plant had instead been run through the power plant. AWWU shall either pay ML&P for the net energy diverted or replace it in kind as determined by separate agreements among APA, AWWU and ML&P.

6. At the beginning of each year, APA shall allocate all energy available for that year among the Contracting Utilities in proportion to their shares. All energy available shall be allocated unless there is a significant planned outage for that year. Whenever conditions significantly change the total energy available, APA shall allocate the change among the Contracting Utilities in proportion to their shares. For purposes of

allocating power and keeping track of energy account balances only, the year will start November 1 and end October 31.

7. APA shall maintain an energy account for each Contracting Utilities. Allocations of energy shall be credited to the accounts and energy deliveries shall be debited from the accounts at the end of each month.

8. Should a spill condition occur, APA shall calculate the amount of energy spilled and the energy accounts shall be reduced by an amount equal to the lessor of 1) the amount of energy spilled or 2) the amount in the energy accounts at the start of the spill as follows: The reduction shall be allocated among Contracting Utilities in proportion to the ratio that Contracting Utilities energy account at the start of the spill divided by the sum of all Contracting Utilities energy accounts at the start of the spill. (A negative energy account shall be treated as a zero value for the purpose of the ratio allocation. An energy account cannot become more negative as a result of the spill.) All energy generated during the period of the spill shall not be added to nor subtracted from the energy accounts. APA will take meter readings at the beginning and end of the spill period.

E X A M P L E S

	Share	Account before Spill	Share of Spill	Account after Spill
Chugach	30%	2,700	319	2,381
MEA	17%	4,500	531	3,969
ML&P	53%	18,200	2,150	16,050
Total	100%	25,400	3,000	22,400

	Share	Account before Spill	Share of Spill	Account after Spill
Chugach	30%	2,700	1,125	1,575
MEA	17%	4,500	1,875	2,625
ML&P	53%	-2,000	0	-2,000
Total	100%	5,200	3,000	2,200

	Share	Account before Spill	Share of Spill	Account after Spill
Chugach	30%	2,700	2,700	-
MEA	17%	1,500	1,500	-
ML&P	53%	500	500	-
Total	100%	4,700	4,700	-

9. Should Eklutna Lake elevation rise to the spill level, then the plant shall be run at the maximum output possible, to the extent system reliability and operating

conditions allow, until the lake elevation is reduced below the spill level. Each Contracting Utilities shall be entitled to its project share of the energy generated during this period. If a Contracting Utilities does not utilize its full project share, the remainder shall be apportioned among the other Contracting Utilities in proportion to their project shares. This extra energy shall not be subtracted from the energy account.

10. The Eklutna generator output voltages shall be controlled to maintain system voltage profiles as adopted by the operating committee but remaining within the reactive and real power limits for the units. Operation of the Eklutna generators at less than .90 power factor will be avoided unless unanimously agreed upon by the operating committee. If the production of reactive power reduces the real power output, the reduction shall be apportioned among the Contracting Utilities in proportion to that hour's generation schedule for each Contracting Utilities.

11. The energy produced and delivered to the Contracting Utilities shall be metered at the Eklutna power Plant (net outputs on the Anchorage line and Palmer line plus output on the Twin Peaks line minus any APA use outside this boundary) and the AWWU Eklutna energy recovery unit. Three percent (3%) of the net plant output shall be delivered to supply Contracting Utilities system losses and shall not be counted as energy delivered to the Contracting Utilities. The intent of the 3% is to compensate for the historical level of transmission losses incurred in transferring Eklutna power to Palmer, Eagle River and Anchorage.

12. APA shall contract with one of the Contracting Utilities to be the Eklutna Dispatcher. The Eklutna Dispatcher shall operate the power plant within that Contracting Utilities' "control area" which is defined as "a system capable of regulating its generation in order to maintain its interchange schedule with other systems and contribute its frequency bias obligation to the Interconnection". APA shall make best efforts to have the Eklutna Power Plant included in its dispatcher's automatic generation control (AGC) system. The Eklutna Dispatcher shall operate the plant in accordance with this Exhibit A and honor each Contracting Utilities' scheduling request to the extent possible within the operating guidelines prescribed by APA. At the end of each month, the Eklutna Dispatcher shall provide APA with an accounting of the energy scheduled by each Contracting Utilities.

13. APA shall provide its dispatcher with the most flexible operating guidelines possible within good engineering practices. These guidelines should at least include: minimum down time before restarting a unit; maximum number of unit starts per day; minimum unit output while operating; maximum unit output while operating; and, any unit operating ranges to be avoided.

14. "ML&P Net Delivered kWh" shall be the balance remaining after subtracting from the APA energy delivered to the purchasers; CEA, MEA, and APA quantities of energy

invoiced, as if it were taken at the Anchorage Substation. "ML&P Net Delivered kWh" is used in the wheeling calculations for ML&P and CEA in Exhibit B. (The assumption is that ML&P's energy from Eklutna is delivered to Anchorage Substation.) The preceding definition applies while ML&P is operating the Eklutna project within their control area. If the project is operated by Chugach within its control area, then "ML&P Net Delivered kWh" shall be the amount of energy scheduled to be delivered to ML&P as if it were taken at the Anchorage Substation.

15. IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CHUGACH ELECTRIC ASSOCIATION, INC;
ANCHORAGE, ALASKA

By Eugene N. Bjornstad
Eugene N. Bjornstad

Title General Manager

Address _____

_____

MUNICIPALITY OF ANCHORAGE
ANCHORAGE, ALASKA

By _____

Title Municipal Manager

Address _____

_____

MATANUSKA ELECTRIC ASSOCIATION, INC;
PALMER, ALASKA

By Wayne Carmony
Wayne Carmony

Title General Manager

Address _____

_____

ALASKA POWER ADMINISTRATION
JUNEAU, ALASKA

By _____
Michael A. Deihl

Title Administrator

Address _____

_____

RECOMMEND FOR APPROVAL

George J. Vakalis
Operations Manager
Municipality of Anchorage

RECOMMEND FOR APPROVAL

Thomas R. Stahr
General Manager
Municipal Light and Power

FUNDS AVAILABLE

0530 8500 8201 65502000 $1,600,000.00
1995 Operating Budget

Jerry Anderson
Chief Fiscal Officer
Department of Finance

ATTEST

Vickie Cantrell, Deputy
for Vickie Cantrell
Municipal Clerk
Municipality of Anchorage

EXHIBIT B

ESTIMATE OF FIRM AND NON-FIRM ENERGY QUANTITIES AND COMPUTATIONS OF ANNUAL ENERGY AND WHEELING CHARGES

EXHIBIT B

Estimate of Firm and Non-Firm Energy ~~(APA PRS)~~

Year	Firm Energy (MWH)	Non-Firm Energy (MWH)
1994	153,000	11,000
1995	145,000	0
1996	153,000	11,000
1997	134,000	0
1998	153,000	11,000
1999	153,000	11,000
2000	153,000	11,000
2001	153,000	11,000
2002	153,000	11,000
2003	153,000	11,000
2004	153,000	11,000
2005	153,000	11,000

Computation of Annual Energy and Wheeling Payment

The total Annual Payment will be the sum of the Annual Energy Payment plus Annual Wheeling Payment. The Contracting Utilities will be billed for electric energy calculated annually each fiscal year beginning October 1, payable in twelve equal monthly payments. The amount of each annual energy installment shall be established in advance by the contracting officer in consultation with the Contracting Utilities and submitted to the Contracting Utilities in the form of Contract Exhibit B on or before October 1 of the year preceding the appropriate fiscal year.

1) Annual Energy Payment: multiply the FERC-approved rates for firm and non-firm energy times the projected energy sales shown in the APA Power Repayment Study (PRS); used to support the FERC-approved rates, except when provision in Article 16 of the contract determines the amount of energy to be billed; plus

2) Annual Wheeling Payment: Each year multiply the respective metered amounts of power and energy wheeled for each Contracting Utilities over APA transmission lines in the previous year (12 months) by the FERC-approved rate. Each Contracting Utilities will pay their respective wheeling charges for the previous year.

Wheeling Calculations:

The previous years wheeling will be calculated using the following formulas:

CEA: The energy wheeled for CEA shall be the sum of the net metered flow North on the APA North Line at ML&P Plant Two plus "ML&P Net Delivered" plus the metered flow out of the APA system into CEA University Substation (CB 2005).

EXAMPLE:		
	APA North Line net North	+2,000,000 kWh
	ML&P Net Delivered	+6,000,000 kWh
	University CB 2005 APA OUT	+1,000,000 kWh
	Total	9,000,000 kWh

MEA: The energy wheeled for MEA shall be the sum of the metered flow into the Dow and Palmer Substations minus the 115 kV Palmer Line NET quantity. The 115 kV Palmer NET quantity shall be metered flow OUT minus the metered flow IN values on the 362 meter. A negative energy value for wheeling shall be treated as zero energy flow.

EXAMPLE:		
	Dow Substation	+3,000,000 kWh
	Palmer Substation	+1,000,000 kWh
	115 kV Palmer Line NET	- 1,000,000 kWh
	Total	3,000,000 kWh

ML&P: The energy wheeled for ML&P shall be the sum of the total metered flow into the APA South Line at ML&P Plant Two (circuit breakers 115-18 and 115-19), at Anchorage Substation (ML&P CB 1162), and at CEA's University Substation (CB 2005 OUT (APA IN)) minus "ML&P Net Delivered."

EXAMPLE:		
	APA South Line Plant 2 IN	+ 23,000,000 kWh
	ML&P CB 1162 IN	+ 0 kWh
	CEA CB 2005 APA IN	+ 0 kWh
	ML&P Net Delivered	- 6,000,000 kWh
		17,000,000 kWh

NOTE: + is into APA
- is out of APA

ML&P Delivered Net will be calculated as follows:

Net Eklutna Energy Delivered shall be the sum of the net values of the Eklutna Powerplant delivery points known as the 115 kV Anchorage line (CB 462), the 115 kV Palmer line (CB 362), AWWU energy depleted, and the 12.47 kV Twin Peaks line. System losses are calculated to be 3% of the total Net Eklutna Energy Delivered. APA ENERGY DELIVERED TO THE

PURCHASERS shall equal the NET Eklutna Energy Delivered minus the 3% calculated system losses.

MEA monthly energy delivered shall be determined by a monthly scheduled amount as provided by MEA and it shall be shown as MEA DELIVERED.

CEA monthly energy delivered shall be determined by a monthly scheduled amount plus the AWWU recovery amount minus APA Use and shown as CEA DELIVERED. The scheduled delivered amount is the monthly scheduled interchange with ML&P (from Eklutna) minus MEA Delivered and the losses (both scheduled and month end true-up) supplied by the Eklutna Project.

ML&P energy delivered shall be the balance remaining after subtracting from the APA Energy Delivered to the Purchasers; CEA Delivered, MEA Delivered, and APA Use, as if it were taken at the Anchorage Substation, and shown as ML&P NET DELIVERED.

An example of the above is:

Net Eklutna Energy Delivered	+21,000,000 kWh (Metered)
3% Loss	- 630,000 kWh (21,000,000 x .03)
APA Energy Delivered to the Purchasers	+20,370,000 kWh
APA Use	- 1,000 kWh (Metered)
CEA Delivered	- 6,000,000 kWh (Scheduled)
MEA Delivered	- 2,000,000 kWh (Calculated)
ML&P Net Delivered	+12,369,000 kWh

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CHUGACH ELECTRIC ASSOCIATION, INC;
ANCHORAGE, ALASKA

By Eugene N. Bjornstad
Eugene N. Bjornstad

Title General Manager

Address

MUNICIPALITY OF ANCHORAGE
ANCHORAGE, ALASKA

By

Title Municipal Manager

Address

MATANUSKA ELECTRIC ASSOCIATION, INC;
PALMER, ALASKA

By Wayne Carmony
Wayne Carmony

Title General Manager

Address

ALASKA POWER ADMINISTRATION
JUNEAU, ALASKA

By
Michael A. Deihl

Title Administrator

Address

RECOMMEND FOR APPROVAL

George J. Vakalis
Operations Manager
Municipality of Anchorage

RECOMMEND FOR APPROVAL

Thomas R. Stahr
General Manager
Municipal Light and Power

FUNDS AVAILABLE
0530 8500 8201 5550 2000 $1,600,000.00
1995 Operating Budget

Jerry Anderson
Chief Fiscal Officer
Department of Finance

ATTEST

Vickie Cantrell, Deputy
for Municipal Clerk
Municipality of Anchorage

EXHIBIT C

POINTS OF DELIVERY

EXHIBIT C

Electric power and energy furnished and wheeled by APA to Chugach shall be delivered and measured at the following points:

A. At the one hundred fifteen (115) kilovolt line side span to terminal of APA CB 462 and disconnect 569 located in the Eklutna Powerplant switchyard. Power and energy will be delivered at the nominal voltage of one hundred fifteen (115) kilovolt at the point of delivery specified.

B. At the one hundred fifteen (115) kilovolt line side span to terminal of APA CB 362 and disconnect 569 located in the Eklutna Powerplant switchyard. Power and energy will be delivered at the nominal voltage of one hundred fifteen (115) kilovolt at the point of delivery specified.

C. At the one hundred fifteen (115) kilovolt slack span entering the Anchorage Substation attached to CEA circuit breaker 2400. Power and energy will be delivered at the nominal voltage of one hundred fifteen (115) kilovolt and will be measured at the one hundred fifteen (115) kilovolt at Chugach University Substation CB 2005 using CEA metering equipment.

Electric power and energy furnished and wheeled by APA to Matanuska shall be delivered and measured at the following points:

A. At the one hundred fifteen (115) kilovolt line side span to terminal of APA CB 462 and disconnect 569 located in the Eklutna Powerplant switchyard. Power and energy will be delivered at the nominal voltage of one hundred fifteen (115) kilovolt at the point of delivery specified.

B. At the one hundred fifteen (115) kilovolt line side span to terminal of APA CB 362 and disconnect 569 located in the Eklutna Powerplant switchyard. Power and energy will be delivered at the nominal voltage of one hundred fifteen (115) kilovolt at the point of delivery specified.

C. At the six thousand nine hundred (6,900) volt terminal of the MEA 6.9-12.47 KV power transformer for the 12.47 KV Twin Peaks line located at the Eklutna Powerplant. Power and energy will be delivered at the nominal voltage of six thousand nine hundred (6,900) volts and will be measured at six thousand nine hundred (6,900) volts at the point of delivery specified.

D. At the point near structure #7/6 where the MEA one hundred fifteen thousand (115) volt line taps the APA Eklutna-Palmer 115 KV line. Power and energy will be delivered at the nominal voltage of one hundred fifteen thousand (115) volts and will be measured at twelve thousand four hundred

seventy (12,470) volts at the Dow Substation low side of power transformer using MEA metering equipment.

E. At the low voltage twelve thousand four hundred seventy (12,470) volt terminal of the APA 115-12.47 KV power transformer in the Palmer Substation. Power and energy will be delivered at the nominal voltage of twelve thousand four hundred seventy (12,470) volts at the point of delivery using MEA metering equipment.

F. At the twelve thousand four hundred seventy (12,470) volt bus of the Municipality of Anchorage/Anchorage Water and Wastewater Utility's Eklutna Water Project. Power and energy will be delivered at the nominal voltage of twelve thousand four hundred seventy (12,470) volts at the point of delivery using MEA metering equipment.

Electric power and energy furnished and wheeled by APA to ML&P shall be delivered and measured at the following points:

A. At the one hundred fifteen (115) kilovolt line side span to terminal of APA CB 462 and disconnect 569 located in the Eklutna Powerplant switchyard. Power and energy will be delivered at the nominal voltage of one hundred fifteen (115) kilovolt at the point of delivery specified.

B. At the one hundred fifteen (115) kilovolt line side span to terminal of APA CB 362 and disconnect 569 located in the Eklutna Powerplant switchyard. Power and energy will be delivered at the nominal voltage of one hundred fifteen (115) kilovolt at the point of delivery specified.

C. At the one hundred fifteen thousand (115) volt bus in the Anchorage Substation attached to ML&P CB 1162 known as APA South Line. Power and energy will be delivered at the nominal voltage of one hundred fifteen thousand (115) volts and will be measured at one hundred fifteen thousand (115) volts at the point of delivery specified using ML&P metering equipment.

D. At the one hundred fifteen thousand (115) volt bus in the ML&P Plant Two Substation for CB 115-21 and 115-22 known as APA North Line. Power and energy will be delivered at the nominal voltage of one hundred fifteen thousand (115) volts and will be measured at one hundred fifteen thousand (115) volts at the point of delivery specified using ML&P metering equipment.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CHUGACH ELECTRIC ASSOCIATION, INC;
ANCHORAGE, ALASKA

By _____
Eugene N. Bjornstad

Title General Manager

Address _____

MUNICIPALITY OF ANCHORAGE
ANCHORAGE, ALASKA

By _____

Title Municipal Manager

Address _____

MATANUSKA ELECTRIC ASSOCIATION, INC;
PALMER, ALASKA

By _____
Wayne Carmony

Title General Manager

Address _____

ALASKA POWER ADMINISTRATION
JUNEAU, ALASKA

By _____
Michael A. Dethl

Title Administrator

Address _____

RECOMMEND FOR APPROVAL

George J. Vakalis
Operations Manager
Municipality of Anchorage

RECOMMEND FOR APPROVAL

Thomas R. Stahr
General Manager
Municipal Light and Power

FUNDS AVAILABLE

0530 P500 P201 5550 2000 $1,600,000.00
1995 operating Budget.

Jerry Anderson
Chief Fiscal Officer
Department of Finance

ATTEST

Vickie Cantrell, Deputy
for Municipal Clerk
Municipality of Anchorage

EXHIBIT D

SCHEDULE OF RATES FOR FIRM ENERGY, NON-FIRM ENERGY, AND WHEELING

UNITED STATES
DEPARTMENT OF ENERGY
ALASKA POWER ADMINISTRATION

Eklutna Project, Alaska

SCHEDULE OF RATES FOR WHOLESALE FIRM POWER SERVICE

EFFECTIVE:

October 1, 1994 for a maximum of five years.

AVAILABLE:

In the area served by the Eklutna Project, Alaska.

CHARACTER AND CONDITIONS OF SERVICE:

Alternating current, sixty cycles, three-phase, delivered and metered at the low-voltage side of substation.

MONTHLY RATE:

Capacity charge: None.

Energy charge: All energy at 18.7 mills per kilowatthour.

MINIMUM ANNUAL CAPACITY CHARGE:

None.

BILLING DEMAND:

Not applicable.

ADJUSTMENTS:

For transformer losses: If delivery is made at the high-voltage side of the customer's substation but metered at the low-voltage side, the meter readings will be increased 2 percent to compensate for transformer losses.

For power factor: None. The customer will normally be required to maintain power factor at the point of delivery of between 90 percent lagging and 90 percent leading.

For auxiliary power service: Auxiliary power supplies may be used in conjunction with the service hereunder if the parties hereto, prior to the Contracting Utilities' utilization of any such auxiliary power supply, have entered into a written operating agreement defining the procedure by which the amount of power and energy will be determined.

UNITED STATES
DEPARTMENT OF ENERGY
ALASKA POWER ADMINISTRATION

Eklutna Project, Alaska

SCHEDULE OF RATES FOR WHOLESALE NON-FIRM POWER SERVICE

EFFECTIVE:

October 1, 1994 for a maximum of five years.

AVAILABLE:

In the area served by the Eklutna Project, Alaska.

APPLICABLE:

To firm power customers normally maintaining generating facilities or other sources of energy sufficient to supply their requirements.

CHARACTER AND CONDITIONS OF SERVICE:

Alternating current, sixty cycles, three-phase, delivered and metered at the low-voltage side of substation.

MONTHLY RATE:

Capacity charge: None.

Energy charge: All energy at 10.0 mills per kilowatthour.

MINIMUM CHARGE:

None.

BILLING DEMAND:

Not applicable.

ADJUSTMENTS:

For character and conditions of service: None.

For transformer losses: If delivery is made at the high-voltage side of the customer's substation but metered at the low-voltage side, the meter readings will be increased 2 percent to compensate for transformer losses.

Schedule A-W3

UNITED STATES
DEPARTMENT OF ENERGY
ALASKA POWER ADMINISTRATION

Eklutna Project, Alaska

SCHEDULE OF RATES FOR WHOLESALE WHEELING SERVICE

EFFECTIVE:

October 1, 1994 for a maximum of five years.

AVAILABLE:

In the area served by the Eklutna Project, Alaska.

APPLICABLE:

To all non-Federal power transmitted over Eklutna Project transmission facilities for the benefit of Project customers.

CHARACTER AND CONDITIONS OF SERVICE:

Alternating current, sixty cycles, three-phase, delivered and metered at the low-voltage side of substation.

MONTHLY RATE:

Capacity charge: None.

Energy charge: All energy wheeled for others at .3 mills per kilowatthour.

MINIMUM CHARGE:

None.

BILLING DEMAND:

Not applicable.

ADJUSTMENTS:

For character and conditions of service: None.

For transformer and transmission losses: As specified in wheeling contracts.

Exhibit 2

RECEIVED
By the Regulatory Commission of Alaska on Oct 30, 2020

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert M. Pickett, Chairman Stephen McAlpine Antony G. Scott Daniel A. Sullivan Janis W. Wilson
In the Matter of the Investigation Into the Beluga River Unit Management Practices of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	U-18-102
In the Matter of the Petition Filed by CHUGACH ELECTRIC ASSOCIATION, INC. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend Its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	U-19-020
In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT to Amend Its Certificate of Public Convenience and Necessity No. 121, to Eliminate Its Retail Electric Service Area and Add the Eklutna Hydroelectric Project to Its Service Area, and to Lift the Dividend Restriction	U-19-021
In the Matter of the Request for Approval of Special Contract Designated as TA379-121 Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	TA379-121

NOTICE OF ML&P'S SURRENDER OF EKLUTNA OPERATING COMMITTEE VOTING RIGHTS

LAW OFFICES OF
KEMPPEL, HUFFMAN AND ELLIS
A PROFESSIONAL CORPORATION
255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2025
(907) 277-1604

In Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39"), the Regulatory Commission of Alaska ("RCA") approved, subject to conditions, the sale to Chugach Electric Association, Inc. ("Chugach") of most of the electric utility assets of the Municipality of Anchorage d/b/a Municipal Light and Power ("ML&P") ("Transaction"). Order 39 also approved the MOA-Chugach Eklutna Power Purchase Agreement ("Chugach PPA"), subject to conditions, effective on the date of closing of the Transaction. In Order 39, the RCA granted to the MOA, effective upon the date of closing of the Transaction, a certificate of public convenience and necessity authorizing ownership and provision of generation electric utility service to the public for compensation from its share of Eklutna, subject to conditions, including that before the effective date of the Chugach PPA or the MOA-Matanuska Electric Association, Inc. ("MEA") Power Purchase Agreement ("MEA PPA"), the MOA has filed documentation that it has surrendered its voting rights on the Eklutna Operating Committee ("EOC").[1] In Order 39, the RCA required that the MOA's surrender of its EOC voting rights "cannot be lifted until such time as [the MOA] has shown to our satisfaction that [the MOA] has acquired the expertise required to fully participate as voting member of the EOC."[2]

Enclosed as Exhibit 1 is a Surrender of Eklutna Operating Committee Voting Rights document, signed by ML&P, Chugach, and MEA. The Surrender will remain in effect until the MOA shows to the RCA's satisfaction that the MOA has acquired the expertise required to participate as a voting member of the EOC (or upon expiration or termination of the terms of the Chugach PPA and the MEA PPA).

---

[1] Order 39 at 147, Ordering ¶ 11; *see also* Order 39 at 66-67.
[2] *Id.* at 67.

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KEMPPEL, HUFFMAN AND ELLIS
A PROFESSIONAL CORPORATION
255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2025
(907) 277-1604

RESPECTFULLY SUBMITTED this 30th day of October, 2020, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage d/b/a Municipal Light and Power

By: */s/ Dean D. Thompson*

Dean D. Thompson
Paul J. Jones
Jonathon D. Green
255 E. Fireweed Lane, Suite 200
Anchorage, Alaska 99503
Telephone: (907) 277-1604 / Fax 276-2493
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255 E. FIREWEED LANE, SUITE 200
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CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2020, a copy of the foregoing document was electronically filed with the RCA and served on the following persons by electronic means authorized by the RCA.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
By: /s/ *Tina M. Torrey*
Tina M. Torrey, Legal Assistant

RAPA
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deborah.mitchell@alaska.gov
amber.henry@alaska.gov

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Thomas Schulman tom_schulman@chugachelectric.com

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Craig Gannett craiggannett@dwt.com
Walker Stanovsky walkerstanovsky@dwt.com

HEA
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J.D. Draves jdraves@homerelectric.com

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Robert J. Friedman robert.friedman.5@us.af.mil

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Sean R. Parnell srparnell@hollandhart.com
David Pease david.pease@mea.coop
David Mayberry djmayberry@hollandhart.com

AEA
Curtis Thayer cthayer@akenergyauthority.org
Stefan Saldanha stefan.saldanha@alaska.gov

LAW OFFICES OF
KEMPPEL, HUFFMAN AND ELLIS
A PROFESSIONAL CORPORATION
255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2025
(907) 277-1604

Exhibit 1

October 27, 2020

Surrender of Eklutna Operating Committee (EOC) Voting Rights

In accordance with the requirements of order U-18-102(44), the Municipality of Anchorage, dba Municipal Light & Power(ML&P), hereby surrenders its voting rights as an EOC member and under the Fish and Wildlife Agreement effective as of the Closing of the Asset Purchase Agreement between ML&P and Chugach Electric Association (Chugach). This surrender of voting rights shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC.

Until ML&P's successor complies with the qualification terms of RCA order U-18-102(44), all EOC decisions will be by unanimous vote of Chugach and Matanuska Electric Association, Inc. (MEA). Eklutna hydro operations, dispatch and maintenance will continue to follow past practices and policies unless changes are approved through the EOC process.

MUNICPALITY OF ANCHORAGE

By: _____
Name: William Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____
Name: Lee Thibert
Title: Chief Executive Officer

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____
Name: Anthony Izzo
Title: Chief Executive Officer

Exhibit 3

RECEIVED
By the Regulatory Commission of Alaska on Oct 27, 2020

From: Layne, James O (RCA)
To: RCA Records & Filing
Subject: FW: TA379-121 Question
Date: Wednesday, October 28, 2020 10:11:21 AM

Please place this email into TA379-121 as a supplemental filing dated October 27, 2020.

This is in response to a Staff request.

Thanks.

From: Dean Thompson <ddt@khe.com>
Sent: Tuesday, October 27, 2020 4:05 PM
To: Layne, James O (RCA) <james.layne@alaska.gov>
Subject: Re: TA379-121 Question

Mr. Layne:

The MOA/ML&P do not believe that the MEA Eklutna PPA is inconsistent Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39"). The part of Order 39 that you cite states:

"We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the [Chugach] Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions." Order 39 at 67.

To comply with the Order, ML&P will surrender its vote on the EOC prior to the closing of the ML&P sale to Chugach, which will be before the effective date of the Chugach Eklutna PPA and of the MEA Eklutna PPA. ML&P will promptly file a notice of that surrender with the RCA. The surrender will have a term at least equal to the term of the two PPAs, subject to termination of the surrender upon MHP showing to the RCA's satisfaction "that MHP has acquired the expertise required to fully participate as a voting member of the EOC." Order 39 at 67. If and when MHP has a proposed EOC representative that satisfies the qualifications, MHP will file that information and request that the RCA make the necessary finding for termination of the EOC vote surrender.

Like Section 4.2(B) of the Chugach Eklutna PPA, Section 4.2(B) of the MEA Eklutna PPA requires MHP, in consultation with the Purchaser, to select MHP's representative on the EOC. As a result of Order 39, MHP won't have any voting representative on the EOC until the surrender is terminated upon a positive finding by the RCA that MHP's proposed representative is qualified. Thus, Section 4.2(B) of neither PPAs need to be amended. In addition, Section 4.2(B) should remain as written as it will be relevant if and when MHP's voting rights surrender is terminated in the future upon the necessary finding of the RCA.

Please contact me if you have any questions.
####
Dean Thompson
Kemppel, Huffman & Ellis, P.C.
255 E. Fireweed Lane, Suite 200

Anchorage, Alaska 99503
(907) 277-1604; fax (907) 276-2493; cell (907) 360-6391
e-mail: ddt@khe.com

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From: "Layne, James O (RCA)" <james.layne@alaska.gov>
Date: Thursday, October 22, 2020 at 10:18 AM
To: Dean Thompson Private <ddt@khe.com>
Subject: TA379-121 Question

Mr. Thompson,

I have a question regarding the Eklutna Power Purchase Agreement between MOA and MEA (MEA Eklutna PPA) filed in TA379-121 as Exhibit A. MEA has filed TA525-18 seeking to add the MEA Eklutna PPA to its tariff and seeks approval of a new COPA cost element and I have asked them the same question below in TA525-18 regarding the MEA Eklutna PPA. A joint response by MEA and MOA is welcomed, or each party can file its own response.

I believe there is an inconsistency between the MEA Eklutna PPA and the final order (U-18-102(44)/U-19-020(39)/U-19-021(39)) (U-18-102(44).

At page 67 of U-18-102(44) the Commission required MOA/ML&P to surrender its vote on the EOC so Chugach and MEA could manage the Eklutna Hydro project.

The MEA Eklutna PPA, at page 8 of Exhibit A, Section 4.2(B) appears to allow MOA/ML&P to keep its vote on the EOC.

Does MOA/ML&P believe the language between the final order and the MEA Eklutna PPA as summarized above are in conflict? Please explain your response and provide a remedy if appropriate.

Please respond by Monday, October 26, 2020 by 5:00pm.

Thank you for your attention to this request and contact me with any questions.

James “Jay” Layne
Engineering Analyst
907-263-2179

EXHIBIT 2

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S REPLY BRIEF REGARDING INTERPRETATION OF ORDER 39

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	John M. Espindola, Chair Robert M. Pickett John C. Springsteen
In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S REPLY BRIEF REGARDING INTERPRETATION OF ORDER 39

The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") submits this reply brief regarding interpretation of language in Order U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39")[1] pertaining to the terms of the MOA's surrender of voting rights on the Eklutna Operating Committee ("EOC"). In Docket U-18-102/U-19-020/U-19-021 ("Acquisition Docket"), the Commission required that the MOA surrender its voting rights on the EOC because the Commission found that the individual who the MOA proposed to manage the remaining municipal utility in the immediate wake of Chugach's acquisition of ML&P assets ("Acquisition" or "Transaction") then-Municipal Manager William D. Falsey (an attorney), did not have the relevant background experience to participate as a member of the EOC.[2] Specifically, the Commission found that Mr. Falsey did not have the required "knowledge of the Railbelt generation and transmission system, or prudent utility practice which is the management standard specified for the MHP EOC representative in both the Eklutna PPA [power purchase agreement

[1] May 28, 2020.

[2] Order 39 at 66.

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KEMPPEL, HUFFMAN AND ELLIS
A PROFESSIONAL CORPORATION
255 E. FIREWEED LANE, SUITE 200
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with Chugach Electric Association, Inc. ("Chugach"] and the MEA PPA [power purchase agreement with Matanuska Electric Association, Inc. ("MEA")]."[3] On July 18, 2024, AHP filed a Notice and Request for Acknowledgement ("Request for Acknowledgment") with the Commission stating it had acquired the expertise required to participate as a voting member of the EOC when Mark Corsentino, P.E., was unanimously approved by the Anchorage Assembly to be the Utility Director of AHP on July 2, 2024.[4]

The other parties in this matter now argue that in order to address its determination that the single proposed individual was not qualified to be the MOA's EOC representative, the Commission placed a requirement on the reinstatement of voting rights that AHP could not even *present* a new EOC representative for acknowledgment by the Commission acquisition of the relevant expertise until more than *three decades* had passed (or possibly never, if the power purchase agreements ("PPAs") with Chugach and MEA are extended for the life of the project). The Office of the Attorney General, Regulatory Affairs & Public Advocacy Section ("RAPA"), Chugach, and MEA, all now take this position—contrary to their prior articulations in this docket that showed they, like AHP, interpreted Order 39 as having no such requirement. For the reasons explained below, the reasoning articulated for this changed position should be rejected. As RAPA noted in the prehearing conference, similar to an amusement park ride where the only question is whether the potential rider is tall enough to be on the ride, here, the only issue is whether Mr.

[3] *Id*. In Order 39, the Commission referred to the post-transaction electric utility owned by the MOA as Municipal Hydro Power ("MHP") and not AHP.

[4] Request for Acknowledgment.

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KEMPPEL, HUFFMAN AND ELLIS
A PROFESSIONAL CORPORATION
255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2025
(907) 277-1604

Corsentino is qualified to be AHP's EOC representative.[5] RAPA, Chugach, and MEA articulate no factual support or legal reason why AHP, despite being qualified now, must arbitrarily wait over three more decades in order to regain voting rights on the EOC. If the Commission panel in the Acquisition Docket had intended to require a 35-plus year forfeiture of all of the MOA's rights to participate in the management and operation of its certificated hydropower utility, it would have done so in unambiguous and unequivocal language, following additional process that would have been required as the issue of surrender was not addressed in the Acquisition Docket hearing.

DISCUSSION

I. The responsive briefing reflects changed positions from the other parties in this docket regarding interpretation of Order 39.

In the prehearing conference on August 30, 2024, Administrative Law Judge ("ALJ") Walker stated that AHP had not addressed in its initial filings "any evidence or discussion of why the Commission should set aside the minimum term of voting rights surrender required in Order 44."[6] Order U-24-024(4) articulated the Commission's "desire for briefing on the minimum term of the Eklutna Operating Committee voting rights surrender required" by Order 39.[7] As explained below and in AHP's September 18, 2024, opening brief, the language of Order 39 is clear that (1) there must be a "term" for the surrender of voting rights that must be of at least the length of the PPAs with Chugach and MEA (including any extensions); and (2) this finite term can also be curtailed if AHP makes a showing of acquisition of the required expertise to regain EOC

[5] See, e.g., August 30, 2024, Hearing Tr. at 9.

[6] August 30, 2024, Hearing Tr. at 6, lines 21-25.

[7] Order No. U-24-024(4) at 3 (September 12, 2024).

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voting rights. In other words, if before the expiration of the term, AHP showed to the Commission's satisfaction that AHP had acquired the expertise required, then the surrender would be "lifted."

In their responsive briefs on the issue, RAPA, Chugach, and MEA all admitted that prior to the prehearing conference on August 30, 2024, each had shared AHP's interpretation of the Order 39 language. Specifically, Chugach and MEA both, "admit[ted] that until ALJ Walker raised this issue in this proceeding, they had not examined this issue closely and were theoretically comfortable with an interpretation of the Surrender that if and when the MOA could demonstrate technical and managerial fitness," then at that time the MOA "would be entitled to regain its voting rights on the EOC and with respect to the Fish and Wildlife Agreement before the end of the PPA terms."[8] Further, Chugach and MEA's August 26, 2024, comments on AHP's Request for Acknowledgment unequivocally manifest an understanding by Chugach and MEA at the time that AHP voting rights could be immediately restored upon a showing that it had acquired the necessary expertise, with no mention of a "minimum term."[9] RAPA's response to AHP's Motion to Expedite this proceeding also reflected an understanding that "RAPA agrees with AHP" that "[t]he only issue in this docket is a straightforward one—whether AHP 'has shown to [the Commission's]

[8] Chugach and MEA's Joint Br. re Surrender Term at 11 (October 8, 2024). Chugach and MEA also stated that such reinstatement should, "potentially [be] with certain conditions imposed on the MOA." *Id.*

[9] Chugach and MEA Joint Initial Comments at 1. Chugach and MEA stated "we do not oppose AHP's nomination of Mr. Corsentino to become a voting member of the EOC. We will defer to the Commission's investigation of Mr. Corsentino's qualifications and whether AHP has gained sufficient expertise necessary for it to regain voting rights on the EOC pursuant to the criteria outlined in Order 39, but we reserve the right to take a position later in this proceeding."

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satisfaction that [it] has acquired the expertise required to fully participate as a voting member of the EOC."[10]

However, in its responsive briefing, RAPA conducted a 13-page (and as discussed below, incorrect) grammatical and syntax[11] analysis to determine that the rules of grammar and syntax demand nothing less than that AHP be deprived of voting rights regarding operation and management of its 53.33% ownership interest in the Eklutna Hydropower Project ("Eklutna Project") by the EOC, with no discussion of how such a requirement would be reasonable.[12] RAPA does not address any of AHP's arguments raised in its opening brief on this topic. Similarly, upon further reflection, Chugach and MEA conclude in their responsive brief that "the language in question is ambiguous and upon a plain reading, can be interpreted in at least two ways," either "as ALJ Walker has indicated," or the interpretation "that the MOA is arguing for . . . that the Surrender term has to match the minimum PPA term length per the first part of the clause," and that "the second part creates a pathway to shorten that term by AHP showing that it has acquired the expertise required to fully participate."[13] Chugach and MEA argue that in the face of ambiguous language, the context of the decision to require the surrender should be considered, as well as the public interest, and that these factors weigh in favor of a mandatory term equal to the length of the PPAs, with the surrender continuing indefinitely after the conclusion of such 35-year

[10] RAPA's Response to AHP's Motion for Expedited Consideration at 1-2, August 26, 2024.

[11] Syntax is the study of sentence structure.

[12] RAPA's Br. on Interpretation of Order 39, October 8, 2024.

[13] Chugach and MEA's Joint Br. re Surrender Term at 13-14.

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or more term, at which point the surrender may be terminated by a showing of acquisition of expertise by AHP.

As explained below, RAPA's grammatical arguments are based on incorrect application of principles of grammar and logic, and the language regarding surrender of EOC voting rights in Order 39 is not ambiguous. This is evidenced by the fact that prior to the prehearing conference, the four parties to this matter, representing three different types of interests (PPA customers, PPA seller, and RAPA, who "speak[s] for the public interest"[14]) all agreed upon the interpretation that there was no "minimum" period of time AHP had to wait before reinstatement of its voting rights. However, even if the Commission were to determine that the surrender language of Order 39 was ambiguous, the principles of interpretation as described by AHP in its opening brief, as well as described by Chugach and MEA in their responsive brief, support an interpretation of the surrender language as providing for termination of the surrender at any time by a showing that AHP has acquired the expertise required. Additionally, to the extent the Commission were to resolve the ambiguity to require a mandatory 35-plus-year surrender term, the Commission could always still choose to modify that certificate condition either *sua sponte* or at the request of AHP, and should do so here.

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[14] "About the Regulatory Affairs & Public Advocacy Section," *available at* https://law.alaska.gov/department/civil/RAPA.html.

II. RAPA's reliance on an incorrect grammar and syntax analysis is misplaced.

A. RAPA makes an unsupported and illogical conclusion based on its flawed grammar and analysis.

RAPA's attempt to discern the correct interpretation of the surrender language by parsing the grammar and syntax misses the mark. RAPA's entire analysis relies on its faulty understanding of which clause is the relevant "subordinate clause." More importantly, RAPA fails to connect its sentence diagramming exercise to any legal precedent or principles of legal interpretation, including the principles and precedent AHP discussed in its opening brief.

RAPA relies on the website "Grammarly.com" for its legal interpretation analysis of the surrender term language, which relies on the classification of "independent" and "subordinate" (dependent) clauses.[15] RAPA focuses on the below sentence from Order 39:

> This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as [AHP] has shown to our satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC.[16]

RAPA argues that Order 39 consists of (1) an independent clause (everything before the word "and") and (2) a subordinate clause (the word "and" and everything following it). RAPA correctly notes that from a sentence structure perspective, a subordinate clause[17] cannot stand on its own as

[15] RAPA's Br. on Interpretation of Order 39 at 4.

[16] Order 39 at 67.

[17] Subordinate clauses are also referred to as dependent clauses.

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an independent sentence.[18] However, as discussed below, RAPA incorrectly describes the "subordinate clause" at issue. RAPA then compounds this mistake by committing a syllogistic fallacy in concluding that because a subordinate clause cannot stand alone as a sentence or "exist without the independent clause," it "cannot overrule the requirements of the independent clause."[19] Counsel for AHP was unable to find discussion in grammar authorities referencing clauses "overruling" each other. RAPA continues its errors in logic by taking a *giant* leap to conclude that therefore, (1) the surrender of voting rights was for a term at least equal to the duration of the PPA, and (2) because the subordinate clause cannot "overrule" the independent clause, then "AHP cannot seek to have the surrender lifted until the PPAs have expired."[20] RAPA cites to nothing to support this final (il)logical leap, besides the definition of "subordinate" in Black's Law Dictionary, which does not address the use of the term "subordinate" in the grammatical context.[21]

Below, the "independent clause identified by RAPA is denoted in bold text, and the "subordinate clause" identified by RAPA is italicized:

> **This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended**, *and cannot be lifted until such time as [AHP] has shown to our satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC*.[22]

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[18] RAPA's Br. on Interpretation of Order 39 at 3. RAPA incorrectly extrapolates this statement, without reference, to state that a subordinate clause "is also subordinate to the independent clause's stated requirements."

[19] *Id.* at 5.

[20] *Id*.

[21] *Id*.

[22] Order 39 at 67 (bold and italics added).

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RAPA incorrectly characterizes the phrase beginning with the word "and" as the subordinate clause. It is not.

The sentence in question is a complex sentence, with an underlying subject-verb-verb structure.[23] The subject is "this surrender." If the sentence were to be diagrammed, the line for the first verb would have "must have" written on it, and the line for the second verb would have "cannot be lifted" written on it.[24] A subject-verb-verb structure does not in itself create two "clauses" in a sentence—it can still be a simple sentence.[25] However, the sentence in question includes at least two subordinate clauses. The first is the phrase "as those agreements may be extended," which modifies the noun "term," and is not relevant to this grammar/syntax analysis.[26] The second subordinate clause is:

> "until such time as AHP has shown to our satisfaction that AHP has acquired the expertise required to fully participate as a voting member of the EOC."

[23] *See, e.g.,* https://www.cambridge.org/us/files/5716/1800/4404/Skills_for_Effective_Writing_Level_2_Sample_Content.pdf (last accessed October 29, 2024). Cambridge University Press is the publishing division of the University of Cambridge in Cambridge. *See also* https://www.grammarly.com/blog/sentences/simple-sentence/.

[24] The verbs "must have" and "cannot be lifted" both have an auxiliary or modal verb ("must" and "cannot") that are diagrammed as part of the verb. Modal verbs are a type of auxiliary verb ("helping verbs") that express modalities such as likelihoods, permission, or ability. https://www.merriam-webster.com/dictionary/helping%20verb (last accessed October 29, 2024).

[25] Even a "simple sentence" can include a subject-verb-verb structure. https://www.cambridge.org/us/files/5716/1800/4404/Skills_for_Effective_Writing_Level_2_Sample_Content.pdf (last accessed October 29, 2024).

[26] https://www.merriam-webster.com/dictionary/subordinate%20clause (last accessed October 29, 2024).

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This subordinate clause modifies the verb "cannot be lifted."[27]

RAPA incorrectly identifies the word "and" as a "subordinating conjunction,"[28] but it is a "coordinating conjunction," used here to link the two verbs in the sentence.[29] "Coordinating conjunctions" are used to "join like elements" and to "join clauses of equal stature."[30] Therefore, RAPA identifies the wrong language as the subordinate clause. The language RAPA identifies as a subordinate clause is:

> "and cannot be lifted until such time as AHP has shown to our satisfaction that AHP has acquired the expertise required to fully participate as a voting member of the EOC."[31]

Instead, the relevant subordinate clause actually begins with the subordinating conjunction "until," and is the language "until such time as AHP has shown to our satisfaction that AHP has acquired the expertise required to fully participate as a voting member of the EOC." This clause modifies the verb "cannot be lifted." Thus, to the extent that RAPA's argument that a subordinate clause cannot "overrule" the (correct) independent clause ("This surrender must have a term . . . and cannot be lifted") would apply, then under RAPA's reasoning, the clause "until AHP has shown to our satisfaction" is legally superfluous, because the verb "cannot be lifted" embodies a

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[27] *Id*. See also footnote 24 re: modal verbs.

[28] RAPA's Br. on Interpretation of Order 39 at 4.

[29] GARNER, BRYAN. THE REDBOOK: A MANUAL ON LEGAL STYLE 178 (2006). RAPA's own internet source similarly identifies "and" as a coordinating, not subordinating, conjunction. *See* https://www.grammarly.com/blog/parts-of-speech/coordinating-conjunctions/; https://www.grammarly.com/blog/parts-of-speech/subordinating-conjunctions/ (last accessed October 29, 2024).

[30] GARNER, BRYAN. THE REDBOOK: A MANUAL ON LEGAL STYLE 178 (2006).

[31] Order 39 at 67.

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requirement that cannot be overruled by the subordinate clause. This would result in a legal interpretation from RAPA that the surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, and that the surrender cannot be lifted—ever. Clearly this is not what the Acquisition Docket panel intended.

B. A plain reading of the language in question results in an understanding that AHP need not wait decades for the surrender "term" to be completed in order to have its EOC voting rights restored.

To the extent grammar and syntax analysis provides helpful interpretative guidance as to the plain meaning of the language, it supports AHP's interpretation. Looking at the subject and the first verb of the sentence, and any related subordinate clauses: the surrender (1) must have a term. A term is a "limited or definite extent of time."[32] This term, we learn through a subordinate clause modifying the noun, must be at least equal to the PPA and MEA terms, as extended. It arguably could be longer. On to the next verb (same subject), this surrender, which will last for a "definite extent of time" (2) "cannot be lifted." However, the subordinate clause "until AHP has acquired the expertise required . . ." modifies the verb "cannot be lifted." The word "until" means "up to (the time that)"[33] or "not before a particular time or event."[34] Thus the surrender cannot be lifted before AHP shows that it has acquired the requisite expertise. But it can be lifted after that showing. So, the sentence states that (1) the surrender must have a term (of at least the length of

[32] Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/term (last accessed October 29, 2024).

[33] *Id.* https://www.merriam-webster.com/dictionary/until (last accessed October 29, 2024).

[34] Cambridge Dictionary, https://dictionary.cambridge.org/dictionary/english/until (last accessed October 29, 2024).

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the PPAs) and (2) the surrender cannot be lifted until a requisite showing of expertise.[35] What this sentence *does not* say is that the surrender cannot be lifted during the term. Nor does this sentence say that the surrender cannot be lifted until (1) the expiration of the term of the surrender *and* (2) AHP has made a showing of the requisite expertise.

This comports with a plain reading of the surrender language that the surrender should have a term that is at least as long as the PPAs, but that this term could be lifted by a showing of requisite expertise.[36] Use of the word "term" indicates a finite period, that could be even *longer* than the term of the PPAs. If this were the case, under RAPA's reading, would RAPA argue that even after the PPAs elapsed, AHP would still need to wait for the term of its surrender to make its showing of expertise? A better reading is the reading that all the parties originally held: absent a showing that AHP has acquired the expertise required, the surrender must have a term that is at least as long as the PPAs.

As discussed in AHP's opening brief, the meaning of the term "lifted" is key in interpreting the sentence.[37] The term "lift" is defined in Black's Law Dictionary as "[t]o stop or put an end to; to revoke or rescind."[38] The term "revoke" is defined as "to annul or make void by taking back or recalling; to cancel, rescind, repeal, or reverse."[39] "Rescind" means to "abrogate

[35] Another way of putting it would be that the surrender *can* be lifted with a requisite showing of expertise.

[36] *See, e.g.,* AS 01.10.040(a) ("[w]ords and phrases shall be construed according to the rules of grammar *and according to their common and approved usage*") (emphasis added).

[37] AHP Br. Regarding Interpretation of Order 39 at 13-14, September 18, 2024.

[38] Black's Law Dictionary, 12th Ed. (2024).

[39] *Id.*

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or cancel (a contract) unilaterally or by agreement," or "[t]o make void; to repeal or annul."[40] All of these definitions denote cutting something short, which would not be necessary language to use if the surrender term needed to be over before a showing of acquisition of expertise were allowed.

This interpretation is consistent with the way in which the Commission has typically used the term "lift" in prior orders referencing termination of conditions that had terms that had not yet expired. For instance, in Docket U-97-120, the Commission issued a stay that was to "remain in effect until the Federal Communications Commission (FCC) issues a final decision."[41] The Commission later lifted the stay despite the FCC not having issued a ruling,[42] after a determination that the stay should be "lifted" before the termination event (FCC ruling) in order to "balance the needs of all entities affected" and upon consideration of a new factor.[43] In that matter, unlike here, there had not even been a statement in the initial order outlining the conditions upon which the stay could be lifted before the end of the term of the stay, yet the Commission found it had authority to lift (e.g., end before the termination date) the stay nevertheless.

If the Commission panel in the Acquisition Docket had taken the unusual step of requiring a surrender of management of a certificated utility for a period that at a *minimum* would last decades, and could last the life of the utility, it would have done so clearly. If the panel *had*

[40] *Id*.

[41] Order No. U-97-120(5) at 1 (Aug. 1, 2003).

[42] Order No. U-03-049(5) at 8 (Apr. 28, 2004).

[43] *Id.* at 8-9. *See also*, Order No. R-03-007(7) at 2-3 (June 24, 2004) (where the Commission issued a stay pending a review of the FCC's Triennial Review Order, the Commission temporarily lifted the stay to review and accept a stipulation before reinstituting the stay).

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intended to require *both* the expiration of the surrender term *and* a showing of acquisition of expertise, it would have included the term requirement *after* the word "until" in the relevant subordinate clause. For instance, the language of Order 39 would have said:

> ". . . and [the surrender] cannot be lifted until (1) the expiration of the surrender term and (2) AHP has shown to our satisfaction . . . ."

A plain language reading of the sentence in question, including consideration of grammar and syntax, results in AHP's interpretation of the surrender language, not RAPA's. If the Acquisition Docket panel had intended to create a requirement that would impact the ability of the Anchorage municipality to manage its majority ownership interest and property right in the Eklutna Project for over 35 years, it would have been crystal clear and express in doing so. As described below in Section III(B), due process would have demanded nothing less.

C. RAPA's remaining arguments are merely attempts to refute strawman arguments that AHP has not made.

RAPA's remaining arguments fail because they are all premised on its incorrect grammar and syntax argument, they attack strawman arguments that AHP did not make, and are irrelevant regardless. For instance, RAPA argues that AHP has not shown that the Chugach and MEA PPA language "override the requirements of Order 39."[44] But AHP never argued that the PPAs *did* override the language of Order 39. AHP argued that the fact that the Commission did not disapprove or otherwise order the removal of the language in the PPAs regarding AHP's role on the EOC and obligations under the two agreements related to that role shows that the Commission did not intend for Order 39 to prohibit the MOA from reinstituting EOC voting rights

[44] RAPA Br. on Interpretation of Order 39 at 10.

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until *after* the term of the PPAs. If the Commission intended the surrender to irrevocably last for the duration of the PPAs, the Commission would have conditioned its approval of the PPAs on the removal of that language or included an explicit disapproval of the language as it did for disapproved contractual provisions elsewhere in Order 39.[45] RAPA makes no attempt to square its analysis that the language of Section 4.2(B) of the PPAs would be void with the failure of the Commission to explicitly disapprove the language, even after it make a detailed inquiry about the language in the MEA PPA approval docket.[46]

RAPA also places reliance on the fact that the PPAs do not reference a requirement to have knowledge of the Railbelt electric generation and transmission system, but that AHP admits that requirement is a condition for reinstatement of voting rights. AHP does not disagree, but that fact is irrelevant to an analysis of the language of Order 39. The requirement of knowledge of Railbelt electric generation is not an explicit contractual PPA requirement, it is an explicit requirement from the Commission in order to lift the condition on AHP's certificate.

Finally, RAPA argues that while the MEA PPA approval record includes correspondence from AHP stating clearly that there was not a conflict between Order 39 and the MEA PPA language addressing AHP's voting rights, because AHP's voting rights could be restored, that this correspondence is contradicted by correspondence from MEA in a parallel docket regarding MEA PPA approval. The correspondence from MEA does *not* admit a conflict existed between the MEA PPA and Order 39 as RAPA asserts. The Commission staff asked if

[45] *See* AHP Br. Regarding Interpretation of Order 39 at 9-14.

[46] *Id.* at 14-19.

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there was a conflict between the surrender language of Order 39 and the language in the MEA PPA that appeared to allow AHP to keep its vote on the EOC.[47] And MEA's response language merely repeats the Commission staff language, putting the word "conflict" in quotations or referring to it as a "perceived conflict."[48] MEA stated that the PPAs were entered into before Order 39 which required surrender, and that "[t]his appears to be the reason for the 'conflict' you reference."[49] MEA never stated that it understood that voting rights could not be restored for the duration of the PPAs. Instead, it noted that the same language existed in the Eklutna PPA already approved, and that if the Commission wanted to "resolve this perceived conflict, the remedy should be similar and consistent with how the RCA remedied the same conflict in the [Chugach PPA], which could include approving the MEA PPA subject to the same conditions the RCA previously imposed in [Order 39]."[50] Nothing in this language indicates that MEA "disagreed with MOA/ML&P about a potential conflict" as asserted by RAPA.[51]

Looking to Order 39, the Eklutna PPA was approved subject to various conditions, including that certain language (Amendment 1) was explicitly not approved. One of the conditions of approval of the Eklutna PPA was that "[t]his approval is subject to the condition that MHP complies with the certificate conditions set out above," including the surrender language.[52] MEA

[47] TA379-121 Oct 27, 2020 Supplemental Tariff Filing; TA525-15 Oct. 23, 2020, Supplemental Tariff Filing.

[48] TA525-15 Oct. 23, 2020, Supplemental Tariff Filing.

[49] *Id.*

[50] *Id.*

[51] RAPA Br. on Interpretation of order 39 at 10.

[52] Order 39 at 75.

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simply stated that, "MEA is agreeable to having the same vote surrender language in [Order 39] at page 67 apply to the [MEA PPA]."[53] Of course, because the surrender requirement was a certificate condition, it would apply whether or not the MEA PPA approval required it. Further, AHP could not practically have a voting member for purposes of the MEA PPA, but not the Eklutna PPA. Thus, the MEA response does not conflict with the MOA response that Section 4.2(B) of the PPAs "will be relevant if and when MHP's voting rights surrender is terminated in the future upon the necessary finding of the RCA."[54] Instead, the MEA response is completely silent on how any such surrender could be reinstated.[55] It seems MEA merely believed Commission Staff was asking MEA if the EOC voting right surrender would also apply to the MEA PPA, and MEA found such a condition reasonable (and likely obvious, as it couldn't be a one-sided surrender applicable just to Chugach). MEA did *not* state that it believed the surrender would irrevocably last the duration of the MEA PPA, rendering the language about AHP's EOC representative in the MEA PPA invalid.[56] Indeed, if MEA understood that to be the case, it would have likely suggested that the Commission could merely disapprove that provision. And MEA

[53] TA525-15 Oct. 23, 2020, Supplemental Tariff Filing.

[54] TA379-121 Oct 27, 2020 Supplemental Tariff Filing.

[55] TA525-15 Oct. 23, 2020, Supplemental Tariff Filing.

[56] Further, while RAPA cites to the severability provision in the MEA PPA to determine the case was closed, and AHP cannot regain voting rights during the terms of the PPAs under its interpretation of Order 39, it makes an incomplete reference, ignoring the language that even if it were determined that a term of the PPA is invalid, illegal or unenforceable (and thus severable), "the Parties shall negotiate in good faith to modify this PPA so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible." Order 39 at Appendix H at Section 18.17.

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itself filed comments in the present docket consistent with the understanding that voting rights could be restored before the PPA expired,[57] and admits in its brief it had not previously held the position that voting rights could not be restored during the PPA terms.[58]

RAPA concludes its argument with the determination that any conflict between the PPAs and Order 39 is resolved because the language in Order 39 controls. However, this logic brings RAPA full circle to the starting line with no conclusion, since the question the Commission has asked parties to brief is essentially, "what is the interpretation of the language of Order 39?"

RAPA's convoluted grammar-based interpretation fails. RAPA makes no attempt to refute or even address AHP's arguments in its opening brief, or examine whether RAPA's conclusion makes any logical sense in the context of Order 39, or public policy. RAPA's reliance on its grammar argument also fails to attempt to answer the question of what possible policy goal is implemented by RAPA's interpretation that a majority municipal government owner of a hydropower plant can be deprived of any say in the operational or managerial control of that plant for *at least decades,* with no articulated reason for such a lengthy mandatory deprivation.

[57] Chugach and MEA Joint Initial Comments at 1.

[58] Chugach and MEA's Joint Br. re Surrender Term at 11. To the extent RAPA argues the responses to Commission Staff about the MEA PPA conflict, and that therefore there is no "meeting of the minds" regarding that crucial term of the contract, such a serious allegation would raise the troubling question of whether the MEA PPA would be a valid contract. *Lewis v. Lewis,* 285 P.3d 273, 275 (Alaska 2012) (holding that if there is no "meeting of the minds," there is no contract).

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III. To the extent that the Commission determines that the surrender language is ambiguous, AHP agrees with Chugach and MEA that the "[c]ontext leading to Order 39 [s]urrender matters," as well as the context of the Commission's own subsequent implementation of Order 39.

To that the extent that the Commission finds ambiguity in the surrender language, AHP agrees with Chugach and MEA that the language of Order 39 should be interpreted in the context of the record leading up to the issuance of the order and surrounding the Surrender. Additionally, the context of the issuance of AHP's certificate and the Commission's approval of the MEA PPA and the subsequent understanding of the parties to the PPAs and the Eklutna Transition Agreement must be considered.

Chugach and MEA argue that the surrender language is ambiguous, and that in choosing an interpretation, the "Commission's reading of a term length requirement" should be "supported by the facts and [have] a reasonable basis in law."[59] As explained below, here, the imposition of a decades-long, unbreakable minimum term requirement for surrender is not supported by the facts and evidence in the acquisition docket, and does not has a reasonable basis in law. Conversely, the interpretation that the minimum term of the surrender can be lifted by a showing from AHP of acquisition of the expertise required to fully participate as a voting member of the EOC is supported by the Acquisition Docket record and subsequent Commission approvals, as well as by the understanding of all parties until the August 30, 2024, prehearing conference. This interpretation further has a reasonable basis in the law.

[59] Chugach and MEA's Joint Brief re Surrender Term at 16 (citing *Alaska Exchange Carriers Ass'n v. Regulatory Comm'n of Alaska*, 262 P.3d 204, 208-09 (Alaska 2011)).

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A. Alaska and federal precedent and rules of interpretation support interpreting an ambiguous order in a manner that is harmonious with the record and subsequent actions of the decisional body and parties.

1. Decisional language should be read in the context of the facts surrounding the decision.

Chugach and MEA suggest that to the extent the language is ambiguous, the Commission should interpret Order 39 in a manner that is supported by the facts of the case and that has a reasonable basis in law. This approach is supported by Alaska and federal case law on how one court should interpret another court's decisions. While here, the Commission is interpreting its own order, that order is a complicated and lengthy one (the decision *without* its appendixes is 152 pages) that was issued over four years ago. Three out of the four Commissioners on the panel for the decision have since left the Commission. Thus, to the extent the Commission determines the surrender language in Order 39 is ambiguous, the panel in the present matter is arguably similar to a court reviewing another court's decision.

The Alaska Supreme Court has held that, "[j]udgments are to be given that interpretation which will render them reasonable, effective, conclusive and in harmony with the facts and law of the case."[60] The Alaska Supreme Court has also considered post-trial evidence in interpreting judgments pursuant to this standard.[61] Similarly, the Ninth Circuit has found that,

[60] *Pennington v. Employer's Liab. Assur. Corp*., 520 P.2d 96, 97 (Alaska 1974); *Luckart v. State*, 270 P.3d 816, 820 (Alaska Ct. App. 2012).

[61] *Matanuska Elec. Ass'n, Inc. v. Weissler,* 723 P.2d 600, 609–10 (Alaska 1986) (in affirming a Superior Court judgment, the Alaska Supreme Court considered an affidavit submitted with post-trial briefing in the Superior Court which provided additional information clarifying that an oral assignment of interest in the cause of action had occurred between plaintiffs before the dismissal of one of the plaintiffs).

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"[w]hen interpreting an ambiguous prior judgment, the reviewing court should 'construe a judgment so as to give effect to the intention of the issuing court.'"[62] "Where the judgment is ambiguous or fails to express the rulings with clarity, the entire record before the issuing court and the findings of fact may be referenced in determining what was decided."[63]

2. Principles of contract interpretation and statutory interpretation support this precedent.

This precedent parallels principles of statutory interpretation and interpretation of contracts. For contracts, the goal of interpretation "is to give effect to the parties' reasonable expectations . . . [which] must be gleaned not only from the contract language, but also from extrinsic evidence, including evidence of the parties' conduct, goals sought to be accomplished, and surrounding circumstances when the contract was negotiated."[64] Interpretation of contracts is typically considered a matter of law, but it "becomes a task for the trier of fact when the parties present extrinsic evidence to clarify a contract's meaning, when this evidence points towards conflicting interpretations of the contract, and when the contract itself is reasonably susceptible of either meaning."[65] Similarly, for statutory construction:

> [t]he goal of statutory construction is to give effect to the legislature's intent, with due regard for the meaning the statutory

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[62] *Muckleshoot Tribe v. Lummi Indian Tribe*, 141 F.3d 1355, 1359 (9th Cir. 1998); *see also Narramore v. United States,* 852 F.2d 485, 490 (9th Cir. 1988).

[63] *Id.* (internal citations and quotations omitted).

[64] *Zamarello v. Reges*, 321 P.3d 387, 393 (Alaska 2014) (internal quotations and citations omitted). "Typically, in resolving disputes concerning . . . an agreement, we begin by viewing the contract as a whole and the extrinsic evidence surrounding the disputed terms, in order to determine if those terms are ambiguous—that is, if they are reasonably subject to differing interpretation, and if those differing interpretations are both reasonable." *Id.*

[65] *Norville v. Carr-Gottstein Foods Co*., 84 P.3d 996, 1004 (Alaska 2004).

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> language conveys to others. We give unambiguous statutory language its ordinary and common meaning, but the 'plain meaning rule' is not an exclusionary rule; we will look to legislative history as a guide to construing a statute's words. We must, whenever possible, interpret each part or section of a statute with every other part or section, so as to create a harmonious whole. We also must presume that the legislature intended every word, sentence, or provision of a statute to have some purpose, force, and effect, and that no words or provisions are superfluous.[66]

Applying these various and similar principles of construction to the surrender language results in only one interpretation that "is supported by the facts and has a reasonable basis in law."[67] Contrary to Chugach and MEA's assertions, to the extent there is any ambiguity in Order 39's surrender language, the record of the Acquisition Docket, subsequent decisions from the Commission, understanding of the parties, and due process all support the interpretation that the term of the surrender may be "lifted" by a showing of acquisition of expertise by AHP.

B. An interpretation that the surrender can be "lifted" at any time on a showing of acquisition of expertise is the only interpretation that renders the Order 39 language "reasonable, effective, conclusive and in harmony with the facts and law of the case."[68]

1. The Acquisition Docket and Order 39 discussion supports this interpretation.

The record of the acquisition docket and the language surrounding the "surrender" language of Order 39 support the interpretation that the term of the surrender can be lifted by a

[66] *Roberge v. ASRC Constr. Holding Co*., 503 P.3d 102, 104 (Alaska 2022).

[67] Chugach and MEA's Joint Brief re Surrender Term at 16 (quoting the standard of review of decisions within an agency's technical expertise or "the determination of fundamental policies within the scope of the [agency's] statutory function," as articulated in *W. States Fire Protection Co. v. Municipality of Anchorage*, 146 P.3d 986, 989 (Alaska 2006)).

[68] *Pennington*, 520 P.2d at 97.

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showing of acquisition of expertise by AHP. First, in the hearing itself, there was *no* discussion of whether the MOA should surrender its voting rights temporarily, let alone completely relinquish them for decades. Discussion of the EOC and voting rights and the Fish and Wildlife Agreement was limited. On August 29, 2019, ALJ Walker noted that Chugach witness Dustin Highers had indicated in his prefiled direct testimony that he had served twice on the EOC. ALJ Walker then initiated the following brief exchange:

> ALJ WALKER: "[b]ased on that experience, would you say that knowledge of prudent utility practice and the railbelt electric generation and transmission system elements are essential to being a functional member of the Eklutna Operating Committee?
>
> MR. HIGHERS: Sounds reasonable.
>
> ALJ WALKER: And would knowledge of the Eklutna Hydroelectric Project transition plan and the related agreements also be essential to participating on the Eklutna Operating Committee?
>
> MR. HIGHERS: Not necessarily. The Eklutna Operating Committee, the way we've functioned, is as an operations and maintenance type of committee. Not necessarily dealing with higher-level functions like the original purchase, you know, agreements and the transition agreements and so on. It's a tool that the utilities use to -- to memorialize decisions and move forward on major projects. But it's not necessary in order to be that person that's sitting on that committee in order to make those higher level decisions[.][69]

The exchange continues with Mr. Highers responding to whether he knew anybody at the MOA who would "have the knowledge base to serve on the [EOC]" and Mr. Highers responded that the two persons he knew of would both be moving over to Chugach.[70] ALJ

[69] U-19-020 Hearing Tr. August 29, 2019, at 604-605.

[70] *Id.* at 605.

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Walker continued to ask Mr. Highers about the costs for compliance with the 1991 Fish and Wildlife Agreement, and Mr. Highers responded that he had not done any estimation of the costs.[71]

Later, ALJ Walker questioned then-municipal attorney Rebecca Windt Pearson about whether the municipality would be retaining employees from ML&P after the Transaction:

> MS. WINDT PEARSON:· The plan is not to. And I know that we have discussed what we would need to do to have the necessary advice, expertise, and personnel in order to continue to participate in the Eklutna Operating Committee. I think that we envision the stub utility being the department that reports up to the municipal manager. And that, more likely than not, we would utilize consultant services to provide that industry-specific expertise and staffing to help us make informed decisions as a continuing member of the Eklutna Operating Committee. Because we would not be retaining any employees of Municipal Light & Power.
>
> ALJ WALKER:· Have you investigated to see if any such expertise exists in the consulting community?
>
> MS. WINDT PEARSON:· We have not done so yet.[72]

This is the extent of the discussion in the record. No other party raised any issues or questions on the topic. The discussion focused on MOA retaining an employee who could serve on the EOC in the immediate aftermath of the Acquisition.

Order 39 referenced these hearing exchanges in its analysis, and noted that:

> ML&P proposes that MHP will have a seat on the EOC, even though it will have no employees. ML&P states that MHP will be managed by the Municipal Manager, a position currently filled by William D. Falsey. Falsey has a law degree from Yale Law School and a Bachelor of Science degree in physics from Stanford University. Falsey has worked as the MOA's manager since 2017 and worked in legal positions from 2003 through 2017.[73]

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[71] *Id.* at 605-606.

[72] U-19-020 Hearing Tr. at 2709.

[73] Order 39 at 66.

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Order 39 continued that "Chugach witness Dustin Highers testified based on his experience as chair of the EOC that to be an owner representative on the EOC, it was essential that the representative have knowledge of prudent utility practice and the Railbelt electric generation and transmission system."[74] The order noted that the specific individuals identified by Mr. Highers as being so qualified would be moving to Chugach with the Acquisition, and that ML&P "proposes that MHP will have a seat on the EOC, even though it will have no employees," and that "ML&P states that MHP will be managed by the Municipal Manager, currently filled by William D. Falsey."[75] The Commission then determined that "[t]here is nothing in Falsey's resume indicating that he has any knowledge of the Railbelt generation and transmission system, or prudent utility practice which is the management standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA PPA."[76] Order 39 continued to note that while the MOA stated it would hire consultants on an as-needed basis to help make informed decisions as a voting member of the EOC, that it admitted it had not confirmed if such expertise existed in the consulting community.[77]

This analysis of the immediate "circumstances" of the post-acquisition landscape is then referenced in the imposition surrender requirement condition on the MOA's Certificate of Public Convenience and Necessity ("CPCN"):

> Under *these circumstances*, we cannot unconditionally find that MHP is managerially or technically fit to maintain majority

[74] *Id*.

[75] *Id.* at 66.

[76] *Id*.

[77] *Id.* at 66-67.

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> ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[78]

The "circumstances" are simply that the Commission found Mr. Falsey an unsuitable candidate for an EOC representative once ML&P employees transitioned to Chugach. In making this determination, the Commission explicitly focused on and referenced the PPAs, stating there was no evidence that Mr. Falsey had the requisite knowledge of "prudent utility practice which is the management standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA PPA."[79] Thus, the Acquisition Docket and the language of Order 39 stressed that the qualifications requirement was important because of the requirements of Section 4.2(B) of the PPAs. This contextual language supports the interpretation that the Commission (1) found it important to keep the surrender in place for the duration of the PPAs if no qualified EOC representative was proposed, thus proposing that the surrender term must last for at least the length

[78] *Id.* at 67 (emphasis added).

[79] *Id.* at 66.

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of the PPAs, and (2) that the surrender could only be lifted once the MOA had acquired the expertise required by the PPAs. This language, focused on the PPA requirements, supports the interpretation that the surrender "term" could be lifted by a showing of acquisition of requisite expertise as required by the PPAs, that that the MOA can only make the showing it has the requisite expertise, including knowledge of "prudent utility practice *which is the management standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA* PPA" *after* the PPAs have expired.[80]

The record and language or Order 39 provide *no* evidence that the Commission was concerned about the MOA's long-term ability to manage a certificated utility such that it would impose a near-permanent prohibition on MOA participation on the EOC. The entire focus of the Commission's analysis was on whether MOA's proposed *immediate* candidate for the EOC had the requisite background and qualifications. To read the surrender as having a mandatory 35-plus year term despite AHP now having a Utility Director with the requisite expertise to serve on the EOC makes no sense in the context of the acquisition docket record and Order 39 discussion. Nothing in the record or Order 39 provides evidence or analysis that acquisition of the requisite expertise could not happen before the close of the PPAs. And if the primary reason for the requirement was the management standard articulated in the PPAs, it makes no sense to provide that the MOA could only make a showing that it met the PPA standard *after* the PPA contracts expired. In fact, if the PPAs are extended for the life of the Eklutna Project, there might *never* be an AHP EOC voting member. Further, the Commission explicitly discussed the PPA management

[80] *Id*.

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standard in its analysis, and did not indicate that Section 4.2(b) of the relevant PPAs regarding the MOA's EOC voting member were disapproved or would be rendered void by Order 39.

2. The record for the issuance of a certificate to AHP and approval of the MEA PPA also support this interpretation.

As discussed in AHP's opening brief, the related proceedings following the Acquisition Docket provide further support for the interpretation that the surrender could be lifted by a showing that AHP had acquired the expertise required to participate as a voting member of the EOC.[81] The Commission's (1) approval of the MEA PPA, with no modifications to exclude the language in Section 4.2(B), after the documented staff discussion with MOA counsel on the topic and (2) issuance of a CPCN to AHP and acceptance of the MOA's surrender of voting rights, with language that made clear the surrender could be lifted at any time by a showing of acquisition of the requisite expertise, show that in the aftermath of Order 39, the Commission also understood that the surrender could be lifted before the expiration of the surrender "term."

The filings and decision in the MEA PPA approval docket make it unequivocally clear that the reinstatement of the MOA's voting member of the EOC could occur (before the expiration of the PPAs) if the MOA meets the Commission's requirements regarding the expertise required to fully participate as a voting member of the EOC. On November 20, 2020, the Commission issued Letter Order #L2000410, approving, in its entirety, the MEA PPA (with Amendment 1), with no attempt to exclude Section 4.2(b) (discussing the MOA EOC representative) or to refute the understanding articulated in the docket filings that the "minimum term" of the surrender was subject to being "lifted" or "terminated" by a showing of the MOA

[81] AHP Br. Regarding Interpretation of Order 39 at 14-20.

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meeting the expertise requirements. It would be difficult to argue that the Commission merely committed an oversight by not disapproving Section 4.2(B) in the MEA PPA, after Commission Staff explicitly inquired in the docket whether the language of Section 4.2(B) conflicted with Order 39, and received a response from MOA which was made part of the public docket for the MEA PPA approval. MOA counsel responded:

> Like Section 4.2(B) of the Chugach Eklutna PPA, Section 4.2(B) of the MEA Eklutna PPA requires MHP, in consultation with the Purchaser, to select MHP's representative on the EOC. As a result of Order 39, MHP won't have any voting representative on the EOC *until the surrender is terminated upon a positive finding by the RCA that MHP's proposed representative is qualified. Thus, Section 4.2(B) of neither PPAs need to be amended. In addition, Section 4.2(B) should remain as written as it will be relevant if and when MHP's voting rights surrender is terminated in the future upon the necessary finding of the RCA.*"[82]

MOA counsel made it unequivocally clear that the language of Section 4.2(B) of the MEA PPA should remain because it would be relevant "if and when" voting rights were restored. If the Commission had a different understanding, this would have been its opportunity to clarify and disabuse the parties and public of this understanding. Instead, it approved the MEA PPA in its entirety as filed.

Similarly, it would be difficult to argue the Commission *repeated* this oversight when it later reviewed the language of the October 27, 2020, Surrender document (signed by all three Eklutna Project owners) and issued AHP a CPCN. The surrender stated:

> In accordance with the requirements of order U-18-102(44), the Municipality of Anchorage, dba Municipal Light & Power(ML&P), hereby surrenders its voting rights as an EOC member and under the Fish and Wildlife Agreement effective as of

[82] *Id.* (emphasis added).

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> the Closing of the Asset Purchase Agreement between ML&P and Chugach Electric Association (Chugach). *This surrender of voting rights shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC.*
>
> Until ML&P's successor complies with the qualification terms of RCA order U-18-102(44), all EOC decisions will be by unanimous vote of Chugach and Matanuska Electric Association, Inc. (MEA). Eklutna hydro operations, dispatch and maintenance will continue to follow past practices and policies unless changes are approved through the EOC process.[83]

The surrender language states reinstatement can occur when the "requirements pertaining to qualifications," are met, not also when the PPAs expire. Again, the Commission issued CPCN 780 without any statement that the surrender language was incorrect or needed to be modified.

It was clear and explicit during the approval process of the MEA PPA and the certificate issuance that Section 4.2(B) properly remained in both the MEA PPA and the Eklutna PPA because the surrender term could be terminated by a showing that AHP had acquired the expertise required to fully participate as a voting member of the EOC.

B. Thus, the reading of the surrender requirement which gives effect to all provisions of the PPA contracts and Order 39 is the reading that the surrender term could be "lifted" by a showing of requisite expertise.

Interpreting the surrender requirement as having a term which can be cut short and lifted if AHP acquires the relevant expertise is the interpretation that renders Order 39 (as well as the subsequent, related decisions), "reasonable, effective, conclusive and in harmony with the facts

[83] *Id.* (emphasis added).

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and law of the case."[84] In order to require an inviolable 35-plus year term to be required, the Commission would have needed to make findings articulating *why* such a requirement was legally necessary and supported by the evidence in the Acquisition Docket. It did not. No evidence in the record or discussion from the Commission supports this interpretation. Further, the interpretation that the surrender has no "mandatory" minimum term that cannot change with changed circumstances comports with Commission practice and precedent. It is not unusual for the Commission to put conditions on a certificate which may be "lifted" by future showings or events.[85]

Indeed, to the extent that Order 39 language regarding the surrender were "ambiguous" in the manner suggested by the parties, it raises troubling statutory and due process concerns. A final order of the Commission "denying a right or privilege" "may not be entered without giving the interested party reasonable notice and an opportunity to be heard."[86] Similarly

[84] *Pennington*, 520 P.2d at 97.

[85] In Docket U-96-040, the Commission approved ATU-LD's application for a CPCN, with conditions. Order No. U-96-040(3) at 23-27 (Nov. 15, 1996). The Commission vacated one of the conditions after finding "competition in the local exchange market of ATU has reached a sufficient level to relax the prohibition." Order No. U-96-040(5) at 4-5 (Apr. 15, 1998). The Commission reminded ATU-LD that "any further relaxation of the conditions on its certificate imposed in Order U-96-40(3) may be accomplished only through Commission Order." *Id.* at 5.ATU-LD later filed a petition to have most of the remained conditions vacated but withdrew the petition before the Commission ruled on it. The Commission noted that only one of the remaining conditions was "subject to vacation based on a finding of sufficient competition," and ATU-LD had the burden "to show that sufficient competition exists to support vacating [that condition]." Order No. U-98-082(1) at 14 (Oct. 20, 1998). The Commission also "determined that good cause exists to conduct an evidentiary hearing to allow all parties to present evidence on the issue of whether the Commission should vacate the conditions imposed on ATU-LD's certificate by Order U-96-40(3)." *Id*. at 14-15.

[86] AS 42.05.181.

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due process requirements of the state and federal constitutions require notice and an opportunity to be heard before deprivation of a property right.[87] Here, the other parties suggest that the Commission *ambiguously* placed a condition on the MOA's ability to manage its property interest in the Eklutna Project, for decades at a minimum, and the life of the project potentially, through a proceeding where there was no argument, briefing, testimony, or other discussion on the topic of surrender of voting rights during the proceeding. There was no notice or right to be heard on the issue of surrender before the decision in Order 39. If the Commission had intended to put such a permanent and inviolable condition on AHP's certificate, it would have needed to have done so *unambiguously*. Principles of due process thus also weigh in favor of a reading that puts no such permanent and unbreakable restrictions on the MOA's property interest.[88]

Chugach and MEA also focus on the principle of statutory and contract interpretation that statutes and contracts should not be interpreted in a manner that renders language superfluous in order to argue that an interpretation that the term of surrender could be lifted renders the alleged "minimum term" language superfluous.[89] First, it does not. The

[87] *Heitz v. State, Dep't of Health & Soc. Servs.*, 215 P.3d 302, 305 (Alaska 2009) (stating "'[d]ue process of law requires that before valuable property rights can be taken directly or infringed upon by governmental action, there must be notice and an opportunity to be heard"); *City of Homer v. State, Dep't of Nat. Res.*, 566 P.2d 1314, 1319 (Alaska 1977) (applying a due process analysis regarding a city's right to a city's property interests).

[88] The interpretation that there is a decades-long mandatory forfeiture, contrary to the clear understanding of MOA and the other parties as articulated in post-Transaction proceedings, also may raise issues regarding the effectiveness of the Surrender. Such an interpretation in light of the proceedings subsequent to Order 39 would also raise questions of estoppel. *Jamison v. Consolidated Utilities, Inc*., 576 P.2d 97, 101-102 (1978) (describing the elements of equitable estoppel and quasi-estoppel).

[89] Chugach and MEA Joint Br. re Surrender Term at 22.

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Commission tied the period of the surrender to the PPAs because of its focus on the PPA language regarding the MOA's EOC representative and the MOA's obligations under the PPAs regarding that language. Its language ensures that as long as the PPAs are in force, the MOA will either have surrendered its voting rights or made a showing of acquisition of expertise. The term language allows the parties to know how long the surrender would last if undisturbed by further action on the part of the MOA. To the extent the Chugach and MEA PPAs were the primary focus of the Commission's concern in Order 39 about the MOA's voting member, an inviolable surrender for the duration of the PPAs would actually render an *additional* requirement to make a showing of an acquisition of expertise to lift the surrender *after* the PPAs expired moot and pointless.

Second, Chugach and MEA ignore the fact that the interpretation they propose the Commission now adopt would render Section 4.2(B) of the PPAs superfluous, contrary to the principles of contract interpretation. Chugach and MEA also ignore that a key motivation for the qualification requirements for reinstatement was the Commission's concern that the MOA EOC representative meet the PPA requirements.

Finally, while the principles regarding statutory and contract interpretation might be a helpful one to examine in reviewing agency or court decision language, it is not a controlling principle in this context. Order 39 is a 152-page decision. Most court decisions and agency decisions will have language that might be considered superfluous upon examination four years after their issuance. The surrender term should, as Chugach and MEA suggested, be read in the way that is supported by the facts of the record and has a reasonable basis in the law. There are no facts or principles of law to support a three-plus decade surrender that cannot be terminated by a showing of requisite expertise. Nothing in the record references or supports a need to wait that

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long, and as explained below, the *post hoc* reasons Chugach and MEA propose are not supported by the record or reasonable. There is no reason for the Commission to have placed such a restriction simply because it found that the municipal manager at the time of the sale was not qualified enough to sit on the EOC, and because the MOA had not at that time hired any other permanent employee who did meet the qualifications to do so at that time. The MOA is as well positioned today as it will be 35 years from now to acquire the requisite expertise to regain voting rights on the EOC, and as stated in its request for acknowledgment, it has done so now.

C. The record of the Acquisition Docket and context leading to Order 39 provides *no* support for Chugach and MEA's *post hoc* arguments that the Commission intended to require that surrender of EOC voting rights could only be lifted at the conclusion of the PPAs.

1. Continued MOA participation on the EOC, with continued majority voting rights and resulting "veto power" was *exactly* what the parties bargained for in the Chugach and MEA PPAs.

Continued MOA participation on the EOC, pursuant to the terms of the Transition Agreement,[90] was explicitly contemplated in Section 4.2(B) of each of the PPAs. Chugach and MEA argue that the factual circumstances of the Acquisition and docket support an understanding that the surrender could not be lifted until the termination of the PPAs because otherwise, if AHP's voting rights are restored, the MOA will have veto power over decisions of Chugach and MEA with respect to the operation of the Eklutna project, "despite the facts that (1) only Chugach and MEA rely on the ongoing operation of the Project as part of their ratepayer obligations, (2) the MOA is only responsible for 19% of Project costs, and (3) both MEA and Chugach have purchase

[90] *See* Exhibit 1 to AHP's Opening Br. re Order 39 Language.

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options at the end of the PPA terms."[91] These are all concerns that are exclusive to Chugach and MEA, not the public interest. To the extent that Chugach and MEA might have had these concerns about AHP having veto power over decisions of Chugach and MEA with respect to the operation of the Eklutna project, these concerns would have all existed at the time the agreements were negotiated and before presentation to the Commission in the acquisition docket. The PPAs represent the bargained-for agreement between the MOA and Chugach and MEA, respectively. Neither Chugach nor MEA indicate that they believe they bargained for the MOA to give up its voting rights. Nothing in the record shows Chugach and MEA argued for such a requirement in the Acquisition Docket. If such a relinquishment term had been a requirement for the PPAs, the MOA likely would have required additional consideration for the concession of a decades-long relinquishment of its voting rights on the EOC for the duration of the PPAs.

Instead, the respective Sections 4.2(B) of both PPAs are unambiguous, and evince the clear understanding of all the parties to the agreements. Both agreements explicitly reference the MOA's EOC representative, and contain explicit terms and requirements regarding the MOA's EOC representative, such as the requirement that the MOA representative "shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties" under the PPAs.[92] As previously briefed by AHP,[93] the Commission explicitly referenced this language in Order 39 and subsequent proceedings, but did not disapprove or require the removal of the language in Section 4.2 of the PPAs regarding the AHP representative. This is

[91] Chugach and MEA Joint Br. re Surrender Term at 19-20.

[92] Order 39, Appendix D; Order 39, Appendix H, at Section 4.2(B).

[93] AHP Br. Regarding Interpretation of Order 39 at 10-13.

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consistent with the understanding that if AHP acquires the expertise to again fully participate on the EOC, these terms will apply to implement the parties' bargained-for agreements. To the extent that Chugach and MEA ask the Commission to now reinterpret the surrender language to provide Chugach and MEA with a more advantageous agreement than which they bargained for, this request should be rejected. To the extent that part of the interpretation of Order 39 involves interpretation of the PPA contracts, this interpretation should "give effect to the parties' reasonable expectations."[94]

Chugach and MEA's other arguments that "[a] strict PPA-term Surrender term limit reading by the Commission is clearly supported" by other aspects from the Acquisition Docket similarly fail upon an examination of the record and the subsequent decisions of the Commission related to the Acquisition.

2. The fact that AHP sells power only to Chugach and MEA provides no support for a "strict PPA-term Surrender term limit reading" of the surrender language.

Chugach and MEA argue that a "strict PPA-term Surrender term limit" is supported by the fact that AHP's CPCN authorizes it only to sell wholesale power "from the Eklutna Hydroproject Switchyard" to Chugach and MEA pursuant to the two PPAs.[95] It is unclear why Chugach and MEA believe that the fact that the CPCN (currently) "serves one purpose: to enable MOA to meet its obligations under the Eklutna PPAs for at least the next 35 years" requires

[94] *Zamarello*, 321 P.3d at 393.

[95] Chugach and MEA Joint Br. re Surrender Term at 18-19.

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relinquishment of any say in operations of its property interest. The acquisition record is similarly silent on the issue. This argument fails.

3. Whether the Eklutna PPA is "more akin to a deferred payment mechanism [for the acquisition] than a power purchase agreement" has no bearing on the importance of AHP's voting seat on the EOC.

Chugach and MEA argue that because the terms that Chugach bargained for and agreed to in its PPA provide for Chugach to be responsible for "payment of all capital expenditures and operating and maintenance expenses that are payable with respect to the Chugach Portion," of AHP power, and because Chugach's payments to AHP are not correlated with the amount of generation, that the MOA has therefore "ceded its liabilities and all of its costs associated with approximately 64% of its ownership share to Chugach."[96] Chugach and MEA argue that because of its increased responsibility for the "Chugach portion" during the PPA, the MOA's voting seat could be "determined to be less important under a deferred payment mechanism contract, rather than under a long-term PPA with typical performance obligations on the seller rather than on the offtaker."[97]

Even if this statement were true, it ignores the MOA's continued ownership responsibilities under the MEA PPA. Additionally, the MOA asks, "important to *whom*?" Perhaps Chugach and MEA believe it is less important, but the MOA does not. At a minimum, the MOA continues to be responsible for 19.05% of Eklutna Project operations, maintenance, capital, and environmental compliance costs. The MOA has a duty under its Charter to manage its certificated

[96] *Id.*

[97] *Id.*

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utility in a manner that is "in accordance with the general standards common to utilities providing the same utility service,"[98] and has a duty to the citizens of Anchorage to responsibly manage its property assets.[99] Chugach and MEA's subjective opinion on the "importance" of the MOA's voting rights on the EOC fails to support how a mandatory 35-plus year surrender of voting rights in order to obtain a CPCN has any "reasonable basis in the law" or is supported by the facts of the record. Nor is it supported by the language of Order 39. In issuing a CPCN, the Commission is concerned with the relevant standards for a CPCN, not what might be subjectively important to certain contract parties. It considers whether the "public convenience and necessity require or will require the service."[100] Conditions put on certificates therefore must be linked to public convenience and necessity, rather than micromanagement of how the Commission might prefer to arrange contractual agreements or see a utility managed. The Commission has consistently held that its role is not to second guess utility management decisions or make strategic decisions for utilities.[101]

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[98] Anchorage Municipal Charter § 16.01(a).

[99] *See, e.g.,* Article Anchorage Municipal Charter § 16.01(b); Anchorage Municipal Charter § 13.05.

[100] AS 52.05.221(a).

[101] *See, e.g.,* Order No. U-07-060(3) (finding that while MEA's decision to not to renew its power purchase agreement with Chugach "could adversely affect the cost or quality of service to customers," that the "MEA Board . . . apparently believes that this decision could instead reduce its power supply costs," and that **"[d]iffering opinions on this kind of management decision are normal and do not by themselves require or warrant a regulatory investigation**"); Order No. U-87-067(4) at 24 (Feb. 9, 1988) (stating "[n]onetheless, even though the Commission is not convinced that Chugach's proposal is the best policy, the Commission will approve the creation of the fund as a **reasonable exercise of management discretion**," and that "[t] he appropriate balance between the interest of Chugach's present and future ratepayers is best decided by Chugach's elected Board of Directors, not the Commission"); Order No. U-06-134(21) at 16 (Apr. 1, 2008) (stating that "[t]he standard of our analysis is not whether we should affirm or reject

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Chugach and MEA cite to the MOA's continued prudent operation obligations under the MEA PPA that will last the "duration of the MEA PPA" as another reason the MOA should not be allowed to reinstitute its voting rights. But this continued responsibility supports the opposite conclusion, that the Commission should allow the MOA to meet its contractual obligations by participating in the prudent operation of the Eklutna Project once it had acquired the relevant expertise during the duration of the MEA PPA.

4. There is no evidence in the record that the Commission considered the purchase option in the PPAs in establishing the surrender term.

Chugach and MEA argue that the fact that the PPAs contain purchase options for the subject portions of MOA's ownership shares for "then-book value" means that MOA will in that event have no interest or stake in the Eklutna project beyond the PPA terms. Thus, they argue,

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Chugach's plan to replace Beluga Unit 8, which is a management decision, but to ascertain whether Chugach's plan is the outcome of rigorous and disciplined economic analysis and logical construct, i.e., Chugach has not made this plan on a whim, as a means of penalizing wholesale customers with additional depreciation charges before the termination of the wholesale contract but has made **a decision that has its foundation in disciplined analysis and is supported by the actions of its Board of Directors**"); Order No. U-96-037(46) at 12-13 (March 15, 2002) (discussing how certain debt management decisions "**are best left to the expertise of the utility as long as the practices followed by the utility are within the range of reasonable management practices**"); Order No. U-85-013(11) at 12-13 (June 26, 1986) (stating that "[w] hat is clear . . . is that the alleged economies advanced by Chugach were precisely the sort anticipated by HEA management as the near term cost of pursuing an individual power production policy, that over the longer run, would be calculated to result in lower costs and other benefits for HEA ratepayers," and that "this is a **prime area of cooperative utility management discretion and the Commission has been presented with no cause to question the soundness of management's decision**"); Order No. U-81-052(28)/U-81-053(8)/U-83-010(1) at 21 (Feb. 18, 1983) (holding that "[i] n an effort to carry out this responsibility [of ensuring ratepayers are provided satisfactory service at the least possible cost, consistent with prudent and efficient management practices] judiciously and **without interposing Commission preference in place of management discretion**, the Commission expressly adopts, as modified infra, the three part standard developed by the Maine Public Service Commission in *Pollis v. New England Telephone Company* to determine whether utility management practices and services are unreasonable or inadequate") (bold emphasis added).

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a surrender lasting as long as the PPAs, that cannot be lifted, makes sense. First, Chugach and MEA (one or both) *might* not ultimately purchase the MOA's interest, in which case, the MOA will continue to have an ownership interest. Second, the MOA has an interest in participating on the EOC to ensure that prudent utility practices are continued for the duration of the PPA terms.

5. There is no evidence in the record to support Chugach and MEA's assertion that the existence of MOA's "veto" power associated with its voting rights supports a decades-long surrender.

Finally, Chugach and MEA cite again to the "veto" power that the MOA has as majority owner on the EOC. First, Chugach argues that in practice, this "veto" power was rarely exercised, as "disagreements resulting in formal votes were not common given that all parties were incented to run the project as cost effectively as possible."[102] This statement does not appear to weigh in favor of *preventing* the MOA's participation for the next three decades, as the MOA will continue to be required to make EOC voting decisions consistent with prudent utility practice—including under its own municipal charter,[103] under the enforceable terms of the PPAs regarding prudent utility practice,[104] and under its certificate. Second, Chugach and MEA argue that because only they rely on the ongoing operation of the Eklutna Project as part of their ratepayer obligations, and the MOA is only responsible for 19% of the costs, that the MOA should not have voting rights. This argument ignores that (1) the MOA continues to have a majority 53.3% ownership interest, (2) the MOA continues to be responsible for a larger percentage of costs than MEA (16.67%), and

[102] Chugach and MEA Joint Br. re Surrender Term at 19.

[103] Article XVI, Section 16.01(a) (stating that "[e]ach municipal utility shall be operated in accordance with the general standards common to utilities providing the same utility service").

[104] Section 4.2(B) of both the PPAs.

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(3) Chugach and MEA previously *agreed* to the terms of the PPAs with continued MOA voting rights, for the 35-plus year term of the PPAs. Chugach and MEA now argue that protecting themselves from their own bargained-for agreement is a "public interest" consideration under the grant of a CPCN and that the Commission should reinterpret its surrender language to prevent AHP from reinstatement of voting rights. This argument fails, as does the argument that AHP is somehow not incentivized to conduct prudent utility practice or to comply with the PPAs.

More importantly, Chugach and MEA point to *nothing* in the record that shows the Commission previously considered any of these arguments and as a result determined the surrender should last a minimum of 35 years with no ability to lift it. Chugach and MEA argue that the record shows "[t]he underlying material facts behind the surrender remain unchanged."[105] They argue that Mark Corsentino worked at Anchorage Water and Wastewater Utility ("AWWU") in his current role at the time of the acquisition as well, and attempt to argue that "[t]he only thing that has changed is that the Fish and Wildlife implementation process progressed and the Anchorage Assembly did not like Chugach and MEA's Proposed Program."[106] They note that "going forward, implementation [of the Fish and Wildlife Program] will only be a small part of the many responsibilities of the EOC."[107]

To the extent that Chugach and MEA assert that the Commission needs to make factual determinations about issues such as the relevance of Mr. Corsentino's presence at the municipality at the time of the acquisition, or what types of decisions the EOC makes or will make

[105] Chugach and MEA Joint Br. re Surrender Term at 20.

[106] *Id.*

[107] *Id.* at 21.

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in the future, such determinations cannot be made on briefing limited to the question of a legal interpretation, and would need to be made in the context of the evidentiary hearing.[108] Further, these assertions are completely irrelevant to the question of what the language of the surrender means.

6. The Commission should decline to accept Chugach and MEA's invitation to expand the scope of this briefing and this docket.

Chugach and MEA next use their brief on interpretation of the language of Order 39 to argue that if the Commission does determine that AHP does not need to wait several more decades to reinstate voting rights, then the Commission should expand the scope of this docket and expand the requirements that AHP must meet beyond the condition placed on AHP's certificate through Order 39. Chugach and MEA make various factual arguments in support of this invitation for the Commission to expand the scope of this docket. Chugach and MEA cite to their prefiled responsive testimony in support of these arguments,[109] and ask the Commission to engage in detailed decision-making about how AHP can vote if its voting rights are restored. They also ask the Commission to modify the Transition Agreement and determine what decisions the EOC can and cannot make.[110] The Commission should reject this invitation to expand the scope of this docket in order to renegotiate the PPAs at this late date. The Commission has already held that nothing raised at hearing impacts the legal issues in this briefing, noting that "given the lack

[108] Further, whether or not Mr. Corsentino was employed at AWWU at the time was irrelevant. He was not, at the time, put forward as a possible EOC voting representative.

[109] Chugach and MEA Joint Br. re Surrender Term at 23.

[110] *Id.* at 23-24.

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of responsive testimony relevant to the issues raised in the motion to dismiss it appears unlikely that reply testimony will be relevant to those issues."[111]

IV. Certificates can always be modified for good cause shown, and the Commission should do so here.

Even if the Commission were to determine that Order 39 mandated a minimum surrender term of at least 35 years that could not be lifted, CPCNs are not ossified documents set in stone. CPCNs and their conditions may be modified, "[u]pon complaint or upon its own motion," after notice and opportunity to be heard "and for good cause shown."[112] Good cause includes "the requirements of public convenience and necessity."[113] Good cause exists here because to the extent the language of Order 39 indicated a decades-long surrender of voting rights, it was ambiguous. Further, AHP has a right to participate in management of its own property, and there is no reason why it must wait three more decades to do so when it is able to present a suitable EOC representative to the Commission now. Here, the Commission could choose to construe AHP's Request for Acknowledgment as a request to modify its certificate to conform with AHP's understanding of the surrender requirement, and respectively modify procedures accordingly in this matter to ensure fairness to all parties, or AHP could simply file a new application to modify its certificate.

[111] Order No. U-24-024(6), October 25, 2024.

[112] AS 42.05.271(a).

[113] *Id.*

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CONCLUSION

For the reasons explained above, and in AHP's September 18, 2024, brief, any "minimum term" on the MOA's surrender is subject to the MOA's showing to the Commission that it has acquired the required expertise to participate as a voting member of the EOC.

RESPECTFULLY SUBMITTED this 29th day of October, 2024, at Anchorage, Alaska.

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CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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IN THE SUPERIOR COURT OF THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.; PROVIDENCE HEALTH & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.; STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	CASE NO. 3AN-24-06001 CI

JOINDER IN CORRECTED MOTION TO DISMISS OR, IN THE ALTERNATIVE, TO STAY APPEAL

Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association ("MEA") hereby join in the Regulatory Commission of Alaska's ("RCA") Corrected Motion to Dismiss, or in the Alternative, to Stay Appeal ("RCA Motion to Dismiss").[1] The RCA argues that the Anchorage Municipal Assembly ("Assembly") cannot seek to reinstate the Municipality of Anchorage's ("Municipality") voting rights for the operation of the Eklutna Hydroelectric Project by re-opening a docket four years after the RCA conditioned approval of a major asset purchase

[1] Corrected Motion to Dismiss or, in the Alternative, to Stay Appeal at 1-2, 4, Oct. 28, 2024 ("RCA Motion to Dismiss").

on surrender of those rights. Chugach and MEA join in the RCA's arguments that the Assembly has failed to exhaust administrative remedies, cannot bring a moot claim, and lacks standing to challenge the RCA's decision. Further, even if the Court elected to hear this dispute, Chugach and MEA agree with the RCA that the Court should refrain from doing so until the resolution of RCA Docket U-24-024, addressing the expertise and voting capacity of the Municipality.[2]

I. Additional Argument for Dismissal

In addition to the arguments advanced by the RCA, Chugach and MEA also move to dismiss the Assembly's appeal on the basis that the RCA did not have the authority to re-open RCA Docket U-18-102. Without a timely motion for reconsideration or justified exception to the general rule, the RCA was required to deny the Assembly's motion to reopen the docket as a matter of law.

A motion for reconsideration is the RCA's only statutory path to re-evaluating a final order.[3] As stated in the RCA Motion to Dismiss, the RCA "construed the Assembly's motion as a request for reconsideration" because it "does not have a procedure to reopen dockets."[4] The RCA was forced to deny the motion for reconsideration because the Assembly missed the 15-day statutory deadline by several years.[5]

Granting the RCA Motion to Dismiss is critical to maintaining the authority and legitimacy of the RCA's final orders because regulated entities and private parties rely on their requirements and finality. The RCA's decision approving Chugach's purchase of the Municipality's assets ("Order 39") was conditioned on the Municipality surrendering its voting rights for the Eklutna Hydroelectric Project.[6] The parties to the RCA proceeding relied on Order 39 in the following pertinent actions (among others):

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[2] *Id*.

[3] 3 AAC 48.105; s*ee also*, 3 AAC 48.090 (discussing re-opening dockets if a final order is reconsidered by the RCA or subject to judicial review by a court).

[4] RCA Motion to Dismiss at 5.

[5] *Id*.

[6] RCA Order U-19-020 (39) at 147 (May 28, 2020).

(1) On October 27, 2020, the Municipality, Chugach, and MEA executed a Surrender of Eklutna Operating Committee (EOC) Voting Rights ("Surrender"), which the Municipality filed with the RCA on October 30, 2020 (see **Attachment A**);

(2) On October 30, 2020, Chugach and the Municipality closed the transaction in which Chugach issued bonds in the amount of $800 million to acquire most of the assets of Municipal Light & Power ("ML&P") from the Municipality (see **Attachment B)**;

(3) From October 30, 2020, through June 30, 2024, Chugach, MEA, and the Municipality cooperated fully on a consensus basis required under the Surrender in conducting the study process, consultation, engineering, and negotiations to execute on the requirements to implement the 1991 Agreement[7] (incurring costs of nearly $8 million), which resulted in the Final Fish and Wildlife Program approved by the Governor on October 2, 2024 (attached to RCA Motion to Dismiss); and

(4) from October 30, 2020, to date, the Municipality has sold power from the Eklutna Hydroelectric Project to Chugach and MEA under separate power purchase agreements approved by the RCA in Order 39, pursuant to which Chugach and MEA have paid more than $12 million under such contracts and, at least with respect to Chugach, under out-of-market payment and cost responsibility provisions unrelated to the power delivered as part of the economic bargain of the ML&P transaction.

As the RCA explained, Chugach expended considerable resources financing and incorporating the ML&P assets into Chugach's operations all premised on the assumed finality of the RCA's decision and its associated conditions for approval. Similarly, Chugach and MEA implemented the process required under the 1991 Agreement in reliance on the Surrender and the decision-making process it required. Chugach and MEA have paid the Municipality considerable sums for Eklutna Hydroelectric Project power and Chugach and MEA have paid the costs of that power, in reliance on the finality of Order 39.

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[7] Agreement Between the Municipality of Anchorage d/b/a Anchorage Municipal Light and Power, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., U.S. Fish and Wildlife Service, National Marine Fisheries Service, Alaska Energy Authority, and the State of Alaska Relative to the Eklutna and Snettisham Hydroelectric Projects (Aug. 7, 1991) ("1991 Agreement").

Finally, it is worth noting that other non-parties have reliance interests in the finality of the RCA's orders. From Chugach's bondholders who helped finance the ML&P transaction to the state and federal agencies with whom Chugach, MEA, and Municipality negotiated the Final Fish and Wildlife Program, to the Governor (and his staff) who approved that program earlier this month, countless other entities, not regulated by the RCA and not parties in the long-since closed docket, have also relied on the finality of RCA Order 39.

Consequently, reopening the docket four years after the closing of the ML&P transaction in order to change the conditions the RCA imposed in Order 39 in order to approve the ML&P transaction would undermine the authority, legitimacy and reliability of the RCA's order and the statutory appeal period.

II. Conclusion

For the reasons stated above, Chugach and MEA join the RCA in respectfully requesting that this Court to dismiss the Assembly's appeal. If the Court denies the RCA Motion to Dismiss, Chugach and MEA alternatively request that the appeal be stayed pending resolution of the related matter at RCA Docket U-24-024.

DATED: November 4, 2024.

WILSON SONSINI GOODRICH & ROSATI
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ATTACHMENT A

RECEIVED
By the Regulatory Commission of Alaska on Oct 30, 2020

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert M. Pickett, Chairman
Stephen McAlpine
Antony G. Scott
Daniel A. Sullivan
Janis W. Wilson

In the Matter of the Investigation Into the Beluga River Unit Management Practices of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	U-18-102
In the Matter of the Petition Filed by CHUGACH ELECTRIC ASSOCIATION, INC. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend Its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	U-19-020
In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT to Amend Its Certificate of Public Convenience and Necessity No. 121, to Eliminate Its Retail Electric Service Area and Add the Eklutna Hydroelectric Project to Its Service Area, and to Lift the Dividend Restriction	U-19-021
In the Matter of the Request for Approval of Special Contract Designated as TA379-121 Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	TA379-121

NOTICE OF ML&P'S SURRENDER OF EKLUTNA OPERATING COMMITTEE VOTING RIGHTS

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In Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39"), the Regulatory Commission of Alaska ("RCA") approved, subject to conditions, the sale to Chugach Electric Association, Inc. ("Chugach") of most of the electric utility assets of the Municipality of Anchorage d/b/a Municipal Light and Power ("ML&P") ("Transaction"). Order 39 also approved the MOA-Chugach Eklutna Power Purchase Agreement ("Chugach PPA"), subject to conditions, effective on the date of closing of the Transaction. In Order 39, the RCA granted to the MOA, effective upon the date of closing of the Transaction, a certificate of public convenience and necessity authorizing ownership and provision of generation electric utility service to the public for compensation from its share of Eklutna, subject to conditions, including that before the effective date of the Chugach PPA or the MOA-Matanuska Electric Association, Inc. ("MEA") Power Purchase Agreement ("MEA PPA"), the MOA has filed documentation that it has surrendered its voting rights on the Eklutna Operating Committee ("EOC").[1] In Order 39, the RCA required that the MOA's surrender of its EOC voting rights "cannot be lifted until such time as [the MOA] has shown to our satisfaction that [the MOA] has acquired the expertise required to fully participate as voting member of the EOC."[2]

Enclosed as Exhibit 1 is a Surrender of Eklutna Operating Committee Voting Rights document, signed by ML&P, Chugach, and MEA. The Surrender will remain in effect until the MOA shows to the RCA's satisfaction that the MOA has acquired the expertise required to participate as a voting member of the EOC (or upon expiration or termination of the terms of the Chugach PPA and the MEA PPA).

[1] Order 39 at 147, Ordering ¶ 11; *see also* Order 39 at 66-67.
[2] *Id.* at 67.

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RESPECTFULLY SUBMITTED this 30th day of October, 2020, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage d/b/a Municipal Light and Power

By: */s/ Dean D. Thompson*

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CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2020, a copy of the foregoing document was electronically filed with the RCA and served on the following persons by electronic means authorized by the RCA.

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Exhibit 1

October 27, 2020

Surrender of Eklutna Operating Committee (EOC) Voting Rights

In accordance with the requirements of order U-18-102(44), the Municipality of Anchorage, dba Municipal Light & Power(ML&P), hereby surrenders its voting rights as an EOC member and under the Fish and Wildlife Agreement effective as of the Closing of the Asset Purchase Agreement between ML&P and Chugach Electric Association (Chugach). This surrender of voting rights shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC.

Until ML&P's successor complies with the qualification terms of RCA order U-18-102(44), all EOC decisions will be by unanimous vote of Chugach and Matanuska Electric Association, Inc. (MEA). Eklutna hydro operations, dispatch and maintenance will continue to follow past practices and policies unless changes are approved through the EOC process.

MUNICPALITY OF ANCHORAGE

By: _____
Name: William Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____
Name: Lee Thibert
Title: Chief Executive Officer

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____
Name: Anthony Izzo
Title: Chief Executive Officer

ATTACHMENT B

RECEIVED
By the Regulatory Commission of Alaska on Oct 30, 2020

CHUGACH
POWERING ALASKA'S FUTURE

ELECTRONICALLY FILED WITH RCA

October 30, 2020

Regulatory Commission of Alaska
701 W. 8th Avenue, Suite 300
Anchorage, AK 99501

Subject: ***Notice of Transaction Closing - Chugach Electric Association, Inc.'s Acquisition of the Municipality of Anchorage d/b/a Municipal Light & Power; Compliance with Order No. U-18-102(44)/U-19-020(39)/U-19-021(39)***

Dear Commissioners:

The Regulatory Commission of Alaska (Commission) issued Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) (Order 39) on May 28, 2020, conditionally approving Chugach Electric Association, Inc.'s (Chugach) acquisition of the Municipality of Anchorage (MOA) d/b/a Municipal Light & Power (ML&P). Ordering paragraph 26 requires that Chugach file notice of the closing date within ten days following close of the acquisition.

I am pleased to announce that on October 30, 2020, Chugach closed on the acquisition of ML&P. Effective at approximately 7:00 a.m. on October 30, 2020, Chugach began providing electric service to all customers previously served by ML&P under Certificate of Public Convenience and Necessity (CPCN) No. 121, and former ML&P employees became employees of Chugach. In addition, Chugach was successful on its financing of the acquisition, which was completed with the issuance of bonds totaling $800 million at a weighted average interest rate of 2.73 percent.

Chugach will submit its tariff adoption notice for CPCN No. 121 to the Commission on November 2, 2020 and will file ML&P's tariff sheets in Chugach's name by November 4, 2020. Chugach will be submitting its cost of power adjustment factors and the Beluga River Unit gas transfer price filings by November 17, 2020 for rates effective January 1, 2021 for all members served under CPCN Nos. 8 and 121.[1]

The closing of the acquisition is the culmination of extensive work efforts among many parties, including the Regulatory Commission of Alaska. We express our sincere appreciation for the hard work and dedication that went into this achievement that we believe will provide benefits to our members for years to come.

[1] The Cost of Power Adjustment filing will also include the Restricted Rate Reduction account and Beluga River Unit Contributed Capital rebates to North District members, and the Beluga River Unit Contributed Capital surcharge to South District members.

Sincerely,

CHUGACH ELECTRIC ASSOCIATION, INC.

Lee D. Thibert
Chief Executive Officer
P.O. Box 196300
Anchorage, Alaska 99519-6300
Lee_thibert@chugachelectric.com

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Tony Izzo, Matanuska Electric Association, Inc. (via email)
Cory Borgeson, City of Seward (via email)
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Brad Janorscke, Homer Electric Association, Inc.
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Ethan Schutt, Alaska Native Tribal Consortium (via email)
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I hereby certify that on November 4, 2024, a copy of the foregoing document was served *by email* to the following:

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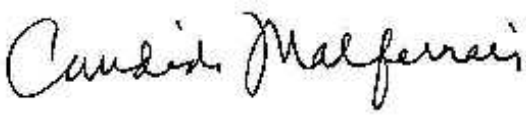
By: 
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.: PROVIDENCE HEALTHY & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.: STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	)	Case No. 3AN-24-06001 CI

CORRECTED MOTION TO DISMISS OR, IN THE ALTERNATIVE, TO STAY APPEAL

Under Appellate Rule 203,[1] the Regulatory Commission of Alaska (RCA) moves to dismiss the Anchorage Municipal Assembly's appeal. The Assembly's appeal should be dismissed for three reasons. First, the appeal attempts to challenge RCA orders in dockets that were closed four years ago—the Assembly failed to exhaust administrative remedies in those dockets in 2020 and cannot now timely appeal those orders. Second, the core issues raised by the Assembly, both in its petition to the RCA and on appeal,

[1] Alaska R. App. P. 203 ("The appellate court may at any time entertain a motion to dismiss the appeal . . . .").

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have been mooted or resolved by Alaska Governor Mike Dunleavy's approval of the Final Fish and Wildlife Program on October 2, 2024. Third, because the Assembly lacked a direct interest in the underlying RCA proceedings, was not factually aggrieved by them, and failed to participate when the dockets were open, the Assembly lacks standing to challenge and appeal the RCA's decisions in the underlying dockets.[2]

Alternatively, the RCA requests that this appeal be stayed pending the resolution of a related RCA matter, RCA Docket U-24-024, *In the Matter of the Petition filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee.* In that matter, the Municipality of Anchorage is seeking acknowledgement by the RCA that it has acquired the expertise required for it to participate as a voting member on the Eklutna Operating Committee (EOC). That matter directly relates to the issues raised by the Assembly in this appeal. Here, the Assembly asserts that the "RCA erred when it denied the Assembly's request to modify RCA Order 39 to allow the Municipality to vote as a member of the [EOC]," and otherwise seeks to deem unlawful the RCA's May 2020 Order 39.[3] The RCA's decision in the Municipality's pending petition may fundamentally change or resolve some or all of the issues on appeal. If this appeal is not wholly dismissed, the Court should stay the appellate proceedings until RCA docket U-24-024 is resolved and all administrative and appellate remedies from that docket are exhausted.

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2 RCA Dockets U-19-020, U-19-021, and U-18-102.

3 Statement of Points on Appeal ¶¶ 4, 10-11, Apr. 24, 2024.

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I. Relevant Background[4]

In 1997, the Eklutna Hydroelectric Project was sold by the federal government to three utilities: Matanuska Electric Company, Inc. (MEA), Chugach Electric Company, Inc (Chugach), and the Municipality of Anchorage d/b/a Municipal Light and Power (ML&P). The utilities agreed to operate the project through the Eklutna Operating Committee (EOC). As part of the sale, the utilities were required to submit a proposed Fish and Wildlife Plan to the governor for final approval by October 2, 2024.

Beginning in 2019, ML&P sought approval from the RCA to sell to Chugach most of the ML&P's assets. As part of the transaction, the Municipality would retain a 53.33% ownership interest in the Eklutna Hydroelectric Project. RCA opened Dockets U-19-020, U-19-021, and U-18-102 to consider approval of the sales agreement. On May 28, 2020, the RCA issued a conditional approval of the sale (Order 39). One of the conditions of the sale was that the Municipality would surrender its voting rights on the EOC for a specified term, The Municipality's voting rights would not be restored until it could demonstrate to the satisfaction of the RCA that it had acquired the requisite expertise to participate as a voting member of the EOC. On October 30, 2020, the MOA filed a notice of surrender of its voting rights on the EOC in conformance with the RCA's condition. On the same date, Chugach filed notice that the sales transaction had closed. On December 23, 2020, the RCA closed it dockets on the matter.

[4] Factual and procedural background for this appeal can be found in RCA's April 19, 2024 Order U-10-102(52)/U-19-020(47)/U-19-021(47). Attachment A to Notice of Appeal, Apr. 24, 2024. Relevant portions will be summarized here to assist the Court in reviewing this motion.

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More than three years later, on April 15, 2024, the Assembly filed motions requesting that the RCA allow it to intervene, reopen the dockets related to the sale, and modify its May 2020 Order 39 conditionally approving the sale. In its motions, the Assembly asserted that it disagreed with a proposed Fish and Wildlife plan prepared by the EOC. The Assembly sought to regain its vote on the EOC in order to delay or prevent the transmittal of the EOC's proposed Fish and Wildlife Plan to the governor. The Assembly asserted that it should be allowed to approve the final Fish and Wildlife Program before the plan was transmitted to the governor.

On April 19, 2024, the RCA denied the Assembly's motion to reopen the dockets and modify Order 39. The RCA found that the motion was a request for reconsideration of Order 39. Under RCA regulation 3 AAC 48.105, a petition for reconsideration is due within fifteen days of the date of the order, making the Assembly's motion over three years late. The RCA denied the motion as untimely. The RCA also denied the motion to intervene as the dockets had been closed for over three years and therefore the request was moot.

The Assembly filed the current appeal on April 24, 2024.

On October 2, 2024, the governor approved the final Fish and Wildlife Program. The program incorporated requests from the Municipality, including a request to evaluate a pumped storage hydro alternative.

II. Arguments for Dismissal of Appeal

A. The appeal should be dismissed because the Assembly failed to exhaust administrative remedies and cannot now appeal a 2020 order.

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The Assembly's appeal relates back to the RCA's order from May 28, 2020 in dockets U-19-020, U-19-021, and U-18-102 (Order 39). In its Statement of Points on Appeal, the Assembly asserts that the RCA lacked jurisdiction to issue Order 39, that Order 39 violates the law, that the RCA should have modified Order 39, and that the RCA should have allowed the Assembly to intervene to pursue its challenge to Order 39.[5] The time for the Assembly to challenge Order 39 has long passed.

To the extent the Assembly now attempts to appeal the RCA's substantive rulings in Order 39, that appeal is clearly untimely. The Assembly filed its motion with the RCA to reopen dockets and to modify Order 39 on April 15, 2024—more than three years after Order 39 was issued (May 28, 2020) and the dockets were closed (December 23, 2020). The RCA does not have a procedure to reopen dockets. In fact, the RCA is required to abide by strict statutory deadlines for issuing a final order and closing a docket.[6] The Assembly's attempt to reopen a docket from 2020 runs contrary to these statutory deadlines. Due to its inability to reopen a docket that had been closed for many years, the RCA construed the Assembly's motion as a request for reconsideration of the RCA's 2020 decision approving the sale of ML&P assets to Chugach. Under RCA regulations at 3 AAC 48.105, a petition for reconsideration must filed within fifteen days of the date the order is issued. The Assembly's petition was filed several *years* beyond that deadline. Now, the Assembly asserts on appeal that Order should be modified "to allow the Municipality to vote on the EOC," that "Order 39 violates state

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5 Statement of Points on Appeal 1-3, Apr. 24, 2024.

6 AS 42.05.175.

and federal law," and that the "RCA lacked jurisdiction to enter Order 39."[7] Under Alaska Rule of Appellate Procedure 602(a)(2), an appeal may be filed from an administrative agency within thirty days from the date the decision is mailed or distributed. The Assembly's attempts to challenge Order 39 either through an RCA motion or the present appeal are untimely and should therefore be dismissed.

To the extent the Assembly attempts to appeal the RCA's procedural rulings in refusing reopen the dockets or allow intervention so that Order 39 can be modified, the Assembly failed to exhaust administrative remedies that would have been available to it had it attempted to participate in 2020. The exhaustion doctrine forecloses judicial relief "until the available administrative remedies have been exhausted."[8] In evaluating exhaustion, courts consider whether it is required, whether the complainant exhausted remedies, and whether a failure to do so is excused.[9]

The Assembly needed to exhaust administrative remedies by timely attempting to participate in the dockets in 2020, but it failed to do so. The Alaska Supreme Court has held that exhaustion of administrative remedies at the RCA is required before a party can challenge an RCA ruling because exhaustion allows the RCA to "make a factual record, apply its expertise, and to correct its own errors so as to moot judicial

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7 Statement of Points on Appeal ¶¶ 6, 10-11, Apr. 24, 2024.

8 *City of Valdez v. Regulatory Comm'n of Alaska*, 548 P.3d 1067, 1081 (Alaska 2024) (quoting *Winterrowd v. State, Dep't of Admin., Div. of Motor Vehicles*, 288 P.3d 446, 450 (Alaska 2012)).

9 *Id.*

controversies."[10] These factors weigh heavily in favor of a similar exhaustion requirement here. As the RCA explained, the Assembly could have attempted to modify Order 39 before the dockets and underlying transaction closed by moving to intervene and filing a petition for reconsideration.[11] If the Assembly had pursued that remedy at that time, the RCA "could have either found an alternative solution to the lack of managerial and technical fitness of [the Municipality] or . . . could have rejected the [ML&P–Chugach purchase agreement] entirely." That is, if the Assembly had pursued administrative remedies when they were available the RCA could have made a record, applied its expertise, and mooted this controversy.

The Assembly's failure to exhaust administrative remedies should not be excused. The time for the Assembly to attempt to intervene and participate in this matter happened years ago. In *City of Valdez v. Regulatory Commission of Alaska*, the RCA approved the transfer of the Trans-Alaska Pipeline certificate of public convenience and necessity from BP to Harvest, and after the underlying sale had already closed, the City of Valdez appealed the RCA's final order.[12] The Alaska Supreme Court held Valdez failed to exhaust administrative remedies to challenge the order.[13] Valdez never petitioned to intervene, never filed a protest, and failed to otherwise "engage meaningfully in the administrative process"—giving the RCA no "opportunity to

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[10] *Id.* at 1082 (quoting *Standard Alaska Prod. Co. v. State, Dep't of Revenue*, 773 P.2d 201, 206 (Alaska 1989)).

[11] RCA Order U-10-102(52)/U-19-020(47)/U-19-021(47) at 3 (Apr. 19, 2024), Attachment A to Notice of Appeal, Apr. 24, 2024.

[12] *City of Valdez*, 548 P.3d at 1075.

[13] *Id.* at 1084-85.

address Valdez's objections by developing a factual record, applying its expertise, or correcting any errors it may have made."[14] The Assembly's failure to act here before the closure of the ML&P–Chugach transaction is directly parallel. The Assembly failed to take any action for over three years and not until after the EOC released its draft plan for the Fish and Wildlife Program and neared transmittal to the governor. The Assembly may argue that it waited to file its motions with the RCA until the Assembly had passed ordinances purporting to prohibit the EOC from submitting the Fish and Wildlife Program to the governor without assembly approval.[15] But new ordinances do no excuse the Assembly's failure to participate before the RCA, move to intervene, seek to participate when the dockets were open—or seek timely reconsideration—to set aside Order 39 or modify it to preserve the Municipality's vote. The Assembly should not be permitted to now reopen issues that have been resolved for years. As noted in the RCA's order denying the Assembly's motions, "The relief the Anchorage Assembly seeks in these dockets will affect the substantive rights of others"—the transaction under which Chugach acquired the majority of ML&P assets has been closed for years and "Chugach has expended considerable resources incorporating those assets into Chugach's operations, that transaction can no longer be undone."[16]

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14 *Id.* at 1084-85.

15 *See* RCA Order U-10-102(52)/U-19-020(47)/U-19-021(47) at 4 (Apr. 19, 2024), Attachment A to Notice of Appeal, Apr. 24, 2024.

16 *See* RCA Order U-10-102(52)/U-19-020(47)/U-19-021(47) at 3 (Apr. 19, 2024), Attachment A to Notice of Appeal, Apr. 24, 2024.

For these reasons, the Assembly's appeal should be dismissed as untimely and for failing to exhaust administrative remedies.

B. The appeal should be dismissed as moot.

The Assembly has been clear that the original underlying motions before the RCA, and this appeal of those motions, are directed towards restoring the Municipality's voting rights on the EOC—specifically as they relate to the development of the Fish and Wildlife program—and giving the Assembly the opportunity to approve or reject the proposed Fish and Wildlife Program before it was transmitted to the governor. But Fish and Wildlife Program was sent to the governor and, on October 2, 2024, the governor approved it.[17] The Assembly's attempt to reopen the RCA docket, modify Order 39, and appeal to the superior court in order to prevent the transmittal of the Fish and Wildlife Program to the governor is now moot.

The governor's approval of the final Fish and Wildlife Program renders the Assembly's appeal moot because it ends the controversy that led to the actions before the RCA and this appeal. "A claim is moot if it is no longer a present, live controversy, and the party bringing the action would not be entitled to relief, even if it prevails."[18] The Assembly has been clear that the reason for its actions before the RCA have been

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[17] Because it is a matter of "public record," this Court can take judicial notice of the Governor's decision on the Fish and Wildlife Program. *See Pedersen v. Blythe*, 292 P.3d 182, 185 (Alaska 2012) (explaining that "matters of public record (including other court proceedings)" fall within the scope of "strict judicial notice"); *see also* Exhibit A, Governor Mike Dunleavy, In the matter of the Eklutna River Fish & Wildlife Program (Oct. 2, 2024).

[18] *City of Valdez*, 548 P.3d at 1080 (quoting *Fairbanks Fire Fighters Ass'n, Loc. 1324 v. City of Fairbanks*, 48 P.3d 1165, 1167 (Alaska 2002)).

directed at reinstating the Municipality's voting rights so that it could vote on the Fish and Wildlife Program before it goes to the governor. But the governor has received the plan, reviewed it, and with modifications, approved it. The final decision on the Fish and Wildlife Program indicates that the governor considered comments from interests outside of the EOC, including a joint resolution from the Municipality of Anchorage and the Native Village of Eklutna dated September 5, 2024. The governor accepted the request from this joint resolution to evaluate a pumped storage hydro alternative.

The result that the Assembly was seeking in these matters is now foreclosed. The RCA can neither go back in time, give the Municipality a vote on the EOC and the Assembly a veto on the Fish and Wildlife Program, and prevent the governor's decision, nor can the RCA stop the EOC's implementation of the governor-approved plan.[19] The Assembly might cite the mootness holding in *City of Valdez*, where the Alaska Supreme Court held that Valdez's challenge to RCA rulings related to the then-closed Trans–Alaska Pipeline System transfer were not moot because they included disputes over access to confidential documents that may be "relevant to Valdez's interests in future proceedings before the RCA."[20] But there are no present controversies here that could give the Assembly similar prospective relief. If the Assembly wishes to challenge or modify Order 39 to *preserve* the Municipality's voting rights on the EOC, it had to do

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[19] The governor's letter relating to the Final Fish and Wildlife Program notes that it "does not provide any party the authority to unilaterally suspend or delay implementation of the Final Program and therefore necessary the necessary work to design, permit, and construct" the infrastructure contemplated by the plan and to "evaluate" a gate system "is required to begin immediately." Exhibit A at 3.

[20] *Id.* at 1080.

that in 2020, but it failed to act—those issues are not timely and were not exhausted before the RCA when they were. If the Assembly wishes to *restore* the Municipality's voting rights by demonstrating its managerial and technical fitness, it must do that before the RCA in the separate pending matter, not by reopening the dockets here. And if the Assembly wishes to enforce ordinances that purport to *prohibit submission* of the Fish and Wildlife Program to the governor without Assembly approval, that issue is now plainly moot.

The Assembly failed to take any action for over three years and not until after the EOC released its draft plan for the Fish and Wildlife Program in April 2024. The governor's review of the plan has been moving forward since then. The issue is now resolved and this appeal should be dismissed as moot.

C. The Assembly lacks standing to challenge Order 39.

To have standing to appeal an RCA decision, a party "must (1) be directly interested in the proceeding, (2) be factually aggrieved by the decision, and (3) have participated in the proceeding."[21] The Assembly had no direct interest in the RCA's dockets below that were not already represented by the Municipality, it was not factually aggrieved by decisions that limited the Municipality's authority (not the Assembly's), and it wholly failed to participate in the dockets when they were open. The Assembly lacks standing to challenge or otherwise press for modifications of the RCA's Order 39.

[21] *City of Valdez*, 548 P.3d at 1076.

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The Assembly had no direct interest in the RCA proceeds leading to Order 39. A "direct interest" requires a showing of a "'material' interest that is 'discrete' to some party or class of parties."[22] Regardless of how material the Assembly's interest may be in the RCA's Order 39, it is by no means *discrete*. The Assembly seeks to modify Order 39 "to allow the Municipality to vote."[23] That is the Municipality's interest, not the Assembly's. And that interest was represented by the Municipality in the underlying transaction and RCA dockets—where the Municipality "filed notice of surrender of its voting rights on the EOC" and then closed its transaction with Chugach.[24] The Assembly does not have the discrete interest needed to show standing; nor can it pursue changes to Order 39 on the Municipality's behalf.[25] The sole interest that the Assembly has articulated that is arguably its own is its asserted goal of fulfilling "its role as the Municipality's policy-making body responsible for reviewing and approving the proposed Fish and Wildlife Program."[26] But as explained above, any appeal on that basis is mooted by the governor's recent decision.

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22 *Id.* at 1077.

23 Statement of Points on Appeal ¶ 4; *see also id.* at ¶¶ 6, 10-11.

24 *See* RCA Order U-10-102(52)/U-19-020(47)/U-19-021(47) at 2 (Apr. 19, 2024), Attachment A to Notice of Appeal, Apr. 24, 2024.

25 *Cf. Keller v. French*, 205 P.3d 299, 303 (Alaska 2009) (holding legislators lacked citizen-taxpayer standing to sue over investigation of governor's dismissal of commissioner when parties that were allegedly mistreated and the governor could have brought claims and did not); *Tuluksak Native Community v. Dep't of Health & Soc. Servs.*, 530 P.3d 359, 380 (Alaska 2023) (holding tribe lacked standing to raise violations of child's due process rights).

26 Statement of Points on Appeal ¶ 5.

For the same reason the Assembly has no direct interest, it is likewise not factually aggrieved by the RCA's decision. Factual aggrievement requires a "personal stake in the proceedings and an interest that was adversely affected."[27] Again, it is the Municipality's voting rights—not the Assembly's—that were removed in Order 39. The Assembly asserts that "Municipality ratepayers and taxpayers will be obligated to fund a plan and project into which their elected government has no input or ability to influence," and blames RCA Order 39 disallowing the *Municipality's* vote on the EOC.[28] The Municipality's voting rights are not the Assembly's personal stake and interest. To the extent that the Assembly argues that it had a personal stake and was aggrieved by the RCA's procedural rulings on its motions to reopen the docket and intervene, that is inapposite. The Assembly cannot acquire standing simply to challenge bare procedural rulings without a sufficient stake in the underlying merits.[29]

Finally, the Assembly did not participate in the proceedings leading to Order 39. The Assembly waited more than three years after Order 39 before it sought to intervene, reopen the dockets, and modify the proceedings. That untimely participation is not enough to provide the Assembly with standing.

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27 *City of Valdez*, 548 P.3d at 1078.

28 Statement of Points on Appeal at ¶ 6.

29 *City of Valdez*, 548 P.3d at 1076 ("Standing 'is a rule of judicial self-restraint based on the principle that courts should not resolve abstract questions or issue advisory opinions.'" (quoting *Trs. for Alaska v. State, Dep't of Nat. Res.*, 736 P.2d 324, 327 (Alaska 1987))).

III. Argument for Stay of Appeal

There is currently a pending matter before the Regulatory Commission of Alaska, RCA docket number U-24-024, that relates to substantially similar issues, including whether the Municipality's voting rights on the EOC should be restored and issues related to the governor's recent decision related to the Fish and Wildlife program.

In that RCA matter, the Municipality is seeking acknowledgement by the RCA that it has acquired the expertise required for it to participate as a voting member of the Eklutna Operating Committee (EOC), which was a condition of the RCA's Order 39 for restoration of voting rights. As that matter directly relates to the issues pending in this appeal, and the RCA's final decision may fundamentally change or resolve some or all issues on appeal, the RCA asks that if this Court declines to dismiss the Assembly's appeal that it stay the appeal until such time as the RCA issues a final decision in U-24-024 and all administrative remedies and appellate avenues are exhausted.

IV. Conclusion

For the reasons stated above, the RCA asks this Court to dismiss the Assembly's appeal. If the Court denies the motion to dismiss, the RCA alternatively requests that the appeal be stayed pending the resolution of the related matter at RCA Docket U-24-024.

DATED October 28, 2024.

TREG TAYLOR
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.: PROVIDENCE HEALTHY & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.: STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	)	Case No.: 3AN-24-06001 CI

ORDER TO DISMISS OR STAY APPEAL

☐ The RCA's motion to dismiss is GRANTED with prejudice and cannot be refiled.

☐ The RCA's motion to stay is GRANTED and this appeal is stayed until _____ .

DATED _____.

_____

The Honorable Jack R. McKenna
Superior Court Judge

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CERTIFICATE OF SERVICE

I certify that on November 4, 2024, true and correct copies of the **CORRECTED MOTION TO DISMISS OR, IN THE ALTERNATIVE, TO STAY APPEAL with ORDER** and this *Certificate of Service* were served on the following via email without error:

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RECEIVED
By the Regulatory Commission of Alaska on Nov 04, 2024

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

OFFICE OF THE ATTORNEY GENERAL'S REPLY TO AHP'S OPPOSITION TO MOTION TO DISMISS

The Office of the Attorney General, Regulatory Affairs & Public Advocacy Section's (RAPA) motion to dismiss asserted two points: (1) the Municipality's request to have Mr. Corsentino recognized as the Municipality of Anchorage d/b/a Anchorage Hydropower's (AHP) voting representative on the Eklutna Operating Committee (EOC) was moot because the Governor approved the final Fish and Wildlife Program; and (2) the matter should be dismissed unless APH establishes that the Commission should set aside the minimum term of voting rights surrender in Order 39.[1]

//

[1] AG's Motion to Dismiss as Moot, October 15, 2024, at 5-8; *See also* Docket U-24-024, August 30, 2024, Prehearing Conference, Tr. 6:14-7:07; Order U-18-102(44)/U-19-020(39)/U-19-021(39) at 67 (Order 39).

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A. Dismissal for Mootness

The point of RAPA's motion to dismiss for mootness is: why now?

AHP argues that it has expressed broad interest in participation on the EOC, including that as an owner of AHP, the municipality has a "legitimate interest in exercising all rights of ownership."[2] But the reasons provided by AHP have existed in the years between the Municipality's surrender of voting rights and the current time period. The Municipality was content for over four years without a voting member on the EOC. The only difference appears to be the Assembly's recent dissatisfaction with the Fish and Wildlife Program, a program that has now been approved by the Governor.

B. Dismissal unless APH establishes that the Commission should set aside the minimum term of voting rights surrender in Order 39

The crux of AHP's case, both in briefing and in its opposition, is that even if Order 39 required a minimum term of surrender, that surrender can be "lifted" if AHP shows it has gained expertise.[3] This argument centers upon the language of Order 39 that has been the subject of extensive argument in this docket.

---

[2] AHP Opposition to Motion to Dismiss at 5.

[3] "As explained below, the correct reading of the language in question is…that while the surrender may have a minimum term, this surrender may be lifted (and the minimum term terminated) at the time that the MOA 'complies with the RCA requirements pertaining to qualifications for [MOA's] representation on the EOC.'" AHP's Brief Regarding Interpretation of Order 39, at 9; *Id.*; AHP's Reply Brief Regarding Interpretation of Order 39; AHP's Opposition to the Office of the Attorney General's Motion to Dismiss as Moot.

The problem is that setting aside the minimum surrender today is different than the "lifting" AHP believes was always available to it. The former would presumably require a finding that there is new evidentiary or legal support for changing what was a valid restriction at the time, while the latter would presumably require a finding that there was never a valid restriction. Judge Walker recognized this when he stated:

> What I do not find in either the notice and request for acknowledgement or in the motion for expedited consideration or the attachments to these filings is any evidence or discussion of why the Commission should set aside the minimum term of voting rights surrender required in [Order 39].[4]

AHP has not raised any reason to set aside the minimum term. Instead, it relies on its interpretation of Order 39 as always allowing it to gain expertise and end the surrender. In essence, AHP has rejected the premise of the Commission's question rather than answer it. To the extent AHP disagrees with the minimum term requirement, it should have timely challenged that after Order 39 was issued. Because AHP has not shown why the Commission should set aside the minimum term of voting rights surrender, the Commission should grant RAPA's motion to dismiss.

C. Conclusion

Based on the above arguments, AHP's Request for Acknowledgement should be dismissed as moot and/or dismissed because AHP has not justified a sufficient basis to set aside the minimum voting surrender term contained in Order 39.

[4] Docket U-24-024, August 30, 2024, Prehearing Conference, Tr. 6:21-6:25.

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DATED November 4, 2024, at Anchorage, Alaska.

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant v. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	)	Case No. 3AN-24-06001CI

MOTION TO STRIKE CEA & MEA'S JOINDER

Pursuant to Alaska Rule of Appellate Procedure 503, the Anchorage Municipal Assembly (the "Assembly") respectfully moves to strike the untimely Joinder filed on November 4, 2024 by Appellees Chugach Electric Association ("CEA") and Matanuska Electric Association ("MEA"). This Court should strike the Joinder because it raises "additional argument[s]" that were not raised until seven days after the October 28 motion to dismiss deadline (which had already been extended by one week).[1]

On November 1, counsel for all parties attended a scheduling hearing in which counsel for the Assembly proposed a November 26 deadline to file the

[1] *See* Order Granting Unopposed Motion for One-Week Extension of Dispositive Motions Deadline (Oct. 22, 2024).

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Assembly's opposition to the RCA's "Motion to Dismiss, or In the Alternative, to Stay Appeal." At no point either before or during that hearing did counsel for CEA and MEA indicate that they intended to raise "additional argument[s]" in a subsequent filing.[2] Counsel for the Assembly have already begun drafting the Assembly's opposition to the RCA's motion. CEA and MEA should not be permitted to raise new factual issues and pile on "additional argument[s]" now.

Importantly—as the Assembly has consistently explained—time is of the essence in this appeal. At the original September 6 scheduling hearing, the Assembly requested a motion deadline to ensure an orderly and efficient appeal, specifically to avoid having to respond to out-of-the-blue motions.[3] But that is exactly what CEA and MEA have done with their untimely Joinder. The Assembly is not interested in delaying consideration of the RCA's motion to dismiss or an extension to file the Assembly's opposition. On the contrary, the Assembly believes this Court should rule on the RCA's motion as soon as practicable after the Assembly's opposition is filed and the motion becomes ripe on November 26. Then,

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[2] *See* CEA & MEA Joinder in Corrected Motion to Dismiss or, in the Alternative, to Stay Appeal (Nov. 4, 2024) at 2.

[3] *See* Log Notes from September 6, 2024 Scheduling Conference. The Assembly pointed out that a motion deadline was necessary because the Assembly needed to know how many parties would be raising arguments for dismissal. There are at least seven other appellees in this appeal. How many of those appellees will also file untimely motions raising "additional argument[s]" if this Court allows CEA and MEA to do so? This Court should hold CEA and MEA (and every other appellee) to their non-objection to the motion deadline.

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the parties can proceed to brief the merits of this appeal. CEA and MEA's "additional argument[s]" should not be permitted now, after the motion deadline has passed and the opposition due date has been set.

This Court should strike the untimely Joinder. The Assembly requests a ruling on this motion as soon as practical after the expiration of the seven-day period in which adverse parties may respond.[4]

DATED: November 5, 2024.

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

Andrew Erickson, Alaska Bar No. 1605049
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[4] *See* Alaska R. App. P. 503(d).

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	)	Case No. 3AN-24-06001CI

(PROPOSED) ORDER GRANTING MOTION TO STRIKE

Appellant Anchorage Municipal Assembly's motion to strike the untimely Joinder filed on November 4, 2024 by Appellees Chugach Electric Association ("CEA") and Matanuska Electric Association ("MEA") is hereby GRANTED.

On September 6, 2024, this Court set a deadline of October 21, 2024 for any party to file a motion to dismiss this appeal. This Court extended that deadline by seven days to October 28, 2024 upon motion by the Regulatory Commission of Alaska ("RCA"), and without opposition.[1] The RCA filed a Motion to Dismiss on October 28, 2024. This Court then held a scheduling conference on November 1,

[1] *See* Order Granting Unopposed Motion for One-Week Extension of Dispositive Motions Deadline (Oct. 22, 2024).

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2024, during which an opposition deadline was set, and no party requested additional time to raise additional arguments for dismissal.

On November 4, 2024, seven days after the extended motion deadline, and after the opposition deadline was set, CEA and MEA filed a Joinder to the RCA's Motion to Dismiss, raising additional arguments supporting dismissal. Because CEA and MEA's Joinder raises additional arguments that were not timely raised, the Assembly's motion to strike is GRANTED.

IT IS SO ORDERED.

DATED this _____ day of _____, 2024, at Anchorage, Alaska.

_____
The Honorable Jack R. McKenna
Superior Court Judge

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RECEIVED
By the Regulatory Commission of Alaska on Nov 05, 2024

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
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In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S MOTION FOR EXPEDITED CONSIDERATION OF ITS MOTION FOR ORAL ARGUMENT

The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") hereby moves the Regulatory Commission of Alaska ("Commission") for expedited consideration of its Motion for Oral Argument filed today, November 5, 2024.

In its Motion for Oral Argument, AHP requested the opportunity to present oral argument regarding whether Order U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39")[1] imposed a 35-plus year "minimum" term for the MOA's surrender of its voting rights on the Eklutna Operating Committee ("EOC"). That issue was the subject of briefing that is now complete. AHP also requested that oral argument be held regarding Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc.'s ("MEA's") Motion to Compel Discovery Responses, which will be ripe for decision by the close of November 6. AHP has requested that the Commission also allow oral argument on that motion as well, in particular to

[1] (May 28, 2020).

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the extent oral argument will establish the scope of the hearing, thus assisting parties in hearing preparation. AHP stated in its motion that argument on the motion to compel could occur directly after argument on the briefing on surrender language, for purposes of administrative economy. AHP stated that while it would make itself available for any date for oral argument, it proposed Tuesday, November 12 at 10 am for the oral arguments.

AHP respectfully requests expedited consideration of its motion so that any argument may occur before the November 18, 2024 hearing in this matter. Oral argument on the issue of interpretation of the Order 39 surrender language will provide the Commission an opportunity for inquiry and will enable the development of a sound record. Oral argument on the Motion to Compel will assist in establishing the scope of the hearing.

AHP proposes that the Opposition to its Motion be filed by COB Wednesday, November 6, 2024, and any reply be filed December 7, 2024, so that a decision on its motion may be issued on December 8, 2024. Counsel for AHP emailed counsel for Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA"), as well as the Attorney General, Regulatory Affairs & Public Advocacy Section ("RAPA") today regarding its Motions for Oral Argument and Expedited Consideration. None of the parties replied to AHP by the time of this filing.

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RESPECTFULLY SUBMITTED this 5th day of November, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: */s/ Dean D. Thompson*

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CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert A. Doyle, Chair
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

AFFIDAVIT OF ASHLEY C. BROWN

STATE OF ALASKA)
) SS:
)

Ashley C. Brown, being first duly sworn, deposes and states:

1. I have personal knowledge of the facts set forth in this affidavit.
2. I am counsel for the Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP").
3. The hearing in this matter is scheduled to commence November 18, 2024.
4. At the request of Administrative Law Judge Walker, parties in this matter have briefed the issue of interpretation of whether the surrender language in Order U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39")[1] imposed a 35-plus year "minimum" term for the MOA's surrender of its voting rights on the Eklutna Operating Committee ("EOC").

[1] (May 28, 2020).

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5. The issue is a discrete novel issue that could significantly negatively impact AHP's rights in the Eklutna Hydroelectric Project for decades.

6. Briefing on the Order 39 surrender language is complete, as AHP filed its reply brief on October 29, 2024. Oral argument on the issue of interpretation of the Order 39 surrender language will provide the Commission an opportunity for inquiry and will enable the development of a sound record.

7. On October 28, 2024, Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA") moved to compel discovery responses from AHP.

8. Briefing on that motion will be complete by the close of October 6, 2024.

9. Oral argument on the Motion to Compel will assist in establishing the scope of the hearing, thus assisting parties in hearing preparation.

10. Due to the commencement of the hearing on November 18, 2024, AHP will make itself available for any date for oral arguments. AHP proposes Friday, Tuesday, November 12 as a possible date for the oral arguments.

11. AHP proposes that the Opposition to its Motion for Oral Argument be filed by COB Wednesday, November 6, 2024, and any reply be filed December 7, 2024, so that a decision on its motion may be issued on December 8, 2024.

12. On Tuesday, November 5, 2024, via email, Dean Thompson, counsel for AHP, contacted counsel for Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA"), as well as the Attorney General, Regulatory Affairs & Public Advocacy Section regarding its Motions for Oral Argument and

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Expedited Consideration. At the time of this affidavit, the position of the other parties regarding the Motion for Expedited Consideration is not known.

Ashley C. Brown

Counsel for Anchorage Hydropower

Subscribed and sworn to before me

this 5 day of November, 2024

STATE OF ALASKA
OFFICIAL SEAL
Notary Public
CONSTANCE P. GOLDING
My commission expires May 12, 2026

Notary Public

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert A. Doyle
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	)	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S MOTION FOR ORAL ARGUMENT

The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") hereby moves the Regulatory Commission of Alaska ("Commission") for the opportunity to present oral argument regarding whether Order U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39")[1] imposed a 35-plus year "minimum" term for the MOA's surrender of its voting rights on the Eklutna Operating Committee ("EOC"). That issue was the subject of briefing that is now complete and is a discrete novel issue that could significantly negatively impact AHP's rights in the Eklutna Hydroelectric Project for decades. At the request of Administrative Law Judge Walker, the parties have fully briefed the issue of interpretation of the Order 39 surrender language and provided conflicting conclusions. AHP filed its reply brief on October 29, 2024, and this briefing is now ripe. Oral argument would provide an opportunity for Commissioner inquiry and ensure the development of a sound record for the Commission's decision.

[1] (May 28, 2020).

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Additionally, Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA") have moved to compel discovery responses from AHP. That motion will be fully briefed and ripe by the close of November 6. AHP requests that the Commission also allow oral argument on that motion as well, in particular to the extent oral argument will establish the scope of the hearing, thus assisting parties in hearing preparation. AHP believes argument on the motion to compel could occur directly after argument on the briefing on surrender language, for purposes of administrative economy.

While AHP will make itself available for any date for oral argument, it proposes Tuesday, November 12 at 10 am for the oral arguments.

RESPECTFULLY SUBMITTED this 5th day of November, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: */s/ Dean D. Thompson*

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I hereby certify that on November 5, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steven D. DeVries
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	))))))	U-24-024

OFFICE OF THE ATTORNEY GENERAL'S RESPONSE TO AHP'S MOTIONS FOR ORAL ARGUMENT AND EXPEDITED CONSIDERATION

The Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA) hereby responds to the Municipality of Anchorage d/b/a Anchorage Hydropower's (AHP) Motions for Oral Argument and Expedited Consideration.

Regarding the Motion for Oral Argument, RAPA does not see any reason to have oral argument. The issues have been fully briefed. It is not clear to RAPA what value oral argument would add. However, if the Regulatory Commission of Alaska (the Commission) determines it would like to have oral argument, RAPA's counsel of record in this docket is not available November 12 due to the National Association of State Utility Consumer Advocates (NASUCA) Annual Meeting from November 10th-13th. RAPA's counsel of record's availability on November 14 is dependent on travel back to Alaska following the NASUCA Annual Meeting. RAPA's counsel of record is available

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November 15. As a result, if the Commission grants AHP's Motion for Oral Argument, RAPA requests that the argument be scheduled for November 15.

RAPA does not oppose AHP's Motion for Expedited Consideration.

DATED November 6, 2024, at Anchorage, Alaska.

TREG TAYLOR
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I hereby certify that on November 6, 2024, a true and correct copy of the **Office of the Attorney General's Response to AHP's Motions for Oral Argument and Expedited Consideration** was served via e-mail on the following:

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STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	))))))	U-24-024

CHUCACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S REPLY TO AHP'S OPPOSITION TO MOTION TO COMPEL DISCOVERY RESPONSES

Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA") pursuant to 3 AAC 48.091(l), hereby replies to Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower's ("AHP's") Opposition to Motion to Compel Discovery Responses, filed on November 4, 2024 ("AHP's Opposition").

I. APPLICABLE STANDARDS

Section 3 AAC 48.141 provides:

> A party may obtain discovery from another party regarding any matter, not privileged, that is relevant to the subject matter of the proceeding, if the matter is admissible in evidence under 3 AAC 48.154 or appears reasonably calculated to lead to the discovery of admissible evidence. Upon motion by a party the presiding officer may limit discovery otherwise obtainable if the moving party establishes that the burden and expense of the requested discovery outweighs its likely benefit.

Section 3 AAC 48.154(a) provides: "All relevant evidence, which in the opinion of the presiding officer, is the best evidence reasonably obtainable, with due regard to its necessity, availability, and trustworthiness, is admissible . . . . When objection is made to the admissibility of evidence, the evidence may be received subject to later ruling by the commission."

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II. ARGUMENT

AHP seeks protection from the Regulatory Commission of Alaska ("Commission") against discovery of the best evidence most relevant to the central question in this proceeding: whether Mr. Corsentino is sufficiently experienced and qualified with regard to the Eklutna Hydroelectric Project (the "Eklutna Project"), prudent utility practices, and knowledge of the Railbelt generation and transmission system for the MOA to regain its voting rights on the Eklutna Operating Committee ("EOC"), rights that it voluntarily surrendered in October 2020, per Order 39.[1] On October 28, 2024, Chugach and MEA moved the Commission for an order compelling AHP to provide responses to its discovery requests in CEA&MEA-AHP-1-1 through CEA&MEA-AHP-1-9 related to Mr. Corsentino's alternative proposal to rework the 70-year-old Eklutna Project into a bidirectional pumped storage hydro ("PSH") project that would interconnect Eklutna Lake with the Knik Arm.[2]

Incredibly, AHP maintains Mr. Corsentino's proposal was a mere conceptual thought piece of no consequence or relevance to his qualifications to vote on the EOC on behalf of AHP, writing that: "Mr. Corsentino did not advocate for or propose a specific PSH project, nor take a position on whether PSH is feasible or prudent."[3] Yet, in the first major public action Mr. Corsentino took as Utility Director of AHP, he advocated for a PSH proposal as an alternative to the Proposed Final Fish and Wildlife Program ("Proposed Final Program") for the Eklutna Project that was, at the time, before the Governor's Chief

[1] Order U-18-102(44)/U-19-020(39)/U19-021(39).

[2] Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Motion to Compel Discovery Responses ("Motion to Compel").

[3] AHP Opposition at 6.

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of Staff and designated lead attorney for review and approval.[4] He also was present and did not contest when an AHP attorney told the Governor's office that the PSH project alternative was a "better proposal" than the Proposed Final Program[5], that "beats [the Proposed Final Program] on every metric."[6] As a result of this meeting and AHP's direct advocacy of this proposal, the PSH alternative proposal ended up in the Governor's Final Fish and Wildlife Program ("Final Program"),[7] and will be a proposal that the Eklutna Owners need to deal with for months or perhaps years to come as an alternative to the Final Program. How Mr. Corsentino created his PSH alternative, what analyses he completed, with whom he consulted, and the manner in which he approached his responsibilities to AHP, the MOA, and the other co-owners of the Eklutna Project in putting forth this alternative are directly relevant to this proceeding and is the best evidence of how he will make decisions and vote on the EOC.

AHP should not get to ignore or hide – from Chugach, MEA, or the Commission – Mr. Corsentino's very public proposal to fundamentally alter the Eklutna Project. The Commission should not agree with AHP's requests to limit the scope of the proceeding to Mr. Corsentino's (i) minimal testimony in this proceeding, (ii) resume, and (iii) career experience with water utilities, particularly when more directly relevant evidence already exists with respect to the Eklutna Project. Chugach and MEA urge the Commission to compel the discovery on the single public and impactful act Mr. Corsentino has taken specifically with regard to the Eklutna Project – an act that seeks to potentially change the

[4] *See* Transcript of September 9, 2024, Meeting at the Alaska Officer of the Governor, In the Matter of: Alaska Office of the Governor 1991 Fish and Wildlife Program, available at https://eklutnahydro.com/wp-content/uploads/2024/09/2024-9-9-Meeting-Transcript.pdf .

[5] *Id.* at 36.

[6] *Id.* at 39.

[7] AHP's Opposition at 6.

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Eklutna Project fundamentally and will increase uncertainty and costs that must be borne by the other owners.

A. Scope of Discovery and this Proceeding

AHP has repeatedly claimed that the scope of this proceeding should be limited to only whether Mr. Corsentino has knowledge of prudent utility practice and the Railbelt generation and transmission system.[8] While Chugach and MEA strongly maintain that the discovery requests regarding the PSH proposal are indeed directly relevant to Mr. Corsentino's knowledge of prudent utility practice, as argued in their Motion to Compel, Chugach and MEA also reject AHP's underlying premise. There is nothing in Order 39 that requires this limited, narrow scope. While, in Order 39, the Commission referred to two important and necessary characteristics relevant to such an examination: knowledge of prudent utility practice and the Railbelt generation and transmission system[9], the Commission did not write Order 39's surrender requirement in such a way that would require it to be bound to examining those characteristics exclusively.

Rather, the Commission is entitled to examine whatever factors it wishes with respect to AHP voting participation that it deems relevant to demonstrate that the AHP has "acquired the expertise required to fully participate as a voting member" to the Commission's satisfaction. There are numerous factors relevant to this proceeding and the examination of whether the AHP – through Mr. Corsentino's appointment – has acquired the expertise to fully participate as a voting member of the EOC. These factors include those relevant to Mr. Corsentino's qualifications – including his knowledge of the Eklutna Project, prudent utility practice, and the Railbelt generation and transmission system, his prior actions with respect to the project, and his actions with respect to implementing the

[8] *See e.g. id.* at 3 at lines 6-7.

[9] *Id.* at 66 ("Chugach witness Dustin Highers testified based on his experience as chair of the EOC that to be an owner representative on the EOC, it was essential that the representative have knowledge of prudent utility practice and the Railbelt electric generation and transmission system.")

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1991 Agreement. These factors may also include factors beyond his direct resume and prior actions – including what AHP regaining MOA's voting rights on the EOC would mean for the Eklutna Project in light of the significant differences between AHP and ML&P, Chugach's acquisition of ML&P, and the four years of collaborative implementation of the 1991 Agreement that have occurred since Order 39.

At the outset of this proceeding, Mr. Waller framed the scope of this proceeding with an amusement park ride analogy – posing one question: is Mr. Corsentino tall enough to ride the ride or not. As this proceeding has developed, it has been made clear that this analogy is too simple, because if we are to accurately apply the analogy to the facts at hand, the ride has changed. Before Order 39 and the Chugach acquisition of ML&P, the EOC voting rights reflected an ownership and cost-structure where each owner of the Project was responsible for the costs associated with its share of the Eklutna Project. At the time, therefore, ML&P was responsible for over half of the costs of the entire Eklutna Project, and had a veto voting right power on the EOC. Now, however, while the ownership shares are the same, Chugach has assumed a significant amount of cost responsibility for the Eklutna Project from the MOA, and AHP is only responsible for 19% of the Eklutna Project's costs. Yet, if AHP regains MOA's voting rights in a manner unchanged from prior to the ML&P acquisition, MOA would regain an effective veto right over the other two owners.

Therefore, the scope of this proceeding is not simply about whether Mr. Corsentino is tall enough to ride the EOC ride or whether he is as tall as Mr. Ori or Mr. Zellers.[10] Rather, it is really about which owner controls the ride. The MOA is fully aware that under the voting rights in the Transition Plan, should the Commission return the surrendered EOC voting rights to the MOA, Mr. Corsentino will be driving the EOC ride, controlling where it goes, the speed, the brakes, the budget, and all similar decisions subject to the dictates of

[10] AHP Opposition at 8-11.

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the Municipal administration and the Anchorage Assembly, who, despite being a regularly changing political body, has since assumed direct policy-decision-making control over certain AHP decisions[11], including those related to the 1991 Agreement. Even if the MEA and Chugach representatives are the only ones who actually understand the Eklutna Project, its facilities, operations and maintenance, prudent utility practice, and the Railbelt generation and transmission system, the MOA representative will be able to block their actions by forcing a vote and then voting against their actions, creating deadlock about decisions that should be solely focused on prudent utility practice and the operations and maintenance of a 70-year-old-hydro project.[12] The MOA says that any disputes could be addressed through enforcement of PPA provisions regarding prudent utility practice or through the Commission's authorities[13]; we surmise that the Commission's inclination to avoid such regular disputes, lengthy litigation that would potentially be harmful to multiple RCA-regulated utilities, and desire to avoid the need for regular Commission intervention was a driving force behind the Commission's surrender requirement in the first place. We doubt that the Commission wants to deal with such disputes going forward.

Chugach and MEA believe that Mr. Corsentino's actions related to the Eklutna Project, especially one that ended up in the Governor's Final Program, are the best possible evidence of whether he is actually qualified for the job of sitting on the EOC and making decisions – and potentially overriding decisions of Chugach and MEA – related to its operations, maintenance, and future as a generation resource. Despite Mr. Corsentino's well-demonstrated experience operating a water utility, Chugach and MEA have yet to see evidence in his prefiled direct testimony and reply testimony demonstrating what Chugach and MEA understand to be relevant prudent utility experience related to hydroelectric

[11] Compare the current Anchorage Municipal Code subsection 3.20.070C.6(a)-(c) with subsection 3.20.070B.6(a)-(b) in 2020.

[12] Corsentino Prefiled Direct Testimony Q&A 12, at 6.

[13] Corsentino Prefiled Direct Testimony Q&A 17, at 10.

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projects, their operations and maintenance, or adequate knowledge of the Railbelt generation and transmission system. In the face of such a minimal showing, Chugach and MEA are seeking discovery of how he would actually act as a representative on the EOC based on his recent actions regarding the Eklutna Project.

The PSH alternative proposal that Mr. Corsentino made before the Anchorage Assembly and that he proposed before the Governor's office reflects his recent and considered thoughts about the Eklutna Project and its future. Presumably, Mr. Corsentino did enough engineering and cost analysis on the PSH alternative to not waste the valuable resources of the Eklutna Owners, the Governor and the State of Alaska, and the state and federal agencies party to the 1991 Agreement who have just completed a five-year process of studies, consultations and negotiations that included a four-month process of investigating and vetting all known alternatives to create instream flows. Chugach and MEA would like to see such analyses as a demonstration of qualifications of Mr. Corsentino and the team supporting him. We therefore strongly disagree that the PSH proposal that he and the MOA advanced as an alternative to program the Eklutna Owners developed and negotiated over five years — and which ended up in the Governor's Final Program — is irrelevant to whether he is qualified to sit on the EOC and operate a majority share voting right over the Eklutna Project's operations, maintenance, and budgets.

Perhaps the MOA's responses to discovery will reveal evidence of thoughtful consideration that will in turn lead Chugach and MEA to support his nomination. To date, Chugach and MEA have not taken any position about his qualifications for voting on the EOC. Stonewalling and denying discovery on the most relevant evidence of his qualifications as irrelevant only serves to undermine our confidence in the MOA's motivation to regain and act prudently with respect to its voting rights, particularly when paired with the recent change in Administration, the Assembly's actions to seek to undermine the Proposed Final Program, and the related timing and urgency of the MOA's

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request to regain voting rights in this proceeding despite the fact that it had shown no objection to its surrender or taken action to reclaim its voting rights until earlier this year.

Chugach and MEA are not seeking this discovery to prove that the Final Program is better than the PSH alternative. We doubt that the PSH alternative will be better than the components in the Final Program, but we are willing to and have committed to participating in the PSH alternative study process outlined in the Governor's Final Program. Rather, Chugach and MEA simply want an EOC that operates and maintains the Eklutna Project with prudent utility practices and Railbelt generation and transmission reliability as its lodestars rather than ever-changing municipal policies and priorities.

B. Not Just Differing Management Approaches

AHP argues in its AHP Opposition that the difference between the Proposed Final Program and Mr. Corsentino's PSH alternative is merely a difference in management decisions beyond the Commission's purview.[14] Chugach and MEA disagree.

The AHP alternative reflects more than a minor management disagreement. The AHP alternative reflects a deliberate and calculated effort to undermine and undo the results of a five-year collaborative process executed in fulsome compliance with the 1991 Agreement. As overviewed in detail in Chugach and MEA's Motion to Compel in this proceeding, the MOA – as represented by the Mayor and Municipal Manager and related staff – worked collaboratively with Chugach and MEA on behalf of AHP since the time that AHP surrendered its voting rights in 2020 until the Project Owners submitted the Proposed Final Program to the Governor in April 2024. While the Anchorage Assembly and the MOA administration clearly held different views on the Proposed Final Program at the time of such submission, Chugach and MEA continued to work with, and take cues from, the Municipal Administration's ongoing support for and participation in the Proposed Final Program development up until the day it was submitted. Such support is

[14] AHP Opposition at 9-10 and n. 32.

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clearly documented. The MOA signed multiple 1991 Agreement implementation documents, including a binding term sheet with AWWU regarding the future use of AWWU infrastructure for the Proposed Final Program, and Mayor Bronson sent a letter to the Governor supporting the Proposed Final Program. [15] At no time during this ongoing collaboration and unanimous decision-making process, did the MOA raise any pump storage hydro alternative for consideration. After the Proposed Final Program was submitted to the Governor, there was a comment period, and at no time during the comment period, was a pumped storage hydro alternative proposed by the MOA.

It was only after a political change occurred at MOA, with Mayor LaFrance being sworn in on July 1, 2024, and Mark Corsentino being appointed by the Anchorage Assembly to be Utility Director of AHP on July 2, 2024, that the MOA Administration took a different stance, now much more in line with the Anchorage Assembly's stance. First, the Mayor submitted a letter to the Governor overviewing concerns with, and proposing changes to, the Proposed Final Program.[16] Second, in the eleventh hour, Mr. Corsentino and AHP put together a completely new pumped storage hydro alternative proposal for consideration by the Governor who was already well under way reviewing the Proposed Final Program. With the support of the Anchorage Assembly, Mr. Corsentino then presented this proposal to Governor's staff in September of 2024. This was just one month before the Governor needed to make a final decision on the Proposed Final Program. In a September 9, 2024, meeting with the Governor's office, AHP at times presented this proposal with an enthusiasm suggestive of robust consideration and deliberation, including through broad AHP statements to the Governor's staff such as "the Governor doesn't need

[15] Letter from Dave Bronson, Mayor, Municipality of Anchorage to Mike Dunleavy, Governor of Alaska (Apr. 26, 2024), available at https://eklutnahydro.com/wp-content/uploads/2024/05/2024-04-26-Comments-on-Proposed-Final_Mayor.pdf.

[16] *See* Assembly Memorandum No. AM 557-2024(A).

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to settle for that disappointing proposal because pump storage hydro beats it on every metric."[17]

Chugach and MEA are not actually certain that the PSH alternative idea was Mr. Corsentino's idea. Mr. Corsentino participated in the Eklutna Project Owners group for over a year during the time period the Eklutna Owners were brainstorming and investigating potential options to put water in the Eklutna River. During that time, again, he never advanced a PSH option as a viable solution. Discovery would therefore reveal who created and advanced the idea and whether Mr. Corsentino – in proposing this idea to the Governor's office – was acting as a prudent utility executive or as a political actor attempting to delay implementation of the Final Program at the behest of the Assembly and/or Municipal leadership.

III. CONCLUSION

The discovery sought in in CEA&MEA-AHP-1-1 through CEA&MEA-AHP-1-9 is reasonably calculated to lead to the discovery of admissible evidence and is relevant to the scope of this proceeding. AHP should be compelled by Order of the Commission to provide the information requested in such discovery requests.

RESPECTFULLY SUBMITTED this 6th day of November, 2024.

By: /s/ Todd G. Glass
Todd G. Glass, Alaska Bar # 1810083
Stephanie McFall

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[17] Transcript of September 9, 2024 Meeting at 39.

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steve DeVries
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S ERRATA TO MOTION FOR EXPEDITED CONSIDERATION OF ITS MOTION FOR ORAL ARGUMENT

The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") hereby files this errata to its Motion for Expedited Consideration of its Motion for Oral Argument filed November 5, 2024.

The following language on Page 2 of the Motion for Expedited Consideration is corrected as indicated below in strikethrough (deletions) and bold, underline (insertions):

> AHP proposes that the Opposition to its Motion be filed by COB Wednesday, November 6, 2024, and any reply be filed ~~December~~ **November** 7, 2024, so that a decision on its motion may be issued on ~~December~~ **November** 8, 2024.

These corrections also apply to the dates set forth in the Affidavit of Ashley C. Brown, which was filed with the Motion for Expedited Consideration.

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RESPECTFULLY SUBMITTED this 6th day of November, 2024, at Anchorage, Alaska.

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I hereby certify that on November 6, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	John M. Espindola, Chairman Robert A. Doyle Robert M. Pickett John C. Springsteen
In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S MOTION FOR ORAL ARGUMENT

The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") hereby moves the Regulatory Commission of Alaska ("Commission") for the opportunity to present oral argument regarding whether Order U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39")[1] imposed a 35-plus year "minimum" term for the MOA's surrender of its voting rights on the Eklutna Operating Committee ("EOC"). That issue was the subject of briefing that is now complete and is a discrete novel issue that could significantly negatively impact AHP's rights in the Eklutna Hydroelectric Project for decades. At the request of Administrative Law Judge Walker, the parties have fully briefed the issue of interpretation of the Order 39 surrender language and provided conflicting conclusions. AHP filed its reply brief on October 29, 2024, and this briefing is now ripe. Oral argument would provide an opportunity for Commissioner inquiry and ensure the development of a sound record for the Commission's decision.

[1] (May 28, 2020).

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Additionally, Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA") have moved to compel discovery responses from AHP. That motion will be fully briefed and ripe by the close of November 6. AHP requests that the Commission also allow oral argument on that motion as well, in particular to the extent oral argument will establish the scope of the hearing, thus assisting parties in hearing preparation. AHP believes argument on the motion to compel could occur directly after argument on the briefing on surrender language, for purposes of administrative economy.

While AHP will make itself available for any date for oral argument, it proposes Tuesday, November 12 at 10 am for the oral arguments.

RESPECTFULLY SUBMITTED this 5th day of November, 2024, at Anchorage, Alaska.

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	John M. Espindola, Chairman Robert A. Doyle Robert M. Pickett John C. Springsteen
In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S MOTION FOR EXPEDITED CONSIDERATION OF ITS MOTION FOR ORAL ARGUMENT

The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") hereby moves the Regulatory Commission of Alaska ("Commission") for expedited consideration of its Motion for Oral Argument filed today, November 5, 2024.

In its Motion for Oral Argument, AHP requested the opportunity to present oral argument regarding whether Order U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39")[1] imposed a 35-plus year "minimum" term for the MOA's surrender of its voting rights on the Eklutna Operating Committee ("EOC"). That issue was the subject of briefing that is now complete. AHP also requested that oral argument be held regarding Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc.'s ("MEA's") Motion to Compel Discovery Responses, which will be ripe for decision by the close of November 6. AHP has requested that the Commission also allow oral argument on that motion as well, in particular to

[1] (May 28, 2020).

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the extent oral argument will establish the scope of the hearing, thus assisting parties in hearing preparation. AHP stated in its motion that argument on the motion to compel could occur directly after argument on the briefing on surrender language, for purposes of administrative economy. AHP stated that while it would make itself available for any date for oral argument, it proposed Tuesday, November 12 at 10 am for the oral arguments.

AHP respectfully requests expedited consideration of its motion so that any argument may occur before the November 18, 2024 hearing in this matter. Oral argument on the issue of interpretation of the Order 39 surrender language will provide the Commission an opportunity for inquiry and will enable the development of a sound record. Oral argument on the Motion to Compel will assist in establishing the scope of the hearing.

AHP proposes that the Opposition to its Motion be filed by COB Wednesday, November 6, 2024, and any reply be filed December 7, 2024, so that a decision on its motion may be issued on December 8, 2024. Counsel for AHP emailed counsel for Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA"), as well as the Attorney General, Regulatory Affairs & Public Advocacy Section ("RAPA") today regarding its Motions for Oral Argument and Expedited Consideration. None of the parties replied to AHP by the time of this filing.

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RESPECTFULLY SUBMITTED this 5th day of November, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert A. Doyle, Chair
John M. Espindola
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

AFFIDAVIT OF ASHLEY C. BROWN

STATE OF ALASKA)
) SS:
)

Ashley C. Brown, being first duly sworn, deposes and states:

1. I have personal knowledge of the facts set forth in this affidavit.
2. I am counsel for the Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP").
3. The hearing in this matter is scheduled to commence November 18, 2024.
4. At the request of Administrative Law Judge Walker, parties in this matter have briefed the issue of interpretation of whether the surrender language in Order U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39")[1] imposed a 35-plus year "minimum" term for the MOA's surrender of its voting rights on the Eklutna Operating Committee ("EOC").

[1] (May 28, 2020).

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5. The issue is a discrete novel issue that could significantly negatively impact AHP's rights in the Eklutna Hydroelectric Project for decades.

6. Briefing on the Order 39 surrender language is complete, as AHP filed its reply brief on October 29, 2024. Oral argument on the issue of interpretation of the Order 39 surrender language will provide the Commission an opportunity for inquiry and will enable the development of a sound record.

7. On October 28, 2024, Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA") moved to compel discovery responses from AHP.

8. Briefing on that motion will be complete by the close of October 6, 2024.

9. Oral argument on the Motion to Compel will assist in establishing the scope of the hearing, thus assisting parties in hearing preparation.

10. Due to the commencement of the hearing on November 18, 2024, AHP will make itself available for any date for oral arguments. AHP proposes Friday, Tuesday, November 12 as a possible date for the oral arguments.

11. AHP proposes that the Opposition to its Motion for Oral Argument be filed by COB Wednesday, November 6, 2024, and any reply be filed December 7, 2024, so that a decision on its motion may be issued on December 8, 2024.

12. On Tuesday, November 5, 2024, via email, Dean Thompson, counsel for AHP, contacted counsel for Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA"), as well as the Attorney General, Regulatory Affairs & Public Advocacy Section regarding its Motions for Oral Argument and

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Expedited Consideration. At the time of this affidavit, the position of the other parties regarding the Motion for Expedited Consideration is not known.

Ashley C. Brown

Counsel for Anchorage Hydropower

Subscribed and sworn to before me

this 5 day of November, 2024

STATE OF ALASKA
OFFICIAL SEAL
Notary Public
CONSTANCE P. GOLDING
My commission expires May 12, 2026

Notary Public

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Subject:	Order U-24-024(7) (Anchorage Hydropower)
Date:	Wednesday, November 6, 2024 1:49:24 PM

BY ORDER OF ADMINISTRATIVE LAW JUDGE JAMES L. WALKER

Order U-24-024(7)

ORDER DENYING MOTION FOR ORAL ARGUMENT AND MOTION FOR EXPEDITED CONSIDERATION OF MOTION FOR ORAL ARGUMENT

At the prehearing conference in this docket on August 30, 2024, I requested briefing on whether the Notice and Request for Acknowledgment filed by the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP) should be dismissed as being premature under the minimum term of Eklutna Operating Committee (EOC) voting rights surrender specified in Order U-18-102(44)/U-19-020(39)/U-19-021(39) (Order U-18-102(44). AHP filed a 25-page direct brief and exhibits on this issue September 18, 2024. The Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA) filed a 13-page responsive brief on this issue October 8, 2024. Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA) jointly filed a 26-page responsive brief on this issue October 8, 2024. On October 15, 2024, RAPA filed a 9-page motion to dismiss the Notice and Request for Acknowledgment on the grounds that it was now moot and that it was premature under the minimum term of EOC voting rights surrender specified in Order U-18-102(44). On October 24, 2024, Chugach and MEA joined in RAPA's motion to dismiss. On October 29, 2024, AHP filed a 46-page reply brief on the minimum term of EOC voting rights surrender issue. On October 30, 2024, AHP filed a 9-page plus exhibits opposition to RAPA's motion to dismiss. On November 4, 2024, RAPA filed a 5-page reply to AHP's opposition to the motion to dismiss.

On October 28, 2024, Chugach and MEA jointly filed a motion to compel production of information by AHP to nine discovery requests. AHP had objected to each of these requests on the ground that the request was for irrelevant information under its interpretation of the scope of this docket. AHP also objected to one of these requests on the ground that it was overbroad. In their joint motion to compel, Chugach and MEA explained why they believe each of the nine disputed discovery requests are for information relevant to the ultimate resolution of this docket or will lead to the discovery of relevant information. On November 4, 2024, AHP filed its 25-page opposition to the motion to compel. Under 3 AAC 48.091(*l*), any reply to AHP's opposition to the motion to compel is due by the close of business today, November 6, 2024.

On November 5, 2024, AHP filed a motion for oral argument on the pending RAPA motion to dismiss and on the pending Chugach/MEA motion to compel. In this motion, AHP stated that

it could be available for oral argument at any time the Commission set but did state that it was proposing oral argument for Tuesday, November 12, 2024, at 10:00a.m. Also on November 5, 2024, AHP filed a motion for expedited consideration of its motion for oral argument. In the motion for expedited consideration, AHP asked the Commission to require the other parties to respond to the motion for oral argument by the close of business today, November 6, 2024, and for any reply to such responses to be filed by the close of business tomorrow, November 7, 2024.

The only statement by AHP supporting the motion for oral argument is that: "Oral argument would provide an opportunity for Commissioner inquiry and ensure the development of a sound record for the Commission's decision." Oral argument is not sworn testimony and cannot be used to expand the factual record on which the Commission bases its decisions under AS 42.05.191. Therefore, oral argument cannot ensure the development of a sound record. The Commission Panel has been polled and no member desired to conduct inquiry of party counsel on the briefing filed or otherwise saw the need for oral argument on the motion to dismiss or the motion to compel. AHP cites to no authority requiring oral argument on these pending motions.

A public hearing is scheduled in this docket for November 18 through November 22, 2024. Under the procedural schedule adopted by Order U-24-024(4), discovery on AHP's reply testimony does not close until November 8, 2024, and party sequential witness lists, statements of issues, and errata are due on November 12, 2024. November 11, 2024, is a State holiday. The Commission also has a public hearing scheduled for November 13, 2024. Counsel for RAPA has informed us that they see no benefit in oral argument on the two pending motions and will not be available for oral argument November 10-14, 2024. Given the lack of apparent benefit to be obtained from oral argument on the pending motion to dismiss and the pending motion to compel, the extensive briefing done on these motions, and the time constraints that the parties and the Commission are currently working under, I deny the motion for oral argument and the motion for expedited consideration of the motion for oral argument.

I electronically notified the following:

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This order can be reconsidered in its current form within the time established by regulation.

Please place a copy of this order in the formal file in this proceeding.

James L. Walker Administrative Law Judge
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Phone: 907.263.2190
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IN THE SUPERIOR COURT OF THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.; PROVIDENCE HEALTH & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.; STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	CASE NO. 3AN-24-06001 CI

RESPONSE TO MOTION TO STRIKE

Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association ("MEA") hereby respond to the Anchorage Municipal Assembly's ("Assembly's") Motion to Strike and respectfully ask the Court to consider their timely Joinder in Motion to Dismiss ("Joinder").[1]

The Assembly errs in trying to apply the Court's deadline for motions to dismiss to Chugach and MEA's Joinder.[2] Alaska Rule of Appellate Procedure 203 vests the supervision and

[1] Motion to Strike, Nov. 5, 2024 ("Motion to Strike"); Joinder in Corrected Motion to Dismiss or, in the Alternative, to Stay Appeal, Oct. 4, 2024 ("Joinder").

[2] Motion to Strike at 1.

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control of this appeal in this Court "except as otherwise provided in this rules." The Alaska Rules of Appellate Procedure do not establish any statutory timing deadline of a joinder motion; indeed, the rules are silent on joinder in dispositive motions in appellate matters. Alaska Rule of Appellate Procedure 503(d), however, gives adverse parties seven days after service of a motion to respond.[3] This suggests that an unrelated party should be entitled to seven days to review and respond because, like an adverse party, they would otherwise have no way of knowing the contents of a motion to which they want to respond.

Chugach and MEA may not be adverse to the Regulatory Commission of Alaska ("RCA") in this proceeding, but, like an adverse party, they had no way of knowing the contents of the RCA's motion to dismiss until it was filed on October 28, 2024.[4] The RCA did not share its motion to dismiss with Chugach and MEA in advance and did not invite Chugach and MEA to join. Counsel for the RCA can confirm these facts. Therefore, Chugach and MEA, like any other responding parties, should be entitled to a reasonable amount of time to review and respond to the RCA's Motion to Dismiss with information and arguments they deem pertinent. Due process dictates that all parties to an appellate proceeding should have the opportunity to review, consider, and respond to dispositive motions – especially when the motion deals with the central substantive issues on appeal and will impact the parties' interests. Since Chugach and MEA filed their Joinder within this seven-day window, the Joinder was timely and should be considered by the Court.

Requiring parties to file a joinder at the same time as the original motion would eliminate the ability of unrelated parties to join in a motion, so it is not a surprise that no such timing requirement exists. Unrelated parties do not always have access to motions ahead of time, and therefore could not "join" in a motion until they see it filed publicly. Such a requirement would effectively eliminate joinder and instead force unrelated parties to file overlapping motions, ultimately increasing the burden on courts to review motions that could have been consolidated or joined.

---

[3] Alaska R. App. P. 503(d).

[4] Motion to Dismiss or, in the Alternative, to Stay Appeal, Oct. 28, 2024, at 14 ("Motion to Dismiss").

Finally, the Assembly has not been prejudiced or disadvantaged by the filing of Joinder seven days after the Motion to Dismiss was filed. During the scheduling conference last Friday, November 1, 2024, the Assembly sought an extension of its deadline to respond to the RCA's Motion to Dismiss from November 4, 2024, until November 26, 2024. Neither the RCA nor Chugach and MEA objected to the requested later deadline and the Court agreed. Chugach and MEA filed their joinder the very next business day. The Court's extended deadline gives the Assembly 22 days in which to respond to Chugach and MEA's Joinder as part of its response to the RCA's Motion to Dismiss. Further, the facts stated in the Joinder are all matters of public record, the documents attached to the Joinder are in the agency record on appeal that has been transferred to the Court, and the single legal argument advanced in the Joinder is straightforward and not complicated. The Assembly should have no problem in responding within the Court's rescheduled November 26, 2024, deadline.

Since there is no formal timing requirement for a joinder, Chugach and MEA comfortably met the only statutory time requirement applicable to responding parties, and the Assembly has adequate time to respond, Chugach and MEA respectfully ask the Court to accept and consider their timely Joinder.

DATED: November 7, 2024.

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

By: /s/ Todd G. Glass
Todd G. Glass, Alaska Bar # 1810083

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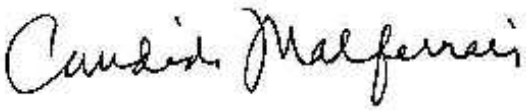

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steven D. DeVries
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	))))))	U-24-024

OFFICE OF THE ATTORNEY GENERAL'S STATEMENT OF ISSUES

1. Should the Regulatory Commission of Alaska (Commission) dismiss the Notice and Request for Acknowledgment filed by the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP)?

2. Has AHP proven that the Regulatory Commission of Alaska should set aside the minimum term of voting rights surrender required by Order U-18-102(44)/ U-19-020(39)/U-19-021(39) (Order 39)?

3. Has AHP acquired the expertise required by the Commission in Order 39?

4. Has AHP sufficiently addressed any conflict of interest created by its attempt to acquire expertise?

//

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DATED November 12, 2024, at Anchorage, Alaska.

TREG TAYLOR
ATTORNEY GENERAL

By: /s/ Jeffrey J. Waller

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CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2024, a true and correct copy of the **Office of the Attorney General's Statement of Issues** was served via e-mail on the following:

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steven D. DeVries
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John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	))))))	U-24-024

OFFICE OF THE ATTORNEY GENERAL'S WITNESS LIST

The Office of the Attorney General, Regulatory Affairs and Public Advocacy Section, does not plan to call any witnesses for hearing in this docket.

DATED November 12, 2024, at Anchorage, Alaska.

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ATTORNEY GENERAL

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CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2024, a true and correct copy of the **Office of the Attorney General's Witness List** was served via e-mail on the following:

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	John M. Espindola, Chairman Steven D. DeVries Robert M. Pickett John C. Springsteen
In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S STATEMENT OF ISSUES

The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") submits its statement of issues to be addressed at the hearing scheduled to begin November 18, 2024.

1. Whether AHP has shown to the Regulatory Commission of Alaska's satisfaction that Mark Corsentino, P.E., has the "knowledge of prudent utility practice and the Railbelt generation and transmission system" required for AHP to fully participate as a member of the EOC?

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RESPECTFULLY SUBMITTED this 12th day of November, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: */s/ Dean D. Thompson*

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CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

CHUGACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S JOINT STATEMENT OF ISSUES

Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA"), hereby submit the following joint statement of issues for hearing pursuant to Paragraph J of Order No. 4 in this docket:

1. In Order 39, did the Commission require that the Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") surrender its voting rights on the Eklutna Operating Committee ("EOC") for a duration to last at least the term lengths of the Chugach-MOA PPA and MEA-MOA PPA?
2. Has the AHP demonstrated knowledge and expertise, including but not limited to, knowledge and expertise of the Eklutna Project, prudent utility practices, and the Railbelt generation and transmission system as required in Order 39, sufficient such that the RCA may allow the MOA to regain voting rights on the EOC?
    a. In appointing Mark Corsentino as Utility Director of AHP, has the MOA demonstrated to the Commission's satisfaction that it has "acquired the

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expertise required to fully participate as a voting member of the EOC"?[1]

b. Given that Mr. Corsentino has been the General Manager of Anchorage Water and Wastewater Utility (AWWU) since 2019 and employed by the MOA, has AHP obtained any new expertise as compared with the expertise available to it at the time of the Order 39 surrender?

c. Does Mr. Corsentino have sufficient knowledge and expertise of (i) prudent utility practice as applied to the Eklutna Project, and (ii) the Railbelt electric generation and transmission system as it relates to the Eklutna Project, in order to participate as a voting member of the EOC?

d. In his actions since being appointed Utility Director of AHP on July 2, 2024, has Mr. Corsentino demonstrated adequate knowledge and expertise of the Eklutna Project, prudent utility practices, and the Railbelt generation and transmission system as required in Order 39?

e. Has the MOA complied with Order 39, the Surrender Agreement, and its obligations related to prudent utility practices and implementation of the 1991 Agreement under the Chugach-MOA PPA and MEA-MOA PPA since October 30, 2020?

3. As a condition to the return of MOA's voting rights on the EOC, should the Commission require AHP to accept "as-is" previous decisions and outcomes by the EOC and the Eklutna Owners group that was charged with 1991 Agreement implementation during the period of its surrendered voting rights, including, but not limited to, budgets, expenses, and implementation of the 1991 Agreement and the Final Fish and Wildlife Program?

4. As a condition to the return of MOA's voting rights on the EOC, should the Commission require that MOA recognize and accept that decisions related to

[1] Order 39 at 67.

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the implementation of the 1991 Agreement shall be made on a one-owner, one-vote basis when consensus cannot be achieved?

5. As a condition to the return of MOA's voting rights on the EOC, should the Commission require that the MOA's EOC voting rights be changed to reflect the MOA's cost responsibility (19.04%) rather than ownership share (53.33%) during the remaining term of the Chugach-MOA PPA term?
6. As a condition to the return of MOA's voting rights on the EOC, what safeguards should the Commission require that AHP put in place to ensure that prudent utility practice obligations will preempt any directives from the Anchorage Assembly or MOA leadership that demand a vote in contravention of such obligations?
7. Are the MOA's proposed memoranda and processes regarding matters before the EOC that present potential conflicts of interest between the Eklutna Owners and AWWU adequate to address such conflicts, or would Mr. Corsentino's/AHP's recusal from such matters be more appropriate?
8. Following a return of MOA's voting rights on the EOC, what happens to the MOA's voting rights on the EOC if Mr. Corsentino resigns from AHP or the MOA or otherwise becomes unable to perform his duties on the EOC?

RESPECTFULLY SUBMITTED this 12th day of November, 2024.

By: /s/ Todd G. Glass
Todd G. Glass, Alaska Bar # 1810083
Stephanie McFall, Alaska Bar # 2411107

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I hereby certify that on November 12, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	))))))	U-24-024

CHUGACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S LIST OF WITNESSES

Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA") submit the following list of witnesses in the order they are to testify in the above docket:

1. Eugene Ori
2. Tony Zellers

RESPECTFULLY SUBMITTED this 12th day of November, 2024.

By: /s/ Todd G. Glass
Todd G. Glass, Alaska Bar # 1810083
Stephanie McFall, Alaska Bar # 2411107

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	John M. Espindola, Chairman Steven D. DeVries Robert M. Pickett John C. Springsteen
In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S NOTICE OF FILING ERRATA TO PREFILED DIRECT AND REPLY TESTIMONIES OF MARK A. CORSENTINO, P.E.

The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") submit this errata to correct the following error to the Prefiled Direct Testimony of Mark A. Corsentino, P.E., filed September 18, 2024:

Page 1, Footer: The date reads "September X, 2024" and should read "September 18, 2024". A replacement page 1 is included with this filing.

A complete copy of the Prefiled Direct Testimony of Mark A. Corsentino, P.E. with the above-described replacement page is included with this filing. The replacement page includes "(Corrected November 12, 2024)" in the footer.

AHP also submits this errata to correct the following errors to the Prefiled Reply Testimony of Mark A. Corsentino, P.E.:

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Page 9: Lines 15 to 16 read "knowledge of the Railbelt generation and transmission system and prudent utility practice are . . ." and should read "prudent utility practice is . . ." A replacement Page 9 is included with this filing.

Page 14: Line 20 reads " . . . on the EOC." and should include a quotation mark after the period. A replacement page 14 is included with this filing.

Page 16: Line 13 reads ". . . there is no risk of convict" and should read " . . . there is no risk of conflict." A replacement page 16 is included with this filing.

A complete copy of the Prefiled Reply Testimony of Mark A. Corsentino, P.E. with the above-described replacement pages is included with this filing. The replacement pages include "(Corrected November 12, 2024)" in the footer.

RESPECTFULLY SUBMITTED this 12th day of November, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: */s/ Dean D. Thompson*

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CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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ERRATA PAGE TO

PREFILED DIRECT TESTIMONY

OF MARK A. CORSENTINO, P.E.

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert A. Doyle
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	)))))	U-24-024

PREFILED DIRECT TESTIMONY OF MARK A. CORSENTINO, P.E.

I. INTRODUCTION

Q.1 Please state your name and title.

A.1 My name is Mark A. Corsentino, P.E., and I am the Utility Director of Anchorage Hydropower ("AHP") and the General Manager of Anchorage Water and Wastewater Utility ("AWWU"), except for matters involving both AHP and AWWU, for which Assistant General Manager David Persinger serves as Acting General Manager of AWWU and I serve only as Utility Director of Anchorage Hydropower.

Q.2 What is the purpose of your testimony?

A.2 The purpose of my testimony is to support AHP's notice and request for acknowledgement that is has acquired the expertise required to participate as a voting member of the Eklutna Operating Committee ("EOC").

Q.3 Have you testified previously before the Commission?

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PREFILED DIRECT TESTIMONY OF

MARK A. CORSENTINO, P.E.

WITH NOVEMBER 12, 2024 ERRATA INCLUDED

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Robert A. Doyle
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	)))))	U-24-024

PREFILED DIRECT TESTIMONY OF MARK A. CORSENTINO, P.E.

I. INTRODUCTION

Q.1 Please state your name and title.

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Q.3 Have you testified previously before the Commission?

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A.3 Yes. I filed prefiled direct testimony in AWWU's rate cases U-19-005/U-19-006, U-22-002/U-22-003, and U-24-005/U-24-006, and prefiled direct testimony and oral testimony in the January 11, 2022, Public Hearing on the stipulation filed in AWWU's rate case U-21-010/U-21-011. I filed prefiled direct testimony in AWWU's tariff filings in TA176-122 and TA177-126 and for AWWU's tariff revision in U-24-008. I also filed an affidavit in support of AWWU's Petition to Create a Regulatory Asset for Recovery of Costs from Earthquake Damage filed on December 23, 2019, in U-19-102/U-19-103.

Q.4 Please summarize your professional qualifications.

A.4 See my resume enclosed as **Exhibit MAC-1**.

Q.5 Please describe how your testimony is organized.

A.5 First, I will summarize AHP's notice and request for acknowledgement that it has acquired the expertise required to participate as a voting member of the EOC. Second, I will describe the purpose of the EOC and how it functions. Third, I will describe my qualifications as they pertain to the expertise needed for AHP to participate as a voting member of the EOC. Fourth, I will discuss the measures in place to address any potential conflicts of interest that may arise due to my roles as both the Utility Director of AHP and the General Manager of AWWU.

II. SUMMARY OF AHP'S NOTICE AND REQUEST FOR ACKNOWLEDGEMENT

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Q.6 Please summarize AHP's notice and request for acknowledgement that it has acquired the expertise required to participate as a voting member of the EOC.

A.6 In Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order No. 39"), the Commission approved the sale of most of the electric utility assets of the Municipality of Anchorage ("MOA") d/b/a Municipal Light & Power ("ML&P") to Chugach Electric Association, Inc. ("Chugach"). The MOA retained its ownership interest in the Eklutna Hydroelectric Project ("Eklutna Project"), from which it sells wholesale electric power to Chugach and Matanuska Electric Association, Inc. ("MEA"), pursuant to power purchase agreements approved by the Commission. The Commission issued Certificate of Public Convenience and Necessity No. 780 authorizing the MOA d/b/a AHP to provide wholesale electric public utility service on the condition that the MOA surrender its voting rights on the EOC. Order No. 39 required that the surrender remain in effect until the MOA "has shown to [the Commission's] satisfaction that MHP[1] has acquired the expertise required to fully participate as a voting member of the EOC." The Commission identified two characteristics that AHP's owner representative must have in order to lift the MOA's surrender of voting rights: knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system.[2]

On October 27, 2020, the MOA surrendered its voting rights as an EOC member, effective as of the closing date of the asset purchase agreement between ML&P and Chugach. The surrender of voting rights remains "in effect until ML&P's successor

[1] In Order No. 39, the Commission referred to the "post-transaction electric utility owned by the MOA as Municipal Hydro Power (MHP)." Order No. 39 at 4, n. 1.
[2] *Id.* at 66.

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complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC."[3] "Until ML&P's successor complies with the qualification terms of RCA [Order No. 39], all EOC decisions will be by unanimous vote of [Chugach] and [MEA]."[4]

On July 2, 2024, I was unanimously approved by the Anchorage Assembly to be the Utility Director of AHP. As such, I will serve as AHP's owner representative on the EOC. I have the knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system required by the Commission to lift the MOA's surrender of voting rights and to fully participate on the EOC. As Utility Director of AHP, 20%of my salary is now paid by AHP.

Q.7 Are there other requirements for AHP's owner representative on the EOC?

A.7 Yes. In conjunction with Order No. 39, AHP's owner representative must make all decisions on the EOC consistent with prudent utility practice and the rights and obligations of Chugach and MEA under the Eklutna Power Purchase Agreement ("Eklutna PPA") and the MEA Power Purchase Agreement ("MEA PPA") and consistent with all other requirements of law.

III. THE EOC

Q.8 What is the EOC?

[3] Surrender of Eklutna Operating Committee (EOC) Voting Rights (Oct. 27, 2020).
[4] *Id.*

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A.8 The EOC was created to make all management decisions regarding the operation, maintenance, and budgeting for the Eklutna Project, including the "Fish and Wildlife Agreement Snettisham and Eklutna Projects." The EOC essentially makes decisions that would be made by a wholly-owned utility by its management team. For instance, it makes the type of decisions that I make for AWWU as General Manager. Such decisions could include decisions about operations, capital investments, budgeting, and maintenance.

Q.9 Please describe the Eklutna Project.

A.9 The Eklutna Project was constructed by the federal government from 1951 to 1955 to provide wholesale electric utility service to ML&P, Chugach, and MEA. The Eklutna Project includes a tap into Eklutna Lake, a tunnel to divert the water from the tap to a powerhouse located in the Matanuska-Susitna Borough ("MSB") containing two generating units, and a trailrace that discharges into the Knik River. The Eklutna Project connects to MEA substations in Anchorage and the MSB, and to Chugach and AHP substations in Anchorage.

Q.10 Please describe the ownership structure of the Eklutna Project.

A.10 In 1995, ML&P, Chugach, and MEA entered into the Eklutna Purchase Agreement with the federal government. Ownership was transferred to ML&P, Chugach, and MEA in 1997. ML&P acquired an undivided ownership interest in the Eklutna Project capacity, energy, and assets of 53.33%. Chugach and MEA acquired undivided ownership interests in the Eklutna Project capacity, energy, and assets of 33% and 16.67% respectively.

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Q.11 How are decisions made by the EOC?

A.11 Since ML&P surrendered its voting rights in 2020, all EOC decisions are made by unanimous vote of Chugach and MEA.[5]

Q.12 How would decisions be made if AHP's notice and request for acknowledgement that it has acquired the expertise required to participate as a voting member of the EOC is approved by the Commission?

A.12 If AHP's notice and request for acknowledgement that it has acquired the expertise required to participate as a voting member of the EOC is approved by the Commission and AHP's voting rights are restored, the decision-making process would revert to the one outlined in the Eklutna Transition Plan. Decisions will be made based upon a double majority consisting of an affirmative vote by at least two utilities whose ownership shares total at least 51% of the Eklutna Project ownership. Since ML&P has more than 50% of the ownership, it will have to approve the action with an affirmative vote from either Chugach or MEA, or both.

IV. QUALIFICATIONS

Q.13 Please summarize your knowledge of prudent utility practice.

A.13 I am a licensed engineer with approximately 20 years of utilities experience. I have been the General Manager of the AWWU since February 2019 and was the Director of

[5] *Id.*

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Operations and Maintenance and a Project Management Engineer/Supervisor before that. As the General Manager, I direct and oversee two economically regulated utilities with a combined annual revenue of $139 million, annual capital budgets of $35 million, and a net book value of over one billion dollars. I oversee 280 full-time AWWU employees as well as AWWU's two water treatment plants, three wastewater treatment plants, 1,600 miles of underground pipelines, and 200 water and sewer remote facilities.

During my time at AWWU, I have gained significant experience with operation capital expenditures, leading projects such as SCADA control system upgrades, and providing project management design and construction expertise in water transmission main projects, sewer pump station projects, and wastewater treatment process improvement projects. I have overseen several utility rate cases. I am also versed in compliance with the uniform system of accounts pursuant to 3 AAC 48.277, particularly subsections (9) through (13) for electric public utilities and (14) through (17) for water utilities.

Q.14 Please summarize your knowledge of the Railbelt generation and transmission system.

A.14 As a licensed engineer with a background in electrical engineering, I understand the mechanics and theory of electricity generation and transmission. I have direct experience with hydropower generation, scheduling, maintenance, and integration with other Railbelt resources. As General Manager of AWWU, I oversee the operation and maintenance of the hydropower generation from AWWU's Eklutna Energy Station, as well as AWWU's Reservoir 3&4 Facility and 92nd Street PRV Facility. I also oversee AWWU's co-location

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with Chugach's Plant 2A. I am regularly involved in the construction of pump stations and other projects requiring significant power supply from the grid. This has given me a greater understanding of power systems and related issues such as power correction, phase, amplitude, and frequency of AC power.

In addition, I have experience representing AHP on the EOC in a non-voting capacity. As such, I have knowledge of Eklutna Project matters including hydropower generation, scheduling, integration with other Railbelt resources, SCADA (as managed through Chugach), and project maintenance. Further, if there is an issue in which I require assistance, I have access to additional resources through both in-house engineering expertise at the MOA and the ability to engage the expertise of MOA consultant and contractors. In particular, Mark Schimsheimer, the Engineering Director of AWWU, has been designated to provide additional technical and engineering support to AHP, at AHP's expense. Ten percent of his salary is now paid for by AHP. His resume is attached as **Exhibit MAC-2**.

Q.15 Do you believe AHP has the expertise required to fully participate as a voting member of the EOC as required by the Commission?

A.15 Yes. In Order No. 39, the Commission stated that "[u]nder the circumstances, [it] cannot unconditionally find that MHP is managerially or technically fit to maintain majority ownership of the Eklutna Project."[6] The circumstances the Commission were referring to included MHP having a seat on the EOC even though it had no employees and that MHP

[6] Order No. 39 at 67.

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would be managed by the Municipal Manager. The Municipal Manager at the time was William D. Falsey, who had a Bachelor of Science degree in physics from Stanford University and a law degree from Yale Law School. Mr. Falsey had worked in legal positions before becoming the MOA's Municipal Manager but did not have any knowledge of the Railbelt generation and transmission system or prudent utility practice. ML&P had suggested that it could use consulting services for industry-specific expertise to help it make informed decisions, but it was not sure if such expertise was available. This is no longer the case. AHP is now managed by its Utility Director who has knowledge and experience with both the Railbelt generation and transmission system and prudent utility practice.

V. CONFLICTS OF INTEREST

Q.16 How has AHP addressed any potential conflicts of interest that may arise due to your roles as the Utility Director of AHP and the General Manager of AWWU?

A.16 AHP and AWWU have entered into a Memorandum of Understanding ("MOU") (**MAC-3**) that established that I will act solely as the Utility Director of AHP and will abstain from any decisions that need to be made by the General Manager of AWWU in any instance of conflicting interests between AHP and AWWU. Under the MOU, I will not take any action in my role as the General Manager of AWWU on "issues that affect the interest, operations, or obligations" of AHP. In this instances, AWWU's interests will be represented by AWWU's Assistant General Manager. All decisions I will make in my role as the AHP

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representative on the EOC will be consistent with prudent utility practices and the rights and obligations of Chugach and MEA as required by the Eklutna PPA and MEA PPA.

Q.17 Is your position - General Manager of AWWU, and Utility Director of AHP - unique from a conflict perspective?

A.17 No. Historically, for ML&P and AWWU, even when a different individual represented ML&P and AWWU, these two individuals would both report to the municipal manager because both utilities are part of the municipality. Here, the municipality created an additional layer of protection to ensure prudent utility management through the MOU, one which normally would not exist in a municipality with more than one utility. Another layer of protection is the language of both the MEA and Chugach PPAs, stating that " the Municipality EOC representative shall "make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties" under the PPAs. Chugach and MEA have procedural remedies both through the PPAs and through the Commission's authorities in the event either believes that the MOA representative is not meeting these requirements or the requirements of its certificate.

Q.18 Does this conclude your prefiled direct testimony?

A.18 Yes, thank you.

Dated this 18th day of September, 2024, at Anchorage, Alaska.

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ERRATA PAGES TO

PREFILED REPLY TESTIMONY OF

MARK A. CORSENTINO, P.E.

A.11 As I discussed above, the Commission, in Order 39, identified two characteristics that AHP's owner representative must have in order to lift the MOA's surrender of voting rights: knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system.[3] While the characteristics listed by Mr. Zellers might be ideal, they go far above and beyond what the Commission has stated it requires of AHP's owner representative in order for the MOA's surrender of its voting rights to be lifted.

Q.12 How did the Commission identify knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system as the two characteristics that AHP's owner representative must have in order to lift the MOA's surrender of voting rights?

A.12 The Commission discussed testimony from Chugach Witness Dustin Highers, stating that based on his experience as EOC chair, "that to be an owner representative on the EOC, it was essential that the representative have knowledge of prudent utility practice and the Railbelt electric generation and transmission system."[4] The Commission also noted that knowledge of prudent utility practice is "the management standard specified for the [AHP] EOC representative in both the Eklutna PPA and the MEA PPA."[5]

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[3] *Id.* at 66.
[4] *Id.*
[5] *Id.* (citing to the Eklutna PPA at 9 and the MEA PPA at 8).

Q.19 Assuming the Commission finds that you have the expertise required to fully participate as a voting member of the EOC and lifts the MOA's surrender of its voting rights, what would happen if or when you leave your position as Utility Director of AHP?

A.19 The MOA would hire a qualified replacement and would rely on the expertise and knowledge of any other AHP executives or employees that may exist at the time of such an event. My replacement, in conjunction with the other officers and employees of AHP, must possess such knowledge. Additionally, as stated in my prefiled direct testimony, the MOA has contracts with professional engineering firms that have knowledge of generation and transmission and there are other members of the MOA Administration that have prudent management experience.

VI. CONFLICT OF INTEREST

Q.20 Prior to AHP filing its Request for Acknowledge of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee with the Commission, has either Chugach or MEA raised concerns about actual or potential conflicts of interest between ML&P or AHP and AWWU that may impact AHP's participation on the EOC?

A.20 I am not aware of Chugach or MEA raising any such concerns. During discovery, Mr. Ori stated he "was not aware of any concerns raised by Chugach to the MOA about potential or actual conflicts of interests between ML&P and AWWU that impacted ML&P's participation on the EOC."[8] Mr. Zellers stated that "as the current MEA representative on the EOC, is not aware of any concerns raised by MEA to the MOA during Mr. Zellers's

[8] **Exhibit MAC-4** at 2-3.

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Q.22 In his prefiled testimony, at p. 20:14-18 (Q/A 34), Mr. Zellers stated, "As we move forward implementing the 1991 Agreement and the Final Program, the Project Owners will need to have confidential discussions about various matters and strategy as it related to AWWU. It makes no sense and is a direct conflict of interest to have the General Manager of AWWU in those discussions." How do you respond?

A.22 As I stated above, under the MOU, I will make all decisions as they related to AWWU in my role as the AHP representative on the EOC and not as the General Manger of AWWU. My decisions will be consistent with prudent utility practices and the rights and obligations of Chugach and MEA as required by the Eklutna PPA and MEA PPA. AHP and AWWU have entered into a Supplemental MOU, dated October 29, 2024.[12] Under this Supplemental MOU, I will not exercise the powers of the General Manger of AWWU until a final decision is issued in this docket and any judicial review is compete. As the Director of AHP, I will advise AWWU on matters provided there is no risk of conflict between the interests of AHP and the interests of AWWU regarding the Eklutna Hydroelectric Project. If the MOA regains its voting rights, I will promptly resign from AWWU.

VII. PUMPED STORAGE HYDROPOWER ** PROVISIONAL TESTIMONY **

The provisional testimony below and associated exhibits are presented for consideration only if the Commission issues a decision expanding the scope of this docket to include PSH options at the Eklutna Project.

[12] **Exhibit MAC-6**.

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PREFILED REPLY TESTIMONY OF

MARK A. CORSENTINO, P.E.

WITH NOVEMBER 12, 2024 ERRATA INCLUDED

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	John M. Espindola, Chairman Robert A. Doyle Robert M. Pickett John C. Springsteen
In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

PREFILED REPLY TESTIMONY OF MARK A. CORSENTINO, P.E.

I. INTRODUCTION

Q.1 Please state your name and title.

A.1 My name is Mark A. Corsentino, P.E., and I am the Utility Director of Anchorage Hydropower ("AHP") and the General Manager of Anchorage Water and Wastewater Utility ("AWWU"), except for matters involving both AHP and AWWU, for which Assistant General Manager David Persinger serves as Acting General Manager of AWWU, and I serve only as Utility Director of Anchorage Hydropower.

Q.2 Are you the same Mark Corsentino that prepared direct testimony in this case?

A.2 Yes.

Q.3 What is the purpose of your testimony?

A.3 The purpose of my testimony is to respond to the prefiled responsive testimony of Tony Zellers and Eugene Ori on behalf of Chugach Electric Association, Inc. ("Chugach") and

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Matanuska Electric Cooperative, Inc. ("MEA"). Specifically, I will respond to Mr. Zellers's and Mr. Ori's testimony regarding membership on the EOC, prudent utility practice, and the MOA's surrender of its voting rights on the EOC. In addition, I will provide provisional testimony regarding pumped storage hydropower ("PSH"). That provisional testimony and associated exhibits are presented for consideration only if the Commission issues a decision expanding the scope of this docket to include PSH options at the Eklutna Project.

Q.4 Will other witnesses provide reply testimony?

A.4 No.

Q.5 Please describe how your testimony is organized.

A.5 First, I will discuss the importance of Commission lifting the MOA's surrender of its voting rights. Second, I will clarify the qualifications the MOA must acquire before the Commission will lift the MOA's surrender of its voting rights. Third, I will discuss the meaning of prudent utility practice. Fourth, I will discuss the effect that the Commission's lifting of the MOA's surrender of its voting rights will have. Fifth, I will discuss the conflict of interest issue. Finally, in my "provisional" testimony, I will discuss PSH at the Eklutna Project.

II. LIFTING THE MOA'S SURRENDER OF ITS VOTING RIGHTS

Q.6 What is the MOA's interest in getting its surrender of its voting rights on the EOC lifted?

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A.6 First, the MOA wants to meaningfully participate on the EOC. The MOA is the majority owner of the Eklutna Hydroelectric Project ("Eklutna Project"). Like any owner of any property, the MOA has a legitimate interest in exercising all of the rights of ownership. Every EOC decision directly impacts the MOA's property. Moreover, although Chugach and MEA have options to purchase the Eklutna Project after the PPAs expire, there is no guarantee they will do so, and the MOA should have the power to protect its long-term interests in the Eklutna Project. For example, the MOA should have the power to protect its interests regarding a future sale of its assets, a subject regarding which Chugach and MEA have potential conflicts of interest with the MOA, since they have an incentive to minimize the ultimate sales price. Chugach and MEA should not be able to control property they do not own in such a way that could be adverse to the interests of the owner. Second, the MOA is one of Chugach's largest electric customers and relies on electric rates to be reliable and affordable. Decisions made by the EOC regarding its budget and capital expenditures directly affect the rates the MOA pays. Third, the MOA is a home rule city and has an obligation to look out for the public interest, which gives it a different perspective than Chugach and MEA. Fourth, while Chugach and MEA claim the MOA's surrender of its voting rights has resulted in less contentious decision making on the EOC because all decisions require a consensus, there are times when having a third party is necessary to avoid an impasse. On information and belief, there are matters that the EOC can and should resolve which Chugach and MEA have long put off because of the lack of any mechanism to resolve disagreements between Chugach and MEA. Finally, the EOC is responsible for implementing the Final Fish and Wildlife Program ("F&W Program"),

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which the Governor established on October 2, 2024. Implementing the F&W Program will involve important decisions affecting the F&W Project and the people of Anchorage. AHP is responsible for a portion of the costs resulting from EOC decisions about operations, maintenance, and capital investments for the F&W Program. The payments AHP receives from Chugach and MEA from the PPAs are not based in any part on AHP's actually incurred costs and it is possible the costs of the F&W Program could exceed PPA revenues, potentially impacting AHP and the MOA budget. AHP cannot increase Eklutna Project revenues to address increased costs resulting from the F&W Program. Without a vote on the EOC, AHP has no control over the costs. The MOA deserves to exercise its full voting rights on the EOC with respect to the F&W Program just as much as Chugach and MEA do.

Q.7 Prior to your approval to be the Utility of Director of AHP on June 2, 2024, what efforts did the MOA make to acquire the expertise required to fully participate as a voting member of the EOC?

A.7 The MOA publicly advertised a job posting for AHP General Manager from April 28, 2021 to May 28, 2021, which yielded 10 applicants. The MOA conducted additional recruitment efforts outside of formal job postings over the last several years, which yielded at least three candidates. Among other times, prior to February 3, 2022, the MOA consulted with Chugach and MEA prior to appointing me as its representative to the EOC. For example, there are two documents that reflect such consultation (February 3, 2022, letter from Matt Clarkson, Chugach Executive VP, General Counsel to Kolby A. Hickel, Deputy Municipal

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Manger, and Benjamin Bowman, Assistant Municipal Attorney; and February 3, 2022, e-mail from David Pease, MEA In-House Counsel, to Benjamin Bowman, Matthew Clarkson, and Todd Glass, Counsel for Chugach and MEA). Chugach and MEA have asserted attorney-client privilege for those documents.

Q.8 In his prefiled testimony, at p.8:7-10 (Q/A 12), Mr. Ori stated, "[t]he Commission therefore required that the MOA surrender its voting rights on the EOC for a term length at least equal to the terms of the related PPAs and until the MOA could attain the requisite sufficient knowledge of prudent utility practice and of the Railbelt electric system." How do you respond?

A.8 In Order U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39"), the Commission stated that MOA's surrender of its voting rights on the EOC "must have a term at least equal to the term of the [Eklutna Power Purchase Agreement ("Eklutna PPA") with Chugach] and the [MEA Power Purchase Agreement ("MEA PPA")], as those agreements may be extended, and cannot be lifted until such time as [AHP] has shown to [the Commission's] satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC."[1]

As AHP has argued in its Brief Regarding Interpretation of Order 39, filed with the Commission on September 18, 2024, my interpretation of Order 39 is that the Commission can lift the MOA's surrender and reinstate the MOA's voting rights before the terms of the Eklutna PPA and MEA PPA expire, so long as the MOA and AHP show AHP has acquired

[1] Order 39 at 67 (May 28, 2020) (emphasis added).

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the expertise required to fully participate as a voting member of the EOC to the Commission's satisfaction. I do not believe Order 39 barred the MOA from regaining its voting rights on the EOC until after the Eklutna PPA and MEA PPA expire, regardless of whether AHP has acquired the necessary expertise.

Q.9 In his prefiled testimony, at pp. 15:19 – 16:1 (Q/A 26), Mr. Zellers stated, "We read the Commission's surrender requirements in Order 39 as a fundamental requirement that the MOA should only regain its voting rights with respect to the EOC, implementation of the 1991 Agreement, and operations and maintenance of the Eklutna Project when and only when the MOA demonstrates its representatives will act in a manner consistent with prudent utility practices and with due respect for how the Eklutna Project plays a key role in the generation, transmission, and overall reliability of the Railbelt."

A.9 Mr. Zellers misstates what the Commission has stated it requires from the AHP owner representative in order for the MOA's surrender of its voting rights to be lifted. In Order 39, the Commission identified two characteristics that AHP's owner representative must have in order to lift the MOA's surrender of voting rights: knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system.[2]

III. EOC REPRESENTITIVE QUALIFICATIONS

Q.10 In his prefiled testimony, at pp. 6:14 – 7:2 (Q/A 10), Mr. Ori stated "[t]he EOC is responsible for the Eklutna Project's: (1) oversight of major maintenance and operations

[2] *Id.* at 66.

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(power plant and switchyard) and dam safety and inspections; and (2) preparation of the annual project budget, reliability and scheduling occurrences, project status reports, monthly revenue reports and energy usage among members, and notifications related to factors that limit energy or capacity, such as reservoir levels and transmission constraints." Please describe how you are qualified to fulfill these responsibilities.

A.10 I am a licensed engineer with a background in electrical engineering and approximately 20 years of utilities experience. As a licensed engineer, I understand the mechanics and theory of electricity generation and transmission. I have been the General Manager of the AWWU since February 2019 and was the Director of Operations and Maintenance and a Project Management Engineer/Supervisor before that. As the General Manager of AWWU, I oversee the operation and maintenance of the hydropower generation from AWWU's Eklutna Energy Station, as well as AWWU's Reservoir 3&4 Facility and 92nd Street PRV Facility. I also oversee AWWU's co-location with Chugach's Plant 2A. I am regularly involved in the construction of pump stations and other projects requiring significant power supply from the grid. This has given me a greater understanding of power systems and related issues such as power correction, phase, amplitude, and frequency of AC power.

I direct and oversee two economically regulated utilities with a combined annual revenue of $139 million, annual capital budgets of $35 million, and a net book value of over one billion dollars. I oversee 280 full-time AWWU employees as well as AWWU's two water treatment plants, three wastewater treatment plants, 1,600 miles of underground pipelines, and 200 water and sewer remote facilities.

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During my time at AWWU, I have gained significant experience with operation capital expenditures, leading projects such as SCADA control system upgrades, and providing project management design and construction expertise in water transmission main projects, sewer pump station projects, and wastewater treatment process improvement projects. I have overseen several utility rate cases. I am also versed in compliance with the uniform system of accounts pursuant to 3 AAC 48.277, particularly subsections (9) through (13) for electric public utilities and (14) through (17) for water utilities.

In addition, I have experience representing AHP on the EOC in a non-voting capacity for the last several years. As such, I have knowledge of Eklutna Project matters including hydropower generation, scheduling, integration with other Railbelt resources, SCADA (as managed through Chugach), and project maintenance. I have also completed the National Hydropower Association ("NHA") Hydropower Systems Principals Course that covers topics such as operations, maintenance and dam safety.

Q.11 In his prefiled testimony, at p. 8:15-19 (Q/A 15), Mr. Zellers stated, "An effective member of the EOC should have deep knowledge of hydroelectric facilities, their operations and maintenance, and applicable prudent utility practices, as well as a broad understanding of the Railbelt, its systems, reliability standards, how utilities interact with each other to maintain the Railbelt system, and how the Eklutna Project plays a key role in the Railbelt." How do you respond?

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A.11 As I discussed above, the Commission, in Order 39, identified two characteristics that AHP's owner representative must have in order to lift the MOA's surrender of voting rights: knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system.[3] While the characteristics listed by Mr. Zellers might be ideal, they go far above and beyond what the Commission has stated it requires of AHP's owner representative in order for the MOA's surrender of its voting rights to be lifted.

Q.12 How did the Commission identify knowledge of prudent utility practice and knowledge of the Railbelt generation and transmission system as the two characteristics that AHP's owner representative must have in order to lift the MOA's surrender of voting rights?

A.12 The Commission discussed testimony from Chugach Witness Dustin Highers, stating that based on his experience as EOC chair, "that to be an owner representative on the EOC, it was essential that the representative have knowledge of prudent utility practice and the Railbelt electric generation and transmission system."[4] The Commission also noted that knowledge of prudent utility practice is "the management standard specified for the [AHP] EOC representative in both the Eklutna PPA and the MEA PPA."[5]

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[3] *Id.* at 66.
[4] *Id.*
[5] *Id.* (citing to the Eklutna PPA at 9 and the MEA PPA at 8).

IV. PRUDENT UTILITY PRACTICES

Q.13 In his prefiled testimony, at p. 10:5-6 (Q/A 18), Mr. Ori stated, "As a prudent utility operator, Chugach is obligated to use the least cost, most efficient means to operate and maintain our assets." Do you agree that a prudent utility operator is obligated to use the least cost, most efficient means to operate and maintain our assets?

A.13 No, minimizing costs of operation and maintenance, to the exclusion of all other considerations, is not prudent utility practice. As defined in the PPAs between the MOA and Chugach and the MOA and MEA, Prudent Utility Practice requires, among other things, the application of "reasonable judgment" to "accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, expedition and the requirements of any governing authority having jurisdiction."[6] Moreover, even simply with respect to costs, there are short term costs and total lifecycle costs that sometimes are in competition and need to be considered and balanced.

Q.14 Are there guidelines for Prudent Utility Practice other than the definitions in the PPAs between the MOA and Chugach and the MOA and MEA as discussed above?

A.14 As a regulated utility, AHP must follow the standards under 3 AAC 52.400 – 3 AAC 52.500, "which ensure that electric utilities will render safe, reliable, and prompt service to the public "and "implement them with diligence and good faith to maintain the proper balance between economic effectiveness and the provision of safe, adequate service to the

[6] Appendix D to Order 39 at 40; Appendix H to Order 39 at 38-39.

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public."[7] In addition, the Anchorage Municipal Charter, § 16.01(a), states "[e]ach municipal utility shall be operated in accordance with the general standards common to utilities providing the same utility service."

Q.15 In his prefiled testimony, at p.7:17-19 (Q/A 13), Mr. Zellers stated, "[I]t is important for the EOC to follow prudent utility practices to maintain and operate the Eklutna Project in such a way as to maximize its benefit to all members." How do you respond?

A.15 The statement appears to be true and supports the MOA's request to lift the surrender of its voting rights. The only way the MOA can guarantee the EOC maximizes its benefit to all members is for the MOA to participate fully as a voting member.

Q.16 In his prefiled testimony, at p. 10:9-12 (Q/A 19), Mr. Zellers stated, "As the MOA-MEA PPA states, we make decisions that are 'expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, expedition and the requirements of any governing authority having jurisdiction.'" How do you respond?

A.16 The statement appears to be true and supports the MOA's request to lift the surrender of its voting rights. The only way the MOA has a say determining the desired result and the lowest reasonable cost is for the MOA to participate fully on the EOC as a voting member.

[7] 3 AAC 52.400(b).

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V. EFFECT OF MOA REGAINING VOTING RIGHTS

Q.17 In his prefiled testimony, at p. 9:9-13 (Q/A 17), Mr. Zellers stated, "Before the acquisition transaction, the costs were allocated among the Project Owners in a manner consistent with ownership interests: MOA – 53.33%; Chugach – 30%; MEA 16.67%. After the transaction (and effectiveness of the PPAs) this became: Chugach – 64.29%; MOA – 19.04%; MEA 16.67%." Should the fact the MOA's cost allocation is less than its ownership interest have an effect on the MOA's voting rights?

A.17 No. First, the MOA's ownership interest has not changed. The MOA is still the majority owner with 53.33%. Second, voting rights were set by contract among the Project owners based on ownership, not based on then-current cost allocations or any cost allocations as they may change in the future. Chugach's acquisition of substantially all of the assets of ML&P did not change those contractually assigned voting rights or assign any portion of the MOA's voting rights to Chugach. If Chugach had wanted to purchase the MOA's voting rights in its acquisition of ML&P or purchase the right to exercise the MOA's voting rights commensurate with cost allocation, Chugach could and should have bargained for that valuable right and provided the MOA with valuable consideration. Third, after the PPAs expire, the cost allocation could revert back to what it was previously, consistent with ownership interests. Until then, the MOA needs its voting rights to protect the valuable assets that it still owns and may continue to own even after the expiration of the PPAs.

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Q.18 In his prefiled testimony, at p. 15:12-18 (Q/A 26), Mr. Zellers stated, "Should the MOA regain its voting rights, we expect that the Assembly will attempt to undo, redo or otherwise block the Project Owners' implementation of the Final Fish and Wildlife Program approved by the Governor on October 2, 2024 in pursuit of its own policy goals. We do not trust how the MOA might act if it regains majority voting rights in matters related to the Eklutna Project, the 1991 Agreement, and implementation of the Final Fish and Wildlife Program." How do you respond?

A.18 According to the Anchorage Municipal Charter, § 16.01(a), which binds every element of the Municipality, "Each municipal utility," including AHP, "shall be operated in accordance with the general standards common to utilities providing the same utility service." There is thus no risk that the MOA will use its vote on the EOC in a manner that is inconsistent with prudent utility practice. Mr. Zellers appears to speculate that, within the zone of choices available to all the Project Owners under prudent utility practice, he might end up having different preferences from the Municipality. Any such good faith disagreements among the Project Owners, if they do occur, can and should be resolved using the traditional mechanisms that have always been used to resolve disputes among the Project Owners. The mere possibility of future disagreement among the Project Owners is no basis on which to deny the majority owner its voting rights under the applicable contracts and Order 39.

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Q.19 Assuming the Commission finds that you have the expertise required to fully participate as a voting member of the EOC and lifts the MOA's surrender of its voting rights, what would happen if or when you leave your position as Utility Director of AHP?

A.19 The MOA would hire a qualified replacement and would rely on the expertise and knowledge of any other AHP executives or employees that may exist at the time of such an event. My replacement, in conjunction with the other officers and employees of AHP, must possess such knowledge. Additionally, as stated in my prefiled direct testimony, the MOA has contracts with professional engineering firms that have knowledge of generation and transmission and there are other members of the MOA Administration that have prudent management experience.

VI. CONFLICT OF INTEREST

Q.20 Prior to AHP filing its Request for Acknowledge of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee with the Commission, has either Chugach or MEA raised concerns about actual or potential conflicts of interest between ML&P or AHP and AWWU that may impact AHP's participation on the EOC?

A.20 I am not aware of Chugach or MEA raising any such concerns. During discovery, Mr. Ori stated he "was not aware of any concerns raised by Chugach to the MOA about potential or actual conflicts of interests between ML&P and AWWU that impacted ML&P's participation on the EOC."[8] Mr. Zellers stated that "as the current MEA representative on the EOC, is not aware of any concerns raised by MEA to the MOA during Mr. Zellers's

[8] **Exhibit MAC-4** at 2-3.

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term on the EOC, about potential conflict of interest between ML&P and AWWU that arose during his time on the EOC."[9] Mr. Zellers noted "that water rights and allocation of water related benefits were allocated to, and subsumed within, ML&P's interests, and to his knowledge, no conflicts between ML&P and AWWU related to water rights and allocation were managed at the EOC."[10]

Q.21 As AHP's owner representative on the EOC, you may be involved in confidential discussions about matters and strategy relating to AWWU. Do you believe your role as both the Utility Director of AHP and the General Manager of AWWU would present a conflict of interest ?

A.21 No. As I stated in my prefiled direct testimony, under the Memorandum of Understanding between AHP and AWWU ("MOU"),[11] I will act solely as the Utility Director of AHP and will abstain from any decisions that need to be made by the General Manager of AWWU in any instance of conflicting interests between AHP and AWWU.

Under the MOU, I will not take any action in my role as the General Manager of AWWU on "issues that effect the interest, operations, or obligations" of AHP. In such instances, AWWU's interests will be represented by AWWU's Assistant General Manager. All decisions I will make in my role as the AHP representative on the EOC will be consistent with prudent utility practices and the rights and obligations of Chugach and MEA as required by the Eklutna PPA and MEA PPA.

[9] **Exhibit MAC-5** at 2.
[10] *Id. at* 2-3.
[11] Previously produced as **Exhibit MAC-3**.

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Q.22 In his prefiled testimony, at p. 20:14-18 (Q/A 34), Mr. Zellers stated, "As we move forward implementing the 1991 Agreement and the Final Program, the Project Owners will need to have confidential discussions about various matters and strategy as it related to AWWU. It makes no sense and is a direct conflict of interest to have the General Manager of AWWU in those discussions." How do you respond?

A.22 As I stated above, under the MOU, I will make all decisions as they related to AWWU in my role as the AHP representative on the EOC and not as the General Manger of AWWU. My decisions will be consistent with prudent utility practices and the rights and obligations of Chugach and MEA as required by the Eklutna PPA and MEA PPA. AHP and AWWU have entered into a Supplemental MOU, dated October 29, 2024.[12] Under this Supplemental MOU, I will not exercise the powers of the General Manger of AWWU until a final decision is issued in this docket and any judicial review is compete. As the Director of AHP, I will advise AWWU on matters provided there is no risk of conflict between the interests of AHP and the interests of AWWU regarding the Eklutna Hydroelectric Project. If the MOA regains its voting rights, I will promptly resign from AWWU.

VII. PUMPED STORAGE HYDROPOWER ** PROVISIONAL TESTIMONY **

The provisional testimony below and associated exhibits are presented for consideration only if the Commission issues a decision expanding the scope of this docket to include PSH options at the Eklutna Project.

[12] **Exhibit MAC-6**.

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Q.23 In his prefiled testimony, at p. 12:8-13 (Q/A 21), Mr. Ori stated, "I do know that the Eklutna Project designed and built in the 1950s was not designed to be operated in a bidirectional manner. Replacing the existing turbines alone would be quite costly. Based on my professional experience, I expect that retrofitting the project to operate in a manner it was never intended to operate, but consistent with prudent utility practices, would be very costly." In his prefiled testimony, at Q/A 31, Mr. Zellers stated, "The Eklutna Project was built in the 1950s, and similar to other hydroelectric projects developed during that time, was never designed to be operated in a bidirectional manner, so the engineering and retrofitting costs will be substantial and the risks to the Project could be well beyond those that a prudent utility operator would take." How do you respond?

A.23 First, the MOA's proposed PSH options were a "concept." The MOA presented PSH concepts to get feedback from the Assembly to request pursuing an evaluation through the Governor's F&W Program review process. As noted in the MOA's presentation, there are data gaps to be filled and much vetting and analysis still to be done, hence why the MOA request was simply to further evaluate the PSH options that are available at Eklutna.

Second, regardless of whether 80 years ago the Eklutna Project was originally designed for bidirectional PSH, like most systems, including the Eklutna tunnel, the Eklutna Project can be modified or retrofitted to uses that were not specifically foreseen. And Chugach and MEA have not "engineer[ed] or model[ed] [PSH options] to see if it was economically or engineeringly feasible at [Eklutna]."[13]

[13] **Exhibit MAC-7** at 31.

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Q.24 In his prefiled testimony, at pp. 17:23 – 18:3 (Q/A 30), Mr. Zellers stated, "Our engineering consultants . . . determined that converting the Eklutna Project to a pumped storage project would present significant technical and logistical challenges, making the proposal infeasible from an engineering perspective and likely economically prohibitive." How do you respond?

A.24 Without a formal engineering evaluation to review, those statements are premature. And more importantly, PSH is a concept with many options and variations that can be used to convert variable renewable energy sources ("VREs") to firm power to benefit the Utilities and Railbelt, as noted by the Owners themselves in their November 2022 response to the USF&W comments requesting PSH be evaluated with fish bypass.[14] Further, considering the looming Cook Inlet gas shortage, it is prudent and reasonable to explore alternative energy sources. But without an evaluation, the feasibility and economics cannot be known. After the further evaluation of PSH that is mandated by the Governor's F&W Program has been conducted, I will evaluate in good faith whether, in my professional opinion, implementing any PSH option at Eklutna Lake is feasible and consistent with prudent utility practice, and I will also evaluate in good faith how a PSH option scores under the public interest factors set out in the 1991 Fish and Wildlife Agreement. I will not vote on the EOC to advance a PSH option that I believe to be inconsistent with prudent utility practice.

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[14] *See* **Exhibit MAC-8** at 15.

Q.25 Does this conclude your prefiled reply testimony?

A.25 Yes, thank you.

Dated this 29th day of October, 2024, at Anchorage, Alaska.

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steven D. DeVries
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S WITNESS LIST

The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") intends to call the following witness at the hearing scheduled to begin on November 18, 2024.

1. Mark A. Corsentino, P.E.

RESPECTFULLY SUBMITTED this 12th day of November, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: */s/ Dean D. Thompson*

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November 12, 2024

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CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
By: */s/ Emily M. Walker*
Emily M. Walker

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REGULATORY COMMISSION OF ALASKA

Certification of Electronic Transmission

I, Tina Osgood, a Law Office Assistant II for the Regulatory Commission of Alaska, 701 West Eighth Avenue, Suite 300, Anchorage, Alaska, hereby certify that on November 14, 2024, I transmitted by electronic mail true and accurate copies of

Order U-24-024(8)

ORDER GRANTING MOTION TO DISMISS IN PART AND DISMISSING NOTICE AND REQUEST, DENYING MOTION TO DISMISS IN PART, VACATING PROCEDURAL SCHEDULE, DENYING MOTION TO COMPEL, DENYING REQUEST TO CONSTRUE NOTICE AND REQUEST AS PETITION TO AMEND CERTIFICATE CONDITION, PROVIDING GUIDANCE FOR FUTURE FILINGS, AND CLOSING DOCKET
(Issued November 14, 2024)

to the persons set out on the attached email list.

DATED at Anchorage, Alaska, this 14th day of November, 2024.

tina.osgood@alaska.gov

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steve DeVries
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024 ORDER NO. 8

ORDER GRANTING MOTION TO DISMISS IN PART AND DISMISSING NOTICE AND REQUEST, DENYING MOTION TO DISMISS IN PART, VACATING PROCEDURAL SCHEDULE, DENYING MOTION TO COMPEL, DENYING REQUEST TO CONSTRUE NOTICE AND REQUEST AS PETITION TO AMEND CERTIFICATE CONDITION, PROVIDING GUIDANCE FOR FUTURE FILINGS, AND CLOSING DOCKET

BY THE COMMISSION:

Summary

We grant the motion to dismiss filed by the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA) in part, and dismiss the *Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee* (Notice and Request) filed by the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP) on July 18, 2024. We deny the motion to dismiss in part. We vacate the remaining procedural schedule adopted for resolution of this docket, including the prehearing conference scheduled for November 18, 2024, and the public hearing scheduled to begin on November 18, 2024. We deny the motion to compel discovery responses jointly filed

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by Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA). We deny the request by AHP to construe its Notice and Request as a petition to modify the conditions on AHP's certificate of public convenience and necessity (certificate). We provide guidance to AHP for its consideration should it make future filings related to reinstatement of Eklutna Operating Committee (EOC) voting rights. We close this docket.

Background

In Order U-18-102(44)[1] we described the Eklutna Hydroelectric Project (Eklutna Project) as follows:

> The Eklutna Project was built and operated by the federal government pursuant to the Eklutna Power Act of 1950. In 1995, Congress authorized sale of the Eklutna Project to [the Municipality of Anchorage d/b/a Municipal Light & Power Department (ML&P)], Chugach, and MEA under the terms of the 1989 Eklutna Purchase Agreement. Under this agreement, the three utilities received an undivided interest in all of the Eklutna Project, water rights, generation plant and the transmission assets interconnecting the Eklutna Project with ML&P, Chugach, and MEA. ML&P obtained a 53.33% ownership interest, Chugach obtained a 30% ownership interest, and MEA obtained a 16.67% interest in the Eklutna Project. Eklutna Project energy, capacity, and costs are to be allocated based on these ownership interests. ML&P and Chugach assert that the Eklutna Project currently has a maximum capacity of 39 MW.
>
> The three utilities created the Eklutna Operating Committee (EOC) to make all management decisions related to operation, maintenance, and budgeting for the Eklutna Project. ML&P, Chugach, and MEA each have a representative on the EOC. Decisions by the EOC are made based upon a double majority consisting of affirmative votes by at least two of the three utilities whose ownership shares total at least 51% of the Eklutna Project ownership. Effectively, management of the Eklutna Project is limited to actions approved by ML&P and at least one of Chugach or MEA.[2]

[1]Order U-18-102(44)/U-19-020(39)/U-19-021(39), *Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third Party Sales Gas Pricing; and Requiring Filings*, dated May 28, 2020 (Order U-18-102(44)).

[2]Order U-18-102(44) at 60-61 (footnotes omitted).

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Chugach filed a petition seeking our approval of its acquisition of all service obligations and most assets of ML&P, and an application to amend its certificate to reflect the new service obligations.[3] Under the terms of this acquisition, Chugach would offer employment to all ML&P employees and the Municipality of Anchorage would retain no ML&P employees.[4] Under this acquisition, Chugach was not purchasing ML&P's interest in the Eklutna Project Power Plant, but was acquiring a portion of ML&P's share of cost responsibilities and output from the Eklutna Project for a 35 year period.[5] Docket U-19-020 was opened to investigate this petition and application.[6]

As part of this same transaction, ML&P filed an application to amend its certificate to delete its current service territory and add the Eklutna Project Power Plant site as its new service territory.[7]

[3] *Petition for Approvals Needed to Acquire Anchorage Municipal Light and Power and Application to Amend Certificate of Public Convenience and Necessity No. 8*, filed April 1, 2019 (Petition for Approvals), in Docket U-19-020.

[4] *Pre-filed Direct Testimony of Arthur W. Miller*, filed April 1, 2019, in Docket U-19-020, Exhibit AWM-03 at 67 (Section 6.05(a)); Docket U-19-020/U-19-021 Tr. 2708-2709.

[5] Petition for Approvals at 8.

[6] Order U-19-020(1), *Order Addressing Timeline for Decision, Inviting Participation by the Attorney General and Petitions to Intervene, Scheduling Prehearing Conference, Giving Notice of Possible Consolidation, Designating Commission Panel, and Appointing Administrative Law Judge*, dated April 18, 2019.

[7] *Application of the Municipality of Anchorage d/b/a Municipal Light and Power to Amend Certificate of Public Convenience and Necessity No. 121 and to Terminate Dividend Restriction*, filed April 5, 2019 (ML&P Application).

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Docket U-19-021 was opened to investigate this application.[8] Dockets U-19-020 and U-19-021 were consolidated with Docket U-18-102.[9]

We ultimately approved the transaction under which Chugach acquired the service obligations and most of the ML&P assets, subject to conditions.[10] One of these conditions required ML&P to surrender its voting rights on the EOC prior to the effective date of the agreements under which ML&P's successor would be providing part of its share of the Eklutna Project output to Chugach (the Eklutna Power Purchase Agreement (PPA))[11] and selling the remainder of its share of the Eklutna Project output to MEA (the MEA PPA).[12] We required that:

> This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[13]

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[8]Order U-19-021, *Order Addressing Timeline for Decision, Inviting Participation by the Attorney General and Petitions to Intervene, Scheduling Prehearing Conference, Giving Notice of Possible Consolidation, Designating Commission Panel, and Appointing Administrative Law Judge*, dated April 18, 2019.

[9]Order U-18-102(8)/U-19-020(2)/U-19-021(2), *Order Consolidating Dockets, Designating Party, Requiring Filing, Granting Petitions to Intervene, Adopting Procedural Schedule, Addressing Timeline for Final Decision, and Amending Docket Captions*, dated May 8, 2019.

[10]As part of this transaction, ML&P's ownership interest in the Eklutna Project transmission system interconnecting the Eklutna Project Power Plant with the transmissions systems of Chugach, ML&P, and MEA was transferred to Chugach and MEA. The Eklutna Project transmission system is not at issue in this docket.

[11]The Eklutna PPA is attached as Appendix D to Order U-18-102(44) and is entitled *Eklutna Power Purchase Agreement Between Chugach Electric Association, Inc. ("Purchaser") and Municipality of Anchorage ("Seller")*.

[12]Order U-18-102(44) at 65-67. The MEA PPA is attached as Appendix H to Order U-18-102(44) and is entitled *Eklutna Power Purchase Agreement Between Municipality of Anchorage ("Seller") and Matanuska Electric Association, Inc. ("Purchaser")*.

[13]Order U-18-102(44) at 67.

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In compliance with this condition, ML&P surrendered its EOC voting rights effective October 30, 2019.[14]

Almost five years later, AHP filed the Notice and Request seeking reinstatement of its EOC voting rights.[15] In this filing, AHP asserted that Anchorage Water and Wastewater (AWWU) General Manager Mark A. Corsentino had been appointed to be the General Manager of AHP and that AWWU Engineering Director Mark Schimscheimer would provide support to Corsentino. AHP filed the resumes of these two employees.[16] To reflect the time these two AWWU employees are expected to spend on AHP business, 20% of Corsentino's salary and 10% of Schimscheimer's salary would be paid by AHP.[17] AHP requested a decision on its Notice and Request within 30 days of the date it was filed, or by August 17, 2024.[18]

We issued public notice of the Notice and Request, with comments due by August 26, 2024.[19] The Native Village of Eklutna filed comments indicating the Village's endorsement of AHP's request.[20] Chugach and MEA jointly filed comments identifying issues related to the Notice and Request that they believed should be investigated.[21]

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[14]*Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights*, filed October 30, 2020, in Dockets U-18-102/U-19-020/U-19-021.

[15]*Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*, filed July 22, 2024 (Notice and Request).

[16]Notice and Request at Exhibits 2 and 4.

[17]Notice and Request at Exhibit 3.

[18]Notice and Request at 1.

[19]*Notice of Utility Request*, dated July 26, 2024.

[20]Correspondence by Aaron Leggett, President, Native Village of Eklutna, filed August 2, 2024.

[21]Correspondence from Arthur W. Miller, Chief Executive Officer, Chugach Electric Association, Inc. and from Antony M. Izzo, Chief Executive Officer, Matanuska Electric Association, Inc., filed August 26, 2024.

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We opened this docket to investigate the Notice and Request, denied AHP's request for an early decision, designated Chugach and MEA as parties to this docket, invited participation by the Attorney General, and scheduled a prehearing conference.[22] RAPA elected to participate in this docket.[23] Chugach and MEA have participated jointly.[24] We rescheduled the prehearing conference to accommodate AHP's counsel.[25]

AHP filed a motion for expedited consideration for a final decision in this docket by October 2, 2024.[26] RAPA agreed with AHP that a final decision in this matter could be reached by October 2, 2024.[27] Chugach and MEA opposed expedited consideration.[28] The Municipality of Anchorage Assembly (Assembly) filed a petition to intervene in this matter on August 27, 2024.[29] We denied AHP's motion for expedited

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[22]Order U-24-024(1), *Order Denying Request for Decision in 30 Days; Designating Parties; Inviting Participation by the Attorney General and Intervention; Addressing Timeline for Decision; Scheduling Prehearing Conference; Designating Commission Panel; and Appointing Administrative Law Judge*, dated July 30, 2024 (Order U-24-024(1)).

[23]*Notice of Election to Participate*, filed August 7, 2024.

[24]*Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Entry of Appearance*, filed August 15, 2024.

[25]Order U-24-024(2), *Order Vacating and Rescheduling Prehearing Conference*, dated August 14, 2024.

[26]*Municipality of Anchorage d/b/a Anchorage Hydropower's Motion for Expedited Consideration of Request for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*, filed August 15, 2024.

[27]*Office of the Attorney General's Response to Anchorage Hydropower's (AHP) Motion for Expedited Consideration of its Request for Acknowledgment*, filed August 26, 2024.

[28]*Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Opposition to AHP's Motion for Expedited Consideration*, filed August 26, 2024.

[29]*Anchorage Assembly's Petition to Intervene*, filed August 27, 2024 (Assembly Petition).

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consideration of its motion in part, and scheduled oral argument on the motion for expedited consideration for the prehearing conference on August 30, 2024.[30]

At the prehearing conference on August 30, 2024, following oral argument by the parties, the administrative law judge (ALJ) announced our denial of the motion for expedited consideration filed by AHP.[31] The ALJ also announced our desire for briefing on the minimum term of the EOC voting rights surrender required by Order U-18-102(44).[32] The parties and the Assembly then proposed a procedural schedule for resolving this docket.[33] We adopted the procedural schedule proposed by the parties and denied the Assembly's petition to intervene.[34]

AHP filed an initial brief on the minimum term of EOC voting rights surrender issue and testimony by Corsentino.[35] Chugach and MEA filed testimony by Eugene A. Ori and by Tony R. Zellers.[36] RAPA filed a responsive brief on the minimum term of EOC

[30]Order U-24-024(3), *Order Denying Motion for Expedited Consideration In Part*, dated August 20, 2024.

[31]Tr. 7-15.

[32]Tr. 17-18.

[33]Tr. 20-23.

[34]Order U-24-024(4), *Order Adopting Procedural Schedule, Denying Petition to Intervene, and Redesignating Commission Panel*, dated September 12, 2024 (Order U-24-024(4)).

[35]*Municipality of Anchorage d/b/a Anchorage Hydropower's Brief Regarding Interpretation of Order 39*, filed September 18, 2024 (AHP Initial Brief); *Prefiled Direct Testimony of Mark A. Corsentino, P.E.*, filed September 18, 2024.

[36]*Prefiled Responsive Testimony of Eugene A. Ori*, filed October 8, 2024; *Prefiled Responsive Testimony of Tony R. Zellers*, filed October 8, 2024.

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voting rights surrender issue.[37] Chugach and MEA filed a responsive brief on the minimum term of EOC voting rights surrender issue.[38]

AHP requested that we issue an order governing confidential discovery.[39] We issued an order governing confidential discovery in response to that request.[40] RAPA filed a motion to dismiss the Notice and Request.[41] Chugach and MEA joined in the Motion to Dismiss.[42] RAPA filed a request to defer ruling on the Motion to Dismiss, and a motion for expedited consideration of the request to defer ruling.[43] We denied the request to defer ruling and the motion for expedited consideration of that request.[44]

Chugach and MEA filed a motion to compel discovery from AHP.[45] AHP filed a reply brief on the minimum term of EOC voting rights surrender and reply testimony

[37] *Office of the Attorney General's Brief on Interpretation of Order 39*, filed October 8, 2024 (RAPA Brief).

[38] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Brief Regarding Surrender Term*, filed October 8, 2024 (Chugach/MEA Brief).

[39] Tr. 16-17, 23-24: Correspondence from D. Thompson filed October 16, 2024.

[40] Order U-24-024(5), *Order Governing Confidential Discovery Material*, dated October 17, 2024.

[41] *Office of the Attorney General's Motion to Dismiss as Moot*, filed October 15, 2024 (Motion to Dismiss).

[42] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joinder in Motion to Dismiss Regarding Surrender Term*, filed October 24, 2024.

[43] *Office of the Attorney General's Request to Defer Ruling on Motion to Dismiss*, filed October 24, 2024; *Office of the Attorney General's Motion for Expedited Consideration of Request to Defer Ruling*, filed October 24, 2024.

[44] Order U-24-024(6), *Order Denying Request to Defer Ruling and Motion for Expedited Consideration of Request to Defer Ruling*, dated October 25, 2024.

[45] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Motion to Compel Discovery Responses*, filed October 28, 2024 (Motion to Compel).

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by Corsentino.[46] AHP filed an opposition to the Motion to Dismiss.[47] RAPA filed a reply to AHP's opposition to the Motion to Dismiss.[48] AHP filed an opposition to the Motion to Compel.[49]

AHP filed a motion for oral argument on the Motion to Dismiss and the Motion to Compel, and a motion for expedited consideration of the motion for oral argument.[50] RAPA filed a response to the motion for oral argument and motion for expedited consideration of the motion for oral argument.[51] We denied the motion for oral argument and the motion for expedited consideration of the motion for oral argument.[52] Chugach and MEA filed a reply to AHP's opposition to the motion to compel.[53]

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[46]*Municipality of Anchorage d/b/a Anchorage Hydropower's Reply Brief Regarding Interpretation of Order 39*, filed October 29, 2024 (AHP Reply Brief); *Prefiled Reply Testimony of Mark A. Corsentino, P.E.*, filed October 29, 2024.

[47]*Municipality of Anchorage d/b/a Anchorage Hydropower's Opposition to the Office of the Attorney General's Motion to Dismiss as Moot*, filed October 30, 2024 (AHP Response).

[48]*Office of the Attorney General's Reply to AHP's Opposition to Motion to Dismiss*, filed November 4, 2024 (RAPA Reply).

[49]*Municipality of Anchorage d/b/a Anchorage Hydropower's Opposition to Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Motion to Compel Discovery Responses*, filed November 4, 2024 (AHP Opposition).

[50]*Municipality of Anchorage d/b/a Anchorage Hydropower's Motion for Oral Argument*, filed November 5, 2024; *Municipality of Anchorage d/b/a Anchorage Hydropower's Motion for Expedited Consideration of its Motion for Oral Argument*, filed November 5, 2024, as corrected by *Municipality of Anchorage d/b/a Anchorage Hydropower's Errata to Motion for Expedited Consideration of its Motion for Oral Argument*, filed November 6, 2024.

[51]*Office of the Attorney General's Response to AHP's Motions for Oral Argument and Expedited Consideration*, filed November 6, 2024.

[52]Order U-24-024(7), *Order Denying Motion for Oral Argument and Motion for Expedited Consideration of Motion for Oral Argument*, dated November 6, 2024.

[53]*Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Reply to AHP's Opposition to Motion to Compel Discovery Responses*, filed November 6, 2024 (Chugach/MEA Reply).

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Discussion

Motion to Dismiss

In its Motion to Dismiss, RAPA seeks dismissal of AHP's Notice and Request on two grounds. First, RAPA asserts that AHP only desires to have its EOC voting rights restored so that it could have greater input on the Eklutna Project Fish and Wildlife Program identified in Section 104(a) of Public Law 104-58. RAPA states that the Governor has now approved the Eklutna Project Fish and Wildlife Program. Based on this action, RAPA concludes that the Notice and Request is now moot and should be dismissed.[54] Second, RAPA also asserts that the Notice and Request should be dismissed because it is premature under the minimum term of EOC voting rights surrender specified in Order U-18-102(44).[55]

We raised the issue that the Notice and Request appears to be premature under the minimum term of EOC voting rights surrender specified in Order U-18-102(44) at the prehearing conference.[56] That issue has been extensively briefed by the parties and we will address it first.

Dismissal as Premature Under the Terms of Order U-18-102(44)

In Order U-18-102(44) we established a minimum term for ML&P's surrender of its EOC voting rights as a condition of AHP's certification as a public utility and as a condition of our approval of the Eklutna PPA and the MEA PPA. This term is stated as follows:

> We can only find that [AHP] is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders

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[54]Motion to Dismiss at 1-7. *See*, Order U-18-102(44) at 61, and the materials cited in footnote 175, for a discussion of the Fish and Wildlife Program requirements.

[55]Motion to Dismiss at 7-8.

[56]Tr. 6-7.

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> its vote on the EOC under the Eklutna Project agreement so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without [AHP] having a vote on operating or management decisions. **This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as [AHP] has shown to our satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC**.[57]

AHP based its request for reinstatement of EOC voting rights on the assertion that it had acquired the expertise required to fully participate as a voting member of the EOC in compliance with the second half of this condition.[58] AHP initially made no reference to the minimum term of EOC voting rights surrender required by Order U-18-102(44).[59]

We raised the minimum term of EOC voting rights surrender issue at the prehearing conference, and AHP responded that it disagreed with the suggestion that Order U-18-102(44) mandated a minimum term of EOC voting rights surrender.[60] We requested briefing on this issue.[61] In its briefing on this issue, AHP acknowledged that if Order U-18-102(44) mandated a minimum term of EOC voting rights surrender it would not have EOC voting rights until both the Eklutna PPA and the MEA PPA elapsed.[62] AHP raised several grounds on which it based its belief that Order U-18-102(44) did not mandate a minimum term of EOC voting rights surrender. We address those grounds separately.

Rules of Statutory and Contract Interpretation

AHP asserts:

> It is a principle of both contract law and statutory interpretation that contracts and statutes should not be interpreted in a manner that renders

[57]Order U-18-102(44) at 67 (emphasis added).

[58]Notice and Request at 3-7.

[59]Notice and Request at 1-14.

[60]Tr. 6-7, 15.

[61]Tr. 17-18.

[62]AHP Initial Brief at 9.

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> language superfluous. To the extent there is any ambiguity in the language of a past Commission Order, the Commission should apply the same rules of interpretation here.[63]

AHP cites to no authority for application of this rule of interpretation to our orders. For the sake of clarity in this proceeding we address this issue as if these rules of interpretation do apply to our orders, without determining if these rules do apply to our orders.

The minimum term of EOC voting rights surrender is stated in Order U-18-102(44) as:

> This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as [A]HP has shown to our satisfaction that [A]HP has acquired the expertise required to fully participate as a voting member of the EOC.

As an initial matter, we agree with RAPA that there is no grammatical ambiguity in the minimum term of EOC voting rights surrender language.[64] AHP has disputed RAPA's grammatical evaluation of this language.[65] However, each of AHP's arguments would result in portions of the language actually used in Order U-18-102(44) being rendered superfluous in violation of the very rules of interpretation AHP suggests that we follow. AHP's arguments for finding a grammatical ambiguity are not convincing and we do not agree with AHP's assertion that there is grammatical ambiguity in the minimum term of EOC voting rights surrender language used in Order U-18-102(44).

AHP also argues that there is a contextual ambiguity in the minimum term of EOC voting rights surrender language in Order U-18-102(44). Specifically, AHP argues that the minimum term of EOC voting rights surrender renders Section 4.2 of the Eklutna PPA and Section 4.2 the MEA PPA superfluous in violation of the rules of construction it

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[63]AHP Initial Brief at 13 (footnote omitted).

[64]RAPA Brief at 3-5

[65]AHP Reply Brief at 7-14.

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relies upon.[66] Examination of the context in which the minimum term of EOC voting rights surrender language is stated in Order U-18-102(44) shows that there is no contextual ambiguity between that language and the two Section 4.2 referred to by AHP.

AHP argues that if we intended the minimum term of EOC voting rights to be enforced as written, we would have disapproved the Section 4.2 referred to by AHP.[67] However, in crafting Order U-18-102(44) we "sought to find a way to approve this transaction while leaving as much of the parties' bargain intact as possible."[68] We did not disapprove any part of the transaction documents unless we specifically found that the public interest required disapproval of that part. Our failure to completely harmonize the transaction documents with the substance of Order U-18-102(44) cannot be taken as a basis for nullifying or rendering superfluous any express term stated in Order U-18-102(44).

Section 4.2 of the Eklutna PPA states:

> Section 4.2 Operation of the Facility.
>
> (A) In accordance with the Operations Agreement (as may be amended by the Operations Agreement Amendment), during the Term Purchaser shall manage, control, operate and maintain the Chugach Portion in a manner consistent with Prudent Utility Practice.
>
> (B) During the Term, Seller shall, in consultation with Purchaser, select the person to serve as Seller's representative to the Operating Committee (the "Seller's Representative"). The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA. Seller's Representative shall also be Seller's representative for any consultation, study, and implementation processes required under the Fish and Wildlife Agreement relating to the Facility. The Seller's Representative shall make all decisions with respect to any processes required under the Fish and Wildlife Agreement with due regard for the rights and obligations of the Parties under this PPA.

[66]AHP Initial Brief at 9-19; AHP Reply Brief at 14-17, 19-36.

[67]AHP Initial Brief at 9-19

[68]Order U-18-102(44) at 11.

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> (C) The Parties acknowledge and agree that Seller has prior rights to not less than 41 million gallons of water per day from Eklutna Lake for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823; Alaska Statutes 46.15.150(a); and Certificate of Appropriation AOL 44944. The Parties agree that during the Term, the supply of water available for production of Power by the Seller's Interest shall be net of all water taken by Anchorage Water and Wastewater Utility for public water supply purposes.[69]

Eklutna PPA Subsection 4.2(A) deals with Chugach's obligations as Purchaser and Subsection 4.2(C) only identifies the Municipality of Anchorage's rights to water from Eklutna Lake. Neither of these two subsections are relevant to AHP's argument and we do not address them further.

Subsection 4.2(B) requires AHP, as Seller, to consult with Chugach in the selection of AHP's representative on the EOC. In Order U-18-102(44), we stated:

> We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[70]

This language allows, but does not require, AHP to have a non-voting representative attend EOC meetings. Not disapproving Subsection 4.2(B) leaves intact the parties bargain requiring AHP to consult with Chugach when selecting AHP's representative to the EOC. Further, nothing in the Order U-18-102(44) prevents AHP's non-voting EOC representative from participating in EOC meetings "consistent with Prudent Utility Practice

[69]Order U-18-102(44), Appendix D at 9.

[70]Order U-18-102(44) at 67.

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and the rights and obligations of the Parties under this PPA." The "consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA" language of Eklutna PPA Subsection 4.2(B) places boundaries on the AHP non-voting representative's participation in EOC meetings and our not disapproving Subsection 4.2(B) leaves intact the parties' bargain for this limitation on AHP.

Subsection 4.2 of the MEA PPA states:

> Section 4.2 Operation of the Facility.
>
> (A) During the Term Seller shall, at its cost and expense, manage, control, operate, and maintain the MEA Portion in accordance with the Operations Agreement and in a manner consistent with Prudent Utility Practice. Without limiting the foregoing, during the Term, as between Seller and Purchaser. Seller shall be responsible for all capital costs, all operations and maintenance expenses, and all costs and expenses for environmental compliance and compliance with Applicable Laws relating to the MEA Portion.
>
> (B) During the Term. Seller shall, after giving Purchaser a reasonable opportunity to consult with Seller. but without in any way limiting Seller's discretion as a result of any such consultation, select the person to serve as Seller's representative to the Operating Committee (the "Seller's Representative"). The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA and the rights and obligations of the parties under the Chugach Power Purchase Agreement. The Seller's Representative shall also be Seller's representative for any consultation, study. and implementation processes required under the Fish and Wildlife Agreement relating to the Facility. The Seller's Representative shall make all decisions with respect to any processes required under the Fish and Wildlife Agreement with due regard for the rights and obligations of the Parties under this PPA.
>
> (C) The Parties acknowledge and agree that Seller has prior rights to not less than 41 million gallons of water per day from Eklutna Lake for public water supply pursuant to the Act of October 30, 1984. 98 Stat. 2823; Alaska Statutes 46.15.150(a); and Certificate of Appropriation AOL 44944. The Parties agree that during the Term, the supply of water available for production of Power by the Seller's Interest shall be net of all water taken by Anchorage Water and Wastewater Utility for public water supply purposes consistent with the aforementioned water rights.

MEA PPA Subsection 4.2(A) does not address AHP's representation on the EOC and Subsection 4.2(C) only identifies the Municipality of Anchorage's rights to water from

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Eklutna Lake. Neither of these two subsections are relevant to AHP's argument and we do not address them further.

As discussed above, the minimum term of EOC voting rights surrender condition allows AHP to have a representative attend EOC meetings. The MEA PPA Section 4.2(B) requirement that AHP consult with MEA on AHP's choice of that representative remains effective even if the AHP representative has no voting rights. Also, as discussed above, the "consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA" language of MEA PPA Subsection 4.2(B) places boundaries on the AHP non-voting representative's participation in EOC meetings and our not disapproving Subsection 4.2(B) leaves intact the parties' bargain for this limitation on AHP.

Eklutna PPA Section 4.2(B) and MEA PPA Section 4.2(B) are both silent on voting rights and thus the requirement that ML&P surrender its EOC voting rights does not expressly nullify any part of these provisions. Both subsections include the phrase: "Seller's Representative shall make all decisions on the Operating Committee consistent …." This language could imply that AHP makes EOC decisions. As discussed in Order U-18-102(44), with its EOC voting rights intact ML&P had authority to veto decisions of the EOC but did not have authority to make decisions for the EOC except with the agreement of at least Chugach or MEA.[71] Because ML&P never had the authority to make EOC decisions, we read the "Seller's Representative shall make all decisions on the Operating Committee consistent" language to refer to the decisions AHP, as ML&P's successor, makes about its own participation in EOC decisions. Nothing in Order U-18-102(44) renders the language in Eklutna PPA Section 4.2(B) or MEA PPA Section 4.2(B) superfluous, and the existence of the language in these two subsections does not

[71] Order U-18-102(44) at 60-61.

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create any contextual ambiguity in the minimum term of EOC voting rights surrender language used in Order U-18-102(44).

AHP points to history of TA525-18 and TA379-121 where our Staff asked AHP and MEA if MEA PPA Section 4.2(B) needed to be revised based upon the apparent inconsistency with the minimum term of surrender language in Order U-18-102(44) as evidence of contextual ambiguity.[72] In TA525-18 and TA379-121, on October 22, 2020, our Staff asked MEA and ML&P to respond to the following:

> I believe there is an inconsistency between the MEA Eklutna PPA and the final order (U-18- 102(44)/U-19-020(39)/U-19-021(39)) (U-18-102(44).
>
> At page 67 of U-18-102(44) the Commission required MOA/ML&P to surrender its vote on the EOC so Chugach and MEA could manage the Eklutna Hydro project.
>
> The MEA Eklutna PPA, at page 4, Section 4.2(B) appears to allow MOA/ML&P to keep its vote on the EOC.
>
> Does MEA [or ML&P] believe the language between the final order and the MEA Eklutna PPA as summarized above are in conflict? Please explain your response and provide a remedy if appropriate.

MEA responded to this request as follows:

> Mr. Layne, regarding your inquiry, MEA offers the following response.
>
> The MEA Eklutna Hydro PPA, by and between MEA and the MOA, was entered into and executed in September 2019, several months prior to the RCA's May 2020 decision requiring ML&P to surrender its vote on the EOC as a condition of approving the sale of ML&P. This appears to be the reason for the "conflict" you reference because at the time the PPA was negotiated, the parties had no way of knowing the future RCA decision regarding ML&P's surrendering of EOC voting rights. MEA notes that the provision you reference and cite as a conflict in the MEA Eklutna Hydro PPA is contained verbatim in the Chugach Eklutna Hydro PPA (see Appendix D of Order U-18-102(44), Section 4.2(B) at page 9 of 92), which the RCA conditionally approved as part of Order U-18-102(44).
>
> In MEA's view, if the RCA wishes to resolve this perceived conflict, the remedy should be similar and consistent with how the RCA remedied the same conflict in the Chugach Eklutna Hydro PPA, which could include approving the MEA PPA subject to the same conditions the RCA previously imposed in Order U-18-102(44). Specifically, MEA is agreeable to having the same vote

[72] AHP Initial Brief at 14-18; AHP Reply Brief at 15-17 (in this brief, AHP erroneously refers to TA525-18 as being TA525-15).

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surrender language in order U-18-102(44) at page 67 apply to the MEA Eklutna Hydro PPA. Hopefully this helps resolves this matter.[73]

ML&P responded to this request as follows:

> The MOA/ML&P do not believe that the MEA Eklutna PPA is inconsistent Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39"). The part of Order 39 that you cite states:
>
> "We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the [Chugach] Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions." Order 39 at 67.
>
> To comply with the Order, ML&P will surrender its vote on the EOC prior to the closing of the ML&P sale to Chugach, which will be before the effective date of the Chugach Eklutna PPA and of the MEA Eklutna PPA. ML&P will promptly file a notice of that surrender with the RCA. The surrender will have a term at least equal to the term of the two PPAs, subject to termination of the surrender upon MHP showing to the RCA's satisfaction "that MHP has acquired the expertise required to fully participate as a voting member of the EOC." Order 39 at 67. If and when MHP has a proposed EOC representative that satisfies the qualifications, MHP will file that information and request that the RCA make the necessary finding for termination of the EOC vote surrender.
>
> Like Section 4.2(B) of the Chugach Eklutna PPA, Section 4.2(B) of the MEA Eklutna PPA requires MHP, in consultation with the Purchaser, to select MHP's representative on the EOC. As a result of Order 39, MHP won't have any voting representative on the EOC until the surrender is terminated upon a positive finding by the RCA that MHP's proposed representative is qualified. Thus, Section 4.2(B) of neither PPAs need to be amended. In addition, Section 4.2(B) should remain as written as it will be relevant if and when MHP's voting rights surrender is terminated in the future upon the necessary finding of the RCA.[74]

The ambiguity that our Staff was inquiring about is different from the ambiguity alleged by AHP. Staff was concerned that MEA PPA Section 4.2(B) contractually allowed AHP to exercise a vote on the EOC after the surrender was in effect. This is due to the language used in the MEA PPA, and as noted by MEA, language that is also in the Eklutna PPA.

[73]Correspondence from T. Clark, filed October 23, 2020, in TA525-18.

[74]Correspondence from D. Thompson, filed October 27, 2020, in TA379-121.

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MEA responded that the MEA PPA was negotiated several months before Order U-18-102(44) was issued, and that the language of the MEA PPA did not reflect the surrender of ML&P's voting rights on the EOC required by Order U-18-102(44) because the parties were not aware that we were going to order that surrender. Both MEA and ML&P assured us that the language in Order U-18-102(44) was sufficient to prevent ML&P from having voting rights on the EOC after the effective date of surrender.

ML&P stated in the correspondence quoted above that: "As a result of Order [U-18-102(44)], [A]HP won't have a voting representative on the EOC until the surrender is terminated upon a positive finding by the RCA that MHP's proposed representative is qualified." In the paragraph immediately above, ML&P restated the requirement for restoration of their vote on the EOC as: "The surrender will have a term at least equal to the term of the two PPAs, subject to termination of the surrender upon MHP showing to the RCA's satisfaction "that MHP has acquired the expertise required to fully participate as a voting member of the EOC."" ML&P appears to assert that their modification from the minimum term of EOC voting rights surrender language of Order U-18-102(44) in their informal response to Staff's request should have put us on notice that they were nullifying the first part of the condition stated in Order U-18-102(44).[75]

We disagree with that assertion. If ML&P considered the language we used in Order U-18-102(44) to be unreasonable, erroneous, unlawful, or otherwise defective, their remedy was to timely file a petition for reconsideration under 3 AAC 48.105 or an appeal under AS 22.10.020(d) and Alaska Rule of Appellate Procedure 602(a)(2).[76] As Order U-18-102(44) was issued May 28, 2020, any petition for review was required to be filed by June 12, 2020 and any appeal was due to be filed by June 30, 2020. ML&P

[75]AHP Initial Brief at 16.

[76]Order U-18-102(44) at 143.

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waived its right to challenge the language used in Order U-18-102(44) by failing to take either of those routes. ML&P has no authority to unilaterally revise the requirements of Order U-18-102(44) based on correspondence with our Staff on October 27, 2020, months after waiving its right to seek such revisions.

Staff was specifically asking if the MEA PPA Section 4.2(B) language conflicted with the EOC voting rights surrender required by Order U-18-102(44). Staff was not asking about the minimum term of EOC voting rights surrender or about the methodology for restoration of those voting rights and AHP has provided no evidence that Staff paid any attention at all to ML&P's superfluous comments on those issues. AHP cites to no authority where such remarks can effectively rewrite the express terms of our orders.

In responding to Staff's request, ML&P stated: "Section 4.2(B) should remain as written as it will be relevant if and when [A]HP's voting rights surrender is terminated in the future upon the necessary finding of the RCA." As noted by AHP, we have authority under AS 42.05.271 to modify certificate conditions after providing notice and opportunity for hearing and for good cause shown.[77] Such modification is not necessarily tied to AHP's acquisition of adequate technical and managerial resources to fully participate on the EOC. For example, MEA PPA Section 11.2(A)(3) allows for early termination of the MEA PPA in the event of an uncured default.[78] Eklutna PPA Section 9.2(A)(3) allows for early termination of the Eklutna PPA in the event of an uncured default.[79] Without prejudging the matter, AHP might be able to show good cause for reinstatement of its EOC voting rights, at least in part, upon the early termination of one

[77]AHP Reply Brief at 43.

[78]Order U-18-102(44), Appendix H at 15.

[79]Order U-18-102(44), Appendix D at 16.

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of these agreements but not the other. Therefore, leaving Eklutna PPA Section 4.2(B) and MEA PPA Section 4.2(B) intact leaves that portion of the parties' bargain intact in the event that we do someday modify the minimum term of EOC voting rights surrender stated in order U-18-102(44).

For all the reasons discussed above, AHP has failed to establish a contextual ambiguity based on the language of Eklutna PPA Section 4.2(B) and MEA PPA Section 4.2(B) or our strict interpretation of the minimum term of EOC voting rights surrender stated in Order U-18-102(44). Eklutna PPA Section 4.2(B) and MEA PPA Section 4.2(B) are both currently effective in part and may become fully effective in the manner AHP desires sometime in the future. The continued existence of these two provisions do not justify a revision of the minimum term of EOC voting rights surrender language stated in Order U-18-102(44).

Public Understanding

AHP also suggests that we should modify the minimum term of EOC voting rights surrender stated in Order U-18-102(44) based upon the "public" understanding of that term expressed in various places.[80] AHP cites to no authority for this proposition. We note that part of the "public" understanding AHP relies upon is implied from past statements of Chugach, MEA, and RAPA.[81] In response, RAPA stated:

> At the August 30, 2024, prehearing conference, the Commission—through ALJ Walker—noted two things. First, that neither AHP's request for acknowledgement nor the motion for expedited consideration discussed why the Commission should set aside the minimum time-period for the voting rights surrender. And second, "it appears that the Commission should be considering dismissal of the notice and request for acknowledgment as being prematurely filed…."
>
> When examining AHP's Notice and Request for Acknowledgment, the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section

[80]AHP Initial Brief at 14-20.

[81]AHP Initial Brief at 19-20.

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(RAPA) incorrectly focused on the second half of the above-quoted language from Order 39 and not the issues raised by the Commission.[82]

Chugach and MEA stated:

> Chugach and MEA admit that until ALJ Walker raised this issue in this proceeding, they had not examined this issue closely and were theoretically comfortable with an interpretation of the Surrender that if and when the MOA could demonstrate technical and managerial fitness, potentially with certain conditions imposed on the MOA to require MOA act consistently with prudent utility practice, to prevent the MOA from undermining the Project Owners' work in implementing the Final Fish and Wildlife Program, and to protect the Eklutna Project as a valuable resource in the Railbelt, the MOA would be entitled to regain its voting rights on the EOC and with respect to the Fish and Wildlife Agreement before the end of the PPA terms.
>
> Upon further review in this proceeding, however, Chugach and MEA no longer think that this matter is so simple for two primary reasons. First, with respect to this narrow issue, the Commission is asking the parties if they agree or disagree with the Commission's interpretation of the applicability of the term length language, and because Chugach and MEA do see ambiguity in the language, the Commission is in the best position to explain what it intended. There also exists ample reasonable legal basis, well supported by facts, for the Commission's interpretation that the Surrender must last for the duration of the PPA terms centered on the fact that MOA has ceded most of its rights and responsibilities to the Eklutna Project during the duration of those PPAs. Further, the facts that justified the Surrender requirement in the first place are materially unchanged. Second, even if the Commission intended, through its language, to create a path for MOA to regain its voting rights before the end of the PPA terms, such process should not render the length of term requirement language meaningless as MOA's Brief position would. Rather, there must be an acknowledgement of the Surrender term requirement and a demonstration that the concerns behind such requirement will be addressed for the duration of the PPA terms.[83]

In reply, AHP asserts that the responsive arguments of RAPA, Chugach, and MEA are in error.[84] AHP acknowledges that RAPA, Chugach, and MEA changed their position after reviewing the minimum term of EOC voting rights surrender language in Order U-18-102(44) when that language was pointed out to them at the prehearing conference held August 30, 2024.[85]

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[82]RAPA Brief at 2.

[83]Chugach/MEA Brief at 11-12.

[84]AHP Reply Brief at 6-43.

[85]AHP Reply Brief at 3-6.

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From the explanations provided by RAPA, Chugach, and MEA, their earlier positions on the restoration of EOC voting rights to AHP was based on an incomplete reading of Order U-18-102(44). ML&P never asked us for clarification of the minimum term of EOC voting rights surrender language in Order U-18-102(44), and thus we do not know if ML&P's understanding of that language was based on a complete reading of the order either.

AHP cites to the language used by ML&P in its written surrender of EOC voting rights as evidence that ML&P understood that AHP's EOC voting rights could be restored whenever it made a showing that it had acquired the expertise to fully participate as a voting member of the EOC. AHP quoted from the surrender as follows:

> In accordance with the requirements of order U-18-102(44), the Municipality of Anchorage, dba Municipal Light & Power(ML&P), hereby surrenders its voting rights as an EOC member and under the Fish and Wildlife Agreement effective as of the Closing of the Asset Purchase Agreement between ML&P and Chugach Electric Association (Chugach). **This surrender of voting rights shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC.**
>
> **Until ML&P's successor complies with the qualification terms of RCA order U-18-102(44),** all EOC decisions will be by unanimous vote of Chugach and Matanuska Electric Association, Inc. (MEA). Eklutna hydro operations, dispatch and maintenance will continue to follow past practices and policies unless changes are approved through the EOC process.[86]

There is nothing in this surrender language indicating that ML&P is only surrendering its EOC voting rights until such time as its successor makes a showing that it has acquired the expertise required to fully participate as a voting member of the EOC. This surrender language states that ML&P is surrendering its voting rights in accordance with the requirements of Order U-18-102(44) and that the surrender remains in effect until ML&P's successor complies with our requirements pertaining to qualifications for ML&P's

[86]AHP Initial Brief at 17 (emphasis is by AHP in the Brief and is not in the original surrender of EOC voting rights).

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representation on the EOC. Those requirements include the minimum term of surrender and our approval of the transaction under which Chugach acquired ML&P's service obligations and most ML&P assets was conditioned on ML&P's surrender of its voting rights in conformance with that entire requirement.

We are not convinced that there is any reason to change the minimum term of EOC voting rights surrender expressly stated in Order U-18-102(44) based upon 'public' understanding when that understanding was based upon an incomplete reading of the order. We also do not find that ML&P or AHP has the right to modify the minimum term of EOC voting right surrender stated in Order U-18-102(44) based upon a post-hoc assertion that it misunderstood the terms of that order. We note that ML&P's surrender of its EOC voting rights was filed well after the time to request reconsideration of Order U-18-102(44) had passed and the time for appeal of that order had also passed. Thus ML&P no longer had any right to seek revision of the minimum term of EOC voting rights surrender except under a new proceeding seeking revision of that term. Inserting what may now be considered ambiguous language in a compliance filing is not adequate to make such a change.

Evidentiary Context

AHP further claims that we must interpret prior orders within the context of the evidence on which the prior order was based.[87] That is our standard practice. In Dockets U-18-102/U-19-020/U-19-021, we received written testimony from Municipal Attorney Rebecca Windt Pearson[88] that included the following:

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[87]AHP Reply Brief at 19-21.

[88]*Prefiled Reply Testimony of Rebecca Windt Pearson*, filed August 2, 2019 (Windt Pearson Testimony), in Dockets U-18-102/U-19-020/U-19-021; as corrected by *Municipal Light and Power's Errata to the Prefiled Reply Testimony of Rebecca Windt Pearson*, filed August 9, 2029. This testimony was marked as Hearing Exhibit T-22 in Dockets U-19-020/U-19-021.

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Q12. Why did ML&P retain its ownership share of the Eklutna generation plant and sell the output to Chugach, rather than simply including its share of the Eklutna generation plant in the sale?

A12. Both Chugach and the MOA had interests that were served by having the MOA continue to own its share of the Eklutna generation plant and sell the output of the MOA's share to Chugach (and possibly also to MEA).

Initially, the parties discussed Chugach financing a portion of the asset acquisition price through unsecured payments over a period of time. That changed, however, when the MOA expressed concern regarding the lack of security associated with those payments. The MOA was concerned that, if it sold all of ML&P's assets to Chugach, but Chugach failed to make an unsecured future payment, the MOA would have no recourse other than litigation or pursuing a claim as a general unsecured creditor in a bankruptcy proceeding.

The parties resolved this concern by carving ML&P's ownership interest in the Eklutna generation plant out of the sale. As a result of the MOA retaining the ML&P share of the Eklutna generation plant, Chugach was able to pay for the Transactions without requiring the MOA to incur the risk of unsecured future payments. The Parties then entered into the Chugach PPA to allow Chugach to receive the output from ML&P's Eklutna interest at Chugach's avoided cost.

This arrangement served each party's interests. It benefits the MOA because, if Chugach ever fails to make future payments under the Chugach PPA, ML&P can, as a result of its retained ownership of its share of Eklutna, sell the power from that share to another entity—likely another Railbelt utility, and likely at a higher "avoided cost." The fact that Chugach's avoided costs are lower than other Railbelt utilities also informed the allocation of risks in the Chugach PPA. The MOA likely could sell power from its retained share of Eklutna to another entity at a higher avoided cost rate, but any such transaction would likely require the MOA to accept greater risks. The MOA agreed to sell power to Chugach, at Chugach's avoided cost, at least partly because of the transaction's more preferable risk profile. The Chugach PPA benefits Chugach because it allows it to make power purchase payments over time, thereby avoiding the added margin costs associated with additional upfront financing.[89]

Windt Pearson swore under oath that her written testimony was true and correct, and it was admitted as evidence into the record of Dockets U-19-020/U-19-021.[90] In its Application filed in Docket U-19-021, ML&P stated:

> ML&P will continue to be a department of the MOA, however it will have no employees and any function requiring labor will be performed by the MOA (e.g.

[89]Windt Pearson Testimony at 8-9.

[90]Docket U-19-020/U-19-021 Tr. 2489-2489.

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billing and financial statement preparation will be performed by the MOA Finance Department).[91]

…

As mentioned above, historically the operation and maintenance activities of Eklutna have been performed by Chugach, MEA, and ML&P. After the Transactions close, the division of responsibilities will be allocated between Chugach and MEA. Both Chugach and MEA have power production and transmission experience. They have the necessary expertise to perform all necessary functions to operate Eklutna. As has been the practice in the past, any operational or capital function that is beyond their expertise will be contracted to a firm specializing in the function.

The MOA will receive payments under the Chugach PPA and Chugach will pay all operating, maintenance, and capital costs associated with ML&P's Eklutna interest. If MEA enters into a PPA for its pro rata share of ML&P's Eklutna output, ML&P will be responsible for the operating, maintenance, and capital costs associated with that share of ML&P's Eklutna interest. The MEA PPA payments ML&P receives, however, will be sufficient to pay any operating, maintenance, and capital costs that ML&P will be responsible for. If MEA enters into a PPA for its pro rata share of ML&P's Eklutna output, ML&P will establish a $3 million reserve fund in the first year of operation to address any intra-year revenue shortfalls, to be called upon if revenues received are not sufficient in any year to cover the operating, maintenance, or capital costs of ML&P's Eklutna interest. In addition, if unforeseen adverse events require it, the MOA has sufficient borrowing capacity to make necessary operating, maintenance, or capital investments related to ML&P's Eklutna interest.

The MOA has a Finance Department with experienced professional accountants that have the necessary expertise to perform the required accounting functions for ML&P's limited post-Transactions Eklutna interest ownership and long term wholesale bulk power sales to Chugach or Chugach and MEA under the PPAs. The Finance Department will maintain ML&P's books and records, consistent with the Uniform System of Accounts. These books and records will include ML&P's revenues received under the PPAs and ML&P's share of monthly operational and capital costs. The Finance Department will track any assets purchased or constructed by the EOC, to include tracking operation and maintenance costs for the assets. Further, the Finance Department will maintain continuing property records to include original asset cost, annual depreciation, and net book value of all assets.[92]

At hearing in Dockets U-19-020/U-19-021, Windt Pearson orally testified as follows:

ALJ WALKER:· Is the Municipality, after closure of this transaction, retaining any employees of ML&P?

MS. WINDT PEARSON:· The plan is not to. And I know that we have discussed what we would need to do to have the necessary advice, expertise,

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[91]ML&P Application at 12.

[92]ML&P Application at 12-14 (heading omitted).

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> and personnel in order to continue to participate in the Eklutna Operating Committee. I think that we envision the stub utility being the department that reports up to the municipal manager. And that, more likely than not, we would utilize consultant services to provide that industry-specific expertise and staffing to help us make informed decisions as a continuing member of the Eklutna Operating Committee. Because we would not be retaining any employees of Municipal Light & Power.
>
> ALJ WALKER:· Have you investigated to see if any such expertise exists in the consulting community?
>
> MS. WINDT PEARSON:· We have not done so yet.[93]

Based on the record from Dockets U-18-102/U-19-020/U-19-021, ML&P was retaining the Eklutna Project Power Plant only for the purpose of preserving a cash flow in the event Chugach defaulted on its payments under the Eklutna PPA. ML&P planned only on collecting revenue under the Eklutna PPA and the MEA PPA, keeping track of the expenses it incurred under the MEA PPA for bookkeeping purposes, and maintaining the net book value of Eklutna Project assets. Maintaining accurate accounting of the net book value of assets will be necessary for calculation of the price Chugach and MEA will have to pay to purchase their proportionate shares of AHP ownership interest in the Eklutna Project under the Eklutna PPA and the MEA PPA.[94]

ML&P assured us that revenue earned under the MEA PPA would be adequate to cover all Eklutna Project capital, operating, and maintenance expense that it would be obligated to pay under that agreement. ML&P further assured us that it would maintain a $3,000,000 cash reserve for the Eklutna Project which, with the Municipality of Anchorage's existing credit capacity, would be adequate to meet any cash flow contingencies that may arise.

On this record, none of the purposes for which ML&P was retaining its ownership interests in the Eklutna Project Power Plant required or would benefit from

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[93]Docket U-19-020/U-19-021 Tr. 2708-2709.

[94]Order U-18-102(44), Appendix D at 19-20 (Eklutna PPA) and Appendix H at 23, 39 (MEA PPA).

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ML&P's participation as voting member of the EOC. ML&P effectively admitted that, as of the time of hearing in Dockets U-19-020 and U-19-021, it would not retain the staff expertise required to sit as a voting member of the EOC and had made no plans to acquire such expertise. ML&P also admitted that Chugach and MEA did have the expertise to sit as voting members of the EOC. These circumstances provide good cause under AS 42.05.271 for conditioning AHP's certificate with a requirement that ML&P's surrender its EOC voting rights for a term at least equal to the term of the Eklutna PPA and the term of the MEA PPA.

Finding Notice and Request Premature Under Order U-18-102(44)

In Order U-18-102(44) we stated that:

> Under these circumstances, we cannot unconditionally find that MHP is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions. **This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC.** This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[95]

In its briefing, AHP has not shown good cause for modifying or interpreting this certificate condition in a manner that nullifies the minimum term of EOC voting rights surrender specified in Order U-18-102(44). Therefore, AHP's voting rights on the EOC are surrendered for at least the term of the Eklutna PPA and the MEA PPA.

The Eklutna PPA and the MEA PPA both became effective on October 30, 2020, the date on which Chugach acquired the service responsibilities and most assets

[95]Order U-18-102(44) at 67 (Emphasis added).

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of ML&P.[96] The Eklutna PPA and the MEA PPA are both scheduled to expire on October 31, 2055, roughly 31 years from now.[97] There are provisions in these two agreements allowing for both extending them and for terminating them early. At this time, no entity, including ourselves, can predict when the terms of the Eklutna PPA and the MEA PPA will expire.

We have reviewed the documents filed in this docket by AHP and found no commitment on the part of Corsentino or Schimscheimer to remain employed by AHP until such time as the terms of the Eklutna PPA and the MEA PPA expire. We do not know how we could verify the veracity of such commitments had they been made. We also have no way of evaluating what the requirements to fully participate as a voting member of the EOC might be at that time. For these reasons, we grant RAPA's motion to dismiss the Notice and Request on the grounds that it premature under the terms of Order U-18-102(44). This dismissal is without prejudice to refiling closer to the time that Eklutna PPA and the MEA PPA will expire.

Dismissal as Moot

In addition to moving for dismissal of the Notice and Request as being premature under the terms of Order U-18-102(44), RAPA moved for dismissal on the grounds that the Notice and Request were now moot. RAPA asserted that AHP only wanted to have its EOC voting rights reinstated so that it could have greater input on design of the Eklutna Project Fish and Wildlife Program identified in Section 104(a) of Public Law 104-58. RAPA further asserts that the Governor has now approved the Eklutna Project Fish and Wildlife Program. Based on this action, RAPA concludes that

[96] *See*, Order U-18-102(44), Appendix D at 3-4, 35; Appendix H at 7, and *Notice of Transaction Closing*, filed October 30. 2020, in Dockets U-18-102/U-19-020/U-19-021.

[97] Order U-18-102(44), Appendix D at 9, 41; Appendix H at 7, 40.

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the Notice and Request is now moot and should be dismissed.[98] AHP has disputed RAPA's assertions on this issue and claims that dismissal on this ground would be inappropriate.[99] RAPA has replied that its assertions are supported by the record.[100]

Given our decision above to dismiss the Notice and Request on the ground that it is premature under the requirements of Order U-18-102(44), we do not need to decide if the Notice and Request is also moot. We deny RAPA's motion to dismiss on the ground that the Notice and Request is moot on the ground that the mootness issue is now moot.

Vacate Procedural Schedule

We adopted a procedural schedule for resolution of this docket.[101] With our decision to dismiss the Notice and Request there is no need to proceed through hearing in this docket. Therefore, we vacate the remaining procedural schedule for this docket including the prehearing conference scheduled for November 18, 2024, and the hearing scheduled to begin on November 18, 2024.

Deny Motion to Compel Discovery Responses

Chugach and MEA filed a motion to compel discovery responses intended to produce information to be used in their examination of Corsentino.[102] AHP has opposed this motion primarily on the ground that the information requested is not relevant to the scope of this docket.[103] Chugach and MEA have responded to this opposition by asserting that the requested information is relevant to any determination of Corsentino's

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[98]Motion to Dismiss at 1-7.

[99]AHP Response at 2-6.

[100]RAPA Reply at 2.

[101]Order U-24-024(4).

[102]Motion to Compel at 1-18.

[103]AHP Opposition at 7-22.

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understanding of prudent utility practice and that this determination is within the scope of this docket.[104]

With our decisions above to dismiss the Notice and Request and to vacate the procedural schedule for this docket, there will be no examination of Corsentino. Therefore, we deny the Motion to Compel on the ground that it is now moot.

Deny Request to Construe Notice and Request

AHP has asked us to construe its Notice and Request to be an application to amend its certificate conditions if we find that the minimum term of EOC voting rights surrender in Order U-18-102(44) is enforceable.[105] The timeline under which we are required to resolve this docket runs out January 14, 2025.[106] This would leave approximately 60 days to address modification of AHP's certificate. Under AS 42.05.175(a)(2) we are typically allowed 180 days to resolve a certificate amendment application. We find that there is too little time for us and the parties to address amendment of AHP's certificate in this docket. Therefore, we deny the request to construe the Notice and Request to be an application to modify AHP's certificate.

Guidance for Future Filings

AHP states that if we do not construe its Notice and Request as an application to amend its certificate, or otherwise grant it the relief it seeks in this proceeding, it "could simply file a new application to modify its certificate."[107] We have not construed AHP's Notice and Request to be an application to amend its certificate or otherwise granted AHP the relief it has requested in this proceeding. We provide AHP with guidance on future filings seeking relief from the minimum term of EOC voting rights

[104]Chugach/MEA Reply at 2-10.

[105]AHP Reply Brief at 43.

[106]Order U-24-024(1) at 5.

[107]AHP Reply Brief at 43.

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surrender required by Order U-18-102(44). We provide this guidance without having completed our investigation of the qualifications of Corsentino and Schimscheimer, and this guidance is not a judgement on their qualifications to be AHP's representative on the EOC.

We start by pointing out that in Order U-18-102(44) we did not require ML&P to surrender its EOC voting rights merely because the then Municipal Manager was not qualified to sit as a voting member of the EOC. What we stated was:

> ML&P asserts that billing and record keeping under the Uniform System of Accounts will be done for MHP by the professional accountants working for the MOA's Financial Department. These accountants will also maintain MHP's continuing property records, calculating annual depreciation and net book value of plant in service. ML&P has provided no evidence in support of this assertion that accountants employed by the MOA's Financial Department are trained to maintain records in accordance with the Uniform System of Accounts or to maintain continuing property records. However, we are aware that many of our smaller regulated utilities retain outside accountants to maintain their records in accordance with our regulations and thus we are aware that those private resources are available.
>
> ML&P proposes that MHP will have a seat on the EOC, even though it will have no employees. ML&P states that MHP will be managed by the Municipal Manager, a position currently filled by William D. Falsey. Falsey has a law degree from Yale Law School and a Bachelor of Science degree in physics from Stanford University. Falsey has worked as the MOA's manager since 2017 and worked in legal positions from 2003 through 2017.
>
> Chugach witness Dustin Highers testified based on his experience as chair of the EOC that to be an owner representative on the EOC, it was essential that the representative have knowledge of prudent utility practice and the Railbelt electric generation and transmission system. Dustin Highers testified that there were two ML&P employees he was aware of qualified to sit on the EOC and that both of those employees were being transferred to Chugach as part of the transaction. There is nothing in Falsey's resume indicating that he has any knowledge of the Railbelt generation and transmission system, or prudent utility practice which is the management standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA PPA. ML&P indicated "that, more likely than not, we would utilize consultant services to provide that industry-specific expertise and staffing to help us make informed decisions as a continuing member of the [EOC]." However, ML&P admitted that it has not investigated whether such expertise exists in the consulting community.
>
> Under these circumstances, we cannot unconditionally find that MHP is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to

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> maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[108]

We required ML&P to surrender its EOC voting rights because it had no person qualified to sit in EOC meetings and understand the discussion, and because ML&P was proposing no definitive support team for their EOC representative.

Prior to the transaction under which Chugach acquired the ML&P service obligations and most of the ML&P assets, each member of the EOC was qualified to participate in meetings and knowledgeably discuss all issues related to management and operation of the Eklutna Project. Each of those representatives was also supported by an independent team consisting of the employees, contractors, and consultants required to operate their vertically integrated electric utility, each of which was interconnected with other vertically integrated electric utilities.

With Chugach's acquisition of ML&P's employees, in addition to ML&P's service obligations and most assets, ML&P, and its successor AHP have no identified support team of employees, contractors, or consultants with the breadth and scope of relevant knowledge that the Chugach and MEA representatives continue to bring to the EOC meetings. In the Notice and Request, AHP addressed this issue merely by stating:

> In addition to the auxiliary in-house expertise that Mr. Schimscheimer provides, AHP will also have access to, and the right to use (at AHP's expense), contracts of the [Municipality of Anchorage] in order to access any additional technical and engineering expertise necessary.

[108]Order U-18-102(44) at 65-67.

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In footnote 30 at the end of this statement, AHP states:

> Exhibit 3 at 2. Such firms include Electric Power Systems, Inc., EDC, Inc., CRW Engineering Group, Inc. and Taku Engineering.

Exhibit 3 to the Notice and Request is a *Memorandum of Understanding Between Anchorage Water and Wastewater Utility and Anchorage Hydropower Utility Re Resolution of Conflicts of Interest*, signed July 18, 2024. The relevant part of this Memorandum is paragraph 3 on page 2, which states:

> AH[P] will have access to and right to use, at AH[P]' expense, contracts of the [Municipality of Anchorage] to access technical and engineering expertise necessary to oversee and conduct operations.[109]

AHP included no resumes for the proposed support group, no contracts showing the term and extent of commitment by the contractors or consultants, and no information about what process AHP will have to go through to pay its contractors and consultants. We find this generic assertion of support for the proposed AHP voting representative on the EOC to be no more substantive than ML&P's assertion in Dockets U-18-102/U-19-020/U-19-021 that they would primarily rely on consultants for the expertise required to fully participate on the EOC even though they admitted that they had not yet investigated to determine if consultants with the required expertise were available.

In addition to addressing the minimum term of EOC voting rights surrender issue, we suggest that in future filings seeking reinstatement of EOC voting rights AHP provide the information to show that it can bring to EOC meetings a depth and breadth of technical and managerial expertise at least comparable to the level of expertise that MEA and Chugach bring to those meetings. This suggestion does not just include the technical

[109]Notice and Request, Exhibit 3 at 2.

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expertise of AHP's representative to the EOC, but also includes the team of employees, contractors, and consultants supporting that representative.

We denied AHP's motion for expedited consideration of its Notice and Request because AHP had failed to adequately support its request for reinstatement of its EOC voting rights. Upon initial review of AHP's filings in this docket we could see no way of moving forward without taking the time for prefiled testimony, discovery, and holding a hearing to gather the information necessary to determine if AHP had acquired the expertise required to fully participate as a voting member of the EOC.[110] We believe that efficient resolution of future filings on this issue by AHP will be more likely if AHP provides adequate information in its initial filing.

Final Order

This order constitutes the final decision in this proceeding. This decision may be appealed within thirty days of this order in accordance with AS 22.10.020(d) and Alaska Rule of Appellate Procedure 602(a)(2). In addition to the appellate rights afforded by AS 22.10.020(d), a party has the right to file a petition for reconsideration in accordance with 3 AAC 48.105. If such a petition is filed, the time period for filing an appeal is tolled and then recalculated in accordance with Alaska Rule of Appellate Procedure 602(a)(2).

Docket Closure

No substantive or procedural matters remain in this proceeding. Accordingly, we close this docket.

[110] At the prehearing conference and through the ALJ we denied AHP's motion for expedited consideration and stated that we would explain that decision in a written order to follow. Tr. 15. This is that explanation.

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ORDER

THE COMMISSION FURTHER ORDERS:

1. The *Office of the Attorney General's Motion to Dismiss as Moot*, filed October 15, 2024, by the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section is granted in part and denied in part as discussed in the body of this order.

2. The *Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*, filed July 18, 2024, by the Municipality of Anchorage d/b/a Anchorage Hydropower, is dismissed as being premature under the requirements of Order U-18-102(44)/U-19-020(39)/U-19-021(39).

3. *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Motion to Compel Discovery Responses*, filed October 28, 2024, is denied as being moot.

4. The request at page 43 in the *Municipality of Anchorage d/b/a Anchorage Hydropower's Reply Brief Regarding Interpretation of Order 39*, filed October 29, 2024, to have the *Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*, filed July 18, 2024, construed as an application to modify Certificate of Public Convenience and Necessity No. 780 is denied as discussed in the body of this order.

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5. Docket U-24-024 is closed.

DATED AND EFFECTIVE at Anchorage, Alaska, this 14th day of November, 2024.

BY DIRECTION OF THE COMMISSION
(Commissioner Steve DeVries, not participating.)

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	)	Case No. 3AN-24-06001CI

MOTION FOR 30-DAY EXTENSION OF TIME TO RESPOND TO MOTION TO DISMISS

The Anchorage Municipal Assembly respectfully moves for a 30-day extension to respond to the RCA's Motion to Dismiss.

On November 14, 2024, the RCA issued a decision in a related administrative proceeding involving the Municipality's request to reinstate its voting rights on the Eklutna Operating Committee. *See* RCA Docket U-24-024. The parties to that RCA proceeding are also parties to this appeal. Subsequently, the Municipal Attorney and the Assembly have initiated settlement discussions with Chugach Electric Association (CEA) and Matanuska Electric Association (MEA) regarding this appeal and the related administrative proceeding. The Assembly requests an additional 30 days to file its response to the RCA's Motion to Dismiss in order to allow the parties time to attempt to reach a global settlement.

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The Assembly's response to the motion to dismiss is currently due on November 26. The Assembly also notes that this Court has not yet ruled on the Assembly's Motion to Strike CEA & MEA's Joinder to the motion to dismiss, which is ripe for a decision.

DATED: November 26, 2024.

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

Andrew Erickson, Alaska Bar No. 1605049
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CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2024, a copy of the foregoing was served by email to the following:

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	)	Case No. 3AN-24-06001CI

(PROPOSED) ORDER GRANTING MOTION FOR 30-DAY EXTENSION OF TIME TO RESPOND TO MOTION TO DISMISS

The Anchorage Municipal Assembly's motion for a 30-day extension to respond to the RCA's motion to dismiss is GRANTED. The Assembly's response is now due on or before December 26, 2024.

IT IS SO ORDERED.

DATED this ___ day of _____, 2024, at Anchorage, Alaska.

_____
The Honorable Jack R. McKenna
Superior Court Judge

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA, et al., Defendant.	Case No. 3AN-24-06001CI

ORDER DENYING MOTION TO STRIKE

The Municipality of Anchorage filed a motion asking the court to strike the joinder by Chugach Electric Association, Inc. and Matanuska Electric Association. Having reviewed the motion and the response filed by Chugach and MEA, the Court denies the motion because the Municipality will not be unfairly prejudiced by the joinder given the timeline for when its Opposition to the motion to dismiss is due. In line with that decision, the Court will address the Motion for a 30-Day Extension filed by the Municipality, as well as any opposition to that request, at the status hearing scheduled for today.

Dated at Anchorage, Alaska, 12/13/24

JACK R. MCKENNA
Superior Court Judge

I certify that on 12/13/24 a copy of the following was mailed/faxed/hand delivered to each of the following at their addresses of record. T. Glass / M. Clarkson / T. Glovier / V. Feithley / J. Wood / M. Broadwell / S. Gillstrom / J. Busa / B. Bowman / K. Parker / J. Burns / E. Ross / A. Erickson / E Egan / J. Walter / D. Stojak / M. Billingslea

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellant, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	**Case No. 3AN-24-_____CI** RCA Docket No. U-24-024

NOTICE OF POSTING CASH DEPOSIT IN LIEU OF COST BOND

Pursuant to Appellate Rule 602(g), appellant the Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP"), by and through the undersigned attorneys, hereby give notice that it is posting a cash deposit in lieu of cost bond in the amount of Seven Hundred Fifty Dollars ($750.00) to the Superior Court for the State of Alaska, Third Judicial District. AHP is the owner of the fund. AHP agrees and consents to the provision Alaska Rule of Civil Procedure 80(f). This posting of a cash deposit in lieu of a cost bond complies with the provisions of Appellate Rule 204(c)(1).

December 13, 2024

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RESPECTFULLY SUBMITTED this 13th day of December, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: /s/ *Dean D. Thompson*

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

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MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellants, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	**Case No. 3AN-24-_____CI** RCA Docket No. U-24-024

CERTIFICATE OF SERVICE AND TYPEFACE

I hereby certify that on December 13, 2024, I served a true and correct copy of the Notice of Appeal, Statement of Points on Appeal, Notice of Cash Deposit in Lieu of Cost Bond, and this Certificate of Service and Typeface by first class mail and electronic mail (pursuant to Appellate Rule 602(j) and Alaska R. Civ. P. 5.1(c)) to the following:

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AHP v. RCA et al.
December 13, 2024

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CERTIFICATE OF SERVICE AND TYPEFACE
AHP v. RCA et al.
December 13, 2024

I further certify, pursuant to Alaska Appellate Rule 513.5(c)(2), that the documents are 13 point Times New Roman typeface.

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By: */s/ Ashley C. Brown*
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

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NOTICE OF APPEAL

Appellant Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP"), by and through the undersigned attorneys, hereby gives notice to the Superior Court of the State of Alaska, Third Judicial District, that AHP appeals the decision of the Regulatory Commission of Alaska ("RCA") entered in Docket No. U-24-024 in the following order:

Order No. U-24-024(8), *Order Granting Motion to Dismiss in Part and Dismissing Notice and Request, Denying Motion to Dismiss in Part, Vacating Procedural Schedule, Denying Motion to Compel, Denying Request to Construe Notice and Request*

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as Petition to Amend Certificate Condition, Providing Guidance for Future Filings, and Closing Docket, dated November 14, 2024 ("Order No. 8").

This Notice of Appeal is accompanied by:

1. A copy of the RCA's Order No. 8 from which this appeal is taken (attached as Exhibit A).

2. Appellant's Statement of Points on Appeal.

3. A filing fee in the amount of $250.

4. Cash Deposit in Lieu of Bond on Appeal.

5. Certificate of Service on all parties to Docket No. U-24-024, the Chair of the Regulatory Commission of Alaska, and the Attorney General of Alaska.

Please direct all pleadings and correspondence relating to this matter to the undersigned attorneys for the appellant.

RESPECTFULLY SUBMITTED this 13th day of December, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

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STATEMENT OF POINTS ON APPEAL

Pursuant to Alaska Rule of Appellate Procedure 602, appellant Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") hereby gives notice of the points upon which AHP intends to rely in its appeal of the decision of the Regulatory Commission of Alaska ("RCA") in Order No. U-24-024(8), *Order Granting Motion to Dismiss in Part and Dismissing Notice and Request, Denying Motion to Dismiss in Part, Vacating Procedural Schedule, Denying Motion to Compel, Denying Request to Construe Notice and Request as Petition to Amend Certificate Condition, Providing Guidance for Future Filings, and Closing Docket*, dated November 14, 2024 ("Order 8"):

1. The RCA erred and acted in a manner that was unreasonable, arbitrary, capricious, or contrary to law by granting the Office of the Attorney General,

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Regulatory Affairs and Public Advocacy Section's ("RAPA's") motion to dismiss, by vacating the hearing, and by determining that RCA Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39")[1] did not allow for the surrender of AHP's voting rights on the Eklutna Operating Committee ("EOC") to be lifted prior to the end of the "minimum term" of the surrender, even upon a showing of acquisition of the expertise required to fully participate as a voting member of the EOC.

2. Without limiting the generality of foregoing Point No. 1, through its decision in Order 8, the RCA erred and acted in a manner that was unreasonable, arbitrary, capricious, or contrary to law by:

a. Finding that grammatically, Order 39 unambiguously required that the surrender of AHP's voting rights on the EOC could not be lifted prior to the end of the "minimum term" of the surrender, even upon a showing of acquisition of the expertise required to fully participate as a voting member of the EOC;

b. Finding that the evidentiary context and record did not show that Order 39 allowed for the surrender of AHP's voting rights on the EOC to be lifted prior to the end of the "minimum term" of the surrender, even upon a showing of acquisition of the expertise required to fully participate as a voting member of the EOC;

[1] *Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third Party Sales Gas Pricing; and Requiring Filings*, dated May 28, 2020.

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c. Disregarding the understanding of the parties and the public when deciding that Order 39 did not allow for the surrender of AHP's voting rights on the EOC to be lifted prior to the end of the "minimum term" of the surrender, even upon a showing of acquisition of the expertise required to fully participate as a voting member of the EOC;

d. Failing to properly interpret and apply Alaska and federal precedent and rules of interpretation in its decision; and

e. Failing to address AHP's other arguments when deciding that Order 39 did not allow for the surrender of AHP's voting rights on the EOC to be lifted prior to the end of the "minimum term" of the surrender, even upon a showing of acquisition of the expertise required to fully participate as a voting member of the EOC.

3. Even if Order 39 did not allow for the surrender of AHP's voting rights on the EOC to be lifted prior to the end of the "minimum term" of the surrender, the RCA erred and acted in a manner that was unreasonable, arbitrary, capricious, or contrary to law by determining that AHP had not shown good cause to modify its certificate of public convenience and necessity conditions to allow for the surrender of EOC voting rights to be lifted prior to the end of the minimum term of the surrender, and by denying the request to construe AHP's Notice and Request for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee as an application to amend its certificate conditions.

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4. The RCA is estopped from asserting that Order 39 did not allow for the surrender of AHP's voting rights on the EOC to be lifted prior to the end of the "minimum term" of the surrender, even upon a showing of acquisition of the expertise required to fully participate as a voting member of the EOC, pursuant to equitable estoppel and quasi-estoppel.

5. The RCA's decision in Order 8 violates state and federal constitutional due process requirements and constitutes an unconstitutional taking of property.

6. The RCA erred and acted in a manner that was unreasonable, arbitrary, capricious, or contrary to law by stating in its guidance for future filings that AHP must not only identify a qualified representative to sit on the EOC but should also identify a "definitive support team" with "a depth and breadth of technical and managerial expertise at least comparable to the level of expertise that MEA and Chugach bring."[2]

The foregoing points on appeal are stated generally and are not intended to be limited to only related or similar points of appeal stated specifically. Instead, a point of appeal stated generally is intended to include all points of appeal that could be included within the general statement.

[2] Order 8 at 33-34.

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RESPECTFULLY SUBMITTED this 13th day of December, 2024, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: /s/ *Dean D. Thompson*

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EXHIBIT A

Order No. U-24-024(8)

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steve DeVries
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024 ORDER NO. 8

ORDER GRANTING MOTION TO DISMISS IN PART AND DISMISSING NOTICE AND REQUEST, DENYING MOTION TO DISMISS IN PART, VACATING PROCEDURAL SCHEDULE, DENYING MOTION TO COMPEL, DENYING REQUEST TO CONSTRUE NOTICE AND REQUEST AS PETITION TO AMEND CERTIFICATE CONDITION, PROVIDING GUIDANCE FOR FUTURE FILINGS, AND CLOSING DOCKET

BY THE COMMISSION:

Summary

We grant the motion to dismiss filed by the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA) in part, and dismiss the *Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee* (Notice and Request) filed by the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP) on July 18, 2024. We deny the motion to dismiss in part. We vacate the remaining procedural schedule adopted for resolution of this docket, including the prehearing conference scheduled for November 18, 2024, and the public hearing scheduled to begin on November 18, 2024. We deny the motion to compel discovery responses jointly filed

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by Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA). We deny the request by AHP to construe its Notice and Request as a petition to modify the conditions on AHP's certificate of public convenience and necessity (certificate). We provide guidance to AHP for its consideration should it make future filings related to reinstatement of Eklutna Operating Committee (EOC) voting rights. We close this docket.

Background

In Order U-18-102(44)[1] we described the Eklutna Hydroelectric Project (Eklutna Project) as follows:

> The Eklutna Project was built and operated by the federal government pursuant to the Eklutna Power Act of 1950. In 1995, Congress authorized sale of the Eklutna Project to [the Municipality of Anchorage d/b/a Municipal Light & Power Department (ML&P)], Chugach, and MEA under the terms of the 1989 Eklutna Purchase Agreement. Under this agreement, the three utilities received an undivided interest in all of the Eklutna Project, water rights, generation plant and the transmission assets interconnecting the Eklutna Project with ML&P, Chugach, and MEA. ML&P obtained a 53.33% ownership interest, Chugach obtained a 30% ownership interest, and MEA obtained a 16.67% interest in the Eklutna Project. Eklutna Project energy, capacity, and costs are to be allocated based on these ownership interests. ML&P and Chugach assert that the Eklutna Project currently has a maximum capacity of 39 MW.
>
> The three utilities created the Eklutna Operating Committee (EOC) to make all management decisions related to operation, maintenance, and budgeting for the Eklutna Project. ML&P, Chugach, and MEA each have a representative on the EOC. Decisions by the EOC are made based upon a double majority consisting of affirmative votes by at least two of the three utilities whose ownership shares total at least 51% of the Eklutna Project ownership. Effectively, management of the Eklutna Project is limited to actions approved by ML&P and at least one of Chugach or MEA.[2]

[1]Order U-18-102(44)/U-19-020(39)/U-19-021(39), *Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third Party Sales Gas Pricing; and Requiring Filings*, dated May 28, 2020 (Order U-18-102(44)).

[2]Order U-18-102(44) at 60-61 (footnotes omitted).

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Chugach filed a petition seeking our approval of its acquisition of all service obligations and most assets of ML&P, and an application to amend its certificate to reflect the new service obligations.[3] Under the terms of this acquisition, Chugach would offer employment to all ML&P employees and the Municipality of Anchorage would retain no ML&P employees.[4] Under this acquisition, Chugach was not purchasing ML&P's interest in the Eklutna Project Power Plant, but was acquiring a portion of ML&P's share of cost responsibilities and output from the Eklutna Project for a 35 year period.[5] Docket U-19-020 was opened to investigate this petition and application.[6]

As part of this same transaction, ML&P filed an application to amend its certificate to delete its current service territory and add the Eklutna Project Power Plant site as its new service territory.[7]

[3] *Petition for Approvals Needed to Acquire Anchorage Municipal Light and Power and Application to Amend Certificate of Public Convenience and Necessity No. 8*, filed April 1, 2019 (Petition for Approvals), in Docket U-19-020.

[4] *Pre-filed Direct Testimony of Arthur W. Miller*, filed April 1, 2019, in Docket U-19-020, Exhibit AWM-03 at 67 (Section 6.05(a)); Docket U-19-020/U-19-021 Tr. 2708-2709.

[5] Petition for Approvals at 8.

[6] Order U-19-020(1), *Order Addressing Timeline for Decision, Inviting Participation by the Attorney General and Petitions to Intervene, Scheduling Prehearing Conference, Giving Notice of Possible Consolidation, Designating Commission Panel, and Appointing Administrative Law Judge*, dated April 18, 2019.

[7] *Application of the Municipality of Anchorage d/b/a Municipal Light and Power to Amend Certificate of Public Convenience and Necessity No. 121 and to Terminate Dividend Restriction*, filed April 5, 2019 (ML&P Application).

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Docket U-19-021 was opened to investigate this application.[8] Dockets U-19-020 and U-19-021 were consolidated with Docket U-18-102.[9]

We ultimately approved the transaction under which Chugach acquired the service obligations and most of the ML&P assets, subject to conditions.[10] One of these conditions required ML&P to surrender its voting rights on the EOC prior to the effective date of the agreements under which ML&P's successor would be providing part of its share of the Eklutna Project output to Chugach (the Eklutna Power Purchase Agreement (PPA))[11] and selling the remainder of its share of the Eklutna Project output to MEA (the MEA PPA).[12] We required that:

> This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[13]

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[8]Order U-19-021, *Order Addressing Timeline for Decision, Inviting Participation by the Attorney General and Petitions to Intervene, Scheduling Prehearing Conference, Giving Notice of Possible Consolidation, Designating Commission Panel, and Appointing Administrative Law Judge*, dated April 18, 2019.

[9]Order U-18-102(8)/U-19-020(2)/U-19-021(2), *Order Consolidating Dockets, Designating Party, Requiring Filing, Granting Petitions to Intervene, Adopting Procedural Schedule, Addressing Timeline for Final Decision, and Amending Docket Captions*, dated May 8, 2019.

[10]As part of this transaction, ML&P's ownership interest in the Eklutna Project transmission system interconnecting the Eklutna Project Power Plant with the transmissions systems of Chugach, ML&P, and MEA was transferred to Chugach and MEA. The Eklutna Project transmission system is not at issue in this docket.

[11]The Eklutna PPA is attached as Appendix D to Order U-18-102(44) and is entitled *Eklutna Power Purchase Agreement Between Chugach Electric Association, Inc. ("Purchaser") and Municipality of Anchorage ("Seller")*.

[12]Order U-18-102(44) at 65-67. The MEA PPA is attached as Appendix H to Order U-18-102(44) and is entitled *Eklutna Power Purchase Agreement Between Municipality of Anchorage ("Seller") and Matanuska Electric Association, Inc. ("Purchaser")*.

[13]Order U-18-102(44) at 67.

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In compliance with this condition, ML&P surrendered its EOC voting rights effective October 30, 2019.[14]

Almost five years later, AHP filed the Notice and Request seeking reinstatement of its EOC voting rights.[15] In this filing, AHP asserted that Anchorage Water and Wastewater (AWWU) General Manager Mark A. Corsentino had been appointed to be the General Manager of AHP and that AWWU Engineering Director Mark Schimscheimer would provide support to Corsentino. AHP filed the resumes of these two employees.[16] To reflect the time these two AWWU employees are expected to spend on AHP business, 20% of Corsentino's salary and 10% of Schimscheimer's salary would be paid by AHP.[17] AHP requested a decision on its Notice and Request within 30 days of the date it was filed, or by August 17, 2024.[18]

We issued public notice of the Notice and Request, with comments due by August 26, 2024.[19] The Native Village of Eklutna filed comments indicating the Village's endorsement of AHP's request.[20] Chugach and MEA jointly filed comments identifying issues related to the Notice and Request that they believed should be investigated.[21]

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[14]*Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights*, filed October 30, 2020, in Dockets U-18-102/U-19-020/U-19-021.

[15]*Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*, filed July 22, 2024 (Notice and Request).

[16]Notice and Request at Exhibits 2 and 4.

[17]Notice and Request at Exhibit 3.

[18]Notice and Request at 1.

[19]*Notice of Utility Request*, dated July 26, 2024.

[20]Correspondence by Aaron Leggett, President, Native Village of Eklutna, filed August 2, 2024.

[21]Correspondence from Arthur W. Miller, Chief Executive Officer, Chugach Electric Association, Inc. and from Antony M. Izzo, Chief Executive Officer, Matanuska Electric Association, Inc., filed August 26, 2024.

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We opened this docket to investigate the Notice and Request, denied AHP's request for an early decision, designated Chugach and MEA as parties to this docket, invited participation by the Attorney General, and scheduled a prehearing conference.[22] RAPA elected to participate in this docket.[23] Chugach and MEA have participated jointly.[24] We rescheduled the prehearing conference to accommodate AHP's counsel.[25]

AHP filed a motion for expedited consideration for a final decision in this docket by October 2, 2024.[26] RAPA agreed with AHP that a final decision in this matter could be reached by October 2, 2024.[27] Chugach and MEA opposed expedited consideration.[28] The Municipality of Anchorage Assembly (Assembly) filed a petition to intervene in this matter on August 27, 2024.[29] We denied AHP's motion for expedited

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[22]Order U-24-024(1), *Order Denying Request for Decision in 30 Days; Designating Parties; Inviting Participation by the Attorney General and Intervention; Addressing Timeline for Decision; Scheduling Prehearing Conference; Designating Commission Panel; and Appointing Administrative Law Judge*, dated July 30, 2024 (Order U-24-024(1)).

[23]*Notice of Election to Participate*, filed August 7, 2024.

[24]*Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Entry of Appearance*, filed August 15, 2024.

[25]Order U-24-024(2), *Order Vacating and Rescheduling Prehearing Conference*, dated August 14, 2024.

[26]*Municipality of Anchorage d/b/a Anchorage Hydropower's Motion for Expedited Consideration of Request for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*, filed August 15, 2024.

[27]*Office of the Attorney General's Response to Anchorage Hydropower's (AHP) Motion for Expedited Consideration of its Request for Acknowledgment*, filed August 26, 2024.

[28]*Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Opposition to AHP's Motion for Expedited Consideration*, filed August 26, 2024.

[29]*Anchorage Assembly's Petition to Intervene*, filed August 27, 2024 (Assembly Petition).

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consideration of its motion in part, and scheduled oral argument on the motion for expedited consideration for the prehearing conference on August 30, 2024.[30]

At the prehearing conference on August 30, 2024, following oral argument by the parties, the administrative law judge (ALJ) announced our denial of the motion for expedited consideration filed by AHP.[31] The ALJ also announced our desire for briefing on the minimum term of the EOC voting rights surrender required by Order U-18-102(44).[32] The parties and the Assembly then proposed a procedural schedule for resolving this docket.[33] We adopted the procedural schedule proposed by the parties and denied the Assembly's petition to intervene.[34]

AHP filed an initial brief on the minimum term of EOC voting rights surrender issue and testimony by Corsentino.[35] Chugach and MEA filed testimony by Eugene A. Ori and by Tony R. Zellers.[36] RAPA filed a responsive brief on the minimum term of EOC

[30]Order U-24-024(3), *Order Denying Motion for Expedited Consideration In Part*, dated August 20, 2024.

[31]Tr. 7-15.

[32]Tr. 17-18.

[33]Tr. 20-23.

[34]Order U-24-024(4), *Order Adopting Procedural Schedule, Denying Petition to Intervene, and Redesignating Commission Panel*, dated September 12, 2024 (Order U-24-024(4)).

[35]*Municipality of Anchorage d/b/a Anchorage Hydropower's Brief Regarding Interpretation of Order 39*, filed September 18, 2024 (AHP Initial Brief); *Prefiled Direct Testimony of Mark A. Corsentino, P.E.*, filed September 18, 2024.

[36]*Prefiled Responsive Testimony of Eugene A. Ori*, filed October 8, 2024; *Prefiled Responsive Testimony of Tony R. Zellers*, filed October 8, 2024.

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voting rights surrender issue.[37] Chugach and MEA filed a responsive brief on the minimum term of EOC voting rights surrender issue.[38]

AHP requested that we issue an order governing confidential discovery.[39] We issued an order governing confidential discovery in response to that request.[40] RAPA filed a motion to dismiss the Notice and Request.[41] Chugach and MEA joined in the Motion to Dismiss.[42] RAPA filed a request to defer ruling on the Motion to Dismiss, and a motion for expedited consideration of the request to defer ruling.[43] We denied the request to defer ruling and the motion for expedited consideration of that request.[44]

Chugach and MEA filed a motion to compel discovery from AHP.[45] AHP filed a reply brief on the minimum term of EOC voting rights surrender and reply testimony

[37] *Office of the Attorney General's Brief on Interpretation of Order 39*, filed October 8, 2024 (RAPA Brief).

[38] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Brief Regarding Surrender Term*, filed October 8, 2024 (Chugach/MEA Brief).

[39] Tr. 16-17, 23-24: Correspondence from D. Thompson filed October 16, 2024.

[40] Order U-24-024(5), *Order Governing Confidential Discovery Material*, dated October 17, 2024.

[41] *Office of the Attorney General's Motion to Dismiss as Moot*, filed October 15, 2024 (Motion to Dismiss).

[42] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joinder in Motion to Dismiss Regarding Surrender Term*, filed October 24, 2024.

[43] *Office of the Attorney General's Request to Defer Ruling on Motion to Dismiss*, filed October 24, 2024; *Office of the Attorney General's Motion for Expedited Consideration of Request to Defer Ruling*, filed October 24, 2024.

[44] Order U-24-024(6), *Order Denying Request to Defer Ruling and Motion for Expedited Consideration of Request to Defer Ruling*, dated October 25, 2024.

[45] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Motion to Compel Discovery Responses*, filed October 28, 2024 (Motion to Compel).

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by Corsentino.[46] AHP filed an opposition to the Motion to Dismiss.[47] RAPA filed a reply to AHP's opposition to the Motion to Dismiss.[48] AHP filed an opposition to the Motion to Compel.[49]

AHP filed a motion for oral argument on the Motion to Dismiss and the Motion to Compel, and a motion for expedited consideration of the motion for oral argument.[50] RAPA filed a response to the motion for oral argument and motion for expedited consideration of the motion for oral argument.[51] We denied the motion for oral argument and the motion for expedited consideration of the motion for oral argument.[52] Chugach and MEA filed a reply to AHP's opposition to the motion to compel.[53]

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[46]*Municipality of Anchorage d/b/a Anchorage Hydropower's Reply Brief Regarding Interpretation of Order 39*, filed October 29, 2024 (AHP Reply Brief); *Prefiled Reply Testimony of Mark A. Corsentino, P.E.*, filed October 29, 2024.

[47]*Municipality of Anchorage d/b/a Anchorage Hydropower's Opposition to the Office of the Attorney General's Motion to Dismiss as Moot*, filed October 30, 2024 (AHP Response).

[48]*Office of the Attorney General's Reply to AHP's Opposition to Motion to Dismiss*, filed November 4, 2024 (RAPA Reply).

[49]*Municipality of Anchorage d/b/a Anchorage Hydropower's Opposition to Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Motion to Compel Discovery Responses*, filed November 4, 2024 (AHP Opposition).

[50]*Municipality of Anchorage d/b/a Anchorage Hydropower's Motion for Oral Argument*, filed November 5, 2024; *Municipality of Anchorage d/b/a Anchorage Hydropower's Motion for Expedited Consideration of its Motion for Oral Argument*, filed November 5, 2024, as corrected by *Municipality of Anchorage d/b/a Anchorage Hydropower's Errata to Motion for Expedited Consideration of its Motion for Oral Argument*, filed November 6, 2024.

[51]*Office of the Attorney General's Response to AHP's Motions for Oral Argument and Expedited Consideration*, filed November 6, 2024.

[52]Order U-24-024(7), *Order Denying Motion for Oral Argument and Motion for Expedited Consideration of Motion for Oral Argument*, dated November 6, 2024.

[53]*Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Reply to AHP's Opposition to Motion to Compel Discovery Responses*, filed November 6, 2024 (Chugach/MEA Reply).

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Discussion

Motion to Dismiss

In its Motion to Dismiss, RAPA seeks dismissal of AHP's Notice and Request on two grounds. First, RAPA asserts that AHP only desires to have its EOC voting rights restored so that it could have greater input on the Eklutna Project Fish and Wildlife Program identified in Section 104(a) of Public Law 104-58. RAPA states that the Governor has now approved the Eklutna Project Fish and Wildlife Program. Based on this action, RAPA concludes that the Notice and Request is now moot and should be dismissed.[54] Second, RAPA also asserts that the Notice and Request should be dismissed because it is premature under the minimum term of EOC voting rights surrender specified in Order U-18-102(44).[55]

We raised the issue that the Notice and Request appears to be premature under the minimum term of EOC voting rights surrender specified in Order U-18-102(44) at the prehearing conference.[56] That issue has been extensively briefed by the parties and we will address it first.

Dismissal as Premature Under the Terms of Order U-18-102(44)

In Order U-18-102(44) we established a minimum term for ML&P's surrender of its EOC voting rights as a condition of AHP's certification as a public utility and as a condition of our approval of the Eklutna PPA and the MEA PPA. This term is stated as follows:

> We can only find that [AHP] is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders

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[54]Motion to Dismiss at 1-7. *See*, Order U-18-102(44) at 61, and the materials cited in footnote 175, for a discussion of the Fish and Wildlife Program requirements.

[55]Motion to Dismiss at 7-8.

[56]Tr. 6-7.

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> its vote on the EOC under the Eklutna Project agreement so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without [AHP] having a vote on operating or management decisions. **This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as [AHP] has shown to our satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC**.[57]

AHP based its request for reinstatement of EOC voting rights on the assertion that it had acquired the expertise required to fully participate as a voting member of the EOC in compliance with the second half of this condition.[58] AHP initially made no reference to the minimum term of EOC voting rights surrender required by Order U-18-102(44).[59]

We raised the minimum term of EOC voting rights surrender issue at the prehearing conference, and AHP responded that it disagreed with the suggestion that Order U-18-102(44) mandated a minimum term of EOC voting rights surrender.[60] We requested briefing on this issue.[61] In its briefing on this issue, AHP acknowledged that if Order U-18-102(44) mandated a minimum term of EOC voting rights surrender it would not have EOC voting rights until both the Eklutna PPA and the MEA PPA elapsed.[62] AHP raised several grounds on which it based its belief that Order U-18-102(44) did not mandate a minimum term of EOC voting rights surrender. We address those grounds separately.

Rules of Statutory and Contract Interpretation

AHP asserts:

> It is a principle of both contract law and statutory interpretation that contracts and statutes should not be interpreted in a manner that renders

[57]Order U-18-102(44) at 67 (emphasis added).

[58]Notice and Request at 3-7.

[59]Notice and Request at 1-14.

[60]Tr. 6-7, 15.

[61]Tr. 17-18.

[62]AHP Initial Brief at 9.

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> language superfluous. To the extent there is any ambiguity in the language of a past Commission Order, the Commission should apply the same rules of interpretation here.[63]

AHP cites to no authority for application of this rule of interpretation to our orders. For the sake of clarity in this proceeding we address this issue as if these rules of interpretation do apply to our orders, without determining if these rules do apply to our orders.

The minimum term of EOC voting rights surrender is stated in Order U-18-102(44) as:

> This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as [A]HP has shown to our satisfaction that [A]HP has acquired the expertise required to fully participate as a voting member of the EOC.

As an initial matter, we agree with RAPA that there is no grammatical ambiguity in the minimum term of EOC voting rights surrender language.[64] AHP has disputed RAPA's grammatical evaluation of this language.[65] However, each of AHP's arguments would result in portions of the language actually used in Order U-18-102(44) being rendered superfluous in violation of the very rules of interpretation AHP suggests that we follow. AHP's arguments for finding a grammatical ambiguity are not convincing and we do not agree with AHP's assertion that there is grammatical ambiguity in the minimum term of EOC voting rights surrender language used in Order U-18-102(44).

AHP also argues that there is a contextual ambiguity in the minimum term of EOC voting rights surrender language in Order U-18-102(44). Specifically, AHP argues that the minimum term of EOC voting rights surrender renders Section 4.2 of the Eklutna PPA and Section 4.2 the MEA PPA superfluous in violation of the rules of construction it

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[63]AHP Initial Brief at 13 (footnote omitted).

[64]RAPA Brief at 3-5

[65]AHP Reply Brief at 7-14.

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relies upon.[66] Examination of the context in which the minimum term of EOC voting rights surrender language is stated in Order U-18-102(44) shows that there is no contextual ambiguity between that language and the two Section 4.2 referred to by AHP.

AHP argues that if we intended the minimum term of EOC voting rights to be enforced as written, we would have disapproved the Section 4.2 referred to by AHP.[67] However, in crafting Order U-18-102(44) we "sought to find a way to approve this transaction while leaving as much of the parties' bargain intact as possible."[68] We did not disapprove any part of the transaction documents unless we specifically found that the public interest required disapproval of that part. Our failure to completely harmonize the transaction documents with the substance of Order U-18-102(44) cannot be taken as a basis for nullifying or rendering superfluous any express term stated in Order U-18-102(44).

Section 4.2 of the Eklutna PPA states:

> Section 4.2 Operation of the Facility.
>
> (A) In accordance with the Operations Agreement (as may be amended by the Operations Agreement Amendment), during the Term Purchaser shall manage, control, operate and maintain the Chugach Portion in a manner consistent with Prudent Utility Practice.
>
> (B) During the Term, Seller shall, in consultation with Purchaser, select the person to serve as Seller's representative to the Operating Committee (the "Seller's Representative"). The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA. Seller's Representative shall also be Seller's representative for any consultation, study, and implementation processes required under the Fish and Wildlife Agreement relating to the Facility. The Seller's Representative shall make all decisions with respect to any processes required under the Fish and Wildlife Agreement with due regard for the rights and obligations of the Parties under this PPA.

[66]AHP Initial Brief at 9-19; AHP Reply Brief at 14-17, 19-36.

[67]AHP Initial Brief at 9-19

[68]Order U-18-102(44) at 11.

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> (C) The Parties acknowledge and agree that Seller has prior rights to not less than 41 million gallons of water per day from Eklutna Lake for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823; Alaska Statutes 46.15.150(a); and Certificate of Appropriation AOL 44944. The Parties agree that during the Term, the supply of water available for production of Power by the Seller's Interest shall be net of all water taken by Anchorage Water and Wastewater Utility for public water supply purposes.[69]

Eklutna PPA Subsection 4.2(A) deals with Chugach's obligations as Purchaser and Subsection 4.2(C) only identifies the Municipality of Anchorage's rights to water from Eklutna Lake. Neither of these two subsections are relevant to AHP's argument and we do not address them further.

Subsection 4.2(B) requires AHP, as Seller, to consult with Chugach in the selection of AHP's representative on the EOC. In Order U-18-102(44), we stated:

> We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[70]

This language allows, but does not require, AHP to have a non-voting representative attend EOC meetings. Not disapproving Subsection 4.2(B) leaves intact the parties bargain requiring AHP to consult with Chugach when selecting AHP's representative to the EOC. Further, nothing in the Order U-18-102(44) prevents AHP's non-voting EOC representative from participating in EOC meetings "consistent with Prudent Utility Practice

[69]Order U-18-102(44), Appendix D at 9.

[70]Order U-18-102(44) at 67.

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and the rights and obligations of the Parties under this PPA." The "consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA" language of Eklutna PPA Subsection 4.2(B) places boundaries on the AHP non-voting representative's participation in EOC meetings and our not disapproving Subsection 4.2(B) leaves intact the parties' bargain for this limitation on AHP.

Subsection 4.2 of the MEA PPA states:

> Section 4.2 Operation of the Facility.
>
> (A) During the Term Seller shall, at its cost and expense, manage, control, operate, and maintain the MEA Portion in accordance with the Operations Agreement and in a manner consistent with Prudent Utility Practice. Without limiting the foregoing, during the Term, as between Seller and Purchaser. Seller shall be responsible for all capital costs, all operations and maintenance expenses, and all costs and expenses for environmental compliance and compliance with Applicable Laws relating to the MEA Portion.
>
> (B) During the Term. Seller shall, after giving Purchaser a reasonable opportunity to consult with Seller. but without in any way limiting Seller's discretion as a result of any such consultation, select the person to serve as Seller's representative to the Operating Committee (the "Seller's Representative"). The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA and the rights and obligations of the parties under the Chugach Power Purchase Agreement. The Seller's Representative shall also be Seller's representative for any consultation, study. and implementation processes required under the Fish and Wildlife Agreement relating to the Facility. The Seller's Representative shall make all decisions with respect to any processes required under the Fish and Wildlife Agreement with due regard for the rights and obligations of the Parties under this PPA.
>
> (C) The Parties acknowledge and agree that Seller has prior rights to not less than 41 million gallons of water per day from Eklutna Lake for public water supply pursuant to the Act of October 30, 1984. 98 Stat. 2823; Alaska Statutes 46.15.150(a); and Certificate of Appropriation AOL 44944. The Parties agree that during the Term, the supply of water available for production of Power by the Seller's Interest shall be net of all water taken by Anchorage Water and Wastewater Utility for public water supply purposes consistent with the aforementioned water rights.

MEA PPA Subsection 4.2(A) does not address AHP's representation on the EOC and Subsection 4.2(C) only identifies the Municipality of Anchorage's rights to water from

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Eklutna Lake. Neither of these two subsections are relevant to AHP's argument and we do not address them further.

As discussed above, the minimum term of EOC voting rights surrender condition allows AHP to have a representative attend EOC meetings. The MEA PPA Section 4.2(B) requirement that AHP consult with MEA on AHP's choice of that representative remains effective even if the AHP representative has no voting rights. Also, as discussed above, the "consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA" language of MEA PPA Subsection 4.2(B) places boundaries on the AHP non-voting representative's participation in EOC meetings and our not disapproving Subsection 4.2(B) leaves intact the parties' bargain for this limitation on AHP.

Eklutna PPA Section 4.2(B) and MEA PPA Section 4.2(B) are both silent on voting rights and thus the requirement that ML&P surrender its EOC voting rights does not expressly nullify any part of these provisions. Both subsections include the phrase: "Seller's Representative shall make all decisions on the Operating Committee consistent …." This language could imply that AHP makes EOC decisions. As discussed in Order U-18-102(44), with its EOC voting rights intact ML&P had authority to veto decisions of the EOC but did not have authority to make decisions for the EOC except with the agreement of at least Chugach or MEA.[71] Because ML&P never had the authority to make EOC decisions, we read the "Seller's Representative shall make all decisions on the Operating Committee consistent" language to refer to the decisions AHP, as ML&P's successor, makes about its own participation in EOC decisions. Nothing in Order U-18-102(44) renders the language in Eklutna PPA Section 4.2(B) or MEA PPA Section 4.2(B) superfluous, and the existence of the language in these two subsections does not

[71] Order U-18-102(44) at 60-61.

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create any contextual ambiguity in the minimum term of EOC voting rights surrender language used in Order U-18-102(44).

AHP points to history of TA525-18 and TA379-121 where our Staff asked AHP and MEA if MEA PPA Section 4.2(B) needed to be revised based upon the apparent inconsistency with the minimum term of surrender language in Order U-18-102(44) as evidence of contextual ambiguity.[72] In TA525-18 and TA379-121, on October 22, 2020, our Staff asked MEA and ML&P to respond to the following:

> I believe there is an inconsistency between the MEA Eklutna PPA and the final order (U-18- 102(44)/U-19-020(39)/U-19-021(39)) (U-18-102(44).
>
> At page 67 of U-18-102(44) the Commission required MOA/ML&P to surrender its vote on the EOC so Chugach and MEA could manage the Eklutna Hydro project.
>
> The MEA Eklutna PPA, at page 4, Section 4.2(B) appears to allow MOA/ML&P to keep its vote on the EOC.
>
> Does MEA [or ML&P] believe the language between the final order and the MEA Eklutna PPA as summarized above are in conflict? Please explain your response and provide a remedy if appropriate.

MEA responded to this request as follows:

> Mr. Layne, regarding your inquiry, MEA offers the following response.
>
> The MEA Eklutna Hydro PPA, by and between MEA and the MOA, was entered into and executed in September 2019, several months prior to the RCA's May 2020 decision requiring ML&P to surrender its vote on the EOC as a condition of approving the sale of ML&P. This appears to be the reason for the "conflict" you reference because at the time the PPA was negotiated, the parties had no way of knowing the future RCA decision regarding ML&P's surrendering of EOC voting rights. MEA notes that the provision you reference and cite as a conflict in the MEA Eklutna Hydro PPA is contained verbatim in the Chugach Eklutna Hydro PPA (see Appendix D of Order U-18-102(44), Section 4.2(B) at page 9 of 92), which the RCA conditionally approved as part of Order U-18-102(44).
>
> In MEA's view, if the RCA wishes to resolve this perceived conflict, the remedy should be similar and consistent with how the RCA remedied the same conflict in the Chugach Eklutna Hydro PPA, which could include approving the MEA PPA subject to the same conditions the RCA previously imposed in Order U-18-102(44). Specifically, MEA is agreeable to having the same vote

[72] AHP Initial Brief at 14-18; AHP Reply Brief at 15-17 (in this brief, AHP erroneously refers to TA525-18 as being TA525-15).

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> surrender language in order U-18-102(44) at page 67 apply to the MEA Eklutna Hydro PPA. Hopefully this helps resolves this matter.[73]

ML&P responded to this request as follows:

> The MOA/ML&P do not believe that the MEA Eklutna PPA is inconsistent Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39"). The part of Order 39 that you cite states:
>
> "We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the [Chugach] Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions." Order 39 at 67.
>
> To comply with the Order, ML&P will surrender its vote on the EOC prior to the closing of the ML&P sale to Chugach, which will be before the effective date of the Chugach Eklutna PPA and of the MEA Eklutna PPA. ML&P will promptly file a notice of that surrender with the RCA. The surrender will have a term at least equal to the term of the two PPAs, subject to termination of the surrender upon MHP showing to the RCA's satisfaction "that MHP has acquired the expertise required to fully participate as a voting member of the EOC." Order 39 at 67. If and when MHP has a proposed EOC representative that satisfies the qualifications, MHP will file that information and request that the RCA make the necessary finding for termination of the EOC vote surrender.
>
> Like Section 4.2(B) of the Chugach Eklutna PPA, Section 4.2(B) of the MEA Eklutna PPA requires MHP, in consultation with the Purchaser, to select MHP's representative on the EOC. As a result of Order 39, MHP won't have any voting representative on the EOC until the surrender is terminated upon a positive finding by the RCA that MHP's proposed representative is qualified. Thus, Section 4.2(B) of neither PPAs need to be amended. In addition, Section 4.2(B) should remain as written as it will be relevant if and when MHP's voting rights surrender is terminated in the future upon the necessary finding of the RCA.[74]

The ambiguity that our Staff was inquiring about is different from the ambiguity alleged by AHP. Staff was concerned that MEA PPA Section 4.2(B) contractually allowed AHP to exercise a vote on the EOC after the surrender was in effect. This is due to the language used in the MEA PPA, and as noted by MEA, language that is also in the Eklutna PPA.

[73]Correspondence from T. Clark, filed October 23, 2020, in TA525-18.

[74]Correspondence from D. Thompson, filed October 27, 2020, in TA379-121.

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MEA responded that the MEA PPA was negotiated several months before Order U-18-102(44) was issued, and that the language of the MEA PPA did not reflect the surrender of ML&P's voting rights on the EOC required by Order U-18-102(44) because the parties were not aware that we were going to order that surrender. Both MEA and ML&P assured us that the language in Order U-18-102(44) was sufficient to prevent ML&P from having voting rights on the EOC after the effective date of surrender.

ML&P stated in the correspondence quoted above that: "As a result of Order [U-18-102(44)], [A]HP won't have a voting representative on the EOC until the surrender is terminated upon a positive finding by the RCA that MHP's proposed representative is qualified." In the paragraph immediately above, ML&P restated the requirement for restoration of their vote on the EOC as: "The surrender will have a term at least equal to the term of the two PPAs, subject to termination of the surrender upon MHP showing to the RCA's satisfaction "that MHP has acquired the expertise required to fully participate as a voting member of the EOC."" ML&P appears to assert that their modification from the minimum term of EOC voting rights surrender language of Order U-18-102(44) in their informal response to Staff's request should have put us on notice that they were nullifying the first part of the condition stated in Order U-18-102(44).[75]

We disagree with that assertion. If ML&P considered the language we used in Order U-18-102(44) to be unreasonable, erroneous, unlawful, or otherwise defective, their remedy was to timely file a petition for reconsideration under 3 AAC 48.105 or an appeal under AS 22.10.020(d) and Alaska Rule of Appellate Procedure 602(a)(2).[76] As Order U-18-102(44) was issued May 28, 2020, any petition for review was required to be filed by June 12, 2020 and any appeal was due to be filed by June 30, 2020. ML&P

[75]AHP Initial Brief at 16.

[76]Order U-18-102(44) at 143.

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waived its right to challenge the language used in Order U-18-102(44) by failing to take either of those routes. ML&P has no authority to unilaterally revise the requirements of Order U-18-102(44) based on correspondence with our Staff on October 27, 2020, months after waiving its right to seek such revisions.

Staff was specifically asking if the MEA PPA Section 4.2(B) language conflicted with the EOC voting rights surrender required by Order U-18-102(44). Staff was not asking about the minimum term of EOC voting rights surrender or about the methodology for restoration of those voting rights and AHP has provided no evidence that Staff paid any attention at all to ML&P's superfluous comments on those issues. AHP cites to no authority where such remarks can effectively rewrite the express terms of our orders.

In responding to Staff's request, ML&P stated: "Section 4.2(B) should remain as written as it will be relevant if and when [A]HP's voting rights surrender is terminated in the future upon the necessary finding of the RCA." As noted by AHP, we have authority under AS 42.05.271 to modify certificate conditions after providing notice and opportunity for hearing and for good cause shown.[77] Such modification is not necessarily tied to AHP's acquisition of adequate technical and managerial resources to fully participate on the EOC. For example, MEA PPA Section 11.2(A)(3) allows for early termination of the MEA PPA in the event of an uncured default.[78] Eklutna PPA Section 9.2(A)(3) allows for early termination of the Eklutna PPA in the event of an uncured default.[79] Without prejudging the matter, AHP might be able to show good cause for reinstatement of its EOC voting rights, at least in part, upon the early termination of one

[77]AHP Reply Brief at 43.

[78]Order U-18-102(44), Appendix H at 15.

[79]Order U-18-102(44), Appendix D at 16.

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of these agreements but not the other. Therefore, leaving Eklutna PPA Section 4.2(B) and MEA PPA Section 4.2(B) intact leaves that portion of the parties' bargain intact in the event that we do someday modify the minimum term of EOC voting rights surrender stated in order U-18-102(44).

For all the reasons discussed above, AHP has failed to establish a contextual ambiguity based on the language of Eklutna PPA Section 4.2(B) and MEA PPA Section 4.2(B) or our strict interpretation of the minimum term of EOC voting rights surrender stated in Order U-18-102(44). Eklutna PPA Section 4.2(B) and MEA PPA Section 4.2(B) are both currently effective in part and may become fully effective in the manner AHP desires sometime in the future. The continued existence of these two provisions do not justify a revision of the minimum term of EOC voting rights surrender language stated in Order U-18-102(44).

Public Understanding

AHP also suggests that we should modify the minimum term of EOC voting rights surrender stated in Order U-18-102(44) based upon the "public" understanding of that term expressed in various places.[80] AHP cites to no authority for this proposition. We note that part of the "public" understanding AHP relies upon is implied from past statements of Chugach, MEA, and RAPA.[81] In response, RAPA stated:

> At the August 30, 2024, prehearing conference, the Commission—through ALJ Walker—noted two things. First, that neither AHP's request for acknowledgement nor the motion for expedited consideration discussed why the Commission should set aside the minimum time-period for the voting rights surrender. And second, "it appears that the Commission should be considering dismissal of the notice and request for acknowledgment as being prematurely filed…."
>
> When examining AHP's Notice and Request for Acknowledgment, the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section

[80]AHP Initial Brief at 14-20.

[81]AHP Initial Brief at 19-20.

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(RAPA) incorrectly focused on the second half of the above-quoted language from Order 39 and not the issues raised by the Commission.[82]

Chugach and MEA stated:

> Chugach and MEA admit that until ALJ Walker raised this issue in this proceeding, they had not examined this issue closely and were theoretically comfortable with an interpretation of the Surrender that if and when the MOA could demonstrate technical and managerial fitness, potentially with certain conditions imposed on the MOA to require MOA act consistently with prudent utility practice, to prevent the MOA from undermining the Project Owners' work in implementing the Final Fish and Wildlife Program, and to protect the Eklutna Project as a valuable resource in the Railbelt, the MOA would be entitled to regain its voting rights on the EOC and with respect to the Fish and Wildlife Agreement before the end of the PPA terms.
>
> Upon further review in this proceeding, however, Chugach and MEA no longer think that this matter is so simple for two primary reasons. First, with respect to this narrow issue, the Commission is asking the parties if they agree or disagree with the Commission's interpretation of the applicability of the term length language, and because Chugach and MEA do see ambiguity in the language, the Commission is in the best position to explain what it intended. There also exists ample reasonable legal basis, well supported by facts, for the Commission's interpretation that the Surrender must last for the duration of the PPA terms centered on the fact that MOA has ceded most of its rights and responsibilities to the Eklutna Project during the duration of those PPAs. Further, the facts that justified the Surrender requirement in the first place are materially unchanged. Second, even if the Commission intended, through its language, to create a path for MOA to regain its voting rights before the end of the PPA terms, such process should not render the length of term requirement language meaningless as MOA's Brief position would. Rather, there must be an acknowledgement of the Surrender term requirement and a demonstration that the concerns behind such requirement will be addressed for the duration of the PPA terms.[83]

In reply, AHP asserts that the responsive arguments of RAPA, Chugach, and MEA are in error.[84] AHP acknowledges that RAPA, Chugach, and MEA changed their position after reviewing the minimum term of EOC voting rights surrender language in Order U-18-102(44) when that language was pointed out to them at the prehearing conference held August 30, 2024.[85]

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[82]RAPA Brief at 2.

[83]Chugach/MEA Brief at 11-12.

[84]AHP Reply Brief at 6-43.

[85]AHP Reply Brief at 3-6.

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From the explanations provided by RAPA, Chugach, and MEA, their earlier positions on the restoration of EOC voting rights to AHP was based on an incomplete reading of Order U-18-102(44). ML&P never asked us for clarification of the minimum term of EOC voting rights surrender language in Order U-18-102(44), and thus we do not know if ML&P's understanding of that language was based on a complete reading of the order either.

AHP cites to the language used by ML&P in its written surrender of EOC voting rights as evidence that ML&P understood that AHP's EOC voting rights could be restored whenever it made a showing that it had acquired the expertise to fully participate as a voting member of the EOC. AHP quoted from the surrender as follows:

> In accordance with the requirements of order U-18-102(44), the Municipality of Anchorage, dba Municipal Light & Power(ML&P), hereby surrenders its voting rights as an EOC member and under the Fish and Wildlife Agreement effective as of the Closing of the Asset Purchase Agreement between ML&P and Chugach Electric Association (Chugach). **This surrender of voting rights shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC.**
>
> **Until ML&P's successor complies with the qualification terms of RCA order U-18-102(44),** all EOC decisions will be by unanimous vote of Chugach and Matanuska Electric Association, Inc. (MEA). Eklutna hydro operations, dispatch and maintenance will continue to follow past practices and policies unless changes are approved through the EOC process.[86]

There is nothing in this surrender language indicating that ML&P is only surrendering its EOC voting rights until such time as its successor makes a showing that it has acquired the expertise required to fully participate as a voting member of the EOC. This surrender language states that ML&P is surrendering its voting rights in accordance with the requirements of Order U-18-102(44) and that the surrender remains in effect until ML&P's successor complies with our requirements pertaining to qualifications for ML&P's

[86]AHP Initial Brief at 17 (emphasis is by AHP in the Brief and is not in the original surrender of EOC voting rights).

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representation on the EOC. Those requirements include the minimum term of surrender and our approval of the transaction under which Chugach acquired ML&P's service obligations and most ML&P assets was conditioned on ML&P's surrender of its voting rights in conformance with that entire requirement.

We are not convinced that there is any reason to change the minimum term of EOC voting rights surrender expressly stated in Order U-18-102(44) based upon 'public' understanding when that understanding was based upon an incomplete reading of the order. We also do not find that ML&P or AHP has the right to modify the minimum term of EOC voting right surrender stated in Order U-18-102(44) based upon a post-hoc assertion that it misunderstood the terms of that order. We note that ML&P's surrender of its EOC voting rights was filed well after the time to request reconsideration of Order U-18-102(44) had passed and the time for appeal of that order had also passed. Thus ML&P no longer had any right to seek revision of the minimum term of EOC voting rights surrender except under a new proceeding seeking revision of that term. Inserting what may now be considered ambiguous language in a compliance filing is not adequate to make such a change.

Evidentiary Context

AHP further claims that we must interpret prior orders within the context of the evidence on which the prior order was based.[87] That is our standard practice. In Dockets U-18-102/U-19-020/U-19-021, we received written testimony from Municipal Attorney Rebecca Windt Pearson[88] that included the following:

[87]AHP Reply Brief at 19-21.

[88]*Prefiled Reply Testimony of Rebecca Windt Pearson*, filed August 2, 2019 (Windt Pearson Testimony), in Dockets U-18-102/U-19-020/U-19-021; as corrected by *Municipal Light and Power's Errata to the Prefiled Reply Testimony of Rebecca Windt Pearson*, filed August 9, 2029. This testimony was marked as Hearing Exhibit T-22 in Dockets U-19-020/U-19-021.

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Q12. Why did ML&P retain its ownership share of the Eklutna generation plant and sell the output to Chugach, rather than simply including its share of the Eklutna generation plant in the sale?

A12. Both Chugach and the MOA had interests that were served by having the MOA continue to own its share of the Eklutna generation plant and sell the output of the MOA's share to Chugach (and possibly also to MEA).

Initially, the parties discussed Chugach financing a portion of the asset acquisition price through unsecured payments over a period of time. That changed, however, when the MOA expressed concern regarding the lack of security associated with those payments. The MOA was concerned that, if it sold all of ML&P's assets to Chugach, but Chugach failed to make an unsecured future payment, the MOA would have no recourse other than litigation or pursuing a claim as a general unsecured creditor in a bankruptcy proceeding.

The parties resolved this concern by carving ML&P's ownership interest in the Eklutna generation plant out of the sale. As a result of the MOA retaining the ML&P share of the Eklutna generation plant, Chugach was able to pay for the Transactions without requiring the MOA to incur the risk of unsecured future payments. The Parties then entered into the Chugach PPA to allow Chugach to receive the output from ML&P's Eklutna interest at Chugach's avoided cost.

This arrangement served each party's interests. It benefits the MOA because, if Chugach ever fails to make future payments under the Chugach PPA, ML&P can, as a result of its retained ownership of its share of Eklutna, sell the power from that share to another entity—likely another Railbelt utility, and likely at a higher "avoided cost." The fact that Chugach's avoided costs are lower than other Railbelt utilities also informed the allocation of risks in the Chugach PPA. The MOA likely could sell power from its retained share of Eklutna to another entity at a higher avoided cost rate, but any such transaction would likely require the MOA to accept greater risks. The MOA agreed to sell power to Chugach, at Chugach's avoided cost, at least partly because of the transaction's more preferable risk profile. The Chugach PPA benefits Chugach because it allows it to make power purchase payments over time, thereby avoiding the added margin costs associated with additional upfront financing.[89]

Windt Pearson swore under oath that her written testimony was true and correct, and it was admitted as evidence into the record of Dockets U-19-020/U-19-021.[90] In its Application filed in Docket U-19-021, ML&P stated:

> ML&P will continue to be a department of the MOA, however it will have no employees and any function requiring labor will be performed by the MOA (e.g.

[89]Windt Pearson Testimony at 8-9.

[90]Docket U-19-020/U-19-021 Tr. 2489-2489.

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billing and financial statement preparation will be performed by the MOA Finance Department).[91]

…

As mentioned above, historically the operation and maintenance activities of Eklutna have been performed by Chugach, MEA, and ML&P. After the Transactions close, the division of responsibilities will be allocated between Chugach and MEA. Both Chugach and MEA have power production and transmission experience. They have the necessary expertise to perform all necessary functions to operate Eklutna. As has been the practice in the past, any operational or capital function that is beyond their expertise will be contracted to a firm specializing in the function.

The MOA will receive payments under the Chugach PPA and Chugach will pay all operating, maintenance, and capital costs associated with ML&P's Eklutna interest. If MEA enters into a PPA for its pro rata share of ML&P's Eklutna output, ML&P will be responsible for the operating, maintenance, and capital costs associated with that share of ML&P's Eklutna interest. The MEA PPA payments ML&P receives, however, will be sufficient to pay any operating, maintenance, and capital costs that ML&P will be responsible for. If MEA enters into a PPA for its pro rata share of ML&P's Eklutna output, ML&P will establish a $3 million reserve fund in the first year of operation to address any intra-year revenue shortfalls, to be called upon if revenues received are not sufficient in any year to cover the operating, maintenance, or capital costs of ML&P's Eklutna interest. In addition, if unforeseen adverse events require it, the MOA has sufficient borrowing capacity to make necessary operating, maintenance, or capital investments related to ML&P's Eklutna interest.

The MOA has a Finance Department with experienced professional accountants that have the necessary expertise to perform the required accounting functions for ML&P's limited post-Transactions Eklutna interest ownership and long term wholesale bulk power sales to Chugach or Chugach and MEA under the PPAs. The Finance Department will maintain ML&P's books and records, consistent with the Uniform System of Accounts. These books and records will include ML&P's revenues received under the PPAs and ML&P's share of monthly operational and capital costs. The Finance Department will track any assets purchased or constructed by the EOC, to include tracking operation and maintenance costs for the assets. Further, the Finance Department will maintain continuing property records to include original asset cost, annual depreciation, and net book value of all assets.[92]

At hearing in Dockets U-19-020/U-19-021, Windt Pearson orally testified as follows:

ALJ WALKER:· Is the Municipality, after closure of this transaction, retaining any employees of ML&P?

MS. WINDT PEARSON:· The plan is not to. And I know that we have discussed what we would need to do to have the necessary advice, expertise,

[91]ML&P Application at 12.

[92]ML&P Application at 12-14 (heading omitted).

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> and personnel in order to continue to participate in the Eklutna Operating Committee. I think that we envision the stub utility being the department that reports up to the municipal manager. And that, more likely than not, we would utilize consultant services to provide that industry-specific expertise and staffing to help us make informed decisions as a continuing member of the Eklutna Operating Committee. Because we would not be retaining any employees of Municipal Light & Power.
>
> ALJ WALKER:· Have you investigated to see if any such expertise exists in the consulting community?
>
> MS. WINDT PEARSON:· We have not done so yet.[93]

Based on the record from Dockets U-18-102/U-19-020/U-19-021, ML&P was retaining the Eklutna Project Power Plant only for the purpose of preserving a cash flow in the event Chugach defaulted on its payments under the Eklutna PPA. ML&P planned only on collecting revenue under the Eklutna PPA and the MEA PPA, keeping track of the expenses it incurred under the MEA PPA for bookkeeping purposes, and maintaining the net book value of Eklutna Project assets. Maintaining accurate accounting of the net book value of assets will be necessary for calculation of the price Chugach and MEA will have to pay to purchase their proportionate shares of AHP ownership interest in the Eklutna Project under the Eklutna PPA and the MEA PPA.[94]

ML&P assured us that revenue earned under the MEA PPA would be adequate to cover all Eklutna Project capital, operating, and maintenance expense that it would be obligated to pay under that agreement. ML&P further assured us that it would maintain a $3,000,000 cash reserve for the Eklutna Project which, with the Municipality of Anchorage's existing credit capacity, would be adequate to meet any cash flow contingencies that may arise.

On this record, none of the purposes for which ML&P was retaining its ownership interests in the Eklutna Project Power Plant required or would benefit from

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[93]Docket U-19-020/U-19-021 Tr. 2708-2709.

[94]Order U-18-102(44), Appendix D at 19-20 (Eklutna PPA) and Appendix H at 23, 39 (MEA PPA).

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ML&P's participation as voting member of the EOC. ML&P effectively admitted that, as of the time of hearing in Dockets U-19-020 and U-19-021, it would not retain the staff expertise required to sit as a voting member of the EOC and had made no plans to acquire such expertise. ML&P also admitted that Chugach and MEA did have the expertise to sit as voting members of the EOC. These circumstances provide good cause under AS 42.05.271 for conditioning AHP's certificate with a requirement that ML&P's surrender its EOC voting rights for a term at least equal to the term of the Eklutna PPA and the term of the MEA PPA.

Finding Notice and Request Premature Under Order U-18-102(44)

In Order U-18-102(44) we stated that:

> Under these circumstances, we cannot unconditionally find that MHP is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions. **This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC.** This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[95]

In its briefing, AHP has not shown good cause for modifying or interpreting this certificate condition in a manner that nullifies the minimum term of EOC voting rights surrender specified in Order U-18-102(44). Therefore, AHP's voting rights on the EOC are surrendered for at least the term of the Eklutna PPA and the MEA PPA.

The Eklutna PPA and the MEA PPA both became effective on October 30, 2020, the date on which Chugach acquired the service responsibilities and most assets

[95]Order U-18-102(44) at 67 (Emphasis added).

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of ML&P.[96] The Eklutna PPA and the MEA PPA are both scheduled to expire on October 31, 2055, roughly 31 years from now.[97] There are provisions in these two agreements allowing for both extending them and for terminating them early. At this time, no entity, including ourselves, can predict when the terms of the Eklutna PPA and the MEA PPA will expire.

We have reviewed the documents filed in this docket by AHP and found no commitment on the part of Corsentino or Schimscheimer to remain employed by AHP until such time as the terms of the Eklutna PPA and the MEA PPA expire. We do not know how we could verify the veracity of such commitments had they been made. We also have no way of evaluating what the requirements to fully participate as a voting member of the EOC might be at that time. For these reasons, we grant RAPA's motion to dismiss the Notice and Request on the grounds that it premature under the terms of Order U-18-102(44). This dismissal is without prejudice to refiling closer to the time that Eklutna PPA and the MEA PPA will expire.

Dismissal as Moot

In addition to moving for dismissal of the Notice and Request as being premature under the terms of Order U-18-102(44), RAPA moved for dismissal on the grounds that the Notice and Request were now moot. RAPA asserted that AHP only wanted to have its EOC voting rights reinstated so that it could have greater input on design of the Eklutna Project Fish and Wildlife Program identified in Section 104(a) of Public Law 104-58. RAPA further asserts that the Governor has now approved the Eklutna Project Fish and Wildlife Program. Based on this action, RAPA concludes that

[96] *See*, Order U-18-102(44), Appendix D at 3-4, 35; Appendix H at 7, and *Notice of Transaction Closing*, filed October 30. 2020, in Dockets U-18-102/U-19-020/U-19-021.

[97] Order U-18-102(44), Appendix D at 9, 41; Appendix H at 7, 40.

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the Notice and Request is now moot and should be dismissed.[98] AHP has disputed RAPA's assertions on this issue and claims that dismissal on this ground would be inappropriate.[99] RAPA has replied that its assertions are supported by the record.[100]

Given our decision above to dismiss the Notice and Request on the ground that it is premature under the requirements of Order U-18-102(44), we do not need to decide if the Notice and Request is also moot. We deny RAPA's motion to dismiss on the ground that the Notice and Request is moot on the ground that the mootness issue is now moot.

Vacate Procedural Schedule

We adopted a procedural schedule for resolution of this docket.[101] With our decision to dismiss the Notice and Request there is no need to proceed through hearing in this docket. Therefore, we vacate the remaining procedural schedule for this docket including the prehearing conference scheduled for November 18, 2024, and the hearing scheduled to begin on November 18, 2024.

Deny Motion to Compel Discovery Responses

Chugach and MEA filed a motion to compel discovery responses intended to produce information to be used in their examination of Corsentino.[102] AHP has opposed this motion primarily on the ground that the information requested is not relevant to the scope of this docket.[103] Chugach and MEA have responded to this opposition by asserting that the requested information is relevant to any determination of Corsentino's

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[98]Motion to Dismiss at 1-7.

[99]AHP Response at 2-6.

[100]RAPA Reply at 2.

[101]Order U-24-024(4).

[102]Motion to Compel at 1-18.

[103]AHP Opposition at 7-22.

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understanding of prudent utility practice and that this determination is within the scope of this docket.[104]

With our decisions above to dismiss the Notice and Request and to vacate the procedural schedule for this docket, there will be no examination of Corsentino. Therefore, we deny the Motion to Compel on the ground that it is now moot.

Deny Request to Construe Notice and Request

AHP has asked us to construe its Notice and Request to be an application to amend its certificate conditions if we find that the minimum term of EOC voting rights surrender in Order U-18-102(44) is enforceable.[105] The timeline under which we are required to resolve this docket runs out January 14, 2025.[106] This would leave approximately 60 days to address modification of AHP's certificate. Under AS 42.05.175(a)(2) we are typically allowed 180 days to resolve a certificate amendment application. We find that there is too little time for us and the parties to address amendment of AHP's certificate in this docket. Therefore, we deny the request to construe the Notice and Request to be an application to modify AHP's certificate.

Guidance for Future Filings

AHP states that if we do not construe its Notice and Request as an application to amend its certificate, or otherwise grant it the relief it seeks in this proceeding, it "could simply file a new application to modify its certificate."[107] We have not construed AHP's Notice and Request to be an application to amend its certificate or otherwise granted AHP the relief it has requested in this proceeding. We provide AHP with guidance on future filings seeking relief from the minimum term of EOC voting rights

[104]Chugach/MEA Reply at 2-10.

[105]AHP Reply Brief at 43.

[106]Order U-24-024(1) at 5.

[107]AHP Reply Brief at 43.

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surrender required by Order U-18-102(44). We provide this guidance without having completed our investigation of the qualifications of Corsentino and Schimscheimer, and this guidance is not a judgement on their qualifications to be AHP's representative on the EOC.

We start by pointing out that in Order U-18-102(44) we did not require ML&P to surrender its EOC voting rights merely because the then Municipal Manager was not qualified to sit as a voting member of the EOC. What we stated was:

> ML&P asserts that billing and record keeping under the Uniform System of Accounts will be done for MHP by the professional accountants working for the MOA's Financial Department. These accountants will also maintain MHP's continuing property records, calculating annual depreciation and net book value of plant in service. ML&P has provided no evidence in support of this assertion that accountants employed by the MOA's Financial Department are trained to maintain records in accordance with the Uniform System of Accounts or to maintain continuing property records. However, we are aware that many of our smaller regulated utilities retain outside accountants to maintain their records in accordance with our regulations and thus we are aware that those private resources are available.
>
> ML&P proposes that MHP will have a seat on the EOC, even though it will have no employees. ML&P states that MHP will be managed by the Municipal Manager, a position currently filled by William D. Falsey. Falsey has a law degree from Yale Law School and a Bachelor of Science degree in physics from Stanford University. Falsey has worked as the MOA's manager since 2017 and worked in legal positions from 2003 through 2017.
>
> Chugach witness Dustin Highers testified based on his experience as chair of the EOC that to be an owner representative on the EOC, it was essential that the representative have knowledge of prudent utility practice and the Railbelt electric generation and transmission system. Dustin Highers testified that there were two ML&P employees he was aware of qualified to sit on the EOC and that both of those employees were being transferred to Chugach as part of the transaction. There is nothing in Falsey's resume indicating that he has any knowledge of the Railbelt generation and transmission system, or prudent utility practice which is the management standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA PPA. ML&P indicated "that, more likely than not, we would utilize consultant services to provide that industry-specific expertise and staffing to help us make informed decisions as a continuing member of the [EOC]." However, ML&P admitted that it has not investigated whether such expertise exists in the consulting community.
>
> Under these circumstances, we cannot unconditionally find that MHP is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to

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> maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[108]

We required ML&P to surrender its EOC voting rights because it had no person qualified to sit in EOC meetings and understand the discussion, and because ML&P was proposing no definitive support team for their EOC representative.

Prior to the transaction under which Chugach acquired the ML&P service obligations and most of the ML&P assets, each member of the EOC was qualified to participate in meetings and knowledgeably discuss all issues related to management and operation of the Eklutna Project. Each of those representatives was also supported by an independent team consisting of the employees, contractors, and consultants required to operate their vertically integrated electric utility, each of which was interconnected with other vertically integrated electric utilities.

With Chugach's acquisition of ML&P's employees, in addition to ML&P's service obligations and most assets, ML&P, and its successor AHP have no identified support team of employees, contractors, or consultants with the breadth and scope of relevant knowledge that the Chugach and MEA representatives continue to bring to the EOC meetings. In the Notice and Request, AHP addressed this issue merely by stating:

> In addition to the auxiliary in-house expertise that Mr. Schimscheimer provides, AHP will also have access to, and the right to use (at AHP's expense), contracts of the [Municipality of Anchorage] in order to access any additional technical and engineering expertise necessary.

[108]Order U-18-102(44) at 65-67.

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In footnote 30 at the end of this statement, AHP states:

> Exhibit 3 at 2. Such firms include Electric Power Systems, Inc., EDC, Inc., CRW Engineering Group, Inc. and Taku Engineering.

Exhibit 3 to the Notice and Request is a *Memorandum of Understanding Between Anchorage Water and Wastewater Utility and Anchorage Hydropower Utility Re Resolution of Conflicts of Interest*, signed July 18, 2024. The relevant part of this Memorandum is paragraph 3 on page 2, which states:

> AH[P] will have access to and right to use, at AH[P]' expense, contracts of the [Municipality of Anchorage] to access technical and engineering expertise necessary to oversee and conduct operations.[109]

AHP included no resumes for the proposed support group, no contracts showing the term and extent of commitment by the contractors or consultants, and no information about what process AHP will have to go through to pay its contractors and consultants. We find this generic assertion of support for the proposed AHP voting representative on the EOC to be no more substantive than ML&P's assertion in Dockets U-18-102/U-19-020/U-19-021 that they would primarily rely on consultants for the expertise required to fully participate on the EOC even though they admitted that they had not yet investigated to determine if consultants with the required expertise were available.

In addition to addressing the minimum term of EOC voting rights surrender issue, we suggest that in future filings seeking reinstatement of EOC voting rights AHP provide the information to show that it can bring to EOC meetings a depth and breadth of technical and managerial expertise at least comparable to the level of expertise that MEA and Chugach bring to those meetings. This suggestion does not just include the technical

[109]Notice and Request, Exhibit 3 at 2.

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expertise of AHP's representative to the EOC, but also includes the team of employees, contractors, and consultants supporting that representative.

We denied AHP's motion for expedited consideration of its Notice and Request because AHP had failed to adequately support its request for reinstatement of its EOC voting rights. Upon initial review of AHP's filings in this docket we could see no way of moving forward without taking the time for prefiled testimony, discovery, and holding a hearing to gather the information necessary to determine if AHP had acquired the expertise required to fully participate as a voting member of the EOC.[110] We believe that efficient resolution of future filings on this issue by AHP will be more likely if AHP provides adequate information in its initial filing.

Final Order

This order constitutes the final decision in this proceeding. This decision may be appealed within thirty days of this order in accordance with AS 22.10.020(d) and Alaska Rule of Appellate Procedure 602(a)(2). In addition to the appellate rights afforded by AS 22.10.020(d), a party has the right to file a petition for reconsideration in accordance with 3 AAC 48.105. If such a petition is filed, the time period for filing an appeal is tolled and then recalculated in accordance with Alaska Rule of Appellate Procedure 602(a)(2).

Docket Closure

No substantive or procedural matters remain in this proceeding. Accordingly, we close this docket.

[110] At the prehearing conference and through the ALJ we denied AHP's motion for expedited consideration and stated that we would explain that decision in a written order to follow. Tr. 15. This is that explanation.

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ORDER

THE COMMISSION FURTHER ORDERS:

1. The *Office of the Attorney General's Motion to Dismiss as Moot*, filed October 15, 2024, by the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section is granted in part and denied in part as discussed in the body of this order.

2. The *Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*, filed July 18, 2024, by the Municipality of Anchorage d/b/a Anchorage Hydropower, is dismissed as being premature under the requirements of Order U-18-102(44)/U-19-020(39)/U-19-021(39).

3. *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Motion to Compel Discovery Responses*, filed October 28, 2024, is denied as being moot.

4. The request at page 43 in the *Municipality of Anchorage d/b/a Anchorage Hydropower's Reply Brief Regarding Interpretation of Order 39*, filed October 29, 2024, to have the *Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*, filed July 18, 2024, construed as an application to modify Certificate of Public Convenience and Necessity No. 780 is denied as discussed in the body of this order.

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5. Docket U-24-024 is closed.

DATED AND EFFECTIVE at Anchorage, Alaska, this 14th day of November, 2024.

BY DIRECTION OF THE COMMISSION
(Commissioner Steve DeVries, not participating.)

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IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

Municipality of Anchorage,
Appellant,

vs.

Regulatory Commission of Alaska,
Appellee.

CASE NO: 3AN-24-10554CI

NOTICE OF JUDICIAL ASSIGNMENT

This case is assigned to the Honorable Judge Kevin M Saxby for all purposes including trial.

12/13/2024
Date

By: RPendragon
Deputy Clerk

I certify that on 12/13/24
a copy of this order was distributed to:
Dean D Thompson
Regulatory Commission of Alaska
Ashley Christen Brown
Emily M Walker

Clerk: RPendragon

FILE COPY

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant v. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	)	Case No. 3AN-24-06001CI

ANCHORAGE ASSEMBLY'S OPPOSITION TO MOTION TO DISMISS

The Anchorage Assembly's appeal raises a simple legal question: Can the Regulatory Commission of Alaska (RCA) remove policy-making authority and the power of appropriation from the Municipality's legislative body by requiring the Municipality to surrender its voting rights on *policy decisions* regarding the 1991 Fish and Wildlife Agreement? The answer is unequivocally no. Because the Municipality is contractually obligated to pay for a portion of the Fish and Wildlife Program, Anchorage residents—through their democratically elected representatives—are entitled to have a say in what river restoration program is adopted *and* how it's implemented.[1]

[1] Alaska Const., art. X, § 1 ("A liberal construction shall be given to the powers of local government units.").

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Ultimately, the Assembly will demonstrate that the RCA lacked statutory authority to unilaterally remove the Municipality's voting rights under the 1991 Fish and Wildlife Agreement—a federal contract requiring the Municipality to plan, fund, and implement Eklutna River restoration. Thus, Order 39 exceeded the RCA's jurisdiction to regulate public utilities.[2] The Assembly looks forward to fully briefing those legal issues in this appeal.

Here, the RCA's pending motion raises three preliminary arguments for dismissal, each of which is meritless. *First*, the Assembly exhausted all available administrative remedies. This is an appeal from the RCA's April 19, 2024 decision denying the Assembly's petition to intervene and motion to modify Order 39. The RCA's contention that the Assembly should have filed a petition to intervene back in 2020—and appealed from that decision—only makes sense if time machines existed. In reality, the Assembly followed all of the applicable agency procedures and timely appealed the RCA's final decision *in this matter*. There were no other administrative remedies for the Assembly to exhaust.

Second, the Assembly has standing to bring this appeal because it (1) participated in the agency proceedings by filing a petition to intervene and motion to modify Order 39, (2) was aggrieved by the RCA's decision denying its petition

[2] The Assembly's underlying request to the RCA was limited to "policy decisions" implementing the Fish and Wildlife Agreement. The Assembly has no interest in inserting itself into technical or engineering decisions regarding management of the Eklutna Hydroelectric Project's electrical generation facility.

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and motion, and (3) had a direct interest in the outcome of the proceedings.[3] Under Anchorage Municipal Code (AMC) 3.20.010(6), the Assembly has a clear, legally-defined role in setting Eklutna policy, including making *all* policy decisions "related to the municipality's performance under the 1991 Fish and Wildlife agreement regarding the Eklutna hydroelectric project." The Assembly's policy-making authority was directly subverted by Order 39, and the injury to the Assembly is distinct from any injury to the Administration or other entities.

Third, the Governor's Decision does not moot this appeal. Agency appeals are moot if the underlying regulation or order has been modified.[4] If this Court concludes that the Governor's Decision modifies Order 39 by reinstating the Municipality's voting rights, then the Assembly agrees that this appeal is moot and should be dismissed accordingly. Otherwise, this appeal remains a "present, live controversy"[5] and the Court should proceed to set a merits-briefing schedule.

For each of those reasons, the RCA's motion to dismiss should be denied.

I. FACTS AND PROCEEDINGS

Since at least 2017, the Assembly has championed efforts to restore the Eklutna River and return continuous water flow in the river to the greatest extent

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3 *City of Valdez v. RCA*, 548 P.3d 1067, 1076 (Alaska 2024).

4 *See Ahtna Tene Nene v. State*, 288 P.3d 452, 457-58 (Alaska 2012).

5 *Id*. at 457.

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possible.[6] The Assembly has established a clear municipal policy supporting the Native Village of Eklutna's customary and traditional uses of the Eklutna River, including supporting a restoration plan that will return all five species of salmon to the river. The Assembly is well-aware of the Municipality's contractual obligations under the Fish and Wildlife Agreement and the Municipal Light & Power (ML&P) sale agreements, which require the Municipality to fund a significant portion of the Eklutna River restoration project. The Assembly's goal is to spend public funds wisely and achieve the best possible outcome for the Eklutna River.

To ensure that the Assembly (and the public) have a voice in policy decisions regarding the Eklutna River, the Assembly has adopted resolutions and ordinances outlining the process for developing the restoration plan (known as the "Fish and Wildlife Program"). In 2023, the Assembly codified a requirement for Assembly approval before any proposed Fish and Wildlife Program is submitted to the governor: "[t]he Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources in the Eklutna River shall be submitted to the Assembly with a proposed resolution in support for action, prior to its submission to the Governor of Alaska."[7]

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6 Exhibit 1 (AR No. 2017-324(S), § 1 (Oct. 24, 2017)).

7 Exhibit 2 (AO 2023-131, codified at AMC 26.30.025).

The Assembly also clarified municipal law regarding the authority to make policy decisions regarding implementation of the Fish and Wildlife Agreement. "Pursuant to section 26.30.025, the assembly shall be responsible for all policy decisions related to the municipality's performance under the 1991 Fish and Wildlife agreement regarding the Eklutna hydroelectric project."[8]

However, despite the Assembly's legislative efforts to steer the Municipality's involvement in the Eklutna project—and the Anchorage Charter's recognition of the Assembly's authority over municipal utilities[9]—the Assembly was sidelined by the Bronson Administration, which engaged in secret, unauthorized negotiations with the other Eklutna Owners (Chugach Electric Association (Chugach) and Matanuska Electric Association (MEA)) to develop and implement a Fish and Wildlife Program that would not achieve the Municipality's goal of maximum river restoration, but instead leave significant portions of the river de-watered and prevent full fish restoration.

In February 2024, the Eklutna controversy came to a head. The Assembly learned that the Bronson Administration had entered into a final agreement described as a "Binding Term Sheet," which purported to authorize Chugach and

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8 Exhibit 3 (AO 2024-28, codified at AMC 3.20.070).

9 Anchorage Charter § 16.01(c) ("The assembly shall prescribe rules and procedures for the operation and management of municipal utilities.").

MEA to use municipal infrastructure to implement a proposed Fish and Wildlife Program that the Assembly had specifically disapproved.[10]

During an Assembly meeting on February 2, 2024, Assembly members requested to view copies of the "Binding Term Sheet," but then-Municipal Attorney Helzer—purportedly acting at the direction of Chugach and MEA—refused to allow the Assembly to retain copies or receive independent legal advice regarding the "Binding Term Sheet." The Assembly was forced to issue a subpoena to the Municipal Attorney, and seek a court order from Superior Court Judge David A. Nesbett, to compel production of the "Binding Term Sheet" and other related agreements that the Bronson Administration had entered into with Chugach and MEA.[11] Municipal Attorney Helzer only complied with the subpoena after Chugach and MEA had already submitted the proposed final Fish and Wildlife Program to the Governor—without the Assembly's approval as required by AMC 26.30.025.

That controversy was the backdrop of the Assembly's petition to the RCA. On April 15, 2024, the Assembly filed a petition to intervene in RCA docket No. U-

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10 *See* Emily Goodykoontz & Alex DeMarban, What's Behind the Fight Over the Eklutna River, *Anchorage Daily News* (Apr. 18, 2024); Exhibit 4 at 5 (AR No. 2024-40) (The "Municipality does not intend to issue authorizations or provide funds or any other form of support of the Draft Fish and Wildlife Program or any alternative that doesn't restore the full length of the Eklutna River and comply with policy of the Municipality, as recently enacted by AO 2023-131, As Amended, and codified at AMC 26.30.025A, as well as AR 2022-262, As Amended, and AR 2017-324(S).").

11 *See Anchorage Assembly v. Helzer*, 3AN-24-05979CI.

18-102, U-19-020, U-19-021—a matter that originally concerned the sale of ML&P to Chugach. The Assembly moved to re-open the closed docket and modify Order 39, which required the Municipality to surrender its voting rights regarding implementation of the Fish and Wildlife Agreement.

The issue that the Assembly raised in its petition and motion was not just that it disagreed with the Bronson Administration or the proposed Fish and Wildlife Program prepared by Chugach and MEA. Rather, the Assembly pointed out that the process in which that proposed Fish and Wildlife Program was developed, and the associated agreements to use municipal infrastructure and water supply, violated municipal law and contradicted long-standing municipal policies.

The Assembly sought RCA approval to modify Order 39 to allow the Assembly to exercise its proper, democratic role as the Municipality's policy-making body, with powers to appropriate municipal resources. Because policy decisions will continue to be made regarding implementation of the Fish and Wildlife Program (even after the Governor's Decision), the Assembly continues to have a strong interest in how the $57-million plan is carried out over the next several decades.

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II. LEGAL STANDARD

"Motions to dismiss are disfavored."[12] They are rarely granted, and only if the movant can establish "beyond doubt that the plaintiff can prove no set of facts that would entitle [the plaintiff] to relief."[13] A decision to grant a motion to dismiss is reviewed by the Alaska Supreme Court de novo.[14]

III. ARGUMENT

A. The Assembly exhausted all administrative remedies.

The RCA's argument that the Assembly failed to exhaust administrative remedies is confused. This is not an appeal from an RCA order issued in 2020, but rather an appeal from the RCA's April 19, 2024 decision denying the Assembly's petition and motion. There were no other administrative remedies for the Assembly to exhaust.

The RCA makes the baffling claim that it "does not have a procedure to reopen dockets" and that the RCA is unable "to reopen a docket that [has] been closed for many years."[15] However, that contention is easily refuted simply by looking at RCA's online docket sheets.[16] The RCA regularly—and apparently

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12 *Sagoonick v. State*, 503 P.3d 777, 792 (Alaska 2022).

13 *Id*.

14 *Id*.

15 Motion to Dismiss at 5; *see also* Joinder at 2-3.

16 *See* https://rca.alaska.gov/RCAWeb/RCALibrary/AdvancedSearch.aspx.

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routinely—reopens closed dockets, and has done so numerous times for myriad purposes, including to accept amended stipulations;[17] approve tariff sheets;[18] convene settlement conferences;[19] approve a conditional transfer of eligible carrier status from one entity to another;[20] to consider a request to change certain revenue requirements;[21] and to grant a permanent certificate of public convenience and necessity to a utility upon finding that the operator was fit, willing, and able to provide public water service.[22] For example, in one decision denying an underlying request, the RCA still granted the motion to reopen the docket in question, accepted additional filings, and considered the merits of the request.[23] In fact, outright denial of a motion to reopen a docket seems to be the rare exception to a general rule favoring reopening dockets. Aside from the Assembly's motion and petition, there appear to be only two other instances where the RCA refused to reopen a closed docket upon a motion to reopen.[24]

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17 Order, RCA Docket No. U-16-086(7).

18 Order, RCA Docket No. U-23-002(6).

19 Order, RCA Docket No. P-11-014(8).

20 Order, RCA Docket No. U-05-41(3).

21 Order, RCA Docket No. U-01-50(2).

22 Order, RCA Docket No. U-80-60(44).

23 Order, RCA Docket No. U-01-50(2) (granting motion to reopen docket, inviting responsive briefing and additional evidence, but denying the request to modify an existing intrastate access charge revenue requirement).

24 *See* Order, RCA Docket No. U-20-072(21); Letter Order, RCA Docket No. U-16-076.

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Although the procedures for reopening dockets may not be codified in statute or regulation, the RCA has, for the duration of its existence, acted as though it had the authority to reopen closed dockets. Accordingly, the RCA's assertion in their Motion to Dismiss that the RCA has no procedure for reopening a closed docket is perplexing—and wrong.

The Assembly followed a process that the RCA regularly uses to modify prior orders in closed dockets. The Assembly gave the RCA a clear opportunity to "develop[] a factual record, apply[] its expertise, or correct[] any errors it may have made," as required under the doctrine of exhaustion.[25] However, because the RCA denied the Assembly's petition and motion, this appeal of that decision is proper.

The RCA (and Chugach and MEA) offer two additional theories for dismissing the Assembly's appeal, but each falls flat. First, the RCA argues that the Assembly should have moved to intervene in 2020 when the dockets were open. Of course, the Assembly does not own a time machine. The Assembly could not have known in 2020 that the other Eklutna Project owners would week to make major policy decisions in 2024 purporting to commit the Municipality to expending significant resources while also seeking to entirely sideline the appropriating and legislating Municipality, leading to a case or controversy that only came into existence in 2024. Regardless of the temporal impossibility of the RCA's argument,

[25] *City of Valdez*, 548 P.3d at 1084-85.

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the RCA's decision makes it clear that any attempt by the Assembly to intervene in 2020 would have been futile.

Second, the RCA, Chugach, and MEA argue that the Assembly failed to exhaust administrative remedies by failing to timely move for reconsideration of Order 39 (in 2020). But reconsideration is not required. Under AS 42.05.551, RCA orders are subject to judicial review according to the Administrative Procedures Act, which explicitly provides that the "right to appeal is not affected by the failure to seek reconsideration before the agency."[26] Alaska law explicitly exempts reconsideration from the list of administrative remedies that must be exhausted before a party may file an appeal of the agency decision.

Finally, to the extent that the RCA implies that the Assembly's appeal is time-barred, the RCA misunderstands the nature of this appeal. The Assembly is appealing from the RCA's April 19, 2024 decision. This appeal was filed on April 24, 2024—just five days later. The appeal is not time barred.

This Court should reject the RCA's and Chugach and MEA's contrived arguments for dismissing this appeal. The Assembly followed all the required procedures and exhausted all administrative remedies. This appeal is properly before this Court and should be decided on the merits.

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26 AS 44.62.560(a).

B. The Assembly has standing to bring this appeal.

Next, the RCA's motion argues that the Assembly lacks standing to challenge Order 39 because the "Municipality's" voting rights were at stake, "not the Assembly's."[27] But the RCA ignores controlling Alaska law.[28] Under AMC 3.20.010(6), the Assembly (not the Administration) has authority to make all policy decisions "related to the municipality's performance under the 1991 Fish and Wildlife agreement regarding the Eklutna hydroelectric project." Order 39 directly affects the *Assembly's* policy-making authority and, therefore, the Assembly is the proper party to challenge the RCA's decisions. The RCA's contention that the Assembly did not have a "sufficient stake in the underlying merits"[29] is incorrect.

"Standing is a rule of judicial self-restraint based on the principle that courts should not resolve abstract questions or issue advisory opinions."[30] Alaska courts "interpret standing broadly, favoring increased accessibility to judicial forums."[31]

In *City of Valdez*, the Alaska Supreme Court adopted a three-part test to determine whether a challenger has standing to appeal an agency's decision. "To

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27 Motion to Dismiss at 12.

28 Alaska Const., art. X, § 4 ("The governing body of the organized borough shall be the assembly, and its composition shall be established by law or charter.").

29 Motion to Dismiss at 13.

30 *City of Valdez*, 548 P.3d at 1076 (internal quotation marks omitted) (quoting *Trs. for Alaska v. State, Dep't of Nat. Res*., 736 P.2d 324, 327 (Alaska 1987)).

31 *Id*. (internal quotation marks omitted).

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have standing, a challenger must (1) be directly interested in the proceeding, (2) be factually aggrieved by the decision, and (3) have participated in the proceeding."[32]

The Assembly meets all three standing requirements. First, the Assembly was directly interested in the RCA's proceedings. The Assembly filed a petition to intervene and a motion to modify Order 39. The Assembly's interest in modifying Order 39 was directly related to its policy-making and appropriating authority under AMC 3.20.010, which was curtailed by Order 39. Thus, the Assembly had a direct interest in the proceeding.

Second, the Assembly was factually aggrieved by the RCA's decision denying the petition to intervene and motion to modify Order 39. The RCA's decision leaves in place Order 39, which again, eliminates the Assembly's ability to exercise its policy-making authority (and appropriation powers) related to the Fish and Wildlife Program. The effect of Order 39 is to deprive Anchorage's elected representatives of any role in a multi-million-dollar, multi-decade restoration program. The Assembly is obviously aggrieved by the RCA's decision leaving Order 39 in place.

Third, the Assembly clearly participated in this agency proceeding—it was the Assembly's petition and motion that the RCA denied. Although the Administration participated in the original RCA proceedings in 2020, the

32 *Id*.

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Administration did not participate in proceedings related to the Assembly's 2024 petition and motion. Regardless, under Anchorage Charter § 16.01 and AMC 3.20.010, the Assembly is the only branch of the Municipality authorized to make policy decisions regarding the Eklutna Project, and therefore, the Assembly has standing to challenge the RCA's decision to remove the Municipality's vote on Eklutna Project decisions. Courts have routinely found that legislative bodies, like the Assembly, have standing to raise claims independently from the executive branch, particularly when the specific legislative interests at stake diverge from the administration's interest.[33]

C. This appeal is not moot.

Finally, the RCA argues that the Governor's Decision approving the final Fish and Wildlife Program moots this appeal. However, the Governor's Decision does not explicitly modify, amend, or repeal Order 39.[34] On the contrary, the Governor's Decision notes that Order 39 required the Municipality to surrender its vote on Eklutna Project decisions, but then goes on to require that the parties to the Fish and Wildlife Agreement consider several future policy decisions ("Limited Reopeners") that have important implications for the Eklutna River. Thus, the

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33 *See, e.g.*, *INS v. Chadha*, 462 U.S. 919 (1983).

34 *See Ahtna Tene Nene v. State*, 288 P.3d 452, 458 (Alaska 2012) ("If a regulation is amended, the case may become moot if the specific relief that the parties seek is no longer available.").

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Governor's Decision makes reinstating the Assembly's ability to vote on those policy decisions even more important. It does not moot this appeal.

On the other hand, if this Court concludes that the Governor's Decision did modify Order 39 by reinstating the Municipality's vote on Eklutna Project decisions, then the Assembly would stipulate to dismissal under those terms. Otherwise, this appeal very much remains a live case or controversy.

D. There is no need to stay this appeal.

As an alternative to dismissal, the RCA requests that this Court stay this appeal while a parallel RCA proceeding involving the Administration is pending. However, after the RCA's motion was filed, the RCA dismissed the Administration's petition and the Administration subsequently appealed that order. Thus, there is no need to stay this appeal; however, the Assembly would not oppose consolidation of the two RCA appeals in this Court.

IV. CONCLUSION

For the foregoing reasons, this Court should deny the motion to dismiss. The Assembly exhausted all administrative remedies, the Assembly has standing to challenge the RCA's decision denying intervention and modification of Order 39, and the Governor's Decision did not moot this appeal.

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DATED: January 10, 2025.

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

Andrew Erickson, Alaska Bar No. 1605049
Leslie R. Need, Alaska Bar No. 0712113
Jackson Morawski, Alaska Bar No. 2310113

Attorneys for the Appellant Anchorage Assembly

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CERTIFICATE OF SERVICE

I hereby certify that on January 10, 2025, a copy of the foregoing was served by email to the following:

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Submitted by: Assembly Member Dunbar and Assembly Member Dyson
Reviewed by: Assembly Counsel
For reading: October 24, 2017

Municipal Clerk's Office
Approved
Date: 10/24/2017

ANCHORAGE, ALASKA
AR No. 2017–324(S)

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY IN SUPPORT OF EFFORTS TO RESTORE THE EKLUTNA RIVER.

WHEREAS, the Native Village of Eklutna is the largest Denai'na settlement in the Municipality of Anchorage; and

WHEREAS, the Eklutna River historically was a major subsistence resource for the Eklutna People; and

WHEREAS, the Eklutna River has been in a badly degraded condition since 1929 due to hydropower dams and water diversions; and

WHEREAS, the Eklutna River still supports five species of salmon, including Cook Inlet king salmon and sockeye salmon, though in **[~~greatly~~]** diminished numbers from historical levels; and

WHEREAS, Eklutna Incorporated, the village corporation for Eklutna, is the largest landowner in the Municipality of Anchorage and owns most of the land along the Eklutna River and around Eklutna Lake; and

WHEREAS, Eklutna Inc., and the Eklutna people have made substantial contributions to the development of the Municipality of Anchorage through school sites, highways, **parks,** railroads, **housing,** powerlines and rights-of-way; and

WHEREAS, The Conservation Fund and Eklutna Inc., are collaborating on a $7.5 million project to dismantle the Lower Eklutna River dam; and

WHEREAS, Little to no water flows out of Eklutna Lake into the Eklutna River because of water diversions for the Eklutna Power Project **and the supply of approximately 86 percent of the drinking water for Anchorage and Eagle River**; and

WHEREAS, Municipal Light and Power (ML&P)**, Chugach Electric Association, and Matanuska Electric Association (collectively the "Eklutna Power Purchasers") jointly own and operate the Eklutna Power Project [~~owns a 52% share of the Eklutna Power Project~~]**; and

Exhibit 1
Page 1 of 2

WHEREAS, The Eklutna Power Project often provides the least expensive renewable power on the Railbelt; and

WHEREAS, **The Eklutna Power Purchasers are contractually obligated to study and develop a proposed Fish and Wildlife program to address [~~ML&P is legally obligated to mitigate for~~]** the impacts of the Eklutna Power Project to fish and wildlife, **pursuant to the 1991 Fish & Wildlife agreement**; and

WHEREAS, Mayor Ethan Berkowitz and members of the Anchorage Assembly have frequently expressed their support for wild salmon and Anchorage's desire to be a "Salmon City;" now, therefore

THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1. The Assembly recognizes the contribution of the Eklutna people and Eklutna Inc. to the development of the Municipality of Anchorage and supports the efforts to restore the hydrology and fisheries of the Eklutna River **subject to all provisions of the Fish & Wildlife agreement of August 7, 1991**.

Section 2. The Assembly urges **the Eklutna Power Purchasers to initiate a consultation process, as defined in the 1991 agreement, [~~Municipal Light and Power~~]** to begin necessary studies **early** to **examine [~~define~~]** the impacts to fish and wildlife of Eklutna Lake and Eklutna River hydropower operations **[~~and to begin collaborative efforts to restore water flows to the Eklutna River~~].**

Section 3. This resolution shall be effective upon passage and approval.

PASSED AND APPROVED by the Anchorage Assembly this 24th day of October, 2017.

Chair

ATTEST:

Municipal Clerk

Vice-Chair

Municipal Clerk's Office
Amended and Approved
Date: December 19, 2023

AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE TO ADD NEW SECTION 26.30.025 TO ESTABLISH AN OFFICIAL POLICY FOR THE RESTORATION OF THE EKLUTNA RIVER, SUBJECT TO THE 1991 FISH AND WILDLIFE AGREEMENT WITH THE EKLUTNA POWER PURCHASERS, STATE OF ALASKA AND THE FEDERAL GOVERNMENT.

WHEREAS, the Native Village of Eklutna is the oldest and largest Dena'ina settlement in the Municipality of Anchorage; and

WHEREAS, the Native Village of Eklutna is a federally recognized Tribe with all of the attached responsibilities, powers, and obligations of a sovereign, also being recognized by the State of Alaska and the Municipality of Anchorage, and having a government to government relationship with both the federal government and the government of the Municipality of Anchorage; and

WHEREAS, the Eklutna River historically was a major subsistence and cultural resource for the Native Village of Eklutna; and

WHEREAS, the Eklutna River watershed has been in a badly degraded condition since 1929 due to hydropower dams and water diversions; and

WHEREAS, a principal impact from hydropower development in the Eklutna watershed is the loss of the Eklutna River's salmon runs; and

WHEREAS, the Eklutna River is still capable of supporting five species of salmon, including Cook Inlet king salmon and sockeye salmon, though in greatly diminished numbers from historical levels; and

WHEREAS, Eklutna Incorporated, the village corporation for Eklutna, is the largest landowner in the Municipality of Anchorage and owns most of the land along the Eklutna River and around Eklutna Lake; and

WHEREAS, the Native Village of Eklutna and Eklutna Inc. have made substantial contributions to the development of the Municipality of Anchorage providing land for school sites, highways, railroads, powerlines and rights-of-way; and

WHEREAS, The Native Village of Eklutna, Eklutna Inc., and The Conservation Fund collaborated on a $7.5 million project to dismantle the Lower Eklutna River dam; and

WHEREAS, little to no water flows out of Eklutna Lake into the Eklutna River because of water diversions for the Eklutna Hydroelectric Project; and

Exhibit 2
Page 1 of 4

WHEREAS, restored instream flow is necessary to flush the accumulated sediments downstream and allow for the recovery of salmon habitat; and

WHEREAS, stabilized lake levels and fish passage for migrating salmon to and from Eklutna Lake would restore important spawning and rearing habitat for salmon; and

WHEREAS, the Municipality of Anchorage retains **an ownership interest (53%) [~~a majority interest (52%)~~]** in the Eklutna Hydroelectric Project **with Chugach Electric Association (CEA) and Matanuska Electric Association (MEA)**; and

WHEREAS, pursuant to RCA Order U-18-102 (44), the Municipality of Anchorage was required to and surrendered its voting rights on operation and management decisions on the Eklutna Operating Committee regarding the Eklutna Project and the 1991 Fish and Wildlife Agreement; and

WHEREAS, the Municipality of Anchorage, [**~~Chugach Electric Association (~~**]CEA**~~)~~]**, and **[~~Matanuska Electric Association (~~**]MEA**~~)~~]**, are parties to the 1991 Agreement with the State of Alaska and federal agencies to study the impacts of the Eklutna Hydroelectric Project to fish and wildlife, examine and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by such hydroelectric development (the "1991 Agreement"), and prepare a Fish and Wildlife Program for the Governor; and

WHEREAS, the RCA ordered that the voting right of the Municipality of Anchorage can be cured if an appropriate person is hired to run the Eklutna Hydropower and the RCA signs off on hire as adequate; and

WHEREAS, the restoration of instream flow to the Eklutna River and restored fish passage to and from Eklutna Lake are the most desirable forms of mitigation for impacts caused by the Eklutna Hydroelectric Project; and

WHEREAS, the Anchorage Assembly supported restoration of the Eklutna River with the passage of AR 2017-324(S) titled "A Resolution in Support of Efforts to Restore the Eklutna River"; and

WHEREAS, the Watershed and Natural Resources Advisory Commission of the Municipality of Anchorage supported restoration of the Eklutna River with the passage of Resolution WNRC 2019-03 titled "A Resolution Regarding Restoration of the Eklutna River"; and

WHEREAS, the Alaska Federation of Natives (AFN) supported restoration of the Eklutna River with passage of Resolution 20-17 "to restore traditional rivers and streams for fish and wildlife habitat…in particular, the efforts of tribes like the Native Village of Eklutna"; and

WHEREAS, the Traditional Tribal Council of the Native Village of Eklutna supported restoration of Eklutna River and Eklutna Lake with the passage of Resolution 2022-04 for "1) continuous flow in the river below the lake sufficient to support thriving salmon populations, with intermittent higher, habitat maintenance and re-creation flows, 2) salmon passage between Eklutna River and Lake, and 3) moderation of

Exhibit 2
Page 2 of 4

Eklutna Lake level variability, at levels sufficient to facilitate sockeye spawning"; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code is amended to insert a new section 26.30.025 to read as follows (*requiring no legislative drafting*):

26.30.025 Eklutna River Restoration

A. It is the policy of the Municipality of Anchorage and the Anchorage Hydropower utility to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991 Fish & Wildlife Agreement.

B. Under the 1991 Agreement with the State of Alaska, federal agencies, and utility partners, the Municipality of Anchorage, through its Anchorage Hydropower utility and ownership share in the Eklutna Hydroelectric Project, bears responsibility to study and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the hydroelectric development.

1. The Anchorage Hydropower utility shall provide a report to each joint session of the Anchorage Assembly and the Native Village of Eklutna under section 2.30.135B. regarding the restoration of the Eklutna River and Lake and the municipality's performance of its obligations under the 1991 Agreement and the Final Fish and Wildlife Program.

2. The Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources in the Eklutna River shall be submitted to the Assembly with a proposed resolution in support for action, prior to its submission to the Governor of Alaska.

Section 2. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 19th day of December, 2023.

Christopher Constant
Chair

ATTEST:

Municipal Clerk

Exhibit 2
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From: **Assembly Vice Chair Zaletel**

Subject: **AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE TO ADD NEW SECTION 26.30.025 TO ESTABLISH AN OFFICIAL POLICY FOR THE RESTORATION OF THE EKLUTNA RIVER, SUBJECT TO THE 1991 FISH AND WILDLIFE AGREEMENT WITH THE EKLUTNA POWER PURCHASERS, STATE OF ALASKA AND THE FEDERAL GOVERNMENT.**

The proposed ordinance creates a new section in the Anchorage Municipal Code governing the Eklutna Hydroelectric Project, specific to the alteration of the dam at Eklutna Lake and restoration of continuous water flow in Eklutna River. The intent of this ordinance is to involve the Native Village of Eklutna to the greatest extent possible in the reclamation of the Eklutna River and Lake and acknowledge the legitimate interests and voice of a people who were excluded under the 1991 Agreement. The Agreement has been attached to this AM as Exhibit A for the members' reference. Detailed information on the development of the Fish and Wildlife Program under the Agreement can be viewed at https://eklutnahydro.com/ .

The proposed new Code section would accomplish three things:

First, the ordinance would clearly establish the policy of the Municipality and the Anchorage Hydropower utility as one of the owners of the Eklutna Hydroelectric Project under the 1991 Agreement.

Second, the proposed language requires the regular reporting of the status of the reclamation project to both the Assembly and the Native Village of Eklutna.

Third, the code would require the Final Plan to be submitted to Assembly for review and potential action by a resolution of support or proposed revisions, prior to submitting to the Governor of Alaska, under the terms of Paragraph 5 of the 1991 Agreement.

There are no anticipated economic effects from adding the section to Code, so a SEE is not provided.

I request your support for the ordinance.

Reviewed by: Assembly Counsel's Office

Respectfully submitted: Meg Zaletel, Assembly Vice Chair
District 4, Midtown

Exhibit 2
Page 4 of 4

AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 3.20.070, 25.20.020, 25.30.020, 26.30.025, AND INSERTING A NEW SECTION 26.40.090 TO REQUIRE ASSEMBLY APPROVAL OF ACTIONS TO ACQUIRE OR DISPOSE OF PROPERTY RIGHTS TO WATER, MINERAL, WIND OR SOLAR RESOURCES, AND OF THE FISH AND WILDLIFE PROGRAM FOR THE EKLUTNA HYDROPOWER PROJECT AND RESTORATION OF CONTINUOUS WATER FLOWS TO THE EKLUNTA RIVER.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 3.20.070 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out)*:

3.20.070 Executive branch organization.

*** *** ***

C. Office of the municipal manager. Within the office of the municipal manager and reporting to the municipal manager or designee are: the office of equal opportunity, the office of emergency management; risk management; health and safety; transportation inspection; culture, entertainment, and arts venues (including the Egan Center, the Dena'ina Civic and Convention Center, the Anchorage Museum at Rasmuson Center, the Anchorage Golf Course, the Sullivan Sports Arena, the Alaska Center for the Performing Arts, and the Boeke and Dempsey Ice Arenas); and the following departments:

*** *** ***

3. Anchorage Water and Wastewater Utility. The Water and Wastewater Utility is responsible for providing water and sanitary sewage services. The utility is also responsible for billing and collecting special assessments.

a. The municipal manager shall have operational oversight of the utility; and

b. The mayor shall be responsible for **operational** policy decisions of the utility, subject to the limitations of subsection c.

c. Pursuant to section 26.30.025, the assembly shall be responsible for all **other** policy decisions **, including those** related to the municipality's performance under the 1991 Fish and Wildlife agreement regarding the Eklutna hydroelectric project.

*** *** ***

6. Anchorage Hydropower Utility. The Anchorage Hydropower Utility is responsible for supplying wholesale electric service to utilities in southcentral Alaska.

   a. The municipal manager shall have operational oversight of the utility; and

   b. The mayor shall be responsible for **operational** policy decisions of the utility, subject to the limitations of subsection c.

   c. Pursuant to section 26.30.025, the assembly shall be responsible for all **other** policy decisions **, including those** related to the municipality's performance under the 1991 Fish and Wildlife agreement regarding the Eklutna hydroelectric project.

*** *** ***

(AO No. 21-76; AO No. 59-76; AO No. 283-76; AO No. 77-359; AO No. 78-82; AO No. 78-113; AO No. 78-121; AO No. 79-27; AO No. 80-5; AO No. 82-49; AO No. 83-159; AO No. 85-8; AO No. 86-204; AO No. 88-47(S); AO No. 88-82; AO No. 89-10; AO No. 89-18; AO No. 89-39; AO No. 90-15(S); AO No. 91-173(S); AO No. 92-79; AO No. 92-148; AO No. 94-135(S), § 8, 7-12-94; AO No. 95-141, § 1, 7-11-95; AO No. 96-47, § 2, 3-5-96; AO No. 98-115(S), § 3, 7-1-98; AO No. 2003-109, § 6, 9-9-03; AO No. 2004-132, § 2, 10-12-04; AO No. 2004-136, § 2, 12-7-04; AO No. 2005-142, § 2, 10-25-05; AO No. 2008-90(S), § 2, 1-1-09; AO No. 2009-21, § 2, 2-24-09; AO No. 2009-101, § 6, 8-25-09; AO No. 2010-64, § 2, 9-28-10; AO No. 2010-93, § 2, 1-11-11; AO No. 2011-40, § 1, 3-29-11; AO No. 2011-25, § 2, 5-24-11; AO No. 2012-106, § 3, 11-13-12; AO No. 2013-34, § 3, 2-26-13; AO No. 2015-112(S), § 5, 1-1-16 ; AO No. 2017-122(S) , § 4, 10-24-17; AO No. 2018-24 , § 3, 4-10-18; AO No. 2018-108(S) , § 3, 12-31-18; AO No. 2018-118 , § 2, 1-1-19; AO No. 2019-42 , § 2, 4-23-19; AO No. 2019-133 , § 1, 11-5-19; AO No. 2020-23 , § 2, 3-10-20; AO No. 2020-24 , § 1, 3-10-20; AO No. 2020-79(S) , § 2, 8-26-20; AO No. 2020-109 , § 2, 10-13-20; AO No. 2020-121 , § 2, 1-1-21; AO No. 2021-113(S) , § 3, 11-10-21; AO No. 2021-114 , § 2, 1-31-22; AO No. 2022-40(S) , § 3, 3-22-22; AO No. 2023-38(S) , § 2, 4-18-23; AO No. 2023-61(S) , § 1, 5-23-23)

Section 2. Anchorage Municipal Code section 25.30.020 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out)*:

25.20.020 - Approval by assembly.

In addition to any other assembly action that may be required by law with regard to real property acquisition by the municipality, the following shall be subject to assembly approval:

A. Acquisitions of, or substantive change to the terms governing ownership, control, or access to, real property including an interest in mineral, wind, solar or water rights, except:

*** *** ***

(AO No. 79-170; AO No. 84-61(S))

Section 3. Anchorage Municipal Code section 25.30.020 is hereby amended to read as follows *(the remainder of the section is not affected and therefore not set out)*:

25.30.020 Disposal by ordinance.

A. Except as required or provided otherwise by law, the municipality may dispose of municipal land or any interest therein only by ordinance.

B. For purposes of this section, an interest in municipal land means any estate in real property or improvements thereon, including an interest in mineral, wind, solar, or water rights, but excluding the following if found by the assembly to be without substantial value to the municipality:

1. Revocable permits;

2. Revocable Licenses;

3. Rights-of-way; or

4. Easements.

*** *** ***

(AO No. 79-170; AO No. 80-48(S); AO No. 2007-102, § 1, 8-14-07; AO No. 2015-47, § 2, 5-14-15 , AO No. 2023-107, § 1, 10-10-2023)

Section 4. Anchorage Municipal Code section 26.30.025 is hereby amended to read as follows:

26.30.025 Eklutna River Restoration

A. It is the policy of the Municipality of Anchorage and the Anchorage Hydropower utility to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991 Fish & Wildlife Agreement.

B. Under the 1991 Agreement with the State of Alaska, federal agencies, and utility partners, the Municipality of Anchorage, through its Anchorage Hydropower utility and ownership share in the Eklutna Hydroelectric Project, bears responsibility to study and develop proposals for the protection, mitigation, and enhancement of fish and

wildlife affected by the hydroelectric development.

1. The Anchorage Hydropower utility shall provide a report to each joint session of the Anchorage Assembly and the Native Village of Eklutna under section 2.30.135B. regarding the restoration of the Eklutna River and Lake and the municipality's performance of its obligations under the 1991 Agreement and the Final Fish and Wildlife Program.

2. The Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources in the Eklutna River shall be subject to assembly approval [SUBMITTED TO THE ASSEMBLY WITH A PROPOSED RESOLUTION IN SUPPORT FOR ACTION], prior to its submission to the Governor of Alaska.

(AO No. 2023-131 § 1, 12-5-23)

Section 5. Anchorage Municipal Code is amended to insert a new section 26.40.090 to read as follows (requiring no legislative drafting):

26.40.090 Water rights.

The utility may enter agreements for water and water rights for use by or within the municipality, subject to approval by the assembly.

Section 6. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 27th day of March, 2024.

_____
Chair

ATTEST:

_____
Municipal Clerk

From: **Assembly Chair Constant**

Subject: **AO 2024-28 – AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 3.20.070, 25.20.020, 25.30.020, 26.30.025, AND INSERTING A NEW SECTION 26.40.090 TO REQUIRE ASSEMBLY APPROVAL OF ACTIONS TO ACQUIRE OR DISPOSE OF PROPERTY RIGHTS TO WATER, MINERAL, WIND OR SOLAR RESOURCES, AND OF THE FISH AND WILDLIFE PROGRAM FOR THE EKLUTNA HYDROPOWER PROJECT AND RESTORATION OF CONTINUOUS WATER FLOWS TO THE EKLUNTA RIVER.**

The proposed Ordinance is submitted in response to the apparent effort by the Eklutna Owners group to incur financial obligations and dispose of Municipal resources and assets without the approval of or any formal consultation with the Assembly. That is in derogation to the Assembly's legislative powers; it has sole authority to obligate Municipal revenues through its appropriations power, and dispositions of Municipal property, which is apparent in the proposed Draft Fish and Wildlife Plan under the 1991 Agreement, requires Assembly approval. The proposed Ordinance clarifies incurring and obligating the Municipality in these circumstances where the proposed Final Fish and Wildlife Plan will become effective upon approval by the Governor, requires Assembly prior approval.

Section 1. The Proposed AO corrects an oversight in the language of AMC 3.20.070 which had apparently delegated broad policy-making decisions for utilities to the Mayor. This language is an improper delegation of the Assembly's authority as the legislative policy-making branch of the municipal government and directly conflicts with the language of AMC section 26.30.025 as codified in AO 2023-131. The changes proposed in this section will clarify that except for operational policies, the policy making authorities, such as budgetary, financial, construction, and other policy considerations reside with the Assembly and thereby resolves the conflict in the Code.

Sections 2 & 3. These proposed changes clarify the Assembly's approval authority over any agreements acquiring or disposing of any interest in real property, including water rights. Specifically, these changes are meant to address a perceived gap in the Code where creative legal instruments have previously been used to grant private parties exclusive use of Municipal property. These proposed amendments make plain that the Assembly's approval must be obtained for the Municipality to grant, dispose, or alter any parties' right to acquire, dispose of, control or access public property, including wind, solar, mineral and water rights.

Section 4. This proposed change inserts a new requirement for the Assembly to approve the final Fish and Wildlife program proposed under the 1991 Eklutna Dam agreement, prior to submission the Governor. This change has proven necessary, as the Eklutna Owners have made clear their intention to alter the Municipality's access to drinking water and obligate the Municipality to fund the final program inside the tax cap. These decisions have been made ignoring meaningful input from and policy guidance passed and approved by the Assembly over the past seven years and often in direct conflict to the guidance provided time and time again.

Section 5. Finally, Section 5 inserts a new section of code that requires AWWU submit any agreement for water rights to the Assembly for approval.

I request your support for the ordinance.

Prepared by: Assembly Counsel's Office

Respectfully submitted: Christopher Constant, Assembly Chair
District 1- Northern Anchorage

Municipal Clerk's Office
Amended and Approved
Date: February 2, 2024

A RESOLUTION OF THE ANCHORAGE ASSEMBLY SUBMITTING PUBLIC COMMENT ON THE DRAFT FISH AND WILDLIFE PROGRAM FOR THE EKLUTNA HYDROELECTRIC PROJECT.

WHEREAS, the Municipality of Anchorage, Chugach Electric Association (CEA), and Matanuska Electric Association (MEA) (collectively "the Hydroelectric Project Owners") jointly own the Eklutna Hydroelectric Project and are parties to the 1991 Fish and Wildlife Agreement (the "1991 Agreement") with the State of Alaska, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (an agreement that notably excludes a key stakeholder, the Native Village of Eklutna, the federally recognized tribe whose ancestral homelands encompass this project) to fund studies to examine and quantify the impacts of the Eklutna Power Project on fish and wildlife; examine and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by such hydroelectric development; and prepare a Proposed Final Fish and Wildlife Program (the "Fish and Wildlife Program") for approval by the Governor; and

WHEREAS, once approved by the Governor, the Fish and Wildlife Program will contractually bind operations of the Eklutna Hydroelectric Project and Anchorage Water and Wastewater Utility ("AWWU") for the next 35 years; and

WHEREAS, in their Draft Fish and Wildlife Program to mitigate their impacts to fish and wildlife pursuant to the 1991 Agreement, the Hydroelectric Project Owners propose to utilize AWWU infrastructure to deliver water into the Eklutna River via a Portal Valve (the "Portal Valve Alternative") one mile downstream of Eklutna Lake; and

WHEREAS, the policy of the Municipality of Anchorage has been to support restoration of the Eklutna River since the Anchorage Assembly adopted AR 2017-324(S), "A Resolution in Support of Efforts to Restore the Eklutna River," and AR 2022–262, As Amended, "A Resolution of the Anchorage Municipal Assembly in Support of Efforts to Restore the Eklutna River"; and

WHEREAS, further, through the passage of AO 2023-131, As Amended, the Assembly, through the creation of a specific law, reinforced and declared that it is the official policy of the Municipality of Anchorage, inclusive of the Anchorage Hydropower Utility Department, to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991 Agreement; and

WHEREAS, any changes to the Eklutna Hydroelectric Project will impact not only hydroelectric power and drinking water, but also fish and wildlife; and

WHEREAS, Eklutna Lake is the primary source of Municipality's drinking water for which AWWU currently pays approximately $1.2 Million annually to the Eklutna Hydroelectric Project to ensure access to the Municipality's drinking water and any binding agreement relating to the purchase price of water and volumes available to AWWU may impact property rights of AWWU and the regulated price of water to its customers; and

WHEREAS, the Anchorage Assembly was recently briefed about the changing regulatory environment for drinking water, and while the effects of the regulatory changes are currently unknown, concern has been raised about the availability of drinking water from ground wells under the new regulations; and

WHEREAS, the Anchorage Assembly hired an expert engineer, Don Spiegel, who originally designed the Eklutna AWWU system, to evaluate the Portal Valve alternative as it relates to AWWU's operation of the Eklutna Water Treatment Facility and the effectiveness of the Portal Valve Alternative in delivering water to the river to support the restoration of fish species; and

WHEREAS, the initial conclusions of Mr. Spiegel, which were submitted to the Assembly through AIM 2024-11 on January 23, 2024, raise significant doubts as to whether the Portal Valve Alternative will meet the mitigation objectives stated on a year round basis: inability to meet those objectives could result in AWWU and the Municipality being culpable and liable for the death of any in-river species that have returned, depending on water levels provided by the Hydroelectric Project Owners, and could be a limiting condition for AWWU expansion in the future; and

WHEREAS, the public comment period for the Draft Fish and Wildlife Program is open until February 19, 2024; and

WHEREAS, following the public comment period is an opportunity for the Hydroelectric Project Owners to review the comments and resolve any disagreements prior to submitting a final proposal to the Governor; and

WHEREAS, the Native Village of Eklutna has put forward an alternative for removal of the dam at Eklutna Lake, which is supported by the Municipal policy stated in AO 2023-131, As Amended, and codified at AMC 26.30.025A., but was never fully considered by the Hydroelectric Project Owners and has not been presented as an alternative in the Draft Fish and Wildlife Program; and

WHEREAS, in addition to the stated policy and support for dam removal, the Anchorage Assembly has evaluated the Portal Valve Alternative and has concerns about that alternative; and

WHEREAS, in the interest of protecting the future of the Municipal water supply as well as the interests of its residents and municipal taxpayers, the Anchorage Assembly submits the following public comments on the Draft Fish and Wildlife Program regarding the Portal Valve Alternative;

NOW, THEREFORE, THE ANCHORAGE ASSEMBLY RESOLVES and submits the following as its comments on the Draft Fish and Wildlife Program:

Section 1. The following are process and technical concerns particular to the Portal Valve Alternative put forward by the Hydroelectric Project Owners for public comment:

A. **Non-Compliant Process**. The August 7, 1991 Fish and Wildlife Agreement (1991 Agreement) sets forth a process for addressing the Eklutna Hydroelectric Project's impacts on fish and wildlife similar to that for Federal Energy Regulatory Commission ("FERC") licensed projects. The process set forth in the 1991 Agreement was intended to be at least as robust as a normal FERC license process, which is subject to all the provisions of National Environmental Policy Act ("NEPA") and all the authorities typically granted to the federal agencies. The process engaged by the Hydroelectric Project Owners falls short of the FERC standard of analysis. No NEPA analysis was done, the federal agencies were denied the authorities they normally would have, such as to prescribe fish passage, and the public wasn't presented any alternatives to choose from. Moreover, the process engaged in does not appear comparable to the NEPA requirements to consult with Native Tribes impacted by the project (18. C.F.R. 5.7), nor have a dispute resolution process allowing agencies to mandate conditions (18 C.F.R. 5.8 and 5.15).

None of state or federal signatories to the 1991 Agreement have so far supported the Portal Valve Alternative. The comment letters from these state and federal resource agencies raise questions around the process engaged by the Hydroelectric Project Owners, the data inputs used in modeling to develop the Draft Fish and Wildlife Program, and the viability of the Portal Valve Alternative to achieve the stated goals of the 1991 Agreement. These questions are unresolved.

Similarly, the process under the 1991 Agreement diverges substantially from the type of alternatives analysis the Municipality uses on its own capital projects. Often the Municipality's own large capital projects, such as the Port of Alaska Modernization Program ("PAMP") or projects co-funded through the Anchorage Metropolitan Area Transportation Solutions ("AMATS") design alternatives, are evaluated by experts and relevant stakeholders and the Assembly is briefed and able to weigh in on the proposed alternatives, particularly where Municipal resources are required to fund the projects. Based on the information the Assembly has been provided to date, only one alternative was seriously evaluated by the Hydroelectric Project Owners and put forward for consideration even though a Municipal contribution is expected through a property tax assessment.

B. **Potential Impacts to Anchorage Drinking Water .** Throughout this process, there has been very little discussion about any implications

on AWWU and the Municipality's access to drinking water now and into the foreseeable future (the next 35 years). The week of January 22, 2024, well after the Draft Fish and Wildlife Program was released and after years of discussion and presentation by the Eklutna Hydroelectric Project owners, we learned that the Hydroelectric Project Owners and AWWU, all public utilities regulated by the Regulatory Commission of Alaska (RCA), had signed a binding agreement in early October 2023, prior to submitting the Draft Fish and Wildlife Program for public comment. We learned this agreement is based on the Portal Valve Alternative and no other alternative; an alternative that may have significant impacts to the project outcome as well as to regulated rates authorized by the RCA. The Anchorage Assembly has requested a copy of the signed agreement, but we have been told the agreement is confidential and **could only review it in Executive Session** **[~~we therefore have been unable to review it.~~]** This is a significant hinderance on the Anchorage Assembly, and the public, to provide complete comments on the Portal Valve Alternative as related to AWWU operations, potential impacts to Municipal growth and strategic investments for AWWU and the Municipality. Significant legal questions also remain whether a binding agreement can be signed relating to future Municipal utility assets, revenues, and expenditures without Assembly approval.

Before learning of that agreement, the Anchorage Assembly hired an expert to analyze the effectiveness of the Portal Valve option in relation to AWWU's operation at Eklutna. That analysis by engineer Don Spiegel, who designed the Eklutna AWWU system, concluded that the Portal Valve "cannot provide adequate Eklutna River restoration flows, nor can it provide year-round water without interruption. Thus, it is the Author's opinion that the Portal Valve as currently configured is fatally flawed and other Eklutna River restoration alternatives should be studied further."

Furthermore, in the past month, AWWU has briefed the Assembly on new developments concerning drinking water regulation through federal and local entities. The impacts of the new drinking water regulations are yet to be determined, but AWWU leadership has expressed concerns about potential impacts to the Municipality from limitations of retaining full ground well capacity. Until the new regulatory landscape is better understood, particularly any reductions in access to drinking water from sources other than Eklutna, any future limitations on drinking water capacity at Eklutna should be held in abeyance.

C. **Incomplete Analysis and Insufficient Mitigation.** The Portal Valve Alternative does not meet the requirements of the 1991 Agreement regarding "the protection, mitigation of damages to, and enhancement of fish and wildlife affected by hydroelectric development of the Eklutna Hydroelectric Project." There are a number of variables related to lake level that can render the Portal Valve Alternative

inoperable. Additionally, regular and unexpected maintenance at the AWWU water facility will also stop the flow of water into the Portal Valve. Discontinuous water flows will result in fish kills in Eklutna River. The state and federal signatories to the 1991 Agreement have raised questions about the analysis and process used to develop the Draft Fish and Wildlife Program. The Hydroelectric Project Owners failed to consider all reasonable alternatives, including the dam removal alternative proposed by the Native Village of Eklutna. The Hydroelectric Project Owners failed to present the public with a full range of alternatives as would typically occur in similar situations.

D. **Poor Coordination and Questionable Use of Public Funds.** The Hydroelectric Project Owners and AWWU are regulated utilities and need to demonstrate benefit to their rate payers. Additionally, the Assembly, as the steward of taxpayer funds, must demonstrate benefit to the residents of the Municipality through the expenditure of public funds. Treating the Portal Valve Alternative as a singular stand-alone project is short sighted and does not maximize various opportunities to meet the goals and objectives of 1991 Agreement across various entities nor does it meet the requirements of these entities to benefit the public. The Portal Valve Alternative brought forward by the Hydroelectric Project Owners is self-serving and fails to protect the broader public interests of the Municipality of Anchorage. Given the $57 million price tag of the Portal Valve Alternative, its potential impacts to AWWU operations, and the financial implications to ratepayers and taxpayers for the next 35 years, we find this is a poor use of public funds and lacked public coordination.

For all the above reasons, the Anchorage Assembly cannot endorse and thus opposes the Draft Fish and Wildlife Program.

Section 2. The Municipality of Anchorage does not intend to issue authorizations or provide funds or any other form of support of the Draft Fish and Wildlife Program or any alternative that doesn't restore the full length of the Eklutna River and comply with policy of the Municipality, as recently enacted by AO 2023-131, As Amended, and codified at AMC 26.30.025A., as well as AR 2022-262, As Amended, and AR 2017-324(S).

Section 3. The Regulatory Commission of Alaska (RCA), under its statutory powers to initiate investigation into practices and facilities of a public utility, should review the Draft Fish and Wildlife Program and examine any impacts on any of the regulated utilities, including but not limited Chugach Electric, Matanuska Electric, Anchorage Hydropower and AWWU, particularly about impacts to rate payers and their access to uninterrupted service, **before** any option for a Final Fish and Wildlife Program is transmitted to the Governor for review and approval.

Section 4. The Anchorage Assembly requests the Hydroelectric Project Owners to seek a two-year extension of the 1991 Agreement from the signatories, of which the Municipality is one through the Anchorage Hydropower Utility, to perform additional analysis, consultation, and coordination with affected parties, including

the Anchorage Assembly and the Native Village of Eklutna. The issues at play are too significant to our community to rush to judgment or exclude key stakeholders. The residents of the Municipality deserve a measured and comprehensive approach guided by respectful coordination to reach a solution that enjoys broad consensus among the affected parties.

Section 5. This resolution shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 2nd day of February, 2024.

ATTEST:

Chair

Municipal Clerk

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.: PROVIDENCE HEALTHY & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.: STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	Case No.: 3AN-24-06001 CI

NOTICE OF SUPPLEMENTAL AUTHORITY

Appellee, Regulatory Commission of Alaska (RCA), notifies the Court of a recent decision by the Commission in a related matter, RCA Docket U-24-024, *In the Matter of the Petition filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee.* That matter, RCA Docket U-24-024, is referenced in the Motion to Dismiss currently pending before this Court, and the final decision in that matter was issued after the filing of the Motion to Dismiss. A copy of the RCA order (Order 8) is attached.

DATED January 15, 2025.

TREG TAYLOR
ATTORNEY GENERAL

By: /s/ Erin K. Egan/
Erin K. Egan
Assistant Attorney General
Alaska Bar No. 0111060

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.: PROVIDENCE HEALTHY & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.: STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	)	Case No. 3AN-24-06001 CI

CERTIFICATE OF SERVICE

I certify that on January 15, 2025, true and correct copies of the **NOTICE OF SUPPLEMENTAL AUTHORITY with ATTACHMENT** and this *Certificate of Service* were served on the following via email without error:

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steve DeVries
Robert M. Pickett
John C. Springsteen

In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee	U-24-024 ORDER NO. 8

ORDER GRANTING MOTION TO DISMISS IN PART AND DISMISSING NOTICE AND REQUEST, DENYING MOTION TO DISMISS IN PART, VACATING PROCEDURAL SCHEDULE, DENYING MOTION TO COMPEL, DENYING REQUEST TO CONSTRUE NOTICE AND REQUEST AS PETITION TO AMEND CERTIFICATE CONDITION, PROVIDING GUIDANCE FOR FUTURE FILINGS, AND CLOSING DOCKET

BY THE COMMISSION:

Summary

We grant the motion to dismiss filed by the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA) in part, and dismiss the *Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee* (Notice and Request) filed by the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP) on July 18, 2024. We deny the motion to dismiss in part. We vacate the remaining procedural schedule adopted for resolution of this docket, including the prehearing conference scheduled for November 18, 2024, and the public hearing scheduled to begin on November 18, 2024. We deny the motion to compel discovery responses jointly filed

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by Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA). We deny the request by AHP to construe its Notice and Request as a petition to modify the conditions on AHP's certificate of public convenience and necessity (certificate). We provide guidance to AHP for its consideration should it make future filings related to reinstatement of Eklutna Operating Committee (EOC) voting rights. We close this docket.

Background

In Order U-18-102(44)[1] we described the Eklutna Hydroelectric Project (Eklutna Project) as follows:

> The Eklutna Project was built and operated by the federal government pursuant to the Eklutna Power Act of 1950. In 1995, Congress authorized sale of the Eklutna Project to [the Municipality of Anchorage d/b/a Municipal Light & Power Department (ML&P)], Chugach, and MEA under the terms of the 1989 Eklutna Purchase Agreement. Under this agreement, the three utilities received an undivided interest in all of the Eklutna Project, water rights, generation plant and the transmission assets interconnecting the Eklutna Project with ML&P, Chugach, and MEA. ML&P obtained a 53.33% ownership interest, Chugach obtained a 30% ownership interest, and MEA obtained a 16.67% interest in the Eklutna Project. Eklutna Project energy, capacity, and costs are to be allocated based on these ownership interests. ML&P and Chugach assert that the Eklutna Project currently has a maximum capacity of 39 MW.
>
> The three utilities created the Eklutna Operating Committee (EOC) to make all management decisions related to operation, maintenance, and budgeting for the Eklutna Project. ML&P, Chugach, and MEA each have a representative on the EOC. Decisions by the EOC are made based upon a double majority consisting of affirmative votes by at least two of the three utilities whose ownership shares total at least 51% of the Eklutna Project ownership. Effectively, management of the Eklutna Project is limited to actions approved by ML&P and at least one of Chugach or MEA.[2]

[1]Order U-18-102(44)/U-19-020(39)/U-19-021(39), *Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third Party Sales Gas Pricing; and Requiring Filings*, dated May 28, 2020 (Order U-18-102(44)).

[2]Order U-18-102(44) at 60-61 (footnotes omitted).

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Chugach filed a petition seeking our approval of its acquisition of all service obligations and most assets of ML&P, and an application to amend its certificate to reflect the new service obligations.[3] Under the terms of this acquisition, Chugach would offer employment to all ML&P employees and the Municipality of Anchorage would retain no ML&P employees.[4] Under this acquisition, Chugach was not purchasing ML&P's interest in the Eklutna Project Power Plant, but was acquiring a portion of ML&P's share of cost responsibilities and output from the Eklutna Project for a 35 year period.[5] Docket U-19-020 was opened to investigate this petition and application.[6]

As part of this same transaction, ML&P filed an application to amend its certificate to delete its current service territory and add the Eklutna Project Power Plant site as its new service territory.[7]

[3] *Petition for Approvals Needed to Acquire Anchorage Municipal Light and Power and Application to Amend Certificate of Public Convenience and Necessity No. 8*, filed April 1, 2019 (Petition for Approvals), in Docket U-19-020.

[4] *Pre-filed Direct Testimony of Arthur W. Miller*, filed April 1, 2019, in Docket U-19-020, Exhibit AWM-03 at 67 (Section 6.05(a)); Docket U-19-020/U-19-021 Tr. 2708-2709.

[5] Petition for Approvals at 8.

[6] Order U-19-020(1), *Order Addressing Timeline for Decision, Inviting Participation by the Attorney General and Petitions to Intervene, Scheduling Prehearing Conference, Giving Notice of Possible Consolidation, Designating Commission Panel, and Appointing Administrative Law Judge*, dated April 18, 2019.

[7] *Application of the Municipality of Anchorage d/b/a Municipal Light and Power to Amend Certificate of Public Convenience and Necessity No. 121 and to Terminate Dividend Restriction*, filed April 5, 2019 (ML&P Application).

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Docket U-19-021 was opened to investigate this application.[8] Dockets U-19-020 and U-19-021 were consolidated with Docket U-18-102.[9]

We ultimately approved the transaction under which Chugach acquired the service obligations and most of the ML&P assets, subject to conditions.[10] One of these conditions required ML&P to surrender its voting rights on the EOC prior to the effective date of the agreements under which ML&P's successor would be providing part of its share of the Eklutna Project output to Chugach (the Eklutna Power Purchase Agreement (PPA))[11] and selling the remainder of its share of the Eklutna Project output to MEA (the MEA PPA).[12] We required that:

> This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[13]

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[8]Order U-19-021, *Order Addressing Timeline for Decision, Inviting Participation by the Attorney General and Petitions to Intervene, Scheduling Prehearing Conference, Giving Notice of Possible Consolidation, Designating Commission Panel, and Appointing Administrative Law Judge*, dated April 18, 2019.

[9]Order U-18-102(8)/U-19-020(2)/U-19-021(2), *Order Consolidating Dockets, Designating Party, Requiring Filing, Granting Petitions to Intervene, Adopting Procedural Schedule, Addressing Timeline for Final Decision, and Amending Docket Captions*, dated May 8, 2019.

[10]As part of this transaction, ML&P's ownership interest in the Eklutna Project transmission system interconnecting the Eklutna Project Power Plant with the transmissions systems of Chugach, ML&P, and MEA was transferred to Chugach and MEA. The Eklutna Project transmission system is not at issue in this docket.

[11]The Eklutna PPA is attached as Appendix D to Order U-18-102(44) and is entitled *Eklutna Power Purchase Agreement Between Chugach Electric Association, Inc. ("Purchaser") and Municipality of Anchorage ("Seller")*.

[12]Order U-18-102(44) at 65-67. The MEA PPA is attached as Appendix H to Order U-18-102(44) and is entitled *Eklutna Power Purchase Agreement Between Municipality of Anchorage ("Seller") and Matanuska Electric Association, Inc. ("Purchaser")*.

[13]Order U-18-102(44) at 67.

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In compliance with this condition, ML&P surrendered its EOC voting rights effective October 30, 2019.[14]

Almost five years later, AHP filed the Notice and Request seeking reinstatement of its EOC voting rights.[15] In this filing, AHP asserted that Anchorage Water and Wastewater (AWWU) General Manager Mark A. Corsentino had been appointed to be the General Manager of AHP and that AWWU Engineering Director Mark Schimscheimer would provide support to Corsentino. AHP filed the resumes of these two employees.[16] To reflect the time these two AWWU employees are expected to spend on AHP business, 20% of Corsentino's salary and 10% of Schimscheimer's salary would be paid by AHP.[17] AHP requested a decision on its Notice and Request within 30 days of the date it was filed, or by August 17, 2024.[18]

We issued public notice of the Notice and Request, with comments due by August 26, 2024.[19] The Native Village of Eklutna filed comments indicating the Village's endorsement of AHP's request.[20] Chugach and MEA jointly filed comments identifying issues related to the Notice and Request that they believed should be investigated.[21]

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[14]*Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights*, filed October 30, 2020, in Dockets U-18-102/U-19-020/U-19-021.

[15]*Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*, filed July 22, 2024 (Notice and Request).

[16]Notice and Request at Exhibits 2 and 4.

[17]Notice and Request at Exhibit 3.

[18]Notice and Request at 1.

[19]*Notice of Utility Request*, dated July 26, 2024.

[20]Correspondence by Aaron Leggett, President, Native Village of Eklutna, filed August 2, 2024.

[21]Correspondence from Arthur W. Miller, Chief Executive Officer, Chugach Electric Association, Inc. and from Antony M. Izzo, Chief Executive Officer, Matanuska Electric Association, Inc., filed August 26, 2024.

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We opened this docket to investigate the Notice and Request, denied AHP's request for an early decision, designated Chugach and MEA as parties to this docket, invited participation by the Attorney General, and scheduled a prehearing conference.[22] RAPA elected to participate in this docket.[23] Chugach and MEA have participated jointly.[24] We rescheduled the prehearing conference to accommodate AHP's counsel.[25]

AHP filed a motion for expedited consideration for a final decision in this docket by October 2, 2024.[26] RAPA agreed with AHP that a final decision in this matter could be reached by October 2, 2024.[27] Chugach and MEA opposed expedited consideration.[28] The Municipality of Anchorage Assembly (Assembly) filed a petition to intervene in this matter on August 27, 2024.[29] We denied AHP's motion for expedited

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[22]Order U-24-024(1), *Order Denying Request for Decision in 30 Days; Designating Parties; Inviting Participation by the Attorney General and Intervention; Addressing Timeline for Decision; Scheduling Prehearing Conference; Designating Commission Panel; and Appointing Administrative Law Judge*, dated July 30, 2024 (Order U-24-024(1)).

[23]*Notice of Election to Participate*, filed August 7, 2024.

[24]*Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Entry of Appearance*, filed August 15, 2024.

[25]Order U-24-024(2), *Order Vacating and Rescheduling Prehearing Conference*, dated August 14, 2024.

[26]*Municipality of Anchorage d/b/a Anchorage Hydropower's Motion for Expedited Consideration of Request for Acknowledgement of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*, filed August 15, 2024.

[27]*Office of the Attorney General's Response to Anchorage Hydropower's (AHP) Motion for Expedited Consideration of its Request for Acknowledgment*, filed August 26, 2024.

[28]*Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Opposition to AHP's Motion for Expedited Consideration*, filed August 26, 2024.

[29]*Anchorage Assembly's Petition to Intervene*, filed August 27, 2024 (Assembly Petition).

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consideration of its motion in part, and scheduled oral argument on the motion for expedited consideration for the prehearing conference on August 30, 2024.[30]

At the prehearing conference on August 30, 2024, following oral argument by the parties, the administrative law judge (ALJ) announced our denial of the motion for expedited consideration filed by AHP.[31] The ALJ also announced our desire for briefing on the minimum term of the EOC voting rights surrender required by Order U-18-102(44).[32] The parties and the Assembly then proposed a procedural schedule for resolving this docket.[33] We adopted the procedural schedule proposed by the parties and denied the Assembly's petition to intervene.[34]

AHP filed an initial brief on the minimum term of EOC voting rights surrender issue and testimony by Corsentino.[35] Chugach and MEA filed testimony by Eugene A. Ori and by Tony R. Zellers.[36] RAPA filed a responsive brief on the minimum term of EOC

[30]Order U-24-024(3), *Order Denying Motion for Expedited Consideration In Part*, dated August 20, 2024.

[31]Tr. 7-15.

[32]Tr. 17-18.

[33]Tr. 20-23.

[34]Order U-24-024(4), *Order Adopting Procedural Schedule, Denying Petition to Intervene, and Redesignating Commission Panel*, dated September 12, 2024 (Order U-24-024(4)).

[35]*Municipality of Anchorage d/b/a Anchorage Hydropower's Brief Regarding Interpretation of Order 39*, filed September 18, 2024 (AHP Initial Brief); *Prefiled Direct Testimony of Mark A. Corsentino, P.E.*, filed September 18, 2024.

[36]*Prefiled Responsive Testimony of Eugene A. Ori*, filed October 8, 2024; *Prefiled Responsive Testimony of Tony R. Zellers*, filed October 8, 2024.

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voting rights surrender issue.[37] Chugach and MEA filed a responsive brief on the minimum term of EOC voting rights surrender issue.[38]

AHP requested that we issue an order governing confidential discovery.[39] We issued an order governing confidential discovery in response to that request.[40] RAPA filed a motion to dismiss the Notice and Request.[41] Chugach and MEA joined in the Motion to Dismiss.[42] RAPA filed a request to defer ruling on the Motion to Dismiss, and a motion for expedited consideration of the request to defer ruling.[43] We denied the request to defer ruling and the motion for expedited consideration of that request.[44]

Chugach and MEA filed a motion to compel discovery from AHP.[45] AHP filed a reply brief on the minimum term of EOC voting rights surrender and reply testimony

[37] *Office of the Attorney General's Brief on Interpretation of Order 39*, filed October 8, 2024 (RAPA Brief).

[38] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Brief Regarding Surrender Term*, filed October 8, 2024 (Chugach/MEA Brief).

[39] Tr. 16-17, 23-24: Correspondence from D. Thompson filed October 16, 2024.

[40] Order U-24-024(5), *Order Governing Confidential Discovery Material*, dated October 17, 2024.

[41] *Office of the Attorney General's Motion to Dismiss as Moot*, filed October 15, 2024 (Motion to Dismiss).

[42] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joinder in Motion to Dismiss Regarding Surrender Term*, filed October 24, 2024.

[43] *Office of the Attorney General's Request to Defer Ruling on Motion to Dismiss*, filed October 24, 2024; *Office of the Attorney General's Motion for Expedited Consideration of Request to Defer Ruling*, filed October 24, 2024.

[44] Order U-24-024(6), *Order Denying Request to Defer Ruling and Motion for Expedited Consideration of Request to Defer Ruling*, dated October 25, 2024.

[45] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Motion to Compel Discovery Responses*, filed October 28, 2024 (Motion to Compel).

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by Corsentino.[46] AHP filed an opposition to the Motion to Dismiss.[47] RAPA filed a reply to AHP's opposition to the Motion to Dismiss.[48] AHP filed an opposition to the Motion to Compel.[49]

AHP filed a motion for oral argument on the Motion to Dismiss and the Motion to Compel, and a motion for expedited consideration of the motion for oral argument.[50] RAPA filed a response to the motion for oral argument and motion for expedited consideration of the motion for oral argument.[51] We denied the motion for oral argument and the motion for expedited consideration of the motion for oral argument.[52] Chugach and MEA filed a reply to AHP's opposition to the motion to compel.[53]

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[46]*Municipality of Anchorage d/b/a Anchorage Hydropower's Reply Brief Regarding Interpretation of Order 39*, filed October 29, 2024 (AHP Reply Brief); *Prefiled Reply Testimony of Mark A. Corsentino, P.E.*, filed October 29, 2024.

[47]*Municipality of Anchorage d/b/a Anchorage Hydropower's Opposition to the Office of the Attorney General's Motion to Dismiss as Moot*, filed October 30, 2024 (AHP Response).

[48]*Office of the Attorney General's Reply to AHP's Opposition to Motion to Dismiss*, filed November 4, 2024 (RAPA Reply).

[49]*Municipality of Anchorage d/b/a Anchorage Hydropower's Opposition to Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Motion to Compel Discovery Responses*, filed November 4, 2024 (AHP Opposition).

[50]*Municipality of Anchorage d/b/a Anchorage Hydropower's Motion for Oral Argument*, filed November 5, 2024; *Municipality of Anchorage d/b/a Anchorage Hydropower's Motion for Expedited Consideration of its Motion for Oral Argument*, filed November 5, 2024, as corrected by *Municipality of Anchorage d/b/a Anchorage Hydropower's Errata to Motion for Expedited Consideration of its Motion for Oral Argument*, filed November 6, 2024.

[51]*Office of the Attorney General's Response to AHP's Motions for Oral Argument and Expedited Consideration*, filed November 6, 2024.

[52]Order U-24-024(7), *Order Denying Motion for Oral Argument and Motion for Expedited Consideration of Motion for Oral Argument*, dated November 6, 2024.

[53]*Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Reply to AHP's Opposition to Motion to Compel Discovery Responses*, filed November 6, 2024 (Chugach/MEA Reply).

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Discussion

Motion to Dismiss

In its Motion to Dismiss, RAPA seeks dismissal of AHP's Notice and Request on two grounds. First, RAPA asserts that AHP only desires to have its EOC voting rights restored so that it could have greater input on the Eklutna Project Fish and Wildlife Program identified in Section 104(a) of Public Law 104-58. RAPA states that the Governor has now approved the Eklutna Project Fish and Wildlife Program. Based on this action, RAPA concludes that the Notice and Request is now moot and should be dismissed.[54] Second, RAPA also asserts that the Notice and Request should be dismissed because it is premature under the minimum term of EOC voting rights surrender specified in Order U-18-102(44).[55]

We raised the issue that the Notice and Request appears to be premature under the minimum term of EOC voting rights surrender specified in Order U-18-102(44) at the prehearing conference.[56] That issue has been extensively briefed by the parties and we will address it first.

Dismissal as Premature Under the Terms of Order U-18-102(44)

In Order U-18-102(44) we established a minimum term for ML&P's surrender of its EOC voting rights as a condition of AHP's certification as a public utility and as a condition of our approval of the Eklutna PPA and the MEA PPA. This term is stated as follows:

> We can only find that [AHP] is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders

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[54]Motion to Dismiss at 1-7. *See*, Order U-18-102(44) at 61, and the materials cited in footnote 175, for a discussion of the Fish and Wildlife Program requirements.

[55]Motion to Dismiss at 7-8.

[56]Tr. 6-7.

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> its vote on the EOC under the Eklutna Project agreement so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without [AHP] having a vote on operating or management decisions. **This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as [AHP] has shown to our satisfaction that [AHP] has acquired the expertise required to fully participate as a voting member of the EOC**.[57]

AHP based its request for reinstatement of EOC voting rights on the assertion that it had acquired the expertise required to fully participate as a voting member of the EOC in compliance with the second half of this condition.[58] AHP initially made no reference to the minimum term of EOC voting rights surrender required by Order U-18-102(44).[59]

We raised the minimum term of EOC voting rights surrender issue at the prehearing conference, and AHP responded that it disagreed with the suggestion that Order U-18-102(44) mandated a minimum term of EOC voting rights surrender.[60] We requested briefing on this issue.[61] In its briefing on this issue, AHP acknowledged that if Order U-18-102(44) mandated a minimum term of EOC voting rights surrender it would not have EOC voting rights until both the Eklutna PPA and the MEA PPA elapsed.[62] AHP raised several grounds on which it based its belief that Order U-18-102(44) did not mandate a minimum term of EOC voting rights surrender. We address those grounds separately.

Rules of Statutory and Contract Interpretation

AHP asserts:

> It is a principle of both contract law and statutory interpretation that contracts and statutes should not be interpreted in a manner that renders

[57]Order U-18-102(44) at 67 (emphasis added).

[58]Notice and Request at 3-7.

[59]Notice and Request at 1-14.

[60]Tr. 6-7, 15.

[61]Tr. 17-18.

[62]AHP Initial Brief at 9.

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> language superfluous. To the extent there is any ambiguity in the language of a past Commission Order, the Commission should apply the same rules of interpretation here.[63]

AHP cites to no authority for application of this rule of interpretation to our orders. For the sake of clarity in this proceeding we address this issue as if these rules of interpretation do apply to our orders, without determining if these rules do apply to our orders.

The minimum term of EOC voting rights surrender is stated in Order U-18-102(44) as:

> This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as [A]HP has shown to our satisfaction that [A]HP has acquired the expertise required to fully participate as a voting member of the EOC.

As an initial matter, we agree with RAPA that there is no grammatical ambiguity in the minimum term of EOC voting rights surrender language.[64] AHP has disputed RAPA's grammatical evaluation of this language.[65] However, each of AHP's arguments would result in portions of the language actually used in Order U-18-102(44) being rendered superfluous in violation of the very rules of interpretation AHP suggests that we follow. AHP's arguments for finding a grammatical ambiguity are not convincing and we do not agree with AHP's assertion that there is grammatical ambiguity in the minimum term of EOC voting rights surrender language used in Order U-18-102(44).

AHP also argues that there is a contextual ambiguity in the minimum term of EOC voting rights surrender language in Order U-18-102(44). Specifically, AHP argues that the minimum term of EOC voting rights surrender renders Section 4.2 of the Eklutna PPA and Section 4.2 the MEA PPA superfluous in violation of the rules of construction it

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[63]AHP Initial Brief at 13 (footnote omitted).

[64]RAPA Brief at 3-5

[65]AHP Reply Brief at 7-14.

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relies upon.[66] Examination of the context in which the minimum term of EOC voting rights surrender language is stated in Order U-18-102(44) shows that there is no contextual ambiguity between that language and the two Section 4.2 referred to by AHP.

AHP argues that if we intended the minimum term of EOC voting rights to be enforced as written, we would have disapproved the Section 4.2 referred to by AHP.[67] However, in crafting Order U-18-102(44) we "sought to find a way to approve this transaction while leaving as much of the parties' bargain intact as possible."[68] We did not disapprove any part of the transaction documents unless we specifically found that the public interest required disapproval of that part. Our failure to completely harmonize the transaction documents with the substance of Order U-18-102(44) cannot be taken as a basis for nullifying or rendering superfluous any express term stated in Order U-18-102(44).

Section 4.2 of the Eklutna PPA states:

> Section 4.2 Operation of the Facility.
>
> (A) In accordance with the Operations Agreement (as may be amended by the Operations Agreement Amendment), during the Term Purchaser shall manage, control, operate and maintain the Chugach Portion in a manner consistent with Prudent Utility Practice.
>
> (B) During the Term, Seller shall, in consultation with Purchaser, select the person to serve as Seller's representative to the Operating Committee (the "Seller's Representative"). The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA. Seller's Representative shall also be Seller's representative for any consultation, study, and implementation processes required under the Fish and Wildlife Agreement relating to the Facility. The Seller's Representative shall make all decisions with respect to any processes required under the Fish and Wildlife Agreement with due regard for the rights and obligations of the Parties under this PPA.

[66]AHP Initial Brief at 9-19; AHP Reply Brief at 14-17, 19-36.

[67]AHP Initial Brief at 9-19

[68]Order U-18-102(44) at 11.

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> (C) The Parties acknowledge and agree that Seller has prior rights to not less than 41 million gallons of water per day from Eklutna Lake for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823; Alaska Statutes 46.15.150(a); and Certificate of Appropriation AOL 44944. The Parties agree that during the Term, the supply of water available for production of Power by the Seller's Interest shall be net of all water taken by Anchorage Water and Wastewater Utility for public water supply purposes.[69]

Eklutna PPA Subsection 4.2(A) deals with Chugach's obligations as Purchaser and Subsection 4.2(C) only identifies the Municipality of Anchorage's rights to water from Eklutna Lake. Neither of these two subsections are relevant to AHP's argument and we do not address them further.

Subsection 4.2(B) requires AHP, as Seller, to consult with Chugach in the selection of AHP's representative on the EOC. In Order U-18-102(44), we stated:

> We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[70]

This language allows, but does not require, AHP to have a non-voting representative attend EOC meetings. Not disapproving Subsection 4.2(B) leaves intact the parties bargain requiring AHP to consult with Chugach when selecting AHP's representative to the EOC. Further, nothing in the Order U-18-102(44) prevents AHP's non-voting EOC representative from participating in EOC meetings "consistent with Prudent Utility Practice

[69]Order U-18-102(44), Appendix D at 9.

[70]Order U-18-102(44) at 67.

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and the rights and obligations of the Parties under this PPA." The "consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA" language of Eklutna PPA Subsection 4.2(B) places boundaries on the AHP non-voting representative's participation in EOC meetings and our not disapproving Subsection 4.2(B) leaves intact the parties' bargain for this limitation on AHP.

Subsection 4.2 of the MEA PPA states:

> Section 4.2 Operation of the Facility.
>
> (A) During the Term Seller shall, at its cost and expense, manage, control, operate, and maintain the MEA Portion in accordance with the Operations Agreement and in a manner consistent with Prudent Utility Practice. Without limiting the foregoing, during the Term, as between Seller and Purchaser. Seller shall be responsible for all capital costs, all operations and maintenance expenses, and all costs and expenses for environmental compliance and compliance with Applicable Laws relating to the MEA Portion.
>
> (B) During the Term. Seller shall, after giving Purchaser a reasonable opportunity to consult with Seller. but without in any way limiting Seller's discretion as a result of any such consultation, select the person to serve as Seller's representative to the Operating Committee (the "Seller's Representative"). The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA and the rights and obligations of the parties under the Chugach Power Purchase Agreement. The Seller's Representative shall also be Seller's representative for any consultation, study. and implementation processes required under the Fish and Wildlife Agreement relating to the Facility. The Seller's Representative shall make all decisions with respect to any processes required under the Fish and Wildlife Agreement with due regard for the rights and obligations of the Parties under this PPA.
>
> (C) The Parties acknowledge and agree that Seller has prior rights to not less than 41 million gallons of water per day from Eklutna Lake for public water supply pursuant to the Act of October 30, 1984. 98 Stat. 2823; Alaska Statutes 46.15.150(a); and Certificate of Appropriation AOL 44944. The Parties agree that during the Term, the supply of water available for production of Power by the Seller's Interest shall be net of all water taken by Anchorage Water and Wastewater Utility for public water supply purposes consistent with the aforementioned water rights.

MEA PPA Subsection 4.2(A) does not address AHP's representation on the EOC and Subsection 4.2(C) only identifies the Municipality of Anchorage's rights to water from

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Eklutna Lake. Neither of these two subsections are relevant to AHP's argument and we do not address them further.

As discussed above, the minimum term of EOC voting rights surrender condition allows AHP to have a representative attend EOC meetings. The MEA PPA Section 4.2(B) requirement that AHP consult with MEA on AHP's choice of that representative remains effective even if the AHP representative has no voting rights. Also, as discussed above, the "consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA" language of MEA PPA Subsection 4.2(B) places boundaries on the AHP non-voting representative's participation in EOC meetings and our not disapproving Subsection 4.2(B) leaves intact the parties' bargain for this limitation on AHP.

Eklutna PPA Section 4.2(B) and MEA PPA Section 4.2(B) are both silent on voting rights and thus the requirement that ML&P surrender its EOC voting rights does not expressly nullify any part of these provisions. Both subsections include the phrase: "Seller's Representative shall make all decisions on the Operating Committee consistent …." This language could imply that AHP makes EOC decisions. As discussed in Order U-18-102(44), with its EOC voting rights intact ML&P had authority to veto decisions of the EOC but did not have authority to make decisions for the EOC except with the agreement of at least Chugach or MEA.[71] Because ML&P never had the authority to make EOC decisions, we read the "Seller's Representative shall make all decisions on the Operating Committee consistent" language to refer to the decisions AHP, as ML&P's successor, makes about its own participation in EOC decisions. Nothing in Order U-18-102(44) renders the language in Eklutna PPA Section 4.2(B) or MEA PPA Section 4.2(B) superfluous, and the existence of the language in these two subsections does not

[71] Order U-18-102(44) at 60-61.

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create any contextual ambiguity in the minimum term of EOC voting rights surrender language used in Order U-18-102(44).

AHP points to history of TA525-18 and TA379-121 where our Staff asked AHP and MEA if MEA PPA Section 4.2(B) needed to be revised based upon the apparent inconsistency with the minimum term of surrender language in Order U-18-102(44) as evidence of contextual ambiguity.[72] In TA525-18 and TA379-121, on October 22, 2020, our Staff asked MEA and ML&P to respond to the following:

> I believe there is an inconsistency between the MEA Eklutna PPA and the final order (U-18- 102(44)/U-19-020(39)/U-19-021(39)) (U-18-102(44).
>
> At page 67 of U-18-102(44) the Commission required MOA/ML&P to surrender its vote on the EOC so Chugach and MEA could manage the Eklutna Hydro project.
>
> The MEA Eklutna PPA, at page 4, Section 4.2(B) appears to allow MOA/ML&P to keep its vote on the EOC.
>
> Does MEA [or ML&P] believe the language between the final order and the MEA Eklutna PPA as summarized above are in conflict? Please explain your response and provide a remedy if appropriate.

MEA responded to this request as follows:

> Mr. Layne, regarding your inquiry, MEA offers the following response.
>
> The MEA Eklutna Hydro PPA, by and between MEA and the MOA, was entered into and executed in September 2019, several months prior to the RCA's May 2020 decision requiring ML&P to surrender its vote on the EOC as a condition of approving the sale of ML&P. This appears to be the reason for the "conflict" you reference because at the time the PPA was negotiated, the parties had no way of knowing the future RCA decision regarding ML&P's surrendering of EOC voting rights. MEA notes that the provision you reference and cite as a conflict in the MEA Eklutna Hydro PPA is contained verbatim in the Chugach Eklutna Hydro PPA (see Appendix D of Order U-18-102(44), Section 4.2(B) at page 9 of 92), which the RCA conditionally approved as part of Order U-18-102(44).
>
> In MEA's view, if the RCA wishes to resolve this perceived conflict, the remedy should be similar and consistent with how the RCA remedied the same conflict in the Chugach Eklutna Hydro PPA, which could include approving the MEA PPA subject to the same conditions the RCA previously imposed in Order U-18-102(44). Specifically, MEA is agreeable to having the same vote

[72] AHP Initial Brief at 14-18; AHP Reply Brief at 15-17 (in this brief, AHP erroneously refers to TA525-18 as being TA525-15).

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surrender language in order U-18-102(44) at page 67 apply to the MEA Eklutna Hydro PPA. Hopefully this helps resolves this matter.[73]

ML&P responded to this request as follows:

> The MOA/ML&P do not believe that the MEA Eklutna PPA is inconsistent Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) ("Order 39"). The part of Order 39 that you cite states:
>
> "We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the [Chugach] Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions." Order 39 at 67.
>
> To comply with the Order, ML&P will surrender its vote on the EOC prior to the closing of the ML&P sale to Chugach, which will be before the effective date of the Chugach Eklutna PPA and of the MEA Eklutna PPA. ML&P will promptly file a notice of that surrender with the RCA. The surrender will have a term at least equal to the term of the two PPAs, subject to termination of the surrender upon MHP showing to the RCA's satisfaction "that MHP has acquired the expertise required to fully participate as a voting member of the EOC." Order 39 at 67. If and when MHP has a proposed EOC representative that satisfies the qualifications, MHP will file that information and request that the RCA make the necessary finding for termination of the EOC vote surrender.
>
> Like Section 4.2(B) of the Chugach Eklutna PPA, Section 4.2(B) of the MEA Eklutna PPA requires MHP, in consultation with the Purchaser, to select MHP's representative on the EOC. As a result of Order 39, MHP won't have any voting representative on the EOC until the surrender is terminated upon a positive finding by the RCA that MHP's proposed representative is qualified. Thus, Section 4.2(B) of neither PPAs need to be amended. In addition, Section 4.2(B) should remain as written as it will be relevant if and when MHP's voting rights surrender is terminated in the future upon the necessary finding of the RCA.[74]

The ambiguity that our Staff was inquiring about is different from the ambiguity alleged by AHP. Staff was concerned that MEA PPA Section 4.2(B) contractually allowed AHP to exercise a vote on the EOC after the surrender was in effect. This is due to the language used in the MEA PPA, and as noted by MEA, language that is also in the Eklutna PPA.

[73]Correspondence from T. Clark, filed October 23, 2020, in TA525-18.

[74]Correspondence from D. Thompson, filed October 27, 2020, in TA379-121.

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MEA responded that the MEA PPA was negotiated several months before Order U-18-102(44) was issued, and that the language of the MEA PPA did not reflect the surrender of ML&P's voting rights on the EOC required by Order U-18-102(44) because the parties were not aware that we were going to order that surrender. Both MEA and ML&P assured us that the language in Order U-18-102(44) was sufficient to prevent ML&P from having voting rights on the EOC after the effective date of surrender.

ML&P stated in the correspondence quoted above that: "As a result of Order [U-18-102(44)], [A]HP won't have a voting representative on the EOC until the surrender is terminated upon a positive finding by the RCA that MHP's proposed representative is qualified." In the paragraph immediately above, ML&P restated the requirement for restoration of their vote on the EOC as: "The surrender will have a term at least equal to the term of the two PPAs, subject to termination of the surrender upon MHP showing to the RCA's satisfaction "that MHP has acquired the expertise required to fully participate as a voting member of the EOC."" ML&P appears to assert that their modification from the minimum term of EOC voting rights surrender language of Order U-18-102(44) in their informal response to Staff's request should have put us on notice that they were nullifying the first part of the condition stated in Order U-18-102(44).[75]

We disagree with that assertion. If ML&P considered the language we used in Order U-18-102(44) to be unreasonable, erroneous, unlawful, or otherwise defective, their remedy was to timely file a petition for reconsideration under 3 AAC 48.105 or an appeal under AS 22.10.020(d) and Alaska Rule of Appellate Procedure 602(a)(2).[76] As Order U-18-102(44) was issued May 28, 2020, any petition for review was required to be filed by June 12, 2020 and any appeal was due to be filed by June 30, 2020. ML&P

[75]AHP Initial Brief at 16.

[76]Order U-18-102(44) at 143.

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waived its right to challenge the language used in Order U-18-102(44) by failing to take either of those routes. ML&P has no authority to unilaterally revise the requirements of Order U-18-102(44) based on correspondence with our Staff on October 27, 2020, months after waiving its right to seek such revisions.

Staff was specifically asking if the MEA PPA Section 4.2(B) language conflicted with the EOC voting rights surrender required by Order U-18-102(44). Staff was not asking about the minimum term of EOC voting rights surrender or about the methodology for restoration of those voting rights and AHP has provided no evidence that Staff paid any attention at all to ML&P's superfluous comments on those issues. AHP cites to no authority where such remarks can effectively rewrite the express terms of our orders.

In responding to Staff's request, ML&P stated: "Section 4.2(B) should remain as written as it will be relevant if and when [A]HP's voting rights surrender is terminated in the future upon the necessary finding of the RCA." As noted by AHP, we have authority under AS 42.05.271 to modify certificate conditions after providing notice and opportunity for hearing and for good cause shown.[77] Such modification is not necessarily tied to AHP's acquisition of adequate technical and managerial resources to fully participate on the EOC. For example, MEA PPA Section 11.2(A)(3) allows for early termination of the MEA PPA in the event of an uncured default.[78] Eklutna PPA Section 9.2(A)(3) allows for early termination of the Eklutna PPA in the event of an uncured default.[79] Without prejudging the matter, AHP might be able to show good cause for reinstatement of its EOC voting rights, at least in part, upon the early termination of one

[77]AHP Reply Brief at 43.

[78]Order U-18-102(44), Appendix H at 15.

[79]Order U-18-102(44), Appendix D at 16.

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of these agreements but not the other. Therefore, leaving Eklutna PPA Section 4.2(B) and MEA PPA Section 4.2(B) intact leaves that portion of the parties' bargain intact in the event that we do someday modify the minimum term of EOC voting rights surrender stated in order U-18-102(44).

For all the reasons discussed above, AHP has failed to establish a contextual ambiguity based on the language of Eklutna PPA Section 4.2(B) and MEA PPA Section 4.2(B) or our strict interpretation of the minimum term of EOC voting rights surrender stated in Order U-18-102(44). Eklutna PPA Section 4.2(B) and MEA PPA Section 4.2(B) are both currently effective in part and may become fully effective in the manner AHP desires sometime in the future. The continued existence of these two provisions do not justify a revision of the minimum term of EOC voting rights surrender language stated in Order U-18-102(44).

Public Understanding

AHP also suggests that we should modify the minimum term of EOC voting rights surrender stated in Order U-18-102(44) based upon the "public" understanding of that term expressed in various places.[80] AHP cites to no authority for this proposition. We note that part of the "public" understanding AHP relies upon is implied from past statements of Chugach, MEA, and RAPA.[81] In response, RAPA stated:

> At the August 30, 2024, prehearing conference, the Commission—through ALJ Walker—noted two things. First, that neither AHP's request for acknowledgement nor the motion for expedited consideration discussed why the Commission should set aside the minimum time-period for the voting rights surrender. And second, "it appears that the Commission should be considering dismissal of the notice and request for acknowledgment as being prematurely filed…."
>
> When examining AHP's Notice and Request for Acknowledgment, the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section

[80]AHP Initial Brief at 14-20.

[81]AHP Initial Brief at 19-20.

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(RAPA) incorrectly focused on the second half of the above-quoted language from Order 39 and not the issues raised by the Commission.[82]

Chugach and MEA stated:

> Chugach and MEA admit that until ALJ Walker raised this issue in this proceeding, they had not examined this issue closely and were theoretically comfortable with an interpretation of the Surrender that if and when the MOA could demonstrate technical and managerial fitness, potentially with certain conditions imposed on the MOA to require MOA act consistently with prudent utility practice, to prevent the MOA from undermining the Project Owners' work in implementing the Final Fish and Wildlife Program, and to protect the Eklutna Project as a valuable resource in the Railbelt, the MOA would be entitled to regain its voting rights on the EOC and with respect to the Fish and Wildlife Agreement before the end of the PPA terms.
>
> Upon further review in this proceeding, however, Chugach and MEA no longer think that this matter is so simple for two primary reasons. First, with respect to this narrow issue, the Commission is asking the parties if they agree or disagree with the Commission's interpretation of the applicability of the term length language, and because Chugach and MEA do see ambiguity in the language, the Commission is in the best position to explain what it intended. There also exists ample reasonable legal basis, well supported by facts, for the Commission's interpretation that the Surrender must last for the duration of the PPA terms centered on the fact that MOA has ceded most of its rights and responsibilities to the Eklutna Project during the duration of those PPAs. Further, the facts that justified the Surrender requirement in the first place are materially unchanged. Second, even if the Commission intended, through its language, to create a path for MOA to regain its voting rights before the end of the PPA terms, such process should not render the length of term requirement language meaningless as MOA's Brief position would. Rather, there must be an acknowledgement of the Surrender term requirement and a demonstration that the concerns behind such requirement will be addressed for the duration of the PPA terms.[83]

In reply, AHP asserts that the responsive arguments of RAPA, Chugach, and MEA are in error.[84] AHP acknowledges that RAPA, Chugach, and MEA changed their position after reviewing the minimum term of EOC voting rights surrender language in Order U-18-102(44) when that language was pointed out to them at the prehearing conference held August 30, 2024.[85]

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[82]RAPA Brief at 2.

[83]Chugach/MEA Brief at 11-12.

[84]AHP Reply Brief at 6-43.

[85]AHP Reply Brief at 3-6.

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From the explanations provided by RAPA, Chugach, and MEA, their earlier positions on the restoration of EOC voting rights to AHP was based on an incomplete reading of Order U-18-102(44). ML&P never asked us for clarification of the minimum term of EOC voting rights surrender language in Order U-18-102(44), and thus we do not know if ML&P's understanding of that language was based on a complete reading of the order either.

AHP cites to the language used by ML&P in its written surrender of EOC voting rights as evidence that ML&P understood that AHP's EOC voting rights could be restored whenever it made a showing that it had acquired the expertise to fully participate as a voting member of the EOC. AHP quoted from the surrender as follows:

> In accordance with the requirements of order U-18-102(44), the Municipality of Anchorage, dba Municipal Light & Power(ML&P), hereby surrenders its voting rights as an EOC member and under the Fish and Wildlife Agreement effective as of the Closing of the Asset Purchase Agreement between ML&P and Chugach Electric Association (Chugach). **This surrender of voting rights shall remain in effect until ML&P's successor complies with the RCA requirements pertaining to qualifications for ML&P's representation on the EOC.**
>
> **Until ML&P's successor complies with the qualification terms of RCA order U-18-102(44),** all EOC decisions will be by unanimous vote of Chugach and Matanuska Electric Association, Inc. (MEA). Eklutna hydro operations, dispatch and maintenance will continue to follow past practices and policies unless changes are approved through the EOC process.[86]

There is nothing in this surrender language indicating that ML&P is only surrendering its EOC voting rights until such time as its successor makes a showing that it has acquired the expertise required to fully participate as a voting member of the EOC. This surrender language states that ML&P is surrendering its voting rights in accordance with the requirements of Order U-18-102(44) and that the surrender remains in effect until ML&P's successor complies with our requirements pertaining to qualifications for ML&P's

[86]AHP Initial Brief at 17 (emphasis is by AHP in the Brief and is not in the original surrender of EOC voting rights).

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representation on the EOC. Those requirements include the minimum term of surrender and our approval of the transaction under which Chugach acquired ML&P's service obligations and most ML&P assets was conditioned on ML&P's surrender of its voting rights in conformance with that entire requirement.

We are not convinced that there is any reason to change the minimum term of EOC voting rights surrender expressly stated in Order U-18-102(44) based upon 'public' understanding when that understanding was based upon an incomplete reading of the order. We also do not find that ML&P or AHP has the right to modify the minimum term of EOC voting right surrender stated in Order U-18-102(44) based upon a post-hoc assertion that it misunderstood the terms of that order. We note that ML&P's surrender of its EOC voting rights was filed well after the time to request reconsideration of Order U-18-102(44) had passed and the time for appeal of that order had also passed. Thus ML&P no longer had any right to seek revision of the minimum term of EOC voting rights surrender except under a new proceeding seeking revision of that term. Inserting what may now be considered ambiguous language in a compliance filing is not adequate to make such a change.

Evidentiary Context

AHP further claims that we must interpret prior orders within the context of the evidence on which the prior order was based.[87] That is our standard practice. In Dockets U-18-102/U-19-020/U-19-021, we received written testimony from Municipal Attorney Rebecca Windt Pearson[88] that included the following:

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[87]AHP Reply Brief at 19-21.

[88]*Prefiled Reply Testimony of Rebecca Windt Pearson*, filed August 2, 2019 (Windt Pearson Testimony), in Dockets U-18-102/U-19-020/U-19-021; as corrected by *Municipal Light and Power's Errata to the Prefiled Reply Testimony of Rebecca Windt Pearson*, filed August 9, 2029. This testimony was marked as Hearing Exhibit T-22 in Dockets U-19-020/U-19-021.

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Q12. Why did ML&P retain its ownership share of the Eklutna generation plant and sell the output to Chugach, rather than simply including its share of the Eklutna generation plant in the sale?

A12. Both Chugach and the MOA had interests that were served by having the MOA continue to own its share of the Eklutna generation plant and sell the output of the MOA's share to Chugach (and possibly also to MEA).

Initially, the parties discussed Chugach financing a portion of the asset acquisition price through unsecured payments over a period of time. That changed, however, when the MOA expressed concern regarding the lack of security associated with those payments. The MOA was concerned that, if it sold all of ML&P's assets to Chugach, but Chugach failed to make an unsecured future payment, the MOA would have no recourse other than litigation or pursuing a claim as a general unsecured creditor in a bankruptcy proceeding.

The parties resolved this concern by carving ML&P's ownership interest in the Eklutna generation plant out of the sale. As a result of the MOA retaining the ML&P share of the Eklutna generation plant, Chugach was able to pay for the Transactions without requiring the MOA to incur the risk of unsecured future payments. The Parties then entered into the Chugach PPA to allow Chugach to receive the output from ML&P's Eklutna interest at Chugach's avoided cost.

This arrangement served each party's interests. It benefits the MOA because, if Chugach ever fails to make future payments under the Chugach PPA, ML&P can, as a result of its retained ownership of its share of Eklutna, sell the power from that share to another entity—likely another Railbelt utility, and likely at a higher "avoided cost." The fact that Chugach's avoided costs are lower than other Railbelt utilities also informed the allocation of risks in the Chugach PPA. The MOA likely could sell power from its retained share of Eklutna to another entity at a higher avoided cost rate, but any such transaction would likely require the MOA to accept greater risks. The MOA agreed to sell power to Chugach, at Chugach's avoided cost, at least partly because of the transaction's more preferable risk profile. The Chugach PPA benefits Chugach because it allows it to make power purchase payments over time, thereby avoiding the added margin costs associated with additional upfront financing.[89]

Windt Pearson swore under oath that her written testimony was true and correct, and it was admitted as evidence into the record of Dockets U-19-020/U-19-021.[90] In its Application filed in Docket U-19-021, ML&P stated:

> ML&P will continue to be a department of the MOA, however it will have no employees and any function requiring labor will be performed by the MOA (e.g.

[89]Windt Pearson Testimony at 8-9.

[90]Docket U-19-020/U-19-021 Tr. 2489-2489.

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billing and financial statement preparation will be performed by the MOA Finance Department).[91]

…

As mentioned above, historically the operation and maintenance activities of Eklutna have been performed by Chugach, MEA, and ML&P. After the Transactions close, the division of responsibilities will be allocated between Chugach and MEA. Both Chugach and MEA have power production and transmission experience. They have the necessary expertise to perform all necessary functions to operate Eklutna. As has been the practice in the past, any operational or capital function that is beyond their expertise will be contracted to a firm specializing in the function.

The MOA will receive payments under the Chugach PPA and Chugach will pay all operating, maintenance, and capital costs associated with ML&P's Eklutna interest. If MEA enters into a PPA for its pro rata share of ML&P's Eklutna output, ML&P will be responsible for the operating, maintenance, and capital costs associated with that share of ML&P's Eklutna interest. The MEA PPA payments ML&P receives, however, will be sufficient to pay any operating, maintenance, and capital costs that ML&P will be responsible for. If MEA enters into a PPA for its pro rata share of ML&P's Eklutna output, ML&P will establish a $3 million reserve fund in the first year of operation to address any intra-year revenue shortfalls, to be called upon if revenues received are not sufficient in any year to cover the operating, maintenance, or capital costs of ML&P's Eklutna interest. In addition, if unforeseen adverse events require it, the MOA has sufficient borrowing capacity to make necessary operating, maintenance, or capital investments related to ML&P's Eklutna interest.

The MOA has a Finance Department with experienced professional accountants that have the necessary expertise to perform the required accounting functions for ML&P's limited post-Transactions Eklutna interest ownership and long term wholesale bulk power sales to Chugach or Chugach and MEA under the PPAs. The Finance Department will maintain ML&P's books and records, consistent with the Uniform System of Accounts. These books and records will include ML&P's revenues received under the PPAs and ML&P's share of monthly operational and capital costs. The Finance Department will track any assets purchased or constructed by the EOC, to include tracking operation and maintenance costs for the assets. Further, the Finance Department will maintain continuing property records to include original asset cost, annual depreciation, and net book value of all assets.[92]

At hearing in Dockets U-19-020/U-19-021, Windt Pearson orally testified as follows:

ALJ WALKER:· Is the Municipality, after closure of this transaction, retaining any employees of ML&P?

MS. WINDT PEARSON:· The plan is not to. And I know that we have discussed what we would need to do to have the necessary advice, expertise,

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[91]ML&P Application at 12.

[92]ML&P Application at 12-14 (heading omitted).

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> and personnel in order to continue to participate in the Eklutna Operating Committee. I think that we envision the stub utility being the department that reports up to the municipal manager. And that, more likely than not, we would utilize consultant services to provide that industry-specific expertise and staffing to help us make informed decisions as a continuing member of the Eklutna Operating Committee. Because we would not be retaining any employees of Municipal Light & Power.
>
> ALJ WALKER:· Have you investigated to see if any such expertise exists in the consulting community?
>
> MS. WINDT PEARSON:· We have not done so yet.[93]

Based on the record from Dockets U-18-102/U-19-020/U-19-021, ML&P was retaining the Eklutna Project Power Plant only for the purpose of preserving a cash flow in the event Chugach defaulted on its payments under the Eklutna PPA. ML&P planned only on collecting revenue under the Eklutna PPA and the MEA PPA, keeping track of the expenses it incurred under the MEA PPA for bookkeeping purposes, and maintaining the net book value of Eklutna Project assets. Maintaining accurate accounting of the net book value of assets will be necessary for calculation of the price Chugach and MEA will have to pay to purchase their proportionate shares of AHP ownership interest in the Eklutna Project under the Eklutna PPA and the MEA PPA.[94]

ML&P assured us that revenue earned under the MEA PPA would be adequate to cover all Eklutna Project capital, operating, and maintenance expense that it would be obligated to pay under that agreement. ML&P further assured us that it would maintain a $3,000,000 cash reserve for the Eklutna Project which, with the Municipality of Anchorage's existing credit capacity, would be adequate to meet any cash flow contingencies that may arise.

On this record, none of the purposes for which ML&P was retaining its ownership interests in the Eklutna Project Power Plant required or would benefit from

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[93]Docket U-19-020/U-19-021 Tr. 2708-2709.

[94]Order U-18-102(44), Appendix D at 19-20 (Eklutna PPA) and Appendix H at 23, 39 (MEA PPA).

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ML&P's participation as voting member of the EOC. ML&P effectively admitted that, as of the time of hearing in Dockets U-19-020 and U-19-021, it would not retain the staff expertise required to sit as a voting member of the EOC and had made no plans to acquire such expertise. ML&P also admitted that Chugach and MEA did have the expertise to sit as voting members of the EOC. These circumstances provide good cause under AS 42.05.271 for conditioning AHP's certificate with a requirement that ML&P's surrender its EOC voting rights for a term at least equal to the term of the Eklutna PPA and the term of the MEA PPA.

Finding Notice and Request Premature Under Order U-18-102(44)

In Order U-18-102(44) we stated that:

> Under these circumstances, we cannot unconditionally find that MHP is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions. **This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC.** This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[95]

In its briefing, AHP has not shown good cause for modifying or interpreting this certificate condition in a manner that nullifies the minimum term of EOC voting rights surrender specified in Order U-18-102(44). Therefore, AHP's voting rights on the EOC are surrendered for at least the term of the Eklutna PPA and the MEA PPA.

The Eklutna PPA and the MEA PPA both became effective on October 30, 2020, the date on which Chugach acquired the service responsibilities and most assets

[95]Order U-18-102(44) at 67 (Emphasis added).

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of ML&P.[96] The Eklutna PPA and the MEA PPA are both scheduled to expire on October 31, 2055, roughly 31 years from now.[97] There are provisions in these two agreements allowing for both extending them and for terminating them early. At this time, no entity, including ourselves, can predict when the terms of the Eklutna PPA and the MEA PPA will expire.

We have reviewed the documents filed in this docket by AHP and found no commitment on the part of Corsentino or Schimscheimer to remain employed by AHP until such time as the terms of the Eklutna PPA and the MEA PPA expire. We do not know how we could verify the veracity of such commitments had they been made. We also have no way of evaluating what the requirements to fully participate as a voting member of the EOC might be at that time. For these reasons, we grant RAPA's motion to dismiss the Notice and Request on the grounds that it premature under the terms of Order U-18-102(44). This dismissal is without prejudice to refiling closer to the time that Eklutna PPA and the MEA PPA will expire.

Dismissal as Moot

In addition to moving for dismissal of the Notice and Request as being premature under the terms of Order U-18-102(44), RAPA moved for dismissal on the grounds that the Notice and Request were now moot. RAPA asserted that AHP only wanted to have its EOC voting rights reinstated so that it could have greater input on design of the Eklutna Project Fish and Wildlife Program identified in Section 104(a) of Public Law 104-58. RAPA further asserts that the Governor has now approved the Eklutna Project Fish and Wildlife Program. Based on this action, RAPA concludes that

[96] *See*, Order U-18-102(44), Appendix D at 3-4, 35; Appendix H at 7, and *Notice of Transaction Closing*, filed October 30. 2020, in Dockets U-18-102/U-19-020/U-19-021.

[97] Order U-18-102(44), Appendix D at 9, 41; Appendix H at 7, 40.

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the Notice and Request is now moot and should be dismissed.[98] AHP has disputed RAPA's assertions on this issue and claims that dismissal on this ground would be inappropriate.[99] RAPA has replied that its assertions are supported by the record.[100]

Given our decision above to dismiss the Notice and Request on the ground that it is premature under the requirements of Order U-18-102(44), we do not need to decide if the Notice and Request is also moot. We deny RAPA's motion to dismiss on the ground that the Notice and Request is moot on the ground that the mootness issue is now moot.

Vacate Procedural Schedule

We adopted a procedural schedule for resolution of this docket.[101] With our decision to dismiss the Notice and Request there is no need to proceed through hearing in this docket. Therefore, we vacate the remaining procedural schedule for this docket including the prehearing conference scheduled for November 18, 2024, and the hearing scheduled to begin on November 18, 2024.

Deny Motion to Compel Discovery Responses

Chugach and MEA filed a motion to compel discovery responses intended to produce information to be used in their examination of Corsentino.[102] AHP has opposed this motion primarily on the ground that the information requested is not relevant to the scope of this docket.[103] Chugach and MEA have responded to this opposition by asserting that the requested information is relevant to any determination of Corsentino's

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[98]Motion to Dismiss at 1-7.

[99]AHP Response at 2-6.

[100]RAPA Reply at 2.

[101]Order U-24-024(4).

[102]Motion to Compel at 1-18.

[103]AHP Opposition at 7-22.

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understanding of prudent utility practice and that this determination is within the scope of this docket.[104]

With our decisions above to dismiss the Notice and Request and to vacate the procedural schedule for this docket, there will be no examination of Corsentino. Therefore, we deny the Motion to Compel on the ground that it is now moot.

Deny Request to Construe Notice and Request

AHP has asked us to construe its Notice and Request to be an application to amend its certificate conditions if we find that the minimum term of EOC voting rights surrender in Order U-18-102(44) is enforceable.[105] The timeline under which we are required to resolve this docket runs out January 14, 2025.[106] This would leave approximately 60 days to address modification of AHP's certificate. Under AS 42.05.175(a)(2) we are typically allowed 180 days to resolve a certificate amendment application. We find that there is too little time for us and the parties to address amendment of AHP's certificate in this docket. Therefore, we deny the request to construe the Notice and Request to be an application to modify AHP's certificate.

Guidance for Future Filings

AHP states that if we do not construe its Notice and Request as an application to amend its certificate, or otherwise grant it the relief it seeks in this proceeding, it "could simply file a new application to modify its certificate."[107] We have not construed AHP's Notice and Request to be an application to amend its certificate or otherwise granted AHP the relief it has requested in this proceeding. We provide AHP with guidance on future filings seeking relief from the minimum term of EOC voting rights

[104]Chugach/MEA Reply at 2-10.

[105]AHP Reply Brief at 43.

[106]Order U-24-024(1) at 5.

[107]AHP Reply Brief at 43.

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surrender required by Order U-18-102(44). We provide this guidance without having completed our investigation of the qualifications of Corsentino and Schimscheimer, and this guidance is not a judgement on their qualifications to be AHP's representative on the EOC.

We start by pointing out that in Order U-18-102(44) we did not require ML&P to surrender its EOC voting rights merely because the then Municipal Manager was not qualified to sit as a voting member of the EOC. What we stated was:

> ML&P asserts that billing and record keeping under the Uniform System of Accounts will be done for MHP by the professional accountants working for the MOA's Financial Department. These accountants will also maintain MHP's continuing property records, calculating annual depreciation and net book value of plant in service. ML&P has provided no evidence in support of this assertion that accountants employed by the MOA's Financial Department are trained to maintain records in accordance with the Uniform System of Accounts or to maintain continuing property records. However, we are aware that many of our smaller regulated utilities retain outside accountants to maintain their records in accordance with our regulations and thus we are aware that those private resources are available.
>
> ML&P proposes that MHP will have a seat on the EOC, even though it will have no employees. ML&P states that MHP will be managed by the Municipal Manager, a position currently filled by William D. Falsey. Falsey has a law degree from Yale Law School and a Bachelor of Science degree in physics from Stanford University. Falsey has worked as the MOA's manager since 2017 and worked in legal positions from 2003 through 2017.
>
> Chugach witness Dustin Highers testified based on his experience as chair of the EOC that to be an owner representative on the EOC, it was essential that the representative have knowledge of prudent utility practice and the Railbelt electric generation and transmission system. Dustin Highers testified that there were two ML&P employees he was aware of qualified to sit on the EOC and that both of those employees were being transferred to Chugach as part of the transaction. There is nothing in Falsey's resume indicating that he has any knowledge of the Railbelt generation and transmission system, or prudent utility practice which is the management standard specified for the MHP EOC representative in both the Eklutna PPA and the MEA PPA. ML&P indicated "that, more likely than not, we would utilize consultant services to provide that industry-specific expertise and staffing to help us make informed decisions as a continuing member of the [EOC]." However, ML&P admitted that it has not investigated whether such expertise exists in the consulting community.
>
> Under these circumstances, we cannot unconditionally find that MHP is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that MHP is managerially and technically fit to

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> maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without MHP having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit MHP from attending EOC meetings, but may not allow MHP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[108]

We required ML&P to surrender its EOC voting rights because it had no person qualified to sit in EOC meetings and understand the discussion, and because ML&P was proposing no definitive support team for their EOC representative.

Prior to the transaction under which Chugach acquired the ML&P service obligations and most of the ML&P assets, each member of the EOC was qualified to participate in meetings and knowledgeably discuss all issues related to management and operation of the Eklutna Project. Each of those representatives was also supported by an independent team consisting of the employees, contractors, and consultants required to operate their vertically integrated electric utility, each of which was interconnected with other vertically integrated electric utilities.

With Chugach's acquisition of ML&P's employees, in addition to ML&P's service obligations and most assets, ML&P, and its successor AHP have no identified support team of employees, contractors, or consultants with the breadth and scope of relevant knowledge that the Chugach and MEA representatives continue to bring to the EOC meetings. In the Notice and Request, AHP addressed this issue merely by stating:

> In addition to the auxiliary in-house expertise that Mr. Schimscheimer provides, AHP will also have access to, and the right to use (at AHP's expense), contracts of the [Municipality of Anchorage] in order to access any additional technical and engineering expertise necessary.

[108]Order U-18-102(44) at 65-67.

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In footnote 30 at the end of this statement, AHP states:

> Exhibit 3 at 2. Such firms include Electric Power Systems, Inc., EDC, Inc., CRW Engineering Group, Inc. and Taku Engineering.

Exhibit 3 to the Notice and Request is a *Memorandum of Understanding Between Anchorage Water and Wastewater Utility and Anchorage Hydropower Utility Re Resolution of Conflicts of Interest*, signed July 18, 2024. The relevant part of this Memorandum is paragraph 3 on page 2, which states:

> AH[P] will have access to and right to use, at AH[P]' expense, contracts of the [Municipality of Anchorage] to access technical and engineering expertise necessary to oversee and conduct operations.[109]

AHP included no resumes for the proposed support group, no contracts showing the term and extent of commitment by the contractors or consultants, and no information about what process AHP will have to go through to pay its contractors and consultants. We find this generic assertion of support for the proposed AHP voting representative on the EOC to be no more substantive than ML&P's assertion in Dockets U-18-102/U-19-020/U-19-021 that they would primarily rely on consultants for the expertise required to fully participate on the EOC even though they admitted that they had not yet investigated to determine if consultants with the required expertise were available.

In addition to addressing the minimum term of EOC voting rights surrender issue, we suggest that in future filings seeking reinstatement of EOC voting rights AHP provide the information to show that it can bring to EOC meetings a depth and breadth of technical and managerial expertise at least comparable to the level of expertise that MEA and Chugach bring to those meetings. This suggestion does not just include the technical

[109]Notice and Request, Exhibit 3 at 2.

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expertise of AHP's representative to the EOC, but also includes the team of employees, contractors, and consultants supporting that representative.

We denied AHP's motion for expedited consideration of its Notice and Request because AHP had failed to adequately support its request for reinstatement of its EOC voting rights. Upon initial review of AHP's filings in this docket we could see no way of moving forward without taking the time for prefiled testimony, discovery, and holding a hearing to gather the information necessary to determine if AHP had acquired the expertise required to fully participate as a voting member of the EOC.[110] We believe that efficient resolution of future filings on this issue by AHP will be more likely if AHP provides adequate information in its initial filing.

Final Order

This order constitutes the final decision in this proceeding. This decision may be appealed within thirty days of this order in accordance with AS 22.10.020(d) and Alaska Rule of Appellate Procedure 602(a)(2). In addition to the appellate rights afforded by AS 22.10.020(d), a party has the right to file a petition for reconsideration in accordance with 3 AAC 48.105. If such a petition is filed, the time period for filing an appeal is tolled and then recalculated in accordance with Alaska Rule of Appellate Procedure 602(a)(2).

Docket Closure

No substantive or procedural matters remain in this proceeding. Accordingly, we close this docket.

[110] At the prehearing conference and through the ALJ we denied AHP's motion for expedited consideration and stated that we would explain that decision in a written order to follow. Tr. 15. This is that explanation.

Regulatory Commission of Alaska
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ORDER

THE COMMISSION FURTHER ORDERS:

1. The *Office of the Attorney General's Motion to Dismiss as Moot*, filed October 15, 2024, by the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section is granted in part and denied in part as discussed in the body of this order.

2. The *Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*, filed July 18, 2024, by the Municipality of Anchorage d/b/a Anchorage Hydropower, is dismissed as being premature under the requirements of Order U-18-102(44)/U-19-020(39)/U-19-021(39).

3. *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Motion to Compel Discovery Responses*, filed October 28, 2024, is denied as being moot.

4. The request at page 43 in the *Municipality of Anchorage d/b/a Anchorage Hydropower's Reply Brief Regarding Interpretation of Order 39*, filed October 29, 2024, to have the *Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*, filed July 18, 2024, construed as an application to modify Certificate of Public Convenience and Necessity No. 780 is denied as discussed in the body of this order.

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5. Docket U-24-024 is closed.

DATED AND EFFECTIVE at Anchorage, Alaska, this 14th day of November, 2024.

BY DIRECTION OF THE COMMISSION
(Commissioner Steve DeVries, not participating.)

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	Case No. 3AN-24-06001CI

ORDER GRANTING MOTION TO DISMISS

I. INTRODUCTION

The Anchorage Municipal Assembly (Assembly) appealed the Regulatory Commission of Alaska's (RCA) denial of the Assembly's recent motion to intervene in proceedings related to the Eklutna Hydroelectric Project and its associated Fish and Wildlife Program. The RCA argues that the Assembly's appeal is untimely because it is attempting to modify a 2020 final order, while the Assembly argues it is only appealing the RCA's recent denial of its requests to intervene, reopen dockets, and modify the 2020 order. The Court finds that the Assembly's claim is untimely and dismisses the appeal.

II. BACKGROUND

In 1997, the federal government sold the Eklutna Hydroelectric Project to three utilities: Matanuska Electric Company, Inc. (MEA), Chugach Electric Company (Chugach), and the Municipality of Anchorage through Municipal Light and Power

(ML&P).[1] The utilities created the Eklutna Operating Committee (EOC) to manage the project and fulfill the sale agreement's requirement to submit a proposed Fish and Wildlife Program to the Governor by October 2, 2024.[2]

In 2019, the Municipality decided to sell ML&P's assets to Chugach. The proposed agreement allowed the Municipality to retain 53.33% ownership interest in the project but required the Municipality to surrender its voting rights on the EOC for a specified term. The Municipality is able to restore its voting rights upon a showing that it had acquired the requisite expertise to participate as a voting member of the EOC.[3]

On May 28, 2020, the RCA issued Order 39 conditionally approving the sale.[4] On October 30, 2020, the Municipality filed a notice of surrender of its voting rights on the EOC in conformance with the order and Chugach filed notice that the sale closed.[5] On December 23, 2020, the RCA closed its dockets on the matter.[6]

In 2023, the Assembly codified a requirement for its approval on any Fish and Wildlife Program submitted to the Governor for the project.[7] The Assembly required that any proposal "shall be submitted to the Assembly with a proposed resolution in support for action, prior to its submission to the Governor of Alaska."[8] The Assembly also codified its role in making policy decisions related to the Eklutna project. "Pursuant to section 26.30.025, the [A]ssembly shall be responsible for all policy decisions related to the municipality's performance under [the Program]."[9]

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[1] Order U-10-102(52)/U-19-020(47)/U-19-020(47), Appellant's Notice of Appeal (Apr. 24, 2024) Attachment A at 1 (hereinafter *Attachment A*).
[2] *Id.*
[3] *Id.* at 2.
[4] Order U-18-102(44)/U-19-020(39)/U-19-021(39) (May 28, 2020).
[5] Attachment A at 2.
[6] *Id.*
[7] Appellant's Opp'n to Mot. to Dismiss (Jan. 10, 2025) Ex. 2; AO 2023-131, codified at AMC 26.30.025.
[8] AMC 26.30.025.
[9] AMC 3.20.070.

In February 2024, the Assembly learned of a Binding Term Sheet between the Municipality and the remaining utilities that authorized the use of municipal infrastructure to implement the proposed Fish and Wildlife Program.[10] The Assembly had to seek a subpoena to access the Binding Term Sheet and related documents.[11] The Municipality produced the documents after the Program was already submitted to the Governor without Assembly's approval, contrary to AMC 26.30.025.[12]

On April 15, 2024, the Assembly petitioned to intervene in the RCA's dockets concerning the original sale of ML&P assets to Chugach, moving to reopen the dockets and modify Order 39.[13] On April 19, the RCA denied the Assembly's motion, construing the motion as a request for reconsideration of Order 39 and deeming it untimely.[14] The Assembly filed the current appeal on April 24, 2024.[15] The Governor approved the Fish and Wildlife Program on October 2, 2024.

III. DISCUSSION

To succeed on a motion to dismiss, the movant must establish "beyond doubt that the plaintiff can prove no set of facts that would entitle [the plaintiff] to relief."[16] "Even if the relief demanded is unavailable, the claim should not be dismissed as long as some relief might be available on the basis of the alleged facts."[17] For the following reasons, the Assembly cannot prove that it is entitled to any relief on the basis of the facts alleged.

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[10] Appellant's Opp'n to Mot. to Dismiss (Jan. 10, 2025) at 5-6.
[11] Order, *Anchorage Assembly v. Helzer*, 3AN-24-05979CI (Apr. 16, 2024).
[12] Opp'n at 6.
[13] Anchorage Assembly's Mot. to Reopen Dockets and Modify Order No. 39 Dated May 28, 2020 (Apr. 15, 2024).
[14] Attachment A.
[15] Appellant's Notice of Appeal.
[16] *Catholic Bishop of N. Alaska v. Does 1-6*, 141 P.3d 719, 722 (Alaska 2006).
[17] *Adkins v. Stansel*, 204 P.3d 1031, 1033 (Alaska 2009).

1. The Assembly is not required to exhaust administrative remedies before appealing to the superior court.

Final administrative orders are subject to judicial review by the superior court if the appeal is filed in accordance with the court rules governing appeals in civil matters.[18] "The right to appeal is not affected by the failure to seek reconsideration before the agency."[19]

The RCA argues that the Assembly failed to exhaust its administrative remedies by not petitioning for reconsideration in the 2020 proceedings. However, the Assembly correctly points out that exhausting administrative remedies before filing this appeal is not required under Alaska law.

2. The Assembly's appeal is untimely.

Although the Assembly was not required to petition for reconsideration before this appeal, it was required to timely file its appeal. Alaska Rule of Appellate Procedure 602(a)(2) requires that an appeal to the superior court must be filed within thirty days from the date a decision is distributed.[20]

The timeliness of this appeal depends on the nature of this appeal; the parties disagree on whether this appeal relates to the 2020 Order 39 or the 2024 petition to intervene. The RCA argues that the Assembly's appeal is challenging the content of Order 39, not the RCA's April 2024 decision declining to reopen the docket and modify Order 39. The Assembly argues that its appeal relates to the RCA's April 2024 decision and is not a petition for reconsideration of Order 39 as interpreted by the RCA.

The Court finds that this appeal seeks to undo the RCA's 2020 order and is therefore time-barred. The Assembly's Statement of Points on Appeal and arguments to preserve its standing demonstrate that the Assembly is attempting to change the content of Order 39. On appeal, the Assembly asserted that the RCA lacked jurisdiction to issue Order 39, violated municipal law, should have modified Order 39, and should have

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[18] AS 44.62.560.
[19] AS 44.62.560.
[20] Alaska R. App. P. 602(a)(2).

permitted the Assembly to intervene in order to challenge Order 39.[21] In arguing for its standing, the Assembly posits that "Order 39 directly affects the Assembly's policy-making authority" and that its effect "is to deprive Anchorage's selected representatives of any role in a multi-million-dollar, multi-decade restoration program."[22] The Assembly repeatedly emphasizes its interest in modifying the order.[23] Despite asserting that the Assembly is appealing the RCA's April 2024 order declining to reopen its dockets, it is clear that the Assembly's actual arguments regard Order 39.

The Assembly points out that the RCA has previously granted reconsideration of otherwise closed dockets in the past and points to numerous examples.[24] According to the Assembly, this entitles it to review of the RCA's refusal to allow the Assembly to intervene in the dockets related to Order 39. While the RCA may have the discretion to reopen past matters, that does not enlarge the amount of time that the Assembly has to file an appeal. Asking this Court to review the RCA's discretionary decision to not reopen a closed matter, and then use that appeal to bootstrap in otherwise time-barred arguments, would effectively eliminate all time limitations for appealing Order 39. The Court therefore declines to view this appeal in the way argued for by the Assembly.

3. The Assembly has standing as the legislative body for the Municipality.

The RCA argues that the Assembly lacks standing to challenge Order 39 because the order affected the Municipality's voting rights, not the Assembly's. As an initial matter, it is not clear that "the Municipality" and "the Assembly" are separate entities for the purposes of this appeal. However, neither party directly addressed that issue or whether it impacts the Assembly's standing.

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[21] Appellant's Statement of Points on Appeal (Apr. 24, 2024).
[22] Opp'n at 13.
[23] *Id.*
[24] Opp'n at 9.

To determine standing, the Alaska Supreme Court uses a three-part test.[25] "To have standing, a challenger must (1) be directly interested in the proceeding, (2) be factually aggrieved by the decision, and (3) have participated in the proceeding."[26]

First, the Assembly had a direct interest in the proceedings. "[D]irect interest in an administrative proceeding may be established by showing a material interest that is discrete to some party or class of parties."[27] Here, the Assembly's interest in the proceedings was material and discrete because Order 39 and the unilateral submission of the Fish and Wildlife Program hindered the Assembly's ability to fulfill its specific role in making policy and appropriations for the Program under AMC 3.20.070. Even though the Municipality surrendered its vote on the EOC, the Assembly maintained an interest in the project as it will affect municipal resources.

Second, the Assembly was factually aggrieved. Alaska courts apply an interest-injury analysis; to establish interest-injury standing, a party must show "(1) a sufficient personal stake in the outcome of the controversy and (2) an interest which is adversely affected by the complained-of conduct."[28] Here, the Assembly had a sufficient stake in the outcome and was adversely affected because Order 39 eliminated municipal participation in developing a program that will require municipal resources. Additionally, the development and submission of the Fish and Wildlife Program without Assembly's approval, including the agreements to use municipal infrastructure, circumvented both the Assembly's role as the policy-making and appropriating body for the Municipality and the legal requirement for the Assembly's approval before submission to the Governor.

Finally, the Assembly sufficiently participated in the proceedings. The RCA draws a distinction between the Administration, acting through the municipal manager in 2020, and the Assembly in 2024. It is not clear that this distinction is legally significant. In 2020,

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[25] *City of Valdez v. Regul. Comm'n of Alaska*, 548 P.3d 1067, 1076 (Alaska 2024), *reh'g denied* (May 31, 2024).
[26] *Id.*
[27] *Id.* at 1077.
[28] *Id.* at 1078 (internal quotations omitted).

the Administration had the authority to represent the Municipality in this matter. In 2024, the Assembly does.[29] Given this change, the Administration's participation in the 2020 proceedings resulting in Order 39 may be attributed to the Assembly and is sufficient to show municipal participation in the proceedings.

4. There is a live controversy as the project continues to be developed and the Fish and Wildlife Program executed.

The RCA argues that this appeal is now moot because the Governor already approved the October 2024 Fish and Wildlife Program. "A claim is moot if it has lost its character as a present, live controversy" and "the party bringing the action would not be entitled to any relief even if it prevails."[30]

The Court declines to find that this case is moot. No final action on the Eklutna project has rendered the controversy moot. Policy and appropriation decisions related to the Municipality, which the Assembly is responsible for, will continue to be required as the Eklutna project operates and the Fish and Wildlife Program is executed. The RCA interprets the Assembly's challenge too narrowly; the Assembly's ultimate issue is not just with the Fish and Wildlife Program, but its general lack of input on the Eklutna project and the Program. This will continue to be a present, live controversy as long as the project operates. Additionally, the Assembly could eventually be entitled to relief. Under Order 39, the Assembly may petition to reinstate its voting rights on the EOC. While the Assembly's most recent petition was denied, the RCA notes that it may petition again in the future or file an appeal.[31] The issue of the Assembly's participation in the Eklutna project clearly remains a live controversy.

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[29] AMC 3.20.070.
[30] *Ahtna Tene Nene v. State, Dep't of Fish & Game*, 288 P.3d 452, 457 (Alaska 2012) (internal quotations omitted).
[31] Order U-24-024(8) (Nov. 14, 2024) at 35.

IV. CONCLUSION

The Assembly's appeal ultimately regarded the content of Order 39, not just the RCA's recent decision to decline the Assembly's motions to intervene, reopen dockets, and modify the order. While the Assembly had standing to appeal Order 39 and its attempts to participate in the Eklutna project remain a live controversy, its appeal was several years overdue. The Court finds that the Assembly's appeal is untimely and dismisses the appeal.

Dated at Anchorage, Alaska, 2/5/25

JACK R. MCKENNA
Superior Court Judge

I certify that on 2/5/25 a copy of the following was mailed/emailed to each of the following at their addresses of record.
Erickson/Ross/Billingsley/Keithley
Grovier/Glass/Clarkson/Parker
Bowman/Buse/Egan/Stobb/Waller
Wood/Gillstrom/Burns/Moghadam
Guerriero/Brena/Broadwell

Administrative Assistant (aw)

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

Anchorage Municipal Assembly,
Appellant,

vs.

Regulatory Commission of Alaska et al,
Appellee.

Appeal Case No. 3AN-24-06001CI
☒ Administrative Appeal

NOTICE AND ORDER ON APPEAL BOND

A ☐ supersedeas bond ☒ cost bond in the amount of $750 was posted in the above case. A decision on appeal was rendered on 2/5/25. Unless an objection showing good cause is filed by 2/24/25,

☒ the cash deposit in lieu of bond will be returned to the posting party.
☐ the surety bond will be exonerated.

2/10/2025
Date

CLERK OF COURT
By: RPendragon
Deputy Clerk

I certify that on 2/10/2025
a copy of this notice was sent to:
Appellant: Anchorage Municipal Assembly
Appellee: Regulatory Commission of Alaska
Clerk: RPendragon

ORDER

It is ordered that the:

☐ cash deposit be released and returned to the posting party.

☐ cash deposit in the amount of $_____ be released to appellee and any remainder be returned to the posting party.

☐ surety bond is exonerated.

☐ surety bond/cash deposit be held pending further proceedings.

☐ Other _____

_____
Date

_____
Judge

_____
Type or Print Name

I certify that on _____
a copy of this notice was sent to:
Appellant: _____
Appellee: _____
Agency: _____
☐ Accounting
Clerk: _____

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

Anchorage Municipal Assembly,
Appellant,

vs.

Regulatory Commission of Alaska et al,
Appellee.

APPEAL CASE NO: 3AN-24-06001CI

NOTICE RE: COSTS AND ATTORNEY FEES ON APPEAL

To: Appellant and Appellee

Unless otherwise ordered by the court, the prevailing party seeking recovery of attorney fees and costs on appeal must submit a motion for attorney fees and an itemized and verified bill of costs within 10 days of the date shown in the clerk's certificate of distribution on the appeal decision. If the appeal decision was mailed, three additional calendar days are added to this deadline.

A request for any costs not allowed under Appellate Rule 508(d) must be made by separate motion.

Proof of service on the opposing party must be filed with the motion and bill of costs.

CLERK OF COURT

2/10/2025
Date

By: RPendragon
Deputy Clerk

I certify that on 2/10/25
a copy of this order was mailed or delivered to:
Anthony S Guerriero
Federal Executive Agencies
Alaska Native Tribal Health Consortium
Kelly Moghadam
Joseph Forrest Busa
Tina M Grovier
Kyle Parker
Clerk: RPendragon

FILE COPY

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.: PROVIDENCE HEALTHY & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.: STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	Case No.: 3AN-24-06001 CI

MOTION FOR AWARD OF ATTORNEY'S FEES

Pursuant to Appellate Rule 508(e), Appellee Regulatory Commission of Alaska ("RCA") hereby moves for an award of attorney's fees as prevailing parties in the above-captioned action.

This motion is supported by the accompanying memorandum of law, affidavit of counsel, and the attached exhibit.

DATED February 18, 2025

TREG R. TAYLOR
ATTORNEY GENERAL

By: /s/ Erin K. Egan/
Erin K. Egan
Assistant Attorney General
Alaska Bar No. 0111060

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.: PROVIDENCE HEALTHY & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.: STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	)	Case No.: 3AN-24-06001 CI

MEMORANDUM IN SUPPORT OF MOTION FOR AWARD OF ATTORNEY'S FEES

Pursuant to Appellate Rule 508(e), Appellee Regulatory Commission of Alaska ("RCA") hereby moves for an award of attorney's fees as prevailing party in the above-captioned action. Appellee RCA requests an award of 20 percent of its attorney's fees.[1]

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[1] *Cleaver v. State, CFEC*, 48 P.3d 464, 470 (Alaska 2002) (superior court may look to Civil Rule 82(b)(2) as a guideline for a reasonable award of attorney's fees); *see also Carr-Gottstein Properties v. State*, 899 P.2d 136, 148 (Alaska 1995) (when a party appeals an administrative decision, but receives no money judgment, the guidelines in Civil Rule 82(b)(2) may be applied by analogy to Appellate Rule 508(e) to determine a reasonable award of attorney's fees).

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On February 5, 2025, this court issued an Opinion which granted the RCA's Motion to Dismiss. The RCA is therefore a prevailing party in this action and, as such, moves for an award of attorney's fees pursuant to Appellate Rule 508(e).

I. The Appellant is Entitled to an Award of 20 Percent of Necessarily Incurred Attorney Fees.

Alaska Appellate Rule 508(e) provides that prevailing parties in an appeal may be awarded attorney's fees in an amount to be determined by the court. Where the appeal was taken under Appellate Rule 601, the court shall award the prevailing party 20% of its actual attorney's fees that were necessarily incurred, except where the court determines that an award of fees would be so onerous to the non-prevailing party that it would deter similarly situated litigants from the voluntary use of the courts if not reduced.[2]

The superior court may look to Civil Rule 82(b)(2) as a guideline for a reasonable award of attorney's fees. *Cleaver v. State, CFEC*, 48 P.3d 464, 470 (Alaska 2002). When the prevailing party in an administrative appeal receives no money judgment, the guidelines in Civil Rule 82(b)(2) may be applied by analogy to Appellate Rule 508(e) to determine a reasonable award of attorney's fees. *Carr-Gottstein Properties v. State*, 899 P.2d 136, 148 (Alaska 1995). Civil Rule 82(b)(2) provides:

> In cases in which the prevailing party recovers no money judgment, the court shall award the prevailing party in a case . . . resolved without trial 20 percent of its actual attorney's fees which were necessarily incurred. The actual fees shall include fees for legal

[2] Appellate Rule 508(e)(4).

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> work customarily performed by an attorney but which was delegated to and performed by an investigator, paralegal or law clerk.

Although the Attorney General, as counsel for the state, bills client agencies at a rate far below the market rate of attorneys in private practice, it is well settled that when the state is the prevailing party, it may request reimbursement of attorney's fees at a reasonable market rate. The Attorney General is not limited to recovering fees based on the Department of Law's inter-agency billing rate. There is clear authority for awarding attorney's fees under Civil Rule 82 based on market rates instead of the department's overhead rate.[3]

The Attorney General has worked to identify a uniform reasonable market rate upon which to base attorney fee requests that will more fairly reimburse the State of Alaska and state represented officials for their fees as a prevailing party.[4] This was necessary because the department's historic rate formulae and the newer universal blended rate formula all produce figures far below the market rate and value of the services rendered, and because Civil Rule 82 provides for only 20 percent reimbursement of actual fees where there is no trial or money judgment and 30 percent where the case goes to trial. Based on the recommendations of a working group tasked with assessing the Department of Law's policy on attorney fee requests, the Attorney

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[3] *Atlantic Richfield Co. v. State*, 723 P.2d 1249, 1251-52 (Alaska 1996) (Alaska Supreme Court ruled it appropriate to use average of hourly billing rates charged by private attorneys to calculate fee award for legal work performed by assistant attorneys general); *Amfac Hotels v. State, Dept. of Transportation*, 659 P.2d 1189, 1194 (Alaska 1983) (approved fee award based on "the average private billing rate" -- $75 per hour, 34 years ago); *Morrison-Knudsen Co., Inc. v. State*, 519 P.2d 834, 844 (Alaska 1974) (argument rejected that state could not recover attorney's fees at a rate higher than hourly salary of highest paid assistant attorney general who worked on case).

[4] *See* Affidavit of Counsel.

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General established in 2018 a policy to request $250 per hour as the market rate for journey level attorneys (Attorneys III and IV) and $300 per hour as the market rate for senior level attorneys (Attorneys V and VI). This decision was based on the working group's review of attorney billing rates statewide, a similar policy in the U.S. Attorney's Office, and review of the average rate (typically reflecting a discount for the state) that the Department pays experienced private practitioners to provide legal services to the state under contract. Paraprofessionals have a billing rate of $125 per hour.

In the case at bar, the court found in favor of the appellee and ordered dismissal of the appeal. In responding to the appeal, these appellee's attorney's fees, calculated using the market rate of $250 per hour for counsel Erin Egan and $300 per hour for counsel David Wilkinson, amount to $31,140[5] A copy of the billing print-out detailing the work done and time spent relative to this case is attached as Exhibit A. RCA's counsel of record in this case, Erin Egan, is classified as an Attorney IV, and has been practicing law over 23 years. Co-counsel for the RCA on this appeal, David Wilkinson, is classified as an Attorney V and has practiced law for more than 12 years. The attorney hours expended in responding to this appeal total 120.8 hours.

Under Appellate Rule 508(e), attorney's fees may be awarded in an amount to be determined by the court. Civil Rule 82(b)(2) has been held by the Alaska Supreme Court to be a guideline of an award of reasonable attorney's fees when the prevailing party receives no monetary judgment. Under Civil Rule 82(b)(2), prevailing parties

[5] *See* Affidavit of Counsel.

who do not receive a money judgment are entitled to 20 percent of their reasonable attorney's fees, including fees for legal work delegated to a paralegal. The RCA prevailed in this case without receiving a monetary judgment. Further, under Appellate Rule 508(e)(4), where the appeal was taken under Appellate Rule 601, the court shall award the prevailing party 20% of its actual attorney's fees that were necessarily incurred, except where the court determines that an award of fees would be so onerous to the non-prevailing party that it would deter similarly situated litigants from the voluntary use of the courts if not reduced. In this case the award of fees would not be so onerous to the appellant's that it would deter similarly situated litigants from the voluntary use of the courts if not reduced.

Therefore, the appellee is entitled to recover 20 percent of its fees. As indicated in Exhibit A, their legal (attorney and paralegal) fees incurred in this action, at appropriate hourly rates, total $31,140. They are entitled to an award of 20 percent of that amount, or $6,228 in attorney's fees.

II. Conclusion

For the reasons set out above, RCA respectfully requests that this court award it attorney's fees in the amount of $6,228.

DATED February 18, 2025

TREG R. TAYLOR
ATTORNEY GENERAL

By: /s/ Erin K. Egan/
Erin K. Egan
Assistant Attorney General
Alaska Bar No. 0111060

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
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ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.: PROVIDENCE HEALTHY & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.: STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	)	Case No.: 3AN-24-06001 CI

AFFIDAVIT OF COUNSEL

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

Erin K. Egan, being first duly sworn upon oath, deposes and states as follows:

1. I am the Assistant Attorney General assigned to represent the Regulatory Commission of Alaska ("RCA") in the above-captioned matter.

2. I have personal knowledge of the matters stated in this affidavit.

3. Appellant Anchorage Municipal Assembly filed this appeal seeking to overturn a decision by the Regulatory Commission of Alaska ("RCA"). This court

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ruled in the RCA's favor on February 5, 2025. Accordingly, RCA now moves for an award of attorney's fees as the prevailing party.

4. In defending the above-captioned matter, my co-counsel, David Wilkinson and I billed a total of 120.8 hours for things such as document review, legal research, motion practice, and writing a brief in this case. The time spent was necessary.

5. While the purpose of the Department of Law's overhead billing rate has been to track and recover the administrative costs of legal services provided to the State's client agencies, there is authority for awarding attorney's fees based on market rates instead. *Atlantic Richfield Co. v. State*, 723 P.2d 1249, 1251-1252 (Alaska 1996) (finding it appropriate to use average of billing rates charged by private attorneys to calculate fee award for legal work performed by Assistant Attorneys General); *Amfac Hotels v. State, Dept. of Transportation*, 659 P.2d 1189, 1194 (Alaska 1983) (approving fee award based on average private billing rate at the time); *Morrison-Knudsen Co. v. State*, 519 P.2d 834, 844 (Alaska 1974) (rejecting argument that State could not recover attorney's fees at a higher rate than hourly salary of highest paid attorney who worked on the case).

6. Because the State's uniform overhead rates no longer bear a rational relationship to the market rate, the Attorney General has approved a policy that attorney's fees requests should be based on prevailing market rates in order to more fairly compensate the State as the prevailing party in litigation. A working group of the Department of Law canvassed a variety of sources, including a survey of rates

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charged by private firms, the U.S. Attorney's Office, the Alaska Legal Services Corporation, and experienced private practitioners who contract to provide legal services to the State. Based on this information, the Attorney General has approved a policy to request $250 per hour as the market rate for journey-level attorneys (attorneys employed by the Department of Law at the level of Attorney III and IV) and $300 per hour for senior-level attorneys (Attorney V and VI).

7. The attorneys who worked on this matter included Erin Egan, who is classified as an Attorney IV, and David Wilkinson, who was classified as an Attorney V. Accordingly, Ms. Egan's fees have been calculated at the market rate of $250 per hour and Mr. Wilkinson's fees have been calculated at $300 per hour.

8. Under Appellate Rule 508(e), attorney's fees may be awarded in an amount to be determined by the court. Civil Rule 82(b)(2) has been held by the Alaska Supreme Court to be a guideline of an award of reasonable attorney's fees when the prevailing party receives no monetary judgment. Under Civil Rule 82(b)(2), prevailing parties who do not receive a money judgment are entitled to 20 percent of their reasonable attorney's fees, including fees for legal work delegated to a paralegal. RCA prevailed in this case without receiving a monetary judgment. Further, under Appellate Rule 508(e)(4), where the appeal was taken under Appellate Rule 601, the court shall award the prevailing party 20% of its actual attorney's fees that were necessarily incurred, except where the court determines that an award of fees would be so onerous to the non-prevailing party that it would deter similarly situated litigants from the voluntary use of the courts if not reduced. In this case the award of fees would not be

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so onerous to the appellant that it would deter similarly situated litigants from the voluntary use of the courts if not reduced.

9. Therefore, the appellee is entitled to recover 20 percent of its fees. As indicated in Exhibit A, their legal (attorney and paralegal) fees incurred in this action, at appropriate hourly rates, total $31,140. They are entitled to an award of 20 percent of that amount, or $6,228, in attorney's fees.

10. I have determined both that the information presented in Exhibit A is correct and that the time listed was actually incurred in defense of this matter. I do not believe that any of the work performed in this case was unnecessary or duplicative, and I believe that the total amount of time and money expended on behalf of these defendants is reasonable.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 18th day of February, 2025.

Erin K. Egan
Assistant Attorney General
Alaska Bar No. 0111060

SUBSCRIBED and SWORN TO before me this 18 day of February, 2025.

KRIS KNOX NOTARY PUBLIC STATE OF ALASKA Commission Expires with Office

Notary Public in and for Alaska
My commission expires with office

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Cost of Suit for Matter - 'All Inclusive'
2024101400 Anchorage Assembly (v. RCA)
080800 DCCED - RCA (RCA) Commission Legal Representation

Timekeeper	Date	Hours	Fees	Description
Erin K. Egan				
	5/14/2024	0.5	$125.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. TC with Chugach/MEA counsel regarding status
	5/21/2024	0.3	$75.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. Confer with D. WIlkinson regarding pending RCA appeals
	5/28/2024	2.7	$675.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. Review legal issues on appeal to plan legal strategy
	5/29/2024	5.5	$1,375.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. Review legal issues on appeal to plan legal strategy
	6/3/2024	0.5	$125.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. Read emails regarding agency record and confer with client regarding same;
	6/14/2024	1.5	$375.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. Review appeal status and review prior orders to develop strategy/arguments
	6/24/2024	3.0	$750.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. Review relevant orders to develop appeal strategy
	6/25/2024	3.0	$750.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. Review relevant orders to develop appeal strategy
	8/15/2024	2.0	$500.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. Review file and attend meeting with Attorney Glass regarding appeal status and strategy
	8/19/2024	3.0	$750.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. Email with CEA/MEA attorney regarding appeal strategy and related matters and review related filings/documents
	8/21/2024	7.0	$1,750.00	Confer with AAG Wilkinson regarding appeal strategy and related issues; Confer with ALJ Walker regarding appeal issues and review related documents
	8/23/2024	2.0	$500.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. Review order for scheduling conference and emails regarding strategy
	8/28/2024	2.0	$500.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. Public meeting including executive session discussion of Assembly appeal
	9/5/2024	3.5	$875.00	Draft, review briefs or pleadings. Conferences with other attorneys to coordinate on appeal issues and strategy; Research regarding Motion to Dismiss appeal and prepare for scheduling conference
	9/6/2024	2.5	$625.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. Attend scheduling conference at Superior Court; Meeting with Chair Espindola regarding appeal status and other issues;
	9/11/2024	7.5	$1,875.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. Strategy meeting with other appellee attorneys and review files to develop appeal arguments and possible motion to dismiss;

	9/13/2024	1.5	$375.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. REview agency record
	9/20/2024	6.0	$1,500.00	Draft, review briefs or pleadings. Continue review of agency record on appeal
	9/27/2024	4.0	$1,000.00	.Review agency record and develop arguments for motion to dismiss
	10/1/2024	5.5	$1,375.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. Confer with RAPA counsel regarding agency record; Continue review of agency record;
	10/15/2024	4.5	$1,125.00	Draft, review briefs or pleadings. Draft motion to dismss or for stay of appeal
	10/16/2024	6.5	$1,625.00	Draft, review briefs or pleadings. Draft motion to dismss or for stay of appeal
	10/17/2024	4.0	$1,000.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. Draft motion to dismiss; Teleconferences regarding procedural issues;
	10/21/2024	5.0	$1,250.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. Teleconference with CEA/MEA counsel regarding procedural issues and motion to dismiss; Draft motion to
	10/25/2024	2.0	$500.00	Draft, review briefs or pleadings. Revise and finalize Motion to Dismiss
	10/28/2024	1.0	$250.00	Draft, review briefs or pleadings. Finalize Motion to Dismiss
	11/1/2024	1.5	$375.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. Attend scheduling conference at Superior court
	11/6/2024	1.0	$250.00	Draft, review briefs or pleadings. Teleconference with Todd Glass regarding motion to strike and review same
	11/12/2024	1.5	$375.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument.
	11/25/2024	1.0	$250.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. TC with other attorneys regarding settlement and request for extension; Email with Assembly attorney regarding
	12/13/2024	1.5	$375.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. Prepare for and attend scheduling conference; EMail client regarding results of conference
	12/16/2024	1.0	$250.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. Confer with client regarding appeal issues; Emal with co-counsel regarding appeal issues
	12/31/2024	1.0	$250.00	Draft, review briefs or pleadings.
	1/10/2025	3.0	$750.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. Analyze Assembly response to motion to dismiss; Review appeal status and determine action needed
	1/13/2025	2.2	$550.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. Analyze response to motion to dismiss and review case status to determine action needed
	2/4/2025	0.3	$75.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. Email with counsel regarding status of upcoming scheduling conference

	2/6/2025	1.0	$250.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. Read order regarding Motion to Dismiss and advise clients regarding same; Emails with other counsel regarding decision; Review
	2/7/2025	0.5	$125.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. Attend scheduling conference and email regarding same
Erin K. Egan		102.0	$25,500.00	
David A. Wilkinson				
	5/22/2024	0.2	$60.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. (Voicemail from counsel for appellant regarding service; checked prolaw matter for additional entries of appearance; returned call to counsel for appellant.)
	5/23/2024	0.1	$30.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument.
	8/9/2024	0.4	$120.00	Draft, review briefs or pleadings (review assembly's request for scheduling hearing; discuss with Jeff Waller representing RAPA).
	8/21/2024	1.3	$390.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. (Meeting with Erin Egan to discuss case strategy; review Municipality's RCA filing regarding expertise for Anchorage Hydro to become voting member.)
	8/23/2024	0.2	$60.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. (Respond to Erin Egan regarding scheduling hearing.)
	8/27/2024	0.2	$60.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. (Look up information for executive session meeting with RCA.)
	8/28/2024	0.2	$60.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. (Call in to RCA meeting.)
	9/5/2024	0.2	$60.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter.
	9/6/2024	1.5	$450.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. Attend status hearing, research and send motion to dismiss materials to Erin Egan.
	9/9/2024	0.4	$120.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument.
	9/11/2024	0.9	$270.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. (Teleconference with Erin Egan and Todd Glass to discuss potential motion to dismiss.)
	10/7/2024	1.1	$330.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument.
	10/17/2024	0.7	$210.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. (Receive call from Andy Erickson, email Erin Egan regarding the same.)
	10/21/2024	6.0	$1,800.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter.
	11/8/2024	0.4	$120.00	Draft, review briefs or pleadings. (Read utilities' opposition to motion to strike joinder.)

	11/25/2024	1.4	$420.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. (Correspondence with Erin Egan and Todd Glass regarding mediation and dismissal deadlines; review RCA order in related Municipality/Eklutna proceeding.)
	12/13/2024	0.5	$150.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. (Correspondence with Erin Egan and Jessie Alloway).
	1/10/2025	2.0	$600.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. (Review Assembly's opposition to motion to dismiss; analyze potential rebuttal arguments.)
	1/15/2025	0.3	$90.00	Review, research and evaluate pending appeal, develop strategy and process for brief and argument. (Review Assembly's opposition to motion to dismiss.)
	2/6/2025	0.7	$210.00	Read court's order granting motion to dismiss; correspondence with Erin Egan regarding the same and potential motion for attorney's fees.
	2/11/2025	0.1	$30.00	Email, meetings, video, chat, letter, text with client, colleague, supervisor, ELT, opposing counsel, press, etc. related to the matter. (Respond to Erin Egan regarding attorney's fee motion.)
David A. Wilkinson		18.8	$5,640.00	
Total Fees		120.8	$31,140.00	

Costs	Date		Amount	Description
Total Costs				
Total Fees and Costs			$31,140.00	

cmfb.ecf@alaska.gov

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.: PROVIDENCE HEALTHY & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.: STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	Case No.: 3AN-24-06001 CI

ORDER GRANTING MOTION FOR AWARD OF ATTORNEY'S FEES

On consideration of the motion filed by Appellee Regulatory Commission of Alaska for an award of attorney's fees, and any opposition to this motion, this Court being fully advised in the premises,

IT IS HEREBY ORDERED that Appellee is awarded attorney's fees in the amount of $_____.

Dated at Anchorage, Alaska this ____ day of _____, 2025.

_____
The Honorable Jack R. McKenna
Superior Court Judge

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant, v. REGULATORY COMMISSION OF ALASKA; MUNICIPALITY OF ANCHORAGE, d/b/a MUNICIPAL LIGHT AND POWER; ENSTAR NATURAL GAS CO.: PROVIDENCE HEALTHY & SERVICES; GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.: STATE OF ALASKA; ALASKA ENERGY AUTHORITY; HOMER ELECTRIC ASSOCIATION, INC.; ALASKA ELECTRIC AND ENERGY COOP., INC.; MATANUSKA ELECTRIC ASSOCIATION, INC.; CHUGACH ELECTRIC ASSOCIATION, INC.; JL PROPERTIES; ALASKA NATIVE HEALTH CONSORTIUM, Appellees.	)	Case No. 3AN-24-06001 CI

CERTIFICATE OF SERVICE

I certify that on February 18, 2025, true and correct copies of the **MOTION FOR AWARD OF ATTORNEY'S FEES with EXHIBIT** and this *Certificate of Service* were served on the following via email without error:

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/s/Kris H. Knox/
Kris H. Knox
Supervising Law Office Assistant

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant v. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	)	Case No. 3AN-24-06001CI

STIPULATION TO EXTEND DEADLINE TO RESPOND TO MOTION FOR AWARD OF ATTORNEY'S FEES

Appellant Anchorage Municipal Assembly (the "Assembly"), and the Regulatory Commission of Alaska (the "RCA"), by and through their respective counsel, stipulate to modify the Assembly's deadline to respond to the RCA's Motion for Award of Attorney's Fees. The new due date for the Assembly's response to the RCA's Motion for Award of Attorney Fees will be **March 10, 2025**.

[*Signatures and Order to follow*]

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TELEPHONE (907) 276-5152, FAX (907) 276-8433

DATED: February 24, 2025.

LANDYE BENNETT BLUMSTEIN LLP

By: */s/ Jackson Morawski*
Andrew Erickson, Alaska Bar No. 1605049
Leslie R. Need, Alaska Bar No. 0712113
Jackson Morawski, Alaska Bar No. 2310113
Attorneys for the Appellant Anchorage Assembly

DATED: February 24, 2025

TREG R. TAYLOR
ATTORNEY GENERAL

By: /s/ *Erin K. Egan*
Erin K. Egan
Assistant Attorney General
Alaska Bar No. 0111060
Attorneys for the Appellee Regulatory Commission of Alaska

The Court, having received the Parties' Stipulation to Extend Deadline as described above HEREBY ACCEPTS THE PARTIES' STIPULATION. The deadline for the Assembly to respond to the RCA's Motion for Award of Attorney's Fees will be March 10, 2025.

IT IS SO ORDERED.

Dated this ___ day of _____, 2025 at Anchorage, Alaska.

_____
Hon. Jack R. McKenna
Superior Court Judge

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CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2025, a copy of the foregoing was served by email to the following:

Municipality of Anchorage/ Municipal Light & Power
Joseph F. Busa
Benjamin R. Bowman
courtdocs@muni.org

Providence Health & Services
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Walker Stanovsky
Scott Broadwell
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Matanuska Electric Association, Inc. & Chugach Electric Association, Inc.
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Alaska Native Tribal Health Consortium
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/s/ Ryan Frazier
Ryan Frazier, Legal Assistant

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANCHORAGE MUNICIPAL ASSEMBLY, Appellant v. REGULATORY COMMISSION OF ALASKA, et al., Appellees.	)	Case No. 3AN-24-06001CI

STIPULATION TO WITHDRAW MOTION FOR AWARD OF ATTORNEY'S FEES

Appellant Anchorage Municipal Assembly (the "Assembly"), and the Regulatory Commission of Alaska (the "RCA"), by and through their respective counsel, stipulate to a withdrawal of the RCA's Motion for Award of Attorney's Fees pursuant to an agreement of the parties.

[*Signatures and Order to follow*]

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DATED: March 10, 2025

LANDYE BENNETT BLUMSTEIN LLP

/s/ Andrew Erickson

Andrew Erickson, Alaska Bar No. 1605049
Leslie R. Need, Alaska Bar No. 0712113
Jackson Morawski, Alaska Bar No. 2310113

Attorneys for the Appellant Anchorage Assembly

TREG R. TAYLOR
ATTORNEY GENERAL

/s/ Erin K. Egan (consent)

Erin K. Egan, Alaska Bar No. 0111060

Attorneys for the Appellee Regulatory Commission of Alaska

The Court, having received the Parties' Stipulation to Withdraw Motion for Award of Attorney's Fees as described above HEREBY ACCEPTS THE PARTIES' STIPULATION. The RCA's Motion for Award of Attorney Fees is hereby deemed withdrawn.

IT IS SO ORDERED.

Dated this ___ day of _____, 2025 at Anchorage, Alaska.

Hon. Jack R. McKenna
Superior Court Judge

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CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2025, a copy of the foregoing was served by email to the following:

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/s/ Cheri Woods
_____
Cheri Woods, Legal Assistant

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellant, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	FILED in the TRIAL COURTS State of Alaska Third District JUL 01 2025 Clerk of the Trial Courts By_____Deput **Case No. 3AN-24-10554CI** RCA Docket No. U-24-024 #2

APPELLANT'S UNOPPOSED MOTION TO EXTEND STAY OF PROCEEDINGS

Appellant Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP"), by and through its undersigned counsel, hereby requests that the Court extend the current stay of the proceedings in this appeal until October 1, 2025.

On January 8, 2025, this Court issued its Notice Setting Appeal Procedure in the above-captioned case requiring that AHP's Appellant's brief and excerpt of record be filed by February 7, 2025. On March 6, 2025, AHP filed an unopposed motion to vacate the briefing schedule and stay the proceedings because AHP and Appellees Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA") had been engaged in negotiations of an agreement that could result in the dismissal of

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AHP's appeal. On March 20, 2025, the Court issued an order vacating the briefing schedule and staying the proceedings until July 1, 2025.

AHP, Chugach, and MEA's negotiations are ongoing, and if successful, will result in dismissal of this appeal.[1] In order to avoid unnecessary briefing and expenditure of time and resources by the parties, and pursuant to Appellate Rule 503(a), AHP requests that the Court issue an order extending the current stay of the proceedings in this appeal to October 1, 2025 (92 days), after which a revised briefing schedule will be issued with Appellant's opening brief due 30 days from the issuance of the revised briefing schedule. If the parties reach an agreement that results in dismissal of this appeal, the appropriate parties will promptly file an agreement or motion to dismiss this appeal under Appellate Rule 511. Counsel for AHP has conferred with counsel for the other parties, and no party opposes this motion.[2]

RESPECTFULLY SUBMITTED this 1st day of July, 2025, at Anchorage, Alaska.

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[1] July 1, 2025, Affidavit of Dean D. Thompson at ¶ 2.

[2] *Id.* at ¶ 3.

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KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellant, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	FILED in the TRIAL COURTS State of Alaska Third District JUL 01 2025 Clerk of the Trial Courts By_____Deputy **Case No. 3AN-24-10554CI** RCA Docket No. U-24-024

AFFIDAVIT OF DEAN D. THOMPSON IN SUPPORT OF APPELLANT'S UNOPPOSED MOTION TO EXTEND STAY OF PROCEEDINGS

STATE OF ALASKA)
) :ss
THIRD JUDICIAL DISTRICT)

Dean D. Thompson, after first being duly sworn upon oath, deposes and states as follows:

1. I am an attorney at Kemppel, Huffman and Ellis, P.C., and am counsel for the Municipality of Anchorage d/b/a Anchorage Hydropower ("AHP") in the above-captioned case.

July 1, 2025

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2. AHP and Appellees Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc.'s ("MEA's") negotiations regarding an agreement that could result in the dismissal of AHP's appeal are ongoing.

3. Between June 30, 2025, and July 1, 2025, I conferred with counsel for all of the other parties in this matter—Chugach; MEA; the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section; and the Regulatory Commission of Alaska—regarding AHP's request to extend the current stay of the proceedings until October 1, 2025. Counsel for the parties authorized me to represent that their clients do not oppose AHP's Motion to Extend Stay of Proceedings.

DATED this 1st day of July, 2025 at Anchorage, Alaska.

Dean D. Thompson

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

SUBSCRIBED AND SWORN to before me this 1st day of July, 2025, at Anchorage, Alaska, by Dean D. Thompson.

SHEILA LYNN ERWIN
My Commission Expires
NOTARY PUBLIC
Mar 12, 2029
STATE OF ALASKA

Notary Public in and for the State of Alaska
My Commission Expires: 3-12-2029

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellant, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	FILED in the TRIAL COURTS State of Alaska Third District JUL 01 2025 Clerk of the Trial Courts By_____Deputy **Case No. 3AN-24-10554CI** RCA Docket No. U-24-024

CERTIFICATE OF SERVICE AND TYPEFACE

I hereby certify that on July 1, 2025, I served a true and correct copy of Municipality of Anchorage d/b/a Anchorage Hydropower's "Appellant's Unopposed Motion to Extend Stay of Proceedings," "Affidavit of Dean D. Thompson in Support of Appellant's Unopposed Motion to Extend Stay of Proceedings," "[Proposed] Order Extending Stay of Proceedings," and this "Certificate of Service and Typeface" by electronic mail (pursuant to Appellate Rule 602(j) and Alaska R. Civ. P. 5.1(c)) to the following:

July 1, 2025

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Regulatory Commission of Alaska
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APPELLANT'S UNOPPOSED MOTION TO EXTEND STAY OF PROCEEDINGS
AHP v. RCA et al.
July 1, 2025

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I further certify, pursuant to Alaska Appellate Rule 513.5(c)(2), that the documents are 13 point Times New Roman typeface.

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By: */s/ Emily M. Walker*
Emily M. Walker, Counsel

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellants, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	**Case No. 3AN-24-10554CI** RCA Docket No. U-24-024

#2

[PROPOSED] ORDER EXTENDING STAY OF PROCEEDINGS

The July 1, 2025, unopposed motion by Municipality of Anchorage d/b/a Anchorage Hydropower ("AHP") to extend the current stay of proceedings is **GRANTED**. The appeal is stayed until October 1, 2025, after which this Court will issue a revised briefing schedule with AHP's opening brief due 30 days from the issuance of the revised briefing schedule. The appropriate parties shall promptly file an agreement or motion to dismiss this appeal under Appellate Rule 511 if those parties reach an agreement that results in dismissal of this appeal.

IT IS SO ORDERED.

DATED at Anchorage, Alaska this 8 day of July, 2025.

Josie Garton

Hon.
Superior Court Judge
JOSIE GARTON

I certify that on 7-8-25 a copy was mailed to each of the following at their address of records:

Deputy Clerk / Administrative Assistant EP

Thompson
Walker
Egan

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RECEIVED
By the Regulatory Commission of Alaska on Jul 30, 2025

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chair
Steve DeVries
Mark Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S Request to Lift Condition Requiring the Surrender of its Voting Rights from CPCN 780	U-25-025

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S REQUEST TO LIFT CONDITION REQUIRING THE SURRENDER OF VOTING RIGHTS FROM CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 780; AND ALTERNATIVE APPLICATION TO AMEND CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 780

The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") hereby requests that the Regulatory Commission of Alaska ("Commission") lift the condition on AHP's Certificate of Public Convenience and Necessity ("CPCN") No. 780 requiring the MOA to surrender its voting rights on the Eklutna Operating Committee ("EOC") for a "minimum term" of the terms of the power purchase agreements between AHP and Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA").[1] As explained below, good

[1] Order No. U-24-024(8), *Order Granting Motion to Dismiss in Part and Dismissing Notice and Request, Denying Motion to Dismiss in Part, Vacating Procedural Schedule, Denying Motion to Compel, Denying Request to Construe Notice and Request as Petition to Amend Certificate Condition, Providing Guidance for Future Filings, and Closing Docket*, dated November 14, 2024. AHP appealed this order to Alaska Superior Court on December 13, 2025 (*see AHP v. Regulatory Commission of Alaska*, 3AN-24-10554CI), and this filing is not intended to waive any arguments made by AHP arguments in that appeal, but makes this request in the alternative. *See also*, Order No. U-18-102(44)/U-19-020(39)/U-19-021(39), *Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity*, *Subject*

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cause exists for the Commission to lift the condition after notice and opportunity for hearing. Further, the condition is no longer needed to protect or promote the public interest.

I. REQUEST TO VACATE CONDITION REQUIRING SURRENDER OF VOTING RIGHTS ON THE EOC

A. Background

At issue is AHP's voting rights as a member of the Eklutna Operating Committee ("EOC"), which was created by the MOA d/b/a Municipal Light & Power ("ML&P"), Chugach, and MEA to make all management decisions related to the operation, maintenance, and budget for the Eklutna Hydroelectric Project ("Eklutna Project").[2] The Commission described the Eklutna Project as follows:

> The Eklutna Project was built and operated by the federal government pursuant to the Eklutna Power Act of 1950. In 1995, Congress authorized sale of the Eklutna Project to [the Municipality of Anchorage d/b/a Municipal Light & Power Department (ML&P)], Chugach, and MEA under the terms of the 1989 Eklutna Purchase Agreement. Under this agreement, the three utilities received an undivided interest in all of the Eklutna Project, water rights, generation plant and the transmission assets interconnecting the Eklutna Project with ML&P, Chugach, and MEA. ML&P obtained a 53.33% ownership interest, Chugach obtained a 30% ownership interest, and MEA obtained a 16.67% interest in the Eklutna Project.
>
> . . .

to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third Party Sales Gas Pricing; and Requiring Filings, dated May 28, 2020 ("Order No. 39").

[2] *See* Order No. U-24-024(8) at 2.

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> ML&P, Chugach, and MEA each have a representative on the EOC. Decisions by the EOC are made based upon a double majority consisting of affirmative votes by at least two of the three utilities whose ownership shares total at least 51% of the Eklutna Project ownership. Effectively, management of the Eklutna Project is limited to actions approved by ML&P and at least one of Chugach or MEA.[3]

In 2019, Chugach filed a petition with the Commission seeking approval to acquire all service obligations and most assets of ML&P (the "Acquisition").[4] As part of the same transaction, ML&P filed an application to amend its CPCN, deleting the current service territory and adding the Eklutna Project Power Plant site.[5] The Commission approved the Acquisition in Order No. 39, subject to conditions. The MOA retained its 53.33% ownership interest in the Eklutna Project, from which it sells wholesale electric power to Chugach and MEA, pursuant to power purchase agreements approved by the Commission.[6] Under the Eklutna PPA, Chugach receives 64.29% of the MOA's share of energy output from the Eklutna Project, and has "the obligation to pay a proportionate share of [the MOA's] Eklutna Project costs, including capital and Fish and Wildlife Agreement costs, for the 35-year term of the Eklutna PPA."[7] Thus, Chugach is

[3] *Id*.

[4] Petition for Approvals Needed to Acquire Anchorage Municipal Light and Power and Application to Amend Certificate of Public Convenience and Necessity No. 8, filed April 1, 2019.

[5] Application of the Municipality of Anchorage d/b/a Municipal Light and Power to Amend Certificate of Public Convenience and Necessity No. 121 and to Terminate Dividend Restriction, filed April 5, 2019.

[6] *See* Order No. 39 at 72-76.

[7] *Id.* at 73.

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currently responsible for 64.29% of the operations, maintenance, capital, and environmental compliance costs associated with the Eklutna Project, MEA is responsible for 16.67%, and the MOA continues to bear responsibility for 19.05%.[8]

The Commission also granted the MOA d/b/a AHP[9] a new CPCN to "provide wholesale public electric utility service through its ownership share of the Eklutna Project" subject to (1) the closing of the Transaction; (2) AHP's maintenance of a $3,000,000 reserve fund to support Eklutna Project capital expenditures; and (3) the MOA's surrender of its voting rights on the EOC.[10] The Commission was concerned that after the Transaction, the MOA would no longer be "managerially and technically fit to maintain majority ownership of the Eklutna Project" without the surrender of its voting rights on the EOC.[11] With the surrender, the Eklutna Project would be "jointly manage[d] and operate[d]" by Chugach and MEA.[12] The Commission stated that the surrender "must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to [the Commission's] satisfaction that MHP has acquired the expertise required to fully participate

[8] Chugach is responsible for the costs equal to its 30% ownership interest plus 64.29% of the MOA's 53.33% interest. *See* Order No. 39 at 73. The MOA is responsible for 19.05% of the costs. *See id.* at 76. MEA is responsible for costs equal to its 16.67% ownership interest.

[9] In Order No. 39, the Commission referred to the post-transaction electric utility owned by the MOA as Municipal Hydro Power ("MHP") and not AHP.

[10] Order No. 39 at 67.

[11] *Id.*

[12] *Id.*

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as a voting member of the EOC."[13] On October 30, 2020, the MOA filed notice with the Commission of its October 27, 2020, Surrender of Eklutna Operating Committee Voting Rights.[14]

On July 18, 2024, AHP filed a Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee ("Request for Acknowledgment"). AHP submitted documentation showing that Mark Corsentino, P.E., had been approved as the Utility Director of AHP.[15] AHP provided documentation of Mr. Corsentino's experience as the General Manager of Anchorage Water and Wastewater Utility ("AWWU") and also documentation of the additional technical and managerial resources and support available to Mr. Corsentino, including the assistance of Mark Schimscheimer Engineering Director of AWWU, as well as access to various MOA contractors.[16]

At the prehearing conference held on August 30, 2024, the Administrative Law Judge requested briefing "on the minimum term of the EOC voting rights surrender required by [Order No. 39]."[17] AHP, Chugach and MEA, and RAPA filed briefs.[18] The Commission found that AHP's Request for Acknowledgement was premature and "AHP's voting rights on the EOC

[13] *Id.*

[14] Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights, filed Oct. 30, 2020.

[15] *See id.* at 5.

[16] *See id.* at 5-14.

[17] Order No. U-24-024(8) at 7 (citing Tr. 17-18).

[18] *See id*. at 7-8.

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are surrendered for at least the term of the Eklutna PPA and the MEA PPA."[19] The Commission "provided AHP with guidance on future filings seeking relief from the minimum term of EOC voting rights surrender."[20] The Commission stated:

> In addition to addressing the minimum term of voting rights surrender issue, we suggest that in future filings seeking reinstatement of EOC voting right AHP provide the information to show that it can bring to EOC meetings a depth and breadth of technical and managerial expertise at least comparable to the level of expertise that MEA and Chugach bring to those meetings. This suggestion does not just include the technical expertise of AHP's representative to the EOC, but also includes the team of employees, contractors, and consultants supporting that representative.
>
> We denied AHP's motion for expedited consideration of its Notice and Request because AHP had failed to adequately support its request or reinstatement of its EOC voting rights. Upon initial review of AHP's filings in this docket we could see no way of moving forward without taking the time for prefiled testimony, discovery, holding a hearing to gather the information necessary to determine if AHP had acquired the expertise required to fully participate as a voting member of the EOC. We believe that efficient resolution of future filings on this issue by AHP will be more likely if AHP provides adequate information in its initial filing.[21]

On December 13, 2024, AHP appealed Order U-24-024(8) to the Alaska Superior Court. On March 6 and July 1, 2025, AHP filed unopposed motions to vacate the briefing schedule and stay proceedings in the appeal because AHP is engaged in negotiations with Chugach and MEA regarding voting rights on the EOC which might result in a resolution of the appeal. The

[19] *Id.* at 28.

[20] *Id.* at 31-32.

[21] *Id.* at 34-35.

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Superior Court has extended the stay through October 1, 2025.[22] To the extent that these negotiations might also impact this Request to Lift Surrender Condition, AHP will provide the Commission with any updates regarding negotiation status, as appropriate. In filing this Request to Lift Surrender Condition, AHP does not waive its arguments and points on appeal, but AHP acknowledges that a grant of AHP's Request to Lift Surrender Condition would render its pending appeal moot, and AHP would move to dismiss/withdraw its appeal accordingly at that time.

B. Discussion

Under AS 42.05.241, when the Commission grants a CPCN, it may attach "the terms and conditions it considers necessary to protect and promote the public interest." Under AS 42.05.271(1) the Commission may modify a CPCN "after notice and opportunity for hearing and for good cause shown." The Commission has previously vacated a condition attached to a CPCN when the reason for the condition is no longer a concern. In Docket U-11-067, the Commission granted Oasis Water, LLC's ("Oasis") application for a CPCN, subject to eight conditions.[23] One condition was that Oasis management personnel were required to "satisfactorily complete a course on management of small utilities."[24] "The objective of [the] condition was to ensure that Oasis was properly managed."[25] Instead of Oasis' existing management personnel completing the required course, Oasis hired Northern Utility Services LLC to provide utility

[22] Order Extending Stay of Proceedings, Case No. 3AN-24-10554CI (Jul. 8, 2025).

[23] *See* Order No. U-11-067(2) at 10-11 (July 15, 2011).

[24] Orders No. U-11-013(9)/U-11-067(3) at 7 (May 28, 2015).

[25] *Id.*

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management services.[26] Since NUS had "extensive experience managing small water utilities," the Commission determined that the "that the objective behind [the] condition ha[d] been met and vacate[d] the condition."[27]

1. The Commission should lift the condition requiring the MOA surrender its voting rights on the EOC because the objective of the condition has been met.

Here, the Commission's objective behind its condition requiring the MOA surrender its EOC voting rights was to ensure "each member of the EOC [is] qualified to participate in meetings and knowledgeably discuss all issues related to management and operation of the Eklutna Project" while being "supported by an independent team consisting of the employees, contractors, and consultants required to operate their vertically integrated electric utility, each of which was interconnected with other vertically integrated electric utilities."[28] As discussed in more detail below, Mr. Mark Spafford, P.E., has assumed the role as Director of AHP after Mr. Mark Corsentino stepped down on June 13, 2025. Mr. Spafford is more than qualified to participate in meetings and knowledgeably discuss all issues related to management and operation of the Eklutna Project. To assist Mark Spafford in managing the current workload associated with AHP in concert with his other duties, Mark Schimscheimer will be moving from his engineering role at AWWU to a new engineering role within Anchorage Hydropower. Creation of this new

[26] *See id.*

[27] *Id.*

[28] Order No. U-24-024(8) at 33.

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role is currently in progress within the HR Department. Further, the MOA has entered into contracts that can be used by AHP with engineering and accounting contractors and consultants "with the breadth and scope of relevant knowledge that the Chugach and MEA representatives continue to bring to the EOC meetings."[29]

Mark Spafford, P.E. – Director of AHP

Mr. Spafford is a licensed professional engineer with more than two decades of experience working on utility infrastructure, including more than a decade of work directly for regulated utilities. Mr. Spafford served for five years as General Manager of Solid Waste Services ("SWS"), and has significant experience with management of capital projects, staff, and utility infrastructure. He has been responsible for the evaluation and deployment of large municipal infrastructure challenges such as the development of a 30-MW mass-burn waste to energy facility, stormwater utility, and climate action plan. Mr. Spafford has provided engineering support on a regular basis to an electrical utility in Alaska for grid development and decarbonization services. Mr. Spafford's resume is attached as **Exhibit 1**.

Mr. Spafford assumed the role of Deputy Municipal Manager in November of 2024, with accountability for managing the Municipality's enterprises and utilities (AWWU, SWS, Transit, the Port of Alaska, and AHP) and the Safety Department. He was confirmed as the Director of AHP on June 12, 2025.[30] Mr. Spafford is assuming the duties of the Director of AHP

[29] *Id.*

[30] *See* **Exhibit 2**.

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in addition to his duties as Deputy Municipal Manager. This is not without precedent at the Municipality: three other directors at the Municipality current hold dual roles.

Mark Schimscheimer – Engineer at AHP

Mr. Schimscheimer has extensive experience with infrastructure development projects, including over a decade of experience as a project development manager with the Alaska Industrial Development and Export Authority ("AIDEA") and the Alaska Energy Authority ("AEA"). Mr. Schimscheimer's experience with AIDEA and AEA included projects involving rural power systems, the Healy Clean Coal Project, the Alaska Intertie, Railbelt generation and transmission studies, and Southcentral Alaska energy analysis. Mr. Schimscheimer has experience in negotiation of agreements regarding power sales, fuel source, plant purchase and sale, and operations and maintenance. Additionally, Mr. Schimscheimer's work has included negotiation of federal compliance orders, state and federal power plant permitting, federal grants management, and overall financial due diligence for such work including: village to village electric interties, modular power plant size and placement, and general utility business agreements. Mr. Schimsheimer's resume is attached as **Exhibit 3**.

Coffman Engineers, Inc.

The MOA entered a three-year contract for as-needed civil engineering professional services with Coffman Engineers, Inc. ("Coffman") on October 2, 2024.[31] The contract is attached

[31] The MOA will maintain comparable technical support through employment or contractors going forward.

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as **Exhibit 4**. Coffman's Anchorage office has a team of over 100 professionals who offer civil, structural, mechanical, and electrical engineering, as well as project management services. Coffman has expertise and experience with electric generation and transmission, including authoring a report on technologies that could support the decarbonization of the Alaska Railbelt; providing detailed engineering for the electrical infrastructure, power distribution, and communication system upgrades to synchronize, interconnect, and share power between two independent power generation facilities on the North Slope with a 12 mile long, 35kV tie-line; and providing planning and multidiscipline engineering support for the Galena Power Plant upgrade project that focused on replacing the medium voltage generation and distribution switchgear and generation control system while also allowing the flexibility to integrate solar PV and battery energy storage to this isolated microgrid. Biographies for Nicholai Smith, P.E.; Martin Miller, P.E.; and Lee Bolling, P.E. are included in **Exhibit 5**.

Electric Power Systems, Inc.

The MOA entered a three-year contract for as-needed professional services with Electric Power Systems, Inc. ("EPS") on June 28, 2022., which was extended on May 6, 2024, and June 27, 2025. The contracts are attached as **Exhibits 6, 7, and 8**. EPS has been serving Alaska's electric utilities for over 40 years. EPS has substantial experience working with Alaska Railbelt electric generation and transmission design, transmission line routing, and hydroelectric projects. EPS's experience includes projects such as Doyon Utilities' Fort Wainright Central Heating and Power Plant Upgrades; Chugach's University to Quartz Creek 115 (138) kV Transmission Line,

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Placer River Relation; and Chugach's Quartz Creek 115 kV Transmission Line Rebuild, Girdwood Substation to Indian Substation. EPS and its sister company, Electric Power Constructors, Inc. ("EPC") designed and constructed the Swan Lake Exciter and Unit Breaker Replacement in Ketchikan and the Tyee Lake Switchgear Upgrade in Wrangell. EPS has also prepared the following studies for the Alaska Energy Authority: a systems analysis of the Railbelt Transmission system for the years 2015 and 2023; a study on transmission routing, feasibility, costs, and required improvements to the Railbelt electrical system for the proposed Susitna Hydroelectric project; and a feasibility level study and assessment of several options for replacing or upgrading the existing line from Teeland Substation to Douglas Substation. Resumes for David Burlingame, P.E.; Dr. James W. Cote, Jr., P.E.; Rich Meier, P.E.; Greg Huffman, P.E., S.E.; Peter Blake, P.E.; Chris Davis, P.E.; Matt Williams, P.E.; and Carrie Miller, E.I.T. are included in **Exhibit 9**.

Engineering Design & Consulting, Inc.

The MOA entered a three-year contract for as-needed mechanical and electrical engineering professional services with Engineering Design & Consulting, Inc. ("EDC") on October 3, 2024. The contract is attached as **Exhibit 10**. EDC has over 30 years of experience providing mechanical and electrical designs in support of water and wastewater projects throughout Alaska. EDC's experience includes designing the new prime power, natural gas microturbine system for the City of Palmer's Spruce Well House, conducting the Ship Creek Energy Recovery Station Hydro Turbine Feasibility Study for AWWU, and preparing the Eklutna Water Treatment Facility, Facility and Asset Management Plan for AWWU. Biographies for John

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Pepe, P.E.; Roy Pace, P.E.; John Faschan, P.E.; Cory Wardrope, P.E.; and Zach Boldrick, P.E. are included in **Exhibit 11**.

Stantec Consulting Services, Inc.

The MOA entered a three-year contract for as-needed civil engineering professional services with Stantec Consulting Services, Inc. ("Stantec") on October 3, 2024. The contract is attached as **Exhibit 12**. Stantec is a global consulting firm with industry-leading expertise in hydropower and transmission engineering and design. Stantec's experience with electric generation and transmission projects in Alaska include leading a feasibility study for electrical transmission line connections between Soldotna, Beluga, and Anchorage; leading the wetlands, aquatic, land ownership, permitting, and NEPA tasks for the proposed wind farm at Fairbanks' Shovel Creek; multiple Bradley Lake projects, including the fisheries and instream flow for the original facility and permitting for the Battle Creek expansion; providing the full range of engineering, permitting, and economic studies associated with FERC relicensing of the Cooper Lake Hydroelectric Project; and performing a feasibility analysis of the hydropower resource potential of the glacial Tiekel River watershed and preparing a reconnaissance report documenting alternative scenarios for hydropower development. Stantec is currently leading an in-depth feasibility evaluation of a pumped-storage development at the Eklutna Project, as requested by the Governor. Resumes for Dean Syta, P.E.; Ryan Cooper, M.S., P.W.S.; Mike Manwaring, P.G.; Dylan Wade, P.E.; Brian Sadden P.E.; Heidi Wahto, M.P.A.; Kirby Gilbert; John Marshall, Ph.D.; Zach Baer, P.W.S.; and Victor Ross are included in **Exhibit 13**.

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Taku Engineering, LLC

The MOA entered a three-year contract for as-needed mechanical and electrical engineering professional services with Taku Engineering, LLC ("Taku") on October 7, 2024. The contract is attached as **Exhibit 14**. Taku is an Alaskan-owned multidisciplined engineering firm based out of Anchorage, Alaska and has been serving clients for 24 years. Taku provides a full suite of engineering and inspection services, including project management, electrical engineering mechanical engineering, project estimating, regulatory compliance support, and permitting. Taku's experience with hydroelectric projects includes partnering with Rentricity to install two water turbine generators in the Pyramid Water Treatment Plant in the City of Unalaska and designing the pump-as-turbine generator in Alaska Water and Wastewater Utility's 92nd Avenue Vault. Resumes for Bill Mott, P.E.; Bill Cobb, P.E.; Michael Wise, P.E.; and Curtis Nuttall, P.E. are included in **Exhibit 15**.

Wilks Consulting Services, Inc.

The MOA entered a three-year contract for as-needed professional accounting services with Wilks Consulting Services, Inc. ("Wilks Consulting") on February 9, 2023. The contract is attached as **Exhibit 16**. Wilks Consulting personnel have over 48 years combined of experience as MOA employees and have developed detailed financial statements, developed and maintained continuing property records systems for various MOA enterprise activities, provided audit support, year-end workpaper preparation and footnote preparation for both general government and enterprise funds for the MOA. Wilks Consulting assisted the MOA during and

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after the Transaction by drafting a white paper assessing the liabilities involved in the creation of AHP and liabilities found in the Eklutna PPA, ensured Commission orders to establish reserves were followed and recorded on AHP's financial statements, and reviewed the request for comment on the allocation of cost for the new power generation facility to ML&P. Resumes for David Wilks and William Wilks are included in **Exhibit 17**.

Altman, Roger & Co.

The MOA entered a three-year contract for as-needed professional accounting services with Altman, Roger & Co. ("Altman") on February 14, 2023. The contract is attached as **Exhibit 18**. Altman has decades of experience providing decades of experience in financial management, business advisory, and strategic planning. While Altman does not have extensive direct experience with the Uniform System of Accounts or maintaining continuing property records, it has a proven track record of quickly adapting to industry-specific standards and requirements. The contract with Altman is provided as an additional source of accounting expertise as needed. Biographies for Steve Wadleigh, CPA; Michael Fontenelle, CPA; and Jennifer Willette are included in **Exhibit 19**.

2. The MOA's continued surrender of its voting rights on the EOC is not necessary to protect and promote the public interest.

The Commission has stated that "continued receipt of generation service from the Eklutna Project is required for the convenience and necessity of the public."[32] The EOC is

[32] Order No. 39 at 63.

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responsible for all management decisions related to the operation, maintenance, and budget for the Eklutna Project.[33] While not explicitly stated, the Commission has implied that the MOA's failure to present a "person qualified to sit in EOC meetings and understand the discussion" or provide a "definitive support team for their EOC representative" necessitated the condition requiring the MOA's surrender of its voting rights in order to protect and promote the public interest.[34] As discussed above, Mr. Spafford, has assumed the role as Director of AHP and will be assisted by Mr. Schimscheimer, who will be moving from his engineering role at AWWU to a new engineering role within AHP. In addition, the MOA has entered into contracts with several engineering and accounting contractors and consultants to support Mr. Spafford in his role as the MOA's EOC representative. The condition requiring the MOA's surrender of its voting rights is no longer needed to protect and promote the public interest. Further, lifting the condition requiring the MOA's surrender of its voting rights is in the public interest. AHP is responsible for 19.05% of Eklutna Project costs but has no vote regarding how those costs are incurred.[35] This means taxpayers in the MOA pay for these costs without representation on the EOC. Allowing AHP to vote on the EOC would ensure the taxpayers are appropriately represented.

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[33] *See* Order No. U-24-024(8) at 2.

[34] *Id.* at 33.

[35] *See* Order No. 39 at 76.

II. ALTERNATIVE APPLICATION TO AMEND CERTIFICATE

Although AHP does not believe it is necessary to submit an application to amend its CPCN No. 780 in order for the Commission to lift the surrender requirement, it has provided one below in the event that the Commission determines it is as necessary and construes this request as an application to amend.

A. AHP is, and will continue to be, fit, willing, and able to provide wholesale bulk power service under the Eklutna PPA and the MEA PPA.

In accordance with AS 42.05.241, the Commission must determine whether AHP is ". . . fit, willing, and able to provide the utility services applied for and that the services are required for the convenience and necessity of the public." "When determining whether an entity is fit, willing, and able to provide service, [the Commission] examine[s] that entity's managerial, technical, and financial fitness."[36] AHP is, and will continue to be, fit, willing and able to provide wholesale bulk power service under the Eklutna PPA and the MEA PPA if the application is approved.

1. Financial Fitness

AHP is responsible for 19.05% of all operating, maintenance, and capital costs for the Eklutna Project.[37] AHP receives payments under the MEA PPA that are sufficient to pay the Eklutna Project costs AHP is responsible for. AHP has also established a $3 million reserve fund

[36] Order No. U-18-011(2) at 2 (July 2, 2018).

[37] *See* Order No. 39 at 73.

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to address any intra-year revenue shortfalls, to be used if revenues received are not sufficient in any year to cover AHP's portion of Eklutna Project costs. In addition, if unforeseen adverse events require it, the MOA has sufficient borrowing capacity to make necessary operating, maintenance, or capital investments related to its Eklutna ownership interest.

2. Managerial and Technical Fitness

The MOA has a Finance Department with experienced professional accountants that have the necessary expertise to perform the required accounting functions for AHP's limited post-Transactions Eklutna Project ownership interest and long term wholesale bulk power sales under the Eklutna PPA and MEA PPA. The Finance Department has, and will continue to, maintain AHP's books and records, consistent with the Uniform System of Accounts. These books and records include AHP's revenues received from the Eklutna PPA and MEA PPA and AHP's share of monthly operational and capital costs. The Finance Department tracks, and will continue to track, any assets purchased or constructed by the EOC, including tracking operation and maintenance costs for the assets. Further, the Finance Department maintains, and will continue to maintain, continuing property records to include original asset cost, annual depreciation, and net book value of all assets. In cases where the Finance Department does not have the expertise needed to fulfill its duties, the MOA has contracted with experienced contractors and consultants to assist on an as-needed basis, as discussed above.

The MOA has several individuals with professional management experience that will be able to oversee performance under the PPAs and participate in long term project planning

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and operational decision making through membership in the EOC. While the Municipal Manger will have operational oversight of AHP and the mayor will be responsible for policy decisions, ultimate managerial responsibility will lie with Deputy Municipal Manager Mark Spafford. Mr. Spafford assumed the role of Deputy Municipal Manager in November of 2024, with accountability for managing the Municipality's enterprises and utilities (AWWU, SWS, Transit, the Port of Alaska, and AHP) and the Safety Department. Mr. Spafford is assuming the duties of the Director of AHP in addition to his duties as Deputy Municipal Manager. This is not without precedent at the Municipality: three other directors at the Municipality current hold dual roles.

To assist Mark Spafford in managing the current workload associated with AHP in concert with his other duties, Mark Schimscheimer will be moving from his engineering role at AWWU to a new engineering role within Anchorage Hydropower. Creation of this new role is currently in progress within the HR Department. Mr. Spafford is a licensed P.E. with more than two decades of experience working on utility infrastructure, including more than a decade of work directly for regulated utilities. Mr. Spafford served for five years as General Manager of SWS, and has significant experience with management of capital projects, staff, and utility infrastructure. In concert with Mr. Schimscheimer's experience with infrastructure development projects, rural power systems, power sales, fuel source, plant purchase and sale, federal compliance orders, general utility business agreements, and operations and maintenance, Mr. Spafford's experience and expertise establish that the new staffing of AHP is fit, willing, and able to operate the utility. As discussed in more detail above, the MOA has contracted with experienced contractors and

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consultants to assist on an as-needed basis to ensure that AHP is managerially and technically fit to maintain its majority ownership interest of the Eklutna Project and exercise its voting rights on the EOC.

B. Form PU 101

In support of this application to amend CPCN No. 780, AHP provides the following information required by the Commission's Form PU 101:

PART I. GENERAL INFORMATION

A. AHP's name, address, and phone number are:

Municipality of Anchorage d/b/a
Anchorage Hydropower
632 West Sixth Avenue
Anchorage, Alaska, 99501
(907) 279-7671

B. All correspondence or communications regarding this application should be directed to:

Dean D. Thompson
Emily M. Walker
Counsel for Anchorage Hydropower
Kemppel, Huffman and Ellis, P.C.
255 E. Fireweed Lane
Anchorage, Alaska 99503
Telephone: (907) 277-1604
E-mail: ddt@khe.com
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C. If this application is granted, AHP will provide wholesale electric power service in the same service area and pursuant to the same power purchase agreements as it currently does.

D. This application seeks amendment of CPCN No. 780.

E. The service area sought in this application is in the certificated service area of MEA; however AHP does not believe that MEA provides wholesale power sales at the location sought by this application.

F. AHP is a municipally-owned utility and a department of the MOA. Its predecessor department, ML&P, was organized to provide electric service in 1932. As part of the Transaction, AHP was created to administer the remaining municipal-owned utility which consists of AHP's ownership share in the Eklutna Hydropower Project. The MOA is a home rule municipality organized under AS 29.10.010-.100.

G. AHP is wholly owned by the MOA.

H. The Commission has previously considered the MOA to be an affiliated interest of ML&P, and thus would likely consider the MOA to also be an affiliated interest of AHP.

I. AHP's books are kept at 632 West Sixth Avenue Anchorage, Alaska, 99501.

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PART II. GENERAL DOCUMENTS

A. Key Management. If this application will be approved, the MOA Municipal Manager will have operational oversight of AHP, the mayor will be responsible for policy decisions, and Mr. Spafford will be responsible for day-to-day operations.[38]

B. Organizational Documents. AHP is a Department of the MOA. As part of the MOA, ML&P operates under "The Home Rule Charter for The Municipality of Anchorage, Alaska," which is available online at:

https://library.municode.com/ak/anchorage/codes/code_of_ordinances?nodeled=PTICH.

A copy of the organizational chart is attached as **Exhibit 21**.

C. Benefit to the Public. As previously discussed, lifting the condition requiring the MOA's surrender of its voting rights on the EOC is in the public interest. AHP is responsible for 19.05% of Eklutna Project costs but has no vote regarding how those costs are incurred.[39] This means taxpayers in the MOA pay for these costs without representation on the EOC. Allowing AHP to vote on the EOC would ensure the taxpayers are appropriately represented. Further, the Commission has stated that "continued receipt of generation service from the Eklutna Project is required for the convenience and necessity of the public."[40] The EOC is responsible for all management decisions related to the operation, maintenance, and budget for the

[38] See **Exhibit 20**, AO No. 2025-57, Corrected.

[39] *See* Order No. 39 at 76.

[40] Order No. 39 at 63.

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Eklutna Project.[41] The MOA has appointed Mr. Spafford as the Director of AHP and its EOC representative. Mr. Spafford is more than qualified to participate in meetings and knowledgeably discuss all issues related to management and operation of the Eklutna Project. In his role as the MOA's EOC representative, Mr. Spafford will be assisted by Mr. Schimscheimer as well as the engineering and accounting contractors and consultants as described above. The condition requiring the MOA's surrender of its voting rights is no longer needed to protect and promote the public interest.

D. Service Area Maps. According to AHP's CPCN, "the Commission has determined that a description of the authorized area is not applicable under these circumstances for this Certificate," as AHP "only provides wholesale electric power to Eklutna Hydroelectric Project Switchyard located in the SW 1⁄4 of Section 17, T.16 N., R. 2 E, of the Seward Meridian." AHP is not proposing to modify its service area.

E. Utility Practices and Procedures. AHP provides service pursuant to the Eklutna PPA and the MEA PPA.

PART III. TECHNICAL INFORMATION

A. Electric Utility.

1. Not applicable. AHP is not requesting to serve an additional area.

2. Not applicable. AHP is not requesting to serve an additional area.

3. Not applicable. AHP is not requesting to serve an additional area.

[41] *See* Order No. U-24-024(8) at 2.

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4. Not applicable. AHP is not requesting to serve an additional area.

5. Not applicable. AHP is not requesting to serve an additional area.

6. Not applicable. AHP is not requesting to serve an additional area.

7. AHP's system meets the Alaska minimum electric safety standards adopted in AS 18.60.580 (*i.e.*, the National Electrical Safety Code ("NESC")). AHP has complied with the requirements specified in 3 AAC § 52.400 - 3 AAC § 52.500.

8. Not applicable. AHP is not requesting to serve an additional area.

PART IV. FINANCIAL INFORMATION

A. Financial Status. AHP's most recent annual report is attached as **Exhibit 22**.[42]

B. Sources of Financing. Not applicable. AHP is not proposing to build a new facility or expand its current facilities.

PART V. AUTHORIZATION

Pursuant to 3 AAC 48.645, by virtue of the signature below, AHP authorizes the Commission to publish notice of this Application in a newspaper of general circulation in Alaska. AHP agrees to pay the publication costs. Pursuant to 3 AAC 48.645 and .648(e), a draft public notice is attached as **Exhibit 23**. Documentation of arrangements for payment of publication of

[42] AHP requested an extension to file its 2023 and 2024 annual reports on March 20, 2025, because the financial statement audits for both years are not complete.

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the notice in the Anchorage Daily News, a newspaper of general circulation in Alaska, is attached as **Exhibit 24**.

III. CONCLUSION.

AHP respectfully requests the Commission, for good cause as discussed above, lift the condition that the MOA surrender its voting rights on the EOC. Alternatively, AHP respectfully submits that the public interest, convenience, and necessity would be furthered by a grant of this Application amending AHP's CPCN to lift the condition requiring the MOA surrender its voting rights on the EOC.

RESPECTFULLY SUBMITTED this 30th day of July, 2025, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: */s/ Dean D. Thompson*

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CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2025, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
By: */s/ Emily M. Walker*
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EXHIBIT 1

Mark Spafford, P.E.
mark.w.spafford@anchorageak.gov – (907) 830-7403 – 632 West 6th Ave. Suite 850, Anchorage, AK, 99501

SUMMARY

A collaborative leader with a record of success leading organizations, creating strategies and visions, and developing customer-oriented solutions to complex environmental, infrastructure, and organizational challenges. More than 20-years of engineering, operations and management experience in local government and Alaska Native community utilities, federal government and consulting organizations. Proven capabilities to blend innovation, creativity and practicality, delivering results and consistently exceeding expectations.

AREAS OF EXPERTISE

Water, Wastewater, Stormwater, and Solid Waste Utility Management – Strategic Planning
Private and Intergovernmental Partnerships – Organizational Development – Communication and Engagement
Energy Efficiency and Sustainability – Financial Analysis, Budgeting, Rate Planning

EDUCATION

Master of Science Environmental Engineering, University of Central Florida, May 2002
Bachelor of Science Environmental Engineering, University of Central Florida, December 2000

WORK HISTORY

November 2024 to Present *Deputy Municipal Manager, Municipality of Anchorage, Anchorage, Alaska*

Duties include oversight and management of municipal utility (Anchorage Water & Wastewater Utility, Solid Waste Services and Anchorage Hydropower) and enterprise (Merrill Field and Port of Alaska) departments and includes public transit department and the overall safety program for the Municipality of Anchorage. Also responsible for the evaluation and deployment of large municipal infrastructure challenges such as the development of a 30-MW mass-burn waste to energy facility, stormwater utility and climate action plan. Supervise department heads and provide guidance and mentorship with municipal processes. Provided engineering support on a regular basis to an electrical utility in Alaska for grid development and decarbonization services.

September 2022 to November 2024 *Water Group Leader/Client Service Lead, Jacobs, Anchorage, Alaska*

Duties include project management, administrative and technical staff mentoring and direction, leadership and engineering support for Alaska and national utility clients for water, wastewater, solid waste and recycling, decarbonization, electrical grid development and telecom activities. This includes the preparation of engineering plans and specifications, design calculation packages, providing engineering support utilities management recommendations for optimization purposes for a variety of small and large clients. Also responsible for the business development and new client identification for clients in each of the previously referenced utility disciplines for the Jacobs Alaska office. Supervise a staff of seven fulltime employees engaged in completing water/wastewater/solid waste and recycling/telecom and electrical utility development projects. Provided engineering support on a regular basis to an electrical utility in Alaska for grid development and decarbonization services.

October 2021 to September 2022 *Senior Project Manager, Tetra Tech, Anchorage, Alaska*

Duties included development and expansion of local office in Alaska and project management and leadership and mentoring of local staff. Included business development and the completion of work in water, wastewater, solid waste, recycling and electrical utility clients in and around Anchorage, AK.

May 2016 to August 2021 *General Manager, Department of Solid Waste Services, Municipality of Anchorage, Anchorage, Alaska*

The Department of Solid Waste Services (SWS) provides refuse collection and disposal services to approximately 300,000 citizens of the Municipality of Anchorage (MOA). As the General Manager of SWS, I am directly

accountable for leading a staff of 112 employees involved in the planning and delivery of refuse disposal and collection activities for the MOA. The disposal and collection utilities are enterprise activities which operate and provide: a 1,400-ton per day Class I RCRA Subtitle D municipal solid waste landfill; three transfer stations; an over 100 vehicle transfer and collection fleet; garbage and recycle collection services to over 12,000 residential and commercial customers; and, a sustainability division responsible for implementing Anchorage's climate action plan strategies and activities. Manage all financial, engineering, administrative, customer service, operational and maintenance related activities for SWS. This includes annual operational and capital budgeting activities and expenditure and revenues tracking for disposal and collection services. I routinely work with the Mayor, Municipal Manager, Administration staff and the Municipal Assembly to set policies for operation of the disposal and collection utilities as well as implement the vision and direction provided. Interact with customers and service providers and represent the Administration on issues related to solid waste management and recycling to the citizens of the MOA. Interacted with landfill gas to energy facility operators on the managing and selling of collected landfill gas for the operation of a 7.2-MW landfill gas to energy facility. Led SWS through the development of a first ever strategic plan, first master plan in over 30-years, long-range financial plan, and deployment of key performance indicator reporting on-line system to demonstrate performance and accountability with all major Department activities. Oversaw the development and implementation of enhanced recycling and organics collections programs for the MOA as well as developed the Energy Efficiency and Sustainability program and associated climate action plan. Led the effort to plan, design and construct a new $120M Central Transfer Station and conversion of an existing facility to an enhanced recycling and diversion campus for the MOA as well as $15M in new administration, maintenance and warm storage facilities improvements at the Anchorage Regional Landfill. Worked on the development of a statewide mass-burn waste to energy facility and $25M leachate pretreatment and disposal project which has required close collaboration with the Anchorage Water & Wastewater Utility.

October 2013 to May 2016 *Director, Operations and Maintenance Division, Anchorage Water and Wastewater Utility, Municipality of Anchorage, Anchorage, Alaska*

Responsible for approximately 90 employees whose tasks included the overall maintenance and repair of the water distribution system, wastewater collection system, major plant treatment equipment, electrical and mechanical, the Utility-wide SCADA system, buildings and grounds, and fleet vehicles. Responsible for skilled maintenance crafts personnel, directing work activities through subordinate superintendents and supervisors. Established work priorities, allocated manpower, determined staffing and equipment requirements to meet operational objectives, reviewed work schedules, and managed web-based project status reports to track progress and expenditures. Routinely worked with the general manager and leadership team on implementing the goals and vision from the strategic plan and other master plans for utility facilities.

January 2012 to October 2013 *Senior Program Manager, Denali Commission, Anchorage, Alaska*

Assisted with the development of a new role for the Commission with rural Alaska projects (emphasis on Alaska Native communities) with an emphasis on enhanced technical assistance in improving existing infrastructure or the development of new capital projects. Provided leadership for the development of a multi-agency effort to develop a model for community scale energy efficiency program for non-residential and public buildings. Majority of duties consisted of the following activities: develop and maintain working relationships with program partners; promote and maintain local decision-making; develop and support local champions; improve local administrative capacity; community identification of potential infrastructure projects; technical assistance for local project development; serve as a technical peer-review for pending infrastructure development projects; and, assist communities in developing grants, and/or developing working relationships with agencies and other potential funders.

September 2009 to October 2013 and December 2003-February 2007 *Senior Engineering Project Manager: September 2009 – October 2013; Engineer: January 2006 – February 2007; Associate Engineer: December 2003 – January 2006; Alaska Native Tribal Health Consortium, Anchorage, Alaska*

Duties consisted of Project Management, Design Engineering and Construction Management. Project Management duties consisted of the following: overseeing funding related to sanitation facilities improvement projects for numerous rural Alaska communities; assigning tasks to and the managing of engineering staff and technicians completing and preparing design calculations, specifications and construction plans; managing/reviewing A/E contracts and internal mechanical and electrical submittals; preparing state and federal permit applications for water and wastewater construction projects; providing technical support/advice to

communities regarding sanitation facilities; preparing funding applications for infrastructure improvement projects; and, the preparing of project construction cost estimates. Project Engineering activities included: design of water/wastewater treatment facilities; design of water distribution systems; design of wastewater collection/conveyance systems; engineering plans preparation; performing engineering analyses and calculations; performing bench-scale laboratory analyses; and, water treatment pilot-study design and implementation. Construction Management duties consisted of: the daily supervising of and providing support and guidance to construction project managers and superintendents; purchasing, tracking and arranging transportation for materials and equipment to remote areas within Alaska; and, budget tracking and analyses. Spent approximately two years as a detailed employee to the Denali Commission, see above description.

February 2007 to September 2009 *City Engineer – Environmental Utilities Department, City of St. Cloud, St. Cloud, Florida*

Duties consisted of supervising the engineering and operational divisions within the City of St. Cloud's Environmental Utilities Department, which included project management, project engineering and construction management on numerous different projects simultaneously. Engineering responsibilities included: direct supervision of utilities engineer and engineering assistant; the training of engineering staff members in their individual responsibilities as well as providing regular formal as well as non-formal performance evaluations; assisting in the drafting, planning and design of City capital improvement projects; management of the City's water, wastewater and non-potable water hydraulic models; conducting consultant and construction project reviews; providing technical support and assistance to all operational Divisions throughout the Department as well as the City; attendance at City Council meetings to provide information to Council members regarding proposed projects and purchases as well as on an as requested basis by the Director of Environmental Utilities; coordination with engineering and technical personnel from numerous local, state and federal agencies; supervision of the construction of City facilities to ensure consistency with codes and standards; and, the implementation and enforcement of all City policies and standards within the engineering division. Operational responsibilities included the following: providing guidance to the Operations Manager and staff; ensuring the efficient day to day operation and maintenance of two, 3 MGD aeration and a 9 MGD MIEX water treatment facility; one 6.0 MGD water repump station; one 6.5 MGD water repump station; one 6 MGD Modified Ludzack-Ettinger (MLE) wastewater treatment facility; 85 lift stations; a lines system (responsible for line maintenance, construction and system control) division, with approximately 60 department employees; assignment of work goals, objectives and expectations to division personnel; review and preparation of division budgets for departmental and City wide review; and, enforcement of safe work practices on City as well as contract work sites.

April 2002 to November 2003 *Senior Staff Engineer April 2003 – November 2003, Staff Engineer April 2002 – April 2003, GeoSyntec Consultants, Florida Branch*

Duties included preparation of engineering plans and specifications, design calculation packages, providing engineering support for a variety of small and large clients and performing numerous environmental related field activities. Completed engineering design analysis and calculation packages for industrial wastewater (leachate) collection system design, force-main system design, slope stability analysis, pipe structural integrity, bearing capacity and consolidation, as well as in-depth feasibility studies for several large and small scale groundwater treatment projects located throughout the United States. Provided engineering support on a regular basis to a large solid waste company. Support consisted of future planning and financial status updates for over fifty solid waste facilities. Environmental field activities performed have included groundwater monitoring well sampling, soil sampling, oversight of drilling operations related to the installation of groundwater wells and geotechnical investigations, and system operational maintenance on three different groundwater treatment systems.

May 2000 to April 2002 *Post-Graduate Research Assistant, University of Central Florida, Orlando, FL*

Conducted research related to the Florida Bioreactor Demonstration Landfill Project. Duties included data collection, interpretation of water pressure head data, development of recommendations, monthly report preparation, and final report preparation to evaluate the performance of three different landfill leachate collection and removal systems, as well as lab and field experiments on sensors used for the measurement of water pressure head. Also performed design, set-up, and routine maintenance of three data collection stations throughout the state of Florida.

May 1999 to July 2000 *Engineer Technician, Orange County Solid Waste Division, Orlando, FL*

Responsibilities included preparing monthly flow monitoring reports for NPDES (EPA) and FDEP agencies, quarterly surface emissions monitoring for methane, liner integrity inspections and report preparation, leachate and water quality sampling as well as various other duties related to the management and operation of a large municipal solid waste management program.

COMPUTER SKILLS

- Proficient on Microsoft Office programs such as EXCEL, Word, PowerPoint, etc.

LICENSES, CLASSES, PUBLICATIONS & CERTIFICATES

- Professional Engineer (P.E.) Registration - State of Alaska, License Number: AEL C 11298
- Project Management Bootcamp, PSMJ Resources, Inc., October 2009
- "Performance Evaluation of Landfill Liner Systems using Pressure Transducers", Master's Thesis, University of Central Florida, April 2002
- "Chignik Lake Water Treatment Plant Pilot Testing", AWWMA Journal Article, Summer 2006; WEFTEC 2007 Proceedings
- "Reuse on Steroids – An Aggressive Program for Reuse Water Expansion and Conservation", WaterReuse Association 2007 Conference Proceedings, Co-Author
- "Maximo on Steroids – Anchorage Water & Wastewater Utility's Journey to Improved Performance Management", AWWA/WEF Utility Management Conference 2014 Proceedings
- "Sustainability on Steroids", WasteExpo 2019 Proceedings
- "Anchorage Regional Landfill's Doomsday Clock", American Public Works Association Reporter, March 2020
- "Sustainability on Steroids (Central Transfer Station article)", American Public Works Association, March 2021

HIGHLIGHTED CURRENT AND PAST PROFESSIONAL AFFILIATIONS, COMMITTEE MEMBERSHIPS

- Municipality of Anchorage, On-Site Wastewater System Technical Review Committee Board Member, February 2010 to November 2017
- Member of: Solid Waste Association of North America (SWANA); Municipal Waste Management Association (MWMA); American Society of Civil Engineers (ASCE); Water Environment Federation (WEF); American Public Works Association (APWA); and, American Water Works Association (AWWA)
- Member, WEF Utility Management Committee, September 2015 to Present
- Executive Committee Member, MWMA, October 2017 to Present
- American Public Works Association Solid Waste Committee Member, August 2019 to Present
- Board Member of the Alaskans for Litter Prevention and Recycling, April 2021 to Present
- Member WEF Liquids and Residuals Treatment Committee, April 2021 to Present

References furnished upon request.

EXHIBIT 2

MUNICIPALITY OF ANCHORAGE

Assembly Memorandum

AM No. 463 - 2025

Meeting Date: June 10, 2025

Municipal Clerk's Office
Approved
Date: June 10, 2025

FROM: MAYOR

SUBJECT: EXECUTIVE APPOINTMENT – MARK W. SPAFFORD, DIRECTOR OF ANCHORAGE HYDROPOWER UTILITY.

Pursuant to Anchorage Municipal Charter section 5.02 and Anchorage Municipal Code sections 2.30.095, 3.20.020, and 3.20.070, I ask the Assembly to confirm the following executive and department head that I have appointed:

Name	Position
Mark W. Spafford	Anchorage Hydropower Director

A resume submitted in accordance with Anchorage Municipal code section 3.30.173 is attached for your information.

THE ADMINISTRATION RECOMMENDS APPROVAL.

Prepared by:	Municipal Manager's Office
Approved by:	Annmarie Billingsley, Acting HR Director
Concur:	William D. Falsey, Chief Administrative Officer
Concur:	Rebecca A. Windt Pearson, Municipal Manager
Respectfully submitted:	Suzanne LaFrance, Mayor

Mark Spafford, P.E.

mark.w.spafford@anchorageak.gov – (907) 830-7403 – 632 West 6th Ave. Suite 850, Anchorage, AK, 99501

SUMMARY

A collaborative leader with a record of success leading organizations, creating strategies and visions, and developing customer-oriented solutions to complex environmental, infrastructure, and organizational challenges. More than 20-years of engineering, operations and management experience in local government and Alaska Native community utilities, federal government and consulting organizations. Proven capabilities to blend innovation, creativity and practicality, delivering results and consistently exceeding expectations.

AREAS OF EXPERTISE

Water, Wastewater, Stormwater, and Solid Waste Utility Management – Strategic Planning
Private and Intergovernmental Partnerships – Organizational Development – Communication and Engagement
Energy Efficiency and Sustainability – Financial Analysis, Budgeting, Rate Planning

EDUCATION

Master of Science Environmental Engineering, University of Central Florida, May 2002
Bachelor of Science Environmental Engineering, University of Central Florida, December 2000

WORK HISTORY

November 2024 to Present *Deputy Municipal Manager, Municipality of Anchorage, Anchorage, Alaska*

Duties include oversight and management of municipal utility (Anchorage Water & Wastewater Utility, Solid Waste Services and Anchorage Hydropower) and enterprise (Merrill Field and Port of Alaska) departments and includes public transit department and the overall safety program for the Municipality of Anchorage. Also responsible for the evaluation and deployment of large municipal infrastructure challenges such as the development of a 30-MW mass-burn waste to energy facility, stormwater utility and climate action plan. Supervise department heads and provide guidance and mentorship with municipal processes. Provided engineering support on a regular basis to an electrical utility in Alaska for grid development and decarbonization services.

September 2022 to November 2024 *Water Group Leader/Client Service Lead, Jacobs, Anchorage, Alaska*

Duties include project management, administrative and technical staff mentoring and direction, leadership and engineering support for Alaska and national utility clients for water, wastewater, solid waste and recycling, decarbonization, electrical grid development and telecom activities. This includes the preparation of engineering plans and specifications, design calculation packages, providing engineering support utilities management recommendations for optimization purposes for a variety of small and large clients. Also responsible for the business development and new client identification for clients in each of the previously referenced utility disciplines for the Jacobs Alaska office. Supervise a staff of seven fulltime employees engaged in completing water/wastewater/solid waste and recycling/telecom and electrical utility development projects. Provided engineering support on a regular basis to an electrical utility in Alaska for grid development and decarbonization services.

October 2021 to September 2022 *Senior Project Manager, Tetra Tech, Anchorage, Alaska*

Duties included development and expansion of local office in Alaska and project management and leadership and mentoring of local staff. Included business development and the completion of work in water, wastewater, solid waste, recycling and electrical utility clients in and around Anchorage, AK.

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communities regarding sanitation facilities; preparing funding applications for infrastructure improvement projects; and, the preparing of project construction cost estimates. Project Engineering activities included: design of water/wastewater treatment facilities; design of water distribution systems; design of wastewater collection/conveyance systems; engineering plans preparation; performing engineering analyses and calculations; performing bench-scale laboratory analyses; and, water treatment pilot-study design and implementation. Construction Management duties consisted of: the daily supervising of and providing support and guidance to construction project managers and superintendents; purchasing, tracking and arranging transportation for materials and equipment to remote areas within Alaska; and, budget tracking and analyses. Spent approximately two years as a detailed employee to the Denali Commission, see above description.

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May 2000 to April 2002 *Post-Graduate Research Assistant, University of Central Florida, Orlando, FL*

Conducted research related to the Florida Bioreactor Demonstration Landfill Project. Duties included data collection, interpretation of water pressure head data, development of recommendations, monthly report preparation, and final report preparation to evaluate the performance of three different landfill leachate collection and removal systems, as well as lab and field experiments on sensors used for the measurement of water pressure head. Also performed design, set-up, and routine maintenance of three data collection stations throughout the state of Florida.

May 1999 to July 2000 *Engineer Technician, Orange County Solid Waste Division, Orlando, FL*

EXHIBIT 3

MARK A. SCHIMSCHEIMER, PE

[redacted]

Education & Registration

BS - Civil Engineering; CSUC; 1993
MSPM - (Master of Science in Project Management) UAA, various classes
PE - State of Alaska, Civil Engineer 10955
PMP - Project Management Professional 1925650 (lapsed)
Arctic Engineering – University of Alaska, 1993
CDT - Contract Document Technologist, Construction Specification Institute (CSI)
IEDC/CDFA – Development Finance, various classes

Experience

2019-present: ***Director of Engineering, Anchorage Water and Wastewater Utility (AWWU):*** Responsible for a staff of 45 and annual budgets more than $50 million. Sections of the Engineering Division includes Development Services, Project Management, and Asset Management Planning. Utility serves a metropolitan population of 300,000, processes and distributes 50 MGPD of drinking water and process 45 MGPD of wastewater. Distribution and collection systems are deep-bury for frost conditions. All assets are located in a high seismic region. Step-up General Manager as required. Significant interface with Municipal Assembly, Administration, and State and Federal elected officials. Accomplishments include:

- Division & Utility reorganization: reconfigured division to achieve cost and deliverable efficiencies (eliminated former position).
- Pioneered utility first Public-Private Partnership to develop infrastructure in support of economic development projects

2017- 2019: ***Planning and Development Services Manager*** AWWU, Anchorage, Alaska. Responsible for special assessment districts, development services, real estate management, third party project coordination, and addressing miscellaneous public and utility concerns. Position requires diplomatic abilities towards conflict resolution and negotiations with municipal departments, government officials, and the public at large.

- Water Master Plan: 50,000 customers with a peak daily demand of 40 MGD.
- Risk and Resiliency Assessment: Federal requirements stipulate Assessment be completed to AWWA J100 standards by March 2020.
- Asset Management Plan(s): facility assessments, O&M procedures, break rates, ROI

2015: ***Managing Partner***: Alaska LNG Exporters, Anchorage, Alaska. In conjunction with international business partners created a Delaware based LLC with the goal of exporting excess and stranded Cook Inlet Basin natural gas to Pacific Rim customers. Formulated business plan, confidentiality agreements, and qualified investor presentations. Currently on hold pending Natural Gas price recovery.

2010- 2017: ***Managing Partner***: SMR Developers, Anchorage, Alaska. Formed in 2010, Owner and Managing Partner of a real estate development company. Responsible for all aspects of the corporation: Investor management, financing, accounting, subcontractor management, engineering & permitting, financial and risk analysis.

2013-2015: ***Project Manager***: NANA WorleyParsons, Anchorage, Alaska. Project Manager for mining and energy related projects. Clients include Teck Alaska, Pebble Limited Partnership (PLP) and ConocoPhillips Alaska (CPAI). Specific activities include preparation of proposals, management of work share partners, client interface and overall project management activities. Project types included green-field North Slope drill sites, power grid extensions, subcontracting (EPS), water treatment facilities and LNG handling facilities

2001-2013: ***Project Development Manager***: AIDEA/AEA, Anchorage, Alaska (AIDEA is a small capital-intensive enterprise investment corporation of the State of Alaska wherein each person has wide authority and responsibilities, AEA is a similar not-for-profit energy authority)

- AIDEA: Responsible for approximately $1 Billion of projects at any given time. Duties included all development (concept through execution and closure) and operational aspects of mining, power generation, and vertical construction projects financed by AIDEA.
- AEA: Bulk fuel upgrade and replacement projects throughout rural Alaska (20 projects with a value of $50 million). Responsible for all project phases from conception through close-out including contract negotiation, award and management of Multi-Discipline Design Contracts and Construction Management contracts.
- Projects included village to village electric interties, modular power plant size and placement, utility business agreements

Specific AIDEA activities included:

- Oversee the planning and conceptual design study for an Arctic deep-water port proposed to serve both the Red Dog Mine District and the Western Arctic Coal
- Responsible for an Arctic-grade ore concentrate trans-shipment
- Manage professional technical, legal and construction (EPC, CM, DB, DBB) and asset specific operations contracts
- Reviews all specialty inspection reports such as feasibility, design, design review, value engineering
- Facility inspection to observe condition, maintenance activities, and operation procedures
- Highly familiar with applicable regulations and permitting agencies (EPA, State) regarding NEPA, Clean Air Act, EIS, NPDES
- Negotiation of contracts and litigation settlements in excess of $150 million
- Healy Clean Coal, a 50MW coal-fired power plant: management of litigation team in an unresolved $175 million dispute, plant permitting, negotiation of power sales agreement, project development agreement, coal supply contract, O&M, custodial and transmission contracts, and various agreements and contracts as required. Negotiated sale of asset.
- Negotiated Consent Decree for Title V air permit for plant.

Specific AEA activities included:

- Authored and negotiated master Business Plan requiring sustainability of a rural Alaskan village utility (power & bulk fuel) that became a funding requirement of the Denali Commission. Interfaced with Denali Commission (Federal Agency), USDA/RUS funding program, HUD funding, State and Federal regulators, and village leaders and communities throughout Alaska.

- Authored program manual for $200 million energy program, created master funding schedule. Negotiated all aspects of the program with local leaders, and funding agencies (Federal & State Grants)

1998-2001: ***Project Manager****:* Arctic Slope Consulting Inc., (full time in Barrow) Barrow, Alaska (This company was a subsidiary of ASRC, sold to NANA and is now DBA WHPacific)

- Sr. Project Manager on all Alaska Arctic North Slope village water & sewer projects (approx. $350 million). Responsible for client contact (marketing), office workload management among various project managers, financial tracking and reporting, construction administration proposals & budgeting. Reorganized office and revised & updated document control system including creation of project control tracking procedures. Part of negotiation team on multiple $50 million projects.

- Owner's Construction Representative (OCR) on Alaska Arctic North Slope water and sewer projects for Pt Hope, Nuiqsut, & Anaktuvuk Pass (combined cost approx. $150 million). Projects included construction of sewer treatment and water treatment facilities, all direct-bury collection and distribution systems, and related auxiliary construction. Responsible for pay requests, DC/VRs, change orders, site visits, inspectors, and communication between the owner & the contractor.

1998: ***Superintendent, Surveyor***: UIC Construction, Inc., Anchorage, Alaska

- Site Supervisor and General Foreman for 20-person Alaska Native crew ($4 million per season). Responsibilities included all site paperwork, time sheets, quantity tracking, and scheduling, HR issues, interface with the owner's representative.
- Survey Party Chief on NSB Village Sewer and Water Projects (Anaktuvuk Pass & Pt. Lay). Included project layout, and substantial redesign work.

1994-1998: ***Project Engineer***: Bristol Environmental Services Corporation, Anchorage, Alaska (The business unit no longer exists in the same form)

- Environmental site investigations, geophysical surveys, product recovery systems, large-scale HAZMAT cleanups.
- Experience in environmental cleanup associated with Arctic production facilities

1995 (summer): ***Project Engineer***: South Coast, Inc., Ketchikan, Alaska (This company no longer exists)

- Survey Party Chief and Construction Engineer for Bethel runway rebuild project. ($4 million). Surveyor of road realignment and utilities placement ($1.5 million).
- Survey Party Chief and Construction Supervisor of new airport runway, apron, and access roads ($5.5 million).
- Surveyor for marine ferry terminal dock ($7.75 million). Redesigned highway alignment, drainage flows and culvert placement and utility conflicts on highway and bridge reconstruction project ($4 million).
- General Foreman on Petersburg seaplane float dredging and construction project ($2.5 million).

1993-1994: ***Project Engineer***: Arctic GeoScience, Inc., Anchorage, Alaska, (This company no longer exists)

- Engineered and designed drill pad and road system to support oil exploration activities in Arctic Russia. Design issues included geotechnical analysis, thermal analysis of permafrost stability, and layout of man-camp, flare pit, tank farm, and power modals.
- Served as CONOCO's on-site representative overseeing the winter construction of the system and the placement of the drill rig and ancillary equipment units.

Public Service Activities

- Chair, South Golden View Rural Road Service Area
    - Public Official, seat won through Municipal Election, April 2008, re-elected 2010, 2013, 2016
    - Annual budget $750K of direct tax revenue, grants of up to $4.5 million

- **Candidate for Assembly:** April 2016
- **Participant**: November 2014 Governor Walker/Mallott "Transition Team Member" for Consumer Energy Issues.
- **Participant**: June 2015 "Conversations with Alaskan", Fairbanks, Alaska. Three-day event to give feedback to the Administration on current budget issues and proposed solutions.
- **Storm Water Utility Steering Committee (2017-18)**: member representing rural road service areas

EXHIBIT 4

Docusign Envelope ID: 3138D9E6-B368-49BC-9FC5-0B5F5778AB70

CONTRACT FOR PROFESSIONAL SERVICES WITH COFFMAN ENGINEERS, INC

In consideration of the mutual promises herein, ANCHORAGE and COFFMAN ENGINEERS, INC. agree as follows. This contract consists of:

A. Part I, consisting of 15 sections of Special Provisions
B. Part II, consisting of 11 sections of General Provisions

PART I
SPECIAL PROVISIONS

Section 1. Definitions.

A. "Administrator" means the Engineering Division Director of the Anchorage Water and Wastewater Utility or their designee
B. "Anchorage" means the Municipality of Anchorage.
C. “Owner” means the Anchorage Water and Wastewater Utility
D. "Contractor" means Coffman Engineers, Inc.

Section 2. Scope of Services.

A. Individual delivery orders Contract Task Orders (CTOs) will be issued for specific Owner requested work items. The Contractor is to perform the professional services required to complete the tasks set forth in each CTO.

B. The Contractor shall respond to each CTO with a proposal detailing scope, cost, subcontractor involvement, and time required to complete the work in each CTO. AWWU and the Contractor may refine the proposal for clarification of the scope of services prior to issuing Notice to Proceed for the CTO.

C. Each CTO is limited in scope to the work requested in the request for proposal (RFP 2024P017) that led to this contract and as stated below;

1. This term contract is limited to Civil Engineering and all related branches of Civil Engineering such as but not limited to structural and environmental services for study, design, inspection and/or construction management services.

2. Services may include, but are not limited to studying, reporting on, designing, inspecting, and managing parts of or entire projects for road, site, parking areas, water and sanitary sewer piping as well as facility upgrades.

3. The Contractor may utilize subcontractors in support of Civil Engineering task orders, such as but not limited to specialty knowledge consultants, survey, right-of-way acquisition, public involvement, project controls, project management, specialty training and event hosting. See Section 15 for additional requirements regarding subcontractors and work proposals.

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D. A Purchase Order (PO) will be issued against this contract for each specific CTO. No work is authorized nor may commence without receipt of a PO. Once received, the Contractor shall perform the professional services required to complete the CTO contained therein. Individual PO's are not to exceed $250,000.00, unless Anchorage's Purchasing Director or their designee approves of a greater amount.

E. Anchorage shall not allow any claim for services other than those described in this section. However, the Contractor may provide, at its own expense, any other services that are consistent with this contract.

Section 3. Time for Performance.

A. This contract becomes effective when signed on behalf of Anchorage and shall remain in effect for three year(s) from the date of final signature.

B. Upon receipt of a PO authorizing work, the Contractor shall commence performance of that work and complete that performance in accordance with the schedule contained therein.

Section 4. Compensation; Method of Payment.

A. Subject to the Contractor's satisfactory performance, Anchorage shall pay the Contractor no more than SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($750,000.00) in accordance with this section.

B. Anchorage shall pay the Contractor for actions performed for a CTO issued under this contract in accordance with the schedule of professional fees provided in response to the Owner's request for proposals, as periodically updated, unless payment is restricted in this or other sections. Once per year, professional fees may be adjusted at a percentage rate that is less than or equal to the published consumer price index (CPI) for Contract Escalation of Anchorage for services other than medical. Any rate adjustment proposals must be mutually agreed to by the contract Administrator and the Contractor.

C. Each month the Contractor shall present a bill to the Owner describing the work for which it seeks payment and documenting expenses and fees to the satisfaction of the Owner. If any payment is withheld because the Contractor's performance is unsatisfactory, the Owner must, within ninety (90) days of the payment denial, notify the Contractor of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why.

D. The Contractor is not entitled to any compensation under this contract, other than is expressly provided for in this section.

E. As a condition of payment, the Contractor shall have paid all municipal taxes currently due and owing by the Contractor.

F. Labor rates for the Contractor and their subcontractors must be all inclusive. Separate charges for insurance, special pay, pay enhancements, employer paid contributions to retirement programs, employer paid benefits, overhead, and profit, and additional

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accessory office components associated with the charging position, such as but not limited to, internet, remote office, telephone, computer, computer programs, office supplies, office space, and furniture will not be allowed regardless of what is shown in the fee schedule in or as updated per item B in this section.

Section 5. Termination of the Contractor's Services.

The Contractor's services under Section 2 may be terminated:

A. By mutual consent of the parties.

B. For the convenience of Anchorage, provided that Anchorage notifies the Contractor in writing of its intent to terminate under this paragraph at least 10 days prior to the effective date of the termination.

C. For cause, by either party where the other party fails in any material way to perform its obligations under this contract. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefor, and the other party fails to cure the default within thirty (30) days after receiving the notice.

Section 6. Duties Upon Termination.

A. If Anchorage terminates the Contractor's services for convenience, Anchorage shall pay the Contractor for its actual costs reasonably incurred in performing before termination. Payment under this subsection shall never exceed the total compensation allowable under Section 4. All finished and unfinished documents and materials prepared by the Contractor shall become the property of Anchorage.

B. If the Contractor's services are terminated for cause, Anchorage shall pay the Contractor the reasonable value of the services satisfactorily rendered prior to termination less any damages suffered by Anchorage because of the Contractor's failure to perform satisfactorily. The reasonable value of the services rendered shall never exceed the contract rate for such services, and payment under this subsection shall not exceed ninety percent (90%) of the total compensation allowable under Section 4. Any finished or unfinished documents or materials prepared by the Contractor under this contract shall become the property of Anchorage at its option.

C. If the Contractor receives payments exceeding the amount to which it is entitled under subsections A or B of this section, he shall remit the excess to the Administrator within thirty (30) days of receiving notice to do so.

D. The Contractor shall not be entitled to any compensation under this section until the Contractor has delivered to the Administrator all documents, records, work product, materials and equipment owned by Anchorage and requested by the Administrator.

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E. If the Contractor's services are terminated, for whatever reason, the Contractor shall not claim any compensation under this contract, other than that allowed under this section.

F. Except as provided in this section, termination of the Contractor's services under Section 5 does not affect any other right or obligation of a party under this contract.

G. If a final audit has not been performed before the Contractor's services are terminated, Anchorage may recover any payments for costs disallowed as a result of the final audit.

Section 7. Insurance.

A. The Contractor shall maintain in good standing, for the entire period of the contact, the insurance described in subsection B of this section. Before rendering any services under this contract, the Contractor shall furnish the Administrator with a Certificate of Insurance in accordance with subsection B of this section in a form acceptable to the Risk Manager for Anchorage.

B. The Contractor shall provide the following insurance:

1) $500,000 Employers Liability and Workers Compensation as required by Alaska Law.

2) Commercial Automobile Liability in the amount of $1,000,000 combined single limit to include: owned, hired, and non-owned.

3) Commercial General Liability including:

a. $2,000,000 General Aggregate
b. $2,000,000 Products/Completed Operations
c. $1,000,000 Personal & Advertising Injury
d. $1,000,000 Each Occurrence
e. $5,000 Medical Payments

4) Professional Liability insurance with limits not less than $1,000,000 per occurrence and $2,000,000 aggregate.

5) Cyber/Privacy Liability insurance with limits not less than $3,000,000. The Cyber coverage shall include, but not be limited to, claims involving invasion of privacy violations, Information theft, and release of private information. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses.

C. Policies written on a "claims-made basis" must have a two (2) year tail of coverage, or an unbroken continuation of coverage for two (2) years from the completion of the contract requirements.

D. Each policy of insurance required by this section shall provide advance notice to the MOA/Contract Administrator prior to cancellation in accordance with the policy. If the insurer does not notify the MOA on policy cancellation it shall be the contractor’s responsibility to notify the MOA of such cancellation.

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E. Except for Workers Compensation and Professional Liability each policy is to name The Municipality as an "additional insured" and the actual policy endorsement shall accompany each Certificate of Insurance.

F. General Liability, Workers Compensation, and Automobile policies shall be endorsed to waive all rights of subrogation against the Municipality of Anchorage by reason of any payment made for claims under the above coverage. This policy endorsement shall accompany each Certificate of Insurance.

G. All policies for general liability shall be primary and noncontributing with any insurance that may be carried by the Municipality.

H. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Municipality requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Municipality.

I. Contractor shall require and verify that all subcontractors maintain insurance meeting all requirements stated herein, and Contractor shall ensure that the Municipality is an additional insured on insurance required from subcontractors.

Section 8. Assignments.

Unless otherwise allowed by this contract or in writing by the Administrator, any assignment by the Contractor of its interest in any part of this contract or any delegation of duties under this contract shall be void, and an attempt by the Contractor to assign any part of its interest or delegate duties under this contract shall give Anchorage the right immediately to terminate this contract without any liability for work performed.

Section 9. Ownership; Publication, Reproduction and Use of Material.

A. Except as otherwise provided herein, all data, documents and materials produced by the Contractor under this contract shall be the property of Anchorage, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright.

B. Should Anchorage elect to reuse Work products provided under this Contract for other than the original project and/or purpose, Anchorage will not hold Contractor liable for any damages resulting from Anchorage's reuse of work products for an unintended purpose. Additionally, any reuse of design drawings or specifications provided under this Contract must be limited to conceptual or preliminary use for adaptation and the original Constructor's or subcontractor's signature, professional seals and dates removed. Reuse of drawings and specifications, which require professional seals and dates removed, will

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be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for adaptation.

C. Equipment purchased by the Contractor with designated contract funds shall be the sole property of Anchorage marked and inventoried as such with a copy of the inventory forwarded to Anchorage.

Section 10. Notices.

Any notice required pertaining to the subject matter of this contract shall be either sent via facsimile (FAX) or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

Anchorage: Municipality of Anchorage
Anchorage Water and Wastewater Utility
Attn: James Armstrong, P.E.
3000 Arctic Boulevard
Anchorage, AK 99503-3898
FAX: (907) 562-0824

Contractor: Coffman Engineers, Inc.
Attn: Tom Looney, P.E.
301 W. Northern Lights., Suite 200
Anchorage, AK 99503
FAX: (907)276-5042
tom.looney@coffman.com

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or five (5) days after proof of proper posting.

Section 11. Contract Budget.

In connection with its performance under this contract the Contractor shall not make expenditures other than as provided in line items in the contract budget.

Section 12. Force Majeure.

A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.

B. As used in this contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this contract, including without limitation:

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1. Any interruption, suspension or interference resulting solely from the act of the Municipality or negligent act(s) of the Municipality not otherwise governed by the terms of this contract.
2. Strikes or work stoppages.
3. Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.
4. Order of court, administrative agencies or governmental officers other than the Municipality.

Section 13. Financial Management System.

The Contractor shall establish and maintain a financial management system that:

A. Provides accurate, current, and complete disclosure of all financial transactions relating to the contract;

B. Maintains separate accounts by source of funds for all revenues and expenditures and identifies the source and application of funds for the Contractor's performance under this contract, including information pertaining to subcontracts, obligations, unobligated balances, assets, liabilities, outlays and income;

C. Effectively controls and accounts for all municipal funds and contract property;

D. Compares actual expenditures with budgeted amounts and relates financial information to performance or productivity data including unit cost information where applicable;

E. Allocates administrative costs to direct service delivery units;

F. Minimizes the time between receipt of funds from Anchorage and their disbursement by the Contractor;

G. Provides accounting records supported by source documentation; and

H. Provides a systematic method assuring the timely and appropriate resolution of audit findings and recommendations.

Section 14. Funding Requirements.

If any funding source for this contract should impose additional requirements upon Anchorage for the use of those funds, the Contractor agrees to abide by those additional requirements immediately upon receipt of written notice thereof from Anchorage.

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Section 15. Subcontracts.

The Contractor may enter into subcontracts for the purchase of goods and services necessary for the performance of this contract, provided:

A. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefore. Each subcontract is to provide a rate sheet with same limitation placed on the rates as the Contractor.
B. Every subcontract under which the Contractor delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the Contractor.
C. Every subcontract in an amount exceeding $1,000.00 shall require reasonable access to business records of the subcontractor relating to the purchase of goods or services pursuant to the subcontract.
D. The Contractor is not allowed a markup for goods and services. In accordance with item A, this provision extends to subcontractors

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PART II

GENERAL CONTRACT PROVISIONS

Section 1. Relationship of Parties.

The Contractor shall perform its obligations hereunder as an independent contractor of Anchorage. Anchorage may administer the contract and monitor the Contractor's compliance with its obligations hereunder. Anchorage shall not supervise or direct the Contractor other than as provided in this section.

Section 2. Nondiscrimination.

A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, or marital status, or who is a "qualified individual with a disability", as that phrase is defined in the Americans With Disabilities Act of 1990. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, mental or physical disability, sexual orientation or gender identity. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. The Contractor shall state, in all solicitations or advertisements for employees to work on contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, or mental or physical disability.

C. The Contractor shall comply with all reporting requirements that may apply to it which the Anchorage Office of Equal Employment Opportunity Contract Compliance may establish by regulation. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.

D. The Contractor shall include the provisions of subsections A through C of this section in every subcontract or purchase order under this contract, so as to be binding upon every such subcontractor or vendor of the Contractor under this contract. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.

E. The Contractor shall comply with all applicable federal, state and municipal laws concerning the prohibition of discrimination including, but not limited to Title 5 and Title 7, Chapter 7.50 of the Anchorage Municipal Code.

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Section 3. Permits, Laws and Taxes.

The Contractor shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this contract. All actions taken by the Contractor under this contract shall comply with all applicable statutes, ordinances, rules and regulations. The Contractor shall pay all taxes pertaining to its performance under this contract.

Section 4. Nonwaiver.

The failure of either party at any time to enforce a provision of this contract shall in no way constitute a waiver of the provision, nor in any way affect the validity of this contract or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

Section 5. Amendment.

A. This contract shall only be amended, modified or changed by written document, executed by authorized representatives of the parties, with the same formality as this contract was executed.
B. For the purposes of any amendment modification or change to the terms and conditions of this contract, the only authorized representatives of the parties are:

Contractor: Tom Looney, P.E. – VP, Managing Principal

Anchorage: **Mayor, Municipal Manager or Approved Designee**

C. Any attempt to amend, modify, or change this contract by either an unauthorized representative or unauthorized means shall be void.

Section 6. Jurisdiction; Choice of Law.

Any civil action arising from this contract shall be brought in the Superior Court for the Third Judicial District of the State of Alaska at Anchorage. The law of the State of Alaska shall govern the rights and obligations of the parties under this contract.

Section 7. Severability.

Any provision of this contract decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the contract.

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Section 8. Integration.

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

Section 9. Liability.

A. The Contractor shall indemnify, defend, save, and hold Anchorage harmless from any claims, lawsuits or liability, including reasonable attorneys' fees and costs, arising from any wrongful or negligent act, error or omission of the Contractor or any subcontractor as a result of the Contractor's or any subcontractor's performance pursuant to this contract.

B. The Contractor shall not indemnify, defend, save and hold Anchorage harmless from claims, lawsuits, liability, including reasonable attorneys' fees and costs arising from a wrongful or negligent act, error or omission solely of Anchorage occurring during the course of or as a result of Anchorage's performance pursuant to this contract.

C. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Anchorage and the Contractor, the Contractor shall indemnify, defend, save and hold Anchorage harmless from only that portion of claims, lawsuits or liability, including attorneys' fees and costs, which result from the Contractor's or any subcontractor's wrongful or negligent acts occurring as a result of the Contractor's performance pursuant to this contract.

Section 10. Inspection and Retention of Records.

The Contractor shall, at any time during normal business hours and as often as Anchorage may deem necessary, make available to Anchorage, for examination, all records with respect to all matters covered by this contract for a period ending three years after the date the Contractor is to complete performance in accordance with Section 2 of the Special Provisions. Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this contract, to Anchorage, in such form and at such times as Anchorage may reasonably require. The Contractor shall permit Anchorage to audit, examine and make copies of such records, and to make audits of all invoices, materials, payrolls, records of personnel and other data relating to all matters covered by this contract. Anchorage may, at its option, permit the Contractor to submit its records to Anchorage in lieu of the retention requirements of this section.

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Section 11. Availability of Funds.

Payments under this contract require funds from future appropriations and are subject to future appropriations. If sufficient funds are not appropriated for payments required under this contract, this contract shall terminate without penalty to Anchorage and Anchorage shall not be obligated to make payments under this contract beyond those which have previously been appropriated.

IN WITNESS WHEREOF, the parties have executed this contract on the date and at the place shown below.

MUNICIPALITY OF ANCHORAGE

Mayor, Municipal Manager or Approved Designee

Date: 10/02/2024 | 3:48:19 PM AKDT

CONTRACTOR

Tom Looney

Name: Tom Looney, P.E.
VP, Managing Principal

Date: 10/02/2024 | 1:47:43 PM PDT

IRS Tax Identification No.91-105329
Tax Status: Taxable

RECOMMEND FOR APPROVAL:

Mark Corsentino

Mark A. Corsentino, P.E.
General Manager, AWWU

Date: 10/02/2024 | 11:24:56 AM AKDT

EXHIBIT 5

COFFMAN ENGINEERS

March 18, 2025

Municipality of Anchorage
Mark Corsentino
Director, Anchorage Hydropower Utility
632 W. Sixth Avenue
Anchorage, AK 99501

Subject: Notification of Contract Services Expansion – Anchorage Hydropower Utility

Dear Mr. Corsentino,
We appreciate the opportunity to expand our services to support the Anchorage Hydropower Utility (AHP). Below, we have outlined our firm's expertise and experience in response to your request. We have also included short resumes of key personnel who will be involved in providing these services. In addition to the staff highlighted below, *Coffman's Anchorage office has a team of 132 professionals who offer civil, structural, mechanical, electrical, and fire protection engineering, as well as corrosion control services, commissioning, landscape architecture, and project management services*. We are happy to work with AHP to outline the scope of services and define the right staff to support AHP.

1. Expertise and Experience with Electric Generation and Transmission

   - **Major Utility – Decarbonization Strategy**: Leveraging our multidiscipline experience across our company, Coffman authored a report on the technologies that could support the decarbonization of the Alaska Railbelt. The report was a comprehensive overview of nearly every technology that could be deployed to provide electricity or thermal energy to Alaska with an assessment of scale across the state.
   - **North Slope Electrical Power Sharing**: This project was for a confidential client and included detailed engineering for the electrical infrastructure, power distribution, and communication system upgrades required to synchronize, interconnect, and share power between two independent power generation facilities located on the North Slope of Alaska with a 12 mile long, 35kV tie-line.
   - **Galena Power Plant Upgrades**: Coffman provided planning and multidiscipline engineering support for this project focused on modernizing the Galena Power Plant by replacing the medium voltage generation and distribution switchgear and generation control system while also allowing the flexibility to integrate solar PV and battery energy storage to this isolated microgrid. This multi-phased project included scoping, design, owner's engineering, and commissioning. Currently, our team is designing electrical and communications systems for a new PV/BESS system for the project
   - **Eareckson Air Base Electrical Distribution Infrastructure**: Coffman facilitated an online partial discharge test and condition assessment of the complete electrical distribution system at Eareckson Air Station to determine existing infrastructure condition and level of degradation. The condition assessment was used by Coffman and the client to target replacement of degraded cable and help control project costs. The team also produced a detailed design for the

$40M bid-build construction project to replace six miles of degraded cable, demolish unnecessary equipment, replace 36 damaged transformers, replace 13 damaged cable junction pedestals, and upgrade feeder cross connection switch capabilities by installing 9 pad mounted switches. Construction was completed in 2024.

2. Expertise and Experience with Hydroelectric Projects

   - **Homer Electrical Association Corrosion Services**: Coffman provided comprehensive corrosion services for the Bradley Lake Hydroelectric Dam, commissioned by the Homer Electrical Association. Our work included commissioning new rectifiers and developing detailed design drawings for the Power Tunnel and Diversion Tunnel Gate Houses. Additionally, we conducted an in-depth analysis and provided a summary of corrosion mechanisms potentially causing accelerated corrosion on the Bradley Lake water intake valves.
   - **Kodiak Outletworks Penstock Inspections:** Coffman prepared and executed a comprehensive plan to assess the mechanical integrity of the 36" outletworks pipeline and the 96" and 69" penstock anomalies. This project involved performing detailed site visits, analyzing visual and non-destructive testing data across multiple years inspections, evaluating remaining pipeline strength, and preparing data summary reports that detailed the inspection findings. Additionally, we developed a repair option analysis for the identified anomalies.

3. Experience Maintaining Records in Accordance with Uniform System of Accounts and Maintain Continuing Property Records:

   - We do not have any experience with the Uniform System of Accounts or maintaining continuing property records.

PROPOSED STAFF:

As indicated above, we have a breadth of engineering services to offer and a depth of in-state staffing that AHP may find beneficial for this work. Below are three individuals that are well suited to support AHP, but I am open to discovering the specific needs of AHP and identifying the best staff that Coffman can offer. We can provide more detailed resumes upon request.

Nicholai Smith, PE (*AK#108597*) **| Principal, Electrical Engineer**
Nicholai brings 16 years of electrical engineering expertise, specializing in low and medium voltage power generation and distribution, energy conservation, and control system design. His extensive experience includes client project engineering support, multidiscipline design team management, electrical and instrumentation design, construction, and commissioning support for a wide variety of projects. These projects encompass medium voltage electrical distribution systems, utility power plant upgrades, oil and gas processing and production facilities, and associated SCADA systems.

Nicholai's recent relevant experience includes serving as the lead electrical engineer for electrical distribution line extensions, where he conducted on-site construction inspections. He has worked on projects for Chugach Electric Association for more than 12 years and is familiar with their facilities and processes. His comprehensive knowledge and hands-on experience in electrical engineering makes him a valuable asset to the team, capable of delivering effective solutions that align with the

Municipality's technical, engineering, and management goals. Nicholai co manages Coffman's Anchorage office electrical department (23 total staff).

Martin Miller, PE (*AK#12030*) **| Senior Mechanical Engineer**
Martin has over 21 years of mechanical design and project management experience, specializing in utility, industrial, and commercial projects. His extensive background encompasses all stages of project development, including planning, design, installation, commissioning, and operations. Notably, Martin has worked on at least 25 projects for Chugach Electric Association in the past eight years, providing him with valuable insights into electric generation and transmission systems, particularly within the Alaska Railbelt.

Prior to joining Coffman in 2013, Martin was involved in capital projects at a utility company, further enhancing his expertise in managing large-scale utility operations. His strong technical background and utility experience make him a valued member of our team.

Lee Bolling, PE (*AK#100010*) **| Senior Mechanical Engineer**
Lee Bolling, a lifelong Alaskan, brings 18 years of extensive design experience on projects throughout Alaska, serving as a project manager, design team leader, and lead mechanical engineer. His diverse background includes large industrial oil and gas projects, community energy audits, and alternative energy feasibility studies. Lee has conducted numerous feasibility studies, evaluating the cost-effectiveness of various alternative energy sources such as wind, hydroelectric, biomass, solar thermal, solar PV, and heat pump systems.

Lee has provided engineering services for Chugach Electric Association and other local utilities, where he has developed cost-effective solutions for generator overheating, designed new exhaust fan systems, and contributed to their general engineering contracts. His versatility and hands-on experience in mechanical engineering make him a great addition to the team, capable of delivering effective solutions that align with the Municipality's technical, engineering, and management goals.

I believe that Coffman can provide services for items 1 and 2 in the list above. If you require additional information, please contact me at the phone number on this letterhead or via email at ben.momblow@coffman.com.

Sincerely,

Ben Momblow, PE
Managing Principal

EXHIBIT 6

CONTRACT FOR PROFESSIONAL SERVICES WITH ELECTRIC POWER SYSTEMS, INC.

In consideration of the mutual promises herein, ANCHORAGE and ELECTRIC POWER SYSTEMS, INC. agree as follows. This contract consists of:

A. Part I, consisting of 15 sections of Special Provisions;
B. Part II, consisting of 10 sections of General Provisions;
C. Appendix A – Fee Schedule consisting of two pages.

PART I
SPECIAL PROVISIONS

Section 1. Definitions. In this contract:

A. "Administrator" means the Engineering Division Director of the Anchorage Water and Wastewater Utility or his/her designee.

B. "Anchorage" means the Municipality of Anchorage.

C. "Contractor" means Electric Power Systems, Inc.

Section 2. Scope of Services.

A. Individual delivery orders (Contract Task Orders (CTOs) will be issued for specific projects. The Contractor shall perform the Professional Services required to complete the tasks set forth in each CTO.

B. The Contractor shall respond to each CTO with a proposal detailing cost and time required to complete the work. AWWU and the Contractor may refine the proposal for clarification of the scope of services prior to issuing Notice to Proceed for the CTO.

C. Each CTO is limited in scope to the work requested in the request for proposal (RFP) that led to this contract and as stated below;

1. Provide services to negotiate acquisition of real property interests for right-of-way needs from private, public, and institutional landowners.
2. Will negotiate on behalf of AWWU for purchase of easements, land parcels, temporary construction permits, right of entry, and telecommunication sites
3. Provide support or lead negotiations, appraisal review, escrow and title insurance documents. Obtain and/or provide title reports, legal descriptions, condemnation procedure displacement, property management documents, process compensation payments, expert witness testimony, purchase agreements, and coordination with the Heritage Land Bank.

D. Anchorage shall not allow any claim for services other than those described in this section. However, the Contractor may provide, at its own expense, any other services that are consistent with this contract.

Section 3. Time for Performance.

A. This contract becomes effective when signed on behalf of Anchorage.

B. The Contractor shall commence performance of the work described in Part I Section 2 as agreed upon with each written notice-to-proceed for each task order.

C. The Contractor shall complete all work associated with this contract two (2) years from the date of contract execution by Anchorage.

Section 4. Compensation; Method of Payment.

A. Subject to the Contractor's satisfactory performance, Anchorage shall pay the Contractor on a time and material basis or lump sum basis a sum not to exceed FOUR HUNDRED FIFTY THOUSAND DOLLARS ($450,000.00) in accordance with this section.

B. Anchorage shall pay the Contractor in accordance with the schedule of professional fees attached as Appendix A and incorporated herein by reference for services actually performed under this contract.

C. Each month the Contractor shall present a bill to the Administrator describing the work for which it seeks payment and documenting expenses and fees to the satisfaction of the Administrator. If any payment is withheld because the Contractor's performance is unsatisfactory, the Administrator must, within ten (10) days of the payment denial, notify the Contractor of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why. The Contractor is not entitled to any compensation under this contract, other than is expressly provided for in this section.

D. As a condition of payment, the Contractor shall have paid all municipal taxes currently due and owing by the Contractor.

Section 5. Termination of the Contractor's Services.

The Contractor's services under Section 2 may be terminated:

A. By mutual consent of the parties.

B. For the convenience of Anchorage, provided that Anchorage notifies the Contractor in writing of its intent to terminate under this paragraph at least 10 days prior to the effective date of the termination.

C. For cause, by either party where the other party fails in any material way to perform its obligations under this contract. For the purposes of this clause and in accordance with language in the Request for Proposal, cause shall include the substitution of team members as listed in the Contractor's response to the Request for Proposal and included in this contract (if so stated), without the prior written consent of the owner. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to cure the default within thirty (30) calendar days after receiving the notice.

Section 6. Duties Upon Termination.

A. If Anchorage terminates the Contractor's services for convenience, Anchorage shall pay the Contractor for its actual costs reasonably incurred in performing

before termination. Payment under this subsection shall never exceed the total compensation allowable under Section 4. All finished and unfinished documents and materials prepared by the Contractor shall become the property of Anchorage.

B. If the Contractor's services are terminated for cause, Anchorage shall pay the Contractor the reasonable value of the services satisfactorily rendered prior to termination less any damages suffered by Anchorage because of the Contractor's failure to perform satisfactorily. The reasonable value of the services rendered shall never exceed the contract rate for such services, and payment under this subsection shall not exceed ninety percent (90%) of the total compensation allowable under Section 4. Any finished or unfinished documents or materials prepared by the Contractor under this contract shall become the property of Anchorage at its option.

C. If the Contractor receives payments exceeding the amount to which it is entitled under subsections A or B of this section, he shall remit the excess to the Administrator within thirty (30) days of receiving notice to do so.

D. The Contractor shall not be entitled to any compensation under this section until the Contractor has delivered to the Administrator all documents, records, work product, materials and equipment owned by Anchorage and requested by the Administrator.

E. If the Contractor's services are terminated, for whatever reason, the Contractor shall not claim any compensation under this contract, other than that allowed under this section.

F. If a final audit has not been performed before the Contractor's services are terminated, Anchorage may recover any payments for costs disallowed as a result of the final audit.

G. Except as provided in this section, termination of the Contractor's services under Section 5 does not affect any other right or obligation of a party under this contract.

Section 7. Insurance.

A. The Contractor shall maintain in good standing, for the entire period of the contract, the insurance described in subsection B of this section. Before rendering any services under this contract, the Contractor shall furnish the Administrator with proof of insurance in accordance with subsection B of this section in a form acceptable to the Risk Manager for Anchorage.

B. The Contractor shall provide the following insurance:

1.) $500,000 Employers Liability and Worker's Compensation as required by Alaska Law.

2.) Commercial Automobile Liability per occurrence in the amount of $500,000 single limit to include: owned, hired, and non-owned.

3.) Commercial General Liability in the amount of $1,000,000 combined single limit to include:

Premises Operations

Products and Completed Operations
Blanket Contractual

Broad Form Property Damage
Independent Contractors
Personal Injury

4.) Architects and Engineers Errors and Omissions Liability in the amount of $1,000,000.

Policies written on a "claims made basis" must have a two (2) year tail of coverage, or an unbroken continuation of coverage for two (2) years, from the completion of the contract requirements.

C. Each policy of insurance required by this section shall provide for no less than 20 days advance notice to the MOA/Contract Administrator prior to cancellation in accordance with the policy. If the insurer does not notify the MOA upon policy cancellation it shall be the contractor's responsibility to notify the MOA of such cancellation.

D. With the exception of Worker's Compensation and Professional Liability each policy shall name the Municipality of Anchorage as an "Additional/Named insured" and the actual policy endorsement shall accompany each Certificate of Insurance.

E. General Liability and Automobile policies shall be endorsed to waive all rights of subrogation against the Municipality of Anchorage by reason of any payment made for claims under the above coverage. This policy endorsement should accompany each Certificate of Insurance.

Section 8. Assignments.

Unless otherwise allowed by this contract or in writing by the Administrator, any assignment by the Contractor of its interest in any part of this contract or any delegation of duties under this contract shall be void, and an attempt by the Contractor to assign any part of its interest or delegate duties under this contract shall give Anchorage the right immediately to terminate this contract without any liability for work performed.

Section 9. Ownership; Publication, Reproduction and Use of Material.

A. Except as otherwise provided herein, all data, documents and materials produced by the Contractor under this contract shall be the property of Anchorage, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright.

B. Should Anchorage elect to reuse Work products provided under this Contract for other than the original project and/or purpose, Anchorage will not hold Contractor liable for any damages resulting from Anchorage's reuse of work products for an unintended purpose. Additionally, any reuse of design

drawings or specifications provided under this Contract must be limited to conceptual or preliminary use for adaptation and the original Constructor's or subcontractor's signature, professional seals and dates removed. Such reuse of drawings and specifications, which require professional seals and dates removed, will be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for adaptation.

C. Equipment purchased by the Contractor with designated contract funds shall be the sole property of Anchorage marked and inventoried as such with a copy of the inventory forwarded to Anchorage.

Section 10. Notices.

Any notice required pertaining to the subject matter of this contract shall be either sent via facsimile (FAX) or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

Anchorage: Municipality of Anchorage
Anchorage Water and Wastewater Utility
Attn: Brian Baus, P.E.
3000 Arctic Boulevard
Anchorage, AK 99503-3898
FAX: (907) 562-0824

Contractor: Electric Power Systems, Inc.
Attn: David Burlingame, P.E.
3305 Arctic Blvd. Suite 201
Anchorage, AK 99503
FAX: (907) 770-7749

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or five (5) days after proof of proper posting.

Section 11. Contract Budget.

In connection with its performance under this contract the Contractor shall not make expenditures other than as provided in line items in the contract budget.

Section 12. Force Majeure.

A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.

B. As used in this contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this contract, including without limitation:

1.) Any interruption, suspension or interference resulting solely from the act of Anchorage or negligent act(s) of Anchorage not otherwise governed by the terms of this contract.

2.) Strikes or work stoppages.

3.) Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil

disturbances or similar occurrences.

4.) Order of court, administrative agencies or governmental officers other than Anchorage.

Section 13. Financial Management System.

The Contractor shall establish and maintain a financial management system that:

A. Provides accurate, current, and complete disclosure of all financial transactions relating to the contract;

B. Maintains separate accounts by source of funds for all revenues and expenditures and identifies the source and application of funds for the Contractor's performance under this contract, including information pertaining to subcontracts, obligations, unobligated balances, assets, liabilities, outlays and income;

C. Effectively controls and accounts for all municipal funds and contract property;

D. Compares actual expenditures with budgeted amounts and relates financial information to performance or productivity data including unit cost information where applicable;

E. Allocates administrative costs to direct service delivery units;

F. Minimizes the time between receipt of funds from Anchorage and their disbursement by the Contractor;

G. Provides accounting records supported by source documentation; and

H. Provides a systematic method assuring the timely and appropriate resolution of audit findings and recommendations.

Section 14. Funding Requirements.

In the event that any funding source for this contract should impose additional requirements upon Anchorage for the use of those funds, the Contractor agrees to abide by those additional requirements immediately upon receipt of written notice thereof from Anchorage.

Section 15. Subcontracts.

The Contractor may enter into subcontracts for the purchase of goods and services necessary for the performance of this contract, provided:

A. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefore.

B. Every subcontract under which the Contractor delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the Contractor.

C. Every subcontract in an amount exceeding $1,000.00 shall require reasonable access to business records of the subcontractor relating to the purchase of goods or services pursuant to the subcontract.

PART II
GENERAL CONTRACT PROVISIONS

Section 1. Relationship of Parties.

The Contractor shall perform its obligations hereunder as an independent contractor of Anchorage. Anchorage may administer the contract and monitor the Contractor's compliance with its obligations hereunder. Anchorage shall not supervise or direct the Contractor other than as provided in this section.

Section 2. Nondiscrimination.

A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, or marital status or who is a "qualified individual with a disability," as that phrase is defined in the Americans With Disabilities Act of 1990. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, or mental or physical disability. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. The Contractor shall state, in all solicitations or advertisements for employees to work on contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical disability.

C. The Contractor shall comply with any and all reporting requirements that may apply to it which the Anchorage Office of Equal Employment Opportunity Contract Compliance may establish by regulation. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.

D. The Contractor shall include the provisions of subsections A through C of this section in every subcontract or purchase order under this contract, so as to be binding upon every such subcontractor or vendor of the Contractor under this contract. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.

E. The Contractor shall comply with all applicable federal, state and municipal laws concerning the prohibition of discrimination including, but not limited to Title 5 and Title 7, Chapter 7.50 of the Anchorage Municipal Code.

Section 3. Permits, Laws and Taxes.

The Contractor shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this contract. All actions taken by the

Contractor under this contract shall comply with all applicable statutes, ordinances, rules and regulations. The Contractor shall pay all taxes pertaining to its performance under this contract.

Section 4. Nonwaiver.

The failure of either party at any time to enforce a provision of this contract shall in no way constitute a waiver of the provision, nor in any way affect the validity of this contract or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

Section 5. Amendment.

A. This contract shall only be amended, modified or changed by writing, executed by authorized representatives of the parties, with the same formality as this contract was executed.

B. For the purposes of any amendment modification or change to the terms and conditions of this contract, the only authorized representatives of the parties are:

Contractor: David Burlingame, P.E.
Principal

Anchorage: **Mayor, Municipal Manager or Approved Designee**

C. Any attempt to amend, modify, or change this contract by either an unauthorized representative or unauthorized means shall be void.

Section 6. Jurisdiction; Choice of Law.

Any civil action rising from this contract shall be brought in the Superior Court for the Third Judicial District of the State of Alaska at Anchorage. The law of the State of Alaska shall govern the rights and obligations of the parties under this contract.

Section 7. Severability.

Any provision of this contract decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the contract.

Section 8. Integration.

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

Section 9. Liability.

A. The Contractor shall indemnify, defend, save, and hold Anchorage harmless from any claims, lawsuits or liability, including reasonable attorneys' fees and costs, arising from any wrongful or negligent act, error or omission of the Contractor or any subcontractor as a result of the Contractor's or any subcontractor's performance pursuant to this contract.

B. The Contractor shall not indemnify, defend, save and hold Anchorage harmless from claims, lawsuits, liability, or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of Anchorage occurring during the course of or as a result of the performance of this

contract.

C. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Anchorage and the Contractor, the Contractor shall indemnify, defend, save and hold Anchorage harmless from only that portion of claims, lawsuits or liability, including attorneys' fees and costs, which result from the Contractor's or any subcontractor's wrongful or negligent acts occurring as a result of the Contractor's performance pursuant to this contract.

Section 10. Inspection and Retention of Records.

The Contractor shall, at any time during normal business hours and as often as Anchorage may deem necessary, make available to Anchorage, for examination, all of its records with respect to all matters covered by this contract for a period ending three years after the date the Contractor is to complete performance in accordance with Section 2 of the Special Provisions. Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this contract, to Anchorage, in such form and at such times as Anchorage may reasonably require. The Contractor shall permit Anchorage to audit, examine and make copies of such records, and to make audits of all invoices, materials, payrolls, records of personnel and other data relating to all matters covered by this contract. Anchorage may, at its option, permit the Contractor to submit its records to Anchorage in lieu of the retention requirements of this section.

IN WITNESS WHEREOF, the parties have executed this amendment on the date and at the place shown below.

MUNICIPALITY OF ANCHORAGE

DocuSigned by:
Chris Hunter
D7837965494A47E...

Mayor, Municipal Manager or Approved Designee

Date: 6/28/2022

CONTRACTOR

DocuSigned by:
David Burlingame
A76ADDFC01964CA...

Name: David Burlingame, P.E.
Title: Principal
Date: 6/7/2022
IRS Tax Identification No. 92-0159852
Tax Status: Taxable[X] Non-Taxable[ ]

RECOMMENDED FOR APPROVAL

DocuSigned by:
E369BEAA2A01407...

Mark A. Corsentino, P.E.
General Manager, AWWU
Date: 6/9/2022

DocuSign Envelope ID: FB28727D-466D-40C1-AD6A-F831EA95A6AD

Appendix A – Fee Schedule

(Two Pages)

DocuSign Envelope ID: FB28727D-466D-40C1-AD6A-F831EA95A6AD

Electric Power Systems, Inc.

FEE SCHEDULE

AWWU Professional Services Term Contract
Right-of-Way

RFP 2022P009

Submitted to:

The Municipality of Anchorage

February 28, 2022

Point of Contact:
Fred Mortimer, AICP, SR/WA
3305 Arctic Blvd. Suite 201
Anchorage, AK 99503
Ph: (907) 646-5128
Fax: (907) 770-7749

ELECTRIC POWER SYSTEMS inc. — Electric Power Systems inc. — Consulting Engineers & Right-of-Way Services

ANCHORAGE WATER & WASTEWATER UTILITY — AWWU — MUNICIPALITY OF ANCHORAGE

DocuSign Envelope ID: FB28727D-466D-40C1-AD6A-F831EA95A6AD

Electric Power Systems inc.
Consulting Engineers & Right-of-Way Services

Fee Schedule 2022

RFP 2022P009
AWWU Professional Services Term Contracts
Right-of-Way/Land Acquisition

Team Member	Title	Rate Per Hour
Fred Mortimer, AICP, SR/WA	Project Manager IV	$193.00
Steve Evans, RAC, NAC, SR/WA, CFM	Project Manager III	$185.00
Kathryn Schreckenghost, SR/WA, R/W-RAC	ROW Senior Agent	$164.00
Norman Bailey, SR/WA	ROW Senior Agent	$164.00
Open	ROW Agent	$118.00
Megan Premer, RWA-GN	ROW Assistant	$87.00

Note: Subcontractors and Sub-Consultants will be actual cost plus 10%

Fred Mortimer, AICP, SR/WA
Right of Way Manager

www.eps-row.com
3305 Arctic Blvd., Suite 201, Anchorage, Alaska 99503-4575
Phone: (907) 522-1953 • Fax: (907) 770-7749
Email: row@epsinc.com

EXHIBIT 7

DocuSign Envelope ID: 9728436E-958D-4161-8708-0BE8CAB7CA50

MEMORANDUM

DATE: April 26, 2024

TO: Rachelle Alger, Purchasing Director, Purchasing Department

THRU: Mark A. Corsentino, P.E., General Manager, AWWU

THRU: Mark Schimscheimer, P.E., Director, Engineering Division, AWWU

FROM: James Armstrong, P.E., Project Manager, AWWU

SUBJECT: Amendment No. 1 to the Term Contract for Electric Power Systems, Inc. (4400001444)

Professional Services Contract Amendment No. 1 for Contract Number 4400001444 is attached to this Memorandum for the additional scope of services as described below.

All - Please review and sign this contract amendment or call James Armstrong at (907) 564-2776 if you have any questions or comments.

SUMMARY INFORMATION

Contractor/Consultant:	Electric Power Systems, Inc.
Staff Contact:	James Armstrong, P.E., (907) 564-2776
Scope of Services:	2022-2024 Professional Services Contract Amendment No. 1: Extend existing professional services contract to allow time for completion of existing tasks and the procurement of new services.

CONTRACT SUMMARY

Original Contract	$450,000.00
Amendment No. 1 (Time Extension Only)	$ 0.00
Revised Contract Amount	**$450,000.00**

Funding String: This is a non-encumbering term contract. Task orders are written against specific projects and therefore no specific funding string can be identified.

Assembly Action: N/A

AWWU Contract No. 4400001444

Amendment No. 1
Term Contract for Professional Services
with Electric Power Systems, Inc.

This Amendment is made and entered into by and between the Municipality of Anchorage, Anchorage Water & Wastewater Utility, hereinafter referred to as "AWWU" and Electric Power Systems, Inc., hereinafter referred to as "Contractor".

WHEREAS, AWWU and the Contractor entered into a contract for professional services dated June 28, 2022, hereinafter referred to as the "Contract"; and

WHEREAS, the parties have the authority to amend the Contract pursuant to Part II, Section 5 and desire to do so;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in the contract, the parties do hereby agree that the Contract shall be amended as follows:

1. Part 1, Section 3, Time for Performance, Paragraph C of the contract shall be amended as follows:

The Contract is hereby extended through December 31, 2024

The parties agree that all other portions of the Contract shall remain in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this amendment on the date and at the place shown below.

MUNICIPALITY OF ANCHORAGE

DocuSigned by:
Rachelle A Alger
Mayor, Municipal Manager, or
Approved Designee

Date: 5/6/2024

Electric Power Systems, Inc.

DocuSigned by:
David Burlingame
David Burlingame, P.E.
Title: Principal

Date: 5/2/2024
IRS Tax Identification No. 92-0159852
Tax Status: Taxable[X] Non-Taxable[ ]

RECOMMENDED FOR APPROVAL

DocuSigned by:
Mark A. Corsentino, P.E.
General Manager, AWWU

Date: 5/1/2024

EXHIBIT 8

Docusign Envelope ID: 2379E3F6-523B-46B5-A7BD-597EDD872414

Amendment No. 2
Term Contract for Professional Services
with Electric Power Systems Inc.

This Amendment is made and entered into by and between the Municipality of Anchorage, Anchorage Water & Wastewater Utility, hereinafter referred to as "AWWU" and Electric Power Systems Inc., hereinafter referred to as "Contractor".

WHEREAS, AWWU and the Contractor entered into a contract for professional services dated June 28, 2022, hereinafter referred to as the "Contract"; and

WHEREAS, the parties have the authority to amend the Contract pursuant to Part II, Section 5 and desire to do so;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in the contract, the parties do hereby agree that the Contract shall be amended as follows:

1. Part 1, Section 2, Scope of Services, Paragraph C of the contract shall be deleted in its entirety and replaced as follows:

C. Each CTO is limited in scope to the work requested in the request for proposal (RFP) that led to this contract and as stated below;

1. **Provide services to negotiate acquisition of real property interests for right-of-way needs from private, public, and institutional landowners.**
2. **Will negotiate on behalf of AWWU for purchase of easements, land parcels, temporary construction permits, right of entry, and telecommunication sites**
3. **Provide support or lead negotiations, appraisal review, escrow and title insurance documents. Obtain and/or provide title reports, legal descriptions, condemnation procedure displacement, property management documents, process compensation payments, expert witness testimony, purchase agreements, and coordination with the Heritage Land Bank.**
4. **Electrical Engineering professional services may include, but are not limited to, studying, reporting on, designing, inspecting, and managing parts of or entire projects for design and consultation for such items as pump stations, booster stations, pressure regulating stations, SCADA telemetry, and power transmission and distribution systems for existing and proposed MOA facilities. These facilities may be above ground or below ground.**
5. **The Contractor may utilize subcontractors in support of Electrical Engineering task orders when deemed necessary to complete their work, such as but not limited to specialty knowledge consultants. See Section 15 for additional requirements regarding subcontractors and work proposals.**

c. Part 1, Section 3, Time for Performance, Paragraph C of the contract shall be amended as follows:

The Contract is hereby extended through December 31, 2025

Docusign Envelope ID: 2379E3F6-523B-46B5-A7BD-597EDD872414

The parties agree that all other portions of the Contract shall remain in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this amendment on the date and at the place shown below.

MUNICIPALITY OF ANCHORAGE

DocuSigned by:
D7837965494A47E...

Mayor, Municipal Manager, or
Approved Designee

Date: 6/27/2025

Electric Power Systems Inc.

Signed by:
A76ADBFC01964GA...

David Burlingame, P.E.
Title: Principal

Date: 6/27/2025

IRS Tax Identification No. 92-0159852
Tax Status: Taxable[X] Non-Taxable[ ]

RECOMMENDED FOR APPROVAL

Signed by:
DAVID PERSINGER
7D654C3A001F4B4...

David Persinger, P.E.
General Manager, AWWU

Date: 4/30/2025

EXHIBIT 9

Cover Letter

Mr. Mark Corsentino, P.E.
Director, Anchorage Hydropower Utility
632 W. 6th Avenue
Anchorage, AK 99501

March 21, 2025

Re: Qualifications for Professional Engineering Services, Anchorage Hydropower Utility

Mr. Corsentino,

Electric Power Systems, Inc. (EPS) submits the following qualifications to support the Anchorage Hydropower Utility in fulfilling its growth and development goals by providing professional engineering services. Based in Anchorage, we have served Alaska's electric utilities for over 40 years. Over 90% of our work is for Alaska electrical projects, mainly in Southcentral Alaska.

Thank you for considering EPS as a firm to support AHU's future development. If you have questions, please contact myself or Sabrina Wynne at (907) 522–5148 (email: swynne@epsinc.com).

Sincerely,

David Burlingame, PE, President
dburlingame@epsinc.com / (907) 646-5103

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Key Personnel

David W. Burlingame, P.E., Principal, has lived and worked in the Railbelt for 40+ years. David serves as EPS's CEO and as a Principal Engineer. He earned a BSEE degree from the University of Oklahoma in 1981 and is an Alaska registered P.E. (AELE7356). David has experience in the performance of system studies, relaying and protection design, substation design, substation maintenance, system troubleshooting, and system operations gained from his work as a consulting engineer in addition to the 15+ years of experience working for utilities as an engineering manager, manager of power control, and vice-president in charge of engineering, transmission, and power production. He is a registered professional engineer in the states of Alaska, Hawaii, Guam, Oregon and the Commonwealth of Northern Marianas. He has been involved in studies and planning projects in Alaska, Hawaii, Guam, and Washington.

James W. Cote, Jr., Ph.D., P.E. has 40 years of industry and academic experience with a focus on system dynamics and equipment modeling. He has been an electrical engineer since 1982, and has been with EPS as a Principal Engineer for over 20 years. In that time, he has been EPS' lead studies engineer and studies staff manager. Jim has provided numerous studies to utility owners on the Railbelt system and other utility clients throughout Alaska and the US, including system operations studies, impact and interconnection studies, and renewable generation studies. He is principally responsible for the development of the Alaska Railbelt PSS/e model and many of the custom dynamic models contained therein. Jim has contributed immensely to the simulation, modeling, and understanding of the Railbelt's dynamics throughout his time with EPS and as an Associate Professor at the University of Alaska Fairbanks. Jim focuses on the fundamentals of engineering in his approach and combines both an industrial and academic/research-based approach to solving difficult engineering challenges with a focus on operational impact and finding the most cost-effective solution to meet grid system needs. (Availability: 20-40%)

Richard J. Meier, MSEE, P.E. is a Senior Power System Engineer in EPS's Studies Group and has been intimately involved in Railbelt transmission planning, integration, and operational studies for the last 6+ years at EPS. Rich has 10+ years of experience in power systems modeling, simulation, operations, and software. Rich began his career in the Energy Management System (EMS) space as a power system software engineer. He has worked short stints for a DOE national lab and a vertically integrated utility. Rich has a broad range of studies experience, including power flow, transient stability, controls and protection, interconnection and impact studies, long-range planning studies, power system forensic event analysis, EMT simulation and modeling, as well as renewable generation integration. Rich completed his BSEE and MSEE at Oregon State University in 2013 and 2015 respectively. He holds a PE in the State of Washington. (Availability: 75-100%)

Greg Huffman P.E., S.E. is leading our technical team (State of Alaska Civil C8349 and Structural 13692 Engineer). He will lead engineering and provide quality control and assurance for this project. Greg provided these same services for many previous MEA transmission line and communication addition projects, including Lucas Substation - O'Neill Tap 115 kV double circuit line, Teeland - Redington 115 kV line, EGS to Hospital 115 kV line, Herning 115 kV getaways, EGS to Eklutna Hydro ADSS addition, Hospital to Headquarters ADSS addition, and Hospital to Shaw ADSS addition. He also served in a similar capacity on every project in this proposal's Project Experience section, all of which have been active within the last five years. There is no practicing engineer with more experience on Southcentral Alaska transmission lines.

As EPS' lead technical representative, Greg will be involved in and knowledgeable about all facets of this project. He will work closely with our project manager to facilitate coordination with consultants, MEA and their right of way consultant, and the rest of the project team to ensure we complete the project to EPS' high-quality standards, in full compliance with contract documents to MEA's satisfaction. Mr. Huffman has worked as a civil and structural engineer since the beginning of his career 41 years ago. Twenty-seven years of that time have been focused on Alaska transmission projects. He has contributed engineering and design expertise to hundreds of successful electric power generation, substation, transmission, distribution, and fiber optic communication projects.

Greg has significant experience designing projects for construction and operation in subarctic environments and different geotechnical, climactic, and terrain conditions. He has analyzed and designed transmission structures up to 345kV using wood, tubular steel, and lattice aluminum materials. His foundation experience includes spread footings, drilled piers, driven piles, helical piles, grouted piles, and micropiles. Additionally, Mr. Huffman has investigated and provided engineering and consulting for repairing structures damaged by river scour, avalanches, frost jacking, permafrost degradation, and deep organic (muskeg) conditions.

Peter Blake, P.E. - Transmission Line Engineer
Mr. Blake, PE (State of Alaska Civil 118420 Engineer), is an experienced Alaska line designer. His experience includes delivering analyses, engineering, and designing lines up to 230kV using wood, steel, concrete, and hybrid materials. His work includes self-supporting poles, guyed poles, H-frames, and numerous types of conductors, shield wires, and fiber optic wires on many projects. He is proficient in using PLS-CADD to optimize line design.

Chris Davis, P.E.- Distribution Line Engineer
Mr. Davis (AK EE 10642) has been working as an engineer since 1994. He has wide-ranging experience designing distribution and transmission systems throughout Alaska. Before becoming an employee at EPS in 2006, he had 12 years of project experience in new construction and renovations for building systems. His work has included collecting field data, code analysis, rough-order-of-magnitude budgeting, planning, design, material ordering, quality assurance, and GIS as-builting.

Matthew Williams, P.E. - Transmission and Distribution Line Engineer
Mr. Williams, PE (AK EE 10252), has over 25 years of electrical engineering experience in Alaska, including over 20 years of experience designing transmission and distribution utility systems and infrastructure. His project experience includes design for voltages from 5 kV distribution up to 230 kV transmission and standards development, planning, sectionalizing, distributed generation impact, and coordination studies for distribution systems.

Carrie Miller, E.I.T
Ms. Miller is a civil engineer who has been designing transmission and distribution lines for EPS since 2006. She is proficient in AutoCADD and PLS-CADD operations. Carrie has provided these services on numerous Matanuska Electric Association projects including the current Lucas to O'Neil transmission design project.

Relevant Project Experience

Expertise with Alaska Railbelt Electric Generation Design

Doyon Utilities Ft. Wainwright Central Heating & Power Plant (CHPP) Upgrades, Ft. Wainwright, Alaska

The Fort Wainwright Combined Heat and Power Plant (CHPP) upgrade project corrected deficiencies in the installation's power plant, ensuring reliable power availability at all times. This project was accomplished in three phases. The phases included upgrading the intertie between the Ft. Wainwright coal-fired power plant and the local utility system and an upgrade of the controls and capability of the steam turbine generators. The scope of the project included designing two interties between the plant and a new 138 kV/12.47 kV substation also designed by EPS, and retirement of two existing 69 kV and 12.47 kV utility interties. The new interties required replacing twenty-two 12.47 kV breakers with eleven higher capacity breakers, designing and installing a plant SCADA system, new switchgear controls and protective relaying, automation and monitoring and plant communications as well as SEL-3354 hardened computers, and performed a plant grounding study. The project was completed in an energized plant and the design had to allow the project to be constructed without a plant outage due to the critical loads served from the facility. Each of the four turbine generator control panels were replaced in the new switchgear, four breaker ties to the new substation, a tie breaker and two feeder breakers to a new station service substation. EPS completed the design, construction management, coordination of switching, outage planning, quality control, commissioning, and testing. The project used SEL-300G and SEL-351A relays for the four generators, SEL-351A relays for the seven feeders and SEL-487 relays for the bus protection. The switchgear was integrated into the station HMI with complete automation and control from the HMI for all generation and switchgear functions. The project required high-speed communications for protection and control between the remote substation and power plant.

Doyon Utilities Landfill Gas Power Plant, Anchorage, Alaska

Beginning in 2010, EPS partnered with client Doyon Utilities to evaluate, design and build a power plant with a current capacity of approximately 8.4 MW to allow the Ft. Richardson area of JBER to become almost entirely energy independent from the local city utility and provide the bulk of its electrical requirements from this green energy plant. This power is generated by landfill gas from the nearby Highland Road landfill. To provide additional energy security, the plant has the capability of using a blend of natural gas that can range from 0-100% of the plant's requirements. The greenfield plant design and construction by EPS was all-inclusive. Specifically, the plant design included building design, SCADA control, intertie substation, plant electrical distribution, generation control and switchgear, grounding study, HVAC design for combustion air and cooling, fuel delivery, site development, gas processing facility, gas pipeline, and distribution interconnection. The generation plant, powered by five 1.4 MW GE Jenbacher gas reciprocating engines, is fully automated and can switch from landfill gas to natural gas without an outage. The plant can operate interconnected to the islanded utility grid or as part of an isolated grid serving the Post loads when the local utility service is unavailable. The plant utilizes SEL relays, and a hardened SEL-3354 computer and GE Jenbacher control system in addition to the distributed PLC's and control. The plant substation includes two 12.47 kV feeders and eight 4.16 kV breakers. EPS also completed the construction engineering and start-up support, testing and commissioning, and construction management of the project. The Plant was

completed and in operation less than 12 months from the NTP issuance. EPS has continued to provide operations and maintenance support for the plant since its completion.

The plant was selected as the 2013 recipient of the silver award by the Solid Waste Association of North America Excellence Awards program.

D Street Emergency Power Plant and Substation, Fort Richardson, Alaska

EPS and Electric Power Constructors, Inc. teamed for the design/build installation of a 9 MW diesel-fired emergency power plant and 34.5 kV substation as part of Doyon's ongoing efforts to upgrade and stabilize the power supply and distribution systems on Ft. Richardson. This plant ensures the Post can operate independently should the local electric utility power become unavailable, as well as providing instantaneous emergency backup power should the local utility or Landfill Gas Plant experience an interruption. Working in conjunction with the Landfill Gas Plant, the two plants can serve all of the Post energy requirements. The plant includes three Caterpillar C-175 engines, each capable of producing 3 MW of power. This unmanned facility has a complete SCADA and automation system, which is integrated into the client's overall control system. Cat EMCP 3.3 unit controllers, Woodward EasYgen, SEL-300G, and ancillary meters allow client operators to remotely start, stop, and monitor the performance of equipment at this facility. EPS designed the interconnecting substation which includes three 34.7 kV breakers, a 47 MVA 34.5 kV/12.47 kV transformer, and eleven 12.47 breakers. EPS engineers designed the control and protection system using SEL-351S protective relays for the distribution feeders, and SEL-311C relays for the 34.5 kV ties, as well as SEL-734 meters, and SEL-2890 relays for automation and control. EPC performed the electrical construction and testing of both the power plant and substation.

Fort Greeley CHPP Generator Replacement, Phase I and II, Fort Greely, Alaska

In 2008 EPS began the first phase of a two phase power plant upgrade project for the Combined Heat and Power Plant (CHPP) at Fort Greely. These upgrades were undertaken to provide emergency power and greater energy security to the installation. EPS designed and produced specifications for major upgrades to the prime emergency power units at the Ft. Greely CHPP. Our work included designing and specifying the replacement of three older diesel engines with two new Cat C175s (Phase I), and integration of two remaining older units into the new switchgear and engines (Phase II). In addition to designing the replacement of three older diesel engines with two new Cat C175s, Phase I designs and specifications included upgrades to the plant's fuel delivery and HVAC systems. Each of the new engines has a 3.0 MW capacity. The design includes a complete SCADA system allowing operations personnel to remotely start, stop, and monitor all activities within the plant and adjacent substation from the plant's control room. Each of the engines are equipped with a Cat ECMP 3.3 unit controller and Woodward EasYgen. These can automatically start and synchronize the units to an energized 24.9 kV distribution system, or restore power when faced with a loss of utility power. Our designs include SEL-300G relays for generator protection, SEL-351 for feeder protection and communications for the SCADA system.

In 2011, the second phase of the project began with EPS integrating the two older existing units into the new switchgear. The design included reconnecting the 2400 V generators to 4160 V, installing a new Woodward UG-32 actuator, Woodward 2301D speed controls, Woodward EasYgens, Basler Static Exciters, and SEL-300G relays. In addition to the switchgear installed earlier, three new sections of switchgear were added to support these modifications. Combined, EPS work allowed the new C175s to operate with the left-in-place existing units in

isochronous loadshare, baseload, and droop. Other remaining auxiliary equipment remained in place, and was not upgraded.

The combined capability of the plant can serve the entire energy needs of the Post should the local utility's power become unavailable. The plant can be remotely started, stopped and controlled to operate on its own power or convert over to utility power through the SCADA system.

Expertise with Alaska Railbelt Transmission Design

Roadbelt Intertie Reconnaissance Engineering Report, Ahtna Environmental (Denali Commission), Anchorage, Alaska

EPS worked as a sub-consultant to Ahtna Environmental to study the Eastern Alaska (aka proposed Roadbelt Inter-tie)connectivity to the existing Alaska Intertie (Railbelt Intertie) Transmission System for the Denali Commission. The proposed Roadbelt Intertie would roughly follow the road system from Sutton (Palmer) to Glenallen to Tok and then to Delta Junction to complete an electric loop from Anchorage to Fairbanks. EPS performed a technical study to define the line's required operating voltage and improvements in the MEA and GVEA system needed to accommo-datethe new intertie.

EPS also studied the physical line routing and construction techniques required for this 385-mile-long intertie. We developed design criteria, preliminary design, structure selection, corridor identification and evaluation, and cost estimates. The corridors crossed several mountain ranges, including the Talkeetna Mountains, Wrangell – St. Elias Mountains, and the Alaska Range. Avalanche avoidance/special construction was a vital consideration. The corridors also crossed various weather loading conditions and large areas of muskeg and permafrost ground conditions.

University to Quartz Creek 115 (138) kV Transmission Line, Placer River Relocation, Chugach Electric Association, Anchorage, Alaska

EPS (D&L) provided complete engineering services for relocating a section of 138 kV transmission line due to realigning the Seward Highway and installing a new bridge over the Placer River near Portage, Alaska. Existing wood H-frame structures were modified or replaced in driven pipe piles. The relocated section was designed and constructed for future 230 kV operation. The design included provisions for a future ADSS fiber optic communication cable.

Quartz Creek 115 kV Transmission Line Rebuild, Girdwood Substation to Indian Substation, Chugach Electric Association, Anchorage, Alaska

EPS (D&L) is providing complete engineering and construction support services for rebuilding and upgrading approximately 12 miles of the Quartz Creek 115 kV Transmission Line from Girdwood Tap to Indian Substation and another ¾ of a mile of double circuit line from Girdwood Tap to Girdwood Substation. We are predominantly using new 230 kV H-frame structures using wood and steel poles in the existing right of way. Tall, self-supporting, steel H-frame towers will be used to replace lattice towers along the Turnagain Arm section, and double circuit 230kV steel monopoles with davit arms are being used between Girdwood Tap and Substation.

The project alignment travels a diverse environment, including mountainous terrain, swamps, marine shoreline, and coastal marshlands. Geologic conditions include shallow bedrock, glacial drift, and deep, loose tidal deposits with organics. The route also crosses several avalanche paths, requiring avalanche-resistant structures and conductor break-away measures.

ADSS fiber optic communication cable is included in the design. EPS worked with ADSS manufacturers to establish an optimal ADSS design for the project's extreme loading (1" ice) and long spans (2,390 ft. maximum). The ADSS will be installed in the communication space on new structures, except for the long-span structures along Turnagain Arm, where the ADSS will be installed above the 230 kV phases. This long-span section required consulting with a conductor manufacturer to determine a feasible high-strength conductor to minimize tower heights. 795 kcmil ACSR/HS285 conductor has been selected.

Hilcorp L11B 69kV Transmission Line, Hilcorp Alaska, LLC/Deadhorse, Alaska

EPS designed a new parallel line from Hilcorp's L11 line into the Lisburne Production Center (LPC) pad. The 69 kV construction used wood pole H-Structures insulated to 138 kV using glass insulators. This project was fast-tracked, with design starting in Mid-January 2022 and construction planned in late March. EPS worked closely with Hilcorp personnel on the North Slope to determine what existing materials were available for use on this project and design the line around material that could be procured and delivered to Deadhorse before April. Our work on this project included PLS-CADD, OH 69kV transmission design, UG distribution design, staking sheets, cost estimating, material quantities, fabrication drawings, and construction oversight.

Expertise in Transmission Line Routing

Railbelt Transmission Plan Development, Alaska Energy Authority, Anchorage, AK

EPS performed a systems analysis of the Railbelt Transmission system for the years 2015 and 2023. The analysis included development of planning criteria, power flow and transient stability analysis of the system, identification of deficiencies and development and evaluation of alternatives to remedy the deficiencies. Once developed, the projects were evaluated using power production cost simulations as well other methods to determine the relative costs and benefits of the projects. Cost estimates were completed and an implementation plan is being finalized.

Susitna Hydro Transmission Line Study, Alaska Energy Authority

EPS provided a study on transmission routing, feasibility, costs, and required improvements to the Railbelt electrical system for the proposed Susitna Hydroelectric project. Two generation levels and three power flow base cases for the project were studied. Conceptual designs and cost estimates for 230 kV lines to Fairbanks and Anchorage were developed.

Alaska Intertie Upgrade Study, Alaska Energy Authority, Anchorage, Alaska

EPS prepared a feasibility level study and assessment of several options for replacing or upgrading the existing line from Teeland Substation to Douglas Substation. The study identified several possible routes for a new 230 kV transmission line and comparatively evaluated them using typical 230 kV line design suitable for the Matanuska-Susitna environment. For each route, land ownerships and wetland designations were identified, and estimates for permitting and easement requirements were provided. Meetings were conducted with the appropriate agencies. A multi-disciplinary approach was used to evaluate the routes and compare impacts, including property ownership, number of impacted parcels, anticipated permitting, public participation, and environmental concerns.

Expertise with Hydroelectric Projects

Southeast Alaska Power Agency Swan Lake Exciter & Unit Breaker Replacement, Ketchikan, AK

SEAPA awarded both the design and construction under separate contracts to EPS and sister construction firm Electric Power Constructors, Inc. to complete the design and construction of this project. This critical time-sensitive project utilized EPS to provide integration for the replacement of the digital excitation system, generator switchgear, unit breakers and associated control wiring modifications for two generator units. EPC performed the complete removal and installation of the new cabinets, breakers, electro switch 24 series, generator switchgear and Basler DECS-400 excitation system as well as providing complete testing of the new system and commissioning. The project required 24-hour removal and installation support for Unit #2 exciter and switchgear; 24-hour removal and installation support for Unit #1 exciter and switchgear; on-site startup and commissioning support of each exciter and unit switchgear; protection system verification PT/CT testing; Basler DECS-400 excitation configuration and commissioning; the break down of removed exciter / switchgear into manageable sizes and removal from powerhouse. EPS engineers provided onsite training and continual support for the facility when site personnel have questions. Additionally, EPS provided the complete project design for this work.

Southeast Alaska Power Agency Tyee Lake Switchgear Upgrade, Wrangell, Alaska

The Tyee Lake Station Service Switchgear was nearing 40 years of age and approaching the end of its useful life. The main station service transformers do not have differential protection or arc flash mitigation appurtenances (fiber optic sensors, ARMS switches, etc.) and were identified as “Extreme Danger” with an energy level of 65.3 Cal/cm2 in the last Arc Flash hazard analysis. Auto-trip and transfer functionality, including emergency power transfers to diesel generators does not exist. All feeder and sub-feeder cables are also at the end of their useful life with increased probability of failures. This project resulted in new 480V double-ended Station Service Switchgear,

breakers, feeder and sub-feeder cables, fiber optic Arc Flash protected busbars, Arc Flash Reduction Maintenance Switches (ARMS), complete drawings sets, including updated powerhouse one-line and three-lines, Operations Manuals and Training. The new switchgear was designed with redundancy and isolation in metal-clad rated gear to provide reliability, redundancy and increased safety to onsite personnel with reduced incident energy levels (Arc Flash). This was a design/build project by EPS and EPC.

Appendix A: Resumes

DAVID BURLINGAME, PE

ELECTRICAL ENGINEER

PROFESSIONAL REGISTRATIONS

State of Alaska
License no. AELE7356

State of Washington
License no. 48700

Territory of Guam
License no. EE1193

Northern Mariana Islands

EDUCATION

B.S. Electrical Engineering
University of Oklahoma
(1981)

CONTACT

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Anchorage, AK 99503

OVERVIEW

Mr. Burlingame co-founded Electric Power Systems, Inc. in 1996. The firm focuses on delivering engineering services to the power industry. Over the past 26 years, it has grown to employ more than 140 people. The company is now a wholly owned subsidiary of Engineered Solutions Group, Inc. and has offices in Anchorage, Palmer, and Juneau, Alaska, as well as Redmond, Olympia, and Vancouver, Washington. ESG specializes in electrical and mechanical engineering, offering consulting, design, and construction services to utility and industrial clients across Alaska, the Pacific Northwest, Hawaii, and the South Pacific

PROJECT EXPERIENCE

- Project Lead in developing a Long-Range Transmission Plan for the Alaskan Railbelt system, including solutions involving HVDC, BESS, hydro and inverter-connected generation.
- Co-author of a paper on the cause and mitigation measures associated with 250 MW oscillations occurring in the Railbelt system.
- Representative for the Hawaiian utilities in a 30-member group of interested parties to develop the Hawaiian Reliability Standards.
- Coordinator for AEA to reach agreement among the core group of Reliability and Planning Standards for the Railbelt.
- Project Manager for various system studies for the Railbelt utilities on 34.5 kV – 230 kV transmission systems involving transmission losses, metering stability, voltage control and reliability assessments.
- Project Manager for system studies and analysis for a 700 MW load and generation involving 200 miles of overhead transmission line, 60 miles of submarine cable and HVDC terminals.
- Project Manager for system studies for 400 MW of PV, HVDC submarine cables, 100 MW ESS, synchronous condensers and other stability measures to increase renewable penetration to over 50% in Hawaii.
- Project Manager for various Bradley Lake studies to define system stability limits and control solutions for 120 MW power plant.
- Project Manager for long range transmission plans for Anchorage Municipal Light & Power, Chugach Electric Association and Homer Electric Association. Plans involved analyzing various generation project impacts on the Railbelt transmission system's gird stability and loadshedding system.
- Project Manager for the completion of several versions of the Railbelt Transmission Plan. A plan analyzing the improvements required to meet AK-TPL1-4, Transmission Planning standard.
- Project Manager for 25 substation designs from 12.47 kV through 230 kV.
- Completed the feasibility design and analysis for a 1,100 MW IPP development in the State of Washington.

- Project Manager for the design, construction management and inspection of improvements to four 69 kV/ 12.47 kV substations, 138 kV substation, 34.5 kV/12.47 kV substation and 115/24.9 kV substations.
- Developed Long-Range distribution plan for 65,000-meter utility, 7,000-meter utility and 15,000-meter utility.
- Project Manager for the analysis and scope of system stability studies for the Alaska interconnected system.
- Developed Long-Range distribution plan for Chugach Electric Association. Developed transient stability cases used to verify Chugach Transmission Plan. Recommended system improvements to mitigate system stability and operating deficiencies.

TESTIMONY, PUBLICATIONS, PRESENTATIONS

HOMER ELECTRIC ASSOCIATION, STANDBY POWER PLANT DESIGN. Provided testimony on system impact of proposed transmission rates and capacity studies of PNM. Developed transmission impact studies and loss evaluations, coordinated rate case development, negotiations and settlement.

NEW MEXICO UTILITIES COMMISSION. Provided testimony on generation and transmission system, reliability and generation and transmission costs. Provided supporting testimony for Plains rate cases. Provided testimony of Southwest Public Service Co and Public Service Company of Colorado merger impacts.

ALASKA PUBLIC UTILITIES COMMISSION. Provided testimony on transmission reliability and outages.

NORTHWEST PUBLIC POWER ASSOCIATION (2003). Power System Fault Studies and Interpretation.

NORTHWEST PUBLIC POWER ASSOCIATION (2005). Power System Coordination & Sectionalizing.

NORTHWEST PUBLIC POWER ASSOCIATION (2009). Generation Monitoring & Control Systems.

HAWAII RENEWABLE ENERGY CONFERENCE (2013). Impacts of Renewable Energy on Islanded Power Systems.

UTILITY VARIABLE-GENERATION INTEGRATION GROUP (2014). Impact of Variable Generation on Islanded Systems.

GUAM RENEWABLE ENERGY SYMPOSIUM (2017). Planning for Increased Renewables.

NORTHWEST PUBLIC POWER ASSOCIATION (2019). Generation Governors and History of Railbelt.

RAILBELT UTILITIES (2022). Railbelt Oscillation & Mitigation Study.

DR. JAMES W. COTE, JR., PE

ELECTRICAL ENGINEER

OVERVIEW

Dr. Cote brings extensive experience in system studies, system design, compliance analysis, control modeling and tuning, custom transient stability modeling, event troubleshooting, and education/training. His professional background spans roles in utilities, academia, and consulting engineering.

PROFESSIONAL REGISTRATIONS

Professional Electrical Engineer
State of California
License no. E12226

EDUCATION

University of Washington
Ph.D., Electrical Engineering, 1992
Dissertation: "Voltage Security Assessment and Control in Electric Power Systems"

University of Southern California
Los Angeles, California
M.S., Electrical Engineering, 1987
Research Topics: HVDC line modeling in AC power flow, power system operation algorithms such as economic dispatch, unit commitment, etc.

University of Michigan
B.S., Electrical Engineering, 1982

CONTACT

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Redmond, WA 98052

PROJECT EXPERIENCE

GOLDEN VALLEY ELECTRIC ASSOCIATION, SHOVEL CREEK WIND & BESS IMPACT STUDY - Fairbanks, Alaska (2024). This study evaluated the steady-state and dynamic stability impacts of a 150 MW wind project and 150 MW battery in the Northern region of the Railbelt. The impacts of these added IBRs, including impacts on Alaska Intertie transfer limits, were evaluated. Custom PSS/E models were used for the wind projects and sensitivity cases were run with synthetic inertia available from the wind project. Other sensitivity cases were also run with the proposed Nenana Solar, Delta Wind, and Pogo Solar projects added to the system.

GUAM POWER AUTHORITY, MALOJILOJ SOLAR & ENERGY STORAGE IMPACT STUDY - Malojiloj, Guam (2024). This study evaluated the impact of the 30 MW Malojloj Solar and Energy Storage Project on the Guam Power Authority system, from a steady-state and dynamic stability perspective. Guam Power Authority is an islanded, low-inertia system, and this study included conditions where half of system load is served by IBRs. Multiple sensitivity cases were run under various IBR control modes, and under various system changes to understand the impact of these newly added IBR assets.

CHUGACH ELECTRIC ASSOCIATION, CEA BRADLEY LAKE CUSTOM MODELING - Anchorage, Alaska (2023). This work involved updates and modifications to the custom dynamic model for the Bradley Lake Hydro generation facility. Benchmarking simulations were performed in conjunction with actual Railbelt events. The results indicate that the Bradley Lake custom model is able to capture various divider modes that can results in oscillations on the Grid.

KEPCO MANGILAO SOLAR, KEPCO MANGILAO EMT STUDY - Mangilao, Guam (2021). This study assessed whether the KEPCO Mangilao Solar Project operates adequately during disturbances when interconnected to a system with low short-circuit strength, also known as a “weak” system. Electro-magnetic transient (EMT) simulations were conducted in PSCAD to evaluate Mangilao Solar’s performance when interconnected to an islanded, weak grid system. Based on the results of the EMT study, no control instabilities or fault ride-through problems were found.

HAWAIIAN ELECTRIC COMPANY, FAST FREQUENCY RESPONSE (FFR) / UNDERFREQUENCY LOAD SHEDDING (UFLS) COORDINATION STUDY - Honolulu, Hawaii (2020-21). Conducted a transmission study focused on the impact of adding distribution level energy storage systems on to the grid to provide primary frequency regulation reserves. The study included recommendations for the control parameters for the FFRs to optimize the grid support, while minimizing the impact to the existing UFLS system. The study recommended FFRs performance specifications and required changes to the UFLS system, on two Hawaiian island systems.

RAILBELT SYSTEMS STUDY SUBCOMMITTEE, ALASKA RAILBELT RESERVES STUDY - Alaska (2020-21). This study evaluated the response of different units in the Railbelt to under-frequency events and determined the minimum response required to prevent under-frequency load shedding. The use of battery energy storage systems and shed-in-lieu-of-spin as contingency reserves were also investigated. This work included dynamic model benchmarking and the development of a methodology for quantifying primary frequency response from each unit in the Railbelt.

RICH MEIER, PE

ELECTRICAL ENGINEER

OVERVIEW

Rich has extensive experience in power systems modeling and simulation, including transmission planning, generation interconnections, controls and protection, compliance, forensic analysis and troubleshooting of power system events, EMT analysis, and renewable generation integration. His expertise lies at the intersection of power systems, software, modeling, and simulation. In addition to his role as a consulting engineer at EPS, his past experience includes working as an EMS software engineer, a modeling research assistant at a DOE National Lab, and positions at a vertically integrated utility.

PROJECT EXPERIENCE

COOK INLET REGION, INC., BALD MOUNTAIN WIND FEASIBILITY STUDY - Anchorage, Alaska (2024 - Ongoing). This study evaluated the feasibility of Bald Mountain Wind Project, a proposed 30-60 MW wind project in the Southern region of the Railbelt. The impact of existing transmission system constraints on energy deliverability from Bald Mountain Wind were evaluated and transmission upgrades were proposed that alleviate those constraints. The impact of the Bald Mountain Wind Project on line losses was also evaluated.

RENEWABLE INDEPENDENT POWER PRODUCERS LLC., IEEE 2800 VS. 1547 ANALYSIS & INVERTER SELECTION - Anchorage, Alaska (2024). EPS conducted a detailed review of the IEEE 2800 and IEEE 1547 standards for RIPP, to determine any potential drawbacks of using inverters compliant with IEEE 1547 but not IEEE 2800. EPS developed detailed reports comparing the two standards, making recommendations about the technical aspects of each standard, and developing reviews of inverter systems and their ability to potentially meet the various technical performance requirements.

HOMER ELECTRIC ASSOCIATION & RENEWABLE INDEPENDENT POWER PRODUCERS LLC., KENAI PENINSULA SOLAR FARM INTERCONNECTION & INTEGRATION STUDY - Homer, Alaska (2024). EPS conducted a combined interconnection and integration study for a proposed utility-scale solar generation facility on the Kenai Peninsula. This IBR facility was evaluated from a steady-state power flow perspective, a stability perspective, and from an operational perspective (solar variability and regulation). The interconnection study involved reviewing the IBR facility design and proposed interconnection to the HEA system, detailed power flow and dynamic modeling, and stability simulations across various seasonal cases. The integration study assessed raw solar data, solar statistics, potential impact of variability on system ACE, and ability for HEA to regulate the proposed solar facility.

SEATTLE CITY LIGHT, BOUNDARY HYDROELECTRIC SCL/BPA FORENSIC STUDY - Seattle, Washington (2022). Provided engineering services related to observed power oscillations at the Boundary Hydroelectric facility for SCL. This work involved synchrophasor data processing, on-site testing and troubleshooting, model development and forensic analysis of Boundary's unit controls, amongst other troubleshooting techniques.

DOMINION ENERGY & WUNDERLICH-MALEC ENGINEERING, SOLAR IBR MOD COMPLIANCE ASSISTANCE - Various location in California (2021-22). Throughout 2021 and 2022 EPS assisted Wunderlich-Malec Engineering with NERC MOD compliance studies, modeling, and reporting to California Independent System Operator (CAISO) for multiple utility-scale solar generation facilities. This work involved processing of on-site test data, modeling of both new and existing solar generation interconnection, model testing in accordance with NERC MOD-025, MOD-026, MOD-027, and MOD-032. Final models and reporting were submitted to CAISO for compliance-related approvals.

PROFESSIONAL REGISTRATIONS

Professional Electrical Engineer
State of Washington
License no. 21009672

EDUCATION

Oregon State University
M.S., Electrical Engineering, 2015
Thesis: "Toward Automated Decision-Making in Power Systems Wide-Area Protection"

Oregon State University
B.S., Electrical Engineering, 2013

CONTACT

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Email: rmeier@epsinc.com
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Redmond, WA 98052

MATANUSKA ELECTRIC ASSOCIATION, MEA SOLAR REGULATION STUDY - Palmer, Alaska (2020-21). Created a simulation method for analyzing MEA generation sources and their ability to regulate ACE with additional intermittent solar resources added. The study analyzes various combinations of proposed solar resources (size, location, etc.) and their impact on meeting NERC BAL criteria, changes in cost to operate thermal generation, and impact on daily operations at the plant level (e.g. starting, stopping, ramping individual thermal units in order to regulate the variability). This study has been expanded to include study of additional renewable energy sources, different approaches to dispatch, and inclusion of energy storage.

HAWAII ELECTRIC LIGHT COMPANY, HELCO DYNAMIC UFLS REVIEW - Hilo, Hawaii (2019). Conducted a series of transient stability simulations to design new underfrequency load shedding (UFLS) parameters to be used in the Big Island's existing dynamic UFLS remedial action scheme (RAS) that operates within their EMS. Introduced new DF/DT triggers into the UFLS scheme to improve frequency response during significant generation outages depending on the unit commitment, and in particular IBR penetration percentage.

PROFESSIONAL EXPERIENCE:

2018-Present
Power Systems and Software Engineer
Electric Power Systems, Inc.
Redmond, Washington

2015-2018
Power Systems Engineer / Software Engineer
Alstom Grid / General Electric (GE) Power
Redmond, Washington

2013-2015
Graduate Research Assistant
Oregon State University
Corvallis, Oregon

2014
Graduate Electrical Engineering Intern
Southern California Edison (SCE)
Los Angeles, California

2012
Research Assistant/Intern
Dept. of Energy - National Renewable Energy Laboratory (NREL)
Golden, Colorado

GREG HUFFMAN, PE, SE

CIVIL & STRUCTURAL ENGINEER

PROFESSIONAL REGISTRATIONS
State of Alaska (Civil & Structural)
State of California (Civil)
State of Hawaii (Civil & Structural)
State of Washington (Civil & Structural)

PROFESSIONAL AFFILIATIONS
American Society of Engineers
Structural Engineering Institute

EDUCATION
University of Washington
B.S. Civil Engineering (1982)

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OVERVIEW

Greg is a Professional Engineer licensed in Alaska (Civil & Structural), California (Civil), Hawaii (Civil & Structural), Washington (Civil & Structural). He has over 39 years of experience in electrical power consulting, specializing in civil and structural engineering for generation, substation, transmission, and distribution projects. He has worked at Dryden & LaRue since 1996 and previously spent 14 years at R.W. Beck, focusing largely on transmission projects in Alaska's challenging environments. His expertise includes transmission routing, feasibility studies, and overseeing projects from conception through construction. As a structural engineer, he has designed and upgraded transmission line structures up to 345 kV using wood, steel, and concrete materials, including various types of poles and towers. Additionally, he handles project management, contract preparation, cost estimating, and construction reviews.

PROJECT EXPERIENCE

CHUGACH ELECTRIC ASSOCIATION, QUARTZ CREEK 115kV TRANSMISSION LINE REBUILD. Project Manager responsible for providing design, construction documents and construction support for rebuilding 15 miles of this line between Ingram Creek and Johnson Pass Trailhead. Both wood and steel H-frames were used on the new line, which was designed for future 230 kV operations.

HOMER ELECTRIC ASSOCIATION, SOLDOTNA QUARTZ CREEK 115kV TRANSMISSION LINE ENGINEERING ANALYSIS. Project Manager responsible for managing the integration of LiDAR survey data, conducting engineering analysis, and developing remedial designs for 47 miles of existing 115 kV transmission line. He ensured that clearances and structure strengths were validated in compliance with NESC and HEA requirements. Additionally, he was responsible for developing remedial designs and cost estimates for 14 identified violations.

GOLDEN VALLEY ELECTRIC ASSOCIATION, 230kV NORTHERN INTERTIE PROJECT. Project Engineer responsible for the design and contract document preparation of this 96 mile, 230 kV transmission line project. Five major material procurement contracts and four separate construction contracts were awarded for this project. Guyed, tubular steel X-towers are the predominant structures used in this project, with four- legged "swing-set" towers used for dead ends. Self-supporting steel Y-towers and single-shaft structures are also used. The project included a crossing of the Tanana River near the Fairbanks International Airport. The 167-foot tall tubular steel river crossing towers included aviation illumination provisions. Steel structures for this project were supported on pipe and micro-piles. Pipe piles were driven, some as deep as 80 feet, or augured and grouted into place.

THE FOUR DAM POOL POWER AGENCY, SWAN LAKE - LAKE TYEE 138kV INTERTIE. Project Engineer responsible for the design and contract document preparation of this 57 mile, 138 kV transmission line interconnecting the Swan Lake and Lake Tyee Hydro- electric facilities. Located in the extremely rugged and remote terrain of Southeast Alaska, this line has four major water crossings and four spans longer than one mile each, the longest being nearly 6,900 feet. Much of the line is located in the Tongass National Forest. The entire line will be constructed using only helicopter access and floating work camps. All structures are supported on micro-pile clustered foundations. Use of micro-piles allowed the contractor to use relatively light, helicopter-transportable equipment.

ANCHORAGE MUNICIPAL LIGHT & POWER, ARCTIC BLVD DOUBLE CIRCUIT 115kV TRANSMISSION LINE. Project Manager responsible for the design and preparation of construction documents for this double circuit 115 kV line feeding ML&P's new Substation 22. Laminated wood structures were used for to achieve a stronger structure than what typical wood pols can provide. The design included 12.5 kV and fiber optic underbuild.

TECK-POGO, POGO MINE 138 kV TRANSMISSION LINE. PProject Manager responsible for the route selection, design, contract document preparation, and construction engineering of this 45 mile, 138 kV transmission line project. The line taps GVEA's 138kV Delta line and feeds the Pogo gold mine located approximately 38 miles north of Delta Junction, Alaska. The line uses wood and steel pole H-frame construction. It includes sections with overhead static wires and 13.8 kV underbuild. A 5-mile section required winter access, and was completed from ice roads in approximately a three-week period. Several structures required driven H-pile foundations.

HOMER ELECTRIC ASSOCIATION, MARATHON TO IVANOFF LAKE 115kV INTERTIE. Project Manager responsible for professional and engineering services necessary to permit, acquire legal access, design and prepare for construction a 115kV transmission line between the Bernice Lake and Soldotna Substations. The line is approximately seven miles long and includes 25 kV distribution and communication underbuild on wood poles. Sections of the line crossed wet peat bogs, requiring pile foundations. This project required extensive efforts to resolve conflicts between the operational aspects of the Kenai Airport facilities and the project which was located partially on airport lands.

MATANUSKA ELECTRIC ASSOCIATION, TEELAND TO REDINGTON 115kV UPGRADE. Project Manager responsible for providing full design services for 10 miles of new 115 kV transmission line. The line interconnects Redington Substation with Teeland Substation, replacing a 34.5 kV line. The new line and substation addition are de-signed and detailed to maintain existing 34.5 kV facilities energized during construction. The line is also designed for upgrading existing distribution underbuild facilities.

SEATTLE CITY LIGHT DEPARTMENT, LiDAR & RATING ANALYSIS FOR 115kV & 230KV TRANSMISSION LINES. Project Manager responsible for managing the climbing inspections, condition assessment, recommendations for repair and maintenance, remaining life estimates, inspection reports, and data files for asset management for over 80 115kV and 230kV transmission towers. The inspections were typically of Seattle City Light's critical structures, such as river crossing structures. They included tubular steel poles and lattice steel structures.

CHUGACH ELECTRIC ASSOCIATION, CORROSION INSPECTION OF 138kV TRANSMISSION LINE TOWERS. Project Manager responsible for the field inspection and reporting of nine corroding transmission towers along Turnagain Arm, Alaska. Steel member thicknesses were electronically measured to estimate steel loss. This field data was used to estimate strength loss and recommendations for corrective actions.

SEATTLE CITY LIGHT DEPARTMENT, LiDAR & RATING ANALYSIS FOR 115kV & 230kV TRANSMISSION LINES. Project Manager responsible for validation of facility ratings for over 500 circuit miles of 115 kV and 230 kV transmission lines. He solicited and coordinated airborne LiDAR survey and imagery acquisition. This data along with real time weather and metered power data was used to model the transmission lines and identify clearance violations in accordance with the NESC.

ALASKA ELECTRIC LIGHT & POWER, SNETTISHAM 138kV AVALANCHE MITIGATION. Project Manager responsible for providing avalanche mitigation studies and structure analysis and design for protecting the Snettisham transmission line from avalanche damage. Several lattice steel towers were modeled and analyzed for estimated avalanche loading and for rerouting the alignment. For three particularly vulnerable towers, 40-ft. tall, splitting wedge structures were designed to defend the towers from avalanches.

COPPER VALLEY ELECTRIC ASSOCIATION, THOMPSON PASS AVALANCHE MITIGATION FOR 138kV TRANSMISSION LINE. Project Manager responsible for engineering line repairs to the Solomon Gulch 138 kV Transmission Line resulting from avalanches in 1988, 2000, 2003, and 2006. Additionally, he provided several study reports over these years for mitigating avalanche damage. Finally, in 2012, he was responsible for permitting and design of relocating approximately 3.5 miles of the transmission line to a safer location.

MATANUSKA ELECTRIC ASSOCIATION, EGS - HOSPITAL 115kV DOUBLE CIRCUIT TRANSMISSION LINE. Project Manager responsible for providing a routing study, right of way, permitting, engineering, and construction management services for a new 115 kV double circuit transmission line interconnecting the new Eklutna Generating Station with the Hospital Substation. The line, approximately 10.6 miles in length, also included an overhead optical ground wire and 12.5 kV distribution underbuild. The project also included 115 kV and 230 kV getaway lines from the EGS switchyard to the existing Eklutna double circuit transmission line and to Reed Substation. Structures are tubular steel with either driven pipe pile or direct embedded foundations.

ALASKA ENERGY AUTHORITY, RECONFIGURATION OF THE TALKEETNA RIVER CROSSING FOR THE ANCHORAGE-FAIRBANKS INTERTIE. Project Manager responsible for evaluating river erosion mitigation options for the Anchorage-Fairbanks Intertie, which is designed to operate at 345 kV. The river was threatening two of the existing towers, and it was decided to remove these towers from the flood plain and replace them with a single span across the river. Mr. Huffman managed a turnkey project including complete engineering, procurement and construction of the project. It involved installing a new 145-ft. tall, deadend structures to support the 3,030-ft. crossing using special high strength 954 kcmil AACSR conductor.

PETER BLAKE, PE

CIVIL ENGINEER

PROFESSIONAL REGISTRATIONS
State of Alaska
State of Wyoming
State of South Dakota
State of Colorado

PROFESSIONAL AFFILIATIONS
American Society of Engineers
Structural Engineering Institute

EDUCATION
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B.S. Civil Engineering

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OVERVIEW

Peter has extensive experience in civil engineering and construction across the utility and transportation sectors. Since joining EPS in 2018, he has contributed structural and civil engineering expertise to various utility projects. His responsibilities include detailed structural design and analysis, material procurement, preparing contract and construction bid packages, public involvement, and construction management.

PROJECT EXPERIENCE

CITY OF SITKA, MARINE ST. SUBSTATION EXPANSION. Provided complete civil/structural design for over $2M substation expansion in Sitka, AK. Design included civil layout, grading and drainage, equipment foundations, oil containment, 2 steel structure designs for shop fabrication, wood getaway support structure with vertical mounted switch, 15 ft high reinforced concrete retaining wall around site, security fencing, procurement and construction support. Responsible for complete set of stamped plans for all civil and structural work.

ALASKA VILLAGE ELECTRIC COOPERATIVE, BETHEL POWER PLANT UPGRADE. Provided structural engineering, design and analysis for equipment additions to existing power plant.

ANCHORAGE MUNICIPALITY LIGHT & POWER, SUBSTATION 3 EXPANSION. Provided civil/structural design for substation expansion in downtown Anchorage. Work included several equipment foundations, seismic analysis and design, and reinforced concrete retaining wall along with construction management assistance.

ALYESKA SEAFOOD, POWER FACTOR CORRECTION EQUIPMENT. Provided structural analysis and design for addition of power factor equipment in existing building to support increased loads.

NUSHAGAK COOPERATIVE, NETC POWER PLANT UPGRADES. Provided seismic analysis and design for electrical equipment in powerplant including steel battery racks and cable tray additions.

CHUGACH ELECTRIC ASSOCIATION, 115kV TOWER INSPECTION TURNAGAIN ARM. Provided field review, inspection coordination, analysis and final reports for existing 115kV steel towers along Turnagain Arm near Girdwood, AK.

CHRIS DAVIS, PE

ELECTRICAL ENGINEER

PROFESSIONAL REGISTRATIONS
Professional Electrical Engineer

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State of Idaho
License no. 9200

State of Washington
License no. 24010151

EDUCATION
B.S. Electrical Engineering
University of Portland
(1994)

B.S. Applied Science
George Fox University
(1993)

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OVERVIEW

Chris has over 30 years of engineering experience, with 18 years focused on power transmission and distribution. He also brings 12 years of expertise in managing new construction and renovation projects for commercial building electrical systems. His broad experience includes electric distribution and transmission, site and interior lighting, low voltage power, fire alarm systems, as well as access control, security camera, wireless LAN, and telecommunications systems. He serves as the Distribution Manager, overseeing design and study projects for several organizations, including Chugach Electric Association, Matanuska Electric Association, Seward Electric, Elmhurst Mutual Power & Light, Copper Valley Electric Association, and the Fort Knox Gold Mine.

PROJECT EXPERIENCE

ELMHURST MUTUAL POWER & LIGHT, MULTIPLE PROJECTS - Tacoma-Puyallup, Washington (2022-PRESENT). Chris has been serving as the "On-Call" EMP&L System Engineer, providing support for all line extensions and standards development. Historically, EMP&L has been a small residential utility, but in recent years, the company has faced increased demand from large commercial customers, such as an Amazon warehouse, which has required additional engineering support.

CITY OF ST. PAUL, AIRPORT FEEDER - St. Paul, Alaska (2022-2025). The City of Saint Paul's electrical distribution system is entirely underground, with three circuits feeding the city from the powerhouse: 1) Airport Feeder, 2) Town Feeder, and 3) Harbor Feeder. The exposed concentric neutral feeders were direct-buried around 1983 and have since exceeded their 35-year expected lifespan. During a field inspection, EPS noted that many of the padmount devices were showing signs of premature rusting and were at risk of oil leakage. As a result, the scope of the project was expanded to include a full system condition assessment. This led to the development of plans, staking sheets, cost estimates, and assistance for the City of Saint Paul in securing RUS grants and loans for the necessary improvements.

SOUTHEAST ALASKA REGIONAL HEALTH CONSORTIUM, DEDICATED FEEDER MT. EDGECUME CAMPUS - Sitka, Alaska (2020-2024). Performed design and design oversight for a 1.5-mile dedicated feeder to supply power to a new medical campus in Sitka, Alaska. This project included a half-mile undersea cable crossing between Baranof Island and Japonski Island, where the campus is located. The work encompassed design, cost estimation, and construction engineering, along with ongoing support services throughout the project.

ALASKA MUNICIPAL LIGHT & POWER, 10 YEAR PLAN - Anchorage, Alaska (2018-2019). Performed a 10-year planning study for the transmission side of the Anchorage ML&P utility system. Duties included condition assessment of all transmission poles in the system, 10-year load forecast analysis of the AM&P service area, and project cost estimates.

DOWL ENGINEERS FOR ALASKA ENERGY AUTHORITY, BATTLE CREEK DIVERSION - Bradley Lake, Alaska (2017-2020). EPS collaborated with Dowl Engineers on the distribution design for the power line between the Bradley Lake Hydro Gate House and the Battle Creek Diversion Dam. The project involved approximately 2 miles of 7.2kV single-phase distribution and communication fiber, installed along the access road next to the HDPE penstock. Multiple services were added along the route, and a recloser was included to isolate the line extension on generator power, helping to mitigate potential overload issues. EPS provided system planning, engineering studies, bid documents, submittal reviews, on-site quality assurance (QA), and as-built documentation.

KINROSS GOLD CORPORATION, FORT KNOX 13.8Kv DISTRIBUTION LINE RELOCATIONS - Fort Knox, Alaska (2015-2020). As the mine pit at Fort Knox continues to expand, the electrical distribution systems supporting the mine complex must evolve to meet the growing demand. The existing 13.8kV distribution line feeding the pit dewatering system has been modified and rebuilt multiple times over the past three years as the pit operations have moved into areas originally served by the line. The 2017 relocation is expected to be the final position for this line. In the same year, we designed four miles of line extensions to accommodate the relocated loads and support the addition of a new Water Treatment plant. Additionally, we conducted studies and preliminary designs for a new distribution line intended to power a 3.8 MW Electric Rope Shovel, though this project was later deemed cost-prohibitive.

MCMILLAN LLC FOR COPPER VALLEY ELECTRIC ASSOCIATION, ALLISON CREEK INTERTIE DESIGN - Valdez, Alaska (2012-2013). Collaborated closely with the developer and our firm's right-of-way department to design, route, provide cost estimates for, and stake a new double-circuit 25 kV intertie line between the Dayville Road Switchyard and the proposed Allison Creek Hydro Project near Valdez, Alaska. The line traverses challenging terrain typical of the Valdez area and was strategically routed parallel to the Trans-Alaska Pipeline to avoid conflicts with University of Alaska and City of Valdez properties.

CITY OF METLAKATLA, WALDEN POINT 35kV LINE EXTENSION- Metlakatla, Alaska (2011-2019). Provided permitting, design, and project management services—including material ordering—for a 14-mile, 35 kV sub-transmission line and a four-mile, 35 kV submarine cable for the City of Metlakatla. The project is ongoing, as funding for the submarine cable crossing and associated substation work has not yet been secured.

COPPER VALLEY ELECTRIC ASSOCIATION, SOLOMON POWER LINE - Valdez, Alaska (2009-2010). Verified existing conditions, designed, and staked new power and communication lines between the Solomon Gulch Hydroelectric Facility powerhouse and valve house. The new lines are engineered to withstand a 2-inch radial snow load, replacing the original design, which was vulnerable to being pulled from the penstock due to ice and snow accumulation.

DOYON UTILITIES, FWA, FGA, & FRA FEEDER UPGRADES - Fort Greely, Fort Wainwright, & JBER-Richardson, Alaska (2007-2015). Provided system upgrade planning, bid documents, quality control (QC), and GPS as-built documentation for the project to upgrade over 66 miles of 12.5 kV feeders at Fort Wainwright for Doyon. The work involved installing a backbone of 336.4 kcmil ACSR (Merlin) and taps of #1/0 ACSR (Raven), along with the construction of double-circuit lines. Additionally, Chris supported voltage conversion projects, including upgrades from 2400V and 7200V to 14.4/24.9 kV at Fort Greely, and from 7200V to 7.2/12.5 kV at JBER-Richardson.

MATT WILLIAMS, PE

ELECTRICAL ENGINEER

PROFESSIONAL REGISTRATIONS
Professional Electrical Engineer

State of Alaska
License no. 10252

EDUCATION
B.S. Electrical Engineering
Gonzaga University (1995)

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OVERVIEW

Matt has over 27 years of experience in the electrical engineering field in Alaska, with extensive expertise in power transmission and distribution across the state. His project experience includes the design of distribution and transmission systems, as well as the development of engineering standards. He has also worked on planning and sectionalizing studies, distributed generation impact studies, and coordination studies for distribution systems.

PROJECT EXPERIENCE

SOUTHEAST ALASKA REGIONAL HEALTH CONSORTIUM, DEDICATED FEEDER MT. EDGECUME CAMPUS - Sitka, Alaska. Performed design and oversight for a 1.5-mile dedicated feeder to supply power to a ne medical campus in Sitka, Alaska. This project included a half-mile undersea cable crossing between Baranof Island and Japonski Island, where the campus is situated. The work encompassed design, cost estimation, construction engineering, and ongoing support services.

KOTZEBUE ELECTRIC ASSOCIATION, DISTRIBUTION ENGINEERING SERVICES- Kotzebue, Alaska. Providing ongoing electrical distribution engineering services for Kotzebue Electric Association (KEA). Current projects include line extensions, service and transformer sizing, feeder protection and sectionalizing upgrades, and a feeder voltage conversion project. A key component of the work is the integration of photovoltaic (PV) and wind power into KEA's isolated grid.

HOMER ELECTRIC ASSOCIATION, SOUTH KACHEMAK BAY SUBMARINE CABLE STUDY - Homer & Seldovia, Alaska. Conducted a study for a potential submarine cable installation between Homer and Seldovia to supplement the existing Kachemak Bay submarine crossing cable that serves the South Kachemak Bay communities. The proposed new submarine crossing was approximately 16 miles in length. The study included cable sizing, cost estimation, determination of appropriate reactive compensation for the cable's capacitive effects, and an evaluation of a Battery Energy Storage System (BESS) for both outage mitigation and reactive power compensation.

SANDIA NATIONAL LABORATORIES, PORT OF ALASKA RESILIENT MICROGRID STUDY - Anchorage, Alaska. Performed a feasibility level study for on-site generation and microgrid infrastructure at the Port of Alaska in Anchorage, Alaska with the goal of providing resiliency to the critical infrastructure of the Port in the event of catastrophic power utility failure. Work included estimating port loads and forecasting future load growth for the port; preparing concept designs and sketches of a local grid infrastructure with generation, PV, and battery storage; reviewing potential connections to other critical loads in the Port area, and sizing potential on-site diesel generation.

MATANUSKA ELECTRIC ASSOCIATION, WILLOW SOLAR SITE PV IMPACT STUDY - Willow, Alaska. Conducted a PV impact study for a 1 MW Willow Solar site to assess its integration into MEA's distribution system. The study followed the industry-standard NRECA PV System Impact Guide and included the evaluation of steady-state load flow and voltage levels under both minimum and peak feeder loading conditions, with and without PV generation. Additionally, the study involved short-circuit analysis and a screening for the risk of islanding. A comprehensive PV system impact report was prepared, summarizing the findings and recommendations.

ALASKA VILLAGE ELECTRIC COOPERATIVE, STEBBINS TO ST. MICHAEL 12.47 kV INTERTIE - AVEC Region, Alaska. Provided design and design oversight, engineering management, and construction inspection services for approximately 10 miles of new 12.47 kV distribution intertie between two villages in northwest Alaska, aimed at enhancing operational efficiency and reliability. The design also included pile foundations in areas with poor soil conditions.

DOYON UTILITIES, FWA, FGA, & FRA FEEDER UPGRADES - Fort Greely, Fort Wainwright, & JBER-Richardson, Alaska. Provided engineering management and design oversight for over 50 miles of distribution line upgrades, including design, standards development, staking, and as-built documentation. The projects involved upgrading voltage from 2400V and 7200V to 14.4/24.9 kV at Fort Greely, and from 7200V to 7.2/12.5 kV at JBER-Richardson.

SEATTLE CITY LIGHT, DESIGN STANDARDS DEVELOPMENT 26kV OVERHEAD LINE DESIGN STANDARDS - Seattle, Washington. A project to develop a series of design standards for overhead facilities in the Seattle City Light 26 kV system. The standards cover clearances, sag and tension, loading, construction grades, structural analysis, and framing for both primary and secondary circuits, as well as joint-use facilities on overhead poles.

KETCHIKAN PUBLIC UTLITIES, GRAVINA ISLAND ELECTRICAL & TELECOM LINES EXTENSION - Ketchikan, Alaska. Designed a 34.5kV transmission line extension to Gravina Island for Ketchikan Public Utilities, including approximately one mile of submarine cable and ¾ mile of overhead line.

ALASKA MUNICIPAL LIGHT & POWER, 10 YEAR PLAN - Anchorage, Alaska. Conducted a 10-year planning study for the distribution system of the Anchorage ML&P utility. Responsibilities included preparing a load growth study for the service area, performing a 10-year load forecast analysis using Synergi software, developing proposed distribution system upgrade projects to accommodate forecasted loads, and providing project cost estimates.

ANCHORAGE MUNICIPAL LIGHT & POWER, EKLUTNA TRANSMISSION LINE REBUILD - Anchorage, Alaska. Rebuilt a 230 kV transmission line for Anchorage Municipal Light & Power, replacing the existing wood structures with new steel pole structures. The project spanned approximately 22 miles.

CARRIE MILLER, EIT

ENGINEER IN TRAINING

PROFESSIONAL REGISTRATIONS
Engineer in Training

EDUCATION
B.S. Civil Engineering w/ minor in Mathematics (2006)

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OVERVIEW

Carrie has been with EPS since 2006, bringing extensive experience in civil design for substations, transmission, and distribution powerlines across the northwest, Alaska, and Hawaii. She has worked on a wide range of projects, addressing the unique challenges of both urban and rural design and construction. Carrie's expertise includes complex transmission line design, substation upgrades, grading and drainage plans, and fiber optic installations.

TRANSMISSION PROJECT EXPERIENCE

CONOCO PHILLIPS INC., FIBER OPTIC ALPINE TO KUPARUK - North Slope, Alaska (2012-Present). Provided engineering services and design for the attachment of fiber optic cable to existing steel pipeline structures from Pump Station #1 to Kuparuk Operation Center. It is a fast paced project requiring communication between Conoco Phillips and Alyeska Pipeline. The design requires above ground attachments and clearance requirements to be met, along with underground road crossings.

CHUGACH ELECTRIC ASSOCIATION, QUARTZ CREEK 115kV/230kV TRANSMISSION LINE - Turnagain Arm, Alaska (2011-2013). Provided engineering services and design from the replacement of 15 miles of existing wood H-Frame 115kV transmission line with a combination of wood H-Frame and steel structures through Turnagain Pass. The project contained design elements of 20ft of snow and large canyon crossings. Part of the project required the consideration of helicopter installations.

ANCHORAGE MUNICIPAL LIGHT & POWER, ARCTIC BLVD 115kV DOUBLE CIRCUIT - Anchorage, Alaska (2011-2012). Provided engineering and services and design for laminated wood pole 115kV double circuit transmission line, 12.5kV distribution underbuild, and ADSS. Design elements required the existing lines to stay energized through a high traffic area in midtown Anchorage.

MATANUSKA ELECTRIC ASSOCIATION, TEELAND-REDDINGTON 115kV TRANSMISSION LINE - Wasilla, Alaska (2010-2011). Provided engineering services and design for the rebuild of a 115kV transmission line and 25kV underbuild. The line is approximately 9.6 miles long extending from Teeland Substation owned by Chugach Electric Association to Redington Substation owned by Matanuska Electric Association. The 25kV is required to stay energized during construction.

SUBSTATION PROJECT EXPERIENCE

CHUGACH ELECTRIC ASSOCIATION, HOPE SUBSTATION UPGRADE - Turnagain, Alaska (2012-Present). Provided engineering services and design grading and drainage plan to expand and upgrade the existing Hope Substation. Design elements required the new substation pad to meet the existing substation pad, while still having access around the pad with sufficient distance from an existing cliff on the site.

MATANUSKA ELECTRIC ASSOCIATION, PARKS SUBSTATION REBUILD - Wasilla, Alaska (2012-Present). Provided engineering services and design grading and drainage plan to expand and upgrade the existing Parks Substation. Design elements required the new substation pad to meet the existing substation pad, retaining an elevation difference of 20 across the site with a 25’ buffer from property lines. The elevation changes required gravity retaining walls.

DOYON, LANDFILL GAS POWER PLANT - Joint Base Elemdorf-Richardson, Alaska (2011-2012). Provided engineering services and design grading and drainage plan for a processing building at the Anchorage Regional Landfill.

KAUAI ISLAND UTILITY, AEPO SUBSTATION - Kauai, Alaska (2010-2012). Provided engineering services and design grading and drainage for the Aepo Substation. Design elements required the reroute of an existing trench and long access roads to approach the substation.

EXHIBIT 10

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CONTRACT FOR PROFESSIONAL SERVICES WITH EDC, INC.

In consideration of the mutual promises herein, ANCHORAGE and EDC, INC. agree as follows. This contract consists of:

A. Part I, consisting of 15 sections of Special Provisions
B. Part II, consisting of 11 sections of General Provisions
C. Appendix A – Fee Schedule, consisting of 1 page, excluding cover

PART I
SPECIAL PROVISIONS

Section 1. Definitions.

A. "Administrator" means the Engineering Division Director of the Anchorage Water and Wastewater Utility or their designee
B. "Anchorage" means the Municipality of Anchorage.
C. “Owner” means the Anchorage Water and Wastewater Utility
D. "Contractor" means EDC, Inc.

Section 2. Scope of Services.

A. Individual delivery orders Contract Task Orders (CTOs) will be issued for specific Owner requested work items. The Contractor is to perform the professional services required to complete the tasks set forth in each CTO.

B. The Contractor shall respond to each CTO with a proposal detailing scope, cost, subcontractor involvement, and time required to complete the work in each CTO. AWWU and the Contractor may refine the proposal for clarification of the scope of services prior to issuing Notice to Proceed for the CTO.

C. Each CTO is limited in scope to the work requested in the request for proposal (RFP 2024P017) that led to this contract and as stated below;

1. This term contract is limited to Mechanical and Electrical Engineering professional services.

2. Services may include, but are not limited to, studying, reporting on, designing, inspecting, and managing parts of or entire projects for design and consultation for such items as pump stations, booster stations, pressure regulating stations, SCADA telemetry, and HVAC systems in existing and proposed AWWU facilities. These facilities may be above ground or below ground.

3. The Contractor may utilize subcontractors in support of Mechanical and Electrical Engineering task orders when deemed necessary to complete their work, such as but not limited to specialty knowledge consultants. See Section 15 for additional requirements regarding subcontractors and work proposals.

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D. A Purchase Order (PO) will be issued against this contract for each specific CTO. No work is authorized nor may commence without receipt of a PO. Once received, the Contractor shall perform the professional services required to complete the CTO contained therein. Individual PO's are not to exceed $250,000.00, unless Anchorage's Purchasing Director or their designee approves of a greater amount.

E. Anchorage shall not allow any claim for services other than those described in this section. However, the Contractor may provide, at its own expense, any other services that are consistent with this contract.

Section 3. Time for Performance.

A. This contract becomes effective when signed on behalf of Anchorage and shall remain in effect for three year(s) from the date of final signature.

B. Upon receipt of a PO authorizing work, the Contractor shall commence performance of that work and complete that performance in accordance with the schedule contained therein.

Section 4. Compensation; Method of Payment.

A. Subject to the Contractor's satisfactory performance, Anchorage shall pay the Contractor no more than SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($750,000.00) in accordance with this section.

B. Anchorage shall pay the Contractor for actions performed for a CTO issued under this contract in accordance with the schedule of professional fees provided in response to the Owner's request for proposals.

C. Each month the Contractor shall present a bill to the Owner describing the work for which it seeks payment and documenting expenses and fees to the satisfaction of the Owner. If any payment is withheld because the Contractor's performance is unsatisfactory, the Owner must, within ninety (90) days of the payment denial, notify the Contractor of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why.

D. The Contractor is not entitled to any compensation under this contract, other than is expressly provided for in this section.

E. As a condition of payment, the Contractor shall have paid all municipal taxes currently due and owing by the Contractor.

F. Labor rates for the Contractor and their subcontractors must be all inclusive. Separate charges for insurance, special pay, pay enhancements, employer paid contributions to retirement programs, employer paid benefits, overhead, and profit, and additional accessory office components associated with the charging position, such as but not limited to, internet, remote office, telephone, computer, computer programs, office supplies, office space, and furniture will not be allowed regardless of what is shown in the fee schedule in or as updated per item B in this section.

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Section 5. Termination of the Contractor's Services.

The Contractor's services under Section 2 may be terminated:

A. By mutual consent of the parties.

B. For the convenience of Anchorage, provided that Anchorage notifies the Contractor in writing of its intent to terminate under this paragraph at least 10 days prior to the effective date of the termination.

C. For cause, by either party where the other party fails in any material way to perform its obligations under this contract. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefor, and the other party fails to cure the default within thirty (30) days after receiving the notice.

Section 6. Duties Upon Termination.

A. If Anchorage terminates the Contractor's services for convenience, Anchorage shall pay the Contractor for its actual costs reasonably incurred in performing before termination. Payment under this subsection shall never exceed the total compensation allowable under Section 4. All finished and unfinished documents and materials prepared by the Contractor shall become the property of Anchorage.

B. If the Contractor's services are terminated for cause, Anchorage shall pay the Contractor the reasonable value of the services satisfactorily rendered prior to termination less any damages suffered by Anchorage because of the Contractor's failure to perform satisfactorily. The reasonable value of the services rendered shall never exceed the contract rate for such services, and payment under this subsection shall not exceed ninety percent (90%) of the total compensation allowable under Section 4. Any finished or unfinished documents or materials prepared by the Contractor under this contract shall become the property of Anchorage at its option.

C. If the Contractor receives payments exceeding the amount to which it is entitled under subsections A or B of this section, he shall remit the excess to the Administrator within thirty (30) days of receiving notice to do so.

D. The Contractor shall not be entitled to any compensation under this section until the Contractor has delivered to the Administrator all documents, records, work product, materials and equipment owned by Anchorage and requested by the Administrator.

E. If the Contractor's services are terminated, for whatever reason, the Contractor shall not claim any compensation under this contract, other than that allowed under this section.

F. Except as provided in this section, termination of the Contractor's services under Section 5 does not affect any other right or obligation of a party under this contract.

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G. If a final audit has not been performed before the Contractor's services are terminated, Anchorage may recover any payments for costs disallowed as a result of the final audit.

Section 7. Insurance.

A. The Contractor shall maintain in good standing, for the entire period of the contact, the insurance described in subsection B of this section. Before rendering any services under this contract, the Contractor shall furnish the Administrator with a Certificate of Insurance in accordance with subsection B of this section in a form acceptable to the Risk Manager for Anchorage.

B. The Contractor shall provide the following insurance:

1) $500,000 Employers Liability and Workers Compensation as required by Alaska Law.

2) Commercial Automobile Liability in the amount of $1,000,000 combined single limit to include: owned, hired, and non-owned.

3) Commercial General Liability including:

a. $2,000,000 General Aggregate
b. $2,000,000 Products/Completed Operations
c. $1,000,000 Personal & Advertising Injury
d. $1,000,000 Each Occurrence
e. $5,000 Medical Payments

4) Professional Liability insurance with limits not less than $1,000,000 per occurrence and $2,000,000 aggregate.

5) Cyber/Privacy Liability insurance with limits not less than $3,000,000. The Cyber coverage shall include, but not be limited to, claims involving invasion of privacy violations, Information theft, and release of private information. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses.

C. Policies written on a "claims-made basis" must have a two (2) year tail of coverage, or an unbroken continuation of coverage for two (2) years from the completion of the contract requirements.

D. Each policy of insurance required by this section shall provide advance notice to the MOA/Contract Administrator prior to cancellation in accordance with the policy. If the insurer does not notify the MOA on policy cancellation it shall be the contractor's responsibility to notify the MOA of such cancellation.

E. Except for Workers Compensation and Professional Liability each policy is to name The Municipality as an "additional insured" and the actual policy endorsement shall accompany each Certificate of Insurance.

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F. General Liability, Workers Compensation, and Automobile policies shall be endorsed to waive all rights of subrogation against the Municipality of Anchorage by reason of any payment made for claims under the above coverage. This policy endorsement shall accompany each Certificate of Insurance.

G. All policies for general liability shall be primary and noncontributing with any insurance that may be carried by the Municipality.

H. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Municipality requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Municipality.

I. Contractor shall require and verify that all subcontractors maintain insurance meeting all requirements stated herein, and Contractor shall ensure that the Municipality is an additional insured on insurance required from subcontractors.

Section 8. Assignments.

Unless otherwise allowed by this contract or in writing by the Administrator, any assignment by the Contractor of its interest in any part of this contract or any delegation of duties under this contract shall be void, and an attempt by the Contractor to assign any part of its interest or delegate duties under this contract shall give Anchorage the right immediately to terminate this contract without any liability for work performed.

Section 9. Ownership; Publication, Reproduction and Use of Material.

A. Except as otherwise provided herein, all data, documents and materials produced by the Contractor under this contract shall be the property of Anchorage, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright.

B. Should Anchorage elect to reuse Work products provided under this Contract for other than the original project and/or purpose, Anchorage will not hold Contractor liable for any damages resulting from Anchorage's reuse of work products for an unintended purpose. Additionally, any reuse of design drawings or specifications provided under this Contract must be limited to conceptual or preliminary use for adaptation and the original Constructor's or subcontractor's signature, professional seals and dates removed. Reuse of drawings and specifications, which require professional seals and dates removed, will be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for adaptation.

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C. Equipment purchased by the Contractor with designated contract funds shall be the sole property of Anchorage marked and inventoried as such with a copy of the inventory forwarded to Anchorage.

Section 10. Notices.

Any notice required pertaining to the subject matter of this contract shall be either sent via facsimile (FAX) or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

Anchorage: Municipality of Anchorage
Anchorage Water and Wastewater Utility
Attn: James Armstrong, P.E.
3000 Arctic Boulevard
Anchorage, AK 99503-3898
FAX: (907) 562-0824

Contractor: EDC, Inc.
Attn: John Pepe, P.E.
1500 West 33rd Avenue, Suite 100
Anchorage, AK 99503
FAX: (907) 276-4763
johnp@edc-alaska.com

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or five (5) days after proof of proper posting.

Section 11. Contract Budget.

In connection with its performance under this contract the Contractor shall not make expenditures other than as provided in line items in the contract budget.

Section 12. Force Majeure.

A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.

B. As used in this contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this contract, including without limitation:

1. Any interruption, suspension or interference resulting solely from the act of the Municipality or negligent act(s) of the Municipality not otherwise governed by the terms of this contract.

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2. Strikes or work stoppages.
3. Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.
4. Order of court, administrative agencies or governmental officers other than the Municipality.

Section 13. Financial Management System.

The Contractor shall establish and maintain a financial management system that:

A. Provides accurate, current, and complete disclosure of all financial transactions relating to the contract;

B. Maintains separate accounts by source of funds for all revenues and expenditures and identifies the source and application of funds for the Contractor's performance under this contract, including information pertaining to subcontracts, obligations, unobligated balances, assets, liabilities, outlays and income;

C. Effectively controls and accounts for all municipal funds and contract property;

D. Compares actual expenditures with budgeted amounts and relates financial information to performance or productivity data including unit cost information where applicable;

E. Allocates administrative costs to direct service delivery units;

F. Minimizes the time between receipt of funds from Anchorage and their disbursement by the Contractor;

G. Provides accounting records supported by source documentation; and

H. Provides a systematic method assuring the timely and appropriate resolution of audit findings and recommendations.

Section 14. Funding Requirements.

If any funding source for this contract should impose additional requirements upon Anchorage for the use of those funds, the Contractor agrees to abide by those additional requirements immediately upon receipt of written notice thereof from Anchorage.

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Section 15. Subcontracts.

The Contractor may enter into subcontracts for the purchase of goods and services necessary for the performance of this contract, provided:

A. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefore. Each subcontract is to provide a rate sheet with same limitation placed on the rates as the Contractor.
B. Every subcontract under which the Contractor delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the Contractor.
C. Every subcontract in an amount exceeding $1,000.00 shall require reasonable access to business records of the subcontractor relating to the purchase of goods or services pursuant to the subcontract.
D. The Contractor is not allowed a markup for goods and services. In accordance with item A, this provision extends to subcontractors

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PART II

GENERAL CONTRACT PROVISIONS

Section 1. Relationship of Parties.

The Contractor shall perform its obligations hereunder as an independent contractor of Anchorage. Anchorage may administer the contract and monitor the Contractor's compliance with its obligations hereunder. Anchorage shall not supervise or direct the Contractor other than as provided in this section.

Section 2. Nondiscrimination.

A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, or marital status, or who is a "qualified individual with a disability", as that phrase is defined in the Americans With Disabilities Act of 1990. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, mental or physical disability, sexual orientation or gender identity. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. The Contractor shall state, in all solicitations or advertisements for employees to work on contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, or mental or physical disability.

C. The Contractor shall comply with all reporting requirements that may apply to it which the Anchorage Office of Equal Employment Opportunity Contract Compliance may establish by regulation. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.

D. The Contractor shall include the provisions of subsections A through C of this section in every subcontract or purchase order under this contract, so as to be binding upon every such subcontractor or vendor of the Contractor under this contract. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.

E. The Contractor shall comply with all applicable federal, state and municipal laws concerning the prohibition of discrimination including, but not limited to Title 5 and Title 7, Chapter 7.50 of the Anchorage Municipal Code.

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Section 3. Permits, Laws and Taxes.

The Contractor shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this contract. All actions taken by the Contractor under this contract shall comply with all applicable statutes, ordinances, rules and regulations. The Contractor shall pay all taxes pertaining to its performance under this contract.

Section 4. Nonwaiver.

The failure of either party at any time to enforce a provision of this contract shall in no way constitute a waiver of the provision, nor in any way affect the validity of this contract or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

Section 5. Amendment.

A. This contract shall only be amended, modified or changed by written document, executed by authorized representatives of the parties, with the same formality as this contract was executed.
B. For the purposes of any amendment modification or change to the terms and conditions of this contract, the only authorized representatives of the parties are:

Contractor: John Pepe, P.E., Principal

Anchorage: **Mayor, Municipal Manager or Approved Designee**

C. Any attempt to amend, modify, or change this contract by either an unauthorized representative or unauthorized means shall be void.

Section 6. Jurisdiction; Choice of Law.

Any civil action arising from this contract shall be brought in the Superior Court for the Third Judicial District of the State of Alaska at Anchorage. The law of the State of Alaska shall govern the rights and obligations of the parties under this contract.

Section 7. Severability.

Any provision of this contract decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the contract.

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Section 8. Integration.

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

Section 9. Liability.

A. The Contractor shall indemnify, defend, save, and hold Anchorage harmless from any claims, lawsuits or liability, including reasonable attorneys' fees and costs, arising from any wrongful or negligent act, error or omission of the Contractor or any subcontractor as a result of the Contractor's or any subcontractor's performance pursuant to this contract.

B. The Contractor shall not indemnify, defend, save and hold Anchorage harmless from claims, lawsuits, liability, including reasonable attorneys' fees and costs arising from a wrongful or negligent act, error or omission solely of Anchorage occurring during the course of or as a result of Anchorage's performance pursuant to this contract.

C. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Anchorage and the Contractor, the Contractor shall indemnify, defend, save and hold Anchorage harmless from only that portion of claims, lawsuits or liability, including attorneys' fees and costs, which result from the Contractor's or any subcontractor's wrongful or negligent acts occurring as a result of the Contractor's performance pursuant to this contract.

Section 10. Inspection and Retention of Records.

The Contractor shall, at any time during normal business hours and as often as Anchorage may deem necessary, make available to Anchorage, for examination, all records with respect to all matters covered by this contract for a period ending three years after the date the Contractor is to complete performance in accordance with Section 2 of the Special Provisions. Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this contract, to Anchorage, in such form and at such times as Anchorage may reasonably require. The Contractor shall permit Anchorage to audit, examine and make copies of such records, and to make audits of all invoices, materials, payrolls, records of personnel and other data relating to all matters covered by this contract. Anchorage may, at its option, permit the Contractor to submit its records to Anchorage in lieu of the retention requirements of this section.

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Section 11. Availability of Funds.

Payments under this contract require funds from future appropriations and are subject to future appropriations. If sufficient funds are not appropriated for payments required under this contract, this contract shall terminate without penalty to Anchorage and Anchorage shall not be obligated to make payments under this contract beyond those which have previously been appropriated.

IN WITNESS WHEREOF, the parties have executed this contract on the date and at the place shown below.

MUNICIPALITY OF ANCHORAGE

Mayor, Municipal Manager or Approved Designee

Date: 10/03/2024 | 4:56:19 PM AKDT

CONTRACTOR

John Pepe

Name: John Pepe, P.E.
Principal

Date: 10/03/2024 | 4:55:40 PM PDT

IRS Tax Identification No. 92-0076582
Tax Status: Taxable

RECOMMEND FOR APPROVAL:

Mark Corsentino

Mark A. Corsentino, P.E.
General Manager, AWWU

Date: 10/03/2024 | 3:36:13 PM AKDT

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Appendix A

Fee Schedule

Docusign Envelope ID: 9D66E8E1-A0B2-4867-95D2-1111A7A86C5D

EDC, INC.
Experience · Teamwork · Integrity

ENGINEERING DESIGN & CONSULTING

2024 FEE SCHEDULE – AWWU PROJECTS

RFP 2024P017- AWWU Provide Professional Services- Term Contract

HOURLY RATES FOR PROFESSIONAL AND TECHNICAL STAFF

STAFF POSITION	2024	2025	2026	2027
PRINCIPAL ENGINEER	$206.99	$211.13	$215.35	$219.68
SENIOR STAFF ENGINEER	$173.94	$177.42	$180.96	$184.56
STAFF ENGINEER	$156.04	$159.16	$162.34	$165.59
AUTOCAD DRAFTER	$124.71	$156.79	$159.94	$163.12
ADMINISTRATIVE & SUBCONSULTANT EXPENSES				
OFFICE ADMINISTRATION	$124.71	$127.20	$129.73	$132.33

Note 1 - Administrative Expenses (travel, copying, & miscellaneous direct expenses) are charged at cost, without markup.

EXHIBIT 11

ENGINEERING DESIGN & CONSULTING EDC, INC.
Experience • Teamwork • Integrity
1500 West 33rd Avenue, Suite 100
Anchorage, AK 99503

March 18, 2025

Mark A. Corsentino, PE
Director, Anchorage Hydropower Utility
632 W. 6th Avenue
Anchorage, AK 99501

Subject: Request for Professional Services Qualifications - Electrical & Mechanical Engineering Services

Dear Mark:

Engineering Design & Consulting (EDC), Inc. is pleased to provide a summary of our Professional Electrical & Mechanical Engineering Services and Resources. EDC has a long history of providing these design services for Southcentral Alaska. We take pride and are committed to further serving utilities in our community.

We understand that EDC's role would be to support personnel in a variety of tasks as part of planned capital improvement projects. EDC provides quick support for these short-duration tasks. Tasks may include a wide variety facility mechanical and electrical design tasks as well as construction administration services, evaluation of existing systems, and independent technical review of design documents produced by others.

As President and one of the principals at EDC. I will be the point of contact for any further inquiries. I am fully authorized to represent the company.

The required responses to the 'Notification of Contract Service Expansion', received on March 13, 2025, are as follows:

1. Firm's expertise and experience - see the 'Local Area Experience' section below.
2. Firm's experience with Hydroelectric projects – see the 'Local Area Experience' section below.
3. Firm's experience with maintaining records in accordance with the 'Uniform System of Accounts' – EDC has limited experience with this system.
4. Resumes of key personnel – see the 'Staff Qualifications and Experience' section below.

Sincerely,

John Pepe, PE
Principal, EDC, Inc.
1500 W 33rd Avenue, Suite 100
Anchorage, AK 99503
Direct: (907) 257-0605
Email: johnp@edc-alaska.com

Firm Qualifications and Experience

EDC as a company has over 30 years of experience providing mechanical and electrical designs in support of water and wastewater projects throughout the State of Alaska. Having held several previous term contracts, we are familiar with many utilitys' standards, practices, and methods. We understand an owner's commitment to high quality construction practices as reflected in your own standard details and specifications whose requirements often exceed conventional standards. We have worked well with utility project managers, engineers, maintenance personnel and operators. This relationship has seen the successful completion of numerous projects with similar design elements, locations, complexity, and/or personnel as anticipated.

EDC has completed a number of mechanical and electrical designs for hydro-generation facilities. Typical design elements include HVAC, plumbing, power distribution, lighting, PLC-based process control systems and SCADA. Many of these projects have been multi-discipline projects where EDC has excelled in teamwork, planning, coordination, and successful completion.

Staff Qualifications and Experience

Our professional engineering design staff has over 100 years of combined experience in Alaska. The personnel proposed for this Contract are as follows (no sub-consultants are anticipated):

Contract Task Order Manager | Lead/Principal Electrical Engineer
John Pepe, P.E., President of EDC | BSEE Oregon State University, 1994 | Alaska Registration No. AELE-11287 (Electrical Engineer) & AELO-14325 (Control Systems Engineer) | 28+ yrs. exp.

Responsibilities: Mr. Pepe will provide project management and serve as an engineer of record. He will also function as internal reviewer for quality control of all task orders under this contract.
Experience: John brings more than 28+ years of facility electrical and control systems engineering to his project management. John's focus has been facility electrical power, lighting, telecommunications, and SCADA control systems.

Principal Electrical Project Engineer | Project Manager
Roy Pace, P.E., Principal of EDC | BSEE University of Alaska Fairbanks, 2004 | Alaska Registration No. AELE-12053 (Electrical Engineer) & AELO-14323 (Control Systems Engineer) | 20+ yrs. exp.

Responsibilities: Mr. Pace will serve as the project manager and engineer of record for projects as assigned. Additionally, he may serve as an internal reviewer.
Experience: Roy has been with EDC since 2003 and brings more than 20+ years of engineering experience to projects. His experience includes lighting, SCADA design, telecommunications, power distribution, technical reviews, specification development, site inspections, and construction administration.

Senior Electrical Project Engineer
John Faschan, P.E., Senior Engineer of EDC | BSEE Rutgers University, 1986 | Alaska Registration No. AELE-8286 (Electrical Engineer) & 108599 (Control Systems Engineer) | 38+ yrs. exp.

Responsibilities: Mr. Faschan will serve multiple functions under this contract. He will serve as the term contract technical reviewer and Quality Control manager, as well as project engineer of record for select projects.
Experience: John helped found EDC in 1994 as the original principal in the firm. John's focus for the past 3 decades has been municipal water and wastewater projects. He brings the experience of 38 years of developing power distribution, standby power, lighting, instrumentation, control, and SCADA system design solutions related to water and wastewater treatment facilities to the team.

Senior Electrical Project Engineer
Cory Wardrope, P.E., EDC | BSEE University of Alaska Anchorage, 2013 | Alaska Registration No. 129346 (Electrical Engineer) | 12+ yrs. exp.

Responsibilities: Mr. Wardrope will provide electrical engineering tasks as assigned, including technical memorandums, design development, coordination with other disciplines, construction cost estimating, submittal review, and site inspections.
Experience: Cory has been with EDC since 2013 when he began a summer internship. Project work has included technical

memorandum development, utility service upgrades; power distribution and motor control center design; standby power system design; telecommunication and SCADA system design; construction administration and startup services.

Principal Mechanical Engineer | Project Manager
Zach Boldrick, P.E., Principal of EDC | BSME Baylor University, 2008 | Alaska Registration No. ME-14283 (Mechanical Engineer) | 16+ yrs. exp.

Responsibilities: Mr. Boldrick will serve as the mechanical engineering project manager and engineer of record. Anticipated tasks include technical memorandums, design development, coordination with other disciplines, construction cost estimating, submittal review, and site inspections.
Experience: Zach started his professional career with EDC in 2009. Since that time, he has worked on hydro-generations projects for AWWU and microturbine projects throughout Southcentral Alaska.

Local Area Experience

EDC has been in business since 1994 and has served the Municipality for 30 years. In that time, the company gained valuable knowledge of alternative energy and hydro generation facilities and systems through numerous projects including the following:

City of Palmer Spruce Well House Microturbine (2024-25)
Design of new prime power, natural gas microturbine system. Project included coordination with the equipment manufacturer and electric service utility (MEA)
Client: City of Palmer
Project Manager: Chris Bowman, PE, HDL, Ph: (907) 761-1206

AWWU Ship Creek Energy Recovery Station (ERS) Hydro Turbine Feasibility Study (2019)
Electrical evaluation of the proposed alternatives as well as the basic electrical requirements for each alternative installation of a new hydro turbine at the ERS facility. EDC assisted in the cost evaluation of the electrical elements of the proposed alternative ROIs and the evaluation of the utility's net metering and buyback policies in alternative ROI calculations.
Client: AWWU / R&M
Project Manager: Don Porter, PE, R&M, Ph: (907) 646-9603

AWWU Eklutna Water Treatment Facility (EWTF) Facility and Asset Management Plan (2018)
Review and Evaluation of existing Eklutna WTF process and non-process (i.e., facilities) mechanical/electrical and controls infrastructure for regulatory compliance with current and applicable codes, Identified operational concerns and high-risk assets and prioritized risk mitigation. This work included the Eklutna hydro-turbine and proposed upgrades to the electric utility (CEA) infrastructure.
Client: CDM Smith
Project Manager: Mike Hyland PE, CDM Smith, Ph: (206) 518-2297
Owner's Representative: Steve Nuss, PE

Consultant Location

EDC has maintained its headquarters office in Anchorage since 1994. We recently relocated to an office at 1500 W 33rd Avenue, Suite 100, in Anchorage. Being located conveniently in midtown Anchorage, any department personnel can easily meet with team members on short notice for over-the-shoulder reviews or check-ins. Our central location also gives us the ability to quickly respond to critical and emergency situations.

Availability of Personnel and Resources

All proposed team members are based in Anchorage. EDC currently employs four licensed electrical engineers and a licensed mechanical engineer. We also provide internal quality reviews of each other's projects. This allows us to shift project responsibilities depending on workload and client schedules. When quick Contract Task Order schedules are requested, workloads can be shifted as necessary to provide the required timely response by personnel that can most efficiently provide it.

EDC is a fully automated office: workstations and software are available and integrated for all our staff. All staff have remote log-in access to our network and files. The technical support for drawing production includes AutoCAD workstations, all linked

to a file server and high-quality printers. Drafting is done using AutoCAD 2024 in the Windows environment. EDC uses the industry standard for power systems analysis software, SKM Power Tools. We have provided extensive fault current studies/arc flash analysis in large single-phase and three-phase networks, as well as protective device coordination studies. We also maintain a direct internet-based industry code subscription service and current lighting analysis software.

To meet production needs, in addition to AutoCAD production staff, all of EDC's staff is AutoCAD-literate. The mechanical and electrical department personnel will often assist each other with drafting tasks when necessary to meet urgent schedules. The production staff are all fluent in both REVIT and CIVIL 3D to integrate seamlessly with any vertical construction A/E teams.

References

1. Todd Carroll, AWWU, (907) 564-2753
2. Trevor Trasky, P.E., AWWU, (907) 564-2751
3. Joshua Satterfield, AWWU, (907) 672-8269

EXHIBIT 12

Docusign Envelope ID: 68B19F97-0464-450E-8EA3-7A2D57C2C5A4

CONTRACT FOR PROFESSIONAL SERVICES
WITH STANTEC CONSULTING SERVICES, INC.

In consideration of the mutual promises herein, ANCHORAGE and STANTEC CONSULTING SERVICES, INC. agree as follows. This contract consists of:

A. Part I, consisting of 15 sections of Special Provisions
B. Part II, consisting of 11 sections of General Provisions
C. Appendix A – Fee Schedule, consisting of 2 pages, excluding cover

PART I
SPECIAL PROVISIONS

Section 1. Definitions.

A. "Administrator" means the Engineering Division Director of the Anchorage Water and Wastewater Utility or their designee
B. "Anchorage" means the Municipality of Anchorage.
C. “Owner” means the Anchorage Water and Wastewater Utility
D. "Contractor" means Stantec Consulting Services, Inc.

Section 2. Scope of Services.

A. Individual delivery orders Contract Task Orders (CTOs) will be issued for specific Owner requested work items. The Contractor is to perform the professional services required to complete the tasks set forth in each CTO.

B. The Contractor shall respond to each CTO with a proposal detailing scope, cost, subcontractor involvement, and time required to complete the work in each CTO. AWWU and the Contractor may refine the proposal for clarification of the scope of services prior to issuing Notice to Proceed for the CTO.

C. Each CTO is limited in scope to the work requested in the request for proposal (RFP 2024P017) that led to this contract and as stated below;

1. This term contract is limited to Civil Engineering and all related branches of Civil Engineering such as but not limited to structural and environmental services for study, design, inspection and/or construction management services.

2. Services may include, but are not limited to studying, reporting on, designing, inspecting, and managing parts of or entire projects for road, site, parking areas, water and sanitary sewer piping as well as facility upgrades.

3. The Contractor may utilize subcontractors in support of Civil Engineering task orders, such as but not limited to specialty knowledge consultants, survey, right-of-way acquisition, public involvement, project controls, project management, specialty training and event hosting. See Section 15 for additional requirements regarding subcontractors and work proposals.

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D. A Purchase Order (PO) will be issued against this contract for each specific CTO. No work is authorized nor may commence without receipt of a PO. Once received, the Contractor shall perform the professional services required to complete the CTO contained therein. Individual PO's are not to exceed $250,000.00, unless Anchorage's Purchasing Director or their designee approves of a greater amount.

E. Anchorage shall not allow any claim for services other than those described in this section. However, the Contractor may provide, at its own expense, any other services that are consistent with this contract.

Section 3. Time for Performance.

A. This contract becomes effective when signed on behalf of Anchorage and shall remain in effect for three year(s) from the date of final signature.

B. Upon receipt of a PO authorizing work, the Contractor shall commence performance of that work and complete that performance in accordance with the schedule contained therein.

Section 4. Compensation; Method of Payment.

A. Subject to the Contractor's satisfactory performance, Anchorage shall pay the Contractor no more than SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($750,000.00) in accordance with this section.

B. Anchorage shall pay the Contractor for actions performed for a CTO issued under this contract in accordance with the schedule of professional fees provided in response to the Owner's request for proposals.

C. Each month the Contractor shall present a bill to the Owner describing the work for which it seeks payment and documenting expenses and fees to the satisfaction of the Owner. If any payment is withheld because the Contractor's performance is unsatisfactory, the Owner must, within ninety (90) days of the payment denial, notify the Contractor of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why.

D. The Contractor is not entitled to any compensation under this contract, other than is expressly provided for in this section.

E. As a condition of payment, the Contractor shall have paid all municipal taxes currently due and owing by the Contractor.

F. Labor rates for the Contractor and their subcontractors must be all inclusive. Separate charges for insurance, special pay, pay enhancements, employer paid contributions to retirement programs, employer paid benefits, overhead, and profit, and additional accessory office components associated with the charging position, such as but not limited to, internet, remote office, telephone, computer, computer programs, office supplies, office space, and furniture will not be allowed regardless of what is shown in the fee schedule in or as updated per item B in this section.

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Section 5. Termination of the Contractor's Services.

The Contractor's services under Section 2 may be terminated:

A. By mutual consent of the parties.

B. For the convenience of Anchorage, provided that Anchorage notifies the Contractor in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.

C. For cause, by either party where the other party fails in any material way to perform its obligations under this contract. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefor, and the other party fails to cure the default within thirty (30) days after receiving the notice.

Section 6. Duties Upon Termination.

A. If Anchorage terminates the Contractor's services for convenience, Anchorage shall pay the Contractor for its actual costs reasonably incurred in performing before termination. Payment under this subsection shall never exceed the total compensation allowable under Section 4. All finished and unfinished documents and materials prepared by the Contractor shall become the property of Anchorage.

B. If the Contractor's services are terminated for cause, Anchorage shall pay the Contractor the reasonable value of the services satisfactorily rendered prior to termination less any damages suffered by Anchorage because of the Contractor's failure to perform satisfactorily. The reasonable value of the services rendered shall never exceed the contract rate for such services, and payment under this subsection shall not exceed ninety percent (90%) of the total compensation allowable under Section 4. Any finished or unfinished documents or materials prepared by the Contractor under this contract shall become the property of Anchorage at its option.

C. If the Contractor receives payments exceeding the amount to which it is entitled under subsections A or B of this section, he shall remit the excess to the Administrator within thirty (30) days of receiving notice to do so.

D. The Contractor shall not be entitled to any compensation under this section until the Contractor has delivered to the Administrator all documents, records, work product, materials and equipment owned by Anchorage and requested by the Administrator.

E. If the Contractor's services are terminated, for whatever reason, the Contractor shall not claim any compensation under this contract, other than that allowed under this section.

F. Except as provided in this section, termination of the Contractor's services under Section 5 does not affect any other right or obligation of a party under this contract.

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G. If a final audit has not been performed before the Contractor's services are terminated, Anchorage may recover any payments for costs disallowed as a result of the final audit.

Section 7. Insurance.

A. The Contractor shall maintain in good standing, for the entire period of the contact, the insurance described in subsection B of this section. Before rendering any services under this contract, the Contractor shall furnish the Administrator with a Certificate of Insurance in accordance with subsection B of this section in a form acceptable to the Risk Manager for Anchorage.

B. The Contractor shall provide the following insurance:

1) $500,000 Employers Liability and Workers Compensation as required by Alaska Law.

2) Commercial Automobile Liability in the amount of $1,000,000 combined single limit to include: owned, hired, and non-owned.

3) Commercial General Liability including:

a. $2,000,000 General Aggregate
b. $2,000,000 Products/Completed Operations
c. $1,000,000 Personal & Advertising Injury
d. $1,000,000 Each Occurrence
e. $5,000 Medical Payments

4) Professional Liability insurance with limits not less than $1,000,000 per occurrence and $2,000,000 aggregate.

5) Cyber/Privacy Liability insurance with limits not less than $3,000,000. The Cyber coverage shall include, but not be limited to, claims involving invasion of privacy violations, Information theft, and release of private information. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses.

C. Policies written on a "claims-made basis" must have a two (2) year tail of coverage, or an unbroken continuation of coverage for two (2) years from the completion of the contract requirements.

D. Each policy of insurance required by this section shall provide advance notice to the MOA/Contract Administrator prior to cancellation in accordance with the policy. If the insurer does not notify the MOA on policy cancellation it shall be the contractor's responsibility to notify the MOA of such cancellation.

E. Except for Workers Compensation and Professional Liability each policy is to name The Municipality as an "additional insured" and the actual policy endorsement shall accompany each Certificate of Insurance.

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F. General Liability, Workers Compensation, and Automobile policies shall be endorsed to waive all rights of subrogation against the Municipality of Anchorage by reason of any payment made for claims under the above coverage. This policy endorsement shall accompany each Certificate of Insurance.

G. All policies for general liability shall be primary and noncontributing with any insurance that may be carried by the Municipality.

H. Contractor shall require and verify that all subcontractors maintain insurance meeting all requirements stated herein, and Contractor shall ensure that the Municipality is an additional insured on insurance required from subcontractors.

Section 8. Assignments.

Unless otherwise allowed by this contract or in writing by the Administrator, any assignment by the Contractor of its interest in any part of this contract or any delegation of duties under this contract shall be void, and an attempt by the Contractor to assign any part of its interest or delegate duties under this contract shall give Anchorage the right immediately to terminate this contract without any liability for work performed.

Section 9. Ownership; Publication, Reproduction and Use of Material.

A. Except as otherwise provided herein, all data, documents and materials produced by the Contractor under this contract shall be the property of Anchorage, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright.

B. Should Anchorage elect to reuse Work products provided under this Contract for other than the original project and/or purpose, Anchorage will not hold Contractor liable for any damages resulting from Anchorage's reuse of work products for an unintended purpose. Additionally, any reuse of design drawings or specifications provided under this Contract must be limited to conceptual or preliminary use for adaptation and the original Constructor's or subcontractor's signature, professional seals and dates removed. Reuse of drawings and specifications, which require professional seals and dates removed, will be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for adaptation.

C. Equipment purchased by the Contractor with designated contract funds shall be the sole property of Anchorage marked and inventoried as such with a copy of the inventory forwarded to Anchorage.

Section 10. Notices.

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Any notice required pertaining to the subject matter of this contract shall be either sent via facsimile (FAX) or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

Anchorage: Municipality of Anchorage
Anchorage Water and Wastewater Utility
Attn: James Armstrong, P.E.
3000 Arctic Boulevard
Anchorage, AK 99503-3898
FAX: (907) 562-0824

Contractor: Stantec Consulting Services, Inc.
Attn: Dean Syta, P.E.
725 E. Fireweed Lane, Suite 200
Anchorage, AK 99503
FAX: (907) 258-4653
dean.syta@stantec.com

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or five (5) days after proof of proper posting.

Section 11. Contract Budget.

In connection with its performance under this contract the Contractor shall not make expenditures other than as provided in line items in the contract budget.

Section 12. Force Majeure.

A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.

B. As used in this contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this contract, including without limitation:

1. Any interruption, suspension or interference resulting solely from the act of the Municipality or negligent act(s) of the Municipality not otherwise governed by the terms of this contract.
2. Strikes or work stoppages.
3. Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, pandemics, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.
4. Order of court, administrative agencies or governmental officers other than the Municipality.

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Section 13. Financial Management System.

The Contractor shall establish and maintain a financial management system that:

A. Provides accurate, current, and complete disclosure of all financial transactions relating to the contract;

B. Maintains separate accounts by source of funds for all revenues and expenditures and identifies the source and application of funds for the Contractor's performance under this contract, including information pertaining to subcontracts, obligations, unobligated balances, assets, liabilities, outlays and income;

C. Effectively controls and accounts for all municipal funds and contract property;

D. Compares actual expenditures with budgeted amounts and relates financial information to performance or productivity data including unit cost information where applicable;

E. Allocates administrative costs to direct service delivery units;

F. Minimizes the time between receipt of funds from Anchorage and their disbursement by the Contractor;

G. Provides accounting records supported by source documentation; and

H. Provides a systematic method assuring the timely and appropriate resolution of audit findings and recommendations.

Section 14. Funding Requirements.

If any funding source for this contract should impose additional requirements upon Anchorage for the use of those funds, the Contractor agrees to abide by those additional requirements immediately upon receipt of written notice thereof from Anchorage.

Section 15. Subcontracts.

The Contractor may enter into subcontracts for the purchase of goods and services necessary for the performance of this contract, provided:

A. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefore. Each subcontract is to provide a rate sheet with same limitation placed on the rates as the Contractor.

B. Every subcontract under which the Contractor delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the Contractor.

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C. Every subcontract in an amount exceeding $1,000.00 shall require reasonable access to business records of the subcontractor relating to the purchase of goods or services pursuant to the subcontract.
D. The Contractor is not allowed a markup for goods and services. In accordance with item A, this provision extends to subcontractors.

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PART II

GENERAL CONTRACT PROVISIONS

Section 1. Relationship of Parties.

The Contractor shall perform its obligations hereunder as an independent contractor of Anchorage. Anchorage may administer the contract and monitor the Contractor's compliance with its obligations hereunder. Anchorage shall not supervise or direct the Contractor other than as provided in this section.

Section 2. Nondiscrimination.

A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, or marital status, or who is a "qualified individual with a disability", as that phrase is defined in the Americans With Disabilities Act of 1990. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, mental or physical disability, sexual orientation or gender identity. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. The Contractor shall state, in all solicitations or advertisements for employees to work on contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, or mental or physical disability.

C. The Contractor shall comply with all reporting requirements that may apply to it which the Anchorage Office of Equal Employment Opportunity Contract Compliance may establish by regulation. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.

D. The Contractor shall include the provisions of subsections A through C of this section in every subcontract or purchase order under this contract, so as to be binding upon every such subcontractor or vendor of the Contractor under this contract. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.

E. The Contractor shall comply with all applicable federal, state and municipal laws concerning the prohibition of discrimination including, but not limited to Title 5 and Title 7, Chapter 7.50 of the Anchorage Municipal Code.

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Section 3. Permits, Laws and Taxes.

The Contractor shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this contract. All actions taken by the Contractor under this contract shall comply with all applicable statutes, ordinances, rules and regulations. The Contractor shall pay all taxes pertaining to its performance under this contract.

Section 4. Nonwaiver.

The failure of either party at any time to enforce a provision of this contract shall in no way constitute a waiver of the provision, nor in any way affect the validity of this contract or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

Section 5. Amendment.

A. This contract shall only be amended, modified or changed by written document, executed by authorized representatives of the parties, with the same formality as this contract was executed.
B. For the purposes of any amendment modification or change to the terms and conditions of this contract, the only authorized representatives of the parties are:

Contractor: Dean Syta, P.E., Senior Prinipal

Anchorage: **Mayor, Municipal Manager or Approved Designee**

C. Any attempt to amend, modify, or change this contract by either an unauthorized representative or unauthorized means shall be void.

Section 6. Jurisdiction; Choice of Law.

Any civil action arising from this contract shall be brought in the Superior Court for the Third Judicial District of the State of Alaska at Anchorage. The law of the State of Alaska shall govern the rights and obligations of the parties under this contract.

Section 7. Severability.

Any provision of this contract decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the contract.

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Section 8. Integration.

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

Section 9. Liability.

A. The Contractor shall indemnify, defend, save, and hold Anchorage harmless from any claims, lawsuits or liability, including reasonable attorneys' fees and costs, arising from any wrongful or negligent act, error or omission of the Contractor or any subcontractor as a result of the Contractor's or any subcontractor's performance pursuant to this contract.

B. The Contractor shall not indemnify, defend, save and hold Anchorage harmless from claims, lawsuits, liability, including reasonable attorneys' fees and costs arising from a wrongful or negligent act, error or omission solely of Anchorage occurring during the course of or as a result of Anchorage's performance pursuant to this contract.

C. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Anchorage and the Contractor, the Contractor shall indemnify, defend, save and hold Anchorage harmless from only that portion of claims, lawsuits or liability, including attorneys' fees and costs, which result from the Contractor's or any subcontractor's wrongful or negligent acts occurring as a result of the Contractor's performance pursuant to this contract.

Section 10. Inspection and Retention of Records.

The Contractor shall, at any time during normal business hours and as often as Anchorage may deem necessary, make available to Anchorage, for examination, all records with respect to all matters covered by this contract for a period ending three years after the date the Contractor is to complete performance in accordance with Section 2 of the Special Provisions. Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this contract, to Anchorage, in such form and at such times as Anchorage may reasonably require. The Contractor shall permit Anchorage to audit, examine and make copies of such records, and to make audits of all invoices, materials, payrolls, records of personnel and other data relating to all matters covered by this contract. Anchorage may, at its option, permit the Contractor to submit its records to Anchorage in lieu of the retention requirements of this section.

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Section 11. Availability of Funds.

Payments under this contract require funds from future appropriations and are subject to future appropriations. If sufficient funds are not appropriated for payments required under this contract, this contract shall terminate without penalty to Anchorage and Anchorage shall not be obligated to make payments under this contract beyond those which have previously been appropriated.

IN WITNESS WHEREOF, the parties have executed this contract on the date and at the place shown below.

MUNICIPALITY OF ANCHORAGE

Mayor, Municipal Manager or Approved Designee

Date: 10/03/2024 | 10:40:12 AM AKDT

CONTRACTOR

Dean Syta, PE

Name: Dean Syta, P.E.
Senior Principal

Date: 10/03/2024 | 8:52:39 AM AKDT

IRS Tax Identification No. 11-2167170
Tax Status: Taxable

RECOMMEND FOR APPROVAL:

Mark Corsentino

Mark A. Corsentino, P.E.
General Manager, AWWU

Date: 10/02/2024 | 10:15:58 AM AKDT

Docusign Envelope ID: 68B19F97-0464-450E-8EA3-7A2D57C2C5A4

Appendix A

Fee Schedule

Docusign Envelope ID: 68B19F97-0464-450E-8EA3-7A2D57C2C5A4

SCHEDULE OF BILLING RATES – RFP2024 PO17

	Contract Calander Year Jan 1- Dec 31 Hourly Rates				
Billing Level	**2024**	**2025**	**2026**	**2027**	**Description**
3 4 5	$128 $135 $152	$132 $140 $157	$137 $145 $162	$142 $150 $168	**Junior Level position** ❑ Independently carries out assignments of limited scope using standard procedures, methods and techniques ❑ Assists senior staff in carrying out more advanced procedures ❑ Completed work is reviewed for feasibility and soundness of judgment ❑ Graduate from an appropriate post-secondary program or equivalent ❑ Generally, one to three years' experience
6 7 8	$158 $172 $179	$164 $178 $185	$170 $184 $191	$176 $190 $198	**Fully Qualified Professional Position** ❑ Carries out assignments requiring general familiarity within a broad field of the respective profession ❑ Makes decisions by using a combination of standard methods and techniques ❑ Actively participates in planning to ensure the achievement of objectives ❑ Works independently to interpret information and resolve difficulties ❑ Graduate from an appropriate post-secondary program, with credentials or equivalent ❑ Generally, three to six years' experience
9 10 11	$187 $196 $210	$194 $203 $217	$201 $210 $225	$208 $217 $233	**First Level Supervisor or first complete Level of Specialization** ❑ Provides applied professional knowledge and initiative in planning and coordinating work programs ❑ Adapts established guidelines as necessary to address unusual issues ❑ Decisions accepted as technically accurate, however may on occasion be reviewed for soundness of judgment ❑ Graduate from an appropriate post-secondary program, with credentials or equivalent ❑ Generally, five to nine years' experience
12 13 14	$222 $231 $250	$230 $239 $259	$238 $247 $268	$246 $256 $277	**Highly Specialized Technical Professional or Supervisor of groups of professionals** ❑ Provides multi-discipline knowledge to deliver innovative solutions in related field of expertise ❑ Participates in short and long range planning to ensure the achievement of objectives ❑ Makes responsible decisions on all matters, including policy recommendations, work methods, and financial controls associated with large expenditures ❑ Reviews and evaluates technical work ❑ Graduate from an appropriate post-secondary program, with credentials or equivalent ❑ Generally, ten to fifteen years' experience with extensive, broad experience
15 16 17	$263 $280 $289	$272 $290 $299	$282 $300 $309	$292 $311 $320	**Senior Level Consultant or Management** ❑ Recognized as an authority in a specific field with qualifications of significant value ❑ Provides multi-discipline knowledge to deliver innovative solutions in related field of expertise ❑ Independently conceives programs and problems for investigation ❑ Participates in discussions to ensure the achievement of program and/or project objectives ❑ Makes responsible decisions on expenditures, including large sums or implementation of major programs and/or projects ❑ Graduate from an appropriate post-secondary program, with credentials or equivalent ❑ Generally, more than twelve years' experience with extensive experience

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18	$290	$300	$311	$322	**Senior Level Management under review by Vice President or higher** ❑ Recognized as an authority in a specific field with qualifications of significant value ❑ Responsible for long range planning within a specific area of practice or region ❑ Makes decisions which are far reaching and limited only by objectives and policies of the organization ❑ Plans/approves projects requiring significant human resources or capital investment ❑ Graduate from an appropriate post-secondary program, with credentials or equivalent ❑ Generally, fifteen years' experience with extensive professional and management experience
19	$300	$311	$322	$333	
20	$311	$322	$333	$345	
21	$330	$342	$354	$366	

T-3 2024 w annual escalation

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Amendment No. 1
Term Contract for Professional Services
with Stantec Consulting Services Inc.

This Amendment is made and entered into by and between the Municipality of Anchorage, Anchorage Water & Wastewater Utility, hereinafter referred to as "AWWU" and Stantec Consulting Services Inc., hereinafter referred to as "Contractor".

WHEREAS, AWWU and the Contractor entered into a contract for professional services dated October 03, 2024, hereinafter referred to as the "Contract"; and

WHEREAS, the parties have the authority to amend the Contract pursuant to Part II, Section 5 and desire to do so;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in the contract, the parties do hereby agree that the Contract shall be amended as follows:

1. Part 1, Section 4, Compensation; Method of Payment, Paragraph A of the contract shall be amended as follows:

   Subject to the Contractor's satisfactory performance, Anchorage shall pay the Contractor on a time-and-materials basis, or a lump-sum basis, a sum not to exceed TWO MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($2,750,000), an increase of $2,000,000, in accordance with this section.

The parties agree that all other portions of the Contract shall remain in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this amendment on the date and at the place shown below.

MUNICIPALITY OF ANCHORAGE

DocuSigned by:
D7937965494A47E...

Mayor, Municipal Manager, or
Approved Designee

Date: 5/1/2025

STANTEC CONSULTING SERVICES INC.

Signed by:
Dean Syta
68B8AB84B973456...

Dean Syta, P.E.
Senior Principal

Date: 5/1/2025

IRS Tax Identification No. 11-2167170
Tax Status: Taxable[X] Non-Taxable[ ]

RECOMMEND FOR APPROVAL

Signed by:
DAVID PERSINGER
7D654C3AD01F4B4...

David A. Persinger, P.E.
General Manager, AWWU

Date: 5/5/2025

EXHIBIT 13

Stantec Consulting Services Inc.
3900 C Street, Suite 902
Anchorage AK 99503-5938

March 18, 2025

Municipality of Anchorage
Anchorage Hydropower Utility
632 W. 6th Avenue, Anchorage, AK 99501

Reference: Anchorage Hydropower Utility - Notice of Contract Services Expansion

Dear Anchorage Hydropower Utility:

Stantec Consulting Services, Inc (Stantec) is a global consulting firm with industry-leading expertise in hydropower and transmission engineering and design. Our firm is consistently ranked as one of the top 10 firms providing hydropower, dams, and water resource consulting services. Stantec's Alaskan experience includes a rich history of developing projects across the state – ranging from smaller, local projects to large, complex infrastructure developments - including Susitna-Watana, Cooper Lake (Kenai), Tiekel River (Copper Valley), Allison Creek (Valdez), Chester Lake (Metlakatla), and now Eklutna Lake. Together, we have continued to expand our hydropower work in Alaska, and throughout the American West.

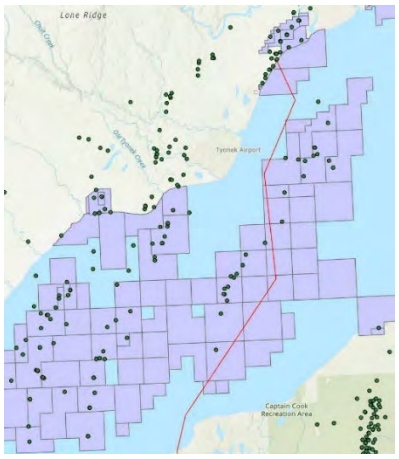
Stantec is pleased to respond to your subject notice with our qualifications for:

1. Electric generation and transmission, locally on the Alaska Railbelt and elsewhere.
2. Hydroelectric projects, locally and elsewhere.
3. Stantec is not providing services for Uniform System of Accounts or property records.

1 Project Examples

1.1 Electric Generation and Transmission Project Examples

Railbelt Innovation and Resiliency Project (Transmission Lines) | AEA
Cost: $850,000
Reference: James Mendenhall, AEA, 907-771-3040
Stantec is currently leading a feasibility study for electrical transmission line connections between Soldotna, Beluga, and Anchorage – following three routes across the Kenai Peninsula and under Cook Inlet. **Successes:** Stantec is providing Environmental Critical Issues Analysis, Client and Stakeholder Involvement, High-Voltage Direct Current (HVDC) Preliminary Design, Cable Preliminary Design, and Cost Estimate. For environmental work, Stantec is focusing on the wetlands, aquatic, wildlife, land ownership, and Cook Inlet Beluga Whale Endangered Species Act considerations for construction. These are paired with the onshore utility congestion and land ownership issues at the potential emergence points in Anchorage for any transmission line under Cook Inet. **Experience:** These projects are similar to the types of transmission line studies AHU may need under the term contract.



AEA Transmission Line Alignment

Stantec is already working with the utilities and new market entrants (Little Mt. Susitna Wind) to evaluate the best way to improve the transmission system and plotting feasible ways forward. Stantec's unique experience working with multiple stakeholders gives us a more holistic view of the transmission network.

Shovel Creek Wind and Transmission Line Site Investigations

Little Mt Susitna Wind and Shovel Creek Wind Projects | Longroad Energy
Cost: $750,000
Reference: Lindsey Kester, Longroad Energy, 385-312-3938
Stantec is currently leading the wetlands, aquatic, land ownership, permitting, and NEPA tasks for the proposed wind farm at Fairbanks' Shovel Creek, and the overall strategy and permitting for Beluga's Little Mt. Susitna. **Successes:** Longroad isn't looking to Stantec to execute clearly defined tasks but instead to create and manage their entire environmental program. Stantec provides comprehensive environmental strategy and services, including managing contractors (i.e. ABR), collecting baseline data (i.e. wetlands, wildlife), developing agency relationships, and addressing litigation risk. Stantec is also responsible for permitting and environmental work on the transmission system, local landowners, tribes, and key agency influencers. **Experience:** Stantec develops utility-grade power generation projects in Alaska. We provide project developers with valuable technical and strategic advice, including a turnkey environmental program for wetlands, cultural resources, wildlife, and fisheries. For example, our relationship with NMFS on construction in beluga whale habitat benefits both Shovel Creek's Cook Inlet barging plans and AEA's Cook Inlet transmission line plans. The agency regulators have also worked with Stantec on these projects—and have come to trust our advice and analysis.

1.2 Hydroelectric Project Examples

Bradley Lake Environmental and Regulatory Services* | AEA *(*Staff experience at Stantec and with previous employers)*
Cost: $300,000+ **Reference:** Bryan Carey, AEA, 907-771-3000
Our team has worked on multiple Bradley Lake projects, including the fisheries and instream flow for the original facility, and the permitting for the Battle Creek expansion. **Successes:** Heidi served on the Bradley Lake 2006 FERC Part 12 and Potential Failure Mode Analysis consultant team. Ryan completed fish and wildlife implementation plans and wildlife impact assessments for the Battle Creek expansion.

Bradley Lake

Eklutna Lake Hydro

Eklutna Lake Hydro | Anchorage Hydropower Utility
Cost: $400,000+ **Reference:** Mark Corsentino, Anchorage Hydropower Utility, 907-917-6551
Stantec is currently leading an in-depth feasibility evaluation of a pumped-storage development at the Eklutna Lake Hydro Project, as requested by the Governor, and with Stantec in preference to the previous contractors. Dean and Ryan are leading Stantec's work on alternative analysis, hydrology, fisheries/instream flow, and agency/public involvement. **Successes:** Dean and Ryan specialize in moving complex projects through alternative design, permitting, and stakeholder engagement process. Utilities in particular value our ability to navigate complex competing interests of stakeholders, while maintaining trust in high-quality products. We've been using our team's fishery experience on Alaskan glacial and non-glacial streams to help design alternatives in a process that is better understood by all of the stakeholders.

Cooper Lake Hydroelectric Project Relicensing | Chugach Electric Association
Cost: $3 million
Reference: Burke Wick, Chugach Electric, 907-563-7494
Our team provided the full range of engineering, permitting and economic studies associated with FERC relicensing of the Cooper Lake Hydroelectric Project located on the Kenai Peninsula. **Successes:** The FERC relicensing program spanned a period of about six years and involved internal strategy meetings, compilation of background data, studies, operations modeling, cost estimates, and economic analyses. Services included conceptual designs, hydrology studies, economic studies, flood modeling, FERC reports, and Stetson Diversion project concept development, feasibility, and permitting.

Cooper Lake

Susitna-Watana Project Licensing | AEA
Cost: $5 million **Reference:** Bryan Carey, AEA, 907-771-3065
Stantec began and executed the licensing process with FERC, including developing the strategy, consultation, and baseline/impact studies for other consultants to complete. **Successes:** Our team was trusted by AEA to manage the most difficult licensing process for an Alaskan hydro project. First, we developed a data gap analysis from the 1980s data and designed a strategy to contract out the required new studies. Second, from a licensing perspective, a key early decision that we helped the AEA make was to use the FERC integrated licensing process instead of the traditional licensing process, as it was a better fit for this new controversial project. Our team successfully facilitated agency meetings and performed studies and data gap analyses in the areas of aquatics, wildlife, hydrology, water quality, subsistence, socioeconomics, transportation, recreation, and cultural resources. We developed key components of the public outreach efforts, including the project website (Susitna-watanahydro.org) and a site visit for FERC staff and agencies.

Susitna Watana Project

Tiekel River Reconnaissance Study | Copper Valley Electric Association
Cost: $250,000
Reference: Travis Million, Copper Valley Electric, 907-822-8345
Copper Valley Electric Association (CVEA) selected our team to perform a feasibility analysis assessing the hydropower resource potential of the glacial Tiekel River watershed.
Successes: We performed the analysis and prepared a reconnaissance report documenting alternative scenarios for hydropower development. Preliminary design of conceptual layouts included 12 hydropower schemes on the Tiekel River. Our team provided FERC licensing feasibility and strategy analysis and also provided analysis on the potential for terrestrial, aquatic, and cultural resource issues. This effort included identifying dam type, sizing waterways, and preparation of Class 5 cost estimates. Our team also quantified CVEA's hydropower generation and load-matching scenarios for local industry, regional, or statewide markets.

Tiekel River

1.3 Maintaining records in accordance with the Uniform System of Accounts and maintaining continuing property records

The Uniform Systems of Accounts is an accounting requirement unique to the Federal Energy Regulatory Commission (FERC). Stantec is not proposing to offer services for this category.

2 Resumes

Dean Syta, PE AELC 9349, AELM 14229, AELV 14230 | **Contract Manager** | 32 Years of Experience | Stantec | Alaska | **Duties:** As contract manager, Dean is responsible for Client Service and customer satisfaction, providing you the level of service and quality you expect from Stantec. In this role, Dean will be overseeing all our work with your team and maintaining compliance with both the contract terms and Stantec's own quality requirements. As a Senior Principal, Dean has the authority to prioritize Stantec resources to meet your needs, conduct negotiations and commit the firm. Leveraging his diverse experience, he will participate at key points of the project to offer design and construction insights and lessons learned. **Qualifications:** Based in Anchorage, Dean is a senior principal for Stantec Alaska, with over 32 years of experience managing utility, water, and power projects. He has a Bachelor of Science and a Civil Engineering Master of Science degree from the University of Alaska, Fairbanks. Dean is a versatile engineer - triple licensed and practiced in civil, mechanical, and environmental engineering. Dean is a hands-on engineer, as experienced with construction as he is with design. He coordinates the permitting for most of his projects and participates in the construction contract administration. Dean has the unique ability to recognize what elements of a project are going to work well, versus what is likely to cause construction or operational problems. **Experience:** As a multidiscipline engineer, Dean has managed the design and construction of utility projects throughout Alaska. He is presently the project manager for the AEA Kenai-to-Beluga High-Voltage Direct Current (HVDC) planning project, which is developing the project implementation plan and construction cost estimates for 38 miles of HVDC subsea transmission cable. In Anchorage, Dean assists the Anchorage Hydropower Authority with a feasibility study examining pumped-storage hydropower opportunities at Eklutna Lake to enhance both power and fish habitat. Dean was the project manager for the Chester Lake Dam Raise project in Metlakatla, Alaska which will raise the existing reservoir 15 feet to increase community water supply. In an example of a major utility project, Dean was the manager for the 2018 North Pole Water Expansion project, with constructed over 30 miles of new water main, water tanks, pump station, and treatment systems in less than three years from start of design to finish of construction, including all easement and property acquisitions. Both ADEC and the City of Anchorage Water and Wastewater Utility contract with Dean for third-party peer review services. **References:** James W. Mendenhall, PE, AEA, 907-771-3040; Bryan Carey, PE, AEA, 907-771-3065; Mark A. Corsentino, PE, Director, Anchorage Hydropower Utility, 907-786-5511

Ryan Cooper, MS, PWS | **Environmental Hydropower Lead | 18 Years of Experience | Stantec | Alaska | Duties:** Ryan is based in Anchorage and will serve as the environmental lead for hydropower work. **Qualifications:** Ryan has a Bachelor of Science in Biology, another in Business, and a Master of Science in Biology from the University of Alaska, Fairbanks. Ryan is a fish biologist and senior project manager, leading Stantec's 300-person environmental staff for Alaska and the US Mountain Region. Clients bring Ryan into projects to manage the diverse technical disciplines (i.e. environmental, ROW, engineering) and create a single, cohesive project. Ryan worked on Bradley Lake about 10 years ago, including writing Bradley Lake's fisheries habitat management implementation plan and the Battle Creek Diversion Project wildlife impact analysis. He is currently leading instream flow analysis for habitat suitability and modeling for Eklutna Lake Pumped Storage Hydro. Ryan is working with AEA on the electrical transmission line project from Kenai to Beluga and is leading the environmental work for the utility-grade energy projects Shovel Creek Wind and Little Mt. Susitna Wind. **Experience:** Ryan spent years as a fisheries biologist, running research and fish weirs for ADF&G and other employers in Alaskan glacial and freshwater streams. Ryan is experienced in the fisheries components of instream flow modeling, and has led work on hydroelectric projects across Alaska, including Bradley Lake, Susitna-Watana, Chester Creek, and Blue Lake. He has

worked on some of the most complex environmental projects in Alaska, including the Red Dog Mine Expansion, Alaska Gasline Development Corporation gas line, Ambler Road, and large Chukchi Sea oil exploration programs. In the past, Ryan was appointed by the Secretary of the Interior to help improve the coordination of science research between agencies in Alaska. **References:** Mark Corsentino, Anchorage Hydropower Utility, 907-917-6551; Julie Engebretsen, City of Homer, 907-435-3119; James W. Mendenhall, PE AEA, 907-771-3040.

Mike Manwaring, PG | **Hydropower and Pumped Storage Expert | 25 Years of Experience | Stantec | Washington | Duties:** Mike will serve as a strategic advisor and technical resource for the project supporting the engineering and regulatory team. **Qualifications:** He is an engineering professional with over 25-years of technical experience in the power and water infrastructure industry, with a deep understanding of pumped storage hydropower, conventional hydropower, dams, and water resources infrastructure. Over the past 15 years he has become a recognized industry expert on hydropower and pumped storage projects, having worked on over 50 water infrastructure projects across North America, ranging from 5 MWs to over 1,500 MWs. Mike serves as a strategic and technical advisor for a broad range of public and private clients across the U.S. and Canada, where he focuses on project development, engineering assessments, energy market evaluations, and contracting strategies. Mike has also supported the U.S. hydropower industry for over a decade, including serving on the Board of Directors for the Northwest Hydroelectric Association, National Hydropower Association, and Hydropower Foundation. He served as the Chair of NHA's Pumped Storage Development Council for six years and has supported multiple U.S. Department of Energy technical and policy studies related to pumped storage. **References:** Wayne Dyok, H2O Ecopower, former Project Manager for Susitna-Watana Hydropower Project, 916-719-7022; Joel Metzger, Utica Water and Power Authority 209-736-9419; Ralph Torres, California Department of Water Resources, 916-891-7294.

Dylan Wade, PE | Senior Hydromechanical Engineer | 20 Years of Experience | Stantec | Wyoming | Duties: Dylan will serve as the lead engineer for executing the project design and technical assessment. Dylan has significant experience in engineering and technical studies for multiple water resources, civil, and mechanical design projects. His expertise includes pumped storage planning, hydropower planning, design, and construction, dam and reservoir technical and economic feasibility studies, permitting, and design, flood hydrology, dam break hydrology, routing and inundation mapping, watershed hydrology, and hydraulic modeling and design. **References:** Clint Bassett, City of Cheyenne Board of Public Utilities, Water Treatment Division Manager, 307-632-9890 – Sherard Hydroelectric Project.

Brian Sadden, PE | Hydropower Subject Matter Expert | 40 Years of Experience | Stantec | Washington | Duties: Mr. Sadden will serve as a technical advisor to the engineering team. **Qualifications:** Brian brings global hydropower and pumped storage expertise, including previously serving as the engineer lead for the Susitna-Watana Hydropower Project. His career has focused on a broad range engineering and technical leadership roles for hydropower and water resource project. He has been responsible for water resources infrastructure engineering operations in California, London, and Singapore, in addition to duties managing all engineering for the San Francisco Public Utilities Commission (SFPUC) - including rehabilitation of the Hetch Hetchy water supply for San Francisco. His technical specialties include dam and hydro power design and construction, and Mr. Sadden has provided input to projects in Africa, Asia, Europe, the Middle East, North America, South America, and the United Kingdom, as well as residing in a number of countries. Mr. Sadden is approved by the Federal Energy Regulatory Commission (FERC) as an Independent Consultant under Pt 12 regulations and is thus approved for inspections of all types of large hydro dams in the USA. **References:** Wayne Dyok, H2O Ecopower, former Project Manager for Susitna-Watana Hydropower Project, 916-719-7022; Bryan Carey, PE, AEA, 907-771-3065.

Heidi Wahto, MPA | **FERC Licensing Expert | 24 Years of Experience | Stantec | Washington | Duties:** Heidi will be the FERC regulatory lead for this project coordinating between the environmental and state permitting efforts and the license amendment and other federal approval processes. **Qualifications:** Heidi is a licensing and compliance consultant with a career focused on serving Alaska and the Pacific Northwest. She has worked on 13 FERC-regulated projects in Alaska and on five new development hydro projects in Alaska. She is a senior project manager providing a range of regulatory and environmental services including licensing, permitting, and developing compliance programs for hydropower and water-resource-related projects. In her many years as a practitioner of FERC licensing and compliance, Heidi has managed a range of FERC processes including the integrated licensing process, alternative licensing process, and traditional licensing process, minor and major amendments, and compliance filings. **Experience:** Heidi has supported FERC licensees through all phases of a hydro project's life cycle, including licensing and associated state, federal and local permitting; managing natural resource studies; developing and implementing environmental management plans; performing environmental monitoring; identifying need for and timing of license amendments; and supporting dam safety reviews, submittals, and authorizations. Heidi's relevant project experience includes Allison Creek and Solomon Gulch Licensing and Compliance (Copper Valley Electric Association), Salmon/Annex Creek Relicensing (Alaska Electric Light and Power), Rush Creek Relicensing (California, Southern California Edison), Scotts Flat Spillway Replacement Project (California, Nevada Irrigation District [NID]), Chikuminuk Lake Licensing (Nuvista), Barber Dam Relicensing (Idaho), Bradley Lake FERC Potential Failure Mode Analysis (Alaska) and Part 12 Report (Alaska, AEA), and Chackachamna Lake Licensing (Alaska, TDX Power). **References:** Travis Million, Golden Valley Electric Association, 907-822-3171; Alec Mesdag, Alaska Electric Light and Power, 907-463-6387; Kevin Webb, Central Rivers Power, 978-935-6039.

Kirby Gilbert | **Senior FERC Licensing Expert | 40 Years of Experience | Stantec | Washington** | **Duties:** Kirby will serve as a FERC regulatory advisor. **Qualifications:** Kirby brings 40 years of FERC licensing and relicensing experience for planning, stakeholder outreach, and regulatory compliance needs on hydroelectric and energy transmission projects. Kirby has led numerous licensings and relicensings, successful amendment applications, helped licensees comply with license terms, and negotiated successful changes in license conditions. **Experience:** He served as regulatory licensing and social sciences studies lead for AEA's extensive licensing process for the proposed Susitna-Watana Hydroelectric project. Kirby also has served as a FERC licensing and regulatory compliance specialist on Chugach Electric's Cooper Lake Relicensing implementation. In the lower 48 states, he has led many capacity and non-capacity amendments to FERC licenses and helped orchestrate successful agency consultation and documentation requirements leading to FERC approvals. Other Alaska specific experience includes FERC feasibility study and planning roles for TDX Power's proposed Chackachamna Hydroelectric project, as well as other proposed hydroelectric projects on the Tiekel River, Kisaralik River, and Chikuminuk Lake. For Ketchikan Public Utilities, Kirby contributed to the first environmental analysis of the Swan Lake–Tyee Lake Intertie project. For Marathon Oil, he prepared the use and population projections for several sites on the Kenai Peninsula as part of human health risk assessment. Kirby also helped formulate and write the National Environmental Policy Act (NEPA) documentation for the proposed Port Valdez LNG terminal facility for FERC in the 1990s. **References:** Jeremiah McNeil, California Department of Water Resources, 916-557-4554; Joel Metzger, Utica Water and Power Authority 209-736-9419; Adam Ward, American Municipal Power, 614-540-0946.

John Marshall, PhD | **Terrestrial Resources Scientist** | **26 Years of Experience | Stantec | Alaska | Duties:** John will lead the terrestrial resources tasks. **Qualifications:** John has a broad ecological and wildlife skill set, developed over decades of fieldwork in Alaska. He has been the lead avian ecologist for breeding bird surveys for compliance with the Migratory Bird Treaty Act, shorebird and species of conservation interest, and raptor and eagle surveys for compliance with the Bald and Golden Eagle Protection Act. He has conducted vegetation surveys across much of Alaska, including for native and invasive species. John has strong mapping experience in both terrestrial wildlife and in wetland/stream habitats. John's fisheries experience includes instream salmonid surveys (e.g. smolt trapping), Didson radar deployment, habitat assessments, electroshocking snorkel surveys, and macroinvertebrate sampling. **Experience:** John is leading the comprehensive terrestrial and vegetation research for the Shovel Creek wind project. He led four years of comprehensive environmental wildlife, fisheries, and vegetation studies for the inventory work at Joint Base Elmendorf Richardson (JBER). He also led the extensive habitat mapping work for Susitna-Watana Hydro, using imagery to identify annual stream habitat changes over 20+ years. John also led the wetland permitting for Cooper Lake Hydro. **References: David Jadhon, US Army Corps, 907-753-2595, Jonathan Hutchinson, DOT&PF, 907-451-5479, Bryan Carey, AEA, 907-771-3065**

Zach Baer, PWS | **Wetlands and Vegetation Scientist | 18 Years of Experience | Stantec | Alaska | Duties:** Zach will manage and conduct wetlands, vegetation inventory, and mapping tasks. **Qualifications:** Zach has 18 years of Alaska wetland and vegetation resources work and leads wetlands delineations and permitting. Zach has managed field data collection teams, permitting, and mapping for projects in southcentral Alaska, ranging in size from small commercial parcels to 300-mile remote linear routes. Zach manages wetland reports, functional assessments, habitat reports, and Section 404/10 permit applications, allowing projects to move forward efficiently. He has designed wetland and waters mitigation projects for several projects in Alaska. **Experience:** Zach has conducted wetland field determinations and rare and exotic plant surveys throughout Alaska, personally mapping wetlands and vegetation communities totaling more than 450,000 acres. He has conducted wetland delineations and invasive plant surveys in Homer. Around Southern Cook Inlet, he has conducted wetland and stream delineations and vegetation surveys in glacial landscapes, including near the heads of glacial-fed rivers on the Johnson Tract project, Donlin mine, and the Pebble project. **References:** Allegra Cairns, Contango Ore, 604-629-1165; Jonathan Hutchinson, PE, DOT&PF, 907-451-5479; David Fischer, PE, DOT&PF, 907-451-5357.

Victor Ross | **Permitting | 40 Years of Experience | Stantec | Alaska** | **Duties:** Victor will lead the permitting for the project. **Qualifications:** Victor Ross leads Stantec's Alaska permitting team, including supervising five Alaskan permitting staff. Victor led Section 404 and Section 401 permitting for the US Army Corps of Engineers Regulatory Division Alaska for 20 years, including supervising an Alaska District. For the past 13 years he has been permitting large Alaskan projects as a consultant. Victor is an expert in Section 401/404 permitting, least environmental damaging practicable alternatives analysis for the CWA 404(b)(1) Guidelines, and waters of the United States. Complex development projects specifically seek out Victor to make use of his unique knowledge and personal relationships and move projects through the permitting process. **Experience:** Victor has led permitting on some of the most complex projects proposed in Alaska, including the Donlin Mine, Fort Knox Mine, and Red Dog Mine, plus AIDEA's Red Dog Port. Victor uses his experience managing all the permitting required for a project to build a strategic permitting pathway, focused on moving projects forward. Victor helps influence how to improve the regulatory environment through his service on the Alaska Miners Association's Board of Directors. In 2020, he was appointed to the State of Alaska Mineral Commission and is currently serving his second term. **References:** Bartly Kleven, Kinross, 907-490-2207; Enric Fernandez, Donlin Gold LLC, 907-980-2930; Michael Rieser, Teck American Incorporated 907-754-3816.

Stantec is well qualified to provide any of the services Anchorage Hydropower Utility may need. Should you have any questions about our services or our qualifications, please do not hesitate to contact me at Dean.Syta@stantec.com or 907-343-5206, Michael Manwaring at Michael.Manwaring@stantec.com or 425-750-7989, or Ryan Cooper at ryan.cooper@stantec.com or (907) 343-5241.

Thank you,
Stantec Consulting Services Inc.

Syta, Dean

Digitally signed by Syta, Dean
Date: 2025.03.18 12:41:26 -08'00'

DEAN SYTA, PE

Senior Principal

3900 C Street Suite 902
Anchorage AK 99503-5938
Dean.syta@stantec.com
907-343-5206 - Direct

EXHIBIT 14

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CONTRACT FOR PROFESSIONAL SERVICES
WITH TAKU ENGINEERING, LLC

In consideration of the mutual promises herein, ANCHORAGE and TAKU ENGINEERING, LLC agree as follows. This contract consists of:

A. Part I, consisting of 15 sections of Special Provisions
B. Part II, consisting of 11 sections of General Provisions
C. Appendix A - Fee Schedule, consisting of two pages, including cover

PART I
SPECIAL PROVISIONS

Section 1. Definitions.

A. "Administrator" means the Engineering Division Director of the Anchorage Water and Wastewater Utility or their designee
B. "Anchorage" means the Municipality of Anchorage.
C. “Owner” means the Anchorage Water and Wastewater Utility
D. "Contractor" means Taku Engineering, LLC

Section 2. Scope of Services.

A. Individual delivery orders Contract Task Orders (CTOs) will be issued for specific Owner requested work items. The Contractor is to perform the professional services required to complete the tasks set forth in each CTO.

B. The Contractor shall respond to each CTO with a proposal detailing scope, cost, subcontractor involvement, and time required to complete the work in each CTO. AWWU and the Contractor may refine the proposal for clarification of the scope of services prior to issuing Notice to Proceed for the CTO.

C. Each CTO is limited in scope to the work requested in the request for proposal (RFP 2024P017) that led to this contract and as stated below;

1. This term contract is limited to Mechanical and Electrical Engineering professional services. In addition the Contractor is may also perform corrosion control related work.

2. Services may include, but are not limited to, studying, reporting on, designing, inspecting, and managing parts of or entire projects for design and consultation for such items as pump stations, booster stations, pressure regulating stations, SCADA telemetry and programming, corrosion control, coatings and HVAC systems in existing and proposed AWWU facilities. These facilities may be above ground or below ground.

3. The Contractor may utilize subcontractors in support of Mechanical and Electrical Engineering task orders when deemed necessary to complete their work, such as but not limited to specialty knowledge consultants. See Section 15 for additional requirements regarding subcontractors and work proposals.

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D. Preparing and reviewing corrosion control designs (cathodic protection), perform and review soil corrosivity evaluations, prepare coating specifications, provide NACE certified coating inspectors and corrosion technicians/testers for inspection and testing, and provide training to AWWU personnel

E. A Purchase Order (PO) will be issued against this contract for each specific CTO. No work is authorized nor may commence without receipt of a PO. Once received, the Contractor shall perform the professional services required to complete the CTO contained therein. Individual PO's are not to exceed $250,000.00, unless Anchorage's Purchasing Director or their designee approves of a greater amount.

F. Anchorage shall not allow any claim for services other than those described in this section. However, the Contractor may provide, at its own expense, any other services that are consistent with this contract.

Section 3. Time for Performance.

A. This contract becomes effective when signed on behalf of Anchorage and shall remain in effect for three year(s) from the date of final signature.

B. Upon receipt of a PO authorizing work, the Contractor shall commence performance of that work and complete that performance in accordance with the schedule contained therein.

Section 4. Compensation; Method of Payment.

A. Subject to the Contractor's satisfactory performance, Anchorage shall pay the Contractor no more than SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($750,000.00) in accordance with this section.

B. Anchorage shall pay the Contractor for actions performed for a CTO issued under this contract in accordance with the schedule of professional fees provided in response to the Owner's request for proposals, identified as Appendix A to this Contract.

C. Each month the Contractor shall present a bill to the Owner describing the work for which it seeks payment and documenting expenses and fees to the satisfaction of the Owner. If any payment is withheld because the Contractor's performance is unsatisfactory, the Owner must, within ninety (90) days of the payment denial, notify the Contractor of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why.

D. The Contractor is not entitled to any compensation under this contract, other than is expressly provided for in this section.

E. As a condition of payment, the Contractor shall have paid all municipal taxes currently due and owing by the Contractor.

F. Labor rates for the Contractor and their subcontractors must be all inclusive. Separate charges for insurance, special pay, pay enhancements, employer paid contributions to retirement programs, employer paid benefits, overhead, and profit, and additional

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accessory office components associated with the charging position, such as but not limited to, internet, remote office, telephone, computer, computer programs, office supplies, office space, and furniture will not be allowed regardless of what is shown in the fee schedule in or as updated per item B in this section.

Section 5. Termination of the Contractor's Services.

The Contractor's services under Section 2 may be terminated:

A. By mutual consent of the parties.

B. For the convenience of Anchorage, provided that Anchorage notifies the Contractor in writing of its intent to terminate under this paragraph at least 10 days prior to the effective date of the termination.

C. For cause, by either party where the other party fails in any material way to perform its obligations under this contract. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefor, and the other party fails to cure the default within thirty (30) days after receiving the notice.

Section 6. Duties Upon Termination.

A. If Anchorage terminates the Contractor's services for convenience, Anchorage shall pay the Contractor for its actual costs reasonably incurred in performing before termination. Payment under this subsection shall never exceed the total compensation allowable under Section 4. All finished and unfinished documents and materials prepared by the Contractor shall become the property of Anchorage.

B. If the Contractor's services are terminated for cause, Anchorage shall pay the Contractor the reasonable value of the services satisfactorily rendered prior to termination less any damages suffered by Anchorage because of the Contractor's failure to perform satisfactorily. The reasonable value of the services rendered shall never exceed the contract rate for such services, and payment under this subsection shall not exceed ninety percent (90%) of the total compensation allowable under Section 4. Any finished or unfinished documents or materials prepared by the Contractor under this contract shall become the property of Anchorage at its option.

C. If the Contractor receives payments exceeding the amount to which it is entitled under subsections A or B of this section, he shall remit the excess to the Administrator within thirty (30) days of receiving notice to do so.

D. The Contractor shall not be entitled to any compensation under this section until the Contractor has delivered to the Administrator all documents, records, work product, materials and equipment owned by Anchorage and requested by the Administrator.

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E. If the Contractor's services are terminated, for whatever reason, the Contractor shall not claim any compensation under this contract, other than that allowed under this section.

F. Except as provided in this section, termination of the Contractor's services under Section 5 does not affect any other right or obligation of a party under this contract.

G. If a final audit has not been performed before the Contractor's services are terminated, Anchorage may recover any payments for costs disallowed as a result of the final audit.

Section 7. Insurance.

A. The Contractor shall maintain in good standing, for the entire period of the contact, the insurance described in subsection B of this section. Before rendering any services under this contract, the Contractor shall furnish the Administrator with a Certificate of Insurance in accordance with subsection B of this section in a form acceptable to the Risk Manager for Anchorage.

B. The Contractor shall provide the following insurance:

1) $500,000 Employers Liability and Workers Compensation as required by Alaska Law.

2) Commercial Automobile Liability in the amount of $1,000,000 combined single limit to include: owned, hired, and non-owned.

3) Commercial General Liability including:

a. $2,000,000 General Aggregate
b. $2,000,000 Products/Completed Operations
c. $1,000,000 Personal & Advertising Injury
d. $1,000,000 Each Occurrence
e. $5,000 Medical Payments

4) Professional Liability insurance with limits not less than $1,000,000 per occurrence and $2,000,000 aggregate.

5) Cyber/Privacy Liability insurance with limits not less than $3,000,000. The Cyber coverage shall include, but not be limited to, claims involving invasion of privacy violations, Information theft, and release of private information. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses.

C. Policies written on a "claims-made basis" must have a two (2) year tail of coverage, or an unbroken continuation of coverage for two (2) years from the completion of the contract requirements.

D. Each policy of insurance required by this section shall provide advance notice to the MOA/Contract Administrator prior to cancellation in accordance with the policy. If the insurer does not notify the MOA on policy cancellation it shall be the contractor's responsibility to notify the MOA of such cancellation.

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E. Except for Workers Compensation and Professional Liability each policy is to name The Municipality as an "additional insured" and the actual policy endorsement shall accompany each Certificate of Insurance.

F. General Liability, Workers Compensation, and Automobile policies shall be endorsed to waive all rights of subrogation against the Municipality of Anchorage by reason of any payment made for claims under the above coverage. This policy endorsement shall accompany each Certificate of Insurance.

G. All policies for general liability shall be primary and noncontributing with any insurance that may be carried by the Municipality.

H. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Municipality requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Municipality.

I. Contractor shall require and verify that all subcontractors maintain insurance meeting all requirements stated herein, and Contractor shall ensure that the Municipality is an additional insured on insurance required from subcontractors.

Section 8. Assignments.

Unless otherwise allowed by this contract or in writing by the Administrator, any assignment by the Contractor of its interest in any part of this contract or any delegation of duties under this contract shall be void, and an attempt by the Contractor to assign any part of its interest or delegate duties under this contract shall give Anchorage the right immediately to terminate this contract without any liability for work performed.

Section 9. Ownership; Publication, Reproduction and Use of Material.

A. Except as otherwise provided herein, all data, documents and materials produced by the Contractor under this contract shall be the property of Anchorage, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright.

B. Should Anchorage elect to reuse Work products provided under this Contract for other than the original project and/or purpose, Anchorage will not hold Contractor liable for any damages resulting from Anchorage's reuse of work products for an unintended purpose. Additionally, any reuse of design drawings or specifications provided under this Contract must be limited to conceptual or preliminary use for adaptation and the original Constructor's or subcontractor's signature, professional seals and dates removed. Reuse of drawings and specifications, which require professional seals and dates removed, will

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be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for adaptation.

C. Equipment purchased by the Contractor with designated contract funds shall be the sole property of Anchorage marked and inventoried as such with a copy of the inventory forwarded to Anchorage.

Section 10. Notices.

Any notice required pertaining to the subject matter of this contract shall be either sent via facsimile (FAX) or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

Anchorage: Municipality of Anchorage
Anchorage Water and Wastewater Utility
Attn: James Armstrong, P.E.
3000 Arctic Boulevard
Anchorage, AK 99503-3898
FAX: (907) 562-0824

Contractor: Taku Engineering, LLC
Attn: William Mott, P.E.
P.O. Box 241386
Anchorage, AK 99524
FAX: (907) 562-1247
billmott@takuengineering.com

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or five (5) days after proof of proper posting.

Section 11. Contract Budget.

In connection with its performance under this contract the Contractor shall not make expenditures other than as provided in line items in the contract budget.

Section 12. Force Majeure.

A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.

B. As used in this contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this contract, including without limitation:

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1. Any interruption, suspension or interference resulting solely from the act of the Municipality or negligent act(s) of the Municipality not otherwise governed by the terms of this contract.
2. Strikes or work stoppages.
3. Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.
4. Order of court, administrative agencies or governmental officers other than the Municipality.

Section 13. Financial Management System.

The Contractor shall establish and maintain a financial management system that:

A. Provides accurate, current, and complete disclosure of all financial transactions relating to the contract;

B. Maintains separate accounts by source of funds for all revenues and expenditures and identifies the source and application of funds for the Contractor's performance under this contract, including information pertaining to subcontracts, obligations, unobligated balances, assets, liabilities, outlays and income;

C. Effectively controls and accounts for all municipal funds and contract property;

D. Compares actual expenditures with budgeted amounts and relates financial information to performance or productivity data including unit cost information where applicable;

E. Allocates administrative costs to direct service delivery units;

F. Minimizes the time between receipt of funds from Anchorage and their disbursement by the Contractor;

G. Provides accounting records supported by source documentation; and

H. Provides a systematic method assuring the timely and appropriate resolution of audit findings and recommendations.

Section 14. Funding Requirements.

If any funding source for this contract should impose additional requirements upon Anchorage for the use of those funds, the Contractor agrees to abide by those additional requirements immediately upon receipt of written notice thereof from Anchorage.

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Section 15. Subcontracts.

The Contractor may enter into subcontracts for the purchase of goods and services necessary for the performance of this contract, provided:

A. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefore. Each subcontract is to provide a rate sheet with same limitation placed on the rates as the Contractor.
B. Every subcontract under which the Contractor delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the Contractor.
C. Every subcontract in an amount exceeding $1,000.00 shall require reasonable access to business records of the subcontractor relating to the purchase of goods or services pursuant to the subcontract.
D. The Contractor is not allowed a markup for goods and services. In accordance with item A, this provision extends to subcontractors

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PART II

GENERAL CONTRACT PROVISIONS

Section 1. Relationship of Parties.

The Contractor shall perform its obligations hereunder as an independent contractor of Anchorage. Anchorage may administer the contract and monitor the Contractor's compliance with its obligations hereunder. Anchorage shall not supervise or direct the Contractor other than as provided in this section.

Section 2. Nondiscrimination.

A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, or marital status, or who is a "qualified individual with a disability", as that phrase is defined in the Americans With Disabilities Act of 1990. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, mental or physical disability, sexual orientation or gender identity. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. The Contractor shall state, in all solicitations or advertisements for employees to work on contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, or mental or physical disability.

C. The Contractor shall comply with all reporting requirements that may apply to it which the Anchorage Office of Equal Employment Opportunity Contract Compliance may establish by regulation. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.

D. The Contractor shall include the provisions of subsections A through C of this section in every subcontract or purchase order under this contract, so as to be binding upon every such subcontractor or vendor of the Contractor under this contract. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.

E. The Contractor shall comply with all applicable federal, state and municipal laws concerning the prohibition of discrimination including, but not limited to Title 5 and Title 7, Chapter 7.50 of the Anchorage Municipal Code.

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Section 3. Permits, Laws and Taxes.

The Contractor shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this contract. All actions taken by the Contractor under this contract shall comply with all applicable statutes, ordinances, rules and regulations. The Contractor shall pay all taxes pertaining to its performance under this contract.

Section 4. Nonwaiver.

The failure of either party at any time to enforce a provision of this contract shall in no way constitute a waiver of the provision, nor in any way affect the validity of this contract or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

Section 5. Amendment.

A. This contract shall only be amended, modified or changed by written document, executed by authorized representatives of the parties, with the same formality as this contract was executed.
B. For the purposes of any amendment modification or change to the terms and conditions of this contract, the only authorized representatives of the parties are:

Contractor: William Mott, P.E., General Manager & Co-Owner

Anchorage: **Mayor, Municipal Manager or Approved Designee**

C. Any attempt to amend, modify, or change this contract by either an unauthorized representative or unauthorized means shall be void.

Section 6. Jurisdiction; Choice of Law.

Any civil action arising from this contract shall be brought in the Superior Court for the Third Judicial District of the State of Alaska at Anchorage. The law of the State of Alaska shall govern the rights and obligations of the parties under this contract.

Section 7. Severability.

Any provision of this contract decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the contract.

Docusign Envelope ID: 5EC5DE54-7676-414B-8799-4DC87C5B9DBC

Section 8. Integration.

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

Section 9. Liability.

A. The Contractor shall indemnify, defend, save, and hold Anchorage harmless from any claims, lawsuits or liability, including reasonable attorneys' fees and costs, arising from any wrongful or negligent act, error or omission of the Contractor or any subcontractor as a result of the Contractor's or any subcontractor's performance pursuant to this contract.

B. The Contractor shall not indemnify, defend, save and hold Anchorage harmless from claims, lawsuits, liability, including reasonable attorneys' fees and costs arising from a wrongful or negligent act, error or omission solely of Anchorage occurring during the course of or as a result of Anchorage's performance pursuant to this contract.

C. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Anchorage and the Contractor, the Contractor shall indemnify, defend, save and hold Anchorage harmless from only that portion of claims, lawsuits or liability, including attorneys' fees and costs, which result from the Contractor's or any subcontractor's wrongful or negligent acts occurring as a result of the Contractor's performance pursuant to this contract.

Section 10. Inspection and Retention of Records.

The Contractor shall, at any time during normal business hours and as often as Anchorage may deem necessary, make available to Anchorage, for examination, all records with respect to all matters covered by this contract for a period ending three years after the date the Contractor is to complete performance in accordance with Section 2 of the Special Provisions. Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this contract, to Anchorage, in such form and at such times as Anchorage may reasonably require. The Contractor shall permit Anchorage to audit, examine and make copies of such records, and to make audits of all invoices, materials, payrolls, records of personnel and other data relating to all matters covered by this contract. Anchorage may, at its option, permit the Contractor to submit its records to Anchorage in lieu of the retention requirements of this section.

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Section 11. Availability of Funds.

Payments under this contract require funds from future appropriations and are subject to future appropriations. If sufficient funds are not appropriated for payments required under this contract, this contract shall terminate without penalty to Anchorage and Anchorage shall not be obligated to make payments under this contract beyond those which have previously been appropriated.

IN WITNESS WHEREOF, the parties have executed this contract on the date and at the place shown below.

MUNICIPALITY OF ANCHORAGE

Mayor, Municipal Manager or Approved Designee

Date: 10/07/2024 | 2:52:45 PM AKDT

CONTRACTOR

William Mott

Name: William Mott, P.E.
General Manager/Co-Owner

Date: 10/07/2024 | 3:47:10 PM PDT

IRS Tax Identification No. 92-0177668
Tax Status: Taxable

RECOMMEND FOR APPROVAL:

Mark A. Corsentino, P.E.
General Manager, AWWU

Date: 10/07/2024 | 1:18:14 PM AKDT

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Appendix A

Fee Schedule

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taku engineering, llc

Term Contract Schedule of Rates and Fees

Taku Contract Rates				
Classification	**2024 Labor Rates ****	**2025 Labor Rates ****	**2026 Labor Rates ****	**2027 Labor Rates ****
Principal (Eng V) / Project Manager	**$229.00**	**$238.00**	**$248.00**	**$258.00**
Senior Engineer (Eng IV)	**$196.00**	**$204.00**	**$212.00**	**$220.00**
Project Engineer (Eng III)	**$168.00**	**$175.00**	**$182.00**	**$189.00**
Engineer (Eng II)	**$145.00**	**$151.00**	**$157.00**	**$163.00**
Junior Engineer (Eng I)	**$118.00**	**$123.00**	**$128.00**	**$133.00**
Senior Technician/Designer V (Tech V)	**$196.00**	**$204.00**	**$212.00**	**$220.00**
Technician/Designer IV (Tech IV)	**$168.00**	**$175.00**	**$182.00**	**$189.00**
Technician/Designer III (Tech III)	**$145.00**	**$151.00**	**$157.00**	**$163.00**
Technician/Designer II (Tech II)	**$118.00**	**$123.00**	**$128.00**	**$133.00**
Technician/Designer I (Tech I)	**$106.00**	**$110.00**	**$114.00**	**$119.00**
Intern/Technical Aide (Intern)	**$90.00**	**$94.00**	**$98.00**	**$102.00**
Administrative/Clerical Support	**$95.00**	**$99.00**	**$103.00**	**$107.00**

Taku Long-Term* Assignment Rates				
Classification	**2024 Labor Rates ****	**2025 Labor Rates ****	**2026 Labor Rates ****	**2027 Labor Rates ****
Principal (Eng V) / Project Manager	**$207.00**	**$215.00**	**$224.00**	**$233.00**
Senior Engineer (Eng IV)	**$176.00**	**$183.00**	**$190.00**	**$198.00**
Project Engineer (Eng III)	**$152.00**	**$158.00**	**$164.00**	**$171.00**
Engineer (Eng II)	**$133.00**	**$138.00**	**$144.00**	**$150.00**
Junior Engineer (Eng I)	**$118.00**	**$123.00**	**$128.00**	**$133.00**
Senior Technician/Designer V (Tech V)	**$168.00**	**$175.00**	**$182.00**	**$189.00**
Technician/Designer IV (Tech IV)	**$152.00**	**$158.00**	**$164.00**	**$171.00**
Technician/Designer III (Tech III)	**$133.00**	**$138.00**	**$144.00**	**$150.00**
Technician/Designer II (Tech II)	**$118.00**	**$123.00**	**$128.00**	**$133.00**
Technician/Designer I (Tech I)	**$97.00**	**$101.00**	**$105.00**	**$109.00**
Intern/Technical Aide (Intern)	**$89.00**	**$93.00**	**$97.00**	**$101.00**

Subcontractor Work & Expenses

* Full time (40-hr/wk.) assignments in client's office for more than 4 months duration.

** Overtime hours will be charged at 120% of normal labor rates for each wage category.

EXHIBIT 15

Mr. Mark A. Corsentino March 18, 2025

Director, Anchorage Hydropower Utility
632 W. 6th Avenue
Anchorage, AK, 99501

Re: Municipality of Anchorage – Anchorage Hydropower Utility

Mr. Corsentino,

Taku Engineering, LLC is pleased to provide this written response Re: Notification of Contract Services Expansion. We are specifically interested in providing services to Anchorage Hydropower Utility (AHU) pertaining to Item 2, hydroelectric projects. We are an Alaskan-owned multi-discipline engineering firm based out of Anchorage, Alaska. Established in 2001 with a small team of engineers, we have been serving our clients in Alaska and beyond for 24 years. We provide a full suite of engineering and inspection services to help our clients build and protect their assets and infrastructure. We have the expertise to assist with any project, but we still offer the "small firm" feel – personable, flexible, and reliable.

Taku independently offers the following services:

- Project Management
- Electrical Engineering
- Mechanical Engineering
- Civil Engineering
- Materials/Corrosion Engineering
- Welding Engineering
- Fire & Gas System Design
- Project Estimating
- Regulatory Compliance Support
- Facility As-Builts
- Construction Administration & Commissioning
- Permitting
- Suitability for Service/Condition Assessments
- American Water Works Association (AWWA), American Petroleum Institute (API), & Steel Tank Institute (STI) Compliant Repair Design Packages
- Coatings Engineering
- Cathodic Protection Design/Testing
- NDE Inspection Services

Specific to hydroelectric projects, Taku Engineering has assisted utilities with modifying existing infrastructure to utilize hydropower in both Anchorage and the City of Unalaska. Brief descriptions of these projects are included below:

- *City of Unalaska – Pyramid Water Treatment Plant Power Generation* – Between 2019 and 2022, Taku Engineering partnered with Rentricity to install two water turbine generators in the Pyramid Water Treatment Plant (PWTP)of the City of Unalaska. The intent of the project was to utilize the excess head pressure provided by the elevation of Icy Creek reservoir to create usable electricity. The existing PWTP was reconfigured to accommodate varying water processing demands as well as include the option to utilize water from the reservoir that is in excess of processing demand to generate an additional increment of power. This project consisted of significant piping modifications, installation of lo low-voltage (600V) electrical equipment, conductors, and raceways to support the installation of the new water turbine generators, and SCADA/control integration of the new water turbine control panel into the existing system. Taku Engineering also coordinated all required permitting with the ADEC, APDES, and AKDNR.

- *Anchorage Water and Wastewater Utility – 92nd Avenue Vault Energy Recovery Turbine Installation* – In 2020-2021, Taku designed the installation of a pump-as-turbine (PAT) generator in AWWU's 92nd avenue vault. Prior to the installation, pressure in the water distribution piping in that vault was reduced through pressure-reducing-valves. This installation installed a bypass line that recovered energy by reducing the pressure through a pump-as-turbine generator. The recovered electricity was fed to AWWU's King Street facility and ultimately the Chugach Electric power grid. The pump-as-turbine approach was selected because it involved traditional equipment that is familiar to AWWU's technicians and requires no significant learning curve to operate and maintain.

The team that Taku plans to use to support AHU includes individuals with an extensive array of credentials to go with their experience. These include:

- Bill Mott PE, Project Lead
  - Alaska licensed Professional Materials Engineer
  - More than 30-years of corrosion engineering & tank inspection experience
  - NACE (now AMPP) certified Senior Internal Corrosion Technologist and Cathodic Protection Specialist.
- Bill Cobb PE, Principal Mechanical Engineer
  - Alaska licensed Professional Mechanical Engineer
  - BS in Mechanical and Civil Engineering
  - More than 25 years of facilities engineering and construction, including oil and gas, pipeline and public utilities
- Michael Wise PE, Principal Electrical Engineer
  - Alaska Licensed Professional Electrical Engineer
  - More than 30-years of experience designing electrical systems in Alaska
  - Extensive experience with project management and quality control
- Curtis Nuttall PE, Principal Civil Engineer
  - Alaska Licensed Professional Civil Engineer
  - More than 30-years of engineering and project management experience

Copies of full resumes are included as Attachment A.

Best regards,

William Mott, P.E.
General Manager – Taku Engineering, LLC

William R. Mott Jr., P.E.

Principal Corrosion Engineer

Mr. Mott has been actively involved in Cathodic Protection (CP), Corrosion Engineering, Integrity Management, and Materials Engineering for the past 30 years. He has worked as the Principal Engineer for Taku Engineering, LLC since 2001. From 1990 to 2001, Mr. Mott was the Principal Engineer of Alaska Operations for Corrpro Companies. During that period, he provided corrosion engineering support for the Trans-Alaska Pipeline, Prior to 1990, Mr. Mott was a Corrosion Research Engineer for Ocean City Research Corporation.

A brief summary of his experience is outlined below.

Education

BSE Chemical and Materials Engineering - *University of Connecticut, 1986*

Registrations/Certification & Training

- Registered Professional Engineer, Materials and Metallurgical Engineering, Alaska # 13991
- Registered Professional Engineer, Chemical Engineering, Alaska #8983, Washington #53462
- Board Member, State of Alaska, Board of Architects, Engineers and Land Surveyors 2017-2020
- NACE - Certified Cathodic Protection Specialist (CP-4), #29359
- NACE – CP Interference, In-Line Inspection, Advanced Internal Corrosion, Coating Inspection Level 1 & 2.
- NACE -Certified Sr. Internal Corrosion Technologist
- Clarion Pipeline Integrity Management Training
- Transportation Worker Identification Credential (TWIC)

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Project Experience

Anchorage Water and Wastewater Utility (AWWU)

Anchorage, Alaska

Mr. Mott was the Principal Corrosion Engineer for contracts providing corrosion engineering expertise to AWWU through three 2-year term services contracts (2015-2017, 2017-2019 and 2019-present). Support provided to AWWU during these contracts included tank inspections, piping inspections, coatings engineering, electrical inspections, cathodic protection inspections. failure analyses, repair procedures, condition assessments, project designs, project closeout and implementation oversight. Mr. Mott was in charge of all technical aspects of these efforts.

Alyeska Pipeline Service Company - Ballast Water Piping Corrosion Evaluation & Pipe Replacement Study - *Valdez, Alaska*

Mr. Mott was the project engineer on the conceptual study for replacement of ballast water piping at Alyeska Pipeline's Valdez Marine Terminal (VMT). High corrosion rates on existing piping and reduced capacity requirements caused the need to study alternates for large diameter (42-inch) piping. Alternate materials and capacities were evaluated for technical and economic viability. He developed a white-paper report and associated Power Point presentation summarizing the findings for presentation to the TAPS executive team.

Alyeska Pipeline Service Co. – Ballast Water Tank Inspections and Repairs

Valdez, Alaska

William was the principal corrosion engineer for the inspection and repair of the ballast water treatment tanks at the Valdez Marine Terminal. The project included tank cleaning, inspection, tank repairs, cathodic protection system design (internal and external), recoating and return to service. Mr. Mott provided cradle-to-grave, technical lead services for the projects.

Alyeska Pipeline Service Co. - Mainline Cathodic Protection Study

Various Locations, Alaska

William participated in a study to determine the effects of pump station CP systems on the 48-inch diameter mainline of the Trans-Alaska Pipeline System. The investigation was conducted to evaluate the possibility of utilizing pump station CP systems as a supplemental source of impressed current CP for the mainline. The project included detailed potential and current surveys sampled over 1-hour intervals during varying phases of CP system operation. He coordinated pipe-to-soil potential surveys, CP current surveys, system adjustments, data compilation, telluric activity analysis, data analysis and reporting.

Alyeska Pipeline Service Co. Mainline CP System Review and Design

Valdez, Alaska

Mr. Mott was the principal cathodic protection (CP) design engineer for system upgrades for low potential areas the last 20 miles of the Trans-Alaska Pipeline System's (TAPS) mainline. The CP systems along milepost 780-800 had a long history of failing to meet NACE criteria for adequate CP and were the subject of a USDOT-OPS warning letter to Alyeska Pipeline Service Company (APSC). The low potential areas include extremely mountainous geography with limited power availability. Mr. Mott completed a detailed review of the existing CP systems and historical CP issues for the area. He identified the causes of failure of the existing systems and developed conceptual CP designs. He worked with APSC's Integrity Management group to garner management, owner, and regulatory body approval for the upgrades. This work included a CP system design package and management of field engineering activities during implementation. The installation was successful, and the areas targeted by the installation now meet NACE criteria.

Alyeska Pipeline Service Company – Development of CP Coupons

TAPS Corridor- Alaska

Mr. Mott worked with Alyeska Pipeline's Corrosion Engineering Team, The USDOT-OPS (Now PHMSA), the Joint Pipeline Office and State Regulatory Consultants, to develop the first cathodic protection coupon designs. Mr. Mott collected field data on pipeline coating conditions that was utilized to size pipeline coupons so that they represented existing conditions. He assisted with laboratory data reviews and coordinated with the Federal regulatory bodies overseeing TAPS to gain approval for the use of CP coupons to account for IR-drop. This effort not only resulted in the use of CP coupons on TAPS, but also led to industry-wide acceptance of coupon technology.

National Association of Corrosion Engineers (NACE) - Cathodic Protection Specialist Examination Development

Houston, Texas

In 2019, NACE appointed Mr. Mott to a panel of cathodic protection experts, tasked with developing new Cathodic Protection Specialist (CP-4) exams. Mr. Mott worked with other panel members to develop problem scenarios, exam questions and answers. This effort was necessary in order to transition the examinations to a standardized computer-based model.

National Association of Corrosion Engineers (NACE) - Cathodic Protection Technologist Examination Revision

Houston, Texas

In 2017, NACE appointed Mr. Mott to a panel of cathodic protection experts, tasked with rewriting the Cathodic Protection Technologist (CP-3) exam. In this effort, Mr. Mott played an active role in ensuring that the exam questions were revised to be accurate and written in a clear and concise manner.

Alyeska Pipeline Service Company – Milepost 19-26 Cathodic Protection Upgrades

TAPS Corridor, Alaska

Mr. Mott assessed failing cathodic protection data along the northernmost portions of TAPS (Milepost 19-26). In these areas, the pipeline is buried in continuous permafrost, except for thaw bulbs at river crossings. Historically, the presence of permafrost prevented the wide-spread distribution and uniform application of cathodic protection currents to these areas. The areas had a history of low potentials despite numerous attempts to improve CP potentials. Mr. Mott designed distinct, distributed CP upgrades to cathodic protections in those low CP areas. He utilized impressed current linear anode beds, powered by remote solar/wind skids, to successfully protect isolated segments of the mainline pipe in permafrost areas.

National Association of Corrosion Engineers (NACE) – Innovation of the Year Award

Houston, Texas

In 2019, NACE and *Materials Performance* magazine awarded Mr. Mott and Taku Engineering, an *Innovation of the Year* award for Taku's development of the Pi-1 Pocket Interrupter. The Pi-1 is a hand-held, GPS synchronized, CP current interrupter used for cathodic protection surveys.

Alyeska Pipeline - Cathodic Protection Surveys

TAPS Corridor, Alaska

Mr. Mott organized and managed the annual cathodic protection surveys on TAPS (facilities and mainline) from the 1990s to the early 2000s. Mr. Mott also oversaw incorporation of tellurically nulling CP monitoring techniques and GPS synchronized technology to account for the impact of telluric currents on pipeline-to-soil potentials.

North Slope Borough – Nuiqsut Gas Pipeline Conceptual Approach Peer Review

Nuiqsut, Alaska

Mr. Mott was the primary investigator on a peer review of an Options Evaluation completed for the repair of the Nuiqsut Gas Pipeline. PHMSA had issued warning letters to the Operator regarding damaged coating on the line. The engineers tasked with developing repair options recommended full replacement of the pipeline. Mr. Mott's efforts resulted in identifying less intrusive and lower risk means to repair the pipeline and still ensure safe, long-term operating life of the natural gas system.

Trans-Alaska Pipeline System Tank Corrosion Inspections & Maintenance

Various Locations, Alaska

Mr. Mott supported the Tank Maintenance Program at APSC's marine terminal and pump stations from 1991 - 2014. He was responsible for all technical aspects of the tank maintenance program including project scoping, development of engineering packages, designing CP systems, leak detection evaluations, developing inspection criteria, supervising implementation activities, design changes, project turnover and project close out. He has participated in shell distortion root cause investigations and planned/executed the API 653 out-of-service inspections on APSC's major aboveground storage tanks. Mr. Mott has a detailed working knowledge of all aspects of API 650 & API 653. Mr. Mott represented Alyeska with the regulatory agencies that oversee TAPS' tanks (PHMSA, the ADEC, and Prince William Sound Regional Citizens Advisory Council).

The North Slope Borough - Nuiqsut Gas Pipeline Coating Repairs

Nuiqsut, Alaska

Mr. Mott designed long-term coating repairs for the Nuiqsut gas pipeline. These repairs were deigned to protect the pipeline from corrosion and protected the coatings from future mechanical damage. Mr. Mott's designs included coating materials that could be applied during arctic winter conditions and also included wear guards to protect the coatings (new and existing) from damage at supports. Mr. Mott coordinated with PHMSA's Alaskan based personnel to ensure that they concurred with the repairs being executed.

Alaska Department of Environmental Conservation – North Slope Spills Analysis Expert Panel

Anchorage, Alaska

Mr. Mott represented the State of Alaska, Department of Environmental Protection, as a Corrosion Expert on a panel evaluating oil spills on the North Slope. Mr. Mott was the sole Corrosion Expert on the panel assessing the frequency and severity of oil spills on the Slope. The effort resulted in a series of recommendations for actions to reduce spills on the North Slope. The report was directed at the North Slope oil industry owners and operators.

Alyeska Pipeline Coating Systems Program Testing & Evaluation

Valdez, Alaska

Mr. Mott performed multiple coating systems evaluations on behalf of Alyeska Pipeline Service Company (APSC) to assess the corrosion protection reliability and/or limitations of use in belowground, immersion service or atmospheric environments. The coatings evaluated included epoxy, zinc rich, and inorganic zinc coating systems. Laboratory and field-testing included adhesion testing, abrasion testing, corrosion scratch testing, cure-time, cure temperature verification, cathodic disbondment testing and chemical resistance testing.

Alyeska Pipeline Service Co., Tank 111 CP System Design

Prudhoe Bay, Alaska

Mr. Mott was the Principal CP Design Engineer on a replacement CP system for Tank 111, a 180-ft diameter crude relief tank. Mr. Mott designed a mixed metal oxide grid type, CP system for the tank bottom. The design incorporated monitoring capabilities and inherent system flexibility to account for varying environmental conditions.

US Air Force Tank Corrosion Evaluation & Repair

Cape Lisburne, Alaska

William was the project engineer responsible for the investigation and mitigation of internal corrosion associated with two remote location water storage tanks at a USAF Facility. The investigation examined the condition of internal coatings and documented the extent of tank floor and shell corrosion via magnetic flux equipment (MFE) and ultrasonic thickness (UT) measurements. He provided on-site supervision and direction of the NDE effort, generated corrosion rate and remaining life calculation, and developed repair procedures to extend the life of the two 50-foot diameter tanks. The final report provided NSF replacement coating recommendations and an internal cathodic protection design for each tank.

Education

B.S. Mechanical Engineering – *University of Florida – Gainesville, 1998*

B.S. Civil Engineering – *University of Florida – Gainesville, 1999*

Registrations/Certification & Training

- Washington Registered PE, ME, 22027934
- Alaska Registered PE, ME, #140252
- Missouri Registered PE, #2017022045
- Louisiana Registered PE, #0041538
- Texas Registered PE, #101032
- Illinois Registered PE, ME, #062.063322
- California Registered PE, #35704
- B31.1- Power Piping
- B31.3- Process Piping
- B31.8- Managing System Integrity of Gas Pipelines
- B31.4 – Liquid Transmission Pipelines

Professional Activities

- NCEES PE Exam Development
- Toastmasters International
- ASD Gifted Mentorship

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William Cobb, PE

Principal Mechanical Engineer

Mr. Cobb is a principal level Mechanical Engineer with 24-years of diverse experience. During his career he has developed competency in piping design, pipe stress analysis, fuel delivery systems, heat transfer, hydraulics, steam systems, tank terminals, energy audits, pump analysis and pump selection. A summary of his work experience is outlined below:

Project Experience

Badami Pipeline Stress Analysis

Glacier Oil and Gas Corporation, Badami Pipeline, Kaktovik, Alaska

Mr. Cobb performed a pipe stress analysis for the Badami 12-inch Sales Oil and 6-inch NGL pipelines per a 2021 survey to identify the impacts to sustained and occasional stresses from VSM jacking and settling. A total of 12 repairs were identified.

Tank 34 Reconstruction

Crowley, Port of Alaska, Anchorage

Mr. Cobb participated in the investigation of a groundwater intrusion study for a 990 MBBL jet fuel tank and developed a reconstruction plan for portions of the tank floor that were removed for inspection. He developed a cost-effective weld procedure to reinstall the tank sump and floor cutouts.

Tank 51 & 52 Inspection and Evaluation

Crowley, St. Mary's, Alaska

Mr. Cobb participated in the API 653 inspection of two 100 KGal Jet-A storage tanks in St. Mary's. Alaska. The initial project scope of work included evaluation of the tank bottom, shell, roof, appurtenances, and foundation. Mr. Cobb assessed damages due to tank jacking and groundwater intrusion under the tanks, determined if the tanks could remain in temporary service and designed repairs to bring one of the tanks into API 650 compliance. Mr. Cobb was onsite during all repairs and modifications to the tank floor to ensure all work was compliant with API 653.

SeaTac Reservoir Repairs, Seattle-Tacoma International Airport

Seattle, Washington

Mr. Cobb helped to identify several opportunities to improve the function and longevity of the SeaTac Reservoir. Work included selection of a replacement backpressure valve for the water inlet piping, mitigation of water intrusion into an underground vault and installation of a sump pump, installation of new level gauges for the tank, and reviewing the inlet piping to the tank to ensure the piping stresses were within code limits.

East Metering Building Dual Offtake Piping

Alyeska Pipeline Service Company - Valdez, Alaska

Mr. Cobb assisted with the piping modifications for the East Metering Building to allow more efficient routing of fluid during relief events. He modeled hydraulic transient loads associated with relief valve closures for the redesigned intake piping and performed static and dynamic pipe stress analyses to predict pipe stresses and displacements. The final displacements during simulated relief events were found to be within 5% of the displacements predicted by the model.

East Metering Building Pig Receiver Piping Replacement

Alyeska Pipeline Service Company - Valdez, Alaska

Mr. Cobb developed design drawings and specifications for the replacement of corroded drain piping from the 48" mainline pig receiver. Modifications included replacement of corroded fittings on the pig receiver.

Pipeline System Upgrade Projects

Alyeska Pipeline Service Company – Prudhoe Bay, Alaska

Mr. Cobb served as lead mechanical engineer for a variety of facilities upgrade projects for the Trans Alaska Pipeline. Facilities ranged from Pump Station 1 to the Valdez Marine Terminal. Experience includes preparation of scopes of work, development of conceptual layouts, determination of design basis, the selection of equipment and materials and the preparation and assembling of calculations and specifications.

Steam System Optimization
Alaska Omega Nutrition - Nikiski, Alaska
Mr. Cobb analyzed the steam and condensate system for a fish processing plant and identified several opportunities to improve plant operability, efficiency, and safety. The upgrades he identified included the installation of a pump trap to solve condensate stalling, resizing and reselection of steam traps, the development of insulation specifications for unprotected pipe and equipment, the performance of pipe stress analyses to verify piping flexibility, the review of sizing for steam and condensate lines, the development of nitrogen purge plan for equipment passivation, and updating plant piping and instrument diagrams.

Steam Turbine Feasibility Study
Alyeska Pipeline Service Company - Valdez, Alaska
Mr. Cobb assessed the feasibility of using vintage Terry steam turbines as variable speed drives for fuel oil pumps, boiler feedwater pumps and combustion air fans in the VMT Power Vapor Plant. He defined existing and new operating points for pumps and fans and the associated savings in steam by operating turbines at reduced speeds. He also developed run test procedures for the reconfigured turbines.

Pump Station 1 Decommissioning Work
Alyeska Pipeline Service Company – Prudhoe Bay, Alaska
Mr. Cobb served as lead mechanical engineer for the decommissioning of the Lisburne and Endicott metering buildings, which entailed identifying piping cut points and design of blinds to allow for draining and corrosion monitoring. He also was responsible for developing the demolition and installation plans for four replacement vapor pressure analyzer units for the Pump Station Quality Bank.

Kuparuk & Oliktok Pipeline VSM Repairs
ConocoPhillips – North Slope, Alaska
Mr. Cobb Developed repairs for DOT pipeline supports on the North Slope that had heaved, subsided or were leaning. Mr. Cobb utilized AutoPIPE to determine the resulting stresses and to identify supports that required repair. He developed pipe lift and repair plans based on client standards,

VMT Boiler Upgrades
Alyeska Pipeline Service Company - Valdez, Alaska
Mr. Cobb developed a strategy and total-installed-cost estimate to upgrade an aging boiler feedwater demineralization system for the Valdez Marine Terminal. The plan included repositioning of PSV's to allow for safer personnel access.

Hydrostatic Leak Test Procedures
Alyeska Pipeline Service Company – Valdez, Alaska
Mr. Cobb revised the hydrostatic leak test procedure for the tank to berth pipeline at the Valdez Marine Terminal (VMT). Mr. Cobb optimized calculations to determine pipeline thermal volume changes, specified temperature transmitters to measure soil temperatures and developed error propagation calculation to provide range of uncertainty for leak volumes. This effort improved the accuracy and confidence in test results reported to the Coast Guard.

Crude Firing Project
ExxonMobil - Chad
Mr. Cobb traveled to Chad where he served as lead mechanical engineer for the design of piping and selection of transfer pumps to allow for the conditioning of crude oil to be used as fuel for gas turbine generators. Mr. Cobb developed material specifications for low pH water wash system, designed two source water wells and developed commissioning specifications for mothballed GE oil conditioning equipment.

Sulphur Handling Facility Upgrades
Savage Sulphur Services – Texas, Louisiana. Florida, Arizona & Illinois
Mr. Cobb was the Lead Mechanical Engineer for upgrades to sulfur handling facilities in Galveston, TX, Tampa, FL and Donaldsonville, LA. He developed specifications for API 650 tank repairs, participated in tank inspections/damage assessments, specified high density concrete for repairs to molten sulfur trenches, and developed scope of work for repairs to half-mile molten sulfur delivery line. He also held responsible charge for sulfur terminal designs in Arizona and Chicago, IL.

Mobile Well Test Separator
ExxonMobil - Chad
Bill coordinated the design of a mobile well test separator units to allow the gas and liquid phases of oil producing wells to be measured. He oversaw commissioning of the test units in Chad.

Relief Valve Hydraulic Transient Loads
Alyeska Pipeline Service Company - Valdez, Alaska
Mr. Cobb modeled hydraulic transient loads associated with relief valve closures for redesigned intake piping to the Valdez Marine Terminal East Metering Building, Bill performed static and dynamic pipe stress analyses to predict pipe stresses and displacements. The final displacements measured during simulated relief events were found to be within 5% of the displacements predicted by the model.

Molten Salt Test Facility
Shell – Houston, Texas
Mr. Cobb developed surface equipment and piping specifications for a downhole test facility utilizing molten salt at 1000o F as heat media. The equipment utilized included a circulation pump, mixing tanks, and a natural draft cooler and Aerogel insulation to minimize heat losses.

Field Surveillance Engineering
ExxonMobil – Aneth, Utah

Mr. Cobb performed surveillance engineering for the McElmo Creek and Ratherford fields in the 4-Corners area of the US. The facilities involved CO2 reinjection station, tank batteries and water reinjection. Mr. Cobb gained excellent experience with reciprocating compressors, injection pumps, tank construction, sour gas and root cause failure analysis, equipment protection requirements.

Production Platform & Support Facility Upgrades
Mobil Equatorial Guinea Inc. – Malabo, Equatorial Guinea

Mr. Cobb served as the Project Manager for upgrades to onshore helicopter refueling facility which entailed replacement of an aging UL-142 Jet-A storage tank, the fuel gas heating module for Jade Platform and for a steam condensate treatment facility for Zafiro Producer FPU. Mr. Cobb developed company standard project management procedures. This work included several trips to Malabo.

Drilling Engineer
ExxonMobil – Norway
From 1999-2001 Mr. Cobb developed and oversaw drilling and completion procedures for subsurface well programs in the North Sea. He maintained daily drilling reporting systems and wrote final well reports as an expat living in Norway.

Infantryman
US Army – Berlin Brigade
Mr. Cobb was an infantryman for the US Army's Berlin Brigade from 1989-1991 and received an Honorable Discharge.

Additional Qualifications

- Have strong knowledge of arc welding procedures and design of weldments
- Have machine shop and light fabrication experience
- Familiar with principles of galvanic corrosion and selection of piping materials to prevent galvanic corrosion
- Competent with Bentley AutoPIPE for pipe stress analysis

Michael A Wise

Principal Electrical Engineer

Mr. Wise has been actively involved in designing electrical systems in Alaska and for over 30 years. His professional experience includes power generation, instrumentation, communications, fire protection, SCADA, and lighting systems. His work included remote installations located throughout the State. A cursory summary of his experience is outlined below.

Education

BSE Electrical Engineering – Colorado State *University, 1988*

MSE Electrical Engineering – Ohio *University, 1989*

Registrations/Certification & Training

- Licensed Electrical Engineer, State of Alaska, EE 8065
- Electrical Administrator, State of Alaska, No 1465

Project Experience

Dowland Back, Director of Engineering

Anchorage, AK

Overall responsibility for technical design and quality control of Dowland-Bach's engineered and manufactured products. Responsibilities also included managing the Projects Department including schedules, workloads and budgets.

Major projects include design of industrial control panels for Alaska's North Slope Oil and Gas industry as well as bulk fuel, water and wastewater projects throughout remote Alaska. Also responsible for the electrical and control system design for Chemical Injection truckable modules, Wellhead Control Panels and DB's solar-powered Wellhead Safety Systems for BP Colombia.

Veco Alaska, Electrical, Controls & Communications Engineering

Anchorage, AK

Electrical and Instrumentation Supervisor. Engineering Supervisor for communications, electrical, and instrumentation engineers and designers. Planning, organizing, and managing the activities of engineers and designers on projects for Alyeska Pipeline, British Petroleum and ARCO.

Major projects included: Engineer-of-record on RTU replacement on Alyeska Pipeline's remote gate valve SCADA system, electrical engineer responsible for design of power systems installed as part of cathodic protection systems along the pipeline, electrical engineer involved in study to route a gas pipeline from North Slope to Nikiski.

Arctic Slope Consulting Group – Electrical Engineering

Anchorage, AK

Senior Electrical Engineer. Contracted to Alyeska Pipeline Service Company. Extensive design and field experience in Alyeska Pipeline's facilities. Project engineer and electrical design engineer responsible for the preparation and coordination of feasibility studies, final designs and on-site construction support of power, controls, fire protection and instrumentation systems. Other projects included design of power, lighting and communication systems for commercial building.

Veco Alaska/Alyeska Pipeline Service Company – Electrical Engineering

Anchorage, AK

Electrical Engineer on the Alyeska Pipeline Controls and Telecommunications Long-Range Planning team. Researched and recommended technology upgrades to power generation, fire protection, and SCADA systems as well as overall operational improvements. Conducted cost/benefit analyses of each alternative.

Construction engineer responsible for on-site electrical and instrumentation support for major improvements to the Pump Station 1 vapor recovery and flare system. Project Engineer for new PLC-based gas voting systems at each Pump Station.

Curtis R. Nuttall, P.E.

Principal Civil Engineer

Mr. Nuttall has over 30 years of comprehensive achievements across Project Management, Engineering, Contracting and Maintenance disciplines. He has a proven history of achieving cost savings and enhancing system performance and a track record of solving tough business and technical problems. He has overseen numerous piping repair and replacement projects and implemented cutting edge technologies resulting in enhanced system performance and client cost savings. A summary of his experience is outlined below.

Education

BS Civil Engineering - *University of Colorado, 1982*

Registrations/Certification & Training

- Registered Professional Engineer, Civil Engineering, Alaska # 7371
- Project Management Institute (PMI) Training – *Project Management Body of Knowledge*
- International Projects Association (IPA) Training – *Decision Making for Capital Effectiveness*
- International Projects Association (IPA) Training – *Successful Megaprojects*
- Transportation Worker Identification Credential (TWIC)

taku engineering

Project Experience

North Slope Borough – Point Lay Water & Wastewater Upgrade Conceptual Study

Point Lay, Alaska

Mr. Nuttall was the primary engineer on the conceptual study for upgrades to the Point Lay water & wastewater piping. Mr. Nuttall led a team of engineers that identified six options for maintenance or repair of the water and sewage piping. The study recommended that the existing belowground piping be replaced with an aboveground recirculating water piping system and an aboveground vacuum sewage piping system.

North Slope Borough – Kaktovik Wastewater Outfall Replacement

Kaktovik, Alaska

The existing sewage outfall piping for the Kaktovik wastewater treatment plant has suffered significant structural damage due to the eroding shoreline and the buildup of frozen effluent during the winter months. Curtis and his team identified a shore area that was less susceptible to erosion and designed a more robust support structure.

Alyeska Pipeline Service Co. - Ballast Water Treatment System Redesign

Valdez, Alaska

Mr. Nuttall oversaw a series of projects that fully redesigned the system that treated the Valdez Marine Terminal's ballast and wastewater. These projects captured and thermally treated vapors from the secondary and quaternary treatment equipment. The projects also added a tertiary treatment (strippers) into the process and modified the quaternary treatment to include settlement to remove suspended solids. The systems resulted in significantly cleaner water flowing into Port Valdez, lower air emissions and lower operating costs.

Alyeska Pipeline Service Co. - Ballast Water Tank Headspace Volatility

Valdez, Alaska

Mr. Nuttall oversaw the project to manage vapors in the headspace of Ballast Water Tanks 93 & 94 at the Valdez Marine Terminal (VMT). The original tank configuration resulted in headspace vapors that comprised a flammable mixture of hydrocarbon and oxygen. Curtis led this project from conceptual engineering, through construction and close-out. He forged the use of horizontal directional drilling (HDD) to connect the ballast tanks, to the existing vapor recovery system at the Terminal's East Tank Farm. HDD allowed the project to utilize high-density polyethylene pipe (HDPE) in-lieu of duplex stainless steel. This resulted in safer tank operations, a piping system with an extremely long service life, and a significant cost savings for the client.

Alyeska Pipeline Service Company – Ballast Water Plant Piping Replacement

Valdez, Alaska

Mr. Nuttall provided overall management of a series of projects that replaced the plant ballast water piping at the Valdez Marine Terminal (VMT). These projects were initiated because the coated carbon steel piping in the facility, was severely degraded due to corrosion. The project team developed a novel approach that utilized the existing piping as a conduit for new, smaller diameter fiber reinforced polymer (FRP) piping. The new piping is corrosion resistant and expected to last for the life of the facility.

Alyeska Pipeline Service Co. - Crude Storage Tank Program

Valdez, Alaska

Mr. Nuttall developed the plan and strategy for a major tank renovation and cathodic protection (CP) program that revitalized Alyeska's crude storage tanks and extended the length of tank service intervals between out-of-service inspections. This program pioneered the first use of tank magnetic-flux-exclusion (MFE) in the United States. Mr. Nuttall brought in new sludge processing technique that eliminated a major source of hazardous waste. He also oversaw Alyeska's conversion to the use of programs to perform repetitive or multi-year projects in a more efficient manner. The cumulative savings of this effort was over $110-million.

Alyeska Pipeline Service Co. - Thompson Pass Backpressure Project

Valdez, Alaska

Mr. Nuttall led an effort to design and install backpressure systems at the VMT's East Metering facility. The backpressure systems were required to alleviate a severe pipeline vibration issue caused by cavitation of oil coming off the top of Thompson Pass. Mr. Nuttall developed an innovative approach for installing backpressure systems that utilized the world's largest hot-tap to avoid a lengthy and costly shutdown of TAPS. Curtis's approach negated the need for a lengthy shutdown and saved the TAPS Owners more than 3 million barrels of deferred oil (~$100 million)

EXHIBIT 16

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CONTRACT FOR PROFESSIONAL SERVICES WITH WILKS CONSULTING SERVICES, INC.

In consideration of the mutual promises herein, ANCHORAGE and Wilks Consulting Services, Inc.. agrees as follows. This contract consists of:

A. Part I, consisting of 15 sections of Special Provisions;

B. Part II, consisting of 9 sections of General Provisions;

C. Appendix A: Scope of Services consisting of 1 page; and

D. Appendix B: Fee Schedule consisting of 1 page.

PART I
SPECIAL PROVISIONS

Section 1. Definitions. In this contract:

A. "Administrator" means the Municipality of Anchorage Controller of the Finance Department of or his/her designee.
B. "Anchorage" means the Municipality of Anchorage.
C. "Contractor" means Wilks Consulting Services, Inc.

Section 2. Scope of Services.

A. The Contractor shall perform professional services in accordance with Appendix A, which is attached hereto and incorporated in this section by reference.

B. Contract Task Orders (CTOs) will be provided for specific tasks. The Contractor shall respond to each CTO with a proposal detailing the cost and time required to complete the work. Anchorage and the Contractor may refine the proposal for clarification of the scope of services.

C. Once the CTO is agreed to, individual Purchase Orders will be issued with a Notice to Proceed (NTP). The Contractor shall perform the Professional Services required to complete the task set forth therein. Individual purchase orders against this contract are not to exceed $250,000.00 without the prior approval of the Purchasing Director.

D. The Contractor shall commence the performance of the work for each CTO/NTP upon receipt of an approved Purchase Order (PO) or written approval of the Purchasing Officer in the event of an emergency. No work is authorized without a Purchase Order or written approval.

E. Anchorage shall not allow any claim for services other than those described in this section. However, the Contractor may provide, at its own expense, any other services that are consistent with this contract.

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[1]Section 3. Time for Performance.

A. This contract becomes effective when signed on behalf of Anchorage.
B. The Contractor shall commence the performance of the work described in Part I Section 2 upon written notice-to-proceed for each task order.
C. The contractor shall complete all work associated with this contract three (3) years from the date of contract execution.

Section 4. Compensation; Method of Payment.

A. Subject to the Contractor's satisfactory performance, Anchorage shall pay the Contractor no more than FIVE HUNDRED THOUSAND DOLLARS ($500,000) in accordance with this section.
B. Anchorage shall pay the Contractor in accordance with the schedule of professional fees attached as Appendix B and incorporated herein by reference for services performed under this contract.
C. Each month the Contractor shall present a bill to the Administrator describing the work for which it seeks payment and documenting expenses and fees to the satisfaction of the Administrator. If any payment is withheld because the Contractor's performance is unsatisfactory, the Administrator must, within ten (10) days of the payment denial, notify the Contractor of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why.
D. The Contractor is not entitled to any compensation under this contract, other than as expressly provided for in this section.
E. As a condition of payment, the Contractor shall have paid all municipal taxes currently due and owing by the Contractor.

Section 5. Termination of the Contractor's Services.

The Contractor's services under Section 2 may be terminated:

A. By mutual consent of the parties.
B. For the convenience of Anchorage, provided that Anchorage notifies the Contractor in writing of its intent to terminate under this paragraph at least 10 days before the effective date of the termination.
C. For cause, by either party where the other party fails in any material way to perform its obligations under this contract. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefor, and the other party fails to cure the default within thirty (30) days after receiving the notice.

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Section 6. Duties Upon Termination.

A. If Anchorage terminates the Contractor's services for convenience, Anchorage shall pay the Contractor for its actual costs reasonably incurred in performing before termination. Payment under this subsection shall never exceed the total compensation allowable under Section 4. All finished and unfinished documents and materials prepared by the Contractor shall become the property of Anchorage.

B. If the Contractor's services are terminated for cause, Anchorage shall pay the Contractor the reasonable value of the services satisfactorily rendered prior to termination less any damages suffered by Anchorage because the Contractor fails to perform satisfactorily. The reasonable value of the services rendered shall never exceed the contract rate for such services, and payment under this subsection shall not exceed ninety percent (90%) of the total compensation allowable under Section 4. Any finished or unfinished documents or materials prepared by the Contractor under this contract shall become the property of Anchorage at its option.

C. If the Contractor receives payments exceeding the amount to which it is entitled under subsections A or B of this section, he shall remit the excess to the Administrator within thirty (30) days of receiving notice to do so.

D. The Contractor shall not be entitled to any compensation under this section until the Contractor has delivered to the Administrator all documents, records, work products, materials, and equipment owned by Anchorage and requested by the Administrator.

E. If the Contractor's services are terminated, for whatever reason, the Contractor shall not claim any compensation under this contract, other than that allowed under this section.

G. Except, as provided in this section, termination of the Contractor's services under Section 5, does not affect any other right or obligation of a party under this contract.

Section 7. Insurance.

A. The Contractor shall maintain in good standing, for the entire period of the contract, the insurance described in subsection B of this section. Before rendering any services under this contract, the Contractor shall furnish the Administrator with a Certificate of Insurance in accordance with subsection B of this section in a form acceptable to the Risk Manager for Anchorage.

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B. The Contractor shall provide the following insurance:

1.) $500,000 Employers Liability and Workers Compensation as required by Alaska Law.

2.) Commercial Automobile Liability in the amount of $1,000,000 combined single limit to include: owned, hired, and non-owned.

3.) Commercial General Liability including:

$2,000,000 General Aggregate
$2,000,000 Products/Completed Operations
$1,000,000 Personal & Advertising Injury
$1,000,000 Each Occurrence
$5,000 Medical Payments

4.) Professional Liability insurance with limits not less than $1,000,000 per occurrence and $2,000,000 aggregate.

5) Cyber/Privacy Liability insurance with limits not less than $1,000,000. The Cyber coverage shall include, but not be limited to, claims involving invasion of privacy violations (including HIPPA), Information theft, and release of private information. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses.

C. Policies written on a "claims-made basis" must have a two (2) year tail of coverage or an unbroken continuation of coverage for two (2) years from the completion of the contract requirements.

D. Each policy of insurance required by this section shall provide advance notice to the MOA/Contract Administrator prior to cancellation in accordance with the policy. If the insurer does not notify the MOA of policy cancellation it shall be the contractor's responsibility to notify the MOA of such cancellation.

E. With the exception of Worker's Compensation and Professional Liability, each policy shall name The Municipality as an "additional insured" and the actual policy endorsement shall accompany each Certificate of Insurance.

F. General Liability, Worker's Compensation, and Automobile policies shall be endorsed to waive all rights of subrogation against the Municipality of Anchorage by reason of any payment made for claims under the above coverage. This policy endorsement shall accompany each Certificate of Insurance.

G. All policies for general liability shall be primary and noncontributing with any insurance that may be carried by the Municipality.

H. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Municipality requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Municipality.

I. The contractor shall require and verify that all subcontractors maintain insurance meeting all requirements stated herein, and the Contractor shall ensure that the Municipality is an additional insured on insurance required from subcontractors.

Section 8. Assignments.

Unless otherwise allowed by this contract or in writing by the Administrator, any assignment by the Contractor of its interest in any part of this contract or any delegation of duties under this contract shall be void, and an attempt by the Contractor to assign any part of its interest or delegate duties under this contract shall give Anchorage the right immediately to terminate this contract without any liability for work performed.

Section 9. Ownership; Publication, Reproduction, and Use of Material.

A. Except as otherwise provided herein, all data, documents, and materials produced by the Contractor under this contract shall be the property of Anchorage, which shall retain the exclusive right to publish, disclose, distribute, and otherwise use, in whole or in part, any such data, documents or other materials. Exclusive rights shall not be attributed to portions of such materials present in the public domain or which are not subject to copyright.

B. Equipment purchased by the Contractor with designated contract funds shall be the sole property of Anchorage marked and inventoried as such with a copy of the inventory forwarded to Anchorage.

Section 10. Notices.

Any notice required pertaining to the subject matter of this contract shall be either sent via facsimile (FAX) or mailed by prepaid first class registered or certified mail, with return receipt requested to the following addresses:

Anchorage: Municipality of Anchorage
Department of Finance
P.O. Box 196650

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Anchorage, AK 99519-6650
FAX: (907) 343-6616

Contractor: Wilks Consulting Services, Inc.
2100 Atwood Drive
Anchorage, AK 99517
FAX: (907) 242-0659_

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or five (5) days after proof of proper posting.

Section 11. Contract Budget.

In connection with its performance under this contract, the Contractor shall not make expenditures other than as provided in line items in the contract budget.

Section 12. Force Majeure.

A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.
B. As used in this contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this contract, including without limitation:

1. Any interruption, suspension, or interference resulting solely from the act of the Municipality or negligent act(s) of the Municipality not otherwise governed by the terms of this contract.
2. Strikes or work stoppages.
3. Any interruption, suspension, or interference with the project caused by acts of God, acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances, or similar occurrences.
4. Order of the court, administrative agencies or governmental officers other than the Municipality.

Section 13. Financial Management System.

The Contractor shall establish and maintain a financial management system that:
A. Provides accurate, current, and complete disclosure of all financial transactions relating to the contract;
B. Maintains separate accounts by the source of funds for all revenues and expenditures and identifies the source and application of funds for the Contractor's performance under this contract, including information pertaining to subcontracts, obligations, unobligated balances, assets, liabilities, outlays, and income;

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C. Effectively controls and accounts for all municipal funds and contract property;
D. Compares actual expenditures with budgeted amounts and relates financial information to performance or productivity data including unit cost information where applicable;
E. Allocates administrative costs to direct service delivery units;
F. Minimizes the time between receipt of funds from Anchorage and their disbursement by the Contractor;
G. Provides accounting records supported by source documentation; and
H. Provides a systematic method assuring the timely and appropriate resolution of audit findings and recommendations.

Section 14. Funding Requirements.

In the event that any funding source for this contract should impose additional requirements upon Anchorage for the use of those funds, the Contractor agrees to abide by those additional requirements immediately upon receipt of written notice thereof from Anchorage.

Section 15. Subcontracts.

The Contractor may enter into subcontracts for the purchase of goods and services necessary for the performance of this contract, provided:

A. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefor.
B. Every subcontract under which the Contractor delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the Contractor.
C. Every subcontract in an amount exceeding $1,000.00 shall require reasonable access to business records of the subcontractor relating to the purchase of goods or services pursuant to the subcontract.

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PART II

GENERAL CONTRACT PROVISIONS

Section 1. Relationship of Parties.

The Contractor shall perform its obligations hereunder as an independent contractor of Anchorage. Anchorage may administer the contract and monitor the Contractor's compliance with its obligations hereunder. Anchorage shall not supervise or direct the Contractor other than as provided in this section.

Section 2. Nondiscrimination.

A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, or marital status, or who is a "qualified individual with a disability", as that phrase is defined in the Americans With Disabilities Act of 1990. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, mental or physical disability, sexual orientation, or gender identity. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. The Contractor shall state, in all solicitations or advertisements for employees to work on contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, or mental or physical disability.

C. The Contractor shall comply with any and all reporting requirements that may apply to it which the Anchorage Office of Equal Employment Opportunity Contract Compliance may establish by regulation. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.

D. The Contractor shall include the provisions of subsections A through C of this section in every subcontract or purchase order under this contract, so as to be binding upon every such subcontractor or vendor of the Contractor under this contract. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.

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E. The Contractor shall comply with all applicable federal, state, and municipal laws concerning the prohibition of discrimination including, but not limited to Title 5 and Title 7, Chapter 7.50 of the Anchorage Municipal Code.

Section 3. Permits, Laws, and Taxes.

The Contractor shall acquire and maintain in good standing all permits, licenses, and other entitlements necessary to its performance under this contract. All actions taken by the Contractor under this contract shall comply with all applicable statutes, ordinances, rules, and regulations. The Contractor shall pay all taxes pertaining to its performance under this contract.

Section 4. Nonwaiver.

The failure of either party at any time to enforce a provision of this contract shall in no way constitute a waiver of the provision, or in any way affect the validity of this contract or any part thereof, or the right of such party thereafter to enforce each and every provision hereof.

Section 5. Amendment.

A. This contract shall only be amended, modified, or changed by writing, executed by authorized representatives of the parties, with the same formality as this contract was executed.
B. For the purposes of any amendment modification or change to the terms and conditions of this contract, the only authorized representatives of the parties are:

Contractor William J. Wilks

President

Anchorage: **Mayor, Municipal Manager, or Approved Designee**

C. Any attempt to amend, modify, or change this contract by either an unauthorized representative or unauthorized means shall be void.

Section 6. Jurisdiction; Choice of Law.

Any civil action rising from this contract shall be brought in the Superior Court for the Third Judicial District of the State of Alaska at Anchorage. The law of the State of Alaska shall govern the rights and obligations of the parties under this contract.

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Section 7. Severability.

Any provision of this contract decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the contract.

Section 8. Integration.

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this contract shall supersede all previous communications, representations, or agreements, either oral or written, between the parties hereto.

Section 9. Liability.

A. The Contractor shall indemnify, defend, save and hold Anchorage(or Municipality) harmless from any and all claims, lawsuits, or liability, including attorney fees and costs, allegedly arising out of loss, damage, or injury to persons or property or from any wrongful or negligent act, error or omission of Contractor, Contractor's agents, employees, subcontractors or invitees, occurring during the course of, or as a result of the Contractor's, Contractor's agents, employees, contractors, subcontractors or invitees performance pursuant to this contract.

B. The Contractor shall not indemnify, defend, save and hold Anchorage harmless from claims, lawsuits, liability, or attorneys' fees and costs arising from wrongful or negligent acts, error, or omission solely of Anchorage occurring during the course of or as a result of the performance of this contract.

C. Where claims, lawsuits, or liability, including attorneys' fees and costs, arising from the wrongful or negligent act of both Anchorage and the Contractor, the Contractor shall indemnify, defend, save and hold Anchorage harmless from only that portion of claims, lawsuits or liability, including attorneys' fees and costs, which result from the Contractor's or any subcontractor's wrongful or negligent acts occurring as a result of the Contractor's performance pursuant to this contract.

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Section 10. Inspection and Retention of Records.

The Contractor shall, at any time during normal business hours and as often as Anchorage may deem necessary, make available to Anchorage, for examination, all of its records with respect to all matters covered by this contract for a period ending three years after the date the Contractor is to complete performance in accordance with Section 2 of the Special Provisions. Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this contract, to Anchorage, in such form and at such times as Anchorage may reasonably require. The Contractor shall permit Anchorage to audit, examine and make copies of such records, and to make audits of all invoices, materials, payrolls, records of personnel, and other data relating to all matters covered by this contract. Anchorage may, at its option, permit the Contractor to submit its records to Anchorage in lieu of the retention requirements of this section.

Section 11. Availability of Funds.

Payments under this contract require funds from future appropriations and are subject to future appropriations. If sufficient funds are not appropriated for payments required under this contract, this contract shall terminate without penalty to Anchorage and Anchorage shall not be obligated to make payments under this contract beyond those which have previously been appropriated.

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IN WITNESS WHEREOF, the parties have executed this contract on the date and at the place shown below.

MUNICIPALITY OF ANCHORAGE

Kent Kohlhase
Mayor, Municipal Manager, or Approved Designee

Date: 02/09/2023

CONTRACTOR

Bill Wilks

Title: President

Date: 02/08/2023

IRS Tax Identification No._____
Tax Status: Taxable [ ] Non-Taxable [ ]

RECOMMEND FOR APPROVAL:

Grant Yutrzenka
Name: Grant Yutrzenka

Title: Chief Fiscal Officer

Date: 02/08/2023

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APPENDIX A

SCOPE OF SERVICES

3.0 SCOPE OF WORK

General

Provide as-needed professional accounting services to support the MOA Controller Division. Services may include, but aren't limited to the following:

1. Implementation of new GASB Accounting Standards
2. Governmental Fund Accounting
3. Enterprise Fund Accounting
4. Fiduciary Fund Accounting
5. Internal Service Fund Accounting
6. Grant Accounting
7. Capital Project Accounting
8. Cost Allocations
9. Fund Balance Review
10. Draft Policies and Procedures
11. Recommend Improvements to Business Processes
12. Audit Support
    - Audit Process Support
    - Year-end Workpaper Preparation / Review
    - Financial Statement Preparation / Review
    - Footnote Preparation / Review
13. Reporting and Data Visualization
    - Depreciation
    - Management / Assembly / Public Outreach
    - Federal and State Reports as required

Contract Task Orders

Work will be assigned by Contract Task Orders which will have a negotiated scope and fee. Once scope and fee are agreed upon, a Notice-to-Proceed will be issued and made a binding part of the Term Contract. The Notice-to-Proceed will state the scope of work, maximum fee allowable, and completion date.

It is expected that each of the selected term contractors will perform more than one Contract Task Order during the contract period. However, MOA does not guarantee any minimum amount to be paid under the Term Contract.

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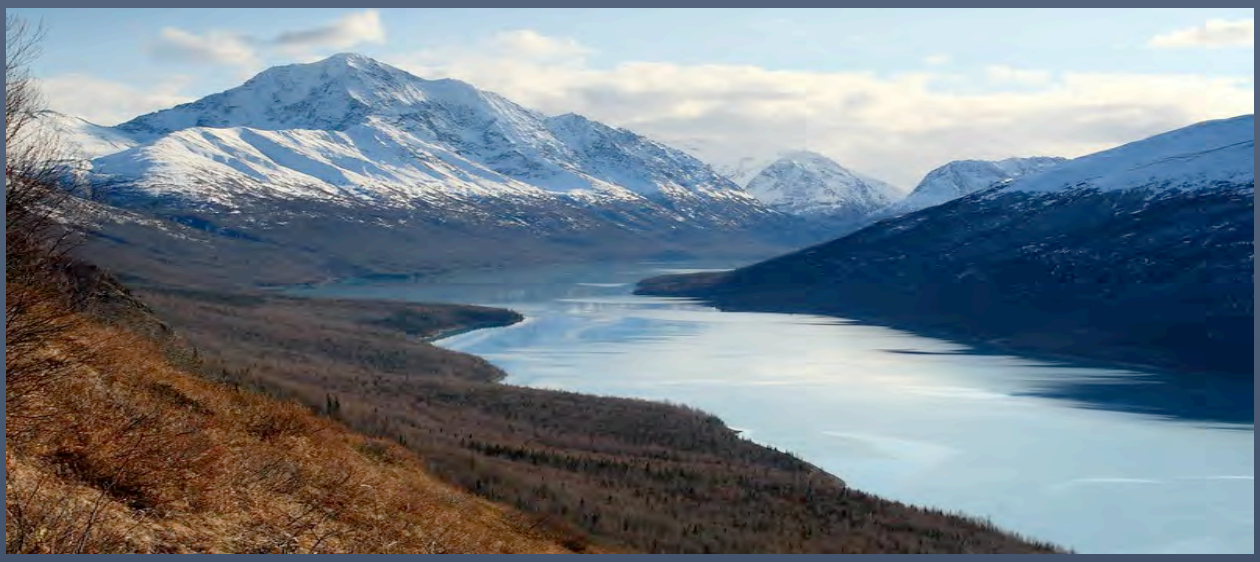
APPENDIX B

Schedule of Professional Fees

Position	Hourly Rates
Principal/Partner With Discount	$213.75
Principal/Partner Without Discount	$225.00

Wilks Consulting Services (WCS) offers Anchorage a 5% discount off the hourly rates if Anchorage pays WCS's invoice within 15 days from invoice date. Invoices paid after 15 days from the invoice date do not qualify for a discount. The table above shows the hourly rates both with and without the payment term discount.

EXHIBIT 17



Provide Financial Accounting Services Term Contract(s) For Anchorage Hydropower Utility

March 18, 2025

Wilks Consulting Services, Inc.

William J. Wilks
President
2100 Atwood Drive
Anchorage, AK 99517
(907) 242-0659
williamwilks2003@yahoo.com

March 18, 2025

Mark A. Corsentino, PE
Director, Anchorage Hydropower Utility
C/O Municipal Purchasing Department
632 West Sixth Avenue, Suite 520
Anchorage, Alaska 99501

Re: Notification of Contract Services Expansion

Dear Mark:

Wilks Consulting Services (WCS or the firm) reviewed the Municipality of Anchorage notification of Contract Services Expansion to contracts 4400001633 & 4400001634 between the Municipality of Anchorage (MOA) and our firm to include providing professional accounting services to support the Anchorage Hydropower Utility (AHP) on an as needed basis. WCS is ready to assist you to meet your regulatory and financial accounting responsibilities.

Attached are the items requested in your notification letter:

1. **State and include examples of your firm's expertise and experience with electric generation and transmission, locally on the Alaska Railbelt and elsewhere.**
    a. **Municipal Light and Power-**
        i. **Multiple regulatory dockets involving:**
            1. **Witness on multiple revenue requirement studies.**
            2. **Witness on lead-lag studies.**
            3. **Witness on affiliated transactions.**
            4. **Adjusted Gas Transfer Price ML&P Gas Utility charged ML&P electric utility for gas fuel purchases.**
        ii. **MOA engagement to determine close out of ML&P after sale of utility to CEA.**
            1. **Engagement resulted in a draft white paper involving assessment of liabilities involving creation of AHP and liabilities found in power purchase agreement.**
    b. **Anchorage Hydropower Utility-**
        i. **Reviewed MOA request to modify ML&P Certificate of Public Convenience and Necessity to establish AHP.**
        ii. **Ensure RCA orders to establish reserves were followed and recorded on AHP financial statements and made recommendations and produced pro forma financial**

statements for AHP for additional reserves to recognize liabilities for Treatment Center.

iii. Made recommendations for developing the first ever budget and financial statements for utility.

iv. Made recommendation for restoring MOA voting membership rights in the Eklutna Operating Committee.

v. The RCA order in Docket U-24-024 provides a pathway to getting approval to restore voting rights which is critical given restoration costs and typical operating and other capital costs of Eklutna River.

c. Chugach Electric Association-

i. Reviewed request for comment on allocations of cost for new power generation facility to ML&P. Resulting in significant reduction to allocations being charged ML&P.

ii. Reviewed Purchase Agreement between CEA and MOA on sale of utility including RCA orders conditionally approving the sale and ensuring conditions had been complied with and properly recorded on MOA financial statements.

d. British Columbia, Canada Hydro Electric Company-

i. Engagement required that we develop a strategy to categorize plant in service to a uniform chart of accounts that met their regulatory requirements for continuing property records (CPR) to include:

1. **Gather record drawings of their infrastructure.**
2. **Gather financial data of their plant in service by date placed in service.**
3. **Create an Item Class Master (ICLM) that identifies plant in service by retirement units according to the Federal Energy Regulatory Commission (FERC) and establish a base price by retirement unit.**
4. **Create a cost index to establish the cost of plant additions before and after the base.**
5. **Develop a work order master and tie the master to record drawings.**
6. **Allocate the cost at the base year from their financial statements plant in service, depreciation over each retirement units**
7. **Establish a CPR policy and procedure to update it accordingly and facilitate future depreciation studies.**
8. **FERC has specific requirements for an entity to prove ownership of its plant and the above strategies are meant to establish that ownership.**

e. **Doyon Utilities LLC for its Electric Utility Service at Fort Greely, Alaska. Set revenue requirement and filed getting RCA approval on rates as filed.**
f. **Doyon Utilities LLC for its Electric Utility service at Fort Richardson, Alaska. Set revenue requirement and filed getting RCA approval on rates as filed.**
g. **Doyon Utilities LLC for its Electric Utility service at Fort Wainwright, Alaska. Set revenue requirement and filed getting RCA approval on rates as filed.**
h. **TDX North Slope Generating Electric Utility. Multiple engagements to set revenue requirement and filed getting RCA approval on rates as filed.**
i. **TDX Sand Point Generating Electric Utility. Multiple engagements to set revenue requirement and filed getting RCA approval on rates as filed.**
j. **City of Saint Paul Electric Utility. Engagement to set revenue requirement and seek approval by city council on forward-looking electric rates.**

2. **State and Include examples of your firm's expertise and with hydroelectric projects, locally and elsewhere.**
   a. **Deschutes Valley Water District. Engagement was to evaluate both its water and hydroelectric utilities revenue requirements and make recommendations as needed. Analysis resulted in identifying subsidy of hydroelectric utility that reduced rates for its water utility. Recommendation was to have both utilities fund its revenue requirements with rates and no subsidies.**
   b. **See items 1.b and 1.d above.**

3. **State and include examples of your firm's experience with maintaining records in accordance with the Uniform System of Accounts and maintaining continuing property records.**
   a. **British Columbia, Canada Hydro Electric Company-**
      i. **Engagement required that we develop a strategy to categorize plant in service to a uniform chart of accounts that met their regulatory requirements for continuing property records (CPR) to include:**
         1. **Gather record drawings of their infrastructure.**
         2. **Gather financial data of their plant in service by date placed in service.**
         3. **Create an Item Class Master (ICLM) that identifies plant in service by retirement units according to the Federal Energy Regulatory Commission**

(FERC) and establish a base price by retirement unit.

4. **Create a cost index to establish the cost of plant additions before and after the base.**
5. **Develop a work order master and tie the master to record drawings.**
6. **Allocate the cost at the base year from their financial statements plant in service, depreciation over each retirement units**
7. **Establish a CPR policy and procedure to update it accordingly and facilitate future depreciation studies.**
8. **FERC has specific requirements for an entity to prove ownership of its plant and the above strategies are meant to establish that ownership**

We believe our firm is uniquely qualified to provide these services because the personnel slated for this engagement have collectively over 48 years of experience as Municipality of Anchorage (MOA) employees performing the requested services sought in this notification of extension. Our personnel, as MOA employees have developed detailed financial statements, developed and maintained Continuing Property Records (CPR) system for various MOA enterprise activities, provided audit support, year-end workpaper preparation and footnote preparation for both general government and enterprise funds of the MOA.

We have likewise provided the above-mentioned accounting services to the MOA as consultants over multiple years and engagements to include financial statement preparation, impairment determination of the MOA ERP accounting system, intragovernmental cost allocations review, and rate development for MOA enterprise funds to include the Anchorage Water and Wastewater utility, Anchorage Solid Waste Services, Port of Alaska, and the former Municipal Light and Power.

What all this expertise should mean to the MOA in reviewing our proposal for this engagement is that our firm can simply hit the ground running to efficiently and effectively provide these accounting services to the AHP.

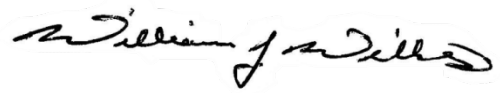
WCS's contact for this RFP is William Wilks, Telephone Number (907) 242-0659, E-mail – williamwilks2003@yahoo.com.

The following individuals are authorized to make representations for WCS in in this matter.

Bill Wilks – President
2100 Atwood Dr
Anchorage, AK 99501
(907) 242-0659

David Wilks - Principal
2512 Crestwood
Anchorage, Alaska 99508
(907) 240-9888

Cordially,



William J. Wilks
President
Wilks Consulting Services Inc.

Key Project Staff and Resources

If WCS is selected to provide the request services, William and David Wilks would be providing the requested accounting services. Their individual resumes are provided in this proposal that more fully describes their expertise in provided these services for the Controller Division staff. Below is the contact information for both William and David Wilks:

Bill Wilks – President
2100 Atwood Dr
Anchorage, AK 99501
(907) 242-0659

David Wilks - Principal
2512 Crestwood
Anchorage, Alaska 99508
(907) 240-9888

Contractor Availability

WCS maintains offices in Anchorage, Alaska and each facility maintains high-speed data access and up-to-date software-based analytical tools. The firm provides remote services to many of its clients but also maintains a policy to provide on-site support whenever necessary. The proximity of WCS's Anchorage office, located two miles from MOA's principal offices, provides the firm's Anchorage personnel the ability to be on-site at MOA at a moment's notice.

Through the efficient application of the firm's resources, I can confidently state that we commit to and will successfully accomplish the requested services sought by the Municipality in its Notification of Contract Services Expansion.

Resume of David Wilks

2512 Crestwood Street, Anchorage, Alaska 99508

Education

BACHELORS DEGREE IN BUSINESS ADIMINSTRATION

- University of Alaska, Anchorage
- Major in Finance and Accounting

Skills & Abilities

MANAGEMENT

- Over 30 years of experience managing, training and supervising professional level accountants and administrators
- Over 27 years of experience in municipal enterprise funds developing annual financial statements, management reports and assisting in the development and successful filing of reports to regulatory authorities.
- Assisted in the development of strategic plans and change management programs for the Anchorage Water and Wastewater Utilities
- Developed and implemented an ERP system for AWWU
- Developed and implemented custom subsystems including inventory systems as well as utility billing systems.
- Developed policy and procedures for enterprise funds as well as governmental funds.
- Created a custom Continuing Property Records system for the Anchorage Water and Wastewater Utility and successfully filed four depreciation studies with the regulatory authorities in the state of Alaska with the data from this system.

COMMUNICATION

- Excellent written and oral communication skills. Ability to speak in groups as well as ability to effectively listen.

Experience

SENIOR ADMINISTRATIVE OFFICER AND UTILITY MANAGEMENT ASSISTANT

- Anchorage Water and Wastewater Utility
- October 1982 to June 2010

FINANCIAL CONSULTANT

- Professional Business Services
- October 2010 to Present

Resume of William Wilks

2100 Atwood Drive, Anchorage, Alaska 99517

Education

BACHELORS DEGREE IN BUSINESS ADIMINSTRATION

- University of Texas at Austin
- Major in Finance

Skills & Abilities

MANAGEMENT

- Over 35 years of experience managing, training and supervising professional level accountants and administrators
- Over 17 years of experience in municipal enterprise funds developing annual financial statements, management reports and assisting in the development and successful filing of reports to regulatory authorities.
- Developed and implemented three ERP system for the Municipality of Anchorage to include:
    - Anchorage Telephone Utility from MOA FIS accounting system to Cullenet
    - Anchorage Telephone Utility from Cullenet to SAP
    - Municipality of Anchorage from PeopleSoft to SAP
- Developed ad hoc reports from MOA accounting system for financial statement preparation.
- Participated in annual audits to include financial statement preparation, workpaper preparation and footnote preparation for the MOA Anchorage Telephone Utility.

COMMUNICATION

- Excellent written and oral communication skills. Ability to speak in groups as well as ability to effectively listen.

Experience

MANAGER OF ECONOMIC ANALYSIS – ANCHORAGE TELEPHONE UTILITY/ALASKA COMMUNICATIONS SYSTEMS

- April 1982 to April 2005

FINANCIAL CONSULTANT

- Professional Business Services
- October 2005 to Present

EXHIBIT 18

DocuSign Envelope ID: 6CB71328-B1B2-4AF7-9077-71EC1AE6CD74

CONTRACT FOR PROFESSIONAL SERVICES WITH ALTMAN, ROGERS & CO.

In consideration of the mutual promises herein, ANCHORAGE and Altman Rogers & Co. agree as follows. This contract consists of:

A. Part I, consisting of 15 sections of Special Provisions;

B. Part II, consisting of 9 sections of General Provisions;

C. Appendix A: Scope of Services consisting of 1 page; and

D. Appendix B: Fee Schedule consisting of 1 page.

PART I
SPECIAL PROVISIONS

Section 1. Definitions. In this contract:

A. "Administrator" means the Municipality of Anchorage Controller of the Finance Department of or his/her designee.
B. "Anchorage" means the Municipality of Anchorage.
C. "Contractor" means Altman, Rogers & Co..

Section 2. Scope of Services.

A. The Contractor shall perform professional services in accordance with Appendix A, which is attached hereto and incorporated in this section by reference.

B. Contract Task Orders (CTO's) will be provided for specific tasks. The Contractor shall respond to each CTO with a proposal detailing cost and time required to complete the work. Anchorage and the Contractor may refine the proposal for clarification of the scope of services.

C. Once the CTO is agreed to, individual Purchase Orders will be issued with a Notice to Proceed (NTP). The Contractor shall perform the Professional Services required to complete the task set forth therein. Individual purchase orders against this contract are not to exceed $250,000.00 without the prior approval of the Purchasing Director.

D. The Contractor shall commence performance of the work for each CTO/NTP upon receipt of an approved Purchase Order (PO) or upon written approval of the Purchasing Officer in the event of an emergency. No work is authorized without a Purchase Order or written approval.

E. Anchorage shall not allow any claim for services other than those described in this section. However, the Contractor may provide, at its own expense, any other services that are consistent with this contract.

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[1]Section 3. Time for Performance.

A. This contract becomes effective when signed on behalf of Anchorage.
B. The Contractor shall commence performance of the work described in Part I Section 2 upon written notice-to-proceed for each task order.
C. The contractor shall complete all work associated with this contract three (3) years from the date of contract execution.

Section 4. Compensation; Method of Payment.

A. Subject to the Contractor's satisfactory performance, Anchorage shall pay the Contractor no more than SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($750,000) in accordance with this section.
B. Anchorage shall pay the Contractor in accordance with the schedule of professional fees attached as Appendix B and incorporated herein by reference for services actually performed under this contract.
C. Each month the Contractor shall present a bill to the Administrator describing the work for which it seeks payment and documenting expenses and fees to the satisfaction of the Administrator. If any payment is withheld because the Contractor's performance is unsatisfactory, the Administrator must, within ten (10) days of the payment denial, notify the Contractor of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why.
D. The Contractor is not entitled to any compensation under this contract, other than is expressly provided for in this section.
E. As a condition of payment, the Contractor shall have paid all municipal taxes currently due and owing by the Contractor.

Section 5. Termination of the Contractor's Services.

The Contractor's services under Section 2 may be terminated:

A. By mutual consent of the parties.
B. For the convenience of Anchorage, provided that Anchorage notifies the Contractor in writing of its intent to terminate under this paragraph at least 10 days prior to the effective date of the termination.
C. For cause, by either party where the other party fails in any material way to perform its obligations under this contract. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefor, and the other party fails to cure the default within thirty (30) days after receiving the notice.

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Section 6. Duties Upon Termination.

A. If Anchorage terminates the Contractor's services for convenience, Anchorage shall pay the Contractor for its actual costs reasonably incurred in performing before termination. Payment under this subsection shall never exceed the total compensation allowable under Section 4. All finished and unfinished documents and materials prepared by the Contractor shall become the property of Anchorage.
B. If the Contractor's services are terminated for cause, Anchorage shall pay the Contractor the reasonable value of the services satisfactorily rendered prior to termination less any damages suffered by Anchorage because of the Contractor's failure to perform satisfactorily. The reasonable value of the services rendered shall never exceed the contract rate for such services, and payment under this subsection shall not exceed ninety percent (90%) of the total compensation allowable under Section 4. Any finished or unfinished documents or materials prepared by the Contractor under this contract shall become the property of Anchorage at its option.
C. If the Contractor receives payments exceeding the amount to which it is entitled under subsections A or B of this section, he shall remit the excess to the Administrator within thirty (30) days of receiving notice to do so.
D. The Contractor shall not be entitled to any compensation under this section until the Contractor has delivered to the Administrator all documents, records, work product, materials and equipment owned by Anchorage and requested by the Administrator.
E. If the Contractor's services are terminated, for whatever reason, the Contractor shall not claim any compensation under this contract, other than that allowed under this section.
G. Except as provided in this section, termination of the Contractor's services under Section 5 does not affect any other right or obligation of a party under this contract.

Section 7. Insurance.

A. The Contractor shall maintain in good standing, for the entire period of the contact, the insurance described in subsection B of this section. Before rendering any services under this contract, the Contractor shall furnish the Administrator with a Certificate of Insurance in accordance with subsection B of this section in a form acceptable to the Risk Manager for Anchorage.

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B. The Contractor shall provide the following insurance:

1.) $500,000 Employers Liability and Workers Compensation as required by Alaska Law.

2.) Commercial Automobile Liability in the amount of $1,000,000 combined single limit to include: owned, hired, and non-owned.

3.) Commercial General Liability including:

$2,000,000 General Aggregate
$2,000,000 Products/Completed Operations
$1,000,000 Personal & Advertising Injury
$1,000,000 Each Occurrence
$5,000 Medical Payments

4.) Professional Liability insurance with limits not less than $1,000,000 per occurrence and $2,000,000 aggregate.

5) Cyber/Privacy Liability insurance with limits not less than $3,000,000. The Cyber coverage shall include, but not be limited to, claims involving invasion of privacy violations (including HIPPA), Information theft, and release of private information. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses.

C. Policies written on a "claims-made basis" must have a two (2) year tail of coverage, or an unbroken continuation of coverage for two (2) years from the completion of the contract requirements.

D. Each policy of insurance required by this section shall provide for advance notice to the MOA/Contract Administrator prior to cancellation in accordance with the policy. IF the insurer does not notify the MOA on policy cancellation it shall be the contractor's responsibility to notify the MOA of such cancellation.

E. With the exception of Workers Compensation and Professional Liability each policy shall name The Municipality as an "additional insured" and the actual policy endorsement shall accompany each Certificate of Insurance.

F. General Liability, Workers Compensation, and Automobile policies shall be endorsed to waive all rights of subrogation against the Municipality of Anchorage by reason of any payment made for claims under the above coverage. This policy endorsement shall accompany each Certificate of Insurance.

G. All policies for general liability shall be primary and noncontributing with any insurance that may be carried by the Municipality.

H. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Municipality requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Municipality.

I. Contractor shall require and verify that all subcontractors maintain insurance meeting all requirements stated herein, and Contractor shall ensure that the Municipality is an additional insured on insurance required from subcontractors.

Section 8. Assignments.

Unless otherwise allowed by this contract or in writing by the Administrator, any assignment by the Contractor of its interest in any part of this contract or any delegation of duties under this contract shall be void, and an attempt by the Contractor to assign any part of its interest or delegate duties under this contract shall give Anchorage the right immediately to terminate this contract without any liability for work performed.

Section 9. Ownership; Publication, Reproduction and Use of Material.

A. Except as otherwise provided herein, all data, documents and materials produced by the Contractor under this contract shall be the property of Anchorage, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright.

B. Equipment purchased by the Contractor with designated contract funds shall be the sole property of Anchorage marked and inventoried as such with a copy of the inventory forwarded to Anchorage.

Section 10. Notices.

Any notice required pertaining to the subject matter of this contract shall be either sent via facsimile (FAX) or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

Anchorage: Municipality of Anchorage
Department of Finance
P.O. Box 196650

DocuSign Envelope ID: 6CB71328-B1B2-4AF7-9077-71EC1AE6CD74

Anchorage, AK 99519-6650
FAX: (907) _____

Contractor: Altman, Rogers & Co.
3000 C Street N.,
Suite 201
Anchorage, AK 99503

FAX: (907) _____

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or five (5) days after proof of proper posting.

Section 11. Contract Budget.

In connection with its performance under this contract the Contractor shall not make expenditures other than as provided in line items in the contract budget.

Section 12. Force Majeure.

A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.
B. As used in this contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this contract, including without limitation:

1. Any interruption, suspension or interference resulting solely from the act of the Municipality or negligent act(s) of the Municipality not otherwise governed by the terms of this contract.
2. Strikes or work stoppages.
3. Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.
4. Order of court, administrative agencies or governmental officers other than the Municipality.

Section 13. Financial Management System.

The Contractor shall establish and maintain a financial management system that:

A. Provides accurate, current, and complete disclosure of all financial transactions relating to the contract;
B. Maintains separate accounts by source of funds for all revenues and expenditures and identifies the source and application of funds for the Contractor's performance under this contract, including information pertaining to subcontracts, obligations, unobligated balances, assets, liabilities, outlays and income;

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C. Effectively controls and accounts for all municipal funds and contract property;
D. Compares actual expenditures with budgeted amounts and relates financial information to performance or productivity data including unit cost information where applicable;
E. Allocates administrative costs to direct service delivery units;
F. Minimizes the time between receipt of funds from Anchorage and their disbursement by the Contractor;
G. Provides accounting records supported by source documentation; and
H. Provides a systematic method assuring the timely and appropriate resolution of audit findings and recommendations.

Section 14. Funding Requirements.

In the event that any funding source for this contract should impose additional requirements upon Anchorage for the use of those funds, the Contractor agrees to abide by those additional requirements immediately upon receipt of written notice thereof from Anchorage.

Section 15. Subcontracts.

The Contractor may enter into subcontracts for the purchase of goods and services necessary for the performance of this contract, provided:

A. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefore.
B. Every subcontract under which the Contractor delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the Contractor.
C. Every subcontract in an amount exceeding $1,000.00 shall require reasonable access to business records of the subcontractor relating to the purchase of goods or services pursuant to the subcontract.

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PART II

GENERAL CONTRACT PROVISIONS

Section 1. Relationship of Parties.

The Contractor shall perform its obligations hereunder as an independent contractor of Anchorage. Anchorage may administer the contract and monitor the Contractor's compliance with its obligations hereunder. Anchorage shall not supervise or direct the Contractor other than as provided in this section.

Section 2. Nondiscrimination.

A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, or marital status, or who is a "qualified individual with a disability", as that phrase is defined in the Americans With Disabilities Act of 1990. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, mental or physical disability, sexual orientation or gender identity. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. The Contractor shall state, in all solicitations or advertisements for employees to work on contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, or mental or physical disability.

C. The Contractor shall comply with any and all reporting requirements that may apply to it which the Anchorage Office of Equal Employment Opportunity Contract Compliance may establish by regulation. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.

D. The Contractor shall include the provisions of subsections A through C of this section in every subcontract or purchase order under this contract, so as to be binding upon every such subcontractor or vendor of the Contractor under this contract. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.

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E. The Contractor shall comply with all applicable federal, state and municipal laws concerning the prohibition of discrimination including, but not limited to Title 5 and Title 7, Chapter 7.50 of the Anchorage Municipal Code.

Section 3. Permits, Laws and Taxes.

The Contractor shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this contract. All actions taken by the Contractor under this contract shall comply with all applicable statutes, ordinances, rules and regulations. The Contractor shall pay all taxes pertaining to its performance under this contract.

Section 4. Nonwaiver.

The failure of either party at any time to enforce a provision of this contract shall in no way constitute a waiver of the provision, nor in any way affect the validity of this contract or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

Section 5. Amendment.

A. This contract shall only be amended, modified or changed by a writing, executed by authorized representatives of the parties, with the same formality as this contract was executed.
B. For the purposes of any amendment modification or change to the terms and conditions of this contract, the only authorized representatives of the parties are:

Contractor Steve E. Wadleigh

Principal

Anchorage: **Mayor, Municipal Manager or Approved Designee**

C. Any attempt to amend, modify, or change this contract by either an unauthorized representative or unauthorized means shall be void.

Section 6. Jurisdiction; Choice of Law.

Any civil action rising from this contract shall be brought in the Superior Court for the Third Judicial District of the State of Alaska at Anchorage. The law of the State of Alaska shall govern the rights and obligations of the parties under this contract.

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Section 7. Severability.

Any provision of this contract decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the contract.

Section 8. Integration.

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

Section 9. Liability.

A. The Contractor shall indemnify, defend, save and hold Anchorage(or Municipality) harmless from any and all claims, lawsuits or liability, including attorney fees and costs, allegedly arising out of loss, damage or injury to persons or property or from any wrongful or negligent act, error or omission of Contractor, Contractor's agents, employees, subcontractors or invitees, occurring during the course of, or as a result of the Contractor's, Contractor's agents, employees, contractors, subcontractors or invitees performance pursuant to this contract.

B. The Contractor shall not indemnify, defend, save and hold Anchorage harmless from claims, lawsuits, liability, or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of Anchorage occurring during the course of or as a result of the performance of this contract.

C. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Anchorage and the Contractor, the Contractor shall indemnify, defend, save and hold Anchorage harmless from only that portion of claims, lawsuits or liability, including attorneys' fees and costs, which result from the Contractor's or any subcontractor's wrongful or negligent acts occurring as a result of the Contractor's performance pursuant to this contract.

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Section 10. Inspection and Retention of Records.

The Contractor shall, at any time during normal business hours and as often as Anchorage may deem necessary, make available to Anchorage, for examination, all of its records with respect to all matters covered by this contract for a period ending three years after the date the Contractor is to complete performance in accordance with Section 2 of the Special Provisions. Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this contract, to Anchorage, in such form and at such times as Anchorage may reasonably require. The Contractor shall permit Anchorage to audit, examine and make copies of such records, and to make audits of all invoices, materials, payrolls, records of personnel and other data relating to all matters covered by this contract. Anchorage may, at its option, permit the Contractor to submit its records to Anchorage in lieu of the retention requirements of this section.

Section 11. Availability of Funds.

Payments under this contract require funds from future appropriations and are subject to future appropriations. If sufficient funds are not appropriated for payments required under this contract, this contract shall terminate without penalty to Anchorage and Anchorage shall not be obligated to make payments under this contract beyond those which have previously been appropriated.

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IN WITNESS WHEREOF, the parties have executed this contract on the date and at the place shown below.

MUNICIPALITY OF ANCHORAGE

Kent Kohlhase
Mayor, Municipal Manager or Approved Designee

Date: 02/14/2023

CONTRACTOR

Title: Shareholder

Date: 2/7/23

IRS Tax Identification No. 92-0143182
Tax Status: Taxable [X] Non-Taxable [ ]

RECOMMEND FOR APPROVAL:

Grant Yutrzenka
Name: Grant Yutrzenka

Title: Chief Fiscal Officer
Date: 02/10/2023

DocuSign Envelope ID: 6CB71328-B1B2-4AF7-9077-71EC1AE6CD74

APPENDIX A

SCOPE OF SERVICES

3.0 SCOPE OF WORK

General

Provide as needed professional accounting services to support the MOA Controller Division. Services may include, but aren't limited to the following:

1. Implementation of new GASB Accounting Standards
2. Governmental Fund Accounting
3. Enterprise Fund Accounting
4. Fiduciary Fund Accounting
5. Internal Service Fund Accounting
6. Grant Accounting
7. Capital Project Accounting
8. Cost Allocations
9. Fund Balance Review
10. Draft Policies and Procedures
11. Recommend Improvements to Business Processes
12. Audit Support
    - Audit Process Support
    - Year-end Workpaper Preparation / Review
    - Financial Statement Preparation / Review
    - Footnote Preparation / Review
13. Reporting and Data Visualization
    - Depreciation
    - Management / Assembly / Public Outreach
    - Federal and State Reports as required

Contract Task Orders

Work will be assigned by Contract Task Orders which will have a negotiated scope and fee. Once scope and fee are agreed upon, a Notice-to-Proceed will be issued and made a binding part of the Term Contract. The Notice-to-Proceed will state the scope of work, maximum fee allowable, and completion date.

It is expected that each of the selected term contractors will perform more than one Contract Task Order during the contract period. However, MOA does not guarantee any minimum amount to be paid under the Term Contract.

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APPENDIX B

Schedule of Professional Fees

Position	Hourly Rates
Principal/Partner	$225.00
Senior Associate	$185.00

EXHIBIT 19

Municipality of Anchorage- Anchorage Hydropower Utility

Contract Service Proposal

Altman, Rogers & Co.
3000 C Street N, Suite 201
Anchorage, AK 99503
(907) 274-2992

March 17, 2025

Thank you for the opportunity to expand our services under our existing contract with the Municipality of Anchorage to support Anchorage Hydropower Utility (AHP).

Our firm is eager to assist AHP in meeting its objectives as an active member of the Eklutna Operating Committee (EOC). While we acknowledge that our current team does not yet possess extensive direct experience with the Uniform System of Accounts and maintaining continuing property records specifically within the utility sector, we are highly confident in our ability to rapidly acquire and apply this expertise to provide valuable and effective services.

We bring considerable experience in related areas, such as financial management, business advisory, and strategic planning, and have a proven track record of quickly adapting to industry-specific standards and requirements. Our team's professional credentials and adaptability assure that we can swiftly align with AHP's specific needs.

We are committed to investing the necessary resources to promptly familiarize ourselves with these accounting standards and practices to ensure compliance and excellence in our support services.

We look forward to the possibility of working closely with AHP and contributing positively to your operational goals.

Key Personnel

All our staff complete at least 40 hours of continuing professional education (CPE) each year. Our principals and managers complete over 20 hours of industry-specific training. Staying ahead of GASB changes and impacts on our clients is vital as we serve many governmental entities throughout Alaska.

STEVE WADLEIGH, CPA (Principal)

Mr. Wadleigh is a licensed CPA by the State of Alaska (Certificate #2768). With over two decades at Altman, Rogers & Co., Steve Wadleigh, CPA, leads our Client Accounting Services (CAAS) department and serves as a principal auditor. Since joining the firm in 1998, he has provided advisory, audit, review, and compilation services, bringing a strategic, big-picture perspective to every client engagement.

Steve's extensive expertise is especially valuable for clients who require audited financial statements for funding, bonding, or compliance reporting. He also works closely with businesses and organizations that need customized accounting solutions tailored to their specific needs. He has over 27 years of governmental accounting experience.

A graduate of Vanguard University, where he earned honors in 1996, Steve is an active member of:

- American Institute of Certified Public Accountants (AICPA)
- Alaska Society of Certified Public Accountants (AKCPA)
- Government Finance Officers Association (GFOA)

Steve's commitment to excellence and deep industry knowledge make him a trusted advisor for clients navigating complex financial and reporting requirements.

MICHAEL FONTENELLE, CPA

Michael Fontenelle is a licensed CPA by the State of Louisiana (Certificate #CPA.0027144). He joined Altman, Rogers & Co. in August 2023, initially serving as a Municipality Management Consultant before advancing to his current role as Advisory Consultant. Michael holds Bachelor's degrees in Accounting, Business Administration, and Hotel, Restaurant, and Tourism from the University of New Orleans and became a licensed CPA in 2013. His professional background includes extensive experience in government accounting and management, sales tax audits, and healthcare financial services.

Prior to joining Altman, Rogers & Co., Michael served for two years as Controller and Contracts Manager for a local governing authority. In this capacity, he managed behavioral health services, developmental disabilities programs, and Federally Qualified Health Center (FQHC) departments, overseeing an annual budget of approximately $33 million. Additionally, he led teams responsible for accounting, accounts payable, accounts receivable, and payroll functions.

Michael is actively involved in professional organizations, including the American Institute of Certified Public Accountants, Alaska Government Finance Officers Association, Louisiana Government Officers Association, Louisiana Society of Certified Public Accountants, Jefferson Chamber of Commerce, and the Certified Fraud Examiners Association.

JENNIFER WILLETTE

Jennifer (Jen) Willette brings over 20 years of expertise in bookkeeping, accounting, and financial management to Altman, Rogers & Co. She joined the firm as a CAAS Specialist in 2020 and was quickly promoted to CAAS Supervisor in 2021.

A graduate of Bowdoin College, Jen earned her Bachelor of Arts in Archaeology, graduating Magna Cum Laude with honors in Latin and German. Since 2005, she has successfully operated her own bookkeeping and accounting business, working with a diverse range clients.

Jen specializes in bridging the gap between clients and tax professionals, general ledger clean-up, audit preparation, and developing custom financial tracking tools. She is also an active board member of The Alaska Huts Association.

Her extensive experience and commitment to financial clarity make her a trusted resource for businesses and organizations seeking expert financial guidance.

EXHIBIT 20

Municipal Clerk's Office
Corrected and Approved
Date: May 6, 2025

Submitted by: Assembly Chair Constant
Assembly Vice-Chair Zaletel
Prepared by: Assembly's contracted Counsel and Dept. of Law
For reading: April 22, 2025

ANCHORAGE, ALASKA
AO No. 2025-57, Corrected*

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 3.20.070 AND 26.30.025 TO CLARIFY RESPONSIBILITIES WITHIN THE MUNICIPALITY FOR IMPLEMENTING THE 1991 FISH AND WILDLIFE AGREEMENT.

WHEREAS, pursuant to Anchorage Charter Section 16.01, which provides that "[*t]he assembly shall prescribe the rules and procedures for the operation and management of municipal utilities*" (emphasis added), the Anchorage Assembly is responsible for the oversight and policies of all municipal utilities; and

WHEREAS, the Anchorage Assembly, when it deems necessary and appropriate, may delegate policy-making authority to the Mayor or other Administration officials for operational oversight and policy decisions of each municipal utility; and

WHEREAS, the Municipality of Anchorage retains an ownership interest (53%) in the Eklutna Hydroelectric Project with Chugach Electric Association (CEA) and Matanuska Electric Association (MEA); and

WHEREAS, the Municipality of Anchorage, CEA, and MEA are parties to the 1991 Agreement with the State of Alaska and federal agencies to study the impacts of the Eklutna Hydroelectric Project to fish and wildlife; examine and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by such hydroelectric development (the "1991 Agreement"); and prepare a Fish and Wildlife Program for the Governor; and

WHEREAS, on December 19, 2023, the Anchorage Assembly, exercising its legislative authority to establish municipal policy, adopted AO 2023-131, As Amended, codifying an official municipal policy in support of the restoration of the Eklutna River: "It is the policy of the Municipality of Anchorage and the Anchorage Hydropower utility to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991 Fish & Wildlife Agreement" (codified at AMC 26.30.025A); and

WHEREAS, AO 2023-131, As Amended, further provided that the "Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources in the Eklutna River shall be submitted to the Assembly with a proposed resolution in support of action, prior to its submission to the Governor" (codified at AMC 26.40.025B(2)); and

WHEREAS, in adopting AO 2023-131, the Anchorage Assembly explained its expectations that before submitting the final Fish and Wildlife Program to the

*Clerk's Note: Corrected Scrivenor's Error on page 3, line 25 from 2025 to 2024.

Governor pursuant to the 1991 Agreement, the Final Plan would "be submitted to Assembly for review and potential action by a resolution of support or proposed revisions, prior to submitting to the Governor" (AM 953-2023); and

WHEREAS, on February 2, 2024, the Anchorage Assembly adopted AR 2024-40, As Amended, incorporating the Assembly's public comment on a draft fish and wildlife program that was developed by CEA and MEA and published for public comment. AR 2024-40 unequivocally rejected the draft fish and wildlife program proposed by CEA and MEA, providing that "[t]he Municipality of Anchorage *does not intend to issue authorizations or provide funds or any other form of support of the Draft Fish and Wildlife Program* or any alternative that doesn't restore the full length of the Eklutna River and comply with policy of the Municipality" (emphasis added); and

WHEREAS, after rejecting the proposed fish and wildlife program, the Anchorage Assembly learned that Mayor Bronson "clandestinely negotiated and is presently attempting to bind the Municipality to a series of agreements implicating tens of millions of taxpayers' and ratepayers' funds and access to drinking water for decades in direct contradiction of policies duly established and codified by the Assembly" and by the Charter of the Municipality of Anchorage (AM 350-024); and

WHEREAS, the Anchorage Assembly determined that it was necessary and appropriate under the circumstances to clarify roles and expectations under municipal law regarding policy decisions implementing the 1991 Agreement, and specifically, as explained in AM 2080-240, to "correct an oversight in AMC 3.20.070 which had apparently delegated broad policy-making decisions for utilities to the Mayor . . . The changes proposed in this section will clarify that except for operational policies, the policy making authorities, such as budgetary, financial, construction, and other policy considerations reside with the Assembly" (AM 280-2024); and

WHEREAS, on March 27, 2024, the Anchorage Assembly adopted AO 2024-28, As Amended, clarifying that the Assembly shall be responsible for policy decisions of the Anchorage Water and Wastewater and the Anchorage Hydropower utility, "including those related to the municipality's performance under the 1991 Fish and Wildlife Agreement regarding the Eklutna hydroelectric project" (codified at AMC 3.20.070B(3)(c) and (6)(c)); and

WHEREAS, in overriding the Mayor's veto of AO 2024-28, As Amended, the Anchorage Assembly reiterated that "it is inherently the Assembly's role to articulate and codify the policy of the Municipal Government" (AM 350-2024); and

WHEREAS, on April 26, 2024, CEA and MEA (using the Municipality's official seal without authorization) submitted the Proposed Fish and Wildlife Program to the Governor in substantially the same form as the draft that was previously rejected by the Assembly through AR 2024-40, and without the Assembly's approval as required by AMC 26.30.025B(2); and

WHEREAS, on April 26, 2024, along with the Proposed Fish and Wildlife Program submitted by CEA and MEA, Mayor Bronson submitted a letter to the Governor expressing "support" for the Proposed Fish and Wildlife Program in direct violation

of the codified municipal policy; and

WHEREAS, because Mayor Bronson's letter to the Governor and the actions of other Bronson Administration officials were in direct violation of municipal law and policy, the Anchorage Assembly adopted AO 2024-52, providing that "[a]ny declaration, comment, response, or other official statement submitted, published, or communicated in the name of the municipality pursuant to the 1991 agreement shall be approved by the assembly prior to its submission, publication, or communication"; and

WHEREAS, AO 2024-52 further provided that "[i]t shall be among the prescribed duties of the mayor to implement the policy and positions approved by the assembly under this subsection through research, dissemination of information, and advocacy before local, state, tribal or federal governments, their agencies and any relevant administrative bodies"; and

WHEREAS, the Anchorage Assembly's aforementioned legislation related to implementation of the 1991 Fish and Wildlife Agreement was the result of an extraordinary and unprecedented disregard by the Bronson Administration of the Anchorage Assembly's lawful responsibilities and authority over municipal utilities, requiring the Assembly to clarify in code the existing law, and roles and responsibilities within the Municipality for implementing the 1991 Fish and Wildlife Agreement; and

WHEREAS, beginning on July 1, 2024 and continuing through the present, Mayor LaFrance and her administration have committed to following established municipal policy with respect to Eklutna River restoration; and

WHEREAS, because the current Mayor and Administration have demonstrated respect for the rule of law and long established principles of separation of powers, and respect for the Anchorage Assembly in providing oversight and establishing policy directions for all municipal utilities, the code changes adopted in response to the previous administration's actions are no longer necessary; now therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 3.20.070 is hereby amended to read as follows (*the omitted portion of the section not affected; this is effectively repealing Section 1 of AO 2024-28, As Amended):*

3.20.070 - Executive branch organization.

*** *** ***

B. Office of the municipal manager. Within the office of the municipal manager and reporting to the municipal manager or designee are: the office of emergency management; health and safety; transportation inspection; and the following departments:

*** *** ***

3. Anchorage Water and Wastewater Utility. The Water and Wastewater Utility is responsible for providing water and

sanitary sewage services. The utility is also responsible for billing and collecting special assessments.

a. The municipal manager shall have operational oversight of the utility; and

b. The mayor shall be responsible for [OPERATIONAL] policy decisions of the utility [SUBJECT TO THE LIMITATIONS OF SUBSECTION C].

[C. PURSUANT TO SECTION 26.30.025, THE ASSEMBLY SHALL BE RESPONSIBLE FOR ALL OTHER POLICY DECISIONS, INCLUDING THOSE RELATED TO THE MUNICIPALITY'S PERFORMANCE UNDER THE 1991 FISH AND WILDLIFE AGREEMENT REGARDING THE EKLUTNA HYDROELECTRIC PROJECT.]

*** *** ***

6. Anchorage Hydropower Utility. The Anchorage Hydropower Utility is responsible for supplying wholesale electric service to utilities in southcentral Alaska.

a. The municipal manager shall have operational oversight of the utility; and

b. The mayor shall be responsible for [OPERATIONAL] policy decisions of the utility [SUBJECT TO THE LIMITATIONS OF SUBSECTION C].

[C. PURSUANT TO SECTION 26.30.025, THE ASSEMBLY SHALL BE RESPONSIBLE FOR ALL OTHER POLICY DECISIONS, INCLUDING THOSE RELATED TO THE MUNICIPALITY'S PERFORMANCE UNDER THE 1991 FISH AND WILDLIFE AGREEMENT REGARDING THE EKLUTNA HYDROELECTRIC PROJECT.]

*** *** ***

(AO No. 21-76; AO No. 59-76; AO No. 283-76; AO No. 77-359; AO No. 78-82; AO No. 78-113; AO No. 78-121; AO No. 79-27; AO No. 80-5; AO No. 82-49; AO No. 83-159; AO No. 85-8; AO No. 86-204; AO No. 88-47(S); AO No. 88-82; AO No. 89-10; AO No. 89-18; AO No. 89-39; AO No. 90-15(S); AO No. 91-173(S); AO No. 92-79; AO No. 92-148; AO No. 94-135(S), § 8, 7-12-94; AO No. 95-141, § 1, 7-11-95; AO No. 96-47, § 2, 3-5-96; AO No. 98-115(S), § 3, 7-1-98; AO No. 2003-109, § 6, 9-9-03; AO No. 2004-132, § 2, 10-12-04; AO No. 2004-136, § 2, 12-7-04; AO No. 2005-142, § 2, 10-25-05; AO No. 2008-90(S), § 2, 1-1-09; AO No. 2009-21, § 2, 2-24-09; AO No. 2009-101, § 6, 8-25-09; AO No. 2010-64, § 2, 9-28-10; AO No. 2010-93, § 2, 1-11-11; AO No. 2011-40, § 1, 3-29-11; AO No. 2011-25, § 2, 5-24-11; AO No.

2012-106, § 3, 11-13-12; AO No. 2013-34, § 3, 2-26-13; AO No. 2015-112(S), § 5, 1-1-16; AO No. 2017-122(S), § 4, 10-24-17; AO No. 2018-24, § 3, 4-10-18; AO No. 2018-108(S), § 3, 12-31-18; AO No. 2018-118, § 2, 1-1-19; AO No. 2019-42, § 2, 4-23-19; AO No. 2019-133, § 1, 11-5-19; AO No. 2020-23, § 2, 3-10-20; AO No. 2020-24, § 1, 3-10-20; AO No. 2020-79(S), § 2, 8-26-20; AO No. 2020-109, § 2, 10-13-20; AO No. 2020-121, § 2, 1-1-21; AO No. 2021-113(S), § 3, 11-10-21; AO No. 2021-114, § 2, 1-31-22; AO No. 2022-40(S), § 3, 3-22-22; AO No. 2023-38(S), § 2, 4-18-23; AO No. 2023-61(S), § 1, 5-23-23; AO No. 2023-111(S), § 2, 11-7-23; AO No. 2023-81, § 2, 1-9-24; AO No. 2024-28, § 1, 3-27-24; AO No. 2024-110(S), §§ 4, 7, 8, 11-26-24)

Section 2. Anchorage Municipal Code section 26.30.025 is hereby amended to read as follows (*the omitted portion of the section not affected; this is effectively repealing AO 2024-52 amendments to the section)*:

26.30.025 - Eklutna River Restoration.

*** *** ***

B. Under the 1991 Agreement with the State of Alaska, federal agencies, and utility partners, the Municipality of Anchorage, through its Anchorage Hydropower utility and ownership share in the Eklutna Hydroelectric Project, bears responsibility to study and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the hydroelectric development.

1. The Anchorage Hydropower utility shall provide a report to each joint session of the Anchorage Assembly and the Native Village of Eklutna under subsection 2.30.135B. regarding the restoration of the Eklutna River and Lake and the municipality's performance of its obligations under the 1991 Agreement and the Final Fish and Wildlife Program.

2. The Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources in the Eklutna River shall be subject to assembly approval, prior to its submission to the Governor of Alaska.

[3. ANY DECLARATION, COMMENT, RESPONSE, OR OTHER OFFICIAL STATEMENT SUBMITTED, PUBLISHED, OR COMMUNICATED IN THE NAME OF THE MUNICIPALITY PURSUANT TO THE 1991 AGREEMENT SHALL BE APPROVED BY THE ASSEMBLY PRIOR TO ITS SUBMISSION, PUBLICATION, OR COMMUNICATION.

4. IT SHALL BE AMONG THE PRESCRIBED DUTIES OF THE MAYOR TO IMPLEMENT THE POLICY AND POSITIONS APPROVED BY THE ASSEMBLY UNDER THIS SUBSECTION THROUGH RESEARCH, DISSEMINATION OF INFORMATION,

AND ADVOCACY BEFORE LOCAL, STATE, TRIBAL OR FEDERAL GOVERNMENTS, THEIR AGENCIES AND ANY RELEVANT ADMINISTRATIVE BODIES.]

(AO No. 2023-131 § 1, 12-5-23; AO No 2024-28 § 4, 3-27-24; AO No. 2024-52, § 1, 5-21-24)

Section 3. This ordinance is effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 6th day of May, 2025.

Christopher Constant

Chair

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM

No. AM 383-2025

Meeting Date: April 22, 2025

From: **Assembly Chair Constant and Assembly Vice Chair Zaletel**

Subject: **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 3.20.070 AND 26.30.025 TO CLARIFY RESPONSIBILITIES WITHIN THE MUNICIPALITY FOR IMPLEMENTING THE 1991 FISH AND WILDLIFE AGREEMENT.**

Background

The Municipality of Anchorage is a home rule municipality with "all legislative powers not prohibited by law or by charter" under Article X, § 11 of the Alaska Constitution and the Anchorage Home Rule Charter § 3.01. In the context of public utilities oversight, the Anchorage Home Rule Charter § 16.01(c) grants the Assembly authority to "prescribe rules and procedures for the operation and management of municipal utilities." Thus, the Anchorage Assembly is granted clear legislative authority under the Anchorage Municipal Charter. This authority is foundational to the functioning of our local government and reflects the will of the people as expressed in the Charter's adoption.

In prior years, certain provisions were added to the Anchorage Municipal Code to restate or make more explicit elements of this authority—particularly in response to instances where the Assembly's Charter authority was improperly constrained or challenged. These Code provisions did not *create* new powers for the Assembly, but rather affirmed powers already vested by the Charter. They were added as necessary guardrails during a period when the Assembly's role in governance required additional protection.

Current Context

With the seating of a new Mayor and Administration who have expressed a renewed commitment to respecting the separation of powers and the Charter framework, the Assembly recognizes an opportunity to clean up and streamline municipal code. There is no longer a need for certain redundancies where the Charter speaks clearly. This ordinance would remove or revise those duplicative Code sections, affirming both the Assembly's trust in this Administration and the enduring strength of the Charter itself.

Proposed Action

This ordinance proposes the removal of identified sections of the Anchorage Municipal Code that were inserted to defend or clarify the Assembly's Charter authority, but which are no longer necessary due to current mutual respect for the Charter-defined roles of the legislative and executive branches. The removal of these provisions does not alter the Assembly's authority, which continues to be grounded in the Charter, nor does it limit the Assembly's ability to respond should future conditions warrant similar clarity.

Conclusion

The removal of these provisions marks a return to clean Code and streamlined governance, reflecting a shared respect for our foundational documents and a new era of interbranch cooperation. The Assembly recommends approval of the attached ordinance.

We request your support for the ordinance.

Reviewed by: Assembly Counsel's Office

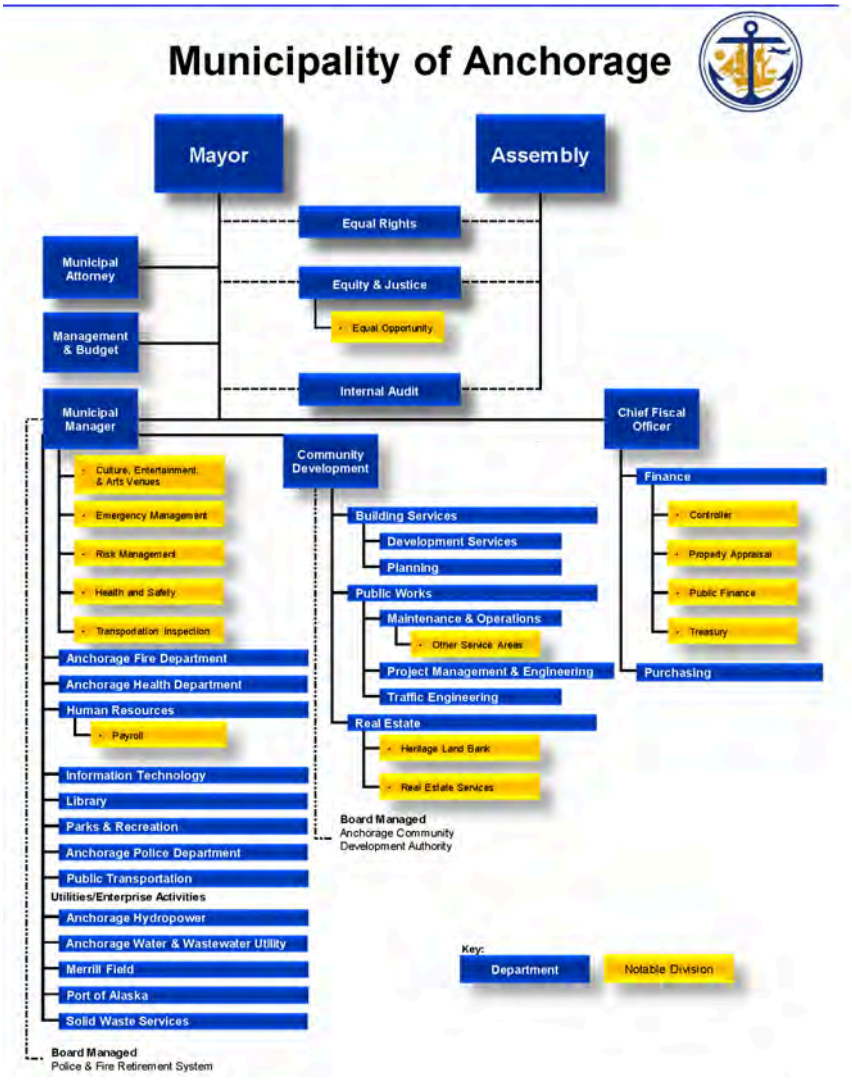
Respectfully submitted: Christopher Constant, Assembly Chair
District 1 – North Anchorage

Meg Zaletel, Assembly Vice Chair
District 4 – Midtown Anchorage

EXHIBIT 21

3.20.010 - Executive and administrative order; organizational chart.

The executive branch of the municipal government shall be organized as provided in this chapter and the following plan:



(AO No. 79-27; AO No. 82-49; AO No. 88-82; AO No. 90-15(S); AO No. 91-173(S); AO No. 94-135(S), § 2, 7-12-94; AO No. 2000-105(S), § 2, 6-27-00; AO No. 2000-141(S), § 2, 9-26-00; AO No. 2002-130, § 4, 9-10-02; AO No. 2003-109, § 1, 9-9-03; AO No. 2004-136, § 1, 12-7-04; AO No. 2005-142, § 1, 10-25-05; AO No. 2009-21, § 1, 2-24-09; AO No. 2009-101, § 1, 8-25-09; AO No. 2010-64, § 1(Exh. A), 9-28-10; AO No. 2010-93, § 1(Exh. A), 1-11-11; AO No. 2011-22(S), § 1, 3-29-11; AO No. 2011-25, § 1, 5-24-11; AO No. 2012-106, § 1(Exh. A), 11-13-12; AO No. 2013-34, § 1(Exh. A), 2-26-13; AO No. 2015-112(S), § 1, 1-1-16; AO 2018-108(S), § 1, 12-31-18; AO No. 2020-79(S), § 1, 8-26-20; AO No. 2020-109, § 1, 10-13-20; AO No. 2020-121, § 1, 1-1-21; AO No. 2021-114, § 2, 1-31-22; AO No. 2022-40(S), § 2, 3-22-22; AO No. 2023-38(S), § 1, 4-18-23; AO No. 2024-61(S-1), § 4, 7-16-24)

Charter reference— Qualifications of mayor, § 5.01; appointment of officers and department heads, §§ 5.02(a), 5.03—5.05.

Cross reference— Office of emergency management, § 3.80.010; emergency proclamations by the mayor, § 3.80.040.

EXHIBIT 22

DocuSign Envelope ID: 5402DB97-EB4E-4AFD-804E-C78F50875477

RECEIVED
By the Regulatory Commission of Alaska on Jun 13, 2023

ANNUAL REPORT

OF

Municipality of Anchorage DBA Anchorage Hydropower
(Exact Legal Name of Respondent)

CPCN: 780

If Name was Changed During Year, Show Also the Previous Name and Date of Change.

632 W 6th Avenue, Anchorage, AK 99501
(Address of Principal Business Office at End of Year)

TO THE

REGULATORY COMMISSION OF ALASKA

FOR THE YEAR ENDED

December 31, 2022

Name/Title: Kolby Hickel, Acting Municipal Manager

Address: 638 W 6th Avenue

City: Anchorage
State/Zip Alaska 99501
Telephone Number: 907-343-7112

NON-MAJOR ELECTRIC UTILITIES

H:\Finance\Common\Regulated Utilities\A O R\AOR Forms\ELECNMAOR.xls

DocuSign Envelope ID: 5402DB97-EB4E-4AFD-804E-C78F50875477

INSTRUCTIONS FOR ANNUAL REPORT COMPLETION

The purpose of this form is to collect financial and operational information from electric utilities regulated by the Regulatory Commission of Alaska (RCA). The commission's authority for requiring this report is found in Alaska Statute 42.05.451. This report is a non-confidential public use form. However, utilities may request the report be filed in confidential status by following the guidelines of the Alaska Administrative Code at 3 AAC 48.045. In order for confidentiality requests to be approved by the commission, the utility must show convincing evidence that disclosure of the report to the public might competitively or financially disadvantage the utility, AND that the need for confidentiality outweighs the public interest in disclosure.

All water utilities regulated by RCA are required to complete this form. Completed forms must be submitted to RCA within 90 days of the close of the utilities authorized accounting period. (Unless special authorization has been granted by the commission, the authorized accounting period is the calendar year.)

Complete reports should be sent to: Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage AK. 99501-3469

Complete each question fully and accurately, even if it has been answered in a previous annual report. Schedules or questions which are not applicable should be marked NA rather than left blank.

Do not substitute pages or schedules from other reports for those included in this report. Do not make references to reports of previous years or to other reports in lieu of required entries.

Wherever schedules call for comparisons of figures of a previous year, the figures reported must be based upon those shown by the annual report of the previous year, or an appropriated explanation as to why different figures were used must be given.

Indicate negative amounts (such as decreases) by enclosing the figures in parentheses ( ).

All entries must distinguish between utility related and non-utility related operations if applicable.

The schedule entitled "Attestation" must be signed before submission of the report.

If available, audited financial statements, including notes and the auditor's opinion should be submitted with this report.

The amount shown on all supporting schedules shall agree with the item in the statements that they support.

Prepare this report in conformity with the appropriate Uniform System of Accounts prescribed by the National Association of Regulatory Utility Commissioners.

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REQUIRED GENERAL INFORMATION

1. Please include an organizational chart of the utility's operations. Indicate names of key personnel. The information can be separately submitted or complete an Organization Chart on Page 1.

2. Complete the Summary of Officer's/Owners Compensation, Page 2. This information is essential to aid the commission in evaluating the reasonableness of regulated expenses.

3. Complete the General Information Update Form, Page 3.

4. This report must be attested to by an officer of the company. Be sure that the Attestation on Page 4 is completed.

5. Attach a schedule showing major capital expenditures anticipated in the next year and estimated cost.

6. What portion of Construction-Work-In-Progress does the utility anticipate putting into service during the next year? $ 50,000.0

7. Did the utility pay, during the reporting year, or is the utility paying a management fee, lease fee or other fee to an affiliated interest (Individual or Corporate)? If so, attach a brief description including dollar amount.

Yes	☐	
No	☒	x

8. Is the financial data included in this report based on audited information? If so, include the auditor's opinion.

Yes	☐	
No	☒	x

9. If your utility is a participant in the Power Cost Equalization Program (PCE), it is necessary for your electric utility to complete the RCA Electric Utility PCE Form on Page 5.

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ORGANIZATION CHART

N/A

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SUMMARY OF OFFICER'S/OWNER'S COMPENSATION

Name	Title	Salary
Construction Supervision:		
N/A	N/A	N/A
	Total Construction Supervision:	$ -

Name	Title	Salary
Operations Supervision:		
N/A	N/A	N/A
	Total Operations Supervision:	$ -

Name	Title	Salary
Maintenance Supervision		
N/A	N/A	N/A
	Total Maintenance Supervision:	$ -

Name	Title	Salary
Total Administrative and General Salaries		
N/A	N/A	N/A
	Total Administrative and General Salaries:	$ -

TOTAL OFFICERS/OWNERS COMPENSATION	$ -

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GENERAL INFORMATION UPDATE FORM

NAME OF UTILITY: Municipality of Anchorage DBA Anchorage Hydropower

ADDRESS: 632 W 6th Avenue, Anchorage, AK 99501

TELEPHONE NO.: 907-343-7112 CERTIFICATE No.: 780

MANAGEMENT

List all principal management personnel:

Title	Name	ADDRESS	PHONE NO.
President:	Kolby Hickel, Acting Municipal Manager	632 W 6th Avenue Anchorage, AK 99501	907-343-7112
General Manager:	N/A		
Principal Attorney(s):			
Accountant:	Michael Cipriano, Controller	632 W 6th Avenue Anchorage, AK 99501	907-343-6926
Engineer:	N/A		

SERVICE AREA INFORMATION

For each location served by the utility list the following:

If available lines are not sufficient, attach schedule listing requested information for all locations

Location	Local Address & Phone	Local Manager
N/A		

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ATTESTATION

This report must be attested to by an officer of the company Kolby Hickel certifies
(Name of attester)

that he/she is Acting Municipal Manager of Municipality of Anchorage DBA Anchorage Hydropower
(Official title of attester) (Exact legal title or name of respondent)

that he/she has examined this report and that to the best of his/her knowledge, information, and belief, all statements of fact contained in the said report are true and the said report is a correct statement of the business and affairs of the above-named respondent in respect to each and every matter set forth therein during the period from and including January, 01, 2022, to and including December, 31, 2022, .

Kolby Hickel
(Signature of attester)

IDENTIFICATION

01 Exact Legal Name of Respondent	02 Year of Report
Municipality of Anchorage DBA Anchorage Hydropower	December 31, 2022

03 Previous Name and Date of Change *(if name changed during year)*
632 W 6th Avenue, Anchorage, AK 99501

04 Address of Principal Office at End of Year *(Street, City, State, Zip Code)*
638 W 6th Avenue
Anchorage Alaska 99501

05 Name of Contact Person	06 Title of Contact Person
Kolby Hickel	Acting Municipal Manager

07 Address of Contact Person (Street, City, State, Zip Code)
632 W 6th Avenue, Anchorage, AK 99501

08 Telephone of Contact Person, Including Area Code	09 This Report is		10 Date of Report (Mo,Da,Yr)
907-343-7121	An Original	X	March 31,2023
	A Resubmission		

11 Name of Officer Having Custody of the Books of Account	12 Title of Officer
Kolby Hickel	Acting Municipal Manager

13 Address of Officer Where Books of Account Are Kept *(Street, City, State, Zip Code)*

632 W. 6th Avenue, Anchorage, AK 99501

14 Name of State Where Respondet Is Incorporated	15 Date of Incorporation	16 If applicable, Reference to Law Incorporated Under
N/A	N/A	

17 Explanation of Manner and Extent of Corporate Control (If the respondent controls or is controlled by any other corporation, business trust, or similar organization)

N/A

ATTESTATION

The undersigned officer certifies that he/she has examined the accompanying report: That to the best of his/her knowledge, information and belief, all statements of fact contained in the accompanying report are true and the accompanying report is a correct statement of the business and affairs of the above named respondent in respect to each and every matter set forth therein during the period from and including January 1 to and including December 31 of the year of the report.

01 Name	03 Signature	04 Date Signed
Kolby Hickel	Kolby Hickel	06/13/2023
02 Title: Acting Municipal Manager		

Title 18, U.S.C. 1001, makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

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UTILITY NAME: Municipality of Anchorage DBA Anchorage Hydropower

ELECTRIC UTILITY PCE FORM

TEST PERIOD: December 31, 2022

MONTH	KWH GENERATED	KWH SOLD	GALLONS CONSUMED	CURRENT PRICE OF FUEL/GAL
January 2022	N/A			$ -
February 2022				$ -
March 2022				$ -
April 2022				$ -
May 2022				$ -
June 2022				$ -
July 2022				$ -
August 2022				$ -
September 2022				$ -
October 2022				$ -
November 2022				$ -
December 2022				$ -
TOTAL	-	-	-	

Name of Respondent	This Report is:	Date of Report (Mo,Da,Yr)	Year of Report
Municipality of Anchorage DBA Anchorage Hydropower	X An Original A Resubmission	March 31, 2023	12/31/2022

PART III: COMPARATIVE BALANCE SHEET

Line No.	Assets and Other Debits (a)	Balance at Beginning of the Year (b)	Balance at the End of the Year (c)
1	Utility Plant (101-107,114,118)	$ 12,072,146	$ 12,752,720
2	Accumulated Provision for Depreciation and Amortization (110, 119)	(3,660,142)	(3,951,948)
3	**NET UTILITY PLANT (Line 1 less line 2)**	$ 8,412,004	$ 8,800,771
4	Utility Plant Adjustment (116)	-	-
5	Gas Stored Underground - Noncurrent	-	-
6	Nonutility Property (121)	-	-
7	Less Accumulated Provision for Depreciation and Amortization - Credit (122)	-	-
8	Noncurrent Portion of Allowance	-	-
9	Other Investments and Special Funds (124-129)	-	-
10	**Current and Accrued Assets:**		
11	**Cash and Working Funds (130)**	$ 5,046,237	$ 6,837,575
12	Temporary Cash Investments (136)	-	
13	Notes and Accounts Receivable (141, 142, 143, 145, 146)	102,186,355	99,444,238
	(Report amounts applicable to associated companies in a footnote.)	-	-
14	Accumulated Provision for Uncollectible Accounts - Credit (144)	-	-
15	Plant Materials and Operating Supplies (154)	-	-
16	Allowances (158.1 and 158.2)	-	-
17	(Less) Noncurrent Portion of Allowances	-	-
18	Gas Stored Underground (164.1 and 164.2)	-	-
19	Prepayments (165)	-	-
20	Miscellaneous Current and Accrued Assets (174)	-	-
21	**TOTAL CURRENT AND ACCRUED ASSETS (Total Lines 11 thru 20)**	$ 107,232,592	$ 106,281,813
22	**Deferred Debits:**		
23	Unamortized Debt Expense (181)	$ -	$ -
24	Extraordinary Property Losses (182.1)	-	-
25	Unrecovered Plant and regulatory Study Costs (182.2)	-	-
26	Other Regulatory Assets (182.3)	-	-
27	Miscellaneous Deferred Debits (186)	-	-
28	Deferred Losses from Disposition of Utility Plant (187)	-	-
29	Unamortized Loss on Reacquired Debt (189)	-	-
30	Accumulated Deferred Income Taxes (190)	-	-
31	Unrecovered Purchased Gas Costs (191)	-	-
32	**TOTAL DEFERRED DEBITS (Total Lines 23 thru 31)**	$ -	$ -
33	**TOTAL ASSETS AND OTHER DEBITS (Total Lines 3 thru 9, 21, and 32)**	$ 115,644,596	$ 115,082,584

	Proprietary Capital:		
1	Common Stock Issued (201)	$ -	$ -
2	Preferred Stock Issued (204)	-	-
3	Miscellaneous Paid-in Capital (211)	-	-
4	Installments Received on Capital Stock (212)	-	-
5	Discount on Capital Stock - Debit (213)	-	-
6	Capital Stock Expense - Debit (214)	-	-
7	Retained Earnings (215-216)	13,441,277	15,265,948
8	Reacquired Capital Stock - Debit (217)	-	-
9	Noncorporate Proprietorship (218)	-	-
10	**Total Proprietary Capital *(Lines 1 thru 9)***	$ 13,441,277	$ 15,265,948
11	**Bonds (221)**	$ -	$ -
12	Advances from Associated Companies (223)	-	-

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Name of Respondent	This Report is:	Date of Report (Mo,Da,Yr)	Year of Report
Municipality of Anchorage DBA Anchorage Hydropower	X An Original A Resubmission	March 31, 2023	12/31/2022

PART III: COMPARATIVE BALANCE SHEET

Line No.	Assets and Other Debits (a)	Balance at Beginning of the Year (b)	Balance at the End of the Year (c)
13	Other Long-term Debt (224)	-	-
14	Unamortized Premium on Long-term Debt (225)	-	-
15	Unamortized Discount on Long-term Debt - Debit (226)	-	-
16	Total Long-term Debt ***(Lines 11 thru 15)***	$ -	$ -
17	**Other Noncurrent Liabilities:**		
18	Obligations Under Capital Leases - Noncurrent (227)	$ -	$ -
19	Accumulated Provision for Property Insurance (228.1)	-	-
20	Accumulated Provision for Injuries and Damages (228.2)	-	-
21	Accumulated Provision for Pension and Benefits (228.3)	-	-
22	Accumulated Miscellaneous Operating Provisions (228.4)	-	-
23	Accumulated Provision for Rate Refunds (229)	-	-
24	**Total Other Noncurrent Liabilities *(lines 18 thru 23)***	$ -	$ -
25	**Current and Accrued Liabilities:**		
26	Notes and Accounts Payable (231-234)	$ 267,195	$ 410,218
27	Customer Deposits (235)	-	-
28	Taxes Accrued (236)	-	-
29	Interest Accrued (237)	-	-
30	Miscellaneous Current and Accrued Liabilities (242)	-	-
31	Obligations Under Capital Leases-Current (243)	-	-
32	**Total Current and Accrued Liabilities *(Lines 26 thru 31)***	$ 267,195	$ 410,218
33	**Deferred Credits:**		
34	Customer Advances for Construction (252)	-	-
35	Other Deferred Credits (253)	101,946,124	99,406,418
36	Other Regulatory Liabilities (254)	-	-
37	Accumulated Deferred Investment Tax Credits (255)	-	-
38	Deferred Gains from Disposition of Utility Plant (256)	-	-
39	Unamortized Gain on Reacquired Debt (257)	-	-
40	Accumulated Deferred Income Taxes (281 - 283)	-	-
41	**Total Deferred Credits *(Lines 34 thru 40)***	$ 101,946,124	$ 99,406,418
42	**TOTAL LIABILITIES and OTHER CREDITS *(Lines 10, 16, 24, 32, and 41)***	$ 115,654,596	$ 115,082,584

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Name of Respondent	This Report is:	Date of Report (Mo,Da,Yr)	Year of Report
Municipality of Anchorage DBA Anchorage Hydropower	[X] An Original [ ] A Resubmission	3/31/2023	12/31/2022

Name of Respondent	This Report is:	Date of Report (Mo,Da,Yr)	Year of Report
Municipality of Anchorage DBA Anchorage	[X] An Original [ ] A Resubmission	March 31, 2023	12/31/2022

PART IV: STATEMENT OF INCOME FOR THE YEAR

1. Report amounts for all accounts 412 and 413, Revenues and Expenses from Utility Plant Leased to Others, in the Other Utility column (h l, or jk) in a similar manner to a utility department. Spread the amount(s) over lines 1 to 22 as appropriate. Include these amounts in column (b) and (c) totals.

2. Report amounts for account 414, Other Utility Operating Income, in the same manner as accounts 412 and 413.

3. Provide an explanation in the Notes to Financial Statements of such unsettled rate proceedings where a contingency exits that refunds of a material amount may need to be made to the utility's customers or which may result in a material refund to the utility with respect to power or gas purchases. State for each year affected the gross revenues or costs to which the contingency relates and the tax effects: include an explanation for the major factors which affect the rights of the utility to retain such revenues or to recover amounts paid with respect to power or gas purchases.

4. Provide an explanation in the Notes to Financial Statements of significant amounts of any refunds made or received during the year resulting from any rate proceedings affecting revenues received or costs incurred for power or gas purchases and a summary of the adjustments made to the financial statements.

5. If any notes appearing in the report to stockholders are applicable to the statement of income, include such notes.

6. Provide and explanation in the Notes to the Financial Statements of only those changes in accounting methods made during the year which had an effect on net income, including the basis of allocations and appropriations from those used in the preceding year. Also, give an approximate dollar effect of such changes.

Line No.	Account (a)	Total (d to k) Current Year (b)	Total (d to k) Change from Previous Year (c)	Electric Utility Current Year (d)	Electric Utility Change from Previous Year (e)	Gas Utility Current Year (f)	Gas Utility Change from Previous Year (g)	Other Utility Current Year (h)	Other Utility Change from Previous Year (i)	Other Utility Current Year (j)	Other Utility Change from Previous Year (k)	Account	Line No.
1	**Utility Operating Income**												1
2	Operating Revenues (400)	$ 2,513,075	$ 426,586	$ 2,513,075	$ 426,586	$ -	$ -	$ -	$ -	$ -	$ -	(400)	2
3	**Operating Expenses:**												3
4	Operating Expense (401)	239,049	29,620	239,049	29,620	-	-	-	-	-	-	(401)	4
5	Maintenance Expense (402)	-	-	-	-	-	-	-	-	-	-	(402)	5
6	Depreciation Expense (403)	301,806	64,062	301,806	64,062	-	-	-	-	-	-	(403)	6
7	**Amortization Expense *(Specify by Account)***												7
8		-	-	-	-	-	-	-	-	-	-		8
9	Regulatory Debits (407.3)	-	-	-	-	-	-	-	-	-	-	(407.3)	9
#	(Less) Regulatory Credits (407.4)	-	-	-	-	-	-	-	-	-	-	(407.4)	#
#	Taxes Other than Income Tax (408.1)	-	-	-	-	-	-	-	-	-	-	(408.1)	#
#	Federal Income Taxes (409.1)	-	-	-	-	-	-	-	-	-	-	(409.1)	#
#	Other Income Taxes (409.1)	-	-	-	-	-	-	-	-	-	-	(409.1)	#
#	Provision for Deferred Income Taxes - Credit (410.1)	-	-	-	-	-	-	-	-	-	-	(410.1)	#
#	Provision for Deferred Income Taxes - Credit (410.1)	-	-	-	-	-	-	-	-	-	-	(411.1)	#
#	Investment Tax Credit Adjustment - Net (411,4)	-	-	-	-	-	-	-	-	-	-	(411.4)	#
#	Gain From Disposition of Utility Plant (411.6)	-	-	-	-	-	-	-	-	-	-	(411.6)	#
#	Losses From Disposition of Utility Plant (411.7)	-	-	-	-	-	-	-	-	-	-	(411.7)	#
#	Gains From Disposition of Allowances (411.8)	-	-	-	-	-	-	-	-	-	-	(411.8)	#
#	Losses From Disposition of Allowances (411.9)	-	-	-	-	-	-	-	-	-	-	(411.9)	#
#	**Total Utility Operating Expenses *(Lines 4 thru 20)***	540,855	93,682	540,855	93,682	-	-	-	-	-	-	TOTAL	#
#	**NET OPERATING INCOME *(Line 2 less Line 21)***	$ 1,972,220	$ 332,904	$ 1,972,220	$ 332,904	$ -	$ -	$ -	$ -	$ -	$ -	NET	#

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Name of Respondent	This Report is:	Date of Report (Mo,Da,Yr)	Year of Report
Municipality of Anchorage DBA Anchorage Hydropower	[X] An Original [ ] A Resubmission	3/31/2023	12/31/2022

PART IV: STATEMENT OF INCOME FOR THE YEAR

Line No.	Account (a)	Total Current Year (b)	Total Change from Previous Year (c)
22	Net Utility Income *(Page 6 Line 22)*	$ 1,972,220	$ 332,904
23	**Other Income and Deductions**		
24	**Other Income:**		
25	Nonutility Income (415-418)	$ -	$ -
26	Interest and Dividend Income (419)	(61,138)	(36,310)
27	Allowance for Other Funds Used During Construction (419.1)	-	-
28	Miscellaneous Nonoperating Income (421)	2,539,716	(157,944)
29	Gain on Disposition of Property (415-418)	-	-
30	**Total Other Income *(lines 25 thru 29)***	$ 2,478,578	$ (194,254)
31	**Other Income Deductions:**		
32	Loss on Disposition of Property (421.2)	$ -	$ -
33	Miscellaneous Amortization (425)	-	-
34	Miscellaneous Income Deductions (426.1 - 426-5)	2,626,125	-
35	**Total Other Income Deductions *(Lines 32 thru 34)***	$ 2,626,125	$ -
36	**Taxes Applicable to Other Income and Deductions:**		
37	Taxes Applicable to Other Income and Deductions:	$ -	$ -
38	Federal Income Taxes (409.2)	-	-
39	Other Income Taxes (409.2)	-	-
40	Provision for Deferred Income Taxes (410.2)	-	-
41	Provision for Deferred Income (411.2)	-	-
42	Income Tax Credit Adjustment - Net (411.5)	-	-
43	Investment Tax Credit (420)	-	-
44	**Total Taxes Applicable to Other Income and Deductions *(Lines 37 thru 43)***	-	-
45	**Net Other Income and Deductions *(Line 30 less Lines 35 and 44)***	$ (147,547)	$ (194,254)
46	**Interest Charges**		
47	Interest on Long-term Debt (427)	$ -	$ -
48	Amortization of Debt Discount and Expense (428)	-	-
49	Amortization of Loss on Reacquired Debt (428.1)	-	-
50	Amortization of Premium on Debt - Credit (429)	-	-
51	Amortization of Gain on Reacquired Debt - Credit (429.1)	-	-
52	Interest on Debt to Associate Companies (430)	-	-
53	Other Interest Expenses (431)	-	-
54	Allowance for Borrowed Funds During Construction - Credit (432)	-	-
55	**Net Interest Charge *(Lines 47 thru 54)***	-	-
56	**Income Before Extraordinary Items *(Lines 22 Plus Line 45 Less Line 55)***	$ 1,824,673	$ 138,650
57	**Extraordinary Items**		
58	Extraordinary Income (434)	$ -	$ -
59	Extraordinary Deductions - Debit (435)	-	-
60	**Net Extraordinary Items *(Line 58 Less Line 59)***	$ -	$ -
61	Income Taxes (409.3)	$ -	$ -
62	**Extraordinary Items After Taxes *(Lines 60 thru 61)***	$ -	$ -
63	**Net Income *(Line 56 plus Line 62)***	$ 1,824,673	$ 138,650

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Name of Respondent	This Report is:	Date of Report (Mo,Da,Yr)	Year of Report
Municipality of Anchorage DBA Anchorage Hydropower	x An Original A Resubmission	3/31/2023	12/31/2022

PART V: STATEMENT OF RETAINED EARNINGS

1. Report on this part all changes in appropriated and unappropriated retained earnings for the year.
2. Identify each credit and debit made during the year by identifying the retained account in which the credit and debit is recorded (accounts 433, 436-439 inclusive). Also, identify the contra primary account affected. First list account 439, Adjustments to Retained Earnings, reflecting adjustments to the opening balance of retained earnings. Follow the adjustments by credit then debit items, in that order.
3. Report dividends for each class and series of capital stock. Show amounts of dividends per share.
4. Report separately in column (a) the state and federal income tax effect of items shown in account 439, Adjustments to Retained Earnings.
5. Explain in a footnote, the basis for determining the amount reserved or appropriated. If such reservation or appropriation is to be recurrent, state the number and annual amounts to be reserved or appropriated as well as the totals eventually to be accumulated.
6. If any notes appearing in the report to stockholders are applicable to this statement, either include such notes in an attachment ore enter such data in the Notes to the Financial Statements on page 12.
7. Enter on line 20 the total amount set aside through appropriations of retained earnings as of the end of the year, in compliance with the provisions of federally granted hydroelectric project licenses held by the respondent. If any reductions or charges other than the normal annual credits hereto have been made during the year, explain such items in a footnote.

Line No.	Item (a)	Contra Primary Account Affected (b)	Amount (c)
	UNAPPROPRIATED RETAINED EARNINGS (216)		
1	Balance Beginning of Year		13441277
2	Adjustment to Retained Earnings (439)		
3			$ -
4			-
5			-
6			-
7	Balance Transferred From Income (433)		1,824,673
8	Appropriations of Retained Earnings (436)		
9			$ -
			-
			-
			-
10	Dividends Declared - Preferred Stock (437)		
11			$ -
			-
			-
12	Dividends Declared - Common Stock (438)		
13			$ -
			-
			-
14	Balance End of Year *(Lines 1 thru 13)*		$ 15,265,950
	APPROPRIATED RETAINED EARNINGS (215) State below balance and purpose of each reserved and appropriated retained earnings (amount) at end of year. Give accounting entries for any applications of retained earnings during the year.		
15			$ -
16			-
17			-
18			-
19	Total Appropriated Retained Earnings - Amortization Reserve, Federal (*Lines 15 thru 18)*		$ -
20	Total Appropriated Retained Earnings - Amortization Reserve, Federal (215.1)		$ -
21	Total Appropriated Retained Earnings *(215, 215.1) (Line 19 plus Line 20)*		$ -
22	Total Retained Earnings *(215, 215.1, 216) (Line 14 plus Line 21)*		$ 15,265,950

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Name of Respondent	This Report is:	Date of Report (Mo,Da,Yr)	Year of Report
Municipality of Anchorage DBA Anchorage Hydropower	x An Original / A Resubmission	3/31/2023	12/31/2022

PART VI: STATEMENT OF CASH FLOWS

1. If the notes to the cash flow statement in the respondents annual stockholders report are applicable to this statement, such notes should be attached to the Notes to the Financial Statements. Information about noncash investing and financing activities should be provided in the Notes to the Financial Statements. Also provide a reconciliation between "cash and cash equivalents at end of year" with related amounts on the balance sheet.

2. Under "Other" Specify significant amounts and group others.

3. Operating activities - Other: Include gains and losses pertaining to operating activities only. Gains and losses pertaining to investing and financing activities should be reported in those activities. Show the amounts of interest paid (Net of the amount capitalized) on the Notes to the Financial Statements. Also show income tax paid.

4. Investing Activities: Include at Other (line 31) net cash outflow to acquire other companies. Provide a reconciliation of assets acquired with liabilities assumed on the Notes to the Financial Statements.

Do not include on this statement the dollar amount of leases capitalized per USofA General Instruction 20; instead provide a reconciliation of the dollar amount of leases capitalized with the plant cost on the Notes to the Financial Statements.

5. Codes used:
(a) Net proceeds or payments.
(b) Bonds, debentures and other long-term debt.
(c) Include commercial paper.
(d) Identify separately such items as investments, fixed assets intangibles, etc.

6. Enter clarifications and explanations on the Notes to the Financial Statements.

Line No.	Description *(See Instructions for Explanation of Codes)* (a)	Amount
1	Net Cash Flow from Operating Activities:	
2	Net Income (Line 63(b) on Pg. 8)	$ 1,824,673
3	Noncash Charges (Credits) to Income:	
4	Depreciation and Depletion	$ 301,806
5	Amortization (Specify)	-
6		-
7		-
8	Deferred Income Taxes (Net)	-
9	Investment Tax Credit Adjustment (Net)	-
10	Net (Increase) Decrease in Receivables	2,742,117
11	Net (Increase) Decrease in Inventory	-
12	Net (Increase) Decrease in Allowance Inventory	-
13	Net (Increase) Decrease in Payables and Accrued Expenses	(2,396,684)
14	Net (Increase) Decrease in Other Regulatory Liabilities	-
15	Net (Increase) Decrease in Other Regulatory Liabilities	-
16	(less) Allowance for Other Funds Used During Construction	-
17	(less) Undistributed Earnings for Subsidiary Companies	-
18	Other:	-
19		-
20		-
21		-
22	Net Cash Provided by (Used in) Operating Activities *(Lines 2 thru 21)*	$ 2,471,912
23		
24	Cash Flows from Investing Activities:	
25	Construction and Acquisition of Plant (including land):	
26	Gross Additions to Utility Plant (Less Nuclear fuel)	$ (680,574)
27	Gross Additions to Nuclear Fuel	-
28	Gross Additions to Common Utility Plant	-
29	Gross Additions to Nonutility Plant	-
30	(less) Allowance for Other Funds Used During Construction	
31	Other:	-
32		-
33		-
34	Cash Outflows for Plant *(lines 26 thru 33)*	$ (680,574)
35		
36	Acquisition of Other Noncurrent Assets (d)	$ -
37	Proceeds from Disposal of Noncurrent Assets(d)	-
38		-
39	Investments in and Advances to Assoc. and Subsidiary Companies	-
40	Contributions and advances from Assoc. and Subsidiary Companies	-
41	Disposition of Investments in (and Advances to):	
42	Associated and Subsidiary Companies	-
43		
44	Purchase of Investment securities (a)	-
45	Proceeds form Sales of Investment Securities(a)	-
46	Loans Made or Purchased	$ -
47	Collections on Loans	-
48		-
49	Net (Increase) Decrease in Receivables	-
50	Net (Increase) Decrease in Inventory	-
51	Net (Increase) Decrease in Allowances Held for Speculation	-
52	Net Increase(Decrease) in Payables and Accrued Expenses	-
53	Other:	-
54		-
55		-
56	Net Cash Provided by (Used in) Investing Activities	
57	(Total Lines 34 thru 55)	$ (680,574)
58		
59	Cash Flows from Financing Activities:	
60	Proceeds from Issuance of :	
61	Long-term Debt (b)	$ -
62	Preferred Stock	-
63	Common Stock	-
64	Other:	-
65		-
66	Net Increase in Short-term Debt ©	-
67	Other:	-
68		-
69		-
70	Cash Provided by Outside Sources (total Lines 61-69)	$ -
71		
72	Payments for Retirement of:	
73	Long-term Debt (b)	$ -
74	Preferred Stock	-
75	Common Stock	-
76	Other:	-
77		-
78	Net Decrease in Short-term Debt (c)	-
79		-
80	Dividends on Preferred stock	-
81	Dividends on Common Stock	-
82	Net Cash Provided (Used in) Financing Activities	
83	(Total Lines 70 - 81)	$ -
84		
85	Net Increase (Decrease) in Cash and Cash Equivalents	$ 1,791,338
86	(total lines 22,57, and 83)	
87		
88	Cash and Cash Equivalents ant Beginning of Year	$ 5,046,237
89		
90	Cash and Cash equivalents ant the End of the Year	$ 6,837,575

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NOTES TO THE FINANCIAL STATEMENTS

1. Use the space below for important notes regarding the Balance Sheet, Income Statement, Statement of Retained Earnings, and Statement of Cash Flows, or any account thereof. Classify the notes according to each basic statement, providing a subheading for each statement except where a note is applicable to more than one statement.

2. Furnish particulars (details) as to any significant contingent assets or liabilities existing at the end of the year, including a brief explanation of any action initiate by the Internal Revenue Service involving possible assessment of additional income taxes or a material amount, or of a claim for refund of income taxes of a material amount initiated by the utility. Give also a brief explanation of any dividends in arrears on cumulative preferred stock.

3. For Account 116, Utility Plant Adjustments, explain the origin of such amount, debits and credits during the year, and plan of disposition contemplated, giving reference to Commission orders or other authorizations respecting classification of amounts as plant adjustments and required as to disposition thereof.

4. Where Account 189, Unamortized Loss on Reacquired Debt, and 257, Unamortized Gain on Reacquired Debt, are not used, give an explanation, providing the rate treatment given these items. See General Instruction 17 of the Uniform System of Accounts.

5. Give a concise explanation of any retained earnings restrictions and state the amount of retained earnings affected by such restrictions.

6. If the notes to financial statements relating to the respondent company appearing in the annual report to the stockholders are applicable and furnish the data required by instructions above and on pages 6-11, such notes may be attached hereto.

Balance Sheet
Included in Account 130 Cash and Working Funds are $3,000,000 in cash and investments set aside for an operating reserve.
Included in Account 143 Other Accounts Receivable in $99,406,418 in a long-term recievable from Chugach Electric Association for payments pursuant to the Eklutna Power Purchase Agreement between Chugach Electric Association, Inc. and the Municipality of Anchorage, as amended and modified by Order No. 44 in U-18-102. (PPA)
The other $32,820.00 in other accounts recievable are related to revenues received in the normal course of business.

Included in Account 253 Other Deferred Credits is $99,406,418 in deffered revenues pursuant to the PPA.

Income Statement
Included in Account 241 Miscllaneous Non-operating Income is $2,514,561 in contractural revenues received from Chugach
Also included in this account are $9.00 in MEA Capital Credits.

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NOTES TO THE FINANCIAL STATEMENTS

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PART VIII: ALLOWANCES (Accounts 158.1 and 158.2)

1. Report below the particular (details) called for concerning allowances.
2. Report all acquisitions of allowances at cost.
3. Report allowances in accordance with a weighted average cost allocation method and other accounting as prescribed by General instruction No. 21 in the Uniform System of Accounts.
4. Report the allowances transactions by the period they are first eligible for use: the current year's allowances in columns (b)-(c), allowances for the three succeeding years in columns (d)-(i), starting with the following year, and allowances for the remaining succeeding years in columns (j)-(k).
5. Report on line 4 the Environmental Protection Agency (EPA) issued allowances. Report withheld portions on line 36-40.
6. Report on line 5 allowances returned by the EPA. Report on line 39 the EPA's sales of the withheld allowances. Report on lines 43-46 the net sales proceeds and gains/losses resulting from the EPA's sale or auction of the withheld allowances.
7. Report on lines 8-14 the names of vendors/transferors of allowances acquired and identify assoc. companies (See "assoc. company" under "Definitions" in the Uniform System of Acts.)
8. Report on lines 22-27 the names of purchasers/transferees of allowances disposed of and identify associated companies.
9. Report the net costs and benefits of hedging transaction on a separate line under purchases/transfers and sales/ transfers.
10. Report on lines 32-35 & 43-46 the net sales proceeds and gains or losses from allowance sales.

Line No.	Allowance Inventory (Account 158.1) (a)	Current Year No. (b)	Current Year Amt. (c)	19__ No. (d)	19__ Amt. (e)	19__ No. (f)	19__ Amt. (g)	19__ No. (h)	19__ Amt. (i)	Future Years No. (j)	Future Years Amt. (k)	Totals No. (l)	Totals Amt. (m)	Line No.
1	Balance-Beginning of Year	N/A	$ -	-	$ -	-	$ -	-	$ -	-	$ -	#VALUE!	$ -	1
2														2
3	Acquired During year:													3
4	Issued (less Withheld Allow.)	-	$ -	-	$ -	-	$ -	-	$ -	-	$ -	-	$ -	4
5	Returned by EPA	-	-	-	-	-	-	-	-	-	-	-	-	5
6		-	-	-	-	-	-	-	-	-	-	-	-	6
7	Purchases/Transfers:	-	-	-	-	-	-	-	-	-	-	-	-	7
8		-	-	-	-	-	-	-	-	-	-	-	-	8
9		-	-	-	-	-	-	-	-	-	-	-	-	9
10		-	-	-	-	-	-	-	-	-	-	-	-	10
11		-	-	-	-	-	-	-	-	-	-	-	-	11
12		-	-	-	-	-	-	-	-	-	-	-	-	12
13		-	-	-	-	-	-	-	-	-	-	-	-	13
14		-	-	-	-	-	-	-	-	-	-	-	-	14
15	Total	-	$ -	-	$ -	-	$ -	-	$ -	-	$ -	-	$ -	15
16														16
17	Relinquished During Year:													17
18	Charges to Account 509	-	$ -	-	$ -	-	$ -	-	$ -	-	$ -	-	$ -	18
19	Other:	-	-	-	-	-	-	-	-	-	-	-	-	19
20		-	-	-	-	-	-	-	-	-	-	-	-	20
21	Cost of Sales/Transfers:	-	-	-	-	-	-	-	-	-	-	-	-	21
22		-	-	-	-	-	-	-	-	-	-	-	-	22
23		-	-	-	-	-	-	-	-	-	-	-	-	23
24		-	-	-	-	-	-	-	-	-	-	-	-	24
25		-	-	-	-	-	-	-	-	-	-	-	-	25
26		-	-	-	-	-	-	-	-	-	-	-	-	26
27		-	-	-	-	-	-	-	-	-	-	-	-	27
28	Total													28
29	Balance-End of Year	-	$ -	-	$ -	-	$ -	-	$ -	-	$ -	-	$ -	29
30														30
31	Sales:													31
32	Net Sales Proceeds(Assoc. CO.)	-	$ -	-	$ -	-	$ -	-	$ -	-	$ -	-	$ -	32
33	Net sales Proceeds (Other)	-	-	-	-	-	-	-	-	-	-	-	-	33
34	Gains	-	-	-	-	-	-	-	-	-	-	-	-	34
35	Losses	-	-	-	-	-	-	-	-	-	-	-	-	35
	Allowances Withheld (Account 152.2)													
36	Balance-Beginning of Year	-	-	-	-	-	-	-	-	-	-	-	-	36
37	Add: Withheld by EPA	-	-	-	-	-	-	-	-	-	-	-	-	37
38	Deduct: Returned by EPA	-	-	-	-	-	-	-	-	-	-	-	-	38
39	Sales	-	-	-	-	-	-	-	-	-	-	-	-	39
40	Balance - End of Year	-	$ -	-	$ -	-	$ -	-	$ -	-	$ -	-	$ -	40
41														41
42	Sales:													42
43	Net sales Proceeds (Assoc. Co.)	-	$ -	-	$ -	-	$ -	-	$ -	-	$ -	-	$ -	43
44	Net sales Proceeds (Other)	-	-	-	-	-	-	-	-	-	-	-	-	44
45	Gains	-	-	-	-	-	-	-	-	-	-	-	-	45
46	Losses	-	-	-	-	-	-	-	-	-	-	-	-	46

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PART IX: OTHER REGULATORY ASSETS (Account 182.3)

1. Reporting below the particulars (details) called for concerning other regulatory assets which are created through the ratemaking actions of regulatory agencies (and not includable in other amounts).
2. For regulatory assets being amortized, show period of amortization in column (a).
3. Minor items (5% of the Balance at End of Year for Account 182.3 or amounts less than $50,000, whichever is less) may be grouped by classes.

Line No.	Description and Propose of Other Regulatory Assets (a)	Debits (b)	CREDITS Account Charged (c)	CREDITS Amount (d)	Balance at End of Year (e)
1	N/A	$ -		$ -	$ -
2		-		-	-
3		-		-	-
4		-		-	-
5		-		-	-
6		-		-	-
7		-		-	-
8		-		-	-
9		-		-	-
10		-		-	-
11		-		-	-
12		-		-	-
13		-		-	-
14		-		-	-
15		-		-	-
16		-		-	-
17		-		-	-
18		-		-	-
19		-		-	-
20		-		-	-
21		-		-	-
22		-		-	-
23		-		-	-
24		-		-	-
25		-		-	-
26		-		-	-
27		-		-	-
28		-		-	-
29		-		-	-
30		-		-	-
31		-		-	-
32		-		-	-
33		-		-	-
34		-		-	-
35		-		-	-
36		-		-	-
37		-		-	-
38		-		-	-
39		-		-	-
40		-		-	-
41		-		-	-
42		-		-	-
43		-		-	-
44	TOTAL	$ -		$ -	$ -

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PART X: DATA ON SECURITY HOLDERS AND VOTING POWERS

Report below the names and addresses of the ten stockholders of the respondent company who at the end of the year, had the greatest voting powers in the respondent. State the number of votes each would have a right to cast on December 31 of the report year, if a meeting were ordered. If any such holder is held in trust, give the nature of the trust and the beneficiary owner. If other securities have voting rights at the end of the report year, report similar information for such securities. Report in the Comments column the total votes of all securities with voting powers.

Line No.	Name (a)	Address (b)	Number of Votes (c)	Comments (d)
1	N/A			
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				

PART XI: DATA ON OFFICERS AND DIRECTORS

Report below the title and name of the officers and directors of the respondent company whose salaries were $50,000 or more at the end of the report year. List officers first. If there were any changes during the year, report the title, name and address of the previous officer or director and date of change in the comment column. Designate by asterisk (*) officers who are directors; list other directors who are not officers. Report the salary (for the year) of each officer, and the fees for each director listed.

Line No.	Name (a)	Address (b)	Number of Votes (c)	Comments (d)
1	N/A			
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				

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PARTXII: ACCUMULATED PROVISION FOR DEPRECIATION AND AMORTIZATION OF UTILITY PLANT

Line No.	Name of Utility Department (a)	Balance at Beginning of Year (b)	Depreciation and Amortization Accruals for Year (c)	Net Charges for Plant Retired During Year (d)	Other Items Debit or Credit (e)	Balance at End of Year (f)
1	Electric (110)	3,650,142	301,806			3,951,948
2	Other Utility Department (119)					
3	*(Specify):*					
4						
5						
6						
7						

PART XIII: CAPITAL STOCK DATA

Line No.	Class and Series of Stock (a)	Number of Shares Authorized (b)	Par Value Per Share of Par Value Stock (c)	Stated Value Per Share of Nonpar Stock (d)	Outstanding Per Balance Sheet	
					Shares	Amount
1	N/A					
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						

PART XIV: LONG TERM DEBT DATA

Line No.	Class and Series of Obligation (a)	Nominal Date of Issue (b)	Date of Maturity (c)	Outstanding Per Balance Sheet (d)	Interest for Year	
					% Rate	Amount
1	N/A			$ -	0.00%	$ -
2					0.00%	
3					0.00%	
4					0.00%	
5					0.00%	
6					0.00%	
7					0.00%	
8					0.00%	
9					0.00%	
10					0.00%	
11					0.00%	
12					0.00%	
	Total			$ -		$ -

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OTHER REGULATORY LIABILITIES (Account 254)

1. Reporting below the particulars (details) called for concerning other regulatory liabilities which are created through the ratemaking actions of regulatory agencies (and not includable in other amounts).
2. For regulatory liabilities being amortized, show period of Amortization in column (a).
3. Minor items (5% of the Balance at End of Year for Account 254 or amounts less than $50,000, whichever is less) may be grouped by classes.

Line No.	Description and Propose of Other Regulatory Liabilities (a)	DEBITS Account Credited (b)	DEBITS Account (c)	Credits (d)	Balance at End of Year (e)
1	N/A		$ -	$ -	$ -
2			-	-	-
3			-	-	-
4			-	-	-
5			-	-	-
6			-	-	-
7			-	-	-
8			-	-	-
9			-	-	-
10			-	-	-
11			-	-	-
12			-	-	-
13			-	-	-
14			-	-	-
15			-	-	-
16			-	-	-
17			-	-	-
18			-	-	-
19			-	-	-
20			-	-	-
21			-	-	-
22			-	-	-
23			-	-	-
24			-	-	-
25			-	-	-
26			-	-	-
27			-	-	-
28			-	-	-
29			-	-	-
30			-	-	-
31			-	-	-
32			-	-	-
33			-	-	-
34			-	-	-
35			-	-	-
36			-	-	-
37			-	-	-
38			-	-	-
39			-	-	-
40			-	-	-
41	TOTAL		$ -	$ -	$ -

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PART XVI: ELECTRIC SALES DATA FOR THE YEAR

Line No.	Class of Service (a)	Revenues (b)	Kilowatt-Hour Sales (c)	Average Number of Customers* (d)
1	Residential sales	$ -		
2	Commercial and Industrial Sales	-		
3	Public street and highway lighting	-		
4	Interdepartmental sales	-		
5	Other Sales	-		
6	Total sales to ultimate consumers	$ -	-	-
7	Sales for resale	2,274,149	161,321,153	2
8	Total sales of electricity	$ 2,274,149	161,321,153	2
9	Other operating revenue (specify)	-		
10		-		
11		-		
12	Total Electric operating revenue	$ 2,274,149		

*Averge number of customers means the average of the 12 monthly number of customers.

PART XVII: ELECTRIC OPERATING AND MAINTENANCE EXPENSES

Line No.	Item (a)	Operation & Maintenance Expense (b)
1	Production Expenses:	$ -
2	Steam Generation	-
3	Hydraulic generation	182,485
4	Other Generation: diesel fuel	-
5	Purchased Power	-
6	Other Power supply expenses	-
7	Total Production Expenses	$ 182,485
8	Transmission expenses	-
9	Distribution expenses	-
10	Customer Account expense	-
11	Customer Service and Information expense	-
12	Sales Expense	-
13	administrative and general expense	56,564
14	Total electric operations and maintenance expense	$ 239,049

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SALES FOR RESALE

1. Report below the information called for concerning sales for resale during the year to other electric utilities, cooperatives, and to cities and other public authorities for distributions to ultimate consumers.
2. Enter the name of the purchaser in column (a). Abbreviate if necessary but do not truncate the name or use acronyms. Explain in a footnote any ownership interest or affiliation the respondent has with each purchaser.
3. In column (b), identify the FERC Rate Schedule or Tariff Number.
4 Report annual maximum demand in column (c). Demand must be in megawatts. Footnote any demand reported in column (c) which is not stated on a megawatt basis and explain.
5 Report in column (d) the megawatt hours shown on bills rendered to each purchaser.
6 Report in column (e) the total charge shown on bills rendered to each purchaser.
7 Footnote entries as required and provide explanations following all required data.

Line No.	Name of Company or Public Authority (Footnote Affiliations) (a)	FERC Rate Schedule or Tariff Number (b)	Annual Maximum Demand (MW) (c)	Megawatthours sold (MWH) (d)	Revenues ($) (e)
1	Matanuska Electric Association			70,768	2,274,139
2	Chugach Electric Association			90,553	0
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					

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PART XIX: PURCHASED POWER

1. Report below the information called for concerning power purchased during the year. Power exchange transaction should be reported net in this schedule whether net is a receipt or a delivery. Indicate such transactions by an asterisk.
2. Enter the name of the seller in column (a). Abbreviate if necessary but do not truncate the name or use acronyms. Explain in a footnote any ownership interest or affiliation the respondent has with each seller.
3. In column (b), identify the FERC Rate Schedule or Tariff Number, or for non-FERC jurisdictional sellers, some appropriate designation for the contract.
4 Report annual maximum demand in column (c). Demand must be in megawatts. Footnote any demand reported in column (c) which is not stated on a megawatt basis and explain.
5 Report in column (d) the megawatt hours shown on bills rendered by the seller.
6 Report in column (e) the total charge shown on bills rendered by the seller.
7 Footnote entries as required and provide explanations following all required data.

Line No.	Name of Company or Public Authority (Footnote Affiliations) (a)	FERC Rate Schedule or Tariff Number (b)	Annual Maximum Demand (MW) (c)	Megawatthours Purchased (MWH) (d)	Cost of Power ($) (e)
1	N/A				
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					

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PART XX: UTILITY PLANT DATA

Line No.	Item (a)	Balance at Beginning of Year (b)	Additions During Year (c)	Retirements During Year (d)	Transfers and Adjustments (e)	Balance at End of Year (f)
1	Electric utility plant	$ -	$ -	$ -	$ -	$ -
2	Electric utility plant service:	-	-	-	-	-
3	Intangible plant	-	-	-	-	-
4	Production plant	-	-	-	-	-
5	Steam production	-	-	-	-	-
6	hydraulic production	10,958,161	9,331	-	-	10,967,492
7	Other production	-	-	-	-	-
8	Transmission plant	-	-	-	-	-
9	Distribution plant	-	-	-	-	-
10		-	-	-	-	-
11	General Plant Land	-	-	-	-	-
12	Total Electric Plant in Service	$ 10,958,161	$ 9,331	$ -	$ -	$ 10,967,492
13	Property under capital lease	$ -	$ -	$ -	$ -	$ -
14	Electric Plant Purchased	-	-	-	-	-
15	Electric Plant Sold	-	-	-	-	-
16	Electric Plant in process of reclassification	-	-	-	-	-
17	Electric Plant leased to others	-	-	-	-	-
18	Electric Plant held for future use	-	-	-	-	-
19	Construction work in progress - Electric	1,113,985	671,425	-	-	1,785,410
20	Electric Plant acquisition adjustment	-	-	-	-	-
21	Other electric plant adjustment	-	-	-	-	-
22		-	-	-	-	-
23	Total Electric Plant	$ 1,113,985	$ 671,425	$ -	$ -	$ 1,785,410
24	Plant of other utility departments (specify)	$ -	$ -	$ -	$ -	$ -
25		-	-	-	-	-
26		-	-	-	-	-
27		-	-	-	-	-
28		-	-	-	-	-
29		-	-	-	-	-
30		-	-	-	-	-
31		-	-	-	-	-
32		-	-	-	-	-
33		-	-	-	-	-
34		-	-	-	-	-
35		-	-	-	-	-
36		-	-	-	-	-
37		-	-	-	-	-
38		-	-	-	-	-
39		-	-	-	-	-
40		-	-	-	-	-
41		-	-	-	-	-
42		-	-	-	-	-
43		-	-	-	-	-
44		-	-	-	-	-
45		-	-	-	-	-
46		-	-	-	-	-
47	Total Utility Plant	$ 12,072,146	$ 680,756	$ -	$ -	$ 12,752,902

DocuSign Envelope ID: 5402DB97-EB4E-4AFD-804E-C78F50875477

Name of Respondent	This Report Is:		Date of Report	Year of Report
	X	An Original	(Mo,Da,Yr)	
Municipality of Anchorage DBA A		A Resubmission	3/31/2023	12/31/2022

PART XXI: FOOTNOTE DATA

Page Number (a)	Part Number (b)	Item Number (c)	Column Number (d)	Comments (e)
				N/A

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Certificate Of Completion

Envelope Id: 5402DB97EB4E4AFD804EC78F50875477
Status: Completed
Subject: Complete with DocuSign: AOR_ELEC3 (1) - RCA Annual Report 2022 KS 6.13.23.pdf
Source Envelope:
Document Pages: 26
Signatures: 2
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Certificate Pages: 2
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632 W 6th Ave
EnvelopeId Stamping: Enabled
Anchorage, AK 99501
Time Zone: (UTC-08:00) Pacific Time (US & Canada)
sharon.lane@anchorageak.gov
IP Address: 209.193.41.5

Record Tracking

Status: Original
6/13/2023 2:20:55 PM
Holder: Sharon Lane
sharon.lane@anchorageak.gov
Location: DocuSign
Security Appliance Status: Connected
Pool: StateLocal
Storage Appliance Status: Connected
Pool: MOA
Location: DocuSign

Signer Events	Signature	Timestamp
Kolby Hickel kolby.hickel@anchorageak.gov Deputy Municipal Manager MOA Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 209.193.41.5	Sent: 6/13/2023 2:23:16 PM Viewed: 6/13/2023 2:24:01 PM Signed: 6/13/2023 2:24:09 PM

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In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

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Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Sharon Lane sharon.lane@anchorageak.gov Mayor's Office Security Level: Email, Account Authentication (None)	COPIED	Sent: 6/13/2023 2:24:11 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	6/13/2023 2:23:16 PM
Certified Delivered	Security Checked	6/13/2023 2:24:01 PM
Signing Complete	Security Checked	6/13/2023 2:24:09 PM
Completed	Security Checked	6/13/2023 2:24:11 PM

Payment Events	Status	Timestamps

EXHIBIT 23

Notice of Utility Application

The REGULATORY COMMISSION OF ALASKA (Commission) gives notice that on July 30, 2025, the Municipality of Anchorage (MOA) d/b/a Anchorage Hydropower (AHP) filed an application seeking to lift the requirement imposed by Orders No. U-18-102(44)/U-19-020(39)/U-19-021(39) that the MOA surrender its voting rights on the Eklutna Operating Committee.

The Commission has not assessed the completeness of the application. AHP has not requested a waiver of any filing requirements and has not requested confidential treatment of any information. The Commission will determine whether the application is complete by [DATE].

You may obtain information about this filing by contacting Dean Thompson, Attorney for AHP, at 255 East Fireweed Lane, Suite 200, Anchorage, AK 99503; phone: (907) 277-1604. The complete filing is also available for inspection at the Commission's office at 701 West 8th Avenue, Suite 300, Anchorage, AK 99501; phone: (907) 276-6222, or may be viewed at the Commission's website at http://rca.alaska.gov by typing Docket No. "U-25-XXX" in the Find a Matter search box.

To comment on this filing, please file your comments by 5:00 p.m. on [DATE] at the Commission address given above or via our website at:

https://rca.alaska.gov/RCAWeb/WhatsNew/PublicNoticesComments.aspx

Please reference Docket No. U-25-XXX and include a statement that you have filed a copy of the comments with AHP at its address above.

Individuals or groups of people with disabilities, who require special accommodations, auxiliary aids or service, or alternative communication formats, please contact Michelle Morris at (907) 276-6222, toll-free at 1-800-390-2782, or TTY/Alaska Relay: 7-1-1 or 1-800-770-8937, or send a request via electronic mail to rca.mail@alaska.gov by [DATE].

DATED at Anchorage, Alaska, this ___ day of [Month], 2025.

REGULATORY COMMISSION OF ALASKA

_____

John M. Espindola
Chair

EXHIBIT 24

Subject: Re: Arrangement for Publication Notice
Date: Thursday, July 3, 2025 at 1:42:56 PM Alaska Daylight Time
From: ANC Legal Ads
To: Emily Walker
CC: Dean Thompson

Will do, they will need to be sure to bill Kemppel.

****Ordered affidavits will be sent after the ad's final publication date; affidavits are processed twice weekly in the late afternoon. Thank you for your patience.****

Lisi Misa
Legal Advertising
legalads@adn.com | 907-257-4286

Anchorage Daily News | adn.com
300 W. 31st Ave.
Anchorage, AK 99503

On Thu, Jul 3, 2025 at 11:09 AM Emily Walker <emw@khe.com> wrote:

> Good morning:
>
> Attached is a draft notice for publication for an upcoming filing with the Regulatory Commission of Alaska that will be submitted by the Municipality of Anchorage d/b/a Anchorage Hydropower seeking to amend its CPCN No. 780.
>
> The RCA will provide the final version to be used for publication.
>
> Please bill our firm for the publication at:

Kemppel, Huffman & Ellis, P.C.
255 E. Fireweed Lane, Suite 200
Anchorage, AK 99503

(907) 277-1604.

Please confirm receipt of this e-mail as proof that the Municipality of Anchorage d/b/a Anchorage Hydropower has made arrangements to pay for the publication of the notice.

Thanks,

Emily M. Walker
Kemppel, Huffman & Ellis, P.C.
255 E. Fireweed Lane, Suite 200
Anchorage, AK 99503
(907) 277-1604 work
(907) 360-4271 cell
(907) 276-2493 fax
www.khe.com

This electronic message transmission contains information from the law firm of Kemppel, Huffman & Ellis, P.C. which may be confidential or privileged. The information is intended for the private use of the intended recipient. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this transmission is prohibited. If you received this electronic transmission in error, please notify us by telephone (907) 277-1604 immediately.

NOTICE OF UTILITY REQUEST

The REGULATORY COMMISSION OF ALASKA (Commission) gives notice that on July 30, 2025, the Municipality of Anchorage (MOA) d/b/a Anchorage Hydropower (AHP) filed a request that the Commission lift the condition on AHP's Certificate of Public Convenience and Necessity (Certificate) No. 780 requiring the MOA to surrender its voting rights on the Eklutna Operating Committee (EOC). AHP also filed an alternative application to amend Certificate No. 780 in order for the Commission to lift the surrender requirement. Docket U-25-025 was opened to address this matter.

AHP, Chugach Electric Association, Inc., and Matanuska Electric Association, Inc. own the Eklutna Hydroelectric Project and operate it through the EOC. AHP is authorized under Certificate No. 780 to provide wholesale public electric utility service through its ownership share of the Eklutna Hydroelectric Project but currently does not have voting rights on the EOC.

No motion for waiver or petition for confidential treatment were filed with AHP's request or application. The Commission has not assessed the completeness of the application. The Commission may determine whether the application is complete by August 20, 2025.

You may obtain information about this request by contacting Dean Thompson, Attorney for AHP, at 255 East Fireweed Lane, Suite 200, Anchorage, AK 99503; phone: (907) 277-1604. The complete filing is also available for inspection at the Commission's office at 701 West 8th Avenue, Suite 300, Anchorage, AK, 99501; Phone: (907) 276-6222, or may be viewed at the Commission's website, http://rca.alaska.gov/ by typing Docket No. "U-25-025" in the *Find a Matter* search box.

To comment on this filing, please file your comments by 5:00 p.m., August 27, 2025, at the Commission's address above or via our website at:

https://rca.alaska.gov/RCAWeb/WhatsNew/PublicNoticesComments.aspx

Please reference Docket No. U-25-025 and include a statement that you have filed a copy of the comments with AHP at the address given above. Individuals or groups of people with disabilities, who require special accommodations, auxiliary aids or service, or alternative communications formats, please contact the Commission at (907) 276- 6222, toll-free at 1-800-390-2782; TTY/Alaska Relay: 7-1-1 or 1-800-770-8973; or send a request via electronic mail to rca.mail@alaska.gov by August 20, 2025.

DATED at Anchorage, Alaska, this 6th day of August 2025.

REGULATORY COMMISSION OF ALASKA

John Paul Manaois

John Paul Manaois (Aug 6, 2025 15:23:07 AKDT)

for John M. Espindola
Chair

RECEIVED
By the Regulatory Commission of Alaska on Aug 08, 2025

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steven D. DeVries
Mark A. Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the Application Filed by Municipality of Anchorage d/b/a Anchorage Hydropower to Amend Its Certificate of Public Convenience and Necessity No. 780	)))))	U-25-025

ENTRY OF APPEARANCE

Please take notice that JC Croft, Assistant Attorney General, hereby enters his appearance on behalf of the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section, and requests that all notices and pleadings be sent to him at the following address:

JC Croft
Assistant Attorney General
1031 West Fourth Avenue, Ste. 200
Anchorage, AK 99501
jc.croft@alaska.gov
Phone: (907) 269-5187
Fax: (907) 276-3697

Please also provide a courtesy copy of all pleadings and discovery to Chester House, paralegal, at chester.house@alaska.gov.

///

Attorney General
Regulatory Affairs & Public Advocacy
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 334-2394, (907) 269-5100, (907) 276-3697 Fax

DATED August 8, 2025, at Anchorage, Alaska.

TREG TAYLOR
ATTORNEY GENERAL

By: /s/ JC Croft
JC Croft
Assistant Attorney General
Office of the Attorney General
1031 West Fourth Avenue, Ste. 200
Anchorage, AK 99501
Phone: (907) 269-5187
Fax: (907) 276-3697
Email: jc.croft@alaska.gov
Alaska Bar No. 1711060

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2025, a true and correct copy of the **Office of the Attorney General's Entry of Appearance (Croft)** was served via e-mail on the following:

Municipality of Anchorage d/b/a Anchorage Hydropower
Dean D. Thompson
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Becki Alvey
Kemppel Huffman & Ellis PC
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emw@khe.com
bsa@khe.com

Chugach Electric Association, Inc.
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Arthur Miller, Chief Executive Officer
Deborah Gardino
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Chugach Electric Association, Inc.
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(Attorneys for Both Utilities)
Chugach Electric Association, Inc.
Matanuska Electric Association, Inc.
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Stephanie McFall
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/s/ Chester R. House
Chester R. House
Paralegal

Attorney General
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RECEIVED
By the Regulatory Commission of Alaska on Aug 08, 2025

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steven D. DeVries
Mark A. Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the Application Filed by Municipality of Anchorage d/b/a Anchorage Hydropower to Amend Its Certificate of Public Convenience and Necessity No. 780	)))))	U-25-025

ENTRY OF APPEARANCE

Please take notice that Jeffrey J. Waller, Chief Assistant Attorney General, hereby enters his appearance on behalf of the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section, and requests that all notices and pleadings be sent to him at the following address:

Jeffrey J. Waller
Chief Assistant Attorney General
1031 West Fourth Avenue, Ste. 200
Anchorage, AK 99501
jeff.waller@alaska.gov
Phone: (907) 269-5187
Fax: (907) 276-3697

Please also provide a courtesy copy of all pleadings and discovery to Chester House, paralegal, at chester.house@alaska.gov.

///

Attorney General
Regulatory Affairs & Public Advocacy
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Anchorage, Alaska 99501
(907) 334-2394, (907) 269-5100, (907) 276-3697 Fax

DATED August 8, 2025, at Anchorage, Alaska.

TREG TAYLOR
ATTORNEY GENERAL

By: /s/ Jeffrey J. Waller
Jeffrey J. Waller
Chief Assistant Attorney General
Office of the Attorney General
1031 West Fourth Avenue, Ste. 200
Anchorage, AK 99501
Phone: (907) 269-5187
Fax: (907) 276-3697
Email: jeff.waller@alaska.gov
Alaska Bar No. 0703005

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2025, a true and correct copy of the **Office of the Attorney General's Entry of Appearance (Waller)** was served via e-mail on the following:

Municipality of Anchorage d/b/a Anchorage Hydropower
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(Attorneys for Both Utilities)
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Matanuska Electric Association, Inc.
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Stephanie McFall
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/s/ Chester R. House
Chester R. House
Paralegal

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Regulatory Affairs & Public Advocacy
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RECEIVED
By the Regulatory Commission of Alaska on Aug 08, 2025

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steven D. DeVries
Mark A. Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the Application Filed by Municipality of Anchorage d/b/a Anchorage Hydropower to Amend Its Certificate of Public Convenience and Necessity No. 780	)))))	U-25-025

OFFICE OF THE ATTORNEY GENERAL'S MOTION TO DISMISS

I. Introduction

The Municipality of Anchorage (MOA) d/b/a Anchorage Hydro Power (AHP) requests the Regulatory Commission of Alaska (Commission) lift the condition on AHP's Certificate of Public Convenience and Necessity No. 780 requiring the MOA to surrender its voting rights on the Eklutna Operating Committee ("EOC") for a minimum term. The Office of the Attorney General, Regulatory Affairs & Public Advocacy Section (RAPA) moves to dismiss this matter because the filing by the MOA/AHP is premature.

II. Relevant Background

On May 28, 2020, Order 39[1] approved Chugach Electric Association's acquisition of most of the assets and service obligations of the Municipality of

[1] Order U-18-102(44)/U-19-020(39)/U-19-021(39).

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Anchorage d/b/a Municipal Light & Power Department.[2] The Commission made the approval of the acquisition subject to several conditions including that the Municipality surrender its voting rights on the EOC.[3] The Municipality surrendered its EOC voting rights on October 27, 2020.[4]

Three-and-one-half-years later, the Assembly moved the Commission to reopen dockets and to modify Order 39 to allow the Municipality to exercise its vote "specifically on the proposed final Fish and Wildlife Program[.]"[5] The Commission denied the Assembly's motion.[6]

On July 18, 2024, the MOA filed a Notice and Request for Acknowledgement of AHP's acquisition of expertise required to participate as a voting member of the EOC.[7] At the prehearing conference in Docket U-24-024, the administrative law judge raised the issue of a minimum term of the EOC voting rights surrender required by Order 39 and requested briefing by the parties.[8] After briefing, RAPA moved to dismiss the

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2 Order 39 at 3-4.

3 *Id*. at 67.

4 AHP Notice and Request for Acknowledgement at Exhibit 1.

5 Docket U-18-102/U-19-020/U-19-021 Anchorage Assembly Motion to Reopen Dockets and Modify Order No. 39 at 2.

6 Order U-18-102(52)/U-19-020(49)/U-29-021(49).

7 Docket U-24-024 MOA Petition.

8 Docket U-24-024 Tr. 6, 17-18.

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MOA's Notice and Request for Acknowledgment.[9] The MOA/AHP raised various arguments in its opposition to dismissal. The Commission granted RAPA's motion on the grounds that the MOA's Notice and Request was premature under the terms of Order 39.[10]

In Order U-24-024(8) the Commission reiterated: "In Order U-18-102(44) we established a minimum term for ML&P's surrender of its EOC voting rights as a condition of AHP's certification as a public utility and as a condition of our approval of the Eklutna PPA and the MEA PPA."[11] Further, the Commission observed: "In its briefing on this issue, AHP acknowledged that if Order U-18-102(44) mandated a minimum term of EOC voting rights surrender it would not have EOC voting rights until both the Eklutna PPA and the MEA PPA elapsed."[12]

In Docket U-24-024, the MOA/AHP raised many arguments against a minimum time period for the surrender of voting rights. The Commission addressed and rejected each point raised by MOA/AHP. The Commission returned to the financing-cashflow purpose of the PPAs shown in Dockets U18-102/U-19-020/U-19-021.[13] For example, "Based on the record from Dockets U-18-102/U-19-020/U-19-021, ML&P was

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9 Docket U-24-024, Office of the AG's Motion to Dismiss as Moot.

10 Order U-24-024(8) at 29.

11 *Id*. at 10.

12 *Id*. at 11.

13 *Id*. at 27.

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retaining the Eklutna Project Power Plant only for the purpose of preserving a cash flow in the event Chugach defaulted on its payments under the Eklutna PPA."[14]

The Commission concluded that "AHP's voting rights on the EOC are surrendered for at least the term of the Eklutna PPC and the MEA PPA"[15] and granted RAPA's motion to dismiss on the grounds that AHP's request was premature under the terms of Order U-18-102(44).[16]

AHP appealed the Commission's decision. AHP's appeal points assert that "Failing to address AHP's other arguments when deciding that Order 39 did not allow for the surrender of AHP's voting rights on the EOC to be lifted prior to the end of the "minimum term" of the surrender, even upon a showing of acquisition of the expertise required to fully participate as a voting member of the EOC." [17]

In July of this year, the MOA/AHP filed a request to lift the condition requiring the surrender of voting rights from its CPCN 780 or to amend its CPCN. RAPA moves to dismiss this latest request as premature.

III. Argument

The thrust of the MOA/AHP's request is that when the Commission grants a CPCN with conditions, the Commission may modify the CPCN if the basis for the

---

14 *Id*. at 25-27.

15 *Id*. at 28.

16 *Id*. at 29.

17 Docket U-24-024A, statement of points on appeal at para. 2.e.

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condition is no longer a concern.[18] In the alternative, the MOA/AHP seeks to modify its CPCN. But both requests are premature. The MOA/AHP has not shown that the Eklutna PPA and the MEA PPA have expired, are about to expire, or that the current filing is close to the time the PPA will expire.

AS 42.05.241 governs the issuance of a CPCN and provides in part: "The commission may issue a certificate granting an application in whole or in part and attach to the grant of it the terms and conditions it considered necessary to protect and promote the public interest…." In Order U-18-102(44)/U-19-020(39)/U-19-021(39), the Commission stated several conditions including that "before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project…."[19] And, the term of the MOA's voting rights surrender must be at least equal to the terms of the Eklutna PPA and the MEA PPA.[20]

Subsequently in Order U-24-024(8), discussed above, the Commission confirmed that the MOA's voting rights surrender had a minimum time period tied to the terms of

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[18] MOA/AHP Request to Lift Condition at 7.

[19] Order U-18-102(44)/U-19-020(39)/U-19-021(39) at 67. The Commission further required the acquisition close before issuing AHP a CPCN. *Id.*

[20] Order U-18-102(44)/U-19-020(39)/U-19-021(39) at 67.

the Eklutna PPA and the MEA PPA.[21] In that Order, the Commission also provided guidance for a future AHP filing and stated:

> In addition to addressing the minimum term of EOC voting rights surrender issue, we suggest that in future filings seeking reinstatement of EOC voting rights AHP provide the information to show that it can bring to EOC meetings a depth and breadth of technical and managerial expertise at least comparable to the level of expertise that MEA and Chugach bring to those meetings.[22]

That future guidance in the Order does not eviscerate the minimum time period for the surrender of voting rights required in Order 39 and confirmed in Order U-24-024(8). Instead, it explains what should be filed when a future filing is appropriate. That point is clarified where the Commission discussed the dismissal of the MOA's Notice and Request for Acknowledgement: "This dismissal is without prejudice to **refiling closer to the time that Eklutna PPA and the MEA PPA will expire**."[23] And as the Commission noted in Docket U-24-024: "At this time, no entity, including ourselves, can predict when the terms of the Eklutna PPA and the MEA PPA will expire."

Order U-24-024(8) shows that there is a minimum time period for the surrender of voting rights and when the MOA makes a future filing (that should include all the

---

21 Order U-24-024(8) at 29.

22 *Id*. at 34.

23 *Id*. at 29 (emphasis added).

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information noted by the Commission), that filing should be made close to the time the PPAs expire.

MOA/AHP has not shown that its current filing is close to the time when the two PPAs will expire. Therefore, the MOA/AHP's current filing is premature and should be dismissed.

IV. Conclusion

Order U-24-024(8) confirmed that the MOA's surrender of voting rights is subject to a minimum time period consistent with the terms of the Eklutna PPA and the MEA PPA and clarified that any future refiling about voting rights should be closer to the time that Eklutna PPA and the MEA PPA will expire. Because the MOA/AHP has not shown that the Eklutna PPA and the MEA PPA have expired, are about to expire, or that the current filing is close to the time the PPA will expire, the filing is premature, and this matter should be dismissed.

DATED August 8, 2025, at Anchorage, Alaska.

TREG TAYLOR
ATTORNEY GENERAL

By: /s/ Jeffrey J. Waller

Jeffrey J. Waller
Chief Assistant Attorney General
Office of the Attorney General
1031 West Fourth Avenue, Ste. 200
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CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2025, a true and correct copy of the **Office of the Attorney General's Motion to Dismiss** was served via e-mail on the following:

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RECEIVED
By the Regulatory Commission of Alaska on Aug 08, 2025

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steven D. DeVries
Mark A. Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the Application Filed by Municipality of Anchorage d/b/a Anchorage Hydropower to Amend Its Certificate of Public Convenience and Necessity No. 780	)))))	U-25-025

NOTICE OF ELECTION TO PARTICIPATE

The Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA) gives notice that RAPA elects to participate as a party to this docket. This notice is provided under authority of AS 44.23.020(e).

DATED August 8, 2025, at Anchorage, Alaska.

TREG TAYLOR
ATTORNEY GENERAL

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I hereby certify that on August 8, 2025, a true and correct copy of the **Office of the Attorney General's Notice of Election to Participate** was served via e-mail on the following:

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RECEIVED
By the Regulatory Commission of Alaska on Aug 22, 2025

STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

John M. Espindola, Chairman
Steven DeVries
Mark A. Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the Application Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower to Amend Its Certificate of Public Convenience and Necessity No. 780	U-25-025

CHUGACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S ENTRY OF APPEARANCE

Please take notice that Todd G. Glass and Stephanie McFall enter their appearance as counsel on behalf of Chugach Electric Association, Inc. and Matanuska Electric Association, Inc., with respect to the Municipality of Anchorage d/b/a Anchorage Hydropower's request to lift the condition requiring it to surrender its voting rights on the Eklutna Operating Committee, filed on July 30, 2025.

We request that all pleadings and other documents in the above captioned docket be served upon them at:

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Please also provide a courtesy copy of pleadings and discovery to Adam M. Fryer at afryer@wsgr.com.

///

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RESPECTFULLY SUBMITTED this 22nd day of August, 2025.

By: /s/ Todd G. Glass
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CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2025, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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RECEIVED
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STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	John M. Espindola, Chairman Steven D. DeVries Mark A. Johnston Robert M. Pickett John C. Springsteen
In the Matter of the Application Filed by Municipality of Anchorage d/b/a Anchorage Hydropower to Amend Its Certificate of Public Convenience and Necessity No. 780	U-25-025

CHUGACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S JOINDER IN MOTION TO DISMISS

Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA") hereby join in the Office of Attorney General, Regulatory Affairs & Public Advocacy Section ("RAPA") Motion to Dismiss in the above captioned proceeding. The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") has requested that the Regulatory Commission of Alaska ("Commission") lift the condition on AHP's Certificate of Public Convenience and Necessity ("CPCN") No. 780 requiring the surrender of its voting rights on the Eklutna Operating Committee ("EOC") for a certain minimum term length. The Commission has now considered and decided on this matter twice; acknowledging the Commission's orders, Chugach and MEA agree with RAPA that AHP's request is premature, and this matter should be dismissed.

If the Commission proceeds with further consideration of AHP's request, Chugach and MEA also want to alert the Commission that the voting rights that AHP has requested – reinstatement of those rights that existed prior to Chugach's acquisition of the former Municipal Light & Power Department ("ML&P") – would result in AHP regaining majority voting rights on the EOC, despite AHP's much narrower involvement and economic stake in the Eklutna Project than that of ML&P. Given the current power

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purchase arrangements among the owners of the Eklutna Project and the utility expertise with the MOA and AHP, Chugach and MEA cannot support the untenable reinstatement of the MOA's majority voting rights.

I. Relevant Background

In 1995, Congress authorized the sale of the Eklutna Hydroelectric Project ("Eklutna Project") from the federal government to Chugach, MEA and ML&P.[1] At the time of purchase, ownership shares between the three owners were: 53.3% for MOA (d/b/a ML&P), 30% for Chugach, and 16.7% for MEA.[2] In 1996, in connection with the acquisition, the three owners also agreed to a "Manner of Acting, Functional Responsibilities, and Staffing" governing the management of the Eklutna Project through the EOC (the "1996 Manner of Acting")[3]. Under this arrangement, each owner paid for Eklutna Project costs in proportion to its ownership share. Decisions of the EOC were – pursuant to the 1996 Manner of Acting – required to be by double majority, or a vote of two of the three owners whose shares totaled at least 51% of the Eklutna Project shares.[4] As the owner of more than 51% of the shares, this meant that no decision of the EOC could be made without approval by ML&P.

This structure remained in place for over twenty years after the initial Eklutna Project purchase. Then, as overviewed by RAPA in its Motion to Dismiss,[5] in 2020, the Commission approved a transaction pursuant to which Chugach acquired the majority of

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[1] Order U-18-102(44)/U-19-020(39)/U-19-021(39) *Order Accept Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third-Party Sales Gas Pricing; and Requiring Filings*, May 28, 2020 ("Order 39") at 14-15, 60-61.

[2] *Id.* at 14-15.

[3] Exhibit E to the Transition Plan attached as Exhibit 1 to MOA's Brief Regarding Interpretation of Order 39 filed in U-24-024.

[4] *Id.; see also* Order 39 at 61.

[5] RAPA Motion to Dismiss at 1-2.

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ML&P's assets and service obligations.[6] While this transaction excluded the purchase of MOA's ownership shares in the Eklutna Project, it did include a significant shift in the MOA's relationship with the Eklutna Project. Rather than taking and delivery power from the project to a service area of ratepayers in proportion to its ownership shares, the MOA signed two 35-year Power Purchase Agreements, one with Chugach (the "Eklutna PPA") and one with MEA (the "MEA PPA").[7] Taken together, the post-transaction arrangement is broadly as follows: (1) the MOA sells its entire 53.3% share of Eklutna Project generation output at wholesale to Chugach and MEA; (2) Chugach assumes the costs attributable to the portion of the Eklutna Project it buys from the MOA, leaving the MOA only responsible for 19.05% percent of Eklutna Project costs[8], and (3) the MOA significantly downsized its operational responsibility and Project risk exposure, passing on most of its former responsibilities and risks related to Eklutna Project operation to Chugach pursuant to the Eklutna PPA.[9] ML&P then ceased to exist, and for the limited purpose of continuing to own a portion of the Eklutna Project and to provide wholesale public electric service to Chugach and MEA under the Eklutna PPA and the MEA PPA (the "PPAs"), the MOA created AHP.[10]

As a condition to approving the overall transaction, and approving AHP's newly requested CPCN, the Commission required that the MOA surrender its voting rights on the

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[6] *See* Order 39.

[7] Order U-24-024(8), *Order Granting Motion to Dismiss in Part and Dismissing Notice and Request, Denying Motion to Dismiss in Part, Vacating Procedural Schedule, Denying Motion to Compel, Denying Request to Construe Notice and Request as Petition to Amend Certificate Condition, Providing Guidance for Future Filings, and Closing Docket*, at 3-4.

[8] MOA/AHP Request to Lift Condition at 3-4.

[9] Order 39 at 72-73 ("Chugach's obligation to make… payments to the MOA are not contingent on any power or energy being produced by the Eklutna Project, and are not suspended by any Eklutna Project outages regardless of nature or duration.").

[10] Order 39 at 67.

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EOC for a minimum term length to match the term lengths of the PPAs.[11] The MOA agreed to this condition and surrendered its voting rights on October 27, 2020.[12]

As further reviewed by RAPA in its Motion to Dismiss[13], the MOA sought to regain its EOC voting rights last year in Docket U-24-024.[14] In that proceeding, after the conclusion of briefing specifically requested by the Commission on the minimum term of the EOC voting rights surrender, RAPA moved to dismiss on alternative grounds.[15] Chugach and MEA joined the motion to dismiss specifically on the surrender term issue:

> The briefing ordered by the Commission in Order U-24-024 with respect to the surrender issue will be complete on October 29 and will be ripe for decision. If the Commission finds that the surrender term required in Order 39 has a minimum term of 35 years before the Municipality's voting rights may be regained, there is no reason to continue the process (including holding a hearing) in this docket."[16]

In its Order U-24-024(8), the Commission granted RAPA's motion to dismiss on the basis that the request was premature given the minimum surrender term length requirement and the fact that the PPAs are still mid-term.[17]

AHP has now filed a request to lift the condition to AHP's CPCN regarding the surrender of voting rights, or to amend AHP's CPCN, based upon an argument that the basis underlying the condition is no longer a concern.[18] RAPA has again moved to dismiss

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[11] Order U-18-102(44)/U-19-020(39)/U-19-021(39), at 67.

[12] Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights, filed Oct. 30, 2020, in Dockets U-18-102/U-19-020/U-19-021.

[13] RAPA Motion to Dismiss at 2-4.

[14] Docket U-24-024: *In the Matter of the Petition Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower for Acknowledgment of Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*.

[15] RAPA Motion to Dismiss at 2-3.

[16] Chugach Electric Association, Inc.'s and Matanuska Electric Association, Inc.'s Joinder in Motion to Dismiss Regarding Surrender Term, dated October 24, 2024.

[17] U-24-024(8) at 28-29.

[18] MOA/AHP Request to Lift Condition at 7.

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based on its understanding of the Commission's orders on the MOA's surrender of EOC voting rights.

II. Argument

Chugach and MEA agree with RAPA that AHP's filing in this docket is premature due to the surrender term. In Order U-24-024(8), the Commission reiterated its prior decision that: (1) the MOA's surrender of voting rights on the EOC was a condition to its approval of AHP's CPCN, and (2) that such surrender was required to last as long as the minimum terms of such 35-year PPAs.[19] The PPAs are still in effect and therefore the minimum term of the surrender has not been satisfied. Chugach and MEA believe that the Commission has been clear on this point. Consequently, they again join RAPA's motion to dismiss because there is no reason to relitigate the fundamental question in this new docket.

AHP fails to provide reasonable justification for why the Commission should revisit the surrender requirement and its recent and clear prior decisions on this matter. First and foremost, the PPAs are still in effect and therefore the minimum term of the surrender has not been satisfied. Second, other circumstances have not materially changed with respect to the underlying basis for the surrender requirement. The relevant facts with respect to AHP's function, and with respect to its relationship with the Eklutna Project, remain very similar to those in existence immediately after the Chugach-ML&P transaction, and at the time of the Commission's Order No. U-24-024(8) last year: (1) AHP, unlike its predecessor in ML&P, is not operating as a ratepayer-serving utility; (2) even with the creation of two new staff roles, AHP still has minimal staff and no bench of utility expertise, and therefore has only limited "knowledge of prudent utility practice and the Railbelt electric generation and transmission system";[20] (3) AHP is responsible for only

[19] Order U-24-024(8) at 10, 21, 24 and 29.

[20] Order 39 at 66.

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19.05% percent of Eklutna Project costs despite its majority ownership stake; (5) AHP exists only to sell power generated by the Eklutna Project on a wholesale basis to Chugach and MEA via the two PPAs and bears significantly less responsibility, cost and risk associated with, the Eklutna Project.

Until the PPAs have otherwise expired or terminated, or the facts changed materially, there is simply no new justification for the Commission revisiting its recent prior decisions on this matter. The request from AHP in this docket is therefore premature.

III. Additional Comments in Opposition to Majority Vote Structure Reinstatement

If the Commission dismisses RAPA's motion and believes that AHP's request raises new issues and therefore necessitates further proceedings in this docket, Chugach and MEA want to be clear that AHP's request to reinstate the MOA's majority voting rights as requested in its initial filing is untenable. Chugach and MEA will fight it vigorously.

The Eklutna Project is an important part of both Chugach and MEA's generation portfolio. Under a reinstatement of the 1996 Manner of Acting majority vote framework for MOA, however, Chugach and MEA will no longer be able to determine how to operate and maintain the Eklutna Project in a manner consistent with prudent utility practice without AHP's agreement. Yet, Chugach and MEA will bear the vast majority of the costs and risks of such decisions (or lack of action). Specifically, Chugach bears **64.29%** of the costs of operations, maintenance, capital, and environmental costs of the Eklutna Project, and MEA bears **16.67%** of such costs[21] – together more than **80%** of the total costs of the Eklutna Project. Yet, under the MOA's requested result, Chugach and MEA would possess only 46.67% of the EOC voting rights and would, therefore, not be able to make any decisions individually or together with respect to the Eklutna Project without MOA agreement. The majority vote framework set forth in the 1996 Manner of Acting requiring

[21] MOA/AHP Request to Lift Condition at 3-4.

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majority owner approval for every decision only made sense and served the public interest when the majority owner was a large operating utility, proportional risk sharer, and majority cost contributor. This will not be the case for AHP for so long as the two PPAs are in effect.

IV. Conclusion

The Commission has clearly decided on the matter raised by AHP in this docket twice. Based on the facts before the Commission at the time of the ML&P acquisition in 2020 and again in Order U-24-024(8) last year – facts which are materially unchanged today – the Commission has held that AHP must maintain a surrender of EOC voting rights for the duration of the Eklutna PPA and MEA PPA. Those agreements are still in effect and this matter is therefore premature. To the extent that the Commission chooses to reopen this matter, Chugach and MEA oppose reinstatement of MOA's majority voting rights.

RESPECTFULLY SUBMITTED this 22nd day of August, 2025.

By: /s/ Todd G. Glass
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STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

John M. Espindola, Chairman
Steven DeVries
Mark A. Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the Application Filed by the Municipality of Anchorage d/b/a Anchorage Hydropower to Amend Its Certificate of Public Convenience and Necessity No. 780	U-25-025

CHUGACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S JOINT PETITION TO INTERVENE

Pursuant to 3 AAC 48.110, Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association Inc. ("MEA"), by and through their counsel, file this petition to intervene as parties in the above referenced proceeding.

On July 30, 2025, the Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") filed a request that the Regulatory Commission of Alaska ("Commission") lift the condition on AHP's Certificate of Public Convenience and Necessity No. 780 ("CPCN"), requiring AHP to surrender its voting rights on the Eklutna Operating Committee ("EOC"), and also included an alternative application to amend its CPCN and acknowledge that it has acquired the expertise required to participate as a voting member of the EOC (the "MOA Request to Lift Condition"). Notably, the EOC makes management decisions for the Eklutna Hydroelectric Project (the "Eklutna Project"), jointly owned by Chugach, MEA and the MOA, including oversight of major maintenance and operations (power plant and switchyard) and dam safety and inspections, preparation of the annual project budget, reliability and scheduling occurrences, project status reports, monthly revenue reports and energy usage

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among members, and notifications related to factors that limit energy or capacity, such as reservoir levels and transmission constraints.

I. DISCUSSION

The Commission's regulations allow intervention whenever it "will be conducive to the ends of justice and will not unduly delay the conduct of the proceeding." 3 AAC 48.110(a). When considering a petition to intervene, the Commission considers seven factors. Each of those factors is discussed below.

1) The nature of the petitioner's right under statute to be made a party to the proceeding.

Chugach and MEA are not aware of a specific statutory basis for it to be made a party to this docket, but they were active parties in dockets previously before the Commission that dealt substantively with the same topic (the MOA's EOC voting rights): Dockets U-18-102/U-19-020/U-19-021 (Chugach's acquisition most of MOA's Municipal Power & Light's assets) and U-24-024 (MOA's Petition for Acknowledgement of Acquisition of Expertise Required to Participate as Voting Member in EOC). Chugach and MEA are also parties in the appeal of the Commission's U-24-024(8) in *AHP v. Regulatory Commission of Alaska*, 3AN-24-10554CI. Accordingly, Chugach and MEA have due process rights to participate in this proceeding.

2) The nature and extent of the property, financial, or other interest of the petitioner.

As the Commission has recognized in previous dockets dealing with the same matter, Chugach and MEA each have substantial property and financial interests that may be impacted by the outcome of this proceeding. As mentioned above, Chugach, MEA and the MOA jointly own the Eklutna Project. Specifically, Chugach owns a 30% in interest and MEA owns a 16.67% interest. Additionally, pursuant to long term power purchase agreements with MOA, Chugach and MEA purchase electricity from the MOA's portion of the Eklutna Project (collectively, the "Eklutna PPAs"). Pursuant to

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the Eklutna PPAs which re-allocate costs among the owners, Chugach is currently responsible for 64.29% of costs of Eklutna Project and MEA is responsible for 16.67%. The Commission recognized the interests and expertise of Chugach and MEA in U-24-024 and designated them as parties.[1]

3) The effect on petitioner's interest of the order which may be entered in the proceeding.

Chugach and MEA's interests in the Eklutna Project, its operations, and its costs could be significantly impacted by the Commission's decision on the merits in this docket. If the Commission restores MOA's voting rights on the EOC as requested by AHP, all EOC decisions – including decisions pertaining to the Eklutna Project budget, and decisions that ensure the Eklutna Project operates in a reliable, cost-effective manner, will require MOA approval, even though AHP is not a fully staffed operating public utility.[2] Chugach and MEA will no longer be able to determine how to operate and maintain the Eklutna Project in a manner consistent with prudent utility practice without AHP's agreement because the MOA will regain a majority voting right over all EOC

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[1] The Eklutna Project is an integral part of the generation and transmission system providing electric public utility service to consumers in the Municipality of Anchorage and the Matanuska-Susitna Borough. Chugach and MEA are the certificated public utilities with responsibility for providing safe and reliable electric utility services to these consumers. Chugach and MEA are also part-owners of the Eklutna Project and members of the EOC who will have to work directly with AHP if we reinstate AHP's voting rights on the EOC. Additionally, we relied on the expertise of Chugach in determining that we needed to condition the Municipality's continued ownership of an interest in the Eklutna Project on surrender of its EOC voting rights.

Therefore, we designate Chugach and MEA as parties, subject to filing a notice of non-participation, and anticipate being informed by their expertise on the question of whether AHP has acquired the expertise required to fully participate as a voting member of the EOC.

U-24-024(1), at 4-5 (footnotes omitted).

[2] *See* Order No. U-24-024(8), at 2.

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decisions. Yet, Chugach and MEA together will bear over 80% costs associated with such decisions (or lack of action) and such decisions will be relevant to numerous of Chugach and MEA's contractual and operational obligations.

4) The availability of other means by which the petitioner's interest may be protected.

There are no other means through which Chugach and MEA can protect their interests in ensuring a qualified and well-functioning EOC. Chugach and MEA are the only other owners of the Eklutna Project and have significant financial and contractual interests relevant to this proceeding that can only be represented through participation in this proceeding.

5) The extent to which petitioner's interest will be represented by existing parties.

Other than MOA, Chugach and MEA are the only entities that are responsible for Eklutna Project costs and that have actual operational knowledge and expertise regarding the Eklutna Project's operations and maintenance. There is no other party that is currently, or could, represent this interest.

6) The extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, including the issues that petitioner intends to address in the proceeding.

Chugach and MEA currently operate the Eklutna Project in a manner consistent with prudent utility practices and are the only current voting members of the EOC at this time. They are therefore uniquely situated to assist the Commission in developing a sound record and in reaching a reasoned decision regarding MOA's request for the reinstatement of its voting rights, considering all the pertinent factors. If permitted to intervene, Chugach and MEA will address issues necessary for a full evaluation of the MOA Request to Lift Condition, including to provide expertise on the Eklutna Project and the functioning and qualifications needed to participate on the EOC.

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7) The extent to which participation of the petitioner will broaden the issue or delay the proceeding.

MEA and Chugach's participation in this docket will not unduly broaden or delay the proceeding. MEA and Chugach intend to address only those issues that are relevant to the Commission's evaluation of the MOA Request to Lift Condition.

II. CONCLUSION

Based on the foregoing, Chugach and MEA satisfy the factors for intervention, and their participation in this proceeding will be "conducive to the ends of justice and will not unduly delay the conduct of the proceeding."[3] Chugach and MEA respectfully request the Commission grant its petition to intervene.

RESPECTFULLY SUBMITTED this 22nd day of August, 2025.

By: /s/ Todd G. Glass
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[3] 3 AAC 48.110(a).

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CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2025, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chair
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John C. Springsteen

In the Matter of the Application Filed by MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER to Amend Its Certificate of Public Convenience and Necessity No. 780	U-25-025

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S OPPOSITION TO THE OFFICE OF THE ATTORNEY GENERAL'S MOTION TO DISMISS

The Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") opposes the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section's ("RAPA's") Motion to Dismiss ("Motion"), filed on August 8, 2025. Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA") filed a Joinder in Motion to Dismiss ("Joinder") on August 22, 2025. RAPA, Chugach, and MEA argue that AHP's Request to Lift Condition Requiring the Surrender of Voting Rights from Certificate of Public Convenience No. 780; and Alternative Application to Amend Certificate of Public Convenience and Necessity No. 780 ("Request/Application") is premature because the Regulatory Commission of Alaska ("Commission"), in Order No. U-24-024(8),[1] prohibited AHP from requesting the condition be lifted until the minimum surrender term is closer to expiring.[2]

[1] Order No. U-24-024(8) (Nov. 11, 2024) ("Order No. 8").

[2] *See* Motion at 7. *See also* Joinder at 5.

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RAPA's Motion appears to seek dismissal in order to avoid expending resources reviewing and litigating the merits of AHP's Request/Application if the Commission will ultimately deny, without adjudicating the merits, any request to lift AHP's EOC voting rights surrender prior to the end of the terms of Chugach and MEA PPAs.[3] However, the Commission's holding in Order No. 8 does not preclude or limit AHP's ability to request a finding of good cause to modify or lift the minimum surrender term. RAPA's Motion should be denied because it is based on an incorrect interpretation of the Commission's Order No. 8.

I. BACKGROUND.

In 2019, Chugach filed a petition with the Commission seeking approval to acquire all service obligations and most assets of the MOA d/b/a Municipal Light & Power ("ML&P") (the "Acquisition").[4] As part of the same transaction, ML&P filed an application to amend its CPCN, deleting the current service territory and adding the Eklutna Hydroelectric Project plant site.[5] The Commission approved the Acquisition in Order Nos. U-18-102(44)/ U-19-020(39)/ U-19-021(39) ("Order No. 39") subject to conditions. The Commission also granted the MOA d/b/a AHP[6] a new CPCN to "provide wholesale public electric utility service through its ownership share of the Eklutna Project" subject to conditions, which included the MOA's surrender of its voting

[3] *See generally* Motion at 5-7.

[4] Petition for Approvals Needed to Acquire Anchorage Municipal Light and Power and Application to Amend Certificate of Public Convenience and Necessity No. 8 (Apr. 1, 2019).

[5] Application of the Municipality of Anchorage d/b/a Municipal Light and Power to Amend Certificate of Public Convenience and Necessity No. 121 and to Terminate Dividend Restriction (Apr. 5, 2019).

[6] In Order No. 39, the Commission referred to the post-transaction electric utility owned by the MOA as Municipal Hydro Power ("MHP") and not AHP.

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rights on the EOC.[7] The Commission stated that the surrender "must have a term at least equal to the term of the Eklutna [Power Purchase Agreement ("PPA")] and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to [the Commission's] satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC."[8] On October 30, 2020, the MOA filed notice with the Commission of its October 27, 2020, Surrender of Eklutna Operating Committee Voting Rights.[9]

On July 18, 2024, AHP filed a Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee ("Request for Acknowledgment"). At the prehearing conference held on August 30, 2024, the Administrative Law Judge requested briefing "on the minimum term of the EOC voting rights surrender required by [Order No. 39]."[10] AHP, Chugach and MEA, and RAPA filed briefs.[11] The Commission found that AHP's Request for Acknowledgement was premature and "AHP's voting rights on the EOC are surrendered for at least the term of the Eklutna PPA and the MEA PPA."[12] The Commission also declined to consider AHP's alternative request to "construe [AHP's] Notice and Request to be an application to amend

[7] Order No. 39 at 67, 147.

[8] *Id*. at 67.

[9] Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights (Oct. 30, 2020).

[10] Order No. 8 at 7 (citing Tr. 17-18).

[11] *See id*. at 7-8.

[12] *Id.* at 28.

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its certificate conditions if we find that the minimum term of EOC voting rights surrender . . . is enforceable."[13]

The Commission explained that it was declining to entertain the request to amend the certificate conditions, not because the minimum term had not yet expired, but because "there is too little time for us and the parties to address amendment of AHP's certificate in this docket," noting that there were then approximately 60 days remaining to issue a final decision and the Commission usually takes 180 days to adjudicate requests to amend certificates. The Commission then "provided AHP with guidance on future filings seeking relief from the minimum term of EOC voting rights surrender."[14] The Commission summarized its decision in Order 39: "We required ML&P to surrender its EOC voting rights because it had no person qualified to sit in EOC meetings and understand the discussion, and because ML&P was proposing no definitive support team for their EOC representative."[15] The Commission then concluded:

> We denied AHP's motion for expedited consideration of its Notice and Request because AHP had failed to adequately support its request or reinstatement of its EOC voting rights. Upon initial review of AHP's filings in this docket we could see no way of moving forward without taking the time for prefiled testimony, discovery, holding a hearing to gather the information necessary to determine if AHP had acquired the expertise required to fully participate as a voting member of the EOC. We believe that efficient resolution of future filings on this issue by AHP will be more likely if AHP provides adequate information in its initial filing.[16]

[13] *Id.* at 31.

[14] *Id.* at 31-32.

[15] *Id.* at 33.

[16] *Id.* at 34-35 (emphasis added).

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II. DISCUSSION.

A. RAPA's Motion is based on an incorrect interpretation of Order No. 8.

RAPA claims Order No. 8 "shows that there is a minimum time period for the surrender of voting rights and when the MOA makes a future filing . . . that filing should be made close to the time the PPAs expire."[17] To support its claim, RAPA relies solely on a ***single sentence*** in Order No. 8, where the Commission dismissed AHP's Notice and Request for Acknowledgement "without prejudice to refiling closer to the time that Eklutna PPA and the MEA PPA will expire."[18]

First, this sentence referred only to AHP's filing of a notice and request for acknowledgment that it had satisfied the applicable requirements, not a request to lift a condition or an application to amend AHP's CPCN.[19] Here, AHP has filed such a request and application. Order No. 8 expressly contemplated that an application to amend AHP's CPCN to remove the minimum term would be appropriate at any time during the minimum term provided that such application includes the necessary information regarding AHP's ability to participate on the EOC.[20]

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[17] Motion at 6-7.

[18] *Id.* at 6 (quoting Order No. 8 at 29).

[19] *See* Order No. 8 at 31 ("[W]e have not construed AHP's Notice and Request to be an application to amend its certificate or otherwise granted AHP the relief it has requested in this proceeding.").

[20] *See id.* (declining to consider AHP's alternative application to amend the CPCN to remove the minimum term requirement, not because the term was not yet over, but because "there [wa]s too little time" left in that docket to complete a 180-day CPCN amendment process).

Second, the Commission "provide[d] AHP with guidance on future filings ***seeking relief from the minimum term of EOC voting rights surrender***."[21] If Order No. 8 forever precludes AHP from seeking "relief from the minimum term" until ***after*** the minimum term has ended (or shortly before), as RAPA, Chugach, and MEA suggest, the Commission's guidance would be gratuitous and superfluous. There is no reasonable reading of Order No. 8 that requires AHP to wait to seek "relief from the minimum term" until after the minimum term has expired.

Third, even if the Commission in Order No. 8 had decided that the "surrender was required to last as long as the minimum terms of such 35-year PPAs,"[22] and that no request to revise that condition could be entertained until the end of those terms, regardless of the merits of doing so, this Commission can modify the minimum term for good cause shown.[23] Granting RAPA's Motion would deny AHP the procedural opportunity to show good cause to modify or lift the minimum surrender term, before even assessing whether such good cause exists. It would also incorrectly imply that a present Commission is bound by prior Commissions' rulings, even if the present Commission finds good cause to modify or deviate from the prior ruling.

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[21] *Id.* (emphasis added). *See also id.* at 34 ("In addition to addressing the minimum term of EOC voting rights surrender issue, we suggest that in future filings seeking reinstatement of EOC voting rights AHP provide the information to show that it can bring to EOC meetings a depth and breadth of technical and managerial experience at least comparable to the level of expertise that MEA and Chugach bring to those meetings.").

[22] Joinder at 5.

[23] *See* AS 45.05.241 and AS 42.05.271(1).

B. Chugach and MEA's Joinder addresses the merits of AHP's Request/Application, not whether Order No. 8 precludes Commission consideration of such a Request/Application.

Chugach and MEA argue that "[u]ntil the PPAs have otherwise expired or terminated, or the facts changed materially, there is simply no new justification for the Commission revising its recent prior decision on this matter."[24] However, whether facts changed materially goes to the merits of AHP's Application/Request, not whether Order No. 8 precludes AHP from filing its Application/Request in the first place. Chugach and MEA also ignore the Commission's ability to modify or vacate the minimum surrender term. For these reasons, the Commission is justified in revisiting its prior decisions relating to AHP's voting rights on the EOC. To the extent Chugach and MEA included additional comments about AHP's Application/Request, AHP again notes that these comments go to the merits of AHP's Application/Request and are not pertinent to RAPA's Motion.

Chugach and MEA appear to primarily complain that, in their view, the contracts "allocating" voting rights on the EOC would give AHP too much voting power if AHP regains its vote.[25] Chugach and MEA apparently would prefer that they have more voting power and that AHP have less voting power, or none at all, despite AHP having to pay significant project costs that it currently has no voting ability to affect.[26] Chugach and MEA's preference to have unearned

[24] Joinder at 6.

[25] *Id.* at 6-7.

[26] *Id.* at 6 (admitting that the cost allocation provisions of the existing PPAs assign AHP with the responsibility to pay over 19% of all project costs).

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sole control of property that they do not solely own is not a proper basis on which to object to AHP even having an opportunity to show good cause to restore its vote on the EOC.

In negotiating the ML&P acquisition, Chugach deliberately chose to ***not*** purchase ML&P's ownership share of, or corresponding voting interest in, the Eklutna Hydroelectric Project.[27] Neither Chugach nor MEA can now reasonably expect this Commission to unilaterally (and without compensation to AHP) alter the private bargain they knowingly struck. The voting rules governing the EOC are set by contract among Chugach, MEA, and AHP. AHP is open to a reasonable negotiated solution that could revise the terms of those voting rules by mutual agreement of the parties, and AHP would welcome serious engagement by the other parties in reaching such an agreement if they have a good faith desire to do so. But, until such a negotiated agreement is reached, AHP is entitled under the existing contracts to its full voting share if the restriction the Commission imposed is lifted.

Ultimately, however, Chugach and MEA's preference to have more voting power on the EOC than they are currently contractually entitled to is irrelevant to the question posed in RAPA's Motion. That motion addresses only whether the Commission in Order No. 8 purported to require AHP to wait until ***after the end*** of the minimum term to even "seek[] relief from the minimum term."[28] Because the answer to that question is, and must be, no, the Motion should be denied, and this docket should swiftly proceed to the merits of AHP's Request/Application.

[27] *See* Order No. 8 at 25.

[28] *Id.* at 31.

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III. CONCLUSION.

For the reasons set forth above, RAPA's Motion should be denied.

RESPECTFULLY SUBMITTED this 25th day of August, 2025, at Anchorage, Alaska.

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RECEIVED
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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steven D. DeVries
Mark A. Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the Application Filed by Municipality of Anchorage d/b/a Anchorage Hydropower to Amend Its Certificate of Public Convenience and Necessity No. 780	)))))	U-25-025

OFFICE OF THE ATTORNEY GENERAL'S REPLY TO OPPOSITION TO MOTION TO DISMISS

The Office of the Attorney General, Regulatory Affairs & Public Advocacy Section (RAPA) replies to the Municipality of Anchorage d/b/a Anchorage Hydropower's (MOA/AHP) opposition to RAPA's motion to dismiss.

In Order U-18-102(44)/U-19-020(39)/U-19-021(39) (Order 39), the Regulatory Commission of Alaska (Commission) required a minimum term for the voting rights surrender by MOA/AHP. Order U-24-024(8) (Order 8) interpreted Order 39 and confirmed the minimum term for the voting rights surrender: "In its briefing, AHP has not shown good cause for modifying or interpreting this certificate condition in a manner that nullifies the minimum term of EOC voting rights surrender specified in Order U-18-102(44)."[1]

[1] Order U-24-024(8) at 28.

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RAPA's motion to dismiss is simple. Order 39 contained a minimum term for the EOC voting rights surrender. Order 8 interpreted Order 39 and confirmed the voting rights surrender minimum term. The minimum voting rights surrender term in Order 39 has not been nullified. The Commission, MOA/AHP, RAPA, and any intervenors should not have to expend scarce resources (that are ultimately funded by ratepayers) if the minimum term has not expired or is not about to expire.

RAPA's motion to dismiss should be granted.

DATED August 28, 2025, at Anchorage, Alaska.

TREG TAYLOR
ATTORNEY GENERAL

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I hereby certify that on August 28, 2025, a true and correct copy of the **Office of the Attorney General's Reply to Opposition to Motion to Dismiss** was served via e-mail on the following:

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chair
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In the Matter of the Request Filed by the MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER to Lift a Condition from Certificate of Public Convenience and Necessity No. 780 and Alternate Application to Amend Certificate of Public Convenience and Necessity No. 780	U-25-025 ORDER NO. 1

ORDER GRANTING JOINT PETITION TO INTERVENE, ADDRESSING TIMELINE FOR DECISION, DESIGNATING COMMISSION PANEL, AND APPOINTING ADMINISTRATIVE LAW JUDGE

BY THE COMMISSION:

Summary

We grant the joint petition to intervene filed by Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA). We address a timeline for a final decision. The chair designates a Commission Panel and a Commission Docket Manager and appoints an administrative law judge.

Background

On July 30, 2025, the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP) filed a request to lift a condition requiring the surrender of its voting rights on the Eklutna Operating Committee (EOC) from Certificate of Public Convenience and Necessity (certificate) No. 780. In the alternative, AHP requests to amend Certificate

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No. 780 to lift the condition requiring surrender of its voting rights on the EOC.[1] On August 20, 2025, AHP supplemented its Application.[2]

On August 6, 2025, we issued public notice of the Application with comments due by August 27, 2025. No comments were filed.

On August 8, 2025, the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA) filed a notice of election to participate in this proceeding and a motion to dismiss.[3] On August 22, 2025, Chugach and MEA filed a joint petition to intervene.[4] Chugach and MEA filed a joinder in the Motion to Dismiss.[5] AHP filed an opposition to the Motion to Dismiss.[6] RAPA filed a reply to the Opposition to Motion to Dismiss.[7]

[1] *Municipality of Anchorage d/b/a Anchorage Hydropower's Request to Lift Condition Requiring the Surrender of Voting Rights from Certificate of Public Convenience and Necessity No. 780; and Alternative Application to Amend Certificate of Public Convenience and Necessity No. 780*, filed July 30, 2025 (Application).

[2] Correspondence from D. Thompson, filed August 20, 2025.

[3] *Notice of Election to Participate*, filed August 8, 2025; *Office of the Attorney General's Motion to Dismiss*, filed August 8, 2025 (Motion to Dismiss).

[4] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Petition to Intervene*, filed August 22, 2025 (Joint Petition to Intervene).

[5] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc's Joinder in Motion to Dismiss*, filed August 22, 2025.

[6] *Municipality of Anchorage D/B/A Anchorage Hydropower's Opposition to the Office of the Attorney General's Motion to Dismiss*, filed August 25, 2025 (Opposition to Motion to Dismiss).

[7] *Office of the Attorney General's Reply to Opposition to Motion to Dismiss*, filed August 28, 2025.

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Discussion

Petition to Intervene

Petitions to intervene are reviewed under 3 AAC 48.110. A person with a statutory right to be made a party to a proceeding will be permitted to intervene. Further, we have the discretion to permit intervention by any person whose participation will be conducive to the ends of justice and will not unduly delay the conduct of this proceeding.[8] A person wishing to intervene is required to file a petition setting out the facts and reasons why that person should be granted permission to intervene and should make specific reference to the factors identified in 3 AAC 48.110(b).[9]

When considering a petition to intervene, the following factors, among others, will be considered:

(1) the nature of the petitioner's right under statute to be made a party to the proceeding;

(2) the nature and extent of the property, financial, or other interest of the petitioner;

(3) the effect on petitioner's interest of the order which may be entered in the proceeding;

(4) the availability of other means by which the petitioner's interest may be protected;

(5) the extent to which petitioner's interest will be represented by existing parties;

(6) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, including the issues that petitioner intends to address in the proceeding; and

(7) the extent to which participation of the petitioner will broaden the issue or delay the proceeding.[10]

[8] 3 AAC 48.110(a).

[9] 3 AAC 48.110(c).

[10] 3 AAC 48.110(b).

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The Application is in relation to the surrender of AHP's voting rights on the EOC.[11] Chugach and MEA are members of the EOC.[12] AHP did not file an opposition to the Joint Petition to Intervene. We find that the relief sought by AHP in the Application would impact the property and financial interests of Chugach and MEA and their participation will assist in the development of a sound record in this proceeding. We find that intervention by Chugach and MEA is conducive to the ends of justice and will not unduly delay the conduct of this proceeding. We therefore grant the Joint Petition to Intervene.

Decision Timeline

In adjudicated docket matters that come before us under state or federal law and are not subject to a timeline under federal law or AS 42.05.175(a)–(e), we are required by AS 42.05.175(i) to issue a final decision not later than 180 days after the filing of an initiating petition. We are required by AS 42.05.175(a)(2) to issue a final order regarding an application to amend a certificate not later than 180 days after a complete application is filed.

In the Application, AHP requests to vacate the condition requiring surrender of voting rights on the EOC and in the alternative asks that we construe its request as an application to amend Certificate No. 780.[13] AHP's request to vacate the condition requiring surrender of voting rights on the EOC is not subject to a timeline under federal law or AS 42.05.175(a)–(e). Based on the July 30, 2025, filing date of Application the resulting timeline for a final decision required by AS 42.05.175(i) would be January 26, 2026. However, AHP's alternative request to amend Certificate No. 780 is subject to the timeline imposed by AS 42.05.175(a)(2). We reviewed the Application for completeness

[11]Application at 1.

[12]Application at 2-3.

[13]Application at 1, 17.

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under 3 AAC 48.648, and found that the Application is complete as supplemented on August 20, 2025, and that the resulting timeline for a final decision required by AS 42.05.175(a)(2) would be February 16, 2026. Pursuant to AS 42.05.175(k) if a single proceeding implicates more than one timeline the latest applicable deadline for the issuance of a final order shall apply. Therefore, the corresponding timeline for a final order in this proceeding is February 16, 2026.[14]

Commission Panel

The chair designates Commissioners Steve DeVries, Mark Johnston, Robert M. Pickett, John C. Springsteen, and himself as the Commission Panel and further designates Commissioner Springsteen as the Commission Docket Manager.[15]

Administrative Law Judge

Under AS 42.04.070(b), the chair appoints Administrative Law Judge Patrick S. Sheridan to facilitate conduct of the docket. Orders issued by the administrative law judge will be considered orders of the Commission for purposes of petitions for reconsideration under AS 42.05.171.

ORDER

THE COMMISSION FURTHER ORDERS:

1. *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Petition to Intervene*, filed August 22, 2025, is granted.

2. Commissioners Steve DeVries, John M. Espindola, Mark Johnston, Robert M. Pickett, and John C. Springsteen are designated as the Commission Panel.

[14]Since February 16, 2026, is President's Day, we will issue an order by Friday, February 13, 2026.

[15]Under AS 42.04.080(a), the chair designates a Commission Panel to hear, or, if a hearing is not required, to otherwise consider and decide docketed matters.

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3. Commissioner John C. Springsteen is designated as the Commission Docket Manager.

4. Patrick S. Sheridan is appointed as the administrative law judge.

DATED AND EFFECTIVE at Anchorage, Alaska, this 29th day of September, 2025.

BY DIRECTION OF THE COMMISSION

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellant, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	**Case No. 3AN-24-10554CI** RCA Docket No. U-24-024

AFFIDAVIT OF DEAN D. THOMPSON IN SUPPORT OF APPELLANT'S UNOPPOSED MOTION TO EXTEND STAY OF PROCEEDINGS

STATE OF ALASKA)
) :ss
THIRD JUDICIAL DISTRICT)

Dean D. Thompson, after first being duly sworn upon oath, deposes and states as follows:

1. I am an attorney at Kemppel, Huffman and Ellis, P.C., and am counsel for the Municipality of Anchorage d/b/a Anchorage Hydropower ("AHP") in the above-captioned case.

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2. AHP and Appellees Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc.'s ("MEA's") negotiations regarding an agreement that could result in the dismissal of AHP's appeal are ongoing.

3. On September 29, 2025, I conferred with counsel for all of the other parties in this matter—Chugach; MEA; the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section; and the Regulatory Commission of Alaska—regarding AHP's request to extend the current stay of the proceedings until January 1, 2026. Counsel for the parties authorized me to represent that their clients do not oppose AHP's Motion to Extend Stay of Proceedings.

DATED this 30th day of September, 2025, at Anchorage, Alaska.

Dean D. Thompson

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

SUBSCRIBED AND SWORN to before me this 30th day of September, 2025, at Anchorage, Alaska, by Dean D. Thompson.

Notary Public in and for the State of Alaska
My Commission Expires: 4/16/2029

BECKI ALVEY
Notary Public
State of Alaska
My Commission Expires Apr 16, 2029

AFFIDAVIT OF DEAN D. THOMPSON IN SUPPORT OF APPELLANT'S UNOPPOSED MOTION TO EXTEND STAY OF PROCEEDINGS
AHP v. RCA et al.
September 30, 2025

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellants, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	**Case No. 3AN-24-10554CI** RCA Docket No. U-24-024

[PROPOSED] ORDER EXTENDING STAY OF PROCEEDINGS

The September 30, 2025, unopposed motion by Municipality of Anchorage d/b/a Anchorage Hydropower ("AHP") to extend the current stay of proceedings is **GRANTED**. The appeal is stayed until January 1, 2026, after which this Court will issue a revised briefing schedule with AHP's opening brief due 30 days from the issuance of the revised briefing schedule. The appropriate parties shall promptly file an agreement or motion to dismiss this appeal under Appellate Rule 511 if those parties reach an agreement that results in dismissal of this appeal.

IT IS SO ORDERED.

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DATED at Anchorage, Alaska this _____ day of _____, 2025.

_____
Hon. Kevin M. Saxby
Superior Court Judge

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellant, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	**Case No. 3AN-24-10554CI** RCA Docket No. U-24-024

APPELLANT'S UNOPPOSED MOTION TO EXTEND STAY OF PROCEEDINGS

Appellant Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP"), by and through its undersigned counsel, hereby requests that the Court extend the current stay of the proceedings in this appeal until January 1, 2026.

On January 8, 2025, this Court issued its Notice Setting Appeal Procedure in the above-captioned case requiring that AHP's Appellant's brief and excerpt of record be filed by February 7, 2025. On March 6, 2025, AHP filed an unopposed motion to vacate the briefing schedule and stay the proceedings because AHP and Appellees Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA") had been engaged in negotiations of an agreement that could result in the dismissal of

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AHP's appeal. On March 20, 2025, the Court issued an order vacating the briefing schedule and staying the proceedings until July 1, 2025. On July 1, 2025, AHP filed an unopposed motion to extend the stay because AHP, Chugach, and MEA's negotiations of an agreement were ongoing. On July 8, 2025, the Court issued an order extending the stay until October 1, 2025.

AHP, Chugach, and MEA's negotiations are ongoing, and if successful, will result in dismissal of this appeal.[1] In order to avoid unnecessary briefing and expenditure of time and resources by the parties, and pursuant to Appellate Rule 503(a), AHP requests that the Court issue an order extending the current stay of the proceedings in this appeal to January 1, 2026 (92 days), after which a revised briefing schedule will be issued with Appellant's opening brief due 30 days from the issuance of the revised briefing schedule. If the parties reach an agreement that results in dismissal of this appeal, the appropriate parties will promptly file an agreement or motion to dismiss this appeal under Appellate Rule 511. Counsel for AHP has conferred with counsel for the other parties, and no party opposes this motion.[2]

RESPECTFULLY SUBMITTED this 30th day of September, 2025, at Anchorage, Alaska.

//

[1] September 30, 2025, Affidavit of Dean D. Thompson at ¶ 2.

[2] *Id.* at ¶ 3.

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KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chair
Steve DeVries
Mark Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the Request Filed by the MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER to Lift a Condition from Certificate of Public Convenience and Necessity No. 780 and Alternate Application to Amend Certificate of Public Convenience and Necessity No. 780	U-25-025 ORDER NO. 2

ORDER GRANTING MOTION TO DISMISS AND CLOSING DOCKET

BY THE COMMISSION:

Summary

We grant the motion to dismiss filed by the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA). We close this docket.

Background

On July 30, 2025, the Municipality of Anchorage (MOA) d/b/a Anchorage Hydropower (AHP) filed a request to lift a condition requiring the surrender of its voting rights on the Eklutna Operating Committee (EOC) from Certificate of Public Convenience and Necessity (certificate) No. 780. In the alternative, AHP requests to amend Certificate

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No. 780 to lift the condition requiring surrender of its voting rights on the EOC.[1] On August 20, 2025, AHP supplemented its Application.[2]

On August 6, 2025, we issued public notice of the Application with comments due by August 27, 2025. No comments were filed.

On August 8, 2025, RAPA filed a notice of election to participate in this proceeding and a motion to dismiss.[3] On August 22, 2025, Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA), filed a joint petition to intervene, which we granted.[4] Chugach and MEA filed a joinder in the Motion to Dismiss.[5] AHP filed an opposition to the Motion to Dismiss.[6] RAPA filed a reply to the Opposition to Motion to Dismiss.[7]

[1] *Municipality of Anchorage d/b/a Anchorage Hydropower's Request to Lift Condition Requiring the Surrender of Voting Rights from Certificate of Public Convenience and Necessity No. 780; and Alternative Application to Amend Certificate of Public Convenience and Necessity No. 780*, filed July 30, 2025 (Application).

[2] Correspondence from D. Thompson, filed August 20, 2025.

[3] *Notice of Election to Participate*, filed August 8, 2025; *Office of the Attorney General's Motion to Dismiss*, filed August 8, 2025 (Motion to Dismiss).

[4] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Petition to Intervene*, filed August 22, 2025; Order U-25-025(1), *Order Granting Joint Petition to Intervene, Addressing Timeline for Decision, Designating Commission Panel, and Appointing Administrative Law Judge,* dated September 29, 2025.

[5] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joinder in Motion to Dismiss*, filed August 22, 2025 (Chugach and MEA Joinder in Motion to Dismiss).

[6] *Municipality of Anchorage D/B/A Anchorage Hydropower's Opposition to the Office of the Attorney General's Motion to Dismiss*, filed August 25, 2025 (Opposition to Motion to Dismiss).

[7] *Office of the Attorney General's Reply to Opposition to Motion to Dismiss*, filed August 28, 2025 (RAPA Reply).

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Discussion

In Order U-18-102(44),[8] we described the Eklutna Hydroelectric Project (Eklutna Project) as follows:

> The Eklutna Project was built and operated by the federal government pursuant to the Eklutna Power Act of 1950. In 1995, Congress authorized sale of the Eklutna Project to [the Municipality of Anchorage d/b/a Municipal Light & Power Department (ML&P)], Chugach, and MEA under the terms of the 1989 Eklutna Purchase Agreement. Under this agreement, the three utilities received an undivided interest in all of the Eklutna Project, water rights, generation plant and the transmission assets interconnecting the Eklutna Project with ML&P, Chugach, and MEA. ML&P obtained a 53.33% ownership interest, Chugach obtained a 30% ownership interest, and MEA obtained a 16.67% interest in the Eklutna Project. Eklutna Project energy, capacity, and costs are to be allocated based on these ownership interests. ML&P and Chugach assert that the Eklutna Project currently has a maximum capacity of 39 MW.
>
> The three utilities created the Eklutna Operating Committee (EOC) to make all management decisions related to operation, maintenance, and budgeting for the Eklutna Project. ML&P, Chugach, and MEA each have a representative on the EOC. Decisions by the EOC are made based upon a double majority consisting of affirmative votes by at least two of the three utilities whose ownership shares total at least 51% of the Eklutna Project ownership. Effectively, management of the Eklutna Project is limited to actions approved by ML&P and at least one of Chugach or MEA.[9]

Chugach filed a petition seeking our approval of its acquisition of all service obligations and most assets of ML&P, and an application to amend its certificate to reflect the new service obligations.[10] Under the terms of this acquisition, Chugach would offer

[8]Order U-18-102(44)/U-19-020(39)/U-19-021(39), *Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third Party Sales Gas Pricing; and Requiring Filings*, dated May 28, 2020 (Order U-18-102(44)), as corrected by *Errata Notice to Order U-18-102(44)/U-19-020(39)/U-19-021(39),* dated June 5, 2020, and December 22, 2020.

[9]Order U-18-102(44) at 60-61 (footnotes omitted).

[10]*Petition for Approvals Needed to Acquire Anchorage Municipal Light and Power and Application to Amend Certificate of Public Convenience and Necessity No. 8*, filed April 1, 2019 (Petition for Approvals), in Docket U-19-020.

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employment to all ML&P employees, and the MOA would retain no ML&P employees.[11] Under this acquisition, Chugach was not purchasing ML&P's interest in the Eklutna Project, but was acquiring a portion of ML&P's share of cost responsibilities and output from the Eklutna Project for a 35 year period.[12] As part of this same transaction, ML&P filed an application to amend its certificate to delete its service territory and add the Eklutna Project site as its new service territory.[13]

On May 28, 2020, we approved Chugach's acquisition of most of the assets and service obligations of ML&P, subject to conditions.[14] One of these conditions required ML&P to surrender its voting rights on the EOC prior to the effective date of the agreements under which ML&P's successor[15] would be providing part of its share of the Eklutna Project output to Chugach (the Eklutna Power Purchase Agreement (Eklutna PPA)) and selling the remainder of its share of the Eklutna Project output to MEA (the MEA PPA)(collectively, PPAs).[16] In compliance with this condition, ML&P surrendered its EOC voting rights effective October 30, 2019.[17]

[11] *Pre-filed Direct Testimony of Arthur W. Miller*, filed April 1, 2019, in Docket U-19-020, Exhibit AWM-03 at 67 (Section 6.05(a)); Docket U-19-020/U-19-021, Tr. 2708-2709.

[12] Petition for Approvals at 8.

[13] *Application of the Municipality of Anchorage d/b/a Municipal Light and Power to Amend Certificate of Public Convenience and Necessity No. 121 and to Terminate Dividend Restriction*, filed April 5, 2019, in Docket U-19-021 (ML&P Application).

[14] Order U-18-102(44).

[15] AHP operates as the successor of ML&P.

[16] Order U-18-102(44) at 65-67.

[17] *Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights*, filed October 30, 2020, in Dockets U-18-102, U-19-020, and U-19-021(Notice of Surrender).

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Almost five years after this surrender, AHP filed a notice and request seeking reinstatement of its EOC voting rights.[18] In this filing, AHP asserted that Anchorage Water and Wastewater (AWWU) General Manager Mark A. Corsentino (Corsentino) had been appointed to serve as AHP's Utility Director,[19] and that AWWU Engineering Director Mark Schimscheimer (Schimscheimer) would provide support to Corsentino.[20]

RAPA filed a motion to dismiss AHP's Docket U-24-024 Notice and Request.[21] We granted RAPA's Docket U-24-024 Motion to Dismiss, finding AHP's voting rights on the EOC are surrendered for at least the duration of the Eklutna PPA and the MEA PPA.[22] We concluded that in its briefing on the issue AHP had not shown good cause for modifying or interpreting the condition in a manner that nullifies the minimum term of surrender of EOC voting rights in Order U-18-102(44).[23] We found that the Eklutna PPA and the MEA PPA are both scheduled to expire on October 31, 2055.[24] We noted that both agreements contain provisions allowing for extension as well as early

[18]*Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*, filed July 18, 2024, in Docket U-24-024 (Docket U-24-024 Notice and Request).

[19]Docket U-24-024 Notice and Request at 3-4.

[20]Docket U-24-024 Notice and Request at 6-7.

[21]*Office of the Attorney General's Motion to Dismiss as Moot*, filed October 15, 2024, in Docket U-24-024 (Docket U-24-024 Motion to Dismiss).

[22]Order U-24-024(8), *Order Granting Motion to Dismiss in Part and Dismissing Notice and Request, Denying Motion to Dismiss in Part, Vacating Procedural Schedule, Denying Motion to Compel, Denying Request to Construe Notice and Request as Petition to Amend Certificate Condition, Providing Guidance for Future Filings, and Closing Docket*, dated November 14, 2024 (Order U-24-024(8)) at 28-29.

[23]Order U-24-024(8) at 28.

[24]Order U-24-024(8) at 29 (citations omitted).

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termination. We further noted that, at that time, no entity could predict when the terms of the Eklutna PPA and the MEA PPA would expire.[25]

We stated that we had reviewed the documents filed by AHP and found no commitment by Corsentino or Schimscheimer to remain employed by AHP until the expiration of the Eklutna PPA and the MEA PPA. We also stated that we had no way to evaluate what would be required to fully participate as a voting member of the EOC at that time. For these reasons, we granted the Docket U-24-024 Motion to Dismiss on the grounds that it was premature under the terms of Order U-18-102(44). This dismissal was without prejudice to refile closer to the time when the Eklutna PPA and the MEA PPA are expected to expire.[26]

AHP has now filed the Application requesting to lift the condition requiring the surrender of its voting rights on the EOC from Certificate No. 780, or in the alternative, to amend Certificate No. 780 to lift the condition requiring surrender of its voting rights on the EOC.[27] In the Application, AHP argues that we should lift the condition requiring the MOA to surrender its voting rights on the EOC because the objective of the condition has been met, as AHP has retained what it contends are qualified personnel and consultants to participate in the EOC.[28] AHP also argues that we should lift the conditions because the continued surrender of its voting rights on the EOC is not necessary to protect and promote the public interest, asserting that with the acquisition of qualified personnel to sit on the EOC, the condition is no longer needed to protect and promote the public interest.[29] AHP in the alternative presents an application to amend Certificate No. 780 to remove

[25]Order U-24-024(8) at 29.

[26]Order U-24-024(8) at 29.

[27]Application.

[28]Application at 8-15.

[29]Application at 15-16.

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the surrender requirement, arguing that AHP is and will continue to be fit, willing, and able to provide wholesale bulk power under the Eklutna PPA and the MEA PPA if the Application is approved.[30]

Standard of Review

The Commission looks to Alaska's Rules of Civil Procedure to determine the standard of review applicable to dispositive motions, and has previously explained:

> We look to Rule 56 of the Alaska Rules of Civil Procedure as a framework for reviewing motions for summary disposition. We have used summary disposition judiciously to simplify and focus issues and avoid unnecessary hearings. Under this approach, a party may move for a ruling on all or a portion of a case on the basis of the pleadings, depositions, answers to interrogatories, and admissions, together with affidavits. If there is no genuine issue as to any material fact, the party is entitled to judgment in its favor as a matter of law. Summary judgment may be rendered for or against the moving party. In deciding such motions, all reasonable inferences of fact must be against the moving party and in favor of the non-moving party. The burden of proof is on the moving party, and to prevail the non-moving party only needs to show the existence of material facts to be litigated.[31]

RAPA Motion to Dismiss

RAPA has filed the Motion to Dismiss seeking dismissal of the AHP's Application.[32] In the Motion to Dismiss, RAPA argues that AHP's requests made to either modify its certificate or modify the conditions of the certificate are premature.[33] RAPA states that AHP has not shown that the Eklutna PPA and the MEA PPA have expired, are about to expire, or that the current filing is close to the time the PPAs will expire.[34]

[30]Application at 17-25.

[31]Order U-06-056(4), *Order Granting Partial Summary Disposition*, dated October 17, 2006, at 3 (citations omitted); Order U-24-002(12), *Order Affirming Grant of Dismissal and Closing Docket*, dated August 21, 2024 (Order U-24-002(12)), at 3.

[32]Motion to Dismiss at 1.

[33]Motion to Dismiss at 4-5.

[34]Motion to Dismiss at 5.

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RAPA states that in Order U-18-102(44) we established several conditions applicable to the certificate issued to AHP, including that "before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project…." RAPA also states that we clarified "that the term of the MOA's voting rights surrender must be at least equal to the terms of the Eklutna PPA and the MEA PPA.[35]

RAPA states that in Order U-24-024(8) we confirmed the MOA's voting rights surrender had a minimum time period tied to the terms of the Eklutna PPA and the MEA PPA.[36] RAPA notes that in Order U-24-024(8) we provided guidance for future AHP filings, that in addition to addressing the minimum term of EOC voting rights surrender issue, AHP should provide the information to show that it can bring to EOC meetings a depth and breadth of technical and managerial expertise at least comparable to the level of expertise that MEA and Chugach bring to the meetings.[37] RAPA argues that this guidance does not "eviscerate" the minimum time period for the surrender of voting rights required in Order U-18-102(44) and confirmed in Order U-24-024(8). RAPA contends that the guidance instead explains what should be filed when a future filing is appropriate. RAPA states this is clarified when we discussed the dismissal of the Docket U-24-024 Notice and Request, pointing to our ruling that the dismissal was without prejudice for refiling closer to the time the Eklutna PPA and MEA PPA will expire.[38]

RAPA states that Order U-24-024(8) shows there is a minimum time period for the surrender of voting rights and when the MOA makes a filing for restoration of EOC

[35]Motion to Dismiss at 5 (citing U-18-102(44) at 67).

[36]Motion to Dismiss at 5-6.

[37]Motion to Dismiss at 6 (citing U-24-024(8) at 34).

[38]Motion to Dismiss at 6.

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voting rights it should be close to the time the PPAs expire. RAPA states that filing should include all of the information noted in the guidance in Order U-24-024(8).[39] RAPA states that AHP has not shown that its current filing is close to the time when the PPAs will expire and therefore the Application is premature and should be dismissed.[40]

Chugach and MEA Joinder in Motion to Dismiss

MEA and Chugach joined In RAPA's Motion to Dismiss. MEA and Chugach state that we have now considered and decided this matter twice and the matter should be dismissed. MEA and Chugach also state that if we proceed with further consideration of AHP's request, the reinstatement of those voting rights would result in AHP regaining majority voting rights on the EOC, despite AHP's much narrower involvement and economic stake in the Eklutna Project than its predecessor, ML&P.[41] MEA and Chugach state that given the current PPAs among the owners of the Eklutna Project and the utility expertise within the MOA and AHP, Chugach and MEA cannot support the reinstatement of the AHP's majority voting rights.[42]

MEA and Chugach agree with RAPA that AHP's filing in this docket is premature due to the surrender term. MEA and Chugach state that in Order U-24-024(8) we reiterated our prior decision that the surrender of voting rights on the EOC was a condition of our approval of AHP's certificate, and that the surrender was required to last as long at the minimum term of the PPAs. MEA and Chugach state that the PPAs are still in effect and therefore the minimum term of the surrender has not been satisfied. Chugach and MEA believe that we have been clear on this point, and consequently, they

[39]Motion to Dismiss at 6-7.

[40]Motion to Dismiss at 7.

[41]Chugach and MEA Joinder in Motion to Dismiss at 1.

[42]Chugach and MEA Joinder in Motion to Dismiss at 1-2.

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again join in RAPA's Motion to Dismiss because there is no reason to relitigate the fundamental question in this new docket.[43]

MEA and Chugach state that AHP has failed to provide reasonable justification for why we should revisit the surrender requirement and our recent and clear prior decisions on the matter. MEA and Chugach state that first, the PPAs are still in effect and therefore the minimum term of the surrender has not been satisfied. MEA and Chugach state that, second, the circumstances have not materially changed with respect to the underlying basis for the surrender requirement. MEA and Chugach state that the relevant facts with respect to AHP's function and with respect to its relationship with the Eklutna Project, remain very similar to those in existence immediately after the transaction between Chugach and ML&P and at the time of Order U-24-024(8).[44] MEA and Chugach state that AHP, unlike its predecessor ML&P, is not operating as a ratepayer-serving utility and even with the creation of two new staff roles, AHP still has minimal staff and no bench of utility expertise, and therefore only has limited "knowledge of prudent utility practice and the Railbelt electric generation and transmission system."[45] MEA and Chugach state that AHP is responsible for only 19.05% of Eklutna Project costs despite its majority ownership stake.[46] MEA and Chugach state that AHP exists only to sell power generated by the Eklutna Project on a wholesale basis to Chugach and MEA via the PPAs and bears significantly less responsibility, cost, and risk associated with the Eklutna Project. MEA and Chugach state that until the PPAs have otherwise expired or terminated, or the facts

[43]Chugach and MEA Joinder in Motion to Dismiss at 5.

[44]Chugach and MEA Joinder in Motion to Dismiss at 5.

[45]Chugach and MEA Joinder in Motion to Dismiss at 5 (quoting Order U-18-102(44) at 66).

[46]Chugach and MEA Joinder in Motion to Dismiss at 5-6.

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change materially, there is simply no new justification for us to revisit our decision on this matter and the request is therefore premature.[47]

MEA and Chugach make an additional comment in opposition to the reinstatement of AHP's majority vote structure and state that if we deny RAPA's Motion to Dismiss and believe that AHP's request raises new issues and therefore necessitates further proceedings, Chugach and MEA will fight the reinstatement of AHP's majority voting rights vigorously. Chugach and MEA state that under a reinstatement of a majority vote framework for AHP, MEA and Chugach will no longer be able to determine how to operate and maintain the Eklutna Project in a manner consistent with prudent utility practice without AHP's agreement. MEA and Chugach state that they will bear the vast majority of the costs and risks of decisions or lack of action, specifically noting that Chugach bears 64.29% of the costs of operations, maintenance, capital, and environmental costs of the Eklutna Project and MEA bears 16.67% of such costs. MEA and Chugach state that with their 46.67% of EOC voting rights, independent or joint decisions cannot be made on the Eklutna Project without AHP's agreement.[48] MEA and Chugach state that the majority vote framework requiring majority owner approval for every decision only made sense and served the public interest when the majority owner was a large operating utility, proportional risk sharer, and majority cost contributor, which will not be the case for AHP so long as the two PPAs are in effect.[49]

Opposition to Motion to Dismiss

AHP opposes RAPA's Motion to Dismiss.[50] AHP argues that the Motion to Dismiss appears to seek dismissal in order to avoid expending resources reviewing and

[47]Chugach and MEA Joinder in Motion to Dismiss at 6.

[48]Chugach and MEA Joinder in Motion to Dismiss at 6.

[49]Chugach and MEA Joinder in Motion to Dismiss at 6-7.

[50]Opposition to Motion to Dismiss at 1.

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litigating the merits of the Application. AHP takes the position that our holding in Order U-24-024(8) does not preclude or limit its ability to request a finding of good cause to modify or lift the minimum surrender term. AHP states that RAPA's Motion to Dismiss incorrectly interpreted Order U-24-024(8) and for that reason should be denied.[51]

AHP first argues that RAPA's Motion to Dismiss is based on an incorrect interpretation of Order U-24-024(8).[52] AHP asserts that RAPA is relying on a single sentence contained in Order U-24-024(8) where we dismissed the Docket U-24-024 Notice and Request "without prejudice to refiling closer to the time that Eklutna PPA and the MEA PPA will expire."[53]

AHP argues that the sentence in question refers only to AHP's filing of a notice and request for acknowledgement that it had satisfied the applicable requirements and not to a request to lift a condition or an application to amend AHP's certificate. AHP states that it has filed such a request and application. AHP argues that Order U-24-024(8) expressly contemplated that an application to amend AHP's certificate to remove the minimum term would be appropriate at any time during the minimum term provided that such applications includes the necessary information regarding AHP's ability to participate on the EOC.[54] In support of this, AHP cites Order U-24-024(8) where we declined to consider AHP's alternative application to amend the certificate to remove the minimum term requirement due to the time remaining in Docket U-24-024.[55]

AHP also argues that if Order U-24-024(8) forever precludes AHP from seeking relief from the minimum term until after the minimum term has ended the

[51]Opposition to Motion to Dismiss at 2.

[52]Opposition to Motion to Dismiss at 5.

[53]Opposition to Motion to Dismiss at 5 (quoting Order U-24-024(8) at 29).

[54]Opposition to Motion to Dismiss at 5.

[55]Opposition to Motion to Dismiss at 5 (citing Order U-24-024(8) at 31).

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guidance provided in Order U-24-024(8) would be gratuitous and superfluous.[56] AHP also argues that we can modify the minimum term for good cause shown.[57] AHP states that granting the Motion to Dismiss would deny AHP the procedural opportunity to show good cause to modify or lift the minimum surrender term before assessing whether such good cause exists. AHP states this would also incorrectly imply that a present Commission is bound by a prior Commission's ruling even if the present Commission finds good cause to modify or deviate from the prior ruling.[58]

AHP additionally argues that Chugach and MEA's Joinder in Motion to Dismiss addresses the merits of the Application, and not whether Order U-24-024(8) precludes us from consideration of the Application.[59] AHP states that Chugach and MEA argue that until the PPAs have otherwise expired or terminated, or the material facts have changed, there is simply no new justification for us revising our recent decision on this matter.[60] AHP argues that whether material facts have changed goes to the merits of the Application, not whether Order U-24-024(8) precludes AHP from filing the Application in the first place. AHP also states that MEA and Chugach ignore our ability to modify or vacate the minimum surrender term.[61]

RAPA Reply

RAPA states in its reply, that in Order U-18-102(44) we required a minimum term for the voting rights surrender by AHP.[62] RAPA states that Order U-24-024(8)

[56]Opposition to Motion to Dismiss at 6.

[57]Opposition to Motion to Dismiss at 6 (citing AS 45.05.241; AS 42.05.271(1)).

[58]Opposition to Motion to Dismiss at 6.

[59]Opposition to Motion to Dismiss at 7.

[60]Opposition to Motion to Dismiss at 7 (quoting Chugach and MEA Joinder in Motion to Dismiss at 6).

[61]Opposition to Motion to Dismiss at 7.

[62]RAPA Reply at 1.

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interpreted Order U-18-102(44), and that it confirmed the minimum term for the voting rights surrender, quoting the order: "[i]n its briefing, AHP has not shown good cause for modifying or interpreting this certificate condition in a manner that nullifies the minimum term of EOC voting rights surrender specified in Order U-18-102(44)."[63] RAPA concludes its motion to dismiss is simple:

> [Order U-18-102(44)] contained a minimum term for the EOC voting rights surrender. [Order U-24-024(8)] interpreted [Order U-18-102(44)] and confirmed the voting rights surrender minimum term. The minimum voting rights surrender term in [Order U-18-102(44)] has not been nullified. The Commission, MOA/AHP, RAPA, and any intervenors should not have to expend scarce resources (that are ultimately funded by ratepayers) if the minimum term has not expired or is not about to expire.[64]

Decision

With Order U-18-102(44), we conditionally approved Chugach's Petition for Approvals and ML&P's Application. This approval included conditional approval of the Eklutna PPA and the MEA PPA. One of the conditions imposed was a surrender of ML&P's voting rights. We stated:

> Under these circumstances, we cannot unconditionally find that [the successor to ML&P, now known as AHP] is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that [A]HP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without [A]HP having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as [A]HP has shown to our satisfaction that [A]HP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit [A]HP from attending EOC meetings, but may not allow [A]HP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[65]

[63]RAPA Reply at 1 (quoting Order U-24-024(8) at 28).

[64]RAPA Reply at 2.

[65]Order U-18-102(44) at 67.

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No petitions for reconsideration or appeals of the decisions in Order U-18-102(44) were timely filed. In compliance with the condition quoted above, ML&P filed a written surrender of its EOC voting rights on October 30, 2020.[66]

In Order U-24-024(8), following briefing on whether this surrender was subject to a minimum term, we concluded that AHP had not shown good cause for modifying or interpreting this condition in a manner that nullifies the minimum term of EOC voting rights surrender. We concluded that "AHP's voting rights on the EOC are surrendered for at least the term of the Eklutna PPA and the MEA PPA."[67] We dismissed the Docket U-24-024 Notice and Request on the grounds that it was premature under the terms of Order U-18-102(44). This dismissal was without prejudice for refiling closer to the time the Eklutna PPA and the MEA PPA will expire.[68]

AHP now seeks to restore its voting rights on the EOC by requesting that we lift the minimum surrender condition rather than finding that they have satisfied the condition as they did in the Docket U-24-024 Notice and Request. While this may be a separate procedural request, it ultimately is seeking the same result. The basis on which AHP argues relief from the minimum term of surrender is warranted is that the objective of the condition has been met and that the continued surrender of its voting rights on the EOC is not necessary to protect and promote the public interest.[69] Central to AHP's Application is the acquisition of what AHP contends is sufficient technical expertise to address our concerns. AHP asserts that Mark Stafford (Stafford) has assumed the role as Director of AHP and that he is qualified to participate in meetings and knowledgably

[66]Notice of Surrender.

[67]Order U-24-024(8) at 28.

[68]Order U-24-024(8) at 29.

[69]Application at 8-16.

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discuss all issues related to management and operation of the Eklutna Project.[70] AHP states also that Stafford will be assisted in managing the workload of AHP by Schimscheimer who will be moving from his engineering role at AWWU to a new role at AHP.[71] AHP states also that the MOA has entered into contracts that can be used by AHP with engineering and accounting contractors and consultants with the breadth and scope of relevant knowledge that the Chugach and MEA representatives bring to the EOC meetings.[72]

AHP, in the Application, asserts as the only change in facts or circumstances that it has acquired qualified personnel to sit on the EOC and exercise voting rights. However, the surrender condition that we imposed on AHP had both a minimum surrender provision, as well as a requirement that AHP show, to our satisfaction, sufficient technical expertise to fully participate on the EOC. That is, for the restoration of EOC voting rights, it must be shown that both the minimum term has elapsed and that AHP has qualified personnel and technical expertise to participate in the EOC. If the demonstration of personnel and technical expertise on its own was sufficient good cause for the restoration of voting rights, the minimum term provision would have been unnecessary. At any point prior to the expiration of the PPAs, AHP could simply present personnel and technical expertise it believes is sufficient for the restoration of EOC voting rights. The condition imposed by Order U-18-102(44) set a time and circumstances where a showing of technical expertise to restore EOC voting rights would be appropriate. We will not entertain a request for relief from the minimum surrender term imposed in Order U-18-102(44) based only on a showing of AHP acquiring what it contends to be qualified personnel and technical expertise until at or near the time that the Chugach and

[70]Application at 8.

[71]Application at 8.

[72]Application at 9.

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MEA PPAs are set to expire. Additional changes in facts or circumstances that might warrant relief from the minimum term of surrender must be pled.

AHP argues that, in Order U-24-024(8), we expressly contemplated that an application to amend AHP's certificate to remove the minimum term would be appropriate at any time during the minimum term, provided that such an application includes the necessary information regarding AHP's ability to participate on the EOC.[73] The basis for this assertion appears to be the fact that in Order U-24-024(8) we declined to consider AHP's Docket U-24-024 Notice and Request as an application to amend AHP's certificate to remove the minimum term of surrender on the grounds that there was too little time remaining in that docket.[74] We did deny the request to construe the Docket U-24-024 Notice and Request as an application to amend certificate on the grounds that there was not sufficient time to resolve the request.[75] However, we did not rule on the sufficiency of the Docket U-24-024 Notice and Request as an application to amend the certificate. Denying a request on one ground does not imply that it would be sufficient on other grounds.

AHP also argues that we provided guidance for future filings seeking relief from the minimum term of EOC voting rights surrender in Order U-24-024(8), and that guidance would be superfluous if AHP was barred from seeking relief until the minimum term had expired.[76] AHP is correct that, in Order U-24-024(8), we provided guidance for future filings. In Order U-24-024(8) we stated:

> In addition to addressing the minimum term of EOC voting rights surrender issue, we suggest that in future filings seeking reinstatement of EOC voting rights AHP provide the information to show that it can bring to EOC meetings

[73]Opposition to Motion to Dismiss at 5.

[74]Opposition to Motion to Dismiss at 5, n.20.

[75]Order U-24-024(8) at 31.

[76]Opposition to Motion to Dismiss at 6.

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a depth and breadth of technical and managerial expertise at least comparable to the level of expertise that MEA and Chugach bring to those meetings.[77]

The "in addition" language reflects that the need for AHP to demonstrate sufficient technical expertise is an issue separate from the basis for relief from the minimum term of EOC voting rights surrender. The guidance was not superfluous, but addressed deficiencies in the Docket U-24-024 Notice and Request regarding the proposed technical expertise that must be addressed in *any* future filing for restoration of EOC voting rights, whether presented after the termination of the PPAs, or earlier in a request for relief from the minimum term. The guidance regarding technical expertise was provided because, in Docket U-24-024, we determined AHP had failed to adequately support its request for reinstatement of EOC voting rights, and we saw no way of moving forward without taking the time for prefiled testimony, discovery, and holding hearings to gather information necessary to determine if AHP had acquired the expertise required to fully participate as a voting member of the EOC.[78] The guidance was provided so that the issue of expertise could be more efficiently addressed in future filings, but that does not equate to technical expertise being sufficient grounds for relief from the minimum term of surrender, or AHP providing more details regarding technical expertise relieving them from the need to address the minimum term of surrender if seeking relief from that provision.

We find that AHP's Application did not present on its face changes in facts or circumstances that would warrant our reconsideration of the Order U-18-102(44) minimum term of surrender requirement prior to the expiration of the minimum term. We do not find that the facts as presented in the Application, the acquisition of technical

[77]Order U-24-024(8) at 34.

[78]Order U-24-024(8) at 35.

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expertise, would constitute good cause to modify AHP's certificate or otherwise grant AHP relief from the condition. This is not a determination on the merits or sufficiency of the technical expertise and personnel presented in the Application for the restoration of EOC voting rights, but rather a determination that AHP acquiring what it contends is sufficient technical expertise is not a change in facts or circumstance that on its own provides a basis for relief from the minimum term of surrender. Order U-18-102(44) imposed both a minimum term of surrender as well as a requirement that the successor to ML&P, AHP, demonstrate sufficient technical expertise to participate in the EOC for voting rights to be restored. Order U-18-102(44) set the time when a demonstration of technical expertise would be appropriate. While AHP is not forever barred from seeking relief from the minimum term of surrender, such a request must be accompanied by a showing of facts or circumstances that warrant relief from that minimum term separate from the acquisition of appropriate technical expertise as the acquisition of technical expertise was contemplated in Order U-18-102(44), and the time at which the restoration of EOC voting rights would be appropriate on those grounds was set. AHP acknowledges that it must procedurally show good cause to modify or lift the minimum surrender term.[79] The good cause for this articulated by AHP in the Application ultimately is only the contention that AHP has acquired sufficient technical expertise to participate in the EOC, with no other changes in facts or circumstances which would warrant lifting the minimum surrender term. As pled, we do not find that AHP has articulated sufficient changes in facts or circumstances that might constitute good cause for relief.

We have recently considered a petition by Chugach to modify elements of Order U-18-102(44), stating:

> Almost three years have passed since we issued Order U-18-102(44) et al., which was a large multi-party settlement that resulted from many negotiations and compromises. The economic and financial landscape are entirely different

[79]Opposition to Motion to Dismiss at 6.

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> today. It is impossible to adjust one part of Order U-18-102(44) et al. without it affecting other parts of the settlement.[80]

This caution to modifying Order U-18-102(44) is applicable to this Application as well. Over five years have passed since we issued Order U-18-102(44), which was a large multi-party settlement that resulted from many negotiations and compromises. The economic and financial landscapes have shifted substantially, and it is impossible to adjust one part of Order U-18-102(44) without it affecting other parts of the settlement. While circumstances might be presented that warrant reconsideration of the minimum term of surrender from Order U-18-102(44), AHP has not done so in the Application.

We concur with the conclusion reached by RAPA in the RAPA Reply. Order U-18-102(44) contained a minimum term for the EOC voting rights surrender. Order U-24-024(8) interpreted Order U-18-102(44) and confirmed the voting rights surrender minimum term. The minimum voting rights surrender term in Order U-18-102(44) has not been nullified. AHP has not articulated facts or circumstances that might warrant relief from the minimum term in Order U-18-102(44). For these reasons, we find that when viewing all reasonable inferences of fact in favor of AHP, there are no genuine issues as to any material fact. We grant RAPA's Motion to Dismiss.

Final Order

This order constitutes the final decision in this proceeding. This decision may be appealed within 30 days of this order in accordance with AS 22.10.020(d) and Alaska Rule of Appellate Procedure 602(a)(2). In addition to the appellate rights afforded by AS 22.10.020(d), a party has the right to file a petition for reconsideration in accordance with 3 AAC 48.105. If such a petition is filed, the time period for filing an

[80]Order U-24-002(12) at 8.

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appeal is tolled and then recalculated in accordance with Alaska Rule of Appellate Procedure 602(a)(2).

Docket Closure

No substantive or procedural matters remain in this proceeding. Accordingly, we close this docket.

ORDER

THE COMMISSION FURTHER ORDERS:

1. The *Office of the Attorney General's Motion to Dismiss*, filed August 8, 2025, is granted.

2. The *Municipality of Anchorage d/b/a Anchorage Hydropower's Request to Lift Condition Requiring the Surrender of Voting Rights from Certificate of Public Convenience and Necessity No. 780; and Alternative Application to Amend Certificate of Public Convenience and Necessity No. 780*, filed July 30, 2025, is dismissed.

3. Docket U-25-025 is closed.

DATED AND EFFECTIVE at Anchorage, Alaska, this 26th day of January, 2026.

BY DIRECTION OF THE COMMISSION
(Commissioners Steve DeVries and Mark Johnston, dissenting. Dissenting Statement to follow.)

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chair
Steve DeVries
Mark Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER to Lift a Condition from Certificate of Public Convenience and Necessity No. 780 and Alternate Application to Amend Certificate of Public Convenience and Necessity No. 780	U-25-025

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S PETITION FOR RECONSIDERATION OF ORDER U-25-025(2)

Pursuant to 3 AAC 48.105, the Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") respectfully requests reconsideration of Order No. U-25-025(2)[1] ("Order 2"). Order 2 summarily dismissed AHP's request to lift the condition requiring surrender of voting rights on the Eklutna Operating Committee ("EOC") and declined to address the merits of AHP's showing of managerial and technical fitness. Order 2 is "unreasonable, erroneous, unlawful, or otherwise defective," 3 AAC 48.105, because:

(1) It misconstrues and misapplies the original rationale for the EOC vote surrender requirement from Order No. U-18-102(44)[2] ("Order 44")—as a temporary condition to

[1] Order U-25-025(2), *Order Granting Motion to Dismiss and Closing Docket*, dated January 26, 2026.

[2] Order U-18-102(44)/U-19-020(39)/U-19-021(39), *Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third Party Sales Gas Pricing; and Requiring Filings*, dated May 28, 2020 (Order U-18-102(44)), as corrected

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remedy what the Commission determined to be a lack of managerial or technical fitness to maintain majority ownership of the Eklutna Hydroelectric Project ("Eklutna");

(2) It misconstrues and misapplies Order No. Order U-24-024(8)[3] ("Order 8");

(3) It is arbitrary and capricious to the extent that it deprives AHP, the majority owner of the Eklutna Hydroelectric Project ("Eklutna") of the ability to vote on important Eklutna matters before the EOC, without addressing the merits of whether AHP is managerially or technically fit to maintain majority ownership of [Eklutna]."

AHP requests that the Commission reconsider Order 2, and

(1) Lift the EOC vote surrender requirement, as requested in AHP's July 30, 2025, request to lift condition and alternative request to amend Certificate of Public Convenience and Necessity ("CPCN") No. 780 to lift the condition; or

(2) In the alternative, lift the EOC vote surrender requirement subject to AHP agreeing to equal, per-capita EOC voting rights (one owner, one vote); or

(3) In the alternative, reopen Docket U-25-025, or open a new docket, to address the merits of whether AHP is managerially and technically fit to own its Eklutna interest.

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by *Errata Notice to Order U-18-102(44)/U-19-020(39)/U-19-021(39),* dated June 5, 2020, and December 22, 2020.

[3] Order U-24-024(8), *Order Granting Motion to Dismiss in Part and Dismissing Notice and Request, Denying Motion to Dismiss in Part, Vacating Procedural Schedule, Denying Motion to Compel, Denying Request to Construe Notice and Request as Petition to Amend Certificate Condition, Providing Guidance for Future Filings, and Closing Docket*, dated November 14, 2024.

BACKGROUND

Eklutna Project Ownership and Governance

The Eklutna Hydroelectric Project is jointly owned by three entities: ML&P's successor, AHP, holds a majority ownership interest of approximately 53.33%, Chugach Electric Association ("Chugach") holds 30%, and Matanuska Electric Association ("MEA") holds approximately 16.67%.[4] Governance of the Project is exercised through the EOC, which was created by the owners to make management decisions related to Project operations, maintenance, and budgeting.[5] Under the current governing agreements, EOC decisions require a super-majority vote, consisting of affirmative votes by at least two owners whose combined ownership interests exceed 51 percent.[6] EOC voting authority directly affects operational decisions, financial obligations, and ratepayer outcomes. Because EOC governance determines how Project costs are incurred and allocated, the Commission has treated voting authority on the EOC as a matter of regulatory significance tied to findings of managerial and technical fitness.[7] The Commission, Chugach, and MEA have noted that the current EOC voting requirements (without surrender) provides AHP with veto-right voting power.

[4] Order U-18-102(44) at 60-61.

[5] *Id.*

[6] *Id.*

[7] *Id.* at 66-67.

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Order 44

In Order 44, the Commission addressed AHP's fitness to continue participating in EOC governance in light of the Commission's determination that after the sale of ML&P assets to Chugach, AHP, at that point in time, would lack adequate managerial and technical fitness.[8] The Commission concluded that it could not, at that time, "unconditionally find that [A]HP is managerially or technically fit to maintain majority ownership of the Eklutna Project," and therefore approved continued ownership subject to a conditional surrender of EOC voting rights.[9] The Commission expressly reserved the possibility of reinstatement, providing that the surrender could be ***lifted*** only after AHP had shown, to the Commission's satisfaction, that it had acquired the expertise required to fully participate as a voting member of the EOC.[10] AHP reiterates that "lifted" implies premature cessation of a condition prior to the **expiration** of its natural term. The purpose of the condition was to ensure managerial and technical fitness. Nowhere in the record of Docket U-18-102 (other than Order 44) was the surrender of EOC voting rights or a term of such surrender mentioned, by any party, prior to issuance of Order 44.

Order 8

Following issuance of Order 44, ML&P filed a notice of its temporary surrender of EOC voting rights, as a compliance filing to allow the transaction to close.[11] After taking steps to

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[8] *Id.* at 66.

[9] *Id.* at 67.

[10] *Id.*

[11] Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights, filed Oct. 30, 2020.

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address the expertise concerns identified by the Commission, AHP filed a Notice and Request in Docket U-24-024 seeking Commission acknowledgment that it had acquired the requisite expertise and asking the Commission to reach the merits of that showing.[12] In Order 8, the Commission dismissed the request as premature, concluding that the minimum surrender term tied to the Eklutna and MEA PPAs had not yet elapsed, and therefore declined to adjudicate whether AHP had satisfied the fitness condition reserved in Order 44.[13] The Commission made no findings regarding AHP's qualifications and closed the docket without prejudice, leaving the merits of the expertise determination unresolved.

Order 2

On July 30, 2025, AHP filed its most recent request to lift the EOC vote surrender condition. In Order 2, the Commission summarily granted motion to dismiss filed by the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section ("RAPA"). That order concluded that Order 44 contained a minimum term for the EOC voting rights surrender, and that the "facts and circumstances" presented did not warrant relief from that minimum term.

Assembly Ordinance No. 2024-123(S), As Amended

Attached as Exhibit 1 is Anchorage Assembly Ordinance AO No. 2024-123(S), which was unanimously passed on December 16, 2025. In Section 5, the Assembly's approval of certain water-related agreements are subject to resolution of the EOC voting rights surrender issue

[12] Notice and Request for Acknowledgement of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee, filed July 18, 2024.

[13] Order U-24-024(8) at 19-21.

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among AHP, Chugach, and MEA, as set forth in that section and including AHP regaining a per-capita voting rights (i.e., AHP, Chugach, and MEA would each have one vote, which would require any two owners to pass an EOC vote. Since passage of the ordinance, Chugach and MEA have declined to proceed with the actions set forth in Section 5.

DISCUSSION

The Commission Expressly Reserved Authority to Reinstate Voting Rights

In Order 44, the entire rationale for the voting rights surrender condition was to ensure only knowledgeable representatives were able to vote on the EOC, and the Commission determined that at that time APH did not have such an individual to serve. The structure of the paragraph at issue supports the argument that the term of the surrender was not intended to be absolute. By starting the paragraph with "[u]nder these circumstances," the Commission signaled that the surrender due to AHP's lack of a knowledgeable representative is contingent, not permanent. The factual predicate for the voting rights surrender is not time, but lack of fitness. The surrender, then, is a conditional regulatory accommodation. It is and was remedial from the beginning, as opposed to being punitive. It existed to cure a specific regulatory concern and becomes logically unnecessary once that concern is cured. This structure is characteristic of a condition subsequent; it was a restriction imposed that was designed to lapse if the condition of concern is satisfied. This is supported by the sentence structure:

> This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to

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> our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC.[14]

The clause which introduces the minimum time requisite is not a stand-alone clause, and as such it must be read in the context of the larger sentence, paragraph, and order. Grammatically and structurally, the Commission links duration and expertise with the conjunctive "and" signifying that the surrender remains in place while both conditions are unmet. The Commission did not say the surrender must remain regardless of expertise. Rather, the Commission said it "cannot be lifted until" expertise is shown—language that presupposes the surrender can be lifted, prior to the end of the term, once that showing is made. If the minimum term were absolute and independent of expertise, the expertise clause would be surplusage. Administrative orders are not read to render express conditions meaningless. Such a reading would also make the surrender punitive rather than remedial.

The paragraph of Order 44 that speaks to the surrender of voting rights fits a condition subsequent, a condition that, when satisfied, terminates an existing restriction. Here, the initial condition, that AHP lacked sufficient expertise, led the Commission to require a voting surrender; in the interim, AHP was allowed to attend meetings but not vote. The condition subsequent can be seen in the line "until such time as [A]HP has shown to our satisfaction that [A]HP has acquired the expertise required."[15] This shows that once the basis for the surrender no longer exists, a reinstatement becomes permissible. The paragraph as a whole carefully preserves Commission discretion to lift the condition once the deficiency is cured. That preservation would

[14] Order U-18-102(44) at 67.

[15] *Id.*

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be unnecessary, and misleading, if reinstatement were categorically unavailable until the PPAs expire.

Read together, the paragraph supports the interpretation that the minimum term ensures that, if nothing changes—i.e., if AHP continues to lack a suitable representative—the surrender will remain in place for at least the PPA term. But the expertise clause establishes a condition that allows the Commission to lift the surrender earlier if the original justification disappears. This reading harmonizes all clauses while also protecting governance stability and Commission flexibility. Such a reading also avoids locking in an exclusion untethered from its rationale.

To read the paragraph as setting an absolute term minimum would convert a fitness condition into a free-standing penalty, contrary to the Commission's stated rationale. It would also nullify the expertise clause. Finally, a reading that neglects the expertise clause creates an irrational outcome, where AHP remains excluded from voting in the present, because at a crucial moment five years ago it did not meet a novel prerequisite of heightened expertise. A condition subsequent reading of the paragraph avoids these issues. The intent of the voting surrender was to prevent an individual, who the Commission saw as unqualified, from participating in EOC decision-making during a period when expertise had not yet been demonstrated. Once that factual predicate changes, as it has with involvement of the individuals AHP discussed in its request, that continued enforcement of the condition without reassessment risks converting a protective condition into an arbitrary and punitive exclusion, contrary to the Commission's stated objectives.

Reinstatement was not only contemplated but affirmatively anticipated by the Commission's order. By conditioning the surrender of EOC voting rights on AHP's failure to

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demonstrate managerial and technical expertise—and by expressly providing that the surrender "cannot be lifted until such time as" AHP makes that showing—the Commission necessarily presupposed that reinstatement would be a legally available outcome upon satisfaction of the condition. That reservation would be rendered meaningless if the Commission were to treat the surrender as effectively permanent or to decline ever to reach the merits of AHP's qualifications. Administrative orders must be read to give effect to all operative language, and the Commission cannot nullify its own express reservation of authority by construing the condition in a manner that forecloses the very merits determination it expressly anticipated.

Order No. 8 Resolved Only Timing, Not Entitlement

Order 8 resolves only a question of timing and does not adjudicate AHP's entitlement to reinstatement of voting rights. In dismissing AHP's request, the Commission made clear that it was acting on procedural grounds, concluding that the request was premature in light of its interpretation of the minimum surrender term tied to the Eklutna and MEA PPAs.[16] The Commission expressly declined to assess whether AHP had acquired the managerial or technical expertise required to participate as a voting member of the EOC, and made no findings, favorable or unfavorable, regarding AHP's competence, qualifications, or fitness to vote.[17] Rather, Order 8 repeatedly framed the dismissal as a threshold determination based on timing rather than a substantive evaluation of the expertise condition reserved in Order 44. As a result, Order 8 left

[16] Order U-24-024(8) at 19-21.

[17] Order U-24-024(8) at 20-22.

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unresolved the central merits question the Commission itself anticipated: whether AHP has now satisfied the expertise standard necessary for reinstatement.

A dismissal based on prematurity does not operate as a merits bar and does not foreclose reconsideration where the underlying condition remains unresolved. Order 8 did not purport to extinguish AHP's right to seek reinstatement, nor did it hold that the expertise condition could never be evaluated prior to expiration of the PPAs. Instead, the Commission closed the docket without prejudice, preserving its continuing jurisdiction to revisit both the timing and substance of the voting-rights condition.[18] Where, as here, a regulatory restriction was imposed as a conditional safeguard rather than a permanent divestiture, a prematurity dismissal leaves open the possibility that the Commission may later amend, clarify, or modify the timing floor to ensure that the condition continues to serve its stated purpose. The underlying question—whether AHP is fit to vote on the EOC—thus remains live, and reconsideration is appropriate to prevent a procedural timing determination from hardening into an effective merits denial untethered from the expertise-based framework the Commission originally adopted.

The "Minimum Term" Condition Should Be Reconsidered in Light of Its Purpose

The "minimum term" voting-surrender condition should be reconsidered in light of the purpose for which it was imposed. In Order 44, the Commission made clear that the surrender of EOC voting rights was not intended as a categorical or punitive restriction, but as a protective measure designed to ensure competent management during a period of transition and to prevent

[18] Order U-24-024(8) at 23-24.

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governance risk.[19] The Commission's concern centered on AHP no longer having anyone who was able to participate in EOC meetings and add to discussion related to management and operations of the Project.[20] The condition was therefore calibrated to address a temporary governance risk, not to permanently exclude an owner from participation irrespective of future developments.

Since the imposition of the condition, circumstances have materially changed, warranting reconsideration to avoid a purely mechanical application divorced from regulatory purpose. AHP's subsequent filings demonstrate the acquisition of managerial and technical expertise responsive to the concerns identified by the Commission, including personnel and organizational changes intended to ensure informed participation in EOC governance.[21] Where the factual risk that the condition was designed to mitigate has been substantially reduced, continued exclusion without reassessment risks transforming a purpose-driven safeguard into an arbitrary restraint. The Commission regulated AHP's EOC voting authority because of its momentary lack of a qualified representative who could participate in meetings and add to discussions relating to management and operations at the Project.[22] However, now that those deficiencies are remedied, refusing to reconsider the condition undermines both the rationale for the voting surrender and the alignment between ownership interests and governance

[19] Order U-24-024(8) at 23-24.

[20] *Id.* at 33.

[21] Order U-24-024(8) at 9-11.

[22] *Id.* at 33.

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responsibilities. In addition, as Exhibit 1 demonstrates, if AHP having veto power voting rights is the significant problem, AHP and the Anchorage Assembly are willing to consider a change in EOC voting rights that would not provide veto power to any one owner.

Public Interest Considerations Favor Reconsideration

Eklutna is governed through the EOC, yet the current structure leaves the majority owner without any voting authority, creating a governance imbalance that undermines accountability and alignment between ownership interests and decision-making responsibility. The Commission has recognized that EOC voting authority is the mechanism by which owners discharge their obligations for oversight of operations, budgeting, and compliance; continued exclusion of the majority owner from that process—after the expertise concerns prompting the restriction have been addressed—dilutes representative governance and weakens the link between ownership risk and governance responsibility. Reconsideration would restore a governance framework that more accurately reflects ownership interests while remaining subject to Commission oversight.

CONCLUSION

For the reasons set forth above, AHP respectfully requests that the Commission reconsider Order 2, and

(1) Lift the EOC vote surrender requirement, as requested in AHP's July 30, 2025, request to lift condition and alternative request to amend Certificate of Public Convenience and Necessity ("CPCN") No. 780 to lift the condition; or

(2) In the alternative, lift the EOC vote surrender requirement subject to AHP agreeing to equal, per-capita EOC voting rights (one owner, one vote); or

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(3) In the alternative, reopen Docket U-25-025, or open a new docket, to address the merits of whether AHP is managerially and technically fit to own its Eklutna interest.

RESPECTFULLY SUBMITTED this 10th day of February 2026, at Anchorage, Alaska.

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Counsel for Anchorage Hydropower

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CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2026, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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Exhibit 1

Municipal Clerk's Office
Amended and Approved
Date: December 16, 2025

Submitted by: Chair of the Assembly at the request of the Mayor
Prepared by: Dept. of Law
For reading: April 22, 2025

ANCHORAGE, ALASKA
AO No. 2024-123(S), As Amended

AN ORDINANCE AUTHORIZING THE MUNICIPALITY OF ANCHORAGE, ANCHORAGE WATER & WASTEWATER UTILITY (AWWU), AND THE MUNICIPALITY OF ANCHORAGE, ANCHORAGE HYDRO POWER (AHP) TO EXECUTE AND ENTER INTO THREE AGREEMENTS PERTAINING TO THE MUNICIPAL PUBLIC WATER SUPPLY AND THE EKLUTNA HYDROELECTRIC PROJECT FISH AND WILDLIFE PROGRAM.

WHEREAS, the Municipality of Anchorage is the majority owner of the Eklutna Hydroelectric Project and is a party to the 1991 Fish and Wildlife Agreement that obligates the Municipality and the other owners of the Eklutna Hydroelectric Project to develop a fish and wildlife program that provides for the protection, mitigation of damages to, and enhancement of fish and wildlife affected by the Project, and,

WHEREAS, the owners of the Eklutna Hydroelectric Project, the Municipality, Chugach Electric Association, and Matanuska Electric Association, hold the priority water rights to all flows into the Eklutna Lake reservoir, and,

WHEREAS, the Municipality of Anchorage, Anchorage Water and Wastewater Utility (AWWU) derives approximately ninety percent of the Municipality's public water supply from Eklutna Lake under a preferred use permit issued by the State of Alaska, and,

WHEREAS, the 1984 Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska between the Alaska Power Administration and the Municipality of Anchorage, governing AWWU's access to the public water supply, the interconnection between Eklutna Hydroelectric Project infrastructure and AWWU's drinking water facilities and the compensation AWWU owes the Project owners for reductions in electricity generation caused by withdrawing public drinking water from Eklutna Lake, expires on December 31, 2025, and must be replaced prior to that date to secure the Municipality's public water supply, and,

WHEREAS, on October 2, 2024, Governor Mike Dunleavy established a Final Fish and Wildlife Program for the Eklutna Hydropower Project that could utilize AWWU facilities at Eklutna Lake [IF PUMPED STORAGE HYDROPOWER IS NOT ULTIMATELY SELECTED BY THE GOVERNOR], and,

WHEREAS, the Governor's Final Fish and Wildlife Program also directed the parties to the 1991 Fish and Wildlife Agreement and the Native Village of Eklutna to study pumped storage hydropower as an alternative, noted the Governor's ability to alter the Final Fish and Wildlife Program, and stated that a pumped storage hydropower alternative could ultimately be selected; and,

WHEREAS, in consideration of the Eklutna Hydroelectric Project owners' desire to

use AWWU facilities in the Fish and Wildlife Program and in recognition of the impending need to replace the 1984 Agreement for Public Water Supply and Energy Generation, the Project owners and AWWU negotiated three draft agreements that, if executed, would set the terms for the owners' use of AWWU infrastructure as part of the Fish and Wildlife Program and replacing the 1984 agreement with a new Public Water Supply Agreement that gives AWWU the option to obtain priority water rights at Eklutna Lake in 2055: the Water Facilities Interconnection Agreement (Exhibit A); Long-Term Water Transportation Agreement (Exhibit B); Public Water Supply Agreement (Exhibit C); and,

WHEREAS, the Long-Term Water Transportation Agreement, the Interconnection Agreement, and the Public Water Supply Agreement negotiated by the Parties contain terms to facilitate the implementation of a Final Program that uses the Facility and the Facility's long-term operation, but the original versions of these agreements did not contemplate the Governor's potentially selecting a pumped storage hydropower alternative as a major component of the Final Fish and Wildlife Program, rendering certain additions to the agreements appropriate; and,

WHEREAS, "the municipality may dispose of municipal land or any interest therein only by ordinance;" (AMC 25.30.020A) and interests in municipal land include "water rights;" (AMC 25.30.020B) and furthermore, "[a]ny conveyance, disposal, contract, or other agreement that transfers or conveys substantial or total control over the operation or use of a municipal property or facility shall be treated as a disposal for purposes of this subsection and require an ordinance," (AMC 25.30.020D) now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. *After deleting Article 14.5(b) of the Water Facilities Interconnection Agreement, the [The]* authorized representatives for AWWU and AHP may execute the Water Facilities Interconnection Agreement (Exhibit A) and, if that agreement is executed by all parties, act upon the Municipality's obligations contained therein.

Section 2. The authorized representatives for AWWU and AHP may execute the Long-Term Water Transportation Agreement (Exhibit B) and, if that agreement is executed by all parties, act upon the Municipality's obligations contained therein.

Section 3. The authorized representatives for AWWU and AHP may execute the Public Water Supply Agreement (Exhibit C) and, if that agreement is executed by all parties, act upon the Municipality's obligations contained therein.

Section 4. By enacting this ordinance, the Assembly does not waive any rights, remedies, or causes of action under the 1991 Fish and Wildlife Agreement.

Section 5. *The approvals in Sections 1 to 3 shall become effective only after all of the following have occurred: (1) Chugach Electric Association ("CEA") and Matanuska Electric Association, Inc. ("MEA") have committed in writing to support in good faith, before the Regulatory Commission of Alaska ("RCA") and any other*

appropriate forum, AHP's efforts to regain its vote on the Eklutna Hydroelectric Project on a per capita basis, with AHP, CEA and MEA each holding one equal vote; (2) AHP submits a modified request for a per capita vote; and (3) CEA and MEA submit, within 3 days of AHP's modified request, a suitable response supporting AHP's modified request and withdrawing any prior objections that are inconsistent with CEA and MEA's commitment to support AHP's modified request. The Municipal Attorney shall authorize execution of the agreements by the authorized representatives of AWWU and AHP when these conditions have been satisfied and inform the Assembly accordingly.

Section 6. *This ordinance shall become effective upon passage and approval by the Assembly.*

PASSED AND APPROVED by the Anchorage Assembly this 16th day of December, 2025.

Chair

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE

Assembly Memorandum

AM No. 352-2025

Meeting Date: April 22, 2025

FROM: MAYOR

SUBJECT: AN ORDINANCE AUTHORIZING THE MUNICIPALITY OF ANCHORAGE, ANCHORAGE WATER & WASTEWATER UTILITY (AWWU), AND THE MUNICIPALITY OF ANCHORAGE, ANCHORAGE HYDRO POWER (AHP) TO EXECUTE AND ENTER INTO THREE AGREEMENTS PERTAINING TO THE MUNICIPAL PUBLIC WATER SUPPLY AND THE EKLUTNA HYDROELECTRIC PROJECT FISH AND WILDLIFE PROGRAM.

Anchorage Water & Wastewater Utility (AWWU) previously brought to the Assembly for its consideration three draft agreements related to the Municipality of Anchorage's public water supply and the use of AWWU facilities as part of the Final Fish and Wildlife Program for the Eklutna Hydropower Project (the Project). AWWU's original ordinance and accompanying AM (AM 2024-963) attached three proposed contracts: Water Facilities Interconnection Agreement (Exhibit A); Long-Term Water Transportation Agreement (Exhibit B); and Public Water Supply Agreement (Exhibit C).

As AWWU's submission noted, on October 2, 2024, Governor Mike Dunleavy established a Final Fish and Wildlife Program under the 1991 Fish and Wildlife Agreement for the Eklutna Hydropower Project that could utilize AWWU facilities at Eklutna. The Governor further directed the parties to the 1991 Fish and Wildlife Agreement and the Native Village of Eklutna to study pumped storage hydropower as an alternative, noted the Governor's ability to alter the Final Fish and Wildlife Program, and stated that a pumped storage hydropower alternative could ultimately be selected.

The original contracts attached to AWWU's prior submission to the Assembly were all negotiated before the Governor's October 2, 2024 decision and do not contemplate the Governor's potentially selecting a pumped storage hydropower alternative as a major component of the Final Fish and Wildlife Program. Accordingly, the Municipal Manager has submitted an S-version of AO 2024-123 and includes as Exhibits A- C to this Memorandum, updated versions of the three agreements.

The updated agreements contain additional factual recitals at the beginning and a new article at the end, that provide for (1) negotiation of replacement agreements to accommodate a pumped storage hydropower program upon completion of the pumped storage hydropower study; and (2) if pumped storage hydropower is ultimately selected by the Governor, suspension of the three agreements and

execution of the negotiated new agreements. These contracts have not yet been approved by the other parties, but they are unchanged in all other material terms.

AO 2024-123(S) and this Memorandum make no changes to Exhibits D, E, and F to AWWU's AM 2024-963 and incorporate AM 2024-963 by reference.

Prepared by:	Eva R. Gardner, Municipal Attorney
Concur:	Mark Corsentino, Director, Anchorage Hydropower Utility
Concur:	David Persinger, General Manager, Anchorage Water & Wastewater Utility
Concur:	Rebecca A. Windt Pearson, Municipal Manager
Respectfully submitted:	Suzanne LaFrance, Mayor

Attachments (showing changes from original):

Exhibit A: Water Facilities Interconnection Agreement
Exhibit B: Long-Term Water Transportation Agreement
Exhibit C: Public Water Supply Agreement

WATER FACILITIES INTERCONNECTION AGREEMENT

by and between

Anchorage Water and Wastewater Utility

as

AWWU Facilities Provider

And

Chugach Electric Association, Inc,

Matanuska Electric Association, Inc., and the Municipality of Anchorage

as

Owners

Dated as of **[_____]**[1]

EKLUTNA RIVER RELEASE FACILITY

[1] **Note to Accompany Final Draft**: This Agreement has been form agreed as between the Parties but will not be signed by the MOA until after Governor approval of the Fish and Wildlife Plan has occurred and such signatures have been authorized by the Anchorage Assembly. Prior to execution, this footnote can be deleted from the draft.

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WATER FACILITIES INTERCONNECTION AGREEMENT

This WATER FACILITIES INTERCONNECTION AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered into by and between Anchorage Water and Wastewater Utility ("AWWU"), and Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("MEA"), and the Municipality of Anchorage ("MOA") (each of Chugach, MEA, and MOA is an "Owner" and collectively they are referred to as the "Owners"). The Owners and AWWU are sometimes referred to herein as a "Party" or collectively as the "Parties".

R E C I T A L S

WHEREAS, the Owners own and operate the Eklutna Hydroelectric Project, commissioned in 1954, which includes an earthen dam at the outlet of Eklutna Lake and which, under normal operating conditions, diverts the inflows of all water into the Eklutna Lake for hydroelectric production rather than into the Eklutna River;

WHEREAS, AWWU owns and operates certain existing water diversion and transportation facilities integrated with the Eklutna Hydroelectric Project as further detailed in Exhibit B (the "AWWU Facilities") located near the outlet of Eklutna Lake and adjacent to the Eklutna River, and AWWU uses such AWWU Facilities to provide public water supply for its customers;

WHEREAS, the Owners are parties to the 1991 Agreement (as defined below), pursuant to which they are required to develop and implement a Fish and Wildlife program every thirty-five years to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Eklutna Hydroelectric Project (the "Fish and Wildlife Program");

WHEREAS, as a result of the process set forth in the 1991 Agreement, the Owners have developed a draft Fish and Wildlife Program in which the Owners have proposed to: (1) develop an Eklutna River release facility consisting in part of AWWU Facilities and facilities constructed pursuant to this Agreement, all as further described and depicted in Exhibit A-1, Exhibit A-2, and Exhibit A-3 (the "Facility"); (2) to transport water from Eklutna Lake through the Facility and release it into the Eklutna River; and (3) to operate and maintain the Facility;

WHEREAS, in connection with their proposal to develop the Facility, the Owners have also agreed to install bridges at eight locations across the Eklutna River to improve and preserve access to AWWU Facilities, as further described in Exhibit K (the "Access Bridges");

WHEREAS, in connection with the execution of this Agreement and in order to enable future implementation of the Fish and Wildlife Program (if approved), and to address compensation for AWWU's present and future use of a portion of Owners' water rights, the Parties are also entering into a Long-Term Water Transportation Agreement (the "Transportation Agreement") and a new Public Water Supply Agreement (the "Water Supply Agreement");

WHEREAS, Owners desire to construct the Facility in coordination with AWWU and AWWU is willing to allow for the interconnection and use of AWWU Facilities as part of the

Facility and to otherwise cooperate with Owners all pursuant to the terms and conditions set forth in this Agreement;

WHEREAS, on October 2, 2024, Alaska Governor Mike Dunleavy established a Final Fish and Wildlife Program for the Eklutna Hydropower Project that directed the parties to the 1991 Agreement and the Native Village of Eklutna to study pumped storage hydropower as an alternative to the Facility, noted the Governor's ability to alter the Final Fish and Wildlife Program, and stated that a pumped storage hydropower alternative could ultimately be selected; and

WHEREAS, the Long-Term Water Transportation Agreement, the Interconnection Agreement, and the Public Water Supply Agreement negotiated by the Parties contain terms to facilitate the implementation of a Final Program that uses the Facility and the Facility's long-term operation, but the original versions of these agreements did not contemplate the Governor's potentially selecting a pumped storage hydro alternative as a major component of the Final Fish and Wildlife Program, rendering certain additions appropriate; and

NOW, THEREFORE, in consideration of the premises of this Agreement, the Transportation Agreement, and the Water Supply Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners and AWWU, intending to be legally bound, hereby agree as follows:

ARTICLE 1.
DEFINITIONS; INTERPRETATION; EXHIBITS

1.1 Defined Terms. Capitalized terms used in this Agreement without other definition shall have the meanings set forth in Schedule 1.1, unless the context requires otherwise.

1.2 Interpretation. As used in this Agreement, the terms "herein," "herewith" and "hereof" are references to this Agreement, taken as a whole; the terms "includes" or "including" shall mean "including, without limitation"; and references to a "Section," "Article", "Exhibit" or "Schedule" shall mean a Section, Article, Exhibit or Schedule of this Agreement, as the case may be, unless in any such case the context requires otherwise. All references to a given Exhibit, Schedule, agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made. A reference to a Person includes its permitted successors and permitted assigns. The singular shall include the plural and the masculine shall include the feminine and neuter, and vice versa.

ARTICLE 2.
OWNERS RESPONSIBILITIES

2.1 General Responsibilities of Owners. Subject to Sections 4.1, 4.3 and 4.4, the Owners shall be responsible for designing, engineering, obtaining all Approvals for (except with respect to AWWU Approvals), constructing and performing related activities for the successful completion of (i) the Facility and interconnection of the Facility to the AWWU Facilities pursuant

to the Facility Criteria; and (ii) the Access Bridges, the costs of which shall be paid for by the Owners.

2.2 Standard of Work; Skill and Expertise. Throughout the performance of all aspects of the Work, the Owners shall comply with, and shall ensure that each Subcontractor complies with, all applicable Laws and Prudent Industry Standards (the "Standard of Work"). The Owners shall, throughout the performance of the Work, use commercially reasonable efforts to ensure that all employees and contractors engaged in connection with the maintenance of, operation of, service of, and any future modification to (to include design, construction, commissioning, and installation) the Facility shall have the appropriate and necessary experience, skill and expertise to carry out the tasks efficiently, professionally, and in accordance with the Standard of Work.

2.3 Scope of Work. Without limiting the generality of Sections 2.1 and 2.2, the Owners shall perform all of the specific tasks in accordance with the Scope of Work and the Project Schedule, subject to any Change Orders pursuant to ARTICLE 7, in order to achieve Commercial Operation and Final Acceptance of the Facility in accordance with ARTICLE 4, and to commence the Parties' obligations under the Transportation Agreement, whereupon the Work under this Agreement shall be concluded and the obligations under the Transportation Agreement shall begin.

2.4 Project Manager. The Owners shall identify to AWWU and at all times during the term of this Agreement maintain a Project Manager. The Project Manager shall act as AWWU's primary point of contact with the Owners with respect to the Work, and shall be available to meet with AWWU as reasonably requested by AWWU to discuss the Work or any issue related thereto. The Project Manager shall have full authority to act for the Owners under this Agreement; provided, that the Project Manager shall under no circumstances have the authority to amend (except for the issuance of Change Orders), terminate, or assign this Agreement. The Owners may change the Project Manager at any time upon written notice to AWWU. As of the Effective Date, the Project Manager is listed in Exhibit E.

2.5 Status of Individual Owners. Each of the Owners shall be jointly and severally liable for the obligations of the Owners under this Agreement. The delineation of specific responsibilities set forth hereunder as among the Owners shall be at the sole discretion of the Owners, not AWWU. If, at any time, the Owners agree that one or two of the Owners need no longer be party to this Agreement, such unnecessary Owner(s) may be removed as parties to this Agreement upon written notice to AWWU and, if agreed, shall retain no liability upon removal, with the remaining Owner(s) automatically assuming the full obligations of the Owners hereunder. If an Event of Default exists hereunder at any time with respect to an Owner, it shall be considered an Event of Default with respect to the Owners together as one Party hereunder, provided, that if another Owner agrees to assume such defaulting Owner's obligations under this Agreement by removing such Owner as a party pursuant to the preceding sentence of this Section 2.5 prior to the expiration of any applicable cure period, this shall not be considered an Event of Default hereunder.

ARTICLE 3.
AWWU RESPONSIBILITIES

3.1 Access to Site. As of the Effective Date, AWWU shall, with respect to the land and AWWU Facilities within its control, provide the Owners with a non-exclusive license to access the Site and the AWWU Facilities necessary to enable the Owners to perform their obligations under this Agreement in accordance with the Project Schedule, provided, that AWWU may from time to time limit access to the Site or the AWWU Facilities under AWWU control temporarily only to the extent necessary to address reasonable security or safety issues, and to avoid putting AWWU's public water supply at risk of interruption or contamination. To the extent that any additional access permissions from third-party landowners adjacent to the Site may be required for Owners to access the Site and conduct the Work pursuant to the site license granted under this Section 3.1, obtaining such Approvals shall be the responsibility of the Owners, provided that (i) AWWU shall be responsible for any such permissions associated with the construction and maintenance of the Access Bridges; (ii) if the Parties agree that in certain other circumstances AWWU responsibility is more appropriate, AWWU shall bear such responsibility; and (iii) AWWU shall assist the Owners with obtaining such Approvals as is reasonably requested by the Owners, including by being the first and primary point of contact with such third party in situations where AWWU has an existing easement or applicable existing relationship with such third party. To the extent that AWWU adds access or other security limitations to the Site, to the Owners' Portion, or to the AWWU Facilities, the Owners and AWWU shall cooperate to ensure continuous access for the Owners and their contractors, to enable them to perform the Owners' obligations under this Agreement.

3.2 Required Approvals. After the Owners' achievement of the Construction Start CPs, AWWU shall be responsible for obtaining and maintaining those Governmental Approvals and third-party approvals necessary for the completion of the Work as set forth on Exhibit F hereto (the "AWWU Approvals"), any costs of which shall be initially paid for by AWWU and reimbursed by Owners pursuant to Section 5.3. The Owners shall provide AWWU with such reasonable assistance as AWWU may request in obtaining such AWWU Approvals.

3.3 AWWU Representative. AWWU shall designate in writing and maintain at all times during the term of this Agreement an AWWU Representative to represent AWWU and to receive communications from the Owners with regard to the Work and the development of the Facility and the Access Bridges. The AWWU Representative shall act as the Owner's primary point of contact with the AWWU with respect to the Work, and shall be available to meet with the Owners and Project Manager, as reasonably requested, to discuss the Work or any issue related thereto. The AWWU Representative shall have full authority to act for AWWU under this Agreement; provided, that AWWU's Representative shall under no circumstances have the authority to amend (except for the signing of Change Orders), terminate or assign this Agreement. AWWU may change the AWWU Representative at any time upon written notice to the Owners. As of the Effective Date, the AWWU Representative shall be [_____][2].

[2] **Note to Accompany Final Draft**: To be populated after Governor approval and prior to execution.

3.4 Duty to Cooperate. AWWU shall, throughout the performance of the Work, cooperate with the Owners and perform its responsibilities, obligations and services under this Agreement in a timely manner, to facilitate the Owners timely and efficient performance of the Work and the Owners' obligations under this Agreement. AWWU shall provide timely reviews and approvals, including completing the design approval set forth in Section 4.3, such approvals not to be unreasonably withheld or delayed.

3.5 Site and AWWU Facilities Information. Except as set forth on Schedule 3.5, AWWU hereby represents and warrants that the conditions of the Site and of the AWWU Facilities are suitable for the Work and the completion of the Facility. AWWU hereby acknowledges that the Owners shall be entitled to rely on Schedule 3.5 and Exhibit B in preparing their assessment of the Work necessary to complete the Facility, as well as their work preparing the Project Schedule; and that if any information contained in Schedule 3.5 or Exhibit B is later found to be inaccurate, the Owners shall be entitled to a Change Order at their discretion pursuant to Section 7.3.

ARTICLE 4.
CONDITIONS PRECEDENT; PROJECT SCHEDULE, DESIGN APPROVAL

4.1 Construction Start Conditions Precedent.

(a) The obligations of the Owners to design, engineer, permit and construct the Facility as set forth in this Agreement, and the right of the Owners to conduct Work at the Site, and to physically interconnect the Facility with the AWWU Facilities as set forth in this Agreement, shall not be effective until the achievement of the following conditions precedent (the "Construction Start CPs"):

(i) The Owners receive final approval from the Governor of Alaska, with such approval not subject to any pending judicial review or appeal, for a Fish and Wildlife Program that requires the use of the AWWU Facilities as contemplated in this Agreement, provided that such approval includes no unexpected conditions materially adverse to the Owners or to AWWU, as determined in good faith by the Parties and in the exercise of commercially reasonable business judgment;

(ii) The Owners are issued lawful documentation from the Alaska Department of Natural Resources authorizing the use and transport of water as contemplated under the Transportation Agreement, including but not limited to an amendment of the Owners' Water Rights or other approval(s) authorizing a change of use to allow the Owners to use a portion of the Owners' Water Right to establish and continue instream flows in the Eklutna River;

(iii) The Owners and AWWU, with regard to AWWU Approvals, have obtained all Approvals necessary to conduct the Work; and

(iv) The Transportation Agreement and the Water Supply Agreement are in full force and effect and are valid, binding and enforceable against AWWU and the Owners in accordance with their terms.

(b) Notwithstanding Section 4.1(a), nothing in this Agreement shall be construed to prevent the Owners from conducting design and permitting work in preparation for Facility construction prior to the achievement of the Construction Start CPs. Such pre-construction Work shall be done at the sole discretion and financial risk of the Owners, and shall be treated as Work for which all of AWWU's duties and responsibilities hereunder shall apply unless otherwise stated.

4.2 Project Schedule. The Owners shall perform all Work in accordance with the Scope of Work and the Project Schedule. The Owners shall use commercially reasonably efforts to meet all milestones set forth in the Project Schedule, provided that all such milestones may be extended at the discretion of the Owners as may be reasonably necessary to accommodate delays in the achievement of the Construction Start CPs or the receipt of necessary Approvals that are outside the control of the Owners.

4.3 Submission for Design Approval. As of the Effective Date, the proposed design for the Facility is set forth in Exhibit A-3. The Owners may modify such design at their discretion until the achievement of the Construction Start CPs, at which point prior to the commencement of any construction activities at the Site, the Owners shall provide to AWWU final design drawings and proposals (and any applicable calculations, models, and reports developed in support thereof) for the Facility for AWWU's review and approval, such approval to not be unreasonably withheld or delayed. AWWU shall indicate to the Owners within thirty 30 Days after receipt of such design drawings, proposals, calculations, models, and reports whether it approves or denies the design. If AWWU denies the design, the parties shall work in good faith to resolve the applicable issues and develop an updated design for AWWU approval.

4.4 Failure to Obtain Approvals. If, at any point during the Owners performance of the Work, the Owners or AWWU are unable to obtain any Approval necessary to construct or operate the Facility as intended herein and in the Fish and Wildlife Program, despite taking all reasonable commercial efforts to obtain such Approvals, then either Party may terminate this Agreement upon forty-five (45) Days prior written notice; and the Owners shall restore the site pursuant to Section 11.7.

4.5 Installation; Testing Procedures.

(a) Conduct of Tests. As soon as possible after installation of all Equipment necessary, as determined by the Owners in their sole discretion, to render the Facility mechanically and structurally complete, the Owners shall begin to conduct, or cause to be conducted, the Commissioning Procedures, in accordance with this Section 4.5 and the Commissioning Procedures Guidelines. Owners may perform and re-perform any number of Commissioning Procedures in accordance with the Commissioning Procedures Guidelines, and the Owners, at their discretion, may prematurely terminate any Commissioning Procedures so long as the remaining Commissioning Procedures are completed prior to Commercial Operation.

(b) AWWU Personnel. The Owners shall provide AWWU at least two (2) Business Days' prior notice of the intended commencement of the Commissioning Procedures. AWWU shall have at least one representative at the Site throughout the performance of the Commissioning Procedures, in order to monitor the taking of measurements to determine the

performance and safety of the Facility, all in accordance with the Commissioning Procedures Guidelines.

4.6 Commercial Operation. When the Owners consider that the criteria for Commercial Operation have been met, including successful completion of the Commissioning Procedures in accordance with Section 4.5, the Owners shall so notify AWWU in writing, and shall provide AWWU with a completed Commercial Operation certificate issued by an independent licensed professional engineer, in the form set forth in Exhibit H (the "Commercial Operation Certificate").

4.7 Final Acceptance. The criteria for achieving Final Acceptance shall be that: (a) Commercial Operation has occurred; (b) AWWU has received from the Owners copies of all as-built drawings for the Work and the Facility; (c) AWWU has received from Owners all Equipment Documentation related to the AWWU Portion; (d) Owners have removed from the Site and properly disposed of all wastes created at or brought onto the Site by the Owners; and (e) an Owners' training program for AWWU's operation and maintenance personnel has been completed in accordance with the Scope of Work. When the Owners consider that the criteria for Final Acceptance have been met, the Owners shall so notify AWWU in writing. Within five (5) Days thereafter, AWWU shall either: (i) notify the Owners in writing that it agrees that Final Acceptance has been achieved, or (ii) advise the Owners of the items in Section 4.7(a) through (e) (collectively, "Final Acceptance Items") that AWWU believes have not yet been satisfied. Upon receipt of any notice from AWWU of an alleged failure to satisfy a Final Acceptance Item, the Owners shall either: (A) satisfy such Final Acceptance Item(s); or (B) advise AWWU in writing that the Owners believes in good faith that all Final Acceptance Item(s) have been satisfied and shall request the commencement of negotiations pursuant to Section 11.5(a).

4.8 Post-Completion Facility O&M. Upon Final Acceptance and the applicable title transfers set forth in ARTICLE 6, AWWU shall be responsible for operating and maintaining the AWWU Facilities and the AWWU Portion; and the Owners shall be responsible for operating and maintaining the Owners' Portion. Each of AWWU and the Owners shall also have further specific ongoing operations and maintenance obligations for portions of the Facility during the "Delivery Term" of the Transportation Agreement, as further detailed in the Transportation Agreement.

4.9 Post-Completion Access Bridge Maintenance. Upon completion of any Access Bridge by the Owners, and possession and applicable title having passed to AWWU pursuant to Section 6.1(d), full responsibility for (and associated costs of) such Access Bridge maintenance shall belong to AWWU, except that the Owners shall use commercially reasonable efforts to obtain a one-year materials and workmanship warranty from the contractor(s) engaged by the Owners to construct the Access Bridges and then shall pass such warranty on to AWWU.

4.10 Skill and Expertise. Each Party shall use commercially reasonable efforts to ensure that all employees and contractors engaged in connection with the maintenance of, operation of, service of, and any future modification to (to include design, construction, commissioning, and installation) the Facility shall have the appropriate and necessary experience, skill and expertise to carry out the tasks efficiently, professionally, and in accordance with Prudent Industry Standards and applicable Laws.

ARTICLE 5.
COSTS; TAXES; REIMBURSEMENT

5.1 Costs. All costs to complete the Facility and perform the Work hereunder shall be the responsibility of Owners. The Owners shall reimburse AWWU pursuant to Section 5.3 for AWWU's reasonable actual costs related to or arising out of the development and construction of the Facility and related to all of AWWU's responsibilities set forth in ARTICLE 3, including but not limited to documented direct and indirect costs, overhead, general and administrative costs, staff time, and all other costs related to or arising out of the planning, engineering and project management associated with the Facility; provided that AWWU shall use commercially reasonable efforts to minimize such costs.

5.2 Taxes. The Owners shall be responsible for and shall pay any sales, use, gross receipts, occupation, and other taxes (excluding income and franchise tax imposed upon AWWU) that from time to time may become payable as a consequence of this Agreement.

5.3 Payments. For any costs described in Section 5.1 initially borne by AWWU, AWWU shall submit to each of the Owners a detailed accounting of such cost for which AWWU is seeking reimbursement, together with such supporting documentation as the Owners shall reasonably require. Within sixty (60) Days after receiving a properly completed application for reimbursement and all required supporting documentation, each of the Owners shall individually: (i) pay AWWU their respective Cost Responsibility Proportion of the amounts set forth in AWWU's application for payment; or (ii) notify AWWU in writing that such Owner believes in good faith that a requested payment amount is not due and owing and shall request the commencement of negotiations pursuant to Section 11.5(a). In addition to the requirement that each Owner pay its Cost Responsibility Proportion as required in this Section, the Owners shall each be jointly and severally liable for all reimbursement obligations owed to AWWU under this Article 5.

ARTICLE 6.
TITLE; LOSS OR DAMAGE; FORCE MAJEURE

6.1 Title.

(a) Legal title to and ownership of the AWWU Portion shall pass to AWWU upon achievement of Final Acceptance free and clear of any and all liens, claims, security interests or other encumbrances. Title to drawings, specifications and like materials provided by Owners with respect to the AWWU Portion shall also pass to AWWU upon achievement of Final Acceptance. Owners shall deliver to AWWU such assignments, bills of sale or other documents as reasonably requested by AWWU to evidence such transfers of title and ownership.

(b) Legal title to and ownership of the Owners' Portion shall remain with Owners after Final Acceptance and throughout the term of the Transportation Agreement, free and clear of any and all liens, claims, security interests or other encumbrances imposed by AWWU.

(c) Legal title to and ownership of the AWWU Facilities shall remain with AWWU before, during, and after the construction of the Facility.

(d) Legal title to and ownership of any Access Bridge shall pass to AWWU upon completion of such Access Bridge. Owners shall deliver to AWWU such assignments, bills of sale or other documents as reasonably requested by AWWU to evidence such transfers of title and ownership, and if the Parties determine that an additional agreement between the Parties is necessary to detail specific Access Bridge construction and ownership transfer terms and conditions, the Parties shall negotiate such documentation in good faith and in accordance with the terms of this Agreement.

(e) Legal title to and ownership of all Owners' Water shall remain with the Owners at all times during construction of the Facility, including during the performance of the Commissioning Procedures.

6.2 Risk of Loss.

(a) Equipment. Notwithstanding anything herein to the contrary, the Owners shall have the full responsibility for care, custody and control of material and Equipment incorporated into the Work (including all Equipment and materials used in connection therewith), and shall bear the risk of loss thereof, until an applicable transfer of title to the Equipment for the AWWU Portion occurs, at which time risk of loss shall pass to AWWU.

(b) Water. For any quantity of Owners' Water flowing through AWWU's Facilities as part of the Commissioning Procedures or otherwise during the construction of the Facility: control, custody and risk of loss of such Owners' Water shall transfer from the Owners to AWWU at the Injection Point, where such Owners' Water shall comingle with AWWU's Water until reaching the Delivery Point, at which point the custody, control and risk of loss of a quantity of water equal to the original quantity of Owners' Water released into the AWWU Facilities at the Injection Point shall pass back to the Owners.

6.3 Force Majeure. Each Party shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, except for the Owners' obligation to reimburse AWWU for costs pursuant to ARTICLE 5, if and to the extent that such Party's failure of, or delay in, performance is due to a Force Majeure Event; provided, that:

(a) such Party gives the other Party prompt written notice describing the particulars of the Force Majeure Event as soon as is reasonably practicable after becoming aware of the occurrence of the Force Majeure Event;

(b) the suspension of performance is of no greater scope and of no longer duration than are reasonably required by the Force Majeure Event;

(c) no obligations of an affected Party that arose before the occurrence of the Force Majeure Event causing the suspension of performance shall be excused as a result of such Force Majeure Event, unless and only to the extent that the performance of such obligations is impaired by the Force Majeure Event;

(d) the Party uses diligent commercially reasonable efforts to overcome or mitigate the effects of the Force Majeure Event; and

(e) when the Party is able to resume performance of its obligations under this Agreement, such Party shall give the other Party written notice to that effect, and shall promptly resume performance hereunder.

ARTICLE 7.
CHANGES

7.1 Change Orders. The Owners may propose Change Orders to AWWU if those Change Orders: (i) improve the Facility; (ii) are required by a Governmental Authority as a condition precedent to issuance of any Governmental Approval; or (iii) are otherwise advisable for the Work. This shall not affect the obligation of the Owners to perform the Work and to install the Facility in accordance with the terms of this Agreement, except as otherwise set forth in the Change Order or in Sections 7.2 or 7.3.

7.2 Changes to Project Schedule. In the event that any Change Order affects the amount of time needed to complete any portion of the Work, there shall be an equitable adjustment of the time of performance and the Project Schedule, as agreed to by the Parties.

7.3 Unanticipated Conditions. If any unusual or unanticipated conditions exist or arise at the Site such as Hazardous Materials, structural or geotechnical deficiencies, environmental conditions, pollution or archeological findings not known to the Owners as of the Effective Date (collectively, "Unanticipated Conditions"), which conditions would involve the Owners incurring any expenses or delays to correct such conditions, the Owners shall submit a request for approval of the corrective work and expense pursuant to a Change Order, the approval of which by AWWU shall not be unreasonably withheld, conditioned or delayed, and such corrective work shall be deemed incorporated into the Scope of Work; provided, however, if any Unanticipated Conditions exist or arise that are contrary to those set forth on Schedule 3.5 or Exhibit B, then the Change Order submitted by the Owners in connection with such Unanticipated Conditions shall be deemed to be automatically approved by AWWU. All change orders under this Agreement shall be fulfilled at the sole expense of the Owners.

ARTICLE 8.
WARRANTIES

8.1 Warranties.

(a) Except as expressly set forth in Section 8.1(b), Owners do not make (and hereby expressly disclaim) any other warranties of any kind whatsoever.

(b) The Owners hereby warrant that as of the Commercial Operation Date: (i) the Facility will meet the requirements set forth in the Facility Criteria; (ii) the Facility will be free from defects in workmanship under normal operating conditions, provided that such warranty shall not apply to existing AWWU Facilities incorporated within the Facility; (iii) all Work will have been performed in accordance with Prudent Industry Standards and all requirements of this Agreement; and (iv) the Work, including but not limited to each item of Equipment incorporated therein, will be new and shall conform in all material respects with the plans and specifications prepared in accordance with this Agreement and all descriptions set forth herein.

(c) In conjunction with achievement of the Commercial Operation Date, the Owners hereby agree to assign to AWWU, and AWWU agrees to assume, all Subcontractor, supplier and manufacturer warranties set forth on Exhibit G relating to the AWWU Portion, and thereafter AWWU shall pursue all warranty claims thereunder directly with such Subcontractors, suppliers and manufacturers.

8.2 Warranty Period. Owners shall remedy any breach of the warranties set forth in Sections 8.1(b) discovered within 12 months of the Commercial Operation Date (the "Warranty Period").

8.3 Remedies. If the warranty set forth in Section 8.1 is breached or a defect or deficiency is discovered by Owners or AWWU during the Warranty Period, Owners shall repair, replace, and/or correct the applicable Work on a reasonably expedited basis while minimizing any impact of the failure on Facility availability and functionality or AWWU Facilities availability and functionality. AWWU shall permit the Owners access to the AWWU Facilities and the AWWU Portion necessary or useful to perform Owners' warranty obligations under this Agreement. All costs of Owners' performance of their warranty obligations shall be borne by Owners, including any removal, replacement and reinstallation of Equipment and materials necessary to gain access to defective Work.

8.4 Warranty Exclusions. The warranty obligations set forth in this ARTICLE 8 do not extend to Work that is damaged by or other potential warranty claims arising from: (a) the negligent acts or omissions of AWWU or its contractors, agents, employees, representatives or any other Person acting on behalf of AWWU; (b) Force Majeure Events; (c) any Equipment included in the AWWU Portion that is not maintained and operated by AWWU in accordance with all Equipment Documentation; (d) normal wear and tear; (e) any alteration, repair or replacement made without the prior written approval of the Owners or contrary to instructions from the Owners; or (f) conditions that existed prior to the completion of the Work, including any defects or deficiencies in any equipment included in AWWU Facilities not directly caused by the Owners as part of the Work (collectively, "Non-Owner Work"). In the event that the warranty service requested is related to Non-Owner Work or is covered by any warranty set forth on Exhibit G, the Owners shall have no further obligation.

8.5 NO IMPLIED WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE OWNERS MAKE NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, AND AWWU DISCLAIMS ANY WARRANTY OR GUARANTEE IMPLIED BY LAW, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT AND IMPLIED WARRANTIES OF CUSTOM OR USAGE.

ARTICLE 9.
LIMITATIONS ON LIABILITY

9.1 Aggregate Limitation of Liability. Notwithstanding any other provision of this Agreement, the total aggregate liability of the Owners and the total aggregate liability of AWWU arising out of or relating to this Agreement, from any and all causes, whether based on contract, tort (including negligence), strict liability or any other cause of action, shall in no event exceed ten

million dollars ($10,000,000) for AWWU, and ten million dollars ($10,000,000) for the Owners collectively, provided that such limit shall not apply in the case of such Party's (i) gross negligence or willful misconduct, (ii) third-party indemnity obligation, or (iii) breach of any representation or warranty.

9.2 CUMULATIVE REMEDIES. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, OR IF A REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY NON-EXCLUSIVE, THE NON-DEFAULTING PARTY SHALL HAVE THE RIGHT TO EXERCISE ALL RIGHTS AND REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY; PROVIDED, HOWEVER, THAT THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED.

9.3 WAIVER OF CERTAIN DAMAGES. EXCEPT WITH RESPECT TO INDEMNIFICATION OF THIRD PARTY CLAIMS PURSUANT TO ARTICLE 10, OR AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, BUSINESS INTERRUPTION OR SIMILAR DAMAGES, WHETHER BY STATUTE, IN TORT, BY CONTRACT OR OTHERWISE.

ARTICLE 10.
INDEMNIFICATION

10.1 Indemnity. To the fullest extent permitted by Law, each Party shall indemnify, hold harmless and defend the other Party and its directors, officers, shareholders, partners, agents and employees, and the Affiliates of the same (collectively, the "Indemnified Parties"), from and against any and all claims, loss, damage, expense and liability, including court costs and reasonable attorneys' fees (collectively, "Liabilities") incurred by the Indemnified Parties in connection with or arising from (i) the Work; and (ii) any claim for physical damage to or physical destruction of any part of the Facility, the AWWU Facilities, or death of or bodily injury to any person, to the extent any such Liability was caused by the negligence of the Indemnifying Party or its agents or employees or others under such Indemnifying Party's control, except any Liabilities incurred due to the negligence or willful misconduct of an Indemnified Party. For the purpose of the definition of "Indemnified Parties" AWWU shall not be considered to be an "Affiliate" of the MOA.

10.2 Environmental Indemnity. Notwithstanding any other provision hereof, each Party shall indemnify, defend and hold harmless the other Party and its Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Site of any Hazardous Material to the extent such Hazardous Material is deposited, spilled, released or otherwise caused by the Indemnifying Party or its Subcontractors or agents in connection with the Work.

10.3 Defense of Claims. A Party with an indemnification obligation pursuant to this ARTICLE 10 (an "Indemnifying Party") shall have the right to defend the Indemnified Parties pursuant to this ARTICLE 10 by counsel of the Indemnifying Party's selection (including insurance counsel) reasonably satisfactory to the Indemnified Party, unless in the opinion of counsel for the Indemnifying Party a conflict of interest between the Parties may exist with respect

to such claim. If the Indemnifying Party does not assume the defense of the Indemnified Party, or if a conflict precludes counsel for the Indemnifying Party from providing the defense, then the Indemnifying Party shall reimburse the Indemnified Party on a monthly basis for the Indemnified Party's defense through separate counsel of the Indemnified Party's choice. Even if the Indemnifying Party assumes the defense of the Indemnified Party with acceptable counsel, the Indemnified Party, at its sole option, may participate in the defense, at its own expense, with counsel of its own choice without relieving the Indemnifying Party of any of its obligations hereunder. The Parties shall give each other prompt written notice of any asserted claims or actions indemnified against hereunder and shall cooperate with each other in the defense of any such claims or actions. Without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed, no Indemnifying Party shall settle any such claims or actions in a manner that would require any action or forbearance from action by any Indemnified Party.

ARTICLE 11.
DEFAULT AND REMEDIES; TERMINATION; DISPUTE RESOLUTION

11.1 Event of Default. The following shall constitute events of default on the part of either party (each, an "Event of Default") under this Agreement:

(a) If a Party makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of such Party, or if such Party files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition of or readjustment of debts and, in the case of any such proceeding instituted against such Party (but not by such Party) such proceeding is not dismissed within sixty (60) days of such filing;

(b) If a Party fails to comply with any material terms of this Agreement not otherwise set forth as an Event of Default in this Section 12.1(b) and fails to cure or remedy such failure within thirty (30) days after notice and a written demand is made by the non-defaulting Party to the defaulting Party to cure the same or, if such failure cannot be cured within thirty (30) days, the defaulting Party fails to commence to cure such failure within thirty (30) days after such notice and written demand and thereafter diligently pursue such cure to completion, which shall in no event be later than ninety (90) days after such notice;

(c) If a Party fails to make any payment due hereunder within sixty (60) days after written notice from the non-defaulting Party;

(d) If a Party defaults under the Water Supply Agreement or the Transportation Agreement; or

(e) If any representation or warranty of a Party in this Agreement proves to have been false or misleading in any material respect when made, and such Party has not, within thirty (30) days after written notification thereof from the non-defaulting Party, either fully remedied, or commenced and diligently pursued the remedy, of all adverse impacts on the non-defaulting Party resulting therefrom, all to the reasonable satisfaction of the non-defaulting Party.

11.2 Remedies Upon Event of Default. Upon the occurrence and continuation of an Event of Default, the non-defaulting Party shall have the right to terminate this Agreement and the Water Supply Agreement upon ten (10) days' prior written notice, and pursue any other remedy available to such non-defaulting party at law or in equity arising out of such Event of Default, including a claim for monetary damage or specific performance.

11.3 Site Restoration Upon Termination. If either Party terminates this Agreement for any reason during construction, the Owners shall promptly withdraw from the Site and shall remove all Equipment, returning the Site to its previous condition, all at Owners' cost, provided that if the Owners terminate for an AWWU Event of Default under this Agreement or the Water Supply Agreement or Transportation Agreement, AWWU shall reimburse the Owners for the costs of such removal.

11.4 Automatic Cross-Agreement Termination. If this Agreement is terminated for any reason, the Water Supply Agreement and the Transportation Agreement shall automatically terminate effective as of the same date as this Agreement's termination.

11.5 Dispute Resolution. In the event of any dispute arising under this Agreement (a "Dispute"), within ten (10) Business Days following notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies.

ARTICLE 12.
REPRESENTATIONS

12.1 General Representations and Warranties. Each Owner and AWWU hereby represents and warrants that:

(a) It is duly organized, validly existing and in good standing under the Laws of the state of its formation and is duly qualified to do business in the jurisdiction where the Site is located.

(b) It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate, municipal, or other action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or

other similar Laws relating to the enforcement of creditors' rights generally and by general equitable principles.

(c) It is not in violation of any applicable Law, or any judgment entered by any federal, state, local or other Governmental Authority, which violations, individually or in the aggregate, would adversely affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or (to its best knowledge) threatened against it which, if adversely determined, could have a material adverse effect upon its financial condition, operations, prospects or business, as a whole, or its ability to perform under this Agreement.

(d) No authorization, approval, exemption, or consent of or by any Person is required by it in connection with the execution, delivery, and performance of this Agreement. In addition, each Party represents and warrants to the other Party that the Governmental Approvals required to be obtained by such Party either have been obtained by such Party and are in full force and effect on the date hereof or will be obtained by such Party and will be in full force and effect on or prior to the date on which they are required, under applicable Law, to be in full force and effect, so as to permit the Owners to commence and prosecute the Work to completion in accordance with the Project Schedule.

(e) The execution and delivery of this Agreement, and the consummation of the transactions herein contemplated and compliance with the terms and provisions hereof by it, will not conflict with or result in a material breach of, or require any consent under, any of its constitutive documents, or any applicable Law, or any agreement or instrument to which it is a party or by which it is bound or to which it is subject, or constitute a material default under any such agreement or instrument.

ARTICLE 13.
NOTICES

13.1 Writing. Except as set forth in Section 13.2, any notice, statement, demand, claim, offer or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be sent by email, facsimile, hand messenger delivery, overnight courier service, or certified mail (receipt requested) to the other Party at the address set forth in Exhibit L. Each Party shall have the right to change the address information to which notice shall be sent or delivered or to specify additional addresses to which copies of notices may be sent, in either case by similar notice sent or delivered in like manner to the other Party. All notices shall be effective upon receipt.

13.2 Technical Communications. Any technical or other communications pertaining to the Work shall be between the Project Manager and the AWWU Representative or other representatives appointed by the Project Manager or the AWWU Representative. Each Party shall notify the other in writing of the name of such representatives. The Project Manager or other designated representatives shall be reasonably satisfactory to AWWU, have knowledge of the Work, and be available at all reasonable times for consultation.

ARTICLE 14.

CONFIDENTIALITY; PUBLIC STATEMENTS

14.1 Confidentiality. The Parties agree that the Parties' proposals, communications, negotiations, and information exchanged prior to the Effective Date concerning this Agreement and the development thereof, and technical and other information regarding or relating to the Facility, the Access Bridges or the Work exchanged between the Parties that is or otherwise clearly communicated to the receiving Party as "Confidential" constitute "Confidential Information" of the disclosing Party. The Owners and AWWU each agree to hold such Confidential Information wholly confidential. Such Confidential Information may only be used by the Parties for the purposes related to the approval, or administration or enforcement of this Agreement.

14.2 Disclosure. Each Party agrees not to disclose Confidential Information of the other Party to any other Person (other than its Affiliates, counsel, consultants, lenders, partners, members, employees, officers and director, and then only to Persons subject to similar confidentiality restrictions as those set forth herein), without the prior written consent of the other Party, provided, that, either Party may disclose Confidential Information, if such disclosure is required by Law, including without limitation, pursuant to an order of a court or regulatory agency or in order to enforce this Agreement or to seek approval of this Agreement. In the event a Party is required by Law or a Governmental Authority to disclose Confidential Information, such Party, prior to such disclosure, shall provide reasonable advance notice to the other Party of the time and scope of the intended disclosure, in order to permit such non-disclosing Party the opportunity to obtain a protective order or to otherwise seek to prevent or limit the scope or otherwise impose conditions upon such disclosure.

14.3 Injunctive Relief. Each Party agrees that violation of the terms of Sections 14.1 and 14.2 constitutes irreparable harm to the other, and that the harmed Party may seek any and all remedies available to it at law or in equity, including but not limited to injunctive relief.

14.4 Release of Agreement. The Parties agree that this Agreement, upon execution, shall not be considered Confidential Information. Except as required by Law, releasing the Agreement to the public shall be the sole responsibility of the Owners, to be released in the manner at a time decided in their sole discretion.

14.5 AWWU Public Statements.

(a) Until that date upon which the Fish and Wildlife Program is approved by the Governor of Alaska, and absent any pending judicial review or appeal, any public statements made by AWWU about the Fish and Wildlife Program or the development of the Facility must be approved by the Owners, such approval not to be unreasonably withheld or delayed. Notwithstanding the foregoing, AWWU may respond to any inquiries from any Governmental Authority in a manner consistent with this Agreement.

(b) AWWU shall make best efforts to ensure that all of the employees, agents, contractors and consultants of AWWU do not engage in any public activities while acting as employees, agents, contractors or consultants of AWWU, to include the public expression of statements that are reasonably likely to have an adverse effect on the public's perception of the

Fish and Wildlife Program and the development of the Facility, it being understood by both AWWU and the Owners that such negative public statements may undermine the ability of the Owners to satisfy their obligations under the 1991 Agreement; provided, however, that the Parties acknowledge that AWWU cannot restrict the rights of such people to express their personal opinions as private citizens.

ARTICLE 15.
MISCELLANEOUS

15.1 Reasonability. The Parties shall act in a reasonable manner and in accordance with principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement and whether or not stated: (a) where this Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned, or delayed; and (b) wherever this Agreement gives a Party a right to determine, require, request, specify, or take similar action with respect to a matter, such determination, requirement, request, specification, or similar action must be reasonable.

15.2 Entire Agreement. This Agreement, together with all Schedule and Exhibits hereto, embodies the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties, verbal or written, relating to the subject matter hereof.

15.3 Waiver. Any waiver of the provisions of this Agreement must be in writing and shall not be implied by any usage of trade, course of dealing or course of performance. No exercise of any right or remedy by AWWU or the Owners constitutes a waiver of any other right or remedy contained or provided by Law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance hereunder shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

15.4 Assignment. Neither Party shall assign this Agreement or any of its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party, without relieving itself from liability hereunder, and without the need for consent from the other Party, provided that any such assignee shall agree to be bound by all terms and conditions hereof, may transfer, pledge or assign this Agreement: (a) to any person or entity succeeding to all or substantially all of the assets of the assigning Party; or (b) to a successor entity in a merger or acquisition transaction. Any assignment made in contravention of this Section 15.4 shall be void and unenforceable.

15.5 Governing Law; Submission to Jurisdiction; Venue; No Jury Trial.

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALASKA, EXCLUDING ANY CHOICE OF LAW RULES.

(b) Submission to Jurisdiction, Venue. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its Affiliates or designees) with respect to or arising out of this Agreement shall be brought exclusively in the courts of the State of Alaska, in the Municipality of Anchorage, as the Party instituting such suit, action or other legal proceeding may elect, provided that claims related to federal water rights, federal legislation enabling the Facility or AWWU Facilities, or the 1991 Agreement may be brought in the United States District Court for the District of Alaska. By execution and delivery of this Agreement, each Party (for itself, its Affiliates and its designees) irrevocably and unconditionally consents and submits to the exclusive jurisdiction of such courts and the appellate courts therefrom, and waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding. The Parties irrevocably consent to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, first class postage prepaid to the addresses set forth in Section 13.1.

(c) No Jury Trial. EACH OF THE PARTIES HEREBY WAIVES ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) Duty to Proceed. Pending final resolution of any Dispute, the Owners and AWWU shall continue to fulfill their respective obligations hereunder that are not the subject of the Dispute.

15.6 Construction. This Agreement is to be construed so as to effectuate the normal and reasonable expectations of a sophisticated buyer and seller of the equipment and services covered by this Agreement and shall not be construed either for or against either Party. No provision of this Agreement shall be construed or interpreted for or against either Party because such Party drafted or caused its legal representative to draft the provision.

15.7 Headings. The titles or headings of the various sections, articles and paragraphs hereof are intended solely for convenience and ease of reference and are not intended, and are not to be deemed for any purpose, to modify or explain or place any interpretation or construction upon any of the provisions of this Agreement.

15.8 Status of the Parties. The Owners and its Subcontractors shall be independent contractors in relation to AWWU with respect to the Work; and neither the Owners nor their Subcontractors, nor the employees or agents of either, shall be deemed to be the employees, representatives or agents of AWWU in connection with any matter relating to this Agreement. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties.

15.9 Insurance. The Owners shall maintain the required insurance policies as set forth on Exhibit J-1 and AWWU shall maintain the required insurance policy as set forth on Exhibit J-2.

15.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of the Owners and AWWU, and their permitted successors and assigns,

and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

15.11 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take all further action, as may be reasonably necessary to complete performance by the Parties hereunder and to effectuate the purposes and intent of this Agreement.

15.12 Amendments. Except for any Change Order issued pursuant to ARTICLE 7, a removal of an Owner pursuant to Section 2.5, or a redesignation of the Project Manager, the AWWU Representative or notice information under Section 13.1, no change, amendment or modification of this Agreement shall be valid or binding upon the Parties unless such change, amendment or modification shall be in writing and duly executed by the Parties.

15.13 Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provision of this Agreement and all other provisions will remain in full force and effect.

15.14 Conflicting Provisions. In the event of any conflict between this document and any Schedule or Exhibit attached hereto, the terms and provisions of this document, as amended from time to time, shall control. In the event of any conflict among the Exhibits, the Exhibit of the latest date mutually agreed to by the Parties shall control.

15.15 Survival. The provisions of ARTICLE 1, ARTICLE 6, ARTICLE 8, ARTICLE 9, ARTICLE 10, ARTICLE 11, ARTICLE 12, ARTICLE 13, and ARTICLE 15 shall survive termination of this Agreement for any reason.

15.16 Counterparts. This Agreement may be executed in any number of separate counterparts and delivered by electronic means, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

ARTICLE 16.
EFFECT OF PUMPED STORAGE HYDROPOWER ALTERNATIVE

16.1 Pumped Storage Hydropower Study; Negotiation of Replacement Agreements. The parties shall, in good faith, conduct the pumped storage hydropower study required by the Governor of Alaska's October 2, 2024 Final Fish and Wildlife Program, in the same or substantially the same form as the study submitted to the Anchorage Assembly in AIM ____ (PSH Study). Within 30 days of the completion of the PSH Study, the parties shall meet and negotiate replacement agreements that (1) provide for any needed access to, use of, or interference with AWWU infrastructure to facilitate the potential alternative, and (2) replace the 1984 Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, as amended, regarding use of and compensation for Eklutna Lake water by AWWU. Such agreements shall be subject to approval by the Anchorage Assembly to the extent required by municipal law.

16.2 Alternative Program Selected. If the Governor of Alaska selects an alternative Final Fish and Wildlife Program that does not involve the Facility, such as pumped storage hydropower, then:

(a) The Long-Term Water Transportation Agreement, the Interconnection Agreement, and the Water Supply Agreement shall immediately be suspended.

(b) The Parties shall expeditiously execute new agreements, if not already executed, to facilitate the implementation and long-term operation and maintenance of the alternative Final Program selected by the Governor. Such agreements shall be subject to approval by the Anchorage Assembly to the extent required by municipal law.

16.3 Continuity of Municipal Water Supply. In the event the Public Water Supply Agreement is suspended in accordance with the preceding section, the terms for the Municipality's water supply that were in effect as of April 22, 2025 under the 1984 Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, as amended, shall be restored and remain in effect until replacement agreements for the Municipality's public water supply are negotiated, approved by the Anchorage Assembly, and executed.

16.4 Reservation of Rights. The parties reserve all rights, remedies, and causes of action available to them under the 1991 Fish and Wildlife Agreement.

[***Remainder of page intentionally left blank***]

IN WITNESS WHEREOF, the Parties have caused this Water Facilities Interconnection Agreement to be executed by their duly authorized representatives as of the Effective Date.

AWWU:

ANCHORAGE WATER AND WATERWATER UTILITY, A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: Municipal Manager

By: _____

Name: _____

Title: General Manager

OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MATANUSKA ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____
Title: _____

Schedule 1.1

Definitions

"1991 Agreement" means that certain Agreement between the Municipality of Anchorage, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., the United States Fish and Wildlife Service, the National Marine Fisheries Service, the State of Alaska, and the Alaska Energy Authority Relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991, as amended.

"Access Bridges" has the meaning set forth in the Recitals.

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with such first Person. For purposes of this definition and the Agreement, the term "control" (and correlative terms) means (1) the ownership of 50% or more of the equity interest in a Person, or (2) the power, whether by contract, equity ownership or otherwise, to direct or cause the direction of the policies or management of a Person.

"Agreement" has the meaning set forth in the Preamble, and shall include all Exhibits and Schedules hereto.

"Approvals" means Governmental Approvals and third-party approvals.

"AWWU" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of AWWU.

"AWWU Approvals" has the meaning set forth in Section 3.2.

"AWWU Isolation Valve" has the meaning set forth in Exhibit A-1.

"AWWU Facilities" has the meaning set forth in the Recitals.

"AWWU Representative" means the person designated by AWWU in accordance with Section 3.3 to act as the Owners' primary point of contact with AWWU.

"AWWU's Portion" has the meaning set forth in Exhibit A-1.

"AWWU's Water Permit" means that permit belonging to AWWU (LAS 2569) to use Owners' Water Rights for up to 41 million gallons per day for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823, as may be replaced as described in Section 3.1 of the Water Supply Agreement.

"AWWU's Water" means any and all water belonging to AWWU pursuant to AWWU's Water Permit.

"Business Day" means any day other than a Saturday, Sunday or legal holiday in the state of Alaska.

"Change Order" means a written order signed by Project Manager and AWWU authorizing a change in the Work or an adjustment in the Project Schedule for performance or delivery of the Work.

"Chugach" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of Chugach.

"Commercial Operation" means that: (a) Owners have completed the Commissioning Procedures and the Facility has met the Facility Criteria; and (b) Owners have provided the Commercial Operation Certificate to AWWU.

"Commercial Operation Certificate" has the meaning set forth in Section 4.6.

"Commercial Operation Date" means the date upon which Commercial Operation is achieved.

"Commissioning Procedures" means a test of function of the Facility in accordance with the Commissioning Procedures Guidelines and Section 4.5.

"Commissioning Procedures Guidelines" means the guidelines for the Commissioning Procedures set forth on Exhibit E.

"Confidential Information" has the meaning set forth in Section 14.1.

"Construction Start CPs" has the meaning set forth in Section 4.1.

"Cost Responsibility Proportion" shall mean, with respect to each Owner, the percentage of the total applicable Eklutna Hydroelectric Project costs that such Owner is obligated to pay as agreed to by the Owners, which as of the Effective Date shall be, with respect to MOA, 19.05%, with respect to Chugach, 64.28%, and with respect to MEA, 16.67%, and which may be changed hereunder upon agreement between the Owners at any time.

"Day" or "day" means a calendar day, unless expressly specified otherwise.

"Delivery Point" has the meaning set forth in Exhibit A-1 and is depicted on the schematic included as part of Exhibit B.

"Delivery Point Meter" has the meaning set forth in Exhibit A-1.

"Dispute" has the meaning set forth in Section 11.5.

"Effective Date" has the meaning set forth in the Preamble.

"Eklutna Hydroelectric Project" means the Eklutna Hydroelectric Project initially authorized, constructed and operated pursuant to the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended), including any and all property and facilities acquired or used in connection therewith, all of which was then sold to the Owners by the United States of America on October 2, 1997.

"Equipment" means all of the equipment, materials, apparatus, structures, supplies and other goods required by the terms of this Agreement to complete the Work and to be incorporated into the Facility. Equipment shall not include any materials, apparatus or tools owned by the Owners or any Subcontractor that are used to complete the Work but are not contemplated under this Agreement to become part of the Work or the Facility.

"Equipment Documentation" means copies or originals of all recommended operating specifications, warranties, manuals, test reports, vendor information and all other similar information obtained or prepared, and to be delivered, by the Owners in accordance with the terms of this Agreement.

"Event of Default" has the meaning set forth in Section 11.1.

"Facility" has the meaning set forth in the Recitals.

"Facility Criteria" means the criteria set forth in Exhibit I.

"Final Acceptance" means the final acceptance of the Work by AWWU, as demonstrated by the process set forth in Section 4.5.

"Final Acceptance Items" has the meaning set forth in Section 4.5.

"Fish and Wildlife Program" has the meaning set forth in the Recitals.

"Force Majeure Event" means the occurrence of any act or event beyond the reasonable control of the Party affected that prevents the affected Party from performing its obligations under this Agreement, in full or part, if such act or event is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums), including the following: drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a Governmental Authority. Notwithstanding the foregoing, Force Majeure Events shall expressly not include mechanical or equipment failures (except to the extent any such failure is itself caused by a Force Majeure Event), nor any diminution in water quality in Eklutna Lake.

"Governmental Approvals" means all authorizations, consents, licenses, leases, rulings, certifications, registrations, exemptions, permits, certificates, and approvals from any Governmental Authority.

"Governmental Authority" means any federal, state or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the performance of the Work, the Facility or its operations, or the health, safety or environmental conditions of the Site or otherwise over the Parties.

"Hazardous Material" means any waste, chemical or other substance or material that is defined as "hazardous" or "toxic" or by any other similar term under any applicable Law relating to environmental, health or safety matters.

"Indemnified Parties" has the meaning set forth in Section 10.1.

"Indemnifying Party" has the meaning set forth in Section 10.3.

"Injection Point" means the point where AWWU Facilities meet facilities owned by the Owners near the outlet of the Eklutna Lake, where AWWU receives all of AWWU's Water from Eklutna Lake, as depicted in the schematic included as part of Exhibit B.

"Isolation Valve Structure" has the meaning set forth in Exhibit A-1.

"Isolation Valves" has the meaning set forth in Exhibit A-1.

"Law" means any constitution, charter, act, statute, law, ordinance, code, rule, regulation, order, specified standards or objective criteria contained in any applicable permit or approval (which standards or

criteria must be met in order for the Work to be performed lawfully) or other legislative or administrative action of any Governmental Authority or a final decree, judgment or order of a court or tribunal.

"Liabilities" has the meaning set forth in Section 10.1.

"MEA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MEA.

"MOA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MOA.

"Non-Owner Work" has the meaning set forth in Section 8.4.

"Owners" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of the Owners.

"Owner" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of an Owner.

"Owners' Isolation Valve" has the meaning set forth in Exhibit A-1.

"Owners' Portion" has the meaning set forth in Exhibit A-1.

"Owners' Water" means any and all water belonging to the Owners pursuant to the Owners' Water Rights.

"Owners' Water Rights" means that certain senior priority water right held by the Owners for the water in Eklutna Lake for use in generating power for the Eklutna Hydroelectric Project as described in water rights certificate ADL 44944.

"Party" and "Parties" has the meaning set forth in the Preamble.

"Person" means any individual, partnership, corporation, limited liability company, association, business, trust, government or political subdivision thereof, Governmental Authority or other entity.

"Project Manager" means the Project Manager designated by the Owners in accordance with Section 2.5.

"Project Schedule" means the Project Schedule attached hereto as Exhibit D.

"Prudent Industry Standards" means those standards of care and diligence normally practiced by water transportation infrastructure engineering, construction and installation firms in performing services of a similar nature in a similar jurisdiction in which the Work will be performed. Prudent Industry Standards are not intended to be limited to optimum practice or methods, but rather to be a spectrum of reasonable and prudent practices and methods that must take the conditions specific to any given water transportation facility under consideration.

"River Release Structure" has the meaning set forth in Exhibit A-1.

"Scope of Work" means the Scope of Work attached hereto as Exhibit C.

"Site" means the location of the Facility as further described in Exhibit B.

"Standard of Work" has the meaning set forth in Section 2.2.

"Subcontractor" means any Person with whom the Owners, or any individual Owner, enters into an arrangement for the performance of any portion of the Work, including Persons at any tier with whom any Subcontractor has further subcontracted any portion of the Work, and the legal or personal representatives, successors, and assigns of such Person.

"Transportation Agreement" has the meaning set forth in the Recitals.

"Unanticipated Conditions" has the meaning set forth in Section 7.3.

"Warranty Period" has the meaning set forth in Section 8.2.

"Water Supply Agreement" has the meaning set forth in the Recitals.

"Work" means all phases of Owners' performance of their construction-related obligations under this Agreement, including engineering, design, procurement, construction, erection, installation, training, testing with respect to the Facility, and the installation of the Access Bridges. For the sake of clarity, any operation and maintenance of the Facility occurring after Final Acceptance does not constitute Work hereunder, unless such operation or maintenance is being conducted pursuant to the warranty provisions set forth in ARTICLE 8.

Schedule 3.5[3]

Site and AWWU Facilities Conditions

[3] **Note to Accompany Final Draft**: This Exhibit will be populated by AWWU after Governor approval and prior to signing.

Exhibit A-1[4]

Eklutna River Release Facility Description and Definitions

The **"*Eklutna River Release Facility"*** shall consist of an Isolation Valve Structure and the River Release Structure.

The "***Isolation Valve Structure***" shall include:

- a new tee to be built in the AWWU pipeline downstream of the AWWU tunnel/pipeline transition and upstream of the AWWU portal valve (the "***Delivery Point***")
- A 54-inch gate valve on the main segment of AWWU pipeline intended to provide dual means of isolation for AWWU's pipeline segment ("***AWWU Isolation Valve***")
- A 42-inch gate valve on the branch segment of AWWU pipeline intended to provide isolation to the river release structure ("***Owners' Isolation Valve***", together with the AWWU Isolation Valve, the "***Isolation Valves***").
- Related controls and communication technology to be installed by the Owners in the main line of the AWWU Facilities.

The "***River Release Structure***" shall include:

- [A new pipeline from the Isolation Valve Structure to the Eklutna River]
- Control valves
- A new meter installed at the Delivery Point ("***Delivery Point Meter***")
- Monitoring and control equipment to be installed by Owners [*describe where]*.

"***AWWU's Portion***" of the Facility shall consist of the Isolation Valve Structure [and _____]

The "***Owners' Portion***" of the Facility shall consist of the River Release Structure [and _____]

[4] **Note to Accompany Final Draft**: This Exhibit will be revised and finalized by Owners to reflect the proposal approved by the Governor and prior to signing.

Exhibit A-2[5]

Description of Facility Controls, Metering, and Communication Facilities

[5] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit A-3[6]

Design (as of Effective Date)

[6] **Note to Accompany Final Draft**: This Exhibit will be populated by Owners after Governor approval and prior to signing.

Exhibit B[7]

Description and Schematic of Site, AWWU Facilities, and Injection Point and Delivery Point

[7] **Note to Accompany Final Draft**: This Exhibit will be populated by Owners after Governor approval and prior to signing.

Exhibit C

Scope of Work[8]

(a) Supply and Procurement. Owners shall at their own expense procure or supply and pay for all of the Equipment, and arrange and pay for the delivery of all of the Equipment to the Site.

(b) Engineering and Design. Owners shall at their own expense design and provide engineering services with respect to the Facility in a manner that shall be:

(i) Consistent with the actual conditions existing at the Site;

(ii) Consistent with the requirements set forth in this Scope of Work;

(iii) Sufficient, complete, and adequate in all respects necessary to enable the Facility to satisfy (A) the Facility Criteria and (B) all required Governmental Approvals;

(iv) In conformance with applicable Laws, including national, state, and local engineering, construction, safety, and electrical codes and standards, as specified in the Scope of Work, or if none are specified for the particular matter, with Prudent Industry Standards; and

(v) In form and content acceptable to all Governmental Authorities.

(c) Construction and Installation. Owners shall provide, install, complete and pay for all labor, Equipment, tools, supplies, construction equipment and machinery, utilities and consumables, transportation and other facilities and services (including any temporary materials, equipment, supplies and facilities) necessary for the proper execution and completion of the Work. All construction and installation performed by the Owners under this Agreement shall be in accordance with the given manufacturer's written instructions and Prudent Industry Standards, in each case unless otherwise agreed by AWWU in advance in writing.

(d) Utilities. The Owners shall provide all of the transmission, power, and communication facilities necessary for construction.

(e) Equipment Documentation and Equipment Training. The Owners shall provide AWWU with all Equipment Documentation for the AWWU Portion, and shall provide AWWU's personnel with up to five (5) days of on-site training in the use and operation of the AWWU Portion, as further detailed in the Transportation Agreement.

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[8] **Note to Accompany Final Draft**: This Exhibit is subject to further revisions and will be finalized after Governor approval and prior to signing.

(f) Approvals. Except for applicable AWWU Approvals, the Owners shall obtain and maintain all Approvals (including all fees and permits) required to perform the Work, including (without limitation) approvals and agreements required to interconnect the Facility with the AWWU Facilities. The Owners shall pay for all such Approvals, and shall reimburse AWWU for costs associated with obtaining and maintaining all AWWU Approvals. Owners shall promptly provide AWWU with copies of all such Approvals upon the Owners' obtaining such Approvals. In order to assist the Owners in obtaining such Approvals, AWWU shall provide the Owners with such reasonable assistance as the Owners may request.

(g) Security. The Owners shall be responsible for the security of the Work and shall construct security facilities (e.g. fencing surrounding the Facility at the Site) to ensure the security of the Work. The Owners shall coordinate with AWWU for the ingress and egress of the Owners' personnel to and from the Site to minimize disruption of AWWU operations.

(h) Conduct at Site. AWWU shall have access to the Site at all times, and the Owners shall, and shall require their Subcontractors to, use commercially reasonable efforts to avoid inhibiting the operations of AWWU at the Site, and the operation of the AWWU Facilities. The Owners shall comply with work rules and work hours reasonably established by AWWU with regard to Work involving the AWWU Facilities.

Exhibit D

Project Schedule[9]

[9] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit E

Commissioning Procedures Guidelines[10]

[10] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit F[11]

AWWU Approvals

[11] **NTD**: AWWU to Provide.

Exhibit G

Pass-through Warranties for AWWU Portion[12]

[12] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit H[13]

Form of Commercial Operation Certificate

[13] **Note to Accompany Final Draft**: This Exhibit will be provided by Owners after Governor approval and prior to signing.

Exhibit I[14]

Facility Criteria

[14] **Note to Accompany Final Draft**: This Exhibit will be populated by Owners after Governor approval and prior to signing.

Exhibit J-1[15]

Owners' Insurance Requirements

[15] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit J-2[16]

AWWU Insurance Requirements

[16] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit K[17]

Description of Access Bridges (to be developed by Owners)

[17] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit L[18]

Notice Information; Project Manager; AWWU Representative

If delivered to the Owners, o them at	Chugach Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Matanuska Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____]
If delivered to AWWU, to it at	Anchorage Water and Wastewater Utility, a department of the Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____]
Project Manager	[_____]
AWWU Representative	[_____]

[18] **Note to Accompany Final Draft**: To be populated immediately prior to execution, after Governor approval, as such information is subject to change.

LONG-TERM WATER TRANSPORTATION AGREEMENT

by and between

Anchorage Water and Wastewater Utility

as

Provider

And

Chugach Electric Association, Inc,

Matanuska Electric Association, Inc., and the Municipality of Anchorage

as

Owners

Dated as of [_____][1]

EKLUTNA RIVER RELEASE FACILITY

[1] **Note to Accompany Final Draft**: This Agreement has been form agreed as between the Parties but will not be signed by the MOA until after Governor approval of the Fish and Wildlife Plan has occurred and such signatures have been authorized by the Anchorage Assembly. Prior to execution, this footnote can be deleted from the draft.

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LONG-TERM WATER TRANSPORTATION AGREEMENT

This LONG-TERM WATER TRANSPORTATION AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered into by and between Anchorage Water and Wastewater Utility ("AWWU"), and Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("MEA"), and the Municipality of Anchorage ("MOA") (each of Chugach, MEA, and MOA is an "Owner" and collectively they are referred to as the "Owners"). The Owners and AWWU are sometimes referred to herein as a "Party" or collectively as the "Parties".

R E C I T A L S

WHEREAS, the Owners own and operate the Eklutna Hydroelectric Project, commissioned in 1954, which includes an earthen dam at the outlet of Eklutna Lake and which, under normal operating conditions, diverts all inflows of water into the Eklutna Lake for hydroelectric production rather than into the Eklutna River;

WHEREAS, AWWU owns and operates certain existing water transportation facilities integrated with the Eklutna Hydroelectric Project as further described and depicted in Exhibit B (the "AWWU Facilities") located near the outlet of Eklutna Lake and adjacent to the Eklutna River, which AWWU uses to provide public water supply for its customers;

WHEREAS, the Owners are parties to the 1991 Agreement (as defined below), pursuant to which they are required to develop and implement a Fish and Wildlife program every thirty-five years to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Eklutna Hydroelectric Project (the "Fish and Wildlife Program");

WHEREAS, as a result of the process set forth in the 1991 Agreement, the Owners have developed a draft Fish and Wildlife Program in which the Owners propose to: (1) develop an Eklutna River release facility consisting in part of AWWU Facilities and facilities constructed pursuant to the Interconnection Agreement, all as further described in Exhibit A and as will be depicted as-built in the Operating Procedures (the "Facility"); (2) to transport water from Eklutna Lake through the Facility and release it into the Eklutna River; and (3) to maintain and operate the Facility;

WHEREAS, in connection with the execution of this Agreement and in order to enable future implementation of the Fish and Wildlife Program (if approved by the Governor of Alaska) and address compensation for AWWU's use of Owners' Water Rights, the Parties also entered into a Water Facilities Interconnection Agreement (the "Interconnection Agreement") pursuant to which the Parties will construct the Facility, and a new Public Water Supply Agreement (the "Water Supply Agreement");

WHEREAS, after the Facility achieves Final Acceptance pursuant to the terms of the Interconnection Agreement and all other conditions precedent set forth herein are achieved, (1) the Owners' desire to engage AWWU to provide, and AWWU desires to provide, the Water Transportation Services; and (2) the Owners and AWWU each desire to operate and maintain portions of the Facility pursuant to the terms and conditions set forth in this Agreement;

WHEREAS, on October 2, 2024, Alaska Governor Mike Dunleavy established a Final Fish and Wildlife Program for the Eklutna Hydropower Project that directed the parties to the 1991 Agreement and the Native Village of Eklutna to study pumped storage hydropower as an alternative to the Facility, noted the Governor's ability to alter the Final Fish and Wildlife Program, and stated that a pumped storage hydropower alternative could ultimately be selected; and

WHEREAS, the Long-Term Water Transportation Agreement, the Interconnection Agreement, and the Public Water Supply Agreement negotiated by the Parties contain terms to facilitate the implementation of a Final Program that uses the Facility and the Facility's long-term operation, but the original versions of these agreements did not contemplate the Governor's potentially selecting a pumped storage hydro alternative as a major component of the Final Fish and Wildlife Program, rendering certain additions appropriate; and

NOW, THEREFORE, in consideration of the premises of this Agreement, the Interconnection Agreement, and the Water Supply Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owners and AWWU, intending to be legally bound, hereby agree as follows:

ARTICLE 1.
DEFINITIONS; INTERPRETATION; EXHIBITS

1.1 Defined Terms. Capitalized terms used in this Agreement without other definition shall have the meanings set forth in Schedule 1.1, unless the context requires otherwise.

1.2 Interpretation. As used in this Agreement, the terms "herein," "herewith" and "hereof" are references to this Agreement, taken as a whole; the terms "includes" or "including" shall mean "including, without limitation"; and references to a "Section," "Article", "Exhibit" or "Schedule" shall mean a Section, Article, Exhibit or Schedule of this Agreement, as the case may be, unless in any such case the context requires otherwise. All references to a given Exhibit, Schedule, agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made. A reference to a Person includes its permitted successors and permitted assigns. The singular shall include the plural and the masculine shall include the feminine and neuter, and vice versa.

ARTICLE 2.
TERM

2.1 Term.

(a) The term of this Agreement shall commence on the Effective Date and continue until the conclusion of the Delivery Term or unless earlier terminated pursuant to the terms of this Agreement (the "Term").

(b) AWWU's obligation to provide the Water Transportation Services and the Parties' obligations to commence the Operational Work hereunder shall be effective on the date upon which the Facility achieves Final Acceptance under terms of the Interconnection Agreement (the "Delivery Term Effective Date") and shall continue in full force and effect for 35 years

thereafter, subject to any early termination provisions set forth herein (the "Initial Delivery Term"). At the conclusion of the Initial Delivery Term, the Agreement shall automatically renew each year, unless a Party notifies the other Party at least 60 days prior to the expiration of the Initial Delivery Term or each extended year thereafter that it does not wish to renew the Agreement. The Initial Delivery Term as so extended is the "Delivery Term".

ARTICLE 3.
WATER TRANSPORTATION AND SCHEDULING

3.1 Water Transportation Services. During the Delivery Term, AWWU shall, pursuant to the schedules set forth in Section 3.2 and the Operating Procedures developed pursuant to Section 5.1, transport Owners' Water, comingled with and undifferentiated from AWWU's Water, through AWWU Facilities from the Injection Point to the Delivery Point, in any amount requested by the Owners (the "Water Transportation Services"), provided, that, such requested amount shall under no circumstances: (a) inhibit the ability of AWWU to deliver a daily flow rate of at least 41 MGD to the downstream Eklutna Water Treatment Facility at a pressure sufficient to allow normal operation of the EWTF as currently configured; (b) exceed the hydraulic capacity or design criteria of the AWWU Facilities; or (c) exceed any then-active Curtailment Limit (clauses (a)-(c), the "Water Release Limits").

3.2 Scheduling.

(a) During the first week of each month of each year of the Delivery Term, and in accordance with the Operating Procedures, the Owners shall provide AWWU with a written anticipated daily Owners' Water release schedule for the following month (e.g., on the first Business Day of January, the Owners shall provide the anticipated schedule for each day of February) based on Eklutna Lake levels and Fish and Wildlife Program obligations, all subject to the Water Release Limits (the "Monthly Water Release Schedule").

(b) No later than the last Business Day of each week of the Delivery Term, the Owners may submit in writing in accordance with the Operating Procedures, updated daily Owners' Water release amounts for the following week, provided that under no circumstance shall such updates exceed the Water Release Limits.

3.3 Metering.

(a) At all times during the Delivery Term, AWWU shall maintain an Injection Point Flow Meter to measure real-time water flowing into AWWU's Facilities from Eklutna Lake.

(b) At all times during the Delivery Term, the Owners shall maintain the Delivery Point Meter to measure real-time water quantities flowing into the River Release Structure at the Delivery Point, which shall be used to calculate the amount of Owners' Water received by the Owners as part of the Water Transportation Services.

(c) Each Party shall take reasonable measures to ensure that the other Party has access to real-time water flow quantity information from both the Injection Point Flow Meter and the Delivery Point Meter, as applicable, pursuant to procedures set forth in the Operating Procedures.

(d) For each month of the Delivery Term, the Owners shall prepare a written report for AWWU detailing the actual water flow amounts through the Injection Point Flow Meter and the Delivery Point Meter, and the amount of Owners' Water delivered to the Delivery Point, all as compared with the Monthly Water Release Schedule (as updated by Section 3.2(b) and pursuant to the procedures detailed in the Operating Procedures).

ARTICLE 4.
OPERATION AND MAINTENANCE

4.1 AWWU Facilities and AWWU's Portion. Throughout the Delivery Term, the AWWU Facilities and AWWU's Portion shall be exclusively operated, managed, and maintained by AWWU or any AWWU designee in accordance with all Governmental Approvals, applicable Law, Prudent Industry Standards, all subject to the Owners' maintenance access rights to the Owners' Isolation Valve as set forth in Section 4.3.

4.2 Owners' Portion. Throughout the Delivery Term, the Owners' Portion shall be exclusively operated, managed, and maintained by the Owners or any designee of the Owners in accordance with all Governmental Approvals, applicable Law, and Prudent Industry Standards.

4.3 Owners' Isolation Valve. Throughout the Delivery Term, the Owners shall be responsible for all operation and maintenance of the Owners' Isolation Valve contained within AWWU's Portion. As part of the Access License granted by AWWU to the Owners pursuant to Section 9.1, AWWU shall ensure that at all times the Owners have access to the Owners' Isolation Valve as necessary to enable the Owners to maintain and operate the Owners' Isolation Valve in accordance with the Operating Procedures, provided, that, AWWU may from time to time assume operational responsibility for the Owners' Isolation Valve temporarily only to the extent necessary to address urgent security or safety issues and to avoid putting AWWU's public water supply at risk of interruption or contamination.

4.4 Approvals. Throughout the Delivery Term, AWWU shall be responsible for obtaining and maintaining all Approvals necessary for the provision of Water Transportation Services and all Operational Work set forth herein, except for those Approvals set forth on Exhibit C hereto, for which the Owners will be responsible for obtaining and maintaining (the "Owners' Approvals"). Each Party shall provide the other Party with such reasonable assistance as such first Party may request in obtaining applicable Approvals.

4.5 Duty to Cooperate. Each Party shall, throughout the Delivery Term, cooperate with the other Party as necessary to facilitate the provision of the Water Transportation Services, the Operational Work and all other responsibilities and obligations under this Agreement in a timely manner.

4.6 Skill and Expertise. Each Party shall, throughout the Delivery Term, use commercially reasonable efforts to ensure that all employees and contractors engaged in connection with the provision of the Water Transportation Services, the Operational Work or any other maintenance of, operation of, service of, and any future modification to (to include design, construction, commissioning, and installation) the Facility shall have the appropriate and necessary

experience, skill and expertise to carry out the tasks efficiently, professionally, and in accordance with Prudent Industry Standards and applicable Law.

4.7 Successor Operator. If, during the Term, the Owners wish to no longer be responsible for any of the operation and maintenance responsibilities set forth in Sections 4.2 and 4.3, for any reason, prior to turning over such operation and maintenance to a third-party entity, AWWU must consent to such third-party entity, such consent not to be unreasonably withheld, conditioned, or delayed. For the sake of clarity, this Section 4.7 does not impact the Owners' right to freely use Subcontractors to conduct any of its responsibilities under Sections 4.2 and 4.3; this Section 4.7 only applies in situations where the Owners plan to no longer be ultimately liable for such obligations hereunder.

ARTICLE 5.
OPERATING PROCEDURES

5.1 Operating Procedures.

(a) At least 60 days prior to the commencement of the Delivery Term, AWWU and the Owners shall develop written detailed operating procedures governing the Water Transportation Services pursuant to the terms in this Agreement (the "Operating Procedures"). Such Operating Procedures shall comply with all applicable Approvals, Prudent Industry Standards and applicable Law and shall, at a minimum, set forth (i) the agreed methods for day-to-day communication and reporting requirements of each Party; (ii) key personnel lists for AWWU and for the Owners necessary for the facilitation of the Operational Work and the provision of the Water Transportation Services; (iii) processes for planning and communication between the Parties to coordinate regarding scheduling pursuant to Section 3.2 and Excused Events pursuant to Article 8; (iv) reporting and determining Curtailment Durations and Curtailment Limits for Excused Events pursuant to Article 8; (v) sharing of information from the Delivery Point Meter and the Injection Point Flow Meter pursuant to Section 3.3; (vi) ongoing reporting requirements of the Owners of metered water flow quantities measured at the Delivery Point and the Injection Point pursuant to Section 3.3; (vii) the process for obtaining and maintaining necessary Approvals throughout the Delivery Term; (viii) reference to necessary Facility equipment specifications and operation and maintenance manuals; (ix) inclusion of the final as-built drawings for the Facility developed pursuant to the Interconnection Agreement; (x) a clear process for ensuring that at all times during the Delivery Term, the Water Release Limits are met; (xi) each Party's legal notice address information for the delivery of notices required under this Agreement; and (xii) any other procedures related to the provision of the Water Transportation Services and Operational Work that the Parties deem necessary. Such Operating Procedures shall include any and all detailed definitions, drawings, and descriptions of the AWWU Facilities and the Facility as necessary to facilitate the coordination and responsibilities of the Parties as set forth herein. In the event of any disagreement in the development of the Operating Procedures, the Parties shall work in good faith to promptly resolve differences. AWWU's actual costs of developing such Operating Procedures shall be reimbursed by the Owners pursuant to Section 6.3.

(b) Throughout the Delivery Term, the Operating Procedures shall be updated from time to time by AWWU as needed upon written notice to the Owners, or upon written request by the Owners, to reflect ministerial changes to ensure continued accuracy and relevancy (e.g.

personnel, contact/notice information, and Facility equipment upgrades), provided, that, such changes made pursuant to this Section 5.1(b) shall under no circumstances materially modify the obligations and responsibilities of the Parties as set forth herein.

ARTICLE 6.
COSTS; TAXES; REIMBURSEMENT

6.1 Costs and Compensation. Unless specifically stated otherwise, all costs borne initially by each Party in connection with the exercising of its rights and the performance of its obligations under this Agreement shall be the responsibility of such Party initially incurring such costs. In partial consideration of the costs to AWWU incurred in provision of the Water Transportation Services provided under this Agreement for the benefit of the Owners, the Parties entered into the Water Supply Agreement for the same duration as this Agreement, pursuant to which AWWU shall have access to the use of certain of the Owners' facilities without additional compensation for its provision of public water supply.

6.2 Taxes. The Owners shall be responsible for and shall reimburse AWWU for any sales, use, gross receipts, occupation, and other taxes (excluding income, and franchise tax) imposed upon AWWU from time to time payable related to AWWU's provision of services set forth herein.

6.3 Reimbursement. For those AWWU costs that the Owners are specifically required to reimburse hereunder, AWWU shall submit to each of the Owners a detailed accounting of such cost for which AWWU is seeking reimbursement, together with such supporting documentation as the Owners shall reasonably require, including a reference to the applicable section of this Agreement demonstrating the Owners' responsibility for such costs. Within sixty (60) Days after receiving a properly completed application for reimbursement and all required supporting documentation, each of the Owners shall individually: (i) pay AWWU their respective Cost Responsibility Proportion of the amounts set forth in AWWU's application for payment; or (ii) notify AWWU in writing that such Owner believes in good faith that a requested payment amount is not due and owing and shall request the commencement of negotiations pursuant to Section 12.5. In addition to the requirement that each Owner pay its Cost Responsibility Proportion as required in this Section, the Owners shall each be jointly and severally liable for all reimbursement obligations owed to AWWU under this Article 6.

ARTICLE 7.
TITLE

7.1 Title; Custody; Risk of Loss

(a) Legal title to and ownership of all Owners' Water shall remain with the Owners at all times during the provision of Water Transportation Services.

(b) For Owners' Water flowing through AWWU's Facilities as part of the Water Transportation Services: control, custody and risk of loss of such Owners' Water shall transfer from the Owners to AWWU at the Injection Point, where such Owners' Water shall comingle with AWWU's Water until reaching the Delivery Point, at which point the custody,

control and risk of loss for an amount of water equal to the original amount of Owners' Water released into the AWWU Facilities at the Injection Point shall pass back to the Owners.

ARTICLE 8.
EMERGENCY CURTAILMENT; FORCE MAJEURE

8.1 Outages

(a) Planned Outages. AWWU shall be excused from the performance of the Water Transportation Services in the event of Planned Outages noticed by and compliant with this Section 8.1(a). AWWU and the Owners shall develop a schedule and protocol, pursuant to the procedures set forth in the Operating Procedures, for Planned Outages of the Facility or the AWWU Facilities in order to allow for routine maintenance and inspection activities. Such schedule for each Planned Outage shall specify the associated Curtailment Limits and Curtailment Duration. Such schedule and protocol shall take into account routine hydropower operations to ensure that Planned Outages only be scheduled at times when there is sufficient water available in Eklutna Lake to allow water releases through the maintenance gate of the diversion dam in the amounts necessary for the Owners to meet their obligations under the Fish and Wildlife Program. In addressing Planned Outages on AWWU Facilities and the AWWU Portion, AWWU shall use commercially reasonable efforts to minimize the length of the Curtailment Duration and the level of Curtailment Limits. For the sake of clarity, planned outages to AWWU Facilities or other AWWU property downriver of the Isolation Valve Structure do not meet the definition of Planned Outage and are addressed in Section 8.1(c)(i) below.

(b) Forced Outages. AWWU shall be excused from the performance of the Water Transportation Services in the event of Forced Outages noticed by and compliant with this Section 8.1(b). AWWU shall (i) use commercially reasonable efforts to notify the Owners of any Forced Outage, and (ii) provide an initial written or email estimate of the expected Curtailment Duration and Curtailment Limit within two (2) hours thereafter. In managing Forced Outages, AWWU shall use commercially reasonable efforts to minimize the duration of resulting Curtailment Duration and the level of Curtailment Limits. For the sake of clarity, forced outages to AWWU Facilities or other AWWU property downriver of the Isolation Valve Structure do not meet the definition of Forced Outage and are addressed in Section 8.1(c)(ii) below. During a Forced Outage, the Owners shall be responsible for complying with their Fish and Wildlife Program obligations through other means (such as releasing water into the river through the maintenance gate of the diversion dam).

(c) Outages to Downstream AWWU Infrastructure.

(i) In the event of any planned outage in the AWWU Facilities or in other AWWU property downstream of the Isolation Valve Structure that, without the closing of the Owners' Isolation Valve, would have an effect on the flow of water through the AWWU Facilities from the Injection Point to the River Release Structure, AWWU must notify the Owners at least thirty (30) days in advance of such planned outage to allow the Owners to adjust the Owners' Isolation Valve in such a way that allows for continued Water Transportation Services during such outage.

(ii) In the event of any forced, unexpected outage in the AWWU Facilities or at the Eklutna Water Treatment Facility downstream of the Isolation Valve Structure that, without the closing of the Owners' Isolation Valve, would have an effect on the flow of water through the AWWU Facilities from the Injection Point to the River Release Structure, AWWU shall notify the Owners as soon as possible to allow for the Owners to adjust the Owners' Isolation Valve to allow for the greatest possible continued flows of water into the Eklutna River through the River Release Structure during the duration of such forced outage.

8.2 Force Majeure. Each Party shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, except for the Owners' obligation to reimburse AWWU for costs pursuant to Section 6.3, if and to the extent that such Party's failure of, or delay in, performance is due to a Force Majeure Event; provided, that:

(a) such Party gives the other Party prompt written notice describing the particulars of the Force Majeure Event as soon as is reasonably practicable after becoming aware of the occurrence of the Force Majeure Event;

(b) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(c) no obligations of affected Party that arose before the occurrence of the Force Majeure Event causing the suspension of performance shall be excused as a result of such Force Majeure Event, unless and only to the extent that the performance of such obligations is impaired by the Force Majeure Event;

(d) the Party uses diligent commercially reasonable efforts to overcome or mitigate the effects of the Force Majeure Event; and

(e) when the Party is able to resume performance of its obligations under this Agreement, such Party shall give the other Party written notice to that effect and shall promptly resume performance hereunder.

ARTICLE 9.
ACCESS; ROADS AND BRIDGES

9.1 Site Access. Throughout the Delivery Term, AWWU shall, with respect to the land and access roads within its control, provide the Owners with a non-exclusive license to access the Site (through use of AWWU's access road), AWWU's Portion, and the AWWU Facilities as necessary to enable the Owners to operate and maintain the Owners' Isolation Valve and the Owners' Portion, and as otherwise reasonably necessary to facilitate the Owners' rights and obligations hereunder (the "Access License"), provided, that, AWWU may from time to time limit access to the Site or the AWWU Facilities temporarily only to the extent necessary to address reasonable security or safety issues and to avoid putting AWWU's public water supply at risk of interruption or contamination. To the extent that any additional access permissions from third-party landowners adjacent to the Site may be required for the Owners to exercise their rights or perform their obligations hereunder, obtaining such Approvals shall be the responsibility of the Owners, subject to AWWU's duty to assist and cooperate under Section 4.5, and provided that such assistance and cooperation with respect to such third-party approvals may require that

AWWU be the first and primary point of contact with such third party in situations where AWWU has an existing easement or applicable existing relationship with such third party. AWWU shall be reimbursed for any and all of its reasonable and documented costs or expenses of providing such assistance and cooperation with respect to such third-party approvals. To the extent that AWWU adds access or other security or safety limitations to the Site, to AWWU's Portion or to the AWWU Facilities, the Owners and AWWU shall cooperate in ensuring continuous access for the Owners and their contractors to enable operation and maintenance of the Owners' Isolation Valve and the Owners' Portion, subject to the new limitations.

9.2 AWWU Access Road. AWWU shall be responsible, at its own expense, for brushing, clearing, plowing, and maintaining its access road and all bridges thereon to the AWWU Facilities, both upstream and downstream of the Facility. The Owners may use such access road as part of its Access License granted pursuant to Section 9.1, and may, at their discretion, brush, clear, and plow the access road as needed to facilitate the Owners' access to the Facility, provided that under no circumstances shall the Owners be required to conduct such brushing, clearing or plowing.

9.3 Access Bridges. Pursuant to the Interconnection Agreement, the Owners agreed to install Access Bridges to improve Facility access and account for the additional traffic on the AWWU access road connected with the activities described in the Interconnection Agreement and this Agreement. As set forth in the Interconnection Agreement, upon completion of Access Bridge construction, the full responsibility for (and associated costs of) such bridge maintenance passes to AWWU, provided, that the Owners shall be responsible for any maintenance associated with damage caused by the Owners' gross negligence or intentional misconduct.

ARTICLE 10.
LIMITATIONS ON LIABILITY

10.1 Aggregate Limitation of Liability. Notwithstanding any other provision of this Agreement, the total aggregate liability of the Owners and the total aggregate liability of AWWU arising out of or relating to this Agreement, from any and all causes, whether based on contract, tort (including negligence), strict liability or any other cause of action, shall in no event exceed ten million dollars ($10,000,000.00) for AWWU, and ten million dollars ($10,000,000.00) for the Owners collectively, provided that such limit shall not apply in the case of such Party's (i) gross negligence or willful misconduct, (ii) third-party indemnity obligation, or (iii) breach of any representation or warranty.

10.2 CUMULATIVE REMEDIES. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, OR IF A REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY NON-EXCLUSIVE, THE NON-DEFAULTING PARTY SHALL HAVE THE RIGHT TO EXERCISE ALL RIGHTS AND REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY; PROVIDED, HOWEVER, THAT THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED.

10.3 WAIVER OF CERTAIN DAMAGES. EXCEPT WITH RESPECT TO INDEMNIFICATION OF THIRD-PARTY CLAIMS PURSUANT TO ARTICLE 11, OR AS

OTHERWISE EXPRESSLY PROVIDED FOR HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, BUSINESS INTERRUPTION OR SIMILAR DAMAGES, WHETHER BY STATUTE, IN TORT, BY CONTRACT OR OTHERWISE.

ARTICLE 11.
INDEMNIFICATION

11.1 Indemnity. To the fullest extent permitted by Law, each Party shall indemnify, hold harmless and defend the other Party and its directors, officers, shareholders, partners, agents and employees, and the Affiliates of the same (collectively, the "Indemnified Parties"), from and against any and all claims, loss, damage, expense and liability, including court costs and reasonable attorneys' fees (collectively, "Liabilities") incurred by the Indemnified Parties in connection with or arising from: (i) the Water Transportation Services and (ii) any claim for physical damage to or physical destruction of any part of the Facility, the AWWU Facilities, or death of or bodily injury to any person, to the extent such Liabilities were caused by the negligence of the Indemnifying Party or its agents or employees or others under such Indemnifying Party's control, except any Liabilities incurred due to the negligence or willful misconduct of an Indemnified Party. For the purpose of the definition of "Indemnified Parties" AWWU shall not be considered to be an "Affiliate" of the MOA.

11.2 Additional Owners Indemnity. To the fullest extent permitted by Law, the Owners shall indemnify, hold harmless, and defend AWWU and its Indemnified Parties from any Liabilities incurred by AWWU and its Indemnified Parties arising from damage to AWWU's water line and other infrastructure, including but not limited to its infrastructure downstream of the Facility (*i.e.* conditions caused by scouring or erosion of the river bed or banks that damage AWWU's water line and/or facilities) as a direct result of the instream water flows conveyed into the Eklutna River as part of the Water Transportation Services. The Owners shall further indemnify, defend and hold AWWU harmless from any Liabilities directly related to fish and wildlife mitigation measures and arising out of normal operation of the AWWU Facilities, the Facility, or any other facilities of AWWU, in a manner consistent with this Agreement, the Interconnection Agreement, the Water Supply Agreement, Prudent Industry Standards, the most current edition of the AWWU Design and Construction Practices Manual, the Municipality of Anchorage Standard Specifications and Anchorage Municipal Code, unless such Liabilities arose out of the negligence, violation of Law, or intentional misconduct by AWWU.

11.3 Defense of Claims. A Party with an indemnification obligation pursuant to this ARTICLE 11 (an "Indemnifying Party") shall have the right to defend the Indemnified Parties pursuant to this ARTICLE 11 by counsel of the Indemnifying Party's selection (including insurance counsel) reasonably satisfactory to the Indemnified Party, unless in the opinion of counsel for the Indemnifying Party a conflict of interest between the Parties may exist with respect to such claim. If the Indemnifying Party does not assume the defense of the Indemnified Party, or if a conflict precludes counsel for the Indemnifying Party from providing the defense, then the Indemnifying Party shall reimburse the Indemnified Party on a monthly basis for the Indemnified Party's defense through separate counsel of the Indemnified Party's choice. Even if the Indemnifying Party assumes the defense of the Indemnified Party with acceptable counsel, the Indemnified Party, at its sole option, may participate in the defense, at its own expense, with

counsel of its own choice without relieving the Indemnifying Party of any of its obligations hereunder. The Parties shall give each other prompt written notice of any asserted claims or actions indemnified against hereunder and shall cooperate with each other in the defense of any such claims or actions. Without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed, no Indemnifying Party shall settle any such claims or actions in a manner that would require any action or forbearance from action by any Indemnified Party.

ARTICLE 12.
DEFAULT AND REMEDIES; TERMINATION; DISPUTE RESOLUTION

12.1 Event of Default. The following shall constitute events of default on the part of either party (each, an "Event of Default") under this Agreement:

(a) If a Party makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of such Party, or if such Party files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition of or readjustment of debts and, in the case of any such proceeding instituted against such Party (but not by such Party) such proceeding is not dismissed within sixty (60) days of such filing;

(b) If a Party fails to comply with any material terms of this Agreement not otherwise set forth as an Event of Default in this Section 12.1(b) and fails to cure or remedy such failure within thirty (30) days after notice and a written demand is made by the non-defaulting Party to the defaulting Party to cure the same or, if such failure cannot be cured within thirty (30) days, the defaulting Party fails to commence to cure such failure within thirty (30) days after such notice and written demand and thereafter diligently pursue such cure to completion, which shall in no event be later than ninety (90) days after such notice;

(c) If a Party defaults under the Water Supply Agreement or the Interconnection Agreement;

(d) If a Party fails to make any payment due hereunder within sixty (60) days after written notice from the non-defaulting Party; or

(e) If any representation or warranty of a Party in this Agreement proves to have been false or misleading in any material respect when made, and such Party has not, within thirty (30) days after written notification thereof from the non-defaulting Party, either fully remedied, or commenced and diligently pursued the remedy, of all adverse impacts on the non-defaulting Party resulting therefrom, all to the reasonable satisfaction of the non-defaulting Party.

12.2 Remedies Upon Event of Default. Upon the occurrence and continuation of an Event of Default, the non-defaulting Party shall have the right to terminate this Agreement and the Water Supply Agreement upon ten (10) days written notice and pursue any other remedy available to such non-defaulting party at law or in equity arising out of such Event of Default, including a claim for monetary damage or specific performance.

12.3 Automatic Cross-Agreement Termination. If this Agreement is terminated for any reason during the Delivery Term, the Interconnection Agreement and the Water Supply Agreement shall automatically terminate effective as of the same date of this Agreement's termination.

12.4 Termination for Failure of Conditions Precedent. If, prior to the Delivery Term, the Owners, in their reasonable discretion, decide to not construct the Facility due to the failure to achieve the Construction Start CPs as defined in the Interconnection Agreement, the Owners may terminate this Agreement without liability.

12.5 Dispute Resolution. In the event of any dispute arising under this Agreement (a "Dispute"), within ten (10) Business Days following notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies.

ARTICLE 13.
REPRESENTATIONS

13.1 General Representations and Warranties. Each Owner and AWWU hereby represents and warrants as of the Effective Date and the Delivery Term Effective Date that:

(a) It is duly organized, validly existing and in good standing under the Laws of the state of its formation and is duly qualified to do business in the jurisdiction where the Site is located.

(b) It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate, municipal, or other action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar Laws relating to the enforcement of creditors' rights generally and by general equitable principles.

(c) It is not in violation of any applicable Law, or any judgment entered by any federal, state, local or other Governmental Authority, which violations, individually or in the aggregate, would adversely affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or (to its best knowledge) threatened against it which, if adversely

determined, could have a material adverse effect upon its financial condition, operations, prospects or business, as a whole, or its ability to perform under this Agreement.

(d) No authorization, approval, exemption, or consent of or by any Person is required by it in connection with the execution, delivery, and performance of this Agreement. In addition, each Party represents and warrants to the other Party that the Governmental Approvals required to be obtained by such Party either have been obtained by such Party and are in full force and effect on the date hereof or will be obtained by such Party and will be in full force and effect on or prior to the date on which they are required, under applicable Law, to be in full force and effect, so as to permit AWWU to perform the Water Transportation Services and the parties to otherwise complete their obligations hereunder.

(e) The execution and delivery of this Agreement, the consummation of the transactions herein contemplated and compliance with the terms and provisions hereof by it will not conflict with or result in a material breach of, or require any consent under, any of its constitutive documents, or any applicable Law, or any agreement or instrument to which it is a party or by which it is bound or to which it is subject, or constitute a material default under any such agreement or instrument.

ARTICLE 14.
NOTICES

14.1 Writing. Except as set forth in Section 14.2, any notice, statement, demand, claim, offer or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be sent by email, facsimile, hand messenger delivery, overnight courier service, or certified mail (receipt requested) to the other Party as follows: (i) prior to the finalization of the Operating Procedures, such notices shall be sent to the addresses set forth in Exhibit E; and (ii) after the finalization of the Operating Procedures, such notices shall be sent to the legal notice addresses listed in such Operating Procedures. Each Party shall have the right to change the address information to which notice shall be sent or delivered or to specify additional addresses to which copies of notices may be sent, in either case by similar notice sent or delivered in like manner to the other Party, which, after the development of the Operating Procedures, shall be reflected in such Operating Procedures. All notices shall be effective upon receipt.

14.2 Technical Communications. Any technical or other communications pertaining to the Facility, the Water Transportation Services, and the Operational Work shall follow the procedures set forth in the Operating Procedures, to be updated from time to time pursuant to Section 5.1(b).

ARTICLE 15.

CONFIDENTIALITY; PUBLIC STATEMENTS

15.1 Confidentiality. The Parties agree that the Parties' proposals, communications, negotiations and information exchanged prior to the Effective Date concerning this Agreement and the development thereof, and technical and other information regarding or relating to the Facility, the AWWU Facilities, the Access Bridges, and the provision of the Water Transportation Services

exchanged between the Parties that is marked, or otherwise clearly communicated to the receiving Party as "Confidential" constitutes "Confidential Information" of the disclosing Party. The Owners and AWWU each agree to hold such Confidential Information wholly confidential. Such Confidential Information may only be used by the Parties for the purposes related to the approval, or administration or enforcement of this Agreement.

15.2 Disclosure. Each Party agrees not to disclose Confidential Information of the other Party to any other Person (other than its Affiliates, counsel, consultants, lenders, partners, members, employees, officers and director, and then only to Persons subject to similar confidentiality restrictions as those set forth herein), without the prior written consent of the other Party, provided, that, either Party may disclose Confidential Information, if such disclosure is required by Law, including without limitation, pursuant to an order of a court or regulatory agency or in order to enforce this Agreement or to seek approval of this Agreement. In the event a Party is required by Law or a Governmental Authority to disclose Confidential Information, such Party, prior to such disclosure, shall provide reasonable advance notice to the other Party of the time and scope of the intended disclosure in order to permit such disclosing Party the opportunity to obtain a protective order or otherwise seek to prevent or limit the scope or otherwise impose conditions upon such disclosure.

15.3 Injunctive Relief. Each Party agrees that violation of the terms of Sections 15.1 and 15.2 constitutes irreparable harm to the other, and that the harmed Party may seek any and all remedies available to it at law or in equity, including but not limited to injunctive relief.

15.4 Release of Agreement. The Parties agree that this Agreement, upon execution, shall not be considered Confidential Information. Except as required by Law, releasing the Agreement to the public shall be the sole responsibility of the Owners, to be released in the manner at a time decided in their sole discretion.

ARTICLE 16.
MISCELLANEOUS

16.1 Reasonability. The Parties shall act in a reasonable manner and in accordance with principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement and whether or not stated: (a) where this Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned, or delayed; and (b) wherever this Agreement gives a Party a right to determine, require, request, specify, or take similar action with respect to a matter, such determination, requirement, request, specification, or similar action must be reasonable.

16.2 Entire Agreement. This Agreement, together with all Schedule and Exhibits hereto, embodies the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties, verbal or written, relating to the subject matter hereof.

16.3 Waiver. Any waiver of the provisions of this Agreement must be in writing and shall not be implied by any usage of trade, course of dealing or course of performance. No exercise of any right or remedy by AWWU or the Owners constitutes a waiver of any other right or remedy

contained or provided by Law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance hereunder shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

16.4 Assignment. Neither Party shall assign this Agreement or any of its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party, without relieving itself from liability hereunder, and without the need for consent from the other Party provided that any such assignee shall agree to be bound by all terms and conditions hereof, may transfer, pledge or assign this Agreement: (a) to any person or entity succeeding to all or substantially all of the assets of the assigning Party; or (b) to a successor entity in a merger or acquisition transaction. Any assignment made in contravention of this Section 16.4 shall be void and unenforceable.

16.5 Governing Law; Submission to Jurisdiction; Venue; No Jury Trial.

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALASKA, EXCLUDING ANY CHOICE OF LAW RULES.

(b) Submission to Jurisdiction, Venue. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its Affiliates or designees) with respect to or arising out of this Agreement shall be brought exclusively in the courts of the State of Alaska, in the Municipality of Anchorage, as the Party instituting such suit, action or other legal proceeding may elect, provided that claims related to federal water rights, federal legislation enabling the Facility or AWWU Facilities, or the 1991 Agreement may be brought in the United States District Court for the District of Alaska. By execution and delivery of this Agreement, each Party (for itself, its Affiliates and its designees) irrevocably and unconditionally consents and submits to the exclusive jurisdiction of such courts and the appellate courts therefrom, and waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding. The Parties irrevocably consent to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, first class postage prepaid to the addresses set forth in Section 14.1.

(c) No Jury Trial. EACH OF THE PARTIES HEREBY WAIVES ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) Duty to Proceed. Pending final resolution of any Dispute, the Owners and AWWU shall continue to fulfill their respective obligations hereunder that are not the subject of the Dispute.

16.6 Construction. This Agreement is to be construed so as to effectuate the normal and reasonable expectations of a sophisticated buyer and seller of the equipment and services covered

by this Agreement and shall not be construed either for or against either Party. No provision of this Agreement shall be construed or interpreted for or against either Party because such Party drafted or caused its legal representative to draft the provision.

16.7 Headings. The titles or headings of the various sections, articles and paragraphs hereof are intended solely for convenience and ease of reference and are not intended, and are not to be deemed for any purpose, to modify or explain or place any interpretation or construction upon any of the provisions of this Agreement.

16.8 Status of the Parties. AWWU and its Subcontractors shall be independent contractors to the Owners with respect to the Water Transportation Services and neither the AWWU nor its Subcontractors, nor the employees or agents of either, shall be deemed to be the employees, representatives or agents of the Owners in connection with any matter relating to this Agreement. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties.

16.9 Status of Individual Owners. Each of the Owners shall be jointly and severally liable for the obligations of the Owners under this Agreement. The delineation of specific responsibilities set forth hereunder as among the Owners shall be at the sole discretion of the Owners, not AWWU. If at any time, the Owners agree that one or two of the Owners need no longer be party to this Agreement, such unnecessary Owner(s) may be removed as parties to this Agreement upon written notice to AWWU, if agreed, and shall retain no liability upon removal, with the remaining Owner(s) automatically assuming the full obligations of the Owners hereunder. If an Event of Default exists hereunder at any time with respect to an Owner, it shall be considered an Event of Default with respect to the Owners together as one Party hereunder, provided, that if another Owner agrees to assume such defaulting Owner's obligations under this Agreement by removing such Owner as a party pursuant to the preceding sentence of this Section 16.9 prior to the expiration of any applicable cure period, this shall not be considered an Event of Default hereunder.

16.10 Insurance. Throughout the Delivery Term, the Owners shall maintain the required insurance policies as set forth on Exhibit D-1 and AWWU shall maintain the required insurance policy as set forth on Exhibit D-2.

16.11 No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of the Owners and AWWU, and their permitted successors and assigns, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

16.12 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take all further action, as may be reasonably necessary to complete performance by the Parties hereunder and to effectuate the purposes and intent of this Agreement.

16.13 Amendments. No change, amendment or modification of this Agreement shall be valid or binding upon the Parties unless such change, amendment or modification shall be in writing and duly executed by the Parties.

16.14 Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provision of this Agreement and all other provisions will remain in full force and effect.

16.15 Conflicting Provisions. In the event of any conflict between this document and any Schedule or Exhibit attached hereto, the terms and provisions of this document, as amended from time to time, shall control. In the event of any conflict among the Exhibits, the Exhibit of the latest date mutually agreed to by the Parties shall control.

16.16 Survival. The provisions of ARTICLE 1, ARTICLE 7, ARTICLE 10, ARTICLE 11, ARTICLE 12, ARTICLE 13, ARTICLE 14, and ARTICLE 16 shall survive termination of this Agreement for any reason.

16.17 Counterparts. This Agreement may be executed in any number of separate counterparts and delivered by electronic means, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

ARTICLE 17.
EFFECT OF PUMPED STORAGE HYDROPOWER ALTERNATIVE

17.1 Pumped Storage Hydropower Study; Negotiation of Replacement Agreements. The parties shall, in good faith, conduct the pumped storage hydropower study required by the Governor of Alaska's October 2, 2024 Final Fish and Wildlife Program, in the same or substantially the same form as the study submitted to the Anchorage Assembly in AIM ____ (PSH Study). Within 30 days of the completion of the PSH Study, the parties shall meet and negotiate replacement agreements that (1) provide for any needed access to, use of, or interference with AWWU infrastructure to facilitate the potential alternative, and (2) replace the 1984 Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, as amended, regarding use of and compensation for Eklutna Lake water by AWWU. Such agreements shall be subject to approval by the Anchorage Assembly to the extent required by municipal law.

17.2 Alternative Program Selected. If the Governor of Alaska selects an alternative Final Fish and Wildlife Program that does not involve the Facility, such as pumped storage hydropower, then:

(a) The Long-Term Water Transportation Agreement, the Interconnection Agreement, and the Water Supply Agreement shall immediately be suspended.

(b) The Parties shall expeditiously execute new agreements, if not already executed, to facilitate the implementation and long-term operation and maintenance of the alternative Final Program selected by the Governor. Such agreements shall be subject to approval by the Anchorage Assembly to the extent required by municipal law.

17.3 Continuity of Municipal Water Supply. In the event the Public Water Supply Agreement is suspended in accordance with the preceding section, the terms for the Municipality's water supply that were in effect as of April 22, 2025 under the 1984 Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, as amended, shall be restored and remain in effect until replacement agreements for the Municipality's public water supply are negotiated, approved by the Anchorage Assembly, and executed.

17.4 Reservation of Rights. The parties reserve all rights, remedies, and causes of action available to them under the 1991 Fish and Wildlife Agreement.

[***Remainder of page intentionally left blank***]

IN WITNESS WHEREOF, the Parties have caused this Long-Term Water Transportation Agreement to be executed by their duly authorized representatives as of the Effective Date.

AWWU/SERVICE PROVIDER:

ANCHORAGE WATER AND WATERWATER UTILITY, A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: Municipal Manager

By: _____

Name: _____

Title: General Manager

OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MATANUSKA ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____
Title: _____

Schedule 1.1

Definitions

"1991 Agreement" means that certain Agreement between the Municipality of Anchorage, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., the United States Fish and Wildlife Service, the National Marine Fisheries Service, the State of Alaska, and the Alaska Energy Authority Relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991.

"Access Bridges" means those bridges installed by the Owners on the Eklutna River pursuant to the terms of the Interconnection Agreement.

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with such first Person. For purposes of this definition and the Agreement, the term "control" (and correlative terms) means (1) the ownership of 50% or more of the equity interest in a Person, or (2) the power, whether by contract, equity ownership or otherwise, to direct or cause the direction of the policies or management of a Person.

"Access License" has the meaning set forth in Section 9.1.

"Agreement" has the meaning set forth in the Preamble, and shall include all Exhibits and Schedules hereto.

"Approvals" means Governmental Approvals and third-party approvals.

"AWWU" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of AWWU.

"AWWU Design and Construction Practices Manual" means the edition dated _____, 20__, as updated and amended from time to time.[2]

"Event of Default" has the meaning set forth in Section 12.1.

"AWWU's Isolation Valve" has the meaning set forth in Exhibit A-1.

"AWWU Facilities" has the meaning set forth in the Recitals.

"AWWU's Portion" has the meaning set forth in Exhibit A-1.

"AWWU's Water Permit" means that permit belonging to AWWU (LAS 2569) to use Owners' Water Rights for up to 41 MGD for public water supply pursuant to the Act of October

[2] **Note to Accompany Final Draft**: To be populated after Governor approval and prior to execution to reflect the most up to date version.

30, 1984, 98 Stat. 2823, as may be replaced as described in Section 3.1 of the Water Supply Agreement.

"AWWU's Water" means any and all water belonging to AWWU pursuant to AWWU's Water Permit.

"Business Day" means any day other than a Saturday, Sunday or legal holiday in the state of Alaska.

"Chugach" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of Chugach.

"Confidential Information" has the meaning set forth in Section 15.1.

"Cost Responsibility Proportion" shall mean, with respect to each Owner, the percentage of the total applicable Eklutna Hydroelectric Project costs that such Owner is obligated to pay as agreed to by the Owners, which as of the Effective Date shall be, with respect to MOA, 19.05%, with respect to Chugach, 64.28%, and with respect to MEA, 16.67%, and which may be changed hereunder upon agreement between the Owners at any time.

"Curtailment Duration" means, with respect to a curtailment in Water Transportation Services during an Excused Event, the duration of such curtailment.

"Curtailment Limit" means, with respect to each day of the Delivery Term where there exists an Excused Event, the amount of Owners' Water in MGD that can be transported to the Delivery Point on such day. For the avoidance of doubt, this amount can equal zero (0) MGD.

"Day" or "day" means a calendar day, unless expressly specified otherwise.

"Delivery Point" has the meaning set forth in Exhibit A-1 and is depicted on the schematic included as part of Exhibit B.

"Delivery Point Meter" has the meaning set forth in Exhibit A-1.

"Delivery Term" has the meaning set forth in Section 2.1.

"Delivery Term Effective Date" has the meaning set forth in Section 2.1.

"Dispute" has the meaning set forth in Section 12.5.

"Effective Date" has the meaning set forth in the Preamble.

"Eklutna Hydroelectric Project" means the Eklutna Hydroelectric Project initially authorized, constructed and operated pursuant to the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended), including any and all property and facilities acquired or used in connection therewith, all of which was then sold to the Owners by the United States of America on October 2, 1997.

"Eklutna Water Treatment Facility" means the water treatment plant owned by AWWU located alongside the Eklutna River.

"Event of Default" has the meaning set forth in Section 12.1.

"Excused Event" means a Planned Outage, a Forced Outage, or an Force Majeure Event causing a reduction or suspension of the Water Transportation Services.

"Facility" has the meaning set forth in the Recitals.

"Final Acceptance" has the meaning set forth in the Interconnection Agreement.

"Fish and Wildlife Program" has the meaning set forth in the Recitals.

"Force Majeure Event" means the occurrence of any act or event beyond the reasonable control of the Party affected that prevents the affected Party from performing its obligations under this Agreement, in full or part, if such act or event is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums), including the following: drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a Governmental Authority. Notwithstanding the foregoing, Force Majeure Events shall expressly not include mechanical or equipment failures (except to the extent any such failure is itself caused by a Force Majeure Event), diminution in water quality in Eklutna Lake, Planned Outages, or Forced Outages (unless such Forced Outage is caused by a Force Majeure Event).

"Forced Outage" means; (i) any unplanned necessary reduction or suspension of Water Transportation Services available from the Facility; or (2) any other unavailability of the AWWU Facilities of Facility in whole or in part, each in response to an equipment malfunction or other emergency condition determined by AWWU in its reasonable discretion to be a threat to any AWWU Facilities. For the sake of clarity, forced outages in AWWU infrastructure downstream of the Isolation Valve Structure are not considered a Forced Outage.

"Governmental Approvals" means all authorizations, consents, licenses, leases, rulings, certifications, registrations, exemptions, permits, certificates, and approvals from any Governmental Authority.

"Governmental Authority" means any federal, state or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the performance of the Water Transportation Services, the Operational Work, the Facility or its operations, or the health, safety or environmental conditions of the Site or otherwise over the Parties' rights and obligations under this Agreement.

"Indemnified Parties" has the meaning set forth in Section 11.1.

"Indemnifying Party" has the meaning set forth in Section 11.3.

"Initial Delivery Term" has the meaning set forth in Section 2.1.

"Injection Point" means the point where AWWU Facilities meet facilities owned by the Owners near the outlet of the Eklutna Lake, where AWWU receives all of AWWU's Water from Eklutna Lake, as depicted in the schematic included as part of Exhibit B.

"Interconnection Agreement" has the meaning set forth in the Recitals.

"Injection Point Flow Meter" means a meter measuring the flow of water passing into AWWU Facilities at the Injection Point.

"Isolation Valve Structure" has the meaning set forth in Exhibit A-1.

"Isolation Valves" has the meaning set forth in Exhibit A-1.

"Law" means any constitution, charter, act, statute, law, ordinance, code, rule, regulation, order, specified standards or objective criteria contained in any applicable permit or approval (which standards or criteria must be met in order for the Water Transportation Services or Operational Work to be performed lawfully) or other legislative or administrative action of any Governmental Authority or a final decree, judgment or order of a court or tribunal.

"Liabilities" has the meaning set forth in Section 11.1.

"MEA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MEA.

"MGD" means millions of gallons per day.

"MOA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MOA.

"Monthly Water Release Schedule" has the meaning set forth in Section 3.2.

"Operating Procedures" has the meaning set forth in Section 5.1.

"Operational Work" means all phases of AWWU and the Owners' performance of their obligations under this Agreement to operate and maintain the Facility and the AWWU Facilities.

"Owners" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of the Owners.

"Owner" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of such Owner.

"Owners' Isolation Valve" has the meaning set forth in Exhibit A-1.

"Owners' Approvals" has the meaning set forth in Section 4.4.

"Owners' Portion" has the meaning set forth in Exhibit A-1.

"Owners' Water Rights" means that certain senior priority water rights held by the Owners for the water in Eklutna Lake for use in generating power for the Eklutna Hydroelectric Project as described in water rights certificate ADL 44944.

"Owners' Water" means any and all water belonging to the Owners pursuant to the Owners' Water Right.

"Party" and "Parties" has the meaning set forth in the Preamble.

"Person" means any individual, partnership, corporation, limited liability company, association, business, trust, government or political subdivision thereof, Governmental Authority or other entity.

"Planned Outage" means the removal of Facility equipment from service availability for inspection and/or overhaul or repair in such a way that requires a reduction or halt in flow of Owners' Water through the AWWU Facilities to the Delivery Point. For the sake of clarity, planned outages in AWWU infrastructure downstream of the Isolation Valve Structure are not considered a Planned Outage. To qualify as a Planned Outage, the maintenance (a) must actually be conducted during the Planned Outage, and in AWWU's reasonable discretion must be of the type that is necessary to reliably maintain the Facility or the AWWU Facilities, and (b) cannot be reasonably conducted during normal Facility or AWWU Facilities' operations.

"Prudent Industry Standards" means those standards of care and diligence normally practiced by water transportation infrastructure operation and maintenance firms in performing services of a similar nature in a similar jurisdiction in which the Water Transportation Services and Operational Work will be performed. Prudent Industry Standards are not intended to be limited to optimum practice or methods, but rather to be a spectrum of reasonable and prudent practices and methods that must take the conditions specific to any water transportation facility under consideration.

"River Release Structure" has the meaning set forth in Exhibit A-1.

"Site" means the location of the Facility as further described and depicted in Exhibit B.

"Subcontractor" means any Person with whom the Owners, or any Owner, enters into an arrangement for the performance of any portion of the Water Transportation Services or Operational Work, including Persons at any tier with whom any Subcontractor has further subcontracted any portion of the Water Transportation Services or Operational Work, and the legal or personal representatives, successors, and assigns of such Person.

"Term" has the meaning set forth in Section 2.1(a).

"Water Release Limits" has the meaning set forth in Section 3.1.

"Water Supply Agreement" has the meaning set forth in the Recitals.

"Water Transportation Services" has the meaning set forth in Section 3.1.

Exhibit A

Eklutna River Release Facility Description and Definitions[3]

The **"*Eklutna River Release Facility*"** shall consist of an Isolation Valve Structure and the River Release Structure.

The "***Isolation Valve Structure***" shall include:

- a new tee to be built in the AWWU pipeline downstream of the AWWU tunnel/pipeline transition and upstream of the AWWU portal valve (the "***Delivery Point***")
- A 54-inch gate valve on the main segment of AWWU pipeline intended to provide dual means of isolation for AWWU's pipeline segment ("***AWWU's Isolation Valve***")
- A 42-inch gate valve on the branch segment of AWWU pipeline intended to provide isolation to the river release structure ("***Owners' Isolation Valve***", together with AWWU's Isolation Valve, the "***Isolation Valves***").
- Related controls and communication technology to be installed by the Owners in the main line of the AWWU Facilities.

The "***River Release Structure***" shall include:

- [A new pipeline from the Isolation Valve Structure to the Eklutna River]
- Control valves
- A new meter installed at the Delivery Point ("***Delivery Point Meter***")
- Monitoring and control equipment to be installed by Owners [*describe where]*.

"***AWWU's Portion***" of the Facility shall consist of the Isolation Valve Structure [and _____]

The "***Owners' Portion***" of the Facility shall consist of the River Release Structure [and _____]

[3] **Note to Accompany Final Draft**: This Exhibit will be revised and finalized by Owners to reflect the proposal approved by the Governor and prior to signing.

Exhibit B[4]

Description and Schematic of Site, AWWU Facilities, and Injection Point and Delivery Point

[4] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit C

Owners' Approvals[5]

[5] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit D-1[6]

Owners' Insurance Requirements

[6] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit D-2[7]

AWWU's Insurance Requirements

[7] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit E[8]

Initial Notice Information

If delivered to the Owners, to them at	Chugach Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Matanuska Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____]
If delivered to AWWU, to it at	Anchorage Water and Wastewater Utility, a department of the Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____]

[8] **Note to Accompany Final Draft**: To be populated immediately prior to execution, after Governor approval, as such information is subject to change.

PUBLIC WATER SUPPLY AGREEMENT

by and between

Anchorage Water and Wastewater Utility

as

Service Provider

And

Chugach Electric Association, Inc,

Matanuska Electric Association, Inc., and the Municipality of Anchorage

as

Owners

Dated as of **[_____]**[1]

---

[1] **Note to Accompany Final Draft**: This Agreement has been form agreed as between the Parties but will not be signed by the MOA until after Governor approval of the Fish and Wildlife Program has occurred and such signatures have been authorized by the Anchorage Assembly. Prior to execution, this footnote can be deleted from the draft.

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PUBLIC WATER SUPPLY AGREEMENT

This PUBLIC WATER SUPPLY AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered into by and between Anchorage Water and Wastewater Utility ("AWWU"), and Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("MEA"), and the Municipality of Anchorage ("MOA") (each of Chugach, MEA, and MOA is an "Owner" and collectively they are referred to as the "Owners"). The Owners and AWWU are sometimes referred to herein as a "Party" or collectively as the "Parties".

R E C I T A L S

WHEREAS, the federal Alaska Power Administration ("APA") originally developed, owned and operated the Eklutna Hydroelectric Project, which began operations in 1954 for the production of electric power that APA sold to electric utilities serving the Anchorage and Matanuska Valley areas;

WHEREAS, as then-owner of the Eklutna Hydroelectric Project assets, the APA possessed senior water rights (both federal reserved water rights and water rights granted under State of Alaska law), with a priority date of 1954, to all the water that may be feasibly appropriated from Eklutna Lake for use in generating electric power for the Eklutna Hydroelectric Project as reflected in water rights certificate ADL 44944 ("Project Water Rights");

WHEREAS, in the 1980s, AWWU:

(i) determined that Eklutna Lake was a necessary source of water for the City of Anchorage;

(ii) entered into that certain "Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska" with APA, dated February 17, 1984, as amended (the "1984 Agreement"), which among other things provides terms and conditions relating to (i) AWWU facility interconnection to Eklutna Hydroelectric Project; and (ii) the compensation by AWWU to the Owners for AWWU's diversion of water for public water supply that reduces the Project Water Rights otherwise available for use to generate energy at the Eklutna Hydroelectric Project;

(iii) obtained: (1) "preferred use status" from the Alaska Department of Natural Resources ("DNR") through an application that demonstrated the need for AWWU to take prior-appropriated water for public water supply purposes and which is conditioned upon the validity and existence of the 1984 Agreement (the "Preferred Use Status") pursuant to Alaska Statute 46.15.150(b); (2) a permit (LAS 2569) to use Project Water Rights for up to 41 million gallons per day for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823, (the "AWWU Water Permit"); and

(iv) constructed and began operations of the water project diverting water from the Eklutna Hydroelectric Project intake tunnel to AWWU's water system (the "AWWU Water Project");

WHEREAS, the 1984 Agreement remains in effect "until the year 2025" and the AWWU Water Permit expires on December 31, 2025;

WHEREAS, in October 1997, the Owners purchased from APA the Eklutna Hydroelectric Project and all related project assets, including Project Water Rights and became parties to the 1984 Agreement through assignment (the "Owners' Facilities");

WHEREAS, pursuant to the 1991 Agreement (as defined below), the Owners have studied and developed a Fish and Wildlife program to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Eklutna Hydroelectric Project centered on establishing instream flows in the Eklutna River as part of the implementation of the Fish and Wildlife Program (the "Fish and Wildlife Program"); a program which proposes to: (1) develop an Eklutna River release facility consisting in part of AWWU Facilities and facilities constructed pursuant to the Interconnection Agreement, all as further described in Exhibit A to the Long-Term Water Transportation Agreement and as will be depicted as-built in the Operating Procedures (the "Facility"); (2) to transport water from Eklutna Lake through the Facility and release it into the Eklutna River; and (3) to maintain and operate the Facility;~~;~~

WHEREAS, in order to establish such instream flows, the Owners and AWWU have negotiated two agreements: (1) a Water Facilities Interconnection Agreement (the "Interconnection Agreement"), which shall govern the construction and interconnection of the Parties' respective facilities for conveyance of water from the Eklutna Lake to the Eklutna River using AWWU facilities; and (2) a Long-Term Water Transportation Services Agreement (the "Transportation Agreement"), which shall govern the provision of conveyance services for transporting water from the Eklutna Lake to the Eklutna River;

WHEREAS, in coordination and joint consideration with the Interconnection Agreement and the Transportation Agreement, the Parties desire to enter into this Agreement in order to replace the 1984 Agreement and set forth new terms and conditions relating to (i) the compensation from AWWU to the Owners for AWWU's use of the Project Water Rights in accordance with Alaska Statute 46.15.150 and; (ii) the extension of other future rights to AWWU; ~~and~~

WHEREAS, on October 2, 2024, Alaska Governor Mike Dunleavy established a Final Fish and Wildlife Program for the Eklutna Hydropower Project that directed the parties to the 1991 Agreement and the Native Village of Eklutna to study pumped storage hydropower as an alternative to the Facility, noted the Governor's ability to alter the Final Fish and Wildlife Program, and stated that a pumped storage hydropower alternative could ultimately be selected; and

WHEREAS, the Long-Term Water Transportation Agreement, the Interconnection Agreement, and the Public Water Supply Agreement negotiated by the Parties contain terms to facilitate the implementation of a Final Program that uses the Facility and the Facility's long-term operation, but the original versions of these agreements did not contemplate the Governor's potentially selecting a pumped storage hydro alternative as a major component of the Final Fish and Wildlife Program, rendering certain additions appropriate; and

NOW, THEREFORE, in consideration of the premises of this Agreement, the Transportation Agreement, and the Interconnection Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners and AWWU, intending to be legally bound, hereby agree as follows:

ARTICLE I
DEFINITIONS; INTERPRETATION

Section 1.1 Defined Terms. Capitalized terms used in this Agreement without other definition shall have the meanings set forth in Schedule 1.1, unless the context requires otherwise.

Section 1.2 Interpretation. As used in this Agreement, the terms "herein," "herewith" and "hereof" are references to this Agreement, taken as a whole; the terms "includes" or "including" shall mean "including, without limitation"; and references to a "Section," "Article", "Exhibit" or "Schedule" shall mean a Section, Article, Exhibit or Schedule of this Agreement, as the case may be, unless in any such case the context requires otherwise. All references to a given Exhibit, Schedule, agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made. A reference to a Person includes its permitted successors and permitted assigns. The singular shall include the plural and the masculine shall include the feminine and neuter, and vice versa.

ARTICLE II
EFFECTIVE DATE; TERM

Section 2.1 Effective Date. This Agreement shall become binding on the Parties on the Effective Date, subject to Section 2.2.

Section 2.2 Conditions Precedent. The rights and obligations of the Parties as set forth in Articles III – VI in this Agreement shall not be effective until the achievement of the following conditions precedent (the "Conditions Precedent"), a written notice of which shall be sent to AWWU by Owners:

(a) The Owners receive final approval from the Governor of Alaska, with such approval for a Fish and Wildlife Program that requires the use of the AWWU Facilities for instream flows as contemplated in this Agreement, provided that such approval includes no unexpected conditions materially adverse to the Owners or to AWWU, as determined in good faith by the Parties and in the exercise of commercially reasonable business judgment, and neither the approval from the Governor of Alaska nor the Fish and Wildlife Program is subject to any pending judicial review or appeal;

(b) Owners and AWWU obtain and provide evidence of lawful water rights from DNR for the use and transport of water as contemplated under the Agreement, including but not limited to a renewal, extension, or replacement of the AWWU Water Permit, Preferred Use Status, and all other approval(s) authorizing continued use of the Owners' Water Rights by AWWU;

(c) Chugach obtains final Regulatory Commission of Alaska ("RCA") approval of its applicable tariff rates necessary to implement the compensation outlined in Section 3.2 below

pursuant to, and in a manner consistent with, Section 6.23 of the MOA-Chugach APSA as such terms are defined therein; and

(d) The Interconnection Agreement and the Transportation Agreement are in full force and effect and are valid, binding and enforceable against AWWU and the Owners in accordance with their terms.

Section 2.3 Failure to Achieve Conditions Precedent. In the event that this Agreement does not become fully effective (i) due to the failure to achieve the Conditions Precedent as set forth in Section 2.2 by [June 1, 2025], or (ii) because the Governor of Alaska approves a Fish and Wildlife Program that does not require the use of the AWWU Facilities for instream flows as contemplated in this Agreement, then: (A) this Agreement will be terminated upon thirty (30) days' written notice by either Party (B) the automatic cross-agreement termination provisions of Section 10.3 shall apply; and (C) the Parties shall meet promptly to negotiate in good faith an alternate agreement to replace the 1984 Agreement that expires in 2025 with terms and conditions that include but are not limited to adequate compensation, risk mitigation, potential transfer or purchase of water rights, and other terms and conditions then deemed appropriate by the Parties without prejudice due to the prior existence, or the subsequent termination, of this Agreement.

Section 2.4 Term. Unless agreed to otherwise by the Parties, this Agreement will continue in full force and effect starting on the Effective Date and terminating on October 30, 2060, subject to any early termination provision set forth herein (the "Term").

Section 2.5 Effect on 1984 Agreement. The Parties intend that, upon thirty (30) days' written notice by the Owners of the achievement of the Conditions Precedent as set forth in Section 2.2, this Agreement shall become fully effective and replace the 1984 Agreement in its entirety, and the 1984 Agreement will be terminated.

ARTICLE III
WATER USE AND COMPENSATION

Section 3.1 Water Use. The Owners shall make available and allow AWWU to continue to interconnect the AWWU Water Project to the Eklutna Hydroelectric Project, use the project's intake, tunnel, and other Owners' Facilities necessary to divert and use a portion of Project Water Rights up to 41 million gallons per day for public water supply purposes in a manner consistent with AWWU's Preferred Use Status, the AWWU Water Permit, and Alaska Statute 46.15.150(b). The Parties understand that after the Effective Date, AWWU may initiate a process to replace all or part of the AWWU Water Permit with a certificated water right under Alaska Statute 46.15. The Owners consent to such conversion provided that AWWU's certificated water right does not exceed 41 million gallons per day for public water supply purposes, such certification is subject to all requirements of Alaska Statute 46.15.150 and any and all regulations implementing AWWU's Preferred Use Status, and AWWU remains committed to compensate Owners for such water as set forth in Section 3.2 below.

Section 3.2 Compensation.

(a) Compensation. Subject to the limitation in subsection (b) below, AWWU and the MOA shall compensate the Owners for all reductions in electrical energy generation at the Eklutna

Hydroelectric Project, costs, and losses that result from water diversions for the AWWU Water Project as set forth in Exhibit A (collectively, the "Replacement Energy"). The compensation paid by AWWU for the Replacement Energy shall be both in kind through electrical energy recovered by AWWU at the Eklutna Water Treatment Facility ("EWTF") in excess of AWWU's own needs at the EWTF ("Recovered Electrical Energy"), and in cash payments (the cash portion shall be referred to as the "Replacement Energy Payment(s)"). The Recovered Electrical Energy shall act as an offset to the Replacement Energy Payment obligations. All costs associated with such deliveries of Recovered Electrical Energy, including metering, will be borne by AWWU.

(b) Compensation Limitations and Procedures. The compensation owed to the Owners by AWWU, calculated and accounted for as set forth in Exhibit A and Section 3.2(a), shall be subject to the following limitations: (a) in no event shall the Replacement Energy Payment owed and payable to Chugach by AWWU exceed six hundred thousand dollars ($600,000) per year in value in aggregate, as such amount will be adjusted annually for inflation reflected in the Bureau of Labor Statistics' Consumer Price Index; (b) in no event shall any such compensation be required in the event that the Owners permanently cease operations of the Eklutna Hydroelectric Project; and (c) in no event shall any such compensation be required in the event of a transfer of a priority water right from the Owners to AWWU as contemplated in Article VI. For the purposes of clarity, the words "total compensation owed and payable to Chugach by AWWU," in the preceding sentence applies to the Replacement Energy Payment and specifically includes the independent in-kind compensation through the Recovered Electrical Energy. The Recovered Electrical Energy shall not include any power generated by AWWU at any location other than the EWTF, which power generated at other locations may be sold by AWWU as co-generated power. Notwithstanding the foregoing limitation on compensation to be paid by AWWU, nothing in this Agreement is intended to change the MOA's obligations set forth in any of: (i) the MOA-Chugach Eklutna PPA; (ii) Section 6.23 of the MOA-Chugach APSA; and (iii) the MOA-MEA Eklutna PPA. In any month of the Term, to the extent that AWWU does not fully compensate Chugach for the total amount of Replacement Energy in such month due to application of the AWWU compensation cap set forth above, such matters will be resolved among the Owners and the MOA will make Chugach whole as outlined in Exhibit A.

(c) Costs. Other than the compensation for water diversions set forth in Sections 3.2(a) and (b) above, all costs borne initially by each Party in connection with the exercising of its respective rights and the performance of its respective obligations under this Agreement shall be the responsibility of such Party initially incurring such costs. In partial consideration of the costs to Owners incurred in maintaining its facilities necessary for AWWU to continue to interconnect to Eklutna Hydroelectric Project, and to divert and use a portion of Project Water Rights under this Agreement for the benefit of the AWWU, the Parties entered into the Transportation Agreement for the same duration as this Agreement, pursuant to which AWWU will provide conveyance services for transporting water from the Eklutna Lake to the Eklutna River at no cost to Owners.

ARTICLE IV
OWNERS' RESPONSIBILITIES

Section 4.1 Reservoir Operations. Subject to the terms herein, Owners shall retain full authority and responsibility to operate the Eklutna Hydroelectric Project and manage and allocate

water in Eklutna Lake in accordance with ADL 44944 and the requirements of the Eklutna Hydroelectric Project.

Section 4.2 Assurance of Water Project Allocation, Quality, and Access. Subject to the terms herein, Owners will operate the Eklutna Lake reservoir in such a manner that the projected allocations of water to the AWWU Water Project are available to MOA upon request at a flow rate of at least 41 MGD to the EWTF at a pressure sufficient to allow normal operation of the EWTF as currently configured. The Owners will take no action regarding Eklutna Lake that has the effect of reducing the quality or increasing the turbidity of the lake water from those conditions which exist as of the Effective Date; nor will the Owners take or authorize any other action with regard to Eklutna Lake that may have the effect of reducing its present suitability for use as a source of public water supply. This Section 4.2 is not intended to preclude or inhibit maintenance and repair activities determined to be necessary by the Owners, nor does it apply to the management of the lake surface and surrounding areas for public recreation, which is outside the scope of this Agreement. For the avoidance of doubt, the Owners shall ensure continued use and access to AWWU of the Owners' Facilities that are necessary to supply water to the AWWU Facilities to the extent that Owners' Facilities continue in commercial operation.

ARTICLE V
AWWU RESPONSIBILITIES

Section 5.1 Compensation. AWWU shall compensate the Owners as set forth in Section 3.2(a) subject to the limitation in Section 3.2(b). To the extent that the total compensation owed to the Owners by AWWU under Section 3.2 is not satisfied by the netting against the MOA's ownership share of the water used in the Eklutna Hydroelectric Project, AWWU will pay the Owners directly within thirty (30) days of receipt of invoice.

Section 5.2 Maintenance, Repair, and Material Modifications to AWWU Water Project.

(a) AWWU Water Project. To the extent AWWU must perform maintenance, repairs, or make any material modification to the AWWU Water Project that adversely affects the Eklutna Hydroelectric Project, prior to the commencement of such action, AWWU shall furnish to the Owners copies of all plans, specifications, and schedules regarding such work. AWWU shall coordinate with the Owners all such activities in order to avoid or minimize disruption of the Owner's activities at the Eklutna Hydroelectric Project, to the maximum extent possible. AWWU will take commercially reasonable steps to minimize any of its actions set forth in this subsection that may adversely affect energy generation from the Eklutna Hydroelectric Project. AWWU shall reimburse the Owners, by payment of lost revenues to the Owners or by Replacement Energy, as may be mutually agreed by the Parties, for any such losses incurred by the Owners that are attributable to such maintenance or material modifications of the AWWU Water Project that impacts the Eklutna Hydroelectric Project, such as maintenance or material modifications to the project's intake tunnel connected to Eklutna Lake.

(b) AWWU Water Project Interconnection. Notwithstanding Section 5.2(a), AWWU shall obtain specific plan approval from the Owners before initiating any material modification on any existing facilities for the delivery of water from the Eklutna Hydroelectric Project to the AWWU Water Project, including any facilities that are interconnected to the present Owners'

water intake tunnel. AWWU will take commercially reasonable steps to minimize any of its actions set forth in this subsection that may adversely affect energy generation from the Eklutna Hydroelectric Project.

ARTICLE VI
RIGHTS UPON CEASING OPERATIONS OR TERMINATION

Section 6.1 Right of First Offer. If the Owners elect to permanently cease operations of the Eklutna Hydroelectric Project, the Owners shall provide written notice to AWWU of such intention. For a period of six (6) months after such notice, neither Owners nor their successors and assigns, nor their respective Affiliates, shall enter into an obligation or agreement to sell or transfer the Eklutna Hydroelectric Project, unless the (i) Owners first offer, in writing, to sell to AWWU that portion of Owners' Facilities that are necessary to supply water from Eklutna Lake to the AWWU Facilities; and (ii) AWWU declines to purchase such portion of Owners' Facilities within thirty days after notification of the offer to sell. If, within thirty days after notification of the offer to sell, AWWU indicates a good faith intention to purchase such portion subject to a need for ongoing review, then this shall trigger an additional 90-day period during which the Parties shall meet and negotiate in good faith terms and conditions then deemed appropriate and the Owners shall in good faith provide necessary documentation to facilitate such review. If at the end of such 90-day period, AWWU has not yet purchased such portion, then the Owners shall be permitted to pursue other options for the transfer of the Eklutna Hydroelectric Project.

Section 6.2 Option to Acquire Owners' Water Rights and Termination. Upon the earlier of October 31, 2055, or the MOA's sale of its interests in the Eklutna Hydroelectric Project, AWWU may exercise an option to acquire sole ownership of a portion of the Owners' first-priority water rights that is then operative and reflected in the AWWU Water Permit and any subsequent certificate, which shall in no event exceed 41 million gallons per day, by quitclaim deed or other then-acceptable means of transfer, in exchange for relinquishing its AWWU Water Permit and Preferred Use Status (and associated legal rights) as no longer being legally functional or operative; provided, however, that AWWU shall (a) issue a written notice to the Owners of its intention to exercise such option no later than October 30, 2050; (b) prepare all legal documents necessary to transfer such water rights from the Owners to AWWU (subject to Owners' review and approval prior to execution); and (c) obtain all required Governmental Approvals to effectuate such acquisition at AWWU's sole cost and expense (the "AWWU Option"). Upon closing of the AWWU Option, this Agreement and the Parties' obligations hereunder shall terminate except for the right of first offer in Section 6.1 above, which shall survive and continue while Owners continue operations of the Eklutna Hydroelectric Project.

ARTICLE VII
TITLE; LOSS OR DAMAGE; FORCE MAJEURE

Section 7.1 Title.

(a) Legal title to and ownership of the Owners' Facilities, including Owners' Water Rights, shall remain with Owners throughout the Term of this Agreement, free and clear of any and all liens, claims, security interests or other encumbrances imposed by AWWU.

(b) Legal title to and ownership of the AWWU Facilities, including the AWWU Water Permit, and any resulting certificate of appropriation, shall remain with AWWU throughout the Term of this Agreement.

Section 7.2 Force Majeure. Each Party shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, if and to the extent that such Party's failure of, or delay in, performance is due to a Force Majeure Event; provided, that:

(a) such Party gives the other Party prompt written notice describing the particulars of the Force Majeure Event as soon as is reasonably practicable after becoming aware of the occurrence of the Force Majeure Event;

(b) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(c) no obligations of the affected Party that arose before the occurrence of the Force Majeure Event causing the suspension of performance shall be excused as a result of such Force Majeure Event, unless and only to the extent that the performance of such obligations is impaired by the Force Majeure Event;

(d) the Party uses diligent commercially reasonable efforts to overcome or mitigate the effects of the Force Majeure Event; and

(e) when the Party is able to resume performance of its obligations under this Agreement, such Party shall give the other Party written notice to that effect and shall promptly resume performance hereunder.

ARTICLE VIII
LIMITATIONS ON LIABILITY

Section 8.1 Aggregate Limitation of Liability. Notwithstanding any other provision of this Agreement, the total aggregate liability of the Owners and the total aggregate liability of AWWU arising out of or relating to this Agreement, from any and all causes, whether based on contract, tort (including negligence), strict liability or any other cause of action, shall in no event exceed ten million dollars ($10,000,000) for AWWU, or ten million dollar ($10,000,000) for the Owners collectively, provided that such limits shall not apply in the case of such Party's (i) gross negligence or willful misconduct, (ii) third-party indemnity obligation, or (iii) breach of any representation or warranty.

Section 8.2 CUMULATIVE REMEDIES. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, OR IF A REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY NON-EXCLUSIVE, THE NON-DEFAULTING PARTY SHALL HAVE THE RIGHT TO EXERCISE ALL RIGHTS AND REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY; PROVIDED, HOWEVER, THAT THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED.

Section 8.3 WAIVER OF CERTAIN DAMAGES. EXCEPT WITH RESPECT TO INDEMNIFICATION OF THIRD PARTY CLAIMS PURSUANT TO ARTICLE XI, OR AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, BUSINESS INTERRUPTION OR SIMILAR DAMAGES, WHETHER BY STATUTE, IN TORT, BY CONTRACT OR OTHERWISE.

ARTICLE IX
INDEMNIFICATION

Section 9.1 Indemnity. To the fullest extent permitted by Law, each Party shall indemnify, hold harmless and defend the other Party and its directors, officers, shareholders, partners, agents and employees, and the Affiliates of the same (collectively, the "Indemnified Parties"), from and against any and all loss, damage, expense and liability, including court costs and reasonable attorneys' fees (collectively, "Liabilities") arising incurred by the Indemnified Parties in connection with or arising from any claim for physical damage to or physical destruction to any property of any third party, or death of or bodily injury to any person, to the extent caused by the negligence of the Indemnifying Party or its agents or employees or others under such Indemnifying Party's control, except any Liabilities incurred due to the negligence or willful misconduct of an Indemnified Party. For the purpose of the definition of "Indemnified Parties" AWWU shall not be considered to be an "Affiliate" of the MOA.

Section 9.2 Defense of Claims. A Party with an indemnification obligation pursuant to this Article IX (an "Indemnifying Party") shall have the right to defend the Indemnified Parties pursuant to this Article IX by counsel of the Indemnifying Party's selection (including insurance counsel) reasonably satisfactory to the Indemnified Party, unless in the opinion of counsel for the Indemnifying Party a conflict of interest between the Parties may exist with respect to such claim. If the Indemnifying Party does not assume the defense of the Indemnified Party, or if a conflict precludes counsel for the Indemnifying Party from providing the defense, then the Indemnifying Party shall reimburse the Indemnified Party on a monthly basis for the Indemnified Party's defense through separate counsel of the Indemnified Party's choice. Even if the Indemnifying Party assumes the defense of the Indemnified Party with acceptable counsel, the Indemnified Party, at its sole option, may participate in the defense, at its own expense, with counsel of its own choice without relieving the Indemnifying Party of any of its obligations hereunder. The Parties shall give each other prompt written notice of any asserted claims or actions indemnified against hereunder and shall cooperate with each other in the defense of any such claims or actions. Without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed, no Indemnifying Party shall settle any such claims or actions in a manner that would require any action or forbearance from action by any Indemnified Party.

ARTICLE X
DEFAULT AND REMEDIES; TERMINATION; DISPUTE RESOLUTION

Section 10.1 Event of Default. The following shall constitute events of default on the part of either party (each, an "Event of Default") under this Agreement:

(a) If a Party makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of such Party, or if such Party files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition of or readjustment of debts and, in the case of any such proceeding instituted against such Party (but not by such Party), such proceeding is not dismissed within sixty (60) days of such filing;

(b) If a Party fails to comply with any material terms of this Agreement not otherwise set forth as an Event of Default in this Section 10.1(b) and fails to cure or remedy such failure within thirty (30) days after notice and a written demand is made by the non-defaulting Party to the defaulting Party to cure the same or, if such failure cannot be cured within thirty (30) days, the defaulting Party fails to commence to cure such failure within thirty (30) days after such notice and written demand and thereafter diligently pursue such cure to completion, which shall in no event be later than ninety (90) days after such notice;

(c) If a Party defaults under the Interconnection Agreement or the Transportation Agreement;

(d) If a Party fails to make any payment due hereunder within sixty (60) days after receipt of written notice from the non-defaulting Party; or

(e) If any representation or warranty of a Party in this Agreement proves to have been false or misleading in any material respect when made, and such Party has not, within thirty (30) days after written notification thereof from the non-defaulting Party, either fully remedied, or commenced and diligently pursued the remedy, of all adverse impacts on the non-defaulting Party resulting therefrom, all to the reasonable satisfaction of the non-defaulting Party.

Section 10.2 Remedies Upon Event of Default. Upon the occurrence and continuation of an Event of Default, the non-defaulting Party shall have the right to terminate this Agreement and the Interconnection Agreement and the Transportation Agreement; upon ten (10) days written notice and pursue any other remedy available to such non-defaulting party at law or in equity arising out of such Event of Default, including a claim for monetary damage or specific performance.

Section 10.3 Automatic Cross-Agreement Termination. If this Agreement is terminated for any reason during the Term, the Interconnection Agreement and the Transportation Agreement shall automatically terminate, effective as of the same date as this Agreement's termination date.

Section 10.4 Dispute Resolution. In the event of any dispute arising under this Agreement (a "Dispute"), within ten (10) Business Days following notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after

receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies.

ARTICLE XI
REPRESENTATIONS

Section 11.1 General Representations and Warranties. Each Owner and AWWU hereby represents and warrants that:

(a) It is duly organized, validly existing and in good standing under the Laws of the state of its formation and is duly qualified to do business in the State of Alaska.

(b) It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate, municipal, or other action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar Laws relating to the enforcement of creditors' rights generally and by general equitable principles.

(c) It is not in violation of any applicable Law, or any judgment entered by any federal, state, local or other Governmental Authority, which violations, individually or in the aggregate, would adversely affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or (to its best knowledge) threatened against it which, if adversely determined, could have a material adverse effect upon its financial condition, operations, prospects or business as a whole, or upon its ability to perform under this Agreement.

(d) No authorization, approval, exemption, or consent of or by any Person is required by it in connection with the execution, delivery, and performance of this Agreement. In addition, each Party represents and warrants to the other Party that the Governmental Approvals required to be obtained by such Party either have been obtained by such Party and are in full force and effect on the date hereof, or will be obtained by such Party and will be in full force and effect on or prior to the date on which they are required, under applicable Law, to be in full force and effect.

(e) The execution and delivery of this Agreement, the consummation of the transactions herein contemplated and compliance with the terms and provisions hereof by it will not conflict with or result in a material breach of, or require any consent under, any of its constitutive documents or any applicable Law, or under any agreement or instrument to which it is a party or by which it is bound or to which it is subject, or will constitute a material default under any such agreement or instrument.

ARTICLE XII
NOTICES

Section 12.1 Writing. Any notice, statement, demand, claim, offer or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing and signed by the Party giving such notice, and shall be sent by email, facsimile, hand messenger delivery, overnight courier service, or certified mail (receipt requested) to the other Party, and shall be sent to the addresses set forth in Exhibit B. Each Party shall have the right to change the address information to which notice shall be sent or delivered or to specify additional addresses to which copies of notices may be sent. All notices shall be effective upon receipt.

ARTICLE XIII
CONFIDENTIALITY

Section 13.1 Confidentiality. The Parties agree that the Parties' proposals, communications, negotiations and information exchanged prior to the Effective Date concerning this Agreement and the development thereof, and technical and other information regarding or relating to the subject of this Agreement exchanged between the Parties that is marked, or otherwise clearly communicated to the receiving Party as "Confidential," constitutes "Confidential Information" of the disclosing Party. The Owners and AWWU each agree to hold such Confidential Information wholly confidential. Such Confidential Information may only be used by the Parties for the purposes related to the approval, administration or enforcement of this Agreement.

Section 13.2 Disclosure. Each Party agrees not to disclose Confidential Information of the other Party to any other Person (other than its Affiliates, counsel, consultants, lenders, partners, members, employees, officers and directors, and then only to Persons subject to similar confidentiality restrictions as those set forth herein), without the prior written consent of the other Party, provided, that either Party may disclose Confidential Information if such disclosure is required by Law, including without limitation, pursuant to an order of a court or regulatory agency to enforce this Agreement or to seek approval of this Agreement. In the event a Party is required by Law or a Governmental Authority to disclose Confidential Information, such Party, prior to such disclosure, shall provide reasonable advance notice to the other Party of the time and scope of the intended disclosure in order to permit such other Party the opportunity to obtain a protective order, or to otherwise seek to prevent or limit the scope or otherwise impose conditions upon such disclosure.

Section 13.3 Injunctive Relief. Each Party agrees that a violation of the terms of Sections 13.1 and 13.2 constitutes irreparable harm to the other Party, and that the harmed Party may seek any and all remedies available to it at law or in equity, including but not limited to injunctive relief.

Section 13.4 Release of Agreement. The Parties agree that this Agreement, upon execution, shall not be considered Confidential Information. Except as required by Law, releasing the Agreement to the public shall be the sole responsibility of the Owners, to be released in the manner at a time decided in their sole discretion.

ARTICLE XIV
MISCELLANEOUS

Section 14.1 Reasonability. The Parties shall act in a reasonable manner and in accordance with principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement and whether or not stated: (a) where this Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned, or delayed; and (b) wherever this Agreement gives a Party a right to determine, require, request, specify, or take similar action with respect to a matter, such determination, requirement, request, specification, or similar action must be reasonable.

Section 14.2 Entire Agreement. This Agreement, together with all Schedules and Exhibits hereto, embodies the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties, verbal or written, relating to the subject matter hereof.

Section 14.3 Waiver. Any waiver of the provisions of this Agreement must be in writing and shall not be implied by any usage of trade, course of dealing or course of performance. No exercise of any right or remedy by AWWU or the Owners constitutes a waiver of any other right or remedy contained in or provided by Law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance hereunder shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

Section 14.4 Assignment. Neither Party shall assign this Agreement or any of its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party, without relieving itself from liability hereunder, and without the need for consent from the other Party provided that any such assignee shall agree to be bound by all terms and conditions hereof, may transfer, pledge or assign this Agreement: (a) to any person or entity succeeding to all or substantially all of the assets of the assigning Party; or (b) to a successor entity in a merger or acquisition transaction. Any assignment made in contravention of this Section 14.4 shall be void and unenforceable.

Section 14.5 Governing Law; Submission to Jurisdiction; Venue; No Jury Trial.

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALASKA, EXCLUDING ANY CHOICE OF LAW RULES.

(b) Submission to Jurisdiction, Venue. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its Affiliates or designees) with respect to or arising out of this Agreement shall be brought exclusively in the courts of the State of Alaska, in the Municipality of Anchorage, as the Party instituting such suit, action or other legal proceeding may elect, provided that claims related to federal water rights, federal legislation enabling the Eklutna

Hydroelectric Project or AWWU Facilities, or the 1991 Agreement may be brought in the United States District Court for the District of Alaska. By execution and delivery of this Agreement, each Party (for itself, its affiliates and its designees) irrevocably and unconditionally consents and submits to the exclusive jurisdiction of such courts and the appellate courts therefrom, and waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding. The Parties irrevocably consent to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, first class postage prepaid to the addresses set forth in Exhibit B.

(c) No Jury Trial. EACH OF THE PARTIES HEREBY WAIVES ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) Duty to Proceed. Pending final resolution of any Dispute, the Owners and AWWU shall continue to fulfill their respective obligations hereunder that are not the subject of the Dispute.

Section 14.6 Headings. The titles or headings of the various sections, articles and paragraphs hereof are intended solely for convenience and ease of reference and are not intended, and are not to be deemed for any purpose, to modify or explain or place any interpretation or construction upon any of the provisions of this Agreement.

Section 14.7 Status of the Parties. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties.

Section 14.8 Status of Individual Owners. Each of the Owners shall be jointly and severally liable for the obligations of the Owners under this Agreement. The delineation of specific responsibilities set forth hereunder as among the Owners shall be at the sole discretion of the Owners, not AWWU. If at any time, the Owners agree that one or two of the Owners need no longer be party to this Agreement, such unnecessary Owner(s) may be removed as parties to this Agreement upon written notice to AWWU, if agreed, and shall retain no liability upon removal, with the remaining Owner(s) automatically assuming the full obligations of the Owners hereunder. If an Event of Default exists hereunder at any time with respect to an Owner, it shall be considered an Event of Default with respect to the Owners together as one Party hereunder, provided, that if another Owner agrees to assume such defaulting Owner's obligations under this Agreement by removing such Owner as a party pursuant to the preceding sentence of this Section 14.8 prior to the expiration of any applicable cure period, this shall not be considered an Event of Default hereunder.

Section 14.9 Insurance. Throughout the Term, the Owners shall maintain the required insurance policies as set forth on Exhibit D-1 and AWWU shall maintain the required insurance policy as set forth on Exhibit D-2.

Section 14.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of the Owners and AWWU, and their permitted successors

and assigns, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

Section 14.11 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take all further action, as may be reasonably necessary to complete performance by the Parties hereunder and to effectuate the purposes and intent of this Agreement, including (1) support of amendment of water rights necessary to implement this Agreement; and (2) AWWU's support of Chugach's tariff revisions necessary to implement the compensation and gain RCA approval as outlined in Section 2.2.

Section 14.12 Amendments. No change, amendment or modification of this Agreement shall be valid or binding upon the Parties unless such change, amendment or modification shall be in writing and duly executed by the Parties.

Section 14.13 Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provision of this Agreement and all other provisions will remain in full force and effect.

Section 14.14 Conflicting Provisions. In the event of any conflict between this document and any Schedule or Exhibit attached hereto, the terms and provisions of this document, as amended from time to time, shall control. In the event of any conflict among the Exhibits, the Exhibit of the latest date mutually agreed to by the Parties shall control.

Section 14.15 Survival. The provisions of Article I, Article VII, Article VIII, Article IX, Article X, Article XI, Article XII, Article XIV, and Article XIV shall survive termination of this Agreement for any reason.

Section 14.16 Counterparts. This Agreement may be executed in any number of separate counterparts and delivered by electronic means, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

ARTICLE XV
EFFECT OF PUMPED STORAGE HYDROPOWER ALTERNATIVE

Section 15.1 Pumped Storage Hydropower Study; Negotiation of Replacement Agreements. The parties shall, in good faith, conduct the pumped storage hydropower study required by the Governor of Alaska's October 2, 2024 Final Fish and Wildlife Program, in the same or substantially the same form as the study submitted to the Anchorage Assembly in AIM ____ (PSH Study). Within 30 days of the completion of the PSH Study, the parties shall meet and negotiate replacement agreements that (1) provide for any needed access to, use of, or interference with AWWU infrastructure to facilitate the potential alternative, and (2) replace the 1984 Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, as amended, regarding use of and compensation for Eklutna Lake water by AWWU. Such agreements shall be subject to approval by the Anchorage Assembly to the extent required by municipal law.

Section 15.2 Alternative Program Selected. If the Governor of Alaska selects an alternative Final Fish and Wildlife Program that does not involve the Facility, such as pumped storage hydropower, then:

(a) The Long-Term Water Transportation Agreement, the Interconnection Agreement, and the Water Supply Agreement shall immediately be suspended.

(b) The Parties shall expeditiously execute new agreements, if not already executed, to facilitate the implementation and long-term operation and maintenance of the alternative Final Program selected by the Governor. Such agreements shall be subject to approval by the Anchorage Assembly to the extent required by municipal law.

Section 15.3 Continuity of Municipal Water Supply. In the event the Public Water Supply Agreement is suspended in accordance with the preceding section, the terms for the Municipality's water supply that were in effect as of April 22, 2025 under the 1984 Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, as amended, shall be restored and remain in effect until replacement agreements for the Municipality's public water supply are negotiated, approved by the Anchorage Assembly, and executed.

Section 15.4 Reservation of Rights. The parties reserve all rights, remedies, and causes of action available to them under the 1991 Fish and Wildlife Agreement.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the Parties have caused this Public Water Supply Agreement to be executed by their duly authorized representatives as of the Effective Date.

AWWU/SERVICE PROVIDER:

ANCHORAGE WATER AND WATERWATER UTILITY, A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: Municipal Manager

By: _____

Name: _____

Title: General Manager

OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MATANUSKA ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: _____

Schedule 1.1
Definitions

"1984 Agreement" has the meaning set forth in the Recitals.

"1991 Agreement" means that certain Agreement between the Municipality of Anchorage, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., the United States Fish and Wildlife Service, the National Marine Fisheries Service, the State of Alaska, and the Alaska Energy Authority Relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991.

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with such first Person. For purposes of this definition and the Agreement, the term "control" (and correlative terms) means (1) the ownership of 50% or more of the equity interest in a Person, or (2) the power, whether by contract, equity ownership or otherwise, to direct or cause the direction of the policies or management of a Person.

"Agreement" has the meaning set forth in the introductory paragraph, and shall include all Exhibits and Schedules hereto.

"APA" has the meaning set forth in the Recitals.

"AWWU" has the meaning set forth in the introductory paragraph, and shall include all successors and permitted assigns of AWWU.

"AWWU Facilities" means the existing water transportation facilities owned and operated by AWWU, including the AWWU Eklutna Lake raw water diversion bypass tunnel interconnected with the intake tunnel of the Eklutna Hydroelectric Project and pipeline.

"AWWU Option" has the meaning set forth in Section 6.2.

"AWWU Water Permit" has the meaning set forth in the Recitals and as may be replaced as described in Section 3.1.

"AWWU Water Project" has the meaning set forth in the Recitals.

"Business Day" means any day other than a Saturday, Sunday or legal holiday in the state of Alaska.

"Chugach" has the meaning set forth in the introductory paragraph, and shall include all successors and permitted assigns of Chugach.

"Conditions Precedent" has the meaning set forth in Section 2.2.

"Confidential Information" has the meaning set forth in Section 13.1.

"Day" or "day" means a calendar day, unless expressly specified otherwise.

"Dispute" has the meaning set forth in Section 10.4.

"DNR" has the meaning set forth in the Recitals.

"Effective Date" has the meaning set forth in the introductory paragraph.

"Eklutna Hydroelectric Project" means the Eklutna Hydroelectric Project initially authorized, constructed and operated pursuant to the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended), including any and all property and facilities acquired or used in connection therewith, all of which was then sold to the Owners by the United States of America on October 2, 1997.

"Equivalent Energy Production" has the meaning set forth in Exhibit A – Compensation.

"EWTF" has the meaning set forth in Section 3.2(a).

"Fish and Wildlife Program" has the meaning set forth in the Recitals.

"Force Majeure Event" means the occurrence of any act or event beyond the reasonable control of the Party affected that prevents the affected Party from performing its obligations under this Agreement, in full or part, if such act or event is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums), including the following: drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a Governmental Authority. Notwithstanding the foregoing, Force Majeure Events shall expressly not include mechanical or equipment failures (except to the extent any such failure is itself caused by a Force Majeure Event) nor diminution in water quality in Eklutna Lake.

"Governmental Approvals" means all authorizations, consents, licenses, leases, rulings, certifications, registrations, exemptions, permits, certificates, and approvals from any Governmental Authority.

"Governmental Authority" means any federal, state or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the Eklutna Hydroelectric Project or AWWU Water Project or their operations, or the health, safety or environmental conditions or otherwise over the Parties.

"Indemnified Parties" has the meaning set forth in Section 9.1.

"Indemnifying Party" has the meaning set forth in Section 9.2.

"Interconnection Agreement" has the meaning set forth in the Recitals.

"Law" means any constitution, charter, act, statute, law, ordinance, code, rule, regulation, order, specified standards or objective criteria contained in any applicable permit or approval or other legislative or administrative action of any Governmental Authority or a final decree, judgment or order of a court or tribunal.

"Liabilities" has the meaning set forth in Section 9.1.

"MEA" has the meaning set forth in the introductory paragraph, and shall include all successor sand assigns of MEA.

"MOA" has the meaning set forth in the introductory paragraph, and shall include all successor sand assigns of MOA.

"MOA-Chugach APSA" means that certain Asset Purchase and Sale Agreement by and between the MOA and Chugach, as amended on December 28, 2018.

"MOA-Chugach Eklutna PPA" means that certain Power Purchase Agreement by and between the MOA and Chugach, dated December 28, 2018, as amended.

"MOA-MEA Eklutna PPA" means that certain Power Purchase Agreement by and between the MOA and MEA, dated September 16, 2019, as amended.

"Owners" has the meaning set forth in the introductory paragraph, and shall include all successors and permitted assigns of the Owners.

"Owners' Facilities" has the meaning set forth in the Recitals.

"Owners' Water Rights" has the meaning set forth in the Recitals.

"Party" and "Parties" has the meaning set forth in the Recitals.

"Person" means any individual, partnership, corporation, limited liability company, association, business, trust, government or political subdivision thereof, Governmental Authority or other entity.

"Preferred Use Status" has the meaning set forth in the Recitals.

"Project Water Rights" has the meaning set forth in the Recitals.

"RCA" has the meaning set forth in Section 2.2(c).

"Recovered Electrical Energy" has the meaning set forth in Section 3.2(a).

"Replacement Energy" has the meaning set forth in Section 3.2(a).

"Replacement Energy Amount" has the meaning set forth in Exhibit A.

"Replacement Energy Payments" has the meaning set forth in Section 3.2(a).

"Term" has the meaning set forth in Section 2.4.

"Transportation Agreement" has the meaning set forth in the Recitals.

EXHIBIT A

Water Scheduling and Compensation

Scheduling & Reporting:

1. Prior to April 1 of each year, AWWU will furnish to the Owners its estimate of:

    a) Anticipated annual diversions of water for public water supply in the AWWU Water Project for the next five water years (June 1 – May 31), by year, for that same period; and

    b) Anticipated monthly diversions of water for public water supply in the AWWU Water Project for the next water year.

2. Within ten (10) days of the beginning of each month, AWWU will furnish to the Owners, on a monthly basis, the daily actual meter readings showing (a) water used by the AWWU Water Project in the preceding month, and (b) electric energy generated by the AWWU Water Project and delivered to the Owners.

Compensation:

As set forth in Section 3.2(a) and (b) of the Agreement and as was previously agreed to by the Parties in the 1984 Agreement, AWWU's use of the Project Water Rights shall remain a burden solely on the MOA's proportionate ownership share of the Project, and for the avoidance of doubt, shall not be allocated to Chugach's or MEA's proportionate ownership shares. Allocation of cost responsibility to the MOA shall be accounted for in the Eklutna Hydroelectric Project's water balancing account maintained among the Owners rather than through billing or other payment compensation owed by AWWU, except as set forth in Section 3.2 and in this Exhibit A. If the MOA's allocation of the Eklutna Hydroelectric Project's water in any given month is insufficient to cover AWWU's use of the Eklutna Hydroelectric Project's water in that month, AWWU will remain entitled to take its water needs within the parameters set forth in the Agreement and AWWU's Water Permit, and the Owners will make necessary adjustments to the MOA's water position within the Eklutna Hydroelectric Project's water balancing account accordingly.

AWWU will compensate the Owners for Replacement Energy (the reduction in electric energy generation attributable to AWWU's use of the Eklutna Hydroelectric Project's water) through Recovered Electrical Energy and Replacement Energy Payments. In other words, AWWU will pay Owners for MWhs not produced, rather than for the quantity of water used by AWWU.

AWWU will not, however, be required to compensate the Owners for water used by AWWU for public water supply in the AWWU Water Project during unplanned reservoir spill events at the Eklutna Hydroelectric Project (i.e., water spills over Eklutna Hydroelectric

Project's dam or through the spillway other than such releases by Owners as part of their implementation of the Fish and Wildlife Program) as measured on a day for day basis. In other words, during days of unplanned reservoir spill events, AWWU will not be required to compensate the Owners for water and equivalent energy generation.

Each month during the term of the Agreement, Chugach (as the Owners' representative designated by the Owners) shall compute the compensation owed by AWWU to Owners pursuant to Section 3.2 of the Agreement and as provided below. Chugach shall provide an invoice to AWWU showing billing determinants, charges, rebates (if any), total amount due, as well as detail regarding the Replacement Energy Payment calculation and Recovered Electrical Energy accounting. As set forth in Section 5.1 of the Agreement, Chugach shall collect such payments from AWWU, allocate values among the Owners as applicable (e.g., pass through its share of the compensation to the MOA), and maintain records as appropriate.

Monthly Compensation Calculation

1. Following receipt of the meter readings from AWWU, the total number of gallons of water used by AWWU during that month, less water used during days in which the unplanned reservoir spill events described above, shall be converted to acre-feet.

2. The energy equivalent for AWWU's water shall then be calculated by multiplying the acre-feet of water used by AWWU by the Eklutna Hydroelectric Project's average energy production per unit of water (kWh/acre-foot) for the month; the result of this calculation is the Equivalent Energy Production (kWh) attributable to AWWU's water usage. Equivalent Energy Production for a given month will be the Replacement Energy for that month.

3. The Replacement Energy in that month shall then be reduced by metered Recovered Electrical Energy at EWTF delivered to MEA and as reported by MEA meter readings to determine the amount of net Replacement Energy (kWh) for which AWWU owes compensation to Chugach for that billing period (the "Replacement Energy Amount").

4. The billing charges for Replacement Energy Amount shall then be calculated as the product of the Replacement Energy (kWh) (after deduction of the Recovered Electrical Energy) and the monthly energy rate set forth in Chugach's Tariff -- "Replacement Energy Service -AWWU" (as may be amended); such charges for Replacement Energy may be adjusted on a kilowatt-hour basis to recover the cost of power as described in Chugach's Tariff -- Fuel and Purchased Cost of Power Adjustment (comprised of fuel, purchased power, and renewable energy adjustment factors) and the Beluga River Unit Contributed Capital Surcharge and Rebate (when applicable).

5. Compensation for Replacement Energy owed by AWWU to Chugach will be capped at $600,000 per water year in value in aggregate as set forth in Section 3.2(b) of the Agreement, as such amount will be adjusted annually for inflation rate using a 15 year rolling average reflected in the Bureau of Labor Statistics' Urban Alaska Consumer Price Index (CPI-U) (as currently reported by State of Alaska Department of Labor and Workforce Development at https://live.laborstats.alaska.gov/cpi/table) ("AWWU Compensation Cap"). In any month of the Term, to the extent that AWWU does not fully compensate Chugach for the total Replacement Energy Amount owed due to application of the AWWU Compensation Cap, the MOA will make Chugach whole through the calculation of a monetary sum equal to the Replacement Energy Amount multiplied by rates set forth in the Chugach tariff for the Replacement Energy Service -- AWWU that shall paid by the MOA to Chugach (i) as an offset against the MOA's ownership share of AWWU payments owed by Chugach pursuant to Section 6.23 of the MOA-Chugach APSA, (ii) cash payments from the MOA to Chugach, or (iii) if necessary, as an offset against other payment obligations owed by Chugach to the MOA pursuant to the MOA-Chugach Eklutna PPA.

Owners' Allocations

1. The Owners hold the following proportionate ownership shares of the Project: MOA – 53.33%; Chugach – 30.00%; MEA – 16.67%.

2. Pursuant to reallocations, terms and conditions set forth in the (i) the MOA-Chugach Eklutna PPA, (ii) Section 6.23 of the MOA-Chugach APSA, and (iii) the MOA-MEA Eklutna PPA, the Project's water (and resulting power output) is allocated to the Owners in the following proportionate shares: MOA – 0%; Chugach – 64.29%; MEA – 35.71%.

3. The cost responsibility for implementation of the Fish and Wildlife Program is borne by the Owners as follows: MOA – 19.04%; Chugach – 64.29%; MEA – 16.67%.

4. MEA shall compensate the MOA for Recovered Electrical Energy at the EWTF received by MEA through the Eklutna Hydroelectric Project's water balancing account.

EXHIBIT B[2]

Notice Information

If delivered to the Owners, to them at	Chugach Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Matanuska Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____]
If delivered to AWWU, to it at	Anchorage Water and Wastewater Utility, a department of the Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____]

[2] **Note to accompany final draft**: To be filled out immediately prior to execution to ensure most up to date information

RECEIVED
By the Regulatory Commission of Alaska on Feb 20, 2026

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steven D. DeVries
Mark A. Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the Application Filed by Municipality of Anchorage d/b/a Anchorage Hydropower to Amend Its Certificate of Public Convenience and Necessity No. 780	))))	U-25-025

OFFICE OF THE ATTORNEY GENERAL'S
MOTION FOR EXPEDITED CONSIDERATION

Pursuant to 3 AAC 48.091(g), the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section (RAPA) respectfully requests expedited consideration of its Unopposed Motion for Extension of Time to Respond to Municipality of Anchorage D/B/A Anchorage Hydropower's Petition for Reconsideration of Order U-25-025(2).

RAPA's Response to The Municipality of Anchorage D/B/A Anchorage Hydropower's (AHP) Petition for Reconsideration of Order U-25-025(2) is due on Friday, February 20, 2026. The accompanying Unopposed Motion for Extension of Time requests RAPA be given until February 27, 2026, to respond to Anchorage Hydropower's Petition for Reconsideration. Expedited consideration is necessary to ensure the Commission has time to rule on RAPA's request for an extension before the current deadline.

Attorney General
Regulatory Affairs & Public Advocacy
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 334-2394, (907) 269-5100, (907) 276-3697 Fax

DATED February 20, 2026, at Anchorage, Alaska.

STEPHEN J. COX
ATTORNEY GENERAL

By: /s/ JC Croft

JC Croft
Assistant Attorney General
Office of the Attorney General
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501
Phone: (907) 269-5187
Email: JC.Croft@alaska.gov
Alaska Bar No. 1711060

CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2026, a true and correct copy of the **Office of the Attorney General's Motion for Expedited Consideration** was served via e-mail on the following

Municipality of Anchorage d/b/a Anchorage Hydropower
Dean D. Thompson
Emily Walker
Becki Alvey
Kemppel Huffman & Ellis PC
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Anchorage, AK 99503
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bsa@khe.com

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Arthur Miller, Chief Executive Officer
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/s/ Chester R. House
Chester R. House
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RECEIVED
By the Regulatory Commission of Alaska on Feb 20, 2026

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steven D. DeVries
Mark A. Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the Application Filed by Municipality of Anchorage d/b/a Anchorage Hydropower to Amend Its Certificate of Public Convenience and Necessity No. 780	))))	U-25-025

OFFICE OF THE ATTORNEY GENERAL'S UNOPPOSED MOTION FOR EXTENSION OF TIME TO RESPOND TO MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S PETITION FOR RECONSIDERATION OF ORDER U-25-025(2)

The Office of the Attorney General, Regulatory Affairs & Public Advocacy Section (RAPA) hereby requests an extension of time to respond to the Municipality of Anchorage D/B/A Anchorage Hydropower's (AHP) Petition for Reconsideration of Order U-25-025(2). RAPA's response is currently due February 20, 2026. Counsel for AHP, Matanuska Electric Association, Inc., and Chugach Electric Association, Inc. have agreed to an extension until February 27, 2026. A motion for expedited consideration accompanies this motion.

///

///

Attorney General
Regulatory Affairs & Public Advocacy
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 334-2394, (907) 269-5100, (907) 276-3697 Fax

DATED February 20, 2026, at Anchorage, Alaska.

STEPHEN J. COX
ATTORNEY GENERAL

By: /s/ JC Croft

JC Croft
Assistant Attorney General
Office of the Attorney General
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501
Phone: (907) 269-5187
Email: JC.Croft@alaska.gov
Alaska Bar No. 1711060

CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2026, a true and correct copy of the **Office of the Attorney General's Unopposed Motion for Extension of Time to Respond to Municipality of Anchorage D/B/A Anchorage Hydropower's Petition for Reconsideration of Order U-25-025(2)** was served via e-mail on the following

Municipality of Anchorage d/b/a Anchorage Hydropower
Dean D. Thompson
Emily Walker
Becki Alvey
Kemppel Huffman & Ellis PC
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Chugach Electric Association, Inc.
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RECEIVED
By the Regulatory Commission of Alaska on Feb 24, 2026

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chair
Steve DeVries
Mark Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER to Lift a Condition from Certificate of Public Convenience and Necessity No. 780 and Alternate Application to Amend Certificate of Public Convenience and Necessity No. 780	U-25-025

ANCHORAGE HYDROPOWER'S MOTION FOR SETTLEMENT CONFERENCE

Pursuant to 3 AAC 48.121(a) (alternative dispute resolution procedures) and 3 AAC 48.140 (Conferences), the Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP") requests that the Commission schedule a settlement conference among the parties and an administrative law judge or commissioner to facilitate mediation of a potential settlement of AHP's July 30, 2025, request to lift condition requiring the surrender of Eklutna Operating Committee ("EOC") voting rights ("Request to Lift Condition") and AHP's pending February 10, 2026, petition for reconsideration of Order No. U-25-025(2). AHP requests that the Commission designate a mediator and schedule the settlement conference to convene as soon as possible, and allow parties to participate via WebEx if that would allow more expedited participation by any of the other parties. Under 3 AAC 48.121(k), none of the statements or comments made at the settlement conference will be admissible in the adjudication of AHP's pending petition for reconsideration or in any subsequent appeal.

LAW OFFICES OF
KEMPPEL, HUFFMAN AND ELLIS
A PROFESSIONAL CORPORATION
255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2025
(907) 277-1604

Currently, the other parties' responses to AHP's petition for reconsideration will be due February 27, 2026 (assuming the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section's ("RAPA's") February 20, 2026, expedited unopposed motion for a seven-day extension of time is granted). Under 3 AAC 48.105, the 30-day timeline for a Commission decision on AHP's petition for reconsideration ends on March 12, 2026, unless the Commission finds good cause to extend that due date in light of RAPA's motion for extension of time.

In compliance with 3 AAC 48.121(c), AHP provides the following:

(1) The matter to be resolved is whether the parties can stipulate to a resolution of AHP's Request to Lift Condition that will be acceptable to the Commission. AHP believes such a stipulation is possible in light of recent consideration and discussion of potential changes in the EOC voting rights from super-majority to per-capita voting rights.

(2) The type of alternative dispute resolution AHP seeks is best described as facilitation and mediation.

(3) AHP requests that the settlement conference be conducted by a Commission administrative law judge or a commissioner, as determined by the Commission. As contemplated in 3 AAC 48.121(h)(3), if the Commission believes it would be most expeditious to have Administrative Law Judge James L. Walker conduct the conference, AHP would consent in writing to that despite the fact that he is the administrative law judge assigned to this docket.

(4) AHP certifies that AHP, Chugach Electric Association, Inc. ("Chugach"), and Matanuska Electric Association, Inc. ("MEA") have previously attempted in good faith to negotiate the matter to be resolved.

LAW OFFICES OF
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ANCHORAGE, ALASKA 99503-2025
(907) 277-1604

(5) AHP believes a settlement conference has a reasonable potential of resolving the dispute among the parties regarding restoring EOC voting rights to AHP. That is particularly the case given that the nature of EOC member voting rights (e.g., something other than the current super-majority voting requirements) may provide an opportunity for consensus that did not exist when AHP filed it Request to Lift Condition.

(6) Convening a settlement conference need not adversely impact any timelines in this docket. The Commission has already issued a "final order" within the AS 42.05.175 statutory timeline, and the only timelines remaining are the other parties' response to AHP's petition for reconsideration, the 30-day timeline for decision on AHP's petition for reconsideration, and the 30-day timeline for appeal of a Commission order on reconsideration.

(7) AHP proposes that the settlement conference be scheduled for one day at the earliest availability of whoever the Commission decides should conduct the conference. Although it may require more time, AHP believes it may be possible that an agreement in principle could be mediated in as little as three hours, depending on the engagement by the parties with the assistance of a Commission-designated mediator.

AHP will confer with the other parties and request that they respond promptly to this motion and identify when they can be available for a settlement conference. AHP will notify the Commission by supplemental filing if any dates for settlement conference can be agreed upon.

Based on the foregoing, AHP respectfully requests that the Commission schedule a mediation settlement conference as described above.

LAW OFFICES OF
KEMPPEL, HUFFMAN AND ELLIS
A PROFESSIONAL CORPORATION
255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2025
(907) 277-1604

RESPECTFULLY SUBMITTED this 24th day of February, 2026, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: */s/ Dean D. Thompson*

Dean D. Thompson, Alaska Bar No. 9810049
Emily Walker, Alaska Bar No. 2211108
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CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2026, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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RECEIVED
By the Regulatory Commission of Alaska on Feb 26, 2026

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chairman
Steven D. DeVries
Mark A. Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the Application Filed by Municipality of Anchorage d/b/a Anchorage Hydropower to Amend Its Certificate of Public Convenience and Necessity No. 780	))))	U-25-025

OFFICE OF THE ATTORNEY GENERAL'S OPPOSITION TO MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER'S PETITION FOR RECONSIDERATION OF ORDER U-25-025(2)

I. Introduction and Summary

Pursuant to 3 AAC 48.105, the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section (RAPA), opposes the Municipality of Anchorage dba Anchorage Hydropower's (AHP) petition for reconsideration of Order U-25-025(2) (Order No. 2) because

- the Regulatory Commission of Alaska (Commission) properly interpreted its own order(s)
- the minimum time period does not make the fitness/expertise requirement a free-standing penalty, does not nullify the expertise requirement, and does not create an irrational outcome as AHP asserts
- determining if AHP has acquired the necessary expertise is not ripe and is moot.

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II. Reconsideration Standard

3 AAC 48.105 provides that a party can seek reconsideration of an order if the order is unreasonable, erroneous, unlawful, or otherwise defective. The definition of "unreasonable" includes: "Not guided by reason; irrational or capricious."[1] "Erroneous" means: "Involving error; deviating from the law."[2] "Unlawful" means "That which is contrary to, prohibited, or unauthorized by law."[3] In Order U-06-119(2) the Commission held that an order closing a docket while an appeal was pending as "otherwise defective." In Order U-97-034(7) the Commission held that an order was otherwise defective because there was insufficient information in the record.[4] Other jurisdictions have considered whether an order is arbitrary[5] or overbroad.[6]

Pursuant to 3 AAC 48.105, AHP must specifically set forth grounds and show why the Commission's order should be reconsidered.

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1 *See* Black's Law Dictionary 1573 (7th ed.1999).

2 *Id*. at 562.

3 *Id*. at 1536.

4 Order U-97-034(7) at 6.

5 *See Sorensen v. Director, Div. of Taxations*, 446 A.2d 213, 215 (N.J. Tax Ct. 1981).

6 *See Green v. Stratoflex, Inc.*, 596 S.W.2d 305, 309 (Tex.App.Ct.1980).

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III. Argument

A. The Commission properly interpreted its own order(s).

The Commission has interpreted its own orders—Order U-18-102(44) and Order U-24-024(8)—to include two terms guiding the AHP's voting rights surrender: (1) a minimum time of surrender linked to the terms of the Eklutna and MEA PPAs, and (2) AHP's acquisition of expertise sufficient to participate as a voting member of the Eklutna Operating Committee (EOC).

AHP claims that the Commission misconstrued and misapplies the original rationale in Order U-18-102(44).[7] AHP points to the structure of the paragraph in Order No. 44 and asserts that the surrender of voting rights was not based on time but on lack of fitness.[8] To support its argument, AHP focuses on the word "and" in the language

> This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, **and** cannot be lifted until such time as MHP has shown to our satisfaction that MHP has acquired the expertise required to fully participate as a voting member of the EOC.[9]

AHP claims that "If the minimum term were absolute and independent of expertise, the expertise clause would be surplusage."[10] AHP therefore reasons that "This

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7 AHP Petition for Reconsideration at 1.

8 Petition at 6.

9 Order U-18-102(44)/U-19-20(39)/U-19-021(39) at 67 (emphasis added).

10 Petition at 7.

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shows that once the basis for the surrender no longer exists [this being the lack of expertise], a reinstatement becomes permissible."[11]

AHP then argues that "Read together, the paragraph supports the interpretation that the minimum term ensures that, if nothing changes—i.e., if AHP continues to lack a suitable representative—the surrender will remain in place for at least the PPA term. But the expertise clause establishes a condition that allows the Commission to lift the surrender earlier if the original justification disappears."[12]

AHP's repeated assertions interpreting the language from Order No. 44 in AHP's proposed manner ignores the simple and straightforward meaning of the Commission's words.

AHP ignores three plain items in Order No. 44:

- the words "at least equal to"
- the connector **and**
- along with the next phrase "cannot be lifted until…."

The Commission's plain words state that the minimum term of the surrender is the term of the Eklutna PPA and the MEA PPA. The phrase "and cannot be lifted until…" is in addition to this minimum term. Stated another way, when the Eklutna PPA and MEA PPAs' terms end, if AHP does not have the required expertise at that time then the voting rights surrender continues regardless of the termination of the PPAs. If,

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11 Petition at 7

12 Petition at 8.

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and only if, AHP has the required expertise in place when (or after) the PPAs' terms expire then, and only then, can the voting rights surrender be lifted. The expertise requirement may lengthen the voting rights surrender period, but it does not shorten it.

B. The minimum term does not make the fitness/expertise requirement a free-standing penalty, does not nullify the expertise requirement, and does not create an irrational outcome.

AHP also claims that a minimum term would convert the fitness/expertise requirement into a free-standing penalty, would nullify the expertise requirement, and create an irrational outcome. AHP does not explain how or present any authority why any of these (and RAPA does not agree with AHP's descriptors) makes Order No. 2 unreasonable, erroneous, unlawful, or otherwise defective.

The fitness/expertise requirement is one of two requirements. Until both requirements are fulfilled—(1) the Eklutna PPA and MEA PPA have expired and (2) AHP has the necessary expertise—the voting rights surrender stays in place. Therefore, it is not a free-standing penalty. In fact, it is not a penalty at all. It was a requirement for the Chugach acquisition to proceed.

AHP did not cite any authority on free-standing penalty clauses to support its assertion. A free-standing penalty clause is a provision that operates independently from

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a primary requirement or obligation.[13] Here, the minimum term and the fitness/expertise requirements operate together.

As addressed above, a minimum term does not nullify the fitness/expertise requirement. Rather, they work together. If the PPAs expire and AHP does not have the expertise in place, then the voting rights surrender continues beyond the minimum term.

The minimum term does not create an irrational outcome because the PPAs are not power purchase agreements in the normal sense.[14] Instead, they are agreements that helped the Chugach acquisition to proceed. It is not irrational to link the voting rights surrender's minimum term to the PPAs.

C. Determining if AHP has acquired the necessary expertise is not ripe and is moot.

AHP next asserts that Order U-24-024(8) resolved only a timing issue,[15] meaning that AHP should still be allowed to show it has acquired the necessary expertise. AHP supports this with its argument that the Commission misconstrued and misapplies the original rational in Order No. 44. AHP argues that its fitness to vote on the Eklutna Operating Committee remains a live issue.[16]

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13 *See e.g. Heckman v. North Penn Comprehensive Health Services*, 2025 WL 3499051 (M.D.Penn Dec. 4, 2025) (discussing the penalty clause of a contract provision).

14 Order U-18-102(44)/U-19-020(39)/U-19-021(39) at 69-70.

15 Petition at 9.

16 Petition at 10.

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An adjudicator should decide matters only where a party has standing and the matter is "ripe and not moot."[17] A matter is moot where a decision on the issue has lost its character as a "present, live controversy," or where a party bringing the action would not be entitled to any relief even if they prevailed.[18]

AHP appears to be seeking an advisory or declaratory decision from the Commission on whether it has currently obtained the necessary expertise—what AHP refers to as a remaining "live" issue. There are two problems with AHP's assertion.

First, whether AHP has obtained the necessary expertise to restore its voting rights is not a current "need" that must be decided. What matters is if AHP has acquired the expertise at the time the PPAs will expire. As RAPA has noted in the past, there is no indication that both PPAs are about to expire or terminate.

A current advisory decision would also be an unnecessary expenditure of party and Commission resources. Showing that you are fit to run a marathon today is not relevant if you are not going to run a marathon for a couple of decades.

Second, AHP would not be entitled to any relief even if the Commission determined that AHP had acquired the necessary expertise today. While an advisory decision by the Commission on AHP's current level of expertise may be useful for AHP in its discussions with the utilities, the PPA are not about to expire or terminate.

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[17] *State v. ACLU of Alaska*, 204 P.3d 364, 368 (Alaska 2009) (citing *Brause v. State, Dep't of Health & Soc. Servs.*, 21 P.3d 357, 358 (Alaska 2001)).

[18] *Clark v. State, Dep't of Corr.*, 156 P.3d 384, 387 (Alaska 2007) (quoting *Mun. of Anchorage v. Baxley*, 946 P.2d 894, 899 (Alaska App. 1997).

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IV. Conclusion

AHP's petition for reconsideration should be denied because AHP has not shown that Order No. 2 is unreasonable, erroneous, unlawful, or otherwise defective. The Regulatory Commission of Alaska (Commission) properly interpreted its own order(s), the minimum time period does not make the fitness/expertise requirement a free-standing penalty, does not nullify the expertise requirement, and does not create an irrational outcome, as AHP asserts, and determining if AHP has acquired the necessary expertise is not ripe but instead is moot.

DATED February 26, 2026, at Anchorage, Alaska.

STEPHEN J. COX
ATTORNEY GENERAL

By: /s/ Jeffrey J. Waller

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I hereby certify that on February 26, 2026, a true and correct copy of the **Office of the Attorney General's Opposition to Municipality of Anchorage D/B/A Anchorage Hydropower's Petition for Reconsideration of Order U-25-025(2)** was served via e-mail on the following

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STATE OF ALASKA

BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	John M. Espindola, Chairman Steven D. DeVries Mark A. Johnston Robert M. Pickett John C. Springsteen
In the Matter of the Application Filed by Municipality of Anchorage d/b/a Anchorage Hydropower to Lift a Condition from Certificate of Public Convenience and Necessity No. 780 and Alternate Application to Amend Certificate of Public Convenience and Necessity No. 780	U-25-025

CHUGACH ELECTRIC ASSOCIATION, INC. AND MATANUSKA ELECTRIC ASSOCIATION, INC.'S OPPOSITION TO ANCHORAGE HYDROPOWER'S PETITION FOR RECONSIDERATION

Chugach Electric Association, Inc. ("Chugach") and Matanuska Electric Association, Inc. ("MEA") oppose the Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower's ("AHP") Petition for Reconsideration of Order U-25-025(2).[1]

Chugach and MEA disagree with AHP's assertion that Order 2 is "unreasonable, erroneous, unlawful, or otherwise defective" pursuant to 3 AAC 48.105. The Commission has now considered and decided on this matter three times: in 2020,[2] 2024,[3] and most

[1] Order U-25-025(2), *Order Granting Motion to Dismiss and Closing Docket,* January 26, 2026. ("Order 2").

[2] Order U-18-102(44)/U-19-020(39)/U-19-021(39), *Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third-Party Sales Gas Pricing; and Requiring Filings*, May 28, 2020, at 67.

[3] Order U-24-024(8), *Order Granting Motion to Dismiss in Part and Dismissing Notice and Request, Denying Motion to Dismiss in Part, Vacating Procedural Schedule, Denying Motion to Compel, Denying Request to Construe Notice and Request as Petition to Amend Certificate Condition, Providing Guidance for Future Filings, and Closing Docket*, November 14, 2024 ("Order 8"), at 23-24.

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recently in this docket in January 2026.[4] Each time, the Commission has decided that AHP – which (i) has no ratepayers, (ii) exists exclusively to own part of the Eklutna Project, from which it sells all associated generation wholesale to Chugach and MEA through two power purchase agreements ("PPAs"), and (iii) voluntarily surrendered its majority-ownership voting rights in 2020[5] – should not have voting rights on the Eklutna Operating Committee (EOC) for the duration of the terms of such PPAs.[6] The Commission's reasoning in these three decisions is clear, consistent, and considered, and all relevant facts remain unchanged. AHP nonetheless persists in questioning the Commission's interpretation of its own orders on the minimum term voting surrender condition. Chugach and MEA do not join in this questioning. If AHP remains dissatisfied with the Commission's rulings on the matter of its voting rights, AHP should appeal.

RESPECTFULLY SUBMITTED this 27th day of February, 2026.

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[4] *See* Order 2, at 20.

[5] Order 8, at 5, 24.

[6] Order U-18-102(44)/U-19-020(39)/U-19-021(39), at 67; and Order 8, at 28.

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chair
Steve DeVries
Mark Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the Request Filed by the MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER to Lift a Condition from Certificate of Public Convenience and Necessity No. 780 and Alternate Application to Amend Certificate of Public Convenience and Necessity No. 780	U-25-025 ORDER NO. 3

ORDER DENYING PETITION FOR RECONSIDERATION AND FINDING MOTIONS MOOT

BY THE COMMISSION:

Summary

We deny the petition for reconsideration filed by the Municipality of Anchorage d/b/a Anchorage Hydropower (AHP). We find the motions for extension of time and expedited consideration filed by the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA) moot. We find the motion for settlement conference filed by AHP moot.

Background

On July 30, 2025, AHP filed a request to lift a condition requiring the surrender of its voting rights on the Eklutna Operating Committee (EOC) from Certificate of Public Convenience and Necessity (certificate) No. 780. In the alternative, AHP

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requested to amend Certificate No. 780 to lift the condition requiring surrender of its voting rights on the EOC.[1]

On August 8, 2025, RAPA filed a notice of election to participate in this proceeding and a motion to dismiss.[2] On August 22, 2025, Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA), filed a joint petition to intervene, which we granted.[3] Chugach and MEA filed a joinder in the Motion to Dismiss.[4] AHP filed an opposition to the Motion to Dismiss.[5] RAPA filed a reply to the Opposition to Motion to Dismiss.[6]

We issued our final order granting the Motion to Dismiss and closed this docket.[7] AHP filed a petition for reconsideration of Order U-25-025(2).[8] RAPA filed a motion for extension of time to respond to Petition for Reconsideration and an expedited

[1] *Municipality of Anchorage d/b/a Anchorage Hydropower's Request to Lift Condition Requiring the Surrender of Voting Rights from Certificate of Public Convenience and Necessity No. 780; and Alternative Application to Amend Certificate of Public Convenience and Necessity No. 780*, filed July 30, 2025 (Application). AHP supplemented the Application on August 20, 2025. Correspondence from D. Thompson, filed August 20, 2025.

[2] *Notice of Election to Participate*, filed August 8, 2025; *Office of the Attorney General's Motion to Dismiss*, filed August 8, 2025 (Motion to Dismiss).

[3] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Petition to Intervene*, filed August 22, 2025; Order U-25-025(1), *Order Granting Joint Petition to Intervene, Addressing Timeline for Decision, Designating Commission Panel, and Appointing Administrative Law Judge,* dated September 29, 2025.

[4] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joinder in Motion to Dismiss*, filed August 22, 2025.

[5] *Municipality of Anchorage d/b/a Anchorage Hydropower's Opposition to the Office of the Attorney General's Motion to Dismiss*, filed August 25, 2025 (Opposition to Motion to Dismiss).

[6] *Office of the Attorney General's Reply to Opposition to Motion to Dismiss*, filed August 28, 2025.

[7] Order U-25-025(2), *Order Granting Motion to Dismiss and Closing Docket*, dated January 26, 2026 (Order U-25-025(2)).

[8] *Municipality of Anchorage d/b/a Anchorage Hydropower's Petition for Reconsideration of Order U-25-025(2),* filed February 10, 2026 (Petition for Reconsideration).

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consideration of its motion.[9] AHP filed a motion for settlement conference.[10] RAPA filed an opposition to the Petition for Reconsideration.[11]

Discussion

Petition for Reconsideration

Petitions for reconsideration are governed by 3 AAC 48.105. A petitioner seeking reconsideration of an order must specifically identify the grounds upon which it believes the order is "unreasonable, erroneous, unlawful, or otherwise defective."[12]

AHP identifies three grounds on which it contends Order U-25-025(2) is unreasonable, erroneous, unlawful, or otherwise defective. First, AHP argues that Order U-25-025(2) misconstrues and misapplies the original rationale for the EOC vote surrender requirement in Order U-18-102(44).[13] Second, AHP argues Order U-25-025(2) misconstrues and misapplies Order U-24-024(8).[14] Third, AHP argues Order U-25-025(2)

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[9] *Office of the Attorney General's Unopposed Motion for Extension of Time to Respond to Municipality of Anchorage d/b/a Anchorage Hydropower's Petition for Reconsideration of Order U-25-025(2),* filed February 20, 2026 (Motion for Extension); *Office of the Attorney General's Motion for Expedited Consideration,* filed February 20, 2026 (Motion for Expedited Consideration).

[10] *Anchorage Hydropower's Motion for Settlement Conference,* filed February 24, 2026 (Motion for Settlement Conference).

[11] *Office of the Attorney General's Opposition to Municipality of Anchorage d/b/a Anchorage Hydropower's Petition for Reconsideration of Order U-25-025(2),* filed February 26, 2026.

[12] 3 AAC 48.105.

[13] Order U-18-102(44)/U-19-020(39)/U-19-021(39), *Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third Party Sales Gas Pricing; and Requiring Filings*, dated May 28, 2020 (Order U-18-102(44)), as corrected by *Errata Notice to Order U-18-102(44)/U-19-020(39)/U-19-021(39),* dated June 5, 2020, and December 22, 2020; Petition for Reconsideration at 1-2.

[14] Order U-24-024(8), *Order Granting Motion to Dismiss in Part and Dismissing Notice and Request, Denying Motion to Dismiss in Part, Vacating Procedural Schedule, Denying Motion to Compel, Denying Request to Construe Notice and Request as Petition to Amend Certificate Condition, Providing Guidance for Future Filings, and Closing Docket*, dated November 14, 2024; Petition for Reconsideration at 2.

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is arbitrary and capricious to the extent that it deprives AHP, the majority owner of the Eklutna Hydroelectric Project (Eklutna), of the ability to vote on important Eklutna matters before the EOC, without addressing the merits of whether AHP is managerially or technically fit to maintain ownership of Eklutna.[15]

We have reviewed the Petition for Reconsideration. We do not find a basis articulated by AHP to conclude that our decision in Order U-25-025(2) was unreasonable, erroneous, unlawful, or otherwise defective. Our interpretation of Order U-18-102(44) is contained in Order U-24-024(8) and Order U-25-025(2). Order U-25-025(2) reflects our view on all matters raised by AHP in the Petition for Reconsideration. Therefore, we deny the Petition for Reconsideration.

Motion for Extension and Motion for Expedited Consideration

On February 20, 2026, RAPA filed the Motion for Extension to extend its time to respond to the Petition for Reconsideration.[16] With the Motion for Extension, RAPA filed the Motion for Expedited Consideration seeking expedited consideration of the Motion for Extension.[17] With our denial of the Motion for Reconsideration we find these motions moot.

Motion for Settlement Conference

AHP filed a Motion for Settlement Conference pursuant to 3 AAC 48.121 and 3 AAC 48.140 on February 24, 2026, in this docket.[18] AHP requests that we schedule a settlement conference and appoint an administrative law judge or commissioner to facilitate mediation of a potential settlement of the Application and Petition for Reconsideration.[19] 3 AAC 48.121(a) states that "[a] person may request alternative

[15]Petition for Reconsideration at 2.

[16]Motion for Extension.

[17]Motion for Expedited Consideration.

[18]Motion for Settlement Conference.

[19]Motion for Settlement Conference at 1.

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dispute resolution by petition if no adjudicatory proceeding is open, or by motion in an existing adjudicatory proceeding." Order U-25-025(2) closed this docket effective January 26, 2026.[20] With our denial of the Petition for Reconsideration, this docket remains closed and there are no matters remaining in this docket to address. The Motion for Settlement Conference is therefore moot.

ORDER

THE COMMISSION FURTHER ORDERS:

1. The *Municipality of Anchorage d/b/a Anchorage Hydropower's Petition for Reconsideration of Order U-25-025(2),* filed February 10, 2026, is denied.

2. The *Office of the Attorney General's Unopposed Motion for Extension of Time to Respond to Municipality of Anchorage d/b/a Anchorage Hydropower's Petition for Reconsideration of Order U-25-025(2),* filed February 20, 2026, is found moot.

3. The *Office of the Attorney General's Motion for Expedited Consideration,* filed February 20, 2026, is found moot.

4. The *Anchorage Hydropower's Motion for Settlement Conference,* filed February 24, 2026, is found moot.

DATED AND EFFECTIVE at Anchorage, Alaska, this 27th day of February, 2026.

BY DIRECTION OF THE COMMISSION
(Commissioners Steve DeVries and
Mark Johnston, dissenting.)

[20]Order U-25-025(2) at 21.

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellant, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	**Case No. 3AN-26-_____CI** RCA Docket No. U-25-025

NOTICE OF APPEAL

Appellant the Municipality of Anchorage d/b/a Anchorage Hydropower ("AHP"), by and through the undersigned attorneys, hereby gives notice to the Superior Court of the State of Alaska, Third Judicial District, that AHP appeals the decision of the Regulatory Commission of Alaska ("RCA") entered in Docket No. U-25-025 in the following order:

Order No. U-25-025(2), *Order Granting Motion to Dismiss and Closing Docket*, dated January 26, 2026 ("Order No. 2").

This Notice of Appeal is accompanied by:

LAW OFFICES OF
KEMPPEL, HUFFMAN AND ELLIS
A PROFESSIONAL CORPORATION
255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2025
(907) 277-1604

1. A copy of the RCA's Order No. 2 from which this appeal is taken (attached as Exhibit A).

2. Appellant's Statement of Points on Appeal.

3. A filing fee in the amount of $250.

4. Cash Deposit in Lieu of Bond on Appeal.

5. Certificate of Service on all parties to Docket No. U-25-025, the Chair of the RCA, and the Attorney General of Alaska.

Contemporaneously with the filing of this Notice of Appeal, AHP is filing a motion to consolidate this instant appeal with the appeal from RCA Order No. U-24-024(8) that is currently pending in Case No. 3AN-24-10554CI.

Please direct all pleadings and correspondence relating to this matter to the undersigned attorneys for the appellant.

RESPECTFULLY SUBMITTED this 31st day of March, 2026, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: /s/ *Dean D. Thompson*
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Exhibit A

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: John M. Espindola, Chair
Steve DeVries
Mark Johnston
Robert M. Pickett
John C. Springsteen

In the Matter of the Request Filed by the MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER to Lift a Condition from Certificate of Public Convenience and Necessity No. 780 and Alternate Application to Amend Certificate of Public Convenience and Necessity No. 780	U-25-025 ORDER NO. 2

ORDER GRANTING MOTION TO DISMISS AND CLOSING DOCKET

BY THE COMMISSION:

Summary

We grant the motion to dismiss filed by the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA). We close this docket.

Background

On July 30, 2025, the Municipality of Anchorage (MOA) d/b/a Anchorage Hydropower (AHP) filed a request to lift a condition requiring the surrender of its voting rights on the Eklutna Operating Committee (EOC) from Certificate of Public Convenience and Necessity (certificate) No. 780. In the alternative, AHP requests to amend Certificate

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No. 780 to lift the condition requiring surrender of its voting rights on the EOC.[1] On August 20, 2025, AHP supplemented its Application.[2]

On August 6, 2025, we issued public notice of the Application with comments due by August 27, 2025. No comments were filed.

On August 8, 2025, RAPA filed a notice of election to participate in this proceeding and a motion to dismiss.[3] On August 22, 2025, Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA), filed a joint petition to intervene, which we granted.[4] Chugach and MEA filed a joinder in the Motion to Dismiss.[5] AHP filed an opposition to the Motion to Dismiss.[6] RAPA filed a reply to the Opposition to Motion to Dismiss.[7]

[1] *Municipality of Anchorage d/b/a Anchorage Hydropower's Request to Lift Condition Requiring the Surrender of Voting Rights from Certificate of Public Convenience and Necessity No. 780; and Alternative Application to Amend Certificate of Public Convenience and Necessity No. 780*, filed July 30, 2025 (Application).

[2] Correspondence from D. Thompson, filed August 20, 2025.

[3] *Notice of Election to Participate*, filed August 8, 2025; *Office of the Attorney General's Motion to Dismiss*, filed August 8, 2025 (Motion to Dismiss).

[4] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joint Petition to Intervene*, filed August 22, 2025; Order U-25-025(1), *Order Granting Joint Petition to Intervene, Addressing Timeline for Decision, Designating Commission Panel, and Appointing Administrative Law Judge,* dated September 29, 2025.

[5] *Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.'s Joinder in Motion to Dismiss*, filed August 22, 2025 (Chugach and MEA Joinder in Motion to Dismiss).

[6] *Municipality of Anchorage D/B/A Anchorage Hydropower's Opposition to the Office of the Attorney General's Motion to Dismiss*, filed August 25, 2025 (Opposition to Motion to Dismiss).

[7] *Office of the Attorney General's Reply to Opposition to Motion to Dismiss*, filed August 28, 2025 (RAPA Reply).

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Discussion

In Order U-18-102(44),[8] we described the Eklutna Hydroelectric Project (Eklutna Project) as follows:

> The Eklutna Project was built and operated by the federal government pursuant to the Eklutna Power Act of 1950. In 1995, Congress authorized sale of the Eklutna Project to [the Municipality of Anchorage d/b/a Municipal Light & Power Department (ML&P)], Chugach, and MEA under the terms of the 1989 Eklutna Purchase Agreement. Under this agreement, the three utilities received an undivided interest in all of the Eklutna Project, water rights, generation plant and the transmission assets interconnecting the Eklutna Project with ML&P, Chugach, and MEA. ML&P obtained a 53.33% ownership interest, Chugach obtained a 30% ownership interest, and MEA obtained a 16.67% interest in the Eklutna Project. Eklutna Project energy, capacity, and costs are to be allocated based on these ownership interests. ML&P and Chugach assert that the Eklutna Project currently has a maximum capacity of 39 MW.
>
> The three utilities created the Eklutna Operating Committee (EOC) to make all management decisions related to operation, maintenance, and budgeting for the Eklutna Project. ML&P, Chugach, and MEA each have a representative on the EOC. Decisions by the EOC are made based upon a double majority consisting of affirmative votes by at least two of the three utilities whose ownership shares total at least 51% of the Eklutna Project ownership. Effectively, management of the Eklutna Project is limited to actions approved by ML&P and at least one of Chugach or MEA.[9]

Chugach filed a petition seeking our approval of its acquisition of all service obligations and most assets of ML&P, and an application to amend its certificate to reflect the new service obligations.[10] Under the terms of this acquisition, Chugach would offer

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[8]Order U-18-102(44)/U-19-020(39)/U-19-021(39), *Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third Party Sales Gas Pricing; and Requiring Filings*, dated May 28, 2020 (Order U-18-102(44)), as corrected by *Errata Notice to Order U-18-102(44)/U-19-020(39)/U-19-021(39),* dated June 5, 2020, and December 22, 2020.

[9]Order U-18-102(44) at 60-61 (footnotes omitted).

[10]*Petition for Approvals Needed to Acquire Anchorage Municipal Light and Power and Application to Amend Certificate of Public Convenience and Necessity No. 8*, filed April 1, 2019 (Petition for Approvals), in Docket U-19-020.

employment to all ML&P employees, and the MOA would retain no ML&P employees.[11] Under this acquisition, Chugach was not purchasing ML&P's interest in the Eklutna Project, but was acquiring a portion of ML&P's share of cost responsibilities and output from the Eklutna Project for a 35 year period.[12] As part of this same transaction, ML&P filed an application to amend its certificate to delete its service territory and add the Eklutna Project site as its new service territory.[13]

On May 28, 2020, we approved Chugach's acquisition of most of the assets and service obligations of ML&P, subject to conditions.[14] One of these conditions required ML&P to surrender its voting rights on the EOC prior to the effective date of the agreements under which ML&P's successor[15] would be providing part of its share of the Eklutna Project output to Chugach (the Eklutna Power Purchase Agreement (Eklutna PPA)) and selling the remainder of its share of the Eklutna Project output to MEA (the MEA PPA)(collectively, PPAs).[16] In compliance with this condition, ML&P surrendered its EOC voting rights effective October 30, 2019.[17]

[11] *Pre-filed Direct Testimony of Arthur W. Miller*, filed April 1, 2019, in Docket U-19-020, Exhibit AWM-03 at 67 (Section 6.05(a)); Docket U-19-020/U-19-021, Tr. 2708-2709.

[12] Petition for Approvals at 8.

[13] *Application of the Municipality of Anchorage d/b/a Municipal Light and Power to Amend Certificate of Public Convenience and Necessity No. 121 and to Terminate Dividend Restriction*, filed April 5, 2019, in Docket U-19-021 (ML&P Application).

[14] Order U-18-102(44).

[15] AHP operates as the successor of ML&P.

[16] Order U-18-102(44) at 65-67.

[17] *Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights*, filed October 30, 2020, in Dockets U-18-102, U-19-020, and U-19-021(Notice of Surrender).

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Almost five years after this surrender, AHP filed a notice and request seeking reinstatement of its EOC voting rights.[18] In this filing, AHP asserted that Anchorage Water and Wastewater (AWWU) General Manager Mark A. Corsentino (Corsentino) had been appointed to serve as AHP's Utility Director,[19] and that AWWU Engineering Director Mark Schimscheimer (Schimscheimer) would provide support to Corsentino.[20]

RAPA filed a motion to dismiss AHP's Docket U-24-024 Notice and Request.[21] We granted RAPA's Docket U-24-024 Motion to Dismiss, finding AHP's voting rights on the EOC are surrendered for at least the duration of the Eklutna PPA and the MEA PPA.[22] We concluded that in its briefing on the issue AHP had not shown good cause for modifying or interpreting the condition in a manner that nullifies the minimum term of surrender of EOC voting rights in Order U-18-102(44).[23] We found that the Eklutna PPA and the MEA PPA are both scheduled to expire on October 31, 2055.[24] We noted that both agreements contain provisions allowing for extension as well as early

[18]*Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee*, filed July 18, 2024, in Docket U-24-024 (Docket U-24-024 Notice and Request).

[19]Docket U-24-024 Notice and Request at 3-4.

[20]Docket U-24-024 Notice and Request at 6-7.

[21]*Office of the Attorney General's Motion to Dismiss as Moot*, filed October 15, 2024, in Docket U-24-024 (Docket U-24-024 Motion to Dismiss).

[22]Order U-24-024(8), *Order Granting Motion to Dismiss in Part and Dismissing Notice and Request, Denying Motion to Dismiss in Part, Vacating Procedural Schedule, Denying Motion to Compel, Denying Request to Construe Notice and Request as Petition to Amend Certificate Condition, Providing Guidance for Future Filings, and Closing Docket*, dated November 14, 2024 (Order U-24-024(8)) at 28-29.

[23]Order U-24-024(8) at 28.

[24]Order U-24-024(8) at 29 (citations omitted).

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termination. We further noted that, at that time, no entity could predict when the terms of the Eklutna PPA and the MEA PPA would expire.[25]

We stated that we had reviewed the documents filed by AHP and found no commitment by Corsentino or Schimscheimer to remain employed by AHP until the expiration of the Eklutna PPA and the MEA PPA. We also stated that we had no way to evaluate what would be required to fully participate as a voting member of the EOC at that time. For these reasons, we granted the Docket U-24-024 Motion to Dismiss on the grounds that it was premature under the terms of Order U-18-102(44). This dismissal was without prejudice to refile closer to the time when the Eklutna PPA and the MEA PPA are expected to expire.[26]

AHP has now filed the Application requesting to lift the condition requiring the surrender of its voting rights on the EOC from Certificate No. 780, or in the alternative, to amend Certificate No. 780 to lift the condition requiring surrender of its voting rights on the EOC.[27] In the Application, AHP argues that we should lift the condition requiring the MOA to surrender its voting rights on the EOC because the objective of the condition has been met, as AHP has retained what it contends are qualified personnel and consultants to participate in the EOC.[28] AHP also argues that we should lift the conditions because the continued surrender of its voting rights on the EOC is not necessary to protect and promote the public interest, asserting that with the acquisition of qualified personnel to sit on the EOC, the condition is no longer needed to protect and promote the public interest.[29] AHP in the alternative presents an application to amend Certificate No. 780 to remove

[25]Order U-24-024(8) at 29.

[26]Order U-24-024(8) at 29.

[27]Application.

[28]Application at 8-15.

[29]Application at 15-16.

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the surrender requirement, arguing that AHP is and will continue to be fit, willing, and able to provide wholesale bulk power under the Eklutna PPA and the MEA PPA if the Application is approved.[30]

Standard of Review

The Commission looks to Alaska's Rules of Civil Procedure to determine the standard of review applicable to dispositive motions, and has previously explained:

> We look to Rule 56 of the Alaska Rules of Civil Procedure as a framework for reviewing motions for summary disposition. We have used summary disposition judiciously to simplify and focus issues and avoid unnecessary hearings. Under this approach, a party may move for a ruling on all or a portion of a case on the basis of the pleadings, depositions, answers to interrogatories, and admissions, together with affidavits. If there is no genuine issue as to any material fact, the party is entitled to judgment in its favor as a matter of law. Summary judgment may be rendered for or against the moving party. In deciding such motions, all reasonable inferences of fact must be against the moving party and in favor of the non-moving party. The burden of proof is on the moving party, and to prevail the non-moving party only needs to show the existence of material facts to be litigated.[31]

RAPA Motion to Dismiss

RAPA has filed the Motion to Dismiss seeking dismissal of the AHP's Application.[32] In the Motion to Dismiss, RAPA argues that AHP's requests made to either modify its certificate or modify the conditions of the certificate are premature.[33] RAPA states that AHP has not shown that the Eklutna PPA and the MEA PPA have expired, are about to expire, or that the current filing is close to the time the PPAs will expire.[34]

[30]Application at 17-25.

[31]Order U-06-056(4), *Order Granting Partial Summary Disposition*, dated October 17, 2006, at 3 (citations omitted); Order U-24-002(12), *Order Affirming Grant of Dismissal and Closing Docket*, dated August 21, 2024 (Order U-24-002(12)), at 3.

[32]Motion to Dismiss at 1.

[33]Motion to Dismiss at 4-5.

[34]Motion to Dismiss at 5.

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RAPA states that in Order U-18-102(44) we established several conditions applicable to the certificate issued to AHP, including that "before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project…." RAPA also states that we clarified "that the term of the MOA's voting rights surrender must be at least equal to the terms of the Eklutna PPA and the MEA PPA.[35]

RAPA states that in Order U-24-024(8) we confirmed the MOA's voting rights surrender had a minimum time period tied to the terms of the Eklutna PPA and the MEA PPA.[36] RAPA notes that in Order U-24-024(8) we provided guidance for future AHP filings, that in addition to addressing the minimum term of EOC voting rights surrender issue, AHP should provide the information to show that it can bring to EOC meetings a depth and breadth of technical and managerial expertise at least comparable to the level of expertise that MEA and Chugach bring to the meetings.[37] RAPA argues that this guidance does not "eviscerate" the minimum time period for the surrender of voting rights required in Order U-18-102(44) and confirmed in Order U-24-024(8). RAPA contends that the guidance instead explains what should be filed when a future filing is appropriate. RAPA states this is clarified when we discussed the dismissal of the Docket U-24-024 Notice and Request, pointing to our ruling that the dismissal was without prejudice for refiling closer to the time the Eklutna PPA and MEA PPA will expire.[38]

RAPA states that Order U-24-024(8) shows there is a minimum time period for the surrender of voting rights and when the MOA makes a filing for restoration of EOC

[35]Motion to Dismiss at 5 (citing U-18-102(44) at 67).

[36]Motion to Dismiss at 5-6.

[37]Motion to Dismiss at 6 (citing U-24-024(8) at 34).

[38]Motion to Dismiss at 6.

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voting rights it should be close to the time the PPAs expire. RAPA states that filing should include all of the information noted in the guidance in Order U-24-024(8).[39] RAPA states that AHP has not shown that its current filing is close to the time when the PPAs will expire and therefore the Application is premature and should be dismissed.[40]

Chugach and MEA Joinder in Motion to Dismiss

MEA and Chugach joined In RAPA's Motion to Dismiss. MEA and Chugach state that we have now considered and decided this matter twice and the matter should be dismissed. MEA and Chugach also state that if we proceed with further consideration of AHP's request, the reinstatement of those voting rights would result in AHP regaining majority voting rights on the EOC, despite AHP's much narrower involvement and economic stake in the Eklutna Project than its predecessor, ML&P.[41] MEA and Chugach state that given the current PPAs among the owners of the Eklutna Project and the utility expertise within the MOA and AHP, Chugach and MEA cannot support the reinstatement of the AHP's majority voting rights.[42]

MEA and Chugach agree with RAPA that AHP's filing in this docket is premature due to the surrender term. MEA and Chugach state that in Order U-24-024(8) we reiterated our prior decision that the surrender of voting rights on the EOC was a condition of our approval of AHP's certificate, and that the surrender was required to last as long at the minimum term of the PPAs. MEA and Chugach state that the PPAs are still in effect and therefore the minimum term of the surrender has not been satisfied. Chugach and MEA believe that we have been clear on this point, and consequently, they

[39]Motion to Dismiss at 6-7.

[40]Motion to Dismiss at 7.

[41]Chugach and MEA Joinder in Motion to Dismiss at 1.

[42]Chugach and MEA Joinder in Motion to Dismiss at 1-2.

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again join in RAPA's Motion to Dismiss because there is no reason to relitigate the fundamental question in this new docket.[43]

MEA and Chugach state that AHP has failed to provide reasonable justification for why we should revisit the surrender requirement and our recent and clear prior decisions on the matter. MEA and Chugach state that first, the PPAs are still in effect and therefore the minimum term of the surrender has not been satisfied. MEA and Chugach state that, second, the circumstances have not materially changed with respect to the underlying basis for the surrender requirement. MEA and Chugach state that the relevant facts with respect to AHP's function and with respect to its relationship with the Eklutna Project, remain very similar to those in existence immediately after the transaction between Chugach and ML&P and at the time of Order U-24-024(8).[44] MEA and Chugach state that AHP, unlike its predecessor ML&P, is not operating as a ratepayer-serving utility and even with the creation of two new staff roles, AHP still has minimal staff and no bench of utility expertise, and therefore only has limited "knowledge of prudent utility practice and the Railbelt electric generation and transmission system."[45] MEA and Chugach state that AHP is responsible for only 19.05% of Eklutna Project costs despite its majority ownership stake.[46] MEA and Chugach state that AHP exists only to sell power generated by the Eklutna Project on a wholesale basis to Chugach and MEA via the PPAs and bears significantly less responsibility, cost, and risk associated with the Eklutna Project. MEA and Chugach state that until the PPAs have otherwise expired or terminated, or the facts

[43]Chugach and MEA Joinder in Motion to Dismiss at 5.

[44]Chugach and MEA Joinder in Motion to Dismiss at 5.

[45]Chugach and MEA Joinder in Motion to Dismiss at 5 (quoting Order U-18-102(44) at 66).

[46]Chugach and MEA Joinder in Motion to Dismiss at 5-6.

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change materially, there is simply no new justification for us to revisit our decision on this matter and the request is therefore premature.[47]

MEA and Chugach make an additional comment in opposition to the reinstatement of AHP's majority vote structure and state that if we deny RAPA's Motion to Dismiss and believe that AHP's request raises new issues and therefore necessitates further proceedings, Chugach and MEA will fight the reinstatement of AHP's majority voting rights vigorously. Chugach and MEA state that under a reinstatement of a majority vote framework for AHP, MEA and Chugach will no longer be able to determine how to operate and maintain the Eklutna Project in a manner consistent with prudent utility practice without AHP's agreement. MEA and Chugach state that they will bear the vast majority of the costs and risks of decisions or lack of action, specifically noting that Chugach bears 64.29% of the costs of operations, maintenance, capital, and environmental costs of the Eklutna Project and MEA bears 16.67% of such costs. MEA and Chugach state that with their 46.67% of EOC voting rights, independent or joint decisions cannot be made on the Eklutna Project without AHP's agreement.[48] MEA and Chugach state that the majority vote framework requiring majority owner approval for every decision only made sense and served the public interest when the majority owner was a large operating utility, proportional risk sharer, and majority cost contributor, which will not be the case for AHP so long as the two PPAs are in effect.[49]

Opposition to Motion to Dismiss

AHP opposes RAPA's Motion to Dismiss.[50] AHP argues that the Motion to Dismiss appears to seek dismissal in order to avoid expending resources reviewing and

[47]Chugach and MEA Joinder in Motion to Dismiss at 6.

[48]Chugach and MEA Joinder in Motion to Dismiss at 6.

[49]Chugach and MEA Joinder in Motion to Dismiss at 6-7.

[50]Opposition to Motion to Dismiss at 1.

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litigating the merits of the Application. AHP takes the position that our holding in Order U-24-024(8) does not preclude or limit its ability to request a finding of good cause to modify or lift the minimum surrender term. AHP states that RAPA's Motion to Dismiss incorrectly interpreted Order U-24-024(8) and for that reason should be denied.[51]

AHP first argues that RAPA's Motion to Dismiss is based on an incorrect interpretation of Order U-24-024(8).[52] AHP asserts that RAPA is relying on a single sentence contained in Order U-24-024(8) where we dismissed the Docket U-24-024 Notice and Request "without prejudice to refiling closer to the time that Eklutna PPA and the MEA PPA will expire."[53]

AHP argues that the sentence in question refers only to AHP's filing of a notice and request for acknowledgement that it had satisfied the applicable requirements and not to a request to lift a condition or an application to amend AHP's certificate. AHP states that it has filed such a request and application. AHP argues that Order U-24-024(8) expressly contemplated that an application to amend AHP's certificate to remove the minimum term would be appropriate at any time during the minimum term provided that such applications includes the necessary information regarding AHP's ability to participate on the EOC.[54] In support of this, AHP cites Order U-24-024(8) where we declined to consider AHP's alternative application to amend the certificate to remove the minimum term requirement due to the time remaining in Docket U-24-024.[55]

AHP also argues that if Order U-24-024(8) forever precludes AHP from seeking relief from the minimum term until after the minimum term has ended the

[51]Opposition to Motion to Dismiss at 2.

[52]Opposition to Motion to Dismiss at 5.

[53]Opposition to Motion to Dismiss at 5 (quoting Order U-24-024(8) at 29).

[54]Opposition to Motion to Dismiss at 5.

[55]Opposition to Motion to Dismiss at 5 (citing Order U-24-024(8) at 31).

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guidance provided in Order U-24-024(8) would be gratuitous and superfluous.[56] AHP also argues that we can modify the minimum term for good cause shown.[57] AHP states that granting the Motion to Dismiss would deny AHP the procedural opportunity to show good cause to modify or lift the minimum surrender term before assessing whether such good cause exists. AHP states this would also incorrectly imply that a present Commission is bound by a prior Commission's ruling even if the present Commission finds good cause to modify or deviate from the prior ruling.[58]

AHP additionally argues that Chugach and MEA's Joinder in Motion to Dismiss addresses the merits of the Application, and not whether Order U-24-024(8) precludes us from consideration of the Application.[59] AHP states that Chugach and MEA argue that until the PPAs have otherwise expired or terminated, or the material facts have changed, there is simply no new justification for us revising our recent decision on this matter.[60] AHP argues that whether material facts have changed goes to the merits of the Application, not whether Order U-24-024(8) precludes AHP from filing the Application in the first place. AHP also states that MEA and Chugach ignore our ability to modify or vacate the minimum surrender term.[61]

RAPA Reply

RAPA states in its reply, that in Order U-18-102(44) we required a minimum term for the voting rights surrender by AHP.[62] RAPA states that Order U-24-024(8)

[56]Opposition to Motion to Dismiss at 6.

[57]Opposition to Motion to Dismiss at 6 (citing AS 45.05.241; AS 42.05.271(1)).

[58]Opposition to Motion to Dismiss at 6.

[59]Opposition to Motion to Dismiss at 7.

[60]Opposition to Motion to Dismiss at 7 (quoting Chugach and MEA Joinder in Motion to Dismiss at 6).

[61]Opposition to Motion to Dismiss at 7.

[62]RAPA Reply at 1.

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interpreted Order U-18-102(44), and that it confirmed the minimum term for the voting rights surrender, quoting the order: "[i]n its briefing, AHP has not shown good cause for modifying or interpreting this certificate condition in a manner that nullifies the minimum term of EOC voting rights surrender specified in Order U-18-102(44)."[63] RAPA concludes its motion to dismiss is simple:

> [Order U-18-102(44)] contained a minimum term for the EOC voting rights surrender. [Order U-24-024(8)] interpreted [Order U-18-102(44)] and confirmed the voting rights surrender minimum term. The minimum voting rights surrender term in [Order U-18-102(44)] has not been nullified. The Commission, MOA/AHP, RAPA, and any intervenors should not have to expend scarce resources (that are ultimately funded by ratepayers) if the minimum term has not expired or is not about to expire.[64]

Decision

With Order U-18-102(44), we conditionally approved Chugach's Petition for Approvals and ML&P's Application. This approval included conditional approval of the Eklutna PPA and the MEA PPA. One of the conditions imposed was a surrender of ML&P's voting rights. We stated:

> Under these circumstances, we cannot unconditionally find that [the successor to ML&P, now known as AHP] is managerially or technically fit to maintain majority ownership of the Eklutna Project. We can only find that [A]HP is managerially and technically fit to maintain an ownership interest in the Eklutna Project subject to the condition that before the effective date of either the Eklutna PPA or the MEA PPA, ML&P surrenders its vote on the EOC under the Eklutna Project agreements so that Chugach and MEA can jointly manage and operate the Eklutna Project, including negotiating compliance with the Fish and Wildlife Agreement, without [A]HP having a vote on operation or management decisions. This surrender must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as [A]HP has shown to our satisfaction that [A]HP has acquired the expertise required to fully participate as a voting member of the EOC. This does not prohibit [A]HP from attending EOC meetings, but may not allow [A]HP any ability to delay or change the Eklutna Project decisions made by the Chugach and MEA representatives on the EOC.[65]

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[63]RAPA Reply at 1 (quoting Order U-24-024(8) at 28).

[64]RAPA Reply at 2.

[65]Order U-18-102(44) at 67.

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No petitions for reconsideration or appeals of the decisions in Order U-18-102(44) were timely filed. In compliance with the condition quoted above, ML&P filed a written surrender of its EOC voting rights on October 30, 2020.[66]

In Order U-24-024(8), following briefing on whether this surrender was subject to a minimum term, we concluded that AHP had not shown good cause for modifying or interpreting this condition in a manner that nullifies the minimum term of EOC voting rights surrender. We concluded that "AHP's voting rights on the EOC are surrendered for at least the term of the Eklutna PPA and the MEA PPA."[67] We dismissed the Docket U-24-024 Notice and Request on the grounds that it was premature under the terms of Order U-18-102(44). This dismissal was without prejudice for refiling closer to the time the Eklutna PPA and the MEA PPA will expire.[68]

AHP now seeks to restore its voting rights on the EOC by requesting that we lift the minimum surrender condition rather than finding that they have satisfied the condition as they did in the Docket U-24-024 Notice and Request. While this may be a separate procedural request, it ultimately is seeking the same result. The basis on which AHP argues relief from the minimum term of surrender is warranted is that the objective of the condition has been met and that the continued surrender of its voting rights on the EOC is not necessary to protect and promote the public interest.[69] Central to AHP's Application is the acquisition of what AHP contends is sufficient technical expertise to address our concerns. AHP asserts that Mark Stafford (Stafford) has assumed the role as Director of AHP and that he is qualified to participate in meetings and knowledgably

[66]Notice of Surrender.

[67]Order U-24-024(8) at 28.

[68]Order U-24-024(8) at 29.

[69]Application at 8-16.

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discuss all issues related to management and operation of the Eklutna Project.[70] AHP states also that Stafford will be assisted in managing the workload of AHP by Schimscheimer who will be moving from his engineering role at AWWU to a new role at AHP.[71] AHP states also that the MOA has entered into contracts that can be used by AHP with engineering and accounting contractors and consultants with the breadth and scope of relevant knowledge that the Chugach and MEA representatives bring to the EOC meetings.[72]

AHP, in the Application, asserts as the only change in facts or circumstances that it has acquired qualified personnel to sit on the EOC and exercise voting rights. However, the surrender condition that we imposed on AHP had both a minimum surrender provision, as well as a requirement that AHP show, to our satisfaction, sufficient technical expertise to fully participate on the EOC. That is, for the restoration of EOC voting rights, it must be shown that both the minimum term has elapsed and that AHP has qualified personnel and technical expertise to participate in the EOC. If the demonstration of personnel and technical expertise on its own was sufficient good cause for the restoration of voting rights, the minimum term provision would have been unnecessary. At any point prior to the expiration of the PPAs, AHP could simply present personnel and technical expertise it believes is sufficient for the restoration of EOC voting rights. The condition imposed by Order U-18-102(44) set a time and circumstances where a showing of technical expertise to restore EOC voting rights would be appropriate. We will not entertain a request for relief from the minimum surrender term imposed in Order U-18-102(44) based only on a showing of AHP acquiring what it contends to be qualified personnel and technical expertise until at or near the time that the Chugach and

[70]Application at 8.

[71]Application at 8.

[72]Application at 9.

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MEA PPAs are set to expire. Additional changes in facts or circumstances that might warrant relief from the minimum term of surrender must be pled.

AHP argues that, in Order U-24-024(8), we expressly contemplated that an application to amend AHP's certificate to remove the minimum term would be appropriate at any time during the minimum term, provided that such an application includes the necessary information regarding AHP's ability to participate on the EOC.[73] The basis for this assertion appears to be the fact that in Order U-24-024(8) we declined to consider AHP's Docket U-24-024 Notice and Request as an application to amend AHP's certificate to remove the minimum term of surrender on the grounds that there was too little time remaining in that docket.[74] We did deny the request to construe the Docket U-24-024 Notice and Request as an application to amend certificate on the grounds that there was not sufficient time to resolve the request.[75] However, we did not rule on the sufficiency of the Docket U-24-024 Notice and Request as an application to amend the certificate. Denying a request on one ground does not imply that it would be sufficient on other grounds.

AHP also argues that we provided guidance for future filings seeking relief from the minimum term of EOC voting rights surrender in Order U-24-024(8), and that guidance would be superfluous if AHP was barred from seeking relief until the minimum term had expired.[76] AHP is correct that, in Order U-24-024(8), we provided guidance for future filings. In Order U-24-024(8) we stated:

> In addition to addressing the minimum term of EOC voting rights surrender issue, we suggest that in future filings seeking reinstatement of EOC voting rights AHP provide the information to show that it can bring to EOC meetings

[73]Opposition to Motion to Dismiss at 5.

[74]Opposition to Motion to Dismiss at 5, n.20.

[75]Order U-24-024(8) at 31.

[76]Opposition to Motion to Dismiss at 6.

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a depth and breadth of technical and managerial expertise at least comparable to the level of expertise that MEA and Chugach bring to those meetings.[77]

The "in addition" language reflects that the need for AHP to demonstrate sufficient technical expertise is an issue separate from the basis for relief from the minimum term of EOC voting rights surrender. The guidance was not superfluous, but addressed deficiencies in the Docket U-24-024 Notice and Request regarding the proposed technical expertise that must be addressed in *any* future filing for restoration of EOC voting rights, whether presented after the termination of the PPAs, or earlier in a request for relief from the minimum term. The guidance regarding technical expertise was provided because, in Docket U-24-024, we determined AHP had failed to adequately support its request for reinstatement of EOC voting rights, and we saw no way of moving forward without taking the time for prefiled testimony, discovery, and holding hearings to gather information necessary to determine if AHP had acquired the expertise required to fully participate as a voting member of the EOC.[78] The guidance was provided so that the issue of expertise could be more efficiently addressed in future filings, but that does not equate to technical expertise being sufficient grounds for relief from the minimum term of surrender, or AHP providing more details regarding technical expertise relieving them from the need to address the minimum term of surrender if seeking relief from that provision.

We find that AHP's Application did not present on its face changes in facts or circumstances that would warrant our reconsideration of the Order U-18-102(44) minimum term of surrender requirement prior to the expiration of the minimum term. We do not find that the facts as presented in the Application, the acquisition of technical

[77]Order U-24-024(8) at 34.

[78]Order U-24-024(8) at 35.

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expertise, would constitute good cause to modify AHP's certificate or otherwise grant AHP relief from the condition. This is not a determination on the merits or sufficiency of the technical expertise and personnel presented in the Application for the restoration of EOC voting rights, but rather a determination that AHP acquiring what it contends is sufficient technical expertise is not a change in facts or circumstance that on its own provides a basis for relief from the minimum term of surrender. Order U-18-102(44) imposed both a minimum term of surrender as well as a requirement that the successor to ML&P, AHP, demonstrate sufficient technical expertise to participate in the EOC for voting rights to be restored. Order U-18-102(44) set the time when a demonstration of technical expertise would be appropriate. While AHP is not forever barred from seeking relief from the minimum term of surrender, such a request must be accompanied by a showing of facts or circumstances that warrant relief from that minimum term separate from the acquisition of appropriate technical expertise as the acquisition of technical expertise was contemplated in Order U-18-102(44), and the time at which the restoration of EOC voting rights would be appropriate on those grounds was set. AHP acknowledges that it must procedurally show good cause to modify or lift the minimum surrender term.[79] The good cause for this articulated by AHP in the Application ultimately is only the contention that AHP has acquired sufficient technical expertise to participate in the EOC, with no other changes in facts or circumstances which would warrant lifting the minimum surrender term. As pled, we do not find that AHP has articulated sufficient changes in facts or circumstances that might constitute good cause for relief.

We have recently considered a petition by Chugach to modify elements of Order U-18-102(44), stating:

> Almost three years have passed since we issued Order U-18-102(44) et al., which was a large multi-party settlement that resulted from many negotiations and compromises. The economic and financial landscape are entirely different

[79]Opposition to Motion to Dismiss at 6.

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> today. It is impossible to adjust one part of Order U-18-102(44) et al. without it affecting other parts of the settlement.[80]

This caution to modifying Order U-18-102(44) is applicable to this Application as well. Over five years have passed since we issued Order U-18-102(44), which was a large multi-party settlement that resulted from many negotiations and compromises. The economic and financial landscapes have shifted substantially, and it is impossible to adjust one part of Order U-18-102(44) without it affecting other parts of the settlement. While circumstances might be presented that warrant reconsideration of the minimum term of surrender from Order U-18-102(44), AHP has not done so in the Application.

We concur with the conclusion reached by RAPA in the RAPA Reply. Order U-18-102(44) contained a minimum term for the EOC voting rights surrender. Order U-24-024(8) interpreted Order U-18-102(44) and confirmed the voting rights surrender minimum term. The minimum voting rights surrender term in Order U-18-102(44) has not been nullified. AHP has not articulated facts or circumstances that might warrant relief from the minimum term in Order U-18-102(44). For these reasons, we find that when viewing all reasonable inferences of fact in favor of AHP, there are no genuine issues as to any material fact. We grant RAPA's Motion to Dismiss.

Final Order

This order constitutes the final decision in this proceeding. This decision may be appealed within 30 days of this order in accordance with AS 22.10.020(d) and Alaska Rule of Appellate Procedure 602(a)(2). In addition to the appellate rights afforded by AS 22.10.020(d), a party has the right to file a petition for reconsideration in accordance with 3 AAC 48.105. If such a petition is filed, the time period for filing an

[80]Order U-24-002(12) at 8.

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appeal is tolled and then recalculated in accordance with Alaska Rule of Appellate Procedure 602(a)(2).

Docket Closure

No substantive or procedural matters remain in this proceeding. Accordingly, we close this docket.

ORDER

THE COMMISSION FURTHER ORDERS:

1. The *Office of the Attorney General's Motion to Dismiss*, filed August 8, 2025, is granted.

2. The *Municipality of Anchorage d/b/a Anchorage Hydropower's Request to Lift Condition Requiring the Surrender of Voting Rights from Certificate of Public Convenience and Necessity No. 780; and Alternative Application to Amend Certificate of Public Convenience and Necessity No. 780*, filed July 30, 2025, is dismissed.

3. Docket U-25-025 is closed.

DATED AND EFFECTIVE at Anchorage, Alaska, this 26th day of January, 2026.

BY DIRECTION OF THE COMMISSION
(Commissioners Steve DeVries and Mark Johnston, dissenting. Dissenting Statement to follow.)

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellant, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	**Case No. 3AN-26-_____CI** RCA Docket No. U-25-025

STATEMENT OF POINTS ON APPEAL

Pursuant to Alaska Rule of Appellate Procedure 602, Appellant the Municipality of Anchorage d/b/a Anchorage Hydropower ("AHP") hereby gives notice of the points upon which AHP intends to rely in its appeal of the decision of the Regulatory Commission of Alaska ("RCA") in Order No. U-25-025(2), *Order Granting Motion to Dismiss and Closing Docket*, dated January 26, 2026:

1. The RCA erred and acted in a manner that was unreasonable, arbitrary, capricious, or contrary to law by granting the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section's ("RAPA's") motion to dismiss, by

March 31, 2026

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determining that RCA Order No. U-18-102(44)/U-19-020(39)/U-19-021(39)[1] imposed both a minimum term of surrender of AHP's voting rights on the Eklutna Operating Committee ("EOC") and a demonstration that AHP had sufficient technical expertise to participate in the EOC before its voting rights could be restored.

2. The RCA erred and acted in a manner that was unreasonable, arbitrary, capricious, or contrary to law by finding AHP failed to articulate sufficient changes in fact or circumstances to constitute good cause for relief from the minimum term of surrender of AHP's voting rights on the EOC.

3. The RCA erred and acted in a manner that was unreasonable, arbitrary, capricious, or contrary to law by failing to grant AHP's request to either lift the condition requiring the surrender of its voting rights on the EOC or amend AHP's certificate of public convenience and necessity.

The foregoing points on appeal are stated generally and are not intended to be limited to only related or similar points of appeal stated specifically. Instead, a point of appeal stated generally is intended to include all points of appeal that could be included within the general statement.

[1] *Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third Party Sales Gas Pricing; and Requiring Filings*, dated May 28, 2020.

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RESPECTFULLY SUBMITTED this 31st day of March, 2026, at Anchorage, Alaska.

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By: /s/ *Dean D. Thompson*

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

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NOTICE OF POSTING CASH DEPOSIT IN LIEU OF COST BOND

Pursuant to Appellate Rule 602(g), Appellant the Municipality of Anchorage d/b/a Anchorage Hydropower ("AHP"), by and through the undersigned attorneys, hereby give notice that it is posting a cash deposit in lieu of cost bond in the amount of Seven Hundred Fifty Dollars ($750.00) to the Superior Court for the State of Alaska, Third Judicial District. AHP is the owner of the fund. AHP agrees and consents to the provision Alaska Rule of Civil Procedure 80(f). This posting of a cash deposit in lieu of a cost bond complies with the provisions of Appellate Rule 204(c)(1).

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RESPECTFULLY SUBMITTED this 31st day of March, 2026, at Anchorage, Alaska.

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

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MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellants, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	**Case No. 3AN-26-_____CI** RCA Docket No. U-25-025

CERTIFICATE OF SERVICE AND TYPEFACE

I hereby certify that on March 31, 2026, I served a true and correct copy of the Notice of Appeal, Statement of Points on Appeal, Notice of Cash Deposit in Lieu of Cost Bond, Motion to Consolidate Appeals, [Proposed] Order Granting Appellant's Motion to Consolidate Appeals, and this Certificate of Service and Typeface by first class mail and electronic mail (pursuant to Appellate Rule 602(j) and Alaska R. Civ. P. 5.1(c)) to the following:

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CERTIFICATE OF SERVICE AND TYPEFACE
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I further certify, pursuant to Alaska Appellate Rule 513.5(c)(2), that the documents are 13 point Times New Roman typeface.

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

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MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellant, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	**Case No. 3AN-24-10554CI** RCA Docket No. U-24-024

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellant, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	**Case No. 3AN-26-____CI** RCA Docket No. U-25-025

MOTION TO CONSOLIDATE APPEALS

March 31, 2026

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Pursuant to Alaska Rule of Appellate Procedure 602(i), and the Alaska Rule of Civil Procedure 42(a), Appellant the Municipality of Anchorage ("MOA") d/b/a Anchorage Hydropower ("AHP"), by and through its undersigned counsel, hereby moves the Court for an order consolidating the Notice of Appeal of the Regulatory Commission of Alaska's ("RCA's") Order No. U-25-025(2) ("Order No. 2"), which was filed today, into the existing appeal in Case No. 3AN-24-10554CI, currently before the Honorable Josie Garton. The proceedings in Case No. 3AN-24-10554CI are currently stayed until April 1, 2026, at which time the Court is to issue a revised briefing schedule.[1] AHP requests that the Court issue a consolidated briefing schedule after the RCA prepares and transmits the agency record for Docket U-25-025.

I. BACKGROUND

A. The Eklutna Operating Committee

At issue is AHP's voting rights as a member of the Eklutna Operating Committee ("EOC"), which was created by the MOA d/b/a Municipal Light & Power ("ML&P"), Chugach Electric Association, Inc. ("Chugach"), and Matanuska Electric Association, Inc. ("MEA") to make all management decisions related to the operation,

[1] Order Extending Stay of Proceedings (Jan. 5, 2026).

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maintenance, and budget for the Eklutna Hydroelectric Project ("Eklutna Project").[2] The RCA described the Eklutna Project as follows:

> The Eklutna Project was built and operated by the federal government pursuant to the Eklutna Power Act of 1950. In 1995, Congress authorized sale of the Eklutna Project to [the Municipality of Anchorage d/b/a Municipal Light & Power Department (ML&P)], Chugach, and MEA under the terms of the 1989 Eklutna Purchase Agreement. Under this agreement, the three utilities received an undivided interest in all of the Eklutna Project, water rights, generation plant and the transmission assets interconnecting the Eklutna Project with ML&P, Chugach, and MEA. ML&P obtained a 53.33% ownership interest, Chugach obtained a 30% ownership interest, and MEA obtained a 16.67% interest in the Eklutna Project.
>
> . . .
>
> ML&P, Chugach, and MEA each have a representative on the EOC. Decisions by the EOC are made based upon a double majority consisting of affirmative votes by at least two of the three utilities whose ownership shares total at least 51% of the Eklutna Project ownership. Effectively, management of the Eklutna Project is limited to actions approved by ML&P and at least one of Chugach or MEA.[3]

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[2] *See* Order No. U-24-024(8) *Order Granting Motion to Dismiss in Part and Dismissing Notice and Request, Denying Motion to Dismiss in Part, Vacating Procedural Schedule, Denying Motion to Compel, Denying Request to Construe Notice and Request as Petition to Amend Certificate Condition, Providing Guidance for Future Filings, and Closing Docket*, dated November 14, 2024, at 2 ("Order No. 8").

[3] *Id*.

B. Order No. 39

In 2019, Chugach filed a petition with the RCA seeking approval to acquire all service obligations and most assets of ML&P (the "Acquisition").[4] As part of the same transaction, ML&P filed an application to amend its certificate of public convenience and necessity ("CPCN"), deleting the current service territory and adding the Eklutna Project Power Plant site.[5] The RCA approved the Acquisition in Order No. 39,[6] subject to conditions. The MOA retained its 53.33% ownership interest in the Eklutna Project, from which it sells wholesale electric power to Chugach and MEA, pursuant to agreements approved by the RCA.[7] Under the Eklutna PPA, Chugach receives 64.29% of the MOA's share of energy output from the Eklutna Project, and has "the obligation to pay a proportionate share of [the MOA's] Eklutna Project costs, including capital and Fish and Wildlife Agreement costs, for the 35-year term of the Eklutna PPA."[8] Thus, Chugach is

[4] Petition for Approvals Needed to Acquire Anchorage Municipal Light and Power and Application to Amend Certificate of Public Convenience and Necessity No. 8, filed April 1, 2019.

[5] Application of the Municipality of Anchorage d/b/a Municipal Light and Power to Amend Certificate of Public Convenience and Necessity No. 121 and to Terminate Dividend Restriction, filed April 5, 2019.

[6] Order No. U-18-102(44)/U-19-020(39)/U-19-021(39), *Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third Party Sales Gas Pricing; and Requiring Filings*, dated May 28, 2020 ("Order No. 39").

[7] *See* Order No. 39 at 72-76.

[8] *Id.* at 73.

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currently responsible for 64.29% of the operations, maintenance, capital, and environmental compliance costs associated with the Eklutna Project, MEA is responsible for 16.67%, and the MOA continues to bear responsibility for 19.05%.[9]

The RCA also granted the AHP[10] a new CPCN to "provide wholesale public electric utility service through its ownership share of the Eklutna Project" subject to conditions, including the MOA's surrender of its voting rights on the EOC.[11] The RCA was concerned that after the Acquisition, the MOA would no longer be "managerially and technically fit to maintain majority ownership of the Eklutna Project" without the surrender of its voting rights on the EOC.[12] With the surrender, the Eklutna Project would be "jointly manage[d] and operate[d]" by Chugach and MEA.[13] The RCA stated that the surrender "must have a term at least equal to the term of the Eklutna PPA and the MEA PPA, as those agreements may be extended, and cannot be lifted until such time as MHP has shown to [the RCA's] satisfaction that MHP has acquired the expertise required to fully participate

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[9] Chugach is responsible for the costs equal to its 30% ownership interest plus 64.29% of the MOA's 53.33% interest. *See* Order No. 39 at 73. The MOA is responsible for 19.05% of the costs. *See id.* at 76. MEA is responsible for costs equal to its 16.67% ownership interest.

[10] In Order No. 39, the RCA referred to the post-transaction electric utility owned by the MOA as Municipal Hydro Power ("MHP") and not AHP.

[11] Order No. 39 at 67.

[12] *Id.*

[13] *Id.*

as a voting member of the EOC."[14] On October 30, 2020, the MOA filed notice with the RCA of its October 27, 2020, Surrender of Eklutna Operating Committee Voting Rights.[15]

C. Order No. 8

On July 18, 2024, AHP filed a Notice and Request for Acknowledgment of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee ("Request for Acknowledgment"). AHP submitted documentation showing that Mark Corsentino, P.E., had been approved as the Utility Director of AHP.[16] AHP provided documentation of Mr. Corsentino's experience as the General Manager of Anchorage Water and Wastewater Utility ("AWWU") and also documentation of the additional technical and managerial resources and support available to Mr. Corsentino, including the assistance of Mark Schimscheimer, Engineering Director of AWWU, as well as access to various MOA contractors.[17]

At the prehearing conference held on August 30, 2024, the Administrative Law Judge requested briefing "on the minimum term of the EOC voting rights surrender required by [Order No. 39]."[18] AHP, Chugach and MEA, and the Office of the Attorney

[14] *Id.*

[15] Notice of ML&P's Surrender of Eklutna Operating Committee Voting Rights, filed Oct. 30, 2020.

[16] *See id.* at 5.

[17] *See id.* at 5-14.

[18] Order No. 8 at 7 (citing Tr. 17-18).

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General, Regulatory & Public Advocacy Section ("RAPA") filed briefs.[19] The RCA found that AHP's Request for Acknowledgement was premature and "AHP's voting rights on the EOC are surrendered for at least the term of the Eklutna PPA and the MEA PPA."[20] The RCA "provided AHP with guidance on future filings seeking relief from the minimum term of EOC voting rights surrender."[21] The RCA stated:

> In addition to addressing the minimum term of voting rights surrender issue, we suggest that in future filings seeking reinstatement of EOC voting rights AHP provide the information to show that it can bring to EOC meetings a depth and breadth of technical and managerial expertise at least comparable to the level of expertise that MEA and Chugach bring to those meetings. This suggestion does not just include the technical expertise of AHP's representative to the EOC, but also includes the team of employees, contractors, and consultants supporting that representative.
>
> We denied AHP's motion for expedited consideration of its Notice and Request because AHP had failed to adequately support its request for reinstatement of its EOC voting rights. Upon initial review of AHP's filings in this docket we could see no way of moving forward without taking the time for prefiled testimony, discovery, and holding a hearing to gather the information necessary to determine if AHP had acquired the expertise required to fully participate as a voting member of the EOC. We believe that efficient resolution of future filings on this issue by AHP will be more likely if AHP provides adequate information in its initial filing.[22]

---

[19] *See id*. at 7-8.

[20] *Id.* at 28.

[21] *Id.* at 31-32.

[22] *Id.* at 34-35.

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On December 13, 2024, AHP appealed Order No. 8 to the Alaska Superior Court (Case No. 3AN-24-10554CI). The Superior Court has extended the stay of the briefing schedule through April 1, 2026.[23]

D. Order No. 2

On July 30, 2025, AHP filed a Request to Lift Condition Requiring the Surrender of Voting Rights from Certificate of Public Convenience and Necessity No. 780; and Alternative Application to Amend Certificate of Public Convenience and Necessity No. 780. Following the RCA's guidance in Order No. 8, AHP provided documentation showing that it had two experienced and qualified employees and agreements with several contractors and consultants with technical expertise to support AHP's representative on the EOC.

RAPA filed a motion to dismiss, claiming AHP's filing was premature because "Order No. 8 confirmed the [AHP's] surrender of voting rights is subject to a minimum time period."[24] Chugach and MEA joined the motion. The RCA, in Order No. 2, granted RAPA's motion to dismiss, finding that Order No. 39 "contained a minimum term for the EOC voting rights surrender" and Order No. 8 interpreted Order No. 39 and

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[23] Order Extending Stay of Proceedings, Case No. 3AN-24-10554CI (Jan. 6, 2026).

[24] AG's Motion to Dismiss at 7 (Aug. 8, 2025).

"confirmed the voting rights surrender minimum term."[25] The RCA's decision in Order No. 2 is the subject to AHP's Notice of Appeal.

II. ARGUMENT

Alaska R. Civ. P. 42(a) allows the Court to consolidate "actions involving a common question of law or fact." As discussed above, AHP's appeal in 3AN-24-10554CI (concerning Order No. 8) and the present action (concerning Order No. 2) center on the RCA's interpretation of Order No. 39, which established that AHP was required to surrender its voting rights on the EOC for a period of time. This requirement is the basis of the factual and legal disputes carried forward into Orders No. 8 and 2. Further, the RCA relied on its interpretation in Order No. 8 to support its decision in Order No. 2. Consolidating both proceedings would avoid potentially conflicting rulings from the Court.

III. CONCLUSION

For the reasons stated above, AHP respectfully requests that the Court consolidate its Notice of Appeal of the RCA's Order No. U-25-025(2) with the existing appeal in Case No. 3AN-24-10554CI. If the Court grants AHP's request for consolidation, AHP requests that the Court issue a consolidated Notice Setting Appeal Procedure after the agency record is transmitted.

[25] Order No. 2 at 20.

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RESPECTFULLY SUBMITTED this 31st day of March, 2026, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage, d/b/a Anchorage Hydropower

By: /s/ *Dean D. Thompson*

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellant, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	**Case No. 3AN-24-10554CI** RCA Docket No. U-24-024
MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellant, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	**Case No. 3AN-26-____CI** RCA Docket No. U-25-025

[PROPOSED] ORDER GRANTING APPELLANT'S MOTION TO CONSOLIDATE APPEALS

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Having considered the Motion to Consolidate Appeals filed by Appellant, the Municipality of Anchorage d/b/a Anchorage Hydropower, and good cause otherwise appearing, it is hereby ORDERED that the Motion to Consolidate Appeals is GRANTED. Case No. 3AN-26-_____CI is hereby consolidated into Case No. 3AN-24-10554CI for all future proceedings.

IT IS SO ORDERED.

DATED at Anchorage, Alaska this _____ day of _____, 2026.

_____
Hon.
Superior Court Judge

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

Municipality of Anchorage, Appellant, vs. Regulatory Commission of Alaska et al, Appellee.	Appeal CASE NO: 3AN-24-10554CI **NOTICE SETTING APPEAL PROCEDURE** (Administrative Appeals)

The agency record is available for review in the superior court at Anchorage, Alaska. The appeal is assigned to Judge Josie Garton.

The following procedures will govern this appeal:

1. BRIEFS: The following time schedule applies to the filing of briefs on appeal, unless an extension is granted. If appellant fails to file a brief, the appeal may be dismissed. Failure to timely file appellee's brief or appellant's reply brief will waive the filing of same.

   APPELLANT: within 30 days after service of this notice
   APPELLEE: within 30 days after service of appellant's brief
   APPELLANT'S REPLY BRIEF: within 20 days after service of appellee's brief

   Add 10 days if there are multiple appellants or appellees filing separate briefs and a single excerpt. See appellate Rules 212(a)(1) and 210(c)(1)(B).

2. EXCERPT OF RECORD: Briefs must be accompanied by excerpts of record as provided in Appellate Rule 210(c).

3. ORAL ARGUMENT: Either party may serve and file a written request for oral argument no later than 10 days after the date on which appellant's reply brief is due. If no appellee's brief is filed, the appellant's request for oral argument must be filed within 10 days after the due date of the appellee's brief was due.

4. MOTIONS: Appellate Rule 612 applies to any request for court action not otherwise covered above, including motions to extend time for filing memoranda and motions to accept late briefs.

4/2/2026	RPendragon
Date	Clerk

I certify that on 4/2/26
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellant, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	**Case No. 3AN-24-10554CI** RCA Docket No. U-24-024
MUNICIPALITY OF ANCHORAGE D/B/A ANCHORAGE HYDROPOWER, Appellant, v. REGULATORY COMMISSION OF ALASKA; OFFICE OF THE ATTORNEY GENERAL REGULATORY AFFAIRS & PUBLIC ADVOCACY SECTION; CHUGACH ELECTRIC ASSOCIATION, INC.; and MATANUSKA ELECTRIC ASSOCIATION, INC., Appellees.	**Case No. 3AN-26-**05848 CI RCA Docket No. U-25-025

[PROPOSED] ORDER GRANTING APPELLANT'S MOTION TO CONSOLIDATE APPEALS

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Having considered the Motion to Consolidate Appeals filed by Appellant, the Municipality of Anchorage d/b/a Anchorage Hydropower, and good cause otherwise appearing, it is hereby ORDERED that the Motion to Consolidate Appeals is GRANTED. Case No. 3AN-26-05848CI is hereby consolidated into Case No. 3AN-24-10554CI for all future proceedings.

IT IS SO ORDERED.

DATED at Anchorage, Alaska this 17th day of April, 2026.

Hon. Andrew Peterson
Superior Court Judge

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Case Number: 3AN-26-05848CI

Case Title: STATE OF ALASKA DBA ANCHORAGE HYDROPOWER VS. REGULATORY COMMISSION OF ALASKA ET AL AP

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Dear Residents of our Great State,

We are proud to present you with the Alaska State Constitution. This Constitution represents the diverse and unique heritage of our young state. Alaska has one of the most advanced, coherent, and forthright constitutions, allowing the people to have a clear and firm understanding of State law.

"All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole." (Article 1, Sec. II)

With a direct and straightforward narrative, the Alaska State Constitution gives the people the power to balance the authority and responsibilities split between the three branches of government.

As Governor and Lieutenant Governor, it is our goal to ensure Alaskans enjoy what is rightfully theirs and insure that the government remains of, for, and by the People.

Alaskans are diverse in many ways, but we are unified in our admiration and commitment to this, our grand and unparalleled state.

Sincerely,

Mike Dunleavy
Governor

Nancy Dahlstrom
Lieutenant Governor

Adopted by the Constitutional Convention
February 5, 1956

Ratified by the People of Alaska
April 24, 1956

Became Operative with the formal
proclamation of Statehood
January 3, 1959

Amended 1966, 1968, 1970, 1972, 1974, 1976, 1982, 1984, 1988, 1990, 1994, 1996, 1998, 2004

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THE ALASKA CONSTITUTION

~ An Introduction ~

In 1955 the Territorial Legislature passed the Constitutional Convention Act, putting in motion the election of convention delegates by district ensuring territory-wide representation for the convention. Thirteen of the delegates were from Anchorage, 11 from Fairbanks, seven from Juneau and the remainder from 18 other communities. Fifty-five delegates from Election Districts, Federal Judicial Districts and from the Territory at large were elected by popular vote in the fall of that year. They were instructed to meet at the University of Alaska in Fairbanks, Alaska on November 8, 1955. These delegates, all Alaskans by choice or birth, had 75 days to study and write a constitutional document for the civil authority of a new state, "Alaska." The hour arrived, the Colors presented, and the gathering united in prayer as they took on this new task – crafting a document that Alaskans would have to approve by vote. It began with tedium amidst our excitement to get on to the larger issues. We had to adapt meeting times to bus schedules; agree on rules governing the Convention and acquire a gavel – all interesting tidbits of the beginnings of history. These minor concerns were soon forgotten in the wake of arguments for unicameralism and for bicameralism; whether judges should be elected and how to ensure the wise use of our resources. This document is the product of Alaska pioneers, a spirit of independence and self-government. It is your guarantee that the Individual will always be in charge. Surely one is moved by the simplicity and power of this document. As delegates to the 1955-56 Constitutional Convention, we each sought to create a document that was powerful and personal. Please read it and understand its continuing dedication to you as the governor, not the governed.

John B. "Jack" Coghill
Convention Delegate, former Senator and Lieutenant Governor

~ Preamble ~

We the people of Alaska, grateful to God and to those who founded our nation and pioneered this great land, in order to secure and transmit to succeeding generations our heritage of political, civil, and religious liberty within the Union of States, do ordain and establish this constitution for the State of Alaska.

Article I – Declaration of Rights

Article I, Sections:

1. Inherent Rights
2. Source of Government
3. Civil Rights
4. Freedom of Religion
5. Freedom of Speech
6. Assembly; Petition
7. Due Process
8. Grand Jury
9. Jeopardy and Self-Incrimination
10. Treason
11. Rights of Accused
12. Criminal Administration
13. Habeas Corpus
14. Searches and Seizures
15. Prohibited State Action
16. Civil Suits; Trial by Jury
17. Imprisonment for Debt
18. Eminent Domain
19. Right to Keep and Bear Arms
20. Quartering Soldiers
21. Construction
22. Right of Privacy
23. Resident Preference
24. Rights of Crime Victims
25. Marriage

§1. Inherent Rights – This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

§ 2**. Source of Government** - All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole.

§ 3**. Civil Rights –** No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin. The legislature shall implement this section. [Amended 1972]

§ 4**. Freedom of Religion –** No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof.

§ 5**. Freedom of Speech –** Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.

§ 6. Assembly; Petition – The right of the people peaceably to assemble, and to petition the government shall never be abridged. § 7. Due Process – No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.

§ 8. Grand Jury– No person shall beheld to answer for a capital, or otherwise infamous crime, unless on a present mentor indictment of a grand jury, except incases arising in the armed forces in time of war or public danger. Indictment maybe waived by the accused. In that case the prosecution shall be by information. The grand jury shall consist of at least twelve citizens, a majority of whom concurring may return an indictment. The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended.

§ 9. Jeopardy and Self-Incrimination–No person shall be put in jeopardy twice for the same offense. No person shall be compelled in any criminal proceeding to be a witness against himself.

§ 10. Treason – Treason against the State consists only in levying war against

it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

§ 11. Rights of Accused– In all criminal prosecutions, the accused shall have the right to a speedy and public trial, by an impartial jury of twelve, except that the legislature may provide for a jury of not more than twelve nor less than six in courts not of record. The accused is entitled to be informed of the nature and cause of the accusation; to be released on bail, except for capital offenses when the proof is evident or the presumption great; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

§ 12. Criminal Administration–Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Criminal administration shall be based upon the following: the need for protecting the public, community condemnation of the offender, the rights of victims of crimes, restitution from the offender, and the principle of reformation. [Amended 1994]

§ 13. Habeas Corpus– The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or actual or imminent invasion, the public safety requires it.

§ XIV. Searches and Seizures– The right of the people to be secure in their persons, houses and other property, papers, and effects, against unreasonable searches and seizures, shall not be violated. No warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

§ 15. Prohibited State Action– No bill of attainder or ex post facto law shall be passed. No law impairing the obligation of contracts, and no law making any irrevocable grant of special privileges or immunities shall be passed. No conviction shall work corruption of blood or forfeiture of estate.

§ 16. Civil Suits; Trial by Jury – In civil cases where the amount in controversy exceeds two hundred fifty dollars, the right of trial by a jury of twelve is preserved to the same extent as it existed at common law. The

legislature may make provision for a verdict by not less than three-fourths of the jury and, in courts not of record, may provide for a jury of not less than six or more than twelve.

§ 17. Imprisonment for Debt– There shall be no imprisonment for debt. This section does not prohibit civil arrest of absconding debtors.

§ 18. Eminent Domain – Private property shall not be taken or damaged for public use without just compensation.

§ 19. Right to Keep and Bear Arms – A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed. The individual right to keep and bear arms shall not be denied or infringed by the State or a political subdivision of the State. [Amended 1994]

§ 20. Quartering Soldiers – No member of the armed forces shall in time of peace be quartered in any house without the consent of the owner or occupant, or in time of war except as prescribed by law. The military shall be in strict subordination to the civil power.

§ 21. Construction – The enumeration of rights in this constitution shall not impair or deny others retained by the people.

§ 22. Right of Privacy – The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section. [Amended 1972]

§ 23. Resident Preference – This constitution does not prohibit the State from granting preferences, on the basis of Alaska residence, to residents of the State over nonresidents to the extent permitted by the Constitution of the United States. [Amended 1988]

§ 24. Rights of Crime Victims – Crime victims, as defined by law, shall have the following rights as provided by law: the right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court; the right to confer with the prosecution; the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process; the right to timely dis-position of the case following the arrest of the accused; the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings

where the accused has the right to be present; the right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the accused's release from custody is considered; the right to restitution from the accused; and the right to be informed, upon request, of the accused's escape or release from custody before or after conviction or juvenile adjudication. [Amended 1994]

§ 25. Marriage – To be valid or recognized in this State, a marriage may exist only between one man and one woman. [Amended 1998]

Article II – The Legislature

Article II, Sections:

1. Legislative Power; Membership
2. Members: Qualifications
3. Election and Terms
4. Vacancies
5. Disqualifications
6. Immunities
7. Salary and Expenses
8. Regular Sessions
9. Special Sessions
10. Adjournment
11. Interim Committees
12. Rules
13. Form of Bills
14. Passage of Bills
15. Veto
16. Action Upon Veto
17. Bills Not Signed
18. Effective Date
19. Local or Special Acts
20. Impeachment
21. Suits Against the State

§ 1. Legislative Power; Membership–The legislative power of the State is vested in a legislature consisting of senate with a membership of twenty and a house of representatives with a membership of forty.

§ 2. Members: Qualifications– A member of the legislature shall be a qualified voter who has been a resident of Alaska for at least three years and of the district from which elected for at least one year, immediately preceding his filing for office. A senator shall be at least twenty-five years of age and a representative at least twenty-one years of age.

§ 3. Election and Terms– Legislators shall be elected at general elections. Their terms begin on the fourth Monday of the January following election unless otherwise provided by law. The term of representatives shall be two years, and the term of senators, four years. One-half of the senators shall be elected every two years. Editor's Note. The legislature has provided that the terms of legislators begin on the second Monday in January following a presidential election year and on the third Tuesday in January following a gubernatorial election year. See AS 24.05.080.

§ 4. Vacancies– A vacancy in the legislature shall be filled for the unexpired term as provided by law. If no provision is made, the governor shall fill the vacancy by appointment.

§ 5. Disqualifications– No legislator may hold any other office or position of profit under the United States or the State. During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office or position of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention. Editor's Note. Senate Joint Resolution No. 2, "changing the name of the secretary of state to lieutenant governor" in 16 sections of the Alaska Constitution, approved by the voters August 25, 1970, inadvertently omitted express amendment of this section.

§ 6. Immunities – Legislators may not be held to answer before any other tribunal for any statement made in the exercise of their legislative duties while the legislature is in session. Members attending, going to, or returning from legislative sessions are not subject to civil process and are privileged from arrest except for felony or breach of the peace.

§ 7. Salary and Expenses – Legislators shall receive annual salaries. They may receive a per diem allowance for expenses while in session and are entitled to travel expenses going to and from sessions. Presiding officers may receive additional compensation.

§ 8. Regular Sessions – The legislature shall convene in regular session each year on the fourth Monday in January, but the month and day may be changed by law. The legislature shall adjourn from regular session no later than one hundred twenty consecutive calendar days from the date it convenes except that a regular session may be extended once for up to ten consecutive calendar days. An extension of the regular session requires the affirmative vote of at least two-thirds of the membership of each house of the legislature. The legislature shall adopt as part of the uniform rules of procedure deadlines for scheduling session work not inconsistent with provisions controlling the length of the session. [Amended 1984]

§ 9. Special Sessions – Special sessions may be called by the governor or by vote of two-thirds of the legislators. The vote may be conducted by the legislative council or as prescribed by law. At special sessions called by the governor, legislation shall be limited to subjects designated in his proclamation calling the session, to subjects presented by him, and the reconsideration of bills vetoed by him after adjournment of the last regular session. Special sessions are limited to thirty days. [Amended 1976]

§ 10. Adjournment – Neither house may adjourn or recess for longer than three days unless the other concurs. If the two houses cannot agree on the time of adjournment and either house certifies the disagreement to the governor, he may adjourn the legislature.

§ 11. Interim Committees – There shall be a legislative council, and the legislature may establish other interim committees. The council and other interim committees may meet between legislative sessions. They may perform duties and employ personnel as provided by the legislature. Their members may receive an allowance for expenses while performing their duties.

§ 12. Rules – The houses of each legislature shall adopt uniform rules of procedure. Each house may choose its officers and employees. Each is the judge of the election and qualifications of its members and may expel a member with the concurrence of two-thirds of its members. Each shall keep a journal of its proceedings. A majority of the membership of each house constitutes a quorum to do business, but a smaller number may adjourn from day to day and may compel attendance of absent members. The legislature shall regulate lobbying.

§ 13. Form of Bills–Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations. The subject of each bill shall be expressed in the title. The enacting clause shall be: "Be it enacted by the Legislature of the State of Alaska."

§ 14. Passage of Bills– The legislatures shall establish the procedure for enactment of bills into law. No bill may become law unless it has passed three readings in each house on three separate days, except that any bill may be advanced from second to third reading on the same day by concurrence of three fourths of the house considering it. No bill may become law without an affirmative vote of a majority of the membership of each house. The yeas and nays on final passage shall be entered in the journal.

§ 15. Veto– The governor may veto bills passed by the legislature. He may, by veto, strike or reduce items in appropriation bills. He shall return any vetoed bill, with a statement of his objections, to the house of origin.

§ 16. Action Upon Veto– Upon receipt of a veto message during a regular session of the legislature, the legislatures shall meet immediately in joint session and reconsider passage of the vetoed bill or item. Bills to raise revenue and appropriation bills or items, although vetoed, become law by affirmative vote of three fourths of the membership of the legislature. Other vetoed bills become law by affirmative vote of two thirds of the membership of the legislature. Bills vetoed after adjournment of the first regular session of the legislature shall be reconsidered by the legislature sitting as one body no later than the fifth day of the next regular or special session of that legislature. Bills vetoed after adjournment of the second regular session shall be reconsidered by the legislature sitting as one body no later than the fifth day of a special session of that legislature, if one is called. The vote on reconsideration of a vetoed bill shall be entered on the journals of both houses. [Amended 1976]

§ 17. Bills Not Signed– A bill becomes law if, while the legislature is in session, the governor neither signs nor vetoes it within fifteen days, Sundays excepted, after its delivery to him. If the legislature is not in session and the governor neither signs nor vetoes a bill within twenty days, Sundays excepted, after its delivery to him, the bill becomes law.

§ 18. Effective Date– Laws passed by the legislature become effective ninety days after enactment. The legislature may, by concurrence of two thirds of the membership of each house, provide for another effective date.

§ 19. Local or Special Acts– The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination. Local acts necessitating appropriations by a political subdivision may not become effective unless approved by a majority of the qualified voters voting thereon in the subdivision affected.

§ 20. Impeachment – All civil officers of the State are subject to impeachment by the legislature. Impeachment shall originate in the senate and must be approved by a two-thirds vote of its members. The motion for impeachment shall list fully the basis for the proceeding. Trial on impeachment shall be conducted by the house of representatives. A supreme court justice designated by the court shall preside at the trial. Concurrence of two-thirds of the members of the house is required for a judgment of impeachment. The judgment may not extend beyond removal from office, but shall not prevent proceedings in the courts on the same or related charges.

§ 21. Suits Against the State – The legislature shall establish procedures for suits against the State.

Article III – The Executive

Article III, Sections:

1. Executive Power
2. Governor: Qualifications
3. Election
4. Term of Office
5. Limit on Tenure
6. Dual Office Holding
7. Lieutenant Governor Duties
8. Election
9. Acting Governor
10. Succession: Failure to Qualify
11. Vacancy
12. Absence
13. Further Succession
14. Title and Authority
15. Compensation
16. Governor's Authority
17. Convening Legislature
18. Messages to Legislature
19. Military Authority
20. Martial Law
21. Executive Clemency
22. Executive Branch
23. Reorganization
24. Supervision
25. Department Heads
26. Boards and Commissions
27. Recess Appointments

§ 1. Executive Power– The executive power of the State is vested in the governor.

§ 2. Governor: Qualifications– The governor shall be at least thirty years of age and a qualified voter of the State. He shall have been a resident of Alaska at least seven years immediately preceding his filing for office, and he shall have been a citizen of the United States for at least seven years.

§ 3. Election– The governor shall be chosen by the qualified voters of the State at a general election. The candidate receiving the greatest number of votes shall be governor.

§ 4. Term of Office– The term of office of the governor is four years, beginning at noon on the first Monday in December following his election and ending at noon on the first Monday in December four years later.

§ 5. Limit on Tenure– No person who has been elected governor for two full successive terms shall be again eligible to hold that office until one full term has intervened.

§ 6. Dual Office Holding– The governor shall not hold any other office or position of profit under the United States, the State, or its political sub-divisions.

§ 7. Lieutenant Governor Duties–There shall be a lieutenant governor. He shall have the same qualifications as the governor and serve for the same term. He shall perform such duties as may be prescribed by law and as may be delegated to him by the governor. [Amended 1970]

§ 8. Election – The lieutenant governor shall be nominated in the manner provided by law for nominating candidates for other elective offices. In the general election the votes cast for a candidate for governor shall be considered as cast also for the candidate for lieutenant governor running jointly with him. The candidate whose name appears on the ballot jointly with that of the successful candidate for governor shall be elected lieutenant governor. [Amended 1970]

§ 9. Acting Governor – In case of the temporary absence of the governor from office, the lieutenant governor shall serve as acting governor. [Amended 1970]

§ 10. Succession: Failure to Qualify – If the governor-elect dies, resigns, or is disqualified, the lieutenant governor elected with him shall succeed to the office of governor for the full term. If the governor-elect fails to assume office for any other reason, the lieutenant governor elected with him shall serve as acting governor, and shall succeed to the office if the governor-elect does not assume his office within six months of the beginning of the term. [Amended 1970]

§ 11. Vacancy – In case of a vacancy in the office of governor for any reason, the lieutenant governor shall succeed to the office for the remainder of the term. [Amended 1970]

§ 12. Absence – Whenever for a period of six months, a governor has been continuously absent from office or has been unable to discharge the duties of his office by reason of mental or physical disability, the office shall be deemed vacant. The procedure for determining absence and disability shall be prescribed by law.

§ 13. Further Succession – Provision shall be made by law for succession to the office of governor and for an acting governor in the event that the lieutenant governor is unable to succeed to the office or act as governor. No election of a lieutenant governor shall be held except at the time of electing a governor. [Amended 1970]

§ 14. Title and Authority – When the lieutenant governor succeeds to the office of governor, he shall have the title, powers, duties and emoluments of that office. [Amended 1970]

§ 15. Compensation – The compensation of the governor and the lieutenant governor shall be prescribed by law and shall not be diminished during their term of office, unless by general law applying to all salaried officers of the State. [Amended 1970]

§ 16. Governor's Authority – The governor shall be responsible for the faithful execution of the laws. He may, by appropriate court action or proceeding brought in the name of the State, enforce compliance with any constitutional or legislative mandate, or restrain violation of any constitutional or legislative power, duty, or right by any officer, department, or agency of the State or any of its political subdivisions. This authority

shall not be construed to authorize any action or proceeding against the legislature.

§ 17. Convening Legislature– Whenever the governor considers it in the public interest, he may convene the legislature, either house, or the two houses in joint session.

§ 18. Messages to Legislature– The governor shall, at the beginning of each session, and may at other times, give the legislature information concerning the affairs of the State and recommend the measures he considers necessary.

§ 19. Military Authority– The governor is commander-in-chief of the armed forces of the State. He may call out these forces to execute the laws, suppress or prevent insurrection or lawless violence, or repel invasion. The governor, as provided by law, shall appoint all general and flag officers of the armed forces of the State, subject to confirmation by a majority of the members of the legislature in joint session. He shall appoint and commission all other officers.

§ 20. Martial Law– The governor may proclaim martial law when the public safety requires it in case of rebellion or actual or imminent invasion. Shall not continue for longer than twenty days without the approval of a majority of the members of the legislature in joint session.

§ 21. Executive Clemency– Subject to procedure prescribed by law, the governor may grant pardons, commutations, and reprieves, and may suspend and remit fines and forfeitures. This power shall not extend to impeachment. A parole system shall be provided by law.

§ 22. Executive Branch– All executive and administrative offices, departments, and agencies of the state government and their respective functions, powers, and duties shall be allocated by law among and within not more than twenty principal departments, so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may be established by law and need not be allocated within a principal department.

§ 23. Reorganization– The governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these

changes require the force of law, they shall be set forth in executive orders. The legislature shall have sixty days of a regular session, or a full session if of shorter duration, to disapprove these executive orders. Unless disapproved by resolution concurred in by a majority of the members in joint session, these orders become effective at a date thereafter to be designated by the governor.

§ 24. Supervision– Each principal department shall be under the supervision of the governor.

§ 25. Department Heads – The head of each principal department shall be a single executive unless otherwise provided by law. He shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and shall serve at the pleasure of the governor, except as otherwise provided in this article with respect to the secretary of state. The heads of all principal departments shall be citizens of the United States. Editor's Note. Senate Joint Resolution No. 2, "changing the name of the secretary of state to lieutenant governor" in 16 sections of the Alaska Constitution, approved by the voters August 25, 1970, inadvertently omitted express amendment of this section.

§ 26. Boards and Commissions – When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law. They shall be citizens of the United States. The board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor.

§ 27. Recess Appointments – The governor may make appointments to fill vacancies occurring during a recess of the legislature, in offices requiring confirmation by the legislature. The duration of such appointments shall be prescribed by law.

Article IV – The Judiciary

Article IV, Sections:

1. Judicial Power and Jurisdiction
2. Supreme Court
3. Superior Court
4. Qualifications of Justices and Judges
5. Nomination and Appointment
6. Approval or Rejection
7. Vacancy
8. Judicial Council
9. Additional Duties
10. Commission on Judicial Conduct
11. Retirement
12. Impeachment
13. Compensation
14. Restrictions
15. Rule-Making Power
16. Court Administration

§ 1. Judicial Power and Jurisdiction –The judicial power of the State is vested in a supreme court, a superior court, and the courts established by the legislature. The jurisdiction of courts shall be prescribed by law. The courts shall constitute a unified judicial system for operation and administration. Judicial districts shall be established by law.

§ 2. Supreme Court–(a) The supreme court shall be the highest court of the State, with final appellate jurisdiction. It shall consist of three justices, one of whom is chief justice. The number of justices may be increased by law upon the request of the supreme court. (b) The chief justice shall be selected from among the justices of the supreme court by a majority vote of the justices. His term of office as chief justice is three years. A justice may serve more than one term as chief justice but he may not serve consecutive terms in that office. [Amended 1970]

§ 3. Superior Court– The superior court shall be the trial court of general jurisdiction and shall consist of five judges. The number of judges may be changed by law.

§ 4. Qualifications of Justices and Judges– Supreme court justices and superior court judges shall be citizens of the United States and of the State, licensed to practice law in the State, and possessing any additional qualifications prescribed by law. Judges of other courts shall be selected in a manner, for terms, and with qualifications prescribed by law.

§ 5. Nomination and Appointment–The governor shall fill any vacancy in an office of supreme court justice or superior court judge by appointing one of two or more persons nominated by the judicial council.

§ 6. Approval or Rejection– Each supreme court justice and superior court judge shall, in the manner provided by law, be subject to approval or rejection on a nonpartisan ballot at the first general election held more than three years after his appointment. Thereafter, each supreme court justice shall be subject to approval or rejection in a like manner every tenth year, and each superior court judge, every sixth year.

§ 7. Vacancy – The office of any supreme court justice or superior court judge becomes vacant ninety days after the election at which he is rejected by a majority of those voting on the question, or for which he fails to file his declaration of candidacy to succeed himself.

§ 8. Judicial Council – The judicial council shall consist of seven members. Three attorney members shall be appointed for six-year terms by the governing body of the organized state bar. Three non-attorney members shall be appointed for six-year terms by the governor subject to confirmation by a majority of the members of the legislature in joint session. Vacancies shall be filled for the unexpired term in like manner. Appointments shall be made with due consideration to area representation and without regard to political affiliation. The chief justice of the supreme court shall be ex-officio the seventh member and chairman of the judicial council. No member of the judicial council, except the chief justice, may hold any other office or position of profit under the United States or the State. The judicial council shall act by concurrence of four or more members and according to rules which it adopts.

§ 9. Additional Duties – The judicial council shall conduct studies for improvement of the administration of justice, and make reports and recommendations to the supreme court and to the legislature at intervals of not more than two years. The judicial council shall perform other duties assigned by law.

§ 10. Commission on Judicial Conduct – The Commission on Judicial Conduct shall consist of nine members, as follows: three persons who are justices or judges of state courts, elected by the justices and judges of state courts; three members who have practiced law in this state for ten years, appointed by the governor from nominations made by the governing body of the organized bar and subject to confirmation by a majority of the members of the legislature in joint session; and three persons who are not judges, retired judges, or members of the state bar, appointed by the governor and subject to confirmation by a majority of the members of the legislature in joint session. In addition to being subject to impeachment under Section 12 of this article, a justice or judge may be dis-qualified from acting as such and may be suspended, removed from office, retired, or censured by the supreme court upon the recommendation of the commission. The powers and duties of the commission and the bases for judicial disqualification shall be established by law. [Amended 1968 & 1982]

§ 11. Retirement – Justices and judges shall be retired at the age of seventy except as provided in this article. The basis and amount of retirement pay shall be prescribed by law. Retired judges shall Judiciary20render no further service on the bench except for special assignments as provided by court rule.

§ 12. Impeachment– Impeachment of any justice or judge for malfeasance or misfeasance in the performance of his official duties shall be according to procedure prescribed for civil officers.

§ 13. Compensation– Justices, judges, and members of the judicial council and the Commission on Judicial Qualifications shall receive compensation as prescribed by law. Compensation of justices and judges shall not be diminished during their terms of office, unless by general law applying to all salaried officers of the State. [Amended 1968]

§ 14. Restrictions– Supreme court justices and superior court judges while

holding office may not practice law, hold office in a political party, or hold any other office or position of profit under the United States, the State, or its political subdivisions. Any supreme court justice or superior court judge filing for another elective public office forfeits his judicial position.

§ 15. Rule-Making Power– The supreme court shall make and promulgate rules governing the administration of all courts. It shall make and promulgate rules governing practice and procedure in civil and criminal cases in all courts. These rules may be changed by the legislature by two-thirds vote of the members elected to each house.

§ 16. Court Administration– The chief justice of the supreme court shall be the administrative head of all courts. He may assign judges from one court or division thereof to another for temporary service. The chief justice shall, with the approval of the supreme court, appoint an administrative director to serve at the pleasure of the supreme court and to supervise the administrative operations of the judicial system. [Amended 1970]

Article V – Suffrage and Elections

Article V, Sections:

1. Qualified Voters
2. Disqualifications
3. Methods of Voting; Election Contests
4. Voting Precincts; Registration
5. General Elections

§ 1. Qualified Voters – Every citizen of the United States who is at least eighteen years of age, who meets registration residency requirements which may be prescribed by law, and who is qualified to vote under this article, may vote in any state or local election. A voter shall have been, immediately preceding the election, a thirty day resident of the election district in which he seeks to vote, except that for purposes of voting for President and Vice President of the United States other residency requirements may be prescribed by law. Additional voting qualifications may be prescribed by law for bond issue elections of political sub-divisions. [Amended 1966, 1970 & 1972]

§ 2. Disqualifications – No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored. No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed.

§ 3. Methods of Voting; Election Contests – Methods of voting, including absentee voting, shall be prescribed by law. Secrecy of voting shall be preserved. The procedure for determining election contests, with right of appeal to the courts, shall be prescribed by law.

§ 4. Voting Precincts; Registration – The legislature may provide a system of permanent registration of voters, and may establish voting precincts within election districts.

§ 5. General Elections – General elections shall be held on the second Tuesday in October of every even-numbered year, but the month and day may be changed by law. Editor's Note. Exercising its authority under this section, the legislature has provided that the date of general elections is the Tuesday after the first Monday in November in every even-numbered year. See AS 15.15.020.

Article VI – Legislative Apportionment

Article VI, Sections:

1. House Districts
2. Senate Districts
3. Reapportionment of House and Senate
4. Method of Redistricting
5. Combining Districts
6. District Boundaries
7. Modification of Senate Districts
8. Redistricting Board
9. Board Actions
10. Redistricting Plan and Proclamation
11. Enforcement

§ 1. House Districts– Members of the house of representatives shall be elected by the qualified voters of the respective house districts. The boundaries of the house districts shall be set under this article following the official reporting of each decennial census of the United States. [Amended 1998]

§ 2. Senate Districts – Members of the senate shall be elected by the qualified voters of the respective senate districts. The boundaries of the senate districts shall be set under this article following the official reporting of each decennial census of the United States. [Amended 1998]

§ 3. Reapportionment of House and Senate– The Redistricting Board shall reapportion the house of representatives and the senate immediately following the official reporting of each decennial census of the United States. Reapportionment shall be based upon the population within each house and senate district as reported by the official decennial census of the United States. [Amended 1998]

§ 4. Method of Redistricting– The Redistricting Board shall establish forty house districts, with each house district to elect one member of the house of representatives. The board shall establish twenty senate districts, each composed of two house districts, with each senate district to elect one senator. [Amended 1998]

§ 5. Combining Districts– Repealed by1998 Ballot Measure No. 3

§ 6. District Boundaries– The Redistricting Board shall establish the size and area of house districts, subject to the limitations of this article. Each house district shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socioeconomic area. Each shall contain a population as near as practicable to the quotient obtained by dividing the population of the state by forty. Each senate district shall be composed as near as practicable of two contiguous house districts. Consideration may be given to local government boundaries. Drainage and other geographic features shall be used in describing boundaries wherever possible.

§ 7. Modification of Senate Districts – Repealed by 1998 Ballot Measure No. 3

§ 8. Redistricting Board – (a) There shall be a redistricting board. It shall consist of five members, all of whom shall be residents of the state for at least one year and none of whom may be public employees or officials at the time of or during the tenure of appointment. Appointments shall be made without regard to political affiliation. Board members shall be compensated. (b) Members of the Redistricting Board shall be appointed in the year in which an official decennial census of the United States is taken and by September 1 of that year. The governor shall appoint two members of the board. The presiding officer of the senate, the presiding officer of the house of representatives, and the chief justice of the supreme court shall each appoint one member of the board. The appointments to the board shall be made in the order listed in this subsection. At least one board member shall be a resident of each judicial district that existed on January 1, 1999. Board members serve until a final plan for redistricting and proclamation of redistricting has been adopted and all challenges to it brought under Section 11 of this article have been resolved after final remand or affirmation. (c) A person who was a member of the Redistricting Board at any time during the process leading to final adoption of a redistricting plan under Section 10 of this article may not be a candidate for the legislature in the general election following the adoption of the final redistricting plan. [Amended 1998]

§ 9. Board Actions – The board shall elect one of its members chairman and may employ temporary assistants. Concurrence of three members of the

Redistricting Board is required for actions of the Board, but a lesser number may conduct hearings. The board shall employ or contract for services of independent legal counsel. [Amended 1998]

§ 10. Redistricting Plan and Proclamation – (a) Within thirty days after the official reporting of the decennial census of the United States or thirty days after being duly appointed, whichever occurs last, the board shall adopt one or more proposed redistricting plans. The board shall hold public hearings on the proposed plan, or, if no single proposed plan is agreed on, on all plans proposed by the board. No later than ninety days after the board has been appointed and the official reporting of the decennial census of the United States, the board shall adopt a final redistricting plan and issue a proclamation of redistricting. The final plan shall set out boundaries of house and senate districts and shall be effective for the election of members of the legislature until after the official reporting of the next decennial census of the United States. (b) Adoption of a final redistricting plan shall require the affirmative votes of three members of the Redistricting Board. [Amended 1998]

§ 11. Enforcement– Any qualified voter may apply to the superior court to compel the Redistricting Board, by mandamus or otherwise, to perform its duties under this article or to correct any error in redistricting. Application to compel the board to perform must be filed not later than thirty days following the expiration of the ninety-day period specified in this article. Application to compel correction of any error in redistricting must be filed within thirty days following the adoption of the final redistricting plan and proclamation by the board. Original jurisdiction in these matters is vested in the superior court. On appeal from the superior court, the cause shall be reviewed by the supreme court on the law and the facts. Notwithstanding Section 15 of Article IV, all dispositions by the superior the supreme court under this sections hall be expedited and shall have priority over all other matters pending before the respective court. Upon a final judicial decision that a plan is invalid, the matter shall be returned to the board for correction and development of a new plan. If that new plan is declared invalid, the matter may be referred again to the board. [Amended 1998]Editor's Note: The Division of Elections publishes maps and district descriptions resulting from the Proclamation of Redistricting by the Alaska Redistricting Board, April 25, 2002

Article VII – Health, Education and Welfare

Article VII, Sections:

1. Public Education
2. State University
3. Board of Regents
4. Public Health
5. Public Welfare

§ 1. Public Education – The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

§ 2. State University – The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

§ 3. Board of Regents – The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.

§ 4. Public Health – The legislature shall provide for the promotion and protection of public health.

§ 5. Public Welfare – The legislature shall provide for public welfare.

Article VIII – Natural Resources

Article VIII, Sections:

1. Statement of Policy
2. General Authority
3. Common Use
4. Sustained Yield
5. Facilities and Improvements
6. State Public Domain
7. Special Purpose Sites
8. Leases
9. Sales and Grants
10. Public Notice
11. Mineral Rights
12. Mineral Leases and Permits
13. Water Rights
14. Access to Navigable Waters
15. No Exclusive Right of Fishery
16. Protection of Rights
17. Uniform Application
18. Private Ways of Necessity

§ 1. Statement of Policy– It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

§ 2. General Authority– The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

§ 3. Common Use– Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.

§ 4. Sustained Yield– Fish, forests, wildlife, grasslands, and all other replenish able resources belonging to the State shall be utilized, developed,

and maintained on the sustained yield principle, subject to preferences among beneficial uses.

§ 5. Facilities and Improvements– The legislature may provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands, and to assure fuller utilization and development of the fisheries, wildlife, and waters.

§ 6. State Public Domain– Lands and interests therein, including submerged and tidal lands, possessed or acquired by the State, and not used or intended exclusively for governmental purposes, constitute the state public domain. The legislature shall provide for the selection of lands granted to the State by the United States, and for the administration of the state public domain.

§ 7. Special Purpose Sites– The legislature may provide for the acquisition of sites, objects, and areas of natural beauty or of historic, cultural, recreational, or scientific value. It may reserve them from the public domain and provide for their administration and preservation for the use, enjoyment, and welfare of the people.

§ 8. Leases – The legislature may provide for the leasing of, and the issuance of permits for exploration of, any part of the public domain or interest therein, subject to reasonable concurrent uses. Leases and permits shall provide, among other conditions, for payment by the party at fault for damage or injury arising from noncompliance with terms governing concurrent use, and for forfeiture in the event of breach of conditions.

§ 9. Sales and Grants – Subject to the provisions of this section, the legislature may provide for the sale or grant of state lands, or interests therein, and establish sales procedures. All sales or grants shall contain such reservations to the State of all resources as may be required by Congress or the State and shall provide for access to these resources. Reservation of access shall not unnecessarily impair the owners' use, prevent the control of trespass, or preclude compensation for damages.

§ 10. Public Notice – No disposals or leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

§ 11. Mineral Rights – Discovery and appropriation shall be the basis for establishing a right in those minerals reserved to the State which, upon the date of ratification of this constitution by the people of Alaska, were subject to location under the federal mining laws. Prior discovery, location, and filing, as prescribed by law, shall establish a prior right to these minerals and also a prior right to permits, leases, and transferable licenses for their extraction. Continuation of these rights shall depend upon the performance of annual labor, or the payment of fees, rents, or royalties, or upon other requirements as may be prescribed by law. Surface uses of land by a mineral claimant shall be limited to those necessary for the extraction or basic processing of the mineral deposits, or for both. Discovery and appropriation shall initiate a right, subject to further requirements of law, to patent of mineral lands if authorized by the State and not prohibited by Congress. The provisions of this section shall apply to all other minerals reserved to the State which by law are declared subject to appropriation.

§ 12. Mineral Leases and Permits – The legislature shall provide for the issuance, types and terms of leases for coal, oil, gas, oil shale, sodium, phosphate, potash, sulfur, pumice, and other minerals as may be prescribed by law. Leases and permits giving the exclusive right of exploration for these minerals for specific periods and areas, subject to reasonable concurrent exploration as to different classes of minerals, may be authorized by law. Like leases and permits giving the exclusive right of prospecting by geophysical, geochemical, and similar methods for all minerals may also be authorized by law.

§ 13. Water Rights – All surface and subsurface waters reserved to the people for common use, except mineral and medicinal waters, are subject to appropriation. Priority of appropriation shall give prior right. Except for public water supply, an appropriation of water shall be limited to stated purposes and subject to preferences among beneficial uses, concurrent or otherwise, as prescribed bylaw, and to the general reservation of fish and wildlife.

§ 14. Access to Navigable Waters–Free access to the navigable or public waters of the State, as defined by the legislature, shall not be denied any citizen of the United States or resident of the State, except that the legislature may by general law regulate and limit such access for other beneficial uses or

public purposes.

§ 15. No Exclusive Right of Fishery–No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State. This section does not restrict the power of the State to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the State. [Amended 1972]

§ 16. Protection of Rights– No person shall be involuntarily divested of his right to the use of waters, his interests inlands, or improvements affecting either, except for a superior beneficial use or public purpose and then only with just compensation and by operation of law.

§ 17. Uniform Application– Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation.

§ 18. Private Ways of Necessity–Proceedings in eminent domain may be undertaken for private ways of necessity to permit essential access for extraction or utilization of resources. Just compensation shall be made for property taken or for resultant damages to other property rights.

Article IX – Finance and Taxation

Article IX, Sections:

1. Taxing Power
2. Nondiscrimination
3. Assessment Standards
4. Exemptions
5. Interests in Government Property
6. Public Purpose
7. Dedicated Funds
8. State Debt
9. Local Debts
10. Interim Borrowing
11. Exceptions
12. Budget
13. Expenditures
14. Legislative Post-Audit
15. Alaska Permanent Fund
16. Appropriation Limit
17. Budget Reserve Fund

§ 1. Taxing Power – The power of taxation shall never be surrendered. This power shall not be suspended or contracted away, except as provided in this article.

§ 2. Nondiscrimination – The lands and other property belonging to citizens of the United States residing without the State shall never be taxed at a higher rate than the lands and other property belonging to the residents of the State.

§ 3. Assessment Standards – Standards for appraisal of all property assessed by the State or its political subdivisions shall be prescribed by law.

§ 4. Exemptions – The real and personal property of the State or its political subdivisions shall be exempt from taxation under conditions and exceptions which may be provided by law. All, or any portion of, property

used exclusively for non-profit religious, charitable, cemetery, or educational purposes, as defined by law, shall be exempt from taxation. Other exemptions of like or different kind may be granted by general law. All valid existing exemptions shall be retained until otherwise provided by law.

§ 5. Interests in Government Property – Private leaseholds, contracts, or interests in land or property owned or held by the United States, the State, or its political subdivisions, shall be taxable to the extent of the interests.

§ 6. Public Purpose – No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose.

§ 7. Dedicated Funds – The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska. [Amended 1976]

§ 8. State Debt– No state debt shall be contracted unless authorized by law for capital improvements or unless authorized by law for housing loans for veterans, and ratified by a majority of the qualified voters of the State who vote on the question. The State may, as provided by law and without ratification, for the purpose of repelling invasion, suppressing insurrection, defending the State in war, meeting natural disasters, or redeeming indebtedness outstanding at the time this constitution becomes effective. [Amended 1982]

§ 9. Local Debts– No debt shall be contracted by any political subdivision of the State, unless authorized for capital improvements by its governing body and ratified by a majority vote of those qualified to vote and voting on the question.

§ 10. Interim Borrowing– The State and its political subdivisions may borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues for that year, but all debt so contracted shall be paid before the end of the next fiscal year.

§ 11. Exceptions– The restrictions on contracting debt do not apply to

debt incurred through the issuance of revenue bonds by a public enterprise or public corporation of the State or a political subdivision, when the only security is the revenues of the enterprise or corporation. The restrictions do not apply to indebtedness to be paid from special assessments on the benefited property, nor do they apply to refunding indebtedness of the State or its political subdivisions.

§ 12. Budget– The governor shall submit to the legislature, at a time fixed by law, a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State. The governor, at the same time, shall submit a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues.

§ 13. Expenditures– No money shall be withdrawn from the treasury except in accordance with appropriations made by law. No obligation for the payment of money shall be incurred except as authorized by law. Unobligated appropriations outstanding at the end of the period of time specified by law shall be void.

§ 14. Legislative Post-Audit– The legislature shall appoint an auditor to serve at its pleasure. He shall be a certified public accountant. The auditor shall conduct post-audits as prescribed by law and shall report to the legislature and to the governor.

§ 15. Alaska Permanent Fund– At least twenty-five per cent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law. [Amended 1976]

§ 16. Appropriation Limit – Except for appropriations for Alaska permanent fund dividends, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a non-State source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the State that issues revenue bonds, appropriations

from the treasury made for a fiscal year shall not exceed $2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981. Within this limit, at least one-third shall be reserved for capital projects and loan appropriations. The legislature may exceed this limit in bills for appropriations to the Alaska permanent fund and in bills for appropriations for capital projects, whether of bond proceeds or otherwise, if each bill is approved by the governor, or passed by affirmative vote of three-fourths of the membership of the legislature over a veto or item veto, or becomes law without signature, and is also approved by the voters as prescribed by law. Each bill for appropriations for capital projects in excess of the limit shall be confined to capital projects of the same type, and the voters shall, as provided by law, be informed of the cost of operations and maintenance of the capital projects. No other appropriation in excess of this limit may be made except to meet a state of disaster declared by the governor as prescribed by law. The governor shall cause any unexpended and unappropriated balance to be invested so as to yield competitive market rates to the treasury. [Amended 1982]

§ 17. Budget Reserve Fund – (a) There is established as a separate fund in the State treasury the budget reserve fund. Except for money deposited into the permanent fund under Section 15 of this article, all money received by the State after July 1, 1990, as a result of the termination, through settlement or otherwise, of an administrative proceeding or of litigation in a State or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments or bonuses, or involving taxes imposed on mineral income, production, or property, shall be deposited in the budget reserve fund. Money in the budget reserve fund shall be invested so as to yield competitive market rates to the fund. Income of the fund shall be retained in the fund. Section 7 of this article does not apply to deposits made to the fund under this subsection. Money may be appropriated from the fund only as authorized under (b) or (c) of this section. (b) If the amount available for appropriation for a fiscal year is less than the Taxation32amount appropriated for the previous fiscal year, an appropriation may be made from the budget reserve fund. However, the amount appropriated from the fund under this subsection may not exceed the amount necessary, when added to other funds available for appropriation, to provide for total appropriations equal to the amount of appropriations made in the previous calendar year for

the previous fiscal year. (c) An appropriation from the budget reserve fund may be made for any public purpose upon affirmative vote of three-fourths of the members of each house of the legislature. (d) If an appropriation is made from reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund. The

legislature shall implement this subsection by law. [Amended 1990]

Article X – Local Government

Article X, Sections:

1. Purpose and Construction
2. Local Government Powers
3. Boroughs
4. Assembly
5. Service Areas
6. Unorganized Boroughs
7. Cities 8. Council
9. Charters
10. Extended Home Rule
11. Home Rule Powers
12. Boundaries
13. Agreements; Transfer of Powers
14. Local Government Agency
15. Special Service Districts

§ 1. Purpose and Construction – The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

§ 2. Local Government Powers – All local government powers shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

§ 3. Boroughs – The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized,

incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

§ 4. Assembly – The governing body of the organized borough shall be the assembly, and its composition shall be established by law or charter. [Amended 1972]

§ 5. Service Areas – Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of taxes, charges, or assessments within a service area to finance the special services.

§ 6. Unorganized Boroughs – The legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs, allowing for maximum local participation and responsibility. It may exercise any power or function in an unorganized borough which the assembly may exercise in an organized borough.

§ 7. Cities – Cities shall be incorporated in a manner prescribed by law, and shall be a part of the borough in which they are located. Cities shall have the powers and functions conferred by law or charter. They may be merged, consolidated, classified, reclassified, or dissolved in the manner provided by law.

§ 8. Council– The governing body of a city shall be the council.

§ 9. Charters– The qualified voters of any borough of the first class or city of the first class may adopt, amend, or repeal a home rule charter in a manner provided by law. In the absence of such legislation, the governing body of a borough or city of the first class shall provide the procedure for the preparation and adoption or rejection of the charter. All charters, or parts or amendments of charters, shall be submitted to the qualified voters of the borough or city, and shall become effective if approved by a majority of those who vote on the specific question.

§ 10. Extended Home Rule– The legislature may extend home rule to other boroughs and cities.

§ 11. Home Rule Powers– A home rule borough or city may exercise all legislative powers not prohibited by law or by charter.

§ 12. Boundaries– A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.

§ 13. Agreements; Transfer of Powers– Agreements, including those for cooperative or joint administration of any functions or powers, may be made by any local government with any other local government, with the State, or with the United States, unless otherwise provided by law or charter. A city may transfer to the borough in which it is located any of its powers or functions unless prohibited by law or charter, and may in like manner revoke the transfer.

§ 14. Local Government Agency– An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law.

§ 15. Special Service Districts– Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law.

Article XI – Initiative, Referendum, and Recall

Article XI, Sections:

1. Initiative and Referendum
2. Application
3. Petition
4. Initiative Election
5. Referendum Election
6. Enactment
7. Restrictions
8. Recall

§ 1. Initiative and Referendum – The people may propose and enact laws by the initiative, and approve or reject acts of the legislature by the referendum.

§ 2. Application – An initiative or referendum is proposed by an application containing the bill to be initiated or the act to be referred. The application shall be signed by not less than one hundred qualified voters as sponsors, and shall be filed with the lieutenant governor. If he finds it in proper form he shall so certify. Denial of certification shall be subject to judicial review. [Amended 1970]

§ 3. Petition – After certification of the application, a petition containing a summary of the subject matter shall be prepared by the lieutenant governor for circulation by the sponsors. If signed by qualified voters who are equal in number to at least ten per cent of those who voted in the preceding general election, who are resident in at least three-fourths of the house districts of the State, and who, in each of those house districts, are equal in number to at least seven percent of those who voted in the preceding general election in the house district, it may be filed with the lieutenant governor. [Amended 1970, 1998 & 2004]

§ 4. Initiative Election – An initiative petition may be filed at any time. The lieutenant governor shall prepare a ballot title and proposition summarizing the proposed law, and shall place them on the ballot for the first statewide

election held more than one hundred twenty days after adjournment of the legislative session following the filing. If, before the election, substantially the same measure has been enacted, the petition is void. [Amended 1970]

§ 5. Referendum Election – A referendum petition may be filed only within ninety days after adjournment of the legislative session at which the act was passed. The lieutenant governor shall prepare a ballot title and proposition summarizing the act and shall place them on the ballot for the first statewide election held more than one hundred eighty days after adjournment of that session. [Amended 1970]

§ 6. Enactment – If a majority of the votes cast on the proposition favor its adoption, the initiated measure is enacted. If a majority of the votes cast on the proposition favor the rejection of an Recall36act referred, it is rejected. The lieutenant governor shall certify the election returns. An initiated law becomes effective ninety days after certification, is not subject to veto, and may not be repealed by the legislature within two years of its effective date. It may be amended at any time. An act rejected by referendum is void thirty days after certification. Additional procedures for the initiative and referendum may be prescribed by law. [Amended 1970]

§ 7. Restrictions– The initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation. The referendum shall not be applied to dedications of revenue, to appropriations, to local or special legislation, or to laws necessary for the immediate preservation of the public peace, health, or safety.

§ 8. Recall– All elected public officials in the State, except judicial officers, are subject to recall by the voters of the State or political subdivision from which elected. Procedures and grounds for recall shall be prescribed by the

legislature.

Article XII – General Provisions

Article XII, Sections:

1. State Boundaries
2. Intergovernmental Relations
3. Office of Profit
4. Disqualification for Disloyalty
5. Oath of Office
6. Merit System
7. Retirement Systems
8. Residual Power
9. Provisions Self-Executing
10. Interpretation
11. Law-Making Power
12. Disclaimer and Agreement
13. Consent to Act of Admission
14. Approval of Federal Amendment to Statehood Act Affecting an Interest of the State Under that Act

§ 1. State Boundaries – The State of Alaska shall consist of all the territory, together with the territorial waters appurtenant thereto, included in the Territory of Alaska upon the date of ratification of this constitution by the people of Alaska.

§ 2. Intergovernmental Relations – The State and its political subdivisions may cooperate with the United States and its territories, and with other states and their political subdivisions on matters of common interest. The respective legislative bodies may make appropriations for this purpose.

§ 3. Office of Profit – Service in the armed forces of the United States or of the State is not an office or position of profit as the term is used in this constitution.

§ 4. Disqualification for Disloyalty – No person who advocates, or who aids or belongs to any party or organization or association which advocates,

the overthrow by force or violence of the government of the United States or of the State shall be qualified to hold any public office of trust or profit under this constitution.

§ 5. Oath of Office – All public officers, before entering upon the duties of their offices, shall take and subscribe to the following oath or affirmation: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as . . . to the best of my ability." The legislature may prescribe further oaths or affirmations.

§ 6. Merit System – The legislature shall establish a system under which the merit principle will govern the employment of persons by the State.

§ 7. Retirement Systems – Membership in employee retirement systems of the State or its political subdivisions shall constitute a contractual relationship. Accrued benefits of these systems shall not be diminished or impaired.

§ 8. Residual Power– The enumeration of specified powers in this constitution shall not be construed as limiting the powers of the State.

§ 9. Provisions Self-Executing– The provisions of this constitution shall be construed to be self-executing whenever possible.

§ 10. Interpretation– Titles and subtitles shall not be used in construing this constitution. Personal pronouns used in this constitution shall be construed as including either sex.

§ 11. Law-Making Power – As used in this constitution, the terms "by law" and "by the legislature," or variations of , are used interchangeably when related to law-making powers. Unless clearly inapplicable, the law-making powers assigned to the legislature may be exercised by the people through the initiative, subject to the limitations of Article XI.

§ 12. Disclaimer and Agreement– The State of Alaska and its people forever disclaim all right and title in or to any property belonging to the United States or subject to its disposition, and not granted or confirmed to the State or its political subdivisions, by or under the act admitting Alaska to the Union. The State and its people further disclaim all right or title in or to any property, including fishing rights, the right or title to which may be held

by or for any Indian, Eskimo, or Aleut, or community thereof, as that right or title is defined in the act of admission. The State and its people agree that, unless otherwise provided by Congress, the property, as described in this section, shall remain subject to the absolute disposition of the United States. They further agree that no taxes will be imposed upon any such property, until otherwise provided by the Congress. This tax exemption shall not apply to property held by individuals in fee without restrictions on alienation.

§ 13. Consent to Act of Admission–All provisions of the act admitting Alaska to the Union which reserve rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property, are consented to fully by the State and its people.

§ 14. Approval of Federal Amendment to Statehood Act Affecting an Interest of the State under that Act– A federal statute or proposed federal statute that affects an interest of this State under the Act admitting Alaska to the Union is ineffective as against the State interest unless approved by a two-thirds vote of each house of the legislature or approved by the people of the State. The legislature may, by a resolution passed by a majority vote of each house, place the question of approval of the federal statute on the ballot for the next general election unless in the resolution placing the question of approval, the legislature requires the question to be placed before the voters at a special election. The approval of the federal statute by the people of the State is not effective unless the federal statute described in there solution is ratified by a majority of the qualified voters of the State who vote on the question. Unless a summary of the question is provided in the resolution passed by the legislature, the lieutenant governor shall prepare an impartial summary of the question. The lieutenant governor shall present the question

to the voters so that a "yes" vote on the question is a vote to approve the federal statute. [Amended 1996]

Article XIII – Amendment and Revision

Article XIII, Sections:

1. **Amendments**
2. **Convention**
3. **Call by Referendum**
4. **Powers**

§ 1. Amendments – Amendments to this constitution may be proposed by a two-thirds vote of each house of the legislature. The lieutenant governor shall prepare a ballot title and proposition summarizing each proposed amendment, and shall place them on the ballot for the next general election. If a majority of the votes cast on the proposition favor the amendment, it shall be adopted. Unless otherwise provided in the amendment, it becomes effective thirty days after the certification of the election returns by the lieutenant governor. [Amended 1970, 1974]

§ 2. Convention– The legislature may call constitutional conventions at anytime.

§ 3. Call by Referendum– If during any ten-year period a constitutional convention has not been held, the lieutenant governor shall place on the ballot for the next general election the question: "Shall there be a Constitutional Convention?" If a majority of the votes cast on the question are in the negative, the question need not be placed on the ballot until the end of the next ten-year period. If a majority of the votes cast on the question are in the affirmative, delegates to the convention shall be chosen at the next regular statewide election, unless the legislature provides for the election of the delegates at a special election. The lieutenant governor shall issue the call for the convention. Unless other provisions have been made by law, the call shall conform as nearly as possible to the act calling the Alaska Constitutional Convention of 1955, including, but not limited to, number of members, districts, election and certification of delegates, and submission and ratification of revisions and ordinances. The appropriation provisions of

the call shall be self-executing and shall constitute a first claim on the state treasury. [Amended 1970]

§ 4. Powers– Constitutional conventions shall have plenary power to amend or revise the constitution, subject only to ratification by the people. No call for a constitutional convention shall limit these powers of the convention.

Revision Article XIV – Apportionment Schedule

Repealed by 1998 Ballot Measure No. 3

Article XV – Schedule of Transitional Measures

Article XV, Sections:

1. Continuance of Laws
2. Saving of Existing Rights and Liabilities
3. Local Government
4. Continuance of Office
5. Corresponding Qualifications
6. Governor to Proclaim Election
7. First State Elections
8. United States Senators and Representative
9. Terms of First Governor and Lieutenant Governor
10. Election of First Senators
11. Terms of First State Legislators
12. Election Returns
13. Assumption of Office
14. First Session of Legislature
15. First Legislators: Office Holding
16. First Judicial Council
17. Transfer of Court Jurisdiction
18. Territorial Assets and Liabilities
19. First Reapportionment
20. State Capital
21. Seal
22. Flag
23. Special Voting Provision
24. Ordinances
25. Effective Date
26. Appropriations for Relocation of the Capital

27. Reconsideration of Amendment Limiting Increases in Appropriations
28. Application of Amendment
29. Applicability of Amendments Providing for Redistricting of the Legislature To provide an orderly transition from a territorial to a state form of government, it is declared and ordained:

§ 1. Continuance of Laws – All laws in force in the Territory of Alaska on the effective date of this constitution and consistent therewith shall continue in force until they expire by their own limitation, are amended, or repealed.

§ 2. Saving of Existing Rights and Liabilities – Except as otherwise provided in this constitution, all rights, titles, actions, suits, contracts, and liabilities and all civil, criminal, or administrative proceedings shall continue unaffected by the change from territorial to state government, and the State shall be the legal successor to the Territory in these matters.

§ 3. Local Government – Cities, school districts, health districts, public utility districts, and other local subdivisions of government existing on the effective date of this constitution shall continue to exercise their powers and functions under existing law, pending enactment of Measures42legislation to carry out the provisions of this constitution. New local subdivisions of government shall be created only in accordance with this constitution.

§ **4. Continuance of Office–** All officers of the Territory, or under its laws, on the effective date of this constitutions hall continue to perform the duties of their offices in a manner consistent with this constitution until they are superseded by officers of the State.

§ 5. Corresponding Qualifications–Residence, citizenship, or other qualifications under the Territory may be used toward the fulfillment of corresponding qualifications required by this constitution.

§ 6. Governor to Proclaim Election– When the people of the Territory ratify this constitution and it is approved by the duly constituted authority of the United States, the governor of the Territory shall, within thirty days after receipt of the official notification of such approval, issue a proclamation and take necessary measures to hold primary and general elections for all state elective offices provided for by this constitution.

§ 7. First State Elections– The primary election shall take place not less than forty nor more than ninety days after the proclamation by the governor of the Territory. The general election shall take place not less than ninety days after the primary election. The elections shall be governed by this constitution and by applicable territorial laws.

§ 8. United States Senators and Representative– The officers to be elected at the first general election shall include two senators and one representative to serve in the Congress of the United States, unless senators and a representative have been previously elected and seated. One senator shall be elected for the long term and one senator for the short term, each term to expire on the third day of January in an odd-numbered year to be determined by authority of the United States. The term of the representative shall expire on the third day of January in the odd-numbered year immediately following his assuming office. If the first representative is elected in an even-numbered year to take office in that year, a representative shall be elected at the same time to fill the full term commencing on the third day of January of the following year, and the same person may be elected for both terms.

§ 9. Terms of First Governor and Lieutenant Governor– The First Governor and Lieutenant Governors hall hold office for a term beginning with the day on which they assume office and ending at noon on the first Monday in December of the even-numbered year following the next presidential election. This term shall count as a full term for purposes of determining eligibility for re-election only if it is four years or more in duration. [Amended 1970]

§ 10. Election of First Senators– At the first state general election, one senator shall be chosen for a two-year term from each of the following senate districts, described in Section 2 of Article XIV: A, B, D, E, G, I, J, L, N, and O. At the same election, one senator shall be chosen for a four-year term from each of the following senate districts described in Section 2 of Article XIV: A, C, E, F, H, J, K, M, N, and P.

§ 11. Terms of First State Legislators – The first state legislators shall hold office for a term beginning with the day on which they assume office and ending at noon on the fourth Monday in January after the next general

election, except that senators elected for four-year terms shall serve an additional two years thereafter. If the first general election is held in an even-numbered year, it shall be deemed to be the general election for that year.

§ 12. Election Returns – The returns of the first general election shall be made, canvassed, and certified in the manner prescribed by law. The governor of the Territory shall certify the results to the President of the United States.

§ 13. Assumption of Office – When the President of the United States issues a proclamation announcing the results of the election, and the State has been admitted into the Union, the officers elected and qualified shall assume office.

§ 14. First Session of Legislature – The governor shall call a special session of the first state legislature within thirty days after the presidential proclamation unless a regular session of the legislature falls within that period. The special session shall not be limited as to duration.

§ 15. First Legislators: Office Holding – The provisions of Section 5 of Article II shall not prohibit any member of the first state legislature from holding any office or position created during his first term.

§ 16. First Judicial Council – The first members of the judicial council shall, notwithstanding Section 8 of Article IV, be appointed for terms as follows: three attorney members for one, three, and five years respectively, and three non-attorney members for two, four, and six years respectively. The six members so appointed shall, in accordance with Section 5 of Article IV, submit to the governor nominations to fill the initial vacancies on the superior court and the supreme court, including the office of chief justice. After the initial vacancies on the superior and supreme courts are filled, the chief justice shall assume his seat on the judicial council.

§ 17. Transfer of Court Jurisdiction – Until the courts provided for in Article IV are organized, the courts, their jurisdiction, and the judicial system shall remain as constituted on the date of admission unless otherwise provided by law. When the state courts are organized, new actions shall be commenced and filed therein, and all causes, other than those under the jurisdiction of the United States, pending in the courts

existing on the date of admission, shall be transferred to the proper state court as though commenced, filed, or lodged in those courts in the first instance, except as otherwise provided by law.

§ 18. Territorial Assets and Liabilities – The debts and liabilities of the Territory of Alaska shall be assumed and paid by the State, and debts owed to the Territory shall be collected by the State. Assets and records of the Territory shall become the property of the State.

§ 19. First Reapportionment– The first reapportionment of the house of representatives shall be made immediately following the official reporting of the1960 decennial census, or after the first regular legislative session if the session occurs thereafter, notwithstanding the provision as to time contained in Section 3 of Article VI. All other provisions of Article VI shall apply in the first reapportionment.

§ 20. State Capital – The capital of the State of Alaska shall be at Juneau.

§ 21. Seal– The seal of the Territory, substituting the word "State" for "Territory," shall be the seal of the State.

§ 22. Flag– The flag of the Territory shall be the flag of the State.

§ 23. Special Voting Provision–Citizens who legally voted in the general election of November 4, 1924, and who meet the residence requirements for voting, shall be entitled to vote not with-standing the provisions of Section 1 of Article V.

§ 24. Ordinances – Ordinance No. 1 on ratification of the constitution, Ordinance No. 2 on the Alaska-Tennessee Plan, and Ordinance No. 3on the abolition of fish traps, adopted by the Alaska Constitutional Convention and appended to this constitution, shall be submitted to the voters and if ratified shall become effective as provided in each ordinance. Editor's Note: All three ordinances were ratified on April 24, 1956 – See Appendix A

§ 25. Effective Date– This constitution shall take effect immediately upon the admission of Alaska into the Union as a state.

§ 26. Appropriations for Relocation of the Capital– If a majority of those voting on the question at the general election in 1982 approve the ballot proposition for the total cost to the State of providing for relocation of the capital, no additional voter approval of appropriations for that

purpose within the cost approved by the voters is required under the 1982 amendment limiting increases in appropriations (art. IX, sec. 16). [Amended 1982]

§ 27. Reconsideration of Amendment Limiting Increases in Appropriations–If the 1982 amendment limiting appropriation increases (art. IX, sec. 16) is adopted, the lieutenant governor shall cause the ballot title and proposition for the amendment to be placed on the ballot again at the general election in1986. If the majority of those voting on the proposition in 1986 rejects the amendment, it shall be repealed. [Amended 1982]

§ 28. Application of Amendment –The 1982 amendment limiting appropriation increases (art. IX, sec. 16)applies to appropriations made for fiscal year 1984 and thereafter. [Amended 1982]

§ 29. Applicability of Amendments Providing for Redistricting of the Legislature– The 1998 amendments relating to redistricting of the legislature (art. VI and art. XIV) apply only to plans for redistricting and proclamations of redistricting adopted on or after January1, 2001. [Amended 1998]

Constitutional Convention Delegates

Agreed upon by the delegates in Constitutional Convention assembled at the University of Alaska, this fifth day of February, in the year of our Lord one thousand nine hundred and fifty-six, and of the Independence of the United States the one hundred and eightieth.

Wm. A. Egan
President of the Convention

R. Rolland Armstrong

Dorothy J. Awes

Frank Barr

John C. Boswell

Seaborn J. Buckalew, Jr.

John B. Coghill

E. B. Collins

George D. Cooper

John M. Cross

Edward V. Davis

James P. Doogan

Truman C. Emberg

Helen Fischer

Victor Fischer

Douglas Gray

Thomas C. Harris

John S. Hellenthal

Mildred R. Hermann

Herb Hilscher

Jack Hinckel

James Hurley

Maurice T. Johnson

Yule F. Kilcher

Leonard H. King

William W. Knight

W. W. Laws

Eldor R. Lee

Maynard D. Londborg

Steve McCutcheon

George M. McLaughlin

Robert J. McNealy

John A. McNees

M. R. Marston

Irwin L. Metcalf

Leslie Nerland

James Nolan

Katherine D. Nordale

Frank Peratrovich

Chris Poulsen

Peter L. Reader

Burke Riley

Ralph J. Rivers

Victor C. Rivers

John H. Rosswog

B. D. Stewart

W. O. Smith

George Sundborg

Dora M. Sweeney

Warren A. Taylor

H. R. Vanderleest

M. J. Walsh

Barrie M. White

Ada B. Wien

ATTEST:
Thomas B. Stewart
Secretary of the Convention

Schedule of Amendments

Election Date	Subject of Amendment	Provisions Affected	Resolution Number	Votes For	Votes Against
8/23/66	Residency Requirement to Vote for President	Article V, Section 1	SJR 1 (1966)	36,667	12,383
8/27/68	Commission on Judicial Qualifications	Article IV, Section 10	HJR 74 (1968)	32,481	12,823
8/27/68	Compensation of Judicial Qualification Commission	Article IV, Section 13	HJR 74 (1968)	27,156	17,467
8/25/70	Establish Voting Age at 18 Years	Article V, Section 1	HJR 7 (1969)	36,590	31,216
8/25/70	Remove English Requirement for Voting	Article V, Section 1	HJR 51 (1970)	34,079	32,578
8/25/70	Secretary of State Designated Lieutenant Governor	Article III, Sections 7-11, 13-15; Article XI, Sections 2-6; Article XIII, Sections 1,3; Article XV, Section 9	SJR 2 (1970)	46,102	18,781
8/25/70	Chief Justice Elected by Supreme Court	Article IV, Section 2	HJR 11 (1970)	44,055	19,583
8/25/70	Term of Office for Judicial System Administrator	Article IV, Section 16	HJR 11 (1970)	43,462	18,651
8/22/72	Residency Requirement for Voting	Article V, Section 1	HJR 126(1972)	31,130	20,745
8/22/72	Prohibition of Sexual Discrimination	Article I, Section 3	HJR 102(1972)	43,281	10,278
8/22/72	Right of Privacy	Article I, Section 22	SJR 68 (1972)	45,539	7,303
8/22/72	Eliminate City Representation on Borough Assemblies	Article X, Section 4	SJR 52 (1972)	30,132	19,354
8/22/72	Authorize Limited Entry Fisheries	Article VIII, Section 15	SJR 10 (1971)	39,837	10,761
8/27/74	Voting on Constitutional Amendments at General Elections	Article XIII, Section 1	HJR 20 (1973)	56,017	20,403
11/02/76	Action on Veto of Bills	Article II, Sections 9 and 16	HJR 11 (1975)	71,829	39,980
11/02/76	Authorize Permanent Fund	Article IX, Sections 7 and 15	HJR 39 (1976)	75,588	38,518
11/02/76	Administration and Review of State Land Disposals	Article VIII, Section 10	SJR 45 (1976)	46,652	64,744
11/02/76	Direct Financial Aid to Students	Article VII, Section 1	HJR 73 (1976)	54,636	64,211
11/04/80	Legislative Annulment of Regulations	Article II, New Section	HJR 82 (1980)	58,808	82,010
11/04/80	Disqualification of Legislators	Article II, New Section	SJR 2 (1980)	47,054	99,705

Election Date	Subject of Amendment	Provisions Affected	Resolution Number	Votes For	Votes Against
11/04/80	Interim and Special Legislative Committees	Article II, Section 11	HJR 80 (1980)	41,868	102,270
11/04/80	Appointment and Confirmation of Members	Article III, Section 26	HJR 20 (1980)	56,316	90,506
11/02/82	Veterans' Housing Bond Authority	Article IX, Section 8	HJR 71 (1982)	111,460	69,497
11/02/82	Changes in Commission on Judicial Qualifications	Article IV, Section 10	HJR 32 (1981)	123,172	53,424
11/02/82	Limiting Appropriation Increases	Article IX, Section 16; Article XV, Sections 26-28	SJR 4 (1981)	110,669	71,531
11/06/84	Legislative Annulment of Administration Regulations	Article II, New Section	HJR 5 (1983)	91,171	98,855
11/06/84	Limit Length of Legislative Session	Article II, Section 8	HJR 2 (1983)	150,999	46,099
11/04/86	Legislative Annulment of Administrative Regulations	Article II, New Section	SJR 40 (1986)	65,176	94,299
11/08/88	Resident Hiring Preference	Article I, Section 23	HJR 18 (1988)	162,997	31,650
11/06/90	Budget Reserve Fund	Article IX, Section 17	SJR 5 (1990)	124,280	63,307
11/08/94	Individual Right to Keep and Bear Arms	Article I, Section 19	SJR 39 (1994)	153,300	57,636
11/08/94	Rights of Crime Victims	Article I, Sections 12, 24	HJR 43 (1994)	178,858	27,641
11/05/96	Voter Approval of Changes to Statehood Act	Article XII, Section 14	SJR 31 (1996)	157,936	71,082
11/03/98	Definition of Marriage	Article I, Section 25	SJR 42 (1998)	152,965	71,631
11/03/98	Redistricting	Article VI, Sections 1- 11; Article XI, Section 3; Article XIV, Sections 1-3; Article XV, Section 29	HJR 44 (1998)	110,768	101,686
11/07/00	Prohibition on Wildlife Initiative	Article XI, Section 7	HJR 56 (2000)	96,253	179,552
11/07/00	Amendment Provision; Prohibit Court Intervention	Article XIII, Section 1; New Section	SJR 27 (2000)	114,310	151,467
11/07/00	Confirmation of Board Appointees	Article III, Section 26; Article IX, Section 15	SJR 34 (2000)	72,419	194,975
11/02/04	Requirements for Initiative & Referendum	Article XI, Section 3	HJR 5 (2004)	149,236	139,642
11/02/10	Amendment to Increase the Number of Legislators and Districts		SJR 21 (2010)	99,490	147,744

Proposed Amendment failed

Appendix A ~ Ordinances

Appended to the constitution were three ordinances (Article XV, Section 24) which dealt with (1) ratification of the constitution; (2) adoption of the Alaska–Tennessee Plan; and (3) abolition of fish traps. The ratification ordinance simply placed the constitution on the ballot for ratification by the voters. The Alaska–Tennessee Plan provided for the immediate election of two senators and a representative who, although not official members of the Congress, could promote the cause of statehood in Washington, D.C. The ordinance prohibiting fish traps reflected widespread opposition in Alaska to fishing practices condoned by federal fishery managers, and it was designed to rally support for statehood and the constitution among the voters.

Ordinance No. 1 – Ratification of Constitution

Section 1. Election– The Constitution for the State of Alaska agreed upon by the delegates to the Alaska Constitutional Convention on February5 , 1956, shall be submitted to the voters of Alaska for ratification or rejection at the territorial primary election to beheld on April 24, 1956. The election shall be conducted according to existing laws regulating primary elections so far as applicable.

Section 2. Ballot– Each elector who offers to vote upon this constitution shall be given a ballot by the election judges which will be separate from the ballot on which candidates in the primary election are listed. Each of the propositions offered by the Alaska Constitutional Convention shall be set forth separately, but on the same ballot form. The first proposition shall be as follows:

"Shall the Constitution for the State of Alaska prepared and agreed upon by the Alaska Constitutional Convention be adopted?"

Yes [ ] No [ ]

Section 3. Canvass– The returns of this election shall be made to the governor of the Territory of Alaska, and shall be canvassed in substantially the manner provided by law for territorial elections.

Section 4. Acceptance and Approval–If a majority of the votes cast on the preposition favor the constitution, then the constitution, shall be deemed to be ratified by the people of Alaska to become effective as provided in the constitution.

Section 5. Submission of Constitution– Upon ratification of the constitution, the governor of the Territory shall forthwith transmit a certified copy of the constitution to the President of the United States for submission to the Congress, together with a statement of the votes cast for and against ratification.

Ordinance No. 2– Alaska-Tennessee Plan

Section1. Statement of Purpose– The election of senators and a representative to serve in the Congress of the United States being necessary and proper to prepare for the admission of Alaska as a state of the Union, the following sections are hereby ordained, pursuant to Chapter46, SLA 1955.

Section 2. Ballot– Each elector who offers to vote upon the ratification of the constitution may, upon the same ballot, vote on a second proposition, which shall be as follows:

"Shall Ordinance Number Two (Alaska-Tennessee Plan) of the Alaska Constitutional Convention, calling for the immediate election of two United States Senators and one United States Representative, be adopted?"

Yes [ ] No [ ]

Section 3. Approval – Upon ratification of the constitution by the people of Alaska and separate approval of this ordinance by a majority of all votes cast for and against it, the remainder of this ordinance shall become effective.

Section 4. Election of Senators and Representative – Two United States senators and one United State representative shall be chosen at the 1956 general election.

Section 5. Terms – One senator shall be chosen for the regular term expiring on January 3, 1963, and the other for an initial short term expiring on January 3, 1961, unless when they are seated the Senate prescribes other expiration dates. The representative shall be chosen for the regular term of two years expiring January 3, 1959.

Section 6. Qualifications – Candidates for senators and representative shall have the qualifications prescribed in the Constitution of the United States and shall be qualified voters of Alaska.

Section 7. Other Office Holding – Until the admission of Alaska as a state, the senators and representative may also hold or be nominated and elected to other offices of the United States or of the Territory of Alaska, provided that no person may receive compensation for more than one office.

Section 8. Election Procedure – Except as provided herein, the laws of the Territory governing elections to the office of Delegate to Congress shall, to the extent applicable, govern the election of the senators and representative. Territorial and other officials shall perform their duties with reference to this election accordingly.

Section 9. Independent Candidates – Persons not representing any political party may become independent candidates for the offices of senator or representative by filing applications in the manner provided in Section 38-5-10, ACLA 1949, insofar as applicable. Applications must be filed in the office of the director of finance of the Territory on or before June 30, 1956.

Section 10. Party Nominations – Party nominations for senators and representative shall, for this election only, be made by party conventions in the manner prescribed in Section 38-4-11, ACLA 1949, for filling a vacancy in a party nomination occurring after a primary election. The names of the candidates nominated shall be certified by the chairman and secretary of the central committee of each political party to the director of finance of the Territory on or before June 30, 1956. Ordinances 50

Section 11. Certification– The director of finance shall certify the names of all candidates for senators and representatives to the clerks of court by July15, 1956. The clerks of court shall cause the names to be printed on the official ballot for the general election. Independent candidates shall be identified as provided in Section 38-5-10, ACLA 1949. Candidates nominated at party conventions shall be identified with appropriate party designations as is provided by law for nominations at primary elections.

Section 12. Ballot Form; Who Elected– The ballot form shall group separately the candidates seeking the regular senate term, those seeking the short senate term, and candidates for representative. The candidate for each office receiving the largest number of votes cast for that office shall be elected.

Section 13. Duties and Emoluments– The duties and emoluments of the offices of senator and representative shall be as prescribed by law.

Section14. Convention Assistance–The president of the Alaska Constitutional Convention, or a person designated by him, may assist in carrying out the purposes of this ordinance. The unexpended and unobligated funds appropriated to the Alaska Constitutional Convention by Chapter 46, SLA 1955, may be used to defray expenses attributable to the referendum and the election required by this ordinance

Section15. Alternate Effective Dates–If the Congress of the United States seats the senators and representative elected pursuant to this ordinance and approves the constitution before the first election of state officers, then Section 25 of Article XV shall be void and shall be replaced by the following: **"The provisions of the constitution applicable to the first election of state officers shall take effect immediately upon the admission of Alaska into the Union as a state. The remainder of the constitution shall take effect when the elected governor takes office."**

Ordinance No. 3 – Abolition of Fish Traps

Section1. Ballot– Each elector who offers to vote upon the ratification of the constitution may, upon the same ballot, vote on a third proposition, which shall be as follows:

"Shall Ordinance Number Three of the Alaska Constitutional Convention, prohibiting the use of fish traps for the taking of salmon for commercial purposes in the coastal waters of the State, be adopted?"

Yes [ ] No [ ]

Section 2. Effect of Referendum– If the constitution shall be adopted by the electors and if a majority of all the votes cast for and against this ordinance favor its adoption, then the following shall become operative upon the effective date of the constitution: "As a matter of immediate public necessity, to relieve economic distress among individual fishermen and those dependent upon them for a livelihood, to conserve the rapidly dwindling supply of salmon in Alaska, to insure fair competition among those engaged in commercial fishing, and to make manifest the will of the people of Alaska, the use of fish traps for the taking of salmon for commercial purposes is hereby prohibited in all the coastal waters of the State."

STATEHOOD CELEBRATION

~ June 30, 1958 ~

Photo courtesy of Alaska State Library - Alaska Statehood - 8

Alaska's governor, Mike Stepovich, and congressional advocates for statehood were jubilant in the nation's capital on June 30, 1958 after Senate passage of the Alaskan statehood bill by a vote of 64-20. Celebrating Alaska's official statehood over a 49-star flag outside the Senate chamber after the bill's passage were (front row left to right): Ernest Gruening, former Alaska governor; Sen. Frank Church (D-Idaho); Sen.Thomas Kuchel (R-California); Gov. Stepovich; Sen. Henry Jackson (D-Washington), floor manager of the bill; Wally Hickel, GOP chairman for Alaska; Sen. Arthur Watkins (R-Utah); and Sen. Richard Neuberger (D-Oregon).

LAID-ON-THE-TABLE

MUNICIPALITY OF ANCHORAGE

Assembly Memorandum

No. AM 557- 2024 (A)

Meeting Date: July 19, 2024

From: **MAYOR**

Subject: Comments to the Governor from the Municipality of Anchorage, in response to stakeholder comments to the Eklutna Hydroelectric Project's Proposed Final Fish and Wildlife Program put forth on April 25, 2024.

Attached are the Mayor's **updated** comments for submittal to the Governor from the Municipality of Anchorage, the majority owner of the Eklutna Hydroelectric Project, in response to stakeholder comments to the Proposed Final Fish and Wildlife Program put forth on April 25, 2024. Pursuant to AMC 26.30.025B.2., as amended by AO 2024-28, these comments are put forth for approval by the Anchorage Assembly before the comment deadline on July 24, 2024.

Updates have been made to pp. 2-3 of the mayor's July 15 letter to the governor. The updated version, dated July 19, clarifies the Municipality's request to the governor to establish a final program that requires the owners to use two years of the three-year implementation period to identify an alternative infrastructure and engineering solution to ensure continuous water flow to all 12 miles of the Eklutna River.

THE ADMINISTRATION RECOMMENDS APPROVAL.

Prepared by:	Katie Scovic, Chief of Staff
Approved by:	Lance Wilber, Acting Municipal Manager
Concur:	Mark Corsentino, Anchorage Hydropower Director
Concur:	Eva Gardner, Municipal Attorney
Respectfully submitted:	Suzanne LaFrance, Mayor

Municipality of Anchorage
Mayor Suzanne LaFrance

July 19, 2024

The Honorable Mike Dunleavy
Governor of Alaska
Office of the Governor
P.O. Box 110001
Juneau, AK 99811

Governor Dunleavy:

I write to you on behalf of the Municipality of Anchorage (MOA), the majority owner of the Eklutna Hydroelectric Project. On April 25, 2024, Chugach Electric Association and Matanuska Electric Association, on behalf of the Eklutna Hydroelectric Project Owners, submitted to you a Proposed Final Fish and Wildlife Program.

Stakeholders subsequently provided comments on the proposed Program. This letter represents the MOA's formal response to the stakeholder comments received.

Under prior mayoral administrations, the MOA lost its right to vote on the Owners' Council and thus did not have the option to approve or disapprove the proposed Program; but my Administration is working to regain the MOA's vote, which reflects a majority ownership.[1]

The MOA has, by law, adopted an official position on Eklutna River restoration:

> It is the policy of the Municipality of Anchorage and the Anchorage Hydropower utility to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991 Fish and Wildlife Agreement.[2]

It is also a priority of my Administration to protect our local water supply and ensure a reliable energy future for Anchorage residents.

In this, the MOA is aligned with the Native Village of Eklutna (NVE). In its comments, NVE notes that it, like the MOA, "seek[s] a fair balance of energy production, drinking water protection, river conservation, public recreation, and cultural restoration."

Of note, the majority of comments submitted by stakeholders express doubt about whether the optimal "balance" between these interests would actually be achieved by the alternative advanced

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[1] As part of the 2018 sale of Municipal Light & Power to Chugach Electric, Inc., the Regulatory Commission of Alaska (RCA) required the Municipality to temporarily surrender its vote on all matters regarding the implementation of the 1991 Fish and Wildlife Agreement until the Municipality hired a qualified manager for the Anchorage Hydropower utility. The Anchorage Assembly currently has a challenge to the legality of the RCA's order pending in Alaska Superior Court (Case No. 3AN-24-06001CI), and, additionally, the Municipality has placed Mark Corsentino in that role and filed with the RCA to regain its vote (Notice and Request for Acknowledgement of Anchorage Hydropower's Acquisition of Expertise Required to Participate as a Voting Member of the Eklutna Operating Committee, submitted to the RCA on July 18, 2024).

[2] Anchorage Municipal Code 26.30.025A.

by the proposed Program.

The current Proposed Final Fish and Wildlife Program would not result in a "continuous water flow of the Eklutna River," or restoration of "fish populations...to Eklutna Lake."[3] The agencies that submitted stakeholder comments recognized that the proposed Program therefore "has limitations" [4] and "does not meet the goal of full ecosystem connectivity."[5] They expressed preferences for an alternative that would "re-water[] the river with staged implementation of meaningful mitigation measures to support restoration and resilience of salmon runs in the Eklutna River watershed,"[6] and "[return] flows to the river that provide wetland connectivity, both instream and off-channel spawning and rearing habitats, and the return of salmon runs and marine derived nutrients into the entire river, lake, and its tributaries."[7]

Alternatives that would preserve power production while also resulting in this majority-preferred "continuous water flow" were proposed. As a result of time pressures, at least one received only an "initial analysis."[8]

My Administration believes that all practical alternatives to the proposed Program should be fully developed. Some of these alternatives have already been identified. The best alternative may not yet be discovered.

It is incumbent upon us to take the time to convene the necessary stakeholders and seriously consider practical alternatives to the proposed Program—including those, as yet generally undeveloped, that could lead to better outcomes.

The 1991 Agreement gives you the authority to establish the final program, which could incorporate and include further process. The 1991 Agreement also states: "The Governor shall attempt to reconcile any differences between the parties."[9]

The Municipality respectfully requests that you consider its position and reconcile the Parties' differences by establishing a final program that requires the owners to use two years of the three-year pre-implementation period to identify an alternative infrastructure and engineering solution to ensure continuous water flow to all 12 miles of the Eklutna River. This will enable the owners to define and develop a practical alternative that will:

- Ensure continuous water flow to all 12 miles of the Eklutna River,
- Protect drinking water supply for Anchorage residents, and
- Further contribute to a reliable, affordable energy future for Southcentral Alaska.

In addition, the "limited reopeners" in the proposed final Program are unnecessary, as under the existing 1991 Agreement, the Owners can and should remain open on an ongoing basis to additional river restoration solutions as technology and conditions evolve. We propose you

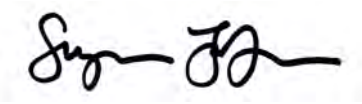
3 *Id.*
4 Comments of the National Oceanic and Atmospheric Association at (June 21, 2024) 2.
5 Comments of the United States Fish and Wildlife Service (June 24, 2024) at 1.
6 Comments of the NOAA at 2.
7 Comments of the FWS at 1.
8 *See* Chugach Electric Association, Letter to the Anchorage Assembly (May 23, 2024) at 9.
9 1991 Fish and Wildlife Agreement, Section 5

remove the limited reopeners from the final program to ensure clarity on this point.

Ultimately, the Proposed Final Program should reflect the will of Anchorage residents, who will bear significant financial, social, and environmental costs of the final restoration plan for the next several decades.

MOA welcomes the opportunity to collaborate with your administration and stakeholders to identify a productive path forward.

Respectfully,



Mayor Suzanne LaFrance

Municipal Clerk's Office
Amended and Approved
Date: December 19, 2023

Submitted by: Assembly Vice Chair Zaletel
Assembly Chair Constant
Assembly Member Johnson
Prepared by: Assembly Counsel's Office
For reading: December 5, 2023

ANCHORAGE, ALASKA
AO No. 2023-131, As Amended

AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE TO ADD NEW SECTION 26.30.025 TO ESTABLISH AN OFFICIAL POLICY FOR THE RESTORATION OF THE EKLUTNA RIVER, SUBJECT TO THE 1991 FISH AND WILDLIFE AGREEMENT WITH THE EKLUTNA POWER PURCHASERS, STATE OF ALASKA AND THE FEDERAL GOVERNMENT.

WHEREAS, the Native Village of Eklutna is the oldest and largest Dena'ina settlement in the Municipality of Anchorage; and

WHEREAS, the Native Village of Eklutna is a federally recognized Tribe with all of the attached responsibilities, powers, and obligations of a sovereign, also being recognized by the State of Alaska and the Municipality of Anchorage, and having a government to government relationship with both the federal government and the government of the Municipality of Anchorage; and

WHEREAS, the Eklutna River historically was a major subsistence and cultural resource for the Native Village of Eklutna; and

WHEREAS, the Eklutna River watershed has been in a badly degraded condition since 1929 due to hydropower dams and water diversions; and

WHEREAS, a principal impact from hydropower development in the Eklutna watershed is the loss of the Eklutna River's salmon runs; and

WHEREAS, the Eklutna River is still capable of supporting five species of salmon, including Cook Inlet king salmon and sockeye salmon, though in greatly diminished numbers from historical levels; and

WHEREAS, Eklutna Incorporated, the village corporation for Eklutna, is the largest landowner in the Municipality of Anchorage and owns most of the land along the Eklutna River and around Eklutna Lake; and

WHEREAS, the Native Village of Eklutna and Eklutna Inc. have made substantial contributions to the development of the Municipality of Anchorage providing land for school sites, highways, railroads, powerlines and rights-of-way; and

WHEREAS, The Native Village of Eklutna, Eklutna Inc., and The Conservation Fund collaborated on a $7.5 million project to dismantle the Lower Eklutna River dam; and

WHEREAS, little to no water flows out of Eklutna Lake into the Eklutna River because of water diversions for the Eklutna Hydroelectric Project; and

WHEREAS, restored instream flow is necessary to flush the accumulated sediments downstream and allow for the recovery of salmon habitat; and

WHEREAS, stabilized lake levels and fish passage for migrating salmon to and from Eklutna Lake would restore important spawning and rearing habitat for salmon; and

WHEREAS, the Municipality of Anchorage retains **an ownership interest (53%) [~~a majority interest (52%)~~]** in the Eklutna Hydroelectric Project **with Chugach Electric Association (CEA) and Matanuska Electric Association (MEA)**; and

WHEREAS, pursuant to RCA Order U-18-102 (44), the Municipality of Anchorage was required to and surrendered its voting rights on operation and management decisions on the Eklutna Operating Committee regarding the Eklutna Project and the 1991 Fish and Wildlife Agreement; and

WHEREAS, the Municipality of Anchorage, [**~~Chugach Electric Association (~~**]CEA**~~)~~]**, and **~~[Matanuska Electric Association (~~**]MEA**~~)~~]**, are parties to the 1991 Agreement with the State of Alaska and federal agencies to study the impacts of the Eklutna Hydroelectric Project to fish and wildlife, examine and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by such hydroelectric development (the "1991 Agreement"), and prepare a Fish and Wildlife Program for the Governor; and

WHEREAS, the RCA ordered that the voting right of the Municipality of Anchorage can be cured if an appropriate person is hired to run the Eklutna Hydropower and the RCA signs off on hire as adequate; and

WHEREAS, the restoration of instream flow to the Eklutna River and restored fish passage to and from Eklutna Lake are the most desirable forms of mitigation for impacts caused by the Eklutna Hydroelectric Project; and

WHEREAS, the Anchorage Assembly supported restoration of the Eklutna River with the passage of AR 2017-324(S) titled "A Resolution in Support of Efforts to Restore the Eklutna River"; and

WHEREAS, the Watershed and Natural Resources Advisory Commission of the Municipality of Anchorage supported restoration of the Eklutna River with the passage of Resolution WNRC 2019-03 titled "A Resolution Regarding Restoration of the Eklutna River"; and

WHEREAS, the Alaska Federation of Natives (AFN) supported restoration of the Eklutna River with passage of Resolution 20-17 "to restore traditional rivers and streams for fish and wildlife habitat…in particular, the efforts of tribes like the Native Village of Eklutna"; and

WHEREAS, the Traditional Tribal Council of the Native Village of Eklutna supported restoration of Eklutna River and Eklutna Lake with the passage of Resolution 2022-04 for "1) continuous flow in the river below the lake sufficient to support thriving salmon populations, with intermittent higher, habitat maintenance and re-creation flows, 2) salmon passage between Eklutna River and Lake, and 3) moderation of

Eklutna Lake level variability, at levels sufficient to facilitate sockeye spawning"; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code is amended to insert a new section 26.30.025 to read as follows (*requiring no legislative drafting*):

26.30.025 Eklutna River Restoration

A. It is the policy of the Municipality of Anchorage and the Anchorage Hydropower utility to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991 Fish & Wildlife Agreement.

B. Under the 1991 Agreement with the State of Alaska, federal agencies, and utility partners, the Municipality of Anchorage, through its Anchorage Hydropower utility and ownership share in the Eklutna Hydroelectric Project, bears responsibility to study and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the hydroelectric development.

1. The Anchorage Hydropower utility shall provide a report to each joint session of the Anchorage Assembly and the Native Village of Eklutna under section 2.30.135B. regarding the restoration of the Eklutna River and Lake and the municipality's performance of its obligations under the 1991 Agreement and the Final Fish and Wildlife Program.

2. The Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources in the Eklutna River shall be submitted to the Assembly with a proposed resolution in support for action, prior to its submission to the Governor of Alaska.

Section 2. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 19th day of December, 2023.

Christopher Constant
Chair

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 953-2023

Meeting Date: December 5, 2023

From: **Assembly Vice Chair Zaletel**

Subject: **AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE TO ADD NEW SECTION 26.30.025 TO ESTABLISH AN OFFICIAL POLICY FOR THE RESTORATION OF THE EKLUTNA RIVER, SUBJECT TO THE 1991 FISH AND WILDLIFE AGREEMENT WITH THE EKLUTNA POWER PURCHASERS, STATE OF ALASKA AND THE FEDERAL GOVERNMENT.**

The proposed ordinance creates a new section in the Anchorage Municipal Code governing the Eklutna Hydroelectric Project, specific to the alteration of the dam at Eklutna Lake and restoration of continuous water flow in Eklutna River. The intent of this ordinance is to involve the Native Village of Eklutna to the greatest extent possible in the reclamation of the Eklutna River and Lake and acknowledge the legitimate interests and voice of a people who were excluded under the 1991 Agreement. The Agreement has been attached to this AM as Exhibit A for the members' reference. Detailed information on the development of the Fish and Wildlife Program under the Agreement can be viewed at https://eklutnahydro.com/ .

The proposed new Code section would accomplish three things:

First, the ordinance would clearly establish the policy of the Municipality and the Anchorage Hydropower utility as one of the owners of the Eklutna Hydroelectric Project under the 1991 Agreement.

Second, the proposed language requires the regular reporting of the status of the reclamation project to both the Assembly and the Native Village of Eklutna.

Third, the code would require the Final Plan to be submitted to Assembly for review and potential action by a resolution of support or proposed revisions, prior to submitting to the Governor of Alaska, under the terms of Paragraph 5 of the 1991 Agreement.

There are no anticipated economic effects from adding the section to Code, so a SEE is not provided.

I request your support for the ordinance.

Reviewed by: Assembly Counsel's Office

Respectfully submitted: Meg Zaletel, Assembly Vice Chair
District 4, Midtown

August 7, 1991

Fish and Wildlife Agreement

Snettisham and Eklutna Projects

Municipality of Anchorage
d/b/a Anchorage Municipal Light and Power

Chugach Electric Association, Inc.

Matanuska Electric Association, Inc.

Alaska Energy Authority

United States Department of Commerce
National Marine Fisheries Service

United States Department of Interior
Fish and Wildlife Service

State of Alaska

AGREEMENT

AGREEMENT BETWEEN
THE MUNICIPALITY OF ANCHORAGE,
DBA ANCHORAGE MUNICIPAL LIGHT AND POWER,
CHUGACH ELECTRIC ASSOCIATION, INC.,
MATANUSKA ELECTRIC ASSOCIATION, INC.,
U.S. FISH AND WILDLIFE SERVICE,
NATIONAL MARINE FISHERIES SERVICE,
ALASKA ENERGY AUTHORITY,
AND THE
STATE OF ALASKA,
RELATIVE TO THE EKLUTNA AND SNETTISHAM
HYDROELECTRIC PROJECTS

This Agreement is entered into on August 7, 1991, between The Municipality of Anchorage, dba, Anchorage Municipal Light and Power, Chugach Electric Association, Inc., and Matanuska Electric Association, Inc. (hereinafter collectively "Eklutna Purchasers"), the United States Fish and Wildlife Service (hereinafter "USFWS"), the National Marine Fisheries Service (hereinafter "NMFS"), the Alaska Energy Authority (hereinafter "AEA") and the State of Alaska (hereinafter "the State"), regarding protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat) affected by hydroelectric development of the Eklutna and Snettisham Projects. With respect to the implementation provisions called for in this Agreement, the Eklutna Purchasers will be responsible for the consultation, study and implementation provisions applicable to the Eklutna Project and AEA shall be responsible for the consultation, study and implementation provisions applicable to the Snettisham Project.

WITNESSETH THAT:

WHEREAS, subject to the approval of Congress, the Eklutna and Snettisham Projects will be transferred from the Federal Alaska Power Administration to the Eklutna Purchasers and AEA (collectively, "the Purchasers") without the necessity of their having to obtain a Federal Energy Regulatory Commission (FERC) License for project operation; and

WHEREAS, the Eklutna and Snettisham hydroelectric developments may have resulted in a yet to be quantified impact to fish and wildlife resources; and

WHEREAS, concerns have been expressed that without FERC licensing, there is no opportunity to determine the extent of that fish and wildlife impact, develop measures to protect, mitigate

damages to, and enhance fish and wildlife (including related spawning grounds and habitat), and implement fish and wildlife measures found to be in the public interest.

NOW THEREFORE, the parties agree as follows:

1. **FERC Licensing.**

NMFS, USFWS and the State agree that the following mechanism to develop and implement measures to protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat) obviate the need for the Eklutna Purchasers and AEA to obtain FERC licenses.

2. **Study Plan.**

The Purchasers agree to fund studies to examine, and quantify if possible, the impacts to fish and wildlife from the Eklutna and Snettisham Projects. The studies will also examine and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by such hydroelectric development. This examination shall consider the impact of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use, as well as available means to mitigate these impacts.

3. **Carrying Out The Study Plan.**

Study Plans shall be developed by the Purchasers in consultation with the USFWS, NMFS, the Alaska Department of Fish and Game, the Alaska Department of Environmental Conservation and the Alaska Department of Natural Resources (the "State Resource Management Agencies"), or their successors to aid in the formulation of the Program called for in this Agreement. Prior to implementation, the parties to this Agreement shall review the plans and concur with their scope of work.

The Purchasers shall conduct the studies and prepare the evaluations called for in the plans, seeking input from the USFWS, NMFS, the State Resource Management Agencies and other interested parties as the studies progress. The USFWS, NMFS, and State Resource Management Agencies shall have an opportunity to comment on draft study reports, and their comments and a response to their comments shall be included in the final study reports. All study plans, data, reports and comments will be made available to the parties and, upon request, to the public.

4. Review of Findings.

After final study reports are prepared, the Purchasers shall prepare a draft Summary of Study Results and prepare a draft Fish and Wildlife Program. The draft Fish and Wildlife Program shall consist of the measures recommended by the Purchasers for the protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat) and set a tentative schedule for their implementation. The Purchasers shall provide copies of the draft Summary and draft Fish and Wildlife Program to the USFWS, NMFS, and State Resource Management Agencies for comments or recommendations. If USFWS, NMFS, or the State Resource Management Agencies' comments or recommendations differ from those of the Purchasers, the Purchasers will attempt to resolve such differences giving due weight to the recommendations, expertise, and statutory responsibilities of USFWS, NMFS, and the State Resource Management Agencies.

Once comments and recommendations have been received, the Purchasers shall hold at least one public meeting each in Anchorage and the Matanuska Valley (with respect to the Eklutna Project) and in Juneau (with respect to the Snettisham Project) to receive public comment on the draft Summary, the draft Fish and Wildlife Program, and the comments and recommendations of the USFWS, NMFS, and the State Resource Management Agencies. At least thirty days prior to the proposed public meetings, copies of the draft Fish and Wildlife Program, reports and recommendations will be distributed to representative public libraries in the Anchorage and Matanuska Valley areas (in the case of the Eklutna Project) and in the Juneau area (in the case of the Snettisham Project). Public notice will also be posted in at least two newspapers serving the Anchorage and Matanuska Valley areas (for Eklutna) and the Juneau area (for Snettisham). The public notice shall specify meeting places, times and dates; where studies, reports and recommendations may be obtained for review; and where written comments may be sent. The Purchasers will provide copies of the draft Summary, draft Fish and Wildlife Program, and the comments and recommendations of the USFWS, NMFS, and State to interested members of the public at no charge.

5. Public Interest Determination.

The Purchasers shall compile all comments and testimony received; prepare a summary and analysis of them; develop a Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources; and prepare an explanatory statement describing the basis for its Proposed Final Fish and Wildlife Program. All comments, testimony, summary, and analysis materials and the Proposed Final Fish and Wildlife Program shall be provided to the parties to this Agreement and to the Governor

of Alaska. The parties shall have 60 days to submit written comments on the proposed Fish and Wildlife Program, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources, to the Governor. The Purchasers shall have 30 days to submit written reply comments to the Governor.

The Governor shall review the Proposed Final Fish and Wildlife Program, the comments, testimony, summary and analysis materials, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources. The Governor shall attempt to reconcile any differences between the parties, giving due weight to the recommendations, expertise, and statutory responsibilities of USFWS, NMFS, the State Resource Management Agencies and the Purchasers. In order to ensure that Eklutna and Snettisham are best adapted for power generation and other beneficial public uses, the Governor shall give equal consideration to the purposes of efficient and economical power production, energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), the protection of recreation opportunities, municipal water supplies, the preservation of other aspects of environmental quality, other beneficial public uses, and requirements of State law. Based on his/her review and consideration, the Governor shall establish a final Fish and Wildlife Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources (including affected spawning grounds and habitat) affected by the Eklutna Project and the Snettisham Project.

6. Implementation.

The Purchasers shall implement the Fish and Wildlife Program established by the Governor, subject to their right to judicial review as provided in Section 9 hereof. However, the Purchasers will implement all provisions of the Program that do not require major capital expenditures pending judicial review, unless otherwise agreed among the Parties or unless a stay is granted by the Court.

7. Schedule.

The consultation process leading to the Programs shall be initiated no later than 25 years after the Transaction Date specified in the respective Eklutna and Snettisham Agreements. The Study Plans shall include a schedule for the consultation, comment, and decision making, called for in this Agreement, which shall be adopted by the parties in consultation with the Governor. The schedule shall call for implementation of all provisions of the Fish and Wildlife Program by the Eklutna Purchasers to begin no

later than 30 years after the Transaction Date, and to be completed no later than 35 years after the Transaction Date. The schedule shall call for implementation of all provisions of the Fish and Wildlife Program by AEA (Snettisham) to begin no later than 35 years after the Transaction Date, and to be completed no later than 40 years after the Transaction Date. The schedules shall call for the issuance of the Fish and Wildlife Program by the Governor at least three years prior to the commencement of the period for implementation.

The Purchasers shall repeat the process called for in Sections 2 through 6 of this Agreement on a recurring basis every 35 years, beginning within 25 years of the time implementation of the Fish and Wildlife Program has been completed for the prior consultation process. In addition, prior to undertaking any major structural or operational modification substantially affecting water usage or fish and wildlife at the projects, the Purchasers shall follow the process called for in Sections 2 through 6 of this Agreement. Compliance with the terms of the Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, entered into between the Alaska Power Administration and the Municipality of Anchorage on February 17, 1984, as amended by a Supplemental Agreement dated August 2, 1988, shall not be construed to be a major structural or operational modification. However, the Eklutna Purchasers will discuss major structural or operational changes from current operations with NMFS and USFWS and will consider any recommendations they have for fisheries mitigation related to such changes.

8. **Dam Construction, Modification, Removal or Abandonment.**

The Purchasers agree to comply with 11 AAC 93.151-.201 with respect to safety inspections, new construction or modifications to existing structures, removal and/or abandonment of all or part of the project.

9. **Enforcement of Fish and Wildlife Program and Agreement.**

The provisions of this Agreement, including the decisions of the Governor and the provisions of the Fish and Wildlife Program, shall be reviewable and enforceable in the United States District Court for the District of Alaska and the Court may order specific performance thereof.

At least thirty days prior to seeking review or enforcement in the United States District Court for the District of Alaska, a party shall send written notice of its concerns to all parties and hold a meeting to attempt informal resolution of its concerns. During the period of informal resolution, any statute of limitations shall toll.

10. Authority of Parties.

Each party to this Agreement warrants that it has the legal authority to sign this Agreement and be fully bound by its terms, subject to any administrative or regulatory approval, if required. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns.

11. Term of Agreement.

This Agreement shall be effective, as to each project, upon the Transaction Date specified in the respective Purchase Agreement and shall remain in full force and effect so long as that project remains in operation. The Agreement shall terminate, as to either project, if that Project becomes subject to the provisions of the Federal Power Act.

12. Severability.

If any section, paragraph, clause or provision of this Agreement or any agreement referred to in this Agreement shall be finally adjudicated by a court of competent jurisdiction or administrative agency to be invalid or unenforceable as to either project, the Agreement shall nonetheless remain in full force and effect as to the other project.

13. Cooperation With Studies.

The Parties agree that they will cooperate with one another in conducting studies pertaining to fish and wildlife other than those called for in this Agreement by:

a. Notifying and consulting with the other parties before beginning a new fish and wildlife study,

b. Providing each other with data on flows, fish populations, and other data already in their possession,

c. Having the option of funding fish and wildlife studies before the process called for in Sections 2 and 3 of this Agreement would otherwise require, whether such studies are conducted by the parties themselves, or by third parties.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

MUNICIPALITY OF ANCHORAGE, DBA ANCHORAGE MUNICIPAL LIGHT & POWER

By: _____ 7/30/91
Tom Fink, Mayor — Date

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____ 7/30/91
Thomas D. Humphrey, President — Date

MATANUSKA ELECTRIC ASSOCIATION, INC.

By: _____ 7/29/91
Jess Lee, President — Date

ALASKA ENERGY AUTHORITY

By: _____ 8-1-91
Charles Bussell, Executive Director — Date

U.S. DEPARTMENT OF COMMERCE, NATIONAL MARINE FISHERIES SERVICE

By: _____ JUL 12 1991
John A. Knauss, Under Secretary of Commerce for Oceans and Atmopshere — Date

U.S. DEPARTMENT OF INTERIOR, FISH AND WILDLIFE SERVICE

By: _____ 7/19/91
S. Scott Sewell, Principal Deputy Assistant Secretary for Fish and Wildlife and Parks — Date

STATE OF ALASKA

By: _____ 8/7/91
Walter Hickel, Governor — Date

Municipal Clerk's Office
Amended and Approved
Date: March 27, 2024
Mayoral Veto Given
Date: April 3, 2024
Mayoral Veto Overridden
Date: April 9, 2024

Submitted by: Assembly Chair Constant
Assembly Vice Chair Zaletel
Prepared by: Assembly Counsel's Office
For reading: March 19, 2024

ANCHORAGE, ALASKA
AO No. 2024-28, As Amended

AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 3.20.070, 25.20.020, 25.30.020, 26.30.025, AND INSERTING A NEW SECTION 26.40.090 TO REQUIRE ASSEMBLY APPROVAL OF ACTIONS TO ACQUIRE OR DISPOSE OF PROPERTY RIGHTS TO WATER, MINERAL, WIND OR SOLAR RESOURCES, AND OF THE FISH AND WILDLIFE PROGRAM FOR THE EKLUTNA HYDROPOWER PROJECT AND RESTORATION OF CONTINUOUS WATER FLOWS TO THE EKLUNTA RIVER.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 3.20.070 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out)*:

3.20.070 Executive branch organization.

*** *** ***

C. Office of the municipal manager. Within the office of the municipal manager and reporting to the municipal manager or designee are: the office of equal opportunity, the office of emergency management; risk management; health and safety; transportation inspection; culture, entertainment, and arts venues (including the Egan Center, the Dena'ina Civic and Convention Center, the Anchorage Museum at Rasmuson Center, the Anchorage Golf Course, the Sullivan Sports Arena, the Alaska Center for the Performing Arts, and the Boeke and Dempsey Ice Arenas); and the following departments:

*** *** ***

3. Anchorage Water and Wastewater Utility. The Water and Wastewater Utility is responsible for providing water and sanitary sewage services. The utility is also responsible for billing and collecting special assessments.

a. The municipal manager shall have operational oversight of the utility; and

b. The mayor shall be responsible for **operational** policy decisions of the utility, subject to the limitations of subsection c.

c. Pursuant to section 26.30.025, the assembly shall be responsible for all **other** policy decisions **, including those** related to the municipality's performance under the 1991 Fish and Wildlife agreement regarding the Eklutna hydroelectric project.

*** *** ***

6. Anchorage Hydropower Utility. The Anchorage Hydropower Utility is responsible for supplying wholesale electric service to utilities in southcentral Alaska.

   a. The municipal manager shall have operational oversight of the utility; and

   b. The mayor shall be responsible for **operational** policy decisions of the utility, subject to the limitations of subsection c.

   c. Pursuant to section 26.30.025, the assembly shall be responsible for all **other** policy decisions **, including those** related to the municipality's performance under the 1991 Fish and Wildlife agreement regarding the Eklutna hydroelectric project.

*** *** ***

(AO No. 21-76; AO No. 59-76; AO No. 283-76; AO No. 77-359; AO No. 78-82; AO No. 78-113; AO No. 78-121; AO No. 79-27; AO No. 80-5; AO No. 82-49; AO No. 83-159; AO No. 85-8; AO No. 86-204; AO No. 88-47(S); AO No. 88-82; AO No. 89-10; AO No. 89-18; AO No. 89-39; AO No. 90-15(S); AO No. 91-173(S); AO No. 92-79; AO No. 92-148; AO No. 94-135(S), § 8, 7-12-94; AO No. 95-141, § 1, 7-11-95; AO No. 96-47, § 2, 3-5-96; AO No. 98-115(S), § 3, 7-1-98; AO No. 2003-109, § 6, 9-9-03; AO No. 2004-132, § 2, 10-12-04; AO No. 2004-136, § 2, 12-7-04; AO No. 2005-142, § 2, 10-25-05; AO No. 2008-90(S), § 2, 1-1-09; AO No. 2009-21, § 2, 2-24-09; AO No. 2009-101, § 6, 8-25-09; AO No. 2010-64, § 2, 9-28-10; AO No. 2010-93, § 2, 1-11-11; AO No. 2011-40, § 1, 3-29-11; AO No. 2011-25, § 2, 5-24-11; AO No. 2012-106, § 3, 11-13-12; AO No. 2013-34, § 3, 2-26-13; AO No. 2015-112(S), § 5, 1-1-16 ; AO No. 2017-122(S) , § 4, 10-24-17; AO No. 2018-24 , § 3, 4-10-18; AO No. 2018-108(S) , § 3, 12-31-18; AO No. 2018-118 , § 2, 1-1-19; AO No. 2019-42 , § 2, 4-23-19; AO No. 2019-133 , § 1, 11-5-19; AO No. 2020-23 , § 2, 3-10-20; AO No. 2020-24 , § 1, 3-10-20; AO No. 2020-79(S) , § 2, 8-26-20; AO No. 2020-109 , § 2, 10-13-20; AO No. 2020-121 , § 2, 1-1-21; AO No. 2021-113(S) , § 3, 11-10-21; AO No. 2021-114 , § 2, 1-31-22; AO No. 2022-40(S) , § 3, 3-22-22; AO No. 2023-38(S) , § 2, 4-18-23; AO No. 2023-61(S) , § 1, 5-23-23)

Section 2. Anchorage Municipal Code section 25.30.020 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out)*:

25.20.020 - Approval by assembly.

In addition to any other assembly action that may be required by law with regard to real property acquisition by the municipality, the following shall be subject to assembly approval:

A. Acquisitions of, or substantive change to the terms governing ownership, control, or access to, real property including an interest in mineral, wind, solar or water rights, except:

*** *** ***

(AO No. 79-170; AO No. 84-61(S))

Section 3. Anchorage Municipal Code section 25.30.020 is hereby amended to read as follows *(the remainder of the section is not affected and therefore not set out)*:

25.30.020 Disposal by ordinance.

A. Except as required or provided otherwise by law, the municipality may dispose of municipal land or any interest therein only by ordinance.

B. For purposes of this section, an interest in municipal land means any estate in real property or improvements thereon, including an interest in mineral, wind, solar, or water rights, but excluding the following if found by the assembly to be without substantial value to the municipality:

1. Revocable permits;

2. Revocable Licenses;

3. Rights-of-way; or

4. Easements.

*** *** ***

(AO No. 79-170; AO No. 80-48(S); AO No. 2007-102, § 1, 8-14-07; AO No. 2015-47, § 2, 5-14-15 , AO No. 2023-107, § 1, 10-10-2023)

Section 4. Anchorage Municipal Code section 26.30.025 is hereby amended to read as follows:

26.30.025 Eklutna River Restoration

A. It is the policy of the Municipality of Anchorage and the Anchorage Hydropower utility to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991 Fish & Wildlife Agreement.

B. Under the 1991 Agreement with the State of Alaska, federal agencies, and utility partners, the Municipality of Anchorage, through its Anchorage Hydropower utility and ownership share in the Eklutna Hydroelectric Project, bears responsibility to study and develop proposals for the protection, mitigation, and enhancement of fish and

wildlife affected by the hydroelectric development.

1. The Anchorage Hydropower utility shall provide a report to each joint session of the Anchorage Assembly and the Native Village of Eklutna under section 2.30.135B. regarding the restoration of the Eklutna River and Lake and the municipality's performance of its obligations under the 1991 Agreement and the Final Fish and Wildlife Program.

2. The Proposed Final Fish and Wildlife Program to protect, mitigate, and enhance fish and wildlife resources in the Eklutna River shall be subject to assembly approval [SUBMITTED TO THE ASSEMBLY WITH A PROPOSED RESOLUTION IN SUPPORT FOR ACTION], prior to its submission to the Governor of Alaska.

(AO No. 2023-131 § 1, 12-5-23)

Section 5. Anchorage Municipal Code is amended to insert a new section 26.40.090 to read as follows (requiring no legislative drafting):

26.40.090 Water rights.

The utility may enter agreements for water and water rights for use by or within the municipality, subject to approval by the assembly.

Section 6. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 27th day of March, 2024.

Christopher Constant
Chair

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM

No. AM 280-2024

Meeting Date: March 27, 2024

From: **Assembly Chair Constant**

Subject: **AO 2024-28 – AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 3.20.070, 25.20.020, 25.30.020, 26.30.025, AND INSERTING A NEW SECTION 26.40.090 TO REQUIRE ASSEMBLY APPROVAL OF ACTIONS TO ACQUIRE OR DISPOSE OF PROPERTY RIGHTS TO WATER, MINERAL, WIND OR SOLAR RESOURCES, AND OF THE FISH AND WILDLIFE PROGRAM FOR THE EKLUTNA HYDROPOWER PROJECT AND RESTORATION OF CONTINUOUS WATER FLOWS TO THE EKLUNTA RIVER.**

The proposed Ordinance is submitted in response to the apparent effort by the Eklutna Owners group to incur financial obligations and dispose of Municipal resources and assets without the approval of or any formal consultation with the Assembly. That is in derogation to the Assembly's legislative powers; it has sole authority to obligate Municipal revenues through its appropriations power, and dispositions of Municipal property, which is apparent in the proposed Draft Fish and Wildlife Plan under the 1991 Agreement, requires Assembly approval. The proposed Ordinance clarifies incurring and obligating the Municipality in these circumstances where the proposed Final Fish and Wildlife Plan will become effective upon approval by the Governor, requires Assembly prior approval.

Section 1. The Proposed AO corrects an oversight in the language of AMC 3.20.070 which had apparently delegated broad policy-making decisions for utilities to the Mayor. This language is an improper delegation of the Assembly's authority as the legislative policy-making branch of the municipal government and directly conflicts with the language of AMC section 26.30.025 as codified in AO 2023-131. The changes proposed in this section will clarify that except for operational policies, the policy making authorities, such as budgetary, financial, construction, and other policy considerations reside with the Assembly and thereby resolves the conflict in the Code.

Sections 2 & 3. These proposed changes clarify the Assembly's approval authority over any agreements acquiring or disposing of any interest in real property, including water rights. Specifically, these changes are meant to address a perceived gap in the Code where creative legal instruments have previously been used to grant private parties exclusive use of Municipal property. These proposed amendments make plain that the Assembly's approval must be obtained for the Municipality to grant, dispose, or alter any parties' right to acquire, dispose of, control or access public property, including wind, solar, mineral and water rights.

Section 4. This proposed change inserts a new requirement for the Assembly to approve the final Fish and Wildlife program proposed under the 1991 Eklutna Dam agreement, prior to submission the Governor. This change has proven necessary, as the Eklutna Owners have made clear their intention to alter the Municipality's access to drinking water and obligate the Municipality to fund the final program inside the tax cap. These decisions have been made ignoring meaningful input from and policy guidance passed and approved by the Assembly over the past seven years and often in direct conflict to the guidance provided time and time again.

Section 5. Finally, Section 5 inserts a new section of code that requires AWWU submit any agreement for water rights to the Assembly for approval.

I request your support for the ordinance.

Prepared by: Assembly Counsel's Office

Respectfully submitted: Christopher Constant, Assembly Chair
District 1- Northern Anchorage

MUNICIPALITY OF ANCHORAGE
MAYOR DAVE BRONSON

OFFICE OF THE MAYOR

RECEIVED
OFFICE OF
APR 03 2024
MUNICIPAL CLERK

Date: April 3, 2024

To: Anchorage Assembly

From: Mayor Dave Bronson

Subject: Veto of Ordinance No. AO 2024-28 (As Amended)

Today, in accordance with Section 2.30.100 of the Anchorage Municipal Code (AMC) and Section 5.02 of the Municipal Charter, I am issuing a veto for AO 2024-28 (As Amended), which was approved during the Assembly's special meeting of March 27, 2024.

History is instructive here. Seven years ago, the Assembly passed a resolution supporting the restoration of the hydrology and fisheries of the Eklutna River "subject to all provisions of the Fish and Wildlife agreement of August 7, 1991." (AR 2017-324(S)). While the Assembly at that time appropriately urged support from the utilities to restore hydrology and fisheries of the Eklutna River, the Assembly never presumed the power to second guess the operational decisions of the utilities themselves. (Anchorage Assembly, Regular Meeting of October 24, 2017 (51:30 - 58:38)).

Under Charter Section 16.01, municipal utilities are required to be operated as utilities, not as political tools. Municipal utilities combine subject-matter expertise and decision-making that is in the best interest of the Municipality and its citizens. In the past six months, however, the Assembly has shifted its stance to one of imposing operational control over the proposed Eklutna Fish and Wildlife Program to achieve a political purpose. This shift has resulted in legislation that pits politicians against subject matter experts, both inside and outside of the of the Municipality (AR 2024-75 (as amended)). This imposition by the Assembly has created tension between the utilities, affected departments, and executive staff charged with making operational decisions in the best interests of the Municipality. The ordinance I am vetoing today, AO 2024-28 (as amended), removes the policymaking power of the mayor as it was historically established in code for utilities – AWWU and the Anchorage Hydropower Utility.

There is no need to change Title 3 of the Anchorage Municipal Code to shift policymaking from one government branch to the other. As was stated at the March 27, 2024 meeting (32:05 – 32:30), and has been repeated numerous times before, serious concerns arise when powers are shifted between branches. Previous mayors signed documents on behalf of the Municipality relating to Eklutna Lake. Those actions were valid and binding upon the Municipality as a whole. The Municipality of Anchorage Charter grants executive and administrative power to the mayor. Assembly action that purports to strip executive and

administrative power from the mayor or municipal manager and grant that same power to itself raises the question of a charter violation.

The executive branch has held the power to make policy and execute agreements when the original agreements were signed in 1984 and 1991 and continues to hold this power today. Should the Assembly wish to disapprove executive branch actions, there are ways to accomplish its goals without dismantling the structure of our home rule municipal government as defined by the Anchorage Municipal Charter.

For the above reasons, I hereby veto AO 2024-28 (As Amended).

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 350-2024

Meeting Date: A p r i l 9 , 2024

From: **Assembly Chair Constant and Vice Chair Zaletel**

Subject: **Response to Mayoral vetoes of AR 2024-103 and AO 2024-28, As Amended.**

We request the Assembly override the Mayoral vetoes of AR 2024-103, dated April 2, 2024 and AO 2024-28, As Amended, dated April 3, 2024. Both vetoes are either woefully uniformed, or deliberately misleading. For the sake of clarity this memo addresses each veto in turn:

AR 2024-103

In the veto message of AR 2024-103, Mayor Dave Bronson states that "[b]ecause the Assembly is part of the Municipality of Anchorage, we have no objection to Assembly members making their own copies of the confidential term sheet and of the confidential Common Interest Agreement."[1] This statement is remarkable, not only for its sound logic, but particularly because it is the first time **any** member of the Administration has expressed this view to members of the Assembly, and it came in the form of a Mayoral veto.

On January 23, 2024, the Assembly learned of the existence of a "binding term sheet" between the Eklutna Owners and AWWU. It is notable that neither the Administration, nor the Department of Law saw fit to inform the Assembly of the existence of this document, but rather the Assembly Leadership was forced to send the Municipal Attorney a request asking to inspect it. The following day, the Municipal Attorney confirmed the existence of a document titled as a binding term sheet, but refused to allow us to see it, asserting that its terms and conditions were "confidential." This assertion of confidentiality notably lacked reference or citation to any legal authority, merely that, whatever its basis for a claim of confidentiality, the Municipal Attorney did not consider the Assembly to have the appropriate standing to see this document upon request.

Further, when Assembly Leadership agreed to take up this agreement in executive session on February 2, 2024, the Administration only provided a copy of the binding term sheet after receiving the consent of the other Eklutna Owners. When the Assembly requested to see correspondence between the Municipal Attorney and the Eklutna Owners, this was also refused as being "confidential." And finally, on April 4th when the Chair recently attempted to review the term sheet with the Assembly's attorneys, as the Mayor's veto clearly stated he would be able to, he was denied the opportunity to either retain a copy or even review and discuss it

[1] Veto of AR 2024-103.

without a municipal attorney present until the Eklutna Owners approved the language of a confidentiality agreement she intended to have both the Chair and the Attorneys sign. In this extraordinary change in Municipal policy, the Municipal Attorney didn't bother to apprise the Assembly Chair of her unilateral decision to restrict his ability to confer with counsel. Until the language of the confidentiality agreement was approved, the Chair and the Assembly's attorneys would only be allowed to view the document with a member of the Department of Law physically present in the room.

Despite the repeated affirmations of the Municipal Attorney that their office works for the Municipality of Anchorage and that its job is to advise both branches of the Municipal Government, the Assembly has been consistently treated as a third party, if not a party opponent, to the Eklutna Owners, and has been denied meaningful access to these documents.

AO 2024-28, As Amended.

The Mayor's veto quite condescendingly states that "[h]istory is instructive here"[2]. Ironically, we cannot agree more.

As the legislative branch of the Municipal Government, it is inherently the Assembly's role to articulate and codify the policy of the Municipal Government.[3]

The Administration's assertion that "[t]he executive branch held the power to make policy and executive agreements when the original agreements were signed in 1984 and 1991"[4] strikes us as statement that could be best described as grossly inaccurate.

The Mayor describes previous mayors as having "signed documents on behalf of the Municipality relating to Eklutna Lake. Those actions were valid and binding upon the Municipality as a whole."[5] However, the historical record of the Eklutna Project reflects substantial involvement by the Assembly and the public in those agreements.

In 1987, Mayor Tony Knowles presented the prospect of purchasing the Eklutna Hydropower Project and requested both public hearings and the Assembly's endorsement to even begin the negotiations for its purchase.[6] In 1989, Mayor Tom Fink presented the purchase agreement to the Assembly and requested authority from them to sign on behalf of the Municipality,[7] and again in 1991, requesting the Assembly's approval of the final amendment to the agreement.[8] The actions of these previous mayors were "valid and binding" not because there were the inherent prerogative of the executive, but rather, because they were done openly, with the

[2] Veto of AO 2024-28 (As Amended), pg 1.
[3] *See* https://mrsc.org/stay-informed/mrsc-insight/february-2021/separation-of-powers-in-local-government.)
[4] Veto *supra* note 2
[5] *Id.*
[6] *See* AR 1987-41(S-1), as Amended.
[7] See AM 674-1989.
[8] *See* AM 716-1991.

advice, consultation, and **consent** of the Assembly.

History is instructive indeed.

By way of comparison, should we examine the actions of this administration? Not just with regard to Eklutna Lake, but his management of public utilities and public finances as a whole?

It is this Mayor who disregarded the requirements of code and unilaterally discontinued the fluoridation of the Municipality's water supply in violation of AMC 26.40.050.[9]

It is this Mayor who ignored the Assembly's authority to over contracts under AMC and illegally executed a multi-million dollar contract on a tent purportedly intended to shelter human beings but lacking any approved and verifiable engineering data pertaining to its capacity to hold snow load or withstand wind as required by Title 23 of the Municipal Code.[10]

It is this Mayor who ignored the State Legislative Program, duly enacted by the Assembly under AMC 2.10.075 and its published advocacy pamphlet, and instead printed a separate program and advocated his own personal policies to the State Legislature, undermining his own government, betraying the people of Anchorage, and violating subsection 2.10.075B.[11]

This Mayor clandestinely negotiated and is presently attempting to bind the Municipality to a series of agreements implicating tens of millions of taxpayers' and ratepayers' funds and access to drinking water for decades in direct contradiction of policies duly established and codified by the Assembly. Moreover, the Mayor's actions were done without clearly informing the public of the substance and effect of the unauthorized agreements he is attempting to make.

Nevertheless, with this historical context, this Mayor still has the temerity to assert that it is the action of the Assembly which "raises the question of a charter violation."[12]

History is instructive here, but not nearly so instructive as the law. We strongly encourage the Administration to apprise itself of both before implying that we have strayed from our sworn duties under the Charter. That the code had previously

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[9] *See* Michael Levenson, *Anchorage Mayor Briefly Shut Off Fluoride in City's Water System*, N.Y. TIMES, Dec. 16, 2021 available at https://www.nytimes.com/2021/12/16/us/anchorage-mayor-dave-bronson-fluoride-water.html.

[10] *See* Emily Goodykoontz, *Bronson Administration Approved $4.9 Million for Construction for East Anchorage Homeless Shelter Without Required Assembly Approval*, ANCHORAGE DAILY NEWS, Oct. 13, 2022 available at https://www.adn.com/alaska-news/anchorage/2022/10/13/bronson-administration-green-lit-49-million-in-construction-for-east-anchorage-homeless-shelter-without-assembly-approval/

[11] *See* Yallow Silvers, *Anchorage Mayor 'Bonson' Goes Rogue in Juneau*, THE ALASKA CURRENT, Jan. 26, 2024 available at https://thealaskacurrent.com/2024/01/26/anchorage-mayor-bonson-goes-rogue-in-juneau/

[12] Veto supra note 2, pg.2

delegated certain policy-making powers to the executive branch, does not, should not, and cannot be presumed to create an insurmountable impediment to returning such power to the policy-making branch: the legislative. This is particularly important now, when that power has been so grossly abused by an Administration so seemingly incapable of performing the most basic of functions of government without violating the law.

Regardless of the characterizations implied by the Mayor's vetoes, the actions of this body do not constitute an expansion of the Assembly's power or an impermissible intrusion into the authority of the executive. Rather, these are the measured and reasonable actions of a body attempting to secure information to which it is already entitled, to exercise legislative powers it has not had to exercise in the past, and to implement policies inherently within its authority.

We request your support for overriding the veto of both the ordinance and resolution.

Prepared by:	Assembly Chair Constant
Reviewed by:	Assembly Counsel's Office
Respectfully submitted:	Christopher Constant, Assembly Chair District 1, North Anchorage
	Meg Zaletel, Assembly Vice Chair District 4, Midtown

RCA Modeling and Analysis

Background

As explained in the body of this order, to assess North and South District ratepayer savings from the acquisition we need to properly calculate and allocate the expected benefits. These benefits, such as they are, matter to rates in their totality; attention to base rates alone is insufficient.

We rely heavily upon the Strunk Model. For the vast majority of data inputs and calculations we simply adopt the Witness Strunk's data projections work. However, a number of structural modifications needed to be made. This Appendix details those modifications. We detail and explain the structural modifications to the Strunk Model that were made, consistent with our reasoned analysis of the record and our findings.

Our acquisition adjustment analysis requires an assessment of comparative ratepayer benefits both with and without the transaction. A comparison of savings requires – were the transaction to not close – a reasonable determination of the total costs that ML&P ratepayers and that Chugach ratepayers might expect to pay in rates. Such costs can then be compared with the total utility costs that, respectively, the post-acquisition rates North and South District ratepayers would each pay.

We make various additions and modifications to Witness Strunk's approach. We modify the timing of various events in the Strunk Model. To reflect the date of this order, and the subsequent period before closing can occur, we shift initiation of modeled combined COPA revenue requirements to the beginning of 2021 (rather than 2020). The initiation of PILT payments, BRU North District ratepayer rebates, and regulatory assets were similarly shifted, consistent with our findings in the order. Finally, we shift the start of modeled combined base rates to the beginning of 2024, consistent with our finding that Chugach must file a general rate case no later than 12/31/2023.

The analysis requires calculation of several revenue requirement model modules and sub-modules. For the reader's reference and orientation we outline the Strunk Model modules that were subject to modification, as well as module additions:

A) Total ML&P revenue requirement to be paid on a stand-alone basis
    a. Base rate revenue requirement
        i. MUSA payments
        ii. Weighted Average Cost of Capital (WACC)
    b. COPA revenue requirement
        i. BRU Cost of Service
        ii. Economy Energy Contra-Cost

B) Total Chugach revenue requirement to be paid on a stand-alone basis:
    a. Base rate revenue requirement
    b. COPA revenue requirement
        i. BRU Cost of Service

C) Total revenue requirement costs allocated to North and South District Ratepayers:
    a. Total base rate revenue requirement
        i. Adjusting Chugach TIER from 1.35 to 1.55
        ii. PILT Agreement payments
    b. Total COPA revenue requirement
        i. BRU Cost of Service
        ii. Economy Energy Revenue Credit
    c. Joint Dispatch Savings
    d. Rebate credit/surcharge of ML&P ratepayer contributed capital in the BRU
    e. Allocation of costs and credits to North and South District Ratepayers

Description of the model modifications and additions follows, below.

A) ML&P Stand Alone Revenue Requirement (Schedule J)

The calculations for total ML&P Revenue Requirement are shown in Schedule J. Inputs into that schedule – Base Rate revenue requirement, COPA revenue requirement, and economy energy sales – are discussed below.

ML&P Base Rate Revenue Requirement

The base rate revenue requirement is modeled using the projected base revenue requirement from the Strunk Model,[1] after correcting for one improper parameter input and modifications to the Strunk Model's MUSA calculation, as discussed below.

[1]*Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, Sheet "Rev Req" row 14, after adjustments with updated MUSA and ML&P's cost of capital.

ML&P Cost of Capital (Schedule I)

The Strunk Model holds ML&P's weighted average cost of capital (WACC) at 6.75% for the duration of the analysis.[2] As discussed in the Order's body, this implies that $217 million of ML&P debt associated with Plant 2A, currently being floated using a short-term credit facility, would be financed on a long term basis at over 5% were the Chugach acquisition to not proceed. There is no reason to think that ML&P, with a thicker equity position and with the ability to issue tax exempt debt, would be forced to finance this debt on terms materially worse than would Chugach. However, there is no basis in the record to support any particular discount to the assumed cost of debt associated with Chugach's financing of the acquisition. Accordingly, we assume that ML&P's cost of refinancing Plant 2A debt is the same as Chugach's. This lower cost of debt is used to calculate a revised WACC and replaces the Strunk Model input.

We assume that the roughly $217 million in new bonds would be financed at the same cost of debt as would apply to Chugach's financing of the transaction (assumed by Witness Strunk to be 4.10%). Consistent with our last adjudicated rate case, we retain the interest rate of 3.93% as the embedded cost of debt for the roughly $300 million remainder on ML&P's balance sheet.[3] ML&P's capital structure, as assessed by the Strunk model in 2019,[4] and the previously adjudicated ROE,[5] result in WACC of 6.59 percent. This is 0.16% lower than in the Strunk Model. The calculation detail is shown in Schedule I. The results from Schedule I replace Row 9, "Rate of Return", of the

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[2]*See Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, Sheet "Rev Req", row 52 at columns G though T.

[3]TA357-121, filed December 30, 2016, Exhibit 7, page 3 of 44.

[4]*Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP", cell D156 reports the 2019 debt percentage which we – like Strunk – subsequently hold constant.

[5]Order U-16-094(9)/U-17-008(13) *Order Resolving All Revenue Requirement and Cost-Of-Service Issues, Approving Depreciation Rates, Approving Revised Cost of Power Adjustment, Requiring Filings, and Allowing Parties to File Comment*, dated March 23, 2018, at p. 41.

"Rev Req" worksheet at columns F through S of the Strunk Model. This updates the Strunk Model's Row 10, "Capital Costs".

MUSA (Schedule G)

In its bottom-up assessment of MUSA costs for the ML&P stand-alone case, the Strunk Model used the applicable MUSA levy rate of 2016 and held it constant for all subsequent years. We do not believe that the 2016 property tax assessment rates are appropriately representative for a long-term projection given the significant variability in MUSA rates that have occurred. We find that the average mill rate in each ML&P tax assessment district 2008-2019 is a more appropriate approximation of long term trends.[6] Accordingly, we adopt the average mill rate for each district over the last 12 years to develop a weighted average mill rate for purposes of projecting MUSA; Schedule G shows the derivation.

We calculate an average millage rate of 12.85 that is used in our calculation of PILT and MUSA. We calculate the average mill rate using the data for the years 2008 through 2019[7] for each district within ML&P's service area- District Nos. 1, 3, 5, 10, 16,

[6] The Strunk Model holds fixed the 2016 weighted average mill rate that is used to calculate MUSA for the ML&P stand-alone case. We observed neither trend nor pattern in the historical data on the relevant Anchorage district mill rates.

[7] The referenced mill rates can be found at:

https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202008.pdf

https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202009.pdf

https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202010.pdf

https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202011.pdf

https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202012.pdf

https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202013.pdf

https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202014.pdf

22, and 51. We use the Net ML&P Classified Plant in Service Values found in Amendment No. 1 to the PILT Agreement in our calculation of the proportion of total plant by district.[8] We calculate the proportion of total plant by district by dividing the Net ML&P Classified Plant in Service for each district by the Total Net ML&P Classified Plant in Service. To calculate the plant by district in 2020, we apply the proportion of total plant by each district to the 2020 Net ML&P Classified Plant in Service. We calculate the average mill rate by summing the product of the average historical mill rate for each service area and the plant by district in 2020 for each service area, and then divide this result by the total plant by district in 2020.

We determined the net book value of plant for the years 2017 through 2034 based on electric plant data as contained in the Strunk Model.[9] With one exception, for plant values after 2034, we averaged the yearly change in plant value between 2017 and 2034 and applied that to the current plant value for each additional year.[10] We reduced net book value by depreciation at the same rates used in the Strunk Model for the years 2017 through 2034, extended out beyond 2034 using a calculated average historical rate of change for ML&P and Chugach plant, respectively.[11]

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https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202015.pdf

https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202016.pdf

https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202017.pdf

https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202018.pdf

[8]*See* Appendix F, attached to this Order, at page 20 of 24.

[9]*See Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30*), filed November 1, 2019, at CHU-020789.

[10]Contributed plant was held constant after 2034. These projections of plant data beyond the period sponsored by Witness Strunk play no role in our decision either to approve the acquisition adjustment or with respect to our findings concerning rate discrimination.

[11]*See* Schedule H.

Schedule H shows detailed calculations used for MUSA. Starting in 2021 the MUSA figures calculated in Schedule H replace Row 20 ("Municipal Utility Service Assessment") at Sheet "ML&P EMP" of the Strunk Model. This adjusts the figures in Columns F through S at Row 11 ("Operating Expenses Total Operating Expenses (Includes MUSA, Excludes Reg Debits/Credits)") of the Strunk Model at Sheet "Rev Req". Our reported figures ML&P Base Revenue Requirement [J8 at Schedule J] reflect the resultant changes in Columns F through S at Row 14 ("Revenue Requirements – Base Rates") from Sheet "Rev Req" of the Strunk Model.[12]

ML&P COPA Revenue Requirement (Schedule C)

The Strunk Model does not model ML&P's COPA; rather, it simply assumes that COPA costs will be held constant for the duration of the analysis period. Accordingly, the Strunk Model fails to capture important COPA cost dynamics that are important to performing a comparative assessment of rate impacts for ML&P ratepayers pre- and post-transaction. In particular:

- The Stunk Model does not address the rate impact of declining BRU production. Instead, the BRU production volume appears to have been assumed to equal ML&P's total load requirement,[13] which is inconsistent with both Applicant's views of ML&P's projected share of the BRU production.[14] It is, further, significantly higher than both the PRA and Ryder Scott reserves assessments;[15]
- The means by which ML&P 'balances' BRU production volumes in excess of its native load – through, for example, sales of BRU gas to third parties, or the use of BRU gas in economy energy sales, has not been modeled;
- ML&P's need to make market gas purchases when BRU gas volumes are insufficient to meet its native load has been ignored, despite the significant cost differences for ML&P ratepayers of BRU and third-party gas. As a result, the

[12]*See Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789.

[13]*Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30*), filed November 1, 2019, at CHU-020789, sheet "EData," row 229.

[14]*Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "GData," row 164.

[15]Exhibit H-111; Exhibit H-112.

ratepayer impacts of the changes market prices has not been addressed, particularly in view of increasing purchases from market.

- The Strunk Model fails to incorporate the COPA contra-costs (credits) associated with economy energy sales. Because Chugach has historically been a significant economy energy ratepayer of ML&P this closes off consideration of how the transaction may affect earned margins.

In addition to the foregoing particularly important and dynamic cost considerations, the Strunk Model fails to project a wheeling and diesel fuel expenses.

As described in the body of this order the Strunk Model approach is inadequate given the questions that we must address before approving the transaction. Accordingly, we were forced to construct an ML&P stand-alone COPA model. This model is constructed on the basis of, and largely emulates, the structure of ML&P's historical COPA filings. Whenever it is not inappropriate we adopt COPA data that are contained in the Strunk Model. The model's structure, inputs and assumptions are discussed below.

The ML&P COPA model and supporting calculations and data is presented in Schedule C. The model includes all cost items filed in ML&P's quarterly COPA. This includes the costs of:

- BRU gas
- purchased gas
- stored gas in Cook Inlet Natural Gas Storage Agreement (CINGSA)
- gas transportation
- gas storage service
- purchased power
- wheeling
- diesel fuel

It also includes the contra-costs of economy energy sales.[16]

The ML&P COPA model uses the BRU gas production volume projections, and resulting gas transfer prices, in a manner consistent with the gas production forecasts sponsored by the Applicants. ML&P's total stand-alone gas needs are taken from the Strunk Model. We assume that ML&P's share of BRU gas – volumes are calculated in Schedules A.1 and A.2 – is used first to supply ML&P's own needs. Excess BRU gas

[16]Strictly speaking, as a matter of modeling convenience, the contra-cost credits to COPA from economy energy sales are captured in the total ML&P revenue requirement calculation (Schedule J). There is no difference in rates that results from this modeling convenience.

(only available during 2021-2023 for the ML&P stand-alone case, and only under Ryder Scott reserves assessment modeled in Schedule A.2) is assumed to be sold at market prices. For years where there are gas supply shortfalls, additional volumes are assumed to be purchased at market prices.[17] Under the PRA production forecast, BRU gas is less than the ML&P native load throughout the forecast horizon.

BRU Cost Model (Schedules A.1 and A.2)

The production cost of BRU gas, which is affected by the volume assumptions just described, is modeled separately from and fed into the ML&P COPA calculation (*see* Schedules A.1 and A.2). To avoid redundancy, the following discussion addresses not only how we calculate the production cost of BRU gas for ML&P in the stand-alone case, but also for the Chugach stand-alone case and the combined-ownership case that is consistent with our findings in this Order.[18] The output from the BRU Model is used to forecast COPA revenue requirement for each utility on a stand-alone basis and as a combined entity. During 2016-2018, the BRU gas costs were accounted differently by ML&P and Chugach in their respective COPA filings. Adjustments have been made to apply a consistent set of assumptions to the analysis. The detailed structural changes and input assumptions related to the BRU Model are discussed below.

There are three primary drivers of BRU's future annual production cost. The first are the field's operating and capital expenditures, which are invoiced by the field operator to the working interest owners. The second are each working interest owner's separate expenses associated with ownership; these will include, for example, an allocation of company administrative and general overhead expenses, or the owner's tax obligations. The third is BRU's future annual production volume, which not only determines the production cost per Mcf, but also determines the annual depletion expense. The BRU

[17]To simplify our analysis, "market prices" for both ML&P purchases and sales are assumed to mirror Chugach's third-party purchases from Hilcorp for 2021-2028; see TA481-8, filed January 20, 2020, at Hilcorp Agreement - Fourth Amendment. Thereafter, during 2029-2034, "market prices" are assumed to be flat at the 2028 contract price.

[18]For the combined entity, a single pooled GTP [A61] is calculated by dividing total pooled revenue requirement by total pooled production volume.

Model approach is consistent with ML&P's EMP filings[19] which use a unit-of-throughput depletion method.

For each entity, the total revenue requirement for BRU gas includes its proportional share of the field operating and maintenance costs (Opex), separate company administration and general (A&G) costs, royalties, depletion costs, and investment return. The total revenue requirement is then divided by the net production volume to calculate the unit cost in $/Mcf terms. The summary output of the BRU Model is shown in Schedules A.1 and A.2.

The BRU Model is developed to analyze the impact from key factors driving BRU production costs, such as production volume projections, Capex, and other costs. To avoid double counting, the BRU Model has not explicitly modeled the property tax and production tax components. Instead, the projected property tax savings for ML&P and additional production tax to Chugach in the Strunk Model are adopted and incorporated in base revenue requirement and savings.[20]

Production Volumes

The BRU Model has analyzed two production scenarios: the Petrotechnical Resources of Alaska (PRA) reserve assessment[21] and the Ryder Scott reserve assessment (Ryder Scott)[22]. PRA has forecasted the gross field production to increase from approximately 10.2 Bcf in 2019 to over 12 Bcf in 2020, maintain that level through 2031, and decline at the historical rate afterwards. Ryder Scott has estimated the 2019 gross field production at approximately 9.5 Bcf, projected higher production volumes than the PRA model from 2020 onwards with a peak volume of approximately 14.3 Bcf in 2022 and an earlier decline starting in 2027. The BRU Model deducted an estimated field use

[19]*Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, worksheet "ML&P EMP."

[20]*Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30),* filed November 1, 2019, at CHU-020789, worksheet "Savings", row 47, 53; worksheet "Combined Proforma", row 172, 177

[21]Exhibit H-112, at Attachment G, Beluga River Unit Remaining Reserves Determination, Petrotechnical Resources of Alaska, June 11, 2019.

[22]Exhibit H-111 (Ryder Scott Study)

of approximately 1.2 Bcf/year from the gross production, consistent with the reserve assessments for both production scenarios. The net production is then allocated to the utilities according to the respective share of interest in the BRU: 56.67 percent for ML&P [A10][23], 10 percent for Chugach [A35][24], and 66.67 percent for the combined entity.

Capex

It is clear, despite our questions of the parties in this and prior proceedings, that neither Applicant has a firm grip on future capital expenditure needs in the field. The historical Capex for BRU has shown large year-over-year variances since ML&P acquired its initial 33 percent BRU interest. Field capital investment projections contained in the Strunk Model project significantly less future investment in the field than has historically occurred.[25]

We recognize that there is a large uncertainty in future drilling programs and related annual Capex. The BRU Model (Schedules A.1 and A.2) assumes Capex for the next ten years at long-term average historical levels. Capex [A7] is assumed to be approximately $16.7 million per year from 2020 to 2029.[26] Capex includes the cost to drill new wells, well workovers, and other facility upgrades and improvements. Our capital expenditure projections play no role in our finding of the appropriate treatment of BRU

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[23]Order U-16-012(14), *Order Affirming Bench Ruling Granting Joint Request, Affirming Bench Ruling Granting Petition for Confidential Treatment, Affirming Bench Ruling Accepting Stipulation, Affirming Bench Ruling Granting Federal Executive Agencies' Request to Withdraw Participation as a Party, and Closing Docket*, dated April 21, 2016.

[24]Order U-16-012(14), *Order Affirming Bench Ruling Granting Joint Request, Affirming Bench Ruling Granting Petition for Confidential Treatment, Affirming Bench Ruling Accepting Stipulation, Affirming Bench Ruling Granting Federal Executive Agencies' Request to Withdraw Participation as a Party, and Closing Docket*, dated April 21, 2016.

[25]*Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30),* filed November 1, 2019, at CHU-020789, worksheet "GData", row 185-188.

[26]For 1996-2015 ML&P annual Capex (CHU-020788 Gdata, row 187-188) grossed up by 33.33% of BRU interest; For 2017-2019, ML&P quarterly Tariff Advisories (TA360-121, filed May 18, 2017; TA361-121, August 23, 2017; TA362-121, November 22, 2017; TA364-121, filed March 1, 2018; TA367-121, filed May 16, 2018; TA368-121, filed August 15, 2018; TA369-121, filed March 15, 2019; TA370-121, filed February 15, 2019; TA372-121, filed May 22, 2019; TA373-121, filed August 16, 2019; and TA374-121, filed December 11, 2019) grossed up by 56.67% of BRU interest.

production under the BRU Fuel Agreement, or of the appropriateness of allocating future costs between North and South District ratepayers in a manner that reasonably approximates load ratio share.

PRA and Ryder Scott have estimated the end of field life as 2037 and 2038, respectively. To provide a decent period of capital recovery Capex spending is assumed to cease starting in 2030; field production declines at the rates assumed by PRA and Ryder Scott thereafter.

Opex

Opex [A6] is the same as what was assumed in the Strunk Model, including BRU lifting costs, operator's maintenance fee, other production expenses, and BRU airstrip and road maintenance cost.[27] Consistent with the Strunk Model, total Opex is projected to be approximately $13.4 million in 2020, and thereafter assumed to increase at an inflation rate of 2 percent per year. Except for the BRU airstrip and road maintenance cost, all other costs are allocated proportional to the BRU interest share.

Depletion

Depletion expenses are calculated based on the percentage of production method. This is consistent with the depletion calculation approach for ML&P contained in the Strunk Model. For a given year, the depletion percentage [A8] is equal to projected production for that year divided by the projected total production from 2020 to the end of the field life. The annual depletion expense is equal to the average Property Plant and Equipment balance during the year multiplied by the depletion percentage for the year.

For ML&P, the net PPE is $2.36 million at the end of 2019 [A14], based on its COPA filing.[28] The Chugach net PPE at the end of 2019 is $37.56 million [A44], based on its COPA filing.[29] The acquisition case simply sums the BRU property balances of the two utilities.

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[27]*Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30),* filed November 1, 2019, at CHU-020789, at G data, row 219-222.

[28]TA370-121 filed February 15, 2019, at Exhibit 56.

[29]TA441-8, filed January 21, 2020 at Exhibit 12.

Return

Consistent with current practice, in modeling ML&P's stand-alone gas production cost, we use the historical weighted average cost of capital (WACC) approach. For ML&P on a stand-alone basis, the WACC is calculated according to Schedule I. The forgoing rates of return are applied to its net property balances.

Similarly, we follow current practice in modeling Chugach's stand-alone production cost and use TIER to determine an appropriate return on Chugach's 10 percent BRU interest. For Chugach's acquisition of BRU reserves in 2016, an interest rate of 2.58 percent is assumed[30] [A48]. For new investment, an interest rate of 4.10 percent ([A19] [A46]) is assumed. A TIER of 1.35 ([A20] [A47]) is assumed for all investment, consistent with the TIER for BRU gas production accepted by the Commission[31].

For the combined utility (acquisition) case, under unified Chugach ownership, we assume that Chugach will continue to use a TIER approach to determine required return.

A&G Cost

For MLP on a stand-alone basis, A&G cost [A26] is assumed to be the same as the historical cost in 2018[32]. For Chugach, A&G cost [A52] is assumed to be the same as the historical cost for 2018.[33] For the combined utility, A&G cost is assumed to be the sum of each utility's A&G costs.

[30]*Notice of Filing Prefiled Direct Testimony*, filed November 18, 2016; *Prefiled Supplemental Direct Testimony of Arthur W. Miller*, filed January 20, 2017; and *Notice of Filing Prefiled Reply Testimony*, filed July 5, 2017, in Docket U-16-094, entitled "In the Matter of the Petition Filed by CHUGACH ELECTRIC ASSOCIATION, INC. for approval to Create a Regulatory Asset for the Recovery of Costs from the Acquisition of a Portion of ConocoPhillips Alaska, Inc.'s Interest in the Beluga River Unit," and Docket U-16-074, entitled "In the Matter of the Tariff Revision Designated as TA425-8 Filed by CHUGACH ELECTRIC ASSOCIATION, INC."

[31]Order U-19-003(8), *Order Accepting Stipulation, Granting Petition, and Closing Docket,* dated October 11, 2019, at Schedule A on page 3.

[32]TA373-121, filed August 16, 2019, at Attachment 15, ML&P 2018 actual cost.

[33]TA473-8, filed June 28, 2019, at Exhibit 12, page 2, Chugach 2018 actual cost.

Royalty Payment

Royalty payment is calculated at 12.5 percent[34] [A9] multiplied by the net gas production volume and the subtotal production cost before taxes ([A27] [A31] [A53]).

Taxes

The BRU Model does not directly model production or property taxes for BRU gas. Accordingly, no property tax savings is shown in the combined-utility case on Schedules A.1 and A.2. Nevertheless, as does the Strunk Model,[35] the avoidance of BRU property tax costs associated with Chugach's status as an electric cooperative is reported in the total savings calculation.

Other ML&P Stand-Alone COPA Elements

Because of their relatively small contribution to overall COPA costs, and because they vary comparatively little, we have followed the Strunk Model and simply adopt constant costs, at 2020 levels, for all costs other than for BRU and purchased gas.

For cost items in COPA not included in the Strunk Model – wheeling costs and diesel costs – data from historical COPA filings for the period of July 2018 to June 2019 were relied upon. This full year period is chosen for several reasons. First, this data reflects the most recent filed data available to the Parties at the time of the proceeding. The data for the last quarter ending June 2019 was filed by ML&P on August 15, 2019, (TA373-121).

Second, subsequent historical COPA filings are impacted by the wildfires on the Kenai Peninsula that started in June and continued through September 2019, which damaged the high-voltage transmission line that delivers power from Bradley Lake to the Railbelt. The reduction in the availability of hydropower from Bradley Lake has reduced wheeling revenue opportunities, while increasing the dependency of natural gas, and the overall costs included in COPA which would not have been incurred if not for the wildfires. Our approach thus helps ensure that wheeling costs are reasonably representative.

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[34]Exhibit H-111 (Ryder Scott Study).

[35]*See Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30),* filed November 1, 2019, at CHU-020789, worksheet "Savings", row 47, and worksheet "Combined Proforma", row 172 and row 177, respectively.

Third, the same historical period is used in Jeff Warner's analysis and testimony on the potential joint dispatch savings.[36] Warner's Aurora analysis utilized the actual historical electric loads during the July 2018-July 2019 period to dispatch stand-alone ML&P, Chugach, and combined generation assets to estimate fuel and cost savings from the formation of a joint dispatch pool. This ensures wheeling costs are internally consistent with ML&P modeled load and economy energy savings.

To be consistent with the Strunk Model, the projected COPA related savings and additional cost,[37] like Eklutna fuel savings, BRU Property Tax and IT savings, and additional BRU Production Tax remain allocated to base rate revenue requirements and are not explicitly modeled in the COPA models. Additional COPA savings associated with the joint dispatch of ML&P and Chugach generation assets against the combined electric loads were separately included and directly allocated to combined COPA revenue requirements.

ML&P Economy Energy Sales Margins

The ML&P stand-alone COPA model shown in Appendix C does not calculate ML&P's profits from economy energy sales. Instead, profits from GVEA and Chugach economy energy sales are calculated separately and act to reduce the overall COPA in our calculation of total ML&P stand-alone costs (Schedule J). The megawatt hours of economy energy sales to GVEA [J1], and Chugach [J3] are assumed to stay constant at the historical levels realized between July 2018 and June 2019. The GVEA margin [J2] is calculated as historical average sales price minus average costs.[38] ML&P's average revenue per megawatt hour from Chugach economy energy sales [J4] is calculated as the average sales price per megawatt hour as all costs are either reimbursed or directly covered.[39]

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[36]T-31 (Warner Direct) at 6.

[37]*Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30),* filed November 1, 2019, at CHU-020789, sheet "Combined Proformas," row 76-78, 142, 54.

[38]Consistent with our earlier discussion, gas is assumed to be valued at the most recent Chugach-Hilcorp contract market prices.

[39]Chugach supplies its own gas to ML&P.

B) Chugach Stand Alone Revenue Requirement (Schedule K)

The calculations for the total Chugach stand-alone Revenue Requirement are shown in Schedule K. Inputs into that schedule – Base Rate revenue requirement, COPA revenue requirement, and economy energy sales – are discussed below.

Chugach Base Rate Revenue Requirement

The Chugach base rate revenue requirement is modeled using the Strunk Model's projected base revenue requirement.

Chugach Stand Alone COPA Revenue Requirement (Schedule D)

Chugach's historical cost of power in tariff filings is called Fuel and Purchased Power Cost Adjustment (FPPCA). Despite the naming differences, FPPCA has similar cost elements as the ML&P COPA. For consistency, we have used the term "COPA" for ML&P, Chugach, and the combined entity.

The Strunk Model did not provide a line-by-line buildup of the COPA model for Chugach. Instead, it simply makes a constant linear projection. There are no formula references for the Chugach base COPA.[40] The values appear to be extrapolated from historical costs but the COPA revenue requirements appear to be significantly lower than the values in the historical COPA filings.

The Strunk Model thus fails to capture important COPA cost dynamics that are important to performing a comparative assessment of rate impacts for Chugach ratepayers pre- and post-transaction. The major structural deficiencies in Strunk's approach to ML&P's COPA are also evident in his approach to Chugach's COPA. To address these issues a detailed COPA model was developed for Chugach on a stand-alone basis.

Chugach's COPA cost items include: BRU gas supplies, Hilcorp contracted gas supplies through 2028, other gas purchases at market price, CINGSA gas storage costs (includes cost of gas and services charges), gas transportation costs, power purchase

[40] *See Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30),* filed November 1, 2019, at CHU-020789, worksheet "Chugach Base" and "Chugach Base (Extended)," at row 13.

from Bradley Lake, Fire Island Wind and Qualified Generation, power purchase from other utilities, and transmission costs (less wheeling revenues).

BRU gas is a relatively small part of the Chugach supply portfolio. The Hilcorp Agreement provides the majority of the gas supplies.[41] To the extent there are calculated gas supply shortfalls relative to these two supply sources the volume of additional gas needed to meet the Chugach load requirement is calculated. The cost for balancing gas is assumed to be purchased at the same market price as is reflected in Chugach's current Hilcorp Agreement.

For other cost components, we rely primarily on historical COPA TA filings. The historical period used for ML&P stand-alone COPA, from July 2018 to June 2019 was also used as a starting point for several COPA accounts. As described in Appendix C, this data reflects the most recent filed data available to Parties at the proceeding, is consistent with joint dispatch saving estimates, presented in Schedule F, and avoids dispatch anomalies resulted from the Kenai Peninsula fire. We rely on the load projections provided in these proceedings for projections of Chugach's load. [42]

Chugach COPA includes the following major cost components:

- Cost of Gas for Power Generation
    - BRU Gas [D3]
    - Hilcorp Gas [D6]
    - CINGSA Gas Withdrawal ([D7], [D10])
    - Balancing Gas [D22]
    - Cost of Gas Transportation ([D31], [D32], [D33])

- Cost of Purchased Power
    - Purchased Power from Bradley Lake, Fire Island Wind and Qualifying Generation [D41]
    - Purchased Power from Other Utilities [D44]

- Other (transmission) ([D45], [D46])

[41]TA481-8, filed January 21, 2020.

[42]*Chugach Electric Association Inc.'s Notice of Errata to Compliance with Order U-18-102(36)/U-19-020(31)/U-19-021(31),* filed November 5, 2019, at CHU-020812.

Cost of Gas for Power Generation

Historically, out of the total gas requirement of approximately 7.8 Bcf per year for Chugach, BRU gas supplies approximately 1.3 Bcf, Hilcorp supplies approximately 6.0 Bcf, and the rest is supplied through gas withdrawals from Cook Inlet Gas Supply Agreement (CINGSA).[43]

Under both PRA and Ryder Scott production forecasts, Chugach's share of BRU gas supply is projected to be lower than historical levels.[44] The fourth amendment of the Hilcorp Agreement specifies the base supply volume of approximately 5.84 Bcf per year (16 MMcf per day) from March 2020 through March 2023, and 3.65 Bcf per year (10 MMcf per day) from March 2023 through March 2028. In addition, Chugach has the option to purchase approximately 1.8 Bcf per year (5 MMcf per day) from Hilcorp, providing the flexibility for its gas balancing needs. The CINGSA gas supplies are assumed to remain at historical levels.

To calculate the gas volume balancing requirement for Chugach, the additional electric generation requirement is calculated as the difference between the projected load and historical baseline generation. The gas purchase balancing volume is then converted from the electricity requirement divided by the historical average heat rate of approximately 7,572 Btu/kWh.

The cost of BRU gas [D3] is calculated as Chugach's share of the BRU gas volume [D1][45] multiplied by Chugach's Production Cost on a stand-alone basis [D2][46], as determined in Schedules A.1 or A.2.Cost for Hilcorp gas [D6] is calculated as contracted gas volume [D4][47] multiplied by contract price [D5][48].The gas balancing volume is assumed to be purchased at market price. The contract price in the Hilcorp Agreement

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[43]TA459-8, filed June 26, 2018; TA461-8, filed September 27, 2018; TA465-8, filed December 20, 2018; and TA470-8, filed March 22, 2019, at Fuel_PP_Exh_01 A, 2018 numbers calculated from line 13, 21, 51, 53, 54.

[44]BRU Model, Schedules A.1 and A.2, [A38]

[45]BRU Model, Schedule A, [A38]

[46]BRU Model, Schedule A, [A56]

[47]TA 481-8, filed January 21, 2020, at Table 2.

[48]TA 481-8, filed January 21, 2020, at Table 1.

is used as a proxy for market price.[49] Cost for balancing gas [D22] is calculated as balancing gas volume [D20] multiplied by market price of gas [D21]. To calculate balancing gas volume, the balancing power [D19] is calculated as the difference between projected load [D11],[50] less loss adjustment [D12],[51] other power purchases [D14], and projected power generation [D16] using BRU gas, Hilcorp gas, and CINGSA gas, based on projected gas volume from each source and the average heat rate implied in historical gas usage and power generation. The market price of gas [D21] is assumed to be same as the contract price for the Hilcorp agreement through 2028, and flat at the 2028 price thereafter.

Cost of gas withdrawn is assumed to remain at constant historical levels, including reservation and capacity costs for Firm Storage Service (FSS) [D7],[52] and cost of stored gas [D10]. Cost of Gas Transportation [D28][53] is similarly held constant.

Cost of Purchased Power

Cost of Purchased Power from Generation ([D42]) includes Bradley Lake ([D29], [D30])[54], Fire Island Wind ([D31], [D32])[55] and Qualified Generation ([D33], [D34]).[56] As with the Cost of Purchased Power from Other Utilities, including MEA and ML&P ([D39],

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[49]TA 481-8, filed January 21, 2020, at Table 1.

[50]*Chugach Electric Association Inc.'s Notice of Errata to Compliance with Order U-18-102(36)/U-19-020(31)/U-19-021(31),* filed November 5, 2019, at CHU-020812.

[51]TA459-8, filed June 26, 2018; TA461-8, filed September 27, 2018; TA465-8, filed December 20, 2018; and TA470-8, filed March 22, 2019. Calculated based on the historical power generation and purchased power divided by the load requirement

[52]TA459-8, filed June 26, 2018; TA461-8, filed September 27, 2018; TA465-8, filed December 20, 2018; and TA470-8, filed March 22, 2019, at Fuel_PP_Exh_06, row 55.

[53]TA459-8, filed June 26, 2018; TA461-8, filed September 27, 2018; TA465-8, filed December 20, 2018; and TA470-8, filed March 22, 2019, at Fuel_PP_Exh_06, row 69.

[54]TA459-8, filed June 26, 2018; TA461-8, filed September 27, 2018; TA465-8, filed December 20, 2018; and TA470-8, filed March 22, 2019, at Fuel_PP_Exh_06, row 76

[55]TA459-8, filed June 26, 2018; TA461-8, filed September 27, 2018; TA465-8, filed December 20, 2018; and TA470-8, at filed March 22, 2019, Fuel_PP_Exh_06, row 81

[56] TA459-8, filed June 26, 2018; TA461-8, filed September 27, 2018; TA465-8, filed December 20, 2018; and TA470-8, filed March 22, 2019, at Fuel_PP_Exh_06, row 80

[D40]),[57] we assume all such costs are held at historical levels. Purchases from ML&P are assumed to be priced at the same structure in which Chugach provides ML&P with gas to be used, reimburses the cost of gas transportation, and pays an allowance for O&M in addition to generation margins.[58]

Other

Exchange Credits [D46],[59] and Wheeling Revenues [D47],[60] are assumed to be the same as historical levels.

C) Total revenue requirement costs that North and South District Ratepayers each pay (Schedule L.2)

Combined Base Rates

As noted in the body of the Order, Chugach's proposed rate moratorium for base rates during 2020-2023 means that there can be no savings in the base rate revenue requirement during this period. The Eklutna PPA payment does not have any impact on either North or South District ratepayers from 2021 to 2023 because of the rate moratorium and Chugach's agreement to expense these costs. However, we do include and model the Stipulation's $12 million per annum rebate to North District ratepayers during 2021-2023.

After 2023 we significantly adopt Strunk's assessment of the combined revenue requirement, which embodies base rate revenue requirement savings. However, we make several adjustments.

First, as noted in the body of the Order, we adjust Chugach's TIER from the Strunk Model's assumption of 1.35. To be consistent with our earlier Orders,[61] our concern for

[57]TA459-8, filed June 26, 2018; TA461-8, filed September 27, 2018; TA465-8, filed December 20, 2018; and TA470-8, filed March 22, 2019, at Fuel_PP_Exh_06, row 86.

[58]TA459-8, filed June 26, 2018; TA461-8, filed September 27, 2018; TA465-8, filed December 20, 2018; and TA470-8, filed March 22, 2019, at Fuel_PP_Exh_06, row 88.

[59]TA459-8, filed June 26, 2018; TA461-8, filed September 27, 2018; TA465-8, filed December 20, 2018; and TA470-8, filed March 22, 2019, at Fuel_PP_Exh_06, row 112.

[60]TA459-8, filed June 26, 2018; TA461-8, filed September 27, 2018; TA465-8, filed December 20, 2018; and TA470-8, filed March 22, 2019, Fuel_PP_Exh_05, row 25.

[61]Order U-19-003(8), *Order Accepting Stipulation, Granting Petition, and Closing Docket*, dated October, 11, 2019.

the financial position that Chugach will be in following transaction close, and an insufficient record to support a lower TIER, we assume that Chugach's TIER will remain at 1.55 following its next rate case. Accordingly, the TIER for the combined case under Chugach ownership is revised from the 1.35 assumed in row 36 (Chugach TIER) of the Strunk Model's "Rev Req" worksheet.[62] Strunk Model calculations of the combined base rates are automatically adjusted on that worksheet at row 35 (Chugach Assignable Margins), row 38 (Capital Costs), row 45 (Revenue Requirement) and row 47 (Revenue Requirement – Base Rates).

Second, we adjust the Strunk Model's assessment of each year's Personnel Savings. Schedule L.1 embodies a reduction of Personnel Savings of 25% compared to the level assumed by Witness Lovas. We do so by multiplying the Personnel Savings projected by Lovas [63] in each department by 75%; the recalculated total savings is then reflected in row 40 (Savings), row 43 (Operating Costs), row 45 (Revenue Requirement), and 47 (Revenue Requirement – Base Rates) on Sheet "Rev Req" of the Strunk Model.

Third, we adjust the combined base rate revenue requirement for the difference between calculated PILT and MUSA. We describe our modeling of the PILT, below.

PILT Calculation (Schedule H)

Assuming that the transaction is consummated, Chugach will be required to pay to the Municipality of Anchorage (MOA) make annual payments consistent with the PILT Agreement. Although that Agreement contains an illustrative exhibit demonstrating how the PILT will be calculated, no party presented us with PILT calculations based on data projections. Accordingly, we review how PILT is calculated under the Agreement.

The Agreement determines payments as the product, for each district in the Legacy Service Territory of: (i) the Adjusted Net Book Value for the current year, and (ii)

[62] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789.

[63] *Chugach Electric Association Inc.'s Filing In Compliance With Bench Order,* filed October 30, 2019, at CHU-020787.

the current Millage Rate for each such district.[64] The term Legacy Service Territory means ML&P's service area as in existence at the closing date.[65]

The term Adjusted Net Book Value is defined by a series of nested definitions. Adjusted Net Book Value means, for any year, the product of (i) the Net ML&P Classified Plant in Service located within each district in the Legacy Territory as of the Closing Date and (ii) the Overall Plant in Service Change.[66] Net ML&P Classified Plant in Service means the net book value of ML&P classified and unclassified plant in service within the Municipality of Anchorage as of the Closing Date, including contributed plant but not including intangible plant and construction work in progress (CWIP).[67] Overall Plant in Service Change means a fraction of which (i) the numerator is the Net Plant in Service of Chugach located within the Municipality of Anchorage as of January 1 of the current year, and ii) the denominator is the sum of: (a) ML&P's Net Plant in Service in the Legacy Territory that is located within the Municipality of Anchorage on the Closing Date, plus (b) Chugach's Net Plant in Service in the Chugach legacy territory that is located within the Municipality of Anchorage on the Closing Date.[68] Net Plant in Service means the net book value of plant in service, exclusive of contributed plant, intangible plant, and CWIP.[69] Millage Rate means the means the rate, as in effect at January 1 of each year, that is determined pursuant to AS 29.45.240 for property in each district of the Legacy Territory.[70]

We calculate the mill rate to be used in PILT on the same basis as we do for MUSA, described previously (Schedule G).

To calculate Adjusted Net Book Value we first calculate Chugach Net Plant in Service by subtracting CWIP from Chugach Net Plant. We then apply then apply a factor

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[64]Appendix F *See* Section 2.01 of Original PILT Agreement.

[65]Appendix F at page 2 of 24.

[66]Appendix F at Amendment No.1.

[67]Appendix F at Amendment No. 1.

[68]Appendix F at Amendment No.1.

[69]Appendix F at Amendment No.1.

[70]*See* Appendix F at page 2 of 24.

of 70% to the Chugach Electric Plant to reflect the plant located within the Municipality of Anchorage.[71] We calculate ML&P Net Plant in Service by subtracting net intangible plant, and net contributed plant, from ML&P Electric Plant. We calculate the Overall Plant in Service Plant Change by dividing the Overall Plant in Service in the current year by the overall plant in service at close (assumed to be in 2021). We calculate Net ML&P Classified Plant in Service by subtracting net intangible plant from ML&P Electric Plant. Finally, we calculate the Adjusted Net Book Value by multiplying the Net ML&P Classified Plant in Service at close by the Overall Plant in Service Change in the current year.

We multiply the average Millage Rate by Adjusted Net Book Value to calculate PILT.

Combined COPA Surcharge (Schedule E)

Consistent with our finding in this Order, the cost of service of BRU gas is determined by pooling all field costs and adjusting specific BRU owner costs (see Schedules A.1 and A.2). With this adjustment made, the costs that determine the COPA surcharge for the combined utility become the sum of the two stand-alone utilities.

Calculation of COPA Credits (Contra Costs) Associated with Economy Energy Sales

As with the ML&P stand-alone case, we make subsequent adjustments to the effective COPA surcharge to reflect credits from economy energy sales. However, in the combined case there are no contra costs associated with economy energy sales to Chugach. We make this adjustment by pulling suitable data from Schedule J, which assumes that economy energy sales to GVEA will remain unchanged from the stand-alone case. The assumption is consistent with our calculation of the combined utility dispatch savings, discussed below.

Combined Utility Dispatch Savings (Schedule F.1)

The transaction will form one utility that owns or has rights to the generation assets, currently separately owned by Chugach and ML&P. After the transaction those assets will be optimally deployed to meet the combined load requirements from legacy Chugach

[71] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/ U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-019065.

and ML&P ratepayers. The day-to-day generation dispatch of the combined utility should produce essentially the same efficiencies that would be provided by a two-party power pool – a subject that has been discussed for the past several years.[72] As explained in the body of this Order, if the parties are left on their own, we find that the enhanced efficiencies of a tight pool to be speculative. Accordingly, it is appropriate for us to consider the positive contribution of dispatch savings in our consideration of the transaction's public interest benefits. We look to the record to develop an indicative assessment of dispatch savings.

Aurora Runs and Dispatch Savings Estimates

In Order U-18-102(14)/U-19-020(8)/U-19-021(8) *Order Requiring Filings of Fourth Disclosures*, dated July 3, 2019; (Order U-18-102(14)); Order U-18-102(28)/U-19_020(22)/U-19-021(22), *Order Requiring Filing* dated September 19, 2019 (Order U-18-102(28)); and Order 32, the Commission required ML&P to use Aurora production cost modeling software to make a series of model runs that characterize optimal dispatch for a number of utility ownership configurations and scenarios.[73] In performing their analysis, we ordered ML&P to rely on actual load data for the historical period July 2018 through June 2019. We required ML&P to provide input and output files, documentation, and solution files for hourly production cost simulations using the Software.

ML&P complied with Order 32 (Order 32 Results) and produced five requested Aurora model runs simulating optimal economic dispatch for Chugach as a stand-alone utility, ML&P as a stand-alone utility and Chugach and ML&P as a combined utility under various assumptions.

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[72]Progress towards and status updates regarding formation of a joint power pool development effort were tracked in dockets I-15-001 and I-16-002. Docket I-15-001 is entitled "In the Matter of the Evaluation of the Operation and Regulation of the Alaska Railbelt Electric Transmission System," and Docket I-16-002 is entitled "In the Matter of the Evaluation of the Reliability and Security Standards and Practices of Alaska Electric Utilities."

[73]Aurora is production costs simulation software used in the power industry to simulate optimal dispatch of generation resources to meet load based on units' economic costs of dispatch and transmission constraints.

Order 32 Scenarios

Scenario	Description
Scenario 1A	ML&P Stand-alone with economy energy sales
Scenario 1B	Chugach Stand-alone
Scenario 1C	ML&P and Chugach Combined, no economy energy sales
Scenario 1D	ML&P and Chugach Combined, with economy energy sales
Scenario 1E	ML&P Stand-alone, no economy energy sales

Under each scenario, the Aurora results report the amount of energy and production cost for each thermal unit at every hour of the historical period. Aurora's economic dispatch algorithm minimizes the production cost of dispatch. Scenario incorporate each generation unit's physical capacity, heat rates curves, start-up time, start-up cost and the system's transmission constraints. The cost to deploy each thermal unit includes all relevant fixed and variable costs, including cost of fuel, used by and reflected in the algorithm's total cost-minimizing solutions. ML&P supplied all of these parameters.

Comparative assessment of the sum of operational costs in Scenarios 1A and 1B with operational costs in 1D provides a basis for reasonably quantifying dispatch savings that could have been realized in the historical period. The choice of a historical period was made to help ML&P develop, and to enable our interpretation of, the model runs.[74] This comes at a cost: the future will not necessarily replicate the past. No one can reasonably project hourly electric load for the next 15 years. In the face of intractable uncertainties, the production costs from these scenarios, nevertheless provide reasonable insight into the joint dispatch savings that will result from the transaction (see Schedule F.1).[75]

We cannot simply measure dispatch savings as the difference between the sum of costs in Scenarios 1A and 1B, and the costs of 1D. Despite our best efforts in designing

[74]The historical period provides necessary model input for hourly load, generation costs, fuel costs and transmission constraint data. These would otherwise need to be assumed, with attendant complications.

[75]Dispatch savings might also be approximated by comparing the sum of production costs from Scenarios 1B and 1E with 1D. Doing so might arguably overstate joint dispatch benefits, however, as some of the savings are may be currently captured in customary economy energy transactions between the Chugach and ML&P.

Scenario D, the overall mount of energy generated differs from the sum of Scenarios 1A and 1B. To correct for this mis-match additional calculations were required. Discrepancies between the model-projected economy energy sales and historical economy energy sales were adjusted to best approximate the efficiency gains from the joint dispatch of generation units to meet Chugach and ML&P's load requirements. In addition, Chugach's economy energy purchase costs – a real cost for them not reflected in any operational data of Scenarios 1A and 1B, needed to be incorporated. The following paragraphs outline our approach.

The sum of costs of the two utilities operating as stand-alone entities [F1.8] are determined by several components drawn from both the Order 32 compliance filings and relevant historical COPA filings. We explain the derivation of that total cost, below.

- Aurora run 1B calculates Chugach's optimal dispatch of its own generation units to meet its own load.[76] The resultant production cost is reported at [F1.2]. This dispatch cost does not include the cost of power purchased from ML&P during the historical period. We approximate the production cost of Chugach's power purchases from Aurora run 1A.

- Aurora run 1A calculates ML&P's optimal dispatch of its own generation units to meet its own load and, in addition, to make economy energy sales to Chugach and other third parties [F1.1].[77] Accordingly, 1A includes the cost of making the energy that Chugach relies on in 1B to meet its native load. However, the production cost to generate economy energy sales to Chugach also includes and is mixed in with the production cost to generate economy energy sales for third parties. We therefore approximate the production cost for ML&P to provide economy energy sales to Chugach and third parties through the following steps:
    - First, the additional production cost that ML&P incurred to make all economy energy sales [F1.3] is estimated as the total production cost in Aurora run 1A minus the total production cost in Aurora run 1E.
    - Second, the production cost incurred to generate ML&P economy energy sales to Chugach is prorated using the percentage [F1.4] of ML&P Chugach ESS volume as part of the total ML&P economy energy sales volume, derived from historical ML&P COPA filings for July 2018 through June 2019.

[76] *Municipal Light & Power's Filing in Compliance with Order U-18-102(32)/U-19-020(27)/U-19-021(27)*, filed October 29, 2019, at ML&P005601, Resource Hour.

[77] *Municipal Light & Power's Filing in Compliance with Order U-18-102(32)/U-19-020(27)/U-19-021(27),* filed October 29, 2019, at MLP005436 Resource Hour.

- Last, third-party economy energy sales production cost [F1.5] is estimated as total economy energy sales production cost [F1.3] minus Chugach economy energy sales related production cost.

- Finally, we note that production cost of Chugach's economy energy sales purchases from ML&P do not reflect Chugach's full cost of economy energy sales purchases. In particular, they do not include the margin that Chugach pays to ML&P (which is not part of Aurora's calculated production cost), the cost of transporting gas from Chugach's suppliers to ML&P's generating plant, nor the O&M allowance that is in ML&P's economy energy tariff. These costs are real, and part of the cost of operating both utilities separately. We estimate them using the Chugach economy energy sales volume multiplied by historical average total price paid to ML&P [F1.6].

Total production cost of Chugach and ML&P operating as a combined utility [F1.9] is the total production cost results from run 1D, adjusted by the production cost incurred to generate economy energy sales[78]. The additional generation volume to serve economy energy sales is the run 1D generation volume ([FD1.22] [FD1-1]) minus the generation volume without economy energy sales [F1.15]. Beluga 5 and Beluga 6 are assumed to be dispatched for the sole purpose of generating economy energy sales. Production cost related to the remainder economy energy sales volume is assumed to be generated at average production cost. Total production cost related to economy energy sales is estimated in [F1.11].

The dispatch savings from the transaction [F1.12] is approximated as the difference in total production cost to meet Chugach and ML&P's joint load requirement as a combined utility versus the total production cost for each operating as a stand-alone utility [F1.8].

Calculation of rebate of ratepayer contributed capital in the BRU

As described in the body of this order, we find that North District ratepayers should receive a rebate associated with the net plant balances of capital contributed by its ratepayers in the BRU. Carrying costs, at a 5 percent interest rate that matches the discount rate supported by the parties in this proceeding, are included. We allocate those

[78]Since Scenario 1D reflects Chugach and ML&P operate as a combined utility, all economy energy sales should be third-party economy energy sales.

carrying costs on a levelized basis. The BRU ratepayer-contributed capital credit is calculated at Schedule B, and is derived using Excel's PMT function.

Allocating Combined-Utility Costs to the North and South Districts

For the period prior to the filing of Chugach's next general rate case, 2021 through 2023, both North and South District ratepayer base rates will be unchanged. Therefore, no allocation of combined base rate costs is required. The combined COPA revenue requirement is allocated on a per-kWh basis. In other words, it is allocated to North and South Districts based on each District's proportionate share of total native load in each year. North District COPA rates are then adjusted by the annual $12 million RRR credit. The BRU rebate credit/surcharge, applied to North/South Districts respectively, completes the allocation.

For the period beginning in 2024 the combined base rate costs are allocated, like the COPA, on the basis of load ratio share. Load ratio share is each year derived from the forecasted native load for each set of ratepayers. Similarly, the combined COPA revenue requirement is allocated on the basis of load ratio share. The BRU rebate credit/surcharge, applied to North/South Districts, respectively, completes the allocation.

Schedule A.1 - BRU Gas Production and Cost (PRA Forecast)

Ref.	Item	Formula	Input	2019	2020	2021	2022	2023	2024	2025
	BRU Field									
A1.1	Lifetime Field Production (Mcf)		195,891,100							
A1.2	Annual Production %			5%	6%	6%	6%	7%	6%	6%
A1.3	Gross Field Production (Mcf)	[A1.1] x [A1.2]		10,220,000	12,590,400	12,446,500	12,300,500	12,811,500	12,480,600	12,446,500
A1.4	Field Fuel Use (Mcf)			1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000
A1.5	**Net Field Production (Mcf)**	**[A1.3] - [A1.4]**		**9,020,000**	**11,390,400**	**11,246,500**	**11,100,500**	**11,611,500**	**11,280,600**	**11,246,500**
A1.6	Field Opex ($)			$13,887,719	$13,358,450	$14,111,955	$14,673,327	$14,945,740	$14,473,632	$14,757,050
A1.7	Field Ongoing Capex ($)			$433,453	$16,696,263	$16,696,263	$16,696,263	$16,696,263	$16,696,263	$16,696,263
A1.8	Annual Depletion %	Current [A1.2] / (1 - cumulative [A1.2])		5%	7%	7%	8%	9%	9%	10%
A1.9	Royalty (%)		12.50%							
	ML&P									
A1.10	BRU Production Share (%)		56.67%							
A1.11	Gross Gas (Mcf)	[A1.3] x [A1.10]		5,791,674	7,134,980	7,053,432	6,970,693	7,260,277	7,072,756	7,053,432
A1.12	Field Fuel (Mcf)	[A1.4] x [A1.10]		680,040	680,040	680,040	680,040	680,040	680,040	680,040
A1.13	**Net Gas (Mcf)**	**[A1.11] - [A1.12]**		**5,111,634**	**6,454,940**	**6,373,392**	**6,290,653**	**6,580,237**	**6,392,716**	**6,373,392**
A1.14	Beginning balance ($)	As Filed; [A1.17]t-1		$2,360,871	$2,470,523	$11,123,163	$19,104,641	$26,378,951	$32,745,180	$38,320,002
A1.15	Capital Improvements ($)	[A1.7] x [A1.10]		$245,638	$9,461,772	$9,461,772	$9,461,772	$9,461,772	$9,461,772	$9,461,772
A1.16	Depletion ($)	([A1.14] + [A1.15]) x [A1.8]		($135,986)	($809,132)	($1,480,294)	($2,187,462)	($3,095,544)	($3,886,951)	($4,833,453)
A1.17	Ending balance ($)	[A1.14] + [A1.15] + [A1.16]		$2,470,523	$11,123,163	$19,104,641	$26,378,951	$32,745,180	$38,320,002	$42,948,321
A1.18	**Average Rate Base ($)**	**([A1.14] + [A1.17]) / 2**		**$2,415,697**	**$6,796,843**	**$15,113,902**	**$22,741,796**	**$29,562,066**	**$35,532,591**	**$40,634,161**
	BRU Cost of Capital									
	In Combined Case:									
A1.19	New Plant Interest Rate (%)		4.10%							
A1.20	BRU TIER		1.35							
A1.21	New Plant TIER ($)	[A1.18] x [A1.19] x [A1.20]		$133,709	$376,205	$836,554	$1,258,758	$1,636,260	$1,966,729	$2,249,101
	In Standalone Case:									
A1.22	New Plant Rate of Return (%)	[I7]	6.59%							
A1.23	New Plant Cost of Capital ($)	[A1.18] x [A1.22]		$159,221	$447,986	$996,171	$1,498,933	$1,948,463	$2,341,986	$2,678,236
A1.24	Depletion expenses ($)	- [A1.16]		$135,986	$809,132	$1,480,294	$2,187,462	$3,095,544	$3,886,951	$4,833,453
A1.25	Field Opex ($)	[A1.6] x [A1.10]		$7,870,170	$7,570,234	$7,997,245	$8,315,374	$8,469,751	$8,202,207	$8,362,820
A1.26	A&G ($)	[A1.52] x [A1.10] / [A1.35]	602,526	$602,526	$602,526	$602,526	$602,526	$602,526	$602,526	$602,526
	In Combined Case:									
A1.27	Subtotal Production Cost ($)	[A1.21] + [A1.24] + [A1.25] + [A1.26]		$8,742,392	$9,358,097	$10,916,620	$12,364,121	$13,804,081	$14,658,412	$16,047,901
A1.28	Royalties ($)	[A1.9] x [A1.27]		$1,092,799	$1,169,762	$1,364,577	$1,545,515	$1,725,510	$1,832,302	$2,005,988
A1.29	**Total Production Cost ($)**	**[A1.27] + [A1.28]**		**$9,835,191**	**$10,527,859**	**$12,281,197**	**$13,909,636**	**$15,529,591**	**$16,490,714**	**$18,053,888**
A1.30	**ML&P Gas Production Cost ($/Mcf)**	[A1.29] / [A1.13]		**$1.92**	**$1.63**	**$1.93**	**$2.21**	**$2.36**	**$2.58**	**$2.83**
	In Stand-alone Case:									
A1.31	Subtotal Production Cost ($)	[A1.23] + [A1.24] + [A1.25] + [A1.26]		$8,767,904	$9,429,878	$11,076,237	$12,604,295	$14,116,284	$15,033,670	$16,477,035
A1.32	Royalties ($)	[A1.9] x [A1.31]		$1,095,988	$1,178,735	$1,384,530	$1,575,537	$1,764,535	$1,879,209	$2,059,629
A1.33	**Total Production Cost ($)**	**[A1.31] + [A1.32]**		**$9,863,892**	**$10,608,612**	**$12,460,766**	**$14,179,832**	**$15,880,819**	**$16,912,879**	**$18,536,665**
A1.ARO1	ARO Surcharge ($/Mcf)				$0.12	$0.12	$0.12	$0.12	$0.12	$0.12
A1.34	**ML&P Gas Production Cost ($/Mcf)**	**[A1.33] / [A1.13] + [A1.ARO1]**		**$1.93**	**$1.77**	**$2.08**	**$2.38**	**$2.54**	**$2.77**	**$3.03**
A1.35	Market Price of Gas ($/Mcf)					$7.49	$7.55	$7.61	$7.69	$7.78
A1.36	Price Difference ($)	[A1.35] - [A1.34]				$5.41	$5.17	$5.07	$4.92	$4.75
A1.37	Cost Difference ($)	[A1.13] x [A1.36]				$34,483,709	$32,532,736	$33,377,009	$31,452,717	$30,256,411
A1.38	**NPV of BRU Value in 2021 in ML&P Stand-alone ($)**	**NPV of [A1.37] at 5%**				**$255,228,466**				

Schedule A.1 - BRU Gas Production and Cost (PRA Forecast)

2026	2027	2028	2029	2030	2031	2032	2033	2034
6%	6%	6%	6%	6%	6%	5%	4%	4%
12,045,000	11,680,000	12,078,000	11,570,500	11,899,000	11,789,500	9,845,400	8,212,500	6,862,000
1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000
10,845,000	**10,480,000**	**10,878,000**	**10,370,500**	**10,699,000**	**10,589,500**	**8,645,400**	**7,012,500**	**5,662,000**
$15,046,137	$15,341,006	$15,641,772	$15,948,554	$16,261,471	$16,580,646	$16,906,205	$17,238,275	$17,576,987
$16,696,263	$16,696,263	$16,696,263	$16,696,263	$0	$0	$0	$0	$0
11%	12%	14%	15%	19%	23%	25%	28%	32%
6,825,902	6,619,056	6,844,603	6,557,002	6,743,163	6,681,110	5,579,388	4,654,024	3,888,695
680,040	680,040	680,040	680,040	680,040	680,040	680,040	680,040	680,040
6,145,862	**5,939,016**	**6,164,563**	**5,876,962**	**6,063,123**	**6,001,070**	**4,899,348**	**3,973,984**	**3,208,655**
$42,948,321	$46,702,068	$49,507,392	$50,770,376	$50,914,104	$41,331,510	$31,837,100	$23,908,326	$17,294,573
$9,461,772	$9,461,772	$9,461,772	$9,461,772	$0	$0	$0	$0	$0
($5,708,025)	($6,656,448)	($8,198,788)	($9,318,044)	($9,582,594)	($9,494,411)	($7,928,773)	($6,613,754)	($5,526,159)
$46,702,068	$49,507,392	$50,770,376	$50,914,104	$41,331,510	$31,837,100	$23,908,326	$17,294,573	$11,768,414
$44,825,194	**$48,104,730**	**$50,138,884**	**$50,842,240**	**$46,122,807**	**$36,584,305**	**$27,872,713**	**$20,601,450**	**$14,531,494**
$2,481,075	$2,662,597	$2,775,187	$2,814,118	$2,552,897	$2,024,941	$1,542,755	$1,140,290	$804,318
$2,954,470	$3,170,628	$3,304,701	$3,351,060	$3,039,997	$2,411,306	$1,837,117	$1,357,861	$957,784
$5,708,025	$6,656,448	$8,198,788	$9,318,044	$9,582,594	$9,494,411	$7,928,773	$6,613,754	$5,526,159
$8,526,646	$8,693,748	$8,864,192	$9,038,045	$9,215,375	$9,396,252	$9,580,746	$9,768,931	$9,960,878
$602,526	$602,526	$602,526	$602,526	$602,526	$602,526	$602,526	$602,526	$602,526
$17,318,271	$18,615,319	$20,440,694	$21,772,733	$21,953,393	$21,518,130	$19,654,800	$18,125,500	$16,893,881
$2,164,784	$2,326,915	$2,555,087	$2,721,592	$2,744,174	$2,689,766	$2,456,850	$2,265,688	$2,111,735
$19,483,055	**$20,942,234**	**$22,995,781**	**$24,494,325**	**$24,697,567**	**$24,207,896**	**$22,111,650**	**$20,391,188**	**$19,005,616**
$3.17	**$3.53**	**$3.73**	**$4.17**	**$4.07**	**$4.03**	**$4.51**	**$5.13**	**$5.92**
$17,791,667	$19,123,350	$20,970,207	$22,309,675	$22,440,493	$21,904,495	$19,949,162	$18,343,071	$17,047,347
$2,223,958	$2,390,419	$2,621,276	$2,788,709	$2,805,062	$2,738,062	$2,493,645	$2,292,884	$2,130,918
$20,015,626	**$21,513,769**	**$23,591,483**	**$25,098,384**	**$25,245,554**	**$24,642,556**	**$22,442,807**	**$20,635,955**	**$19,178,266**
$0.12	$0.12	$0.12	$0.12	$0.12	$0.12	$0.12	$0.12	$0.12
$3.38	**$3.75**	**$3.95**	**$4.39**	**$4.29**	**$4.23**	**$4.70**	**$5.32**	**$6.10**
$7.86	$7.95	$8.04	$8.04	$8.04	$8.04	$8.04	$8.04	$8.04
$4.48	$4.20	$4.09	$3.65	$3.75	$3.81	$3.34	$2.72	$1.94
$27,527,283	$24,963,618	$25,205,867	$21,422,457	$22,748,975	$22,860,842	$16,339,621	$10,821,492	$6,220,999

Schedule A.1 - BRU Gas Production and Cost (PRA Forecast)

Ref.	Item	Formula	Input	2019	2020	2021	2022	2023	2024	2025
	Chugach									
A1.39	Chugach Production Share (%)		10.00%							
A1.40	Gross Gas (Mcf)	[A1.3] x [A1.39]		1,022,000	1,259,040	1,244,650	1,230,050	1,281,150	1,248,060	1,244,650
A1.41	Field Fuel (Mcf)	[A1.4] x [A1.39]		120,000	120,000	120,000	120,000	120,000	120,000	120,000
A1.42	**Net Gas (Mcf)**	**[A1.40] - [A1.41]**		**902,000**	**1,139,040**	**1,124,650**	**1,110,050**	**1,161,150**	**1,128,060**	**1,124,650**
A1.43	New Plant Beginning Balance ($)	$[A1.46]_{t-1}$		$0	$41,084	$1,594,707	$3,029,590	$4,339,375	$5,490,008	$6,500,284
A1.44	Capital Improvements ($)	[A1.7] x [A1.39]		$43,345	$1,669,626	$1,669,626	$1,669,626	$1,669,626	$1,669,626	$1,669,626
A1.45	Depletion ($)	([A1.43] + [A1.44]) x [A1.8]		($2,261)	($116,004)	($234,743)	($359,841)	($518,994)	($659,350)	($826,442)
A1.46	Ending Balance ($)	[A1.43] + [A1.44] + [A1.45]		$41,084	$1,594,707	$3,029,590	$4,339,375	$5,490,008	$6,500,284	$7,343,468
A1.47	**Average Rate Base ($)**	**([A1.43] + [A1.46]) / 2**		**$20,542**	**$817,895**	**$2,312,148**	**$3,684,483**	**$4,914,691**	**$5,995,146**	**$6,921,876**
A1.48	Original Acquisition Balance ($)	As Filed; $[A1.48]_{t-1}$ + $[A1.49]_{t-1}$		$37,556,000	$35,596,634	$33,182,818	$30,796,591	$28,438,354	$25,982,149	$23,589,384
A1.49	Original Acquisition Depletion ($)	- [A1.48] x [A1.8]		($1,959,366)	($2,413,816)	($2,386,228)	($2,358,237)	($2,456,205)	($2,392,765)	($2,386,228)
A1.50	New Plant Interest Rate (%)	[A1.19]	4.10%							
A1.51	BRU TIER	[A1.20]	1.35							
A1.52	Original Acquisition TIER ($)			$1,302,486	$1,216,884	$1,129,074	$1,038,998	$946,598	$851,815	$754,586
A1.53	New Plant TIER ($)	[A1.47] x [A1.50] x [A1.51]		$1,137	$45,271	$127,977	$203,936	$272,028	$331,831	$383,126
A1.54	Depletion Expenses ($)	- [A1.45] - [A1.49]		$1,961,627	$2,529,820	$2,620,971	$2,718,077	$2,975,199	$3,052,115	$3,212,670
A1.55	Field Opex ($)	[A1.6] x [A1.39]		$1,388,772	$1,335,845	$1,411,196	$1,467,333	$1,494,574	$1,447,363	$1,475,705
A1.56	A&G ($)	Flat	$28,889	$28,889	$28,889	$28,889	$28,889	$28,889	$28,889	$28,889
A1.ARO2	ARO Expense and Accretion				$582,911	$576,249	$569,489	$593,147	$577,827	$576,249
A1.57	Subtotal Production Cost ($)	[A1.52] + [A1.53] + [A1.54] + [A1.55] + [A1.56] + [A1.ARO2]		$4,682,911	$5,739,619	$5,894,355	$6,026,722	$6,310,436	$6,289,840	$6,431,224
A1.58	Royalties ($)	[A1.9] x [A1.57]		$585,364	$717,452	$736,794	$753,340	$788,805	$786,230	$803,903
A1.59	**Total Production Cost ($)**	**[A1.57] + [A1.58]**		**$5,268,275**	**$6,457,072**	**$6,631,150**	**$6,780,063**	**$7,099,241**	**$7,076,071**	**$7,235,127**
A1.60	**Chugach Gas Production Cost ($/Mcf)**	**[A1.59] / [A1.42]**		**$5.84**	**$5.67**	**$5.90**	**$6.11**	**$6.11**	**$6.27**	**$6.43**
	Combined									
A1.61	Gross Gas (Mcf)	[A1.11] + [A1.40]		$6,813,674	$8,394,020	$8,298,082	$8,200,743	$8,541,427	$8,320,816	$8,298,082
A1.62	Field Fuel (Mcf)	[A1.12] + [A1.41]		$800,040	$800,040	$800,040	$800,040	$800,040	$800,040	$800,040
A1.63	**Net Gas (Mcf)**	**[A1.61] - [A1.62]**		**$6,013,634**	**$7,593,980**	**$7,498,042**	**$7,400,703**	**$7,741,387**	**$7,520,776**	**$7,498,042**
A1.ARO3	ML&P Production Cost (excl. royalties) ($)	[A1.27]			$9,358,097	$10,916,620	$12,364,121	$13,804,081	$14,658,412	$16,047,901
A1.ARO4	Chugach Production Cost (excl. royalties) ($)	[A1.52] + [A1.53] + [A1.54] + [A1.55] + [A1.56]			$5,156,708	$5,318,107	$5,457,233	$5,717,289	$5,712,013	$5,854,975
A1.ARO5	ARO Cost ($)				$1,398,015	$1,381,949	$1,365,652	$1,422,295	$1,385,472	$1,381,598
A1.ARO6	Royalties ($)	([A1.ARO3] + [A1.ARO4] + [A1.ARO5]) x [A1.9]			$1,989,103	$2,202,084	$2,398,376	$2,617,958	$2,719,487	$2,910,559
A1.64	**Total Revenue Requirement ($)**	**([A1.ARO3] + [A1.ARO4] + [A1.ARO5]) + [A1.ARO6]**			**$17,901,923**	**$19,818,760**	**$21,585,381**	**$23,561,622**	**$24,475,384**	**$26,195,034**
A1.65	**Pooled Gas Production Cost ($/Mcf)**	**[A1.64] / [A1.63]**			**$2.36**	**$2.64**	**$2.92**	**$3.04**	**$3.25**	**$3.49**
	Rebate to ML&P Legacy Rate Payers									
A1.66	Market Price of Gas ($/Mcf)					$7.49	$7.55	$7.61	$7.69	$7.78
A1.67	Price Difference ($)	[A1.66] - [A1.65]				$4.85	$4.63	$4.57	$4.44	$4.29
A1.68	Cost Difference ($)	[A1.63] x [A1.67]				$36,341,571	$34,289,929	$35,350,333	$33,359,383	$32,139,729
A1.69	ML&P Load Share (%)	[L15] / [L17]				47.3%	47.6%	47.8%	48.1%	48.3%
A1.70	ML&P Legacy Rate Payer Contributed Capital ($)	[A1.68] x [A1.69]				$17,187,741	$16,306,911	$16,899,826	$16,031,693	$15,526,205
A1.71	**NPV of BRU Value in 2021 in Combined ($)**	**NPV of [A1.70] at 5%**				**$130,282,633**				
A1.72	**NPV of ML&P Rate Payers Benefit ($)**	**[A1.38] - [A1.71] + [B.1]**				**$11,056,406**				

Schedule A.1 - BRU Gas Production and Cost (PRA Forecast)

2026	2027	2028	2029	2030	2031	2032	2033	2034
1,204,500	1,168,000	1,207,800	1,157,050	1,189,900	1,178,950	984,540	821,250	686,200
120,000	120,000	120,000	120,000	120,000	120,000	120,000	120,000	120,000
1,084,500	**1,048,000**	**1,087,800**	**1,037,050**	**1,069,900**	**1,058,950**	**864,540**	**701,250**	**566,200**
$7,343,468	$8,031,471	$8,551,339	$8,799,891	$8,849,861	$7,184,220	$5,533,907	$4,155,732	$3,006,133
$1,669,626	$1,669,626	$1,669,626	$1,669,626	$0	$0	$0	$0	$0
($981,623)	($1,149,759)	($1,421,074)	($1,619,657)	($1,665,641)	($1,650,313)	($1,378,175)	($1,149,599)	($960,554)
$8,031,471	$8,551,339	$8,799,891	$8,849,861	$7,184,220	$5,533,907	$4,155,732	$3,006,133	$2,045,579
$7,687,470	**$8,291,405**	**$8,675,615**	**$8,824,876**	**$8,017,040**	**$6,359,063**	**$4,844,819**	**$3,580,932**	**$2,525,856**
$21,203,156	$18,893,904	$16,654,628	$14,339,049	$12,120,767	$9,839,506	$7,579,237	$5,691,689	$4,117,199
($2,309,253)	($2,239,275)	($2,315,579)	($2,218,282)	($2,281,262)	($2,260,268)	($1,887,548)	($1,574,490)	($1,315,574)
$654,848	$552,537	$447,587	$339,928	$229,493	$116,208	$0	$0	$0
$425,501	$458,929	$480,195	$488,457	$443,743	$351,974	$268,161	$198,205	$139,806
$3,290,876	$3,389,034	$3,736,653	$3,837,939	$3,946,903	$3,910,581	$3,265,723	$2,724,089	$2,276,128
$1,504,614	$1,534,101	$1,564,177	$1,594,855	$1,626,147	$1,658,065	$1,690,621	$1,723,828	$1,757,699
$28,889	$28,889	$28,889	$28,889	$28,889	$28,889	$28,889	$28,889	$28,889
$557,660	$540,761	$559,188	$535,692	$550,900	$545,831	$455,823	$380,223	$317,697
$6,462,388	$6,504,251	$6,816,689	$6,825,760	$6,826,075	$6,611,548	$5,709,216	$5,055,233	$4,520,219
$807,798	$813,031	$852,086	$853,220	$853,259	$826,443	$713,652	$631,904	$565,027
$7,270,186	**$7,317,282**	**$7,668,775**	**$7,678,980**	**$7,679,334**	**$7,437,991**	**$6,422,868**	**$5,687,137**	**$5,085,246**
$6.70	**$6.98**	**$7.05**	**$7.40**	**$7.18**	**$7.02**	**$7.43**	**$8.11**	**$8.98**
$8,030,402	$7,787,056	$8,052,403	$7,714,052	$7,933,063	$7,860,060	$6,563,928	$5,475,274	$4,574,895
$800,040	$800,040	$800,040	$800,040	$800,040	$800,040	$800,040	$800,040	$800,040
$7,230,362	**$6,987,016**	**$7,252,363**	**$6,914,012**	**$7,133,023**	**$7,060,020**	**$5,763,888**	**$4,675,234**	**$3,774,855**
$17,318,271	$18,615,319	$20,440,694	$21,772,733	$21,953,393	$21,518,130	$19,654,800	$18,125,500	$16,893,881
$5,904,728	$5,963,490	$6,257,501	$6,290,069	$6,275,175	$6,065,717	$5,253,393	$4,675,010	$4,202,522
$1,336,946	$1,296,350	$1,340,439	$1,284,034	$1,320,405	$1,308,172	$1,092,383	$911,149	$761,268
$3,069,993	$3,234,395	$3,504,829	$3,668,355	$3,693,622	$3,611,502	$3,250,072	$2,963,958	$2,732,209
$27,629,938	**$29,109,554**	**$31,543,463**	**$33,015,191**	**$33,242,595**	**$32,503,521**	**$29,250,649**	**$26,675,618**	**$24,589,879**
$3.82	**$4.17**	**$4.35**	**$4.78**	**$4.66**	**$4.60**	**$5.07**	**$5.71**	**$6.51**
$7.86	$7.95	$8.04	$8.04	$8.04	$8.04	$8.04	$8.04	$8.04
$4.04	$3.78	$3.69	$3.26	$3.38	$3.44	$2.97	$2.33	$1.53
$29,200,703	$26,437,223	$26,765,532	$22,573,469	$24,106,913	$24,259,037	$17,091,012	$10,913,262	$5,759,958
48.6%	48.8%	49.1%	49.3%	49.6%	49.5%	49.4%	49.4%	49.3%
$14,179,704	$12,904,152	$13,131,622	$11,131,627	$11,948,376	$12,008,633	$8,449,672	$5,388,626	$2,840,492

Schedule A.1 - BRU Gas Production and Cost (PRA Forecast)

Documentation of Sources:

[A1.1] H-112, Page 6, column 1, converted to Mcf; Lifetime total of the annual BRU production by PRA.
[A1.2] H-112, Page 6, column 1, converted to Mcf; Annual production in percentage of [A1.1].
[A1.4] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "GData" row 166.
[A1.6] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "GData" row 219 + row 220 + row 221 + row 232 / [A1.9].
[A1.7] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789 sheet "GData", row 187-188 FOR 1996-2015; ML&P quarterly Tariff Advisories (TA360-121, filed May 18, 2017; TA361-121, filed August 23, 2017; TA362-121, filed November 22, 2017; TA364-121,filed March 2, 2018; TA367-121, filed May 16, 2018; TA368-121, filed, August 15, 2018; TA369-
[A1.9] H-111, Ryder Scott Study Hearing
[A1.10] Order U-16-012 (14), *Order Affirming Bench Ruling Granting Joint Request, Affirming Bench Ruling Granting Petition for Confidential Treatment, Affirming Bench Ruling Accepting Stipulation, Affirming Bench Ruling Granting*
[A1.14] TA370-121, filed February 15, 2019 at Exhibit 56.
[A1.19] Commission adjudicated BRU new plant interest rate, as discussed in the body of the order.
[A1.20] Order U-19-003(8), *Order Accepting Stipulation, Granting Petition, and Closing Docket*,dated October 11, 2019, at Schedule A on page 3.
[A1.26] TA373-121, filed August 16, 2019, at Attachment 15, ML&P 2018 actuals.
[A1.ARO1] H-111, Beluga River Unit Asset Retirement Obligation Calculation for ML&P's 70% Share of 2016 Purchase of CPAI 1/3 Interest. The surcharge is calculated based on ML&P's share of the 2037/2038 value of ARO.

[A1.35] TA481-8, filed January 17, 2020 at Fourth Amendment for 2021-2028; flat at Hilcorp 2028 price level for 2028-2034.
[A1.39] Order U-16-012 (14), *Order Affirming Bench Ruling Granting Joint Request, Affirming Bench Ruling Granting Petition for Confidential Treatment, Affirming Bench Ruling Accepting Stipulation, Affirming Bench Ruling Granting*
[A1.48] Calculated from the acquisition cost of $44.4 million, U-16-062, less cumulated depreciation and amortization. Historical depreciation and amortization costs are used for 2016-2018,TA441-8, TA459-8, TA473-8, Exhibit 12. Future depreciation and amortization costs are projected according to the formulas.
[A1.52] Calculated annual interest expenses, according to a mortgage style repayment formula, with $44.4 million for the Chugach acquisition cost in 2016, 2.58 percent in annual interest rate, and repayment period of 16 years. See *Chugach's Compliance Filing to U-16-062(7) / U-16-074(7) – Beluga River Unit Gas Transfer Price*, filed September 29, 2017.
[A1.56] TA473-8, filed June 28, 2019, at Exhibit 12 page 2, Chugach 2018 Actuals.
[A1.ARO2] TA474-8, filed on August 28, 2019, at Exhibit 2, Beluga River Unit Asset Retirement Obligation. The ARO depreciation expense is calculated based on Chugach's share of the 2037/2038 value of ARO.

[A1.58] Calculated as the historical annual average A&G costs for 2016-2018, *See* TA441-8, filed June 30, 2017; TA459-8, filed June26, 2018; and TA473-8, filed June28, 2019, at Exhibit 12.
[A1.ARO5] The total of ML&P's ARO revenue and Chugach's ARO expense in their standalone cases.

[A1.66] TA481-8, filed January 20, 2020, at Hilcorp Agreement - Fourth Amendment for 2021-2028; flat at Hilcorp 2028 price level for 2028-2034.

Schedule A.2 - BRU Gas Production and Cost (Ryder Scott Forecast)

Ref.	Item	Formula	Input	2019	2020	2021	2022	2023	2024
	BRU Field								
A2.1	Lifetime Field Production (Mcf)		155,711,000						
A2.2	Annual Production %			6%	7%	8%	9%	9%	8%
A2.3	Gross Field Production (Mcf)	[A2.1] x [A2.2]		9,429,000	10,545,000	13,083,000	14,277,000	14,068,000	12,817,000
A2.4	Field Fuel Use (Mcf)			1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000
A2.5	**Net Field Production (Mcf)**	**[A2.3] - [A2.4]**		**8,229,000**	**9,345,000**	**11,883,000**	**13,077,000**	**12,868,000**	**11,617,000**
A2.6	Field Opex ($)			$13,887,719	$13,358,450	$14,111,955	$14,673,327	$14,945,740	$14,473,632
A2.7	Field Ongoing Capex ($)			$433,453	$16,696,263	$16,696,263	$16,696,263	$16,696,263	$16,696,263
A2.8	Annual Depletion %	Current [A2.2] / (1 - cumulative [A2.2])		6%	7%	10%	12%	13%	14%
A2.9	Royalty (%)		12.50%						
	ML&P								
A2.10	BRU Production Share (%)		56.67%						
A2.11	Gross Gas (Mcf)	[A2.3] x [A2.10]		5,343,414	5,975,852	7,414,136	8,090,776	7,972,336	7,263,394
A2.12	Field Fuel (Mcf)	[A2.4] x [A2.10]		680,040	680,040	680,040	680,040	680,040	680,040
A2.13	**Net Gas (Mcf)**	**[A2.11] - [A2.12]**		**4,663,374**	**5,295,812**	**6,734,096**	**7,410,736**	**7,292,296**	**6,583,354**
A2.14	Beginning balance ($)	As Filed; [A2.17]t-1		$2,360,871	$2,448,673	$11,051,860	$18,536,427	$24,739,192	$29,761,469
A2.15	Capital Improvements ($)	[A2.7] x [A2.10]		$245,638	$9,461,772	$9,461,772	$9,461,772	$9,461,772	$9,461,772
A2.16	Depletion ($)	([A2.14] + [A2.15]) x [A2.8]		($157,836)	($858,586)	($1,977,205)	($3,259,007)	($4,439,495)	($5,330,608)
A2.17	Ending balance ($)	[A2.14] + [A2.15] + [A2.16]		$2,448,673	$11,051,860	$18,536,427	$24,739,192	$29,761,469	$33,892,634
A2.18	**Average Rate Base ($)**	**([A2.14] + [A2.17]) / 2**		**$2,404,772**	**$6,750,266**	**$14,794,143**	**$21,637,810**	**$27,250,330**	**$31,827,051**
	BRU Cost of Capital								
	In Combined Case:								
A2.19	New Plant Interest Rate (%)		4.10%						
A2.20	BRU TIER		1.35						
A2.21	New Plant TIER ($)	[A2.18] x [A2.19] x [A2.20]		$133,104	$373,627	$818,856	$1,197,653	$1,508,306	$1,761,627
	In Standalone Case:								
A2.22	New Plant Rate of Return (%)	[I7]	6.59%						
A2.23	New Plant Cost of Capital ($)	[A2.18] x [A2.22]		$158,501	$444,916	$975,096	$1,426,168	$1,796,095	$2,097,751
A2.24	Depletion expenses ($)	- [A2.16]		$157,836	$858,586	$1,977,205	$3,259,007	$4,439,495	$5,330,608
A2.25	Field Opex ($)	[A2.6] x [A2.10]		$7,870,170	$7,570,234	$7,997,245	$8,315,374	$8,469,751	$8,202,207
A2.26	A&G ($)	[A2.52] x [A2.10] / [A2.35]	602,526	$602,526	$602,526	$602,526	$602,526	$602,526	$602,526
	In Combined Case:								
A2.27	Subtotal Production Cost ($)	[A2.21] + [A2.24] + [A2.25] + [A2.26]		$8,763,636	$9,404,973	$11,395,832	$13,374,561	$15,020,078	$15,896,968
A2.28	Royalties ($)	[A2.9] x [A2.27]		$1,095,455	$1,175,622	$1,424,479	$1,671,820	$1,877,510	$1,987,121
A2.29	**Total Production Cost ($)**	**[A2.27] + [A2.28]**		**$9,859,091**	**$10,580,594**	**$12,820,311**	**$15,046,381**	**$16,897,588**	**$17,884,089**

Schedule A.2 - BRU Gas Production and Cost (Ryder Scott Forecast)

2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
8%	8%	6%	5%	4%	4%	3%	3%	2%	2%
12,155,000	12,345,000	10,081,000	8,176,000	6,790,000	5,767,000	4,926,000	4,293,000	3,737,000	3,227,000
1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000
10,955,000	**11,145,000**	**8,881,000**	**6,976,000**	**5,590,000**	**4,567,000**	**3,726,000**	**3,093,000**	**2,537,000**	**2,027,000**
$14,757,050	$15,046,137	$15,341,006	$15,641,772	$15,948,554	$16,261,471	$16,580,646	$16,906,205	$17,238,275	$17,576,987
$16,696,263	$16,696,263	$16,696,263	$16,696,263	$16,696,263	$0	$0	$0	$0	$0
15%	18%	18%	17%	18%	18%	19%	20%	22%	24%
6,888,239	6,995,912	5,712,903	4,633,339	3,847,893	3,268,159	2,791,564	2,432,843	2,117,758	1,828,741
680,040	680,040	680,040	680,040	680,040	680,040	680,040	680,040	680,040	680,040
6,208,199	**6,315,872**	**5,032,863**	**3,953,299**	**3,167,853**	**2,588,119**	**2,111,524**	**1,752,803**	**1,437,718**	**1,148,701**
$33,892,634	$36,887,847	$38,097,372	$39,146,670	$40,136,600	$40,904,092	$33,519,715	$27,212,201	$21,715,213	$16,930,158
$9,461,772	$9,461,772	$9,461,772	$9,461,772	$9,461,772	$0	$0	$0	$0	$0
($6,466,559)	($8,252,247)	($8,412,474)	($8,471,843)	($8,694,280)	($7,384,376)	($6,307,515)	($5,496,987)	($4,785,055)	($4,132,024)
$36,887,847	$38,097,372	$39,146,670	$40,136,600	$40,904,092	$33,519,715	$27,212,201	$21,715,213	$16,930,158	$12,798,134
$35,390,240	**$37,492,610**	**$38,622,021**	**$39,641,635**	**$40,520,346**	**$37,211,903**	**$30,365,958**	**$24,463,707**	**$19,322,686**	**$14,864,146**
$1,958,850	$2,075,216	$2,137,729	$2,194,164	$2,242,801	$2,059,679	$1,680,756	$1,354,066	$1,069,511	$822,730
$2,332,604	$2,471,173	$2,545,614	$2,612,817	$2,670,734	$2,452,671	$2,001,449	$1,612,426	$1,273,576	$979,710
$6,466,559	$8,252,247	$8,412,474	$8,471,843	$8,694,280	$7,384,376	$6,307,515	$5,496,987	$4,785,055	$4,132,024
$8,362,820	$8,526,646	$8,693,748	$8,864,192	$9,038,045	$9,215,375	$9,396,252	$9,580,746	$9,768,931	$9,960,878
$602,526	$602,526	$602,526	$602,526	$602,526	$602,526	$602,526	$602,526	$602,526	$602,526
$17,390,755	$19,456,635	$19,846,477	$20,132,726	$20,577,653	$19,261,957	$17,987,049	$17,034,326	$16,226,023	$15,518,159
$2,173,844	$2,432,079	$2,480,810	$2,516,591	$2,572,207	$2,407,745	$2,248,381	$2,129,291	$2,028,253	$1,939,770
$19,564,599	**$21,888,714**	**$22,327,287**	**$22,649,316**	**$23,149,859**	**$21,669,701**	**$20,235,430**	**$19,163,617**	**$18,254,275**	**$17,457,929**

Schedule A.2 - BRU Gas Production and Cost (Ryder Scott Forecast)

Ref.	Item	Formula	Input	2019	2020	2021	2022	2023	2024
A2.30	**ML&P Gas Production Cost ($/Mcf)**	[A2.29] / [A2.13]		**$2.11**	**$2.00**	**$1.90**	**$2.03**	**$2.32**	**$2.72**
	In Stand-alone Case:								
A2.31	Subtotal Production Cost ($)	[A2.23] + [A2.24] + [A2.25] + [A2.26]		$8,789,033	$9,476,262	$11,552,072	$13,603,076	$15,307,867	$16,233,091
A2.32	Royalties ($)	[A2.9] x [A2.31]		$1,098,629	$1,184,533	$1,444,009	$1,700,384	$1,913,483	$2,029,136
A2.33	**Total Production Cost ($)**	**[A2.31] + [A2.32]**		**$9,887,662**	**$10,660,795**	**$12,996,081**	**$15,303,460**	**$17,221,350**	**$18,262,228**
A2.ARO1	ARO Surcharge ($/Mcf)				$0.15	$0.15	$0.15	$0.15	$0.15
A2.34	**ML&P Gas Production Cost ($/Mcf)**	**[A2.33] / [A2.13] + [A2.ARO1]**		**$2.12**	**$2.16**	**$2.08**	**$2.21**	**$2.51**	**$2.92**
A2.35	Market Price of Gas ($/Mcf)					$7.49	$7.55	$7.61	$7.69
A2.36	Price Difference ($)	[A2.35] - [A2.34]				$5.41	$5.34	$5.10	$4.77
A2.37	Cost Difference ($)	[A2.13] x [A2.36]				$36,464,284	$39,571,417	$37,214,146	$31,407,928
A2.38	**NPV of BRU Value in 2021 in ML&P Stand-alone ($)**	**NPV of [A2.37] at 5%**				**$173,304,388**			

Ref.	Item	Formula	Input	2019	2020	2021	2022	2023	2024
	Chugach								
A2.39	Chugach Production Share (%)		10.00%						
A2.40	Gross Gas (Mcf)	[A2.3] x [A2.39]		942,900	1,054,500	1,308,300	1,427,700	1,406,800	1,281,700
A2.41	Field Fuel (Mcf)	[A2.4] x [A2.39]		120,000	120,000	120,000	120,000	120,000	120,000
A2.42	**Net Gas (Mcf)**	**[A2.40] - [A2.41]**		**822,900**	**934,500**	**1,188,300**	**1,307,700**	**1,286,800**	**1,161,700**
A2.43	New Plant Beginning Balance ($)	$[A2.46]_{t-1}$		$0	$40,721	$1,587,053	$2,942,785	$4,075,524	$4,999,394
A2.44	Capital Improvements ($)	[A2.7] x [A2.39]		$43,345	$1,669,626	$1,669,626	$1,669,626	$1,669,626	$1,669,626
A2.45	Depletion ($)	([A2.43] + [A2.44]) x [A2.8]		($2,625)	($123,293)	($313,895)	($536,887)	($745,756)	($906,349)
A2.46	Ending Balance ($)	[A2.43] + [A2.44] + [A2.45]		$40,721	$1,587,053	$2,942,785	$4,075,524	$4,999,394	$5,762,672
A2.47	**Average Rate Base ($)**	**([A2.43] + [A2.46]) / 2**		**$20,360**	**$813,887**	**$2,264,919**	**$3,509,154**	**$4,537,459**	**$5,381,033**
A2.48	Original Acquisition Balance ($)	As Filed; $[A2.48]_{t-1}$ + $[A2.49]_{t-1}$		$37,556,000	$35,281,816	$32,738,463	$29,582,969	$26,139,493	$22,746,426
A2.49	Original Acquisition Depletion ($)	- [A2.48] x [A2.8]		($2,274,184)	($2,543,353)	($3,155,494)	($3,443,475)	($3,393,067)	($3,091,337)
A2.50	New Plant Interest Rate (%)	[A2.19]	4.10%						
A2.51	BRU TIER	[A2.20]	1.35						
A2.52	Original Acquisition TIER ($)			$1,302,486	$1,216,884	$1,129,074	$1,038,998	$946,598	$851,815
A2.53	New Plant TIER ($)	[A2.47] x [A2.50] x [A2.51]		$1,127	$45,049	$125,363	$194,232	$251,148	$297,840
A2.54	Depletion Expenses ($)	- [A2.45] - [A2.49]		$2,276,809	$2,666,646	$3,469,389	$3,980,363	$4,138,822	$3,997,686
A2.55	Field Opex ($)	[A2.6] x [A2.39]		$1,388,772	$1,335,845	$1,411,196	$1,467,333	$1,494,574	$1,447,363
A2.56	A&G ($)	Flat	$28,889	$28,889	$28,889	$28,889	$28,889	$28,889	$28,889
A2.ARO2	ARO Expense and Accretion				$619,673	$768,818	$838,983	$826,701	$753,186
A2.57	Subtotal Production Cost ($)	[A2.52] + [A2.53] + [A2.54] + [A2.55] + [A2.56] + [A2.ARO2]		$4,998,083	$5,912,986	$6,932,728	$7,548,797	$7,686,733	$7,376,780

Schedule A.2 - BRU Gas Production and Cost (Ryder Scott Forecast)

2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
$3.15	**$3.47**	**$4.44**	**$5.73**	**$7.31**	**$8.37**	**$9.58**	**$10.93**	**$12.70**	**$15.20**
$17,764,509	$19,852,592	$20,254,362	$20,551,378	$21,005,585	$19,654,949	$18,307,742	$17,292,686	$16,430,088	$15,675,138
$2,220,564	$2,481,574	$2,531,795	$2,568,922	$2,625,698	$2,456,869	$2,288,468	$2,161,586	$2,053,761	$1,959,392
$19,985,072	**$22,334,166**	**$22,786,157**	**$23,120,301**	**$23,631,284**	**$22,111,818**	**$20,596,209**	**$19,454,271**	**$18,483,849**	**$17,634,530**
$0.15	$0.15	$0.15	$0.15	$0.15	$0.15	$0.15	$0.15	$0.15	$0.15
$3.36	**$3.68**	**$4.67**	**$5.99**	**$7.60**	**$8.69**	**$9.90**	**$11.24**	**$13.00**	**$15.50**
$7.78	$7.86	$7.95	$8.04	$8.04	$8.04	$8.04	$8.04	$8.04	$8.04
$4.42	$4.18	$3.28	$2.05	$0.44	-$0.65	-$1.86	-$3.20	-$4.96	-$7.46
$27,413,435	$26,391,767	$16,494,600	$8,090,475	$1,378,544	-$1,678,885	-$3,925,912	-$5,616,020	-$7,133,152	-$8,565,588

2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
1,215,500	1,234,500	1,008,100	817,600	679,000	576,700	492,600	429,300	373,700	322,700
120,000	120,000	120,000	120,000	120,000	120,000	120,000	120,000	120,000	120,000
1,095,500	**1,114,500**	**888,100**	**697,600**	**559,000**	**456,700**	**372,600**	**309,300**	**253,700**	**202,700**
$5,762,672	$6,323,728	$6,570,190	$6,782,321	$6,978,878	$7,132,477	$5,844,858	$4,745,012	$3,786,498	$2,952,124
$1,669,626	$1,669,626	$1,669,626	$1,669,626	$1,669,626	$0	$0	$0	$0	$0
($1,108,570)	($1,423,165)	($1,457,496)	($1,473,069)	($1,516,028)	($1,287,619)	($1,099,846)	($958,514)	($834,374)	($720,504)
$6,323,728	$6,570,190	$6,782,321	$6,978,878	$7,132,477	$5,844,858	$4,745,012	$3,786,498	$2,952,124	$2,231,620
$6,043,200	**$6,446,959**	**$6,676,255**	**$6,880,600**	**$7,055,678**	**$6,488,667**	**$5,294,935**	**$4,265,755**	**$3,369,311**	**$2,591,872**
$19,655,089	$16,723,419	$13,745,924	$11,314,483	$9,342,511	$7,704,828	$6,313,883	$5,125,779	$4,090,348	$3,189,020
($2,931,669)	($2,977,496)	($2,431,441)	($1,971,973)	($1,637,683)	($1,390,945)	($1,188,104)	($1,035,430)	($901,329)	($778,321)
$754,586	$654,848	$552,537	$447,587	$339,928	$229,493	$116,208	$0	$0	$0
$334,491	$356,839	$369,531	$380,841	$390,532	$359,148	$293,075	$236,110	$186,491	$143,460
$4,040,239	$4,400,660	$3,888,936	$3,445,041	$3,153,711	$2,678,564	$2,287,950	$1,993,944	$1,735,702	$1,498,826
$1,475,705	$1,504,614	$1,534,101	$1,564,177	$1,594,855	$1,626,147	$1,658,065	$1,690,621	$1,723,828	$1,757,699
$28,889	$28,889	$28,889	$28,889	$28,889	$28,889	$28,889	$28,889	$28,889	$28,889
$714,284	$725,449	$592,406	$480,460	$399,012	$338,896	$289,475	$252,277	$219,603	$189,633
$7,348,194	$7,671,300	$6,966,400	$6,346,995	$5,906,927	$5,261,136	$4,673,661	$4,201,840	$3,894,514	$3,618,507

Schedule A.2 - BRU Gas Production and Cost (Ryder Scott Forecast)

Ref.	Item	Formula	Input	2019	2020	2021	2022	2023	2024
A2.58	Royalties ($)	[A2.9] x [A2.57]		$624,760	$739,123	$866,591	$943,600	$960,842	$922,097
A2.59	**Total Production Cost ($)**	**[A2.57] + [A2.58]**		**$5,622,843**	**$6,652,110**	**$7,799,319**	**$8,492,397**	**$8,647,575**	**$8,298,877**
A2.60	**Chugach Gas Production Cost ($/Mcf)**	**[A2.59] / [A2.42]**		**$6.83**	**$7.12**	**$6.56**	**$6.49**	**$6.72**	**$7.14**
	Combined								
A2.61	Gross Gas (Mcf)	[A2.11] + [A2.40]		$6,286,314	$7,030,352	$8,722,436	$9,518,476	$9,379,136	$8,545,094
A2.62	Field Fuel (Mcf)	[A2.12] + [A2.41]		$800,040	$800,040	$800,040	$800,040	$800,040	$800,040
A2.63	**Net Gas (Mcf)**	**[A2.61] - [A2.62]**		**$5,486,274**	**$6,230,312**	**$7,922,396**	**$8,718,436**	**$8,579,096**	**$7,745,054**
A2.ARO3	ML&P Production Cost (excl. royalties) ($)	[A2.27]			$9,404,973	$11,395,832	$13,374,561	$15,020,078	$15,896,968
A2.ARO4	Chugach Production Cost (excl. royalties) ($)	[A2.52] + [A2.53] + [A2.54] + [A2.55] + [A2.56]			$5,293,313	$6,163,911	$6,709,814	$6,860,032	$6,623,593
A2.ARO5	ARO Expense and Accretion ($)				$1,425,777	$1,768,830	$1,930,142	$1,901,771	$1,732,550
A2.ARO6	Royalties ($)	([A2.ARO3] + [A2.ARO4] + [A2.ARO5]) x [A2.9]			$2,015,508	$2,416,071	$2,751,815	$2,972,735	$3,031,639
A2.64	**Total Revenue Requirement ($)**	**([A2.ARO3] + [A2.ARO4] + [A2.ARO5]) + [A2.ARO6]**			**$18,139,571**	**$21,744,643**	**$24,766,331**	**$26,754,616**	**$27,284,750**
A2.65	**Pooled Gas Production Cost ($/Mcf)**	**[A2.64] / [A2.63]**			**$2.91**	**$2.74**	**$2.84**	**$3.12**	**$3.52**
	Rebate to ML&P Legacy Rate Payers								
A2.66	Market Price of Gas ($/Mcf)					$7.49	$7.55	$7.61	$7.69
A2.67	Price Difference ($)	[A2.66] - [A2.65]				$4.75	$4.71	$4.49	$4.17
A2.68	Cost Difference ($)	[A2.63] x [A2.67]				$37,594,103	$41,057,860	$38,532,302	$32,274,715
A2.69	ML&P Load Share (%)	[L15] / [L17]				47.3%	47.6%	47.8%	48.1%
A2.70	ML&P Legacy Rate Payer Contributed Capital ($)	[A2.68] x [A2.69]				$17,780,126	$19,525,466	$18,421,020	$15,510,428
A2.71	**NPV of BRU Value in 2021 in Combined ($)**	**NPV of [A2.70] at 5%**				**$81,232,113**			
A2.72	**NPV of ML&P Rate Payers Benefit ($)**	**[A2.38] - [A2.71] + [B.1]**				**$43,929,965**			

Schedule A.2 - BRU Gas Production and Cost (Ryder Scott Forecast)

2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
$918,524	$958,912	$870,800	$793,374	$738,366	$657,642	$584,208	$525,230	$486,814	$452,313
$8,266,719	**$8,630,212**	**$7,837,200**	**$7,140,369**	**$6,645,293**	**$5,918,779**	**$5,257,868**	**$4,727,070**	**$4,381,328**	**$4,070,820**
$7.55	**$7.74**	**$8.82**	**$10.24**	**$11.89**	**$12.96**	**$14.11**	**$15.28**	**$17.27**	**$20.08**
$8,103,739	$8,230,412	$6,721,003	$5,450,939	$4,526,893	$3,844,859	$3,284,164	$2,862,143	$2,491,458	$2,151,441
$800,040	$800,040	$800,040	$800,040	$800,040	$800,040	$800,040	$800,040	$800,040	$800,040
$7,303,699	**$7,430,372**	**$5,920,963**	**$4,650,899**	**$3,726,853**	**$3,044,819**	**$2,484,124**	**$2,062,103**	**$1,691,418**	**$1,351,401**
$17,390,755	$19,456,635	$19,846,477	$20,132,726	$20,577,653	$19,261,957	$17,987,049	$17,034,326	$16,226,023	$15,518,159
$6,633,910	$6,945,850	$6,373,994	$5,866,535	$5,507,916	$4,922,241	$4,384,186	$3,949,563	$3,674,910	$3,428,873
$1,642,963	$1,668,544	$1,362,460	$1,104,929	$917,565	$779,275	$665,593	$580,028	$504,876	$435,947
$3,208,454	$3,508,879	$3,447,866	$3,388,024	$3,375,392	$3,120,434	$2,879,603	$2,695,490	$2,550,726	$2,422,872
$28,876,082	**$31,579,907**	**$31,030,797**	**$30,492,214**	**$30,378,525**	**$28,083,906**	**$25,916,431**	**$24,259,407**	**$22,956,535**	**$21,805,852**
$3.95	**$4.25**	**$5.24**	**$6.56**	**$8.15**	**$9.22**	**$10.43**	**$11.76**	**$13.57**	**$16.14**
$7.78	$7.86	$7.95	$8.04	$8.04	$8.04	$8.04	$8.04	$8.04	$8.04
$3.83	$3.61	$2.71	$1.48	($0.11)	($1.18)	($2.39)	($3.72)	($5.53)	($8.10)
$27,946,692	$26,822,813	$16,040,857	$6,901,015	($414,627)	($3,603,562)	($5,944,072)	($7,680,098)	($9,357,535)	($10,940,589)
48.3%	48.6%	48.8%	49.1%	49.3%	49.6%	49.5%	49.4%	49.4%	49.3%
$13,500,613	$13,025,013	$7,829,629	$3,385,755	($204,465)	($1,786,073)	($2,942,416)	($3,796,985)	($4,620,457)	($5,395,291)

Schedule A.2 - BRU Gas Production and Cost (Ryder Scott Forecast)

Documentation of Sources:

[A2.1] H-111, at Page 6, Table 3A, converted to Mcf; Lifetime total of the annual BRU production by Ryder Scott
[A2.2] H-111, at Page 6, Table 3A, converted to Mcf; Annual production in percentage of [A2.1]
[A2.4] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "GData" row 166.
[A2.6] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30),* filed November 1, 2019, at CHU-020789, sheet "GData" row 219 + row 220 + row 221++ row 232 / [A2.9].
[A2.7] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "Gdata", row 187-188 FOR 1996-2015;ML&P quarterly Tariff Advisories (TA360-121, filed May 18, 2017; TA361-121, filed August 23, 2017; TA362-121, filed November 22, 2017; TA364-121,filed March 2, 2018; TA367-121, filed May 16, 2018; TA368-121, filed, August 15, 2018;
[A2.9] H-111
[A2.10] Order U-16-012 (14), *Order Affirming Bench Ruling Granting Joint Request, Affirming Bench Ruling Granting Petition for Confidential Treatment, Affirming Bench Ruling Accepting Stipulation, Affirming Bench Ruling Granting*
[A2.14] TA370-121 filed February 15, 2019, at Exhibit 56.
[A2.19] Commission adjudicated BRU new plant interest rate as discussed in this order.
[A2.20] Order U-19-003(8), *Order Accepting Stipulation, Granting Petition, and Closing Docket*, dated October 11, 2019, Schedule A on page 3.
[A2.26] TA373-121, filed August 16, 2019, at Attachment 15, ML&P 2018 actuals.
[A2.ARO1] H-111, Beluga River Unit Asset Retirement Obligation Calculation for ML&P's 70% Share of 2016 Purchase of CPAI 1/3 Interest. The surcharge is calculated based on ML&P's share of the 2037/2038 value of ARO.

[A2.35] TA481-8, filed January 21, 2020. Fourth Amendment to Hilcorp Agreement, for 2021-2028; flat at Hilcorp 2028 price level for 2028-2034.
[A2.39] Order U-16-012 (14), *Order Affirming Bench Ruling Granting Joint Request, Affirming Bench Ruling Granting Petition for Confidential Treatment, Affirming Bench Ruling Accepting Stipulation, Affirming Bench Ruling Granting*
[A2.48] Calculated from the acquisition cost of $44.4 million less cumulated depreciation and amortization. Historical depreciation and amortization costs are used for 2016-2018, in TA441-8, filed June 30, 2017; TA459-8, filed June 26, 2018; TA473-8, filed June 28, 2019, at Exhibit 12. Future depreciation and amortization costs are projected according to the formulas. See Order U-16-062, Order Accepting Stipulation, dated September 17, 2017.
[A2.52] Calculated annual interest expenses, according to a mortgage style repayment formula, with $44.4 million for the Chugach acquisition cost in 2016, 2.58 percent in annual interest rate, and repayment period of 16 years. *See* Chugach's Compliance Filing to U-16-062(7) / U-16-074(7) – Beluga River Unit Gas Transfer Price, filed September 29, 2017.
[A2.56] TA473-8, filed June 28, 2019, at Exhibit 12 page 2, Chugach 2018 Actuals.
[A2.ARO2] TA474-8, filed on August 28, 2019, at Exhibit 2, Beluga River Unit Asset Retirement Obligation. The ARO depreciation expense is calculated based on Chugach's share of the 2037/2038 value of ARO.
[A2.58] Calculated as the historical annual average A&G costs for 2016-2018. *See* TA441-8, filed June 30, 2017; TA459-8, filed June 26, 2018; TA473-8, filed June 28, 2019, at Exhibit 12.
[A2.ARO5] The total of ML&P's ARO revenue and Chugach's ARO
[A2.66] TA481-8, filed January 21, 2020. Fourth Amendment to Hilcorp Agreement, for 2021-2028; flat at Hilcorp 2028 price level for 2028-2034.

Schedule B - Amortization of ML&P Legacy Ratepayer Contributed Capital

Ref.	Item	Input
B1	ML&P Prepayment ($)	$136,002,239
B2	Term of Rebate (year)	10
B3	Interest Rate (%)	5.00%

Item Ref.	Year	Annual Payment ($)
Formula		B4
		Levelized Installment
	2021	$17,612,912
	2022	$17,612,912
	2023	$17,612,912
	2024	$17,612,912
	2025	$17,612,912
	2026	$17,612,912
	2027	$17,612,912
	2028	$17,612,912
	2029	$17,612,912
	2030	$17,612,912
	2031	$0
	2032	$0
	2033	$0
	2034	$0

Documentation of Sources:

[B1] *Municipal Light & Power's Filing in Compliance with Order U-18-102(32)/U-19-020(27)/U-19-021(27)* , filed October 29, 2019, at MLP005872 BRU contributed capital.
[B2] Commission adjudicated payment term as discussed in this order.
[B3] Commission adjudicated interest rate as discussed in this order.

Schedule C - ML&P Cost of Power Adjustment

Ref.	Item	Formula	Input	2021	2022	2023	2024	2025
C1	BRU Production (Mcf)	[A13]		6,373,392	6,290,653	6,580,237	6,392,716	6,373,392
C2	BRU Production Cost ($/Mcf)	[A34]	$2.46	$1.96	$2.25	$2.41	$2.65	$2.91
C3	Cost of BRU Gas ($)	[C1] x [C2]		$12,460,766	$14,179,832	$15,880,819	$16,912,879	$18,536,665
C4	Gas Volume Requirement (Mcf)			6,709,835	6,713,197	6,716,776	6,720,401	6,723,990
C5	Additioanl Gas Purchases (Mcf)	[C4] - [C1]		336,444	422,543	136,539	327,685	350,598
C6	Market Price of Gas ($/Mcf)			$7.49	$7.55	$7.61	$7.69	$7.78
C7	Power Puchase / Sale ($)	[C5] x [C6]		$2,519,963	$3,190,201	$1,039,062	$2,519,899	$2,727,654
C8	**Cost of Gas ($)**	**[C3] + [C7]**		**$14,980,730**	**$17,370,033**	**$16,919,881**	**$19,432,777**	**$21,264,319**
C9	**Cost of Gas Transportation ($)**			**3,008,004**	**3,008,807**	**3,009,662**	**3,010,528**	**3,011,385**
C10	**Cost of Gas Storage - CINGSA ($)**			**$2,641,000**	**$2,641,000**	**$2,641,000**	**$2,641,000**	**$2,641,000**
C11	**Purchased Power ($)**			**5,133,210**	**5,133,210**	**5,133,210**	**5,133,210**	**5,133,210**
C12	CEA/ Bradley Lake Wheeling ($)	Flat	683,413	683,413	683,413	683,413	683,413	683,413
C13	Alaska Intertie Capacity Billing ($)	Flat	62,496	62,496	62,496	62,496	62,496	62,496
C14	Alaska Intertie O&M ($)	Flat	83,750	83,750	83,750	83,750	83,750	83,750
C15	**Wheeling Cost ($)**	**[C12] + [C13] + [C14]**		**$829,659**	**$829,659**	**$829,659**	**$829,659**	**$829,659**
C16	**Cost of Diesel Fuel ($)**	**Flat**	**$13,379**	**$13,379**	**$13,379**	**$13,379**	**$13,379**	**$13,379**
C17	**Total COPA Revenue Requirement ($)**	**[C8] + [C9] + [C10] + [C11] + [C15] + [C16]**		**$26,605,982**	**$28,996,089**	**$28,546,792**	**$31,060,553**	**$32,892,952**

Documentation of Sources:

All the inputs that are projected flat are from ML&P's COPA filings July 2018 - June 2019. *See* TA369-121, filed March 15, 2019; TA370-121, February 15, 2019; TA372-121, filed May 22, 2019; and TA373-121, filed August 16, 2019, at Attachment 2.

[C4] Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30), filed November 1, 2019, at CHU-020789, sheet "Gas", row 341.

[C6] TA481-8, filed January 21, 2020, at Hilcorp Agreement - Fourth Amendment for 2021-2028; flat at Hilcorp 2028 price level for 2028-2034.

[C9] Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30), filed November 1, 2019, at CHU-020789, sheet "EData", row 265

[C10] Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30), filed November 1, 2019, at CHU-020789, sheet "EData", row 266.

[C11] Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30), filed November 1, 2019, at CHU-020789, sheet "EData", row 268.

Schedule C - ML&P Cost of Power Adjustment

2026	2027	2028	2029	2030	2031	2032	2033	2034
6,145,862	5,939,016	6,164,563	5,876,962	6,063,123	6,001,070	4,899,348	3,973,984	3,208,655
$3.26	$3.62	$3.83	$4.27	$4.16	$4.11	$4.58	$5.19	$5.98
$20,015,626	$21,513,769	$23,591,483	$25,098,384	$25,245,554	$24,642,556	$22,442,807	$20,635,955	$19,178,266
6,723,990	6,723,990	6,723,990	6,723,990	6,723,990	6,723,990	6,723,990	6,723,990	6,723,990
578,128	784,974	559,427	847,027	660,866	722,920	1,824,642	2,750,006	3,515,334
$7.86	$7.95	$8.04	$8.04	$8.04	$8.04	$8.04	$8.04	$8.04
$4,544,088	$6,240,541	$4,497,794	$6,810,100	$5,313,366	$5,812,277	$14,670,118	$22,110,048	$28,263,288
$24,559,714	**$27,754,310**	**$28,089,277**	**$31,908,484**	**$30,558,921**	**$30,454,834**	**$37,112,926**	**$42,746,003**	**$47,441,554**
3,011,385	**3,011,385**	**3,011,385**	**3,011,385**	**3,011,385**	**3,011,385**	**3,011,385**	**3,011,385**	**3,011,385**
$2,641,000	**$2,641,000**	**$2,641,000**	**$2,641,000**	**$2,641,000**	**$2,641,000**	**$2,641,000**	**$2,641,000**	**$2,641,000**
5,133,210	**5,133,210**	**5,133,210**	**5,133,210**	**5,133,210**	**5,133,210**	**5,133,210**	**5,133,210**	**5,133,210**
683,413	683,413	683,413	683,413	683,413	683,413	683,413	683,413	683,413
62,496	62,496	62,496	62,496	62,496	62,496	62,496	62,496	62,496
83,750	83,750	83,750	83,750	83,750	83,750	83,750	83,750	83,750
$829,659	**$829,659**	**$829,659**	**$829,659**	**$829,659**	**$829,659**	**$829,659**	**$829,659**	**$829,659**
$13,379	**$13,379**	**$13,379**	**$13,379**	**$13,379**	**$13,379**	**$13,379**	**$13,379**	**$13,379**
$36,188,347	**$39,382,944**	**$39,717,911**	**$43,537,118**	**$42,187,554**	**$42,083,467**	**$48,741,559**	**$54,374,637**	**$59,070,187**

Schedule D - Chugach Cost of Power Adjustment

Ref.	Item	Formula	Input	2021	2022	2023	2024	2025	2026	2027
	Cost of Gas for Power Generation									
	BRU Gas									
D1	Gas Volume (Mcf)	[A38]		1,124,650	1,110,050	1,161,150	1,128,060	1,124,650	1,084,500	1,048,000
D2	BRU Production Cost ($/Mcf)	[A56]		$5.32	$5.53	$5.54	$5.70	$5.86	$6.13	$6.40
D3	Cost of BRU Gas ($)	[D1] x [D2]		$5,982,870	$6,139,387	$6,431,950	$6,426,015	$6,586,847	$6,642,819	$6,708,926
	Hilcorp Gas									
D4	Gas Volume (Mcf)			5,840,000	5,840,000	5,840,000	3,660,000	3,650,000	3,650,000	3,650,000
D5	Hilcorp Gas Price ($/Mcf)			$7.49	$7.55	$7.61	$7.69	$7.78	$7.86	$7.95
D6	Cost of Hilcorp Gas ($)	[D4] x [D5]		$43,741,600	$44,092,000	$44,442,400	$28,145,400	$28,397,000	$28,689,000	$29,017,500
	CINGSA Fuel Withdrawn									
D7	FSS - Reservation / Capacity Costs ($)	Flat	$3,996,114	$3,996,114	$3,996,114	$3,996,114	$3,996,114	$3,996,114	$3,996,114	$3,996,114
D8	Gas Volume (Mcf)	Flat	517,435	517,435	517,435	517,435	517,435	517,435	517,435	517,435
D9	Gas Price ($/Mcf)	Flat	$7.68	$7.68	$7.68	$7.68	$7.68	$7.68	$7.68	$7.68
D10	Cost of CINGSA Fuel Withdrawn ($)	[D8] x [D9]		$3,972,784	$3,972,784	$3,972,784	$3,972,784	$3,972,784	$3,972,784	$3,972,784
	Total Power Generation									
D11	Total Load (MWh)			1,094,895	1,083,946	1,073,106	1,062,375	1,051,752	1,041,234	1,030,822
D12	LUF (Transmission Loss) (%)		108%							
D13	Total Power Required (MWh)	[D11] x [D12]		1,184,965	1,173,116	1,161,385	1,149,771	1,138,273	1,126,890	1,115,621
D14	Total Power Purchased (MWh)	[D29] + [D31] + [D33] + [D36] + [D39]		276,825	276,825	276,825	276,825	276,825	276,825	276,825
D15	Total Power Generation Required (MWh)	[D22] - [D23]		908,140	896,291	884,560	872,946	861,448	850,065	838,796
D16	Total Gas Used for Power Generation (Mcf)	[D1] + [D4] + [D8]	6,839,385	7,482,085	7,467,485	7,518,585	5,305,495	5,292,085	5,251,935	5,215,435
D17	Average Heat Rate (Mcf/MWh)		8.35							
D18	Total Power Generation (MWh)	[D16] x [D17]		896,459	894,710	900,832	635,673	634,066	629,256	624,883
	Balancing Gas									
D19	Balancing Power (MWh)	[D15] - [D18]		11,681	1,581	(16,273)	237,273	227,382	220,809	213,914
D20	Balancing Gas Volume (Mcf)	[D17] x [D19]		97,494	13,194	(135,818)	1,980,340	1,897,787	1,842,934	1,785,381
D21	Balancing Gas Price ($/Mcf)			$7.49	$7.55	$7.61	$7.69	$7.78	$7.86	$7.95
D22	Cost of Balancing Gas ($)	[D20] x [D21]		$730,231	$99,613	($1,033,572)	$15,228,816	$14,764,785	$14,485,462	$14,193,777
D23	**Cost of Gas ($)**	**[D3] + [D6] + [D7] + [D10] + [D22]**		**$58,423,599**	**$58,299,899**	**$57,809,677**	**$57,769,130**	**$57,717,531**	**$57,786,179**	**$57,889,102**

Schedule D - Chugach Cost of Power Adjustment

2028	2029	2030	2031	2032	2033	2034
1,087,800	1,037,050	1,069,900	1,058,950	864,540	701,250	566,200
$6.47	$6.82	$6.60	$6.44	$6.84	$7.50	$8.35
$7,039,689	$7,076,327	$7,059,571	$6,823,932	$5,910,067	$5,259,387	$4,727,837
915,000	-	-	-	-	-	-
$8.04	-	-	-	-	-	-
$7,356,600	-	-	-	-	-	-
$3,996,114	$3,996,114	$3,996,114	$3,996,114	$3,996,114	$3,996,114	$3,996,114
517,435	517,435	517,435	517,435	517,435	517,435	517,435
$7.68	$7.68	$7.68	$7.68	$7.68	$7.68	$7.68
$3,972,784	$3,972,784	$3,972,784	$3,972,784	$3,972,784	$3,972,784	$3,972,784
1,020,514	1,010,308	1,000,205	1,002,706	1,005,213	1,007,726	1,010,245
1,104,465	1,093,421	1,082,486	1,085,193	1,087,906	1,090,625	1,093,352
276,825	276,825	276,825	276,825	276,825	276,825	276,825
827,640	816,596	805,661	808,368	811,081	813,800	816,527
2,520,235	1,554,485	1,587,335	1,576,385	1,381,975	1,218,685	1,083,635
301,960	186,249	190,185	188,873	165,580	146,016	129,835
525,681	630,346	615,476	619,494	645,500	667,785	686,692
4,387,468	5,261,037	5,136,927	5,170,464	5,387,517	5,573,507	5,731,313
$8.04	$8.04	$8.04	$8.04	$8.04	$8.04	$8.04
$35,275,244	$42,298,734	$41,300,891	$41,570,527	$43,315,635	$44,810,994	$46,079,759
$57,640,431	**$57,343,960**	**$56,329,361**	**$56,363,357**	**$57,194,601**	**$58,039,279**	**$58,776,495**

Schedule D - Chugach Cost of Power Adjustment

Ref.	Item	Formula	Input	2021	2022	2023	2024	2025	2026	2027
D24	ENSTAR: To IGT	Flat	$36,255	$36,255	$36,255	$36,255	$36,255	$36,255	$36,255	$36,255
D25	Hilcorp - CIGGS Correction	Flat	$418,533	$418,533	$418,533	$418,533	$418,533	$418,533	$418,533	$418,533
D26	Harvest- KBPL	Flat	$1,997,399	$1,997,399	$1,997,399	$1,997,399	$1,997,399	$1,997,399	$1,997,399	$1,997,399
D27	ENSTAR: To SPP	Flat	$2,913,554	$2,913,554	$2,913,554	$2,913,554	$2,913,554	$2,913,554	$2,913,554	$2,913,554
D28	**Cost of Gas Transportation ($)**	**[D24] + [D25] + [D26] + [D27]**		**$5,365,742**	**$5,365,742**	**$5,365,742**	**$5,365,742**	**$5,365,742**	**$5,365,742**	**$5,365,742**
	Cost of Purchased Power									
	Purchased Power Expense									
D29	Bradley Lake Purchases (MWh)	Flat	127,871	127,871	127,871	127,871	127,871	127,871	127,871	127,871
D30	Electricity Price ($/MWh)	Flat	$48.11	$48.11	$48.11	$48.11	$48.11	$48.11	$48.11	$48.11
D31	Fire Island Wind (MWh)	Flat	46,604	46,604	46,604	46,604	46,604	46,604	46,604	46,604
D32	Electricity Price ($/MWh)	Flat	$99.69	$99.69	$99.69	$99.69	$99.69	$99.69	$99.69	$99.69
D33	Qualified Generation (MWh)	Flat	477	477	477	477	477	477	477	477
D34	Electricity Price ($/MWh)	Flat	$66.32	$66.32	$66.32	$66.32	$66.32	$66.32	$66.32	$66.32
D35	Subtotal ($)	[D29] x [D30] + [D31] x [D32] + [D33] x [D34]		$10,828,836	$10,828,836	$10,828,836	$10,828,836	$10,828,836	$10,828,836	$10,828,836
	Purchases from Other Utilities									
D36	ML&P (MWh)	Flat	81,889	81,889	81,889	81,889	81,889	81,889	81,889	81,889
D37	Electricity Margin + Costs ($/MWh)	Flat	$25.80	$25.80	$25.80	$25.80	$25.80	$25.80	$25.80	$25.80
D38	Gas Cost of the electricity ($/MWh)	Flat	$57.39	$57.39	$57.39	$57.39	$57.39	$57.39	$57.39	$57.39
D39	MEA (MWh)	Flat	19,984	19,984	19,984	19,984	19,984	19,984	19,984	19,984
D40	Electricity Margin ($/MWh)	Flat	$83.19	$83.19	$83.19	$83.19	$83.19	$83.19	$83.19	$83.19
D41	Subtotal ($)	[D36] x ([D37] + [D38]) + [D39] x [D40]		$8,475,209	$8,475,209	$8,475,209	$8,475,209	$8,475,209	$8,475,209	$8,475,209
D42	**Cost of Purchased Power ($)**	**[D35] + [D41]**		**$19,304,045**	**$19,304,045**	**$19,304,045**	**$19,304,045**	**$19,304,045**	**$19,304,045**	**$19,304,045**
D43	Exchange Credit - Tesoro	Flat	($416,131)	($416,131)	($416,131)	($416,131)	($416,131)	($416,131)	($416,131)	($416,131)
D44	Exchange Credit - KBPL	Flat	($8,040)	($8,040)	($8,040)	($8,040)	($8,040)	($8,040)	($8,040)	($8,040)
D45	Exchange Credit - Furie		($805,572)	($805,572)	($805,572)	($201,393)	$0	$0	$0	$0
D46	Total Exchange Credits ($)	[D43] + [D44] + [D45]		($1,229,743)	($1,229,743)	($625,564)	($424,171)	($424,171)	($424,171)	($424,171)
D47	Wheeling Revenue ($)	Flat	($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)
D48	**Total COPA Revenue Requirement ($)**	**[D23] + [D28] + [D42] + [D46] + [D47]**		**$77,038,325**	**$76,914,625**	**$77,028,582**	**$77,189,428**	**$77,137,829**	**$77,206,477**	**$77,309,400**

Schedule D - Chugach Cost of Power Adjustment

2028	2029	2030	2031	2032	2033	2034
$36,255	$36,255	$36,255	$36,255	$36,255	$36,255	$36,255
$418,533	$418,533	$418,533	$418,533	$418,533	$418,533	$418,533
$1,997,399	$1,997,399	$1,997,399	$1,997,399	$1,997,399	$1,997,399	$1,997,399
$2,913,554	$2,913,554	$2,913,554	$2,913,554	$2,913,554	$2,913,554	$2,913,554
$5,365,742	**$5,365,742**	**$5,365,742**	**$5,365,742**	**$5,365,742**	**$5,365,742**	**$5,365,742**
127,871	127,871	127,871	127,871	127,871	127,871	127,871
$48.11	$48.11	$48.11	$48.11	$48.11	$48.11	$48.11
46,604	46,604	46,604	46,604	46,604	46,604	46,604
$99.69	$99.69	$99.69	$99.69	$99.69	$99.69	$99.69
477	477	477	477	477	477	477
$66.32	$66.32	$66.32	$66.32	$66.32	$66.32	$66.32
$10,828,836	$10,828,836	$10,828,836	$10,828,836	$10,828,836	$10,828,836	$10,828,836
81,889	81,889	81,889	81,889	81,889	81,889	81,889
$25.80	$25.80	$25.80	$25.80	$25.80	$25.80	$25.80
$57.39	$57.39	$57.39	$57.39	$57.39	$57.39	$57.39
19,984	19,984	19,984	19,984	19,984	19,984	19,984
$83.19	$83.19	$83.19	$83.19	$83.19	$83.19	$83.19
$8,475,209	$8,475,209	$8,475,209	$8,475,209	$8,475,209	$8,475,209	$8,475,209
$19,304,045	**$19,304,045**	**$19,304,045**	**$19,304,045**	**$19,304,045**	**$19,304,045**	**$19,304,045**
($416,131)	($416,131)	($416,131)	($416,131)	($416,131)	($416,131)	($416,131)
($8,040)	($8,040)	($8,040)	($8,040)	($8,040)	($8,040)	($8,040)
$0	$0	$0	$0	$0	$0	$0
($424,171)	($424,171)	($424,171)	($424,171)	($424,171)	($424,171)	($424,171)
($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)
$77,060,729	**$76,764,258**	**$75,749,659**	**$75,783,655**	**$76,614,899**	**$77,459,577**	**$78,196,793**

Schedule D - Chugach Cost of Power Adjustment

Documentation of Sources:

All the inputs that are projected flat are from Chugach's COPA filings July 2018 - June 2019. TA465-8, filed December 20, 2018; TA470-8, filed March 22, 2019; TA473-8, filed June 28, 2019; TA476-8, September 27, 2019, at Attachment 2.
[D5] TA481-8, filed January 21, 2020, at Hilcorp Agreement - Fourth Amendment for 2021-2028.
[D21] TA481-8, filed January 21, 2020, at Hilcorp Agreement - Fourth Amendment for 2021-2028; flat at Hilcorp 2028 price level for 2028-2034.
[D45] TA461-8, filed September 27, 2018, at Fuel_PP_Exh_01 A, cell B77 time 4 for 2018 total credit; TA451-8, filed February 14, 2018. Furie exchange agreement indicates the Furie credit will expire in March 2023.

Schedule E - Combined Utility COPA Under Chugach Ownership

Ref.	Item	Formula	2021	2022	2023	2024	2025
	ML&P						
E1	BRU Gas Volume (Mcf)	[A13]	6,373,392	6,290,653	6,580,237	6,392,716	6,373,392
E2	BRU Gas Price ($/Mcf)	[A61]	$2.44	$2.71	$2.84	$3.05	$3.29
E3	Cost of Generation - BRU Gas ($)	[E1] x [E2]	$15,524,594	$17,041,820	$18,667,474	$19,479,391	$20,944,810
E4	Cost of Generation - Additional Gas Purchase ($)	[C7]	$2,519,963	$3,190,201	$1,039,062	$2,519,899	$2,727,654
E5	Gas Transport Cost ($)	[C9]	$3,008,004	$3,008,807	$3,009,662	$3,010,528	$3,011,385
E6	Gas Storage Cost ($)	[C10]	$2,641,000	$2,641,000	$2,641,000	$2,641,000	$2,641,000
E7	Power Purchase Cost ($)	[C11]	$5,133,210	$5,133,210	$5,133,210	$5,133,210	$5,133,210
E8	Wheeling Cost ($)	[C15]	$829,659	$829,659	$829,659	$829,659	$829,659
E9	Diesel Fuel Cost ($)	[C16]	$13,379	$13,379	$13,379	$13,379	$13,379
E10	**Total ML&P COPA ($)**	**[E3] + [E4] + [E5] + [E6] + [E7] + [E8] + [E9]**	**$29,669,810**	**$31,858,077**	**$31,333,446**	**$33,627,066**	**$35,301,097**
	Chugach						
E11	BRU Gas Volume (Mcf)	[A38]	1,124,650	1,110,050	1,161,150	1,128,060	1,124,650
E12	BRU Gas Price ($/Mcf)	[A61]	$2.44	$2.71	$2.84	$3.05	$3.29
E13	Cost of Generation - BRU Gas ($)	[E11] x [E12]	$2,739,473	$3,007,203	$3,294,066	$3,437,337	$3,695,926
E14	Cost of Generation - Hilcorp Gas ($)	[D6]	$43,741,600	$44,092,000	$44,442,400	$28,145,400	$28,397,000
E15	Cost of Generation - CINGSA Withdrawn ($)	[D10]	$3,972,784	$3,996,114	$3,996,114	$3,996,114	$3,996,114
E16	Cost of Generation - Balancing Gas ($)	[D22]	$730,231	$99,613	($1,033,572)	$15,228,816	$14,764,785
E17	Gas Transportation ($)	[D28]	$5,365,742	$5,365,742	$5,365,742	$5,365,742	$5,365,742
E18	Gas Storage Cost ($)	[D7]	$3,996,114	$3,972,784	$3,972,784	$3,972,784	$3,972,784
E19	Power Purchase Costs ($)	[D42]	$19,304,045	$19,304,045	$19,304,045	$19,304,045	$19,304,045
E20	Fuel Credits ($)	[D46]	($1,229,743)	($1,229,743)	($625,564)	($424,171)	($424,171)
E21	Wheeling Revenue ($)	[D47]	($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)
E22	**Total Chugach COPA ($)**	**[E13] + [E14] + [E15] + [E16] + [E17] + [E18] + [E19] + [E20] + [E21]**	**$73,794,929**	**$73,782,441**	**$73,890,698**	**$74,200,750**	**$74,246,908**
E24	**Total COPA Revenue Requirement ($)**	**[E10] + [E22]**	**$103,464,739**	**$105,640,517**	**$105,224,145**	**$107,827,817**	**$109,548,005**

Schedule E - Combined Utility COPA Under Chugach Ownership

2026	2027	2028	2029	2030	2031	2032	2033	2034
6,145,862	5,939,016	6,164,563	5,876,962	6,063,123	6,001,070	4,899,348	3,973,984	3,208,655
$3.61	$3.96	$4.14	$4.57	$4.45	$4.40	$4.86	$5.49	$6.29
$22,207,189	$23,503,693	$25,530,374	$26,835,291	$26,993,806	$26,377,287	$23,818,670	$21,803,181	$20,173,613
$4,544,088	$6,240,541	$4,497,794	$6,810,100	$5,313,366	$5,812,277	$14,670,118	$22,110,048	$28,263,288
$3,011,385	$3,011,385	$3,011,385	$3,011,385	$3,011,385	$3,011,385	$3,011,385	$3,011,385	$3,011,385
$2,641,000	$2,641,000	$2,641,000	$2,641,000	$2,641,000	$2,641,000	$2,641,000	$2,641,000	$2,641,000
$5,133,210	$5,133,210	$5,133,210	$5,133,210	$5,133,210	$5,133,210	$5,133,210	$5,133,210	$5,133,210
$829,659	$829,659	$829,659	$829,659	$829,659	$829,659	$829,659	$829,659	$829,659
$13,379	$13,379	$13,379	$13,379	$13,379	$13,379	$13,379	$13,379	$13,379
$38,379,910	**$41,372,868**	**$41,656,802**	**$45,274,025**	**$43,935,806**	**$43,818,198**	**$50,117,422**	**$55,541,863**	**$60,065,535**
1,084,500	1,048,000	1,087,800	1,037,050	1,069,900	1,058,950	864,540	701,250	566,200
$3.61	$3.96	$4.14	$4.57	$4.45	$4.40	$4.86	$5.49	$6.29
$3,918,685	$4,147,467	$4,505,095	$4,735,361	$4,763,333	$4,654,541	$4,203,047	$3,847,394	$3,559,840
$28,689,000	$29,017,500	$7,356,600	-	-	-	-	-	-
$3,996,114	$3,996,114	$3,996,114	$3,996,114	$3,996,114	$3,996,114	$3,996,114	$3,996,114	$3,996,114
$14,485,462	$14,193,777	$35,275,244	$42,298,734	$41,300,891	$41,570,527	$43,315,635	$44,810,994	$46,079,759
$5,365,742	$5,365,742	$5,365,742	$5,365,742	$5,365,742	$5,365,742	$5,365,742	$5,365,742	$5,365,742
$3,972,784	$3,972,784	$3,972,784	$3,972,784	$3,972,784	$3,972,784	$3,972,784	$3,972,784	$3,972,784
$19,304,045	$19,304,045	$19,304,045	$19,304,045	$19,304,045	$19,304,045	$19,304,045	$19,304,045	$19,304,045
($424,171)	($424,171)	($424,171)	($424,171)	($424,171)	($424,171)	($424,171)	($424,171)	($424,171)
($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)	($4,825,319)
$74,482,344	**$74,747,941**	**$74,526,135**	**$74,423,292**	**$73,453,421**	**$73,614,265**	**$74,907,879**	**$76,047,584**	**$77,028,796**
$112,862,254	**$116,120,809**	**$116,182,938**	**$119,697,317**	**$117,389,226**	**$117,432,463**	**$125,025,301**	**$131,589,447**	**$137,094,331**

Schedule F.1 - Joint Dispatch Savings with Economy Energy Sales

Joint Dispatch Savings per Year

Ref.	Item	Formula	Value
F1.1	ML&P Procuction Cost with economy energy sales ($)	[FA1.13] [FA1-2]	$44,557,265
F1.2	Chugach Cost to Serve Load ($)	[FB1.18] [FB1-3]	$46,019,586
F1.3	ML&P Production Costs for economy energy sales ($)	F1.1 - F1.14	$20,706,206
F1.4	ML&P to Chugach economy energy sales Volume as a % of Total economy energy sales Volume		24%
F1.5	ML&P Production Cost Generation Third Party economy energy sales (excluding Chugach) ($)	F1.3 x (1- F1.4)	$15,736,717
F1.6	Average economy energy sales Sales Margin Paid by Chugach to ML&P ($/MWh)		$25.8
F1.7	Economy energy sales Margins Paid by Chugach to ML&P ($)	F1.4 x F1.6 x ([FA1.13] - [F1.13])	$2,213,926
F1.8	Total Stand-alone Dispatch Cost ($)	F1.1+F1.2-F1.5+F1.7	$77,054,061
F1.9	Joint Dispatch Cost ($)	[FD1.22] [FD1-2]	$80,123,387
F1.10	Economy energy sales to Third Parties (MWh)	[FD1.22][FD1-1]-[F1.15]	233,712
F1.11	Productiong Cost Generating Third Party EES		$8,250,281
F1.12	**Joint Dispatch Savings ($)**	**[F1.8]-([F1.9] - [F1.11])**	**$5,180,955**

Power Resource Dispatch - Chugach Stand-alone

Ref.	Resource (Scenario B)	Source 1 Generation (MWh)	Cost ($)
		FB1-1	FB1-3
FB1	Beluga 2	1,885	$422,533
FB2	Beluga 5	6,544	$1,074,702
FB3	Beluga 6	1,713	$180,948
FB4	Beluga 7	10	$5,605
FB5	BRADLEY_1 Chugach	21,153	$166,335
FB6	BRADLEY_2 Chugach	103,947	$807,175
FB7	COOPER_1	10,114	$41,167
FB8	COOPER_2	37,183	$150,618
FB9	EKLUTNA_2 Chugach	61,030	$139,594
FB10	Fire Island Wind	35,040	-
FB11	HEA_Purchase	272	-
FB12	MEA_Purchase	11,269	-
FB13	MLP_Purchase	58,198	-
FB14	SPP 11 CT	-	$188
FB15	SPP 1x1	3,213	$150,686
FB16	SPP 2x1	54,981	$3,106,109
FB17	SPP 3x1	697,878	$39,773,928
FB18	**Total**	**1,069,389**	**$46,019,586**

F1.13	Scenario E - ML&P Stand-alone No Economy Energy Sales Total Generation (MWh)	**992,070**
F1.14	Scenario E - ML&P Stand-alone No Economy Energy Sales Total Production Cost ($)	**$23,851,059**
F1.15	Scenario C - Combined Dispatch No Economy Energy Sales Total Generation (MWh)	**2,052,298**
F1.16	Scenario C - Combined Dispatch No Economy Energy Sales Total Production Cost ($)	**$65,888,633**

Power Resource Dispatch ML&P Stand-alone with Economy Energy Sales

Ref.	Resource (Scenario A)	Generation (MWh)	Cost ($)
		FA1-1	FA1-2
FA1.1	2A 1x1	65,965	$1,854,221
FA1.2	2A 2x1	610,521	$23,871,646
FA1.3	BRADLEY_1	7,308	$56,269
FA1.4	BRADLEY_2	68,233	$525,391
FA1.5	EKLUTNA_2	79,670	$180,054
FA1.6	GVEA_SpinBack	8,760	-
FA1.7	MLP 3	36,015	$2,345,483
FA1.8	MLP 4	6,564	$738,514
FA1.9	MLP 7	2,556	$231,836
FA1.10	MLP 8	53,030	$3,768,068
FA1.11	SPP 2x1	30,012	$850,431
FA1.12	SPP 3x1	380,985	$10,135,352
FA1.13	**Total**	**1,349,616**	**$44,557,265**

Power Resource Dispatch Combined with Economy Energy Sales

Ref.	Resource (Scenario D)	Generation (MWh)	Cost ($)
		FD1-1	FD1-2
FD1.1	2A 1x1	11,515	$437,633
FD1.2	2A 2x1	847,159	$28,183,977
FD1.3	Beluga 1	87	$23,734
FD1.4	Beluga 2	317	$60,813
FD1.5	Beluga 3	879	$81,202
FD1.6	Beluga 5	274	28,615
FD1.7	Beluga 6	1,061	83,645
FD1.8	Bradley_1	6,044	$46,538
FD1.9	Bradley_2	200,730	$1,563,976
FD1.10	COOPER_1	10,844	$44,197
FD1.11	COOPER_2	42,010	$170,194
FD1.12	Eklutna_1	72	$164
FD1.13	Eklutna_2	140,794	$322,905
FD1.14	Fire Island Wind	35,040	-
FD1.15	MLP 3	14,905	$1,115,834
FD1.16	MLP 4	20	$6,756
FD1.17	MLP 7	2,787	$241,964
FD1.18	MLP 8	3,036	$268,932
FD1.19	SPP 1x1	15,327	$499,381
FD1.20	SPP 2x1	423,783	$19,335,287
FD1.21	SPP 3x1	564,366	$27,607,639
FD1.22	**Total**	**2,286,010**	**$80,123,387**

Documentation of Sources:

[F1.4] Average of historical ML&P to Chugach economy energy sales volumes as a percentage of total ML&P economy energy sales volume for the period of July 2018 through June 2019. Sourced from ML&P's Cost of Power Adjustment quarterly filings: TA369-121, filed November 26, 2018; TA370-121, filed February 15, 2019; TA372-121, filed May 22, 2019; and TA373-121, filed August 16, 2019, at Attachment No. 3.

[F1.6] Average of historical ML&P to Chugach economy energy sales margins for the period of July 2018 through June 2019. Sourced from ML&P's Cost of Power Adjustment quarterlyfilings: TA369-121, filed November 26, 2018; TA370-121, filed February 15, 2019; TA372-121, filed May 22, 2019; and TA373-121, filed August 16, 2019, at Attachment No. 3.

[F1.11] Beluga 5 and 6 are assumed to be run for the sole purpose of generating economy energy sales. The remainder of the economy energy sales volume is assumed to be generated at average cost.

[FA1-1] *Municipal Light & Power's Filing in Compliance with Order U-18-102(32)/U-19-020(27)/U-19-021(27),* filed October 29, 2019, at MLP005436 Resource Hour.

[FA1-2] Municipal Light & Power's Filing in Compliance with Order U-18-102(32)/U-19-020(27)/U-19-021(27), filed October 29, 2019, at MLP005436 Resource Hour.

[FB1-1] *Municipal Light & Power's Filing in Compliance with Order U-18-102(32)/U-19-020(27)/U-19-021(27),* filed October 29, 2019, at MLP005601 Resource Hour.

[FB1-3] *Municipal Light & Power's Filing in Compliance with Order U-18-102(32)/U-19-020(27)/U-19-021(27),* filed October 29, 2019, at MLP005601 Resource Hour.

[FD1-1] *Municipal Light & Power's Filing in Compliance with Order U-18-102(32)/U-19-020(27)/U-19-021(27),* filed October 29, 2019, at MLP005701 Resource Hour.

[FD1-2] *Municipal Light & Power's Filing in Compliance with Order U-18-102(32)/U-19-020(27)/U-19-021(27),* filed October 29, 2019, at MLP005701 Resource Hour.

Schedule G - Mill Rate for ML&P MUSA and PILT

Ref.	District No.	Average Historical Levy (per mill)	Historical Net ML&P Classified Plant in Service ($)	Proportion of Total Plant by District (%)	Illustrative Plant by District in 2020 ($)
		G-1	G-2	G-3	G-4
				[G1-G7] / [G8]	[G1-G7][G-3] x $[H16]_{2020}$
G1	District 1	$15.43	$225,410,112	30.2%	$222,537,600
G2	District 3	$15.43	$149,380,209	20.0%	$147,476,583
G3	District 5	$12.93	$16,001	0.0%	$15,797
G4	District 10	$15.23	$597,521	0.1%	$589,906
G5	District 16	$10.18	$365,981,513	49.0%	$361,317,630
G6	District 22	$14.07	$5,063,248	0.7%	$4,998,725
G7	District 51	$14.33	$452,442	0.1%	$446,676
G8	**Total**		**$746,901,046**		**$737,382,918**
G9	**District Weighted Average Mill Rate**		[G1-G7][G-1] x [G1-G7][G-4] / [G8][G-4]		**$12.85**

Schedule G - Mill Rate for ML&P MUSA and PILT

Documentation of Sources:

[G-1] Average of the approved mill levy by fund & district from 2008 through 2019:
2008: AO NO.2008-56(S) *See* https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202008.pdf
2009: AO NO.2009-53(S-1) *See* https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202009.pdf
2010: AO NO.2010-31(S) *See* https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202010.pdf
2011: AO NO.2011-41(S) *See* https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202011.pdf
2012: AO NO.2012-39(S) *See* https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202012.pdf
2013: AO NO.2013-57(S) *See* https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202013.pdf
2014: AO NO.2014-53(S) *See* https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202014.pdf
2015: AO NO.2015-34(S) *See* https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202015.pdf
2016: AO NO.2016-44 *See* https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202016.pdf
2017: AO NO.2017-69(S) *See* https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202017.pdf
2018: AO NO.2018-29 *See* https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202018.pdf
2019: AO NO.2019-47 *See* https://www.muni.org/Departments/finance/treasury/PropTax/Documents/Approved%20Mill%20Rates%202019.pdf

[G-2] Chugach's Notice of Filing Six Attachments, filed September 27, 2019, at Attachment 1, Amendment #1 to PILT Agreement, at Attachment A.

[G-4] An illustrative plant by district based on ML&P Net Plant in 2020. *See Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, and the proportions of the Districts as filed in PILT Agreement.

Schedule H - ML&P MUSA and PILT

Ref.	Item	Formula (2017 - 2034)	Formula (2035 - 2070)	Input	2017	2018	2019	2020
H1	Chugach Electric Plant ($)		$[H1]_{t-1}$ x (1 + [H6])		$707,548,485	$708,722,656	$717,995,204	$734,363,863
H2	Chugach Construction Work in Progress ($)		$[H2]_{t-1}$		$17,952,573	$19,586,813	$15,780,311	$19,111,878
H3	Chugach Adjusted Plant ($)	[H1] - [H2]	[H1] - [H2]		$689,595,912	$689,135,842	$702,214,893	$715,251,985
H4	Chugach's Electric Plant within MOA (%)			70.00%				
H5	Chugach Deemed Net Plant in Service in MOA ($)	**[H3] x [H4]**	**[H3] x [H4]**		**$482,717,138**	**$482,395,090**	**$491,550,425**	**$500,676,390**
H6	Chugach Electric Plant in MOA Change (%)	$([H5] - [H5]_{t-1}) / [H5]_{t-1}$	Average of $[H6]_{2017-2034}$			-0.07%	1.90%	1.86%
H7	ML&P Electric Plant ($)		$[H7]_{t-1}$ x (1 + [H13])		$724,077,826	$739,809,494	$742,529,989	$739,677,548
H8	ML&P Intangible Plant ($)		$[H8]_{t-1}$		$3,158,158	$3,158,158	$3,158,158	$3,158,158
H9	ML&P Contributed Plant ($)		$[H9]_{t-1}$		$65,697,206	$69,309,206	$72,968,206	$76,326,206
H10	ML&P Accumulated Intangible Plant Depreciation ($)		$[H10] + ([H10]_{t-1} - [H10]_{t-2})$		$547,712	$652,984	$758,256	$863,528
H11	ML&P Accumulated Contributed Plant Depreciation ($)		$[H11] + ([H11]_{t-1} - [H11]_{t-2})$		$15,797,027	$16,382,312	$16,936,564	$17,434,949
H12	**ML&P Net Plant in Service ($)**	**[H7] - ([H8] + [H9] - [H10] - [H11])**	**[H7] - ([H8] + [H9] - [H10] - [H11])**		**$671,567,201**	**$684,377,426**	**$684,098,445**	**$678,491,661**
H13	ML&P Net Plant in Service Change (%)	$([H12] - [H12]_{t-1}) / [H12]_{t-1}$	Average of $[H13]_{2017-2034}$			1.91%	-0.04%	-0.82%
H14	Overall Plant in Service ($)	[H5] + [H12]	[H5] + [H12]					
H15	Overall Plant in Service Change (%)	$[H14] / [H14]_{2021}$	$[H14] / [H14]_{2021}$					
H16	Net ML&P Classified Plant in Service ($)	[H7] - ([H8] - [H10])	[H7] - ([H8] - [H10])					$737,382,918
H17	Adjusted Net Book Value ($)	$[H15] x [H16]_{2021}$	$[H15] x [H16]_{2021}$					
H18	MOA Mill Rate (amount tax payable per dollar)	[G9] / 1000	[G9] / 1000	$0.01285				
H19	**Municipality Utility Service Assessment ($)**	**[H16] x [H18]**	**[H16] x [H18]**					**$9,472,869**
H20	**Payment in Lieu of Taxes ($)**	**[H17] x [H18]**	**[H17] x [H18]**					
H21	**50-Year NPV of MUSA ($)**	**NPV of [H19] at 5%**					**$161,516,853**	**$169,592,695**
H22	**50-Year NPV of PILT ($)**	**NPV of [H20] at 5%**					**$145,946,765**	**$153,244,103**

Documentation of Sources:

[H1] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "CEA Base (Extended)" row 55.
[H2] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "CEA Base (Extended)" row 51.
[H4] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-019065, 30% of Chugach's assets are outside the MOA.
[H7] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP Detailed" row 155.
[H8] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP Detailed" row 138.
[H9] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP Detailed" row 136.
[H10] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP Detailed" row 150.
[H11] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP Detailed" row 148.

Schedule H - ML&P MUSA and PILT

2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
$732,202,374	$724,320,183	$729,607,057	$725,634,993	$720,497,702	$717,535,442	$716,213,861	$716,042,965	$704,158,326	$691,769,553	$678,876,665	$665,479,685
$14,738,576	$18,797,403	$19,804,632	$15,456,997	$15,675,709	$15,942,926	$16,217,411	$16,499,345	$16,399,345	$16,299,345	$16,199,346	$16,099,346
$717,463,798	$705,522,780	$709,802,425	$710,177,995	$704,821,993	$701,592,516	$699,996,450	$699,543,619	$687,758,981	$675,470,207	$662,677,320	$649,380,339
$502,224,659	**$493,865,946**	**$496,861,698**	**$497,124,597**	**$493,375,395**	**$491,114,761**	**$489,997,515**	**$489,680,534**	**$481,431,286**	**$472,829,145**	**$463,874,124**	**$454,566,238**
0.31%	-1.66%	0.61%	0.05%	-0.75%	-0.46%	-0.23%	-0.06%	-1.68%	-1.79%	-1.89%	-2.01%
$734,964,430	$738,568,467	$732,865,448	$730,355,865	$728,538,425	$724,898,043	$721,948,074	$718,854,485	$715,346,185	$711,886,135	$708,251,774	$704,431,191
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$79,475,206	$82,532,206	$85,643,206	$88,848,206	$92,080,206	$95,279,206	$98,439,206	$101,586,206	$104,740,206	$107,903,206	$111,068,206	$114,231,206
$968,800	$1,074,072	$1,179,344	$1,284,616	$1,389,888	$1,495,160	$1,600,432	$1,705,704	$1,810,976	$1,916,248	$2,021,520	$2,126,792
$17,996,589	$18,563,715	$19,163,468	$19,726,299	$20,287,623	$20,845,525	$21,403,948	$21,970,948	$22,538,713	$23,106,570	$23,669,870	$24,233,238
$671,296,455	**$672,515,890**	**$664,406,896**	**$659,360,416**	**$654,977,572**	**$648,801,364**	**$643,355,090**	**$637,786,773**	**$631,797,510**	**$625,847,589**	**$619,716,801**	**$613,401,857**
-1.06%	0.18%	-1.21%	-0.76%	-0.66%	-0.94%	-0.84%	-0.87%	-0.94%	-0.94%	-0.98%	-1.02%
$1,173,521,114	$1,166,381,836	$1,161,268,593	$1,156,485,013	$1,148,352,967	$1,139,916,124	$1,133,352,605	$1,127,467,306	$1,113,228,796	$1,098,676,734	$1,083,590,925	$1,067,968,095
100.0%	99.4%	99.0%	98.5%	97.9%	97.1%	96.6%	96.1%	94.9%	93.6%	92.3%	91.0%
$732,775,072	$736,484,381	$730,886,634	$728,482,323	$726,770,155	$723,235,045	$720,390,348	$717,402,031	$713,999,003	$710,644,225	$707,115,136	$703,399,825
$732,775,072	$728,317,134	$725,124,301	$722,137,317	$717,059,470	$711,791,301	$707,692,880	$704,017,957	$695,127,085	$686,040,424	$676,620,479	$666,865,204
$9,413,674	**$9,461,326**	**$9,389,414**	**$9,358,527**	**$9,336,531**	**$9,291,117**	**$9,254,573**	**$9,216,183**	**$9,172,465**	**$9,129,368**	**$9,084,031**	**$9,036,302**
$9,413,674	**$9,356,405**	**$9,315,388**	**$9,277,015**	**$9,211,782**	**$9,144,104**	**$9,091,453**	**$9,044,243**	**$8,930,025**	**$8,813,293**	**$8,692,278**	**$8,566,956**

Schedule H - ML&P MUSA and PILT

2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044
$651,578,632	$637,211,243	$633,367,607	$629,547,155	$625,749,747	$621,975,246	$618,223,512	$614,494,409	$610,787,799	$607,103,548	$603,441,520	$599,801,581
$15,999,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346
$635,579,287	$621,311,898	$617,468,261	$613,647,809	$609,850,402	$606,075,900	$602,324,167	$598,595,063	$594,888,453	$591,204,202	$587,542,174	$583,902,235
$444,905,501	**$434,918,328**	**$432,227,783**	**$429,553,466**	**$426,895,281**	**$424,253,130**	**$421,626,917**	**$419,016,544**	**$416,421,917**	**$413,842,941**	**$411,279,522**	**$408,731,564**
-2.13%	-2.24%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%
$700,505,994	$696,427,076	$691,873,746	$687,350,187	$682,856,204	$678,391,603	$673,956,191	$669,549,780	$665,172,177	$660,823,197	$656,502,650	$652,210,351
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$117,392,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206
$2,232,064	$2,337,336	$2,442,608	$2,547,880	$2,653,152	$2,758,424	$2,863,696	$2,968,968	$3,074,240	$3,158,158	$3,158,158	$3,158,158
$24,796,897	$25,361,379	$25,925,861	$26,490,342	$27,054,824	$27,619,306	$28,183,788	$28,748,269	$29,312,751	$29,877,233	$30,441,715	$31,006,197
$606,984,591	**$600,431,427**	**$596,547,851**	**$592,694,046**	**$588,869,816**	**$585,074,968**	**$581,309,311**	**$577,572,653**	**$573,864,805**	**$570,164,224**	**$566,408,159**	**$562,680,342**
-1.05%	-1.08%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%
$1,051,890,092	$1,035,349,755	$1,028,775,634	$1,022,247,512	$1,015,765,097	$1,009,328,099	$1,002,936,228	$996,589,197	$990,286,722	$984,007,165	$977,687,680	$971,411,906
89.6%	88.2%	87.7%	87.1%	86.6%	86.0%	85.5%	84.9%	84.4%	83.9%	83.3%	82.8%
$699,579,900	$695,606,254	691,158,196	686,739,909	682,351,198	677,991,869	673,661,729	669,360,590	665,088,259	660,823,197	656,502,650	652,210,351
$656,825,709	$646,497,521	642,392,481	638,316,163	634,268,386	630,248,967	626,257,728	622,294,488	618,359,070	614,437,962	610,491,922	606,573,177
$8,987,229	**$8,936,181**	**8,879,039**	**8,822,279**	**8,765,898**	**8,709,896**	**8,654,268**	**8,599,013**	**8,544,128**	**8,489,337**	**8,433,832**	**8,378,691**
$8,437,983	**$8,305,300**	**8,252,564**	**8,200,198**	**8,148,197**	**8,096,562**	**8,045,288**	**7,994,373**	**7,943,817**	**7,893,444**	**7,842,751**	**7,792,408**

Schedule H - ML&P MUSA and PILT

2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057
$596,183,598	$592,587,438	$589,012,971	$585,460,064	$581,928,589	$578,418,415	$574,929,415	$571,461,460	$568,014,424	$564,588,180	$561,182,603	$557,797,568	$554,432,952
$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346
$580,284,252	$576,688,093	$573,113,625	$569,560,719	$566,029,243	$562,519,070	$559,030,069	$555,562,114	$552,115,078	$548,688,834	$545,283,257	$541,898,223	$538,533,606
$406,198,976	**$403,681,665**	**$401,179,538**	**$398,692,503**	**$396,220,470**	**$393,763,349**	**$391,321,048**	**$388,893,480**	**$386,480,555**	**$384,082,184**	**$381,698,280**	**$379,328,756**	**$376,973,525**
-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%
$647,946,117	$643,709,762	$639,501,105	$635,319,965	$631,166,162	$627,039,517	$622,939,852	$618,866,992	$614,820,760	$610,800,983	$606,807,488	$602,840,103	$598,898,657
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$31,570,678	$32,135,160	$32,699,642	$33,264,124	$33,828,605	$34,393,087	$34,957,569	$35,522,051	$36,086,532	$36,651,014	$37,215,496	$37,779,978	$38,344,459
$558,980,589	**$555,308,716**	**$551,664,541**	**$548,047,883**	**$544,458,561**	**$540,896,398**	**$537,361,215**	**$533,852,836**	**$530,371,086**	**$526,915,791**	**$523,486,778**	**$520,083,875**	**$516,706,911**
-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%
$965,179,565	$958,990,381	$952,844,079	$946,740,386	$940,679,032	$934,659,747	$928,682,263	$922,746,316	$916,851,641	$910,997,975	$905,185,058	$899,412,631	$893,680,435
82.2%	81.7%	81.2%	80.7%	80.2%	79.6%	79.1%	78.6%	78.1%	77.6%	77.1%	76.6%	76.2%
647,946,117	643,709,762	639,501,105	635,319,965	631,166,162	627,039,517	622,939,852	618,866,992	614,820,760	610,800,983	606,807,488	602,840,103	598,898,657
602,681,552	598,816,874	594,978,974	591,167,680	587,382,823	583,624,236	579,891,750	576,185,201	572,504,422	568,849,251	565,219,525	561,615,081	558,035,759
8,323,910	**8,269,487**	**8,215,420**	**8,161,707**	**8,108,344**	**8,055,331**	**8,002,664**	**7,950,342**	**7,898,361**	**7,846,721**	**7,795,418**	**7,744,451**	**7,693,816**
7,742,414	**7,692,766**	**7,643,462**	**7,594,500**	**7,545,877**	**7,497,592**	**7,449,642**	**7,402,026**	**7,354,740**	**7,307,783**	**7,261,154**	**7,214,849**	**7,168,867**

Schedule H - ML&P MUSA and PILT

2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070
$551,088,631	$547,764,483	$544,460,386	$541,176,219	$537,911,863	$534,667,196	$531,442,102	$528,236,461	$525,050,156	$521,883,072	$518,735,090	$515,606,098	$512,495,979
$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346
$535,189,286	$531,865,137	$528,561,041	$525,276,874	$522,012,517	$518,767,851	$515,542,756	$512,337,115	$509,150,811	$505,983,726	$502,835,745	$499,706,752	$496,596,634
$374,632,500	**$372,305,596**	**$369,992,728**	**$367,693,812**	**$365,408,762**	**$363,137,496**	**$360,879,929**	**$358,635,981**	**$356,405,568**	**$354,188,608**	**$351,985,021**	**$349,794,727**	**$347,617,643**
-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%	-0.60%
$594,982,981	$591,092,906	$587,228,265	$583,388,892	$579,574,620	$575,785,287	$572,020,729	$568,280,785	$564,565,292	$560,874,092	$557,207,025	$553,563,935	$549,944,663
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$38,908,941	$39,473,423	$40,037,905	$40,602,387	$41,166,868	$41,731,350	$42,295,832	$42,860,314	$43,424,795	$43,989,277	$44,553,759	$45,118,241	$45,682,722
$513,355,717	**$510,030,123**	**$506,729,964**	**$503,455,072**	**$500,205,283**	**$496,980,431**	**$493,780,355**	**$490,604,892**	**$487,453,882**	**$484,327,163**	**$481,224,578**	**$478,145,969**	**$475,091,179**
-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%	-0.65%
$887,988,216	$882,335,720	$876,722,692	$871,148,884	$865,614,045	$860,117,927	$854,660,285	$849,240,873	$843,859,449	$838,515,771	$833,209,600	$827,940,696	$822,708,823
75.7%	75.2%	74.7%	74.2%	73.8%	73.3%	72.8%	72.4%	71.9%	71.5%	71.0%	70.6%	70.1%
594,982,981	591,092,906	587,228,265	583,388,892	579,574,620	575,785,287	572,020,729	568,280,785	564,565,292	560,874,092	557,207,025	553,563,935	549,944,663
554,481,399	550,951,843	547,446,933	543,966,511	540,510,423	537,078,514	533,670,630	530,286,617	526,926,326	523,589,604	520,276,301	516,986,270	513,719,361
7,643,513	**7,593,539**	**7,543,891**	**7,494,569**	**7,445,568**	**7,396,888**	**7,348,526**	**7,300,481**	**7,252,749**	**7,205,330**	**7,158,220**	**7,111,419**	**7,064,924**
7,123,205	**7,077,862**	**7,032,836**	**6,988,125**	**6,943,726**	**6,899,637**	**6,855,857**	**6,812,384**	**6,769,216**	**6,726,350**	**6,683,786**	**6,641,520**	**6,599,551**

Schedule H.1 - ML&P MUSA and PILT, Case 1

Ref.	Item	Formula (2017 - 2034)	Formula (2035 - 2070)	Input	2017	2018	2019	2020
H1.1	Chugach Electric Plant ($)		$[H1.1]_{t-1}$ x (1 + [H1.6])		$707,548,485	$708,722,656	$717,995,204	$734,363,863
H1.2	Chugach Construction Work in Progress ($)		$[H1.2]_{t-1}$		$17,952,573	$19,586,813	$15,780,311	$19,111,878
H1.3	Chugach Adjusted Plant ($)	[H1.1] - [H1.2]	[H1.1] - [H1.2]		$689,595,912	$689,135,842	$702,214,893	$715,251,985
H1.4	Chugach's Electric Plant within MOA (%)			70.00%				
H1.5	Chugach Deemed Net Plant in Service in MOA ($)	[H1.3] x [H1.4]	[H1.3] x [H1.4]		$482,717,138	$482,395,090	$491,550,425	$500,676,390
H1.6	Annual Growth Rate Above Base Case (%)			-1.00%				
H1.7	**Adjusted Chugach Deemed Plant in MOA ($)**	**Before 2020: [H1.5]; Staring 2020: [H1.5] x (1 + [H1.6])^(year - 2020)**	**[H1.5] x (1 + [H1.6])^(year - 2020)**		**$482,717,138**	**$482,395,090**	**$491,550,425**	**$500,676,390**
H1.8	Chugach Electric Plant in MOA Change (%)	$([H1.7] - [H1.7]_{t-1}) / [H1.7]_{t-1}$	Average of $[H1.8]_{2017-2034}$			-0.07%	1.90%	1.86%
H1.9	ML&P Electric Plant ($)		$[H1.9]_{t-1}$ x (1 + [H1.137])		$724,077,826	$739,809,494	$742,529,989	$739,677,548
H1.10	ML&P Intangible Plant ($)		$[H1.10]_{t-1}$		$3,158,158	$3,158,158	$3,158,158	$3,158,158
H1.11	ML&P Contributed Plant ($)		$[H1.11]_{t-1}$		$65,697,206	$69,309,206	$72,968,206	$76,326,206
H1.12	ML&P Accumulated Intangible Plant Depreciation ($)		$[H1.12] + ([H1.12]_{t-1} - [H1.12]_{t-2})$		$547,712	$652,984	$758,256	$863,528
H1.13	ML&P Accumulated Contributed Plant Depreciation ($)		$[H1.13] + ([H1.13]_{t-1} - [H1.13]_{t-2})$		$15,797,027	$16,382,312	$16,936,564	$17,434,949
H1.14	ML&P Net Plant in Service ($)	[H1.9] - ([H1.10] + [H1.11] - [H1.12] - [H1.13])	[H1.9] - ([H1.10] + [H1.11] - [H1.12] - [H1.13])		$671,567,201	$684,377,426	$684,098,445	$678,491,661
H1.15	Annual Growth Rate Above Base Case (%)			1.00%				
H1.16	**Adjusted ML&P Net Plant in Service ($)**	**Before 2020: [H1.14]; Staring 2020: [H1.14] x (1 + [H1.15])^(year - 2020)**	**[H1.14] x (1 + [H1.15])^(year - 2020)**		**$671,567,201**	**$684,377,426**	**$684,098,445**	**$678,491,661**
H1.17	ML&P Net Plant in Service Change (%)	([H1.16] - [H1.16]t-1) / $[H1.16]_{t-1}$	Average of $[H1.17]_{2017-2034}$			1.91%	-0.04%	-0.82%
H1.18	Overall Plant in Service ($)	[H1.7] + [H1.16]	[H1.7] + [H1.16]					
H1.19	Overall Plant in Service Change (%)	[H1.18] / $[H1.18]_{2021}$	[H1.18] / $[H1.18]_{2021}$					
H1.20	Net ML&P Classified Plant in Service ($)	([H1.9] - ([H1.10] - [H1.12])) x (1 + [H1.15])^(year - 2020)	([H1.9] - ([H1.10] - [H1.12])) x (1 + [H1.15])^(year - 2020)					$737,382,918
H1.21	Adjusted Net Book Value ($)	[H1.19] x $[H1.20]_{2021}$	[H1.19] x $[H1.20]_{2021}$					
H1.22	MOA Mill Rate (amount tax payable per dollar)	[G9] / 1000	[G9] / 1000	$0.01285				
H1.23	**Municipality Utility Service Assessment ($)**	**[H1.20] x [H1.22]**	**[H1.20] x [H1.22]**					**$9,472,869**
H1.24	**Payment in Lieu of Taxes ($)**	**[H1.21] x [H1.22]**	**[H1.21] x [H1.22]**					
H1.25	**50-Year NPV of MUSA in 2020 ($)**	**NPV of [H1.23] at 5%**					**$198,534,882**	**$208,461,626**
H1.26	**50-Year NPV of PILT in 2020 ($)**	**NPV of [H1.24] at 5%**					**$158,080,851**	**$165,984,893**

Documentation of Sources:

[H1.1] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "CEA Base (Extended)" row 55.
[H1.2] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "CEA Base (Extended)" row 51.
[H1.4] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-019065, 30% of Chugach's assets are outside the MOA.
[H1.9] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP Detailed" row 155
[H1.10] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP Detailed" row 138.
[H1.11] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP Detailed" row 136
[H1.12] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP Detailed" row 150.
[H1.13] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP Detailed" row 148.

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2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
$732,202,374	$724,320,183	$729,607,057	$725,634,993	$720,497,702	$717,535,442	$716,213,861	$716,042,965	$704,158,326	$691,769,553	$678,876,665	$665,479,685	$651,578,632	$637,211,243
$14,738,576	$18,797,403	$19,804,632	$15,456,997	$15,675,709	$15,942,926	$16,217,411	$16,499,345	$16,399,345	$16,299,345	$16,199,346	$16,099,346	$15,999,346	$15,899,346
$717,463,798	$705,522,780	$709,802,425	$710,177,995	$704,821,993	$701,592,516	$699,996,450	$699,543,619	$687,758,981	$675,470,207	$662,677,320	$649,380,339	$635,579,287	$621,311,898
$502,224,659	$493,865,946	$496,861,698	$497,124,597	$493,375,395	$491,114,761	$489,997,515	$489,680,534	$481,431,286	$472,829,145	$463,874,124	$454,566,238	$444,905,501	$434,918,328
$497,202,412	**$484,038,014**	**$482,104,408**	**$477,535,904**	**$469,195,092**	**$462,374,799**	**$456,709,704**	**$451,850,114**	**$439,795,784**	**$427,618,203**	**$415,324,248**	**$402,920,636**	**$390,413,930**	**$377,833,477**
-0.69%	-2.65%	-0.40%	-0.95%	-1.75%	-1.45%	-1.23%	-1.06%	-2.67%	-2.77%	-2.87%	-2.99%	-3.10%	-3.22%
$734,964,430	$738,568,467	$732,865,448	$730,355,865	$728,538,425	$724,898,043	$721,948,074	$718,854,485	$715,346,185	$711,886,135	$708,251,774	$704,431,191	$700,505,994	$696,427,076
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$79,475,206	$82,532,206	$85,643,206	$88,848,206	$92,080,206	$95,279,206	$98,439,206	$101,586,206	$104,740,206	$107,903,206	$111,068,206	$114,231,206	$117,392,206	$120,536,206
$968,800	$1,074,072	$1,179,344	$1,284,616	$1,389,888	$1,495,160	$1,600,432	$1,705,704	$1,810,976	$1,916,248	$2,021,520	$2,126,792	$2,232,064	$2,337,336
$17,996,589	$18,563,715	$19,163,468	$19,726,299	$20,287,623	$20,845,525	$21,403,948	$21,970,948	$22,538,713	$23,106,570	$23,669,870	$24,233,238	$24,796,897	$25,361,379
$671,296,455	$672,515,890	$664,406,896	$659,360,416	$654,977,572	$648,801,364	$643,355,090	$637,786,773	$631,797,510	$625,847,589	$619,716,801	$613,401,857	$606,984,591	$600,431,427
$678,009,419	**$686,033,459**	**$684,539,089**	**$686,133,093**	**$688,388,011**	**$688,715,721**	**$689,763,736**	**$690,631,684**	**$690,987,632**	**$691,325,094**	**$691,398,418**	**$691,196,566**	**$690,805,084**	**$690,180,442**
-0.07%	1.18%	-0.22%	0.23%	0.33%	0.05%	0.15%	0.13%	0.05%	0.05%	0.01%	-0.03%	-0.06%	-0.09%
$1,175,211,832	$1,170,071,473	$1,166,643,497	$1,163,668,997	$1,157,583,103	$1,151,090,520	$1,146,473,440	$1,142,481,798	$1,130,783,416	$1,118,943,297	$1,106,722,667	$1,094,117,202	$1,081,219,015	$1,068,013,919
100.0%	99.6%	99.3%	99.0%	98.5%	97.9%	97.6%	97.2%	96.2%	95.2%	94.2%	93.1%	92.0%	90.9%
$740,102,823	$751,287,717	$753,033,230	$758,061,627	$763,842,737	$767,728,574	$772,355,960	$776,843,600	$780,890,194	$784,993,334	$788,905,975	$792,608,529	$796,187,183	$799,581,451
$740,102,823	$736,865,624	$734,706,818	$732,833,593	$729,000,933	$724,912,156	$722,004,498	$719,490,717	$712,123,530	$704,667,082	$696,971,004	$689,032,571	$680,909,793	$672,593,735
$9,507,811	**$9,651,499**	**$9,673,923**	**$9,738,521**	**$9,812,788**	**$9,862,708**	**$9,922,154**	**$9,979,805**	**$10,031,790**	**$10,084,502**	**$10,134,766**	**$10,182,331**	**$10,228,305**	**$10,271,910**
$9,507,811	**$9,466,224**	**$9,438,491**	**$9,414,426**	**$9,365,189**	**$9,312,662**	**$9,275,309**	**$9,243,015**	**$9,148,372**	**$9,052,582**	**$8,953,713**	**$8,851,731**	**$8,747,381**	**$8,640,548**

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2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046
$628,172,244	$619,261,465	$610,477,087	$601,817,318	$593,280,390	$584,864,560	$576,568,111	$568,389,350	$560,326,606	$552,378,234	$544,542,611	$536,818,139
$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346
$612,272,898	$603,362,119	$594,577,741	$585,917,972	$577,381,044	$568,965,215	$560,668,766	$552,490,004	$544,427,260	$536,478,888	$528,643,266	$520,918,794
$428,591,029	$422,353,483	$416,204,419	$410,142,581	$404,166,731	$398,275,650	$392,468,136	$386,743,003	$381,099,082	$375,535,222	$370,050,286	$364,643,156
$368,613,295	**$359,616,155**	**$350,836,682**	**$342,269,628**	**$333,909,872**	**$325,752,417**	**$317,792,387**	**$310,025,021**	**$302,445,675**	**$295,049,815**	**$287,833,017**	**$280,790,963**
-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%
$697,559,205	$698,693,175	$699,828,988	$700,966,647	$702,106,156	$703,247,518	$704,390,735	$705,535,810	$706,682,747	$707,831,548	$708,982,216	$710,134,756
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206
$2,442,608	$2,547,880	$2,653,152	$2,758,424	$2,863,696	$2,968,968	$3,074,240	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$25,925,861	$26,490,342	$27,054,824	$27,619,306	$28,183,788	$28,748,269	$29,312,751	$29,877,233	$30,441,715	$31,006,197	$31,570,678	$32,135,160
$602,233,310	$604,037,033	$605,842,600	$607,650,013	$609,459,276	$611,270,391	$613,083,362	$614,876,837	$616,588,255	$618,301,538	$620,016,689	$621,733,710
$699,174,177	**$708,280,926**	**$717,502,076**	**$726,839,030**	**$736,293,206**	**$745,866,043**	**$755,558,994**	**$765,346,951**	**$775,151,952**	**$785,078,886**	**$795,129,239**	**$805,304,514**
0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%
$1,067,787,472	$1,067,897,081	$1,068,338,758	$1,069,108,657	$1,070,203,078	$1,071,618,461	$1,073,351,381	$1,075,371,972	$1,077,597,627	$1,080,128,701	$1,082,962,256	$1,086,095,476
90.9%	90.9%	90.9%	91.0%	91.1%	91.2%	91.3%	91.5%	91.7%	91.9%	92.2%	92.4%
$809,013,850	$818,557,097	$828,212,491	$837,981,345	$847,864,990	$857,864,769	$867,982,044	$878,191,612	$888,415,415	$898,758,241	$909,221,478	$919,806,527
672,451,128	672,520,156	672,798,307	673,283,160	673,972,383	674,863,736	675,955,062	677,227,552	678,629,183	680,223,156	682,007,618	683,980,799
10,393,084	**10,515,682**	**10,639,721**	**10,765,218**	**10,892,189**	**11,020,653**	**11,150,625**	**11,281,784**	**11,413,125**	**11,545,995**	**11,680,412**	**11,816,394**
8,638,716	**8,639,603**	**8,643,176**	**8,649,405**	**8,658,259**	**8,669,710**	**8,683,730**	**8,700,077**	**8,718,083**	**8,738,560**	**8,761,485**	**8,786,833**

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2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060
$529,203,241	$521,696,361	$514,295,969	$507,000,553	$499,808,624	$492,718,715	$485,729,378	$478,839,186	$472,046,733	$465,350,633	$458,749,519	$452,242,043	$445,826,878	$439,502,713
$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346
$513,303,895	$505,797,016	$498,396,623	$491,101,207	$483,909,279	$476,819,369	$469,830,032	$462,939,840	$456,147,388	$449,451,288	$442,850,173	$436,342,698	$429,927,532	$423,603,367
$359,312,727	$354,057,911	$348,877,636	$343,770,845	$338,736,495	$333,773,559	$328,881,022	$324,057,888	$319,303,171	$314,615,901	$309,995,121	$305,439,888	$300,949,272	$296,522,357
$273,919,439	**$267,214,334**	**$260,671,634**	**$254,287,423**	**$248,057,877**	**$241,979,267**	**$236,047,951**	**$230,260,378**	**$224,613,080**	**$219,102,672**	**$213,725,853**	**$208,479,399**	**$203,360,166**	**$198,365,083**
-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%
$711,289,169	$712,445,458	$713,603,627	$714,763,679	$715,925,617	$717,089,444	$718,255,162	$719,422,776	$720,592,287	$721,763,700	$722,937,017	$724,112,242	$725,289,377	$726,468,426
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$32,699,642	$33,264,124	$33,828,605	$34,393,087	$34,957,569	$35,522,051	$36,086,532	$36,651,014	$37,215,496	$37,779,978	$38,344,459	$38,908,941	$39,473,423	$40,037,905
$623,452,604	$625,173,376	$626,896,027	$628,620,560	$630,346,980	$632,075,288	$633,805,489	$635,537,584	$637,271,577	$639,007,472	$640,745,271	$642,484,977	$644,226,594	$645,970,124
$815,606,232	**$826,035,934**	**$836,595,178**	**$847,285,540**	**$858,108,618**	**$869,066,026**	**$880,159,398**	**$891,390,389**	**$902,760,673**	**$914,271,943**	**$925,925,915**	**$937,724,323**	**$949,668,923**	**$961,761,491**
0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%
$1,089,525,671	$1,093,250,268	$1,097,266,812	$1,101,572,963	$1,106,166,495	$1,111,045,292	$1,116,207,349	$1,121,650,767	$1,127,373,753	$1,133,374,616	$1,139,651,768	$1,146,203,722	$1,153,029,088	$1,160,126,574
92.7%	93.0%	93.4%	93.7%	94.1%	94.5%	95.0%	95.4%	95.9%	96.4%	97.0%	97.5%	98.1%	98.7%
$930,514,805	$941,347,748	$952,306,807	$963,393,450	$974,609,162	$985,955,446	$997,433,822	$1,009,045,828	$1,020,793,020	$1,032,676,971	$1,044,699,274	$1,056,861,539	$1,069,165,396	$1,081,612,492
686,141,003	688,486,610	691,016,073	693,727,920	696,620,748	699,693,225	702,944,089	706,372,142	709,976,256	713,755,367	717,708,474	721,834,641	726,132,992	730,602,712
11,953,959	**12,093,126**	**12,233,912**	**12,376,338**	**12,520,422**	**12,666,183**	**12,813,642**	**12,962,816**	**13,113,728**	**13,266,396**	**13,420,842**	**13,577,086**	**13,735,149**	**13,895,052**
8,814,585	**8,844,718**	**8,877,213**	**8,912,051**	**8,949,214**	**8,988,685**	**9,030,447**	**9,074,486**	**9,120,787**	**9,169,336**	**9,220,120**	**9,273,127**	**9,328,346**	**9,385,767**

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2061	2062	2063	2064	2065	2066	2067	2068	2069	2070
$433,268,258	$427,122,240	$421,063,405	$415,090,516	$409,202,354	$403,397,717	$397,675,420	$392,034,296	$386,473,192	$380,990,974
$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346
$417,368,912	$411,222,894	$405,164,059	$399,191,170	$393,303,008	$387,498,371	$381,776,075	$376,134,950	$370,573,846	$365,091,628
$292,158,238	$287,856,026	$283,614,841	$279,433,819	$275,312,106	$271,248,860	$267,243,252	$263,294,465	$259,401,692	$255,564,140
$193,491,154	**$188,735,458**	**$184,095,139**	**$179,567,414**	**$175,149,566**	**$170,838,942**	**$166,632,954**	**$162,529,077**	**$158,524,846**	**$154,617,855**
-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%	-1.42%
$727,649,391	$728,832,276	$730,017,084	$731,203,818	$732,392,481	$733,583,077	$734,775,608	$735,970,077	$737,166,489	$738,364,845
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$40,602,387	$41,166,868	$41,731,350	$42,295,832	$42,860,314	$43,424,795	$43,989,277	$44,553,759	$45,118,241	$45,682,722
$647,715,571	$649,462,938	$651,212,228	$652,963,444	$654,716,589	$656,471,666	$658,228,679	$659,987,630	$661,748,524	$663,511,362
$974,003,826	**$986,397,747**	**$998,945,097**	**$1,011,647,737**	**$1,024,507,555**	**$1,037,526,458**	**$1,050,706,378**	**$1,064,049,269**	**$1,077,557,109**	**$1,091,231,899**
0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%
$1,167,494,980	$1,175,133,205	$1,183,040,236	$1,191,215,151	$1,199,657,120	$1,208,365,400	$1,217,339,332	$1,226,578,346	$1,236,081,955	$1,245,849,755
99.3%	100.0%	100.7%	101.4%	102.1%	102.8%	103.6%	104.4%	105.2%	106.0%
$1,094,204,497	$1,106,943,096	$1,119,829,996	$1,132,866,924	$1,146,055,626	$1,159,397,869	$1,172,895,442	$1,186,550,151	$1,200,363,827	$1,214,338,321
735,243,049	740,053,307	745,032,848	750,181,093	755,497,517	760,981,654	766,633,088	772,451,461	778,436,465	784,587,846
14,056,816	**14,220,464**	**14,386,017**	**14,553,497**	**14,722,928**	**14,894,330**	**15,067,728**	**15,243,145**	**15,420,604**	**15,600,129**
9,445,379	**9,507,175**	**9,571,145**	**9,637,283**	**9,705,581**	**9,776,033**	**9,848,635**	**9,923,381**	**10,000,268**	**10,079,293**

Schedule H.2 - ML&P MUSA and PILT, Case 2

Ref.	Item	Formula (2017 - 2034)	Formula (2035 - 2070)	Input	2017	2018	2019	2020
H2.1	Chugach Electric Plant ($)		$[H2.1]_{t-1}$ x (1 + [H2.6])		$707,548,485	$708,722,656	$717,995,204	$734,363,863
H2.2	Chugach Construction Work in Progress ($)		$[H2.2]_{t-1}$		$17,952,573	$19,586,813	$15,780,311	$19,111,878
H2.3	Chugach Adjusted Plant ($)	[H2.1] - [H2.2]	[H2.1] - [H2.2]		$689,595,912	$689,135,842	$702,214,893	$715,251,985
H2.4	Chugach's Electric Plant within MOA (%)			70.00%				
H2.5	Chugach Deemed Net Plant in Service in MOA ($)	[H2.3] x [H2.4]	[H2.3] x [H2.4]		$482,717,138	$482,395,090	$491,550,425	$500,676,390
H2.6	Annual Growth Rate Above Base Case (%)			1.00%				
H2.7	**Adjusted Chugach Deemed Plant in MOA ($)**	**Before 2020: [H2.5]; Staring 2020: [H2.5] x (1 + [H2.6])^(year - 2020)**	**[H2.5] x (1 + [H2.6])^(year - 2020)**		**$482,717,138**	**$482,395,090**	**$491,550,425**	**$500,676,390**
H2.8	Chugach Electric Plant in MOA Change (%)	$([H2.7] - [H2.7]_{t-1}) / [H2.7]_{t-1}$	Average of $[H2.8]_{2017-2034}$			-0.07%	1.90%	1.86%
H2.9	ML&P Electric Plant ($)		$[H2.9]_{t-1}$ x (1 + [H2.137])		$724,077,826	$739,809,494	$742,529,989	$739,677,548
H2.10	ML&P Intangible Plant ($)		$[H2.10]_{t-1}$		$3,158,158	$3,158,158	$3,158,158	$3,158,158
H2.11	ML&P Contributed Plant ($)		$[H2.11]_{t-1}$		$65,697,206	$69,309,206	$72,968,206	$76,326,206
H2.12	ML&P Accumulated Intangible Plant Depreciation ($)		$[H2.12] + ([H2.12]_{t-1} - [H2.12]_{t-2})$		$547,712	$652,984	$758,256	$863,528
H2.13	ML&P Accumulated Contributed Plant Depreciation ($)		$[H2.13] + ([H2.13]_{t-1} - [H2.13]_{t-2})$		$15,797,027	$16,382,312	$16,936,564	$17,434,949
H2.14	ML&P Net Plant in Service ($)	[H2.9] - ([H2.10] + [H2.11] - [H2.12] - [H2.13])	[H2.9] - ([H2.10] + [H2.11] - [H2.12] - [H2.13])		$671,567,201	$684,377,426	$684,098,445	$678,491,661
H2.15	Annual Growth Rate Above Base Case (%)			-1.00%				
H2.16	**Adjusted ML&P Net Plant in Service ($)**	**Before 2020: [H2.14]; Staring 2020: [H2.14] x (1 + [H2.15])^(year - 2020)**	**[H2.14] x (1 + [H2.15])^(year - 2020)**		**$671,567,201**	**$684,377,426**	**$684,098,445**	**$678,491,661**
H2.17	ML&P Net Plant in Service Change (%)	$([H2.16] - [H2.16]_{t-1}) / [H2.16]_{t-1}$	Average of $[H2.17]_{2017-2034}$			1.91%	-0.04%	-0.82%
H2.18	Overall Plant in Service ($)	[H2.7] + [H2.16]	[H2.7] + [H2.16]					
H2.19	Overall Plant in Service Change (%)	$[H2.18] / [H2.18]_{2021}$	$[H2.18] / [H2.18]_{2021}$					
H2.20	Net ML&P Classified Plant in Service ($)	([H2.9] - ([H2.10] - [H2.12])) x (1 + [H2.15])^(year - 2020)	([H2.9] - ([H2.10] - [H2.12])) x (1 + [H2.15])^(year - 2020)					$737,382,918
H2.21	Adjusted Net Book Value ($)	$[H2.19] x [H2.20]_{2021}$	$[H2.19] x [H2.20]_{2021}$					
H2.22	MOA Mill Rate (amount tax payable per dollar)	[G9] / 1000	[G9] / 1000	$0.01285				
H2.23	**Municipality Utility Service Assessment ($)**	**[H2.20] x [H2.22]**	**[H2.20] x [H2.22]**					**$9,472,869**
H2.24	**Payment in Lieu of Taxes ($)**	**[H2.21] x [H2.22]**	**[H2.21] x [H2.22]**					
H2.25	**50-Year NPV of MUSA in 2020 ($)**	**NPV of [H2.23] at 5%**					**$136,103,885**	**$142,909,079**
H2.26	**50-Year NPV of PILT in 2020 ($)**	**NPV of [H2.24] at 5%**					**$145,294,562**	**$152,559,290**

Documentation of Sources:

[H2.1] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "CEA Base (Extended)" row 55.
[H2.2] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "CEA Base (Extended)" row 51.
[H2.4] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-019065, 30% of Chugach's assets are outside the MOA.
[H2.9] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP Detailed" row 155.
[H2.10] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP Detailed" row 138.
[H2.11] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP Detailed" row 136.
[H2.12] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP Detailed" row 150.
[H2.13] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP Detailed" row 148.

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2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
$732,202,374	$724,320,183	$729,607,057	$725,634,993	$720,497,702	$717,535,442	$716,213,861	$716,042,965	$704,158,326	$691,769,553	$678,876,665	$665,479,685	$651,578,632	$637,211,243
$14,738,576	$18,797,403	$19,804,632	$15,456,997	$15,675,709	$15,942,926	$16,217,411	$16,499,345	$16,399,345	$16,299,345	$16,199,346	$16,099,346	$15,999,346	$15,899,346
$717,463,798	$705,522,780	$709,802,425	$710,177,995	$704,821,993	$701,592,516	$699,996,450	$699,543,619	$687,758,981	$675,470,207	$662,677,320	$649,380,339	$635,579,287	$621,311,898
$502,224,659	$493,865,946	$496,861,698	$497,124,597	$493,375,395	$491,114,761	$489,997,515	$489,680,534	$481,431,286	$472,829,145	$463,874,124	$454,566,238	$444,905,501	$434,918,328
$507,246,905	**$503,792,651**	**$511,917,104**	**$517,309,849**	**$518,542,499**	**$521,328,215**	**$525,343,658**	**$530,253,849**	**$526,534,308**	**$522,297,535**	**$517,529,677**	**$512,216,614**	**$506,343,961**	**$499,927,403**
1.31%	-0.68%	1.61%	1.05%	0.24%	0.54%	0.77%	0.93%	-0.70%	-0.80%	-0.91%	-1.03%	-1.15%	-1.27%
$734,964,430	$738,568,467	$732,865,448	$730,355,865	$728,538,425	$724,898,043	$721,948,074	$718,854,485	$715,346,185	$711,886,135	$708,251,774	$704,431,191	$700,505,994	$696,427,076
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$79,475,206	$82,532,206	$85,643,206	$88,848,206	$92,080,206	$95,279,206	$98,439,206	$101,586,206	$104,740,206	$107,903,206	$111,068,206	$114,231,206	$117,392,206	$120,536,206
$968,800	$1,074,072	$1,179,344	$1,284,616	$1,389,888	$1,495,160	$1,600,432	$1,705,704	$1,810,976	$1,916,248	$2,021,520	$2,126,792	$2,232,064	$2,337,336
$17,996,589	$18,563,715	$19,163,468	$19,726,299	$20,287,623	$20,845,525	$21,403,948	$21,970,948	$22,538,713	$23,106,570	$23,669,870	$24,233,238	$24,796,897	$25,361,379
$671,296,455	$672,515,890	$664,406,896	$659,360,416	$654,977,572	$648,801,364	$643,355,090	$637,786,773	$631,797,510	$625,847,589	$619,716,801	$613,401,857	$606,984,591	$600,431,427
$664,583,490	**$659,132,824**	**$644,673,346**	**$633,378,985**	**$622,877,154**	**$610,833,605**	**$599,648,986**	**$588,514,361**	**$577,157,922**	**$566,005,341**	**$554,856,159**	**$543,710,126**	**$532,641,739**	**$521,622,288**
-2.05%	-0.82%	-2.19%	-1.75%	-1.66%	-1.93%	-1.83%	-1.86%	-1.93%	-1.93%	-1.97%	-2.01%	-2.04%	-2.07%
$1,171,830,396	$1,162,925,475	$1,156,590,450	$1,150,688,833	$1,141,419,653	$1,132,161,820	$1,124,992,644	$1,118,768,210	$1,103,692,230	$1,088,302,876	$1,072,385,835	$1,055,926,741	$1,038,985,700	$1,021,549,691
100.0%	99.2%	98.7%	98.2%	97.4%	96.6%	96.0%	95.5%	94.2%	92.9%	91.5%	90.1%	88.7%	87.2%
$725,447,321	$721,828,342	$709,178,570	$699,777,213	$691,151,186	$680,911,438	$671,450,881	$661,978,918	$652,250,404	$642,693,899	$633,107,232	$623,482,964	$613,896,069	$604,305,020
$725,447,321	$719,934,535	$716,012,699	$712,359,173	$706,620,884	$700,889,619	$696,451,383	$692,598,011	$683,264,895	$673,737,777	$663,883,984	$653,694,620	$643,206,897	$632,412,753
$9,319,537	**$9,273,046**	**$9,110,539**	**$8,989,764**	**$8,878,948**	**$8,747,402**	**$8,625,866**	**$8,504,184**	**$8,379,205**	**$8,256,437**	**$8,133,281**	**$8,009,641**	**$7,886,482**	**$7,763,270**
$9,319,537	**$9,248,717**	**$9,198,335**	**$9,151,399**	**$9,077,682**	**$9,004,054**	**$8,947,038**	**$8,897,535**	**$8,777,636**	**$8,655,245**	**$8,528,657**	**$8,397,759**	**$8,263,027**	**$8,124,359**

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2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048
$638,562,970	$639,917,563	$641,275,030	$642,635,377	$643,998,609	$645,364,733	$646,733,756	$648,105,682	$649,480,519	$650,858,272	$652,238,947	$653,622,552	$655,009,092	$656,398,573
$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346
$622,663,624	$624,018,217	$625,375,684	$626,736,031	$628,099,263	$629,465,388	$630,834,410	$632,206,336	$633,581,173	$634,958,926	$636,339,602	$637,723,206	$639,109,746	$640,499,227
$435,864,537	$436,812,752	$437,762,979	$438,715,222	$439,669,484	$440,625,771	$441,584,087	$442,544,435	$443,506,821	$444,471,248	$445,437,721	$446,406,244	$447,376,822	$448,349,459
$506,025,196	**$512,197,305**	**$518,444,636**	**$524,768,105**	**$531,168,639**	**$537,647,178**	**$544,204,670**	**$550,842,077**	**$557,560,374**	**$564,360,544**	**$571,243,585**	**$578,210,507**	**$585,262,331**	**$592,400,090**
0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%
$686,188,288	$676,100,029	$666,160,087	$656,366,281	$646,716,462	$637,208,513	$627,840,349	$618,609,915	$609,515,186	$600,554,166	$591,724,890	$583,025,421	$574,453,851	$566,008,298
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206
$2,442,608	$2,547,880	$2,653,152	$2,758,424	$2,863,696	$2,968,968	$3,074,240	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$25,925,861	$26,490,342	$27,054,824	$27,619,306	$28,183,788	$28,748,269	$29,312,751	$29,877,233	$30,441,715	$31,006,197	$31,570,678	$32,135,160	$32,699,642	$33,264,124
$590,862,392	$581,443,888	$572,173,699	$563,049,647	$554,069,581	$545,231,387	$536,532,976	$527,950,942	$519,420,694	$511,024,156	$502,759,362	$494,624,375	$486,617,286	$478,736,216
$508,176,137	**$495,074,917**	**$482,309,925**	**$469,872,678**	**$457,754,903**	**$445,948,534**	**$434,445,703**	**$423,221,625**	**$412,219,682**	**$401,500,509**	**$391,056,971**	**$380,882,110**	**$370,969,143**	**$361,311,456**
-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%
$1,014,201,333	$1,007,272,222	$1,000,754,561	$994,640,783	$988,923,543	$983,595,711	$978,650,373	$974,063,702	$969,780,056	$965,861,053	$962,300,556	$959,092,617	$956,231,474	$953,711,546
86.5%	86.0%	85.4%	84.9%	84.4%	83.9%	83.5%	83.1%	82.8%	82.4%	82.1%	81.8%	81.6%	81.4%
$589,546,555	$575,150,998	$561,109,420	$547,413,110	$534,053,574	$521,022,524	$508,311,877	$495,896,631	$483,719,957	$471,842,281	$460,256,258	$448,954,729	$437,930,708	$427,177,380
627,863,591	623,573,972	619,539,072	615,754,204	612,214,820	608,916,509	605,854,989	603,015,510	600,363,625	597,937,480	595,733,276	593,747,331	591,976,077	590,416,061
7,573,674	**7,388,740**	**7,208,353**	**7,032,402**	**6,860,777**	**6,693,372**	**6,530,084**	**6,370,590**	**6,214,161**	**6,061,573**	**5,912,732**	**5,767,545**	**5,625,924**	**5,487,780**
8,065,918	**8,010,810**	**7,958,976**	**7,910,353**	**7,864,884**	**7,822,512**	**7,783,182**	**7,746,704**	**7,712,636**	**7,681,469**	**7,653,152**	**7,627,639**	**7,604,885**	**7,584,844**

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2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062
$657,791,001	$659,186,383	$660,584,726	$661,986,034	$663,390,315	$664,797,576	$666,207,821	$667,621,058	$669,037,293	$670,456,532	$671,878,782	$673,304,049	$674,732,339	$676,163,659
$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346
$641,891,655	$643,287,038	$644,685,380	$646,086,689	$647,490,970	$648,898,230	$650,308,475	$651,721,712	$653,137,947	$654,557,186	$655,979,436	$657,404,703	$658,832,993	$660,264,314
$449,324,159	$450,300,926	$451,279,766	$452,260,682	$453,243,679	$454,228,761	$455,215,933	$456,205,199	$457,196,563	$458,190,030	$459,185,605	$460,183,292	$461,183,095	$462,185,019
$599,624,832	**$606,937,615**	**$614,339,512**	**$621,831,609**	**$629,415,003**	**$637,090,807**	**$644,860,145**	**$652,724,157**	**$660,683,996**	**$668,740,829**	**$676,895,836**	**$685,150,214**	**$693,505,173**	**$701,961,937**
0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%
$557,686,912	$549,487,865	$541,409,360	$533,449,624	$525,606,911	$517,879,501	$510,265,698	$502,763,832	$495,372,258	$488,089,354	$480,913,522	$473,843,189	$466,876,803	$460,012,836
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$33,828,605	$34,393,087	$34,957,569	$35,522,051	$36,086,532	$36,651,014	$37,215,496	$37,779,978	$38,344,459	$38,908,941	$39,473,423	$40,037,905	$40,602,387	$41,166,868
$470,979,311	$463,344,746	$455,830,723	$448,435,468	$441,157,237	$433,994,309	$426,944,988	$420,007,604	$413,180,512	$406,462,089	$399,850,739	$393,344,888	$386,942,983	$380,643,498
$351,902,598	**$342,736,282**	**$333,806,374**	**$325,106,897**	**$316,632,019**	**$308,376,057**	**$300,333,467**	**$292,498,847**	**$284,866,926**	**$277,432,567**	**$270,190,760**	**$263,136,621**	**$256,265,389**	**$249,572,419**
-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%
$951,527,430	$949,673,897	$948,145,887	$946,938,505	$946,047,022	$945,466,863	$945,193,612	$945,223,004	$945,550,922	$946,173,395	$947,086,596	$948,286,836	$949,770,562	$951,534,356
81.2%	81.0%	80.9%	80.8%	80.7%	80.7%	80.7%	80.7%	80.7%	80.7%	80.8%	80.9%	81.1%	81.2%
$416,688,098	$406,456,379	$396,475,899	$386,740,487	$377,244,128	$367,980,950	$358,945,229	$350,131,378	$341,533,950	$333,147,631	$324,967,237	$316,987,711	$309,204,122	$301,611,657
589,063,936	587,916,466	586,970,517	586,223,062	585,671,169	585,312,009	585,142,847	585,161,043	585,364,048	585,749,403	586,314,740	587,057,775	587,976,308	589,068,224
5,353,029	**5,221,586**	**5,093,371**	**4,968,304**	**4,846,308**	**4,727,307**	**4,611,229**	**4,498,001**	**4,387,553**	**4,279,817**	**4,174,727**	**4,072,217**	**3,972,224**	**3,874,687**
7,567,474	**7,552,732**	**7,540,580**	**7,530,978**	**7,523,888**	**7,519,274**	**7,517,101**	**7,517,335**	**7,519,943**	**7,524,893**	**7,532,156**	**7,541,701**	**7,553,501**	**7,567,529**

2063	2064	2065	2066	2067	2068	2069	2070
$677,598,016	$679,035,415	$680,475,863	$681,919,367	$683,365,933	$684,815,568	$686,268,278	$687,724,069
$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346	$15,899,346
$661,698,670	$663,136,069	$664,576,517	$666,020,021	$667,466,588	$668,916,222	$670,368,932	$671,824,724
$463,189,069	$464,195,248	$465,203,562	$466,214,015	$467,226,611	$468,241,356	$469,258,253	$470,277,307
$710,521,746	**$719,185,855**	**$727,955,534**	**$736,832,068**	**$745,816,759**	**$754,910,924**	**$764,115,896**	**$773,433,024**
0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%	0.21%
$453,249,782	$446,586,157	$440,020,501	$433,551,371	$427,177,351	$420,897,040	$414,709,062	$408,612,059
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206	$120,536,206
$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158	$3,158,158
$41,731,350	$42,295,832	$42,860,314	$43,424,795	$43,989,277	$44,553,759	$45,118,241	$45,682,722
$374,444,926	$368,345,783	$362,344,608	$356,439,961	$350,630,422	$344,914,593	$339,291,097	$333,758,575
$243,053,185	**$236,703,274**	**$230,518,381**	**$224,494,310**	**$218,626,972**	**$212,912,378**	**$207,346,638**	**$201,925,963**
-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%	-1.47%
$953,574,931	$955,889,129	$958,473,915	$961,326,379	$964,443,732	$967,823,302	$971,462,534	$975,358,986
81.4%	81.6%	81.8%	82.0%	82.3%	82.6%	82.9%	83.2%
$294,205,624	$286,981,446	$279,934,656	$273,060,899	$266,355,926	$259,815,593	$253,435,857	$247,212,775
590,331,487	591,764,141	593,364,310	595,130,190	597,060,056	599,152,253	601,405,200	603,817,384
3,779,544	**3,686,738**	**3,596,211**	**3,507,906**	**3,421,770**	**3,337,749**	**3,255,791**	**3,175,846**
7,583,757	**7,602,162**	**7,622,719**	**7,645,404**	**7,670,197**	**7,697,074**	**7,726,017**	**7,757,005**

Schedule I - ML&P Weighted Average Cost of Capital

Ref.	Item	Formula	Input / Value
I1	Debt ($)		$515,370,001
I2	Debt / Asset (%)		61.34%
I3	Interest Rate (%0		3.93%
I4	Cost of Equity (%)		10.70%
I5	Refinanced Amount ($)		$217,000,000
I6	Refinance Rate (%)		4.10%
I7	**Post-refinance WACC (%)**	[I2] x (((1 - [I6] / [I1]) x [I3]) + (([I6] / [I1]) x [I7])) + (1 - [I2]) x [I5]	**6.59%**
I8	As Filed Post-refinance WACC		6.75%
I9	Implied Refinance Rate	(([I8] - (1 - [I2]) x [I4]) / [I2] - ((1 - [I5] / [I1]) x [I3])) / ([I5] / [I1])	4.72%

Documentation oI Sources:

[I1] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP" cell D152; Total electric and gas debt in 2017.

[I2] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "ML&P EMP" cell D156; 2019 debt percentage.

[I3] TA357-121, filed December 30, 2016, at Exhibit 7, page 3 of 44.

[I4] Order U-16-094(9)/U-17-008(13) *Order Resolving All Revenue Requirement and Cost-Of-Service Issues, Approving Depreciation Rates, Approving Revised Cost of Power Adjustment, Requiring Filings, and Allowing Parties to File Comment*, dated March 23, 2018, at p. 41.

[I5] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "Bonds" Z122 + AD289; $192 million refinanced in 2017 and $25 million refinanced in 2022.

[I6] Commission adjudicated BRU new plant interest rate, as discussed in the body of the order.

[I8] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "Rev Req" row 9; ML&P WACC assumption of 6.75% starting 2021.

Schedule J - Revenue Requirement - ML&P Stand-alone

May 27, 2020

Ref.	Item	Formula	Input
J1	Economy Energy Sales – GVEA (MWh)		183,211
J2	Economy Energy Sales Net Revenue – GVEA ($/MWh)		$34.76
J3	Economy Energy Sales – Chugach (MWh)		81,889
J4	Economy Energy Sales Net Revenue - Chugach ($/MWh)		$25.80

Item	Year	ML&P COPA ($)	Economy Energy Sales Revenue ($)	Adjusted ML&P COPA Revenue Requirement ($)	ML&P Base Revenue Requirement ($)	ML&P Total Revenue Requirement ($)
Ref.		J5	J6	J7	J8	J9
Formula		[C17]	[J1] x [J2] + [J3] x [J4]	[J5] - [J6]		[J5] + [J6]
	2021	$26,605,982	$8,481,164	$18,124,818	$149,581,945	$167,706,763
	2022	$28,996,089	$8,481,164	$20,514,924	$151,383,233	$171,898,158
	2023	$28,546,792	$8,481,164	$20,065,627	$153,205,320	$173,270,947
	2024	$31,060,553	$8,481,164	$22,579,389	$154,570,355	$177,149,744
	2025	$32,892,952	$8,481,164	$24,411,788	$155,928,274	$180,340,062
	2026	$36,188,347	$8,481,164	$27,707,183	$157,051,401	$184,758,584
	2027	$39,382,944	$8,481,164	$30,901,779	$158,272,736	$189,174,515
	2028	$39,717,911	$8,481,164	$31,236,747	$159,504,594	$190,741,341
	2029	$43,537,118	$8,481,164	$35,055,953	$160,720,965	$195,776,918
	2030	$42,187,554	$8,481,164	$33,706,390	$161,976,809	$195,683,198
	2031	$42,083,467	$8,481,164	$33,602,303	$163,257,692	$196,859,995
	2032	$48,741,559	$8,481,164	$40,260,395	$164,549,246	$204,809,641
	2033	$54,374,637	$8,481,164	$45,893,472	$165,861,920	$211,755,392
	2034	$59,070,187	$8,481,164	$50,589,023	$164,922,120	$215,511,143

Documentation of Sources:

[J1] GVEA Economy Energy Sales in July 2018 - June 2019. *See* TA396-121, filed March 15, 2019; TA370-121, filed February 15, 2019; TA372-121, filed May 22, 2019; and TA373-121, filed August 16, 2019.

[J2] TA396-121, filed March 15, 2019; TA370-121, filed February 15, 2019; TA372-121, filed May 22, 2019; and TA373-121, filed August 16, 2019, average (sales – costs) calculated from GVEA Economy Energy Sales for July 2018 – June 2019.

[J3] Chugach Economy Energy Energy Sales in July 2018 - June 2019. *See* TA396-121, filed March 15, 2019; TA370-121, filed February 15, 2019; TA372-121, filed May 22, 2019; and TA373-121, filed August 16, 2019.

[J4] TA396-121, filed March 15, 2019; TA370-121, filed February 15, 2019; TA372-121, May 22, 2019; and TA373-121, filed August 16, 2019, average sales calculated from Chugach Economy Energy Sales for July 2018 – June 2019.

[J8] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)* , filed November 1, 2019, at CHU-020789, Sheet "Rev Req" row 14, after adjustments with updated MUSA and ML&P's cost of capital.

Schedule K - Chugach Stand-alone Revenue Requirement

Item	Year	Chugach COPA ($)	Chugach Base Revenue Requirement ($)	Chugach Total Revenue Requirement ($)
Ref. Formula		K1 [D48]	K2	K3 [K1] + [K2]
	2021	$77,038,325	$143,775,638	$220,813,964
	2022	$76,914,625	$145,585,905	$222,500,530
	2023	$77,028,582	$150,013,716	$227,042,297
	2024	$77,189,428	$151,253,500	$228,442,927
	2025	$77,137,829	$151,387,682	$228,525,511
	2026	$77,206,477	$155,431,464	$232,637,941
	2027	$77,309,400	$154,179,655	$231,489,055
	2028	$77,060,729	$153,034,881	$230,095,610
	2029	$76,764,258	$150,071,324	$226,835,582
	2030	$75,749,659	$149,879,063	$225,628,723
	2031	$75,783,655	$149,834,868	$225,618,523
	2032	$76,614,899	$149,930,760	$226,545,659
	2033	$77,459,577	$150,159,344	$227,618,921
	2034	$78,196,793	$150,510,719	$228,707,511

Documentation of Sources:

[K2] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, Sheet "Rev Req" row 29.

Schedule L.2 - Combined-Utility Revenue Requirement and Allocation to Districts

Ref.	Item	Formula	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
	Revenue Requirement															
	COPA Revenue Requirement															
L2.1	Combined COPA ($)	[E26]	$101,776,966	$98,237,535	$101,502,766	$108,522,022	$113,447,007	$114,867,097	$126,442,802	$136,312,403	$143,097,690	$145,708,473	$148,358,473	$150,372,811	$152,317,301	$154,160,863
L2.2	Economy Energy Sales Revenue to GVEA ($)	[J1] x [J2]	$6,368,428	$6,368,428	$6,368,428	$6,368,428	$6,368,428	$6,368,428	$6,368,428	$6,368,428	$6,368,428	$6,368,428	$6,368,428	$6,368,428	$6,368,428	$6,368,428
L2.3	Joint Dispatch Pooling Savings ($)	[F1.12]	$5,180,955	$5,180,955	$5,180,955	$5,180,955	$5,180,955	$5,180,955	$5,180,955	$5,180,955	$5,180,955	$5,180,955	$5,180,955	$5,180,955	$5,180,955	$5,180,955
L2.4	Adjusted COPA Revenue Requirement ($)	[L2.1] - [L2.2] - [L2.3]	$90,227,583	$86,688,152	$89,953,383	$96,972,639	$101,897,624	$103,317,714	$114,893,419	$124,763,020	$131,548,307	$134,159,090	$136,809,090	$138,823,428	$140,767,918	$142,611,480
	Base Revenue Requirement (2021 - 2023)															
L2.5	ML&P Stand-alone Base Revenue Requirement ($)	[J8]	$149,581,945	$151,383,233	$153,205,320											
L2.6	Chugach Stand-alone Base Revenue Requirement ($)	[K2]	$143,775,638	$145,585,905	$150,013,716											
L2.7	Stipulated Bill Credits ($)		($12,000,000)	($12,000,000)	($12,000,000)											
L2.8	Adjusted Base Revenue Requirement ($)	[L2.5] + [L2.6] + [L2.7]	$281,357,584	$284,969,139	$291,219,036											
L2.9	Adjusted Base Revenue Requirement (2024 - 2034) ($)					$290,062,202	$287,072,807	$289,599,866	$285,949,050	$284,670,658	$280,805,669	$283,705,271	$282,637,128	$281,369,149	$281,621,246	$279,812,386
L2.10	Adjusted Base Revenue Requirement ($)	[L2.11]; [L2.12]	$281,357,584	$284,969,139	$291,219,036	$290,062,202	$287,072,807	$289,599,866	$285,949,050	$284,670,658	$280,805,669	$283,705,271	$282,637,128	$281,369,149	$281,621,246	$279,812,386
L2.11	**Total Revenue Requirement ($)**	**[L2.4] + [L2.10]**	**$371,585,167**	**$371,657,291**	**$381,172,419**	**$387,034,841**	**$388,970,430**	**$392,917,580**	**$400,842,469**	**$409,433,677**	**$412,353,975**	**$417,864,361**	**$419,446,218**	**$420,192,577**	**$422,389,164**	**$422,423,866**
	Revenue Requirement Allocation - Based on Load															
L2.12	Load Forecast - ML&P (MWh)		982,507	982,917	982,917	982,917	982,917	982,917	982,917	982,917	982,917	982,917	982,917	982,917	982,917	982,917
L2.13	Load Forecast - Chugach (MWh)		1,094,895	1,083,946	1,073,106	1,062,375	1,051,752	1,041,234	1,030,822	1,020,514	1,010,308	1,000,205	1,002,706	1,005,213	1,007,726	1,010,245
L2.14	Load Forecast - Total (MWh)	[L2.12] + [L2.13]	2,077,402	2,066,863	2,056,023	2,045,292	2,034,668	2,024,151	2,013,739	2,003,430	1,993,225	1,983,122	1,985,623	1,988,129	1,990,642	1,993,162
	ML&P															
L2.15	Allocated COPA Revenue Requirement($)	[L2.4] x [L2.12] / [L2.14]	$42,673,122	$41,225,397	$43,003,738	$46,602,648	$49,225,161	$50,170,523	$56,080,103	$61,210,843	$64,870,258	$66,494,753	$67,722,810	$68,633,295	$69,506,778	$70,328,066
L2.16	ML&P Contributed Capital Rebate ($)	-[B4]	($17,612,912)	($17,612,912)	($17,612,912)	($17,612,912)	($17,612,912)	($17,612,912)	($17,612,912)	($17,612,912)	($17,612,912)	($17,612,912)	-	-	-	-
L2.17	COPA Revenue Requirement ($)	[L2.15] + [L2.16]	$25,060,210	$23,612,485	$25,390,826	$28,989,735	$31,612,248	$32,557,611	$38,467,190	$43,597,931	$47,257,345	$48,881,840	$67,722,810	$68,633,295	$69,506,778	$70,328,066
	Allocated Base Revenue Requirement ($)															
L2.18	2021 - 2023 ($)	[L2.5] + [L2.7]	$137,581,945	$139,383,233	$141,205,320											
L2.19	2024 - 2034 ($)	[L2.10] x [L2.12] / [L2.14]				$139,396,707	$138,680,418	$140,628,129	$139,573,286	$139,664,229	$138,473,360	$140,615,980	$139,910,152	$139,106,864	$139,055,730	$137,987,937
L2.20	Base Revenue Requirement ($)	[L2.18]; [L2.19]	$137,581,945	$139,383,233	$141,205,320	$139,396,707	$138,680,418	$140,628,129	$139,573,286	$139,664,229	$138,473,360	$140,615,980	$139,910,152	$139,106,864	$139,055,730	$137,987,937
L2.21	**Total Revenue Requirement Allocated to ML&P ($)**	**[L2.17] + [L2.20]**	**$162,642,155**	**$162,995,719**	**$166,596,146**	**$168,386,442**	**$170,292,666**	**$173,185,741**	**$178,040,476**	**$183,262,160**	**$185,730,705**	**$189,497,820**	**$207,632,962**	**$207,740,159**	**$208,562,508**	**$208,316,003**
	Chugach															
L2.22	Allocated COPA Revenue Requirement($)	[L2.4] x [L2.13] / [L2.14]	$47,554,461	$45,462,755	$46,949,644	$50,369,992	$52,672,463	$53,147,190	$58,813,317	$63,552,177	$66,678,049	$67,664,337	$69,086,280	$70,190,134	$71,261,139	$72,283,414
L2.23	ML&P Contributed Capital Payment ($)	[B4]	$17,612,912	$17,612,912	$17,612,912	$17,612,912	$17,612,912	$17,612,912	$17,612,912	$17,612,912	$17,612,912	$17,612,912	-	-	-	-
L2.24	COPA Revenue Requirement ($)	[L2.22] + [L2.23]	$65,167,373	$63,075,667	$64,562,557	$67,982,904	$70,285,375	$70,760,103	$76,426,229	$81,165,089	$84,290,961	$85,277,250	$69,086,280	$70,190,134	$71,261,139	$72,283,414
	Allocated Base Revenue Requirement ($)															
L2.25	2021 - 2023 ($)	[L2.6]	$143,775,638	$145,585,905	$150,013,716											
L2.26	2024 - 2034 ($)	[L2.10] x [L2.13] / [L2.14]				$150,665,495	$148,392,389	$148,971,736	$146,375,764	$145,006,429	$142,332,309	$143,089,292	$142,726,977	$142,262,285	$142,565,516	$141,824,449
L2.28	Base Revenue Requirement ($)	[L2.25]; [L2.26]	$143,775,638	$145,585,905	$150,013,716	$150,665,495	$148,392,389	$148,971,736	$146,375,764	$145,006,429	$142,332,309	$143,089,292	$142,726,977	$142,262,285	$142,565,516	$141,824,449
L2.29	**Total Revenue Requirement Allocated to Chugach ($)**	**[L24] + [L28]**	**$208,943,012**	**$208,661,573**	**$214,576,272**	**$218,648,399**	**$218,677,764**	**$219,731,839**	**$222,801,993**	**$226,171,518**	**$226,623,270**	**$228,366,541**	**$211,813,257**	**$212,452,418**	**$213,826,656**	**$214,107,863**

Documentation of Sources:

[L2.7] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, sheet "Assumptions", cell C26, Bill Credits Amortized Over 2020-2022.
[L2.9] *Chugach Electric Association, Inc.'s Notice of Compliance with Order U-18-102(35)/U-19-020(30)/U-19-021(30)*, filed November 1, 2019, at CHU-020789, Sheet "Rev Req" row 47, after adjustments with updated starting year (2021) of regulatory asset amortization, PILT in replacement of MUSA and Chugach TIER (1.55)
[L2.12] *Chugach Electric Association, Inc.'s Notice of Errata to Compliance with Order U-18-102(36)/U-19-020(31)/U-19-021(31)*, filed November 5, 2019, at CHU-020812.
[L2.13] *Chugach Electric Association, Inc.'s Notice of Errata to Compliance with Order U-18-102(36)/U-19-020(31)/U-19-021(31)*, filed November 5, 2019, at CHU-020812.

STATE OF ALASKA

RECEIVED
By the Regulatory Commission of Alaska on Oct 28, 2019

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:		Robert M. Pickett, Chairman Stephen McAlpine Antony G. Scott Daniel A. Sullivan Janis W. Wilson
In the Matter of the Investigation Into the Beluga River Unit Management Practices of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	)	U-18-102
In the Matter of the Petition Filed by CHUGACH ELECTRIC ASSOCIATION, INC. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend Its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	)	U-19-020
In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT to Amend Its Certificate of Public Convenience and Necessity No. 121, to Eliminate Its Retail Electric Service Area and Add the Eklutna Hydroelectric Project to Its Service Area, and to Lift the Dividend Restriction	)	U-19-021

STIPULATION RESOLVING ALL ISSUES

I. Introduction.

This stipulation ("Stipulation") is by and among the Municipality of Anchorage d/b/a Municipal Light and Power ("ML&P"), Chugach Electric Association, Inc. ("Chugach"),

Providence Health & Services ("PHS" or "Providence"), the Federal Executive Agencies ("FEA"), Matanuska Electric Association, Inc. ("MEA"), the Alaska Energy Authority ("AEA"), and ENSTAR Natural Gas Company, a Division of SEMCO Energy, Inc. ("ENSTAR") (collectively, the "Settling Parties"). This Stipulation is submitted for acceptance by the Regulatory Commission of Alaska ("Commission" or "RCA") pursuant to AS 42.05.191, 3 AAC 48.090(d)(2), and 3 AAC 48.166.

II. Background.

On November 5, 2018, on its own motion, the Commission opened Docket U-18-102 to investigate the disposition and pricing of ML&P's Beluga River Unit ("BRU") gas used to produce electric power for wholesale (economy energy) sales and to investigate the adequacy of the Asset Retirement Obligation ("ARO") surcharge to ML&P's BRU gas transfer price ("GTP"). The Commission issued questions relating to these matters, required ML&P to respond through prefiled testimony, established a timeline for decision, invited the Attorney General's Office, Regulatory Affairs and Public Advocacy Section ("RAPA") to participate, and set a deadline for other interested parties to intervene. On December 31, 2018, ML&P submitted the Prefiled Direct Testimony of Anna C. Henderson and the Prefiled Direct Testimony of Mark A. Johnston.

RAPA elected to participate in Docket U-18-102, and petitions to intervene were filed by PHS, ENSTAR, MEA, and Golden Valley Electric Association, Inc. ("GVEA"). The Commission granted the petitions to intervene and scheduled a prehearing conference.

On May 1, 2019, RAPA filed the Prefiled Testimony of Ralph C. Smith. Also on May 1, 2019, PHS filed the Direct Testimony of Mark E. Garrett, which was supplemented on

June 19, 2019. PHS filed a revised version of Mr. Garrett's supplemental testimony on August 2, 2019, and a further revised version on August 8, 2019.

On December 28, 2018, Chugach and the Municipality of Anchorage ("MOA") entered into an Asset Purchase and Sale Agreement ("APA"), Eklutna Power Purchase Agreement ("Eklutna PPA"), the BRU Fuel Agreement, and the Payment in Lieu of Taxes Agreement ("PILT Agreement") (collectively, the "Transaction Agreements") related to the MOA's proposed sale of the majority of ML&P's assets to Chugach ("Transaction").

Chugach and ML&P filed their applications and requests for various regulatory approvals related to the Transaction on April 1, 2019, and April 5, 2019, respectively. Chugach also filed prefiled direct testimony and supporting exhibits for the following witnesses: Lee D. Thibert, Arthur W. Miller, Sherri Highers, Brian Hickey, Dustin Highers, Todd McCarty, Thomas A. Lovas, and Kurt Strunk. The Transaction Agreements were included as exhibits to the testimony of Arthur W. Miller. On September 27, 2019, Chugach filed first amendments to the Eklutna PPA and the PILT Agreement. On September 30, 2019, Chugach filed a first amendment to the APA.

The Commission issued public notice of the applications and received public comments. The Commission opened Dockets U-19-020 and U-19-021 to consider Chugach's and ML&P's applications, scheduled a prehearing conference to discuss scheduling and consolidation, invited participation from RAPA, and set a deadline for other interested parties to file petitions to intervene by April 23, 2019. Petitions to intervene were filed by MEA, PHS, GVEA, FEA and Homer Electric Association, Inc.

On May 8, 2019, the Commission consolidated Docket U-18-102 with Dockets U-19-020/U-19-021. The Commission also granted the petitions to intervene and designated

Chugach as a party to Docket U-18-102. On August 19, 2019, the Commission granted a late-filed petition to intervene by the AEA. On June 7, 2019, Chugach submitted the Prefiled Direct Testimony of Mark B. Fouts and the Supplemental Prefiled Testimony of Arthur W. Miller relating to the BRU management issues raised in Docket U-18-102.

On July 12, 2019, the following parties submitted prefiled responsive testimony regarding the Transaction issues in Dockets U-19-020/U-19-021: FEA submitted the Prefiled Responsive Testimony of Michael P. Gorman; MEA submitted the Prefiled Response Testimony of Anthony M. Izzo; and PHS submitted the Direct Testimony of Richard Beam and the Direct Testimony of Mark E. Garrett.

On August 2, 2019, Chugach filed prefiled reply testimony and supporting exhibits for Arthur W. Miller, Sherri Highers, Brian Hickey, Dustin Highers, Thomas A. Lovas, and Kurt Strunk. A revised Exhibit TAL-04 to the reply testimony of Thomas A. Lovas was filed on August 23, 2019. A revised Exhibit TAL-03 to the reply testimony of Thomas A. Lovas was filed on August 30, 2019. On August 2, 2019, ML&P submitted prefiled reply testimony and supporting exhibits for the following witnesses: Rebecca A. Windt Pearson, Anna C. Henderson, and John J. Reed. An errata to Ms. Windt Pearson's reply testimony was filed on August 8, 2019. A revised Exhibit JJR-01 to the reply testimony of John J. Reed was filed on September 3, 2019. The testimonies filed on August 2, 2019, related to the Transaction issues in Dockets U-19-020/U-19-021.

A hearing primarily focused on the BRU management issues raised in Docket U-18-102 was commenced on August 12, 2019, and concluded on August 14, 2019. At the hearing, ML&P witness Anna C. Henderson adopted the Prefiled Direct Testimony of Mark A. Johnston, who was not available to testify. Witnesses Anna C. Henderson, Arthur W. Miller, Mark Fouts,

Mark J. Garrett and Ralph C. Smith were subject to cross-examination on their respective prefiled testimonies, followed by Commissioner questioning, re-cross examination, and re-direct examination.

A hearing in Dockets U-19-020 and U-19-021 commenced on August 27, 2019, and recessed for a two week break on September 13, 2019. During the hearing on August 27, 2019, the Commission granted GVEA's request to be excused from further participation in the hearing. Prior to the recess, witnesses Lee D. Thibert, Arthur W. Miller, Sherri Highers, Brian Hickey, Dustin Highers, Todd McCarty, Thomas A. Lovas, Kurt Strunk, Richard Beam, and Michael P. Gorman were subject to cross-examination on their respective prefiled testimonies, followed by Commissioner questioning, re-cross examination, and re-direct examination. ML&P's witness Rebecca A. Windt Pearson was subject to cross-examination and Commissioner questioning on her testimony. Re-cross and re-direct examination of Ms. Windt Pearson had not been completed when the hearing was recessed.

On October 1, 2019, the Commission recessed the hearing until further order to allow the parties to prepare and file a stipulation resolving all issues in these dockets.

The Settling Parties and their counsel have conferred regarding the disputed issues in these dockets, exchanged and reviewed additional information, and have reached an agreement that resolves all disputed issues in these dockets. This Stipulation memorializes that agreement.

III. Stipulation.

The Settling Parties agree as follows:

A. Requested Approvals. Chugach's and ML&P's requested approvals in Dockets U-19-020 and U-19-021 should be approved as filed and amended as of the filing date of this Stipulation, except as otherwise agreed to and set forth in this Stipulation.

B. Modification of Transaction. Capitalized terms not defined in this Stipulation shall have the meaning set forth in the APA, as amended.

1. Purchase Price Adjustment. Upfront Payment and the Purchase Price shall be reduced by the amount by which the net book value, at Closing, of the Purchased Assets is less than $715.4 million, but shall not be increased if the net book value exceeds $715.4 million. In addition to any downward adjustment based on the net book value of the Purchased Assets under the previous sentence, the Upfront Payment and Purchase Price shall be reduced by $10 million.

2. Immediate Rate Reductions for ML&P Legacy Service Area Customers.

a. By the time of Closing, ML&P shall create a new restricted rate reduction account ("RRR Account") and shall deposit $36 million of ML&P's unrestricted cash into the RRR Account. Once funded, use of the RRR Account funds shall be restricted to providing the rate reductions set forth in Section III.B.2.c.

b. The RRR Account shall be included as Transferred Cash, but will not change the Purchase Price.

c. Chugach shall prudently manage the RRR Account funds for the benefit of ML&P legacy service area to ensure the principal balance and any interest realized on the deposits are properly invested, accounted for, and ultimately credited back to customers in the ML&P legacy service area. Chugach shall use the RRR Account funds to provide rate reductions to customers in the ML&P legacy service area over a period of three years until the RRR Account funds are exhausted. Beginning with Chugach's first Fuel and Purchased Power Cost Adjustment ("FPPCA") filing for the ML&P legacy service area following Closing, Chugach shall include a credit (reduction) to the calculated FPPCA rates for ML&P legacy

service area customers ("RRR Account Credit"). The amount of the RRR Account Credit shall be calculated quarterly to facilitate disbursement of the RRR Account funds, through the ML&P legacy service area FPPCA rates, in approximately equal amounts every quarter for a three-year period, or until all of the RRR Account funds have been distributed through the FPPCA rate adjustment process.

3. APA Amendments. The APA, as previously amended, shall be further amended as shown on the form APA Amendment set forth in Exhibit 1 to reflect the certain provisions contained in this Section III.B.

C. Chugach Post-Closing Report Filings. Chugach shall submit to the Commission by April 1 every year from 2021 through 2028 a report setting forth the net savings achieved from the Transaction for the reporting period and the cumulative net savings achieved since Closing, as of December 31 of the preceding year. The report shall include: (1) a spreadsheet based on Chugach's "Master Cost Savings Model" identified in discovery as CHU-000001 identifying actual performance in comparison with projections; (2) a spreadsheet identifying each position attrited as a results of the Transaction and the amount of associated savings, as compared with the positions projected for attrition in Chugach's "Master Personnel Savings" model identified in discovery as CHU-000692; (3) a narrative description of Chugach's integration of the two utility systems and achievement of savings, including any areas in which achieved savings have been or are projected to be significantly more or less than originally projected prior to the Transaction; (4) information demonstrating Chugach's compliance with its obligations under Section III.G. of this Stipulation to amortize the Secondary Regulatory Asset over a three-year period; and (5) information demonstrating Chugach's compliance with its obligation under Section III.G. of this Stipulation to recover costs associated with the Eklutna

PPA through base rates from all Chugach customers (ML&P and Chugach legacy customers) rather than through Chugach's FPPCA.

Chugach shall also supply information in its quarterly FPPCA filing demonstrating Chugach's compliance with (1) its obligations under Section III.B.2.c. of this Stipulation regarding the RRR Account funds, and (2) its obligations under Section III.F. regarding Chugach's post-Closing use of BRU gas, including, but not limited to, any use by Chugach of BRU gas from one utility's legacy BRU interest to serve native load in the other legacy territory. These FPPCA filing obligations shall continue for the life of the RRR Account and the BRU, respectively.

D. Termination of Order U-16-094(9)/U-17-008(13) Remand Proceeding. The Settling Parties agree that the remand proceeding in Dockets U-16-094/U-17-008 (the "Remand Proceeding") may be terminated by the Commission without further action, which is an integral component of the Settling Parties' resolution of the issues in Dockets U-18-102, U-19-020, and U-19-021. Within five business days from the filing of this Stipulation, Providence and ML&P shall cause a stipulation (the "Remand Stipulation") to be filed in Dockets U-16-094/U-17-008. The Remand Stipulation shall: (1) request that the Commission vacate the briefing schedule currently stayed in that proceeding, (2) provide that further proceedings are not required, and that Commission acceptance of the Remand Stipulation shall terminate the Remand Proceeding without further action, except to the extent that the Commission issues a final order closing the Remand Proceeding docket; (3) recognize that termination of the Remand Proceeding shall have no effect on ML&P's currently approved base rates; and (4) include language comparable to General Condition A of this Stipulation below. The Remand Stipulation shall be substantially in the form of Exhibit 2 attached to this Stipulation, subject to ministerial changes agreed by

Providence and MOA (such as the potential addition of parties or alteration of form to a motion rather than a stipulation) that do not change the relief sought, or the terms and conditions provided for, in Exhibit 2. The Settling Parties agree not to challenge, appeal, or seek reconsideration of any order by the Commission terminating the Remand Proceeding consistent with this Stipulation. For clarity, nothing in this Stipulation shall affect Providence's pending appeal of Order U-16-094(10)/U-17-008(14) (the order denying refunds) in Alaska Superior Court Case No. 3AN-18-07459 Civil.

E. Post-Closing MOA Community Donation for the Alaska Center for Treatment. Within five years after Closing (the "Expenditure Deadline"), subject to Anchorage Municipal Assembly appropriation, MOA shall spend $15 million toward the planning, permitting, design, construction, and related demolition costs of the Alaska Center for Treatment (the "Required Use"), a planned substance use disorder center that will serve the communities of Southcentral Alaska by offering some combination of outpatient and inpatient treatment options, transitional housing services, and crisis stabilization. The Alaska Center for Treatment is anticipated to be constructed on Municipality of Anchorage land, owned by the Municipality, and operated by a third-party operator to be selected through an open procurement process in accordance with Title 7 of Anchorage Municipal Code. This community benefit project is expected to fill a critical void in services in Anchorage that impacts all residents of the Municipality of Anchorage.

If any of the following conditions is not met as of, or at any time after, the Expenditure Deadline, any amount that has not been spent by the Municipality of Anchorage for the Required Use shall be offset against the next payment(s) due from Chugach to the Municipality pursuant to the Eklutna PPA in accordance with the proposed Amendment No. 3 to the Eklutna PPA,

attached as Exhibit 3, so that any funds not expended for this community benefit project will instead be used for the benefit of ratepayers through reduced electricity rates: (1) the funds shall be and remain appropriated for the Required Use; (2) unexpended funds appropriated shall be and remain in a dedicated fund for the Required Use; (3) one or more contracts requiring the expenditure of the entire $15 million have been awarded by the Municipality of Anchorage pursuant to Title 7 of Anchorage Municipal Code; and (4) the Municipality of Anchorage is and remains a party to such contract or contracts.

Any Settling Party seeking to enforce this Section III.E of this Stipulation shall do so through a civil action in a court of competent jurisdiction and venue.

F. Chugach's Post-Closing Use of Owned BRU Gas.

1. Capitalized terms not defined in this Section of the Stipulation shall have the meaning set forth in the BRU Fuel Agreement, as amended.

2. For ratemaking purposes, Chugach shall separately account for the costs of producing gas from the legacy ML&P and legacy Chugach BRU interests and shall separately flow the costs and benefits of each BRU ownership interest through separate GTPs and fuel charges to the respective ratepayers in the ML&P legacy service area and Chugach legacy service area over the economic life of the BRU.

3. Chugach shall: (1) before entering into any economy energy sale using Chugach-owned BRU gas (as distinguished from gas purchased from another BRU producer), estimate and document the margin it will earn on that economy energy sale using the market value proxy specified in Section III.F.6 for determining the value of BRU gas used for the specific sale; and (2) maintain records of all such estimates and file them with the Commission with each quarterly FPPCA filing.

4. If Chugach elects to use gas sourced from either legacy utility's ownership interest in the BRU to generate electricity for economy energy sales, it shall only make such a sale consistent with Tariff Sheet No. 101 of Chugach's tariff, using the market value of the gas (as determined in advance pursuant to Section III.F.3) to determine the cost of "additional fuel" as that term is used in the tariff. Unless otherwise ordered by the Commission: (1) Each time Chugach elects to use gas sourced from either the legacy Chugach BRU Interest or the legacy ML&P BRU Interest to generate electricity for economy energy sales, it shall also offer those same BRU natural gas volumes to ENSTAR for purchase; and (2) if ENSTAR offers more for the natural gas volumes than the market value of the gas (as determined by Chugach in advance pursuant to Section III.F.3), Chugach shall sell those natural gas volumes to ENSTAR. If Chugach uses gas sourced from either the legacy Chugach BRU interest or the legacy ML&P BRU interest to generate electricity for economy energy sales, or if Chugach sells gas to ENSTAR pursuant to this Section, Chugach shall credit the customers in the legacy service area whose BRU interest supplied the gas for the proxy market value of such gas as determined in advance in Section III.F.3.

5. If Chugach elects to use BRU gas sourced from one legacy utility's ownership interest in the BRU (which legacy utility's territory is hereafter referred to as the "Supplying Territory") to generate electricity to serve native load in the other legacy service area (the "Served Territory"), Chugach shall credit the customers in the Supplying Territory for the market value proxy price of such gas as determined in Section III.F.3, and shall charge the same market value proxy price to the customers in the Served Territory. If Chugach elects to use BRU gas for the purpose described in this paragraph, it shall (1) restrict funds for the benefit of Supplying Territory ratepayers in an amount equal to any difference between the Supplying

Territory's BRU GTP and the market value proxy price of gas so used, (2) promptly make a filing proposing and seeking a Commission determination of whether the funds should be flowed back to Supplying Territory ratepayers through the FPPCA or by deposit in the DRLGS, and (3) contemporaneously with such filing, notify the Settling Parties of the filing.

When BRU gas is used for the purpose described in this paragraph, Chugach shall recognize the cost of the gas to the Supplying Territory as a BRU gas expense in the month the transaction occurred, valued on the basis of the GTP then in effect for the Supplying Territory multiplied by the volume of BRU gas purchased by the Served Territory. In addition, Chugach shall recognize the payment of such cost by the Served Territory ratepayers in the month the transaction occurred to ensure the Supplying Territory customers are not charged for the cost of producing gas purchased by the Served Territory.

6. Unless the Commission orders otherwise, the market value proxy for purposes of subparagraphs Section III.F.3-5 shall be the greater of:

(1) Chugach's opportunity cost of gas for meeting firm load requirements on its system, which generally would be Chugach's highest priced contracted gas; or

(2) 90 percent of the Cook Inlet Prevailing Value of Gas most recently published by the Alaska Department of Revenue pursuant to 15 AAC 55.173(b).

Chugach shall notify the Settling Parties in advance of any filing seeking Commission approval for a different market value proxy.

7. The BRU Fuel Agreement, as previously amended, shall be further amended as shown on the form BRU Fuel Agreement Amendment set forth in Exhibit 4 to reflect the certain provisions contained in this Section III.F.

G. Post-Closing Accounting and Ratemaking Treatments.

1. As part of the Transaction, Chugach has agreed to pay the MOA $75 million net present value over 35 years through the Eklutna PPA.[1] While Chugach maintains that the Eklutna PPA is priced based on Chugach's avoided cost of power, Chugach agrees that these payments constitute a premium above the net book value of ML&P's assets that should be recovered from all ratepayers of the combined utility. In that respect, Chugach agrees that costs associated with the Eklutna PPA will be recovered through base rates from all Chugach customers (ML&P and Chugach legacy customers) rather than through Chugach's FPPCA. In recognizing that payment of the premium embedded in the Eklutna PPA payments is necessary to achieve benefits for all Chugach customers (ML&P and Chugach legacy customers) and is projected to be offset by savings created by the Transaction, the premium paid through the Eklutna PPA will be allocated in base rates in a manner that is consistent with established regulatory principles and consistent with the Transaction savings base rate allocations so as to achieve the objective that all Chugach customers (ML&P and Chugach legacy customers alike) are fairly allocated the costs and achieved savings made possible by the Transaction.

2. As part of Chugach's petition for various regulatory approvals, Chugach has requested the Commission authorize the establishment of a regulatory asset to amortize approximately $127.6 million in premium, transaction, and transition costs over a 30-year period ("Primary Regulatory Asset"). Chugach has further requested that it be permitted to delay amortization of that regulatory asset for up to three years until it files its first combined general

[1] Based on a 5 percent discount rate. The $75 million is based on Chugach purchasing all ML&P generation from the Eklutna Hydroelectric Project. This payment amount (net present value) may be reduced to $48.2 million if MEA purchases a pro rata share of the output.

rate case. Under this Stipulation, Chugach shall (1) reduce the Primary Regulatory Asset by $26.6 million, (2) establish a separate smaller regulatory asset that would amortize $19 million over a three-year period beginning immediately following close of the Transaction ("Secondary Regulatory Asset"), and (3) annually expense the Eklutna PPA payments associated with that same three-year period, which are estimated to total approximately $7.6 million. In no event shall Chugach be obligated to expense in total more than $7.6 million in Eklutna PPA payments over that three-year period. Chugach's obligations to establish and amortize $19 million in the Secondary Regulatory Asset is contingent upon Chugach achieving a weighted average interest rate of no more than 4 percent on the financing necessary to close the Transaction, however the amount of the Secondary Regulatory Asset will be prorated down if the actual weighted average interest rate Chugach achieves on the financing is above 4.0 percent but below 5.0 percent. Chugach's obligation to annually expense the Eklutna PPA payments associated with that same three-year period is contingent upon Chugach achieving a weighted average interest rate of no more than 5 percent on the financing necessary to close the Transaction.

3. As an element of Chugach's first general rate case following Commission approval of the Transaction, Chugach shall evaluate and propose, based on the achieved savings resulting from the Transaction, an amortization period for the Primary Regulatory Asset with the underlying objectives to (1) recover the cost over a period of approximately 20 years consistent with the objective of delivering significant benefits of the Transaction to ratepayers over the entire period of amortization, and (2) not increase base rates as a result of the Transaction. Chugach shall provide and confer with the Settling Parties regarding its proposed amortization period prior to the general rate case being filed with the Commission.

H. Enforcement. Except as otherwise provided in Section III.E, each Settling Party shall have the right to seek enforcement by the Commission of all obligations imposed on Chugach and MOA under this Stipulation.

I. Settling Parties' Approvals. The Settling Parties recognize that approvals from the Anchorage Assembly are necessary in order to effectuate this settlement through amendments to the Transaction Agreements. The Settling Parties further recognize that such approval has not been received as of the time this Stipulation was filed with the Commission. The Settling Parties acknowledge that the validity and enforceability of the agreements contained in this Stipulation are conditioned upon receipt of all necessary approvals from the Anchorage Assembly and filing of proof of such approvals by November 1, 2019.

J. Subject to the preceding paragraph I, each Settling Party represents and warrants that it has the right, power, legal capacity, and authority to enter into, deliver, and perform its obligations under, this Stipulation. Without limiting the preceding sentence, each Settling Party represents and warrants that the execution, delivery, and performance of this Stipulation by the Settling Party has been duly authorized by all necessary action, and that the Settling Party has obtained all approvals and consents, including without limitation all internal corporate approvals, all governmental approvals, and all third-party consents, necessary for it to enter into, deliver, and perform its obligations under, this Stipulation.

IV. Evidentiary Support for this Stipulation

A. The filings in this proceeding provide evidentiary support for this Stipulation and include, but are not limited to:

1. The prefiled testimonies identified in Section II above and the exhibits thereto;

2. The transcripts of hearings, including the hearings conducted on August 12 to 14, 2019, and August 27 to September 13, 2019;

3. The exhibits identified as H-1 through H-113 introduced during the hearings;

4. The responses of Chugach and ML&P to Commission requests for information disclosures;

5. Any other reports, studies or information that the Commission required to be filed into the record; and

6. All additional testimonies, exhibits, studies, reports, or other information that is subsequently entered into the evidentiary record during the Commission's consideration of this Stipulation;

but not including any matter held inadmissible or stricken from the record.

B. For purposes of settlement only, the Settling Parties stipulate the Commission may admit and consider as evidence all prefiled testimonies, studies, exhibits, and disclosures filed in these dockets, or which may subsequently be filed in these dockets, which have not yet been admitted into the record, but not including any matter held inadmissible or stricken from the record.

C. For purposes of settlement only, each Settling Party agrees to waive cross-examination of other Settling Parties' witnesses who have not yet testified in the hearings in these dockets.

V. The Public Interest.

A. Under AS 42.05.191, "the commission may, without a hearing, issue an order approving any settlement supported by all the parties of record in a proceeding, including a

compromise settlement." Under 3 AAC 48.166, parties "may stipulate among themselves to the disposition of a proceeding or to the disposition of outstanding issues in a proceeding" and "the parties are bound by the terms of the stipulation if the commission accepts it." Under 3 AAC 48.090(d)(2), a "proceeding may be terminated by filing a stipulation agreed to by all parties of record provided the commission does not find that the public interest requires the proceeding to continue."

B. In light of these standards, the Settling Parties agree that the public interest does not require this proceeding to continue and that acceptance of this Stipulation is in the public interest. The Settling Parties further agree that acceptance or approval of this Stipulation, and approval of the Transaction and requested approvals, as modified by this Stipulation, are consistent with the public interest.

C. Acceptance of this Stipulation will conserve valuable resources of the Settling Parties, including the expenditure of time and resources that would otherwise be required to conduct an evidentiary hearing.

D. Acceptance of this Stipulation will conserve Commission resources by allowing it to avoid completing the hearing for U-19-020/U-19-021; adjudicating any disputed facts, policy, or law; stating and supporting its findings and conclusions in a formal order; and deciding a contested proceeding on remand of prudence and return on equity issues in Dockets U-16-094/U-17-008.

E. Acceptance of this Stipulation will allow the Settling Parties to avoid the uncertainty of litigation.

F. Acceptance of this Stipulation is consistent with the Commission's prior determinations that settlements should be encouraged, and litigation should be avoided when possible.[2]

VI. General Conditions.

A. The stipulated provisions set forth in Section III represent compromises among the Settling Parties regarding substantive disputes at issue in this proceeding for the sole purpose of resolving those issues. Except as otherwise expressly provided herein, this Stipulation is binding on the Settling Parties for the purposes of these dockets only; it shall have no precedential effect; and it shall not be cited, offered, or admitted in any other proceeding as substantive evidence, or to estop any Party hereto from asserting any legal or factual arguments in any subsequent proceeding.

B. The validity and enforceability of the agreements contained in this Stipulation are conditioned on the Commission's acceptance of this Stipulation in its entirety and without material changes. Section III.D of this Stipulation requires Providence and ML&P to file a stipulation in the remand proceeding in Dockets U-16-094/U-17-008 providing for termination of that proceeding. If the Commission, in its orders on this Stipulation and the Remand Stipulation, does not accept each Stipulation in its entirety or imposes material changes to either, any Settling Party may withdraw from this Stipulation by notice to the Settling Parties and Commission within 30 days of issuance of such order.

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[2] *See* Order No. P-11-014(1) (ENSTAR Complaint v. KNPL) (Aug. 19, 2011) at 3; Order No. P-09-014(2) (KKPL Rate Case) (Feb. 5, 2010) at 4-5; Order No. U-06-134(15) (Chugach Rate Case) (Aug. 9, 2007) at 5; Order No. P-03-012(21) (KKPL Rate Case) (May 25, 2005) at 7; Order No. U-05-020(7) (Agrium Complaint v. CIGGS) (Jun. 24, 2005) at 3; Order No. P-91-002(26) (KPL Rate Case) (Jun. 3, 1994) at 2.

C. If any Settling Party withdraws from this Stipulation pursuant to paragraph VI.B. above, the Settling Parties reserve the right to present evidence and cross examine witnesses to support all of their positions at a public hearing as if this Stipulation had not been entered into. If this occurs, this Stipulation may not be entered into evidence, and no Settling Party may use this Stipulation or any part of it in this or any other proceeding as substantive evidence. If any Settling Party withdraws, matters admitted only for settlement purposes pursuant to Section IV shall not be considered to have been admitted, and each Settling Party shall have the right to object to or move to strike any such evidence. The Settling Parties agree to be bound by this paragraph VI.C. notwithstanding any failure of conditions precedent, termination of this Stipulation, or withdrawal herefrom by one or more Settling Parties.

D. The Settling Parties expressly waive their rights to challenge, appeal, or seek reconsideration of a Commission order accepting this Stipulation in its entirety with no material changes.

E. Nothing in this Stipulation is intended to, or shall, limit the Commission's powers as conferred by statute or bind the Commission in future proceedings to any position it accepts in this Stipulation.

F. Any notice or communication which may be or is required to be given pursuant to the terms of this Agreement shall be in writing, and any such notice or communication will be deemed to have been given if and when delivered by hand or by U.S. mail, postage prepaid:

If to the Municipality of Anchorage:

Municipality of Anchorage
632 W. 6th Avenue, Suite 850
Anchorage, AK 99501
Attention: William D. Falsey, Municipal Manager

With a copy to:

	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 Attention: Rebecca A. Windt Pearson, Municipal Attorney and Dean D. Thompson Kemppel, Huffman and Ellis, P.C. 255 East Fireweed Lane, Suite 200 Anchorage, AK 99503
If to Chugach Electric Association, Inc.:	Chugach Electric Association, Inc. 5601 Electron Drive Anchorage, AK 99518 Attention: Lee D. Thibert, Chief Executive Officer With a copy to: Chugach Electric Association, Inc. 5601 Electron Drive Anchorage, AK 99518 Attention: Matthew C. Clarkson, Executive VP, General Counsel
If to Providence Health and Services:	Betsy M. Vo, Corporate Counsel Department of Legal Affairs Providence Health and Services 1801 Lind Avenue SW Renton, WA 98057 With a copy to: Craig Gannett Davis Wright Tremaine LLP 920 Fifth Avenue, Suite 3300 Seattle, WA 98104-1610 and Jon S. Dawson Davis Wright Tremaine LLP 188 West Northern Lights Blvd., Suite 1100 Anchorage, AK 99503

If to the Federal Executive Agencies:	ROBERT J. FRIEDMAN, Capt, USAF Utility Litigation Attorney Air Force Utility Law Field Support Center (AFLOA/JACE-ULFSC) Federal Executive Agencies (FEA) 139 Barnes Dr., Suite 1 Tyndall AFB, FL 32403-5317
If to Matanuska Electric Association, Inc.:	Tony Izzo Chief Executive Officer Matanuska Electric Association, Inc. Box 2929 Palmer, AK 99645
If to ENSTAR Natural Gas Company a Division of SEMCO Energy, Inc.	John Sims, President ENSTAR Natural Gas Company P.O. Box 190288 Anchorage, AK 99519 With a copy to: John Paul Wood Dillon & Findley, P.C. 1049 W. 5th Avenue, Suite 100 Anchorage, AK 99501
If to the Alaska Energy Authority:	Curtis Thayer, Executive Director Alaska Energy Authority 813 W. Northern Lights Blvd. Anchorage, AK 99503 With a copy to Stefan Saldanha, AAG Alaska Department of Law 1031 W. 4th Ave. Ste. 200 Anchorage, AK 99501

A Settling Party may change its address for purposes of notices hereunder by giving notice of such changed address in the manner specified in this section.

VI. CONCLUSION.

The Settling Parties request that the Commission accept this Stipulation in its entirety. As provided for in 3 AAC 48.166, the Settling Parties request that the Commission issue its decision regarding this Stipulation within 30 days.

DATED this 25th day of October, 2019, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage d/b/a Municipal Light and Power

By: /s/ *Paul J. Jones*

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DATED this 25th day of October, 2019, at Anchorage, Alaska.

Chugach Electric Association, Inc.

By: /s/ *Donald W. Edwards*

Donald W. Edwards, Attorney at Law
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DATED this 25th day of October, 2019, at Anchorage, Alaska.

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DATED this 25th day of October, 2019, at Anchorage, Alaska.

Attorneys for Federal Executive Agencies

By: */s/ Scott L. Kirk*

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DATED this 25th day of October, 2019, at Anchorage, Alaska.

For Matanuska Electric Association, Inc.

By: */s/ David Pease*

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DATED this 25th day of October, 2019, at Anchorage, Alaska.

DILLON & FINDLEY, P.C.
Attorneys for ENSTAR Natural Gas Company,
a division of SEMCO Energy, Inc.

By: */s/ John P. Wood*

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DATED this 25th day of October, 2019, at Anchorage, Alaska.

For the Alaska Energy Authority
KEVIN G. CLARKSON
ATTORNEY GENERAL

By: */s/ Stefan A. Saldanha*

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Alaska Bar # 9711074

CERTIFICATE OF SERVICE

I hereby certify that after 5:00 p.m. on October 25, 2019, a copy of the foregoing document was electronically filed with the RCA and served on the following persons by electronic means authorized by the RCA.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
By: /s/ *Paul J. Jones*
Paul J. Jones, Attorney

RAPA

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Stefan A. Saldanha	stefan.saldanha@alaska.gov

EXHIBIT 1

Form of Amendment No. 3 to the Asset Purchase and Sale Agreement

AMENDMENT NO. 3 TO ASSET PURCHASE AND SALE AGREEMENT

THIS AMENDMENT NO. 3 TO ASSET PURCHASE AND SALE AGREEMENT, dated as of the [●] day of [●], 2019 (this "**Amendment**"), between the Municipality of Anchorage, Alaska, a political subdivision organized under the laws of the State of Alaska ("**Seller**"), and Chugach Electric Association, Inc., a not-for-profit electric cooperative corporation organized under the laws of the State of Alaska ("**Buyer**").

RECITALS

WHEREAS, Buyer and Seller entered into that certain Asset Purchase and Sale Agreement, dated as of December 28, 2018 (the "**Original Agreement**"); capitalized terms used in this Amendment, if not otherwise defined herein, shall have the meanings set forth in the Original Agreement, as amended or modified pursuant to this Amendment or any Previous Amendment (as so amended or otherwise modified, the "**Asset Purchase Agreement**");

WHEREAS, pursuant to Section 10.10 of the Asset Purchase Agreement, Buyer and Seller may amend, modify or supplement the Original Agreement upon the execution and delivery of a written agreement executed by the Parties; and

WHEREAS, the Parties desire to make certain amendments to the Asset Purchase Agreement as provided in this Amendment.

NOW, THEREFORE, pursuant to Section 10.10 of the Asset Purchase Agreement and Section III.B.3 of the Stipulation (as defined in Article I of the Asset Purchase Agreement as amended pursuant to this Amendment), and in consideration for the premises and agreements in the Stipulation and as hereinafter set forth, the Parties, intending to be legally bound, agree as follows:

1. New Definitions. The following definitions are hereby added to Article I of the Asset Purchase Agreement:

> "**Rate Reduction Account**" means an account created and funded by Seller with a cash balance of $36,000,000 on the Closing Date.
>
> "**Stipulation**" means the Stipulation Resolving All Issues entered into by and among Seller, Buyer, Providence Health & Services, the Federal Executive Agencies, Matanuska Electric Association, Inc., Homer Electric Association, Inc., Alaska Energy Authority, and ENSTAR Natural Gas Company, a Division of SEMCO Energy, Inc. dated October [●], 2019, and accepted and approved by the RCA on [●].

2. Revised Definitions. The following definitions in Article I of the Asset Purchase Agreement are hereby amended and restated in their entirety as follows:

> "**BRU Fuel Agreement**" means the amended and restated BRU Fuel Agreement dated as of the date hereof between Seller and Buyer as the same may be amended on or before the Closing Date.

"**Transferred Cash**" means (A) cash in the Rate Reduction Account and (B) customer deposit cash or cash accounts, cash, cash equivalents, and securities (in each case to the extent constituting restricted assets and, in the case of cash contractually restricted in connection with Debt, to the extent not used by Seller to defease or repay the Closing Debt), including any such assets collected for payments in lieu of taxes, including pursuant to AMC 26.10.025 or held under or pursuant to ML&P's debt documents or representing the proceeds of bonds, deferred regulatory liability for gas sales funds, future gas purchases regulatory liabilities, underlift accounts and asset retirement obligation funds managed by ML&P or Seller, any decommissioning funds, utility underground requirements including those set forth in AS 42.05.381(h), (i), and (j) and AMC 21.07.050 and AMC Title 21 undergrounding funds, and any other cash collected from ratepayers for obligations assumed by Buyer including customer deposits. Exhibit J sets forth the Transferred Cash (other than the Rate Reduction Account) and separately identifies any cash contractually restricted in connection with Debt which will be used by Seller to defease or repay the Closing Debt, in each case as if the Closing had occurred as of December 31, 2017.

"**Upfront Payment**" means $757,800,000.

3. Amendment to Section 2.05(d). Section 2.05(d) of the Asset Purchase Agreement is hereby deleted in its entirety and replaced with the following:

(d) minus the absolute value of the Net Book Value Adjustment if the Net Book Value Adjustment is a negative number; *provided* that, if the Net Book Value Adjustment is a positive number, the Purchase Price shall not be adjusted to reflect the Net Book Value Adjustment or any portion thereof.

4. Addition of Section 6.32. The following is hereby added to the Asset Purchase Agreement as a new Section 6.32:

Section 6.32. **Use of Funds in Rate Reduction Account**. Buyer shall prudently manage funds in the Rate Reduction Account for the benefit of customers in the ML&P legacy service area to ensure the principal balance and any interest realized on the deposits are properly invested, accounted for, and ultimately credited back to customers in the ML&P legacy service area. The funds in the Rate Reduction Account shall be used by Buyer for the exclusive purpose of providing rate reductions to customers in the ML&P legacy service area in accordance with Section III.B.2.c of the Stipulation.

5. Effective Date of this Amendment. The effectiveness of this Amendment is expressly conditioned on the acceptance and approval of the Stipulation by the RCA. Except as expressly provided herein and the letter agreements dated March 8, 2019 and March 15, 2019, Amendment No. 1 to the Asset Purchase Agreement dated as of September 27, 2019, and Amendment No. 2 to the Asset Purchase Agreement dated as of [●], 2019 (the "**Previous Amendments**"), the Original Agreement and the Previous Amendments are not amended, supplemented, modified, revised or otherwise affected by this Amendment. This Amendment shall be deemed effective and in full force and effect as of the date first written above. On and after the date hereof, each reference in the Asset Purchase Agreement to "this Agreement",

"hereunder", "hereof", "herein" or words of like import referring to the Original Agreement or the Previous Amendments, shall mean and be a reference to the Asset Purchase Agreement and each reference to the Asset Purchase Agreement in any other agreements, documents or instruments executed and delivered pursuant to or in connection with the Asset Purchase Agreement shall be deemed to mean and be a reference to the Asset Purchase Agreement as amended by this Amendment and the Previous Amendments.

6. Binding Effect. This Amendment shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

7. Governing Law. This Amendment shall be governed by and construed in accordance with the internal laws of the State of Alaska, without reference to conflicts of laws principles that would result in the application of the laws of any other jurisdiction.

8. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[*Remainder of the page intentionally left blank*]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By_____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By_____

Name: Lee D. Thibert
Title: Chief Executive Officer

Exhibit 2

Form of Stipulation for Docket U-17-008 Remand Proceeding

STATE OF ALASKA

REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert M. Pickett, Chairman Stephen McAlpine Antony G. Scott Daniel A. Sullivan Janis W. Wilson

In the Matter of the Request Filed by the MUNICIPALITY OF ANCHORAGE d/b/a/ MUNICIPAL LIGHT & POWER DEPARTMENT for Approval to Establish Depreciation Rates	)	U-16-094
In the Matter of the Tariff Revision Designated as TA357-121 Filed by the MUNICIPALITY OF ANCHORAGE d/b/a/ MUNICIPAL LIGHT & POWER DEPARTMENT	)	U-17-008

STIPULATION FOR TERMINATION OF REMAND PROCEEDING

I. Introduction.

This Stipulation for Termination of Remand Proceeding ("Stipulation") is by and among the Municipality of Anchorage d/b/a Municipal Light and Power ("ML&P") and Providence Health & Services ("Providence") (collectively, the "Settling Parties"). This Stipulation is submitted for acceptance by the Regulatory Commission of Alaska ("Commission" or "RCA") pursuant to AS 42.05.191, 3 AAC 48.090(d)(2), and 3 AAC 48.166.

II. Background.

On March 23, 2018, the Commission issued Order No. U-16-094(9)/U-17-008(13), its final order resolving all issues raised in these proceedings ("Final Order"). In its Final Order, the Commission held, among other things, that Providence did not raise a serious doubt as to the prudence of ML&P's decision to build Plant 2A, and that ML&P should be allowed to earn a

return on equity of 10.70%. Providence appealed these rulings to the Superior Court. The Commission closed these dockets subject to reopening after conclusion of the appeal.

On May 20, 2019, the Superior Court issued an order in Providence's favor (the "Remand Order") and which reversed and remanded the Final Order. The Commission therefore reopened these dockets. On August 20, 2019, the Commission issued Order No. U-16-094(13)/ U-17-008(17) requiring that the parties brief the issues remanded by the Superior Court and setting a briefing schedule. The briefing schedule was stayed by Order No. U-16-094(14)/ U-17-008(18)/U-18-102(30)/U-19-020(24)/U-19-021(24), issued on October 3, 2019, in light of a tentative settlement in Consolidated Dockets U-18-102/U-19-020/U-19-021 (the "Transaction Dockets"). That settlement has since been finalized by a formal stipulation (the "Transaction Stipulation") in the Transaction Dockets, and requires ML&P and Providence to file this Stipulation to terminate the proceedings in these dockets.

III. Stipulation.

The Settling Parties agree as follows:

A. Vacating of Briefing Schedule. The Briefing Schedule established by Order Order No. U-16-094(13)/U-17-008(17) and subsequently stayed by Order No. U-16-094(14)/ U-17-008(18)/U-18-102(30)/U-19-020(24)/U-19-021(24) should be vacated.

B. Termination of This Proceeding. The Settling Parties stipulate and agree that this proceeding shall be terminated. Therefore, further proceedings are not required in this matter, and Commission acceptance of this Stipulation shall terminate this proceeding without further action, except to the extent that the Commission issues a final order closing these dockets. The Commission's acceptance of this Stipulation and the termination of this proceeding does not

constitute an adjudication or finding of fact with respect to any of the issues remanded to the Commission by the Superior Court in the Remand Order.

C. Base Rates. The termination of this proceeding shall have no effect on ML&P's currently approved base rates, which shall remain in effect until modified by the Commission in a subsequent proceeding.

D. Settling Parties' Approvals. Each Settling Party represents and warrants that it has the right, power, legal capacity, and authority to enter into, deliver, and perform its obligations under, this Stipulation. Without limiting the preceding sentence, each Settling Party represents and warrants that the execution, delivery, and performance of this Stipulation by the Settling Party has been duly authorized by all necessary action, and that the Settling Party has obtained all approvals and consents, including without limitation all internal corporate approvals, all governmental approvals, and all third-party consents, necessary for it to enter into, deliver, and perform its obligations under, this Stipulation.

IV. Evidentiary Support for this Stipulation.

The evidentiary support for this Stipulation includes all evidence that could be considered by the Commission in deciding the issues that are the subject of the Remand Order (including without limitation all prefiled testimony, all exhibits to prefiled testimony, all hearing testimony, and all hearing exhibits) and all evidence that is cited in the Transaction Stipulation as support for the Transaction Stipulation.

V. The Public Interest.

A. Under AS 42.05.191, "the commission may, without a hearing, issue an order approving any settlement supported by all the parties of record in a proceeding, including a compromise settlement." Under 3 AAC 48.166, parties "may stipulate among themselves to the

disposition of a proceeding or to the disposition of outstanding issues in a proceeding" and "the parties are bound by the terms of the stipulation if the commission accepts it." Under 3 AAC 48.090(d)(2), a "proceeding may be terminated by filing a stipulation agreed to by all parties of record provided the commission does not find that the public interest requires the proceeding to continue."

B. In light of these standards, the Settling Parties agree that the public interest does not require this proceeding to continue and that acceptance of this Stipulation is in the public interest. The Settling Parties further agree that acceptance or approval of this Stipulation, and approval of the Acquisition and requested approvals, as modified by this Stipulation, is consistent with the public interest.

C. Acceptance of this Stipulation will conserve valuable resources of the Settling Parties, including the expenditure of time and resources that would otherwise be required to brief and argue the issues that are the subject of the Remand Order, as well as the time and resources that would otherwise be required to brief and argue any appeal from a Commission decision on those issues.

D. Acceptance of this Stipulation will conserve Commission resources by allowing it to avoid adjudicating any disputed facts, policy, or law that are the subject of the Remand Order; stating and supporting its findings and conclusions in a formal order; and deciding the disputed prudence and return on equity issues in these dockets.

E. Acceptance of this Stipulation will allow the Settling Parties to avoid the uncertainty of litigation.

F. Acceptance of this Stipulation is consistent with the Commission's prior determinations that settlements should be encouraged, and litigation should be avoided when possible.[1]

VI. General Conditions.

A. The stipulated provisions set forth in Section III represent compromises among the Settling Parties regarding substantive disputes at issue in this proceeding for the sole purpose of resolving those issues. Except as otherwise expressly provided herein, this Stipulation is binding on the Settling Parties for the purposes of these dockets only; it shall have no precedential effect; and it shall not be cited, offered, or admitted in any other proceeding as substantive evidence, or to estop any Settling Party from asserting any legal or factual arguments in any subsequent proceeding.

B. This stipulation is filed in accordance with the requirements of the Transaction Stipulation. The validity and enforceability of the agreements contained in this Stipulation and the Transaction Stipulation are conditioned on the Commission's acceptance of each Stipulation in its entirety and without material change. If the Commission, in its orders on this Stipulation and the Transaction Stipulation, does not accept each Stipulation in its entirety or makes any material change, any Settling Party may withdraw from this Stipulation by notice to the Settling Parties and Commission within 30 days of issuance of such order.

C. If any Settling Party withdraws from this Stipulation pursuant to the preceding paragraph VI.B above, the Settling Parties may pursue all of their rights and remedies arising out

[1] *See* Order No. P-11-014(1) (ENSTAR Complaint v. KNPL) (Aug. 19, 2011) at 3; Order No. P-09-014(2) (KKPL Rate Case) (Feb. 5, 2010) at 4-5; Order No. U-06-134(15) (Chugach Rate Case) (Aug. 9, 2007) at 5; Order No. P-03-012(21) (KKPL Rate Case) (May 25, 2005) at 7; Order No. U-05-020(7) (Agrium Complaint v. CIGGS) (Jun. 24, 2005) at 3; Order No. P-91-002(26) (KPL Rate Case) (Jun. 3, 1994) at 2.

of or relating to the Remand Order as if this Stipulation had not been entered into. If this occurs, this Stipulation may not be entered into evidence, and no Settling Party may use this Stipulation or any part of it in this or any other proceeding as substantive evidence. The Settling Parties agree to be bound by this paragraph VI.C. notwithstanding any failure of conditions precedent or termination of this Stipulation or withdrawal herefrom by one or more Settling Parties.

D. For clarity, nothing in this Stipulation shall affect Providence's pending appeal of Order U-16-094(10)/U-17-008(14) (the order denying refunds) in Alaska Superior Court Case No. 3AN-18-07459 Civil.

E. Nothing in this Stipulation is intended to, or shall, limit the Commission's powers as conferred by statute or bind the Commission in future proceedings to any position it accepts in this Stipulation.

VII. Conclusion.

The Settling Parties request that the Commission accept this Stipulation in its entirety. As provided for in 3 AAC 48.166, the Parties request that the Commission issue its decision regarding this Stipulation within 30 days.

RESPECTULLY SUBMITTED this ____ day of _____, 2019.

DAVIS WRIGHT TREMAINE LLP
Attorneys for Providence Health & Services

/s/
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RESPECTULLY SUBMITTED this ____ day of _____, 2019.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage d/b/a Municipal Light and Power

By: /s/_____

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Exhibit 3

Form of Amendment No. 3 to the Eklutna Power Purchase Agreement

AMENDMENT NO. 3 TO EKLUTNA POWER PURCHASE AGREEMENT

This AMENDMENT NO. 3 TO EKLUTNA POWER PURCHASE AGREEMENT, dated as of the [●] day of October, 2019 (this "**Eklutna PPA Amendment**"), is made and entered into by and between (i) **CHUGACH ELECTRIC ASSOCIATION, INC.**, an Alaska not-for-profit electric cooperative corporation ("**Purchaser**"), and (ii) the **MUNICIPALITY OF ANCHORAGE,** a political subdivision organized under the laws of the State of Alaska ("**Seller**"). Purchaser and Seller are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

WHEREAS, Purchaser and Seller entered into that certain Eklutna Power Purchase Agreement dated as of December 28, 2018 (the "**Eklutna PPA**");

WHEREAS, Section 15.7 of the Eklutna PPA provides that Purchaser and Seller may amend the Eklutna PPA upon the execution and delivery of a written agreement executed by each Party; and

NOW, THEREFORE, pursuant to Section 15.7 of the Eklutna PPA and Section III.E of the Stipulation (as defined in Exhibit A as amended pursuant to this Eklutna PPA Amendment), and in consideration for the premises and agreements in the Stipulation and as hereinafter set forth, the Parties, intending to be legally bound, agree as follows:

1. Revision to Section 8.2. Section 8.2 of the Eklutna PPA is hereby amended by the addition of a new subsection (C) reading in its entirety as follows:

> (C) If (i) Seller has not, on or before the fifth anniversary of the Closing (as defined in the Asset Purchase Agreement) (the "**Expenditure Deadline**"), received an appropriation of funds from the Assembly of Seller in the amount of $15 million for purposes of the planning, permitting, design, and construction (including any required demolition of existing structures) of the Alaska Center for Treatment, all as provided in Section III.E of the Stipulation (such purposes, the "**Required Use**"), or such appropriation ceases, at any time prior to the expenditure by Seller of the full amount of such $15 million for the Required Use, to remain in full force and effect, (ii) such funds have not, on or before the Expenditure Deadline, been deposited into a dedicated fund for use only for the Required Use, or any such funds (other than any of such funds that have been expended for the Required Use) cease, at any time prior to the expenditure by Seller of the full amount of such $15 million for the Required Use, to remain in such dedicated fund, (iii) one or more contracts requiring payment by Seller of the entire unexpended amount of such funds for the Required Use has not, on or before the Expenditure Deadline, been awarded by Seller pursuant to Title 7 of Anchorage Municipal Code, or (iv) Seller has not, on or before the Expenditure Deadline, become, or Seller ceases, at any time prior to the expenditure by Seller of the full amount of such $15 million for the Required Use, to remain, a party to such contract or contracts, then Purchaser shall offset against

any amounts due to Seller under this PPA any portion of such $15 million amount that has not been spent by Seller for the Required Use.

2. Amendment of Exhibit A. Exhibit A to the Eklutna PPA is hereby amended to add the following new defined terms:

"**Expenditure Deadline**" has the meaning set forth in Section 8.2(C).

"**Stipulation**" means the Stipulation Resolving All Issues entered into by and among Seller, Purchaser, Providence Health & Services, the Federal Executive Agencies, MEA, Homer Electric Association, Inc., Alaska Energy Authority, and ENSTAR Natural Gas Company, a Division of SEMCO Energy, Inc. dated October [●], 2019, and accepted and approved by the RCA on [●].

"**Required Use**" has the meaning set forth in Section 8.2(C).

3. Effective Date and Incorporation of Terms of Eklutna PPA. This Amendment shall be deemed effective as of the Effective Date as defined in Exhibit A to the Eklutna PPA and, without in any way limiting the effect of the amendment set forth in Section 1 of this Amendment, shall be subject to all the terms and conditions of the Eklutna PPA.

4. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Amendment.

[*Remainder of the page intentionally left blank*]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By_____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By_____

Name: Lee D. Thibert
Title: Chief Executive Officer

EXHIBIT 4

Form of Amended and Restated BRU Fuel Agreement

AMENDED AND RESTATED BRU FUEL AGREEMENT

This Amended and Restated BRU Fuel Agreement (this "**Agreement**"), dated as of [●], 2019, is made and entered into between Municipality of Anchorage, Alaska, a political subdivision organized under the laws of the State of Alaska ("**Municipality**"), and Chugach Electric Association, Inc., a not-for-profit electric cooperative corporation organized under the laws of the State of Alaska ("**Chugach**").

RECITALS

WHEREAS, Municipality and Chugach have entered into that certain Asset Purchase and Sale Agreement (as amended from time to time, the "**Asset Purchase Agreement**") dated as of December 28, 2018 pursuant to which Chugach will acquire substantially all of the assets of Municipality's electric utility referred to as Municipal Light and Power ("**ML&P**").

WHEREAS, as an integral part of the transactions contemplated by the Asset Purchase Agreement, Chugach and Municipality entered into the BRU Fuel Agreement (the "**Original BRU Agreement**") dated as of December 28, 2018 to provide for the pass-through of BRU costs of production to customers of Chugach after the Closing as stated herein.

WHEREAS, the Municipality and Chugach wish to amend and restate the Original BRU Agreement in its entirety as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Capitalized terms used but not defined herein have the meanings assigned to them in the Asset Purchase Agreement. In addition, the following terms have the meanings specified or referred to in this ARTICLE I:

"**GTP**" means gas transfer price.

"**Legacy BRU Interest**" means the Legacy Chugach BRU Interest or the Legacy ML&P BRU Interest, as applicable.

"**Legacy Chugach BRU Interest**" means the interest in the BRU owned by Chugach immediately prior to Closing.

"Legacy Chugach Territory" means Chugach's retail service territory as in existence as of immediately prior to the Closing.

"**Legacy ML&P BRU Interest**" means the interest in the BRU owned by ML&P immediately prior to Closing.

"Legacy ML&P Territory" means ML&P's retail service territory as in existence as of immediately prior to the Closing.

"**Legacy Territory**" means the Legacy Chugach Territory or the Legacy ML&P Territory, as applicable.

"**Served Territory**" means (a) the Legacy Chugach Territory, to the extent that Chugach elects at any time after Closing to use gas sourced from the Legacy ML&P BRU Interest as fuel to generate electricity to serve native load in the Legacy Chugach Territory, and (b) the Legacy ML&P Territory, to the extent that Chugach elects at any time after Closing to use gas sourced from the Legacy Chugach BRU Interest as fuel to generate electricity to serve native load in the Legacy ML&P Territory.

"**Stipulation**" means the Stipulation Resolving All Issues entered into by and among ML&P, Chugach, Providence Health & Services, the Federal Executive Agencies, Matanuska Electric Association, Inc., Homer Electric Association, Inc., Alaska Energy Authority, and ENSTAR Natural Gas Company, a Division of SEMCO Energy, Inc., dated October [●], 2019, and accepted and approved by the Regulatory Commission of Alaska ("RCA") on [●].

"**Supplying Territory**" means (a) with respect to gas sourced from the Legacy ML&P BRU Interest, the Legacy ML&P Territory; and (b) with respect to gas sourced from the Legacy Chugach BRU Interest, the Legacy Chugach Territory.

"**Tariff**" has the meaning set forth in Section 2.03.

ARTICLE II
BRU MATTERS

Section 2.01 Legacy BRU Interest Accounting. For ratemaking purposes, Chugach shall separately account for the costs of producing gas from the Legacy ML&P BRU Interest and Legacy Chugach BRU Interest and shall separately flow the costs and benefits of each Legacy BRU Interest through separate GTPs and fuel charges to the respective ratepayers in the Legacy ML&P Territory and Legacy Chugach Territory, as applicable, over the economic life of the BRU.

Section 2.02 Documentation and Filing Requirements. Before entering into any economy energy sale of electricity generated using Chugach-owned BRU gas (as distinguished from gas purchased from another BRU producer), Chugach shall estimate and document the margin it will earn on that economy energy sale using the market value proxy specified in Section 2.05 to determine the value of BRU gas used as fuel for the specific sale. Chugach shall maintain records of all such estimates and file them with the RCA with each quarterly Fuel and Purchased Power Cost Adjustment filing.

Section 2.03 Limitations on Sales. If Chugach elects to use gas sourced from the Legacy ML&P BRU Interest or the Legacy Chugach BRU Interest to generate electricity for economy energy

sales, Chugach shall make such a sale only on a basis consistent with Tariff Sheet No. 101 of Chugach's current tariff (the "**Tariff**"), using the market value of the gas (as determined in advance pursuant to Section 2.02) to determine the cost of "additional fuel," as such term is used in the Tariff. Each time Chugach elects to use gas sourced from either the Legacy Chugach BRU Interest or the Legacy ML&P BRU Interest to generate electricity for economy energy sales, it shall also offer those same BRU natural gas volumes to ENSTAR for purchase. If ENSTAR offers more for the natural gas volumes than the market value of the gas (as determined by Chugach in advance pursuant to Section 2.02), Chugach shall sell those natural gas volumes to ENSTAR. If Chugach uses gas sourced from either the Legacy Chugach BRU Interest or the Legacy ML&P BRU Interest to generate electricity for economy energy sales, or if Chugach sells gas to ENSTAR pursuant to this Section 2.03, Chugach shall credit the amount of the proxy market value of such gas (as determined in advance pursuant to Section 2.02) to the customers in the Supplying Territory.

Section 2.04 Credits to Legacy Customers. If Chugach elects to use BRU gas sourced from the Legacy ML&P BRU Interest as fuel for the purpose of generating electricity to serve native load in the Legacy Chugach Territory, or to use BRU gas sourced from the Legacy Chugach BRU Interest as fuel for the purpose of generating electricity to serve native load in the Legacy ML&P Territory, Chugach shall credit the customers in the Supplying Territory in the amount of the market value proxy of such gas, as determined pursuant to Section 2.02, and shall charge the same market value proxy price to the customers in the Served Territory. If Chugach elects to use BRU gas for either such purpose, it shall (a) restrict funds for the benefit of ratepayers in the Supplying Territory in an amount equal to the product of (i) the positive difference, if any, obtained by subtracting the BRU GTP applicable to the Supplying Territory from the market value proxy price of gas so used and (ii) the volume of BRU gas so used; (b) promptly make a filing with the RCA proposing and seeking a determination by the RCA of whether such funds should be restored to ratepayers in the Supplying Territory through Chugach's quarterly Fuel and Purchased Power Cost Adjustment filing or instead by deposit in the Deferred Regulatory Liability for Gas Sales ("DRLGS") Account established pursuant to _____; and (c) contemporaneously with such filing, notify all parties to the Stipulation that such filing has been made. When BRU gas is used for the purpose described in this paragraph, Chugach shall recognize the cost of the gas to the Supplying Territory as a BRU gas expense in the month in which the transaction occurred, valued in an amount equal to the product of (i) the effective BRU GTP of the Supplying Territory and (ii) the volume of BRU gas purchased by the Served Territory. In addition, Chugach shall recognize the payment of such cost by the Served Territory ratepayers in the month in which such transaction occurred to ensure that the customers in the Supplying Territory are not charged for the cost of producing gas that is purchased by the Served Territory.

Section 2.05 Market Price. Unless the RCA approves another market value proxy, the market price for purposes of Sections 2.02, 2.03 and 2.04 shall be the greater of (i) Chugach's opportunity cost of gas for meeting firm load requirements on its system, which generally would be Chugach's highest priced contracted gas, or (ii) 90% of the Cook Inlet Prevailing Value of Gas most recently published by the Alaska Department of Revenue pursuant to 15 AAC 55.173(b). Chugach shall notify the parties to the Stipulation in advance of any filing seeking RCA approval for a different market value proxy.

ARTICLE III
MISCELLANEOUS

Section 3.01 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 3.01):

If to Municipality:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: william.falsey@anchorageak.gov Attention: William D. Falsey, Municipal Manager
with a copy to:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: rebecca.windtpearson@anchorageak.gov Attention: Rebecca A. Windt Pearson, Municipal Attorney
and a copy to:	K&L Gates LLP 925 Fourth Avenue, Suite 2900 Seattle, WA 98104-1158 E-mail: eric.freedman@klgates.com Attention: Eric E. Freedman
If to Chugach:	Chugach Electric Association, Inc. 5601 Electron Drive Anchorage, AK 99518 E-mail: Lee_Thibert@chugachelectric.com Attention: Lee D. Thibert, Chief Executive Officer
with a copy to:	Chugach Electric Association, Inc. 5601 Electron Drive Anchorage, AK 99518 E-mail: Matthew_Clarkson@chugachelectric.com Attention: Matthew C. Clarkson, General Counsel
and a copy to:	Stinson LLP Suite 2600 50 South Sixth Street Minneapolis, MN 55402

E-mail: james.bertrand@stinson.com
Attention: James J. Bertrand

Section 3.02 Interpretation. For purposes of this Agreement, (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections and Exhibits means the Articles, Sections and Exhibits attached to this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

Section 3.03 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 3.04 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 3.05 Entire Agreement. This Agreement constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter, including the Original BRU Agreement.

Section 3.06 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed, except that Chugach may assign this Agreement to any Affiliate or any Person that acquires all or substantially all of its assets, whether by merger, asset purchase or otherwise. No assignment shall relieve the assigning party of any of its obligations hereunder.

Section 3.07 No Third-party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 3.08 Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 3.09 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(a) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Alaska, without regard to conflict of law principles that would result in the application of the laws of any other jurisdiction.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY MAY BE INSTITUTED IN THE SUPERIOR COURT OF THE STATE OF ALASKA IN IN THE THIRD JUDICIAL DISTRICT, LOCATED IN ANCHORAGE, ALASKA, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURT AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C)

SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 3.09(c).

Section 3.10 Specific Enforcement. The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity. The parties acknowledge and agree that (a) the parties shall be entitled to an injunction, specific performance or other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereto, without proof of damages, this being in addition to any other remedy to which they are entitled under this Agreement and (b) the right to specific enforcement is an integral part of the transactions contemplated by this Agreement and without that right, neither Municipality nor Chugach would have entered into this Agreement. Each party agrees that it will not oppose the granting of specific performance and other equitable relief on the basis that the other parties have an adequate remedy at law or that an award of specific performance is not an appropriate remedy for any reason at law or equity. The parties acknowledge and agree that any party seeking an injunction to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in accordance with this Section 3.10 shall not be required to provide any bond or other security in connection with any such injunction.

Section 3.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 3.12 Conditions. This Agreement and the Parties' obligations set forth herein are contingent upon the occurrence of the Closing (as defined in the Asset Purchase Agreement). In addition, this Agreement (1) does not take effect until the prior approval of the RCA and (2) is, at all times, subject to revision by the RCA.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Amended and Restated BRU Fuel Agreement to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By_____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By_____

Name: Lee D. Thibert
Title: Chief Executive Officer

STATE OF ALASKA

RECEIVED
By the Regulatory Commission of Alaska on Jan 15, 2020

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert M. Pickett, Chairman Stephen McAlpine Antony G. Scott Daniel A. Sullivan Janis W. Wilson
In the Matter of the Investigation Into the Beluga River Unit Management Practices of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT	U-18-102
In the Matter of the Petition Filed by CHUGACH ELECTRIC ASSOCIATION, INC. to Acquire Most of the Assets of the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT, to Amend Its Certificate of Public Convenience and Necessity No. 8 to Add the Retail Electric Service Area Currently Served by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT Under Certificate of Public Convenience and Necessity No. 121, and for Related Regulatory Approvals	U-19-020
In the Matter of the Application Filed by the MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT & POWER DEPARTMENT to Amend Its Certificate of Public Convenience and Necessity No. 121, to Eliminate Its Retail Electric Service Area and Add the Eklutna Hydroelectric Project to Its Service Area, and to Lift the Dividend Restriction	U-19-021

FIRST AMENDMENT TO STIPULATION RESOLVING ALL ISSUES

The Municipality of Anchorage d/b/a Municipal Light and Power ("ML&P"), Chugach Electric Association, Inc. ("Chugach"), Providence Health & Services ("Providence"), the Federal Executive Agencies ("FEA"), Matanuska Electric Association, Inc. ("MEA"), the Alaska

Energy Authority ("AEA"), ENSTAR Natural Gas Company, a Division of SEMCO Energy, Inc. ("ENSTAR"), and Homer Electric Association, Inc. and its wholly owned subsidiary Alaska Electric and Energy Cooperative, Inc. (together "HEA") (collectively, the "Settling Parties") submit this First Amendment to Stipulation Resolving All Issues.

I. Background.

On October 25, 2019, the Settling Parties entered into a stipulation (the "Transaction Stipulation") memorializing the Settling Parties' agreement resolving all issues in these dockets. Section III.D of the Transaction Stipulation required Providence and ML&P to cause an additional stipulation (the "Remand Stipulation"), in substantially the form of Exhibit 2 to the Transaction Stipulation, to be filed in Dockets U-16-094/U-17-008 (the "Remand Proceeding"), providing for termination of that proceeding.

In accordance with Section III.D of the Transaction Stipulation, the Remand Stipulation was filed in the Remand Proceeding on November 4, 2019. Providence and ML&P, the parties to the Remand Stipulation, have agreed to replace and supersede the Remand Stipulation with an Amended and Restated Stipulation for Termination of Remand Proceeding ("Amended Remand Stipulation") in substantially the form of Exhibit 5 hereto.[1] The Attorney General and FEA, which are also parties in the Remand Proceeding, have agreed to join in the Amended Remand Stipulation.

[1] The form of Amended and Restated Stipulation for Termination of Remand Proceeding is identified as Exhibit 5 so that the exhibits to Transaction Stipulation, as amended, are consecutively numbered.

II. Replacement of Remand Stipulation with Amended Remand Stipulation.

The Settling Parties agree that the Amended Remand Stipulation, when filed with the Commission in the Remand Proceeding, replaces and supersedes the Remand Stipulation required to be filed under Section III.D of the Transaction Stipulation.

III. Conclusion.

The Settling Parties respectfully request the Commission accept the Transaction Stipulation, along with the Amended Remand Stipulation, within the statutory timeline for issuance of a final decision in these Dockets.[2]

DATED this 15th day of January, 2020, at Anchorage, Alaska.

KEMPPEL, HUFFMAN AND ELLIS, P.C.
Counsel for the Municipality of Anchorage d/b/a Municipal Light and Power

By: /s/ *Dean D. Thompson*

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[2] At the request of the Commission, the Settling Parties each hereby consent to a 14-day extension of the statutory deadline for issuance of a final order in these dockets, from February 14, 2020, to February 28, 2020.

DATED this 15th day of January, 2020, at Anchorage, Alaska.

Chugach Electric Association, Inc.

By: /s/ *Donald W. Edwards*
Donald W. Edwards, Attorney at Law
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By: /s/ *Matthew C. Clarkson*
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DATED this 15th day of January, 2020, at Anchorage, Alaska.

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DATED this 15th day of January, 2020.

Attorneys for Federal Executive Agencies

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DATED this 15th day of January, 2020, at Anchorage, Alaska.

For Matanuska Electric Association, Inc.

By: */s/ David Pease*

David Pease
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DATED this 15th day of January, 2020, at Anchorage, Alaska.

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DATED this 15th day of January, 2020, at Anchorage, Alaska.

For the Alaska Energy Authority
KEVIN G. CLARKSON
ATTORNEY GENERAL

By: */s/ Stefan A. Saldanha*

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Alaska Bar # 9711074

DATED this 15th day of January, 2020, at Anchorage, Alaska.

PERKINS COIE LLP
Attorneys for Homer Electric Association, Inc.
and Alaska Electric and Energy Cooperative, Inc.

By: */s/ Sarah Gillstrom*

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CERTIFICATE OF SERVICE

I hereby certify that on January 15, 2020, a copy of the foregoing document was electronically filed with the RCA and served on the following persons by electronic means authorized by the RCA.

KEMPPEL, HUFFMAN AND ELLIS, P.C.

By: /s/ *Tina Torrey*
Tina Torrey, Legal Assistant

RAPA

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David Mayberry	djmayberry@hollandhart.com

AEA

Curtis Thayer	cthayer@akenergyauthority.org
Stefan A. Saldanha	stefan.saldanha@alaska.gov

Exhibit 5

Form of Amended and Restated Stipulation for Docket U-17-008 Remand Proceeding

STATE OF ALASKA

REGULATORY COMMISSION OF ALASKA

Before Commissioners:		Robert M. Pickett, Chairman Stephen McAlpine Antony G. Scott Daniel A. Sullivan Janis W. Wilson
In the Matter of the Request Filed by the MUNICIPALITY OF ANCHORAGE d/b/a/ MUNICIPAL LIGHT & POWER DEPARTMENT for Approval to Establish Depreciation Rates	)	U-16-094
In the Matter of the Tariff Revision Designated as TA357-121 Filed by the MUNICIPALITY OF ANCHORAGE d/b/a/ MUNICIPAL LIGHT & POWER DEPARTMENT	)	U-17-008

AMENDED AND RESTATED STIPULATION FOR TERMINATION OF REMAND PROCEEDING

I. Introduction.

This Amended and Restated Stipulation for Termination of Remand Proceeding ("Stipulation") is by and among the Municipality of Anchorage d/b/a Municipal Light and Power ("ML&P"), Providence Health & Services ("Providence"), the Federal Executive Agencies ("FEA") and the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section ("RAPA") (collectively, the "Settling Parties"). This Stipulation is submitted for acceptance by the Regulatory Commission of Alaska ("Commission" or "RCA") pursuant to AS 42.05.191, 3 AAC 48.090(d)(2), and 3 AAC 48.166.

II. Background.

On March 23, 2018, the Commission issued Order No. U-16-094(9)/U-17-008(13), its final order resolving all issues raised in these proceedings ("Final Order"). In its Final Order, the

LAW OFFICES OF
KEMPPEL, HUFFMAN AND ELLIS
A PROFESSIONAL CORPORATION
255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2025
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Commission held, among other things, that Providence did not raise a serious doubt as to the prudence of ML&P's decision to build Plant 2A, and that ML&P should be allowed to earn a return on equity of 10.70%. Providence appealed these rulings to the Superior Court. The Commission closed these dockets subject to reopening after conclusion of the appeal.

On May 20, 2019, the Superior Court issued an order in Providence's favor (the "Remand Order") and which reversed and remanded the Final Order. The Commission therefore reopened these dockets. On August 20, 2019, the Commission issued Order No. U-16-094(13)/ U-17-008(17) requiring that the parties brief the issues remanded by the Superior Court and setting a briefing schedule. The briefing schedule was stayed by Order No. U-16-094(14)/ U-17-008(18)/U-18-102(30)/U-19-020(24)/U-19-021(24), issued on October 3, 2019, in light of a tentative settlement in Consolidated Dockets U-18-102/U-19-020/U-19-021 (the "Transaction Dockets"). That settlement has since been finalized by a formal stipulation (the "Transaction Stipulation") in the Transaction Dockets, and required ML&P and Providence to file the Stipulation for Termination of Remand Proceedings (filed November 4, 2019) to terminate the proceedings in these dockets. Upon approval of this Stipulation by all parties to the Transaction Stipulation, this Stipulation shall supersede the stipulation filed November 4, 2019 in its entirety.

III. Stipulation.

The Settling Parties agree as follows:

A. Vacating of Briefing Schedule. The Briefing Schedule established by Order No. U-16-094(13)/U-17-008(17) and subsequently stayed by Order No. U-16-094(14)/ U-17-008(18)/U-18-102(30)/U-19-020(24)/U-19-021(24) should be vacated.

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B. Base Rates and Return on Equity. For purposes of this Stipulation only, the Settling Parties stipulate and agree: (1) the record in these dockets contains the information and facts needed to resolve the issues remanded by the Superior Court in 3AN-18-06427 CI; and (2) the rates adjudicated by the Commission in Order U-16-094(10)/U-17-008(14) are just and reasonable and are supported by the record. The Settling Parties stipulate and agree to the permanent rates established by Order U-16-094(10)/U-17-008(14), which rates shall remain in effect until modified by the Commission in a subsequent proceeding.

C. Termination of Proceedings. No further proceedings are required in this matter. The Commission's acceptance of this Stipulation shall terminate these dockets without further action, except to the extent that the Commission issues a final order closing these dockets.

D. Settling Parties' Approvals. Each Settling Party represents and warrants that it has the right, power, legal capacity, and authority to enter into, deliver, and perform its obligations under, this Stipulation. Without limiting the preceding sentence, each Settling Party represents and warrants that the execution, delivery, and performance of this Stipulation by the Settling Party has been duly authorized by all necessary action, and that the Settling Party has obtained all approvals and consents, including without limitation all internal corporate approvals, all governmental approvals, and all third-party consents, necessary for it to enter into, deliver, and perform its obligations under, this Stipulation, except that this Stipulation requires the approvals called for in Section VI.B. below.

IV. Evidentiary Support for this Stipulation.

The evidentiary support for this Stipulation includes all evidence that could be considered by the Commission in deciding the issues that are the subject of the Remand Order (including

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without limitation all prefiled testimony, all exhibits to prefiled testimony, all hearing testimony, and all hearing exhibits).

V. The Public Interest.

A. Under AS 42.05.191, "the commission may, without a hearing, issue an order approving any settlement supported by all the parties of record in a proceeding, including a compromise settlement." Under 3 AAC 48.166, parties "may stipulate among themselves to the disposition of a proceeding or to the disposition of outstanding issues in a proceeding" and "the parties are bound by the terms of the stipulation if the commission accepts it." Under 3 AAC 48.090(d)(2), a "proceeding may be terminated by filing a stipulation agreed to by all parties of record provided the commission does not find that the public interest requires the proceeding to continue."

B. In light of these standards, the Settling Parties agree that the public interest does not require this proceeding to continue and that acceptance of this Stipulation is in the public interest. The Settling Parties further agree that acceptance or approval of this Stipulation is consistent with the public interest.

C. Acceptance of this Stipulation will conserve valuable resources of the Settling Parties, including the expenditure of time and resources that would otherwise be required to brief and argue the issues that are the subject of the Remand Order, as well as the time and resources that would otherwise be required to brief and argue any appeal from a Commission decision on those issues.

D. Acceptance of this Stipulation will conserve Commission resources by allowing it to avoid adjudicating any disputed facts, policy, or law that are the subject of the Remand Order;

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stating and supporting its findings and conclusions in a formal order; and deciding the disputed prudence and return on equity issues in these dockets.

E. Acceptance of this Stipulation will allow the Settling Parties to avoid the uncertainty of litigation.

F. Acceptance of this Stipulation is consistent with the Commission's prior determinations that settlements should be encouraged, and litigation should be avoided when possible.[1]

VI. General Conditions.

A. The stipulated provisions set forth in Section III represent compromises among the Settling Parties regarding substantive disputes at issue in this proceeding for the sole purpose of resolving those issues. Except as otherwise expressly provided herein, this Stipulation is binding on the Settling Parties for the purposes of these dockets only; it shall have no precedential effect; and it shall not be cited, offered, or admitted in any other proceeding as substantive evidence, or to estop any Settling Party from asserting any legal or factual arguments in any subsequent proceeding.

B. This Stipulation shall have no force or effect unless and until each party to the Transaction Dockets other than RAPA has agreed on the record in the Transaction Dockets that this Stipulation replaces and supersedes the Remand Stipulation required to be filed under the

[1] *See* Order No. P-11-014(1) (ENSTAR Complaint v. KNPL) (Aug. 19, 2011) at 3; Order No. P-09-014(2) (KKPL Rate Case) (Feb. 5, 2010) at 4-5; Order No. U-06-134(15) (Chugach Rate Case) (Aug. 9, 2007) at 5; Order No. P-03-012(21) (KKPL Rate Case) (May 25, 2005) at 7; Order No. U-05-020(7) (Agrium Complaint v. CIGGS) (Jun. 24, 2005) at 3; Order No. P-91-002(26) (KPL Rate Case) (Jun. 3, 1994) at 2.

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Transaction Stipulation. Upon this Stipulation's entry into force, the validity and enforceability of the agreements contained in this Stipulation and the Transaction Stipulation are conditioned on the Commission's acceptance of each of those stipulations in its entirety and without material change. If the Commission, in its orders on this Stipulation and the Transaction Stipulation, does not accept both stipulations in their entirety or makes any material change, any Settling Party may withdraw from this Stipulation by notice to the Settling Parties and Commission within 30 days of issuance of such order.

C. If any Settling Party withdraws from this Stipulation pursuant to the preceding paragraph VI.B. above, the Settling Parties may pursue all of their rights and remedies arising out of or relating to the Remand Order as if this Stipulation had not been entered into. If this occurs, this Stipulation may not be entered into evidence, and no Settling Party may use this Stipulation or any part of it in this or any other proceeding as substantive evidence. The Settling Parties agree to be bound by this paragraph VI.C. notwithstanding any failure of conditions precedent or termination of this Stipulation or withdrawal herefrom by one or more Settling Parties.

D. For clarity, nothing in this Stipulation shall affect Providence's pending appeal of Order U-16-094(10)/U-17-008(14) (the order denying refunds) in Alaska Superior Court Case No. 3AN-18-07459 Civil.

E. Nothing in this Stipulation is intended to, or shall, limit the Commission's powers as conferred by statute or bind the Commission in future proceedings to any position it accepts in this Stipulation.

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VII. Conclusion.

The Settling Parties request that the Commission accept this Stipulation in its entirety and issue its decision regarding this Stipulation by February 28, 2020.

RESPECTULLY SUBMITTED this 15th day of January, 2020.

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CERTIFICATE OF SERVICE

I hereby certify that on January 15, 2020, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

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Execution Copy

ASSET PURCHASE AND SALE AGREEMENT

between

MUNICIPALITY OF ANCHORAGE, ALASKA

and

CHUGACH ELECTRIC ASSOCIATION, INC.

dated as of

December 28, 2018

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Exhibit P **Form of Opinion of Bond Counsel**

ASSET PURCHASE AND SALE AGREEMENT

This Asset Purchase and Sale Agreement (this "**Agreement**"), dated as of December 28, 2018, is made and entered into by and between the Municipality of Anchorage, Alaska, a political subdivision organized under the laws of the State of Alaska ("**Seller**"), and Chugach Electric Association, Inc., a not-for-profit electric cooperative corporation organized under the laws of the State of Alaska ("**Buyer**").

RECITALS

WHEREAS, Seller owns and operates Municipal Light and Power ("**ML&P**"), an electric utility serving customers within the Municipality of Anchorage, Alaska, and Seller wishes to exit the electric utility business and cease performing any business activities associated with ML&P's provision of electric services as currently conducted by Seller and as proposed to be conducted by Seller prior to the Closing (as defined below) (the "**Business**") (other than continued ownership of the Eklutna Generation Assets (as defined below) and supplying power pursuant to the Eklutna Power Purchase Agreement (as defined below));

WHEREAS, Seller wishes to sell and assign to Buyer, and Buyer wishes to purchase and assume from Seller, substantially all of the assets, and certain specified liabilities, of the Business, subject to the terms and conditions set forth herein;

WHEREAS, Seller and Buyer desire for Buyer to provide electric service to Seller's electric utility customers, commencing on the Closing Date (as defined below);

WHEREAS, as an integral part of the transactions contemplated hereby, Seller and Buyer have entered into the Eklutna Power Purchase Agreement, the PILT Agreement (as defined below), and BRU Fuel Agreement (as defined below) as of the date hereof;

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties, and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
Definitions

The following terms have the meanings specified or referred to in this ARTICLE I:

"**Accounting Principles**" means GAAP, applied in a manner consistent with the accounting practices, procedures, policies, principles and methodologies used and applied by Seller in preparation of the Audited Financial Statements.

"**Accounts Receivable**" has the meaning set forth in Section 2.02(f).

"**Accrued Leave**" means, with respect to any and all Transferred Employees, accrued leave (i.e., annual leave, cashable sick leave and the like, but excluding in all cases non-cashable sick leave and non-cashable annual leave (as such terms are used in Chapter 3.30 of Title 3 of the

Anchorage, Alaska, Code of Ordinances)) in accordance with ML&P's current policies and agreements.

"**Accrued Leave Liability**" means the liability for Accrued Leave as of the Closing Date calculated in accordance with GAAP.

"**Acquisition Proposal**" has the meaning set forth in Section 6.03(a).

"**Action**" means any claim, action, cause of action, demand, directive, lawsuit, appeal, arbitration, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory, or otherwise, whether at law or in equity.

"**Additional Buyer Due Diligence**" means the due diligence described in Exhibit A.

"**Additional Seller Due Diligence**" means the due diligence described in Exhibit B.

"**Adjustment Amount**" has the meaning set forth in Section 2.08(c)(i).

"**AFEs**" has the meaning set forth in Section 4.23.

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

"**Agreement**" has the meaning set forth in the preamble.

"**AMC**" means the Anchorage Municipal Code.

"**Ancillary Documents**" means the Bill of Sale, the Assignment and Assumption Agreement, Deeds, Assignment and Assumption of Leases, Real Property Interest Assignments, the PILT Agreement, the Eklutna Power Purchase Agreement, the BRU Fuel Agreement, the BRU Transfer Documents, and the other agreements, instruments and documents required to be delivered at the Closing.

"**ARRC**" means the Alaska Railroad Corporation.

"**ARRC Modifications**" has the meaning set forth in Section 6.26.

"**Assigned Contracts**" has the meaning set forth in Section 2.01(g).

"**Assignment and Assumption Agreement**" has the meaning set forth in Section 3.02(a)(ii).

"**Assignment and Assumption of Lease**" has the meaning set forth in Section 3.02(a)(iv).

"**Assumed Environmental Liabilities**" means Environmental Claims and Liabilities under Environmental Laws that, in each case, are directly related to the Purchased Assets (including violations of Environmental Laws and the presence or Release of Hazardous Materials at, in, on, or under, or migrating from or to, the Purchased Assets).

"**Assumed Liabilities**" has the meaning set forth in Section 2.03.

"**Audited Financial Statements**" has the meaning set forth in Section 4.04.

"**Available Proceeds**" means the sum of (i) the total aggregate amount of insurance coverage under all of Seller's policies of insurance that are applicable to the Purchased Assets that were damaged or destroyed by the relevant Casualty during the Interim Period, plus (ii) the amount (or value, if provided in the form of property or repair assistance) of assistance that Seller has been provided (or that has been committed to be provided to Seller) in any form (including cash grant, property, or repair assistance) by any Person (including the Federal Emergency Management Agency of the United States or any other Governmental Authority) that may be used by Seller to cure such Casualty in accordance with the provisions of Section 6.18, plus (iii) the amounts recovered or recoverable by Seller from Customers for storm restoration in accordance with Seller's Past Practice during similar Casualty events.

"**AWWU**" means Seller's Anchorage Water and Wastewater Utility.

"**Balance Sheet**" has the meaning set forth in Section 4.04.

"**Balance Sheet Date**" has the meaning set forth in Section 4.04.

"**Basket**" has the meaning set forth in Section 8.04(a).

"**Benefit Plan**" has the meaning set forth in Section 4.19(a).

"**Bill of Sale**" has the meaning set forth in Section 3.02(a)(i).

"**Bond Release Consideration**" has the meaning set forth in Section 3.02(c).

"**Books and Records**" has the meaning set forth in Section 2.01(q).

"**Bradley Lake Tax Exempt Debt**" means the AEA Power Revenue Bonds, First, Second and Sixth Series and any like bonds issued prior to Closing.

"**BRU**" means the Beluga River Unit, an oil and gas unit formed pursuant to the Unit Agreement for the Development and Operation of the Beluga River Unit, State of Alaska, Third Judicial District, dated April 26, 1962.

"**BRU Fuel Agreement**" means the BRU Fuel Agreement dated as of the date hereof between Seller and Buyer.

"**BRU Interest**" means any right, title, or interest of Seller in BRU and associated property, whenever such interest may have been acquired, including property of the type set forth in Section 1.1 of the BRU Purchase and Sale Agreement.

"**BRU Joint Operating Agreement**" means that certain Beluga River Unit Joint Operating Agreement dated April 1, 1962, providing for the joint exploration, development and operation of the BRU.

"**BRU Purchase and Sale Agreement**" means the Purchase and Sale Agreement dated effective as of 7:00 a.m., Alaska time, on January 1, 2016 between ConocoPhillips Alaska, Inc., a Delaware corporation, Buyer, and Seller.

"**BRU Transfer Documents**" means the assignment documents in the form of Exhibit C-1 and the deeds set forth in Exhibits C-2 and C-3.

"**Business**" has the meaning set forth in the recitals.

"**Business Day**" means any day except Saturday, Sunday, or any other day on which commercial banks located in Anchorage, Alaska are authorized or required by Law to be closed for business.

"**Buyer**" has the meaning set forth in the preamble.

"**Buyer Closing Certificate**" has the meaning set forth in Section 7.03(f).

"**Buyer Indemnitees**" has the meaning set forth in Section 8.02.

"**Buyer's Accountants**" means KPMG LLP.

"**Cap**" has the meaning set forth in Section 8.04(a).

"**Casualty**" means an event causing any portion of the Purchased Assets or Eklutna Generation Assets to be damaged or destroyed and requiring expenditures in excess of $5,000,000 for repair or replacement of such damaged or destroyed Purchased Assets or Eklutna Generation Assets; *provided, however*, that any intentional demolition or removal of any Purchased Assets or Eklutna Generation Assets in connection with repair or replacement of such Purchased Assets or Eklutna Generation Assets shall not be considered a Casualty.

"**Casualty Notice**" has the meaning set forth in Section 6.18(a).

"**CERCLA**" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq.

"**Closing**" has the meaning set forth in Section 3.01.

"**Closing Date**" has the meaning set forth in Section 3.01.

"**Closing Debt**" means the amount of Debt outstanding at Closing, including the costs of defeasance and redemption.

"**Closing Prorations**" means the prorations set forth on Exhibit D.

"**Closing Statement**" has the meaning set forth in Section 2.08(a).

"**Code**" means the Internal Revenue Code of 1986.

"**Co-Location Agreement**" means the proposed Facilities Co-Location Agreement by and between ML&P and AWWU setting forth the terms and conditions for the design, construction, operation, and maintenance of the interface between AWWU and ML&P at the existing and new facilities comprised of Plant 2A and Plant 2, the existing AWWU Energy Recovery Station, the newly constructed AWWU ERS Heat Exchanger Addition, existing AWWU Water Reservoirs 1&2, AWWU's existing Well 9, the existing Centennial Vault, and AWWU's existing Ship Creek Water Treatment Facility.

"**Comparable Position**" means a position as determined by Buyer that reflects the general responsibilities and duties as held at ML&P, *provided* that individuals holding Designated Positions may not hold the same title or authority such as Chief Executive Officer or Chief Financial Officer. Professional positions such as accountant and engineer will be placed into their appropriate field of expertise.

"**Contracts**" means, with respect to Seller and ML&P, all contracts, leases, deeds, mortgages, licenses, instruments, notes, commitments, undertakings, indentures, joint ventures, and all other agreements, commitments, and legally binding arrangements, in each case in written form, including power supply agreements, service obligations, power purchase agreements, construction agreements, equipment and service purchase agreements, operations and maintenance agreements, power pooling agreements, fuel purchase agreements, interconnection agreements, transmission agreements, contractual services and long-term technical services agreements, and fuel storage agreements related to BRU (including the BRU Joint Operating Agreement).

"**Cure Amount**" means the amount of costs that will be required to be paid in order to cure in accordance with the provisions of Section 6.18 the damage to or destruction of the Purchased Assets and Eklutna Generation Assets resulting from a Casualty.

"**Customer**" means any electric service customer of Seller prior to the Closing Date within the Service Territory.

"**Customer Service Assets**" means the customer service facilities, equipment, and other tangible property and assets used in or for the Business or located on the Real Property,

including the facilities, equipment and other tangible property and assets that connect the Distribution Assets to each individual Customer's Delivery Point, Customer/premise/account data, historical consumption information, meters, remote metering equipment, and equipment needed to access the meters.

"**Debt**" means ML&P's Series 2014A electric revenue bonds, Series 2009A electric revenue bonds, Series 2009B electric revenue bonds, Series 2005A electric revenue bonds and the Wells Fargo Municipal Capital Strategies, LLC Direct Drawdown Commercial Paper Program, and any other debt of Seller secured by revenues of ML&P.

"**Debt Financing**" means the financing plan to be described in the application filed to obtain RCA Approval.

"**Deed**" has the meaning set forth in Section 3.02(a)(iii).

"**Delivery Point**" means the point on the Customer's premises where Seller's wires connect to Customer's electric meter.

"**Designated Excluded Assets**" means the assets set forth on Exhibit E.

"**Designated Positions**" means any Utility Division Manager II, Program & Policy Director and General Manager.

"**Direct Claim**" has the meaning set forth in Section 8.05(c).

"**Disclosure Schedules**" means the Disclosure Schedules delivered by Seller and Buyer concurrently with the execution and delivery of this Agreement.

"**Disputed Amounts**" has the meaning set forth in Section 2.08(b).

"**Distribution Assets**" means the electric distribution facilities, equipment, and other tangible property and assets used in or for the Business, including the facilities, equipment, and other tangible property and assets that connect the Transmission Assets to the Customer Service Assets, distribution substation equipment, feeder circuits and associated hardware (including switches and switch gear, regulators, capacitor banks, reclosers, and protective equipment), primary circuits, transformers, secondaries, and services, and associated physical assets (including poles, conductors, cables, insulators, metering, and outdoor lights).

"**Documentation Closing Date**" has the meaning set forth in Section 3.02(c).

"**Dollars or $**" means the lawful currency of the United States.

"**Effect**" has the meaning set forth in the definition of Material Adverse Effect.

"**Eklutna Generation Assets**" means all undivided interests, rights, title, and obligations of Seller in and to the Eklutna Hydroelectric Project (including real property, fixtures, equipment, personalty, contract and water rights, but not, except as otherwise provided in

Section 6.30, including the Eklutna Transmission Assets), including rights, interests, and obligations pursuant to the Alaska Power Administration Asset Sale and Administration Act, Public Law 104-58 (109 Stat. 557 (1995)) and arising from, but not limited to the following documents: (i) Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, dated February 17, 1984, between the Alaska Power Administration, an entity of the United States Department of Energy, and Seller (and Supplemental Agreements No.1 and 2 thereto); (ii) Memorandum of Understanding (Transition Plan) dated July 25, 1989 among Seller, Buyer, and MEA; (iii) Eklutna Purchase Agreement dated August 2, 1989 among Buyer, Seller, MEA, and the Alaska Power Administration, a unit of the United States Department of Energy; (iv) Eklutna Purchasers Manner of Acting, Functional Responsibilities, and Staffing Agreement dated August 7, 1991 among Buyer, Seller, MEA, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the Alaska Energy Authority and the State of Alaska; (v) Agreement regarding fish and wildlife affected by the Snettisham and Eklutna Projects, dated August 7, 1991, among Seller, Buyer, MEA, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the Alaska Energy Authority and the State of Alaska; (vi) 1996 Eklutna Hydroelectric Project Transition Plan, dated May 28, 1996, among the Alaska Power Administration, Seller, Buyer, and MEA; (vii) Agreement for Extension of 1996 Eklutna Hydroelectric Project Transition Plan, dated October 2, 1997, among Seller, Buyer, and MEA; and (viii) Closing Agreement, dated October 2, 1997, among the Alaska Power Administration, Seller, Buyer, and MEA, including all instruments identified in Appendix A thereto.

"**Eklutna Power Purchase Agreement**" means the Eklutna Power Purchase Agreement dated as of the date hereof between Seller and Buyer.

"**Eklutna Transmission Assets**" means the Transmission Assets of the Eklutna Hydroelectric Project set forth on Exhibit F.

"**Encumbrance**" means any charge, claim, community property interest, pledge, condition, equitable interest, lien (statutory or other), option, security interest, mortgage, easement, encroachment, right of way, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, receipt of income, or exercise of any other attribute of ownership.

"**Environmental Claim**" means any Action, Governmental Order, lien, fine, penalty, or, as to each, any settlement or judgment arising therefrom, by or from any Person alleging actual or potential liability of any kind or nature (including liability, responsibility, or Losses for the costs of enforcement proceedings, investigations, cleanup, corrective action, governmental response, removal, or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising under any Environmental Law, including those arising out of, based on, or resulting from: (a) the presence or Release of, or exposure to, any Hazardous Materials; or (b) any actual or alleged non-compliance with any Environmental Law or term or condition of any Environmental Permit.

"**Environmental Law**" means any applicable Law, and any applicable Governmental Order or binding agreement with any Governmental Authority: (a) relating to pollution (or the

cleanup thereof) or the protection of natural resources, endangered or threatened species, human health or safety in relation to exposures to Hazardous Materials in the environment, or the environment (including ambient air, soil, surface water or groundwater, or subsurface strata); or (b) concerning the presence of, exposure to, or the management, manufacture, use, containment, storage, recycling, reclamation, reuse, treatment, generation, discharge, transportation, processing, production, disposal or remediation of any Hazardous Materials. The term "Environmental Law" includes, where applicable, the following (including their implementing regulations and any state analogs and any applicable and binding remediation or other standard established by any Governmental Authority pursuant to the same): CERCLA; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 et seq.; and Title 46 of Alaska Statutes.

"**Environmental Notice**" means any directive, notice of violation or infraction, in each case written, or other written notice or communication respecting any actual or threatened Environmental Claim, including communications relating to actual or alleged non-compliance with any Environmental Law or with any term or condition of any Environmental Permit.

"**Environmental Permit**" means any Permit obtained or required to be obtained pursuant to Environmental Law.

"**E.O. 11246**" has the meaning set forth in Section 4.20(d).

"**ERISA**" means the Employee Retirement Income Security Act of 1974, and the regulations promulgated thereunder.

"**ERISA Affiliate**" means, with respect to the period of six (6) years prior to the date of this Agreement, all employers (whether or not incorporated) that would be treated together with Seller or any of its Affiliates as a "single employer" within the meaning of Section 414 of the Code or Section 4001 of ERISA.

"**Estimated Accrued Leave Liability**" means the Accrued Leave Liability, without giving effect to the transactions contemplated hereby, estimated in good faith by Seller and delivered to Buyer no later than three (3) Business Days prior to the Closing Date.

"**Estimated Net Book Value of Designated Excluded Assets**" means the Net Book Value of Designated Excluded Assets estimated in good faith by Seller and delivered to Buyer no later than three (3) Business Days prior to the Closing Date.

"**Estimated Purchase Price**" has the meaning set forth in Section 2.06.

"**Estimated Purchase Price Statement**" has the meaning set forth in Section 2.06.

"**Estimated Transferred Cash**" has the meaning set forth in Section 2.06.

"**Excluded Assets**" has the meaning set forth in Section 2.02.

"**Excluded Contracts**" has the meaning set forth in Section 2.02(a).

"**Excluded Liabilities**" has the meaning set forth in Section 2.04.

"**Financial Closing Date**" has the meaning set forth in Section 3.02(c).

"**FIRPTA Certificate**" has the meaning set forth in Section 7.02(l).

"**GAAP**" means United States generally accepted accounting principles as promulgated by the Governmental Accounting Standards Board (GASB) and as in effect from time to time.

"**Generation Assets**" means the generating plants and related facilities as more fully described on Exhibit G hereto.

"**Government Contracts**" has the meaning set forth in Section 4.07(a)(xii).

"**Governmental Authority**" means any federal, state, local or foreign government, or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations, or orders of such organization or authority have the force of Law), or any arbitrator, court, or tribunal of competent jurisdiction. References to "Governmental Authority" shall exclude Seller except where Seller is acting in a legislative or regulatory capacity as expressly authorized by applicable Law.

"**Governmental Order**" means any binding order, directive, writ, judgment, injunction, decree, stipulation, determination, or award entered by or with any Governmental Authority.

"**Hazardous Materials**" means: (a) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral, or gas, in each case, whether naturally occurring or manmade, that is hazardous, acutely hazardous, toxic, or words of similar import or regulatory effect under Environmental Laws; (b) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form or condition, lead or lead-containing materials, urea formaldehyde foam insulation and polychlorinated biphenyls; and (c) any other material, substance, or waste that is regulated, or to which liability or standards of conduct may be imposed, under any Environmental Law.

"**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"**Hydrocarbons**" means merchantable oil, gas, casinghead gas, condensate, distillate, and other liquid and gaseous hydrocarbons of every kind or description produced from or attributable to the BRU Interest.

"**IBEW**" means the International Brotherhood of Electrical Workers, Local 1547.

"**IBEW Collective Bargaining Agreement**" means any collective bargaining agreement in effect, as of immediately prior to the Closing, between Seller and the IBEW with respect to any ML&P employees.

"**Indemnified Party**" has the meaning set forth in Section 8.05.

"**Indemnifying Party**" has the meaning set forth in Section 8.05.

"**Independent Accountant**" has the meaning set forth in Section 2.08(b).

"**Insurance Policies**" has the meaning set forth in Section 4.15.

"**Intellectual Property**" means any and all rights in any of the following in any jurisdiction throughout the world: (a) issued patents and patent applications (whether provisional or non-provisional), including divisionals, continuations, continuations-in-part, substitutions, reissues, reexaminations, extensions, or restorations of any of the foregoing, and other Governmental Authority-issued indicia of invention ownership (including certificates of invention, petty patents, and patent utility models) ("**Patents**"); (b) trademarks, service marks, brands, certification marks, logos, trade dress, trade names, and other similar indicia of source or origin, together with the goodwill connected with the use of and symbolized by, and all registrations, applications for registration, and renewals of, any of the foregoing ("**Trademarks**"); (c) copyrights and works of authorship, whether or not copyrightable, and all registrations, applications for registration, and renewals of any of the foregoing ("**Copyrights**"); (d) internet domain names and social media account or user names (including "handles"), whether or not Trademarks, all associated web addresses, URLs, websites and web pages, social media accounts and pages, and all content and data thereon or relating thereto, whether or not Copyrights; (e) mask works, and all registrations, applications for registration, and renewals thereof; (f) industrial designs, and all Patents, registrations, applications for registration, and renewals thereof; (g) trade secrets, know-how, inventions (whether or not patentable), discoveries, improvements, technology, business and technical information, databases, data compilations and collections, tools, methods, processes, techniques, and other confidential and proprietary information and all rights therein ("**Trade Secrets**"); (h) computer programs, operating systems, applications, firmware and other code, including all source code, object code, application programming interfaces, data files, databases, protocols, specifications, and other documentation thereof ("**Software**"); (i) rights of publicity; and (j) all other intellectual or industrial property and proprietary rights.

"**Intellectual Property Agreements**" means all licenses, sublicenses, consent to use agreements, settlements, coexistence agreements, covenants not to sue, waivers, releases, permissions and other Contracts, whether written or oral, relating to any Intellectual Property that is used or held for use in the conduct of the Business to which Seller is a party, beneficiary, or otherwise bound.

"**Intellectual Property Assets**" means all Intellectual Property that is owned by Seller and used or held for use in the conduct of the Business, together with all royalties, fees, income, payments, and other proceeds now or hereafter due or payable to Seller with respect to such Intellectual Property.

"**Intellectual Property Registrations**" means all Intellectual Property Assets that have been the subject of a registration, or application for registration, by or with any Governmental Authority or authorized private registrar in any jurisdiction, including issued Patents, registered Trademarks, domain names, and registered Copyrights, and pending applications for any of the foregoing.

"**Interim Period**" means the period from the date of this Agreement to the Closing.

"**Inventory**" has the meaning set forth in Section 2.01(f).

"**Knowledge of Seller**" or "**Seller's Knowledge**" or any other similar knowledge qualification, means the actual knowledge of any matter, fact, or thing that is, as of the date of this Agreement, known to either of Mark Johnston or William Falsey, after reasonable inquiry. For purposes of this definition, "reasonable inquiry" shall take into account the scope of the individual's duties and includes reasonable inquiry of the Representatives of Seller who are responsible for, or have direct involvement in, the subject matter of the representation and warranty or other matter involved and review of relevant records within the possession or control of Seller.

"**Law**" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, Permit requirement, other binding requirement or rule of law of, or compulsory standard established by, any Governmental Authority.

"**Leased Real Property**" has the meaning set forth in Section 4.10(b).

"**Leases**" has the meaning set forth in Section 4.10(b).

"**Liabilities**" means liabilities, obligations, or commitments of any nature whatsoever, asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured, or otherwise.

"**Losses**" means losses, damages, Liabilities, deficiencies, Actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers. For all purposes in this Agreement the term "**Losses**" does not include any Non-reimbursable Damages.

"**Material Adverse Effect**" means any event, occurrence, fact, condition, change, or development (each, an "**Effect**") that is, or would reasonably be expected to become, individually or in the aggregate with other Effects, materially adverse to (a) the business, results of operations, condition (financial or otherwise), or assets of the Business, (b) the value of the

Purchased Assets and Eklutna Generation Assets, or (c) the ability of Seller to consummate the transactions contemplated hereby on a timely basis; *provided, however,* that none of the following shall be deemed in itself, or in any combination, to constitute, and none of the following shall be taken into account in determining whether there has been or will be, a Material Adverse Effect: (x) (i) general economic, regulatory, or political conditions in the State of Alaska, the United States, or globally; (ii) conditions generally affecting the industries or markets in which the Business operates, including any changes in local markets for electric power or electric transmission systems or operations thereof; (iii) any changes in financial, banking, credit, or securities markets in general; (iv) acts of war (whether or not declared), armed hostilities, or terrorism, or the escalation or worsening thereof; (v) acts of God (including earthquakes, floods, or similar natural disasters or catastrophes); (vi) any changes in applicable Laws (other than a change in Law enacted by the Assembly of Seller between the date of this Agreement and the Closing) or accounting rules, including GAAP; (vii) the taking of or omission to take any action, which action or omission is required or expressly permitted by this Agreement or consented to by Buyer, except pursuant to Section 6.06; (viii) the public announcement, pendency, or completion of the transactions contemplated by this Agreement; (ix) any change resulting or arising from the identity of, or any facts or circumstances relating to, Buyer or its Affiliates, including the impact of any of the foregoing on any relationships, contractual or otherwise, with customers, suppliers, distributors, collaboration partners, joint venture partners, employees, or regulators; (x) seasonal fluctuations in the Business; or (xi) any failure to meet any projections, forecasts, or estimates of revenue, earnings, cash flow, or cash position (it being understood that the facts or circumstances giving rise to such failure may be taken into account in determining whether a Material Adverse Effect has occurred); *provided further, however,* that any event, occurrence, fact, condition, or change referred to in clauses (i) through (vi) immediately above shall be taken into account in determining whether a Material Adverse Effect has occurred or would reasonably be expected to occur to the extent that such event, occurrence, fact, condition, or change has a disproportionate effect on the Business compared to other participants in the industries in which the Business operates; and (y) any adverse change in or effect on the Business that is cured by Seller before the earlier of (i) the Closing Date and (ii) the date on which this Agreement is terminated pursuant to ARTICLE IX hereof.

"**Material BRU Contract**" has the meaning set forth in Section 4.23(d).

"**Material Contracts**" has the meaning set forth in Section 4.07(a).

"**Material Customers**" has the meaning set forth in Section 4.14(a).

"**Material Suppliers**" has the meaning set forth in Section 4.14(b).

"**Maximum Uncovered Loss Amount**" means $10,000,000.

"**MEA**" means Matanuska Electric Association, Inc.

"**ML&P**" has the meaning set forth in the recitals.

"**ML&P Information**" means (i) (A) audited statements of net position, statements of revenues, expenses and changes in net position and statements of cash flows for the three most recently completed fiscal years ended at least ninety (90) days prior to the Closing Date prepared in accordance with GAAP and related trial balances, (B) unaudited interim statements of net position, statements of revenues, expenses and changes in net position and statements of cash flows of ML&P for a fiscal quarter ended not later than one hundred thirty-four (134) days prior to the Closing Date (but excluding any fourth quarter of any fiscal year) prepared in accordance with GAAP; and (ii) to the extent applicable, draft comfort letters (including "negative assurance comfort"), which ML&P's auditors are prepared to deliver solely upon completion of customary procedures, and other information of ML&P that is reasonably available or readily obtainable, including any information reasonably necessary for the preparation of the pro forma financial statements by Buyer, provided that (x) such other information is reasonably requested in writing by Buyer, and (y) ML&P's auditors have not withdrawn any audit opinion with respect to any financial statements contained therein.

"**Multiemployer Plan**" has the meaning set forth in Section 4.19(c).

"**Net Book Value of Designated Excluded Assets**" means the net book value of the Designated Excluded Assets as of the end of the calendar month immediately preceding the Closing Date.

"**Non-reimbursable Damages**" has the meaning set forth in Section 8.06.

"**Offering Documents**" has the meaning set forth in Section 6.13(b).

"**Ordinance**" has the meaning set forth in Section 6.21.

"**Other Real Property Interests**" has the meaning set forth in Section 4.10(c).

"**Owned Real Property**" has the meaning set forth in Section 4.10(a).

"**Parkland Substations**" means ML&P Substation No. 6 and ML&P Substation No. 8 at Goose Lake Park.

"**Parkland Use Permit**" means a revocable permit, license, right-of-way, or easement granted by Seller to Buyer under the provisions of AMC 25.30.020C, and on terms and conditions substantially similar to those contained in the form of Revocable Use Permit set forth in Exhibit H, to enable Buyer to use, maintain, and operate each Parkland Substation in the manner used, maintained, and operated by Seller immediately prior to the Closing, which revocable permit, license, right-of-way, or easement in each case does not require the payment of a fee from Buyer to Seller in excess of $1.00 per year.

"**Permits**" means all permits, licenses, franchises, approvals, authorizations, registrations, certificates, variances and similar rights obtained or required to be obtained from Governmental Authorities.

"**Permitted Encumbrances**" has the meaning set forth in Section 4.08.

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association, or other entity.

"**PILT Agreement**" means the Payment in Lieu of Taxes Agreement between Seller and Buyer dated the date hereof.

"**Plant 2**" means ML&P's George M. Sullivan Power Plant No. 2.

"**Plant 2A**" means ML&P's George M. Sullivan Power Plant No. 2A.

"**Plant 2A Mural**" means the large-scale illuminated mural painted on the exterior front façade of Plant 2A pursuant to the Art Production Contract entered into between Seller and Haddad Drugan LLC under the authority of AMC Chapter 7.40 and executed on behalf of Seller on October 8, 2015.

"**Post-Signing Due Diligence**" means the Additional Buyer Due Diligence and other due diligence related to integration planning, preparation for post-Closing operations, obtaining RCA Approval, events or circumstances arising after the date of this Agreement, inquiries with respect to Updated Financial Statements and matters disclosed therein, environmental and real estate due diligence related to the Storage Facility or any other Real Property acquired by ML&P prior to Closing, due diligence necessary to obtain title insurance and title opinions, due diligence to obtain appraisers' reports and bond additions under Buyer's indenture, investigations regarding the accuracy of representations and warranties of Seller hereunder and Seller's compliance with covenants set forth herein or any Ancillary Document executed prior to Closing, and actions necessary to complete Closing and take other actions required by this Agreement, and other matters consented to by Seller, such consent not to be unreasonably withheld, conditioned or delayed.

"**Pre-Closing Tax Period**" means any taxable period ending on or before the Closing Date and, with respect to any taxable period beginning before and ending after the Closing Date, the portion of such taxable period ending on and including the Closing Date.

"**Proposition 10**" has the meaning set forth in Section 6.21.

"**Prudent Utility Practices**" means any of the practices, methods and acts engaged in or accepted by a significant portion of the electrical utility industry in the United States at the time the decision was made or any of the practices, methods and acts that, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision is made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with applicable Law, regulation, permits, codes, standards, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy, and expedition. Prudent Utility Practices is not intended to be limited to the optimum

practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts.

"**Purchase Price**" has the meaning set forth in Section 2.05.

"**Purchased Assets**" has the meaning set forth in Section 2.01.

"**Qualified Benefit Plan**" has the meaning set forth in Section 4.19(c).

"**RCA**" means the Regulatory Commission of Alaska.

"**RCA Approval**" has the meaning set forth in Section 6.06.

"**Real Property**" means, collectively, the Owned Real Property, the Leased Real Property, and the Other Real Property Interests.

"**Real Property Interest Assignment**" has the meaning set forth in Section 3.02(a)(v).

"**Recipients**" has the meaning set forth in Section 2.07.

"**Release**" means any actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandonment, disposing or allowing to escape or migrate into or through the environment (including ambient air (indoor or outdoor), soil gas, surface water, groundwater, land surface, or subsurface strata or within any building, structure, facility, or fixture).

"**Representative**" means, with respect to any Person, any and all officials, managers, directors, employees, consultants, financial advisors, counsel, accountants, and other agents of such Person.

"**Resolution Period**" has the meaning set forth in Section 2.08(b).

"**Restricted Comments**" has the meaning set forth in Section 6.09(b).

"**Retention Agreements**" means the retention agreements referenced in Section 4.06(o)(i) of the Disclosure Schedules.

"**Review Period**" has the meaning set forth in Section 2.08(b).

"**SEC**" means the United States Securities and Exchange Commission.

"**Section 503**" has the meaning set forth in Section 4.20(d).

"**Seller**" has the meaning set forth in the preamble.

"**Seller Closing Certificate**" has the meaning set forth in Section 7.02(i).

"**Seller Indemnitees**" has the meaning set forth in Section 8.03.

"**Seller's Accountants**" means BDO USA, LLP.

"**Seller's Past Practices**" means the recent historical operation, maintenance, and repair practices, methods, and actions performed prior to the date of this Agreement by, or on behalf of, Seller with respect to the Purchased Assets and Eklutna Generation Assets, in a manner complying with applicable Law.

"**Service Territory**" means the area approved and designated by the RCA as ML&P's service territory described in the map attached hereto as Exhibit 1.

"**Shared Facilities and Assets**" means the following items to the extent not used or held for use principally in connection with the Business: (i) the accounting records of Seller, (ii) insurance policies and rights thereto, (iii) assets, tangible or intangible, related to general and administrative services of Seller, including finance, information technology, accounting systems, and human resources, (iv) domain names, phone numbers, phone systems, shared networks, and computer systems, and (v) the network control system for LED street lights, including central management server hosting services and sustainment operations.

"**Single Employer Plan**" has the meaning set forth in Section 4.19(c).

"**Statement of Objections**" has the meaning set forth in Section 2.08(b).

"**Storage Facility**" means the ML&P Pole Yard located at Lots 1 & 2 Block 27A East Addition Subdivision (PID 003-073-07 & 003-073-09).

"**Tangible Personal Property**" has the meaning set forth in Section 2.01(i).

"**Tax Return**" means any return, declaration, report, claim for refund, information return, or statement or other document relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"**Taxes**" means all federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, documentary, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal) (including payments in lieu of taxes), real property gains, windfall profits, customs, duties, or other taxes, fees, assessments, or charges in the nature of a Tax, together with any interest, additions, or penalties with respect thereto and any interest in respect of such additions or penalties.

"**Third Party Claim**" has the meaning set forth in Section 8.05(a).

"**Transferred Cash**" means customer deposit cash or cash accounts, cash, cash equivalents, and securities (in each case to the extent constituting restricted assets and, in the case of cash contractually restricted in connection with Debt, to the extent not used by Seller to defease or repay the Closing Debt), including any such assets collected for payments in lieu of

taxes, including pursuant to AMC 26.10.025 or held under or pursuant to ML&P's debt documents or representing the proceeds of bonds, deferred regulatory liability for gas sales funds, future gas purchases regulatory liabilities, underlift accounts and asset retirement obligation funds managed by ML&P or Seller, any decommissioning funds, utility underground requirements including those set forth in AS 42.05.381(h), (i), and (j) and AMC 21.07.050 and AMC Title 21 undergrounding funds, and any other cash collected from ratepayers for obligations assumed by Buyer including customer deposits. Exhibit J sets forth the Transferred Cash and separately identifies any cash contractually restricted in connection with Debt which will be used by Seller to defease or repay the Closing Debt, in each case as if the Closing had occurred as of December 31, 2017.

"**Transferred Employees**" means those employees hired by Buyer pursuant to Section 6.05.

"**Transition Agreement**" means the Transition Agreement by and between Buyer and the IBEW as executed on behalf of Buyer and the IBEW on August 17, 2018, and as amended, modified, supplemented, restated, or replaced.

"Transmission Assets" means the electric transmission tangible personal property, and real property, used in or for the Business of ML&P or located on the Real Property, including the facilities, equipment, and other tangible property and assets that connect the Distribution Assets to transmission interconnection points (and other property and assets associated with or ancillary thereto), transformers, breakers, capacitor banks, switches, arresters, instrument transformers, substation structures, substations, buswork, substation battery and chargers, relay protection panels, relay communications/carriers, remote telemetry and control equipment, metering, fault recorders, sequence of even recorders, annunciators, relay vaults, substation fencing, transmission lines, conductors, transmission line structures and poles, and control buildings.

"**Trust Agreements**" means the (i) Trust Agreement, dated as of November 1, 2005, between Seller and U.S. Bank National Association, (ii) Trust Agreement, dated as of December 3, 2009, between Seller and U.S. Bank National Association, and (iii) Trust Agreement, dated as of November 1, 2014, between Seller and U.S. Bank National Association.

"**Union**" has the meaning set forth in Section 4.20(b), and includes the IBEW.

"Updated Financial Statements" means financial statements delivered pursuant to Section 6.13 or Section 6.17.

"**Upfront Payment**" means $767,800,000.

"VEVRAA" has the meaning set forth in Section 4.20(d).

ARTICLE II
PURCHASE AND SALE

Section 2.01 Purchase and Sale of Assets. Subject to the terms and conditions set forth herein, at the Closing, Seller shall sell, assign, transfer, convey, and deliver to Buyer, and Buyer shall purchase from Seller, free and clear of any Encumbrances (including Encumbrances related to the Closing Debt and any other debt of Seller as provided in this Agreement) other than Permitted Encumbrances, all of Seller's right, title, and interest in, to, and under all of the assets, properties, and rights of every kind and nature, whether real, personal or mixed, tangible or intangible (including goodwill), wherever located and whether now existing or hereafter acquired (other than the Excluded Assets), which are used or held for use in connection with the Business (collectively, the "**Purchased Assets**"), including the following:

(a) all Transmission Assets (including the Eklutna Transmission Assets, except as otherwise provided in Section 6.30);

(b) all Distribution Assets;

(c) all Generation Assets other than the Eklutna Generation Assets;

(d) all Customer Services Assets;

(e) Transferred Cash;

(f) all inventory, finished goods, raw materials, work in progress, packaging, supplies, parts, stored gas, BRU fuel inventory, and other inventories ("**Inventory**");

(g) all Contracts relating to the Business or by which the Purchased Assets may be bound, including Intellectual Property Agreements, including those set forth on Section 2.01(g) of the Disclosure Schedules (the "**Assigned Contracts**");

(h) all Intellectual Property Assets;

(i) all furniture, fixtures, equipment, machinery, tools, vehicles, rolling stock, office equipment, supplies, computers, telephones, and other tangible personal property (the "**Tangible Personal Property**");

(j) all Owned Real Property (including the Storage Facility) and Leased Real Property and easements and Other Real Property Interests;

(k) the BRU Interest;

(l) all Permits, including Environmental Permits, that are held by Seller, transferable, and required for the conduct of the Business as currently conducted or for the ownership and use of the Purchased Assets, including those listed on Section 4.17(b) and Section 4.18(b) of the Disclosure Schedules;

(m) all rights to any Actions of any nature available to or being pursued by Seller (including any appeals by Seller of the denial by the State of Alaska Department of Revenue of gas production tax credits) to the extent related to the Purchased Assets or the Assumed Liabilities, whether arising by way of counterclaim or otherwise;

(n) all prepaid expenses, credits, advance payments, claims, security, refunds, rights of recovery, rights of set-off, rights of recoupment, deposits, charges, sums, and fees (including any such item relating to the payment of Taxes);

(o) all of Seller's rights under warranties, indemnities and all similar rights against third parties to the extent related to any Purchased Assets;

(p) all insurance benefits, including rights and proceeds, arising from or relating to the Purchased Assets or the Assumed Liabilities;

(q) originals, or where not available, copies, of all books and records, including books of account, ledgers and general, financial and accounting records, machinery and equipment maintenance files, purchasing records, manuals, equipment repair, maintenance or service records, operating, safety and maintenance manuals, inspection reports, environmental assessments, engineering design plans, documents, blueprints and as built plans, specifications, drawings, procedures and other similar items of Seller, customer lists, customer purchasing histories, price lists, distribution lists, supplier lists, production data, quality control records and procedures, customer complaints and inquiry files, research and development files, records, and data (including all correspondence with any Governmental Authority), sales material and records (including pricing history, total sales, terms and conditions of sale, sales and pricing policies and practices), strategic plans, internal financial statements, marketing and promotional surveys, material and research and files relating to the Intellectual Property Assets and the Intellectual Property Agreements, whether existing in hard copy or magnetic or electronic form ("**Books and Records**"); and

(r) all goodwill and the going concern value of the Business.

Section 2.02 Excluded Assets. Notwithstanding the foregoing, the Purchased Assets shall not include the following assets (collectively, the "**Excluded Assets**"):

(a) all Contracts, including Intellectual Property Agreements, that are not Assigned Contracts (the "**Excluded Contracts**");

(b) all Benefit Plans and assets attributable thereto;

(c) the assets, properties, and rights specifically set forth on Section 2.02(c) of the Disclosure Schedules;

(d) unrestricted cash and cash equivalents other than Transferred Cash;

(e) Shared Facilities and Assets;

(f) all accounts or notes receivable held by Seller, and any security, claim, remedy or other right related to any of the foregoing ("**Accounts Receivable**");

(g) the Eklutna Generation Assets;

(h) the Designated Excluded Assets;

(i) the Plant 2A Mural; and

(j) the rights which accrue or will accrue to Seller under this Agreement and the Ancillary Documents.

Section 2.03 Assumed Liabilities. Buyer shall execute and deliver in favor of Seller the Assignment and Assumption Agreement, pursuant to which Buyer shall, subject to the terms and conditions set forth herein, assume and agree to pay, perform, and discharge when due the following Liabilities of Seller, whether direct or indirect, known or unknown, absolute or contingent, accrued, fixed or otherwise, or whether due or to become due, solely to the extent such Liabilities accrue or arise from and after the Closing (except as otherwise specifically provided in this Agreement with respect to the Assumed Environmental Liabilities), other than Excluded Liabilities (as defined below), in accordance with the respective terms and subject to the respective conditions thereof (collectively, but excluding the Excluded Liabilities, the "**Assumed Liabilities**"):

(a) all Liabilities in respect of the Assigned Contracts and other Purchased Assets except to the extent that such Liabilities, but for a breach or default by Seller, would have been paid, performed, or otherwise discharged on or prior to the Closing Date or to the extent the same arise out of any failure to perform, improper performance, warranty or other breach, default, or violation by Seller on or prior to the Closing;

(b) agreements and obligations related to BRU as of the Closing;

(c) agreements and obligations related to the Eklutna Generation Assets as of the Closing;

(d) the Assumed Environmental Liabilities;

(e) all Liabilities under any Actions of any nature available to or being pursued by Seller (including the obligation to pursue any appeals of the denial by the State of Alaska Department of Revenue of gas production tax credits) to the extent related to the Purchased Assets or the Assumed Liabilities, whether arising by way of counterclaim or otherwise, that are included in the Purchased Assets;

(f) Accrued Leave as of the Closing Date; and

(g) all other Liabilities arising out of or relating to Buyer's ownership or operation of the Purchased Assets on or after the Closing Date.

Section 2.04 Excluded Liabilities. Notwithstanding the provisions of Section 2.03 or any other provision in this Agreement to the contrary, Buyer shall not assume and shall not be responsible to pay, perform, or discharge any Liabilities of Seller of any kind or nature whatsoever other than the Assumed Liabilities (the "**Excluded Liabilities**"). Seller shall pay and satisfy in due course all Excluded Liabilities that Seller is obligated to pay and satisfy. Without limiting the generality of the foregoing, the Excluded Liabilities shall include the following:

(a) all obligations related to accounts payable as of the Closing Date;

(b) any Liabilities of Seller arising or incurred in connection with the negotiation, preparation, investigation, and performance of this Agreement, the Ancillary Documents, and the transactions contemplated hereby and thereby, including fees and expenses of Seller's counsel, accountants, consultants, and advisers;

(c) any Liability for (i) Taxes of Seller or Taxes relating to the Business, the Purchased Assets, or the Assumed Liabilities for any Pre-Closing Tax Period, or (ii) other Taxes of Seller of any kind or description (including any Liability for Taxes of Seller that becomes a Liability of Buyer under any common law doctrine of de facto merger or transferee or successor liability or otherwise by operation of contract or Law);

(d) any Liabilities to the extent relating to or arising out of the Excluded Assets, including Environmental Claims and Liabilities under Environmental Laws to the extent related to the Excluded Assets;

(e) any Liabilities (whether arising before or after the Closing) in respect of any pending or threatened Action arising out of, relating to, or otherwise in respect of the ownership or operation of the Business or the Purchased Assets to the extent such Action relates to such ownership or operation on or prior to the Closing Date;

(f) any Liabilities of Seller, whether arising before or after the Closing, under or in connection with the issues raised, considered, decided, or appealed from (x) RCA Order No. U-16-094(9)/U-17-008(13) and Order No. U-16-094(10)/U-17-008(14), (y) Case No. 3AN-14-06125CI, and (z) Docket No. U-18-102(1), but in each such case only to the extent that (i) such Liabilities relate to ownership or operation of the Business or the Purchased Assets on or prior to the Closing Date and (ii) any related Loss is not recoverable in rates by Buyer;

(g) any Liability of Seller or similar claim against Seller for injury prior to the Closing to a Person or property, including workers' compensation claims;

(h) any Liabilities of Seller arising, whether before or after the Closing, under or in connection with any Benefit Plan providing benefits to any present or former employee of Seller in connection with employment with Seller other than Accrued Leave;

(i) any Liabilities relating to any payroll or other compensation obligations incurred and required to be paid prior to the Closing, the failure by Seller to hire any

individual, the employment or services (or termination by Seller of the employment or services) of any individual, including Retention Agreements, wages, COBRA coverage, compensation, bonuses, benefits, accrued vacation, severance, retention, termination payments, affirmative action, personal injury, discrimination, harassment, retaliation, wrongful discharge, unfair labor practices, or constructive termination by Seller of any individual, or any similar or related claim or cause of action attributable to any actions or inactions by Seller, in each case prior to the Closing Date, with respect to the Transferred Employees, independent contractors, applicants, and any other individuals who are determined by a court or by a Governmental Authority to have been applicants or employees of Seller;

(j) any Liabilities related to the Business which constitute intercompany payables or intergovernmental charges owing to Seller;

(k) any Liabilities of the Business relating to or arising from unfulfilled commitments, quotations, purchase orders, customer orders, or work orders that (i) do not constitute part of the Purchased Assets or (ii) are not validly and effectively assigned to Buyer pursuant to this Agreement;

(l) any Liabilities to indemnify, reimburse, or advance amounts to any present or former official, manager, employee, or agent of Seller for or in connection with any event or circumstance occurring while such individual was an official, manager, employee, or agent of Seller;

(m) any Liabilities under the Excluded Contracts or any other Contracts, including Intellectual Property Agreements, (i) that are not validly and effectively assigned to Buyer pursuant to this Agreement or (ii) to the extent such Liabilities arise out of or relate to a breach by Seller of such Contracts prior to the Closing;

(n) any Liabilities associated with debt, revenue bonds, commercial paper, loans, or credit facilities of Seller or the Business;

(o) any Liabilities, other than Assumed Environmental Liabilities, arising out of, in respect of, or in connection with the failure by Seller to comply with any Law or Governmental Order;

(p) fines or penalties owing to any Governmental Authority for events to the extent occurring or arising prior to the Closing Date;

(q) any Liability of Seller arising from the violation, breach, or default by Seller, prior to the Closing, of any Assumed Liability or Intellectual Property Assets included in the Purchased Assets;

(r) any Liability arising under any collective bargaining agreement of Seller, including any and all obligations incurred under the IBEW Collective Bargaining

Agreement prior to the Closing Date, including pension/retirement obligations under the Alaska Electrical Pension Fund regarding accruals earned prior to Closing;

(s) any Liability of Seller or ML&P for payments in lieu of taxes, including pursuant to AMC 26.10.025;

(t) any other Liability of Seller accruing or arising and required to be performed prior to the Closing;

(u) any Environmental Claims and Liabilities under Environmental Laws, and Losses arising from environmental conditions at the Purchased Assets, as of the Closing Date other than the Assumed Environmental Liabilities; and

(v) any other Liabilities not expressly assumed by Buyer pursuant to Section 2.03 and any Liabilities expressly allocated to or retained by Seller in this Agreement.

Section 2.05 Purchase Price. The aggregate purchase price for the Purchased Assets to be paid on the Closing Date will be the assumption of the Assumed Liabilities plus an amount (as adjusted in accordance with this Agreement, the "**Purchase Price**") equal to the following:

(a) the Upfront Payment,

(b) minus the Accrued Leave Liability;

(c) minus the Net Book Value of Designated Excluded Assets.

Section 2.06 Estimated Purchase Price Statement. At least ten (10) Business Days before the Closing, Seller shall prepare and deliver to Buyer a statement, prepared in accordance with the Accounting Principles (the "**Estimated Purchase Price Statement**"), setting forth Seller's good faith estimates of the Estimated Accrued Leave Liability, the Estimated Net Book Value of Designated Excluded Assets and the calculation of the Estimated Purchase Price, as determined in accordance with Section 2.05 (the "**Estimated Purchase Price**"). Such statement shall also include an estimate of the Transferred Cash (the "**Estimated Transferred Cash**").

Section 2.07 Payment of Estimated Purchase Price. At the Closing, Buyer will deliver, or cause to be delivered, to the intended final recipients (the names, wiring information and other relevant payment information of which recipients as may be reasonably requested by Buyer shall have been furnished by Seller in writing no later than three (3) Business Days prior to the Closing (such recipients, the "**Recipients**")), an amount equal to the Estimated Purchase Price for payment, on behalf of the Business, to the appropriate Recipient. Seller shall cause the Recipients to include amounts and Persons necessary to irrevocably defease or repay all Closing Debt in accordance with Section 3.02(c). With the exception of any portion of the Transferred Cash that Seller delivers to Buyer on the Closing Date, the Purchase Price shall be paid net of Estimated Transferred Cash in lieu of any obligation of Seller to deliver Transferred Cash on the Closing Date.

Section 2.08 Purchase Price Adjustment. Following the Closing, the Purchase Price will be adjusted as set forth below:

(a) **Closing Statement Preparation.** Within sixty (60) days after the Closing Date, Buyer shall prepare and deliver to Seller a statement (the "**Closing Statement**") setting forth a calculation of (i) the Accrued Leave Liability, (ii) the Transferred Cash, (iii) the Net Book Value of Designated Excluded Assets and (iv) the Closing Prorations, and (v) a recalculation of the Purchase Price, if any, based on each of the foregoing. The Closing Statement will be calculated (x) pursuant to the definitions within this Agreement, (y) in accordance with the Accounting Principles where applicable, and (z) without giving effect to the transactions contemplated hereby. Seller shall cooperate with Buyer in promptly responding to Buyer's reasonable requests while Buyer is preparing the Closing Statement.

(b) **Examination and Review.**

(i) Examination. After receipt of the Closing Statement, Seller shall have forty-five (45) days (the "**Review Period**") to review the Closing Statement. During the Review Period, Seller and its attorneys and accountants shall have access to the books and records of the Business, the personnel of, and work papers prepared by, Buyer or Buyer's Accountants to the extent that they relate to the Closing Statement and to such historical financial information (to the extent in Buyer's possession) relating to the Closing Statement as Seller may reasonably request for the purpose of reviewing the Closing Statement and to prepare a Statement of Objections (as defined below), *provided*, that such access shall be in a manner that does not interfere with the normal business operations of Buyer or the Business.

(ii) Objection. On or prior to the last day of the Review Period, Seller may object to the Closing Statement by delivering to Buyer a written statement setting forth Seller's objections in reasonable detail, indicating each disputed item, its amount and the basis for Seller's disagreement therewith (the "**Statement of Objections**"). If Seller fails to deliver the Statement of Objections before the expiration of the Review Period, the Closing Statement and the calculations contained therein shall be deemed to have been accepted by and to be final and binding on Seller and Buyer. If Seller delivers the Statement of Objections before the expiration of the Review Period, Buyer and Seller shall negotiate in good faith to resolve such objections within thirty (30) days after the delivery of the Statement of Objections (the "**Resolution Period**"), and, if the same are so resolved within the Resolution Period, the Closing Statement and the calculations contained therein, in each case with such changes as may have been previously agreed in writing by Buyer and Seller, shall be final and binding on Seller and Buyer and shall not be subject to further review.

(iii) Resolution of Disputes. If Seller and Buyer fail to reach an agreement with respect to any or all of the matters set forth in the Statement of

Objections before expiration of the Resolution Period, then any amounts remaining in dispute ("**Disputed Amounts**") shall be submitted for resolution to an impartial regionally recognized financial consulting firm or a firm of independent certified public accountants other than Seller's Accountants, the Business's accountants or Buyer's Accountants mutually agreeable to Buyer and Seller (the "**Independent Accountant**") who, acting as an expert and not an arbitrator, and without considering extrinsic evidence, shall resolve the Disputed Amounts only to the extent they relate to accounting matters and make any adjustments to the Closing Statement. The Independent Accountant shall be jointly instructed by the parties to make a determination as soon as practicable within thirty (30) days (or such other time as the parties hereto shall agree in writing) after engagement of the Independent Accountant, and its resolution of the Disputed Amounts and, other than with respect to conclusions of Law and interpretation of this Agreement and consideration of extrinsic evidence, its adjustments to the Closing Statement shall be conclusive (other than with respect to conclusions of Law and interpretation of this Agreement and consideration of extrinsic evidence) absent manifest error. The Independent Accountant shall decide only the specific items under dispute by the parties and the Independent Accountant's decision for each Disputed Amount must be within the range of values assigned to each such item in the Closing Statement and the Statement of Objections, respectively. The fees and expenses of the Independent Accountant shall initially be split 50/50 between Buyer and Seller, and after the final resolution of any dispute, shall be borne by Buyer, on the one hand, and Seller, on the other hand, based on the percentage which the portion of the contested amount not awarded to each party bears to the amount actually contested by such party (and the appropriate party shall reimburse the other party accordingly). For example, if closing accounts receivable is the only disputed item, and Seller claims that closing accounts receivable is $1,000, and Buyer contests only $500 of the amount claimed by Seller, and if the Independent Accountants ultimately resolve the dispute by awarding Seller $300 of the $500 contested, then the costs and expenses of Independent Accountants will be allocated 60% (i.e., 300 ÷ 500) to Buyer and 40% (i.e., 200 ÷ 500) to Seller. Any dispute that cannot be resolved by the Independent Accountant pursuant to the provisions hereof shall be resolved by courts of law set forth in Section 10.11.

(c) **Adjustment Payments**. The Closing Prorations and the Purchase Price shall be recalculated using such finally determined amounts in lieu of the estimates of such amounts used in the calculation of the Purchase Price payable at Closing.

(i) With respect to Accrued Leave Liability, Net Book Value of Designated Excluded Assets and Closing Prorations, the Purchase Price shall be increased (in the case of an aggregate positive amount) or decreased (in the case of an aggregate negative amount) on a dollar-for-dollar basis by the aggregate amount, if any, determined by (A) subtracting the Estimated Accrued Leave Liability from the Accrued Leave Liability, (B) subtracting the Estimated Net

Book Value of Designated Excluded Assets from the Net Book Value of Designated Excluded Assets and (C) adding the Closing Prorations if the aggregate amount of the prorations is for the benefit of Seller and subtracting the amount of Closing Prorations if the aggregate amount of the prorations is for the benefit of Buyer, and adding together the amounts calculated in each of the foregoing (A), (B) and (C) to reach a final net amount owing under this Section 2.08 (such net amount, the "**Adjustment Amount**").

(ii) No later than within two (2) Business Days after the determination of the Adjustment Amount, (A) if the Adjustment Amount results in an increase to the Purchase Price, Buyer shall pay to Seller an amount equal to the Adjustment Amount (without interest) and (B) if the Adjustment Amount results in a decrease to the Purchase Price, Seller shall disburse to Buyer an amount equal to the Adjustment Amount (without interest). In addition, if Estimated Transferred Cash minus Transferred Cash is a negative number, Seller shall pay Buyer the difference on such date, and if a positive number, Buyer shall pay Seller such difference on such date.

Section 2.09 Treatment of Adjustment Payments. Any payments made pursuant to Section 2.08 shall be made by wire transfer of immediately available funds to such account or accounts as is directed in writing by Buyer or Seller, as the case may be, and shall be treated as an adjustment to the Purchase Price by the parties for Tax purposes, unless otherwise required by Law.

Section 2.10 Allocation of Purchase Price. Seller and Buyer agree to file their respective IRS Forms 8594 for the Purchase Price and all Tax Returns in accordance with allocation principles to be agreed upon by Seller and Buyer prior to the Closing. Seller and Buyer shall cooperate to the extent necessary following the Closing to determine a final allocation using such agreed allocation principles and Seller and Buyer shall use such final allocation for Form 8594.

Section 2.11 Withholding Tax. Buyer shall be entitled to deduct and withhold from the Purchase Price all Taxes that Buyer may be required to deduct and withhold under any provision of Tax Law. All such withheld amounts shall be treated as delivered to Seller hereunder.

Section 2.12 Third Party Consents. To the extent that Seller's rights under any Contract or Permit constituting a Purchased Asset, or any other Purchased Asset, may not be assigned to Buyer without the consent of another Person which has not been obtained, this Agreement shall not constitute an agreement to assign the same if an attempted assignment would constitute a breach thereof or be unlawful, and except as otherwise provided in Section 6.20 or elsewhere in this Agreement, Seller, at its expense, shall use its commercially reasonable efforts to obtain any such required consent(s) as promptly as possible. If any such consent shall not be obtained or if any attempted assignment would be ineffective or would impair Buyer's rights under the Purchased Asset in question so that Buyer would not in effect acquire the benefit of all such rights, Seller, to the maximum extent reasonably permitted by Law and the Purchased Asset, shall act after the Closing as Buyer's agent in order to obtain for it the benefits thereunder and shall cooperate reasonably, to the maximum extent reasonably permitted by Law and the Purchased Asset, with Buyer in any other reasonable arrangement designed to provide such benefits to Buyer. Notwithstanding any provision in this Section 2.12 to the contrary, Buyer shall

not be deemed to have waived its rights under Section 7.02(d) hereof unless and until Buyer either provides written waivers thereof or elects to proceed to consummate the transactions contemplated by this Agreement at Closing.

ARTICLE III
CLOSING

Section 3.01 Closing. Subject to the terms and conditions of this Agreement, the consummation of the transactions contemplated by this Agreement (the "**Closing**") shall take place at the headquarters of Buyer located at 5601 Electron Drive, Anchorage, AK 99518, at 10:00 a.m., local time, within one hundred and twenty (120) days after RCA Approval is received, provided that the Closing shall take place no sooner than the fifth (5th) Business Day after all of the conditions to Closing set forth in ARTICLE VII are either satisfied or waived (other than conditions which, by their nature, are to be satisfied on the Closing Date), or at such other time, date, or place as Seller and Buyer may mutually agree upon in writing. The date on which the Closing is to occur is herein referred to as the "**Closing Date**".

Section 3.02 Closing Deliverables.

(a) At the Closing, Seller shall deliver to Buyer the following:

(i) a bill of sale in the form of Exhibit K hereto (the "**Bill of Sale**") and duly executed by Seller, transferring the Tangible Personal Property included in the Purchased Assets to Buyer;

(ii) an assignment and assumption agreement in the form of Exhibit L hereto (the "**Assignment and Assumption Agreement**") and duly executed by Seller, effecting the assignment to and assumption by Buyer of the Purchased Assets and the Assumed Liabilities;

(iii) with respect to ML&P Plant 2/ML&P Plant 2A, a special warranty deed in the form of Exhibit M hereto (with an accompanying agreement to be entered into by Buyer and Seller effective as of the Closing to set forth the terms upon which Seller may access the Plant 2A Mural following the Closing on mutually acceptable terms and conditions), and with respect to each other parcel of Owned Real Property, a quitclaim deed in form of Exhibit N hereto (each, a "**Deed**") and duly executed and acknowledged by Seller;

(iv) with respect to each Lease, an Assignment and Assumption of Lease in form and substance reasonably satisfactory to Buyer (each, an "**Assignment and Assumption of Lease**") and duly executed and acknowledged by Seller;

(v) with respect to the Other Real Property Interests (other than any easements appurtenant to any Owned Real Property), one or more assignments in

form and substance reasonably satisfactory to Buyer (each, a "**Real Property Interest Assignment**") and duly executed and acknowledged by Seller;

(vi) the BRU Transfer Documents duly executed by Seller;

(vii) the Seller Closing Certificate;

(viii) the FIRPTA Certificate;

(ix) the certificates of the Clerk of Seller required by Section 7.02(j) and Section 7.02(k);

(x) such other customary instruments of assignment, transfer, assumption, conveyance, filings or documents (including transfer of vehicle titles), in form and substance reasonably satisfactory to Buyer and Seller, as may be required to give effect to this Agreement; and

(xi) such other agreements, consents, documents, instruments and writings as are required to be delivered by Seller at or prior to the Closing pursuant to this Agreement or the Ancillary Documents.

(b) At the Closing, Buyer shall deliver to Seller the following:

(i) the Purchase Price paid in the manner set forth in Section 2.07;

(ii) the Assignment and Assumption Agreement duly executed by Buyer;

(iii) with respect to each Lease, an Assignment and Assumption of Lease duly executed by Buyer;

(iv) the BRU Transfer Documents duly executed by Buyer;

(v) the Buyer Closing Certificate;

(vi) the certificates of the Secretary or Assistant Secretary of Buyer required by Section 7.03(g) and Section 7.03(h); and

(vii) such other agreements, documents, instruments and writings as are required to be delivered by Buyer at or prior to the Closing pursuant to this Agreement of the Ancillary Documents.

(c) The parties hereto anticipate that all of the conditions set forth in ARTICLE VII other than the funding described in this Section 3.02(c) shall be satisfied on a date that is mutually agreed by the parties hereto (the "**Documentation Closing Date**"). On the Documentation Closing Date, the parties hereto shall have delivered all documentation required by ARTICLE VII to be delivered at or prior to the Closing, to be

held in escrow until the delivery of the Upfront Payment to Seller on a date that is no sooner than twenty (20) days following the Documentation Closing Date (such date, the "**Financial Closing Date**"). On the Financial Closing Date, a portion of the Upfront Payment together with any other funds of Seller to the extent necessary shall be deposited into the applicable bond fund under the Trust Agreements and other documents related to the Closing Debt in accordance with the provisions related to the disposition of the system and defeasance/redemption provisions of the Trust Agreements and other documents pursuant to which such Closing Debt was issued in an amount that shall be sufficient to pay and redeem the Closing Debt ("**Bond Release Consideration**"). The sufficiency of such deposit of monies and the amount of the Bond Release Consideration shall be verified by an independent certified public accountant, acting as an expert and not an arbitrator, that is acceptable to Buyer and Seller. Seller shall cause irrevocable instructions to be given on or prior to the Financial Closing Date to the trustees under and in accordance with the Trust Agreements, and there shall be delivered to Buyer and Seller on or prior to the Closing Date opinions of bond counsel to Seller, in a form satisfactory to Buyer and Seller, to the effect that the pledge of the pledged revenues, and all covenants, agreements and obligations of Seller to the holders of the Closing Debt, and all liens, benefits or security under the Closing Debt, have thereupon ceased, terminated and become void, discharged and satisfied upon deposit of the Bond Release Consideration at the Financial Closing Date as aforesaid and that the actions contemplated by this Agreement will not have an adverse effect on the tax-exempt status of the Closing Debt. Any Bond Release Consideration and interest earned thereon not used to repay or defease Closing Debt shall be paid over to Seller. For the avoidance of doubt, except as set forth in this Section 3.02(c), the Financial Closing Date shall be the Closing Date under this Agreement.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the correspondingly numbered Section of the Disclosure Schedules, Seller represents and warrants to Buyer that the statements contained in this ARTICLE IV are true and correct as of the date hereof. Without limiting any other provision of this Agreement, for purposes only of this ARTICLE IV, the definition of Purchased Assets shall include the Eklutna Generation Assets and the definition of Business shall be understood to mean the operation of the Eklutna Generation Assets.

Section 4.01 Organization and Qualification of Seller. Seller is a political subdivision duly organized, validly existing under the Laws of the State of Alaska and has all requisite power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on the Business as currently conducted.

Section 4.02 Authority of Seller. Seller has all requisite municipal power and authority to enter into this Agreement and the Ancillary Documents to which Seller is a party, to carry out its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Seller of this Agreement and any Ancillary Document to which Seller is a party, the performance by Seller of its obligations hereunder and thereunder and the

consummation by Seller of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of Seller. This Agreement has been duly executed and delivered by Seller, and (assuming due authorization, execution and delivery by Buyer) this Agreement constitutes a legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar laws of general applicability relating to or affecting creditors' rights and to general equity principles, whether considered in a proceeding at law or in equity. When each Ancillary Document to which Seller is or will be a party has been duly executed and delivered by Seller (assuming due authorization, execution and delivery by each other party thereto), such Ancillary Document will constitute a legal and binding obligation of Seller enforceable against it in accordance with its terms.

Section 4.03 No Conflicts; Consents.

(a) The execution, delivery and performance by Seller of this Agreement and the Ancillary Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the Charter of Seller; (b) conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to Seller, the Business, or the Purchased Assets; (c) except as set forth in Section 4.03(a) of the Disclosure Schedules, require the consent, notice or other action by any Person under, conflict with, result in a material violation or material breach of, constitute a material default or an event that, with or without notice or lapse of time or both, would constitute a material default under, result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel any Contract or Permit to which Seller is a party or by which Seller or the Business is bound or to which any of the Purchased Assets are subject (including any Assigned Contract); or (d) result in the creation or imposition of any Encumbrance other than Permitted Encumbrances on the Purchased Assets. Except for the RCA Approval and the other Governmental Authority approvals set forth in Section 4.03(a) of the Disclosure Schedules, no material consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Seller in connection with the execution and delivery of this Agreement or any of the Ancillary Documents and the consummation of the transactions contemplated hereby and thereby.

(b) No filing is required under the HSR Act because Seller is a U.S. governmental authority referred to in 15 U.S.C. § 18a(c)(4).

Section 4.04 Financial Statements. Complete copies of the audited financial statements consisting of the statements of net position of the Business as at December 31, 2017 and December 31, 2016 and the statements of revenues, expenses and changes in net position and statements of cash flows in each of the years ending December 31, 2017 and December 31, 2016 (the "**Audited Financial Statements**") have been delivered to Buyer. The Audited Financial Statements have been prepared in accordance with GAAP applied on a consistent basis throughout the period involved. The Audited Financial Statements are based on the books and records of the Business, and fairly present the financial condition of the Business as of the respective dates they were prepared and the results of the operations of the Business for the periods indicated. The statement of net position of the Business as of

December 31, 2017 is referred to herein as the "**Balance Sheet**" and the date thereof as the "**Balance Sheet Date** Seller maintains a standard system of accounting for the Business established and administered in accordance with GAAP. Each statement of net position of the Business included in the Updated Financial Statements delivered to Buyer will fairly present in all material respects, the financial position of the Business as of its date and each of the statements of revenues, expenses and changes in net position and statements of cash flows will fairly present in all material respects, the information set forth therein for the Business, and in each case, will be prepared in accordance with GAAP consistently applied during the periods involved, except, in the case of unaudited financial statements, the absence of notes (that, if presented, would not differ materially from those presented in the most recent audited financial statements delivered as Updated Financial Statements).

Section 4.05 Undisclosed Liabilities. Seller has no Liabilities with respect to the Business, except (a) those which are adequately reflected or reserved against in the Balance Sheet (including notes thereto) as of the Balance Sheet Date, and (b) those which have been incurred in the ordinary course of business consistent with past practice since the Balance Sheet Date and which are not, individually or in the aggregate, material in amount.

Section 4.06 Absence of Certain Changes, Events and Conditions. Between the Balance Sheet Date and the date of this Agreement, and other than in the ordinary course of business consistent with past practice, there has not been any:

(a) event, occurrence or development that has had, or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;

(b) declaration or payment of any dividends or distributions on or in respect of any of ML&P's equity or redemption, purchase or acquisition of ML&P's equity with respect to the Business;

(c) material change in any method of accounting or accounting practice for the Business, except as required by GAAP or as disclosed in the notes to the Audited Financial Statements;

(d) material change in cash management practices and policies, practices and procedures with respect to collection of Accounts Receivable, establishment of reserves for uncollectible Accounts Receivable, accrual of Accounts Receivable, inventory control, prepayment of expenses, payment of trade accounts payable, accrual of other expenses, deferral of revenue and acceptance of customer deposits;

(e) entry into any Contract that would constitute a Material Contract;

(f) incurrence, assumption or guarantee of any indebtedness for borrowed money in connection with the Business except unsecured current obligations and Liabilities incurred in the ordinary course of business consistent with past practice and Prudent Utility Practices;

(g) transfer, assignment, sale or other disposition of any of the Purchased Assets shown or reflected in the Balance Sheet, except for the sale of Inventory and surplus equipment in the ordinary course of business;

(h) cancellation of any debts or claims or amendment, termination or waiver of any rights constituting Purchased Assets;

(i) transfer or assignment of or grant of any license or sublicense under or with respect to any material Intellectual Property Assets or Intellectual Property Agreements (except non-exclusive licenses or sublicenses granted in the ordinary course of business consistent with past practice and Prudent Utility Practices);

(j) abandonment or lapse of or failure to maintain in full force and effect any material Intellectual Property Registration, or failure to take or maintain reasonable measures to protect the confidentiality or value of any material Trade Secrets included in the Intellectual Property Assets;

(k) material damage, destruction or loss, or any material interruption in use, of any Purchased Assets, whether or not covered by insurance;

(l) acceleration, termination, material modification to or cancellation of any Assigned Contract or Permit;

(m) material capital expenditures which would constitute an Assumed Liability;

(n) imposition of any Encumbrance upon any of the Purchased Assets;

(o) (i) grant of any bonuses, whether monetary or otherwise, or increase in any wages, salary, severance, pension or other compensation or benefits in respect of any non-represented current or former employees, officials, managers, independent contractors or consultants of the Business for which the aggregate costs and expenses to the Business exceed $2,000,000, other than as provided for in the Retention Agreements or any other written agreements or required by applicable Law, or (ii) action to accelerate the vesting or payment of any compensation or benefit for any current or former employee, official, manager, consultant or independent contractor of the Business;

(p) hiring or promoting any person as or to (as the case may be) an official or manager or hiring or promoting any employee below official or manager except to fill a vacancy in the ordinary course of business;

(q) adoption, material modification or termination of any: (i) employment, severance, retention or other agreement with any current or former employee, official, manager, independent contractor or consultant of the Business, (ii) Benefit Plan, or (iii) collective bargaining, letters of agreement, or other agreement with a Union, in each case whether written or oral;

(r) any loan to (or forgiveness of any loan to), or entry into any other transaction with, any current or former officials, managers or employees of the Business;

(s) adoption of any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of a petition in bankruptcy under any provisions of federal or state bankruptcy Law or consent to the filing of any bankruptcy petition against it under any similar Law;

(t) purchase, lease or other acquisition of the right to own, use or lease any property or assets in connection with the Business for an amount in excess of $1,500,000, individually (in the case of a lease, per annum) or $20,000,000 in the aggregate (in the case of a lease, for the entire term of the lease, not including any option term), except for purchases of Inventory or supplies in the ordinary course of business consistent with past practice and Prudent Utility Practices;

(u) any transfer of assets historically used by ML&P to Seller or a division or business unit of Seller which have an aggregate net book value in excess of $1,000,000; and

(v) any Contract to do any of the foregoing, or any action or omission that would result in any of the foregoing.

Section 4.07 Material Contracts.

(a) Section 4.07(a) of the Disclosure Schedules lists each of the following Contracts (but excluding any Leases) (x) by which any of the Purchased Assets are bound or affected or (y) to which Seller is a party and by which it is bound in connection with the Business or the Purchased Assets (such Contracts, together with all Contracts concerning the occupancy, management or operation of any Real Property (including brokerage contracts) listed or otherwise disclosed in Section 4.10(b) of the Disclosure Schedules and all Intellectual Property Agreements set forth in Section 4.11(b) of the Disclosure Schedules, being "**Material Contracts**"):

(i) all Contracts, not otherwise provided for in this Section 4.07(a), that involve aggregate consideration in excess of $2,000,000 and that, in each case, cannot be cancelled without penalty and without more than ninety (90) days' prior notice;

(ii) all Contracts that require Seller to purchase or sell a stated portion of the requirements or outputs of the Business or that contain "take or pay" provisions and that require payments in excess of $2,000,000 for each individual Contract;

(iii) all Contracts for the purchase, exchange, or sale of electricity, energy, capacity, or other energy-related products or ancillary services and requiring payments in excess of $2,000,000 for each individual Contract;

(iv) all Contracts for the purchase, exchange, sale, or storage of natural gas, fuel oil, diesel, or any other fuel and requiring payments in excess of $2,000,000 for each individual Contract;

(v) all Contracts for the transmission of electricity that require payments in excess of $2,000,000 for each individual Contract;

(vi) all interconnection Contracts;

(vii) all Contracts that provide for the indemnification of any Person or the assumption of any Tax, environmental, or other Liability of any Person;

(viii) all Contracts that relate to the acquisition or disposition of any business, a material amount of stock or assets of any other Person or any real property (whether by merger, sale of stock, sale of assets or otherwise), other than Contracts entered into in the ordinary course of business relating to assets with a net book value of less than $2,000,000 individually or $5,000,000 in the aggregate;

(ix) all broker, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing consulting, and advertising Contracts that provide for annual compensation by Seller in an amount in excess of $2,000,000 and that are not cancelable by Seller without more than ninety (90) days' prior notice;

(x) all agreements and Contracts with employees, independent contractors, or consultants (or similar arrangements) other than written or oral offers or Contracts terminable without material penalty or without more than ninety (90) days' prior notice;

(xi) except for Contracts relating to trade receivables, all Contracts relating to indebtedness (including guarantees);

(xii) all Contracts with any Governmental Authority ("**Government Contracts**");

(xiii) all Contracts that limit or purport to limit the ability of Seller to compete in any line of business or with any Person or in any geographic area or during any period of time;

(xiv) all joint venture, partnership, or similar Contracts;

(xv) all Contracts for the sale of any of the Purchased Assets or for the grant to any Person of any option, right of first refusal or preferential or similar right to purchase or otherwise acquire an interest in any of the Purchased Assets, other than Contracts entered into in the ordinary course of business relating to

assets with a net book value of less than $2,000,000 individually or $5,000,000 in the aggregate;

(xvi) all powers of attorney with respect to the Business or any Purchased Asset;

(xvii) all collective bargaining agreements or Contracts with any Union;

(xviii) all Contracts related to the BRU Interests;

(xix) all Contracts related to Eklutna Generation Assets and Eklutna Transmission Assets;

(xx) any construction contract, equipment purchase contract, operations and maintenance agreement, management or administrative services contract, and technical or contractual service agreement entered into in the past five (5) years which has required or will require expenditures in excess of $2,000,000, including all such agreements related to ML&P Plant 2A; and

(xxi) Contracts related to the purchase or sale of air pollution emission allowances or credits.

(b) Each Material Contract is valid and binding on Seller in accordance with its terms and is in full force and effect. None of Seller or, to Seller's Knowledge, any other party thereto is in breach of or default under (or is alleged to be in breach of or default under), or has provided or received any notice of any intention to terminate, any Material Contract. No event or circumstance has occurred that, with notice or lapse of time or both, would constitute an event of default under any Material Contract or result in a termination thereof or would cause or permit the acceleration or other changes of any right or obligation or the loss of any benefit thereunder. Complete and correct copies of each Material Contract (including all modifications, amendments and supplements thereto and waivers thereunder) have been made available to Buyer. There are no material disputes pending or threatened under any Contract included in the Purchased Assets.

Section 4.08 Title to Purchased Assets. Except as provided in Section 4.08 of the Disclosure Schedules, Seller has good and valid title to, or a valid leasehold interest in, all of the Purchased Assets (the foregoing representation and any other representation in this Agreement shall not be modified or negated by the execution or recording of any quit claim deed). All such Purchased Assets (including leasehold interests) are free and clear of Encumbrances except for the following (collectively referred to as "**Permitted Encumbrances**"):

(a) those items set forth in Section 4.08 of the Disclosure Schedules;

(b) mechanics', carriers', workmen's, repairmen's or other like liens arising or incurred in the ordinary course of business consistent with past practice or amounts that

are not delinquent and that are not, individually or in the aggregate, material to the Business or the Purchased Assets;

(c) easements, rights of way, servitudes, permits, licenses, covenants, restrictions, zoning ordinances and other similar Encumbrances affecting Real Property that individually or in the aggregate, do not prohibit or materially interfere with the current operation of any Real Property;

(d) other than with respect to Owned Real Property, liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business consistent with past practice which are not, individually or in the aggregate, material to the Business or the Purchased Assets;

(e) Encumbrances for Taxes or assessments that are not delinquent;

(f) Encumbrances that have been placed by any developer, landlord, or other third party on any Leased Real Property or Other Real Property Interest that individually or in the aggregate, do not prohibit or materially interfere with the current operation of the Real Property;

(g) all matters that an accurate survey of the Real Property would disclose that individually or in the aggregate, do not prohibit or materially interfere with the current operation of the Real Property;

(h) deed restrictions limiting the use of the Real Property to non-residential uses;

(i) except with respect to the BRU Interest, any conveyance, transfer, or lease of any oil, gas, or mineral rights and profits, rights, and appurtenances relating thereto; or

(j) in the case of any buildings or other improvements owned by Seller on any Leased Real Property, the terms and conditions of the applicable Lease.

Section 4.09 Condition and Sufficiency of Assets. The buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of Tangible Personal Property included in the Purchased Assets are structurally sound, are in good operating condition and repair, and are adequate for the uses to which they are being put. The Purchased Assets are sufficient for the continued conduct of the Business immediately after the Closing in substantially the same manner as conducted prior to the Closing and constitute all of the rights, property and assets necessary to conduct the Business as currently conducted. None of the Excluded Assets are material to the Business. The Purchased Assets have been operated and maintained in accordance with Prudent Utility Practices. Except as set forth in Section 4.09 of the Disclosure Schedules, all of the Generation Assets, Transmission Assets and Distribution Assets owned, in whole or in part, leased or operated by ML&P have been operated in all material respects in the ordinary course of business consistent with past practice, and there are no pending material claims for defective work, equipment or materials relating to the Purchased Assets.

Section 4.10 Real Property.

(a) Section 4.10(a) of the Disclosure Schedules sets forth each parcel of real property owned by Seller and used in or necessary for the conduct of the Business as currently conducted (together with all buildings, fixtures, structures and improvements situated thereon and all easements, rights-of-way and other rights and privileges appurtenant thereto, collectively, the "**Owned Real Property**"), including with respect to each property, the address location and use. Seller has delivered to Buyer copies of the deeds and other instruments (as recorded) by which Seller acquired such parcel of Owned Real Property, and copies of all title insurance policies, opinions, abstracts and surveys in the possession of Seller with respect to such parcel. With respect to each parcel of Owned Real Property:

(i) Seller has good and valid fee simple title, free and clear of all Encumbrances, except (A) Permitted Encumbrances and (B) those Encumbrances set forth on Section 4.10(a)(i) of the Disclosure Schedules;

(ii) except as set forth in Section 4.10(a)(ii) of the Disclosure Schedules or in any Permitted Encumbrance, Seller has not leased or otherwise granted to any Person the right to use or occupy such Owned Real Property or any portion thereof; and

(iii) to Seller's Knowledge, there are no unrecorded outstanding options, rights of first offer or rights of first refusal to purchase such Owned Real Property or any portion thereof or interest therein.

(b) Section 4.10(b) of the Disclosure Schedules sets forth each parcel of real property leased by Seller and used in or necessary for the conduct of the Business as currently conducted (together with all rights, title and interest of Seller in and to leasehold improvements relating thereto, including security deposits, reserves or prepaid rents paid in connection therewith, collectively, the "**Leased Real Property**"), and a true and complete list of all leases, subleases, licenses, concessions and other agreements (whether written or oral), including all amendments, extensions renewals, guaranties and other agreements with respect thereto, pursuant to which Seller holds any Leased Real Property (collectively, the "**Leases**"). Seller has delivered to Buyer a true and complete copy of each Lease. With respect to each Lease:

(i) except as set forth in Section 4.10(b) of the Disclosure Schedules, such Lease is valid, binding, enforceable, and in full force and effect, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar laws of general applicability relating to or affecting creditors' rights and to general equity principles, whether considered in a proceeding at law or in equity, and Seller enjoys peaceful and undisturbed possession of the Leased Real Property, subject to Permitted Encumbrances;

(ii) To Seller's Knowledge, Seller is not in breach or default under such Lease, and no event has occurred or circumstance exists which, with the delivery of notice, passage of time or both, would constitute such a breach or default, and Seller has paid all rent due and payable under such Lease;

(iii) Seller has not received nor given any currently-effective notice of any default or event that with notice or lapse of time, or both, would constitute a default by Seller under any of the Leases and, to the Knowledge of Seller, no other party is in default thereof, and no party to any Lease has exercised any termination rights with respect thereto;

(iv) Except as set forth in Section 4.10(b)(iv) of the Disclosure Schedules, Seller has not subleased, assigned or otherwise granted to any Person the right to use or occupy such Leased Real Property or any portion thereof; and

(v) Seller has not pledged, mortgaged or otherwise granted an Encumbrance on its leasehold interest in any Leased Real Property.

(c) Seller holds sufficient title in all easements, licenses, franchises and other interests in real property other than the Owned Real Property and Leased Real Property that are used in or necessary for the conduct of the Business as currently conducted (together with all of Seller's equipment and fixtures situated thereon and all other rights and privileges appurtenances thereto, collectively, the "**Other Real Property Interests**"). Section 4.10(c) of the Disclosure Schedules contains a list of all material Other Real Property Interests. With respect to all Other Real Property Interests:

(i) Except as provided in Section 4.10(c) of the Disclosure Schedules, the Other Real Property Interests are valid, binding, enforceable, and in full force and effect, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar laws of general applicability relating to or affecting creditors' rights and to general equity principles, whether considered in a proceeding at law or in equity, and Seller enjoys peaceful and undisturbed possession of the rights or occupancy conferred by the Other Real Property Interests, subject to Permitted Encumbrances;

(ii) To Seller's Knowledge, Seller is not in breach or default under any agreement evidencing or granting the Other Real Property Interests, and no event has occurred or circumstance exists which, with the delivery of notice, passage of time or both, would constitute such a breach or default, and Seller has paid all consideration due and payable with respect to the Other Real Property Interests;

(iii) Seller has not received nor given any currently-effective notice of any default or event that with notice or lapse of time, or both, would constitute a default by Seller with respect to any of the Other Real Property Interests and, to the Knowledge of Seller, no other party is in default thereof; and

(iv) Seller has not subleased, sublicensed, assigned or otherwise granted to any Person the right to use or occupy any of the Other Real Property Interests or any portion thereof.

(d) Seller has not received any written notice of (i) violations of building codes or zoning ordinances or other governmental or regulatory Laws affecting the Real Property, (ii) existing, pending or threatened condemnation proceedings affecting the Real Property, or (iii) existing, pending or threatened zoning, building code or other moratorium proceedings, or similar matters which would reasonably be expected to adversely affect the ability to operate the Real Property as currently operated and in accordance with Prudent Utility Practices. Neither the whole nor any material portion of any Real Property has been damaged or destroyed by fire or other casualty.

(e) The Real Property is sufficient for the continued conduct of the Business immediately after the Closing in substantially the same manner as conducted prior to the Closing and constitutes all of the real property necessary to conduct the Business as currently conducted.

Section 4.11 Intellectual Property.

(a) Section 4.11(a) of the Disclosure Schedules contains a correct, current and complete list of: (i) all Intellectual Property Registrations, specifying as to each, as applicable: the title, mark, or design; the jurisdiction by or in which it has been issued, registered or filed; the patent, registration or application serial number; the issue, registration or filing date; and the current status; (ii) all unregistered Trademarks included in the Intellectual Property Assets; (iii) all proprietary Software included in the Intellectual Property Assets; and (iv) all other material Intellectual Property Assets that are used or held for use in the conduct of the Business. All required filings and fees related to the Intellectual Property Registrations have been timely filed with and paid to the relevant Governmental Authorities and authorized registrars, and all Intellectual Property Registrations are otherwise in good standing. Seller has provided Buyer with true and complete copies of file histories, documents, certificates, office actions, correspondence and other materials related to all Intellectual Property Registrations.

(b) Section 4.11(b) of the Disclosure Schedules contains a correct, current and complete list of all Intellectual Property Agreements, specifying for each the date, title and parties thereto. Seller has provided Buyer with true and complete copies (or in the case of any oral agreements, a complete and correct written description) of all such Intellectual Property Agreements, including all modifications, amendments and supplements thereto and waivers thereunder. Each Intellectual Property Agreement is valid and binding on Seller in accordance with its terms and is in full force and effect. Neither Seller nor any other party thereto is, or is alleged to be, in breach of or default under, or has provided or received any notice of breach of, default under, or intention to terminate (including by non-renewal), any Intellectual Property Agreement.

(c) Except as set forth in Section 4.11(c) of the Disclosure Schedules, Seller is the sole and exclusive legal and beneficial, and with respect to the Intellectual Property Registrations, record, owner of all right, title, and interest in and to the Intellectual Property Assets, and has the valid and enforceable right to use all other Intellectual Property used or held for use in or necessary for the conduct of the Business, in each case free and clear of Encumbrances other than Permitted Encumbrances.

(d) Neither the execution, delivery or performance of this Agreement, nor the consummation of the transactions contemplated hereunder, will result in the loss or impairment of or payment of any additional amounts with respect to, nor require the consent of any other Person in respect of, Buyer's right to own or use any Intellectual Property Assets or any Intellectual Property subject to any Intellectual Property Agreement.

(e) All of the Intellectual Property Registrations are valid and enforceable, and all Intellectual Property Registrations are subsisting and in full force and effect. Seller has taken reasonable and necessary steps to maintain and enforce the Intellectual Property Assets and to preserve the confidentiality of all Trade Secrets included in the Intellectual Property Assets.

(f) The conduct of the Business, including the use of the Intellectual Property Assets and the Intellectual Property licensed under the Intellectual Property Agreements in connection therewith, and the products, processes, and services of the Business have not infringed, misappropriated, or otherwise violated the Intellectual Property or other rights of any Person. To Seller's Knowledge, no Person has infringed, misappropriated, or otherwise violated any Intellectual Property Assets or the Intellectual Property licensed under the Intellectual Property Agreements.

(g) There are no Actions (including any opposition, cancellation, revocation, review, or other proceeding) settled, pending, or, to the Knowledge of Seller, threatened (including in the form of offers to obtain a license): (i) alleging any infringement, misappropriation, or other violation of the Intellectual Property of any Person by Seller in the conduct of the Business; (ii) challenging the validity, enforceability, registrability, patentability, or ownership of any Intellectual Property Assets; or (iii) by Seller or any other Person alleging any infringement, misappropriation, or violation by any Person of any Intellectual Property Assets. Seller is not subject to any outstanding or prospective Governmental Order (including any motion or petition therefor) that does or would reasonably be expected to restrict or impair the use of any Intellectual Property Assets.

(h) This Section 4.11 constitutes the sole and exclusive representation and warranty of Seller with respect to any Intellectual Property matters.

Section 4.12 Inventory. All Inventory, whether or not reflected in the Balance Sheet, consists of a quality and quantity usable and salable in the ordinary course of business consistent with past practice, except for obsolete, damaged, or defective items that have been written off or written down to fair market value or for which adequate reserves have been established. Section 4.12 of the Disclosure

Schedules sets forth all Inventory that is obsolete, damaged, or defective that has not or will not be repaired which has an aggregate net book value in excess of $1,000,000. All Inventory is owned by Seller free and clear of all Encumbrances, and no Inventory is held on a consignment basis. The quantities of each item of Inventory (whether raw materials, work-in-process or finished goods) are not excessive, but are reasonable in the present circumstances of Seller.

Section 4.13 Transferred Cash. Exhibit J sets forth a description and the amount of all Transferred Cash as if the Closing had occurred as of December 31, 2017.

Section 4.14 Customers and Suppliers.

(a) Section 4.14(a) of the Disclosure Schedules sets forth with respect to the Business (i) each customer who has paid aggregate consideration to Seller for electricity or other electric utility services rendered in an amount greater than or equal to $1,000,000 for each of the two most recent fiscal years (collectively, the "**Material Customers**"); and (ii) the amount of consideration paid by each Material Customer during such periods. Except as set forth in Section 4.14(a) of the Disclosure Schedules, Seller has not received any written notice, and has no reason to believe, that any of the Material Customers has ceased, or intends to cease after the Closing, to use electricity or other electric utility services of the Business or to otherwise terminate or materially reduce its relationship with the Business.

(b) Section 4.14(b) of the Disclosure Schedules sets forth with respect to the Business (i) each supplier to whom Seller has paid consideration for goods or services rendered in an amount greater than or equal to $2,000,000 for each of the two most recent fiscal years (collectively, the "**Material Suppliers**"); and (ii) the amount of purchases from each Material Supplier during such periods. Except as set forth in Section 4.14(b) of the Disclosure Schedules, Seller has not received any written notice, and has no reason to believe, that any of the Material Suppliers has ceased, or intends to cease, to supply goods or services to the Business or to otherwise terminate or materially reduce its relationship with the Business.

Section 4.15 Insurance. Section 4.15 of the Disclosure Schedules sets forth (a) a true and complete list of all current policies or binders of fire, liability, product liability, umbrella liability, real and personal property, workers' compensation, vehicular, fiduciary liability and other casualty, property and other insurance maintained by Seller relating to the Business, the Purchased Assets or the Assumed Liabilities (collectively, the "**Insurance Policies**"); and (b) with respect to the Business, the Purchased Assets or the Assumed Liabilities, a list of all pending claims and the claims history for Seller since January 1, 2016. Except as set forth on Section 4.15 of the Disclosure Schedules, there are no claims related to the Business, the Purchased Assets or the Assumed Liabilities pending under any such Insurance Policies as to which coverage has been questioned, denied or disputed or in respect of which there is an outstanding reservation of rights. Seller has not received any written notice of cancellation of, premium increase with respect to, or alteration of coverage under, any of such Insurance Policies. All premiums due on such Insurance Policies have either been paid or, if not yet due, accrued. All such Insurance Policies (a) are in full force and effect and enforceable in accordance with their terms; (b) are provided by carriers who are financially solvent; and (c) have not been subject

to any lapse in coverage. Seller is not in default under, or has otherwise failed to comply with, in any material respect, any provision contained in any such Insurance Policy. The Insurance Policies are of the type and in the amounts customarily carried by Persons conducting a business similar to the Business and are sufficient for compliance with all applicable Laws and Contracts to which Seller is a party or by which it is bound. True and complete copies of the Insurance Policies have been made available to Buyer.

Section 4.16 Legal Proceedings; Governmental Orders.

(a) Except as set forth in Section 4.16(a) of the Disclosure Schedules, there are no Actions pending or, to Seller's Knowledge, threatened against or by Seller (a) relating to or affecting the Business, the Purchased Assets, or the Assumed Liabilities; or (b) that challenge or seek to prevent, enjoin, or otherwise delay the transactions contemplated by this Agreement. To Seller's Knowledge, no event has occurred or circumstances exist that may give rise to, or serve as a basis for, any such Action.

(b) Except as set forth in Section 4.16(b) of the Disclosure Schedules, there are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against, relating to or affecting the Business. Seller is in compliance with the terms of each Governmental Order set forth in Section 4.16(b) of the Disclosure Schedules. No event has occurred or circumstances exist that may constitute or result in (with or without notice or lapse of time) a violation of any such Governmental Order.

(c) Except as set forth in Section 4.16(c) of the Disclosure Schedules, as of the date hereof, ML&P (i) is not a Person whose rates or services are regulated by a Governmental Entity, (ii) is not a party to any rate proceeding before a Governmental Authority with respect to rates charged by ML&P, (iii) does not have rates in any amounts that have been or are being collected subject to refund, pending final resolution of any rate proceeding pending before a Governmental Authority or on appeal to a court, or (iv) is not a party to any contract with any Governmental Authority imposing conditions on rates or services in effect as of the date hereof or which, to the Knowledge of Seller, are as of the date hereof scheduled to go into effect at a later time.

Section 4.17 Compliance With Laws; Permits.

(a) Except as set forth in Section 4.17(a) of the Disclosure Schedules, Seller has at all times complied, and is now complying, in each case in all material respects, with all Laws applicable to the conduct of the Business and the ownership and use of the Purchased Assets.

(b) All Permits required for Seller to conduct the Business as currently conducted or for the ownership and use of the Purchased Assets have been obtained by Seller and are valid and in full force and effect. All fees and charges with respect to such Permits as of the date hereof have been paid in full. Section 4.17(b) of the Disclosure Schedules lists all material current Permits issued to Seller which are related to the conduct of the Business as currently conducted or the ownership and use of the Purchased

Assets, including the names of the Permits and their respective dates of issuance and expiration. No event has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension, lapse or limitation of any Permit set forth in Section 4.17(b) of the Disclosure Schedules.

(c) All filings required to be made by ML&P since January 1, 2015, with the RCA have been made, including all forms, statements, reports, agreements and all documents, exhibits, amendments and supplements appertaining thereto, including all rates, tariffs and related documents, and all such filings complied in material respects, as of their respective dates, with all applicable requirements of applicable statutes and the rules and regulations promulgated thereunder.

Section 4.18 Environmental Matters.

(a) To the Knowledge of Seller, the Purchased Assets and the operations of Seller with respect to the Business and the Purchased Assets are currently and have, during the period of five (5) years prior to the Closing Date, at all times been in compliance with all Environmental Laws. Seller has not received from any Person, with respect to the Business or the Purchased Assets, any: (i) Environmental Notice or Environmental Claim; or (ii) written request for information pursuant to Environmental Law, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing Date.

(b) Seller has obtained and, to Seller's Knowledge, is in compliance with all Environmental Permits (each of which is disclosed in Section 4.18(b) of the Disclosure Schedules) necessary for the conduct of the Business as currently conducted or for the ownership, lease, operation, or use of the Purchased Assets, and all such Environmental Permits are in full force and effect. With respect to any such Environmental Permits, to Seller's Knowledge, there is no condition, event, or circumstance that is reasonably likely to prevent or impede the transfer of the same to Buyer as of the Closing Date, and Seller has not received any Environmental Notice or other communication regarding, and to Seller's Knowledge there is no, actual or potential material adverse change in the status or terms and conditions of the same.

(c) Except as set forth in Section 4.18(c) of the Disclosure Schedules, Seller has not within the last six (6) years received any written notice from any Governmental Authority that the Business or any of the Purchased Assets or real property currently or formerly owned, leased, or operated by Seller in connection with the Business is not or has not been in compliance with, any Environmental Law or any Environmental Permit;

(d) Except as set forth in Section 4.18(d) of the Disclosure Schedules, there are no Environmental Claims pending or, to Seller's Knowledge, threatened against Seller with respect to the Business or any of the Purchased Assets or real property currently or formerly owned, leased or operated by Seller in connection with the Business. Except as set forth in Section 4.18(d) of the Disclosure Schedules, to Seller's Knowledge, there are no facts or circumstances regarding the Business or any of the

Purchased Assets or real property currently or formerly owned, leased, or operated by Seller in connection with the Business that are reasonably likely to result in any Environmental Claim against Seller or Buyer.

(e) To Seller's Knowledge, none of the Business or the Purchased Assets or any real property currently or formerly owned, leased or operated by Seller in connection with the Business is listed on, or has been proposed for listing on, the National Priorities List (or CERCLIS) under CERCLA, or any similar state list.

(f) Except as set forth in Section 4.18(f) of the Disclosure Schedules, to Seller's Knowledge, there has been no Release of Hazardous Materials in contravention of Environmental Law, or which would reasonably be expected to give rise to any Environmental Claim, with respect to the Business or the Purchased Assets or any real property currently or formerly owned, leased or operated by Seller in connection with the Business, and Seller has not received any Environmental Notice that, nor, to Seller's Knowledge, are any of the Business or the Purchased Assets or real property currently or formerly owned, leased or operated by Seller in connection with the Business (including soils, soil gas, groundwater, surface water, buildings and other structure located thereon) contaminated with any Hazardous Material in such a manner as would reasonably be expected to result in an Environmental Claim against Seller or Buyer.

(g) Section 4.18(g) of the Disclosure Schedules contains a complete and accurate list of (x) all active or abandoned aboveground or underground storage tanks owned or operated by Seller in connection with the Business or the Purchased Assets, or to Seller's Knowledge, otherwise located on the Owned Real Property and Leased Real Property; and (y) all, to Seller's Knowledge, polychlorinated-biphenyl-containing equipment, located at, on, or under the Owned Real Property and Leased Real Property.

(h) Section 4.18(h) of the Disclosure Schedules contains a complete and accurate list of all off-site Hazardous Materials treatment, storage, or disposal facilities or locations used by Seller and any predecessors, or otherwise used to treat, store or dispose of waste generated by Seller and any predecessors, in connection with the Business or the Purchased Assets as to which Seller may retain liability, and Seller has not received any Environmental Notice with respect to such off-site Hazardous Materials treatment, storage, or disposal facilities or locations used by Seller.

(i) Seller has not retained or assumed, by contract or, to Seller's Knowledge, by operation of Law, any Liabilities of third parties under Environmental Law.

(j) Except as otherwise provided in Section 6.29(a), Seller has provided or otherwise made available to Buyer in the manner set forth in Section 4.18(j) of the Disclosure Schedules: (i) any and all material environmental reports, studies, audits, records, sampling data, site assessments, risk assessments, economic models and other similar documents with respect to the Business or the Purchased Assets or any real property currently or formerly owned, leased or operated by Seller in connection with the Business which are in the possession or control of Seller related to compliance with

Environmental Laws, Environmental Claims or an Environmental Notice or the Release of Hazardous Materials, provided that, where multiple drafts of such documents were generated, Buyer has made available and listed only the most recent version of such document; and (ii) any and all material documents concerning planned or anticipated capital expenditures required to reduce, offset, limit or otherwise control pollution or emissions, manage waste or otherwise ensure compliance with current or future Environmental Laws (including costs of remediation, pollution control equipment and operational changes).

(k) During the period of six (6) years prior to the Closing Date, there have been no claims by Seller against comprehensive general liability or excess insurance carriers for any Loss resulting from, relating to or arising from Environmental Claims with respect to the Business or any of the Purchased Assets or real property currently or formerly owned, leased or operated by Seller in connection with the Business.

(l) To Seller's Knowledge, there is not any condition, event or circumstance concerning the Release or regulation of Hazardous Materials that would reasonably be expected to, after the Closing Date, prevent, impede or materially increase the costs to own and operate the Business or the Purchased Assets as currently carried out.

(m) This Section 4.18 constitutes the sole and exclusive representation and warranty of Seller with respect to environmental matters, including all matters arising under Environmental Laws.

Section 4.19 Employee Benefit Matters.

(a) Section 4.19(a) of the Disclosure Schedules contains a true and complete list of each material pension, benefit, retirement, compensation, employment, consulting, profit-sharing, deferred compensation, incentive, bonus, performance award, change in control, retention, severance, vacation, paid time off (PTO), medical, vision, dental, disability, welfare, Code Section 125 cafeteria, fringe-benefit and other similar agreement, plan, policy, program or arrangement (and any amendments thereto), in each case whether or not reduced to writing and whether funded or unfunded, including each "employee benefit plan" within the meaning of Section 3(3) of ERISA, whether or not tax-qualified and whether or not subject to ERISA, which is or has been maintained, sponsored, contributed to, or required to be contributed to by Seller for the benefit of any current or former employee, officer, director, retiree, independent contractor or consultant of the Business or any spouse or dependent of such individual, or under which Seller has or may have any Liability, or with respect to which Buyer would reasonably be expected to have any Liability (as listed on Section 4.19(a) of the Disclosure Schedules, each, a "**Benefit Plan**"). Seller has no ERISA Affiliates. Section 4.19(a) of the Disclosure Schedules denotes which Benefit Plans are governmental plans as defined in Section 3(32) of ERISA.

(b) With respect to each Benefit Plan that is a retirement plan, Seller has made available to Buyer accurate, current and complete copies of the plan document together with all amendments.

(c) Each Benefit Plan that is intended to be qualified within the meaning of Section 401(a) of the Code (a "**Qualified Benefit Plan**") is so qualified and received a favorable and current determination letter from the Internal Revenue Service with respect to the most recent five year filing cycle, or with respect to a prototype or volume submitter plan, can rely on an opinion letter from the Internal Revenue Service to the prototype plan or volume submitter plan sponsor, to the effect that such Qualified Benefit Plan is so qualified and that the plan and the trust related thereto are exempt from federal income taxes under Sections 401(a) and 501(a), respectively, of the Code, and nothing has occurred that would reasonably be expected to adversely affect the qualified status of any Qualified Benefit Plan.

No pension plan (other than a multiemployer plan within the meaning of Section 3(37) of ERISA (a "**Multiemployer Plan**")) which is subject to minimum funding requirements, including any multiple employer plan, (each a "**Single Employer Plan**") in which employees of the Business participate or have participated has an "accumulated funding deficiency," whether or not waived, or is subject to a lien for unpaid contributions under Section 303(k) of ERISA or Section 430(k) of the Code. No Single Employer Plan covering employees of the Business which is a defined benefit plan has an "adjusted funding target attainment percentage," as defined in Section 436 of the Code, less than 80%.

(d) Seller has not (i) incurred or reasonably expects to incur, either directly or indirectly, any material Liability under Title IV of ERISA or related provisions of the Code or applicable local Law relating to employee benefit plans; (ii) failed to timely pay premiums to the Pension Benefit Guaranty Corporation; or (iii) engaged in any transaction which would give rise to liability under Section 4069 or Section 4212(c) of ERISA.

(e) With respect to each Benefit Plan (i) that is a Multiemployer Plan, (A) all contributions required to be paid by Seller have been timely paid to the applicable Multiemployer Plan, (B) Seller has not incurred any withdrawal liability under Title IV of ERISA that remains unsatisfied, and (C) no Multiemployer Plan is in critical, endangered or seriously endangered status or has suffered a mass withdrawal; (ii) no Action has been initiated by the Pension Benefit Guaranty Corporation to terminate any Multiemployer Plan or to appoint a trustee for any Multiemployer Plan; and (iii) no such plan maintained or contributed to within the last six (6) years is a Single Employer Plan subject to Title IV of ERISA.

(f) This Section 4.19 and Section 4.20 (to the extent related to pensions and employee benefits) constitute the sole and exclusive representation and warranty of Seller regarding pension and employee benefit or liabilities or obligations, or compliance with Laws relating thereto.

Section 4.20 Employment Matters.

(a) Section 4.20(a) of the Disclosure Schedules contains a list of all persons who are employees, independent contractors or consultants of the Business as of the date hereof, including any employee who is on a leave of absence, or short-term or long-term disability of any nature, paid or unpaid, authorized or unauthorized, and sets forth for each such individual the following: (i) name; (ii) title or position (including whether full-time or part-time); (iii) hire date; (iv) current annual hourly rate or salary; and (v) commission, bonus or other incentive-based compensation paid in 2017. As of the date hereof, all compensation, including wages, commissions, bonuses, fees and other compensation, payable to all employees, independent contractors or consultants of the Business for services performed on or prior to the date hereof have been paid in full and, except as set forth in Section 4.20(a) of the Disclosure Schedules, there are no outstanding agreements, understandings or commitments of Seller to pay any compensation, commissions, bonuses, or fees after the Closing Date.

(b) Except as set forth in Section 4.20(b) of the Disclosure Schedules, Seller is not, and has not been for the past five (5) years, a party to, bound by, or negotiating any collective bargaining agreement or other Contract with a union, works council or labor organization (collectively, "**Union**"), and there is not, and has not been for the past five (5) years, any Union representing or purporting to represent any employee of Seller, and no Union or group of employees is seeking or has sought to organize employees for the purpose of collective bargaining. Except as set forth in Section 4.20(b) of the Disclosure Schedules, there has never been, nor has there been any threat of, any strike, slowdown, work stoppage, lockout, concerted refusal to work overtime or other similar labor disruption or dispute affecting Seller or any employees of the Business. Except for any Union set forth in Section 4.20(b) of the Disclosure Schedules, Seller has no duty to bargain with any Union. With respect to any Union or collective bargaining agreement identified in Section 4.20(b) of the Disclosure Schedules or otherwise, in no event shall Buyer be required to assume an existing collective bargaining agreement other than as set forth in Section 6.05. Seller shall not represent to any Union that Buyer intends to assume any such agreement or maintain the terms of any such agreement other than as set forth in Section 6.05. Section 4.20(b) of the Disclosure Schedules sets forth each pending union arbitration or grievance.

(c) Seller is and has been in compliance in all material respects with the terms of the collective bargaining agreements and other Contracts listed on Section 4.20(b) of the Disclosure Schedules and all applicable Laws pertaining to employment and employment practices to the extent they relate to employees, volunteers, interns, consultants and independent contractors of the Business, including all Laws relating to labor relations, equal employment opportunities, fair employment practices, employment discrimination, harassment, retaliation, reasonable accommodation, disability rights or benefits, immigration, wages, hours, overtime compensation, child labor, hiring, promotion and termination of employees, working conditions, meal and break periods, privacy, health and safety, workers' compensation, leaves of absence, paid sick leave and

unemployment insurance. All individuals characterized and treated by Seller as consultants or independent contractors of the Business are properly treated as independent contractors under all applicable Laws. All employees of the Business classified as exempt under the Fair Labor Standards Act and state and local wage and hour laws are properly classified in all material respects. Seller is in material compliance with and has materially complied with all immigration laws, including Form I-9 requirements and any applicable mandatory E-Verify obligations. Except as set forth in Section 4.20(c) of the Disclosure Schedules, there are no Actions against Seller pending, or to the Seller's Knowledge, threatened to be brought or filed, by or with any Governmental Authority or arbitrator in connection with the employment of any current or former applicant, employee, consultant, volunteer, intern or independent contractor of the Business, including any charge, investigation or claim relating to unfair labor practices, equal employment opportunities, fair employment practices, employment discrimination, harassment, retaliation, reasonable accommodation, disability rights or benefits, immigration, wages, hours, overtime compensation, employee classification, child labor, hiring, promotion and termination of employees, working conditions, meal and break periods, privacy, health and safety, workers' compensation, leaves of absence, paid sick leave, unemployment insurance or any other employment related matter arising under applicable Laws.

(d) With respect to each Government Contract and to the extent required by Law, Seller is and has been in material compliance with Executive Order No. 11246 of 1965 ("**E.O. 11246**"), Section 503 of the Rehabilitation Act of 1973 ("**Section 503**") and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 ("**VEVRAA**"), including all implementing regulations. Seller maintains and materially complies with affirmative action plans in compliance with E.O. 11246, Section 503 and VEVRAA, including all implementing regulations. To Seller's Knowledge, Seller is not, and has not been for the past five (5) years, the subject of any audit, investigation or enforcement action by any Governmental Authority in connection with any Government Contract or related compliance with E.O. 11246, Section 503 or VEVRAA. To the extent required by Law, Seller is and has also been in material compliance with the McNamara-O'Hara Service Contract Act of 1965, the Davis Bacon Act of 1931 and the Contract Work Hours and Safety Standards Act (CWHSSA). Seller has not been debarred, suspended or otherwise made ineligible from doing business with the United States government or any government contractor.

(e) This Section 4.20 and Section 4.06, Section 4.17 and Section 4.19 (in each case, to the extent related to labor and employment matters) constitute the sole and exclusive representation and warranty of the Company regarding labor or employment matters.

Section 4.21 Taxes. Except as set forth in Section 4.21 of the Disclosure Schedules:

(a) All Tax Returns with respect to the Business required to be filed by Seller for any Pre-Closing Tax Period have been, or will be, timely filed. Such Tax Returns are,

or will be, true, complete and correct in all material respects. All Taxes due and owing by Seller (whether or not shown on any Tax Return) have been, or will be, timely paid.

(b) Seller has withheld and paid each Tax required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, customer, or other party, and materially complied with all information reporting and backup withholding provisions of applicable Law.

(c) No extensions or waivers of statutes of limitations have been given or requested with respect to any Taxes of Seller.

(d) All deficiencies asserted, or assessments made, against Seller as a result of any examinations by any taxing authority have been fully paid.

(e) Seller is not a party to any Action by any taxing authority. There are no pending or threatened Actions by any taxing authority.

(f) There are no Encumbrances for Taxes upon any of the Purchased Assets nor, to Seller's Knowledge, is any taxing authority in the process of imposing any Encumbrances for Taxes on any of the Purchased Assets (other than for current Taxes not yet due and payable).

(g) Seller is not a "foreign person" as that term is used in Treasury Regulations Section 1.1445-2.

(h) This Section 4.21 (and so much of Section 4.19 and Section 4.23 as relates to Taxes) constitutes the sole and exclusive representation and warranty of Seller regarding Tax matters.

Section 4.22 Service Territory. The Delivery Point for each Person purchasing electricity from Seller is located within the Service Territory.

Section 4.23 BRU Interest.

(a) There is neither (i) to Seller's Knowledge, written demand; nor (ii) lawsuit, or any compliance order, notice of probable violation or similar governmental action, pending or, to Seller's Knowledge, threatened before any court or governmental agency that (x) would result in a material impairment or loss of title to any part of the BRU Interest, (y) seeks the imposition of (or could reasonably be expected to generate) an amount greater than or equal to $500,000 in damages with respect to the BRU Interest, or (z) would materially hinder or impede the operation of the BRU Interest;

(b) All Tax Returns required to be filed by Seller with respect to the BRU Interest have been timely filed and are true, correct and complete in all material respects, and all Taxes with respect to the BRU Interest, whether or not shown due on such Tax Returns, have been timely paid.

(c) To Seller's Knowledge, (a) Seller's ownership and the operation of the BRU Interest is in compliance in all material respects with all Laws, and (b) all Permits, licenses, approvals, consents, certificates, and other authorizations material to the operation of the BRU Interest have been obtained and maintained in effect.

(d) Section 4.23 of the Disclosure Schedules includes all Material BRU Contracts that are of one or more of the following types, to the extent the same would be binding on the BRU Interest after Closing: (i) a contract for the sale, purchase, exchange, or other disposition of Hydrocarbons that is not cancellable without penalty on sixty (60) days or less prior written notice; (ii) a contract to sell, lease, farmout, exchange, or otherwise dispose of all or any part of the BRU Interest (but excluding conventional rights of reassignment upon intent to abandon or release a lease); (iii) a joint operating agreement, unitization agreement, unit operating agreement, or similar agreement; (iv) an area of mutual interest agreement; (v) a contract for the gathering, treatment, storage, processing, or transportation (excluding transportation via common carrier pipelines that can be terminated without penalty on ninety (90) days or fewer notice) of Hydrocarbons; or (vi) any other contract or agreement, excluding leases and joint operating agreements, that would reasonably be expected to result in aggregate payments by Seller of more than $100,000 or aggregate revenues to Seller of more than $300,000 during the current or any subsequent calendar year (each, a "**Material BRU Contract**"); *provided, however*, that, with respect to subsection (vi) only, this Section 4.23(d) shall be deemed to be qualified to Seller's Knowledge. To Seller's Knowledge each Material BRU Contract is in full force and effect and neither Seller, nor, to Seller's Knowledge, any other Person, is in default under any such Material BRU Contract, or, with the passage of time, the giving of notice, or both, would be in breach or default under any such Material BRU Contract. Prior to the date hereof, Seller has made available to Buyer complete and correct copies of each Material BRU Contract and any amendments or modifications thereof.

(e) There are no outstanding authorizations for expenditure ("**AFEs**") which are binding on the BRU Interest and which Seller reasonably anticipates will individually require expenditures by Seller or its successor in interest from and after the Closing in excess of $2,000,000 other than as listed in Section 4.23(e) of the Disclosure Schedules.

(f) Seller has not received any written notice, remaining unresolved, from any Governmental Authority that any well included in the BRU Interest is in material noncompliance with applicable Laws. To Seller's Knowledge, all plugged and abandoned wells included in the BRU Interest have been plugged and abandoned in all material respects in accordance with applicable Law.

(g) Seller has not received any notice of violation, remaining uncured, from any Governmental Authority alleging any portion of the BRU Interest is in material noncompliance with any Environmental Law, nor to Seller's Knowledge is there any basis for such notice.

(h) Except as set forth in Section 4.23(h) of the Disclosure Schedules, Seller has not received any request by any Governmental Authority for additional or

supplemental decommissioning or plugging and abandonment security to be furnished by Seller, including any supplemental bonding request, with respect to the BRU Interest.

(i) Seller is not obligated by virtue of any take-or-pay payment, advance payment, imbalance, or other similar payment to deliver a material quantity of Hydrocarbons produced from the BRU Interest at some future time without receiving payment therefor. For purposes of this Section 4.23, "a material quantity" means more than 25,000 MCF or its BTU equivalent.

(j) Seller has not created any Title Defect (as defined in the BRU Purchase and Sale Agreement) on the BRU Interest acquired pursuant to the BRU Purchase and Sale Agreement since such BRU Interest was acquired.

Section 4.24 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any Ancillary Document based upon arrangements made by or on behalf of Seller.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF BUYER

Except as set forth in the correspondingly numbered Section of the Disclosure Schedules, Buyer represents and warrants to Seller that the statements contained in this ARTICLE V are true and correct as of the date hereof.

Section 5.01 Organization of Buyer. Buyer is an electric not-for-profit cooperative corporation duly organized, validly existing and in good standing under the Laws of the State of Alaska and has all requisite corporate power and authority to own, operate or lease its properties and assets and to conduct its business as currently conducted.

Section 5.02 Authority of Buyer. Buyer has all requisite corporate power and authority to enter into this Agreement and the Ancillary Documents to which Buyer is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and any Ancillary Document to which Buyer is a party, the performance by Buyer of its obligations hereunder and thereunder and the consummation by Buyer of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer, and (assuming due authorization, execution and delivery by Seller) this Agreement constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms. When each Ancillary Document to which Buyer is or will be a party has been duly executed and delivered by Buyer (assuming due authorization, execution and delivery by each other party thereto), such Ancillary Document will constitute a legal and binding obligation of Buyer enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar laws of general applicability relating to or affecting creditors' rights and to general equity principles, whether considered in a proceeding at law or in equity.

Section 5.03 No Conflicts; Consents.

(a) The execution, delivery and performance by Buyer of this Agreement and the Ancillary Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the certificate of incorporation, bylaws or other organizational documents of Buyer; (b) assuming RCA Approval is received, conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to Buyer; or (c) except as set forth in Section 5.03 of the Disclosure Schedules, require the consent, notice or other action by any Person under any Contract to which Buyer is a party. Except for RCA Approval, no consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Buyer in connection with the execution and delivery of this Agreement and the Ancillary Documents and the consummation of the transactions contemplated hereby and thereby, except for and such consents, approvals, Permits, Governmental Orders, declarations, filings or notices which, in the aggregate, would not have a Material Adverse Effect.

(b) In reliance on Seller's representation and warranty in Section 4.03(b), no filing under the HSR Act is required.

Section 5.04 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any Ancillary Document based upon arrangements made by or on behalf of Buyer.

Section 5.05 Legal Proceedings. Except as set forth in Section 5.05 of the Disclosure Schedules, there are no Actions pending or, to Buyer's knowledge, threatened against or by Buyer that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. No event has occurred or circumstances exist that may give rise or serve as a basis for any such Action.

Section 5.06 Transition Agreement.

(a) In the event that the Transition Agreement has, prior to the Closing, been ratified by the requisite vote of the members of the IBEW and become effective, then as of the Closing, (i) the Transition Agreement will be valid and binding on Buyer and the IBEW in accordance with the Transition Agreement's terms and in full force and effect; (ii) neither Buyer nor, to Buyer's knowledge, any other party to the Transition Agreement will be in breach of or default under (or be alleged to be in breach of or default under), or will have provided or received any notice of any intention to terminate, the Transition Agreement; (iii) no event or circumstance will have occurred that, with notice or lapse of time or both, would constitute an event of default under the Transition Agreement or result in a termination thereof or would cause or permit the acceleration or other changes of any right or obligation or the loss of any benefit thereunder; and (iv) there will be no material disputes pending or threatened under the Transition Agreement. In the event that the Transition Agreement has, at any time prior to the Closing, been ratified by the

requisite vote of the members of the IBEW and become valid and binding, Buyer will provide to Seller a complete and correct copy of the Transition Agreement (including all modifications, amendments, and supplements thereto and waivers thereunder).

(b) In the event that the Transition Agreement is valid and binding and in full force and effect as of the Closing, Buyer will be in compliance with each and all of the requirements of the Ordinance and Proposition 10 with respect to employees of Seller and Buyer and the IBEW Collective Bargaining Agreement.

ARTICLE VI
COVENANTS

Section 6.01 Conduct of Business Prior to the Closing.

(a) From the date hereof until the Closing, except as required by Law, as otherwise provided in this Agreement, or as consented to in writing by Buyer (which consent shall not be unreasonably withheld, conditioned, or delayed), Seller shall (x) use its commercially reasonable efforts to conduct the Business in all material respects in the ordinary course of business consistent with past practice and Prudent Utility Practices; and (y) use its commercially reasonable efforts to maintain and preserve intact its current Business organization, operations, and franchise and to preserve the rights, franchises, goodwill, and relationships of its employees, customers, lenders, suppliers, regulators, and others having relationships with the Business. Without limiting the foregoing, from the date hereof until the Closing Date, Seller shall use its commercially reasonable efforts to (i) preserve and maintain all Permits required for the conduct of the Business as currently conducted or the ownership and use of the Purchased Assets and the Eklutna Generation Assets; (ii) pay the debts, Taxes, and other obligations of the Business when due; (iii) continue to collect Accounts Receivable in a manner consistent with past practice, without discounting such Accounts Receivable; (iv) maintain the properties and assets included in the Purchased Assets and the Eklutna Generation Assets in the same condition as they were on the date of this Agreement, subject to reasonable wear and tear; (v) continue in full force and effect without modification all Insurance Policies, except as required by applicable Law; (vi) defend and protect the properties and assets included in the Purchased Assets and the Eklutna Generation Assets from infringement or usurpation; (vii) perform in all material respects all of its obligations under all Assigned Contracts; (viii) maintain the Books and Records in accordance with past practice; (ix) comply in all material respects with all Laws applicable to the conduct of the Business or the ownership and use of the Purchased Assets and the Eklutna Generation Assets; and (x) not take or permit any action that would reasonably be expected to cause any of the changes, events, or conditions described in Section 4.06 to occur. Without limiting the generality of the foregoing, from the date of this Agreement until the Closing, and except as set forth in Section 6.01 of the Disclosure Schedules, Seller will not do any of the following with respect to the Business:

(A) merge or consolidate the Business with any other Person, or restructure, reorganize or completely or partially liquidate the Business;

(B) other than capital expenditures covered by clause (F) below, acquire assets (whether by merger, tender offer, consolidation, purchase of property, or otherwise) outside of the ordinary course of business from any other Person with a value or purchase price in the aggregate in excess of $1,000,000 in any transaction or series of related transactions;

(C) create or incur any material lien on any of the Purchased Assets including any material Intellectual Property Assets or Eklutna Generation Assets, other than Permitted Liens;

(D) make any loans, advances, or capital contributions to, guarantees of, or investments in any Person (other than advances made in the ordinary course of business consistent with past practice to employees of the Business for reimbursement of routine travel or business expenses in accordance with the terms of the applicable policy in effect on the date of this Agreement);

(E) incur any indebtedness, or issue or sell any debt securities or warrants or other rights to acquire any debt security of the Business except for commercial paper the proceeds of which are used to finance Purchased Assets or the Eklutna Generation Assets or refinance commercial paper outstanding on the date hereof;

(F) make or authorize any capital expenditures or series of related capital expenditures that are not in the ordinary course of business consistent with past practice and Prudent Utility Practices;

(G) except in the ordinary course of business consistent with past practice and Prudent Utility Practices; and except as required by Law (including the legal obligation under the National Labor Relations Act or state or local law to bargain in good faith to reach a labor contract with a labor organization that has been certified as the bargaining agent for the designated employee group), (1) enter into any Contract that would have been a Material Contract or Material BRU Contract had it been entered into prior to the date of this Agreement or (2) amend or modify in a material manner or terminate any Material Contract or Material BRU Contract, or cancel, modify in a material manner, or waive any material debts, rights, or claims thereunder;

(H) make any changes with respect to accounting policies or procedures, except as required by changes in applicable GAAP;

(I) (1) except with respect to matters related to the appeal of the Alaska Department of Revenue production tax credits, waive, release, settle, or compromise any pending Action against the Business other than settlements or compromises of any such legal action (a) in which the amount paid by or on behalf of the Business does not exceed $500,000 in any individual Action or $1,000,000 in the aggregate and (b) that would not impose any material restrictions on the Business or (2) commence, join in, or appeal any such legal action, other than in the ordinary course of business;

(J) (1) make or change any material Tax election, (2) change Seller's method of accounting for Tax purposes, (3) file any material amended Tax Return, (4) settle, concede, compromise or abandon any material Tax claim or assessment, (5) surrender any right to a refund of material Taxes or (6) consent to any extension or waiver of the limitation period applicable to any claim or assessment with respect to material Taxes;

(K) fail to use commercially reasonable efforts to maintain in full force and effect the Insurance Policies covering the Business and its properties, assets, and businesses in a form and amount consistent with past practice and Prudent Utility Practices;

(L) transfer, sell, lease, license, mortgage, pledge, surrender, encumber, divest, cancel, abandon, or allow to lapse or expire or otherwise dispose of any material assets (including any material Intellectual Property Assets), licenses, operations, product lines, businesses or interests of the Business except (1) in the ordinary course of business consistent with past practice and Prudent Utility Practices, (2) for sales of obsolete assets, or (3) for transactions involving a de minimis amount of assets in the aggregate;

(M) except as required pursuant to existing written Benefit Plans in effect prior to the date of this Agreement or as otherwise required by applicable Law and except as contemplated by this Agreement, (1) pay, grant or provide any severance or termination payments or benefits to any non-union official, manager, contractor, or employee of the Business; (2) increase the compensation, bonus or pension, welfare, severance, or other benefits of, pay any bonus, incentive, or retention payments to, or make any equity awards to any non-union official, manager, contractor, or employee of the Business, except for increases in base salary in the ordinary course of business consistent with past practice for employees who are not officials or managers; (3) establish, adopt, amend, or terminate any Benefit Plan; (4) take any action to accelerate the vesting or payment, or fund or in any other way secure the payment, of compensation or benefits under any Benefit Plan; (E) change in any material respect any

actuarial or other assumptions used to calculate funding obligations with respect to any Benefit Plan or to change the manner in which contributions to such plans are made or the basis on which such contributions are determined, except as may be required by GAAP; (5) forgive any loans to officials, managers or employees of the Business; or (6) hire or terminate without cause any official, manager, or any employee with total cash compensation and benefits in excess of $100,000, other than any such hire that is a replacement hire to fill a vacant position in existence as of the date of this Agreement;

(N) take any action or omit to take any action that would reasonably be expected to result in any of the conditions to the Closing set forth in Section 7.03 not being satisfied;

(O) communicate with officials, managers, employees, or consultants of the Business regarding the compensation, benefits, or other treatment they will receive in connection with the Closing or after the Closing, other than communications that are not inconsistent with (1) the terms of this Agreement or (2) previous public announcements or communications;

(P) enter into, terminate, or materially modify or amend any (1) agreement or practice relating to fuel procurement that is not in the ordinary course of business consistent with past practice, (2) agreement or course of dealing with or among any of the other owners of (a) Purchased Assets that are owned in part by ML&P or (b) the Eklutna Generation Assets, (3) power sale contract that has a term of longer than two (2) years or (4) coal, natural gas, fuel oil, diesel or other fuel purchase contract that has a term of longer than two (2) years; or

(Q) agree, authorize, or commit to do any of the foregoing actions or enter into any Contracts with respect to any of the foregoing actions.

Notwithstanding the foregoing, Seller will be entitled, during the period prior to the Closing, to negotiate with its real property lessors and easement grantors, including ARRC, with respect to ML&P's rights and obligations as lessee or easement holder with respect to such properties, but will promptly advise Buyer of the nature of such negotiations.

(b) To the extent permitted by applicable Law, Seller shall cause ML&P to, on a reasonable basis, (i) discuss with Buyer any changes in ML&P's regulated rates or charges, standards of service, or regulatory accounting from those in effect on the date of this Agreement and (ii) discuss with Buyer, and use commercially reasonable efforts to incorporate the views of Buyer, prior to making any filing (or any amendment thereto), or effecting any agreement, commitment, arrangement or consent, whether written or oral,

formal or informal, with respect thereto (other than to implement rate changes in accordance with existing formula rates) that changes ML&P's rates in a material manner that may, individually or in the aggregate, impact ML&P's revenue for a period of longer than one year. Notwithstanding the foregoing, ML&P shall not be required to have discussions or consult with Buyer prior to entering into arrangements with customers or other Persons in the ordinary course of business consistent with past practice, and in no event shall ML&P be obligated to have discussions or consult with Buyer with respect to any of the foregoing if, in the opinion of ML&P's outside counsel, to do so would be inconsistent with applicable Law.

(c) Nothing contained in this Agreement is intended to give Buyer the right to control or direct Seller's operations of the Business prior to the Closing. Prior to the Closing, each of Buyer and Seller will exercise, consistent with the terms and conditions of this Agreement and applicable Law, complete control and supervision over its respective operations.

(d) Notwithstanding anything to the contrary in this Section 6.01, ML&P may take reasonable actions in compliance with applicable Law with respect to any operational emergencies (including any restoration measures in response to any hurricane, tornado, ice storm, tsunami, flood, earthquake, or other natural disaster or weather-related event, circumstance, or development), equipment failures, outages, or an immediate and material threat to the health or safety of natural Persons.

Section 6.02 Access to Information.

(a) From the date hereof until the Closing, Seller shall, for the purpose of enabling Buyer to conduct the Post-Signing Due Diligence, (a) afford Buyer and its Representatives reasonable access to and the reasonable right to inspect, upon reasonable notice and during Seller's normal business hours, all of the Real Property, properties, assets, premises, Books and Records, Contracts and other documents and data related to the Business, subject where applicable to the terms of the Site Access and Indemnification Agreement dated as of June 7, 2018 between Seller and Buyer as the same may be amended or supplemented from time to time; (b) furnish Buyer and its Representatives with such financial, operating and other data and information related to the Business as Buyer or any of its Representatives may reasonably request; and (c) instruct the Representatives of Seller to cooperate with Buyer in its investigation of the Business. Without limiting the foregoing, Seller shall, subject to receipt of all required approvals of Governmental Authorities, permit Buyer and its Representatives to conduct Post-Signing Due Diligence with respect to the environmental condition of the Real Property, including the collecting and analysis of samples of indoor or outdoor air, surface water, groundwater, or surface or subsurface land on, at, in, under or from the Real Property. Any investigation pursuant to this Section 6.02(a) shall be conducted in such manner as not to interfere unreasonably with the conduct of the Business or any other businesses of Seller. No investigation by Buyer or other information received by Buyer shall operate as a waiver or otherwise affect any representation, warranty, or agreement given or made by Seller in this Agreement.

(b) From the date hereof until the Closing, Buyer shall, for the purpose of enabling Seller to conduct the Additional Seller Due Diligence, (a) furnish Seller and its Representatives with such financial, operating and other data and information related to the assets and business of Buyer as Seller or any of its Representatives may reasonably request for purposes of reviewing and evaluating Buyer's financial condition, the financial risks of the transactions contemplated by this Agreement, and the proposed Debt Financing; and (b) instruct the Representatives of Buyer to cooperate with Seller in its due diligence investigation with respect to Buyer. Any investigation pursuant to this Section 6.02(b) shall be conducted in such manner as not to interfere unreasonably with the conduct of any businesses of Buyer. Except as provided in Section 6.22 and Section 8.07(b), no investigation by Seller or other information received by Seller shall operate as a waiver or otherwise affect any representation, warranty, or agreement given or made by Buyer in this Agreement.

(c) At the earliest practicable time, Seller shall use commercially reasonable efforts to provide Buyer with the information noted on Exhibit A and reasonable follow-up requests with respect thereto.

(d) Prior to receipt of RCA Approval, the parties shall take initial steps to assess necessary integration planning, including those set forth on Section 6.02(d) of the Disclosure Schedules. Following receipt of RCA Approval, the parties shall work together to coordinate and finalize integration planning so as to enable Buyer to operate the Purchased Assets on the Closing Date, including taking the actions set forth on Section 6.02(d)(ii) of the Disclosure Schedules. In connection with such integration planning, Seller and Buyer shall, to the extent appropriate, develop a plan for the transition of customers of the Business to Buyer in accordance with a plan intended to mitigate to the extent reasonably possible any impact or cost to Seller's customers and comply with all RCA requirements, including coordination of timing of initial notification of customers, inclusion of materials in Seller's pre-Closing invoices relating to customer cut-over process, customer data conversion process, and sharing of meter and other technical information.

Section 6.03 No Solicitation of Other Bids.

(a) Seller shall not authorize or permit any of its Representatives to, directly or indirectly, (i) encourage, solicit, initiate, facilitate, or continue inquiries regarding an Acquisition Proposal; (ii) enter into discussions or negotiations with, or provide any information to, any Person concerning a possible Acquisition Proposal; or (iii) enter into any agreements or other instruments (whether or not binding) regarding an Acquisition Proposal. Seller shall immediately cease and cause to be terminated, and shall cause all of its Representatives to immediately cease and cause to be terminated, all existing discussions or negotiations with any Persons conducted heretofore with respect to, or that could lead to, an Acquisition Proposal. For purposes hereof, "**Acquisition Proposal**" means any inquiry, proposal, or offer from any Person (other than Buyer and other than MEA pursuant to any rights of MEA under Section 1 of the Agreement for Extension of 1996 Eklutna Hydroelectric Project Transition Plan, dated October 2, 1997, among

Seller, Buyer and MEA as provided for in the Eklutna Power Purchase Agreement) relating to the direct or indirect disposition, whether by sale, merger or otherwise, of all or any portion of the Business or the Purchased Assets.

(b) In addition to the other obligations under this Section 6.03, Seller shall promptly (and in any event within three (3) Business Days after receipt thereof by Seller or its Representatives) advise Buyer orally and in writing of any Acquisition Proposal, any request for information with respect to any Acquisition Proposal, or any inquiry with respect to or which would reasonably be expected to result in an Acquisition Proposal, the material terms and conditions of such request, Acquisition Proposal or inquiry, and the identity of the Person making the same.

(c) Seller agrees that the rights and remedies for noncompliance with this Section 6.03 shall include having such provision specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach shall cause irreparable injury to Buyer and that money damages would not provide an adequate remedy to Buyer.

Section 6.04 Notice of Certain Events.

(a) From the date hereof until the Closing, each party shall promptly notify the other party in writing of:

(i) any fact, circumstance, event, or action the existence, occurrence, or taking of which (A) has had, or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (B) has resulted in, or would reasonably be expected to result in, any representation or warranty made by such party hereunder not being true and correct in any material respect or (C) has resulted in, or would reasonably be expected to result in, the failure of any of the conditions set forth in Section 7.02 or Section 7.03 to be satisfied;

(ii) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement;

(iii) any notice or other communication from any Governmental Authority in connection with the transactions contemplated by this Agreement; and

(iv) any Actions commenced or, to Seller's Knowledge or Buyer's knowledge, threatened against, relating to, or involving or otherwise affecting the Business, the Purchased Assets, or the Assumed Liabilities that, if pending on the date of this Agreement, would have been required to have been disclosed pursuant to Section 4.16 or Section 5.05 or that relate to the consummation of the transactions contemplated by this Agreement.

(b) A party's receipt of information pursuant to this Section 6.04 shall not operate as a waiver or otherwise affect any representation, warranty, or agreement given or made by such party in this Agreement (including Section 8.02, Section 8.03, Section 9.01(b), or Section 9.01(c)) and shall not be deemed to amend or supplement the Disclosure Schedules.

Section 6.05 Employees and Employee Benefits.

(a) Should the Transition Agreement fail for any reason to be valid and binding and in full force and effect as of the Closing, Buyer will ensure that Buyer and Seller are nonetheless in compliance with each and all of the requirements of the Ordinance and Proposition 10 with respect to employees of Buyer or Seller, including by offering, prior to the Closing, employment to all of Seller's employees and by accepting and assuming, effective as of the Closing, all rights and obligations of Seller under the IBEW Collective Bargaining Agreement. Unless Buyer has obtained the written consent of the IBEW to release Seller from any obligation to require Buyer to assume the IBEW Collective Bargaining Agreement, Seller shall be entitled to represent to the IBEW that Buyer will, effective as of the Closing, accept and assume or otherwise maintain the terms of the IBEW Collective Bargaining Agreement.

(b) Prior to the Closing Date, Buyer shall provide employment welcome letters describing the wage rate, leave accrual rate/balance (including Accrued Leave transferred), retirement contribution, job assignment and supervisor for each ML&P bargaining unit member covered by the IBEW Collective Bargaining Agreement, with such terms becoming effective for those bargaining unit members that have elected to remain employed as of 12:01 AM on the Closing Date. If the Transition Agreement is not in full force and effect at the time that Buyer provides such employment welcome letters, the terms of such employment welcome letters shall replicate the terms of the IBEW Collective Bargaining Agreement. If the Transition Agreement is in full force and effect at the time that Buyer provides such employment welcome letters, the terms of such employment welcome letters shall, except to the extent that the Transition Agreement varies the terms of the IBEW Collective Bargaining Agreement, replicate the terms of the IBEW Collective Bargaining Agreement. Seller shall terminate the employment of all current non-temporary full-time employees of the Business effective as of 12:01 AM on the Closing Date.

(c) Except with respect to Accrued Leave, Seller shall be solely responsible, and Buyer shall have no obligations whatsoever for, any compensation or other amounts payable to any current or former employee, official, manager, independent contractor or consultant of the Business, including hourly pay, commission, bonus, salary, accrued vacation, fringe, pension or profit sharing benefits or severance pay for any period relating to the service with Seller at any time prior to the Closing Date and Seller shall pay all such amounts to all entitled persons not later than three (3) days following the Closing Date. Buyer will credit all Accrued Leave to Transferred Employees promptly upon the commencement of their employment with Buyer.

(d) Seller shall remain solely responsible for the satisfaction of all claims for medical, dental, life insurance, health, accident, or disability benefits brought by or in respect of current or former employees, independent contractors, or consultants of the Business or the spouses, dependents or beneficiaries thereof, which claims relate to events occurring prior to the Closing Date. Seller also shall remain solely responsible for all workers' compensation claims of any current or former employees, officials, managers, independent contractors or consultants of the Business which relate to events occurring prior to the Closing Date. Seller shall pay, or cause to be paid, all such amounts to the appropriate persons as required by applicable Law.

(e) For those non-temporary full-time employees not covered by the Transition Agreement, Buyer will offer full-time employment in Comparable Positions and set forth in a written notice to Seller delivered not later than thirty (30) days prior to Closing.

(f) For each individual non-temporary full-time employee not covered by the Transition Agreement, Buyer will maintain a salary (excluding overtime or retention benefits under the Retention Agreements) and retirement contribution combined total value that is at least equal to the amount incurred by ML&P at the time of Closing; all other compensation and benefits will be consistent with Buyer policies in place at the time of Closing.

(g) With respect to any employee benefit plan maintained by Buyer in which any former ML&P employees not covered by the Transition Agreement will participate effective as of the Closing Date, Buyer will recognize all service of such employees with ML&P as if such service were with Buyer, for purposes of determining vacation entitlements or eligibility and vesting in any benefit plan in which such employees may be eligible to participate after the Closing.

(h) Buyer shall use commercially reasonable efforts to cause its third-party insurance providers or third party administrators to (i) waive any pre-existing conditions, actively at work requirements and waiting periods, to the extent such pre-existing condition, actively at work requirements and waiting periods did not apply to or had been satisfied by, Seller's employees who become employed by Buyer under a comparable plan covering such employees prior to the Closing, and (ii) cause such plans to honor any expenses incurred by the employees and their beneficiaries under similar plans of Seller during the calendar year in which the Closing occurs for purposes of satisfying applicable deductible, co-insurance and maximum out-of-pocket expenses.

(i) The provisions of this Section 6.05 are for the sole benefit of the parties to this Agreement and nothing herein, expressed or implied, is intended or shall be construed to confer upon or give to any person (including, for the avoidance of doubt, any employee), other than the parties and their respective permitted successors and assigns, any legal or equitable or other rights or remedies under or by reason of any provision of this Agreement. Nothing contained herein, express or implied: (i) shall be construed to establish, amend, or modify any benefit plan, program, agreement or

arrangement; (ii) shall alter or limit the ability of Seller or to amend, modify or terminate any benefit plan, program, agreement or arrangement; or (iii) is intended to confer upon any current or former employee any right to employment or continued employment for any period of time by reason of this Agreement, or any right to a particular term or condition of employment.

Section 6.06 Governmental Approvals and Consents.

(a) Each party hereto shall, as promptly as reasonably practicable after the date of this Agreement, (i) make, or cause to be made, all filings and submissions (including those required by the RCA) required under any Law applicable to such party; and (ii) use commercially reasonable efforts to obtain, or cause to be obtained, all consents, authorizations, orders, and approvals from all Governmental Authorities that may be or become necessary for its execution and delivery of this Agreement and the performance of its obligations pursuant to this Agreement and the Ancillary Documents. Each party shall cooperate fully in all reasonable respects with the other party in promptly seeking to obtain all such consents, authorizations, orders, and approvals. The parties hereto shall not willfully take any action that would reasonably be expected to have the effect of delaying, impairing, or impeding the receipt of any required consents, authorizations, orders, and approvals.

(b) Seller and Buyer shall use commercially reasonable efforts to give all notices to, and obtain all consents from, all third parties that are described in Section 4.03 and Section 5.03 of the Disclosure Schedules.

(c) Without limiting the generality of the parties' undertakings pursuant to subsections (a) and (b) above, each of the parties hereto shall use all commercially reasonable efforts to:

(i) respond to any inquiries by any Governmental Authority regarding antitrust or other matters with respect to the transactions contemplated by this Agreement or any Ancillary Document;

(ii) avoid the imposition of any order or the taking of any action that would reasonably be expected to restrain, alter, or enjoin the transactions contemplated by this Agreement or any Ancillary Document; and

(iii) in the event any Governmental Order adversely affecting the ability of the parties to consummate the transactions contemplated by this Agreement or any Ancillary Document has been issued, to have such Governmental Order vacated or lifted.

(d) All analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals made by or on behalf of either party before any Governmental Authority or the staff or regulators of any Governmental Authority, in connection with the transactions contemplated hereunder (but, for the

avoidance of doubt, not including any interactions between Seller or Buyer with Governmental Authorities in the ordinary course of business, any disclosure which is not permitted by Law, or any disclosure containing competitively or commercially sensitive information) shall be disclosed to the other party hereunder in advance of any filing, submission, or attendance, it being the intent that the parties will consult and cooperate reasonably with each other, and consider in good faith the views of each other, in connection with any such analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals. Each party shall give notice to the other party reasonably in advance of any meeting, discussion, appearance, or contact with any Governmental Authority or the staff or regulators of any Governmental Authority, with such notice being sufficient to provide the other party with the opportunity to attend and participate in such meeting, discussion, appearance, or contact.

(e) Notwithstanding the foregoing, nothing in this Section 6.06 shall require, or be construed to require, (i) Buyer to agree to (A) sell, hold, divest, discontinue, or limit, before or after the Closing Date, any assets, businesses, or interests of Buyer or (B) any conditions relating to, or changes or restrictions in, the operations of any such assets, businesses, or interests which, in either case, would reasonably be expected to result in a Material Adverse Effect or materially and adversely impact the economic or business benefits to Buyer of the transactions contemplated by this Agreement and the Ancillary Documents; or (ii) either party to agree to any material modification or waiver of the terms and conditions of this Agreement.

(f) In addition to and without limiting the foregoing, Buyer and Seller will use commercially reasonable efforts to cooperate (including, in the case of Buyer, with respect to describing Buyer's financing information) and advocate to obtain an order from the RCA approving, as part of the transactions to be consummated hereby, the amendment of the certificate of public convenience and necessity of each of Buyer and Seller to reflect the transactions to be consummated hereby, which order includes approval of (A) recovery by Buyer in future rates of: (i) the Upfront Payment, all of any acquisition adjustment contained therein and the financing costs related to the Upfront Payment; (ii) payments under the PILT Agreement; (iii) payments made under the Eklutna Power Purchase Agreement, (iv) the pass-through of BRU costs of production as contemplated in the BRU Fuel Agreement (other than as contemplated in Section 2.01(ii) of the BRU Fuel Agreement) (payments under the PILT Agreement, the Eklutna Power Purchase Agreement and the cost of production pass-through referenced in the BRU Fuel Agreement (other than in Section 2.01(ii) of the BRU Fuel Agreement) to be recovered as Buyer operating expenses (with no margin added to the payment amount)), and (v) the integration costs after Closing, and (B) the Eklutna Power Purchase Agreement itself; and which order from the RCA shall not contain any condition or conditions materially adverse to either Buyer or Seller, as determined by each of Buyer or Seller with respect to itself in good faith and in the exercise of its commercially reasonable business judgment ("**RCA Approval**"). In addition, Buyer and Seller will use commercially reasonable efforts to cooperate and advocate to obtain an order from the RCA approving, as part of the transactions to be consummated hereby, (X) recovery by Buyer in future rates of the

costs associated with consummating the transactions and (Y) Buyer's use of BRU gas as contemplated in Section 2.01(ii) of the BRU Fuel Agreement, and crediting of the proceeds of such use to ML&P's Deferred Regulatory Liability from Gas Sales account for the benefit of retail customers of Buyer within the ML&P legacy service area. Buyer and Seller shall jointly submit a petition for RCA Approval within seventy-five (75) days after the date hereof.

(g) In addition to providing the cooperation provided for in Section 6.06(f), Buyer will, not later than the initial submission to obtain RCA Approval, and periodically thereafter, share with Seller and ML&P such financing information as is reasonably requested by Seller of the financing for Buyer's acquisition of the Purchased Assets, it being understood that Seller and its Representatives will look to Buyer's publically available SEC reports and ratings to primarily assess 'Buyer's financial condition and ability to finance the acquisition. Notwithstanding the foregoing, Buyer shall not be required to provide to Seller any fee letters or engagement letters relating to the Debt Financing.

Section 6.07 Books and Records.

(a) In order to facilitate the resolution of any claims made against or incurred by Seller prior to the Closing, or for any other reasonable purpose, for a period of four (4) years after the Closing, Buyer shall:

(i) retain the Books and Records (including personnel files) relating to periods prior to the Closing in a manner reasonably consistent with the prior practices of Seller; and

(ii) upon reasonable notice, afford Seller's Representatives reasonable access (including the right to make, at Seller's expense, photocopies), during normal business hours, to such Books and Records.

(b) In order to facilitate the resolution of any claims made by or against or incurred by Buyer after the Closing, or for any other reasonable purpose, for a period of four (4) years following the Closing, Seller shall:

(i) retain the books and records (including personnel files) of Seller which relate to the Business and its operations for periods prior to the Closing; and

(ii) upon reasonable notice, afford the Buyer's Representatives reasonable access (including the right to make, at Buyer's expense, photocopies), during normal business hours, to such books and records.

(c) Neither Buyer nor Seller shall be obligated to provide the other party with access to any books or records (including personnel files) pursuant to this Section 6.07 where such access would violate any Law.

Section 6.08 Closing Conditions. From the date hereof until the Closing, each party hereto shall use commercially reasonable efforts to take such actions as are reasonably necessary to expeditiously satisfy the closing conditions set forth in ARTICLE VII hereof.

Section 6.09 Public Announcements.

(a) Neither party may issue any formal written press release or engage in any organized press conference regarding this Agreement unless such press release is issued jointly by the parties or such press conference is conducted jointly by the parties or, before (i) release by a party of any such press release, such party furnishes the other party with a copy of such press release and obtains the approval of the other party for issuance of such press release, or (ii) engaging in any such organized press conference, such party obtains the approval of the other party for such press conference. Such approval shall not, in either such case, be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, neither party will be prohibited from issuing any such press release or engaging in such press conference, without obtaining approval from the other party, if issuing such press release or engaging in such press conference is required in order to comply with applicable Law or legal proceedings. The restrictions imposed by this Section 6.09(a) on issuing press releases or engaging in press conferences shall (x) in the case of Seller, apply only to the Mayor's office and the leadership of ML&P and shall not in any event apply to the Assembly of Seller, any member of the Assembly of Seller, or any other individual who has been elected to office in Seller and (y) not apply to either party in the event that the other party is in breach of any of its obligations under this Agreement. Seller shall use its reasonable efforts to persuade any Person not subject to the provisions of this Section 6.09(a) pursuant to the previous sentence to comply with the obligations in this Agreement and in any event shall not encourage or assist any such Person to take actions contrary to the intent of this Section 6.09(a).

(b) Neither Seller nor Buyer shall at any time make, with respect to the transactions to be consummated by this Agreement, publish, or communicate to any Person in any public forum any defamatory or maliciously false remarks, comments, or statements concerning the other party or any of its employees, officers, officials, or directors ("**Restricted Comments**"). The restrictions imposed by this Section 6.09(b) on Restricted Comments shall, in the case of Seller, apply only to the Mayor's office and the leadership of ML&P and shall not in any event apply to the Assembly of Seller, any member of the Assembly of Seller, or any other individual who has been elected to office in Seller. Seller shall use its reasonable efforts to persuade any Person not subject to the provisions of this Section 6.09(b) pursuant to the previous sentence to comply with the obligations in this Agreement and in any event shall not encourage or assist any such Person to take actions contrary to the intent of this Section 6.09(b).

Section 6.10 Bulk Sales Laws. The parties hereby waive compliance with the provisions of any bulk sales, bulk transfer, or similar Laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Purchased Assets to Buyer; it being understood that any Liabilities arising out of the failure of Seller to comply with the requirements and provisions of any

bulk sales, bulk transfer, or similar Laws of any jurisdiction that would not otherwise constitute Assumed Liabilities shall be treated as Excluded Liabilities.

Section 6.11 Receivables. From and after the Closing, if Buyer receives or collects any funds relating to any Accounts Receivable, Buyer shall promptly remit such funds to Seller.

Section 6.12 Transfer Taxes. All transfer, documentary, sales, use, stamp, registration, value added and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement and the Ancillary Documents (including any real property transfer Tax and any other similar Tax) shall be borne and paid in equal shares (50% each) by Seller and Buyer without regard to which party files and pay such Taxes and fees or is required by any Governmental Authority to file and pay such Taxes and fees; *provided* that Buyer shall pay all such Taxes and fees if such Tax or fee is assessed solely because of Buyer's status as a non-Governmental Authority.

Section 6.13 Financing Assistance.

(a) Buyer shall use its commercially reasonable efforts to take, or cause to be taken, all actions and do, or cause to be done, all things necessary, advisable, or proper to obtain the Debt Financing on or prior to the Closing Date. Buyer shall give Seller prompt written notice if and when Buyer becomes aware that any portion of the Debt Financing may not be available for the purposes of consummating the transactions contemplated by this Agreement. Buyer shall keep Seller informed on a reasonably current basis with reasonably detailed information about the status of Buyer's efforts to obtain the Debt Financing. Buyer shall not take any action that would reasonably be expected to materially delay or prevent the consummation of the transactions contemplated hereby, including the Debt Financing.

(b) Seller shall use its commercially reasonable efforts to cause its officials, employees, attorneys, accountants, and other Representatives to provide all customary cooperation that is reasonably requested by Buyer and reasonably necessary to arrange for and obtain the Debt Financing, to the extent that the participation by members of management of Seller is reasonably necessary in connection therewith. Seller shall provide such commercially reasonable assistance as is customarily provided for in financings of the type contemplated by the Debt Financing, including using commercially reasonable efforts, at Buyer's cost and expense, in (i) (A) designating one or more members of senior management of Seller to participate in, at reasonable times and upon reasonable notice, a reasonable number of investor presentations and rating agency materials and presentations and (B) assisting with the preparation of customary offering documents and materials of Buyer, including private placement or offering memoranda, bank information memoranda, bank syndication material and packages, and similar documents and materials, in connection with the Debt Financing (all such documents and materials, collectively, the "**Offering Documents**"), (ii) furnishing to Buyer all ML&P Information (including execution of customary authorization and management representation letters) as may be reasonably requested by Buyer to assist in the preparation of the Offering Documents, (iii) providing information that is reasonably available or readily obtainable regarding Seller to assist Buyer in preparing Buyer's pro

forma financial statements to the extent specified by SEC Regulation S-X, and designating, upon request, whether any such information is suitable to be made available to lenders and other investors who do not wish to receive material non-public information, (iv) designating one or more members of senior management of Seller to participate, at reasonable times and upon reasonable notice, in due diligence sessions, drafting sessions, management presentations, rating agency presentations (subject to customary confidentiality provisions), lender meetings (including one-on-one meetings), and one or more road shows, (v) requesting ML&P's independent auditors to cooperate reasonably with Buyer's independent auditors, participate in customary accounting due diligence sessions, and provide customary accountant's comfort letters and consents that are used in any offering document for the Debt Financing, and (vi) assisting in the preparation of, and executing and delivering at the Closing, definitive documents related to the Debt Financing and other customary certificates and documents as may be reasonably requested by Buyer.

(c) Notwithstanding anything to the contrary contained in this Section 6.13, nothing in this Section 6.13 shall require any such cooperation to the extent that it would (i) require Seller to pay any commitment or other fees, reimburse any expenses or otherwise incur any liabilities or give any indemnities, (ii) unreasonably interfere with the Business, (iii) require Seller to enter into or approve any agreement or other documentation or agree to any change or modification of any existing agreement or other documentation, (iv) require Seller to prepare pro forma financial statements or pro forma adjustments reflecting the Debt Financing or the transactions contemplated by this Agreement (*provided* that Seller shall otherwise cooperate with the preparation of such pro forma financial statements and pro forma adjustments prepared by Buyer), (v) require Seller to approve or authorize the Debt Financing, or (vi) require Seller to cause the delivery of (A) legal opinions or reliance letters or any certificate as to solvency or any other certificate necessary for the Debt Financing, other than accountants' customary comfort letters as contemplated by clause (v) of Section 6.13(b), (B) any audited financial information or any financial information prepared in accordance with Regulation S-K or Regulation S-X under the Securities Act of 1933, or any financial information, in each case, in a form not customarily prepared by Seller with respect to any period (*provided*, that for the avoidance of doubt, the foregoing clause (B) shall not be relied upon to prevent Seller from delivering its year-end audited financial statements or quarterly unaudited financial statements to the extent otherwise required by this Agreement or assisting Buyer reasonably in preparing necessary information) or (C) any financial information with respect to a month or fiscal period that has not yet ended or that has ended less than 90 days, or less than 210 days in the case of an annual period, prior to the date of such request.

(d) Buyer shall (i) promptly reimburse Seller for all reasonable out-of-pocket costs or expenses (including reasonable and documented costs and expenses of counsel and accountants) incurred by Seller or any of its Representatives in connection with any cooperation provided for in this Section 6.13, and (ii) indemnify and hold harmless Seller and each and all of its Representatives from and against any Losses incurred as a result

of, or in connection with, any cooperation provided for in this Section 6.13 or the Debt Financing and any information used in connection therewith, unless Seller acted in bad faith or with gross negligence and other than in the case of fraud.

Section 6.14 Shared Intellectual Property and Jointly Used Assets.

(a) If Buyer determines that it requires the use of any Intellectual Property that is deemed important by Seller to its other business units, Seller will, subject to obtaining any required licensor consent, license use of the property to Buyer upon terms satisfactory to the parties; *provided* that Buyer shall be responsible for obtaining any required licensor consent.

(b) With respect to assets used jointly by ML&P and Seller (e.g., communication equipment or facilities and joint easements and the network control system for LED street lights referred to in clause (v) of the definition of Shared Facilities and Assets), Seller will, subject to obtaining any required third party consents, use commercially reasonable efforts to cause arrangements to be entered into that provide Buyer with the right to use such assets upon terms satisfactory to the parties. Seller and Buyer shall use commercially reasonable efforts to cooperate to develop a protocol for mutual use of the network control system for LED street lights.

Section 6.15 Capital Credit Allocations and Retirements. As a cooperative member, Seller will receive annual capital credit allocations in accordance with Buyer's bylaws. Buyer will exercise its commercially reasonable efforts to pursue alternative capital credit retirement methods, to include hybrid last in, first out (LIFO), first in, first out (FIFO) methods to recognize new members.

Section 6.16 Utility Rates; Balancing Accounts.

(a) Buyer will take such actions, including the use of Cost of Power and Non-Cost of Power ratemaking allocation methods that are consistent with those used by Seller prior to the Closing, as are reasonably necessary and appropriate to ensure that the Non-Cost of Power Adjustment rates for any Persons that are ratepayers of ML&P or Seller as of the Closing Date will not increase as a result of the transactions contemplated by this Agreement.

(b) Prior to the Closing, Seller and Buyer shall use commercially reasonable efforts to work together to develop balancing accounts or other procedures for customer bills for the month of the Closing so that customers will not be double billed for any charges (including customer fees or demand charges).

Section 6.17 Financial Information.

(a) Seller shall use commercially reasonable efforts to deliver to Buyer audited financial statements not later than July 1 following the end of each fiscal year during the Interim Period and unaudited quarterly financial statements (including financial statements for the comparative period for the prior year) not later than sixty (60)

days following the end of each fiscal quarter during the Interim Period that meet the requirements of GAAP. Seller shall provide Buyer with monthly financial statements when available. Seller shall provide Buyer with financial statements for the quarter ended March 31, 2018 by not later than January 31, 2019, financial statements for the quarter ended June 30, 2018 by not later than March 31, 2019, and financial statements for the quarter ended September 30, 2018 by not later than May 31, 2019. All such financial statements shall be materially consistent with the Audited Financial Statements.

(b) Seller shall, and shall use commercially reasonable efforts to cause its independent auditors to, assist Buyer in preparing all necessary financial statements and financial information with respect to ML&P that meet the requirements of Item 9.01 of Form 8-K promulgated by the SEC that permits Buyer to timely file a Form 8-K pursuant to Item 2.01 of Form 8-K following the Closing. Such efforts shall include delivering the financial statements referred to in Section 6.17(a) sufficiently in advance of Closing so that Buyer can timely file the referenced Form 8-K with the SEC. Seller shall execute all release letters and other documents that are reasonably necessary to permit its independent auditors to assist Buyer and issue audit opinions on ML&P financial statements and consent to the filing of ML&P financial statements with the SEC and be incorporated by reference into any Buyer filing. Any re-audit of ML&P financial statements in accordance with accounting principles issued by the Financial Accounting Standards Board shall be at the cost and expense of Buyer.

(c) Buyer shall use commercially reasonable efforts to cause its independent auditors to deliver any consent required by Buyer that is required by Law or the rules and regulations of the SEC.

Section 6.18 Casualty During the Interim Period.

(a) If a Casualty occurs during the Interim Period, Seller shall give notice to Buyer of such occurrence within sixty (60) days after such occurrence has ended, and shall include in such notice a detailed estimate of the Cure Amount and an estimate of the insurance proceeds that can reasonably be expected to be recovered with respect to such Casualty (described in clause (i) of the definition of Available Proceeds) (the "**Casualty Notice**"). Seller shall cooperate reasonably with Buyer in providing information to and responding to any questions that Buyer has regarding the Casualty and the Cure Amount, including providing Buyer and its Representatives (i) access, in accordance with the provisions of Section 6.02(a), to the property subject to the Casualty and (ii) all correspondence and reports regarding the amount of the casualty loss and available insurance.

(b) If a Casualty occurs during the Interim Period:

(i) If Seller estimates in the Casualty Notice that the Cure Amount will not exceed the sum of the Maximum Uncovered Loss Amount plus the insurance proceeds with respect to such Casualty (described in clause (i) of the definition of Available Proceeds) that have been collected or are collectible by

Seller, then Seller shall have the right to elect, by giving notice to Buyer within thirty (30) days after Seller has given the Casualty Notice to Buyer, to either:

(1) extend the Closing Date to permit Seller to: (A) repair or replace the Purchased Assets and the Eklutna Generation Assets that were damaged or destroyed as a result of the Casualty; and (B) attempt to obtain the proceeds with respect to such Casualty described in clause (ii) of the definition of Available Proceeds; or

(2) proceed to the Closing under this Agreement, *provided* that all other conditions to the Closing have been satisfied or waived in accordance with the terms of this Agreement.

(ii) If Seller estimates in the Casualty Notice that that the Cure Amount will exceed the sum of the Maximum Uncovered Loss Amount plus the insurance proceeds with respect to such Casualty (described in clause (i) of the definition of Available Proceeds) that have been collected or are collectible by Seller, then Buyer will have the right to elect, by giving notice to Seller within thirty (30) days after Seller has given Buyer the Casualty Notice, to either:

(1) terminate this Agreement, in which case this Agreement will be deemed to have terminated five (5) days after such notice of termination is given; or

(2) extend the Closing Date to permit Seller to: (A) repair or replace the Purchased Assets and the Eklutna Generation Assets that were damaged or destroyed as a result of the Casualty; and (B) exercise good faith reasonable efforts during the period prior to the Closing Date to collect Available Proceeds with respect to such Casualty, in accordance with Seller's Past Practice during similar Casualty events.

(iii) If Seller makes an election under Section 6.18(b)(i)(1): (A) Seller shall have the right, in its reasonable discretion, to determine the period of such extension of the Closing Date (such period not to exceed one year); (B) Seller shall repair or replace the Purchased Assets that were damaged or destroyed as a result of the Casualty so that ML&P and the Business will operate in accordance with Seller's Past Practice; and (C) Seller shall exercise commercially reasonable efforts during the period prior to the Closing Date to collect Available Proceeds, in accordance with Seller's Past Practice during similar Casualty events.

(iv) If Seller makes an election under Section 6.18(b)(i)(2): (A) Seller shall repair or replace the Purchased Assets and the Eklutna Generation Assets that were damaged or destroyed as a result of the Casualty so that ML&P and the Business will operate in accordance with Seller's Past Practice; (B) the Closing shall occur on the Closing Date, *provided* that all of the other conditions to the Closing have been satisfied or waived in accordance with the terms of this

Agreement; and (C) Seller shall exercise commercially reasonable efforts during the period prior to the Closing Date to collect Available Proceeds, in accordance with Seller's Past Practice during similar Casualty events.

(v) If Buyer makes an election under Section 6.18(b)(ii)(2): (A) Seller shall have the right, in its reasonable discretion, to determine the period of such extension of the Closing Date (such period not to exceed one year); (B) Seller shall repair or replace the Purchased Assets and the Eklutna Generation Assets that were damaged or destroyed as a result of the Casualty so that ML&P and the Business will operate in accordance with Seller's Past Practice; (C) Seller shall exercise commercially reasonable efforts during the period prior to the Closing Date to collect Available Proceeds, in accordance with Seller's Past Practice during similar Casualty events; (D) Buyer shall at the Closing pay, reimburse Seller for, and hold Seller harmless from and against the reasonable costs of any such repairs or replacements made by Seller in accordance with Prudent Utility Practices that exceed the sum of (1) the Available Proceeds that have been collected by Seller and (2) the Maximum Uncovered Loss Amount, and (E) Seller shall pay to Buyer any shortfall in Available Proceeds set forth in the Casualty Notice.

(c) Closing Before Completion of Repairs.

(i) If the Closing occurs under the terms of Section 6.18(b)(i) before all of the repairs or replacements have been made to the damaged or destroyed Purchased Assets or the Eklutna Generation Assets, then (i) at the Closing, Seller will stop conducting such repairs and replacements and will assign to Buyer all Contracts with respect to such repairs or replacements that have not been completed, or as to which payment in full has not been made by Seller, and Buyer shall assume all of such Contracts as Assumed Liabilities (subject to Buyer's prior approval of such Contracts, which approval shall not be unreasonably withheld, conditioned, or delayed); (ii) at the Closing, to the extent permitted by applicable Law, Seller shall pay to Buyer any Available Proceeds that have been collected by Seller and that have not been expended by Seller in connection with such repairs and replacements; (iii) after the Closing, to the extent permitted by applicable Law, Seller shall be entitled to pursue and retain any Available Proceeds for any repairs or replacements expenses incurred by Seller or Buyer in connection with such Casualty; (iv) Buyer shall complete any remaining repairs; and (v) Seller shall reimburse Buyer for all reasonable costs associated with such repairs in accordance with Prudent Utility Practices to the extent such costs exceed any Available Proceeds paid to Buyer under clause (ii) above.

(ii) If the Closing occurs under the terms of Section 6.18(b)(ii)(2) before all of the repairs or replacements have been made to the damaged or destroyed Purchased Assets or the Eklutna Generation Assets, then (i) at the Closing, Seller will stop conducting such repairs and replacements and will assign to Buyer all Contracts with respect to such repairs or replacements that have not

been completed, or as to which payment in full has not been made by Seller, and Buyer shall assume all of such Contracts as Assumed Liabilities (subject to Buyer's prior approval of such Contracts, which approval shall not be unreasonably withheld, conditioned, or delayed); (ii) at the Closing, to the extent permitted by applicable Law, Seller shall pay to Buyer any Available Proceeds that have been collected by Seller and that have not been expended by Seller in connection with such repairs and replacements; (iii) after the Closing, to the extent permitted by applicable Law, Buyer shall be entitled to retain, and Seller and Buyer shall jointly pursue for Buyer's benefit, any Available Proceeds for any repairs or replacements expenses incurred by Buyer in connection with such Casualty; and (iv) Buyer shall be solely responsible for the completion of any remaining repairs or replacements and any and all costs associated with such repairs and replacements.

(d) Right to Inspect. Buyer and Buyer's Representatives shall, upon reasonable notice and at reasonable times, be entitled, in accordance with the provisions of Section 6.02(a), to inspect and observe any repairs and replacements performed or provided by Seller under this Section 6.18.

(e) Dispute as to Estimate of Cure Amount. If Buyer disputes the estimated Cure Amount set forth in any Casualty Notice, Buyer shall provide Seller with notice of such dispute within thirty (30) days after such Casualty Notice has been given to Buyer and shall include in such notice a detailed breakdown of Buyer's estimate of the Cure Amount with respect to such Casualty. During the fifteen (15)-day period after Buyer gives Seller such dispute notice, Seller and Buyer shall use reasonable efforts to resolve such dispute. If Seller and Buyer have not resolved such dispute during such fifteen (15)-day period, then Seller and Buyer shall submit the disputed items related to the estimate of the Cure Amount to a utility consultant reasonably acceptable to Seller and Buyer that has expertise in evaluating casualty losses, which consultant shall act as an expert and not as an arbitrator. The utility consultant shall issue its final decision on the disputed items in writing to Seller and Buyer within thirty (30) days after such disputed items have been submitted to the consultant, and such final decision shall, absent manifest error, be binding on both parties as to the estimate of the Cure Amount with respect to the Casualty. Buyer and Seller shall each pay 50% of such consultant's engagement fees and expenses. Any dispute under this Section 6.18(e) shall toll the applicable time limits set forth in this Section 6.18 until the resolution of such dispute under this Section 6.18(e).

Section 6.19 Eminent Domain. If, before the Closing, all or any portion of the Purchased Assets or the Eklutna Generation Assets material to the operation of ML&P and the Business is taken by eminent domain or is the subject of a pending taking that has not yet been consummated, Seller shall give notice to Buyer promptly of such taking or pending taking. Seller shall use such commercially reasonable efforts to replace any Purchased Assets or the Eklutna Generation Assets subject to the eminent domain action as Seller shall deem reasonably necessary for the continued operation of ML&P and the Business in accordance with Seller's Past Practices. If such portion of the Purchased Assets and the Eklutna Generation Assets has a net book value of $10,000,000 or greater, and such proceeding or

replacement is not substantially completed by the Closing, Buyer may elect, by giving notice thereof to Seller, to: (a) terminate this Agreement; (b) proceed to Closing and receive any condemnation award for the taking; or (c) extend the Closing Date by not more than twelve (12) months in order to permit Seller to replace any Purchased Assets or Eklutna Generation Assets subject to the eminent domain action as Seller shall deem reasonably necessary for the continued operation of ML&P in accordance with Seller's Past Practices.

Section 6.20 Leased Property. For the leased equipment or real property set forth in Section 6.20 of the Disclosure Schedules, Buyer shall make any payments required to terminate, assign, or sublease any such equipment or real property lease and shall be responsible, at its sole cost and expense, for obtaining any required lessor consents to such termination, assignment, or sublease.

Section 6.21 Confirmation of Compliance with Requirements of Ordinance and Proposition 10.

(a) Buyer covenants and agrees that it will comply in full with all applicable requirements of Ordinance No. 2018-1(S) of the Anchorage Assembly (the "**Ordinance**") and all applicable requirements of the ballot proposition presented to voters of Seller in connection with the Ordinance ("**Proposition 10**"). Without limiting the foregoing or any other provision of this Agreement, in furtherance of the requirements of the Ordinance and Proposition 10, Buyer covenants and agrees that, for a period of ten (10) years after the Closing Date, Buyer will provide to Seller, not later than thirty (30) days following each anniversary of the Closing Date, a written confirmation from a duly authorized officer of Buyer in the form attached hereto as Exhibit O.

(b) Buyer covenants and agrees that the rights and remedies of Seller for any noncompliance by Buyer with the requirements of the Ordinance and Proposition 10 and with the requirements of this Section 6.21 shall include having such provision specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach shall cause irreparable injury to Seller and that money damages would not provide an adequate remedy to Seller.

Section 6.22 Schedule Updates. On or prior to the Closing Date, Seller shall promptly deliver to Buyer supplemental information concerning events or circumstances occurring subsequent to the date hereof that would, in Seller's reasonable judgment, cause the closing condition in Section 7.02(a) not to be met. No such supplemental information shall be deemed to avoid or cure any misrepresentation or breach of warranty or constitute an amendment of any representation, warranty, or statement in this Agreement or the applicable Disclosure Schedule; *provided* that if such supplemental information relates to an event or circumstance occurring subsequent to the date hereof that would permit Buyer to terminate this Agreement as a result of the information so disclosed and Buyer does not exercise such termination right prior to the Closing, then such supplemental information shall constitute an amendment of the representation, warranty, or statement to which it relates for purposes of ARTICLE VIII. In addition to the foregoing, Seller shall have the right to update any Disclosure Schedule (a) to disclose any event, condition, fact, or circumstance occurring after the date of this Agreement that is not material that occurred in the ordinary course and did not involve or result from a violation of Law, torts, breach of Contract, or failure to perform or comply with any covenant or

agreement of Seller contained in this Agreement, and (b) otherwise, with the approval of Buyer, which approval shall not be unreasonably withheld, conditioned, or delayed, to reflect matters that, individually and in the aggregate, are not material, and such updated Disclosure Schedule shall in each case constitute an amendment of the representation, warranty, or statement to which it relates for purposes of ARTICLE VIII.

Section 6.23 Eklutna Public Water Supply. Seller shall not amend, extend, supplement or otherwise modify the Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska executed on February 17, 1984 between the Alaska Power Administration and Seller, as such agreement has been amended and supplemented to date.

Section 6.24 Delivery of Books and Records. Not later than 30 days following the Closing, Seller will transfer all Books and Records stored at Designated Excluded Assets to other locations, as designated by Buyer, that are included in the Purchased Assets.

Section 6.25 Parkland Substations. Seller shall use commercially reasonable efforts to obtain voter approval in accordance with AMC 25.30.020D for the grant to Buyer, without the payment of any additional consideration over and above the Purchase Price, of perpetual easements permitting the exercise of any rights and actions that are required for Buyer to operate the Parkland Substations. Without limiting the foregoing, if such voter approval is not obtained prior to the Closing, Seller shall at the Closing grant to Buyer a Parkland Use Permit for each Parkland Substation and shall thereafter while Buyer has a continuing need for such Parkland Use Permit, unless and until such voter approval is obtained, use commercially reasonable efforts to renew such Parkland Use Permit, in each case prior to the expiration thereof. If Seller at any time terminates or fails to renew any such Parkland Use Permit for any reason other than breach by Buyer of any of its obligations under such Parkland Use Permit, Buyer in its sole discretion shall have the option to relocate the Parkland Substation that is the subject of such Parkland Use Permit, and if Buyer exercises such option, Seller shall have the obligation to reimburse and indemnify Buyer in accordance with the provisions of this Agreement for the reasonable out-of-pocket costs reasonably incurred by Buyer for such relocation (including all such costs incurred in removing and rebuilding the applicable Parkland Substation, restoring the affected parkland property, and interconnecting the applicable Parkland Substation to Buyer's system upon completion of the move).

Section 6.26 Grants of Easements by Seller to Buyer.

(a) If Buyer reasonably requires the grant of any easement or right-of-way across land of Seller, other than municipal land formally dedicated to permanent or long-term park or recreational purposes, for the exercise of any rights and actions that are required for Buyer to use, maintain, and operate any Purchased Assets after the Closing in the manner used, maintained, and operated by Seller immediately prior to the Closing, Seller shall, subject to and in accordance with any requirements of applicable Law (including the AMC), and without the payment of any additional consideration over and above the Purchase Price, grant to Buyer such easement or right-of-way on Seller's customary terms and conditions.

(b) If Buyer reasonably requires the grant of any easement or right-of-way across municipal land formally dedicated to permanent or long-term park or recreational purposes for the exercise of any rights and actions that are required for Buyer to use, maintain, and operate any Purchased Assets after the Closing in the manner used, maintained, and operated by Seller immediately prior to the Closing, Seller shall use commercially reasonable efforts to obtain voter approval in accordance with AMC 25.30.020D for the grant to Buyer, without the payment of any additional consideration over and above the Purchase Price, of such easement or right-of-way. Without limiting the foregoing, unless and until such voter approval is obtained, Seller shall grant to Buyer in place of such irrevocable perpetual easement or right-of-way, without the payment of any additional consideration over and above the Purchase Price, a revocable permit, license, right-of-way, or easement under AMC 25.30.020C, on Seller's customary terms and conditions, to enable Buyer to operate the Purchased Assets in the manner operated by Seller immediately prior to the Closing, and shall thereafter while Buyer has a continuing need for such permit, license, right-of-way, or easement, unless and until such voter approval is obtained, use commercially reasonable efforts to renew such revocable permit, license, right-of-way, or easement, in each case prior to the expiration thereof.

Section 6.27 ARRC Modifications.

(a) Seller shall use commercially reasonable efforts to enter into the following arrangements with ARRC prior to the Closing (including any required consents of ARRC to assignment of such arrangements to Buyer in connection with the transactions contemplated by this Agreement) (the "**ARRC Modifications**"), in each case on terms that, taken as a whole, are no less favorable to the lessee or permit holder (as the case may be) than the terms of the lease between ARRC and Seller for the parcel on which Substation 13 is located (ARRC Contract No. 6108) and otherwise are acceptable to Seller in the exercise of its reasonable discretion:

(i) as a replacement for ARRC Contract No. 4565 and related supplements, a lease having a term not less than five (5) years, with an option on the part of Seller to extend such term for at least one additional term of not less than three (3)-to-five (5) years, for the parcel on First Avenue on which ML&P Plant 1 and the associated switchyard are located;

(ii) an extension of the Permit to cross ARRC track to access ML&P Plant 1 (ARRC Contract No. 7021, effective July 1, 1995) between ARRC and Seller for a term of not less than five (5) years, with an option on the part of Seller to extend such term for at least one additional term of not less than three (3)-to-five (5) years;

(iii) as a replacement for ARRC Contract No. 7634, a lease having a term of not less than five (5)-to-six (6) years for the leased parcel on Second Avenue on which ML&P Substation 9A is located, to permit relocation of Substation 9A (to Substation 3 at 2nd Avenue and Barrow); and

(iv) an extension of the Blanket Permit (ARRC Contract No. 5980 and related supplements) between ARRC and Seller for a term of not less than five (5) years, with an option on the part of Seller to extend such term for at least one additional term of not less than three (3)-to-five (5) years.

(b) If any ARRC Modification shall not be obtained or if any ARRC Modification would be ineffective or would impair Buyer's rights under the Purchased Asset in question so that Buyer would not in effect acquire the benefit of all such rights, Seller, to the maximum extent reasonably permitted by applicable Law and the Purchased Asset, shall act after the Closing as Buyer's agent in order to obtain for it the benefits thereunder and shall cooperate reasonably, to the maximum extent reasonably permitted by applicable Law and the Purchased Asset, with Buyer in any other reasonable arrangement designed to provide such benefits to Buyer. Notwithstanding any provision in this Section 6.27 to the contrary, Buyer shall not be deemed to have waived its rights under Section 7.02(s) hereof unless and until Buyer either provides written waivers thereof or elects to proceed to consummate the transactions contemplated by this Agreement at Closing.

Section 6.28 Compliance with ML&P Overhead Distribution Line Undergrounding Program. Buyer shall, with respect to undergrounding by Buyer of overhead distribution lines in the Service Territory between the Closing Date and December 31, 2024, comply, as and to the extent required by AMC 21.07.050, with the provisions of the five-year undergrounding program adopted by ML&P pursuant to AMC 21.07.050F for undergrounding of overhead distribution lines as in effect on the Closing Date.

Section 6.29 Delivery of Real Property and Environmental Documents; Cooperation with Respect to Real Property Transfers.

(a) Seller shall, not later than 30 days after RCA Approval, provide Buyer with copies of all easements granted to Seller prior to 2002 and copies of all documents described in Section 4.18(j) that were not provided or otherwise made available to Buyer in accordance with the provisions of Section 4.18(j) prior to the date of this Agreement.

(b) Seller and Buyer shall cooperate reasonably to prepare legal descriptions and other documentation required for the transfer from Seller to Buyer of all Owned Real Property and Other Real Property Interests included in the Purchased Assets.

Section 6.30 Determination of Status of Eklutna Transmission Assets as Purchased Assets or Excluded Assets. Seller and Buyer agree that if MEA has not, on or before March 1, 2019, consented, in accordance with the provisions of Section 1 of the Agreement for Extension of 1996 Eklutna Hydroelectric Project Transition Plan dated October 2, 1997 by and among Seller, Buyer, and MEA, to the sale by Seller to Buyer under this Agreement of all undivided interests, rights, and title of Seller in and to the Eklutna Transmission Assets, (i) the Eklutna Transmission Assets will be deemed to be Excluded Assets rather than Purchased Assets for purposes of this Agreement, (ii) each reference in this Agreement to the Eklutna Generation Assets will be deemed to include the Eklutna Transmission Assets, (iii) the "Facility" under the Eklutna Power Purchase Agreement will be deemed to include the

Eklutna Transmission Assets and the "Seller's Interest" under the Eklutna Power Purchase Agreement will be deemed to include all undivided interests, rights, title, and obligations of Seller in and to the Eklutna Transmission Assets, including for purposes of the Purchase Option under Section 14.3 of the Eklutna Power Purchase Agreement, and (iv) Seller will execute such reasonable additional documents, instruments and assurances and take such additional actions as are reasonably necessary and appropriate in order to confirm Buyer's rights to use Seller's rights and interests in and to the Eklutna Transmission Assets in connection with the Eklutna Power Purchase Agreement, including execution and delivery of one or more transmission service agreements for such purposes.

Section 6.31 Further Assurances. Following the Closing, each of the parties hereto shall execute and deliver such additional documents (including a mutually acceptable transition services agreement, if Buyer wishes Seller to provide transition services to Buyer after the Closing), instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement and the Ancillary Documents.

ARTICLE VII
CONDITIONS TO CLOSING

Section 7.01 Conditions to Obligations of All Parties. The obligations of each party to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions:

(a) The RCA Approval shall have been received.

(b) No Governmental Authority shall have enacted, issued, promulgated, enforced, or entered any Governmental Order that is in effect and has the effect of making the transactions contemplated by this Agreement illegal, otherwise restraining or prohibiting consummation of such transactions, or causing any of the transactions contemplated hereunder to be rescinded following completion thereof.

(c) Seller shall have received all consents, authorizations, orders, and approvals from the Governmental Authorities referred to in Section 4.03 and Buyer shall have received all consents, authorizations, orders and approvals from the Governmental Authorities referred to in Section 5.03, in each case, in form and substance reasonably satisfactory to Buyer and Seller, and no such consent, authorization, order and approval shall have been revoked.

Section 7.02 Conditions to Obligations of Buyer. The obligations of Buyer to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or Buyer's waiver, at or prior to the Closing, of each of the following conditions:

(a) Other than the representations and warranties of Seller contained in Section 4.01, Section 4.02, Section 4.04, and Section 4.24, the representations and warranties of Seller contained in this Agreement, the Ancillary Documents and any certificate or other writing delivered pursuant hereto shall be true and correct in all

respects (in the case of any representation or warranty qualified by materiality or Material Adverse Effect) or in all material respects (in the case of any representation or warranty not qualified by materiality or Material Adverse Effect) on and as of the date hereof and on and as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects). The representations and warranties of Seller contained in Section 4.01, Section 4.02, Section 4.04, and Section 4.24 shall be true and correct in all respects on and as of the date hereof and on and as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects).

(b) Seller shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement and each of the Ancillary Documents to be performed or complied with by it prior to or on the Closing Date; *provided,* that, with respect to agreements, covenants and conditions that are qualified by materiality, Seller shall have performed such agreements, covenants and conditions, as so qualified, in all respects.

(c) No Action shall have been commenced against Buyer or Seller, which would prevent the Closing. No injunction or restraining order shall have been issued by any Governmental Authority, and be in effect, which restrains or prohibits any transaction contemplated hereby.

(d) All approvals, consents and waivers that are listed on Section 4.03 of the Disclosure Schedules shall have been received, and executed counterparts thereof shall have been delivered to Buyer at or prior to the Closing.

(e) From the date of this Agreement, there shall not have occurred any Material Adverse Effect, nor shall any event or events have occurred that, individually or in the aggregate, with or without the lapse of time, would reasonably be expected to result in a Material Adverse Effect.

(f) Seller shall have delivered to Buyer duly executed counterparts to the Ancillary Documents and such other documents and deliveries set forth in Section 3.02(a).

(g) Buyer shall have received all Permits that are necessary for it to conduct the Business as conducted by Seller as of the Closing Date.

(h) All Encumbrances relating to the Purchased Assets and those listed on Section 4.10(a)(i) of the Disclosure Schedules shall have been released in full, other than Permitted Encumbrances, and Seller shall have delivered to Buyer written evidence, in form satisfactory to Buyer in its sole discretion, of the release of such Encumbrances.

(i) Buyer shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of Seller, that each of the conditions set forth in Section 7.02(a) and Section 7.02(b) have been satisfied (the "**Seller Closing Certificate**").

(j) Buyer shall have received a certificate of the Clerk of Seller certifying that attached thereto are true and complete copies of all resolutions adopted by the assembly of Seller authorizing the execution, delivery and performance of this Agreement and the Ancillary Documents and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby.

(k) Buyer shall have received a certificate of the Clerk of Seller certifying the names and signatures of the officers of Seller authorized to sign this Agreement, the Ancillary Documents and the other documents to be delivered hereunder and thereunder.

(l) Buyer shall have received a certificate pursuant to Treasury Regulations Section 1.1445-2(b) (the "**FIRPTA Certificate**") that Seller is not a foreign person within the meaning of Section 1445 of the Code duly executed by Seller.

(m) Buyer shall have completed the Additional Buyer Due Diligence and the results of such due diligence shall be satisfactory to Buyer in its sole discretion.

(n) Seller shall have delivered an opinion of counsel, from counsel satisfactory to Buyer, in form and substance satisfactory to Buyer, that execution and delivery of the transactions to be consummated hereby will not cause outstanding Bradley Lake Tax Exempt Debt to lose its tax exempt status.

(o) Seller shall have delivered (i) the financial statements referred to in Section 6.17 and (ii) all Updated Financial Statements required by this Agreement, including ML&P's 2018 audited financial statements. Buyer shall have such other financial statements and information it needs that meets the requirements of Item 9.01 of Form 8-K promulgated by the SEC that permits Buyer to file a Form 8-K pursuant to Item 2.01 of Form 8-K following the Closing in a timely manner.

(p) Buyer shall have received the opinion of bond counsel referenced in Section 3.02(c), in the form attached hereto as Exhibit P, and the independent certified public accountant's report referenced in Section 3.02(c).

(q) The IBEW Collective Bargaining Agreement shall be in full force and effect and shall not have expired.

(r) Provided that the Transition Agreement is in full force and effect, Buyer shall have received a certificate of a duly authorized official of Seller certifying that Seller has satisfied each and all of the requirements of AO No. 2018-1(S) that are applicable to Seller.

(s) Seller shall have entered into the ARRC Modifications.

(t) Seller shall have entered into the Co-Location Agreement on terms reasonably acceptable to Buyer, and AWWU shall have consented to the assignment of the Co-Location Agreement by Seller to Buyer effective upon the Closing.

(u) Seller shall have delivered to Buyer such other documents or instruments as Buyer reasonably requests and are reasonably necessary to consummate the transactions contemplated by this Agreement.

Section 7.03 Conditions to Obligations of Seller. The obligations of Seller to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or Seller's waiver, at or prior to the Closing, of each of the following conditions:

(a) Other than the representations and warranties of Buyer contained in Section 5.01, Section 5.02, and Section 5.04, the representations and warranties of Buyer contained in this Agreement, the Ancillary Documents and any certificate or other writing delivered pursuant hereto shall be true and correct in all respects (in the case of any representation or warranty qualified by materiality or Material Adverse Effect) or in all material respects (in the case of any representation or warranty not qualified by materiality or Material Adverse Effect) on and as of the date hereof and on and as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects). The representations and warranties of Buyer contained in Section 5.01, Section 5.02, and Section 5.04 shall be true and correct in all respects on and as of the date hereof and on and as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects).

(b) Buyer shall have duly performed and complied in all material respects with all agreements, covenants, and conditions required by this Agreement and each of the Ancillary Documents to be performed or complied with by it prior to or on the Closing Date; *provided,* that, with respect to agreements, covenants and conditions that are qualified by materiality, Buyer shall have performed such agreements, covenants, and conditions, as so qualified, in all respects.

(c) No injunction or restraining order shall have been issued by any Governmental Authority, and be in effect, which restrains or prohibits any material transaction contemplated hereby.

(d) All approvals, consents, and waivers that are listed on Section 5.03 of the Disclosure Schedules shall have been received, and executed counterparts thereof shall have been delivered to Seller at or prior to the Closing.

(e) Buyer shall have delivered to Seller duly executed counterparts to the Ancillary Documents and such other documents and deliveries set forth in Section 3.02(b).

(f) Seller shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of Buyer, that each of the conditions set forth in Section 7.03(a) and Section 7.03(b) have been satisfied (the "**Buyer Closing Certificate**").

(g) Seller shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Buyer certifying that attached thereto are true and complete copies of all resolutions adopted by the board of directors of Buyer authorizing the execution, delivery and performance of this Agreement and the Ancillary Documents and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby.

(h) Seller shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Buyer certifying the names and signatures of the officers of Buyer authorized to sign this Agreement, the Ancillary Documents and the other documents to be delivered hereunder and thereunder.

(i) Seller shall have completed the Additional Seller Due Diligence and the results of such due diligence shall be satisfactory to Seller in its sole discretion.

(j) Seller shall have received the opinion(s) of bond counsel and the independent certified public accountant's report referred to in Section 3.02(c) in the form attached hereto as Exhibit Q.

(k) Seller shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Buyer certifying that Buyer has satisfied each and all of the requirements of AO No. 2018-1(S) that are applicable to Buyer.

(l) If the Transition Agreement is in full force and effect, Seller shall have received a copy of the Transition Agreement as duly executed by Buyer and the IBEW.

(m) Buyer shall have delivered to Seller such other documents or instruments as Seller reasonably requests and are reasonably necessary to consummate the transactions contemplated by this Agreement.

ARTICLE VIII
INDEMNIFICATION

Section 8.01 Survival. Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein shall survive the Closing and shall remain in full force and effect until the date that is three (3) years from the Closing Date; *provided,* that the representations and warranties in (i) Section 4.01, Section 4.02, Section 4.08, Section 4.24, Section 5.01, Section 5.02,

and Section 5.04 shall survive indefinitely or if shorter for the maximum period allowed by Law, (ii) Section 4.18 shall survive for a period of five (5) years after the Closing or if shorter for the maximum period allowed by Law, and (iii) Section 4.19 and Section 4.21 shall survive for the full period of all applicable statutes of limitations including those statutes of limitations related to the underlying subject matter of the applicable representation or warranty (giving effect to any waiver, mitigation or extension thereof) plus sixty (60) days. All covenants and agreements of the parties contained herein shall survive the Closing indefinitely or for the period explicitly specified therein. To the extent any survival time period set forth herein exceeds the applicable statute of limitations or similar statute or judicial doctrine, each party hereto hereby waives the specific applicability of any such statute of limitations, similar statute, or judicial doctrine. Notwithstanding the foregoing, any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching party to the breaching party prior to the expiration date of the applicable survival period shall not thereafter be barred by the expiration of the relevant representation or warranty and such claims shall survive until finally resolved.

Section 8.02 Indemnification By Seller. Subject to the other terms and conditions of this ARTICLE VIII, and subject to appropriation of the requisite funds by the Assembly of Seller, Seller shall, to the furthest extent permitted by applicable Law, indemnify and defend Buyer and each and all of its Representatives (collectively, the "**Buyer Indemnitees**") against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Buyer Indemnitees based upon, arising out of, with respect to or by reason of:

(a) any inaccuracy in or breach of any of the representations or warranties of Seller contained in this Agreement, the Ancillary Documents, or in any certificate or instrument delivered by or on behalf of Seller pursuant to this Agreement, as of the date such representation or warranty was made or as if such representation or warranty was made on and as of the Closing Date (except for representations and warranties that expressly relate to a specified date, the inaccuracy in or breach of which will be determined with reference to such specified date);

(b) any breach or non-fulfillment of any covenant, agreement, or obligation to be performed by Seller pursuant to this Agreement, or any certificate or instrument delivered by or on behalf of Seller pursuant to this Agreement;

(c) any Excluded Asset or any Excluded Liability;

(d) the Assumed Environmental Liabilities, to the extent, if any, that Losses incurred by Buyer in connection with the same prior to the tenth (10th) anniversary of the Closing Date exceed the amount of $25,000,000 in the aggregate, but not in any event including any Environmental Claims, Liabilities, or Losses arising directly out of any asset retirement obligations or arising solely by reason of Buyer's ownership and operation of the Purchased Assets following the Closing Date.

Nothing in this Section 8.02 shall preclude Buyer from commencing litigation to enforce the provisions of this Section 8.02 and enforcing any related judgement if the requirements for commencement of litigation in this ARTICLE VIII have otherwise been satisfied.

Section 8.03 Indemnification By Buyer. Subject to the other terms and conditions of this ARTICLE VIII, Buyer shall, to the furthest extent permitted by applicable Law, indemnify and defend Seller and each and all of its Representatives (collectively, the "**Seller Indemnitees**") against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Seller Indemnitees based upon, arising out of, with respect to or by reason of:

(a) any inaccuracy in or breach of any of the representations or warranties of Buyer contained in this Agreement or in any certificate or instrument delivered by or on behalf of Buyer pursuant to this Agreement, as of the date such representation or warranty was made or as if such representation or warranty was made on and as of the Closing Date (except for representations and warranties that expressly relate to a specified date, the inaccuracy in or breach of which will be determined with reference to such specified date);

(b) any breach or non-fulfillment of any covenant, agreement, or obligation to be performed by Buyer pursuant to this Agreement or any certificate or instrument delivered by or on behalf of Buyer pursuant to this Agreement;

(c) any Assumed Liability except to the extent that Seller is obligated to indemnify Buyer pursuant to Section 8.02(d) above; or

(d) Buyer's ownership and operation of the Purchased Assets following the Closing, except to the extent of any Losses (i) arising from or constituting an Excluded Liability or (ii) arising out of Seller's operation of the Purchased Assets prior to the Closing Date, except to the extent of any Losses constituting an Assumed Environmental Liability under Section 2.03(d) of this Agreement.

Section 8.04 Certain Limitations. The indemnification provided for in Section 8.02 and Section 8.03 shall be subject to the following limitations:

(a) Seller shall not be liable to the Buyer Indemnitees for indemnification under Section 8.02(a) until the aggregate amount of all Losses in respect of indemnification under Section 8.02(a) exceeds $2,000,000 (the "**Basket**"), in which event Seller shall be required to pay or be liable for all such Losses in excess of the first $1,000,000 of such Losses. The aggregate amount of all Losses for which Seller shall be liable pursuant to Section 8.02(a) shall not exceed $30,000,000 (the "**Cap**").

(b) Buyer shall not be liable to the Seller Indemnitees for indemnification under Section 8.03(a) until the aggregate amount of all Losses in respect of indemnification under Section 8.03(a) exceeds the Basket, in which event Buyer shall be required to pay or be liable for all such Losses in excess of the first $1,000,000 of such

Losses. The aggregate amount of all Losses for which Buyer shall be liable pursuant to Section 8.03(a) shall not exceed the Cap.

(c) Notwithstanding the foregoing, the limitations set forth in Section 8.04(a) and Section 8.04(b) shall not apply to Losses based upon, arising out of, with respect to or by reason of (x) fraud, criminal activity, or willful misconduct of any party hereto or (y) any inaccuracy in or breach of any representation or warranty in Section 4.01, Section 4.02, Section 4.08, Section 4.18, Section 4.19, Section 4.21, Section 4.24, Section 5.01, Section 5.02, or Section 5.04; *provided, however*, that the aggregate amount of all Losses for which either party shall be liable based upon, arising out of, with respect to or by reason of any inaccuracy in or breach of any of the representations or warranties referenced in this clause (y), other than the representations and warranties in Section 4.18, and other than as set forth in clause (x) of this Section 8.04(c), shall not exceed the Upfront Payment; and *provided, further*, that the aggregate amount of all Losses for which Seller shall be liable based upon, arising out of, with respect to or by reason of any inaccuracy in or breach of Section 4.18 shall not, other than as set forth in clause (x) of this Section 8.04(c), exceed the amount of $10,000,000.

(d) For purposes of this ARTICLE VIII, the amount of any Losses caused by, resulting from, or arising out of any inaccuracy in or breach of any representation or warranty shall be determined without regard to any materiality, Material Adverse Effect or other similar qualification contained in or otherwise applicable to such representation or warranty.

Section 8.05 Indemnification Procedures. The party making a claim under this ARTICLE VIII is referred to as the "**Indemnified Party**," and the party against whom such claims are asserted under this ARTICLE VIII is referred to as the "**Indemnifying Party**".

(a) Third Party Claims. If any Indemnified Party receives notice of the assertion or commencement of any Action made or brought by any Person who is not a party to this Agreement or a Representative of the foregoing (a "**Third Party Claim**") against such Indemnified Party with respect to which the Indemnifying Party is obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party written notice thereof as promptly as reasonably practicable, but in any event not later than thirty (30) calendar days after receipt of such notice of such Third Party Claim. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations except and only to the extent that such failure causes the Indemnifying Party to forfeit rights or defenses. Such notice by the Indemnified Party shall describe the Third Party Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have the right to participate in, or by giving written notice to the Indemnified Party, to assume the defense of any Third Party Claim at the Indemnifying Party's expense and by the Indemnifying Party's own counsel, and the Indemnified Party shall cooperate in good faith in such defense; *provided,* that the Indemnifying Party may not elect to assume the defense of such Third Party Claim

unless it agrees in writing that it will be liable for any Losses resulting from the Third Party Claim pursuant to the indemnification provisions of this ARTICLE VIII; *provided, further*, that if the Indemnifying Party is Seller, such Indemnifying Party shall not have the right to defend or direct the defense of any such Third Party Claim that (x) is asserted directly by or on behalf of a Person that is a supplier or customer of the Business, or (y) seeks an injunction or other equitable relief against the Indemnified Party. In the event that the Indemnifying Party assumes the defense of any Third Party Claim, subject to Section 8.05(b), the Indemnifying Party shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third Party Claim in the name and on behalf of the Indemnified Party. If the Indemnifying Party assumes the defense of such Third Party Claim, the Indemnified Party shall have the right to participate in the defense of any such Third Party Claim with counsel selected by it subject to the Indemnifying Party's right to control the defense thereof. The fees and disbursements of such counsel shall be at the expense of the Indemnified Party, *provided,* that if in the reasonable opinion of counsel to the Indemnified Party, (A) there are legal defenses available to an Indemnified Party that are different from or additional to those available to the Indemnifying Party; or (B) there exists a conflict of interest between the Indemnifying Party and the Indemnified Party that cannot be waived, the Indemnifying Party shall be liable for the reasonable fees and expenses of counsel to the Indemnified Party in each jurisdiction for which the Indemnified Party reasonably determines that such counsel is required. If the Indemnifying Party elects not to compromise or defend such Third Party Claim, fails to promptly notify the Indemnified Party in writing of the Indemnifying Party's election to defend as provided in this Agreement, or fails to diligently prosecute the defense of such Third Party Claim, the Indemnified Party may, subject to Section 8.05(b), pay, compromise, and defend against such Third Party Claim and seek indemnification for any and all Losses based upon, arising from, or relating to such Third Party Claim. Seller and Buyer shall cooperate with each other in all reasonable respects in connection with the defense of any Third Party Claim, including making available records relating to such Third Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third Party Claim.

(b) Settlement of Third Party Claims. Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third Party Claim without the prior written consent of the Indemnified Party, except as provided in this Section 8.05(b). If a firm offer is made to settle a Third Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnified Party and provides, in customary form, for the unconditional release of each Indemnified Party from all liabilities and obligations in connection with such Third Party Claim, and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such firm offer within fifteen (15) days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third Party Claim and in

such event, the maximum liability of the Indemnifying Party as to such Third Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such firm offer and also fails to assume defense of such Third Party Claim, the Indemnifying Party may settle the Third Party Claim upon the terms set forth in such firm offer to settle such Third Party Claim. If the Indemnified Party has assumed the defense pursuant to Section 8.05(a)), it shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(c) Direct Claims. Any Action by an Indemnified Party on account of a Loss that does not result from a Third Party Claim (a "**Direct Claim**") shall be asserted by the Indemnified Party giving the Indemnifying Party written notice thereof as promptly as reasonably practicable, but in any event not later than thirty (30) days after the Indemnified Party becomes aware of such Direct Claim. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations except and only to the extent that such failure causes the Indemnifying Party to forfeit rights or defenses. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail, shall include copies of all material written evidence thereof, and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have thirty (30) days after its receipt of such notice to respond in writing to such Direct Claim. The Indemnified Party shall allow the Indemnifying Party and its professional advisors to investigate the matter or circumstance alleged to give rise to the Direct Claim, and whether and to what extent any amount is payable in respect of the Direct Claim and the Indemnified Party shall assist the Indemnifying Party's investigation by giving such information and assistance (including access, upon reasonable advance notice and upon reasonable terms and conditions, to the Indemnified Party's premises and personnel and the right to examine and copy any accounts, documents or records) as the Indemnifying Party or any of its professional advisors may reasonably request. If the Indemnifying Party does not so respond within such thirty (30)-day period, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement.

Section 8.06 Limitation of Liability. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT (INCLUDING INDIRECT DAMAGES IN THE NATURE OF LOST PROFITS OR BUSINESS, DIMINUTION IN VALUE, AND LOSS OF USE), SPECULATIVE, EXEMPLARY, OR PUNITIVE DAMAGES FOR ANY REASON WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT, WHETHER BASED ON STATUTE, CONTRACT, TORT, OR OTHERWISE AND WHETHER OR NOT ARISING FROM THE OTHER PARTY'S SOLE, JOINT, OR CONCURRENT NEGLIGENCE, STRICT LIABILITY OR OTHER FAULT ("**Non-reimbursable Damages**"); *PROVIDED, HOWEVER*, THAT IN NO EVENT SHALL THE FOREGOING LIMITATIONS ON

LIABILITY OR DAMAGES LIMIT THE LIABILITY OF ANY PARTY TO ANY OTHER PARTY FOR THIRD PARTY CLAIMS.

Section 8.07 No Other Representations; Reliance; Effect of Investigation.

(a) Each of Seller and Buyer acknowledges that (i) the other party has not made any representations, warranties, covenants, or agreements, express or implied, with respect to any of the matters that are the subject of this Agreement or any of the other Ancillary Documents, except as expressly made in this Agreement, the Ancillary Documents, or any certificate or instrument delivered by such party pursuant to this Agreement or any Ancillary Document, and (ii) in consummating the transactions described herein, neither party is relying on or has relied on any representation, warranty, covenant, or agreement whatsoever regarding the subject matter of this Agreement or any Ancillary Document, whether express or implied, other than as expressly made in this Agreement, the Ancillary Documents, or any certificate or instrument delivered by such party pursuant to this Agreement or any Ancillary Document.

(b) The representations and warranties of the Indemnifying Party, and the Indemnified Party's right to indemnification with respect thereto, shall not be affected or deemed waived by reason of any investigation made by or on behalf of the Indemnified Party (including by any of its Representatives) or by reason of the fact that the Indemnified Party or any of its Representatives knew or should have known that any such representation or warranty is, was, or might be inaccurate or by reason of the Indemnified Party's waiver of any condition set forth in Section 7.02 or Section 7.03, as the case may be.

Section 8.08 Exclusive Remedies. Subject to Section 10.13, the parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims (other than claims arising from fraud, criminal activity, or willful misconduct on the part of a party hereto in connection with the transactions contemplated by this Agreement) for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this ARTICLE VIII. In furtherance of the foregoing, each party hereby waives, to the fullest extent permitted under Law, any and all rights, claims, and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement it may have against the other parties hereto and their respective Representatives arising under or based upon any Law, except pursuant to the indemnification provisions set forth in this ARTICLE VIII. Nothing in this Section 8.08 shall limit any Person's right to seek and obtain any equitable relief to which any Person shall be entitled or to seek any remedy on account of any party's fraud, criminal activity, or intentional misconduct.

Section 8.09 Set-off.

(a) In the event that (i) Buyer has notified Seller under Section 8.05 that Buyer is entitled to indemnification from Seller with respect to any Third Party Claim or Direct Claim, (ii) Seller has notified Buyer that (A) Seller has determined that it will

assume the defense of such Third Party Claim or (B) Seller acknowledges that Buyer is entitled to indemnification from Seller for such Direct Claim, and (iii) either (A) Seller has not, within sixty (60) days after delivery of any such notice to Buyer, requested an appropriation of funds from the Assembly of Seller for purposes of paying any amount required to be paid or reimbursed in connection with such Third Party Claim or Direct Claim, or (B) Seller has requested an appropriation of funds from the Assembly of Seller for such purposes but has not received an appropriation of such funds, Buyer will be entitled to withhold all or part of any amount due to Seller under the PILT Agreement or the Eklutna Power Purchase Agreement for purposes of paying or reimbursing any Losses that have been determined, in accordance with the provisions of ARTICLE VIII, to be due and owing from Seller to any Buyer Indemnitee under ARTICLE VIII in connection with such Third Party Claim or Direct Claim. In the event that (i) Buyer has notified Seller under Section 8.05 that Buyer is entitled to indemnification from Seller with respect to any Third Party Claim or Direct Claim, (ii) Seller fails to assume the defense of such Third Party Claim or provide indemnification for such Direct Claim, (iii) Buyer, in accordance with the provisions of ARTICLE VIII, pursues its available legal remedies against Seller for such failure and obtains a final judgment requiring Seller to indemnify Buyer in accordance with ARTICLE VIII for Buyer's Losses in connection with such Third Party Claim or Direct Claim, and (iv) either (A) Seller has not, within sixty (60) days after issuance of such judgment, requested an appropriation of funds from the Assembly of Seller for purposes of paying such Losses, or (B) Seller has requested an appropriation of funds from the Assembly of Seller for such purposes but has not received an appropriation of such funds, Buyer will be entitled to withhold all or part of any amount due to Seller under the PILT Agreement or the Eklutna Power Purchase Agreement for purposes of paying or reimbursing such Losses.

(b) Set-off shall not be Buyer's exclusive remedy with respect to any indemnification claim.

ARTICLE IX
TERMINATION

Section 9.01 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by the mutual written consent of Seller and Buyer;

(b) by Buyer by written notice to Seller if:

(i) Buyer is not then in material breach of any provision of this Agreement and there has been a breach, inaccuracy in, or failure to perform any representation, warranty, covenant, or agreement made by Seller pursuant to this Agreement that would give rise to the failure of any of the conditions specified in ARTICLE VII and such breach, inaccuracy, or failure has not been cured by

Seller within thirty (30) days after Seller's receipt of written notice of such breach from Buyer; or

(ii) any of the conditions set forth in Section 7.01 or Section 7.02 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by March 31, 2020, unless such failure shall be due to the failure of Buyer to perform or comply with any of the covenants, agreements, or conditions hereof to be performed or complied with by it prior to the Closing; or

(iii) Buyer makes an election under Section 6.18(b)(ii)(1) or Section 6.19.

(c) by Seller by written notice to Buyer if:

(i) Seller is not then in material breach of any provision of this Agreement and there has been a breach, inaccuracy in, or failure to perform any representation, warranty, covenant, or agreement made by Buyer pursuant to this Agreement that would give rise to the failure of any of the conditions specified in ARTICLE VII and such breach, inaccuracy, or failure has not been cured by Buyer within thirty (30) days after Buyer's receipt of written notice of such breach from Seller; or

(ii) any of the conditions set forth in Section 7.01 or Section 7.03 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by March 31, 2020, unless such failure shall be due to the failure of Seller to perform or comply with any of the covenants, agreements, or conditions hereof to be performed or complied with by it prior to the Closing; or

(d) by Buyer or Seller in the event that (i) there shall be any Law that makes consummation of the transactions contemplated by this Agreement illegal or otherwise prohibited or (ii) any Governmental Authority shall have issued a Governmental Order restraining or enjoining the transactions contemplated by this Agreement, and such Governmental Order shall have become final and non-appealable.

Section 9.02 Effect of Termination. In the event of the termination of this Agreement in accordance with this Article, all obligations under this Agreement shall terminate and shall be of no further force or effect and there shall be no liability on the part of Seller or Buyer to each other for or as a result of such termination; *provided*, *however*, that (i) the rights and obligations of the parties set forth in Section 6.09, ARTICLE VIII, and ARTICLE X, inclusive, shall survive such termination, and (ii) notwithstanding anything to the contrary contained herein, no termination of this Agreement shall release, or be construed as releasing, any party from any liability to any other party which may have arisen under this Agreement prior to termination, including as a result of any willful breach by any party of any representation, warranty, or covenant contained herein.

ARTICLE X
MISCELLANEOUS

Section 10.01 Expenses. Except as otherwise expressly provided herein, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses, whether or not the Closing shall have occurred.

Section 10.02 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 10.02):

If to Seller:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: william.falsey@anchorageak.gov Attention: William D. Falsey, Municipal Manager
with a copy to:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: rebecca.windtpearson@anchorageak.gov Attention: Rebecca A. Windt Pearson, Municipal Attorney
and a copy to:	K&L Gates LLP 925 Fourth Avenue, Suite 2900 Seattle, WA 98104-1158 E-mail: eric.freedman@klgates.com Attention: Eric E. Freedman
If to Buyer:	Chugach Electric Association, Inc. 5601 Electron Drive Anchorage, AK 99518 E-mail: Lee_Thibert@chugachelectric.com Attention: Lee D. Thibert, Chief Executive Officer

with a copy to:	Chugach Electric Association, Inc. 5601 Electron Drive Anchorage, AK 99518 E-mail: Matthew_Clarkson@chugachelectric.com Attention: Matthew C. Clarkson, General Counsel
and a copy to:	Stinson Leonard Street LLP Suite 2600 50 South Sixth Street Minneapolis, MN 55402 E-mail: james.bertrand@stinson.com Attention: James J. Bertrand

Section 10.03 Interpretation. For purposes of this Agreement:

(a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation;"

(b) references to "or" will be deemed to be disjunctive but not necessarily exclusive (*i.e.*, unless the context dictates otherwise, "or" will be interpreted to mean "and/or" rather than "either/or");

(c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole;

(d) unless the context otherwise requires, references herein: (i) to Articles, Sections, Disclosure Schedules and Exhibits mean the Articles and Sections of, and Disclosure Schedules and Exhibits attached to, this Agreement; (ii) to an agreement, instrument or other document mean such agreement, instrument or other document as novated, amended, modified, revised, supplemented, replaced or restated from time to time in accordance with the relevant provisions thereof, (iii) to a statute mean such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder; and (iv) to any other Law will be deemed to include all prior and subsequent enactments, amendments, and modifications pertaining thereto.

(e) the Disclosure Schedules and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein;

(f) words singular and plural will be deemed to include the other, and pronouns having masculine or feminine gender will be deemed to include the other;

(g) unless expressly stated otherwise, (i) reference to any Person includes such Person's successors and assigns but, in the case of a party to this Agreement, only if such successors and assigns are permitted by this Agreement, (ii) reference to a Person in a particular capacity excludes such Person in any other capacity or individuality, and (iii)

reference to a Governmental Authority include any Person succeeding to its functions and capacities;

(h) unless otherwise provided, a reference to a specific time for the performance of an obligation is a reference to that time in the place where that obligation is to be performed;

(i) any term defined or provision incorporated in this Agreement by reference to another document, instrument or agreement will continue to have the meaning or effect ascribed thereto whether or not such other document, instrument or agreement is in effect;

(j) unless otherwise expressly provided for as set forth herein, the term "day" will mean a calendar day, and whenever an event is to be performed or payment, act, matter or thing hereunder would occur on a day that is not a Business Day, then such event will be performed and such payment, act, matter or thing will, unless otherwise expressly provided for herein, occur on the next succeeding Business Day;

(k) relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding," and "through" means "through and including;"

(l) any words or phrases (including electrical, natural gas, and utility industry terms) not otherwise defined herein will have their common meanings; and

(m) this Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

Section 10.04 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 10.05 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 10.06 Disclosure Generally. For the avoidance of doubt, any disclosure or exception set forth by a party in one section of the Disclosure Schedules shall be effective as a disclosure or exception with respect to other sections of the Disclosure Schedules (and to the representations, warranties, and covenants to which such section pertains), to the extent that the relevance of such disclosure or exception to such other sections is reasonably apparent on its face. The inclusion of any

information in the Disclosure Schedules shall not be deemed to be an admission or acknowledgment by Seller, in and of itself, that such information is material to or outside the ordinary course of the business of Seller or ML&P. All references to this Agreement herein or in the Disclosure Schedules shall be deemed to refer to this entire Agreement, including the Disclosure Schedules.

Section 10.07 Entire Agreement. This Agreement and the Ancillary Documents constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and those in the Ancillary Documents, the Exhibits and Disclosure Schedules (other than an exception expressly set forth as such in the Disclosure Schedules), the statements in the body of this Agreement will control.

Section 10.08 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed. No assignment shall relieve the assigning party of any of its obligations hereunder.

Section 10.09 No Third-Party Beneficiaries. Except as provided in ARTICLE VIII, this Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 10.10 Amendment and Modification; Waiver. This Agreement may be amended, modified, or supplemented only by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 10.11 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(a) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Alaska, without reference to conflicts of laws principles that would result in the application of the laws of any other jurisdiction.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE ANCILLARY DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY MAY BE INSTITUTED IN THE SUPERIOR COURT OF THE STATE OF ALASKA IN THE

THIRD JUDICIAL DISTRICT, LOCATED IN ANCHORAGE, ALASKA, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURT AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE ANCILLARY DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE ANCILLARY DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS Section 10.11(c).

Section 10.12 Changes in Law. If and to the extent that any Laws (other than Laws of Seller) that govern any aspect of this Agreement shall change, so as to make any aspect of the transaction described in this Agreement onerous, the parties shall negotiate such changes to this Agreement as may be reasonably necessary for this Agreement to accommodate any such legal or regulatory changes, without materially changing the overall benefits or consideration expected hereunder by either party.

Section 10.13 Specific Performance. The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

Section 10.14 Waiver of Sovereign Immunity. Seller agrees that it is subject to civil and commercial suit for any breach of contract obligations under this Agreement and any of the Ancillary Documents. To the extent that Seller may be entitled to claim sovereign, governmental, or municipal

immunity from any liability in such a civil or commercial suit by Buyer, Seller hereby agrees not to claim, and hereby waives, such sovereign, governmental, or municipal immunity.

Section 10.15 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[*SIGNATURE PAGE FOLLOWS*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE,
ALASKA

By _____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION,
INC.

By _____

Name: Lee D. Thibert
Title: Chief Executive Officer

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By_____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By_____

Name: Lee D. Thibert
Title: Chief Executive Officer

EXHIBITS

TO

ASSET PURCHASE AND SALE AGREEMENT

between

MUNICIPALITY OF ANCHORAGE, ALASKA

and

CHUGACH ELECTRIC ASSOCIATION, INC.

dated as of

December 28, 2018

EXHIBITS

Exhibit A	Additional Buyer Due Diligence
Exhibit B	Additional Seller Due Diligence
Exhibit C-1	Form of Assignment, Assignment of Leases, Conveyance and Bill of Sale (BRU Interest)
Exhibit C-2	Form of Quitclaim Deed (BRU Interest)
Exhibit C-3	Form of Mineral Deed (BRU Interest)
Exhibit D	Closing Prorations
Exhibit E	Designated Excluded Assets
Exhibit F	Eklutna Transmission Assets
Exhibit G	Generation Assets
Exhibit H	Form of Revocable Use Permit
Exhibit I	ML&P Service Territory
Exhibit J	Transferred Cash Calculated as of December 31, 2017
Exhibit K	Form of Bill of Sale
Exhibit L	Form of Assignment and Assumption Agreement
Exhibit M	Form of Special Warranty Deed for Plant 2/Plant 2A Parcel
Exhibit N	Form of Quitclaim Deed for Other Owned Real Property
Exhibit O	Form of Officer's Confirmation of Compliance with Ordinance and Proposition 10
Exhibit P	Form of Opinion of Bond Counsel

EXHIBIT A

ADDITIONAL BUYER DUE DILIGENCE

1. All open due diligence requests as of the date of this Agreement and reasonable follow-up requests as to any due diligence requests made previously, including any documents provided with respect thereto.

2. Due diligence on real estate title matters and the adequacy of easements.

3. Inspection of facilities for damage resulting from the earthquake on November 30, 2018 and related aftershocks.

EXHIBIT B

ADDITIONAL SELLER DUE DILIGENCE

None.

EXHIBIT C-1

FORM OF ASSIGNMENT, ASSIGNMENT OF LEASES, CONVEYANCE AND BILL OF SALE (BRU INTEREST)

Return this instrument to:

Chugach Electric Association, Inc.
5601 Electron Dr.
Anchorage, Alaska 99518

STATE OF ALASKA §
§
THIRD JUDICIAL DISTRICT §

ASSIGNMENT, ASSIGNMENT OF LEASES, CONVEYANCE AND BILL OF SALE

THIS ASSIGNMENT, ASSIGNMENT OF LEASES, CONVEYANCE AND BILL OF SALE (the "Assignment") is from the Municipality of Anchorage, a political subdivision organized under the laws of the State of Alaska, 632 West 6th Avenue, Suite 730, Anchorage, Alaska 99501 (herein "Assignor"), to Chugach Electric Association, Inc., a non-profit electric cooperative corporation organized under the laws of the State of Alaska, 5601 Electron Drive, Anchorage, Alaska 99518 (herein "Assignee").

This Assignment is made subject to, and Assignor and Assignee shall continue to be entitled to all of their respective benefits and burdens by all of their respective obligations under, the Asset Purchase and Sale Agreement dated as of December __, 2018, by and between Assignor and Assignee, as may be amended, supplemented, restated, or otherwise modified from time to time (the "Purchase Agreement"). Each capitalized term used in this Assignment that is not otherwise defined herein shall have the meaning for such capitalized term as defined in the Purchase Agreement, which terms are incorporated herein by such reference.

For TEN AND NO/100 DOLLARS ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Assignee, Assignor hereby grants, bargains, sells, conveys, assigns, transfers, sets over, and delivers unto Assignee all of Assignor's right, title and interest in and to the following described properties, rights, and interests (the "Properties"):

(a) The oil, gas and mineral leases, operating rights, working interests, net revenue interests, and any contractual rights to production relating thereto described on Exhibit "A" hereto (and any ratifications and amendments thereto, whether or not the same are described on Exhibit "A") insofar as such leases (and such ratifications and amendments) cover the lands, depths and rights described on such Exhibit "A" (the "Leases"); and

(b) Without limitation of the foregoing, all other right, title and interest (of whatever kind or character, whether legal or equitable, and whether vested or contingent, and including, without limitation, interests in oil, gas and/or mineral leases, overriding royalties, production payments, net profits interests, fee mineral interests, fee royalty interests and other interests) of Assignor in and to the lands described on Exhibit "A" hereto or described in any lease or other instrument described on such Exhibit "A" even though Assignor's interest may be incorrectly described in, or omitted from, Exhibit "A"; and

(c) All rights, titles and interests of Assignor in and to, or otherwise derived from, all presently existing and valid oil, gas and/or mineral unitization, pooling, and/or communitization agreements, declarations and/or orders (including, without limitation, all units formed under orders, rules, regulations, or other official acts of any federal, state, or other authority having jurisdiction, and voluntary unitization agreements, designations and/or declarations) relating to the properties described in subparagraphs (a) and (b) above; and

(d) The oil, gas and condensate wells (whether producing, not producing, shut-in or abandoned) described on Exhibit "B" hereto and all other water source wells, water injection wells and other injection or disposal wells and systems located on, attributed to or used in connection with the Leases or the properties described in subparagraphs (a), (b) and (c) above; and

(e) all oil, gas and other hydrocarbons produced or processed in association therewith (collectively, "Hydrocarbons") from or attributable to the Properties from and after the Effective Time and all Hydrocarbons produced prior to the Effective Time that are in storage prior to the Effective Time and that are upstream of the sales metering point as of the date hereof; and

(f) To the extent assignable or transferable, all presently existing and valid production sales contracts, operating agreements, and other agreements and contracts which relate to any of the properties described in subparagraphs (a) through (e) above; and

(g) All materials, supplies, machinery, equipment, facilities, inventories, improvements and other personal property and fixtures (including, but not by way of limitation, all wells, well pads, wellhead equipment, pumping units, flow lines, pipelines, tanks, buildings, saltwater disposal facilities, injection facilities, compression facilities, gathering systems, and other equipment) used in connection with the exploration, development, operations or maintenance of the properties described in subparagraphs (a), (b), (c) and (d) above, and in and to water rights, all permits and licenses (including, without limitation, all environmental and other governmental permits, licenses and authorizations), and all rights of way, easements, and other rights of surface use used in connection with the exploration, development, operation or maintenance of the properties described in subparagraphs (a) through (e) above; and

(h) To the extent transferable, all easements, rights-of-way, licenses, permits,

servitudes, surface leases, surface use agreements, and similar rights and obligations and interest interests to the extent applicable to, or used or held for use primarily in, the ownership and/or operation of the properties described in subparagraphs (a) through (e) above; and

(i) All gas production or pipeline imbalances relating to the Properties; and

(j) Copies of all of the files, records and data relating to the rights, interests and properties described in subparagraphs (a) through (i) above including, without limitation, title records (including abstracts of title and title curative documents, lease files and division or files); surveys, maps and drawings (including those relating to lands and wells); contracts and contract files; production marketing records; correspondence files; geological, geophysical and seismic records, data and information; well files and production records (including electric logs, core data, pressure data, decline curves, graphical production curves), production and severance tax records and ad valorem tax records; production accounting records; environmental records; and regulatory and regulatory compliance records).

TO HAVE AND TO HOLD the Properties unto Assignee, its successors and assigns forever, subject, however, to all of the terms of this Assignment and the Purchase Agreement.

THIS ASSIGNMENT IS MADE WITHOUT REPRESENTATION OR WARRANTY OF TITLE OF ANY KIND, except that Assignor warrants and agrees that the Properties are free and clear of all liens, encumbrances, burden, claims, and defects of title arising by, through, or under Assignor, but not otherwise, and expressly excluding from such special limited warranty all Permitted Encumbrances. Assignor will forever warrant and defend Assignor's right, title and interest to the Properties to the extent of this special limited warranty and shall upon demand remove or cure any all liens, encumbrances, burden, claims, and defects of title arising by, through, or under Assignor.

Except for the special limited warranty of title set forth above and the provisions of the Purchase Agreement, the Properties are being conveyed by Assignor to Assignee without recourse, covenant or warranty of any kind, express, implied or statutory. ASSIGNOR EXPRESSLY DISCLAIMS AND NEGATES ANY IMPLIED OR EXPRESS WARRANTY OF TITLE (OTHER THAN SUCH SPECIAL WARRANTY), MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR CONFORMITY TO MODELS OR SAMPLES OF MATERIALS.

Assignor and Assignee will, without further consideration, do, execute, acknowledge and deliver all further acts, conveyances and instruments as may be reasonably necessary or appropriate to carry out the intent of this Assignment and to convey the BRU Interests to Assignee pursuant to and in accordance with the Purchase Agreement. Separate assignments of the Properties may be executed on officially approved forms by Assignor to Assignee, in sufficient counterparts to satisfy all applicable statutory and regulatory requirements. Those assignments shall be deemed to contain all of the exceptions, reservations, warranties, rights to enforce covenants and warranties (if any) against Assignor's predecessors in title, rights, titles, power and privileges as set forth herein as fully

as though they were set forth in each such assignment. The Properties conveyed by such separate assignment are the same, and not in addition to, the Properties conveyed herein.

The provisions of this Assignment shall be covenants running with the land, and this Assignment shall extend to and be binding upon and inure to the benefit of Assignor and Assignee, and their respective successors and assigns.

This Assignment may be executed in multiple counterparts, each of which shall for all purposes constitute one and the same instrument.

Where separate assignments of Properties and related documentation on official forms have been or will be executed for filing with and approved by Governmental Authorities in accordance with requirements of governmental rules or regulations to transfer the Properties to Assignee, any such separate assignments and official documentation (a) shall evidence this Assignment and assignment of the applicable Properties herein made and shall not constitute any additional Assignment or assignment of the Properties; (b) are not intended to modify, and shall not modify, any of the terms, covenants and conditions or limitations on warranties set forth in this Assignment and are not intended to create and shall not create any representation or warranty of or by Assignor to Assignee, and (c) shall be deemed to contain all of the terms and provisions of this Assignment, as fully and to all intents and purposes as thought the same were set forth at length in such separate assignments.

THIS ASSIGNMENT SHALL BE GOVERNED, CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ALASKA, EXCLUDING ANY CONFLICTS OF LAW RULE OR PRINCIPLE THAT MIGHT APPLY THE LAW OF ANOTHER JURISDICTION.

IN WITNESS WHEREOF this Assignment has been executed on _____ __, 20__, and shall be effective as to runs of oil and deliveries of gas as of 7:00 a.m. local time at the locations of the Properties, respectively, on _____ __, 20__ (the "Effective Time").

MUNICIPALITY OF ANCHORAGE,
an Alaska municipal corporation

By: _____
Name:
Title:

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, _____ of Municipality of Anchorage, a political subdivision organized under the laws of the State of Alaska, on behalf of said municipality.

_____
Notary Public in and for _____
Residing at _____
My Commission expires _____

EXHIBIT "A"

Attached to and made a part of that certain Assignment, Assignment of Leases, Conveyance and Bill of Sale executed on _____, ____, by and between Municipality of Anchorage, a political subdivision organized under the laws of the State of Alaska, d/b/a Municipal Light & Power ("Assignor"), to Chugach Electric Association, Inc., a non-profit electric cooperative corporation organized under the laws of the State of Alaska ("Assignee").

[leases]

[List leases and reference prior recording data which can be found in the ConocoPhillips agreement.]

EXHIBIT "B"

Attached to and made a part of that certain Assignment, Assignment of Leases, Conveyance and Bill of Sale executed on _____, ____, by and between Municipality of Anchorage, a political subdivision organized under the laws of the State of Alaska, d/b/a Municipal Light & Power ("Assignor"), to Chugach Electric Association, Inc., a non-profit electric cooperative corporation organized under the laws of the State of Alaska ("Assignee").

[wells]

[List wells and recording data if available.]

EXHIBIT C-2

FORM OF QUITCLAIM DEED (BRU INTEREST)

RECORD THIS INSTRUMENT IN THE ANCHORAGE RECORDING DISTRICT

RETURN THIS INSTRUMENT TO: CHUGACH ELECTRIC ASSOCIATION, INC.
5601 ELECTRON DR.,
ANCHORAGE, ALASKA 99518

****

QUITCLAIM DEED

THIS QUITCLAIM DEED (this "**Deed**"), effective this _____ day of _____, 20__, *given by* MUNICIPALITY OF ANCHORAGE, a political subdivision organized under the laws of the State of Alaska, the address of which is 632 W. 6th Avenue, Suite 730, Anchorage, Alaska 99501 ("**Grantor**") to Chugach Electric Association, Inc., a not-for-profit electric cooperative corporation organized under the laws of the State of Alaska, the address of which is 5601 Electron Dr., Anchorage, Alaska 99518 (""**Grantee**").

WITNESSETH:

THAT FOR AND IN CONSIDERATION OF Ten Dollars ($10.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Grantor takes the following actions:

1. Conveyance. Grantor hereby CONVEYS AND QUITCLAIMS to Grantee (A) all of Grantor's right, title, and interest in and to the real property described in Exhibit A attached hereto, situated in the Anchorage Recording District, Third Judicial District, State of Alaska, TOGETHER WITH (B) all of Grantor's right, title, and interest in and to all buildings, improvements, and fixtures situated on such real property, and all easements, rights of way, water rights, licenses, privileges, hereditaments, and appurtenances, if any, inuring to the benefit of such real property, TO HAVE AND TO HOLD FOREVER, UNDER AND SUBJECT TO the Permitted Encumbrances (as defined in that certain Asset Purchase and Sale Agreement, dated as of December _____, 2018, by and between Grantor and Grantee).

2. No Warranty. This conveyance is made, executed, and delivered without warranty of title, either express, implied or statutory.

EXECUTED on the date first set forth above.

MUNICIPALITY OF ANCHORAGE,
an Alaska municipal corporation

By: _____
Name:
Title:

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, _____ of Municipality of Anchorage, a political subdivision organized under the laws of the State of Alaska, on behalf of said municipality.

_____
Notary Public in and for _____
Residing at _____
My Commission expires _____

Exhibit A

Real Property

Tract C of the plat "Beluga Terrace Addition No. 1 Tracts A-1, C and D", containing 7.87 acres, more or less, according to plat #89-1,(add recording district, judicial district) State of Alaska

EXHIBIT C-3

FORM OF MINERAL DEED (BRU INTEREST)

RECORD THIS INSTRUMENT IN THE ANCHORAGE RECORDING DISTRICT

RETURN THIS INSTRUMENT TO: CHUGACH ELECTRIC ASSOCIATION, INC.
5601 ELECTRON DR.,
ANCHORAGE, ALASKA 99518

****

MINERAL DEED

THIS MINERAL DEED (this "**Deed**"), effective this _____ day of _____, 20__, *given by* THE MUNICIPALITY OF ANCHORAGE, a political subdivision organized under the laws of the State of Alaska, the address of which is 632 W. 6th Avenue, Suite 730, Anchorage, Alaska 99501 ("**Grantor**"), to Chugach Electric Association, Inc., a not-for-profit electric cooperative corporation organized under the laws of the State of Alaska, the address of which is 5601 Electron Dr., Anchorage, Alaska 99518 ("**Grantee**").

WITNESSETH:

THAT FOR AND IN CONSIDERATION OF [•] dollars ($[•]) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, MOA takes the following actions:

1. Conveyance. MOA hereby CONVEYS AND QUITCLAIMS to Grantee: (A) all of its right, title, and interest in and to the oil, gas, and other minerals of every kind and description, in and under and which may be produced from the real property described in Exhibit A attached hereto, situated in the Anchorage Recording District, Third Judicial District, State of Alaska, TOGETHER WITH (B) all of Grantor's right, title and interest (i) as Lessor under that certain Lease recorded April 12, 1962, in the Anchorage Recording District, in Misc. Book 46, Page 77; and (ii) in and to all easements, rights of way, water rights, surface rights, licenses, privileges, hereditaments and appurtenances, if any, inuring to the benefit of such real property (the "**Real Property**"), TO HAVE AND TO HOLD FOREVER, subject to:

a. the Permitted Encumbrances (as defined in that certain Asset Purchase and Sale Agreement, dated as of December _____, 2018, by and between Grantor and Grantee, and

b. The rights of lessee under that certain lease recorded April 12, 1962, , in Misc. Book 46, Page 77, in the Anchorage Recording District, Third Judicial District, State of Alaska.

2. No Warranty. This conveyance is made, executed, and delivered without warranty of title, either express, implied or statutory.

EXECUTED on the date first set forth above.

MUNICIPALITY OF ANCHORAGE,
an Alaska municipal corporation

By: _____
Name:
Title:

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, _____ of Municipality of Anchorage, a political subdivision organized under the laws of the State of Alaska, on behalf of said municipality.

_____
Notary Public in and for _____
Residing at _____
My Commission expires _____

Exhibit A

Real Property

T12N, R1OW, Seward Meridian
U.S. Survey 3072, within Sections 3 and 4; and
Containing 5.00 acres, more or less, located within the

(Add recording district and judicial district, state of Alaska)

EXHIBIT D

CLOSING PRORATIONS

General Rules

The following costs and expenses shall not be allocated: Costs and expenses incurred (i) to cure a material breach of Seller's representations and warranties in Article IV of the Asset Purchase Agreement, (ii) to perform the Excluded Liabilities; (iii) related to an Excluded Asset; (iv) to indemnify Buyer under Article VIII of the Asset Purchase Agreement; (v) to fulfill obligations Seller may have in connection with a Casualty or eminent domain proceedings contemplated by Sections 6.18 and 6.19 of the Asset Purchase Agreement.

Customer Service Billing Prorations

Payment to Seller for Unbilled Usage. Unbilled Usage is the portion of Buyer's first customer billing that reflects customers' electricity usage occurring after Seller's last meter reading for billing purposes and through the Closing Date ("Unbilled Usage"). After its last regular monthly billing to customers prior to the Closing Date, Seller shall not make any additional billings for customers' electricity.

Buyer's first monthly billing to customers shall include the Unbilled Usage and Buyer shall pay to Seller amounts associated with Unbilled Usage not later than 60 days after receipt of payment from the customer. Seller shall read all customer meters on the Closing Date and, as necessary, calculate estimated usage levels from such readings through the remaining period to Closing, and such Unbilled Usage information shall be provided to Buyer within 15 days after Closing. Buyer is not responsible or liable for remittance to Seller of any amounts of Unbilled Usage not paid by the customer.

Customer and demand charge revenue from Buyer's first customer billing shall be prorated based on the number of days of electric service provided by Buyer and Seller as identified in Buyer's first customer billing following Closing based on the actual rates charged by Seller. As reasonably possible, customers' electric account meters shall be read by Buyer in accordance with Seller's normal meter reading cycle following the Closing Date for the purpose of creating Buyer's first customer billing. The day and time of each meter reading shall be recorded and used to prorate the customer electricity usage.

Prorated amounts due to Seller for energy charges, cost of power adjustment (COPA) charges, and the regulatory cost charges shall be calculated on the basis of Unbilled Usage at the actual rates charged by the Seller.

Municipality of Anchorage 2% Undergrounding Surcharge: No prorations required; all amounts collected but not expended by Seller prior to Close shall be conveyed to Buyer.

Municipal Utility Services Assessment (MUSA) / Payment in Lieu of Taxes (PILT): Within a calendar-year, Seller is responsible for MUSA payments prior to Closing and Buyer is

responsible for PILT payments post-Closing. Prorations shall be made based on the actual liability amount for the calendar-year, with Buyer and Seller payment responsibility based on the number of days pre and post-Closing.

Accounts Receivable. Buyer shall not be responsible for collection efforts of any accounts receivable not included or identified on the Seller's last regular monthly billing to customers prior to the Closing Date. Collection of amounts due associated with inactive accounts are the responsibility of the Seller. Buyer shall not be responsible for payment to Seller any current or past due amounts not paid by the customer associated with customer usage prior to the Closing Date. Buyer will undertake reasonable efforts consistent with prudent utility collection efforts to collect payments from customers for any amounts due identified on the Seller's last regular monthly billing to customers prior to the Closing Date and Buyer's monthly billings to customers after Closing, consistent with terms and conditions within Buyer's operating tariff.

Customer Deposits: Customer deposits held by Seller shall be conveyed to Buyer at Closing. Seller shall identify date of deposit and deposit amount held by each customer.

Other Prorations

Seller and Buyer shall work together to develop mutually satisfactory prorations, so that Seller receives the benefit of all revenues and is responsible for all costs incurred (including taxes) prior to the Closing, and Buyer receives the benefit of all revenues and is responsible for all costs incurred (including taxes) after the Closing related to ML&P's operations, including but not limited to prorations associated with the following:

- Cost of power adjustment and Beluga River Unit gas transfer pricing, including attendant balancing accounts;
- Gas purchases, transportation and storage;
- Purchased power;
- Eklutna;
- Southcentral Power Project;
- Beluga River Unit;
- Pole attachment.

EXHIBIT E

DESIGNATED EXCLUDED ASSETS

The Designated Excluded Assets will include the Storage Facility, if Buyer so elects by written notice to Seller not less than 30 days prior to the Closing Date.

The Designated Excluded Assets will include the following three properties, if Buyer so elects by written notice to Seller not more than 90 days after the date of this Agreement.

Address	Use	Parcel ID #
1301 South Bragaw St.	Vacant (No longer substation #17)	005-071-01
13th & Gambell St.	Vacant (No longer Substation #18)	002-131-41
Northern Lights & Eureka St.	Vacant (No longer Substation #19)	009-035-45 009-035-46

EXHIBIT F

EKLUTNA TRANSMISSION ASSETS

All undivided interests, rights, title, and obligations of Seller in and to the transmission assets included in the Eklutna Hydroelectric Project, including transmission rights, interests, and obligations acquired by Seller pursuant to the Alaska Power Administration Asset Sale and Administration Act, Public Law 104-58 (109 Stat. 557 (1995)) and arising from, but not limited to the following documents: (i) Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, dated February 17, 1984, between the Alaska Power Administration, an entity of the United States Department of Energy, and Seller (and Supplemental Agreements No.1 and 2 thereto); (ii) Memorandum of Understanding (Transition Plan) dated July 25, 1989 among Seller, Buyer, and MEA; (iii) Eklutna Purchase Agreement dated August 2, 1989 among Buyer, Seller, MEA, and the Alaska Power Administration, a unit of the United States Department of Energy; (iv) Eklutna Purchasers Manner of Acting, Functional Responsibilities, and Staffing Agreement dated August 7, 1991 among Buyer, Seller, MEA, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the Alaska Energy Authority and the State of Alaska; (v) Agreement regarding fish and wildlife affected by the Snettisham and Eklutna Projects, dated August 7, 1991, among Seller, Buyer, MEA, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the Alaska Energy Authority and the State of Alaska; (vi) 1996 Eklutna Hydroelectric Project Transition Plan, dated May 28, 1996, among the Alaska Power Administration, Seller, Buyer, and MEA; (vii) Agreement for Extension of 1996 Eklutna Hydroelectric Project Transition Plan, dated October 2, 1997, among Seller, Buyer, and MEA; and (viii) Closing Agreement, dated October 2, 1997, among the Alaska Power Administration, Seller, Buyer, and MEA, including all instruments identified in Appendix A thereto.

Without limiting the foregoing, the Eklutna Transmission Assets include all undivided interests, rights, title, and obligations of Seller in and to the assets listed in the attached Appendix I, *Eklutna Project Fixed Asset Listing December 27, 2018.*

APPENDIX I

Eklutna Project
Fixed Asset Listing
December 27, 2018

1:14 PM
12/27/2018

Item	Number	Date	Purchase Description	Account		Cost
Beginning Balance - 3500		01/01/2002	Beginning Balance	1010 · Electric Plant in Service 3500	Land & Land Rights	107,902.00
Beginning Balance - 3520		01/01/2002	Beginning Balance	1010 · Electric Plant in Service 3520	Structures & Improvemen	114,720.53
Beginning Balance - 3530		01/01/2002	Beginning Balance	1010 · Electric Plant in Service 3530	Station Equipment	83,286.00
Transm Line Relay Prot/RTAC Ins		03/11/2015	Transmission Line Relay Protection/RTAC Installati	1010 · Electric Plant in Service 3530	· Station Equipment	43,044.89
Transmission Line Relay Protect		03/11/2015	Transmission Line Relay Protection at EPP, 3/11/15	1010 · Electric Plant in Service 3530	· Station Equipment	98,342.15
APA Substation Addition		11/30/2009	APA Substation Addition - 11/30/09	1010 · Electric Plant in Service 3531	Station Equipment - 83%, 17%	2,457,250.78
Transmission Line Rebuild, 3540		05/02/2007	Transmission Line Rebuild, P2400, P2427-P2429	1010 · Electric Plant in Service 3540	Towers and Fixtures	28,046.15
Structure 9/8 - Matanuska River		09/20/2001	Structure 9/8 - Matanuska River, P2271	1010 · Electric Plant in Service 3550	Poles & Fixtures	44,471.78
Beginning Balance - 3550		01/01/2002	Beginning Balance	1010 · Electric Plant in Service 3550	Poles & Fixtures	4,937.83
Replace Structures 9-1 & 8-8		01/01/2005	Replace Structures 9-1 & 8-8	1010 · Electric Plant in Service 3550	Poles & Fixtures	2,567.32
Structures 9/2 & 9/3 -Mat River		09/30/2005	Structures 9/2 & 9/3 - Mat River Crossing	1010 · Electric Plant in Service 3550	Poles & Fixtures	785,789.94
Structures 9-1 & 8-8		04/01/2005	Replacement Structures 9-1 & 8-8, P2313 & P2314	1010 · Electric Plant in Service 3550	· Poles & Fixtures	211,869.83
Ekl Palmer 115kV Trans Line Rep		09/14/2015	Ekl Palmer 115kV Transmission Line Replacement	1010 · Electric Plant in Service 3550	Poles & Fixtures	202,856.67
Beginning Balance - 3560		01/01/2002	Beginning Balance	1010 · Electric Plant in Service 3560	Overhead Conductors & Dev	134,428.67
Transmission Line Rebuild, 3560		05/02/2007	Transmission Line Rebuild, P2399, P2432-P2434	1010 · Electric Plant in Service 3560	Overhead Conductors & Dev	28,046.16
Plant Fiber Installation		01/09/2015	Plant Fiber Installation, EGS to EklPwrPl,1/9/15	1010 · Electric Plant in Service 3560	· Overhead Conductors & Dev	158,881.66
Transmission Line Rebuild, 3590		05/02/2007	Transmission Line Rebuild, P2401, P2435-P2437	1010 · Electric Plant in Service 3590	Roads and Trails	28,046.16
					Non-Contributed	4,524,293.63
Transmission Line Rebuild, 3502		05/02/2007	Transmission Line Rebuild	1011 · Contributed Plant in Service 3502	· Contr Land and Land Rights	1,335,317.36
Transmission Line Rebuild, 3542		05/02/2007	Transmission Line Rebuild	1011 · Contributed Plant in Service 3542	· Contr Towers and Fixtures	10,014,880.20
Transmission Line Rebuild, 3562		05/02/2007	Transmission Line Rebuild	1011 · Contributed Plant in Service 3562	Contr OH Conductors & Devices	4,506,696.09
115kV Line Switches, Briggs Tap		01/23/2015	115kV Line Switches near Briggs Tap, 01/23/15	1011 · Contributed Plant in Service 3562	Contr OH Conductors & Devices	118,930.66
Transmission Line Rebuild, 3592		05/02/2007	Transmission Line Rebuild	1011 · Contributed Plant in Service 3592	· Contr Roads and Trails	834,573.35
					Contributed (pd by BOA Grant)	16,810,397.88
						21,344,691.51

EXHIBIT G

GENERATION ASSETS

MUNICIPALITY OF ANCHORAGE, ALASKA
ELECTRIC UTILITY FUND

As of December 31, 2016
Base Ratings by Generation Units

Type		Unit no.	Base rating 30F (MW)	Base rating ISO (MW)	Nameplate capacity (KVA)
Combustion turbine		3	32.9	29.3	48,941
Combustion turbine		4	33.6	31.1	31,765
Combustion turbine		7	81.8	74.4	110,556
Combustion turbine		8	85.0	77.3	102,941
Combustion turbine		9	48.9	48.5	71,000
Combustion turbine		10	48.9	48.5	71,000
Steam turbine		11	29.4	29.5	36,000
	Sub-total		360.5	338.6	472,203
Hydro-turbine (Eklutna)		1	22.2	22.2	22,222
Hydro-turbine (Eklutna)		2	22.2	22.2	22,222
	Sub-total		404.9	383.0	516,647
Steam Turbine (SPP)		10	57.5	38.1	67,647
Combustion Turbine (SPP)		11	47.6	40.2	57,352
Combustion Turbine (SPP)		12	47.6	40.2	57,352
Combustion Turbine (SPP)		13	47.6	40.2	57,352
	Total		605.2	541.7	756,350
	MLEEP units		360.5	338.6	472,203.0
	Eklutna (53.3%)		23.7	23.7	23,688.7
	SPP (30%)		60.1	47.6	71,910.9
			444.3	409.9	567,802.6
Plant 1			66.5	60.4	80,706
Plant 2			294.0	278.2	391,497
Eklutna			23.7	23.7	23,689
SPP			60.1	47.6	71,911

International Standards Organization (ISO)

Note: ML&P Generating Units 1, 2, 5, and 6 were retired effective on 12/31/16 but remain on site and have not yet been dismantled.

EXHIBIT H

FORM OF REVOCABLE USE PERMIT

REVOCABLE USE PERMIT

THIS AGREEMENT is made this _____ day of _____, _____ by and between the Municipality of Anchorage (MOA), hereinafter called PERMITTER, which hereby grants this Revocable Use Permit ("Permit") to Chugach Electric Association, Inc., hereinafter called PERMITTEE, for use of the permit area ("Premises") described below for the purpose of operating an electrical substation facility, depicted in its present state on Exhibit A. (collectively, "Facilities") and for no other purpose, subject to the following terms and conditions.

1. PREMISES. A [_____] foot by [_____] foot site located within the following described property within [_____]:

[INSERT DESCRIPTION HERE.]

and more specifically described as that area:

[INSERT DESCRIPTION HERE.]

As further depicted in the attached Exhibit B.

2. TERM. The Term of this Permit shall be for one year, commencing on _____, _____ and ending _____, _____ unless earlier terminated pursuant to the terms of this Permit. Upon mutual consent of both parties, this Permit may be extended annually from time to time. Permitter and Permittee shall each have the absolute right to terminate this Permit at any time, without cause, upon 30 days written notice of termination to Permittee.

3. FEE. The annual fee shall be One Dollar ($1.00) and such fee shall not be prorated or subject to other adjustments. The annual fee payment shall be due and payable within 30 days of the date of this Permit. Permittee shall make all payments to Permitter at the following address:

Municipality of Anchorage
Real Estate Service Department
4700 Elmore Street
PO Box 196650
Anchorage, Alaska 99519-6650

4. PERMITTED USE. Permittee shall use the Premises for construction, maintenance, operation, modification, replacement, repair, and upgrade of the Facilities and for no other

purpose without prior written consent of Permitter. Permittee is required to secure any and all permits to be in compliance with Anchorage Municipal Code, and is responsible for all costs and expenses related to construction, operation, and removal.

5. INSTALLATIONS. Permittee agrees that prior to beginning any construction or modification of any of the Facilities after the date hereof, Permittee will submit to Permitter plans, drawings, and specifications prepared by and bearing the stamp of a registered professional engineer licensed in the State of Alaska describing the design and construction of the proposed Facilities. Before Permittee will be allowed to construct any Facilities on the Premises, Permitter must approve in writing the proposed design of the Facilities, the proposed location of the Facilities, and the plans, drawings, and specifications of the proposed Facilities submitted by Permittee (the "Plans"), which approval shall not be unreasonably withheld, conditioned, or delayed, provided such Plans comport with the terms of this Permit. Permitter may also request, and Permittee agrees to provide, any additional information reasonably requested by Permitter to evaluate the proposed Facilities in connection with this approval process. The plans, drawings, and specifications submitted by Permittee, once approved by Permitter, shall be attached to this Permit as Exhibit B.

Permittee shall notify Permitter prior any construction on the Premises, and Permittee shall, within thirty (30) days after completion of any improvements placed upon or in the Premises herein, deliver an as-built drawing showing the location and construction specifications of said improvements.

6. UTILITIES. Permittee agrees to contract directly with the appropriate utility provider to install and maintain power and communications services for its Facilities separate and apart from Permitter's services, unless other arrangements are made with the Permittee.

Permittee is subject to all previous easements and utility permits, and any damage to any other utilities resulting from Permittee's use of this Permit will be at Permittee's expense.

7. INDEMNIFICATION. Permittee shall hold harmless, indemnify and defend Permitter from any claims, loss, damage, judgment or expense for (a) loss or damage to personal property and death or injury to persons to the extent arising out of Permittee's activities or operations on or about the Premises or any nearby Premises, (b) performance of any labor or services or the furnishing of any materials with respect to the Premises or any part thereof by or at the Permittee's request, (c) any contest of any lien permitted below, and (d) loss or damage arising directly or indirectly out of the siting, construction, or operation of any of the Facilities, including actions or omissions by employees, agents, invitees, or contractors of Permittee, except that (i) this indemnity shall not apply to any claims, liabilities, damages, judgments, orders, lawsuits, arbitrations, investigations, regulatory action, attorneys' fees, and any other costs or expenses to the extent arising entirely from the negligence of Permitter, its employees or agents; and (ii) this indemnity shall not apply to the extent Permitter is required to indemnify Permittee pursuant to the terms of the Asset Purchase Agreement dated December [•], 2018 ("APA") between Permitter and Permittee.

8. LIENS. Permittee shall not suffer any liens or encumbrances to be levied upon the Premises or any other land owned or controlled by Permitter. Permittee will hold harmless Permitter from any such actions and be responsible for payment of any related costs that Permitter may incur.

9. ENVIRONMENTAL. Permittee must, at its own expense, comply with all laws, ordinances, regulations and administrative agency or court orders relating to health, safety, noise, environmental protection, waste disposal, hazardous or toxic materials, and water and air quality. In the event any discharge, leakage, spillage, emission or pollution of any type occurs upon or from the Premises during the Term or any holdover thereafter, Permittee shall immediately notify Permitter and shall, at Permittee's own expense, clean and restore the Premises to the satisfaction of Permitter and any governmental body or court having jurisdiction of the matter.

A. Environmental Indemnity. Permittee agrees to indemnify, hold harmless and defend Permitter against all liability, cost and expense (including, without limitation, any fines, penalties, diminution in value of the Premises, assessment and clean-up costs, judgments, litigation costs and attorneys' fees) incurred by or levied against Permitter as a result of Permittee's breach of this paragraph or as a result of any discharge, leakage, spillage, emission or pollution on or discharged from the Premises, without regard to whether such liability, cost or expense arises during or after the Term; provided, however, that Permittee shall not be required to indemnify Permitter under this paragraph if the parties agree or a court of competent jurisdiction determines that such liability, cost or expense is caused directly and solely by the negligence of Permitter or a third party actor who is not an agent, employee, successor, or independent contractor associated with Permittee. The foregoing indemnity shall survive the expiration or earlier termination of this Permit.

B. Toxic or Hazardous Substances. For purposes of this Permit, shall be interpreted broadly to include, but not be limited to, any material or substance that is defined or classified under federal, state or local laws as:

1. A "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601(14) or Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. § 1321, each as now or hereafter amended;
2. A "hazardous waste" pursuant to Section 1004 or Section 3001 of the resource Conservation and Recovery Act, 42 U.S.C. § 6903, 42 U.S.C. § 6921, as now or hereafter amended;
3. A toxic pollutant under Section 307(1)(a) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(1)(a);
4. A "hazardous air pollutant" under Section 112 of the Clean Air Act, 42 U.S.C. § 7412, as now or hereafter amended;

5. A "hazardous material" under the Hazardous Material Transportation Act, 49 U.S.C. §1802(2), as now or hereafter under the aforementioned laws; or

6. Presenting a risk to human health or the environment under other applicable federal, state or local laws, ordinance, or regulations, as now or as may be passed or promulgated in the future. "Toxic or Hazardous Substances" shall also mean any substance that after release into the environment and upon exposure, ingestion, inhalation or assimilation, either directly from the environment or indirectly by ingestion, inhalation or assimilation, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer or genetic abnormalities. "Toxic or Hazardous Substances" specifically includes, but is not limited to, asbestos, polychlorinated biphenyls (PCBs), petroleum based products and derivatives, flammable explosives, radioactive materials and urea formaldehyde.

D. Environmental Testing. Permittee agrees that it shall be solely responsible for all costs and expenses associated with the performance of environmental testing of the Premises, which may be required at Permitter's sole discretion, upon any breach and corresponding revocation of this Permit, or upon voluntary termination of this Permit by Permittee upon decommissioning of the Facilities. Such environmental testing, conducted by a recognized engineering or environmental consulting firm acceptable to Permitter, shall be the basis for determining the extent of any environmental impairment caused by the Permittee's use and occupancy of the Premises.

10. ACCESS. Permitter hereby grants Permittee and Permittee's agents rights to access to the Facilities as determined necessary by Permittee, provided that such access be from the roadway adjacent to the Premises and through the gated location existing on the Premises as of the date of this Permit, all as depicted in the attached Exhibit C. Permittee accepts full responsibility for any and all damages incurred or restoration needed to the park property as a result of their access.

11. CARE AND MAINTENANCE. Permittee acknowledges that the Premises are in good order and repair unless indicated herein. Permittee shall use due diligence and maintain the Facilities in such a manner so as to avoid creating any untidy or unsafe conditions in or about the Premises, and shall immediately remedy, at its sole cost and expense, any untidy or unsafe condition that it creates or causes, or which otherwise arises in connection with its Facilities. Permittee agrees to be responsible for snow removal and road maintenance as necessary to access the Facility for those areas beyond the limits of normal operations and snow removal by Permitter.

12. ALTERATIONS. The general physical contour of the Premises shall not be altered without prior written approval from Permitter. No excavation work (other than that undertaken in outage or emergency situations) shall be performed upon the Premises without prior written approval from Permitter. In the event of outage or emergency, Permittee may undertake excavation work to the extent required to address the outage or emergency immediately upon providing written notice to Permitter. Permittee's use of the Premises shall not interfere with the use or operation of any facility, pipeline, dock, or related facilities which may be located upon, over or under the Premises. Other than the pre-existing Facilities, no structure, improvement or other facility including, but not limited to, temporary structure and fences, may be constructed or placed in the Premises without prior written approval of Permitter. Any construction or placement shall comply with local building and land use regulations. Permittee shall ensure that the installation, maintenance, and operation of the Facilities are performed in accordance with prudent utility practice and shall exercise due diligence to minimize alterations associated with such Facilities.

13. COMPLIANCE WITH LAWS. Permittee shall, at its own expense, and with all due diligence, comply with all of the provisions of local, state, and federal law which are now in effect or may later be adopted by any governmental authority applicable to the Premises and Permittee's use thereof.

14. ASSIGNMENT. Permittee shall not assign or transfer any of the rights authorized by this Agreement except to Permittee's parent company, wholly owned subsidiary or affiliate. Permittee shall notify Permitter and receive approval for any other assignments, which approval shall not be unreasonably withheld.

15. INSURANCE. Permittee shall deliver to Permitter certificates of liability insurance on or before the effective date of this Permit or at another date as agreed to in writing by the Permitter. Insurance shall cover the entire Term. Permittee shall deliver to Permitter photocopies of the policy or policies of insurance, certificates of insurance, or copies of endorsements upon request by Permitter. The policy or policies purchased pursuant to this paragraph shall name Permitter and Permittee as co-insureds with respect to the Premises and the use or business operated by Permittee on the Premises.

A. The Permittee shall maintain in good standing the insurance described in subsection B of this section. Before rendering any activities under the Permit, the Permittee shall furnish the Permitter with proof of insurance in accordance with subsection B in a form acceptable to the MOA Risk Manager.

B. The Permittee shall provide the following insurance:
   1. Workers' compensation and employer's liability coverage in the amount of $1,000,000 as required by Alaska law. In addition, the Permittee is also responsible for complying with the laws of the state where Permittee maintains its principal place of business.
   2. Commercial general liability, including:

$2,000,000 General Aggregate
$2,000,000 Products/Completed Operations
$1,000,000 Personal & Advertising Injury
$1,000,000 Each Occurrence
$5,000 Medical Payments

3. Commercial automobile liability per occurrence in the amount of $1,000,000, single limit to include: owned, hired, and non-owned.

C. Policies written on a "claims made basis" must have a two (2) year tail of coverage from the completion of the contract requirements.

D. Each policy of insurance required by this section shall provide for no less than thirty (30) days advance notice to Permitter.

E. Permitter must be listed as an additional insured on all polices except Worker's Compensation Polices. The actual policy endorsement shall accompany each Certificate of Insurance.

F. All policies except Worker's Compensation shall contain a waiver of subrogation against Permitter. This policy endorsement should accompany each Certificate of Insurance.

G. Any self-insured retentions must be declared to and approved by Permitter.

16. DEFAULT AND RIGHT TO CURE. (a) Failure to perform any term or condition under this Permit within forty-five (45) days after receipt of written notice from Permitter specifying the failure will be deemed a default by Permittee and a breach of this Permit. No default or breach will be deemed to exist, however, if Permittee has commenced to cure such failure within the forty-five (45) day period and continues to prosecute such cure efforts to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Permittee.

(b) If Permittee defaults and breaches this Permit, Permitter shall have the right, in its sole discretion, to terminate all Permittee's rights under this Permit, without further notice. In addition, the Permittee shall, at its own expense, remove the Facilities and any other Permittee property and/or equipment from Permitter's premises within thirty (30) days of such termination. If Permittee fails to do so, Permitter may do so and all costs of removal and storage of same shall be at Permittee's sole expense. Upon termination of Permittee's rights under this Permit, Permittee shall nevertheless be obligated to immediately pay all unpaid fees, costs, and other amounts due under this Permit. For each fee payment that is not made before written notice of non-payment is issued by Permitter, Permittee shall be obligated to pay a late fee of $250.00. All amounts owed by Permittee under this Permit which are not paid when due shall bear interest at a rate ten percent (10.0%) per annum. The remedies provided by this section are in addition to all remedies available to Permitter by law or in equity. All Permitter's remedies are cumulative.

17. NOTICES. All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt request, or by a recognized overnight courier, postage prepaid, to be effective when properly sent and received. Notices will be addressed to the parties as follows:

Permitter: Real Estate Services
4700 Elmore Road
PO Box 196650
Anchorage, Alaska 99519

Permittee: Chugach Electric Association, Inc.
Attention: Chief Executive Officer
5601 Electron Drive
Anchorage, AK 99518

Either party hereto may change the place for the giving of notice to it by written notice to the other as provided herein.

18. QUIET ENJOYMENT. Permittee's construction, installation, maintenance, and operations of the Facilities shall be accomplished with minimum interference and interruption of the use, operation, and maintenance of Permitter's site and/or facilities, and shall at all times in no way endanger the general public or Permitter's personnel. Permitter reserves the right to use, occupy and enjoy its property outside of the Facilities for lawful purposes in such a manner and at such times as it deems necessary to conduct its business so long as it does not interfere with Permittee's use. To the extent Permitter needs access to the portion of the Premises where the Facilities are located, Permitter will coordinate such access with Permittee.

19. REVOCATION. The Permitter reserves the right to revoke this Permit and all authority issued herein with thirty (30) days prior written notice. Any such revocation is subject to the rights and obligations of the parties pursuant to the APA.

20. REMOVAL/RESTORATION: All portions of the Facilities will be and remain Permittee's personal property and, at Permittee's option, may be removed by Permittee at any time during the term of this Permit. Within thirty (30) days of the date of termination of this Permit, or thirty (30) days following the non-renewal of this Permit at term, Permittee will remove all portions of the Facilities and any other Permittee improvements on the Premises, including any subsurface support or foundation improvements, restore the Premises to grade reasonably comparable to the surrounding property, and revegetate the Premises.

21. ENTIRE AGREEMENT. This Permit is the entire agreement between the parties relating strictly to Permittee's use of the Premises, and supersedes any and all prior agreements and understandings relating to the subject matter hereof. This Permit expressly does not supersede any and all prior agreements and understandings of the parties contained in the APA.

22. AMENDMENT. This Permit shall only be amended modified or changed by a writing executed by authorized representatives of the parties, with the same formality as this was executed. For the purposes of any amendment modification or change to the terms and conditions of this Permit, the only authorized representatives of the parties are:

Permittee: [_____]
Permitter: Municipal Manager

Any attempt to amend, modify, or change this Permit by either an unauthorized representative or unauthorized means shall be void.

23. EXHIBITS. The following Exhibits attached to this Permit are incorporated into and made a part of it by this reference:

EXHIBIT A	The Facilities
EXHIBIT B	Survey of Premises
EXHIBIT C	Access to the Premises

IN WITNESS WHEREOF, Permittee and Permitter have caused this Permit to be executed as of the day and year first above written.

PERMITTER:

Municipality of Anchorage

_____

Date: _____

PERMITTEE:

Chugach Electric Association, Inc.

_____

Print Name: _____
Its: _____
Date: _____

Concur:

_____

Date: _____

Recommended by:

_____

Date: _____

EXHIBIT I

ML&P SERVICE TERRITORY

[SEE ATTACHMENTS]

DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT
Regulatory Commission of Alaska

Sarah Palin, Governor
Emil Notti, Commissioner
Anthony A. Price, Chairman

May 15, 2008

In reply refer to: Tariff Section
File: U-07-160

James M. Posey
General Manager
Municipal Light and Power
1200 East First Avenue
Anchorage, Alaska 99501-1685

Dear Mr. Posey:

Pursuant to Order No. 2 in Docket U-07-160, enclosed are validated copies of Tariff Sheet Nos. 6.1 and 7, filed by Municipal Light and Power on November 16, 2007. The effective date of the sheets is May 13, 2008.

Please note that the phrase "Pursuant to U-07-160(2)" has been added to the bottom left corner of each of the tariff sheets. In addition, the effective date of May 13, 2008 has been added to the bottom right corner of each of the tariff sheets.

Sincerely,

REGULATORY COMMISSION OF ALASKA

Mary J. Vittone
Chief, Tariff Section

Enclosures

701 W. 8th Avenue, Suite 300, Anchorage, Alaska 99501-3469
Telephone: (907) 276-6222 Fax: (907) 276-0160 TTY: (907) 276-4533
Website: http://rca.alaska.gov

RCA No. 121 | 2nd Revision | Sheet No. 6.1
Cancelling
1st Revision | Sheet No. 6.1

RECEIVED
NOV 16 2007
STATE OF ALASKA
REGULATORY COMMISSION OF ALASKA

MUNICIPAL LIGHT & POWER

7. 5400 Davis Way, Federal Aviation Administration Air Traffic Control Facility
   5400 Davis Way, Federal Aviation Administration Modular Office Buildings
8. East side of Robert Rude Subdivision, AWWU Control Valve Station
9. 525 East Bluff Drive, Anchorage School District Government Hill Elementary School
10. 911-1509 Richardson Vista Drive and 1303-1347 East Bluff Drive, Richardson Vista Apartments (19 building complex)
11. Fort Richardson Bulk Power Sales
12. Elmendorf Air Force Base Bulk Power Sales
13. 9100 Centennial Drive, Cook Inlet Housing Authority Water Pump
14. 8701 Glenn Highway, State of Alaska Glenn Highway Lighting
15. Elmendorf Hospital Central Plant
16. State of Alaska Fort Richardson Fish Hatchery
17. Veterans Affairs Clinic, EAFB

The locations listed above are numbered to correspond with the numbered locations shown on the service area Map on file with the Regulatory Commission of Alaska and on Tariff Sheet No. 7. (T)

CHRONOLOGY:

Conditional Temporary Certificate:	12/31/70 (U-70-63 (1))
Original Certificate granted:	07/28/72 (U-70-063 (3)), 08/03/72 (U-70-063 (3E))
First Revision	09/27/73 (U-71-016 (19))
Second Revision	01/07/80 (U-71-016 (22))
Third Revision	08/27/84 (U-71-016 (37))
Fourth Revision	07/18/91 (U-90-006 (2))
Fifth Revision	10/31/91 (U-90-006 (2))
Sixth Revision	12/01/97 (U-97-104 (1))
Seventh Revision	05/21/01 (U-00-79 (7))
Eighth Revision	__/__/__ (U-07-__ ( )) (N)

Pursuant to: U-07-160(2) Effective: May 13, 2008

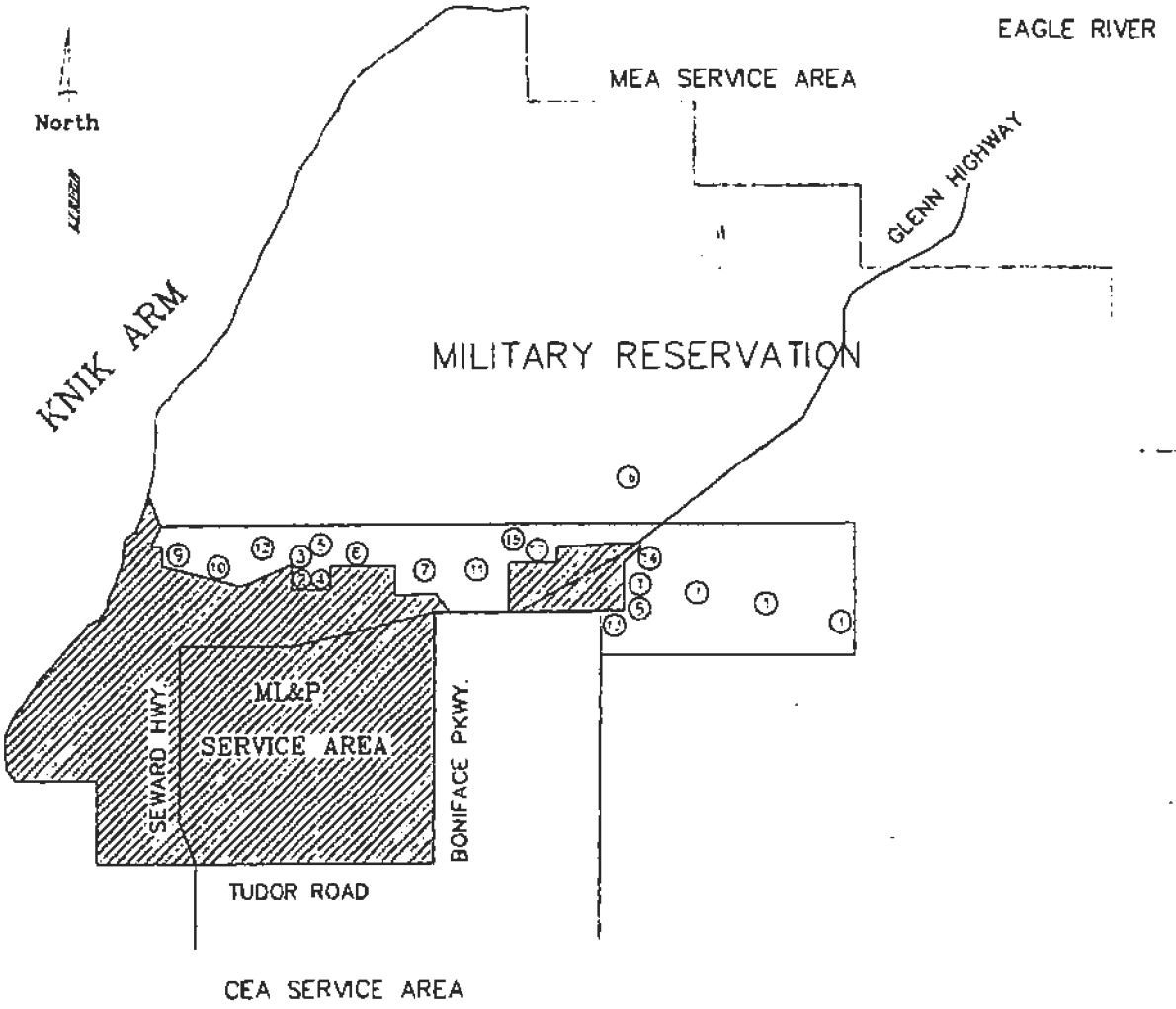
Issued by: Municipality of Anchorage d/b/a Municipal Light & Power

By: James M. Posey Title: General Manager

RCA No. 121 | 3rd Revision | Sheet No. 7
Cancelling
2nd Revision | Sheet No. 7

RECEIVED
NOV 16 2007
STATE OF ALASKA
REGULATORY COMMISSION OF ALASKA

MUNICIPAL LIGHT & POWER



Pursuant to: U-07-160(2)

Effective: May 13, 2008

Issued by: Municipality of Anchorage d/b/a Municipal Light & Power

By: _____ Title: General Manager
James M. Posey

RCA No. 121 3rd Revision Sheet No. 6

Cancelling

2nd Revision Sheet No. 6

RECEIVED
OCT 24 2002
State of Alaska
Regulatory Commission of Alaska

MUNICIPAL LIGHT & POWER

MAPS

ML&P's certificated service area is delineated on the map located on Tariff Sheet No. 7.

The ML&P service area description contained in the sixth Revision of Certificate of Public Convenience and Necessity, No. 121 is as follows:

DESCRIPTION OF SERVICE AREA:

T13N	R4W	Sections:	13, that portion of 23 generally east of the the centerline of the Alaska right of way, and 24
T13N	R3W	Sections:	Those portions of 6 through 10, and 12 not included within the boundaries of a military reservation; 15 through 22, and 27 through 30
T13N	R2W	Sections:	That portion of 7 not included within the boundaries of a military reservation

(All the above with reference to the Seward Meridian)

In addition, the following customer locations are being served within the Elmendorf Air Force Base and Fort Richardson areas: (T)

1. Municipality of Anchorage d/b/a Anchorage Water & Wastewater Utility Ship Creek Dam Waterline, from the Ship Creek Filtration Plant to the Ship Creek Dam
2. 716 Steel Road, State of Alaska Elmendorf Fish Hatchery
3. 2800 Post Road, Elmendorf Air Force Base Guard House
4. 3000 Post Road, Elmendorf Air Force Base Golf Course
   SE of EAFB Post Road Gate, Elmendorf Air Force Base Golf Cart Storage Facility
5. 2651 Post Road, State of Alaska d/b/a Alaska Railroad Load Center
   3301 Post Road, State of Alaska d/b/a Alaska Railroad Signal Light
6. 4005 McPhee Avenue, Anchorage School District Mountain View Elementary School

Pursuant to U-00-79 (9)
Tariff Advice No. _____ Effective: May 21, 2001

ISSUED BY: Municipality of Anchorage d/b/a Municipal Light & Power

BY: /s/ Michael J. Scott TITLE: General Manager

EXHIBIT J

TRANSFERRED CASH CALCULATED AS OF DECEMBER 31, 2017

Restricted Assets of ML&P as of December 31, 2017	Balance
ARO Sinking Fund Investment	$13,198,877
Future Gas Purchases Regulatory Liability	$3,811,326
Regulatory Liability - Gas Sales	$23,711,907
Title 21 Undergrounding Funds	$2,254,012
Customer Deposits	$1,186,226
TOTAL	$44,162,348

CASH CONTRACTUALLY RESTRICTED IN CONNECTION WITH DEBT (AS OF DECEMBER 31, 2017) (NOT CONSTITUTING TRANSFERRED CASH; TO BE USED TO DEFEASE OR REPAY CLOSING DEBT)

Cash Contractually Restricted in Connection with Debt (as of December 31, 2017)	Balance
Debt Service Account	$2,098,515
Revenue Bond Reserve Requirements	$23,335,229

EXHIBIT K

FORM OF BILL OF SALE

BILL OF SALE

This Bill of Sale (this "Bill of Sale"), dated as of [•], 20__, is made and entered into by and between the Municipality of Anchorage, Alaska, a political subdivision organized under the laws of the State of Alaska ("Seller"), and Chugach Electric Association, Inc., a non-profit electric cooperative corporation organized under the laws of the State of Alaska ("Buyer").

WHEREAS, Seller and Buyer have entered into that certain Asset Purchase and Sale Agreement, dated as of December [•], 2018 (as may be amended, restated, or modified from time to time, the "Purchase Agreement"), and the execution and delivery of this Bill of Sale is required as a condition to the consummation of the transactions contemplated thereby. Unless otherwise indicated, capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Purchase Agreement.

NOW, THEREFORE, in consideration of the sale of the Purchased Assets and in accordance with and subject to the terms and conditions of the Purchase Agreement, and for other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, Buyer and Seller agree as follows:

1. Seller does hereby sell, assign, convey, transfer, and deliver to Buyer all of Seller's right, title, and interest in, to, and under the Purchased Assets, free and clear of all Encumbrances other than Permitted Encumbrances, and Buyer does hereby accept all the right, title, interest in, to, and under the Purchased Assets.

2. Seller and Buyer for themselves, and their successors and assigns, hereby covenant and agree that, at any time and from time to time upon the written request of the other party, they will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and assurances as may be reasonably required in order to effectuate the provisions and purposes of this Bill of Sale, all at the sole cost and expense of the requesting party.

3. This Bill of Sale is being delivered pursuant to the Purchase Agreement and will be construed consistently therewith. This Bill of Sale is not intended to, and does not, in any manner enhance, diminish, or otherwise modify the rights and obligations of the parties under the Purchase Agreement. To the extent that any provision of this Bill of Sale conflicts or is inconsistent with the terms of the Purchase Agreement, the terms of the Purchase Agreement will govern, supersede, and prevail. This Bill of Sale and all of the provisions hereof will be binding upon and inure to the benefit of Seller and Buyer and their respective successors and permitted assigns.

4. This Bill of Sale shall be governed by, and construed in accordance with, and any claims brought in connection herewith shall be adjudicated under, the internal laws of the State of Alaska.

5. This Bill of Sale may be executed in counterparts (including by means of facsimile or other electronic signature), each of which shall be deemed to be an original and all of which together will be deemed to be one and the same agreement. Delivery of an executed counterpart by facsimile or other electronic signature shall be effective as delivery of a manually executed counterpart.

[*SIGNATURE PAGE FOLLOWS*]

IN WITNESS WHEREOF, Seller and Buyer have caused this Bill of Sale to be executed as of the date first set forth above.

SELLER:

MUNICIPALITY OF ANCHORAGE, ALASKA

By:_____
Name:
Its:

BUYER:

CHUGACH ELECTRIC ASSOCIATION, INC.

By:_____
Name:
Its:

EXHIBIT L

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement ("Assumption Agreement"), dated as of [•], 20__, is made and entered into by and between the Municipality of Anchorage, Alaska, a political subdivision organized under the laws of the State of Alaska ("Seller"), and Chugach Electric Association, Inc., a non-profit electric cooperative corporation organized under the laws of the State of Alaska ("Buyer").

WHEREAS, Seller and Buyer have entered into that certain Asset Purchase and Sale Agreement, dated as of December [•], 2018 (as may be amended, restated, or modified from time to time, the "Purchase Agreement"), and the execution and delivery of this Assumption Agreement is required as a condition to the consummation of the transactions contemplated thereby. Unless otherwise indicated, capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Purchase Agreement.

NOW, THEREFORE, pursuant and subject to the terms of the Purchase Agreement and in consideration of the mutual covenants set forth below and in the Purchase Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. Seller hereby assigns, transfers, and delivers to Buyer all of Seller's right, title, and interest in, to, and under the Purchased Assets, free and clear of all Encumbrances other than Permitted Encumbrances, and Buyer hereby accepts all the right, title, interest in, to, and under the Purchased Assets and assumes the Assumed Liabilities.

2. Seller and Buyer for themselves, and their successors and assigns, hereby covenant and agree that, at any time and from time to time upon the written request of the other party, they will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and assurances as may be reasonably required in order to effectuate the provisions and purposes of this Assumption Agreement, all at the sole cost and expense of the requesting party.

3. This Assumption Agreement is being delivered pursuant to the Purchase Agreement and will be construed consistently therewith. This Assumption Agreement is not intended to, and does not, in any manner enhance, diminish, or otherwise modify the rights and obligations of the parties under the Purchase Agreement. To the extent that any provision of this Assumption Agreement conflicts or is inconsistent with the terms of the Purchase Agreement, the terms of the Purchase Agreement will govern, supersede, and prevail.

4. This Assumption Agreement and all of the provisions hereof will be binding upon and inure to the benefit of Seller and Buyer and their respective successors and permitted assigns.

5. This Assumption Agreement shall be governed by, and construed in accordance with, and any claims brought in connection herewith shall be adjudicated under, the internal laws of the State of Alaska.

6. This Agreement may be executed in counterparts (including by means of facsimile or other electronic signature), each of which shall be deemed to be an original and all of which together will be deemed to be one and the same agreement. Delivery of an executed counterpart by facsimile or other electronic signature shall be effective as delivery of a manually executed counterpart.

[*SIGNATURE PAGE FOLLOWS*]

IN WITNESS WHEREOF, Seller and Buyer have caused this Assumption Agreement to be executed as of the date first set forth above.

SELLER:

MUNICIPALITY OF ANCHORAGE, ALASKA

By:_____
Name:
Its:

BUYER:

CHUGACH ELECTRIC ASSOCIATION, INC.

By:_____
Name:
Its:

EXHIBIT M

FORM OF SPECIAL WARRANTY DEED FOR PLANT 2/PLANT 2A PARCEL

RECORD THIS INSTRUMENT IN THE ANCHORAGE RECORDING DISTRICT

RETURN THIS INSTRUMENT TO:

CHUGACH ELECTRIC
ASSOCIATION, INC.
5601 ELECTRON DR.,
ANCHORAGE, ALASKA 99518

****

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED (this "**Deed**"), effective this _____ day of _____, 2019, *given by* MUNICIPALITY OF ANCHORAGE, an Alaska municipal corporation, whose mailing address is Post Office Box 196650, Anchorage, Alaska 99519-6650 ("**Grantor**") to CHUGACH ELECTRIC ASSOCIATION, INC., an Alaska electric cooperative, whose mailing address is Post Office Box 196300, Anchorage, Alaska 99519-6300 ("**Grantee**").

WITNESSETH:

THAT FOR AND IN CONSIDERATION OF Ten Dollars ($10.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Grantor takes the following actions:

1. Conveyance. Grantor hereby GRANTS, BARGAINS, SELLS, CONVEYS, ASSIGNS, TRANSFERS, and SPECIALLY WARRANTS (as set forth in Paragraph 2 below and not otherwise) to Grantee (A) all of Grantor's right, title, and interest in and to the real property described in Exhibit A attached hereto, situated in the Anchorage Recording District, Third Judicial District, State of Alaska, TOGETHER WITH (B) all of Grantor's right, title and interest in and to all buildings, improvements and fixtures situated on such real property, and all easements, rights of way, water rights, licenses, privileges, hereditaments and appurtenances, if any inuring to the benefit of such real property (the "**Real Property**"), TO HAVE AND TO HOLD FOREVER, UNDER AND SUBJECT TO the Permitted Encumbrances (as defined in that certain Asset Purchase and Sale Agreement, dated as of December 28, 2018, by and between Grantor and Grantee). The foregoing conveyance includes a conveyance of any right, title, or interest in the Real Property purported to be conveyed by Grantor hereunder but acquired by Grantor subsequent to the date hereof.

2. Special Warranty. This conveyance is made, executed, and delivered without warranty of title, either express, implied or statutory, except that Grantor specially warrants the title to the Real Property and will forever defend the Real Property against every person lawfully claiming the same or any part thereof by, through, or under Grantor but not otherwise.

3. Reservations. Notwithstanding anything in this Deed to the contrary, [for a period of thirty (30) years from the date of this Deed,] the conveyance herein is expressly made subject to the following terms and conditions relating to the mural existing on the [____] face of the building located on the Real Property as of the date hereof (the "**Mural**"):

   a. Without the prior written consent of the Grantor in its sole and absolute discretion, Grantee shall not, and shall not knowingly permit any third party to, (i) alter, damage, disguise, remove, demolish, deconstruct, deface, paint, repaint or otherwise modify the Mural or the exterior wall of the building on which it is located, (ii) make any other alterations to the building that could impair the lateral or subjacent support for the exterior wall of the building on which the Mural is located or (iii) construct, erect or install any building, improvement, tower, fixture, fence or other structure on the Real Property, or plant any trees or shrubs on the Real Property, that could reasonably be expected to (x) impair the visibility of the Mural from the public streets and sidewalks adjacent to the Real Property or (y) prohibit or interfere with Grantor's exercise of its rights under this Section 3. Grantee shall take all measures reasonably necessary to protect the Mural from damage or destruction, ordinary wear and tear excepted.

   b. Grantor and its employees, contractors, agents, successors and assigns (the "**Grantor Parties**") shall have the irrevocable right and privilege to, and Grantor reserves unto itself an easement to, enter onto the Real Property, together with such vehicles, tools, materials and equipment as may be necessary or desirable in the reasonable opinion of Grantor, for the purpose of accessing, inspecting, maintaining, repairing and removing the Mural. In connection therewith, the Grantor Parties will have the rights (i) from time to time to use such portion of the ground and/or building as may be reasonably necessary for the above-described purposes, including, without limitation, the right to install scaffolding on and about the wall of the building on which the Mural is located and (ii) of ingress, egress and regress to and from the Mural over and across such portions of the Real Property as may be reasonably necessary for the above-described purposes. In the event that any Grantor Party causes damage to the Real Property in the exercise of Grantor's rights under this Section 3, Grantor shall, at the election of Grantor, either repair the Real Property to substantially the condition as it existed prior to the occurrence of such damage or pay to Grantee the cost to

repair any such damage, in each case, except to the extent such damage is or would be covered by any policy of insurance then held by Grantee. The breach or non-use of the rights reserved to Grantor herein shall not entitle Grantee or any other person to rescind or otherwise terminate the rights and obligations set forth in this Section 3.

c. Each party shall have the right to prosecute any proceedings in equity against the other party, or any other person, materially violating or attempting to materially violate or default in the performance of any of the provisions contained in this Section 3.

d. Grantee expressly acknowledges and agrees that (i) notwithstanding any rule of law or equity, the Mural shall at all times remain the property of Grantor, even though the Mural may be, and remain, attached, annexed or affixed to the Real Property and (ii) the artist which installed the Mural, being Haddad Drugan LLC, shall retain its copyright in the Mural notwithstanding the conveyance of the Real Property to Grantee pursuant to this Deed.

EXECUTED on the date first set forth above.

MUNICIPALITY OF ANCHORAGE,
an Alaska municipal corporation

By: _____
Name:
Title:

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____, _____ of Municipality of Anchorage, a political subdivision organized under the laws of the State of Alaska, on behalf of said municipality.

_____
Notary Public in and for _____
Residing at _____
My Commission expires _____

Exhibit A

Real Property

[•]

EXHIBIT N

FORM OF QUITCLAIM DEED FOR OTHER OWNED REAL PROPERTY

RECORD THIS INSTRUMENT IN THE ANCHORAGE RECORDING DISTRICT

RETURN THIS INSTRUMENT TO: CHUGACH ELECTRIC ASSOCIATION, INC.
5601 ELECTRON DR.,
ANCHORAGE, ALASKA 99518

****

QUITCLAIM DEED

THIS QUITCLAIM DEED (this "**Deed**"), effective this _____ day of _____, 2019, *given by* MUNICIPALITY OF ANCHORAGE, an Alaska municipal corporation, whose mailing address is Post Office Box 196650, Anchorage, Alaska 99519-6650 ("**Grantor**") to CHUGACH ELECTRIC ASSOCIATION, INC., an Alaska electric cooperative, whose mailing address is Post Office Box 196300, Anchorage, Alaska 99519-6300 ("**Grantee**").

WITNESSETH:

THAT FOR AND IN CONSIDERATION OF Ten Dollars ($10.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Grantor takes the following actions:

1. Conveyance. Grantor hereby CONVEYS AND QUITCLAIMS to Grantee (A) all of Grantor's right, title, and interest in and to the real property described in Exhibit A attached hereto, situated in the Anchorage Recording District, Third Judicial District, State of Alaska, TOGETHER WITH (B) all of Grantor's right, title, and interest in and to all buildings, improvements, and fixtures situated on such real property, and all easements, rights of way, water rights, licenses, privileges, hereditaments, and appurtenances, if any, inuring to the benefit of such real property, TO HAVE AND TO HOLD FOREVER, UNDER AND SUBJECT TO the Permitted Encumbrances (as defined in that certain Asset Purchase and Sale Agreement, dated as of _____, 2018, by and between Grantor and Grantee). The foregoing conveyance includes a conveyance of any right, title, or interest in the Real Property purported to be conveyed by Grantor hereunder but acquired by Grantor subsequent to the date hereof.

2. No Warranty. This conveyance is made, executed, and delivered without warranty of title, either express, implied or statutory.

EXECUTED on the date first set forth above.

MUNICIPALITY OF ANCHORAGE,
a political subdivision organized under the laws of the State of Alaska

By: _____
Name:
Title:

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____, _____ of Municipality of Anchorage, a political subdivision organized under the laws of the State of Alaska, on behalf of said municipality.

_____
Notary Public in and for _____
Residing at _____
My Commission expires _____

Exhibit A

Real Property

EXHIBIT O

FORM OF OFFICER'S CONFIRMATION OF COMPLIANCE WITH ORDINANCE AND PROPOSITION 10

CONFIRMATION PURSUANT TO SECTION 6.21 OF THE ASSET PURCHASE AGREEMENT (THE "ASSET PURCHASE AGREEMENT") DATED AS OF DECEMBER 28, 2018 BETWEEN THE MUNICIPALITY OF ANCHORAGE, ALASKA ("MUNICIPALITY") AND CHUGACH ELECTRIC ASSOCIATION INC. ("CHUGACH")

Pursuant to Section 6.21 of the Asset Purchase Agreement referred to above, Chugach confirms to the Municipality that during the period from _____, ____ to _____, ____, (the "Relevant Period") that:

1. During the Relevant Period, ____ employees were laid off by Chugach. Such layoffs (check relevant box) [ ] were [ ] were not related to transactions contemplated by the Asset Purchase Agreement. The reasons for such layoffs were: _____.][1]

2. During the Relevant Period:

[ ] Base Rates were not increased

[ ] Base Rates were increased and such any such increase was not attributable to transactions contemplated by the Asset Purchase Agreement. Set forth below are links to filings with the Regulatory Commission of Alaska with respect to such increases:

_____

_____

This confirmation was executed on _____, ____.

CHUGACH ELECTRIC ASSOCIATION, INC.

By_____
Name:
Title:

[1] This certificate does not require disclosure of any matter which is prohibited by law.

EXHIBIT P

FORM OF OPINION OF BOND COUNSEL

[LETTERHEAD OF K&L GATES LLP]

_____ __, 2019

Municipality of Anchorage
Anchorage, Alaska

U.S. Bank National Association
Seattle, Washington

Chugach Electric Association, Inc.
Anchorage, Alaska

Re: Municipality of Anchorage, Alaska, Defeasance of Senior Lien Electric Revenue Refunding Bonds, Series 2005A, Senior Lien Electric Revenue Bonds, 2009 Series A (Tax-Exempt), Senior Lien Electric Revenue Bonds, 2009 Series B (Taxable Build America Bonds – Direct Payment), Senior Lien Electric Revenue Refunding Bonds, 2014 Series A and Subordinate Lien Electric Revenue Note (issued pursuant to a Loan Agreement, as amended, between the Municipality and Wells Fargo Municipal Capital Strategies, LLC)

Ladies and Gentlemen:

We are bond counsel to the Municipality of Anchorage, Alaska (the "Municipality") in connection with the defeasance of its outstanding Senior Lien Electric Revenue Refunding Bonds, Series 2005A, Senior Lien Electric Revenue Bonds, 2009 Series A (Tax-Exempt), Senior Lien Electric Revenue Bonds, 2009 Series B (Taxable Build America Bonds – Direct Payment), Senior Lien Electric Revenue Refunding Bonds, 2014 Series A and Subordinate Lien Electric Revenue Note (issued pursuant to a Loan Agreement, as amended, between the Municipality and Wells Fargo Municipal Capital Strategies, LLC) (the "Defeased Obligations"). Such defeasance is authorized pursuant to [to be listed, each document that originally authorized the Defeased Obligations (collectively, the "Authorizing Documents")] _____. Capitalized terms used in this opinion which are not otherwise defined shall have the meanings given to such terms in the Authorizing Documents.

Funds from the sale of the assets of Anchorage Municipal Light and Power, pursuant to the Asset Purchase Agreement, dated _____, between _____ will be used by [U.S.

Bank National Association, Seattle, Washington] as the Escrow Agent (the "Escrow Agent"), to acquire certain noncallable U. S. Government Obligations and held as cash (the "Escrow Deposit"), described in the Escrow Deposit Agreement, dated as of _____ __, 2019 (the "Escrow Agreement") between the Municipality and the Escrow Agent. The Escrow Deposit is sufficient to pay to the date of maturity or redemption thereof all remaining outstanding principal and interest on the Defeased Obligations, and the Escrow Agreement directs the Escrow Agent to use the Escrow Deposit to make such payments. The sufficiency of such escrow maintained pursuant to the Escrow Agreement has been verified by _____. For purposes of the opinions rendered herein, we have relied, without independent investigation, on the verification set forth therein.

Based upon the foregoing, we are of the opinion that:

1. The Escrow Agreement between the Municipality and the Escrow Agent constitutes a legal, valid and binding obligation of the Municipality enforceable in accordance with its terms except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights and remedies of creditors and by the availability of equitable remedies.

2. The Defeased Obligations have been defeased and discharged in accordance with the Authorizing Documents and the ordinances authorizing their issuance, are deemed paid and no longer outstanding and have no further claim of any kind or under any circumstances to be paid from any funds or money of the Municipality or from the Gross Revenues. The liens created by the Authorizing Documents have been fully extinguished.

Very truly yours,

K&L GATES LLP

PREAMBLE

These disclosure schedules (the "**Disclosure Schedules**") have been prepared and are being delivered in connection with the execution and delivery of that certain Asset Purchase Agreement dated as of December 28, 2018 between the Municipality of Anchorage, as Seller, and Chugach Electric Association, Inc., as Buyer (the "**Agreement**"). Capitalized terms used but not otherwise defined in the Disclosure Schedules shall have the respective meanings ascribed to such terms in the Agreement.

The Disclosure Schedules are arranged in sections and subsections corresponding to the numbered and lettered sections and subsections contained in the Agreement.

The headings contained in the Disclosure Schedules are for reference purposes only and shall not affect in any way the meaning or interpretation of the Disclosure Schedules. The attachments referenced in the Disclosure Schedules form an integral part of the Disclosure Schedules and are incorporated by reference for all purposes as if set forth fully herein.

If a matter is said to be set out, disclosed, listed, described, or reflected in a particular section of these Disclosure Schedules, it is deemed to have been sufficiently disclosed to the parties if such matter is reasonably described in that particular section of these Disclosure Schedules or there is, in that particular section, a specific cross-reference to another section of these Disclosure Schedules. Any disclosure or exception set forth by a party in one section of the Disclosure Schedules shall be effective as a disclosure or exception with respect to other sections of the Disclosure Schedules (and to the representations, warranties, and covenants to which such section pertains), to the extent that the relevance to such disclosure or exception other sections is reasonably apparent on its face.

Section 2.01(g)

Assigned Contracts

1. See Section 4.23(d) of the Disclosure Schedules.

2. Municipality of Anchorage Professional Services Contract with IEC Corporation for Generation Repowering Engineering Services on an "As-Needed" Basis to ML&P, between the Municipality of Anchorage (d/b/a Municipal Light & Power) and IEC Corporation, Inc., dated March 25, 2011, as amended by that certain Amendment No.1 dated December 2, 2011, as further amended by that certain Amendment No. 2 dated November 19, 2012, as further amended by that certain Amendment No. 3 dated October 3, 2013, as further amended by that certain Amendment No. 4 dated December 1, 2015, as further amended by that certain Amendment No. 5 dated May 16, 2016, as further amended by that certain Amendment No. 6 dated November 9, 2016, as further amended by that certain Amendment No. 7 dated May 10, 2017, as further amended by that certain Amendment No. 8 dated January 8, 2018, as further amended by that certain Amendment No. 9 dated July 26, 2018.

3. Engineering, Procurement and Construction Contract, dated as of December 10, 2013, between Seller as Owner and Quanta Power Generation, Inc. as Contractor, as amended by those certain Change Orders.

4. Contract for Furnishing Combustion Turbine Generator Equipment, Services, and Technical Services with GE Packaged Power, Inc., between Seller and GE Packaged Power, Inc., fully executed as of October 5, 2012, including any amendments thereto.

5. Contract for Providing Parts, Equipment, Technical and Other Support Services with GE Packaged Power, LLC,. with a start date of July 1, 2018, including any amendments thereto.

Section 2.02(c)

Excluded Assets

1. Fire station on Government Hill (921 Hollywood Drive), provided that Buyer is granted continued use of the antenna structure pursuant to a space and power colocation agreement mutually acceptable to the parties.

2. The portion of the property on which Plant 2/2A is situated that is managed by Anchorage Water & Wastewater Utility ("**AWWU**") pursuant to an agreement that is currently being negotiated between Seller and AWWU.

3. As set forth in the definition of Shared Facilities and Assets, the General Electric software license agreement for network control system for LED street lights, including central management server hosting services and sustainment operations (subject to the provisions of Section 6.14(a) of the Agreement). Seller is currently working with General Electric to finalize the software license agreement.

4. Substation #1 located at 880 Fairbanks Street.

5. Substation #4 located at 6th Avenue & H Street.

6. Substation #5 located at 840 Ivy Street.

Section 2.10

Allocation Principles

To be agreed prior to Closing.

Section 4.03(a)

No Conflicts; Consents

(c)

1. Alaska Department of Natural Resources and Bureau of Land Management in connection with the transfer of BRU Interests and related assets:

    a. Sublease Agreement No. PW154894000, effective as of February 1, 2012 between Seller and New Cingular Wireless PCS.
    b. Tower and Land Lease No. AK-87-0372, effective as of October 16, 1987 between Seller and Matanuska Telephone.
    c. Oil and Gas Lease No. LE 931732, effective as of January 1, 1957 between Seller and BLM.
    d. Oil and Gas Lease No. LE 931733, effective as of January 1, 1957 between Seller and BLM.
    e. Oil and Gas Lease No. LE 931734, effective as of February 2, 1957 between Seller and State of Alaska.
    f. Oil and Gas Lease No. LE 931727, effective as of March 1, 1962 between Seller and State of Alaska.
    g. Oil and Gas Lease No. LE 931726, effective as of April 1, 1962 between Seller and State of Alaska.
    h. Oil and Gas Lease No. LE 931737, effective as of July 1, 1963 between Seller and State of Alaska.
    i. Oil and Gas Lease No. LE 931736, effective as of July 1, 1963 between Seller and State of Alaska.
    j. Oil and Gas Lease No. LE 931738, effective as of July 1, 1963 between Seller and State of Alaska.
    k. Oil and Gas Lease No. LE 931735, effective as of July 1, 1963 between Seller and State of Alaska.
    l. Oil and Gas Lease No. LE 931918, effective as of December 1, 1972 between Seller and State of Alaska.
    m. Oil and Gas Lease No. LE 931911, effective as of December 1, 1972 between Seller and State of Alaska.
    n. Oil and Gas Lease No. LE 931912, effective as of December 1, 1972 between Seller and State of Alaska.
    o. Oil and Gas Lease No. LE 931913, effective as of December 1, 1974 between Seller and State of Alaska.
    p. Gas Sales Agreement CEA 2009-01, effective as of May 12, 2009 between Seller and Buyer.
    q. BLM Change of Operator Permit.
    r. EPA - Class I - AK -11014-A Permit.
    s. ADEC Air Permits (Title I, V, ORL).
    t. ADEC - Wastewater Permit - 9020 and 9339.
    u. Certificate of Appropriation of Water - 740.
    v. ADEC - Class I - 2010DB001-0022.

w. ADEC - Solid Waste Permit - SWXA017-20.
x. ADEC - Drinking Water System Permit - 243608.
y. AOGCC - Class II - BRWD-1 Permit.
z. ANDR - TWUP - A2013-104 Permit.
aa. ADEC - SWPPP EPA - SPCC Plan Permit.

2. The ARRC Modifications.

3. Ground Lease (Contract No. 20133) between Alaska Railroad Corporation and Municipality of Anchorage, effective as of January 29, 2016.

4. Consent of Matanuska Electric Association, Inc. ("**MEA**") pursuant to the Agreement for Extension of "1996 Eklutna Hydroelectric Project Transition Plan" by and among Seller, Buyer, and MEA, dated October 2, 1997 for the transfer of the Eklutna transmission assets.

5. Joint Base Elmendorf-Richardson ("**JBER**") leases:

    a. Department of the Air Force Easement for Electric Power Line and Substation Located on Elmendorf Air Force Base (AFB), Alaska, Easement No. DACA85-2-03-98, effective as of January 12, 2005, between Seller and Secretary of the Air Force of the United States of America.

    b. Department of the Air Force Easement for Electric Power and Telephone Lines Located on Elmendorf Air Force Base (AFB), Alaska, Easement No. DACA85-2-03-142, effective as of March 4, 2004, between Seller and Secretary of the Air Force of the United States of America.

    c. Department of the Air Force Easement for Electrical Substations to Municipality of Anchorage, Municipal Light & Power for Property Located on Elmendorf Air Force Base, Alaska, Easement No. DACA85-2-05-91, effective as of April 10, 2009, between Seller and Secretary of the Air Force of the United States of America.

    d. Department of the Army Easement for Right of Way for Electric Power Transmission or Communication Facilities on Fort Richardson Military Reservation, Alaska, No. DACA85-2-84-18, effective as of March 22, 1984 between Seller and Alaska District Corps of Engineers Real Estate Division.

    e. Department of the Air Force Easement for Electric Power Located on Elmendorf Air Force Base (AFB), Anchorage, Alaska, No. DACA85-2-98-39, effective as of July 7, 1998 between Seller and Department of the Air Force.

    f. Department of the Air Force Easement for Electric Power Line and Pad-Mounted 300kV Transformer Located on Elmendorf Air Force Base (AFB), Alaska, Easement No. DACA85-2-03-139, effective as of March 4, 2004 between Seller and Secretary of the Air Force of the United States of America.

g. Department of the Air Force Easement for Electrical Power Line AA-92713 to Municipality of Anchorage, Municipal Light & Power for Property Located on Elmendorf Air Force Base, Alaska (Easement No. DACA85-8-11-0100, a/k/a Easement No. DACA85-80-62).

6. Contract for Providing Parts, Equipment, Technical and Other Support Services with GE Packaged Power, LLC, with a start date of July 1, 2018, including any amendments thereto. (Plant 2A turbine maintenance) (30 days' prior notice of transfer).

7. Motorola License Agreement for APX

8. Motorola License Agreement for Astro 25 Mobile

9. Motorola License Agreement for Astro 25 Portable

10. ADEC Air Permits:

    a. Department of Environmental Conservation Air Quality Operating Permit, Permit No. AQ0202TVP03, issued on June 3, 2014 and expiring on June 3, 2019.

    b. Department of Environmental Conservation Air Quality Operating Permit, Permit No. AQ0203TVP03, issued on October 12, 2015 and expiring on October 12, 2020.

11. AWWU Industrial Wastewater Permit:

    a. Industrial Wastewater Discharge Permit #2 to G.M. Sullivan Plant 2/2A, effective on October 1, 2016 and expiring on September 30, 2021.

12. Oil Discharge Prevention and Contingency Plan Approval, George M. Sullivan Plant 2/2A, Plan Number 15-CP-2098, Approved by ADEC on November 20, 2015.

13. Owned Real Property Patents:

    a. 880 Fairbanks Street (002-123-56) - Patent filed November 10, 1925.

    b. 1042 E. Street (002-131-41) - Patent filed April 26, 1965.

    c. 8670 Glenn Highway (006-331-05) - Patent filed May 11, 1965.

    d. 9050 Starview Drive (074-061-02) - Patent filed April 26, 1975.

14. Vendor Contract - Contract to Provide OEM Parts and Services for Bently Nevada Vibration Equipment on an "As-Required" basis, dated October 7, 2016, as amended, between Seller and Bently Nevada, LLC (consent).

15. Gas Sale and Purchase Agreement, dated as of July 29, 2013, between ConocoPhillips Company, ConocoPhillips Alaska, Inc., and ConocoPhillips Alaska Natural Gas

Corporation, as Seller, and Municipality of Anchorage d/b/a Municipal Light & Power, as Buyer (consent).

16. Vendor Contract - Service Contract, dated as of February 9, 2016, between Seller and Evoqua Water Technologies, Inc. (consent).

17. Service Contract (Contract Number 4400000361), fully executed as of September 6, 2017, between Seller and Siemens Energy Inc. (consent).

18. Service Contract (Contract Number 4400000682), fully executed as of October 4, 2018, between Seller and Siemens Energy Inc. (consent).

19. Amended and Restated Power Pooling and Joint Dispatch Agreement between Chugach Electric Association, Inc., Municipal Light & Power, and Matanuska Electric Association, Inc., dated January 20, 2017 (consent of Operating Committee).

20. South Central Alaska Power Project Participation Agreement, dated August 28, 2008, between Chugach Electric Association, Inc. and Municipal Light & Power (consent of Participants).

21. Precedent Agreement between Cook Inlet Natural Gas Storage Alaska, LLC and the Municipality of Anchorage (d/b/a Municipal Light & Power), dated August 3, 2010 (consent, or transfer meets elements of permitted transfer).

22. Natural Gas Sale and Purchase Agreement between Furie Operating Alaska, LLC and the Municipality of Anchorage (d/b/a Municipal Light and Power), dated January 3, 2018 (consent or transfer meets elements of permitted transfer).

23. Short-Term Natural Gas Sale and Purchase Agreement between Municipal Light and Power and Helena Energy, LLC, dated March 30, 2018 (consent).

24. Employee Matters Agreement, dated February 4, 2016, between ConocoPhillips Alaska, Inc. and Municipality of Anchorage (d/b/a Municipal Light & Power) and Chugach Electric Association, Inc. (consent).

25. Agreement Regarding the Succession of the Beluga River Unit Operator, dated as of February 4, 2016, between Municipality of Anchorage (d/b/a Municipal Light & Power), Chugach Electric Association, Inc., and Hilcorp Alaska, LLC (consent).

26. Purchase and Sale Agreement, dated April 9, 1996, between Shell Western E&P Inc. and Shell Onshore Ventures Inc. and Municipality of Anchorage (d/b/a Municipal Light & Power) (consent).

27. Battle Creek Water Allocation Purchase Agreement, dated December 31, 2017, between Alaska Electric and Energy Cooperative, Inc. (AEEC) and Municipality of Anchorage (d/b/a Municipal Light & Power) (consent).

28. Encroachment Permit R161155, made February 22, 2016, by and between Municipal Light & Power, as Permittee, and Municipality of Anchorage, as Permitter.

29. Lease Agreement between Alaska Pacific University (f/k/a Alaska Methodist University) and City of Anchorage, Alaska, effective as of July 24, 1972, for the premises located on the parcel of real property known as Tax #005-101-04 (Substation #15).

Section 4.06

Absence of Certain Changes, Events and Conditions

(o)(i)

1. Retention Agreement, effective as of March 7, 2018, between Seller and Beverly A. Jones
2. Retention Agreement, effective as of March 7, 2018, between Seller and Julie A. Harris.
3. Retention Agreement, effective as of March 7, 2018, between Seller and Mark A. Johnston.
4. Retention Agreement, effective as of March 7, 2018, between Seller and Mollie C. Morrison.
5. Retention Agreement, effective as of March 7, 2018, between Seller and Timothy R. Prior.
6. Retention Agreement, effective as of March 7, 2018, between Seller and Gary A. Agron.
7. Retention Agreement, effective as of March 7, 2018, between Seller and Anna C. Henderson.
8. Retention Agreement, effective as of March 7, 2018, between Seller and Patsy D. Gunn (items 1-8 above are collectively referred to herein as the "**Retention Agreements**").

(q)(i)
Seller intends to make certain changes to its cafeteria benefits plan (applicable to executive and non-represented employees), effective as of January 1, 2019.

(q)(iii)
1. IBEW Administrative Agreement, by and between Municipality of Anchorage and International Brotherhood of Electrical Workers Local 1547, dated April 3, 2018.
2. IBEW AA# 2018-01-Revised Administrative Agreement, by and between Municipality of Anchorage and International Brotherhood of Electrical Workers Local 1547, dated February 9, 2018.
3. IBEW Administrative Agreement #18-03, by and between Municipality of Anchorage and International Brotherhood of Electrical Workers Local 1547, dated May 31, 2018.
4. IBEW Administrative Agreement #18-04, by and between Municipality of Anchorage and International Brotherhood of Electrical Workers Local 1547, dated June 28, 2018.

Section 4.07

Material Contracts

(a)

(iii) Seller makes purchases and sales under economy energy tariff arrangements.

(iv)

1. Gas Sale and Purchase Agreement, between Seller and Hilcorp Alaska, LLC as successor-in-interest to ConocoPhillips Alaska Natural Gas Corporation, ConocoPhillips Alaska, Inc., ConocoPhillips Company by Letter Agreement, dated September 15, 2016.

2. Interruptible Storage Service Agreement, dated as of March 1, 2017, between Seller and Cook Inlet Natural Gas Storage Alaska, LLC.

3. FSS Service Agreement, entered into as of August 3, 2011, between Cook Inlet Natural Gas Storage Alaska, LLC, and Seller.

(v) Bradley Lake Hydroelectric Project Agreement for the Wheeling of Electric Power and for Related Services, entered into as of December 8, 1987, by and among Buyer, Homer Electric Association Inc. ("**HEA**"), GVEA, MEA, Seller, SES, and AEG&T.

(vi)

1. Eklutna Generating Station Interconnection Agreement, dated as of December 29, 2014, between Seller, Buyer, and MEA.

2. Agreement for Maintenance and Operation of the Eklutna Generation Station Switchyard, dated as of December 29, 2014, between Seller, Buyer, and MEA.

3. Bradley Lake Hydroelectric Project Master Maintenance and Operating Agreement, dated as of May 24, 1994, among the Alaska Energy Authority and the Bradley Project Management Committee.

4. Operation and Maintenance Agreement for Bradley Lake Project, dated February 11, 1994, as amended by that certain Amendment Number One, dated as of August 24, 1996, as further amended by that certain Amendment Number Two, dated as of [June 22, 1999], between HEA and the Alaska Energy Authority.

(vii)

1. Vendor Contract - Contract to Provide OEM Parts and Services for Bently Nevada Vibration Equipment on an "As-Required" basis, dated October 7, 2016, as amended, between Seller and Bently Nevada, LLC.

2. Gas Sale and Purchase Agreement, dated as of July 29, 2013, between ConocoPhillips Company, ConocoPhillips Alaska, Inc., and ConocoPhillips Alaska Natural Gas Corporation, as Seller, and Municipality of Anchorage d/b/a Municipal Light & Power, as Buyer.

3. Vendor Contract - Service Contract, dated as of February 9, 2016, between Seller and Evoqua Water Technologies, Inc.

4. Service Contract (Contract Number 4400000361), fully executed as of September 6, 2017, between Seller and Siemens Energy Inc.

5. Service Contract (Contract Number 4400000682), fully executed as of October 4, 2018, between Seller and Siemens Energy Inc.

6. Vendor Contract (Contract Number 4400000179) - Kingsbury, Inc. Terms and Conditions of Sale (January 2014), begin date of January 1, 2016, between Seller and Kingsbury Incorporated, as amended.

7. Negotiated Terms between Control Components, Inc. and the City of Anchorage (Contract Number 4400000185), dated as of August 10, 2017, as amended.

8. Professional Services Contract (Contract Number 4400000188), dated as of May 23, 2016, between Seller and Resource Data, Inc., as amended.

9. Service Contract (Contract Number 4400000191), fully executed as of September 27, 2016, as amended, between Seller and Cummins Inc.

10. Vendor Contract - Terms and Conditions of Sale (Contract Number 4400000177), begin date of August 30, 2016, as amended, between Seller and Voith Hydro, Inc.

11. Vendor Contract - Service Contract (Contract Number 4400000197), begin date of December 1, 2016, as amended, between Seller and GE Inspection Technologies LP.

12. Professional Services Contract with IEC Corporation, Inc. for Generation Repowering Engineering Services (Contract Number 4400000007), dated as of March 25, 2011, as amended, between Seller and IEC Corporation, Inc.

13. DOT&PF Memorandum of Agreement.

14. Contract for Furnishing Combustion Turbine Generator Equipment, Services, and Technical Services with GE Packaged Power, Inc., between Seller and GE Packaged Power, Inc., fully executed as of October 5, 2012, including any amendments thereto.

15. Contract for Providing Parts, Equipment, Technical and Other Support Services with GE Packaged Power, LLC, with a start date of July 1, 2018, including any amendments thereto.

(x)

1. The Retention Agreements.

2. Contract for Providing Parts, Equipment, Technical and Other Support Services with GE Packaged Power, LLC, with a start date of July 1, 2018, including any amendments thereto.

3. Contract for Furnishing Combustion Turbine Generator Equipment, Services, and Technical Services with GE Packaged Power, Inc., between Seller and GE Packaged Power, Inc., fully executed as of October 5, 2012, including any amendments thereto. (Plant 2A turbine maintenance).

(xi)

1. Bradley Lake Hydroelectric Project Power Sales Agreement, dated as of December 8, 1987, among the Alaska Power Authority, Buyer, GVEA, Seller, the City of Seward d/b/a Seward Electric System ("**SES**"), the Alaska Electric Generation & Transmission Cooperative, Inc. ("**AEG&T**"), HEA, and MEA.

(xii)

1. Utility Service Contract for Elmendorf Air Force Base, Contract No. F65501-68-C-0090, as modified from time to time, between Seller and the United States of America.

2. Solicitation, Offer and Award, issued as of April 16, 2009, as modified from time to time, between Seller and the United States of America, for the supply of electric power for the U.S. Army installation at Fort Richardson.

3. Seller has standard customer relationships with local, state, federal and foreign Governmental Authorities.

4. Agreement, entered into on August 7, 1991, between Seller, Buyer, MEA, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Alaska Energy Authority, and the State of Alaska, relative to the Eklutna and Snettisham Hydroelectric Projects.

5. Second Amended and Restated Operation & Maintenance Agreement for Bradley Lake Hydroelectric Project, effective as of July 1,2008, between Homer Electric Association, Inc. and the Alaska Energy Authority.

(xiii) Certificate of public convenience and necessity.

(xiv)

2. Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, fully executed as of February 17, 1984, between the Alaska Power Administration, an entity of the United States Department of Energy, and Seller.

3. Agreement, entered into on August 7, 1991, between Seller, Buyer, MEA, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Alaska Energy Authority, and the State of Alaska, relative to the Eklutna and Snettisham Hydroelectric Projects.

4. Bradley Lake Hydroelectric Project Master Maintenance and Operating Agreement, dated as of May 24, 1994, among the Alaska Energy Authority and the Bradley Project Management Committee.

5. Operation and Maintenance Agreement for Bradley Lake Project, dated February 11, 1994, as amended by that certain Amendment Number One, dated as of August 24, 1996, as further amended by that certain Amendment Number Two, dated as of [June 22, 1999], between HEA and the Alaska Energy Authority.

6. Second Amended and Restated Operation & Maintenance Agreement for Bradley Lake Hydroelectric Project, effective as of July 1,2008, between Homer Electric Association, Inc. and the Alaska Energy Authority.

7. 1996 Eklutna Hydroelectric Project Transition Plan, dated as of May 28, 1996, by and among the United States of America d/b/a Alaska Power Administration, a unit of the Department of Energy, Seller, Buyer, and MEA, as extended by that certain Agreement for Extension, fully executed on October 2, 1997, by and among Seller, Buyer, and MEA.

8. Bradley Lake Hydroelectric Project Power Sales Agreement, dated as of December 8, 1987, among the Alaska Power Authority, Buyer, GVEA, Seller, SES, AEG&T, HEA, and MEA.

9. Joint Operating Agreement, entered into as of April 1, 1962, between Standard Oil Company of California, Richfield Oil Corporation, and Shell Oil Company.

10. Bradley Lake Hydroelectric Project Agreement for the Wheeling of Electric Power and for Related Services, entered into as of December 8, 1987, by and among Buyer, HEA, GVEA, MEA, Seller, SES, and AEG&T.

11. Operation and Maintenance Agreement for South Central Alaska Power Project, dated as of August 28, 2008, between Buyer and Seller.

12. Participation Agreement (South Central Alaska Power Project), dated as of August 28, 2008, between Buyer and Seller.

13. Purchase and Sale Agreement (Beluga River Unit), effective as of January 1, 2016, among ConocoPhillips Alaska, Inc., Seller, and Buyer.

14. Purchase and Sale Agreement of Beluga River Field between Shell Western E&P Inc. and Shell Onshore Ventures Inc. and Municipality of Anchorage (d/b/a Municipal Light & Power), dated April 9, 1996.

15. Letter Agreement regarding Joint Filing on Efforts Towards Power Pooling and Joint Dispatch Among Seller, Buyer, and MEA in Response to Order No. 3 in 1-15-001, dated as of December 29, 2016.

16. Amended and Restated Power Pooling and Joint Dispatch Agreement, fully executed as of January 27, 2017, by and among Buyer, Seller, and MEA.

(xv)

1. Participation Agreement (South Central Alaska Power Project), dated as of August 28, 2008, between Buyer and Seller.

2. 1996 Eklutna Hydroelectric Project Transition Plan, dated as of May 28, 1996, by and among the United States of America d/b/a Alaska Power Administration, a unit of the Department of Energy, Seller, Buyer, and MEA, as extended by that certain Agreement for Extension, fully executed on October 2, 1997, by and among Seller, Buyer, and MEA.

3. Purchase and Sale Agreement (Beluga River Unit), effective as of January 1, 2016, among ConocoPhillips Alaska, Inc., Seller, and Buyer.

4. Purchase and Sale Agreement of Beluga River Field between Shell Western E&P Inc. and Shell Onshore Ventures Inc. and Municipality of Anchorage (d/b/a Municipal Light & Power), dated April 9, 1996.

(xvii) Agreement Covering Terms and Conditions of Employment between Seller and International Brotherhood of Electrical Workers Local Union 1547, effective February 28, 2017 - December 31, 2019.

(xviii)

1. Purchase and Sale Agreement (Beluga River Unit), effective as of January 1, 2016, among ConocoPhillips Alaska, Inc., Seller, and Buyer.

2. Joint Operating Agreement, entered into as of April 1, 1962, between Standard Oil Company of California, Richfield Oil Corporation, and Shell Oil Company.

3. Letter Agreement, dated as of September 15, 2016 regarding Assignment of 7/29/2013 ConocoPhillips (COP)-Municipal Light and Power (ML&P) Gas Sale Agreement (GSA).

4. Purchase and Sale Agreement of Beluga River Field between Shell Western E&P Inc. and Shell Onshore Ventures Inc. and Municipality of Anchorage (d/b/a Municipal Light & Power), dated April 9, 1996.

(xix)

1. Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, fully executed as of February 17, 1984, between the Alaska Power Administration, an entity of the United States Department of Energy, and Seller.

2. Agreement, entered into on August 7, 1991, between Seller, Buyer, MEA, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Alaska Energy Authority, and the State of Alaska, relative to the Eklutna and Snettisham Hydroelectric Projects.

3. 1996 Eklutna Hydroelectric Project Transition Plan, dated as of May 28, 1996, by and among the United States of America d/b/a Alaska Power Administration, a unit of the Department of Energy, Seller, Buyer, and MEA, as extended by that certain Agreement for Extension, fully executed on October 2, 1997, by and among Seller, Buyer, and MEA.

4. Eklutna Generating Station Interconnection Agreement, dated as of December 29, 2014, between Seller, Buyer, and MEA.

5. Agreement for Maintenance and Operation of the Eklutna Generation Station Switchyard, dated as of December 29, 2014, between Seller, Buyer, and MEA.

(xx)

1. Contract for Providing Parts, Equipment, Technical and Other Support Services with GE Packaged Power, LLC, with a start date of July 1, 2018, including any amendments thereto.

2. Contract for Furnishing Combustion Turbine Generator Equipment, Services, and Technical Services with GE Packaged Power, Inc., between Seller and GE Packaged Power, Inc., fully executed as of October 5, 2012, including any amendments thereto. (Plant 2A turbine maintenance).

3. Agreement for Maintenance and Operation of the Eklutna Generation Station Switchyard, dated as of December 29, 2014, between Seller, Buyer, and MEA.

4. Seller has the following day labor contracts and Title 21 contracts:

Engineering/Operations Vendor Contracts

Vendor	Project	Contract #	Date Signed	Effective Date	Length of Contract	Option Years
Northern Powerline Constructors	4kV to 12kV Conversion Overhead to Underground	C-20180003407	6/28/2018	7/9/2018	7/23/18 - 10/31/18	NA
	Bootlegger's Cove Title 21 Undergrounding	C-20180001722	5/1/2018	5/1/2018	5/16/18 - 9/13/18	NA
	Unit Price Boring Contract	2016MLP119	7/13/2016	7/14/2016	7/14/16 - 6/30/19	2 one-year renewals
Chenega Corporation dba Hotwire LLC	3/4 Alley Title 21 Underground	C-20180002035	5/1/2018	5/2/2018	5/18/18 - 8/25/18	NA
Electric Power Systems (EPS)	Provide professional engineering services	4600000363	6/14/2017	6/23/2017	6/23/17 - 6/22/2019	2 one-year options
Crescent Electric	Central Mgmt Services hosting fees (Street Lights)				1/1/19 - 12/31/2019	8 one-year options
Potelcom 25 Meters					11/14/2017-11/14/2018	Two option years to extend
Potelcom 125 Meters					02/16/2018 – 02/15/2019	Two option years to extend
Tantalus					02/27/2017 – 12/31/2018	Two 6 Month Extension periods
Chenega Corporation dba Hot Wire LLC	Day Labor Contract				4/01/18 – 3/31/19	With the option to renew for two additional one-year periods.
A-1 Lawn & Landscaping	Landscaping Contract				3/30/18 thru 8/31/19	No Renewal Options
GMG General	Paving Contract				5/31/18 thru 5/31/19	No Renewal Options

(b)

For the Bradley Lake Hydroelectric Project Agreement for the Wheeling of Electric Power and for Related Services, entered into as of December 8, 1987, by and among Buyer, HEA, GVEA, MEA, Seller, SES, and AEG&T, see the Homer Litigation in item #1 under Section 4.16(a) of the Disclosure Schedules.

Section 4.08

Title to Purchased Assets

The liens secured by the oil and gas leases as described in the UCC Financing Statement (Filing Number: 2014-037322-0) filed with the Recorder's Office in the Anchorage District of Alaska on September 16, 2014, listing Hilcorp Alaska, Inc. ("**Hilcorp**") and Municipality of Anchorage d/b/a Municipal Light & Power as the debtors and ConocoPhillips Alaska, Inc. as the secured party, as provided for in Article 18 of the Beluga River Unit Joint Operating Agreement.

The unperfected security interest of Hilcorp, as the secured party created under Article 18 of the BRU Joint Operating Agreement (Hilcorp is now the Operator as of April 22, 2016).

Section 4.10(a)

Owned Real Property

Owned Real Property (Fee Simple)

#	Address	Use	Parcel ID #
1.	201 East 2nd Ave.	Substation #3	002-084-63 002-084-64
2.	13th & Gambell St.	Vacant (No longer Substation #18)	002-131-41
3.	1042 E. St. (Frontier Park)	Substation #6	002-143-22 002-143-23
4.	2235 Arctic Blvd.	Substation #7	002-195-15
5.	921 Hollywood Drive	Storage	003-022-05
6.	101 North Sitka Street	Substation #10	003-051-12
7.	1010 E 1st Ave	Firestone Building	003-062-02
8.	1040 E 1st Ave.	Tech Services/Meter Shop	003-062-03
9.	1120 1st Ave.	Customer Service Building	003-062-04
10.	1200 East 1st Ave.	Administration Building	003-062-05
11.	1121 East First Ave 1201 East 1st Ave.	Power Dispatch/Operations	003-062-06
12.	East 1st Ave.	Vacant Lot across from Power Plant #1	003-062-14
13.	821 East 1st Ave.	Generating Plant #1	003-062-15
14.	310 Karluk	Laydown Yard	003-073-07
15.	1005 E. 4th Ave.	Laydown Yard	003-073-09
16.	204 Post Road	Tech Service Building	003-073-32
17.	2801 Career Center Drive (Goose Lake Park)	Substation #8	004-181-12
18.	1301 South Bragaw St.	Vacant (No longer substation #17)	005-071-01
19.	8670 Glenn Hwy	Generating Plant #2	006-331-05
20.	2970 Bering Street	Substation #22	009-032-89
21.	Northern Lights & Eureka St.	Vacant (No longer Substation #19)	009-035-45 009-035-46
22.	Not specified	Ao2009-52 acquisition & assgm't of Mgmt Auth per AMC 25.10.050B (mgmt s/b by AR not AO)	
23.	Corner of James Way & Glenn Hwy	Co-owned with apx. 53% interest to ML&P Rebuild project Eklutna Hydr Plant etc.	051-312-29
24.	Glenn Hwy	Generating Plant #2/Ship Creek Treatment Plant	074-061-02

Section 4.10(b)

Leased Real Property

1. Ground Lease (Contract No. 20133) between Alaska Railroad Corporation and Municipality of Anchorage, effective as of January 29, 2016, for the premises located on the parcel of real property known as Tax #002-031-15.

2. Lease (Contract No. 69-25-0003-4565) between Alaska Railroad Corporation and Municipality of Anchorage, effective as of March 15, 1977, as amended by Supplement No. 1 to Contract No. 69-25-0003-4565 dated June 18, 1979, as further amended by Supplement No. 2 to Contract No. 69-25-0003-4565 dated June 13, 1983, as further amended by Supplement No. 3 to ARRC Contract No. 4565 dated August 6, 2004 for the premises located on the parcel of real property known as Tax #003-061-02. *Expired*

3. Lease Agreement between Alaska Pacific University (f/k/a Alaska Methodist University) and City of Anchorage, Alaska, effective as of July 24, 1972, for the premises located on the parcel of real property known as Tax #005-101-04 (Substation #15).

4. Lease (Contract #7634) between Alaska Railroad Corporation and Seller, draft dated as of May 24, 1999, for the premises located on the parcel of real property known as Tax # 001-021-11. *Unexecuted*

Section 4.10(c)

Other Real Property Interests

1. Blanket Permit between Alaska Railroad Corporation and Municipality of Anchorage d/b/a Municipal Light & Power (Contract #5980), effective as of September 20, 1988, as amended by Supplement No. 1 dated April 17, 1992, Supplement Nos. 2 and 3 dated September 22, 2004, Supplement No. 4 dated August 30, 2007, Supplement No. 5 dated September 4, 2007, Supplement No. 6 dated July 2, 2008, Supplement No. 7 dated August 10, 2015, and Supplement No. 8 dated July 14, 2016. *Expired.*

2. Electric and Telecommunications System Easement - Underground and Overhead, between Cook Inlet Region, Inc. and Anchorage, effective as of December 10, 1993 (Substation #20).

3. Electric Systems Easement - Overhead/Underground and Surface Facilities for an Electrical Substation (ML&P File #07-64), between KIMCO/POB Glenn Square Anchorage, LLC, and Municipality of Anchorage, d/b/a Municipal Light & Power, effective as of December 17, 2007.

4. Department of the Air Force Easement for Electrical Substations to Municipality of Anchorage, Municipal Light & Power for Property Located on Elmendorf Air Force Base, Alaska (Easement No. DACA85-2-05-91) between Secretary of the Air Force and Municipality of Anchorage (MOA) d/b/a Municipal Light and Power effective as of April 10, 2009.

5. Department of the Air Force Easement for Electrical Power Line AA-92713 to Municipality of Anchorage, Municipal Light & Power for Property Located on Elmendorf Air Force Base, Alaska (Easement No. DACA85-8-11-0100, a/k/a Easement No. DACA85-80-62). Seller does not have a full copy of the underlying easement. *Expired.*

6. Department of the Air Force Easement for Electric Power Line and Substation Located on Elmendorf Air Force Base (AFB), Alaska, (DACA85-2-03-98), between Secretary of the Air Force and Municipality of Anchorage, Municipal Light and Power. *Expired*

7. Department of the Air Force Easement for Electric Power Located on Elmendorf Air Force Base (AFB) Anchorage Alaska (DACA85-2-98-39), between Secretary of the Air Force and Municipality of Anchorage, Municipal Light and Power. *Expired*

8. Department of the Air Force Easement for Electric Power and Telephone Lines Located on Elmendorf Air Force Base (AFB), Alaska (DACA85-2-03-142), between Secretary of the Air Force and Municipality of Anchorage, Municipal Light and Power. *Expired*

9. Department of the Air Force Easement for Electric Power Line and Pad-Mounted 300Kv Transformer Located on Elmendorf Air Force Base (AFB), Alaska (DACA85-2-03-139), between Secretary of the Air Force and Municipality of Anchorage, Municipal Light and Power. *Expired*

10. Department of the Army Easement for Right of Way for Electric Power Transmission or Communication Facilities on Fort Richardson Military Reservation, Alaska (DACA85-2-84-18), between Secretary of the Army and Municipality of Anchorage, Municipal Light and Power. *Expired*

11. Permit between Alaska Railroad Corporation and Municipality of Anchorage, Municipal Light & Power (Contract #7021), effective July 1, 1995. *Expired*

12. Easement dated October 26, 1984 between Anchorage Community Development Authority (f/k/a Anchorage Parking Authority) and Anchorage, a Municipal corporation.

13. Easement between Carr Gottstein, Inc. (as successor by merger to Carr Gottstein Properties, Inc.) and Municipality of Anchorage as shown on that certain Subdivision Plan dated August 12, 1987 and filed in the Anchorage Recording District on October 30, 1987 (Substation #16).

14. Memorandum of Agreement between the State of Alaska Department of Transportation and Public Facilities and the Municipality of Anchorage Regarding the Installation of a Guard Station and Gate to restrict access to portions of the Glenn Highway frontage road known as Centennial Park Road, effective July 13, 2012 ("**DOT&PF Memorandum of Agreement**").

Section 4.11(a)

Intellectual Property Registrations

(i) Registered domain names:

1. mlandp.com
2. ml-p.com
3. mlandp.net
4. billing.mlandp.com
5. mlpems.com
6. mlpdmz.com

(ii) Unregistered trademarks:

Compliments of Municipal Light and Power

posi⊕iveENERGY

(iii) None.

(iv) None.

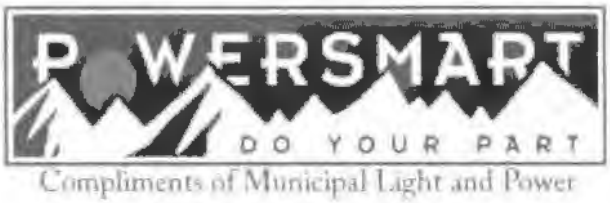
Section 4.11(a)

Intellectual Property Registrations

(i) Registered domain names:

1. mlandp.com
2. ml-p.com
3. mlandp.net
4. billing.mlandp.com
5. mlpems.com
6. mlpdmz.com

(ii) Unregistered trademarks:



positiveENERGY

Section 4.11(b)

Intellectual Property Agreements

1. Autodesk Utility Design (re-assigned to Spatial Business Systems)
2. DOT3D-EA-A annual license and Phi3D-SSM annual license along with Phi.3D Software Support and Maintenance Agreement
3. KorTerra Mobile Client Software annual license
4. Magnet Field Solutions Software annual license
5. Alcatel Network Manager (CPSS 5620) License Agreement
6. Alcatel PC Element Management Platform (CPSS 5521) License Agreement
7. Cadex BatteryShop 6.1 License, serial number 119420991105522
8. Fujitsu Network Communications, Inc. End User License Agreement (embedded firmware in hardware)
9. Harris FarScan License (embedded in microwave radio system)
10. Milestone XProtect Expert License (license type for hardware device (camera))
11. Motorola License Agreement for APX
12. Motorola License Agreement for Astro 25 Mobile
13. Motorola License Agreement for Astro 25 Portable
14. Paessler License PRTG500
15. Primera Technology, Inc. License Agreement
16. PY Software Active Webcam (ARGDVR32PPL1008E1D9-A27R-ECY7P-XKTQD-ZQXX6-9MF6A-QZH8H-KRBX4-P6CWS-YBYWK)
17. Stancil License (stlicense.dat file)
18. Laserfiche Software (Infolinx Records Management) for Generation Division
19. TUNet Software End User License Agreement from Tantalus Systems, Inc.

Section 4.11(c)

Ownership of Intellectual Property Assets

None.

Section 4.12

Inventory

None.

Section 4.14(a)

Material Customers

2017 Material Customers	
Customer Name	**Revenue ($)**
Elmendorf Air Force Base	$13,810,920
Municipality of Anchorage	$6,244,068
Providence Alaska Medical	$4,527,732
Anchorage School District	$4,144,490
State of Alaska	$4,055,288
Fort Richardson	$3,641,951
University of Alaska, Anchorage	$3,075,322
University of Alaska	$2,762,581
Providence Health System	$2,742,328
Alaska Native Tribal Health Consortium	$2,625,088
Galen Hospital Alaska	$2,315,372
BP Exploration	$1,475,936
SMG of Alaska	$1,452,916
Hyde & Rubini	$1,419,431
Alaska Communications	$1,348,746
Alaska Railroad	$1,248,039
Southcentral Foundation	$1,246,147
AT&T	$1,214,942
United States Government	$1,157,000
Hickel Investment	$1,133,382
Phillips Alaska	$1,132,366
GSA Finance Division Utility Unit	$1,100,797
Wal-mart Stores Inc.	$1,058,081
Alaska USA Federal Credit Union	$1,035,648

2016 Material Customers	
Customer Name	**Revenue ($)**
Elmendorf Air Force Base	$12,249,880
Municipality of Anchorage	$5,010,301
Providence Alaska Medical	$4,047,395
State of Alaska	$3,601,515
Anchorage School District	$3,567,374
Fort Richardson	$3,187,464
University of Alaska, Anchorage	$2,583,129
University of Alaska	$2,409,761
Providence Health System	$2,384,436
Alaska Native Tribal Health Consortium	$2,212,302
Galen Hospital Alaska	$2,146,572

Hyde & Rubini	$1,359,594
BP Exploration	$1,330,238
SMG of Alaska	$1,285,629
Alaska Communication Systems	$1,212,820
Phillips Alaska	$1,130,575
Alaska Railroad	$1,071,242
AT&T	$1,064,845
Southcentral Foundation	$1,053,392
Hickel Investment Company	$1,034,449

Providence Alaska Medical and Alaska Native Tribal Health Consortium have expressed an interest in the development of combined heat and power ("**CHP**") projects. As of the last indication from either party, which was in July of 2015, no application has been received to integrate a CHP project to the ML&P system.

Section 4.14(b)

Material Suppliers

2017 Material Suppliers	
Hilcorp Alaska LLC	$43,142,024.30
Quanta Power Generation, Inc.	$11,894,815.84
Chugach Electric Association Inc.	$8,757,430.05
AIDEA	$6,493,207.00
CEA - SPP	$4,451,091.73
Alaska Electrical Health &	$3,378,278.92
Enstar Natural Gas Co	$3,068,357.20
Alaska Electrical Trust Funds	$2,698,499.03
Total	**$83,883,704.07**
2016 Material Suppliers	
Quanta Power Generation, Inc.	$33,776,763
ConocoPhillips Alaska Inc.	$24,841,300
Hilcorp Alaska LLC	$6,936,721
Alaska Industrial Development	$4,837,144
Integrated Engineers & Contractors	$4,646,877
CEA - SPP	$4,291,913.12
Alaska Electrical Health	$4,011,792.19
Chugach Electric Association Inc.	$3,454,336.89
Alaska Electrical Trust Funds	$3,341,435.39
ConocoPhillips Company	$3,120,194.39
Enstar Natural Gas Co	$3,079,898.77
Northern Powerline Constructors Inc.	$2,619,519.63
General Electric Co	$2,379,009.69
GE PACKAGED POWER INC	$2,107,332.18
Total	**$103,444,239.41**

Section 4.15

Insurance

Municipality of Anchorage/ Municipal Light & Power - Insurance Policies 2017 to 2018					
Policy Term	**Carrier**	**Policy No**	**Coverage**	**Deductible/ SIR/ Retention**	**Limits**
07/01/17-07/01/18	Allied World	5110003901	General Liability, Auto, Law, Public Official Liability, EPLI	$3,000,000 retention	$1,000,000 Each Occurrence/ $3,000,000 Aggregate
07/01/17-07/01/18	Allied World	5111004801	Excess Liability	$0	$9,000,000 Each Occurrence/ $9,000,000 Aggregate
07/01/17-07/01/18	Berkley National	CEX0960269500	Excess Liability	$0	$5,000,000 Each Occurrence/ $5,000,000 Aggregate
07/01/17-07/01/18	Navigators Specialty	SF17EXC747268IC	Excess Liability	$0	$25,000,000 Each Occurrence/ $25,000,000 Aggregate
07/01/17-07/01/18	Berkley Regional	BG0V4500157022	Crime	$25,000	$1,500,000 Employee Dishonesty etc.
07/01/17-07/01/18	Allied World Assurance	3107506	Cyber Liability	$25,000	$5,000,000 limit etc.
01/01/17-04/01/18	Admiral	FEIEIL1867003	3rd Party Pollution/ Tanks	$25,000	$1,000,000 Per Pollution Condition/ $2,000,000 Aggregate /George Sullivan/Hank Nikkels tanks -$3M PPC/$3M Aggregate
04/01/18-04/01/19	Admiral	FEIEIL1867004	3rd Party Pollution /Tanks	$25,000	$1,000,000 Per Pollution Condition/ $2,000,000 Aggregate /George Sullivan/Hank Nikkels tanks -$3M PPC/$3M Aggregate
01/16/17-01/16/18	Nautilus	CST200126316	3rd Party Pollution/ Tanks	$10,000	$1,000,000 Per Pollution Condition/ $2,000,000 Aggregate
01/16/18-01/16/19	Nautilus	CST200126317	3rd Party Pollution/ Tanks	$10,000	$1,000,000 Per Pollution Condition/ $2,000,000 Aggregate
01/01/17-	Midwest	EWC007156	Excess	$3,000,000	$1,000,000 Each

01/01/18	Employers Casualty		Workers Comp	retention	Accident, $1,000,000 Disease Policy limit, $1,000,000 Disease Each Employee
01/01/18-01/01/19	Midwest Employers Casualty	EWC007156	Excess Workers Comp	$3,000,000 retention	$1,000,000 Each Accident, $1,000,000 Disease Policy limit, $1,000,000 Disease Each Employee
Municipality of Anchorage/Municipal Light & Power - Beluga River Gas Fields					
01/01/16-03/01/17	Under-writers at Lloyds London	E160458	Operators Extra Expense	$500,000 / $100,000	$50,000,000 Each Occurrence/ $5,000,000 Care Custody & Control
03/01/17-01/01/18	Under-writers at Lloyds London	E170458	Operators Extra Expense	$500,000 Each Occurrence Drill/ $250,000 Produce -Shut in/$150,000 Care Custody Control	$50,000,00 Each Occurrence/ $5,000,000 Care Custody & Control
01/01/18-01/01/19 01/01/18-01/01/19	Under-writers at Lloyds London 40% Under-writers At Lloyds London 60%	E180458 E180917	Operators Extra Expense	$500,000 Each Occurrence Drill/ $250,0000 Produce-Shut in/ $150,000 Care Custody Control	$50,000,00 Each Occurrence/ $5,000,000 Care Custody & Control
01/01/16-03/01/17	Under-writers at Lloyds London	MA1507282LI1464	General Liability	$5,000	$1,000,000 Each Occurrence/ $2,000,000 Aggregate
03/01/17-01/01/18	Under-writers at Lloyds London	E170718	General Liability	$5,000 / $10,000 pollution	$1,000,000 Each Occurrence/ $2,000,000 Aggregate
01/01/18 01/01/19	Under-writers At Lloyds London	E180718	General Liability	$5,000/ $10,000 pollution	$1,000,000 Each Occurrence/ $2,000,000 Aggregate
01/01/16-03/01/17	Under-writers at Lloyds London	MA150728LI1465	Excess Liability	$10,000 Retention	$10,000,000 Each Occurrence/ $10,000,000 Aggregate
03/01/17-01/01/18	Under-writers at Lloyds London	E170457	Excess Liability	$10,000 Retention	$20,000,000 Each Occurrence/ $20,000,000 Aggregate
01/01/18-01/01/19	Under-writers at Lloyds London	E180457	Excess Liability	$10,000 Retention	$5,000,000 Each Occurrence/ $5,000,000 Aggregate
01/01/18-	Under-writers	E180916	2nd Excess	$10,000	$15,000,000 Each

01/01/19	At Lloyds London		Liability	Retention	Occurrence/ $15,000,000 Aggregate
Factory Mutual Insurance Company, Mutual Corporation Non-Assessable Policy					
07/01/17-07/01/18	FM Global	1013599	Property	$250,000 except $600,000 unit 1, 2,3 $500,000 unit 4 $600,000 unit 5 $500,000 unit 6 $800,000 unit 7 $1,000,000 unit 8	$1,000,000,000 Each Occurrence
07/01/18-07/01/19	FM Global	1027765	Property	$250,000 except $600,000 unit 1, 2,3 $500,000 unit 4 $600,000 unit 5 $500,000 unit 6 $800,000 unit 7 $1,000,000 unit 8	$1,000,000,000 Each Occurrence

(b)

Year Rptd. Occurd Date	Loss No. Loss Peril Name	Index No. - Record No. Loss Location	City	State/Prov Claim Status	Loss Id Claim Id	P/T* Deductible Pct Participation	Total Payments P/T* FM Loss
2012 12-Jan-2012	00703 Collapse	001829-20-01 14010 Old Glenn Highway	Eagle River	AK MO*	309653 40841	$100,000 100%	$0
2012 24-Jan-2012	00361 Miscellaneous	092019.80-02 625 C Street	Anchorage	AK MO*	309043 407883	$100,000 100%	$0
2012 29-Feb-2012	01067 Miscellaneous	092039.6202 12000 Lorraine St.	Anchorage	AK FIO*	310304		
Sub Total for Year: 2012 3 Losses $0							
2013 18-Mar-2013	01611 Miscellaneous	092003.34-04 2000 Anchorage Port Road	Anchorage	AK MO*	324204 421338	$100,000 100%	$0
Sub Total for Year: 2013 3 Losses $0							
2014 05-May-2014	03338 Escaped Liquids Damage	092004.93-02 5577 Abbott Road	Anchorage	AK Closed	338318 433674	$100,000 100%	$94,916
2014 25-July-2014	05130 Fire	092081.32-01 1004 West Tudor Road	Anchorage	AK Closed	341143 436085	$100,000 100%	$59,179
Sub Total for Year: 2014 2 Losses $154,095							
2015 06-Jun-2015	07866 Vehicle	Non-Indexed 8600 King Street	Anchorage	AK Closed	358161 450673	$50,000 100%	$207,875
2015 08-Jul-2015	04581 Collapse	092009.56-02 9601 Lee Street	Eagle River	AK MO*	352654 445967	$100,000 100%	$0
2015 01-Aug-2015	04908 Fire	092009.67-03 19201 Driftwood Bay Drive	Eagle River	AK MO*	353149 446395	$100,000 100%	$0
Sub Total for Year: 2015 3 Losses $207,875							
2016 04-Jun-2016	03356 Fire	092020.24-01 4333 Bering Street	Anchorage	AK Closed	362790 454707	$50,000 100%	$22,000
2016 15-Jun-2016	04112 Escaped Liquids Damage	092040.10-03 325 and 501 E 94th Court	Anchorage	AK MO*	364011 455741	$100,000 100%	$0
2016 09-Sep-2016	05580 Electrical Breakdown	092012.24-01 30001 Eklutna Lake Road	Chugiak	AK Open	366170 457598	$100,000 100%	Open Loss

Year Rptd. Occurd Date	Loss No. Loss Peril Name	Index No. - Record No. Loss Location	City	State/Prov Claim Status	Loss Id Claim Id	P/T* Deductible Pct Participation	Total Payments P/T* FM Loss
2016 20-Sep-2016	05799 Wind and Hail	092081.68-01 15800 Golden View Drive	Anchorage	AK Closed	366488 457869	$100,000 100%	$97,685
2016 28-Oct-2016	06884 Fire	092020.46-01 7001 Cranberry Street	Anchorage	AK MO*	367976 459177	$100,000 100%	$0
Sub Total for Year: 2016 5 Losses $119,685							
2017 18-Oct-2017	08727 Sprinkler Leakage	092019.80-02 625 C Street	Anchorage	AK Closed	381973 471446	$50,000 100%	$115,963
2017 12-Dec-2017	00071 Escaped Liquids Damage	092019.87-03 3800 Denali Street	Anchorage	AK Open	383926 473195	$100,000 100%	Open Loss
Sub Total for Year: 2017 2 Losses $115,963							
2018 31-Dec-2017	00031 Fire	092039.78-01 3101 Sunflower Street	Anchorage	AK FIO	384520		
Sub Total for Year: 2018 1 Loss $115,963							
Grand Total: 17 Losses $597,618							

Section 4.16(a)

Actions

(a)

1. HEA litigation related to Bradley Lake wheeling: *Homer Electric Association, Inc. vs Regulatory Commission of Alaska, et al.*, Case Nos.: S-15944/S-S15973 (consolidated) (the "**Homer Litigation**")
2. Providence Health Systems' appeals of RCA decisions in Docket Nos. U-16-094 and U-17-008, Orders 9, 10, to the Alaska Superior Court for the Third Judicial District (Case Nos. 3AN-18-06427CI and 3AN-18-07459CI) ("**Providence Appeal**").
3. RCA Orders and related proceedings in RCA Docket No.: I-18-004 (*In the Matter of the Inquiry into the Term Sheets Regarding the Potential Sale of the Municipality of Anchorage d/b/a Municipal Light & Power Department by Chugach Electric Association, Inc.).*
4. RCA Orders and related proceedings in RCA Docket No.: U-18-102 (*In the Matter of the Investigation Into the Beluga River Unit Management Practices of the Municipality of Anchorage d/b/a/ Municipal Light and Power Department).*
5. RCA Orders and related proceedings in Docket Nos.: I-15-001 (*In the Matter of the Evaluation of the Operation and Regulation of the Alaska Railbelt Electric Transmission Systems)* and I-16-002 (*In the Matter of the Evaluation of the Reliability and Security Standards and Practices of Alaska Electric Utilities).*
6. See Section 4.20(c) of the Disclosure Schedules.

(b)

1. MEA has indicated that it may pursue legal action if it is dissatisfied with the treatment of the Eklutna transmission assets in connection with the transactions contemplated by the Agreement.

Section 4.16(b)

Governmental Orders

1. Department of Revenue Denials of Natural Gas Production Tax Credit Claims

Tax Year 2015: The Department of Revenue ("**DOR**") denied Seller transferable credit claims in the amount of $2,346,995. This denial is under appeal before the State of Alaska Office of Administrative Hearings in a proceeding designated as OAH No. 17-0379-Tax. Note that there does not appear to be a statutory provision that allows interest to accrue on delayed credits.

Tax Year 2014: The DOR denied Seller transferable credit claims in the amount of $4,418,714. This denial is under appeal before the State of Alaska Office of Administrative Hearings in a proceeding designated as OAH No. 17-0379-Tax. Note that there does not appear to be a statutory provision that allows interest to accrue on delayed credits.

Tax Year 2013: On September 18, 2018, DOR on audit denied credit claims in the principal amount of $5,236,655. DOR had previously issued these credits, which were monetized through the State's purchase of the credits. Payment for the credits were placed in the restricted Deferred Regulatory Liability from Gas Sales account. With interest of $1,797,467, the denial results in a tax liability totaling $7,034,122. That liability accrues interest until paid. Seller intends to pay this amount and accrued interest under protest and request a DOR informal conference decision. A DOR informal conference decision is a prerequisite to a subsequent appeal to the State of Alaska Office of Administrative Hearings. If Seller prevails on appeal, Seller will be entitled to a refund of the amount paid plus accrued interest.

Tax Year 2012: On September 18, 2018, DOR on audit denied credit claims in the principal amount of $1,632,293. DOR had previously issued these credits, which were monetized through the State's purchase of the credits. Payment for the credits were placed in the restricted Deferred Regulatory Liability from Gas Sales account. With interest of $417,931, the denial results in a tax liability totaling $2,050,224. That liability accrues interest until paid. Seller intends to pay this amount and accrued interest under protest and request a DOR informal conference decision. A DOR informal conference decision is a prerequisite to a subsequent appeal to the State of Alaska Office of Administrative Hearings. If Seller prevails on appeal, Seller will be entitled to a refund of the amount paid plus accrued interest.

Tax Year 2011: On December 20, 2018, DOR on audit denied credit claims in the principal amount of $5,515,853. DOR had previously issued these credits, which were monetized through the State's purchase of these credits.

Payment for the credits were placed in the restricted Deferred Regulatory Liability from Gas Sales account. With interest of $2,163,776, the denial resulted in a tax liability totaling $7,679,629. On May 16, 2018, Seller paid that amount plus accrued interest under protest in the amount of 7,905,785 and requested a DOR informal conference decision. A DOR informal conference decision is a prerequisite to a subsequent appeal to the State of Alaska Office of Administrative Hearings. If Seller prevails on appeal, Seller will be entitled to a refund of the amount paid plus accrued interest.

2. RCA Order and related proceedings in RCA Docket No. U-06-89, Order No. 2 (*In the Matter of the Motion by Municipality of Anchorage d/b/a Municipal Light & Power Department for Use of 2005 Beluga River Unit Underlift Settlement Proceeds*)

Section 4.16(c)

Regulation of ML&P

For the purposes of Section 4.16(c)(i), Seller discloses that Seller is subject to the regulatory jurisdiction of the Regulatory Commission of Alaska.

(ii) RCA Order U-18-102

(iii)

1. Providence Health Systems' appeal of RCA decisions in Docket U-17-008, Orders 9 and 10.

2. HEA litigation related to Bradley Lake wheeling: *Homer Electric Association, Inc. vs Regulatory Commission of Alaska, et al.*, case number S15973. See item #1 under Section 4.16(a) of the Disclosure Schedules.

(iv)

1. Utility Service Contract for Elmendorf Air Force Base, Contract No. F65501-68-C-0090, as modified from time to time, between Seller and the United States of America.

2. Solicitation, Offer and Award, issued as of April 16, 2009, as modified from time to time, between Seller and the United States of America, for the supply of electric power for the U.S. Army installation at Fort Richardson.

Section 4.17

Compliance with Laws; Permits

(a)

None.

(b)

1. Department of Environmental Conservation Air Quality Operating Permit, Permit No. AQ0202TVP03, issued on June 3, 2014 and expiring on June 3, 2019.

2. Department of Environmental Conservation Air Quality Operating Permit, Permit No. AQ0203TVP03, issued on October 12, 2015 and expiring on October 12, 2020.

3. Industrial Wastewater Discharge Permit #2 to G.M. Sullivan Plant 2/2A, effective on October 1, 2016 and expiring on September 30, 2021.

Section 4.18

Environmental Matters

(a)

1. Seller has operated in compliance with the Hank Nikkels Plant One Air Quality Operating Permit (Permit No. AQ0202TVP03) with one exception. On July 24, 2018, the plant experienced a deviation from Conditions 14 and 29.1 (b) due to RATA failure. ML&P notified ADEC and completed corrective action on September 10, 2018. ML&P has received no requests for further action from ADEC.

2. Seller has operated in compliance with the G. M. Sullivan Plant Two Air Quality Operating Permit (Permit No. AQ0203TVP03) with one exception. On October 9, 2018, Seller discovered that third quarter cylinder gas audits for Turbine 9 and 10 CEMS were not performed in deviation from the conditions set forth in Conditions 22.1 (c) and 37.4. Seller completed the audits and informed ADEC. Seller has received no requests for further action from ADEC.

3. Seller has operated in compliance with the G.M. Sullivan Plant Two Industrial Wastewater Discharge Permit (Permit No. #2) issued by AWWU with one exception. On August 15, 2018, pH was outside of allowable range for 2 hours. Seller notified AWWU and has received no requests for further action. Seller has operated in continuous compliance with the permit since then.

4. On November 28, 2017, ADEC requested evaluation of the Transformer Shop Building for vapor intrusion. Seller submitted a work plan to ADEC on October 16, 2018 and will conduct testing in 2018.

5. ADEC requested an action plan to address secondary containment upgrades at Plant 2 tank farm. Seller has begun diesel fuel removal. Once the diesel fuel is removed and the tanks and piping are properly cleaned, closed and capped, the State of Alaska spill prevention and response regulations will not be applicable. Seller is working with third parties to sell the diesel fuel remaining in the tanks at the Plant 2. Seller currently anticipates that all remaining diesel fuel will be sold and the tanks and piping will be cleaned, closed, and capped prior to the Closing Date; however due to the limited market for the Non-Ultra-Low Sulfur fuel in the tanks, this cannot be guaranteed. Seller is keeping ADEC informed of the progress in selling the fuel and has not received any additional requests for action.

(b)

1. Hank Nikkels Plant One Air Quality Operating Permit No. AQ0202TVP03. Deviations from permit conditions were described in Schedule 4.18(a).

2. G. M. Sullivan Plant Two Air Quality Operating Permit No. AQ0203TVP03. Deviations from permit conditions were described in Schedule 4.18(a).

3. G.M. Sullivan Plant Two Industrial Wastewater Discharge Permit #2 issued by Anchorage Water & Wastewater Utility. Deviations from permit conditions were described in Schedule 4.18(a).

4. Hank Nikkels Plant One - EPA Hazardous Waste ID # AKR000003301 (VSQG).

5. Operations Building - EPA Hazardous Waste ID # AKD0392269618 (VSQG).

6. G.M. Sullivan Plant Two EPA Hazardous Waste ID # AKD983066218 (VSQG).

7. Risk Based Disposal Plan for Hank Nikkels Plant One approved by ADEC on April 16, 2010 and by EPA on April 11, 2008.

8. EPA Chemical Accident Prevention Provisions Risk Management Plan, George M. Sullivan Plant 2/2A, EPA Facility ID 1000 0023 1466, June 2016.

9. Oil Discharge Prevention and Contingency Plan Approval, George M. Sullivan Plant 2/2A, Plan Number 15-CP-2098, Approved by ADEC on November 20, 2015.

(c)

On December 19, 2013, Seller received a Notice of Intent to File an Administrative Complaint for Violation of the Toxic Substances Control Act ("**TSCA**") and Opportunity to Confer Prior to Filing from the United States Environmental Protection Agency, Region 10. The alleged violation of TSCA arose from a failure to dispose of PCB contaminated waste (bushings and capacitors) within one year. Seller entered into a Consent Agreement and Final Order with US EPA dated January 15, 2014 resolving the alleged violations.

(d)

None.

(e)

The following Seller properties are listed on the Alaska Department of Environmental Conservation (ADEC) Contaminated Sites Database:

Open Contaminated Sites:

1. Hank Nikkels Plant One, 821 East First Avenue, Anchorage

2. Operations and Dispatch Center, 1201 and 1121 East First avenue, Anchorage

3. Transformer Shop, 1130 E. 1st Avenue (Former 1201 E. 3d Avenue)

Cleanup Complete-Institutional Controls Sites:

1. 1120 East First Avenue, Anchorage, Former Container Storage Area

2. 1120 East First Avenue, Anchorage, Former UST site

3. ML&P Plant 2, Spill #1 from Transformer #5, Former Address 8670 Glenn Hwy, Anchorage

4. ML&P Plant 2, Spill #2; 1985 Diesel spill from tanker truck overturn, Former Address 8670 Glenn Hwy, Anchorage

Cleanup Complete Sites:

1. 1121 East First Avenue, Former USTs, Vehicle Maintenance Facility

2. 1040 East First Avenue, Anchorage, AK

3. ML&P Plant 2, Unit 7 UST removal

4. ML&P Plant 2, Unit 8 UST removal

5. ML&P Plant 2, Unit 5 UST removal

6. 1200 East First Avenue, Anchorage, Former UST site

7. Former Paint & Sign Shop, 940 East First Avenue, Anchorage

(f)

The following Seller properties are listed on the Alaska Department of Environmental Conservation (ADEC) Contaminated Sites Database. Seller's disclosure is limited to the portions of the properties and specific site conditions for which these sites are listed on ADEC's Contaminated Sites Database.

Active Contaminated Sites:

1. Hank Nikkels Plant One, 821 East First Avenue, Anchorage

2. Operations and Dispatch Center, 1201 and 1121 East First avenue, Anchorage

3. Transformer Shop, 1130 E. 1st Avenue (Former 1201 E. 3d Avenue)

Cleanup Complete-Institutional Controls Sites:

1. 1120 East First Avenue, Anchorage, Former Container Storage Area

2. 1120 East First Avenue, Anchorage, Former UST site

3. ML&P Plant 2, Spill #1 from Transformer #5, Former Address 8670 Glenn Hwy, Anchorage

4. ML&P Plant 2, Spill #2; 1985 Diesel spill from tanker truck overturn, Former Address 8670 Glenn Hwy, Anchorage

Cleanup Complete Sites:

1. 1121 East First Avenue, Former USTs, Vehicle Maintenance Facility
2. 1040 East First Avenue, Anchorage, AK
3. ML&P Plant 2, Unit 7 UST removal
4. ML&P Plant 2, Unit 8 UST removal
5. ML&P Plant 2, Unit 5 UST removal
6. 1200 East First Avenue, Anchorage, Former UST site
7. Former Paint & Sign Shop, 940 East First Avenue, Anchorage

Exterior paint from Tank 1 at Plant 2 contains PCBs in concentrations greater than 50 ppm. The exterior paint is not sealed and is flaking off.

Additionally, as described in the September 2018 SLR Due Diligence Report, the age of certain of Purchased Assets make it possible that older buildings may include asbestos containing materials and lead paint but Seller has not received any Environmental Notice relating to, and to the Knowledge of Seller there exists no such asbestos containing materials except as identified in documents within data room folders 27.2, 27.25.2, 27.117.2, 27.117.3, 27.119.1, 27.119.7, 27.119.9, 27.205, 27.402, and 27.403.

(g)

(x) There are three emergency spill/ overflow underground storage tanks at Plant 2 that are exempt from 18 AAC 78:

1. Turbine 5 Overflow UST, 500 gal
2. Turbine 7 Overflow UST, 500 gal
3. Turbine 8 Overflow UST, 500 gal

(y) Lists of PCB containing equipment are provided in Schedule 4.18(g) Exhibits 1 and 2.

Additionally, exterior paint from Tank 1 at Plant 2 contains PCBs in concentrations greater than 50 ppm. The exterior paint is not sealed and is flaking off.

(h)

Seller ships waste to the following locations and vendors:

1. Anchorage Regional Landfill

2. Chemical Waste Management of the Northwest, Arlington, Oregon- PCBs > 50 ppm

3. Columbia Ridge Landfill, Arlington, Oregon – PCBs <50 ppm

4. NRC Alaska Processing Facility, Anchorage, Alaska

Seller is a party to a contract with NRC Alaska for Hazardous Materials Spill Response and Cleanup. Under this contract, NRC either treats oil contaminated soils, snow and water at its facilities in Anchorage or transports those materials to approved landfills in the lower-48 state for disposal. As described in the contract between NRC Alaska and Seller, NRC Alaska ships hazardous and toxic waste to facilities owned and operated by SteriCycle, Waste Management, Inc., Clean Harbors, and US Ecology Idaho.

Seller is covered under Contract No. 4400000146, between the Municipality of Anchorage and Environmental Compliance Consultants, Inc. ("**ECC**"). ECC provides pumping, hauling, testing, and disposal of used oil and petroleum sludge for all Municipal Departments and Utilities. All of Seller's used oil and petroleum sludge is disposed of under the contract with ECC.

Seller has received no notices related to these facilities.

(j)

All documents described in Section 4.18(j) of the Asset Purchase Agreement were provided in the data room in Sections L-1 through L-11, L26, E1, G7, G8, and K1 and in Annex A.

(l)

See Schedule 4.18(f).

Section 4.19

Employee Benefits

(a)

Benefit Plans for IBEW Represented Employees

1. Alaska Electrical Health and Welfare Trust Fund
2. Alaska Electrical Pension Fund
3. Alaska Electrical Workers Money Purchase Plan (Annuity Plan)
4. Municipality of Anchorage (MOA) Voluntary 401(k) Savings Plan**
5. MOA Voluntary 457(b) Deferred Compensation Plan**
6. IBEW Group Legal Trust Fund
7. Joint Apprenticeship Program
8. IBEW Hardship and Benevolent Fund
9. IBEW Local Union No. 1547 Political Action Fund
10. MOA Employee Assistance Program**
11. MOA Life Insurance (Symetra)**
12. MOA Supplemental Life and Accidental Death & Dismemberment Insurance**
13. Cashable Annual Leave
14. Non-Cashable Annual Leave
15. Bereavement Leave
16. Family Medical Leave Act and Alaska Family Leave Act
17. Military Training/Duty Leave
18. Injury Leave
19. 12 Recognized Holidays
20. Court Leave
21. Blood Donation Leave

Municipality of Anchorage Plans for Nonrepresented Employees**

1. Municipality of Anchorage (MOA) Health Plan includes medical, dental, and vision
2. Healthcare Flexible Spending Account
3. Dependent Care Flexible Spending Account
4. Health Savings Account when enrolled on the Qualifying High Deductible Health Plan
5. State of Alaska Public Employee Retirement System, Tiers I, II, III, and IV
6. MOA Voluntary 401(k) Savings Plan
7. MOA Voluntary 457(b) Deferred Compensation Plan
8. MOA Employee Assistance Program
9. MOA Life Insurance (Symetra)
10. MOA Supplemental Life and Accidental Death & Dismemberment Insurance
11. MOA Voluntary Dependent Life Insurance
12. MOA Life Insurance (Symetra)
13. MOA Voluntary Short Term Disability
14. MOA Long Term Disability

15. Cashable Annual Leave
16. Non-Cashable Annual Leave
17. Sick Leave
18. Bereavement Leave
19. Family Medical Leave Act and Alaska Family Leave Act
20. Military Training/Duty Leave
21. Injury Leave
22. 12 Recognized Holidays
23. Court Leave
24. Blood Donation Leave

**Governmental Plans

Retention Agreements
See Schedule 4.06(o)(i).

Section 4.20(a)

Employment Matters - Employees

1. See attached Section 4.20(a)

2. The Retention Agreements.

Section 4.20(a) - Employment Matters

Last name	First name	Middle name	Object name	Job Text	Full-Time/Part-Time Status	Base Rate	Hourly Factored Rat	Annual salary	Most Recent Date of Hire	Incentive Compensation Paid in 2017
Agron	Gary	A	Utility Division Mgr II	Utility Division Man	FT	0	37.53	118704.00	01/04/16	N/A
Aguilar	Isaac	Cruz	Utility Account Rep II	Utility Account Rep	FT	18.9	18.9	39312.00	07/31/17	N/A
Allen	Carnegie	D	Vehicle Mechanic Welder	Vehicle Mechanic Wel	FT	63.65	63.65	81416.00	04/14/14	N/A
Amsden	Kathleen	M	Junior Clerk	Junior Clerk - IBEW	FT	20.88	25.35	46556.26	07/01/08	N/A
Andrews	William	M	Apprentice Journeyman Lineman	Apprentice Journeyma	FT	42.19	42.19	87586.80	11/27/17	N/A
Aubrey	Brian	D	Superintendent	Superintendent	FT	48.05	58.7	117833.82	03/14/11	N/A
Baldwin	Brad	Alan	Journeyman Lineman	Journeyman Lineman	FT	50.1	56.61	117756.04	07/15/13	N/A
Barker	James	L	Vehicle Journeyman Mechanic	Vehicle Journeyman M	FT	43.95	49.66	103300.08	05/09/88	N/A
Bartlett	Steven	Joseph	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	50.1	104208.00	08/14/17	N/A
Bekkoiz	Jonathan	E	Line Foreman	Line Foreman	FT	58.26	63.57	132233.50	10/03/11	N/A
Boone	Scott	A	Data Base Administ II	Data Base Administra	FT	48.05	49.73	103442.04	08/30/04	N/A
Bothoff	Stacey	A	Engineer in Training	Engineer in Training	FT	30.1	30.1	104208.00	04/04/16	N/A
Brady	Judith	M	Boards & Commissions	Board & Commission M	FT	0	0	0.00	04/26/11	N/A
Bradley	Michael	James	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	56.61	117756.04	02/23/09	N/A
Brooks	Mark	J	Administrative Officer	Administrative Offic	FT	35.87	39.64	82443.61	03/24/97	N/A
Brown	Christopher	D	Assistant Warehouseman	Assistant Warehousem	FT	43.95	49.66	103300.08	07/07/08	N/A
Buckley	Donald	H	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	56.47	123984.90	07/07/08	N/A
Burke	Shawn	D	Relay Substation Foreman	Relay Substation For	FT	58.26	63.57	132233.50	05/10/05	N/A
Cabana	Joseph	Paul	Facility Maintenance Journeyman	Facility Maintenance	FT	43.95	43.95	91415.00	11/13/17	N/A
Chan	Paul	M	Associate Engineer w/PE	Associate Engineer w	FT	58.45	58.45	121575.00	12/08/14	N/A
Chernorio	Cherilyne	M C	Accountant, MLBP	Accountant - IBEW ML	FT	28.56	44.7	92981.82	05/23/94	N/A
Clark	Stephanie	Ann	Senior Clerk	Senior Clerk	FT	25.05	28.31	58877.52	08/14/08	N/A
Clary	Everett	T	Seasonal Admin Assistant II	Seasonal Administrati	FT	0	50.88	105414.40	04/07/03	N/A
Cluff	Lance	A	Associate Engineer	Associate Engineer	FT	56.6	62.63	130862.24	08/18/93	N/A
Connelly	Howard	D	Journeyman Lineman	Journeyman Lineman	FT	50.1	56.61	117756.04	08/10/98	N/A
Contreras	Trisha	D	Utility Account Rep II	Utility Account Rep	FT	18.9	18.9	39312.00	03/19/18	N/A
Contreras	Jasmine		Utility Account Rep IN	Utility Account Rep	FT	21.98	21.98	45718.40	07/23/14	N/A
Copa	Jerome	Todd	Apprentice Wireman	Apprentice Wireman	FT	29.82	29.82	61808.80	11/06/17	N/A
Crawford	Tom	N	Meter Reader	Meter Reader	FT	35.15	38.73	82640.08	03/11/08	N/A
Cruz	Jose	Mario	MLBP Supervisor	MLBP Supervisor	FT	48.05	48.05	99944.00	06/05/17	N/A
Daly	Eric	C	Data Base Administ II	Data Base Administra	FT	48.05	53.1	110438.13	08/18/95	N/A
Daniels	Thomas	E	Facility Maintenance Journeyman	Facility Maintenance	FT	43.95	49.66	103300.08	07/23/02	N/A
Deadmond	Robert	James	Senior Staff Accountant	Senior Staff Account	FT	38.6	38.6	82368.00	10/08/12	N/A
Dean	Billy	E	Power Dispatcher	Power Dispatcher	FT	56.26	88.73	138963.86	10/01/07	N/A
Dennis	Sara	Elizabeth	Junior Accountant, MLBP	Junior Accountant -	FT	35.18	35.18	73133.80	06/06/16	N/A
Dewitt	Robert	W	Relay Substation Leadman	Relay Substation Lea	FT	51.88	51.88	107864.80	03/03/15	N/A
Diaz	Oscar	Thomas	Engineering Asst III	Engineering Assistan	FT	43.95	43.95	91418.00	08/28/17	N/A
Dill	Christopher	A	Relay Substation Tech	Relay Substation Tec	FT	50.1	50.1	104208.00	09/21/15	N/A
Donahue	Jimmy	M	Network Analyst	Network Analyst	FT	48.05	51.41	106940.08	08/06/01	N/A
Draper	Kelly	D	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	56.61	117756.04	06/01/09	N/A
Duchemin II	Gerry	J	Journeyman Operator Electrical	Journeyman Operator	FT	50.1	56.61	117756.04	07/15/05	N/A
Duplissey	Randall	Scott	Facility Maintenance Leadman	Facility Maintenance	FT	48.15	49.15	102231.48	07/14/14	N/A
Eason	Roy	L	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	53.26	110861.52	09/05/13	N/A
Everhart	Mark	D	Journeyman Operator Electrical	Journeyman Operator	FT	50.1	52.99	110147.66	10/21/15	N/A
Ferguson	John	David	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	56.61	117756.04	03/15/10	N/A
Farkas	David	A	Generation Design Tech	Generation Design Te	FT	48.36	53.19	110624.80	02/23/00	N/A
Feliz	Daniel	M	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	59.47	123684.90	01/30/02	N/A
Fergusson	Marty	L	Application Services Supvr	Application Services	FT	52.97	54.82	114033.62	09/27/04	N/A
Fishburn	Tal	M	Superintendent	Superintendent	FT	48.05	56.7	117933.62	02/24/14	N/A
Fisher	Patrick	C	Journeyman Lineman	Journeyman Lineman	FT	50.1	50.1	104208.00	06/06/13	N/A
Fitzsuk	Rodney	H	Utility Account Rep IN	Utility Account Rep	FT	21.98	21.98	45718.40	03/14/18	N/A
Fitzgerald	Mark	K	Superintendent	Superintendent	FT	48.05	82.75	172126.98	03/07/88	N/A
Flake	Barbara	L	Accountant, MLBP	Accountant - IBEW ML	FT	28.56	44.7	92981.82	07/30/07	N/A
Forsyth	Jeremy	A	Generation Plant Foreman	Generation Plant For	FT	58.26	63.57	132233.50	05/19/08	N/A
Fredheim	Walter	Adam	NECA-Journeyman Lineman 100%	NECA-Journeyman Line	FT	52.84	52.84	109891.20	08/25/18	N/A
Frye	Andrew	M	Journeyman Operator Electrical	Journeyman Operator	FT	50.1	56.61	117756.04	07/25/11	N/A
Garner	Ryan	W	Superintendent	Superintendent	FT	48.05	56.5	118133.61	11/23/08	N/A
Gawlas	Eric		Journeyman Lineman	Journeyman Lineman	FT	50.1	56.61	117756.04	09/02/10	N/A
Gibbons	Johnny	O	Boards & Commissions	Board & Commission M	FT	0	0	0.00	09/26/07	N/A
Gillespie	Celeste	Re	Utility Account Rep IN	Utility Account Rep	FT	21.98	24.84	51681.79	04/14/13	N/A
Gwin	Lawrence	H	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	59.47	123684.90	09/22/97	N/A
Gorst	Gary	L	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	56.61	117756.04	10/21/02	N/A
Goldsmith	Claire	Ann	Utility Tariff Analyst	Utility Tariff Analy	FT	35.87	35.87	74608.90	09/18/17	N/A
Gunn	Patsy	D	Utility Division Mgr II	Utility Division Man	FT	0	52.21	108596.80	03/12/07	N/A
Gurley	Elizabeth	L	Utility Account Specialist	Utility Account Spec	FT	30.77	34.77	72321.81	01/21/02	N/A
Hasse	John	E	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	50.1	104208.00	10/13/14	N/A
Hedegaard	David	J	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	56.61	117756.04	01/30/06	N/A
Henson	Shawn	S	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	50.1	104208.00	02/09/16	N/A
Hendy	Danny	O	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	56.61	117756.04	01/20/12	N/A
Herne	Julie	A	Special Admin Assistant II	Special Administrati	FT	0	38.42	79913.80	07/14/14	N/A
Herne	Samuel	J	Superintendent	Superintendent	FT	48.05	56.7	117933.82	12/03/13	N/A

Hatfield	Laura		Tree Trimmer	Tree Trimmer	FT	43.99	43.85	91416.00	06/06/14	N/A
Hauth	John	J	Journeyman Operator Electrical	Journeyman Operator	FT	50.1	50.47	123884.80	07/15/96	N/A
Hayes	Kasey	D	Utility Account Rep III	Utility Account Rep	FT	21.98	21.98	45718.40	02/09/15	N/A
Hedberg	Arthur	James	NECA-Journeyman Lineman 160%	NECA-Journeyman Line	FT	52.64	52.64	109489.20	11/13/17	N/A
Heil	Myron	P	Systems Analyst Supv	Systems Analyst Supv	FT	48.05	51.41	106940.08	04/30/01	N/A
Henderson	Anna	Christine	Utility Division Mgr II	Utility Division Man	FT	0	58.3	123344.00	11/27/06	N/A
Hesse	Robin	Yang	Accountant MLEP	Accountant - IBEW ML	FT	38.56	42.13	87603.31	02/24/14	N/A
Hinz Jr	Carlton	J	Vehicle Journeyman Mechanic	Vehicle Journeyman M	FT	43.85	43.85	91416.00	12/23/13	N/A
Hodgdon	Mark	Geoffrey	NECA-Journeyman Lineman 160%	NECA-Journeyman Line	FT	52.64	52.64	109489.20	08/11/18	N/A
Hoeft	Scott	R	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	50.47	123884.80	07/12/89	N/A
Hohfeldt	Cynthia		Senior Clerk	Senior Clerk	FT	25.05	26.31	54677.52	06/23/13	N/A
Holloway Jr	Robert	C	Info Center Consultant II	Information Center C	FT	47.34	50.63	105358.90	10/11/99	N/A
Hoppins	Dale	Jason	Gasmaster Mechanic Foreman	Gasmaster Mechanic	FT	56.28	53.57	133233.50	05/07/10	N/A
Horton	Adam	J	Vehicle Journeyman Mechanic	Vehicle Journeyman M	FT	43.85	43.85	91416.00	07/21/14	N/A
Hoyle	Tana	K	Systems Analyst	Systems Analyst	FT	39.8	39.8	82784.00	08/11/17	N/A
Hubbard	Brian	D	Cable Locator	Cable Locator	FT	41.15	41.15	85643.20	08/21/15	N/A
Hustebeck	Anthony	R	Loadmaster Leadman	Loadmaster Leadman	FT	51.86	51.86	107868.80	04/21/14	N/A
Hymbaugh	Michael	D	Senior Systems Analyst	Senior Systems Analy	FT	48.05	50.45	104941.20	05/04/15	N/A
Imlach	Susan	Marie	Utility Gas Analyst	General Administrati	FT	41.5	41.5	86320.00	10/10/16	N/A
Jackson	Christopher	Ryan	Software Build Analyst	Information Center C	FT	32.53	32.53	67662.40	09/18/17	N/A
Jacobsen	Mark	E	Systems Programmer II	Systems Programmer I	FT	48.05	53.1	110448.12	07/22/85	N/A
Jank	Jedediah	D	Journeyman Lineman	Journeyman Lineman	FT	50.1	50.1	104208.00	10/24/18	N/A
Johnson	Wayne	H	Systems Analyst	Systems Analyst	FT	48.17	50.57	105187.26	04/29/85	N/A
Johnston	Tracy	Allen	Superintendent	Superintendent	FT	46.06	56.28	117083.80	05/05/17	N/A
Johnston	Mark	A	General Manager MLEP	General Manager - ML&	FT	0	65.67	137008.62	09/03/13	N/A
Jones	Beverly	A	Utility Division Mgr II	Utility Division Man	FT	0	52.21	108598.80	08/11/95	N/A
Jordan	Gene	W	Elec Communications Tech	Electronic Communica	FT	50.1	56.81	117756.04	07/24/86	N/A
Josefson	Simon		Service Foreman	Service Foreman	FT	56.28	53.57	133233.50	05/07/01	N/A
Juhlstrom	Darlene	Judith	Customer Services Foreman	Customer Services Fo	FT	49.44	55.47	114303.78	09/02/96	N/A
Kaegel	Randall	L	Vehicle Mechanic Foreman	Vehicle Mechanic Fo	FT	49.44	56.67	116203.78	10/01/84	N/A
Kanasch	Kenneth	R	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	50.47	123884.80	10/29/06	N/A
Kastler	Lyle	Otto	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	56.64	117756.54	09/10/10	N/A
Koepcher	Thomas	Brian	Journeyman Lineman	Journeyman Lineman	FT	50.1	56.81	117756.04	06/24/10	N/A
Kroll	Thomas	Jay	Operator/Mech Helper	Operator/Mech Helper	FT	45.27	46.27	94161.80	08/29/17	N/A
Krupal	Jacob	John	Relay Substation Tech	Relay Substation Tec	FT	50.1	50.1	104208.00	09/05/17	N/A
Lebsack	Kurt	M	Relay Substation Leadman	Relay Substation Lea	FT	51.86	55.5	121891.74	05/08/95	N/A
Lagasse	Joshua	Emmanuel	Temporary Student Aide	Temporary Student Ai	FT	21.98	21.98	45718.40	08/05/17	N/A
Lane	Joy	P	Utility Account Rep IV	Utility Account Rep	FT	26.37	29.8	61980.05	08/13/12	N/A
Langford	Kenneth	W	Superintendent	Superintendent	FT	48.05	50.48	105029.50	02/06/00	N/A
Lawrence	Suzanne	B	Senior Admin Officer	Senior Admin Officer	FT	39.8	40.98	85250.88	07/27/05	N/A
Lester	Barbara	L	Special Admin Assistant I	Special Administrati	FT	26.42	28.42	59113.80	12/14/15	N/A
Lewis	Nathaniel	B	Supervisor	Supervisor	FT	48.05	56.7	117933.92	08/03/13	N/A
Lewis	April	Christine	Journeyman Operator Electrical	Journeyman Operator	FT	50.1	50.1	104208.00	07/18/16	N/A
Lewis	Charlotte	Y	Senior Admin Officer	Senior Admin Officer	FT	39.8	40.99	85250.88	08/06/03	N/A
Lipke	Dustin	E	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	50.1	104208.00	10/13/14	N/A
Lomako	Lucy		Utility Technical Asst	Utility Technical As	FT	30.77	34.77	72321.91	12/03/07	N/A
Lopez	Marcus	W	Utility Electrician Journeyman	Utility Electrician	FT	50.7	56.91	117755.04	07/29/06	N/A
Lords	Rachel	Ann	CPR Senior Clerk	CPR Senior Clerk	FT	25.29	28.34	58957.52	07/17/06	N/A
Louis	Margaret	T	Info Center Consultant II	Information Center C	FT	47.95	45.98	95598.52	01/23/02	N/A
Lucas	Michael	R	Loadmaster Leadman	Loadmaster Leadman	FT	51.86	58.8	121881.74	05/01/06	N/A
Macadangdang	Ray	B	Junior Clerk	Junior Clerk - IBEW	FT	20.66	23.35	48536.26	02/26/07	N/A
Mahe	Janet	P	Utility Account Specialist	Utility Account Spec	FT	30.77	34.77	72321.91	08/06/05	N/A
Majors	Rory	S	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	52.96	110147.66	08/06/15	N/A
Malcolm	Quinn	P	Tree Trimmer	Tree Trimmer	FT	43.85	49.65	103300.08	07/05/06	N/A
Malespin	Tracy	Tsuyuana	Utility Account Rep II	Utility Account Spec	FT	18.9	18.9	39312.00	11/13/17	N/A
Martin	Kimberly	Ann	Utility Technical Asst	Utility Technical As	FT	30.77	34	70721.77	09/09/98	N/A
Maxson	Shannon	Kathryn	Utility Account Rep IV	Utility Account Rep	FT	26.37	29.8	61980.05	07/25/11	N/A
Mayen	Aaron	D	CPR Engineer	CPR Engineer	FT	50.7	56.65	117756.04	05/13/06	N/A
Mathew	Molly	Piper	Senior Clerk	Senior Clerk	FT	25.05	25.05	52104.00	06/13/17	N/A
Matthew	Isaiah	Arthur	Apprentice Journeyman Lineman	Apprentice Journeyma	FT	36.85	36.85	76648.00	02/26/18	N/A
Maxwell	John	L	Engineering Asst IV	Engineering Assistan	FT	48.35	48.35	100568.00	01/30/17	N/A
McAllen	Donald	A	Elec/Communication Foreman	Electronic Communica	FT	56.28	63.57	132233.50	05/01/86	N/A
McDaniel	Michael	E	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	50.47	123884.80	05/03/05	N/A
McElroy	Steve	J	Service Design & Extension Coor	Service Design & Ext	FT	48.35	54.64	113641.84	04/30/07	N/A
McTaggart	Steven	Michael	Senior Admin Officer	Senior Admin Officer	FT	35.87	35.87	74609.80	10/13/15	N/A
Medina-Arnold	Tanya	Shua	Senior Clerk	Senior Clerk	FT	25.05	25.05	52104.00	03/06/17	N/A
Melton	Thomas	B	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	50.47	123884.80	04/14/05	N/A
Menefee	Dusty	N	Chief Steward	Chief Steward	FT	58.28	65.78	136803.88	04/17/06	N/A
Melille	Ginger	Faye	Senior Clerk	Senior Clerk	FT	25.05	26.88	55890.76	04/07/14	N/A
Melille	Jeffrey	J	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	56.21	116921.38	01/02/13	N/A
Miller	Brian	A	Accountant MLEP	Accountant - IBEW ML	FT	39.98	44.7	92981.82	08/06/13	N/A
Mitchell	Gregory	E	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	50.1	104208.00	09/26/16	N/A
Mitchell	Allen	Jack	Senior Engineer wPE	Senior Engineer wPE	FT	64.61	73.51	152858.34	08/10/92	N/A
Mobley	Richard	M	Sr Elec Communications Tech	Senior Electronic Co	FT	51.86	57.09	118656.88	10/19/87	N/A

Moe	Jesse	L	Engineer In Training	Engineer In Training	FT	52.3	52.3	108784.00	04/04/15	N/A
Moe	Jacob	Karl	Senior Engineer w/PE	Senior Engineer w/PE	FT	64.43	73.01	151859.34	08/20/07	N/A
Moffett	Henry	H	Transformer Foreman	Transformer Foreman	FT	56.26	63.57	132233.50	05/13/00	N/A
Monteith	David	G	Engineer In Training	Engineer In Training	FT	52.3	58.1	122025.92	04/29/08	N/A
Morrison	Mollie	C	Utility Division Mgr II	Utility Division Mgr	FT	0	57.95	120535.00	02/10/14	N/A
Montour	Lori	A	Utility Technical Asst	Utility Technical As	FT	30.77	34.77	72321.61	04/21/95	N/A
Mucha	Joyce	M	Utility Mgmt Assistant	Utility Management A	FT	48.05	53.1	110436.12	12/03/91	N/A
Mueller	Matthew	E	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	56.47	123994.50	08/18/12	N/A
Myers	Jamie	Sherald	Senior Clerk	Senior Clerk	FT	25.05	25.05	52104.00	06/06/17	N/A
Myles	William	L	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	56.1	104208.00	02/06/16	N/A
Nastuk	Sheldon	R	Journeyman Lineman	Journeyman Lineman	FT	50.1	56.61	117756.04	05/13/13	N/A
Neas	Nathan	R	Network Technician III	Network Technician I	FT	34.16	34.16	71052.80	02/29/16	N/A
Newlin	Alvin	W	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	56.61	117756.04	03/13/97	N/A
Nielson	Joseph	A	Power Dispatcher	Power Dispatcher	FT	56.26	66.76	138803.98	04/02/90	N/A
Oakes	Jeremy	J	Engineering Asst III	Engineering Assistan	FT	43.95	48.61	97358.94	05/28/12	N/A
Oleniczak	Rick	Lee	Meterman Leadman	Meterman Leadman	FT	51.86	58.6	121861.74	08/13/84	N/A
O'Dorn	Brian	P	Engineering Asst III	Engineering Assistan	FT	43.95	43.95	91416.00	05/08/14	N/A
Orr	Eugene	A	Superintendent	Superintendent	FT	48.05	54.48	131531.86	02/21/05	N/A
Perrichello	Frank	A	Tree Trimmer Foreman	Tree Trimmer Foreman	FT	48.44	50.87	118203.16	06/26/06	N/A
Pierson	Terrance	S	Utility Division Mgr II	Utility Division Man	FT	0	58.47	121662.80	08/22/18	N/A
Perez Sr	Vincent	Frank	Superintendent	Superintendent	FT	48.05	48.05	99944.00	05/08/11	N/A
Peters	Timothy	James	Superintendent	Superintendent	FT	48.05	56.7	117933.92	08/14/17	N/A
Peterson	Eric	R	Power Dispatcher	Power Dispatcher	FT	56.26	63.57	132233.50	01/07/02	N/A
Phillips	Jessica	N	Utility Account Rep III	Utility Account Rep	FT	21.98	21.98	45716.40	05/06/14	N/A
Phillips	Patrick	S	Line Foreman	Line Foreman	FT	59.28	63.57	132233.50	06/18/99	N/A
Popovici	Ovidiu	Mihai	Systems Analyst	Systems Analyst	FT	43.58	43.58	90667.20	01/03/17	N/A
Prati	Timothy	R	Utility Division Mgr II	Utility Division Man	FT	0	58.42	121513.66	01/17/18	N/A
Prozanski	Michael	Andrew	Boards & Commissions	Board & Commission M	FT	0	0	0.00	03/22/18	N/A
Ramage	Larry	A	Generation Mechanic Foreman	Generation Mechanic	FT	56.26	66.76	138803.98	05/10/84	N/A
Ramirez	Ricardo	P	Vehicle Mechanic Helper	Vehicle Mechanic Hel	FT	35.16	35.16	73132.80	07/04/16	N/A
Rands	Sean	Patrick McGeorge	Apprentice Wireman	Apprentice Wireman	FT	31.59	31.59	65707.20	05/13/17	N/A
Rehrig	Ronald	P	Generation Plant Foreman	Generation Plant For	FT	56.26	63.57	132233.50	01/06/01	N/A
Repetto	Alessandro		Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	56.47	123994.80	08/07/08	N/A
Rivera	Jun	C	Associate Engineer w/PE	Associate Engineer w	FT	58.45	69.38	144310.75	01/09/06	N/A
Robbins	Nathan	A	Journeyman Lineman	Journeyman Lineman	FT	50.1	50.1	104208.00	04/21/14	N/A
Robertson	Debra	L	Senior Clerk	Senior Clerk	FT	25.05	26.31	54677.52	09/30/02	N/A
Robinson	Douglas	A	Superintendent	Superintendent	FT	48.05	60.49	125828.50	01/02/01	N/A
Rodriguez	Jose		Meter Reader	Meter Reader	FT	35.16	39.73	82640.06	09/30/03	N/A
Rohrich	Theresa	Wade	Meter Foreman	Meter Foreman	FT	56.26	63.57	132233.50	09/17/07	N/A
Rose	James	E	Power Dispatcher	Power Dispatcher	FT	56.26	66.76	138803.98	06/30/04	N/A
Rouleau	Kenneth	Mark	Journeyman Operator Electrical	Journeyman Operator	FT	50.1	56.61	117756.04	03/17/08	N/A
Roy	Forrest		Cable Locator	Cable Locator	FT	41.75	47.18	98129.20	04/16/12	N/A
Ruhl	Spencer	Conrad	Journeyman Operator Electrical	Journeyman Operator	FT	50.1	50.1	104208.00	09/29/15	N/A
Ryan	Martina	J	Accountant NLEP	Accountant - NEW (NL	FT	39.56	42.13	87632.31	09/23/13	N/A
Sanford	Rick	D	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	59.47	123994.80	11/14/00	N/A
Santos	Dolly	Adhe	Engineer In Training	Engineer In Training	FT	50.1	56.61	117756.04	03/27/02	N/A
Saville	Yelena	V	Utility Mgmt Assistant	Utility Management A	FT	48.05	51.41	106946.08	05/21/01	N/A
Scott	Jesse	Allen	Systems Analyst	Systems Analyst	FT	35.87	35.87	74608.80	10/08/18	N/A
Searls	David	S	Light & Power Engineer	Light & Power Engine	FT	46.85	57.66	119932.80	01/25/18	N/A
Segal	Danielle	F	Junior Clerk	Junior Clerk - IBEW	FT	20.85	20.85	43368.25	08/13/12	N/A
Serna Jr	John		Engineer In Training	Engineer In Training	FT	52.3	53.3	108784.00	09/08/14	N/A
Sherlock	Wesley	C	Journeyman Operator Mechanic	Journeyman Operator	FT	50.1	56.61	117756.04	05/03/10	N/A
Sherlock	Casey	M	Utility Technical Asst	Utility Technical As	FT	30.77	30.77	64001.89	02/18/16	N/A
Smith	Nicholas	Ryan	Lineperson Leadman	Lineperson Leadman	FT	51.86	58.6	121891.74	08/08/11	N/A
Smith	Todd	Michael	NECA-Journeyman Lineman 100%	NECA-Journeyman Line	FT	52.84	52.84	109919.20	05/23/17	N/A
Smoyer	Deborah	P	Engineering Asst III	Engineering Assistan	FT	43.95	48.86	101600.58	08/24/12	N/A
Soares	Robbie	W	Generation Leadman	Generation Leadman	FT	51.86	58.6	121891.74	05/12/82	N/A
Sokola	Eva	Mary	Utility Account Rep II	Utility Account Rep	FT	18.8	18.8	39112.00	05/12/17	N/A
Stangl	Steven	J	Superintendent	Superintendent	FT	48.05	57.66	119932.80	01/02/12	N/A
Stapp	Misty	Rose	Utility Account Rep II	Utility Account Rep	FT	18.8	18.8	39112.00	11/13/17	N/A
Stewart	Steve	E	Systems Analyst	Systems Analyst	FT	43.58	43.58	90667.20	05/27/14	N/A
Stout	James	C	Utility Mgmt Assistant	Utility Management A	FT	48.05	54.3	112936.72	05/27/14	N/A
Stuber	Todd	D	Generation Leadman	Generation Leadman	FT	51.86	58.6	121891.74	07/03/12	N/A
Sudano	Derek	J	Tree Trimmer	Tree Trimmer	FT	43.95	49.66	103300.08	08/28/08	N/A
Sunny	James	W	Senior Engineer w/PE	Senior Engineer w/PE	FT	64.84	73.01	151859.34	08/27/07	N/A
Superintendent	Open		Superintendent	Superintendent	FT	48.05	56.26	116995.82	01/26/15	N/A
Szymanski	Jason	Vincent	Generation Leadman	Generation Leadman	FT	51.86	58.6	121891.74	02/17/08	N/A
Talmadge	Dorothea	M	Utility Technical Asst	Utility Technical As	FT	30.77	34.77	72321.61	08/01/88	N/A
Taunton	Paulette	L	Utility Account Rep IV	Utility Account Rep	FT	28.37	29.8	61986.05	01/28/08	N/A
Taylor	Treyonick	R	Boards & Commissions	Board & Commission M	FT	0	0	0.00	05/24/11	N/A
Taylor	George	T	Engineer In Training	Engineer In Training	FT	52.3	58.1	120825.92	12/19/05	N/A
Thomson	Lee		Network Analyst	Network Analyst	FT	48.05	48.73	101343.04	11/10/03	N/A
Thompson	Charles	Hans	Systems Analyst	Systems Analyst	FT	41.5	41.5	86320.00	09/18/15	N/A
Thompson	Gabriel	A	Inspector	Inspector	FT	51.86	51.86	107886.80	02/08/15	N/A

Tsaga	Aung		Senior Engineer w/PE	Senior Engineer w/PE	FT	64.51	73.01	151858.34	05/02/05	N/A
Tsai	Jade		Principal Accountant	Principal Accountant	FT	43.59	45.12	88840.56	03/10/14	N/A
Tsarkenakos	Damian	A	Vehicle Fuster	Vehicle Fuster	FT	29.45	29.45	61256.00	07/31/17	N/A
Vasseur	Louis	R	Spatial Admin Assistant I	Spatial Administrator	FT	24.73	24.73	51438.40	09/28/15	N/A
Vartie	Zachary	K	NECA-Journeyman Lineman 100%	NECA-Journeyman Line	FT	52.64	52.64	109491.20	02/20/18	N/A
Vernon	Sharon	A	Systems Analyst	Systems Analyst	FT	43.59	45.12	93840.55	02/07/05	N/A
Vig	Timothy	James	Boards & Commissions	Board & Commission M	FT	0	0	0.00	05/10/16	N/A
Waddell	David	S	Power Dispatcher	Power Dispatcher	FT	56.26	66.76	138903.69	10/15/12	N/A
Walker	Jeffrey	A	Journeyman Operator Electrical	Journeyman Operator	FT	50.1	56.61	117756.04	12/08/10	N/A
Warner	Jeffrey	A	Power Dispatcher	Power Dispatcher	FT	56.26	66.76	138903.69	08/08/05	N/A
Wheat	Sarah	A	Utility Technical Asst	Utility Technical As	FT	30.77	30.77	64001.60	07/21/14	N/A
Williams	Jerry	W	Engineering Asst III	Engineering Assistant	FT	43.95	49.56	103303.08	08/06/01	N/A
Wills	Nolan	J	Engineer in Training	Engineer in Training	FT	52.3	58.1	122925.92	10/14/13	N/A
Wilke	Victor	R	Superintendent	Superintendent	FT	48.05	60.18	125129.89	09/03/02	N/A
Wise	Edward	L	Sr. Elec Communications Tech	Senior Electronic Co	FT	51.88	58.6	121881.74	03/27/84	N/A
Wood	Melanie	J	Systems Analyst	Systems Analyst	FT	43.59	46.64	97013.90	07/02/01	N/A
Wuschenberg	Daniel	Eric	NECA-Journeyman Lineman 100%	NECA-Journeyman Line	FT	52.64	52.64	109491.20	05/16/15	N/A
Mjones	Jessie	James	Power Dispatcher	Power Dispatcher	FT	56.26	56.26	117020.80	05/02/18	N/A
Xavier	Bria	Ann	Spatial Admin Assistant I	Spatial Administrator	FT	25.09	25.09	52197.20	08/11/17	N/A
Yadlosky	Adam	Eugene	Apprentice Journeyman Lineman	Apprentice Journeyman	FT	38.85	38.85	78648.00	07/02/18	N/A
Yang	Nick	Martin	Info Center Consultant I	Information Center C	FT	32.53	32.53	67662.40	09/11/17	N/A
Yawn	Henry	John	Operator/Mech Helper	Operator/Mech Helper	FT	45.27	45.27	94161.60	08/28/17	N/A
Yawn Jr	Alfred	G	Generation Electrical Foreman	Generation Electrics	FT	58.26	63.67	132233.50	11/19/12	N/A
Yeates	Matthew	John	Journeyman Meterman	Journeyman Meterman	FT	50.1	50.1	104208.00	08/04/18	N/A
Zib	Elizabeth	A	Utility Mgmt Assistant	Utility Management A	FT	48.05	53.1	110438.12	08/08/90	N/A

Exhibit AWM-03
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Section 4.20(b)

Employment Matters - Union

1. Agreement Covering Terms and Conditions of Employment between Seller and International Brotherhood of Electrical Workers Local Union 1547 (the "**Union**"), effective February 28, 2017 - December 31, 2019.

2. Administrative Agreement, fully executed as of July 17, 2017, by and between Seller and the Union, regarding Working Out of Class for Foreman Position.

3. Administrative Agreement executed February 9, 2018, by and between Seller and the Union, regarding No Lay-Off Due to Sale.

4. Administrative Agreement executed April 3, 2018, by and between Seller and the Union, regarding resolution of Grievance 17-03 (Engineer-In-Training).

5. Administrative Agreement executed May 31, 2018, by and between Seller and the Union, regarding resolution of Grievance 17-09 (Call-Out Pay).

6. Administrative Agreement executed June 28, 2018, by and between Seller and the Union, regarding Temporary NECA Employee Pay.

7. National Electrical Contractors Association Outside Construction Agreement (Power), effective October 1, 2017.

8. National Electrical Contractors Association Stand-Alone Outside Telecommunications Construction Agreement, effective October 1, 2017.

Section 4.20(c)

Employment Matters - Actions

1. [redacted] *vs. Municipality of Anchorage* (AERC complaint): Employee alleges race-based discrimination in inclusion in a commendation/recognition of a work group. Seller denies discriminating in making this choice. AERC investigation remains pending (awaiting a finding of discrimination or no-discrimination).

2. [redacted] *vs. Municipality of Anchorage* (AERC complaint): Past temporary employee alleges race-based discrimination in allowing his temporary contract to expire in accordance with its terms. Seller denies discrimination in allowing contract to expire. AERC investigation remains pending (awaiting a finding of discrimination or no-discrimination).

3. [redacted] *vs. Municipality of Anchorage* (AERC complaint): Past employee alleges sex and race-based discrimination leading to constructive discharge claim. Seller denies discrimination and constructive discharge (employee resigned). AERC investigation remains pending (awaiting a finding of discrimination or no-discrimination).

4. [redacted] *vs. Municipality of Anchorage* (ASCHR complaint): Employee alleges age and disability-based discrimination in downgrade of her position. Seller denies discrimination in downgrading position; downgrade occurred based on unit-wide restructuring recommended by outside consultant. ASCHR compliant remains pending.

5. IBEW Grievance 2018-03 (Disciplinary matter): Employee received disciplinary action from direct supervisor for engaging in a verbal altercation in the workplace. IBEW argues that discipline was inappropriate in this instance. Grievance currently for arbitration in February of 2019.

6. IBEW Grievance 2018-04 (Work jurisdiction matter): IBEW and Seller management disagree regarding what position classification should shut off electricity to electrical meters based upon past practice at the utility. IBEW argues that meter readers should have this responsibility, while Seller management believes that customer service representatives should have this responsibility as this task can now be completed remotely via computer. The grievance is awaiting the scheduling of arbitration.

7. Pending IBEW Grievance 18-05 (Dispute regarding job bidding process): IBEW and Seller management disagree regarding the process for determining the successful applicant for a particular position. Step 1 grievance with an extension to allow the parties to reach resolution of the issue.

8. Pending IBEW Grievance 17-08 (Errors in pay resulting from SAP software program implementation): Implementation of SAP software program at the Municipality in September of 2017 resulted in multiple errors in pay. IBEW seeks redress for employees who have been either over or underpaid at any time since paychecks issued October 6, 2017. IBEW and Seller are engaged in active settlement negotiations.

9. Seller is in discussions with IBEW regarding acting pay for superintendent. A grievance has not yet been filed.

10. Pending claim before the Alaska Workers Compensation Board: [redacted] *vs. Municipality of Anchorage*, AWCB No. 201706081.

11. Various safety matters have been addressed and abated, including:

    a. AKOSH No. 316901347 (additional details available in Notice of Correction signed by safety officer December 2, 2015)

    b. AKOSH No. 316901719 (additional details available in Notice of Correction signed by safety officer November 30, 2015)

    c. AKOSH No. 1055976 (additional details available in Notice of Correction signed by safety officer August 27, 2015)

    d. AKOSH No. 1105437 (additional details available in Informal Settlement Agreement & Disposition of Citations dated June 20, 2016)

    e. All matters listed in the OSHA Form 300A forms provided in the data room.

12. Any pending unemployment insurance matters are being handled by the state agency.

13. Workers' compensation loss run report as of November 29, 2018:

Date of Loss	A/P	Loss Description/Damage	Total Paid	Outstanding Reserves	Total Incurred	Total Recoveries
12/07/2017	Y	Right Eye/Cornea - struck by drill bit when other employee hammered it through a pole.	8,098.66	13,886.34	21,985.00	0.00
02/08/2018	N	Right Shoulder - repetitive stress from lifting and loading wood into chipper.	3,264.51	181,797.17	185,061.68	0.00
03/25/2018	Y	Left Leg/Knee - Stepped off gas compressor skid and twisted left leg with sharp pain in leg and knee.	10,507.10	101,125.90	111,633.00	0.00
07/06/2018	N	Right Forearm - unloading 4" rigid 90 from back of pick up with camper.	32,861.14	74,274.86	107,136.00	0.00
07/23/2018	N	Getting into scissor lift/R knee strain	774.29	15,785.71	16,560.00	0.00
04/30/2018	N	Loud noise in industrial setting/both ears	191.97	76,170.03	76,362.00	0.00
09/25/2018	N	Climbing up off floor/lower back	2,825.37	17,596.63	20,422.00	0.00
10/15/2018	N	Repetitive Motion/Right Shoulder & Elbow	5,888.21	24,619.39	30,507.60	0.00
10/22/2018	N	Right Shoulder - Pulling Cable	6,381.57	15,873.63	22,255.20	0.00
10/31/2018	N	Plugged in Heater/pop in Back	4,169.09	17,398.91	21,568.00	0.00

Section 4.20(d)

With respect to annual reports under Section 503 and VEVRAA, while Seller has the underlying data, Seller has not generated reports for internal review. These reports are expected to be generated in February or March of 2019.

Section 4.21

Taxes

(a) On December 20, 2017, the Alaska Department of Revenue ("**DOR**") on audit denied Seller transferable tax credit claims for tax year 2011 in the principal amount of $5,515,853. DOR had previously issued these credits, which were monetized through the State's purchase of these credits. With interest of $2,163,776, the denial resulted in a tax liability totaling $7,679,629. On May 16, 2018, Seller paid that amount plus accrued interest under protest in the amount of 7,905,785 and requested a DOR informal conference decision. A DOR informal conference decision is a prerequisite to a subsequent appeal to the State of Alaska Office of Administrative Hearings. If Seller prevails on appeal, Seller will be entitled to a refund of the amount paid plus accrued interest.

On September 18, 2018, DOR on audit denied Seller transferable tax credit claims for tax year 2012 in the principal amount of $5,236,655. DOR had previously issued these credits, which were monetized through the State's purchase of the credits. With interest of $1,797,467, the denial resulted in a tax liability totaling $7,034,122, which has been paid under protest by Seller. On or prior to November 16, 2018, Seller requested a DOR informal conference decision. A DOR informal conference decision is a prerequisite to a subsequent appeal to the State of Alaska Office of Administrative Hearings. If Seller prevails on appeal, Seller will be entitled to a refund of the amount paid plus accrued interest.

On September 18, 2018, DOR on audit denied Seller transferable tax credit claims for tax year 2013 in the principal amount of $1,632,293. DOR had previously issued these credits, which were monetized through the State's purchase of the credits. With interest of $417,931, the denial resulted in a tax liability totaling $2,050,224, which has been paid under protest by Seller. On or prior to November 16, 2018, Seller requested a DOR informal conference decision. A DOR informal conference decision is a prerequisite to a subsequent appeal to the State of Alaska Office of Administrative Hearings. If Seller prevails on appeal, Seller will be entitled to a refund of the amount paid plus accrued interest.

(e) See Section 4.21(a) of the Disclosure Schedules above.

The DOR denied Seller transferable tax credit claims for tax year 2014 in the amount of $4,418,714. This denial is under appeal before the State of Alaska Office of Administrative Hearings in a proceeding designated as OAH No. 17-0379-Tax.

The DOR denied Seller transferable tax credit claims for tax year 2015 in the amount of $2,346,995. This denial is under appeal before the State of Alaska Office of Administrative Hearings in a proceeding designated as OAH No. 17-0379-Tax.

Section 4.23

BRU Interest

(b) Seller has filed all returns timely but certain tax credit disputes remain unresolved as set forth on Section 4.21 of the Disclosure Schedules.

(d)(i)

1. Gas Sale and Purchase Agreement, between Seller and Hilcorp Alaska, LLC as successor-in-interest to ConocoPhillips Alaska Natural Gas Corporation, ConocoPhillips Alaska, Inc., ConocoPhillips Company by Letter Agreement, dated September 15, 2016.

2. Gas Emergency Agreement Letter, dated August 25, 2009, between ENSTAR Natural Gas Company, Buyer, Seller, and GVEA.

(d)(ii)

None.

(d)(iii)

1. Joint Operating Agreement, entered into as of April 1, 1962, between Standard Oil Company of California, Richfield Oil Corporation, and Shell Oil Company.

(d)(iv)

None.

(d)(v)

1. Gas Emergency Agreement Letter, dated August 25, 2009, between ENSTAR Natural Gas Company, Buyer, Seller, and GVEA.

2. Settlement Agreement, entered into and effective as of December 1, 2016, being all parties to RCA Docket P-16-004, which are Kenai Beluga Pipeline, LLC; AIX Energy LLC; Agrium U.S. Inc.; Tesoro Alaska Company LLC; Buyer; ENSTAR Natural Gas Company; MEA; HEA; Seller, and State of Alaska Office of the Attorney General, Regulatory Affairs & Public Advocacy Section.

3. Interruptible Storage Service Agreement, dated as of March 1, 2017, between Seller and Cook Inlet Natural Gas Storage Alaska, LLC.

4. FSS Service Agreement, entered into as of August 3, 2011, between Cook Inlet Natural Gas Storage Alaska, LLC, and Seller.

(d)(vi)

None.

(h)

Requirement of Alaska Department of Natural Resources to create the Asset Retirement Obligation Fund as a condition to its approval to transfer the state oil and gas leases in the BRU.

SECTION 5.03
No Conflicts; Consents

None.

SECTION 5.05
Legal Proceedings

MEA has indicated that it may pursue legal action if it is dissatisfied with the treatment of the Eklutna transmission assets in connection with the transactions contemplated by the Agreement.

Section 6.01

Conduct of Business Prior to the Closing

1. Seller intends to enter into leases or permits with ARRC, where rental payments may exceed $1 million dollars in the aggregate.

2. Seller intends to enter into a Facilities Co-Location Agreement and a Plant 2/2A Site Agreement with AWWU.

3. Seller plans to continue with the Homer Litigation and may seek to settle such litigation.

4. Seller plans to continue with the Providence Appeal and, depending on the outcome, may seek to appeal or settle.

5. Seller expects to make progress towards and complete retirement of Substations No. 1 and No. 5 in 2019 and expects to retire Substation No. 4 at the completion of the retirement of the 4kV system.

6. Seller is in the process of subdividing the property on which Plant 2/2A is situated. Only that portion of the property necessary for the provision of electric service and managed by Seller will be conveyed in connection with the contemplated transaction. Such subdivision must be completed prior to Closing in a manner reasonably acceptable to Buyer.

7. Seller is working with third parties to sell the diesel fuel remaining in the tanks at Plant 2. Seller currently anticipates that all remaining diesel fuel will be sold by the Closing date and that the tanks and piping will be cleaned, closed, and capped in the second half of 2019.

8. Seller intends to expand and rebuild Substation No. 8 in 2019 to ensure system reliability and anticipates that it will cost between approximately $6 million and $8 million dollars.

9. Seller and the other Eklutna Partners intend to rebuild Eklutna Unit 2 in 2019 and anticipates that its share of the cost will be approximately $1 million to $2 million dollars.

10. As referenced in the five-year capital improvement plan, pursuant to the 2019 BRU Drilling Program, Seller will potentially drill two or more wells. Seller's share of the cost, which has already been set aside, is anticipated to be approximately $6 to $8 million dollars and will be paid in 2019.

11. Seller intends to order a vacuum truck, which will cost in excess of $1 million dollars (Seller does not anticipate that the cost will exceed $1.5 million dollars). Payment will be due on delivery, which may occur in 2019.

12. Seller is in the process of a five-year program for meter replacement. Seller has replaced approximately 30% of the meter base and plans to replace approximately 20% of the

meter base in 2019. As reflected in the capital expenditures budget, the replacement is expected to cost between $1 and $1.8 million dollars.

13. Seller is considering a possible reorganization of the Systems department with respect to certain management positions. The number of employees (23) is expected to remain the same, but the number of managers may be reduced.

14. Seller is considering creating a general foreman position to replace the two non-represented manager positions that are currently unfilled in the Operations Line department.

Section 6.02(d)

Actions Following RCA Approval

6.02(d)(i) – Actions Before RCA Approval

Buyer and Seller acknowledge and agree that the actions contemplated by this section shall not result in Buyer taking control of ML&P prior to Closing, and Buyer and Seller shall remain separate entities operating in the ordinary course of business until the Closing occurs. If any Representative of either party has concerns that any of the integration planning activities referenced in this section could be used to coordinate commercial activities prior to the Closing, such Representative should consult with legal counsel for such party.

General Integration Planning

1. Buyer and Seller shall conduct joint detailed planning in preparation for Chugach's operation of all aspects of ML&P's business the day immediately following the Closing Date ("Day 1"). Such planning activities will include and require:

    a. Necessary Seller and/or ML&P staff to participate on Buyer's integration project committees:

        i. Steering Committee, "Steerco";

        ii. Integration Management Office, "IMO"; and

        iii. Functional Teams, "FT" (which include teams for each of the following functional areas: Information Technology ("IT"), Accounting, Purchasing, Member Services, Human Resources, Regulatory Affairs, Dispatch, Distribution Engineering, Transmission & Distribution Operations, and Generation and Fuel).

    b. Necessary Seller and/or ML&P staff to actively participate in developing and implementing an integration Work Plan with Buyer:

        i. Participation in a full-day kick-off meeting of Buyer, Seller, and ML&P Steerco, IMO and FT's;

        ii. Participation in a 30 to 60-day Work Plan development period of Buyer, Seller, and ML&P Steerco, IMO and FTs following the kick-off meeting; and

        iii. Participation in the implementation of the Work Plan through the Closing Date.

c. Necessary Seller and/or ML&P Steerco members shall attend Steerco meetings, be actively engaged, and be willing to commit up to 5 hours of their time per work week to this effort.

d. Necessary Seller and/or ML&P IMO members shall attend IMO meetings, be actively engaged, and be willing to commit up to 20 hours of their time per work week to this effort.

e. Necessary Seller and/or ML&P FT members shall attend FT meetings, be actively engaged, and be willing to commit up to 30 hours of their time per work week to this effort. Seller and/or ML&P FT members shall be authorized and required to provide necessary integration planning data to Buyer at Buyer's request.

f. Necessary Seller and/or ML&P staff shall participate in integration planning and execution related to any currently existing Seller and ML&P shared services.

g. Necessary Seller and/or ML&P staff shall participate in a series of Buyer sponsored assessment interviews with non-represented personnel.

h. Necessary Seller and/or ML&P staff shall participate in integration planning and execution related to remodeling and restructuring of ML&P's facilities, telephony, and IT infrastructure as determined by Buyer to be necessary for successful Day 1 operations by Buyer.

i. Necessary Seller and/or ML&P staff participation in communication efforts throughout the planning and execution phase, to ensure consistency in messaging to Buyer's and ML&P's employees and customers/members.

2. Seller shall provide Buyer with data structures and metadata characteristics for employee and customer master data at the time of the execution of the Asset Purchase Agreement in order to facilitate kickoff and joint planning preparation. This includes:

   a. Data fields by name

   b. Minimum and maximum characters for each field;

   c. Disallowed characters for each field (i.e., special characters such as @, -, $, etc.); and

   d. Brief descriptions of the use(s) of each field, including any interfaces, forms, or extensions that use the field

Other Integration Planning

3. Buyer shall conduct Information Services ("IS")/ Telecom Network Assessment for a period of sixty (60) days within one (1) month after the execution of the Asset Purchase Agreement to verify asset information that has been provided to Buyer and gather additional information that may be required.

    a. Seller shall provide Buyer access to Post Road facility for a third party to perform an IS/Telecom Assessment to facilitate design of networking and IS infrastructure, which is required to support operations on the Closing Date.

    b. Buyer shall compensate Seller on a reimbursable basis, for reasonable costs incurred by ML&P employees to support this effort.

    c. To minimize potential impacts to ML&P operations, the Assessment shall be non-intrusive and target "spare" cable capacity not be in service. Should there be exceptions where this is not feasible, the consultant will advise and coordinate with ML&P staff.

    d. IS/Telecom Network Assessment will include but is not limited to:

        i. Facility/Equipment level information;

        ii. Network cable plant inventory and routing;

        iii. Fiber optic cable plant inventory and routing;

        iv. Hardware inventories for IT server and business networking equipment;

        v. Development of Network Diagrams;

        vi. Standby Power Systems supporting SCADA and IT Operations;

        vii. Facility Electrical Power Distribution Drawings;

        viii. Hardware inventories for SCADA;

        ix. SCADA Network and Communication Diagrams;

        x. PBX/IVR Configuration Drawings;

        xi. PBX/Dial Plan;

        xii. PBX/IVR Call Flows;

        xiii. Login credentials and other assistance for logical network mapping; and

        xiv. Time with ML&P Staff to substantiate findings.

4. Parties shall enable IS/Telecom Infrastructure Integration to occur on June 1, 2019, for a period of one hundred and twenty (120) days.

    a. Seller shall provide Buyer access to Post Road facility for placement and testing of network equipment in preparation for operations on the Closing Date.

    b. Parties shall work cooperatively to achieve:

        i. Equipment installation and power up;

        ii. Equipment interconnection to spare communication cabling; and

        iii. Interconnection of parties' Campus via ML&P Fiber Optic Cabling.

5. Seller shall allow parties to enter into any necessary lease agreement to store equipment on ML&P property in advance of RCA Approval at no cost to Buyer.

6.02(d)(ii) – Actions After RCA Approval

1. The actions set forth under Schedule 6.02(d)(i) "General Integration Planning" shall continue.

2. Seller shall allow parties to enter into any necessary lease agreement to store equipment on ML&P property in advance of Closing at no cost to Buyer.

3. Seller shall provide on ML&P and Seller letterhead, a memorandum announcing the acquisition and granting permission for CEA to discuss account details with ML&P vendors.

4. Seller shall migrate ML&P email accounts to ML&P standalone exchange servers (decoupled from Seller).

5. Seller shall supply a listing of all email notifications and prepare redirection of emails to a designated CEA account.

6. Seller shall notify all customers and vendors of the acquisition 45 days ahead of Closing.

7. Seller shall add an auto-reply or email header notifying customers and vendors of the acquisition 45 days prior to the Closing.

8. Seller shall supply email and contact archives (external contact list and personal external contacts).

9. Seller shall handoff an independent ML&P domain upon Closing; not part of Seller's forest (decoupled from Seller).

10. Seller shall supply all network and domain passwords.

11. Seller shall supply all encryption certificates.

12. Seller shall supply Active Directory restore credentials.

13. Seller shall ensure that the Active Directory is in a state of being integrated with reasonable effort.

14. Seller shall ensure that the Active Directory passes industry standard "domain health checks."

15. Seller shall transfer relevant DHCP services to reside in ML&P domains.

16. Seller shall transfer relevant DNS services to reside in ML&P domains.

17. Parties shall enable IS/Telecom Infrastructure Integration to occur on June 1, 2019, for a period of one hundred and twenty (120) days.

    a. Seller shall provide Buyer access to Post Road facility for placement and testing of network equipment in preparation for operations on the Closing Date.

    b. Parties shall work cooperatively to achieve:

        i. Equipment installation and power up;

        ii. Equipment interconnection to spare communication cabling; and

        iii. Interconnection of parties' Campus via ML&P Fiber Optic Cabling.

To the extent not covered by the requirements of Schedule 6.02(d)(i) or (ii) above, timelines for the timing and method of data provision from Seller to Buyer on or prior to the Closing Date will be agreed during joint planning. Buyer may request that Seller and/or ML&P cooperate in efforts to obtain releases from vendors or customers if necessary so that certain data may be shared with Buyer in advance of the Closing Date.

Section 6.20

Leased Property

1. Department of the Air Force Easement for Electric Power Line and Substation Located on Elmendorf Air Force Base (AFB), Alaska, Easement No. DACA85-2-03-98, effective as of January 12, 2005, between Seller and Secretary of the Air Force of the United States of America.
2. Department of the Air Force Easement for Electric Power and Telephone Lines Located on Elmendorf Air Force Base (AFB), Alaska, Easement No. DACA85-2-03-142, effective as of March 4, 2004, between Seller and Secretary of the Air Force of the United States of America.
3. Department of the Air Force Easement for Electrical Substations to Municipality of Anchorage, Municipal Light & Power for Property Located on Elmendorf Air Force Base, Alaska, Easement No. DACA85-2-05-91, effective as of April 10, 2009, between Seller and Secretary of the Air Force of the United States of America.
4. Department of the Army Easement for Right of Way for Electric Power Transmission or Communication Facilities on Fort Richardson Military Reservation, Alaska, No. DACA85-2-84-18, effective as of March 22, 1984 between Seller and Alaska District Corps of Engineers Real Estate Division.
5. Department of the Air Force Easement for Electric Power Located on Elmendorf Air Force Base (AFB), Anchorage, Alaska, No. DACA85-2-98-39, effective as of July 7, 1998 between Seller and Department of the Air Force.
6. Department of the Air Force Easement for Electric Power Line and Pad-Mounted 300kV Transformer Located on Elmendorf Air Force Base (AFB), Alaska, Easement No. DACA85-2-03-139, effective as of March 4, 2004 between Seller and Secretary of the Air Force of the United States of America.
7. Department of the Air Force Easement for Electrical Power Line AA-92713 to Municipality of Anchorage, Municipal Light & Power for Property Located on Elmendorf Air Force Base, Alaska (Easement No. DACA85-8-11-0100).
8. Consent to assignment of agreements entered into as a result of the ARRC Modifications.
9. Ground Lease (Contract No. 20133) between Alaska Railroad Corporation and Municipality of Anchorage, effective as of January 29, 2016, for the premises located on the parcel of real property known as Tax #002-031-15.
10. Lease Agreement between Alaska Pacific University (f/k/a Alaska Methodist University) and City of Anchorage, Alaska, effective as of July 24, 1972, for the premises located on the parcel of real property known as Tax #005-101-04 (Substation #15).

March 8, 2019

Municipality of Anchorage
Attn: William D. Falsey, Municipal Manager
632 W. 6th Avenue, Suite 850
Anchorage, AK 99501

Dear Bill:

Reference is made to the Asset Purchase and Sale Agreement (the "***Asset Purchase Agreement***") dated as of December 28, 2018 by and between the Municipality of Anchorage, Alaska ("***Seller***") and Chugach Electric Association, Inc. ("***Buyer***"). Capitalized terms used but not defined herein have the meanings set forth in the Asset Purchase Agreement.

Seller and Buyer hereby agree that the last sentence of Section 6.06(f) is deleted in its entirety and is replaced with the following sentence: "Buyer and Seller shall jointly submit a petition for RCA Approval on or before April 1, 2019."

Except as expressly provided herein, this letter agreement will not alter, modify, amend or in any way affect the terms, conditions, obligations, covenants or agreements contained in the Asset Purchase Agreement. Except as set forth herein, the Asset Purchase Agreement remains unmodified and in full force and effect.

This letter agreement may be amended, modified, or supplemented only by an agreement in writing signed by each party hereto. This letter agreement shall be governed by and construed in accordance with the internal laws of the State of Alaska, without reference to conflicts of laws principles that would result in the application of the laws of any other jurisdiction. This letter agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this letter agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this letter agreement.

Sincerely,

CHUGACH ELECTRIC ASSOCIATION, INC.

By:_____
Name: Lee D. Thibert
Title: Chief Executive Officer

Accepted and agreed:

MUNICIPALITY OF ANCHORAGE, ALASKA

By: _____
Name: William D. Falsey
Title: Municipal Manager

March 15, 2019

Municipality of Anchorage
Attn: William D. Falsey, Municipal Manager
632 W. 6th Avenue, Suite 850
Anchorage, AK 99501

Dear Bill,

Reference is made to the Asset Purchase and Sale Agreement (the "***Asset Purchase Agreement***") dated as of December 28, 2018 by and between the Municipality of Anchorage, Alaska ("***Seller***") and Chugach Electric Association, Inc. ("***Buyer***"). Capitalized terms used but not defined herein have the meanings set forth in the Asset Purchase Agreement.

Seller and Buyer hereby agree that the reference to "March 1, 2019" in Section 6.30 of the Asset Purchase Agreement is deleted in its entirety and is replaced by a reference to "March 22, 2019".

Except as expressly provided herein, this letter agreement will not alter, modify, amend or in any way affect the terms, conditions, obligations, covenants or agreements contained in the Asset Purchase Agreement. Except as set forth herein, and the letter agreement dated March 8, 2019, the Asset Purchase Agreement remains unmodified and in full force and effect.

This letter agreement may be amended, modified, or supplemented only by an agreement in writing signed by each party hereto. This letter agreement shall be governed by and construed in accordance with the internal laws of the State of Alaska, without reference to conflicts of laws principles that would result in the application of the laws of any other jurisdiction. This letter agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this letter agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this letter agreement.

Sincerely,

CHUGACH ELECTRIC ASSOCIATION, INC.

By _____
Name: Lee D. Thibert
Title: Chief Executive Officer

Accepted and agreed:
MUNICIPALITY OF ANCHORAGE, ALASKA

By _____
Name: William D. Falsey
Title: Municipal Manager

AMENDMENT NO. 1 TO ASSET PURCHASE AND SALE AGREEMENT

THIS AMENDMENT NO. 1 TO ASSET PURCHASE AND SALE AGREEMENT, dated as of the 27th day of September, 2019 (this "**Amendment**"), between the Municipality of Anchorage, Alaska, a political subdivision organized under the laws of the State of Alaska ("**Seller**"), and Chugach Electric Association, Inc., a not-for-profit electric cooperative corporation organized under the laws of the State of Alaska ("**Buyer**").

RECITALS

WHEREAS, Buyer and Seller entered into that certain Asset Purchase and Sale Agreement, dated as of December 28, 2018 (the "**Original Agreement**"); capitalized terms used in this Amendment, if not otherwise defined herein, shall have the meanings set forth in the Original Agreement, as amended or modified pursuant to this Amendment (as so amended or otherwise modified, the "**Asset Purchase Agreement**");

WHEREAS, pursuant to Section 10.10 of the Original Agreement, Buyer and Seller may amend, modify or supplement the Original Agreement upon the execution and delivery of a written agreement executed by the Parties; and

WHEREAS, the Parties desire to make certain amendments to the Original Agreement as provided in this Amendment.

NOW, THEREFORE, pursuant to Section 10.10 of the Original Agreement and in consideration for the premises and agreements hereinafter set forth, the Parties, intending to be legally bound, agree as follows:

1. New Definitions. The following definitions are added to Article I of the Original Agreement:

"**Eklutna Water Agreement**" has the meaning set forth in Section 6.23.

"**Estimated Net Book Value**" means the Net Book Value as estimated in good faith by Seller no later than ten (10) Business Days prior to the Closing Date.

"**Estimated Net Book Value Adjustment**" means the amount (whether a positive or negative number) obtained by subtracting the amount of $715,400,000 from the Estimated Net Book Value.

"**Net Book Value**" means the net book value, as of the Closing Date, of the following items appearing in the electric and gas balance sheets of ML&P, not including any asset accounts included in Transferred Cash or any Excluded Assets, but including retirement work in progress: (i) non-contributed plant in service; (ii) inventory, materials, and supplies; (iii) unamortized deferred charges and regulatory assets; and (iv) construction work in progress.

"**Net Book Value Adjustment**" means the amount (whether a positive or negative number) obtained by subtracting the amount of $715,400,000 from the Net Book Value.

2. Revised Definitions. The following definitions in Article I of the Original Agreement are amended and restated in their entirety as follows:

"**PILT Agreement**" means the Payment in Lieu of Taxes Agreement between Seller and Buyer as amended on or before the Closing Date.

3. Amendment to Sections 2.05 through 2.08. Sections 2.05, 2.06, 2.07 and 2.08 of the Original Agreement are hereby deleted in their entirety and replaced with the following:

"Section 2.05. Purchase Price. The aggregate purchase price for the Purchased Assets to be paid on the Closing Date will be the assumption of the Assumed Liabilities plus an amount (as adjusted in accordance with this Agreement, the "**Purchase Price**") equal to the following:

(a) the Upfront Payment,

(b) minus the Accrued Leave Liability;

(c) minus the Net Book Value of Designated Excluded Assets;

(d) plus the Net Book Value Adjustment (if the Net Book Value Adjustment is a positive number) or minus the absolute value of the Net Book Value Adjustment (if the Net Book Value Adjustment is a negative number).

Section 2.06. Estimated Purchase Price Statement. At least ten (10) Business Days before the Closing, Seller shall prepare and deliver to Buyer a statement, prepared in accordance with the Accounting Principles (the "**Estimated Purchase Price Statement**"), setting forth Seller's good faith estimates of the Estimated Accrued Leave Liability, the Estimated Net Book Value of Designated Excluded Assets, the Estimated Net Book Value Adjustment and the calculation of the Estimated Purchase Price, as determined in accordance with Section 2.05 (the "**Estimated Purchase Price**"). Such statement shall also include an estimate of the Transferred Cash (the **"Estimated Transferred Cash**").

Section 2.07. Payment of Estimated Purchase Price. At the Closing, Buyer will deliver, or cause to be delivered, to the intended final recipients (the names, wiring information and other relevant payment information of which recipients as may be reasonably requested by Buyer shall have been furnished by Seller in writing no later than three (3) Business Days prior to the Closing (such recipients, the "**Recipients**")), an amount equal to the Estimated Purchase Price for payment, on behalf of the Business, to the appropriate Recipient. Seller shall cause the Recipients to include amounts and Persons necessary to irrevocably defease or repay all Closing Debt in accordance with Section 3.02(c). With the exception of any portion of the Transferred Cash that Seller delivers to Buyer on the Closing Date, the Purchase Price shall be paid net of Estimated Transferred Cash in lieu of any obligation of Seller to deliver Transferred Cash on the Closing Date.

Section 2.08. Purchase Price Adjustment. Following the Closing, the Purchase Price will be adjusted as set forth below:

(a) **Closing Statement Preparation**. Within sixty (60) days after the Closing Date, Buyer shall prepare and deliver to Seller a statement (the "**Closing Statement**") setting forth a calculation of (i) the Accrued Leave Liability, (ii) the Transferred Cash, (iii) the Net Book Value of Designated Excluded Assets, (iv) the Net Book Value Adjustment and (v) the Closing Prorations, and (v) a recalculation of the Purchase Price, if any, based on each of the foregoing. The Closing Statement will be calculated (x) pursuant to the definitions within this Agreement, (y) in accordance with the Accounting Principles where applicable, and (z) without giving effect to the transactions contemplated hereby. Seller shall cooperate with Buyer in promptly responding to Buyer's reasonable requests while Buyer is preparing the Closing Statement.

(b) **Examination and Review**.

(i) Examination. After receipt of the Closing Statement, Seller shall have forty-five (45) days (the "**Review Period**") to review the Closing Statement. During the Review Period, Seller and its attorneys and accountants shall have access to the books and records of the Business, the personnel of, and work papers prepared by, Buyer or Buyer's Accountants to the extent that they relate to the Closing Statement and to such historical financial information (to the extent in Buyer's possession) relating to the Closing Statement as Seller may reasonably request for the purpose of reviewing the Closing Statement and to prepare a Statement of Objections (as defined below), *provided*, that such access shall be in a manner that does not interfere with the normal business operations of Buyer or the Business.

(ii) Objection. On or prior to the last day of the Review Period, Seller may object to the Closing Statement by delivering to Buyer a written statement setting forth Seller's objections in reasonable detail, indicating each disputed item, its amount and the basis for Seller's disagreement therewith (the "**Statement of Objections**"). If Seller fails to deliver the Statement of Objections before the expiration of the Review Period, the Closing Statement and the calculations contained therein shall be deemed to have been accepted by and to be final and binding on Seller and Buyer. If Seller delivers the Statement of Objections before the expiration of the Review Period, Buyer and Seller shall negotiate in good faith to resolve such objections within thirty (30) days after the delivery of the Statement of Objections (the "**Resolution Period**"), and, if the same are so resolved within the Resolution Period, the Closing Statement and the calculations contained therein, in each case with

such changes as may have been previously agreed in writing by Buyer and Seller, shall be final and binding on Seller and Buyer and shall not be subject to further review.

(iii) Resolution of Disputes. If Seller and Buyer fail to reach an agreement with respect to any or all of the matters set forth in the Statement of Objections before expiration of the Resolution Period, then any amounts remaining in dispute ("**Disputed Amounts**") shall be submitted for resolution to an impartial regionally recognized financial consulting firm or a firm of independent certified public accountants other than Seller's Accountants, the Business's accountants or Buyer's Accountants mutually agreeable to Buyer and Seller (the "**Independent Accountant**") who, acting as an expert and not an arbitrator, and without considering extrinsic evidence, shall resolve the Disputed Amounts only to the extent they relate to accounting matters and make any adjustments to the Closing Statement. The Independent Accountant shall be jointly instructed by the parties to make a determination as soon as practicable within thirty (30) days (or such other time as the parties hereto shall agree in writing) after engagement of the Independent Accountant, and its resolution of the Disputed Amounts and, other than with respect to conclusions of Law and interpretation of this Agreement and consideration of extrinsic evidence, its adjustments to the Closing Statement shall be conclusive (other than with respect to conclusions of Law and interpretation of this Agreement and consideration of extrinsic evidence) absent manifest error. The Independent Accountant shall decide only the specific items under dispute by the parties and the Independent Accountant's decision for each Disputed Amount must be within the range of values assigned to each such item in the Closing Statement and the Statement of Objections, respectively. The fees and expenses of the Independent Accountant shall initially be split 50/50 between Buyer and Seller, and after the final resolution of any dispute, shall be borne by Buyer, on the one hand, and Seller, on the other hand, based on the percentage which the portion of the contested amount not awarded to each party bears to the amount actually contested by such party (and the appropriate party shall reimburse the other party accordingly). For example, if Accrued Leave Liability is the only disputed item, and Seller claims that Accrued Leave Liability is $1,000, and Buyer contests only $500 of the amount claimed by Seller, and if the Independent Accountants ultimately resolve the dispute by awarding Seller $300 of the $500 contested, then the costs and expenses of Independent Accountants will be allocated 60% (i.e., 300 ÷ 500) to Buyer and 40% (i.e., 200 ÷ 500) to Seller. Any dispute that cannot be resolved

by the Independent Accountant pursuant to the provisions hereof shall be resolved by courts of law set forth in Section 10.11.

(c) **Adjustment Payments**. The Closing Prorations and the Purchase Price shall be recalculated using such finally determined amounts in lieu of the estimates of such amounts used in the calculation of the Purchase Price payable at Closing.

(i) With respect to Accrued Leave Liability, Net Book Value of Designated Excluded Assets, and Closing Prorations, the Purchase Price shall be increased (in the case of an aggregate positive amount) or decreased (in the case of an aggregate negative amount) on a dollar-for-dollar basis by the aggregate amount, if any, determined by (A) subtracting the Estimated Accrued Leave Liability from the Accrued Leave Liability, (B) subtracting the Estimated Net Book Value of Designated Excluded Assets from the Net Book Value of Designated Excluded Assets, and (C) adding the Closing Prorations if the aggregate amount of the prorations is for the benefit of Seller and subtracting the amount of Closing Prorations if the aggregate amount of the prorations is for the benefit of Buyer, and adding together the amounts calculated in each of the foregoing (A), (B), and (C) to reach a final net amount (such net amount, the "**Adjustment Amount**"). With respect to the Net Book Value Adjustment, the Purchase Price shall be increased on a dollar-for-dollar basis by the difference between the Estimated Net Book Value Adjustment and the Net Book Value Adjustment if the Net Book Value is higher than the Estimated Net Book Value, and shall be decreased on a dollar-for-dollar basis by the difference between the Estimated Net Book Value Adjustment and the Net Book Value Adjustment if the Net Book Value is lower than the Estimated Net Book Value.

(ii) No later than within two (2) Business Days after the determination of the Adjustment Amount and the Net Book Value Adjustment, (A) if the net effect of the Adjustment Amount and the Net Book Value Adjustment, collectively, results in an increase to the Purchase Price, Buyer shall pay to Seller an amount equal to the amount of such increase (without interest) and (B) if the net effect of the Adjustment Amount and the Net Book Value Adjustment, collectively, results in a decrease to the Purchase Price, Seller shall disburse to Buyer an amount equal to the amount of such decrease (without interest). In addition, if Estimated Transferred Cash minus Transferred Cash is a negative number, Seller shall pay Buyer the difference on such date, and if a positive number, Buyer shall pay Seller such difference on such date."

4. Amendment of Section 6.23. Section 6.23 of the Original Agreement is hereby deleted in its entirety and replaced by the following:

> **"Section 6.23. Eklutna Public Water Supply.** Seller shall not amend, extend, supplement or otherwise modify the Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska executed on February 17, 1984 between the Alaska Power Administration and Seller, as such agreement has been amended and supplemented to date. Seller and Buyer hereby acknowledge and agree that Seller has prior rights to not less than 41 million gallons of water per day from Eklutna Lake for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823; Alaska Statutes 46.15.150(a); and Certificate of Appropriation ADL 44944. Seller and Buyer agree that during the term of the Eklutna Power Purchase Agreement, the supply of water available for production of Power (as defined in the Eklutna Power Purchase Agreement) by the Chugach Portion (as defined in the Eklutna Power Purchase Agreement) shall be net of all water taken by AWWU for public water supply purposes under any applicable water rights granted by the State of Alaska. Seller and Buyer further agree that, during the term of the Eklutna Power Purchase Agreement, Buyer shall be entitled to receive any consideration that Seller is entitled to receive from AWWU for the energy generation lost with respect to the Chugach Portion as a result of AWWU taking such water for such purposes, and that such consideration may, at the election of AWWU, take the form of monetary payments or delivery of replacement energy at the Eklutna PPA delivery point or the Plant 2A switchyard, for the full amount of such lost electric power generation. If replacement energy is provided through generation within the certificated service area of Buyer, such interconnection shall be made in accordance with Buyer's interconnection guidelines for non-utility generators. If such consideration takes the form of monetary payments, such payments shall be made at Seller's applicable tariffed rates, as adopted by Buyer as part of obtaining RCA Approval. Such tariff rates shall include (a) the base rate set forth in Seller's Rate Schedule 25, Replacement Energy Service - AWWU (without inclusion of any cost of power adjustment), and (b) the ML&P legacy service area cost of power adjustment (currently set forth in Seller's Rate Schedule 01, Fuel and Purchased Power Cost Adjustment). Together, those rates reflect and shall reflect the rate methodology described in RCA Order No. U-90-090(7) and Seller's most recent RCA-approved cost of service study in Docket U-17-008, as it may be revised from time to time upon approval by the RCA. Buyer agrees not to propose a change in that methodology until after December 31, 2025. If any such payments are made by AWWU to Seller, Seller will promptly after receipt of each such payment deliver to Buyer such portion of such payment that is attributable to the Chugach Portion. If any such payments are made by AWWU to Buyer, Buyer will promptly after receipt of each such payment deliver to Seller any portion of such payment that is attributable to the MEA Proportionate Interest (as defined in the Eklutna Power Purchase Agreement). AWWU may supply replacement energy from any part of the Eklutna Water Project (including the Energy Recovery Station near Plant 2A).

5. Effective Date of this Amendment. Except as expressly provided herein and the letter agreements dated March 8, 2019 and March 15, 2019 (the "**Letter Agreements**"), the Original Agreement is not amended, supplemented, modified, revised or otherwise affected by this

Amendment. This Amendment shall be deemed effective and in full force and effect as of the date first written above. On and after the date hereof, each reference in the Original Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import referring to the Original Agreement, shall mean and be a reference to the Asset Purchase Agreement and each reference to the Asset Purchase Agreement in any other agreements, documents or instruments executed and delivered pursuant to or in connection with the Asset Purchase Agreement shall be deemed to mean and be a reference to the Asset Purchase Agreement as amended by this Amendment and the Letter Agreements.

6. Binding Effect. This Amendment shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

7. Governing Law. This Amendment shall be governed by and construed in accordance with the internal laws of the State of Alaska, without reference to conflicts of laws principles that would result in the application of the laws of any other jurisdiction.

8. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[*Remainder of the page intentionally left blank*]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By _____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By _____

Name: Lee D. Thibert
Title: Chief Executive Officer

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By_____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By_____

Name: Lee D. Thibert
Title: Chief Executive Officer

Exhibit 1

AMENDMENT NO. 2 TO
ASSET PURCHASE AND SALE AGREEMENT

AMENDMENT NO. 2 TO ASSET PURCHASE AND SALE AGREEMENT

THIS AMENDMENT NO. 2 TO ASSET PURCHASE AND SALE AGREEMENT, dated as of the 28th day of October, 2019 (this "**Amendment**"), between the Municipality of Anchorage, Alaska, a political subdivision organized under the laws of the State of Alaska ("**Seller**"), and Chugach Electric Association, Inc., a not-for-profit electric cooperative corporation organized under the laws of the State of Alaska ("**Buyer**").

RECITALS

WHEREAS, Buyer and Seller entered into that certain Asset Purchase and Sale Agreement, dated as of December 28, 2018 (the "**Original Agreement**"); capitalized terms used in this Amendment, if not otherwise defined herein, shall have the meanings set forth in the Original Agreement, as amended or modified pursuant to this Amendment or any Previous Amendment (as so amended or otherwise modified, the "**Asset Purchase Agreement**");

WHEREAS, pursuant to Section 10.10 of the Original Agreement, Buyer and Seller may amend, modify or supplement the Original Agreement upon the execution and delivery of a written agreement executed by the Parties; and

WHEREAS, the Parties desire to make certain amendments to the Original Agreement as provided in this Amendment.

NOW, THEREFORE, pursuant to Section 10.10 of the Original Agreement and in consideration for the premises and agreements hereinafter set forth, the Parties, intending to be legally bound, agree as follows:

1. Amendment to Section 6.30. Section 6.30 of the Original Agreement is hereby deleted in its entirety and is replaced with the following:

> **Section 6.30 Eklutna Transmission Assets are Purchased Assets.** Seller and Buyer agree that MEA has consented, in accordance with the provisions of Section 1 of the Agreement for Extension of 1996 Eklutna Hydroelectric Project Transition Plan dated October 2, 1997 by and among Seller, Buyer, and MEA, to the sale by Seller to Buyer under this Agreement of all undivided interests, rights, and title of Seller in and to the Eklutna Transmission Assets. Accordingly, the Eklutna Transmission Assets are Purchased Assets for purposes of this Agreement. Accordingly, (i) each reference in this Agreement to the Eklutna Generation Assets will be deemed to exclude the Eklutna Transmission Assets, and (ii) the "Facility" under the Eklutna Power Purchase Agreement will be deemed to exclude the Eklutna Transmission Assets and the "Seller's Interest" under the Eklutna Power Purchase Agreement will be deemed to exclude all undivided interests, rights, title, and obligations of Seller in and to the Eklutna Transmission Assets, including for purposes of the Purchase Option under Section 14.3 of the Eklutna Power Purchase Agreement.

2. Amendment to Section 9.01(b)(ii). Section 9.01(b)(ii) of the Original Agreement is hereby deleted in its entirety and is replaced with the following:

> (ii) any of the conditions set forth in Section 7.01 or Section 7.02 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by September 30, 2020, unless such failure shall be due to the failure of Buyer to perform or comply with any of the covenants, agreements, or conditions hereof to be performed or complied with by it prior to the Closing; or

3. Amendment to Section 9.01(c)(ii). Section 9.01(c)(ii) of the Original Agreement is hereby deleted in its entirety and is replaced with the following:

> (ii) any of the conditions set forth in Section 7.01 or Section 7.03 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by September 30, 2020, unless such failure shall be due to the failure of Seller to perform or comply with any of the covenants, agreements, or conditions hereof to be performed or complied with by it prior to the Closing; or

4. Effective Date of this Amendment. Except as expressly provided herein and the letter agreements dated March 8, 2019 and March 15, 2019 and Amendment No. 1 to the Asset Purchase Agreement dated as of September 27, 2019 (the "**Previous Amendments**"), the Original Agreement and the Previous Amendments are not amended, supplemented, modified, revised or otherwise affected by this Amendment. This Amendment shall be deemed effective and in full force and effect as of the date first written above. On and after the date hereof, each reference in the Asset Purchase Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import referring to the Original Agreement or the Previous Amendments, shall mean and be a reference to the Asset Purchase Agreement and each reference to the Asset Purchase Agreement in any other agreements, documents or instruments executed and delivered pursuant to or in connection with the Asset Purchase Agreement shall be deemed to mean and be a reference to the Asset Purchase Agreement as amended by this Amendment and the Previous Amendments.

5. Binding Effect. This Amendment shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

6. Governing Law. This Amendment shall be governed by and construed in accordance with the internal laws of the State of Alaska, without reference to conflicts of laws principles that would result in the application of the laws of any other jurisdiction.

7. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[*Remainder of the page intentionally left blank*]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By _____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By _____

Name: Lee D. Thibert
Title: Chief Executive Officer

EXHIBIT 1

Form of Amendment No. 3 to the Asset Purchase and Sale Agreement

AMENDMENT NO. 3 TO ASSET PURCHASE AND SALE AGREEMENT

THIS AMENDMENT NO. 3 TO ASSET PURCHASE AND SALE AGREEMENT, dated as of the [●] day of [●], 2019 (this "**Amendment**"), between the Municipality of Anchorage, Alaska, a political subdivision organized under the laws of the State of Alaska ("**Seller**"), and Chugach Electric Association, Inc., a not-for-profit electric cooperative corporation organized under the laws of the State of Alaska ("**Buyer**").

RECITALS

WHEREAS, Buyer and Seller entered into that certain Asset Purchase and Sale Agreement, dated as of December 28, 2018 (the "**Original Agreement**"); capitalized terms used in this Amendment, if not otherwise defined herein, shall have the meanings set forth in the Original Agreement, as amended or modified pursuant to this Amendment or any Previous Amendment (as so amended or otherwise modified, the "**Asset Purchase Agreement**");

WHEREAS, pursuant to Section 10.10 of the Asset Purchase Agreement, Buyer and Seller may amend, modify or supplement the Original Agreement upon the execution and delivery of a written agreement executed by the Parties; and

WHEREAS, the Parties desire to make certain amendments to the Asset Purchase Agreement as provided in this Amendment.

NOW, THEREFORE, pursuant to Section 10.10 of the Asset Purchase Agreement and Section III.B.3 of the Stipulation (as defined in Article I of the Asset Purchase Agreement as amended pursuant to this Amendment), and in consideration for the premises and agreements in the Stipulation and as hereinafter set forth, the Parties, intending to be legally bound, agree as follows:

1. New Definitions. The following definitions are hereby added to Article I of the Asset Purchase Agreement:

> "**Rate Reduction Account**" means an account created and funded by Seller with a cash balance of $36,000,000 on the Closing Date.
>
> "**Stipulation**" means the Stipulation Resolving All Issues entered into by and among Seller, Buyer, Providence Health & Services, the Federal Executive Agencies, Matanuska Electric Association, Inc., Homer Electric Association, Inc., Alaska Energy Authority, and ENSTAR Natural Gas Company, a Division of SEMCO Energy, Inc. dated October [●], 2019, and accepted and approved by the RCA on [●].

2. Revised Definitions. The following definitions in Article I of the Asset Purchase Agreement are hereby amended and restated in their entirety as follows:

> "**BRU Fuel Agreement**" means the amended and restated BRU Fuel Agreement dated as of the date hereof between Seller and Buyer as the same may be amended on or before the Closing Date.

"**Transferred Cash**" means (A) cash in the Rate Reduction Account and (B) customer deposit cash or cash accounts, cash, cash equivalents, and securities (in each case to the extent constituting restricted assets and, in the case of cash contractually restricted in connection with Debt, to the extent not used by Seller to defease or repay the Closing Debt), including any such assets collected for payments in lieu of taxes, including pursuant to AMC 26.10.025 or held under or pursuant to ML&P's debt documents or representing the proceeds of bonds, deferred regulatory liability for gas sales funds, future gas purchases regulatory liabilities, underlift accounts and asset retirement obligation funds managed by ML&P or Seller, any decommissioning funds, utility underground requirements including those set forth in AS 42.05.381(h), (i), and (j) and AMC 21.07.050 and AMC Title 21 undergrounding funds, and any other cash collected from ratepayers for obligations assumed by Buyer including customer deposits. Exhibit J sets forth the Transferred Cash (other than the Rate Reduction Account) and separately identifies any cash contractually restricted in connection with Debt which will be used by Seller to defease or repay the Closing Debt, in each case as if the Closing had occurred as of December 31, 2017.

"**Upfront Payment**" means $757,800,000.

3. Amendment to Section 2.05(d). Section 2.05(d) of the Asset Purchase Agreement is hereby deleted in its entirety and replaced with the following:

(d) minus the absolute value of the Net Book Value Adjustment if the Net Book Value Adjustment is a negative number; *provided* that, if the Net Book Value Adjustment is a positive number, the Purchase Price shall not be adjusted to reflect the Net Book Value Adjustment or any portion thereof.

4. Addition of Section 6.32. The following is hereby added to the Asset Purchase Agreement as a new Section 6.32:

Section 6.32. **Use of Funds in Rate Reduction Account**. Buyer shall prudently manage funds in the Rate Reduction Account for the benefit of customers in the ML&P legacy service area to ensure the principal balance and any interest realized on the deposits are properly invested, accounted for, and ultimately credited back to customers in the ML&P legacy service area. The funds in the Rate Reduction Account shall be used by Buyer for the exclusive purpose of providing rate reductions to customers in the ML&P legacy service area in accordance with Section III.B.2.c of the Stipulation.

5. Effective Date of this Amendment. The effectiveness of this Amendment is expressly conditioned on the acceptance and approval of the Stipulation by the RCA. Except as expressly provided herein and the letter agreements dated March 8, 2019 and March 15, 2019, Amendment No. 1 to the Asset Purchase Agreement dated as of September 27, 2019, and Amendment No. 2 to the Asset Purchase Agreement dated as of [●], 2019 (the "**Previous Amendments**"), the Original Agreement and the Previous Amendments are not amended, supplemented, modified, revised or otherwise affected by this Amendment. This Amendment shall be deemed effective and in full force and effect as of the date first written above. On and after the date hereof, each reference in the Asset Purchase Agreement to "this Agreement",

"hereunder", "hereof", "herein" or words of like import referring to the Original Agreement or the Previous Amendments, shall mean and be a reference to the Asset Purchase Agreement and each reference to the Asset Purchase Agreement in any other agreements, documents or instruments executed and delivered pursuant to or in connection with the Asset Purchase Agreement shall be deemed to mean and be a reference to the Asset Purchase Agreement as amended by this Amendment and the Previous Amendments.

6. Binding Effect. This Amendment shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

7. Governing Law. This Amendment shall be governed by and construed in accordance with the internal laws of the State of Alaska, without reference to conflicts of laws principles that would result in the application of the laws of any other jurisdiction.

8. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[*Remainder of the page intentionally left blank*]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By_____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By_____

Name: Lee D. Thibert
Title: Chief Executive Officer

Exhibit AWM-04
Eklutna Power Purchase Agreement

Execution Copy

EKLUTNA
POWER PURCHASE AGREEMENT

BETWEEN

CHUGACH ELECTRIC ASSOCIATION, INC.
("PURCHASER")

AND

MUNICIPALITY OF ANCHORAGE
("SELLER")

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EKLUTNA
POWER PURCHASE AGREEMENT
BETWEEN
CHUGACH ELECTRIC ASSOCIATION, INC.
AND
MUNICIPALITY OF ANCHORAGE

This Eklutna Power Purchase Agreement (this "**PPA**"), dated as of December 28, 2018 (the "**Effective Date**"), is made and entered into by and between (i) **CHUGACH ELECTRIC ASSOCIATION, INC.**, an Alaska not-for-profit electric cooperative corporation ("**Purchaser**"), and (ii) the **MUNICIPALITY OF ANCHORAGE,** a political subdivision organized under the laws of the State of Alaska ("**Seller**"). Purchaser and Seller are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

WHEREAS, as of the Effective Date, Purchaser is the owner of a 30% undivided interest in the Facility (as defined herein) (the "**Purchaser's Interest**") and Seller is the owner of a 53.33% undivided interest in the Facility (the "**Seller's Interest**"); and

WHEREAS, the Facility is subject to the terms of the Transition Plan (as defined herein), which provides for the sale of interests in the Facility by the Owners (as defined herein); and

WHEREAS, Seller desires to sell and deliver and Purchaser desires to accept and receive and pay for certain Power (as defined herein) delivered from the Facility to the Delivery Point on the terms and conditions, including the prices, set forth in this PPA; and

WHEREAS, in connection with the sale of such Power, Seller desires to grant to Purchaser an option to purchase all or a portion of the Seller's Interest, subject to the terms of the Transition Plan; and

WHEREAS, in order to determine the size of the interest in the Facility that will be subject to the terms of this PPA, the Parties intend to comply with the terms of the Transition Plan by following the procedure set forth herein.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

ARTICLE 1
RULES OF INTERPRETATION

Section 1.1 Interpretation.

(A) Capitalized terms listed in this PPA shall have the meanings set forth in Exhibit A or as otherwise defined in this PPA, whether in the singular or the plural or in the present or past tense. Words not otherwise defined in this PPA shall (i) have meanings as

commonly used in the English language, (ii) be given their generally accepted meaning consistent with Prudent Utility Practice, and (iii) be given their well-known and generally accepted technical or trade meanings.

(B) For purposes of this PPA, (1) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (2) the word "or" is not exclusive; (3) the masculine shall include the feminine and neuter; and (4) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this PPA as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections, and Exhibits means the Articles, Sections and Exhibits contained in and attached to this PPA; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This PPA shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

Section 1.2 Consents and Approvals; Commercially Reasonable Standard. Unless expressly provided otherwise in this PPA, (a) when this PPA requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned or delayed, and (b) wherever this PPA gives a Party a right to determine, require, specify or take similar action with respect to a matter, such determination, requirement, specification or similar action shall be Commercially Reasonable.

Section 1.3 Waiver. The failure of either Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions of this PPA, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions, or rights, but the same shall be and remain at all times in full force and effect.

ARTICLE 2
DETERMINATION OF CHUGACH PORTION

Section 2.1 Offer to MEA. MEA is the owner of a 16.67% undivided interest in the Facility. Seller has offered to MEA the option either to (A) purchase from Seller at fair market value a portion of the Seller's Interest, on a pro rata basis with Purchaser, equal to a 35.71% share of the Seller's Interest and a 19.04% interest in the Facility (the "**MEA Proportionate Interest**"), or (B) enter into a power purchase agreement with Seller with respect to the MEA Proportionate Interest on terms and conditions comparable to those set forth herein, in each case on the terms set forth in Exhibit C (such alternative offers, collectively, the "**MEA Offer**").

Section 2.2 Determination of Chugach Portion.

(A) If, prior to the fulfillment or waiver of all PPA Contingencies, MEA accepts the MEA Offer and consummates a purchase of the MEA Proportionate Interest (or enters into a binding power purchase agreement for the purchase of all of the Power attributable to the MEA Proportionate Interest), the "**Chugach Portion**" shall equal 64.29% of the Seller's

Interest. Such percentage interest, when combined with Purchaser's existing ownership of 30% of the Facility, will give Purchaser rights to 64.29% of the Facility.

(B) If, prior to the fulfillment or waiver of all other PPA Contingencies, MEA conclusively rejects (or is deemed to have conclusively rejected) the MEA Offer, the "**Chugach Portion**" shall, for the duration of the Term, be a percentage interest equal to the Seller's Interest.

(C) If, on the day that all other PPA Contingencies have been fulfilled or waived, MEA has either accepted or has not conclusively rejected the MEA Offer but has not yet either (i) consummated a purchase of the MEA Proportionate Interest or (ii) entered into a binding power purchase agreement without contingencies for all of the Power attributable to the MEA Proportionate Interest, the "**Chugach Portion**" shall be deemed to be a percentage interest equal to the Seller's Interest; *provided, however,* that if MEA consummates a purchase of the MEA Proportionate Interest or a lesser portion of the Seller's Interest (or enters into a binding power purchase agreement without contingencies for all of the Power attributable to the MEA Proportionate Interest or a lesser portion of the Seller's Interest) at the Closing under the Asset Purchase Agreement, the Chugach Portion shall, effective as of the effectiveness of such acquisition or such power purchase agreement, be reduced by that portion of the Seller's Interest acquired by MEA (or by the Power attributable to that portion of the Seller's Interest with respect to which MEA enters into a binding power purchase agreement).

ARTICLE 3
TERM AND TERMINATION

Section 3.1 PPA Contingencies. This PPA and the Parties' obligations set forth herein are contingent upon the occurrence or waiver of each of the following events (the "**PPA Contingencies**"):

(A) The Parties shall have determined the Chugach Portion in accordance with ARTICLE 2 and shall have memorialized the determination in a writing agreed to by the Parties;

(B) The Closing (as defined in the Asset Purchase Agreement) shall have occurred;

(C) RCA PPA Approval shall have been obtained;

(D) Seller shall have received an original, fully executed copy of the Officers' Certificate of Excludable Property, and evidence of delivery and recording of the Trustee's release of its lien in such Excludable Property, pursuant to Section 15.14(B); and

(E) The representations and warranties of Purchaser in Section 15.14(B) shall have been true and correct as of the Effective Date and the Commencement Date.

Section 3.2 Commencement Date. The commencement date under this PPA (the "**Commencement Date**") shall be the date that is the later of (a) the Effective Date and (b) the date on which each of the PPA Contingencies has occurred or has been waived by the Parties.

Section 3.3 Term.

(A) The term of this PPA shall commence on the Commencement Date, and shall continue in full force and effect until 11:59 p.m. (Facility local time) on the Scheduled Termination Date, subject to early termination or extension as provided in this PPA or otherwise agreed to by the Parties (the "**Term**").

(B) The effectiveness of this Agreement is expressly contingent upon the occurrence of the Closing provided for under the Asset Purchase Agreement. In the event that the Asset Purchase Agreement is terminated before the Commencement Date, this PPA shall automatically terminate, and become null and void, at the same time as the termination of the Asset Purchase Agreement.

ARTICLE 4
FACILITY DESCRIPTION AND OPERATION

Section 4.1 Description. The Facility is described in Exhibit B. A scaled map that identifies the Site, the location of the Facility, the Delivery Point and other important facilities, is included in Exhibit B.

Section 4.2 Operation of the Facility.

(A) In accordance with the Operations Agreement (as may be amended by the Operations Agreement Amendment), during the Term Purchaser shall manage, control, operate and maintain the Chugach Portion in a manner consistent with Prudent Utility Practice.

(B) During the Term, Seller shall, in consultation with Purchaser, select the person to serve as Seller's representative to the Operating Committee (the "**Seller's Representative**"). The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA. Seller's Representative shall also be Seller's representative for any consultation, study, and implementation processes required under the Fish and Wildlife Agreement relating to the Facility. The Seller's Representative shall make all decisions with respect to any processes required under the Fish and Wildlife Agreement with due regard for the rights and obligations of the Parties under this PPA.

(C) The Parties acknowledge and agree that Seller has prior rights to not less than 41 million gallons of water per day from Eklutna Lake for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823; Alaska Statutes 46.15.150(a); and Certificate of Appropriation ADL 44944. The Parties agree that during the Term, the supply of water available for production of Power by the Seller's Interest shall be net of all water taken by Anchorage Water and Wastewater Utility for public water supply purposes.

Section 4.3 Books and Records. Seller and Purchaser shall each keep complete and accurate books and records and all other data required by each of them for the purposes of metering, billing, payment, and administration of this PPA, including such Operating Records and other records as may be required by Applicable Law, Governmental Authorities, NERC, or any ERO or ISO. Each Party shall maintain such books and records in accordance with relevant accounting standards, as applicable, and shall provide the other Party Commercially Reasonable access to such books and records. All books and records pertaining to the operation of the Facility shall be maintained on the premises of the Facility or such other location as is mutually agreed to by the Parties. Either Party may audit and examine any such books and records from time to time upon request and during normal business hours. Each Party shall maintain any books and records that it is required to keep under this Section 4.3 for a period of at least six (6) years after the preparation of such books or records.

ARTICLE 5
DELIVERY

Section 5.1 Electric Delivery Arrangements.

(A) During the Term, Purchaser shall be responsible for maintaining and paying the costs associated with the interconnection of the Facility to Purchaser's transmission system at the Delivery Point.

(B) Purchaser shall be responsible for all electric losses, transmission and ancillary service arrangements, and costs and expenses required for delivery of the Power from the Facility to the Delivery Point and for transportation and delivery of the Power from and after the Delivery Point.

Section 5.2 Electric Metering. The Facility Metering used to measure Energy delivered to the Delivery Point under this PPA shall be owned, installed, and maintained by Purchaser at the Delivery Point, or as close thereto as is reasonably possible.

Section 5.3 Scheduling. Purchaser shall nominate and schedule for delivery to Purchaser (in accordance with Prudent Utility Practice) all Energy attributable to the Chugach Portion.

ARTICLE 6
SALE AND PURCHASE

Section 6.1 General Obligation.

(A) Beginning on the Commencement Date and continuing thereafter throughout the Term, Seller shall generate from the Facility, deliver to the Delivery Point, and sell to Purchaser, and Purchaser shall receive and purchase at the Delivery Point, all Energy, Capacity, Renewable Attributes, and Ancillary Services (collectively, the "**Power**") that are

available from the Facility and attributable to the Chugach Portion, in accordance with Applicable Law.

(B) Seller shall not curtail or interrupt deliveries of Power from the Facility except as required by Applicable Law or Prudent Utility Practice.

(C) Title to the Power shall transfer from Seller to Purchaser at the Delivery Point free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any other Person.

Section 6.2 Additional Products; Ancillary Services.

(A) The Parties acknowledge that existing and future Applicable Laws create value in the ownership, use, or allocation of Renewable Attributes. To the full extent allowed by Applicable Law, Purchaser shall own and be entitled to claim all Renewable Attributes attributable to the Chugach Portion from the Commencement Date until the end of the Term, to the extent such Renewable Attributes may exist or be created during such period. For purposes of effectuating the foregoing, the following shall apply:

1. Seller hereby automatically and irrevocably assigns to Purchaser all rights, title and authority for Purchaser to register the Facility and own, hold, and manage the Renewable Attributes attributable to the Chugach Portion in Purchaser's own name and to Purchaser's account, including any rights associated with any renewable energy information or tracking system that exists or may be established (including but not limited to participants in any applicable REC Registration Program and the United States government) with regard to monitoring, registering, tracking, certifying, or trading Renewable Attributes. Seller hereby authorizes Purchaser to act as its agent for the purposes of registering the Facility for such purposes, and tracking and certifying Renewable Attributes, and Purchaser shall have full authority to hold, sell, or trade Renewable Attributes attributable to the Chugach Portion for its own account in connection with any renewable energy information or tracking systems. Upon the request of Purchaser, at Purchaser's cost and expense, (i) Seller shall deliver or cause to be delivered to Purchaser such attestations/certifications of Renewable Attributes attributable to the Chugach Portion, and (ii) Seller shall cooperate with Purchaser's registration and certification of Renewable Attributes attributable to the Chugach Portion.

2. Prior to the Commencement Date and as required thereafter for Purchaser to claim, own, or realize the available benefits of any Renewable Attributes attributable to the Chugach Portion, Seller shall, at Purchaser's cost and expense, make all applications or filings required by Applicable Law for Renewable Attribute accreditation and for the provision of such Renewable Attributes to Purchaser.

(B) On and after the Commencement Date until the end of the Term, Seller shall make available to Purchaser all Ancillary Services attributable to the Chugach Portion at no additional charge under this PPA. Any compensation that Seller receives under Applicable Law or otherwise for Ancillary Services attributable to the Chugach Portion during such period shall be provided to Purchaser at no additional cost to Purchaser under this PPA. Seller shall credit

Purchaser, as a reduction to Seller's monthly invoice or other mutually-agreed mechanism, for any compensation that Seller receives for Ancillary Services attributable to the Chugach Portion during such period.

1. Seller shall, at the request of Purchaser, use Commercially Reasonable Efforts to maximize the availability of such Ancillary Services during such period; *provided, however*, that Seller shall not be required to make any capital expenditures or incur any operating expenses in connection with such efforts.

2. In the event any Governmental Authority implements new or revised requirements for generators to create, modify, change, or supply Ancillary Services requiring Seller to install additional equipment after the Commencement Date to meet such requirements, Purchaser shall, in accordance with the provisions of Section 7.2, be responsible for payment of any costs and expenses of such additional equipment; provided that such costs and expenses shall be includable in the net book value of the Chugach Portion for purposes of determination of the Purchase Price pursuant to Section 14.3(B).

ARTICLE 7
PAYMENT FOR POWER

Section 7.1 Annual Payment.

(A) As consideration for Seller's sale of the Power attributable to the Chugach Portion, Purchaser shall pay Seller for such Power at the annual rate set forth in Exhibit D (the "**Annual Payments**"). Purchaser and Seller acknowledge and agree that the Annual Payments are structured to include all required compensation for any and all Power (including, for the avoidance of doubt, any and all Capacity, Ancillary Services, and Renewable Attributes) required to be delivered to Purchaser under this PPA during the Term and that Purchaser is not required to make any additional payments to Seller therefor.

(B) From and after the Commencement Date, Purchaser's obligation to make all Annual Payments hereunder throughout the Term, and the rights of the Seller in and to such Annual Payments, shall, except as expressly provided in Section 8.2 and Section 8.3, be absolute, unconditional, and irrevocable and shall not be affected by any circumstance of any nature or character whatsoever. Without limiting the foregoing, the following events shall not affect Purchaser's obligation to make all Annual Payments:

1. Any occurrence of Force Majeure;

2. Any Forced Outage or any other interruption or curtailment of the output of the Facility for any environmental, economic, or other reason other than by Seller in breach of this PPA;

3. Any casualty to or condemnation of the Facility or any of the property of either Party;

4. Any change in Applicable Law;

5. Any decision by the Owners to modify, reduce, or cease operations of the Facility; and

6. Any Event of Default with respect to Purchaser.

Section 7.2 Additional Consideration. As additional consideration for Seller's sale of the Power attributable to the Chugach Portion, Purchaser shall during the Term be responsible for payment of all capital expenditures and operating and maintenance expenses that are payable with respect to the Chugach Portion, including any expenditures or capital investment related to any environmental compliance or other compliance with requirements of Governmental Authorities applicable to the Chugach Portion. In the event that Seller pays any such expenditure or expense, Purchaser shall reimburse Seller for such expenditure or expense within thirty (30) days after Purchaser's receipt of an invoice or other Commercially Reasonable evidence of such expenditure or expense.

ARTICLE 8
BILLING AND PAYMENT

Section 8.1 Billing.

(A) The billing period shall be the calendar month. Purchaser shall pay in arrears one-twelfth of the Annual Payment due to Seller for the applicable Contract Year by ACH (automated clearinghouse) transfer (or any other mutually acceptable method) on or before the fifteenth (15th) Day of the calendar month, or if such fifteenth (15th) Day falls on a Day that is not a Business Day, the next Business Day.

(B) If a payment by either Party under this PPA is late, interest, calculated using the annual prime rate of interest as published on the date of the invoice in *The Wall Street Journal* (or, if unavailable, an equivalent publication on or about that date) plus two percent (2%) per year, shall accrue on the unpaid balance for the number of days payment was late and shall be added to the next billing statement.

(C) Seller and Purchaser shall net their obligations to each other under this PPA, and payment of the net amount will discharge all mutual undisputed obligations between the Parties.

Section 8.2 Set Off.

(A) In the event that (i) Purchaser has notified Seller under Section 8.05 of the Asset Purchase Agreement that Purchaser is entitled to indemnification from Seller with respect to any Third Party Claim (as defined in the Asset Purchase Agreement) or Direct Claim (as defined in the Asset Purchase Agreement), (ii) Seller has notified Purchaser that (A) Seller has determined that it will assume the defense of such Third Party Claim or (B) Seller acknowledges that Purchaser is entitled to indemnification from Seller for such Direct Claim, and (iii) either

(A) Seller has not, within sixty (60) days after delivery of any such notice to Purchaser, requested an appropriation of funds from the Assembly of Seller for purposes of paying any amount required to be paid or reimbursed in connection with such Third Party Claim or Direct Claim, or (B) Seller has requested an appropriation of funds from the Assembly of Seller for such purposes but has not received an appropriation of such funds, Purchaser will be entitled to withhold all or part of any amount due to Seller under this PPA for purposes of paying or reimbursing any Losses (as defined in the Asset Purchase Agreement) that have been determined, in accordance with the provisions of ARTICLE VIII of the Asset Purchase Agreement, to be due and owing from Seller to any Purchaser Indemnitee under ARTICLE VIII of the Asset Purchase Agreement in connection with such Third Party Claim or Direct Claim. In the event that (i) Purchaser has notified Seller under Section 8.05 of the Asset Purchase Agreement, that Purchaser is entitled to indemnification from Seller with respect to any Third Party Claim or Direct Claim, (ii) Seller fails to assume the defense of such Third Party Claim or provide indemnification for such Direct Claim, (iii) Purchaser, in accordance with the provisions of ARTICLE VIII of the Asset Purchase Agreement, pursues its available legal remedies against Seller for such failure and obtains a final judgment requiring Seller to indemnify Purchaser in accordance with ARTICLE VIII of the Asset Purchase Agreement for Purchaser's Losses in connection with such Third Party Claim or Direct Claim, and (iv) either (A) Seller has not, within sixty (60) days after issuance of such judgment, requested an appropriation of funds from the Assembly of Seller for purposes of paying such Losses, or (B) Seller has requested an appropriation of funds from the Assembly of Seller for such purposes but has not received an appropriation of such funds, Purchaser will be entitled to withhold all or part of any amount due to Seller under this PPA for purposes of paying or reimbursing such Losses.

(B) Set-off shall not be Purchaser's exclusive remedy with respect to any indemnification claim.

Section 8.3 Subordination. The Parties agree that Purchaser's payment obligations hereunder are payable on a parity with Purchaser's other operating expenditures, but subordinate to (i.e., neither on a parity with nor superior to) Purchaser's payment obligations under the Bradley Lake Agreement only if and to the extent, and for the period, that making such payments would prevent Purchaser from making timely payment of any amounts due from it under the Bradley Lake Agreement.

Section 8.4 Billing Disputes. Either Party may dispute invoiced amounts, but shall pay at least the undisputed portion on or before the date due. To resolve any billing dispute, the Parties shall use the procedures set forth in Article 10. When the billing dispute is resolved, the Party owing any amount shall pay such amount within five (5) Business Days after the date of such resolution, together with late payment interest as provided in Section 8.1(B).

ARTICLE 9
DEFAULT AND REMEDIES

Section 9.1 Events of Default. Any of the following events shall constitute an Event of Default with respect to the specified Party, which shall be the defaulting Party with respect to

such Event of Default, if such event has not been cured within the cure period specified for such event:

(A) Such Party's failure to pay any amount due to the other Party as required by this PPA, Actual Damages, any required indemnification, or any other required payment, and such amount remains unpaid for a period of ten (10) Business Days after the date such Party receives Notice from the non-defaulting Party that the amount is overdue.

(B) Such Party's application for, or consent (by admission of material allegations of a petition or otherwise) to, or failure to oppose the appointment of a receiver, trustee or liquidator for a Party or for all or substantially all of its assets, or its authorization of such application or consent, or the commencement or institution of any proceedings seeking such appointment against a Party which proceedings continue undismissed or unstayed for a period of sixty (60) Days from their inception.

(C) Such Party's authorization or filing of a voluntary petition in bankruptcy, or its application for, or consent (by admission of material allegations of a petition or otherwise) to, or failure to oppose an involuntary petition in bankruptcy, or the application of any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction to a Party, or the commencement or institution of any such proceedings against a Party which proceedings remain undismissed or unstayed for sixty (60) Days from its inception or which result in adjudication of bankruptcy or insolvency within such time.

(D) Such Party's unauthorized assignment of this PPA, which unauthorized assignment shall be an Event of Default immediately upon its occurrence and without further notice from the non-defaulting Party.

(E) There is any lien or security interest in or on any assets of Purchaser that encumbers the Collateral as of the Commencement Date, and such lien or security interest continues to encumber the Collateral thirty (30) Days after Notice thereof shall have been given by Seller to Purchaser.

(F) The failure by either Party to perform or observe any other material obligation to the other Party under this PPA, which failure is not excused by Force Majeure and remains unremedied for thirty (30) Days after Notice thereof shall have been given by the non-defaulting Party; *provided, however*, that if the failure is not reasonably capable of being cured within the thirty (30) Day period, the defaulting Party will have such additional time (not exceeding an additional ninety (90) Days) as is reasonably necessary to cure the failure, so long as the Party promptly commences and diligently pursues the cure.

(G) An event of default has occurred with respect to such Party under the Asset Purchase Agreement or the PILT Agreement (as defined in the Asset Purchase Agreement), and such event of default has not been cured within any applicable cure, notice, or grace period.

Section 9.2 Remedies. Upon the occurrence of any Event of Default of this PPA, the non-defaulting Party may pursue all rights and remedies available to it at law and in equity and in accordance with the terms of this PPA. Except as explicitly provided to the contrary in this PPA, each right or remedy of the Parties provided for in this PPA shall be cumulative of and shall be in addition to every other right or remedy provided for in this PPA, and the exercise of one or more of the rights or remedies provided for herein shall not preclude the simultaneous or later exercise by such Party of any other rights or remedies provided for herein.

(A) Termination and Damages. For any uncured Event of Default, the non-defaulting Party may, at its option do any, some, or all of the following:

1. Net from any payments due from the non-defaulting Party any amount otherwise due from the defaulting Party under or in connection with this PPA, including any unpaid Actual Damages;

2. Seek Actual Damages in such amounts and on such basis for the default as authorized by this PPA;

3. Terminate this PPA immediately upon Notice, without penalty or further obligation to the defaulting Party. Upon the termination of this PPA under this Section 9.2, the non-defaulting Party shall be entitled to receive from the defaulting Party all of the Actual Damages in connection with the Event of Default resulting in such termination.

(B) Damages for Events of Default. The non-defaulting Party shall be entitled to receive from the defaulting Party all direct damages incurred by the non-defaulting Party that are proximately caused by Event of Default ("**Actual Damages**").

Section 9.3 Limitation on Damages. The Parties confirm that the express remedies and measures of damages provided in this PPA satisfy the essential purposes hereof. If no remedy or measure of damages is expressly herein provided, the obligor's liability shall be limited to Actual Damages only. Neither Party shall be liable to the other Party for consequential, incidental, punitive, exemplary, special, equitable or indirect damages, lost profits or other business interruption damages by statute, in tort or contract (except to the extent expressly provided herein); *provided, however*, that if either Party is held liable to a third party for such damages and the Party held liable for such damages is entitled to indemnification from the other Party hereto, the indemnifying Party shall be liable for, and obligated to reimburse the indemnified Party for, such damages. To the extent any damages required to be paid hereunder are liquidated, the Parties acknowledge that the damages are difficult or impossible to determine, that otherwise obtaining an adequate remedy is inconvenient, and that the liquidated damages constitute a reasonable approximation of the harm or loss.

ARTICLE 10
DISPUTE RESOLUTION

Section 10.1 Dispute Resolution. In the event of any dispute arising under this PPA (a "**Dispute**"), within ten (10) Business Days following Notice by either Party, (i) each Party shall

appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies; *provided, however*, that if and to the extent that a Dispute involves the Justness or Reasonableness Conditions, and the Dispute is not resolved by negotiations of senior management representatives of the Parties, neither Party shall have any right to pursue any further legal remedies to resolve such Dispute and such Dispute shall be deemed to be resolved finally and conclusively by enforcement of the obligation of Purchaser under this PPA to pay the Annual Payments set forth in Exhibit D.

ARTICLE 11
FORCE MAJEURE

Section 11.1 Applicability of Force Majeure. Except as explicitly provided otherwise herein, a Party shall be relieved of its obligations to perform this PPA and shall not be considered to be in default with respect to any obligation under this PPA to the extent that such Party is prevented from fulfilling such obligation by Force Majeure, *provided, however*, that: (i) such Party gives prompt Notice describing the circumstances and impact of the Force Majeure; (ii) the relief from its obligations sought by such Party is of no greater scope and of no longer duration than is required by the Force Majeure; (iii) such Party proceeds with due diligence to overcome the Force Majeure and resume performance of its obligations under this PPA; and (iv) such Party provides prompt Notice of the conclusion of the Force Majeure.

Section 11.2 Limitations on Effect of Force Majeure.

(A) Force Majeure shall relieve a Party from performing only such obligations as are actually prevented by the Force Majeure.

(B) Except to the extent that Force Majeure prevents a Party from completing a transfer of money to the other Party, Force Majeure shall not excuse a Party from making any payment to the other on or before the date that such payment becomes due and payable.

(C) In no event will the existence of Force Majeure extend this PPA beyond its stated Term.

ARTICLE 12
INSURANCE

Section 12.1 General Insurance Requirements. On or prior to the Commencement Date and thereafter throughout the Term, Purchaser shall use Commercially Reasonable efforts to obtain and maintain at its own cost and expense insurance coverages for the Chugach Portion satisfying the requirements of this ARTICLE 12 and of Exhibit E. No later than the Commencement Date and on or before June 1 of each year during the Term, Purchaser shall provide Seller with a copy of insurance certificates reasonably acceptable to Seller evidencing that insurance coverages for the Facility are in compliance with such requirements. Such certificates shall (a) name Seller as an additional insured (except worker's compensation); (b) provide that Seller shall receive thirty (30) Days prior Notice of non-renewal, cancellation of, or significant modification to any of the corresponding policies (except that such Notice shall be ten (10) Days for non-payment of premiums); (c) provide a waiver of any rights of subrogation against Seller, its Affiliates and their officers, directors, agents, subcontractors, and employees; and (d) indicate that the policies have been endorsed in accordance with the requirements set forth herein. All policies shall be written with insurers with an AM Best rating of at least A-VII. All policies shall be written on an occurrence basis, except as provided in Section 12.2. All policies shall contain an endorsement that Purchaser's policy shall be primary in all instances regardless of like coverages, if any, carried by Seller. Purchaser's liability under this PPA is not limited to the amount of insurance coverage required herein.

Section 12.2 Term and Modification of Insurance.

(A) All insurance required under this PPA shall cover occurrences during the Term and for a period of two (2) years after the Term. In the event that any insurance as required herein is commercially available only on a "claims-made" basis, such insurance shall provide for a retroactive date not later than the date of this PPA and such insurance shall be maintained by Seller for a minimum of six (6) years after the Term.

(B) If any insurance required to be maintained by Purchaser hereunder ceases to be reasonably available and commercially feasible in the commercial insurance market, Purchaser shall provide Notice to Seller, accompanied by a certificate from an independent insurance advisor of recognized national standing, certifying that such insurance is not reasonably available and commercially feasible in the commercial insurance market for electric generating plants of similar type, geographic location and capacity. Upon receipt of such Notice, Purchaser shall use Commercially Reasonable attempts to obtain other insurance that would provide comparable protection against the risk to be insured.

Section 12.3 Application of Proceeds. Purchaser and Seller agree that, in the event of a catastrophic loss of all or a portion of the Facility, unless the Parties mutually agree otherwise, the Facility shall be repaired, replaced, or rebuilt, and any insurance proceeds received in connection with such loss shall be used only for such repair, replacement, or rebuilding. If the Parties have agreed that the Facility is to not be repaired, replaced, or rebuilt, any insurance proceeds received in connection with such loss shall be used first for purposes of the payment of remaining Annual Payments.

ARTICLE 13
INDEMNITY

Section 13.1 Indemnification. Each Party (the "**Indemnifying Party**") agrees (but in the case of Seller as the Indemnifying Party, only subject to appropriation of the requisite funds by the Assembly of Seller) to indemnify, defend, and hold harmless the other Party (the "**Indemnified Party**") from and against all third party claims, demands, losses, liabilities, penalties, and expenses (including attorneys' fees) for personal injury or death to persons and damage to the Indemnified Party's real property and tangible personal property or facilities or the property of any other Person to the extent arising out of, resulting from, or caused by any (i) Event of Default or other breach under this PPA, (ii) violation of Applicable Laws, (iii) negligent or tortious acts, errors, or omissions, or (iv) willful misconduct, in each case of the Indemnifying Party or any of its Affiliates, directors, officers, employees, or agents.

(A) The indemnification obligations of the Indemnifying Party shall apply notwithstanding any negligence of the Indemnified Party, but the Indemnifying Party's liability to indemnify the Indemnified Party shall be reduced in proportion to the percentage by which the Indemnified Party's negligent acts, errors, or omissions caused the damages.

(B) Neither Party shall be indemnified for its damages resulting from its sole negligence or willful misconduct. The indemnity provisions of this PPA shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

(C) Nothing in this Section 13.1 shall enlarge any liability of either Party to the other Party for any breach of this PPA or relieve either Party of any liability to the other Party for any breach of this PPA.

(D) A Party will not be liable more than once for the same losses, even if those losses may be recovered under multiple sections or subsections of this PPA or under both this PPA and the Asset Purchase Agreement. By way of example, if the Indemnified Party experiences losses for which the Indemnifying Party would be liable under the Asset Purchase Agreement, the Indemnifying Party's liability for those specific losses under this ARTICLE 13 will be reduced or eliminated to the extent of any indemnification, payment, or reimbursement in respect of the same losses under the Asset Purchase Agreement to avoid a double recovery by the Indemnified Party with respect to such losses. Accordingly, the amount owing to the Indemnified Party under this ARTICLE 13 shall be reduced by any amount paid to the Indemnified Party under the indemnification provisions of the Asset Purchase Agreement for the same breach, event, violation, circumstance, act, error, omission, or condition.

Section 13.2 Notice of Claim. Promptly after receipt by a Party of any claim or notice of the commencement of any action, administrative proceeding, legal proceeding, or investigation as to which the indemnity provided for in this ARTICLE 13 may apply, the Indemnified Party shall provide Notice thereof to the Indemnifying Party. The Indemnifying Party shall assume the defense thereof with counsel designated by such Party and satisfactory to the Indemnified Party, *provided, however*, that if the defendants in any such action include both

the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer has agreed to pay such costs.

Section 13.3 Settlement of Claim. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may, at the expense of the Indemnifying Party, contest, settle, or pay such claim, *provided, however*, that settlement or full payment of any such claim may be made only following consent of the Indemnifying Party, which consent will not be unreasonably withheld, conditioned, or delayed, or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement.

Section 13.4 Amounts Owed. Except as otherwise provided in this ARTICLE 13, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this ARTICLE 13, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's actual loss net of any insurance proceeds received by the Indemnified Party following a Commercially Reasonable effort by the Indemnified Party to obtain such insurance proceeds (which Commercially Reasonable effort will not in any event include any obligation to initiate litigation or any other dispute resolution proceeding against any insurer).

Section 13.5 Survival. The provisions of this ARTICLE 13 shall survive the expiration or earlier termination of this PPA.

ARTICLE 14
ASSIGNMENT AND OTHER TRANSFER RESTRICTIONS; LENDER PROVISIONS

Section 14.1 Transfer Without Consent is Null and Void. Except as provided in ARTICLE 2, any sale, transfer, or assignment of any interest in the Seller's Interest or in this PPA made without fulfilling the requirements of this ARTICLE 14 shall be null and void and a breach of this PPA.

(A) Except as permitted in this Section 14.1, neither Party shall assign this PPA, or any right, title or interest therein, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed; *provided, however*, that: (i) Notice of any proposed assignment requiring consent of the other Party shall be given to such other Party at least thirty (30) Days prior to the proposed effective date of such assignment; and (ii) with respect to any assignment hereunder, whether requiring consent or not, (a) except with respect to any assignment under Section 14.2, any assignee shall expressly assume the assignor's obligations under this PPA unless otherwise agreed by the other Party; (b) no assignment shall relieve the assignor of its obligations under this PPA in the event the assignee fails to perform, unless the other Party waives or releases in writing the assignor's continuing

obligations under this PPA; and (c) the assignment shall be subject to receipt of all such approvals as may be required by any applicable Governmental Authorities.

(B) Except as set forth in Section 15.14(B) with respect to the Collateral and Seller's consent rights with respect thereto, Purchaser shall have the right to assign all or a portion of its rights or obligations under this PPA without the prior written consent of Seller as follows:

1. to a Lender as collateral security for obligations under the Financing Documents entered into with such Lender, *provided* that: (i) Purchaser provides Seller with written Notice of such proposed collateral assignment not less than thirty (30) Days prior to such collateral assignment, and (ii) the applicable form of collateral assignment and related documentation is reasonably acceptable to Seller, as provided in Section 14.2;

2. to an Affiliate of Purchaser that is either (i) a Creditworthy Entity and Qualified Operator or (ii) a Creditworthy Entity that contracts with a Qualified Operator;

3. pursuant to Section 14.2, to a Creditworthy Entity and Qualified Operator or to a Creditworthy Entity that contracts with a Qualified Operator to operate the Facility after a Lender has exercised its foreclosure rights with respect to this PPA; and

4. to a Person succeeding to all or substantially all of the assets of Purchaser, *provided* that such Person's creditworthiness is equal to or better than that of Purchaser and such Person is a Qualified Operator or has contracted with a Qualified Operator to operate the Facility.

(C) Seller acknowledges that upon an event of default under any Financing Documents relating to this PPA, a Lender may (but shall not be obligated to) assume, or cause its designee to assume, all of the interests, rights, and obligations of Purchaser thereafter arising under this PPA, in which case such Lender or such designee shall assume and agree to be bound by all the terms and provisions of this PPA arising on or after the date of such assumption by such Lender or such designee; *provided* that, such designee shall be required to be a Qualified Operator; and *provided, further*, that, regardless of whether any such Lender or such designee assumes all of the interests, rights, and obligations of Purchaser thereafter arising under this PPA, Seller's interests, rights, and obligations under this PPA will remain in full force and effect.

Section 14.2 Lender Provisions.

(A) Except as set forth in Section 15.14(B) with respect to the Collateral and Seller's consent rights with respect thereto, Purchaser may, without approval of Seller, charge or otherwise encumber its interest under this PPA for security purposes in accordance with the provisions of Section 14.1 and this Section 14.2.

(B) Promptly after making any such encumbrance, Purchaser shall notify Seller in writing of the name, address, and telephone and facsimile numbers of each Lender to which Purchaser's interest under this PPA has been encumbered. Such Notice shall include the

names of the account managers or other representatives of the Lenders to whom all written and telephonic communications may be addressed.

(C) After giving Seller the initial Notice under Section 14.2(B), Purchaser shall promptly give Seller Notice of any change in the information provided in the initial Notice or any subsequent Notice.

(D) If Purchaser encumbers its interest under this PPA as permitted by this Section 14.2, the following provisions shall apply:

1. The Parties, except as provided by the terms of this PPA, shall not modify or cancel this PPA without the prior written consent of the Lender, such consent not to be unreasonably withheld, conditioned or delayed.

2. The Lender or its designees shall have the right, but not the obligation, to perform any act required to be performed by Purchaser under this PPA to prevent or cure an Event of Default with respect to Purchaser and such act performed by the Lender or its designees shall be as effective to prevent or cure an Event of Default as if done by Purchaser, *provided* that, if any such Lender or any such designee elects to perform any act required to be performed by Purchaser under this PPA to prevent or cure an Event of Default by Purchaser, Seller will not be deemed to have waived or relinquished any of its rights and remedies as provided in this PPA; and *provided, further*, that Purchaser hereby releases Seller, to the fullest extent permitted by Applicable Law, from any and all liability arising from Seller's performance under this PPA pursuant to instructions of the Lender following an event of default with respect to Purchaser under Lender's Financing Documents.

3. Seller shall, promptly following any request by Purchaser, execute statements certifying that this PPA is unmodified (or, if modified, stating the nature of the modification), in full force and effect and the absence or existence (and the nature thereof), to Seller's actual knowledge, of Events of Default hereunder by Purchaser and documents of consent to such assignment to the encumbrance and any assignment to such Lender, all in form and substance reasonably acceptable to Seller.

4. Promptly following the receipt of a written request from Purchaser or any Lender, Seller shall execute, or arrange for the delivery of, such reasonable certificates and other documents as may be reasonably necessary and appropriate in order for Purchaser to consummate any financing or refinancing of the Facility or any part thereof and enter into such reasonable agreements as may be reasonably requested by such Lender, which agreements will grant such rights to the Lender as are specifically provided for in such documents, including that (a) this PPA shall not be terminated (otherwise than pursuant to the terms of this PPA) without the consent of the Lender, which consent shall not be unreasonably withheld, conditioned, or delayed; (b) the Lender shall be given notice of, and the opportunity to cure any breach or default of this PPA by Purchaser in accordance with this PPA; (c) if the Lender forecloses, takes a deed in lieu of foreclosure, or otherwise exercises its remedies pursuant to any security documents, then (i) Seller shall, at the Lender's request, continue to perform all of its obligations hereunder, and the Lender or (without in any way limiting any obligation or liability of the Lender) its

nominee may perform in the place of Purchaser, and may assign this PPA to another Person that is a Creditworthy Entity and Qualified Operator in place of Purchaser, (ii) the Lender shall have no liability under this PPA except during the period of such Lender's ownership of the Purchaser's Interest or operation of the Facility, and (iii) Seller shall accept performance in accordance with this PPA by the Lender or its nominee; and (d) Seller shall make such representations and warranties to the Lender as Lender may reasonably request with regard to (1) Seller's authority to execute, deliver, and perform this PPA, (2) the binding nature on Seller of the document evidencing Seller's consent to assignment to the Lender and this PPA, and (3) the receipt of regulatory approvals by Seller with respect to its execution and performance under this PPA.

5. Purchaser shall reimburse Seller for the out-of-pocket costs and expenses (including the fees and expenses of counsel) incurred by Seller in connection with the preparation, negotiation, or execution of any statements, certificates, agreements, or other documents required under this Section 14.2.

Section 14.3 Purchase Option. Purchaser (or its designated Affiliate) shall have the option to purchase the Chugach Portion effective as of the expiration of the Term on the terms and conditions hereinafter set forth (the "**Purchase Option**"). On or before the thirtieth (30th) anniversary of the Commencement Date, Seller will deliver to Purchaser Notice of the date, location, and time of a joint meeting between Seller and Purchaser to discuss Purchaser's plan regarding the potential exercise the Purchase Option. During the last five (5) Contract Years, Purchaser shall have the right at any time prior to the last day of the Term to deliver Notice to Seller that Purchaser is exercising the Purchase Option. If Seller fails to provide Notice of such joint meeting or fails to meet with Purchaser, Seller shall not be in breach of this Agreement, but if Purchaser then fails to deliver Notice of exercise of the Purchase Option prior to the last day of the Term, the Term shall be extended for a period of one year beyond such date (the "**Term Extension**"), during which (i) Purchaser may deliver its Notice of exercise of the Purchase Option at any time prior to the last day of the Term Extension, and (ii) Purchaser shall continue to make Annual Payments equal to (x) the amount for Contract Year 35 as set forth on Exhibit D hereto, plus (y) an amount equal to one percent (1%) of such amount, until the earlier of the expiration of the Term Extension or the closing of the purchase and sale agreement for the Purchase Option. If Purchaser exercises its Purchase Option, Seller and Purchaser shall enter into a purchase and sale agreement for the Chugach Portion in a form to be mutually agreed by the Parties prior to the Closing under the Asset Purchase Agreement.

(A) Determination of Chugach Portion for Purposes of Purchase Option. If MEA has not accepted the MEA Offer and consummated a purchase of the MEA Proportionate Interest prior to the Commencement Date, the Chugach Portion shall be deemed to be a percentage interest equal to the Seller's Interest for purposes of the Purchase Option; *provided, however*, that if MEA, in connection with the exercise of the Purchase Option by Purchaser, exercises any rights that MEA may have under the Transition Plan to consummate a purchase of the MEA Proportionate Interest effective as of the expiration of the Term, the Chugach Portion shall, for purposes of the Purchase Option, be reduced by the MEA Proportionate Interest.

(B) Purchase Price. Upon any exercise of the Purchase Option, the purchase price for the Chugach Portion shall be the Purchase Price; *provided* that Purchaser may offset any Purchase Price Adjustment against the Purchase Price. The Parties agree that, for the purposes of calculating the Purchase Price, the following expenditures shall be capitalized or, if necessary, deferred and amortized, for purposes of determining the "net book value" of the Chugach Portion for purposes of determining the Purchase Price:

1. all overhaul costs for the Facility, whether treated as expenses or otherwise for purposes other than determining the Purchase Price, that have been paid by Purchaser with respect to the Seller's Interest prior to any acquisition by MEA of all or any portion of the Seller's Interest; and

2. any other expenditures or regulatory assets related to compliance with Applicable Law made by Purchaser with respect to the Seller's Interest prior to any acquisition by MEA of all or any portion of the Seller's Interest; and

3. any other improvement, contribution, or expense (other than operating expenses) made or paid by or on behalf of Purchaser with respect to the Facility to the extent that such improvement, contribution or expense increases the value of the Facility above the value of the Facility immediately before such improvement, contribution or expense is made or paid and that, after amortization, has a positive value that extends beyond the Term.

If, for any reason, any generation unit overhaul costs or expenditures related to environmental compliance or other compliance with Applicable Law are not capitalized on Seller's financial statements, then such costs or expenditures shall be imputed as a capital investment in Seller's Interest and deferred and amortized for the purposes of establishing "net book value."

(C) Purchase Price Adjustment. If MEA acquires any portion of the Seller's Interest from Seller at or prior to the time set forth in Section 14.3(D) so that the portion of the Seller's Interest available to be purchased by Purchaser under the Purchase Option is less than the Chugach Portion as of the Effective Date, Seller will reimburse Purchaser, from the proceeds of such sale to MEA, for Purchaser's pro-rata portion of the sum of the following amounts (the "**Purchase Price Adjustment**"):

1. All capital improvements or other capital contributions made by Purchaser with respect to such portion of the Seller's Interest prior to MEA's acquisition of such portion of the Seller's Interest;

2. all overhaul costs for the Facility, whether treated as expenses or otherwise for purposes other than determining the Purchase Price or Purchase Price Adjustment, that have been paid by Purchaser with respect to such portion of the Seller's Interest prior to MEA's acquisition of such portion of the Seller's Interest;

3. any other expenditures or regulatory assets related to compliance with Applicable Law made by Purchaser with respect to such portion of the Seller's Interest prior to the date of such acquisition; and

4. any other improvement, contribution, or expense (other than operating expenses) made or paid by or on behalf of Purchaser with respect to the Facility to the extent that such improvement, contribution or expense increases the value of the Facility above the value of the Facility immediately before such improvement, contribution or expense is made or paid and that, after amortization, has a positive value that extends beyond the Term.

As used in this Section 14.3(C), "pro-rata" means in accordance with the ratio of (i) that portion of the Seller's Interest acquired by MEA to (ii) the entire Seller's Interest. It is the intent of the Parties that the Purchase Price Adjustment fully reimburse Purchaser for any improvements to, or increased value of, the Facility to the extent that such improvement is acquired by MEA rather than by Purchaser pursuant to the Purchase Option.

(D) Closing. The closing of the purchase pursuant to any exercise of the Purchase Option will occur on a date selected by Purchaser, which date will be not less than five (5) months and not more than nine (9) months after Purchaser has exercised the Purchase Option. Purchaser will select the closing date by giving a minimum of 30 days written notice to Seller.

ARTICLE 15
MISCELLANEOUS

Section 15.1 Forward Contract; Forward Agreement. The Parties acknowledge and intend that (a) this PPA, the transactions contemplated hereby, and any instruments that may be provided by either Party hereunder will each, and together, constitute one and the same "forward contract" and "forward agreement" within the meaning of the Bankruptcy Code; (b) Purchaser and Seller are "forward contract merchants," "swap participants," and "master netting agreement participants" within the meaning of the Bankruptcy Code; (c) all payments made or to be made by one Party to the other Party pursuant to this PPA constitute "settlement payments" within the meaning of the Bankruptcy Code; (d) this PPA constitutes a "master netting agreement" within the meaning of the Bankruptcy Code; (e) the Annual Payments (including each monthly payment thereof) and all other amounts due from Purchaser hereunder are (i) settlement payments (as defined in the Bankruptcy Code), (ii) transfers in connection with a forward contract, swap agreement and master netting agreement (as used in Sections 546(e), 546(g) and 546(j) of the Bankruptcy Code), and (iii) attributable solely to the expected costs of acquiring the Energy attributable to the Chugach Portion during the Term (based on the anticipated minimum amount of Energy that will be generated by the Facility and attributable to the Chugach Portion during the Term), as determined as of the date hereof; (f) the date of each monthly payment of the Annual Payments is a "maturity date" (as used in the definition of "forward contract" in Section 101 of the Bankruptcy Code) with respect to the Energy attributable to the Chugach Portion delivered to Purchaser during the period since the prior monthly payment; and (h) this PPA was entered into by Purchaser for the purpose of hedging against price fluctuations in the market for

electricity, by paying a fixed price for the Energy attributable to the Chugach Portion during the Term; (i) Purchaser intends to pass on the costs of its Energy purchases hereunder to its own customers, subject to Applicable Law; and (j) all remedies for a non-defaulting Party hereunder (including as set forth in Section 9.2) are "contractual rights" as used in Sections 362(b)(6), 362(b)(17), 362(b)(27), 556, 560 and 561 of the Bankruptcy Code. Each Party agrees that it will not make any assertion or claim, in any dispute or otherwise, or otherwise take any position to the effect that this PPA, the transactions contemplated hereby, and any instrument(s) that may be provided by either Party hereunder do not each, and together, constitute one and the same "forward contract," "commodity forward agreement," and "master netting agreement" within the meaning of the Bankruptcy Code, or that Purchaser and Seller are not "forward contract merchants," "swap participants," and "master netting agreement participants" within the meaning of the Bankruptcy Code.

Section 15.2 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (any of the foregoing, a "**Notice**") shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 15.1):

If to Seller:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: william.falsey@anchorageak.gov Attention: William D. Falsey, Municipal Manager
with a copy to:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: rebecca.windtpearson@anchorageak.gov Attention: Rebecca A. Windt Pearson, Municipal Attorney
and a copy to:	K&L Gates LLP 925 Fourth Avenue, Suite 2900 Seattle, WA 98104-1158 E-mail: eric.freedman@klgates.com Attention: Eric E. Freedman

If to Purchaser:	Chugach Electric Association, Inc. 5601 Electron Drive Anchorage, AK 99518 E-mail: Lee_Thibert@chugachelectric.com Attention: Lee D. Thibert, Chief Executive Officer
with a copy to:	Chugach Electric Association, Inc. 5601 Electron Drive Anchorage, AK 99518 E-mail: Matthew_Clarkson@chugachelectric.com Attention: Matthew C. Clarkson, General Counsel
and a copy to:	Stinson Leonard Street LLP Suite 2600 50 South Sixth Street Minneapolis, MN 55402 E-mail: james.bertrand@stinson.com Attention: James J. Bertrand

Section 15.3 Compliance With Applicable Laws. Each Party shall at all times comply with all Applicable Laws; *provided, however* that any non-compliance with Applicable Law that, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on the business or financial condition of the Party or its ability to fulfill its commitments hereunder shall not be deemed to be a breach of this PPA. Each Party shall promptly disclose to the other, any material violation of any Applicable Laws arising out of or in connection with the Facility and this PPA. This PPA will not take effect until the prior approval of the RCA as required by AS 42.05.431(b).

Section 15.4 Rates, Terms, and Conditions Binding. The Parties agree that the rates (including Annual Payments), terms, and conditions for products and services specified in this PPA shall remain in effect for the Term. In addition, to the fullest extent permitted by Applicable Law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably (i) waives any rights that it may have, now or in the future, whether under AS 42.05.431(a), AS 42.05.431(b), or otherwise, to seek to obtain from the RCA by any means, directly or indirectly (through complaint, investigation, or otherwise), and (ii) covenants and agrees not at any time to seek so to obtain, an order from the RCA changing any section of this PPA specifying the rate, charge, or classification ("**Justness or Reasonableness Conditions**") agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by Applicable Law, neither Party will unilaterally seek to obtain from the RCA any relief changing the Justness or Reasonableness Conditions of this PPA, notwithstanding any subsequent changes that may occur in Applicable Law or market conditions.

Section 15.5 Public Announcements. Neither Party shall at any time make, with respect to the transactions to be consummated by this PPA, publish, or communicate to any

Person in any public forum any defamatory, maliciously false, or disparaging remarks, comments, or statements concerning the other Party or any of its employees, officers, officials or directors.

Section 15.6 No Third-Party Beneficiaries. This PPA is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this PPA.

Section 15.7 Amendment and Modification; Waiver. This PPA may only be amended, modified or supplemented by an agreement in writing signed by each Party. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No waiver by any Party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this PPA shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 15.8 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(A) This PPA shall be governed by and construed in accordance with the internal laws of the State of Alaska, without regard to conflict of law principles that would result in the application of the laws of any other jurisdiction.

(B) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS PPA OR THE TRANSACTIONS CONTEMPLATED HEREBY MAY BE INSTITUTED IN THE SUPERIOR COURT OF THE STATE OF ALASKA IN IN THE THIRD JUDICIAL DISTRICT, LOCATED IN ANCHORAGE, ALASKA, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURT AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(C) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS PPA IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR

RELATING TO THIS PPA OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY TO THIS PPA CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS PPA BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 15.8.

Section 15.9 Specific Enforcement. The Parties agree that irreparable damage would occur if any provision of this PPA were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity. The Parties acknowledge and agree that (A) the Parties shall be entitled to an injunction, specific performance or other equitable relief to prevent breaches of this PPA and to enforce specifically the terms and provisions hereto, without proof of damages, this being in addition to any other remedy to which they are entitled under this PPA and (B) the right to specific enforcement is an integral part of the transactions contemplated by this PPA and without that right, neither Seller nor Purchaser would have entered into this PPA. Each Party agrees that it will not oppose the granting of specific performance and other equitable relief on the basis that the other Party has an adequate remedy at law or that an award of specific performance is not an appropriate remedy for any reason at law or equity. The Parties acknowledge and agree that any Party seeking an injunction to prevent breaches of this PPA and to enforce specifically the terms and provisions of this PPA in accordance with this Section 15.9 shall not be required to provide any bond or other security in connection with any such injunction.

Section 15.10 Waiver of Sovereign Immunity. Seller agrees that it is subject to civil and commercial suit for any breach of contract obligations under this PPA. To the extent that Seller may be entitled to claim sovereign, governmental, or municipal immunity from any liability in such a civil or commercial suit by Purchaser, Seller hereby agrees not to claim, and hereby waives, such sovereign, governmental, or municipal immunity.

Section 15.11 RCA PPA Approval. Seller and Purchaser will use Commercially Reasonable efforts to cooperate and each advocate to obtain an order from the Regulatory Commission of Alaska (the "**RCA**") approving the amendment of the certificate of public convenience and necessity of each of Purchaser and Seller to reflect the transactions to be consummated hereby, which order includes approval of (A) recovery by Purchaser in future rates of payments made under this PPA and (B) this PPA; and which order from the RCA shall not contain any condition or conditions materially adverse to either Purchaser or Seller, as determined by Purchaser or Seller with respect to itself in good faith and in the exercise of its Commercially Reasonable business judgment ("**RCA PPA Approval**"). In addition, Seller and Purchaser will use commercially reasonable efforts to cooperate and advocate to obtain an order from the RCA approving, as part of the transactions to be consummated hereby, recovery by Buyer in future rates of the costs associated with consummating the transactions to be consummated hereby.

Section 15.12 Relationship of the Parties. This PPA shall not be interpreted to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Except as specifically provided for in this PPA to the contrary, neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

Section 15.13 Successors and Assigns. Subject to the provisions of Section 14.1, Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns. No assignment shall relieve the assigning party of any of its obligations hereunder.

Section 15.14 Security Interest.

(A) The Parties agree, acknowledge and intend that the legal status of this PPA is and shall be as a power purchase agreement, a forward contract (as defined in the Bankruptcy Code), a commodity forward agreement (and thus a swap agreement as defined in the Bankruptcy Code), and a master netting agreement (as defined in the Bankruptcy Code), and not a secured purchase of the Chugach Portion or any other alternative form of transaction, and that Seller will at all times during the Term have and retain full undivided ownership of the Chugach Portion. Accordingly, each Party acknowledges and agrees that: (1) it shall not assert that the transactions contemplated under this PPA are a secured financing of any sort; and (2) it shall cooperate with the other Party in defending against any assertion by a third party that the transactions contemplated hereunder constitute a secured financing.

(B) Notwithstanding the foregoing, as security for the prompt payment and performance of all obligations of Purchaser under this PPA, including the payment of all Annual Payments to Seller, and solely as a precaution in the event that this PPA should be construed as a secured financing such that Purchaser shall be deemed to have acquired title to the Chugach Portion at any time (other than by exercise of the Purchase Option under Section 14.3), Purchaser hereby grants to Seller a senior, first priority purchase money lien on and security interest in and to, and right of set-off with respect to, all right, title, and interest of Purchaser in and to the Chugach Portion (including all right, title, and interest in and to any Power attributable to the Chugach Portion, except as and to the extent that such Power is delivered to Purchaser at the Delivery Point under and in accordance with the express provisions of this PPA) and all proceeds thereof (collectively, the "**Collateral**"). In addition, notwithstanding ARTICLE 14, Purchaser (i) represents and warrants to Seller as of each of the Effective Date and the Commencement Date that (a) Purchaser has provided Seller with a true and correct copy of the Trust Indenture, including all supplements and amendments thereto that were executed after January 20, 2011 and (b) there are no liens or security interests in or on the assets of Purchaser that encumber the Collateral as of the Effective Date, and that there will be no liens or security interests in or on the assets of Purchaser that will encumber the Collateral as of the Commencement Date; (ii) covenants and agrees that Purchaser shall provide to Seller, at or prior to the Closing under the Asset Purchase Agreement, (a) an original, fully executed copy of an Officers' Certificate of Excludable Property (as such terms are defined in the Trust Indenture), in form and substance reasonably satisfactory to Seller, identifying the Collateral as Excludable Property under the Trust Indenture and including a confirmation by the Trustee (as defined in the

Trust Indenture) that the Collateral is Excludable Property and is not subject to the lien of the Trust Indenture pursuant to a release under Section 6.10 of the Trust Indenture, in form and substance reasonably satisfactory to Seller, (b) evidence of Purchaser's delivery of such Officers' Certificate to the Trustee and the Trustee's execution of such release, and (c) evidence of the recording of such release in all recording offices in the State of Alaska in which the lien of the Trust Indenture has been recorded; and (iii) covenants and agrees that Purchaser shall not, without Seller's prior written consent, grant any security interest in the Collateral, including (a) in connection with this PPA, the Asset Purchase Agreement, and the transactions contemplated hereunder and thereunder, or (b) any grant of a lien to the Trustee pursuant to Granting Clause Third of the Trust Indenture or otherwise. In connection with the lien and security interest granted in this Section 15.14(B), Seller shall have the rights and remedies of a secured party or mortgagee under Applicable Law, including the UCC. Purchaser hereby authorizes Seller to file UCC financing statements and to record instruments with any appropriate Governmental Authority, and to make other similar filings and recordings with respect hereto as Seller shall elect in its sole discretion for the purposes of recording and perfecting its lien and security interest in the Collateral.

Section 15.15 Survival of Obligations. The applicable provisions of this PPA shall continue in effect after termination to the extent necessary to (A) provide for final billings, payments, and adjustments, (B) enforce or complete the duties, obligations, or responsibilities of the Parties, and (C) address any remedies or indemnification rights arising prior to termination. Cancellation, expiration, or earlier termination of this PPA shall not relieve the Parties of obligations, including warranties, remedies, or indemnities, that by their nature should survive such cancellation, expiration, or termination, which obligations shall survive for the period of the applicable statute(s) of limitation.

Section 15.16 Further Assurances. Upon the receipt of a written request from the other Party, each Party shall execute such reasonable additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition, or delay its compliance with any reasonable request made pursuant to this Section 15.16.

Section 15.17 Severability. If any term or provision of this PPA is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this PPA or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this PPA so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 15.18 Complete Agreement. This PPA constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of a conflict between the terms of this PPA and the Asset Purchase Agreement, the terms of the Asset Purchase Agreement shall control.

Section 15.19 Headings. The headings in this PPA are for reference only and shall not affect the interpretation of this PPA.

Section 15.20 Counterparts. This PPA may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this PPA delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this PPA.

Section 15.21 Exhibits. Exhibits may be changed to the extent allowed by specific provisions of this PPA or with the mutual consent of both Parties.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this PPA as of the Effective Date.

Seller:

MUNICIPALITY OF ANCHORAGE

By _____

Name: William D. Falsey
Title: Municipal Manager

Purchaser:

CHUGACH ELECTRIC ASSOCIATION, INC.

By _____

Name: Lee D. Thibert
Title: Chief Executive Officer

IN WITNESS WHEREOF, the Parties have executed this PPA as of the Effective Date.

Seller:

MUNICIPALITY OF ANCHORAGE

By_____

Name: William D. Falsey
Title: Municipal Manager

Purchaser:

CHUGACH ELECTRIC ASSOCIATION, INC.

By_____

Name: Lee D. Thibert
Title: Chief Executive Officer

EXHIBIT A

DEFINITIONS

The following terms shall have the meanings set forth herein:

"**Actual Damages**" has the meaning set forth in Section 9.2(B).

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

"**Ancillary Services**" all ancillary products associated, in accordance with Prudent Utility Practice, with the generation of Energy, including spinning reserves, non-spinning reserves, reactive power and voltage control.

"**Annual Payments**" has the meaning set forth in Section 7.1(A).

"**Applicable Law**" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, Permit requirement, other binding requirement or rule of law of, or compulsory standard established by, any Governmental Authority.

"**Asset Purchase Agreement**" means that certain Asset Purchase and Sale Agreement dated as of December 28, 2018, 2018 pursuant to which Purchaser has acquired substantially all of the assets of Seller's electric utility referred to as Municipal Light and Power ("**ML&P**") other than the Seller's Interest.

"**Bankruptcy Code**" means 11 U.S.C. §§ 101 et seq. (Title 11, United States Code).

"**Bradley Lake Agreement**" means the Bradley Lake Hydroelectric Project Agreement for the Sale and Purchase of Electric Power dated as of December 8, 1987 by and among the Alaska Energy Authority as successor to The Alaska Power Authority, Purchaser, The Golden Valley Electric Association, Inc., Seller, The City of Seward d/b/a/Seward Electric System, The Alaska Electric Generation & Transmission Cooperative, Inc., The Homer Electric Association, Inc., and MEA.

"**Business Day**" means any Day that is not a Saturday, a Sunday, NERC recognized holiday, or any other Day on which commercial banks in Anchorage, Alaska are required to be closed for business.

"**Capacity**" means the total electrical generating capacity of the Facility, including any capacity products that are able to be accredited under Applicable Law.

"**Chugach Portion**" means that portion of the Seller's Interest as determined pursuant to Section 2.2 or Section 14.3(A).

"**Collateral**" shall have the meaning set forth in Section 15.14(B).

"**Commencement Date**" shall have the meaning set forth in Section 3.2.

"**Commercially Reasonable**" or "**Commercially Reasonable Efforts**" means, with respect to any action required to be made, attempted or taken by a Party under this PPA, the level of effort in light of the facts known to such Party at the time a decision is made that: (a) can reasonably be expected to accomplish the desired action at a reasonable cost; (b) is consistent with Prudent Utility Practice; and (c) takes into consideration the amount of advance notice required to take such action, the duration and type of action and the competitive environment in which such action occurs.

"**Contract Year**" has the following meaning: the first Contract Year means the period beginning on the Commencement Date and ending on the last calendar day of the month of the first anniversary of the Commencement Date. The second Contract Year and each subsequent Contract Year means the period beginning on the first day after the last day of the previous Contract Year and ending on the last day of the twelfth calendar month thereafter.

"**Credit Rating**" means (i) with respect to any entity other than a financial institution, the current (A) rating issued or maintained by S&P or Moody's with respect to such entity's long-term senior, unsecured, unsubordinated debt obligations (not supported by insurance provider or other third-party credit enhancements) or (B) corporate credit rating or long-term issuer rating issued or maintained with respect to such entity by S&P or Moody's, or (ii) if such entity is a financial institution, the ratings issued or maintained by S&P or Moody's with respect to such entity's long-term, unsecured, unsubordinated deposits.

"**Creditworthy Entity**" means a Person having at the applicable time a Credit Rating of (a) BBB or better from S&P, or (b) Baa2 or better from Moody's, or (c) if such Person has a Credit Rating at such time from both S&Ps and Moody's, BBB or better from S&P and Baa2 or better from Moody's.

"**Day**" means a calendar day.

"**Delivery Point**" means the low side of the step-up transformer(s) within the Facility switchyard.

"**Dispute**" shall have the meaning set forth in Section 10.1.

"**Effective Date**" shall have the meaning set forth in the preamble.

"**Eligible Energy Resource**" means any resource that qualifies as a renewable energy resource eligible to be certified to receive, claim, own or use renewable energy certificates pursuant to the protocols and procedures under any applicable REC Registration Program.

"**Energy**" means the net electric energy that is generated from the Facility (or capable of being generated by any water spilled from the Facility) that is delivered to the Delivery Point, as measured in accordance with Section 5.2. Energy shall be net of energy self-generated and concurrently consumed by the Facility, and net of all losses prior to the Delivery Point, including line, inverter, and transformer losses.

"**ERO**" means the Electric Reliability Organization certified by FERC pursuant to Section 215 of the Federal Power Act or any successor organization.

"**Event of Default**" shall have the meaning set forth in Section 9.1.

"**Extension Agreement**" means that certain Agreement for Extension of 1996 Eklutna Hydroelectric Project Transition Plan dated October 2, 1997 by and among the Owners.

"**Facility**" means the Eklutna Hydroelectric Project, as further described in Exhibit B, including all of the following: all equipment, buildings, generators, inverters, step-up transformers, output breakers, protective and associated equipment, improvements, and other tangible assets, contract rights, easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for construction, operation, maintenance, generation and delivery of the Energy, Ancillary Services, and Capacity subject to this PPA.

"**Facility Metering**" means revenue quality meters, metering equipment and data processing equipment used to measure, record or transmit data relating to the output from the Facility, including the metering current transformers and the metering voltage transformers.

"**Federal Power Act**" means the provisions of 16 U.S.C. 791(A) et seq. and amendments or supplements thereto.

"**FERC**" means the Federal Energy Regulatory Commission or any successor agency.

"**Financing Documents**" means the loan and credit agreements, notes, bonds, indentures, security agreements, lease financing agreements, mortgages, deeds of trust, interest rate exchanges, swap agreements, and other documents relating to a Party's financing transactions, including any credit enhancement, credit support, working capital financing, or refinancing documents, and any and all amendments, modifications, or supplements to the foregoing that may be entered into from time to time at the discretion of the Party.

"**Fish and Wildlife Agreement**" is the August 7, 1991 Agreement Between The Municipality of Anchorage, DBA Anchorage Municipal Light And Power, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., U. S. Fish and Wildlife Service, National Marine Fisheries Service, Alaska Energy Authority and The State of Alaska, Relative to the Eklutna and Snettisham Hydroelectric Projects .

"**Force Majeure**" means an event or circumstance that prevents a Party from performing its obligations under this PPA, which event or circumstance (i) was not reasonably anticipated as of the Date of this PPA, (ii) is not within the reasonable control of or the result of the fault or negligence of the Party claiming its occurrence, and (iii) which by exercise of due diligence and

foresight could not reasonably have been avoided, *provided, however*, that such an event or circumstance shall not include: (a) inability, or excess cost, to procure any equipment necessary to perform the obligations of this PPA; (b) delays or nonperformance by suppliers, vendors, or other third parties with which a Party has contracted, except to the extent that such delays or nonperformance were due to circumstances that would constitute "Force Majeure" as defined above; (c) mechanical or equipment breakdown or inability to operate unless caused by reason of Force Majeure; (d) changes in market conditions; (e) any labor strikes, slowdowns, work stoppages, or other labor disruptions limited only to a Party or a Party's Affiliates; (f) Seller's inability to obtain any credit or incentive in connection with the Facility, including any such inability that is attributable to any failure to meet placed-in-service or safe harbor provisions regardless of whether an event of Force Majeure may have caused or contributed to such failure, (g) the loss of Purchaser's markets or Purchaser's inability economically to use or resell any of the Power purchased hereunder, except to the extent that such loss of markets or inability to use or resell were due to circumstances that would constitute "Force Majeure" as defined above; (h) Purchaser's failure to contract for and reserve sufficient firm transmission capacity to deliver the Power to any transmission point(s) of receipt or any delivery point(s); (i) Seller's ability to sell Power to a market at a more advantageous price; or (j) Purchaser's ability to purchase Power in or from any market at a more advantageous price.

"**Forced Outage**" means any condition at the Facility that requires the immediate and unplanned removal of the Facility, or at least ten percent thereof, from service, another outage state, or a reserve shutdown state, resulting from immediate mechanical/electrical/hydraulic control system trips and operator-initiated trips in response to abnormal Facility conditions or alarms.

"**Governmental Authority**" means any federal, state, local or foreign government, or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations, or orders of such organization or authority have the force of Law), or any arbitrator, court, or tribunal of competent jurisdiction. References to "Governmental Authority" shall exclude Seller except Seller is acting in a legislative or regulatory capacity as expressly authorized by Applicable Law.

"**Indemnified Party**" shall have the meaning set forth in Section 13.1.

"**Indemnifying Party**" shall have the meaning set forth in Section 13.1.

"**ISO**" means an independent system operator or regional transmission organization that coordinates, controls and monitors the operation of a public electrical power system or any similar operator or organization created by Applicable Law after the date of this PPA.

"**Justness or Reasonableness Conditions**" shall have the meaning set forth in Section 15.4.

"**Lender**" means any commercial bank, investment bank or trustee under Financing Documents that makes a loan to or extends other credit in favor of Purchaser.

"**MEA**" means Matanuska Electric Association, Inc., a not-for-profit Alaska electric cooperative corporation.

"**MEA Offer**" shall have the meaning set forth in Section 2.1.

"**MEA Proportionate Interest**" shall have the meaning set forth in Section 2.1.

"**Moody's**" means Moody's Investors Services, Inc.

"**NERC**" means the North American Electric Reliability Council or any successor organization.

"**Notice**" shall have the meaning set forth in Section 15.1.

"**Operating Committee**" shall mean the "Eklutna Operating Committee" or "EOC" set forth in the Operations Agreement.

"**Operating Records**" means all agreements associated with the Facility, operating logs, blueprints for construction, operating manuals, all warranties on equipment, and all documents, whether in printed or electronic format, that Seller uses or maintains for the operation of the Facility.

"**Operations Agreement**" means the Eklutna Purchasers Manner of Acting, Functional Responsibilities, and Staffing, attached as Exhibit E to the Transition Plan, as the same has been amended from time to time by the Owners.

"**Operations Agreement Amendment**" shall have the meaning set forth in Section 3.1.

"**Owners**" means the owners of the Facility. As of the Effective Date, the Owners are Seller (with respect to the Seller's Interest), Purchaser (with respect to the Purchaser's Interest), and MEA (with respect to the remaining 5/30 (approximately 16.7%) undivided ownership interest in the Facility).

"**Party**" and "**Parties**" shall have the meanings set forth in the introductory paragraph.

"**Permit(s)**" means all applicable construction, land use, air quality, emissions control, environmental and other permits, licenses and approvals from any Governmental Authority required under Applicable Laws for construction, ownership, operation and maintenance of the Facility and the generation and delivery of any output from the Facility to Purchaser.

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

"**Power**" shall have the meaning set forth in Section 6.1(A).

"**PPA Contingencies**" shall have the meaning set forth in Section 3.1.

"**Prudent Utility Practice**" means any applicable practices, methods, and acts engaged in or approved by a significant portion of (a) as to Seller, the hydroelectric generating industry in the United States of America, or (b) as to Purchaser, the electric utility industry in the United States of America, during the relevant time period, or the practices, methods and acts which, in the exercise of reasonable judgment by a prudent hydroelectric generator operator (or prudent utility operator, if applicable to Purchaser) in light of the facts known or which should reasonably have been known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, expedition and the requirements of any governing authority having jurisdiction. Without limitation of the foregoing, "Prudent Utility Practice" shall include the applicable operating policies, standards, criteria, or guidelines of any applicable governing authority and any manufacturer of a component of the Project. "Prudent Utility Practice" is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to the acceptable practices, methods or acts generally accepted (a) as to Seller, by the hydroelectric energy electric generating industry in the United States of America or (b) as to Purchaser, by the electric utility industry in the United States of America.

"**Purchase Option**" shall have the meaning set forth in Section 14.3.

"**Purchase Price**" means the sum of the net book value (or its equivalent) of the Chugach Portion as of the last day of the Term, as reduced (although not below zero) by the aggregate amount of the net book value of any capital expenditures made by Purchaser with respect to the Chugach Portion during the Term. For purposes of the Chugach Portion, "net book value" means gross plant in service (including customer-contributed plant) at original cost, less accumulated depreciation and amortization.

"**Purchase Price Adjustment**" shall have the meaning set forth in Section 14.3(C).

"**Purchaser**" shall have the meaning set forth in the first paragraph of this PPA.

"**Purchaser's Interest**" shall have the meaning set forth in the second paragraph of this PPA.

"**Qualified Operator**" means an operator that operates one or more hydropower generating facilities of a type and size comparable to the Facility, is nationally recognized, and has not less than three years' experience in the operation of one or more hydropower generating facilities.

"**RCA**" shall have the meaning set forth in Section 15.10.

"**RCA PPA Approval**" shall have the meaning set forth in Section 15.10.

"**REC Registration Program**" means any state, regional or federal program established to register Eligible Energy Resources and create and certify renewable energy certificates arising from energy generated from such Resource, including any rights associated with any renewable energy information or tracking system that exists or may be established by Applicable Law with regard to monitoring, registering, tracking, certifying, or trading such credits.

"**Renewable Attributes**" means any and all renewable resource attributes (including renewable energy certificates or credits or similar rights arising out of any applicable REC Registration Program), green tags, emissions or carbon credits, reductions, offsets, and allowances, and any other environmentally related attributes that are, or in the future may be, recognized by any Governmental Authority, and that are attributable to the availability, production, purchase or sale of Energy from the Facility. For the avoidance of doubt, "Renewable Attributes" do not include any Tax Benefits.

"**S&P**" means the Standard & Poor's Rating Group, a division of The McGraw-Hill Companies.

"**Scheduled Termination Date**" means the last day of the calendar month thirty-five (35) years after the Commencement Date.

"**Seller**" shall have the meaning set forth in the first paragraph of this PPA.

"**Seller's Interest**" shall have the meaning set forth in the recitals to this PPA.

"**Seller's Representative**" shall have the meaning set forth in Section 4.2.

"**Site**" means the parcel of real property on which the Facility is constructed and located, including any easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the operation and maintenance of the Facility. The Site is more specifically described in Exhibit B to this PPA.

"**Tax Benefits**" means any and all (i) tax credits based on ownership of, investment in or energy production from the Facility or any portion thereof, (ii) grants based on ownership of, investment in or energy production from the Facility or any portion thereof, including the grant described in Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 and (iii) other tax benefits, including depreciation and other cost recovery deductions, arising in connection with ownership of, investment in, or operation of the Facility, or any portion thereof, in each case allocated, allowed, allowable, assigned, awarded, certified or otherwise transferred or granted to Seller or Purchaser by any Governmental Authority in any jurisdiction in connection with the Facility.

"**Term**" means the period of time during which this PPA shall remain in full force and effect as further defined in Section 3.3 and as may be extended pursuant to Section 14.3.

"**Term Extension**" shall have the meaning set forth in Section 14.3.

"**Transition Plan**" means the 1996 Eklutna Hydroelectric Project Transition Plan dated May 28, 1996 by and among the United States of America d/b/a Alaska Power Administration, a unit of the Department of Energy, and the Owners, as the same has been amended and extended by the Extension Agreement.

"**Trust Indenture**" means that certain Second Amended and Restated Indenture of Trust, dated as of January 20, 2011, between Purchaser and U.S. Bank National Association, as Trustee, as recorded in Recording Dist.: 301 - Anchorage, State of Alaska, on January 20, 2011, under

reference no. 2011-003688-0, in Recording Dist.: 302 - Kenai, State of Alaska, on January 20, 2011, under reference no. 2011-000608-0, in Recording Dist.: 314 - Seward, State of Alaska, on January 20, 2011, under reference no. 2011-000062-0, and in the Palmer, State of Alaska, Recording District on January 20, 2011, under reference no. 2011-001410-0, as the same has been or may be amended or supplemented from time to time.

"**UCC**" means the Uniform Commercial Code of the State of Alaska.

EXHIBIT B

FACILITY DESCRIPTION AND SITE MAPS

Eklutna Purchase Agreement
Exhibit A

August 2, 1989
Page 1 of 2

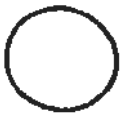
Lands, Easements and Rights-of-Way

Exhibit A consists of this narrative (pages 1 and 2 of 2) and the map prepared by BLM, signed and dated February 3, 1989.

This exhibit describes and displays present land status for the Eklutna Hydroelectric Project and describes in general terms the conveyances of land and land rights contemplated in the purchase agreement.

1. BLM - managed lands and military lands used for Eklutna Project for which BLM is to provide APAd rights-of-way sufficient for operation, maintenance, repair and replacement of Eklutna facilities, such rights-of-way to be assigned by APAd to the Purchasers.

   Legend Symbols and Description.



   Withdrawals. Refers to approximately 863 acres of public lands withdrawn for Eklutna at the "Intake Area," "Power Tunnel," "Eklutna Powerplant" and "Anchorage Substation." The total acreage is comprised of the following land:

   a. Approximately 320 acres withdrawn for the "Power Tunnel" under Public Land Order 1231 dated September 28, 1955.

   b. Approximately 230 acres utilized for the "Intake Area" and approximately 60 acres for a portion of "Eklutna Powerplant" as described by ANCSA 3(e) determination AA-51183 dated July 30, 1986.

   c. Approximately 243 acres utilized for "Eklutna Powerplant" as described by ANCSA 3(e) determination AA-42534 dated September 1, 1982.

   d. Approximately 10 acres withdrawn for "Anchorage Substation" under Secretarial Order dated April 4, 1952.

   State Land-R/W. Refers to rights-of-way across State-selected lands covering the transmission line east of "Eklutna Powerplant" to the Knik River.

   Military Land-R/W. Refers to rights-of-way across military lands used for Eklutna transmission lines.

Acquired-3(e). Refers to approximately 2.5 acres of acquired land used for "Reed Substation" as described by ANCSA 3(e) determination AA-45155 dated July 30, 1985.

2. ANCSA 17(b) Easements.

Map symbol: Native Land - 17(b) Easements.

Refers to rights-of-way that are reserved for portions of the 115kV transmission line, access roads and other Eklutna facilities located on Native corporation lands, and exist as easement reservations in the ANCSA conveyances to the Native corporations pursuant to Section 17(b) of ANCSA. These easements will not be altered by the sale of Eklutna and the Purchasers may use these easements for their intended purposes.

3. APAd Acquired Land and Easements.

Refers to land and easements acquired by the Bureau of Reclamation (predecessor of APAd) during construction of Eklutna and now controlled by APAd. APAd will assign the land and easements to the Purchasers.

Legend Symbols and Description:

Acquired. Refers to approximately 0.8 acres of land owned by APAd at Palmer Substation.

Acquired-Easements. Refers to approximately 33 easements across private lands acquired by the Bureau of Reclamation (predecessor of APAd) and now held by APAd.

4. Other Easements on Private Land.

Map [Symbol]: Note: Other Easements on Private Lands To Be Acquired - See Exhibit A Narrative

Refers to approximately two hundred and fifty (250) parcels of private land located along the 115kV transmission line, many of which require title curative action for purposes of perfecting assignable easement rights or rights-of-way for the Purchasers. APAd shall be responsible for acquiring assignable easement rights or rights-of-way across these lands, for subsequent assignment to Purchasers.

5. Reservoir.

Eklutna Lake as designated on the map is the reservoir described in the body of the Agreement.

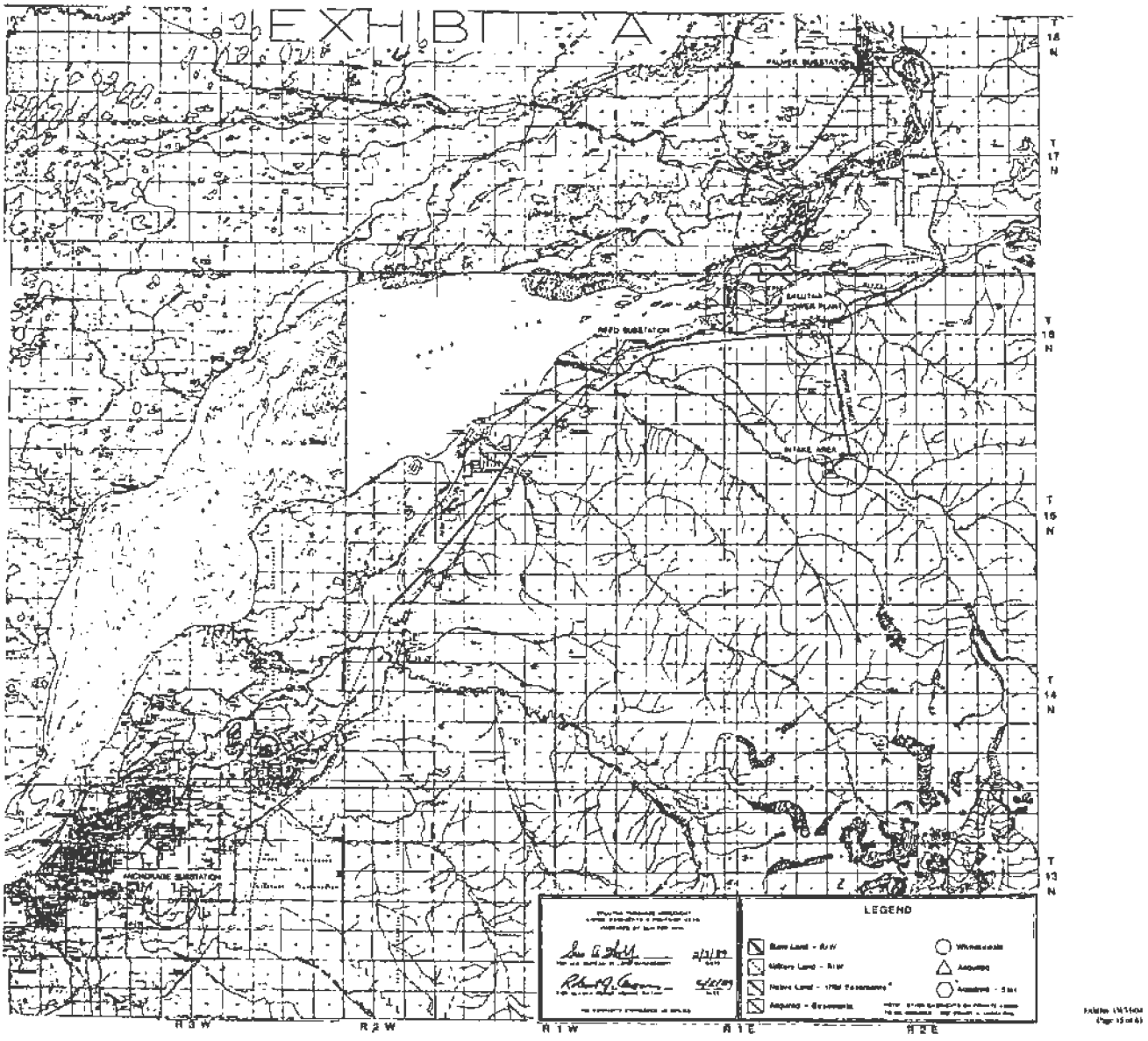


EXHIBIT A
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R3W
R2W
R1W
R1E
R2E
LEGEND

EXHIBIT C

TERMS OF MEA OFFER

The MEA Offer must provide that the effectiveness of any purchase by MEA of the MEA Proportionate Interest and the effectiveness of any binding power purchase agreement between Seller and MEA with respect to the MEA Proportionate Interest must be conditioned on the occurrence of the Closing under the Asset Purchase Agreement.

Any purchase option for the MEA Portion in a PPA must be on terms and conditions substantially the same as those set forth in Section 14.3.

EXHIBIT D

ANNUAL PAYMENTS

Annual Payments to the Municipality of Anchorage: 35-Year Term

	PPA Annual Payments (Nominal $)	
	Chugach Portion: 100%	*Chugach Portion: 64.29%*
Contract Year		
1	$3,908,021	$2,512,467
2	$3,947,101	$2,537,591
3	$3,986,572	$2,562,967
4	$4,026,438	$2,588,597
5	$4,066,702	$2,614,483
6	$4,107,369	$2,640,628
7	$4,148,443	$2,667,034
8	$4,189,927	$2,693,704
9	$4,231,827	$2,720,641
10	$4,274,145	$2,747,848
11	$4,316,886	$2,775,326
12	$4,360,055	$2,803,080
13	$4,403,656	$2,831,110
14	$4,447,692	$2,859,421
15	$4,492,169	$2,888,016
16	$4,537,091	$2,916,896
17	$4,582,462	$2,946,065
18	$4,628,287	$2,975,525
19	$4,674,569	$3,005,281
20	$4,721,315	$3,035,334
21	$4,768,528	$3,065,687
22	$4,816,214	$3,096,344
23	$4,864,376	$3,127,307
24	$4,913,019	$3,158,580
25	$4,962,150	$3,190,166
26	$5,011,771	$3,222,068
27	$5,061,889	$3,254,288
28	$5,112,508	$3,286,831
29	$5,163,633	$3,319,700
30	$5,215,269	$3,352,897
31	$5,267,422	$3,386,426
32	$5,320,096	$3,420,290
33	$5,373,297	$3,454,493
34	$5,427,030	$3,489,038
35	$5,481,300	$3,523,928

In the event that the Chugach Portion is neither 100% or 64.29%, the Annual Payment shall be pro-rated based on the percentage of the Chugach Portion.

Exhibit D-2

EXHIBIT E

INSURANCE COVERAGE

INSURANCE PROVISIONS SHOULD PROVIDE THAT CASUALTY COVERAGE SHOULD EQUAL OR EXCEED THE NET PRESENT VALUE OF THE AMOUNT OF REMAINING ANNUAL PAYMENTS USING A 5% DISCOUNT RATE; PROVIDED THAT IN NO EVENT SHALL PURCHASER BE REQUIRED TO PROVIDE CASUALTY INSURANCE IN EXCESS OF THE ACTUAL CASH VALUE OF THE CHUGACH PORTION.

OFFICERS' CERTIFICATE
RELATING TO EXCLUDABLE PROPERTY
(Eklutna PPA Collateral)

Chugach Electric Association, Inc.

This Officers' Certificate Relating to Excludable Property (this "Officers' Certificate") is provided pursuant to the Second Amended and Restated Indenture dated as of January 20, 2011, between Chugach Electric Association, Inc. (the "***Company***"), and U.S. Bank National Association, as trustee (the "***Trustee***"), as amended and supplemented (as so amended and supplemented, the "***Indenture***"). Capitalized terms not otherwise defined in this Officers' Certificate shall have the meanings assigned to them in the Indenture.

The Company has entered into that certain Eklutna Power Purchase Agreement dated as of December 28, 2018 (the "Power Purchase Agreement") between the Company and the Municipality of Anchorage, a political subdivision organized under the laws of the State of Alaska ("Seller"), pursuant to which the Company will purchase the Power (as defined in the Power Purchase Agreement) produced by that portion of the Eklutna Hydroelectric Project owned by Seller and designated in the Power Purchase Agreement as the "Chugach Portion".

Solely as a precaution in the event that the Power Purchase Agreement should be construed as a secured financing such that the Company shall be deemed to have acquired title to the Chugach Portion at any time (other than by exercise of an express purchase option granted under the terms of the Power Purchase Agreement), Purchaser has granted to Seller a protective security interest in and to the Collateral as defined in the Power Purchase Agreement.

Under the Power Purchase Agreement, the Company has an option to purchase the Chugach Portion at a future date. If the Company exercises its option, it will obtain a release from the Seller of any security interest in the Chugach Portion.

Pursuant to Section 1.6 of the Indenture, each of the undersigned officers of the Company hereby states that:

(a) He/she has read each of the conditions, covenants and relevant definitions contained in the Indenture, relating to the matters addressed in this Certificate;

(b) His/her opinions expressed below are based upon such review of the Indenture and on his/her knowledge of the Company acquired in his/her capacity noted below; and

(c) In his/her opinion, he/she has made such examination or investigation as is necessary to enable him/her to express an informed opinion with respect to the matters stated below.

In accordance with the definition of "Excludable Property" set forth in Section 1.1 of the Indenture, each of the undersigned, acting in his/her capacity as an Officer of the Company, hereby certifies that:

1. the property described in Exhibit A attached to this Officers' Certificate is not to become subject to the lien of the Indenture; and

2. should the Company not have the use of such property it would remain capable of complying with the requirements of Section 14.14 of the Indenture.

[REMAINDER OF PAGE INTENTIONALLY OMITTED]

The undersigned officers have executed the foregoing Officers' Certificate as of the date set forth below.

Dated: December 28, 2018.

Officers:

Lee D. Thibert
Chief Executive Officer

Sherri L. Highers
Chief Financial Officer

EXHIBIT A

To

OFFICERS' CERTIFICATE RELATING TO EXCLUDABLE PROPERTY

(Eklutna PPA Collateral)

All right, title and interest of the Company in and to the following:

The Chugach Portion (as defined in the Power Purchase Agreement) of the Eklutna Hydroelectric Project, as further described in **Exhibit B**, including all of the following: all equipment, buildings, generators, inverters, step-up transformers, output breakers, protective and associated equipment, improvements, and other tangible assets, contract rights, easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for construction, operation, maintenance, generation and delivery of Power, and any Power attributable to such interest (except as and to the extent that such Power is delivered to the Company at the Delivery Point in accordance with the Power Purchase Agreement), and all proceeds thereof.

EXHIBIT B

To

OFFICERS' CERTIFICATE RELATING TO EXCLUDABLE PROPERTY

(Eklutna PPA Collateral)

Eklutna Purchase Agreement
Exhibit A

August 2, 1989
Page 1 of 2

Lands, Easements and Rights-of-Way

Exhibit A consists of this narrative (pages 1 and 2 of 2) and the map prepared by BLM, signed and dated February 3, 1989.

This exhibit describes and displays present land status for the Eklutna Hydroelectric Project and describes in general terms the conveyances of land and land rights contemplated in the purchase agreement.

1. BLM - managed lands and military lands used for Eklutna Project for which BLM is to provide APAd rights-of-way sufficient for operation, maintenance, repair and replacement of Eklutna facilities, such rights-of-way to be assigned by APAd to the Purchasers.

Legend Symbols and Description.

Withdrawals. Refers to approximately 863 acres of public lands withdrawn for Eklutna at the "Intake Area," "Power Tunnel," "Eklutna Powerplant" and "Anchorage Substation." The total acreage is comprised of the following land:

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b. Approximately 230 acres utilized for the "Intake Area" and approximately 60 acres for a portion of "Eklutna Powerplant" as described by ANCSA 3(e) determination AA-51183 dated July 30, 1986.

c. Approximately 243 acres utilized for "Eklutna Powerplant" as described by ANCSA 3(e) determination AA-42534 dated September 1, 1982.

d. Approximately 10 acres withdrawn for "Anchorage Substation" under Secretarial Order dated April 4, 1952.

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Acquired-3(e). Refers to approximately 2.5 acres of acquired land used for "Reed Substation" as described by ANCSA 3(e) determination AA-45155 dated July 30, 1985.

2. ANCSA 17(b) Easements.

Map symbol: Native Land - 17(b) Easements.

Refers to rights-of-way that are reserved for portions of the 115kV transmission line, access roads and other Eklutna facilities located on Native corporation lands, and exist as easement reservations in the ANCSA conveyances to the Native corporations pursuant to Section 17(b) of ANCSA. These easements will not be altered by the sale of Eklutna and the Purchasers may use these easements for their intended purposes.

3. APAd Acquired Land and Easements.

Refers to land and easements acquired by the Bureau of Reclamation (predecessor of APAd) during construction of Eklutna and now controlled by APAd. APAd will assign the land and easements to the Purchasers.

Legend Symbols and Description:

Acquired. Refers to approximately 0.8 acres of land owned by APAd at Palmer Substation.

Acquired-Easements. Refers to approximately 33 easements across private lands acquired by the Bureau of Reclamation (predecessor of APAd) and now held by APAd.

4. Other Easements on Private Land.

Map [Symbol]: Note: Other Easements on Private Lands To Be Acquired - See Exhibit A Narrative

Refers to approximately two hundred and fifty (250) parcels of private land located along the 115kV transmission line, many of which require title curative action for purposes of perfecting assignable easement rights or rights-of-way for the Purchasers. APAd shall be responsible for acquiring assignable easement rights or rights-of-way across these lands, for subsequent assignment to Purchasers.

5. Reservoir.

Eklutna Lake as designated on the map is the reservoir described in the body of the Agreement.

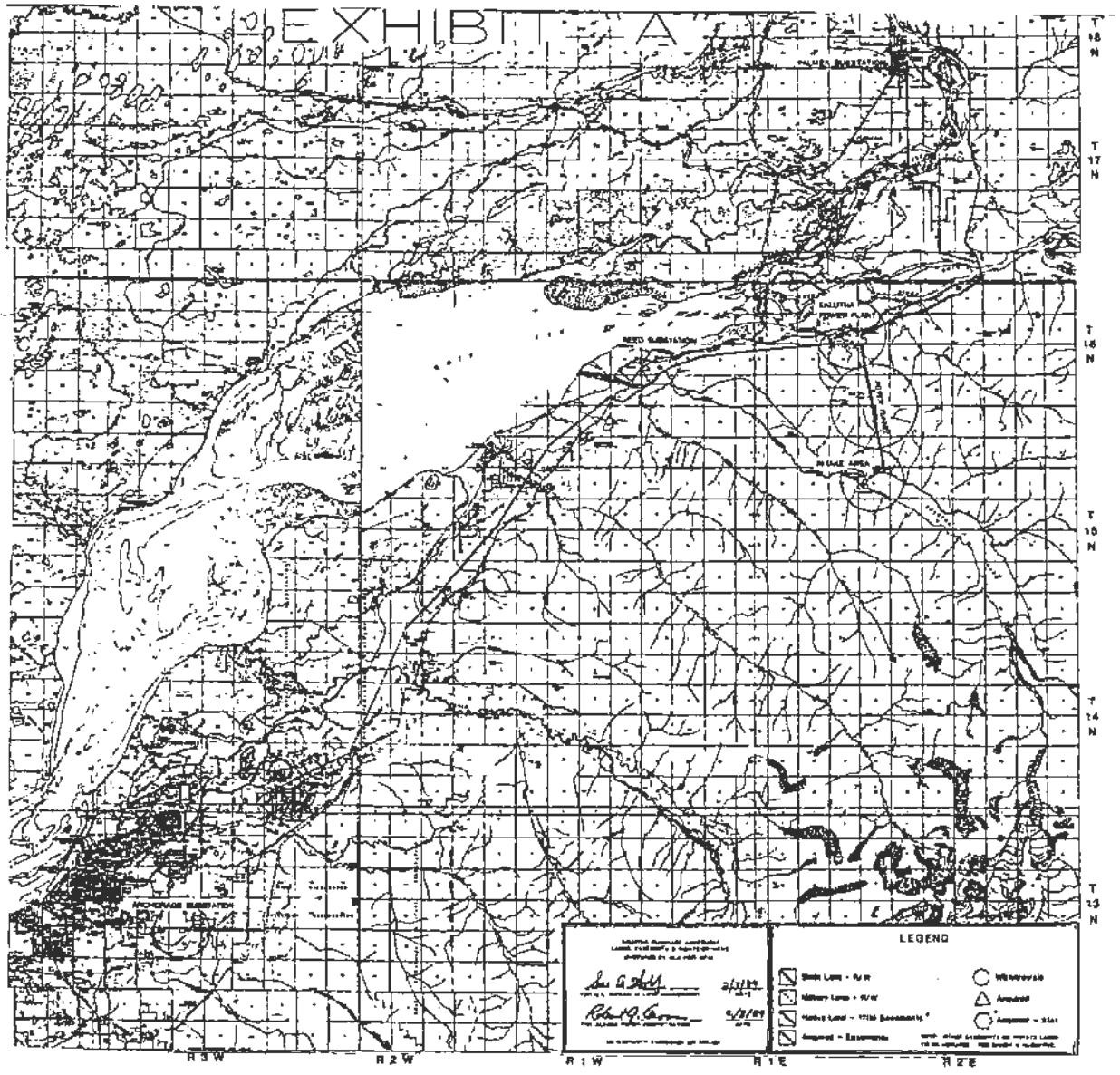
EXHIBIT A
T 18 N
T 17 N
T 16 N
T 15 N
T 14 N
T 13 N
R3W
R2W
R1W
R1E
R2E
LEGEND

Upon Recording, Return To:

James J. Bertrand, Esq.
Stinson Leonard Street LLP
50 South Sixth Street, Suite 2600
Minneapolis, MN 55402

TO BE RECORDED IN THE ANCHORAGE RECORDING DISTRICT

PROTECTIVE PARTIAL RELEASE BY U.S. BANK NATIONAL ASSOCIATION AS TRUSTEE TO CHUGACH ELECTRIC ASSOCIATION, INC. FROM LIEN OF THE SECOND AMENDED AND RESTATED INDENTURE OF TRUST DATED AS OF JANUARY 20, 2011 AS AMENDED AND SUPPLEMENTED

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, Chugach Electric Association, Inc., an Alaska electric cooperative (the "Company"), executed and delivered as of January 20, 2011, to U.S. Bank National Association, as Trustee, a certain Second Amended and Restated Indenture of Trust, as amended and supplemented (hereinafter called the "Indenture"); and

WHEREAS, the Company has entered into that certain Eklutna Power Purchase Agreement dated as of December ___, 2018 (the "Power Purchase Agreement") between the Company and the Municipality of Anchorage, a political subdivision organized under the laws of the State of Alaska ("Seller"), pursuant to which the Company will purchase the Power (as defined in the Power Purchase Agreement) produced by that portion of the Eklutna Hydroelectric Project owned by Seller and designated in the Power Purchase Agreement as the "Chugach Portion;" and

WHEREAS, solely as a precaution in the event that the Power Purchase Agreement should be construed as a secured financing such that the Company shall be deemed to have acquired title to the Chugach Portion at any time (other than by exercise of an express purchase option granted under the terms of the Power Purchase Agreement), Purchaser has granted to

Seller a protective security interest in and to the Collateral as defined in the Power Purchase Agreement; and

WHEREAS, it has been certified by the Company to the Trustee in accordance with the Indenture that the Collateral is not to become subject to the lien of the Indenture and that the Company will remain capable of complying with the requirements of Section 14.14 of the Indenture (the "Officers' Certificate Relating to Excludable Property (Eklutna PPA Collateral))", and the Trustee is in receipt of such certificate; and

WHEREAS, Section 6.10 of the Indenture provides that upon receipt of the Officers' Certificate Relating to Excludable Property (Eklutna PPA Collateral), the Trustee shall execute and deliver a release to be recorded, registered or filed evidencing that such Excludable Property is not subject to the lien of the Indenture.

NOW, THEREFORE, U.S. Bank National Association, in consideration of the premises, and pursuant to the authority vested in it as Trustee under the Indenture, does hereby release, remise and quitclaim unto the Company all the right, title and interest of such Trustee in and to the properties described in Attachment A attached hereto.

TO HAVE AND TO HOLD the property hereby released and remised to the Company, its successors and assigns (but only to the extent that such property is adjudged at any time in the future to be property of the Company, its successors and assigns), to its and their own proper use, benefit and behoof forever, free, clear and discharged of and from any and all liens and claims under and by virtue of the Indenture.

FURTHER PROVIDED, that the Company is authorized to file a financing statement amendment (including a copy of this partial release) on behalf of the Trustee in the appropriate offices of the State of Alaska that deletes the properties described in Attachment A attached hereto from the description of collateral subject to the security interest of the Indenture.

PROVIDED, HOWEVER, that nothing herein contained shall be construed to affect the residue of the security held by the Trustee, by virtue of the Indenture, or to release the payment of any part of the moneys, principal and interest, thereby secured and that may now remain unpaid.

The recitals herein contained are made on representation of the Company and the Trustee assumes no responsibility in respect thereof. This release is executed by the Trustee without any covenant or warranty of title, or any other covenant, warranty or representation, either expressed or implied, on its part, and shall be without recourse against the Trustee in any event whatsoever.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, U.S. Bank National Association has caused its corporate name to be hereunto affixed, and this instrument to be signed and sealed by one of its Vice Presidents on this 20th day of December, 2018.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By _____
Vice President

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 20th day of December, 2018, before me, a Notary Public in and for the State of Washington, personally appeared Thomas Zrust, to me known to be the Vice President of U.S. Bank National Association, the national banking association that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said national banking association for the uses and purposes therein mentioned and on oath stated that s/he was authorized to execute said instrument on behalf of said national banking association.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

_____
Print name:
Daniel Valerio
Notary Public in and for the State of Washington, residing at
Seattle
My commission expires: 4/17/19

ATTACHMENT A

DESCRIPTION OF RELEASED PROPERTY

All right, title and interest of the Company in and to the following:

The Chugach Portion (as defined in the Power Purchase Agreement) of the Eklutna Hydroelectric Project, as further described in **Attachment B**, including all of the following: all equipment, buildings, generators, inverters, step-up transformers, output breakers, protective and associated equipment, improvements, and other tangible assets, contract rights, easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for construction, operation, maintenance, generation and delivery of Power, and any Power attributable to such interest (except as and to the extent that such Power is delivered to the Company at the Delivery Point in accordance with the Power Purchase Agreement), and all proceeds thereof.

ATTACHMENT B

[INSERT SAME FACILITY DESCRIPTION THAT WILL BE EXHIBIT B TO THE POWER PURCHASE AGREEMENT]

Eklutna Purchase Agreement
Exhibit A

August 2, 1989
Page 1 of 2

Lands, Easements and Rights-of-Way

Exhibit A consists of this narrative (pages 1 and 2 of 2) and the map prepared by BLM, signed and dated February 3, 1989.

This exhibit describes and displays present land status for the Eklutna Hydroelectric Project and describes in general terms the conveyances of land and land rights contemplated in the purchase agreement.

1. BLM - managed lands and military lands used for Eklutna Project for which BLM is to provide APAd rights-of-way sufficient for operation, maintenance, repair and replacement of Eklutna facilities, such rights-of-way to be assigned by APAd to the Purchasers.

   Legend Symbols and Description.

   Withdrawals. Refers to approximately 863 acres of public lands withdrawn for Eklutna at the "Intake Area," "Power Tunnel," "Eklutna Powerplant" and "Anchorage Substation." The total acreage is comprised of the following land:

   a. Approximately 320 acres withdrawn for the "Power Tunnel" under Public Land Order 1231 dated September 28, 1955.

   b. Approximately 230 acres utilized for the "Intake Area" and approximately 60 acres for a portion of "Eklutna Powerplant" as described by ANCSA 3(e) determination AA-51183 dated July 30, 1986.

   c. Approximately 243 acres utilized for "Eklutna Powerplant" as described by ANCSA 3(e) determination AA-42534 dated September 1, 1982.

   d. Approximately 10 acres withdrawn for "Anchorage Substation" under Secretarial Order dated April 4, 1952.

   State Land-R/W. Refers to rights-of-way across State-selected lands covering the transmission line east of "Eklutna Powerplant" to the Knik River.

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Acquired-3(e). Refers to approximately 2.5 acres of acquired land used for "Reed Substation" as described by ANCSA 3(e) determination AA-45155 dated July 30, 1985.

2. ANCSA 17(b) Easements.

Map symbol: Native Land - 17(b) Easements.

Refers to rights-of-way that are reserved for portions of the 115kV transmission line, access roads and other Eklutna facilities located on Native corporation lands, and exist as easement reservations in the ANCSA conveyances to the Native corporations pursuant to Section 17(b) of ANCSA. These easements will not be altered by the sale of Eklutna and the Purchasers may use these easements for their intended purposes.

3. APAd Acquired Land and Easements.

Refers to land and easements acquired by the Bureau of Reclamation (predecessor of APAd) during construction of Eklutna and now controlled by APAd. APAd will assign the land and easements to the Purchasers.

Legend Symbols and Description:

Acquired. Refers to approximately 0.8 acres of land owned by APAd at Palmer Substation.

Acquired-Easements. Refers to approximately 33 easements across private lands acquired by the Bureau of Reclamation (predecessor of APAd) and now held by APAd.

4. Other Easements on Private Land.

Map [Symbol]: Note: Other Easements on Private Lands To Be Acquired - See Exhibit A Narrative

Refers to approximately two hundred and fifty (250) parcels of private land located along the 115kV transmission line, many of which require title curative action for purposes of perfecting assignable easement rights or rights-of-way for the Purchasers. APAd shall be responsible for acquiring assignable easement rights or rights-of-way across these lands, for subsequent assignment to Purchasers.

5. Reservoir.

Eklutna Lake as designated on the map is the reservoir described in the body of the Agreement.

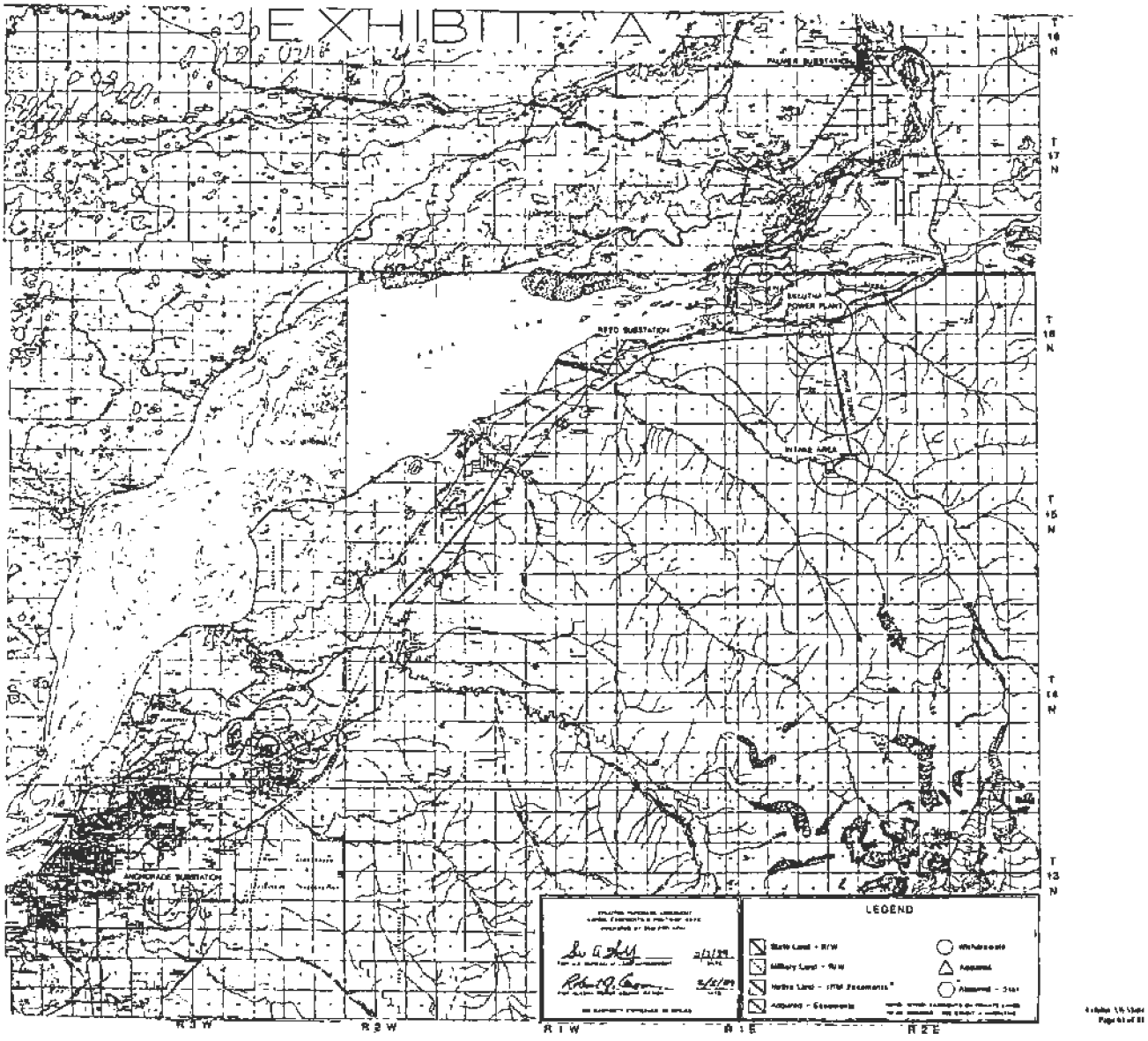
EXHIBIT "A"
LEGEND
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R 2 E

OFFICERS' CERTIFICATE
RELATING TO EXCLUDABLE PROPERTY
(Eklutna PPA Collateral)

Chugach Electric Association, Inc.

This Officers' Certificate Relating to Excludable Property (this "Officers' Certificate") is provided pursuant to the Second Amended and Restated Indenture dated as of January 20, 2011, between Chugach Electric Association, Inc. (the "***Company***"), and U.S. Bank National Association, as trustee (the "***Trustee***"), as amended and supplemented (as so amended and supplemented, the "***Indenture***"). Capitalized terms not otherwise defined in this Officers' Certificate shall have the meanings assigned to them in the Indenture.

The Company has entered into that certain Eklutna Power Purchase Agreement dated as of December 28, 2018 (the "Power Purchase Agreement") between the Company and the Municipality of Anchorage, a political subdivision organized under the laws of the State of Alaska ("Seller"), pursuant to which the Company will purchase the Power (as defined in the Power Purchase Agreement) produced by that portion of the Eklutna Hydroelectric Project owned by Seller and designated in the Power Purchase Agreement as the "Chugach Portion".

Solely as a precaution in the event that the Power Purchase Agreement should be construed as a secured financing such that the Company shall be deemed to have acquired title to the Chugach Portion at any time (other than by exercise of an express purchase option granted under the terms of the Power Purchase Agreement), Purchaser has granted to Seller a protective security interest in and to the Collateral as defined in the Power Purchase Agreement.

Under the Power Purchase Agreement, the Company has an option to purchase the Chugach Portion at a future date. If the Company exercises its option, it will obtain a release from the Seller of any security interest in the Chugach Portion.

Pursuant to Section 1.6 of the Indenture, each of the undersigned officers of the Company hereby states that:

(a) He/she has read each of the conditions, covenants and relevant definitions contained in the Indenture, relating to the matters addressed in this Certificate;

(b) His/her opinions expressed below are based upon such review of the Indenture and on his/her knowledge of the Company acquired in his/her capacity noted below; and

(c) In his/her opinion, he/she has made such examination or investigation as is necessary to enable him/her to express an informed opinion with respect to the matters stated below.

In accordance with the definition of "Excludable Property" set forth in Section 1.1 of the Indenture, each of the undersigned, acting in his/her capacity as an Officer of the Company, hereby certifies that:

1. the property described in Exhibit A attached to this Officers' Certificate is not to become subject to the lien of the Indenture; and

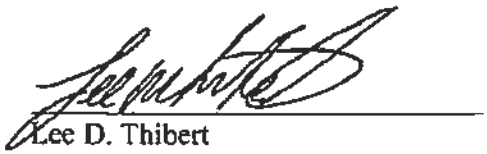
2. should the Company not have the use of such property it would remain capable of complying with the requirements of Section 14.14 of the Indenture.

[REMAINDER OF PAGE INTENTIONALLY OMITTED]

The undersigned officers have executed the foregoing Officers' Certificate as of the date set forth below.

Dated: December 28, 2018.

Officers:



Lee D. Thibert
Chief Executive Officer

Sherri L. Highers
Chief Financial Officer

EXHIBIT A

To

OFFICERS' CERTIFICATE RELATING TO EXCLUDABLE PROPERTY

(Eklutna PPA Collateral)

All right, title and interest of the Company in and to the following:

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EXHIBIT B

To

OFFICERS' CERTIFICATE RELATING TO EXCLUDABLE PROPERTY

(Eklutna PPA Collateral)

Eklutna Purchase Agreement
Exhibit A

August 2, 1989
Page 1 of 2

Lands, Easements and Rights-of-Way

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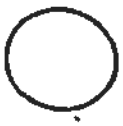

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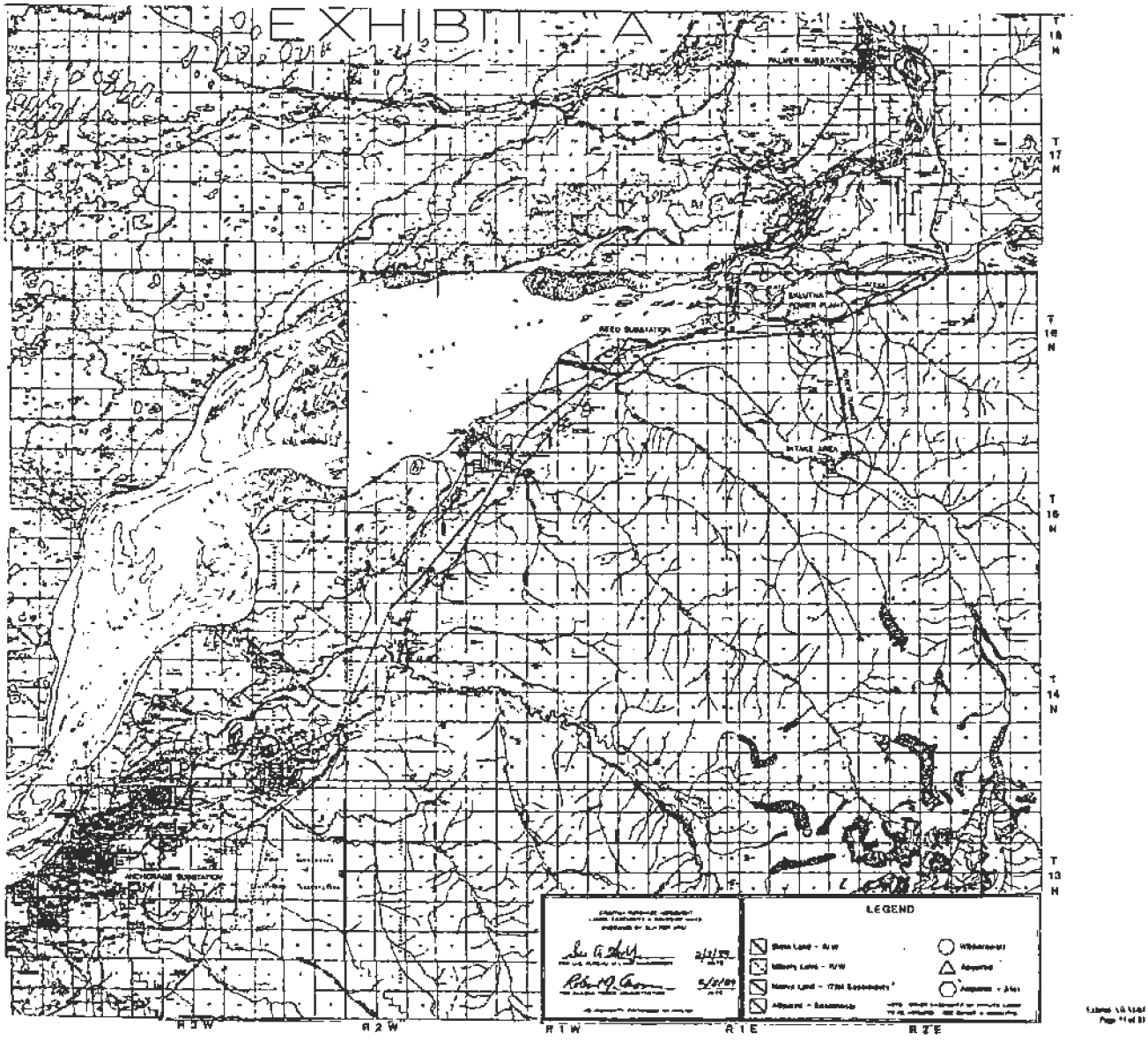
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TO BE RECORDED IN THE ANCHORAGE RECORDING DISTRICT

PROTECTIVE PARTIAL RELEASE BY U.S. BANK NATIONAL ASSOCIATION AS TRUSTEE TO CHUGACH ELECTRIC ASSOCIATION, INC. FROM LIEN OF THE SECOND AMENDED AND RESTATED INDENTURE OF TRUST DATED AS OF JANUARY 20, 2011 AS AMENDED AND SUPPLEMENTED

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, Chugach Electric Association, Inc., an Alaska electric cooperative (the "Company"), executed and delivered as of January 20, 2011, to U.S. Bank National Association, as Trustee, a certain Second Amended and Restated Indenture of Trust, as amended and supplemented (hereinafter called the "Indenture"); and

WHEREAS, the Company has entered into that certain Eklutna Power Purchase Agreement dated as of December ___, 2018 (the "Power Purchase Agreement") between the Company and the Municipality of Anchorage, a political subdivision organized under the laws of the State of Alaska ("Seller"), pursuant to which the Company will purchase the Power (as defined in the Power Purchase Agreement) produced by that portion of the Eklutna Hydroelectric Project owned by Seller and designated in the Power Purchase Agreement as the "Chugach Portion;" and

WHEREAS, solely as a precaution in the event that the Power Purchase Agreement should be construed as a secured financing such that the Company shall be deemed to have acquired title to the Chugach Portion at any time (other than by exercise of an express purchase option granted under the terms of the Power Purchase Agreement), Purchaser has granted to

Seller a protective security interest in and to the Collateral as defined in the Power Purchase Agreement; and

WHEREAS, it has been certified by the Company to the Trustee in accordance with the Indenture that the Collateral is not to become subject to the lien of the Indenture and that the Company will remain capable of complying with the requirements of Section 14.14 of the Indenture (the "Officers' Certificate Relating to Excludable Property (Eklutna PPA Collateral))", and the Trustee is in receipt of such certificate; and

WHEREAS, Section 6.10 of the Indenture provides that upon receipt of the Officers' Certificate Relating to Excludable Property (Eklutna PPA Collateral), the Trustee shall execute and deliver a release to be recorded, registered or filed evidencing that such Excludable Property is not subject to the lien of the Indenture.

NOW, THEREFORE, U.S. Bank National Association, in consideration of the premises, and pursuant to the authority vested in it as Trustee under the Indenture, does hereby release, remise and quitclaim unto the Company all the right, title and interest of such Trustee in and to the properties described in Attachment A attached hereto.

TO HAVE AND TO HOLD the property hereby released and remised to the Company, its successors and assigns (but only to the extent that such property is adjudged at any time in the future to be property of the Company, its successors and assigns), to its and their own proper use, benefit and behoof forever, free, clear and discharged of and from any and all liens and claims under and by virtue of the Indenture.

FURTHER PROVIDED, that the Company is authorized to file a financing statement amendment (including a copy of this partial release) on behalf of the Trustee in the appropriate offices of the State of Alaska that deletes the properties described in Attachment A attached hereto from the description of collateral subject to the security interest of the Indenture.

PROVIDED, HOWEVER, that nothing herein contained shall be construed to affect the residue of the security held by the Trustee, by virtue of the Indenture, or to release the payment of any part of the moneys, principal and interest, thereby secured and that may now remain unpaid.

The recitals herein contained are made on representation of the Company and the Trustee assumes no responsibility in respect thereof. This release is executed by the Trustee without any covenant or warranty of title, or any other covenant, warranty or representation, either expressed or implied, on its part, and shall be without recourse against the Trustee in any event whatsoever.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, U.S. Bank National Association has caused its corporate name to be hereunto affixed, and this instrument to be signed and sealed by one of its Vice Presidents on this 20th day of December, 2018.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By _____
Vice President

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 20th day of December, 2018, before me, a Notary Public in and for the State of Washington, personally appeared Thomas Zrust, to me known to be the Vice President of U.S. Bank National Association, the national banking association that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said national banking association for the uses and purposes therein mentioned and on oath stated that s/he was authorized to execute said instrument on behalf of said national banking association.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

_____
Print name:

Daniel Valerio
Notary Public in and for the State of Washington, residing at
Seattle
My commission expires: 4/17/19

147854807.4

ATTACHMENT A

DESCRIPTION OF RELEASED PROPERTY

All right, title and interest of the Company in and to the following:

The Chugach Portion (as defined in the Power Purchase Agreement) of the Eklutna Hydroelectric Project, as further described in **Attachment B**, including all of the following: all equipment, buildings, generators, inverters, step-up transformers, output breakers, protective and associated equipment, improvements, and other tangible assets, contract rights, easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for construction, operation, maintenance, generation and delivery of Power, and any Power attributable to such interest (except as and to the extent that such Power is delivered to the Company at the Delivery Point in accordance with the Power Purchase Agreement), and all proceeds thereof.

ATTACHMENT B

[INSERT SAME FACILITY DESCRIPTION THAT WILL BE EXHIBIT B TO THE POWER PURCHASE AGREEMENT]

Eklutna Purchase Agreement
Exhibit A

August 2, 1989
Page 1 of 2

Lands, Easements and Rights-of-Way

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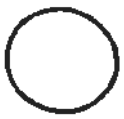

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State Land-R/W. Refers to rights-of-way across State-selected lands covering the transmission line east of "Eklutna Powerplant" to the Knik River.

Military Land-R/W. Refers to rights-of-way across military lands used for Eklutna transmission lines.

Acquired-3(e). Refers to approximately 2.5 acres of acquired land used for "Reed Substation" as described by ANCSA 3(e) determination AA-45155 dated July 30, 1985.

2. ANCSA 17(b) Easements.

Map symbol: Native Land - 17(b) Easements.

Refers to rights-of-way that are reserved for portions of the 115kV transmission line, access roads and other Eklutna facilities located on Native corporation lands, and exist as easement reservations in the ANCSA conveyances to the Native corporations pursuant to Section 17(b) of ANCSA. These easements will not be altered by the sale of Eklutna and the Purchasers may use these easements for their intended purposes.

3. APAd Acquired Land and Easements.

Refers to land and easements acquired by the Bureau of Reclamation (predecessor of APAd) during construction of Eklutna and now controlled by APAd. APAd will assign the land and easements to the Purchasers.

Legend Symbols and Description:

Acquired. Refers to approximately 0.8 acres of land owned by APAd at Palmer Substation.

Acquired-Easements. Refers to approximately 33 easements across private lands acquired by the Bureau of Reclamation (predecessor of APAd) and now held by APAd.

4. Other Easements on Private Land.

Map [Symbol]: Note: Other Easements on Private Lands To Be Acquired - See Exhibit A Narrative

Refers to approximately two hundred and fifty (250) parcels of private land located along the 115kV transmission line, many of which require title curative action for purposes of perfecting assignable easement rights or rights-of-way for the Purchasers. APAd shall be responsible for acquiring assignable easement rights or rights-of-way across these lands, for subsequent assignment to Purchasers.

5. Reservoir.

Eklutna Lake as designated on the map is the reservoir described in the body of the Agreement.

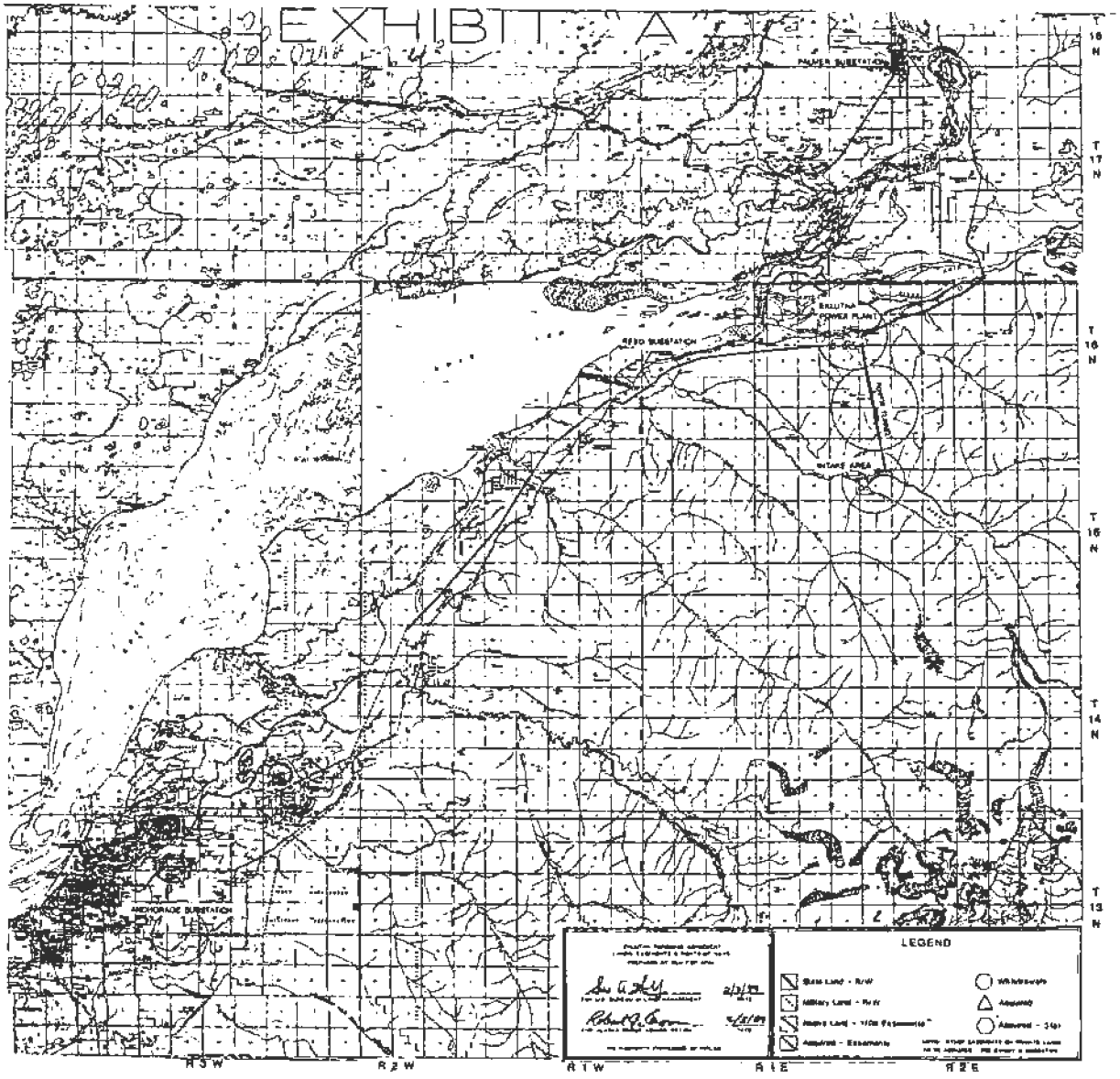


EXHIBIT "A"
T 18 N
T 17 N
T 16 N
T 15 N
T 14 N
T 13 N
R3W
R2W
R1W
R1E
R2E
LEGEND

AMENDMENT NO. 1 TO EKLUTNA POWER PURCHASE AGREEMENT

This AMENDMENT NO. 1 TO EKLUTNA POWER PURCHASE AGREEMENT, dated as of the 27th day of September, 2019 (this "**Eklutna PPA Amendment**"), is made and entered into by and between (i) **CHUGACH ELECTRIC ASSOCIATION, INC.**, an Alaska not-for-profit electric cooperative corporation ("**Purchaser**"), and (ii) the **MUNICIPALITY OF ANCHORAGE,** a political subdivision organized under the laws of the State of Alaska ("**Seller**"). Purchaser and Seller are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

WHEREAS, Purchaser and Seller entered into that certain Eklutna Power Purchase Agreement dated as of December 28, 2018 (the "**Eklutna PPA**");

WHEREAS, Section 15.7 of the Eklutna PPA provides that Purchaser and Seller may amend the Eklutna PPA upon the execution and delivery of a written agreement executed by each Party; and

NOW, THEREFORE, pursuant to Section 15.7 of the Eklutna PPA and in consideration for the premises and agreements hereinafter set forth, the Parties, intending to be legally bound, agree as follows:

1. Revision to Section 15.11. The following sentence is added at the end of Section 15.11 of the Eklutna PPA:

> It is the understanding of the Parties that this PPA, as a wholesale power agreement between public utilities governed by AS 42.05.431(b), will not take effect without the prior approval of the RCA, and will at all times after any such approval be subject to the RCA's continuing authority over wholesale power agreements.

2. Effective Date and Incorporation of Terms of Eklutna PPA. This Amendment shall be deemed effective as of the Effective Date as defined in Exhibit A to the Eklutna PPA and, without in any way limiting the effect of the amendment set forth in Section 1 of this Amendment, shall be subject to all the terms and conditions of the Eklutna PPA.

3. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Amendment.

[Remainder of the page intentionally left blank]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By _____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By _____

Name: Lee D. Thibert
Title: Chief Executive Officer

Exhibit 2

AMENDMENT NO. 2 TO
EKLUTNA POWER PURCHASE AGREEMENT

AMENDMENT NO. 2 TO EKLUTNA POWER PURCHASE AGREEMENT

This AMENDMENT NO. 2 TO EKLUTNA POWER PURCHASE AGREEMENT, dated as of the 28th day of October, 2019 (this "**Eklutna PPA Amendment**"), is made and entered into by and between (i) **CHUGACH ELECTRIC ASSOCIATION, INC.**, an Alaska not-for-profit electric cooperative corporation ("**Purchaser**"), and (ii) the **MUNICIPALITY OF ANCHORAGE,** a political subdivision organized under the laws of the State of Alaska ("**Seller**"). Purchaser and Seller are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

WHEREAS, Purchaser and Seller entered into that certain Eklutna Power Purchase Agreement dated as of December 28, 2018 (the "**Eklutna PPA**");

WHEREAS, Section 15.7 of the Eklutna PPA provides that Purchaser and Seller may amend the Eklutna PPA upon the execution and delivery of a written agreement executed by each Party; and

NOW, THEREFORE, pursuant to Section 15.7 of the Eklutna PPA and in consideration for the premises and agreements hereinafter set forth, the Parties, intending to be legally bound, agree as follows:

1. Revision to Section 10.1. Section 10.1 of the Eklutna PPA is deleted in its entirety and replaced with the following:

> **Section 10.1 Dispute Resolution**. In the event of any dispute arising under this PPA (a "**Dispute**"), within ten (10) Business Days following Notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies.

2. Effective Date and Incorporation of Terms of Eklutna PPA. This Amendment shall be deemed effective as of the Effective Date as defined in Exhibit A to the Eklutna PPA and, without in any way limiting the effect of the amendment set forth in Section 1 of this Amendment, shall be subject to all the terms and conditions of the Eklutna PPA.

3. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Amendment.

[*Remainder of the page intentionally left blank*]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By _____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By _____

Name: Lee D. Thibert
Title: Chief Executive Officer

Signature Page to
Amendment No. 2 to Eklutna PPA
between
Municipality of Anchorage and Chugach Electric Association, Inc.

Exhibit 3

Form of Amendment No. 3 to the Eklutna Power Purchase Agreement

AMENDMENT NO. 3 TO EKLUTNA POWER PURCHASE AGREEMENT

This AMENDMENT NO. 3 TO EKLUTNA POWER PURCHASE AGREEMENT, dated as of the [●] day of October, 2019 (this "**Eklutna PPA Amendment**"), is made and entered into by and between (i) **CHUGACH ELECTRIC ASSOCIATION, INC.**, an Alaska not-for-profit electric cooperative corporation ("**Purchaser**"), and (ii) the **MUNICIPALITY OF ANCHORAGE,** a political subdivision organized under the laws of the State of Alaska ("**Seller**"). Purchaser and Seller are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

WHEREAS, Purchaser and Seller entered into that certain Eklutna Power Purchase Agreement dated as of December 28, 2018 (the "**Eklutna PPA**");

WHEREAS, Section 15.7 of the Eklutna PPA provides that Purchaser and Seller may amend the Eklutna PPA upon the execution and delivery of a written agreement executed by each Party; and

NOW, THEREFORE, pursuant to Section 15.7 of the Eklutna PPA and Section III.E of the Stipulation (as defined in Exhibit A as amended pursuant to this Eklutna PPA Amendment), and in consideration for the premises and agreements in the Stipulation and as hereinafter set forth, the Parties, intending to be legally bound, agree as follows:

1. Revision to Section 8.2. Section 8.2 of the Eklutna PPA is hereby amended by the addition of a new subsection (C) reading in its entirety as follows:

> (C) If (i) Seller has not, on or before the fifth anniversary of the Closing (as defined in the Asset Purchase Agreement) (the "**Expenditure Deadline**"), received an appropriation of funds from the Assembly of Seller in the amount of $15 million for purposes of the planning, permitting, design, and construction (including any required demolition of existing structures) of the Alaska Center for Treatment, all as provided in Section III.E of the Stipulation (such purposes, the "**Required Use**"), or such appropriation ceases, at any time prior to the expenditure by Seller of the full amount of such $15 million for the Required Use, to remain in full force and effect, (ii) such funds have not, on or before the Expenditure Deadline, been deposited into a dedicated fund for use only for the Required Use, or any such funds (other than any of such funds that have been expended for the Required Use) cease, at any time prior to the expenditure by Seller of the full amount of such $15 million for the Required Use, to remain in such dedicated fund, (iii) one or more contracts requiring payment by Seller of the entire unexpended amount of such funds for the Required Use has not, on or before the Expenditure Deadline, been awarded by Seller pursuant to Title 7 of Anchorage Municipal Code, or (iv) Seller has not, on or before the Expenditure Deadline, become, or Seller ceases, at any time prior to the expenditure by Seller of the full amount of such $15 million for the Required Use, to remain, a party to such contract or contracts, then Purchaser shall offset against

any amounts due to Seller under this PPA any portion of such $15 million amount that has not been spent by Seller for the Required Use.

2. Amendment of Exhibit A. Exhibit A to the Eklutna PPA is hereby amended to add the following new defined terms:

"**Expenditure Deadline**" has the meaning set forth in Section 8.2(C).

"**Stipulation**" means the Stipulation Resolving All Issues entered into by and among Seller, Purchaser, Providence Health & Services, the Federal Executive Agencies, MEA, Homer Electric Association, Inc., Alaska Energy Authority, and ENSTAR Natural Gas Company, a Division of SEMCO Energy, Inc. dated October [●], 2019, and accepted and approved by the RCA on [●].

"**Required Use**" has the meaning set forth in Section 8.2(C).

3. Effective Date and Incorporation of Terms of Eklutna PPA. This Amendment shall be deemed effective as of the Effective Date as defined in Exhibit A to the Eklutna PPA and, without in any way limiting the effect of the amendment set forth in Section 1 of this Amendment, shall be subject to all the terms and conditions of the Eklutna PPA.

4. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Amendment.

[*Remainder of the page intentionally left blank*]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By_____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By_____

Name: Lee D. Thibert
Title: Chief Executive Officer

Execution Copy

BRU FUEL AGREEMENT

This BRU Fuel Agreement (this "**Agreement**"), dated as of December 28, 2018, is made and entered into between Municipality of Anchorage, Alaska, a political subdivision organized under the laws of the State of Alaska ("**Municipality**"), and Chugach Electric Association, Inc., a not-for-profit electric cooperative corporation organized under the laws of the State of Alaska ("**Chugach**").

RECITALS

WHEREAS, Municipality and Chugach have entered into that certain Asset Purchase and Sale Agreement (the "**Asset Purchase Agreement**") dated as of December 28, 2018 pursuant to which Chugach has acquired substantially all of the assets of Municipality's electric utility referred to as Municipal Light and Power ("**ML&P**").

WHEREAS, as an integral part of the transactions contemplated by the Asset Purchase Agreement, Chugach and Municipality have agreed to enter into this Agreement to provide for the pass-through of BRU costs of production to customers of Chugach after the Closing as stated herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Capitalized terms used but not defined herein have the meanings assigned to them in the Asset Purchase Agreement. In addition, the following terms have the meanings specified or referred to in this ARTICLE I:

"**Applicable Test Period**" means the annual period beginning on January 1 and ending on December 31 of each year.

"**Cost of Production**" means the allocable cost of production for the ML&P BRU Gas using all necessary capital costs and operating and maintenance expenses associated with the BRU Interest.

"**Excess BRU Gas**" means any ML&P BRU Gas not used by retail customers of Chugach in the Legacy Territory as and when such ML&P BRU Gas is produced.

"**Legacy Territory**" means ML&P's retail service territory as in existence as of immediately prior to the Closing

"**ML&P BRU Gas**" means any and all gas produced that is attributable to the BRU Interest acquired by Chugach pursuant to the Asset Purchase Agreement.

"**ML&P BRU Gas Transfer Price**" means the quotient obtained by dividing (i) the estimated revenue requirement to generate ML&P BRU Gas during the Applicable Test Period by (ii) the forecasted production for such ML&P BRU Gas during the Applicable Test Period.

ARTICLE II
USAGE OF ML&P BRU FUEL

Section 2.01 ML&P BRU Gas through December 31, 2033. From the Closing Date through and including December 31, 2033, Chugach will use (i) ML&P BRU Gas to serve retail customers of Chugach within the Legacy Territory at the ML&P BRU Gas Transfer Price and (ii) any Excess BRU Gas to serve other customers of Chugach at the ML&P BRU Gas Transfer Price, and will credit the proceeds of such use to ML&P's Deferred Regulatory Liability from Gas Sales account for the benefit of retail customers of Buyer within the ML&P legacy service area.

Section 2.02 ML&P BRU Gas after December 31, 2033. Chugach's obligations under Section 2.01 shall terminate on January 1, 2034. Beginning on January 1, 2034 and continuing thereafter, all Cost of Production will be recovered from all Chugach retail customers inside and outside of the Legacy Territory at the same rate.

ARTICLE III

MISCELLANEOUS

Section 3.01 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 3.01):

If to Municipality:

Municipality of Anchorage
632 W. 6th Avenue, Suite 850
Anchorage, AK 99501
E-mail: william.falsey@anchorageak.gov
Attention: William D. Falsey, Municipal Manager

with a copy to:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: rebecca.windtpearson@anchorageak.gov Attention: Rebecca A. Windt Pearson, Municipal Attorney
and a copy to:	K&L Gates LLP 925 Fourth Avenue, Suite 2900 Seattle, WA 98104-1158 E-mail: eric.freedman@klgates.com Attention: Eric E. Freedman
If to Chugach:	Chugach Electric Association, Inc. 5601 Electron Drive Anchorage, AK 99518 E-mail: Lee_Thibert@chugachelectric.com Attention: Lee D. Thibert, Chief Executive Officer
with a copy to:	Chugach Electric Association, Inc. 5601 Electron Drive Anchorage, AK 99518 E-mail: Matthew_Clarkson@chugachelectric.com Attention: Matthew C. Clarkson, General Counsel
and a copy to:	Stinson Leonard Street LLP Suite 2600 50 South Sixth Street Minneapolis, MN 55402 E-mail: james.bertrand@stinson.com Attention: James J. Bertrand

Section 3.02 Interpretation. For purposes of this Agreement, (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections and Exhibits means the Articles, Sections and Exhibits attached to this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be

construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

Section 3.03 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 3.04 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 3.05 Entire Agreement. This Agreement constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. Notwithstanding the previous sentence, in the event of a conflict between the terms of this Agreement and the Asset Purchase Agreement, the terms of the Asset Purchase Agreement shall control.

Section 3.06 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed, except that Chugach may assign this Agreement to any Affiliate or any Person that acquires all or substantially all of its assets, whether by merger, asset purchase or otherwise. No assignment shall relieve the assigning party of any of its obligations hereunder.

Section 3.07 No Third-party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 3.08 Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 3.09 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(a) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Alaska, without regard to conflict of law principles that would result in the application of the laws of any other jurisdiction.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY MAY BE INSTITUTED IN THE SUPERIOR COURT OF THE STATE OF ALASKA IN IN THE THIRD JUDICIAL DISTRICT, LOCATED IN ANCHORAGE, ALASKA, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURT AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 3.09(c).

Section 3.10 Specific Enforcement. The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity. The parties acknowledge and agree that (a) the parties shall be entitled to an injunction, specific performance or other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereto, without proof of damages, this

being in addition to any other remedy to which they are entitled under this Agreement and (b) the right to specific enforcement is an integral part of the transactions contemplated by this Agreement and without that right, neither Municipality nor Chugach would have entered into this Agreement. Each party agrees that it will not oppose the granting of specific performance and other equitable relief on the basis that the other parties have an adequate remedy at law or that an award of specific performance is not an appropriate remedy for any reason at law or equity. The parties acknowledge and agree that any party seeking an injunction to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in accordance with this Section 3.10 shall not be required to provide any bond or other security in connection with any such injunction.

Section 3.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 3.12 Conditions. This Agreement and the Parties' obligations set forth herein are contingent upon the occurrence of the Closing (as defined in the Asset Purchase Agreement). In addition, this Agreement (1) does not take effect until the prior approval of the RCA and (2) is, at all times, subject to revision by the RCA.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this BRU Fuel Agreement to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By _____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By _____

Name: Lee D. Thibert
Title: Chief Executive Officer

IN WITNESS WHEREOF, the parties hereto have caused this BRU Fuel Agreement to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By_____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By_____

Name: Lee D. Thibert
Title: Chief Executive Officer

Signature Page to
BRU Fuel Agreement
by and between
Municipality of Anchorage, Alaska, and Chugach Electric Association, Inc.

EXHIBIT 4

Form of Amended and Restated BRU Fuel Agreement

AMENDED AND RESTATED BRU FUEL AGREEMENT

This Amended and Restated BRU Fuel Agreement (this "**Agreement**"), dated as of [●], 2019, is made and entered into between Municipality of Anchorage, Alaska, a political subdivision organized under the laws of the State of Alaska ("**Municipality**"), and Chugach Electric Association, Inc., a not-for-profit electric cooperative corporation organized under the laws of the State of Alaska ("**Chugach**").

RECITALS

WHEREAS, Municipality and Chugach have entered into that certain Asset Purchase and Sale Agreement (as amended from time to time, the "**Asset Purchase Agreement**") dated as of December 28, 2018 pursuant to which Chugach will acquire substantially all of the assets of Municipality's electric utility referred to as Municipal Light and Power ("**ML&P**").

WHEREAS, as an integral part of the transactions contemplated by the Asset Purchase Agreement, Chugach and Municipality entered into the BRU Fuel Agreement (the "**Original BRU Agreement**") dated as of December 28, 2018 to provide for the pass-through of BRU costs of production to customers of Chugach after the Closing as stated herein.

WHEREAS, the Municipality and Chugach wish to amend and restate the Original BRU Agreement in its entirety as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Capitalized terms used but not defined herein have the meanings assigned to them in the Asset Purchase Agreement. In addition, the following terms have the meanings specified or referred to in this ARTICLE I:

"**GTP**" means gas transfer price.

"**Legacy BRU Interest**" means the Legacy Chugach BRU Interest or the Legacy ML&P BRU Interest, as applicable.

"**Legacy Chugach BRU Interest**" means the interest in the BRU owned by Chugach immediately prior to Closing.

"Legacy Chugach Territory" means Chugach's retail service territory as in existence as of immediately prior to the Closing.

"**Legacy ML&P BRU Interest**" means the interest in the BRU owned by ML&P immediately prior to Closing.

"Legacy ML&P Territory" means ML&P's retail service territory as in existence as of immediately prior to the Closing.

"**Legacy Territory**" means the Legacy Chugach Territory or the Legacy ML&P Territory, as applicable.

"**Served Territory**" means (a) the Legacy Chugach Territory, to the extent that Chugach elects at any time after Closing to use gas sourced from the Legacy ML&P BRU Interest as fuel to generate electricity to serve native load in the Legacy Chugach Territory, and (b) the Legacy ML&P Territory, to the extent that Chugach elects at any time after Closing to use gas sourced from the Legacy Chugach BRU Interest as fuel to generate electricity to serve native load in the Legacy ML&P Territory.

"**Stipulation**" means the Stipulation Resolving All Issues entered into by and among ML&P, Chugach, Providence Health & Services, the Federal Executive Agencies, Matanuska Electric Association, Inc., Homer Electric Association, Inc., Alaska Energy Authority, and ENSTAR Natural Gas Company, a Division of SEMCO Energy, Inc., dated October [●], 2019, and accepted and approved by the Regulatory Commission of Alaska ("RCA") on [●].

"**Supplying Territory**" means (a) with respect to gas sourced from the Legacy ML&P BRU Interest, the Legacy ML&P Territory; and (b) with respect to gas sourced from the Legacy Chugach BRU Interest, the Legacy Chugach Territory.

"**Tariff**" has the meaning set forth in Section 2.03.

ARTICLE II
BRU MATTERS

Section 2.01 Legacy BRU Interest Accounting. For ratemaking purposes, Chugach shall separately account for the costs of producing gas from the Legacy ML&P BRU Interest and Legacy Chugach BRU Interest and shall separately flow the costs and benefits of each Legacy BRU Interest through separate GTPs and fuel charges to the respective ratepayers in the Legacy ML&P Territory and Legacy Chugach Territory, as applicable, over the economic life of the BRU.

Section 2.02 Documentation and Filing Requirements. Before entering into any economy energy sale of electricity generated using Chugach-owned BRU gas (as distinguished from gas purchased from another BRU producer), Chugach shall estimate and document the margin it will earn on that economy energy sale using the market value proxy specified in Section 2.05 to determine the value of BRU gas used as fuel for the specific sale. Chugach shall maintain records of all such estimates and file them with the RCA with each quarterly Fuel and Purchased Power Cost Adjustment filing.

Section 2.03 Limitations on Sales. If Chugach elects to use gas sourced from the Legacy ML&P BRU Interest or the Legacy Chugach BRU Interest to generate electricity for economy energy

sales, Chugach shall make such a sale only on a basis consistent with Tariff Sheet No. 101 of Chugach's current tariff (the "**Tariff**"), using the market value of the gas (as determined in advance pursuant to Section 2.02) to determine the cost of "additional fuel," as such term is used in the Tariff. Each time Chugach elects to use gas sourced from either the Legacy Chugach BRU Interest or the Legacy ML&P BRU Interest to generate electricity for economy energy sales, it shall also offer those same BRU natural gas volumes to ENSTAR for purchase. If ENSTAR offers more for the natural gas volumes than the market value of the gas (as determined by Chugach in advance pursuant to Section 2.02), Chugach shall sell those natural gas volumes to ENSTAR. If Chugach uses gas sourced from either the Legacy Chugach BRU Interest or the Legacy ML&P BRU Interest to generate electricity for economy energy sales, or if Chugach sells gas to ENSTAR pursuant to this Section 2.03, Chugach shall credit the amount of the proxy market value of such gas (as determined in advance pursuant to Section 2.02) to the customers in the Supplying Territory.

Section 2.04 Credits to Legacy Customers. If Chugach elects to use BRU gas sourced from the Legacy ML&P BRU Interest as fuel for the purpose of generating electricity to serve native load in the Legacy Chugach Territory, or to use BRU gas sourced from the Legacy Chugach BRU Interest as fuel for the purpose of generating electricity to serve native load in the Legacy ML&P Territory, Chugach shall credit the customers in the Supplying Territory in the amount of the market value proxy of such gas, as determined pursuant to Section 2.02, and shall charge the same market value proxy price to the customers in the Served Territory. If Chugach elects to use BRU gas for either such purpose, it shall (a) restrict funds for the benefit of ratepayers in the Supplying Territory in an amount equal to the product of (i) the positive difference, if any, obtained by subtracting the BRU GTP applicable to the Supplying Territory from the market value proxy price of gas so used and (ii) the volume of BRU gas so used; (b) promptly make a filing with the RCA proposing and seeking a determination by the RCA of whether such funds should be restored to ratepayers in the Supplying Territory through Chugach's quarterly Fuel and Purchased Power Cost Adjustment filing or instead by deposit in the Deferred Regulatory Liability for Gas Sales ("DRLGS") Account established pursuant to _____; and (c) contemporaneously with such filing, notify all parties to the Stipulation that such filing has been made. When BRU gas is used for the purpose described in this paragraph, Chugach shall recognize the cost of the gas to the Supplying Territory as a BRU gas expense in the month in which the transaction occurred, valued in an amount equal to the product of (i) the effective BRU GTP of the Supplying Territory and (ii) the volume of BRU gas purchased by the Served Territory. In addition, Chugach shall recognize the payment of such cost by the Served Territory ratepayers in the month in which such transaction occurred to ensure that the customers in the Supplying Territory are not charged for the cost of producing gas that is purchased by the Served Territory.

Section 2.05 Market Price. Unless the RCA approves another market value proxy, the market price for purposes of Sections 2.02, 2.03 and 2.04 shall be the greater of (i) Chugach's opportunity cost of gas for meeting firm load requirements on its system, which generally would be Chugach's highest priced contracted gas, or (ii) 90% of the Cook Inlet Prevailing Value of Gas most recently published by the Alaska Department of Revenue pursuant to 15 AAC 55.173(b). Chugach shall notify the parties to the Stipulation in advance of any filing seeking RCA approval for a different market value proxy.

ARTICLE III
MISCELLANEOUS

Section 3.01 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 3.01):

If to Municipality:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: william.falsey@anchorageak.gov Attention: William D. Falsey, Municipal Manager
with a copy to:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: rebecca.windtpearson@anchorageak.gov Attention: Rebecca A. Windt Pearson, Municipal Attorney
and a copy to:	K&L Gates LLP 925 Fourth Avenue, Suite 2900 Seattle, WA 98104-1158 E-mail: eric.freedman@klgates.com Attention: Eric E. Freedman
If to Chugach:	Chugach Electric Association, Inc. 5601 Electron Drive Anchorage, AK 99518 E-mail: Lee_Thibert@chugachelectric.com Attention: Lee D. Thibert, Chief Executive Officer
with a copy to:	Chugach Electric Association, Inc. 5601 Electron Drive Anchorage, AK 99518 E-mail: Matthew_Clarkson@chugachelectric.com Attention: Matthew C. Clarkson, General Counsel
and a copy to:	Stinson LLP Suite 2600 50 South Sixth Street Minneapolis, MN 55402

E-mail: james.bertrand@stinson.com
Attention: James J. Bertrand

Section 3.02 Interpretation. For purposes of this Agreement, (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections and Exhibits means the Articles, Sections and Exhibits attached to this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

Section 3.03 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 3.04 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 3.05 Entire Agreement. This Agreement constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter, including the Original BRU Agreement.

Section 3.06 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed, except that Chugach may assign this Agreement to any Affiliate or any Person that acquires all or substantially all of its assets, whether by merger, asset purchase or otherwise. No assignment shall relieve the assigning party of any of its obligations hereunder.

Section 3.07 No Third-party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 3.08 Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 3.09 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(a) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Alaska, without regard to conflict of law principles that would result in the application of the laws of any other jurisdiction.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY MAY BE INSTITUTED IN THE SUPERIOR COURT OF THE STATE OF ALASKA IN IN THE THIRD JUDICIAL DISTRICT, LOCATED IN ANCHORAGE, ALASKA, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURT AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C)

SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 3.09(c).

Section 3.10 Specific Enforcement. The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity. The parties acknowledge and agree that (a) the parties shall be entitled to an injunction, specific performance or other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereto, without proof of damages, this being in addition to any other remedy to which they are entitled under this Agreement and (b) the right to specific enforcement is an integral part of the transactions contemplated by this Agreement and without that right, neither Municipality nor Chugach would have entered into this Agreement. Each party agrees that it will not oppose the granting of specific performance and other equitable relief on the basis that the other parties have an adequate remedy at law or that an award of specific performance is not an appropriate remedy for any reason at law or equity. The parties acknowledge and agree that any party seeking an injunction to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in accordance with this Section 3.10 shall not be required to provide any bond or other security in connection with any such injunction.

Section 3.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 3.12 Conditions. This Agreement and the Parties' obligations set forth herein are contingent upon the occurrence of the Closing (as defined in the Asset Purchase Agreement). In addition, this Agreement (1) does not take effect until the prior approval of the RCA and (2) is, at all times, subject to revision by the RCA.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Amended and Restated BRU Fuel Agreement to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By_____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By_____

Name: Lee D. Thibert
Title: Chief Executive Officer

Execution Copy

PAYMENT IN LIEU OF TAXES AGREEMENT

This Payment in Lieu of Taxes Agreement (this "**Agreement**"), dated as of December 28, 2018, is made and entered into between Municipality of Anchorage, Alaska, a political subdivision organized under the laws of the State of Alaska ("**Municipality**") and Chugach Electric Association, Inc., a not-for-profit electric cooperative corporation organized under the laws of the State of Alaska ("**Chugach**").

RECITALS

WHEREAS, Municipality and Chugach have entered into that certain Asset Purchase and Sale Agreement (the "**Asset Purchase Agreement**") dated as of December 28, 2018 pursuant to which Chugach has acquired substantially all of the assets of Municipality's electric utility referred to as Municipal Light and Power ("**ML&P**"). Capitalized terms used but not defined herein have the meanings set forth in the Asset Purchase Agreement.

WHEREAS, as an integral part of the transactions contemplated by the Asset Purchase Agreement, Chugach and Municipality have entered into this Agreement.

WHEREAS, ML&P previously paid Municipality municipal utility service assessments pursuant to AMC 26.10.025 for police and fire protection and other governmental services provided by Municipality and following the closing of the Asset Purchase Agreement Chugach has agreed to make the PILT Payments (as defined below) for such governmental services as set forth herein and accordingly such payments are meant to be a tax obligation.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

The following terms have the meanings specified or referred to in this ARTICLE I:

"**Adjusted Net Book Value**" means, for any year, the product of (i) the net book value of ML&P plant in service located within each district in the Legacy Territory as of the Closing Date and (ii) the Overall Plant in Service Change.

"**Applicable Property**" means property subject to PILT Payments.

"**Asset Purchase Agreement**" has the meaning set forth in the recitals.

"**Calculation Spreadsheet**" has the meaning set forth in Section 2.05.

"**Chugach's Accountants**" means KPMG LLP or its successor.

"**Independent Accountant**" means an independent regionally recognized financial consulting firm or a firm of independent certified public accountants, other than Municipality's Accountants, ML&P's accountants or Chugach's Accountants, mutually agreeable to Chugach and Municipality.

"**Legacy Territory**" means ML&P's service area as in existence at the Closing Date.

"**Millage Rate**" means the rate, as in effect at January 1 of each year, that is determined pursuant to AS 29.45.240 for property in each district of the Legacy Territory.

"**ML&P**" has the meaning set forth in the recitals.

"**Municipality's Accountants**" means BDO USA, LLP or its successor.

"**Objection Notice**" has the meaning set forth in Section 2.05.

"**Overall Plant in Service Change**" means a fraction of which (a) the numerator is the net book value of all Chugach plant in service located in the Municipality of Anchorage as of January 1 of the current year, and (b) the denominator is the sum of (x) the net book value of ML&P plant in service located within the Municipality of Anchorage on the Closing Date plus (y) the net book value of Chugach plant in service located within the Municipality of Anchorage on the Closing Date.

"**Payment Term**" has the meaning set forth in Section 2.06.

"**PILT Payment**" has the meaning set forth in Section 2.01.

ARTICLE II
PILT PAYMENTS

Section 2.01 Payment in Lieu of Taxes. Chugach shall pay to Municipality an annual payment in lieu of taxes (the "**PILT Payment**") equal to the product, for each district in the Legacy Territory, of (i) the Adjusted Net Book Value for the current year, and (ii) the current Millage Rate for each such district. The PILT Payment shall be variable in amount and recalculated each year as set forth herein. Exhibit A sets forth an example of the calculation of PILT Payments for illustrative purposes only.

Section 2.02 Collection of PILT Payments. Chugach agrees that any amounts that Chugach collects from retail customers in connection with the PILT Payments will be collected solely from retail customers of Chugach in the Legacy Territory until December 31, 2033. Beginning on January 1, 2034, Chugach shall collect such amounts from retail customers of Chugach within the Municipality without restriction.

Section 2.03 Timing of PILT Payment. Chugach shall pay the PILT Payments on or before July 15 of such year.

Section 2.04 Commencement of PILT Payments. PILT Payments shall commence in the calendar year following ML&P's last municipal utility service assessment payment under AMC 26.10.025.

Section 2.05 Annual Determination of PILT Payments. Not later than April 15 of each calendar year of the Payment Term, Chugach shall deliver to Municipality Chugach's calculation of the PILT Payment to be made in such calendar year (the "**Calculation Spreadsheet**"). Following delivery of the Calculation Spreadsheet by Chugach, Municipality will be entitled to review the Calculation Spreadsheet and related supporting schedules, analyses, and work papers, and Chugach will cooperate reasonably with Municipality and its representatives in such examination, including by providing answers to questions asked by Municipality and its representatives and by making available to Municipality and its representatives any records under the reasonable control of Chugach or its representatives that are reasonably requested by Municipality in connection with its review of the Calculation Spreadsheet. If Municipality objects to all or part of the Calculation Spreadsheet as delivered by Chugach, Municipality must deliver written notice of any such objection to Chugach not more than 120 days after Chugach delivers such Calculation Spreadsheet to Municipality (an "**Objection Notice**"). Any Objection Notice will specify, in reasonable detail, the nature and amount, if discernable, of any and all items in dispute, the amounts of any proposed adjustments, and the basis for Municipality's proposed adjustments. If Municipality does not deliver an Objection Notice to Chugach within such 120-day period, Municipality will be deemed to have accepted the calculation of the PILT Payment contained in the Calculation Spreadsheet delivered by Chugach. If Municipality delivers an Objection Notice to Chugach within such 120-day period, Chugach and Municipality will use commercially reasonable efforts to resolve all objections. If Chugach and Municipality do not reach a final resolution of all objections within 30 days after delivery of an Objection Notice, Chugach and Municipality will submit all unresolved objections to an Independent Accountant for resolution in accordance with Section 2.08(b)(iii) of the Asset Purchase Agreement. In the event a dispute regarding the calculation of a PILT Payment remains unresolved as of July 15 of the applicable calendar year, Chugach shall only be required to make such payments as are set forth in the applicable Calculation Spreadsheet until such time as the dispute is resolved, provided that Municipality's acceptance of such payments from Chugach shall not operate or be construed as a waive in any respect of Municipality's right to object to all or part of the Calculation Spreadsheet or exercise any other right, remedy, power or privilege arising from this Agreement.

Section 2.06 Term of PILT Payments. PILT Payments shall be made for a term of 50 years including the first such payment (the "**Payment Term**").

Section 2.07 Sales of Property. In the event Chugach sells any Applicable Property, the transferee shall not be assessed a property tax on the same Applicable Property for the same year.

Section 2.08 No Other Taxes or Municipal Charges; Nondiscrimination.

(a) During the Payment Term, in the event that Municipality enacts, adopts, or applies a real or personal property tax on the Applicable Property, the amount of such tax paid by Chugach with respect to the Applicable Property shall be credited against amounts due to Municipality under this Agreement.

(b) In accordance with AMC 26.10.025B, the Millage Rates used to calculate the PILT Payments shall be the rates assessed owners of real and personal property in each district.

Section 2.09 Tax Obligation. Chugach and Municipality agree not to assert in any manner, including in a court, regulatory or bankruptcy proceeding, that the PILT Payments are not a tax obligation.

Section 2.10 Proofs of Claim. In the event that Chugach becomes a debtor in a bankruptcy proceeding, Chugach agrees and will be automatically, and without further documentation or agreement, be deemed to stipulate in such proceeding that:

(a) Municipality may file proof(s) of claim pursuant to 11 U.S.C. §501, §502(i),and / or §507(a)(8), as an allowed claim(s) by a governmental unit for all PILT Payments due and owing at the time of the bankruptcy filing;

(b) All of such PILT Payments shall constitute taxes as defined in 11 U.S.C. §507(a)(8)(A) and / or (C), and

(c) Municipality shall be treated in any plan of reorganization proposed by Chugach as, or on par with, the treatment of the tax claimants under 11 U.S.C. §502(i) or §507(a)(8), and shall be entitled to the identical priority treatment as other §507(a)(8) claimants in such plan of reorganization.

Section 2.11 Set Off. In the event that (i) Chugach has notified Municipality under Section 8.05 of the Asset Purchase Agreement that Chugach is entitled to indemnification from Municipality with respect to any Third Party Claim or Direct Claim, (ii) Municipality has notified Chugach that (A) Municipality has determined that it will assume the defense of such Third Party Claim or (B) Municipality acknowledges that Chugach is entitled to indemnification from Municipality for such Direct Claim, and (iii) either (A) Municipality has not, within sixty (60) days after delivery of any such notice to Chugach, requested an appropriation of funds from the Assembly of Municipality for purposes of paying any amount required to be paid or reimbursed in connection with such Third Party Claim or Direct Claim, or (B) Municipality has requested an appropriation of funds from the Assembly of Municipality for such purposes but has not received an appropriation of such funds, Chugach will be entitled to withhold all or part of any amount due to Municipality under this Agreement for purposes of paying or reimbursing any Losses that have been determined, in accordance with the provisions of ARTICLE VIII of the Asset Purchase Agreement, to be due and owing from Municipality to any Buyer Indemnitee under ARTICLE VIII of the Asset Purchase Agreement in connection with such Third Party Claim or Direct Claim. In the event that (i) Chugach has notified Municipality under Section 8.05 of the Asset Purchase Agreement that Chugach is entitled to indemnification from Municipality with respect to any Third Party Claim or Direct Claim, (ii) Municipality fails to assume the defense of such Third Party Claim or provide indemnification for such Direct Claim, (iii) Chugach, in accordance with the provisions of ARTICLE VIII of the Asset Purchase Agreement, pursues its available legal remedies against Municipality for such failure and obtains a final judgment requiring Municipality to indemnify Chugach in accordance with ARTICLE VIII of the Asset Purchase Agreement for Chugach's Losses in connection with such Third Party Claim or Direct Claim, and (iv) either (A) Municipality has not, within sixty (60) days after issuance of such judgment, requested an appropriation of funds from the Assembly of Municipality for purposes of paying such Losses, or (B) Municipality has requested an appropriation of funds from the Assembly of Municipality for such purposes but has

not received an appropriation of such funds, Chugach will be entitled to withhold all or part of any amount due to Municipality under this Agreement for purposes of paying or reimbursing such Losses.

Section 2.12 Remedies. All rights and remedies available to Municipality for the collection of taxes shall apply to the PILT Payments hereunder, including, but not limited to, the rights and remedies provided in AMC 12.15.060(C) and AMC 12.15.070, and all such rights and remedies are hereby reserved notwithstanding anything to the contrary herein.

ARTICLE III

MISCELLANEOUS

Section 3.01 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 3.01):

If to Municipality:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: william.falsey@anchorageak.gov Attention: William D. Falsey, Municipal Manager
with a copy to:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: rebecca.windtpearson@anchorageak.gov Attention: Rebecca A. Windt Pearson, Municipal Attorney
and a copy to:	K&L Gates LLP 925 Fourth Avenue, Suite 2900 Seattle, WA 98104-1158 E-mail: eric.freedman@klgates.com Attention: Eric E. Freedman
If to Chugach:	Chugach Electric Association, Inc. 5601 Electron Drive Anchorage, AK 99518 E-mail: Lee_Thibert@chugachelectric.com

Attention: Lee D. Thibert, Chief Executive Officer

with a copy to:

Chugach Electric Association, Inc.
5601 Electron Drive
Anchorage, AK 99518
E-mail: Matthew_Clarkson@chugachelectric.com
Attention: Matthew C. Clarkson, General Counsel

and a copy to:

Stinson Leonard Street LLP
Suite 2600
50 South Sixth Street
Minneapolis, MN 55402
E-mail: james.bertrand@stinson.com
Attention: James J. Bertrand

Section 3.02 Interpretation. For purposes of this Agreement, (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections and Exhibits means the Articles, Sections and Exhibits attached to this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

Section 3.03 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 3.04 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 3.05 Entire Agreement. This Agreement constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of a conflict between the terms of this Agreement and the Asset Purchase Agreement, the terms of the Asset Purchase Agreement shall control.

Section 3.06 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed, except that Chugach may assign this Agreement to any Affiliate or any Person that acquires all or substantially all of its assets, whether by merger, asset purchase or otherwise. No assignment shall relieve the assigning party of any of its obligations hereunder.

Section 3.07 No Third-party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 3.08 Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 3.09 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(a) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Alaska without regard to conflict of law principles that would result in the application of the laws of any other jurisdiction.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY MAY BE INSTITUTED IN THE SUPERIOR COURT OF THE STATE OF ALASKA IN THE THIRD JUDICIAL DISTRICT, LOCATED IN ANCHORAGE, ALASKA, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURT AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS Section 3.09(c).

Section 3.10 Specific Enforcement. The parties agree that irreparable damage would occur if any provision of this Agreement (including timely payment of PILT Payments) were not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity. The parties acknowledge and agree that (a) the parties shall be entitled to an injunction, specific performance or other equitable relief to prevent breaches of this Agreement (including timely payment of PILT Payments) and to enforce specifically the terms and provisions hereto, without proof of damages, this being in addition to any other remedy to which they are entitled under this Agreement and (b) the right to specific enforcement is an integral part of the transactions contemplated by this Agreement and without that right, neither Municipality nor Chugach would have entered into this Agreement. Each party agrees that it will not oppose the granting of specific performance and other equitable relief on the basis that the other parties have an adequate remedy at law or that an award of specific performance is not an appropriate remedy for any reason at law or equity. The parties acknowledge and agree that any party seeking an injunction to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in accordance with this Section 3.10 shall not be required to provide any bond or other security in connection with any such injunction.

Section 3.11 Waiver of Sovereign Immunity. Municipality agrees that it is subject to civil and commercial suit for any breach of contract obligations under this Agreement. To the extent that Municipality may be entitled to claim sovereign, governmental, or municipal immunity from any liability in such a civil or commercial suit by Chugach, Municipality hereby agrees not to claim, and hereby waives, such sovereign, governmental, or municipal immunity.

Section 3.12 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 3.13 Conditions Precedent. This Agreement and the Parties' obligations set forth herein are contingent upon the occurrence or waiver of each of the following events:

(a) The Closing (as defined in the Asset Purchase Agreement) shall have occurred; and

(b) RCA approval of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Payment in Lieu of Taxes Agreement to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By _____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By _____

Name: Lee D. Thibert
Title: Chief Executive Officer

IN WITNESS WHEREOF, the parties hereto have caused this Payment in Lieu of Taxes Agreement to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By_____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By_____

Name: Lee D. Thibert
Title: Chief Executive Officer

EXHIBIT A

PILT PAYMENTS CALCULATION EXAMPLE

PILT Agreement
Municipality of Anchorage and Chugach Electric Association, Inc.

Exhibit A
Example: Calculation of Payments in Lieu of Taxes (PILT)
For Illustrative Purposes Only

Summary Calculations - *All Values Are for Illustrative Purposes Only*

Line No.		[A] At Closing	[B] Contract Year 1	[C] Contract Year 2	[D] Contract Year 3
1	NBV at Closing, ML&P Legacy Territory	$ 704,901,046			
2	NBV at Closing, Chugach Legacy	$ 626,025,041			
3	NBV at Closing, Total System	$ 1,330,926,087	$ 1,346,897,200	$ 1,407,103,505	$ 1,371,925,917
4	Incremental System NBV Growth Rate		1.20%	4.47%	-2.50%
5	Blended Mill Rate		13.57	13.84	14.19
	Calculation (Terms as Defined in the PILT Agreement)				
6	Overall Plant in Service Change *Line 3 / Line 3 Column [A]*		1.0120	1.0572	1.0308
7	Adjusted Net Book Value *Line 1 Column [A] * Line 6*	$ 704,901,046	$ 713,359,859	$ 745,247,044	$ 726,615,868
8	PILT Payment *Line 7 * Line 5 / 1,000*		$ 9,680,561	$ 10,314,799	$ 10,307,9[illegible]

Detailed Calculations - *All Values Are for Illustrative Purposes Only*

At Closing:
Net Book Value (NBV) of Plant in Service within the Municipality of Anchorage (MOA)

Service Area	NBV at Closing: Assets within MOA		System NBV
District	ML&P Legacy Territory	Chugach Legacy	at Closing[1]
1	$211,740,497		
3	$139,036,868		
5	$15,132		
10	$576,112		
16	$348,326,106		
22	$4,778,530		
51	$427,801		
Total	$704,901,046	$626,025,041	$1,330,926,087

[1] System net book value based on Chugach Electric Association, Inc.'s total net plant within the Municipality of Anchorage, at Closing. The net book value shall be based on account balances on the first day of the month following closing.

Contract Year 1

Overall Plant in Service Change

System NBV within MOA at Closing	$1,330,926,087
System NBV within MOA on January 1, Contract Year 1	$1,346,897,200
Difference	$15,971,113
Percent Difference	1.20%

Service Area District	Net Plant - ML&P Legacy Territory at Closing	Overall Plant in Service Change	Adjusted NBV, Contract Year 1	Mill Levy	PILT
1	$211,740,497	1.20%	$214,281,383	16.40	$3,514,215
3	$139,036,868	1.20%	$140,705,310	16.40	$2,307,567
5	$15,132	1.20%	$15,314	13.45	$206
10	$576,112	1.20%	$583,026	16.07	$9,369
16	$348,326,106	1.20%	$352,506,019	10.70	$3,771,814
22	$4,778,530	1.20%	$4,835,872	14.68	$70,991
51	$427,801	1.20%	$432,935	14.78	$6,399
Total	$704,901,046		$713,359,859		$9,680,561

Contract Year 2

Overall Plant in Service Change

System NBV within MOA at Closing	$1,330,926,087
System NBV within MOA on January 1, Contract Year 2	$1,407,103,505
Difference	$76,177,418
Percent Difference	5.72%

Service Area District	Net Plant - ML&P Legacy Territory at Closing	Overall Plant in Service Change	Adjusted NBV, Contract Year 2	Mill Levy	PILT
1	$211,740,497	5.72%	$223,859,761	16.73	$3,745,174
3	$139,036,868	5.72%	$146,994,837	16.73	$2,459,224
5	$15,132	5.72%	$15,998	13.72	$219
10	$576,112	5.72%	$609,087	16.39	$9,983
16	$348,326,106	5.72%	$368,263,038	10.91	$4,017,750
22	$4,778,530	5.72%	$5,052,035	14.97	$75,629
51	$427,801	5.72%	$452,287	15.08	$6,820
Total	$704,901,046		$745,247,044		$10,314,799

Contract Year 3

Overall Plant in Service Change

System NBV within MOA at Closing	$1,330,926,087
System NBV within MOA on January 1, Contract Year 3	$1,371,925,917
Difference	$40,999,830
Percent Difference	3.08%

Service Area District	Net Plant - ML&P Legacy Territory at Closing	Overall Plant in Service Change	Adjusted NBV, Contract Year 3	Mill Levy	PILT
1	$211,740,497	3.08%	$218,263,267	17.15	$3,743,215
3	$139,036,868	3.08%	$143,319,967	17.15	$2,457,937
5	$15,132	3.08%	$15,598	14.06	$219
10	$576,112	3.08%	$593,860	16.80	$9,977
16	$348,326,106	3.08%	$359,056,462	11.18	$4,014,251
22	$4,778,530	3.08%	$4,925,735	15.34	$75,561
51	$427,801	3.08%	$440,980	15.46	$6,818
Total	$704,901,046		$726,615,868		$10,307,978

AMENDMENT NO. 1 TO PAYMENT IN LIEU OF TAXES AGREEMENT

THIS AMENDMENT NO. 1 TO PAYMENT IN LIEU OF TAXES AGREEMENT, dated as of the 27th day of September, 2019 (this "**Amendment**"), between the Municipality of Anchorage, Alaska, a political subdivision organized under the laws of the State of Alaska ("**Municipality**"), and Chugach Electric Association, Inc., a not-for-profit electric cooperative corporation organized under the laws of the State of Alaska ("**Chugach**").

RECITALS

WHEREAS, Chugach and Municipality entered into that certain Payment in Lieu of Taxes Agreement, dated as of December 28, 2018 (the "**Original PILT Agreement**");

WHEREAS, capitalized terms used in this Amendment, if not otherwise defined herein, shall have the meanings set forth in the Original PILT Agreement, as amended or modified pursuant to this Amendment (as so amended or modified, the "**PILT Agreement**");

WHEREAS, pursuant to Section 3.08 of the Original PILT Agreement, Chugach and Municipality may amend, modify or supplement the Original PILT Agreement upon the execution and delivery of a written agreement executed by each party thereto; and

WHEREAS, the Chugach and Municipality desire to make certain amendments to the Original PILT Agreement as provided in this Amendment.

NOW, THEREFORE, pursuant to Section 3.08 of the Original PILT Agreement and in consideration for the premises and agreements hereinafter set forth, the parties hereto, intending to be legally bound, agree as follows:

1. New Definitions. The following definition is added to Article I of the Original PILT Agreement:

> "**Net ML&P Classified Plant in Service**" means the net book value of ML&P classified and unclassified plant in service within the Municipality of Anchorage as of the Closing Date, including contributed plant but not including intangible plant and construction work in progress.

2. Revised Definitions. The following definitions in Article I of the Original Agreement are replaced in their entirety as follows:

> "**Adjusted Net Book Value**" means, for any year, the product of (i) the Net ML&P Classified Plant in Service located within each district in the Legacy Territory as of the Closing Date and (ii) the Overall Plant in Service Change.
>
> "**Net Plant in Service**" means the net book value of plant in service, exclusive of contributed plant, intangible plant and construction work in progress.
>
> "**Overall Plant in Service Change**" means a fraction of which (i) the numerator is the Net Plant in Service of Chugach located within the Municipality of Anchorage as of

January 1 of the current year, and (ii) the denominator is the sum of (a) ML&P's Net Plant in Service in the Legacy Territory that is located within the Municipality of Anchorage on the Closing Date plus (b) Chugach's Net Plant in Service in the Chugach legacy territory that is located within the Municipality of Anchorage on the Closing Date.

3. Amendment to Exhibit A. Exhibit A of the Original PILT Agreement is hereby deleted in its entirety and replaced with Exhibit A, attached hereto.

4. Effective Date of this Amendment. Except as expressly provided herein, the Original PILT Agreement is not amended, supplemented, modified, revised or otherwise affected by this Amendment. This Amendment shall be deemed effective and in full force and effect as of the date first written above. On and after the date hereof, each reference in the Original PILT Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import referring to the Original Agreement, shall mean and be a reference to the Payment In Lieu Of Taxes Agreement and each reference to the Payment In Lieu Of Taxes Agreement in any other agreements, documents or instruments executed and delivered pursuant to or in connection with the Payment In Lieu Of Taxes Agreement shall be deemed to mean and be a reference to the Payment In Lieu Of Taxes Agreement as amended by this Amendment.

5. Binding Effect. This Amendment shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

6. Governing Law. This Amendment shall be governed by and construed in accordance with the internal laws of the State of Alaska, without reference to conflicts of laws principles that would result in the application of the laws of any other jurisdiction.

7. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[*Remainder of the page intentionally left blank*]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By _____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By _____

Name: Lee D. Thibert
Title: Chief Executive Officer

PILT Agreement
Municipality of Anchorage and Chugach Electric Association, Inc.

Exhibit A
Example: Calculation of Payments in Lieu of Taxes (PILT)
For Illustrative Purposes Only

Summary Calculations - *All Values Are for Illustrative Purposes Only*

Line No.	Calculation of Net Plant in Service		[A] At Closing	[B] Contract Year 1	[C] Contract Year 2	[D] Contract Year 3
1	Net Plant in Service at Closing, ML&P Legacy Territory within MOA	$	704,901,046			
2	Net Plant in Service at Closing, Chugach Legacy Territory within MOA	$	626,025,041			
3	Net Plant in Service within MOA, Total System	$	1,330,926,087	$ 1,346,897,200	$ 1,407,103,505	$ 1,371,925,917
	Calculation of PILT (Terms as Defined in the PILT Agreement)					
4	Overall Plant in Service Change *Line 3 Column [B], [C] or D] Line 3 Column [A]*			1.0120	1.0572	1.0308
5	Net ML&P Classified Plant in Service	$	746,901,046			
6	Adjusted Net Book Value *Line 4 Column [B], [C] or [D] * Line 5 Column [A]*			$ 755,863,859	$ 789,650,973	$ 769,909,699
7	Blended Mill Rate			13.59	13.86	14.21
8	PILT Payment *Line 6 * Line 7 / 1,000*			$ 10,275,237	$ 10,948,458	$ 10,941,233

[1] Net plant in service excludes contributions in aid of construction, intangible plant and construction work in progress

Detailed Calculations - *All Values Are for Illustrative Purposes Only*

At Closing: Net Plant in Service within the Municipality of Anchorage (MOA)

Service Area District	Net Plant in Service at Closing: Assets within MOA ML&P Legacy Territory	Chugach Legacy Territory	System Net Plant in Service at Closing
1	$211,740,497		
3	$139,036,868		
5	$15,132		
10	$576,112		
16	$348,326,106		
22	$4,778,530		
51	$427,801		
Total	$704,901,046	$626,025,041	$1,330,926,087

PILT Agreement
Municipality of Anchorage and Chugach Electric Association, Inc.

Exhibit A
Example: Calculation of Payments in Lieu of Taxes (PILT)
For Illustrative Purposes Only

Summary Calculations - *All Values Are for Illustrative Purposes Only*

Contract Year 1

Overall Plant in Service Change	
System Net Plant in Service within MOA at Closing	$1,330,926,087
System Net Plant in Service within MOA on January 1, Contract Year 1	$1,346,897,200
Difference	$15,971,113
Percent Difference	1.20%

Service Area District	Net ML&P Classified Plant in Service	Overall Plant in Service Change	Adjusted Net Book Value Contract Year	Mill Levy	PILT
1	$225,410,112	1.20%	$228,115,033	16.40	$3,741,087
3	$149,380,209	1.20%	$151,172,772	16.40	$2,479,233
5	$16,001	1.20%	$16,193	13.45	$218
10	$597,521	1.20%	$604,691	16.07	$9,717
16	$365,981,513	1.20%	$370,373,291	10.70	$3,962,994
22	$5,063,248	1.20%	$5,124,007	14.68	$75,220
51	$452,442	1.20%	$457,871	14.78	$6,767
Total	$746,901,046		$755,863,859	13.59	$10,275,237

Contract Year 2

Overall Plant in Service Change	
System Net Plant in Service within MOA at Closing	$1,330,926,087
System Net Plant in Service within MOA on January 1, Contract Year 2	$1,407,103,505
Difference	$76,177,418
Percent Difference	5.72%

Service Area District	Net ML&P Classified Plant in Service	Overall Plant in Service Change	Adjusted Net Book Value Contract Year 2	Mill Levy	PILT
1	$225,410,112	5.72%	$238,311,775	16.73	$3,986,956
3	$149,380,209	5.72%	$157,930,194	16.73	$2,642,172
5	$16,001	5.72%	$16,917	13.72	$232
10	$597,521	5.72%	$631,721	16.39	$10,354
16	$365,981,513	5.72%	$386,928,977	10.91	$4,221,395
22	$5,063,248	5.72%	$5,353,050	14.97	$80,135
51	$452,442	5.72%	$478,338	15.08	$7,213
Total	$746,901,046		$789,650,973	13.86	$10,948,458

Contract Year 3

Overall Plant in Service Change	
System Net Plant in Service within MOA at Closing	$1,330,926,087
System Net Plant in Service within MOA on January 1, Contract Year 3	$1,371,925,917
Difference	$40,999,830
Percent Difference	3.08%

Service Area District	Net ML&P Classified Plant in Service	Overall Plant in Service Change	Adjusted Net Book Value Contract Year 3	Mill Levy	PILT
1	$225,410,112	3.08%	$232,353,981	17.15	$3,984,871
3	$149,380,209	3.08%	$153,981,940	17.15	$2,640,790
5	$16,001	3.08%	$16,494	14.06	$232
10	$597,521	3.08%	$615,928	16.80	$10,348
16	$365,981,513	3.08%	$377,255,753	11.18	$4,217,719
22	$5,063,248	3.08%	$5,219,224	15.34	$80,063
51	$452,442	3.08%	$466,380	15.46	$7,210
Total	$746,901,046		$769,909,699	14.21	$10,941,233

Exhibit 3

AMENDMENT NO. 2 TO
PAYMENT IN LIEU OF TAXES AGREEMENT

AMENDMENT NO. 2 TO PAYMENT IN LIEU OF TAXES AGREEMENT

THIS AMENDMENT NO. 2 TO PAYMENT IN LIEU OF TAXES AGREEMENT, dated as of the 28th day of October, 2019 (this "**Amendment**"), between the Municipality of Anchorage, Alaska, a political subdivision organized under the laws of the State of Alaska ("**Municipality**"), and Chugach Electric Association, Inc., a not-for-profit electric cooperative corporation organized under the laws of the State of Alaska ("**Chugach**").

RECITALS

WHEREAS, Chugach and Municipality entered into that certain Payment in Lieu of Taxes Agreement, dated as of December 28, 2018 (the "**Original PILT Agreement**");

WHEREAS, capitalized terms used in this Amendment, if not otherwise defined herein, shall have the meanings set forth in the Original PILT Agreement, as amended or modified to date or pursuant to this Amendment (as so amended or modified, the "**PILT Agreement**");

WHEREAS, pursuant to Section 3.08 of the Original PILT Agreement, Chugach and Municipality may amend, modify or supplement the Original PILT Agreement upon the execution and delivery of a written agreement executed by each party thereto; and

WHEREAS, the Chugach and Municipality desire to make certain amendments to the PILT Agreement as provided in this Amendment.

NOW, THEREFORE, pursuant to Section 3.08 of the Original PILT Agreement and in consideration for the premises and agreements hereinafter set forth, the parties hereto, intending to be legally bound, agree as follows:

1. Revisions. Section 2.09 and Section 2.10 of the PILT Agreement are hereby deleted in their entirety and replaced as follows:

Section 2.09 [Reserved.]

Section 2.10 [Reserved.]

2. Effective Date of this Amendment. Except as expressly provided herein, the PILT Agreement is not amended, supplemented, modified, revised or otherwise affected by this Amendment. This Amendment shall be deemed effective and in full force and effect as of the date first written above. On and after the date hereof, each reference in the PILT Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import referring to the PILT Agreement, shall mean and be a reference to the PILT Agreement and each reference to the PILT Agreement in any other agreements, documents or instruments executed and delivered pursuant to or in connection with the PILT Agreement shall be deemed to mean and be a reference to the PILT Agreement as amended by this Amendment.

3. Binding Effect. This Amendment shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

4. Governing Law. This Amendment shall be governed by and construed in accordance with the internal laws of the State of Alaska, without reference to conflicts of laws principles that would result in the application of the laws of any other jurisdiction.

5. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[*Remainder of the page intentionally left blank*]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the date first written above by their respective officers and officials thereunto duly authorized.

MUNICIPALITY OF ANCHORAGE, ALASKA

By _____

Name: William D. Falsey
Title: Municipal Manager

CHUGACH ELECTRIC ASSOCIATION, INC.

By _____

Name: Lee D. Thibert
Title: Chief Executive Officer

Signature Page to
Amendment No. 2 to Payment in Lieu of Taxes Agreement
between
Municipality of Anchorage and Chugach Electric Association, Inc.

Operations and Exchange Agreement

between

Matanuska Electric Association, Inc.

and

Chugach Electric Association, Inc.

September 9, 2019

Attachment 1
Page 1 of 30

Operations and Exchange Agreement

This Operations and Exchange Agreement ("Agreement") is between Matanuska Electric Association, Inc. ("MEA"), and Chugach Electric Association, Inc. ("Chugach"), effective as of Sept 9, 2019.

1. MEA is an electric cooperative organized pursuant to A.S. 10.25 that provides generation, transmission and distribution electric service for its retail members in south central Alaska.

2. Chugach is an electric cooperative organized pursuant to A.S. 10.25 that provides generation, transmission and distribution electric service for its retail and wholesale members in south central Alaska.

3. Chugach has entered into an Asset Purchase and Sale Agreement dated December 28, 2018 (the "Asset Purchase Agreement") with the Municipality of Anchorage (the "Municipality") under which Chugach will acquire (the "Acquisition") substantially all of the assets (the "ML&P Assets") of Municipal Light and Power, the Municipality's electric utility ("ML&P").

4. The Parties believe that, to the extent the Acquisition is completed, it will be in their mutual interest and the best interest of the electric customers within their service areas and the Railbelt generally if the Parties agree to transfer ownership, and maintain joint ownership and operation of certain assets owned (or to be owned) by the Parties and to enter into certain other agreements.

Therefore, in consideration of the terms, conditions, and covenants set forth below, the Parties agree as follows:

1. Definitions

For purposes of this Agreement, unless the context clearly indicates otherwise, the following terms shall have the following meanings (and derivatives of such terms shall have similar derivative meanings). Other terms are defined elsewhere in this Agreement.

"Acquisition" is defined in the Recitals above.

"AEA Agreement" is defined in Section 4.A.

"Agreement" means this Operations and Exchange Agreement.

"Alaska Intertie Agreement" means Second Amended and Restated Alaska Intertie Agreement Among Alaska Energy Authority: Municipality of Anchorage, Alaska d.b.a Municipal Light and Power; Chugach Electric Association, Inc.; Golden Valley Electric Association, Inc.; Alaska Electric Generation and Transmission Cooperative, dated March 11, 2014.

"APA" means the Alaska Power Authority.

"APA Joint Use Agreement" means the Joint Use Agreement dated January 10, 1984 between the APA and MEA.

"Asset Purchase Agreement" is defined in the Recitals above.

"Assets" means the Chugach-Acquired Assets and/or the MEA-Acquired Assets, as the context may require.

"Bradley Lake Agreements" means (1) the Bradley Lake Hydroelectric Project Agreement for the Sale and Purchase of Electric Power dated December 8, 1987 by and among the Alaska Power Authority, Chugach, the Golden Valley Electric Association, Inc., the Municipality, The City of Seward, Alaska d/b/a Seward Electric System, the Alaska Electric Generation & Transmission Cooperative, Inc., The Homer Electric Association, Inc., and MEA; (2) the Bradley Lake Hydroelectric Project Agreement for the Wheeling of Electric Power and for Related Services dated December 8, 1987, by and among Chugach, and the Homer Electric Association, Inc., the Golden Valley Electric Association, Inc., the Municipality, the City of Seward, Alaska d/b/a Seward Electric System, and the Alaska Electric Generation & Transmission Cooperative, Inc.; and (3) the Bradley Lake Hydroelectric Project Transmission Sharing Agreement dated December 8, 1987, by and among the Homer Electric Association, Inc., and Chugach, the Golden Valley Electric Association, Inc., and the Municipality.

"Chugach" means Chugach Electric Association, Inc., an Alaska electric cooperative.

"Chugach-Acquired Assets" means all of the real and personal property expressly designated herein to be owned by Chugach from and after the Closing.

"Closing" is defined in Section 3.A.

"Closing Date" is defined in Section 3.A.

"Commencement Date" means the date that is the latest of (a) the date that all of MEA's conditions for performance in Section 10 have been satisfied, fulfilled or waived by MEA, (b) the date that all of Chugach's conditions for performance in Section 11 have been satisfied, fulfilled or waived by Chugach, and (c) the date of the ML&P Asset Closing.

"Deductible" is defined in Section 13.A.

"Effective Date" means the last date this Agreement is executed by a Party.

"Eklutna Agreement" is defined in Section 4.B.

"Eklutna Project" means the Eklutna Hydroelectric Project owned as of the Effective Date by Chugach, MEA, and the Municipality.

"Eklutna Transition Plan" means the Eklutna Hydroelectric Project Agreement for the Extension of '1996 Eklutna Hydroelectric Project Transition Plan'

"Excluded Assets" is defined in Section 2.B.

"Hazardous Substance Laws" is defined in Section 2.D.

"Hazardous Substances" is defined in Section 2.D.

"Indemnified Person" means each person entitled to receive indemnity and defense in accordance with this Agreement.

"Indemnifying Party" means each Party having an obligation to indemnify and defend in accordance with this agreement.

"Joint Asset" means any asset to be jointly owned by Chugach and MEA (with each Party owning a 50% undivided interest) under Section 2.F.2 and 2.G.2.

"Loss" is defined in Section 13.A.

"MEA" means Matanuska Electric Association, Inc., an Alaska electric cooperative.

"MEA Inventory Letter" means the inventory letter of April 1, 1996 included in Exhibit D to the Eklutna Transition Plan.

"MEA-Acquired Assets" means all of the real and personal property expressly designated herein to be owned by MEA from and after the Closing.

"ML&P" is defined in the Recitals above.

"ML&P Asset Closing" is the date of the closing of the transactions contemplated by the Asset Purchase Agreement, including the acquisition of the ML&P Assets.

"ML&P Assets" is defined in the Recitals above.

"Municipality" is defined in the Recitals above.

"Order 4" is defined in Section 4.A.

"Party" means either Chugach or MEA, as the context requires, and "Parties" means both Chugach and MEA.

"Prohibited Encumbrance" means any voluntary or involuntary lien or encumbrance that may be cured by the payment of money.

"Property" means those Assets that constitute real property.

"RCA" means the Regulatory Commission of Alaska.

"RCA Approval" means the issuance of an order from the RCA approving the sale of the ML&P Assets by the Municipality to Chugach sufficient for Chugach to proceed to the ML&P

Asset Closing (including the approval of all items required to be approved by the RCA under the terms of the Asset Purchase Agreement); and which order from the RCA shall not contain any condition or conditions materially adverse to either Chugach or ML&P, as determined by each of Chugach or ML&P with respect to itself in good faith and in the exercise of its commercially reasonable business judgment.

"Taxes" is defined in Section 5.1.

2. Exchange of Assets

A. Sale and Purchase

On the terms and subject to the conditions of this Agreement, on the Closing Date, (a) Chugach shall sell, transfer, convey, assign, and deliver to MEA and MEA shall purchase, acquire, and accept from Chugach, all right, title, and interest in and to MEA-Acquired Assets, free and clear of all Prohibited Encumbrances, and (b) MEA shall sell, transfer, convey, assign, and deliver to Chugach and Chugach shall purchase, acquire, and accept from MEA, all right, title, and interest in and to the Chugach-Acquired Assets, free and clear of all Prohibited Encumbrances. In addition, each Party shall sell, transfer, convey, assign, and deliver to the other all right title and interest in and to the Joint Assets necessary to provide that each Party acquires and owns a fifty percent (50%) undivided interest in the Joint Assets free and clear of all Prohibited Encumbrances.

B. Excluded Assets

Except as otherwise agreed by the Parties in a separate writing, Chugach shall retain and not sell to MEA any assets that are not within the definition of MEA-Acquired Assets or Joint Assets and MEA shall retain and not sell to Chugach any assets that are not within the definition of Chugach-Acquired Assets or Joint Assets (all such retained assets described in this paragraph being referred to herein as "Excluded Assets").

C. No Assumption of Liabilities

Neither Party shall assume any liabilities, debts or obligations of the other of any nature or kind whatsoever, whether absolute, accrued, contingent, or otherwise, or whether due or to become due, except: (i) as of the Closing Date, Chugach shall assume those liabilities relating to the Chugach-Acquired Assets that arise on or after the Commencement Date and all existing and future environmental liabilities related to the Chugach-Acquired Assets, including remediation costs, together with any other liabilities, debts or obligations of Chugach as may otherwise be expressly provided herein; and (ii) as of the Commencement Date, MEA shall assume those liabilities relating to the MEA-Acquired Assets that arise on or after the Closing Date and all existing and future environmental liabilities related to the MEA-Acquired Assets, including remediation costs, together with any other liabilities, debts or obligations of MEA as may otherwise be expressly provided herein as of the Commencement Date, the Parties shall jointly assume those liabilities relating to the Joint Assets that arise on or after the Closing Date and all future environmental liabilities related to the Joint Assets, including remediation costs, together with any other liabilities, debts or obligations for the Joint Assets as may be expressly provided herein.

D. As Is, Where Is

Chugach is transferring the MEA-Acquired Assets "as is, where is," and with all faults, and without representations or warranty as to fitness for any particular purpose, merchantability, design, quality, or physical condition. MEA is transferring the Chugach-Acquired Assets "as is, where is," and with all faults, and without representations or warranty as to fitness for any particular purpose, merchantability, design, quality, or physical condition. Without limiting the preceding in this Section 2.D., the representations and warranties set forth in Section 5.H are made solely for the purpose of the Parties' respective decisions to proceed with the transactions contemplated herein and neither Party shall have any liability to the other whatsoever for any breach of any such representations and warranties. Each Party hereby further acknowledges that the other has not made, does not make and specifically disclaims any representations or warranties as to water, soil or geology of any Property. Without limiting the foregoing, neither Party makes and has not made any representation or warranty regarding the presence or absence of any hazardous substances (as hereinafter defined) on, under or about any Property or the compliance or non-compliance of any Property with the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendment And Reauthorization Act, the Resource Conservation Recovery Act, the Federal Water Pollution Control Act, the Federal Environmental Pesticides Act, the Clean Water Act, any so-called federal, state or local "superfund" or "superlien" statute, or any other statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability (including strict liability) or standards of conduct concerning any hazardous substances (collectively, the "Hazardous Substance Laws"). For purposes of this Agreement, the term "Hazardous Substances" shall mean and include those elements or compounds which are contained on the list of Hazardous Substances adopted by the United States Environmental Protection Agency and the list of toxic pollutants designated by Congress or the Environmental Protection Agency or under any Hazardous Substance laws.

E. Assets Relating to Teeland Substation

1. MEA-Acquired Assets. The following assets located at or associated with the Teeland Substation shall be deemed to be MEA-Acquired Assets as of the Commencement Date and shall be conveyed by Chugach to MEA at the Closing: (a) all 115 kV equipment (including the 115/138 kV and 34.5/115/230kV transformers associated therewith) within the Teeland Substation property; (b) following expiration of the APA Joint Use Agreement, the Teeland 138kV breaker 5162 and switch 5161; (c) all controls related to the foregoing; and (d) any other assets listed or described as being conveyed to MEA in Exhibit A.

2. Chugach Excluded Assets. Chugach shall retain ownership to (and MEA will at any time quit claim any right to) the following Excluded Assets located at or associated with the Teeland Substation: (a) the 230 kV ring bus and its connection to the Alaska Energy Authority 138/230 kV transformer; (b) all land and buildings; (c) the communications tower; (d) all common ancillary systems, and fencing; (e) all controls related to items (a) through (d); and (f) any other assets listed or described in Exhibit A that are not described in Section 2.E.1 above.

F. Assets Relating to Eklutna Project Transmission

1. MEA-Acquired Assets. The following assets located at or associated with transmission from the Eklutna Project shall, subject to Chugach's acquisition at the ML&P Asset Closing, be deemed to be MEA-Acquired Assets as of the Commencement Date and shall be conveyed by Chugach to MEA at the Closing: (a) the 115 kV transmission lines and right-of-way from the Eklutna Project to and including the Palmer Substation, including any remaining transmission assets identified in the MEA Inventory Letter; and (b) except as described in Section 2.F.2, Chugach's share of any existing jointly-owned transmission or substation assets (including land) from the Eklutna Project to the proposed Fossil Creek Substation location.

2. Joint Assets. As of the ML&P Project Closing, each of Chugach and MEA shall be deemed to own a 50% undivided interest in the double circuit 115 kV transmission line from the Eklutna Project to the proposed Fossil Creek Substation location. The Parties will convey such interests in the foregoing property necessary to provide for such joint ownership

3. Chugach Excluded Assets. Chugach shall retain ownership of (and MEA will at any time quit claim any right to) all property located at or associated with the Eklutna Project or any transmission from the Eklutna Project except as expressly described in Section 2.F.1 or 2.F.2; provided that such ownership shall remain subject to the terms and provisions of the Transition Plan.

4. MEA Excluded Assets. MEA shall retain ownership of (and Chugach will at any time quit claim any right to) all property located at or associated with the Eklutna Project or any transmission from the Eklutna Project except as expressly described in Section 2.F.1 or 2.F.2; provided that such ownership shall remain subject to the terms and provisions of the Transition Plan. In addition, MEA shall retain its ownership (if any) in all of the tap lines, structures, and other assets to, from, and within its Parks, Reed, Pippel, Johnson, and Briggs substations, along with the Pippel Tap and the Briggs Tap.

G. Transmission Assets Related to ML&P Plant 2

1. Chugach-Acquired Assets. The following assets shall be deemed to be Chugach-Acquired Assets as of the Commencement Date and shall be conveyed by MEA to Chugach at the Closing: (a) the 115kV transmission line from the ML&P Plant 2 to and including the Alaska Power Authority Substation, including the land and right of way therefor; (b) any interest in the APA substation or any assets related thereto.

2. Joint Assets. As of the ML&P Project Closing, each of Chugach and MEA shall be deemed to own a 50% undivided interest in the 115 kV transmission circuit from the ML&P Plant 2 to the proposed Fossil Creek Substation location. The Parties will convey such interests in the foregoing property necessary to provide for such joint ownership

3. Chugach Excluded Assets. Chugach shall retain ownership of (and MEA will at any time quit claim any right to) the right of way for the 115 kV transmission circuit from

the ML&P Plant 2 to the proposed Fossil Creek Substation location and to its interest in the 230 kV transmission line from the ML&P Plant 2 to the proposed Fossil Creek Substation location.

3. Closing

A. Date, Time, and Place of Closing

The closing of the transactions contemplated by this Agreement (the "Closing") shall take place at a mutually agreeable date (the "Closing Date") and time no later than ninety (90) days after the ML&P Asset Closing, subject to all conditions to closing having been satisfied. The Closing shall take place at the offices of Chugach or another location mutually acceptable to the Parties.

B. Deliveries at Closing by Chugach

At the Closing, Chugach shall execute and deliver to MEA the following instruments and other documents, in such form as MEA may reasonably request:

1. Quit-claim deeds, bills of sale, endorsements, assignments, and other instruments of transfer and conveyance in connection with the conveyance of the MEA-Acquired Assets, with warranties of title only regarding the absence of Prohibited Encumbrances;

2. Quit-claim deeds, bills of sale, endorsements, assignments, and other instruments of transfer and conveyance necessary to vest title of a 50% undivided interest in the Joint Assets in each of Chugach and MEA, with warranties of title only regarding the absence of Prohibited Encumbrances;

3. A certificate by Chugach that each of the representations and warranties in Section 4 are true on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date;

4. Such other documents and instruments as MEA may reasonably require to effectuate or evidence the transfer of all of the Assets and implement the other terms and conditions of this Agreement;

5. Any documents or instruments reasonably requested by a title insurance company performing the Closing; and

6. Any payment to be made by Chugach pursuant to Section 3.D.

C. Deliveries at Closing by MEA

At the Closing, MEA shall execute and deliver to Chugach the following instruments and other documents, in such form as Chugach may reasonably request:

1. Quit-claim deeds, bills of sale, endorsements, assignments, and other instruments of transfer and conveyance in connection with the conveyance of the Chugach-Acquired Assets, with warranties of title only regarding the absence of Prohibited Encumbrances;

2. Quit-claim deeds, bills of sale, endorsements, assignments, and other instruments of transfer and conveyance necessary to vest title of a 50% undivided interest in the Joint Assets in each of Chugach and MEA, with warranties of title only regarding the absence of Prohibited Encumbrances;

3. A certificate by MEA that each of the representations and warranties in Sections 6 are true on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date;

4. Such other documents and instruments as MEA may reasonably require to effectuate or evidence the transfer of all of the Assets and implement the other terms and conditions of this Agreement;

5. Any documents or instruments reasonably requested by a title insurance company performing the Closing; and

6. Any payment to be made by MEA pursuant to Section 3.D.

D. Purchase Price

At Closing, (1) MEA will pay to Chugach the sum of the net book value of the MEA-Acquired assets and the net book value of any interest in Joint Assets being acquired and (2) Chugach will pay to MEA the sum of the net book value of the Chugach-Acquired Assets and the net book value of any interest in Joint Assets being acquired by Chugach. The net book asset values used in the calculations above shall be as of the date of the ML&P Closing.

E. Possession

Except as contemplated otherwise herein, MEA shall take possession of and assume control over the MEA-Acquired Assets and Chugach shall take possession of and assume control over the Chugach-Acquired Assets at 12:01 A.M. (local time) on the day following the Commencement Date.

F. Taxes and Fees; Closing Costs

Taxes and assessments will be prorated as of the Closing Date. Chugach and MEA shall share other customary closing costs equally. Each Party shall pay its own attorney fees.

4. Operational Matters

A. Teeland Substation

1. Chugach hereby grants a license to MEA effective as of the Commencement Date to transfer, access, maintain and replace the MEA-Acquired Assets located at the Teeland Substation.

2. Subject to demonstration that it will not cause interference with existing facilities, MEA shall have the right to expand the existing 115kV transfer bus at the Teeland Substation. Any activities relating to the expansion of the transfer bus shall be performed in a manner that does not conflict with Chugach's facilities or operations.

3. The Parties acknowledge that the term of the Joint Use and Interconnection Terms and Conditions (the "AEA Agreement"), per Order U-03-100(4) ("Order 4") of the RCA, "should be in effect until alternate transmission facilities are constructed, tested, and energized." To the extent that the AEA Agreement or Order 4 are abrogated, amended or revised prior to the time that alternate transmission facilities are constructed, tested, and energized, then MEA agrees, at Chugach's option, to enter into a transmission services agreement with Chugach on the same terms and conditions as contained in Order 4 and the AEA Agreement in effect as of the Effective Date. The transmission services agreement will recognize that the wheeling rate approved in that Order 4 may be adjusted or replaced from time to time through a tariff approved by the RCA and applied to all transactions on a nondiscriminatory basis.

4. Chugach leases the Teeland 138kV breaker 5162 and switch 5161 to AEA for a term commencing on the Effective Date and ending at the end of the term of the APA Joint Use Agreement. Following expiration of the APA Joint Use Agreement, Chugach shall convey these facilities to MEA for net book value at the time of Closing.

5. Subject to demonstration that it will not cause interference with existing facilities, MEA shall have the right to use the easternmost spare 138kV bay (or if land is available, to build a new bay) at Chugach's Point Mackenzie substation for the purposes of installing a 138kV breaker, 138 kV getaway structures, and other equipment necessary to connect to a MEA-owned transmission line.

6. At MEA's option, but at no cost to Chugach, MEA shall have the right to improve Chugach's existing 230 kV transmission line from the Point Mackenzie substation to the Teeland Substation (or any section thereof) to a double circuit line. Any modification to the Point McKenzie substation or to the 230 kV transmission line must be approved in writing by Chugach before MEA commences any related work. Such approval shall not unreasonably be withheld and shall be made in a timely manner. All related work and construction shall be conducted in a manner that conforms to standard utility practices and shall be coordinated through the Parties' dispatch centers. MEA shall own the new transmission line in the double circuit (including insulators and conductors), while Chugach shall maintain ownership of all structures and the existing 230 kV line or its replacement. Following completion and energizing of the double circuit, the Parties shall

have access to the resulting joint facilities as coordinated through their respective utility dispatch centers. All maintenance expenses related to the double circuit shall be shared on an equal basis with respect to the right of way, while each Party will maintain its own facilities at its sole expense.

7. The conveyance of Teeland assets as described in this Agreement provides both MEA and Chugach with direct transmission access to the 138 kV northern intertie. This configuration will allow MEA to wheel power through the Teeland Substation (115 kV and 34.5 kV) from its transmission system to serve its customers without incurring wheeling charges from Chugach. During times when either Chugach or MEA is not able to deliver power from its transmission system directly into the Teeland Substation and instead must rely on the other's transmission systems for meeting deliverability requirements, wheeling and ancillary services charges, per the terms of the applicable operating tariff, will be assessed.

B. Eklutna Project

1. All facilities related to the Eklutna Project that are jointly owned by the Parties shall continue to be subject to the terms and provisions of the Transition Plan. Each Party shall be solely responsible for all maintenance and other expenses related to its solely-owned transmission assets.

2. The Parties agree to cooperate in the joint development of the Fossil Creek Substation and the Eklutna Substation in a manner consistent with the terms and conditions of the Eklutna Generation Station Interconnection Agreement (the "Eklutna Agreement") dated December 29, 2014. The Parties hereby agree to extend the deadline for completion of tasks described in Sections 3 through 6 of the Eklutna Agreement to December 21, 2024. Except for the foregoing extension of the deadline and the transfer of three breakers at the Eklutna Project substations associated with the Eklutna transmission "local loop" to MEA (as contemplated by Section 2.F above), nothing in this agreement is intended to modify or amend any term or condition of the Eklutna Agreement.

3. The Parties shall execute any consents or other instruments necessary or reasonably desirable under the Transition Plan for Chugach's acquisition of ML&P's ownership interest in the Eklutna Project transmission assets.

4. The Parties shall execute any consents or other instruments necessary or reasonably desirable under the Transition Plan for Chugach's and MEA's acquisition of ML&P's ownership interest in the Eklutna Project generation assets at the time such conveyance occurs.

C. Delivery Point for Transfers of Energy

Effective as of the Commencement Date, the delivery point for transfers of energy between the Parties shall be at the 115 kV breakers nos. 21 and 22 at the ML&P Plant 2.

D. Bradley Lake

Chugach agrees that it will participate in a review of the voting requirements of the Bradley Lake Agreement. Notwithstanding the foregoing or anything else in this agreement to the contrary, nothing in this agreement shall modify or amend any of the terms and conditions of the Bradley Lake Agreements.

E. Southcentral Alaska Power Pool

MEA and Chugach agree to move forward with a minimum 2-party power pool structure. MEA and Chugach recognize that the actual implementation of a power pool may be postponed until after Chugach's acquisition of the ML&P Assets.

1. For all generation-related projects, joint planning and agreement on the projects shall be under the RRC guidelines currently under development.

2. Non-operating reserve capacity of the Parties shall be offered first to the other at a negotiated cost.

F. Management of Joint Assets

The Eklutna Transition Plan, as it may be amended, shall govern the management and operation of Joint Assets. Permission shall be granted by each Party to modify Joint Assets consistent with applicable standards and/or prudent utility practice in order that a Party may address service requirements for its native load.

5. Representations and Warranties of Chugach

Chugach represents and warrants to MEA as of the Effective Date as follows.

A. Corporate Existence

Chugach is an electric cooperative duly incorporated and validly existing under the laws of the State of Alaska, has the requisite power and authority to own its property and to carry on its business as now being conducted, and is in good standing under the laws of each of the jurisdictions in which it is conducting business.

B. Authorizations and Enforceability

Chugach has all requisite power and authority to execute, deliver, and perform this Agreement and to consummate the transactions contemplated hereby. This Agreement has been duly and validly authorized, executed, and delivered by Chugach and constitutes the valid and binding obligation of Chugach, fully enforceable in accordance with its terms. The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly and validly authorized and approved by Chugach's board of directors,

and no other corporate proceedings on the part of Chugach is necessary to authorize this Agreement or the consummation of the transactions contemplated by it.

C. No Default

To Chugach's knowledge, Chugach is not in default under or in violation of any provision of its articles of incorporation, bylaws or other governing document, which default or violation could otherwise be reasonably expected to have a material adverse effect on the Assets or the contemplated transactions. To Chugach's knowledge, Chugach is not in default under or in violation of any provision of any material restriction, encumbrance, indenture, contract, lease, loan agreement, note or other obligation or liability to which it is a party or by which it is bound and that could reasonably be expected to have a material adverse effect on the contemplated transactions, or MEA's unencumbered possession or use of the MEA-Acquired Assets or of MEA's interests in the Joint Assets. Neither the execution and delivery of this Agreement or any other agreement or instrument to be delivered to MEA in connection with this transaction, nor the consummation of the contemplated transactions by Chugach, will: (i) result in the acceleration of, or the creation in any party of the right to accelerate, terminate, modify or cancel, or cause a payment obligation to arise under, any indenture, contract, lease, sublease, loan agreement, note or other obligation or liability to which either Chugach is a party or to which either Chugach or the Assets is bound that could materially impair the contemplated transactions or MEA's unencumbered possession or use of the Assets; (ii) conflict with or result in a breach of or constitute a violation or default under, (A) any provision of Chugach's articles of incorporation, bylaws or other governing document, as amended to date, or (B) any restriction, encumbrance, license, permit, indenture, contract, lease, loan agreement, note or other obligation or liability to which Chugach is a party or by which Chugach or the Assets is bound, or (C) to Chugach's knowledge, any order, writ, injunction, decree, license or permit applicable to Chugach or any state or local law, statute, rule or regulation applicable to Chugach, provided that in the case of any of (A)-(C), such conflict, breach, violation or default could not otherwise be reasonably expected to have a material adverse effect on the contemplated transactions, or MEA's unencumbered possession or use of the MEA-Acquired Assets or of MEA's interests in the Joint Assets; or (iii) result in the creation of any Prohibited Encumbrance upon any of the Assets.

D. Approvals; Consents

No approval, consent, order or authorization of, exemption by, or registration, declaration or filing with, any state governmental authority is required by or with respect to Chugach in connection with the execution, delivery and performance of this Agreement by Chugach or any other agreement or instrument to be delivered to MEA in consummation by Chugach of the contemplated transactions, including but not limited to the transfer of the Assets.

E. Actions or Investigations

To Chugach's knowledge, there are no actions, suits or proceedings pending or threatened against Chugach or affecting the Assets, at law or in equity, or before any governmental agency that could be reasonably expected to have a material adverse effect on the Assets or MEA's unencumbered possession or use of the MEA-Acquired Assets or of MEA's interest in the Joint

Assets, or that relate to the contemplated transactions, nor is Chugach aware of any facts or third party claims that could result in any such action, suit or proceedings.

F. No Violation of Law

Chugach has not received written notice of any deficiency in or violation of any applicable law, rule, regulation, license, permit, or requirement of any governmental authority relating to the Assets, and, to Chugach's knowledge, Chugach is and has been in compliance therewith in all material respects. To Chugach's knowledge, Chugach has obtained and maintained in effect through the Effective Date all material governmental licenses, permits, authorizations, certifications and approvals necessary to own and operate the Assets as they have been conducted. Chugach has not received written notice of any threatened, pending or possible revocation, termination, suspension or limitation of any of Chugach's agreements, contracts, licenses or permits, nor, to the knowledge of Chugach, are there grounds for any of the foregoing. To the knowledge of Chugach, Chugach is in compliance in all material respects with the terms of all such licenses and permits and with all requirements, standards and procedures of the governmental agency or agencies that issued them. Chugach has no knowledge of any inquiries, notices, subpoenas or correspondence related to Chugach or the Assets from any government or third-party regarding audits or investigations during the three-year period preceding the Closing. To the knowledge of Chugach, the Assets and the services performed by Chugach, Chugach's employees and affiliated professionals in connection therewith have at all times been in compliance in all material respects with all applicable federal and state statutory and regulatory requirements and prudent utility practices.

G. Absence of Prohibited Encumbrances

As of the Closing Date, neither the MEA-Acquired Assets nor MEA's interest in the Joint Assets shall be encumbered by a Prohibited Encumbrance. Except as expressly set forth in the last sentence Chugach makes no representation or warranty regarding its right, title, or interest in, on or to any of the Assets.

H. Assets Condition

Chugach makes no representation or warranty (including any representation or warranty of suitability or merchantability) regarding the condition or adequacy of the Assets. MEA acknowledges and agrees that it will acquire its interests in the Assets from Chugach on an "AS-IS, WHERE-IS, WITH ALL FAULTS" basis.

I. Taxes

All governmental income, payroll, sales, use, property, franchise and other taxes (excluding any transfer, documentary stamp, or other taxes payable by a Party at Closing pursuant to this Agreement), including interest and penalties (collectively, "Taxes") due from Chugach for any period prior to the Closing Date with respect to the MEA-Acquired Assets or MEA's interest in the Joint Assets have been fully paid. No deficiency or adjustment in respect of any Tax that was assessed against Chugach that might result in a Prohibited Encumbrance on any of the Assets

remains unpaid and no claim, assessment or audit is pending or, to the knowledge of Chugach, threatened with respect to any Taxes whose assessment might result in a Prohibited Encumbrance on any of the Assets. Chugach has timely filed all returns relating to Taxes.

J. Brokers and Finders

Neither Chugach nor any person acting on behalf of Chugach has employed any broker, agent or finder, or incurred any liability for any brokerage fees, commission or finder's fees in connection with the transactions contemplated in this Agreement.

K. No Misrepresentations

Chugach has not made any material misstatement of fact in this Agreement in connection with the contemplated transactions or omitted any material fact necessary or desirable to make materially complete, accurate, and not misleading every representation, and warranty set forth in this Agreement or in any document to be delivered pursuant to this Agreement or in connection with the transactions contemplated by this Agreement.

6. Representations and Warranties of MEA

MEA represents and warrants to Chugach as of the Effective Date as follows:

A. Corporate Existence

MEA is an electric cooperative duly incorporated and validly existing under the laws of the State of Alaska, has the requisite power and authority to own its property and to carry on its business as now being conducted, and is in good standing under the laws of each of the jurisdictions in which it is conducting business.

B. Authorizations and Enforceability

MEA has all requisite power and authority to execute, delivet, and perform this Agreement and to consummate the transactions contemplated hereby. This Agreement has been duly and validly authorized, executed, and delivered by MEA and constitutes the valid and binding obligation of MEA, fully enforceable in accordance with its terms. The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly and validly authorized and approved by MEA's board of directors, and no other corporate proceedings on the part of MEA is necessary to authorize this Agreement or the consummation of the transactions contemplated by it.

C. No Default

To MEA's knowledge, MEA is not in default under or in violation of any provision of its articles of incorporation, bylaws or other governing document, which default or violation could otherwise be reasonably expected to have a material adverse effect on the Assets or the contemplated transactions. To MEA's knowledge, MEA is not in default under or in violation of

any provision of any material restriction, encumbrance, indenture, contract, lease, loan agreement, note or other obligation or liability to which it is a party or by which it is bound and that could reasonably be expected to have a material adverse effect on the contemplated transactions, or Chugach's unencumbered possession or use of the Chugach-Acquired Assets or of Chugach's interests in the Joint Assets. Neither the execution and delivery of this Agreement or any other agreement or instrument to be delivered to Chugach in connection with this transaction, nor the consummation of the contemplated transactions by MEA, will: (i) result in the acceleration of, or the creation in any party of the right to accelerate, terminate, modify or cancel, or cause a payment obligation to arise under, any indenture, contract, lease, sublease, loan agreement, note or other obligation or liability to which either MEA is a party or to which either MEA or the Assets is bound that could materially impair the contemplated transactions or Chugach's unencumbered possession or use of the Assets; (ii) conflict with or result in a breach of or constitute a violation or default under, (A) any provision of MEA's articles of incorporation, bylaws or other governing document, as amended to date, or (B) any restriction, encumbrance, license, permit, indenture, contract, lease, loan agreement, note or other obligation or liability to which MEA is a party or by which MEA or the Assets is bound, or (C) to MEA's knowledge, any order, writ, injunction, decree, license or permit applicable to MEA or any state or local law, statute, rule or regulation applicable to MEA, provided that in the case of any of (A)-(C), such conflict, breach, violation or default could not otherwise be reasonably expected to have a material adverse effect on the contemplated transactions, or Chugach's unencumbered possession or use of the Chugach-Acquired Assets or of Chugach's interests in the Joint Assets; or (iii) result in the creation of any Prohibited Encumbrance upon any of the Assets.

D. Approvals; Consents

No approval, consent, order or authorization of, exemption by, or registration, declaration or filing with, any state governmental authority is required by or with respect to MEA in connection with the execution, delivery and performance of this Agreement by MEA or any other agreement or instrument to be delivered to Chugach in consummation by MEA of the contemplated transactions, including but not limited to the transfer of the Assets.

E. Actions or Investigations

To MEA's knowledge, there are no actions, suits or proceedings pending or threatened against MEA or affecting the Assets, at law or in equity, or before any governmental agency that could be reasonably expected to have a material adverse effect on the Assets or Chugach's unencumbered possession or use of the Chugach-Acquired Assets or of Chugach's interest in the Joint Assets, or that relate to the contemplated transactions, nor is MEA aware of any facts or third party claims that could result in any such action, suit or proceedings.

F. No Violation of Law

MEA has not received written notice of any deficiency in or violation of any applicable law, rule, regulation, license, permit, or requirement of any governmental authority relating to the Assets, and, to MEA's knowledge, MEA is and has been in compliance therewith in all material respects. To MEA's knowledge, MEA has obtained and maintained in effect through the Effective

Date all material governmental licenses, permits, authorizations, certifications and approvals necessary to own and operate the Assets as they have been conducted. MEA has not received written notice of any threatened, pending or possible revocation, termination, suspension or limitation of any of MEA's agreements, contracts, licenses or permits, nor, to the knowledge of MEA, are there grounds for any of the foregoing. To the knowledge of MEA, MEA is in compliance in all material respects with the terms of all such licenses and permits and with all requirements, standards and procedures of the governmental agency or agencies that issued them. MEA has no knowledge of any inquiries, notices, subpoenas or correspondence related to MEA or the Assets from any government or third-party regarding audits or investigations during the three-year period preceding the Closing. To the knowledge of MEA, the Assets and the services performed by MEA, MEA's employees and affiliated professionals in connection therewith have at all times been in compliance in all material respects with all applicable federal and state statutory and regulatory requirements and prudent utility practices.

G. Absence of Prohibited Encumbrances

As of the Closing Date, neither the Chugach-Acquired Assets nor Chugach's interest in the Joint Assets shall be encumbered by a Prohibited Encumbrance. Except as expressly set forth in the last sentence MEA makes no representation or warranty regarding its right, title, or interest in, on or to any of the Assets.

H. Assets Condition

MEA makes no representation or warranty (including any representation or warranty of suitability or merchantability) regarding the condition or adequacy of the Assets. Chugach acknowledges and agrees that it will acquire its interests in the Assets from MEA on an "AS-IS, WHERE-IS, WITH ALL FAULTS" basis.

I. Taxes

All Taxes due from MEA for any period prior to the Closing Date with respect to the Chugach-Acquired Assets or Chugach's interest in the Joint Assets have been fully paid. No deficiency or adjustment in respect of any Tax that was assessed against MEA that might result in a Prohibited Encumbrance on any of the Assets remains unpaid and no claim, assessment or audit is pending or, to the knowledge of MEA, threatened with respect to any Taxes whose assessment might result in a Prohibited Encumbrance on any of the Assets. MEA has timely filed all returns relating to Taxes.

J. Brokers and Finders

Neither MEA nor any person acting on behalf of MEA has employed any broker, agent or finder, or incurred any liability for any brokerage fees, commission or finder's fees in connection with the transactions contemplated in this Agreement.

K. No Misrepresentations

MEA has not made any material misstatement of fact in this Agreement in connection with the contemplated transactions or omitted any material fact necessary or desirable to make materially complete, accurate, and not misleading every representation, and warranty set forth in this Agreement or in any document to be delivered pursuant to this Agreement or in connection with the transactions contemplated by this Agreement.

7. Performance of Obligations

Unless performance is otherwise excused by the provisions of this Agreement, each Party shall perform its obligations hereunder (including but not limited to those obligations set forth in Section4 and 15.A) from and after the Effective Date.

8. Asset Purchase Agreement Termination

If (a) Chugach and ML&P are unable to obtain RCA Approval, or (b) the Asset Purchase Agreement is terminated or expires before the occurrence of the ML&P Closing, or (c) either Chugach or the Municipality abandons its performance under the Asset Purchase Agreement, then Chugach may, without fault, terminate this Agreement immediately by delivery of notice to MEA of such rejection, termination, expiration, or abandonment.

9. Pre-Closing Covenants

The provisions of this Section 7 shall remain in force until the Closing Date.

A. Operation of Assets

Except as the other Party may otherwise consent to in writing, each Party shall, with respect the Assets then owned by it:

1. Operate the Assets in accordance with prudent utility practices; allow the other reasonable access to such Assets to periodically inspect the Assets, including plant records and, to the extent consistent with such operation; and use commercially reasonable efforts to (a) keep available the services of its present employees relating to the operation and maintenance of such Assets; (b) maintain all permits, licenses, registrations and other authorizations necessary to the conduct of its business with respect to Assets; and (c) not default in the performance of any obligation with respect to the Assets;

2. Promptly notify the other Party prior to entering into any lease, contract or agreement with respect to or affecting the Assets in any way, and promptly provide the other Party copies of such documents;

3. Maintain the Assets in substantially the same condition as they are as of the Effective Date (except for ordinary wear and tear that could not reasonably be expected to have a

material adverse effect on the use of the equipment and except for damage due to unavoidable casualty);

4. Give the other Party immediate written notice of any material damage to any of the Assets by fire, theft or other casualty or condemnation;

5. Maintain its books, records, and accounts associated with the Assets in the usual, regular, and ordinary manner, on a basis consistent with prior periods;

6. Materially comply with all laws, ordinances, and regulations applicable to it, and to the conduct of its business, including timely filing any reports or returns due any state, federal or municipal authority and paying any tax, in each case as otherwise directly related to the Assets; and

7. Not take any action that would cause a condition to Closing not to be satisfied.

B. Major Maintenance

Each Party will promptly notify the other of any plan to perform work on the Assets then owned by the Party in an amount in excess of $100,000. The notice will include a detailed plan, estimated budget and schedule for the work, any studies or analysis supporting the necessity for the work and a statement as to the effect that forgoing the work would impact either Party's obligation to maintain adequate reserves under any existing contract. The receiving Party will have the right to notify the other as to whether it agrees or disagrees with the work as proposed. If the receiving Party agrees with the plan, the notifying Party shall proceed accordingly and, in such case, the receiving Party acknowledges that such expenditures for the approved plan will be treated as an increase in the net book value of the Assets. If the receiving Party notifies the notifying Party that it disagrees with the plan, the notifying Party will forgo the repair and the receiving Party acknowledges it will still proceed with Closing with the Assets in "as is" condition.

C. Fulfillment of Conditions

The Parties shall make commercially reasonable efforts to fulfill all of the conditions set forth in Sections 10 and 0 that are required to be fulfilled by such Parties.

10. Conditions to MEA's Obligations

The obligation of MEA to close is subject to the substantial fulfillment, at or prior to the Closing Date, of each of the following conditions, any or all of which may be waived in writing by MEA, in its sole discretion.

A. Accuracy of Representations and Warranties

Each of the representations and warranties of Chugach contained in this Agreement are true on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date, and Chugach shall provide at the Closing a certificate to that effect.

B. Performance of Covenants

Chugach has performed and complied in all material respects with the covenants, obligations, and agreements to be performed or complied with by it on or before the Closing Date pursuant to this Agreement.

C. Litigation

No claim, action, suit, proceeding, arbitration, investigation, or hearing or notice of hearing is pending, threatened against or affecting Chugach that might result, or has resulted, in an action to enjoin or to prevent or delay the consummation of the transactions contemplated by this Agreement.

D. Absence of Certain Changes

There has not been:

1. Any material adverse change in the Assets;

2. Any material damage, destruction or loss suffered by the Assets, whether or not covered by insurance; or

3. Any sale, lease, Prohibited Encumbrance or other voluntary or involuntary disposition by Chugach of any interest in the Assets.

E. Approvals

MEA shall have received all regulatory and other third-party approvals it reasonably deems necessary in connection with this Agreement.

11. Conditions to Chugach's Obligations

The obligations of Chugach to close are subject to the fulfillment, at or prior to the closing, of each of the following conditions, any or all of which may be waived in writing by Chugach, in its sole discretion.

A. Closing of ML&P Asset Purchase

Chugach shall have received RCA Approval and the closing of the acquisition of substantially all of the ML&P Assets by Chugach shall have occurred.

B. Accuracy of Representations and Warranties

Each of the representations and warranties of MEA contained in this Agreement are true on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date, and MEA shall provide at the Closing a certificate to that effect.

C. Performance of Covenants

MEA has performed and complied in all material respects with thecovenants, obligations, and agreements to be performed or complied with by it on or before the Closing Date pursuant to this Agreement.

D. Litigation

No claim, action, suit, proceeding, arbitration, investigation, or hearing or notice of hearing is pending, threatened against or affecting MEA that might result, or has resulted, in an action to enjoin or to prevent or delay the consummation of the transactions contemplated by this Agreement.

E. Absence of Certain Changes

There has not been:

1. Any material adverse change in the Assets;

2. Any material damage, destruction or loss suffered by the Assets, whether or not covered by insurance; or

3. Any sale, lease, Prohibited Encumbrance or other voluntary or involuntary disposition by MEA of any interest in the Assets.

F. Consents

Chugach shall have received all consents necessary to consummate this Agreement, transfer the Assets and enter into the other agreements and transactions contemplated by this Agreement.

G. Approvals

Chugach shall have received all regulatory and other third-party approvals it reasonably deems necessary in connection with this Agreement.

12. Further Documents and Assurances

Each Party shall, from time to time after the Closing, make such further conveyances, transfers, assignments, and deliveries, and execute such further instruments and documents as the

other Party deems reasonably necessary in order to effectuate and confirm the transactions contemplated by this Agreement. The provisions of this Section shall come into force upon, and continue in force after, the Closing Date.

13. Indemnification

A. By Chugach

Chugach shall indemnify, defend and hold harmless MEA and any person claiming by or through it or its successors and assigns from, against, and with respect to any and all costs, losses, claims, liabilities, fines, penalties, damages, and expenses (including, but not limited to, court costs, reasonable fees, and disbursements of counsel with or without suit and on appeal), (collectively, a "Loss") incurred by any such Indemnified Person in connection with:

1. Any breach of (a) any of the representations and warranties made by Chugach pursuant to this Agreement or (b) any covenant or agreement made by Chugach in this Agreement;

2. Except to the extent caused by MEA, any liability arising out of its ownership or operation of any of the Assets prior to the Closing Date; and

3. Any liability arising out of the ownership or operation of the Chugach-Acquired Assets after the Closing Date; and

4. Any action, suit, proceeding, compromise, settlement, assessment, or judgment arising out of or incident to any of the matters indemnified against in this Section 13.A.

Notwithstanding the above, in no event shall Chugach have any obligation to pay any amount of indemnity pursuant to this Agreement unless and until the aggregate amount of Loss incurred by MEA exceeds twenty-five thousand dollars ($25,000) (the "Deductible"), at which point Chugach would be responsible for Loss in excess of the Deductible.

B. By MEA

MEA shall indemnify, defend and hold harmless Chugach and any person claiming by or through it or its successors and assigns from, against, and with respect to any and all Loss incurred by any such Indemnified Person in connection with:

1. Any breach of (a) any of the representations and warranties made by MEA pursuant to this Agreement or (b) any covenant or agreement made by MEA in this Agreement;

2. Except to the extent caused by Chugach, any liability arising out of its ownership or operation of any of the Assets prior to the Closing Date; and

3. Any liability arising out of the ownership or operation of the MEA-Acquired Assets after the Closing Date; and

4. Any action, suit, proceeding, compromise, settlement, assessment, or judgment arising out of or incident to any of the matters indemnified against in this Section 13.B.

Notwithstanding the above, in no event shall MEA have any obligation to pay any amount of indemnity pursuant to this Agreement unless and until the aggregate amount of Loss incurred by Chugach exceeds the Deductible, at which point MEA would be responsible for Loss in excess of the Deductible.

C. Defense against Third Party Claims

1. Notice of Claim. If any Indemnified Person receives notice of a claim or learns of a circumstance that may give rise to a claim by a third party that will result in a claim by the Indemnified Person for indemnification and defense under this Section, then the Indemnified Party shall promptly notify the Indemnifying Party. No delay on the part of the Indemnified Person in notifying any Indemnifying Party shall relieve the Indemnifying Party from any obligation to indemnify and defend unless (and then solely to the extent) the Indemnifying Party thereby is prejudiced.

2. Indemnifying Party Right to Defend. Any Indemnifying Party will have the right, at its expense, to defend the Indemnified Person against the third party claim with counsel of the Indemnifying Party's choice satisfactory to the Indemnified Person so long as (a) the Indemnifying Party notifies the Indemnified Person in writing within fifteen days after the Indemnified Person has given notice of the claim that the Indemnifying Party will indemnify the Indemnified Person from and against all costs, losses, claims, liabilities, fines, penalties, damages, and expenses the Indemnified Person may suffer resulting from, arising out of, relating to, in the nature of, or caused by the claim, (b) the Indemnifying Party provides the Indemnified Person with evidence reasonably acceptable to the Indemnified Person that the Indemnifying Party has and will have the financial resources to defend against the claim and fulfill its indemnification and defense obligations, (c) the claim involves only money damages and does not seek an injunction or other equitable relief, (d) settlement of, or an adverse judgment with respect to, the claim is not, in the good faith judgment of the Indemnified Person, likely to establish a precedential custom or practice materially adverse to the continuing business interests of the Indemnified Person, and (e) the Indemnifying Party conducts the defense of the claim actively and diligently. If the Indemnified Person is subjected both to liability that is subject to indemnity or defense by the Indemnifying Party and liability that is not subject to indemnity or defense by the Indemnifying Party, the Indemnified Person and the Indemnifying Party shall be entitled to conduct a joint defense of the claim, each represented by counsel of its own choice, with the Indemnified Person paying its own expense as to the liability that is not subject to indemnity or defense by the Indemnified Party. In circumstances in which each of the conditions set forth in clauses (a) through (e) are not satisfied, the Indemnified Person and the Indemnifying Party shall be entitled to conduct a joint defense of the claim, each represented by counsel of its own choice at the expense of the Indemnifying Party. If the Indemnified Person has defenses or counterclaims to defeat or lessen liability that is subject to indemnity or defense by the Indemnified Person that are different from or in addition to the defenses and counterclaims available to the Indemnifying Party, the Indemnified Person may at its

option be represented by counsel of its own choice on such defenses or counterclaims at the expense of the Indemnifying Party.

3. During Indemnifying Party's Defense. So long as the Indemnifying Party is conducting the defense of the third party claim in accordance with Section 13.C, (a) the Indemnified Person may retain separate co-counsel at its sole cost and expense and participate in the defense of the claim, (b) the Indemnified Person will not consent to the entry of any judgment or enter into any settlement with respect to the claim without the prior written consent of the Indemnifying Party, and (c) the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to the claim without the prior written consent of the Indemnified Person. If the Indemnifying Party and the Indemnified Person are conducting a joint defense of the claim, neither will consent to the entry of any judgment or enter into any settlement with respect to the claim without the prior written consent of the other, which will not be unreasonably or untimely withheld.

4. Defense by Indemnified Person. If the Indemnifying Party declines or otherwise fails to participate in the defense of any third party claim (a) the Indemnified Person may defend against, and consent to the entry of any judgment or enter into any settlement with respect to, the claim in any manner it may deem appropriate (and the Indemnified Person need not consult with, or obtain any consent from, any Indemnifying Party in connection therewith), (b) the Indemnifying Party shall reimburse the Indemnified Person promptly and periodically for the costs of defending against the claim (including attorney's fees and expenses), and (c) the Indemnifying Party will remain responsible for any costs, losses, claims, liabilities, fines, penalties, damages, and expenses the Indemnified Person may suffer resulting from, arising out of, relating to, in the nature of, or caused by the claim to the fullest extent provided in this section.

14. Default, Remedies and Termination

A. Default

A Party shall be in default upon the occurrence of any of the following events.

1. The Party fails to materially meet, comply with, or perform any covenant, agreement or obligation required on the Party's part within the time limits and in the manner required in this Agreement, for any reason other than a default by the other Party.

2. The Party fails to deliver at the Closing any items required of the Party.

B. Notice of Default and Cure

In the event of a default by a Party, the other Party may give the defaulting Party notice of default. If the default is a type that can be cured, the defaulting Party shall have ten days to cure the default plus such additional time as may be necessary to cure the default, provided that the defaulting Party commences curing the default within the initial ten-day period, diligently prosecutes the cure, and completes the cure within thirty days after receiving the default notice.

C. Remedies for Default

If the default is not a type that can be cured, or the defaulting Party fails to commence curing the default within the initial ten day period, fails to diligently prosecute the cure, or fails to complete the cure within thirty days after receiving the default notice, then the defaulting Party shall be in default and the other Party may, at its option, terminate this Agreement by written notice delivered to the other Party at or prior to the Closing, seek to enforce specific performance of this Agreement, and/or pursue any other remedy available at law or in equity, all such remedies being cumulative; provided, however, in no event will either Party have any liability to any other Party for any special, punitive, consequential, exemplary, incidental or other indirect damages (excluding any indemnification obligations hereunder with respect to third party claims).

D. Ultimate Deadline

This Agreement may be terminated without fault by Chugach or MEA if all conditions to closing have not been satisfied or waived by December 31, 2023, except conditions that have not been satisfied due to the acts or omissions by that Party.

15. General

A. Cooperation

1. MEA agrees that it shall not object to RCA Approval or to Chugach's acquisition of the ML&P Assets as presently proposed in any regulatory proceeding or court action or in any manner or in any proceeding in which it becomes a party or otherwise involved. Any breach of this Section 15.A.1. shall be deemed to be a default that cannot be cured.

2. MEA agrees that it shall not object to Chugach continuing ML&P's duties as southern controller of the Intertie in any regulatory or court proceeding.

B. Capital Credits

Chugach hereby stipulates, acknowledges, and agrees that Chugach's acquisition of the ML&P Assets does not and will not modify the terms of the Confidential Settlement Agreement dated May 28, 2014 between MEA and Chugach.

C. Certificated Service Areas

The Parties each agree with the other that they shall not serve any customer in the other's certificated service area without an order from the RCA authorizing such service. Each Party represents to the other Party that it has no plans to work towards any acquisition of or merger with any part of the other Party's certificated service area.

D. Expenses

Except as otherwise provided in this Agreement, whether or not the transactions contemplated by this Agreement are consummated, each Party shall pay its own expenses and the fees and expenses of its counsel and accountants and other consultants.

E. Survival of Representations and Warranties

The representations, warranties, covenants, and agreements set forth in this Agreement shall not merge at closing, but shall survive the Closing.

F. Decision Making by Parties

Except where this Agreement expressly provides for a different standard, whenever this Agreement provides for a determination, decision, permission, consent or approval of a Party, the Party shall make such determination, decision, grant or withholding of permission, consent or approval in a commercially reasonable manner and without unreasonable delay. Any denial of an approval, permission, decision, determination or consent required to be made in a commercially reasonable manner shall include in reasonable detail the reason for denial or aspect of the request that was not acceptable.

G. Waivers

No action taken pursuant to this Agreement, including any investigation by or on behalf of either Party, shall be deemed to constitute a waiver by the Party taking such action of compliance with any representation, warranty, covenant, or agreement contained in this Agreement. The waiver by either Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

H. Assignment

Neither this Agreement nor the rights or obligations of either Party under this Agreement may be assigned by either Party without the prior written consent of the other Party, which shall not be unreasonably withheld, and any assignment in violation hereof shall be null and void and of no force or effect.

I. Binding Effect; Benefits

This Agreement shall be binding upon and inure to the benefit of the Parties and, to the extent permitted under this Agreement, their respective heirs, executors, personal representatives, other legal representatives, successors, and assigns. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies on any person other than MEA or Chugach, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third party, nor shall any provision give any third party any right of subrogation or action against either Party, except to the extent that any such third party is entitled to indemnification pursuant to

Section 12. Nothing in this Agreement shall be intended or deemed to create a partnership, joint venture, association, or other similar relationship between the Parties.

J. Notices

All notices, requests, demands, and other communications that are required to be or may be given under this Agreement shall be in writing, and shall be deemed to have been duly given if and when delivered or mailed to either Party by commercial overnight courier, personal delivery, facsimile, or registered or certified mail, return receipt requested, addressed to such Party at such Party's address as provided below or such other address as either Party may designate by notice similarly sent. Notice by mail is deemed given and is effective 48 hours after the date such notice is deposited in the mail. Other notice shall be deemed given and shall be effective when received.

MEA: Attention, Chief Executive Officer
P.O. Box 2929
163 E. Industrial Way
Palmer, Alaska 99645

Chugach: Attention, Chief Executive Officer
5601 Electron Drive
Anchorage, Alaska 99518-1081

K. Further Assurances

Each Party shall, from time to time at or after the Closing, at the request of the other Party and without further consideration, execute and deliver such other instruments and take such other actions as may be required to confer to MEA and its assignees the benefits contemplated by this Agreement.

L. Counterparts and Facsimile Signatures

This Agreement may be executed in one or more counterparts, including by electronic or facsimile signature, each of which shall be deemed an original, but all of which shall constitute but one and the same agreement notwithstanding the fact that all Parties are not signatories to the original or the same counterpart.

M. Entire Agreement; Amendment

This Agreement (including the Exhibits and Schedules hereto) constitutes the entire agreement and supersedes all prior agreements, representations, warranties, covenants and understandings, oral and written, between the Parties with respect to the subject matter, including, but not limited to, that certain Memorandum of Understanding dated November 29, 2018, and may not be amended, modified, or terminated unless in a written instrument executed by all of the Parties.

N. Severability

The invalidity of all or any part of any section of this Agreement shall not render invalid the remainder of this Agreement or the remainder of such section. If any provision of this Agreement is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as is enforceable.

O. Jurisdiction, Venue, and Governing Law

In the event of any action or proceeding arising out of this Agreement or the transactions contemplated by this Agreement, exclusive jurisdiction and venue shall lie in the Alaska Superior Court for the Third Judicial District, and Chugach and MEA hereby all consent and agree to jurisdiction and venue in such court. This Agreement shall be construed as to both validity and performance and enforced in accordance with and governed by the internal laws of the State of Alaska.

P. Interpretation

The provisions of this Agreement are the result of arm's length negotiations between the Parties and each Party has had the benefit of counsel, to the extent it deemed appropriate. Therefore, this Agreement shall not be construed either for or against a particular Party by reason of draftsmanship or otherwise. The section and other headings contained in this Agreement are for reference purposes only and shall not be deemed to be a part of this Agreement or to affect the meaning or interpretation of this Agreement.

Q. Attorney Fees

In the event of any action or proceeding arising out of or in connection with this Agreement, the prevailing Party shall be entitled to all costs, expenses, and reasonable attorney fees incurred with or without suit and on appeal.

R. Exhibits

The following exhibits and schedules are attached to this Agreement and are incorporated by reference and made a part of this Agreement:

Exhibit A **Proposed MEA-Chugach Transmission Boundary Settlement**

[SIGNATURE PAGE FOLLOWS]

Matanuska Electric Association, Inc.

Date: September 9, 2019

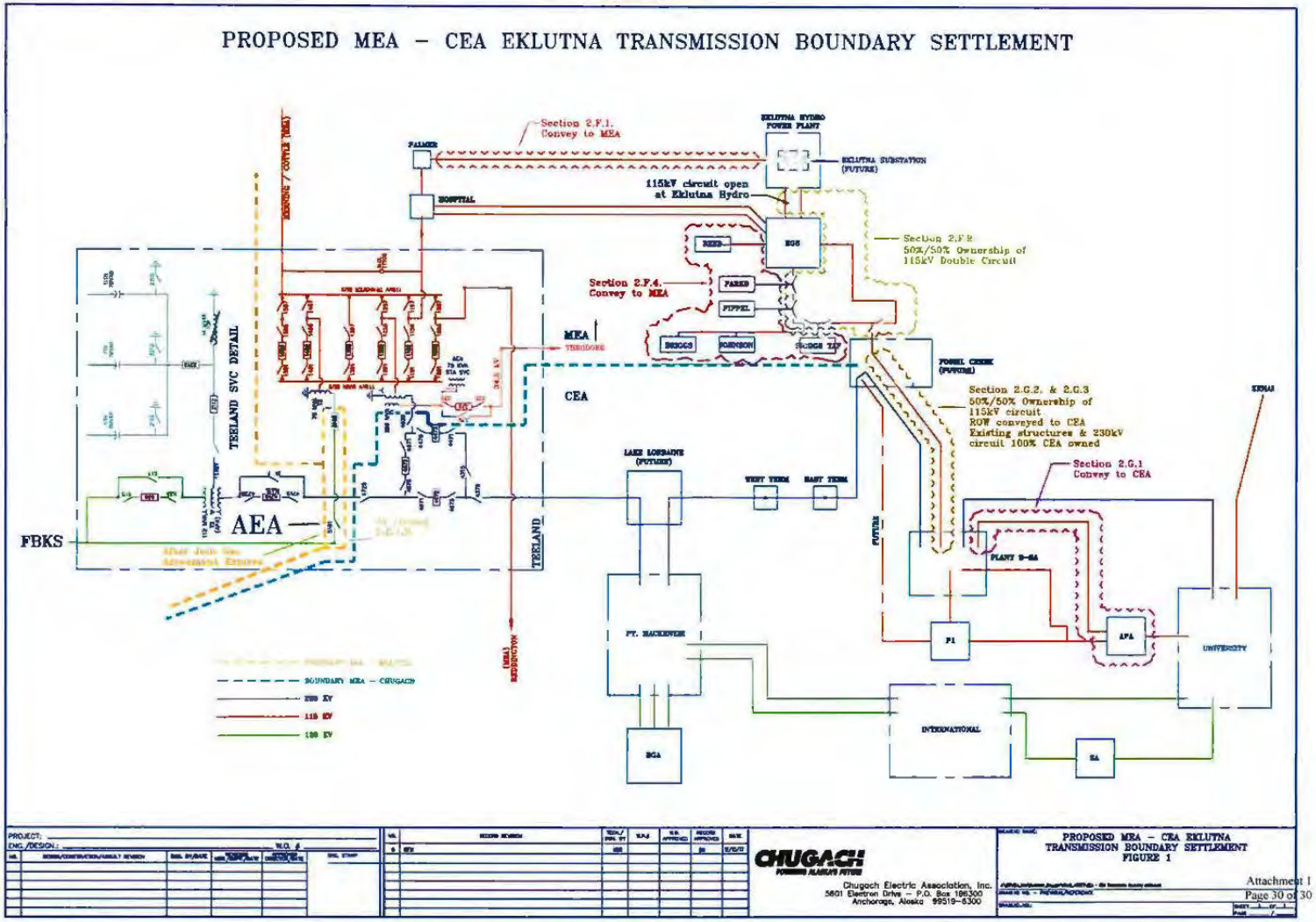
By: _____
Anthony Izzo, CEO

Chugach Electric Association, Inc.

Date: September 9, 2019

By: _____
Lee Thibert, CEO

Exhibit A


PROPOSED MEA – CEA EKLUTNA TRANSMISSION BOUNDARY SETTLEMENT
Section 2.F.1.
Convey to MEA
EKLUTNA HYDRO POWER PLANT
EKLUTNA SUBSTATION (FUTURE)
115kV circuit open at Eklutna Hydro
Section 2.F.2
50%/50% Ownership of 115kV Double Circuit
Section 2.F.4.
Convey to MEA
MEA
CEA
FOSSIL CREEK (FUTURE)
Section 2.G.2. & 2.G.3
50%/50% Ownership of 115kV circuit
ROW conveyed to CEA
Existing structures & 230kV circuit 100% CEA owned
Section 2.G.1
Convey to CEA
TESLAND SVC DETAIL
AEA
FBKS
TESLAND
LAKE LORRAINE (FUTURE)
FT. RICHARDSON
INTERNATIONAL
UNIVERSITY
FUTURE
BOUNDARY MEA – CHUGACH
230 KV
115 KV
138 KV
CHUGACH
Chugach Electric Association, Inc.
5601 Electron Drive – P.O. Box 196300
Anchorage, Alaska 99519-5300
PROPOSED MEA – CEA EKLUTNA
TRANSMISSION BOUNDARY SETTLEMENT
FIGURE 1

EKLUTNA
POWER PURCHASE AGREEMENT

BETWEEN

MUNICIPALITY OF ANCHORAGE
("SELLER")

AND

MATANUSKA ELECTRIC ASSOCIATION, INC.
("PURCHASER")

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EKLUTNA
POWER PURCHASE AGREEMENT
BETWEEN
MUNICIPALITY OF ANCHORAGE
AND
MATANUSKA ELECTRIC ASSOCIATION, INC.

This Eklutna Power Purchase Agreement (this "**PPA**"), dated as of September 16, 2019 (the "**Effective Date**"), is made and entered into by and between the **MUNICIPALITY OF ANCHORAGE,** a political subdivision organized under the laws of the State of Alaska ("**Seller**"), and **MATANUSKA ELECTRIC ASSOCIATION, INC.**, an Alaska not-for-profit electric cooperative corporation ("**Purchaser**"). Seller and Purchaser are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

WHEREAS, as of the Effective Date, Seller is the owner of a 53.33% undivided interest in the Facility (as defined herein) (the "**Seller's Interest**") and Purchaser is the owner of a 16.67% undivided interest in the Facility (the "**Purchaser's Interest**"), and if all of the PPA Contingencies (as hereinafter defined) have been fulfilled or waived, the "**MEA Portion**" shall, effective as of the Commencement Date (as hereinafter defined) and for the remainder of the Term (as hereinafter defined), equal a 35.71% share of the Seller's Interest and a 19.05% interest in the Facility. Such percentage interest, when combined with Purchaser's existing ownership of 16.67% of the Facility, will give Purchaser rights to 35.71% of the Facility; and

WHEREAS, the Facility is subject to the terms of the Transition Plan (as defined herein), which provides for the sale of interests in the Facility by the Owners (as defined herein), and it is the intent of the Parties that the Transition Plan will continue to govern the rights and obligations of the Owners in such capacity; and

WHEREAS, Seller desires to sell and deliver and Purchaser desires to accept and receive and pay for certain Power (as defined herein) delivered from the Facility to the Delivery Point on the terms and conditions, including the price, set forth in this PPA; and

WHEREAS, in connection with the sale of such Power, Seller desires to grant to Purchaser an option to purchase the MEA Portion (as defined herein), subject to the terms of the Transition Plan; and

WHEREAS, Seller intends to operate the MEA Portion during the Term in a manner consistent with Prudent Utility Practice, the Transition Plan, and the directives and decisions of the Operating Committee (as hereinafter defined), acting as a reasonable owner would, and bearing all the risks and responsibilities of such ownership in accordance with the provisions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

ARTICLE 1
RULES OF INTERPRETATION

Section 1.1 Interpretation.

(A) Capitalized terms listed in this PPA shall have the meanings set forth in Exhibit A or as otherwise defined in this PPA, whether in the singular or the plural or in the present or past tense. Words not otherwise defined in this PPA shall (i) have meanings as commonly used in the English language, (ii) be given their generally accepted meaning consistent with Prudent Utility Practice, and (iii) be given their well-known and generally accepted technical or trade meanings.

(B) For purposes of this PPA, (1) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (2) the word "or" is not exclusive; (3) the masculine shall include the feminine and neuter; and (4) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this PPA as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections, and Exhibits means the Articles, Sections and Exhibits contained in and attached to this PPA; (y) to an agreement, instrument or other document means such agreement, instrument, or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This PPA shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

Section 1.2 Consents and Approvals; Commercially Reasonable Standard. Unless expressly provided otherwise in this PPA, (a) when this PPA requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned or delayed, and (b) wherever this PPA gives a Party a right to determine, require, specify or take similar action with respect to a matter, such determination, requirement, specification or similar action shall be Commercially Reasonable.

Section 1.3 Waiver. The failure of either Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions of this PPA, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions, or rights, but the same shall be and remain at all times in full force and effect.

ARTICLE 2
CHUGACH ASSET PURCHASE AGREEMENT; CHUGACH POWER PURCHASE AGREEMENT

Section 2.1 Chugach Asset Purchase Agreement; Chugach Power Purchase Agreement. Purchaser acknowledges that Seller and Chugach have entered into an Asset Purchase and Sale Agreement dated as of December 28, 2018, pursuant to which Seller has agreed to sell to Chugach, and Chugach has agreed to purchase from Seller, substantially all of the assets of ML&P other than the Seller's Interest (the "**Chugach Asset Purchase**

Agreement"). The assets that Seller has agreed to sell to Chugach, and that Chugach has agreed to purchase from Seller, under the Chugach Asset Purchase Agreement include all of Seller's right, title, and interest in and to the Eklutna Transmission Assets. Purchaser further acknowledges that Seller and Chugach have entered into that certain Eklutna Power Purchase Agreement dated as of December 28, 2018, pursuant to which Seller has agreed to sell to Chugach, and Chugach has agreed to purchase from Seller, power produced by the Facility and attributable to the "Chugach Portion" (as hereinafter defined) (the "**Chugach Power Purchase Agreement**").

ARTICLE 3
TERM AND TERMINATION

Section 3.1 PPA Contingencies. This PPA and the Parties' obligations set forth herein are contingent upon the occurrence or waiver of each of the following events (the "**PPA Contingencies**"):

(A) RCA PPA Approval shall have been obtained;

(B) The Chugach Power Purchase Agreement shall have been approved by the RCA in accordance with the terms and conditions of the Chugach Power Purchase Agreement;

(C) The Closing under the Chugach Asset Purchase Agreement shall have occurred; and

(D) The representations and warranties of Purchaser in Section 18.14(B) shall have been true and correct as of the Effective Date and the Commencement Date, and Seller shall have received an original, fully executed copy of the CFC Subordination Agreement (including the acknowledgement and acceptance attached thereto, as executed by Purchaser) and evidence of recording of the CFC Subordination Agreement pursuant to Section 18.14(B).

Section 3.2 Commencement Date. The commencement date under this PPA (the "**Commencement Date**") shall be the date on which each of the PPA Contingencies has occurred or has been waived by the Parties.

Section 3.3 Term.

(A) The term of this PPA shall commence on the Commencement Date, and shall continue in full force and effect until 11:59 p.m. (Facility local time) on the Scheduled Termination Date, subject to early termination or extension as provided in this PPA or otherwise agreed to by the Parties (the "**Term**"). No interruption or curtailment of purchases or sales, whether due to Force Majeure or otherwise, will operate to extend the Term.

(B) The effectiveness of this PPA is expressly contingent upon the occurrence of the Closing under the Chugach Asset Purchase Agreement. In the event that the Chugach Asset Purchase Agreement is terminated before the Commencement Date, this PPA shall

automatically terminate, and become null and void, at the same time as the termination of the Chugach Asset Purchase Agreement.

ARTICLE 4
FACILITY DESCRIPTION AND OPERATION

Section 4.1 Description. The Facility is described in Exhibit B. A scaled map that identifies the Site, the location of the Facility, the Delivery Point and other important facilities, is included in Exhibit B.

Section 4.2 Operation of the Facility.

(A) During the Term Seller shall, at its cost and expense, manage, control, operate, and maintain the MEA Portion in accordance with the Operations Agreement and in a manner consistent with Prudent Utility Practice. Without limiting the foregoing, during the Term, as between Seller and Purchaser, Seller shall be responsible for all capital costs, all operations and maintenance expenses, and all costs and expenses for environmental compliance and compliance with Applicable Laws relating to the MEA Portion.

(B) During the Term, Seller shall, after giving Purchaser a reasonable opportunity to consult with Seller, but without in any way limiting Seller's discretion as a result of any such consultation, select the person to serve as Seller's representative to the Operating Committee (the "**Seller's Representative**"). The Seller's Representative shall make all decisions on the Operating Committee consistent with Prudent Utility Practice and the rights and obligations of the Parties under this PPA and the rights and obligations of the parties under the Chugach Power Purchase Agreement. The Seller's Representative shall also be Seller's representative for any consultation, study, and implementation processes required under the Fish and Wildlife Agreement relating to the Facility. The Seller's Representative shall make all decisions with respect to any processes required under the Fish and Wildlife Agreement with due regard for the rights and obligations of the Parties under this PPA.

(C) The Parties acknowledge and agree that Seller has prior rights to not less than 41 million gallons of water per day from Eklutna Lake for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823; Alaska Statutes 46.15.150(a); and Certificate of Appropriation ADL 44944. The Parties agree that during the Term, the supply of water available for production of Power by the Seller's Interest shall be net of all water taken by Anchorage Water and Wastewater Utility for public water supply purposes consistent with the aforementioned water rights.

Section 4.3 Books and Records. Seller and Purchaser shall each keep complete and accurate books and records and all other data required by each of them for the purposes of metering, billing, payment, and administration of this PPA, including such Operating Records and other records as may be required by Applicable Law, Governmental Authorities, or any ERO or ISO. Each Party shall maintain such books and records in accordance with relevant accounting standards, as applicable, and shall provide the other Party Commercially Reasonable access to such books and records. All books and records pertaining to the operation of the Facility shall be

maintained on the premises of the Facility or such other location as is mutually agreed to by the Parties. Either Party may audit and examine any such books and records from time to time upon request and during normal business hours. Each Party shall maintain any books and records that it is required to keep under this Section 4.3 for a period of at least six (6) years after the preparation of such books or records.

ARTICLE 5
DELIVERY; SCHEDULING; FACILITY METERING

Section 5.1 Power Delivery Arrangements. Seller shall be responsible for all electric losses, transmission and ancillary service arrangements, and costs and expenses required for delivery of the Power from the Facility to the Delivery Point. Purchaser shall be responsible for all electric losses, transmission and ancillary service arrangements, and costs and expenses required for transportation and delivery of the Power from and after the Delivery Point.

Section 5.2 Scheduling. Purchaser shall at all times during the Term nominate and schedule for delivery to Purchaser, consistent with past practice at the Facility and in accordance with Prudent Utility Practice and the provisions of this PPA and the Transition Plan, the maximum quantity of Power that is available at such time for scheduling and delivery from the MEA Portion in accordance with the provisions of this PPA.

Section 5.3 Facility Metering. The Facility Metering used to measure Power delivered to the Delivery Point under this PPA shall be located at the Delivery Point, or as close thereto as is reasonably possible.

Section 5.4 Facility Metering Testing. Purchaser will provide to Seller copies of all Facility Metering calibration test results. If any test of the Facility Metering discloses an inaccuracy of more than one-half percent (0.5%) fast or one-half percent (0.5%) slow, any payments or adjustments made or calculated under this PPA that would have been affected by the inaccuracy will be recalculated to correct for the inaccuracy. For purposes of such correction, if the inaccuracy is traceable to a specific event or occurrence at a reasonably ascertainable time, then the adjustment will extend back to that time; otherwise, it will be assumed that the error has existed for a period equal to one-half of the time elapsed since the Facility Metering was installed or one-half of the time since the last Facility Metering test, whichever is later. Either Party may, at its option and expense, have check Facility Metering installed. If any such check Facility Metering is installed, it will be used, in accordance with practices and procedures established by the Parties, for billing adjustments of discovered Facility Metering inaccuracies. If at any time both the billing and check Facility Metering at any location should fail to register, Purchaser will determine the delivered Power from the best available data, unless Seller objects to such determination within sixty (60) days after receipt of such determination. Any such disagreement will be resolved pursuant to the dispute resolution provisions set forth in Section 12.1. If either Party determines, as a result of correction of measurements made by inaccurate Facility Metering, that any payments or adjustments made pursuant to this PPA are incorrect, the Parties will use the corrected measurements to recompute such payments or adjustments. Any amounts that are determined to be payable or subject to refund as a result of such recomputation

will be paid to the Party entitled to such amounts within twenty (20) days after the paying Party is notified of the recomputation, with interest at the Interest Rate from the original payment due date to the date of payment or refund of such adjustment.

ARTICLE 6
SALE AND PURCHASE OF POWER

Section 6.1 General Obligation.

(A) Beginning on the Commencement Date and continuing thereafter throughout the Term, Seller shall generate from the Facility and deliver and sell to Purchaser, and Purchaser shall schedule and receive and purchase at the Delivery Point, any and all Energy, Capacity, Environmental Attributes, and Ancillary Services (collectively, the "**Power**") that is available from the Facility and attributable to the MEA Portion.

(B) The Power sold under this PPA is unit contingent. The Facility will be considered to be available for purposes of producing Power for delivery to Purchaser only when and to the extent that the Facility is capable of producing such Power in accordance with the provisions of this PPA, the Transition Agreement, Applicable Law, and Prudent Utility Practice. Seller shall have no obligation to sell and deliver Power, and Purchaser shall have no right to schedule or receive Power, at any time when the Facility is unavailable to generate such Power, whether in whole or in part, as a result of any Force Majeure, Forced Outage, or Planned Outage: *provided, however*, that if the Facility is partially available, Purchaser shall schedule, and Seller shall deliver, such amount of Power as is available on a proportionate basis from the MEA Portion at such time.

(C) Title to and risk of loss of the Power shall transfer from Seller to Purchaser at the Delivery Point. Title to the Power shall transfer from Seller to Purchaser free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any other Person.

Section 6.2 Additional Products; Ancillary Services.

(A) The Parties acknowledge that existing and future Applicable Laws create value in the ownership, use, or allocation of Environmental Attributes. To the full extent allowed by Applicable Law, Purchaser shall own and be entitled to claim all Environmental Attributes attributable to the MEA Portion from the Commencement Date until the end of the Term, to the extent such Environmental Attributes may exist or be created during such period. For purposes of effectuating the foregoing, the following shall apply:

1. Seller hereby automatically and irrevocably assigns to Purchaser all rights, title and authority for Purchaser to register the Facility and own, hold, and manage the Environmental Attributes attributable to the MEA Portion in Purchaser's own name and to Purchaser's account, including any rights associated with any renewable energy information or tracking system that exists or may be established (including but not limited to participants in any applicable REC Registration Program and the United States government) with regard to

monitoring, registering, tracking, certifying, or trading Environmental Attributes. Seller hereby authorizes Purchaser to act as its agent for the purposes of registering the Facility for such purposes, and tracking and certifying Environmental Attributes, and Purchaser shall have full authority to hold, sell, or trade Environmental Attributes attributable to the MEA Portion for its own account in connection with any renewable energy information or tracking systems. Upon the request of Purchaser, at Purchaser's cost and expense, (i) Seller shall deliver or cause to be delivered to Purchaser such attestations/certifications of Environmental Attributes attributable to the MEA Portion, and (ii) Seller shall cooperate with Purchaser's registration and certification of Environmental Attributes attributable to the MEA Portion.

2. Prior to the Commencement Date and as required thereafter for Purchaser to claim, own, or realize the available benefits of any Environmental Attributes attributable to the MEA Portion, Seller shall, at Purchaser's reasonable cost and expense, make all applications or filings required by Applicable Law for Environmental Attribute accreditation and for the provision of such Environmental Attributes to Purchaser.

(B) On and after the Commencement Date until the end of the Term, Seller shall make available to Purchaser all Ancillary Services attributable to the MEA Portion at no additional charge under this PPA. Any compensation that Seller receives under Applicable Law or otherwise for Ancillary Services attributable to the MEA Portion during such period shall be provided to Purchaser at no additional cost to Purchaser under this PPA. Seller shall credit Purchaser, as a reduction to Seller's monthly invoice or other mutually-agreed mechanism, for any compensation that Seller receives for Ancillary Services attributable to the MEA Portion during such period.

1. Seller shall, at the request of Purchaser, use Commercially Reasonable Efforts to maximize the availability of such Ancillary Services during such period; *provided, however*, that Seller shall not be required to make any capital expenditures or incur any operating expenses in connection with such efforts.

2. In the event any Governmental Authority implements new or revised requirements for generators to create, modify, change, or supply Ancillary Services requiring Seller to install additional equipment after the Commencement Date to meet such requirements, Seller shall be responsible for payment of any costs and expenses of such additional equipment.

ARTICLE 7
PAYMENT FOR POWER

Section 7.1 Contract Price. In consideration for Seller's sale to Purchaser of the Power attributable to the MEA Portion and delivered to Purchaser under this PPA, Purchaser shall pay Seller for such Power an amount determined in accordance with the provisions of Exhibit C (the "**Contract Price**"). Purchaser and Seller acknowledge and agree that the Contract Price is structured to include all required compensation for any and all Power (including, for the avoidance of doubt, any and all Capacity, Ancillary Services, and Environmental Attributes)

delivered by Seller and received by Purchaser under this PPA during the Term and that Purchaser is not required to make any additional payments to Seller therefor.

ARTICLE 8
GOVERNMENTAL CHARGES

Section 8.1 Allocation of Governmental Charges.

(A) Seller will pay or cause to be paid all Governmental Charges that are imposed on or with respect to the generation of Power and the sale and delivery to Purchaser of Power before delivery of such Power to the Delivery Point.

(B) Purchaser will pay or cause to be paid all Governmental Charges that are imposed on or with respect to the purchase and receipt by Purchaser of Power at and from the Delivery Point.

(C) If a Party is required to remit or pay Governmental Charges that are the other Party's responsibility under this Section 8.1, such Party will promptly reimburse the other Party for such Governmental Charges. Both Parties will use reasonable efforts to administer this PPA and implement the provisions in accordance with their intent to minimize Governmental Charges, so long as no Party is materially adversely affected by such efforts. For greater certainty, each Party is responsible for any Governmental Charges levied on the basis of its own net income.

(D) Nothing in this Section 8.1 will obligate or cause a Party to pay or be liable to pay any Governmental Charge for which it is exempt under Applicable Law. If any sale of Power under this PPA is exempt from or not subject to any particular Governmental Charge, the Party subject to such exemption or exclusion shall timely provide the other Party with all reasonable documentation to evidence such exemption or exclusion.

(E) Either Party may deduct or withhold any Governmental Charges that such Party may be legally obligated to deduct or withhold from any amounts payable to the other Party under this PPA, and payment to such other Party as reduced by such deductions or withholdings will constitute full payment and settlement to such other Party under this PPA.

(F) Seller will provide Purchaser with any forms, documents, or certifications as may be required for Purchaser to satisfy any information reporting or withholding tax obligations with respect to any payments under this PPA.

ARTICLE 9
BILLING AND PAYMENT

Section 9.1 Billing and Payment.

(A) Each month following a full or partial month during the Term, Seller will render to Purchaser by email to the address provided in Section 18.2 an invoice setting forth the

total Contract Price and resulting total amount due for all Power delivered to Purchaser in accordance with the requirements of this PPA during such preceding month, any amounts payable to Seller under ARTICLE 10, and any credits to Purchaser under ARTICLE 10. Billing and payment will be based on the Contract Price and on delivered Power quantities. Payment of any such invoice will be made by Purchaser to Seller, via ACH or wire transfer of immediately available funds, on or before the later of (a) the 15th day of the month in which the invoice was rendered or (b) the 10th day following presentation of such invoice; *provided*, that if such due date is not a Business Day, payment will be due on the next Business Day following such date.

(B) If a payment by either Party under this PPA is late, interest shall accrue at the Interest Rate on the unpaid balance for the number of days payment was late and shall be added to the next billing statement.

(C) Seller and Purchaser shall net their obligations to each other under this PPA, and payment of the net amount will discharge all mutual undisputed obligations between the Parties.

Section 9.2 Subordination. The Parties agree that Purchaser's payment obligations hereunder are payable on a parity with Purchaser's other operating expenditures, but subordinate to (i.e., neither on a parity with nor superior to) Purchaser's payment obligations under the Bradley Lake Agreement only if and to the extent, and for the period, that making such payments would prevent Purchaser from making timely payment of any amounts due from it under the Bradley Lake Agreement.

Section 9.3 Billing Disputes. Either Party may dispute invoiced amounts, but shall pay at least the undisputed portion on or before the date due. To resolve any billing dispute, the Parties shall use the procedures set forth in ARTICLE 12. When the billing dispute is resolved, the Party owing any amount shall pay such amount within five (5) Business Days after the date of such resolution, together with late payment interest as provided in Section 9.1(B).

ARTICLE 10
LIABILITY FOR FAILURE TO DELIVER OR RECEIVE

Section 10.1 Failure to Deliver. Unless excused by Purchaser's failure to perform or Force Majeure, if Seller fails to deliver scheduled Power in accordance with the requirements of this PPA, Seller will pay to Purchaser the positive difference, if any, obtained by subtracting (a) the Contract Price for the scheduled Power not delivered by Seller from (b) the Replacement Price.

Section 10.2 Failure to Receive. Unless excused by Seller's failure to perform or Force Majeure, if Purchaser fails to receive (or to cause to be received) scheduled Power in accordance with the requirements of this PPA. Purchaser will pay to Seller the positive difference, if any, obtained by subtracting (a) the Sales Price from (b) the Contract Price for the scheduled Power not received by Purchaser.

Section 10.3 Payment for Nonperformance. Invoicing and payment of any amounts due under this ARTICLE 10 will be made in accordance with the provisions of ARTICLE 9.

Section 10.4 Acknowledgement of the Parties. The Parties hereby stipulate that the payment obligations set forth in this ARTICLE 10 are reasonable in light of the anticipated harm and the difficulty of estimation or calculation of actual damages, and each Party hereby waives the right to contest such payments as unfair, unreasonable, inadequate or void as a penalty. Without limiting to any extent the provisions of ARTICLE 11, the remedy set forth in this ARTICLE 10 will be the sole and exclusive remedy of Purchaser for the failure of Seller to deliver, or of Seller for the failure of Purchaser to receive, the required Power and all other damages and remedies are hereby waived.

ARTICLE 11
EVENTS OF DEFAULT AND REMEDIES

Section 11.1 Events of Default. Any of the following events shall constitute an Event of Default with respect to the specified Party, which shall be the defaulting Party with respect to such Event of Default, if such event has not been cured within the cure period specified for such event:

(A) Such Party's failure to pay any amount due to the other Party as required by this PPA, Actual Damages, any required indemnification, or any other required payment, and such amount remains unpaid for a period of ten (10) Business Days after the date such Party receives Notice from the non-defaulting Party that the amount is overdue.

(B) Such Party's application for, or consent (by admission of material allegations of a petition or otherwise) to, or failure to oppose the appointment of a receiver, trustee or liquidator for a Party or for all or substantially all of its assets, or its authorization of such application or consent, or the commencement or institution of any proceedings seeking such appointment against a Party which proceedings continue undismissed or unstayed for a period of sixty (60) days from their inception.

(C) (i) Such Party's authorization or filing of a voluntary petition in bankruptcy, or its application for, or consent (by admission of material allegations of a petition or otherwise) to, or failure to oppose an involuntary petition in bankruptcy or the application of any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction to such Party, or (ii) the commencement or institution of any such proceedings against such Party which proceedings remain undismissed or unstayed for sixty (60) days from their inception or which result in adjudication of bankruptcy or insolvency within such time.

(D) Such Party's unauthorized assignment of this PPA, which unauthorized assignment shall be an Event of Default immediately upon its occurrence and without further notice from the non-defaulting Party.

(E) The failure by either Party to perform or observe any other material obligation to the other Party under this PPA (other than any events that are otherwise specifically covered in this Section 11.1 as a separate Event of Default, or Seller's obligation to deliver, and Purchaser's obligation to receive, for which a separate remedy is provided in ARTICLE 10), which failure is not excused by Force Majeure and remains unremedied for thirty (30) days after Notice thereof shall have been given by the non-defaulting Party; *provided, however*, that if the failure is not reasonably capable of being cured within the thirty (30) day period, the defaulting Party will have such additional time (not exceeding an additional ninety (90) days) as is reasonably necessary to cure the failure, so long as the Party promptly commences and diligently pursues the cure.

Section 11.2 Remedies. Upon the occurrence of any Event of Default of this PPA, the non-defaulting Party may pursue all rights and remedies available to it at law and in equity and in accordance with the terms of this PPA. Except as explicitly provided to the contrary in this PPA, each right or remedy of the Parties provided for in this PPA shall be cumulative of and shall be in addition to every other right or remedy provided for in this PPA, and the exercise of one or more of the rights or remedies provided for herein shall not preclude the simultaneous or later exercise by such Party of any other rights or remedies provided for herein.

(A) Termination and Damages. For any uncured Event of Default, the non-defaulting Party may, at its option do any, some, or all of the following:

1. Net from any payments due from the non-defaulting Party any amount otherwise due from the defaulting Party under or in connection with this PPA, including any unpaid Actual Damages;

2. Seek Actual Damages in such amounts and on such basis for the default as authorized by this PPA;

3. Terminate this PPA immediately upon Notice, without penalty or further obligation to the defaulting Party. Upon the termination of this PPA under this Section 11.2, the non-defaulting Party shall be entitled to receive from the defaulting Party all of the Actual Damages in connection with the Event of Default resulting in such termination.

(B) Damages for Events of Default. The non-defaulting Party shall be entitled to receive from the defaulting Party all direct damages incurred by the non-defaulting Party that are proximately caused by Event of Default ("**Actual Damages**").

(C) Seller Security Interest. In the event Purchaser shall be deemed to have acquired title to the MEA Portion at any time (other than by exercise of the Purchase Option under Section 17.3), Seller shall have all of the rights and remedies of a secured party with respect to the Seller Security Interest under Article 9 of the UCC and other Applicable Law, including the right to foreclose on the Seller Security Interest upon an Event of Default.

Section 11.3 Limitation on Damages. The Parties confirm that the express remedies and measures of damages provided in this PPA satisfy the essential purposes hereof. If no

remedy or measure of damages is expressly herein provided, the obligor's liability shall be limited to Actual Damages only. Neither Party shall be liable to the other Party for consequential, incidental, punitive, exemplary, special, equitable or indirect damages, lost profits or other business interruption damages by statute, in tort or contract (except to the extent expressly provided herein); *provided, however*, that if either Party is held liable to a third party for such damages and the Party held liable for such damages is entitled to indemnification from the other Party hereto, the indemnifying Party shall be liable for, and obligated to reimburse the indemnified Party for, such damages. To the extent any damages required to be paid hereunder are liquidated, the Parties acknowledge that the damages are difficult or impossible to determine, that otherwise obtaining an adequate remedy is inconvenient, and that the liquidated damages constitute a reasonable approximation of the harm or loss.

ARTICLE 12
DISPUTE RESOLUTION

Section 12.1 Dispute Resolution. In the event of any dispute arising under this PPA (a "**Dispute**"), within ten (10) Business Days following Notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) days thereafter, either Party may pursue any available legal remedies; *provided, however*, that if and to the extent that a Dispute involves the Justness or Reasonableness Conditions, and the Dispute is not resolved by negotiations of senior management representatives of the Parties, neither Party shall have any right to pursue any further legal remedies to resolve such Dispute and such Dispute shall be deemed to be resolved finally and conclusively by enforcement of the obligation of Purchaser under this PPA to pay the Contract Price and resulting amount due in accordance with the requirements of this PPA.

ARTICLE 13
FORCE MAJEURE

Section 13.1 Applicability of Force Majeure. Except as explicitly provided otherwise herein, a Party shall be relieved of its obligations to perform this PPA and shall not be considered to be in default with respect to any obligation under this PPA to the extent that such Party is prevented from fulfilling such obligation by Force Majeure, *provided, however*, that: (i) such Party gives prompt Notice describing the circumstances and impact of the Force Majeure; (ii) the relief from its obligations sought by such Party is of no greater scope and of no longer duration than is required by the Force Majeure; (iii) such Party proceeds with due diligence to overcome

the Force Majeure and resume performance of its obligations under this PPA; and (iv) such Party provides prompt Notice of the conclusion of the Force Majeure.

Section 13.2 Limitations on Effect of Force Majeure.

(A) Force Majeure shall relieve a Party from performing only such obligations as are actually prevented by the Force Majeure.

(B) Except to the extent that Force Majeure prevents a Party from completing a transfer of money to the other Party, Force Majeure shall not excuse a Party from making any payment to the other on or before the date that such payment becomes due and payable.

(C) In no event will the existence of Force Majeure extend this PPA beyond its stated Term.

Section 13.3 Termination Relating to Force Majeure Events.

(A) If Seller is excused from its obligations under this PPA for ninety (90) consecutive days because of a Force Majeure event, Purchaser may, at any time prior to the termination of the Force Majeure event, terminate this PPA effective upon not less than three (3) days' notice to Seller; *provided*, that in the event that Seller holds Purchaser harmless from the effects of such non-performance, such ninety (90)-day period will be suspended for such period, not in any event to exceed one hundred and eighty (180) days' suspension, as Seller continues so to hold Purchaser harmless. For purposes of this Section 13.3(A), "hold harmless" means the implementation by Seller of alternative arrangements for the delivery to Buyer of Power, the delivery of which has been affected by the relevant Force Majeure event.

(B) In the event of termination pursuant to this Section 13.3, neither Party will have any liability whatsoever to the other Party under or in connection with this PPA; *provided*, that no such termination will relieve either Party of liability for any costs or other obligations incurred prior to the effectiveness of such termination.

ARTICLE 14
CHANGE IN LAWS

Section 14.1 Change in Laws.

(A) If a Party becomes aware that there has occurred or is reasonably likely to occur a Change in Laws that directly prohibits, prevents, or materially impedes a Party from performing its obligations under this PPA or materially impacts or alters the rights, benefits, or allocation of risks under this PPA, such Party shall notify the other Party of such Change in Laws. The Parties shall promptly following any such notice negotiate in good faith amendments to or a replacement of this PPA that will result in substantially the same allocation of rights, benefits, and risks as this PPA as of the Effective Date. If such good faith negotiations do not result in such an amendment to or replacement of this PPA within a period of ninety (90) days following the start of such negotiations (or any longer time period to which the Parties may

agree), either Party may, effective upon not less than sixty (60) days' prior written notice to the other Party, terminate this PPA at any time while such Change in Laws is continuing, without any penalty or liability of either Party to the other Party; *provided, however*, that in no event will any such termination excuse any obligation to make payments due or becoming due under this PPA for performance rendered prior to such termination. Unless and until any such termination of this PPA, each Party shall continue to perform its obligations under this PPA to the fullest extent not actually prohibited, prevented, or impeded by such Change in Laws.

(B) Consistent with Section 14.1(A), nothing in this PPA shall require either Party to perform any obligations that are prohibited or prevented by a Change in Laws. To the extent a Change in Laws occurs that directly prohibits, prevents, or materially impedes either Party from performing its obligations under this PPA and the Parties are unable to follow the procedures set forth in Section 14.1(A), such Change in Laws will be treated as an event of Force Majeure and the affected Party will be entitled to relief therefor in accordance with the provisions of ARTICLE 13 to the extent and for the period necessary to allow the Parties to complete the process set forth in Section 14.1(A).

(C) A Party that actively petitions for or otherwise requests a Change in Laws shall not be entitled to obtain relief from such Change in Laws under this Section 14.1 without the consent of the other Party.

(D) For purposes of this Section 14.1, "materially" means a level of significance that would, as of the Effective Date, have been reasonably likely to have affected any decision of a reasonable person in the applicable Party's position regarding whether or not to enter into this PPA or consummate the transaction(s) contemplated in this PPA on the terms and conditions thereof.

ARTICLE 15
INSURANCE

Section 15.1 General Insurance Requirements. On or prior to the Commencement Date and thereafter throughout the Term, Seller shall use Commercially Reasonable efforts to obtain and maintain at its own cost and expense insurance coverages for the MEA Portion satisfying the requirements of this ARTICLE 15. No later than the Commencement Date and on or before June 1 of each year during the Term, Seller shall provide Purchaser with a copy of insurance certificates reasonably acceptable to Purchaser evidencing that insurance coverages for the Facility are in compliance with such requirements. Such certificates shall (a) name Purchaser as an additional insured (except worker's compensation); (b) provide that Purchaser shall receive thirty (30) days' prior Notice of non-renewal, cancellation of, or significant modification to any of the corresponding policies (except that such Notice shall be ten (10) days for non-payment of premiums); (c) provide a waiver of any rights of subrogation against Purchaser, its Affiliates and their officers, directors, agents, subcontractors, and employees; and (d) indicate that the policies have been endorsed in accordance with the requirements set forth herein. All policies shall be written with insurers with an AM Best rating of at least A-VII. All policies shall be written on an occurrence basis, except as provided in Section 15.2. All policies shall contain an endorsement

that Seller's policy shall be primary in all instances regardless of like coverages, if any, carried by Seller. Neither Party's liability under this PPA shall be limited to the amount of insurance coverage required herein.

Section 15.2 Term and Modification of Insurance.

(A) All insurance required under this PPA shall cover occurrences during the Term and for a period of two (2) years after the Term. In the event that any insurance as required herein is commercially available only on a "claims-made" basis, such insurance shall provide for a retroactive date not later than the date of this PPA and such insurance shall be maintained by Seller for a minimum of six (6) years after the Term.

(B) If any insurance required to be maintained by Seller hereunder ceases to be reasonably available and commercially feasible in the commercial insurance market, Seller shall provide Notice to Purchaser, accompanied by a certificate from an independent insurance advisor of recognized national standing, certifying that such insurance is not reasonably available and commercially feasible in the commercial insurance market for electric generating plants of similar type, geographic location and capacity. Notwithstanding such Notice, Seller shall use Commercially Reasonable attempts to obtain other insurance that would provide comparable protection against the risk to be insured.

ARTICLE 16
INDEMNITY

Section 16.1 Indemnification. Each Party (the "**Indemnifying Party**") agrees (but in the case of Seller as the Indemnifying Party, only subject to appropriation of the requisite funds by the Assembly of Seller) to indemnify, defend, and hold harmless the other Party (the "**Indemnified Party**") from and against all third party claims, demands, losses, liabilities, penalties, and expenses (including attorneys' fees) for personal injury or death to persons and damage to the Indemnified Party's real property and tangible personal property or facilities or the property of any other Person to the extent arising out of, resulting from, or caused by any (i) Event of Default or other breach under this PPA, (ii) violation of Applicable Laws, (iii) negligent or tortious acts, errors, or omissions, or (iv) willful misconduct, in each case of the Indemnifying Party or any of its Affiliates, directors, officers, employees, or agents.

(A) The indemnification obligations of the Indemnifying Party shall apply notwithstanding any negligence of the Indemnified Party, but the Indemnifying Party's liability to indemnify the Indemnified Party shall be reduced in proportion to the percentage by which the Indemnified Party's negligent acts, errors, or omissions caused the damages.

(B) Neither Party shall be indemnified for its damages resulting from its sole negligence or willful misconduct. The indemnity provisions of this PPA shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

(C) Nothing in this Section 16.1 shall enlarge any liability of either Party to the other Party for any breach of this PPA or relieve either Party of any liability to the other Party for any breach of this PPA.

(D) A Party will not be liable more than once for the same losses, even if those losses may be recovered under multiple sections or subsections of this PPA.

Section 16.2 Notice of Claim. Promptly after receipt by a Party of any claim or notice of the commencement of any action, administrative proceeding, legal proceeding, or investigation as to which the indemnity provided for in this ARTICLE 16 may apply, the Indemnified Party shall provide Notice thereof to the Indemnifying Party. The Indemnifying Party shall assume the defense thereof with counsel designated by such Party and satisfactory to the Indemnified Party, *provided, however*, that if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer has agreed to pay such costs.

Section 16.3 Settlement of Claim. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may, at the expense of the Indemnifying Party, contest, settle, or pay such claim, *provided, however*, that settlement or full payment of any such claim may be made only following consent of the Indemnifying Party, which consent will not be unreasonably withheld, conditioned, or delayed, or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement.

Section 16.4 Amounts Owed. Except as otherwise provided in this ARTICLE 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this ARTICLE 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's actual loss net of any insurance proceeds received by the Indemnified Party following a Commercially Reasonable effort by the Indemnified Party to obtain such insurance proceeds (which Commercially Reasonable effort will not in any event include any obligation to initiate litigation or any other dispute resolution proceeding against any insurer).

Section 16.5 Survival. The provisions of this ARTICLE 16 shall survive the expiration or earlier termination of this PPA.

ARTICLE 17
ASSIGNMENT AND OTHER TRANSFER RESTRICTIONS; LENDER PROVISIONS

Section 17.1 Transfer Without Consent Is Null and Void. Except as provided in ARTICLE 2, any sale, transfer, or assignment of any interest in the Seller's Interest or in this PPA made without fulfilling the requirements of this ARTICLE 17 shall be null and void and a breach of this PPA.

(A) Except as permitted in this Section 17.1, neither Party shall assign this PPA, or any right, title or interest therein, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed; *provided, however*, that: (i) Notice of any proposed assignment requiring consent of the other Party shall be given to such other Party at least thirty (30) days prior to the proposed effective date of such assignment; and (ii) with respect to any assignment hereunder, whether requiring consent or not, (a) except with respect to any assignment under Section 17.2, any assignee shall expressly assume the assignor's obligations under this PPA unless otherwise agreed by the other Party; (b) no assignment shall relieve the assignor of its obligations under this PPA in the event the assignee fails to perform, unless the other Party waives or releases in writing the assignor's continuing obligations under this PPA; and (c) the assignment shall be subject to receipt of all such approvals as may be required by any applicable Governmental Authorities.

(B) Except as set forth in Section 18.14(B) with respect to the Collateral and Seller's consent rights with respect thereto, Purchaser shall have the right to assign all or a portion of its rights or obligations under this PPA without the prior written consent of Seller as follows:

1. to a Lender as collateral security for obligations under the Financing Documents entered into with such Lender, *provided* that: (i) Purchaser provides Seller with written Notice of such proposed collateral assignment not less than thirty (30) days prior to such collateral assignment, and (ii) the applicable form of collateral assignment and related documentation is reasonably acceptable to Seller, as provided in Section 17.2;

2. to an Affiliate of Purchaser that is a Creditworthy Entity;

3. pursuant to Section 17.2, to a Creditworthy Entity after a Lender has exercised its foreclosure rights with respect to this PPA; and

4. to a Person succeeding to all or substantially all of the assets of Purchaser, *provided* that such Person's creditworthiness is equal to or better than that of Purchaser.

(C) Seller acknowledges that upon an event of default under any Financing Documents relating to this PPA, a Lender may (but shall not be obligated to) assume, or cause its designee to assume, all of the interests, rights, and obligations of Purchaser thereafter arising under this PPA, in which case such Lender or such designee shall assume and agree to be bound by all the terms and provisions of this PPA arising on or after the date of such assumption by such Lender or such designee; *provided* that, regardless of whether any such Lender or such designee assumes all of the interests, rights, and obligations of Purchaser thereafter arising under this PPA, Seller's interests, rights, and obligations under this PPA will remain in full force and effect.

Section 17.2 Lender Provisions.

(A) Except as set forth in Section 18.14(B) with respect to the Collateral and Seller's consent rights with respect thereto, Purchaser may, without approval of Seller, charge or otherwise encumber its interest under this PPA for security purposes in accordance with the provisions of Section 17.1 and this Section 17.2.

(B) Promptly after making any such encumbrance, Purchaser shall notify Seller in writing of the name, address, and telephone and facsimile numbers of each Lender to which Purchaser's interest under this PPA has been encumbered. Such Notice shall include the names of the account managers or other representatives of the Lenders to whom all written and telephonic communications may be addressed.

(C) After giving Seller the initial Notice under Section 17.2(B), Purchaser shall promptly give Seller Notice of any change in the information provided in the initial Notice or any subsequent Notice.

(D) If Purchaser encumbers its interest under this PPA as permitted by this Section 17.2, the following provisions shall apply:

1. The Parties, except as provided by the terms of this PPA, shall not modify or cancel this PPA without the prior written consent of the Lender, such consent not to be unreasonably withheld, conditioned or delayed.

2. The Lender or its designees shall have the right, but not the obligation, to perform any act required to be performed by Purchaser under this PPA to prevent or cure an Event of Default with respect to Purchaser and such act performed by the Lender or its designees shall be as effective to prevent or cure an Event of Default as if done by Purchaser, *provided* that, if any such Lender or any such designee elects to perform any act required to be performed by Purchaser under this PPA to prevent or cure an Event of Default by Purchaser, Seller will not be deemed to have waived or relinquished any of its rights and remedies as provided in this PPA; and *provided, further*, that Purchaser hereby releases Seller, to the fullest extent permitted by Applicable Law, from any and all liability arising from Seller's performance under this PPA pursuant to instructions of the Lender following an event of default with respect to Purchaser under Lender's Financing Documents.

3. Seller shall, promptly following any request by Purchaser, execute statements certifying that this PPA is unmodified (or, if modified, stating the nature of the modification), in full force and effect and the absence or existence (and the nature thereof), to Seller's actual knowledge, of Events of Default hereunder by Purchaser and documents of consent to such assignment to the encumbrance and any assignment to such Lender, all in form and substance reasonably acceptable to Seller.

4. Promptly following the receipt of a written request from Purchaser or any Lender, Seller shall execute, or arrange for the delivery of, such reasonable certificates and other documents as may be reasonably necessary and appropriate in order for Purchaser to

consummate any financing or refinancing of the Facility or any part thereof and enter into such reasonable agreements as may be reasonably requested by such Lender, which agreements will grant such rights to the Lender as are specifically provided for in such documents, including that (a) this PPA shall not be terminated (otherwise than pursuant to the terms of this PPA) without the consent of the Lender, which consent shall not be unreasonably withheld, conditioned, or delayed; (b) the Lender shall be given notice of, and the opportunity to cure any breach or default of this PPA by Purchaser in accordance with this PPA; (c) if the Lender forecloses, takes a deed in lieu of foreclosure, or otherwise exercises its remedies pursuant to any security documents, then (i) Seller shall, at the Lender's request, continue to perform all of its obligations hereunder, and the Lender or (without in any way limiting any obligation or liability of the Lender) its nominee may perform in the place of Purchaser, and may assign this PPA to another Person that is a Creditworthy Entity in place of Purchaser, (ii) the Lender shall have no liability under this PPA except during the period of such Lender's ownership of the Purchaser's Interest, and (iii) Seller shall accept performance in accordance with this PPA by the Lender or its nominee; and (d) Seller shall make such representations and warranties to the Lender as Lender may reasonably request with regard to (1) Seller's authority to execute, deliver, and perform this PPA, (2) the binding nature on Seller of the document evidencing Seller's consent to assignment to the Lender and this PPA, and (3) the receipt of regulatory approvals by Seller with respect to its execution and performance under this PPA.

5. Purchaser shall reimburse Seller for the out-of-pocket costs and expenses (including the fees and expenses of counsel) incurred by Seller in connection with the preparation, negotiation, or execution of any statements, certificates, agreements, or other documents required under this Section 17.2.

Section 17.3 Purchase Option. Purchaser (or its designated Affiliate) shall have the option to purchase the MEA Portion effective as of the expiration of the Term on the terms and conditions hereinafter set forth (the "**Purchase Option**"). On or before the thirtieth (30th) anniversary of the Commencement Date, Seller will deliver to Purchaser Notice of the date, location, and time of a joint meeting between Seller and Purchaser to discuss Purchaser's plan regarding the potential exercise the Purchase Option. During the last five (5) Contract Years, Purchaser shall have the right at any time prior to the last day of the Term to deliver Notice to Seller that Purchaser is exercising the Purchase Option. If Seller fails to provide Notice of such joint meeting or fails to meet with Purchaser, Seller shall not be in breach of this PPA, but if Purchaser then fails to deliver Notice of exercise of the Purchase Option prior to the last day of the Term, the Term shall be extended for a period of one year beyond such date (the "**Term Extension**"), during which (i) Purchaser may deliver its Notice of exercise of the Purchase Option at any time prior to the last day of the Term Extension, and (ii) Purchaser shall continue to pay the Contract Price in the amount applicable to Contract Year 35 as calculated in accordance with Exhibit C hereto, plus an amount equal to one percent (1%) of such amount, until the earlier of the expiration of the Term Extension or the closing of the purchase and sale agreement for the Purchase Option. If Purchaser exercises its Purchase Option, Seller and Purchaser shall enter into a purchase and sale agreement for the MEA Portion in a form to be mutually agreed by the Parties prior to the Closing under the Chugach Asset Purchase Agreement.

(A) **Purchase Price**. Upon any exercise of the Purchase Option, the purchase price for the MEA Portion shall be the Purchase Price. If, for any reason, any generation unit overhaul costs or expenditures related to environmental compliance or other compliance with Applicable Law that have a positive value that extends beyond the Term are not capitalized on Seller's financial statements, then such costs or expenditures shall be imputed as a capital investment in Seller's Interest and deferred and amortized over a reasonable period of projected benefit for the purposes of establishing Net Book Value.

(B) **Closing**. The closing of the purchase pursuant to any exercise of the Purchase Option will occur on a date selected by Purchaser, which date will be not less than five (5) months and not more than nine (9) months after Purchaser has exercised the Purchase Option. Purchaser will select the closing date by giving a minimum of 30 days written notice to Seller.

(C) **Satisfaction of Requirements of Transition Plan**. Purchaser acknowledges and agrees that the rights granted to Purchaser in this PPA and the rights granted to Chugach in the Chugach Power Purchase Agreement are in compliance with each and all of the requirements of the Transition Plan, including the requirements of Section 1 of the Extension Agreement. Purchaser further acknowledges and agrees that the rights granted to Purchaser in this PPA, including the rights granted with respect to the Purchase Option, satisfy each and all of the obligations of Seller to Purchaser and of Chugach to Purchaser under the Transition Plan, including each and all of the obligations of Seller to Purchaser and of Chugach to Purchaser under Section 1 of the Extension Agreement, and that no further action and no further consents or approvals are required in order to satisfy any rights of Purchaser or obligations to Purchaser under Section 1 of the Extension Agreement. Purchaser agrees that it will not make any claim or assertion, and will not (either directly or indirectly) support any claim or assertion by any other Person, including in any proceeding before the RCA, that is contrary to or inconsistent with the acknowledgements and agreements of Purchaser in this Section 17.3(C).

ARTICLE 18
MISCELLANEOUS

Section 18.1 Forward Contract; Forward Agreement. The Parties acknowledge and intend that (a) this PPA, the transactions contemplated hereby, and any instruments that may be provided by either Party hereunder will each, and together, constitute one and the same "forward contract" and "forward agreement" within the meaning of the Bankruptcy Code; (b) Purchaser and Seller are "forward contract merchants," "swap participants," and "master netting agreement participants" within the meaning of the Bankruptcy Code; (c) all payments made or to be made by one Party to the other Party pursuant to this PPA constitute "settlement payments" within the meaning of the Bankruptcy Code; (d) this PPA constitutes a "master netting agreement" within the meaning of the Bankruptcy Code; (e) the Contract Price (including each monthly payment thereof) and all other amounts due from Purchaser hereunder are (i) settlement payments (as defined in the Bankruptcy Code), (ii) transfers in connection with a forward contract, swap agreement and master netting agreement (as used in Sections 546(e), 546(g) and 546(j) of the Bankruptcy Code), and (iii) attributable solely to the expected costs of acquiring the Power attributable to the MEA Portion during the Term (based on the anticipated minimum amount of

Power that will be generated by the Facility and attributable to the MEA Portion during the Term), as determined as of the date hereof; (f) the date of each monthly payment of the Contract Price is a "maturity date" (as used in the definition of "forward contract" in Section 101 of the Bankruptcy Code) with respect to the Power attributable to the MEA Portion delivered to Purchaser during the period since the prior monthly payment: (g) this PPA was entered into by Purchaser for the purpose of hedging against price fluctuations in the market for electricity, by paying a fixed price for the Power attributable to the MEA Portion during the Term; (h) Purchaser intends to pass on the costs of its Power purchases hereunder to its own customers, subject to Applicable Law; and (i) all remedies for a non-defaulting Party hereunder (including as set forth in Section 11.2) are "contractual rights" as used in Sections 362(b)(6), 362(b)(17), 362(b)(27), 556, 560 and 561 of the Bankruptcy Code. Each Party agrees that it will not make any assertion or claim, in any dispute or otherwise, or otherwise take any position to the effect that this PPA, the transactions contemplated hereby, and any instrument(s) that may be provided by either Party hereunder do not each, and together, constitute one and the same "forward contract," "commodity forward agreement," and "master netting agreement" within the meaning of the Bankruptcy Code, or that Purchaser and Seller are not "forward contract merchants," "swap participants," and "master netting agreement participants" within the meaning of the Bankruptcy Code.

Section 18.2 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (any of the foregoing, a "**Notice**") shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 18.1):

If to Seller:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: william.falsey@anchorageak.gov Attention: William D. Falsey, Municipal Manager
with a copy to:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 E-mail: rebecca.windtpearson@anchorageak.gov Attention: Rebecca A. Windt Pearson, Municipal Attorney
and a copy to:	K&L Gates LLP 925 Fourth Avenue, Suite 2900 Seattle, WA 98104-1158

E-mail: eric.freedman@klgates.com
Attention: Eric E. Freedman

If to Purchaser:

Matanuska Electric Association, Inc.
163 E. Industrial Way
Palmer, AK 99645
E-mail: tony.izzo@mea.coop
Attention: Tony Izzo, CEO

with a copy to:

Matanuska Electric Association, Inc.
163 E. Industrial Way
Palmer, AK 99645
E-mail: Matthew.Reisterer@mea.coop
Attention: Matt Reisterer, CFO

Section 18.3 Compliance With Applicable Laws. Each Party shall at all times comply with all Applicable Laws. Without limiting the foregoing, but subject to the provisions of Section 14.1, Seller shall during the Term comply with all applicable requirements of Applicable Law relating to the ownership and operation of the MEA Portion. Notwithstanding the foregoing or any other provision of this Agreement, any non-compliance with Applicable Law that, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on the business or financial condition of the Party or its ability to fulfill its commitments hereunder shall not be deemed to be a breach of this PPA. Each Party shall promptly disclose to the other, any material violation of any Applicable Laws arising out of or in connection with the Facility and this PPA. This PPA will not take effect until the prior approval of the RCA as required by AS 42.05.431(b).

Section 18.4 Rates, Terms, and Conditions Binding. The Parties agree that the rates (including Contract Price), terms, and conditions for products and services specified in this PPA shall remain in effect for the Term. In addition, to the fullest extent permitted by Applicable Law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably (i) waives any rights that it may have, now or in the future, whether under AS 42.05.431(a), AS 42.05.431(b), or otherwise, to seek to obtain from the RCA by any means, directly or indirectly (through complaint, investigation, or otherwise), and (ii) covenants and agrees not at any time to seek so to obtain, an order from the RCA changing any section of this PPA specifying the rate, charge, or classification ("**Justness or Reasonableness Conditions**") agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by Applicable Law, neither Party will unilaterally seek to obtain from the RCA any relief changing the Justness or Reasonableness Conditions of this PPA, notwithstanding any subsequent changes that may occur in Applicable Law or market conditions.

Section 18.5 Public Announcements. Neither Party shall at any time make, with respect to the transactions to be consummated by this PPA, publish, or communicate to any Person in any public forum any defamatory, maliciously false, or disparaging remarks,

comments, or statements concerning the other Party or any of its employees, officers, officials or directors.

Section 18.6 No Third-Party Beneficiaries. This PPA is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this PPA.

Section 18.7 Amendment and Modification; Waiver. This PPA may only be amended, modified or supplemented by an agreement in writing signed by each Party. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No waiver by any Party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this PPA shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 18.8 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(A) This PPA shall be governed by and construed in accordance with the internal laws of the State of Alaska, without regard to conflict of law principles that would result in the application of the laws of any other jurisdiction.

(B) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS PPA OR THE TRANSACTIONS CONTEMPLATED HEREBY MAY BE INSTITUTED IN THE SUPERIOR COURT OF THE STATE OF ALASKA IN IN THE THIRD JUDICIAL DISTRICT, LOCATED IN ANCHORAGE, ALASKA, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURT AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(C) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS PPA IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS PPA OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY TO THIS PPA

CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS PPA BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 18.8.

Section 18.9 Specific Enforcement. The Parties agree that irreparable damage would occur if any provision of this PPA were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity. The Parties acknowledge and agree that (A) the Parties shall be entitled to an injunction, specific performance or other equitable relief to prevent breaches of this PPA and to enforce specifically the terms and provisions hereto, without proof of damages, this being in addition to any other remedy to which they are entitled under this PPA and (B) the right to specific enforcement is an integral part of the transactions contemplated by this PPA and without that right, neither Seller nor Purchaser would have entered into this PPA. Each Party agrees that it will not oppose the granting of specific performance and other equitable relief on the basis that the other Party has an adequate remedy at law or that an award of specific performance is not an appropriate remedy for any reason at law or equity. The Parties acknowledge and agree that any Party seeking an injunction to prevent breaches of this PPA and to enforce specifically the terms and provisions of this PPA in accordance with this Section 18.9 shall not be required to provide any bond or other security in connection with any such injunction.

Section 18.10 Waiver of Sovereign Immunity. Seller agrees that it is subject to civil and commercial suit for any breach of contract obligations under this PPA. To the extent that Seller may be entitled to claim sovereign, governmental, or municipal immunity from any liability in such a civil or commercial suit by Purchaser, Seller hereby agrees not to claim, and hereby waives, such sovereign, governmental, or municipal immunity.

Section 18.11 RCA PPA Approval. Seller and Purchaser will use Commercially Reasonable efforts to cooperate and each advocate to obtain an order from the Regulatory Commission of Alaska (the "**RCA**") approving this PPA; and which order from the RCA shall not contain any condition or conditions materially adverse to either Purchaser or Seller, as determined by Purchaser or Seller with respect to itself in good faith and in the exercise of its Commercially Reasonable business judgment ("**RCA PPA Approval**"). It is the understanding of the Parties that this PPA, as a wholesale power agreement between public utilities governed by AS 42.05.431(b), will not take effect without the prior approval of the RCA, and will at all times after any such approval be subject to the RCA's continuing authority over wholesale power agreements.

Section 18.12 Relationship of the Parties. This PPA shall not be interpreted to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Except as specifically provided for in this PPA to the contrary, neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

Section 18.13 Successors and Assigns. Subject to the provisions of Section 17.1, Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns. No assignment shall relieve the assigning party of any of its obligations hereunder.

Section 18.14 Security Interest.

(A) The Parties agree, acknowledge and intend that the legal status of this PPA is and shall be as a power purchase agreement, a forward contract (as defined in the Bankruptcy Code), a commodity forward agreement (and thus a swap agreement as defined in the Bankruptcy Code), and a master netting agreement (as defined in the Bankruptcy Code), and not a secured purchase of the MEA Portion or any other alternative form of transaction, and that Seller will at all times during the Term have and retain full undivided ownership of the MEA Portion. Accordingly, each Party acknowledges and agrees that: (1) it shall not assert that the transactions contemplated under this PPA are a secured financing of any sort; and (2) it shall cooperate with the other Party in defending against any assertion by a third party that the transactions contemplated hereunder constitute a secured financing.

(B) Notwithstanding the foregoing, as security for the prompt payment and performance of all obligations of Purchaser under this PPA, including the payment of the Contract Price to Seller, and solely as a precaution in the event that this PPA should be construed as a secured financing such that Purchaser shall be deemed to have acquired title to the MEA Portion at any time (other than by exercise of the Purchase Option under Section 17.3), Purchaser hereby grants to Seller a senior, first priority purchase money lien on and security interest in and to, and right of set-off with respect to, all right, title, and interest of Purchaser in and to the MEA Portion (including all right, title, and interest in and to any Power attributable to the MEA Portion, except as and to the extent that such Power is delivered to Purchaser at the Delivery Point under and in accordance with the express provisions of this PPA) and all proceeds thereof (collectively, the "**Collateral**") (such senior, first priority purchase money lien on and security interest in and to the Collateral, the "**Seller Security Interest**"). In addition, notwithstanding ARTICLE 17, Purchaser (i) represents and warrants to Seller as of each of the Effective Date and the Commencement Date that (a) Purchaser has provided Seller with a true and correct copy of the Mortgage, including all supplements and amendments thereto and (b) there are no liens or security interests in or on the assets of Purchaser that encumber the Collateral as of the Effective Date, and that there will be no liens or security interests in or on the assets of Purchaser that will encumber the Collateral as of the Commencement Date; (ii) covenants and agrees that Purchaser shall provide to Seller, at or prior to the Closing under the Chugach Asset Purchase Agreement, (a) an original subordination agreement, executed by the Mortgagees and in the form set forth in Exhibit D, subordinating the priority of any lien that the Mortgagees may acquire in the Collateral, including as a result of any lien granted under the Mortgage in after-acquired property of Purchaser or any liens granted to the Mortgagees in any bankruptcy proceeding of Purchaser, to the priority of the Seller Security Interest (the "**CFC Subordination Agreement**"), and acknowledged by Purchaser through its execution of the acknowledgment and acceptance attached thereto; and (b) evidence of the recording of the CFC Subordination Agreement in all recording offices in the State of Alaska in which the lien of the Mortgage has been recorded; and (iii) covenants and agrees that Purchaser shall not, without

Seller's prior written consent, grant any security interest in the Collateral, including (a) in connection with this PPA and the transactions contemplated hereunder, or (b) any grant of a lien to the Mortgagees pursuant to Granting Clause 2.01 of the Mortgage or otherwise. In connection with the lien and security interest granted to Seller in this Section 18.14(B), Seller shall have the rights and remedies of a secured party or mortgagee under Applicable Law, including the UCC. Purchaser hereby authorizes Seller to file UCC financing statements and to record instruments with any appropriate Governmental Authority, and to make other similar filings and recordings with respect hereto as Seller shall elect in its sole discretion for the purposes of recording and perfecting its lien and security interest in the Collateral.

Section 18.15 Survival of Obligations. The applicable provisions of this PPA shall continue in effect after termination to the extent necessary to (A) provide for final billings, payments, and adjustments, (B) enforce or complete the duties, obligations, or responsibilities of the Parties, and (C) address any remedies or indemnification rights arising prior to termination. Cancellation, expiration, or earlier termination of this PPA shall not relieve the Parties of obligations, including warranties, remedies, or indemnities, that by their nature should survive such cancellation, expiration, or termination, which obligations shall survive for the period of the applicable statute(s) of limitation.

Section 18.16 Further Assurances. Upon the receipt of a written request from the other Party, each Party shall execute such reasonable additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition, or delay its compliance with any reasonable request made pursuant to this Section 18.16.

Section 18.17 Severability. If any term or provision of this PPA is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this PPA or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this PPA so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 18.18 Complete Agreement. This PPA constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

Section 18.19 Headings. The headings in this PPA are for reference only and shall not affect the interpretation of this PPA.

Section 18.20 Counterparts. This PPA may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this PPA delivered by facsimile, e-mail or other means of electronic

transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this PPA.

Section 18.21 Exhibits. Exhibits may be changed to the extent allowed by specific provisions of this PPA or with the mutual consent of both Parties.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this PPA as of the Effective Date.

Seller:

MUNICIPALITY OF ANCHORAGE

By _____

Name: William D. Falsey
Title: Municipal Manager

Purchaser:

MATANUSKA ELECTRIC ASSOCIATION, INC.

By _____ 9/11/19

Name: Anthony M. Izzo
Title: Chief Executive Officer

EXHIBIT A

DEFINITIONS

The following terms shall have the meanings set forth herein:

"**Actual Damages**" has the meaning set forth in Section 11.2(B).

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

"**Ancillary Services**" all ancillary products associated, in accordance with Prudent Utility Practice, with the generation of Energy, including spinning reserves, non-spinning reserves, reactive power and voltage control.

"**Applicable Law**" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, Permit requirement, other binding requirement or rule of law of, or compulsory standard established by, any Governmental Authority.

"**Bankruptcy Code**" means 11 U.S.C. §§ 101 et seq. (Title 11, United States Code).

"**Bradley Lake Agreement**" means the Bradley Lake Hydroelectric Project Agreement for the Sale and Purchase of Electric Power dated as of December 8, 1987 by and among the Alaska Energy Authority as successor to The Alaska Power Authority, Chugach, The Golden Valley Electric Association, Inc., Seller, The City of Seward d/b/a/Seward Electric System, The Alaska Electric Generation & Transmission Cooperative, Inc., The Homer Electric Association, Inc., and Purchaser.

"**Business Day**" means any day that is not a Saturday, a Sunday, or any other day on which commercial banks in Anchorage, Alaska are required to be closed for business.

"**Capacity**" means the total electrical generating capacity of the Facility, including any capacity products that are able to be accredited under Applicable Law.

"**CFC Subordination Agreement**" shall have the meaning set forth in Section 18.14(B).

"**Change in Laws**" means any addition, amendment, decision, ruling, order, or binding interpretation to or regarding any Applicable Laws, by or of a Governmental Authority having jurisdiction or authority, that is enacted, issued, or becomes legally effective after the Effective Date.

"**Chugach**" means Chugach Electric Association, Inc., a not-for-profit Alaska electric cooperative corporation.

"**Chugach Asset Purchase Agreement**" has the meaning set forth in Section 2.1.

"**Chugach Portion**" means a portion of the Seller's Interest equal to a 64.29% share of the Seller's Interest; *provided, however*, that if this PPA is terminated for any reason at any time prior to the Scheduled Termination Date, the "Chugach Portion" shall, from the effectiveness of such termination until the Scheduled Termination Date (but only so long as the Chugach Power Purchase Agreement remains in full force and effect), be deemed to be a percentage interest equal to the Seller's Interest.

"**Chugach Power Purchase Agreement**" has the meaning set forth in Section 2.1.

"**Collateral**" shall have the meaning set forth in Section 18.14(B).

"**Commencement Date**" shall have the meaning set forth in Section 3.2.

"**Commercially Reasonable**" or "**Commercially Reasonable Efforts**" means, with respect to any action required to be made, attempted or taken by a Party under this PPA, the level of effort in light of the facts known to such Party at the time a decision is made that: (a) can reasonably be expected to accomplish the desired action at a reasonable cost; (b) is consistent with Prudent Utility Practice; and (c) takes into consideration the amount of advance notice required to take such action, the duration and type of action and the competitive environment in which such action occurs.

"**Contract Price**" has the meaning set forth in Section 7.1.

"**Contract Year**" has the following meaning: the first Contract Year means the period beginning on the Commencement Date and ending on the last day of the month of the first anniversary of the Commencement Date. The second Contract Year and each subsequent Contract Year means the period beginning on the first day after the last day of the previous Contract Year and ending on the last day of the twelfth calendar month thereafter.

"**Credit Rating**" means (i) with respect to any entity other than a financial institution, the current (A) rating issued or maintained by S&P or Moody's with respect to such entity's long-term senior, unsecured, unsubordinated debt obligations (not supported by insurance provider or other third-party credit enhancements) or (B) corporate credit rating or long-term issuer rating issued or maintained with respect to such entity by S&P or Moody's, or (ii) if such entity is a financial institution, the ratings issued or maintained by S&P or Moody's with respect to such entity's long-term, unsecured, unsubordinated deposits.

"**Creditworthy Entity**" means a Person having at the applicable time a Credit Rating of (a) BBB or better from S&P, or (b) Baa2 or better from Moody's, or (c) if such Person has a Credit Rating at such time from both S&Ps and Moody's, BBB or better from S&P and Baa2 or better from Moody's.

"**day**" means a calendar day.

"**Delivery Point**" means the low side of the step-up transformer(s) within the Facility switchyard.

"**Dispute**" shall have the meaning set forth in Section 12.1.

"**Effective Date**" shall have the meaning set forth in the preamble.

"**Eklutna Transmission Assets**" means the Transmission Assets of the Eklutna Hydroelectric Project set forth on Exhibit F to the Chugach Asset Purchase Agreement.

"**Eligible Energy Resource**" means any resource that qualifies as a renewable energy resource eligible to be certified to receive, claim, own or use renewable energy certificates pursuant to the protocols and procedures under any applicable REC Registration Program.

"**Energy**" means the net electric energy that is generated from the Facility that is delivered to the Delivery Point, as measured in accordance with Section 5.2. Energy shall be net of energy self-generated and concurrently consumed by the Facility, and net of all losses prior to the Delivery Point, including line, inverter, and transformer losses.

"**Environmental Attributes**" means any and all renewable resource attributes (including renewable energy certificates or credits or similar rights arising out of any applicable REC Registration Program), green tags, emissions or carbon credits, reductions, offsets, and allowances, and any other environmentally related attributes that are, or in the future may be, recognized by any Governmental Authority, and that are attributable to the availability, production, purchase or sale of Energy from the Facility. For the avoidance of doubt, "Environmental Attributes" do not include any Tax Benefits.

"**ERO**" means the Electric Reliability Organization certified by FERC pursuant to Section 215 of the Federal Power Act or any successor organization.

"**Event of Default**" shall have the meaning set forth in Section 11.1.

"**Extension Agreement**" means that certain Agreement for Extension of 1996 Eklutna Hydroelectric Project Transition Plan dated October 2, 1997 by and among the Owners.

"**Facility**" means the Eklutna Hydroelectric Project, as further described in Exhibit B, including all of the following: all equipment, buildings, generators, inverters, step-up transformers, output breakers, protective and associated equipment, improvements, and other tangible assets, contract rights, easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for construction, operation, maintenance, generation, and delivery of the Energy, Ancillary Services, and Capacity subject to this PPA; *provided, however*, that the Facility does not include any right, title, or interest of Seller in or to the Eklutna Transmission Assets.

"**Facility Metering**" means revenue quality meters, metering equipment and data processing equipment used to measure, record or transmit data relating to the output from the Facility, including the metering current transformers and the metering voltage transformers.

"**Federal Power Act**" means the provisions of 16 U.S.C. 791(A) et seq. and amendments or supplements thereto.

"**FERC**" means the Federal Energy Regulatory Commission or any successor agency.

"**Financing Documents**" means the loan and credit agreements, notes, bonds, indentures, security agreements, lease financing agreements, mortgages, deeds of trust, interest rate exchanges, swap agreements, and other documents relating to a Party's financing transactions, including any credit enhancement, credit support, working capital financing, or refinancing documents, and any and all amendments, modifications, or supplements to the foregoing that may be entered into from time to time at the discretion of the Party.

"**Fish and Wildlife Agreement**" means the August 7, 1991 Agreement between the Municipality of Anchorage, dba Anchorage Municipal Light and Power, Chugach, Purchaser, U. S. Fish and Wildlife Service, National Marine Fisheries Service, Alaska Energy Authority and the State of Alaska, Relative to the Eklutna and Snettisham Hydroelectric Projects.

"**Force Majeure**" means an event or circumstance that prevents a Party from performing its obligations under this PPA, which event or circumstance (i) was not reasonably anticipated as of the Effective Date, (ii) is not within the reasonable control of or the result of the fault or negligence of the Party claiming its occurrence, and (iii) which by exercise of due diligence and foresight could not reasonably have been avoided, *provided, however*, that such an event or circumstance shall not include: (a) delays or nonperformance by suppliers, vendors, or other third parties with which a Party has contracted, except to the extent that such delays or nonperformance were due to circumstances that would constitute "Force Majeure" as defined above; (b) mechanical or equipment breakdown or inability to operate unless caused by reason of Force Majeure; (c) changes in market conditions; (d) any labor strikes, slowdowns, work stoppages, or other labor disruptions limited only to a Party or a Party's Affiliates; (e) Seller's inability to obtain any credit or incentive in connection with the Facility, including any such inability that is attributable to any failure to meet placed-in-service or safe harbor provisions regardless of whether an event of Force Majeure may have caused or contributed to such failure, (f) the loss of Purchaser's markets or Purchaser's inability economically to use or resell any of the Power purchased hereunder, except to the extent that such loss of markets or inability to use or resell were due to circumstances that would constitute "Force Majeure" as defined above; (g) Purchaser's failure to contract for and reserve sufficient firm transmission capacity to deliver the Power to any transmission point(s) of receipt or any delivery point(s); (h) Seller's ability to sell Power to a market at a more advantageous price; or (i) Purchaser's ability to purchase Power in or from any market at a more advantageous price.

"**Forced Outage**" means any condition at the Facility that requires the immediate and unplanned removal of the Facility, or at least ten percent (10%) thereof, from service, another outage state, or a reserve shutdown state, resulting from immediate mechanical/electrical/hydraulic control system trips and operator-initiated trips in response to abnormal Facility conditions or alarms.

"**Governmental Authority**" means any federal, state, local or foreign government, or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations, or orders of such organization or authority have the force of Law), or any arbitrator, court, or tribunal of competent

jurisdiction. References to "Governmental Authority" shall exclude Seller except Seller is acting in a legislative or regulatory capacity as expressly authorized by Applicable Law.

"**Governmental Charges**" means any taxes, charges or costs that are assessed or levied by any Governmental Authority or other Person (other than charges imposed by any transmission provider), including local, state, or federal regulatory or taxing authorities that would affect the sale and purchase of Power contemplated by this PPA, either directly or indirectly.

"**Indemnified Party**" shall have the meaning set forth in Section 16.1.

"**Indemnifying Party**" shall have the meaning set forth in Section 16.1.

"**Interest Rate**" means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day, on the most recent preceding day on which published), plus two percent (2%), and (b) the maximum rate permitted by Applicable Law.

"**ISO**" means an independent system operator or regional transmission organization that coordinates, controls and monitors the operation of a public electrical power system or any similar operator or organization created by Applicable Law after the date of this PPA.

"**Justness or Reasonableness Conditions**" shall have the meaning set forth in Section 18.4.

"**Lender**" means any commercial bank, investment bank or trustee under Financing Documents that makes a loan to or extends other credit in favor of Purchaser.

"**MEA Avoided Cost Rate**" means the rate (in $/MWh) as filed by Purchaser with the RCA in MEA Tariff Sheet No. 107, Line J or its successor.

"**MEA Portion**" shall have the meaning set forth in the recitals to this Agreement.

"**ML&P**" means Municipal Light and Power, an electric utility that, as of the Effective Date, is owned and operated by Seller and serves customers in the Municipality of Anchorage, Alaska.

"**Moody's**" means Moody's Investors Services, Inc.

"**Mortgage**" means the Amended and Restated Open End Mortgage and Security Agreement, dated as of June 11, 2012, by and among Purchaser, as Mortgagor, National Rural Utilities Cooperative Finance Corporation, as Mortgagee, and National Cooperative Services Corporation, as Mortgagee, as the same has been or may be amended or supplemented from time to time.

"**Mortgagees**" means, collectively, National Rural Utilities Cooperative Finance Corporation, as Mortgagee under the Mortgage, and National Cooperative Services Corporation, as Mortgagee under the Mortgage.

"**Net Book Value**" means, for purposes of determining the Purchase Price for the MEA Portion, gross plant in service (including customer-contributed plant) at original cost, less accumulated depreciation and amortization.

"**Notice**" shall have the meaning set forth in Section 18.1.

"**Operating Committee**" shall mean the "Eklutna Operating Committee" or "EOC" set forth in the Operations Agreement.

"**Operating Records**" means all agreements associated with the Facility, operating logs, blueprints for construction, operating manuals, all warranties on equipment, and all documents, whether in printed or electronic format, that Seller uses or maintains for the operation of the Facility.

"**Operations Agreement**" means the Eklutna Purchasers Manner of Acting, Functional Responsibilities, and Staffing, attached as Exhibit E to the Transition Plan, as the same has been or may be amended or supplemented from time to time.

"**Owners**" means the owners of the Facility. As of the Effective Date, the Owners are Seller (with respect to the Seller's Interest), Purchaser (with respect to the Purchaser's Interest), and Chugach (with respect to the remaining 9/30 (30.0%) undivided ownership interest in the Facility).

"**Party**" and "**Parties**" shall have the meanings set forth in the introductory paragraph.

"**Permit(s)**" means all applicable construction, land use, air quality, emissions control, environmental and other permits, licenses and approvals from any Governmental Authority required under Applicable Laws for construction, ownership, operation and maintenance of the Facility and the generation and delivery of any output from the Facility to Purchaser.

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

"**Planned Outage**" means any planned outage of the Facility or any portion thereof that is required for maintenance purposes.

"**Power**" shall have the meaning set forth in Section 6.1(A).

"**PPA Contingencies**" shall have the meaning set forth in Section 3.1.

"**Prudent Utility Practice**" means any applicable practices, methods, and acts engaged in or approved by a significant portion of (a) as to Seller, the hydroelectric generating industry in the United States of America, or (b) as to Purchaser, the electric utility industry in the United States of America, during the relevant time period, or the practices, methods and acts which, in the exercise of reasonable judgment by a prudent hydroelectric generator operator (or prudent utility operator, if applicable to Purchaser) in light of the facts known or which should reasonably have been known at the time the decision was made, could have been expected to

accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, expedition and the requirements of any governing authority having jurisdiction. Without limitation of the foregoing, "Prudent Utility Practice" shall include the applicable operating policies, standards, criteria, or guidelines of any applicable governing authority and any manufacturer of a component of the Project. "Prudent Utility Practice" is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to the acceptable practices, methods or acts generally accepted (a) as to Seller, by the hydroelectric energy electric generating industry in the United States of America or (b) as to Purchaser, by the electric utility industry in the United States of America.

"**Purchase Option**" shall have the meaning set forth in Section 17.3.

"**Purchase Price**" means the Net Book Value of the MEA Portion as of the last day of the Term.

"**Purchaser**" shall have the meaning set forth in the first paragraph of this PPA.

"**Purchaser's Interest**" shall have the meaning set forth in the recitals to this PPA.

"**RCA**" shall have the meaning set forth in Section 18.11.

"**RCA PPA Approval**" shall have the meaning set forth in Section 18.11.

"**REC Registration Program**" means any state, regional or federal program established to register Eligible Energy Resources and create and certify renewable energy certificates arising from energy generated from such Resource, including any rights associated with any renewable energy information or tracking system that exists or may be established by Applicable Law with regard to monitoring, registering, tracking, certifying, or trading such credits.

"**Replacement Price**" means the price at which Purchaser, acting in a commercially reasonable manner, purchases a replacement for any scheduled Power not delivered by Seller, plus (i) costs reasonably incurred by Purchaser in purchasing such substitute Power and (ii) additional transmission charges, if any, reasonably incurred by Purchaser to the Delivery Point, or, absent a purchase, the market price for such Power not delivered as determined by Purchaser in a commercially reasonable manner; *provided, however*, in no event will the Replacement Price include any penalties, ratcheted demand or similar charges, nor will Purchaser be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller's liability.

"**S&P**" means the Standard & Poor's Rating Group, a division of The McGraw-Hill Companies.

"**Sales Price**" means the price at which Seller, acting in a commercially reasonable manner, resells any scheduled Power not received by Purchaser, deducting from such proceeds any (i) costs reasonably incurred by Seller in reselling such Power and (ii) additional transmission charges, if any, reasonably incurred by Seller in delivering such Power to the third party purchasers, or, absent a sale (assuming that a sale could have been made by Seller with the

exercise of commercially reasonable efforts), the market price for such scheduled Power as determined by Seller in a commercially reasonable manner; *provided, however*, if Seller is unable after using commercially reasonable efforts to resell all or a portion of the Power not received by Purchaser, the Sales Price with respect to such Power will be deemed equal to zero; *provided, further*, in no event will the Sales Price include any penalties, ratcheted demand or similar charges, nor will Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Purchaser's liability.

"**Scheduled Termination Date**" means the last day of the calendar month thirty-five (35) years after the Commencement Date.

"**Seller**" shall have the meaning set forth in the first paragraph of this PPA.

"**Seller Security Interest**" shall have the meaning set forth in Section 18.14(B).

"**Seller's Interest**" shall have the meaning set forth in the recitals to this PPA.

"**Seller's Representative**" shall have the meaning set forth in Section 4.2.

"**Site**" means the parcel of real property on which the Facility is constructed and located, including any easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the operation and maintenance of the Facility. The Site is more specifically described in Exhibit B to this PPA.

"**Tax Benefits**" means any and all (i) tax credits based on ownership of, investment in or energy production from the Facility or any portion thereof, (ii) grants based on ownership of, investment in or energy production from the Facility or any portion thereof, including the grant described in Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 and (iii) other tax benefits, including depreciation and other cost recovery deductions, arising in connection with ownership of, investment in, or operation of the Facility, or any portion thereof, in each case allocated, allowed, allowable, assigned, awarded, certified or otherwise transferred or granted to Seller or Purchaser by any Governmental Authority in any jurisdiction in connection with the Facility.

"**Term**" means the period of time during which this PPA shall remain in full force and effect as further defined in Section 3.3 and as may be extended pursuant to Section 17.3.

"**Term Extension**" shall have the meaning set forth in Section 17.3.

"**Transition Plan**" means the 1996 Eklutna Hydroelectric Project Transition Plan dated May 28, 1996 by and among the United States of America d/b/a Alaska Power Administration, a unit of the Department of Energy, and the Owners, as the same has been amended and extended by the Extension Agreement, including the exhibits to such agreement, and as the same may be amended or supplemented from time to time.

"**UCC**" means the Uniform Commercial Code of the State of Alaska.

EXHIBIT B

FACILITY DESCRIPTION AND SITE MAPS

Eklutna Purchase Agreement
Exhibit A

August 2, 1989
Page 1 of 2

Lands, Easements and Rights-of-Way

Exhibit A consists of this narrative (pages 1 and 2 of 2) and the map prepared by BLM, signed and dated February 3, 1989.

This exhibit describes and displays present land status for the Eklutna Hydroelectric Project and describes in general terms the conveyances of land and land rights contemplated in the purchase agreement.

1. BLM - managed lands and military lands used for Eklutna Project for which BLM is to provide APAd rights-of-way sufficient for operation, maintenance, repair and replacement of Eklutna facilities, such rights-of-way to be assigned by APAd to the Purchasers.

   Legend Symbols and Description.

   Withdrawals. Refers to approximately 863 acres of public lands withdrawn for Eklutna at the "Intake Area," "Power Tunnel," "Eklutna Powerplant" and "Anchorage Substation." The total acreage is comprised of the following land:

   a. Approximately 320 acres withdrawn for the "Power Tunnel" under Public Land Order 1231 dated September 28, 1955.

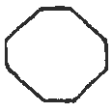
   b. Approximately 230 acres utilized for the "Intake Area" and approximately 60 acres for a portion of "Eklutna Powerplant" as described by ANCSA 3(e) determination AA-51183 dated July 30, 1986.

   c. Approximately 243 acres utilized for "Eklutna Powerplant" as described by ANCSA 3(e) determination AA-42534 dated September 1, 1982.

   d. Approximately 10 acres withdrawn for "Anchorage Substation" under Secretarial Order dated April 4, 1952.

   State Land-R/W. Refers to rights-of-way across State-selected lands covering the transmission line east of "Eklutna Powerplant" to the Knik River.

   Military Land-R/W. Refers to rights-of-way across military lands used for Eklutna transmission lines.



Acquired-3(e). Refers to approximately 2.5 acres of acquired land used for "Reed Substation" as described by ANCSA 3(e) determination AA-45155 dated July 30, 1985.

2. ANCSA 17(b) Easements.

Map symbol: Native Land - 17(b) Easements.

Refers to rights-of-way that are reserved for portions of the 115kV transmission line, access roads and other Eklutna facilities located on Native corporation lands, and exist as easement reservations in the ANCSA conveyances to the Native corporations pursuant to Section 17(b) of ANCSA. These easements will not be altered by the sale of Eklutna and the Purchasers may use these easements for their intended purposes.

3. APAd Acquired Land and Easements.

Refers to land and easements acquired by the Bureau of Reclamation (predecessor of APAd) during construction of Eklutna and now controlled by APAd. APAd will assign the land and easements to the Purchasers.

Legend Symbols and Description:

Acquired. Refers to approximately 0.8 acres of land owned by APAd at Palmer Substation.

Acquired-Easements. Refers to approximately 33 easements across private lands acquired by the Bureau of Reclamation (predecessor of APAd) and now held by APAd.

4. Other Easements on Private Land.

Map [Symbol]: Note: Other Easements on Private Lands To Be Acquired - See Exhibit A Narrative

Refers to approximately two hundred and fifty (250) parcels of private land located along the 115kV transmission line, many of which require title curative action for purposes of perfecting assignable easement rights or rights-of-way for the Purchasers. APAd shall be responsible for acquiring assignable easement rights or rights-of-way across these lands, for subsequent assignment to Purchasers.

5. Reservoir.

Eklutna Lake as designated on the map is the reservoir described in the body of the Agreement.

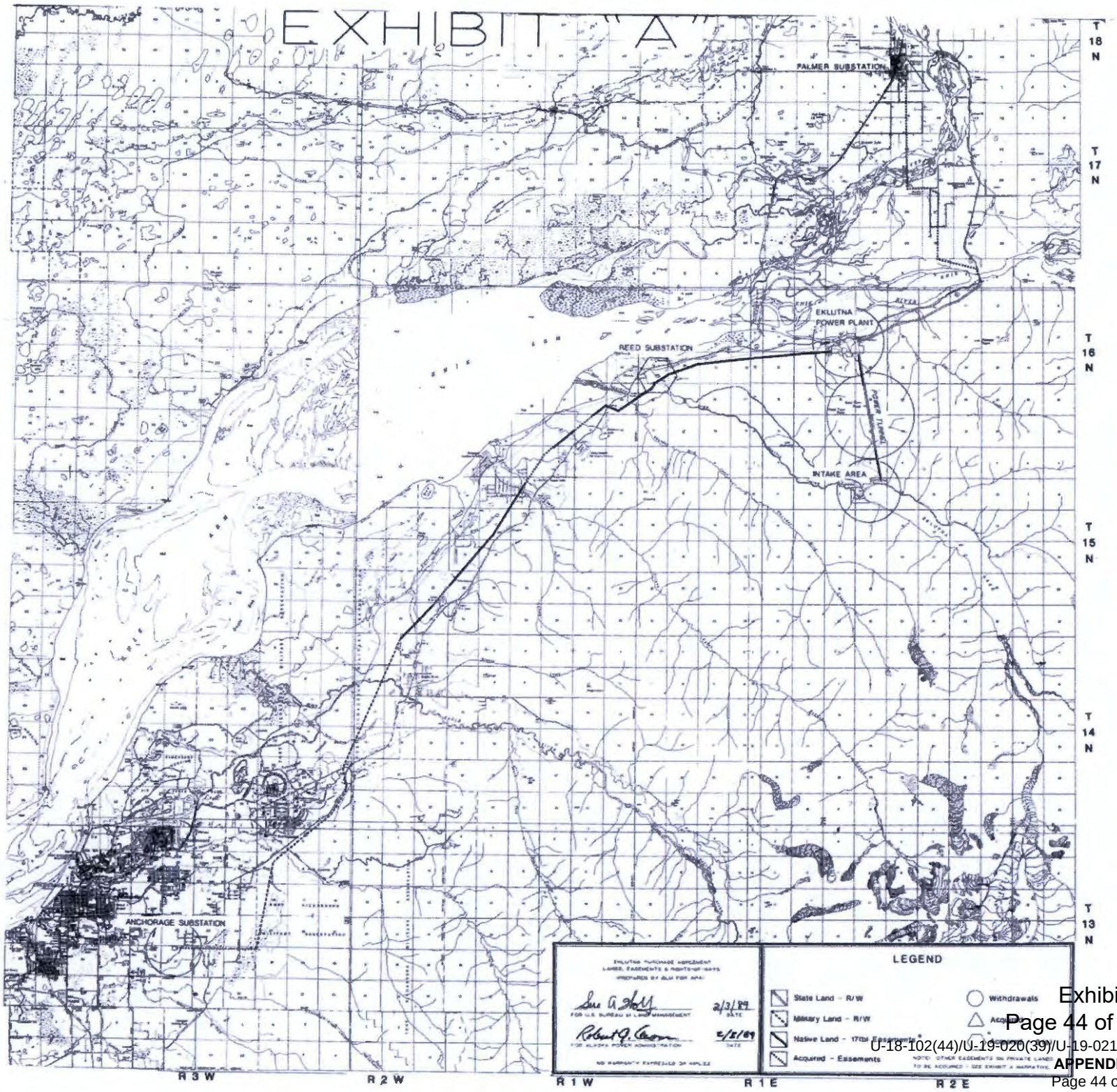


EXHIBIT "A"
PALMER SUBSTATION
EKLUTNA POWER PLANT
REED SUBSTATION
POWER TUNNEL
INTAKE AREA
ANCHORAGE SUBSTATION
T 18 N
T 17 N
T 16 N
T 15 N
T 14 N
T 13 N
R 3 W
R 2 W
R 1 W
R 1 E
R 2 E
LEGEND
State Land - R/W
Military Land - R/W
Native Land - 17(b) Easements
Acquired - Easements
Withdrawals
2/3/89
5/5/89

EXHIBIT C

CONTRACT PRICE

The Contract Price during each year of the Term will be a fixed dollar amount for each MWh (or portion thereof) of Power delivered from the MEA Portion to the Delivery Point. The Contract Price during the first year of the Term will be an amount equal to 85% of the MEA Avoided Cost Rate effective on January 1 of the first year of the Term. The Contract Price will escalate at the rate of one percent (1%) on January 1 of each year of the Term thereafter; *provided, however*, that the Contract Price will reset on January 1 of every third year during the Term to 85% of the then effective MEA Avoided Cost Rate.

EXHIBIT D

FORM OF CFC SUBORDINATION AGREEMENT

SUBORDINATION AGREEMENT

This **SUBORDINATION AGREEMENT** (this "Agreement") dated as of _____, 2019, is by and between:

NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION, a cooperative association organized and existing under the laws of the District of Columbia ("CFC"), and **NATIONAL COOPERATIVE SERVICES CORPORATION**, a cooperative association organized and existing under the laws of the District of Columbia ("NCSC," and together with CFC, "Subordinated Creditor"); and

MUNICIPALITY OF ANCHORAGE, a political subdivision organized under the laws of the State of Alaska ("Senior Creditor," and together with Subordinated Creditor, the "Parties" and each a "Party").

W I T N E S E T H T H A T:

Pursuant to the Amended and Restated Open End Mortgage and Security Agreement, dated as of June 11, 2012, by and among **MATANUSKA ELECTRIC ASSOCIATION, INC.**, an Alaska not-for-profit electric cooperative corporation ("MEA"), as mortgagor, and CFC and NCSC, as mortgagees, as the same has been or may be amended or supplemented from time to time, including without limitation by that certain Modification dated June 20, 2013 and Second Modification dated October 2, 2014 (the "Mortgage"), MEA has granted a security interest to Subordinated Creditor in certain of MEA's real and personal property (including after-acquired property) as security for loans by CFC and NCSC, evidenced by certain promissory notes (referred to as "Notes" under the Mortgage, and hereunder as the "Notes") and loan agreements (referred to collectively as the "Loan Agreement" under the Mortgage, and hereunder as the "Loan Agreement").

Pursuant to the Eklutna Power Purchase Agreement, dated as of _____, 2019, between MEA and Senior Creditor, as the same has been or may be amended or supplemented from time to time (the "PPA"),[1] and solely as a precaution in the event that the PPA should be construed as a secured financing such that MEA shall be deemed to have acquired title to the MEA Portion at any time (other than by exercise of the Purchase Option under Section 17.3 of the PPA) (a "Title Transfer Ruling"), MEA has a granted a senior, first priority purchase money lien on and security interest to Senior Creditor in and to, and right of set-off with respect to, all right, title, and interest of MEA in and to the MEA Portion, including all right, title, and interest in and to any Power attributable to the MEA Portion, except as and to the extent that such Power is delivered to MEA at the Delivery Point under and in accordance with the express provisions of

[1] Pursuant to Section 1.5 below, capitalized terms used but not defined in the body of this Agreement are from the PPA, a copy of which is attached as Exhibit "A" hereto.

the PPA, and all proceeds thereof (collectively, the "Collateral, and such senior, first priority purchase money lien on and security interest in and to the Collateral, the "Seller Security Interest"), as security for the prompt payment and performance of all obligations of MEA under the PPA, including the payment of the Contract Price to Senior Creditor.

As a condition precedent to the effectiveness of the PPA (and referred to as a "PPA Contingency" under Section 3.1 thereof), and in order to induce Senior Creditor to enter into the PPA and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Subordinated Creditor hereby agrees with Senior Creditor that, so long as any Senior Indebtedness (as hereinafter defined) is outstanding, each Party shall comply with such of the following provisions as are applicable to it.

1. Certain Definitions.

1.1 Insolvency Proceeding. The term "Insolvency Proceeding" shall mean any voluntary or involuntary dissolution, winding-up, total or partial liquidation, reorganization or bankruptcy, insolvency, receivership or other statutory or common law proceedings involving MEA or any assignment by MEA for the benefit of creditors (an "ABC") or any marshalling of the assets or liabilities of MEA.

1.2 Senior Indebtedness. The term "Senior Indebtedness" shall mean any and all indebtedness, obligations and liabilities, now existing or hereafter arising, direct or contingent, of MEA now or hereafter owing to Senior Creditor, outstanding from time to time, pursuant to, in connection with or related to the PPA, the Seller Security Interest, and any related security agreements, instruments and financing statements (collectively, the "Senior Agreements"), whether accrued and owing prior to, during or following any Insolvency Proceeding, together with interest thereon and all fees, expenses and other amounts (including costs of collection and reasonable attorneys' fees) at any time owing to Senior Creditor, and which the Parties agree shall expressly include without limitation the Net Present Value (as determined under Section 1.2(c) below) of any and all amounts due as the Contract Price during the entirety of the Term of the PPA through the Scheduled Termination Date that have not yet been paid at the time of determination. All Senior Indebtedness shall be entitled to the benefits of this Agreement without notice thereof being given to Subordinated Creditor.

For the purpose of calculating the outstanding balance of Senior Indebtedness:

(a) The above definition shall apply regardless of the terms of any Title Transfer Ruling, the extent to which the PPA or the Seller Security Interest is enforceable against MEA or the Collateral, or the extent to which such amounts are allowed as claims against MEA or its bankruptcy, receivership or ABC estate in any Insolvency Proceeding, and shall include any interest accruing on the Senior Indebtedness after the commencement of any Insolvency Proceeding and any other interest that would have accrued thereon but for the commencement of such Insolvency Proceeding.

(b) In the event that all or any part of payment of the Senior Indebtedness is rescinded or recovered directly or indirectly from Senior Creditor as a preference,

fraudulent transfer or otherwise (whether by demand, settlement, litigation or otherwise), such rescinded or recovered payments shall constitute Senior Indebtedness for all purposes hereunder and the obligations of Subordinated Creditor hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, as to such rescinded or recovered amounts.

(c) For the purpose of determining the "Net Present Value" of the Contract Price during the entirety of the Term, as provided above:

(i) the PPA shall be presumed not to have been terminated prior to the Scheduled Termination Date, and the Term shall be calculated through the Scheduled Termination Date as if a Title Transfer Ruling had not occurred;

(ii) the calculation of the Contract Price (pursuant to Exhibit C of the PPA) for portions of the Term that have not yet occurred, as of the date of determination, shall be based on average daily deliveries of Power during the most recently completed twelve (12) calendar months prior to such determination date;

(iii) the annual escalation of the Contract Price (pursuant to such Exhibit C) shall be applied for portions of the Term that have not yet occurred based on the Contract Price then in effect on such determination date, but (notwithstanding the proviso in such Exhibit C) there shall be no resettings of the Contract Price for such future portions of the Term based on any projected changes in the MEA Avoided Cost Rate; and

(iv) the applicable discount rate for Contract Price payments during such future portions of the Term shall be determined based on the return on investments comparable to the MEA Portion as of the date the PPA was executed, it being acknowledged and agreed by the Parties that a risk-adjusted rate for damages claims from the breach of a long-term power purchase agreement is inappropriate for calculating the Senior Indebtedness hereunder and shall not adequately compensate Senior Creditor for the risk of loss of ownership of the MEA Portion through a Title Transfer Ruling.

1.3 Subordinated Indebtedness. The term "Subordinated Indebtedness" shall mean all existing and hereafter arising indebtedness, obligations and liabilities of MEA to Subordinated Creditor, whether direct or contingent, including all rights of subrogation, reimbursement, or contribution against MEA which might arise by reason of such Subordinated Creditor's execution or performance of this Agreement, and all claims, rights, causes of action, judgments and decrees in respect of the foregoing, including, without limitation:

(a) all indebtedness and obligations under the Notes and the Loan Agreement;

(b) all indebtedness and obligations under any financing provided to MEA by Subordinated Creditor (whether by CFC and/or NCSC, together or separately) in connection with or during any Insolvency Proceeding ("Bankruptcy Financing"); and

(c) the obligations of each party (other than Subordinated Creditor) to, under or in respect of the Mortgage (including without limitation any replacement liens, substitute collateral or other adequate protection granted to Subordinated Creditor for the Mortgage in any Insolvency Proceeding), any liens or security interests securing the Bankruptcy Financing and any other agreement or instrument securing or guaranteeing any of MEA's obligations to Subordinated Creditor (the "Subordinated Security Documents") under the Notes, the Loan Agreement and any Bankruptcy Financing (the Notes, the Loan Agreement, the Bankruptcy Financing and the Subordinated Security Documents and any other agreements evidencing or relating to Subordinated Indebtedness being hereinafter collectively referred to as the "Subordinated Agreements").

For the purposes hereof, the term "Subordinated Creditor" shall mean Subordinated Creditor as named in the preamble to this Agreement, its successors and assigns, and any and all assignees or holders of Subordinated Indebtedness.

1.4 Collateral. Collateral, as used herein, shall include any property subject to replacement liens, any substitute collateral and any other adequate protection granted with respect to the Collateral in any Insolvency Proceeding, and any proceeds thereof.

1.5 Other Capitalized Terms from the PPA. Except as otherwise specified herein, capitalized terms used in this Agreement but not defined in the body hereof are from the PPA, a copy of which is attached as Exhibit "A" hereto.

2. Terms of Subordination.

2.1 Payment and Liens Subordinated. (a) Anything in the Subordinated Agreements to the contrary notwithstanding, except for payments of the Subordinated Indebtedness expressly permitted by the terms hereof:

(i) The payment of the Subordinated Indebtedness from the Collateral or any proceeds thereof is and shall be expressly subordinate and junior in right of payment and exercise of remedies to the prior indefeasible payment in full in cash of the Senior Indebtedness;

(ii) The Subordinated Indebtedness is hereby subordinated as a claim against the Collateral, whether such claim be (A) in the event of any distribution of the assets of MEA in any Insolvency Proceeding or (B) other than in connection with an Insolvency Proceeding, to the prior indefeasible payment in full in cash of the Senior Indebtedness;

(iii) Except as expressly permitted by the terms hereof or unless Senior Creditor shall otherwise consent in writing, MEA shall not make, and no holder of Subordinated Indebtedness shall demand, accept or receive, any payment from the Collateral or any proceeds thereof until all the Senior Indebtedness has been indefeasibly paid in full in cash; and

(iv) In the event that, notwithstanding the foregoing, any payment or distribution of the Collateral or any proceeds thereof of any kind or character, whether in cash, property or securities, shall be received by a holder of Subordinated Indebtedness in violation of the foregoing provisions before all Senior Indebtedness is indefeasibly paid in full in cash, such holder shall hold

in trust and immediately pay over such payment or distribution to Senior Creditor or the holder of the Senior Indebtedness, for application to the payment of all Senior Indebtedness remaining unpaid until all Senior Indebtedness shall have been indefeasibly paid in full in cash, after giving effect to any concurrent payment or distribution to the holders of Senior Indebtedness.

(b) Except for payments expressly permitted by the terms hereof, Subordinated Creditor hereby subordinates and makes junior any liens and security interests in the Collateral that are or may be created by the Subordinated Agreements (including without limitation any liens in after-acquired property of MEA), any obligations of MEA under the Subordinated Agreements with respect to such liens and security interests, and all rights, remedies, terms and covenants related to such liens and security interests to (i) the Senior Indebtedness, (ii) the Seller Security Interest, (iii) all of the terms, covenants, conditions, rights and remedies contained in the Senior Agreements, and (iv) all rights of Senior Creditor under this Agreement.

(c) No amendments, modifications, supplements, extensions, renewals, restatements, replacements or refinancings of either the Senior Indebtedness or the Subordinated Indebtenedess, or of the Senior Agreements or the Subordinated Agreements, nor any action or inaction which Senior Creditor or Subordinated Creditor may take or fail to take in respect of the Collateral, shall affect the subordination set forth herein.

(d) In furtherance thereof, Subordinated Creditor hereby acknowledges and agrees that notwithstanding the relative times and method of attachment or perfection thereof (or any failure to perfect) or the order of filing of any financing statement, mortgage, deed of trust or other perfection document, or anything in the Subordinated Agreements to the contrary, Senior Creditor's interest in the Collateral to the extent of the Senior Indebtedness shall, in all respects, be a first priority and senior security interest and lien, superior to any security interests and liens granted or to be granted to Subordinated Creditor in the Collateral pursuant to the Subordinated Agreements or otherwise (including without limitation in any Insolvency Proceeding), it being the express intention of the parties that, notwithstanding anything in this Agreement to the contrary, all liens and security interests granted to Senior Creditor in the Collateral from time to time, whether previously or hereafter, shall be prior and superior to any liens or security interests granted to Subordinated Creditor in the Collateral. Furthermore, Subordinated Creditor shall not in any manner interfere with the security interests in and liens on the Collateral in favor of Senior Creditor, unless and until Senior Creditor advises Subordinated Creditor that MEA has satisfied in full in cash the Senior Indebtedness and that Senior Creditor has terminated its security interests in and liens on the Collateral.

(e) In foreclosing on Senior Creditor's security interests and liens in the Collateral, so long as Senior Creditor proceeds in a commercially reasonable manner, Senior Creditor may proceed to foreclose on Senior Creditor's security interests and liens in any manner which Senior Creditor, in its sole discretion, chooses, even though a higher price might have been realized if Senior Creditor had proceeded to foreclose on Senior Creditor's security interests and liens in another manner.

2.2 Attorneys-in-Fact; Permitted Subordinated Creditor Actions.

(a) Attorneys-in-Fact. Subordinated Creditor, for itself and its successors and assigns, hereby irrevocably authorizes and directs Senior Creditor and any trustee in bankruptcy, receiver, custodian or assignee for the benefit of creditors of MEA in any Insolvency Proceeding, on Subordinated Creditor's behalf to take such action as may be necessary or appropriate to effectuate the subordination provided for in this Agreement and irrevocably appoints, which appointment is coupled with an interest, upon any Event of Default under the Senior Agreements and during the continuance thereof or any failure to comply with the terms of this Agreement, Senior Creditor and any such trustee, receiver, custodian or assignee, its attorneys-in-fact for such purpose with full powers of substitution and revocation.

(b) Permitted Subordinated Creditor Actions. With respect to the Collateral, Subordinated Creditor may, so long as any such actions do not contravene the rights of Senior Creditor hereunder:

(i) If an Insolvency Proceeding has been commenced by or against MEA, file a claim or statement of interest with respect to the Subordinated Indebtedness and take any other actions necessary vis-à-vis unsecured creditors to preserve its claim rights and lien rights;

(ii) Take any action (not adverse to the priority status of the liens on the Collateral securing the Senior Indebtedness, or the rights of Senior Creditor to exercise any remedies under the Senior Agreements, this Agreement or at law) in order to create or perfect its lien in and to the Collateral;

(iii) File any necessary responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding, or other pleading made by any Person objecting to or otherwise seeking the disallowance of the claims of Subordinated Creditor, including any claims secured by the Collateral, if any;

(iv) Vote on any plan of reorganization and make any filings and motions that are, in each case, in accordance with, the terms of this Agreement, with respect to the Subordinated Indebtedness and the Collateral;

(v) Join (but not exercise any control with respect to) any judicial foreclosure proceeding or other judicial lien enforcement proceeding with respect to the Collateral initiated by Senior Creditor to the extent that any such action could not reasonably be expected, in any material respect, to restrain, hinder, limit, delay for any material period or otherwise interfere with the exercise of remedies under the Senior Agreements, this Agreement or at law by Senior Creditor (it being understood that Subordinated Creditor shall not be entitled to receive any proceeds thereof until the Senior Indebtedness is paid in full in cash or unless otherwise expressly permitted herein); and/or

(vi) Bid for or purchase Collateral at any public, private, or judicial foreclosure upon such Collateral initiated by Senior Creditor, or any sale of Collateral during an Insolvency Proceeding.

2.3 Effect of Provisions. The provisions hereof as to subordination are solely for the purpose of defining the relative rights of the holders of Senior Indebtedness on the one hand, and the holders of the Subordinated Indebtedness on the other hand, and none of such provisions shall impair, as between MEA and the holders of its Subordinated Indebtedness, the obligations of MEA, which are unconditional and absolute, to pay to such holders all of the Subordinated Indebtedness in accordance with the terms thereof, nor, except as provided in Section 2.4 (Exercise of Remedies by Subordinated Creditor) below, shall any such provisions prevent the holders of Subordinated Indebtedness from exercising all remedies otherwise permitted by applicable law or under the terms of such Subordinated Indebtedness upon a default thereunder, subject to the rights, if any, of the holders of Senior Indebtedness under the provisions of this Agreement.

2.4 Exercise of Remedies by Subordinated Creditor.

2.4.1 Exclusive Enforcement Rights. Until the indefeasible payment in full, in cash, of the Senior Indebtedness has occurred, whether or not any Insolvency Proceeding has been commenced by or against MEA, Senior Creditor shall have the exclusive right to exercise any rights and remedies with respect to the Collateral without any consultation with or the consent of Subordinated Creditor; provided, that any liens securing the Subordinated Indebtedness may attach to the proceeds of such Collateral released or disposed of, subject to the relative priorities described in Section 2.1. In connection with any exercise of rights or remedies, Senior Creditor may enforce the provisions of the Senior Agreements and this Agreement and exercise any remedies thereunder, all in such order and in such manner as Senior Creditor may determine at its sole option. Such exercise and enforcement shall include the rights of an agent appointed by Senior Creditor to dispose of Collateral, to incur expenses in connection with such disposition, and to exercise all the rights and remedies of a secured creditor under applicable law.

2.4.2 Retention of Proceeds. Subordinated Creditor shall not be permitted to retain any proceeds of Collateral in connection with any exercise of rights and remedies in any circumstance unless and until the Senior Indebtedness has been indefeasibly paid in full in cash.

2.4.3 Non-Interference. Subject to Section 2.2(b), Subordinated Creditor hereby:

(a) agrees that Subordinated Creditor shall not, directly or indirectly, take any action that would restrain, hinder, limit, delay, or otherwise interfere with any exercise of rights and remedies by Senior Creditor with respect to the Collateral, or that is otherwise prohibited hereunder, including any disposition of the Collateral, whether by enforcement, foreclosure or otherwise, and that it shall not oppose any motion filed or supported by Senior Creditor in any Insolvency Proceeding for relief from stay or for adequate protection in respect of its interest in the Collateral;

(b) waives any and all rights it may have as a junior lien creditor or otherwise, directly or indirectly, to object to the manner in which Senior Creditor seeks to enforce the Seller Security Interest or any other liens or security interests of Senior Creditor in the Collateral, regardless of whether any action or failure to act by or on behalf of Senior Creditor is adverse to the interest of Subordinated Creditor; and

(c) acknowledges and agrees that no covenant, agreement or restriction contained in the Subordinated Agreements shall be deemed to restrict in any way the

rights and remedies of Senior Creditor with respect to the Collateral as set forth in this Agreement and the Senior Agreements.

2.4.4 Unsecured Creditor Remedies. In the event that Subordinated Creditor becomes an execution creditor with a lien or a judgment lien creditor in respect of the Collateral as a result of its enforcement of its rights as an unsecured creditor with respect to the Subordinated Indebtedness, such lien shall be subject to the same terms of this Agreement for all purposes as apply hereunder to the other liens securing the Subordinated Indebtedness.

2.5 Agreements Relating to Collateral. Unless and until such time as the Senior Indebtedness has been paid in full, in cash:

(a) Subordinated Creditor shall have no right to participate in the adjustment or settlement of any insurance losses or condemnation claims with respect to the Collateral; provided that (i) Subordinated Creditor may participate in any such losses or claims that exceed the amount of the outstanding balance of the Senior Indebtedness and after payment in full of such outstanding balance, and (ii) any such participation by Subordinated Creditor is subject to Section 2.1 hereof.

(b) Subordinated Creditor hereby agrees, upon the request and at the direction of Senior Creditor, to endorse in favor of Senior Creditor any and all checks payable to Subordinated Creditor which represent insurance and/or condemnation proceeds paid for claims relating to the Collateral in any manner.

(c) Subordinated Creditor agrees, upon request by Senior Creditor, to assign to Senior Creditor any and all insurance proceeds and condemnation awards payable to Subordinated Creditor for claims relating to the Collateral, to the full extent of the outstanding balance of the Senior Indebtedness.

(d) Subordinated Creditor hereby appoints Senior Creditor as Subordinated Creditor's attorney-in-fact to settle all insurance and/or condemnation claims relating to the Collateral and to receive all payments and endorse all checks with respect to such claims to the full extent of the Senior Indebtedness; provided that (i) Subordinated Creditor may participate in any such claims that exceed the amount of the outstanding balance of the Senior Indebtedness and after payment in full of such outstanding balance, and (ii) any such participation by Subordinated Creditor is subject to Section 2.1 hereof.

(e) Subordinated Creditor shall have no right to possession of any portion of the Collateral or to foreclose upon any portion of the Collateral, whether by judicial action or otherwise, unless and until all of the Senior Indebtedness shall have been paid in full, in cash, and except as otherwise provided in Section 2.2(b) (Permitted Subordinated Creditor Actions).

(f) Senior Creditor shall provide prompt notice to Subordinated Creditor that a Title Transfer Ruling has occurred.

3. **Marshaling.** Subordinated Creditor, for itself and its successors and assigns, hereby expressly waives any right that it otherwise might have to require Senior Creditor or the holders of Senior Indebtedness to marshal any of the property of MEA or any guarantor (if any) of the Senior Indebtedness, to resort to Collateral in any particular order or manner, whether provided for by common law or statute, or to enforce any guaranty or any lien given by MEA as a condition precedent or concurrent to the exercise of any of their remedies.

4. **Additional Rights of Senior Creditor.** If Subordinated Creditor, in violation of this Agreement, shall commence, prosecute or participate in any suit, action or proceeding against MEA with respect to the Collateral, MEA may interpose as a defense or plea the making of this Agreement and Senior Creditor may intervene and interpose such defense or plea in Senior Creditor's name or in the name of MEA. If Subordinated Creditor, in violation of this Agreement, shall attempt to enforce any security agreement, real estate mortgage, deed of trust, guaranty, lien instrument or other encumbrance with respect to the Collateral, Senior Creditor may by virtue of this Agreement restrain the enforcement thereof in Senior Creditor's name or in the name of MEA.

5. **Waivers.** Subordinated Creditor hereby expressly waives: (a) the right to receive notice of the demand by Senior Creditor against MEA for observance or performance of, or enforcement of, any terms or provisions of the Senior Agreements; (b) all other notices and demands otherwise required by law with respect to the Collateral or the Seller Security Interest which Subordinated Creditor may lawfully waive; (c) all rights (statutory or otherwise) that require Senior Creditor to make an election of remedies where Senior Creditor holds security interests and liens in Collateral that consists of different types of property of MEA or to take recourse first or solely against any particular Collateral securing the Senior Agreements; (d) all rights (statutory or otherwise) that restrict, affect or impair the rights or remedies of Senior Creditor to collect any deficiency after the application to the Senior Indebtedness of any proceeds arising from foreclosure on the Collateral; (e) any defense based on the adequacy of a remedy at law which might be asserted as a bar to the remedy of specific performance of this Agreement in any action brought therefor by any Party hereto, and (f) so long as this Agreement remains in effect, the benefit of all other principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof.

6. **Indulgences Not Waivers.** Neither the failure nor any delay on the part of Senior Creditor or Subordinated Creditor to exercise any right, remedy, power or privilege hereunder shall operate as a waiver thereof or give rise to an estoppel, nor be construed as an agreement to modify the terms of this Agreement, nor shall any single or partial exercise of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver by a Party hereunder shall be effective unless it is in writing and signed by the Party making such waiver, and then only to the extent specifically stated in such writing.

7. **Covenant Not to Challenge.** This Agreement has been negotiated by the parties with the expectation and in reliance upon the assumption that the instruments and documents evidencing the Senior Indebtedness and the Subordinated Indebtedness are valid and enforceable. In determining whether to enter into this Agreement, Subordinated Creditor, on the one hand, and Senior Creditor, on the other hand, have assumed such validity and enforceability, and have agreed

to the provisions contained herein, without relying upon any reservation of a right to challenge or call into question such validity or enforceability. As between Subordinated Creditor, on the one hand, and Senior Creditor, on the other hand, such Parties hereby covenant and agree, to the fullest extent permitted by law, that neither Senior Creditor nor Subordinated Creditor shall initiate in any proceeding a challenge to the validity or enforceability of the documents and instruments evidencing or securing the Senior Indebtedness or the Subordinated Indebtedness, as applicable.

8. Effect of Bankruptcy. This Agreement is intended to be enforceable as a subordination agreement under Bankruptcy Code section 510 notwithstanding the commencement of any bankruptcy or other Insolvency Proceeding by or against MEA and, to the full extent permitted by law, shall apply with full force and effect to any indebtedness arising pursuant to debtor-in-possession financing arrangements or pursuant to financing arrangements entered into in connection with the confirmation of a plan of reorganization under Chapter 11 of the Bankruptcy Code.

9. Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (any of the foregoing, a "Notice") shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third Business Day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such Notices must be sent to the respective parties at the following addresses (or at such other address for a Party as shall be specified in a Notice given in accordance with this Section 9).

If to Senior Creditor:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 Facsimile: (907) 343-7180 Attention: William D. Falsey, Municipal Manager
with a copy to:	Municipality of Anchorage 632 W. 6th Avenue, Suite 850 Anchorage, AK 99501 Facsimile: (907) 343-4550 Attention: Rebecca A. Windt Pearson, Municipal Attorney
and a copy to:	K&L Gates LLP 925 Fourth Avenue, Suite 2900 Seattle, WA 98104-1158 Facsimile: (206) 370-6065 Attention: Eric E. Freedman

If to Subordinated Creditor:

National Rural Utilities Cooperative Finance Corporation
20701 Cooperative Way
Dulles, VA 20166
Facsimile: 866-230-5635
Attention: General Counsel

and

National Cooperative Services Corporation
20701 Cooperative Way
Dulles, VA 20166
Facsimile: 866-230-5635
Attention: General Counsel

or, as to each Party, at such other address as shall be designated by such Party in a Notice to the other Party complying as to delivery with the terms of this Section.

10. Successors; Continuing Effect, Etc. This Agreement is being entered into for the benefit of Senior Creditor, Subordinated Creditor and the holders of the Senior Indebtedness and the Subordinated Indebtedness, and their respective successors and assigns. This Agreement shall be a continuing agreement and shall be irrevocable and shall remain in full force and effect so long as there are both Senior Indebtedness and Subordinated Indebtedness outstanding, *provided, however,* that this Agreement shall terminate as to Subordinated Creditor at such time as Senior Creditor provides the notice set forth in the last sentence of Section 2.1(d) hereof.

11. Entire Agreement; Amendment. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and no modification or waiver of any provision of this Agreement shall in any event be effective unless the same shall be in writing signed by Senior Creditor and Subordinated Creditor.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Alaska, without regard to conflict of law principles that would result in the application of the laws of any other jurisdiction.

13. Headings. The headings in this Agreement are for convenience of reference only and shall not alter or otherwise affect the meaning hereof.

14. CONSENT TO VENUE; WAIVER OF JURY TRIAL.

(a) VENUE AND SERVICE OF PROCESS. ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY MAY BE INSTITUTED IN THE SUPERIOR COURT OF THE STATE OF ALASKA IN THE THIRD JUDICIAL DISTRICT, LOCATED IN ANCHORAGE, ALASKA, OR THE UNITED STATES DISTRICT COURT LOCATED IN

ANCHORAGE, ALASKA. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURT AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(b) **WAIVER OF JURY TRIAL.** EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 14.

15. Specific Enforcement. The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity. The Parties acknowledge and agree that (A) the Parties shall be entitled to an injunction, specific performance or other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereto, without proof of damages, this being in addition to any other remedy to which they are entitled under this Agreement and (B) the right to specific enforcement is an integral part of the transactions contemplated by this Agreement and without that right, neither Party would have entered into this Agreement. Each Party agrees that it shall not oppose the granting of specific performance and other equitable relief on the basis that the other Party has an adequate remedy at law or that an award of specific performance is not an appropriate remedy for any reason at law or equity. The Parties acknowledge and agree that any Party seeking an injunction to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in accordance with this Section 15 shall not be required to provide any bond or other security in connection with any such injunction.

16. No Third Party Beneficiaries. This Agreement is solely for the benefit of Senior Creditor, Subordinated Creditor, and their respective successors and assigns, and neither MEA nor any other Person is intended to be a third party beneficiary hereunder or to have any right, benefit, priority or interest under, or because of the existence of, or to have any right to enforce, this

Agreement. Senior Creditor and Subordinated Creditor shall have the right to modify or terminate this Agreement at any time without notice to or approval of MEA or any other Person.

17. Inconsistent or Conflicting Provisions. In the event a provision of the documents evidencing or governing the Senior Indebtedness or the Subordinated Indebtedness is inconsistent or conflicts with the provisions of this Agreement, the provisions of this Agreement shall govern and prevail.

18. Counterparts. This Agreement may be executed and delivered in counterparts, including counterpart signatures delivered by telefacsimile or other electronic method of transmission (to be followed in due course by delivery of original signature counterparts, but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement), and shall be effective when each Party has delivered its counterpart signature, and all counterparts taken together shall be deemed a single original agreement.

19. Recording. This Agreement may be recorded by Senior Creditor in all recording offices in the State of Alaska in which the lien of the Mortgage has been recorded.

20. Several Liability. Each of CFC and NCSC shall be severally liable for all obligations of Subordinated Creditor hereunder, to the extent of its interest in the Subordinated Indebtedness, and shall comply with all obligations of Subordinated Creditor hereunder with respect to such interest.

The next page is a signature page

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under seal as of the day and year first above written.

SENIOR CREDITOR:

MUNICIPALITY OF ANCHORAGE, a political subdivision organized under the laws of the State of Alaska

By:_____
Name:_____
Title:_____

Exhibit D-14

SUBORDINATED CREDITOR:

NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION, a cooperative association incorporated under the laws of the District of Columbia

By:_____
Name:_____
Title:_____

NATIONAL COOPERATIVE SERVICES CORPORATION, a cooperative association incorporated under the laws of the District of Columbia

By:_____
Name:_____
Title:_____

Exhibit D-15

ACKNOWLEDGED AND ACCEPTED AND AGREED TO BY MEA:

MEA hereby assents to the foregoing Subordination Agreement (and the terms thereof) and agrees to abide thereby and to keep, observe and perform the several matters and things therein intended to be kept, observed and performed by it, and specifically agrees not to make or permit to be made any payments or distributions with respect to the Collateral contrary to the intention and terms of such agreement.

Executed as of the
___th day of _____, 2019.

MEA:

MATANUSKA ELECTRIC ASSOCIATION, INC.,
an Alaska not-for-profit electric cooperative corporation

By:_____
Name:_____
Title:_____

EXHIBIT "A"

COPY OF PPA

See attached.

Explanatory Statement

The Proposed Final Fish and Wildlife Program (Proposed Final Program) for the Eklutna Hydroelectric Project (Project) that has been presented to Governor for approval represents the product of over five years of participation and effort to meet the requirements of the 1991 Fish and Wildlife Agreement (1991 Agreement) by the Project Owners, federal and state agencies, native tribal members, environmental advocates, and many members of the public.

The U.S. federal government constructed, owned, and operated the Project from 1955 until it sold the Project to Chugach Electric Association, Inc. (CEA), Matanuska Electric Association, Inc. (MEA), and the Municipality of Anchorage (MOA), collectively the "Project Owners", in October 1997. The sale was subject to an agreement that the Project Owners entered into in 1991 with the National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), the Alaska Energy Authority (AEA), and the State of Alaska (collectively with the Project Owners, the "Parties") regarding protection, mitigation of damages to, and enhancement of fish and wildlife affected by the Project (1991 Agreement).

As a substitute for federal licensing, the 1991 Agreement sets out a specific set of requirements to be followed by the Project Owners every 35 years to develop and submit to the Governor a Proposed Final Program to address impacts of the Project on fish and wildlife resources through protection, mitigation, and enhancement (PME) measures.

The Project Owners submit this Proposed Final Program in compliance with all requirements of the 1991 Agreement. While the Proposed Final Program does not include everything that all process participants wanted, the Project Owners and other Parties to the 1991 Agreement believe that this represents a balanced approach that meets the process requirements and approval criteria set forth in 1991 Agreement. As regulated electric utilities with responsibilities to their member-ratepayers, the Project Owners also believe that the Proposed Final Program preserves the Project's operational values as a low cost resource for power in Southcentral Alaska that produces firm energy and capacity, increases grid reliability, provides approximately 44% of MEA's renewable generation portfolio and approximately 25% of CEA's renewable generation portfolio, and offsets approximately 72,500 metric tons of CO_2 equivalent each year.

Process

The 1991 Agreement is primarily a process document designed to lead the Project Owners through a study and consultation process to create a set of PME measures related to the

environment affected by the Project and generate the necessary information to support an informed decision by the Governor. The 1991 Agreement prescribes specific procedural, schedule, consultation, study, and public involvement requirements during the development of the Proposed Final Program.

While the process required in the 1991 Agreement is based on the federal licensing process established by the Federal Power Act and implementing regulations, it was adapted, has different decision-making criteria, and leads to a result made in Alaska for Alaskans. The decision by the Governor is neither a federal action that triggers the requirements of the National Environmental Policy Act (NEPA) nor an action under the Federal Power Act with its prescriptive authorities for federal fisheries agencies and licensing regulations for applicants for a federal license. Rather, the 1991 Agreement contains explicit directions in lieu of any federal process that the Project Owners have followed or exceeded.

The Project Owners were required to initiate the consultation and study process outlined in the 1991 Agreement by 2022. In order to provide ample time for meaningful consultation and a comprehensive study program, the Project Owners started three years early in 2019. In addition, the 1991 Agreement required the Project Owners to consult with only specific agencies; however, the Project Owners felt it was important to invite all interested stakeholders to participate in the 1991 Agreement process.

To begin, the Project Owners compiled and summarized all relevant existing information in the Initial Information Package (IIP), identified information gaps, and developed study plans in consultation with resource agencies, the Native Village of Eklutna (NVE), and other interested entities. The Project Owners then implemented a 2-year study program in consultation with Technical Work Groups to assist in study design, execution and reporting, completed 16 environmental and engineering studies, sought Traditional Ecological Knowledge (TEK) relevant to the Eklutna River, and developed study reports. Through this process, the Project Owners identified and discussed the need for and the means to establish instream flows in the Eklutna River as the centerpiece of their fish and wildlife program. The Project Owners then conducted a comprehensive alternatives analysis, not required by the 1991 Agreement, in which they investigated, developed, and examined all known proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the Project, and presented to, engaged with, and sought input from the consulted entities.

Based on the study results, consultations, and alternatives analysis, the Project Owners then developed a Draft Fish and Wildlife Program (Draft Program) publicly released in October 2023. In the Draft Program, the Project Owners proposed to utilize the existing Anchorage Water and Wastewater Utility (AWWU) water supply infrastructure to provide a robust year-round base instream flow regime to 11 out of 12 miles of the Eklutna River and benefit all four

species of salmon that are currently observed spawning in the lower river, while implementing measures to protect the public water supply and minimizing impacts to ratepayers, taxpayers, carbon emissions, and recreation. The proposed flows were determined based on modeling results and were designed to optimize habitat gains while minimizing the costs of replacement energy. The Draft Program also proposed periodic peak flows to maintain downstream fish habitat, construction of eight new bridges for the AWWU water supply access road, a funding commitment for monitoring studies, and an adaptive management framework. Due to the significant costs, impacts, and uncertainty regarding the viability of introducing anadromous species above the Project dam, no fish passage related facilities or changes in operations were proposed at that time.

The Parties to the 1991 Agreement and NVE had 30 days to review the Draft Program and provide comments to the Project Owners. The Project Owners then met with each of the Parties and NVE in December 2023 to attempt to resolve any differences giving due weight to their recommendations, expertise, and statutory responsibilities. In January 2024, the Project Owners held a series of six public meetings in Palmer, Anchorage, and Eagle River. The public meetings were held in an open house style, and members of the public had an opportunity to submit comments to the Project Owners.

Since then, the Project Owners continued to meet and negotiate with the Parties and NVE and have made substantial improvements to the program based on their input. These changes include adding new measures to protect existing recreational use and facilities, revising the framework for the Monitoring and Adaptive Management Committee, increasing the funding commitment for habitat monitoring efforts, combining the base flow and peak flow water budgets, increasing water banking capabilities, increasing the flexibility for requesting modifications to the flow regime, adding procedures for allocating additional inflows in the future, adding a funding commitment for physical habitat enhancement, and adding two limited reopeners for a fixed wheel gate and fish passage measures during the 35 year period should certain criteria be met. These changes are reflected in the Proposed Final Program now being submitted for the Governor's approval.

Proposed Final Program

The Proposed Final Program consists of the following inter-related measures deemed necessary to protect, mitigate, and enhance fish and wildlife resources affected by the Project and reflects negotiations of the Parties to the 1991 Agreement:

- Section 2.1 – Year-Round Instream Flows in the Eklutna River
    - 2.1.1 – Construction of an Eklutna River Release Facility near the AWWU Portal Valve to allow such flows
    - 2.1.2 – Establishment of a Default Flow Regime for Year-Round Instream Flows

- Section 2.2 – Periodic Channel Maintenance Flows in the Eklutna River
    - 2.2.1 – Automation of the Existing Outlet Gate at the Dam to allow such flows
    - 2.2.2 – Establishment of a Default Flow Regime for Periodic Channel Maintenance Flows
- Section 2.3 – Commitment for Monitor Future Flow Releases
- Section 2.4 – Construction of Eight New AWWU Bridges across the Eklutna River
- Section 2.5 – Recreation Enhancements
    - 2.5.1 – Funding Commitment for Lakeside Trail Repairs
    - 2.5.2 – Commitment to Avoid Peak Fishing Times when Scheduling Annual Project Maintenance to Avoid Impacts to the Eklutna Tailrace Fishery
    - 2.5.3 – Request for Free, Non-permitted Public Access to the Eklutna River
- Section 3.1 – Establishment of a Monitoring and Adaptive Management Committee
- Section 3.2 – Funding Commitment for Monitoring Efforts
- Section 3.3 – Adaptive Management Plan
    - 3.3.1 – Establishment of a Water Budget
    - 3.3.2 – Procedures for Banking Water in the Reservoir
    - 3.3.3 – Procedures for Allocating Any Additional Future Inflows
    - 3.3.4 – Commitment to Prepare an Annual Water Accounting Report
    - 3.3.5 – Procedures for Requesting Modifications to the Flow Regime
    - 3.3.6 – Funding Commitment for Physical Habitat Enhancement
- Section 4.1 – Limited Reopener for Potential Replacement of the Existing Overflow Spillway with a Fixed Wheel Gate
- Section 4.2 – Limited Reopener for Potential Fish Passage Facilities

Criteria

In order to ensure that the Project is "best adapted for power generation and other beneficial public uses," Section 5 of the 1991 Agreement requires the Governor to give *equal* consideration to the following criteria when reviewing the Proposed Final Program for his public interest determination:

1. Efficient and economical power production,
2. Energy conservation,
3. The protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat),
4. The protection of recreational opportunities,
5. Municipal water supplies,
6. The preservation of other aspects of environmental quality,
7. Other beneficial public uses, and
8. Requirements of State law.

The Project Owners believe the Proposed Final Program fully meets the process requirements and these criteria outlined in the 1991 Agreement. The Proposed Final Program strikes a new balance among fish and wildlife habitat, public water supply, renewable energy production, and recreation.

- The central PME measure (providing instream flows in Eklutna River) will provide significant improvement in fish and wildlife habitat affected by the Project without losing fundamental benefits of the Project's efficient and economical power production of dispatchable renewable energy and capacity;
- Adaptive management provisions acknowledge and address uncertainties in how the river will react to the new instream flow regime, with funding for physical habitat enhancement;
- A Monitoring and Adaptive Management Committee comprised of the federal and state agencies and NVE is established to direct the habitat related efforts going forward, with funding for monitoring efforts;
- A protocol is established for sharing in any increased inflows to Eklutna Lake between fish habitat and energy generation;
- Municipal water supply (AWWU water source and infrastructure) as well as other downstream infrastructure remain protected; and
- Recreational opportunities at Eklutna Lake, in the Eklutna River, and in the Project tailrace are preserved and enhanced.

Additionally, while at this time the Project Owners do not believe that a fixed wheel gate is necessary or fish passage into/out of Eklutna Lake is warranted due to high cost, low productivity to support new fish populations, fish passage technological uncertainties, and major impacts to project operations, the Project Owners acknowledge that the situation could change before the next study and consultation process begins in 2057. Accordingly, the Project Owners have provided written criteria, conditions, and triggers upon which they will install a fixed wheel gate and cooperate with the Committee to install fish passage facilities ten years after instream flows are established. These limited reopeners specifically address the requests of agencies and NVE for greater flows and fish passage without compromising the criteria of efficient and economical power production and municipal water supply.

Costs

As set forth in Section 4.5.1 of the Supporting Information Document (SID), the Project Owners estimate that the capital costs of building the infrastructure in the Proposed Final Program (e.g., Eklutna River Release Facility, AWWU bridges, and other financial commitments) will total $16.5 million (or $20.5 million if they also install the fixed wheel gate). The Project Owners estimate that the O&M costs will total $316,000 per year, while annual energy replacement costs will amount to $1.3 million per year. The total annualized cost is estimated at $3.7 million (or $4.0 million if they also install the fixed wheel gate).

The costs for implementing the Proposed Final Program will be distributed among the Project Owners based on their ownership percentages and long-term power purchase agreements that modify allocations of costs related to the 1991 Agreement. The resulting allocations are as follows:

- CEA is responsible for 64.29% of all costs, including Capital Costs, O&M Costs, and Replacement Energy Costs.
- MEA is responsible for 16.67% of the Capital Costs and O&M Costs, and 35.71% of Replacement Energy Costs.
- MOA is responsible for 19.04% of the Capital Costs and O&M Costs but does not incur any Replacement Energy Costs.

Given these allocations, CEA will bear approximately 66.7% of the total annualized cost, MEA – 24.5%, and the MOA – 8.8% of the total costs.

Considerations Related to Other Requests

The Project Owners understand that the Proposed Final Program does not contain some measures requested by participants in the consultation process. When evaluating the Proposed Final Program, the Project Owners believe the following considerations are important:

- The environment today is much different from pre-Project conditions; therefore, use of existing conditions as baseline is the only logical and legally defensible way to approach analysis of river habitat conditions, reservoir productivity conditions, and alternative PME measures. The Eklutna River was subject to hydropower development beginning in the 1920s long before the Project was built. Downstream railroad and highway bridges were built creating important public infrastructure that adversely affected the fish habitat in the river. In the 1980s, the Municipality of Anchorage developed important infrastructure that depends on the Project to provide 90% of the Municipality's water supply needs but limits the consideration of certain alternative PME measures. The area around Eklutna Lake has become a popular area within Chugach State Park providing a variety of recreational opportunities, and the recreational fishery in the tailrace is popular as well. The Project Owners accepted all these conditions and sought to optimize what could be done given such constraints, rather than ignoring them or assuming that someone else will bear such costs of remediation.
- The alternative analysis conducted by the Project Owners followed a U.S. Army Corps of Engineers (USACE) methodology that looked at a wide range of comprehensive PME measures on an apples-to-apples comparison based on habitat gains, total cost

(CAPEX, O&M, replacement power), and cost per habitat unit gained. This approach was important to the Project Owners because they must consider all costs and risks of their actions as prudent utility operators with public service obligations to their member-ratepayers and the communities they serve. (See SID – Section 4.5.1.)

- Full "restoration" of the Eklutna River is not required by the 1991 Agreement; rather the goal of the 1991 Agreement is to "protect, mitigate and enhance" fish and wildlife habitat affected by the Project within the construct of eight specific criteria as detailed above.
- Similarly, dam removal is not contemplated by or required under the 1991 Agreement. After the Draft Program was released, NVE first presented dam removal as its preferred alternative. While the Project Owners did not have the modeling capability to evaluate potential effects on fish habitat from dam removal, they commissioned an experienced engineering team to prepare a technical memorandum addressing project removal elements, risks, and costs (See SID – Attachment F). That team identified significant risks to downstream infrastructure (AWWU pipeline, railroad, and highway bridges) due to inundation during high river flows in an unregulated river, identified potential mitigation measures, and estimated the total known costs of dam removal, Project replacement, and mitigation measures to exceed $500 million in 2034 dollars.
- The Project Owners are dealing with the current energy supply situation in Southcentral Alaska, which is very dynamic and challenging given the declining natural gas fuel supplies and other considerable unknowns such as how renewable generation resources and the necessary new transmission lines for such resources can be contracted, permitted, financed, constructed, interconnected, and integrated with the existing Railbelt electric system. Based on the engineering analysis and the current energy situation, as prudent utility operators the Project Owners cannot agree to remove the Project in ten years and take on such considerable costs and liabilities.

Summary

The Project Owners respectfully request approval of the Proposed Final Program no later than October 2024 so that they can start to implement its numerous protection, mitigation, and enhancement measures including substantial year-round instream flows in the Eklutna River. The Project Owners look forward to working with the Governor and the other Parties through the final steps of the 1991 Agreement process and stand ready to support these efforts.

Submitted by: Assembly Member Dunbar and Assembly Member Dyson
Reviewed by: Assembly Counsel
For reading: October 24, 2017

Municipal Clerk's Office
Approved
Date: 10/24/2017

ANCHORAGE, ALASKA
AR No. 2017–324(S)

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY IN SUPPORT OF EFFORTS TO RESTORE THE EKLUTNA RIVER.

WHEREAS, the Native Village of Eklutna is the largest Denai'na settlement in the Municipality of Anchorage; and

WHEREAS, the Eklutna River historically was a major subsistence resource for the Eklutna People; and

WHEREAS, the Eklutna River has been in a badly degraded condition since 1929 due to hydropower dams and water diversions; and

WHEREAS, the Eklutna River still supports five species of salmon, including Cook Inlet king salmon and sockeye salmon, though in **[~~greatly~~]** diminished numbers from historical levels; and

WHEREAS, Eklutna Incorporated, the village corporation for Eklutna, is the largest landowner in the Municipality of Anchorage and owns most of the land along the Eklutna River and around Eklutna Lake; and

WHEREAS, Eklutna Inc., and the Eklutna people have made substantial contributions to the development of the Municipality of Anchorage through school sites, highways, **parks,** railroads, **housing,** powerlines and rights-of-way; and

WHEREAS, The Conservation Fund and Eklutna Inc., are collaborating on a $7.5 million project to dismantle the Lower Eklutna River dam; and

WHEREAS, Little to no water flows out of Eklutna Lake into the Eklutna River because of water diversions for the Eklutna Power Project **and the supply of approximately 86 percent of the drinking water for Anchorage and Eagle River**; and

WHEREAS, Municipal Light and Power (ML&P)**, Chugach Electric Association, and Matanuska Electric Association (collectively the "Eklutna Power Purchasers") jointly own and operate the Eklutna Power Project [~~owns a 52% share of the Eklutna Power Project~~]**; and

WHEREAS, The Eklutna Power Project often provides the least expensive renewable power on the Railbelt; and

WHEREAS, **The Eklutna Power Purchasers are contractually obligated to study and develop a proposed Fish and Wildlife program to address [~~ML&P is legally obligated to mitigate for~~]** the impacts of the Eklutna Power Project to fish and wildlife, **pursuant to the 1991 Fish & Wildlife agreement**; and

WHEREAS, Mayor Ethan Berkowitz and members of the Anchorage Assembly have frequently expressed their support for wild salmon and Anchorage's desire to be a "Salmon City;" now, therefore

THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1. The Assembly recognizes the contribution of the Eklutna people and Eklutna Inc. to the development of the Municipality of Anchorage and supports the efforts to restore the hydrology and fisheries of the Eklutna River **subject to all provisions of the Fish & Wildlife agreement of August 7, 1991**.

Section 2. The Assembly urges **the Eklutna Power Purchasers to initiate a consultation process, as defined in the 1991 agreement, [~~Municipal Light and Power~~]** to begin necessary studies **early** to **examine [~~define~~]** the impacts to fish and wildlife of Eklutna Lake and Eklutna River hydropower operations **[~~and to begin collaborative efforts to restore water flows to the Eklutna River~~].**

Section 3. This resolution shall be effective upon passage and approval.

PASSED AND APPROVED by the Anchorage Assembly this 24th day of October, 2017.

Chair

ATTEST:

Municipal Clerk

Vice-Chair

Municipal Clerk's Office
Approved
Date: March 27, 2024
Mayoral Veto Given
Date: April 2, 2024
Mayoral Veto Overridden
Date: April 9, 2024

Submitted by: Assembly Chair Constant and Assembly Vice Chair Zaletel
Prepared by: Assembly Counsel's Office
For reading: March 27, 2024

ANCHORAGE, ALASKA
AR No. 2024-103

A RESOLUTION OF THE ANCHORAGE ASSEMBLY APPROVING THE USE OF SUBPOENAS TO COMPEL TESTIMONY AND DOCUMENT PRODUCTION RELATED TO THE 1991 FISH AND WILDLIFE AGREEMENT (EKLUTNA HYDROPOWER PROJECT) OR WATER RIGHTS TO EKLUTNA LAKE, PURSUANT TO ANCHORAGE MUNICIPAL CODE SECTION 2.30.085.

WHEREAS, Anchorage Municipal Code section 2.30.085, *Subpoena powers,* authorizes the Assembly Chair with the approval of a majority of the Assembly, to compel by subpoena the "testimony of a person whom the assembly reasonably believes may be able to give information relating to a public matter being considered by the assembly" and to "produce documents, papers or objects which the assembly reasonably believes may relate to a public matter being considered by the assembly"; and

WHEREAS, in 1984 the Alaska Power Administration and the Municipality Anchorage negotiated and executed an Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska (1984 Agreement) to secure water rights for the diversion of water from Eklutna Lake while protecting water volume needed for the Eklutna Hydropower Project; and

WHEREAS, in 1991, the Federal Government sold the Eklutna Dam Hydroelectric facility to the Chugach Electric Association, Matanuska Electric Association, and the Municipality of Anchorage (doing business as Anchorage Municipal Light and Power (ML&P)); and

WHEREAS, the terms of the 1991 Fish and Wildlife Agreement require a robust public process, in place of the process required for a Federal Energy Regulatory Commission license, whereby the owners are to study and propose a plan for mitigating the impact of the Eklutna Dam on local fish and wildlife; and

WHEREAS, in 1993, the Alaska Power Administration and the Municipality of Anchorage executed a supplemental agreement to their earlier 1984 Agreement (1993 Supplement) which currently governs Anchorage Water & Wastewater Utility's (AWWU) rights and access to drinking water from Eklutna Lake and is set to expire in 2025; and

WHEREAS, in May of 2020, the Regulatory Commission of Alaska (RCA) approved the sale of the ML&P from the Municipality of Anchorage to Chugach Electric Association (CEA), with the requirement that the Municipality surrender its vote as a member of the Eklutna Operating Committee, until it could demonstrate to the RCA that it has sufficient expertise within Municipal Hydro Power to participate again as a voting member; and

WHEREAS, the Assembly Leadership recently learned that in October 2023, AWWU and the Eklutna Owner's Group, executed an agreement which the Administration described to the Assembly as a "binding term sheet," the terms of which would govern AWWU's rights and access to drinking water from Eklutna Lake in the event the Governor endorses the currently proposed Fish and Wildlife Plan; and

WHEREAS, the Municipal Attorney and representatives of AWWU produced the binding term sheet in executive session and it was examined by the Assembly Members on February 2, 2024; and

WHEREA, on February 23, 2024, the Assembly met again and recessed to an executive session to discuss the legal implications of the binding term sheet and the Proposed Fish and Wildlife Program; and

WHEREAS, having taken up these matters in executive session, the Assembly finds that it is necessary in furtherance of the Assembly's legislative powers under the Charter and the Assembly's role to provide legislative oversight of municipal agencies and utilities, to compel production of the binding term sheet so that the Assembly may share the agreement with its counsel for legal review prior to a determination by the Assembly regarding whether it is appropriate and in the public interest to make the agreement a disclosable public record; and

WHEREAS, the Chair of the Assembly now requests authorization of the Assembly, per AMC section 2.30.085, to issue subpoenas for the production of agreements and other records specified herein, and Assembly's retention thereof;

NOW, THEREFORE BE IT RESOLVED THAT THE ANCHORAGE ASSEMBLY:

Section 1. Does hereby, pursuant to AMC section 2.30.085, authorize the Chair of the Assembly, on behalf and in the name of the Assembly, to compel by subpoena the attendance of persons to provide testimony or produce documents at a time and place specified by the Chair, as described below:

A. The agreement described as a "binding term sheet" executed between the Eklutna Owners and the Anchorage Water and Wastewater Utility, which had been previously provided for review only in executive session; and

B. Any existing agreement among the Eklutna Owners or between the Eklutna Owners and any third party, upon which a claim of privilege or confidentiality is based.

Section 2. This resolution shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 27th day of March, 2024.

Christopher Constant
Chair

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE
MAYOR DAVE BRONSON

OFFICE OF THE MAYOR

RECEIVED
OFFICE OF
APR 02 2024
MUNICIPAL CLERK

Date: April 2, 2024

To: Anchorage Assembly

From: Mayor Dave Bronson

Subject: Veto of Resolution No. AR 2024-103

Today, in accord with Section 2.30.100 of the Anchorage Municipal Code (AMC) and Section 5.02 of the Municipal Charter, I am issuing a veto for AR 2024-103, which was approved during the Assembly's special meeting on March 27, 2024.

Why are assembly members spending taxpayer dollars for their attorneys to subpoena documents they already have access to? These documents have been made available to them, are available to them, and this open invitation continues. These threatening subpoenas are nothing more than scare tactics to bully municipal employees into potentially breaching municipal contracts. As one of the Assembly's own members put it, these extreme tactics are mere "chest puffing."

The Assembly and their own lawyers have said the real reason for the subpoena is to make the term sheet public. However, the term sheet they seek to make public is subject to a prior contract - a Common Interest Agreement signed by the Municipality of Anchorage in 2017. Because the Assembly is part of the Municipality of Anchorage, we have no objection to Assembly members making their own copies of the confidential term sheet and of the confidential Common Interest Agreement. Indeed, disclosure has already been made, and is available to members of the Assembly and their paid outside counsel – if the confidentiality is properly maintained, and the Common Interest Agreement is not breached. I simply do not see why the Anchorage Assembly believes they are not bound by the 2017 Common Interest Agreement and, consequently, I do not agree that the Assembly has a unilateral right to publicly release documents subject to a Common Interest Agreement. If the Anchorage Assembly makes this document public as they want to, the Municipality will surely be sued for breach of contract.

The Municipality agreed in 2017 that no party would have the authority to waive any privilege or defense on behalf of any other party without the consent from the other parties. Chugach and MEA have not waived their rights under the Common Interest Agreement.

A subpoena is unnecessary when we have already made these documents available to Assembly Members and their counsel. AR 2024-103 is an attempt to interfere and potentially

breach the contractual obligations agreed to by the Municipality in 2017 during the Berkowitz administration.

For the above reasons, I hereby veto AR 2024-103.

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 350-2024

Meeting Date: A p r i l 9 , 2024

From: **Assembly Chair Constant and Vice Chair Zaletel**

Subject: **Response to Mayoral vetoes of AR 2024-103 and AO 2024-28, As Amended.**

We request the Assembly override the Mayoral vetoes of AR 2024-103, dated April 2, 2024 and AO 2024-28, As Amended, dated April 3, 2024. Both vetoes are either woefully uniformed, or deliberately misleading. For the sake of clarity this memo addresses each veto in turn:

AR 2024-103

In the veto message of AR 2024-103, Mayor Dave Bronson states that "[b]ecause the Assembly is part of the Municipality of Anchorage, we have no objection to Assembly members making their own copies of the confidential term sheet and of the confidential Common Interest Agreement."[1] This statement is remarkable, not only for its sound logic, but particularly because it is the first time **any** member of the Administration has expressed this view to members of the Assembly, and it came in the form of a Mayoral veto.

On January 23, 2024, the Assembly learned of the existence of a "binding term sheet" between the Eklutna Owners and AWWU. It is notable that neither the Administration, nor the Department of Law saw fit to inform the Assembly of the existence of this document, but rather the Assembly Leadership was forced to send the Municipal Attorney a request asking to inspect it. The following day, the Municipal Attorney confirmed the existence of a document titled as a binding term sheet, but refused to allow us to see it, asserting that its terms and conditions were "confidential." This assertion of confidentiality notably lacked reference or citation to any legal authority, merely that, whatever its basis for a claim of confidentiality, the Municipal Attorney did not consider the Assembly to have the appropriate standing to see this document upon request.

Further, when Assembly Leadership agreed to take up this agreement in executive session on February 2, 2024, the Administration only provided a copy of the binding term sheet after receiving the consent of the other Eklutna Owners. When the Assembly requested to see correspondence between the Municipal Attorney and the Eklutna Owners, this was also refused as being "confidential." And finally, on April 4th when the Chair recently attempted to review the term sheet with the Assembly's attorneys, as the Mayor's veto clearly stated he would be able to, he was denied the opportunity to either retain a copy or even review and discuss it

[1] Veto of AR 2024-103.

without a municipal attorney present until the Eklutna Owners approved the language of a confidentiality agreement she intended to have both the Chair and the Attorneys sign. In this extraordinary change in Municipal policy, the Municipal Attorney didn't bother to apprise the Assembly Chair of her unilateral decision to restrict his ability to confer with counsel. Until the language of the confidentiality agreement was approved, the Chair and the Assembly's attorneys would only be allowed to view the document with a member of the Department of Law physically present in the room.

Despite the repeated affirmations of the Municipal Attorney that their office works for the Municipality of Anchorage and that its job is to advise both branches of the Municipal Government, the Assembly has been consistently treated as a third party, if not a party opponent, to the Eklutna Owners, and has been denied meaningful access to these documents.

AO 2024-28, As Amended.

The Mayor's veto quite condescendingly states that "[h]istory is instructive here"[2]. Ironically, we cannot agree more.

As the legislative branch of the Municipal Government, it is inherently the Assembly's role to articulate and codify the policy of the Municipal Government.[3]

The Administration's assertion that "[t]he executive branch held the power to make policy and executive agreements when the original agreements were signed in 1984 and 1991"[4] strikes us as statement that could be best described as grossly inaccurate.

The Mayor describes previous mayors as having "signed documents on behalf of the Municipality relating to Eklutna Lake. Those actions were valid and binding upon the Municipality as a whole."[5] However, the historical record of the Eklutna Project reflects substantial involvement by the Assembly and the public in those agreements.

In 1987, Mayor Tony Knowles presented the prospect of purchasing the Eklutna Hydropower Project and requested both public hearings and the Assembly's endorsement to even begin the negotiations for its purchase.[6] In 1989, Mayor Tom Fink presented the purchase agreement to the Assembly and requested authority from them to sign on behalf of the Municipality,[7] and again in 1991, requesting the Assembly's approval of the final amendment to the agreement.[8] The actions of these previous mayors were "valid and binding" not because there were the inherent prerogative of the executive, but rather, because they were done openly, with the

[2] Veto of AO 2024-28 (As Amended), pg 1.
[3] *See* https://mrsc.org/stay-informed/mrsc-insight/february-2021/separation-of-powers-in-local-government.)
[4] Veto *supra* note 2
[5] *Id.*
[6] *See* AR 1987-41(S-1), as Amended.
[7] See AM 674-1989.
[8] *See* AM 716-1991.

advice, consultation, and **consent** of the Assembly.

History is instructive indeed.

By way of comparison, should we examine the actions of this administration? Not just with regard to Eklutna Lake, but his management of public utilities and public finances as a whole?

It is this Mayor who disregarded the requirements of code and unilaterally discontinued the fluoridation of the Municipality's water supply in violation of AMC 26.40.050.[9]

It is this Mayor who ignored the Assembly's authority to over contracts under AMC and illegally executed a multi-million dollar contract on a tent purportedly intended to shelter human beings but lacking any approved and verifiable engineering data pertaining to its capacity to hold snow load or withstand wind as required by Title 23 of the Municipal Code.[10]

It is this Mayor who ignored the State Legislative Program, duly enacted by the Assembly under AMC 2.10.075 and its published advocacy pamphlet, and instead printed a separate program and advocated his own personal policies to the State Legislature, undermining his own government, betraying the people of Anchorage, and violating subsection 2.10.075B.[11]

This Mayor clandestinely negotiated and is presently attempting to bind the Municipality to a series of agreements implicating tens of millions of taxpayers' and ratepayers' funds and access to drinking water for decades in direct contradiction of policies duly established and codified by the Assembly. Moreover, the Mayor's actions were done without clearly informing the public of the substance and effect of the unauthorized agreements he is attempting to make.

Nevertheless, with this historical context, this Mayor still has the temerity to assert that it is the action of the Assembly which "raises the question of a charter violation."[12]

History is instructive here, but not nearly so instructive as the law. We strongly encourage the Administration to apprise itself of both before implying that we have strayed from our sworn duties under the Charter. That the code had previously

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[9] *See* Michael Levenson, *Anchorage Mayor Briefly Shut Off Fluoride in City's Water System*, N.Y. TIMES, Dec. 16, 2021 available at https://www.nytimes.com/2021/12/16/us/anchorage-mayor-dave-bronson-fluoride-water.html.

[10] *See* Emily Goodykoontz, *Bronson Administration Approved $4.9 Million for Construction for East Anchorage Homeless Shelter Without Required Assembly Approval*, ANCHORAGE DAILY NEWS, Oct. 13, 2022 available at https://www.adn.com/alaska-news/anchorage/2022/10/13/bronson-administration-green-lit-49-million-in-construction-for-east-anchorage-homeless-shelter-without-assembly-approval/

[11] *See* Yallow Silvers, *Anchorage Mayor 'Bonson' Goes Rogue in Juneau*, THE ALASKA CURRENT, Jan. 26, 2024 available at https://thealaskacurrent.com/2024/01/26/anchorage-mayor-bonson-goes-rogue-in-juneau/

[12] Veto supra note 2, pg.2

delegated certain policy-making powers to the executive branch, does not, should not, and cannot be presumed to create an insurmountable impediment to returning such power to the policy-making branch: the legislative. This is particularly important now, when that power has been so grossly abused by an Administration so seemingly incapable of performing the most basic of functions of government without violating the law.

Regardless of the characterizations implied by the Mayor's vetoes, the actions of this body do not constitute an expansion of the Assembly's power or an impermissible intrusion into the authority of the executive. Rather, these are the measured and reasonable actions of a body attempting to secure information to which it is already entitled, to exercise legislative powers it has not had to exercise in the past, and to implement policies inherently within its authority.

We request your support for overriding the veto of both the ordinance and resolution.

Prepared by:	Assembly Chair Constant
Reviewed by:	Assembly Counsel's Office
Respectfully submitted:	Christopher Constant, Assembly Chair District 1, North Anchorage
	Meg Zaletel, Assembly Vice Chair District 4, Midtown

June 26, 2024
sent via email

RE: Municipality of Anchorage Party Comments Including Public Comments Received by the Anchorage Assembly on the Eklutna Hydroelectric Project, Proposed Fish and Wildlife Program

Dear Governor Dunleavy:

The Anchorage Assembly submits the attached resolution AR No. 2024-182(S-1) which contains the Municipality of Anchorage's comments as a party to the 1991 Fish and Wildlife Agreement for the Eklutna Project ("1991 Agreement"), including public comments received by the Municipality of Anchorage Assembly on the Proposed Final Fish and Wildlife Program ("Proposed Final Program"). As the elected representatives of Anchorage residents, the Assembly submits these comments to you on behalf of Anchorage residents and as a concerned stakeholder and party to the 1991 Agreement. The Assembly will submit separate comments and its reply to these and any other public comments in its capacity as the Eklutna Hydroelectric Project's majority interest Project Owner before July 24, 2024.[1]

All comments transmitted herein were received by the Assembly on or before June 24, 2024. The Assembly held a public hearing on June 11, 2024, which provided the opportunity for the public to testify and comment on the Proposed Final Program. On June 25, 2024, the Assembly met and unanimously adopted the attached resolution, which compiles and summarizes the public comments received in person and by email through June 24, 2024. A full record comments is available online.[2] A copy of the resolution will also be provided to the other Project Owners.

The public comments are wide-ranging and critical of the Proposed Final Program's chosen Portal Valve Alternative. For example, commenters expressed concern with the

[1] Pursuant to Anchorage Municipal Code 3.20.070, the Assembly has exclusive authority to make and approve decisions for the Municipality of Anchorage concerning the 1991 Agreement and the Proposed Program. *See* AO No. 2024-28 § 2 (Feb. 2, 2024) (as amended).

[2] The full record of public testimony can be accessed online, including the video-recorded in person testimony and an Information Memorandum of testimony received by email.
See https://meetings.muni.org/AgendaOnline/Meetings/ViewMeeting?id=5409&doctype=1.

Proposed Final Program's process, technical analysis, potential adverse effects on drinking water, the significant use of public funds without Assembly approval, and the Proposed Final Program's compliance with the 1991 Agreement. Commenters rejected the Proposed Final Programs' Portal Valve Alternative, which leaves one mile of the Eklutna River without water, as insufficient to achieve the 1991 Agreement's goals to "protect, mitigate damages to, and enhance fish and wildlife."

The comments reflect the public's concern with both the Proposed Final Program and the evaluation process. The public sentiment aligns with the Assembly's position as a party and stakeholder on the Proposed Final Program and we encourage you to seriously consider these comments when you evaluate the Program.

Sincerely,

Assembly Chair Christopher Constant
District 1, North Anchorage

Assembly Vice Chair Meg Zaletel
District 4, Midtown

Attachment:
1. AR No. 2024-182(S-1)

CC: Tyson Gallagher, Chief of Staff to Governor Dunleavy
Andrew Jensen
Arthur Miller, Chugach Electric Association, Inc.
Tony Izzo, Matanuska Electric Association
Aaron Leggett, Native Village of Eklutna

Municipal Clerk's Office
Approved
Date: June 25, 2024

Submitted by: Assembly Vice Chair Zaletel
Assembly Chair Constant
Prepared by: Legislative Services
Reviewed by: Assembly Counsel's Office
(S) For reading: June 25, 2024

ANCHORAGE, ALASKA
AR No. 2024-182(S-1)

A RESOLUTION OF THE MUNICIPALITY OF ANCHORAGE SUBMITTING PUBLIC COMMENT ON THE PROPOSED FINAL FISH AND WILDLIFE PROGRAM FOR THE EKLUTNA HYDROELECTRIC PROJECT AS TRANSMITTED TO THE GOVERNOR.

WHEREAS, the Municipality of Anchorage, Chugach Electric Association (CEA), and Matanuska Electric Association (MEA) (collectively "the Hydroelectric Project Owners") jointly own the Eklutna Hydroelectric Project and are parties to the 1991 Fish and Wildlife Agreement (the "1991 Agreement") with the State of Alaska, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, an agreement that notably excludes a key stakeholder, the Native Village of Eklutna, the federally recognized tribe whose ancestral homelands encompass this project; to fund studies to examine and quantify the impacts of the Eklutna Power Project on fish and wildlife; examine and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by such hydroelectric development; and prepare a Proposed Final Fish and Wildlife Program for approval by the Governor; and

WHEREAS, once approved by the Governor, the Fish and Wildlife Program proposes to contractually bind operations of the Eklutna Hydroelectric Project and Anchorage Water and Wastewater Utility ("AWWU") for the next 35 years; and

WHEREAS, in their Proposed Final Fish and Wildlife Program to mitigate their impacts to fish and wildlife pursuant to the 1991 Agreement, the Hydroelectric Project Owners propose to utilize AWWU infrastructure to deliver water into the Eklutna River via a Portal Valve (the "Portal Valve Alternative") one mile downstream of Eklutna Lake; and

WHEREAS, the policy of the Municipality of Anchorage has been to support restoration of the Eklutna River since the Anchorage Assembly adopted AR 2017-324(S), "A Resolution in Support of Efforts to Restore the Eklutna River," and AR 2022–262, As Amended, "A Resolution of the Anchorage Municipal Assembly in Support of Efforts to Restore the Eklutna River"; and

WHEREAS, further, through the passage of AO 2023-131, As Amended, the Assembly, through the creation of a specific law, reinforced and declared that it is the official policy of the Municipality of Anchorage, inclusive of the Anchorage Hydropower Utility Department, to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991 Agreement; and

WHEREAS, any changes to the Eklutna Hydroelectric Project will impact not only hydroelectric power and drinking water, but also fish and wildlife; and

WHEREAS, Eklutna Lake is the primary source of Municipality's drinking water for which AWWU currently pays approximately $1.2 Million annually to the Eklutna Hydroelectric Project to ensure access to the Municipality's drinking water and any binding agreement relating to the purchase price of water and volumes available to AWWU may impact property rights of AWWU and the regulated price of water to its customers; and

WHEREAS, under the Anchorage Municipal Charter § 10.01, the Assembly is the sole municipal body with authority to approve acquisition,conveyance, lease, or transfer of property and other rights; without Assembly approval, the inclusion of predetermined water rights into the Proposed Final Fish and Wildlife Program violates separation of powers and is litigable; and

WHEREAS, the Anchorage Assembly was recently briefed about the changing regulatory environment for drinking water, and while the effects of the regulatory changes are currently unknown, concern has been raised about the availability of drinking water from ground wells under the new regulations; and

WHEREAS, the Anchorage Assembly hired an expert engineer, Don Spiegel, who originally designed the Eklutna AWWU system, to evaluate the Portal Valve alternative as it relates to AWWU's operation of the Eklutna Water Treatment Facility and the effectiveness of the Portal Valve Alternative in delivering water to the river to support the restoration of fish species; and

WHEREAS, the initial conclusions of Mr. Spiegel, which were submitted to the Assembly through AIM 2024-11 on January 23, 2024, raise significant doubts as to whether the Portal Valve Alternative will meet the stated mitigation objectives; raise numerous concerns about potential harms to AWWU infrastructure and the Portal Valve limiting AWWU expansion in the future; and identifies that planned and unplanned maintenance shutdowns could result in AWWU and the Municipality being culpable and liable for the death of any aquatic species; and

WHEREAS, the Assembly submitted public comment to the Hydroelectric Project Owners via resolution AR 2024-40, As Amended, dated February 2, 2024; and

WHEREAS, following the public comment period is an opportunity for the Hydroelectric Project Owners to review the comments and resolve any disagreements prior to submitting a final proposal to the Governor; and

WHEREAS, the Native Village of Eklutna has put forward an alternative for removal of the dam at Eklutna Lake once replacement renewable power is secured, which is supported by the Municipal policy stated in AO 2023-131, As Amended, and codified at AMC 26.30.025A., but was never fully and equitably analyzed by the Hydroelectric Project Owners; and

WHEREAS, in addition to the stated policy and support for dam removal, the Anchorage Assembly has evaluated the Portal Valve Alternative and has concerns about that alternative; and

WHEREAS, the Native Village of Eklutna put forward an additional alternative solution transporting water for release at the existing dam spillway that would achieve much more than the proposed Portal Valve Alternative would do, rewatering all 12 miles of the river below the damn but not be connected to AWWU's infrastructure and address the concerns about sufficient flow into the river during low water availability or shut down and maintenance events; and

WHEREAS, on February 12, 2024, the Hydroelectric Project Owners responded to the Assembly's submission of public comments rejecting it's two primary stated requests – to delay and to fully evaluate any impacts through the RCA on AWWU rates**; and**

WHEREAS, on April 25, 2024 the Hydroelectric Project Owners transmitted their Proposed Final Fish and Wildlife Program to the Governor, which kicked off a process that first allows for stakeholder comments and then a response to those comments by the Hydroelectric Project Owners before the Governor takes any action; and

WHEREAS, on June 11, 2024, the Anchorage Assembly held a public hearing to receive public testimony on the Proposed Final Fish and Wildlife Program, providing the public its first opportunity to directly weigh in through testimony that was recorded since the Proposed Final Fish and Wildlife Program was made available by the Hydroelectric Project Owners; and

WHEREAS, in light of the public testimony received and in the interest of protecting the future of the Municipal water supply as well as the interests of its residents and municipal taxpayers, the Municipality of Anchorage submits the following comments on the Proposed Final Fish and Wildlife Program regarding the Portal Valve Alternative as transmitted to the Governor;

NOW, THEREFORE, THE ANCHORAGE ASSEMBLY RESOLVES and submits the following as its comments on the Proposed Final Fish and Wildlife Program:

Section 1. The following stakeholder comments are process and technical concerns particular to the Portal Valve Alternative put forward to the Governor as the Proposed Final Fish and Wildlife Program by the Hydroelectric Project Owners for public comment:

A. **Non-Compliant Process**. The August 7, 1991 Fish and Wildlife Agreement (1991 Agreement) sets forth a process for addressing the Eklutna Hydroelectric Project's impacts on fish and wildlife similar to that for Federal Energy Regulatory Commission ("FERC") licensed projects. The process set forth in the 1991 Agreement was intended to be at least as robust as a normal FERC license process, which is subject to all the provisions of National Environmental Policy Act

("NEPA") and all the authorities typically granted to the federal agencies. The process engaged by the Hydroelectric Project Owners falls short of the FERC standard of analysis. No NEPA **equivalent** analysis was done, the federal agencies were denied the authorities they normally would have, such as to prescribe fish passage, and the public wasn't presented any alternatives to choose from. Moreover, the process engaged in does not appear comparable to the NEPA requirements to consult with Native Tribes impacted by the project (18. C.F.R. 5.7), nor have a dispute resolution process allowing agencies to mandate conditions (18 C.F.R. 5.8 and 5.15).

Previous comment letters from these state and federal resource agencies raise questions around the process engaged by the Hydroelectric Project Owners, the data inputs used in modeling to develop the Proposed Final Fish and Wildlife Program, and the viability of the Portal Valve Alternative to achieve the stated goals of the 1991 Agreement. These questions are unresolved.

Similarly, the process under the 1991 Agreement diverges substantially from the type of alternatives analysis the Municipality uses on its own capital projects. Often the Municipality's own large capital projects, such as the Port of Alaska Modernization Program ("PAMP") or projects co-funded through the Anchorage Metropolitan Area Transportation Solutions ("AMATS") design alternatives, are evaluated by experts and relevant stakeholders and the Assembly is briefed and able to weigh in on the proposed alternatives, particularly where Municipal resources are required to fund the projects. Based on the information the Assembly has been provided to date, only one alternative was seriously evaluated by the Hydroelectric Project Owners and put forward for consideration even though a Municipal contribution is expected through a property tax assessment.

B. **Potential Impacts to Anchorage Drinking Water.** Throughout this process, there has been very little discussion about any implications on AWWU and the Municipality's access to drinking water now and into the foreseeable future (the next 35 years). The week of January 22, 2024, well after the Proposed Final Fish and Wildlife Program was released and after years of discussion and presentation by the Eklutna Hydroelectric Project owners, we learned that the Hydroelectric Project Owners and AWWU, all public utilities regulated by the Regulatory Commission of Alaska (RCA), had signed a binding agreement in early October 2023, prior to submitting the Proposed Final Fish and Wildlife Program for public comment. We learned this agreement is based on the Portal Valve Alternative and no other alternative; an alternative that may have significant impacts to the project outcome as well as to regulated rates authorized by the RCA. After the signed agreement was made public with transmittal of the program to the Governor, it was clear that AWWU was prohibited from raising any concerns publicly about the Portal Valve option pursuant to the terms of the agreement. This was and continues to be a

significant hinderance on the Anchorage Assembly, and the public, to provide complete comments on the Portal Valve Alternative as related to AWWU operations, potential impacts to Municipal growth and strategic investments for AWWU and the Municipality. Significant legal questions also remain whether a binding agreement can be signed relating to future Municipal utility assets, revenues, and expenditures without Assembly approval.

Before learning of that agreement, the Anchorage Assembly hired an expert to analyze the effectiveness of the Portal Valve option in relation to AWWU's operation at Eklutna. That analysis by engineer Don Spiegel, who designed the Eklutna AWWU system, concluded that the Portal Valve "cannot provide adequate Eklutna River restoration flows, nor can it provide year-round water without interruption. Thus, it is the Author's opinion that the Portal Valve as currently configured is fatally flawed and other Eklutna River restoration alternatives should be studied further."

Furthermore, AWWU continues to brief the Assembly on new developments concerning drinking water regulation through federal and local entities. The impacts of the new drinking water regulations are yet to be determined, but AWWU leadership has expressed concerns about potential impacts to the Municipality from limitations of retaining full ground well capacity. Until the new regulatory landscape is better understood, particularly any reductions in access to drinking water from sources other than Eklutna, any future limitations on drinking water capacity at Eklutna should be held in abeyance.

C. **Misrepresentation of data, Incomplete Analysis and Insufficient Mitigation.** The Proposed Final Fish and Wildlife Program does not meet the requirements of the 1991 Agreement regarding "the protection, mitigation of damages to, and enhancement of fish and wildlife affected by hydroelectric development of the Eklutna Hydroelectric Project." There are a number of variables related to lake level that can render the Portal Valve Alternative inoperable. Additionally, regular and unexpected maintenance at the AWWU water facility will also stop the flow of water into the Portal Valve. Discontinuous water flows will result in fish kills in Eklutna River. The state and federal signatories to the 1991 Agreement have raised questions about the analysis and process used to develop the Proposed Final Fish and Wildlife Program. The Hydroelectric Project Owners failed to adequately and equitably consider all reasonable alternatives, including the dam removal and siphon alternatives proposed by the Native Village of Eklutna. The Hydroelectric Project Owners failed to present the public with a full range of alternatives as would typically occur in similar situations.

D. **Poor Coordination and Questionable Use of Public Funds.** The Hydroelectric Project Owners and AWWU are regulated utilities and

need to demonstrate benefit to their rate payers. Additionally, the Assembly, as the steward of taxpayer funds, must demonstrate benefit to the residents of the Municipality through the expenditure of public funds. Treating the Portal Valve Alternative as a singular stand-alone project is short sighted and does not maximize various opportunities to meet the goals and objectives of 1991 Agreement across various entities nor does it meet the requirements of these entities to benefit the public. The Portal Valve Alternative brought forward by the Hydroelectric Project Owners is self-serving and fails to protect the broader public interests of the Municipality of Anchorage. Given the $57 million price tag of the Portal Valve Alternative, its potential impacts to AWWU operations, and the financial implications to ratepayers and taxpayers for the next 35 years, we find this is a poor use of public funds and lacked public coordination.

E. Concerns from the Public. The public testimony received in person and via email to the Anchorage Assembly concerning the Proposed Final Fish and Wildlife Program overwhelmingly raised concerns with the proposal. Those concerns are summarized below.[1] The public, including utility ratepayers and taxpayers, are stakeholders in this process and to date have not had a meaningful opportunity to weigh in.

1. **Commitment to full river restoration.** Several members of the public provided testimony supporting full river restoration.

"Please help and restore the Eklutna River to its original habitat."

"The portal valve option for the Eklutna Dam is not acceptable. An acceptable option must RESTORE, not replace, what was viable in the past for the fish in the river. Theories of alternative water flow rates are not acceptable. Any section of dry river is not acceptable. Not allowing fish to pass into the lake is not acceptable."

"It fails because it leaves a mile of river completely dry and does not provide adequate flows to restore fish and natural processes below the dam. It also does not provide for any fish passage above the dam[n] into Eklutna Lake and the upper tributaries." "I'm writing in support of the Native Village of Eklutna's vision for restoring the full length of the Eklutna River. 80% of Alaskans who commented want the Eklutna River restored."

"The Proposed Final Program does not meet the intent of the 1991 purchase agreement. It leaves a mile of the river dry, with inadequate flows down the remaining river. It also does not provide fish passage to Eklutna Lake and its upstream tributaries. It falls far short of

[1] The full public record accessible through the Assembly's Public Portal via Assembly Information Memorandum (AIM) submitted for testimony received for the June 11, 2025 meeting and the Assembly's agenda page where video recordings of past meetings may be viewed.

mitigating the harm done by the dam to fish and wildlife. Significantly, the Final Program goes against what 80% of Alaskans who commented want for their river. During the comment period this winter, 4 out of 5 Alaskans asked the utilities to provide fish passage between the river and the lake, which also requires flows throughout the entire river. 53.7% of Alaskans who commented specifically want the dam removed."

"Championing Eklutna River restoration calls for visionary leadership. Native Movement acknowledges the Assembly's commitment to restoring the Eklutna River. Eklutna River restoration is a visionary step that simply is the right thing to do. The Draft Fish and Wildlife Program submitted to the Governor continues business as usual and ignores the pleas of the Native Village of Eklutna and a majority of the public. The Anchorage Assembly's vision for preserving the natural ecosystem of the Eklutna watershed and Indigenous heritage is a pivotal step toward righting the wrongs of the past.|Endorsing responsible stewardship of the Eklutna watershed necessitates rejecting the Draft Fish and Wildlife Program. … The proposal does not meet the requirements of the 1991 Agreement and fails to ensure sufficient water flow for river restoration. Acknowledging the inadequacies of the Draft Fish and Wildlife Program is paramount. Under the utilities' Draft Fish and Wildlife Program, there will be no connection to Eklutna Lake or upper tributaries leaving the most significant portion of the river dry. Without provisions for fish passage, the program will fail to restore the ecosystem as intended by the 1991 Agreement. The resolution's critique underscores the necessity of a more comprehensive and ecologically sound solution."

"The current plan submitted to the Governor does not go far enough to return salmon to the Eklutna River and has ignored the Native Village of Eklutna, who has asked for an alternative path forward that connects the river to the lake and returns historic water flows to the river so fish can spawn. |I ask the assembly to submit comments in support of the Native Village of Eklutna and the return of the river to its natural state."

2. **Compliance with the 1991 Agreement.** Public comment received specifically called out concerns that the Portal Valve option in the Proposed Final Fish and Wildlife Program does not meet the intent of the 1991 Agreement.

"We appreciate the Assembly's support of the removal of the Eklutna Lake Dam because it is the only alternative to meet the purpose of the Purchase Agreement. The Purchase Agreement requires that the utilities work with key federal agencies to develop a Fish and Wildlife Plan with the purpose of developing and implementing measures to ""protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat)."" The inadequacy of the AWWU Portal Valve Alternative to achieve the intent of the

Purchase Agreement should make it a nonresponsive option for the Fish and Wildlife Plan."

"The [1991] Agreement was meant to provide a deregulatory alternative that was better suited to Alaska than a 'one size fits all' FERC process. It's fair to say the power companies took advantage of this loose framework and applied a literal legal interpretation that benefited only them. The power companies claim they were inclusive, but their linclusivity (sic) was highly performative. Other than the initial flushing flow, I am not aware of any case where they altered their practice or plans based on input from anybody else, including NVE, the public, the feds. The power companies claim they only have to mitigate, for their impacts, not restore the Eklutna River. 'Restoration' is the highest and preferred form of mitigation, according to the EPA and US Army Corps of Engineers. … I think it likely that the 40 cfs of instream flow will be insufficient to attract salmon, at which point they will say 'We told you so.' 40 cfs is a trickle compared to normal historic flows of 1,000 cfs. We were promised increased operating efficiencies when CEA acquired ML&P. Those promised efficiencies should have been sufficient to offset any loss of power production from Eklutna. To understand why the power companies have gone to the mat over Eklutna, follow the money."

"Their contractor was paid to support only one proposal that didn't affect their operations, one iota. The Proposed Final Program does not meet the intent or requirements of the 1991 Agreement. It leaves a mile of the river completely dry and does not provide adequate flows to restore fish and natural processes below the dam. It also provides no fish passage above the dam into Eklutna Lake and the resource-rich upper tributaries. |I was aghast at some of the tactics the contractor used to manipulate input. At one point, they told the group that the AWWU portal option was off the table, only to find out they were secretly meeting on an agreement with the water utility to solidify the portal option."

3. **Concerns about the fish and wildlife analysis.** Several public comments raised concerns about the disconnection between the Hydroelectric Owners analysis and other state and federal agencies written feedback.

"The owners propose flows that all resource agencies (AK Dept of Fish and Game, U.S. Fish and Wildlife Service, and National Marine Fisheries Service) found inadequate to support salmon." "As a fisheries biologist for the USFWS for 8 years, I studied sockeye salmon in waterways on Joint Base Elmendorf Richardson, nearby Eklutna River. Sockeye strays naturally colonized a man-made lake, Sixmile Lake; genetics show these colonizers are related to sockeye from the Big Lake area. The Owners and occasionally ADFG have questioned if sockeye would come back if the Eklutna River was reconnected to Eklutna Lake, using this perceived uncertainty as a

reason for selecting the AWWU portal alternative. There is strong evidence from a proximate system that sockeye will naturally repopulate, the timing of return and carrying capacity of the lake can be debated but the notion that they will not come back is not scientifically supported."

According to one of the coauthors of the research, the Owners misrepresented and downplayed their findings by equating the potential sockeye salmon run that may have spawned in the lake (up to 15,000) with all the salmon historically present in the entire system, including those harvested annually at the mouth of the river and in Knik Arm by the Dena'ina, and by failing to mention documented concerns from the 1992 divestiture summary report on the sale of the Eklutna hydroelectric project that the "complete loss" of Eklutna Lake's sockeye salmon run "undoubtedly occurred with construction of the 1929 dam."

4. **Cost.** "The [Hydroelectric Utility Owners] propose to tap into Anchorage's drinking water supply pipeline and spend $57 million in taxpayer and ratepayer money to put a trickle of water into the river that won't meaningfully restore anything. The Assembly has said that it will not provide funding or authorizations for this program and should make that clear to the owners and the Governor."

5. **Respecting Recognized Government to Government Relationships.** Several comments received stated concerns about the lack of official role the Native Village of Eklutna had in the process and acknowledging the cultural significance of the Eklutna River.

"I remember hearing stories from Grandpa Leo about how big the kings were. You'd have to carry them on your back. Another one kind of made me laugh, was that the bears would be picky with their food, as you could walk on the backs of the salmon in the Eklutna River. There's a reason our people, the Dena'ina Athabascans, settled in Eklutna and the surrounding areas. The land sustains life and with the blessings of the Lord, our families are fed. … The Eklutna dam was not something the tribe of Eklutna wanted. We are the landowners. How is that right? The outcome of the dam, resulted in the river turning into a creek, the flourishing salmon turning into none, our people without our food source and NOW, our people are in the fight of our lives to get back what was stolen from us. … As a Dena'ina Athabascan woman, who HURTS from what was stolen from us as a tribe, I SINCERELY, thank you for helping to fight for myself, for my 5 children, for my tribe of Native Village of Eklutna and the communities of Alaska to make this wrong a right. Chin'an."

"This is truly a generational opportunity to restore once-abundant salmon runs, which will benefit the Anchorage community and bring a

modicum of justice to the Native Village of Eklutna, which settled near the Eklutna River and was never consulted or asked about the idea of dewatering the river and decimating its salmon runs."

"As we live on colonized lands, restoring the full length of the Eklutna River is one of many steps towards healing from the legacy of settler colonialism and building a world in which all of us have everything we need."

"This [the Proposed Final Fish and Wildlife Program] does not address the ecological and cultural needs of the region and community; we must put forth an option that fully restores the river so that fish can once again thrive in the area.||I believe that fully restoring the Eklutna River is best for our community. It will provide renewed cultural connection for the Native Village of Eklutna and Indigenous Alaskans who want to see their river full of fish again. It will allow for more recreational opportunities for our growing communities who are still seeking outdoor opportunities and more places to fish- something that makes Alaska, and Southcentral in particular, so unique. I applaud the Assembly's resolution to support the Native Village of Eklutna's proposal, returning autonomy and ownership to people whose land was stolen from them. They are the original stewards of this resource and we owe it to them to let their vision lead what restoration looks like at Eklutna."

"Most importantly, restoration of the Eklutna River would be a long overdue opportunity to address the injustice against the Native Village of Eklutna, upon whose land the dam was constructed without their consent or involvement. Thank you, assembly members, for your support of Eklutna River restoration."

"Advocating for Indigenous alternatives upholds Indigenous rights and recognizes their environmental stewardship. The Native Village of Eklutna and other commenters have proposed meaningful and carefully-considered alternatives that represent a compromise between the utilities' concerns and stronger alternatives proposed in previous engagements. Their alternatives, such as the Eklutna River Release Facility and dam removal, offer more effective means of restoring the river while respecting Indigenous sovereignty and environmental sustainability. But even those thoughtful alternatives have been overlooked repeatedly. It is not hard to imagine based upon the history of the Eklutna people that for many generations, their ancestors embraced the river's abundance while a major city would engulf them and their lands taken from them. It is clear the Eklutna River once thrived with the presence of salmon, despite the hydro project owners' denial of this profound legacy. The utilities may be attempting to obscure the truth, but they cannot extinguish the collective memory that has been noted in studies and in public comments."

"They would hold meetings with the Native Village of Eklutna to tell people they had met with the tribe, but they never listened to a word they said. It was horribly disrespectful and disingenuous."

6. **The NVE Alternative.** The Native Village of Eklutna's alternative received public comment as well.

"The current mitigation plan for the Eklutna Hydroelectric Project that was submitted to the Governor is insufficient. It does not truly address and mitigate the harm the hydroelectric dam causes to fish and wildlife. It would not allow for sufficient, year-round water flow to restore fish passage above the dam, leaving a mile of the riverbed dry. ||The Municipality has an amazing opportunity to restore all 5 species of salmon through the Ekltuna River and up to Eklutna Lake by removing the hydroelectric dam AFTER other renewable energy projects are constructed. This would create access to salmon that would benefit the plants and animals along the river, as well as families like my own in the Anchorage area who could have easier to access to sustainable, nearby salmon runs."

"[T]he Native Village of Eklutna and its partners have provided alternatives that meet the intent and requirements of the 1991 Agreement, which was to right the historical wrong of destroying the Eklutna watershed and restore the Eklutna River from its headwaters to Cook Inlet. These alternatives include an alternative Eklutna River Release Facility using a siphon pump that would take water directly from the lake and put it right into the river, avoiding any use of AWWU infrastructure, and dam removal once replacement renewable energy is secured, which we believe is feasible within the next decade."

"I appreciate the Assemlby's commitment to a full river restoration. However the proposed plan leaves a mile of river completely dry and doesn't provide adequate flow to restore fish and natural processes. There is also no fish passage to above the dam. There are alternatives that do these things until the dam can be removed, that seem feasible. I would like to support the Native Village of Eklutna's alternatives that protect Anchorage's drinking water and restore the Eklutna river."

For all the above reasons, the Municipality of Anchorage cannot endorse and thus opposes the Proposed Final Fish and Wildlife Program.

Section 2. The Municipality of Anchorage does not intend to issue authorizations or provide funds or any other form of support of the Proposed Final Fish and Wildlife Program or any alternative that doesn't work toward the restoration of the full length of the Eklutna River and comply with policy of the Municipality, as recently enacted by AO 2023-131, As Amended, and codified at AMC 26.30.025A., as well as AR 2022-262, As Amended, and AR 2017-324(S).

Section 3. The Regulatory Commission of Alaska (RCA), under its statutory powers to initiate investigation into practices and facilities of a public utility, should review the Proposed Final Fish and Wildlife Program and examine any impacts on any of the regulated utilities, including but not limited Chugach Electric, Matanuska Electric, Anchorage Hydropower and AWWU, particularly about impacts to rate payers and their access to uninterrupted service, **before** any option for a Final Fish and Wildlife Program is approved by the Governor.

Section 4. The Anchorage Assembly requests the Hydroelectric Project Owners to seek a two-year extension of the 1991 Agreement from the signatories, of which the Municipality is one through the Anchorage Hydropower Utility, to perform additional analysis, consultation, and coordination with affected parties, including the Anchorage Assembly and the Native Village of Eklutna, and utilize a public process to ensure adequate opportunity for ratepayers, taxpayers and residents to weigh in. The issues at play are too significant to our community to rush to judgment or exclude key stakeholders. The residents of the Municipality deserve a measured and comprehensive approach guided by respectful coordination to reach a solution that enjoys broad consensus among the affected parties.

Section 5: The Municipality of Anchorage's intent and purpose is to authorize litigation to protect the Municipality's interests and established policy to the fullest extent allowed under law to ensure the concerns raised in this Resolution are addressed.

Section 6. This resolution shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 25th day of June, 2024.

Chair

ATTEST:

Jasmine Acres

Municipal Clerk

Eklutna Hydroelectric Project
Consultation Record

Initial Consultation Meetings

Item No.	Stakeholders	Date	Meeting Type	Description
1	AWWU	3/18/2019	In-person Meeting	Initial Consultation
2	Eklutna Inc.	3/19/2019	In-person Meeting	Initial Consultation
3	ADFG	3/19/2019	In-person Meeting	Initial Consultation
4	ADNR – Water	3/20/2019	In-person Meeting	Initial Consultation
5	TCF	3/20/2019	In-person Meeting	Initial Consultation
6	NVE	3/26/2019	In-person Meeting	Initial Consultation
7	NMFS	3/26/2019	In-person Meeting	Initial Consultation
8	ADEC	3/26/2019	In-person Meeting	Initial Consultation
9	USFWS	3/27/2019	In-person Meeting	Initial Consultation
10	ADOT&PF	4/8/2019	In-person Meeting	Initial Consultation
11	USACE	4/10/2029	In-person Meeting	Initial Consultation
12	ADNR – State Parks	4/10/2019	In-person Meeting	Initial Consultation
13	ADNR – OHA	4/11/2019	In-person Meeting	Initial Consultation
14	ARRC	4/11/2019	In-person Meeting	Initial Consultation

Group Stakeholder Meetings

Item No.	Stakeholders	Date	Meeting Type	Description
1	All Interested Stakeholders	7/16/2019	In-person Meeting	Follow-up Technical Discussion
2	All Interested Stakeholders	11/15/2019	Video Conference	Quarterly Project Update
3	All Interested Stakeholders	2/13/2020	Video Conference	Quarterly Project Update
4	All Interested Stakeholders	4/16/2020	Video Conference	Review Comments on the Draft IIP, Review the Information Matrix, and Establish the Aquatics TWG
5	All Interested Stakeholders	6/2/2020	Video Conference	Quarterly Project Update
6	All Interested Stakeholders	9/10/2020	Video Conference	Quarterly Project Update
7	All Interested Stakeholders	1/28/2021	Video Conference	Quarterly Project Update
8	All Interested Stakeholders	5/4/2021	Video Conference	Quarterly Project Update
9	All Interested Stakeholders	1/28/2021	Video Conference	Quarterly Project Update
10	All Interested Stakeholders	8/23/2021	Video Conference	Quarterly Project Update
11	All Interested Stakeholders	10/20/2021	Video Conference	Quarterly Project Update
12	All Interested Stakeholders	2/9/2022	Video Conference	Quarterly Project Update
13	All Interested Stakeholders	6/2/2022	Video Conference	Quarterly Project Update
14	All Interested Stakeholders	11/16/2022	Video Conference	Quarterly Project Update
15	All Interested Stakeholders	6/9/2023	Video Conference	Quarterly Project Update

Anchorage Assembly Meetings

Item No.	Stakeholders	Date	Meeting Type	Description
1	Anchorage Assembly	2/12/2020	Worksession	Project Overview, 1991 Agreement, Schedule, Consultation to Date, and Next Steps
2	Enterprise and Utility Oversight Committee	10/15/2020	Video Conference	Quarterly Project Update
3	Watershed and Natural Resources Advisory Commission	1/27/2021	Video Conference	Project Overview and Efforts to Date
4	Enterprise and Utility Oversight Committee	3/18/2021	Video Conference	Quarterly Project Update
5	Enterprise and Utility Oversight Committee	6/17/2021	Video Conference	Quarterly Project Update
6	Enterprise and Utility Oversight Committee	10/21/2021	Video Conference	Quarterly Project Update
7	Enterprise and Utility Oversight Committee	2/17/2022	Video Conference	Quarterly Project Update
8	Enterprise and Utility Oversight Committee	7/21/2022	In-person w/ Video Conference Option	Quarterly Project Update
9	Enterprise and Utility Oversight Committee	11/17/2022	In-person w/ Video Conference Option	Quarterly Project Update
10	Enterprise and Utility Oversight Committee	3/16/2023	In-person w/ Video Conference Option	Quarterly Project Update
11	Anchorage Assembly	7/14/2023	Worksession	Study Results, Alternatives Analysis, and Next Steps
12	Anchorage Assembly	12/7/2023	Worksession	Alternatives Analysis, Draft Fish and Wildlife Program, and Next Steps

Additional Meetings with Native Village of Eklutna (NVE) Tribal Council and Administration

Item No.	Stakeholders	Date	Meeting Type	Description
1	NVE, CEA, MEA, MOA	9/30/2020	In-person Meeting	Share the History of the Eklutna People and Surrounding Area
2	NVE, CEA, MEA, MOA	6/3/2023	Video Conference	Project Update
3	NVE, CEA, MEA, AWWU	9/14/2023	Site Visit	Study Flow Releases
4	NVE, CEA, MEA, MOA	10/19/2022	In-person Meeting	Share the History of the Eklutna People and Surrounding Area, Project Update, and Opportunities to Collaborate
5	NVE, CEA	6/29/2023	In-person Meeting	Meeting with Board of Directors
6	NVE, MEA	8/7/2023	In-person Meeting	Meeting and Site Visit with Board of Directors
7	NVE, CEA, MEA	4/17/2024	In-person Meeting	Meeting with both Boards to hear NVE's proposal: dam removal and pump station

Technical Working Group (TWG) Meetings

Item No.	Stakeholders	Date	Meeting Type	Description
1	Aquatics TWG	7/15/2020	Video Conference	Site Recon Prep, and Additional Data Collection Updates
2	Aquatics TWG	7/23/2020	Video Conference	Site Recon Debrief, Additional Data Collection Updates, and Kick-off Study Planning

3	Aquatics TWG	9/3/2020	Video Conference	Proposed Study Program Framework, Study Plan Outline, and Study Planning Schedule
4	Aquatics TWG	11/30/2020	Video Conference	Review and Discuss Draft Year 1 Study Plans
5	Aquatics TWG	12/21/2020	Video Conference	Review and Address Comments on Draft Instream Flow and Geomorphology Study Plans
6	Aquatics TWG	1/26/2021	Video Conference	Present Hydro Operations Model, and Review Revised Study Plans
7	Aquatics TWG	4/21/2021	Video Conference	Update on Proposed Final Study Plans, Permits / Authorizations, Consents / Waivers, Engineering for Study Flow Releases, and Other Stakeholder Engagement
8	Aquatics TWG	6/9/2021 – 6/10/2021	Site Visit	Establish Transect Locations for the Instream Flow and Geomorphology Studies
9	Aquatics TWG	8/23/2021	Video Conference	Update on Concurrence Letters, Permits and Authorizations, MOAs and Consents, Gate Replacement, and Other Field Work
10	Recreation TWG	11/8/2021	Video Conference	Review Results from Lakeside Trail Erosion Study, Recreation Study Goals, Methods, and Planning Schedule
11	Cultural TWG	11/8/2021	Video Conference	Discuss Confidentiality, Area of Potential Effect, Cultural Study Goals,

				Methods, and Planning Schedule
12	Terrestrial TWG	11/9/2021	Video Conference	Discuss Terrestrial Study Goals, Methods, and Planning Schedule
13	Aquatics TWG	11/9/2021	Video Conference	Discuss Results from Year 1 Aquatics Studies, and Proposed Year 2 Aquatics Studies
14	Terrestrial TWG	3/21/2022	Video Conference	Discuss Comments on Draft Terrestrial Study Plans, Review Field Work Schedule, and Permitting Needs
15	Recreation TWG	3/21/2022	Video Conference	Discuss Comments on Draft Recreation Study Plan, Review Field Work Schedule, and Permitting Needs
16	Cultural TWG	3/22/2022	Video Conference	Discuss Comments on Draft Cultural Study Plan, TEK Assessment Update, Review Permitting Needs
17	Aquatics TWG	3/24/2022	Video Conference	Discuss Comments on Draft Year 2 Study Plans (Water Resources and Engineering Studies), Review Field Work Schedule, and Permitting Needs
18	Aquatics TWG	3/25/2022	Video Conference	Discuss Comments on Draft Year 2 Study Plans (Geomorphology, Fish, and Instream Flow Studies), Review Field Work Schedule, and Permitting Needs
19	Cultural TWG	4/8/2022	Video Conference	Discuss Area of Potential Effect, Confidentiality Protocol,

				and TEK Assessment Update
20	Aquatics TWG	4/18/2022	Video Conference	Established Habitat Suitability Curves for the Instream Flow Study
21	Aquatics TWG	9/28/2022	In-person w/ Video Conference Option	Discuss Preliminary Instream Flow Modeling Results and Potential Engineering Solutions for Providing Year-Round Flows
22	Aquatics TWG	10/17/2022	In-person w/ Video Conference Option	Discuss Preliminary Geomorphology Modeling Results and Potential Engineering Solutions for Providing Peak Flows
23	Aquatics TWG	11/9/2022	In-person w/ Video Conference Option	Discuss Preliminary Lake Study Results and Potential Engineering Solutions for Providing Fish Passage
24	Aquatics TWG	2/13/2023	Video Conference	Review 2D Modeling
25	Aquatics TWG	3/28/2023	In-person w/ Video Conference Option	Review Draft Year 2 Study Reports, Present Winter Flow Analysis, Review Conceptual Designs and Cost Estimates
26	Terrestrial TWG	3/29/2023	In-person w/ Video Conference Option	Review Draft Terrestrial Study Reports
27	Recreation TWG	3/29/2023	In-person w/ Video Conference Option	Review Draft Recreation Study Report
28	Cultural TWG	3/30/2023	In-person w/ Video Conference Option	Review Draft Cultural Study Report

Meetings to Discuss Potential Funding Opportunities

Item No.	Stakeholders	Date	Meeting Type	Description
1	Hosted by USFWS, NVE, ADFG, CEA, MOA	3/1/2023	In-person w/ Video Conference Option	Discuss Perceived Gaps in the Current Analysis and Upcoming Funding Opportunities
2	Hosted by USFWS, NVE, ADFG, CEA, MOA, MEA, NMFS, TU	3/24/2023	Video Conference	Discuss Upcoming Funding Opportunities, Who May Qualify, Restrictions, Due Dates, Objectives, and Next Steps

Meetings to Discuss Additional Infrastructure Options

Item No.	Stakeholders	Date	Meeting Type	Description
1	USFWS, NVE	3/17/2023	Video Conference	Discuss Details for Additional Infrastructure Options: 1) Nature-like Fishway, and 2) Replacement Dam
2	USFWS, NVE	3/31/2023	Video Conference	Review the Modified Layouts for Additional Infrastructure Options
3	Eklutna, Inc.	4/17/2023	Video Conference	Discuss Details for Replacement Dam, Including Excavation Cost Assumptions
4	Eklutna, Inc.	8/11/2023	Video Conference	Discuss Replacement Dam Concept
5	Eklutna, Inc.	9/6/2023	Video Conference	Discuss Replacement Dam Construction and Excavation Projections

Alternatives Analysis Meetings

Item No.	Stakeholders	Date	Meeting Type	Description
1	CEA, MEA, MOA, AEA, ADFG, ADNR, State Parks, OHA, NMFS, USFWS, NVE, TU	4/6/2023	In-person w/ Video Conference Option	Present Potential Instream Flow Regimes, Introduce CE/ICA Model, Review Comprehensive Alternatives Request Form
2	CEA, MEA, MOA, AEA, ADFG, State Parks, USFWS, NVE, Eklutna Inc., TU, TCF	5/17/2023	In-person w/ Video Conference Option	Review Conceptual Design and Cost Estimate for the Replacement Dam, Review Comprehensive Alternatives and Modeling Results
3	CEA, MEA, MOA, AEA, ADFG, ADNR, State Parks, NMFS, NVE, Eklutna Inc., AWWU, TU, TCF	6/14/2023	In-person w/ Video Conference Option	Discuss Feasibility of Downstream Fish Passage, Lake/Tributary Habitat, Review the Revised Comprehensive Alternatives and Modeling Results
4	CEA, MEA, MOA, AEA, ADFG, ADNR, State Parks, OHA, NMFS, USFWS, NVE, Eklutna Inc., AWWU, TCF	7/12/2023	In-person w/ Video Conference Option	Review Preferred Alternatives and Modeling Results, Discuss Impacts to Wetlands, Wildlife, and Recreation
5	CEA, MEA, MOA, AEA, ADFG, ADNR, OHA, NMFS, USFWS, NVE, Eklutna Inc., AWWU, TU, TCF	8/9/2023	In-person w/ Video Conference Option	Discuss Cultural Resources, Feasibility of the Hybrid Flow Release Alternative, Potential Monitoring Studies and Adaptive Management

Attempt to Resolve Differences

Item No.	Stakeholders	Date	Meeting Type	Description
1	USFWS	12/12/2023	In-person	Review comments on the Draft Program
2	ADNR	12/12/2023	In-person	Review comments on the Draft Program
3	ADFG	12/13/2023	In-person	Review comments on the Draft Program
4	NVE	12/13/2023	In-person	Review comments on the Draft Program
5	NMFS	12/13/2023	In-person	Review comments on the Draft Program
6	NMFS, USFWS, ADFG, ADNR, ADEC	1/12/2024	Virtual	Present the proposed revisions to the Draft Program
7	NMFS, USFWS, ADFG, ADNR, ADEC, AEA	2/29/2024	Virtual	Discuss specific proposed revisions in more detail
8	NMFS, USFWS, ADFG, ADNR, ADEC, AEA	3/15/2024	Virtual	Overview of the draft Proposed Final Program
9	NVE	3/19/2024	In-person	Present the proposed revisions to the Draft Program
10	NMFS, USFWS, ADFG, ADNR, ADEC, AEA	3/26/2024	In-person	Page turn the draft Proposed Final Program
11	NMFS, USFWS, ADNR, AEA	3/27/2024	Virtual	Discuss the Implementation Agreement
12	NMFS, USFWS, ADFG, ADNR, ADEC, AEA	4/8/2024	In-person	Page turn the revised Proposed Final Program

Public Meetings

Item No.	Stakeholders	Date	Meeting Type	Description
1	Members of the public	1/16/2024	Presentation and open house	Palmer
2	Members of the public	1/16/2024	Presentation and open house	Palmer
3	Members of the public	1/17/2024	Presentation and open house	Anchorage
4	Members of the public	1/17/2024	Presentation and open house	Anchorage
5	Members of the public	1/18/2024	Presentation and open house	Eagle River
6	Members of the public	1/18/2024	Presentation and open house	Eagle River

Eklutna Hydroelectric Project

Final Summary of Study Results

April 2024

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Terms, Acronyms, and Abbreviations

1991 Agreement	1991 Fish and Wildlife Agreement
ADEC	Alaska Department of Environmental Conservation
ADFG	Alaska Department of Fish and Game
ADNR	Alaska Department of Natural Resources
ADOT&PF	Alaska Department of Transportation and Public Facilities
AEA	Alaska Energy Authority
AF	acre-feet
AL&P	Anchorage Light & Power
APU	Alaska Pacific University
ARRC	Alaska Railroad Corporation
AWWU	Anchorage Water and Wastewater Utility
CEA	Chugach Electric Association, Inc.
cfs	cubic feet per second
CIAA	Cook Inlet Aquaculture Association
DO	Dissolved Oxygen
EUOC	Enterprise and Utility Oversight Committee
FERC	Federal Energy Regulatory Commission
ft	feet
Governor	Governor of Alaska
HEC-RAS	Hydrologic Engineering Center River Analysis System
HSC	Habitat Suitability Criteria
IHN	Infectious Hematopoietic Necrosis
IIP	Initial Information Package
MEA	Matanuska Electric Association, Inc.
MOA	Municipality of Anchorage
MW	megawatt
National Register	National Register of Historic Places
NMFS	National Marine Fisheries Service
NVE	Native Village of Eklutna
OHA	Office of History and Archaeology
OPCC	Opinion of Probable Construction Costs
Parties	CEA, MEA, MOA, NMFS, USFWS, and the State of Alaska
PHABSIM	Physical Habitat Manipulation
PME	protection, mitigation, and enhancement
Project	Eklutna Hydroelectric Project
Project Owners	CEA, MEA, and MOA
resource management agencies	USFWS, NMFS, ADFG, ADEC, and ADNR

RM	river mile
SHPO	State Historic Preservation Officer
State	State of Alaska
State Parks	ADNR Division of Parks and Outdoor Recreation
TEK	Traditional Ecological Knowledge
Transaction Date	October 2, 1997
TSS	Total Suspended Solids
TU	Trout Unlimited
TWG	Technical Work Group
USACE	U.S. Army Corps of Engineers
USBR	U.S. Bureau of Reclamation
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey

1.0 Introduction

The Eklutna Hydroelectric Project (Project) is located in Southcentral Alaska, approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna (NVE). The federal government completed construction of the Project in 1955. Decades later, Chugach Electric Association (CEA), Matanuska Electric Association (MEA), and the Municipality of Anchorage (MOA) (collectively the "Project Owners") agreed to purchase the Project and entered into a Purchase Agreement with the federal government in 1989. Shortly thereafter, concerns were raised about the Project's potential impacts on fish and wildlife. This led to the execution of a binding agreement in 1991 (referred to as the "1991 Agreement") amongst the Project Owners, National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the State of Alaska (collectively the "Parties") that requires the Project Owners to (1) study the Project's impacts to fish and wildlife, (2) develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the development of the Project, (3) consider the impact of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use, and (4) identify available means to mitigate these impacts. The Project Owners must repeat this process every 35 years and it replaces regulation by the Federal Energy Regulatory Commission (FERC). The sale of the Project was authorized by U.S. Congress in 1995, and the Project was sold to the Project Owners in October 1997.

Beginning in 2020, the Project Owners consulted with the TWGs regarding the development of a comprehensive, 2-year study program implemented in 2021 and 2022. This document presents an overview of early study efforts, study planning and implementation, and a summary of the study results. When available, the Project Owners incorporated the results of other studies conducted in the Eklutna watershed by other entities.

1.1.1 Early Study Efforts

In May 2020 the Project Owners acquired LiDAR, aerial imagery, and spherical video of the entire Eklutna River as well as the northeastern shoreline of Eklutna Lake along the lakeside trail. The spherical video is available at https://archive.biglook360.com/eklutna/.

In July 2020, the Project Owners conducted a site reconnaissance with ADFG staff to support study planning efforts. The Aquatics TWG met on July 23, 2020, to review the observations made during the site reconnaissance and to kick-off the study planning process. This meeting included initial discussions regarding the planned Instream Flow Study (see Section 1.1.2), potential study methods, and associated challenges with providing study flow releases.

In August 2020, the Project Owners conducted an initial condition assessment of the drainage outlet gate at the base of the spillway to determine if it could be used to provide study flow releases into the Eklutna River for the planned Instream Flow Study. In the same month, the Project Owners also established several monitoring transects and installed scour monitors in the Eklutna River in advance of any potential unplanned spill events to allow for subsequent data collection that could benefit the study program. There were no spill events in 2020; however, the established transects and scour monitors were later utilized during the Geomorphology and Sediment Transport Study (see Section 1.1.2) to assess erosion and sediment transport through the Eklutna River downstream from Eklutna Lake and to help calibrate the sediment transport model.

The final Eklutna River LiDAR and aerial imagery report, spillway and drainage outlet inspection report, geomorphology monitoring plan and transect locations are all available here on the Project website.

1.1.2 Year 1 Study Planning

Based on this early work, the Project Owners developed a Proposed Study Program Framework and presented it to Aquatics TWG on September 3, 2020. This meeting included discussion regarding how study efforts would occur over a two-year period, the goals and objectives, general study area, proposed methods for each study, the study plan outline, and the study planning schedule.

Draft Study Plans were distributed to the Aquatics TWG on October 26, 2020, for review and comment. The deadline for written comments was November 25, 2020. The Project Owners received comments from NVE, ADFG, USFWS, NMFS, TU, APU staff, and a member of the WNRC. Two meetings were held with the Aquatics TWG on November 30, 2020, and December 21, 2020, to review and address the Aquatics TWG's comments on the Draft Study Plans.

The Project Owners revised the Draft Study Plans based on the comments received, and the Revised Draft Study Plans were distributed to the Aquatics TWG on January 18, 2021, for review and comment. The deadline for written comments on the Revised Draft Study Plans was January 29, 2021.

Since several of the Aquatics TWG's comments on the Draft Study Plans were questions related to the operational capabilities of the Project, the Project Owners decided to start developing the proposed hydro operations model early and presented the preliminary modeling results to the Aquatics TWG at a meeting on January 26, 2021, to help inform the Aquatics TWG's comments on the Revised Draft Study Plans. The Project Owners also

addressed additional clarifying questions from the Aquatics TWG at the January 2021 meeting in advance of the comment deadline.

The Project Owners received comments from ADFG, NMFS, TU, and APU staff and revised the study plans again based on comments received. As required by the 1991 Agreement, the Proposed Final Study Plans were distributed to the Parties on February 24, 2021, for review and concurrence on the scope of work.

A meeting amongst the State agencies involved in the Project was held on February 25, 2021, to determine how the State of Alaska, as a party to the 1991 Agreement, would concur on the scope of work in the study plans. The State agencies determined that it would be most appropriate for the Commissioners of each State agency (ADFG, ADEC, ADNR, and ADOT&PF) to sign a letter stating that they concur on the scope of work in the study plans, and then the Project Owners would send those concurrence letters to AEA, the Governor's representative, with the Proposed Final Study Plans for review and feedback.

The Project Owners received concurrence letters from all of the state and federal agencies, including the NMFS, USFWS, ADFG, ADEC, ADNR, and ADOT&PF. The State agency concurrence letters and the Proposed Final Study Plans were sent to AEA as the Governor's representative for review and feedback. The Project Owners did not receive any additional feedback from AEA. Each version of the Year 1 Study Plans, all comments received, and each of the concurrence letters are available here on the Project website.

Studies initiated in 2021 included the following:

- **Instream Flow Study** – informed how much habitat would be created by a range of potential flows for various species (Chinook, coho, sockeye) and life stages (spawning and rearing).
- **Geomorphology and Sediment Transport Study** – informed what peak flows might be needed in conjunction with year-round instream flows.
- **Fish Species Composition and Distribution Study** – identified what fish species were present in the Eklutna River, what habitat they were utilizing, and when.
- **Water Quality Study** – monitored various water quality parameters (temperature, dissolved oxygen, pH, turbidity, nutrients, etc.) in both the Eklutna River and Eklutna Lake.
- **Macroinvertebrate Study** – assessed the baseline community of aquatic organisms at three locations in the Eklutna River.

- **Stream Gaging** – collected continuous flow data at various points in the Eklutna River and select tributaries to Eklutna Lake.
- **Lake Aquatic Habitat and Fish Utilization Study** – examined the presence and health of fish in Eklutna Lake, as well as the availability of potential spawning habitat around the lake shoreline and in its tributaries.
- **Lakeside Trail Erosion Study** – identified areas along the Eklutna Lakeside Trail that were experiencing shoreline erosion and the potential causes.
- **Hydro Operations Model Development** – allows the assessment of different potential operational scenarios for the hydroelectric project.
- **Existing Infrastructure Assessment** – evaluated the condition and hydraulic capacity of downstream infrastructure, including the AWWU infrastructure, railroad bridge, and highway bridges.

One of the major components of the year 1 study program was the need to conduct study flow releases for both the Instream Flow Study and the Geomorphology and Sediment Transport Study. With the current infrastructure, the drainage outlet gate at the base of spillway in the dam is the only mechanism for providing controlled flow releases from the lake into the river. However, this gate had not been used regularly, and upon inspection, it was determined that the gate needed to be replaced. The Project Owners were able to design, procure, permit, and install the new drainage outlet gate during the summer of 2021 before the planned study flow releases in the fall of 2021, which ranged from 150 cfs to 25 cfs over 3 weeks.

It should be noted that in 2018, a different dam (non-operational since 1955) was removed from the lower stretch of the Eklutna River by Eklutna, Inc. After the removal of this lower dam, a significant portion of the sediment wedge that had accumulated behind the lower dam for decades was left in the river. During year 1 study planning, some TWG members requested a flushing flow as part of the study program to flush the remaining sediment from behind the lower dam site. It was determined that this flushing flow was not necessary for study purposes. However, the Project Owners did commit to evaluating the need for conducting a higher calibration flow as part of the second study year.

In June 2021, before the study flow releases, the Project Owners organized a site visit with the Aquatics TWG (Figure 1-1) to identify and establish transect locations. A total of 30 transects were established throughout the river for the Instream Flow Study in relatively stable areas of the river that were not likely to change significantly as a result of the study flow releases. Additional transects were established throughout the river for the Geomorphology and

Sediment Transport Study in relatively dynamic areas of the river that were more likely to change significantly as a result of the study flow releases.

Figure 1-1. Site Visit with the Aquatics TWG in June 2021.

In preparation for study flow releases, the Project Owners requested consent and waiver of liability from the principal landowners downstream of the dam for any damage that may result from the potential movement of Eklutna Inc.'s sediment wedge during the planned study flow releases. The principal downstream landowners include Eklutna, Inc., ADOT&PF, ARRC, and the MOA/AWWU. Among them, only the MOA/AWWU consented and waived such potential liability.

1.1.3 Year 1 Study Reporting

The Project Owners held a series of TWG meetings in November 2021 to discuss the preliminary results of the year 1 studies. Draft year 1 study reports were distributed to the TWGs and other interested parties (including AWWU) in February 2022 for review and comment. The Project Owners received comments on the draft study reports from ADFG, NMFS, and AWWU. The study reports were then revised and finalized based on comments received. The year 1 study reports and all comments received are available here on the Project website.

1.1.4 Year 2 Study Planning

Based on observations made after the study flow releases and the preliminary results from the first year of studies, the Project Owners revised the Study Program Framework for year 2 and presented it to the TWGs during the November 2021 TWG meetings. As stated above, these meetings included discussions regarding preliminary results from year 1 (if applicable), what studies were being proposed for year 2 (Table 1-1), and the goals, general study area, and proposed methods for each study.

Table 1-1. Year 2 Study Program.

Studies Continued from Year 1 (2021)	Studies Initiated in Year 2 (2022)
Instream Flow Study	Engineering Feasibility and Cost Assessment
Geomorphology and Sediment Transport Study	Hydropower Valuation Study
Fish Species Composition and Distribution Study	Wetland and Wildlife Habitat Study
Lake Aquatic Habitat and Fish Utilization Study	Terrestrial Wildlife Study
Water Quality Study	Recreation Study
Stream Gaging	Cultural Resources Study
	LiDAR and Ortho Imagery Acquisition

Following their commitment in 2021, the Project Owners evaluated the need for a higher calibration flow in 2022. However, based on the data collected in 2021, it was determined that reasonably reliable models could be developed using the collected data, and that a higher calibration flow in 2022 was not necessary for study purposes.

The Draft Year 2 Study Plans were distributed to the Parties and TWGs on February 11, 2022, for review and comment. The deadline for written comments on the Draft Year 2 Study Plans was March 11, 2022. The Project Owners received comments from NVE, USFWS, NMFS, ADFG, ADEC, OHA, TU, and TCF.

A series of TWG meetings were held in March 2022 to address substantive comments on the Draft Year 2 Study Plans that required further discussion. The Project Owners then revised the study plans based on comments received and distributed the Proposed Final Year 2 Study Plans to the Parties on April 1, 2022, for review and concurrence.

The Project Owners received concurrence letters from each of the state agencies. The NMFS and USFWS also provided concurrence letters but only concurred with 10 of the 12 study plans. The federal agencies did not concur with the Geomorphology and Sediment Transport Study Plan or the Instream Flow Study Plan due to their uncertainty about the Project Owners

ability to model higher flows without a significantly higher calibration flow.[1] The Project Owners documented this area of non-agreement and distributed the Proposed Final Year 2 Study Plans and State concurrence letters to AEA as the Governor's representative for review and feedback. The Project Owners did not receive any additional feedback from AEA. Each version of the Year 2 Study Plans, all comments received, and each of the concurrence letters are available here on the Project website.

It should be noted that although it was not included in the Year 2 Study Plans, the Project Owners also conducted a winter flow analysis to determine the range of flows that would be needed to promote favorable ice conditions. These study results were presented to the Aquatics TWG in March 2023.

1.1.5 Year 2 Interim Reporting

The Project Owners held a series of meetings with the Aquatics TWG in September, October, and November 2022 to present the preliminary year 2 study results and potential engineering solutions (PME measures) for providing year-round instream flows, periodic peak flows, and fish passage both into and out of the lake. During those meetings, the Aquatics TWG determined which potential engineering solutions should be advanced to phase 1 engineering, which involved the development of 5% conceptual designs and Class 5 Opinion of Probable Construction Costs (OPCC) for each PME measure. The preliminary study results, potential PME measures, and all comments received are available here on the Project website.

The proposed PME measures and those that were advanced to phase 1 engineering are shown below in Table 1-2.

Table 1-2. Proposed PME Measures.

Proposed PME Measures	Phase 1 Engineering
Year-round flow releases from the existing dam (RM 12)	Yes
Year-round flow releases from the existing dam (RM 12) and excavate the lake outlet	Yes
Year-round flow releases from a new siphon (RM 12)	Yes
Year-round flow releases from a new bypass tunnel (RM 11.5)	Yes
Year-round flow releases from the existing AWWU portal valve (RM 11)	Yes
Year-round flow releases from the existing AWWU pipeline (RM 5.5)	Yes
Reroute Lach Q'atnu Creek back into the Eklutna River	Yes

[1] The Project Owners acknowledge the uncertainty associated with any modeling effort. And after reviewing the modeling results, both federal agencies have confirmed the validity of both models.

Proposed PME Measures	Phase 1 Engineering
Groundwater pumping downstream of the existing dam	No
Channel maintenance flows with existing overflow spillway	Yes
Channel maintenance flows with a new radial gate	Yes
Channel maintenance flows with a new fixed wheel gate	Yes
Upstream fish passage with a fish ladder (gravity flow)	Yes
Upstream fish passage with a fish ladder (variable exits)	Yes
Upstream fish passage with a fish ladder (pump station and slide)	Yes
Upstream fish passage with trap and haul	Yes
Downstream fish passage with a spill event	Yes
Downstream fish passage with a floating surface collector	Yes
Downstream fish passage with a rotary screw and guide nets	No
Downstream fish passage through the existing intake	No
Trapping facility with hatchery spawning, rearing, and release	No
Physical habitat enhancement	Yes
New AWWU bridges	Yes
Lakeside trail improvements	Yes

The Project Owners held another Aquatics TWG meeting in February 2023 to present the preliminary 2D modeling results for the river. It was during this meeting that USFWS proposed a nature-like fishway that would go around the existing dam and NVE proposed dam replacement as potential PME measures. The Project Owners held two meetings with USFWS and NVE in March 2023 to discuss both options further. The Project Owners also had several subsequent meetings with Eklutna, Inc. to discuss details of the potential replacement dam. Ultimately, the stand-alone nature-like fishway was not advanced, but the potential replacement dam was advanced through phase 1 engineering as quickly as possible.

1.1.6 Year 2 Study Reporting

Draft year 2 study reports and phase 1 engineering deliverables were distributed to the TWGs and other interested parties in March 2023 for review and comment. The Project Owners also held a series of TWG meetings in March 2023 to review and discuss the study results. The Project Owners received comments on the draft study reports from ADFG, ADNR, and USFWS. The study reports were then revised and finalized based on comments received. The year 2 study reports and all comments received are available here on the Project website.

2.0 Summary of Study Results

This section provides a summary of each study conducted during the 2-year study program. The full study reports are available here on the Project website.

2.1 Instream Flow Study

The goal of the Instream Flow Study was to provide quantitative indices of current and future reach-specific habitat-flow relationships and to use those relationships as a tool to estimate potential fish habitat under various operational flow-release scenarios. Specific objectives included:

1. Mapping current aquatic habitat in the main channel, and where present, side-channels of the Eklutna River affected by Project operations. *Developed by NVE.*

2. Collecting data and information that can be used to characterize, quantify, and model Eklutna River fish habitat.

3. Developing a one-dimensional (1D) HEC-RAS model in coordination with the Geomorphology and Sediment Transport Study (see Section 2.2) for the length of the river that can be used to:

    a. Estimate water surface elevations and average water velocity along modeled transects under alternative operational scenarios; and

    b. Estimate sediment routing and transport capacities under varying flow conditions.

4. Developing Habitat Suitability Criteria (HSC) for target/selected species and life stages of fish for biologically relevant time periods selected in consultation with the Aquatics TWG.

5. In Year 1, developing fish habitat-flow relationships using one-dimensional (1D) Physical Habitat Simulation (PHABSIM) models in Year 1 to produce a time series of data for a variety of biological metrics under existing and potential future conditions resulting from alternative operational scenarios. In Year 2, developing two-dimensional (2D) HEC-RAS and habitat models for four reaches with complex off-channel and side channel juvenile rearing habitats.

6. Evaluating existing conditions and potential future conditions based on alternative operational scenarios using a hydrologic database that includes wet, average, and dry years.

2.1.1 Fish Habitat Modeling

The study area included a 10-mile section of the Eklutna River extending downstream from the existing Eklutna Dam to below the railroad bridge near tidal influence. A meso-habitat map developed by NVE was used to define the fish habitat reaches and select potential study sites for the 1D PHABSIM modeling effort. In June 2021, the Project Owners organized a site visit with the Aquatics TWG to identify and establish transect locations at each study site. A total of 30 transects were established throughout the river in relatively stable areas of the river that were not likely to change significantly as a result of the study flow releases.

Field data (water depth, velocity, and substrate) were collected during the 2021 study flow releases as described below.

- Monday, September 13 – Initiated flow releases at **150 cfs** (allowed the channel to stabilize for one week before collecting any field data)
- Monday, September 20 – Initiated field surveys for high-flow release
- Thursday, September 23 – Completed high-flow field surveys
- Friday, September 24 – Down-ramped to **75 cfs**
- Saturday, September 25 – Initiated field surveys for mid-flow release
- Tuesday, September 28 – Completed mid-flow field surveys
- Wednesday, September 29 – Down-ramped to **25 cfs**
- Thursday, September 30 – Initiated field surveys for low-flow release
- Saturday, October 2 – Completed low-flow field surveys
- Wednesday, October 6 – Down-ramped to 0 cfs

Due to feasibility and safety concerns, four sections of the river were unable to be studied as part of the 1D modeling effort. However, the Project Owners were still able to study these sections of the river by using LiDAR data to develop 2D models for those specific sections.

Habitat Suitability Criteria (HSC) curves were developed for three target species (Chinook, coho, and sockeye) and two target life stages (spawning and rearing[2]) in coordination with the Aquatics TWG. The HSC curves were used with both the 1D and 2D models to produce habitat-flow relationship curves for each species and life stage at each 1D transect and 2D reach. Example habitat-flow relationship curves are shown below in Figure 2-1. These curves were derived from 1D PHABSIM modeling and show the relationships of habitat area to flow (left figure) and the same data normalized as a percentage of habitat maximum to flow (right figure).

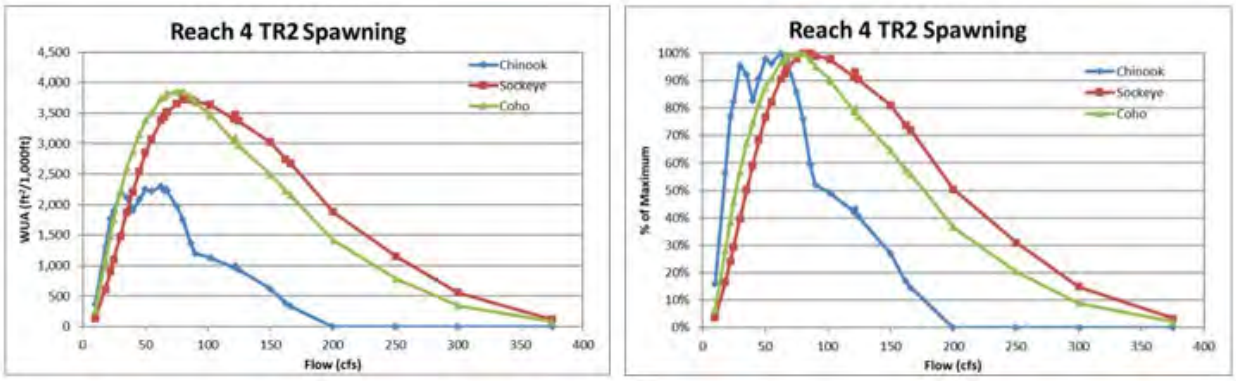

Figure 2-1. Example habitat-flow relationships for Chinook (blue), coho (green), and sockeye (red) spawning habitat at Transect 2 in Reach 4.

The habitat-flow relationship curves determined the maximum available habitat for each species at each life stage. The periodicity data collected during the Eklutna River Fish Species Composition and Distribution Study (see Section 2.3) was used to prioritize different species and life stages at different times of year. The habitat-flow relationship curves and periodicity data were then used together to develop potential flow release scenarios.

Four example flow levels were developed for demonstration purposes only. The example flow levels correspond to flows that would provide 90%, 70%, 50% and 30% of the maximum available habitat considering all three species and both life stages. Spawning habitat was prioritized for July-October, and rearing habitat was prioritized for November-June. The species that required the highest flow to achieve a given percent of maximum available habitat served as the determinant for that flow level. The example flow levels were then applied to three potential flow release locations, 1) the existing Eklutna Dam at RM 12, 2) the AWWU portal valve at RM 11, and 3) the AWWU pipeline at RM 5.5. The habitat-flow relationships were then used to determine how much habitat (in acres) would be created for each of the example

[2] No HSC curve was developed for sockeye rearing habitat because sockeye generally rear in lakes, not rivers.

flow levels at each potential flow release location for each species at each life stage (except for sockeye rearing habitat) and compared to existing conditions as shown in Table 2-1.

Table 2-1. Example time series analysis.

Potential Flow Release Locations	Example Flow Levels (% of Max Available Habitat)	Time-Averaged Habitat Expressed as Weighted Usable Area (acres)				
		Chinook		Coho		Sockeye
		Spawning	Rearing	Spawning	Rearing	Spawning
RM 12 (Existing Dam)	90%	1.5	30.6	3.1	41.3	2.5
	70%	1.4	22.6	3.1	30.4	2.7
	50%	1.2	17.6	2.8	22.8	2.4
	30%	1.0	16.2	2.6	20.8	2.2
RM 11 (AWWU Poral Valve)	90%	1.2	28.1	2.4	37.5	2.1
	70%	1.1	20.4	2.5	27.2	2.3
	50%	1.0	16.3	2.4	21.0	2.1
	30%	0.9	15.2	2.2	19.4	1.9
RM 5.5 (AWWU Pipeline)	90%	0.5	22.9	1.4	29.0	1.3
	70%	0.6	16.0	1.6	20.6	1.5
	50%	0.6	13.3	1.6	16.9	1.5
	30%	0.6	12.9	1.5	16.3	1.5
Existing Conditions		0.5	11.9	1.2	14.8	1.0

2.1.2 Channel Connectivity Analysis

The 2D models were used to assess the connectivity of side-channel and off-channel habitats under various flow conditions. An example of the channel connectivity analysis is provided in Figure 2 2 for Reach 3 under four flow conditions (375, 250, 150, and 50 cfs). The figure illustrates how increased flows create increased channel connectivity with side and flood-plain channels.

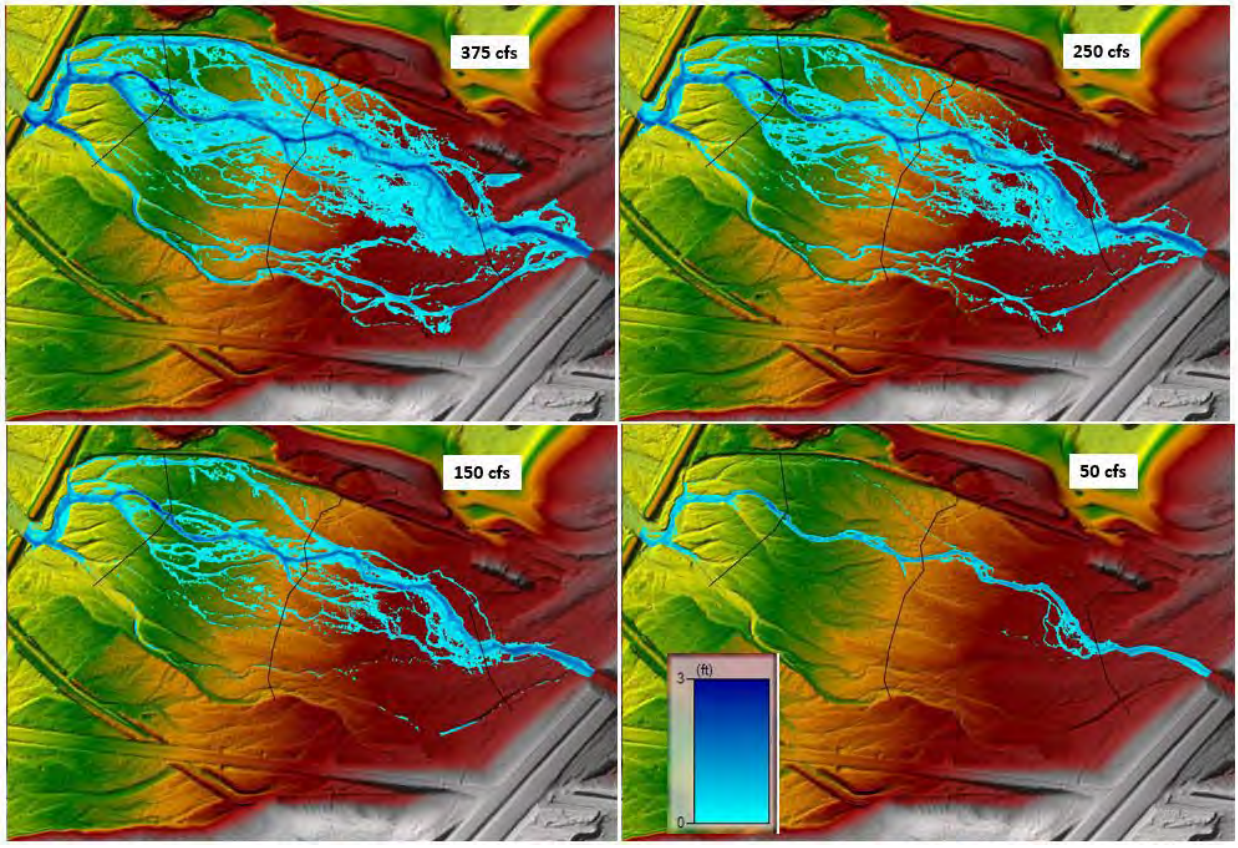

Figure 2-2. Example channel connectivity analysis for the Eklutna River between the railroad bridge and the New Glenn Highway bridges.

2.1.3 Passage Barrier Analysis

During field surveys, five potential passage barriers were identified within the canyon reach of the Eklutna River (Figure 2-3). Physical and hydraulic data were collected at each site in July 2022, and then a 1D hydraulic model was developed for each site. Depth and velocity criteria for Chinook, coho, and sockeye were applied to the hydraulic model outputs to define the minimum flows required for adult fish passage.

Figure 2-3. Potential passage barrier locations.

The analysis indicated that water depth (not velocity) is the major barrier issue at all five sites. The corresponding minimum flows to meet the fish passage requirements were determined at each site. Site B has the highest minimum flow requirement of 50 cfs. However, Site B is located within the sediment wedge (the remaining accumulated sediment behind the lower dam site) and is therefore very dynamic and likely to change. Sites A, D, and E have the next highest minimum flow requirement of 40 cfs.

2.2 Geomorphology and Sediment Transport Study

The goal of the Geomorphology and Sediment Transport Study was to gain an understanding of how sediment supply, transport, and deposition within the Eklutna River downstream of Eklutna Dam are influenced by current Project operations and potential flow regimes. The study methods included five components:

1. A review of existing information on river substrate, sediment transport, and flow conditions;

2. A field data collection program that included 19 monitoring transects along the river from the Eklutna Dam to the railroad bridge to measure substrate characteristics and scour/deposition that occurred as a result of the study flow releases;

3. An estimate of sediment input rates to evaluate future sediment sources downstream from Eklutna Dam;

4. Mapping of channel position changes through time from historic aerial photographs (1949 to 2020) to assess channel migration; and

5. Development of a 1D HEC-RAS sediment transport model in coordination with the Instream Flow Study (see Section 2.1) to calculate sediment transport rates in the Eklutna River under potential future flow regimes and assess the magnitude and effectiveness of different high flow regimes to flush accumulated fine-grained sediment from the river without moving the limited supply of spawning-sized gravel/cobble material out of the channel. The model was calibrated using the field data collected before and after the test flow releases.

2.2.1 Sediment Transport Modeling

Ten geomorphic reaches were delineated in the river based on key characteristics such as flow/tributary input, confinement, and sediment sources to help understand geomorphic processes in different parts of the river. Geomorphic reaches are summarized in Table 2-2.

Table 2-2. Geomorphic reaches.

Geomorphic Reach	River Mile Range	Confinement	Average Gradient	Comments
1	0-1.6	Unconfined	0.6%	Tidal influence within this reach.
2	1.6-2.3	Unconfined	1.2%	Railroad bridge confines flow at downstream end of this reach. Includes flooded forest; past gravel removal in this reach. Existing good spawning area near New Glenn Highway Bridge.
3	2.3-2.85	Confined	1.1%	Downstream from Thunderbird Creek.
4	2.85-3.95	Confined	1.7%	Between Thunderbird Creek and old lower dam site. Has aggraded since removal of old RM 4 dam in 2018.
5	3.95-4.45	Confined	2.0%	Old lower reservoir deposits, also known as the sediment wedge. Fine-grained silt and clay.
6	4.45-5.05	Confined	1.5%	Canyon upstream from the sediment wedge. Gravel accumulations.

Geomorphic Reach	River Mile Range	Confinement	Average Gradient	Comments
7	5.05-5.4	Moderately confined	1.8%	Wider bedrock canyon downstream from lower AWWU access road.
8	5.4-7	Unconfined	1.7%	Wide valley; contains major sediment sources. Fine-grained sediment in streambed prior to 2021 study flow release.
9	7-11.38	Unconfined	1.3%	Wide valley; upstream of major sediment sources (includes smaller sediment sources). Fine-grained sediment in streambed prior to 2021 study flow release.
10	11.38-12.3	Moderately confined by erodible valley walls	0.8%	Upstream of sediment sources; upstream of upper AWWU bridge. Gravel/cobble streambed.

In June 2021, the Project Owners organized a site visit with the Aquatics TWG to identify and establish transect locations. A total of 19 monitoring transects were established throughout the river for the Geomorphology and Sediment Transport Study. Field data was collected before and after the 2021 study flow releases (see Section 2.1.1) in order to measure changes to the river system at the monitoring transects, including changes in substrate characteristics, channel dimension, and sediment transport. Documented changes include:

- Scour of accumulated fine-grained sediment and encroaching alluvial fan deposits to re-establish a stream channel (Figure 2-4);
- Changes in substrate from material too fine for anadromous fish spawning or rearing to substrate sizes suitable for anadromous fish use;
- Transport of up to 30,000 cubic yards of fine-grained material from behind the old lower dam site (RM 4) with up to 30 feet of downcutting;
- Erosion and deposition of up to 4 feet of sediment at other monitoring transects indicating bedload sediment was mobilized; and
- Transport of substrate particles up to 128 mm in diameter.

Figure 2-4. Geomorphic Monitoring Transect B before (top) and after (bottom) study flow release showing erosion of toe of alluvial fan deposits, re-establishment of river channel, and removal of accumulated fine sediment.

A sediment transport model was developed for the Eklutna River from the existing Eklutna Dam to downstream of the railroad bridge. The chosen sediment transport function (Meyer-Peter Muller) has been widely-used to compute sediment transport in gravel-bed rivers for decades and used to extrapolate to higher flow conditions. The model incorporated measured channel dimensions, substrate size, and sediment inputs. The monitoring data from before and after the 2021 study flow release was used to help calibrate the sediment transport model. This was done by first running the model to predict changes at the monitoring transects, and then comparing the modeled changes to the actual changes observed.

- Upstream of the accumulated sediment behind the old lower dam site (also known as the sediment wedge), the modeled and measured channel changes were closely comparable.
- Within the sediment wedge, the model predicted up to 20 feet of channel erosion through the sediments.
- Just downstream of the old lower dam site, the model results were not as closely aligned with measured erosion/deposition depths, but the model did correctly predict erosion and deposition trends. Some of the model difficulty in these downstream areas was likely due to field evidence that suggests at least one wave of eroded reservoir deposits moved downstream as a debris torrent (likely following some of the larger mass wasting events observed on the time lapse cameras) rather than as river-borne sediment transport. The sediment transport model assesses movement by flowing water and does not model debris torrent transport with highly viscous flow. Sediment transport scenarios under potential future flow regimes will not be subject to debris torrents and should provide more reliable results.

The calibrated sediment transport model can be used to assess how potential future flow regimes would impact river substrate over a long-term period and to determine the appropriate peak flows (magnitude, duration, and frequency) that should accompany a selected base flow regime.

2.2.2 Channel Migration

Channel migration downstream from the canyon reach (Geomorphic Reaches 1 and 2) was evaluated using historical aerial photographs from 1949 through 2020 (Figure 2-5).

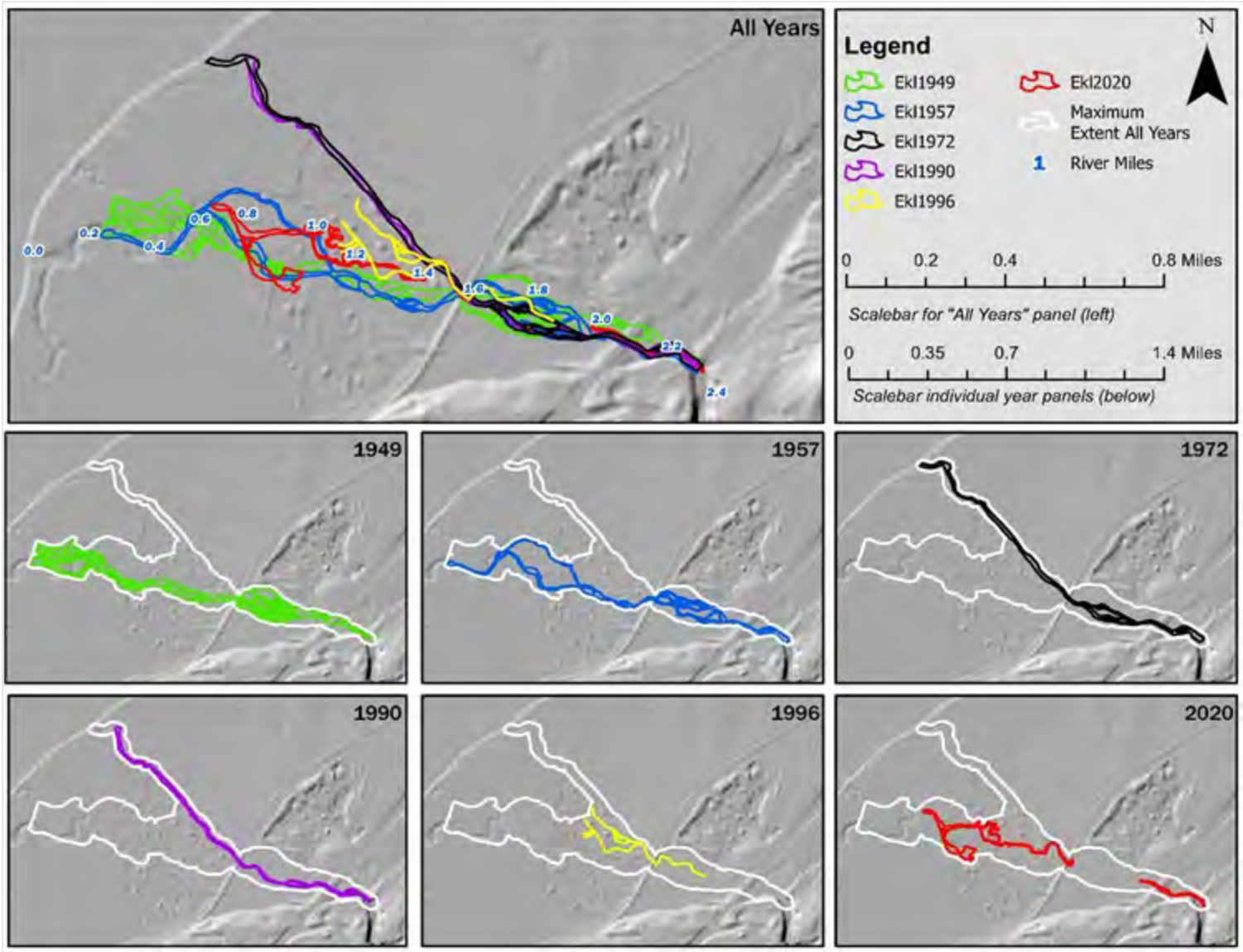

Figure 2-5. Eklutna River Channel Migration Downstream of the Canyon Reach.

In the 1949 photos, prior to construction of the existing hydroelectric project in 1955, the channel carried fine sediment and had a wide, braided character with little vegetation on mid-channel bars downstream from RM 2. These characteristics were also evident in the 1957 photos.

In the 1972 photos, after construction of the existing dam in 1965, the river was less braided between RM 1.6 (the railroad bridge) and RM 2 and was channelized downstream from RM 1.6 into a location north of the former riverbed to allow for gravel mining south of and in the former riverbed between RM 1.2-1.5. Channelization continued through the 1980s.

In the 1990 photos, the river was just starting to break through into the gravel pit (former riverbed) area and flood the former pits, but it appeared the main outlet continued through the channelized area.

In the 1996 photos, the main channel was flowing into the gravel pits and out to Knik Arm through the pits. Since 1996, the river has continued to flow into the old gravel pit ponds and has abandoned the channelized flow area. The gravel bars in the former braided section in Geomorphic Reach 2 (between RM 1.6-2) have become vegetated; the channel in this area was not visible on the aerial photograph after about 1996. Little migration was observed upstream from RM 1.5 after 1996, but some migration still occurs in the tidally-influenced reach downstream from RM 1.5 due to sediment deposition in this low-gradient area.

It is hypothesized that channel migration in the reaches of the Eklutna River that were assessed for this study is triggered by high sediment loading in association with high flows rather than just being a response to high flows.

2.3 Eklutna River Fish Study

The goal of the Eklutna River Fish Study was to characterize the current fish species composition, abundance, distribution, habitat use, and run timing in the Eklutna River. Specific objectives included:

1. Describe the seasonal composition, distribution, and habitat use for juvenile salmonids and resident fishes in the Eklutna River; and

2. Describe the periodicity, abundance, and distribution of adult salmonid spawners in accessible reaches of the Eklutna River and Thunderbird Creek.

2.3.1 Juvenile Salmon and Resident Fish

The area studied included all portions of the wetted mainstem and off-channel habitats (including beaver ponds) that were accessible to fish, beginning at the upper extent of tidewater influence and terminating at the Eklutna Dam. Fish were surveyed using minnow traps, electrofishing, and visual observations, and various habitat and water quality characteristics were measured and quantified. The composition and relative abundance of juvenile salmon and resident fish species was found to vary longitudinally.

- In the lowermost study reach (Reach 1) and the beaver pond complex (just above tidewater), all five species of anadromous Pacific salmon were documented, as well as Dolly Varden, stickleback, Alaska blackfish, and Eulachon. In 2021, juvenile coho and stickleback accounted for over 75% of the total fish sampled in Reach 1. In 2022, juvenile Chinook and coho salmon accounted for 80% of the total fish sampled in the beaver ponds.

- Between the beaver pond complex and the confluence with Thunderbird Creek, three species of anadromous Pacific salmon (Chinook, coho, and chum) were documented, as well as Dolly Varden and sculpins. The relative abundance of Chinook and coho decreased from more than 50% near the beaver pond complex to less than 25% at the Thunderbird Creek confluence while the relative abundance of Dolly Varden increased proportionally.

- Above the confluence with Thunderbird Creek, only resident fishes were documented, including Dolly Varden and sculpin.

Juvenile Chinook and coho displayed extended riverine rearing periods and were documented in the Eklutna River throughout the May-October sampling period. When given an option, juvenile Chinook and coho in the Eklutna River appear to exhibit a preference for low velocity (<1.0 ft/sec), shallow water depth (<3.0 ft) areas. This preference for shallow water habitat was evident during summer sampling when river temperatures ranged from 7.2-11.4°C. During fall sampling when water temperatures were much colder (1.7-4.9°C), the Catch per Unit Effort for juvenile Chinook and coho was highest in pools, along undercut banks, and within structures like beaver dams. The presence of these habitat types during winter months may play an important role in the seasonal distribution of target species.

Representative photographs of juvenile anadromous Pacific salmon and select resident fishes are presented in Figure 2-6.

Figure 2-6. Representative photographs of juvenile salmon and resident fish in the Eklutna River, 2021-2022.

2.3.2 Adult Salmon

The distribution of spawning adult salmon was surveyed visually during pedestrian surveys from the upper extent of tidewater to the downstream extent of the AWWU access road. Observed spawning activities included the presence of adult salmon, active digging or guarding of redds, constructed or partially constructed redds, and presence of post-spawned carcasses. The distribution of completed redds, which is also an indication of the upper extent of Eklutna River use by spawning anadromous salmonids in 2022, is presented in Figure 2-7.

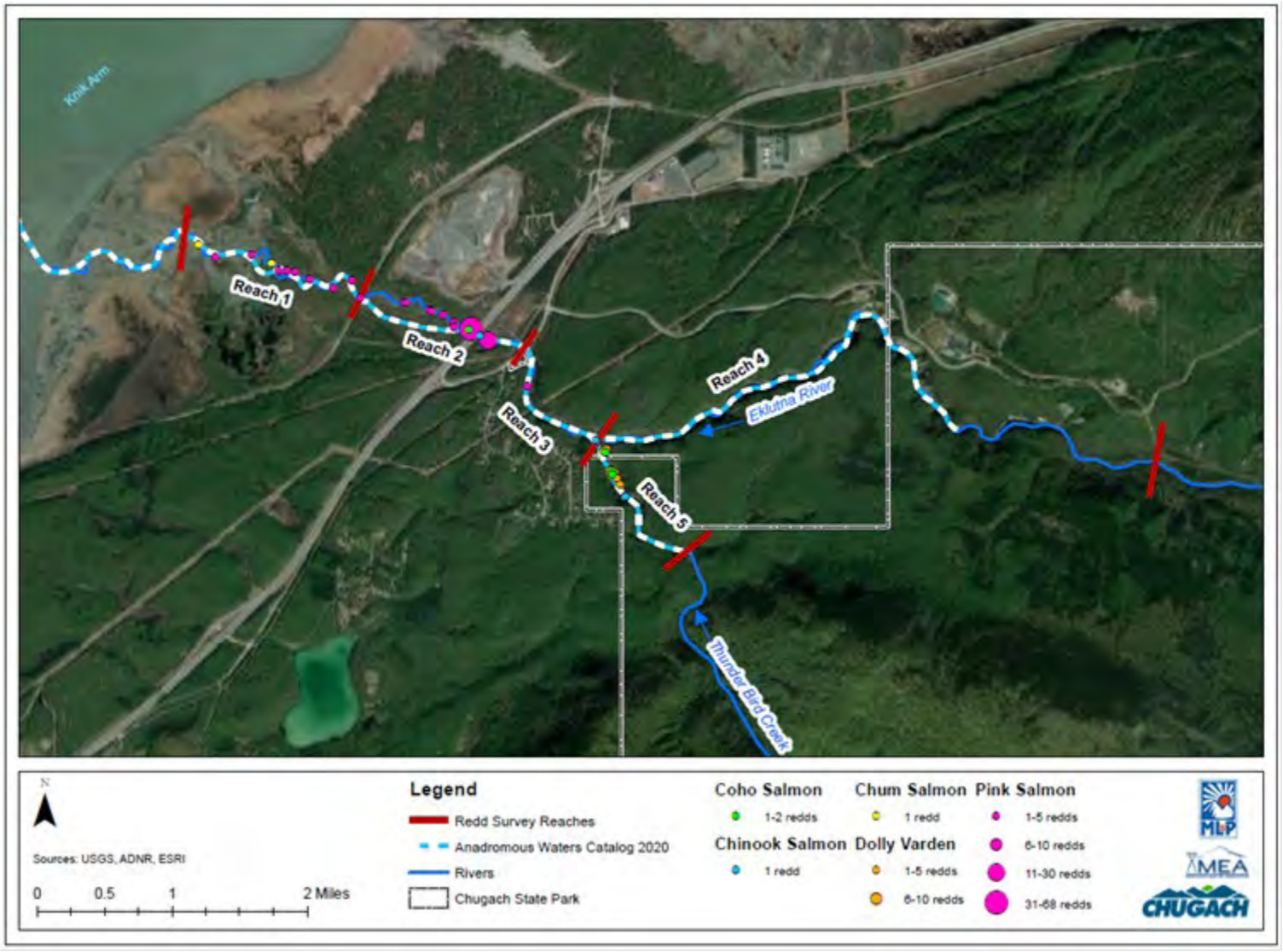

Figure 2-7. Distribution of observed redds by species in Spawning Survey Reaches 1-5 in 2022. Relative size of markers indicates relative abundance of redds at that GPS location.

Spawning activity for all species was limited to the area from tidewater to immediately above the Thunderbird Creek confluence. This limitation is likely due to current low flow conditions that prevent access to potential spawning areas upstream.

The Project Owners' spawning survey data was combined with NVE's spawning survey data to determine the periodicity of target salmon species (Chinook, coho, and sockeye) by life stage in the Eklutna River for 2021 and 2022 (Figure 2-8).

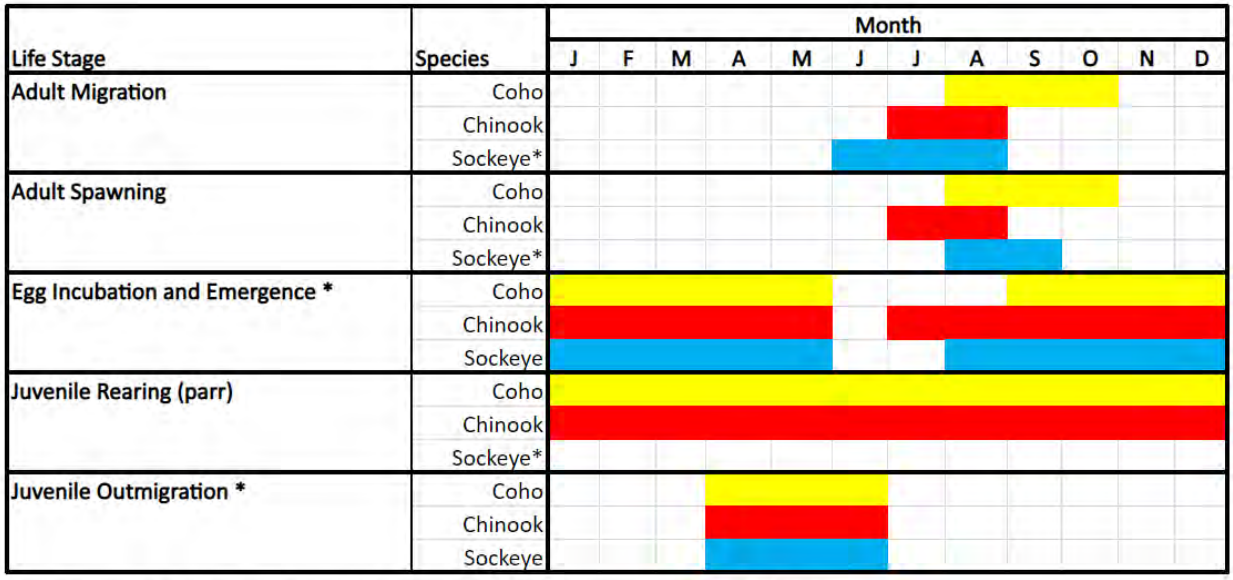

Figure 2-8. Periodicity of target salmon species (Chinook, coho, and sockeye) by life stage in the Eklutna River for 2021 and 2022.

Pinks were the most observed salmon species with up to 120 individuals documented per survey day. Their activity was concentrated in the lowest reaches of the river. Chinook and coho were both scarce with 0-10 individuals observed per survey day over the monitoring period and fewer than 20 total in 2021 and 2022.

Analysis of carcass heads returned to ADFG in 2021 identified that the origin of the Chinook carcasses was likely the hatchery fish that are stocked in the Eklutna Tailrace by ADFG.

2.4 Eklutna Lake Aquatic Habitat and Fish Utilization Study

The goal of the Eklutna Lake Aquatic Habitat and Fish Utilization Study was to characterize the existing aquatic habitat in Eklutna Lake and its tributaries and to begin to understand the current use of that habitat by resident fish and the potential future use of that habitat by ocean-run salmon. A secondary goal was to determine whether the kokanee in Eklutna Lake

are infected with Infectious Hematopoietic Necrosis (IHN), which is a known pathogen in Alaskan kokanee populations and may factor in management decisions about Eklutna Lake. Specific objectives included:

- Assessments of spawning and rearing fish habitat for resident and ocean-run salmonids in the lake, tributaries, and seasonal pond
- Surveys of seasonal habitat use by these fishes for rearing and spawning.
- Collecting samples for IHN analysis and processing by the ADFG Fish Pathology Lab in Anchorage, Alaska.

The Lake Fish Study was conducted on shorelines of Eklutna Lake, the large Eklutna Creek complex that is fed in part by the Eklutna Glacier, and various small, high-gradient tributaries along the northeast and southwest shorelines.

2.4.1 Eklutna Lake Shoreline Habitat and Fish Use

Much of the Eklutna Lake shoreline is steep, bouldery, or characterized by fine silt and grasses. The remaining shorelines that could be accessed during the study (above the waterline) contained ~1.5 acres (68,512 sq ft.) of suitable habitat for lakeshore-spawning ocean-run fishes such as sockeye. These habitats are characterized by small substrate, upwelling groundwater, low embeddedness of fine sediment, and moderate slope. Lake elevation associated with operation of the Eklutna hydro project affects the proportion of this habitat that is inundated at different times during the year.

In lake September and October of 2021 and 2022, kokanee (land-locked sockeye) were observed spawning along the Eklutna shoreline in many of the areas identified as preferred spawning habitat for ocean-run sockeye. Pathological analysis revealed that 75% of the kokanee were infected with IHN.

While spawning habitat selection and spawning timing was typical for kokanee in the region, the observed spawning kokanee were not typical. Kokanee spawners collected from Eklutna Lake were smaller than those reported in many other lake systems, reaching only 4.5-6.5 inches relative to the median size reported for other systems (10-12 inches). The kokanee in Eklutna Lake also differ from other kokanee in their low fecundity (20-30 eggs) and lack of sexual dimorphism and development of spawning color that is typical of the species (Figure 2-9). This is likely an indication of poor nutrient conditions and limited food sources in the environment, which is corroborated by data from the Water Quality Study (see Section 0) and may indicate that Eklutna Lake, in its existing condition, may not provide productive rearing habitat for large populations of ocean-run sockeye.

Figure 2-9. Kokanee carcasses collected on October 1, 2021, on Eklutna Lake shorelines near 61.39104°N, -149.05747°W. Mature eggs were removed from several carcasses (lower left). Eroded anal and caudal fins were indicative of spawning activity.

2.4.2 Eklutna Lake Tributary Habitat and Fish Use

Most tributaries to Eklutna Lake are too steep to provide significant spawning or rearing habitat for ocean-run salmon or other large-bodied fishes (Figure 2-10, LEFT), though some of the lower reaches are used by small-bodied Dolly Varden for rearing.

The only lake tributary with accessible low-gradient habitat suitable for the migration and spawning of ocean-run salmon is the East and West Forks of Eklutna Creek where an estimated 0.765 – 3.61 acres of spawning habitat was documented based on water depth and substrate size (Figure 2-10, RIGHT). A small tributary to the West Fork adds between 0.02 – 0.24 acres of available spawning habitat.

Figure 2-10. (LEFT) Inaccessible entrance to a tributary on the northwest shoreline of Eklutna Lake. (RIGHT) Mainstem of the East Fork of Eklutna Creek.

2.5 Macroinvertebrates

The goal of this study was to characterize the benthic macroinvertebrate (BMI) community within the wetted channel of the Eklutna River. Standard community data metrics were calculated to represent the existing condition.

Four macroinvertebrate study sites were established in the Eklutna River: 1) at the Old Glenn Highway bridge, 2) just above the Thunderbird Creek confluence, 3) at the lower dam site, and 4) at the downstream extent of the AWWU access road. A composite of 8-10 benthic sampling points covering an area of 8-10 ft^2 were collected from representative habitats at each of the four study sites using a kick net sampler (500 µm mesh). Composited samples were sorted to remove a 500-organism subsample from each preserved sample. As part of the taxonomic protocol, all individuals were identified and counted to accurately quantify density. A summary of macroinvertebrate community metrics at all four sampling sites is provided in Table 2-3.

Table 2-3. Benthic macroinvertebrate community metrics for the Eklutna River.

Metric	BMI Site 1	BMI Site 2	BMI Site 3	BMI Site 4
Gross community parameters				
Total taxa richness	28	15	15	30
Total abundance (per square meter)	599	116	461	712
EPT taxa richness	13	7	5	11
% Top 3 taxa	79.8	51.4	94.9	67.1
Warm and cold water adapted biota				

Metric	BMI Site 1	BMI Site 2	BMI Site 3	BMI Site 4
Warm water biota taxa richness	2	0	1	4
% Warm water biota	0.9	0.0	0.2	1.6
Cold water biota taxa richness	8	4	4	8
% Cold water biota	76.9	49.5	95.6	76.3
Non-insects and insect orders				
% Non-insect invertebrates	1.3	9.3	0.7	6.4
% Ephemeroptera (mayflies)	74.2	12.2	8.0	38.9
% Plecoptera (stoneflies)	3.4	20.6	1.9	10.6
% Trichoptera (caddisflies)	2.0	3.7	0.5	12.5
% Diptera (true flies)	19.1	54.2	89.0	31.5
Non-insect groups				
% Oligochaeta (segmented worms)	0.4	9.3	0.2	3.3
% Crustacea	0.5	0.0	0.2	0.3
% Acari (mites)	0.2	0.0	0.2	1.2
Insect families				
% Heptageniidae (mayfly)	4.5	1.9	0.0	1.2
% Baetidae (mayfly)	69.2	10.3	8.0	37.0
% Chloroperlidae (mayfly)	0.4	1.9	0.2	0.0
% Nemouridae (stonefly)	3.1	5.6	1.6	9.7
% Perlodidae (stonefly)	0.0	13.1	0.0	0.9
% Chironomidae (midges)	6.8	1.9	0.0	0.3
% Empididae (dance fly)	0.9	0.0	0.5	1.9
% Simuliidae (black fly)	4.0	34.6	86.4	22.0
Feeding groups				
% Predator	2.7	15.0	1.2	11.6
% Parasite	0.2	0.0	0.2	1.2
% Collector-gatherer	84.0	33.6	10.5	47.8
% Collector-filterer	4.0	34.6	86.4	22.0
% Collector (total)	87.9	68.2	97.0	69.7
% Shredder	3.6	9.3	1.6	9.9
% Scraper	5.4	1.9	0.0	7.4

Most taxa present are common, western North America benthic macroinvertebrates. The dominant coldwater taxa at the four study sites are Baetis bicaudatus complex, Drunella doddsii, Epeorus grandis group, Rhyacophila alberta group, Rhyacophila Vofixa group,

Helodon/Prosimulium, and Diamesa. Tolerant or warm water taxa are rare, representing no more than 1.6% of the collected specimens.

The functional feeding groups in the Eklutna River are dominated by collectors, with a range of 68% to 97% of all taxa representing that general feeding strategy. The overall taxa abundance (116-712 organisms/m^2) is low compared to the >1,000 organisms/m^2 typically found in montane streams of the Pacific northwest. Finally, the sampling locations most proximal to the sediment wedge (Sites 2 and 3) correlated to lower metric scores.

2.6 Water Quality

The goal of the Water Quality Study was to gain a better understanding of seasonal water quality parameters within Eklutna Lake and the Eklutna River in comparison to criteria established by Alaska Department of Environmental Conservation (ADEC) for Water Use Category C: Growth and Propagation of Fish, Shellfish Other Aquatic Life, and Wildlife (Table 2-4).

Table 2-4. ADEC Criteria for Water Use Category C.

Parameter	Criteria
Temperature	May not exceed 20°C at any time. The following maximum temperatures may not be exceeded, where applicable: - Migration routes 15°C - Spawning areas 13°C - Rearing areas 15°C - Egg & fry incubation 13°C
Dissolved Oxygen	Greater than 7 mg/L
pH	6.5 to 8.5
Turbidity	May not exceed 25 nephelometric turbidity units (NTU) above natural conditions. For all lake waters, may not exceed 5 NTU above natural conditions.

Specific objectives included:

1. Collecting continuous water temperature data in Eklutna River and Eklutna Lake;
2. Collecting continuous pH and dissolved oxygen (DO) data in the Eklutna River and in situ profiles of these two water quality parameters in Eklutna Lake;

3. Collecting total suspended solids (TSS) and turbidity samples in Eklutna River at base flows and during 2021 study flow release;

4. Collecting total phosphorus, chlorophyll *a*, and Secchi depth data in Eklutna Lake to determine its trophic status.

Four water quality sites (WQS) were established in the Eklutna River: 1) just above the Thunderbird Creek confluence, 2) at the downstream extent of the AWWU access road, 3) below the AWWU portal valve near RM 10, and 4) above the AWWU portal valve near RM 11.5.

Two monitoring stations were established in Eklutna Lake: 1) in the lake by the existing Project intake, and 2) in the pond by the existing Eklutna Dam.

2.6.1 Water Temperature

Calibrated thermographs were utilized to continuously record water temperatures in both the Eklutna River (at WQS 1 and 2) and Eklutna Lake from May 2021 through October 2022. Monthly in situ profiles were also collected in Eklutna Lake utilizing a calibrated water quality sonde during the ice-free period.

Eklutna River water temperatures at WQS 1 (just above the Thunderbird Creek confluence) were consistently higher than WQS 2 (at the downstream extent of the AWWU access road). under base flows in the non-winter season (April 1 – October 31). However, during the study flow releases from September 15 – October 6, 2021, river temperatures increased > 4°C, becoming nearly isothermal at the two monitoring stations. The winter monitoring period revealed that surface water at WQS 2 doesn't approach freezing (winter low temperature > 2.4°C) while WQS 1 had 39 days of 0°C or freezing conditions from November 1 – March 31, 2021. These data show that groundwater temperatures have the greatest influence at WQS 2 and ambient conditions affect WQS 1.

In both Eklutna Lake (Figure 2-11) and the pond, thermograph data show that stratification occurs in the summer, with surface water temperatures higher than temperatures at depth by as much as 3-4°C. As expected, the winter temperature data reveal that surface temperatures are colder than at depth from early December to mid-April in Eklutna Lake, while the pond generally exhibits this pattern from mid-October to mid-April.

Overall, the two-year monitoring period shows that Eklutna Lake and both sites on the Eklutna River met the 20°C ADEC temperature criteria for water use category C. However, water near the surface of Eklutna Lake does slightly exceed the more restrictive rearing/migration route criteria of < 15°C and the spawning/incubation criteria of < 13°C from late June – August.

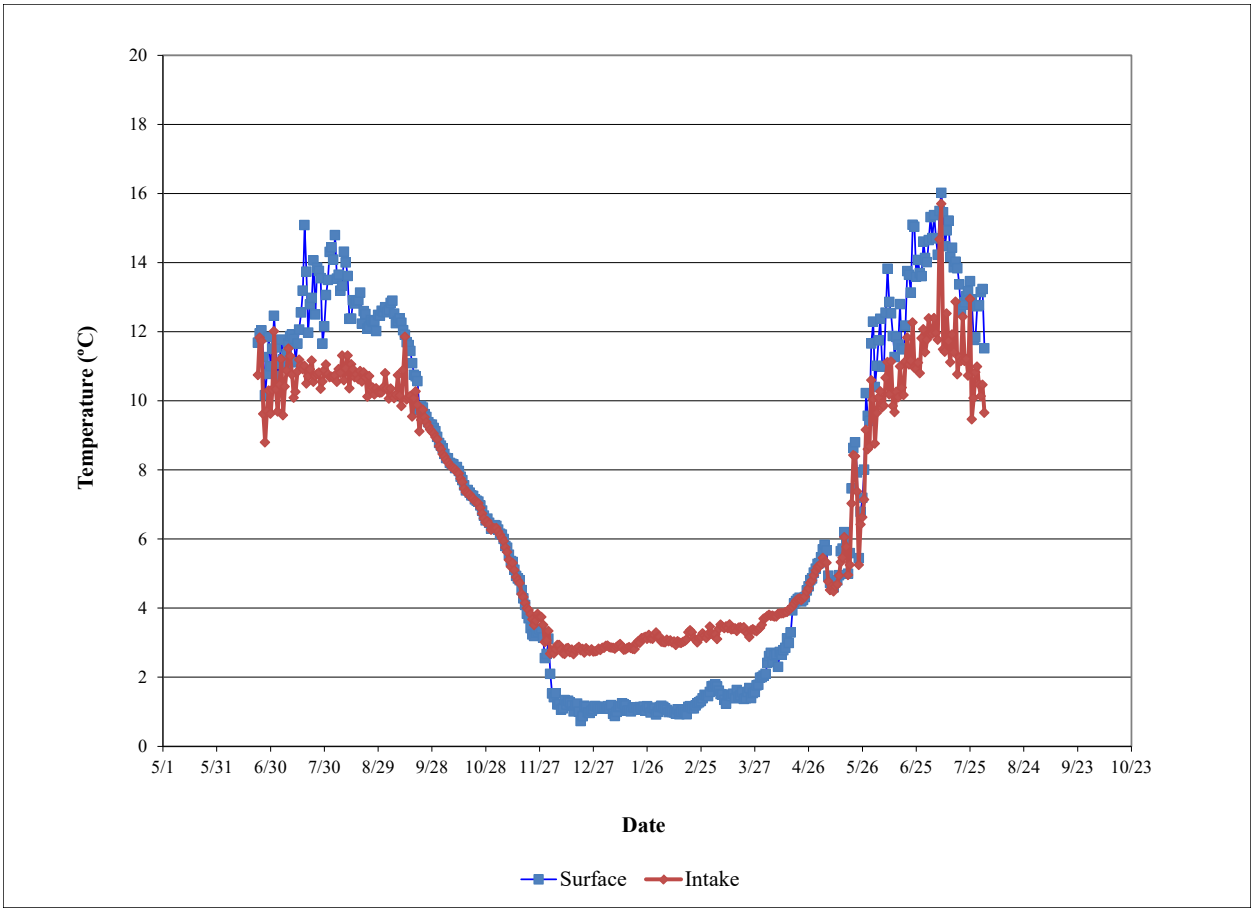

Figure 2-11. Eklutna Lake mean daily water temperature from 2021-2022.

2.6.2 Dissolved Oxygen and pH

Calibrated dissolved oxygen (DO) loggers and pH data loggers were deployed at WQS 1 and WQS 2 in the Eklutna River during the ice-free season from June 22 – September 29, 2021, and collected data every 30 minutes. The summer sampling period was prioritized to represent the time frame when DO concentrations are typically at their lowest, in response to water temperatures being at their warmest.

DO and pH profile data were collected in Eklutna Lake and the pondat 3-foot depth intervals for the entire water column utilizing a water quality sonde calibrated to manufacturer recommendations.

- In Eklutna Lake, data were collected from June 23 – September 29, 2021.
- In the pond, data were collected from May 20 – September 29, 2021.

DO concentrations in the Eklutna River and Eklutna Lake met the 7mg/l or greater criteria established by ADEC. Only the pond dropped below 7mg/l near the bottom from late May through late June in 2021.

Data for pH meet the ADEC criteria of 6.5-8.5 at all study sites with the exception of WQS 1, just above the Thunderbird Creek confluence. At WQS 1, pH consistently hovered around 8.5 and intermittently exceeded the ADEC criteria of 8.5 for fish and other aquatic organisms. However, during the 2021 study flow releases, pH at WQS 1 had a detectable and precipitous decrease of ~0.3 pH units that was maintained through the end of the study flow period.

2.6.3 Total Suspended Solids and Turbidity

Continuous turbidity monitoring was conducted on the final eleven days of the 2021 study flow releases utilizing calibrated water quality sondes deployed at all four WQS starting during the 75 cfs study flow release. Continuous turbidity data collection ended approximately 24 hours after study flow releases ended. Turbidity and TSS samples were also collected as grab samples by lowering a 500 ml Nalgene bottle at mid-depth in the thalweg of the channel during the 75 cfs study flow release (September 27) and 24 hours after flow releases ended while the river was returning to base flow conditions (October 6). Collected samples were immediately stored on ice and transported to SGS Laboratories in Anchorage, AK for analysis.

As expected, the 75cfs to 25cfs study flow releases from September 24, 2021 – October 6, 2021, show that both turbidity and TSS increased moving downstream, with substantial increases at WQS 2, below a distinctly large alluvial fan, and at WQS 1, below the lower dam site and sediment wedge. The two upper valley sites (WQS 3 and WQS 4) remained relatively stable with in situ data showing turbidity levels changing from 1.7-2.1 NTU as study flows receded (Table 2-5). However, at WQS 1 and WQS 2, in situ data showed decreases of 41 NTU below the large alluvial fan (WQS 2) and 108 NTU below the lower dam site and sediment wedge (WQS 2). Therefore, any up ramping of flow releases has the potential to violate ADEC criteria to "…not exceed 25 NTU above natural conditions" for an indeterminate amount of time.

Despite the lack of TSS criteria described by ADEC, the major composition of these "suspended solids" is sediment (i.e., sand and silt) from alluvial fans and the deposits left behind after the diversion dam removal. ADEC does state that sediment loads in the 0.1-0.4 mm size class cannot "…cause adverse effects on aquatic animal or plant life, their reproduction or habitat…" (ADEC 2022). Therefore, any movement or flushing of these sediments downstream from flow releases has the potential to foul or clog the interstitial spaces of gravel beds critical for salmonid reproduction.

Table 2-5. Eklutna River turbidity and TSS during study flow releases.

Sample Source	Turbidity (NTU)		TSS (mg/L)	
	9/27/21	10/6/21	9/27/21	10/6/21
WQS 1 (below lower dam site/sediment wedge)	140	32.0	146	33.3
WQS 2 (below the large alluvial fan)	55.0	14.0	88.1	16.3
WQS 3 (upper valley below minor alluvial fans)	5.10	3.00	7.35	2.23
WQS 4 (upper valley with stable stream banks)	4.40	2.70	3.77	2.18

2.6.4 Eklutna Lake Trophic Status

The mid-summer lake profiling on July 14, 2021, and July 7, 2022, also included the determination of Secchi depth and collection of total phosphorus and chlorophyll *a* samples. The assessment of these three lake parameters were utilized to provide an index of lake productivity or trophic status index (TSI). Water samples for phosphorus and chlorophyll *a* were collected near the surface of the lake and just above the lake bottom utilizing a Van Dorn sampler at the lake and pond monitoring sites. Collected water samples for total phosphorus were transferred to pre-labeled laboratory-supplied bottles while chlorophyll *a* water samples were filtered through 0.45 µm filters and wrapped in aluminum foil. Both the phosphorus and chlorophyll *a* samples were placed immediately on ice, then delivered to analytical laboratories on the same day that the samples were collected. Total phosphorus samples were processed and analyzed by SGS Laboratories in Anchorage, AK and chlorophyll *a* concentrations were quantified at APU.

All 2021-2022 TSI values based on chlorophyll *a* correspond to an oligotrophic classification (TSI <30), representing a lake with low primary productivity. In addition to the U.S. Army Corps of Engineers (USACE) assumption of elevated turbidity decreasing light penetration (USACE 2011), low nutrient concentrations (i.e. total phosphorus) are also a factor limiting primary productivity within Eklutna Lake. The low algal biomass within Eklutna Lake likely corresponds to low zooplankton densities and appears to be a limiting factor (i.e., food resource) for fish production, especially for resident species such as kokanee. The data described above (i.e., low nutrient and chlorophyll *a* concentrations) confirm why Eklutna Lake serves as an excellent source of drinking water.

2.7 Stream Gaging

The goals of the Stream Gaging Study were to gain a better understanding of the current flow regime in the Eklutna River and to support other aquatic studies being conducted in parallel with this assessment.

- The primary objective of this study was to generate a flow record in the Eklutna River, Thunderbird Creek, Lach Q'atnu Creek (Tributary 1), and the unnamed tributary (Tributary 2) to the pond upstream of the existing Eklutna Dam throughout the duration of the 2021 and 2022 study program.

- A secondary objective was to collect instantaneous flow measurements under stable low-flow conditions, as well as during one of the study flow releases (25 cfs), to assess accretion along the longitudinal profile of the Eklutna River.

Following United States Geological Survey (USGS) guidelines, the stream gages in the Eklutna River (above and below Thunderbird Creek) and in Lach Q'atnu Creek consisted of a staff gage and a continuous stage data logger. The data logger accurately records pressure, which is related to the water surface elevation at the staff gage. Data loggers recorded the following parameters at 15-minute intervals: date and time, temperature (°C), and pressure/water level (feet).

Following gage installation in May 2021, crews maintained and calibrated the stream gaging stations every 4-6 weeks during the study period. During each calibration and maintenance effort, discharge data were collected to develop and maintain a stage-discharge rating relationship at the Eklutna River and Lach Q'atnu Creek stream gages. Discharge measurements continued for the duration of the 2021-2022 study program. During the low-flow winter period, surface waters at the gaging stations were intermittently frozen and did not always provide an accurate continuous stage record. During this November-April timeframe, stage recorders remained in place with visual site inspections conducted on a bi-monthly basis to document site conditions and confirm the expected low-flow discharge condition.

Two years of gaging data below the Thunderbird Creek confluence reflect the 2002-2007 record from the USGS. Daily flow statistics from USGS gage 15280200 show that peak mean daily flows typically occur in mid-June and that winter flows range from 12-25 cfs. Also, the peak mean daily flow of 270 cfs in 2022, is similar to the peak daily flow volume of 255 cfs calculated by the USGS in 2006.

In 2021, mean daily flows above Thunderbird Creek were extremely stable throughout the spring-summer monitoring period, ranging from 6-7 cfs, until the onset of the study flow

releases on September 13, 2021. Over the winter of 2021-2022, mean daily discharges stabilized after one short duration runoff event, and remained in the 2-3 cfs range. In 2022, the trend of slowly increasing flow volumes begins in mid-February and peaks at 26 cfs on April 26, 2022. The wetter than normal precipitation totals in the summer and fall of 2022 resulted in a much more dynamic hydrograph with mean daily flow volumes fluctuating substantially in comparison to the stable runoff condition detected in 2021. Finally, the range of Eklutna River discharges upstream of Thunderbird Creek has not changed much over time. Flows not augmented by study flow releases ranged from 2-26 cfs for the 2021-2022 study period, while the 35 instantaneous discharge measurements from 1954-2006 at USGS gaging station 15280100 ranged from 4-24 cfs.

Thunderbird Creek flows were calculated by subtracting flows measured at the stream gage above Thunderbird Creek from the flows recorded at the stream gage below Thunderbird Creek. Figure 2-12 shows the daily mean discharge estimates for Thunderbird Creek in comparison to the two Eklutna River gaging stations. The grey shaded areas represent the 2021 study flow releases and the 2022 O&M flow release.

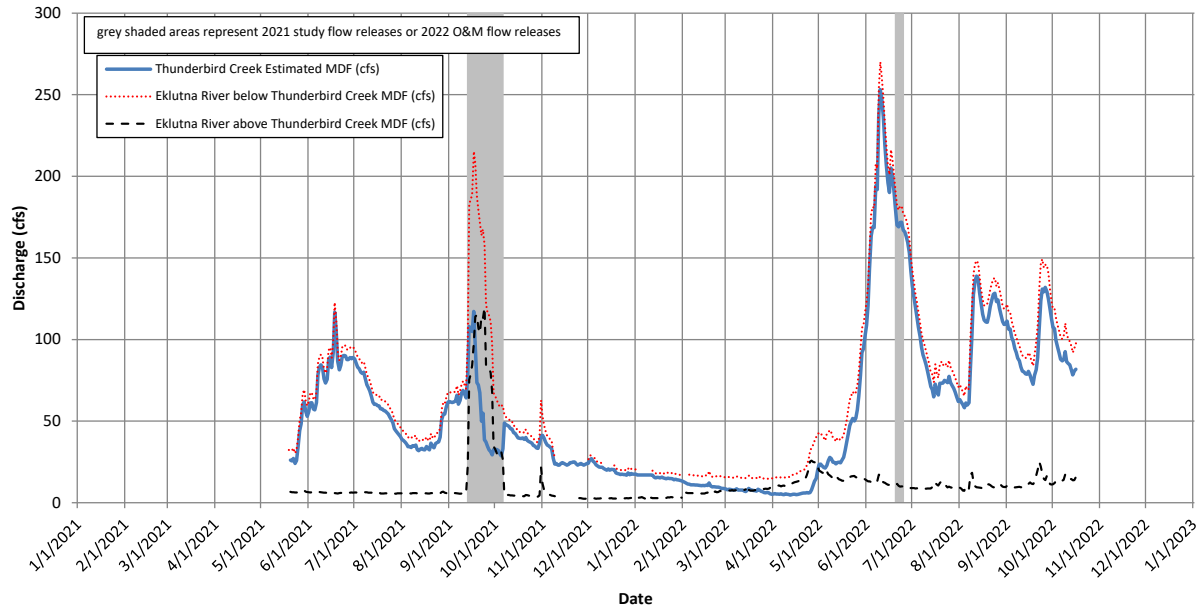

Figure 2-12. Thunderbird Creek estimated daily mean discharge vs Eklutna River stream gaging records, 2021-2022.

Overall, it is evident that Thunderbird Creek is the primary contributor of surface water discharge to the lower Eklutna River. Estimated mean daily flows for Thunderbird Creek are similar to those summarized by NVE in 2003 with peak mean daily flows occurring in the third week of June. Although the magnitude of peak Thunderbird Creek flows in 2022 are substantially greater than data from 2021 and NVE (2003), the time series hydrograph pattern

is similar. In 2022, winter flow data (January 1-April 15) from Thunderbird Creek slowly and consistently decreases, ranging from 18 cfs to 5 cfs and again, closely matches flow volumes and patterns from NVE (2003).

Flows in Lach Q'atnu Creek peaked at 12 cfs and 35 cfs in 2021 and 2022 respectively (Figure 2-13). Over the winter of 2021-2022, discharges from mid-November to late April were stable, but extremely low, ranging from nearly 0 cfs to 0.8 cfs with an average mean daily flow of 0.2 cfs. Although peak discharges were nearly 3 times greater in 2022, the Lach Q'atnu Creek watershed appears to be a snowpack driven system. Despite wetter than normal precipitation in the summer and fall of 2022, Lach Q'atnu Creek flows tailed off rapidly through July with daily mean discharges from August 1 to mid-October averaging 2.3 cfs and 3.7 cfs in 2021 and 2022, respectively.

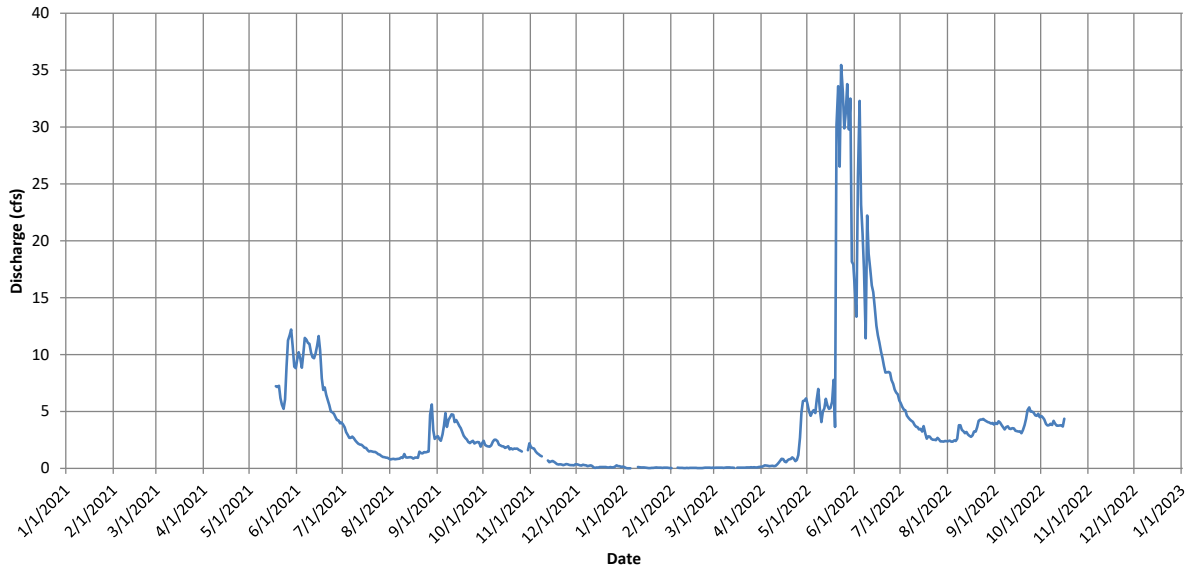

Figure 2-13. Lach Q'atnu Creek daily mean discharge, calendar years 2021-2022.

Monthly spot discharge measurements were taken at the unnamed tributary to the pond (Tributary 2) in 2021 and 2022. The five measurements taking in 2021 indicated relatively low flow volumes (<0.9 cfs). In 2022, the average of the five instantaneous measurements were noticeably higher (<2.7 cfs) in response to deeper snowpack and wetter than normal precipitation totals in the summer and fall of 2022.

Table 2-6. Unnamed pond tributary (Tributary 2) discharge measurements.

Meas. No.	Date	Measured Discharge (cfs)
1	5/19/2021	0.9
2	6/23/2021	0.5
3	7/14/2021	0.5
4	8/25/2021	0.5
5	9/28/2021	0.3
6	5/15/2022	1.1
7	6/28/2022	2.7
8	8/3/2022	0.6
9	9/13/2022	1.4
10	10/16/2022	0.8

For the accretion portion of the study, discharge measurements were collected at five locations in the Eklutna River: 1) below the railroad bridge, 2) at the Old Glenn Highway bridge, 3) just above the Thunderbird Creek confluence, 4) at the downstream extent of the AWWU access road, and 5) below the AWWU portal valve. under a stable base flow or zero-flow release condition on June 22, 2021. Discharge measurements were conducted on June 22, 2021 before the study flow releases and then again on September 30, 2021 during the 25 cfs study flow release (Table 2-7).

Table 2-7. Eklutna River accretion summary.

Location	Measured Discharge (cfs)	
	6/22/2021 (0 cfs release)	9/30//2021 (25 cfs release)
Railroad Bridge (RM 1.3)	88.2	63.0
Old Glenn Highway Bridge (RM 2.3)	93.6	66.2
Above Thunderbird Creek (RM 3.0)	6.1	23.8
Downstream Extent of the AWWU Access Road (RM 5.5)	3.2	22.1
Below the AWWU Portal Valve (RM 10.3)	0.2	19.4

The accretion study shows that measurable stream flows do not occur under existing conditions for approximately two miles downstream of the Eklutna Dam. Both sets of accretion measurements indicate minimal flow accumulations (~4-6 cfs) from RM 10.3

(downstream of the AWWU portal valve) to RM 3.0 (just above the Thunderbird Creek confluence). Downstream of the Thunderbird Creek confluence there is a slight, but consistently measured flow loss averaging about 4 cfs from the Old Glenn Highway bridge downstream to the railroad bridge. The flow loss within this 1-mile section of the Eklutna River represents a decrease of less than 5.8% of the total flow volume.

2.8 Wetlands and Wildlife Habitat

The overall goal of this study was to retroactively assess changes in wetlands and wildlife habitats in the Eklutna River drainage that may have been caused by the development of the Eklutna Hydroelectric Project. The study goal was achieved by comparing present-day mapping of wetlands and wildlife habitats, based primarily on natural color satellite imagery from 2022, to historical mapping derived from black and white aerial photographs taken in 1950. The specific study objectives were to:

1. Prepare a current wetland and wildlife habitat map for the study area using the most recent high-resolution satellite imagery and LiDAR data (May 2022), previous wetland and land cover mapping that includes the Project area, and field ground-reference data collected in August 2022.

2. Include vegetation, macrotopography, and disturbance attributes in all map polygons, including uplands, to facilitate the development of wildlife habitat and wetland functional type maps using an Integrated Terrain Unit methodology.

3. Prepare a wetland functional assessment applied to wetland functional types developed in the classification to support the retrospective image analysis by identifying the highest value wetlands in the study area.

4. Compare the extent and ecological function of current wetlands and wildlife habitats to historic conditions by preparing a historical wetland and wildlife habitat map based on a set of black and white aerial photographs of the area taken in 1950.

A total of 23 National Wetland Inventory (NWI) types were identified in the study area: 12 water, 9 wetland, and 2 upland types. Vegetated wetland types comprise 40% of the study area in which estuarine salt marsh and seasonally flooded riparian shrub were the dominant types. Despite a long history of disturbance in the area, current wetlands in the Eklutna River floodplain are relatively intact and representative of similar riverine wetland systems in Southcentral Alaska.

The attribution of map polygons with wetland and vegetation classes and the other landscape feature variables supported the identification and classification of 23 wildlife habitat types in

the study area. Wildlife scientists were consulted to determine that suitable habitats for the bird and mammal species known or expected to occur in the study area were represented in the mapping. The resulting habitat types were then used to directly support the Terrestrial Wildlife Surveys (see Section 2.9). Overall, the Eklutna River drainage study area is comprised of approximately 37% upland habitats, 36% estuarine wetlands, 18% lacustrine waters, and 9% lotic waters in combination with associated riparian freshwater wetlands.

NWI wetland attributes were included in the multivariate wetland function classification process in which a subset of wildlife habitat types (17 wetland functional classes, including waters, unvegetated and exposed littoral zones, and vegetated wetlands) were used in the wetland functional assessment process. In general, wetlands ranged from moderate to high overall function. The highest-ranking wetland functional type was Freshwater Sedge Marsh, which has the vegetation structure and landscape feature characteristics to perform all the evaluated functions at a high level. Freshwater Sedge Marsh is primarily a new wetland type in the study area that has established in the margins surrounding freshwater ponds in the abandoned gravel extraction area in the lower river near the estuary.

In the historical mapping, a total of 14 wetland and wildlife habitat types were identified in the 1950 aerial photography. These types were identified using the same classification system developed for the mapping of current conditions. Comparison of acreages between the current and historical conditions allowed for the detection of habitat change associated with specific human activities that occurred in the study area over time, including impacts resulting from the construction and operation of the Eklutna Hydroelectric Project. The primary impacts of the Eklutna Hydroelectric Project (river dewatering) include the loss of significant areas of seasonally flooded riparian shrub communities occupying the historical Eklutna River floodplain; these areas are gradually converting to upland forest habitats (see Figure 2-14 and Figure 2-15). Additional impacts of the Project include expansion of the littoral zone at the outlet of Eklutna Lake due to increased fluctuations in the lake level throughout the year; this lake littoral zone was far smaller in extent in 1950 than in 2022.

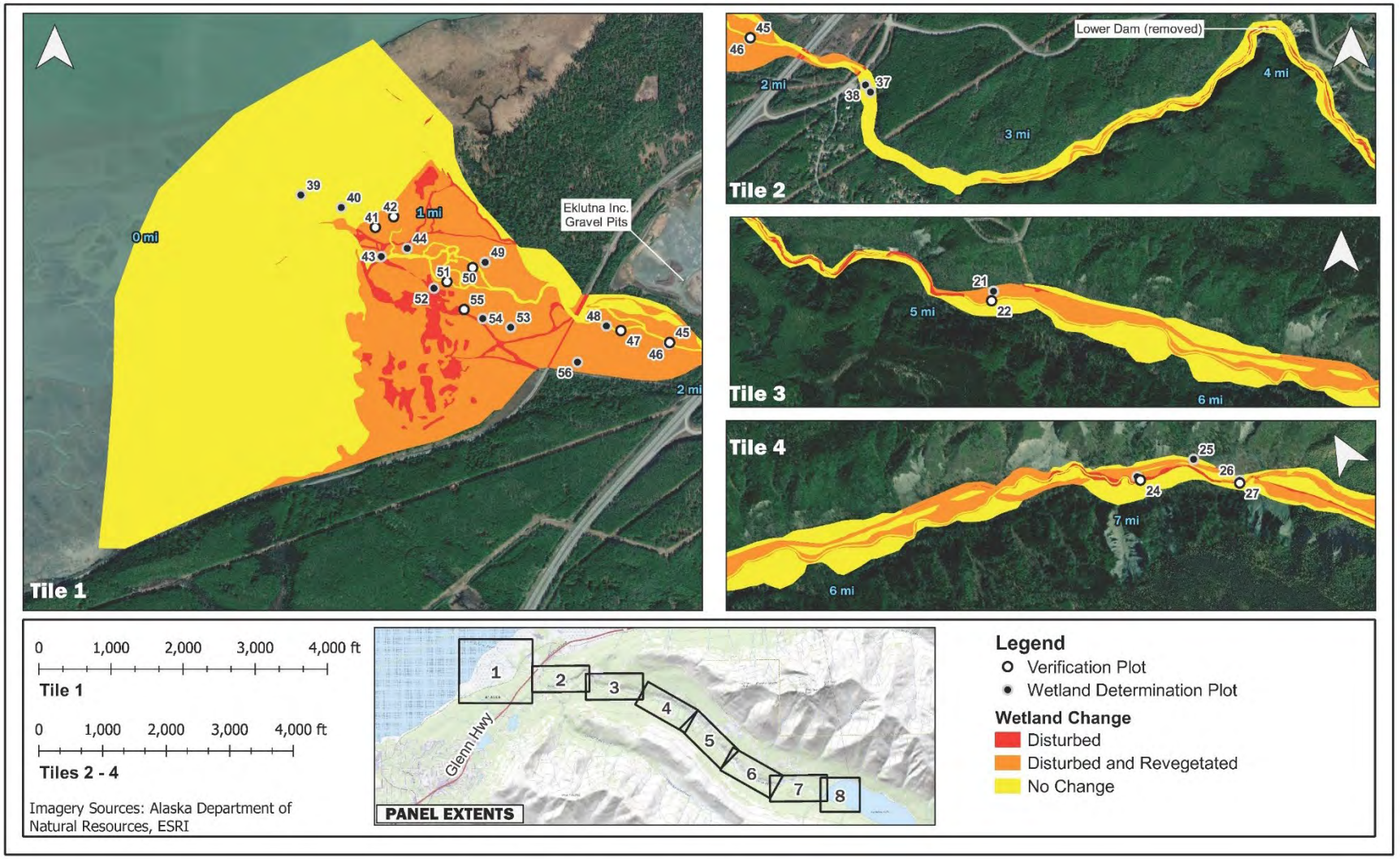

Figure 2-14. Wildlife habitat and wetland functional class changes from historical to current conditions.

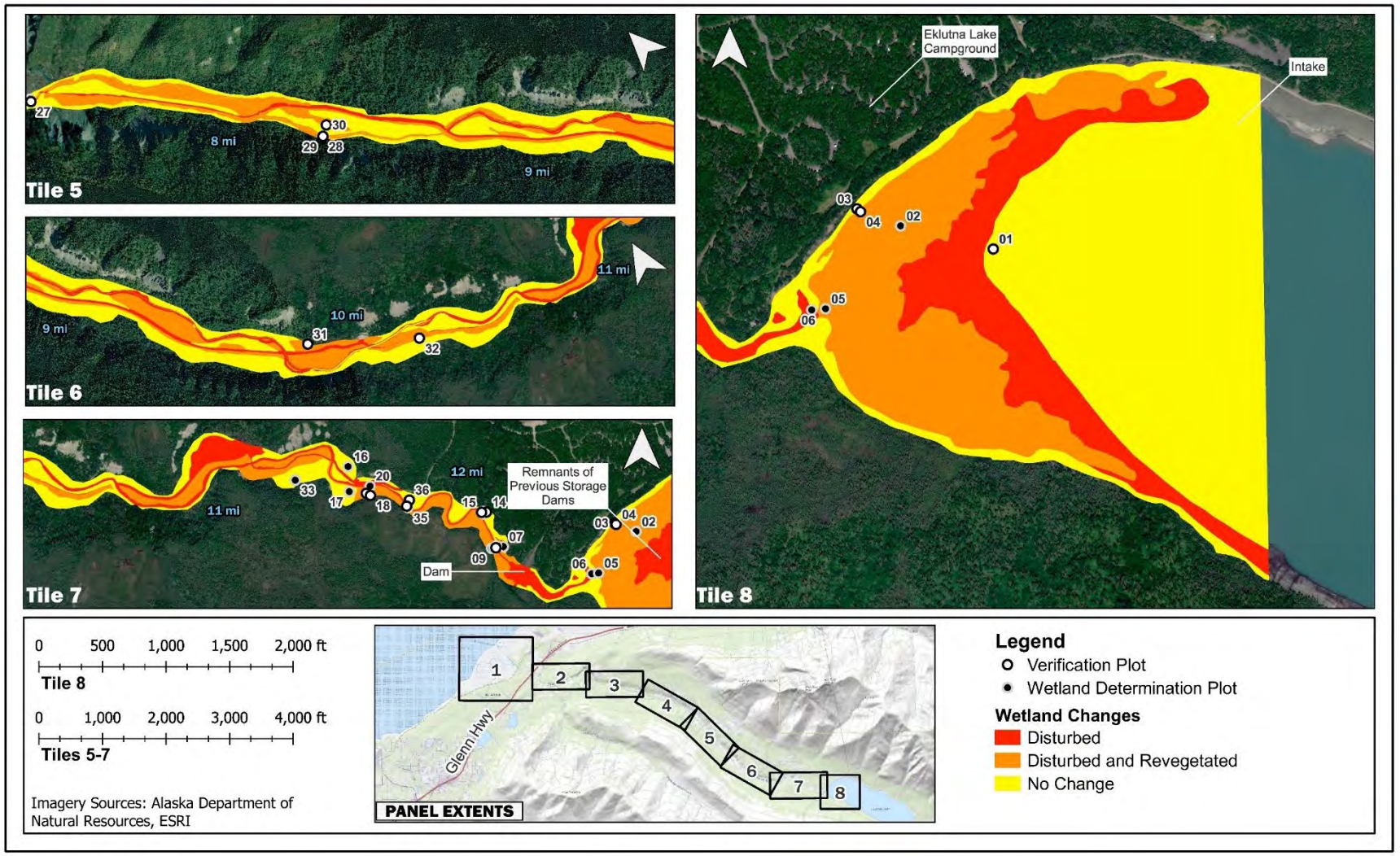

Figure 2-15. Wildlife habitat and wetland functional class changes from historical to current conditions, continued.

2.9 Terrestrial Wildlife Study

The goal of the Terrestrial Wildlife Study was to assess the seasonal presence, abundance, and habitat use for key terrestrial wildlife species in the Eklutna River drainage. Specific objectives included:

1. Raptor Nesting Survey – An aerial raptor survey was conducted in spring 2022 to locate nests of bald eagles and other large raptors.

2. Migratory Waterfowl and Shorebird Surveys – Aerial and ground-based surveys were conducted in spring and fall 2022 to determine the numbers, seasonal occurrence, and habitat use of waterfowl and shorebird species in the study area, focusing on the estuary and adjacent mudflats.

3. Beaver Pond Mapping and Beaver Survey – An aerial and ground-based survey of beaver colonies was conducted, and beaver ponds and dams were mapped to assess current use of the Eklutna River drainage by beavers.

4. Moose Browse Survey – A survey of winter moose browse was conducted to assess the current level of moose browsing pressure relative to habitat carrying capacity to support the local moose population.

5. Camera Traps and Opportunistic Observations – Wildlife camera traps were deployed and additional wildlife observations were recorded opportunistically by other researchers on the Project to provide information on the wildlife species present and their relative abundance in the Eklutna River drainage, focusing on large mammals and furbearers.

6. Wildlife Habitat Evaluation – The value of wildlife habitats in the study area to terrestrial mammals and birds known or expected occur in the study area was assessed using a categorical ranking process. Based on changes in habitats over time (see Section 2.8), assessments of how the Eklutna Hydroelectric Project could have impacted wildlife populations in the past were made.

2.9.1 Raptor Nesting Survey

The raptor nesting survey was conducted on May 9, 2022, following established protocols for the inventory and monitoring of eagle nests using a helicopter survey platform. The survey area included the hillsides and bluffs overlooking the river valley below Eklutna Dam to search for cliff-nesting raptors and a forested area along the coast near NVE where bald eagles were known to nest.

A total of 6 raptor nests were observed in the survey area. Four bald eagle nests were located in large poplar trees along the coast. These nests appeared to represent 2 bald eagle breeding territories. One nest was occupied, and one nest showed inconclusive signs of occupancy. In addition, a common raven or northern goshawk nest was recorded farther upstream in a poplar tree and an active common raven nest was recorded on a gravel-covered cliff-ledge. Overall, the area appears to be lightly used by nesting raptors and the often-eroding cliffs in the survey area are generally of low quality to support larger cliff-nesting raptor species, such as peregrine falcons and golden eagles.

2.9.2 Migratory Waterfowl and Shorebird Surveys

Two migratory waterfowl and shorebird surveys were conducted during the spring and two surveys during the fall of 2022. The survey dates were set to align with the peak numbers of waterfowl and shorebirds migrating through the Cook Inlet area, based on survey data from other Cook Inlet studies.

Waterfowl and shorebird numbers in the study area were moderate and low, respectively, during the field surveys, with waterfowl (ducks, geese, and swans) often accounting for over half the total number of birds present. Eleven species of waterfowl were recorded throughout the study period, with counts ranging from 37–143 individuals per survey. Shorebirds were noticeably absent during the spring surveys, but 13 individuals of 3 species (semipalmated plover, least sandpiper, and spotted sandpiper) were detected on the early fall survey, all on the mudflats at the mouth of the Eklutna River. Outside of the coastal areas, waterfowl and shorebirds were found in very low numbers in all other portions of the Eklutna River drainage including the littoral zone at the mouth of Eklutna Lake.

2.9.3 Beaver Pond Mapping and Beaver Survey

The beaver colony survey was conducted on October 10, 2022, using a helicopter with a single observer seated opposite the pilot. A single ground-based survey was also conducted on September 22, 2022, in an attempt to estimate family sizes of beaver colonies in the area.

Only one active beaver colony with a food cache and one inactive colony were observed below the railroad bridge. Above the canyon reach, a failed beaver dam was found at RM 5.7 and an active colony complex at RM 7.0. The middle river colony complex consisted of one failed dam, six active dams, and a single lodge. The dams in this area spanned all or most of the wetted river channel at the time of the survey (see Figure 2-16 and Figure 2-17). The beaver lodge in the upper river area and a recently removed dam in the same area showed no signs of recent activity.

Figure 2-16. Active Dam-07 (LEFT) and Active Dam-08 (RIGHT) in the middle river colony.

Figure 2-17. Active Dam-09 (LEFT) and Active Dam-10 (RIGHT) in the middle river colony.

During the ground-based survey, no beavers were observed at the middle river colony. The two dams farthest downriver were estimated at approximately six feet tall and looked like

potential barriers to adult fish passage, though juveniles may be able to pass through. No signs of rehabilitation of the dam or lodge were evident at the former upper river colony.

2.9.4 Moose Browse Survey

The moose browse survey was conducted during late winter, April 12-15, 2022, so that the data would represent maximum seasonal browse removal. The mean browse removal rates were estimated at the individual plant level by sampling 30 plots within the study area. Brackish and tidal habitats at the coast and the area above the existing Eklutna Dam were excluded as these areas were not expected to receive much moose browse.

During the field survey, researchers sampled 2,281 twigs from 241 plants within 30 plots. Feltleaf willow was the most common forage species sampled, followed by Alaska birch and balsam poplar. Browsing pressure was highest for feltleaf willow (40.8% removal) followed by Barclay's willow (30.0% removal), and diamond-leaf willow (25.0% removal). Broomed architecture was observed on 35.7% of sampled plants. Mean proportional offtake per plant was 22%, which is consistent with a stable or increasing moose population and should exhibit moose twinning rates of ~20–50%.

2.9.5 Camera Traps and Opportunistic Observations

Twelve camera-traps were deployed, set to record either time-lapse (seven cameras) or motion-sensor (five cameras) photographs throughout the Eklutna River drainage. Time-lapse cameras were placed on beaver ponds (n = 2) or coastal wetlands (n = 5), while motion-sensor cameras were placed on trails and river crossing areas that were expected to channel mammal movements. In addition to camera-traps, opportunistic observations and other signs of terrestrial wildlife were recorded by other project personnel working in the area.

The seven motion-sensor cameras recorded 10,263 useable photographs while the five time-lapse cameras recorded 383,363 useable photographs (Figure 2-18). Moose were the most frequently photographed terrestrial mammal species (352 groups), followed by black bears (32 groups), brown bears (14 groups), coyotes (13 groups), unknown canid (3 groups), red fox and snowshoe hare (2 groups each), and wolf and lynx (1 group each).

Figure 2-18. Camera trap photos, moose (LEFT) and black bear (RIGHT).

2.9.6 Wildlife Habitat Evaluation

Twenty-three wildlife habitats were defined and mapped in the study area (see Section 2.8). Wildlife habitat evaluations were then conducted by creating a matrix of wildlife species and the 23 mapped habitats and assigning a categorical habitat-value ranking (high, moderate, low, or negligible value) to each mapped wildlife habitat type for each bird, mammal, and amphibian species known or expected to occur regularly in the study area.

Across all species of birds, mammals, and amphibians known or expected to occur in the study area, each of the 23 mapped habitat types was considered to be of high or moderate value for at least 8 or more of the 145 species assessed. In this habitat evaluation, the most species-rich habitats were Mixed Deciduous-Spruce Forest and Spruce Forest, with those 2 forested habitat types considered to be of high or moderate value for 76 and 64 wildlife species, respectively. This result is driven primarily by the large number of landbird species that are expected to make use of the more complex vegetation structure in these habitat types. Other species-rich habitats were Black Cottonwood Forest, Freshwater Pond, and Freshwater Pond (Beaver Modified). A set of 6 shrub, lacustrine, and marsh habitat types (Seasonally Flooded Low and Tall Alder-Willow Shrub Scrub, Brackish Pond, Upland Low and Tall Alder-Willow Shrub Scrub, Freshwater Lake, Brackish Sedge Marsh, and Freshwater Sedge Marsh) closely followed, and were considered to be of high or moderate value for 47–44 wildlife species. After that, species richness dropped off noticeably, with a set of 8 riverine, forest, mudflat, lacustrine, and shrub habitats considered to be of high or moderate value for 31–20 wildlife species. Types with the lowest levels of species richness were a set of 4 barren, seeps and springs, cliffs and banks, and intermittent stream habitats, which were considered to be of high or moderate value for 17–8 wildlife species.

The mapping of historical (1950) wildlife habitats (see Section 2.8) indicates that prior to the construction of the Eklutna Hydroelectric Project in 1955, riparian shrub habitats were markedly more extensive in the Eklutna River drainage. After 63 years, without the annual or bi-annual high flow events with extensive overbank flooding, these riparian shrub habitats have transitioned to more well-drained spruce and deciduous forest habitats. Wildlife species that rely heavily on riparian shrub habitats are expected to have declined in abundance in the study area, and species that rely heavily on mixed forest habitats are expected to have increased in abundance. In addition, fluctuations in the level of Eklutna Lake throughout the year have exposed a substantial littoral zone at the mouth of the lake, which was far smaller in extent in 1950. The few wildlife species that make use of this lake littoral zone habitat may have increased in abundance since 1955.

2.10 Recreation Study

The goal of the Recreation Study was to itemize and quantify the current level of recreation in the Project area, including quantifying the use types, locations, and frequency of recreational activities. Analysis of compiled existing data provided by ADFG, Chugach State Park, and MOA was supplemented by primary data collected through an online survey, online interactive comment map (Figure 2-19), intercept surveys conducted at high-visitation areas, traffic counts on roadways near parking areas, and a paper survey distributed to members of NVE.

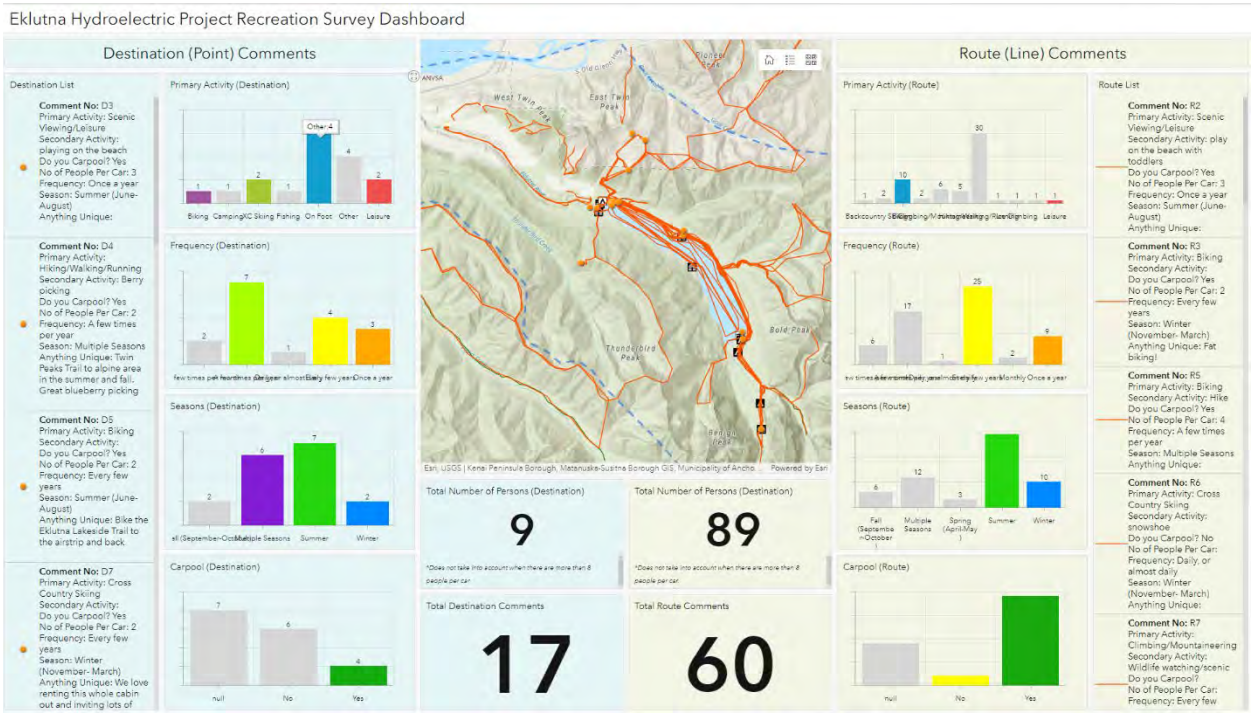

Figure 2-19. Display of Online Interactive Comment Map Dashboard.

2.10.1 Chugach State Park

All lands in the upper watershed of the Eklutna River are located within Chugach State Park. The Eklutna Valley is a heavily used area of Chugach State Park, specifically Thunderbird Falls Trail and the Eklutna Lake Recreation Area, known for its scenic qualities and diverse year-round recreational opportunities. Visitors most frequently enjoy hiking, biking, camping, and scenic viewing, but also participate in horseback riding, climbing, berry picking, hunting, fishing, boating, riding all-terrain vehicles (ATVs), cross-country skiing, dog mushing, and snow machining in the winter.

Eklutna Lakeside Trail was the most frequently reported destination per primary data collection efforts, followed by Twin Peaks Trail, public use cabins, and campgrounds. 2019 MOA trail counts at Eklutna Lakeside Trail reported average annual daily traffic of 200 pedestrians per day, with 407 per day in the summer and 22 in the winter. 2020 MOA trail counts at Thunderbird Falls Trail reported an average annual daily traffic of 370 pedestrians per day, with 888 per day in the summer and 115 in the winter. Public use cabins and campgrounds in the area are popular destinations which see regular use annually. For Fiscal Year (FY) 2022, Chugach State Park collected $273,497 in revenue from recreational use fees (campground and cabin reservations) and parking lot fee stations in the Project Area.

Chugach State Park has fee stations at parking lots and campgrounds in the Eklutna Lake Recreation Area and Thunderbird Falls. Traffic counts collected during the study period were compared to fee station transaction data for the same days as counts were collected and concluded approximately 25% of all vehicles entering these areas pay a fee at an applicable fee station (50% rate of fee station use for the Eklutna Campground). Rates of fee station use were applied to the full year of fee station data provided by Chugach State Park and a conservative, generalized carpool rate of 50% of vehicles entering the Project Area for recreation contain two people was applied to the total vehicle count to determine a minimum number of total recreators. A minimum of 145,881 recreators partook in activities within Chugach State Park fee areas in the Project Area in FY 2022 and drove a personal or rental vehicle to get there.

Guiding, touring, and equipment rental businesses operate in the Eklutna Valley. Most notably, Lifetime Adventures operates a rental facility offering bike and kayak rentals near the Lakeside Trailhead and Day Use Area. Premier Alaska Tour brings approximately 500 visitors to this destination annually during the summer who reliably use Lifetime Adventures services. Other businesses operating in the area provide guided hiking and hunting, outdoor education services, and photography tours.

2.10.2 Eklutna Tailrace

The Eklutna Tailrace is stocked annually with Chinook and coho smolts by ADFG which has facilitated a very popular and sustainable salmon fishery since 2003. Developed facilities including parking, Americans with Disabilities Act (ADA) accessible trails, fishing pads, a bridge providing access to both sides of the tailrace, vault latrines and refuse receptacles. Fishing was the most reported primary activity at the Tailrace, followed by scenic viewing and hiking or walking. Fishing activities are seasonally dependent and therefore summer was reported as the most visited time of the year, but activities were reported year-round. ADFG estimated 13,485 angler days at the Tailrace in 2018. Traffic count data collected and analyzed estimates a total of 23,823 vehicles visited the Tailrace from June 8 through August 23, 2022. Applying the same conservative assumptions for projecting total number of recreators based on carpooling vehicles noted above, a minimum of 31,447 recreators partook in activities at the Tailrace between June 8 and August 23, 2022.

2.10.3 Lower Eklutna River

Activities, whether recreational or subsistence, in the Lower Eklutna River area (considered areas downstream of the Old Glenn Highway bridge), are conducted by members of NVE or Eklutna, Inc. or are otherwise permitted by those entities. One NVE member survey response was received and included both recreational and subsistence activities that they or members of their household participate in within the Lower Eklutna River area.

2.11 Lakeside Trail Erosion Study

The goal of the Lakeside Trail Erosion Study was to determine the effects of Project operations on the Lakeside Trail and identify potential mitigation measures to minimize erosion impacts to this popular recreational trail. The objectives of the study were to document locations where erosion affecting trails or recreation facilities is influenced by lake level fluctuations and determine the causes of erosion at these locations.

The trail includes a former roadbed constructed by the U.S. Army in 1962 that followed the lake shoreline. At very high lake levels, erosion of the trail occurs in locations where the trail is directly adjacent to the lakeshore. Erosion along approximately 3.1 miles of the trail has resulted in narrowing of the original roadbed so that in some places it is too narrow for ATV use; in these areas the main trail has been re-routed up and away from the shoreline and the original shoreline trail is restricted to non-motorized traffic.

A total of 59 eroding areas were delineated along the Eklutna Lakeside Trail, including areas showing past and/or more recent erosion. The inventory followed the pathway closest to the lake. Shoreline erosion was noted along 0.6 miles of the main trail and 2.4 miles of the non-

motorized trail. Nine sites were identified as high priority sites for erosion control, maintenance, or warning signs due to concerns for the safety of trail users.

Five primary types of erosion processes were noted during the field inventory: undercut banks caused by wave erosion, slumping and earthflows caused by saturated soils and/or drainage issues; trampling by recreationalists accessing the lake; raveling of unconsolidated and/or unvegetated cutslopes and banks; and streambank erosion at major stream crossings.

All lakeshore erosion sites had wave action at high lake levels as one of the factors contributing to erosion. Seepage and runoff were the second most common factor, present at 28% of the sites (by length), and blocked culverts were listed at 9% of the sites. Reservoir fluctuation was listed at 28% of the sites. Pedestrian use (19% of the sites) and raveling of steep cutslopes (8%) were the remaining factors affecting erosion.

2.12 Cultural Resources Study

The goal of the Cultural Resources Study was to determine if historic or archaeological resources are present within the study area and evaluate their eligibility for the National Register of Historic Places (National Register). The study area, or Area of Potential Effects (APE), encompassed all locations of possible Project impacts, with a conservative buffer to fully include all potential historic or archaeological resources that could be directly, indirectly, or cumulatively affected.

Prior to the beginning of field surveys, high resolution LiDAR, satellite imagery, and USGS topographic maps were used to make an initial assessment of the archaeological potential of various portions of the study area. The outlet of Eklutna Lake, the river and lakeshore terraces, tributary creek areas, and peninsulas along the lake were marked as locations with higher potential for past use. In addition, the southeastern end of the lake was judged to have higher potential for cultural resources due to a known historic occupation by a well-known Eklutna elder and military training during the 1960s.

The fieldwork was conducted in June and July of 2022. Cultural sites were mapped and documented with photographs and field descriptions. Investigations around Eklutna Lake encompassed lands within the APE along the northeastern and southwestern shoreline, including adjoining uplands within the Eklutna Lake Campground and at the West Fork of Eklutna Creek at the head of the lake. The survey covered approximately 16 linear miles of the lake margin. For the purposes of survey and reporting, the Eklutna River corridor divided into four segments: 1) the lake outlet to the AWWU portal valve, 2) the AWWU portal valve to the downstream extent of the AWWU access road, 3) the downstream extent of the AWWU

access road to the Thunderbird Creek trailhead, and 4) the Thunderbird Creek trailhead to Knik Arm.

Properties within the APE that could be eligible for the National Register are limited to the Eklutna Dam and Spillway and Eklutna River Railroad Bridge. The Eklutna Dam and Spillway are significant as contributing properties to the Eklutna Hydroelectric Project. The Eklutna River Railroad Bridge is significant for its continued association with the operation of the Alaska Railroad between Anchorage and interior Alaska. Other sites that were discovered and documented, but not considered significant enough to possibly be eligible for the National Register, included the remnants of an earlier storage dam at the lake outlet, a cluster of log piers on the beach along the Eklutna Lakeside Trail, and a can scatter on the eastern bank of the Eklutna River, downstream from the Alaska Railroad bridge.

During the study period, a log section from the historic Eklutna Alex cabin was discovered on the shoreline of Eklutna Lake near the Eklutna Lake Campground. There were two hand-hewn, 8" diameter beams measuring 96" and 115" long, toenailed with four iron spikes and an old Alaska State Parks "no campfire" sign (see Figure 2-20). The Project Owners immediately notified NVE, Chugach State Park, and the State Historic Preservation Officer (SHPO). NVE recovered the logs and has plans to display them in the future.

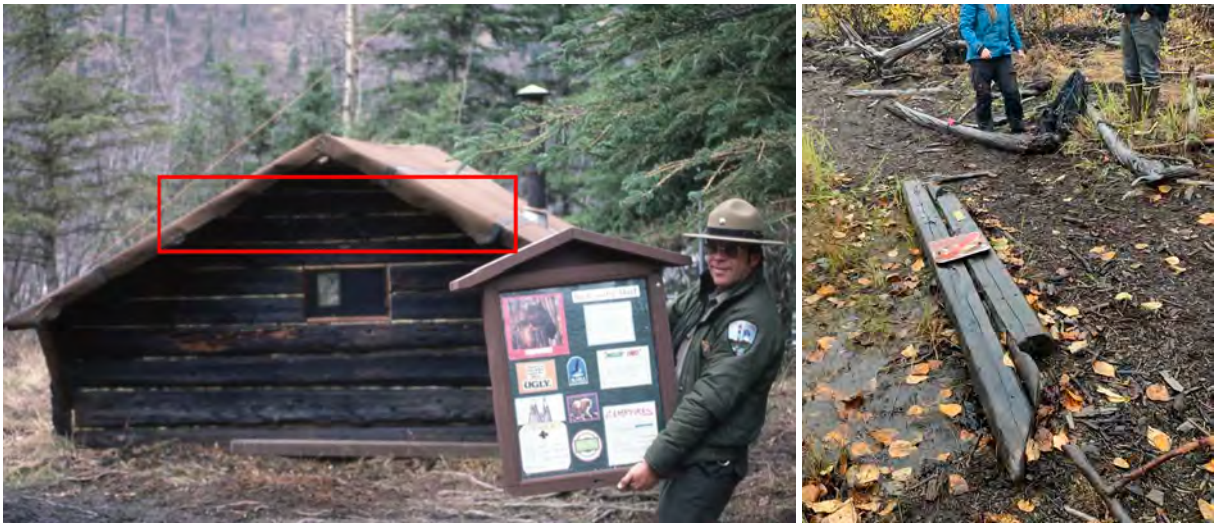

Figure 2-20. (LEFT) Historic Eklutna Alex Cabin in 1987. (RIGHT) Cabin logs discovered on the lake shoreline in 2022.

2.13 Existing Infrastructure Assessment

Prior to proposing modifications to existing Project infrastructure or determining a flow regime into the Eklutna River, an infrastructure assessment study was performed. The investigation assessed how the ability to release any potential future flows may be impacted by hydraulic

and/or operational restrictions of Eklutna Lake, or if flows may affect downstream infrastructure below Eklutna Dam. A series of site visits were performed in August 2020 and September 2021 to investigate hydraulic and/or operational restrictions of Eklutna Lake, including the existing storage dam, existing pond, and the outlet works through Eklutna Dam. Additionally, downstream infrastructure was assessed to determine if any deleterious effects may be caused by releasing flows into the Eklutna River, including AWWU's access road and bridges, AWWU's pipeline, the highway bridges, and the railroad bridge. The results of the investigation are summarized in the following subsections.

2.13.1 Eklutna Lake

As currently operated, Eklutna Lake is disconnected from Eklutna Dam for an average of 9 months each year. The lake is drawn down an average of 36-feet each year with the water being utilized for power generation and potable water supply purposes. As such, any gravity-flow release through the dam is currently only possible between September and December (3 months) per year without a substantial change to the reservoir operations.

2.13.2 Historical Storage Dam

The remnants of the historical storage dam create a topographic barrier between Eklutna Dam and Eklutna Lake. The barrier has a crest elevation of El. 860.0 feet (local datum), forming an isolated pond upstream of Eklutna Dam for most of the year. Minor groundwater seepage flows through the foundation of the historical storage dam into Eklutna Lake during the 9 months of the year that the lake is below El. 860.0 feet.

2.13.3 Existing Pond

The pond formed upstream of Eklutna Dam was determined to have a maximum storage capacity of approximately 17 acre-feet at El. 860.0 feet. This pond was investigated to determine if it had sufficient storage to make continuous flow releases into the Eklutna River for any proposed future instream flow requirements. The investigation revealed that if released through the existing gate at the base of the spillway in Eklutna Dam, the pond would be substantially drained within 8 hours and is of insufficient size to make any significant continuous releases downstream of the dam.

2.13.4 Drainage Outlet Gate

The drainage outlet gate at the base of the spillway in Eklutna Dam was inspected and determined to be occluded with rocks, boulders, and debris, and experiencing moderate corrosion. The gate was replaced with a new stainless steel slide gate has a hydraulic capacity of 190 cfs and was used to conduct the 2021 study flow releases. The new gate is also

capable of making potential future flow releases into Eklutna River when the lake is connected to the dam. Due to lack of power at the dam site the gate is manually operated, which requires periodic operator adjustments to maintain a set flow rate as the water surface elevation of the lake fluctuates.

2.13.5 AWWU Access Road and Bridges

The AWWU Access Road spans 6.5 miles along the Eklutna River and consists of two small bridges and eight natural bottom ford river crossings. Both bridges are in good condition and have a hydraulic capacity of ~1,000-1,200 cfs. The eight river crossings are armored but will need to be investigated further as part of evaluating potential future flow regimes to determine what modifications would be required to make them safely passable by vehicles if any potential future instream flows are implemented.

2.13.6 AWWU Pipeline

The AWWU pipeline runs underground along the Eklutna River for 6.1 miles from the tunnel diversion to the Eklutna Water Treatment Facility. Along the route of the pipeline, it crosses the Eklutna River in eight locations. Each location evaluated has sufficient depth of cover and armament to protect the pipeline from becoming exposed under potential future flows. The exception is river crossing H (Sta 4306+00), which was completely inundated by a beaver dam pond and was unable to be investigated as part of this study.

The hydraulic capacity of the pipeline was additionally investigated to determine any hydraulic limitations that may exist in the event that the diversion tunnel or portal valve shaft were considered for modification to release flows into the Eklutna River. The investigation revealed that there is sufficient driving head to deliver up to 100 million gallons per day (154.7 cfs) to the Eklutna Water Treatment Facility at the minimum water surface elevation in Eklutna Lake. Any additional flows discharged into the Eklutna River through the diversion tunnel must closely consider this hydraulic limitation of the pipeline to avoid any impacts for water delivery.

2.13.7 Old Glenn Highway Bridge

The Old Glenn Highway bridge has a hydraulic capacity far exceeding the 500-year flood flow, estimated to be 1,800 cfs. However, an intermediate pier exists that has an increased risk of scour when flows exceed the 50-year flood, estimated to be 850 cfs. The hydraulic analysis of the channel beneath the Old Glenn Highway Bridge should be revisited as part of the evaluation of any potential flow regimes to determine if the increased river flows may cause an increased risk of scour of the intermediate bridge pier.

2.13.8 New Glenn Highway Bridges

The New Glenn Highway bridges have a hydraulic capacity well in excess of the 100-year flood event (> 4,700 cfs) and contain no structural elements within the influence of the river. The bridge abutments and scour protection elements were found to be in good condition and no impacts are expected from any potential future instream flow regime.

2.13.9 Railroad Bridge

The Eklutna River Railroad Bridge has an estimated hydraulic capacity far exceeding Eklutna River flood events (> 8,000 cfs). The bridge was determined to be in reasonable condition for its age, with no evidence of scour beneath the abutments or bank erosion occurring. Based on the estimated hydraulic capacity and current condition of the railroad bridge, there are not anticipated to be any modifications required to accommodate potential future instream flows in the river.

2.14 Engineering Feasibility and Cost Assessment

The engineering feasibility and cost assessment study consisted of analyzing a total of 19 measures proposed by the Project Owners and various stakeholder groups. These alternatives are divided into six site improvement categories and represent potential modifications to existing infrastructure or construction of new facilities to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Project. A summary of the measures is provided in Table 2-8 and a summary of the Class 5 Opinion of Probable Construction Costs (OPCC) is provided in Table 2-9. The conceptual design drawings associated with each measure are available for review on the Project website.

Table 2-8. PME Measure Descriptions.

	Measures	Work Features
Instream Flow Measures		
A	Dam Release Modifications	Add electric motor operator and controls to existing sluice gate and complete powerhouse upgrades to allow powerhouse to be offline through winter months.
B	Siphon Bypass Pipeline	Add a pipeline that will siphon water out of the Eklutna Lake to Eklutna River and complete powerhouse upgrades to allow powerhouse to be offline through winter months.
C	AWWU Portal Valve Release	Tap into existing 54" bypass pipeline at the AWWU portal valve location to divert flow to Eklutna River.

	Measures	Work Features
D	AWWU Pipeline Release	Tap into existing 54" bypass line at specified location along AWWU Pipeline at River Mile 5.5 to divert flow to Eklutna River.
E	Bypass Tunnel Release	Add a tee to the existing 108" APA tunnel and drive a 7,500 foot long 72" diameter tunnel to divert flow to the Eklutna River.
F	Channel Excavation	Excavate a channel from Eklutna Lake past the previous storage dam to make the Eklutna Dam Pond a live storage pool all year.
G	Lach Q'atnu Creek Re-Route	Divert current path of Lach Q'atnu Creek to new channel to allow creek to flow directly to Eklutna River downstream of Eklutna Dam.
Peak Flow Measures		
H	Spillway Modifications - New Tainter Gate	Add new Tainter gate and hoist to the existing Eklutna Dam spillway crest.
I	Spillway Modifications - New Wheel Gate	Add new fixed wheel gate and hoist in place of the existing Eklutna Dam spillway.
Fish Passage Measures		
J	Gravity Flow Fish Ladder	Add gravity fish ladder passage through dam.
K	Variable Exit Fish Ladder	Add variable exit fish ladder passage through dam.
L	Pumped Supply and Slide Fish Ladder	Add new concrete fishway through dam with pumped water supply.
M	Trap and Haul Facility	Add trap and haul fish transfer facilities at new downstream bypass valve.
N	Floating Surface Collector	Add floating surface fish collector in Eklutna Lake.
O	Fish Exclusion Barrier	Add fish exclusion netting at existing intake structure.
P	Replacement Dam	Excavate deep channel, remove existing dam, and replace with larger embankment dam including fish passage.
Infrastructure Improvements		
Q	Lakeside Trail Improvements	Improve the lakeside trail and repair erosional features on the northeast shoreline of Eklutna Lake.
R	AWWU Maintenance Road Crossings	Add 8 new road bridges over Eklutna River on AWWU access road.
Habitat Improvements		
S	Physical Habitat Manipulation	Implement new physical habitat modifications within the Eklutna River to improve fish and wildlife habitat.

Table 2-9. Class 5 OPCC – Cost Summary.

Measures		Total Median Cost	Class 5 Cost Estimate (-50% to +100%)		
A	Dam Release Modifications	$6,680,000	$3,340,000	to	$13,360,000
B	Siphon Bypass Pipeline	$22,371,500	$11,186,000	to	$44,743,000
C	AWWU Portal Valve Release	$5,546,500	$2,773,000	to	$11,093,000
D	AWWU Pipeline Release	$2,248,300	$1,124,000	to	$4,497,000
E	Bypass Tunnel Release	$76,747,200	$38,374,000	to	$153,494,000
F	Channel Excavation	$569,000	$285,000	to	$1,138,000
G	Lach Q'atnu Creek Re-Route	$1,523,000	$762,000	to	$3,046,000
H	Spillway Modifications - New Tainter Gate	$5,574,300	$2,787,000	to	$11,149,000
I	Spillway Modfications - New Wheel Gate	$6,573,500	$3,287,000	to	$13,147,000
J	Gravity Flow Fish Ladder	$16,670,300	$8,335,000	to	$33,341,000
K	Variable Exit Fish Ladder	$17,569,600	$8,785,000	to	$35,139,000
L	Pumped Supply and Slide Fish Ladder	$15,240,200	$7,620,000	to	$30,480,000
M	Trap and Haul Facility	$8,336,200	$4,168,000	to	$16,672,000
N	Floating Surface Collector	$57,557,000	$28,779,000	to	$115,114,000
O	Fish Exclusion Barrier	$3,125,600	$1,563,000	to	$6,251,000
P	Replacement Dam	$113,344,500	$56,672,000	to	$226,689,000
Q	Lakeside Trail Improvements	$1,720,700	$860,000	to	$3,441,000
R	AWWU Maintenance Road Crossings	$2,941,500	$1,471,000	to	$5,883,000
S	Physical Habitat Manipulation	$1,469,200	$735,000	to	$2,938,000

2.15 Hydro Operations Model

The hydro operations model was developed in 2021 to assess impacts to flows, energy generation, and carbon offsets as a result of potential operational changes of the system. This modeling effort used available water surface elevation data from the existing USGS Gage No. 15278000 located in Eklutna Lake near the Project intake, historical flow data for the Eklutna

Power Plant, and historical flow data for the Eklutna Water Treatment Plant from AWWU to develop an operations model of the reservoir. Historic spill events were also taken into account. The average water surface elevation of Eklutna Lake is presented in Figure 2-21.

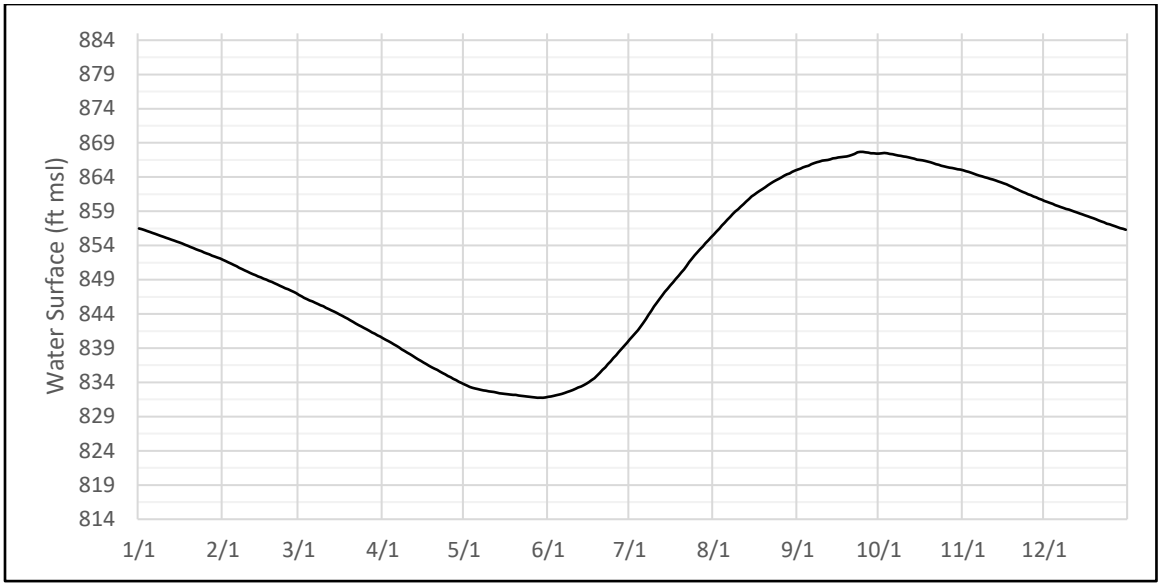

Figure 2-21. Average Water Surface Elevation of Eklutna Lake; 2010 – 2021.

A hydraulic model was developed of the intake and power conduit to determine friction losses as a function of flow rate through the conveyance. Minor losses were included at the trashrack, each pipeline bend, each reduction in conveyance diameter, at the turbine bifurcation, valve, and turbine draft tube. Major friction losses were determined throughout the power tunnel and penstock. The hydraulic grade line represented on the tunnel elevations throughout the power conduit is presented in Figure 2-22.

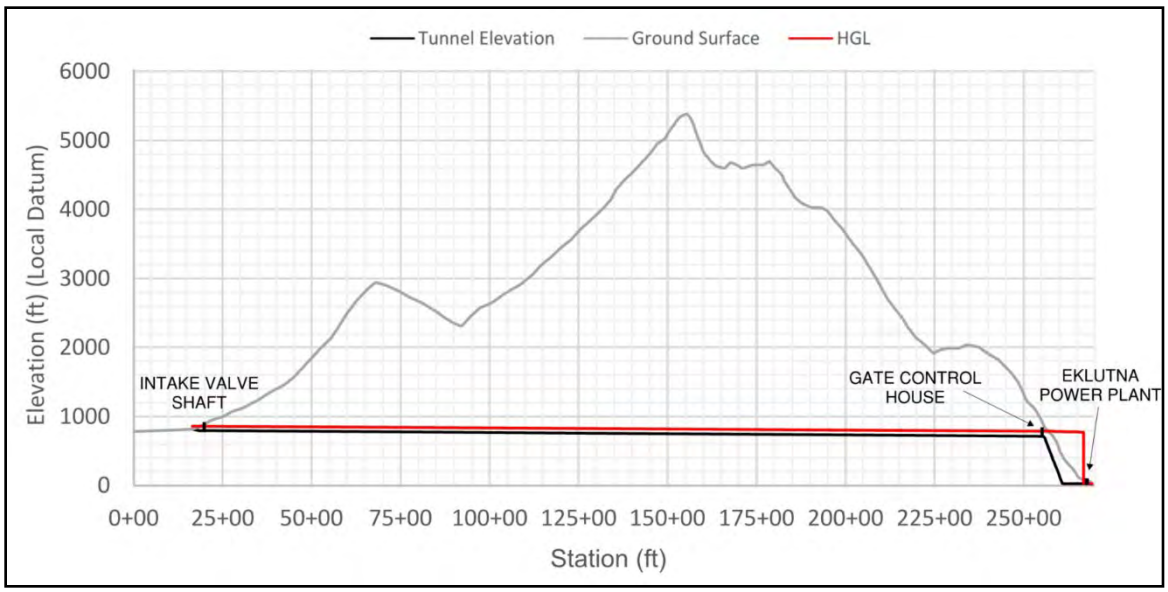

Figure 2-22. Eklutna Power Conduit Hydraulic Grade Line (HGL).

To calculate energy produced through each unit over the operating history analyzed in this study, the turbine efficiency as a function of the net head and flow rate was obtained from published efficiency data obtained through model testing of a homologous unit. Flow data on an hourly timestep from January 2011 to December 2020 were used. Daily generation values were calculated over ten years of operation (2011 – 2021) to validate accuracy with known generation values from the facility. The output of the operations model compared with actual generation values is summarized in Table 2-10.

Table 2-10. Annual Energy Comparison Summary – Actual vs Calculation; 2011 – 2021.

Year	Actual Energy Production (GWh)	Calculated Energy Production (GWh)	% Error
2011	128.1	128.0	-0.1%
2012	145.2	143.8	-1.0%
2013	172.1	169.1	-1.7%
2014	157.3	158.3	0.6%
2015	136.1	138.0	1.4%
2016	169.5	166.5	-1.8%
2017	119.9	118.4	-1.3%
2018	168.8	169.5	0.4%
2019	191.6	192.1	0.3%
2020	179.1	180.9	1.0%
Average	**156.8**	**156.5**	**-0.2%**

The model was able to accurately predict the hydroelectric generation potential as a function of 10-year average Eklutna Lake water surface elevations and hourly power plant flows to within 0.2% of actual values. The model was then utilized to simulate proposed changes to reservoir or power plant operations in order to determine expected changes in energy production and revenue through the power plant as part of the Hydro Valuation Study (see Section 2.16).

2.16 Hydro Valuation Study

The Hydro Valuation Study was conducted as part of the alternatives analysis process to quantify the annual changes in energy revenue associated with proposed operational changes of the reservoir. Variations from baseline energy production as a result of modifying the powerhouse flow regime or reservoir water surface elevations were output from the hydro operations model. To determine the value of energy losses from the Eklutna Hydroelectric Project, the study investigated the value of the replacement energy within the MEA and Chugach Electric's systems. In the case of both utilities, any energy lost from the facility would be replaced by one of the multiple natural gas generation facilities located in the local system.

The value of energy produced from a natural gas generation facility is directly tied to the price of natural gas. In June 2023 the local provider of natural gas, Enstar Natural Gas Company LLC, presented to the Regulatory Commission of Alaska (RCA) a range of gas prices expected in 2026. The price of gas ranged from a low of $12.20 per thousand cubic feet (MCF) to $13.90/MCF with a median expected value of $13.05/MCF. Using the median expected gas price, the Project Owners performed a production cost model run of energy generation on the Railbelt system utilizing GenTrader®, an energy portfolio modeling software, to determine a forecasted price of energy from natural gas generation sources of $84.65/MWh.

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Technical Memorandum			
To:	Mike Brodie, P.E. Chugach Electric Association	Project:	Eklutna Fish & Wildlife Project
From:	Sean P. Ellenson, P.E. McMillen, Inc.	cc:	
Date:	August 30, 2023		
Subject:	Supporting Data for Cost Effectiveness Model		

Revision Log

Revision No.	Date	Revision Description
0	08/30/2023	Draft

1.0 Introduction

A cost effectiveness model was utilized to compare various alternative protection, mitigation, and enhancement measures proposed by stakeholders as part of the Eklutna Fish & Wildlife Program. To capture the financial considerations of each proposed alternative, the capital costs, operations and maintenance (O&M) costs, and replacement energy costs must be annualized over the 35-year period of the agreement. This memorandum defines the methodology and components of the financial analysis that went into determining the annualized costs and ultimately the estimated ratepayer and taxpayer impacts for each proposed alternative.

2.0 Annualized Costs

To determine the annualized cost of each comprehensive alternative proposed as part of the alternatives analysis process, the components of capital costs, O&M costs, and replacement energy costs were evaluated. The details of this evaluation are presented in the following subsections.

2.1 Capital Expenditures

The estimated capital expenditures for each proposed alternative were based on the class 5 opinion of probable construction costs (OPCC) developed for each measure as part of the Phase 1 engineering design (McMillen, Eklutna Fish & Wildlife Project. Engineering Feasibility Study - Class 5 Opinion of Probable Construction Costs 2023). The estimated costs for each measure are defined in Table 2-1.

Table 2-1. Class 5 OPCC - Cost Summary.

PME Measure		Total Median Cost	Expected Estimate Cost Range Class 5 (-50% to +100%)		
A	Dam Release Modifications	$6,680,000	$3,340,000	to	$13,360,000
B	Siphon Bypass Pipeline	$22,371,500	$11,186,000	to	$44,743,000
C	AWWU Portal Release Facility	$5,546,500	$2,773,000	to	$11,093,000
D	AWWU Pipeline Release Facility	$2,248,300	$1,124,000	to	$4,497,000
E	Bypass Tunnel Release	$76,747,200	$38,374,000	to	$153,494,000
F	Channel Excavation	$569,000	$285,000	to	$1,138,000
G	Lach Q'atnu Creek Re-Route	$1,523,000	$762,000	to	$3,046,000
H	Spillway Modifications - Tainter Gate	$5,574,300	$2,787,000	to	$11,149,000
I	Spillway Modifications - Fixed Wheel Gate	$6,573,500	$3,287,000	to	$13,147,000
J	Gravity Flow Fish Ladder	$16,670,300	$8,335,000	to	$33,341,000
K	Variable Exit Fish Ladder	$17,569,600	$8,785,000	to	$35,139,000
L	Pumped Supply and Slide Fish Ladder	$15,240,200	$7,620,000	to	$30,480,000
M	Trap and Haul Facility	$8,336,200	$4,168,000	to	$16,672,000
N	Floating Surface Collector	$57,557,000	$28,779,000	to	$115,114,000
O	Fish Exclusion Barrier	$3,125,600	$1,563,000	to	$6,251,000
P	Replacement Dam	$113,344,500	$56,672,000	to	$226,689,000
Q	Lakeside Trail Improvements	$373,600	$187,000	to	$747,000
R	AWWU Maintenance Road Crossings	$2,941,500	$1,471,000	to	$5,883,000
S	Physical Habitat Manipulation	$1,469,200	$735,000	to	$2,938,000

A comprehensive alternative proposed by a stakeholder, owner, or interested party combines the individual costs of each measure for a combined estimated capital cost. It shall be noted that at the level of design presented in phase 1 engineering these costs carry an accuracy range of -50% to +100%, which will be further refined as part of further phases of engineering design. A summation of capital costs for an example comprehensive alternative proposed as part of the Fish & Wildlife Program is presented in Table 2-2.

Table 2-2. Example Comprehensive Alternative Cost Summary.

PME Measure	Capital Cost
AWWU Portal Release Facility:	$5,547,000
AWWU Maintenance Road Crossings:	$2,942,000
Lakeside Trail Improvements:	$374,000
Comprehensive Capital Cost:	$8,863,000

To annualize the cost of the capital expenditures over 35 years, a discount rate is applied to take into account the time value of capital costs spread over the 35-year program. The discount rate utilized by the Hydro Project owners for assessing future cash flows is equal to 5%. In addition to the discount rate applied for assessing future cash flow, the Regulatory Commission of Alaska (RCA) sets a Times Interest Earned Ratio (TIER) which must be applied on assessing future interest payments as part of the equation for setting utility rates. The TIER is only applied to assess capital cost cashflow for Chugach Electric Association (CEA) and Matanuska Electric Association (MEA) and is currently set at 1.75x and 1.60x, respectively.

To assess the responsibility of these costs per Project Owner, the annualized capital costs must vary based on the TIER and ownership of the project by entity. The breakdown of project ownership for capital costs associated with the Project is presented in Table 2-3 based on the comprehensive alternative discussed within this section. The 35-year annualized cost variation based on the required TIER is presented in Table 2-4. The annualized cost for the purposes of ratepayer impacts based on project ownership by utility is presented in Table 2-5.

Table 2-3. Project Ownership - Capital Expenditures.

Entity	Ownership
Chugach Electric Association	64.29%
Matanuska Electric Association	16.67%
Municipality of Anchorage	19.04%

Table 2-4. 35-Year Annualized Capital Costs with Varied TIER.

Description	35-Year Annualized Cost
Capital Cost	$8,863,000
35-Yr Annualized Cost; 1.75x TIER	$819,000
35-Yr Annualized Cost; 1.60x TIER	$760,000
35-Yr Annualized Cost; No TIER	$541,000

Table 2-5. 35-Year Annualized Capital Costs by Owner.

Entity	35-Year Annualized Cost
Chugach Electric Association	$527,000
Matanuska Electric Association	$127,000
Municipality of Anchorage	$103,000

2.2 Operations and Maintenance Annualized Costs

The estimated O&M costs for each proposed alternative were based on estimates developed for each measure as part of the Phase 1 engineering design (McMillen, Eklutna Fish & Wildlife Project. Engineering Feasibility Study - Class 5 Opinion of Probable Construction Costs 2023). The estimated O&M costs for each measure are defined in Table 2-6.

Table 2-6. O&M Cost Summary.

PME Measure		O&M Cost
A	Dam Release Modifications	$565,500
B	Siphon Bypass Pipeline	$664,300
C	AWWU Portal Release Facility	$196,300
D	AWWU Pipeline Release Facility	$196,300
E	Bypass Tunnel Release	$210,600
F	Channel Excavation	$0
G	Lach Q'atnu Creek Re-Route	$19,500
H	Spillway Modifications - Tainter Gate	$32,500
I	Spillway Modifications - Fixed Wheel Gate	$32,500

PME Measure		O&M Cost
J	Gravity Flow Fish Ladder	$604,500
K	Variable Exit Fish Ladder	$657,800
L	Pumped Supply and Slide Fish Ladder	$813,800
M	Trap and Haul Facility	$200,200
N	Floating Surface Collector	$1,773,200
O	Fish Exclusion Barrier	$37,700
P	Replacement Dam	$299,000
Q	Lakeside Trail Improvements	$0
R	AWWU Maintenance Road Crossings	$0
S	Physical Habitat Manipulation	$0

A comprehensive alternative proposed by a stakeholder, owner, or interested party combines the individual costs of each measure for a combined estimated O&M cost. A summation of O&M costs for an example comprehensive alternative proposed as part of the Fish & Wildlife Program is presented in Table 2-7.

Table 2-7. Example Comprehensive Alternative Cost Summary.

PME Measure	Capital Cost ($)
AWWU Portal Release Facility:	$196,300
AWWU Maintenance Road Crossings:	$0
Lakeside Trail Improvements:	$0
Comprehensive O&M Cost:	$163,800

To annualize the cost of the O&M expenditures over 35 years, an annual increase is applied to consider the increasing price of labor and materials over time. The escalation is based on historical trends for the utilities and is equal to an annual increase of 3% per year.

To assess the responsibility of these costs per Project Owner, the annualized O&M costs vary based on the ownership of the project by entity and is equal to the ownership breakdown of the capital costs of the project, as presented in Table 2-8. The 35-year annualized cost including annual escalation is equal to $345,000/yr based on the comprehensive alternative proposed as part of the Fish & Wildlife Program. The annualized cost for the purposes of ratepayer impacts based on project ownership by utility is presented in Table 2-9.

Table 2-8. Project Ownership – O&M Expenditures.

Entity	Ownership
Chugach Electric Association	64.29%
Matanuska Electric Association	16.67%
Municipality of Anchorage	19.04%

Table 2-9. 35-Year Annualized O&M Costs by Owner.

Entity	35-Year Annualized Cost
Chugach Electric Association	$221,800
Matanuska Electric Association	$57,500
Municipality of Anchorage	$65,688

2.3 Replacement Energy Annualized Costs

The estimated replacement energy costs for each comprehensive alternative are based on the hydropower operations model developed as part of the Year 1 study results (McMillen 2023). For the comprehensive alternative proposed as part of the Fish & Wildlife Program the replacement energy is based on reduced flow to the Eklutna Power Plant as a result of flow releases into the Eklutna River. The proposed release regime is presented in Table 2-10.

Table 2-10. Eklutna River Flow Release by Month.

Month	Flow Rate (cfs)
Jan	27
Feb	27
Mar	27
Apr	27
May	34
Jun	40
Jul	40
Aug	40
Sep	40
Oct	40
Nov	35
Dec	27

Modifying reservoir and powerhouse operations to release the proposed flow regime into Eklutna River results in an average annual decrease of generation of 15,725 MWh/yr. To determine the value of energy losses from the Eklutna Power Plant the value of the replacement energy within MEA and CEA's system was studied. In the case of both utilities, any energy lost from the facility would be replaced by one of the multiple natural gas generation facilities located in the local system.

The value of energy produced from a natural gas generation facility is directly tied to the price of natural gas. In June 2023 the local provider of natural gas, Enstar Natural Gas Company LLC, presented to the RCA a range of gas prices expected in 2026. The price of gas ranged from a low of $12.20 per thousand cubic feet (MCF) to $13.90/MCF with a median expected value of $13.05/MCF. Using the median expected gas price, the Project Owners performed a production cost model run of energy generation on the Railbelt system utilizing GenTrader®, an energy portfolio modeling software, to determine a forecasted price of energy from natural gas generation sources of $84.65/MWh. Based on the median price of replacement energy, an initial cost of replacement energy during Year 1 was determined to be $1,330,000.

To annualize the cost of the replacement energy over 35 years, an annual increase is applied to consider the increasing price of gas over time. The escalation is based on historical trends for the utilities and is equal to an annual increase of 1% per year. Considering the annual increase in energy costs, the 35-year average annualized cost of replacement energy is equal to $1,593,000/Yr.

To assess the responsibility of these costs per Project Owner, the annualized replacement energy costs vary based on the ownership of the project by entity as presented in Table 2-11. The annualized cost for the purposes of ratepayer impacts based on project ownership by utility is presented in Table 2-12.

Table 2-11. Project Ownership – Replacement Energy Costs.

Entity	Ownership
Chugach Electric Association	64.29%
Matanuska Electric Association	35.71%
Municipality of Anchorage	0%

Table 2-12. 35-Year Annualized Replacement Energy Costs by Owner

Entity	35-Year Annualized Cost
Chugach Electric Association	$1,024,000
Matanuska Electric Association	$569,000
Municipality of Anchorage	$0

2.4 Comprehensive Cost Summary

After determining the individual annualized costs of each sub-component by utility ownership structure, the overall annualized cost per comprehensive alternative is combined to assess impacts to each Project Owner. The combined annual costs by utility are presented in Table 2-13.

Table 2-13. 35-Year Annualized Cost Summary.

Entity	35-Year Annualized Cost
Chugach Electric Association	$1,772,800
Matanuska Electric Association	$753,500
Municipality of Anchorage	$168,700

3.0 Ratepayer & Taxpayer Impacts

Each of the utilities is a member-owned not-for-profit cooperative of which rate schedules are set by the RCA based on annual expenses for O&M, capital expenditures, labor, and debt service if applicable. The Municipality of Anchorage must fund expenses through the collection of property taxes on an annual basis. The annualized costs associated with ownership of this project will have direct impacts to member utility rates and property taxes for households residing in the Anchorage area. The energy rate increases based on annual expenditures are 0.3% and 1.12% per $1,000,000 spent for CEA and MEA, respectively. On a property tax basis, the Municipality of Anchorage must increase property taxes by 0.03 mils per $1,000,000 spent, with 0.03 mils being defined as a $3 increase in property tax per year per $100,000 in property value. A summary of the ratepayer and taxpayer impacts based on the example comprehensive alternative is presented in Table 3-1.

Table 3-1. Summary of Ratepayer and Taxpayer Impacts.

Entity	Ratepayer / Taxpayer Impacts
Chugach Electric Association	+0.53%
Matanuska Electric Association	+0.84%
Municipality of Anchorage	0.0051 mils $0.51/$100k

4.0 References

McMillen. 2023. *Eklutna Fish & Wildlife Project. Engineering Feasibility Study - Class 5 Opinion of Probable Construction Costs.* https://eklutnahydro.com/documents/.

—. 2023. *Hydropower Operations Modeling Study Report.* https://eklutnahydro.com/documents/.

Final Form

LONG-TERM WATER TRANSPORTATION AGREEMENT

by and between

Anchorage Water and Wastewater Utility

as

Provider

And

Chugach Electric Association, Inc,

Matanuska Electric Association, Inc., and the Municipality of Anchorage

as

Owners

Dated as of [_____][1]

EKLUTNA RIVER RELEASE FACILITY

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[1] **Note to Accompany Final Draft**: This Agreement has been form agreed as between the Parties but will not be signed by the MOA until after Governor approval of the Fish and Wildlife Plan has occurred and such signatures have been authorized by the Anchorage Assembly. Prior to execution, this footnote can be deleted from the draft.

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LONG-TERM WATER TRANSPORTATION AGREEMENT

This LONG-TERM WATER TRANSPORTATION AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered into by and between Anchorage Water and Wastewater Utility ("AWWU"), and Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("MEA"), and the Municipality of Anchorage ("MOA") (each of Chugach, MEA, and MOA is an "Owner" and collectively they are referred to as the "Owners"). The Owners and AWWU are sometimes referred to herein as a "Party" or collectively as the "Parties".

R E C I T A L S

WHEREAS, the Owners own and operate the Eklutna Hydroelectric Project, commissioned in 1954, which includes an earthen dam at the outlet of Eklutna Lake and which, under normal operating conditions, diverts all inflows of water into the Eklutna Lake for hydroelectric production rather than into the Eklutna River;

WHEREAS, AWWU owns and operates certain existing water transportation facilities integrated with the Eklutna Hydroelectric Project as further described and depicted in Exhibit B (the "AWWU Facilities") located near the outlet of Eklutna Lake and adjacent to the Eklutna River, which AWWU uses to provide public water supply for its customers;

WHEREAS, the Owners are parties to the 1991 Agreement (as defined below), pursuant to which they are required to develop and implement a Fish and Wildlife program every thirty-five years to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Eklutna Hydroelectric Project (the "Fish and Wildlife Program");

WHEREAS, as a result of the process set forth in the 1991 Agreement, the Owners have developed a draft Fish and Wildlife Program in which the Owners propose to: (1) develop an Eklutna River release facility consisting in part of AWWU Facilities and facilities constructed pursuant to the Interconnection Agreement, all as further described in Exhibit A and as will be depicted as-built in the Operating Procedures (the "Facility"); (2) to transport water from Eklutna Lake through the Facility and release it into the Eklutna River; and (3) to maintain and operate the Facility;

WHEREAS, in connection with the execution of this Agreement and in order to enable future implementation of the Fish and Wildlife Program (if approved by the Governor of Alaska) and address compensation for AWWU's use of Owners' Water Rights, the Parties also entered into a Water Facilities Interconnection Agreement (the "Interconnection Agreement") pursuant to which the Parties will construct the Facility, and a new Public Water Supply Agreement (the "Water Supply Agreement");

WHEREAS, after the Facility achieves Final Acceptance pursuant to the terms of the Interconnection Agreement and all other conditions precedent set forth herein are achieved, (1) the Owners' desire to engage AWWU to provide, and AWWU desires to provide, the Water Transportation Services; and (2) the Owners and AWWU each desire to operate and maintain portions of the Facility pursuant to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the premises of this Agreement, the Interconnection Agreement, and the Water Supply Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owners and AWWU, intending to be legally bound, hereby agree as follows:

ARTICLE 1.
DEFINITIONS; INTERPRETATION; EXHIBITS

1.1 Defined Terms. Capitalized terms used in this Agreement without other definition shall have the meanings set forth in Schedule 1.1, unless the context requires otherwise.

1.2 Interpretation. As used in this Agreement, the terms "herein," "herewith" and "hereof" are references to this Agreement, taken as a whole; the terms "includes" or "including" shall mean "including, without limitation"; and references to a "Section," "Article", "Exhibit" or "Schedule" shall mean a Section, Article, Exhibit or Schedule of this Agreement, as the case may be, unless in any such case the context requires otherwise. All references to a given Exhibit, Schedule, agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made. A reference to a Person includes its permitted successors and permitted assigns. The singular shall include the plural and the masculine shall include the feminine and neuter, and vice versa.

ARTICLE 2.
TERM

2.1 Term.

(a) The term of this Agreement shall commence on the Effective Date and continue until the conclusion of the Delivery Term or unless earlier terminated pursuant to the terms of this Agreement (the "Term").

(b) AWWU's obligation to provide the Water Transportation Services and the Parties' obligations to commence the Operational Work hereunder shall be effective on the date upon which the Facility achieves Final Acceptance under terms of the Interconnection Agreement (the "Delivery Term Effective Date") and shall continue in full force and effect for 35 years thereafter, subject to any early termination provisions set forth herein (the "Initial Delivery Term"). At the conclusion of the Initial Delivery Term, the Agreement shall automatically renew each year, unless a Party notifies the other Party at least 60 days prior to the expiration of the Initial Delivery Term or each extended year thereafter that it does not wish to renew the Agreement. The Initial Delivery Term as so extended is the "Delivery Term".

ARTICLE 3.
WATER TRANSPORTATION AND SCHEDULING

3.1 Water Transportation Services. During the Delivery Term, AWWU shall, pursuant to the schedules set forth in Section 3.2 and the Operating Procedures developed pursuant to Section 5.1, transport Owners' Water, comingled with and undifferentiated from AWWU's Water, through AWWU Facilities from the Injection Point to the Delivery Point, in any amount requested

by the Owners (the "Water Transportation Services"), provided, that, such requested amount shall under no circumstances: (a) inhibit the ability of AWWU to deliver a daily flow rate of at least 41 MGD to the downstream Eklutna Water Treatment Facility at a pressure sufficient to allow normal operation of the EWTF as currently configured; (b) exceed the hydraulic capacity or design criteria of the AWWU Facilities; or (c) exceed any then-active Curtailment Limit (clauses (a)-(c), the "Water Release Limits").

3.2 Scheduling.

(a) During the first week of each month of each year of the Delivery Term, and in accordance with the Operating Procedures, the Owners shall provide AWWU with a written anticipated daily Owners' Water release schedule for the following month (e.g., on the first Business Day of January, the Owners shall provide the anticipated schedule for each day of February) based on Eklutna Lake levels and Fish and Wildlife Program obligations, all subject to the Water Release Limits (the "Monthly Water Release Schedule").

(b) No later than the last Business Day of each week of the Delivery Term, the Owners may submit in writing in accordance with the Operating Procedures, updated daily Owners' Water release amounts for the following week, provided that under no circumstance shall such updates exceed the Water Release Limits.

3.3 Metering.

(a) At all times during the Delivery Term, AWWU shall maintain an Injection Point Flow Meter to measure real-time water flowing into AWWU's Facilities from Eklutna Lake.

(b) At all times during the Delivery Term, the Owners shall maintain the Delivery Point Meter to measure real-time water quantities flowing into the River Release Structure at the Delivery Point, which shall be used to calculate the amount of Owners' Water received by the Owners as part of the Water Transportation Services.

(c) Each Party shall take reasonable measures to ensure that the other Party has access to real-time water flow quantity information from both the Injection Point Flow Meter and the Delivery Point Meter, as applicable, pursuant to procedures set forth in the Operating Procedures.

(d) For each month of the Delivery Term, the Owners shall prepare a written report for AWWU detailing the actual water flow amounts through the Injection Point Flow Meter and the Delivery Point Meter, and the amount of Owners' Water delivered to the Delivery Point, all as compared with the Monthly Water Release Schedule (as updated by Section 3.2(b) and pursuant to the procedures detailed in the Operating Procedures).

ARTICLE 4.
OPERATION AND MAINTENANCE

4.1 AWWU Facilities and AWWU's Portion. Throughout the Delivery Term, the AWWU Facilities and AWWU's Portion shall be exclusively operated, managed, and maintained by AWWU or any AWWU designee in accordance with all Governmental Approvals, applicable

Law, Prudent Industry Standards, all subject to the Owners' maintenance access rights to the Owners' Isolation Valve as set forth in Section 4.3.

4.2 Owners' Portion. Throughout the Delivery Term, the Owners' Portion shall be exclusively operated, managed, and maintained by the Owners or any designee of the Owners in accordance with all Governmental Approvals, applicable Law, and Prudent Industry Standards.

4.3 Owners' Isolation Valve. Throughout the Delivery Term, the Owners shall be responsible for all operation and maintenance of the Owners' Isolation Valve contained within AWWU's Portion. As part of the Access License granted by AWWU to the Owners pursuant to Section 9.1, AWWU shall ensure that at all times the Owners have access to the Owners' Isolation Valve as necessary to enable the Owners to maintain and operate the Owners' Isolation Valve in accordance with the Operating Procedures, provided, that, AWWU may from time to time assume operational responsibility for the Owners' Isolation Valve temporarily only to the extent necessary to address urgent security or safety issues and to avoid putting AWWU's public water supply at risk of interruption or contamination.

4.4 Approvals. Throughout the Delivery Term, AWWU shall be responsible for obtaining and maintaining all Approvals necessary for the provision of Water Transportation Services and all Operational Work set forth herein, except for those Approvals set forth on Exhibit C hereto, for which the Owners will be responsible for obtaining and maintaining (the "Owners' Approvals"). Each Party shall provide the other Party with such reasonable assistance as such first Party may request in obtaining applicable Approvals.

4.5 Duty to Cooperate. Each Party shall, throughout the Delivery Term, cooperate with the other Party as necessary to facilitate the provision of the Water Transportation Services, the Operational Work and all other responsibilities and obligations under this Agreement in a timely manner.

4.6 Skill and Expertise. Each Party shall, throughout the Delivery Term, use commercially reasonable efforts to ensure that all employees and contractors engaged in connection with the provision of the Water Transportation Services, the Operational Work or any other maintenance of, operation of, service of, and any future modification to (to include design, construction, commissioning, and installation) the Facility shall have the appropriate and necessary experience, skill and expertise to carry out the tasks efficiently, professionally, and in accordance with Prudent Industry Standards and applicable Law.

4.7 Successor Operator. If, during the Term, the Owners wish to no longer be responsible for any of the operation and maintenance responsibilities set forth in Sections 4.2 and 4.3, for any reason, prior to turning over such operation and maintenance to a third-party entity, AWWU must consent to such third-party entity, such consent not to be unreasonably withheld, conditioned, or delayed. For the sake of clarity, this Section 4.7 does not impact the Owners' right to freely use Subcontractors to conduct any of its responsibilities under Sections 4.2 and 4.3; this Section 4.7 only applies in situations where the Owners plan to no longer be ultimately liable for such obligations hereunder.

ARTICLE 5.
OPERATING PROCEDURES

5.1 Operating Procedures.

(a) At least 60 days prior to the commencement of the Delivery Term, AWWU and the Owners shall develop written detailed operating procedures governing the Water Transportation Services pursuant to the terms in this Agreement (the "Operating Procedures"). Such Operating Procedures shall comply with all applicable Approvals, Prudent Industry Standards and applicable Law and shall, at a minimum, set forth (i) the agreed methods for day-to-day communication and reporting requirements of each Party; (ii) key personnel lists for AWWU and for the Owners necessary for the facilitation of the Operational Work and the provision of the Water Transportation Services; (iii) processes for planning and communication between the Parties to coordinate regarding scheduling pursuant to Section 3.2 and Excused Events pursuant to Article 8; (iv) reporting and determining Curtailment Durations and Curtailment Limits for Excused Events pursuant to Article 8; (v) sharing of information from the Delivery Point Meter and the Injection Point Flow Meter pursuant to Section 3.3; (vi) ongoing reporting requirements of the Owners of metered water flow quantities measured at the Delivery Point and the Injection Point pursuant to Section 3.3; (vii) the process for obtaining and maintaining necessary Approvals throughout the Delivery Term; (viii) reference to necessary Facility equipment specifications and operation and maintenance manuals; (ix) inclusion of the final as-built drawings for the Facility developed pursuant to the Interconnection Agreement; (x) a clear process for ensuring that at all times during the Delivery Term, the Water Release Limits are met; (xi) each Party's legal notice address information for the delivery of notices required under this Agreement; and (xii) any other procedures related to the provision of the Water Transportation Services and Operational Work that the Parties deem necessary. Such Operating Procedures shall include any and all detailed definitions, drawings, and descriptions of the AWWU Facilities and the Facility as necessary to facilitate the coordination and responsibilities of the Parties as set forth herein. In the event of any disagreement in the development of the Operating Procedures, the Parties shall work in good faith to promptly resolve differences. AWWU's actual costs of developing such Operating Procedures shall be reimbursed by the Owners pursuant to Section 6.3.

(b) Throughout the Delivery Term, the Operating Procedures shall be updated from time to time by AWWU as needed upon written notice to the Owners, or upon written request by the Owners, to reflect ministerial changes to ensure continued accuracy and relevancy (e.g. personnel, contact/notice information, and Facility equipment upgrades), provided, that, such changes made pursuant to this Section 5.1(b) shall under no circumstances materially modify the obligations and responsibilities of the Parties as set forth herein.

ARTICLE 6.
COSTS; TAXES; REIMBURSEMENT

6.1 Costs and Compensation. Unless specifically stated otherwise, all costs borne initially by each Party in connection with the exercising of its rights and the performance of its obligations under this Agreement shall be the responsibility of such Party initially incurring such costs. In partial consideration of the costs to AWWU incurred in provision of the Water Transportation Services provided under this Agreement for the benefit of the Owners, the Parties

entered into the Water Supply Agreement for the same duration as this Agreement, pursuant to which AWWU shall have access to the use of certain of the Owners' facilities without additional compensation for its provision of public water supply.

6.2 Taxes. The Owners shall be responsible for and shall reimburse AWWU for any sales, use, gross receipts, occupation, and other taxes (excluding income, and franchise tax) imposed upon AWWU from time to time payable related to AWWU's provision of services set forth herein.

6.3 Reimbursement. For those AWWU costs that the Owners are specifically required to reimburse hereunder, AWWU shall submit to each of the Owners a detailed accounting of such cost for which AWWU is seeking reimbursement, together with such supporting documentation as the Owners shall reasonably require, including a reference to the applicable section of this Agreement demonstrating the Owners' responsibility for such costs. Within sixty (60) Days after receiving a properly completed application for reimbursement and all required supporting documentation, each of the Owners shall individually: (i) pay AWWU their respective Cost Responsibility Proportion of the amounts set forth in AWWU's application for payment; or (ii) notify AWWU in writing that such Owner believes in good faith that a requested payment amount is not due and owing and shall request the commencement of negotiations pursuant to Section 12.5. In addition to the requirement that each Owner pay its Cost Responsibility Proportion as required in this Section, the Owners shall each be jointly and severally liable for all reimbursement obligations owed to AWWU under this Article 6.

ARTICLE 7.
TITLE

7.1 Title; Custody; Risk of Loss

(a) Legal title to and ownership of all Owners' Water shall remain with the Owners at all times during the provision of Water Transportation Services.

(b) For Owners' Water flowing through AWWU's Facilities as part of the Water Transportation Services: control, custody and risk of loss of such Owners' Water shall transfer from the Owners to AWWU at the Injection Point, where such Owners' Water shall comingle with AWWU's Water until reaching the Delivery Point, at which point the custody, control and risk of loss for an amount of water equal to the original amount of Owners' Water released into the AWWU Facilities at the Injection Point shall pass back to the Owners.

ARTICLE 8.
EMERGENCY CURTAILMENT; FORCE MAJEURE

8.1 Outages

(a) Planned Outages. AWWU shall be excused from the performance of the Water Transportation Services in the event of Planned Outages noticed by and compliant with this Section 8.1(a). AWWU and the Owners shall develop a schedule and protocol, pursuant to the procedures set forth in the Operating Procedures, for Planned Outages of the Facility or the AWWU Facilities in order to allow for routine maintenance and inspection activities. Such

schedule for each Planned Outage shall specify the associated Curtailment Limits and Curtailment Duration. Such schedule and protocol shall take into account routine hydropower operations to ensure that Planned Outages only be scheduled at times when there is sufficient water available in Eklutna Lake to allow water releases through the maintenance gate of the diversion dam in the amounts necessary for the Owners to meet their obligations under the Fish and Wildlife Program. In addressing Planned Outages on AWWU Facilities and the AWWU Portion, AWWU shall use commercially reasonable efforts to minimize the length of the Curtailment Duration and the level of Curtailment Limits. For the sake of clarity, planned outages to AWWU Facilities or other AWWU property downriver of the Isolation Valve Structure do not meet the definition of Planned Outage and are addressed in Section 8.1(c)(i) below.

(b) Forced Outages. AWWU shall be excused from the performance of the Water Transportation Services in the event of Forced Outages noticed by and compliant with this Section 8.1(b). AWWU shall (i) use commercially reasonable efforts to notify the Owners of any Forced Outage, and (ii) provide an initial written or email estimate of the expected Curtailment Duration and Curtailment Limit within two (2) hours thereafter. In managing Forced Outages, AWWU shall use commercially reasonable efforts to minimize the duration of resulting Curtailment Duration and the level of Curtailment Limits. For the sake of clarity, forced outages to AWWU Facilities or other AWWU property downriver of the Isolation Valve Structure do not meet the definition of Forced Outage and are addressed in Section 8.1(c)(ii) below. During a Forced Outage, the Owners shall be responsible for complying with their Fish and Wildlife Program obligations through other means (such as releasing water into the river through the maintenance gate of the diversion dam).

(c) Outages to Downstream AWWU Infrastructure.

(i) In the event of any planned outage in the AWWU Facilities or in other AWWU property downstream of the Isolation Valve Structure that, without the closing of the Owners' Isolation Valve, would have an effect on the flow of water through the AWWU Facilities from the Injection Point to the River Release Structure, AWWU must notify the Owners at least thirty (30) days in advance of such planned outage to allow the Owners to adjust the Owners' Isolation Valve in such a way that allows for continued Water Transportation Services during such outage.

(ii) In the event of any forced, unexpected outage in the AWWU Facilities or at the Eklutna Water Treatment Facility downstream of the Isolation Valve Structure that, without the closing of the Owners' Isolation Valve, would have an effect on the flow of water through the AWWU Facilities from the Injection Point to the River Release Structure, AWWU shall notify the Owners as soon as possible to allow for the Owners to adjust the Owners' Isolation Valve to allow for the greatest possible continued flows of water into the Eklutna River through the River Release Structure during the duration of such forced outage.

8.2 Force Majeure. Each Party shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, except for the Owners' obligation to reimburse AWWU for costs pursuant to Section 6.3, if and to the extent that such Party's failure of, or delay in, performance is due to a Force Majeure Event; provided, that:

(a) such Party gives the other Party prompt written notice describing the particulars of the Force Majeure Event as soon as is reasonably practicable after becoming aware of the occurrence of the Force Majeure Event;

(b) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(c) no obligations of affected Party that arose before the occurrence of the Force Majeure Event causing the suspension of performance shall be excused as a result of such Force Majeure Event, unless and only to the extent that the performance of such obligations is impaired by the Force Majeure Event;

(d) the Party uses diligent commercially reasonable efforts to overcome or mitigate the effects of the Force Majeure Event; and

(e) when the Party is able to resume performance of its obligations under this Agreement, such Party shall give the other Party written notice to that effect and shall promptly resume performance hereunder.

ARTICLE 9.
ACCESS; ROADS AND BRIDGES

9.1 Site Access. Throughout the Delivery Term, AWWU shall, with respect to the land and access roads within its control, provide the Owners with a non-exclusive license to access the Site (through use of AWWU's access road), AWWU's Portion, and the AWWU Facilities as necessary to enable the Owners to operate and maintain the Owners' Isolation Valve and the Owners' Portion, and as otherwise reasonably necessary to facilitate the Owners' rights and obligations hereunder (the "Access License"), provided, that, AWWU may from time to time limit access to the Site or the AWWU Facilities temporarily only to the extent necessary to address reasonable security or safety issues and to avoid putting AWWU's public water supply at risk of interruption or contamination. To the extent that any additional access permissions from third-party landowners adjacent to the Site may be required for the Owners to exercise their rights or perform their obligations hereunder, obtaining such Approvals shall be the responsibility of the Owners, subject to AWWU's duty to assist and cooperate under Section 4.5, and provided that such assistance and cooperation with respect to such third-party approvals may require that AWWU be the first and primary point of contact with such third party in situations where AWWU has an existing easement or applicable existing relationship with such third party. AWWU shall be reimbursed for any and all of its reasonable and documented costs or expenses of providing such assistance and cooperation with respect to such third-party approvals. To the extent that AWWU adds access or other security or safety limitations to the Site, to AWWU's Portion or to the AWWU Facilities, the Owners and AWWU shall cooperate in ensuring continuous access for the Owners and their contractors to enable operation and maintenance of the Owners' Isolation Valve and the Owners' Portion, subject to the new limitations.

9.2 AWWU Access Road. AWWU shall be responsible, at its own expense, for brushing, clearing, plowing, and maintaining its access road and all bridges thereon to the AWWU Facilities, both upstream and downstream of the Facility. The Owners may use such access road

as part of its Access License granted pursuant to Section 9.1, and may, at their discretion, brush, clear, and plow the access road as needed to facilitate the Owners' access to the Facility, provided that under no circumstances shall the Owners be required to conduct such brushing, clearing or plowing.

9.3 Access Bridges. Pursuant to the Interconnection Agreement, the Owners agreed to install Access Bridges to improve Facility access and account for the additional traffic on the AWWU access road connected with the activities described in the Interconnection Agreement and this Agreement. As set forth in the Interconnection Agreement, upon completion of Access Bridge construction, the full responsibility for (and associated costs of) such bridge maintenance passes to AWWU, provided, that the Owners shall be responsible for any maintenance associated with damage caused by the Owners' gross negligence or intentional misconduct.

ARTICLE 10.
LIMITATIONS ON LIABILITY

10.1 Aggregate Limitation of Liability. Notwithstanding any other provision of this Agreement, the total aggregate liability of the Owners and the total aggregate liability of AWWU arising out of or relating to this Agreement, from any and all causes, whether based on contract, tort (including negligence), strict liability or any other cause of action, shall in no event exceed ten million dollars ($10,000,000.00) for AWWU, and ten million dollars ($10,000,000.00) for the Owners collectively, provided that such limit shall not apply in the case of such Party's (i) gross negligence or willful misconduct, (ii) third-party indemnity obligation, or (iii) breach of any representation or warranty.

10.2 CUMULATIVE REMEDIES. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, OR IF A REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY NON-EXCLUSIVE, THE NON-DEFAULTING PARTY SHALL HAVE THE RIGHT TO EXERCISE ALL RIGHTS AND REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY; PROVIDED, HOWEVER, THAT THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED.

10.3 WAIVER OF CERTAIN DAMAGES. EXCEPT WITH RESPECT TO INDEMNIFICATION OF THIRD-PARTY CLAIMS PURSUANT TO ARTICLE 11, OR AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, BUSINESS INTERRUPTION OR SIMILAR DAMAGES, WHETHER BY STATUTE, IN TORT, BY CONTRACT OR OTHERWISE.

ARTICLE 11.
INDEMNIFICATION

11.1 Indemnity. To the fullest extent permitted by Law, each Party shall indemnify, hold harmless and defend the other Party and its directors, officers, shareholders, partners, agents and employees, and the Affiliates of the same (collectively, the "Indemnified Parties"), from and against any and all claims, loss, damage, expense and liability, including court costs and reasonable

attorneys' fees (collectively, "Liabilities") incurred by the Indemnified Parties in connection with or arising from: (i) the Water Transportation Services and (ii) any claim for physical damage to or physical destruction of any part of the Facility, the AWWU Facilities, or death of or bodily injury to any person, to the extent such Liabilities were caused by the negligence of the Indemnifying Party or its agents or employees or others under such Indemnifying Party's control, except any Liabilities incurred due to the negligence or willful misconduct of an Indemnified Party. For the purpose of the definition of "Indemnified Parties" AWWU shall not be considered to be an "Affiliate" of the MOA.

11.2 Additional Owners Indemnity. To the fullest extent permitted by Law, the Owners shall indemnify, hold harmless, and defend AWWU and its Indemnified Parties from any Liabilities incurred by AWWU and its Indemnified Parties arising from damage to AWWU's water line and other infrastructure, including but not limited to its infrastructure downstream of the Facility (*i.e.* conditions caused by scouring or erosion of the river bed or banks that damage AWWU's water line and/or facilities) as a direct result of the instream water flows conveyed into the Eklutna River as part of the Water Transportation Services. The Owners shall further indemnify, defend and hold AWWU harmless from any Liabilities directly related to fish and wildlife mitigation measures and arising out of normal operation of the AWWU Facilities, the Facility, or any other facilities of AWWU, in a manner consistent with this Agreement, the Interconnection Agreement, the Water Supply Agreement, Prudent Industry Standards, the most current edition of the AWWU Design and Construction Practices Manual, the Municipality of Anchorage Standard Specifications and Anchorage Municipal Code, unless such Liabilities arose out of the negligence, violation of Law, or intentional misconduct by AWWU.

11.3 Defense of Claims. A Party with an indemnification obligation pursuant to this ARTICLE 11 (an "Indemnifying Party") shall have the right to defend the Indemnified Parties pursuant to this ARTICLE 11 by counsel of the Indemnifying Party's selection (including insurance counsel) reasonably satisfactory to the Indemnified Party, unless in the opinion of counsel for the Indemnifying Party a conflict of interest between the Parties may exist with respect to such claim. If the Indemnifying Party does not assume the defense of the Indemnified Party, or if a conflict precludes counsel for the Indemnifying Party from providing the defense, then the Indemnifying Party shall reimburse the Indemnified Party on a monthly basis for the Indemnified Party's defense through separate counsel of the Indemnified Party's choice. Even if the Indemnifying Party assumes the defense of the Indemnified Party with acceptable counsel, the Indemnified Party, at its sole option, may participate in the defense, at its own expense, with counsel of its own choice without relieving the Indemnifying Party of any of its obligations hereunder. The Parties shall give each other prompt written notice of any asserted claims or actions indemnified against hereunder and shall cooperate with each other in the defense of any such claims or actions. Without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed, no Indemnifying Party shall settle any such claims or actions in a manner that would require any action or forbearance from action by any Indemnified Party.

ARTICLE 12.
DEFAULT AND REMEDIES; TERMINATION; DISPUTE RESOLUTION

12.1 Event of Default. The following shall constitute events of default on the part of either party (each, an "Event of Default") under this Agreement:

(a) If a Party makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of such Party, or if such Party files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition of or readjustment of debts and, in the case of any such proceeding instituted against such Party (but not by such Party) such proceeding is not dismissed within sixty (60) days of such filing;

(b) If a Party fails to comply with any material terms of this Agreement not otherwise set forth as an Event of Default in this Section 12.1(b) and fails to cure or remedy such failure within thirty (30) days after notice and a written demand is made by the non-defaulting Party to the defaulting Party to cure the same or, if such failure cannot be cured within thirty (30) days, the defaulting Party fails to commence to cure such failure within thirty (30) days after such notice and written demand and thereafter diligently pursue such cure to completion, which shall in no event be later than ninety (90) days after such notice;

(c) If a Party defaults under the Water Supply Agreement or the Interconnection Agreement;

(d) If a Party fails to make any payment due hereunder within sixty (60) days after written notice from the non-defaulting Party; or

(e) If any representation or warranty of a Party in this Agreement proves to have been false or misleading in any material respect when made, and such Party has not, within thirty (30) days after written notification thereof from the non-defaulting Party, either fully remedied, or commenced and diligently pursued the remedy, of all adverse impacts on the non-defaulting Party resulting therefrom, all to the reasonable satisfaction of the non-defaulting Party.

12.2 Remedies Upon Event of Default. Upon the occurrence and continuation of an Event of Default, the non-defaulting Party shall have the right to terminate this Agreement and the Water Supply Agreement upon ten (10) days written notice and pursue any other remedy available to such non-defaulting party at law or in equity arising out of such Event of Default, including a claim for monetary damage or specific performance.

12.3 Automatic Cross-Agreement Termination. If this Agreement is terminated for any reason during the Delivery Term, the Interconnection Agreement and the Water Supply Agreement shall automatically terminate effective as of the same date of this Agreement's termination.

12.4 Termination for Failure of Conditions Precedent. If, prior to the Delivery Term, the Owners, in their reasonable discretion, decide to not construct the Facility due to the failure to achieve the Construction Start CPs as defined in the Interconnection Agreement, the Owners may terminate this Agreement without liability.

12.5 Dispute Resolution. In the event of any dispute arising under this Agreement (a "Dispute"), within ten (10) Business Days following notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies.

ARTICLE 13.
REPRESENTATIONS

13.1 General Representations and Warranties. Each Owner and AWWU hereby represents and warrants as of the Effective Date and the Delivery Term Effective Date that:

(a) It is duly organized, validly existing and in good standing under the Laws of the state of its formation and is duly qualified to do business in the jurisdiction where the Site is located.

(b) It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate, municipal, or other action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar Laws relating to the enforcement of creditors' rights generally and by general equitable principles.

(c) It is not in violation of any applicable Law, or any judgment entered by any federal, state, local or other Governmental Authority, which violations, individually or in the aggregate, would adversely affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or (to its best knowledge) threatened against it which, if adversely determined, could have a material adverse effect upon its financial condition, operations, prospects or business, as a whole, or its ability to perform under this Agreement.

(d) No authorization, approval, exemption, or consent of or by any Person is required by it in connection with the execution, delivery, and performance of this Agreement. In addition, each Party represents and warrants to the other Party that the Governmental Approvals required to be obtained by such Party either have been obtained by such Party and are in full force and effect on the date hereof or will be obtained by such Party and will be in full force and effect on or prior to the date on which they are required, under applicable Law, to be in full force and

effect, so as to permit AWWU to perform the Water Transportation Services and the parties to otherwise complete their obligations hereunder.

(e) The execution and delivery of this Agreement, the consummation of the transactions herein contemplated and compliance with the terms and provisions hereof by it will not conflict with or result in a material breach of, or require any consent under, any of its constitutive documents, or any applicable Law, or any agreement or instrument to which it is a party or by which it is bound or to which it is subject, or constitute a material default under any such agreement or instrument.

ARTICLE 14.
NOTICES

14.1 Writing. Except as set forth in Section 14.2, any notice, statement, demand, claim, offer or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be sent by email, facsimile, hand messenger delivery, overnight courier service, or certified mail (receipt requested) to the other Party as follows: (i) prior to the finalization of the Operating Procedures, such notices shall be sent to the addresses set forth in Exhibit E; and (ii) after the finalization of the Operating Procedures, such notices shall be sent to the legal notice addresses listed in such Operating Procedures. Each Party shall have the right to change the address information to which notice shall be sent or delivered or to specify additional addresses to which copies of notices may be sent, in either case by similar notice sent or delivered in like manner to the other Party, which, after the development of the Operating Procedures, shall be reflected in such Operating Procedures. All notices shall be effective upon receipt.

14.2 Technical Communications. Any technical or other communications pertaining to the Facility, the Water Transportation Services, and the Operational Work shall follow the procedures set forth in the Operating Procedures, to be updated from time to time pursuant to Section 5.1(b).

ARTICLE 15.

CONFIDENTIALITY; PUBLIC STATEMENTS

15.1 Confidentiality. The Parties agree that the Parties' proposals, communications, negotiations and information exchanged prior to the Effective Date concerning this Agreement and the development thereof, and technical and other information regarding or relating to the Facility, the AWWU Facilities, the Access Bridges, and the provision of the Water Transportation Services exchanged between the Parties that is marked, or otherwise clearly communicated to the receiving Party as "Confidential" constitutes "Confidential Information" of the disclosing Party. The Owners and AWWU each agree to hold such Confidential Information wholly confidential. Such Confidential Information may only be used by the Parties for the purposes related to the approval, or administration or enforcement of this Agreement.

15.2 Disclosure. Each Party agrees not to disclose Confidential Information of the other Party to any other Person (other than its Affiliates, counsel, consultants, lenders, partners, members, employees, officers and director, and then only to Persons subject to similar

confidentiality restrictions as those set forth herein), without the prior written consent of the other Party, provided, that, either Party may disclose Confidential Information, if such disclosure is required by Law, including without limitation, pursuant to an order of a court or regulatory agency or in order to enforce this Agreement or to seek approval of this Agreement. In the event a Party is required by Law or a Governmental Authority to disclose Confidential Information, such Party, prior to such disclosure, shall provide reasonable advance notice to the other Party of the time and scope of the intended disclosure in order to permit such disclosing Party the opportunity to obtain a protective order or otherwise seek to prevent or limit the scope or otherwise impose conditions upon such disclosure.

15.3 Injunctive Relief. Each Party agrees that violation of the terms of Sections 15.1 and 15.2 constitutes irreparable harm to the other, and that the harmed Party may seek any and all remedies available to it at law or in equity, including but not limited to injunctive relief.

15.4 Release of Agreement. The Parties agree that this Agreement, upon execution, shall not be considered Confidential Information. Except as required by Law, releasing the Agreement to the public shall be the sole responsibility of the Owners, to be released in the manner at a time decided in their sole discretion.

ARTICLE 16.
MISCELLANEOUS

16.1 Reasonability. The Parties shall act in a reasonable manner and in accordance with principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement and whether or not stated: (a) where this Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned, or delayed; and (b) wherever this Agreement gives a Party a right to determine, require, request, specify, or take similar action with respect to a matter, such determination, requirement, request, specification, or similar action must be reasonable.

16.2 Entire Agreement. This Agreement, together with all Schedule and Exhibits hereto, embodies the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties, verbal or written, relating to the subject matter hereof.

16.3 Waiver. Any waiver of the provisions of this Agreement must be in writing and shall not be implied by any usage of trade, course of dealing or course of performance. No exercise of any right or remedy by AWWU or the Owners constitutes a waiver of any other right or remedy contained or provided by Law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance hereunder shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

16.4 Assignment. Neither Party shall assign this Agreement or any of its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party,

without relieving itself from liability hereunder, and without the need for consent from the other Party provided that any such assignee shall agree to be bound by all terms and conditions hereof, may transfer, pledge or assign this Agreement: (a) to any person or entity succeeding to all or substantially all of the assets of the assigning Party; or (b) to a successor entity in a merger or acquisition transaction. Any assignment made in contravention of this Section 16.4 shall be void and unenforceable.

16.5 Governing Law; Submission to Jurisdiction; Venue; No Jury Trial.

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALASKA, EXCLUDING ANY CHOICE OF LAW RULES.

(b) Submission to Jurisdiction, Venue. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its Affiliates or designees) with respect to or arising out of this Agreement shall be brought exclusively in the courts of the State of Alaska, in the Municipality of Anchorage, as the Party instituting such suit, action or other legal proceeding may elect, provided that claims related to federal water rights, federal legislation enabling the Facility or AWWU Facilities, or the 1991 Agreement may be brought in the United States District Court for the District of Alaska. By execution and delivery of this Agreement, each Party (for itself, its Affiliates and its designees) irrevocably and unconditionally consents and submits to the exclusive jurisdiction of such courts and the appellate courts therefrom, and waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding. The Parties irrevocably consent to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, first class postage prepaid to the addresses set forth in Section 14.1.

(c) No Jury Trial. EACH OF THE PARTIES HEREBY WAIVES ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) Duty to Proceed. Pending final resolution of any Dispute, the Owners and AWWU shall continue to fulfill their respective obligations hereunder that are not the subject of the Dispute.

16.6 Construction. This Agreement is to be construed so as to effectuate the normal and reasonable expectations of a sophisticated buyer and seller of the equipment and services covered by this Agreement and shall not be construed either for or against either Party. No provision of this Agreement shall be construed or interpreted for or against either Party because such Party drafted or caused its legal representative to draft the provision.

16.7 Headings. The titles or headings of the various sections, articles and paragraphs hereof are intended solely for convenience and ease of reference and are not intended, and are not to be deemed for any purpose, to modify or explain or place any interpretation or construction upon any of the provisions of this Agreement.

16.8 Status of the Parties. AWWU and its Subcontractors shall be independent contractors to the Owners with respect to the Water Transportation Services and neither the AWWU nor its Subcontractors, nor the employees or agents of either, shall be deemed to be the employees, representatives or agents of the Owners in connection with any matter relating to this Agreement. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties.

16.9 Status of Individual Owners. Each of the Owners shall be jointly and severally liable for the obligations of the Owners under this Agreement. The delineation of specific responsibilities set forth hereunder as among the Owners shall be at the sole discretion of the Owners, not AWWU. If at any time, the Owners agree that one or two of the Owners need no longer be party to this Agreement, such unnecessary Owner(s) may be removed as parties to this Agreement upon written notice to AWWU, if agreed, and shall retain no liability upon removal, with the remaining Owner(s) automatically assuming the full obligations of the Owners hereunder. If an Event of Default exists hereunder at any time with respect to an Owner, it shall be considered an Event of Default with respect to the Owners together as one Party hereunder, provided, that if another Owner agrees to assume such defaulting Owner's obligations under this Agreement by removing such Owner as a party pursuant to the preceding sentence of this Section 16.9 prior to the expiration of any applicable cure period, this shall not be considered an Event of Default hereunder.

16.10 Insurance. Throughout the Delivery Term, the Owners shall maintain the required insurance policies as set forth on Exhibit D-1 and AWWU shall maintain the required insurance policy as set forth on Exhibit D-2.

16.11 No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of the Owners and AWWU, and their permitted successors and assigns, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

16.12 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take all further action, as may be reasonably necessary to complete performance by the Parties hereunder and to effectuate the purposes and intent of this Agreement.

16.13 Amendments. No change, amendment or modification of this Agreement shall be valid or binding upon the Parties unless such change, amendment or modification shall be in writing and duly executed by the Parties.

16.14 Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provision of this Agreement and all other provisions will remain in full force and effect.

16.15 Conflicting Provisions. In the event of any conflict between this document and any Schedule or Exhibit attached hereto, the terms and provisions of this document, as amended from time to time, shall control. In the event of any conflict among the Exhibits, the Exhibit of the latest date mutually agreed to by the Parties shall control.

16.16 Survival. The provisions of ARTICLE 1, ARTICLE 7, ARTICLE 10, ARTICLE 11, ARTICLE 12, ARTICLE 13, ARTICLE 14, and ARTICLE 16 shall survive termination of this Agreement for any reason.

16.17 Counterparts. This Agreement may be executed in any number of separate counterparts and delivered by electronic means, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

[***Remainder of page intentionally left blank***]

IN WITNESS WHEREOF, the Parties have caused this Long-Term Water Transportation Agreement to be executed by their duly authorized representatives as of the Effective Date.

AWWU/SERVICE PROVIDER:

ANCHORAGE WATER AND WATERWATER UTILITY, A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: Municipal Manager

By: _____

Name: _____

Title: General Manager

OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MATANUSKA ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____
Title: _____

Schedule 1.1

Definitions

"1991 Agreement" means that certain Agreement between the Municipality of Anchorage, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., the United States Fish and Wildlife Service, the National Marine Fisheries Service, the State of Alaska, and the Alaska Energy Authority Relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991.

"Access Bridges" means those bridges installed by the Owners on the Eklutna River pursuant to the terms of the Interconnection Agreement.

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with such first Person. For purposes of this definition and the Agreement, the term "control" (and correlative terms) means (1) the ownership of 50% or more of the equity interest in a Person, or (2) the power, whether by contract, equity ownership or otherwise, to direct or cause the direction of the policies or management of a Person.

"Access License" has the meaning set forth in Section 9.1.

"Agreement" has the meaning set forth in the Preamble, and shall include all Exhibits and Schedules hereto.

"Approvals" means Governmental Approvals and third-party approvals.

"AWWU" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of AWWU.

"AWWU Design and Construction Practices Manual" means the edition dated _____, 20__, as updated and amended from time to time.[2]

"Event of Default" has the meaning set forth in Section 12.1.

"AWWU's Isolation Valve" has the meaning set forth in Exhibit A-1.

"AWWU Facilities" has the meaning set forth in the Recitals.

"AWWU's Portion" has the meaning set forth in Exhibit A-1.

"AWWU's Water Permit" means that permit belonging to AWWU (LAS 2569) to use Owners' Water Rights for up to 41 MGD for public water supply pursuant to the Act of October

[2] **Note to Accompany Final Draft**: To be populated after Governor approval and prior to execution to reflect the most up to date version.

30, 1984, 98 Stat. 2823, as may be replaced as described in Section 3.1 of the Water Supply Agreement.

"AWWU's Water" means any and all water belonging to AWWU pursuant to AWWU's Water Permit.

"Business Day" means any day other than a Saturday, Sunday or legal holiday in the state of Alaska.

"Chugach" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of Chugach.

"Confidential Information" has the meaning set forth in Section 15.1.

"Cost Responsibility Proportion" shall mean, with respect to each Owner, the percentage of the total applicable Eklutna Hydroelectric Project costs that such Owner is obligated to pay as agreed to by the Owners, which as of the Effective Date shall be, with respect to MOA, 19.05%, with respect to Chugach, 64.28%, and with respect to MEA, 16.67%, and which may be changed hereunder upon agreement between the Owners at any time.

"Curtailment Duration" means, with respect to a curtailment in Water Transportation Services during an Excused Event, the duration of such curtailment.

"Curtailment Limit" means, with respect to each day of the Delivery Term where there exists an Excused Event, the amount of Owners' Water in MGD that can be transported to the Delivery Point on such day. For the avoidance of doubt, this amount can equal zero (0) MGD.

"Day" or "day" means a calendar day, unless expressly specified otherwise.

"Delivery Point" has the meaning set forth in Exhibit A-1 and is depicted on the schematic included as part of Exhibit B.

"Delivery Point Meter" has the meaning set forth in Exhibit A-1.

"Delivery Term" has the meaning set forth in Section 2.1.

"Delivery Term Effective Date" has the meaning set forth in Section 2.1.

"Dispute" has the meaning set forth in Section 12.5.

"Effective Date" has the meaning set forth in the Preamble.

"Eklutna Hydroelectric Project" means the Eklutna Hydroelectric Project initially authorized, constructed and operated pursuant to the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended), including any and all property and facilities acquired or used in connection therewith, all of which was then sold to the Owners by the United States of America on October 2, 1997.

"Eklutna Water Treatment Facility" means the water treatment plant owned by AWWU located alongside the Eklutna River.

"Event of Default" has the meaning set forth in Section 12.1.

"Excused Event" means a Planned Outage, a Forced Outage, or an Force Majeure Event causing a reduction or suspension of the Water Transportation Services.

"Facility" has the meaning set forth in the Recitals.

"Final Acceptance" has the meaning set forth in the Interconnection Agreement.

"Fish and Wildlife Program" has the meaning set forth in the Recitals.

"Force Majeure Event" means the occurrence of any act or event beyond the reasonable control of the Party affected that prevents the affected Party from performing its obligations under this Agreement, in full or part, if such act or event is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums), including the following: drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a Governmental Authority. Notwithstanding the foregoing, Force Majeure Events shall expressly not include mechanical or equipment failures (except to the extent any such failure is itself caused by a Force Majeure Event), diminution in water quality in Eklutna Lake, Planned Outages, or Forced Outages (unless such Forced Outage is caused by a Force Majeure Event).

"Forced Outage" means; (i) any unplanned necessary reduction or suspension of Water Transportation Services available from the Facility; or (2) any other unavailability of the AWWU Facilities of Facility in whole or in part, each in response to an equipment malfunction or other emergency condition determined by AWWU in its reasonable discretion to be a threat to any AWWU Facilities. For the sake of clarity, forced outages in AWWU infrastructure downstream of the Isolation Valve Structure are not considered a Forced Outage.

"Governmental Approvals" means all authorizations, consents, licenses, leases, rulings, certifications, registrations, exemptions, permits, certificates, and approvals from any Governmental Authority.

"Governmental Authority" means any federal, state or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the performance of the Water Transportation Services, the Operational Work, the Facility or its operations, or the health, safety or environmental conditions of the Site or otherwise over the Parties' rights and obligations under this Agreement.

"Indemnified Parties" has the meaning set forth in Section 11.1.

"Indemnifying Party" has the meaning set forth in Section 11.3.

"Initial Delivery Term" has the meaning set forth in Section 2.1.

"Injection Point" means the point where AWWU Facilities meet facilities owned by the Owners near the outlet of the Eklutna Lake, where AWWU receives all of AWWU's Water from Eklutna Lake, as depicted in the schematic included as part of Exhibit B.

"Interconnection Agreement" has the meaning set forth in the Recitals.

"Injection Point Flow Meter" means a meter measuring the flow of water passing into AWWU Facilities at the Injection Point.

"Isolation Valve Structure" has the meaning set forth in Exhibit A-1.

"Isolation Valves" has the meaning set forth in Exhibit A-1.

"Law" means any constitution, charter, act, statute, law, ordinance, code, rule, regulation, order, specified standards or objective criteria contained in any applicable permit or approval (which standards or criteria must be met in order for the Water Transportation Services or Operational Work to be performed lawfully) or other legislative or administrative action of any Governmental Authority or a final decree, judgment or order of a court or tribunal.

"Liabilities" has the meaning set forth in Section 11.1.

"MEA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MEA.

"MGD" means millions of gallons per day.

"MOA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MOA.

"Monthly Water Release Schedule" has the meaning set forth in Section 3.2.

"Operating Procedures" has the meaning set forth in Section 5.1.

"Operational Work" means all phases of AWWU and the Owners' performance of their obligations under this Agreement to operate and maintain the Facility and the AWWU Facilities.

"Owners" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of the Owners.

"Owner" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of such Owner.

"Owners' Isolation Valve" has the meaning set forth in Exhibit A-1.

"Owners' Approvals" has the meaning set forth in Section 4.4.

"Owners' Portion" has the meaning set forth in Exhibit A-1.

"Owners' Water Rights" means that certain senior priority water rights held by the Owners for the water in Eklutna Lake for use in generating power for the Eklutna Hydroelectric Project as described in water rights certificate ADL 44944.

"Owners' Water" means any and all water belonging to the Owners pursuant to the Owners' Water Right.

"Party" and "Parties" has the meaning set forth in the Preamble.

"Person" means any individual, partnership, corporation, limited liability company, association, business, trust, government or political subdivision thereof, Governmental Authority or other entity.

"Planned Outage" means the removal of Facility equipment from service availability for inspection and/or overhaul or repair in such a way that requires a reduction or halt in flow of Owners' Water through the AWWU Facilities to the Delivery Point. For the sake of clarity, planned outages in AWWU infrastructure downstream of the Isolation Valve Structure are not considered a Planned Outage. To qualify as a Planned Outage, the maintenance (a) must actually be conducted during the Planned Outage, and in AWWU's reasonable discretion must be of the type that is necessary to reliably maintain the Facility or the AWWU Facilities, and (b) cannot be reasonably conducted during normal Facility or AWWU Facilities' operations.

"Prudent Industry Standards" means those standards of care and diligence normally practiced by water transportation infrastructure operation and maintenance firms in performing services of a similar nature in a similar jurisdiction in which the Water Transportation Services and Operational Work will be performed. Prudent Industry Standards are not intended to be limited to optimum practice or methods, but rather to be a spectrum of reasonable and prudent practices and methods that must take the conditions specific to any water transportation facility under consideration.

"River Release Structure" has the meaning set forth in Exhibit A-1.

"Site" means the location of the Facility as further described and depicted in Exhibit B.

"Subcontractor" means any Person with whom the Owners, or any Owner, enters into an arrangement for the performance of any portion of the Water Transportation Services or Operational Work, including Persons at any tier with whom any Subcontractor has further subcontracted any portion of the Water Transportation Services or Operational Work, and the legal or personal representatives, successors, and assigns of such Person.

"Term" has the meaning set forth in Section 2.1(a).

"Water Release Limits" has the meaning set forth in Section 3.1.

"Water Supply Agreement" has the meaning set forth in the Recitals.

"Water Transportation Services" has the meaning set forth in Section 3.1.

Exhibit A

Eklutna River Release Facility Description and Definitions[3]

The **"*Eklutna River Release Facility*"** shall consist of an Isolation Valve Structure and the River Release Structure.

The "***Isolation Valve Structure***" shall include:

- a new tee to be built in the AWWU pipeline downstream of the AWWU tunnel/pipeline transition and upstream of the AWWU portal valve (the "***Delivery Point***")
- A 54-inch gate valve on the main segment of AWWU pipeline intended to provide dual means of isolation for AWWU's pipeline segment ("***AWWU's Isolation Valve***")
- A 42-inch gate valve on the branch segment of AWWU pipeline intended to provide isolation to the river release structure ("***Owners' Isolation Valve***", together with AWWU's Isolation Valve, the "***Isolation Valves***").
- Related controls and communication technology to be installed by the Owners in the main line of the AWWU Facilities.

The "***River Release Structure***" shall include:

- [A new pipeline from the Isolation Valve Structure to the Eklutna River]
- Control valves
- A new meter installed at the Delivery Point ("***Delivery Point Meter***")
- Monitoring and control equipment to be installed by Owners [*describe where]*.

"***AWWU's Portion***" of the Facility shall consist of the Isolation Valve Structure [and _____]

The "***Owners' Portion***" of the Facility shall consist of the River Release Structure [and _____]

[3] **Note to Accompany Final Draft**: This Exhibit will be revised and finalized by Owners to reflect the proposal approved by the Governor and prior to signing.

Exhibit B[4]

Description and Schematic of Site, AWWU Facilities, and Injection Point and Delivery Point

[4] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit C

Owners' Approvals[5]

[5] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit D-1[6]

Owners' Insurance Requirements

[6] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit D-2[7]

AWWU's Insurance Requirements

[7] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit E[8]

Initial Notice Information

If delivered to the Owners, to them at	Chugach Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Matanuska Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____]
If delivered to AWWU, to it at	Anchorage Water and Wastewater Utility, a department of the Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____]

[8] **Note to Accompany Final Draft**: To be populated immediately prior to execution, after Governor approval, as such information is subject to change.

Final Form

PUBLIC WATER SUPPLY AGREEMENT

by and between

Anchorage Water and Wastewater Utility

as

Service Provider

And

Chugach Electric Association, Inc,

Matanuska Electric Association, Inc., and the Municipality of Anchorage

as

Owners

Dated as of **[_____]**[1]

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[1] **Note to Accompany Final Draft**: This Agreement has been form agreed as between the Parties but will not be signed by the MOA until after Governor approval of the Fish and Wildlife Program has occurred and such signatures have been authorized by the Anchorage Assembly. Prior to execution, this footnote can be deleted from the draft.

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PUBLIC WATER SUPPLY AGREEMENT

This PUBLIC WATER SUPPLY AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered into by and between Anchorage Water and Wastewater Utility ("AWWU"), and Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("MEA"), and the Municipality of Anchorage ("MOA") (each of Chugach, MEA, and MOA is an "Owner" and collectively they are referred to as the "Owners"). The Owners and AWWU are sometimes referred to herein as a "Party" or collectively as the "Parties".

R E C I T A L S

WHEREAS, the federal Alaska Power Administration ("APA") originally developed, owned and operated the Eklutna Hydroelectric Project, which began operations in 1954 for the production of electric power that APA sold to electric utilities serving the Anchorage and Matanuska Valley areas;

WHEREAS, as then-owner of the Eklutna Hydroelectric Project assets, the APA possessed senior water rights (both federal reserved water rights and water rights granted under State of Alaska law), with a priority date of 1954, to all the water that may be feasibly appropriated from Eklutna Lake for use in generating electric power for the Eklutna Hydroelectric Project as reflected in water rights certificate ADL 44944 ("Project Water Rights");

WHEREAS, in the 1980s, AWWU:

(i) determined that Eklutna Lake was a necessary source of water for the City of Anchorage;

(ii) entered into that certain "Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska" with APA, dated February 17, 1984, as amended (the "1984 Agreement"), which among other things provides terms and conditions relating to (i) AWWU facility interconnection to Eklutna Hydroelectric Project; and (ii) the compensation by AWWU to the Owners for AWWU's diversion of water for public water supply that reduces the Project Water Rights otherwise available for use to generate energy at the Eklutna Hydroelectric Project;

(iii) obtained: (1) "preferred use status" from the Alaska Department of Natural Resources ("DNR") through an application that demonstrated the need for AWWU to take prior-appropriated water for public water supply purposes and which is conditioned upon the validity and existence of the 1984 Agreement (the "Preferred Use Status") pursuant to Alaska Statute 46.15.150(b); (2) a permit (LAS 2569) to use Project Water Rights for up to 41 million gallons per day for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823, (the "AWWU Water Permit"); and

(iv) constructed and began operations of the water project diverting water from the Eklutna Hydroelectric Project intake tunnel to AWWU's water system (the "AWWU Water Project");

WHEREAS, the 1984 Agreement remains in effect "until the year 2025" and the AWWU Water Permit expires on December 31, 2025;

WHEREAS, in October 1997, the Owners purchased from APA the Eklutna Hydroelectric Project and all related project assets, including Project Water Rights and became parties to the 1984 Agreement through assignment (the "Owners' Facilities");

WHEREAS, pursuant to the 1991 Agreement (as defined below), the Owners have studied and developed a Fish and Wildlife program to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Eklutna Hydroelectric Project centered on establishing instream flows in the Eklutna River as part of the implementation of the Fish and Wildlife Program (the "Fish and Wildlife Program");

WHEREAS, in order to establish such instream flows, the Owners and AWWU have negotiated two agreements: (1) a Water Facilities Interconnection Agreement (the "Interconnection Agreement"), which shall govern the construction and interconnection of the Parties' respective facilities for conveyance of water from the Eklutna Lake to the Eklutna River using AWWU facilities; and (2) a Long-Term Water Transportation Services Agreement (the "Transportation Agreement"), which shall govern the provision of conveyance services for transporting water from the Eklutna Lake to the Eklutna River;

WHEREAS, in coordination and joint consideration with the Interconnection Agreement and the Transportation Agreement, the Parties desire to enter into this Agreement in order to replace the 1984 Agreement and set forth new terms and conditions relating to (i) the compensation from AWWU to the Owners for AWWU's use of the Project Water Rights in accordance with Alaska Statute 46.15.150 and; (ii) the extension of other future rights to AWWU; and

NOW, THEREFORE, in consideration of the premises of this Agreement, the Transportation Agreement, and the Interconnection Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners and AWWU, intending to be legally bound, hereby agree as follows:

ARTICLE I
DEFINITIONS; INTERPRETATION

Section 1.1 Defined Terms. Capitalized terms used in this Agreement without other definition shall have the meanings set forth in Schedule 1.1, unless the context requires otherwise.

Section 1.2 Interpretation. As used in this Agreement, the terms "herein," "herewith" and "hereof" are references to this Agreement, taken as a whole; the terms "includes" or "including" shall mean "including, without limitation"; and references to a "Section," "Article", "Exhibit" or "Schedule" shall mean a Section, Article, Exhibit or Schedule of this Agreement, as the case may be, unless in any such case the context requires otherwise. All references to a given Exhibit, Schedule, agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made. A reference to a Person includes its permitted successors and permitted assigns. The singular shall include the plural and the masculine shall include the feminine and neuter, and vice versa.

ARTICLE II
EFFECTIVE DATE; TERM

Section 2.1 Effective Date. This Agreement shall become binding on the Parties on the Effective Date, subject to Section 2.2.

Section 2.2 Conditions Precedent. The rights and obligations of the Parties as set forth in Articles III – VI in this Agreement shall not be effective until the achievement of the following conditions precedent (the "Conditions Precedent"), a written notice of which shall be sent to AWWU by Owners:

(a) The Owners receive final approval from the Governor of Alaska, with such approval for a Fish and Wildlife Program that requires the use of the AWWU Facilities for instream flows as contemplated in this Agreement, provided that such approval includes no unexpected conditions materially adverse to the Owners or to AWWU, as determined in good faith by the Parties and in the exercise of commercially reasonable business judgment, and neither the approval from the Governor of Alaska nor the Fish and Wildlife Program is subject to any pending judicial review or appeal;

(b) Owners and AWWU obtain and provide evidence of lawful water rights from DNR for the use and transport of water as contemplated under the Agreement, including but not limited to a renewal, extension, or replacement of the AWWU Water Permit, Preferred Use Status, and all other approval(s) authorizing continued use of the Owners' Water Rights by AWWU;

(c) Chugach obtains final Regulatory Commission of Alaska ("RCA") approval of its applicable tariff rates necessary to implement the compensation outlined in Section 3.2 below pursuant to, and in a manner consistent with, Section 6.23 of the MOA-Chugach APSA as such terms are defined therein; and

(d) The Interconnection Agreement and the Transportation Agreement are in full force and effect and are valid, binding and enforceable against AWWU and the Owners in accordance with their terms.

Section 2.3 Failure to Achieve Conditions Precedent. In the event that this Agreement does not become fully effective (i) due to the failure to achieve the Conditions Precedent as set forth in Section 2.2 by [June 1, 2025], or (ii) because the Governor of Alaska approves a Fish and Wildlife Program that does not require the use of the AWWU Facilities for instream flows as contemplated in this Agreement, then: (A) this Agreement will be terminated upon thirty (30) days' written notice by either Party (B) the automatic cross-agreement termination provisions of Section 10.3 shall apply; and (C) the Parties shall meet promptly to negotiate in good faith an alternate agreement to replace the 1984 Agreement that expires in 2025 with terms and conditions that include but are not limited to adequate compensation, risk mitigation, potential transfer or purchase of water rights, and other terms and conditions then deemed appropriate by the Parties without prejudice due to the prior existence, or the subsequent termination, of this Agreement.

Section 2.4 Term. Unless agreed to otherwise by the Parties, this Agreement will continue in full force and effect starting on the Effective Date and terminating on October 30, 2060, subject to any early termination provision set forth herein (the "Term").

Section 2.5 Effect on 1984 Agreement. The Parties intend that, upon thirty (30) days' written notice by the Owners of the achievement of the Conditions Precedent as set forth in Section 2.2, this Agreement shall become fully effective and replace the 1984 Agreement in its entirety, and the 1984 Agreement will be terminated.

ARTICLE III
WATER USE AND COMPENSATION

Section 3.1 Water Use. The Owners shall make available and allow AWWU to continue to interconnect the AWWU Water Project to the Eklutna Hydroelectric Project, use the project's intake, tunnel, and other Owners' Facilities necessary to divert and use a portion of Project Water Rights up to 41 million gallons per day for public water supply purposes in a manner consistent with AWWU's Preferred Use Status, the AWWU Water Permit, and Alaska Statute 46.15.150(b). The Parties understand that after the Effective Date, AWWU may initiate a process to replace all or part of the AWWU Water Permit with a certificated water right under Alaska Statute 46.15. The Owners consent to such conversion provided that AWWU's certificated water right does not exceed 41 million gallons per day for public water supply purposes, such certification is subject to all requirements of Alaska Statute 46.15.150 and any and all regulations implementing AWWU's Preferred Use Status, and AWWU remains committed to compensate Owners for such water as set forth in Section 3.2 below.

Section 3.2 Compensation.

(a) Compensation. Subject to the limitation in subsection (b) below, AWWU and the MOA shall compensate the Owners for all reductions in electrical energy generation at the Eklutna Hydroelectric Project, costs, and losses that result from water diversions for the AWWU Water Project as set forth in Exhibit A (collectively, the "Replacement Energy"). The compensation paid by AWWU for the Replacement Energy shall be both in kind through electrical energy recovered by AWWU at the Eklutna Water Treatment Facility ("EWTF") in excess of AWWU's own needs at the EWTF ("Recovered Electrical Energy"), and in cash payments (the cash portion shall be referred to as the "Replacement Energy Payment(s)"). The Recovered Electrical Energy shall act as an offset to the Replacement Energy Payment obligations. All costs associated with such deliveries of Recovered Electrical Energy, including metering, will be borne by AWWU.

(b) Compensation Limitations and Procedures. The compensation owed to the Owners by AWWU, calculated and accounted for as set forth in Exhibit A and Section 3.2(a), shall be subject to the following limitations: (a) in no event shall the Replacement Energy Payment owed and payable to Chugach by AWWU exceed six hundred thousand dollars ($600,000) per year in value in aggregate, as such amount will be adjusted annually for inflation reflected in the Bureau of Labor Statistics' Consumer Price Index; (b) in no event shall any such compensation be required in the event that the Owners permanently cease operations of the Eklutna Hydroelectric Project; and (c) in no event shall any such compensation be required in the event of a transfer of a priority water right from the Owners to AWWU as contemplated in Article VI. For the purposes of clarity, the words "total compensation owed and payable to Chugach by AWWU," in the preceding sentence applies to the Replacement Energy Payment and specifically includes the independent in-kind compensation through the Recovered Electrical Energy. The Recovered Electrical Energy shall not include any power generated by AWWU at any location other than the EWTF, which

power generated at other locations may be sold by AWWU as co-generated power. Notwithstanding the foregoing limitation on compensation to be paid by AWWU, nothing in this Agreement is intended to change the MOA's obligations set forth in any of: (i) the MOA-Chugach Eklutna PPA; (ii) Section 6.23 of the MOA-Chugach APSA; and (iii) the MOA-MEA Eklutna PPA. In any month of the Term, to the extent that AWWU does not fully compensate Chugach for the total amount of Replacement Energy in such month due to application of the AWWU compensation cap set forth above, such matters will be resolved among the Owners and the MOA will make Chugach whole as outlined in Exhibit A.

(c) Costs. Other than the compensation for water diversions set forth in Sections 3.2(a) and (b) above, all costs borne initially by each Party in connection with the exercising of its respective rights and the performance of its respective obligations under this Agreement shall be the responsibility of such Party initially incurring such costs. In partial consideration of the costs to Owners incurred in maintaining its facilities necessary for AWWU to continue to interconnect to Eklutna Hydroelectric Project, and to divert and use a portion of Project Water Rights under this Agreement for the benefit of the AWWU, the Parties entered into the Transportation Agreement for the same duration as this Agreement, pursuant to which AWWU will provide conveyance services for transporting water from the Eklutna Lake to the Eklutna River at no cost to Owners.

ARTICLE IV
OWNERS' RESPONSIBILITIES

Section 4.1 Reservoir Operations. Subject to the terms herein, Owners shall retain full authority and responsibility to operate the Eklutna Hydroelectric Project and manage and allocate water in Eklutna Lake in accordance with ADL 44944 and the requirements of the Eklutna Hydroelectric Project.

Section 4.2 Assurance of Water Project Allocation, Quality, and Access. Subject to the terms herein, Owners will operate the Eklutna Lake reservoir in such a manner that the projected allocations of water to the AWWU Water Project are available to MOA upon request at a flow rate of at least 41 MGD to the EWTF at a pressure sufficient to allow normal operation of the EWTF as currently configured. The Owners will take no action regarding Eklutna Lake that has the effect of reducing the quality or increasing the turbidity of the lake water from those conditions which exist as of the Effective Date; nor will the Owners take or authorize any other action with regard to Eklutna Lake that may have the effect of reducing its present suitability for use as a source of public water supply. This Section 4.2 is not intended to preclude or inhibit maintenance and repair activities determined to be necessary by the Owners, nor does it apply to the management of the lake surface and surrounding areas for public recreation, which is outside the scope of this Agreement. For the avoidance of doubt, the Owners shall ensure continued use and access to AWWU of the Owners' Facilities that are necessary to supply water to the AWWU Facilities to the extent that Owners' Facilities continue in commercial operation.

ARTICLE V
AWWU RESPONSIBILITIES

Section 5.1 Compensation. AWWU shall compensate the Owners as set forth in Section 3.2(a) subject to the limitation in Section 3.2(b). To the extent that the total compensation

owed to the Owners by AWWU under Section 3.2 is not satisfied by the netting against the MOA's ownership share of the water used in the Eklutna Hydroelectric Project, AWWU will pay the Owners directly within thirty (30) days of receipt of invoice.

Section 5.2 Maintenance, Repair, and Material Modifications to AWWU Water Project.

(a) AWWU Water Project. To the extent AWWU must perform maintenance, repairs, or make any material modification to the AWWU Water Project that adversely affects the Eklutna Hydroelectric Project, prior to the commencement of such action, AWWU shall furnish to the Owners copies of all plans, specifications, and schedules regarding such work. AWWU shall coordinate with the Owners all such activities in order to avoid or minimize disruption of the Owner's activities at the Eklutna Hydroelectric Project, to the maximum extent possible. AWWU will take commercially reasonable steps to minimize any of its actions set forth in this subsection that may adversely affect energy generation from the Eklutna Hydroelectric Project. AWWU shall reimburse the Owners, by payment of lost revenues to the Owners or by Replacement Energy, as may be mutually agreed by the Parties, for any such losses incurred by the Owners that are attributable to such maintenance or material modifications of the AWWU Water Project that impacts the Eklutna Hydroelectric Project, such as maintenance or material modifications to the project's intake tunnel connected to Eklutna Lake.

(b) AWWU Water Project Interconnection. Notwithstanding Section 5.2(a), AWWU shall obtain specific plan approval from the Owners before initiating any material modification on any existing facilities for the delivery of water from the Eklutna Hydroelectric Project to the AWWU Water Project, including any facilities that are interconnected to the present Owners' water intake tunnel. AWWU will take commercially reasonable steps to minimize any of its actions set forth in this subsection that may adversely affect energy generation from the Eklutna Hydroelectric Project.

ARTICLE VI
RIGHTS UPON CEASING OPERATIONS OR TERMINATION

Section 6.1 Right of First Offer. If the Owners elect to permanently cease operations of the Eklutna Hydroelectric Project, the Owners shall provide written notice to AWWU of such intention. For a period of six (6) months after such notice, neither Owners nor their successors and assigns, nor their respective Affiliates, shall enter into an obligation or agreement to sell or transfer the Eklutna Hydroelectric Project, unless the (i) Owners first offer, in writing, to sell to AWWU that portion of Owners' Facilities that are necessary to supply water from Eklutna Lake to the AWWU Facilities; and (ii) AWWU declines to purchase such portion of Owners' Facilities within thirty days after notification of the offer to sell. If, within thirty days after notification of the offer to sell, AWWU indicates a good faith intention to purchase such portion subject to a need for ongoing review, then this shall trigger an additional 90-day period during which the Parties shall meet and negotiate in good faith terms and conditions then deemed appropriate and the Owners shall in good faith provide necessary documentation to facilitate such review. If at the end of such 90-day period, AWWU has not yet purchased such portion, then the Owners shall be permitted to pursue other options for the transfer of the Eklutna Hydroelectric Project.

Section 6.2 Option to Acquire Owners' Water Rights and Termination. Upon the earlier of October 31, 2055, or the MOA's sale of its interests in the Eklutna Hydroelectric Project, AWWU may exercise an option to acquire sole ownership of a portion of the Owners' first-priority water rights that is then operative and reflected in the AWWU Water Permit and any subsequent certificate, which shall in no event exceed 41 million gallons per day, by quitclaim deed or other then-acceptable means of transfer, in exchange for relinquishing its AWWU Water Permit and Preferred Use Status (and associated legal rights) as no longer being legally functional or operative; provided, however, that AWWU shall (a) issue a written notice to the Owners of its intention to exercise such option no later than October 30, 2050; (b) prepare all legal documents necessary to transfer such water rights from the Owners to AWWU (subject to Owners' review and approval prior to execution); and (c) obtain all required Governmental Approvals to effectuate such acquisition at AWWU's sole cost and expense (the "AWWU Option"). Upon closing of the AWWU Option, this Agreement and the Parties' obligations hereunder shall terminate except for the right of first offer in Section 6.1 above, which shall survive and continue while Owners continue operations of the Eklutna Hydroelectric Project.

ARTICLE VII
TITLE; LOSS OR DAMAGE; FORCE MAJEURE

Section 7.1 Title.

(a) Legal title to and ownership of the Owners' Facilities, including Owners' Water Rights, shall remain with Owners throughout the Term of this Agreement, free and clear of any and all liens, claims, security interests or other encumbrances imposed by AWWU.

(b) Legal title to and ownership of the AWWU Facilities, including the AWWU Water Permit, and any resulting certificate of appropriation, shall remain with AWWU throughout the Term of this Agreement.

Section 7.2 Force Majeure. Each Party shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, if and to the extent that such Party's failure of, or delay in, performance is due to a Force Majeure Event; provided, that:

(a) such Party gives the other Party prompt written notice describing the particulars of the Force Majeure Event as soon as is reasonably practicable after becoming aware of the occurrence of the Force Majeure Event;

(b) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(c) no obligations of the affected Party that arose before the occurrence of the Force Majeure Event causing the suspension of performance shall be excused as a result of such Force Majeure Event, unless and only to the extent that the performance of such obligations is impaired by the Force Majeure Event;

(d) the Party uses diligent commercially reasonable efforts to overcome or mitigate the effects of the Force Majeure Event; and

(e) when the Party is able to resume performance of its obligations under this Agreement, such Party shall give the other Party written notice to that effect and shall promptly resume performance hereunder.

ARTICLE VIII
LIMITATIONS ON LIABILITY

Section 8.1 Aggregate Limitation of Liability. Notwithstanding any other provision of this Agreement, the total aggregate liability of the Owners and the total aggregate liability of AWWU arising out of or relating to this Agreement, from any and all causes, whether based on contract, tort (including negligence), strict liability or any other cause of action, shall in no event exceed ten million dollars ($10,000,000) for AWWU, or ten million dollar ($10,000,000) for the Owners collectively, provided that such limits shall not apply in the case of such Party's (i) gross negligence or willful misconduct, (ii) third-party indemnity obligation, or (iii) breach of any representation or warranty.

Section 8.2 CUMULATIVE REMEDIES. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, OR IF A REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY NON-EXCLUSIVE, THE NON-DEFAULTING PARTY SHALL HAVE THE RIGHT TO EXERCISE ALL RIGHTS AND REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY; PROVIDED, HOWEVER, THAT THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED.

Section 8.3 WAIVER OF CERTAIN DAMAGES. EXCEPT WITH RESPECT TO INDEMNIFICATION OF THIRD PARTY CLAIMS PURSUANT TO ARTICLE XI, OR AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, BUSINESS INTERRUPTION OR SIMILAR DAMAGES, WHETHER BY STATUTE, IN TORT, BY CONTRACT OR OTHERWISE.

ARTICLE IX
INDEMNIFICATION

Section 9.1 Indemnity. To the fullest extent permitted by Law, each Party shall indemnify, hold harmless and defend the other Party and its directors, officers, shareholders, partners, agents and employees, and the Affiliates of the same (collectively, the "Indemnified Parties"), from and against any and all loss, damage, expense and liability, including court costs and reasonable attorneys' fees (collectively, "Liabilities") arising incurred by the Indemnified Parties in connection with or arising from any claim for physical damage to or physical destruction to any property of any third party, or death of or bodily injury to any person, to the extent caused by the negligence of the Indemnifying Party or its agents or employees or others under such Indemnifying Party's control, except any Liabilities incurred due to the negligence or willful misconduct of an Indemnified Party. For the purpose of the definition of "Indemnified Parties" AWWU shall not be considered to be an "Affiliate" of the MOA.

Section 9.2 Defense of Claims. A Party with an indemnification obligation pursuant to this Article IX (an "Indemnifying Party") shall have the right to defend the Indemnified Parties pursuant to this Article IX by counsel of the Indemnifying Party's selection (including insurance counsel) reasonably satisfactory to the Indemnified Party, unless in the opinion of counsel for the Indemnifying Party a conflict of interest between the Parties may exist with respect to such claim. If the Indemnifying Party does not assume the defense of the Indemnified Party, or if a conflict precludes counsel for the Indemnifying Party from providing the defense, then the Indemnifying Party shall reimburse the Indemnified Party on a monthly basis for the Indemnified Party's defense through separate counsel of the Indemnified Party's choice. Even if the Indemnifying Party assumes the defense of the Indemnified Party with acceptable counsel, the Indemnified Party, at its sole option, may participate in the defense, at its own expense, with counsel of its own choice without relieving the Indemnifying Party of any of its obligations hereunder. The Parties shall give each other prompt written notice of any asserted claims or actions indemnified against hereunder and shall cooperate with each other in the defense of any such claims or actions. Without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed, no Indemnifying Party shall settle any such claims or actions in a manner that would require any action or forbearance from action by any Indemnified Party.

ARTICLE X
DEFAULT AND REMEDIES; TERMINATION; DISPUTE RESOLUTION

Section 10.1 Event of Default. The following shall constitute events of default on the part of either party (each, an "Event of Default") under this Agreement:

(a) If a Party makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of such Party, or if such Party files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition of or readjustment of debts and, in the case of any such proceeding instituted against such Party (but not by such Party), such proceeding is not dismissed within sixty (60) days of such filing;

(b) If a Party fails to comply with any material terms of this Agreement not otherwise set forth as an Event of Default in this Section 10.1(b) and fails to cure or remedy such failure within thirty (30) days after notice and a written demand is made by the non-defaulting Party to the defaulting Party to cure the same or, if such failure cannot be cured within thirty (30) days, the defaulting Party fails to commence to cure such failure within thirty (30) days after such notice and written demand and thereafter diligently pursue such cure to completion, which shall in no event be later than ninety (90) days after such notice;

(c) If a Party defaults under the Interconnection Agreement or the Transportation Agreement;

(d) If a Party fails to make any payment due hereunder within sixty (60) days after receipt of written notice from the non-defaulting Party; or

(e) If any representation or warranty of a Party in this Agreement proves to have been false or misleading in any material respect when made, and such Party has not, within thirty (30) days after written notification thereof from the non-defaulting Party, either fully remedied, or commenced and diligently pursued the remedy, of all adverse impacts on the non-defaulting Party resulting therefrom, all to the reasonable satisfaction of the non-defaulting Party.

Section 10.2 Remedies Upon Event of Default. Upon the occurrence and continuation of an Event of Default, the non-defaulting Party shall have the right to terminate this Agreement and the Interconnection Agreement and the Transportation Agreement; upon ten (10) days written notice and pursue any other remedy available to such non-defaulting party at law or in equity arising out of such Event of Default, including a claim for monetary damage or specific performance.

Section 10.3 Automatic Cross-Agreement Termination. If this Agreement is terminated for any reason during the Term, the Interconnection Agreement and the Transportation Agreement shall automatically terminate, effective as of the same date as this Agreement's termination date.

Section 10.4 Dispute Resolution. In the event of any dispute arising under this Agreement (a "Dispute"), within ten (10) Business Days following notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies.

ARTICLE XI
REPRESENTATIONS

Section 11.1 General Representations and Warranties. Each Owner and AWWU hereby represents and warrants that:

(a) It is duly organized, validly existing and in good standing under the Laws of the state of its formation and is duly qualified to do business in the State of Alaska.

(b) It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate, municipal, or other action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or

other similar Laws relating to the enforcement of creditors' rights generally and by general equitable principles.

(c) It is not in violation of any applicable Law, or any judgment entered by any federal, state, local or other Governmental Authority, which violations, individually or in the aggregate, would adversely affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or (to its best knowledge) threatened against it which, if adversely determined, could have a material adverse effect upon its financial condition, operations, prospects or business as a whole, or upon its ability to perform under this Agreement.

(d) No authorization, approval, exemption, or consent of or by any Person is required by it in connection with the execution, delivery, and performance of this Agreement. In addition, each Party represents and warrants to the other Party that the Governmental Approvals required to be obtained by such Party either have been obtained by such Party and are in full force and effect on the date hereof, or will be obtained by such Party and will be in full force and effect on or prior to the date on which they are required, under applicable Law, to be in full force and effect.

(e) The execution and delivery of this Agreement, the consummation of the transactions herein contemplated and compliance with the terms and provisions hereof by it will not conflict with or result in a material breach of, or require any consent under, any of its constitutive documents or any applicable Law, or under any agreement or instrument to which it is a party or by which it is bound or to which it is subject, or will constitute a material default under any such agreement or instrument.

ARTICLE XII
NOTICES

Section 12.1 Writing. Any notice, statement, demand, claim, offer or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing and signed by the Party giving such notice, and shall be sent by email, facsimile, hand messenger delivery, overnight courier service, or certified mail (receipt requested) to the other Party, and shall be sent to the addresses set forth in Exhibit B. Each Party shall have the right to change the address information to which notice shall be sent or delivered or to specify additional addresses to which copies of notices may be sent. All notices shall be effective upon receipt.

ARTICLE XIII
CONFIDENTIALITY

Section 13.1 Confidentiality. The Parties agree that the Parties' proposals, communications, negotiations and information exchanged prior to the Effective Date concerning this Agreement and the development thereof, and technical and other information regarding or relating to the subject of this Agreement exchanged between the Parties that is marked, or otherwise clearly communicated to the receiving Party as "Confidential," constitutes "Confidential Information" of the disclosing Party. The Owners and AWWU each agree to hold such Confidential Information wholly confidential. Such Confidential Information may only be used

by the Parties for the purposes related to the approval, administration or enforcement of this Agreement.

Section 13.2 Disclosure. Each Party agrees not to disclose Confidential Information of the other Party to any other Person (other than its Affiliates, counsel, consultants, lenders, partners, members, employees, officers and directors, and then only to Persons subject to similar confidentiality restrictions as those set forth herein), without the prior written consent of the other Party, provided, that either Party may disclose Confidential Information if such disclosure is required by Law, including without limitation, pursuant to an order of a court or regulatory agency to enforce this Agreement or to seek approval of this Agreement. In the event a Party is required by Law or a Governmental Authority to disclose Confidential Information, such Party, prior to such disclosure, shall provide reasonable advance notice to the other Party of the time and scope of the intended disclosure in order to permit such other Party the opportunity to obtain a protective order, or to otherwise seek to prevent or limit the scope or otherwise impose conditions upon such disclosure.

Section 13.3 Injunctive Relief. Each Party agrees that a violation of the terms of Sections 13.1 and 13.2 constitutes irreparable harm to the other Party, and that the harmed Party may seek any and all remedies available to it at law or in equity, including but not limited to injunctive relief.

Section 13.4 Release of Agreement. The Parties agree that this Agreement, upon execution, shall not be considered Confidential Information. Except as required by Law, releasing the Agreement to the public shall be the sole responsibility of the Owners, to be released in the manner at a time decided in their sole discretion.

ARTICLE XIV
MISCELLANEOUS

Section 14.1 Reasonability. The Parties shall act in a reasonable manner and in accordance with principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement and whether or not stated: (a) where this Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned, or delayed; and (b) wherever this Agreement gives a Party a right to determine, require, request, specify, or take similar action with respect to a matter, such determination, requirement, request, specification, or similar action must be reasonable.

Section 14.2 Entire Agreement. This Agreement, together with all Schedules and Exhibits hereto, embodies the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties, verbal or written, relating to the subject matter hereof.

Section 14.3 Waiver. Any waiver of the provisions of this Agreement must be in writing and shall not be implied by any usage of trade, course of dealing or course of performance. No exercise of any right or remedy by AWWU or the Owners constitutes a waiver of any other right or remedy contained in or provided by Law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or

otherwise affect such rights or remedies. Any waiver of performance hereunder shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

Section 14.4 Assignment. Neither Party shall assign this Agreement or any of its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party, without relieving itself from liability hereunder, and without the need for consent from the other Party provided that any such assignee shall agree to be bound by all terms and conditions hereof, may transfer, pledge or assign this Agreement: (a) to any person or entity succeeding to all or substantially all of the assets of the assigning Party; or (b) to a successor entity in a merger or acquisition transaction. Any assignment made in contravention of this Section 14.4 shall be void and unenforceable.

Section 14.5 Governing Law; Submission to Jurisdiction; Venue; No Jury Trial.

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALASKA, EXCLUDING ANY CHOICE OF LAW RULES.

(b) Submission to Jurisdiction, Venue. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its Affiliates or designees) with respect to or arising out of this Agreement shall be brought exclusively in the courts of the State of Alaska, in the Municipality of Anchorage, as the Party instituting such suit, action or other legal proceeding may elect, provided that claims related to federal water rights, federal legislation enabling the Eklutna Hydroelectric Project or AWWU Facilities, or the 1991 Agreement may be brought in the United States District Court for the District of Alaska. By execution and delivery of this Agreement, each Party (for itself, its affiliates and its designees) irrevocably and unconditionally consents and submits to the exclusive jurisdiction of such courts and the appellate courts therefrom, and waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding. The Parties irrevocably consent to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, first class postage prepaid to the addresses set forth in Exhibit B.

(c) No Jury Trial. EACH OF THE PARTIES HEREBY WAIVES ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) Duty to Proceed. Pending final resolution of any Dispute, the Owners and AWWU shall continue to fulfill their respective obligations hereunder that are not the subject of the Dispute.

Section 14.6 Headings. The titles or headings of the various sections, articles and paragraphs hereof are intended solely for convenience and ease of reference and are not intended, and are not to be deemed for any purpose, to modify or explain or place any interpretation or construction upon any of the provisions of this Agreement.

Section 14.7 Status of the Parties. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties.

Section 14.8 Status of Individual Owners. Each of the Owners shall be jointly and severally liable for the obligations of the Owners under this Agreement. The delineation of specific responsibilities set forth hereunder as among the Owners shall be at the sole discretion of the Owners, not AWWU. If at any time, the Owners agree that one or two of the Owners need no longer be party to this Agreement, such unnecessary Owner(s) may be removed as parties to this Agreement upon written notice to AWWU, if agreed, and shall retain no liability upon removal, with the remaining Owner(s) automatically assuming the full obligations of the Owners hereunder. If an Event of Default exists hereunder at any time with respect to an Owner, it shall be considered an Event of Default with respect to the Owners together as one Party hereunder, provided, that if another Owner agrees to assume such defaulting Owner's obligations under this Agreement by removing such Owner as a party pursuant to the preceding sentence of this Section 14.8 prior to the expiration of any applicable cure period, this shall not be considered an Event of Default hereunder.

Section 14.9 Insurance. Throughout the Term, the Owners shall maintain the required insurance policies as set forth on Exhibit D-1 and AWWU shall maintain the required insurance policy as set forth on Exhibit D-2.

Section 14.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of the Owners and AWWU, and their permitted successors and assigns, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

Section 14.11 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take all further action, as may be reasonably necessary to complete performance by the Parties hereunder and to effectuate the purposes and intent of this Agreement, including (1) support of amendment of water rights necessary to implement this Agreement; and (2) AWWU's support of Chugach's tariff revisions necessary to implement the compensation and gain RCA approval as outlined in Section 2.2.

Section 14.12 Amendments. No change, amendment or modification of this Agreement shall be valid or binding upon the Parties unless such change, amendment or modification shall be in writing and duly executed by the Parties.

Section 14.13 Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provision of this Agreement and all other provisions will remain in full force and effect.

Section 14.14 Conflicting Provisions. In the event of any conflict between this document and any Schedule or Exhibit attached hereto, the terms and provisions of this document, as amended from time to time, shall control. In the event of any conflict among the Exhibits, the Exhibit of the latest date mutually agreed to by the Parties shall control.

Section 14.15 Survival. The provisions of Article I, Article VII, Article VIII, Article IX, Article X, Article XI, Article XII, Article XIV, and Article XIV shall survive termination of this Agreement for any reason.

Section 14.16 Counterparts. This Agreement may be executed in any number of separate counterparts and delivered by electronic means, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the Parties have caused this Public Water Supply Agreement to be executed by their duly authorized representatives as of the Effective Date.

AWWU/SERVICE PROVIDER:

ANCHORAGE WATER AND WATERWATER UTILITY, A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: Municipal Manager

By: _____

Name: _____

Title: General Manager

OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MATANUSKA ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: _____

Schedule 1.1
Definitions

"1984 Agreement" has the meaning set forth in the Recitals.

"1991 Agreement" means that certain Agreement between the Municipality of Anchorage, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., the United States Fish and Wildlife Service, the National Marine Fisheries Service, the State of Alaska, and the Alaska Energy Authority Relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991.

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with such first Person. For purposes of this definition and the Agreement, the term "control" (and correlative terms) means (1) the ownership of 50% or more of the equity interest in a Person, or (2) the power, whether by contract, equity ownership or otherwise, to direct or cause the direction of the policies or management of a Person.

"Agreement" has the meaning set forth in the introductory paragraph, and shall include all Exhibits and Schedules hereto.

"APA" has the meaning set forth in the Recitals.

"AWWU" has the meaning set forth in the introductory paragraph, and shall include all successors and permitted assigns of AWWU.

"AWWU Facilities" means the existing water transportation facilities owned and operated by AWWU, including the AWWU Eklutna Lake raw water diversion bypass tunnel interconnected with the intake tunnel of the Eklutna Hydroelectric Project and pipeline.

"AWWU Option" has the meaning set forth in Section 6.2.

"AWWU Water Permit" has the meaning set forth in the Recitals and as may be replaced as described in Section 3.1.

"AWWU Water Project" has the meaning set forth in the Recitals.

"Business Day" means any day other than a Saturday, Sunday or legal holiday in the state of Alaska.

"Chugach" has the meaning set forth in the introductory paragraph, and shall include all successors and permitted assigns of Chugach.

"Conditions Precedent" has the meaning set forth in Section 2.2.

"Confidential Information" has the meaning set forth in Section 13.1.

"Day" or "day" means a calendar day, unless expressly specified otherwise.

"Dispute" has the meaning set forth in Section 10.4.

"DNR" has the meaning set forth in the Recitals.

"Effective Date" has the meaning set forth in the introductory paragraph.

"Eklutna Hydroelectric Project" means the Eklutna Hydroelectric Project initially authorized, constructed and operated pursuant to the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended), including any and all property and facilities acquired or used in connection therewith, all of which was then sold to the Owners by the United States of America on October 2, 1997.

"Equivalent Energy Production" has the meaning set forth in Exhibit A – Compensation.

"EWTF" has the meaning set forth in Section 3.2(a).

"Fish and Wildlife Program" has the meaning set forth in the Recitals.

"Force Majeure Event" means the occurrence of any act or event beyond the reasonable control of the Party affected that prevents the affected Party from performing its obligations under this Agreement, in full or part, if such act or event is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums), including the following: drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a Governmental Authority. Notwithstanding the foregoing, Force Majeure Events shall expressly not include mechanical or equipment failures (except to the extent any such failure is itself caused by a Force Majeure Event) nor diminution in water quality in Eklutna Lake.

"Governmental Approvals" means all authorizations, consents, licenses, leases, rulings, certifications, registrations, exemptions, permits, certificates, and approvals from any Governmental Authority.

"Governmental Authority" means any federal, state or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the Eklutna Hydroelectric Project or AWWU Water Project or their operations, or the health, safety or environmental conditions or otherwise over the Parties.

"Indemnified Parties" has the meaning set forth in Section 9.1.

"Indemnifying Party" has the meaning set forth in Section 9.2.

"Interconnection Agreement" has the meaning set forth in the Recitals.

"Law" means any constitution, charter, act, statute, law, ordinance, code, rule, regulation, order, specified standards or objective criteria contained in any applicable permit or approval or other legislative or administrative action of any Governmental Authority or a final decree, judgment or order of a court or tribunal.

"Liabilities" has the meaning set forth in Section 9.1.

"MEA" has the meaning set forth in the introductory paragraph, and shall include all successor sand assigns of MEA.

"MOA" has the meaning set forth in the introductory paragraph, and shall include all successor sand assigns of MOA.

"MOA-Chugach APSA" means that certain Asset Purchase and Sale Agreement by and between the MOA and Chugach, as amended on December 28, 2018.

"MOA-Chugach Eklutna PPA" means that certain Power Purchase Agreement by and between the MOA and Chugach, dated December 28, 2018, as amended.

"MOA-MEA Eklutna PPA" means that certain Power Purchase Agreement by and between the MOA and MEA, dated September 16, 2019, as amended.

"Owners" has the meaning set forth in the introductory paragraph, and shall include all successors and permitted assigns of the Owners.

"Owners' Facilities" has the meaning set forth in the Recitals.

"Owners' Water Rights" has the meaning set forth in the Recitals.

"Party" and "Parties" has the meaning set forth in the Recitals.

"Person" means any individual, partnership, corporation, limited liability company, association, business, trust, government or political subdivision thereof, Governmental Authority or other entity.

"Preferred Use Status" has the meaning set forth in the Recitals.

"Project Water Rights" has the meaning set forth in the Recitals.

"RCA" has the meaning set forth in Section 2.2(c).

"Recovered Electrical Energy" has the meaning set forth in Section 3.2(a).

"Replacement Energy" has the meaning set forth in Section 3.2(a).

"Replacement Energy Amount" has the meaning set forth in Exhibit A.

"Replacement Energy Payments" has the meaning set forth in Section 3.2(a).

"Term" has the meaning set forth in Section 2.4.

"Transportation Agreement" has the meaning set forth in the Recitals.

EXHIBIT A

Water Scheduling and Compensation

Scheduling & Reporting:

1. Prior to April 1 of each year, AWWU will furnish to the Owners its estimate of:

    a) Anticipated annual diversions of water for public water supply in the AWWU Water Project for the next five water years (June 1 – May 31), by year, for that same period; and

    b) Anticipated monthly diversions of water for public water supply in the AWWU Water Project for the next water year.

2. Within ten (10) days of the beginning of each month, AWWU will furnish to the Owners, on a monthly basis, the daily actual meter readings showing (a) water used by the AWWU Water Project in the preceding month, and (b) electric energy generated by the AWWU Water Project and delivered to the Owners.

Compensation:

As set forth in Section 3.2(a) and (b) of the Agreement and as was previously agreed to by the Parties in the 1984 Agreement, AWWU's use of the Project Water Rights shall remain a burden solely on the MOA's proportionate ownership share of the Project, and for the avoidance of doubt, shall not be allocated to Chugach's or MEA's proportionate ownership shares. Allocation of cost responsibility to the MOA shall be accounted for in the Eklutna Hydroelectric Project's water balancing account maintained among the Owners rather than through billing or other payment compensation owed by AWWU, except as set forth in Section 3.2 and in this Exhibit A. If the MOA's allocation of the Eklutna Hydroelectric Project's water in any given month is insufficient to cover AWWU's use of the Eklutna Hydroelectric Project's water in that month, AWWU will remain entitled to take its water needs within the parameters set forth in the Agreement and AWWU's Water Permit, and the Owners will make necessary adjustments to the MOA's water position within the Eklutna Hydroelectric Project's water balancing account accordingly.

AWWU will compensate the Owners for Replacement Energy (the reduction in electric energy generation attributable to AWWU's use of the Eklutna Hydroelectric Project's water) through Recovered Electrical Energy and Replacement Energy Payments. In other words, AWWU will pay Owners for MWhs not produced, rather than for the quantity of water used by AWWU.

AWWU will not, however, be required to compensate the Owners for water used by AWWU for public water supply in the AWWU Water Project during unplanned reservoir spill events at the Eklutna Hydroelectric Project (i.e., water spills over Eklutna Hydroelectric

Project's dam or through the spillway other than such releases by Owners as part of their implementation of the Fish and Wildlife Program) as measured on a day for day basis. In other words, during days of unplanned reservoir spill events, AWWU will not be required to compensate the Owners for water and equivalent energy generation.

Each month during the term of the Agreement, Chugach (as the Owners' representative designated by the Owners) shall compute the compensation owed by AWWU to Owners pursuant to Section 3.2 of the Agreement and as provided below. Chugach shall provide an invoice to AWWU showing billing determinants, charges, rebates (if any), total amount due, as well as detail regarding the Replacement Energy Payment calculation and Recovered Electrical Energy accounting. As set forth in Section 5.1 of the Agreement, Chugach shall collect such payments from AWWU, allocate values among the Owners as applicable (e.g., pass through its share of the compensation to the MOA), and maintain records as appropriate.

Monthly Compensation Calculation

1. Following receipt of the meter readings from AWWU, the total number of gallons of water used by AWWU during that month, less water used during days in which the unplanned reservoir spill events described above, shall be converted to acre-feet.

2. The energy equivalent for AWWU's water shall then be calculated by multiplying the acre-feet of water used by AWWU by the Eklutna Hydroelectric Project's average energy production per unit of water (kWh/acre-foot) for the month; the result of this calculation is the Equivalent Energy Production (kWh) attributable to AWWU's water usage. Equivalent Energy Production for a given month will be the Replacement Energy for that month.

3. The Replacement Energy in that month shall then be reduced by metered Recovered Electrical Energy at EWTF delivered to MEA and as reported by MEA meter readings to determine the amount of net Replacement Energy (kWh) for which AWWU owes compensation to Chugach for that billing period (the "Replacement Energy Amount").

4. The billing charges for Replacement Energy Amount shall then be calculated as the product of the Replacement Energy (kWh) (after deduction of the Recovered Electrical Energy) and the monthly energy rate set forth in Chugach's Tariff -- "Replacement Energy Service -AWWU" (as may be amended); such charges for Replacement Energy may be adjusted on a kilowatt-hour basis to recover the cost of power as described in Chugach's Tariff -- Fuel and Purchased Cost of Power Adjustment (comprised of fuel, purchased power, and renewable energy adjustment factors) and the Beluga River Unit Contributed Capital Surcharge and Rebate (when applicable).

5. Compensation for Replacement Energy owed by AWWU to Chugach will be capped at $600,000 per water year in value in aggregate as set forth in Section 3.2(b) of the Agreement, as such amount will be adjusted annually for inflation rate using a 15 year rolling average reflected in the Bureau of Labor Statistics' Urban Alaska Consumer Price Index (CPI-U) (as currently reported by State of Alaska Department of Labor and Workforce Development at https://live.laborstats.alaska.gov/cpi/table) ("AWWU Compensation Cap"). In any month of the Term, to the extent that AWWU does not fully compensate Chugach for the total Replacement Energy Amount owed due to application of the AWWU Compensation Cap, the MOA will make Chugach whole through the calculation of a monetary sum equal to the Replacement Energy Amount multiplied by rates set forth in the Chugach tariff for the Replacement Energy Service -- AWWU that shall paid by the MOA to Chugach (i) as an offset against the MOA's ownership share of AWWU payments owed by Chugach pursuant to Section 6.23 of the MOA-Chugach APSA, (ii) cash payments from the MOA to Chugach, or (iii) if necessary, as an offset against other payment obligations owed by Chugach to the MOA pursuant to the MOA-Chugach Eklutna PPA.

Owners' Allocations

1. The Owners hold the following proportionate ownership shares of the Project: MOA – 53.33%; Chugach – 30.00%; MEA – 16.67%.

2. Pursuant to reallocations, terms and conditions set forth in the (i) the MOA-Chugach Eklutna PPA, (ii) Section 6.23 of the MOA-Chugach APSA, and (iii) the MOA-MEA Eklutna PPA, the Project's water (and resulting power output) is allocated to the Owners in the following proportionate shares: MOA – 0%; Chugach – 64.29%; MEA – 35.71%.

3. The cost responsibility for implementation of the Fish and Wildlife Program is borne by the Owners as follows: MOA – 19.04%; Chugach – 64.29%; MEA – 16.67%.

4. MEA shall compensate the MOA for Recovered Electrical Energy at the EWTF received by MEA through the Eklutna Hydroelectric Project's water balancing account.

EXHIBIT B[2]

Notice Information

If delivered to the Owners, to them at	Chugach Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Matanuska Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____]
If delivered to AWWU, to it at	Anchorage Water and Wastewater Utility, a department of the Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____]

[2] **Note to accompany final draft**: To be filled out immediately prior to execution to ensure most up to date information

Final Form

WATER FACILITIES INTERCONNECTION AGREEMENT

by and between

Anchorage Water and Wastewater Utility

as

AWWU Facilities Provider

And

Chugach Electric Association, Inc,

Matanuska Electric Association, Inc., and the Municipality of Anchorage

as

Owners

Dated as of **[_____]**[1]

EKLUTNA RIVER RELEASE FACILITY

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[1] **Note to Accompany Final Draft**: This Agreement has been form agreed as between the Parties but will not be signed by the MOA until after Governor approval of the Fish and Wildlife Plan has occurred and such signatures have been authorized by the Anchorage Assembly. Prior to execution, this footnote can be deleted from the draft.

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WATER FACILITIES INTERCONNECTION AGREEMENT

This WATER FACILITIES INTERCONNECTION AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered into by and between Anchorage Water and Wastewater Utility ("AWWU"), and Chugach Electric Association, Inc. ("Chugach"), Matanuska Electric Association, Inc. ("MEA"), and the Municipality of Anchorage ("MOA") (each of Chugach, MEA, and MOA is an "Owner" and collectively they are referred to as the "Owners"). The Owners and AWWU are sometimes referred to herein as a "Party" or collectively as the "Parties".

R E C I T A L S

WHEREAS, the Owners own and operate the Eklutna Hydroelectric Project, commissioned in 1954, which includes an earthen dam at the outlet of Eklutna Lake and which, under normal operating conditions, diverts the inflows of all water into the Eklutna Lake for hydroelectric production rather than into the Eklutna River;

WHEREAS, AWWU owns and operates certain existing water diversion and transportation facilities integrated with the Eklutna Hydroelectric Project as further detailed in Exhibit B (the "AWWU Facilities") located near the outlet of Eklutna Lake and adjacent to the Eklutna River, and AWWU uses such AWWU Facilities to provide public water supply for its customers;

WHEREAS, the Owners are parties to the 1991 Agreement (as defined below), pursuant to which they are required to develop and implement a Fish and Wildlife program every thirty-five years to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Eklutna Hydroelectric Project (the "Fish and Wildlife Program");

WHEREAS, as a result of the process set forth in the 1991 Agreement, the Owners have developed a draft Fish and Wildlife Program in which the Owners have proposed to: (1) develop an Eklutna River release facility consisting in part of AWWU Facilities and facilities constructed pursuant to this Agreement, all as further described and depicted in Exhibit A-1, Exhibit A-2, and Exhibit A-3 (the "Facility"); (2) to transport water from Eklutna Lake through the Facility and release it into the Eklutna River; and (3) to operate and maintain the Facility;

WHEREAS, in connection with their proposal to develop the Facility, the Owners have also agreed to install bridges at eight locations across the Eklutna River to improve and preserve access to AWWU Facilities, as further described in Exhibit K (the "Access Bridges");

WHEREAS, in connection with the execution of this Agreement and in order to enable future implementation of the Fish and Wildlife Program (if approved), and to address compensation for AWWU's present and future use of a portion of Owners' water rights, the Parties are also entering into a Long-Term Water Transportation Agreement (the "Transportation Agreement") and a new Public Water Supply Agreement (the "Water Supply Agreement");

WHEREAS, Owners desire to construct the Facility in coordination with AWWU and AWWU is willing to allow for the interconnection and use of AWWU Facilities as part of the

Facility and to otherwise cooperate with Owners all pursuant to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the premises of this Agreement, the Transportation Agreement, and the Water Supply Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners and AWWU, intending to be legally bound, hereby agree as follows:

ARTICLE 1.
DEFINITIONS; INTERPRETATION; EXHIBITS

1.1 Defined Terms. Capitalized terms used in this Agreement without other definition shall have the meanings set forth in Schedule 1.1, unless the context requires otherwise.

1.2 Interpretation. As used in this Agreement, the terms "herein," "herewith" and "hereof" are references to this Agreement, taken as a whole; the terms "includes" or "including" shall mean "including, without limitation"; and references to a "Section," "Article", "Exhibit" or "Schedule" shall mean a Section, Article, Exhibit or Schedule of this Agreement, as the case may be, unless in any such case the context requires otherwise. All references to a given Exhibit, Schedule, agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made. A reference to a Person includes its permitted successors and permitted assigns. The singular shall include the plural and the masculine shall include the feminine and neuter, and vice versa.

ARTICLE 2.
OWNERS RESPONSIBILITIES

2.1 General Responsibilities of Owners. Subject to Sections 4.1, 4.3 and 4.4, the Owners shall be responsible for designing, engineering, obtaining all Approvals for (except with respect to AWWU Approvals), constructing and performing related activities for the successful completion of (i) the Facility and interconnection of the Facility to the AWWU Facilities pursuant to the Facility Criteria; and (ii) the Access Bridges, the costs of which shall be paid for by the Owners.

2.2 Standard of Work; Skill and Expertise. Throughout the performance of all aspects of the Work, the Owners shall comply with, and shall ensure that each Subcontractor complies with, all applicable Laws and Prudent Industry Standards (the "Standard of Work"). The Owners shall, throughout the performance of the Work, use commercially reasonable efforts to ensure that all employees and contractors engaged in connection with the maintenance of, operation of, service of, and any future modification to (to include design, construction, commissioning, and installation) the Facility shall have the appropriate and necessary experience, skill and expertise to carry out the tasks efficiently, professionally, and in accordance with the Standard of Work.

2.3 Scope of Work. Without limiting the generality of Sections 2.1 and 2.2, the Owners shall perform all of the specific tasks in accordance with the Scope of Work and the Project Schedule, subject to any Change Orders pursuant to ARTICLE 7, in order to achieve Commercial Operation and Final Acceptance of the Facility in accordance with ARTICLE 4, and to commence

the Parties' obligations under the Transportation Agreement, whereupon the Work under this Agreement shall be concluded and the obligations under the Transportation Agreement shall begin.

2.4 Project Manager. The Owners shall identify to AWWU and at all times during the term of this Agreement maintain a Project Manager. The Project Manager shall act as AWWU's primary point of contact with the Owners with respect to the Work, and shall be available to meet with AWWU as reasonably requested by AWWU to discuss the Work or any issue related thereto. The Project Manager shall have full authority to act for the Owners under this Agreement; provided, that the Project Manager shall under no circumstances have the authority to amend (except for the issuance of Change Orders), terminate, or assign this Agreement. The Owners may change the Project Manager at any time upon written notice to AWWU. As of the Effective Date, the Project Manager is listed in Exhibit E.

2.5 Status of Individual Owners. Each of the Owners shall be jointly and severally liable for the obligations of the Owners under this Agreement. The delineation of specific responsibilities set forth hereunder as among the Owners shall be at the sole discretion of the Owners, not AWWU. If, at any time, the Owners agree that one or two of the Owners need no longer be party to this Agreement, such unnecessary Owner(s) may be removed as parties to this Agreement upon written notice to AWWU and, if agreed, shall retain no liability upon removal, with the remaining Owner(s) automatically assuming the full obligations of the Owners hereunder. If an Event of Default exists hereunder at any time with respect to an Owner, it shall be considered an Event of Default with respect to the Owners together as one Party hereunder, provided, that if another Owner agrees to assume such defaulting Owner's obligations under this Agreement by removing such Owner as a party pursuant to the preceding sentence of this Section 2.5 prior to the expiration of any applicable cure period, this shall not be considered an Event of Default hereunder.

ARTICLE 3.
AWWU RESPONSIBILITIES

3.1 Access to Site. As of the Effective Date, AWWU shall, with respect to the land and AWWU Facilities within its control, provide the Owners with a non-exclusive license to access the Site and the AWWU Facilities necessary to enable the Owners to perform their obligations under this Agreement in accordance with the Project Schedule, provided, that AWWU may from time to time limit access to the Site or the AWWU Facilities under AWWU control temporarily only to the extent necessary to address reasonable security or safety issues, and to avoid putting AWWU's public water supply at risk of interruption or contamination. To the extent that any additional access permissions from third-party landowners adjacent to the Site may be required for Owners to access the Site and conduct the Work pursuant to the site license granted under this Section 3.1, obtaining such Approvals shall be the responsibility of the Owners, provided that (i) AWWU shall be responsible for any such permissions associated with the construction and maintenance of the Access Bridges; (ii) if the Parties agree that in certain other circumstances AWWU responsibility is more appropriate, AWWU shall bear such responsibility; and (iii) AWWU shall assist the Owners with obtaining such Approvals as is reasonably requested by the Owners, including by being the first and primary point of contact with such third party in situations where AWWU has an existing easement or applicable existing relationship with such third party. To the extent that AWWU adds access or other security limitations to the Site, to the Owners'

Portion, or to the AWWU Facilities, the Owners and AWWU shall cooperate to ensure continuous access for the Owners and their contractors, to enable them to perform the Owners' obligations under this Agreement.

3.2 Required Approvals. After the Owners' achievement of the Construction Start CPs, AWWU shall be responsible for obtaining and maintaining those Governmental Approvals and third-party approvals necessary for the completion of the Work as set forth on Exhibit F hereto (the "AWWU Approvals"), any costs of which shall be initially paid for by AWWU and reimbursed by Owners pursuant to Section 5.3. The Owners shall provide AWWU with such reasonable assistance as AWWU may request in obtaining such AWWU Approvals.

3.3 AWWU Representative. AWWU shall designate in writing and maintain at all times during the term of this Agreement an AWWU Representative to represent AWWU and to receive communications from the Owners with regard to the Work and the development of the Facility and the Access Bridges. The AWWU Representative shall act as the Owner's primary point of contact with the AWWU with respect to the Work, and shall be available to meet with the Owners and Project Manager, as reasonably requested, to discuss the Work or any issue related thereto. The AWWU Representative shall have full authority to act for AWWU under this Agreement; provided, that AWWU's Representative shall under no circumstances have the authority to amend (except for the signing of Change Orders), terminate or assign this Agreement. AWWU may change the AWWU Representative at any time upon written notice to the Owners. As of the Effective Date, the AWWU Representative shall be [_____][2].

3.4 Duty to Cooperate. AWWU shall, throughout the performance of the Work, cooperate with the Owners and perform its responsibilities, obligations and services under this Agreement in a timely manner, to facilitate the Owners timely and efficient performance of the Work and the Owners' obligations under this Agreement. AWWU shall provide timely reviews and approvals, including completing the design approval set forth in Section 4.3, such approvals not to be unreasonably withheld or delayed.

3.5 Site and AWWU Facilities Information. Except as set forth on Schedule 3.5, AWWU hereby represents and warrants that the conditions of the Site and of the AWWU Facilities are suitable for the Work and the completion of the Facility. AWWU hereby acknowledges that the Owners shall be entitled to rely on Schedule 3.5 and Exhibit B in preparing their assessment of the Work necessary to complete the Facility, as well as their work preparing the Project Schedule; and that if any information contained in Schedule 3.5 or Exhibit B is later found to be inaccurate, the Owners shall be entitled to a Change Order at their discretion pursuant to Section 7.3.

ARTICLE 4.
CONDITIONS PRECEDENT; PROJECT SCHEDULE, DESIGN APPROVAL

4.1 Construction Start Conditions Precedent.

[2] **Note to Accompany Final Draft**: To be populated after Governor approval and prior to execution.

(a) The obligations of the Owners to design, engineer, permit and construct the Facility as set forth in this Agreement, and the right of the Owners to conduct Work at the Site, and to physically interconnect the Facility with the AWWU Facilities as set forth in this Agreement, shall not be effective until the achievement of the following conditions precedent (the "Construction Start CPs"):

(i) The Owners receive final approval from the Governor of Alaska, with such approval not subject to any pending judicial review or appeal, for a Fish and Wildlife Program that requires the use of the AWWU Facilities as contemplated in this Agreement, provided that such approval includes no unexpected conditions materially adverse to the Owners or to AWWU, as determined in good faith by the Parties and in the exercise of commercially reasonable business judgment;

(ii) The Owners are issued lawful documentation from the Alaska Department of Natural Resources authorizing the use and transport of water as contemplated under the Transportation Agreement, including but not limited to an amendment of the Owners' Water Rights or other approval(s) authorizing a change of use to allow the Owners to use a portion of the Owners' Water Right to establish and continue instream flows in the Eklutna River;

(iii) The Owners and AWWU, with regard to AWWU Approvals, have obtained all Approvals necessary to conduct the Work; and

(iv) The Transportation Agreement and the Water Supply Agreement are in full force and effect and are valid, binding and enforceable against AWWU and the Owners in accordance with their terms.

(b) Notwithstanding Section 4.1(a), nothing in this Agreement shall be construed to prevent the Owners from conducting design and permitting work in preparation for Facility construction prior to the achievement of the Construction Start CPs. Such pre-construction Work shall be done at the sole discretion and financial risk of the Owners, and shall be treated as Work for which all of AWWU's duties and responsibilities hereunder shall apply unless otherwise stated.

4.2 Project Schedule. The Owners shall perform all Work in accordance with the Scope of Work and the Project Schedule. The Owners shall use commercially reasonably efforts to meet all milestones set forth in the Project Schedule, provided that all such milestones may be extended at the discretion of the Owners as may be reasonably necessary to accommodate delays in the achievement of the Construction Start CPs or the receipt of necessary Approvals that are outside the control of the Owners.

4.3 Submission for Design Approval. As of the Effective Date, the proposed design for the Facility is set forth in Exhibit A-3. The Owners may modify such design at their discretion until the achievement of the Construction Start CPs, at which point prior to the commencement of any construction activities at the Site, the Owners shall provide to AWWU final design drawings and proposals (and any applicable calculations, models, and reports developed in support thereof) for the Facility for AWWU's review and approval, such approval to not be unreasonably withheld or delayed. AWWU shall indicate to the Owners within thirty 30 Days after receipt of such design

drawings, proposals, calculations, models, and reports whether it approves or denies the design. If AWWU denies the design, the parties shall work in good faith to resolve the applicable issues and develop an updated design for AWWU approval.

4.4 Failure to Obtain Approvals. If, at any point during the Owners performance of the Work, the Owners or AWWU are unable to obtain any Approval necessary to construct or operate the Facility as intended herein and in the Fish and Wildlife Program, despite taking all reasonable commercial efforts to obtain such Approvals, then either Party may terminate this Agreement upon forty-five (45) Days prior written notice; and the Owners shall restore the site pursuant to Section 11.7.

4.5 Installation; Testing Procedures.

(a) Conduct of Tests. As soon as possible after installation of all Equipment necessary, as determined by the Owners in their sole discretion, to render the Facility mechanically and structurally complete, the Owners shall begin to conduct, or cause to be conducted, the Commissioning Procedures, in accordance with this Section 4.5 and the Commissioning Procedures Guidelines. Owners may perform and re-perform any number of Commissioning Procedures in accordance with the Commissioning Procedures Guidelines, and the Owners, at their discretion, may prematurely terminate any Commissioning Procedures so long as the remaining Commissioning Procedures are completed prior to Commercial Operation.

(b) AWWU Personnel. The Owners shall provide AWWU at least two (2) Business Days' prior notice of the intended commencement of the Commissioning Procedures. AWWU shall have at least one representative at the Site throughout the performance of the Commissioning Procedures, in order to monitor the taking of measurements to determine the performance and safety of the Facility, all in accordance with the Commissioning Procedures Guidelines.

4.6 Commercial Operation. When the Owners consider that the criteria for Commercial Operation have been met, including successful completion of the Commissioning Procedures in accordance with Section 4.5, the Owners shall so notify AWWU in writing, and shall provide AWWU with a completed Commercial Operation certificate issued by an independent licensed professional engineer, in the form set forth in Exhibit H (the "Commercial Operation Certificate").

4.7 Final Acceptance. The criteria for achieving Final Acceptance shall be that: (a) Commercial Operation has occurred; (b) AWWU has received from the Owners copies of all as-built drawings for the Work and the Facility; (c) AWWU has received from Owners all Equipment Documentation related to the AWWU Portion; (d) Owners have removed from the Site and properly disposed of all wastes created at or brought onto the Site by the Owners; and (e) an Owners' training program for AWWU's operation and maintenance personnel has been completed in accordance with the Scope of Work. When the Owners consider that the criteria for Final Acceptance have been met, the Owners shall so notify AWWU in writing. Within five (5) Days thereafter, AWWU shall either: (i) notify the Owners in writing that it agrees that Final Acceptance has been achieved, or (ii) advise the Owners of the items in Section 4.7(a) through (e) (collectively, "Final Acceptance Items") that AWWU believes have not yet been satisfied. Upon receipt of any

notice from AWWU of an alleged failure to satisfy a Final Acceptance Item, the Owners shall either: (A) satisfy such Final Acceptance Item(s); or (B) advise AWWU in writing that the Owners believes in good faith that all Final Acceptance Item(s) have been satisfied and shall request the commencement of negotiations pursuant to Section 11.5(a).

4.8 Post-Completion Facility O&M. Upon Final Acceptance and the applicable title transfers set forth in ARTICLE 6, AWWU shall be responsible for operating and maintaining the AWWU Facilities and the AWWU Portion; and the Owners shall be responsible for operating and maintaining the Owners' Portion. Each of AWWU and the Owners shall also have further specific ongoing operations and maintenance obligations for portions of the Facility during the "Delivery Term" of the Transportation Agreement, as further detailed in the Transportation Agreement.

4.9 Post-Completion Access Bridge Maintenance. Upon completion of any Access Bridge by the Owners, and possession and applicable title having passed to AWWU pursuant to Section 6.1(d), full responsibility for (and associated costs of) such Access Bridge maintenance shall belong to AWWU, except that the Owners shall use commercially reasonable efforts to obtain a one-year materials and workmanship warranty from the contractor(s) engaged by the Owners to construct the Access Bridges and then shall pass such warranty on to AWWU.

4.10 Skill and Expertise. Each Party shall use commercially reasonable efforts to ensure that all employees and contractors engaged in connection with the maintenance of, operation of, service of, and any future modification to (to include design, construction, commissioning, and installation) the Facility shall have the appropriate and necessary experience, skill and expertise to carry out the tasks efficiently, professionally, and in accordance with Prudent Industry Standards and applicable Laws.

ARTICLE 5.
COSTS; TAXES; REIMBURSEMENT

5.1 Costs. All costs to complete the Facility and perform the Work hereunder shall be the responsibility of Owners. The Owners shall reimburse AWWU pursuant to Section 5.3 for AWWU's reasonable actual costs related to or arising out of the development and construction of the Facility and related to all of AWWU's responsibilities set forth in ARTICLE 3, including but not limited to documented direct and indirect costs, overhead, general and administrative costs, staff time, and all other costs related to or arising out of the planning, engineering and project management associated with the Facility; provided that AWWU shall use commercially reasonable efforts to minimize such costs.

5.2 Taxes. The Owners shall be responsible for and shall pay any sales, use, gross receipts, occupation, and other taxes (excluding income and franchise tax imposed upon AWWU) that from time to time may become payable as a consequence of this Agreement.

5.3 Payments. For any costs described in Section 5.1 initially borne by AWWU, AWWU shall submit to each of the Owners a detailed accounting of such cost for which AWWU is seeking reimbursement, together with such supporting documentation as the Owners shall reasonably require. Within sixty (60) Days after receiving a properly completed application for reimbursement and all required supporting documentation, each of the Owners shall individually:

(i) pay AWWU their respective Cost Responsibility Proportion of the amounts set forth in AWWU's application for payment; or (ii) notify AWWU in writing that such Owner believes in good faith that a requested payment amount is not due and owing and shall request the commencement of negotiations pursuant to Section 11.5(a). In addition to the requirement that each Owner pay its Cost Responsibility Proportion as required in this Section, the Owners shall each be jointly and severally liable for all reimbursement obligations owed to AWWU under this Article 5.

ARTICLE 6.
TITLE; LOSS OR DAMAGE; FORCE MAJEURE

6.1 Title.

(a) Legal title to and ownership of the AWWU Portion shall pass to AWWU upon achievement of Final Acceptance free and clear of any and all liens, claims, security interests or other encumbrances. Title to drawings, specifications and like materials provided by Owners with respect to the AWWU Portion shall also pass to AWWU upon achievement of Final Acceptance. Owners shall deliver to AWWU such assignments, bills of sale or other documents as reasonably requested by AWWU to evidence such transfers of title and ownership.

(b) Legal title to and ownership of the Owners' Portion shall remain with Owners after Final Acceptance and throughout the term of the Transportation Agreement, free and clear of any and all liens, claims, security interests or other encumbrances imposed by AWWU.

(c) Legal title to and ownership of the AWWU Facilities shall remain with AWWU before, during, and after the construction of the Facility.

(d) Legal title to and ownership of any Access Bridge shall pass to AWWU upon completion of such Access Bridge. Owners shall deliver to AWWU such assignments, bills of sale or other documents as reasonably requested by AWWU to evidence such transfers of title and ownership, and if the Parties determine that an additional agreement between the Parties is necessary to detail specific Access Bridge construction and ownership transfer terms and conditions, the Parties shall negotiate such documentation in good faith and in accordance with the terms of this Agreement.

(e) Legal title to and ownership of all Owners' Water shall remain with the Owners at all times during construction of the Facility, including during the performance of the Commissioning Procedures.

6.2 Risk of Loss.

(a) Equipment. Notwithstanding anything herein to the contrary, the Owners shall have the full responsibility for care, custody and control of material and Equipment incorporated into the Work (including all Equipment and materials used in connection therewith), and shall bear the risk of loss thereof, until an applicable transfer of title to the Equipment for the AWWU Portion occurs, at which time risk of loss shall pass to AWWU.

(b) Water. For any quantity of Owners' Water flowing through AWWU's Facilities as part of the Commissioning Procedures or otherwise during the construction of the Facility: control, custody and risk of loss of such Owners' Water shall transfer from the Owners to AWWU at the Injection Point, where such Owners' Water shall comingle with AWWU's Water until reaching the Delivery Point, at which point the custody, control and risk of loss of a quantity of water equal to the original quantity of Owners' Water released into the AWWU Facilities at the Injection Point shall pass back to the Owners.

6.3 Force Majeure. Each Party shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, except for the Owners' obligation to reimburse AWWU for costs pursuant to ARTICLE 5, if and to the extent that such Party's failure of, or delay in, performance is due to a Force Majeure Event; provided, that:

(a) such Party gives the other Party prompt written notice describing the particulars of the Force Majeure Event as soon as is reasonably practicable after becoming aware of the occurrence of the Force Majeure Event;

(b) the suspension of performance is of no greater scope and of no longer duration than are reasonably required by the Force Majeure Event;

(c) no obligations of an affected Party that arose before the occurrence of the Force Majeure Event causing the suspension of performance shall be excused as a result of such Force Majeure Event, unless and only to the extent that the performance of such obligations is impaired by the Force Majeure Event;

(d) the Party uses diligent commercially reasonable efforts to overcome or mitigate the effects of the Force Majeure Event; and

(e) when the Party is able to resume performance of its obligations under this Agreement, such Party shall give the other Party written notice to that effect, and shall promptly resume performance hereunder.

ARTICLE 7.
CHANGES

7.1 Change Orders. The Owners may propose Change Orders to AWWU if those Change Orders: (i) improve the Facility; (ii) are required by a Governmental Authority as a condition precedent to issuance of any Governmental Approval; or (iii) are otherwise advisable for the Work. This shall not affect the obligation of the Owners to perform the Work and to install the Facility in accordance with the terms of this Agreement, except as otherwise set forth in the Change Order or in Sections 7.2 or 7.3.

7.2 Changes to Project Schedule. In the event that any Change Order affects the amount of time needed to complete any portion of the Work, there shall be an equitable adjustment of the time of performance and the Project Schedule, as agreed to by the Parties.

7.3 Unanticipated Conditions. If any unusual or unanticipated conditions exist or arise at the Site such as Hazardous Materials, structural or geotechnical deficiencies, environmental

conditions, pollution or archeological findings not known to the Owners as of the Effective Date (collectively, "Unanticipated Conditions"), which conditions would involve the Owners incurring any expenses or delays to correct such conditions, the Owners shall submit a request for approval of the corrective work and expense pursuant to a Change Order, the approval of which by AWWU shall not be unreasonably withheld, conditioned or delayed, and such corrective work shall be deemed incorporated into the Scope of Work; provided, however, if any Unanticipated Conditions exist or arise that are contrary to those set forth on Schedule 3.5 or Exhibit B, then the Change Order submitted by the Owners in connection with such Unanticipated Conditions shall be deemed to be automatically approved by AWWU. All change orders under this Agreement shall be fulfilled at the sole expense of the Owners.

ARTICLE 8.
WARRANTIES

8.1 Warranties.

(a) Except as expressly set forth in Section 8.1(b), Owners do not make (and hereby expressly disclaim) any other warranties of any kind whatsoever.

(b) The Owners hereby warrant that as of the Commercial Operation Date: (i) the Facility will meet the requirements set forth in the Facility Criteria; (ii) the Facility will be free from defects in workmanship under normal operating conditions, provided that such warranty shall not apply to existing AWWU Facilities incorporated within the Facility; (iii) all Work will have been performed in accordance with Prudent Industry Standards and all requirements of this Agreement; and (iv) the Work, including but not limited to each item of Equipment incorporated therein, will be new and shall conform in all material respects with the plans and specifications prepared in accordance with this Agreement and all descriptions set forth herein.

(c) In conjunction with achievement of the Commercial Operation Date, the Owners hereby agree to assign to AWWU, and AWWU agrees to assume, all Subcontractor, supplier and manufacturer warranties set forth on Exhibit G relating to the AWWU Portion, and thereafter AWWU shall pursue all warranty claims thereunder directly with such Subcontractors, suppliers and manufacturers.

8.2 Warranty Period. Owners shall remedy any breach of the warranties set forth in Sections 8.1(b) discovered within 12 months of the Commercial Operation Date (the "Warranty Period").

8.3 Remedies. If the warranty set forth in Section 8.1 is breached or a defect or deficiency is discovered by Owners or AWWU during the Warranty Period, Owners shall repair, replace, and/or correct the applicable Work on a reasonably expedited basis while minimizing any impact of the failure on Facility availability and functionality or AWWU Facilities availability and functionality. AWWU shall permit the Owners access to the AWWU Facilities and the AWWU Portion necessary or useful to perform Owners' warranty obligations under this Agreement. All costs of Owners' performance of their warranty obligations shall be borne by Owners, including any removal, replacement and reinstallation of Equipment and materials necessary to gain access to defective Work.

8.4 Warranty Exclusions. The warranty obligations set forth in this ARTICLE 8 do not extend to Work that is damaged by or other potential warranty claims arising from: (a) the negligent acts or omissions of AWWU or its contractors, agents, employees, representatives or any other Person acting on behalf of AWWU; (b) Force Majeure Events; (c) any Equipment included in the AWWU Portion that is not maintained and operated by AWWU in accordance with all Equipment Documentation; (d) normal wear and tear; (e) any alteration, repair or replacement made without the prior written approval of the Owners or contrary to instructions from the Owners; or (f) conditions that existed prior to the completion of the Work, including any defects or deficiencies in any equipment included in AWWU Facilities not directly caused by the Owners as part of the Work (collectively, "Non-Owner Work"). In the event that the warranty service requested is related to Non-Owner Work or is covered by any warranty set forth on Exhibit G, the Owners shall have no further obligation.

8.5 NO IMPLIED WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE OWNERS MAKE NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, AND AWWU DISCLAIMS ANY WARRANTY OR GUARANTEE IMPLIED BY LAW, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT AND IMPLIED WARRANTIES OF CUSTOM OR USAGE.

ARTICLE 9.
LIMITATIONS ON LIABILITY

9.1 Aggregate Limitation of Liability. Notwithstanding any other provision of this Agreement, the total aggregate liability of the Owners and the total aggregate liability of AWWU arising out of or relating to this Agreement, from any and all causes, whether based on contract, tort (including negligence), strict liability or any other cause of action, shall in no event exceed ten million dollars ($10,000,000) for AWWU, and ten million dollars ($10,000,000) for the Owners collectively, provided that such limit shall not apply in the case of such Party's (i) gross negligence or willful misconduct, (ii) third-party indemnity obligation, or (iii) breach of any representation or warranty.

9.2 CUMULATIVE REMEDIES. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, OR IF A REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY NON-EXCLUSIVE, THE NON-DEFAULTING PARTY SHALL HAVE THE RIGHT TO EXERCISE ALL RIGHTS AND REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY; PROVIDED, HOWEVER, THAT THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED.

9.3 WAIVER OF CERTAIN DAMAGES. EXCEPT WITH RESPECT TO INDEMNIFICATION OF THIRD PARTY CLAIMS PURSUANT TO ARTICLE 10, OR AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, BUSINESS INTERRUPTION OR SIMILAR DAMAGES, WHETHER BY STATUTE, IN TORT, BY CONTRACT OR OTHERWISE.

ARTICLE 10.
INDEMNIFICATION

10.1 Indemnity. To the fullest extent permitted by Law, each Party shall indemnify, hold harmless and defend the other Party and its directors, officers, shareholders, partners, agents and employees, and the Affiliates of the same (collectively, the "Indemnified Parties"), from and against any and all claims, loss, damage, expense and liability, including court costs and reasonable attorneys' fees (collectively, "Liabilities") incurred by the Indemnified Parties in connection with or arising from (i) the Work; and (ii) any claim for physical damage to or physical destruction of any part of the Facility, the AWWU Facilities, or death of or bodily injury to any person, to the extent any such Liability was caused by the negligence of the Indemnifying Party or its agents or employees or others under such Indemnifying Party's control, except any Liabilities incurred due to the negligence or willful misconduct of an Indemnified Party. For the purpose of the definition of "Indemnified Parties" AWWU shall not be considered to be an "Affiliate" of the MOA.

10.2 Environmental Indemnity. Notwithstanding any other provision hereof, each Party shall indemnify, defend and hold harmless the other Party and its Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Site of any Hazardous Material to the extent such Hazardous Material is deposited, spilled, released or otherwise caused by the Indemnifying Party or its Subcontractors or agents in connection with the Work.

10.3 Defense of Claims. A Party with an indemnification obligation pursuant to this ARTICLE 10 (an "Indemnifying Party") shall have the right to defend the Indemnified Parties pursuant to this ARTICLE 10 by counsel of the Indemnifying Party's selection (including insurance counsel) reasonably satisfactory to the Indemnified Party, unless in the opinion of counsel for the Indemnifying Party a conflict of interest between the Parties may exist with respect to such claim. If the Indemnifying Party does not assume the defense of the Indemnified Party, or if a conflict precludes counsel for the Indemnifying Party from providing the defense, then the Indemnifying Party shall reimburse the Indemnified Party on a monthly basis for the Indemnified Party's defense through separate counsel of the Indemnified Party's choice. Even if the Indemnifying Party assumes the defense of the Indemnified Party with acceptable counsel, the Indemnified Party, at its sole option, may participate in the defense, at its own expense, with counsel of its own choice without relieving the Indemnifying Party of any of its obligations hereunder. The Parties shall give each other prompt written notice of any asserted claims or actions indemnified against hereunder and shall cooperate with each other in the defense of any such claims or actions. Without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed, no Indemnifying Party shall settle any such claims or actions in a manner that would require any action or forbearance from action by any Indemnified Party.

ARTICLE 11.
DEFAULT AND REMEDIES; TERMINATION; DISPUTE RESOLUTION

11.1 Event of Default. The following shall constitute events of default on the part of either party (each, an "Event of Default") under this Agreement:

(a) If a Party makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of such Party, or if such Party files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition of or readjustment of debts and, in the case of any such proceeding instituted against such Party (but not by such Party) such proceeding is not dismissed within sixty (60) days of such filing;

(b) If a Party fails to comply with any material terms of this Agreement not otherwise set forth as an Event of Default in this Section 12.1(b) and fails to cure or remedy such failure within thirty (30) days after notice and a written demand is made by the non-defaulting Party to the defaulting Party to cure the same or, if such failure cannot be cured within thirty (30) days, the defaulting Party fails to commence to cure such failure within thirty (30) days after such notice and written demand and thereafter diligently pursue such cure to completion, which shall in no event be later than ninety (90) days after such notice;

(c) If a Party fails to make any payment due hereunder within sixty (60) days after written notice from the non-defaulting Party;

(d) If a Party defaults under the Water Supply Agreement or the Transportation Agreement; or

(e) If any representation or warranty of a Party in this Agreement proves to have been false or misleading in any material respect when made, and such Party has not, within thirty (30) days after written notification thereof from the non-defaulting Party, either fully remedied, or commenced and diligently pursued the remedy, of all adverse impacts on the non-defaulting Party resulting therefrom, all to the reasonable satisfaction of the non-defaulting Party.

11.2 Remedies Upon Event of Default. Upon the occurrence and continuation of an Event of Default, the non-defaulting Party shall have the right to terminate this Agreement and the Water Supply Agreement upon ten (10) days' prior written notice, and pursue any other remedy available to such non-defaulting party at law or in equity arising out of such Event of Default, including a claim for monetary damage or specific performance.

11.3 Site Restoration Upon Termination. If either Party terminates this Agreement for any reason during construction, the Owners shall promptly withdraw from the Site and shall remove all Equipment, returning the Site to its previous condition, all at Owners' cost, provided that if the Owners terminate for an AWWU Event of Default under this Agreement or the Water Supply Agreement or Transportation Agreement, AWWU shall reimburse the Owners for the costs of such removal.

11.4 Automatic Cross-Agreement Termination. If this Agreement is terminated for any reason, the Water Supply Agreement and the Transportation Agreement shall automatically terminate effective as of the same date as this Agreement's termination.

11.5 Dispute Resolution. In the event of any dispute arising under this Agreement (a "Dispute"), within ten (10) Business Days following notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives

cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (10) Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within ten (10) Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute within thirty (30) Days thereafter, either Party may pursue any available legal remedies.

ARTICLE 12.
REPRESENTATIONS

12.1 General Representations and Warranties. Each Owner and AWWU hereby represents and warrants that:

(a) It is duly organized, validly existing and in good standing under the Laws of the state of its formation and is duly qualified to do business in the jurisdiction where the Site is located.

(b) It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate, municipal, or other action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar Laws relating to the enforcement of creditors' rights generally and by general equitable principles.

(c) It is not in violation of any applicable Law, or any judgment entered by any federal, state, local or other Governmental Authority, which violations, individually or in the aggregate, would adversely affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or (to its best knowledge) threatened against it which, if adversely determined, could have a material adverse effect upon its financial condition, operations, prospects or business, as a whole, or its ability to perform under this Agreement.

(d) No authorization, approval, exemption, or consent of or by any Person is required by it in connection with the execution, delivery, and performance of this Agreement. In addition, each Party represents and warrants to the other Party that the Governmental Approvals required to be obtained by such Party either have been obtained by such Party and are in full force and effect on the date hereof or will be obtained by such Party and will be in full force and effect on or prior to the date on which they are required, under applicable Law, to be in full force and effect, so as to permit the Owners to commence and prosecute the Work to completion in accordance with the Project Schedule.

(e) The execution and delivery of this Agreement, and the consummation of the transactions herein contemplated and compliance with the terms and provisions hereof by it, will not conflict with or result in a material breach of, or require any consent under, any of its constitutive documents, or any applicable Law, or any agreement or instrument to which it is a party or by which it is bound or to which it is subject, or constitute a material default under any such agreement or instrument.

ARTICLE 13.
NOTICES

13.1 Writing. Except as set forth in Section 13.2, any notice, statement, demand, claim, offer or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be sent by email, facsimile, hand messenger delivery, overnight courier service, or certified mail (receipt requested) to the other Party at the address set forth in Exhibit L. Each Party shall have the right to change the address information to which notice shall be sent or delivered or to specify additional addresses to which copies of notices may be sent, in either case by similar notice sent or delivered in like manner to the other Party. All notices shall be effective upon receipt.

13.2 Technical Communications. Any technical or other communications pertaining to the Work shall be between the Project Manager and the AWWU Representative or other representatives appointed by the Project Manager or the AWWU Representative. Each Party shall notify the other in writing of the name of such representatives. The Project Manager or other designated representatives shall be reasonably satisfactory to AWWU, have knowledge of the Work, and be available at all reasonable times for consultation.

ARTICLE 14.

CONFIDENTIALITY; PUBLIC STATEMENTS

14.1 Confidentiality. The Parties agree that the Parties' proposals, communications, negotiations, and information exchanged prior to the Effective Date concerning this Agreement and the development thereof, and technical and other information regarding or relating to the Facility, the Access Bridges or the Work exchanged between the Parties that is or otherwise clearly communicated to the receiving Party as "Confidential" constitute "Confidential Information" of the disclosing Party. The Owners and AWWU each agree to hold such Confidential Information wholly confidential. Such Confidential Information may only be used by the Parties for the purposes related to the approval, or administration or enforcement of this Agreement.

14.2 Disclosure. Each Party agrees not to disclose Confidential Information of the other Party to any other Person (other than its Affiliates, counsel, consultants, lenders, partners, members, employees, officers and director, and then only to Persons subject to similar confidentiality restrictions as those set forth herein), without the prior written consent of the other Party, provided, that, either Party may disclose Confidential Information, if such disclosure is required by Law, including without limitation, pursuant to an order of a court or regulatory agency or in order to enforce this Agreement or to seek approval of this Agreement. In the event a Party is required by Law or a Governmental Authority to disclose Confidential Information, such Party,

prior to such disclosure, shall provide reasonable advance notice to the other Party of the time and scope of the intended disclosure, in order to permit such non-disclosing Party the opportunity to obtain a protective order or to otherwise seek to prevent or limit the scope or otherwise impose conditions upon such disclosure.

14.3 Injunctive Relief. Each Party agrees that violation of the terms of Sections 14.1 and 14.2 constitutes irreparable harm to the other, and that the harmed Party may seek any and all remedies available to it at law or in equity, including but not limited to injunctive relief.

14.4 Release of Agreement. The Parties agree that this Agreement, upon execution, shall not be considered Confidential Information. Except as required by Law, releasing the Agreement to the public shall be the sole responsibility of the Owners, to be released in the manner at a time decided in their sole discretion.

14.5 AWWU Public Statements.

(a) Until that date upon which the Fish and Wildlife Program is approved by the Governor of Alaska, and absent any pending judicial review or appeal, any public statements made by AWWU about the Fish and Wildlife Program or the development of the Facility must be approved by the Owners, such approval not to be unreasonably withheld or delayed. Notwithstanding the foregoing, AWWU may respond to any inquiries from any Governmental Authority in a manner consistent with this Agreement.

(b) AWWU shall make best efforts to ensure that all of the employees, agents, contractors and consultants of AWWU do not engage in any public activities while acting as employees, agents, contractors or consultants of AWWU, to include the public expression of statements that are reasonably likely to have an adverse effect on the public's perception of the Fish and Wildlife Program and the development of the Facility, it being understood by both AWWU and the Owners that such negative public statements may undermine the ability of the Owners to satisfy their obligations under the 1991 Agreement; provided, however, that the Parties acknowledge that AWWU cannot restrict the rights of such people to express their personal opinions as private citizens.

ARTICLE 15.
MISCELLANEOUS

15.1 Reasonability. The Parties shall act in a reasonable manner and in accordance with principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement and whether or not stated: (a) where this Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned, or delayed; and (b) wherever this Agreement gives a Party a right to determine, require, request, specify, or take similar action with respect to a matter, such determination, requirement, request, specification, or similar action must be reasonable.

15.2 Entire Agreement. This Agreement, together with all Schedule and Exhibits hereto, embodies the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties, verbal or written, relating to the subject matter hereof.

15.3 Waiver. Any waiver of the provisions of this Agreement must be in writing and shall not be implied by any usage of trade, course of dealing or course of performance. No exercise of any right or remedy by AWWU or the Owners constitutes a waiver of any other right or remedy contained or provided by Law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance hereunder shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

15.4 Assignment. Neither Party shall assign this Agreement or any of its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party, without relieving itself from liability hereunder, and without the need for consent from the other Party, provided that any such assignee shall agree to be bound by all terms and conditions hereof, may transfer, pledge or assign this Agreement: (a) to any person or entity succeeding to all or substantially all of the assets of the assigning Party; or (b) to a successor entity in a merger or acquisition transaction. Any assignment made in contravention of this Section 15.4 shall be void and unenforceable.

15.5 Governing Law; Submission to Jurisdiction; Venue; No Jury Trial.

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALASKA, EXCLUDING ANY CHOICE OF LAW RULES.

(b) Submission to Jurisdiction, Venue. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its Affiliates or designees) with respect to or arising out of this Agreement shall be brought exclusively in the courts of the State of Alaska, in the Municipality of Anchorage, as the Party instituting such suit, action or other legal proceeding may elect, provided that claims related to federal water rights, federal legislation enabling the Facility or AWWU Facilities, or the 1991 Agreement may be brought in the United States District Court for the District of Alaska. By execution and delivery of this Agreement, each Party (for itself, its Affiliates and its designees) irrevocably and unconditionally consents and submits to the exclusive jurisdiction of such courts and the appellate courts therefrom, and waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding. The Parties irrevocably consent to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, first class postage prepaid to the addresses set forth in Section 13.1.

(c) No Jury Trial. EACH OF THE PARTIES HEREBY WAIVES ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) Duty to Proceed. Pending final resolution of any Dispute, the Owners and AWWU shall continue to fulfill their respective obligations hereunder that are not the subject of the Dispute.

15.6 Construction. This Agreement is to be construed so as to effectuate the normal and reasonable expectations of a sophisticated buyer and seller of the equipment and services covered by this Agreement and shall not be construed either for or against either Party. No provision of this Agreement shall be construed or interpreted for or against either Party because such Party drafted or caused its legal representative to draft the provision.

15.7 Headings. The titles or headings of the various sections, articles and paragraphs hereof are intended solely for convenience and ease of reference and are not intended, and are not to be deemed for any purpose, to modify or explain or place any interpretation or construction upon any of the provisions of this Agreement.

15.8 Status of the Parties. The Owners and its Subcontractors shall be independent contractors in relation to AWWU with respect to the Work; and neither the Owners nor their Subcontractors, nor the employees or agents of either, shall be deemed to be the employees, representatives or agents of AWWU in connection with any matter relating to this Agreement. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties.

15.9 Insurance. The Owners shall maintain the required insurance policies as set forth on Exhibit J-1 and AWWU shall maintain the required insurance policy as set forth on Exhibit J-2.

15.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of the Owners and AWWU, and their permitted successors and assigns, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

15.11 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take all further action, as may be reasonably necessary to complete performance by the Parties hereunder and to effectuate the purposes and intent of this Agreement.

15.12 Amendments. Except for any Change Order issued pursuant to ARTICLE 7, a removal of an Owner pursuant to Section 2.5, or a redesignation of the Project Manager, the AWWU Representative or notice information under Section 13.1, no change, amendment or modification of this Agreement shall be valid or binding upon the Parties unless such change, amendment or modification shall be in writing and duly executed by the Parties.

15.13 Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provision of this Agreement and all other provisions will remain in full force and effect.

15.14 Conflicting Provisions. In the event of any conflict between this document and any Schedule or Exhibit attached hereto, the terms and provisions of this document, as amended from time to time, shall control. In the event of any conflict among the Exhibits, the Exhibit of the latest date mutually agreed to by the Parties shall control.

15.15 Survival. The provisions of ARTICLE 1, ARTICLE 6, ARTICLE 8, ARTICLE 9, ARTICLE 10, ARTICLE 11, ARTICLE 12, ARTICLE 13, and ARTICLE 15 shall survive termination of this Agreement for any reason.

15.16 Counterparts. This Agreement may be executed in any number of separate counterparts and delivered by electronic means, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

[***Remainder of page intentionally left blank***]

IN WITNESS WHEREOF, the Parties have caused this Water Facilities Interconnection Agreement to be executed by their duly authorized representatives as of the Effective Date.

AWWU:

ANCHORAGE WATER AND WATERWATER UTILITY, A DEPARTMENT OF THE MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____

Title: Municipal Manager

By: _____

Name: _____

Title: General Manager

OWNERS:

CHUGACH ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MATANUSKA ELECTRIC ASSOCIATION

By: _____

Name: _____

Title: _____

MUNICIPALITY OF ANCHORAGE

By: _____

Name: _____
Title: _____

Schedule 1.1

Definitions

"1991 Agreement" means that certain Agreement between the Municipality of Anchorage, Chugach Electric Association, Inc., Matanuska Electric Association, Inc., the United States Fish and Wildlife Service, the National Marine Fisheries Service, the State of Alaska, and the Alaska Energy Authority Relative to the Eklutna and Snettisham Hydroelectric Projects, dated August 7, 1991, as amended.

"Access Bridges" has the meaning set forth in the Recitals.

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with such first Person. For purposes of this definition and the Agreement, the term "control" (and correlative terms) means (1) the ownership of 50% or more of the equity interest in a Person, or (2) the power, whether by contract, equity ownership or otherwise, to direct or cause the direction of the policies or management of a Person.

"Agreement" has the meaning set forth in the Preamble, and shall include all Exhibits and Schedules hereto.

"Approvals" means Governmental Approvals and third-party approvals.

"AWWU" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of AWWU.

"AWWU Approvals" has the meaning set forth in Section 3.2.

"AWWU Isolation Valve" has the meaning set forth in Exhibit A-1.

"AWWU Facilities" has the meaning set forth in the Recitals.

"AWWU Representative" means the person designated by AWWU in accordance with Section 3.3 to act as the Owners' primary point of contact with AWWU.

"AWWU's Portion" has the meaning set forth in Exhibit A-1.

"AWWU's Water Permit" means that permit belonging to AWWU (LAS 2569) to use Owners' Water Rights for up to 41 million gallons per day for public water supply pursuant to the Act of October 30, 1984, 98 Stat. 2823, as may be replaced as described in Section 3.1 of the Water Supply Agreement.

"AWWU's Water" means any and all water belonging to AWWU pursuant to AWWU's Water Permit.

"Business Day" means any day other than a Saturday, Sunday or legal holiday in the state of Alaska.

"Change Order" means a written order signed by Project Manager and AWWU authorizing a change in the Work or an adjustment in the Project Schedule for performance or delivery of the Work.

"Chugach" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of Chugach.

"Commercial Operation" means that: (a) Owners have completed the Commissioning Procedures and the Facility has met the Facility Criteria; and (b) Owners have provided the Commercial Operation Certificate to AWWU.

"Commercial Operation Certificate" has the meaning set forth in Section 4.6.

"Commercial Operation Date" means the date upon which Commercial Operation is achieved.

"Commissioning Procedures" means a test of function of the Facility in accordance with the Commissioning Procedures Guidelines and Section 4.5.

"Commissioning Procedures Guidelines" means the guidelines for the Commissioning Procedures set forth on Exhibit E.

"Confidential Information" has the meaning set forth in Section 14.1.

"Construction Start CPs" has the meaning set forth in Section 4.1.

"Cost Responsibility Proportion" shall mean, with respect to each Owner, the percentage of the total applicable Eklutna Hydroelectric Project costs that such Owner is obligated to pay as agreed to by the Owners, which as of the Effective Date shall be, with respect to MOA, 19.05%, with respect to Chugach, 64.28%, and with respect to MEA, 16.67%, and which may be changed hereunder upon agreement between the Owners at any time.

"Day" or "day" means a calendar day, unless expressly specified otherwise.

"Delivery Point" has the meaning set forth in Exhibit A-1 and is depicted on the schematic included as part of Exhibit B.

"Delivery Point Meter" has the meaning set forth in Exhibit A-1.

"Dispute" has the meaning set forth in Section 11.5.

"Effective Date" has the meaning set forth in the Preamble.

"Eklutna Hydroelectric Project" means the Eklutna Hydroelectric Project initially authorized, constructed and operated pursuant to the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended), including any and all property and facilities acquired or used in connection therewith, all of which was then sold to the Owners by the United States of America on October 2, 1997.

"Equipment" means all of the equipment, materials, apparatus, structures, supplies and other goods required by the terms of this Agreement to complete the Work and to be incorporated into the Facility. Equipment shall not include any materials, apparatus or tools owned by the Owners or any Subcontractor that are used to complete the Work but are not contemplated under this Agreement to become part of the Work or the Facility.

"Equipment Documentation" means copies or originals of all recommended operating specifications, warranties, manuals, test reports, vendor information and all other similar information obtained or prepared, and to be delivered, by the Owners in accordance with the terms of this Agreement.

"Event of Default" has the meaning set forth in Section 11.1.

"Facility" has the meaning set forth in the Recitals.

"Facility Criteria" means the criteria set forth in Exhibit I.

"Final Acceptance" means the final acceptance of the Work by AWWU, as demonstrated by the process set forth in Section 4.5.

"Final Acceptance Items" has the meaning set forth in Section 4.5.

"Fish and Wildlife Program" has the meaning set forth in the Recitals.

"Force Majeure Event" means the occurrence of any act or event beyond the reasonable control of the Party affected that prevents the affected Party from performing its obligations under this Agreement, in full or part, if such act or event is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums), including the following: drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a Governmental Authority. Notwithstanding the foregoing, Force Majeure Events shall expressly not include mechanical or equipment failures (except to the extent any such failure is itself caused by a Force Majeure Event), nor any diminution in water quality in Eklutna Lake.

"Governmental Approvals" means all authorizations, consents, licenses, leases, rulings, certifications, registrations, exemptions, permits, certificates, and approvals from any Governmental Authority.

"Governmental Authority" means any federal, state or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the performance of the Work, the Facility or its operations, or the health, safety or environmental conditions of the Site or otherwise over the Parties.

"Hazardous Material" means any waste, chemical or other substance or material that is defined as "hazardous" or "toxic" or by any other similar term under any applicable Law relating to environmental, health or safety matters.

"Indemnified Parties" has the meaning set forth in Section 10.1.

"Indemnifying Party" has the meaning set forth in Section 10.3.

"Injection Point" means the point where AWWU Facilities meet facilities owned by the Owners near the outlet of the Eklutna Lake, where AWWU receives all of AWWU's Water from Eklutna Lake, as depicted in the schematic included as part of Exhibit B.

"Isolation Valve Structure" has the meaning set forth in Exhibit A-1.

"Isolation Valves" has the meaning set forth in Exhibit A-1.

"Law" means any constitution, charter, act, statute, law, ordinance, code, rule, regulation, order, specified standards or objective criteria contained in any applicable permit or approval (which standards or

criteria must be met in order for the Work to be performed lawfully) or other legislative or administrative action of any Governmental Authority or a final decree, judgment or order of a court or tribunal.

"Liabilities" has the meaning set forth in Section 10.1.

"MEA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MEA.

"MOA" has the meaning set forth in the Preamble, and shall include all successor sand assigns of MOA.

"Non-Owner Work" has the meaning set forth in Section 8.4.

"Owners" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of the Owners.

"Owner" has the meaning set forth in the Preamble, and shall include all successors and permitted assigns of an Owner.

"Owners' Isolation Valve" has the meaning set forth in Exhibit A-1.

"Owners' Portion" has the meaning set forth in Exhibit A-1.

"Owners' Water" means any and all water belonging to the Owners pursuant to the Owners' Water Rights.

"Owners' Water Rights" means that certain senior priority water right held by the Owners for the water in Eklutna Lake for use in generating power for the Eklutna Hydroelectric Project as described in water rights certificate ADL 44944.

"Party" and "Parties" has the meaning set forth in the Preamble.

"Person" means any individual, partnership, corporation, limited liability company, association, business, trust, government or political subdivision thereof, Governmental Authority or other entity.

"Project Manager" means the Project Manager designated by the Owners in accordance with Section 2.5.

"Project Schedule" means the Project Schedule attached hereto as Exhibit D.

"Prudent Industry Standards" means those standards of care and diligence normally practiced by water transportation infrastructure engineering, construction and installation firms in performing services of a similar nature in a similar jurisdiction in which the Work will be performed. Prudent Industry Standards are not intended to be limited to optimum practice or methods, but rather to be a spectrum of reasonable and prudent practices and methods that must take the conditions specific to any given water transportation facility under consideration.

"River Release Structure" has the meaning set forth in Exhibit A-1.

"Scope of Work" means the Scope of Work attached hereto as Exhibit C.

"Site" means the location of the Facility as further described in Exhibit B.

"Standard of Work" has the meaning set forth in Section 2.2.

"Subcontractor" means any Person with whom the Owners, or any individual Owner, enters into an arrangement for the performance of any portion of the Work, including Persons at any tier with whom any Subcontractor has further subcontracted any portion of the Work, and the legal or personal representatives, successors, and assigns of such Person.

"Transportation Agreement" has the meaning set forth in the Recitals.

"Unanticipated Conditions" has the meaning set forth in Section 7.3.

"Warranty Period" has the meaning set forth in Section 8.2.

"Water Supply Agreement" has the meaning set forth in the Recitals.

"Work" means all phases of Owners' performance of their construction-related obligations under this Agreement, including engineering, design, procurement, construction, erection, installation, training, testing with respect to the Facility, and the installation of the Access Bridges. For the sake of clarity, any operation and maintenance of the Facility occurring after Final Acceptance does not constitute Work hereunder, unless such operation or maintenance is being conducted pursuant to the warranty provisions set forth in ARTICLE 8.

Schedule 3.5[3]

Site and AWWU Facilities Conditions

[3] **Note to Accompany Final Draft**: This Exhibit will be populated by AWWU after Governor approval and prior to signing.

Exhibit A-1[4]

Eklutna River Release Facility Description and Definitions

The **"*Eklutna River Release Facility"*** shall consist of an Isolation Valve Structure and the River Release Structure.

The "***Isolation Valve Structure***" shall include:

- a new tee to be built in the AWWU pipeline downstream of the AWWU tunnel/pipeline transition and upstream of the AWWU portal valve (the "***Delivery Point***")
- A 54-inch gate valve on the main segment of AWWU pipeline intended to provide dual means of isolation for AWWU's pipeline segment ("***AWWU Isolation Valve***")
- A 42-inch gate valve on the branch segment of AWWU pipeline intended to provide isolation to the river release structure ("***Owners' Isolation Valve***", together with the AWWU Isolation Valve, the "***Isolation Valves***").
- Related controls and communication technology to be installed by the Owners in the main line of the AWWU Facilities.

The "***River Release Structure***" shall include:

- [A new pipeline from the Isolation Valve Structure to the Eklutna River]
- Control valves
- A new meter installed at the Delivery Point ("***Delivery Point Meter***")
- Monitoring and control equipment to be installed by Owners [*describe where]*.

"***AWWU's Portion***" of the Facility shall consist of the Isolation Valve Structure [and _____]

The "***Owners' Portion***" of the Facility shall consist of the River Release Structure [and _____]

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[4] **Note to Accompany Final Draft**: This Exhibit will be revised and finalized by Owners to reflect the proposal approved by the Governor and prior to signing.

Exhibit A-2[5]

Description of Facility Controls, Metering, and Communication Facilities

[5] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit A-3[6]

Design (as of Effective Date)

[6] **Note to Accompany Final Draft**: This Exhibit will be populated by Owners after Governor approval and prior to signing.

Exhibit B[7]

Description and Schematic of Site, AWWU Facilities, and Injection Point and Delivery Point

[7] **Note to Accompany Final Draft**: This Exhibit will be populated by Owners after Governor approval and prior to signing.

Exhibit C

Scope of Work[8]

(a) Supply and Procurement. Owners shall at their own expense procure or supply and pay for all of the Equipment, and arrange and pay for the delivery of all of the Equipment to the Site.

(b) Engineering and Design. Owners shall at their own expense design and provide engineering services with respect to the Facility in a manner that shall be:

(i) Consistent with the actual conditions existing at the Site;

(ii) Consistent with the requirements set forth in this Scope of Work;

(iii) Sufficient, complete, and adequate in all respects necessary to enable the Facility to satisfy (A) the Facility Criteria and (B) all required Governmental Approvals;

(iv) In conformance with applicable Laws, including national, state, and local engineering, construction, safety, and electrical codes and standards, as specified in the Scope of Work, or if none are specified for the particular matter, with Prudent Industry Standards; and

(v) In form and content acceptable to all Governmental Authorities.

(c) Construction and Installation. Owners shall provide, install, complete and pay for all labor, Equipment, tools, supplies, construction equipment and machinery, utilities and consumables, transportation and other facilities and services (including any temporary materials, equipment, supplies and facilities) necessary for the proper execution and completion of the Work. All construction and installation performed by the Owners under this Agreement shall be in accordance with the given manufacturer's written instructions and Prudent Industry Standards, in each case unless otherwise agreed by AWWU in advance in writing.

(d) Utilities. The Owners shall provide all of the transmission, power, and communication facilities necessary for construction.

(e) Equipment Documentation and Equipment Training. The Owners shall provide AWWU with all Equipment Documentation for the AWWU Portion, and shall provide AWWU's personnel with up to five (5) days of on-site training in the use and operation of the AWWU Portion, as further detailed in the Transportation Agreement.

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[8] **Note to Accompany Final Draft**: This Exhibit is subject to further revisions and will be finalized after Governor approval and prior to signing.

(f) Approvals. Except for applicable AWWU Approvals, the Owners shall obtain and maintain all Approvals (including all fees and permits) required to perform the Work, including (without limitation) approvals and agreements required to interconnect the Facility with the AWWU Facilities. The Owners shall pay for all such Approvals, and shall reimburse AWWU for costs associated with obtaining and maintaining all AWWU Approvals. Owners shall promptly provide AWWU with copies of all such Approvals upon the Owners' obtaining such Approvals. In order to assist the Owners in obtaining such Approvals, AWWU shall provide the Owners with such reasonable assistance as the Owners may request.

(g) Security. The Owners shall be responsible for the security of the Work and shall construct security facilities (e.g. fencing surrounding the Facility at the Site) to ensure the security of the Work. The Owners shall coordinate with AWWU for the ingress and egress of the Owners' personnel to and from the Site to minimize disruption of AWWU operations.

(h) Conduct at Site. AWWU shall have access to the Site at all times, and the Owners shall, and shall require their Subcontractors to, use commercially reasonable efforts to avoid inhibiting the operations of AWWU at the Site, and the operation of the AWWU Facilities. The Owners shall comply with work rules and work hours reasonably established by AWWU with regard to Work involving the AWWU Facilities.

Exhibit D

Project Schedule[9]

[9] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit E

Commissioning Procedures Guidelines[10]

[10] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit F[11]

AWWU Approvals

[11] **NTD**: AWWU to Provide.

Exhibit G

Pass-through Warranties for AWWU Portion[12]

[12] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit H[13]

Form of Commercial Operation Certificate

[13] **Note to Accompany Final Draft**: This Exhibit will be provided by Owners after Governor approval and prior to signing.

Exhibit I[14]

Facility Criteria

[14] **Note to Accompany Final Draft**: This Exhibit will be populated by Owners after Governor approval and prior to signing.

Exhibit J-1[15]

Owners' Insurance Requirements

[15] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit J-2[16]

AWWU Insurance Requirements

[16] **Note to Accompany Final Draft**: This Exhibit will be populated by the Parties after Governor approval and prior to signing.

Exhibit K[17]

Description of Access Bridges (to be developed by Owners)

[17] **Note to Accompany Final Draft**: This Exhibit will be populated after Governor approval and prior to signing.

Exhibit L[18]

Notice Information; Project Manager; AWWU Representative

If delivered to the Owners, o them at	Chugach Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Matanuska Electric Association, Inc. Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____] Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____] Email: [_____]
If delivered to AWWU, to it at	Anchorage Water and Wastewater Utility, a department of the Municipality of Anchorage Attention: [_____] **[ADDRESS 1]** **[ADDRESS 2]** **[CITY, STATE, ZIP]** Phone: [(___) ___-____]
Project Manager	[_____]
AWWU Representative	[_____]

[18] **Note to Accompany Final Draft**: To be populated immediately prior to execution, after Governor approval, as such information is subject to change.

Responses to Comments from the Parties and NVE on the Draft Program

No.	Entity	Page	Section, Table, or Figure	Comment	Response
1.0 Introduction					
1	ADNR	Page 11	Section 1.1.1.9 Water Rights	I suggest a couple changes to the second paragraph on page 11. Though AWWU's permit term expires, they will apply for a certificate of appropriation by submitting a statement of beneficial use. Alaska uses a two step program for high volume water rights where applicants are issued an initial permit for a limited term, then they submit a statement of beneficial use claiming their actual water use. After that they are issued a "certificate of appropriation." I suggest we replace "license" with "permit" and add to the sentence after "LAS 2569 expires…" to make it clear that AWWU will have a water right.	The following changes (underlined text) were made to the Supporting Information Document: *"Further, MOA and APA worked with Congress to amend the Eklutna Project Act to reflect the additional public water usage of the Eklutna Lake which was otherwise reserved for the purposes of the Project. MOA also obtained a 40-year <u>permit to appropriate water</u> from the State of Alaska to utilize water from Eklutna Lake, referred to as "LAS 2569." LAS 2569 expires on December 31, 2025 <u>and will be replaced with a certificate of appropriation</u> . In addition, the original 1950 federal legislation authorizing construction of the project was amended to "grant the appropriation of water for the purposes of public water supply in accordance with the same compensation agreement."*
2	Eklutna, Inc.	Page 14	Energy Generation and Cost of Power	The stated need for the continuing existence of the Eklutna Project is the economic value of damming the River. The Program states the Eklutna Project is the lowest-cost energy source in the MEA and Chugach systems. The Program indicates the electricity is generaged at $85/MWh. Recently, it was reported that the Houston Solar project power was purchased at $65/MWh. We understand solar is an intermittent energy generation souce, and a firm power source such as natural gas or hydroelectric is preferred, but it would be helful for the Program to provide additional analysis on claims such as this.	Eklutna is the lowest-cost energy source, generating electricity at $13/MWh. $85/MWh is the replacement energy cost (see Section 4.10.1 Supporting Information Document).
3	USFWS	Page 15	Section 1.2 1991 Fish and Wildlife Agreement	The 1991 Fish and Wildlife Agreement (1991 Agreement) was developed in response to resource agency concerns over the loss of a sockeye salmon (*Oncorhynchus nerka*) run that once spawned in Eklutna Lake(AEA 1992). According to the Environmental Assessment (EA; AEA 1992), the loss caused by the 1929 development project and the desires of the fish and wildlife agencies to provide appropriate consideration to fish and wildlife resources led to agencies' initial recommendation that the Project be placed under Federal jurisdiction. The 1991 Agreement process was intended to be as protective as the Federal Power Act (FPA) such that it would obviate the need for the Federal Energy Regulatory Commission (FERC) licensing process . The 1995 Alaska Power Administration Sale Act addressed the sale of the only two assets administered by the Alaska Power Administration (APA), the Eklutna and Snettisham Projects, and directed the Secretary of Energy to terminate the APA. Mitigation commitments were required for the divestiture; specifically. The Fish and Wildlife Agreement ensured protection and enhancement of fish and wildlife and protection of cultural resources that may be identified in the future, making it legally enforceable.	Thank you for your comment.

No.	Entity	Page	Section, Table, or Figure	Comment	Response
4	USFWS	Page 15	Section 1.2 1991 Fish and Wildlife Agreement	According to the 1991 Agreement and subsequent EA, the Project Owners are required to develop future environmental studies to quantify impacts and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by such hydroelectric development. The overarching goal of the 1991 Agreement is for the Eklutna Owners to work in consultation with resource agencies to quantify the impacts of the Eklutna Hydropower Project on fish and wildlife resources and to develop and implement a Fish and Wildlife Program with measures to protect, mitigate damages to, and enhance (PME) fish and wildlife (including related spawning grounds and habitat) affected by the Eklutna Project6 (AEA 1992). The 1991 Agreement was intended to provide a means to identify and address fish and wildlife issues post-sale.	Section 4.0 of the Supporting Information Document details the steps the Project Owners have taken to comply with the 1991 Agreement, including the environmental studies that have been conducted; development of protection, mitigation, and ehancement measures; and consultation with resource agencies and NVE.
5	USFWS	Page 15	Section 1.2 1991 Fish and Wildlife Agreement	While the 1991 Agreement was intended to be as protective as the Federal licensing process and therefore obviate the need for licensing by FERC; however, there are some significant disparities between what has occurred and would have occurred under FERC licensing. Under the FERC process, section 18 of the FPA would have provided the Service and National Marine Fisheries Service (NMFS) with authority to issue fishway prescriptions. Section 10(j) of the FPA would have required license conditions for protection, mitigation of damages to, and enhancement of fish and wildlife resources and related habitat based on recommendations from Federal and State fish and wildlife agencies, pursuant to the Fish and Wildlife Coordination Act. Section 10(j) recommendations typically address water quantity, water quality, instream flows, ramping rates, and habitat management, and may also include recommendations for the development and improvement of fish and wildlife in the project area. Under the FPA, FERC would then have considered any rejected Section 10(j) conditions as Section 10(a) recommendations. During analysis under the National Environmental Policy Act, FERC would have analyzed direct, indirect, and cumulative impacts of the project, including impacts from the 1929 dam and the connected actions of Eklutna dam construction and redesign. Furthermore, the Federal licensing process would have allowed for official government to government consultation between Federally Recognized Tribes and FERC. Instead, the concerns of Native Village of Eklutna regarding the loss of culturally important resources are given equal consideration as other beneficial uses such as impacts to recreation.	The 1991 Agreement is the guiding document that the Project Owners have followed in development of a Fish and Wildlife Program. The Project Owners are contractually and legally bound by the terms of the 1991 Agreement. Regarding NVE, the Project Owners committed to a review and participation framework that ensures information NVE and its members share regarding the Eklutna River and development of the Fish and Wildlife Program is appropriately considered and addressed. The Project Owners have valued the unique perspective of NVE regarding the EKlutna River. Section 4.0 of the Supporting Information Document details the Project Owners compliance with the 1991 Agreement and Appendix A of the Supporting Information Document includes a record of meetings with the NVE Tribal Council, including meetings with the Boards of Directors for both CEA and MEA and the Anchorage Assembly.
6	USFWS Enclosure	Page 15	Section 1.2 1991 Fish and Wildlife Agreement	As drafted, we believe the Program does not entirely meet the intent of the 1991 Agreement, which was established in part due to of concerns for the sockeye salmon (*Oncorhynchus nerka*) run, and which was expected to be as protective as the Federal licensing process. Instead, the U.S. Fish and Wildlife Service (Service) recommends a phased approach which sets interim terms or benchmarks to spur incremental progress towards a long-term and mutually agreeable solution that ultimately provides fish passage at the dam and instream flows capable of supporting fish and wildlife into the future.	The Project Owners believe the Proposed Final Fish and Wildlife Program does meet the intent of the 1991 agreement. In the Proposed Final Program, the Project Owners have included limited reopeners for a fixed wheel gate and fish passage in recognizition that fish passage to Eklutna Lake may become feasible in the future and fish passage is important to NVE, the federal and state agencies, and others who have commented on the Draft Program (see Section 4.0 of the Proposed Final Fish and Wildlife Program regarding the limited reopeners).

No.	Entity	Page	Section, Table, or Figure	Comment	Response
7	USFWS Enclosure	Page 15	Section 1.2 1991 Fish and Wildlife Agreement	Overall, to meet the intent of the 1991 Agreement, we believe the Final Fish and Wildlife Program should include the following: 1. Provide water to the full length of the river on a year-round basis. 2. Provide a long-term solution to get marine derived nutrients from the river to the lake. We have expressed openness to a phased approach in returning sockeye salmon to the lake. The Final Program should provide a commitment to design a phased approach within 5 years of the Final Program. 3. Include methods to facilitate larger channel maintenance flows from the lake, such as a new gate at the dam. 4. Include a higher instream flow regime to increase downstream salmon rearing habitat; the channel maintenance flow regime should be increased commensurate with the increased instream flow regime. 5. Include a summary section in the Program or Draft Summary of Study Results that provides quantification of acres impacted, where possible. 6. Include physical habitat manipulation in both the Program and the Adaptive Management Plan. 7. Provide more flexibility in the Adaptive Management Plan so that PMEs can be implemented as effectively as possible.	1. See response to comment # 103 2. See response to comment # 107 3. See response to comment # 75 4. See response to comment # 102 5. See response to comment # - see response to Summary of Study Results comments 6. See response to comment # 121 7. See response to comment # 99
8	NVE	Page 15	Section 1.2 1991 Fish and Wildlife Agreement	The purpose of the 1991 Eklutna Fish and Wildlife Agreement ("Agreement") and the resultant Fish and Wildlife Program is to develop and implement measures to "protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat)" from the harms of the Project. Salmon spawning grounds and habitat harmed by the project include the lower Eklutna river below the dam, Eklutna Lake, and the upper tributaries to Eklutna Lake. The Divestiture Summary Report for the Sale of Eklutna and Snettisham Hydroelectric Projects ("Divestiture Report"), to which the Agreement is an appendix, notes that mitigating harms to sockeye salmon and their spawning habitat was particularly important in creating the Agreement. The Divestiture Report explained that "[d]uring reviews of the legislative proposal, loss of a sockeye salmon run that once spawned in Eklutna Lake was identified[...] This specific problem and the desires of the fish and wildlife agencies to provide appropriate consideration to fish and wildlife resources over the long run led to the August 7, 1991 Agreement." The Divestiture Report notes that the Agreement's fish and wildlife measures were intended to "work at least as well as Federal regulation for the intended purpose of mitigation and enhancement of affected fish and wildlife resources," and were to be "quite similar to that under the [Federal Energy Regulatory Commission ("FERC")] licensing" process for hydroelectric projects.	The Project Owners have engaged in a 5-year process of studies and evaluation of alternatives in consultation with the Parties to the 1991 Agreement, NVE, Eklutna Inc., and other stakeholders. That effort included the evaluation of potential measures to improve habitat conditions for sockeye. The results of that evaluation are included in the Alternatives Analysis as well as the later Dam Removal technical memorandum (Appendix F, Supporting Information Document).

No.	Entity	Page	Section, Table, or Figure	Comment	Response
9	NVE	Page 15	Section 1.2 1991 Fish and Wildlife Agreement	The Agreement carefully divides which considerations should be made by which Parties at which stage of the mitigation process. During the Study Plan stage, the Project Owners are "to examine, and quantify, if possible, the impacts to fish and wildlife from the Eklutna […] project" and "shall consider the impacts of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use, as well as available means to mitigate these impacts." The Agreement then requires the Project Owners to recommend measures "for the protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat)." While it can be reasonably interpreted that the Program would include the analysis from the study plan of the impacts of fish and wildlife measures on other considerations, such as electric ratepayers, the Agreement does not state, as it does clearly in other sections, that other considerations, such as electric rate payers, power production or energy conservation, are to be considered when evaluating and recommending measures that are necessary to mitigate the Project's impacts on fish and wildlife. The Agreement is clear that the Program's only consideration is meeting the purpose of the Agreement, which is "the protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat)."	We disagree. Our efforts have focused on generating relevant information to allow an informed decision by the Governor in determining an appropriate set of PME measures that would meet all of the eight criteria included in the 1991 Agreement. An appropriate approach to assisting the Governor was to conduct the alternatives analysis which allows the Governor to see the differences in impacts to fish habitat, water supply and hydropower generation, along with related costs for a variety of potential PME packages.
10	NVE	Page 15	Section 1.2 1991 Fish and Wildlife Agreement	It is then the Governor of Alaska's responsibility, not the Project Owners', to evaluate whether the proposed Program of fish and wildlife measures is appropriate after considering the several criteria listed in the Agreement in making his final Program determination. The Project Owners overreach their authority under the Agreement by claiming that they are charged not just with undertaking the study process, but also with undertaking the policy analysis to give equal consideration to the eight purposes the Governor must balance in his final decision when promulgating a Program. They are neither qualified nor authorized to make policy determinations and have plain conflicts of interest. This calls into question the integrity of the entire Draft Program and its ability to meet the Agreement's purpose.	The Project Owners agree that it is the Governor's responsibility to review the Proposed Final Program while giving equal consideration to the criteria listed in the Agreement as stated in the Supporting Information Document. The Project Owners have not made policy determinations but have fully met the procedural and schedule requirements of the 1991 Agreement to date as described in Section 4.0 of the Supporting Information Document.

No.	Entity	Page	Section, Table, or Figure	Comment	Response
11	NVE	Page 15	Section 1.2 1991 Fish and Wildlife Agreement	The Draft Program fails to meet the fundamental purpose of the Agreement and steps far beyond fish and wildlife considerations laid out in the Agreement. The AWWU Portal plan proposed in the Draft Program by the Project Owners leaves Eklutna Lake and upper tributary streams completely disconnected from the lower Eklutna River, maintaining over a mile of dry streambed. Furthermore, the flows the Project Owners propose to release from the AWWU Portal are the minimum flows considered by any of the parties during the Agreement study process, with small high-flow events in only three out of every ten years. This proposal provides no solution for the complete blockage of salmon reaching the extensive lake spawning habitat required by sockeye salmon (which was the key driver for the Agreement in the first place), and 15 miles of upper tributaries spawning habitat above the lake that is highly amenable to Chinook and coho salmon completely stranded Without a connection to Eklutna Lake and upper tributaries, restoring those key spawning and rearing grounds and habitat is impossible. The Project Owners admit in the Draft Program that "no change in sockeye rearing habitat is anticipated." The proposed nominal flow releases from the AWWU Portal will only minimally enhance Chinook and coho salmon and their habitat in the lower Eklutna River.	The Project Owners believe the Proposed Final Fish and Wildlife Program does meet the intent of the 1991 agreement. The Proposed Final Fish and Wildlife Program includes a limited reopener for fish passage.
12	NVE	Page 15	Section 1.2 1991 Fish and Wildlife Agreement	Instead of focusing on the most beneficial program for fish and wildlife, the Draft Program is primarily concerned with implementation costs, along with impacts on power generation, ratepayers, and drinking water. The Program states that the AWWU Portal is the "most costeffective" alternative in its rationale for choosing that option. Cost-effectiveness is not a primary consideration in the Agreement, nor one of the eight factors the Governor must consider in his decision. The Draft Program's incorporation of aspects far beyond fish and wildlife takes the task of balancing considerations away from the Governor and places them in the hands of the Project Owners. This is a significant conflict of interest that was intended to be avoided by the clear language of the Agreement. The Draft Program should have been concerned only with protecting, mitigating, and enhancing fish and wildlife habitat, and its failure to do so resulted in a thoroughly flawed Draft Program.	We disagree. See response to Comment # 9.

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13	NVE	Page 15	Section 1.2 1991 Fish and Wildlife Agreement	The consultation process agreed to in the Agreement was intended to be "quite similar to that under [FERC] licensing of hydroelectric projects with the Governor of Alaska assigned a role similar to FERC's in decisions on fish and wildlife measures." The Agreement process was intended to work "at least as well" for fish and wildlife as a FERC relicensing process. Yet, the consultation process has not been implemented in a manner that matches the procedural protections afforded to fish and wildlife in a FERC relicensing process. The deficiencies in the process are manifested in a Draft Program that will not provide adequate or equitable protection, mitigation, and enhancement of fish and wildlife in the Eklutna watershed that have been adversely impacted by the Project. These include not only the impacts of project construction, but the totality of impacts of project construction, operation, and maintenance on fish and wildlife and their habitat, including the temporal loss of services and functions of a free-flowing anadromous river. Alaska's Congresswoman Mary Peltola unambiguously states that "[t]he intent of Congress was clear: [the Project Owners] must mitigate for drying up the Eklutna River for the past 70 years."	The 1991 Agreement did not require the Owners to conduct their efforts in a manner identical to a FERC relicensing process. If that was the intent of the 1991 Agreement that could have been explicitly stated. Rather, the 1991 Agreement included a specific set of requirements including procedural, schedule, consultation, study and engagement with both the Parties to the Agreement and the public. The Owners efforts to comply with those requirements are documented in Section 4.0 of the Supporting Information Document and on the project website (eklutnahydro.com).
14	NVE	Page 15	Section 1.2 1991 Fish and Wildlife Agreement	One of the primary deficiencies in the consultation process has been the Project Owners' conflation of improvements to the baseline condition with adequate protection, mitigation, and enhancement of fish and wildlife impacted by the Project. This misunderstanding of the level of protection the Project Owners are required to deliver under the Agreement, and that would similarly be required in a FERC proceeding, has contributed to an inadequate scope of study and alternatives analysis. Rather than develop and evaluate alternatives according to their comparative effectiveness in mitigating the impacts caused by the Project's dewatering of the Eklutna River and the resulting destruction of fish and wildlife habitat from the 1950s to present, the Project Owners evaluated alternatives according to their "ecological lift in terms of gains in salmon spawning and rearing habitat" compared to their cost. However, "ecological lift" is not the same as providing adequate and equitable protection, mitigation, and enhancement of fish and wildlife. In short, the Project Owners have developed a Draft Program that would be marginally better for fish and wildlife, but not one that would actually mitigate the project's impacts on fish and wildlife.	The process required by the 1991 Agreement is not identical to a FERC proceeding, however if it were, FERC also requires that the analysis of impacts and potential PME measures be compared to the existing environment as the baseline condition.

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15	NVE	Page 15	Section 1.2 1991 Fish and Wildlife Agreement	Again, in a FERC proceeding the Project Owners would not have been allowed to unilaterally limit the analysis of alternative measures, like dam removal, to mitigate the Project's impacts on fish and wildlife resources, over the objections of NMFS and USFWS. For example, under FPA section 18, NMFS and USFWS have authority to prescribe fishways that must be included, without modification, in any license issued by FERC. Under FPA section 10(j), a FERC license must include conditions to "adequately and equitably protect, mitigate damages to, and enhance, fish and wildlife (including related spawning grounds and habitat) affected by the development, operation, and management of the project" based on recommendations from NMFS, USFWS, and other state and fish and wildlife agencies. NMFS would consider the fishery management plan for Pacific salmon as a comprehensive plan for considering mitigation and enhancement for salmon in this process.	The 1991 Agreement is the guiding document that the Project Owners have followed in development of a Fish and Wildlife Program. The Project Owners are contractually and legally bound by the terms of the 1991 Agreement.
16	NVE	Page 16	Section 1.2.1 Procedural Requirements	The Draft Program states that "Pursuant to the 1991 Agreement and APA Asset Sale Act, the Governor's decision regarding the provisions of the Final Fish and Wildlife Program is reviewable and enforceable by the Parties in the U.S. District Court for the District of Alaska." We dispute this as a statement of the Project Owners' opinion, which has been misleadingly presented as a formal conclusion without any legal basis. Neither the APA Asset Sale Act nor the Agreement limit judicial review to the Parties, and any such limitation would appear to violate principles of due process given, separate and apart from the enforceability of the Agreement as a contract between the Parties, the Governor's final decision on the Fish and Wildlife Program would affect rights and interests far beyond those of the individual Parties.	The United States District Court for the District of Alaska has exclusive jurisdiction to review decisions made under the 1991 Agreement and to enforce its provisions. Federal law controls the interpretation of a contract entered pursuant to federal law when the United States is a party. Under federal common law, only a party to a contract or an intended third-party beneficiary may sue to enforce the terms of a contract or obtain an appropriate remedy for breach. Simply because the 1991 Agreement incidentally benefits various third parties does not mean that those third parties are intended third-party beneficiaries with rights to enforce the Agreement's provisions.

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17	NVE	Page 16	Section 1.2.1 Procedural Requirements	NVE has serious concerns about the Project Owners' proposed dispute resolution procedures. The Agreement requires that "[i]f USFWS, NMFS, or the State Resource Management Agencies' comments or recommendations different from those of the [Project Owners], the [Project Owners] will attempt to resolve such differences, giving due weight to the recommendations, expertise, and statutory responsibilities of USFWS, NMFS, and the State Resource Management Agencies." We recently received notice from the Project Owners that they are proposing a 1.5-hour dispute resolution meeting on December 15th to meet this requirement. We have raised several dispute issues regarding the adequacy of the Project Owner's consultation process and the Draft Program in these comments. The Draft Program does not meet the express goals of the Agreement; more specifically, it will not mitigate the Project's impacts on fish and wildlife because it will not reconnect the lake and upper tributaries to the lower river, which is necessary to restore sockeye, Chinook, and coho salmon to the Eklutna. We expect the federal resource management agencies will also raise disputed issues regarding the AWWU Portal recommendation in the Draft Program. Furthermore, we have proposed an alternative – removing the dam within ten years – that should have been analyzed previously and must be analyzed now as part of the dispute resolution process. We struggle to see how such substantial divergence can be resolved in a single 1.5-hour meeting. We request the Project Owners provide meaningful, not pro forma, procedures to resolve the significant disputed issues. For example, we request the Owners anticipate the need to schedule additional meetings and that they also provide for an independent dispute resolution specialist to facilitate the dispute resolution process.	The Project Owners continued to meet with the agencies and NVE through April 2024 in an attempt to resolve differences.
18	NVE	Page 23	Section 1.3.4 Study Program	Yet, contrary to this well-established traditional ecological knowledge, the Draft Program dismisses the possibility of a substantial sockeye run to the lake and downplays the quality and quantity of salmon habitat in the upper tributaries. The Draft Program concludes that there was never a large run of sockeye to the lake, pointing to limiting factors such as the lake's turbidity, nutrient levels, and size of kokanee, and discounts the critical importance of the upper tributaries for Chinook and coho spawning habitat. This conclusion ignores the traditional ecological knowledge of NVE that the Project Owners are well aware of and which was shared throughout the Study Plan process. Instead, the Draft Program relies solely on Western scientific analysis based on current degraded conditions to justify the hypothesis of a small historic sockeye run, and does not duly weigh traditional knowledge of historic salmon populations in Eklutna lake and the tributaries above.	The Project Owners considered both traditional ecological knowledge (TEK) and scientific analysis during development of the Fish and Wildlife Program. TEK is acknowledged in both the Initial Information Package (available on the project website: eklutnahydro.com) and Section 4.11.9 of the Supporting Information Document.

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2.0 Alternatives Analysis					
19	NVE		New Proposed Alternative	To meaningfully meet the purpose of the Agreement, NVE proposes an alternative solution – removing the Eklutna Lake dam within ten years when sufficient renewable power generation is available to offset the lost power generation from dam removal. In 2011, the U.S. Army Corps of Engineers ("USACE") proclaimed that "[t]rue restoration of the Eklutna River ecosystem would require removal of both dams […]." The Eklutna Lake dam does not impound Eklutna Lake but merely increases lake storage capacity for hydropower generation. Doing so severs the connection between the lower Eklutna River, Eklutna Lake, and upper tributaries, blocking all outflow of water, drying up the Eklutna River, and decimating the salmon runs. Now that the lower Eklutna dam is gone, it is time to plan for a future with a free-flowing Eklutna River and salmon runs truly restored. NVE's alternative of dam removal within ten years will provide fish passage upstream and downstream to and from the lake and upper tributaries and return the river's natural flow regime that salmon co-evolved to depend upon, restoring the entire river and lake ecosystem. This proposal aligns closely with National Marine Fisheries Service ("NMFS"), US Fish and Wildlife Service ("USFWS"), and other Technical Working Group ("TWG") member's study period preferred alternatives with fish passage to and from the lake and flows that closely mimic the river's historic natural flow regime. The Conservation Fund has pledged to pay all the costs of removing the Eklutna Lake dam.	In response to NVE's proposed alternative of removing the Eklutna Dam, the Project Owners conducted a high-level analysis of the technical risks and cost implications associated with dam removal, including effects that an unregulated river hydrograph may have on infrastructure on or adjacent to the Eklutna River downstream of the existing dam. The use of other comparable renewable energy sources to determine how to offset the lost generation from the Eklutna Power Plant was also analyzed. This analysis is documented in a Technical Memorandum that is available in Appendix F of the Supporting Technical Document.
20	NVE		New Proposed Alternative	The benefits of removing the Eklutna Lake dam include: 1. Collectively addressing a century of cultural and environmental neglect; 2. Restoring the Eklutna River to flow naturally out of Eklutna Lake; 3. Re-connecting the river to the lake, allowing for the recovery of sockeye, Chinook, and coho salmon, opening up 65% of their available habitat in Eklutna Lake and its upstream tributaries; 4. Sparing CEA and MEA ratepayers and MOA taxpayers from rate and property tax hikes to pay $57 million to implement the utilities' proposed plan; 5. Avoiding lost generation capacity at the Eklutna hydroelectric facility for the immediate future; 6. Securing the AWWU drinking water system; and, 7. Protecting popular lakeside trails from erosion caused by fluctuating lake levels.	The high-level analysis of the technical risks and cost implications associated with dam removal conducted by the Project Owners (Appendix F, Supporting Information Document) show that not all the noted benefits of dam removal are accurate. Even if The Conservation Fund pays for the cost of dam removal, costs associated with power plant decommissioning, a new hydroelectric project, re-routing the AWWU pipeline, and highway and railroad bridge replacements would far exceed the cost of the Proposed Final Fish and Wildlife Program, resulting in increased costs to ratepayers and taxpayers. Dam removal would not secure the AWWU drinking water system but could pose risks to the system such as exposure and instability of the buried pipeline, inundation of the access and maintenance road along the river channel under annual peak flow scenarios, and potential for insufficient storage within Eklutna Lake to provide the historical water withdrawls year-round. Trail erosion may still occur due to wave action at high lake elevations which results in an undercut bank.

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21	NVE		New Proposed Alternative	To meet the purpose and requirements of the Agreement, we firmly believe that the Parties, the public, and the Governor must have the full range of options identified and analyzed for consideration. As we have previously requested, removing the Eklutna Lake dam within ten years when sufficient renewable power generation is available as an alternative that must be fully analyzed because it appears to be the only alternative that would effectively mitigate the Project's harms to fish and wildlife. In preparing these comments, we have confirmed The Conservation Fund's commitment to fully fund the removal of the Eklutna Lake dam. We ask that any analysis of this alternative reflect that the actual capital expenditure (CAPEX) cost to remove the dam is $0. The next schedule requirement per the Agreement is for the Governor to decide on the Final Program by Oct. 2, 2024, leaving plenty of time to fully analyze this alternative. Without analyzing this reasonable alternative, the Program would fail to meet the intent and requirements stated in the Agreement and the Divestiture Report and the Governor cannot make a fully informed decision.	In response to NVE's proposed alternative of removing the Eklutna Dam, the Project Owners conducted a high-level analysis of the technical risks and cost implications associated with dam removal, including effects that an unregulated river hydrograph may have on infrastructure on or adjacent to the Eklutna River downstream of the existing dam. The use of other comparable renewable energy sources to determine how to offset the lost generation from the Eklutna Power Plant was also analyzed. This analysis is documented in a Technical Memorandum that is available in Appendix F of the Supporting Information Document.
22	NVE		New Proposed Alternative	The Eklutna Project is the limiting factor preventing the restoration of the Eklutna River that flows from its headwaters to its confluence with the Knik Arm. Plainly, the Project Owners' Draft Program to maintain a dead-end river is inadequate to mitigate the Project's harms to fish and wildlife. Adequate and equitable fish and wildlife protection, mitigation, and enhancement, as required by the Agreement, requires the lake and upper tributary streams to be connected to the lower river and adequate flows for salmon to thrive. As such, we request that the Project Owners consider our proposed dam alternative to comply with the Agreement's purposes and provide a myriad of public interest benefits, including the long-term benefit of affordable energy from truly renewable sources.	In response to NVE's request, the Project Owners have considered the proposed dam removal alternative. Their analysis of this alternative is documented in a Technical Memorandum that is available in Appendix F of the Supporting Information Document.
23	Eklutna, Inc.	Page 35	2.4 Comprehensive Alternatives	Eklutna, Inc. is situated within the service areas of Matanuska Electric Association, Inc. (MEA) and Chugach Electric Association, Inc. (CEA). Eklutna, Inc is currently exploring alternative energy projects with both utilities that would augment energy generation from alternative/renewable energy sources. We believe it is worth exploring an option where the Eklutna Dam is removed once adequate renewable energy sources are commissioned to replace the production from the Eklutna Project. The country is seeing repeated success stories of salmon recovery after dam removal. The Eklutna people have given their lands and resources to Anchorage public water usage and electricity generation - the Eklutna Generation Station and the Eklutna Dam. We understand 90% of Anchorage's water and 90% of MEA's energy generation is attributable to these projects on or affecting Eklutna lands.	In their December 4, 2023, comment letter on the Draft Fish and Wildlife Program, NVE proposed a new alternative that involves removal of the Eklutna Dam. In response, the Project Owners conducted a high-level analysis of the technical risks and cost implications associated with dam removal, including effects that an unregulated river hydrograph may have on infrastructure on or adjacent to the Eklutna River downstream of the existing dam. The use of other comparable renewable energy sources to determine how to offset the lost generation from the Eklutna Power Plant was also analyzed. This analysis is documented in a Technical Memorandum that is available in Appendix F of the Supporting Information Document.

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24	NVE	Page 35	2.4 Comprehensive Alternatives	The Project Owners are not providing decision-makers and the public with the full range of alternative solutions and mitigation measures to meet the Agreement requirements. NVE has requested the Project Owners analyze alternatives that would restore connectivity of Eklutna Lake and upper tributaries to the lower river, including a formal request for analyzing removal of the Eklutna Lake dam on October 5, 2023, echoing The Conservation Fund's repeated and specific requests for evaluation of removal of the dam throughout the study plan and alternatives analysis process. The Project Owners rebuffed these requests based on a cost-benefit analysis and subsequent balancing test they are not qualified to undertake nor authorized to administer.	As an alternatives analysis is not required under the 1991 Agreement, the Project Owners were not required to bring a handful of alternative proposals to the public for public selection. Rather, Section 4 of the 1991 Agreement specifically requires the Project Owners to propose a Draft Fish and Wildlife Program to the parties of the 1991 Agreement (as done on October 27, 2023), work to resolve differences, hold public meetings, and consider comments and suggestions before preparing a Proposed Final Fish and Wildlife Program. The Project Owners believe they have gone well beyond the requirements of the 1991 Agreement in terms of engaging interested stakeholders, soliciting input, and presenting consistently analyzed alternatives information.
25	NVE	Page 35	2.4 Comprehensive Alternatives	Another significant deficiency in the consultation process has been the Project Owners' unilateral rejection of reasonable alternatives without rigorous study or analysis. This is a departure from a FERC relicensing proceeding where FERC, not the applicant, is required under the Federal Power Act ("FPA") and the National Environmental Policy Act ("NEPA") to undertake a full study of alternatives as the basis for determining that a project, as licensed, will be best adapted to a comprehensive plan of development. Here, by contrast, the Draft Program does not demonstrate the Project Owners adequately considered a reasonable range of alternatives proposed for analysis by the Parties, NVE, and other stakeholders. Rather than provide enough detail about each alternative for the Governor to "evaluate their comparative merits," the Project Owners peremptorily eliminated certain alternatives from detailed study based on their biased cost-benefit assessment.	The Project Owners worked with the Parties to the 1991 Agreement, NVE, Eklutna Inc., and other stakeholders to identify a full range of alternatives. The Project Owners solicited alternatives from the Parties to the 1991 Agreement, NVE, Eklutna Inc., and other stakeholders, gave equal consideration to each alternative provided, and discussed each alternative with the Parties, NVE, Eklutna Inc., and other stakeholdersin a series of Alternatives Analysis meetings (Section 4.5, Supporting Information Document). The 1991 Agreement required the Project Owners to submit a Proposed Final Fish and Wildlife Program to the Governor, not alternatives.
26	NVE	Page 35	2.4 Comprehensive Alternatives	The Project Owners' exclusion of a dam removal alternative is an egregious error in the environmental analysis. Dam removal is a reasonable alternative because it would provide the most protection, mitigation, and enhancement of fish and wildlife at a cost far lower than other alternatives considered. Other dams, like those on the Elwha River in Washington and the Klamath River in California, have been removed or are planned for removal as the most effective means for achieving restoration of salmon runs that have been decimated by 20th century dam construction and operation. Moreover, dam removal to restore fish passage and recover salmon is a NMFS priority action. Yet because the Draft Program does not consider dam removal, the Governor cannot make an informed decision as to how dam removal compares to the Project Owners' preferred alternative.	In response to NVE's proposed alternative of removing the Eklutna Dam, the Project Owners conducted a high-level analysis of the technical risks and cost implications associated with dam removal, including effects that an unregulated river hydrograph may have on infrastructure on or adjacent to the Eklutna River downstream of the existing dam. The use of other comparable renewable energy sources to determine how to offset the lost generation from the Eklutna Power Plant was also analyzed. This analysis is documented in a Technical Memorandum that is available in Appendix F of the Supporting Information Document.

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27	USFWS Enclosure	Page 37	Table 2-1	The Draft Program presents in Table 2-1 (p. 37) the preferred infrastructure modifications of stakeholders, with a footnote explaining the Service's alternatives C and D are in descending order of preference if public and financial support for alternative A and B are not obtained. In a letter dated July 3, 2023, we presented our preferred alternative, including our preferred engineering measures: *"Our preferred alternative includes Measure P, the replacement dam as described in the enclosure because it greatly increases the amount of available fish habitat while providing for year-round power generation. Although this alternative seems to find a balance with a wide range of stakeholder values and considerations, we understand that the capital expenditure estimates for construction are appreciable. Therefore, we support a Fish and Wildlife Program that includes time and opportunities for gathering public and financial support with the option to use components of Measures K, A, or C as described in the enclosure as part of a phased implementation approach or as a tiered contingency plan should public and financial support for Measure P fall short. If it is not possible for a Fish and Wildlife Program to include opportunities for gathering public and financial support for Measure P as described above, then our preferred engineering measure would be Measure K, the existing dam with fish passage as described in the enclosure."* It was not our intent to suggest that engineering measures that do not provide fish passage would be acceptable on their own as part of the Fish and Wildlife Program. Our long-term goal has been ecological connectivity to the lake, and for the Fish and Wildlife Program to reflect that same goal.	Thank you for the clarification.
28	ADFG	Page 39	Table 2-2. Stakeholders' Preferred Instream Flow Regimes.	Footnote contains an incomplete sentence.	This will be fixed in future versions.
29	ADFG	Page 40	Table 2-4. Cost Summary for Stakeholders' Preferred Alternatives.	The difference in capital cost between ADF&G Alternative B and the proposed alternative is $19 million, but in Table 2.7 it appears that the incremental cost per acre of habitat gained is the same. Please clarify this discrepancy. We assume that the increased capital cost and other costs associated with ADF&G Alternative B is the additional cost of the installation of a fixed wheel gate at the dam. There is no cost analysis for the proposed fixed wheel gate in the draft plan. Please provide that analysis.	The $19 million difference is in present worth, not capital costs (see Table 4-7; Supporting Information Document). Regarding the incremental cost table in the Draft Fish and Wildlife Program - there were some errors in the data in the NVE row and the ADFG rows. This table has been corrected (Table 4-10, Supporting Information Document). The cost estimate for the fixed wheel gate is provided in Appendix C of the Supporting Information Document and phase 1 engineering deliverables are available on the project website at: eklutnahydro.com.

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30	ADFG	Page 41	Table 2-5. Ratepayer/Taxpayer Impacts for Stakeholders' Preferred Alternatives.	ADF&G is aware of the current situation regarding supply and demand of energy for the railbelt and the desire to maintain renewable energy sources to the maximum extent as well as the additional cost to ratepayers and property owners in Municipality of Anchorage (MOA) and ratepayers in the Mat-Su. As exhibited in Table 2-5, Page 41, implementation of ADF&G Alternative B would result in only a modest increase to ratepayers as compared to other alternatives considered while maximizing increases in habitat. In the 1991 Agreement, the purpose of this plan is to develop and propose to the governor a program to protect, mitigate damages to, and enhance fish and wildlife impacted by the project. ADF&G strongly encourages the Project Owners to consider adoption of ADF&G Alternative B, and specifically the construction of a fixed wheel gate at the project dam, to allow for flexibility of instream flows into the future.	The difference in increase to ratepayers from the Project Owners' Preferred Alternative to ADFG Alternative B is +0.53% to +0.76% for Chugach ratepayers, +0.84% to +1.13% for MEA ratepayers, and $0.51/100k to $0.81/100k property tax increase for MOA taxpayers (Table 4-8 of Supporting Information Document). The Project Owners have reconsidered construction of a fixed wheel gate to allow for flexiblity of instream flows in the future. The fixed wheel gate is included in the Proposed Final Fish and Wildlife Program as a limited reopener if certain criteria are met as outline in Section 4.1 of the Proposed Final Fish and Wildlife Program.
31	Eklutna, Inc.	Page 41	Table 2-5. Ratepayer/Taxpayer Impacts for Stakeholders' Preferred Alternatives.	Finally, we would like to see more details of ratepayer increases. The Program discusses the differences in perceived ratepayer increase. The public generally does not understand how rates increase and how the direct costs of a dam replacment, Portal release or dam removal actually materialize. Discussing how the rates will increase for water and electricity is essential to informing the public of a potential impact on their finances. A cursory estimate is inadequate for a public-facing document.	Details are included in Appendix C of the Supporting Information Document.
32	ADFG	Page 42	Table 2-6. Summary of Habitat Gains for Stakeholders' Preferred Alternatives.	ADF&G Alternative B provides an additional 1.4 acres of Chinook rearing habitat and 1.7 additional acres of coho rearing habitat. This is an increase of 22% and 17% respectively and is substantial compared to the proposed preferred alternative.	Comment noted.
33	ADFG	Page 43	Table 2-7. Incremental Costs Per Acre of Habitat for Stakeholders' Preferred Alternatives.	The incremental cost analysis per acre for ADF&G Preferred Alternative B is the same as the preferred alternative selected. It appears that the incremental cost is the same with a significant additional amount of rearing habitat (22% for Chinook and 17% for coho).	There were some errors in the data in the NVE row and the ADFG rows. This table has been corrected (see Table 4-10, Supporting Information Document).

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3.0 Draft Fish and Wildlife Program					
34	Eklutna, Inc.	Page 44	3.0 Draft Fish and Wildlife Program	It is extremely unusual for a preferred option to be advanced in a preliminary plan without fully evaluating each viable option. Typically, a suite of 3-4 options is identified, and each option is reviewed through a series of criteria, on a point-by-point basis, leaving the public with an opportunity to review the case for each option. Options forwarded by the federal agencies and the Native Village of Eklutna were not thoroughly evaluated under the same criteria the Portal option was given. For the Program to be legally defensible, a full evaluation of each option - now including dam removal - should be included in the Program.	As described in Section 4.5 of the Supporting Information Document, the Project Owners evaluated over 30 comprehensive alternatives. The proposed flow regimes, required infrastructure, and operations of each of the 30+ comprehensive alternatives were evaluated equally to determine annualized costs and their associated environmental benefits. Dam removal was not brought forward during the alternatives analysis process; however, the Project Owners have since conducted a high-level analysis of the technical risks and cost implications associated with dam removal, including effects that an unregulated river hydrograph may have on infrastructure on or adjacent to the Eklutna River downstream of the existing dam. The use of other comparable renewable energy sources to determine how to offset the lost generation from the Eklutna Power Plant was also analyzed. This analysis is documented in a Technical Memorandum that is available in Appendix F of the Supporting Information Document.
35	NVE	Page 44	3.0 Draft Fish and Wildlife Program	The AWWU Portal proposal provides no solution for the complete blockage of salmon reaching the extensive lake spawning habitat required by sockeye salmon (which was the key driver for the Agreement in the first place) and 15 miles of upper tributaries spawning habitat above the lake that is highly amenable to Chinook and coho salmon. Without a connection to Eklutna Lake, restoring those key spawning grounds and habitat is impossible. The Project Owners admit in the Draft Program that “no change in sockeye rearing habitat is anticipated.” The proposed nominal flow releases from the AWWU Portal, which represent less than 10% of the inflows to Eklutna Lake, will only minimally enhance Chinook and coho salmon and their habitat in the lower Eklutna River and bear no resemblance to historic flows.	The Project Owners recognize that fish passage is important to NVE, the federal and state agencies, and others who have commented on the Draft Program and that fish passage may become feasible in the future. Therefore, the Proposed Final Fish and Wildlife Program includes a limited fish passage reopener (Section 4.2). With this limited reopener, if a new, proven methodology or technology becomes available, then the Committee may reevaluate the potential for the construction and operation of fish passage facilities both into and out of Eklutna Lake on its own initiative or at the request of any of the resource agencies or NVE. Fish passage measures must meet certain criteria (see Section 4.2 of the Proposed Final Fish and Wildlife Program).
36	NVE	Page 44	3.0 Draft Fish and Wildlife Program	As such, we reject the AWWU Portal alternative because it: 1. Fails to remedy the harms to sockeye salmon and their spawning habitat that instigated the Agreement and Program process; 2. Leaves one mile of dry riverbed that prevents fish from reaching Eklutna Lake; 3. Blocks access to the majority of sockeye, Chinook, and coho salmon spawning and rearing habitat in the lake and its tributaries; 4. Delivers inadequate flows for fish below the Eklutna Lake dam; 5. Ignores the requests of the Eklutna Dena’ina for the recovery of a natural river after 94 years of harm; 6. Ignores the science-based recommendations of the two federal agencies (USFWS and NMFS) that are responsible for protecting salmon and other affected fish and wildlife resources; 7. Could jeopardize the Anchorage drinking water system; and, 8. Burdens ratepayers and taxpayers with $57 million in unnecessary cost increases.	The Proposed Final Fish and Wildlife Program will not jeopardize the Anchorage drinking water system. The design of the Eklutna River Release Facility will not restrict AWWU's ability to withdraw water, nor will operation of the river release valve cause harmful pressure fluctuations within the system. The project will utilize the excess capacity within AWWU's tunnel to deliver water to the river. Of the 12 preferred alternatives presented by the Project Owners and other stakesholders during the alternatives analysis process, the Proposed Final Fish and Wildlife Program is the least costly alternative, along with the similar ADNR alternative at the same annualized cost, thus the least burdensome to ratepayers and taxpayers.

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37	NVE	Page 44	3.0 Draft Fish and Wildlife Program	The Eklutna River has been degraded by hydropower for 94 years. It is not worth rushing into an expensive and ineffective solution when we can properly fix the problem within the next decade. NVE's alternative calls for a phased solution instead of a commitment to an additional 35-year term of devastation. Rather than commit ratepayers and taxpayers to a $57 million expense for the AWWU Portal, we suggest saving that money and waiting a few more years to do the job right at little to no cost to ratepayers and taxpayers.	The Project Owners have engaged in a 5-year process of studies and evaluation of alternatives in consultation with the Parties to the 1991 Agreement, NVE, Eklutna Inc., and other stakeholders. The Project Owners are contractually and legally bound by the terms of the 1991 Agreement, including the schedule, which calls for submission of the Proposed Final Fish and Wildlife Agreement to the Governor in April 2024.
38	Eklutna, Inc.	Page 45	3.1 Impacts to Fish and Wildlife	We urge a more thorough examination of the economic impact on Eklutna, Inc. due to the devaluation of landholding and the consequential impact on fisheries. Eklutna, Inc. owns nearly all the land on each side of the Eklutna River (River). Further, the State of Alaska's Public Access Assertion and defense unit has deemed Eklutna, Inc. to own the Ekutna Riverbed. There should be consideration of the legal ramifications of Eklutna, Inc.'s ownership of the riverbed and how access along the River will be managed. There is a need for a more comprehensive assessment of riparian rights for landholdings with a consideration of the effective regulatory taking of the Eklutna, Inc. land, suppression of economic opportunities on these lands, and the destruction of public and subsistence resources.	The 1991 Agreement does not require the Project Owners to examine the economic impacts due to the devaluation of landholdings affected by the development and operation of the Project. No party requested that we conduct such studies at the early stages of the study process when the NVE and Eklutna, Inc., among other entities, were invited to work collaboratively to develop study plans.
39	USFWS Enclosure	Page 45	3.1 Impacts to Fish and Wildlife	One of the main ecological functions of a river in a watershed is to transport water, sediments, and nutrients to and from freshwater and marine environments. Eklutna Lake and other headwater features in the watershed are a critical source of these nutrients. Recognizing the importance of this component of the watershed, the Service recommends the Fish and Wildlife Program include methods to reconnect Eklutna Lake to the Eklutna River at the dam.	The Proposed Final Fish and Wildlife Program includes a limited fish passage reopener (Section 4.2). With this limited reopener, the Project Owners recognize that reconnecting Eklutna Lake and Eklutna River for fish passage may become feasible in the future and fish passage is important to NVE, the federal and state agencies, and others who have commented on the Draft Program. If a new, proven methodology or technology becomes available, then the Committee may reevaluate the potential for the construction and operation of fish passage facilities both into and out of Eklutna Lake on its own initiative or at the request of any of the resource agencies or NVE. Fish passage measures must meet certain criteria (see Section 4.2 of the Proposed Final Fish and Wildlife Program).
40	USFWS Enclosure	Page 45	3.1 Impacts to Fish and Wildlife	The Service shares the Native Village of Eklutna's (NVE) desire to return salmon to the Eklutna River, which NVE has stated in Resolution 2022-043. The original Eklutna hydropower project in 1929, 94 years ago, marks the beginning of watershed function decline. Since that time, impacts to the riverine and wetland ecology have continued to mount; notable among these is the 1955 and 1964 establishment of the present-day dam at the outlet of the historical glacial moraine lake, namesake of the Eklutna people, which all but cut off stream flows downstream of the hydropower dam.	The 1929 hydroelectric project is a separate project from the existing Eklutna Hydroelectric Project with separate impacts. The 1991 Agreement addresses impacts to fish and wildlife from the existing Eklutna Hydroelectric Project.

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41	USFWS Enclosure	Page 45	3.1 Impacts to Fish and Wildlife	The historical impacts associated with the complete dewatering of an anadromous stream of ecological and cultural significance have not been adequately quantified through the 1991 Agreement process. According to the 1991 Agreement, Project Owners are required to fund and conduct studies to examine and, if possible, quantify impacts to fish and wildlife as a result of the Project. The Draft Program (p. 45) does qualitatively describe impacts associated with river impoundment, stating the existing hydroelectric project "diverted all outflows from Eklutna Lake, [and that] reduced flows to the Eklutna River led to loss of winter rearing habitat, poor sediment transport, excessive siltation of stream channels, gravel starved stream channels, reduced water quality, and insufficient water depth for Chinook salmon spawning." Adding, "in addition to impacting fish habitat, the Project also impacted wetlands downstream of Eklutna Dam, both riparian wetlands that existed in the upper river and estuarine wetlands below the railroad bridge." The Draft Program (p. 45) summarizes, "[i]mpacts to salmon and wetlands likely had an indirect impact on the wildlife that depend on the salmon and utilize those wetlands".	In compliance with the 1991 Agreement, the Project Owners funded and conducted a 2-year study program that was developed in consultation with and concurred with by the Parties to the 1991 Agreement and NVE and other stakeholders. The study program was thorough and adequate.
42	USFWS Enclosure	Page 45	3.1 Impacts to Fish and Wildlife	While the Draft acknowledges historical conditions and loss of ecosystem functions, it stops short of attempting to quantify the change between pre-development and existing conditions, stating that "the original impact of the Project on fish and wildlife resources is difficult to quantify since no fish or wildlife studies were conducted pre-construction (p. 45)." This statement discounts multiple lines of inquiry which could have been followed to estimate actual system wide impacts associated with dam river impoundment and hydropower operation. Using models developed for this project could provide another means of comparing relative habitat losses with potential habitat gains. While the models developed for estimating habitat gains under different alternatives are only calibrated to 375 cubic feet per second (cfs), it would be informative to see what they would predict for spawning and rearing habitat at the historic flow levels to estimate loss.	The question of how much habitat would be gained if modeling was extended beyond the 375 cfs flow can be largely answered without the need for doing so. In the case of spawning habitat, only one of the 30 1D transects displayed habitat gains beyond the 375 cfs flow with all others showing defined peaks within the 375 cfs modeled range. This would suggest that modeling beyond 375 cfs would actually show a decrease in spawning habitats over the segment of the Eklutna River above Thunderbird Creek. Similarly for spawning, although not to the same degree, the majority (26) of the 1D juvenile transects showed defined peaks, in some cases multiple peaks, within the 375 cfs modeled range, which would again suggest that an overall decrease in juvenile habitat may occur in the Ekutna River at flows greater than 375 cfs.
43	USFWS Enclosure	Page 45	3.1 Impacts to Fish and Wildlife	Section 3.1 of the Draft Program does not quantify impacts to fish and wildlife. Therefore, as the majority of the watershed has been affected by the ecological repercussions of removing water, we recommend the final Program include impacts to consider the watershed effects. Avenues to explore quantification of impacts include: 1) employing higher test flow releases to calibrate instream flow and habitat models to flow levels commensurate with historical, formative flows; 2) giving due credit and scientific credence to Indigenous Knowledge provided by Native Village of Eklutna knowledge bearers regarding the historical state of the fishery and watershed; 3) empirical inferences of pre-dam hydrology and habitat conditions based on cross section morphology; and 4) an analog comparison of similar river systems through either reference stream case studies or literature review.	The Proposed Final Fish and Wildlife Program presents a program to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Eklutna Hydroelectric Project. 1) The study flow release was conducted in September 2021; no additional study flow releases will be done. 2) A detailed description of the historical environment, including the traditional ecological knowledge (TEK) provided by NVE, was provided in the Initial Information Package (available on the project website: eklutnahydro.com) and Section 4.11.9 of the Supporting Information Document.

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44	USFWS Enclosure	Page 45	3.1 Impacts to Fish and Wildlife	The Eklutna River is approximately 12 river miles long from dam to discharge into Knik Arm with a historic average width of 100 feet. That amounts to 145.5 acres of direct impacts in addition to other watershed impacts (wetlands, off-channel habitat, lake habitat, upper tributaries, and coastal habitat) that should be considered, as well as impacts on fish and wildlife using surrounding riverine and upland habitat.	Thank you for your comment. Impacts to fish and wildlife habitat from the existing project have been taken into consideration throughout this process.
45	USFWS Enclosure	Page 45	3.1 Impacts to Fish and Wildlife	Using the watershed approach sets a boundary to quantify potential direct, indirect, and cumulative impacts on fish and wildlife based on habitat. The Eklutna watershed is 174 square miles (111,360 acres) of which Eklutna Lake is 119 square miles (76,160 acres), the Eklutna River drainage is 17 square miles (10,880 acres), and the remaining area is in the Thunderbird Falls sub-watershed (USACE 2004, p.9). Therefore, the Draft Program should consider the 10,880 acres of habitat impacted in the Eklutna River drainage and should also include acres of habitat impacted by fluctuations in Eklutna Lake, areas of upstream tributaries, downstream river, wetlands, and coastal habitats in the watershed. Functional loss should include temporal loss and modifications of habitat.	Study objectives, study area, and study methods used are described in each of the 12 resource study reports that made up the 2-year study program. The 2-year study program was developed in consultation with and concurred with by the Parties to the 1991 Agreement and NVE and other stakeholders.
46	USFWS Enclosure	Page 45	3.1 Impacts to Fish and Wildlife	All of these watershed impacts should be quantified in the in the Fish and Wildlife Program. Quantifying these impacts gives context to the PME measures proposed.	Impacts were quantified to the extent possible in the study reports.
47	NVE	Page 45	3.1 Impacts to Fish and Wildlife	Another significant deficiency in the consultation process has been the Project Owners' failure to evaluate the potential impacts of their proposed Draft Program and alternatives on the critically endangered Cook Inlet beluga whale – a national NMFS priority species – and its designated critical habitat which includes the mouth of the Eklutna River. Again, such evaluation would be required in any FERC relicensing under Endangered Species Act ("ESA") section 7. Given the Agreement's express intent to provide comparable protection to a FERC proceeding, the Owners failure to fully evaluate the Project's impacts on the Cook Inlet beluga whale is inexplicable and unjustifiable.	Beluga whale observations were reported in the Terrestrial Wildlife Study Report and increased flow releases and salmon abundance was noted as a benefit to marine mammals, including beluga whale, in the July 2023 Alternatives Analysis meeting dicussion on potential wildlife impacts of flow release scenarios.

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48	NVE	Page 45	3.1 Impacts to Fish and Wildlife	The AWWU Portal puts the least amount of water in the river of all the alternatives for regular flows and high-flow events. The justification for choosing the lowest flow alternative primarily comes from economic considerations rather than what is best for fish and wildlife. The Agreement makes clear that the consideration of non-fish and wildlife factors should be made by the Governor, not by the Project Owners in the Draft Program. The preferred alternative continues to create a dead-end river, with over a mile of dry streambed below the dam. Creating a dead-end river hardly mitigates the damages caused to fish and wildlife from the Project because it prevents connectivity between Knik Arm, the lower Eklutna River, the lake, and the upper tributaries. The preferred alternative cannot mitigate damages to sockeye in any way because it will continue to prevent nearly all anadromous sockeye from spawning in the Eklutna River system. Because the destruction of the sockeye run was the "specific concern" leading to the Agreement, a Program that continues to prevent almost all sockeye from spawning is impermissible. The preferred alternative permits less than 10% of the river to flow down its historic channel to the Knik Arm, the smallest amount of any proposed alternative.	Thank you for your comment.
49	NVE	Page 45	3.1 Impacts to Fish and Wildlife	The Agreement's protection, mitigation, and enhancement purpose is not limited to salmon but instead includes all fish and wildlife impacted by the Project. Reducing the ecological function of the tidal wetlands, lower river, lake, and upper tributaries from the Project's impacts reduces the health of fish and wildlife throughout the watershed. However, the Draft Program is not built upon any surveys or studies of marine mammals and its consideration of terrestrial and avian wildlife and habitat is severely inadequate.	The scope of analysis covered in the study program was agreed to by all of the Parties to the 1991 Agreement, NVE and other stakeholders. The Owners conducted the agreed to study methods and relied on that information in the alternatives analysis and ultimately in the Proposed Final Program.
50	NVE	Page 45	3.1 Impacts to Fish and Wildlife	The wildlife habitat survey study area boundary was limited to the lower end of the lake, the current river channel corridor, and a section of the wetlands at the river mouth.80 This study area boundary is insufficient and should have included the entire Eklutna watershed, including the upper tributaries, the entire lake, and the off channel stream areas in the lower river valley, given the Project harms to the whole Eklutna watershed ecosystem. Because of the limited study area, the wildlife analysis could not fully consider the protection, mitigation, and enhancement from all the alternatives, including the potential restoration of habitat from increasing flows and reconnecting the lower river to the lake and upper tributaries.	Study objectives, study area, and study methods used are described in each of the 12 resource study reports that made up the 2-year study program. The 2-year study program was developed in consultation with and the Parties to the 1991 Agreement and NVE and other stakeholders.

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51	NVE	Page 45	3.1 Impacts to Fish and Wildlife	Terrestrial and avian wildlife and habitat studies were primarily conducted via aerial surveys and literature reviews, both which have issues regarding their accuracy and the amount of place-specific detail they can provide. A recent scientific review of the accuracy of wildlife aerial surveys stated that aerial surveys can be an efficient platform to collect observational counting data "across large spatial areas," but which are far less well-suited for specific and small-scale geographies like the Eklutna survey area. Furthermore, the review noted common errors such as "nondetection, counting error, and species misidentification" that if not adequately addressed at all stages of the study "can provide data that obscure animal-environment relationships or introduce biases into inferences." The Project Owners provide no details or assurances that their limited surveys addressed these common errors. Furthermore, aerial and other surveys for wildlife were extremely limited. For example, only one day of raptor aerial surveys were completed, four days of migratory shorebird and waterfowl surveys were completed, and three days of moose surveys were completed, all during 2022. These surveys would not account for any annual variation in wildlife abundance or timing in the Eklutna watershed, as well as seasonal access limitations, among other issues. Wildlife habitat analysis relied on historic and current aerial photography with no ground vegetation surveys completed. Scientific literature on Alaska wildlife and habitat is rarely area specific and is therefore not necessarily a valid representation of species using the Eklutna watershed either for their full lifecycles or for their migration routes or travel corridors.	Study objectives, study area, and study methods used are described in each of the 12 resource study reports that made up the 2-year study program. The 2-year study program was developed in consultation with and the Parties to the 1991 Agreement and NVE and other stakeholders.

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52	NVE	Page 45	3.1 Impacts to Fish and Wildlife	Overall, the Plan recognizes that increasing the Eklutna River's flow below the dam will "directly or indirectly benefit several ecologically and/or culturally important wildlife species" such as wolves, moose, raptors, and bears. Yet, because of the severe lack of adequate baseline data, it is impossible to truly analyze and understand how the different alternatives would impact and potentially benefit all wildlife and their habitat and to what degree. For example, even though listed in the "observed or expected" wildlife list, the Draft Program fails to consider imperiled species like the Little brown bat (*Myotis lucifugus*) that rely on the Eklutna watershed and for which mitigation and enhancement of their foraging habitat in the lower Eklutna River valley, which is currently harmed by the Project, could be improved by increasing flows and rebuilding off channel habitat in the lower river. The Draft Program also fails to analyze why certain wildlife populations appear to be below normal levels. For example, the Summary of Study Results notes that "[w]aterfowl and shorebird numbers in the study area were moderate and low, respectively, during the field surveys" and that "[s]horebirds were noticeably absent during the spring surveys." This may be an example of a system that is in depression from nearly a century of harms from hydroelectric dams. These examples, and many others, highlight the Draft Program's inadequacies in considering and rigorously analyzing how the different alternatives would impact all non-salmonid fish and wildlife in the Eklutna system and whether the preferred alternative provides adequate mitigation and enhancement.	Comment noted.

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53	NVE	Page 45	3.1 Impacts to Fish and Wildlife	Regarding marine mammals, the Draft Program fails to consider the protection, mitigation, and enhancement of Cook Inlet beluga whales, one of the nation's most critically endangered marine mammals. The best available science shows that Cook Inlet belugas could significantly benefit from increased salmon runs in the Eklutna River. Given the mouth of the Eklutna River is within designated critical habitat in upper Cook Inlet where the majority of the Cook Inlet beluga population forages during the summer, the critically endangered whales should be a primary concern for the Program. The 2011 critical habitat designation for Cook Inlet belugas identified shallow intertidal and subtidal waters of Cook Inlet in close proximity to medium to high flow anadromous fish streams along with four species of Pacific salmon (Chinook, sockeye, chum, and coho) as essential to the beluga's conservation (also known as Primary Constituent Elements). NMFS 2016 Recovery Plan for Cook Inlet belugas identifies prey availability as a threat of medium concern for their recovery. NMFS acknowledges the heightened importance of prey availability, specifically Pacific salmon, for conserving Cook Inlet beluga whales. NMFS' Species in the Spotlight, 2021-2025 report states that, "[s]urvival and recovery of Cook Inlet beluga whales depend on an adequate quantity, quality, and accessibility of prey resources." In a recent notice to issue an IHA proposal from the Port of Alaska, NMFS noted that, "Pacific salmon represent the highest percent frequency of occurrence of prey species in CIBW stomachs." The notice highlighted that rich foraging areas to the north of the Port of Alaska, including the Eklutna River, are important to belugas and that the whales correlate their movements into Knik Arm around the timing of the salmon runs in those rivers. A recent 2023 study by Wild et al. delineated portions of Cook Inlet, including Knik Arm and the mouth of the Eklutna River, as a Biologically Important Area (BIA) for the small and resident population of Cook Inlet beluga whales based on scoring methods outlined by Harrison et al. in 2023.	The Project Owners agree that increased salmon runs anticipated to result from the increase in fish habitat under the Proposed Final Fish and Wildlife Program should benefit Cook Inlet beluga whales.

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54	NVE	Page 45	3.1 Impacts to Fish and Wildlife	The best available science shows that restoring abundant salmon runs to the Eklutna River may be one of the key strategies available for Cook Inlet beluga recovery by creating more foraging opportunities for belugas in upper Cook Inlet. The results of a 2020 study by Norman et al. suggest that "reproductive success in [Cook Inlet belugas] is tied to salmon abundance" in the Deshka River, which is also located in upper Cook Inlet near Knik Arm and the Eklutna River. That study showed that "if salmon runs remained at their current levels, the [Cook Inlet beluga] population would likely continue its current slow decline," yet the study found that "if Chinook salmon increased 20% or more, the current decline would likely be reversed." Furthermore, the study simulations found that "doubling the salmon abundance would be sufficient to allow recovery of the population regardless of impacts from other threats." The study noted that while Chinook are the most nutritionally important salmon species for Cook Inlet belugas, belugas still rely on other salmon species as important prey. Moreover, a recent 2023 study by McHuron et al. found that if there is enough prey abundance for Cook Inlet belugas, the whales can withstand other intermittent stressors, concluding that increasing prey availability increases the beluga's resiliency to threats. Another recent 2023 study by Warlick et al. stated that "aerial survey data suggest that the [Cook Inlet beluga] population continues to decline[, and the] leading hypotheses include reduced prey availability […]."	Comment noted. See also response to Comment # 53.
55	NVE	Page 45	3.1 Impacts to Fish and Wildlife	The proposed nominal flow releases from the AWWU Portal will only minimally enhance Chinook and coho salmon and their habitat in the lower Eklutna River. The AWWU Portal provides no solution for the complete blockage of salmon reaching the extensive lake spawning habitat required by sockeye salmon and miles of upper tributaries spawning habitat above the lake that is highly amenable to Chinook and coho salmon, both of which are primary forage species for Cook Inlet belugas. Without connection to Eklutna Lake, protecting, mitigating, and enhancing those key spawning grounds and habitat is impossible. In turn, the mitigation and enhancement for Cook Inlet beluga whales are likely to be minimal as well. Furthermore, no analysis was completed for how the other alternatives considered would benefit Cook Inlet belugas.	The Proposed Final Fish and Wildlife Program includes a limited fish passage reopener (Section 4.2). With this limited reopener, the Project Owners recognize that fish passage may become feasible in the future and fish passage is important to NVE, the federal and state agencies, and others who have commented on the Draft Program. If a new, proven methodology or technology becomes available, then the Committee may reevaluate the potential for the construction and operation of fish passage facilities both into and out of Eklutna Lake on its own initiative or at the request of any of the resource agencies or NVE. Fish passage measures must meet certain criteria (see Section 4.2 of the Proposed Final Fish and Wildlife Program).
56	NVE	Page 45	3.1 Impacts to Fish and Wildlife	The Draft Program's severely inadequate analysis of non-salmonid fish and wildlife fails to meet the purposes of the Agreement and the standard of a similar federal process, and severely inhibits the Governor's ability to make an informed decision.	The scope of analysis covered in the study program was agreed to by all of the Parties to the 1991 Agreement, NVE and other stakeholders. The Owners conducted the agreed to study methods and relied on that information in the alternatives analysis and ultimately in the Proposed Final Program.
57	USFWS Enclosure	Page 46	Section 3.2 PME Measures for Fish and Wildlife	The proposed Program does not mitigate for all impacts of the Project. Performance of a wetland functional assessment was previously planned to quantify impacts, as agreed upon by the TWG. However, according to the Wetlands and Wildlife Study Results (p.38, ABR June 2023), because no permits were needed, functional loss was based on best judgement of the Project Owner's consultant instead, and no mitigation for loss of wetlands was proposed.	The Project Owners maintain that the Program significantly mitigates the Project's impacts to fish and wildlife. The 1991 Agreement does not require the Project Owners to mitigate all impacts of the Project. The Wetlands and Wildlife studies were conducted in accordance with the final study plans. USFWS concurred with the scope of work in the final study plans on April 29, 2022.

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58	USFWS Enclosure	Page 46	Section 3.2 PME Measures for Fish and Wildlife	The Service recommends a broader scale of PME measures be developed to mitigate the full range of impacts from the Project. The Service provided our preferred alternative on July 3, 2023. In summary, our recommendation included the replacement dam and our preferred flow regimes: year-round instream flows of 160 cfs June through October and 75 cfs January to May, with an adaptive management strategy that allows for adjusting the flow regime based on new information and monitoring results; and channel maintenance flows of 800 cfs once, then 700 cfs every 3 years.	The Project Owners considered and evaluated all 12 preferred alternatives submitted as part of the Alternatives Analysis process. The evaluation included a cost effectiveness analysis, impacts to ratepayers and taxpayers, and resource impacts (see presentation from July 2023 alternatives analysis meeting). The Project Owners believe the PME measures in the Proposed Final Fish and Wildlife Program meet the requirements of the 1991 Agreement.
59	USFWS Enclosure	Page 46	Section 3.2 PME Measures for Fish and Wildlife	Additionally, as described in our recommendation letter, dated July 3, 2023, the Service recommends AWWU bridge construction, partial lakeside trail improvements, and physical habitat improvements. We are open to a phased implementation approach whereby more water is returned to the Eklutna River as soon as possible while time is provided in the Fish and Wildlife Program for planning a new dam. If a new dam is not possible, then the next best alternative would be the existing dam with new infrastructure for fish passage.	The Proposed Final Fish and Wildlife Program includes AWWU bridge construction, funding for lakeside trail improvements, and funding for physical habitat improvements (Sections 2.4, 2.5.1, and 3.3.6). The Proposed Final Fish and Wildlife Program also includes a limited fish passage reopener (Section 4.2).
60	USFWS Enclosure	Page 46	Section 3.2 PME Measures for Fish and Wildlife	The Fish and Wildlife Program should incorporate habitat improvements, including repair and maintenance of the perched culverts and other fish passage structures such as those along the AWWU access road. The Program should include enhancement and protection of spawning a rearing habitat in Eklutna Lake and tributaries, and Eklutna River habitat.	Repairs and maintenance of the AWWU access road is not the responsibility of the Project Owners.
61	Eklutna, Inc.	Page 47	Section 3.2.1.1 Eklutna River Release Facility	Further, the North Anchorage Land Agreement mandates that Eklutna, Inc. must consent to most forms of development on its land within the Chugach State Park. Our review of the Program did not indicate whether the lands utilized for the Portal option are Eklutna, Inc. lands. Please provide in the Program a description of all lands proposed for use on the Portal option.	The AWWU Portal Valve is located on BLM land. It's likely that the bridge crossings are on Eklutna Inc. land, but within AWWU's easement. Land ownership and management is discussed in Section 2.1.10 of the Supporting Information Document.
62	ADNR	Page 47	Section 3.2.1.1 Eklutna River Release Facility	The Project Owner's Draft Program would create an Eklutna River Release facility adjacent to the existing AWWU portal valve approximately one mile downstream from the dam. As the concept is described in the draft program, the infrastructure modification may not require a Certificate of Approval from the Alaska Dam Safety Program. It would utilize existing outlet works from the reservoir to the AWWU facility downstream. Additional development of the option would be required to make a definitive determination.	Comment noted.

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63	NMFS	Page 47	Section 3.2.1.1 Eklutna River Release Facility	The proposed actions within the draft Program do not align with our management interests to re-water the full length of the Eklutna River as outlined in our September 11, 2023, recommendations. This leaves extensive project related impacts unaddressed. To meet the intent of the 1991 Agreement for mitigating project related impacts, to enhance fish, wildlife, and habitat affected by the Project, and to function at least as well as would have been the case under FERC licensing, the entire river should be re-watered on a year-round basis. Adding water to the full extent of the river is possible with a new spillway gate (discussed below) and would provide broader, holistic ecological benefits that will, in turn, benefit species like Pacific salmon and their prey species. Further, minimum flows in the entire reach of the river affected by Project operations are a common FERC license requirement. Adopting this recommendation to re-water the full length of the Eklutna River would promote the stated 1991 Agreement intent to function at least as well as Federal regulation. We understand the limitations of the existing Project design to meet this stated goal. However, in our view appropriate Project modifications and an adaptive management plan can better balance water availability for fish habitat and hydropower generation. A new spillway gate could be the first step.	The Project Owners recognize that a fixed wheel gate might be warranted in the future to better manage future spill events if climate change causes inflows to the resevoir to increase significantly and to provide for a higher magnitude channel maintenance flow (if needed). Therefore, in the Proposed Final Fish and Wildlife Program, the Project Owners have committed to conducting a more detailed feasiblity study of the fixed wheel gate within three years of the Governor's issuance of the Final Fish and Wildilfe Program. If found feasible and cost effective, on the 10th anniversay after initiating instream flows, the Project Owners will confer with the Committee to reevaluate the need for a fixed wheel gate based on information gathered from monitoring during that 10-year period.
64	NMFS	Page 49	Section 3.2.1.2 Flow Regime	The seasonal minimum flows outlined in the draft Program do not address the scale of direct Project related impacts and appear to be limited to the capability of the existing infrastructure. In order to account for and address the full scope of Project impacts, the mitigation measures need to re-establish a broader range of habitat availability within the Eklutna River. To do this, moderate increases in winter flow to 40 -70 cfs is a better option. We acknowledge the limitations of the existing infrastructure to provide winter flows and maintain hydropower operations; however, we see the potential for mitigation measures that balance these interests. Similarly, the draft Program's proposed summer flows of 40 cfs are described as flows that will increase habitat for coho and Chinook; however, our recommended summer flow of 160 cfs provides greater habitat availability to address project related impacts. The range of flows discussed in the first alternatives meeting included 80-90 cfs for maximum coho spawning habitat and 150-160 cfs for maximum Chinook habitat. Here, too, we see opportunity for better mitigation of Project related impacts while balancing hydropower generation. In addition, each of the resource agencies who are signatories to the 1991 Agreement recommended seasonal flows greater than seasonal flows identified in the draft Program. We recommend re-evaluating the seasonal flows in the context of our resource management interests and the data from the alternatives analysis process.	The Proposed Final Fish and Wildlife Program includes the same default year-round instream flow regime as in the Draft Fish and Wildlife Program. However, it should be noted the Monitoring and Adaptive Management Committee may modify the default year-round instream flow regime based on monitoring as long as as (1) the requested flows do not exceed the operational limitations of the Project infrastructure and (2) the ramping rates conform to fisheries ramping rate requirements (see Section 3.3.5 of the Proposed Final Fish and Wildlife Program). Additionally, because climate change may cause increased inflow to Eklutna Lake, 10 years after instream flows are established, the Project Owners will compare the average annual inflows to Eklutna Lake for the last 10 years to the previous 10-year period. Any increase in average annual inflows will be split 50/50 between hydropower and the annual water budget for instream flows. If there is a decrease in average annual inflows, the annual water budget for instream flows will not be decreased. The Project Owners will repeat this process every 10 years.

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65	USFWS Enclosure	Page 49	Section 3.2.1.2 Flow Regime	While introducing some flow is an improvement over no flows, we disagree that introducing baseline levels for 11 out of the 12 miles of river with no connectivity to the lake restores habitat to productive levels or that the proposed flow regime would achieve a significant amount of the potentially available habitat, and the Service has provided previous comments on this subject.	Thank you for your comment.
66	USFWS Enclosure	Page 49	Section 3.2.1.2 Flow Regime	Habitat loss associated with dam development is not enumerated. Instead, existing conditions were set as the baseline for assessing potential PME measures for instream flow, geomorphology, sediment transport, and habitat models. These analyses were all based on test releases of up to 150 cfs, one tenth of historical bankfull flows (1,527-1,682 cfs in the pre-development historical channel; Hanson 2019, p. 6 and Appendix B). This flow level allowed for extrapolation of modeling up to 375 cfs (Kleinschmidt 2023b, pp. 18-19), which only evaluates habitat within the historical low flow channel. At this intermediate flow, the water never reaches the tops of the stream banks or accesses the floodplain. As we have stated previously (Service 2022, p. 3), this produces flawed estimates of rearing habitat gains and losses at different flow levels.	We previously responsed that the HEC-RAS model is useful as a "snapshot in time" model of the current condition of the channel to help inform analysis of potential new flow regimes. And as we have discussed throughout the study process that the channel will change in the future as it adjusts to any new flow regime. The term "floodplain" refers to the extent of innundation under peak flows in general, not the extent of test flows. The Monitoring and Adaptive Management Committee will execute a Monitoring and Adapative Management Plan, which may include a monitoring component to inform understanding of these future channel changes and an adaptive management component.
67	USFWS Enclosure	Page 49	Section 3.2.1.2 Flow Regime	The Service continues to recommend an instream flow regime that targets 160 cfs during the salmon spawning and migration window, and 75 cfs throughout the winter and shoulder seasons. These are the modeled flow levels which produce stream depths suitable for Salmon spawning and rearing, respectively (Moyle 2002, OSGC 1963, Thompson 1972, and DeVries 1997). Service recommended flow levels consider the literature as well as empirical Eklutna River reference stream channel measurements reported on in Hanson 2019.	Thank you for your recommendation.
68	USFWS Enclosure	Page 49	Section 3.2.1.2 Flow Regime	Reestablish Eklutna River hydrology through year-round instream flows that achieve longitudinal and lateral connectivity, fish passage through barriers, water quality standards, and suitable winter instream conditions to support functioning, resilient, and sustainable salmon habitat.	The new Eklutna River Release Facility will provide year-round instream flows to approximately 11 out of 12 miles of the Eklutna River. The default summer flow releases (40 cfs) when combined with natural accretion in the Eklutna River should (1) significantly increase the available spawning habitat for Chinook, coho, pink, and chum salmon, (2) provide sufficient flows for migrating adult salmon to navigate the potential upstream passage barriers identified in the confined canyon reach, and 3) provide additional rearing habitat for salmon.
69	USFWS Enclosure	Page 49	Section 3.2.1.2 Flow Regime	Implement measures to enhance spawning and rearing habitat based on functional deficits.	The new Eklutna River Release Facility will provide year-round instream flows to approximately 11 out of 12 miles of the Eklutna River. The default summer flow releases (40 cfs) when combined with natural accretion in the Eklutna River should (1) significantly increase the available spawning habitat for Chinook, coho, pink, and chum salmon, (2) provide sufficient flows for migrating adult salmon to navigate the potential upstream passage barriers identified in the confined canyon reach, and 3) provide additional rearing habitat for salmon.

No.	Entity	Page	Section, Table, or Figure	Comment	Response
70	ADFG	Page 52	Figure 3-3. Spawning Habitat Curves for the Eklutna River below the AWWU Portal Valve.	Add a figure showing the Rearing Habitat Curves below the AWWU Portal similar to Figure 3-3 (which presents the Spawning Habitat Curves). Benefits to rearing from increased flows should be discussed/detailed similar to benefits for spawning.	The Project Owners have coordinated with ADFG regarding benefits to rearing habitat which has been addressed in the Proposed Final Fish and Wildlife Program.
71	ADNR	Page 54	Section 3.2.2.1 Channel Maintenance Flows Infrastructure	This proposed alternative would require revisions to the operations and maintenance management of the Eklutna Lake Dam and appurtenant works which would require approval from the ADNR to maintain compliance with the state dam safety regulations. These proposed changes would require the installation of additional monitoring instruments and equipment automation. Depending on the scope and location of these modifications, an application for Certificate of Approval to Modify a Dam may be required.	Comment noted.
72	NMFS	Page 54	Section 3.2.2.1 Channel Maintenance Flows Infrastructure	The draft Program did not adopt our recommendation for a new spillway gate at the existing dam. The analysis provided indicates that continual flows from the dam would greatly diminish hydropower generation by requiring the pond to be held at a higher level. Thus, the draft Program proposed a new gaging system to improve estimates of flow releases. This proposed measure does not increase the range of flows or address future flow conditions. Further, this proposed measure does not fulfill the intent of the 1991 Agreement, which states that the Owners shall prepare a draft Program for “the protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat).”	The Project Owners recognize that a fixed wheel gate might be warranted in the future to better manage future spill events if climate change causes inflows to the resevoir to increase significantly and to provide for a higher magnitude channel maintenance flow (if needed). Therefore, in the Proposed Final Fish and Wildlife Program, the Project Owners have committed to conducting a more detailed feasiblity study of the fixed wheel gate within three years of the Governor's issuance of the Final Fish and Wildilfe Program. If found feasible and cost effective, on the 10th anniversay after initiating instream flows, the Project Owners will confer with the Committee to reevaluate the need for a fixed wheel gate based on information gathered from monitoring durth that 10-year period.
73	NMFS	Page 54	Section 3.2.2.1 Channel Maintenance Flows Infrastructure	The Owners could have considered impacts on electric ratepayers and municipal water utilities in the Study Plans, and the Governor may consider efficient and economical power production during his review, but the draft Program’s mandate is solely to propose measures to protect and enhance fish and wildlife and to mitigate damages to such from the Project. By not including a new spillway gate in the draft Program, the potential for implementing a variety of flows to the Eklutna River is limited.	The Project Owners recognize that a fixed wheel gate might be warranted in the future to better manage future spill events if climate change causes inflows to the resevoir to increase significantly and to provide for a higher magnitude channel maintenance flow (if needed). Therefore, in the Proposed Final Fish and Wildlife Program, the Project Owners have committed to conducting a more detailed feasiblity study of the fixed wheel gate within three years of the Governor's issuance of the Final Fish and Wildilfe Program. If found feasible and cost effective, on the 10th anniversay after initiating instream flows, the Project Owners will confer with the Committee to reevaluate the need for a fixed wheel gate based on information gathered from monitoring durth that 10-year period.

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74	NMFS	Page 54	Section 3.2.2.1 Channel Maintenance Flows Infrastructure	Further, not including a new spillway gate in the draft Program does not take into account the pervasive changes to inflows to Eklutna Lake, to fisheries, or habitat driven by climate change. The Fifth National Climate Assessment for Alaska includes two key messages that resonate with the 1991 Agreement process and development of mitigation measures. First, our built environment will become more costly. Much of Alaska's infrastructure was built for a stable climate, and changes in permafrost, ocean conditions, sea ice, air temperature, and precipitation patterns place that infrastructure at risk. The assessment indicates with high confidence that further warming is expected to lead to greater needs and costs for maintenance or replacement of infrastructure. Planning for further change and greater attention to climate trends and changes in extremes can help improve infrastructure resilience around Alaska. In addition, there is high confidence that Alaska's ecosystems are changing rapidly due to climate change. Many of the ecosystem goods and services that Alaskans rely on are expected to be diminished by further change. Careful management of Alaska's natural resources to avoid additional stresses on fish, wildlife, and habitats can help avoid compounding effects on our ecosystems. This climate assessment for Alaska, which includes modeled and observed climate related trends, demonstrates negative implications for the Eklutna Hydropower Project operations related to water control. Warming trends and increased precipitation will influence the impoundment level throughout the year, potentially leveling the flow duration curve, and will likely increase the potential for uncontrolled spill at the existing dam. Our recommendation for a new spillway gate will increase the resilience of the project to climate change effects, likely mitigating the potential for long-term maintenance and repairs, as well as improving the ability to implement cost effective mitigation measures or natural resources. Incorporating a new spillway gate at the existing dam, as discussed throughout the alternatives assessment process, would expand the range of flows released to the Eklutna River to	The Project Owners recognize that a fixed wheel gate might be warranted in the future to better manage future spill events if climate change causes inflows to the resevoir to increase significantly and to provide for a higher magnitude channel maintenance flow (if needed). Therefore, in the Proposed Final Fish and Wildlife Program, the Project Owners have committed to conducting a more detailed feasiblity study of the fixed wheel gate within three years of the Governor's issuance of the Final Fish and Wildilfe Program. If found feasible and cost effective, on the 10th anniversay after initiating instream flows, the Project Owners will confer with the Committee to reevaluate the need for a fixed wheel gate based on information gathered from monitoring durth that 10-year period.
75	USFWS	Page 54	Section 3.2.2.1 Channel Maintenance Flows Infrastructure	Include methods to facilitate larger channel maintenance flows from the lake, such as a new gate at the dam.	The Project Owners recognize that a fixed wheel gate might be warranted in the future to better manage future spill events if climate change causes inflows to the resevoir to increase significantly and to provide for a higher magnitude channel maintenance flow (if needed). Therefore, in the Proposed Final Fish and Wildlife Program, the Project Owners have committed to conducting a more detailed feasiblity study of the fixed wheel gate within three years of the Governor's issuance of the Final Fish and Wildilfe Program. If found feasible and cost effective, on the 10th anniversay after initiating instream flows, the Project Owners will confer with the Committee to reevaluate the need for a fixed wheel gate based on information gathered from monitoring durth that 10-year period.

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76	NMFS	Page 54	Section 3.2.2.2 Channel Maintenance Flow Regime	The draft Program does not provide sufficient channel maintenance flows (also referred to as “flushing flows”) to address our resource management interests of reviving the riverine habitat after decades of no inflow and to ensure long-term in-stream habitat complexity. Similar to minimum flow for bypass reaches, flushing flows are consistent with Federal licensing requirements6. Although we agree with the timeframe for flushing flows, the proposed 220 cfs and associated water budget are inadequate to meet our resource management interests for migratory fish and their habitat. The proposed flows are unlikely to modify substrates and support habitat complexity in a meaningful way after nearly a century of limited impactful flow events. Our proposal for flushing flows of 700 cfs will result in significant, meaningful habitat modifications, consistent with natural hydrographs in unmodified rivers, and will mitigate impacts to the Eklutna River from hydropower development. These larger flushing flows need greater consideration for their functionality to mitigate project related impacts and meet the intent of the 1991 Agreement.	The default channel maintenance flow (Table 2-2 and Figure 2-2, Proposed Final Fish and Wildlife Program) was developed based on field studies, modeling, and peak flow statistics in similar unmanaged Alaskan rivers and is shaped to resemble a natural peak flow hydrograph. Per the water budget (Section 3.3.1, Proposed Final Fish and Wildife Program), 2,913 acre-feet of water is available for release into the Eklutna River at the beginning of each 10-year period for channel maintenance flows. Based on the results of the monitoring program, the Committee may request modifications to the magnitude, duration, frequency, or shape of the scheduled channel maintenance flow releases, as long as (1) the requested flows do not exceed the operational limitations of the Project infrastructure and (2) the ramping rates conform to fisheries ramping rate requirements. Furthermore, The Project Owners recognize that a fixed wheel gate might be warranted in the future to better manage future spill events if climate change causes inflows to the resevoir to increase significantly and to provide for a higher magnitude channel maintenance flow (if needed). Therefore, in the Proposed Final Fish and Wildlife Program, the Project Owners have committed to conducting a more detailed feasiblity study of the fixed wheel gate within three years of the Governor's issuance of the Final Fish and Wildilfe Program. If found feasible and cost effective, on the 10th anniversay after initiating instream flows, the Project Owners will confer with the Committee to reevaluate the need for a fixed wheel gate based on information gathered from monitoring during that 10-year period.
77	USFWS Enclosure	Page 54	Section 3.2.2.2 Channel Maintenance Flow Regime	The Draft Program (pp. 55-56) proposes channel maintenance flows with a duration of 72 hours in 3 out every 10 years. Flows would start at 40 cfs, be at a maximum of 220 cfs for 36 hours, and slowly decrease to mimic a more natural hydrograph. Channel maintenance flows are proposed to occur in fall (when lake levels are highest) as spill events from the existing maintenance gate at the dam in combination with flow releases at the Eklutna River Release Facility downstream. According to the Draft Program, if there is not enough water to spill over, then the proposal is to raise reservoir surface height to achieve the desired flow rate. According to the Terrestrial Wildlife Study Report (p. 66) there have only been nine high-flow events between the 1965 and 2019, when water overtopped the Eklutna Lake Dam spillway, during this period flows ranged from 85 cfs to 1,022 cfs (ABR 2023a). This proposal does not provide adequate flows to restore natural watershed hydrologic dynamics. The Service recommends an initial release of 800 cfs to reorganize the downstream channel and route as much aggraded sediment as possible, followed by triannual peak flows of 700 cfs. Routine peak flows target a water quantity that is seven times the mean annual flow, mimicking the rainfall peak in similar Alaskan rivers (Cathy Dube, personal communication).	The default channel maintenance flows (Table 2-2 and Figure 2-2, Proposed Final Fish and Wildlife Program) were developed based on field studies, modeling, and peak flow statistics in similar unmanaged Alaskan rivers and is shaped to resemble a natural peak flow hydrograph. The default channel maintenance flow (peaking at 220 cfs for 36 hours) should complement the base flow regime and help create and maintain channel dimensions and substrate characteristics to support physical fish habitat over the long term. The default downramping schedule Figiure 2-2, Proposed Final Fish and Wildlife Program) reflects a downramping rate of less than 1 to 2 inches per hour to reduce the risk of any fish stranding downstream when transitioning back to base flows.

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78	USFWS Enclosure	Page 54	Section 3.2.2.2 Channel Maintenance Flow Regime	The Draft proposes a maintenance flow regime that fails to meet the standards of the Agreement studies themselves. A channel maintenance flow regime of a 220 cfs flow in 3 out of every 10 years is inadequate, and less than the lowest peak flow considered in the Geomorphology and Sediment Transport Study (lowest was 300 cfs; Watershed GeoDynamics 2023, pp. 109-110). The study highlights channel maintenance flows of 300 to 500 cfs for encouraging substrate particle sorting within the range of preferred spawning gravels for the target species coho salmon (O. kisutch) and Chinook salmon (O. tshawytscha; Watershed GeoDynamics 2023, p. 115).	The purpose of the geomorphology and sediment transport study was to develop a functioning model that could be used during the subsequent alternatives analysis. The study report showed a preliminary range of flows that may be adequate depending on the base flow regime. On May 17, 2023, during the second Alternatives Analysis meeting, the Project Owners presented new sediment transport modeling results including the proposed base flow regime and corresponding channel maintenance flow (220 cfs in three out of every 10 years). These results show that the 220 cfs channel maintenance flow is appropriate when paired with the proposed base flow regime.
79	USFWS Enclosure	Page 54	Section 3.2.2.2 Channel Maintenance Flow Regime	The notion that fractional maintenance flows are capable of maintaining instream habitats created under significantly higher flow conditions conflicts with our understanding of basic stream processes. A flaw in instream flow, habitat, and sediment transport analyses is that the studies assume the size and shape of the downstream channel will remain consistent with existing conditions. All flow levels less than historical conditions will be incapable of maintaining existing channel conditions in their reference (pre-impoundment) state. Every proposed flow level will therefore require modification of channel and floodplain to create self-sustaining habitat conditions within the river channel and adjacent side channel, wetland, and riparian habitats.	As discussed throughout the study process, the channel will change in the future as it adjusts to any new flow regime. The Monitoring and Adaptive Management Committee will execute a Monitoring and Adapative Management Plan, which may include a monitoring component to inform understanding of these future channel changes and an adaptive management component.
80	USFWS	Page 54	Section 3.2.2.2 Channel Maintenance Flow Regime	It is important to also note that the infrastructure modifications proposed in this Draft cannot accommodate the higher channel maintenance flows needed. All previously analyzed alternatives included a fixed-wheel gate which provided flexibility for controlled flow releases originating entirely at the lake.	The default channel maintenance flow (Table 2-2 and Figure 2-2, Proposed Final Fish and Wildlife Program) was developed based on field studies, modeling, and peak flow statistics in similar unmanaged Alaskan rivers and is shaped to resemble a natural peak flow hydrograph. The default channel maintenance flow (peaking at 220 cfs for 36 hours) should complement the base flow regime and help create and maintain channel dimensions and substrate characteristics to support physical fish habitat over the long term. The default downramping schedule Figiure 2-2, Proposed Final Fish and Wildlife Program) reflects a downramping rate of less than 1 to 2 inches per hour to reduce the risk of any fish stranding downstream when transitioning back to base flows.
81	USFWS Enclosure	Page 54	Section 3.2.2.2 Channel Maintenance Flow Regime	Reestablish channel maintenance flows that maintain bedform diversity and sediment continuity, maintain fish passage through all river reaches, and avoid fish stranding during down-ramping.	The default channel maintenance flow (Table 2-2 and Figure 2-2, Supporting Information Document) was developed based on field studies, modeling, and peak flow statistics in similar unmanaged Alaskan rivers and is shaped to resemble a natural peak flow hydrograph. The default channel maintenance flow (peaking at 220 cfs for 36 hours) should complement the base flow regime and help create and maintain channel dimensions and substrate characteristics to support physical fish habitat over the long term. The default downramping schedule (steps 4-11 in Table 2-2, Supporting Information Document) reflects a downramping rate of less than 1 to 2 inches per hour to reduce the risk of any fish stranding downstream when transitioning back to base flows.

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82	NVE	Page 54	Section 3.2.2.2 Channel Maintenance Flow Regime	High flows are essential to mimic beneficial flooding. Seven of the nine alternatives proposed much more water during high flows, yet the Draft Program Plan settles on the lowest water discharge for channel maintenance flows of all discharges proposed. The maintenance flow regime in the preferred alternative is severely inadequate because it fails to return the river to its natural flow. The 220 cfs maximum flushing flows in the Draft Program is less than 20% of the average flushing flows of 1,402 cfs that USFWS estimated would be necessary to recreate the flows that historically supported the natural fishery and created the natural river channel and offchannel habitat. Worse, the Draft Program imagines the peak flow for just a few hours for just three out of every ten years before returning to conditions that approximate a severe drought. NMFS concluded that the proposed flushing flows in the Draft Program "are unlikely to modify substrates and support habitat complexity in a meaningful way after nearly a century of limited impactful flow events." The chosen channel maintenance flow hardly mitigates for the Eklutna River's deprivation of almost a century of flooding with a maximum recorded value of approximately 3,000 cfs.	The default channel maintenance flow (Table 2-2 and Figure 2-2, Supporting Information Document) was developed based on field studies, modeling, and peak flow statistics in similar unmanaged Alaskan rivers and is shaped to resemble a natural peak flow hydrograph. The default channel maintenance flow (peaking at 220 cfs for 36 hours) should complement the base flow regime and help create and maintain channel dimensions and substrate characteristics to support physical fish habitat over the long term. The default downramping schedule (steps 4-11 in Table 2-2, Supporting Information Document) reflects a downramping rate of less than 1 to 2 inches per hour to reduce the risk of any fish stranding downstream when transitioning back to base flows. Furthermore, the Project Owners recognize that a fixed wheel gate might be warranted in the future to better manage future spill events if climate change causes inflows to the resevoir to increase significantly and to provide for a higher magnitude channel maintenance flow (if needed). Therefore, in the Proposed Final Fish and Wildlife Program, the Project Owners have committed to conducting a more detailed feasiblity study of the fixed wheel gate within three years of the Governor's issuance of the Final Fish and Wildilfe Program. If found feasible and cost effective, on the 10th anniversay after initiating instream flows, the Project Owners will confer with the Committee to reevaluate the need for a fixed wheel gate based on information gathered from monitoring durth that 10-year period.
83	USFWS Enclosure	Page 57	Section 3.3.1 Public Water Supply	Implement stream crossing structures that promote stream functionality and flood resiliency.	Providing year-round instream flows to the Eklutna River will likely make all of the existing ford crossings along the AWWU access road impassable for most of the year. To mitigate these potential impacts, the Project Owners will construct eight new bridges, one at each of the existing ford crossings to allow AWWU year-round access to the AWWU pipeline for maintenance. The new bridges will be designed to pass the same flows as the two existing AWWU bridges. The existing ford crossings will be removed to prevent anyone from attempting to drive through the riverbed in the future.
84	ADFG	Page 57	3.3.2 Recreational Use and Facilities	There are some inaccuracies and incomplete reporting in the last paragraph. In 2021 there were two coho and one Chinook collected. One of the coho collected was determined to be wild and the other one of hatchery origin. The Chinook carcass collected in 2021 was determined to be a wild fish. In 2022 there were two Chinook collected and they were determined to be of hatchery origin. There were also two coho carcasses collected in 2022 but they have not been analyzed.	Thank you for your comment.

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85	Eklutna, Inc.	Page 57	3.3.2 Recreational Use and Facilities	Protection of Native hunting, fishing, and gathering rights is a part of federal law throughout the United States. There was no discussion of subsistence rights and resources in the study. This analysis would be included in a Federal Energy Regulatory Commission relicensing process. We believe the public would expect a detailed description of subsistence resouces along the Eklutna River. Rather than discuss Eklutna River public and subsistence resources, the Program inexplicably assesses the impacts of an artificial fishery - Eklutna Tailrace. Please explain the obligation to mitigate an artificial fishery created to substitue for the destruction of a prominent salmon run less than 10 miles away. We do not understand why that impact is worth considering while the evaluation of subsistence fishing is essentially ignored.	The substantial measures that will be advanced in the Proposed Final Fish and Wildlife Program will significantly improve the prospects of subsistence resources in the Eklutna River. Based on studies and analysis, we anticipate the instream flows and habitat improvement measures that we commit to will significantly increase fish spawning and rearing habitat over existing conditions that will in turn create potential opportunities for subsistence fishing. It is a fishery used and enjoyed by a significant number of Alaskans and the Project Owners are obligated to take into account the value that fishery provides as we develop our Proposed Final Fish and Wildlife Program. Indeed, the presence of the tailrace fishery can assist greatly in mitigating fishing pressure in the Eklutna River on any fish populations that are expanding due to the Project Owner's proposed flow and habitat measures.
86	ADFG	Page 58	3.4.2 Water Budgets	Since there is an allocated amount of water for a given year (24,280 acre-feet, Section 3.4.2.1) there is no flexibility built into this plan to increase instream flows above this allocation unless that increase is compensated for the following year. If monitoring indicates that the proposed flow regime is not providing the additional spawning and rearing habitat that has been modeled, then this will make any adaptive management strategy ineffective. The plan as proposed would not have the flexibility to provide more than an incremental increase in proposed flows since the combined maximum discharge of water from the portal valve (80 cfs) and the current dam outlet gate (190 cfs) would not provide the additional water needed to implement other higher flow alternatives such as ADF&G Alternative B... Placing a hard cap on the annual water budget does not allow for effective adaptive management strategies to be implemented, if needed, to ensure the success of the Fish and Wildlife Plan. An initial annual water budget of 24,280 acre-feet may be adequate to assess the effectiveness of the Fish and Wildlife Plan but providing flexibility over the 35-year term of this plan is essential to ensure the success of the program. The addition of the fixed wheel gate to the Fish and Wildlife Plan would provide that flexibility.	In the Proposed Final Fish and Wildlife Program, some modifications have been made to the water budget to increase flexibility: 1.) the year-round instream flow water budget and the channel maintenance flow water budget have been combined, 2.) water can be banked for 5 years instead of 1 year as proposed in the Draft Fish and Wildlife Program, and 3.) 50% of the total annual water budget can be banked at any given time instead of 20% as proposed in the Draft Fish and Wildlife Program. Furthermore, the Project Owners recognize that a fixed wheel gate might be warranted in the future to better manage future spill events if climate change causes inflows to the resevoir to increase significantly and to provide for a higher magnitude channel maintenance flow (if needed). Therefore, in the Proposed Final Fish and Wildlife Program, the Project Owners have committed to conducting a more detailed feasiblity study of the fixed wheel gate within three years of the Governor's issuance of the Final Fish and Wildilfe Program. If found feasible and cost effective, on the 10th anniversay after initiating instream flows, the Project Owners will confer with the Committee to reevaluate the need for a fixed wheel gate based on information gathered from monitoring durth that 10-year period.
87	USFWS Enclosure	Page 58	3.4.2 Water Budgets	The Draft Plan includes conditions limiting the amount of banked water that can be used the following year, limiting how long water can be banked, and setting a May 1 deadline for flow modification requests. While the Service understands the Project owners need to minimize uncertainty to be able to effectively manage operations, we believe the conditions placed on water management restrict the effectiveness of the Adaptive Management Program. Banked water should not expire, and while the Adaptive Management Committee could submit a proposed water budget by May 1, the Adaptive Management Program should have a mechanism to make modifications within the water year if the Committee identifies a need and implementing the change is feasible. The Adaptive Management Committee should include a Project Owner representative.	In the Proposed Final Fish and Wildlife Program, water can be banked for 5 years (instead of 1 year in Draft Fish and Wildlife Program). The Committee must provide a 60-day notice to the Project Owners for any requests to modify the default year-round instream flow regime or the default channel maintenance flow schedule. If the requested flows exceed the operational limitations of the Project infrastructure, the available water budget, or the approved ramping rates, then the Project Owners may reject the requested flow modifications. If the Project Owners reject the requested flow modifications, then they must notify the Committee so that the Committee may request alternative flows if desired. The Committee may request modifications to flows within 60 days; however, the Project Owners are not required to meet the request if it is not operationally feasible. One or more representatives from the Project Owners will serve as non-voting participants on the Committee to provide technical expertise about Project operations.

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88	USFWS Enclosure	Page 58	3.4.2 Water Budgets	There should also be a mechanism to address the water budget should any significant differences be found between modeled and actual habitat gains at different flow release levels.	The annual water budget remains at 24,280 acre-feet for year-round flow release into the Eklutna River and an additional 2,913 acre-feet is available at the beginning of each 10-year period starting the first water year after instream flows are initiated for channel maintenance flow. Based on monitoring results, the Committee may request modifications to the default year-round instream flow regime and/or the magnitude, duration, frequency, or shape of the scheduled channel maintenance flow releases, as long as (1) the requested flows do not exceed the operational limitations of the Project infrastructure, and (2) the ramping rates conform to fisheries ramping rate requirements. If the total volume of water to be released exceeds the available water budget (which includes any banked water that may be available), then that deficit will be carried over into the next water year.
89	ADFG	Page 60	3.4.3.2 Other Monitoring Efforts	Please provide a detailed breakdown of the estimated $270,000 budget for monitoring efforts.	In the Proposed Final Fish and Wildlife Program, the Project Owners have opted to provide a total of $450,000 in April 2024 dollars to ADFG over the length of the Program to fund monitoring efforts in the Eklutna River (Section 3.2, Proposed Final Fish and Wildlife Program). The Committee will develop the monitoring plan and ADFG will implement the monitoring plan and request funds from the Project Owners by July 1 of each year based on the planned monitoring effort for the subsequent year.
90	ADFG	Page 60	3.4.3.2 Other Monitoring Efforts	The draft plan states that the Committee may revise the monitoring plan or seek supplemental funding to conduct additional monitoring efforts if desired. Clarification is needed on where the source of this supplemental funding would come from.	The Project Owners will not provide additional funding but the Committee may pursue other funding sources for monitoring if desired.
91	ADFG	Page 60	3.4.3.2 Other Monitoring Efforts	Because channel maintenance flows are scheduled for fall, they have the potential to scour salmon redds and dislodge incubating eggs. Monitoring efforts should include scour depths in spawning areas to assess impacts of the maintenance flows timing on spawning habitat for adaptive management purposes.	The Committee will develop the monitoring plan, which could include scour monitoring. However, the Project Owners cannot change the general timing of when the channel maintenance flows occur (they have to occur in the fall) but they could change frequency, magnitude, and duration of channel maintenance flows (see Section 3.3.5 of the Proposed Final Fish and Wildlife Program regarding requests to modify flow regime).
92	ADFG	Pages 61-62	3.4.3.2 Other Monitoring Efforts	All monitoring efforts other than discharge are proposed to take place over 5 years except for winter temperature monitoring (3 years). Although the draft plan states that this additional monitoring need not take place in consecutive years, this effort would be inadequate to assess changes or determine long-term trends in fish use and improvements in habitat. Since the success of this program will be evaluated over 35 years a more robust monitoring program should be proposed.	In the Proposed Final Fish and Wildlife Program, the Project Owners have opted to provide a total of $450,000 in April 2024 dollars to ADFG over the length of the Program to fund monitoring efforts in the Eklutna River (Section 3.2, Proposed Final Fish and Wildlife Program). The Committee will develop the monitoring plan and ADFG will implement the monitoring plan and request funds from the Project Owners by July 1 of each year based on the planned monitoring effort for the subsequent year.
93	ADFG	Page 62	3.4.3.2 Other Monitoring Efforts	Hatchery Fish Straying section - Modify first sentence ‘All Chinook and coho carcasses (heads) observed in the Eklutna River during adult salmon surveys should be collected and delivered to ADFG for stock origin analysis to evaluate if straying is occurring and if so, at what proportion to wild escapement.’	In the Proposed Final Fish and Wildlife Program, the Committee will develop the monitoring plan to monitor aquatic habitat conditions and fish utilization in the Eklutna River and the straying rate of hatchery fish from the Eklutna Tailrace to the Eklutna River.

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94	ADFG	Page 62	3.4.3.2 Other Monitoring Efforts	Angler days or catch per unit effort data from the tailrace fishery will not provide information to detect straying from the tailrace into the Eklutna River. Determining potential straying should be based on the results of spawner surveys on the Eklutna River and the results of the stock origin analysis. Project owners should focus the annual coordination with ADFG to determine if straying is occurring on these criteria and not tailrace data.	In the Proposed Final Fish and Wildlife Program, the Committee will develop the monitoring plan including the straying rate of hatchery fish from the Eklutna Tailrace to the Eklutna River. The Committee will provide a report on monitoring efforts to the Project Owners by March 1 of each year.
95	ADFG	Page 62	3.4.3.2 Other Monitoring Efforts	The Draft Fish and Wildlife Plan contains little reference to how the success of the Fish and Wildlife Plan will be evaluated other than goals for the winter temperature monitoring and substrate size. Criteria should be developed to determine if the plan is successful or not, including an increase in spawning and rearing habitat, effectiveness of channel forming flows and general fish abundance.	The Committee will develop appropriate evaluation criteria for the Fish and Wildlife Program (Section 3.1, Proposed Final Fish and Wildlife Program).
96	ADFG	Page 63	3.4.4 Adaptive Management	Paragraph 1 - In addition to determining what monitoring efforts should be conducted annually, a cost estimate should be developed on an annual basis for this effort.	In the Proposed Final Fish and Wildlife Program, the Project Owners have opted to provide a total of $450,000 in April 2024 dollars to ADFG over the length of the Program to fund monitoring efforts in the Eklutna River (Section 3.2, Proposed Final Fish and Wildlife Program). The Committee will develop the monitoring plan and ADFG will implement the monitoring plan and request funds from the Project Owners by July 1 of each year based on the planned monitoring effort for the subsequent year.
97	ADFG	Page 63	3.4.4 Adaptive Management	Paragraph 3 states that the Committee may request modifications to the peak flow releases as long as the total volume of water released in a 10-year period does not exceed 2,913 acre-feet. We assume that this is based on the total amount of water proposed in Table 3.3, Page 55. Please clarify.	Correct, the total volume of water available for channel mainteneance flow releases over a 10-year period is 2,913 acre-feet, which is based on the default channel maintance flows (Table 2-2, Proposed Final Fish and Wildlife Program).
98	ADFG	Page 63	3.4.4 Adaptive Management	The last paragraph states that the Project Owners are not responsible for responding to natural processes that result in undesirable conditions in the river such as debris flows associated with precipitation, beaver activity, large wood build-up, etc. We are therefore assuming that then if any undesirable condition in the river is a result of the provisions of the plan being carried out will be the responsibility of the Project Owners to rectify. For example, if a log jam that blocks fish passage is the result of the release of a channel maintenance flow that the Project Owners would remediate the blockage to fish passage since it would not be the result of a natural event. Maintaining the free passage of fish in the Eklutna River is essential to the success of the Fish and Wildlife Plan and should be incorporated into the plan.	The Committee is being funded to evaluate habitat conditions in the future which should identify any changed conditions in the river that might be undesirable. Also, the Committee is being funded to address opportunties for habitat improvement, which could include addressing things like log jams, which clearly would be a "natural event". The Project Owners do not acknowledge any responsibility for addressing such future potential conditions.

No.	Entity	Page	Section, Table, or Figure	Comment	Response
99	USFWS	Page 63	3.4.4 Adaptive Management	Provide more flexibility in the Adaptive Management Plan so that PMEs can be implemented as effectively as possible.	The following modifications have been made to Adaptive Management (Section 3.3, Proposed Final Fish and Wildlife Program) to provide more flexibility: 1.) the year-round instream flow water budget and the channel maintenance flow water budget have been combined, 2.) water can be banked for 5 years instead of 1 year, 3.) 50% of the total annual water budget can be banked at any given time instead of 20%, 4.) starting 10 years after instream flows are established, the Project Owners will compare the average annual inflows to Eklutna Lake for the last 10 years to the previous 10-year period, any increase in average annual inflows due to climate change will be split 50/50 between hydropower and the annual water budget for instream flows, and 5.) the Project Owners will provide a total of $350,000 in April 2024 dollars to ADFG to fund physical habitat enhancement and vegetation management efforts.
100	USFWS Enclosure	Page 63	3.4.4 Adaptive Management	Provide ongoing protection through continued collaboration so that adaptive management and monitoring remains effective and takes advantage of available resources. The goal of an adaptive management program is to maximize the effectiveness of these PME measures. The plan should be structured such that PME measures have elements; each element has objectives and monitoring to measure success; and PME measures have strategies listed for adaptive management, as described in the Service's letter, September 29, 2023.	A Monitoring and Adaptive Management Committee will be established to execute the Monitoring and Adaptive Management Plan (Section 3.0, Proposed Final Fish and Wildlife Program). The Committee will consist of one voting representative from each of the Signatories to the Implementation Agreement, but it is anticipated that the Committee will make decisions through consensus. The Committee chair will be selected by the members of the Committee. Once the Committee is established, it will develop appropriate evaluation criteria for the Fish and Wildlife Program. These evaluation criteria will help inform monitoring efforts and adaptive management decisions.
4.0 Measures Not Selected for Fish and Wildlife Program					
101	ADFG	Page 65	Section 4.1 Higher Flow Releases from the AWWU Portal Release Facility	This section fails to take into account all aspects of habitat gains by only utilizing spawning habitat for Chinook and coho salmon. The draft plan also needs to include gains in rearing habitat for these species. The section and corresponding figures should be updated to reflect this.	There are increases to rearing habitat under the Proposed Final Fish and Wildlife Program base flow regime; 6.3 acres for Chinook and 9.9 acres for coho (Table 4-9, Supporting Information Document). Also, the Committee is being funded to allow physical habitat manipulation which could include measures to increase rearing habitat.
102	USFWS	Page 65	Section 4.1 Higher Flow Releases from the AWWU Portal Release Facility	Include a higher instream flow regime to increase downstream salmon rearing habitat; the channel maintenance flow regime should be increased commensurate with the increased instream flow regime.	There are increases to rearing habitat under the Proposed Final Fish and Wildlife Program base flow regime; 6.3 acres for Chinook and 9.9 acres for coho (Table 4-9, Supporting Information Document). Also, the Committee is being funded to allow physical habitat manipulation which could include measures to increase rearing habitat.
103	USFWS	Page 67 and Page 73	Section 4.4 Flow Releases from the Existing Dam (RM 12) and Section 4.6 Replacement Dam	Provide water to the full length of the river on a year-round basis.	Flow releases from the existing dam and the replacement dam are the two options considered during the alternatives analysis that would would provide water to the full length of the river. Flow releases from the existing dam would eliminate over 80% of the reservoir storage from being utilized for power generation and loss of power generation when demand is highest, therefore flow releases from the dam was not included in the Proposed Final Fish and Wildlife Program (Section 4.11.4, Supporting Information Document). The cost of the replacement dam and 40% loss of reservoir capacity are the primary reasons dam replacement was not in the Proposed Final Fish and Wildlife Program (Section 4.12.1, Support Information Document).

No.	Entity	Page	Section, Table, or Figure	Comment	Response
104	Eklutna, Inc.	Page 68	Section 4.5 Fish Passage	The historical presence of Eklutna around the Eklutna Lake and land selection issues must be acknowledged and integrated into the decision-making process. In most documents evaluating project alternatives, the original condition of the environment is considered. We suggest including a detailed accounting of the Eklutna River before the 1928 hydroelectric power project, rooted in tribal ecological knowledge from the records of the Native Village of Eklutna and other available sources. The public deserves to understand better what may be gained through connecting the Eklutna Lake to the Inlet. Currently, the Program advances selective studies dispelling the existence and viability of sockeye in the Ekutna Lake. A fair and balance document would include the narrative on pre-1928 River condition.	While we have acknowledged and studied historical aspects of Eklutna Lake and the Eklutna River, we disagree that we must examine the pre-1928 Eklutna River conditions as any type of baseline as opposed to looking at existing conditions in the Eklutna River. No such requirement exists in the 1991 Agreement or under Federal Energy Regulatory Commission relicensing proceedings, on which the 1991 Agreement is modeled. As stated above, the 1991 Agreement does not place upon us (and our members and taxpayers) the legal or contractual requirement or responsibility to study or address all adverse effects of all hydroelectric development in the Eklutna River basin over the past 100 years.
105	USFWS	Page 68	Section 4.5 Fish Passage	The Draft Program does not address fish passage; it proposes to release a baseline level of year-round instream flows from the Anchorage Water and Wastewater Utility portal valve located approximately 1 mile downstream from the Eklutna Lake dam, and it does not propose infrastructure changes to accommodate the higher flows required for channel and habitat maintenance. As drafted, we believe the Program does not entirely meet the intent of the 1991 Agreement, which was established in part due to concerns for the sockeye salmon run.	The Proposed Final Fish and Wildlife Program includes a limited fish passage reopener (Section 4.2). With this limited reopener, the Project Owners recognize that fish passage may become feasible in the future and fish passage is important to NVE, the federal and state agencies, and others who have commented on the Draft Program. If a new, proven methodology or technology becomes available, then the Committee may reevaluate the potential for the construction and operation of fish passage facilities both into and out of Eklutna Lake on its own initiative or at the request of any of the resource agencies or NVE. Fish passage measures must meet certain criteria (see Section 4.2 of the Proposed Final Fish and Wildlife Program).
106	USFWS	Page 68	Section 4.5 Fish Passage	The Program should provide connectivity to the lake, release year-round instream flows sufficient to support salmon spawning and rearing habitats throughout the river corridor, and accommodate periodic high-volume flows that maintain habitat characteristics through a self-sustaining dynamic equilibrium between the hydrograph and natural sediment supply. The Service acknowledges the appreciable costs associated with a Program that adequately addresses sockeye salmon and other stakeholder concerns. However, we do not believe that cost alone is a compelling enough argument to dismiss the Eklutna Lake sockeye salmon fishery, which was the primary driver for the 1991 Agreement. Recognizing this divide, the Service recommends a phased approach which sets interim terms or benchmarks to spur incremental progress towards a long-term and mutually agreeable solution that ultimately provides fish passage at the dam and instream flows capable of supporting fish and wildlife into the future.	Cost alone was not the sole reason fish passage was not selected for the Fish and Wildlife Program: upstream volitional fish passage would have significant effects on the hydropower project, particularly during the winter when it is needed most, and there are significant concerns regarding the effectiveness of downstream fish passage (i.e., low attraction flow velocities and/or the inability to operate the downstream fish passage facilities while the lake is frozen over). Section 4.11.9 of the Supporting Information Document presents lake study results and justification for the exclusion of upstream and downstream fish passage measures. The Project Owners recognize that fish passage may become feasible in the future and fish passage is important to NVE, the federal and state agencies, and others who have commented on the Draft Program. Therefore, the Proposed Final Fish and Wildlife Program includes a limited fish passage reopener (Section 4.2). With this limited reopener, if a new, proven methodology or technology becomes available, then the Committee may reevaluate the potential for the construction and operation of fish passage facilities both into and out of Eklutna Lake on its own initiative or at the request of any of the resource agencies or NVE. Fish passage measures must meet certain criteria (see Section 4.2 of the Proposed Final Fish and Wildlife Program).

No.	Entity	Page	Section, Table, or Figure	Comment	Response
107	USFWS	Page 68	Section 4.5 Fish Passage	Provide a long-term solution to get marine derived nutrients from the river to the lake. We have expressed openness to a phased approach in returning sockeye salmon to the lake. The Final Program should provide a commitment to design a phased approach within five-years of the Final Program.	It has been theorized, but not studied, that if fish passage was provided into Eklutna Lake, the spawning salmon would bring enough marine derived nutrients with them (Section 4.12.6.1., Supporting Information Document). The Project Owners recognize that fish passage may become feasible in the future and fish passage is important to NVE, the federal and state agencies, and others who have commented on the Draft Program. Therefore, the Proposed Final Fish and Wildlife Program includes a limited fish passage reopener (Section 4.2). With this limited reopener, if a new, proven methodology or technology becomes available, then the Committee may reevaluate the potential for the construction and operation of fish passage facilities both into and out of Eklutna Lake on its own initiative or at the request of any of the resource agencies or NVE. Fish passage measures must meet certain criteria (see Section 4.2 of the Proposed Final Fish and Wildlife Program).
108	USFWS Enclosure	Page 68	Section 4.5 Fish Passage	A sustainable Eklutna River fishery requires that fish have access to both lateral and headwater habitats. Effects of hydropower development and operation cannot be fully mitigated without reconnecting the river and the lake.	The Proposed Final Fish and Wildlife Program includes a limited fish passage reopener (Section 4.2). With this limited reopener, the Project Owners recognize that fish passage may become feasible in the future and fish passage is important to NVE, the federal and state agencies, and others who have commented on the Draft Program. If a new, proven methodology or technology becomes available, then the Committee may reevaluate the potential for the construction and operation of fish passage facilities both into and out of Eklutna Lake on its own initiative or at the request of any of the resource agencies or NVE. Fish passage measures must meet certain criteria (see Section 4.2 of the Proposed Final Fish and Wildlife Program).
109	USFWS Enclosure	Page 68	Section 4.5 Fish Passage	The Service believes the extent of tributary habitats upstream of Eklutna Lake that are suitable for salmon spawning is significant to the understanding of loss associated with dam construction and operation, and potential gains associated with an alternative that includes fish passage at the dam.	The Proposed Final Fish and Wildlife Program includes a limited fish passage reopener (Section 4.2). With this limited reopener, the Project Owners recognize that fish passage may become feasible in the future and fish passage is important to NVE, the federal and state agencies, and others who have commented on the Draft Program. If a new, proven methodology or technology becomes available, then the Committee may reevaluate the potential for the construction and operation of fish passage facilities both into and out of Eklutna Lake on its own initiative or at the request of any of the resource agencies or NVE. Fish passage measures must meet certain criteria (see Section 4.2 of the Proposed Final Fish and Wildlife Program).
110	USFWS Enclosure	Page 68	Section 4.5 Fish Passage	Also, the Service proposed spill with turbulent attraction flows as an additional downstream passage mechanism that was included in three alternatives (ND-2ST, ND-1ST, and ND-FL7ST). The idea was to use active methods (like water jets and propellors) to generate adequate attraction flows at the dam to support volitional downstream fish passage, all while not impacting the instream flow regime because the attractant flows would be returned to the lake once the juvenile fish reached a bypass gate. This measure was not discussed in the in Draft Program.	This has been included as part of the preferred alternative by USFWS within the Proposed Final Fish and Wildlife Program.

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111	USFWS Enclosure	Page 68	Section 4.5 Fish Passage	Restore wild sockeye salmon runs by implementing mechanisms for fish passage into and out of the lake, expediting the reestablishment of the runs, implementing other lake enhancements that increase nutrients and the quality of and access to spawning habitat, and reducing entrainment at the intake.	The Proposed Final Fish and Wildlife Program includes a limited fish passage reopener (Section 4.2). With this limited reopener, the Project Owners recognize that fish passage may become feasible in the future and fish passage is important to NVE, the federal and state agencies, and others who have commented on the Draft Program. If a new, proven methodology or technology becomes available, then the Committee may reevaluate the potential for the construction and operation of fish passage facilities both into and out of Eklutna Lake on its own initiative or at the request of any of the resource agencies or NVE. Fish passage measures must meet certain criteria (see Section 4.2 of the Proposed Final Fish and Wildlife Program).
112	NVE	Page 69	Section 4.5.1 Lake Studies	The Draft Program significantly discounts the potential of the upper Eklutna tributaries as vital salmon habitat. NVE's TWG 2021-22 Final Report combines traditional ecological knowledge with current surveys and science of the headwaters of the Eklutna River to conclude that there is expansive, preferred habitat for Chinook and coho salmon, which is currently occupied by Dolly Varden, showing its potential. Our report found that the clearwater tributaries for the West Fork have high-quality habitat and that much of the East Fork has suitable habitat in its main stem and tributaries. NVE's Land and Environment Department has concluded that there are over 15 miles of salmon habitat in the upper tributaries.	The Project Owners have acknowledged the habitat in the East and West Forks of Eklutna Creek (Section 4.11.9.1, Supporting Information Document) and coordinated with and included NVE data in their "Eklutna Lake Aquatic Habitat and Fish Utilization Year 2 Study Report", available at eklutnahydro.com.
113	NVE	Page 69	Section 4.5.1 Lake Studies	The Draft Program also significantly discounts the potential of Eklutna Lake as vital salmon habitat. The Draft Program concludes that there was never a large run of sockeye to the lake, pointing to limiting factors such as the lake's turbidity, nutrient levels, and size of kokanee. This current condition may be due to the denial to the lake of marine derived nutrients from salmon carcasses and impacts from the current 40-60 foot biologically devoid varial zone resulting from hydroelectric power water drawdowns around the lake, including such impacts as reduced aquatic vegetation. Moreover, a primary source for the Project Owner's conclusion is a 2017 study, which they greatly misrepresent. The study concluded that its results "can[not be] construed as evidence that [salmon runs to the lake] did not [exist]." The 2017 study, rather, found that, based on the lake's water volume and turnover rate, as many as 15,000 sockeye could have spawned in the lake annually, which is far from an insignificant number. A co-author of the paper recently stated that "[a]nyone who cites the study to argue that Eklutna Lake had no salmon or an "insignificant" number isn't using it scientifically, they are using it politically."	The results of the lake study program, developed in consultation with and concurred with by the Parties, found low primary productivity and apparently unhealthy resident kokanee populations.

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114	NVE	Page 69	Section 4.5.1 Lake Studies	Kleinschmidt Associates surveyed 14 areas totaling 68,512 square ft. around Eklutna Lake that are potentially suitable for sockeye spawning under favorable lake level regimes. These are now largely in the barren varial zone due to 40-60 foot lake drawdowns. However, they contain appropriate slopes, gravel sizes and seeping groundwater or potentially suitable substrate for sockeye spawning, and there may be even more than reported. A total of 331 spawned-out kokanee were observed at Eklutna Lake during the survey period, finding "[s]pawned kokanee ranged from 4.5 – 6.5 inches […]" Alaska Department of Fish and Game ("ADFG") biologists have told us these would grow to normal sockeye size if allowed to develop in the ocean and that these kokanee are likely descendants of a native ocean-run population, since there is no record that they were ever stocked. The Draft Program acknowledges that Trout Unlimited's Alternative and USFWS's Alternative B – modifying the current dam to allow upstream and downstream fish passage – both create significant gains in sockeye spawning habitat, which would come from increased lake spawning habitat.	Thank you for your comment. These potential habitat gains were taken into consideration during the alternatives analysis.
115	NVE	Page 69	Section 4.5.1 Lake Studies	Overall, NVE Land and Environment Department's assessments indicate the following stream miles would be restored by reconnecting the lake and upper tributaries to the lower river and restoring the natural flow regime: 12 miles in the river below the lake, 7 miles in the lake, and 15 miles above the lake in the upper tributaries. NVE Land and Environment Department's measurements are in stream miles, and that metric is used to assess lake habitat, so 7 miles of lake habitat undervalues the actual habitat available for restoration in the lake. These estimates also undervalue habitat off the main channel in the lower river below the lake that could be restored with higher flow releases than are proposed in the Draft Program. Full recovery would therefore restore a minimum of 34 miles of salmon habitat and likely much more taking into account the undervaluing of lake and off channel habitat. The Draft Program, on the other hand, proposes to marginally restore only 11 miles, less than 35% of the conservative estimate of possible salmon habitat in the Eklutna watershed.	Comment noted.
116	ADFG	Page 70	Figure 4-3. Typical spawning Kokanee in Eklutna Lake (left) vs. other lake systems (right).	"other lake systems Kokanee" should be identified by collection location. Is this fish from Alaska or the lower 48? Alaska kokanee are typically smaller than those from warmer systems in the lower 48 and either an Alaskan fish should be presented or the fish identified as from the lower 48 and not necessarily representative of a typical Alaskan kokanee.	Eklutna Lake kokanee were compared to sockeye salmon from four lakes in Alaska (Karluk Lake, Tikchik Lake, Chignik Lake, and Bare Lake) and kokanee from lakes in British Columbia, Montana, and Japan. There is limited data available for kokanee in Alaska because they are less common than ocean-run Sockeye. Location information is provided in Table 4.3-2 of the Eklutna Lake Aquatic Habitat and Fish Utilization Final Year 2 Study Report available at eklutnahydro.com.
117	Eklutna, Inc.	Page 73	4.6 Replacement Dam	We appreciate the Program recognizing Eklutna, Inc.'s contributions to the financial pro forma for the dam replacment. Eklutna, Inc. only reviewed the earth-moving aspects of replacement. It would be advised to seek estimates from industry professionals on the other civil aspects of replacing a dam to ensure the project costs can be trusted.	The cost estimates developed by McMillen were Class V estimates. If the replacment dam is advanced, more detailed engineering will be conducted.

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118	Eklutna, Inc.	Page 73	4.6 Replacement Dam	We request a detailed discussion on the financial implcations of dam replacement and the accuracy of revenue generation estimates. During project meetings, revenue figures for the utilities benefiting from the water in Eklutna Lake have been bandied about without an explanation or details. We request to include a section on the specific economics of the project. This is likely public information that should be easily attainable to provide to the public as part of their Program review.	Details were provided at alternative analysis meetings and were repeated in Appendix D of the Draft Fish and Wildlife Program and Appendix C of the Supporting Information Document. Presentations from the alternatives analysis meetings are available on the project website at eklutnahydro.com.
119	ADFG	Pages 74-75	4.8 Physical Habitat Manipulation	Physical habitat manipulation should be incorporated into this draft plan. While there is potential federal funding for this, there is no guarantee that this outside funding can be secured. To ensure that this plan will effectively promote the anticipated positive effect on fish and their habitats physical habitat improvements should be included.	Physical Habitat enhancement is included in the Proposed Final Fish and Wildlife Program (Section 3.3.6). The Project Owners will provide a total of $350,000 in April 2024 dollars to ADFG during the Program to fund physical habitat enhancement and vegetation management efforts in the Eklutna River. The Committee will develop a plan to implement physical habitat enhancement and vegetation management efforts in the Eklutna River.
120	ADFG	Pages 74-75	4.8 Physical Habitat Manipulation	Additionally, woody vegetation has encroached on the channel due to limited flows. The impacts of the vegetation in the channel, after some flow is returned to the river, should be assessed to determine if this vegetation needs to be managed to fully realize the projected habitat gains presented in the plan.	Physical Habitat enhancement is included in the Proposed Final Fish and Wildlife Program (Section 3.3.6). The Project Owners will provide a total of $350,000 in April 2024 dollars to ADFG during the Program to fund physical habitat enhancement and vegetation management efforts in the Eklutna River. The Committee will develop a plan to implement physical habitat enhancement and vegetation management efforts in the Eklutna River.
121	USFWS	Pages 74-75	4.8 Physical Habitat Manipulation	Include physical habitat manipulation as components in both the Program as well as in the Adaptive Management Plan.	Physical Habitat Enhancement is included in the Proposed Final Fish and Wildlife Program (Section 3.3.6). The Project Owners will provide a total of $350,000 in April 2024 dollars to ADFG during the Program to fund physical habitat enhancement and vegetation management efforts in the Eklutna River. The Committee will develop a plan to implement physical habitat enhancement and vegetation management efforts in the Eklutna River.
122	USFWS Enclosure	Pages 74-75	4.8 Physical Habitat Manipulation	The Draft Program excludes any physical habitat manipulation that would adjust the river to the new flow regime because, it says, Federal funding is being pursued for this work. However, the Service believes physical habitat manipulation should be included in the Program because it will be important mitigation for the impacts of the project, and because grant funding is not guaranteed. Habitat manipulation should be included in the Adaptive Management Program since funding, designing, and implementing projects will require a collaborative strategy to ensure concerns are addressed and habitat goals are met.	Physical Habitat Enhancement is included in the Proposed Final Fish and Wildlife Program (Section 3.3.6). The Project Owners will provide a total of $350,000 in April 2024 dollars to ADFG during the Program to fund physical habitat enhancement and vegetation management efforts in the Eklutna River. The Committee will develop a plan to implement physical habitat enhancement and vegetation management efforts in the Eklutna River.
123	USFWS Enclosure	Pages 74-75	4.8 Physical Habitat Manipulation	Create self-sustaining instream, off-channel, and lake habitat for fish and wildlife. Design instream and floodplain habitat enhancements so that the channel is fitted to the watershed hydrology and sediment loads so that there is channel complexity, floodplain and wetland connectivity, and riparian function.	Physical Habitat enhancement is included in the Proposed Final Fish and Wildlife Program (Section 3.3.6). The Project Owners will provide a total of $350,000 in April 2024 dollars to ADFG during the Program to fund physical habitat enhancement and vegetation management efforts in the Eklutna River. The Committee will develop a plan to implement physical habitat enhancement and vegetation management efforts in the Eklutna River.

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124	ADFG	Page 75	4.9 Lakeside Trail Repairs	Regardless of funding secured by the State of Alaska to address current damage to the trail system, additional funding should be dedicated to remediating any additional trail damage that occurs as a result of project operations.	In the Proposed Final Fish and Wildlife Program, the Project Owners will provide a one-time payment of $234,000 to Chugach State Park for lakeside trail repairs that address erosion impacts.
125	USFWS Enclosure	Page 75	4.9 Lakeside Trail Repairs	Improve water quality at the lake by implementing measures to stabilize banks.	During past spill events, high lake levels have caused erosion along discrete segments of the lakeside trail. Chugach State Park has received $234,000 in funding for general lakeside trail repairs. Within 120 days of the Governor's approval or by January 31, 2025, whichever comes later, the Project Owners will provide a one-time payment of $234,000 to Chugach State Park (or another entity as directed by Chugach State Park) for lakeside trail repairs that address erosion impacts. This funding match brings the total budget for lakeside trail repairs to $468,000.
6.0 Next Steps					
126	Eklutna, Inc.	Page 80	Governor's Issuance of a Final Fish and Wildlife Program	The Program outlines the remaining process for public review and the Governor's decision on the final Program. The utility-driven public process is understood, but the Governor's Public Interest Determination (Determination) process is not well-defined. The Program alludes to the Alaska Energy Authority leading the State evaluation process; however, that agency would be an unlikely conadidatefor executing a public process and delivering a decision on the Governor's behalf. We request greater clarity on which agency or division within the State of Alaska will be responsible for the public process and the Gevernor's Determination decision.	The Governor assigned AEA as the Governor's representative for the project. AEA has attended all stakeholder meetings throughout the process and will advise the Governor. The Project Owners have faithfully implemented the process outlined in the 1991 Agreement and will be submitting the Proposed Final Fish and Wildlife Program to the Governor. The Project Owners defer to the Governor with respect to how the State of Alaska implements the Governor's review and approval process.
127	NVE	Page 81	Section 6.6 Additional Requirements to Implementing the Fish and Wildlife Program	The Draft Program states that there may be additional requirements to implementing the Program, including the potential need to secure permits, land rights, easements and Amendment of ADL 44944.103 However, it does not describe any strategies the Project Owners have developed for securing necessary permits or land rights for the Draft Program or any alternatives. Instead, the Draft Program document flatly states, "[s]hould any of these requirements fail to be achieved, the Project Owners will not be able to execute on the Fish and Wildlife Program."	A Final Fish and Wildlife Program is needed to pursue these additional requirements. The 1991 Agreement schedule allows for 3 years after the governor's approval to for the Project Owners to obtain these additional requirements.
128	NVE	Page 81	Section 6.6 Additional Requirements to Implementing the Fish and Wildlife Program	There is no basis for the Project Owners' suggestion that their inability to satisfy any "additional requirements" for implementation of the Program is a legitimate basis for their non-performance under the Agreement. Instead, the likelihood of the Project Owners being able to secure permits and property rights necessary for successful implementation of the Draft Program and reasonable alternatives is relevant to the alternatives analysis.	As with any project of this nature, we will have to obtain permits, land rights, and easements, and water rights amendents to implement the Final Fish and Wildlife Program. We see no reason why we will not be able to achieve the such additional requirements that are preconditions to our ability to implement the Fish and Wildlife Program.

No.	Entity	Page	Section, Table, or Figure	Comment	Response
129	NVE	Page 81	Section 6.6 Additional Requirements to Implementing the Fish and Wildlife Program	Based on our review, there are several issues related to the Project Owners' ability to secure permits for the Draft Program. The 15% design drawings included in the Draft Program show that the construction of the proposed AWWU Portal would include construction of above ground utility infrastructure as well as eight new bridges and road improvements for the AWWU water supply access road within Chugach State Park. Such construction within the State Park would be a "conversion" of Land and water Conservation Fund property requiring approval by the Department of Interior ("DOI"). Further, any DOI decision approving conversion would be a federal action requiring compliance with NEPA and ESA section 7.	The Land and Water Conservation Fund implications were discussed in the July 2023 Alternatives Analysis meeting. We agree a DOI decision regarding a conversion would be a federal action requiring compliance with NEPA and ESA Section 7.
130	NVE	Page 81	Section 6.6 Additional Requirements to Implementing the Fish and Wildlife Program	Additional review of the 15% design drawings shows that the Draft Program includes the addition of riprap fill material directly into the Eklutna River channel at the location of the AWWU Portal discharge, which would be subject to compliance with Clean Water Act section 404 and may require an individual permit from U.S. Army Corps of Engineers. Such permitting decisions would also be a federal action subject to compliance with NEPA and ESA section 7.	The Project Owners are aware of the potential need for a Clean Water Act permit from the U.S. Army Corps of Engineers and agree that such permitting decisions would also be a federal action subject to compliance with NEPA and ESA section 7.
131	NVE	Page 81	Section 6.6 Additional Requirements to Implementing the Fish and Wildlife Program	The Project Owners need to address these and any other permitting requirements and pathways for the proposed AWWU Portal as compared to dam removal and any other reasonable alternatives for the Parties, the public, and the Governor to make informed comments and decisions, respectively.	A Final Fish and Wildlife Program is needed to pursue these additional requirements. The 1991 Agreement schedule allows for 3 years after the governor's approval to for the Project Owners to obtain these additional requriements.
General					
132	NVE			NVE was not consulted in the negotiation of the Agreement and is not a party to the Agreement. Rather than rectify that historic injustice, the Project Owners denied our request to be formally recognized as a consulting government and for treatment as a party to the Agreement during this process. The Project Owners' decision appears based on their preference and convenience rather than any legal or moral principle.	In April 2020, NVE requested formal recognition as a consulting government, with their Land and Environment Department analogous to other governmental signatories, for purpose and processes of the 1991 Agreement applicable to the Project. In a May 2020 letter to the Project Owners, NVE recognized that amending the 1991 Agreement may entail substantial time and effort, and as an alternative invited a joint letter from the Project Owners to the effect that the Project Owners will act in good faith to help mitigate impacts to the Eklutna River and that the Project Owners will recognize NVE as a consulting government on a basis comparable to the governmental signatories to the 1991 Agreement. In June 2020, the Project Owners responded to NVE's request by committing to a review and participation framework that ensures information NVE and its members share regarding the Eklutna River and development of the Fish and Wildlife Program is appropriately considered and addressed.

No.	Entity	Page	Section, Table, or Figure	Comment	Response
133	NVE			The Project Owners describe their voluntary efforts to meet with and consider information provided by NVE, but these efforts offer no substitute for party status or treatment of NVE as a consulting government. For example, after explaining that NVE is not entitled to participate in the consultation process under the Agreement, the Project Owners promise that "if the process set forth in the Agreement bears out the release of water from Eklutna Lake and the addition of salmon into the Eklutna River as part of the Fish and Wildlife Program, we will be prepared to support it." This is not a promise NVE can or should be asked to rely upon given that the Project Owners have substantially different interests than NVE, have exerted total control over the consultation process, and have excluded NVE from full participation in that process.	NVE has been involved in every step of the process including the initial consultation meetings, all four Technical Work Groups (TWGs), the alternatives analysis, and attempts to resolve differences. The Project Owners have also met with the NVE Tribal Council on several occasions, including meetings with the Boards of Directors for both CEA and MEA and the Anchorage Assembly. Based on the study results, the Project Owners made a commitment early in the alternatives analysis process to provide year-round flow releases into the Eklutna River, which was the basis of the draft program and continues to be the basis of the proposed final program.
134	NVE			The Eklutna River ecosystem, including its fish and wildlife resources and particularly its salmon runs, is fundamental to the historical properties and traditional and cultural resources of the Eklutna People. The dewatering of the river and destruction of salmon are adverse effects of the Project that have already degraded and threaten to destroy the significance of these properties and resources. The Project Owners are required to afford protection to these cultural resources.	Comment noted.
135	NVE			Eklutna Dena'ina's health, families, and culture depend on restoring salmon to the Eklutna River. Rather than fully evaluate alternatives that would avoid, minimize, or mitigate the project's adverse effects, as would generally be required for the relicensing of any other similarly-sized non-federal hydropower project, the Project Owners have put forward a Draft Program that would maintain those adverse effects by continuing to dewater a portion of the lower Eklutna River and deny salmon access to the majority of the system's salmon habitat for the next 35 years. The Draft Program shows that the Project Owners did not fully evaluate alternatives that would mitigate and enhance, let alone avoid or minimize the Project's ongoing impacts to sockeye, Chinook, and coho salmon habitat even though the loss of the sockeye salmon run was one of the express reasons for the Agreement.	The alternatives analysis was very comprehensive, up to and including the dam replacement alternative (Section 4.5, Supporting Information Document).

No.	Entity	Page	Section, Table, or Figure	Comment	Response
136	NVE			If the Project had not received a unique exemption from federal regulation, FERC, with assistance from the Project Owners, would be required to follow specific procedures in consulting with NVE under the National Historic Preservation Act ("NHPA") section 106 before deciding whether to continue or modify project facilities or operations over the next 30-year term. In overseeing the Section 106 consultation process, FERC would be required to evaluate and reach agreement with NVE and other consulting parties on "ways to avoid, minimize or mitigate the adverse effects" of the Project. In other words, the range of alternatives and alternative measures considered in a Section 106 process would not be limited to only those advantageous to the Project Owners. Also, NVE would have a role in overseeing and enforcing the Project Owners' compliance with any agreement resolving the Project's adverse effects.	The required process was not a FERC licensing process but rather the 1991 Agreement required a very specific set of actions by the Project Owners to study and evaluate potential protection, mitigation, and enchancement measures for addressing the project's effects on fish and wildlife resouces.

Technical Memorandum

To:	Eklutna Project Owners	Project:	Eklutna Fish & Wildlife Program
From:	Sean P. Ellenson, P.E. McMillen, Inc.	cc:	Samantha Owen McMillen, Inc.
Date:	April 24, 2024	Job No:	24-021
Subject:	Technical Risk Assessment of the Removal of Eklutna Dam		

Revision Log

Revision No.	Date	Revision Description
0	03/22/2024	Initial Draft
1	04/05/2024	First Draft for Circulation
2	04/22/2024	Final Draft

1.0 Introduction

The Eklutna Hydroelectric Project (Project) is located in Southcentral Alaska approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna (NVE). The Project was originally constructed by the Federal government in the 1950s but was later sold to and is currently owned by Chugach Electric Association (Chugach), Matanuska Electric Association (MEA), and the Municipality of Anchorage (MOA), collectively the "Project Owners". As part of the sale of the Project, the current Project Owners entered into the 1991 Fish and Wildlife Agreement (1991 Agreement) with the National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the State of Alaska (the Parties). The 1991 Agreement requires the Project Owners to develop and propose to the Governor of Alaska (Governor) a program to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Project.

1.1 Background

Beginning in 2019, the Project Owners consulted with agencies and interested stakeholders regarding the availability of existing information and development of a study program. This study program took place over the course of two years to investigate the impact of the Project on fish and wildlife. The results of the study program indicated that releasing water back into the Eklutna River would provide benefits to fish and wildlife, particularly in terms of providing

new fish habitat. Subsequently, the Project Owners began an alternatives analysis process to determine potential methods to provide water into the Eklutna River as well as other protection, mitigation, and enhancement (PME) measures as part of the future Fish and Wildlife Program.

Ultimately the alternatives analysis process evaluated over 36 comprehensive alternatives proposed by agencies and stakeholders. A cost effectiveness and incremental cost analysis was performed to identify the relative benefits and costs of each measure to help narrow down the list of proposed alternatives. The final list of preferred alternatives proposed by each participant in the alternatives analysis effort encompassed variations on infrastructural improvements (i.e. upstream and downstream fish passage, spillway gates, water release facilities in the river), flow release regimes, and habitat improvement measures to mitigate impacts from the Project. The alternatives analysis and selection of a preferred alternative was presented in the Draft Fish and Wildlife Program (Draft Program) published in October 2023[1].

Following the publication of the Draft Program, the NVE proposed a new alternative that involves the removal of Eklutna Dam. Per their comments on the Draft Program dated December 4, 2023:

> "To meaningfully meet the purpose of the Agreement, NVE proposes an alternative solution – removing the Eklutna Lake dam within ten years when sufficient renewable power generation is available to offset the lost power generation from dam removal."[2]

In response to the letter, the Project Owners committed to studying the alternative of dam removal in further detail. This memorandum aims to document a segment of this analysis.

1.2 Purpose

The purpose of this memorandum is to conduct a high-level analysis of the technical risks and cost implications associated with the removal of Eklutna Dam. This investigation evaluates the effects that an unregulated river hydrograph may have on infrastructure on or adjacent to the Eklutna River downstream of the existing dam, summarizes the costs associated with dam removal and decommissioning of Project infrastructure, investigates potential mitigation measures where necessary to address such risks, and analyzes the use of other comparable

[1] Chugach Electric Association, Matanuska Electric Association, and Municipality of Anchorage. Eklutna Hydroelectric Project Draft Fish and Wildlife Program (Oct 27,2023) https://eklutnahydro.com/wp-content/uploads/2023/10/2023-10-27-Eklutna-Draft-Fish-and-Wildlife-Program_with-Appendices.pdf

[2] Native Village of Eklutna. Letter to Project Owners Submitted via Email Re: Eklutna Hydroelectric Project Draft Fish and Wildlife Program. (December 4, 2023) https://eklutnahydro.com/wp-content/uploads/2023/12/NVE-Eklutna-Draft-Fish-Wildlife-Program-Comment-Letter.pdf

renewable energy sources to determine how to offset the lost generation and ancillary grid services provided by the Eklutna Power Plant. It is pertinent to note that the primary objective of this memorandum is to analyze the technical risks and mitigation measures linked to the dam's removal from an engineering standpoint and explicitly excludes discussions related to the ecological advantages or the potential effects on fish and wildlife habitat.

1.3 Organization

This memorandum is organized into the following sections:

Section 1 – Introduction
Discusses the purpose of the memorandum, the scope of the assessment, and the background of the project.

Section 2 – Eklutna River Hydrology
Summarizes the analysis performed on the Eklutna River watershed to estimate the average annual and predicted peak flow rates of the Eklutna River if the dam were to be removed.

Section 3 – Description of Alternative
Summarizes the scope of the dam removal alternative.

Section 4 – Risk Assessment and Mitigation Strategies
Summarizes the impacts to infrastructure associated with the project and analyzes the mitigation measures necessary following dam removal.

Section 5 – Preliminary Cost Estimates
Summarizes the cost estimates associated with the dam removal and modifications to associated infrastructure.

Section 6 – Risk Assessment Summary
Provides conclusions and an overall summary of the assessment performed.

2.0 Eklutna River Hydrology

Under the proposed scenario where the Eklutna Dam is removed, the Eklutna River would flow year-round in an unregulated state. To assess potential impacts to infrastructure along the river, an improved understanding of the hydrology of the Eklutna watershed is necessary to determine the typical annual hydrograph and peak flood flows expected post-dam removal. As part of the study program, a hydropower operations model was created for the Project that simulated reservoir and power plant operations to calculate historical inflows to the Eklutna watershed from 2011 to 2021. The modeling is based on the stage-storage information of Eklutna Lake, stage gauging information recorded by the United States Geological Survey (USGS), and measured outflows to the Eklutna Power Plant and to the Eklutna Water Treatment Facility (EWTF). The development of this operations model is summarized in the Hydropower Operations Modeling Study Report published in February 2022[3].

Figure 1.3-1. Location Map - Eklutna Lake Outlet.

To simulate the unregulated streamflow condition in the Eklutna River, the model was modified to consider the removal of Eklutna Dam. As an initial step in this scenario, all water withdrawals from the reservoir were curtailed, including both the power plant withdrawal and the EWTF flow diversion from the intake structure. Rather than the lake being regulated up to a maximum water surface elevation (WSEL) of El. 871.0 (Local Datum[4]) the reservoir would

[3] Chugach Electric Association, Matanuska Electric Association, Municipality of Anchorage. Eklutna Hydroelectric Project Hydropower Operations Modeling Draft Study Report. (February 2022) https://eklutnahydro.com/wp-content/uploads/2022/06/2022-2-11-Eklutna-Study-Report_Hydro-Model_DRAFT.pdf

[4] Multiple vertical survey datums are reported in and around the main features of the Project. Throughout this document, the elevation datum that shall be used is the "local datum" tied to the crest of Eklutna Dam.

flow naturally into the Eklutna River at a minimum WSEL of El. 860.0, corresponding to the elevation of the natural glacial moraine crest located at the remnants of the previous storage dam. The only regulation of streamflow from the reservoir under this proposed scenario would be due to the constriction of the outlet of the lake downstream of this natural crest. A location map identifying key features at the lake outlet is provided in Figure 1.3-1.

With the dam removed and the lake discharging in an unregulated state through its outlet, a stage-discharge relationship of the lake outlet was developed to understand the magnitude and seasonal variation of flow within the Eklutna River. The one-dimensional (1-D) HEC-RAS model developed as part of the study program was modified to determine the WSEL within the natural bend in the lake outlet at varying flow rates without a dam restricting discharge. The development of this model is summarized in the Eklutna River Instream Flow Year 2 Study Report published in June 2023[5]. The stage-discharge relationship of the lake outlet is illustrated graphically in Figure 1.3-2.

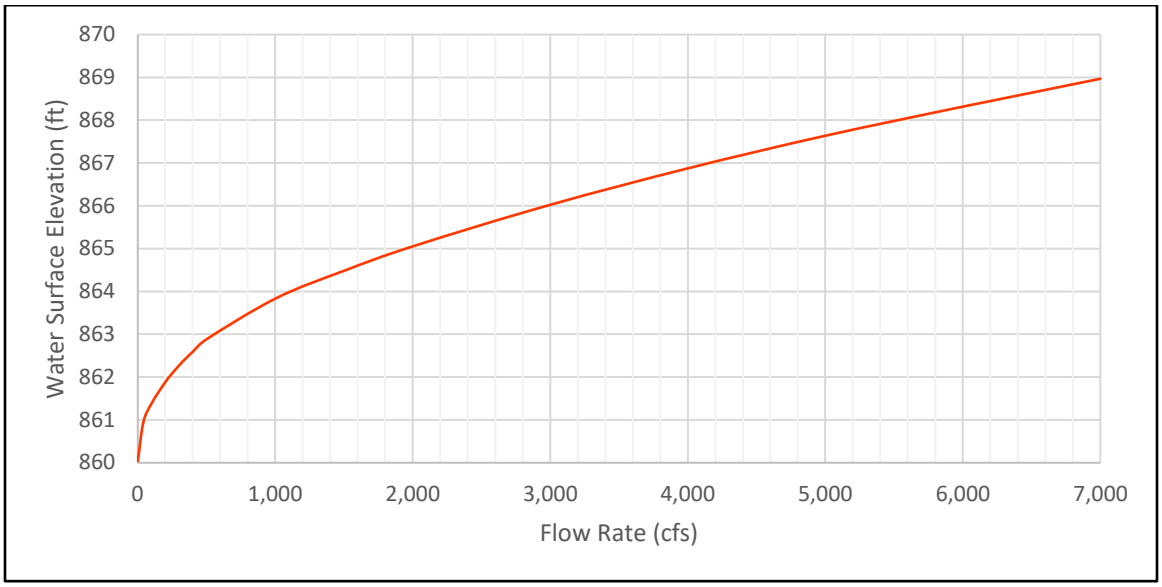


Figure 1.3-2. Stage Discharge Relationship; Eklutna Lake Outlet.

With the inflows to the lake calculated based on historical operating data and the hydraulic constriction at the outlet of the lake better understood, the natural seasonal fluctuation of the lake and the Eklutna River hydrograph were developed. The predicted streamflow of the Eklutna River in a daily timestep from 2011 to 2021 is presented in Figure 1.3-3 and the average seasonal lake fluctuation is presented in Figure 1.3-4.

[5] Chugach Electric Association, Matanuska Electric Association, Municipality of Anchorage. Eklutna Hydroelectric Project Eklutna River Instream Flow Year 2 Study Report. (June 2023)
https://eklutnahydro.com/wp-content/uploads/2023/06/Eklutna-Instream-Flow-Y2-Report_FINAL.pdf

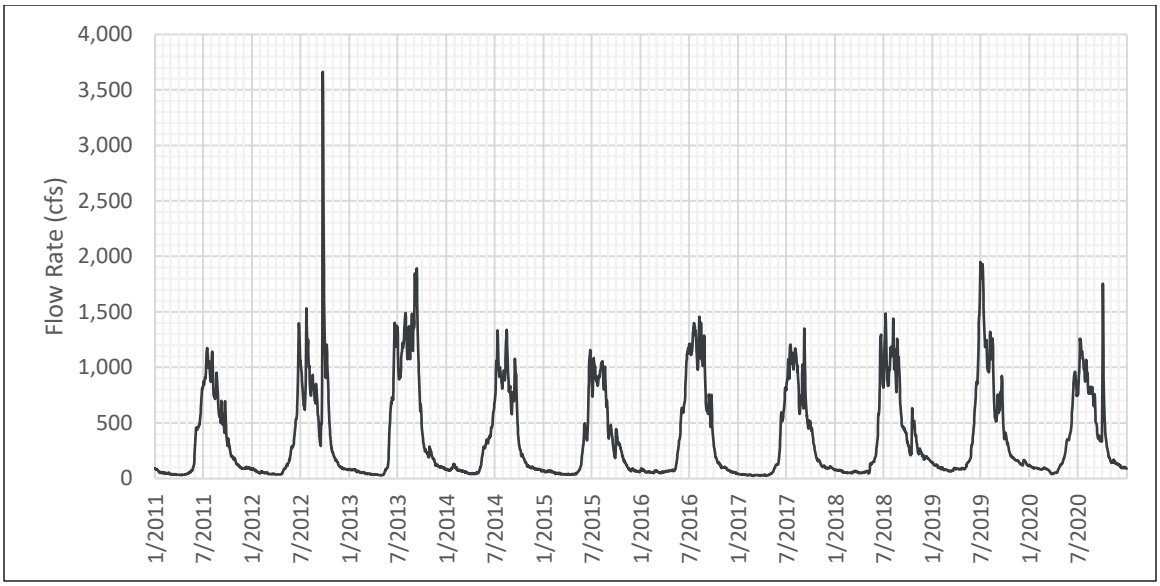


Figure 1.3-3. Eklutna River Unregulated Flow Rate; 2011-2021 Simulation.

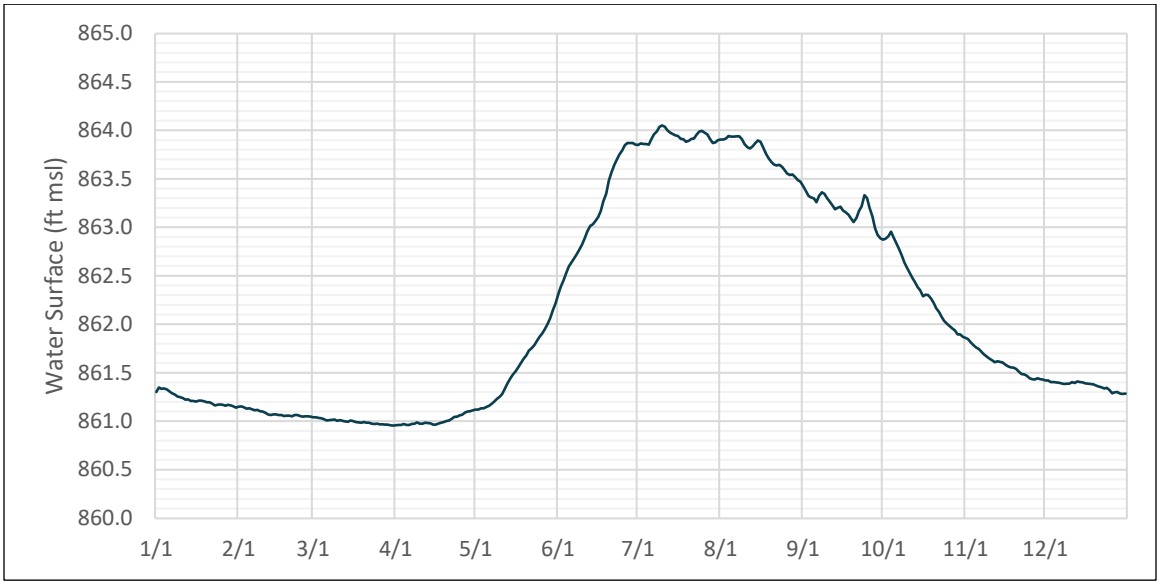


Figure 1.3-4. Eklutna Lake Average WSEL Post-Dam Removal.

Under the dam removal alternative, the Eklutna River would see an average peak flow of approximately 1,200 cubic feet per second (cfs) each year and the lake would fluctuate an average of 3-4 ft each year. The flow rate in the river during the winter months ranges from approximately 30-70 cfs.

To determine the flood magnitude for longer interval events, such as the 25-, 50-, and 100-year return interval storms, regional regression equations were utilized, as published by Curran

et al[6]. The regional regression equations are based on a selected annual precipitation depth and watershed drainage area. The analysis was performed at two locations in order to calculate the peak flood events both above and below Thunderbird Creek, the primary tributary to the Eklutna River, the results of which are presented in Table 1.3-1 and Table 1.3-2.

Table 1.3-1. Eklutna River Flood Frequency Peak Flow Rates; Above Thunderbird Confluence.

Return Interval	Annual Exceedance Probability (%)	Peak Flow (cfs)	Lower 90% Prediction Interval (cfs)	Upper 90% Prediction Interval (cfs)
2	50%	2,360	826	6,740
5	20%	3,400	1,220	9,510
10	10%	4,150	1,480	11,600
25	4%	5,110	1,790	14,600
50	2%	5,840	2,000	17,000
100	1%	6,590	2,210	19,600
200	0.5%	7,350	2,390	22,600
500	0.2%	8,370	2,590	27,100

Table 1.3-2. Eklutna River Flood Frequency Peak Flow Rates; Below Thunderbird Confluence.

Return Interval	Annual Exceedance Probability (%)	Peak Flow (cfs)	Lower 90% Prediction Interval (cfs)	Upper 90% Prediction Interval (cfs)
2	50%	2,650	928	7,570
5	20%	3,840	1,370	10,700
10	10%	4,690	1,680	13,100
25	4%	5,790	2,030	16,500
50	2%	6,610	2,270	19,300
100	1%	7,460	2,510	22,200
200	0.5%	8,330	2,710	25,600
500	0.2%	9,480	2,930	30,700

[6] Curran, J.H., Barth, N.A., Veilleux, A.G., and Ourso, R.T.,2016, Estimating Flood Magnitude and Frequency at Gaged and Ungaged Sites on Streams in Alaska and Conterminous Basins in Canada, Based on Data through Water Year 2012: U.S. Geological Survey Scientific Investigations Report 2016-5024, 47 p.

For the purposes of assessing the risks to infrastructure on or adjacent to the Eklutna River downstream of the dam as outlined in Section 4.0, the 1% annual exceedance probability (AEP) was utilized as the design basis flow rate, an industry standard for assessing impacts to bridges and other critical infrastructure. This equates to a flow of 6,590 cfs for infrastructure located above the confluence of Thunderbird Creek, and 7,460 cfs for all infrastructure below the Thunderbird Creek confluence.

In 2018, the USFWS conducted a peak flow analysis for the Eklutna River using the Log Pearson III technique outlined in USGS Bulletin 17B[7]. This analysis utilized eight years of historical gage data from the river before the current dam's construction. By applying various skew coefficients, the study developed a range of potential flood frequency flows. The selected skew coefficient indicated a 1% AEP flood flow of 3,436 cfs.

Although the USGS Bulletin 17B's methodology of fitting flow data to a statistical distribution is valid and typically an accurate estimation of AEPs, it requires at least a 10-year record from a gaged stream, which the Eklutna River lacks. Consequently, the regional regression equations proposed by Curran et al., which calculate peak flows based on watershed drainage area and mean annual precipitation, were considered more suitable for this analysis.

[7] USFWS. 2018. Appendix B - Eklutna River Peak Flow Estimates – USGS Gage 15280000, July 1947 – August 1954. https://www.tu.org/wp-content/uploads/2019/06/Upper-Eklutna-Flow-Assessment-071419-1.pdf

3.0 Description of Alternative

This section defines the necessary infrastructural modifications to Project facilities as part of the proposed dam removal alternative. The following subsections document the assumptions regarding modifications to the Eklutna Dam and to the Eklutna Power Plant, as well as a discussion on the development of alternative energy sources to replace the lost energy from the Project.

3.1 Eklutna Dam

3.1.1 General Description

Figure 3.1-1. Eklutna Dam Looking Upstream.

Eklutna Dam is a zoned earth and rockfill structure with a crest length of 815 ft, a crest elevation of 891.0 ft, and a maximum height above the streambed of 41 ft. The embankment volume is approximately 85,000 cubic yards (CY) of material consisting primarily of clay, silt, sand, and gravel with a rockfill embankment cover. The upstream and downstream rockfill slopes are 3H:1V and 2H:1V, respectively. An 83-ft-wide berm of rockfill was constructed at El. 856.5 ft on the downstream toe of the dam. The structural height (maximum height above the deepest excavation) is 56 ft. The spillway is located near the middle of the dam and consists of a riprap-lined approach channel, concrete inlet structure, ungated ogee-type weir, rectangular concrete conduit through the embankment, concrete-lined chute, concrete stilling basin, and riprap-lined outlet channel. The concrete volume is approximately 3,000 CY.

3.1.2 Work Plan

To facilitate dam removal, construction access improvements would need to be performed at select roads leading to the dam site. The unnamed access road leading to the right abutment

of the dam would need to be widened, graded, and re-surfaced to allow for heavy equipment access. Construction access roads utilized during the original construction of the dam would need to be cleared of vegetation, re-graded, and re-surfaced to allow for the loading and transport of excavated materials off-site.

The work would take place with the reservoir drawn down below El. 860.0 and would likely occur over one full construction season. For this to occur with the reservoir drawn down, the work would likely take place in early summer when ground conditions allow for heavy machinery transport and site access. All embankment material, riprap, and concrete would be removed and the Eklutna River channel would be restored to its natural state. The remnants of the previous storage dam upstream of Eklutna Dam are anticipated to be left as-is. For the purposes of the cost estimate and based on discussions with Eklutna, Inc., all material is anticipated to be disposed of in the quarry located between the railroad bridge and New Glenn Highway, approximately 10 miles from the Project site.

3.2 Eklutna Powerplant

3.2.1 General Description

Figure 3.2-1. Eklutna Powerplant as Viewed from Old Glenn Highway.

The Eklutna Power Plant is a reinforced concrete structure located adjacent to the Old Glenn Highway 34 miles northeast of Anchorage. The structure is 149 ft long with a height of approximately 51 ft and houses two vertical shaft hydroelectric turbine-generators. The power plant is divided into three main structures: the powerhouse containing the generating units and accessories, the machine shop located at the northwest corner of the powerhouse, and the transformer structure located at the southwest corner of the powerhouse. The switchyard of the power plant is located on the powerhouse roof.

3.2.2 Work Plan

Under the dam removal scenario, the Eklutna Power Plant would need to curtail operations between November and June in an average year to prevent cutting off flow to the Eklutna River. During the remaining five months when inflows to the lake are sufficient to allow the hydroelectric system to operate, the power plant would need to operate at a reduced capacity in a baseload, run-of-river configuration, subject to instream flow and ramping rate considerations. Preliminary discussions with the Project Owners indicate that the maintenance costs of having the power plant sit idle for seven months each year in addition to the significant reduction in operational flexibility and energy generation in the summer months would lead the Project to be uneconomical to continue to operate. For the purposes of this technical risk assessment, the assumption is that the power plant would be decommissioned, but not removed, under the dam removal scenario.

To decommission the power plant, the fixed wheel gate within the power tunnel surge tank shaft would be closed and the penstock and draft tube would be dewatered and drained. All powerhouse mechanical and electrical equipment and hazardous material would be removed and disposed of. Embedded oil lines and septic systems would be flushed, and all surface mounted and exposed lines would be removed. Downstream of the surge shaft, a concrete plug would be anchored into the bedrock at the penstock transition to seal the power plant from the lake.

The power plant decommissioning work plan assumes that the power plant would remain abandoned in place and gated to prevent vandalism, intrusion, and ensure public safety. The Project Owners and/or insurers may require demolition of the facility to reduce risk to the public under all future conditions, which has not been considered as part of the cost estimation in Section 5.0. Should this alternative be explored further, it's imperative to conduct a comprehensive assessment, which would involve evaluating the feasibility of reutilizing the existing switchyard and thoroughly analyzing the liabilities connected with leaving the power plant site abandoned, in order to identify the most prudent approach.

3.3 Renewable Energy Supply

3.3.1 General Description

The Eklutna Power Plant has a nameplate capacity of 44.4 MW and generates an average of 169 GWh of energy each year for the Alaskan Railbelt electrical grid. Under the dam removal scenario, the facility would cease operation. The loss of this power generation resource would reduce the size of the renewable energy portfolio for both Chugach and MEA. Additionally, the loss of this resource would violate MEA's capacity reserve margin requirement. This reserve is

a North American Electric Reliability Council (NERC) guideline that has been adopted by the Intertie Management Committee (IMC) and is intended to allow each utility to meet demand during an unplanned loss of generation in the system.

With the loss of the Eklutna Power Plant as a generating resource, the power would need to be replaced with another equivalent resource. While the possibility exists to add or expand to the existing fossil fuel generation fleet in the Railbelt, this would not be beneficial to or achieve the goals of future state policies being considered such as a renewable portfolio standard (RPS)[8] or existing utility board goals. This fact is recognized by NVE in their proposed alternative, requiring the development of renewable generation projects to offset the lost energy from the Eklutna Power Plant. Some renewable generation projects such as those which utilize wind or solar as the renewable resource are not considered equivalent to a hydroelectric project as they are not firm, dispatchable sources of energy.

The benefit the Eklutna Power Plant provides to the grid as a hydroelectric project coupled with a reservoir with seasonal storage capacity makes it a unique generating resource. With the power plant online, the utilities have a firm spinning reserve that has the ability to load follow and regulate other renewables in the Railbelt. Additionally, the Railbelt has relatively low system inertia, making it susceptible to swings in voltage and frequency as load comes online or generation is lost. The Eklutna Power Plant provides a significant source of grid inertia to stabilize the grid. To replace this resource, another renewable source of generation that can provide spinning reserves to the grid is necessary, such as another hydroelectric project with a reservoir capable of seasonal storage. The site selection and conceptual design of an equivalent hydroelectric project is well beyond the scope of this technical risk assessment; however, high level estimates may be made as part of this analysis to estimate costs for a project of similar capacity.

[8] The Office of Governor Dunleavy. HB 301: Renewable Portfolio Standard FAQ https://gov.alaska.gov/wp-content/uploads/RPS-FAQ.pdf

4.0 Risk Assessment and Mitigation Strategies

This section assesses the technical risks to infrastructure located below the dam following the establishment of unregulated flows into the Eklutna River as well as other impacts to related infrastructure that are dependent on the current reservoir and power plant operations. Following the identification of risks, this section surveys potential mitigation alternatives for those risks if mitigation is necessary.

4.1 AWWU Water Supply Infrastructure

4.1.1 General

In 1988 the Anchorage Water and Wastewater Utility (AWWU) constructed the Eklutna Water Project, which diverts water from the existing tunnel connecting Eklutna Lake with the Eklutna Power Plant. Water flows by gravity through a separate diversion tunnel intersecting the power tunnel downstream of the intake and routes water into a buried pipeline running down the Eklutna River valley to a water treatment plant located on a bench above the river. Following treatment, the water flows by gravity through a 23-mile-long buried pipeline to supply 90% of the municipal water supply to the Anchorage service area.

4.1.2 Risk Assessment

To assess the risks associated with AWWU infrastructure following dam removal, an assessment was performed on the water supply pipeline within the Eklutna river channel, the maintenance and access road along the pipeline, the AWWU maintenance bridges crossing the river, and on the sufficiency of inflows to the reservoir to supply a year-round municipal water supply source for the utility. These were some of the primary concerns documented by AWWU in a February 2024 letter in response to the dam removal alternative[9]. The following subsections document this analysis.

4.1.2.1 Scour Analysis

A 2-dimensional (2-D) HEC-RAS model was developed for the Eklutna River from the Eklutna Dam to the mouth of the river at the Knik Arm of the Cook Inlet. The model was set up to investigate sediment mobilization at locations where the AWWU pipeline would be inundated by hypothetical future river flows. Understanding sediment mobilization will determine if the riverbed has the potential to scour the area of the pipeline. A flow rate of 6,590 cfs was

[9] Corsentino, Mark. “Re: Assessment of Dam Removal”. February 1, 2024. Anchorage Water & Wastewater Utility General Managers Office.

utilized as the hydraulic design basis, corresponding to the 1% AEP flood as described in Section 2.0.

The critical diameter (largest diameter of the substrate that can be moved under given flow conditions) was computed for each cell in the 2-D model output using the method described in Appendix B of Engineering Manual 1110-2-1418[10]. This method is based upon the Manning's equation and assumes a Shields number of 0.045, and roughness height (k) equal to 3 times the median grain size (D_{50}). For this analysis, the Shields number was adjusted to 0.03 based on a study of bed-load transport in similar gravel bed streams, as utilized in the Geomorphology and Sediment Transport Study published in 2022[11]. The critical diameter as a function of velocity and water depth was computed in accordance with the following equation:

$$D_{crit} = 0.686 \frac{V^3}{\sqrt{d}}$$

Where:

D_{crit} = Critical Diameter (mm)
V = Velocity (ft/s)
d = Depth (ft)

To predict sediment mobilization throughout the streambed, a D_{50} of 18-mm was estimated based on the average gradation from a representative transect (Transect C) as collected in October 2021. A map of the scour potential of the riverbed was developed, color coded based only on sizes greater than or equal to a D_{50} of 18-mm (0.71 inches). A graphical representation of the grain size mobility within the riverbed under the 1% AEP flood is presented in Figure 4.1-1 and Figure 4.1-2.

[10] United States Army Corp of Engineers. Channel Stability Assessment for Flood Control Projects. EM 1110-2-1418.
[11] Chugach Electric Association, Matanuska Electric Association, Municipality of Anchorage. Eklutna Hydroelectric Project Geomorphology and Sediment Transport Year 2 Report. (June 2022). https://eklutnahydro.com/wp-content/uploads/2023/06/Eklutna-Geomorphology-Report_FINAL.pdf

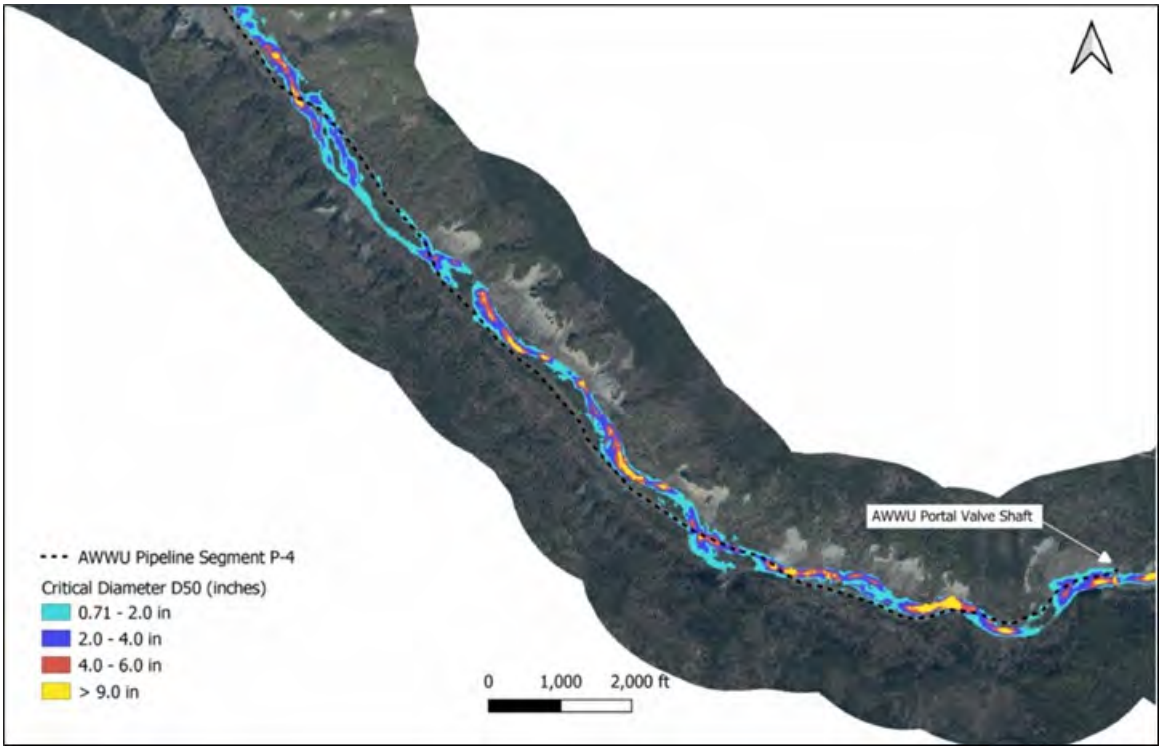


Figure 4.1-1. Grain Size Mobility along Upper Pipeline; 1% AEP Flood.

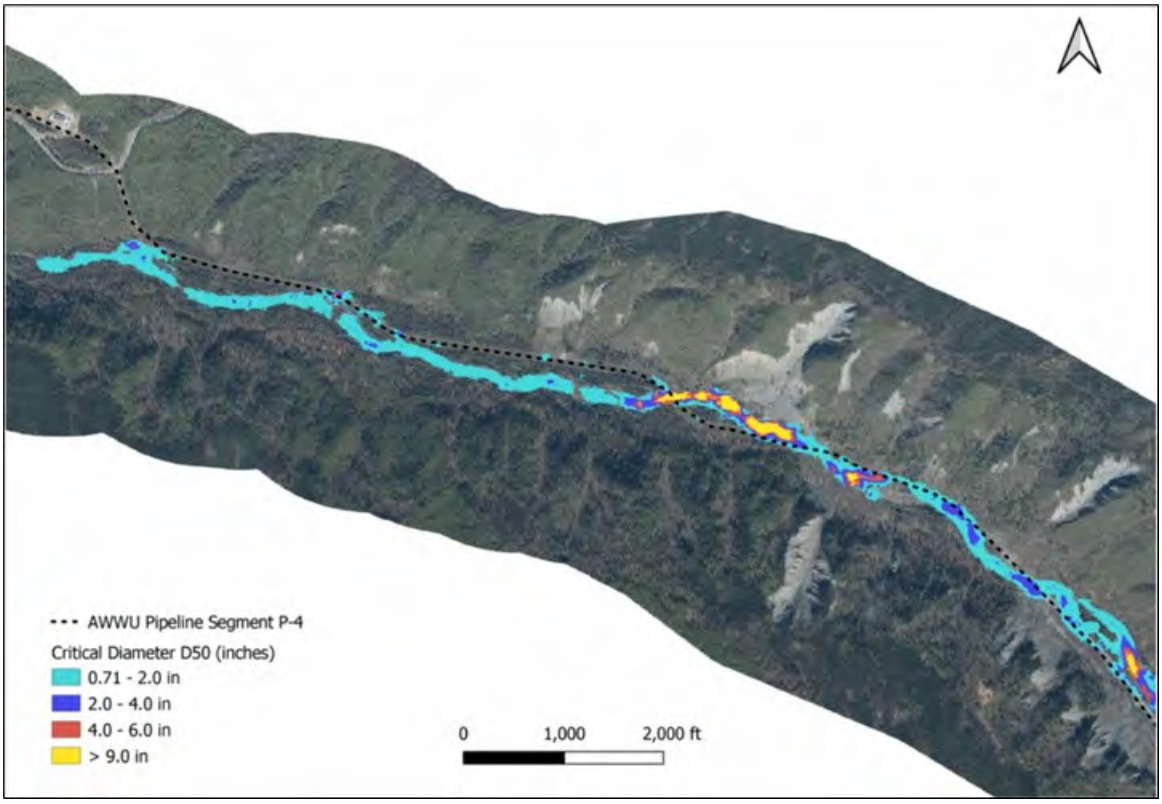


Figure 4.1-2. Sediment Grain Size Mobility along Lower Pipeline; 1% AEP Flood.

Approximately 4.2 miles of the 6.1-mile-long pipeline are inundated by the 1% AEP flood, representing approximately 70% of the total length. Approximately 2.1 miles of the pipeline experiences transport of grains larger than the median grain size of the pipeline zone material. The maximum grain size expected to be mobilized above the pipeline alignment exceeds a diameter of 1-foot, indicating scour of the pipeline cover even in locations which were armored to protect the pipeline. The depths and velocities at each computational cell along the pipeline alignment were utilized to calculate the expected grain size that is mobilized along the length of the alignment, as presented in Figure 4.1-3.

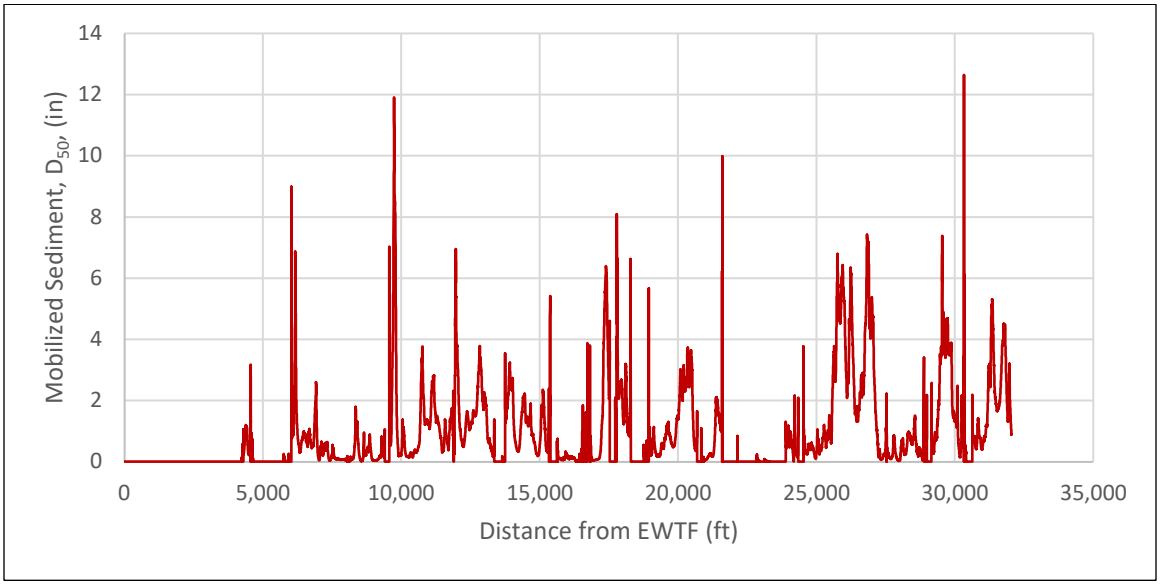
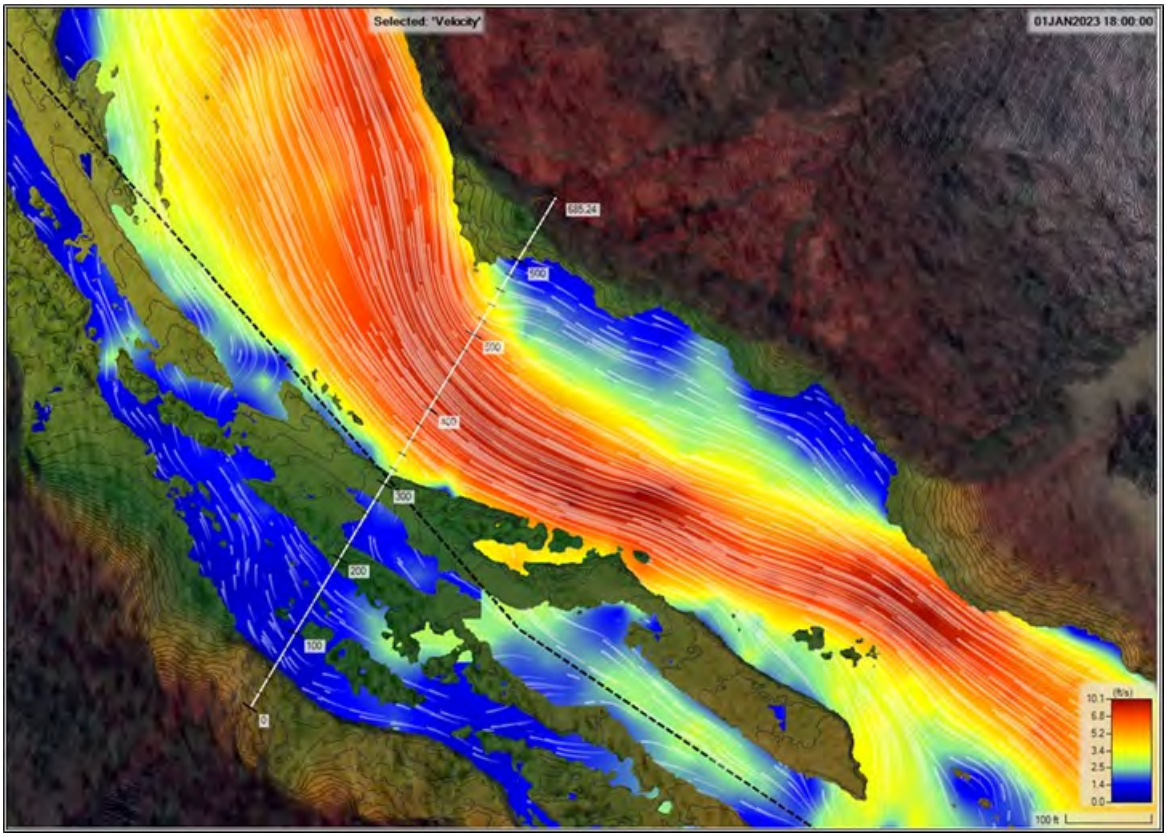


Figure 4.1-3. Mobilized Sediment along Pipeline Alignment – Sediment Size; 1% AEP Flood.

The sediment mobility analysis performed considers a fixed boundary condition within the model and has inherent uncertainties in the sediment transport capability, deposition potential, and does not consider the lateral migration of the channel under these hypothetical future flows. Channel migration cannot be directly modeled using HEC-RAS or other widely accepted models due to the stochastic nature of channel migration (accumulations of large woody debris can play a role in channel migration) and limitations of models to accurately calculate erosion of cohesive materials (e.g., riverbanks with tree and riparian vegetation roots). Within dynamic river systems such as the Eklutna River however, lateral channel migration is likely to occur. Figure 4.1-4 and Figure 4.1-5 show a plan and profile view of two example segments of the Eklutna River that have the potential to migrate laterally and expose the existing pipeline.



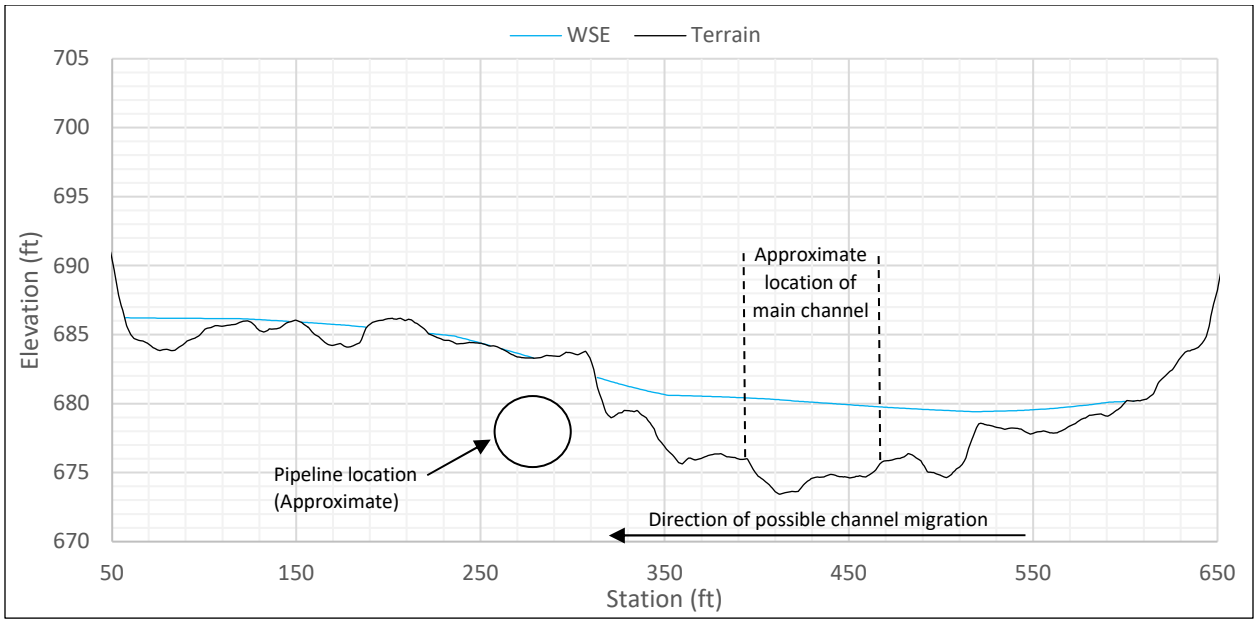
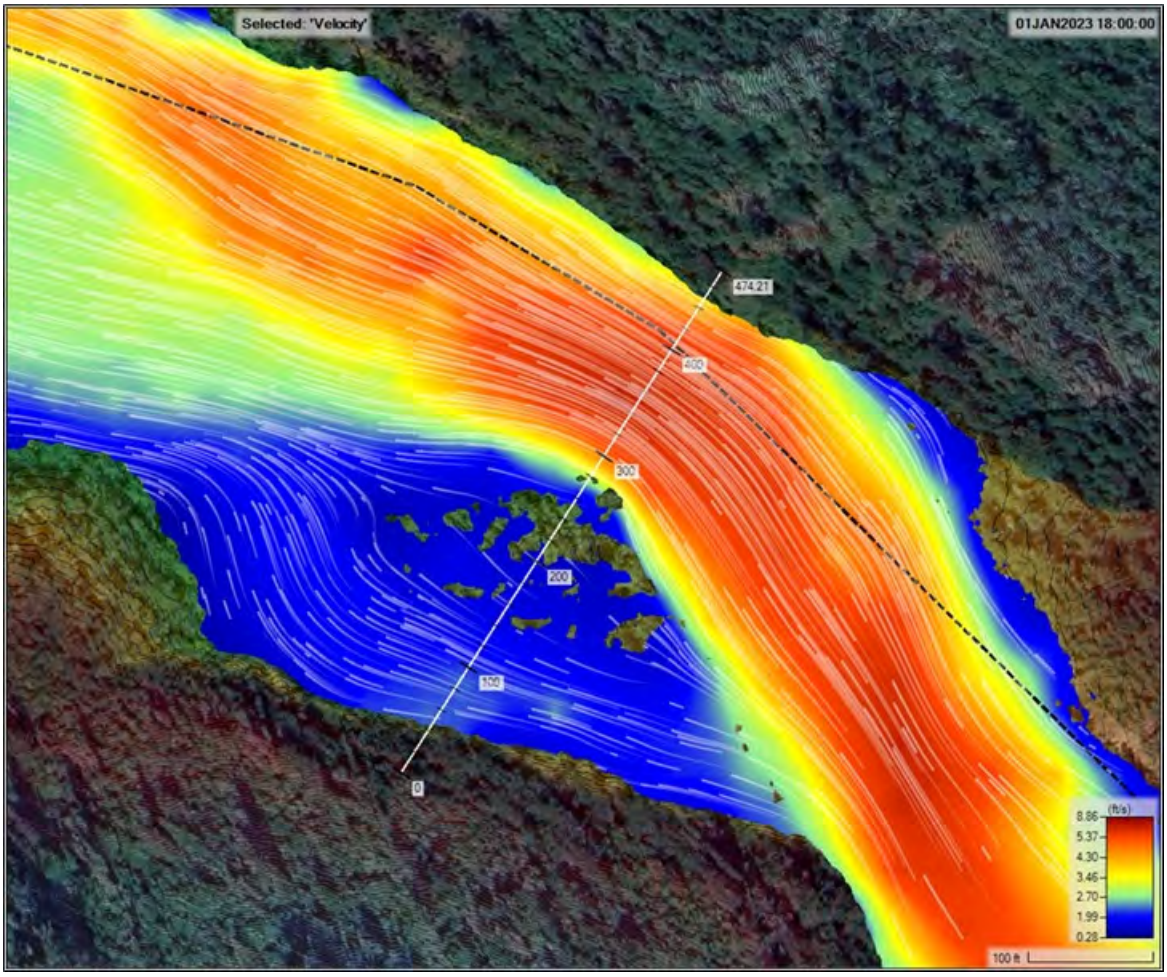


Figure 4.1-4. Plan (top) and Profile View (bottom) of 1% AEP Flood; STA 4252+00.



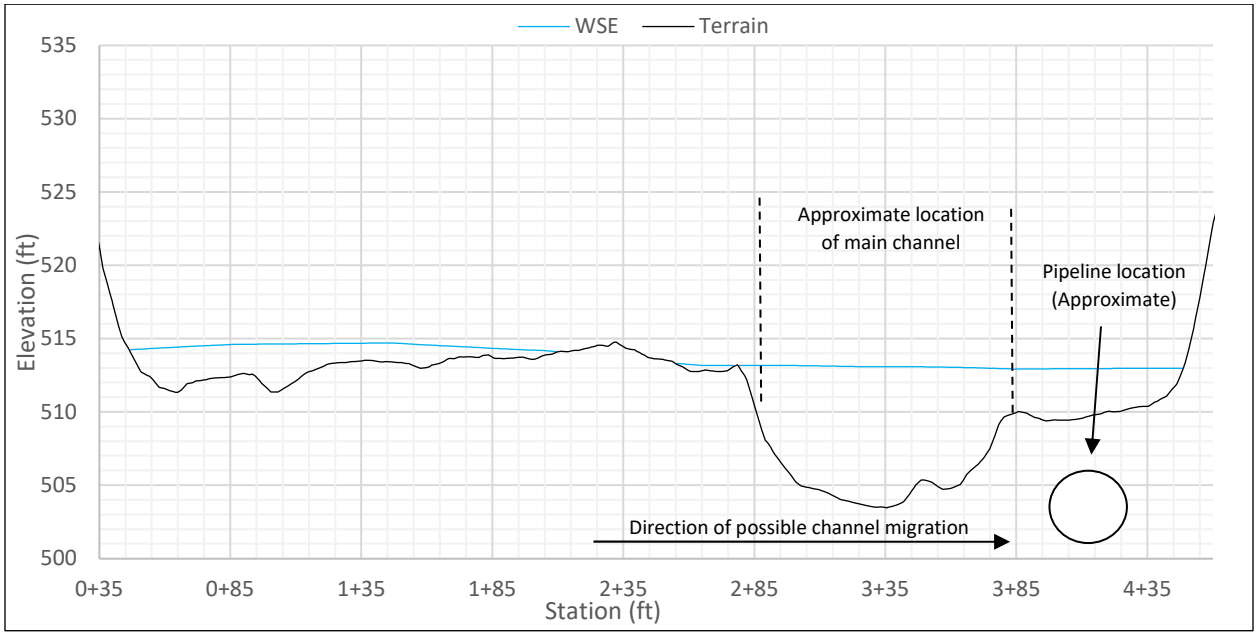


Figure 4.1-5. Plan (top) and Profile View (bottom) of 1% AEP Flood; STA 4136+00.

4.1.2.2 Road Inundation

The AWWU access and maintenance road runs alongside the pipeline adjacent to the Eklutna River for a length of approximately 6.5 miles. The road provides critical access to the pipeline for repairs and maintenance and must be accessible year-round for AWWU. The 1-D HEC-RAS model was run with a flow of 1,200 cfs representing the annual return interval flood within the Eklutna River. Due to the proximity and relatively low elevation of the access road, inundation occurs during the annual flooding conditions, as represented in Figure 4.1-6.

Figure 4.1-6. Access Road (white) and 1-Yr Flood Inundation Boundary (blue).

During the 1-Yr return interval flood, approximately 3,200 ft of the access road is inundated, representing approximately 10% of the road length. The total length of inundation is significantly increased under the larger return interval flooding events. In addition to losing the ability to utilize the access road due to the inundation extents, the road may be damaged by erosion or scour, preventing access by operators, or requiring repairs during the lower flow season. If the access road is to be utilized during future operations of the AWWU water supply infrastructure, mitigation measures would be necessary to allow year-round access to the pipeline.

4.1.2.3 Bridge Inundation

At the farthest upstream extents of the AWWU access and maintenance road exist two bridges spanning the Eklutna River. AWWU Bridge No.1 is the most upstream bridge located

at river mile (RM) 11.4, while AWWU Bridge No. 2 is located just downstream of the first bridge at RM 11.1. The bridge superstructures consist of timber decking supported by steel girders. The abutments and wingwalls consist of steel sheet piling keyed into each bank. Each bridge spans a length of 30 ft and has a height above the streambed of 5'-6" to 6'-0". A photograph of Bridge No. 1 is presented in Figure 4.1-7.

Figure 4.1-7. AWWU Bridge No. 1; Looking Upstream.

The design hydraulic capacity of each bridge is unknown. To estimate impacts to the bridge under the future hydrologic conditions of the river, the 1-D HEC-RAS model was utilized to consider the 1-Yr through 10-Yr return interval storm events. At a minimum the required freeboard to the low chord of the bridge shall be one foot to account for debris flow during the design flood. The profile of AWWU Bridge No. 1 as well as the maximum WSELs and freeboard are presented in Figure 4.1-8 and Table 4.1-1.

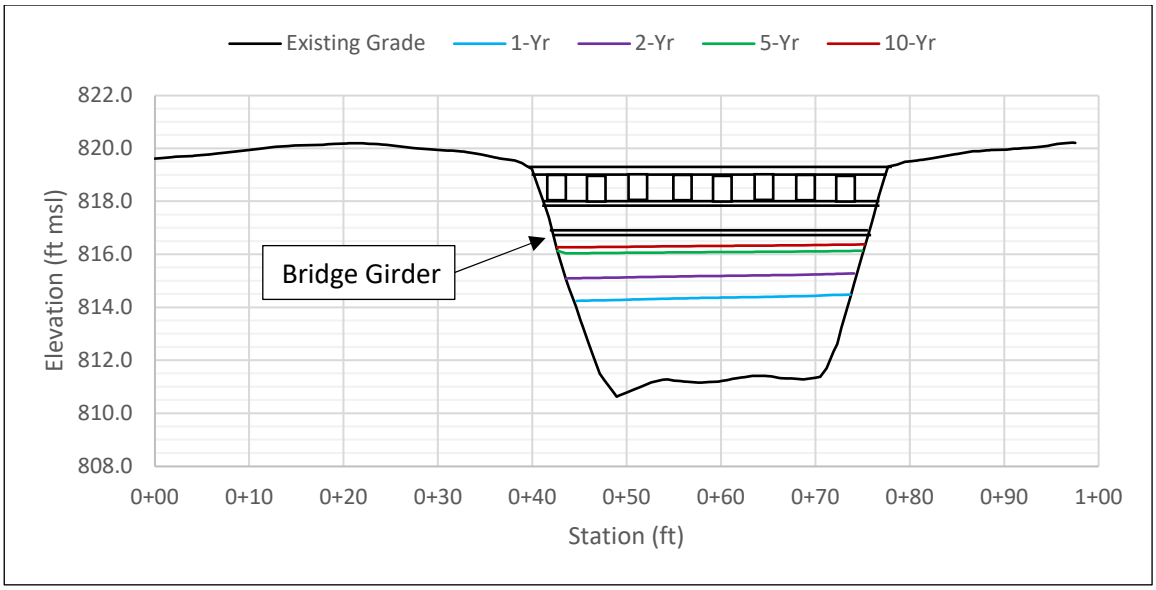


Figure 4.1-8. AWWU Bridge No.1 Profile; 1-Yr to 10-Yr Flood.

Table 4.1-1. AWWU Bridge No. 1; Flood Elevations.

AEP Flood (%)	Recurrence Interval	Flow Rate (cfs)	WSEL (ft msl)	Freeboard (ft)
100%	1-Yr	1,200	814.4	2.3
50%	2-Yr	2,360	815.2	1.5
20%	5-Yr	3,400	816.1	0.6
10%	10-Yr	4,150	816.3	0.4

The analysis indicates that AWWU Bridge No.1 likely has adequate freeboard under the 1-Yr and 2-Yr recurrence interval floods. The 5-Yr recurrence interval flood has less than 1 ft of freeboard which places the bridge at risk of damage due to debris loading or other unaccounted factors such as superelevation, hydraulic jumps, or other flow irregularities. It should be noted that this analysis does not account for potential scour of the banks or abutments and is focused primarily on hydraulic capacity. The same analysis was performed on the downstream AWWU Bridge No. 2. The profile of this bridge as well as the maximum WSELs and freeboard are presented in Figure 4.1-9 and Table 4.1-2.

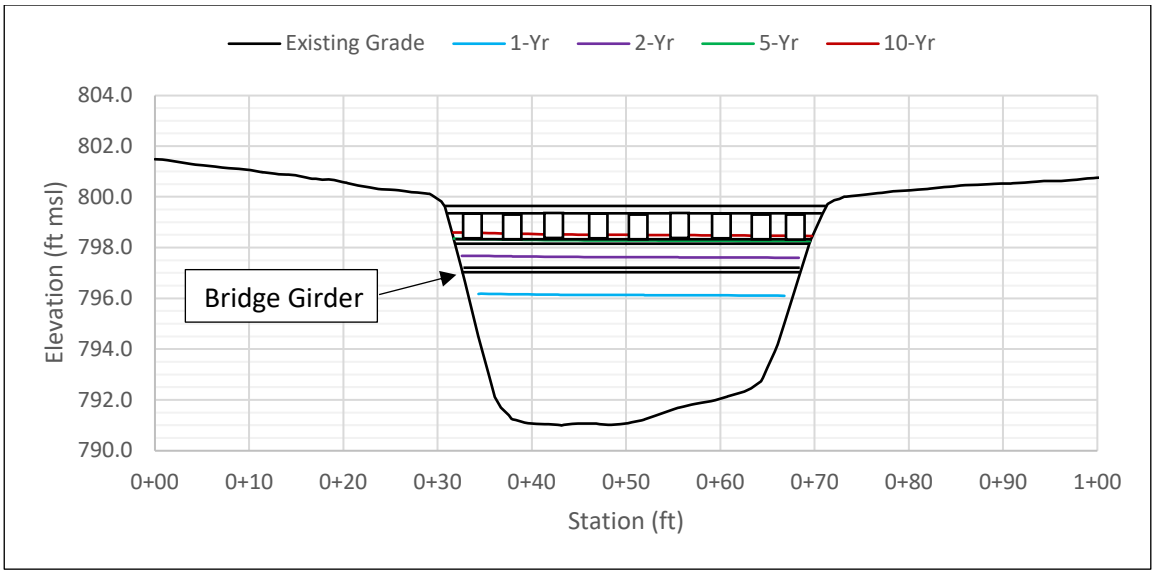


Figure 4.1-9. AWWU Bridge No.2 Profile; 1-Yr to 10-Yr Flood.

Table 4.1-2. AWWU Bridge No. 2; Flood Elevations.

AEP Flood (%)	Recurrence Interval	Flow Rate (cfs)	WSEL (ft msl)	Freeboard (ft)
100%	1-Yr	1,200	796.1	0.9
50%	2-Yr	2,360	797.6	-0.6
20%	5-Yr	3,400	798.3	-1.3
10%	10-Yr	4,150	798.5	-1.5

The analysis indicates that AWWU Bridge No.2 has inadequate freeboard under the 1-Yr recurrence interval flood and would likely be overtopped at flows equal to or exceeding the 2-Yr flood of 2,360 cfs. The bridge is at risk of damage and is inadequate to pass flows under the proposed unregulated Eklutna River hydrograph.

4.1.2.4 Water Curtailment

The EWTF treats all water from Eklutna Lake prior to being discharged through AWWU's water distribution network. The facility at its current capacity is sized to treat a maximum of 32 Million Gallons per Day (MGD), corresponding to an average daily flow of 49.5 cfs; however, AWWU's water permit allows water withdrawals up to a maximum of 41 MGD (63.4 cfs) for public water supply purposes[12]. The flow rate through the facility typically varies from 19-26

[12] State of Alaska Department of Natural Resources Division of Land and Water Management. Permit to Appropriate Water, LAS 2569. (December 16, 1985)
https://eklutnahydro.com/wp-content/uploads/2020/03/ADNR-1985-Permit-to-Appropriate-Water-LAS-2569.pdf

MGD (30-40 cfs). The average monthly flow through the EWTF from 2011-2021 is presented in Figure 4.1-10.

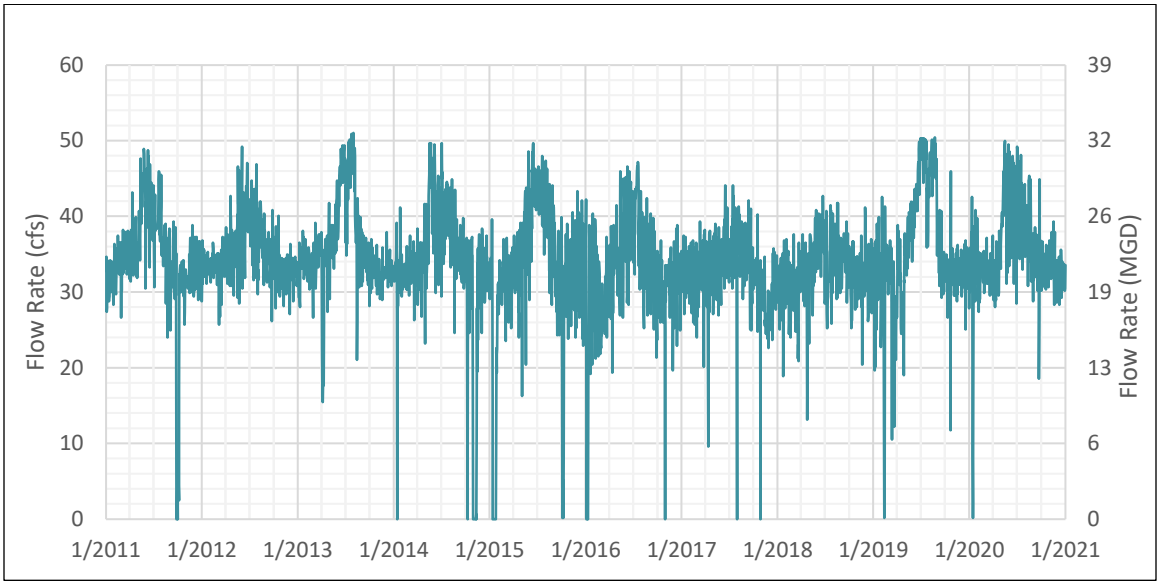


Figure 4.1-10. EWTF Flow Rate; 2011-2021.

The dam removal operations model was updated to calculate reservoir fluctuation and instream flows over the 2011 – 2021 period of record without the powerhouse operational but with AWWU water diversions included. The analysis indicates that over the 10-year period of operation which was analyzed, the withdrawals for water supply would cause the Eklutna River to run dry on three separate occasions. The Eklutna River flow rate following historical water supply withdrawals from Eklutna Lake is presented in Figure 4.1-11.

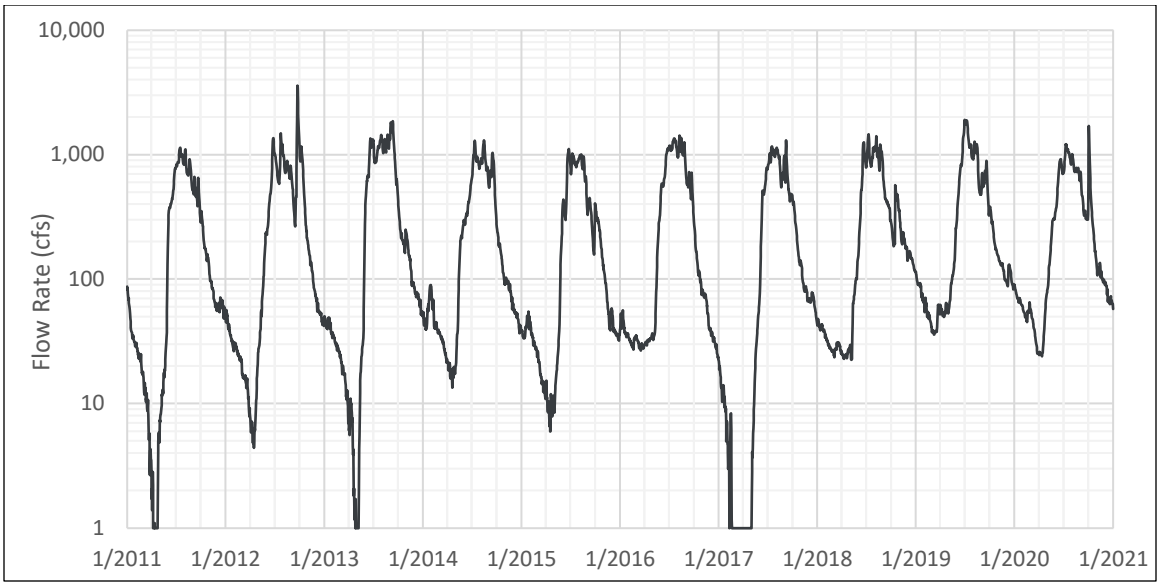


Figure 4.1-11. Eklutna River Flow Rate w/ EWTF Historical Withdrawals; 2011-2021.

The results from the operations model indicate that AWWU water withdrawals from Eklutna Lake would cause the reservoir to be drawn below the crest of the existing lake outlet and the river would run dry during a 17-day span in 2011, an 11-day span in 2013, and a 73-day span in 2017. The results of this analysis suggest that while the water supply project without Eklutna Dam is feasible, it may require curtailing the water supply during certain years to maintain an instream flow or risk dewatering of the river.

A secondary model run was performed to assess instream flows over the 2011 – 2021 period of record with the maximum EWTF water diversion included, corresponding to their water right of 41 MGD. The analysis indicates that over the 10-year period of operation, the withdrawals for water supply would cause the Eklutna River to run dry in the majority of years, with the exception of unusually warm or wet winters. The Eklutna River flow rate following the maximum water supply withdrawal from Eklutna Lake is presented in Figure 4.1-12.

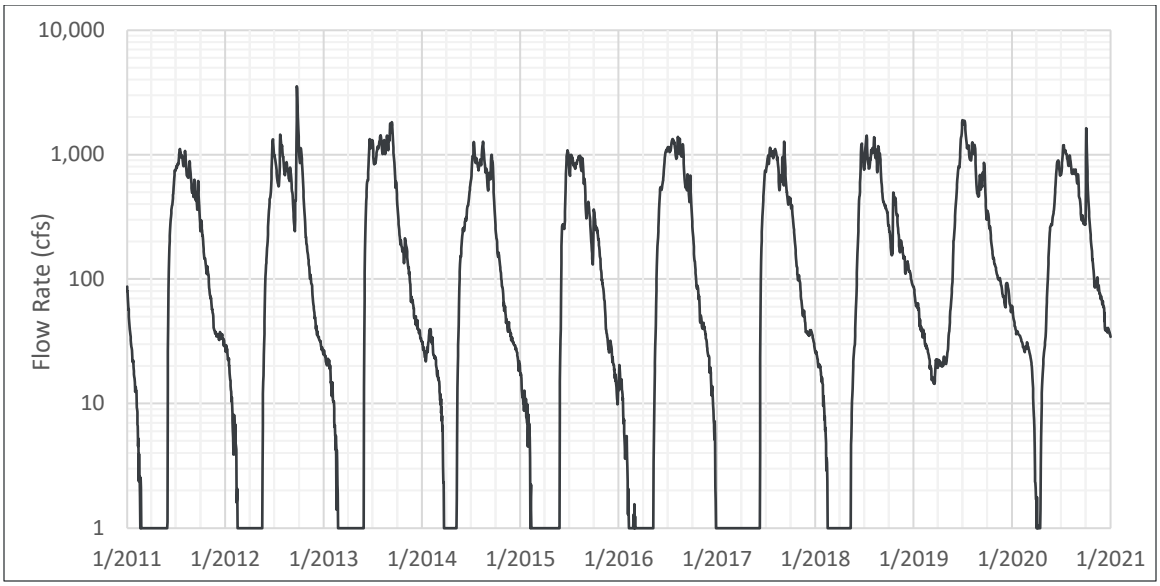


Figure 4.1-12. Eklutna River Flow Rate w/ EWTF Max Withdrawals; 2011-2021.

The operations model indicates that the maximum AWWU withdrawals from Eklutna Lake would cause the reservoir to be drawn below the crest of the existing lake outlet and the river would run dry for two to three months each winter with the exception of the 2019 water year. The results of this analysis suggest that dam removal would prevent the Eklutna Water Project from being able to withdraw their maximum water right (up to 41 MGD) year-round in this hypothetical future operating regime.

4.1.2.5 Risk Assessment

The analysis of the AWWU water supply infrastructure in a dam removal scenario indicates that the buried pipeline Segment P-4 has an increased scour potential under future flow scenarios which may lead to exposure and instability of the pipeline. Depending on the depth and nature of the scour or the extent of channel migration, the exposed pipeline would lose bedding material leading to sagging or potential rupture. Additionally, debris impact may cause failure of the pipeline wall, leading to further damage or potential loss of the water supply. This results in an unacceptable risk to a critical resource and necessitates some form of mitigation to protect the municipal water supply in a post-dam removal scenario, as outlined in Section 4.1.3.

The access and maintenance road along the river channel is inundated under annual peak flows within this scenario, making the pipeline inaccessible under all future flooding events and both bridges exceed their hydraulic capacity and may experience damage and/or failure. This likely would inhibit AWWU from inspecting or repairing the pipeline when water levels are high, which may result in a loss of operation for extended durations. Should the access and

maintenance road be utilized for future maintenance of the pipeline, mitigation measures are needed to maintain year-round access.

The operations model performed on the reservoir under the proposed dam removal scenario indicates that there may not be sufficient inflows to the reservoir for AWWU to provide their historical water withdrawals year-round with the dam removed. The analysis further shows that the reservoir is unable to provide the maximum water right granted to AWWU (41 MGD) year-round without the reservoir impoundment in place. This may result in either the river running dry for extended periods of time, or AWWU needing to curtail withdrawals and supply water from other sources during portions of the year.

4.1.3 Mitigation Strategies

Various strategies exist to mitigate the risks associated with dam removal to the current AWWU infrastructure. The strategies considered as part of this evaluation are as follows:

1. Armor the existing pipeline and reconstruct the AWWU maintenance road and bridges to withstand future flooding events;
2. Construct a new pipeline to withdraw water from Eklutna Lake outside of the extents of the Eklutna River;
3. Construct a new water supply project to collect water from an alternative watershed;
4. Increase the system capacity of other existing water supply projects within AWWU's service area.

The following subsections describe in a high level of detail the possible actions under each of these potential mitigation strategies.

4.1.3.1 Armor the Existing Pipeline

The analysis described in Section 4.1.2.1 details that the pipeline is at risk of exposure due to bed scour or channel migration under future flooding events. The analysis assumes that the pipeline bedding, zone material, and backfill consist of a median material size of 18 mm (0.71 in) as estimated from the Year 2 Geomorphology Study report as well as information obtained from the Pipeline as-built drawings and specifications. A potential mitigation strategy to protect the pipeline from future scouring and erosion as a result of channel migration is to excavate the material around the pipeline and provide a protective armor rock layer along the length of the pipeline located within the Eklutna River valley. The pipeline armament would consist of armor rock, or riprap, with a material gradation roughly equivalent to the requirements presented in Table 4.1-3. It should be noted that the initial results of the

sediment mobilization study performed indicate mobilization of grain sizes exceeding 12-inches at key areas along the pipeline. These locations may require further armament or protection than the proposed armor rock gradation described below.

Table 4.1-3. Armor Rock Gradation.

Size (in.)	% Passing by Weight
24	100%
12	10% – 50%
6	0% – 20%

For pipeline access, the existing access road would need to be reconstructed to a height above the 1% AEP flood for the Eklutna River. This would require a significant amount of new material to be brought into the access road as well as slope protection on the embankments to prevent erosion under flooding conditions. In locations where the river is more confined, the access road may be unable to be co-located adjacent to the river and may require additional bridges or culverts. Each of the known access road crossings (10 total) would require a bridge to be constructed meeting the hydraulic design criteria of the 1% AEP flood.

While this mitigation strategy may protect the pipeline from scouring under future flooding conditions and allow access to AWWU personnel under most flow conditions, the pipeline likely would be unable to be maintained, repaired, or replaced under a high flow condition due to its current alignment co-located with the river channel. This risk is unable to be mitigated fully under this strategy without re-aligning the pipeline and is not considered the preferred mitigation strategy as part of this assessment.

4.1.3.2 Construct a New Pipeline

To address the risks associated with pipeline access for maintenance and repair under the evaluated future hydrologic conditions, an alternative mitigation strategy is to construct a new pipeline to withdraw water from Eklutna Lake. During the original alternatives analysis of water supply opportunities for AWWU in 1981, the MOA investigated alternative pipeline alignments to extract water from the Eklutna watershed[13]. This study investigated the following routes for the proposed Eklutna Water Project pipeline:

- Alternative 1: Tailrace and River Diversion
    - This alternative would draw water from the power plant tailrace and from the Eklutna River at a point near the Old Glenn Highway bridge. A diversion

[13] Municipality of Anchorage. Eagle River Water Resource Study Executive Summary. (December 1981).

structure would be placed on the Eklutna River to supply a large percentage of summer demand. During periods where the Eklutna River is insufficient to meet demand, water would be pumped from the Eklutna Power Plant tailrace.

- Alternative 2: Tunnel Diversion
    - In this alternative, water would be taken by tapping the existing pressurized power plant tunnel at the adit near the surge tank, located immediately above the power plant.
- Alternative 3: Eklutna Lake and River Diversion
    - This alternative would take water directly from the Eklutna River by releasing flow from Eklutna Lake. A diversion structure would be located on the river near the Old Glenn Highway providing water to the EWTF.

The alternatives investigated as part of the original planning of the Eklutna Water Project may provide some guidance on potential methods for utilizing Eklutna Lake as the primary water supply alternative for AWWU. Of the alternatives originally investigated, any diversion structure or impoundment located on the Eklutna River would not be considered a viable alternative as part of this assessment due to the desire to maintain a continuous hydraulic connection from Eklutna Lake to the mouth of the river on Knik Arm. The alternative to pump water from the Eklutna Power Plant tailrace has its advantages; however, the tailrace would not be supplied flow under the proposed dam removal scenario where flow to the power plant is terminated. While the specific alternatives proposed in the original alternatives analysis may not be feasible under the dam removal scenario, a combination of these alternatives may have merit.

A solution that may be technically feasible is to tap into the existing penstock and construct a new pipeline running from the Eklutna Power Plant to the EWTF. The proposed route results in a new buried pipeline running a length of approximately 9.6 miles from the existing Eklutna Power Plant to the inlet of the EWTF, as presented in Figure 4.1-13. The alignment considered as part of this investigation runs from the power plant along the path of the Old Glenn Highway to the junction with the New Glenn Highway (AK-1). The pipeline follows the highway for approximately 3.5 miles to the junction of the Eklutna Lake Road offramp. The pipeline then follows Eklutna Lake Road a short distance to the EWTF. Note that this alignment does not consider property rights, environmental considerations, or the co-location of any other utilities along the route and is intended to be a conceptual layout for the hypothetical AWWU pipeline re-alignment.

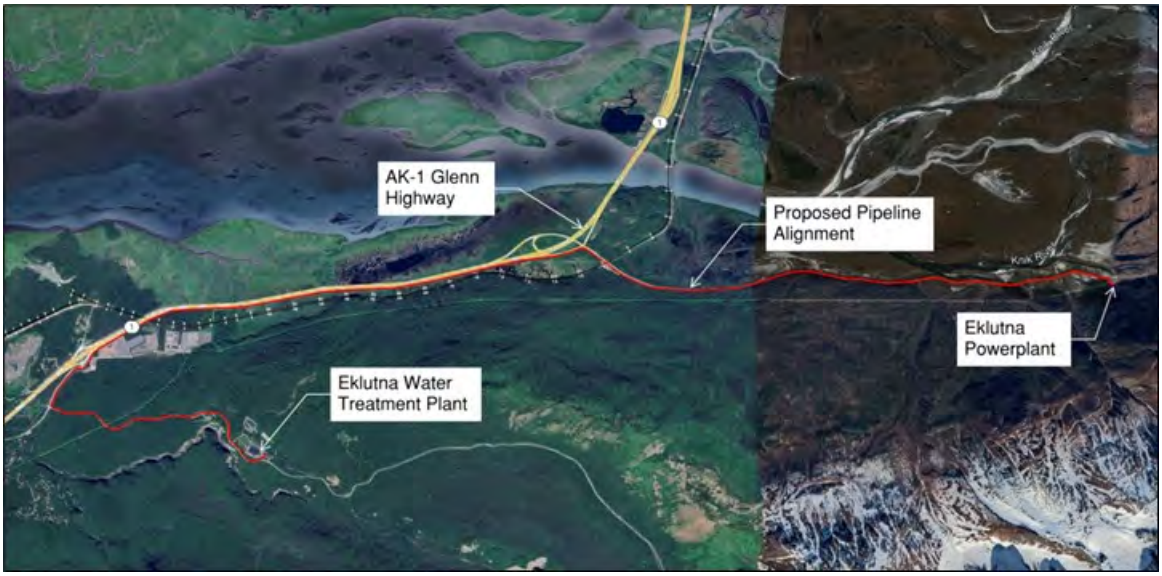


Figure 4.1-13. Conceptual Alignment of Proposed Pipeline Re-Route.

The pipeline would be approximately 54" diameter and rated to withstand the maximum hydraulic pressures expected along the new alignment. The hydraulic gradeline (HGL) of the proposed route was determined by modifying the hydropower operations model developed as part of the study program. The HGL is presented in Figure 4.1-14 and the minimum and maximum steady state pressure on the EWTF under a flow of 41 MGD (63.4 cfs) is presented in Table 4.1-4.

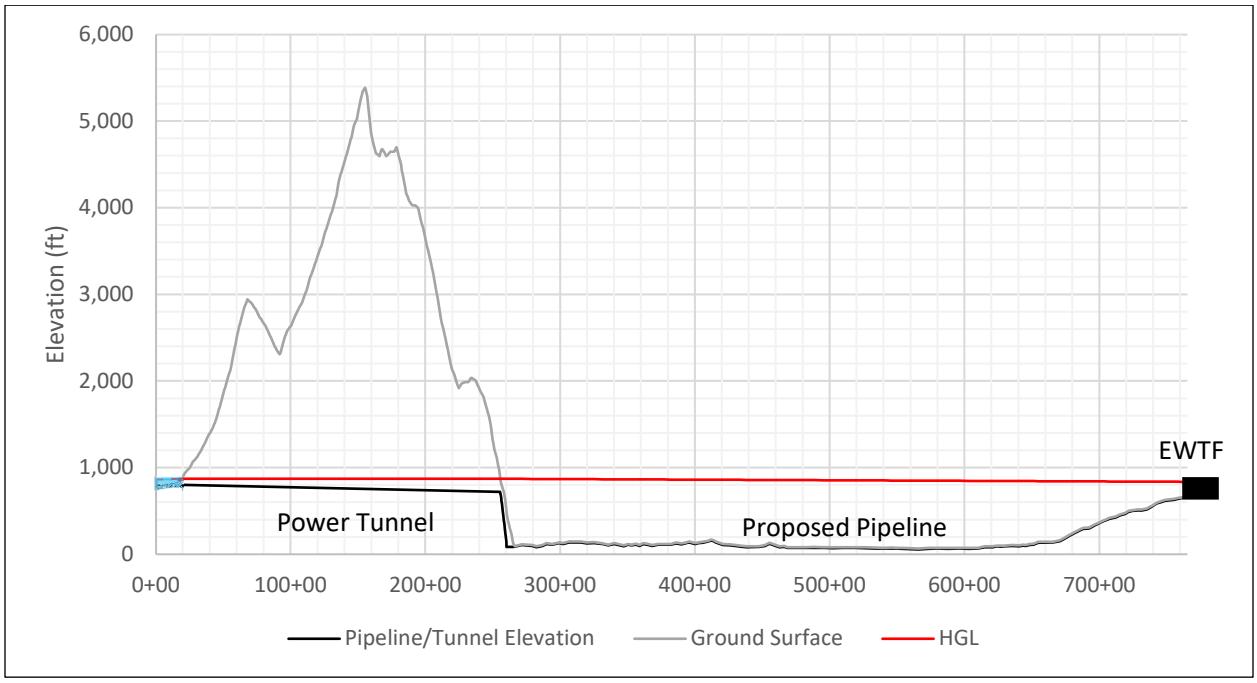


Figure 4.1-14. Hydraulic Gradeline; Proposed Pipeline Alignment at 41 MGD.

Table 4.1-4. Pressure at EWTF; Proposed Pipeline Alignment.

Eklutna Lake WSEL (ft Local Datum)	Flow Rate	EWTF Pressure (PSI)
861.0	0 MGD	92.2
	22 MGD / 34.0 cfs	87.4
	41 MGD / 63.4 cfs	77.1

From a hydraulic perspective, this hypothetical alignment maintains sufficient driving head to convey water from the power plant to the EWTF at the minimum lake level of 861.0 ft. The additional head losses caused by friction due to the increased pipeline length are negligible considering the additional head gained by the lake maintaining a steady elevation of El 861.0 to El 865.0 ft.

The primary risk with this alternative is that curtailment of water withdrawals may be necessary to prevent the river from running dry under the proposed dam removal scenario. Given AWWU's preferential water rights for municipal water supply from this watershed, continuous instream flows, particularly in winter months, may be at risk unless water is sourced from an alternative location. This risk may be avoided if an alternative watershed is selected for future water supply needs.

4.1.3.3 Construct a New Water Supply Project

Evaluating the development of a new watershed for supplying the future water needs for the MOA under a dam removal scenario is a complex process which is beyond the scope and timeline of this risk assessment memorandum. For the purposes of this investigation, we considered the alternative developments proposed as part of the Water Resources Study published in 1981 prior to the development of the Eklutna Water Project. While the study did evaluate alternative pipeline alignments for withdrawing water from the Eklutna watershed as described in the previous subsection, the original intent of the study was to evaluate the potential for utilizing Eagle River as a potential water source. The two alternatives evaluated for utilizing Eagle River as a water source included the development of a well field and groundwater source within the Eagle River valley or the construction of a new reservoir on Eagle River.

As part of the 1981 investigation, eight wells were drilled within the Eagle River watershed in search of an aquifer capable of supplying water to the MOA. This investigation established that the Eagle River Valley consists primarily of silts and clays and does not contain an aquifer capable of meeting water demand for the municipality.

The preferred solution for development of Eagle River as a water supply source was to site a new dam located approximately 1.5 miles east of the New Glenn Highway Bridges over Eagle River. This dam would impound a reservoir capable of meeting a constant diversion of 47 MGD, which would be sufficient for replacing Eklutna Lake as a water supply source. The Eagle River reservoir alternative was eventually not pursued further by the MOA due to serious potential cost, schedule, and operational problems associated with the proposed facility. At this time, pending further analysis of the regional watershed water supply characteristics, the construction of a new water supply project is not weighed heavily as a potential mitigation strategy as part of the current assessment.

4.1.3.4 Increase Capacity of Existing Water Supply Projects

The existing water supply projects serving the MOA are the EWTF, the Ship Creek Water Treatment Facility (SCWTF), and groundwater wells located throughout the municipality. The SCWTF has a treatment capacity of 16 MGD with a water right of 24 MGD but is seasonally limited to 10 MGD of capacity. The groundwater wells vary but are expected to provide a combined total water supply of up to 20.2 MGD[14]; however, 10 MGD of well production is currently inactive while new EPA regulations are being assessed. Investigations have been performed to establish new wells within the MOA to provide added resiliency to the water supply system. These additional well fields would be located east of the SCWTF and are expected to have a capacity of 2 – 4 MGD.

While upgrades to the existing SCWTF and the addition of new well fields may yield additional water for the MOA, the additional gains would not make up for the loss of the EWTF's 32 MGD treatment capacity. Pending further information from the MOA on the ability to increase the output of the SCWTF or the discovery of new aquifers within the region, increasing the capacity of the existing water supply projects does not appear to be a preferred strategy for replacing the Eklutna Water Project as a primary source for water supply.

4.2 Old Glenn Highway Bridge

4.2.1 General

The Old Glenn Highway Bridge was replaced in 2015 and consists of a 254-foot long, two-span concrete bulb-tee girder bridge with three center piers located in the floodplain of the Eklutna River. Due to the topography of the canyon at this location, both bridge abutments are well above the influence of the river, even at extreme flood stages. Photographs of the bridge

[14] Municipality of Anchorage. 2012 Anchorage Water Master Plan. (December 2012).

and pier are provided in Figure 4.2-1 and design details of the bridge pier are provided in Figure 4.2-2.

Figure 4.2-1. Old Glenn Highway Bridge U/S View (Left); Bridge Pier (Right).

The center pier consists of three 4-foot diameter concrete columns with permanent steel casings, located approximately 125 ft from the left abutment. The piers enter the ground surface at El. 87.5 ft and pass through approximately 43 ft of soil before entering bedrock at El 44.0 ft. Each pier is drilled and anchored into approximately 6 ft of bedrock. The design of each pier is presented in Figure 4.2-2.

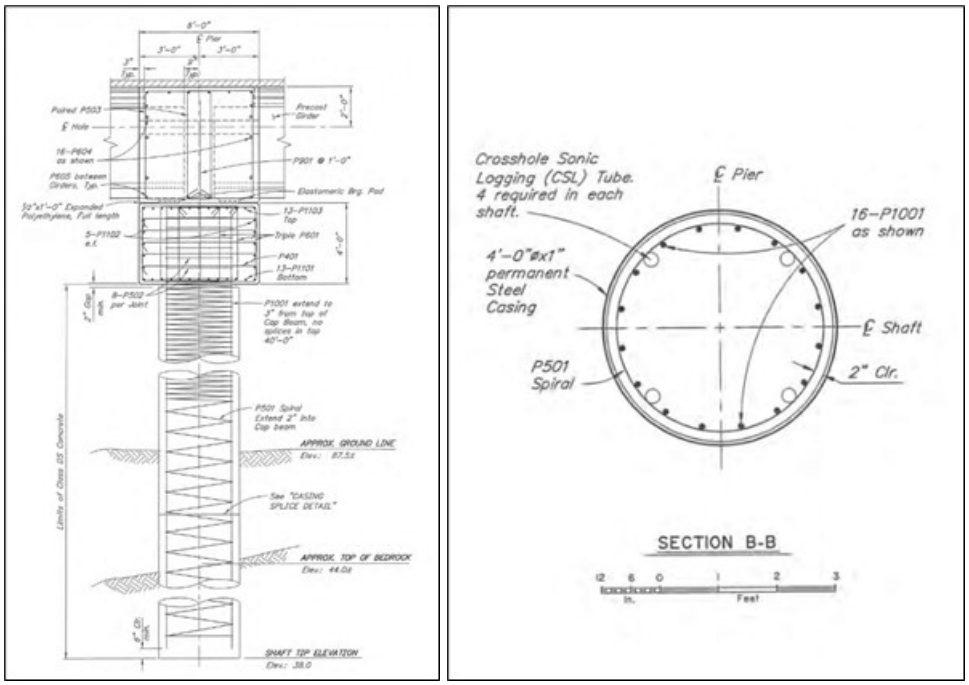


Figure 4.2-2. Old Glenn Highway Bridge Pier Profile (Left); Bridge Pier Section (Right).

4.2.2 Hydraulic Capacity

The existing structure spans a confined stretch of the Eklutna River at a height well above the canyon floor. To determine whether the bridge has sufficient hydraulic capacity under a future dam removal scenario, the 1% AEP flood corresponding to the reach below Thunderbird Creek was analyzed, equating to a total flow of 7,460 cfs as defined in Section 2.0. The low chord of the bridge is located a maximum of 40 ft above the natural river channel and passes the 1% AEP flood with a freeboard of approximately 27 ft. The confined reach of the canyon has a relatively stable cross section both upstream and downstream of the bridge, which reduces the risk of contraction scour on either abutment caused by flooding. However, the center piers located at approximately the midspan of the bridge would experience pier scour during flooding conditions. The flow velocities of the channel beneath the bridge during the 1% AEP flood are presented in Figure 4.2-3 and Figure 4.2-4.

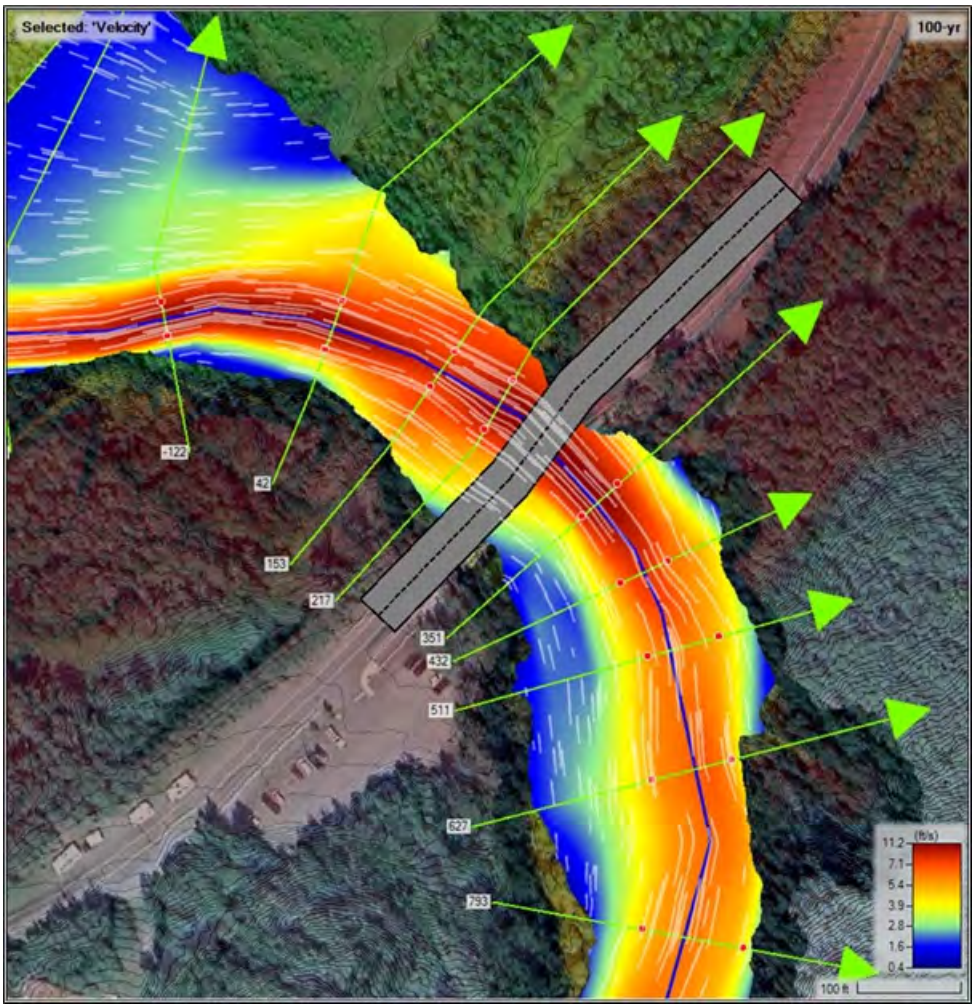


Figure 4.2-3. Maximum Water Velocity Plan View; 1% AEP Flood.

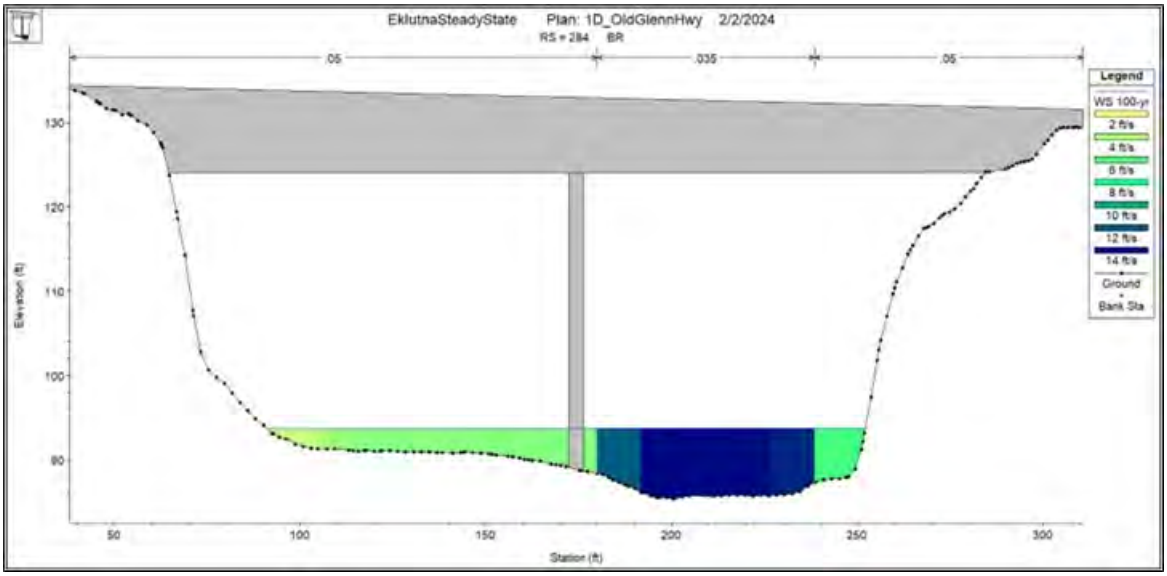


Figure 4.2-4. Water Velocity Upstream Profile; 1% AEP Flood.

4.2.3 Pier Scour

A 1-D HEC-RAS Model was developed to better represent the hydraulics at the Old Glenn Highway Bridge and to gain an understanding of the impacts of the existing bridge pier on flood flows within the Eklutna River channel. The hydraulic characteristics of the 1-D model were calibrated to the characteristics of the 2-D HEC-RAS model previously developed for the Eklutna River channel. The water surface elevations for the 1-D and 2-D modeling approaches are presented in Figure 4.2-5 and indicate general concurrence on the hydraulic profile.

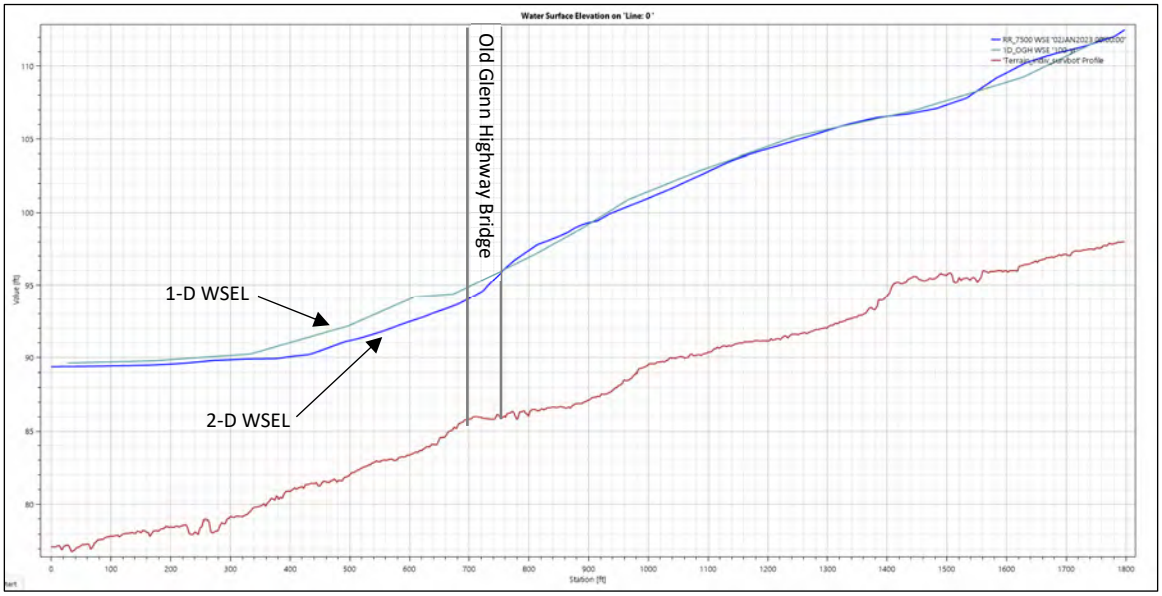


Figure 4.2-5. 1-D and 2-D WSE Profile through Old Glenn Highway Bridge.

The 1% AEP flood flow rate of 7,460 cfs was run through the HEC-RAS model to assess scour at the existing pier. Contraction and pier scour equations for non-cohesive stream bed material were utilized to estimate the depth of scour in accordance with the guidance of HEC-18[15]. The sediment gradation used within the model was based on the information presented in the Year 2 Geomorphology and Sediment Transport Study, which defined a D_{50} of 23-mm from Transect G, located approximately 750 ft downstream of the Old Glenn Highway bridge.

Two sediment transport conditions were calculated to understand the scour risks to the pier located within the Eklutna River floodplain. The live bed scour occurs when the river is actively transporting sediment and both eroding and depositing material simultaneously at a given transect. Clear water scour occurs when there is effectively zero sediment transport upstream of the bridge crossing and the energy of the river is focused on erosion of the bed material. The velocities upstream of the bridge crossing indicate that the sediment transport condition affecting the bridge pier are expected to be the clear water scour condition. Table 4.2-1 summarizes the scour depths calculated from the modeling at the location of the bridge pier.

Table 4.2-1. Scour Depths; Old Glenn Highway Bridge Pier.

Description	Scour Depth (ft)
Clear Water Scour Depth	3.3
Pier Scour Depth	6.1
Total Scour Depth	9.4

4.2.4 Mitigation Strategies

The Old Glenn Highway Bridge has sufficient freeboard to pass the 1% AEP flood without risk of inundation or overtopping of the bridge deck. The existing piers are within the floodplain of the river and appear to be designed against debris impact with 1" steel casing protecting the reinforced concrete columns. The scour analysis presented in the previous section indicates approximately 9-10 ft of total scour at each pier, which does not appear to pose any immediate risks to the structure due to the depth of the drilled pier into soil and bedrock; however, additional confirmation is necessary to conclude that the pier design is sufficient under this proposed new loading condition. At this time, no additional mitigation would be anticipated for the Old Glenn Highway Bridge under the proposed hydrologic conditions of the Eklutna River post-dam removal.

[15] United States Department of Transportation Federal Highway Administration. Evaluating Scour at Bridges, 5th Ed. Hydraulic Engineering Circular No. 18.

4.3 New Glenn Highway Bridges

4.3.1 General

The New Glenn Highway Bridges were constructed in 1975 and consist of a northbound and southbound span of the New Glenn Highway over the Eklutna River. Both spans are prestressed concrete bulb-tee girder bridges and run a length of approximately 100 ft at a maximum height of 18 ft over the streambed. The design highwater elevation for this bridge is El. 82.0 ft. Photographs of the bridge and abutments are provided in Figure 4.3-1.

Figure 4.3-1. New Glenn Highway Bridges D/S View (Left); Right Abutment (Right).

The bridges have a relatively short height when compared to the Old Glenn Highway Bridge with a distance from the low chord of the bridge to the river channel of approximately 16 ft. Beneath the bridges, riprap spans from the river channel to a berm protecting each abutment from erosion, and spans to a height of approximately 14 ft above the riverbed. The elevation view of the bridges looking downstream is provided in Figure 4.3-2.

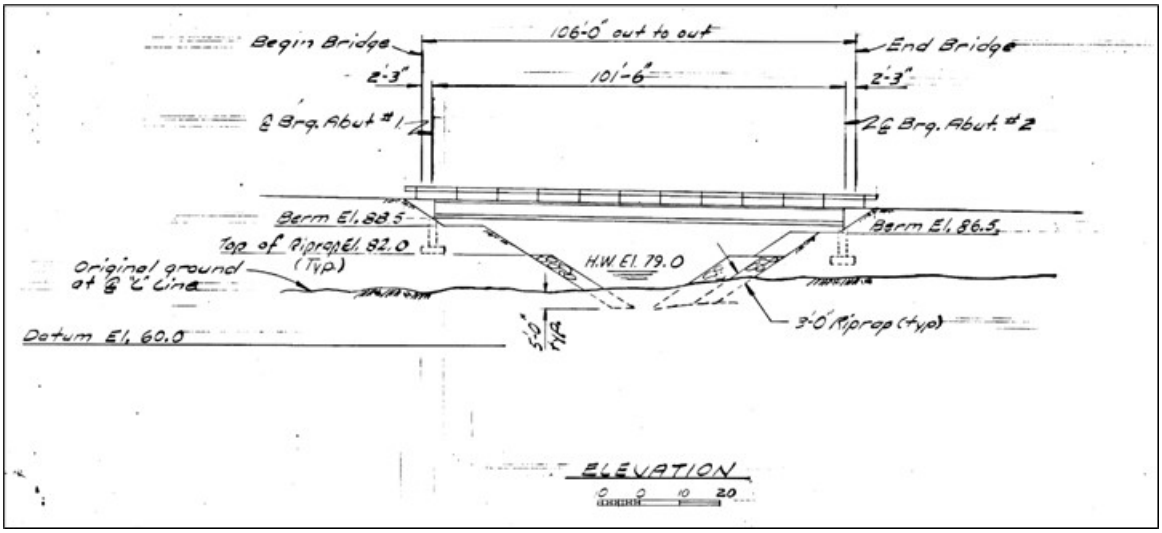


Figure 4.3-2. New Glenn Highway Bridge; Elevation View (MOA 72 Datum).

It shall be noted that a segment of AWWU's 54" diameter water supply pipeline P-3 as well as a 24" diameter segment of pipe which supplies water to the neighborhood around Thunderbird Falls pass beneath the riverbed in the immediate vicinity of the New Glenn Highway bridges. Each pipeline runs at a depth of approximately 10 ft to the crown of the pipe and are armored in reinforced concrete.

4.3.2 Hydraulic Capacity

A 2-D HEC-RAS model was used to represent the existing crossing of the New Glenn Highway Bridges over the Eklutna River. The 1% AEP flood was input into the model to determine impacts to the bridges, corresponding to a flow of 7,460 cfs. Discussions with the State of Alaska Department of Transportation and Public Facilities (DOT&PF) indicate that these bridges would require approximately 2 ft of freeboard plus an additional 1 foot to account for ice and debris, yielding a minimum freeboard requirement at the design flood of 3 ft. The profile of the bridges documenting the maximum water surface elevation of the 1% AEP flood is provided in Figure 4.3-3. The minimum freeboard calculated under this flood scenario is 1.8 ft.

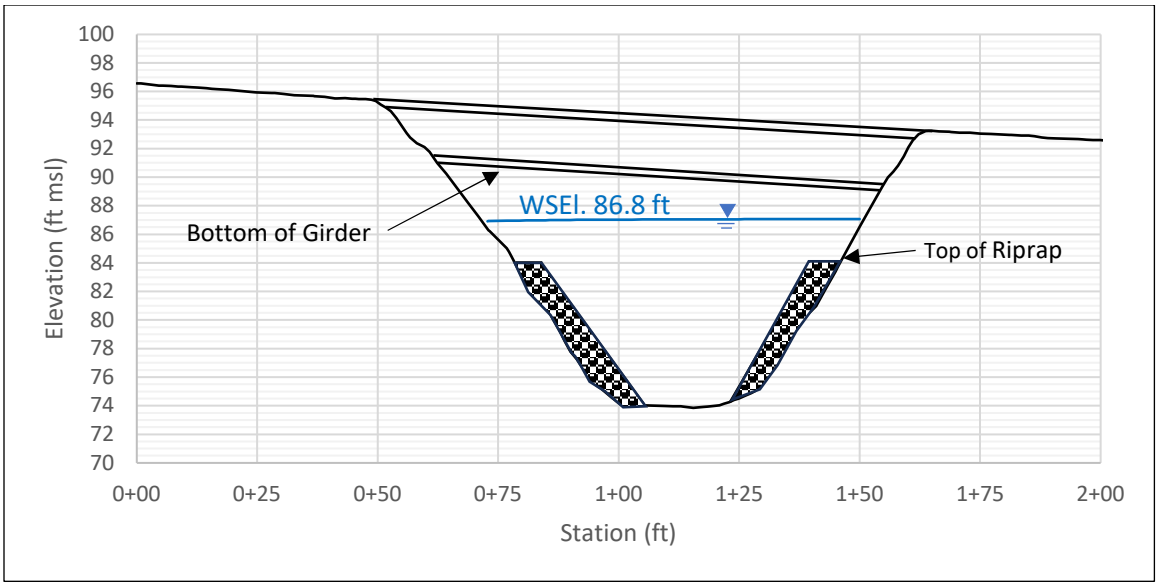


Figure 4.3-3. New Glenn Highway Bridge Profile; 1% AEP Flood (MOA72 Datum).

The reach between the New Glenn Highway and Old Glenn Highway bridges is relatively unconfined, which allows for a backwater effect to form at the location of the New Glenn Highway Bridges. This creates a significant contraction in the flow at the location of the bridges, exacerbating the potential for contraction and abutment scour. Additionally, the design of the current bridges utilizes shallow spread footings located high on either abutment, which is susceptible to damage or failure caused by scour under high flow events.

4.3.3 Mitigation Strategies

Based on the preliminary hydraulic analysis performed, the current New Glenn Highway bridges are not sufficient to pass the flood flows incurred under the proposed dam removal scenario. The bridges would need to be replaced with a bridge of larger span to increase freeboard and lessen the hydraulic contraction currently in place.

An alternative 2-D HEC-RAS model was produced that increased the span of the New Glenn Highway Bridges from 100 ft to 250 ft. This alternative reduced velocities through the bridge span substantially as well as reduced the freeboard under the 1% AEP flow. Although contraction of the channel at the location of the bridges still occurs, the increased span length reduces the upstream backwater effect and provides approximately five additional feet of freeboard. Figure 4.3-4 presents the water velocities through the bridge span and Figure 4.3-5 presents a longitudinal profile of the water surface elevations through the bridge span pre- and post-bridge replacement.

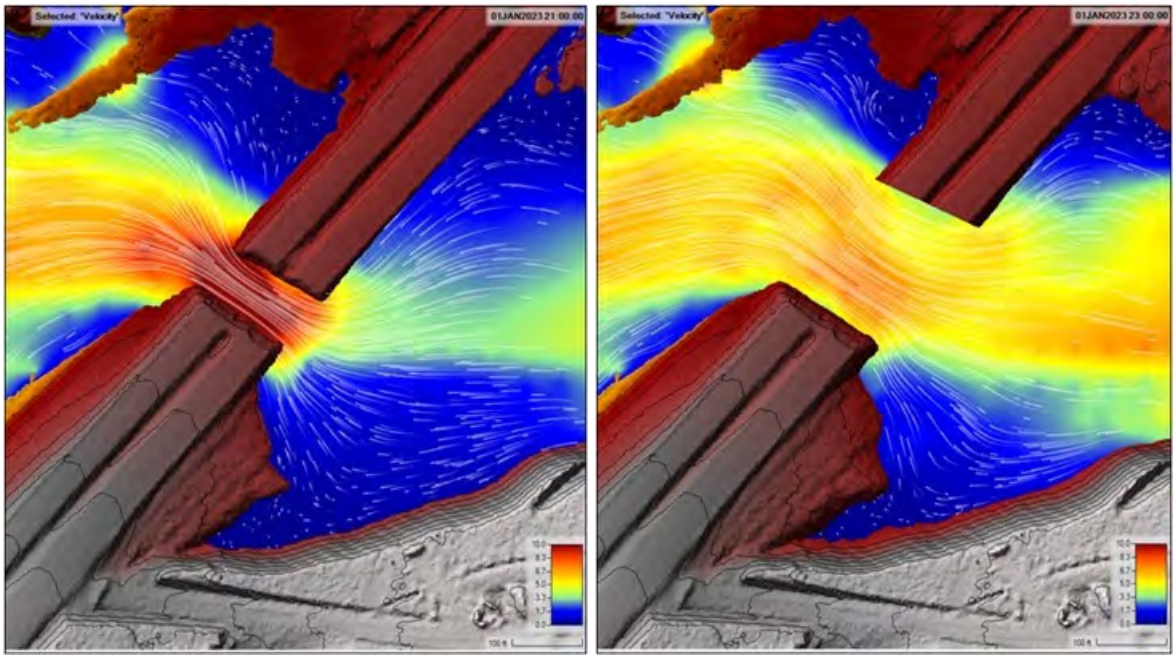


Figure 4.3-4. Plan view of velocities at the New Glenn Highway Bridges pre- and post-Bridge Replacement.

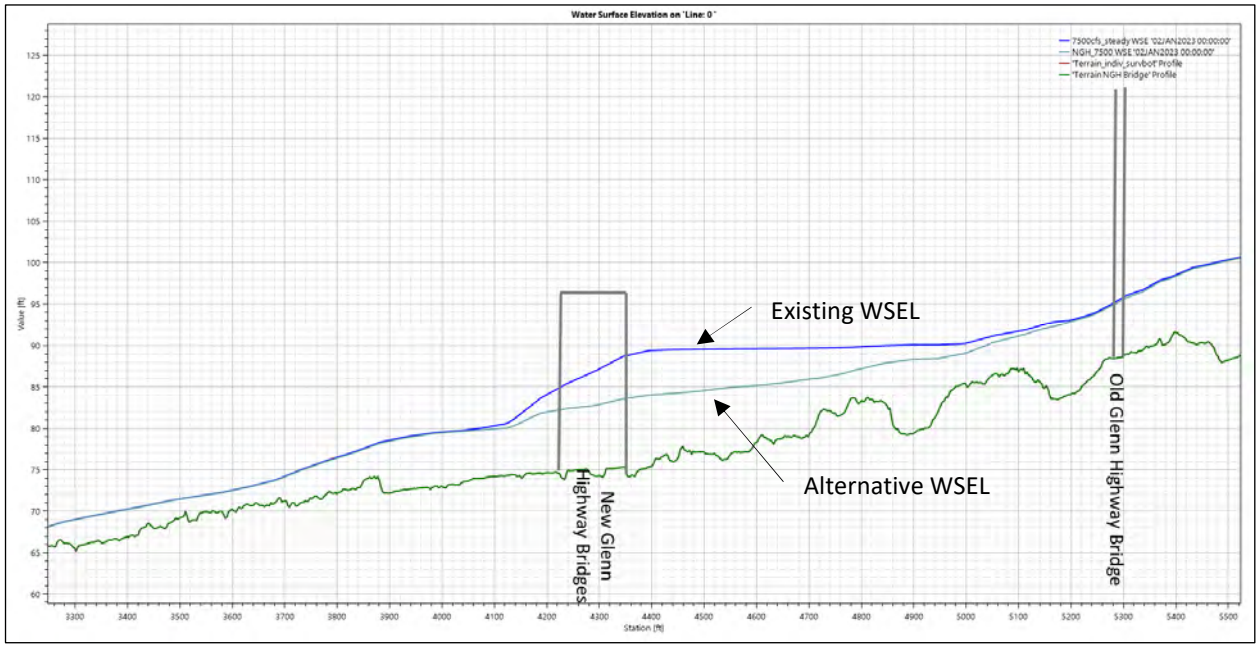


Figure 4.3-5. Existing and alternative WSEL profiles at the New Glenn Highway Bridges.

4.4 Railroad Bridge

4.4.1 General

Figure 4.4-1. Eklutna River Railroad Bridge U/S View (Left); Left Abutment Wall (Right).

The Eklutna River railroad bridge was constructed in 1927, prior to the construction of the original hydropower project on the Eklutna River in 1929. The structure consists of a riveted steel open deck girder bridge, spanning approximately 70 ft at a height of 14 ft above the riverbed. The bridge abutments consist of concrete walls of unknown depth and thickness. Photographs of the railroad bridge are provided in Figure 4.4-1.

4.4.2 Hydraulic Capacity

A 2-D HEC-RAS model was used to represent the existing crossing of the Eklutna River railroad bridge. The 1% AEP flood was input into the model to determine impacts to the bridge, corresponding to a flow of 7,460 cfs. The existing span creates a significant backwater effect upstream of the bridge under flooding conditions. The potential for contraction and abutment scouring at the bridge is high due to the constriction of flow and resultant increase of water velocity through the bridge span. The left abutment is specifically at risk for increased scour depths due to high water velocities encompassing the abutment, increasing the risk of undermining the structure. Velocities through the span reach up to 10.2 ft/s under this flood condition. This correlates to a shear stress of 9.81 lb/ft^2, capable of moving boulders as large as 26-inches.

Discussions with the Alaska Railroad indicate that there is a significant concern regarding the impact this flooding would have on the morphology of the river and regarding the potential for scour of the abutments and erosion of the embankments of the railroad at this location. The

bridge must be protected from the high velocities under the span, and the embankments must be protected from erosion that could lead to slope failure.

4.4.3 Mitigation Strategies

Based on the preliminary hydraulic analysis performed, the current span of the railroad bridge is not sufficient to pass the flood flows incurred under the proposed dam removal scenario. The bridges would need to be replaced with a bridge of larger span to reduce the backwater effect upstream of the structure, minimize velocities through the bridge span, and lessen the risks of scour at the bridge abutments and erosion of the railroad embankments.

An alternative 2-D HEC-RAS model was produced that increased the span of the Eklutna River railroad bridge from 70 ft to 325 ft. The alternative geometry expands the bridge span approximately 100 ft to the south and an additional 155 ft to the north. Slight modifications to the approach geometry were made to include a 45-degree wingwall on the left abutment to help reduce overall velocities along that surface and better distribute the flow through the span. A map of the velocities pre- and post-bridge replacement is presented in Figure 4.4-2.

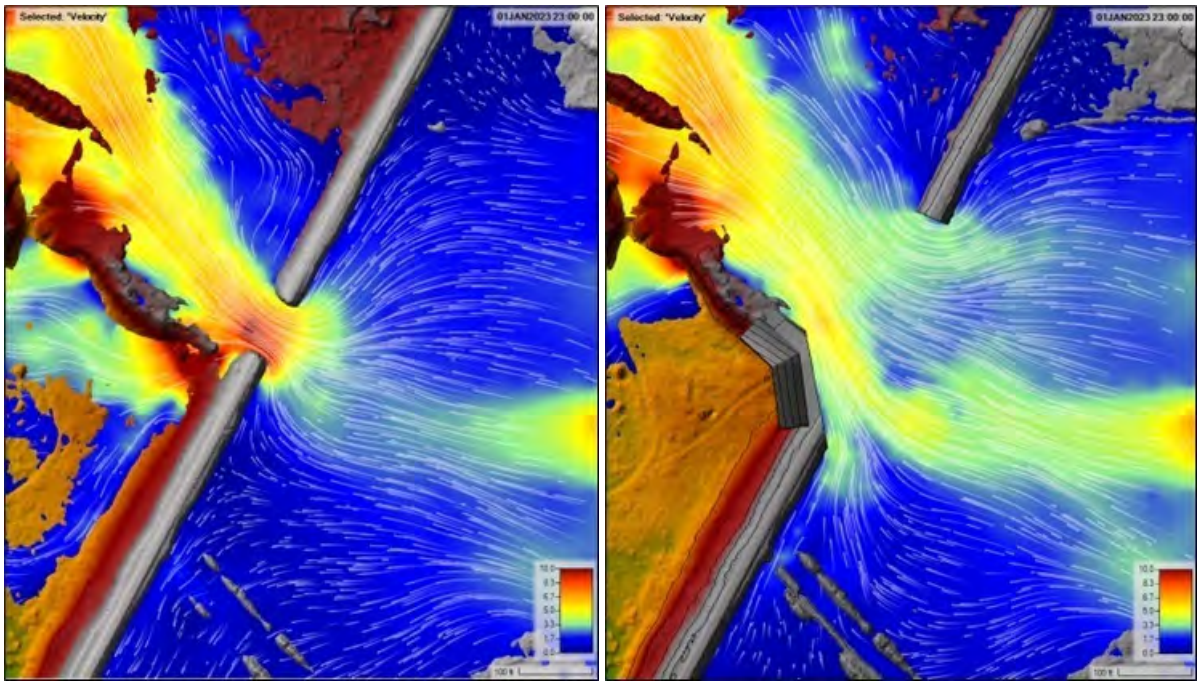


Figure 4.4-2. Plan View of Velocities (ft/s) at the Eklutna River Railroad Bridge Pre- and Post- Bridge Replacement.

This conceptual alternative produced a maximum velocity of 5.8 ft/s through the bridge span. This velocity corresponds to a maximum shear stress of 3.8 lb/ft^2 which reduces the maximum particle size capable of transport from approximately 26 inches to 9 inches. The increased span

length reduces the upstream backwater effect by approximately 2 ft of head and increases the freeboard by approximately 1 foot. The increased span would significantly decrease the potential for abutment scour; however, additional erosion protection measures would likely need to be implemented along the railroad embankments.

4.5 Eklutna Tailrace Fishery

4.5.1 General

Figure 4.5-1. Eklutna Tailrace Fishery.

The Eklutna Tailrace Fishery is operated by the Alaska Department of Fish and Game (ADFG), who began stocking the tailrace with coho salmon smolts in 1998. In 2002, they included Chinook salmon smolts as part of the Northern Cook Inlet Chinook salmon enhancement program. These stocking efforts have facilitated a very popular and sustainable salmon fishery since 2003. Salmon originating from the drainages of the Knik and Matanuska Rivers are also harvested at the confluence of the tailrace and the Knik River. Sport fishing for Chinook salmon at the tailrace continues to be a popular recreational fishery for residents. The fishery is handicap accessible and a youth only fishery takes place each year in June.

The primary purpose of the program is to maintain or increase Chinook salmon sport fishing opportunities in the Mat-Su valley. In addition to these opportunities this fishery also reduces the fishing pressure on local wild stocks. The stocking program provides alternative opportunities for anglers that might otherwise direct their efforts toward native fish that are vulnerable to over-fishing. As sport fishing pressure continues to increase in the Matanuska-Susitna Valley, hatchery fish are becoming a more important management tool to satisfy recreational demands. Chinook salmon have had significantly poor marine survival, resulting in

little to no harvest opportunities on wild stocks. This fishery plays an important role in allowing harvest for the duration of the Chinook salmon return. The goal of this fishery is to generate 10,000 angler-days annually of Chinook salmon sport fishing effort and another 6,000 angler-days directed at coho fishing.

Based on estimates provided by ADFG, an average of approximately 2,400 salmon are harvested from the fishery each year[16]. Including other species such as Dolly Varden and Arctic Char, an average of approximately 4,900 total fish are harvested from the fishery each year. A photograph of the fishery is presented in Figure 4.5-1.

4.5.2 Risk Assessment

The Eklutna Tailrace fishery receives the entirety of its water supply from the Eklutna Power Plant, which would cease operations under the dam removal scenario. With the flow supply removed, the tailrace would be unable to be stocked with salmon and utilized as a sport fishery. Quantifying the impacts that the loss of the fishery would have on the region is difficult to determine, as little to no economic data exists specific to the site. According to a 2018 publication by the McDowell Group, non-residents spent an estimated $25 million in the sport harvest of hatchery salmon and accounted for $16 million in annual labor income created directly or indirectly by Alaska's hatcheries statewide in 2016[17]. This number is limited to impacts resulting from non-resident sport harvest of hatchery salmon and should be considered conservative. Resident sport/personal use/subsistence harvest of hatchery salmon have additional economic impacts as well as significant social and cultural impacts in Alaska. Additionally, it should be noted that the Eklutna Tailrace is the only open system stocked with coho and Chinook salmon smolts, and in 2024 this is the only fishery for anglers to harvest Chinook salmon, as all other areas are restricted.

4.5.3 Mitigation Strategies

Discussions with ADFG indicate that the loss of the Eklutna Tailrace fishery would be difficult to replace elsewhere within the region. The statewide hatchery program is designed to minimize interactions with wild salmon stock and may only be replicated should a suitable site be found that is not currently a salmon-bearing anadromous stream. For the purposes of this assessment, there are no mitigation strategies that may be developed, and no estimated cost impacts associated with the loss of the Eklutna Tailrace fishery.

[16] Chugach Electric Association, Matanuska Electric Association, Municipality of Anchorage. Eklutna Hydroelectric Project Recreation Study Report. (March 2023)
https://eklutnahydro.com/wp-content/uploads/2023/04/Draft-Eklutna-Recreation-Report.pdf
[17] McDowell Group. Economic Impact of Alaska's Salmon Hatcheries. (October 2018)
https://www.adfg.alaska.gov/static/fishing/PDFs/hatcheries/2018_alaskahatchery_executive_summary.pdf

5.0 Preliminary Cost Estimates

Preliminary cost estimates have been developed for the proposed infrastructural modifications and mitigation strategies detailed within this memorandum. The cost estimates presented herein are consistent with a Class 5 estimate as defined by the Association for the Advancement of Cost Engineering standard Practice 69R-12[18]. The estimates were prepared by utilizing historical cost data from similarly technical projects which McMillen has designed or constructed, or from parametric comparisons of similar projects for which McMillen has obtained detailed cost breakdowns. Due to the level of uncertainty at the conceptual level of design, a contingency of 25% has been added to the costs. The accuracy range for the cost estimate at this phase of investigation is estimated to be -50% to +100%.

To account for the construction timeline proposed as part of the alternative dam removal scenario, each estimate was escalated to Q1 2034 U.S. Dollars. To escalate the proposed costs, the Civil Works Construction Cost Index System (CWCCIS) was utilized with a cost index applicable for the construction type[19]. The following subsections present the estimated costs for each of the proposed modifications or mitigation strategies employed as part of the dam removal alternative.

5.1 Eklutna Dam

The removal of Eklutna Dam involves the development of site access, demolition and excavation of the dam embankment and spillway, transport of material to the quarry, and restoration of the site as detailed in the work plan in Section 3.1.2.

A conceptual level cost estimate was developed as part of this technical risk assessment to determine the anticipated total cost for removal of the dam structure. This cost estimate is summarized in Table 5.1-1.

[18] Association for the Advancement of Cost Engineering. Recommended Practice 69R-12. Cost Estimate Classification System – As Applied in Engineering, Procurement, and Construction for the Hydropower Industries.
[19] United States Army Corp of Engineers. EM 1110-2-1304 Civil Works Construction Cost Index System. Tables 1-4. (September 2023)

Table 5.1-1. Cost Estimate; Eklutna Dam Removal.

Description	Qty	Unit Cost	Value	Notes
Division 01 Indirects				
Mobilization and Establishment of Site Infrastructure	10%	$5,495,000	$549,000	10% Direct Costs
Contractor General Requirements	15%	$5,495,000	$824,000	15% Direct Costs
Site Construction and Access Roads				
Road Improvements - Abandoned Access Road	1,000 LF	$80	$80,000	Tree Clearing/Regrading
Temporary Construction Roads	500 LF	$80	$40,000	Tree Clearing/Regrading
Erosion and Sediment Control; Turbidity Control	LS	$60,000	$60,000	
Dam Removal				
Dam Removal; Excavation	85,000 CY	$30	$2,550,000	In-Situ Volume
Dam Removal; Concrete	3,000 CY	$500	$1,501,000	In-Situ Volume
Material Transport, Haul 30 miles, Bulk Volume	101,000 CY	$7.50	$759,000	Eklutna Inc. Gravel Pit
Site Disposal, Compaction	101,000 CY	$4.00	$405,000	Eklutna Inc. Gravel Pit
Site Restoration	LS	$100,000	$100,000	
Project Subtotal				
Direct Costs	LS		$6,868,000	
Overhead				
GC Overhead and Profit	15%		$1,030,000	
Construction Bonds	1.25%		$99,000	
Direct Cost Contingency				
Overall Project Contingency	25%		$1,999,000	Typical
Total Construction Cost $2024				
Median Construction Cost	LS		$9,996,000	
Total Construction Cost $2034				
Cost Index (Q1 2024)		1156.95		Dam Index Q1 2024
Cost Index (Q1 2034)		1497.03		Dam Index Q1 2034
Median Construction Cost	LS		$12,934,000	
Engineering/Licensing Costs	5%	$12,934,000	$647,000	
Total Cost			**$13,581,000**	
Lower Cost Range			$6,790,500	-50%
Upper Cost Range			$27,162,000	+100%

5.2 Eklutna Powerplant

The proposed removal of Eklutna Dam would result in the decommissioning of the Eklutna Power Plant. While the exact details of decommissioning are not fully understood at this time, some assumptions were made regarding the abatement of hazardous materials and isolation of the plant from the reservoir as detailed in Section 3.2.2.

A conceptual level cost estimate was developed as part of this technical risk assessment to determine the anticipated total cost for the decommissioning of the power plant. This cost does not include demolition of the power plant or restoration of the site. This cost estimate is summarized in Table 5.2-1.

Table 5.2-1. Cost Estimate; Eklutna Power Plant Decommissioning.

Description	Qty	Unit Cost	Value	Notes
Division 01 Indirects				
Mobilization and Establishment of Site Infrastructure	10%	$1,800,000	$180,000	10% Direct Costs
Contractor General Requirements	15%	$600,000	$270,000	15% Direct Costs
Powerhouse Decomissioning				
Abate/Remove Hazmat and Lead Paint	LS	$1,200,000	$1,200,000	
Backfill Tailrace Conduit	LS	$500,000	$500,000	
Install Concrete Plug in Tunnel	LS	$0.00	$0	See Note 1
Site Fencing and Security	LS	$100,000	$100,000	
Project Subtotal				
Direct Costs	LS		$2,250,000	
Overhead				
GC Overhead and Profit	15%		$338,000	
Construction Bonds	1.25%		$32,000	
Direct Cost Contingency				
Overall Project Contingency	25%		$655,000	Typical
Total Construction Cost $2024				
Median Construction Cost	LS		$3,275,000	
Total Construction Cost $2034				
Cost Index (Q1 2024)		1156.36		Composite Index Q1 2024
Cost Index (Q1 2034)		1494.69		Composite Index Q1 2034
Median Construction Cost	LS		$4,233,000	
Engineering/Licensing Costs	5%	$4,233,000	$212,000	
Total Cost			**$4,445,000**	
Lower Cost Range			$2,222,500	-50%
Upper Cost Range			$8,890,000	+100%

[1] Based on the recommended mitigation strategy for the AWWU pipeline presented in Section 4.1, costs associated with installation of a concrete plug are not included as part of this estimate.

5.3 Renewable Energy Supply

To replace the energy and capacity lost with the removal of the Eklutna Power Plant, an equivalent renewable energy supply must be constructed by the year 2034. While a 10-year horizon for the site selection, investigation, licensing, and design of a new hydroelectric project

may be feasible, it is heavily dependent on the complexity of the project and environmental concerns related to its development. For the purposes of this assessment, it is assumed an equivalent project with a 44.4 MW generation capacity is developed in accordance with the mitigation strategy outlined in Section 3.3.

To estimate costs associated with the construction of a new hydroelectric project, cost estimating tools developed by Oak Ridge National Laboratory were utilized which were developed based on a collection of contemporary cost data within the industry[20]. An equation was developed to determine the initial construction costs associated with the hydroelectric development on a new site, as presented in the following equation:

$$ICC = 8{,}717{,}830 * P^{0.975} * H^{-0.120}$$

Where:

ICC = Initial Construction Cost ($2012)

P = Project Capacity (MW)

H = Head (ft)

For a 44.4 MW project with a rated head of 800 ft, the calculated initial cost for construction, including indirect costs, is $157,847,000 (2012 $USD A summary of the cost escalation and anticipated costs of the project construction are presented in Table 5.3-1.

Table 5.3-1. Cost Estimate; Development of New Hydroelectric Project.

Description	Value	Notes
Estimated Construction Costs	$157,847,000	Q1 2012 $USD
Cost Index (2012)	722.83	Powerplant Index Q1 2012
Cost Index (2034)	1375.93	Powerplant Index Q1 2034
Expected Construction Costs	$300,467,000	2034 $USD
Engineering/Licensing Costs	$15,023,000	5% Total Contract Amount
Total Cost	**$315,490,000**	Excludes Transmission Lines
Lower Limit	$157,745,000	-50%
Upper Limit	$630,980,000	+100%

It shall be noted that the cost estimate detailed above does not include costs associated with the construction of new transmission lines to the site. Development of transmission to a site could make up a considerable portion of the Project cost, dependent on the location identified.

[20] Oak Ridge National Laboratory. Hydropower Baseline Cost Modeling. (January 2015). Pub53978.pdf (ornl.gov)

For comparison purposes, a cost estimate was developed to determine the present worth of the replacement energy should the energy obtained from the Eklutna Power Plant be replaced by energy from the existing fossil fuel generation fleet. This analysis assumes a future price of $13.05 per Thousand Cubic Feet (MCF) of natural gas, as provided by the utilities as a projection to the year 2026. The production cost of running the fossil fuel generation fleet at this rate results in an energy price of $84.65/MWh with an escalation of 1% per annum, as detailed in the Cost Effectiveness Modeling technical memorandum as part of the Draft Fish and Wildlife Program[21]. Additionally, a price of $48M must be included to procure and install a new generating unit at the Eklutna Generation Station (EGS) to allow MEA to meet their capacity reserve requirements as required by the IMC. A summary of the replacement costs of energy should the project be replaced by fossil fuel sources is provided in Table 5.3-2 for comparison purposes.

Table 5.3-2. Cost Estimate; Replacement of Energy from Fossil Fuel Sources.

Description	Value	Notes
Average Annual Energy	168,588 MWh	Average Annual Output; EPP
Energy Rate	$84.65/MWh	Based on $13.05/MCF
Annual Replacement Cost	$14,271,000	
Expected Lifetime of Asset	50 Yrs	
Present Worth of Replacement Energy	$305,606,000	Includes 1% Escalation in Energy
Cost for Additional EGS Unit	$48,000,000	Per MEA Estimate
Present Worth of Energy and Capital Cost	**$353,606,000**	

The comparison indicates that the lifetime costs for replacement of energy with the existing fossil fuel fleet may exceed that of the development of a new renewable hydropower resource on the Railbelt. For the purposes of this assessment, the estimated costs for development of a new hydroelectric project will be considered as part of the overall impacts of the alternative.

5.4 AWWU Water Supply Infrastructure

The proposed mitigation strategy as part of this technical risk assessment for the impacts to the AWWU Water Supply Infrastructure is to construct a new pipeline from the EWTF to the Eklutna Power Plant as discussed in Section 4.1.3.2. While no engineering design has been performed at this stage for the hypothetical pipeline construction, we may estimate the order

[21] Chugach Electric Association, Matanuska Electric Association, and Municipality of Anchorage. Appendix D – Supporting Data for Cost Effectiveness Model Technical Memorandum. https://eklutnahydro.com/wp-content/uploads/2023/10/2023-10-27-Eklutna-Draft-Fish-and-Wildlife-Program_with-Appendices.pdf

of magnitude costs parametrically by utilizing the construction costs for the existing Eklutna Water Project pipeline segment P-4 constructed in 1987[22]. A summary of the cost escalation and anticipated costs of the pipeline construction are presented in Table 5.4-1.

Table 5.4-1. Cost Estimate; AWWU Water Supply Infrastructure Mitigation Strategy.

Description	Value	Notes
Original Contract Amount	$7,257,106	October 1987 $USD
Cost Index (1987)	366.08	Composite Index Q4 1987
Cost Index (2034)	1494.69	Composite Index Q1 2034
Expected Contract Amount	$29,630,474	January 2028 $USD
Original Distance (mi.)	6.1	Pipeline Segment P-4
Cost per Mile	$4,857,455	$/Mi
Anticipated Distance (mi.)	9.6	Hypothetical Alignment
Anticipated Pipeline Cost	$46,632,000	
Engineering/Licensing Costs	$2,332,000	5% Total Contract Amount
Total Cost	**$48,964,000**	
Lower Limit	$24,482,000	-50%
Upper Limit	$97,928,000	+100%

5.5 New Glenn Highway Bridge

The proposed mitigation strategy as part of the technical risk assessment for the impacts to the New Glenn Highway Bridges involves the replacement of both bridges with wider and longer span structures. The new bridges would have a span of 250 ft based on the results of the hydraulic analysis and a width of 43 ft per recommendations from the DOT. At this span, a central drilled pile would be required at about midpoint of the bridge. Both abutments are anticipated to be founded on deep foundations. The existing bridges are to be demolished and constructed one at a time and the total work effort is anticipated to occur over two construction seasons. The cost estimate assumes that a traffic control plan would be in place with both spans of the New Glenn Highway traffic utilizing one or the other bridge during construction activities. Due to the high levels of traffic on this highway, this may not be a reasonable assumption and a temporary bridge may need to be constructed which is not included within these costs. Typical parametric costs for highway bridges in $/ft^2 were provided by the DOT. Demolition and traffic control costs were obtained from reference DOT bid data from recent

[22] Municipality of Anchorage Water & Wastewater Utility. Final Payment Estimate, Contract Performance. Eklutna Water Project Pipeline Segment P-4. (December 1987).

highway and bridge projects. A summary of the anticipated costs of the New Glenn Highway Bridges are presented in Table 5.5-1.

Table 5.5-1. Cost Estimate; New Glenn Highway Bridge Mitigation Strategy.

Description	Unit	Unit Cost	Value	Notes
Division 01 Indirects				
Mobilization and Establishment of Site Infrastructure	10%	$20,850,000	$2,085,000	10% Direct Costs
Contractor General Requirements	15%	$20,850,000	$3,127,500	15% Direct Costs
New Glenn Highway Bridges				
Northbound Bridge Demolition	LS	$500,000	$500,000	
Northbound Traffic Control	LS	$250,000	$250,000	
Northbound Bridge Construction	SF	$900.00	$9,675,000	43 ft width 250 ft span
Southbound Bridge Demolition	LS	$500,000	$500,000	
Southbound Traffic Control	LS	$250,000	$250,000	
Southbound Bridge Construction	SF	$900.00	$9,675,000	43 ft width 250 ft span
Project Subtotal				
Direct Costs	LS		$26,062,500	
Overhead				
GC Overhead and Profit	15%		$3,909,000	
Construction Bonds	1.25%		$375,000	
Direct Cost Contingency				
Overall Project Contingency	25%		$7,587,000	Typical
Total Construction Cost $2024				
Median Construction Cost	LS		$37,933,500	
Total Construction Cost $2034				
Cost Index (Q1 2024)		1156.36		Composite Index Q1 2024
Cost Index (Q1 2034)		1494.69		Composite Index Q1 2034
Median Construction Cost	LS		$49,032,000	
Engineering/Licensing Costs	5%	$49,032,000	$2,452,000	
Total Cost			**$51,484,000**	
Lower Cost Range			$25,742,000	-50%
Upper Cost Range			$102,968,000	+100%

5.6 Railroad Bridge

The proposed mitigation strategy as part of the technical risk assessment for the impacts to the Eklutna River railroad bridge involves the replacement of the bridge with a longer span. The new bridge would have a span of 325 ft and additional erosion protection measures would be implemented along the railroad embankments to prevent future erosion under flood conditions. Typical parametric costs for railroad bridges in $/ft were provided by the Alaska

Railroad. A summary of the anticipated costs of the new railroad bridge is presented in Table 5.6-1.

Table 5.6-1. Cost Estimate; Railroad Bridge Mitigation Strategy.

Description	Qty	Unit Cost	Value	Notes
Division 01 Indirects				
Mobilization and Establishment of Site Infrastructure	10%	$34,360,000	$3,436,000	10% Direct Costs
Contractor General Requirements	15%	$34,360,000	$5,154,000	15% Direct Costs
Railroad Bridge				
Bridge Demolition	LS	$500,000	$500,000	
New Bridge Construction	LF	$100,000	$32,500,000	325 ft span
Erosion Protection/Riprap	SF	$5.00	$360,000	3,600 ft length, 20 ft height
Channel Stabilization/Migration Prevention	LS	$1,000,000	$1,000,000	
Project Subtotal				
Direct Costs	LS		$42,950,000	
Overhead				
GC Overhead and Profit	15%		$6,443,000	
Construction Bonds	1.25%		$617,000	
Direct Cost Contingency				
Overall Project Contingency	25%		$12,503,000	Typical
Total Construction Cost $2024				
Median Construction Cost	LS		$62,513,000	
Total Construction Cost $2034				
Cost Index (Q1 2024)		1156.36		Composite Index Q1 2024
Cost Index (Q1 2034)		1494.69		Composite Index Q1 2034
Median Construction Cost	LS		$80,803,000	
Engineering/Licensing Costs	5%	$80,803,000	$4,040,000	
Total Cost			**$84,843,000**	
Lower Cost Range			$42,421,500	-50%
Upper Cost Range			$169,686,000	+100%

6.0 Risk Assessment Summary

This memorandum details the technical risks and associated costs necessary for the alternative related to the removal of the Eklutna Dam, as well as a comprehensive evaluation of various mitigation strategies to offset the consequent impacts on associated infrastructure. It is important to note that this assessment does not make assumptions regarding the allocation of these costs or identify the responsible parties. Instead, its primary purpose is to provide a high-level overview of the essential infrastructural modifications necessary to restore the Eklutna River to an unregulated state. The following subsections summarize the impacts to infrastructure, mitigation strategies, and costs associated with the dam removal alternative.

6.1 Eklutna Dam

Under this alternative the Eklutna Dam would be removed. The site would be restored to the natural topography of the streambed and site vegetation restored. The Eklutna River would return to its natural state with the exception of flows withdrawn for water supply purposes for AWWU. The work would likely take place over the course of one construction season and is expected to cost approximately $13.6M (USD $2034).

6.2 Eklutna Power Plant

Following the removal of Eklutna Dam, the power plant would be taken offline and the facility decommissioned. The current assumption is that the facility would be left in place after removal of all hazardous materials occur. The site would be fenced and security measures in place to prevent risk to the public. The work would take place over the course of one construction season and is expected to cost approximately $4.4M (USD $2034).

6.3 Renewable Energy Supply

The removal of Eklutna Dam and decommissioning of the power plant would result in the loss of a firm, dispatchable renewable energy source for the Railbelt. A reduction in 44.4 MW of capacity and an average of 169 GWh per year in energy would need to be replaced with an equivalent firm, dispatchable renewable source. While the design and site selection of an equivalent source is not anticipated to occur as part of this investigation, a project of similar capacity is anticipated to cost approximately $315.5M (USD $2034).

6.4 AWWU Water Supply Infrastructure

With the Eklutna Dam removed and the river flowing in an unregulated state, the existing AWWU infrastructure including the pipeline, road, and maintenance bridges are at particular risk of damage during flood conditions. Given the critical nature of this infrastructure to supply

water to the MOA, the pipeline is assumed to be re-routed out of the Eklutna riverbed and would follow the alignment of the highway from the EWTF to a connection point at the Eklutna Power Plant penstock. This work would take place over the course of two construction seasons and is expected to cost approximately $49.0M (USD $2034).

A secondary impact to the water supply that may be unavoidable is related to the ability for the natural lake to supply municipal water releases without a dam. Based on historical water supply withdrawals, the lake would be withdrawn below its natural crest thus dewatering the Eklutna River or requiring water supply curtailment in dry years. This impact would become much greater should AWWU increase withdrawals from the lake beyond their historical levels.

6.5 Old Glenn Highway Bridge

The Old Glenn Highway Bridge has sufficient hydraulic capacity to pass flood flows post-dam removal. Some additional scouring would result at the bridge pier located within the floodplain of the river; however, this is not anticipated to put the bridge at risk pending further investigation. No mitigation measures are proposed at the Old Glenn Highway Bridge as part of this assessment.

6.6 New Glenn Highway Bridges

The New Glenn Highway Bridges do not have sufficient hydraulic capacity to pass flood flows under the unregulated flow of the Eklutna River and are at risk of damage. The bridges would need to be replaced with a longer span segment to reduce the hydraulic contraction at this location of the river and increase freeboard during flooding conditions. This work would take place over the course of two construction seasons and is expected to cost approximately $51.5M (USD $2034).

6.7 Railroad Bridge

The railroad bridge does not have sufficient hydraulic capacity to pass flood flows under the natural flow of the Eklutna River and is at risk of damage due to scour of the abutments. The bridge would need to be replaced with a longer span segment to reduce the hydraulic contraction at this location of the river, increase freeboard during flooding conditions, and reduce the average velocities through the span during flooding. This work would take place over the course of one construction season and is expected to cost approximately $84.8M (USD $2034).

6.8 Cost Estimate Summary

To accommodate the construction timeline for the proposed alternative dam removal scenario, each cost estimate was adjusted to reflect Q1 2034 U.S. Dollars. For clarity purposes, the cost estimate summary provides the equivalent costs in Q1 2024 U.S. Dollars to allow for direct comparison to other alternatives presented by stakeholders. A breakdown of the estimated costs for the proposed infrastructural adjustments and mitigation strategies, expressed in both 2024 and 2034 U.S. Dollars, is detailed in Table 6.8-1.

Table 6.8-1. Cost Estimate Summary

Description	Cost ($2024)	Cost ($2034)	Notes
Eklutna Dam Removal	$10,496,000	$13,581,000	
Eklutna Power Plant Decommissioning	$3,439,000	$4,445,000	
New Hydroelectric Project	$243,820,000	$315,490,000	
Re-route AWWU Pipeline	$37,880,000	$48,964,000	
New Glenn Highway Bridge Replacement	$39,830,000	$51,484,000	
Railroad Bridge Replacement	$65,639,000	$84,843,000	
Total Cost	**$401,104,000**	**$518,807,000**	
Lower Limit	$200,552,000	$259,403,500	-50%
Upper Limit	$802,208,000	$1,037,614,000	+100%

Technical Memorandum

To:	Eklutna Project Owners	Project:	Eklutna Fish & Wildlife Program
From:	Anna Lampman, McMillen, Inc.	cc:	Samantha Owen, McMillen, Inc.
Date:	April 15, 2024	Job No:	24-021
Subject:	Summary and Analysis of Public Comments on the Draft Fish and Wildlife Program		

1.0 Public Comment Process

Per the requirements of the 1991 Fish and Wildlife Agreement (1991 Agreement), the owners of the Eklutna Hydroelectric Project (Chugach Electric Association [CEA], Matanuska Electric Association [MEA], and the Municipality of Anchorage [MOA], collectively referred to as the "Project Owners") distributed the Draft Summary of Study Results and Draft Fish and Wildlife Program (Draft Program) to the Parties to the 1991 Agreement (National Marine Fisheries Service [NMFS], U.S. Fish and Wildlife Service [USFWS], and the State of Alaska represented by the Alaska Department of Fish and Game [ADFG], Alaska Department of Natural Resources [ADNR], and the Alaska Department of Environmental Conservation [ADEC]) and the Native Village of Eklutna (NVE) on October 27, 2023. The Project Owners received comment letters from the Parties, NVE, and Eklutna, Inc. and met with each entity in December 2023 to attempt to resolve differences. The Project Owners then held a series of public meetings in January 2024 and received public comment through February 19, 2024. Both draft documents and all comments received are publicly available on the Project website (www.eklutnahydro.com).

1.1 Public Meetings

The 1991 Agreement specifies that once the Project Owners received comments and recommendations on the Draft Program from the Parties, they must hold at least one public meeting each in Anchorage and the Matanuska Valley to receive public comments on the Draft Summary of Study Results, the Draft Program, and the comments and recommendations of the Parties. Per the 1991 Agreement, the Project Owners published notices about the public meetings in the Anchorage Daily News, the Frontiersman, and the People's Paper. These newspapers serve Anchorage, the Matanuska Valley, and Eagle River. The notices specified meeting places, times, and dates; where studies, reports, and recommendations could be obtained for review; and where written comments could be sent. The locations, times, and dates of the public meetings were also presented on the Project website homepage. The Project Owners advertised the public meetings in their member newsletters, social media, and announcements at civic meetings, including the Chambers of Commerce and community

councils. The Project Owners went beyond the requirements of the 1991 Agreement and held a total of six public meetings: two in Anchorage, two in the Matanuska Valley, and two in Eagle River. Public meetings were held at the following dates, times, and locations:

1. January 16, 2024, 2:00 – 4:00 p.m., Palmer Community Center (Depot), Palmer (36 people in attendance)
2. January 16, 2024, 6:00 – 8:00 p.m., Palmer Community Center (Depot), Palmer (23 people in attendance)
3. January 17, 2024, 2:00 – 4:00 p.m., The Arctic Rec Center, Anchorage (45 people in attendance)
4. January 17, 2024, 6:00 – 8:00 p.m., The Arctic Rec Center, Anchorage (37 people in attendance)
5. January 18, 2024, 2:00 – 4:00 p.m., Workplace and Event Center, Eagle River (37 people in attendance)
6. January 18, 2024, 6:00 – 8:00 p.m., Workplace and Event Center, Eagle River (28 people in attendance)

At each public meeting, the Project Owners gave a presentation describing what was included in the Draft Program and why, as well as what was not included in the Draft Program and why. The subject matter experts that conducted each study were available to answer questions on their respective studies and had posters summarizing the study results. Sign in sheets from each public meeting are included in Appendix A.

1.2 Opportunities to Submit Public Comments

The Project Owners accepted public comments from October 27, 2023 (the date the Draft Program was publicly available for review) through February 19, 2024 (30 days after the final public meeting). Throughout the public comment period, comments were submitted via email (info@eklutnahydro.com) or the “Contact Us” form on the Project website (www.eklutnahydro.com).

At each public meeting, comment forms were available for members of the public to fill out and submit on-site or to take with them and mail in later. Members of the public could opt to submit their comments verbally by making a 3-minute (or less) audio recording. The Project email address was advertised on the comment forms available at each public meeting and on the home page of the Project website. A QR code directing users to the “Contact Us” page on the Project website was also printed on all comment forms.

2.0 Public Comment Summary

Public comments were received via audio recording at the public meetings, comment forms distributed at the public meetings, emails to info@eklutnahydro.com, submissions on the www.eklutnahydro.com website, and form letters submitted through Trout Unlimited, The Alaska Center, and SalmonState. The Project Owners sent a response to each person who submitted their comment electronically, including form letters, to acknowledge receipt. Table 2-1 shows the number of public comments received in each format.

Table 2-1: Public Comment Breakdown

Format	Total
Audio Recordings	**3**
Comment Forms	**19**
Emails	**241**
Website Submissions	**110**
Form Letters	**1,299**
Total	**1,672**

2.1 Individual Comments

Table 2-2 provides a breakdown of the total number of individual comments received in each format as well as the general message of the comment. Verbatim copies of all individual comments received are provided in Appendix B, including transcriptions of the three audio recordings, and discussed in further detail in the sections below.

Table 2-2: Individual Comments Breakdown

Format	No Action	Support River Restoration	Support Draft Program	Against Draft Program	Support Dam Removal	Against Dam Removal	Questions / Other	Total
Audio Recordings	--	--	--	2	1	--	--	**3**
Comment Forms	1	1	3	4	5	3	2	**19**
Emails	2	10	19	23	76	87	24	**241**
Website Submissions	8	2	9	6	27	46	12	**110**
Total	**11**	**13**	**31**	**35**	**109**	**136**	**38**	**373**

2.1.1 Support No Action

One comment form from the public meeting, two emails, and eight website submissions (11 comments total) were received that did not support any changes to the existing Eklutna Project. These comments generally did not want any changes to the existing infrastructure or operations of the Project, essentially representing a "no action" alternative. An increase in costs to the ratepayer associated with all other alternatives was the primary factor influencing these comments. The loss in hydropower and drinking water resources was also important to these commenters. Several commenters also believed the anticipated salmon population for the Eklutna River to be low considering the overall cost of the alternatives presented.

2.1.2 Support General River/Salmon Restoration

One comment form from the public meetings, 10 emails, and two website submissions (13 comments total) were received that called for general river and salmon restoration in the Eklutna River. Most of the comments in this category were very general, showing support for bringing salmon populations back to the Eklutna River. These comments did not specifically support or oppose the Draft Program and did not mention dam removal as an alternative. Some of the comments stated that hydropower and drinking water were important resources provided by the Project, but that restoring salmon to the Eklutna River was also important.

2.1.3 Support Draft Program

Three comment forms from the public meetings, 19 emails, and nine website submissions (31 comments total) were received that explicitly stated the commenters support of the Draft Program. The general themes expressed in the comments were:

- The Draft Program is a good compromise between hydropower and drinking water resources and fisheries resources and the environment.
- The Draft Program was well drafted, well presented at public meetings, thorough, thoughtful, well written, and easy to understand.
- Support for hydropower as an affordable and reliable renewable energy source.
- Support for the AWWU Portal Valve alternative to improve habitat for salmon in the Eklutna River as well as recreational opportunities.
- The Draft Program followed the requirements of the 1991 Agreement.

2.1.4 Against Draft Program

Two audio recordings and four comment forms from the public meetings, 23 emails, and six website submissions (35 comments total) were received that were against the Draft Program. The comments in this category did not mention dam removal and were only comments on the Draft Program. Comments against the Draft Program included:

- Proposed minimum flows in the Eklutna River will not provide suitable aquatic habitat.
- The Draft Program leaves one mile of the river dry, from the Eklutna Dam to the AWWU Portal Valve, compromising salmon habitat in the Eklutna River.
- The Draft Program fails to mitigate the damages done to sockeye salmon by preventing them from entering Eklutna Lake to spawn.
- The Draft Program does not meet the requirements of the 1991 Fish and Wildlife Agreement.
- The development of the Draft Program did not follow the processes outlined in the 1991 Agreement.
- The proposed AWWU Portal Valve alternative is too costly for the lack of benefits it provides.
- The Draft Program does not sufficiently mitigate adverse impacts to NVE.
- Requests for a 2-year extension of time to perform additional analysis, consultation, and coordination with affected parties before proposing a Final Fish and Wildlife Program.

2.1.5 Support Dam Removal

One audio recording and five comment forms from the public meetings, 76 emails, and 27 website submissions (106 comments total) were received that supported removal of Eklutna Dam. Some of the comments showed opposition to the Draft Program, while others did not mention the Draft Program and only supported dam removal.

Many of the comments expressed support for the Community Plan to Bring Back the Eklutna (Community Alternative) put forth by NVE, Trout Unlimited, The Conservation Fund, and The Alaska Center on the www.eklutnariver.org website. The Community Alternative calls for "*removing the Eklutna Lake dam within the next decade, when replacement renewable energy is expected to be available*."

2.1.6 Against Dam Removal

Three comment forms from the public meetings, 87 emails, and 46 website submissions (136 comments total) were received that were against the removal of Eklutna Dam. These comments did not mention or comment on the Draft Program and only discussed opposition to dam removal. The reasoning behind these comments included the costs associated with finding an alternative energy and water source, support for hydropower as a reliable renewable energy source, and fear of losing Anchorage's primary drinking water source. Some comments were also skeptical that removal of Eklutna Dam would result in flourishing salmon populations. Recreational resources at Eklutna Lake as well as existing salmon populations in the tailrace of the Project were also discussed as resources that would potentially be adversely affected by dam removal/decommissioning of the Project.

2.1.7 Questions/Other

The remaining two comment forms, 24 emails, and 12 website submissions (38 comments total) received during the public comment period were either questions about the Draft Program or did not fall into one of the aforementioned categories. Some of these comments discussed the desire to keep electricity rates low and did not state support or opposition to the Draft Program or dam removal. Other commenters presented their own ideas for consideration in the Draft Program or made broad overarching statements about river restoration and hydropower.

2.2 Form Letters

When NVE recommended dam removal in their comment letter on the Draft Program, several organizations including Trout Unlimited, the Alaska Center, and SalmonState initiated campaigns to advocate for dam removal. These campaigns included providing form letters on their websites for the public to sign their name and submit. Trout Unlimited distributed four different versions of a form letter, while The Alaska Center and SalmonState only distributed one. A copy of each form letter received, as well as the names of commenters who signed the form letters, is included in Appendix C.

A total of 1,299 form letters were received during the comment period. Most of the form letters received were from out of state (777 total) and some were received from parts of Alaska outside the Project service area (93 total); 429 form letters were received from residents within MEA, Chugach, and/or MOA service areas. A breakdown of the form letters received, including the area of residence and the organization responsible for posting the form letter, is shown in Table 2-3.

Table 2-3: Form Letter Breakdown

Form Letter	From Service Area	From Other Parts of Alaska	From Out of State	Total
Trout Unlimited	**222**	**21**	**115**	**358**
Version 1	43	4	51	98
Version 2	137	15	27	179
Version 3	35	2	37	74
Version 4	7	--	--	7
The Alaska Center	**155**	**38**	**44**	**236**
SalmonState	**52**	**34**	**618**	**704**
Total	**429**	**93**	**777**	**1,298**

Aside from Versions 2 and 3 of the Trout Unlimited form letters, which called for general river and salmon restoration on the Eklutna River, all of the form letters were against the Draft Program and supported removal of Eklutna Dam.

Several commenters submitted form letters more than once. In these instances, the first form letter received from an individual, regardless of which version, was kept in the record and all other submissions were removed.[1]

3.0 Analysis

3.1 Individual Comments

In general, the individual comments received showed an even divide between commenters who opposed or supported general river/salmon restoration, who opposed or supported the Draft Program, and who opposed or supported dam removal, as seen in Figure 3-1 below. The largest variation was regarding dam removal with more individual commenters against dam removal (56%) than support it (44%). In general, this shows that individual commenters are nearly evenly divided on general river/salmon restoration, the Draft Program, and dam removal.

[1] A total of 287 repeat commenter form letters were removed from the record.

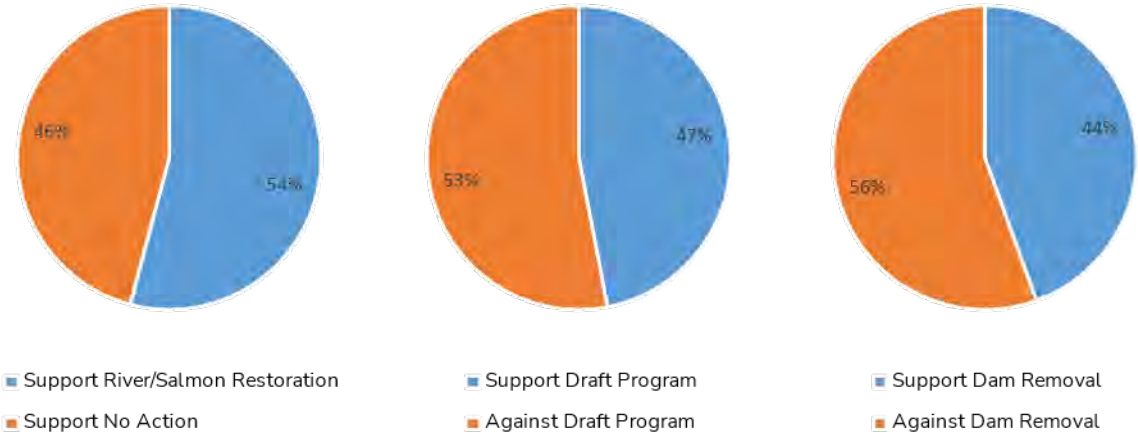


Figure 3-1. Percent of Individual Comments in each Category

The most individual comments received in any one category were comments against dam removal (136 total) followed by support for dam removal (109 comments) as shown in Figure 3-2 below. The number of comments supporting or against the Draft Program were 31 and 35, respectively, while the number of comments supporting or against general river/salmon restoration were 13 and 11, respectively.

Individual comments were analyzed separately than form letters. Because some of the form letters did not mentioned the Draft Program, it is possible that many commenters who submitted form letters were not aware of the details of the alternatives proposed in the Draft Program nor were they commenting directly on the Draft Program.

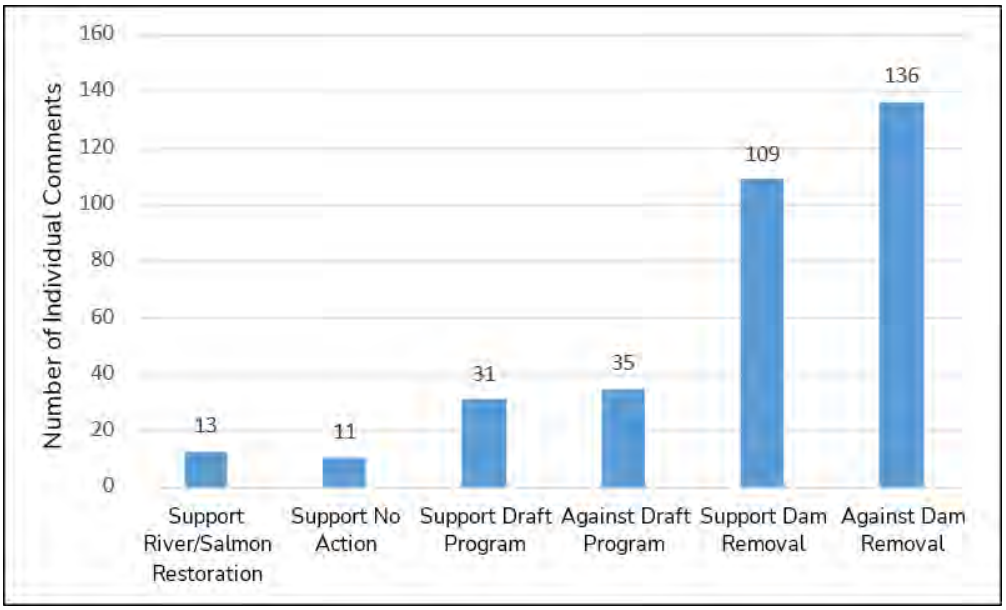


Figure 3-2. Number of Individual Comments in each Category

3.2 Form Letters

Most (60%) of the form letters received were from out of state (see Figure 3-3), while a third (33%) were from the combined CEA and MEA service area and 7% were from within Alaska but outside the Project service area.

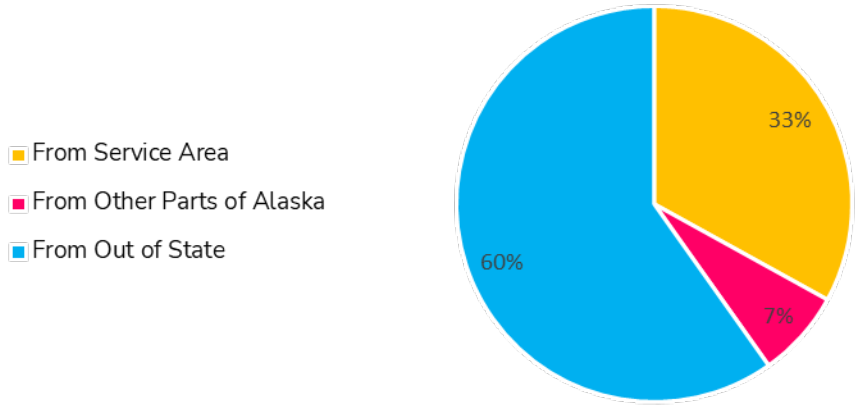


Figure 3-3. Percent of Form Letters from Inside the Service Area, Outside the Service Area, and Outside the State

A majority of the out-of-state form letters were the SalmonState version followed by Trout Unlimited. Overall, a majority of the Trout Unlimited and The Alaska Center form letters received were from the Project service area.

In total, 429 form letters were received from the Project service area, while 777 form letters were received from out of state and 93 were received from other parts of Alaska outside the service area.

Some of the form letters did not mention the Draft Program in any way, indicating that many of the commenters who submitted form letters may not have been aware of the Draft Program. This likely stems from the fact that the form letters were created in response to the dam removal campaign, and only discuss the removal of the Eklutna Dam.

Through responding to the commenters, it came to the attention of the Project Owners that The Alaska Center was submitting form letters on behalf of individuals by calling individuals and collecting their information over the phone and then submitting it through the form letter system. One such commenter responded to the info@eklutnahydro.com email address stating that she was confused by the phone call and wished for her comment and name to be removed from the record.

Additionally, Version 2 of the Trout Unlimited form letters states "*As ratepayers and residents of the area, we encourage you to move quickly to restore this important river*". It is notable that several commenters that signed and submitted this form letter are neither ratepayers nor residents of the area, with 15 of 179 of these form letters from parts of Alaska outside the service area and 27 from out of state.

Figure 3-4 shows a timeline of when each form letter was received. Most form letters were received on Friday, January 19 and Friday, February 16. This is likely due to the fact that the public meetings were held the week prior to Friday, January 19 and the deadline to submit comments was February 19. In general, Fridays showed the highest influx of form letters when compared to other days of the week.

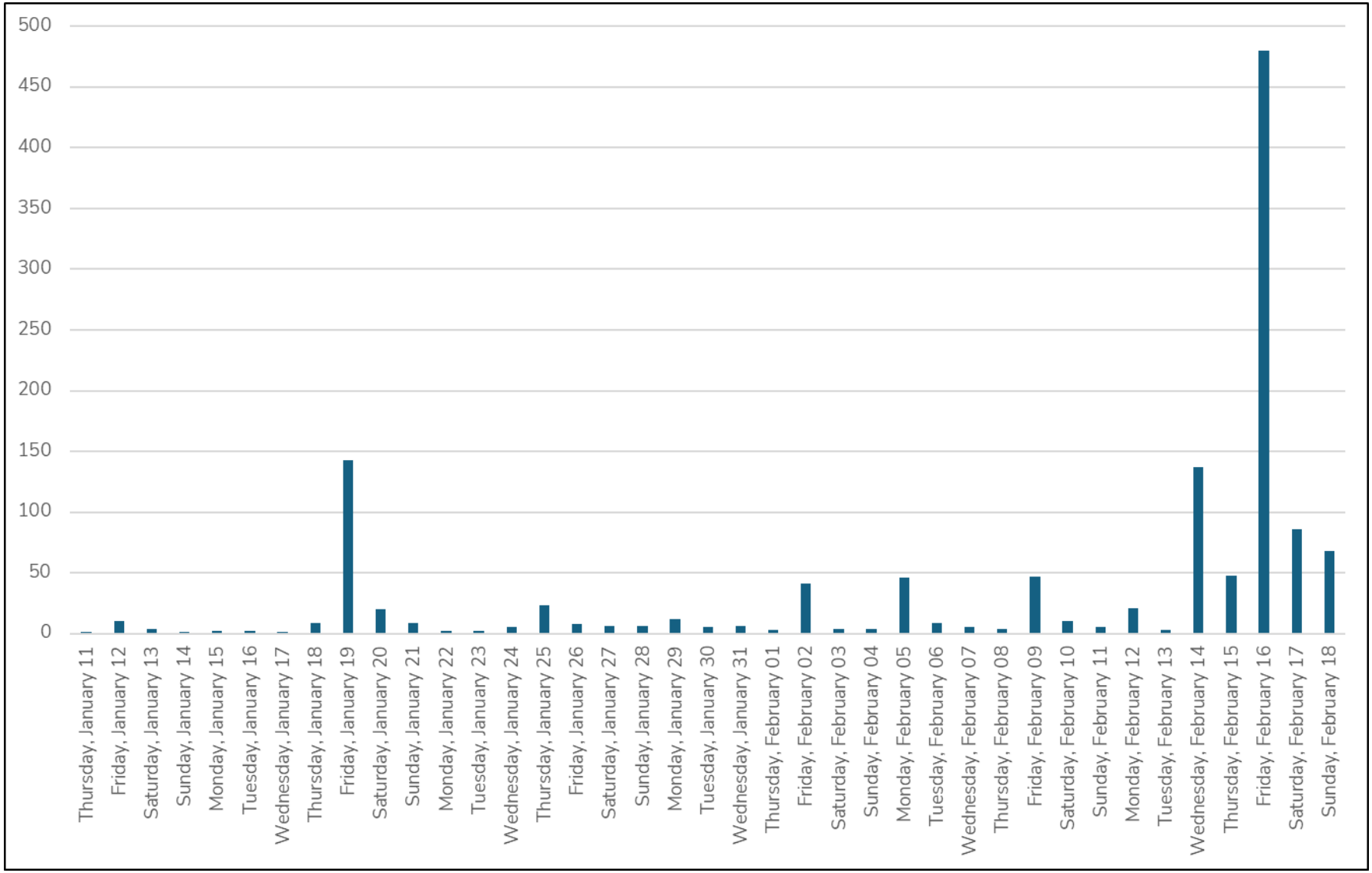


Figure 3-4: Timeline Showing when Form Letters were Received

4.0 Conclusion

Public comments were received by the Project Owners from October 27, 2023, to February 19, 2024. Both individual comments and form letters were received, with the individual comments analyzed separately from the form letters. Individual comments primarily addressed dam removal and the Draft Program, with comments supporting and opposing both dam removal and the Draft Program essentially evenly split. Several form letters from three organizations were received during the comment period; however, most of these form letters were from out of state. The form letters called for removal of Eklutna Dam.

Appendix A. Public Meeting Sign-in Sheets

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

2:00

January 16, 2024, Palmer Depot

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Julian Ramirez	Anchorage	julian.ramirez98@gmail.com	X		X	
Chenney Fife	ANC	chenney.fife@tu.org	✓		✓	
Tica Drury	ANC	martica.drury@tu.org	X		X	
Kurt Julsen	Palmer	KurtJulsen60@Hotmail.com		X		
Tom Harris	ANC	atomharris@gmail.com	X		X	
CURTIS McQueen	Valley			X		
Bob Doyle	Wasilla	rsbobdoyle@gmail.com		X		
PETER J. PROBASCO	PALMER	peprob@mtaonline.net		X		

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

January 16, 2024, Palmer Depot 2:00

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Bill Kedis	Wasilla	billydock@hotmail.com		✓		
Dann Geronimi	Palmer	Ya.sure@Hotmail.com		✓		
Mark Johnson	Palmer	mrjx@mtaonline.net		✓		
Sam Cotten	Eagle River	samc.er@gci.net		✓		
Terry Drahe	Chugiak	akscubaduck@yahoo.com akscubad		✓		
Andrea James	Wasilla	andjames08@gmail.com				
Rachel Muse	Anchorage		Board Member			
Helen Woodings	Palmer	hwoodings@gmail.com		✓		

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

January 16, 2024, Palmer Depot 2:00

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Shawn Wissuls	Palmer	ncdrywall@mtaonline.net		X		
Brenda Hewitt	Meadow Lakes	brenda@hewitt.net		X		
Todd Smoldon	Wasilla	todd.smoldon@alaska.gov		X		
JOEL STEFANSKI	Palmer	Uhsalaska@gmail.com		X		
Robert Plumley	Palmer	Ret. Bed		X		
Robin M Harris	Lazy Mountain		X	X	X	
Jerry Vaughn	Palmer	Retired		X		
Michelle Beadle	Wasilla	michelle.beadle@tu.org				X

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

January 16, 2024, Palmer Depot 2:00

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Jim Stocker	Palmer	JSTOCKER@MTAONLINE.net		✓		
Stephanie Freeman	Palmer	sufreeman@chickaloon-nsn.gov		✓		
MARK MASTERSON	PALMER			✓		
Micah Rempel	Palmer			✓		
Jessica Winnestaffer	Palmer	jessdryden@hotmail.com		✓		
Kim Zello	Palmer	Kfzello@yahoo.com		✓		
CarrieAnn Broski	NVE/BigLake	cbroski@eklutna.org		✓		
Clyde Haack	Wasilla	Linemanh@mtaonline.net		✓		

Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

January 16, 2024, Palmer Depot 2:00

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Michelle Davis	Wasilla	tlingitwoman@gmail.com		✓		
JOHN HARRIS	WASILLA	JOHNFHARRISJR.@GMAIL		X		
Andrew Spohn	Palmer			X		
CHUCK KAUCIC	PALMER			✓		

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MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

January 16, 2024, Palmer Depot

6-8

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Brenda Hewitt	Meadow Lakes	brenda@hewitt.net		X		
Lorin Wade	Wasilla	lewade@chickaloon-nsn.gov		✓		
Nicole Whittington-Evans	Palmer	skijor.north@gmail.com		✓		
Lori Wade	Palmer	lrwade@chickaloon-nsn.gov		✓		
Ayla Agnew	"	"		✓		
Rachel Christensen	Palmer	r.anne.christensen@gmail.com		X		
[illegible]	Palmer	writerzu@mtaonline.net		X		
TICA DRUM	ANC	murticaj@gmail.com	X		X	

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MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

January 16, 2024, Palmer Depot 6:00

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Gabe Kitter	Wasilla	gabe.kitter@yahoo		✓		
MARK MOSELLER	PALMER			✓		
BERNARD LOVE	Palmer			✓		
Sandra LOVE	Palmer			✓		
JACK HARRISON	PALMER			X		
Susanne Fleek Jr	Anc.	zanfleek@gmail.com	X			
Angeleen Wasky	Chugiak	waskyac@yahoo.com		✓		
Alvin Sexton	Chugiak			✓		

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

6:00

January 16, 2024, Palmer Depot

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
KEN HUCKEBA	WASILLA	Khuckeba@hotmail.com		✓		
Michelle Beadle	Wasilla	michelle.beadle@tu.org				X
Julian Ramirez	Anchorage	julian.c.ramirez98@gmail.com	X		✓	
Michelle Dempsey	Palmer	Micdemp0312@gmail		✓		
Kelly Glass	Anchorage	glass.th.kelly@gmail.com			✓	
Chenney Fife	ANC	chenney.fife@tu.org	✓		✓	
Steve Faulkner	Palmer	Feefer54321@gmail.com		✓		

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet 2:00

January 17, 2024, Arctic Rec Center, Anchorage

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
SPAFFORD, MARK	ANC	mark.spafford@JACOBS.COM	Yes	N	Yes	✓

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet 2:00

January 17, 2024, Arctic Rec Center, Anchorage

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Roger Monson	Anch	rogermon5228@gmail.com	✓			
Eric Booton	Anch	Eric.Booton@westernalum.org	✓		✓	
Rob Clark	Anchorage	1robclarc@gmail.com	✓		–	

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

2:00

January 17, 2024, Arctic Rec Center, Anchorage

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Delmore Kinney	Anchorage	tr.pkinney@hotmail.com	✓		✓	
Mark Wick	Anchor	markw@chugachBoard	✓			
Ryan McLaughlin	Anchorage	ryan.mclaughlin25@gmail.com	✓		✓	
Sanford Rabinowitch	ANC	sprejb@gmail.com	✓		—	
Jenny-Marie Stryker	ANCH	jennymarie@akcenter.org	✓		✓	
JAMES POSEY	A	POSEYALASKA@GMAIL.COM	✓		✓	
JEREMY HSIEH	ANC	jhsieh@alaskapublic.org	✓		✓	
Daniel Powers	ANC	danieljfpowers@gmail.com	✓		✓	

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Open House Sign-in Sheet 2:00

January 17, 2024, Arctic Rec Center, Anchorage

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Russell Thornton	ANC	russell_thornton@chugachelec.org	X		X	
Sara Thomas + michael + Sequoya	ANC	sara@akaction.org	✓		✓	
Chatal deAlcuaz	AKC	c.dealcuaz@gmail.com	✓			
Dave Syren	Anch	akflyer00@gmail.com	✓		✓	
Lauren Boldrick	ANC	boldrick.lauren@epa.gov				X
Chenney Fife	ANC	chenney.fife@tu.org	✓		✓	
Kyle Smith	ANC	ksmith@eklutnainc.com	✓	✓	✓	
Margo Mackville	ANC	margie@kingeye.net	✓		✓	

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

2:00

January 17, 2024, Arctic Rec Center, Anchorage

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
TICA DRULY	ANC	Maticajd@ymail.com	X		X	
Emily Cohen	Anc	emcohen@alaska.edu	✓			
Rick Whitbeck	ANC	rick@powerthefuture.com	X		X	
Brenda Heath	Meadow Lakes			X		
Brynn Carey	ANC		✓			
GERI INAMA	ANC	inama.gerianne@gmail.com	✓			
BRAD DEISHL	ANC	deishlbradley@gmail.com	✓			
M. J. Larson	ANC		✓			

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

2:00

January 17, 2024, Arctic Rec Center, Anchorage

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
AUGUSTA REIMER	ANCH		✓			
D. OHMS	ANC		✓		✓	
CURTIS J. McQUEEN	VALLEY			✓		
Crystal Enkvist	Anchorage	cenkvist@alaskapower.org	✓			
Gina Ondola	ANC		✓			
Rich Hrabin	Anch.	RichHrabin@gmail	✓			
FRED LARSON	ANCH	FCLARSON@MSN.COM	✓		✓	
Austin Williams	ANC	austin.williams@tu.org	✓		✓	

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet 2:00

January 17, 2024, Arctic Rec Center, Anchorage

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Tom Harris	ANC	atomharris@gmail.com	✓		✓	
Trish Bakelaar	ANC	trishbakelaar@gmail.com	✓			
Pixie Siebe	Anch.	pixie@alaska.net	✓		✓	
M Bronson	Anch	muddybottomsllc@gmail.com	✓		✓	
Ethan Tyler	Anc	etyler@civi.com	✓		✓	

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

2:00

January 17, 2024, Arctic Rec Center, Anchorage

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Mark Spano	Anch	markspano55@gmail.com	✓		✓	
Charlie Peter	ANC	CPeter1946@Gmail.com	✓		✓	
Ragen Davey	ANC	Ragdavey@gmail.com				
Mark Miner	Anch	merminak@yahoo.com	✓		✓	

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MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

6:00

January 17, 2024, Arctic Rec Center, Anchorage

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Arthur Miller	MOA	arthur_miller@chugachelectric.com	✓			
Sonya LaRose	MOA & Mat Su	aksonya@outlook.com	✓	✓	✓	
A A Rowlegart	MOA	ON file	✓		✓	
Kyle Shedd	Anchorage	kylershedd@gmail.com	✓		✓	
Carol Mahara	Eagle River	carol_mahara@fws.gov	✓		✓	
Ryan McLaughlin	Anchorage	rmclaughlin@akenergyauthority.org	✓		✓	
Mandy Smith	Anchorage	smith.m2397@gmail.com				✓
Todd M Lindley	Anchorage	todd.m.lindley@gmail.com	✓			

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MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

6pm

January 17, 2024, Arctic Rec Center, Anchorage

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Mark Henspeter	Anchorage	markhenspeter@gmail.com	✓			
SUSAN FOUS	Anchorage	samgus@gmail.com	✓			
Mark Parmelee	Anchorage	potterview@gmail.com	✓		✓	
Aubrey Palmer	Anchorage	aubreypalmer-03@gmail.com				
Chang Ha	ANC	media@gci.net			✓	
TICA DRURY	ANL	macticajd@gmail.com	✓		✓	
Aurora Roth	Anchorage	rothaurora@gmail.com	✓			
Rebecca Marks	Anchorage	rmarks245@gmail.com			✓	

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

January 17, 2024, Arctic Rec Center, Anchorage 6pm

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Rick Whitbeck	ANC	rick@powerthefuture.com	✓		✓	
Lance Roberts	ER	robertslance@gmail.com		✓	✓	
Glen Diehl	ANC	prodover967@gmail.com	✓		✓	
Ashlee Clarke	Eagle River	ash.clarke91@gmail.com		✓	✓	
Crane Johnson	Anc	crane@whitewinter.net	✓			
George Farnsworth	ANC	[illegible]@gmail.com	✓		✓	
[illegible]	ANC	[illegible]	✓		✓	
A.M. Larquier		alarquier@gmail	✓		✓	

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MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

6pm

January 17, 2024, Arctic Rec Center, Anchorage

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Stephanie Thompson	Anch	aci@gci.net	—		✓	
Robert Thompson	Anch.	theartofAlaska@gmail.com	—		—	
Cherney Fife	ANC	cherney.fife@tu.org	✓		✓	
Jennifer Spegan	ANC	jennifer-j-spegan@fws.gov	✓		✓	
Erika Ammann	ANC	ammanneriks@gmail.com	X		X	
Julian Ramirez	Anc	julia@akcenter.org	✓		✓	
Chris Ittellmann	ANC	Kayakdiver@gmail.com	✓		✓	

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MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

6pm

January 17, 2024, Arctic Rec Center, Anchorage

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Brian Walsh	Anchorage	asbmw19@gmail.com	✓		✓	
Jenny DiGrappa	Anchorage	jmdigrappa@gmail.com	✓		✓	
Sarah Cronick	Anchorage	hearthkyn@gmail.com	✓		✓	
Christopher Constant	Anc	Christopher.Constant@anchorageak.gov	✓		✓	
Austin Mahan	Anch	freezededanm@gmail.com	✓		✓	
Kassie Andrews	Anch	kassiedandrews@gmail.com	✓		✓	

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MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

2:00

January 18, 2024, The Workplace and Event Center, Eagle River

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Marylee Hayes	Eagle River			✓	✓	
Julian Ramirez	ANC	julian@ akcenter.org	✓		✓	
Tom Prunty	Chugiak	tprunty@gmail.com		✓		
Charleen Shaginaw	Wasilla			✓		
Sharon Hook	Chugiak			✓	✓	
Lila Hobbs	Anchorage		✓			
Carol Mahara	Eagle River	carol_mahara@fws.gov				
David Yesner	Chugiak	david.yesner@gmail.com		✓	✓	

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MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet 2:00

January 18, 2024, The Workplace and Event Center, Eagle River

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Tom Harris	ANC	atom	✓		✓	
Kevin G. Jones	Chugiak	kevinupnorth@hotmail.com		✓	✓	
Brenda Hewitt	Mcdowell	—		✓		
Robert Seitz	Chugiak	rseitzek@aol.com		✓		
Alan Kurczynski	Chugiak			✓		
CURTIS MCQUEEN	WASILLA			✓		
David Zimmer	Palmer	dzim54@gmail.com		✓		
Scott Myers	Eagle River	Scott@Scott4ak.com		✓	✓	

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MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

2.0

January 18, 2024, The Workplace and Event Center, Eagle River

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Doug Hill	Palmer	kamishak2014@gmail.com		✓		
Ethan Tyler	Anc	etyler@cirl.com	X			
Bill Popp	ANC	bill@poppforAnchorage.com	X		X	
Monica Keim	Eagle River	monicarachellekeim@gmail.com		✓	✓	
Rick Sinnott	Chugach	sinfamak@gmail.com		✓	✓	
Lisa Sinnott	Chugiak	sinfamak@gmail.com		✓	✓	
Jessica Ross	ANC/ Eklutna	jmross2@alaska.edu			✓	
Nick Begich	Chugiak	nbegich@farshore.com	.	✓	✓	

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet 2:00

January 18, 2024, The Workplace and Event Center, Eagle River

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Kyle	Anch.	Kfoster@eklutnainc.com			✓	
MARK MASTELLER	PALMER			✓		
LEWIS STEPHAN	Eklutna			✓	✓	
GEORGE SNODGRASS	ER	grsnodgrass@gmail.com		✓		
Jamea Ishom	Chugiak				✓	
Arthur D. Ishom	Chugiak	ishamarthom@gmail.com			✓	
DUSTIN LORAH	ANC	907realestate@gmail.com	✓		~	
Ruth	Chugiak	rstamour@gmail.com		✓		

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

7pm

January 18, 2024, The Workplace and Event Center, Eagle River

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Chenney Fife	ANC	Chenney@tcu.org	✓		✓	

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

7pm

January 18, 2024, The Workplace and Event Center, Eagle River

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
LEE Stephan	Eklutna Village	leedmma@mtaonline.net				
Chris Hillmann	ANL	kayakdiver@gmail.com	✓		✓	
TICADRUCY	ANL	martica.drury@tv.org	\		\	

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

6pm

January 18, 2024, The Workplace and Event Center, Eagle River

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Brenda Hewitt	Meadow Lakes			X		
Austin Ahmasuk	Palmer	austin@nativemovement.org				2
Lorraine Henry	EAGLE RIVER	lorrainedhenry@gmail.com		X	X	
Teal Sky Heller	Eklutna/Eagle River	bwbcak@gmail.com		X	X	
Dawn Hetzel	Eagle River	dawn.hetzel@usda.gov		X		
Lynn Miller	Chugiak	lmiller@gmail.com		X	X	
Ingrid Everson	Eagle River	ingrid.everson@hotmail.com		X		
Whitney Washey	Eklutna Chugiak	whitneylw9k@hotmail.com		X	X	

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

6pm

January 18, 2024, The Workplace and Event Center, Eagle River

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
AmandaAdams	Chugiak	aaadams84@gmail.com		O		
Hailee						
Jason						
Alanna						
Noah						
Ella						
Paulette Ditzler	Eagle River	anditzler@yahoo.com		X	X	
Denise Miller	ER	d.miller@gci.net		X	X	

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

10:10

January 18, 2024, The Workplace and Event Center, Eagle River

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Ken Everson	Eagle River	Keneverson@hotmail.com		X		
Bill Pricz	ER	—			X	
Stephen Ramalle	ER				X	
Mary Kate Swenarton	ER	mary-swenarton@fws.gov		X	X	
Julie Jessen	ER	JULIEKJESSEN@gmail		X	X	
Martaelena Ochoa McNatt	E.R.	ochoaretail@yahoo.com		X	X	
Michael McNatt	E.R.	mcnattak@gmail.com		X	X	
Chuck Homan II	ER	homaninc@mtaonline.net		X	X	

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6pm

Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

January 18, 2024, The Workplace and Event Center, Eagle River

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Chenney Fife	ANC	chenney.fife@tu.org	✓		✓	
Martica Drury	ANC	martica.drury@tu.org	\		\	
Marta Pitzlw	ER	marta@akcenter.org			✓	

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

6:00

January 18, 2024, The Workplace and Event Center, Eagle River

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Julian Ramirez	ANC	julian@akcenter.org	x		x	

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Eklutna Draft Fish and Wildlife Program
Open House Sign-in Sheet

2pm

January 18, 2024, The Workplace and Event Center, Eagle River

Name	Town of Residency	Email	Please check if applicable:			
			Chugach Electric Customer	Matanuska Electric Customer	Municipality of Anchorage taxpayer	None
Kyle Smith	Anc/ER	Ksmith@eklutnainc.com	X	X	X	

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Appendix B. Individual Public Comment Record

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B-1. Support No Action

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BIRCHWOOD, ALASKA
BCCR No. 3

A RESOLUTION OF THE BIRCHWOOD COMMUNITY COUNCIL IN SUPPORT OF EFFORTS TO RESTORE THE EKLUTNA RIVER.

WHEREAS, the Eklutna River watershed has been in a badly degraded condition since 1929 due to hydro power dams and water diversions; and

WHEREAS, a principal impact from hydro power development in the Eklutna watershed is the loss of the Eklutna River's salmon runs; and

WHEREAS, the Eklutna River still supports five species of salmon, including Cook Inlet king salmon and sockeye salmon, though in greatly diminished numbers from historical levels; and

WHEREAS, Eklutna Incorporated, the village corporation for Eklutna, is the largest landowner in the Municipality of Anchorage and owns most of the land along the Eklutna River and around Eklutna Lake; and

WHEREAS, the Native Village of Eklutna and Eklutna Inc. have made substantial contributions to the development of the Municipality of Anchorage providing land for school sites, highways, railroads, power lines and rights-of-way; and

WHEREAS, The Native Village of Eklutna, Eklutna Inc., and The Conservation Fund collaborated on a $7.5 million project to dismantle the Lower Eklutna River dam; and

WHEREAS, sediments accumulated behind the Lower Eklutna River Dam remain in the river channel due to low water flow conditions; and

WHEREAS, little to no water flows out of Eklutna Lake into the Eklutna River because of water diversions for the Eklutna Power Project; and

WHEREAS, restored in stream flow is necessary to flush the accumulated sediments downstream and allow for the recovery of salmon habitat; and

WHEREAS, stabilized lake levels and fish passage for upstream and downstream migrating salmon to and from Eklutna Lake would restore important spawning and rearing habitat for salmon; and

WHEREAS, the Municipality of Anchorage retains a majority interest (52%) in the Eklutna Power Project; and

WHEREAS, the restoration of in stream flow to the Eklutna River and restored fish passage to and from Eklutna Lake are the most desirable forms of mitigation for impacts caused by the Eklutna Power Project; and

WHEREAS, an experimental three-week period of flushing flows in September 2021 allowed for some sediment transport and re-establishment of the river channel, allowing for more meaningful study results and better mitigation design; and

WHEREAS, the request for restored in stream flow in 2022 was denied by the Eklutna Power Purchasers; and

WHEREAS, the Watershed and Natural Resources Advisory Commission of the Municipality of Anchorage supported restoration of the Eklutna River with the passage of Resolution WNRC 2019-03 titled “A Resolution Regarding Restoration of the Eklutna River”; and

WHEREAS, the Alaska Federation of Natives (AFN) supported restoration of the Eklutna River with passage of Resolution 20-17 “to restore traditional rivers and

THE BIRCHWOOD COMMUNITY COUNCIL RESOLVES:

Section 1. The Birchwood Community Council recognizes that restoration of the Eklutna River, including allowing salmon passage the length of the Eklutna River, to and from Eklutna Lake, and into headwater tributaries, will benefit the Native Village of Eklutna and residents of the Municipality of Anchorage and is a priority of the Municipality in a manner consistent with the requirements of the 1991 Agreement.

Section 2. The Birchwood Community Council supports the restoration of the Eklutna watershed, including providing instream flow and fish passage the length of the Eklutna River and into Eklutna Lake and requests that, Chugach Electric Association, and Matanuska Electric Association commit as well.

Section 3. This resolution shall be effective upon passage and approval.

PASSED AND APPROVED by the Birchwood Community Council this 14th day of December, 2022.

Debbie Ossiander
Co-Chair Debbie Ossiander

Matt Cruickshank
Co-Chair Matt Cruickshank

Eklutna Draft Fish and Wildlife Program Comment Form

Chugach Electric Customer

Name, Agency/Organization (optional): Email:

Gina Ondola
NVE Tribal Member, ET Shareholder, CIRI

Write your comments on the Draft Fish and Wildlife Program here:

The people of the Native Village of Eklutna have used Eklutna Lake for thousands of years. They hunted, fished, and harvested food off the land and Lake for all of those years.

Because of progress the Native people have had to adapt and give up their way of life.

Restoring the Eklutna River to enable spawning would also help restore a part of their way of life. This might help the Athabascan people of the Native Village of Eklutna to feel that their voice matters.

Many Native people have moved to

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

Over ↓

Prefer to submit your comments electronically?

Use the QR code to access the eklutnahydro.com website to submit your comments electronically. You can also send comments to info@eklutnahydro.com.

Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

Anchorage because of the high cost of village living. Subsistence fish from Eklutna River would bring them comfort.

When Eklutna people moved from Knik there was no Alaska Railroad, Glenn Hwy or Dam on the River. Their way of life changed dramatically because the Village was surrounded by the highway and railroad.

Asking that fish return to Eklutna River, to me, would prove that Native Village of Eklutna voice matters.

Place Stamp Here

Chugach Electric
Attn: Eklutna Project
P.O. Box 196300
Anchorage AK 99519

From:	sammy taylor
To:	Sam Owen
Subject:	river mitigation
Date:	Thursday, January 25, 2024 12:27:45 PM

Thanks for advertising these mitigation proposals for Eklutna dam. There are other ways to use water flow - in-river turbines or tidal generators - to produce electricity. Unlike dams, these methods have less effect of Fish migration and all the wealth that migration brings.

For the dake of future generations, please enact a program that does not impede Fish travel and spawning.

Thanks,
Sammy Taylor

From:	caelmbrown@everyactioncustom.com on behalf of Cael Brown
To:	Sam Owen
Subject:	Comment on the Eklutna River Draft Fish and Wildlife Program
Date:	Wednesday, February 7, 2024 10:27:28 PM

Dear Owners of The Eklutna Hydroelectric Project,

Fucks sake! restore the stream.

Sincerely,
Cael Brown
4113 Birch Ln Juneau, AK 99801-8909
caelmbrown@gmail.com

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of kendra mclean
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Wednesday, February 14, 2024 9:41:06 PM

I support adding fish back into the river, but think having the hydo is still a needed benefit. Why cant there be proposed solutions to add a fish ladder or tunnels to allow them around the dam. past fish stories are numerous and will take a long time to recover, if it ever does. we have got to be able to have renewable energy without harming our food source.

Thank you for your time and efforts on matters that help us provide fresh fish to our table.

From:	binamig@everyactioncustom.com on behalf of Marla Sanders
To:	Sam Owen
Subject:	Comment on the Eklutna River Draft Fish and Wildlife Program
Date:	Wednesday, February 14, 2024 1:40:53 PM

Dear Owners of The Eklutna Hydroelectric Project,

Restoration of Eklutna water & fish ways is super duper important to everybody! Doing the right thing is not always easy. But it's always right.

Sincerely,
Marla Sanders
2570 Chandalar Dr Anchorage, AK 99504-3513
binamig@msn.com

February 15, 2024

Samantha Owen, Senior Regulatory Consultant
McMillen, Inc.
2607 Western Ave, Unit 360
Seattle, WA 98121

Submitted via email Owen@mcmillen.com

Re: National Tribal Water Council Letter of Support Regarding the Native Village of Eklutna's Resolution 2022-4: "Łiq'a nagh qinqtudeł - We are hopeful the salmon will return to us."

Dear Ms. Owen:

In 2008, the National Tribal Water Council (NTWC/Council) was formed by the U.S. Environmental Protection Agency (EPA) to provide EPA with technical input from Indian country, to strengthen EPA's coordination with Indian tribes, and to work with EPA to better understand issues and challenges faced by tribal governments and Alaska Native Villages as they relate to EPA water programs and initiatives. The NTWC provides tribes, tribal communities, and tribal organizations with research and information for decision-making regarding water issues and water-related concerns. Furthermore, the NTWC advocates for the best interests of federally-recognized Indian and Alaska Native tribes and tribally-authorized organizations in water-related matters. The NTWC advocates for the health and sustainability of clean and safe water, and the productive use of water for the health and well-being of Indian country. The NTWC takes its role seriously and has provided input to EPA on many water issues since the Council's inception.

Many of the environmentally related matters that impact tribal sovereignty and sustainability are important to discuss and ensures tribes' ability to ensure water-life ways are protected for generations and generations. One water-life ways concern has come to our attention by the Native Village of Eklutna relating to their longstanding efforts to restore salmon passage at the Eklutna Lake dam that would restore access to over two thirds of historic salmon habitat in the Eklutna River system.

The Eklutna River watershed is north of Anchorage and encompasses nearly 174 square miles. The Eklutna River is a tributary to the Knik Arm of Cook Inlet[1]. Please see Figure 1. For nearly 95 years, sockeye salmon migration in the Eklutna River has been blocked as a result of two hydroelectric diversion dams. The first diversion dam, the Lower Eklutna Diversion Dam, was completed in 1929 and

diverted up to 500 cfs of the Eklutna River flow, which benefited the City of Anchorage's electrical need. Please see Figure 2. Since 1929 when the lower dam was completed, the majority of the Eklutna River's sockeye salmon spawning and rearing habitat has been blocked. Additionally, the river flow below the lower dam was greatly attenuated beginning in 1929. Chinook and Coho migration to the upper two thirds of their Eklutna habitat were also blocked.

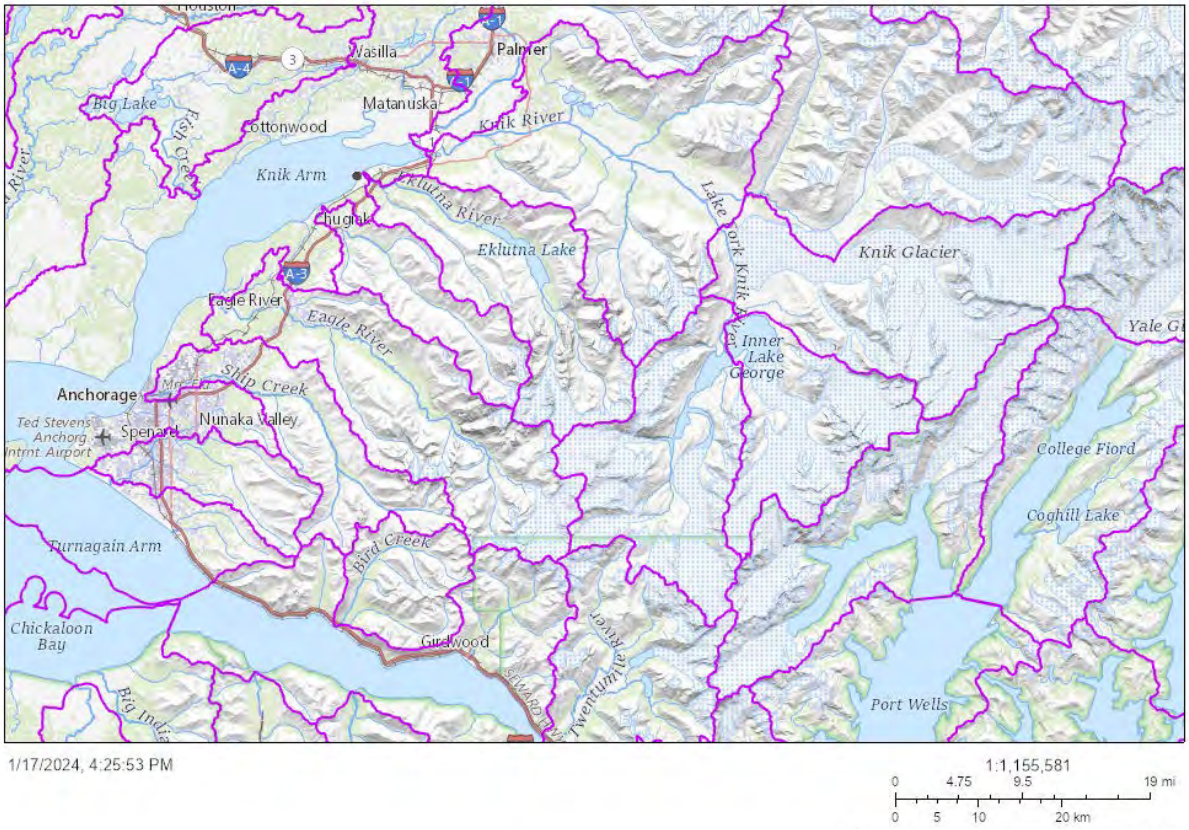

Figure 1. Map of watersheds in the vicinity of Anchorage, Alaska. The Eklutna River watershed is located near the upper center of this map and fully encloses Eklutna Lake, which along with the Eklutna River, are identified on the map. Source: EPA Waters GeoViewer 2.0 web mapping tool.

In 1955, the Eklutna Hydroelectric Project Diversion Dam, the upper dam, was completed considerably further up in the watershed at the outlet of Eklutna Lake, which was formed because of glacial moraine deposition that resulted in a natural dam across the valley[2] (see Figure 2). The upper dam has a considerably larger footprint than the lower dam, which was already blocking salmon migration and greatly diminishing river flow in the river reach below the location of the lower dam. In the nearly 70 years since 1955, most of the mean annual Eklutna River flow, which is estimated at 345 cfs using streamflow gaging data acquired at the Eklutna Lake outlet between 1947 to 1954[1], has been diverted from the river channel below the upper dam. Peak monthly flows of roughly 1,000 cfs occur in July and August[1]. An estimated 90%[1] of water diverted at the upper dam flows into a 4.5-mile tunnel that conveys the water from the lake to a hydroelectric power plant located to the north, on the Knik River, which flows into the Knik Arm of Cook Inlet. The tunnel has a flow capacity of 640 cfs[3]. The power production at the project hydroelectric plant amounts to about 3% of the total power available from the grid, which encompasses Anchorage and outlying areas.

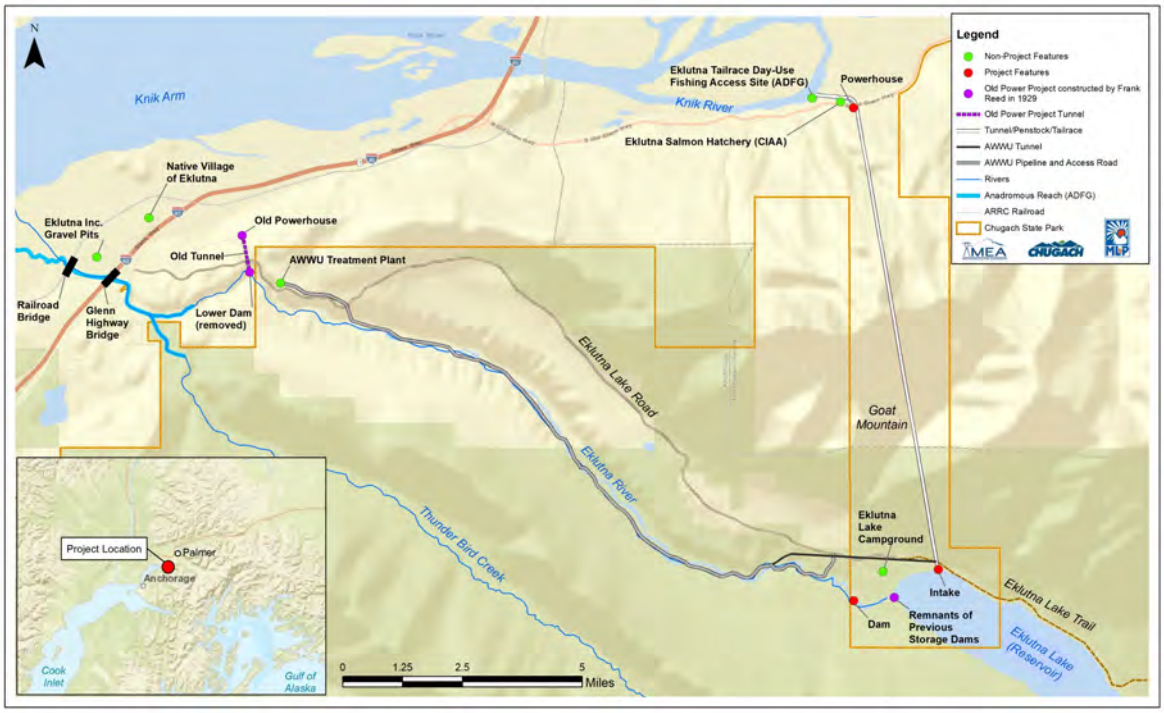

Figure 2. Detail map of the Eklutna River below Eklutna Lake with key dam, diversion, and hydroelectric power generation infrastructure. Source: https://eklutnahydro.com/wp-content/uploads/2019/07/Project_Features_NHD_Tunnel_07-03-2019.pdf

The remaining 10% of Eklutna River inflow to Lake Eklutna is diverted at the upper dam and conveyed via pipeline to the Municipality of Anchorage, supplying roughly 90% of the potable water supply for the Municipality of Anchorage[1].

Thus, since 1955, essentially no flow from Eklutna Lake has been allocated to the 14 miles of river below the Eklutna Hydroelectric River Project Diversion Dam. Note that there was a brief period of river flow during major facility reconstruction in 1965, necessitated by damage resulting from the 1964 Alaska earthquake[1]. In addition, low-frequency, short-duration, high-magnitude flood flows on the Eklutna River are passed by the upper dam spillway when Eklutna Lake has insufficient capacity to store the floods. However, even if sockeye salmon could migrate up the Eklutna River to the top of the upper diversion dam, which is in principle possible after the 2018 removal of the lower dam, there has since 1955 in general been no continuous flow of sufficient magnitude and duration in the Eklutna River to sustain sockeye salmon migration, let alone spawning.

The nearly complete removal of sockeye salmon from the Eklutna River and its watershed has for nearly 95 years, deprived many tribal members and the natural wildlife of the salmon on which they interdepend.

Additionally, it is reported[4] that:

The Eklutna River is a vital subsistence fishery that once supported thriving populations of all five North American Pacific salmon species. While each of these fishes remain present in the lower portions of the Eklutna River, and there are anecdotal reports of landlocked sockeye (kokanee) persisting in Eklutna Lake, today's populations are greatly reduced and limited in distribution.*

*Note: Since the above paragraph was written, reports of Kokanee in Eklutna Lake have been verified[5].

With the above in mind, the National Tribal Water Council wrote this letter specifically in support of the Native Village of Eklutna's (Village of Eklutna/NVE) intention and efforts to accomplish in full the goals of their Eklutna River flow and sockeye, Chinook and Coho salmon restoration, as articulated in NVE Resolution 2022–4; "Łiq'a nagh qinqtudeł - We are hopeful the salmon will return to us." A copy of the resolution is attached.

Subsistence traditions and practices are vital goals of the Eklutna River flow and sockeye salmon restoration. The restoration of sockeye salmon cannot occur without restoration of river flow. The following is an excerpt from the NVE's December 4, 2023, comment letter on the Eklutna Hydroelectric Project's Draft Fish and Wildlife Program.

Our elders tell us that Eklutna (Idlughet) is an old, old village located by the Eklutna River, which was once an abundant salmon system. The Eklutna River (Idluytnu) has provided nutritional and cultural benefits to Eklutna Dena'ina throughout time immemorial, but hydroelectric dams have severely degraded its productivity. NVE has adopted a vision for fully restoring the Eklutna River for fish and wildlife habitat, traditional subsistence uses, and sustainable natural resource development from the top of the watershed to Cook Inlet.[a]

NVE has broad support for this vision. Eklutna Inc. recently remarked that "[c]onnecting Eklutna Lake to Cook Inlet will benefit not just the adjacent landowner but our collective community," including all of Southcentral Alaska.[b] The Alaska Federation of Natives, the largest statewide Native organization in Alaska, passed a resolution in 2020 proclaiming that "[AFN] supports efforts to restore traditional rivers and streams for fish and wildlife habitat, traditional subsistence uses, and sustainable natural resources development, and in particularly, supports tribes like Native Village of Eklutna […] to restore the Eklutna River for salmon habitat." [c]

[a] Native Village of Eklutna, "Our Vision for the Eklutna River" (accessed Jan. 15, 2024) https://static1.squarespace.com/static/5f52cd19995bf84b22653379/t/642742b42454b574f1be304f/1680294580774/.
[b] Eklutna, Inc., Letter to Anchorage Assembly Re: Eklutna Draft Fish and Wildlife Program (Nov. 21, 2023).
[c] Alaska Federation of Natives, Restoration of Traditional Salmon Habitat Resolution 20-7 (2020).

The key elements of NVE Resolution 2022-04 include:
1) Restoration of continuous flows in the Eklutna River below Eklutna Lake sufficient and necessary to support thriving sockeye salmon populations and their passage with intermittent higher

flows that will result in habitat maintenance and recreation opportunities along the Eklutna River between its confluence with the Knik Arm of Cook Inlet and the Eklutna River headwaters above Eklutna Lake; and

2) Management of Eklutna Lake level variability in a manner that facilitates and sustains sockeye spawning in the Eklutna River, from its confluence with the Knik Arm of Cook Inlet to its headwaters above Eklutna Lake. There are published reports of landlocked sockeye salmon living in the Eklutna Lake[5]. These very small, landlocked sockeye salmon are known as kokanee and are likely descendants of Eklutna River sockeye salmon that nearly 70 years ago were isolated in Eklutna Lake and headwaters above the lake, due to the construction and commissioning of the Eklutna Hydroelectric Project. Since they cannot go to the sea, their life cycle nutrition is compromised, and they never grow to mature size, though they do spawn and reproduce.

Given the above situation, brought about by the uncompromising placement of not one but two hydroelectric power and water supply dams on the Eklutna River, the Native Village of Eklutna and its inhabitants have worked since 2000 to restore flows and healthy salmon populations, including sockeye salmon migration and spawning to the Eklutna River.

Recommendations

The National Tribal Water Council ("Council") commends the Village of Eklutna leaders, the Village members, and allied organizations for their efforts to restore Eklutna River flows and sockeye salmon.

The Council recommends that the owners of the Eklutna Hydroelectric Project, which consists of the Chugach Electric Association, Matanuska Electric Association, and the Municipality of Anchorage, work with the Village of Eklutna to craft an Eklutna Hydroelectric Project Fish and Wildlife Program that satisfies the Village's objectives as articulated in the Village of Eklutna Resolution 2022 – 04.

Further, the Council encourages the hydroelectric project owners to work in good faith with the Eklutna Village leaders to manage Eklutna Lake levels and all aspects of the Eklutna Hydroelectric Project, and the Municipality of Anchorage water diversions, in a way that will sustain Eklutna River flows salmon habitat into the future. This will ensure traditional subsistence practices, together with cultural and traditional practices, that rely on Eklutna River flows and thriving salmon populations in the Eklutna River continue indefinitely into the future.

The Council notes that Alaska Natives have suffered a long history of voting rights suppression that continues into the present time (https://www.azcentral.com/in-depth/news/politics/elections/2022/08/23/alaska-voting-rights-history/10238579002/). Thus, it is probable that Alaska Natives in general, and Eklutna Village inhabitants in particular, had no role in decision-making related to the placement and operation of these dams, or the election of representatives responsible for the ultimate approval of such decisions. This history should be taken into consideration when facility owners, agencies, and government representatives negotiate with the Eklutna Village and tribal organization representatives, concerning flow and sockeye salmon restoration for the Eklutna River.

NTWC supports restoring salmon passage at the Eklutna Lake dam that would restore access to over two thirds of historic salmon habitat, by stream miles, in the Eklutna River system. We note findings of abundant potential sockeye spawning habitat around Eklutna Lake, contingent on restoring fish passage at the lake dam and maintaining sufficient lake levels. In addition, NVE habitat assessments found abundant Chinook and Coho habitat in the Eklutna Lake tributaries, which only await restored fish passage to facilitate restored runs. NTWC supports the release of sufficient flows from the lake to restore multiple channels and off-channel habitat for the full length of the Eklutna River below Eklutna Lake.

The installations of the Lower Eklutna Diversion Dam in 1929 and the Eklutna Hydroelectric Project Diversion Dam in 1955, predates the National Environmental Policy Act (1973) whereby all federal projects are required to ensure the review of a proposed project consider environmental impact statements, environmental assessments, and other systematic interdisciplinary considerations. Identifying endangered and threatened species of plants and animals should have been conducted, but these dams were built before environmental review, endangered/threatened species and environmental justice were required. There needs to be a good faith effort to consider the culture and lifeways of salmon on behalf of the Alaskan Native people. Further, there needs to be a good faith effort to address endangered/threatened species and to develop policies that address returning these areas to historic conditions for all species to thrive.

The NTWC appreciates the opportunity to support the Native Village of Eklutna's longstanding efforts in restoring salmon passage at the Eklutna Lake dam that would restore access to over two thirds of historic salmon habitat in the Eklutna River system. Should you have any questions regarding the letter, you may contact me at KenPNorton@gmail.com, or Elaine Wilson, NTWC Project Manager, at Elaine.Wilson@nau.edu.

Sincerely,

Ken Norton, Chair
National Tribal Water Council

Cc: Holly Galavotti, EPA Office of Water
Marc Lamoreaux, Native Village of Eklutna

Attachment: Native Village of Eklutna Resolution 2022-04 (Addendum to Resolution 2019-11)

Footnotes

[1] McMillan Jacobs Associates, 2020, Eklutna Hydroelectric Project 1991 Fish & Wildlife Agreement Implementation FINAL Initial Information Package.
[2] Section 905(b) (WRDA 86) Analysis, Eklutna Watershed Study, Eklutna, Alaska
[3] Eklutna Hydroelectric Project, Palmer, Alaska, Alaska Power Administration, 1999.
[4] Eklutna River Workshop – Summary of Outcomes, Recommendations, and Future Needs, June 27-29, 2018. https://www.tu.org/wp-content/uploads/2019/06/Eklutna-Workshop-Report-20181005-Final.pdf accessed January 16, 2024.
[5] Eklutna Hydroelectric Project Lake Aquatic Habitat and Fish Utilization Study – Draft Interim Report, Year 1, 2022. Accessed January 18, 2024. https://eklutnahydro.com/wp-content/uploads/2022/06/2022-2-11-Eklutna-Year-1-Interim-Report_Lake-Fish_DRAFT.pdf

References/Resources

https://www.justice.gov/archive/enrd/ejguide.html

https://www.doi.gov/sites/doi.gov/files/uploads/doi_ej_strategic_plan_final_nov2016.pdf

https://www.epa.gov/environmentaljustice/environmental-justice-and-national-environmental-policy-act

https://www.energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-DOE-greenbook.pdf

NAU NORTHERN ARIZONA UNIVERSITY
Office of Native American Initiatives

Northern Arizona University
PO Box 15004
Flagstaff, AZ 86011-5004
Elaine H. Wilson, NTWC Project Manager

928-523-9555 office
928-523-1266 fax
nau.edu/itep
Elaine.Wilson@nau.edu
480-452-6774 cell

INSTITUTE for TRIBAL ENVIRONMENTAL PROFESSIONALS

From: Meadow Lakes Seniors INC.
To: Sam Owen
Subject: Eklutna Hydro project comments due 2-19-24
Date: Thursday, February 15, 2024 2:10:35 PM

To: Those gathering comments on the Hydro Project,
I attended a Meadow Lakes Community Council meeting last night and left very concerned about the interpretation you will put on their comment. The vote was 11 to send a comment, 7 to not send a comment. The comment was only that the yes votes supported salmon fishing.

This kind of result can be miss-understood. Those in the room definitely wanted to preserve and restore the salmon fisheries. However, they also expressed concern about destroying the MEA power generation and the City of Anchorage water supply.

That is my comment – figure out a way to keep the power generation in place and the water supply for Anchorage intact. Do not tear these down. Maybe some type of fish ladder situation.

I feel the presentation was definitely one sided and did not present enough information for Council members to make a fair decision.

Thank you,
Sherri Rusher
6911 W Scatters Way
Wasilla, AK 99623

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Karen mannix
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, February 16, 2024 3:01:02 PM

I FEEL it is VERY important for the ecology of the RIVER to be fully restoRed to allow salmon to return to their natural spawning areas. While hydroeLectric power is also necessary, damning should not eradicate the natural Flow of the river and severely impact the anadromous quality of tge Eklutna River.

From: greg.streveler@everyactioncustom.com on behalf of Greg Streveler
To: Sam Owen
Subject: Comment on the Eklutna River Draft Fish and Wildlife Program
Date: Monday, February 19, 2024 5:25:04 PM

Dear Owners of The Eklutna Hydroelectric Project,

I am a retired biologist and consultant with long experience in multidisciplinary, complex resource questions. It is rare in my experience that you are within grasp of rolling back an obvious ecological/social wrong of such major dimensions. There will always be appetite for satisfying human “needs”, invariably by invoking “balance”, an equation where the environment always have to retreat.

Don’t we all see that we have come to a point where this has to stop; that when an opportunity like Eklutna comes along to actually tip things back toward nature, this must be done?

Despite the Governor’s sentiments, our emphasis should not always be toward d”developing” Alaska; its golden characteristic is NOT that so much remains to exploit, its that there is so much intactness to cherish - in a world where intactness is vanishingly rare.

Please opt for fish, all species, in the Elkutna system - don’t leave out sockeyes, whose prognosis in the region is good and bids well to make the lake highly productive for this particularly valuable species. This is not only correct on its face, it would also stand as a pivot point, where the boosterism Anchorage has perennially stood for was reversed in favor of the future.

Thank you.
Greg Streveler

Sincerely,
Greg Streveler
23 Spruce Ln Gustavus, AK 99826
greg.streveler@gmail.com

MEADOW LAKES
Community Council

1210 N Kim Drive, Suite B, Meadow Lakes, Alaska 99623
Phone: 907-232-2845 - Email: info@mlccak.org - Website: www.mlccak.org

Program Development Team
c/o Steve Padula
Hydro Regulatory Services
Senior Advisor
info@eklutnahydro.com

February 19, 2024

RE: Eklutna Hydroelectric Project Draft Fish and Wildlife Program

Dear Steve Padula and team:

The Meadow Lakes Community Council membership voted to support the pursuit of returning salmon to the Eklutna River. The Council membership voted to submit these comments at their February 14, 2024, meeting.

Sincerely,

Camden Yehle
President, Meadow Lakes Community Council

From: Patricia Fisher
To: Sam Owen
Subject: Eklutat river
Date: Monday, February 19, 2024 8:55:19 AM

I support returning the Eklutna river to a sustainable salmon river.

Patricia Fisher
psfisherak49@gmail.com
Resident Matanuska-Susitna Borough

B-2. Support General River/Salmon Restoration

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From:	Lucy Teitzel
To:	Sam Owen
Cc:	Mark Teitzel
Subject:	Opposed to any reduction in water for Eklutna hydroelectric power generation or Municipal Water Supply
Date:	Tuesday, January 16, 2024 10:16:58 PM

To whom it may concern:
We are opposed to any reduction in water for Eklutna hydroelectric power generation or Municipal Water Supply for the following reasons:
1. The cost of electricity impacts the cost of virtually everything.
2. The cost of electricity is already extremely high in Southcentral Alaska.
3. The Eklutna hydroelectric power plant generates some of the lowest cost energy if not the lowest cost electric energy in Southcentral Alaska.
4. Reducing the amount of water to the Eklutna hydroelectric power generation will only increase the cost of electricity even more which will lead to higher costs for heat, lighting, refrigeration, goods and services, housing and other essentials which will lead to higher population out-migration, higher poverty, higher homelessness and higher taxes.
5. Creating a new fishery is a pipe-dream based upon the dismal salmon returns to the existing Little and Big Susitna River drainages which are unable to reach escapement goals even with sport fishing closures.
6. With the Eklutna River drainage being on mostly, if not all, private land, any fishery is doomed to create more conflict.
7. Reducing the amount of water for the Municipal Water Supply will only increase utility bills which will also lead to higher population out-migration, higher homelessness and higher taxes.
Mark and Lucy Teitzel

From: Robert Yerkes
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, January 23, 2024 4:22:24 PM

CAUTION: This email was received from an external source

I hear that Anchorage gets 90% of its water from the eklutna lake. I also hear that there is a small amount of fish effected by the existing eklutna hydro water project. why in the world would we risk loosing the water source for the city of anchorage and also risk loosing the inexpensive electric power produced. I don't support any changes to the existing eklutna hydro Dam, period. Leave it as is except for efforts to enhance it current operations.

From: Daniel Derr
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, January 30, 2024 4:22:44 PM

Leave the dam as is anchorage needs the water.

From: Frank Muncy
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, February 6, 2024 12:33:56 PM

Please DO NOT take any action that would reduce electrical power, drinking water and access to recreation to tene of thousands of residents in South Central Alaska. We should be expanding these recources .
Thank You.

From:	Gary Brown
To:	Sam Owen
Subject:	Comment on the Eklutna Hydroelectric Project Draft Fish and Wildlife Program
Date:	Tuesday, February 6, 2024 12:21:57 PM

Do not take any action that will jeopardize diminishing or losing almost 90 percent of MOA's water supply. Also, do not take any action that will jeopardize, diminish, or eliminate the production of clean electricity that can provide power to some 24,000 home for an entire year, at the lowest cost of renewable energy in Southcentral Alaska.
The current use of Eklutna Lake is far more valuable and important than the uncertain potential of migrating salmon.

Sincerely,
Gary Brown

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): Email:

Write your comments on the Draft Fish and Wildlife Program here:

The Eklutna Dam should be left alone. It is fiscally irresponsible to spend 40 million dollars of hard-earned taxpayer money on something that is working well. People need energy and water. To spend forty million dollars minimum and get 10% less energy for a few fish is not a good return on our money. It would be criminal to be so reckless with our tax dollars. The Eklutna Dam should be left alone.

Mark + Linda Spohn
P.O. Box 91
Willow, Alaska 99688

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

Use the QR code to access the eklutnahydro.com website to submit your comments electronically. You can also send comments to info@eklutnahydro.com.

Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of g r sNODGRASS
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Saturday, February 17, 2024 11:46:18 PM

---

aS A 40 YEAR EAGLE RIVER RESIDENT WHO HAS ENJOYED THE BEST WATER IN ALASKA, I HATE TO SEE THESE VARIOUS OPTIONS PUT WATER AVAILABLITY AT RISK. THE RISK COULD BE SUPPLY OR CONTAMINATION. ALL PROPOSALS WILL JEOPARIZE THE SUSTAINABLE pOWER GENERATION AT THE EKLUTNA HYDRO PLANT. ALL WILL COST ADDITIONAL DOLLARS FOR POWER. AT A TIME WHEN WE ARE NATURAL GAS CONSTRAINED THAT DOES NOT MAKE ANY SENSE. WE NEED OUR ELECTRIC POWER AND OUR GOOD DRINKING WATER.
NOW EVERYONE WANTS TO MAKE THIS ABOUT SALMON RETURNING TO LAKE eKLUTNA. i AM SORRY BUT IF YOU LOOK AT THE COSTS OF THE VARIOUS OPTIONS, WE CAN BUY SALMON FROM cOPPER rIVER OR THE KENAI AND DELIVER IT TO THE RESIDENTS OF EKLUTNA FOR EVERY. IT MAKE SO SENSE TO REMOVE THE DAM FOR FISH TO DIE IN THE LAKE.
i HOPE THE GOVERNOR IS SMART ENOUGH TO SEE THIS FOR WHAT IT IS. A BIG WASTE OF MONEY.

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of dennis hansen
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Sunday, February 18, 2024 3:18:07 PM

Hello,

As a MULTI-GENERATION and lifelong Alaskan, thank you for the opportunity to provide input on the Eklutna Hydroelectric 1991 Fish & Wildlife Agreement study results and proposed project. I fully agree as stewards of the natural resources in this great land we need to wisely manage and use the resources provided to us. Reviewing the proposed alternatives and cost benefit analysis I do not see an alternative which provides benefits that justify the cost or scope proposed. The owner's alternative (as well as the others) does provide for year round flow in the Eklutna River for the spawning and rearing of Coho, Chinook, and Sockeye salmon. However, the alternative's analysis only provides information on the habitat gain's provided by the proposed project, not the anticipated size of the salmon run. The size of the run is an important metric as it will help decision makers and the public better determine the cost and benefit of the proposed alternative. Per study personnel the estimated salmon run achieved by these proposed alternatives is between 200 and 1,000 salmon per year. With a projected annual cost of $2.8 Million this means the cost per salmon will range from $14,000 to $2,800 per salmon. In addition the small run will not be able to provide a sustainable food source. To ensure longevity of the run most salmon must be allowed to spawn and bag limits on the Eklutna river will be very small.

The final cost which does not have an offsetting benefit, is the reduced power production of the Eklutna hydroelectric plant. The Eklutna hydroelectric plant provides clean, reliable, low cost electricity to all railbelt customers. No major maintenance or end of life issues are present at the plant which would limit or reduce its capacity and longevity to provide clean, efficient power. As such, intentionally limiting the operation and reducing capacity of the Eklutna hydroelectric plant only results in inefficiency and reduced performance of the railbelt electrical generation system. This change impacts all railbelt customers and requires increased electrical generation using less efficient and clean power sources.

For the reasons listed above I request that the recommended solution of the 1991 Fish & Wildlife Agreement study to the Governor of Alaska be that the study finds the impacts of the Eklutna Hydroelectric plant have already been realized since construction in 1955 and no further impacts to the environment are imposed. Mitigations and enhancements are found to have an unfavorable cost to benefit ratio. Continued operation of the Eklutna hydroelectric plant, Eklutna dam, and AWWU water source is recommended to continue as is.

Respectfully,
Dennis H.

From:	mail=eklutnahydro.com@wpdatacenter.com on behalf of Eva Hansen
To:	Sam Owen
Subject:	New Message From Eklutna Hydro - CONTACT US
Date:	Sunday, February 18, 2024 10:16:26 PM

Hello, dear fellow alaskans,
I URGE ALL OF YOU, WHO ARE CONSIDERING CAHNGEING THE EXISTING WAY THE EKLUTNA POWER PLANT OPERARATES, TO RECONSIDER.
iN AN AGE WHERE EVERYONE IS CALLING FOR CLEAN ENERGY, TO CONSIDER GETTING RID OF A WONDERFULLY WORKING POWER PLANT THAT SUPPLIES ABOUT 6% OF aNCHORAGE'S POWER NEEDS DOES NOT SEEM WISE.
tHE DRINKING WATER IS ALSO AN IMPORTANT FACTOR. AS WE ALL KNOW, WE HAVE HAD SEVERAL YEARS WHERE THE WATER LEVELS HAVE DROPPED CONSIDERABLY. wITH THE CHANGES THAT ARE PROPOSED IT COULD GET WORSE, WHEN WE GET MORE DRY SUMMERS.
tHE NUMBER OF SALMON, THAT WOULD POTENTIALLY BE ABLE TO MAKE IT TO THE LAKE, AND REPRODUCE SEEMS VERY SMALL, IN THE COMPARISON TO THE COST OF THE PROPOSED PLANS.
Per study personnel, the estimated salmon run achieved by these proposed alternatives, is between 200 and 1,000 salmon per year. With a projected annual cost of $2.8 Million this means the cost per salmon will range from $14,000 to $2,800 per salmon. In addition the small run will not be able to provide a sustainable food source. To ensure longevity of the run most salmon must be allowed to spawn and bag limits on the Eklutna river will be very small.
This change impacts all railbelt customers and requires increased electrical generation using less efficient and clean power sources.
Mitigations and enhancements are found to have an unfavorable cost to benefit ratio. Continued operation of the Eklutna hydroelectric plant, Eklutna dam, and AWWU water source is recommended to continue as is.
tHANK YOU FOR CONSIDERING BEING WISE STUARTS OF OUR GREAT LAND AND RESOURCES.
eVA h

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of KENNETH C HANSEN
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, February 19, 2024 2:43:21 PM

Thank you for allowing our input. I am not intending to write in all Caps, this message box converts texts to all caps :-) I am support of keeping the eklutna power plant as is, with no change. Eklutna Hydroelectric project provided a reliable alternative source or low cost electricity which is essential to reduce the burden and cost or providing electricity to consumers who are already experiencing over whelming costs for energy along with all other necessities. We cannot afford a project that we will pay for. In every area of our lives, we are paying more and reducing resource availability. Right now we need simplicity and stability in our energy and lower costs. Considering that only 200 to 1000 salmon with return makes the argument that this project should not proceed.

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Marvin Huske
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, February 19, 2024 11:30:04 PM

The dam should stay as it is. It is insane to remove the hydroelectric generation when we are faced with a natural gas shortage in the future .it would have to be made up by gas generating electricity turbines. How much power did the wind turbines on fire island generate when it was -20 earlier this year. not much i would bet. Enhance salmon somewhere else and leave eklutna river as it is.

B-3. Support Draft Program

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From: Jeff Sperry
To: Sam Owen
Subject: draft proposal
Date: Wednesday, January 10, 2024 8:18:29 PM

I support the current proposal for the eklutna hydro project. The renewal electricity that is produced is very low cost for the consumer in several communities and should be maintained. No other electricity option is this cost effective.
This project also supports the important water source for the Municipality of Anchorage. It should be maintained.
Please move this proposal forward as it currently is.
Thank you
Jeff Sperry
Eagle River, Alaska

From: rabobdoyle@gmail.com
To: Sam Owen
Subject: Eklutna hydro
Date: Tuesday, January 16, 2024 4:22:59 PM

I support the draft proposal balancing the needs for water in Anchorage, renewable firm power generation for Mat-Su and Anchorage, and new salmon enhancement for Eklutna village.

Bob Doyle
1900 E Porcupine Trail
Wasilla Ak 99654

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): Josh Hanson

Email: JGH/ALASKA1@gmail.com

Write your comments on the Draft Fish and Wildlife Program here:

The owners purposal of spending the 44 mil seems adequet if not excessive. Keeping rates low for members should be the top priority ~~waste~~ then the fish can be a secondary priority. There plan to set up a committee to help mitigate risks to salmon and even fund that comitte seems rather generous and should help to mitigate the issues of the people on the committee. Please focus on these switch on/off hard resources like the Eklutna dam. Renewables are cute and should be pursued only if done so critically and with proven energy providers there to back them up.

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

Use the QR code to access the eklutnahydro.com website to submit your comments electronically. You can also send comments to info@eklutnahydro.com.

Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): Email:

Write your comments on the Draft Fish and Wildlife Program here:

This was a very well thought out and well presented proposal. Thank you for all your hard work!

It looks as though this will be a win-win for everyone. We get to keep a sustainable source of power and water and it cleans up a stretch of River that will provide a home for the fish. It will cost a bit, but I think in the end it will be worth it.

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

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Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): William Owen

Email: WILLOWEN747@GMAIL.COM

Write your comments on the Draft Fish and Wildlife Program here:

I THINK THE OWNERS AND THEIR PARTNERS HAVE GONE TO EXTRODINARY LENGTHS TO REACH COMPROMISE SOLUTIONS ON AS MANY OF THE THINGS IN QUESTION. IN THE END A SOLUTION THAT MEETS THE NEEDS AND DESIRES OF AS MANY AS POSSIBLE. ALL PARTIES CAN GET SOME OF WHAT THEY WANT, EVERYONE MUST ~~BE~~ COMPROMISE.

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

Use the QR code to access the eklutnahydro.com website to submit your comments electronically. You can also send comments to info@eklutnahydro.com.

Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

From: Randy J Moore
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Thursday, January 18, 2024 11:29:59 PM

CAUTION: This email was received from an external source

I have been following the discussion regarding the plans for the future of the dam and related recreation. I urge the governor to move forward with LEAVING the dam in place PROVIDing cheap, reliable energy . Upgrade the recreation areas and try and allow the native community to develop fishing techniques and alternatives for subsistence.

Randy moore
4640 Southpark bluff drive
Anchorage, Alaska 99516

From: Owen, Samantha
To: "Charles Peter"
Subject: RE: New Message From Eklutna Hydro - CONTACT US
Date: Friday, January 19, 2024 1:48:00 PM

Hi Charlie,

Thank you for your comment. It has been added to the record and will be taken into consideration by the Project Owners.

That's a great question. We actually did look into this kind of "hybrid" alternative (proposed by The Conservation Fund during the fourth alternatives analysis meeting and discussed during the fifth alternatives analysis meeting). The problem is timing. The salmon start migrating upstream in June when the reservoir is usually still very low. Which means that in order to release water at the dam through a fish ladder in June, we would need to keep the reservoir high through the winter by not generating any power for about 7 months, just like if we were releasing water from the dam year-round.

Hope that helps, and thanks again.

Samantha Owen
Senior Regulatory Consultant

owen@mcmillen.com
C: (305) 409-5201 | O: (206) 743-9251
2607 Western Ave, Unit 360, Seattle, WA 98121
mcmillencorp.com

-----Original Message-----
From: Charles Peter <mail@eklutnahydro.com>
Sent: Friday, January 19, 2024 12:11 PM
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US

CAUTION: This email was received from an external source

Thank you for the Jan 17 meeting. It was very informative. The utility plan seems to be a good one. My main concerns were our great water supply and green power generation. Would it be possible to install a passage around the dam with a water gate that could be opened as much as needed during the fish run to the lake and again when the smouts go out of the lake ? We may loose a little green power during two say 30 day periods. CHARLIE PETER

From: Aidan Blum
To: Sam Owen
Subject: Public Comment: Eklutna Hydro Mitigation Project
Date: Wednesday, January 24, 2024 1:14:35 PM

To whom it may concern,

I am writing to express my support to the Eklutna Hydro Project proposed mitigation efforts to allow great salmon spawning on the Eklutna River. I know there are many challenges associated with the equitable use of this resource; however, I believe the proposed path forward is the best to allow for the most wide cast use of the Eklutna River. As a resident of Anchorage, the drinking water and power the Eklutna Reservoir provides is vital to a continued sustainable life in South Central Alaska. Please have my greatest thanks for the hard work of the project team on developing this mitigation plan.

Thanks,

Aidan I. Blum (He/Him)
Anchorage, AK

Email: blum.aidan@gmail.com

From: George Snodgrass
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, January 26, 2024 4:28:32 PM

I recommend the governor adopt the recommended option put forth in the Eklutna Fish and Wildlife program.

i attendeD THE PRESENTATION ON jAN. 18 IN EAGLE rIVER ONTHE EVALUATION OF THE eKLUTNA HYDRO FISH AND WILDLIFE PROGRAM. tHE PRESENTATION ON THE ALTERNATIVES AND THEIR ASSOCIATED COSTS WAS WELL DONE AND EASY TO UNDERSTAND. aS A BIOLOGIST AND AND ENGINEER HAVING BEEN INVOLVED WITH ENVIRONMENTAL IMPACT STUDIES (eis) AND ENVIRONMENTAL ASSESSMENTS (EA) on the north slope and in cook inlet, i was impressed with the depth and breathe of the studies conducted over five years for the project. I also thought the efforts by the power associations to include the signatories to the 1991 agreement and the native village of eklutna was well done.

If we read the Anchorage daily news, we would be led to believe it was only about removing the earthin dam. They want to make this the politics of salmon. Some believe they can have salmon in eklutna lake just like the kenai lake. wrong. it is not just about that. not just a single solution. it is a well thought out engineering and biological solution.

The idea of turning the lenght of the eklutna river into viable spawning and rearing habitat by controling the flow of water in the river year round is brilliant. The detractors to the preferred option complain about the one mile of the river that will not have controled water flow but that is of little consequence in the overall benefit scheme. removing the dam make the river a wild uninhabitable location for fish through the summer months. Not a good idea. It will also damage the water intake piping to the water treatment plant by scouring the pipe that cross under the river. Additionally, the large water flows in summer months will damage the bridges crossing the river.
Removing the Dam is a damn bad idea.

lastly, it is important to understand that the eklutna lake is not good salmon habitat. The lake is glacier fed and brings consideral silt into the lake. The silt covers the gravels good for attaching the salmon eggs and rearing young fish. The several fish species in the lake today are undersized and malnurished due to the silt. creating and expectation that removal of the dam will allow sockey salmon to be raised in the lake is bad science.

We need to continue to have the cheapest and most reliable power in southcentral AK. we cannot put our families and communities at risk over the politics of salmon. Please support the comprehensive proposal by the power companies and their experts on the eklutna fish and wildlife program.

From: LYNN M MILLER
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, January 26, 2024 9:46:46 AM

I am IN favor of the plan as submitted for public review.
I attended a public information session and had ample opportunity to ask questions of the principal researchers.
This project has more impact on anchorage's water source than it does as a power source.
I noted that there were no firm commitments by trout unlimited and other associated groups to contribute to the maintenance/repair of the water pipeline should the free-running river damage the line.
I do strongly agree that other more eco-friendly sources of energy are needed and should be developed. However, I give protecting MOA's source of potable water a higher prority than a restored streambed.
"A good compromise leaves everone unhappy", this plan has succeeded.

From: Andrew
To: Sam Owen
Subject: Public comment
Date: Saturday, January 27, 2024 3:26:49 PM

To whom it may concern,

I am writing in support of the clean energy produced by the Eklutna Hyroelectric Project. It is my understanding that this is some of the most inexpensive and cleanest energy produced in South-central Alaska. As a member of the MEA and a Palmer resident I would like to see the project continue to produce as much electricity as possible. This is an energy resource that is shared and used by residents throughout south-central and is a benefit to all residents who use electricity.
From attendance at the Palmer informational meeting it sounds like the “portal” option may be a good option. I support any option that continues to produce energy at the current rate or is an improvement on the current energy production without incurring additional costs to the utilities or their members.

Sincerely,
Andrew Spohn
Palmer, Resident

From: Charles Homan II
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Saturday, January 27, 2024 8:48:16 PM

I support the Project Owners plan to continue to use the Eklutna Hydroelectric power plant. Currently there are very few alternatives to replace this power source. Natural gas, the area's primary source to produce power is currently in decline in Cook Inlet. Matanauska Electric Association proposed building a coal-fired power plant and the community rejected it. The use of solar and wind during the cold Alaskan winters is an unreliable source of power. Until a safe, clean and abundant source of power is available the dam needs to be left in place.

From: G Schumacher
To: Sam Owen
Subject: Eklutna draft fish and wildlife
Date: Saturday, January 27, 2024 3:22:05 AM

Hi! I'm an anchorage resident that has spent some time at Eklutna, and benefits, like everyone, from hydroelectric power in Alaska!

I read the draft for restoring the Eklutna river while maintaining production capacity of Eklutna Hydro, and really support that initiative. I think it sounds really smart to redevelop that salmon habitat, and I appreciate the desire to keep effective green energy production.

My only hope is that one day the salmon habitat can extend all the way into Eklutna lake while maintaining electricity production, but I understand the limitations. Thanks for doing this!

Thanks,
Gus Schumacher

From: Skyler Gallien
To: Sam Owen
Subject: Public comment
Date: Saturday, January 27, 2024 4:32:02 PM

I am against the removal of the dam, for many reasons. The threat to Anchorage water supply, the infrastructure of the glen highway and the bridges over the Knik. My main concern is the loss of the cheapest and most reliable source of electricity for the railbelt, with the possibility of a natural gas shortage looming and general expense and lack of reliability of other forms of renewable energy sources not being anywhere close to that provided by the dam. Iam concerned about steeply rising costs of electricity and its availability in general. Iam a lifelong Alaskan and an avid outdoorsman, I love salmon and all that they provide for our communities. I consider myself a conservationist and have been excited to see the progress made so far on the Eklutna river but I believe that the plan presented for restoring a majority of the river without the removal of the dam to be the best option. If you have any questions about my opinions please feel free to contact me.

Skyler Gallien
9073221566
1125 East Donna Circle
Wasilla AK 99654

From: Ryan Hook
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Sunday, January 28, 2024 6:12:28 PM

I do not agree with removing the dam,but am 100% for any efforts to mitigate the risk to fish and wildlife.

getting rid of some of the lowest cost electricity is not wise.
Cook inlet is running out of natural gas without any replacement in sight, thus putting more use on natural gas, a fossil fuel.

multiple natural gas rigs are currently broken thus stressing the system.

Alaska needs diversified power generation, hydroelectric should continue to be apart of that.

From: Donna Kime
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, January 30, 2024 5:06:07 PM

I live in Anchorage. I understand that the Eklutna Dam PROVIDES 90% of Anchorage's drinking water and also provides electricity to Anchorage. I understand that Chugach Electric has proposed an alternative Plan on how to provide water to the Eklutna River for returning salmon and to also keep drinking water flowing to Anchorage. Stick with Chugach Electric's plan. Keep the dam working. Do not tear it down.

From:
To: Sam Owen
Subject: SUPPORT AWWU PLAN
Date: Friday, February 2, 2024 10:00:19 AM

If we must do something then please support the AWWU Plan.
Thank you for this consideration.
Please do not post my name associated with this comment on the website.

From:	Ruth St.Amour
To:	Sam Owen
Subject:	Comment on Draft Fish and Wildlife Program
Date:	Friday, February 2, 2024 2:43:25 PM

I attended the January 18 public meeting, read the 1991 Agreement, and reviewed the documents at eklutnahydro.com.

My focus is on the requirement of the 1991 Agreement ". . . to ensure that Eklutna and Snettisham are best adapted for power generation and other public uses . . ." The greatest public benefit is for continued power generation and water supply, which benefit all residents of the area. Affordable and reliable utilities are essential to the local economy and quality of life. Although some people are calling for the restoration of sockeye, "the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat)" is just one of eight purposes to be given equal consideration in the Fish and Wildlife Program.

The project owners' proposed program both improves the utility infrastructure and enhances fish habitat at a reasonable cost. As both an MEA customer and an Anchorage taxpayer, I care about project cost. It is easy for those who are neither ratepayers nor taxpayers to propose idealized projects at no cost to themselves.

I believe the owners' proposal fully meets the requirements of the 1991 Agreement, and encourage Governor Dunleavy to approve it.

Ruth St. Amour

From: Mark Parmelee
To: Sam Owen
Subject: Request to support the 2023 Eklutna Draft Fish and Wildlife Program
Date: Saturday, February 3, 2024 9:25:26 AM

February 3, 2024

Governor Dunleavy
c/o Samantha Owen
McMillen Jacobs
info@eklutnahydro.com

Dear Honorable Governor Dunleavy,

Please support the October 27, 2023 Eklutna Draft Fish and Wildlife Program (Draft). It will benefit all parties and is a good compromise that supports the 1991 agreement, red salmon, the Anchorage water supply and hydroelectric power.

The 1991 Agreement requires a Final Fish and Wildlife Program be issued by the Governor by October 2, 2024. The work to date has thoroughly studied the issues and produced a Draft you can sign as Governor. The Draft is well supported with documents, studies and agency reviews. I have reviewed the materials on the eklutnahydro.com website. I attended the Eklutna Hydro Public Meeting on January 17th and listened to and asked many questions of the technical experts. I support the Draft, a release of water from a new Eklutna River Release Facility, and to not remove the Eklutna Dam.

Removing the dam will not guarantee red salmon will travel past the old dam site and rear in the then river accessible Eklutna Lake. I have seen several places in Prince William Sound where post 1964 earthquake fish improvements have failed to reestablish red salmon runs. The Draft supports releasing 40 cfs of water in the summer to assist silver and king salmon. This additional water released from Eklutna Lake combined with Thunderbird Creek water will improve habitat for silver and king salmon as shown scientifically. Supporting salmon habitat is good. Removing the dam with the hope of red salmon rearing is not worth the loss of the dam's attributes.

Anchorage's water supply is crucially dependent on Eklutna Lake supplying the bulk of Anchorage's drinking water. Removal of the Eklutna Dam will allow uncontrolled flood events which may be detrimental to the water supply pipe. A lower Eklutna Lake water level puts the Anchorage water supply at risk.

Hydroelectric power is a valuable, reliable and affordable form of renewable energy. It is not dependent on the wind blowing or the sun shining. We can protect our energy security by continuing to use the Eklutna hydroelectric plant. Removing the dam will eliminate a nonpolluting source of power and is the wrong thing to do as Alaska is suffering from high energy prices.

The 1991 Agreement calls for periodic analysis (every 25 years) of the Eklutna hydroelectric developments on fish and wildlife. In the year 2049 let the analysis be done again for fish and wildlife. The Draft you have for your approval is a good compromise. The Draft will improve fish habitat, maintain Anchorage's water supply and provide reliable energy for Alaska.

Sincerely,

Mark Parmelee

Anchorage Resident Since 1985

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Brad Chastain
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Wednesday, February 14, 2024 10:12:27 AM

I am a resident of Anchorage, a property owner, and a business owner. I strongly support full comp-liance with the 1991 Fish & Wildlife agreement for Eklutna Dam and strongly feel the Owners has completed fully sufficient studies and analysis of alternatives. The Owners' alternative to install a portal valve is reasonable and represents the best option for mitigating stream flow while balancing the need to maintain a VIABLE drinking water source and provide low cost and clean electricity for our community. The 1991 Agreement never contemplated removal of the dam and this arbritrary demand is being pushed by the activist industrial complex that generally opposes all human activity across the U.S. I urge you to complete the process in compliance with the 1991 Fish & Wildlife Agreement and not deviate from the timeline contained therein.

From: Sue Petersen
To: Sam Owen
Subject: Dam
Date: Thursday, February 15, 2024 11:17:58 PM

I do not believe that removing this dam is a good idea. We get so much electricity currently!! It's good, clean energy. There would not be enough salmon to make a difference. It would be a huge waste of time and money. Chugach can bring some water back a mile down stream. Sounds like a good compromise to me.
Please don't take the dam out!
Sue Petersen
Daniel Choate
Eagle River, Ak 99577

Sent from my iPhone

From:	Misty Ott
To:	Sam Owen
Subject:	Eklutna Hydro Public Comment
Date:	Thursday, February 15, 2024 12:54:02 PM

I appreciate efforts to minimize affects on the environment including sustaining marine species like salmon. I believe the Owners' plan is sufficient to meet their agreement obligations to do this without unacceptable major production losses or cost impacts to a necessary source of renewable energy and the main water supply to a significant portion of the state's residents. Removing the dam and spending hundreds of millions of dollars will not guarantee salmon will return to an area they may have frequented for more than 100 years ago, especially considering how salmon populations throughout the Pacific Ocean and anadromous waters are currently depleted.

Misty Ott

From:	Daniel Smith
To:	Sam Owen
Subject:	comment on Draft Fish and Wildlife Program for the Eklutna Hydroelectric Project
Date:	Saturday, February 17, 2024 11:55:16 AM

Hello,
I am in support of any solution or infrastructure build out that would minimize impacts to the existing electric generation and water supply for Anchorage.
my reasoning is that for close to 100 years (i.e. multiple human generations) the location has been adapted to act as a minor recreation site as well as function as a core piece of infrastructure for roughly 40% of the state.
More importantly, that major 40% of the state is also facing a looming energy crisis with natural gas shortages on the near horizon. The main solutions to that crisis have been a push for renewable energy; which eklutna hydro is. To remove a major source of reliable, clean energy in the face of a natural gas shortage would be economically, environmentally, and logistically irresponsible.
Thank you,
Dan Smith

Virus-free.www.avast.com

From:	Gary Saunders
To:	Sam Owen
Subject:	No to dam removal
Date:	Saturday, February 17, 2024 10:51:27 AM
Attachments:	alaskars-logo-vertical(withstroke)-125x64_d13f067c-dfa8-49ee-96d1-c3fd2e68adcf.png 036_sm_fb_a1347472-45be-4a0b-af83-b901fa688c57.png 036_sm_in_468e365e-e301-4c97-a0b4-805cb9a8926e.png

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I believe the Eklutna Dam is a valuable source of green energy, sustainable energy and common sense energy.
To destroy one of the primary sources of drinking water seems fool hardy.
I have seen no hard evidence that a “Kenai River salmon flow “ would be achieved.
Penalizing a large population for a small population seems poorly thought out.
Use the proposed mitigation programs and go from there.

Gary Saunders

ALASKA
RESTAURANT SUPPLY

Gary Saunders
Senior Sales Manager, Anchorage

M: 907.312.6675 | T: 907.276.7044
garys@ars-ak.com - alaskarestaurantsupply.com
2511 Eagle Street, Anchorage, Alaska 99503

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Sharon hook
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Saturday, February 17, 2024 7:04:35 PM

Please don't do It!
tearing down an ENTIRE dam for approximately 2,000 salmon for subsistence in Eleven (11) miles of the Eklutna river is not based on common sense. First, restoration is not part of this project. Second, will the fish go up the river? Know one seems to know. \\\"Fish will do what fish will do\\\" is the answer I keep hearing. Thirdly, have any studies been done since the lower dam was torn down? Finally, at what cost?
Next consider water and energy for the Anchorage area. Ten (10) percent of our water comes from the dam. I heard the replacement from renewable resources would take approximately ten (10) plus years to obtain our current level. and that still leaves no room for future GROWTH; FOR Anchorage, the mat-su area which will affect the entire state. If the dam is torn down there will be no water pressure in the fire hydrants from eklutna to eagle river. in a hot dry summer everyone worries about a out-of-control devasting forest fire. this would be a perfect opportunity.
As to providing energy for the area, what emergency plans are in place when the temperatures dip into the negatives for days at a time which recently happened? does anyone really want to make those DECISIONS BECAUSE renewables are not available.
What costs are involed with this project? The TAXPAYERS will see huge increases in the tax bills and energy bills. What will be the cost or REPLACING THE infrastructures to the taxpayer and the state? I, also heard, discussion on building a new dam. Millions more dollars for tearing down a perfectly good dam. What are all the unforseen costs? Costs
never go down.
Please follow the eight (8) directives that are address and leave the dam in place. My common sense says this is ridiculous and maybe 35 years from now there will be an entirely different energy source besides windmills and solar panels. Hydro electric is a clean and reliable sourece.
Thank you for allowing my voice to be heard concerning this project.

From:	Tim Swezey
To:	Sam Owen
Cc:	president@mlccak.org
Subject:	Eklutna Hydroelectric Project: Draft Fish and Wildlife Program
Date:	Sunday, February 18, 2024 2:25:24 PM

RE Alaska's Constitution Requires a Balanced Solution
Ref# Eklutna Hydroelectric Project: Draft Fish and Wildlife Program

To all concerned,

I support the solution outlined in Eklutna Hydroelectric Project - Draft Fish and Wildlife Program in Section 5 on page 76: **Summary of Draft Fish and Wildlife Program and Rationale**

At a recent public meeting the discussion became polarized by the binary choice of leaving the Eklutna Dam untouched or removal of the dam to restore the original habitat.

Alaska's constitution requires a balanced solution so that the needs of the public's resources for power, water, and fish habitat are met.

Currently dams are being removed in the lower 48. But that will not necessarily improve salmon reproductivity. A major component of the impact on the salmon population is increased predation in Alaskan waters and bycatch.

The loss of salmon habitat due the construction of the Eklutna dam was a mistake not in keeping with Alaska's constitutional requirement of balanced resource management.

On page 76, Section 5: Summary of Draft Fish and Wildlife Program and Rationale, appears to be a balanced solution to the problem for the following reasons.

- The lake is recharged every spring by the glaciers. Climate fluctuations could result in reduced lake capacity for one or more seasons.
- Fish passage to Eklutna Lake will not necessarily provide an increase in spanning area. Salom can only spawn in a lake if there is sufficient upwelling.
- Most renewable energy is not a viable solution to replace the dam. Solar and wind require a way to store energy, so that supply to the grid is consistent. Solar is becoming more efficient, but there is still the problem of Alaska's harsh weather and lack of light during the winter. Wind turbines are designed to shut down when it reaches 22 below.
- MEA must maintain its profit margins if it is going to develop a renewable energy source such as tidal.

The plan as outlined in Section 5 on page 76 has the best chance of success.

Restoring 11 miles of fish habit will also boost Alaska's recreational opportunities and economy.

--

Tim Swezey
tlswezey@gmail.com

From:	yeldarb@gci.net
To:	Sam Owen
Subject:	Eklutna Hydroelectric Project Draft Fish and Wildlife Program Report October 2023
Date:	Monday, February 19, 2024 4:56:00 PM

A public comment on this report.

Hello,
I thoroughly reviewed this 209 page report. The analysis was thorough, thoughtful, and well written. Kudos to all those involved is this effort. The $44 million recommended option in Figure 2-1 wins. I agree with that conclusion and support the analysis that resulted in that study recommendation. Keep the Eklutna dam but allow a 10% reduction in water use for hydropower to keep the river flowing now that the lower dam is gone.

$47 million was recently spent to increase the Bradley Lake Hydro project via the Battle Creek Diversion Project. Now the $400+ million Dixon Diversion Project is being studied and likely will move forward. Why? Because hydropower is so dependable for our local needs. It would be extremely irresponsible to remove the Eklutna Dam while we are spending these large sums to add to our reliable hydropower. Very expensive LNG imports are in the future for Cook Inlet. That will be for home heating and electric power generation. Hydropower is cheaper and more reliable than electric power derived from LNG fuel, especially if the Eklutna Dam already exists!

There is a great deal of emotion being expressed by many who have commented on this Report. The days of the Cook Inlet region that existed 125 years ago are long gone. We now have a major civilization here in Cook Inlet. That requires a great deal of affordable/reliable energy to maintain. Civilization impacts the local environment. That is an inescapable fact. We can never “restore” this area to what it was. Now that civilization is here to stay in Cook Inlet we must provide it with affordable and reliable power. If not then we can plan of years of civilization decline in the local area.

Thank you,
Brad Neugebauer
BS Mechanical Engineering
MS Engineering Management
(retired)

From: Brent Petrie
To: Sam Owen
Subject: Eklutna Clean Water and Electricity
Date: Monday, February 19, 2024 3:36:04 PM

I have reviewed the positions of various parties regarding the Eklutna Water and Power project currently serving the Railbelt and Anchorage with clean water and renewable power. The utilities proposal to rewater several miles of the river is a practical and sufficient mitigation for improving habitat for several salmon species.

The importance of the dam to store water for public water supply and clean renewable electricity to hundreds thousands of people outweighs the destruction of the dam to admit red salmon to the same watershed. Four other species of salmon will likely be enhanced by modifying releases below the existing dam. This does not harm the water supply or energy production as much as destroying the means of water storage and is a reasonable measure.

Brent Petrie
Sent from my iPhone

MUNICIPALITY OF ANCHORAGE
MAYOR DAVE BRONSON

OFFICE OF THE MAYOR

February 19, 2024

Dear Eklutna Hydroelectric Project Owners,

I write to express support for the draft Fish and Wildlife Program and the inclusion of the AWWU Portal Valve alternative.

Given the critical importance of Eklutna Lake as our municipality's primary source of clean water, safeguarding its integrity and the integrity of AWWU water treatment infrastructure is vital. Preserving AWWU's rights and interests in the Eklutna lake and river system is of key importance. The 1984 Agreement requires the Owners to take no action which degrades the quality of Eklutna Lake as a drinking water source and the 1991 Agreement requires the consideration of municipal water supplies. I am pleased with the robust efforts undertaken by the project owners to ensure that the Fish and Wildlife Program prioritizes the protection of our drinking water. The Owners have coordinated heavily with AWWU to protect and account for the need for drinking water throughout the alternative evaluation process. Furthermore, these collaborative endeavors assessed infrastructure improvements and explored multiple viable solutions through the alternative analysis process. I believe the draft Fish and Wildlife Program will result in even stronger protections for AWWU and improved drinking water safety for all of Anchorage.

The significance of the Eklutna Hydro Dam to energy security cannot be overstated. It plays a pivotal, if understated, role in supplying energy reliability to consumers in southcentral Alaska. The recent cold snap in late January/early February highlighted this crucial role when available gas supply in the region was challenged. At the request of ENSTAR, Chugach and MEA adjusted operations at the Project to increase hydroelectric generation and decrease consumption of natural gas. These efforts avoided a switch to diesel fuel power generation and preserved ENSTAR's gas for other consumers. The timely hydroelectric utilization provided clean, storable, and dispatchable green energy instead of a switch to less sustainable and greenhouse gas emitting alternatives. Without the Eklutna Hydroelectric Project operating in the current configuration, such a switch and savings likely would not be possible. In light of the ongoing challenges to Southcentral's energy security, it is imperative that we preserve and optimize every available energy supply especially one as reliable, green, and cost effective as the Eklutna Hydroelectric Project.

I also wish to commend the Hydro Owner's adherence to the process outlined in the 1991 Agreement. For the last several years, the Owners have coordinated and cooperated with various stakeholders and interested parties, including the various state and Federal resource agency signatories to the 1991 Agreement and the Native Village of Eklutna. I know this is only a draft plan and that public comment and discussion are ongoing but I

believe the current draft holds great promise. The expected further revisions will only enhance and build upon the great work already accomplished. Despite expressions of impatience or desires to value singular interests over the whole, the Owners have progressed through the process diligently and conscientiously listening to and engaging with a variety of perspectives and alternative approaches to achieve the goals "to, protect, mitigate damages to, and enhance fish and wildlife". I trust that this will continue to serve as a robust framework for the remainder of the current process and will again be effective into the future when the process repeats every 35 years.

I appreciate the unwavering commitment to the well-being of the entirety of our community expressed in the draft Fish and Wildlife Program and look forward to the final version and the decision of the governor. Thank you to the Hydro Owners, the Native Village of Eklutna, AWWU, and the various stakeholders and members of the public who have participated and commented throughout this process.

Sincerely,

Mayor Dave Bronson
Municipality of Anchorage

From: P Doty
To: Sam Owen
Subject: Eklutna dam
Date: Monday, February 19, 2024 11:32:56 PM

Iive in Anchorage and support the owners version for the Eklutna dam. The assembly is Not representing my interests and the Eklutna dam should Not be removed. Removing the dam is short sighted, does not consider all the consequences of removal and will harm the residents in Anchorage, take away a large portion of the water and electricity with no feasible, viable, less expensive and less environmentally harmful alternative. It will further adversely impact the already failing city and it's residents and businesses, their economic, water, and electricity, make it even more expensive to try to live here, pay your living expenses, reduce property values, opportunitites all in the false and erroneous belief of helping the environment. The solar, wind, other alternatives are just as or more harmful to the environment if you look at the total picture of prohibitive costs, how well they work, rare earth minerals, what happens to their components when they breakdown, etc. The several hundred thousand innocent residents of Anchorage should not be forced to bear the excessive costs, have their cost of living, living expenses, water, and electricity and lives adversely impacted by removal of the Eklutna dam or any major alteration of the dam. Anchorage residents should not be discriminated against and treated as second class citizens or told to go find some other source for water and electricity.

From: Patti Randlett <plrandlett@gmail.com>
Sent: Monday, February 19, 2024 8:52 PM
To: Sam Owen <info@eklutnahydro.com>
Subject: Eklutna Draft Plan

The recent media attention regarding the relicensing of the Eklutna Hydro Project prompted me to read more about this source of renewable energy.

The Draft Fish and Wildlife Program document is impressive in the magnitude of planning and study that went into its creation starting back in 2019.
The 8 points the Governor must consider listed in the 1991 Agreement seemed to guide the process and were addressed.

After reviewing the Draft Program it is evident that it was a long and well thought out process. Inclusion of many interested parties is evident in documents created throughout the lengthy project.

The Eklutna Hydro Project website is informative, detailed and impressive.
Any question I had was answered here. I would encourage any interested party to explore all the information offered.

Ultimately, I believe the southcentral community will be better off with keeping the Eklutna project and dam intac**t.** It is apparent the utility owners have written the Draft Program with thoughtful research based consideration guiding their proposal for returning water to the Eklutna River and creation of fish habitat.

At this late point in the relicensing process dam removal and eliminating a renewable energy source doesn't seem like a prudent or fiscally responsible option for rate payers.

Patricia Randlett

Member of CEA and MEA

I would also anticipate that interested groups would continue their endeavors to remove and replace the dam with renewable energy sources. I would hope that this would be accomplished by keeping the utility rate payers whole through finding alternative funding sources to accomplish this undertaking.

B-4. Against Draft Program

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From: steve parker
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Saturday, January 13, 2024 6:13:39 PM

CAUTION: This email was received from an external source

the utilities don't really care what you think: they've got the governor in their pocket.

this whole process has been a sham. the utilities have colluded with the alaska energy authority, the city administration, and the commissioners of DNR and ADFG to rig this process.

why? because eklutna hydro is a cash cow that produces $19 million in revenue every year. consider that the utilities bought the hydroproject from the feds in 1997 for $6.7 million.

from the beginning the utilities have ducked and dodged their responsiblity to fix the broken eklutna river. the hydroproject dried up the eklutna river for the past 69 years. see for yourself. walk the river below eklutna lake. its dry or mostly dry for 8 miles.

how do the utilities propose to mitigate for 69 years of damage? they want to put a spigot in the AWWU (anchorage water and wastewater) pipeline and allow a trickle (~10% of normal flows) of water to enter the river one mile below eklutna lake. IF THE UTILITIES GET AWAY WITH THIS, THEY GET TO KEEP THEIR EKLUTNA CASH REGISTER FOR ANOTHER 35 YEARS.

the original problem that got us here was "the loss of a sockeye salmon run.' news flash: sockeye salmon spawn in lakes, and they can't walk the final mile to get to eklutna lake.

don't you wanna have a sockeye run that doesn't mean driving to kenai or chitina? eklutna could be that place, but only if we tell the utilities to get lost. and don't believe anyone who says there won't be any public fishing access - there already is public access to eklutna lake and the upper eklutna river.

if you live on city water, as i do, you should be concerned about the utilities' plan to use the AWWU pipeline to create a dead-end river. the awwu guys have a lot of issues with that plan, and worry it might jeopardize the reliability of a system that supplies 90% of anchorage's drinking water. but they've been told to sit down and shut up by the guy who signs their paycheck.

there is no end to the corruption at eklutna. the people running this show have distorted the data, misrepresented facts to the public and elected officials, denigrated the eklutna dena'ina, and ignored the advice of the state and federal biologists. at the public meetings, where the public should have the opportunity to "testify" as the 1991 agreement requires, you can tell it to an ipad.

there are 6 parties to the 1991 fish and wildlife agreement (7 if you include the native village of eklutna), and 5 of them do not support the proposed alternative. the us fish and wildlife service, the national marine fisheries service, the municipality of anchorage and the native village of eklutna are opposed to the plan. only chugach electric and matanuska electric support their own plan.

don't join them. don't let them raise your rates, raise your taxes, mess with your drinking water, and keep you from catching fish.

Audio Recording Transcription of Chennery Fife

January 16, 2024, 2:00-4:00pm, Palmer Community Center (Depot), Palmer AK

"*My name is Chennery Fife. I live in Anchorage. And I would like to tell the utilities that I don't think this plan is up to the task of what the 1991 Agreement said by not providing fish passage, by leaving a mile of the river dry, and by releasing only 40 CFS in the summer, it will not mitigate the harm done to fish and wildlife and will not make up for the harm done to the Native Village of Eklutna.*"

Date: January 16, 2024
To: Planners & operators of the Eklutna Hydroelectric Project
From: Ellen VandeVisse, biologist
Re: comments on Eklutna Mitigation Plans

If you're like me, you always strive to do a good job, and welcome and value ways to improve draft work that a wider perspective brings in.

It is in that spirit that I speak to the current mitigation plan.

We live in a world constantly notified of another habitat lost, another species extinct, another culture & its wisdom shoved aside, another beautiful place destroyed. With this project, we Alaskans have an exciting opportunity to reverse degradation, bring back our salmon, and create a win-win future with restoration.

<u>Rather than the current mitigation plan</u>

- Dam removal or dam modification that does not allow salmon to do their migration or return upriver, due to a mile of dry bed,
- Restricts water flow way below minimum needs for a stream ecosystem & healthy salmon
- Costs more than it benefits
- Puts low quality water into the habitat from the AWWU

<u>I urge you to develop the alternatives and remedy some weak points.</u> That is, build features that:

- Restores the Eklutna River to flow naturally out of Eklutna Lake.
- Reverses 100 years of cultural and environmental neglect.
- Allows for the recovery of salmon, by re-connecting the river to the lake, opening up 65% of their available habitat in Eklutna Lake and its upstream tributaries
- Saves utility ratepayers and MOA taxpayers from rate and property tax hikes to pay for a $57 million for a plan with few benefits.
- Provides time to transition to new renewable energy projects.
- Does not jeopardize the Anchorage drinking water system.
- Protects popular lakeside trails from erosion caused by fluctuating lake levels.

We will be watching and cheering you on as you revise your drafts and revitalize a treasured area.

Thank you

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): Julian Ramirez

Email: julian.c.ramirez98@gmail.com

Write your comments on the Draft Fish and Wildlife Program here:

The Draft Fish & Wildlife Program is a failure. It fails to mitigate the harm done to sockeye salmon - the reason for the draft program. The Project Owners are breaking their legal obligations and taking the position of the Eklutna People for granted. This process tells one story and expects the public to comment in private, preventing a conversation from occurring and all of the facts to be laid out.

Please note all comments will be published online to www.eklutnahydro.com

☒ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

Use the QR code to access the eklutnahydro.com website to submit your comments electronically. You can also send comments to info@eklutnahydro.com.

Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): Margie MacNeille

Email: margie@kingsegg.net

Write your comments on the Draft Fish and Wildlife Program here:

1. I oppose half-measures. The 1-mile dry proposal is a short-term expedient with long-term consequences. It will be seen as a costly mistake. Rip the bandaid off (work to remove the dam etc) and adjust to the consequences.

2. In concept the Eklutna/Trout Unlimited proposal to remove the dam without public investment is one I favor - but I have questions - what does it mean 'replace' the power from the hydro project?

3. I did not see any forecasting of natural lake levels under different climate change scenarios.

Please note all comments will be published online to www.eklutnahydro.com

☑ Check here if you do not want your name associated with your comment on the website.

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Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): Email:

Maryke Hayes, Resident of Eagle River, Alaska

Write your comments on the Draft Fish and Wildlife Program here:

I Trust that the Fish + Wildlife Plan, proposed for The EKLUTNA River, will be to "By All Means" include a long-term Vision of meeting the Needs of the SALMON, the EKLUTNA Peoples, and be according to the legal obligation, to mitigate any projects' impact on our Fish and Wildlife.

* Releasing only 3% or so of The Historic River Flows will Not provide enough Fish passage and restore the River's Salmon.

I think any decision should prioritize Restoring the River's Salmon as soon as possible.

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

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Comments must be received by **February 19, 2024**.

CHUGACH

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): Email: bwbcak@gmail.com

Tea Sky Heller, Owner of Bluewater Base Camp, Eklutna Resident, Former MEA Contract Employee.

Write your comments on the Draft Fish and Wildlife Program here:

1. I would like to know what the ownership group has been doing to prepare financially for this project? They knew they would need to replace habitat etc ~~since~~ since they signed the agreement. ~~At~~ this time they are only talking about rate hikes and taxation to pay for the project that they knew was coming and should have been preparing for financially.

2. I support restoring salmon all the way to the lake. A partial flow does not meet the original intent of the agreement.

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

Use the QR code to access the eklutnahydro.com website to submit your comments electronically. You can also send comments to info@eklutnahydro.com.

Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

Audio Recording Transcription of Aaron Leggett

January 17, 2024, 6:00-8:00pm, Arctic Center, Anchorage AK

"*My name is Aaron Leggett, I live in Anchorage. I have the honor of being the President of the Native Village of Eklutna for the past almost six years. I've been on the Council since 2007. I'm submitting my comments today on the Eklutna hydro project. I've been intimately involved with every aspect of it, from the lower dam removal to where we are today. And overall, I want to say that I'm a bit disappointed in the way that the overall process has went. I continue to remain optimistic. I believe that what's currently being proposed by the utilities is inadequate, and I hold out hope that we can come to a more reasonable compromise that doesn't put so much burden on the Native Village of Eklutna and fish passage. I believe that by rehabilitating the Eklutna River and putting another major salmon-producing stream for all five species, again, all five, in Upper Cook Inlet, will not only benefit the Native Village of Eklutna, but it will benefit all residents in South Central Alaska. I'm sensitive to the fact that the utilities are beholden to their ratepayers and also to their commitments with renewable energy as they move forward. That being said, I do believe that we can find a more equitable compromise. And I believe that most Alaskan residents, especially those within the municipality of Anchorage, value salmon habitat and salmon restoration. And I don't think the utilities are looking at the overall impact that a more fully restored river will have, not only on the flora and fauna of the area, but other economic benefits that might incentivize some of the landholders, like Eklutna Inc. and others, to want to develop recreational opportunities as well as new housing opportunities, which then would increase taxpayers and ratepayers and would lead to a growth in Anchorage. I was born here in Anchorage, lived here my entire life. And in the last few years, for the first time in decades, we're seeing an outmigration from our area. And you have to wonder, why are we seeing an outmigration from our area? How do we, as good community partners, come together, work on a solution that's long term, that's based not just in the next 5 or 10 years, but looks at the next 100 years of our community. And I believe that having a healthy, more completely restored, Eklutna River fits into that overall goal. Thank you.*"

From:	Scott Hayden
To:	Sam Owen
Subject:	I support the Community Alternative
Date:	Wednesday, January 17, 2024 10:12:46 AM

Restoration of the Eklutna river is important to Alaskans, the people of Eklutna, and anglers in southcentral Alaska.

I do not like the alternative that pipes water for a mile before returning it to the river. This is an expensive partial solution.
The community alternative restores the whole river, restores the areas upstream of the lake, and does it at no cost to Anchorage ratepayers.

My only issue with this plan is that it does away with clean electricity for Anchorage. I would like to include a plan to pay for additional green energy included in this alternative.

Sincerely,
Scott Hayden
12304 Hilltop Dr
Anchorage AK 99515
Voter

From: Brad Meiklejohn
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, January 19, 2024 4:32:39 PM

CAUTION: This email was received from an external source

The Draft Fish and Wildlife Program is based on a false premise.

Page 44 of the Draft says "As required by the 1991 Agreement, the Draft Program gives equal consideration to the purposes of:

1. Efficient and economical power production
2. Energy conservation
3. The protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat).
4. The protection of recreational opportunities
5. Municipal water supplies
6. The protection of other aspects of environmental quality
7. Other beneficial public uses
8. Other requirements of State Law.

This is not what the 1991 Agreement says. The Agreement says that "the Governor shall (not "must" as the Draft says on page 2) give equal consideration to" the terms listed above.

It is inappropriate for the Project Owners to give equal consideration to these terms. That is for the Governor. The sole purpose of the 1991 Agreement is the protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat.)

From: sara thomas
To: Sam Owen
Subject: Eklutna Hydro project comment
Date: Friday, January 19, 2024 4:24:56 PM

Good afternoon,

I would like to submit a comment on the Eklutna dam restoration project draft proposal. As a Chugach Electric & AWWU user and resident of Anchorage, I appreciated the presentation at Arctic Rec Center the other day. I was struck by the brief reasoning given for why the "project owners" did not support the Eklutna tribe's stated directive to eventually restore the river to its original water flow. All the financial considerations aside, the right thing to do for equity and for wise practices for living on Earth is to listen to the Indigenous people whose lands have been sacrificed for our (often wasteful) use of power and water.

One way the loss of this power could be mitigated is to lead a real city-wide effort to eliminate wasting electricity, at the very least. That could easily bring down the need for that 3% of electricity that the hydro plant currently provides our municipality.

One other thing I'd like to point out is that in the cultural resources inventory, instead of saying there were no pre-contact cultural resources found in the area, which upon questioning is not entirely true, it should be simply stated that there were findings of cultural significance in the area but that they were kept confidential due to cultural sensitivity. It is worth acknowledging the truth as it is.

Respectfully,
Sara Thomas

Sent from my iPhone

From: Heidi Frost
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Wednesday, January 24, 2024 5:41:59 PM

Hello, my name is Heidi Frost. As a member of Chugach Electric, I would like to express my concern about the proposed plan. It appears that the proposal puts the environmental impacts and the needs of the Native Village of Eklutna behind the wants of MEA and CEA members. This is not acceptable as we need to live up to our obligations and the promises made over 30 years ago.

It is crucial to remember that all parties agreed on what needed to be done, and it is not fair to renege on the promises made. The current proposal does not live up to the intent of the signed agreement, and we need to ensure that we fulfill our commitments, even if it negatively impacts the members of MEA/CEA.

Moreover, the proposal raises concerns about the negative impact it could have on AAWU and our drinking water. It seems that some responsibilities are being pushed off onto another utility, which is not fair or equitable.

Finally, the proposed plan will cost $57 million and will only free up a small portion of Eklutna River, failing to restore the salmon to the river as promised. It is selfish to move forward with this plan and ask Alaskan Natives to put aside the promises made and acquiesce for the 'greater good.'

We need to reconsider this proposal, live up to the promises made, and stop making others pay for our energy consumption needs. This idea couldn't have been made with all the players in the room. It's great for MEA/CEA, but terrible for the Native Village of Eklutna and its residents, the fish and wildlife of the area, and potentially the residents of Anchorage if the drinking water is impacted.

Thank you.

Heidi Frost
Anchorge, Alaska

From: Lisa Sinnott
To: Sam Owen
Subject: Eklutna River
Date: Friday, January 26, 2024 5:52:06 PM

I have read much of the documentation on your website and attended the public meeting in Eagle River on January 17. I am very much opposed to your preferred solution and hope you will continue to work with Native Village of Eklutna and other stakeholders to find a way to fully restore the river. Anything less than full restoration is unacceptable.

Lisa Sinnott

From: 4fjord4@everyactioncustom.com on behalf of Richard Anderson
To: Sam Owen
Subject: Citizen Comment
Date: Friday, January 26, 2024 5:25:45 PM

Dear Owners of The Eklutna Hydroelectric Project,

When the Eklutna dam and hydro project was built we did not consider things like loss of salmon habitat. Now is an opportunity to rectify our past oversight. The project should be reconfigured so that salmon have full access to the full run of the Eklutna River as well as full access to the Eklutna Lake and its tributaries. Some water could still be used for hydroelectric power production and some could still be used for municipal water consumption, but the full river and lake should be available for fish as well.
Thank you for your consideration.

Sincerely,
Richard Anderson
2321 Legacy Dr Anchorage, AK 99516-2643
4fjord4@gmail.com

From: Pat Pourchot
To: Sam Owen
Subject: Eklutna River plan
Date: Monday, February 5, 2024 10:57:27 PM

The plan recently released by the utility companies falls far short of what was envisioned in the transfer of the Eklutna power project in requiring an abatement plan for the adverse impacts caused by the damming of the Eklutna River. The plan which would leave a mile of the upper river dry below the lake dam doesn't come close to addressing the need for the restoration of the historic salmon resources of the river and the lake.
Most recently the Anchorage Assembly has called for a halt to this plan and much more thorough and comprehensive study of the impacts on municipal drinking water, the fishery, all viable options, and other issues. In light of the apparent self-serving analysis by the utility companies, this seems like a prudent approach at this point. While the lake provides power and water to our community, there are other valuable resources inherent in a free-flowing river that merit full consideration and protection.
Pat Pourchot
17000 Belarde Ave., Anchorage, AK 99516

From: Ron Rickman
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, February 6, 2024 11:04:11 AM

Thank you for the opportunity to comment on the Eklutna Hydroelectric Project Draft Fish and Wildlife Program (Program). This Program is a requirement of the 1991 Fish and Wildlife Agreement Snettisham and Eklutna Projects to "Develop and implement measures to protect, mitigate damages to, and enhance fish and wildlife (including related to spawning grounds and habitat)".

Project owner proposed winter instream flows of 27 cubic feet per second (cfs) and summer flows of 40 cfs are inadequate and do not fulfil the requirement of the 1991 agreement. This has been clearly pointed out in written responses from USFWS, NMFS, ADF&G, NVE, and others. The Bradley Lake Hydroelectric Project, in comparison, ensures Bradley River instream flows of 40 cfs in the winter and 100 cfs in the summer. These instream flows have been used successfully for over 30 years. Note the Bradley and Eklutna watersheds have a lot of commonalities including watershed size, lake size, and glacier fed lake inflow.

Project owner proposed maintenance flow of 220 cfs for 3 of 10 years may be inadequate. Maintenance flows suggested by USFWS, NMFS, ADF&G, NVE, and others range between 325 cfs and 700 cfs, with a frequency ranging from 3 of 10 years to annually. For comparison, Bradley River maintenance flows, derived from the unregulated North Fork, exceed 500 cfs 3 of 10 years.

The Project owners proposed Eklutna River release facility design does not allow for increased instream and maintenance flow if their proposed flows don't sufficiently improve habitat as expected. There should be some flexibility to increase these flows.

The Project owner proposed program does not address sockeye habitat restoration and connectivity to Eklutna Lake. While sockeye restoration is not specifically mentioned in the 1991 agreement, the Divestiture Summary Report: Sale of Eklutna and Snettisham Hydroelectric Projects by the Alaska Power Administration, U.S. Department of Energy, April 1992, page 19, states "During reviews of legislative proposal, loss of key sockeye salmon run that once spawned in Eklutna Lake was identified. The loss was caused by a private power project constructed in the 1920's. The loss was not identified in pre-authorization studies for the Federal Eklutna Project and the Federal project does not include mitigation. This specific problem and the desires of the fish and wildlife agencies to provide appropriate consideration to fish and wildlife resources over the long run led to the August 7, 1991 agreement". The 1920's dam was removed in 2018 so the last remaining barriers preventing fish passage to Eklutna Lake are the existing configuration of the Eklutna Dam and the Program plan that leaves one mile of dry river bed. Sockeye restoration should be considered, including determination of viable spawning and rearing habitat in the Eklutna River, Eklutna Lake, and streams that feed into Eklutna Lake.

Railbelt energy production and cost to consumers are important. The Eklutna Hydroelectric Powerplant cannot generate electricity at its current level while releasing adequate instream and maintenance flows to the Eklutna River. A reasonable solution is developing the Dixon Diversion at Bradley Hydro which is estimated to produce 160,000 megawatt hours (MWH) annually, a significant increase over the average annual 102,000 MWH currently produced by Eklutna Hydro.

Cost burden for modifying, removing, or replacing the Eklutna Dam to allow sockeye passage doesn't have to be paid exclusively by utility rate payers. The 1920's dam was removed by an amazing collaboration between the Conservation Fund, Eklutna Inc., and the Native Village of Eklutna. Similar collaboration with many potential partners should be explored for sockeye mitigation.

February 7, 2024

Sent via email

Eklutna Hydro Program Development Team /
McMillen Corp.
2607 Western Ave, Unit 360
Seattle, WA 98121

Re: Public comment on Eklutna River Fish and Wildlife Program

Eklutna Hydro Project Development Team,

On behalf of Cook Inlet Region, Inc. (CIRI), I am submitting comments about the Eklutna River Fish and Wildlife Program (the Plan) released in October 2023.

I. Introduction

CIRI is one of twelve land-based Alaska Native Regional Corporations formed under the Alaska Native Claims Settlement Act of 1971 (ANCSA), 43 U.S.C. 1601. CIRI is comprised of over 9,200 Shareholders who live in Alaska and worldwide.

With 529,500 acres of surface estate and 1.6 million acres of subsurface estate, CIRI is one of the largest private landowners in Southcentral Alaska. CIRI's regional boundary and landholdings extend from the Matanuska-Susitna Borough, through the Municipality of Anchorage and the Kenai Peninsula Borough. Within CIRI's regional boundary are eight federally recognized Tribes and seven Alaska Native village corporations formed under ANCSA. CIRI and its affiliated Tribes and Village corporations are leaders in Alaska and collectively work for the benefit of our mutual stakeholders.

CIRI prioritizes the use of its land by Shareholders and Descendants for cultural, subsistence and recreational activities. CIRI regularly provides access opportunities on CIRI's privately owned land to the public.

CIRI manages a diverse and strategic investment portfolio for the long-term benefit of CIRI Shareholders and Descendants. CIRI has investments in energy and infrastructure, with a focus on renewable and green energy, along with significant Anchorage real estate investments. Notably, Fire Island Wind LLC, a CIRI company, owns and operates the 17.6-megawatt Fire Island Wind Project, located three miles off the coast of Anchorage. The project began delivering clean, renewable energy to Anchorage homes and businesses in the fall of 2012.

II. Comments on the Eklutna Draft Fish and Wildlife Program

The Eklutna Draft Fish and Wildlife Program is a requirement of the 1991 agreement (the Agreement) between the project owners and intended to be a substitute for the Eklutna Purchasers to obtain required licenses from the Federal Energy Regulatory Commission (FERC) at the time. The Agreement required the parties involved to study and understand the impacts over time of the Eklutna Dam (the Project) on fish and wildlife and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the Project.

Considering the region's energy and drinking water needs, the Plan does not adequately protect the Eklutna River or mitigate damage to the ecosystem caused by a river with years of no outflow. CIRI recommends the Plan be modified, or an alternative plan be adopted, to restore water flow to the full length of the Eklutna River.

The 1991 Agreement requires the project owners to mitigate the damage to fish and wildlife along the river due to the Project, and the Plan, as currently drafted, fails to provide adequate mitigations. The Plan leaves a section of the Eklutna River dry, and thus does not allow salmon access to spawning habitat and does not remedy the harm caused by the Project as required by the 1991 agreement.

The Agreement was intended to work "at least as well as Federal regulation for the intended purpose of mitigation and enhancement of affected fish and wildlife resources." The intent of highlighting mitigation efforts in the Agreement was impacted ecosystem restoration. Addressing the Project's impacts on fish and wildlife resources would be a requirement of the Project, were it to operate under FERC permits, and any mitigation or enhancement efforts that do not restore flow to the full length of the Eklutna River fall short of the Agreement.

While the actions taken, and engagement in the public process follow the requirements outlined in the Agreement, the recommendations made in the Plan do not. The lack of flow to the entire river, as outlined in the Plan, is defended with the specter that attempts to restore flow to the entire Eklutna River would result in ratepayer increases and impacts on the region's drinking water supply.

III. Conclusion

CIRI urges Eklutna Hydro and the Project owners to consider a Fish and Wildlife Plan that suitably balances the community's needs with their responsibility to adhere to the Agreement: mitigation and protection efforts that truly address the damage caused to the Eklutna River ecosystem and salmon runs.

Thank you for your consideration and the opportunity to provide comments on the Draft Eklutna Hydro Fish and Wildlife Program. Please contact me at (907) 274-8638 or slukin@ciri.com to discuss CIRI's comments further.

Sincerely,

Sarah Lukin
President

CC: Governor Michael J. Dunleavy
Christopher Constant, Anchorage Assembly Chair
Aaron Leggett, Native Village of Eklutna
Kyle Foster, Eklutna, Inc.
Tony Izzo, Matanuska Electric Association
Arthur Miller, Chugach Electric Association

MATANUSKA-SUSITNA BOROUGH

Fish & Wildlife Commission

Planning and Land Use Department

Planning Division

350 East Dahlia Avenue • Palmer, AK 99645

Phone (907) 861-7833

http://www.matsugov.us • planning@matsugov.us

February 9, 2024

Ms. Samantha Owen
Senior Regulatory and Licensing Consultant
McMillen Jacobs Associates
1101 Western Avenue, Suite 706
Seattle, Washington 98104

Re: Preferred alternative for the Eklutna Hydroelectric Project – restoration of Eklutna River and Lake salmon habitat and production

Dear Ms. Owen:

The Matanuska Susitna Borough Fish and Wildlife Commission (FWC) represents the interests of the Borough in the conservation and allocation of fish, wildlife and habitat. Specifically, the FWC advises borough officials, state or federal agencies and other organizations with interests that may affect conservation of fish, wildlife, and habitat across an area the size of West Virginia. Within this area, residents fish commercially, personal use dip net, sport fish, and four indigenous communities are important subsistence users—Tyonek, Knik, Eklutna and Chickaloon. The members of the FWC combined bring well over 150 years of experience managing fish and wildlife resources within Alaska.

It is the understanding of the FWC that in your capacity you represent the three owners of the Eklutna Hydroelectric Project. Pursuant to the 1991 Fish and Wildlife Agreement for Snettisham and Eklutna Projects we would like to provide our recommendations in the restoration of the historically important Eklutna River and Lake. In our opinion for this to be accomplished per the 1991 agreement will require sufficient water flows to support passage of anadromous fish species to and from Eklutna Lake to the confluence of the Knik River. United States Congresswoman Ms. Peltola clearly articulates that in authorizing the sale of the Eklutna Hydropower Project it was the intent of Congress that the Utilities must mitigate for drying up the Eklutna River. How best to accomplish this will require an investment that if done correctly will demonstrate how this hydroelectric project can be done responsibly and would gain a much broader public and environmental support. The recommendations offered by the National Marine Fisheries Service are proven steps which would provide for the positive outcome in meeting the objectives of the 1991 agreement. The FWC supports these recommendations and those offered through resolution by the Native Village of Eklutna.

It is important to note and clarify that the analysis performed by McMillen in addressing the potential spawning and rearing habitat for anadromous fish species and the primary productivity of Eklutna Lake seems to ignore the production of very similar lakes within Alaska. It also seems to ignore the effects of salmon carcasses in providing nutrient amendments for sustaining and restoring stream and lake productivity.

The portal option is not a vital option if in fact the goal is to restore both the river and lake to their historical production. Leaving approximately 1 mile of dry riverbed definitely fails to connect the river to the lake and would ignore the goal of restoring the lakes' productivity. Basic understanding of fish production clearly points to the need of having both Eklutna Lake and River connected by continuous water flow.
Providing fish passage from the river to the lake when properly engineered has been demonstrated in many river/lake systems throughout the Pacific Northwest. Here in Alaska, one only has to look as far as Kodiak Island and the Frazer Lake system. Frazer Lake is the second largest lake on Kodiak, and was barren of anadromous fish. A 10-meter waterfall stood as a barrier for sockeye salmon heading back to their natal waters to spawn. A fish pass was constructed around the barrier, which allowed fish to autonomously migrate up and access Frazer Lake and tributary spawning habitats. Frazer Lake is one of the most successful introduced runs in the world and a major producer of sockeye salmon in the Kodiak Management Area, with annual runs exceeding 1 million in recent years. When comparing Eklutna Lake to Frazer Lake surface acres you find very similar sizes, 3,520 and 3,978 acres respectively.

An important point to consider, implementing a sound mitigation plan which not only restores fish production in this historically important system, is also an important step in maintaining and protecting the health of salmon in the Upper Cook Inlet area, the body which connects migratory salmon to the waters of the Matanuska Susitna Borough. The FWC greatly appreciates the coordination and work which has gone into this planning process. We look forward to a final plan which recognizes a process which brings back a salmon resource so important to us all.

Sincerely,

Andrew N. Couch

Andy Couch, Chair
Mat-Su Borough Fish and Wildlife Commission

From:	Eric Booton
To:	Sam Owen
Subject:	Eklutna Mitigation Public Comment
Date:	Tuesday, February 13, 2024 9:16:00 AM

Please accept the following comment on behalf of Eric Booton, CEA ratepayer.

Since its construction, the Eklutna Hydroelectric Project has grossly harmed a wild salmon stream of significant cultural importance. Now, nearly 70 years later, the time has come for project operators to take ownership of its impact. As currently operated, the obstructive project utilizes a diversion dam at the outflow of Eklutna Lake to block all of the water that would otherwise flow down the Eklutna River. Instead, 100% of the water is diverted - 10% of which is utilized to meet 90% of Anchorage's drinking water needs, 90% generates a scant amount of electricity before releasing the water into the neighboring Knik River. With no water flowing out of Eklutna Lake more than 8 miles of the Eklutna River are devoid of flowing water and the passage of adult and juvenile wild salmon into and out of Eklutna Lake is blocked. For nearly a century, salmon have clung to existence by a trickle of water as the health of the wild salmon population has been significantly diminished as a result of project operators' elective use of water.

The Eklutna Hydroelectric Project was sold by the federal government to the operators through a unique act of congress that came with the obligation to make up for the project's impact to fish and wildlife and their habitat. The sale also included a one of a kind arrangement allowing for the project operators to circumnavigate the FERC licensing process and lead their own mitigation process. While project operators and contractors sing their own praises, reality is the mitigation process so far is unworthy of celebration and has been marred with skepticism and concern by several parties and technical experts who contributed to it.

Following the review of the field studies, numerous alternatives were submitted by members of the technical working group that would appropriately balance the use of Eklutna Lake water in a manner that preserves access to drinking water, allows for continued operation of the project and appropriately meets the needs of wild salmon. It is disheartening to see that the project operators have taken advantage of their power under the 1991 agreement with a bullheaded attempt to overlook their project's impact and check the mitigation requirement box by doing as little as possible - which is exactly what we have witnessed with the the preferred alternative they have shared with the public.

The draft mitigation plan presented by the operators of the Eklutna Hydroelectric Project fails to make up for the project's impacts as required by the 1991 agreement and allows the project operators to pass the burden of responsibility to AWWU. The AWWU portal option presented is inadequate and concerning for the following reasons:

-

Only 40 cfs will be released in the summer (4% of historic flows) and 27 cfs in the winter. This is far from enough water to provide Eklutna River salmon with reliable access to spawning and rearing habitat, much of which is located in side channels that will be left dry with only 40 cfs of water. Additionally, the public is right to be skeptical that 27 cfs is an adequate winter flow for the survivability of salmon eggs.

- Water will be released into the Eklutna River from the AWWU pipe approximately a mile below the diversion dam at the outflow of Eklutna Lake. As a result, a mile of the Eklutna River will be left dry.

- Without flowing water, wild salmon will still be blocked from mitigating to and from Eklutna Lake and accessing the historic habitat in Eklutna Lake and its tributaries.

- Without access to Eklutna Lake, sockeye salmon will not be able to recover.

- The AWWU pipeline provides Anchorage's drinking water, the most important use of Eklutna Lake water. The operators preferred alternative places concerning and unnecessary stress to AWWU's infrastructure and is a risk to the drinking water supply of nearly all of the area residents.

- AWWU infrastructure undergoes routine maintenance in which the flow of water in the pipe is turned off. Regular maintenance of AWWU infrastructure will leave the Eklutna River dry during its duration and wild salmon at all life stages will be harmed.

- The AWWU portal draws water from an intake valve at the bottom of Eklutna Lake where it is significantly colder than the surface water that would flow down the Eklutna River under a normal flow regime. As a result, water from the AWWU portal may very well be too cold for the recovery of salmon. This concern has been made abundantly clear in the case of the botched mitigation of the Cooper Creek project where Chugach Electric Association has spent years attempting to engineer a solution that will pipe water of the appropriate temperature past the Cooper Creek dam and into Cooper Creek.

The Eklutna Hydroelectric Project does not provide flowing water to 8+ miles of the Eklutna River and does not allow fish passage to Eklutna Lake. The preferred alternative of the project owners only satisfies their interests and fails to mitigate any of the impacts that the project they are responsible for created. To this point, it is a devious attempt to escape responsibility and do little more than continue business as usual.

Area residents and the Eklutna people have held hope for a fully functioning and healthy

Eklutna River since the removal of the abandoned lower Eklutna dam in 2018 which removed a major barrier to reviving the fractured river system and mitigation of the Eklutna Hydroelectric Project has been the long anticipated opportunity to further repair the system with flowing water and fish passage. Additionally, the late Representative Young and his successor, Representative Peltola, have expressed their support for Native Village of Eklutna and restoring the river. The Anchorage Assembly has reiterated their support for restoration through numerous bi-partisan actions and the MatSu Fish & Wildlife Commission has also provided letters to the project operators reiterating the need for adequate flow and fish passage.

Though the mitigation process began in 2019, the public wasn't officially invited into the mitigation process until late 2023 when the draft fish and wildlife plan was released for review and comment. In January 2024, public meetings were hosted in Palmer, Anchorage and Eagle River. For 5 years many members of the public have been waiting for their opportunity to formally support restoring the Eklutna River by sharing their comment with the utility owners at the public meetings, the primary public engagement moment in the mitigation process. Without discussion or opportunity for public comment, I was vehemently dismayed when the "public meeting" was little more than a public relations presentation that the public was asked to attend. It is clear that the public meetings were engineered to minimize public involvement and promote the biased preferred alternative of the project owners as if it is the public's only option.

It is important to remember that the draft fish and wildlife plan is indeed a draft, and as written, it cannot be accepted by the public and ratepayers, and should not be accepted by Governor Dunleavy or the Parties to the 1991 Agreement. The AWWU portal put forth by the project operators still bears a $57 million price tag - that's $57 million that will be wasted on a mitigation plan that will leave the river fractured and fail to lead to a salmon fishery of any abundance. Yes, a mitigation plan that will meet the needs of wild salmon will come with additional costs, but those initial costs will come with significantly increased reward for Alaskans and the Eklutna people. This is why several groups, including Native Village of Eklutna, Eklutna Inc, The Conservation Fund and more, are on the record having committed to raise the funding necessary for engineering alterations to assist the utilities in enacting a mitigation plan that is likely to actually recover wild salmon.

To make up for the project's impact to fish and wildlife and their habitat, in honesty, it is critical that the final fish and wildlife plan include adequate flowing water the entire length of the Eklutna River and fish passage to Eklutna Lake for adult and juvenile fish. The AWWU portal is not a viable option and should no longer be pursued. Numerous alternatives were provided by members of the technical working group that would make an appropriate alternative to the AWWU portal and should be reconsidered, though removing the diversion dam is likely the best alternative to preserve drinking water, meet the needs of fish, and still

allow the Eklutna Hydropower Project to operate. Being that the mitigation process has been poorly conducted and stakeholders are far from agreement with the project operators, extending the process to avoid rushing to make a decision of severe consequence is a very reasonable request.

We built these dams and they have cost us, and the Eklutna people, more than we will ever fully know. Modernizing the operation of the Eklutna Hydroelectric Project to operate with a minimal impact to natural resources is both honorable and very achievable and any loss in power generation can be easily recovered with more renewables. Wild salmon are slipping throughout Alaska and, in the case of the Eklutna River, we do not have to accept a struggling salmon fishery, and it's not a future the Eklutna people should be asked to accept.

February 16, 2024
sent via email

Dear Eklutna Hydroelectric Program Development Team,

Please accept the attached reports as comments on the Draft Fish and Wildlife Program for the Eklutna Hydroelectric Project.

The Anchorage Assembly has had concerns about unaddressed issues in the Draft Wildlife Program (AR 2024-40, As Amended), and therefore enlisted a consultant to research and report on those issues. The attached executive summary and full report were completed by Mr. Donald Spiegel with GV Jones & Associates, Inc.

Mr. Spiegel was retained to review the concept of providing Eklutna Lake water to the Eklutna River from an AWWU Portal Release Facility from both engineering and operations viewpoints. Mr. Spiegel is uniquely qualified to serve in this role due to his experience in the planning, design, construction and operation of water supply projects, his 45 years of experience on Water Supply and Water Treatment Engineering projects, and his five years of experience as Project Engineer and Lead Field Engineer on the design, construction and startup of the Eklutna Water Project.

Mr. Spiegel's review of project documentation for the AWWU Portal Release Facility coupled with his historical knowledge of the Eklutna Water Project identified significant project issues as are detailed in the attached reports.

Sincerely,

Christopher Constant

Assembly Chair Christopher Constant
District 1, North Anchorage

Assembly Vice Chair Meg Zaletel
District 4, Midtown

Attachments:
1. Executive Summary for Project Issues Paper
2. Project Issues Paper

EXECUTIVE SUMMARY

Eklutna River Restoration Project

Project Issues Paper

GV Jones & Associates, Inc.

1200 E 76th Ave

Anchorage, AK 99518

Author: Donald Spiegel, P.E.

(February 14, 2024)

About the Author and the Author's Role:

Mr. Donald Spiegel has 45 years of experience on Water Supply and Water Treatment Engineering projects. He has a Bachelor's Degree and a Master's Degree in Environmental Engineering and has been involved with projects around the world with costs ranging from $5M to almost $5B. Mr. Spiegel was retained to review the concept of providing Eklutna Lake water to the Eklutna River from an AWWU Portal Release Facility from both engineering and operations viewpoints. Mr. Spiegel is uniquely qualified to serve in this role due to his experience in the planning, design, construction and operation of water supply projects but also based on his five years of experience as Project Engineer and Lead Field Engineer on the design, construction and startup of the Eklutna Water Project. Mr. Spiegel's review of Project documentation for the AWWU Portal Release Facility coupled with his historical knowledge of the Eklutna Water Project resulted in the identification of significant Project Issues as are detailed in this Project Issues Paper.

Executive Summary

The first Eklutna Hydroelectric Project was constructed in the late 1920's by Anchorage Light and Power Company. In 1950, the Federal Government, through the United States Bureau of Reclamation (USBR), proposed raising the original dam to create a larger lake that could provide more electric power to Southcentral Alaska. This Project, called the Eklutna Hydroelectric Project, was completed in 1955. In 1967 the Alaska Power Administration (APA) was established and all responsibility for the operation and maintenance of the Eklutna Hydroelectric Project was transferred from the USBR to APA. In 1991, the Federal Government agreed to sell its interest in the Eklutna Hydroelectric Project to a trio of local electric utilities: (1) Municipality of Anchorage dba as ML&P at a 53.33% share; (2) Chugach Electric Association at a 30.0% share; and (3) Matanuska Electric Association at a 16.67% share. As part of this 1991 Agreement, the new "Project Owners" agreed to develop and propose a program to protect, mitigate damages to, and enhance fish and wildlife impacted by the original Federal Hydroelectric Project. The program would necessitate the development of a year-round release of water to the Eklutna River. Ownership of the Eklutna Hydroelectric Project was officially transferred from the Federal Government to the new Project Owners on October 2, 1997.

In 2019, the Project Owners began a consultation process to discuss alternatives for providing year-round release of water and periodic channel maintenance flows from Eklutna Lake into the Eklutna River. This resulted in a three-year effort to study alternatives and to consult with environmental stakeholders. The study's selected alternative consists of construction of a new isolation valve structure and a new river release structure located adjacent to the Anchorage Water and Wastewater Utility (AWWU) Eklutna Water Project (EWP) Portal Valve Shaft approximately one mile below the Eklutna Dam. This alternative, called the AWWU Portal Release Facility, relies on use of existing AWWU infrastructure. The selected alternative, however, creates policy and infrastructure issues for AWWU that are discussed herein.

The review provided in this Project Issues Paper that follows this Executive Summary contains the following sections:

1. Introduction
2. Project Definition for the AWWU Portal Release Facility
3. Governance Issues
4. Description of the Eklutna Water Project Facilities
5. Eklutna Water Project Raw Water System Hydraulics
6. Review of AWWU Portal Release Project Facilities

Review of Project documentation for the AWWU Portal Release Facility coupled with the Author's historical knowledge of the EWP resulted in the identification of significant Project Issues as follows:

Issue #1 is a Governance Issue. The Project Owners represent the power production interests for the Project. Information exchange and dialogue with State and Federal resource agencies and some environmental interests have also occurred but little engagement from the water supply interests (specifically AWWU, but also the Alaska Department of Environmental Conservation, ADEC) appear to have taken place. In the documentation to date, there is no mention of future expansion plans of EWP facilities nor the certainty of emergency shutdowns and inspection/maintenance shutdowns of EWP facilities. In addition, there is no discussion of the present condition of the Intake Valve Shaft nor the Portal Valve Shaft which are both 35 years old. Expansion of the Eklutna Water Treatment Facility (EWTF) would severely limit the ability to divert water from the AWWU Portal Release Facility both in terms of time-of-year and likely in flow. And shutdown of EWP facilities, which will continue to occur, would stop the flow to the Eklutna River entirely. If AWWU facilities are to be used as part of the solution for providing year-round flow to the Eklutna River, dialogue and engagement with AWWU and ADEC are critical to ensure the long-term health and safety of the Anchorage Public Water System (PWS). ADEC will likely be interested in why a Public Water System is also being used as a River Restoration System.

Issue #2 is an Opportunity Cost Issue. The EWP was originally designed and constructed to serve a PWS demand of 70 mgd – which is 108.5 cfs. The EWP piping, both raw water and treated water, were designed and constructed for the 70 mgd system flow; the EWTF was designed and constructed for a plant flow of 35 mgd to more closely match the PWS demands at the time of construction. The EWTF, however, was designed and is configured to allow easy expansion to 70 mgd. No mention of the future expansion of the EWTF to 70 mgd is acknowledged in the AWWU Portal Release Facility documentation to date. The need to expand the EWTF in the future could occur for a number of reasons, including: (1) population increase particularly North of the Anchorage Bowl; (2) diminishing groundwater supply due to contamination from PFAS, de-icing compounds, arsenic and/or other contaminants; and (3) possible decrease in Ship Creek supply due to water rights issues and creek flows during certain times of the year (military and maintaining minimum creek flows have priority over the AWWU use). To forego the opportunity to expand the EWTF to 70 mgd, and thus to forego expansion of the AWWU PWS in the planned manner that has existed for over 30 years, must be considered a significant policy decision for the MOA. To supply future drinking water from a source other than Eklutna Lake would certainly increase the cost of water in Anchorage significantly in the future.

Issues #3 (Scheduled Maintenance) and #4 (Emergency Maintenance) are Public Relations Issues. The EWP raw water facilities, including the Intake Valve Shaft and the Portal Valve Shaft have mechanical, electrical, and instrumentation and control equipment that require periodic maintenance work that necessitates scheduled shutdown of the EWP. These scheduled shutdowns can last days or longer depending on the maintenance needs. In addition, the raw water facilities have automatic and manual emergency shutdown capabilities in case of damage due to earthquake, terrorism, or vandalism that also result in long outage times. Draining and refilling raw water facilities can add significant time to these shutdowns, whether scheduled or emergency. It must be understood that use of the AWWU Portal Release Facility does not provide

a 100% certain year-round water supply to the Eklutna River. Scheduled maintenance shutdowns as well as periodic emergency shutdowns will continue to occur and discharge of water to the Eklutna River during these events will stop. The resulting impact to fish spawning habitat and the fish population itself will be of major public interest, potentially manifesting as negative public opinion towards MOA in general and AWWU specifically. Simply stated, the AWWU Portal Release Facility does not provide the year-round release of water to the Eklutna River as is portrayed in Project documentation to date.

Author's Opinion. In the documentation to date for the AWWU Portal Release Facility, Eklutna Water Project facilities have not been represented correctly in terms of capacity and operation. The Eklutna Water Project should be considered a project of 70 mgd (108.5 cfs) capacity and the operation of EWP facilities must consider scheduled and emergency shutdowns that can last from a few days to many weeks. Adjustment for these considerations and more detailed and consistent engagement of AWWU and ADEC personnel must occur as soon as possible to ensure the long-term health and safety of the Anchorage Public Water System. As a result of the mistaken assumptions about the EWP, it is concluded that the proposed AWWU Portal Release Facility cannot provide adequate Eklutna River restoration flows nor can it provide year-round water without interruption. Thus, it is the Author's opinion that the AWWU Portal Release Facility as currently configured is fatally flawed and other Eklutna River Restoration alternatives, or additional complementary facilities, should be studied further.

END OF EXECUTIVE SUMMARY

PROJECT ISSUES PAPER

Eklutna River Restoration Project

GV Jones & Associates, Inc.

1200 E 76th Ave

Anchorage, AK 99518

Author: Donald Spiegel, P.E.

(February 14, 2024)

About the Author and the Author's Role:

Mr. Donald Spiegel has 45 years of experience on Water Supply and Water Treatment Engineering projects. He has a Bachelor's Degree and a Master's Degree in Environmental Engineering and has been involved with projects around the world with costs ranging from $5M to almost $5B. Mr. Spiegel was retained to review the concept of providing Eklutna Lake water to the Eklutna River from an AWWU Portal Release Facility from both engineering and operations viewpoints. Mr. Spiegel is uniquely qualified to serve in this role due to his experience in the planning, design, construction and operation of water supply projects but also based on his five years of experience as Project Engineer and Lead Field Engineer on the design, construction and startup of the Eklutna Water Project. Mr. Spiegel's review of Project documentation for the AWWU Portal Release Facility coupled with his historical knowledge of the Eklutna Water Project resulted in the identification of significant Project Issues as are detailed in this Project Issues Paper

Executive Summary -- Under Separate Cover

1. Introduction

The first Eklutna Hydroelectric Project was constructed in the late 1920's by Anchorage Light and Power Company. In 1950, the Federal Government, through the United States Bureau of Reclamation (USBR), proposed raising the original dam to create a larger lake that could provide more electric power to Southcentral Alaska. This Project, called the Eklutna Hydroelectric Project, was completed in 1955. In 1967 the Alaska Power Administration (APA) was established and all responsibility for the operation and maintenance of the Eklutna Hydroelectric Project was transferred from the USBR to APA. In 1991, the Federal Government agreed to sell its interest in the Eklutna Hydroelectric Project to a trio of local electric utilities: (1) Municipality of Anchorage dba as ML&P at a 53.33% share; (2) Chugach Electric Association at a 30.0% share; and (3) Matanuska Electric Association at a 16.67% share. As part of this 1991 Agreement, the new "Project Owners" agreed to develop and propose a program to protect, mitigate damages to, and enhance fish and wildlife impacted by the original Federal Hydroelectric Project. The program would necessitate the development of a year-round release of water to the Eklutna River. Ownership of the Eklutna Hydroelectric Project was officially transferred from the Federal Government to the new Project Owners on October 2, 1997.

The Project Owners have recognized that as the holder of significant water rights in the Eklutna Basin and as the operator of the existing hydroelectric facilities that substantially control the use and elevation of that water in Eklutna Lake, it is the responsibility of the Project Owners to provide water in the Eklutna River for the protection, mitigation and enhancement of fish and wildlife habitat. As a result, the Project Owners have committed to provide year-round instream flows to the Eklutna River.

2. Project Definition for the Eklutna River Release Facility

In 2019, the Project Owners began a consultation process to discuss alternatives for providing year-round release of water and periodic channel maintenance flows from Eklutna Lake into the Eklutna River. This resulted in three-years of effort to study alternatives and to consult with environmental stakeholders. The study began in March 2019 and continues today. The study's selected alternative consists of construction of a new isolation valve structure and a new river release structure located adjacent to the Anchorage Water and Wastewater Utility (AWWU) Eklutna Water Project (EWP) Portal Valve Shaft approximately one mile below the Eklutna Dam. This alternative, called the AWWU Portal Release Facility, relies on use of existing AWWU infrastructure. The selected alternative, however, creates policy and infrastructure issues for AWWU that are discussed herein.

AWWU owns, operates and maintains the EWP which supplies the Municipality of Anchorage (MOA) with approximately 90% of its drinking water. The EWP consists of raw water facilities (Lake Diversion Tunnel and Pipeline Segment P-4), the Eklutna Water Treatment Facility (EWTF), and treated water facilities (Clearwell and Pipeline Segments P-3, P-2 and P-1). Due to the location and elevation of the EWTF, high quality drinking water is supplied by gravity via 23 miles of treated water piping to the Anchorage Bowl. The hydraulic head from the treatment facility location pushes water as far South as Service High School and Potter Marsh in the Anchorage Bowl. There are turnouts along the treated water pipeline to the Anchorage Bowl for current and future drinking water supply to the Village of Eklutna, Joint Base Elmendorf & Richardson, and the communities of Peters Creek, Chugiak, Birchwood and Eagle River.

On the raw water portion of the EWP, the Portal Shaft is the terminus structure of the Lake Diversion Tunnel. The Lake Diversion Tunnel is approximately 8,600 feet long and six (6) feet in diameter and connects the original Eklutna Hydropower Plant tunnel to EWP Pipeline Segment P-4. The AWWU Portal Release Facility is proposed to be constructed immediately upstream of the EWP Portal Shaft. An isolation valve structure would be constructed, and a short section of existing piping would be replaced, to divert a portion of flow to the River Release Structure.

As presented for the AWWU Portal Release Facility alternative description, operation of the Eklutna River Release Facility is anticipated to be as follows:

- Normal Flow Release: Flow releases into the Eklutna River will vary seasonally with a winter flow of 27 cubic feet per second (cfs); which is equivalent to 17.5 million gallons per day (mgd) and a summer flow of 40 cfs (25.8 mgd) .
- Periodic Channel Maintenance Flow Release: Maintenance Flow releases will occur in 3 out of every 10 years and will require a maximum release of 80 cfs (51.6 mgd) from the Eklutna River Release Facility combined with additional release from the Eklutna Dam.

3. Governance

Overall governance; creating the framework for finance, contracting, construction, long-term operation and maintenance, and the resulting day-to-day decision making, for any project that uses water from a multipurpose lake or reservoir; can be complicated and onerous. This Eklutna Hydroelectric Project is no different. When year-round flows in the Eklutna River are realized, Eklutna Lake will be used as a source for: (1) public water system supply, (2) environmental protection, mitigation and enhancement, and (3) power production. Due to the potential of conflict over water appropriations and Project operations, particularly in dry years and during emergency events, governance for a project must be discussed and codified early. Governance can take the form of a Joint Powers Authority in which all of the interests have representation on a Governing Board but, at a minimum, a Memorandum of Understanding (MOU) between the

interests should be developed and signed to establish representation, decision making authorities and dispute resolution processes.

Ownership. To date, the Project Owners have been defined as MOA dba as ML&P, Chugach Electric and Matanuska Electric. These three Owner entities represent the power production interests for the Project. In addition to Owners, other stakeholders in this Project include Environmental and Water Supply interests. To date, several state and federal resource agencies and environmental organizations have been consulted to inform the Project's planning effort on issues related to the environmental protection, mitigation and enhancement progress of the Project. However, the water supply interests have had minimal involvement with the Project to date. This is evident from discussions and assumptions about the use of Eklutna Water Project facilities, especially with regards to future expansion and the certainty of scheduled and emergency shutdowns of EWP facilities.

Operations Philosophy. As part of any governance structure or MOU developed for operation of a **future river release facility**, it is imperative that an Operations Philosophy for Eklutna Lake be developed and agreed to by not only the Owner but also Environmental and Water Supply stakeholder interests as soon as possible. There is potential for conflict with Water Supply Stakeholders, especially with regards to future expansion of the EWTF, that must be discussed and resolved prior to the adoption of any Project alternative. In addition, scheduled shutdowns for inspection or repair of EWP infrastructure as well as emergency shutdowns will occur and have the potential to adversely impact the interests of Environmental stakeholders of the Project. Both of these issues are discussed further in Section 4 below.

Operations and Maintenance (O&M) Entity. It is important to agree on the O&M entity for any **future river release facility** as soon as possible. The O&M identity decision should be codified in the MOU and should be timed such that the selected O&M entity is part and parcel of the engineering planning, design and construction efforts that will precede its long-term O&M responsibilities.

PROJECT ISSUE # 1 is a Governance Issue – There is a need for a governance structure for ownership entities that requires regular engagement of all stakeholder parties with interests in the River Release Project: (1) Water Supply, (2) Environmental Protection, Mitigation and Enhancement, and (3) Power Production. The Project Owners only represent the power production interests for the Project. Information exchange and dialogue with State and Federal resource agencies and some environmental interests have also occurred but little engagement from the water supply interests (specifically AWWU, but also the Alaska Department of Environmental Conservation, ADEC) appear to have taken place. In the documentation to date, there is no mention of future expansion plans of the EWTF nor the certainty of inspection/maintenance shutdowns and emergency shutdowns of Eklutna Water Project facilities. In addition, there is no discussion of the present condition of the Intake Valve Shaft nor the Portal Valve Shaft which are both 35 years old. Expansion of the EWTF would severely limit the ability to divert water from the AWWU Portal Release Facility both in terms of time-of-year

and likely in flow. And shutdown of EWP facilities, which will continue to occur, would stop the flow to the Eklutna River entirely. If AWWU facilities are to be used as part of the solution for providing year-round flow to the Eklutna River, dialogue and engagement with AWWU and ADEC are critical to ensure the proper operation and long-term health and safety of the Anchorage Public Water System (PWS). ADEC will likely be interested in why a Public Water System is also being used as a River Restoration System.

4. Description of Eklutna Water Project Facilities

The EWP has supplied high quality drinking water to the community for over 35 years. The EWP was engineered and constructed between 1982 and 1988 with operations of the entire project commencing in the Summer of 1988. As stated earlier, AWWU owns, operates and maintains the EWP which supplies the MOA with approximately 90% of its drinking water. The EWP was planned such that high quality potable water produced by it could be distributed to the Anchorage Bowl by gravity without intermediate pumping. It also provides the ability to supply potable water to Eagle River and the Northern Communities between the treatment plant location and the Anchorage Bowl.

Intake. The EWP begins in Eklutna Lake with a shared intake facility. The intake provides water to both the EWP and the Eklutna Hydrpower Plant. The intake structure itself is located near the north shore of the lake approximately one (1) mile east of the dam and is fed by an excavated inlet channel approximately 100 feet wide and 700 feet long. The excavated channel is at the lake bottom and leads to a reinforced concrete box structure, open and protected by trashracks on its top, front and both sides. The trashrack portion is about 23 feet wide by 20 feet high by 22 feet long. The overall length of the structure is about 42 feet. The structure invert elevation is about Elevation 794 and the top is at approximate Elevation 814. Two important items to be aware of for the Intake:

- It is important to maintain submergence on the intake structure top so as to not entrain air into the flow to the EWP or the Eklutna Hydropower Plant. Air in the flowstream must be vented properly and can be problematic for downstream facilities. The Eklutna Hydropower Plant currently operates to maintain a minimum lake elevation at approximate Elevation 820.
- At lower lake levels during late spring and early summer months (say late April early July), the intake structure itself is often visible from the North shore of the Lake illustrating how little submergence can be present at the structure.

Intake Valve Shaft. The EWP is connected to the pre-existing 9-foot diameter tunnel that feeds the Eklutna Hydropower Pant. To construct the water supply for the EWP, a section of the pre-existing tunnel was removed and a new steel tee was placed to allow diversion of a portion of the water from the Eklutna Hydropower Tunnel to the new EWP Tunnel. A short section of new tunnel piping was then installed as part of the EWP to route water from the new Tee section to an Intake Valve Shaft.

The Intake Valve Shaft is a circular structure from bottom invert elevation of approximately 786 to a top of cylinder elevation of 913. A square structure sits on top of the circular bottom and extends upward to approximate Elevation 930. The Intake Valve Shaft houses the following:

- Mainline steel piping, 54 inches in diameter.
- Mainline Emergency Shutoff Valve (Ring Follower Valve with hydraulic operator) – in an emergency condition this valve can shutdown the entire downstream EWP.
- Mainline Isolation Valve (Butterfly Valve with hydraulic operator) – during normal operation, this valve can shutdown the entire downstream EWP.
- Smaller bypass piping and valving that allows the piping downstream of the above two mainline valves to be refilled from the upstream tunnel connection in a controlled and proper manner.
- Sump pump system including a sump pump discharge into the 54" mainline pipe.
- Pressure sensing lines upstream and downstream of the Ring Follower Valve to ensure informed operation of Eklutna Water Project facilities.
- Emergency high flow meter and transmitter which can alert Eklutna operations to a downstream pipeline break and can be used to shutdown flow to the downstream EWP. The signal from this meter is alarmed and monitored closely by operators at the EWTF.
- Intake Valve Shaft Flood Alarm which can alert operators at the EWTF to a pipeline break within the Intake Valve Shaft or myriad possible structural or mechanical problems at the Intake Valve Shaft. Water inside the Intake Valve Shaft can match Eklutna Lake level depending on the physical alarm condition.
- All electrical and other instrumentation (such as Eklutna Hydropower Tunnel Pressure, ventilation status, etc.) necessary for the proper operation and remote monitoring of the Intake Valve Shaft.

Two important items to be aware of for the Intake Valve Shaft:

- There are at least sixteen smaller pipe connections to the mainline 54" pipe and valves; many of those connections have corrosion present and may not have been operated for some time. All of the mechanical, electrical and instrumentation items listed above require periodic maintenance and inspection which often requires scheduled shutdown of the EWP that can last days, weeks, or longer depending on the maintenance needs. Draining and refilling time must be considered in all maintenance shutdowns. It is imperative that a Condition Assessment be performed and required maintenance activities identified and conducted for all mechanical, electrical, and instrumentation items in the Intake Valve Shaft as part of the Portal Release Facility work. It must be understood that use of the AWWU Portal Release Facility to provide year-round water to the Eklutna River is not a 100% certain water supply as periodic maintenance shutdowns will continue to occur.
- The Intake Valve Shaft has mechanical equipment, electrical supply and instrumentation and controls that shutdown the entire EWP under emergency conditions. An emergency

condition could manifest as a result of a major earthquake, failed downstream infrastructure, terrorism or vandalism attacks or simple error when working on electrical and instrumentation circuits. Emergency shutdowns have occurred in the past and will occur again in the future. Again, it must be understood that use of the AWWU Portal Release Facility to provide year-round water to the Eklutna River is not a 100% certain water supply as emergency shutdowns will continue to occur.

Lake Diversion Tunnel. Downstream of the Intake Valve Shaft is the Lake Diversion Tunnel which is approximately 8600 feet long and six (6) feet in diameter. The interior was inspected via robotic camera within the past few years and was found to be in good condition. Similar future inspections will be required. The inspections require that the EWP be shutdown and drained to allow entry of the robotic camera and to not distort the video recording.

As with the Intake Valve Shaft, it must be understood that use of the AWWU Portal Release Facility to provide year-round water to the Eklutna River is not a 100% certain water supply as periodic inspection shutdowns of the Lake Diversion Tunnel will continue to occur.

Portal Valve Shaft. The Lake Diversion Tunnel ends at the Portal Valve Shaft. The Portal Valve Shaft is a rectangular structure from bottom invert elevation of approximately 776 to a top of elevation of approximately 811. The Portal Valve Shaft houses the following:

- Mainline steel piping, 54 inches in diameter
- Mainline Isolation Valve (Butterfly Valve with hydraulic operator) – during normal operation, this valve can shutdown the entire downstream EWP.
- Smaller bypass piping and valving that allows the piping downstream of the above mainline isolation valve to be refilled from the upstream Lake Diversion Tunnel in a controlled and proper manner.
- Sump pump system including a sump pump discharge into the 54” mainline pipe.
- Emergency high flow meter and transmitter which can alert the operators at the EWTF to a downstream pipeline break and can be used to shutdown flow to the downstream EWP. The signal from this meter is alarmed and closely monitored by operators at the EWTF.
- Portal Valve Shaft Flood Alarm which can alert operators at the EWTF to a pipeline break within the Portal Valve Shaft or myriad possible structural or mechanical problems at the Portal Valve Shaft.
- All electrical and other instrumentation (such as Lake Diversion Tunnel Pressure, ventilation status, etc.) necessary for the proper operation and remote monitoring of the Portal Valve Shaft.

Two important items to be aware of for the Portal Valve Shaft:

- There are at least eight smaller pipe connections to the mainline 54” pipe and valve; many of those connections have corrosion present and may not have been operated for some time. All of the mechanical, electrical and instrumentation items listed above require periodic maintenance which often requires scheduled shutdown of the EWP that can last

days, weeks, or longer depending on the maintenance needs. Draining and refilling time must be considered in all maintenance shutdowns. It is imperative that a Condition Assessment be performed and required maintenance activities identified and conducted for all mechanical, electrical, and instrumentation items in the Portal Valve Shaft as part of the Portal Release Facility work. It must be understood that use of the AWWU Portal Release Facility to provide year-round water to the Eklutna River is not a 100% certain water supply as periodic maintenance shutdowns will continue to occur.

- The Portal Valve Shaft has mechanical equipment, electrical supply and instrumentation and controls that shutdown the entire EWP under emergency conditions. An emergency condition could manifest as a result of a major earthquake, failed downstream infrastructure, terrorism or vandalism attacks or simple error when working on electrical and instrumentation circuits. Emergency shutdowns have occurred in the past and will occur again in the future. Again, it must be understood that use of the AWWU Portal Release Facility to provide year-round water to the Eklutna River is not a 100% certain water supply as emergency shutdowns will continue to occur.

Raw Water Pipeline (P-4). Raw Water Pipeline Segment P-4 extends from the Portal Valve Shaft to the Eklutna Energy Recovery Station located on the EWTF site. The pipeline is approximately 6.2 miles in length and is routed in the Eklutna River Valley, exiting the river valley on a fairly steep incline to a plateau that is approximately 3,000 feet east of the EWTF site. Approximately 52% of the Segment P-4 pipeline is 60 inches in diameter with approximately 48% at 54 inches in diameter. An Air-Vacuum and Air-Release Valve Vault is located on the top plateau near the treatment facility at the high point of the Segment P-4 pipeline. The Air-Vacuum and Air Release assembly requires a water elevation of approximately Elevation 730 to have the float seat properly with no chatter. As discussed in Sections 4 and 5 below, the impact of the AWWU Portal Release facility on downstream EWP piping and facilities has not been discussed in any AWWU Portal Release Facility documentation to date.

Eklutna Energy Recovery Station. The Eklutna Energy Recovery Sation (EERS), located on the EWTF site, serves as the pressure and flow control structure for the downstream EWTF. The EERS houses a hydraulic turbine/electric generator that recovers energy from the water flow from the lake. The turbine was sized to recover the energy at lower plant flows; up to about 41 mgd – which is equal to 63.5 cfs. Higher flows were observed during start-up and plant testing but the turbine is nameplated at 41 mgd. Adjacent to the turbine in the EERS is a full capacity sleeve valve capable of supplying 70 mgd (108.5 cfs) – to the downstream treatment facility. The EERS and and the downstream EWTF were designed to be easily expanded from its original treatment capacity of 35 mgd (54.25 cfs) to an expanded future capacity of 70 mgd (108.5 cfs). At 70 mgd, the turbine would still run at 41 mgd and the sleeve valve would run at the difference of 29 mgd. Should the turbine be out of service for any reason, then the sleeve valve would operate at the full 70 mgd. All mechanical, electrical and instrumentation and control systems are in place today to allow operation of the EERS at 70 mgd.

Eklutna Water Treatment Facility. The limiting factor for operation of the EWP at a continuous flow of 70 mgd is the treatment process capacity at the EWTF. The EWTF was designed originally for a treatment capacity of 35 mgd to more closely match the PWS demands at the time of construction. The original design of the facility, however, provided the means to easily and inexpensively double the capacity when needed in the future. Some of the features designed and constructed in the 1980's for later use at the time of expansion are as follows:

- Raw Water System (all the facilities described above) were designed and constructed for a flow of 70 mgd. The EERS was designed to preferentially use the hydraulic turbine for energy recovery while also providing a secondary water passage with a sleeve valve. The sleeve valve can either add water to the turbine flow for future conditions or serve as a full flow bypass of the turbine. Section 5 below discusses the hydraulic design of the raw water system.
- The EWTF was designed and constructed with easy expansion in mind as follows:
    - Hydraulic channels have knock-out panels to allow easy connection of future hydraulic channels
    - Personnel access corridors have knock-out panels to allow easy connection of future personnel access corridors
    - Concrete joints have protected structural dowels and waterstop where future concrete structures will adjoin.
    - Process piping was extended and valved/capped for connection to future unit processes
    - All chemical storage spaces were designed for a plant flow of 70 mgd
    - Waste stream handling for waste filter backwash water was sized for a plant flow of 70 mgd, including recycle pumping
    - Waste stream handling for sedimentation basin solids was sized for a plant flow of 70 mgd, including recycle pumping.
    - The Treated Water Clearwell (treated water storage) located on the EWTF site was sized to accommodate a plant flow of 70 mgd. The Clearwell capacity is 15 million gallons and is well within industry norms for the future 70 mgd treatment facility capacity.
- The treated water system, the piping system from the treatment facility that parallels the Glenn Highway and enters the Anchorage Bowl adjacent to the Ship Creek Water Treatment Facility, is sized for 70 mgd. Treated Water Pipeline Segments P-3, P-2 and P-1 were sized to flow a total of about 25 to 30 mgd to the Village of Eklutna, Joint Base Elmendorf & Richardson, and the Northern Communities of Peters Creek, Chugiak, Birchwood and Eagle River. The remaining flow of 40 to 45 mgd is the flow available for use in the Anchorage Bowl.

PROJECT ISSUE #2 is an Opportunity Cost Issue. The EWP was originally designed and constructed to serve a PWS demand of 70 mgd (108.5 cfs). The EWP piping, both raw water and treated water, were designed and constructed for the 70 mgd system flow; the EWTF was

designed and constructed for a plant flow of 35 mgd to more closely match the PWS demands at the time of construction. The EWTF, however, was designed and is configured to allow easy expansion to 70 mgd. No mention of the future expansion of the EWTF to 70 mgd is acknowledged in the AWWU Portal Release Facility documentation to date. The need to expand the EWTF in the future could occur for a number of reasons, including: (1) population increase particularly North of the Anchorage Bowl; (2) diminishing groundwater supply due to contamination from PFAS, de-icing compounds, arsenic and/or other contaminants; and (3) possible decrease in Ship Creek supply due to water rights issues and creek flows during certain times of the year (military and maintaining minimum creek flows have priority over the AWWU use). To forego the opportunity to expand the EWTF to 70 mgd, and thus to forego expansion of the AWWU PWS in the planned manner that has existed for over 30 years, must be considered a significant policy decision for the MOA. To supply future drinking water from a source other than Eklutna Lake would certainly increase the cost of water in Anchorage significantly in the future.

It should be noted that if the EWP retains its originally planned 70 mgd (108.5 cfs) capacity, the flow releases from the AWWU Portal Release Facility may not accommodate the stated operational flows for the facility:

- Normal Flow Release: Flow releases into the Eklutna River will vary seasonally with a winter flow of 27 cfs and a summer flow of 40 cfs. **The 40 cfs flow in summer may not be available depending on lake level. Currently Eklutna Lake is operated below Elevation 850 during spring and most summer months which coincides with high water demands in the AWWU system. The original hydraulic design condition for the EWP provides 70 mgd of flow to the EWTF at the low lake level of Elevation 820. If additional water is released from the Portal Release Facility with lake Elevation at 820, it is likely that the EWTF cannot receive its 70 mgd design capacity. As lake levels increase from Elevation 820, some water can be provided by the Portal Release Facility. System hydraulics must be evaluated at 70 mgd to fully determine the flows available at the Portal Release Facility at varying lake levels with due consideration of the air/vacuum system at the high point along the P-4 pipeline.**
- Periodic Channel Maintenance Flow Release: Maintenance Flow releases will occur in 3 out of every 10 years and will require a maximum release of 80 cfs from the Eklutna River Release Facility combined with additional release from the Eklutna Dam. **The 80 cfs flow cannot be accommodated if the EWP is operating at 70 mgd (108.5 cfs).**

PROJECT ISSUES #3 (Scheduled Maintenance) and #4 (Emergency Maintenance) are Public Relations Issues. The EWP raw water facilities, including the Intake Valve Shaft and the Portal Valve Shaft have mechanical, electrical, and instrumentation and control equipment that require periodic maintenance work that necessitates scheduled shutdown of the EWP. These scheduled shutdowns can last days or longer depending on the maintenance needs. In addition, the raw water facilities have automatic and manual emergency shutdown capabilities in case of damage due to earthquake, terrorism, or vandalism that also result in long outage

times. Draining and refilling raw water facilities can add significant time to these shutdowns, whether scheduled or emergency. It must be understood that use of the AWWU Portal Release Facility does not provide a 100% certain year-round water supply to the Eklutna River. Scheduled maintenance shutdowns as well as periodic emergency shutdowns will continue to occur and discharge of water to the Eklutna River during these events will stop. The impact to fish spawning habitat and the fish population itself will be of major public interest, potentially manifesting as negative public opinion towards MOA in general and AWWU specifically. Simply stated, the AWWU Portal Release Facility may not be sufficient to provide the year-round release of water to the Eklutna River as is portrayed in Project documentation to date.

5. Eklutna Water Project Raw Water System Hydraulics

For conversations going forward concerning the AWWU Portal Release Facility, it is important to have an understanding of the raw water system hydraulics from Eklutna Lake to the EERS located on the EWTF site. As stated above, the EWP was designed and constructed as a 70 mgd water supply. The EWTF was designed and constructed at 35 mgd, with capability for easy and economical expansion to 70 mgd in the future. The raw water system, consisting of the Lake Diversion Tunnel, Pipeline Segment P-4 and the EERS was designed for a system flow of 70 mgd to match the future expanded treatment facility capacity.

Critical elevations considered in the original hydraulic design of the raw water system were: (1) Eklutna Lake Level (assumed to be Elevation 850 as average level and Elevation 820 as low level); and (2) the hydraulic grade line at the Air-Vacuum and Air Release Valve Vault on Pipeline Segment P-4 (required to be approximate Elevation 730). The hydraulic headloss between the Intake Valve Shaft and the Air-Vacuum and Air Release Vault is approximately 80 feet at a flow of 70 mgd. This allows the 70 mgd flow to barely satisfy the needs of the Air-Vacuum and Air Release Facility on Pipeline Segment P-4 when Lake Level is Elevation 820. Any additional headloss in the system created by flows for the AWWU Portal Release Facility at low Eklutna Lake levels could be problematic for EWTF operations. As Eklutna Lake levels increase above the assumed low level of Elevation 820, more water becomes available for release at the AWWU Portal Release Facility but it will not be in accordance with the stated operational flows for Eklutna River Restoration Project and the releases could be intermittent depending on hydrologic conditions.

PROJECT ISSUES – See Project Issues # 2, 3 and 4 in Section 4 above.

6. Review of Eklutna River Release Facilities

In a quick review of the concept design for the AWWU Portal Release Facility, some items to consider are:

- Replacement Piping at the Lake Diversion Tunnel connection will take some time to construct and will require shutdown of the EWP. The pipeline segment that would be removed is set in concrete slurry as bedding and would require additional time and effort to remove.

- Redundant Energy Dissipating Valves (Sleeve Valves) should be provided to ensure uninterrupted flow to the river should this AWWU Portal Release Facility alternative move forward.
- Electrical Supply at the Portal Facility is single phase, the sleeve valve actuators must be coordinated for this and may need to have DC actuators with battery supply for emergency closing. The controls for the valves should establish a control loop whereby desired flow and actual flow are compared and adjusted as necessary.
- Instrumentation and Control; SCADA Communications. Valve position, valve control, upstream pressure and discharge flow must be communicated back to the EWTF so the operators understand what is occurring on the raw water system.

PROJECT ISSUES – See Project Issue #1 in Section 3 above. A governance structure necessitating involvement of AWWU Operations and Engineering staff is critical for the success of the River Restoration Project and to ensure operation of any facility that connects to the EWP does not impact the supply of potable water to the PWS. The comments above are illustrative of the type of comments that should be expected from any review of facilities that connect to the existing PWS.

END OF PROJECT ISSUES PAPER

February 16, 2024
sent via email

Dear Eklutna Hydroelectric Program Development Team,

Please accept this resolution, AR No. 2024-40, As Amended, as the Anchorage Assembly's public comments on the Draft Fish and Wildlife Program for the Eklutna Hydroelectric Project. AR No. 2024-40 was amended and approved by the Anchorage Assembly on February 2, 2024.

Sincerely,

Assembly Chair Christopher Constant
District 1, North Anchorage

Assembly Vice Chair Meg Zaletel
District 4, Midtown

Attachment: AR No. 2024-40, As Amended

Municipal Clerk's Office
Amended and Approved
Date: February 2, 2024

Submitted by: Assembly Vice Chair Zaletel
Assembly Chair Constant
Assembly Member Kevin Cross
Prepared by: Legislative Services
Reviewed by: Assembly Counsel's Office
For reading: February 2, 2024

ANCHORAGE, ALASKA
AR No. 2024-40, As Amended

A RESOLUTION OF THE ANCHORAGE ASSEMBLY SUBMITTING PUBLIC COMMENT ON THE DRAFT FISH AND WILDLIFE PROGRAM FOR THE EKLUTNA HYDROELECTRIC PROJECT.

WHEREAS, the Municipality of Anchorage, Chugach Electric Association (CEA), and Matanuska Electric Association (MEA) (collectively "the Hydroelectric Project Owners") jointly own the Eklutna Hydroelectric Project and are parties to the 1991 Fish and Wildlife Agreement (the "1991 Agreement") with the State of Alaska, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (an agreement that notably excludes a key stakeholder, the Native Village of Eklutna, the federally recognized tribe whose ancestral homelands encompass this project) to fund studies to examine and quantify the impacts of the Eklutna Power Project on fish and wildlife; examine and develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by such hydroelectric development; and prepare a Proposed Final Fish and Wildlife Program (the "Fish and Wildlife Program") for approval by the Governor; and

WHEREAS, once approved by the Governor, the Fish and Wildlife Program will contractually bind operations of the Eklutna Hydroelectric Project and Anchorage Water and Wastewater Utility ("AWWU") for the next 35 years; and

WHEREAS, in their Draft Fish and Wildlife Program to mitigate their impacts to fish and wildlife pursuant to the 1991 Agreement, the Hydroelectric Project Owners propose to utilize AWWU infrastructure to deliver water into the Eklutna River via a Portal Valve (the "Portal Valve Alternative") one mile downstream of Eklutna Lake; and

WHEREAS, the policy of the Municipality of Anchorage has been to support restoration of the Eklutna River since the Anchorage Assembly adopted AR 2017-324(S), "A Resolution in Support of Efforts to Restore the Eklutna River," and AR 2022–262, As Amended, "A Resolution of the Anchorage Municipal Assembly in Support of Efforts to Restore the Eklutna River"; and

WHEREAS, further, through the passage of AO 2023-131, As Amended, the Assembly, through the creation of a specific law, reinforced and declared that it is the official policy of the Municipality of Anchorage, inclusive of the Anchorage Hydropower Utility Department, to restore the continuous water flow of the Eklutna River and the fish populations of the River and Eklutna Lake, to the greatest extent possible, subject to all provisions of the 1991 Agreement; and

WHEREAS, any changes to the Eklutna Hydroelectric Project will impact not only hydroelectric power and drinking water, but also fish and wildlife; and

WHEREAS, Eklutna Lake is the primary source of Municipality's drinking water for which AWWU currently pays approximately $1.2 Million annually to the Eklutna Hydroelectric Project to ensure access to the Municipality's drinking water and any binding agreement relating to the purchase price of water and volumes available to AWWU may impact property rights of AWWU and the regulated price of water to its customers; and

WHEREAS, the Anchorage Assembly was recently briefed about the changing regulatory environment for drinking water, and while the effects of the regulatory changes are currently unknown, concern has been raised about the availability of drinking water from ground wells under the new regulations; and

WHEREAS, the Anchorage Assembly hired an expert engineer, Don Spiegel, who originally designed the Eklutna AWWU system, to evaluate the Portal Valve alternative as it relates to AWWU's operation of the Eklutna Water Treatment Facility and the effectiveness of the Portal Valve Alternative in delivering water to the river to support the restoration of fish species; and

WHEREAS, the initial conclusions of Mr. Spiegel, which were submitted to the Assembly through AIM 2024-11 on January 23, 2024, raise significant doubts as to whether the Portal Valve Alternative will meet the mitigation objectives stated on a year round basis: inability to meet those objectives could result in AWWU and the Municipality being culpable and liable for the death of any in-river species that have returned, depending on water levels provided by the Hydroelectric Project Owners, and could be a limiting condition for AWWU expansion in the future; and

WHEREAS, the public comment period for the Draft Fish and Wildlife Program is open until February 19, 2024; and

WHEREAS, following the public comment period is an opportunity for the Hydroelectric Project Owners to review the comments and resolve any disagreements prior to submitting a final proposal to the Governor; and

WHEREAS, the Native Village of Eklutna has put forward an alternative for removal of the dam at Eklutna Lake, which is supported by the Municipal policy stated in AO 2023-131, As Amended, and codified at AMC 26.30.025A., but was never fully considered by the Hydroelectric Project Owners and has not been presented as an alternative in the Draft Fish and Wildlife Program; and

WHEREAS, in addition to the stated policy and support for dam removal, the Anchorage Assembly has evaluated the Portal Valve Alternative and has concerns about that alternative; and

WHEREAS, in the interest of protecting the future of the Municipal water supply as well as the interests of its residents and municipal taxpayers, the Anchorage Assembly submits the following public comments on the Draft Fish and Wildlife Program regarding the Portal Valve Alternative;

NOW, THEREFORE, THE ANCHORAGE ASSEMBLY RESOLVES and submits the following as its comments on the Draft Fish and Wildlife Program:

Section 1. The following are process and technical concerns particular to the Portal Valve Alternative put forward by the Hydroelectric Project Owners for public comment:

A. **Non-Compliant Process**. The August 7, 1991 Fish and Wildlife Agreement (1991 Agreement) sets forth a process for addressing the Eklutna Hydroelectric Project's impacts on fish and wildlife similar to that for Federal Energy Regulatory Commission ("FERC") licensed projects. The process set forth in the 1991 Agreement was intended to be at least as robust as a normal FERC license process, which is subject to all the provisions of National Environmental Policy Act ("NEPA") and all the authorities typically granted to the federal agencies. The process engaged by the Hydroelectric Project Owners falls short of the FERC standard of analysis. No NEPA analysis was done, the federal agencies were denied the authorities they normally would have, such as to prescribe fish passage, and the public wasn't presented any alternatives to choose from. Moreover, the process engaged in does not appear comparable to the NEPA requirements to consult with Native Tribes impacted by the project (18. C.F.R. 5.7), nor have a dispute resolution process allowing agencies to mandate conditions (18 C.F.R. 5.8 and 5.15).

None of state or federal signatories to the 1991 Agreement have so far supported the Portal Valve Alternative. The comment letters from these state and federal resource agencies raise questions around the process engaged by the Hydroelectric Project Owners, the data inputs used in modeling to develop the Draft Fish and Wildlife Program, and the viability of the Portal Valve Alternative to achieve the stated goals of the 1991 Agreement. These questions are unresolved.

Similarly, the process under the 1991 Agreement diverges substantially from the type of alternatives analysis the Municipality uses on its own capital projects. Often the Municipality's own large capital projects, such as the Port of Alaska Modernization Program ("PAMP") or projects co-funded through the Anchorage Metropolitan Area Transportation Solutions ("AMATS") design alternatives, are evaluated by experts and relevant stakeholders and the Assembly is briefed and able to weigh in on the proposed alternatives, particularly where Municipal resources are required to fund the projects. Based on the information the Assembly has been provided to date, only one alternative was seriously evaluated by the Hydroelectric Project Owners and put forward for consideration even though a Municipal contribution is expected through a property tax assessment.

B. **Potential Impacts to Anchorage Drinking Water .** Throughout this process, there has been very little discussion about any implications

on AWWU and the Municipality's access to drinking water now and into the foreseeable future (the next 35 years). The week of January 22, 2024, well after the Draft Fish and Wildlife Program was released and after years of discussion and presentation by the Eklutna Hydroelectric Project owners, we learned that the Hydroelectric Project Owners and AWWU, all public utilities regulated by the Regulatory Commission of Alaska (RCA), had signed a binding agreement in early October 2023, prior to submitting the Draft Fish and Wildlife Program for public comment. We learned this agreement is based on the Portal Valve Alternative and no other alternative; an alternative that may have significant impacts to the project outcome as well as to regulated rates authorized by the RCA. The Anchorage Assembly has requested a copy of the signed agreement, but we have been told the agreement is confidential and **could only review it in Executive Session** **[~~we therefore have been unable to review it.~~]** This is a significant hinderance on the Anchorage Assembly, and the public, to provide complete comments on the Portal Valve Alternative as related to AWWU operations, potential impacts to Municipal growth and strategic investments for AWWU and the Municipality. Significant legal questions also remain whether a binding agreement can be signed relating to future Municipal utility assets, revenues, and expenditures without Assembly approval.

Before learning of that agreement, the Anchorage Assembly hired an expert to analyze the effectiveness of the Portal Valve option in relation to AWWU's operation at Eklutna. That analysis by engineer Don Spiegel, who designed the Eklutna AWWU system, concluded that the Portal Valve "cannot provide adequate Eklutna River restoration flows, nor can it provide year-round water without interruption. Thus, it is the Author's opinion that the Portal Valve as currently configured is fatally flawed and other Eklutna River restoration alternatives should be studied further."

Furthermore, in the past month, AWWU has briefed the Assembly on new developments concerning drinking water regulation through federal and local entities. The impacts of the new drinking water regulations are yet to be determined, but AWWU leadership has expressed concerns about potential impacts to the Municipality from limitations of retaining full ground well capacity. Until the new regulatory landscape is better understood, particularly any reductions in access to drinking water from sources other than Eklutna, any future limitations on drinking water capacity at Eklutna should be held in abeyance.

C. **Incomplete Analysis and Insufficient Mitigation.** The Portal Valve Alternative does not meet the requirements of the 1991 Agreement regarding "the protection, mitigation of damages to, and enhancement of fish and wildlife affected by hydroelectric development of the Eklutna Hydroelectric Project." There are a number of variables related to lake level that can render the Portal Valve Alternative

inoperable. Additionally, regular and unexpected maintenance at the AWWU water facility will also stop the flow of water into the Portal Valve. Discontinuous water flows will result in fish kills in Eklutna River. The state and federal signatories to the 1991 Agreement have raised questions about the analysis and process used to develop the Draft Fish and Wildlife Program. The Hydroelectric Project Owners failed to consider all reasonable alternatives, including the dam removal alternative proposed by the Native Village of Eklutna. The Hydroelectric Project Owners failed to present the public with a full range of alternatives as would typically occur in similar situations.

D. **Poor Coordination and Questionable Use of Public Funds.** The Hydroelectric Project Owners and AWWU are regulated utilities and need to demonstrate benefit to their rate payers. Additionally, the Assembly, as the steward of taxpayer funds, must demonstrate benefit to the residents of the Municipality through the expenditure of public funds. Treating the Portal Valve Alternative as a singular stand-alone project is short sighted and does not maximize various opportunities to meet the goals and objectives of 1991 Agreement across various entities nor does it meet the requirements of these entities to benefit the public. The Portal Valve Alternative brought forward by the Hydroelectric Project Owners is self-serving and fails to protect the broader public interests of the Municipality of Anchorage. Given the $57 million price tag of the Portal Valve Alternative, its potential impacts to AWWU operations, and the financial implications to ratepayers and taxpayers for the next 35 years, we find this is a poor use of public funds and lacked public coordination.

For all the above reasons, the Anchorage Assembly cannot endorse and thus opposes the Draft Fish and Wildlife Program.

Section 2. The Municipality of Anchorage does not intend to issue authorizations or provide funds or any other form of support of the Draft Fish and Wildlife Program or any alternative that doesn't restore the full length of the Eklutna River and comply with policy of the Municipality, as recently enacted by AO 2023-131, As Amended, and codified at AMC 26.30.025A., as well as AR 2022-262, As Amended, and AR 2017-324(S).

Section 3. The Regulatory Commission of Alaska (RCA), under its statutory powers to initiate investigation into practices and facilities of a public utility, should review the Draft Fish and Wildlife Program and examine any impacts on any of the regulated utilities, including but not limited Chugach Electric, Matanuska Electric, Anchorage Hydropower and AWWU, particularly about impacts to rate payers and their access to uninterrupted service, **before** any option for a Final Fish and Wildlife Program is transmitted to the Governor for review and approval.

Section 4. The Anchorage Assembly requests the Hydroelectric Project Owners to seek a two-year extension of the 1991 Agreement from the signatories, of which the Municipality is one through the Anchorage Hydropower Utility, to perform additional analysis, consultation, and coordination with affected parties, including

the Anchorage Assembly and the Native Village of Eklutna. The issues at play are too significant to our community to rush to judgment or exclude key stakeholders. The residents of the Municipality deserve a measured and comprehensive approach guided by respectful coordination to reach a solution that enjoys broad consensus among the affected parties.

Section 5. This resolution shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 2nd day of February, 2024.

ATTEST:

Chair

Municipal Clerk

CENTER for BIOLOGICAL DIVERSITY Because life is good.

February 18, 2023

Submitted via Email

Samantha Owen
Senior Regulatory Consultant
McMillen Inc.
2607 Western Ave, Unit 360
Seattle, WA 98121

Re: Eklutna Hydroelectric Project Draft Fish and Wildlife Program

Dear Ms. Owen:

The Center for Biological Diversity ("Center") provides the following comments on the Chugach Electric Association, Matanuska Electric Association, and Municipality of Anchorage ("Project Owners")'s Eklutna Hydroelectric Project Draft Fish and Wildlife Program ("Draft Program").[1]

I. Purpose and Scope of the 1991 Fish and Wildlife Agreement

The purpose of the 1991 Eklutna Fish and Wildlife Agreement ("1991 Agreement") and the resultant Fish and Wildlife Program is to develop and implement measures to "protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat)" from the harms of the Eklutna Hydroelectric Project ("Project").[2] Currently, no water spills over the Eklutna Lake dam down the river except during floods. A 4.5-mile bypass tunnel diverts water from the lake to the power plant. Of the water diverted, 90% is diverted to the Knik River for hydropower, while 10% is diverted for Anchorage drinking and wastewater, effectively blocking the remaining 14 miles of Eklutna River from its water source.[3] The scope of the protection, mitigation, and enhancement requirements must include the entire Eklutna watershed, given the Project's substantial impacts to the flow of water, nutrients, sediment, fish, and wildlife, and more up and down the river, effecting the entire ecosystem far beyond the limited river corridor.[4] The Department of Energy's Environmental Assessment ("EA") for the Eklutna Purchase Agreement states that "[d]uring reviews of the legislative proposal, loss of a sockeye

[1] Chugach Electric Association, Matanuska Electric Association, and Municipality of Anchorage ("Project Owners"), Eklutna Hydroelectric Project Draft Fish and Wildlife Program (Oct. 27, 2023).
[2] Fish and Wildlife Agreement Snettisham and Eklutna Projects at 1 (Aug. 7, 1991); *See also* Eklutna Draft Fish and Wildlife Program at 45; *See also* Alaska Power Administration Asset Sale and Termination, Pub. L 104-58, title I § 104(a)(2) (Nov. 28 1995).
[3] Native Village of Eklutna, "Eklutna River: Idlughetnu" (accessed Nov. 17, 2023); *see also,* Kleinschmidt Associates, Draft Instream Flow Technical Memo at 2 (Sept. 28, 2022) ("In 1955, the federal government completed construction of a new hydropower project and in 1964 a new storage dam which effectively eliminated any flow releases from Eklutna Lake to the Eklutna River."); *see also,* Trout Unlimited, Eklutna River Workshop: Summary of Outcomes, Recommendations, and Future Needs (Jun. 2018).
[4] *See*, EPA WATERS GeoViewer 2.0 (accessed Feb. 18, 2024) https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=074cfede236341b6a1e03779c2bd0692.

salmon run that once spawned in Eklutna Lake was identified [...]. This specific problem and the desires of the fish and wildlife agencies to provide appropriate consideration to fish and wildlife resources over the long run led to the August 7, 1991 Agreement."[5] This shows that at minimum, the Fish and Wildlife Program must address reconnecting the lower river to the lake and upper tributaries. Moreover, since the lower diversion dam was removed in 2018, the Project's continued diversion of all controllable flow at Eklutna Lake and the complete disconnection of the river to the lake and upper tributaries are, and will continue to be, the primary causes for ongoing degradation of fish and wildlife habitat in the Eklutna River system. The Divestiture Report notes that the Agreement's fish and wildlife measures were intended to "work at least as well as Federal regulation for the intended purpose of mitigation and enhancement of affected fish and wildlife resources," and were to be "quite similar to that under the [Federal Energy Regulatory Commission ("FERC")] licensing" process for hydroelectric projects.[6]

II. The Draft Program Analysis is Incomplete, Flawed, and Otherwise Insufficient for a Decision under the Agreement

A. The Draft Program Does Not Meet the Purpose of the Agreement

The AWWU Portal Valve alternative proposed in the Draft Program by the Project Owners leaves Eklutna Lake and upper tributary streams completely disconnected from the lower Eklutna River, maintaining over a mile of dry streambed.[7] The flows the Project Owners propose to release from the AWWU Portal are the minimum flows considered by any of the Parties to the 1991 Agreement during the Agreement study process, with small high-flow events in only three out of every ten years.[8] The Draft Program provides no solution for the complete blockage of salmon reaching the extensive lake spawning habitat required by sockeye salmon and 15 miles of upper tributaries spawning habitat above the lake that is highly amenable to Chinook and coho salmon completely stranded.[9] Without a connection to Eklutna Lake and upper tributaries, mitigating and enhancing the disconnection and damage to those key spawning and rearing grounds and habitat is impossible. The Project Owners admit in the Draft Program that "no change in sockeye rearing habitat is anticipated."[10] The proposed nominal flow releases from the AWWU Portal will only minimally enhance Chinook and coho salmon and their habitat in the lower Eklutna River, including side channel and off-channel habitat. None of the federal and state fish and wildlife agencies consider the Draft Program to adequately meet the requirements of the 1991 Agreement.[11]

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[5] Divestiture Summary Report, Sale of Eklutna and Snettisham Hydroelectric Projects at 19 (Apr. 1992).
[6] *Id.* at 20, 18.
[7] Eklutna Draft Fish and Wildlife Program at 46-56.
[8] *Id.* at 39.
[9] *See, e.g.*, Native Village of Eklutna, Eklutna Lake and Tributaries Salmon Habitat (2024); *See also* McMillian Jacobs Associates, Eklutna Lake Aquatic Habitat and Fish Utilization, Year 2 Study Report Draft (2023); *See also* Native Village of Eklutna, TWG 2021-2022 Final Report (2023).
[10] Eklutna Draft Fish and Wildlife Program at Appendix B-4.
[11] *See,* USFWS, Draft Fish and Wildlife Program and Draft Summary of Study Results for the Eklutna Hydroelectric Project (Dec. 6, 2023); *See also*, USFWS, Enclosure: US Fish and Wildlife Service Comments on the Draft Fish and Wildlife Program and Draft Summary of Study Results for the Eklutna Hydroelectric Project (Dec. 6, 2023); *See also*, NMFS, Draft Fish and Wildlife Program preferred alternative for the Eklutna Hydroelectric Project; 1991 Fish and Wildlife Agreement (Dec. 6, 2023); *See also*, ADFG, Draft Fish and Wildlife Program Comment Letter (Nov. 23, 2023).

B. The Project Owners Did Not Follow the Delineation of Responsibilities in the Agreement

The Agreement carefully divides which considerations should be made by which Parties at which stage of the mitigation process. During the Study Plan stage, the Project Owners are "to examine, and quantify, if possible, the impacts to fish and wildlife from the Eklutna […] project" and "shall consider the impacts of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use, as well as available means to mitigate these impacts."[12] The Agreement then requires the Project Owners to recommend measures "for the protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat)."[13] While it can be reasonably interpreted that the Program would include the analysis from the study plan of the impacts of fish and wildlife measures on other considerations, such as electric ratepayers, the Agreement does not state, as it does clearly in other sections, that other considerations, such as electric rate payers, power production or energy conservation, are to be considered when evaluating and recommending measures that are necessary to mitigate the Project's impacts on fish and wildlife.[14] The Agreement is clear that the Program's only consideration is meeting the purpose of the Agreement, which is "the protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat)."[15] It is then the Governor of Alaska's responsibility, not the Project Owners', to evaluate whether the proposed Program of fish and wildlife measures is appropriate after considering the several criteria listed in the Agreement in making his final Program determination.[16] The Project Owners overreach their authority under the Agreement by claiming that they are charged not just with undertaking the study process, but also with undertaking the policy analysis to give equal consideration to the eight purposes the Governor must balance in his final decision when promulgating a Program.[17] They are neither qualified nor authorized to make policy determinations and have plain conflicts of interest.

C. The Project Owners Have Not Implemented the Consultation Process to Protect Fish and Wildlife from Project Impacts "At Least As Well" as a FERC Process

The consultation process agreed to in the Agreement was intended to be "quite similar to that under [FERC] licensing of hydroelectric projects with the Governor of Alaska assigned a role similar to FERC's in decisions on fish and wildlife measures."[18] The Agreement process was intended to work "at least as well" for fish and wildlife as a FERC relicensing process.[19] Yet, the consultation process has not been implemented in a manner that matches the procedural protections afforded to fish and wildlife in a FERC relicensing process. The deficiencies in the

[12] Fish and Wildlife Agreement at 2.
[13] *Id.* at 3.
[14] *Id.* at 2, 3.
[15] *Id.* at 3.
[16] *Id.* at 4 ("The Governor shall give equal consideration to the purposes of efficient and economical power production, energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), the protection of recreation opportunities, municipal water supplies, the preservation of other aspects of environmental quality, other beneficial public uses, and requirements of state law.").
[17] Eklutna Draft Fish and Wildlife Program at 44.
[18] Divestiture Report at 18.
[19] *Id.* at 20.

process include not only the impacts of project construction, but the totality of impacts of project construction, operation, and maintenance on fish and wildlife and their habitat, including the temporal loss of services and functions of a free-flowing anadromous river.[20]

One of the primary deficiencies in the consultation process has been the Project Owners' conflation of improvements to the baseline condition with adequate protection, mitigation, and enhancement of fish and wildlife impacted by the Project. This misunderstanding of the level of protection the Project Owners are required to deliver under the Agreement, and that would similarly be required in a FERC proceeding, has contributed to an inadequate scope of study and alternatives analysis. Rather than develop and evaluate alternatives according to their comparative effectiveness in mitigating the impacts caused by the Project's dewatering of the Eklutna River and the resulting destruction of fish and wildlife habitat from the 1950s to present, the Project Owners evaluated alternatives according to their "ecological lift in terms of gains in salmon spawning and rearing habitat" compared to their cost.[21] However, "ecological lift" is not the same as providing adequate and equitable protection, mitigation, and enhancement of fish and wildlife. In short, the Project Owners have developed a Draft Program that would be marginally better for fish and wildlife, but not one that would actually mitigate the project's impacts on fish and wildlife.[22]

Another significant deficiency in the consultation process has been the Project Owners' unilateral rejection of reasonable alternatives without rigorous study or analysis.[23] This is a departure from a FERC relicensing proceeding where FERC, not the applicant, is required under the Federal Power Act ("FPA") and the National Environmental Policy Act ("NEPA") to undertake a full study of alternatives as the basis for determining that a project, as licensed, will be best adapted to a comprehensive plan of development.[24] Here, by contrast, the Draft Program

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[20] *See* 40 C.F.R. § 1508.1(g) (definition of "effects" for purposes of environmental analysis under the National Environmental Policy Act); *see also* USFWS and NMFS, Final ESA Section 7 Consultation Handbook at 4-30 (Mar. 1998) ("The total effects of all past activities, including effects of the past operation of the project, current non-Federal activities, and Federal projects with completed section 7 consultations, form the environmental baseline."); *see also* 33 C.F.R. § 332.2 (Corps regulations requiring consideration of "temporal loss" in determining appropriate mitigation).

[21] Eklutna Draft Fish and Wildlife Program at 31 (According to the Draft Program, "[t]he process helped to narrow down the list of comprehensive alternatives by removing those that either did not provide a significant ecological lift, or where multiple alternatives provided a similar ecological lift, those that were more costly could be removed from consideration.")

[22] *See* Eklutna Draft Fish and Wildlife Program at 45-46.

[23] Based on our review, the Owners have exercised almost complete discretion in the scope and substance of the environmental analysis contained in the Draft Program document. This is a significant departure from a FERC proceeding where FERC is responsible for independently verifying any information it relies upon to comply with its statutory responsibilities to evaluate the environmental impacts of its licensing decisions. *See, e.g.,* 16 U.S.C. § 797d.

[24] 16 U.S.C. §§ 803(a), 808(a); *Green Island Power Auth. v. FERC*, 577 F.3d 148, 168 (2d Cir. 2009) (… "FERC is statutorily obligated, pursuant to the 'best adapted' standard outlined in sections 10 and 15 of the FPA, to give full consideration to all feasible alternatives, even where it ultimately cannot license those alternatives."). FERC is subject to a parallel requirement under NEPA to develop and conduct a rigorous and detailed analysis of all reasonable alternatives. 42 U.S.C. § 4332(2)(H), 40 C.F.R. § 1502.14. Given the potentially significant impacts of continued operation of a major hydropower project, FERC complies with NEPA by preparing an environmental document that evaluates the comparative merits of several alternatives in preparation for any licensing or relicensing decision. 40 C.F.R. § 1502(b); 18 C.F.R. §§ 380.5, 380.6

does not demonstrate the Project Owners adequately considered a reasonable range of alternatives proposed for analysis by the Parties and other stakeholders.[25] Rather than provide enough detail about each alternative for the Governor to "evaluate their comparative merits," the Project Owners peremptorily eliminated certain alternatives from detailed study based on their biased cost-benefit assessment.[26]

The Project Owners' exclusion of a dam removal alternative is an egregious error in the environmental analysis.[27] Dam removal is a reasonable alternative because it would provide the most protection, mitigation, and enhancement of fish and wildlife at a cost far lower than other alternatives considered.[28] Because the Draft Program does not consider dam removal, the Governor cannot make an informed decision as to how dam removal compares to the Project Owners' preferred alternative.

Again, in a FERC proceeding the Project Owners would not have been allowed to unilaterally limit the analysis of alternative measures, like dam removal, to mitigate the Project's impacts on fish and wildlife resources, over the objections of the National Marine Fisheries Service ("NMFS") and US Fish and Wildlife Service ("USFWS"). For example, under FPA section 18, NMFS and USFWS have authority to prescribe fishways that must be included, without modification, in any license issued by FERC.[29] Under FPA section 10(j), a FERC license must include conditions to "adequately and equitably protect, mitigate damages to, and enhance, fish and wildlife (including related spawning grounds and habitat) affected by the development, operation, and management of the project" based on recommendations from NMFS, USFWS, and other state and fish and wildlife agencies.[30] NMFS would consider the fishery management plan for Pacific salmon as a comprehensive plan for considering mitigation and enhancement for salmon in this process.[31]

Another significant deficiency in the consultation process has been the Project Owners' failure to evaluate the potential impacts of their proposed Draft Program and alternatives on the critically endangered Cook Inlet beluga whale – a national NMFS priority species – and its designated critical habitat which includes the mouth of the Eklutna River.[32] Again, such evaluation would be required in any FERC relicensing under Endangered Species Act ("ESA") section 7.[33] Given the

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[25] *See* Eklutna Draft Fish and Wildlife Program at 65-75.
[26] *Id.*
[27] 40 C.F.R. § 1502.14(a).
[28] U.S. Army Corps of Engineers, Eklutna River Aquatic Ecosystem Restoration Technical Report at i.
[29] 16 U.S.C. § 811; *See American Rivers v. FERC*, 187 F.3d 1007 (9th Cir. 1999), *as amended* 201 F.3d 1186, 1210 (9th Cir. 2000) ("Where the Commission disagrees with the scope of a fishway prescription, it may withhold a license altogether or voice its concerns in the court of appeals, but at the administrative stages, 'it is not the Commission's role to judge the validity of [the Secretary's] position-substantially or procedurally.'").
[30] 16 U.S.C. § 803(j)(1). FERC may modify a Section 10(j) recommendation only if it finds an alternative condition will provide adequate and equitable fish and wildlife protection, mitigation, and enhancement. *Id.* at § 803(j)(2).
[31] North Pacific Fishery Management Council, Fishery Management Plan for the Salmon Fisheries in the EEZ off Alaska. Appendix A. Anchorage, Alaska (2021).
[32] *See* 76 Fed. Reg. 20,180 (Apr. 11, 2011).
[33] 16 U.S.C. 1536; 18 C.F.R. § 380.13. Under ESA section 7, all federal agencies, including FERC are required to consult with NMFS and/or USFWS to ensure that the reauthorization by the federal agency is "not likely to jeopardize the continued existence of any endangered species […] or result in the destruction or adverse modification of habitat of such species […]." 16 U.S.C. § 1536(a)(2); *see also*, FERC, Handbook for Hydroelectric

Agreement's express intent to provide comparable protection to a FERC proceeding, the Owners failure to fully evaluate the Project's impacts on the Cook Inlet beluga whale is inexplicable and unjustifiable.

D. The Draft Program Undervalues Traditional Ecological Knowledge

It is well-established traditional ecological knowledge that Eklutna Lake and upper tributary streams once hosted abundant salmon runs, including sockeye, Chinook, and coho salmon. The Draft Program dismisses the possibility of a substantial sockeye run to the lake and downplays the quality and quantity of salmon habitat in the upper tributaries. This conclusion ignores the traditional ecological knowledge of the Native Village of Eklutna ("NVE") that the Project Owners are well aware of and which was shared throughout the Study Plan process.[34]

E. The Preferred Alternative is Insufficient for Protection, Mitigation and Enhancement of High Flows Blocked by the Dam

High flows are essential to mimic beneficial flooding. The maintenance flow regime in the preferred alternative is severely inadequate. The 220 cfs maximum flushing flows in the Draft Program is less than 20% of the average flushing flows of 1,402 cfs that USFWS estimated would be necessary to recreate the flows that historically supported the natural fishery and created the natural river channel and off-channel habitat.[35] Worse, the Draft Program imagines the peak flow for just a few hours for just three out of every ten years before returning to conditions that approximate a severe drought. NMFS concluded that the proposed flushing flows in the Draft Program "are unlikely to modify substrates and support habitat complexity in a meaningful way after nearly a century of limited impactful flow events."[36] The chosen channel maintenance flow hardly mitigates for the Eklutna River's deprivation of almost a century of flooding with a maximum recorded value of approximately 3,000 cfs.[37]

F. The Draft Program Directly Contradicts Other Assessments of Historic and Potential Salmon Habitat in Eklutna Lake and Upper Tributaries

The Draft Program significantly discounts the potential of the upper Eklutna tributaries as vital salmon habitat. NVE's TWG 2021-22 Final Report combines traditional ecological knowledge with current surveys and science of the headwaters of the Eklutna River to conclude that there is expansive, preferred habitat for Chinook and coho salmon, which is currently occupied by Dolly Varden, showing its potential.[38] This report found that the clearwater tributaries for the West Fork have high-quality habitat and that much of the East Fork has suitable habitat in its main

Project Licensing at B-2 (Apr. 2004). In the consultation process, the action agency and consulting agencies are required to consider only the best available science. *Id.*.

[34] *See, e.g.,* Native Village of Eklutna, Comments of Eklutna Hydro Initial Information Package (Apr. 24, 2020); Native Village of Eklutna, NVE Comments on Proposal Final Year 2 Study Plans: Comments from a Tribal Perspective (Jun. 2022); *See also*, Native Village of Eklutna, TWG 21-22 Final Report at 3 (2023).

[35] U.S. Fish and Wildlife Service, Upper Eklutna River Survey Preliminary Fish Habitat Flow Assessment.

[36] National Marine Fisheries Service, Comment Letter to Draft Fish and Wildlife Program (Dec. 5, 2023).

[37] McMillen, Initial Information Package at 77 (2020.

[38] Native Village of Eklutna, TWG 21-22 Final Report.

stem and tributaries. NVE's Land and Environment Department has concluded that there are over 15 miles of salmon habitat in the upper tributaries.[39]

The Draft Program also significantly discounts the potential of Eklutna Lake as vital salmon habitat. The Draft Program concludes that there was never a large run of sockeye to the lake, pointing to limiting factors such as the lake's turbidity, nutrient levels, and size of kokanee.[40] This current condition may be due to the denial to the lake of marine derived nutrients from salmon carcasses and impacts from the current 40-60 foot biologically devoid varial zone resulting from hydroelectric power water drawdowns around the lake, including such impacts as reduced aquatic vegetation.[41] The Matanuska Susitna Borough Fish and Wildlife Commission's comments on the Draft Program state "[i]t is important to note and clarify that the analysis performed by McMillen in addressing the potential spawning and rearing habitat for anadromous fish species and the primary productivity of Eklutna Lake seems to ignore the production of very similar lakes with Alaska. It also seems to ignore the effects of salmon carcasses in providing nutrient amendments for sustaining and restoring stream and lake productivity."[42] Moreover, a primary source for the Project Owner's conclusion is a 2017 study, which they greatly misrepresent. The study concluded that its results "can[not be] construed as evidence that [salmon runs to the lake] did not [exist]."[43] The 2017 study, rather, found that, based on the lake's water volume and turnover rate, as many as 15,000 sockeye could have spawned in the lake annually, which is far from an insignificant number.[44] A co-author of the paper recently stated tha' "[a]nyone who cites the study to argue that Eklutna Lake had no salmon or an "insignificant" number isn't using it scientifically, they are using it politically."[45]

Kleinschmidt Associates surveyed 14 areas totaling 68,512 square ft. around Eklutna Lake that are potentially suitable for sockeye spawning under favorable lake level regimes. These are now largely in the barren varial zone due to 40-60 foot lake drawdowns. However, they contain appropriate slopes, gravel sizes and seeping groundwater or potentially suitable substrate for sockeye spawning, and there may be even more than reported. A total of 331 spawned-out kokanee were observed at Eklutna Lake during the survey period, finding "[s]pawned kokanee ranged from 4.5 – 6.5 inches […]"[46] Alaska Department of Fish and Game ("ADFG") biologists have told us these would grow to normal sockeye size if allowed to develop in the ocean and that these kokanee are likely descendants of a native ocean-run population, since there is no record that they were ever stocked. The Draft Program acknowledges that Trout Unlimited's Alternative and USFWS's Alternative B – modifying the current dam to allow upstream and downstream fish passage – both create significant gains in sockeye spawning habitat, which would come from increased lake spawning habitat.[47]

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[39] Native Village of Eklutna Land and Environment Program, Eklutna Lake and Tributaries Salmon Habitat (2024).
[40] *Id.* at 68-71.
[41] *See*, Email from Rick Sinott to Dustin Lorah, NVE (Dec, 1, 2023 at 10:05AM).
[42] Matanuska-Susitna Borough Fish and Wildlife Commission, Comment Letter on Draft Program (Feb. 9, 2024).
[43] Loso, Michael et al., Evaluating Evidence for Historical Anadromous Salmon Runs in Eklutna Lake, Alaska 70 Arctic at 270 (Sept. 2017);
[44] *Id.* at 259.
[45] Email from Rick Sinott to Dustin Lorah (Nov. 30, 2023 at 6:50PM).
[46] Kleinschmidt Associates, Lake Aquatic Habitat and Fish Utilization Study Year 1 Interim Report DRAFT (Feb. 2022) at 12-20.
[47] *Id.* at 42.

Overall, NVE Land and Environment Department's assessments indicate the following stream miles would be restored by reconnecting the lake and upper tributaries to the lower river and restoring the natural flow regime: 12 miles in the river below the lake, 7 miles in the lake, and 15 miles above the lake in the upper tributaries.[48] NVE Land and Environment Department's measurements are in stream miles, and that metric is used to assess lake habitat, so 7 miles of lake habitat undervalues the actual habitat available for restoration in the lake. These estimates also undervalue habitat off the main channel in the lower river below the lake that could be restored with higher flow releases than are proposed in the Draft Program. Full recovery would therefore restore a minimum of 34 miles of salmon habitat and likely much more taking into account the undervaluing of lake and off channel habitat. The Draft Program, on the other hand, proposes to marginally restore only 11 miles, less than 35% of the conservative estimate of possible salmon habitat in the Eklutna watershed.[49]

G. The Program's Analysis of Non-Salmonid Wildlife is Severely Inadequate

The Agreement's protection, mitigation, and enhancement purpose is not limited to salmon but instead includes all fish and wildlife impacted by the Project. Reducing the ecological function of the tidal wetlands, lower river, lake, and upper tributaries from the Project's impacts reduces the health of fish and wildlife throughout the watershed. However, the Draft Program is not built upon any surveys or studies of marine mammals and its consideration of terrestrial and avian wildlife and habitat is severely inadequate.

The wildlife habitat survey study area boundary was limited to the lower end of the lake, the current river channel corridor, and a section of the wetlands at the river mouth.[50] This study area boundary is insufficient and should have included the entire Eklutna watershed, including the upper tributaries, the entire lake, and the off channel stream areas in the lower river valley, given the Project harms to the whole Eklutna watershed ecosystem. Because of the limited study area, the wildlife analysis could not fully consider the protection, mitigation, and enhancement from all the alternatives, including the potential restoration of habitat from increasing flows and reconnecting the lower river to the lake and upper tributaries.

Terrestrial and avian wildlife and habitat studies were primarily conducted via aerial surveys and literature reviews, both which have issues regarding their accuracy and the amount of place-specific detail they can provide.[51] A recent scientific review of the accuracy of wildlife aerial surveys stated that aerial surveys can be an efficient platform to collect observational counting data "across large spatial areas," but which are far less well-suited for specific and small-scale geographies like the Eklutna survey area.[52] Furthermore, the review noted common errors such as "nondetection, counting error, and species misidentification" that if not adequately addressed at all stages of the study "can provide data that obscure animal-environment relationships or

[48] Native Village of Eklutna, TWG 21-22 Final Report.
[49] *Id.*
[50] ABR, Inc., Eklutna Hydroelectric Project Wetlands and Wildlife Habitat Study Report Draft at 3 (Mar. 2023).
[51] Chugach Electric Association, Matanuska Electric Association, and Municipality of Anchorage ("Project Owners"), Eklutna Hydroelectric Project Draft Summary of Study Results at 46-50 (Oct. 2023).
[52] Davis, Kayla L. et al., Errors in aerial survey count data: Identifying pitfalls and solutions, 12 Ecology and Evolution e8733 (Mar. 18, 2022).

introduce biases into inferences."[53] The Project Owners provide no details or assurances that their limited surveys addressed these common errors. Furthermore, aerial and other surveys for wildlife were extremely limited. For example, only one day of raptor aerial surveys were completed, four days of migratory shorebird and waterfowl surveys were completed, and three days of moose surveys were completed, all during 2022.[54] These surveys would not account for any annual variation in wildlife abundance or timing in the Eklutna watershed, as well as seasonal access limitations, among other issues. Wildlife habitat analysis relied on historic and current aerial photography with no ground vegetation surveys completed.[55] Scientific literature on Alaska wildlife and habitat is rarely area specific and is therefore not necessarily a valid representation of species using the Eklutna watershed either for their full lifecycles or for their migration routes or travel corridors.

Overall, the Plan recognizes that increasing the Eklutna River's flow below the dam will "directly or indirectly benefit several ecologically and/or culturally important wildlife species" such as wolves, moose, raptors, and bears.[56] Yet, because of the severe lack of adequate baseline data, it is impossible to truly analyze and understand how the different alternatives would impact and potentially benefit all wildlife and their habitat and to what degree. For example, even though listed in the "observed or expected" wildlife list, the Draft Program fails to consider imperiled species like the Little brown bat (*Myotis lucifugus*) that rely on the Eklutna watershed and for which mitigation and enhancement of their foraging habitat in the lower Eklutna River valley, which is currently harmed by the Project, could be improved by increasing flows and rebuilding off channel habitat in the lower river.[57] The Draft Program also fails to analyze why certain wildlife populations appear to be below normal levels. For example, the Summary of Study Results notes that "[w]aterfowl and shorebird numbers in the study area were moderate and low, respectively, during the field surveys" and that "[s]horebirds were noticeably absent during the spring surveys."[58] This may be an example of a system that is in depression from nearly a century of harms from hydroelectric dams. These examples, and many others, highlight the Draft Program's inadequacies in considering and rigorously analyzing how the different alternatives would impact all non-salmonid fish and wildlife in the Eklutna system and whether the preferred alternative provides adequate mitigation and enhancement.

Regarding marine mammals, the Draft Program fails to consider the protection, mitigation, and enhancement of Cook Inlet beluga whales, one of the nation's most critically endangered marine mammals. The best available science shows that Cook Inlet belugas could significantly benefit from increased salmon runs in the Eklutna River. Given the mouth of the Eklutna River is within designated critical habitat in upper Cook Inlet where the majority of the Cook Inlet beluga population forages during the summer, the critically endangered whales should be a primary concern for the Program.[59] The 2011 critical habitat designation for Cook Inlet belugas identified shallow intertidal and subtidal waters of Cook Inlet in close proximity to medium to high flow anadromous fish streams along with four species of Pacific salmon (Chinook, sockeye, chum,

[53] *Id.*
[54] Eklutna Draft Summary of Study Results at 46-49.
[55] *Id.* at 42-43; *see,* Email from Terry Schick, ABR Inc., to Carrie Brophil, NVE (Nov. 22, 2022 at 11:27AM).
[56] Eklutna Draft Fish and Wildlife Program at 53.
[57] ABR Inc., Eklutna Hydroelectric Project Terrestrial Habitat Study Report Draft at 23 (Mar. 2023).
[58] Eklutna Draft Summary of Study Results at 47.
[59] 76 Fed. Reg. 20,180 (Apr. 11, 2011).

and coho) as essential to the beluga's conservation (also known as Primary Constituent Elements).[60] NMFS 2016 Recovery Plan for Cook Inlet belugas identifies prey availability as a threat of medium concern for their recovery.[61] NMFS acknowledges the heightened importance of prey availability, specifically Pacific salmon, for conserving Cook Inlet beluga whales. NMFS' Species in the Spotlight, 2021-2025 report states that, "[s]urvival and recovery of Cook Inlet beluga whales depend on an adequate quantity, quality, and accessibility of prey resources."[62] In a recent notice to issue an IHA proposal from the Port of Alaska, NMFS noted that, "Pacific salmon represent the highest percent frequency of occurrence of prey species in CIBW stomachs."[63] The notice highlighted that rich foraging areas to the north of the Port of Alaska, including the Eklutna River, are important to belugas and that the whales correlate their movements into Knik Arm around the timing of the salmon runs in those rivers.[64] A recent 2023 study by Wild et al. delineated portions of Cook Inlet, including Knik Arm and the mouth of the Eklutna River, as a Biologically Important Area (BIA) for the small and resident population of Cook Inlet beluga whales based on scoring methods outlined by Harrison et al. in 2023.[65]

The best available science shows that restoring abundant salmon runs to the Eklutna River may be one of the key strategies available for Cook Inlet beluga recovery by creating more foraging opportunities for belugas in upper Cook Inlet. The results of a 2020 study by Norman et al. suggest that "reproductive success in [Cook Inlet belugas] is tied to salmon abundance" in the Deshka River, which is also located in upper Cook Inlet near Knik Arm and the Eklutna River.[66] That study showed that "if salmon runs remained at their current levels, the [Cook Inlet beluga] population would likely continue its current slow decline," yet the study found that "if Chinook salmon increased 20% or more, the current decline would likely be reversed."[67] Furthermore, the study simulations found that "doubling the salmon abundance would be sufficient to allow recovery of the population regardless of impacts from other threats."[68] The study noted that while Chinook are the most nutritionally important salmon species for Cook Inlet belugas, belugas still rely on other salmon species as important prey.[69] Moreover, a recent 2023 study by McHuron et al. found that if there is enough prey abundance for Cook Inlet belugas, the whales can withstand other intermittent stressors, concluding that increasing prey availability increases the beluga's resiliency to threats.[70] Another recent 2023 study by Warlick et al. stated that "aerial

[60] 76 Fed. Reg. 20,203, 20,214 (Apr. 11, 2011).
[61] National Marine Fisheries Service, Recovery Plan for the Cook Inlet Beluga Whale at III-13 (2016).
[62] NOAA Fisheries, Species in the Spotlight – Cook Inlet Beluga Whale, Priority Actions 2021-2025 at 14 (Apr. 21, 2021).
[63] 88 Fed. Reg. 76588 (Nov. 6, 2023).
[64] *Id.*
[65] Wild, Lauren A. et al., Biologically Important Areas II for cetaceans within U.S. and adjacent waters – Gulf of Alaska Region, 10 Front. Mar. Sci 1134085 (May 5, 2023); Harrison, Jolie, Biologically Important Areas II for cetaceans within U.S. and adjacent waters – Updates and the application of a new scoring system, 10 Front. Mar. Sci. 1081893 (Mar. 14, 2023).
[66] Norman, S. et al., Relationship between per capita births of Cook Inlet belugas and summer salmon runs: age-structured population modeling, 11 Ecosphere 1 (2020).
[67] *Id.* at 1, 9.
[68] *Id.* at 10 (emphasis added).
[69] *Id.*
[70] McHuron, Elizabeth A. et al., Modeling the impacts of a changing and disturbed environment on an endangered beluga whale population, 483 Ecological Modeling 110417 (Sept. 2023).

survey data suggest that the [Cook Inlet beluga] population continues to decline[, and the] leading hypotheses include reduced prey availability […].”[71]

The proposed nominal flow releases from the AWWU Portal will only minimally enhance Chinook and coho salmon and their habitat in the lower Eklutna River. The AWWU Portal provides no solution for the complete blockage of salmon reaching the extensive lake spawning habitat required by sockeye salmon and miles of upper tributaries spawning habitat above the lake that is highly amenable to Chinook and coho salmon, both of which are primary forage species for Cook Inlet belugas.[72] Without connection to Eklutna Lake, protecting, mitigating, and enhancing those key spawning grounds and habitat is impossible. In turn, the mitigation and enhancement for Cook Inlet beluga whales are likely to be minimal as well. Furthermore, no analysis was completed for how the other alternatives considered would benefit Cook Inlet belugas.

The Draft Program’s severely inadequate analysis of non-salmonid fish and wildlife fails to meet the purposes of the Agreement and the standard of a similar federal process, and severely inhibits the Governor’s ability to make an informed decision.

H. The Draft Program Does Not Provide Specific Information Regarding Additional Requirements for the Draft Program or Any Alternatives

The Draft Program states that there may be additional requirements to implementing the Program, including the potential need to secure permits, land rights, easements and Amendment of ADL 44944.[73] The Draft Program also states required tax increases approved by the Anchorage Assembly and CEA and MEA rate increases that must be approved by the Regulatory Commission of Alaska. However, it does not describe any strategies the Project Owners have developed for securing necessary permits, land rights, or tax and rate increase approvals for the Draft Program or any alternatives. Instead, the Draft Program document flatly states, “[s]hould any of these requirements fail to be achieved, the Project Owners will not be able to execute on the Fish and Wildlife Program.”[74]

The one binding approval the Project Owners to have appeared to have secured is with AWWU for the use of the AWWU pipeline.[75] This binding agreement should be made public under section 3 of the 1991 Agreement, especially because it appears to have been signed before the release of the Draft Program during the Study Plan period. Yet, the Project Owners have declined to provide this to the public after numerous requests from NVE, the Anchorage Assembly, and others. Without this binding agreement, the public was not able to fully provide

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[71] Warlick, A.J. et al., Identifying demographic and environmental drivers of population dynamics and viability in an endangered top predator using an integrated model, Anim. Conserv. (Oct. 6, 2023).
[72] *See, e.g.*, Native Village of Eklutna, Eklutna Lake and Tributaries Salmon Habitat (2024); *See also*, McMillian Jacobs Associates, Eklutna Lake Aquatic Habitat and Fish Utilization, Year 2 Study Report Final (2023); See *also,* Native Village of Eklutna, TWG 2021-2022 Final Report.
[73] *See* Eklutna Draft Fish and Wildlife Program at 81.
[74] *Id.*
[75] *See,* Project Owners, Letter to Anchorage Assembly Re: AR No. 2024-40: Corrections and Responses at 6 (Feb. 12, 2024).

testimony and comment on the Draft Program. We believe the withholding of this document is unlawful on the 1991 Agreement. We request the Project Owners release this agreement with AWWU immediately.

Further, there is no basis for the Project Owners' suggestion that their inability to satisfy any "additional requirements" for implementation of the Program is a legitimate basis for their non-performance under the Agreement. Instead, the likelihood of the Project Owners being able to secure permits and property rights necessary for successful implementation of the Draft Program and reasonable alternatives is relevant to the alternatives analysis.

Based on our review, there are several issues related to the Project Owners' ability to secure permits for the Draft Program. The 15% design drawings included in the Draft Program show that the construction of the proposed AWWU Portal would include construction of above ground utility infrastructure as well as eight new bridges and road improvements for the AWWU water supply access road within Chugach State Park. Such construction within the State Park would be a "conversion" of Land and water Conservation Fund property requiring approval by the Department of Interior ("DOI").[76] Further, any DOI decision approving conversion would be a federal action requiring compliance with NEPA and ESA section 7.

Additional review of the 15% design drawings shows that the Draft Program includes the addition of riprap fill material directly into the Eklutna River channel at the location of the AWWU Portal discharge, which would be subject to compliance with Clean Water Act section 404 and may require an individual permit from U.S. Army Corps of Engineers. Such permitting decisions would also be a federal action subject to compliance with NEPA and ESA section 7.[77]

The Project Owners need to address these and any other permitting requirements and pathways for the proposed AWWU Portal as compared to dam removal and any other reasonable alternatives for the Parties, the public, and the Governor to make informed comments and decisions, respectively.

III. Interpretation of the Right to Judicial Review Limitation is Inappropriate and Unsupported

The Draft Program states that "Pursuant to the 1991 Agreement and APA Asset Sale Act, the Governor's decision regarding the provisions of the Final Fish and Wildlife Program is reviewable and enforceable by the Parties in the U.S. District Court for the District of Alaska."[78] We dispute this as a statement of the Project Owners' opinion, which has been misleadingly presented as a formal conclusion without any legal basis. Neither the APA Asset Sale Act nor the

[76] *See* Eklutna Draft Fish and Wildlife Program at Appendix E; *see also,* 36 C.F.R. § 59.3; *see also,* Alaska Department of Natural Resources, Chugach State Park Management Plan at 31-32 (Feb. 2016) ("All of Chugach State Park is considered an LWCF protected area and is subject to the program provisions. Any property within an LWCF protected area may not be wholly or partly converted to anything other than public outdoor recreation uses without the prior approval of the Secretary of the U.S. Department of the Interior." "Actions that may represent a conversion of use include installation of […] above ground utilities, development of roads for primary purposes other than recreation […]".)

[77] *See* Eklutna Draft Fish and Wildlife Program at Appendix E; *see also,* 33 U.S.C. § 1344.

[78] Eklutna Draft Fish and Wildlife Program at 17 (emphasis added).

Agreement limit judicial review to the Parties, and any such limitation would appear to violate principles of due process given, separate and apart from the enforceability of the Agreement as a contract between the Parties, the Governor's final decision on the Fish and Wildlife Program would affect rights and interests far beyond those of the individual Parties, including members of the Center.[79]

IV. Concerns Regarding the Project Owners Preferred Alternative Must Be Fully Analyzed

The Project Owners' "AWWU Portal Valve" preferred alternative is rife with issues that qualified, reputable, and independent experts have highlighted.[80] The Project Owners must fully analyze and understand these issues, as well as provide a plan for addressing them, before making any further decisions.

V. Adequate Dam Removal Analysis

Adequate analysis a dam removal alternative must be based on the following conditions and assumptions and must correct the following inaccuracies.

A. Dam Removal Only Once Alternative Sources of Renewable Energy Are Available

The dam removal analysis should presume that dam removal will only occur once alternative sources of renewable energy are available, such as the 65MW Dixon Diversion expansion of the Bradley Lake hydroelectric project, large-scale wind and solar energy projects, required enhanced grid efficiencies on the Railbelt through coordinated dispatch,[81] and increased consumer and commercial energy efficiency. It should be noted that there are no proposals or requests for analysis of dam removal that takes place before these conditions are met, and we are not requesting analysis of dam removal that would require Eklutna hydroelectric power to be replaced by methane gas.

B. AWWU Water Withdrawals and Downstream River Flow Concerns with the Eklutna Lake Dam Removed

The Project Owners have recently claimed that without the Eklutna Lake dam, AWWU water withdrawals in the winter months could cause flows out of the lake to cease and the river to run dry.[82] This analysis, and the modeling upon which it is based on, has never been presented to stakeholders, fish and wildlife agencies, or independent experts for verification, review, and feedback. Based on our initial review, we believe this analysis is highly misleading and based on incorrect assumptions. Moreover, we believe that even if the concern has some limited validity, there are highly feasible engineering solutions available to resolve the issue. Dam removal

[79] *See* Pub. L 104-58, title I § 104(c)(1); Fish and Wildlife Agreement at 5.
[80] *See*, Spiegel, Donald, Executive Summary: Eklutna River Restoration Project Issues Paper (Feb. 14, 2024); *See also*, Spiegel, Donald, Project Issues Paper: Eklutna River Restoration Project (Feb. 24, 2024); *See also*, Anchorage Assembly, Letter to Eklutna Hydroelectric Program Development Team (Feb. 16, 2024).
[81] Alaska SB 123 (2020); Regulatory Commission of Alaska, Order R-20-001 (May 18, 2020).
[82] McMillen, Eklutna Fish and Wildlife Program Chugach BOD Meeting Slides (Feb. 12, 2024).

analysis must be based on accurate AWWU withdrawal figures and vetted flow models, and include engineering solutions to downstream flow concerns.

The AWWU water withdrawal rates the Project Owners are basing their assumptions on are misrepresented. The AWWU system experiences maximum usage during the summer months of June and July (occasionally August), during weeks of hot summer weather. Water usage in winter months is significantly lower than in summer. This is very typical for systems in places like Anchorage that are not winter resort or heavily visited winter season areas (rather Anchorage is experiences a very significant influx of people during the summer months). Based on the historical record, AWWU production from Eklutna is as follows:

- Average annual production (average day for the year) is about 21 mgd (32 cfs)
- Minimum month production (November – January) is about 19 mgd (29 cfs)
- Maximum month production (June – July) is about 27 mgd (42 cfs)
- Maximum day production is about 32 to 33 mgd (50 to 51 cfs)

These production rates align with average rates for municipal and industrial water usage in municipalities nationwide. These rates show the significant increase in withdrawals and production in the summer months compared to the winter.

In a recent presentation by the Project Owners' consultant to the Chugach Electric Association Board of Directors, the consultant presented AWWU withdrawals as stable over the course of the year, stating that "With AWWU pulling their maximum water right of 41 MGC (63.4 cfs). The [sic] river would run dry most winters."[83] Based on historical averages, AWWU does not come close to withdrawing 63.4 cfs, even during maximum day production during hot summer weeks. And the rate of production is certainly not flat over the course of the year. These kinds of misleading presentations of data, along with no references as to the source of their data nor any presentation on the modeling upon which their flow calculations are based upon, call into question the reliability of their data and analysis.

Furthermore, there are highly feasible engineering solutions available to ensure that the Eklutna River can remain watered and AWWU can maintain withdrawals during winter months in dry years. For example, a potential solution would be to install a manhole (cylinder) pump station near the location of the existing dam that would intake water from the west end of the lake near the current dam and release it near the base of the current dam spillway structure. This pump station would allow continued flow in the Eklutna River during winter months in dry years while allowing continuous AWWU withdrawals of their historic averages (and up to their maximum water right). The exact locations of the pump station, suction pipe, and location of discharge pipe should be based on study of the profile and geology of the bottom of Eklutna Lake. AWWU has numerous cylinder pump stations of similar configurations in operation today, and cylinder pump stations are very common in sewer and drainage projects around the country and the world.

[83] McMillen, Eklutna Fish and Wildlife Program Chugach Board of Directions Meeting Slides (2024).

C. Costs of Dam Removal

The Project Owners have compared the potential costs of removing the Eklutna Lake dam to such projects as the Elwha and Glines Canyon dam removal project (more than $350 million) and Lower Klamath River dams removal project (estimated at $397 million). Those dam removal projects are categorically different and larger than removing the Eklutna Lake dam. For example, the Lower Klamath River dams removal project is the largest dam removal project in the world, including removing four dams on one of California's largest river systems and restoring thousands of acres of land previously inundated by four completely unnatural reservoirs. The lower Eklutna dam was removed for $7.5 million which was a far more difficult and complex, and thus expensive, project than what it would cost to remove the Eklutna Lake dam. Costs must be accurately analyzed for dam removal of the Eklutna Lake dam.

D. Eklutna Lake Level and Resultant Spawning Habitat

The analysis should assume that once the Eklutna Lake dam has been removed, Eklutna Lake must be kept sufficiently full and spilling into the Eklutna River, except for short time periods in rare winter months during dry years (and we suggest an engineering solution to address those rare periods). This means that the Eklutna Lake level must not fall below 851 feet such that all available lakeshore spawning habitat always remains inundated. In other words, the analysis must properly account for all available lakeshore sockeye spawning habitat under "full lake" conditions. Moreover, the analysis must properly account for the full mileage of available spawning habitat in the tributary streams above the lake.

E. Peak Flow Assessments

The Project Owners have stated in numerous presentations and letters that removal of the dam would result in flows below the lake "peaking at 2,500 cfs every few years to 4,000 cfs every ten years." In their 2019 Eklutna River Flow Assessment, USFWS's data shows that flows of 2,500 cfs and 4,000 cfs would be far less regular than every "few" to ten years, respectively. Rather, at the extremes, it shows the likelihood of 2,500 cfs flows are between ~5-50 years, and the 4,000cfs likelihood interval is between ~20-500+ years, with an annual probability of 0.2%.[84]

We contest the inflated peak flow numbers the Project Owners are using and the models upon which these flow estimates are being generated. These numbers and models are being used for subsequent dam removal analysis by the Project Owners' consultant and AWWU, and these analyses must therefore be called into question. We suggest consulting with the fish and wildlife agency experts, as the 1991 Agreement requires, and resolving any differences in models and flow estimates before any further analysis is completed. If differences remain, the fish and wildlife agency experts flow estimates for analyzing lower river flows after removal of the dam should be used.

F. Downstream Bridge Safety

[84] USFWS, Preliminary Fish Habitat Flow Assessment at Appendix B (July 14, 2019).

The Project Owners' have stated concerns about downstream bridge safety from peak flow events once the dam was removed. There are three main bridges below the Eklutna Lake dam: the Old Glenn Highway Bridge, the New Glenn Highway Bridges, and the Railroad Bridge.

The Old Glenn Highway Bridge was replaced in 2015. The Project Owners have stated without citation that this bridge's maximum hydraulic capacity is less than 1,800 cfs.[85] This is false and highly misleading. We assume that the Project Owners are basing this estimate on the 2015 Eklutna River Bridge Hydrologic and Hydraulic Report.[86] This report explicitly does not state that the bridge's maximum hydraulic capacity is less than 1,800 cfs. Rather, the analysis for the hydraulic capacity of the bridge only considered flows up to 1,800 cfs because the report considered 1,800 cfs the 500-year flood level with the dam in place. Using this report to state that the hydraulic capacity of the Old Glenn Highway Bridge is less than 1,800 is patently false. The correct conclusion of this report is that the new Old Glenn Highway Bridge has a hydraulic capacity of at least 1,800 cfs. The analysis can be implied to conclude that 4,000 cfs peak flows would be well within the new bridge's hydraulic capacity and would likely have no impact on the bridge, especially given the predicted infrequency of these peak flows. A supplemental hydraulic report would be required to accurately state the maximum hydraulic capacity of the bridge with the Eklutna Lake dam removed.

The Project Owners' Draft Program states that the New Glenn Highway Bridges, which were constructed in 1975, have a hydraulic capacity of less than 4,700 cfs.[87] There is again no citation for this statistic, and we wonder what analysis this figure relies upon. Nonetheless, given the Project Owners' estimated peak flows of 4,000 cfs, the New Glenn Highway Bridges have ~17% of additional hydraulic capacity and should not be negatively impacted by maximum peak flows. The Draft Program states that the Railroad Bridge has a hydraulic capacity of less than 8,000 cfs (also without citation). This is more than double the estimated peak flows. Without additional analysis that shows otherwise, we see no reason why the current downstream bridges cannot withstand peak flows from an undammed Eklutna River.

Additionally, the Project Owners have stated concerns about sediment transport during peak flow events from remaining sediment that was once trapped behind the lower Eklutna dam that was removed in 2018. Our proposed dam removal alternative advocates for the Eklutna Lake dam being removed within the next decade. There are abundant examples of dam removal projects that have safely addressed sediment transport and downstream infrastructure at a scale far greater than in the Eklutna, and the Project Owners' dam removal analysis should explore these examples and provide for a managed sediment reduction program before dam removal through planned flushing flows and other mechanisms.

G. AWWU Pipeline Scouring

The lower Eklutna River is certainly not the only river under which a pipeline flows, and while the Project Owners have cited scouring concerns, we request to see full analysis of these

[85] Project Owners, Eklutna Draft Fish and Wildlife Program at 8.
[86] R&M Consultants, Eklutna River Bridge Hydrologic and Hydraulic Report (Mar. 2015).
[87] Draft Program at 8.

purported issues and how they could be addressed. This analysis must be based on a river routing model at credible design flows to determine scour velocities and depths of the AWWU pipeline. The results of this model may show that there are no additional protection measures required to secure the AWWU pipeline. If the model shows the need for additional protections, the analysis must explore a wide range of options for addressing such scouring concerns. These options could include additional armoring, digging pipeline sections deeper, a combination of techniques, or any other treatments recommended by a pipeline expert. We feel confident there are highly feasible solutions to address these concerns.

H. Dam Removal Benefits to All Fish and Wildlife

The dam removal analysis must consider the benefits to salmon of not just reconnecting the lower river to the lake and upper tributaries, but also returning a more natural flow regime to the lower river, including all side channels and off-channel habitat. Moreover, as we discussed at length in our December 2023 comments on the Draft Program, the 1991 Agreement protection, mitigation, and enhancement requirements extend to all non-salmonid fish and wildlife in the Eklutna watershed. As such, the dam removal analysis must meaningfully analyze the impacts, especially the positive benefits, to all fish and wildlife. This includes the benefits of a restored natural flow regime along with sediment transport and restored off-channel habitat on shorebirds that use the Eklutna estuary and other birds in the watershed as well as terrestrial and marine mammals. In particular, the dam removal analysis must fully analyze the benefits of dam removal and potential resultant salmon abundance increases for Cook Inlet beluga whales, a critically endangered species listed under the federal Endangered Species Act.

VI. The Project Owners Should Agree to a Multi-Year Extension

We fully support and encourage the Project Owners and Parties to the 1991 Agreement to undertake a multi-year extension for further study, analysis, and resolution of differences before proposing a Final Fish and Wildlife Program.[88] The 1991 Agreement, as essentially a standard contract, can be revised, including its scheduled dates, with the agreement of all signatories.

Sincerely,

/s/ *Cooper Freeman*
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[88] Anchorage Assembly, AR No. 2024-40, As Amended (Feb. 2, 2024).

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February 18, 2024

Sam Owen
McMillen Jacobs

Todd Glass
Chugach Electric Association

RE: Addendum to TCF Comments on the Eklutna Draft Fish and Wildlife Program

Dear Ms. Owen and Mr. Glass,

Please accept the following as an addendum to the previously submitted formal comments and statement of position of The Conservation Fund on the Draft Fish and Wildlife Program. This addendum responds to remarks made by both of you as reported by Alaska Public Media under the header "Eklutna Hydro Owners Say They Won't Extend Wildlife Restoration Process." It's worth noting that even here the reporter uses the word "restoration."

We agree with Mr. Glass that the Eklutna Owners should not be obliged to restore the entire Eklutna River. Your obligations to restore the Eklutna River only obtain to that section of the Eklutna River degraded by the Eklutna Hydroproject; that is, the 8 miles between the former Lower Eklutna River Dam and Eklutna Lake that were and remain largely dewatered because of your operations. The only things stopping sockeye salmon from once again returning to Eklutna Lake are the Eklutna Lake "dam" and your dewatering of the river.

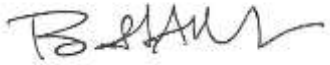
Mr. Glass, who appears to be speaking on behalf of the Eklutna Owners, asserts that "We never owned the lower dam. The dams were not part of what we bought in '97." A history refresher is in order for Mr. Glass. Anchorage Light & Power, the original develops of the Lower Eklutna Dam hydroproject, sold the project to the City of Anchorage in 1943; the City (which is now one of the Eklutna Owners) operated the Lower Eklutna River hydroproject until it sold "all its interest in and to said water rights, said generating plant, and associated facilities and properties" to the U.S. Bureau of Reclamation in 1953 for $1.8 million to allow for the development of the Eklutna Hydroproject at

Eklutna Lake. In 1989 the federal government agreed to sell to Eklutna Owners "the Eklutna Hydroelectric Project authorized, constructed, and operated pursuant to the Eklutna Project Act of July 31, 1950, including any and all property and facilities acquired or used in connection with Eklutna." According to the Initial Information Package "the asset lists developed for the sale pursuant to the 1989 Eklutna Purchase Agreement did not include the lower diversion dam." Prior to the demolition of the Lower Eklutna River Dam in 2016, Eklutna Inc. filed a quiet title action because of the uncertainty surrounding the ownership of the Lower Dam.

One of the Eklutna Owners (the City of Anchorage) clearly owned and operated the Lower Eklutna Dam, contrary to Mr. Glass's statement that "We never owned the lower dam." The City sold the Lower Dam and all its rights and infrastructure to allow for the construction of the Eklutna Hydroproject. "The signing of the above contract removed the last remaining legal hurdle to construction of the Eklutna Project." To claim that these two hydroprojects are not intimately and legally related is false.

The APRN reporting contained graphics presented by Ms. Owen that contend that the Eklutna River could run dry in the winter months of some especially dry years. Presumably the analysis behind these graphics factors in actual winter consumption, not average annual consumption? AWWU winter consumption (Nov – Feb) is typically 85-90% of average annual consumption (19 mgd vs 21 mgd [29 cfs vs 32 cfs]). This rare event can be managed through the installation of a pump and piping system as described in the attached documents. Such a system would be a natural compliment to the removal of the Eklutna Lake Dam and deserves to be incorporated into additional analysis.

Sincerely,



Brad Meiklejohn
Senior Alaska Representative

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Eklutna River Restoration Project
Cylinder (Manhole) Pump Station in Eklutna Lake Proper

1 **Basis of Need** – there may be a need to improve (or add) to the AWWU Portal Project for various reasons as follows:

2 The AWWU Portal alternative is a "single straw" into Eklutna Lake. The operation and thus success of the alternative relies on 35-year old infrastructure to be 100% available. The suggested mitigation for the "single straw" option is use of an existing gated opening at the base of the Eklutna Dam spillway structure that would allow Eklutna Lake water (or some ponded water when the Lake level is below the gated opening) to flow into the Eklutna River. Project documentation has stated that the pond may be capable of supplying up to 12 hours of water. The gate will be controlled to open when the Eklutna Water Project infrastructure is unavailable. This is a flawed concept because the bottom elevation of the opening is Elevation 852. Eklutna lake is below Elevation 852 six months out of the year and thus the gate cannot provide reliable water for a long-term (greater than 12 hour) outage.

3 The last mile of the Eklutna River between the bottom of Eklutna Dam and the AWWU Portal facility is not part of the restoration zone.

4 The AWWU Portal release may impact the ability of AWWU to operate at the original design capacity of the Eklutna Water Project.

1. **Description of "Second Straw"** – Install one manhole (cylinder) pump station adjacent to Eklutna Lake near the Eklutna Dam and discharge to the pond that routes water to the gate at the base of the spillway structure. This Project alternative can alleviate all three concerns above**.**

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1. **Details of the "Second Straw":** Facilities necessary to construct the Second Straw:

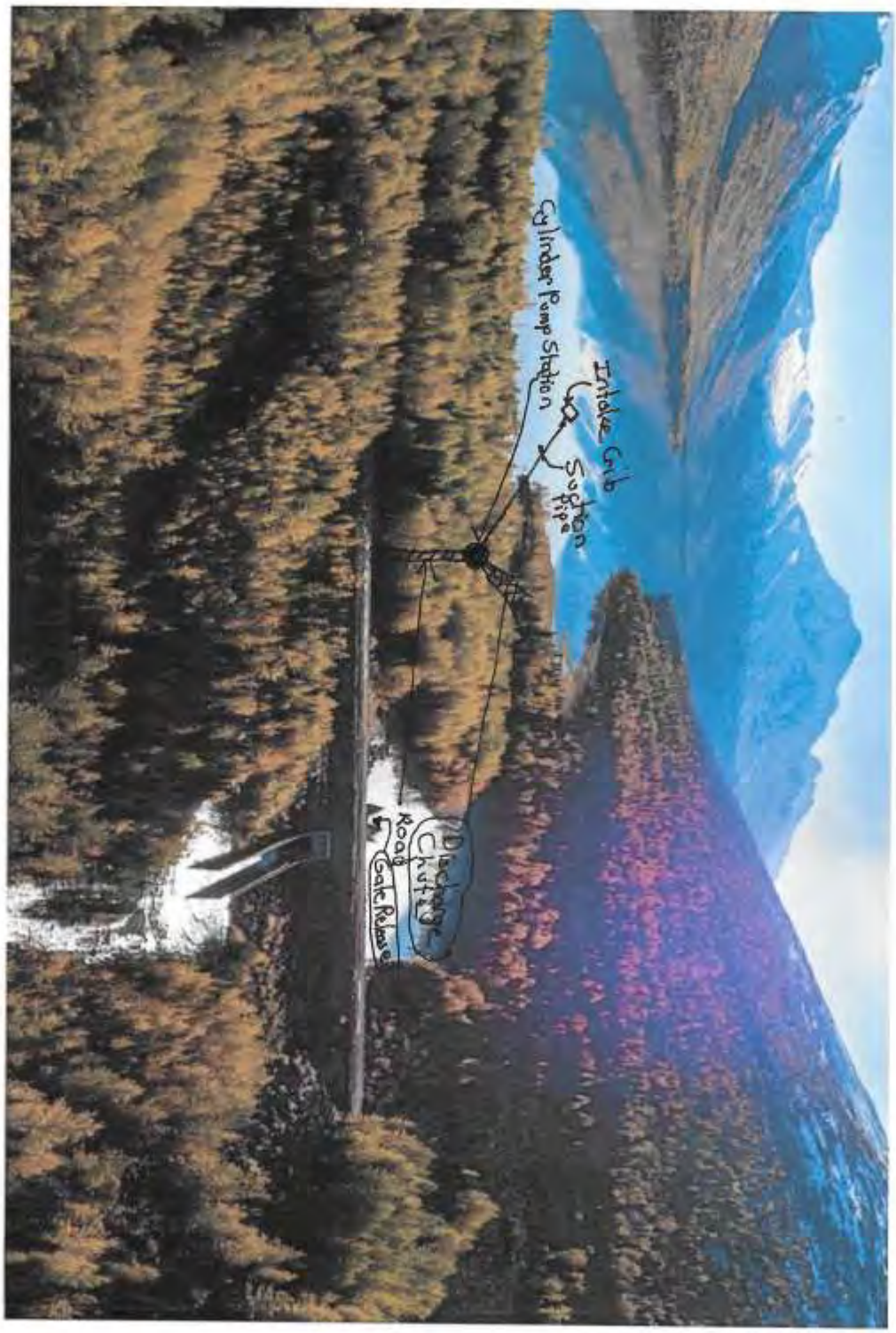
- Construct one 16- foot minimum diameter concrete shaft adjacent to or in Eklutna Lake close to the existing pond. Bottom elevation should be at about 800. Top elevation should be at approximate Elevation 880 to match existing grade adjacent to the structure. The shaft top should be above Lake high water level for access and maintenance.
- Install three submersible non-clog centrifugal pumps, or three dry pit centrifugal pumps (depending on whether the shaft is designed for submersible or dry pit pump configuration). Pumps should be 8.6 mgd at about 45 feet of head (about 100 horsepower each) for 40 cfs total.
- Construct a suction pipe from the pump station into Eklutna Lake to obtain a bottom elevation of 800 to 805. Size would be 48-inch. Distance would be such to find the bottom elevation of 800.
- Install a stainless steel intake "crib" or box on the end of the suction pipeline.
- Install discharge pipeline from the pump station over the moraine to a close edge of the pond. Routing could be shallow bury and the pipeline must be anchored to prevent buoyancy. Pipeline number may be one at 36-inch diameter or two at 24-inch diameter. Civil works could reduce the piping length so that the water flows mostly overland to the pond.
- Provide a new electrical service from MEA to a new Electrical Room set at the top of the Pump Station. The pumps will be 480 volts.
- Construct one Electrical Room to house the electrical service equipment, three motor starters and control equipment.
- Operate the pump station in tandem with the AWWU Portal facility. Operation can take three forms: (1) the AWWU Portal Facility "straw" operates as primary; (2) the Eklutna Lake Pump Station "straw" operates as primary; or (3) both "straws" operate simultaneously. The two facilities will be communicating via SCADA so switchover for planned or emergency events can happen quickly and, if desired, automatically. No generator backup is thus required at the pump station.

1 **Pump Station Information:** Some information about the pump station in general and this adder alternative in particular:

2 Cylinder (manhole) pumps stations are very common in sewer and drainage projects around the country and around the world.

- AWWU has numerous cylinder (manhole) pump stations operating today of similar configurations and at depths of as much as 70 feet. Two example stations are Pump Station 2 in the Bootleggers Cove area of Anchorage (about 70 feet deep) and the Potter Creek Pump Station which is below water level all the time and is about 40 feet deep.
- Location of the pump station, location of the suction pipe and location of the discharge pipe within Eklutna Lake will require some study of the profile of the bottom of Eklutna Lake and also the geology of the bottom of Eklutna Lake. Exact placement can only occur after such study.

1. **Future Benefits of the "Second Straw":** This project adder blends well with the possibility of the future removal of the dam. The pump station can continue to operate as the dam is removed so the entire reach of the Eklutna River is maintained in a flowing condition. The pump station would also allow continued flow in the Eklutna River during periods in dry years when water is below the level of the moraine and is thus naturally unable to feed the Eklutna River.



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February 19, 2024

Eklutna River Hydroelectric Project Owners:
Municipality of Anchorage (MOA)
Chugach Electric Association (CEA)
Matanuska Electric Association (MEA)
VIA EMAIL: info@eklutnahydro.com

Re: Eklutna Hydroelectric Project Draft Fish and Wildlife Program

Dear MOA, CEA, and MEA:

The Alaska Wildlife Alliance (AWA) provides the following comments on the Chugach Electric Association, Matanuska Electric Association, and Municipality of Anchorage ("Project Owners")'s Eklutna Hydroelectric Project Draft Fish and Wildlife Program ("Draft Program").[1] The Alaska Wildlife Alliance is a non-profit organization based in Anchorage, founded in 1978 by Alaskans, and speaks for more than 1,500 supporters of Alaska's wildlife. We advocate for healthy ecosystems which are ethically and scientifically managed to protect our wildlife for present and future generations.

Since the Eklutna Hydroelectric Project ("Project") became operational in 1955, it has caused the Eklutna River to run dry. The hydrological record is clear on this point:

> "Currently, no water spills over the Eklutna Lake Dam down the river except during floods. A 4.5-mile bypass tunnel diverts water from the lake to the power plant. Of the water diverted, 90% is diverted to the Knik River for hydropower, while 10% is diverted for Anchorage drinking and wastewater, effectively blocking the remaining 14 miles of Eklutna River from its water source."[2]

The Project's adverse effects on fish and wildlife resources in the Eklutna River were not evaluated for almost 70 years after project construction due, in part, to the existence of the lower diversion dam, which prevented salmon from ascending to Eklutna Lake and the upper reaches of the river. However, since the lower diversion dam was removed in 2018, the Project's continued diversion of all controllable flow at Eklutna Lake to the Project's powerhouse on Knik Arm and the complete disconnection of the river to the lake and upper tributaries are, and will continue to be under the Project Owners' Program, the primary causes for ongoing degradation of fish and wildlife habitat in the Eklutna River system.

[1] Chugach Electric Association, Matanuska Electric Association, and Municipality of Anchorage ("Project Owners"), Eklutna Hydroelectric Project Draft Fish and Wildlife Program (Oct. 27, 2023) https://eklutnahydro.com/wp-content/uploads/2023/10/2023-10-27-Eklutna-Draft-Fish-and-Wildlife-Program_withAppendices.pdf.
[2] Native Village of Eklutna, "Eklutna River: Idlughetnu" (accessed Nov. 17, 2023) https://eklutna-nsn.gov/departments/land-and-environment/eklutna-river/; see also, Kleinschmidt Associates, Draft Instream Flow Technical Memo at 2 (Sept. 28, 2022) https://eklutnahydro.com/wp-content/uploads/2022/12/2022-9-27-EklutnaInstream-Flow-Tech-Memo_DRAFT.pdf ("In 1955, the federal government completed construction of a new hydropower project and in 1964 a new storage dam which effectively eliminated any flow releases from Eklutna Lake to the Eklutna River.").

Rather than fully evaluate alternatives that would avoid, minimize, or mitigate the project's adverse effects, as would generally be required for the relicensing of any other similarly-sized non-federal hydropower project, the Project Owners have put forward a Draft Program that would maintain those adverse effects by continuing to dewater a portion of the lower Eklutna River and deny salmon access to the majority of the system's salmon habitat for the next 35 years. The Draft Program shows that the Project Owners did not fully evaluate alternatives that would mitigate and enhance, let alone avoid or minimize the Project's ongoing impacts to sockeye, Chinook, and coho salmon habitat even though the loss of the sockeye salmon run was one of the express reasons for the 1991 Eklutna Fish and Wildlife Agreement.

Purpose of the 1991 Eklutna Fish and Wildlife Agreement

The purpose of the 1991 Eklutna Fish and Wildlife Agreement ("Agreement") and the resultant Fish and Wildlife Program is to develop and implement measures to "protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat)" from the harms of the Project.[3] Salmon spawning grounds and habitat harmed by the project include the lower Eklutna River below the dam, Eklutna Lake, and the upper tributaries to Eklutna Lake. The Divestiture Summary Report for the Sale of Eklutna and Snettisham Hydroelectric Projects ("Divestiture Report"), to which the Agreement is an appendix, notes that mitigating harms to sockeye salmon and their spawning habitat was particularly important in creating the Agreement. The Divestiture Report explained that "[d]uring reviews of the legislative proposal, loss of a sockeye salmon run that once spawned in Eklutna Lake was identified[...] This specific problem and the desires of the fish and wildlife agencies to provide appropriate consideration to fish and wildlife resources over the long run led to the August 7, 1991 Agreement."[4] The Divestiture Report notes that the Agreement's fish and wildlife measures were intended to "work at least as well as Federal regulation for the intended purpose of mitigation and enhancement of affected fish and wildlife resources," and were to be "quite similar to that under the [Federal Energy Regulatory Commission ("FERC")] licensing" process for hydroelectric projects.[5]

In comparison, the "AWWU Portal" plan proposed in the Draft Program by the Project Owners leaves Eklutna Lake and its upper tributaries completely disconnected from the lower Eklutna River, maintaining over a mile of dry streambed.[6] Furthermore, the flows the Project Owners propose to release from the AWWU Portal are the minimum flows considered by any of the signatory parties to the Agreement ("Parties") during the Agreement study process, with inadequate higher flushing flow events in only three out of every ten years.[7]

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[3] Fish and Wildlife Agreement Snettisham and Eklutna Projects at 1 (Aug. 7, 1991) https://eklutnahydro.com/wpcontent/uploads/2019/05/1991-Fish-and-Wildlife-Agreement.pdf; See also Eklutna Draft Fish and Wildlife Program at 45; See also Alaska Power Administration Asset Sale and Termination, Pub. L 104-58, title I § 104(a)(2) (Nov. 28 1995) https://www.govinfo.gov/content/pkg/STATUTE-109/pdf/STATUTE-109-Pg557.pdf.

[4] Divestiture Summary Report, Sale of Eklutna and Snettisham Hydroelectric Projects at 19 (Apr. 1992) https://eklutnahydro.com/wp-content/uploads/2020/03/APA-1992-Divestiture-Summary-Report.pdf.

[5] Id. at 20, 18.

[6] Eklutna Draft Fish and Wildlife Program at 46-56.

[7] Id. at 39, 40; see, e.g., Trout Unlimited, Eklutna River Workshop: Summary of Outcomes, Recommendations, and Future Needs at 4-6; see also, e.g., U.S. Fish and Wildlife Service, Upper Eklutna River Survey Preliminary Fish

The Preferred Alternative ("AWWU Portal") is Insufficient for Salmon and Does Not Provide for a Connected Ecosystem

The AWWU Portal puts the least amount of water in the river of all the alternatives for regular flows and high-flow events.[8] The justification for choosing the lowest flow alternative primarily comes from economic considerations rather than what is best for fish and wildlife. The Agreement makes clear that the consideration of non-fish and wildlife factors should be made by the Governor, not by the Project Owners in the Draft Program. The preferred alternative continues to create a dead-end river, with over a mile of dry streambed below the dam. Creating a dead-end river hardly mitigates the damages caused to fish and wildlife from the Project because it prevents connectivity between Knik Arm, the lower Eklutna River, the lake, and the upper tributaries. The preferred alternative cannot mitigate damages to sockeye in any way because it will continue to prevent nearly all anadromous sockeye from spawning in the Eklutna River system. Because the destruction of the sockeye run was the "specific concern" leading to the Agreement, a Program that continues to prevent almost all sockeye from spawning is impermissible.[9] The preferred alternative permits less than 10% of the river to flow down its historic channel to the Knik Arm, the smallest amount of any proposed alternative.[10]

High flows are essential to mimic beneficial flooding. Seven of the nine alternatives proposed much more water during high flows, yet the Draft Program Plan settles on the lowest water discharge for channel maintenance flows of all discharges proposed. The maintenance flow regime in the preferred alternative is severely inadequate because it fails to return the river to its natural flow. The 220 cfs maximum flushing flows in the Draft Program is less than 20% of the average flushing flows of 1,402 cfs that USFWS estimated would be necessary to recreate the flows that historically supported the natural fishery and created the natural river channel and off-channel habitat.[11] Worse, the Draft Program imagines the peak flow for just a few hours for just three out of every ten years before returning to conditions that approximate a severe drought. NOAA Fisheries concluded that the proposed flushing flows in the Draft Program "are unlikely to modify substrates and support habitat complexity in a meaningful way after nearly a century of limited impactful flow events."[12] The chosen channel maintenance flow hardly mitigates for the Eklutna River's deprivation of almost a century of flooding with a maximum recorded value of approximately 3,000 cfs.[13]

The AWWU Portal proposal provides no solution for the complete blockage of salmon reaching the extensive lake spawning habitat required by sockeye salmon (which was the key driver for the Agreement in the first place) and 15 miles of upper tributaries spawning habitat above the lake that is

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Habitat Flow Assessment (July 14, 2019) https://www.tu.org/wp-content/uploads/2019/06/Upper-Eklutna-FlowAssessment-071419-1.pdf.

[8] Eklutna Draft Fish and Wildlife Program at 39-40.

[9] See Divestiture Report at 19.

[10] Eklutna Draft Fish and Wildlife Program, 39, 49.

[11] U.S. Fish and Wildlife Service, Upper Eklutna River Survey Preliminary Fish Habitat Flow Assessment.

[12] NOAA Fisheries, Comment Letter to Draft Fish and Wildlife Program (Dec. 5, 2023).

[13] McMillen Jacobs Associates, Initial Information Package at 77 (Sept. 2020) https://eklutnahydro.com/wpcontent/uploads/2020/10/200928-Eklutna-IIP_FINAL.pdf

highly amenable to Chinook and coho salmon.[14] Without a connection to Eklutna Lake, restoring those key spawning grounds and habitat is impossible. The Project Owners admit in the Draft Program that "no change in sockeye rearing habitat is anticipated."[15] The proposed nominal flow releases from the AWWU Portal, which represent less than 10% of the inflows to Eklutna Lake, will only minimally enhance Chinook and coho salmon and their habitat in the lower Eklutna River and bear no resemblance to historic flows.[16]

As such, we do not support the AWWU Portal alternative because it does not provide for a connected ecosystem, as it:

- Fails to remedy the harms to sockeye salmon and their spawning habitat that instigated the Agreement and Program process;
- Leaves one mile of dry riverbed that prevents fish from reaching Eklutna Lake;[17]
- Blocks access to the majority of sockeye, Chinook, and coho salmon spawning and rearing habitat in the lake and its tributaries; and
- Delivers inadequate flows for fish below the Eklutna Lake dam.[18]

The Project Owners are not providing decision-makers and the public with the full range of alternative solutions and mitigation measures to meet the Agreement requirements. The Project Owners must select an alternative that would restore connectivity of Eklutna Lake and upper tributaries to the lower river.

The Program's Analysis of Non-Salmonid Wildlife is Severely Inadequate

The Agreement's protection, mitigation, and enhancement purpose is not limited to salmon but instead includes all fish and wildlife impacted by the Project. Reducing the ecological function of the tidal wetlands, lower river, lake, and upper tributaries from the Project's impacts reduces the health of fish and wildlife throughout the watershed. However, the Draft Program is not built upon any surveys or studies of marine mammals and its consideration of terrestrial and avian wildlife and habitat is severely inadequate.

The wildlife habitat survey study area boundary was limited to the lower end of the lake, the current river channel corridor, and a section of the wetlands at the river mouth.[19] This study area boundary is insufficient and should have included the entire Eklutna watershed, including the upper tributaries, the

[14] See, e.g., Native Village of Eklutna, Eklutna Lake and Tributaries Salmon Habitat (2022) https://static1.squarespace.com/static/5f52cd19995bf84b22653379/t/630683349fc05e329044d6bf/1661371211807/Lake+%26+Tributaries+Habitat.pdf; See also e.g., McMillian Jacobs Associates, Eklutna Lake Aquatic Habitat and Fish Utilization, Year 2 Study Report Draft (2023) https://eklutnahydro.com/wp-content/uploads/2023/04/Draft-Eklutna-Lake-Habitat-and-Fish-Y2-Report.pdf; See also, e.g., Native Village of Eklutna, TWG 2021-2022 Final Report (Jul. 23, 2023).

[15] Eklutna Draft Fish and Wildlife Program at Appendix B-4 (emphasis added).

[16] McMillen, IIP at 77

[17] Eklutna Draft Fish and Wildlife Program at 46 ("Release of water from the portal valve will provide year-round flow to 11 of the 12 river miles.").

[18] See, e.g., USFWS, Upper Eklutna River Survey Preliminary Fish Habitat Flow Assessment; see also, e.g., Trout Unlimited, Eklutna River Workshop: Summary of Outcomes, Recommendations, and Future Needs at 4-6.

[19] ABR, Inc., Eklutna Hydroelectric Project Wetlands and Wildlife Habitat Study Report Draft at 3 (Mar. 2023) https://eklutnahydro.com/wp-content/uploads/2023/04/Draft-Eklutna-Wetlands-and-Wildlife-Habitat-Report.pdf.

entire lake, and the off-channel stream areas in the lower river valley, given the Project harms to the whole Eklutna watershed ecosystem. Because of the limited study area, the wildlife analysis could not fully consider the protection, mitigation, and enhancement from all the alternatives, including the potential restoration of habitat from increasing flows and reconnecting the lower river to the lake and upper tributaries. Terrestrial and avian wildlife and habitat studies were primarily conducted via aerial surveys and literature reviews, both which have issues regarding their accuracy and the amount of place-specific detail they can provide.[20] A recent scientific review of the accuracy of wildlife aerial surveys stated that aerial surveys can be an efficient platform to collect observational counting data "across large spatial areas," but which are far less well-suited for specific and small-scale geographies like the Eklutna survey area.[21] Furthermore, the review noted common errors such as "nondetection, counting error, and species misidentification" that if not adequately addressed at all stages of the study "can provide data that obscure animal-environment relationships or introduce biases into inferences."[22] The Project Owners provide no details or assurances that their limited surveys addressed these common errors. Furthermore, aerial and other surveys for wildlife were extremely limited. For example, only one day of raptor aerial surveys were completed, four days of migratory shorebird and waterfowl surveys were completed, and three days of moose surveys were completed, all during 2022.[23] These surveys would not account for any annual variation in wildlife abundance or timing in the Eklutna watershed, as well as seasonal access limitations, among other issues. Wildlife habitat analysis relied on historic and current aerial photography with no ground vegetation surveys completed.[24] Scientific literature on Alaska wildlife and habitat is rarely area specific and is therefore not necessarily a valid representation of species using the Eklutna watershed either for their full lifecycles or for their migration routes or travel corridors.

Overall, the Plan recognizes that increasing the Eklutna River's flow below the dam will "directly or indirectly benefit several ecologically and/or culturally important wildlife species" such as wolves, moose, raptors, and bears.[25] Yet, because of the severe lack of adequate baseline data, it is impossible to truly analyze and understand how the different alternatives would impact and potentially benefit all wildlife and their habitat and to what degree. For example, even though listed in the "observed or expected" wildlife list, the Draft Program fails to consider imperiled species like the Little brown bat (*Myotis lucifugus*) that rely on the Eklutna watershed and for which mitigation and enhancement of their foraging habitat in the lower Eklutna River valley, which is currently harmed by the Project, could be improved by increasing flows and rebuilding off channel habitat in the lower river.[26] The Draft Program also fails to analyze why certain wildlife populations appear to be below normal levels. For example, the Summary of Study Results notes that "[w]aterfowl and shorebird numbers in the study

[20] Chugach Electric Association, Matanuska Electric Association, and Municipality of Anchorage ("Project Owners"), Eklutna Hydroelectric Project Draft Summary of Study Results at 46-50 (Oct. 2023) https://eklutnahydro.com/wp-content/uploads/2023/11/2023-10-27-Eklutna-Draft-Summary-of-Study-Results.pdf.
[21] Davis, Kayla L. et al., Errors in aerial survey count data: Identifying pitfalls and solutions, 12 Ecology and Evolution e8733 (Mar. 18, 2022) https://onlinelibrary.wiley.com/doi/10.1002/ece3.8733.
[22] Id.
[23] Eklutna Draft Summary of Study Results at 46-49.
[24] Id. at 42-43; see, Email from Terry Schick, ABR Inc., to Carrie Brophil, NVE (Nov. 22, 2022 at 11:27AM) (on file with NVE).
[25] Eklutna Draft Fish and Wildlife Program at 53.
[26] ABR Inc., Eklutna Hydroelectric Project Terrestrial Habitat Study Report Draft at 23 (Mar. 2023) https://eklutnahydro.com/wp-content/uploads/2023/04/Draft-Eklutna-Terrestrial-Wildlife-Report.pdf.

area were moderate and low, respectively, during the field surveys" and that "[s]horebirds were noticeably absent during the spring surveys."[27] This may be an example of a system that is in depression from nearly a century of harms from hydroelectric dams. These examples, and many others, highlight the Draft Program's inadequacies in considering and rigorously analyzing how the different alternatives would impact all non-salmonid fish and wildlife in the Eklutna system and whether the preferred alternative provides adequate mitigation and enhancement.

Regarding marine mammals, the Draft Program fails to consider the protection, mitigation, and enhancement of Cook Inlet beluga whales (*Delphinapterus leucas*), one of the nation's most critically endangered marine mammals. The best available science shows that Cook Inlet belugas could significantly benefit from increased salmon runs in the Upper Cook Inlet. Given the mouth of the Eklutna River is within designated critical habitat in upper Cook Inlet where the majority of the Cook Inlet beluga population forages during the summer, the critically endangered whales should be a primary concern for the Program.[28] The 2011 critical habitat designation for Cook Inlet belugas identified shallow intertidal and subtidal waters of Cook Inlet in close proximity to medium to high flow anadromous fish streams along with four species of Pacific salmon (Chinook, sockeye, chum, and coho) as essential to the beluga's conservation (also known as Primary Constituent Elements).[29] NOAA Fisheries' 2016 *Recovery Plan for the Cook Inlet Beluga Whale* identifies prey availability as a threat of medium concern for their recovery.[30] NOAA Fisheries acknowledges the heightened importance of prey availability, specifically Pacific salmon, for conserving Cook Inlet beluga whales. NOAA Fisheries has also identified Cook Inlet beluga whales as one of the species most at risk of extinction, and in their Species in the Spotlight, 2021-2025 Action Plan, state that, "[s]urvival and recovery of Cook Inlet beluga whales depend on an adequate quantity, quality, and accessibility of prey resources."[31] In a recent notice to issue an Incidental Harassment Authorization (IHA) proposal from the Port of Alaska, NOAA Fisheries noted that, "Pacific salmon represent the highest percent frequency of occurrence of prey species in CIBW stomachs."[32] The notice highlighted that rich foraging areas to the north of the Port of Alaska, including the Eklutna River, are important to belugas and that the whales correlate their movements into Knik Arm around the timing of the salmon runs in those rivers.[33] A recent 2023 study by Wild et al. delineated portions of Cook Inlet, including Knik Arm and the mouth of the Eklutna River, as a Biologically Important Area (BIA) for the small and resident population of Cook Inlet beluga whales based on scoring methods outlined by Harrison et al. in 2023.[34] The best available science shows that restoring abundant salmon runs may be one of the key strategies available for Cook Inlet beluga recovery by creating more foraging opportunities for belugas in upper Cook Inlet. The results of a 2020 study by Norman et al. suggest that "reproductive success in [Cook Inlet belugas] is tied to salmon abundance" in the Deshka

[27] Eklutna Draft Summary of Study Results at 47.
[28] 76 Fed. Reg. 20,180 (Apr. 11, 2011).
[29] 76 Fed. Reg. 20,203, 20,214 (Apr. 11, 2011).
[30] National Marine Fisheries Service, Recovery Plan for the Cook Inlet Beluga Whale at III-13 (2016).
[31] NOAA Fisheries, Species in the Spotlight – Cook Inlet Beluga Whale, Priority Actions 2021-2025 at 14 (Apr. 21, 2021).
[32] 88 Fed. Reg. 76588 (Nov. 6, 2023).
[33] Id.
[34] Wild, Lauren A. et al., Biologically Important Areas II for cetaceans within U.S. and adjacent waters – Gulf of Alaska Region, Front. Mar. Sci. 10:1134085 (May 5, 2023); Harrison, Jolie, Biologically Important Areas II for cetaceans within U.S. and adjacent waters – Updates and the application of a new scoring system, Front. Mar. Sci. 10:1081893 (Mar. 14, 2023).

River, which is also located in upper Cook Inlet near Knik Arm and the Eklutna River.[35] That study showed that "if salmon runs remained at their current levels, the [Cook Inlet beluga] population would likely continue its current slow decline," yet the study found that "if Chinook salmon increased 20% or more, the current decline would likely be reversed."[36] Furthermore, the study simulations found that "doubling the salmon abundance would be sufficient to allow recovery of the population regardless of impacts from other threats."[37] The study noted that while Chinook are the most nutritionally important salmon species for Cook Inlet belugas, belugas still rely on other salmon species as important prey.[38] Moreover, a recent 2023 study by McHuron et al. found that if there is enough prey available for Cook Inlet belugas, the whales can withstand other intermittent stressors, concluding that increasing prey availability increases the beluga's resiliency to threats.[39] Another recent 2023 study by Warlick et al. stated that "aerial survey data suggest that the [Cook Inlet beluga] population continues to decline[, and the] leading hypotheses include reduced prey availability […]."[40]

The proposed nominal flow releases from the AWWU Portal will only minimally enhance Chinook and coho salmon and their habitat in the lower Eklutna River. The AWWU Portal provides no solution for the complete blockage of salmon reaching the extensive lake spawning habitat required by sockeye salmon and miles of upper tributaries spawning habitat above the lake that is highly amenable to Chinook and coho salmon, both of which are primary forage species for Cook Inlet belugas.[41] Without connection to Eklutna Lake, protecting, mitigating, and enhancing those key spawning grounds and habitat is impossible. In turn, the mitigation and enhancement for Cook Inlet beluga whales are likely to be minimal as well. Furthermore, no analysis was completed for how the other alternatives considered would benefit Cook Inlet belugas. The Draft Program's severely inadequate analysis of non-salmonid fish and wildlife fails to meet the purposes of the Agreement and the standard of a similar federal process, and severely inhibits the Governor's ability to make an informed decision.

Conclusion

The Eklutna Project is the limiting factor preventing the restoration of the Eklutna River that flows from its headwaters to its confluence with the Knik Arm. Plainly, the Project Owners' Draft Program to continue to promote lack of connectivity of the ecosystem is inadequate to mitigate the Project's harms to fish and wildlife. Adequate and equitable fish and wildlife protection, mitigation, and enhancement, as required by the Agreement, requires the lake and upper tributary streams to be connected to the lower river and adequate flows for salmon to thrive. As such, we request that the Project Owners

[35] Norman, S. et al., Relationship between per capita births of Cook Inlet belugas and summer salmon runs: age-structured population modeling, Ecosphere 11:1 (2020).
[36] Id. at 1, 9.
[37] Id. at 10.
[38] Id.
[39] McHuron, Elizabeth A. et al., Modeling the impacts of a changing and disturbed environment on an endangered beluga whale population, 483 Ecological Modeling 110417 (Sept. 2023).
[40] Warlick, A.J. et al., Identifying demographic and environmental drivers of population dynamics and viability in an endangered top predator using an integrated model, Anim. Conserv. (Oct. 6, 2023).
[41] See, e.g., Native Village of Eklutna, Eklutna Lake and Tributaries Salmon Habitat (2022) https://static1.squarespace.com/static/5f52cd19995bf84b22653379/t/630683349fc05e329044d6bf/1661371211807/Lake+%26+Tributaries+Habitat.pdf; See also, McMillian Jacobs Associates, Eklutna Lake Aquatic Habitat and Fish Utilization, Year 2 Study Report Final (2023) https://eklutnahydro.com/wp-content/uploads/2023/06/Eklutna-LakeStudy-Y2-Report_FINAL.pdf; See also, Native Village of Eklutna, TWG 2021-2022 Final Report.

reconsider their proposed alternative, and instead promote methods which ensure a connected ecosystem.

On behalf of our organization, our members and supporters, and Alaska's wildlife, we appreciate your consideration of our comments.

Sincerely,

Nicole Schmitt
Executive Director

From: Chantal de Alcuaz
To: Sam Owen
Subject: Comment on Eklutna Hydroelectric Project
Date: Monday, February 19, 2024 6:36:52 PM

The Alaska Center
808 E St, Suite 100
Anchorage, AK 99501

To the Owners of the Eklutna Hydroelectric Project:

The Alaska Center is a 501(c)4 advocacy nonprofit organization, with over 50 years of history, based in Anchorage. We have tracked this mitigation process since 2019, in coalition with partners, including the Native Village of Eklutna and Trout Unlimited.

Our organizational vision is a thriving, just, and sustainable Alaska for future generations. In our view, the proposed Draft Fish and Wildlife Program is antithetical to that vision; it is unjust, unsustainable, and will fail to enhance the Eklutna River as is required by the 1991 Fish and Wildlife Agreement.

The Draft Program fails to acknowledge the needs of salmon; the proposed flows of 27 cfs in the winter and 40 in the summer are inadequate to bring back populations at even a fraction of what once existed. It is difficult to believe that a mere 3% of historic flows would be considered "mitigation and enhancement." This proposition is even more difficult to believe when compared to flows proposed by US Fish and Wildlife Service and National Marine Fisheries Service of 75 cfs in the winter and 160 in the summer. The fish deserve better, and an entire ecosystem that was once dependent on the vital nutrients provided by this keystone species deserves better. This proposition fails to rectify the harm done to the land for the last 100 years.

In addition to the flaws in the proposal itself, we have significant concerns about the process. As an advocacy organization, we care deeply about the ability of the public to comment on and be involved in decisions that directly affect us. One would hope that this mitigation process, which will lead to impacts on municipality taxes and utility rates, would encourage robust public participation. To be frank, we were shocked to learn that at the meetings, hosted by the owners group, the public comment would not be received in an open forum as is usually the case in such proceedings. It was only more disheartening to learn that the public felt so disregarded, that only 17 out of 230 attendees left comments.

Later in the process, we were heartbroken to learn that the utility companies signed a binding term sheet with the Anchorage Water and Wastewater Utility to use their portal in October 2023, prior to hearing the public's comments on the issue. Throughout this process, we have heard members of the public express that they wish to hear the sentiments of other member-owners on this issue. The public comment process did not allow for member-owners to hear each other, nor to hear directly from a party that is deeply impacted, The Native Village of Eklutna.

The Native Village of Eklutna has suffered immense harm as their river and fish were stolen from them in order to power Anchorage. Eklutna people have consistently helped Anchorage by providing land for schools and a power plant, and resources for the railroad. The Native

Village of Eklutna was not an original party to the dam agreement, nor are they a hydro owner–which is itself an injustice –but they are an important stakeholder in this mitigation process. The utility owners have consistently held meetings with the Native Village of Eklutna, and subsequently ignored their desires. The Native Village of Eklutna has consistently stated they want fish passage from the lake to the ocean. The mitigation process is a historic opportunity that should not be taken for granted. It is time for the utility owners and the community of Southcentral as a whole to take this crucial step toward righting a historic wrong of colonization.

Across the country, dams are being torn down as the harm they've inflicted upon the fish, land, and native peoples is being recognized. As Alaskans, we have an opportunity to right a grievous wrong and re-introduce a salmon run within upper Cook Inlet. We have an opportunity to protect the incredible natural resources within our state and prevent this land from being razed as it has in the Lower 48. We cannot fail our salmon as they have in Washington, Oregon, California, and Idaho. We need to do whatever we can to improve fisheries and give salmon the greatest chance of survival. This is a generational project. We cannot afford to think in the short term, as we have done for so long. There is an opportunity for fish to return, for our children and our grandchildren. The time is now. Renewable energy, salmon runs, and tribal sovereignty are not mutually exclusive. This river needs adequate flows and connection to the lake, morally and legally, and the proposed plan is insufficient to achieve these objectives.

Sincerely,

The Alaska Center

Chantal de Alcuaz

Co-Executive Director

Cell: (907) 250-9621

she/her/hers

Dena'inaq ełnen'aq' gheshtnu ch'q'u yeshdu. (Dena'ina)

I live and work on the land of the Dena'ina. (English)

Translation by Joel Isaak and Sondra Shaginoff-Stuart

CHUGACH STATE PARK CITIZEN ADVISORY BOARD

18620 Seward Hwy, Anchorage, AK 99516 Phone: 907-345-5014 Fax: 907-345-6982

Dear Eklutna Fish & Wildlife Program Development Team:

Municipality of Anchorage; Attn: Kolby Hickel
Chugach Electric Association; Attn: Andrew Laughlin
Matanuska Electric Association; Attn: Tony Zellers
McMillen Jacobs Associates; Attn: Samantha Owen
Hydro Regulatory Services; Attn: Steve Padula

The Chugach State Park Citizen Advisory Board (CAB) is a volunteer board composed of members of the public appointed by the Director of the Division of Parks & Outdoor Recreation. Among the CAB's purposes is a responsibility to "inquire into matters of community interest relating to State Parks and outdoor recreation". Furthermore, five primary purposes are outlined for Chugach State Park in statute (AS 41.21.120-41.21.125):

1. To protect and supply a satisfactory water supply for the use of the people.
2. To provide recreational opportunities for the people by providing areas for specified uses and constructing the necessary facilities in those areas.
3. To protect areas of unique and exceptional scenic value.
4. To provide areas for the public display of local wildlife.
5. To protect the existing wilderness characteristics of the easterly interior area.

We appreciate that the Program Development Team's mandate to select an alternative to fulfill the responsibilities of the 1991 Fish & Wildlife Agreement is an extremely complex task with a variety of implications for the Project Owners, Chugach State Park, the Native Village of Eklutna and the general public. The alternative implemented will have financial, cultural, recreational and environmental impacts for the next 35 years. While members of the CAB bring a diverse set of expertise and are personally sensitive to the wide array of potential implications of the various selected alternatives, as a board we remain focused on the potential impacts to Chugach State Park. Keeping both the CAB's purposes and the Park's purposes front of mind we respectfully submit the following comments on the 2023 Draft Fish and Wildlife Program.

We found the recreational study and subsequent discussion of impacts to recreation to be inadequate. While the recreational study did examine the *existing* quantity, frequency, location and type of recreation in the project area, it failed to sufficiently analyze how the park - and recreation - would be affected by the different alternatives. It also fails to account for future growth in recreation at Eklutna Lake over the project lifetime.

While both the Draft Summary of Study Results (Draft Study) and Draft Fish and Wildlife Program (Draft Program) acknowledge that substantial erosion has occurred to ~3.1 miles of the Eklutna Lakeside Trail - a direct result of the Project Owners' management of lake levels combined with wind caused wave action - there is no mention as to how to mitigate future trail damage. This mitigation is the responsibility of the Project Owners as laid out in the 1991 Agreement, and whichever alternative is selected should include a plan to

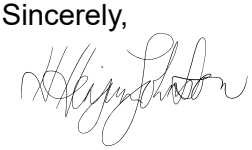
protect recreational assets such as the Lakeside Trail. Trail erosion primarily occurs at high lake levels when the lake is full (elevation 871 feet) and spilling via the ungated spillway, which has occurred 10 times since the dam was constructed in 1965 (Draft Program, Table 1-1, p.15). One infrastructure modification to the existing dam we encourage to be revisited is the fixed wheel gate. This would allow for more rapid drawdown of lake levels when the lake is full, preventing future damage to the Lakeside Trail. The fixed wheel gate also has the added benefit of allowing for increased channel maintenance flows, and is the preferred infrastructure modification to the existing dam favored by all entities except Alaska Division of Natural Resources and the Project Owners (Draft Program, Table 2-1, p.37-38).

The CAB is also concerned by the lack of specificity as to how the Project Owners will fulfill their obligation to contribute financially to needed repairs to recreation infrastructure. The Draft Study estimates the cost of Lakeside Trail Improvements to range from $860,000 to $3,441,000 (Table 2.9, p.60). However, the Draft Program abdicates responsibility for mitigation to trail damage by citing one time funding secured by a nonprofit partner (Section 3.3.2, p.57; Section 4.9 p.75). Unfortunately, the $234,000 in state capital funds approved by the legislature in 2023 represents a small fraction of the estimated repair costs and a very short term fix for only a limited section of dangerous, badly damaged trail. This does not absolve the Project Owners from the obligation to develop a long term logistic and financial plan to repair the remainder of trail damage (as identified in the Draft Study, Section 2.11, p.53), prevent future damage, and maintain the integrity of trails and infrastructure in the future. Furthermore, there is a rather large discrepancy between estimated cost cited in the Draft Study referenced above versus the Draft Program. The total median cost cited in the Draft Program (Appendix D, Table 2-1) was $1,347,100 less than that cited in the study results. This discrepancy should be reconciled.

While we acknowledge that the Project Owners are bound by the schedule laid out in the 1991 Agreement, multiple partners, including the Anchorage Assembly, have called for a delay to allow for time to better consider all alternatives. A delay would also allow the Project Owners to fully consider the dam removal alternative supported by the Eklutna Valley Community Council and the Native Village of Eklutna. The CAB supports a delay to allow the Project Owners and all interested parties to better analyze this option. With a 35-year implementation timeline, all parties will have to deal with the consequences of the selected alternative for decades to come.

Regardless of the alternative selected, the CAB expects the Project Owners to develop a plan to mitigate impacts to any recreational assets including, but not limited to, damage to the Eklutna Lakeside Trail. Additionally, in partnership with Chugach State Park and nonprofit partners, the Project Owners should establish an agreement and a corresponding fund to pay for assessments and repairs of existing and potential future damage to recreational assets over the lifetime of the project. The CAB recommends that the Project Owners make regular contributions to an approved financial vehicle equal to - at a minimum - the median estimated cost of trail repairs cited in the Draft Study. This financial burden should not be passed off to Chugach State Park, the State of Alaska or other nonprofit partners as it has in the past.

Sincerely,



Haley Johnston, Board Chair
Chugach State Park Citizen Advisory Board

February 19, 2024

Samantha Owen
Senior Regulatory Consultant
McMillen Inc.
2607 Western Ave, Unit 360
Seattle, WA 98121
info@eklutnahyro.com

Re: Support of Eklutna Salmon and a Free-Flowing Eklutna River

Dear Decision-Makers,

I am a resident of Upper Cook Inlet and an MEA ratepayer. I strongly believe that fish passage should be restored on Eklutna River all the way to Eklutna Lake and beyond. The Native Village of Eklutna, the National Marine Fisheries Service and the US Fish and Wildlife Service all have encouraged actions toward the implementation of a restored Eklutna River.

I fully support the Native Village of Eklutna's vision for Eklutna Watershed:

- The Eklutna River running freely, continuously, and naturally from its glacial headwaters through its dramatic canyon and its productive estuary to the marine waters of Cook Inlet.
- All five species of Pacific salmon (King, sockeye, silver, pink & chum) again swimming freely from Knik Arm through the entire length of the Eklutna River to their spawning grounds at Eklutna Lake.
- An abundant salmon fishery that supports the Eklutna Dena'ina and the people of Southcentral Alaska.
- Eklutna Lake, centerpiece of Chugach State Park, full to its natural lake level to support sockeye salmon shore spawning and human-powered recreation.
- An Eklutna River that rebalances the needs of fish, the Eklutna Dena'ina, drinking water for Anchorage, and low-carbon power production.

I fully support the comments and position of the Native Village of Eklutna (NVE) as presented in their December 4, 2023 comments on the Chugach Electric Association, Matanuska Electric Association, and Municipality of Anchorage ("Project Owners")'s Eklutna Hydroelectric Project Draft Fish and Wildlife Program. NVE's letter clearly presents the biased inadequacies of the Draft Program. The comments by NVE, the National Marine Fisheries Service and the US Fish and Wildlife Service all point out that the Draft Program fails to meet the fundamental purpose of the 1991 Eklutna Fish and Wildlife Agreement.

Please restore fish passage to Eklutna River to support salmon and other fish and wildlife, including Cook Inlet Beluga Whales.

Sincerely,
Jessica Winnestaffer

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Kyle Foster
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, February 19, 2024 5:46:32 PM

To Whom It May Concern,

I am writing to express my strong opposition to the proposal known as the "AWWU Portal," put forth by the group identified as The Owners. This proposition, aimed at mitigating the Eklutna River, is insufficient and fails to address the critical needs of the river's ecosystem, particularly concerning the thriving of all five species of salmon that historically inhabited those waters.

The 1991 agreement, to my understanding, was established with the intent of preserving the Eklutna River's ecosystem in a manner that mirrors its natural state as closely as possible. The proposal in question deviates significantly from this intention, offering a solution that undermines the ecological and cultural heritage of the area. The reliance on the AWWU Portal as a mitigation strategy overlooks the importance of maintaining a balanced and diverse salmon population, which is essential not only for the ecosystem but also for the cultural fabric of our community.

It is indeed challenging to provide concrete evidence of the species present in the Eklutna River prior to its current state. However, the oral histories and faithful stories passed down by the indigenous people of this region offer invaluable insights into the river's original biodiversity. These narratives highlight the presence and significance of all five salmon species, underscoring the importance of restoring the Eklutna River to a state that supports their lifecycle and migration.

Furthermore, the economic implications of a river ecosystem rich in salmon cannot be overstated. The Kenai River, with its abundant sockeye salmon population, serves as a vivid example of how such ecosystems can become economic staples for their communities. It showcases the potential economic benefits that could be realized in Anchorage by emulating a similar focus on ecosystem health and salmon population support.

In addition to the ecological and economic benefits, the construction of a new dam with an effective fish passage represents a viable alternative that aligns more closely with the goals of the 1991 agreement. Such an infrastructure project would not only facilitate the migration and repopulation of all salmon species but also stimulate our local economy by creating job opportunities. This approach offers a holistic solution that respects our environmental, cultural, and economic needs.

I firmly believe that the AWWU Portal proposal falls short of the comprehensive and sustainable solution required to restore the Eklutna River to its natural glory. It is imperative that we explore alternatives that prioritize the return and flourishing of all five salmon species, thereby honoring the legacy of our indigenous communities and securing a prosperous future for Anchorage.

I urge you to reconsider the current proposal and to seek a path forward that truly reflects the original spirit of the 1991 agreement. Let us commit to a solution that fosters a thriving ecosystem, respects our cultural heritage, and leverages the economic potential of our natural resources.

Thank you for your attention to this matter.

Sincerely,

Kyle Foster

From: Mel Langdon
To: Sam Owen
Subject: comment on the draft Fish and Wildlife Program
Date: Monday, February 19, 2024 7:21:29 PM

Dear Project Owners,

Thank you for the opportunity to comment on the draft Fish and Wildlife Program, prepared in response to the 1991 agreement, when you became co-owners of the Eklutna Project.

I do not believe this draft Program accords with the terms of the agreement and I urge you to expand the suite of considered alternatives and reevaluate the adequacy of the draft Program. It does not fully quantify the impacts of the project on fish and therefore the mitigation measures do not fully address these impacts.

1. Need for a FERC license. The 1991 agreement was put in place to "...obviate the need for the Eklutna Purchaser and AEA to obtain FERC licenses." This implies that the fish and wildlife protections should accord at least what a FERC license would require. The federal owner got out of its obligation and shifted it to you, the co-owners. We, who have benefited from the project, got a sweet deal for 35 years. Now the piper needs to be paid. That is, proper measures that would be required under a FERC license for this project must be put in place.

The Eklutna hydropower project has dried up 11 miles of Eklutna River for at least 60 years. Apparently there is no baseline for conditions before the dam(s) were built. This does not mean that the present situation serves as baseline or even that the condition with the lower dam (since removed) in place served as baseline. The agreement says the Fish and Wildlife Program shall consist of measures for the protection, mitigation of damages to, and enhancement of fish (including relating to spawning grounds). You should **look seriously at the comments from NOAA and USFWS for guidance on changes to the Fish and Wildlife Program that will satisfy the FERC requirements** for hydropower project licensing.

In parts of the lower 48 states, hydroelectric dams have been removed because satisfying the FERC relicensing requirements is too onerous. That seems to be exactly the case here.

2. Condition of the hydropower plant itself. The draft Program proposes a $44 million investment at the intake to the penstock to continue hydropower production at the 60-year old plant. The plant supplies a minor percentage of electricity for Chugach and MEA customers. Given that Eklutna hydropower only accounts for 3% of the power supplied by Chugach Electric, this project does not represent a large share of the power supply. **What is the condition of the power plant and does it warrant such an investment for the small percentage of power it supplies**? Does the plant itself need improvements and, if so, what is the price tag for those? Can that money be better spent on renewable sources that do not depend on continued dewatering of formerly productive salmon habitat?

3. Anchorage's potable water supply. Recent comments by AWWU and by the Assembly's consultant indicated that effects of the draft Program on Anchorage's water supply from Eklutna Lake have not been fully considered. It appears that AWWU built its water treatment plant intake pipeline in the river bed, sometime in the same time period that the sale of the power plant to the owners was being negotiated (1988-1989, according to the timeline in the January public meeting presentation). If this pipeline was not constructed to consider different future conditions (e.g.,protection for scour from streamflows and at-grade crossing rather than bridges), then what kind of agreement was actually made with the owner and AWWU? Even if restoring flows in the riverbed where the pipeline was buried was not considered in the design, that does not seem to be an adequate reason not to consider rewatering the river bed. The geomorphologist consultant at the Public Meeting in Anchorage specifically told me that they were only asked to evaluate the geomorphic effects of certain (those currently proposed) flows (e.g, not historic or higher flows) and also that they did not evaluate potential depth of scour for any flows. This suggests that the full range of flows or impacts on the pipeline has not been considered, even though there was a comment on an earlier study from a former AWWU general manager specifically addressing a concern about the effects of scour. Apparently we can only wring our hands and say the pipeline will be washed out, without evaluating the likelihood of and costs to prevent this. Finally, **what are the content and conditions of the most recent agreement between the owners and AWWU** that has not been made public and was the subject of a recent executive session of the Municipal assembly?

4. Obligations to Indigenous peoples and complicity with past injustices. I have been a rate payer to ML&P, and subsequently a Chugach Electric member, since 1994. **I have benefited from low electricity rates and I deeply resent being complicit in this project.**

Touting the Eklutna hydropower plant as an example of Chugach's renewable energy sources disregards the detrimental effects of the plant on the environment. It completely ignores the fact that the federal government has not adequately compensated the Eklutna tribe and gave the benefit of the stolen goods to the current owners and their customers. As a rate payer and member of the Chugach Electric cooperative, as well as a rate payer and consumer of water supplied by AWWU, I believe that the owners have an obligation to the inhabitants at the time the dam was constructed and the water diverted, and to their descendents, to correct 90 years of benefiting from trespass.

5. Take a pause. **Seriously consider and honor the proposition offered by The Native Village of Eklutna** in its December 4, 2023, letter commenting on the draft Program. This is a generous deal to the owners, allowing them time to develop alternative electric power sources and better evaluate the best use of the $44 million of investment suggested by the draft Program. Given the looming gas shortage for electrical generation and the urgent need to develop new energy sources for generating facilities, this has to happen anyway.

Sincerely,

Margaret Langdon

NATIVE MOVEMENT
Building Healthy & Sustainable Communities
www.nativemovement.org

February 19, 2024

Chugach Electric Association, Inc.
Matanuska Electric Association, Inc.
Municipality of Anchorage

RE: October 2023, Eklutna Hydroelectric Project, Draft Fish and Wildlife Program

Submitted via: info@eklutnahydro.com

Native Movement[1] is pleased to offer comment on the October 2023 Eklutna Hydroelectric Project, Draft Fish and Wildlife Program. Native Movement is an organization dedicated to building people power rooted in an Indigenized worldview. Our mission is to foster healthy, sustainable, and just communities for all, with a particular emphasis on upholding social justice, Indigenous Peoples' rights, and the rights of Mother Earth. At Native Movement, we prioritize grassroots-led projects that align with our vision and values. We recognize the interconnectedness of environmental stewardship, cultural preservation, and social equity. It is within this framework that we engage in efforts to protect and restore our natural environment, promote traditional knowledge, and advocate for policies that prioritize the well-being of both present and future generations.

Native Movement stands with the Native Village of Eklutna, local community councils, and others who support the restoration of the Eklutna Lake and River ecosystem.

Proposed Eklutna River Flows
The Project Owners are proposing to release year-round instream flows of 27 cfs in the winter and 40 cfs in the summer from Eklutna Lake into Eklutna River from a new Eklutna River Release Facility which will be located adjacent to the AWWU portal valve. The Project Owners claim this will water 11 of 12 miles of the Eklutna River.

Native Movement concurs with growing public sentiment that a stream flow rate of between 27 to 40 cfs is marginal, and whether a flow rate of between 27 to 40 cfs is adequate would likely depend on many factors that would have to work in unison. Some species of salmon may be more adaptable to lower flow rates than others. Species like pink salmon or chum salmon might

[1] https://www.nativemovement.org/what-we-do

be more tolerant of lower flow conditions compared to species like Chinook or Coho salmon. At the proposed marginal flow rate it seems the quality of the water would be very critical for salmon survival and reproduction. Even if the flow rate is suitable, the water must have adequate oxygen levels, be free from pollutants, and maintain appropriate temperatures that salmon prefer. Flows between 27 to 40 cfs may be sufficient for some aspects of salmon habitat, such as migration corridors or summer rearing habitat, but it may not provide enough space or suitable conditions for all life stages, especially spawning habitat. Salmon require a variety of habitats throughout their life cycle, such as riffles, pools, and areas with suitable substrate for spawning. It is possible the proposed flows of between 27 to 40 cfs may only allow for limited stream habitat types.

Removing the Eklutna Dam

Native Movement is convinced that full restoration is consistent with the existing 1991 agreement. If the Tribe and the public demand justice for restoration, then it seems reasonable and consistent with the 1991 agreement to consider full restoration. The relevant language of the 1991 agreement is as follows: *"protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat) affected by hydroelectric development."*

The statements "*protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat) affected by hydroelectric development*" should not exclude restoration because each component–protection, mitigation, and enhancement–contributes comprehensively to fish and wildlife populations and their habitats. Each component—protection, mitigation, and enhancement—addresses different aspects of managing the impacts of hydroelectric development on fish and wildlife; they collectively can easily contribute to the broader goal of restoration. By integrating these components into a strategy, it becomes clear that recovering and restoring fish and wildlife populations and their habitats affected by hydroelectric development is inclusive of full restoration.

Water Rights

The Project Owners have claimed that their Priority of Appropriation gives them a superior claim to water over other users who value a restored Eklutna River ecosystem. Native Movement is not convinced the Project Owners have the right to prevent changes in the condition of water occurrence if the will is to restore an intact Eklutna River ecosystem. Native Movement believes it is within the rights of the Tribe and the public to propose appropriation of water rights for the Eklutna River ecosystem, and the Project Owners cannot prevent subsequent generations from securing water for fish and wildlife. The law may uphold the priority of appropriation principle. However, subsequent appropriators could be allowed to reasonably access water for fish and wildlife even if it means the prior appropriator may need to adapt to the new circumstances or if the will of the public demands water rights be relinquished to benefit fish and wildlife.

1991 Fish and Wildlife Agreement
The Project Owners are claiming the 1991 Agreement is the guiding document they have followed during development of the draft fish and wildlife program. The Project Owners also claim to have fully met the procedural and schedule requirements of the 1991 Agreement. They go on further to say: "The Project Owners have gone well beyond the requirements of the 1991 Agreement in terms of consultation, documentation, and analysis of Draft Program alternatives." However, the Draft Fish and Wildlife Program puts forth one alternative and rejects many others. During the January 2024 public hearings in Eagle River, it was noted that a dam removal analysis option would be drafted after the comment period closed.

By considering only one alternative in the Draft Fish and Wildlife Program and rejecting many others, there is a lack of transparency in the decision-making process. This has an impact on public trust by giving the impression that decisions are made without considering diverse perspectives or fully informing the public about available options. By compiling a dam removal analysis option after the comment period closes, the Project Owners are excluding a significant alternative after the public input phase, and that creates the perception that decision-makers are not genuinely interested in hearing and incorporating public feedback or exploring all viable options.

Sockeye Salmon
The Project Owners have claimed: "*that no adult sockeye were observed spawning in the lower river during the 2-year study program. Therefore, any attempt to establish a sockeye salmon run in the Eklutna watershed would either rely on sockeye straying from other river systems or intentional stocking efforts.*"

This statement casts doubt on traditional ecological knowledge (TEK) and the potential for sockeye salmon to thrive in the Eklutna watershed. The Project Owners seem to be suggesting that since no adult sockeye were observed spawning during a two-year study program, the dream of witnessing these majestic fish returning home to their ancestral waters seems bleak. However, Tribal Administrator Brenda Hewitt testified at a House Energy Committee hearing on February 8 that the Tribe in fact had seen and tagged sockeye salmon on the river in the last year. She further testified that the Tribe had informed the project owners of their findings, indicating that project owners are either ignoring or actively hiding information contrary to their conclusions. Even if sockeye had not been recently documented in the river, that would not mean that sockeye could not return. Nature has a way of surprising us, and Native Movement is convinced of the TEK already put forth, that once there was enough salmon that one could walk across their backs. It's crucial to remember that the absence of evidence is not evidence of absence. We also must not overlook the prospect of sockeye straying from neighboring river systems. Salmon are nature's wanderers, after all salmon embark on a journey out to Cook Inlet to who knows where, venturing far from their natal stream.

Lack of Free, Prior and Informed Consent, or Even Meaningful Consultation with the Tribe
The Eklutna Tribe has been stewarding the Eklutna River for generations. The original dams were built without the Tribe's input or consent, and they have been devastating to the Tribe's

ability to fish. It is time to stop trampling the rights of the sovereign Eklutna people. Any proposal for the Eklutna Hydro project can only move forward with the free, prior, and informed consent of the Tribe. This process has been none of those. The Tribe does not consent to the proposal. It has not been given the opportunity to work meaningfully with the decisionmakers prior to the utilities publishing a proposal. And the Project Owners have actively worked to hide information from the Tribe and the public. In fact, although the Project Owners claim to have consulted with the Tribe, they have rejected the Tribe's input at every turn and worked to silence the Tribe's voice. They barred the Tribe from speaking at the public hearings and did not invite the Tribe to speak at a recent legislative hearing on the project. There is no free, prior, and informed consent for the project proposal; there is not even real consultation.

Inadequate Public Process

In addition to ignoring the Eklutna Tribe's rights, the Project Owners have not provided adequate public process. In the meetings that were advertised as public hearings, the Project Owners did not allow time for public testimony. Instead, they only allowed the public, including members of the Eklutna Tribe, to submit comments in the back of the room. Across all 6 public meetings, only 17 out of 230 attendees submitted written comments. Many attendees were disappointed to not hear what others in the room thought. The utilities themselves gave a presentation that left out important information and included slanted information. They had McMillen Inc. scientists and engineers available after the presentation to answer questions. However, there were no tables for other experts and parties to the 1991 Agreement, including Native Village of Eklutna, the US Fish and Wildlife Service, or the National Marine Fisheries Service.

Moreover, in putting forward only one alternative, the Project Owners have not provided an adequate basis for the public to weigh in. With the tight timeline that the Project Owners have put themselves on, there is no time for the public to fully develop and analyze a new alternative. The Project Owners should have fully analyzed multiple alternatives, including the Tribe's preferred alternative. Without valid alternatives to consider, the public is hindered in its ability to weigh in meaningfully. Therefore, we support the Anchorage Assembly's request for a two-year pause to complete additional analysis of true river protection, enhancement, and restoration alternatives.

We were also disheartened to learn during a recent special Assembly meeting that a binding agreement between AWWU and the Project Owners to implement the portal alternative was signed prior to the public process and any resolution of differences amongst the Parties to the Agreement. According to the 1991 Agreement, any documents related to the Agreement process should be made available to the public upon request. When the Assembly requested a copy of that agreement, their inquiry was denied, further demonstrating the disingenuous nature of the purported public process.

Conclusion

The Project Owners seem to be suggesting a sense of finality that law and agreements are on their side and their draft fish and wildlife program has met all the requirements. The journey to

establish salmon in the Eklutna watershed may be fraught with challenges, but it is also filled with hope. The first people of Eklutna whose lands were taken from them without consideration for this hydroelectric project deserve to have their voices heard, and all Alaskans deserve to have Eklutna River restoration looked at as a viable alternative.

Thank you for your time and consideration.

Sincerely,

Austin Ahmasuk

From:	Sarah Cronick
To:	Sam Owen
Subject:	Strongly oppose the Eklutna Draft Fish and Wildlife Program
Date:	Monday, February 19, 2024 12:40:56 PM

Greetings:

I am a born and raised Alaskan who currently resides in Anchorage. I am a paying member of Chugach Electric Cooperative and Municipal Light and Power.

I am writing today to express my strong opposition to the current draft for the Eklutna Fish and Wildlife Program.

I have attended the public meetings to become engaged and learn more, from all involved parties. I keep up with articles published, and read between the lines.

This plan is not backed up with substantiated evidence. It is based on unsubstantiated claims, assumptions, and desires of a few. It does not support the return and survival for not only King Salmon, but all salmon species. The proposed CFS flow rates are not sufficient to support the survival of these fish.

Closed door contracts and an unwillingness to be transparent with the public is a tremendous red flag.

This plan does not include well-rounded data and perspectives of all involved parties. It favors the utility companies, and does nothing to repair relationships with the Eklutna People. It also does not consider other renewable energy options; in fact, there have been reasonable requests made from renewable interests that are met with a clear "no."

What kind of thinking would limit all perspectives? We can do so much better.

It is heartbreaking to learn that utility leaders are serving only certain, short-term interests, rather than looking at the long term needs.

Please consider the young ones, and future generations to come. What is in their best interest? Proceed from there.

Again, I STRONGLY OPPOSE the current plan and am deeply dismayed with the process led by the utilities.

I look forward to hearing how you will do better to be more transparent, clear, and factual moving forward.

Warm regards,
Sarah Cronick (she/her)
907.350.5081

I gratefully acknowledge that I live on the original lands of the Dena'ina People

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Terry Snyder
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, February 19, 2024 10:06:53 PM

I support the Anchorage Assemblies request for a two year pause and request for more information on the Eklutna Dam project.

B-5. Support Dam Removal

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From: Ed Cazch
To: Sam Owen
Subject: Eklutna River Restoration
Date: Tuesday, January 9, 2024 5:39:41 PM

Please restore flow to the entire Eklutna River so that all 5 Species of Salmon can return and thrive in its waters. No more diminished flows or degradated salmon habitat. Turn this stream into a world class fishing destination and we will all prosper off of the money it will bring in.

Edward Czech
Anchorage, Ak
907-599-0025
Sent from my iPhone

From:	mail=eklutnahydro.com@wpdatacenter.com on behalf of Brad Meiklejohn
To:	owen@mcmjac.com
Subject:	New Message From Eklutna Hydro - CONTACT US
Date:	Wednesday, January 10, 2024 1:41:48 PM

CAUTION: This email was received from an external source

THE POWER COMPANIES WANT YOU TO BELIEVE THAT WE MUST SACRIFICE SALMON TO SAVE THE PLANET. THAT IS A FALSE CHOICE.

iT IS POSSIBLE TO HAVE HYDROPOWER THAT DOES NOT KILL SALMON. THAT MEANS GIVING THEM ENOUGH WATER AND ALLOWING THEM TO REACH THEIR SPAWNING GROUNDS. tHE PLAN PROPOSED BY THE POWER COMPANIES AT EKLUTNA FAILS ON BOTH COUNTS. tHE POWER COMPANIES PROPOSE TO DELIVER A TRICKLE OF WATER VIA A SPIGOT THAT CREATES A DEAD-END RIVER, LEAVES A DRY RIVERBED FOR ONE MILE, AND REQUIRES SALMON TO WALK TO THEIR SPAWNING GROUNDS IN EKLUTNA LAKE.
tHE POWER COMPANIES' PLAN ALSO WOULD JEOPARDIZE THE ANCHORAGE DRINKING WATER SYSTEM.

THE ORIGINAL IMPACT, 93 YEARS AGO, WAS THE LOSS OF A SOCKEYE SALMON RUN TO EKLUTNA LAKE. THE RETURN OF THAT SOCKEYE RUN WOULD BE A BOON TO SOUTHCENTRAL ALASKA. BUT IF WE LET THE POWER COMPANIES HAVE THEIR WAY NOW WE WON'T GET ANOTHER CHANCE FOR 35 MORE YEARS.

THE POWER COMPANIES ARE PEDDLING FEAR OF CLIMATE CHAOS, DWINDLING GAS SUPPLIES AND RISING ELECTRIC RATES. ALASKANS ARE SMART ENOUGH TO SEE THROUGH THIS SMOKESCREEN.

RATHER THAN RUSH TO SPEND $60 MILLION NOW TO BUILD A FLAWED AND RISKY GUTTER THAT KILLS SALMON, WE PROPOSE WAITING TO DO THE JOB RIGHT ONCE RENEWABLE ENERGY SOURCES COME ON-LINE TO REPLACE EKLUTNA HYDRO. THEIR PLAN WOULD REDUCE EKLUTNA HYDROPOWER NOW, RAISE YOUR RATES NOW AND FAIL TO HELP SALMON. OUR PLAN WOULD HAVE NO IMPACT ON RENEWABLE ENERGY, HAVE NO IMPACT ON RATEPAYERS, AND WOULD RESTORE THE EKLUTNA RIVER AND ITS SALMON.

SALMON ARE THE ULTIMATE RENEWABLE RESOURCE IN ALASKA. IF WE GET OUT OF THEIR WAY, THEY KEEP COMING BACK TO US.

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Katherine Spangler
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Wednesday, January 10, 2024 11:28:09 AM

CAUTION: This email was received from an external source

I support the removal of the eklutna dam

From: barbara reilly
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, January 12, 2024 2:27:50 PM

CAUTION: This email was received from an external source

Remove the Eklutna dam please. Help restore salMon in Alaska. the Eklutna DAM BLOCKS SALMON PASSAGE TO THEIR SPAWNING GROUNDS. tHE CHEAP SOLUTION CHOSEN BY cHUGACH eLECTRIC aSSOC. (cea), mATANUSKA ea, AND THE mUNICIPALITY OF aNCHORAGE LEAVES ABOUT A MILE OF THE RIVERBED DRY. tHIS IS NOT ACCEPTABLE. pLEASE TAKE DOWN THE DAM OR PRESENT AN ALTERNATIVE TO THE DAM THAT ALLOWS SLMON TO SPAWN.

From: Elaine Reale
To: Sam Owen
Subject: Comment on Eklutna Hydroproject
Date: Friday, January 12, 2024 2:21:02 PM

As solicited, here are my comments about the Eklutna hydroproject.
Remove the Eklutna dam and return salmon to the Eklutna River. This is a critical opportunity to bring salmon back and protect the resource into the future. Salmon need access to Eklutna Lake and its upper tributaries.
One can't put a price on the salmon resource. Any issues with increasing rates for energy in the future can be dealt with via renewable resources and technology. Humans are intelligent and can figure this out. The salmon should be the priority.

Elaine Reale
40 year resident of Anchorage

From: Nancy Deschu
To: Sam Owen
Subject: Eklutna Dam Comment
Date: Saturday, January 13, 2024 6:02:09 PM

I am in favor of removing the dam.

It has been a long time since salmon made their way up the Eklutna.

In the long run, removing the dam is the right thing to do for the Eklutna people, for public/park users, and for the fish.

It may be a much more costly alternative now, but it will not get less expensive in the future. And these salmon are a natural resource in the public trust that will continue to migrate up the Eklutna and spawn long into the future if the dam is removed.

Nancy Deschu
Anchorage, Alaska

From: Brenda Hewitt
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, January 15, 2024 8:29:30 AM

CAUTION: This email was received from an external source

I support the community alternative. I don't understand why the utilities want to spend $57 million on infrastructure that won't even fix the fish situation halted nearly a century ago. Take the dam down. Provide clean drinking water to Anchorage without harming the water utility.
I would have supported a revised dam with a fish ladder but the utilities didn't put that forward as an option. I hope Governor Dunleavy can fix that or take the dam out.

From: Curtis McQueen
To: Sam Owen
Subject: Eklutna River
Date: Monday, January 15, 2024 2:43:44 PM

I support the community alternative.
Curtis J. McQueen.

Sent from my iPhone Curtis J. McQueen

From: Kenn Moon
To: Sam Owen
Subject: Restore the Eklutna River
Date: Monday, January 15, 2024 10:19:24 PM

My name is Kenn Moon. I first came to Alaska as a pilot with the Air Force in the 1950's, homesteaded in the 1960's and have seen many ecological changes
Since. Almost all them bad. The opportunity we have now to open up and restore the Eklutna River and lake to its natural state seems
Almost miraculous to me. We as humans don't often have a chance to correct the errors of the past. We do now and should seize it!
Do the right thing. Take down the dam at the lake, Open up the full flow of water to the Eklutna River. Bring back the fish !

Sent from my iPhone

From: Kim Zello
To: Sam Owen
Subject: Eklutna Community Alternative
Date: Tuesday, January 16, 2024 9:41:12 AM

I support the Community Alternative. Thank you

Sent from my iPhone

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): Email:

Write your comments on the Draft Fish and Wildlife Program here:

Restore the river completely — Remove the Dam!

Jamea Isham

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

Use the QR code to access the eklutnahydro.com website to submit your comments electronically. You can also send comments to info@eklutnahydro.com.

Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

From: mstundra@gmail.com
To: Sam Owen
Subject: ratepayer residing on Dena"ina Land
Date: Tuesday, January 16, 2024 6:25:23 PM

I would like to show my support for Eklutna Village Tribe via of the Municipality of Anchorage's formal policy on restoring the Eklutna River. I endorse the Community Alternative because it best provides options on allowing salmon, particularly sockeye, back to Eklutna Lake and the Eklutna River. The MOA's policy aims to protect ratepayers, taxpayers, our drinking water, salmon, and the Eklutna Dena'ina.

Quyana, thank you!

Michelle Sparck

3225 Tayshee Circle

Anchorage, AK 99504

From: Lee Nathan
To: Sam Owen
Subject: Eklutna Restoration Proposal
Date: Tuesday, January 16, 2024 6:56:35 PM

Dear Sirs;

The Community Alternative is the obvious solution for the future wellbeing of all. Implementing any of the other methods would be unnecessarily wasteful and foolhardy. It's unfathomable that any other proposal would even be considered.

Sincerely,

Robert Nathan
Leslie Nathan
William Nathan
Jeremiah Nathan

3211 Shamrock St
Anchorage, AK 99504

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): Email:

Write your comments on the Draft Fish and Wildlife Program here:

Thank you for the public meetings on the Eklutna River Project.

I feel that the main issue should be a full removal of the dam.

A full restore of habitats for fish & wildlife to the period prior to 1927.

New technologies will be available for sustainable energy presently and in the future.

Alaska's pristine lands are our future!

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

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Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): Email:

Rachel Christensen
MEA Ratepayer

r.anne.christensen@gmail.com

Write your comments on the Draft Fish and Wildlife Program here:

I would first like to say that I am very dissapointed with the format of this meeting. I would much prefer to hear peoples comments in an open and transparent way. Every decision we make reflects our values, and I value safe, affordable energy, but above that I value fish, my relationship to the land, and the ability to sustain our communities with the resources we have. I support the removal of the dam when the energy is available to be replaced with other renewable alternatives.

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

Use the QR code to access the eklutnahydro.com website to submit your comments electronically. You can also send comments to info@eklutnahydro.com.

Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

From: Shirley Craig
To: Sam Owen
Subject: Public comments
Date: Tuesday, January 16, 2024 12:06:44 PM

Dear Public:

I am voicing my opinion for my Village of Native Village of Eklutna. We the Idlughet Eklutna want to see that Damn Dam come down!! So the natural flow of the water is flowing from Idlu Bena the Eklutna Lake to the Tikahtnu Knik River as it once did to have a healthy habitat of the 5 species of the salmon return to the river.
The only electric company not working with us to make this happen is Chugach Electric Co. They want see the $$$ in their pockets and don't give a care of what everyone else needs or reasons are. Your electric bill will go up. As working with them they do not keep their word. Help us take a stand. Chi'nan Thank You.

Shirley J. Craig
Vice President
Native Village of Eklutna

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): Tom Harris / Knikatnu, Inc.

Email: atomharris@gmail.com

Write your comments on the Draft Fish and Wildlife Program here:

I support the Native Village of Eklutna's Community Alternative Plan. The Restoration of the Eklutna River is more than a litmus test for the project owners, it is a socio-economics moral imperative for the entire Alaskan Community. If this small river cannot be fully restored what hope do we have of restoring the largest loss of wildlife resource in this nations history. Alaska was documented as the least productive wildlife harvest state in the nation in 2004. Since then it is now known that 90% of the moose harvest is gone in the lifetime of this hydro project. It's gone because bears lost their salmon and turned to moose calves. If this lesson of restoring salmon cannot be learned within walking distance of the states largest city then there all is lost. The policies responsible for the loss of salmon on the Eklutna River are also the policies responsible for the loss of salmon statewide.

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

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Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

From:	bendnorman@everyactioncustom.com on behalf of Bennett Norman
To:	Sam Owen
Subject:	Comment on the Eklutna River Draft Fish and Wildlife Program
Date:	Wednesday, January 17, 2024 3:42:56 PM

Dear Owners of The Eklutna Hydroelectric Project,

Hello,

Chugach Electric, Matanuska Electric, and the Municipality of Anchorage need to adopt the vision for the Eklutna River endorsed by the Village of Eklutna and Eklutna Inc. The vision demands a level of restoration that allows for the habitat of all five species of Pacific salmon. Chugach's preferred alternative will leave a segment of the Eklutna River dry. This will inhibit the return of sockeye salmon as they require lake habitat to spawn. This proposed plan is not in line with the Village of Eklutna and Eklutna Inc.'s vision for the river or the 1991 Fish and Wildlife Agreement, which mandates that the utilities must mitigate their impacts on sockeye salmon and their spawning grounds.

We have an opportunity to completely restore the Eklutna River and a food source for the Eklutna people. I'm very supportive of cheap and renewable energy, but keeping the damn intact is not worth the social and cultural cost. Across the country, utilities, localities and states are recognizing the harm of forced damning of cultural significance waterways and are starting to completely remove damns. The Klamath River damn removal started just the other week and it was announced 4 damns on the Lower Snake River will be removed. This is the moment to write an enormous historical wrong. Please don't fall short. Restore the entire Eklutna River.

Sincerely,
Bennett Norman
425 W 16th Ave Anchorage, AK 99501-5013
bendnorman@gmail.com

Audio Recording Transcription of Chantal de Alcuaz

January 17, 2024, 2:00-4:00pm, Arctic Center, Anchorage AK

“My name is Chantal de Alcuaz and I live here in Anchorage, Alaska. I'm a CEA Chugach Electric Association ratepayer. Before I talk about the proposal, I just want to start by saying that I think the structure of these meetings is very disappointing. We started with the presentation by a contractor who works for the owners group without any opportunity for other perspectives or rebuttal, even from the Native Village. And now the public is separated for their submission of testimony, so that they can't hear what each other is saying. And I fear that the format was deliberately designed to obscure the growing consensus that the restoration plan presented today is, at best insufficient and at worst unjust. So, to get to the matter at hand outside of the meeting format, I'd like to express my disappointment about the “AWWU Portal Option” and conversely, my passionate support for the community alternative of specifically complete dam removal once other sources of renewable energy have been secured. For years now, my own utility, Chugach Electric Association, has been disappointingly reluctant to add renewable energy to the grid. Now it is using the loss of a relatively small amount of renewable power, approximately 3% of its total production, I'm told, and subsequent rate hikes as its rationale for this inadequate plan. I believe that pitting salmon against renewable energy is a false choice that we don't have to make, and I believe that no amount of money saved, or costs avoided can justify perpetuating the shameful legacy of colonization. Unlike the AWWU Portal Plan, the community alternative would create a continuous flow of water from the lake to the ocean for the restoration of all five species of salmon, as well as for the fish to return to the miles and miles of tributaries above the lake. We have a very generous commitment from the nonprofit groups to remove the dam, so that the ratepayers and taxpayers will not have to bear the cost of dam removal. And most importantly, we have a historic opportunity to restore salmon and to right a wrong that the Eklutna people have now borne for generations. I sincerely hope that the powers that be come to their senses so that we won't squander the opportunity. Thanks for the time.”

From: Meghan Barker
To: Sam Owen
Subject: Eklutna comment
Date: Wednesday, January 17, 2024 9:41:47 PM

Dear operators,

I strongly oppose the draft Fish and Wildlife plan that was proposed for the Eklutna River that leaves a mile of the river dry, fails to provide fish passage to critical habitat, and is contrary to the wishes of the Indigenous People of Eklutna.

As a recreational angler, I know the importance of intact habitat and healthy streams. As the region continues to grow in population size, a thriving and fish-filled Eklutna River can help meet the needs of increased use of our local fisheries. On top of fishing, I visit the Eklutna area as a runner, skier and paddler; I often bring visitors to Eklutna to show them an iconic Southcenral Alaska location. I want to be able to speak to the health of the fishery when I bring them here instead of showing a dried out river.

Additionally, the Native Village of Eklutna has clearly communicated its vision for thriving wild salmon in the Eklutna River and adjacent waters. We have a responsibility to honor the wishes of the original stewards of this land, who have kept Eklutna the incredible place that it has been for generations.

Please remove the Eklutna Dam, fully reconnect the river, and return the water flows needed to support the fishery.

Sincerely,
Meghan Barker
Anchorage (99516)

From: Michael Bronson
To: Sam Owen
Subject: Take down the dam
Date: Wednesday, January 17, 2024 8:54:14 PM

Sent from my iPhone

From: Molly Larmie
To: Sam Owen
Subject: Community Alternative Endorsement
Date: Wednesday, January 17, 2024 6:45:21 AM

As someone who has lived in Anchorage for many years, and who values tribal sovereignty, outdoor recreation, and healthy ecosystems, I endorse the Community Alternative. It will protect ratepayers, taxpayers, our drinking water, salmon, and the Eklutna Dena'ina.

Thank you for listening.

Sincerely,
Molly Larmie

From: Susan negus
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Thursday, January 18, 2024 9:49:00 AM

CAUTION: This email was received from an external source

I went to your presentation on 1/17/24 @ Artic Rec center. As I can see you have shown no Good will toward your customers. It was CLEARLY a one sided presentation. Plenty of money has been spent on the "owners" side when it could have been doing something useful. You didn' t have to pay for the removal of the lower dam. Now all you have to do is remove the rest of the dam. With the help of other groups to help fund it. You are afraid to give up your control. There is no SHORTAGE of water in Alaska. Your evaluation to send a trickle of water down the river will not restore the salmon to the lake.
Please remove the dam coming from the lake and make the Ekluna a free flowing river. Thank you

From: Susan Sherman
To: Sam Owen
Subject: Eklutna Dam public comment
Date: Wednesday, January 17, 2024 9:00:44 AM

I'm an Anchorage resident and I support the "Community Alternative" to remove Eklutna Dam and restore the river. I understand this will lead to a small increase in my property taxes and I am willing to pay that price. I also support increasing renewable energy sources and diversifying the energy stream in Alaska.

Susan Sherman

From: Amy Robinson
To: Sam Owen
Subject: Support community option
Date: Thursday, January 18, 2024 10:28:30 AM

Please do the right thing and support the community option, not the AWWU portal option. We need viable healthy salmon habitat.

The new sources of renewable energy it will take are worth developing. Whatever they may be.

Thank you.

Amy Robinson
14440 Canyon Rd
Anchorage

From: John W Schoen
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Thursday, January 18, 2024 2:23:05 PM

CAUTION: This email was received from an external source

J Schoen comments on the draft fish and wildlife plan for the eklutna Dam

I have lived in Alaska for 47 years and have been an Anchorage resident for over 30 years. I am a wildlife ecologist and have spent much of my professional career working on wildlife conservation issues throughout the state. I do not believe that the proposed Eklutna plan adequately address the ecological requirements of salmon, the vision and needs of the Eklutna people, or the legal responsibilities to mitigate the Eklutna project's ecological impacts to fish and wildlife resources in the Eklutna Watershed.

The Eklutna River must be re-connected to Eklutna Lake to ensure fish passage and restoration of the river's coho, chinook, and sockeye salmon. The proposed plan will leave one mile of the river dry and only release 3% of historic water flows. This will not allow fish passage into the lake and its upstream habitat. Salmon populations will not recover without a reliable and consistent supply of water and access to important up-stream spawning and rearing areas. I do not believe that the Chugach Electric Association, Matanuska Electric Association, or Municipality of Anchorage can meet their mitigation obligations within their budget constraints with anything less than removal of the dam. Therefore, I strongly recommend that the Eklutna Dam be removed to restore water flows required to support the Eklutna fisheries.

I recognize and appreciate the region's current reliance on the Eklutna hydroelectric energy source. However, it seems reasonable to remove the Eklutna dam within the next decade, when replacement renewable energy is expected to be available. I also understand that community partners are willing to assist in offsetting the costs of dam removal. Thus, this cost-sharing opportunity will be a fiscally responsible decision. Electric ratepayers and many Anchorage citizens support this vision that is also shared by the Eklutna people who have depended upon this salmon fishery for millennia.

In conclusion, I strongly recommend that the Eklutna Dam be removed to restore water flows required to support and sustain the Eklutna ecosystem and its important fisheries for the benefit of current and future generations.

Thank you for considering my comments.

Sincerely,

John W. Schoen, Ph.D.
Wildlife Ecologist, retired
13240 Mountain Place
Anchorage, AK 99516

From: rfbutera@icloud.com
To: Sam Owen
Cc: Zaletel Meg; Christopher.Constant@anchorageak.gov; wwmas@anchorageak.gov
Subject: Eklutna Draft Fish and Wildlife Program Comment
Date: Thursday, January 18, 2024 1:08:21 PM

After reading and listening to the proposed solutions for Eklutna Lake it appears that we are missing an obvious solution.

As it is now, there are two sides in this debate. The side that wants to open up the entire Eklutna drainage to salmon, and the side that wants to keep the existing hydro project operational.

Except for its effect on salmon migration, the Eklutna Hydroelectric project is a gem. Producing enough greenhouse gas free renewable energy to power 25,000 homes. Of equal importance, the lake reservoir stores electrical power, it is essentially a massive battery, that can be used to quickly meet daily power demand fluctuations. This is exactly what is needed to integrate other renewables such as wind and solar energy into our electrical grid.

Restoring salmon to the Eklutna River is a laudable goal, but at a time when we are facing an existential climate crisis, we must do all we can to reduce use of fossil fuel. The Eklutna Hydroelectric Project has a critical role to play in our low carbon future and should not be removed until we have turned around our climate.

Apparently, there is a 1991 document that says something must be done. So, an alternative is proposed to spend $57M to put in a valve to release some flow into the river. This alternative satisfies no one. It does not significantly restore salmon, it stresses our critical water supply infrastructure, and it is a waste of ratepayer money.

The obvious solution is to rewrite the agreement. Do nothing now. Put a subsidy on each kilowatt hour of Eklutna generated power that will go into a dedicated fund to remove the project in the future. And designate this time in the future to be when there is either a surplus of renewable energy or the project reaches its usable life. The $57M would be much better spent as the seed money for this fund.

An agreement is only as binding as the parties involved agree to. Let’s go back to the table and come up with a solution that works for all. Things are different now than when that original document was written. Climate change was an unknown. We need to acknowledge this. The salmon will wait.

From:	Valanne Glooschenko
To:	Sam Owen
Subject:	Comment re: the Draft Fish and Wildlife Plan
Date:	Thursday, January 18, 2024 2:34:31 PM

Please note that I support restoration of the Eklutna River and the historic salmon runs, as currently proposed by the Native Village of Eklutna and partner organizations.

The Native Village of Eklutna plan proposes a reasonable time line of a decade when replacement renewable sources of energy are expected to be available. In addition, two nonprofit community partners have agreed to source funds for the dam removal.

I reject the draft Fish and Wildlife Plan now up for public review by supporters of the Eklutna Hydroelectric Project.

That draft plan would only restore 3% of water back to the river. And in addition prevent salmon from accessing critical habitat in and around Eklutna Lake and its upstream tributaries.

Sincerely,

Valanne Glooschenko, M Sc.,
6017 Doncaster Dr.,
Anchorage, AK 99504

From: Dan Thompson
To: Sam Owen
Subject: Eklutna Hydroelectric Plan public comment
Date: Friday, January 19, 2024 7:39:41 AM

As a permanent multi-decade resident and Eklutna Valley homeowner, I support the full restoration of the Eklutna River and its former salmon run. Anchorage energy producers have a legal and moral responsibility to return the salmon they destroyed in 1928.

For nearly 100 years local energy producers have enjoyed unfettered financial benefits from Eklutna River and Eklutna Lake without regard to the financial and cultural loss to this historical fishery. It is long past due for the State of Alaska to help restore this watershed, and take full responsibility for the destruction of this significant public resource.

Sincerely,
Daniel Thompson
21921 Tena Street
Chugiak, Alaska 99567

Sent from my iPhone

From: Lindholm JT
To: Sam Owen
Subject: Eklutna Dam.
Date: Friday, January 19, 2024 8:19:34 AM

I ask you to remove the Eklutna Dam to fully reconnect the river and return the water flows needed to support the river's fisheries.

Thank you for your time with this and in making the right choice.

Best,

J.T.

John T Lindholm
2205 Hiland Road
Eagle River, AK 99577

From:	Rick Sinnott
To:	Sam Owen
Subject:	Full restoration of Eklutna Lake and River
Date:	Friday, January 19, 2024 2:39:43 PM

Comments on the Draft Fish and Wildlife Program's preferred alternative

The electrical producers and Municipality of Anchorage signed a contract in 1991 wherein they agreed to restore fish populations and other ecosystem functions and values lost when two dams were built on the Eklutna River in 1928.

The draft program contains some good field research but it missed at least one major issue. Eklutna Lake is a glacial lake with very cold water. In a lake, the warmest water tends to rise to the surface and the coldest tends to sink to the bottom. In a natural system, it is the warmest water that flows out of the lake and into the river. But if the preferred alternative is chosen, the AWWU pipeline will be the source of the river's water. The intake structure is on the lake's bottom. The colder water flowing into the river from the AWWU pipe will limit production of some aquatic invertebrate populations (fish food), retard fish growth rates, and affect survival of eggs and fry by freezing sooner than water that would have flowed out of the lake naturally. The final fish and wildlife program should consider the potential impacts of using the "wrong" water to provide optimal downstream fish habitat.

Conversely, removing the colder water from the lake would delay when the lake freezes (it typically freezes in mid-December but has frozen over as late as early January). It might also affect ice thickness. These could have local environmental impacts but are more likely to be relevant to winter recreational activities.

Much more concerning is the program's own finding that the preferred alternative will restore only about one-third of the watershed's potential fish habitat, and the amount of water released through the AWWU pipeline will represent only 4% of the river's historical summertime flow. A fast and simple multiplication of these two figures suggests that the preferred alternative only intends to restore about 1% of the watershed's historic fish-related functions and values. This clearly does not satisfy the requirements of the 1991 agreement.

Notably, none of the municipal, state, and federal agencies that participated in the field research and planning effort support the preferred alternative, except Alaska State Parks, which is certainly no expert on fish and wildlife habitat and productivity. The Native Village of Eklutna, the entity most affected by the loss of most of the river's salmon, does not support the preferred alternative. Instead they have proposed a "community alternative," one that wasn't considered in the draft plan.

I support the "community alternative," which will remove the dam in the near future, when the small amount of electricity that the hydroelectric facility's turbines produce is replaced by other alternative energy sources.

From: stephen Parker
To: Sam Owen
Subject: Eklutna River
Date: Saturday, January 20, 2024 5:03:17 PM

I am writing to support the removal of the Eklutna River dam.
The Eklutna River Hydro has a legal obligation to restore adequate river flows to support and reestablish wild salmon in the river and to the Eklutna Lake.
The restoration of the river must include connecting Cook Inlet to the Lake with adequate flows to allow for passage of wild salmon. Any alternative is inadequate, in violation of the agreement of sale of The Eklutna Hydroelectric Project and a waste of tax and ratepayers' money.

Thank you,
Stephen J. Parker
Eagle River, Alaska

From: Claire kaufman
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Sunday, January 21, 2024 11:30:41 PM

CAUTION: This email was received from an external source

As a taxpayer in the anchorage munIcipality, i support the complete removal of the Eklutna River Dam and restoration of the entire Eklutna River. We have an obligation To restore this salmon bearing river. this obligation goes beyond minimum requirements to mitigate the environmental Impacts of the dam. It is our obligation to create and enhance the RESILIENCE of our ecosystem, to support future generations and to support the native village of eklutna and the dena'ina people, the ORIGINAL stewards of the land we call home.

From: dennis A Moore
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, January 22, 2024 12:46:52 PM

CAUTION: This email was received from an external source

I am in favor of removing the hydro operation in favor of letting the stream return to a natural free flowing river.

From: Loren West
To: Sam Owen
Subject: Remove the dam, restore the river and save the salmon
Date: Monday, January 22, 2024 10:48:18 PM

Loren West
6420 E 16th Ave, Unit B
Anchorage, AK 99504

From: Mike Bronson
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, January 22, 2024 7:43:51 PM

CAUTION: This email was received from an external source

Take down the dam. Give us sockeyes.
i've been a chugach rate payer for a million years and will be a long time. Was an MEA rate payer before that, and our family still helps pay for MEA power on hollywood road.
remove the dam. get sockeyes back; they're more important.

From: Paula Davis
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, January 22, 2024 1:11:17 PM

CAUTION: This email was received from an external source

i spend time at Eklutna lake on skis, kayak and bike, and have always been sad to tell my fishing grandchildren about the lack of fish. I am fully in favor of removing the dam and re-establishing salmon, especially since the Eklutna tribe is so in favor of it too.

Eklutna Draft Fish and Wildlife Program Comment Form

RECEIVED BY
JAN 22 2023
EXECUTIVE OFFICE

Name, Agency/Organization (optional): Email: smfreeman@chickaloon-nsn.gov
Stephanie Freeman
Chickaloon Village Traditional Council

Write your comments on the Draft Fish and Wildlife Program here:

I am in support of either removing the dam entirely after replacement renewable energy has been secured or of replacing the dam with one that could be at a lower elevation and closer to the minimum amount of water left in the lake when drawn out by AWWU's the hydroproject. Either of these options would completely reconnect the entire watershed again, allowing salmon to travel through the watershed freely, as they should. I love that restoring 12 miles of fish habitat is important to the eklutna hydro stakeholders, but its really only 11 out of 30+ miles of fish habitat restored. I believe that salmon would utilize the watershed in its entirety. Thanks!

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

Use the QR code to access the eklutnahydro.com website to submit your comments electronically. You can also send comments to info@eklutnahydro.com.

Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

From: C Smith
To: Sam Owen
Subject: Eklutna Lake Dam
Date: Tuesday, January 23, 2024 5:06:38 PM

As a 73-year-old white woman who has lived a life of 'white' privilege, I wholeheartedly urge you to remove the Eklutna Lake Dam. By doing so, you will be helping to re-establish a slowly vanishing culture in a small native village. Haven't the native peoples of North America suffered enough at the hands of 'white' people over the past centuries?

Give them the respect they deserve and their culture back. Help them to re-establish the salmon run and therefore bring back the cultural side of people gathering to harvest nature. Listen to their desires and needs - they were here long before man moved in to try to 'civilize' them. Help them to keep their culture strong by removing the dam.

I am 2nd generation American, a descendant of Lebanese people who moved here at the turn of the 20th century. My biggest regret is that I was not immersed in my culture to the degree that I was able to pass more of it along to my children and grandchildren.

Cheap renewable energy for 25,000 Anchorage and Matanuska-Susitna Borough homes for decades? They will survive despite the increased cost. I'd hate to tell you what I pay GVEA for their power.

The natives were here long before the 'white' man. Give them their culture back.

Respect and support native pride!

Sincerely,
Candace Smith
Salcha, Alaska

From:	isabellesaam4@everyactioncustom.com on behalf of Isabelle Saam
To:	Sam Owen
Subject:	Free the Eklutna River!!!
Date:	Tuesday, January 23, 2024 10:10:04 PM

Dear Operators of the Eklutna Hydroelectric Project,

As a tribal member of the Native Village of Eklutna, I can not stress how important fish are to our community and people. It is one of the most important traditional subsistence foods in our area. I grew up catching fish and setting fish nets in Eklutna. Those are my favorite memories. Learning how to cut fish, learning what the different parts are, how to set the net, how to bait the hook, how to tie fishing knots. All with my family. My siblings, parents, cousins, aunties, uncles, grandparents and great grandparents. When I have kids and grand kids, I want them to be able to fish those waters. Just how I did as a kid, and the rest of my family and elders. The fish are so important to our peoples health. Please remove the Eklutna dam. I stand strong with my family and ancestors. This means so much to our people. Restoring the fish back to their waters, that is their home!!

Chin'an.

Sincerely,
Isabelle Saam
Wasilla, AK 99623-0974
isabellesaam4@gmail.com

From: Funke, Michael (HP Technology Consulting)
To: Sam Owen
Subject: Eklutna Dam
Date: Tuesday, January 23, 2024 4:17:04 AM

Please remove the Eklutna Dam to allow the restoration of salmon in the river.

Thank you.

Michael Funke
2925 W Bayridge Cir
Wasilla, AK 99654
480-334-4697

From: Romie Deschamps IV
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, January 23, 2024 10:40:59 AM

CAUTION: This email was received from an external source

Nothing but positives incur not only for the enviRomment but the fish and wildlife happen when dams built for the few are destroyed and the river and lake is returned to the original state… plus new commercial opportunities are created that were not available until this occurs..!

From: Whitney Waskey
To: Sam Owen
Date: Tuesday, January 23, 2024 2:48:17 PM

Have you ever heard of people saying leave it better than you found it?
Just like camping you bring the shit in, you pack the shit back out and leave it better than when you showed up!
Removed the dam!
And bring it back to its natural habitat!

Whitney L Waskey

From: Tica Drury
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Wednesday, January 24, 2024 3:42:19 PM

The Eklutna hydroelectric project is a false solution to green energy. If a project destroys an entire river, including an integral part of the ecosystem - its salmon runs - it cannot be considered “green.” Of all of the potential alternatives offered by technical working group partners, the project owners chose the one that was the worst for the ECOSYSTEM BUT had the cheapest price tag. This violates the 1991 Purchase Agreement, which requires them to protect and enhance fish and wildlife habitat. The mitigation plan directed by said Purchase Agreement is in place so history doesn't repeat itself. The project owners need to come up with a new plan that respects the environment and the wishes of Native Village of Eklutna, who have been living on this land for generations and have been excluded from the decision-making process. Instead of wasting Alaskans dollars on a plan that won’t fully revive the river and its salmon runs, I ask you to remove the Eklutna Dam (at no cost to the project owners might I add) and fully reconnect the river to bring back a thriving Anchorage area fishery. Thank YOU.

From: adrienne hall
To: Sam Owen
Subject: Comment
Date: Wednesday, January 24, 2024 5:57:36 PM

To Whom It May Concern,

I am very concerned about the MEA and CEA plan and how little water it would leave in the Eklutna River. Their project has caused significant damage to the river system, and they should take more responsibility for restoring in-stream flow and ensuring salmon can return to Eklutna Lake. The current plan does none of those things. The only responsible course of action would be to honor the past and enduring connection the Indigenous people have to this place by removing the Eklutna Lake dam, fully reconnecting the river, and returning the water flows needed to support the river and its fisheries.

Thank you,
Adrienne Lindholm
Eagle River, Alaska

From: Debi Poore
To: Sam Owen
Subject: Eklutna Dam Removal
Date: Wednesday, January 24, 2024 10:32:15 AM

To those working on this project,

In Acknowledgment of Land Ancestors,

I was born to Denai'na Chickaloon territory; raised on Denai'na Kenaitze land at Eagle Rock on the Kenai River; and for more than forty years have made my home near Kachemak Bay and Homer, on traditional lands of Denai'na Athapbascan and Alutiiq Sugpiak people. I recognize responsibility to respect and care for this Indigenous land and inhabitants.

My parents moved to Alaska from Minnesota.
I am in full support of complete removal of the hydro electric dam. It is time to restore the Eklutna River to its full environmental habitat potential. This is the right thing to do. And it is overdue.

Sincerely grateful for this opportunity to offer comment.
Deborah Poore
Homer, Alaska

From:	Jaye Salter
To:	Sam Owen
Subject:	Eklutna Dam Project
Date:	Wednesday, January 24, 2024 10:57:08 AM

I fully support the REMOVAL of the Dam on the Eklutna river, The priority should be the First Peoples and rightful guardians of this watershed.
the 56million proposed to do a work around could be better spent finding a different alternative for providing energy to the 25k people that would be impacted by this removal.

Jaye Salter

I live, work and recreate on the land of the Ahtna and Dena'ina People.

From: Kristian Erickson
To: Sam Owen
Subject: Freeing the Eklutna River
Date: Thursday, January 25, 2024 12:46:52 PM

There is no other reasonable option than to remove the Eklutna Dam entirely. There will be some temporary pain for electric utility ratepayers, but correcting a grave ecological error is worth the cost.

As with all obstacles to free-flowing rivers, here the river will eventually win. Instead of waiting centuries for natural forces to undo the damage of the dam, let's do it now so that our children can enjoy what Alaska Natives did 100 years ago.

Kristian Erickson, Anchorage

Gesendet von Outlook für Android

From:	Anna Bosin
To:	Sam Owen
Cc:	Rep. Zack Fields; Sen. Löki Tobin; Christopher Constant
Subject:	I support Restoring Eklutna River
Date:	Friday, January 26, 2024 1:05:02 AM

I support restoring the entire Eklutna River, as the Native Village of Eklutna is entitled to from over 90 years of land taken from them and no direct benefit or fulfillment of an agreement between the entities in power and their Tribal government.

Other renewable energy sources are quickly entering the market for clean electricity. The time is now to advance the technology for the good, while correcting a past wrong.

I am reading a fascinating book How Infrastructure Works by Deb Chachra: 9780593086599 | PenguinRandomHouse.com: Books

How Infrastructure Works by Deb Chachra: 9780593086599 | PenguinRandomHo...

NAMED A BEST BOOK OF 2023 BY PUBLISHERS WEEKLY "Revelatory, superbly written, and pulsing with wisdom and human...

And the author suggests renewable energy sources work well in smaller, dispersed networks rather than a centralized mega station. There is also a safety benefit by having more redundancy in the system to mitigate major failures and weather disruptions from climate change.

I am glad this topic is coming to the public and that the Village of Eklutna is at the table this time. thank you
Anna Bosin
Anchorage Resident

From:	christyeverett.personal@everyactioncustom.com on behalf of Christine Everett
To:	Sam Owen
Subject:	The Eklutna River Draft Fish and Wildlife Program is inadequate!
Date:	Friday, January 26, 2024 4:13:35 PM

Dear Owners of The Eklutna Hydroelectric Project,

This comment is in regard to the Eklutna Hydroelectric Project's Draft Fish and Wildlife Program for the Eklutna River. The Native Village of Eklutna's vision for river restoration should be supported. Removal of the Eklutna Lake Dam is necessary to fully reconnect the river and return the water flows needed to support the river's fisheries. I urge you to consider removing this dam within the next decade, once replacement renewable energy is available.

The current proposal does not provide fish passage into the lake and upstream habitat. The river's historic salmon runs will never return under this plan. Approximately a mile of the river will remain dry and very little of the historic flow will be restored. You have a legal duty to mitigate the harm of this project. This proposal does not achieve that.

Please consider removing the Eklutna Dam so that all five species of salmon can once again return to the river.

Sincerely,
Christine Everett
2308 Robinson Cir North Pole, AK 99705-6269
christyeverett.personal@gmail.com

From: Joe Lawton
To: Sam Owen
Subject: Eklutna dam
Date: Friday, January 26, 2024 10:13:07 AM

I favor removal of the dam to restore salmon habitat. MEA should do more to encourage renewables as part of long-range strategy. Don’t be stupid, but better embrace the inevitable.

Sent from my iPhone

From: Margaret Anderson
To: Sam Owen
Subject: Connect the fish
Date: Friday, January 26, 2024 7:05:41 PM

Please restore the flow of plenty of water along the whole way between the sea and Eklutna Lake for the sake of the salmon. Restore the salmon spawning habitat all the way from sea to river to lake to glacier, as was promised!

From: paultapu@everyactioncustom.com on behalf of Paul Twardock
To: Sam Owen
Subject: Comment on the Eklutna River Draft Fish and Wildlife Program
Date: Friday, January 26, 2024 4:03:24 PM

Dear Owners of The Eklutna Hydroelectric Project,

I support the full restoration of the Eklutna River that includes the removal of the dam, as supported by the Eklutna Village. The alternative apparently addresses financial concerns and long term energy supply. It seems a win win for all parties, and supports the long term promises made when the ownership of the dam was transferred to ML+P. Opportunities like this come along infrequently and I urge the decision makers to envision river and ecosystem fully restored to its historical roots.,

Sincerely,

Paul Twardock

Sincerely,
Paul Twardock
1322 N St Anchorage, AK 99501-4273
paultapu@gci.net

From: Ray bulson
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, January 26, 2024 1:02:45 PM

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i am in support of restoring the eklutna river completely so that salmon can return to its entire length.

From: robyntforbes@everyactioncustom.com on behalf of Robyn Forbes
To: Sam Owen
Subject: One Alaskans Eklutna River Draft Fish and Wildlife Program
Date: Friday, January 26, 2024 11:05:22 AM

Dear Owners of The Eklutna Hydroelectric Project,

I have been an Alaskan since 1986 and have had the privilege of enjoying our outdoor resources in a way that is impossible in many other parts of the world. I have always been saddened by the Pacific NW and how much beaty and natural life the rivers that used to flow freely provided before we modified their purpose.

It is time to make it right.

The Eklutna river show flow freely and be returned to its natural state, with as little energy and economic damage as possible. To return it to its original state should be the goal for all Alaskans.

Sincerely,
Robyn Forbes
337 W 12th Ave Anchorage, AK 99501-4416
robyntforbes@gmail.com

From:	Tobias Schwoerer
To:	Sam Owen
Subject:	Comments on Eklutna Hydro: The only true restoration is dam removal
Date:	Friday, January 26, 2024 11:22:49 AM

Please consider these comments in the decision to fully restore the Eklutna River from its headwaters all the way to Cook Inlet.
The village of Eklutna is located on the banks of the Eklutna River for a reason. Based on my understanding, that reason was and still is SALMON.
One of the two dams has already been removed and the second dam will be removed free of charge to ratepayers.
None of the current analysis accounts for this best option. Also, none of the current analysis accounts for the potential benefits related to each option and none accounts for the future energy picture. If no further analysis is being conducted, the best option is to set a timeline for when our changing energy infrastructure will be able to allow the freeing of the Eklutna River and Lake ONCE AND FOR ALL ... FOR ALL 5 SALMON SPECIES. I support the entire removal of the Eklutna dam - removal that is free to ratepayers.

Tobias Schwoerer
Chugach rate payer and partial owner of the Eklutna Hydro Project

From:	Ingrid Everson
To:	Sam Owen
Subject:	Fw:
Date:	Tuesday, January 30, 2024 7:35:02 PM

From: Ingrid Everson <ingrid_everson@hotmail.com>
Sent: Tuesday, January 30, 2024 6:27 PM
To: //eklutnahydro.com/documents/.
Subject:

The Eklutna Hydroelectric Project deprives salmon from migrating into and out of Eklutna Lake. This mitigation plan will not revive salmon runs.
The solution to bring back the salmon is to remove the Eklutna Dam. This can be done within the next 10 years, and replacement renewable energy will then be available.
Please consider the importance of honoring the Eklutna Dena'ina people by recovering a natural river.
Ingrid Everson

From: mlhayes333@aol.com
To: Sam Owen
Subject: Let"s Restore the Salmon to the Eklutna River
Date: Tuesday, January 30, 2024 4:17:49 PM

Hello--

I would like to see the salmon restored to the Eklutna River, and many who are more knowledgable than myself have advocated how this can be done.

One cannot accomplish the return of the salmon runs, if one mile below the lake is left dry.

Most persons realize this.

So it is hoped that the Owners will remove the Etklutna Dam so the salmon can return.

Let's get this one done right. Thank you. --MaryLee Hayes, 2611 Hiland Rd., Eagle River, AK 99577

From: Emily Cohen
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Wednesday, January 31, 2024 4:26:22 PM

Hello,

I am in strong favor of dam removal, once other renewable energy sources are in place. The AWWU Portal option is insufficient; it would not allow sockeye salmon to spawn in Eklutna Lake, it will leave a mile of the river dry, and there are large amounts of habitat in the waters above the dam that will not be restored. After speaking with some of the experts you brought to the public comment meetings, they told me that they believe this is a good "first step" toward restoring adequate habitat and salmon populations. I am not interested in a "first step," as the time to act to restore Alaska's salmon counts and natural areas is now.

Hearing Chief Leggett of the Native Village of Eklutna (NVE) speak at the public meeting and express his displeasure in this plan should be enough to inform your decision. If you pride yourself on listening to the NVE, as you appear to by how many times it is mentioned in the Draft Fish and Wildlife Program and in your public meeting presentations, then please listen and act in accordance with NVE's wishes. This is a beautiful opportunity to engage in some small act of justice for the NVE, whose lands and waters were largely taken away and mismanaged through projects like the Eklutna Hydroelectric Dam. It is because of projects like the Dam that fish and wildlife populations are depleted, and it is through choosing to remove the dam and restore the river that healing can happen.

Please remove the dam and restore Eklutna River and Eklutna Lake. Please do so once other renewable energy sources are in place. Renewable energy, like the hydroelectric dam, is meant to help the environment. I believe in the Project Owners' ability to have renewable energy that does not come at the expense of salmon, wildlife, and Indigenous Peoples.

Thank you,
Emily Cohen, resident of Anchorage

From: reawn29@everyactioncustom.com on behalf of Grace Hudson
To: Sam Owen
Subject: Comment on the Eklutna River Draft Fish and Wildlife Program
Date: Thursday, February 1, 2024 10:48:16 PM

Dear Owners of The Eklutna Hydroelectric Project,

You should keep your word and do what you say you're gonna do and stop trying to go around the source just do it refill the river

Sincerely,
Grace Hudson
7757 Strawberry Cottage Way Anchorage, AK 99502-3201
reawn29@yahoo.com

From: Diane Sallee
To: Sam Owen
Subject: Eklutna Lake dam
Date: Sunday, February 4, 2024 5:54:09 PM

I encourage the removal the dam on Eklutna Lake within 10 years, after other renewable energy sources are brought online to replace the hydroelectric power produced by the dam. The current Eklutna Hydroelectic Project provides 3-6% of electricity for the area. Wind, solar, and battery storage could replace this amount, and these renewables are declining in cost. Removing the dam will fulfill the 1991 agreement to let fish run from the ocean to the lake and its tributaries.

From:	Suzann Speckman
To:	Sam Owen
Subject:	Public comment
Date:	Monday, February 5, 2024 11:24:09 PM

To the Owners of the Eklutna Hydroelectric Project,

The 1991 Eklutna Fish and Wildlife Agreement required the Project Owners to develop and propose to the Governor a program to "protect, mitigate damages to, and enhance fish and wildlife impacted by the project." The alternative under consideration as the Draft Program does not meet the goals of the 1991 Agreement and is therefore inadequate. A different alternative must be considered that truly mitigates the damage done by years of diverted river flow, and truly enhances the fish and wildlife populations that were impacted.

I heard that someone called the proposed alternative a "Dead-End River," and that is regrettably true. The proposed alternative leaves one full mile of riverbed dry, with no water, which will prevent fish from reaching Eklutna Lake. As reported in the Anchorage Daily News on 04 February 2024, an engineering consultant, Don Spiegel of GV Jones & Associates, studied the portal valve that is key to the proposed alternative. These experts concluded that the portal valve would provide inadequate and irregular water flows to fish in the 11-mile section of the Eklutna River that is proposed to be re-watered. If salmon in those 11 miles of river would suffer periodic die-offs from inadequate and irregular water flow, as these experts determined, the proposed alternative becomes even less acceptable.

Why would we spend $57 million dollars for half of a project that fails to mitigate damages to Eklutna Lake, fails to mitigate damages to salmon in the river, and fails to accomplish the purpose of the 1991 Eklutna Fish and Wildlife Agreement?

The Eklutna Dena'ina people are clear in their desire to see the Eklutna River run wild again, along its full length, with healthy salmon runs in its tributaries and in the lake.

Allowing runs to rebuild for all five salmon species in the Eklutna River and Eklutna Lake would protect salmon populations and mitigate previous damages to salmon populations. It would also mitigate damages to other species that resulted when salmon runs in the Eklutna system were destroyed by installation of the hydroelectric system. Humans, especially the Eklutna Dena'ina people, would benefit from being able to fish in their traditional areas and ways. Bears and other fish-eaters would have more food, and browsers like moose would benefit when the nutrients from salmon carcasses spread into the surrounding riverside vegetation.

One of the most important species that would benefit from rebuilding salmon runs in the Eklutna system is the Cook Inlet beluga whale, which is listed as endangered under the Endangered Species Act. In the 2016 Cook Inlet Beluga Recovery Plan, NMFS listed anthropogenic disturbance and cumulative impacts as threats of high concern and prey availability as a threat of medium concern (NMFS 2016). Since publication of the Recovery Plan, evidence continues to accumulate that Cook Inlet beluga whales are suffering from limited prey resources, and this is contributing to the failure of the population to recover in numbers. Recent studies of Cook Inlet beluga whales conclude that reductions in prey availability, especially from late spring to early fall, adversely affect vital rates of Cook Inlet beluga whales (Norman et al. 2020, Warlick 2022, McHuron et al. 2023, Warlick et al. 2023). McHuron et al. (2023) also found that intermittent disturbances that resulted in lost foraging opportunities, such as those caused by anthropogenic activities during the ice-free season, had little impact on body condition or vital rates if prey were abundant during the summer and early fall.

In other words, availability of salmon and other prey influences beluga whale adult and calf survival, calving rates, age of first reproduction, interval between successive calves, and other life history characteristics. These in turn drive population trends. Beluga whales in good body condition, with

abundant prey, are better able to tolerate anthropogenic activities such as those that create noise.

Loss of the salmon runs in the Eklutna River and Eklutna Lake may be one of the many reasons the Cook Inlet beluga whale population is lagging in its recovery. Removing the dam and allowing full passage of the Eklutna River and Eklutna Lake to the five species of salmon would also increase prey availability to endangered Cook Inlet beluga whales. Removal of the dam is a remarkable opportunity to "enhance fish and wildlife impacted by the project," a stated goal of the 1991 Eklutna Fish and Wildlife Agreement, by enhancing the likelihood of survival of the endangered Cook Inlet beluga whale.

Removing the Eklutna dam to provide access for salmon to the full reaches of the Eklutna River and Eklutna Lake is an easy, concrete, quantifiable recovery action for both the five species of salmon and the endangered Cook Inlet beluga whale. We know that beluga whales use Knik Arm occasionally in early summer and daily in summer and fall from about August to October or November. Beluga whales forage in Eagle River and Ship Creek. They likely foraged in the Eklutna River when salmon were abundant there. Red salmon are a favored prey species for beluga whales, and their smaller size makes them more available to younger animals that cannot swallow a larger king salmon. Red salmon need access to Eklutna Lake to spawn and grow, and would become available to beluga whales in Knik Arm.

The Native Village of Eklutna is proposing a very reasonable compromise alternative that involves a delay in removal of the dam until more renewable energy sources have been developed. This alternative deserves closer examination because it more closely adheres to the goals of the 1991 Eklutna Fish and Wildlife Agreement to develop and propose a program to "protect, mitigate damages to, and enhance fish and wildlife impacted by the project." Community partners have committed to help offset costs of the dam removal, reducing the burden on public funds.

Please fulfill the intent of the 1991 Eklutna Fish and Wildlife Agreement and listen to the local people, scientists, and engineers who advocate for a healthy Eklutna River and Eklutna Lake system with access to the full 12 river miles and lake for salmon.

Finally, the Anchorage Daily News article on Sunday, 04 February 2024, described some confusing aspects of the proposed alternative that we simply do not yet understand. This includes a secret agreement between the utilities that will impact prices and the water rights of Anchorage. Not only should the alternative put forward support full passage for salmon, but I agree with the Assembly's proposal to delay the decision on the preferred alternative until the new information about contracting is analyzed and understood. The outcome of the process is too important to be rushed or hidden from the public's understanding.

Thank you for your consideration.

Sincerely,

Suzann G. Speckman

Literature Cited

McHuron, E, M. Castellote. G. Himes Boor, K. Shelden, A. Warlick, T. McGuire, P. Wade, K. Goetz. 2023. Modeling the impacts of a changing and disturbed environment on an endangered beluga whale population. *Ecological Modelling* 483. 110417. 10.1016/j.ecolmodel.2023.110417.

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Norman, S.A., R.C. Hobbs, L.A. Beckett, S.J. Trumble, and W.A. Smith. 2020. Relationship between per capita births of Cook Inlet belugas and summer salmon runs: age-structured population modeling. *Ecosphere* 11(1):e02955.10.1002/esc2.2955.

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From: Anamika H Paulay
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, February 6, 2024 1:43:32 PM

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the eklutna hydroelectric dam should be removed to help restore the salmon population rather than installing a portal in the damn. this is in-line with the native village of eklutna's request and the need to work to restore the salmon population.

From: Gary Swan
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, February 6, 2024 4:10:53 PM

I belive the entire drainage to include the lake should be restored as salmon habitat. I am an MEA member and suport the added costs to open the lake and above drainages by removal and replacement of the Exexisting Dam at Eklutna Lake.

From: Lauren
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, February 6, 2024 1:37:41 PM

Please remove the Eklutna River dam after other renewable energy resources are in place. The impact on the environment and the wishes to the Native Village of Eklutna both demand that we do better. Thank you for your consideration!

From:	pmcketa@everyactioncustom.com on behalf of Pete Cleary
To:	Sam Owen
Subject:	Comment on the Eklutna River Draft Fish and Wildlife Program
Date:	Wednesday, February 7, 2024 4:04:40 PM

Dear Owners of The Eklutna Hydroelectric Project,

The Eklutna ecosystem is a gem waiting to return to its former glory.

With salmon runs in decline it is important to invest in the future of this historic salmon producing watershed.

This is an excellent opportunity to restore an ecosystem and invest in the salmon future of the Eklutna Dena'ina people who will be sustained by this resource.

The economic benefits of full restoration will outweigh the cost. The economy and wildlife will benefit from a restored fishery.

We need these fish. Alaska needs this resource. Removing the dam and full restoration makes plenty of sense. It is in everyone's best interest to take this opportunity and bring this system back. This can and should be completed.

Let us do what is right for the Eklutna people and for all Alaskans. Give the salmon a chance to come back.

Pete Cleary
M.S., Fishery Biologist- retired

Sincerely,
Pete Cleary
1585 Mission Rd Homer, AK 99603-9361
pmcketa@hotmail.com

From: Doug O"Harra
To: Sam Owen
Subject: Eklutna Dam removal comment
Date: Friday, February 9, 2024 5:19:55 AM

Hello,

The dam must be completely removed so that the river flows freely and naturally through its ancestral channel from the lake to the sea. Recreating the Eklutna River salmon cycle—with its ecological benefit to the watershed and Cook Inlet—should be our priority. Yes, this will reduce or even eliminate the flow to the Eklutna Power Plant. It may increase the cost of electricity. And there will be challenges for the municipal water supply system. But we (the community, CEA and other utilities, and the Muni) will muddle through and figure out alternatives that will work.

The carbon benefit of hydro should not blind us to that dam's historic destruction of Eklutna's wild salmon runs and the subsequent incremental degradation of the entire watershed. Removing that dam is a once-in-a-century opportunity for the community that will deliver priceless ecological, recreational and social justice benefits. We can find and develop alternative sources of power. There is no comparable alternative to a fully restored Eklutna River.

As a homeowner and rate payer, I'm willing to bear my share of increased power costs to help make this happen. I walk the talk too—we have 18 solar panels on the roof of our home.

Sincerely,

Doug O'Harra
2800 Alder Drive
Anchorage

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Michal Stryszak
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, February 9, 2024 4:06:14 PM

I am an anchorage resident. Please reopen flow to the river so that the salmon can come back. Having vibrant salmon streams is a Huge boost both to the people of anchorage and to the wildlife. Thank you.

Ninilchik Traditional Council
P.O. Box 39070
Ninilchik, Alaska 99639
Phone: 907 567-3313 / Fax: 907 567-3308
E-mail: ntc@ninilchiktribe-nsn.gov
ninilchiktribe-nsn.gov

February 9, 2024

Submitted via Email to:
Samantha Owen <owen@mcmillen.com>

Samantha Owen
Senior Regulatory Consultant
McMillen Inc.
2607 Western Ave, Unit 360
Seattle, WA 98121

Re: Eklutna Hydroelectric Project Draft Fish and Wildlife Program

The Ninilchik Traditional Council (NTC), governing body of the federally and state recognized Ninilchik Village Tribe, supports the Native Village of Eklutna (NVE) Eklutna River Restoration goals of their Resolution 2022 – 4; "Łiq'a nagh qinqtudeł - We are hopeful the salmon will return to us." "This includes 1) continuous flow in the river below the lake sufficient to support thriving salmon populations, with intermittent higher, habitat maintenance and re-creation flows, 2) salmon passage between Eklutna River and Lake, and 3) moderation of Eklutna Lake level variability, at levels sufficient to facilitate sockeye spawning."

No water is currently released downriver from Eklutna Lake, with 90% diverted for hydroelectricity generation. Fish passage is blocked to 8 miles of sockeye habitat in Eklutna Lake and 15 miles of Chinook and coho habitat in its tributaries at the Eklutna lake outlet dam. Kleinschmidt habitat assessments find abundant potential sockeye spawning habitat around Eklutna Lake, if provided restoration of fish passage at the lake dam and sufficient lake levels. Also, NVE habitat assessments found abundant Chinook and coho habitat in the Eklutna Lake tributaries, which only await restored fish passage to facilitate restored runs.

The electric utilities have put forward a Draft Fish and Wildlife mitigation Program "portal option" which would release minimal flows to the lower river from the Anchorage water supply pipe a mile below Eklutna Lake, leaving a dry river above that. It would be insufficient to restore historic multiple and side channels, and off channel habitat. Fish passage would remain blocked to sockeye habitat in Eklutna Lake and Chinook and coho habitat in the lake

tributaries. It ignores the advice and options submitted by NVE, resource agencies and other groups.

NTC joins NVE and allied organizations involved in the multi-year effort to restore the Eklutna River in advocating for removing or replacing the dam at the outlet of Eklutna Lake to allow adequate flows downriver and fish passage to upstream habitat. Dam removal is the cheapest option and NVE allies have offered to pay for it. Water could still be drawn for Anchorage's needs and some for power generation. This could be implemented within 10 years, once renewable energy alternatives are in place, allowing the river to flow more naturally. Thank you.

Sincerely,

NINILCHIK TRADITIONAL COUNCIL

Ivan Z. Encelewski
NTC Executive Director

cc: Aaron Leggett, President, Native Village of Eklutna
Marc Lamoreaux, Land and Environment (Ełnena) Director, Native Village of Eklutna
Comments emailed to <info@eklutnahydro.com>

From:	smith.m2397@everyactioncustom.com on behalf of Mandy Smith
To:	Sam Owen
Subject:	Comment on the Eklutna River Draft Fish and Wildlife Program
Date:	Tuesday, February 13, 2024 12:02:53 AM

Dear Owners of The Eklutna Hydroelectric Project,

I am incredibly disappointed with the project owners disregard for the land and the original inhabitants of the land. By choosing the cheapest solution they also choose to continue the unjust degradation of the Eklutna Village's most precious resource- salmon. As they continue to destroy salmon habitat, the owners greenwash their project in order to confuse taxpayers into thinking this is the most eco-conscious choice. Let's not fall victim to their immoral marketing and support a full restoration of the Eklutna river via damn removal or flows much higher than those proposed. Free the Eklutna River!

Sincerely,
Mandy Smith
220 W 12th Ave Anchorage, AK 99501-6801
smith.m2397@gmail.com

From: Alex Petkanas
To: Sam Owen
Subject: Eklutna Comment
Date: Thursday, February 15, 2024 2:50:46 PM

To whom it may concern:

I am a homeowner and Chugach Electric member-owner in the Municipality of Anchorage. I am writing in my personal capacity today to support the Native Village of Eklutna's goal of restoring the river and full water flows to support salmon and other species - specifically through adoption of a plan that ends with complete dam removal.

The current proposed mitigation plan does not go far enough, fails to provide for fish passage into the lake and upstream habitat, does not have the support of the public, and would only release 3% of historic water flows.

Dam removal, in the alternative, would meet the recommendations of biologists from USFWS, NMFS, and NVE. It would begin to address a century of cultural and environmental neglect in this region, and be a step toward greater recognition of tribal sovereignty. While dam removal cannot happen overnight, it is possible and essential to adopt a plan that allows for onboarding of new renewable energy projects.

I urge you to strongly consider dam removal, and if necessary, to take additional time to do a full analysis of how to best meet the needs of NVE and the Owners of the project.

Sincerely,
Alex Petkanas

From: Bart Meyer
To: Sam Owen
Subject: Comment on. The Draft Fish and Wildlife Program - Eklutna Lake
Date: Thursday, February 15, 2024 4:55:05 PM

I do not support the alternative proposed by the utilities that would not restore water flow to the full river and does not provide for fish access to the lake and upper tributaries.

The fish and wildlife plan should be a long term solution. By that I mean to look to plan for a 100, 500 year solution.

What is proposed accepts that the infrastructure established in the past, and the habitat harm that has resulted, is the new base to plan from. That is short sighted.

Imagine instead a river/lake system with natural salmon runs with all the benefits of such to wildlife and humans.

I do support the alternative proposed by Eklutna Native Community with, in part: full length river water flow, fish access to the lake and upper tributaries, ten years to allow for alternate power generation sources to come on line. I recognize this is an expensive alternative, however, it is the only alternative that remediates the impacts of the past in a meaningful way for the benefit of all Alaskans in the long term.

I am a 65 year Alaskan having lived in Kenai, Anchorage, Fairbanks, and Sitka. I have commercial, sport and subsistence fished for salmon. I am an active hunter for subsistence purposes.

Bart Meyer,
Sitka

From:	Chantal deAlcuaz
To:	Sam Owen
Subject:	Eklutna hydroelectric project
Date:	Thursday, February 15, 2024 4:54:57 PM

To whom it may concern:

This comment is regarding the Eklutna Hydroelectric Project's Draft Fish and Wildlife Program for the Eklutna River. I'd like to start by expressing my disappointment in the format of the public meetings. The meeting I attended in Anchorage began with a presentation by a contractor employed by the utilities, without opportunity for other perspectives or rebuttals. The public was isolated for their submission of testimony rather than being able to hear from one another. I fear that the format was deliberately designed to obscure the growing consensus that the restoration plan presented is at best insufficient, and at worst, unjust.

Regarding the mitigation plan, I'd like to express my passionate support for the community alternative – namely, complete dam removal, once other sources of renewable energy have been secured.

For years now, my utility, Chugach Electric Association has been painstakingly slow to add renewable energy to the grid. Now, it is using the loss of a small amount of renewable power – approximately 3% of its total production – and subsequent rate hikes as its rationale for this inadequate plan. Pitting salmon against renewable energy is a false choice. And no amount of money saved or costs avoided can justify perpetuating the shameful legacy of colonization.

Unlike the "AWWU portal" plan, the community alternative would create a continuous flow of water from the lake to the ocean, for the restoration of all five species of salmon, as well as for the fish to return to tributaries above the lake. We have a generous commitment from nonprofit groups to remove the dam so that the rate payers and tax payers will not have to bear the cost of dam removal. Most importantly, we have a historic opportunity to restore salmon and to right a wrong that the Eklutna people have born for generations. I sincerely hope the the powers that be come to their senses, so that we won't squander the rare opportunity to wrong the rights of the past and restore salmon, beloved by all Alaskan, to this river.

Respectfully submitted,
Chantal de Alcuaz

From: Gabrielle Markel
To: Sam Owen
Subject: Eklutna Public Comment
Date: Friday, February 16, 2024 1:54:52 PM

Hello,

I am a ratepayer of Chugach Electric living in Anchorage and I am writing you to voice my support for the Community Alternative put forth by the Native Village of Eklutna.

As a ratepayer, I have no interest in paying for a 57 million dollar project that will not *meaningfully* restore the river. The current plan put forth in the Draft Fish and Wildlife Program, with the flow being restored below the AWWU portal valve, seems like an expensive bandaid that does not meet the asks of the Native Village of Eklutna to have this watershed fully restored, and so sounds like a waste of money to me.

I support their desire to have the Eklutna Dam completely removed at a later date, once replacement renewable energy is available to replace the hydro we get from Eklutna. The Eklutna river is a community asset not only to the Eklutna Tribe, but to Southcentral Alaska residents as a whole, and our utilities and municipality, have a responsibility to act as community stewards. Please work toward a *real* solution - I am fine with the necessary rate hike that will accompany a project of this size as long as it will lead to true restoration of this important watershed and the cultural implications it carries.

Thanks for you time,

Gabrielle Markel
Anchorage Resident

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Georgia gustafson
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, February 16, 2024 7:33:04 PM

Please remove The Eklutna Dam to fully RECONNECT the River and return the water flows needed to support the river's fisheries.
Thank you for hearing my urgent request.

From:	Barry Santana
To:	Sam Owen
Subject:	Comments on the Eklutna Draft Fish and Wildlife Program
Date:	Saturday, February 17, 2024 5:49:22 PM

Thank you for the opportunity to comment on the Eklutna Draft Fish and Wildlife Program document. I appreciate the work you have done on the historical, contractual and alternative modification construction options to maintain hydro power for Chugach Electric/Matanuska Electric and protect the water supply for Anchorage. Your efforts are commendable; however there appears to be considerable differences of opinion on the best way to execute the 1991 Fish and Wildlife Program. It appears to me that most of the effort in the draft Plan is not for the fish and wildlife but for economics and ease of execution to modify in-place infrastructure. The simplest alternative, removal of the existing dam and restoration of the original river channel is missing. I find the **recommended solution presented in this draft to be based on unrealistic modeling[1] and it falls woefully short for the fish and wildlife.**

I am a double MEA ratepayer, so I appreciate the need to keep utility rates low. However, based on your report we are talking about at most only 6% of Chugach/MEA power generation. Other informed sources state[1] "The Eklutna Hydro Project produces 40-47 MW, which is 2.2% of the Railbelt's 2000 MW installed generation capacity. As a portion of CEA and MEA combined installed generation capacity, it's about 3.5% ". As a double MEA ratepayer, I would appreciate it if the economic portion of your draft proposal could clearly state what rate increase from ~$0.22/kWh I would incur **if NO power was currently available from Eklutna Hydro**. This should be a single sentence addition.

Recently electric rates have been in the news due to the fact that Cook Inlet (CI) gas is rapidly running out; 2 to 5 years has been stated in sources. Several solutions have been discussed: (North Slope NG pipeline-$50+ billion, 10 years minimum; major State subsidies for CI Producers, many $ billions; or imported LNG, higher costs). These all require State investment or subsidies with an accompanying electric rate increase estimated to be 50% to 100%. So what will Chugach and MEA do for the other 94 to 96.5% of their power generation? They will raise member electric rates 50 - 100%, I suspect. The increase to ratepayers for missing Eklutna hydro power will be relatively minor I believe. It would be simple for me to approximate the future impact on my power costs if you provide the information above regarding the current removal of Eklutna Hydro from the rate.

My preference for the Plan is to restore the five species of salmon to a pre-1914 Eklutna Lake watershed. That is not difficult according to UAF professor Dr. Peter Westley. He has recently stated "Salmon can recover quickly if given a chance." Removal of the dam would allow Chinook, coho and sockeye salmon (the most sought after species) to have a chance to repopulate the river, lake and tributaries, which is 65% of their available habitat. Over time, the watershed has the potential, with a resurgence of nutrients from spawned out fish, to also support native Dolly Varden and trout.

The Community Supported Alternative to remove the dam and restore the river channel has been offered funding by The Conservation Fund and Trout Unlimited at no cost to electric utility ratepayers. They have already removed a lower dam successfully in 2018 with this approach. The effort may be delayed for up to ten years to allow the utilities to replace the relatively small Eklutna Dam baseload generation (2-6% of current generation) with renewables, like wind and solar. Backup baseload reserve to support the renewables when the sun isn't shining and the wind isn't blowing could be easily provided on the rail belt by the planned 160,000 MWh Dixon Diversion to Bradley expansion or the 1.2 GWh utility-scale long-duration Pumped Thermal Energy Storage Project near Healy selected by US DOE in September 2023.

This latest Community Supported Alternative recommended by NVE could save the utilities and

ratepayers money and let Nature take us back to the watershed and salmon runs of the early 1900s. This option should not impact the AWWU water line serving Anchorage. The water intake is lower than the lake elevation managed for hydropower lows. There have been concerns regarding the water line within the river bed and downstream bridges under extreme flows, but those are both solvable engineering issues. This is a relatively simple solution compared to the complex scheme proposed in the current plan**. I strongly support the removal of Eklutna Dam and return of the early 1900s Eklutna River in the old drainage.** Evaluation of this alternative needs to be added to the Eklutna Draft Fish and Wildlife Program document. To present anything less, shortchanges the Fish and Wildlife aspect of the Plan and does not satisfy requirements of the 1991 Agreement.

More concerning, in my opinion, is Bretwood Higman's comment here about potential large-scale landslides above Eklutna Lake and accompanying lake tsunamis. These potential events will affect any option; during higher water levels with a dam breach results could be more catastrophic than a natural lake and downstream flowing river. Lower lake levels and the natural river drainage may offer a surge capability of sorts. Eklutna Village and surrounding areas need to learn more about this concern.

Reference: 1. *"Bring back a once-thriving salmon river"; Email, SalmonState, February 17, 2024.*

Thank you for your consideration of my comments,

Barry W. Santana, PhD PE
Wasilla, Alaska

From:	d@everyactioncustom.com on behalf of David Wellman
To:	Sam Owen
Subject:	Choose the "Community Alternative" for the Eklutna River
Date:	Saturday, February 17, 2024 11:59:30 AM

Dear Operators of the Eklutna Hydroelectric Project,

I strongly urge you to heed the recommendations of the Native Village of Eklutna to remove the dam and fully restore the Eklutna River. Removing the dam would restore salmon to the river and take us one step closer to the restoration of our home planet.

Sincerely,
David Wellman
Copper Center, AK 99573-9703
d@welm.us

From: dzim54@everyactioncustom.com on behalf of David Zimmer
To: Sam Owen
Subject: Comment on the Eklutna River Draft Fish and Wildlife Program
Date: Saturday, February 17, 2024 3:13:22 AM

Dear Owners of The Eklutna Hydroelectric Project,

Regarding the Eklutna Hydroelectric Project's Draft Fish and Wildlife Program for the Eklutna River, I support the Native Village of Eklutna's vision for river restoration. I think you should consider building a new dam that would fully reconnect the river and return the water flows needed to support the river's fisheries and provide water and power generation for Anchorage. We want fish, water, power, and to be good stewards of the land. We will all pay our share of the project. Let's get the project started.

--DAVID ZIMMER

Sincerely,
David Zimmer
7155 E Shorewood Dr Wasilla, AK 99654-4654
dzim54@gmail.com

From: dlburwen@everyactioncustom.com on behalf of Deborah Burwen
To: Sam Owen
Subject: Free the Eklutna River
Date: Saturday, February 17, 2024 11:21:35 AM

Dear Operators of the Eklutna Hydroelectric Project,

Thank you for the opportunity to comment on the draft Fish and Wildlife Plan proposed for the Eklutna River.

Unfortunately the proposed plan would continue to prohibit salmon from returning to the lake and upper tributaries to spawn. The plan would also fail to return the river to its historic flow levels, further impacting habitat and wildlife.

As an Anchorage resident and taxpayer that has recreated in the Eklutna watershed many dozens of times in the past 35 years, I strongly urge you to heed the recommendations of the Native Village of Eklutna to remove the dam and fully restore the Eklutna River. Not only would removing the dam restore salmon to the river, it would avoid financially burdening utility ratepayers and MOA taxpayers with a short-term, insufficient plan. Instead, the dam removal costs could be covered by two nonprofit organizations who have agreed to pay for it.

You have the opportunity to be leaders in learning from historic mistakes of damming rivers, in restoring a wild salmon run, and in righting a historic wrong on the Eklutna River.

Sincerely,
Deborah Burwen
Anchorage, AK 99501-4268
dlburwen@gmail.com

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Jonas Banta
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Saturday, February 17, 2024 1:35:51 PM

I am writing as a private individual, not in my former role with the Alaska Center. I am also writing as a lifelong resident of ANchorage Alaska, as an ecologist, as an Indigenous person, and as an advocate for renewable energy. Any Fish and wildLife program which does not explicitly attempt to restore populations for each species of salmon impacted by the hydroelectric project, including access to the entire stretch of habitat, from mouth to headwaters, is an unequivocal failure of the owners to live up to the requirements and expectations of the 1991 agreement, as well as their responsibility as public utilities to the Native Village of Eklutna, to the community of Anchorage, and to the integrity of their respective organizations. This reality has been embodied throughout the restoration process by the explicit manipulation of the study and review process, by the willful negligence of Mayor Bronson's management, by the misrepresentation of data, methods, and community perspectives by Macmillen Jacobs to the owners and the public, and by the secret contractual commitment with AWWU. In fact, every aspect I mentioned before, and countless others I have personally born witness to are nothing short of shameful. Every escalation of resistance to the owner's process is a direct consequence of their management of this project, and indeed the certain continued escalation and ensuing waste of taxpayer and ratepayer funds will also be a direct consequence and responsibility of the owners management as well. It is with clarity and urgency that I call upon the owners of the hydroelectric project follow through on their ultimate responsibility and select the community alternative, for the wellbeing of our community and future generations.

From:	river@everyactioncustom.com on behalf of River Bean
To:	Sam Owen
Subject:	Free the Eklutna River
Date:	Saturday, February 17, 2024 10:47:22 AM

Dear Operators of the Eklutna Hydroelectric Project,

Please take out the dam at Eklutna Lake and restore it to what it used to be, a salmon run and natural beauty.

Sincerely,
River Bean
Palmer, AK 99645-8604
river@arcticorganics.com

From:	sjfleischman@everyactioncustom.com on behalf of STEVE FLEISCHMAN
To:	Sam Owen
Subject:	Free the Eklutna River
Date:	Saturday, February 17, 2024 11:19:27 AM

Dear Operators of the Eklutna Hydroelectric Project,

Thank you for the opportunity to comment on the draft Fish and Wildlife Plan proposed for the Eklutna River.

Unfortunately the proposed plan would continue to prohibit salmon from returning to the lake and upper tributaries to spawn. The plan would also fail to return the river to its historic flow levels, further impacting habitat and wildlife.

As an Anchorage resident and taxpayer that has recreated in the Eklutna watershed at least one hundred times in the past 35 years, I strongly urge you to heed the recommendations of the Native Village of Eklutna to remove the dam and fully restore the Eklutna River. Not only would removing the dam restore salmon to the river, it would avoid financially burdening utility ratepayers and MOA taxpayers with a short-term, insufficient plan. Instead, the dam removal costs could be covered by two nonprofit organizations who have agreed to pay for it.

You have the opportunity to be leaders in learning from historic mistakes of damming rivers, in restoring a wild salmon run, and in righting a historic wrong on the Eklutna River.

Sincerely,
STEVE FLEISCHMAN
Anchorage, AK 99501-4268
sjfleischman@ymail.com

From: Tony DeGange
To: Sam Owen
Subject: Eklutna Hydroelectric Preferred Alternative
Date: Saturday, February 17, 2024 12:37:06 PM

To the Operators of the Eklutna Hydroelectric Project:

I am resending my letter from yesterday that corrects a minor error.

This is a momentous opportunity to do something grand for natural resources conservation in the Anchorage area - restoration of what might have been the biggest salmon fishery in the entire Municipality. We owe it to the Native Village of Eklutna and to all the residents of the Municipality. Unfortunately, the preferred alternative of the Operators falls short. It is the least expensive option and has the smallest impact on current renewable power generation, but also produces the smallest gains in water flows and fish habitat. And because it relies on the AWWU portal it does not restore connectivity to the lake which means restoration of a modest sockeye salmon run will not occur. I could probably be talked into supporting an alternative that relies on the AWWU portal provided it was an interim solution that would eventually be eclipsed, in say 10 years, by a better alternative that restores full connectivity from the lake to the Inlet. An interim solution involving the portal would also provide additional time to bring other sources of renewable energy on line to replace that lost through reduced hydro generation especially in the winter. There are a number of other alternatives proposed by the Native Village of Eklutna, Trout Unlimited, The Conservation Fund, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service that do a far better job of improving fish habitat and restoring fish populations. Dam removal is also something that should be evaluated. The U.S. Fish and Wildlife Service said it well in their comments, "The Program should provide connectivity to the lake, release year-round flows to support salmon spawning and rearing habitats throughout the river corridor, and accommodate periodic high-volume flows for maintaining characteristics through a self-sustaining dynamic equilibrium between the hydrograph and natural sediment supply."

This is our opportunity to do something right, to right a wrong, and treat a neglected and abused river in a way that we can all be proud.

Sincerely,
Anthony R. DeGange
Chugiak, Alaska

From: Aurora Roth
To: Sam Owen
Subject: Comment on the Eklutna River Draft Fish and Wildlife Program
Date: Sunday, February 18, 2024 12:09:44 PM

To the Owners of The Eklutna Hydroelectric Project,

I am commenting on the Eklutna Hydroelectric Project's Draft Fish and Wildlife Program for the Eklutna River. The preferred restoration option of using existing AWWU infrastructure, leaving 1 mile of the river disconnected from the lake, and releasing only 3% of historic flows is insufficient and disappointing. The Native Village of Eklutna (NVE) has shared many times that their vision for the Eklutna River is to fully remove the dam. While this is the most expensive option for the owners and presents challenges, I believe that creative solutions can be found with the two year extension that the Anchorage Assembly has proposed. I urge the owners to support the dam removal option and work toward legal pathways to allow for two more years of study and planning to make this a reality.

As an earth scientist myself, I appreciate the years of study and work that have gone into developing the different restoration pathways in this process. I've also been following the updates and discussion at Chugach Electric Association board meetings for the last year. I believe the Eklutna Hydroelectric Project owners have been, in good faith, trying to find an acceptable restoration solution. However, the restoration of the Eklutna River and the Draft Plan, do not exist in isolation of other challenges on different timescales – from colonization and the destruction of the NVE's relationship to the river in the early 1900s, to the current gas crisis and need for renewable energy.

The importance of Eklutna to our renewable energy needs and the desire to keep energy costs low has been repeatedly stated by the owners, but how do we weigh this with the unprecedented opportunity to correct a historical injustice and center the needs of the Native Village of Eklutna? How do we assess the value of a thriving river with all five species of salmon to our communities against our energy costs? I know the owners have been grappling with these exact questions. The current timeline to provide a draft plan to the governor by April 2024 does not allow for an adequate resolution to these questions. Continuing to move forward with a plan that does not meet NVE's goals for the river is a missed opportunity.

The utilities have plans to adopt more renewable energy in the coming years (and doing so would lead to lower energy costs than continuing to rely 80% on gas). If larger renewable energy projects and associated storage for regulation are brought online, the argument of keeping the Eklutna dam and hydroelectric project for our renewable energy portfolio begins to dissipate. While I understand the 1991 Agreement may not necessarily legally require complete restoration and a return of the river to historic flows, it's about doing what's right and seeing this as an opportunity. The Native Village of Eklutna and conservation

organizations are ready to work toward creative solutions, to raise money to ease the financial burden to ratepayers, and to share a common goal with you, the project owners. The question is whether you choose to work toward what is right, despite the challenges, or hide behind legal language while knowing your current preferred option will result in dollars spent toward a solution that does not meet everyone's needs.

Thank you for the opportunity to comment.

Aurora Roth
rothaurora@gmail.com
1736 Aleutian St
Anchorage, Alaska 99508

--
Aurora Roth (she/her)
PhD Student - Climate, Oceans, and Atmosphere Program
Scripps Institution of Oceanography, UC San Diego
cell: 907.460.2193

Check out the tuition-FREE field science and outdoor education program that I'm involved in!
Inspiring Girls Expeditions (inspiringgirls.org)

From:	Austin Quinn-Davidson
To:	Sam Owen
Cc:	samc@chugachboard.com; sisic@chugachboard.com; rachelm@chugachboard.com; Susanne Fleek-Green; bettinac@chugachboard.com; markw@chugachboard.com; Jimn@chugachboard.com
Subject:	Comments on the Eklutna Draft Fish and Wildlife Program
Date:	Sunday, February 18, 2024 4:33:01 PM

Dear Ms. Owen and Chugach Board members,

I am writing to express my support for full restoration of the Eklutna River, consistent with the desires of the Native Village of Eklutna, multiple community organizations, and the majority of my neighbors and community members who have spoken up on the draft program to date. There are multiple reasons why the owners should pursue full restoration, i.e. removing the dam and restoring fish passage.

- As a rate payer and property tax payer, I am concerned about the cost of the AWWU portal option. We get essentially nothing for $57M. Dam removal would be cheaper and achieve full restoration of the river. As you are aware, two conservation groups have generously offered to pay for dam removal - and even graciously agreed to give you ten years to replace Eklutna hydro's energy generation, a mere 2-3% of Anchorage's energy. That's ten years on top of the 30 we've already been waiting for restoration of the river. The CEA letter shared with Anchorage Assembly members disingenuously compared this potential dam removal to the Klamath dam removal effort. Giving CEA staff and lawyers the benefit of the doubt, perhaps they are not aware that the Klamath effort entails removal of FOUR large dams on a much more complex river system spanning two states, with multiple invested parties and an adversarial history. My wife works for a Tribal organization engaging in this work. The Eklutna dam is not at all similar, and dam removal would be paid for a third party. This comparison was and is inaccurate.
- Dam removal honors Native values and historic and current uses of Dena'ina land and waters. The Native Village of Eklutna asked for evaluation of dam removal before the owners put forward their preferred alternative in the Draft; the owners didn't analyze it then, and still haven't. Refusal to do so is both disrespectful and financially reckless.
- Dam removal is better for fish and wildlife. I won't go into detail on why a natural, free flowing river is better for fish than a pipe, because that should be obvious.
- None of the parties except the utilities think the AWWU portal option is the best option. Please follow the advice of NVE, conservation groups, and the federal agencies engaged in this work.
- The 1991 Agreement envisioned that this process and the mitigation resulting from it should be as robust as would typically be required. The AWWU portal option and the process leading to it has not met this standard.

I have been interested in and watching this process for years, first as an elected official and now as a member of the community. As someone intimately familiar with public processes, I have honestly been shocked by yours. Having public meetings where the public can't speak? Not truly analyzing an option that a majority of folks, including the local Tribe, have requested? Signing a secret deal with AWWU before the public process theoretically begins? It is shameful.

I urge you to graciously admit your mistakes - it's not too late - and truly partner with NVE to move toward a program that restores the Eklutna river and the harms perpetuated for decades. If you need more time to do this, I suggest a delay to the program (which, by the way, despite

what CEA claimed in its letter, is not impossible - an agreement can be amended by the parties).

Thank you,

Austin Quinn-Davidson
Former Anchorage Acting Mayor, 2020-2021
Former Anchorage Assembly member, 2018-2023

February 18, 2024

To operators of the Eklutna Hydroelectric Project,

We were saddened to read what you proposed for returning water to revive the Eklutna River and its five species of salmon in draft Fish and Wildlife Plan. How can a non-contiguous flow of water from Eklutna Lake to the Inlet be considered an option? This plan does not meet your legal obligation to mitigate the project's impact to fish and wildlife. As we understand it, your proposal would still leave almost a mile between the lake and the "river" with no water flowing?? Also, the amount of water you suggest, (3 percent of the historic amount of water in the river) seems like a paltry amount for fish to survive. Steve and I don't see how anyone serious about really restoring this fishery could actually support this proposal. We feel that this is an attempt to deal with the problem without really coming up with a viable solution. Your recommended proposal will not restore the river's salmon runs and is unacceptable.

The Eklutna people and all Alaskans expect that this wrong be corrected. It is obvious to us that you need to remove the second Eklutna Dam to fully reconnect Eklutna Lake to the Inlet via Eklutna River. In addition, it is a no brainer for anyone who knows anything about salmon, that adequate, year-round flows of water from Eklutna Lake all the way to Cook Inlet are necessary for successful reintroduction of viable salmon runs. This should be the minimum requirement in your proposal for this wrong to be corrected.

We have lived in the Peter's Creek area since 1985, so we understand the need for the energy provided by the hydro power plant, but a viable proposal would address this issue and look at options for renewable energy that could replace this need. There have been huge improvements in our ability to harness energy in other ways including wind, geothermal, tidal options and certainly, in the summer, solar energy. Your proposal needs to look toward the future and suggest options that will actually bring the salmon back. As we understand it, there is a commitment from The Conservation Fund to orchestrate and fund removal of the second Eklutna Lake Dam. They already helped with the more expensive, bigger dam down river, so why not take advantage of this offer? It is at least a start toward moving to a permanent viable solution.

The Eklutna Hydroelectric Project deprives the Eklutna River of water and blocks salmon from migrating in and out of Eklutna Lake. Salmon populations will never recover without a reliable and consistent supply of water and access to important up-stream spawning and rearing areas. This is particularly true for sockeye salmon. If they can't access Eklutna Lake and its tributaries they cannot survive. All involved parties cannot meet their mitigation obligations without removing the second dam as a start to solving the problem, in my opinion.

The Native Village of Eklutna has been clearly wronged and a majority of Alaskans also feel that protecting and revitalizing all waterways that have, or once had, healthy salmon runs is very important. Locals and visitors alike are in favor of a proposal that will bring back the wild salmon species in healthy numbers to the Eklutna River, including Eklutna Lake and headwater tributaries.

Owners of the Hydoelectric Power Company and other involved parties need to make this right and not propose something that will cost a lot of money and still NOT FIX THE PROBLEM you are tasked with. Please invest in revitalizing the Eklutna River so that it is a viable habitat for the five species of salmon and right a wrong that has already taken too long to be resolved. This is something that you could take great pride in and show your support for the Native community that depended on the salmon, Alaskans, and our beautiful state's resources.

Sincerely,

Barbara A. Johnson Steve C. Johnson

From: candicekotykllc@everyactioncustom.com on behalf of Candice Kotyk
To: Sam Owen
Subject: Free the Eklutna River
Date: Monday, February 19, 2024 9:17:42 PM

Dear Operators of the Eklutna Hydroelectric Project,

Thank you for the opportunity of a public comment period on the draft Fish and Wildlife Plan proposed for the Eklutna River.

While I am not fully aware of our energy situation and all the details surrounding the future of our energy creation and consumption, I still strongly urge you to heed the recommendations of the Native Village of Eklutna to remove the dam and fully restore the Eklutna River. They feel strongly that removing the dam will restore the salmon to the river, and that the dam removal costs could be covered by two nonprofit organizations who have agreed to pay for it. I agree that at this point we should work to find other ways to create/harness energy, and make the choice that returns the river to it's natural state before the dams were built.

Damming rivers has rarely been the right choice for local people. There are many examples of this from around the world, throughout history. By restoring the wild salmon run, you would be righting a historic wrong on the Eklutna River.

Sincerely,
Candice Kotyk

Sincerely,
Candice Kotyk
Anchorage, AK 99516-2865
candicekotykllc@gmail.com

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Deborah A Kearney
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Sunday, February 18, 2024 11:26:44 AM

To the operators of the Eklutna Hydroelectric Project,
I am writing regarding the Eklutna River and your draft Fish and Wildlife Plan. As I read it, your proposed plan does not meet your obligations to the Eklutna Peoples, including the restoration of an accessible salmon run. It is an inadequate plan that leaves a mile of the river dry and releases only a small fraction of the past flow of the river. It is an inadequate plan that does not provide fish passage into the lake and upstream habitat.
The best plan would be to remove the Eklutna Dam and fully return the water flows that support the salmon and other river fisheries. The Native Village of Eklutna wants the river restored. Many Alaskans and those watching this unfold from outside Alaska support the removal of the dam and the restoration of the river. The salmon need a consistent supply of water and access to spawning areas in order to recover.
I see you are proposing the removal of the dam a decade from now, but that may be too late. I support removing it sooner.
Thank you for your consideration.

From: Janice Banta
To: Sam Owen
Subject: Public Comments on Power Companies Draft Eklutna River Fish and Wildlife Plan
Date: Sunday, February 18, 2024 5:33:33 PM

Thank you for the opportunity to comment on the draft Fish and Wildlife Plan proposed for the Eklutna River.

I request the power companies (MEA, CEA and MOA) adopt the community alternative for restoring the Eklutna River based on the following factors:

Restoration of culturally and biologically significant salmon runs:
Adopt the "community alternative" of dam removal to bring back a once-thriving salmon river to its historic capacity, thus providing restoration of culturally significant salmon resources to the Eklutna Tribe and access to large multi-species salmon runs to residents of Southcentral Alaska. Only restoration of significant in-stream flow from mouth to headwaters will fulfill the requirements of the 1991 agreement. Anything that does not do so leaves the power companies liable for not meeting the agreement requirements and open to legal action for not doing so.

Zero effects on the electricity in South Central Alaska:
Eklutna hydroelectric currently is a source of only 2.2% of the Railbelt's energy capacity. The community alternative, which calls for the removal of the dam, would take place within the next decade, and only when replacement renewable energy is expected to be available. It is shameful that the power companies never evaluated dam removal despite being requested to multiple times and then used their own hand picked consultant to deliver one-sided information to support the abrogation of their duty under the 1991 agreement. It is significant that the hydro project remains still operational even with the dam removed!

Zero effects on drinking water:
The water intake is located low in the lake and if the dam were to be removed, the lake would return to natural levels and leave the water intake (as well as the hydro intake) unaffected.

Power companies' proposal puts increased costs on the backs of ratepayers and abrogates their fiduciary responsibilities:
The proposal in the draft plan from the hydroelectric project owners would cost ratepayers and taxpayers an estimated $57 million, while the community alternative replaces the Eklutna hydro capacity and removes the dam at no cost. This power company plan predicts rate increases of .65% for CEA ratepayers, .87% MEA ratepayers, and $0.54 annually for Anchorage taxpayers. And, this does not include any consideration of legal costs once a poor decision heads to court.

Summary:
The deeply flawed power company proposal generated by a one-sided, poorly run technical review process along with the refusal to incorporate community input during the "working group" process also leaves a mile of the river dry, which prevents salmon returning to the lake

and upper tributaries. In contrast, the removal of the dam (community alternative) would be paid for by two non-profit organizations that have agreed to cover the costs. Why are the power companies ignoring a cheaper and more community-oriented proposal and instead pushing blindly ahead with an ill-considered option that puts additional costs on the backs of rate payers? This is truly headed to court and throwing away ratepayers money beyond even the $57M initial cost. Furthermore, it is unconscionable that the power companies are choosing to not honor the Municipal Assembly request to wait two years for making this significant decision, especially when the Assembly's interests have not been included or even represented during this terribly flawed review process.

Closing:
I strongly urge you to heed the recommendations of the Native Village of Eklutna to remove the dam and fully restore the Eklutna River. Not only would removing the dam restore salmon to the river, it will avoid financially burdening utility ratepayers and MOA taxpayers with a short-term, insufficient plan. Instead, the dam removal costs could be covered by two nonprofit organizations who have agreed to pay for it.

You have the opportunity to be leaders - learning from historic mistakes of damming rivers, by restoring a wild salmon run, and in righting a historic wrong on the Eklutna River all while making the appropriate fiduciary decision for rate payers.

Sincerely, Joe Banta

Eklutna Dam Issue	Community Proposal	Power Company Proposal
COST	Zero cost to ratepayers	$57M on backs of ratepayers and headed to litigation
DAM REMOVAL	Yes	No
DRINKING WATER	No effect	No effect
SALMON RUN RESTORATION	Yes	No
CULTERALLY RESPONSIVE	Yes	No
PROPOSAL DEVELOPMENT	Consensus based	One sided and technically flawed

From: Andrea James
To: Sam Owen
Subject: Draft Fish and Wildlife Program
Date: Monday, February 19, 2024 9:31:02 PM

To whom it may concern:

Since the Eklutna Hydroelectric Project became operational in 1955, it has caused the Eklutna River to run dry. The amount of power being produced by the hydro-dam is not sufficient to warrant leaving the Eklutna River disconnected from Eklutna Lake. The salmon migration has been blocked for long enough. The Native Village of Eklutna's alternative plan to remove the dam would allow for the recovery of Chinook, sockeye, and coho salmon, by re-connecting the river to the lake.

Tsin'aen (thank you),

Andrea James

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From:	agrappoport@everyactioncustom.com on behalf of Ann Rappoport
To:	Sam Owen
Subject:	Comment on the Eklutna River Draft Fish and Wildlife Program
Date:	Monday, February 19, 2024 2:58:27 PM

Dear Owners of The Eklutna Hydroelectric Project,

It's time to remove the Eklutna Dam and work to restore precious salmon runs all the way up the Eklutna River, including into the lake! This will mitigate the 73-year impact of the dam and fulfill the 1993 Mitigation Agreement that was signed by all involved parties. Dam removal will restore salmon that have been important to the subsistence and culture of the Eklutna people who live in the area.

I recognize that the power from the dam - only a fraction of what Anchorage uses each year - may seem more important as a clean energy option as our gas supplies are drying up over the next several years. But a smart alternative has been proposed that will protect the energy provided by the dam while it is most needed, and will also allow the restoration of this important subsistence, cultural, and ecological resource.

That option is the one that has been carefully studied and is supported by not only the federal agencies with responsibility for the fish and associated natural resources of the Eklutna area (U.S. Fish & Wildlife Service, National Marine Fisheries Service), but also the Eklutna tribe that has subsisted here for generations, and conservation groups such as the The Conservation Fund and Trout Unlimited.

I urge you to accept and implement this option, which is to remove the dam in 10 years. This will provide enough time for planned renewable energy projects to come online. Moreover, two groups have come forward to generously cover the full cost of dam removal, so that Anchorage ratepayers will not be burdened. We owe a tremendous debt of gratitude to the Conservation Fund and Trout Unlimited for providing these funds This will save ratepayers money and restore an environmental gem to Anchorage. Most importantly, it’s the right thing to do.

By the way, I am not new to this discussion, or the science behind the proposal. I was the Field Supervisor for the Anchorage Fish and Wildlife Field Office in the 1990s and 2000s when the mitigation plan for the Eklutna River was first being developed. Back then we worked with all the involved groups, including the Conservation Fund, the Eklutna Tribe, and the Municipality to determine how to best restore the salmon and the river so that all would benefit. It's time to put this best option of dam removal in place!

Sincerely,
Ann Rappoport
17053 Aries Ct Anchorage, AK 99516-5316
agrappoport@gmail.com

From: Brandon Hill
To: Sam Owen
Subject: Eklutna Public Comment
Date: Monday, February 19, 2024 6:17:24 PM

Note: For public record I am submitting the following letter on behalf of Native Movement. It was signed by 118 individuals across Alaska and the country in support of the Community Alternative put forth by the Native Village of Eklutna. The spreadsheet with their names and contact information is also shared below. Thank you ~ (this e-mail was also submitted via brandon@nativemovement.org but our domain is down today)

To Whom It May Concern,

Thank you for the opportunity to comment on the Eklutna Hydroelectric Project. Native Movement is a statewide non-profit organization dedicated to building people power, rooted in an Indigenized worldview, toward healthy, sustainable, and just communities for all.

The Eklutna Dena'ina peoples have relied on and carefully stewarded the Eklutna River's rich salmon runs since time immemorial. The proposed Eklutna Hydro Plan is inadequate to protect salmon and the Eklutna Dena'ina peoples. We therefore support the Community Alternative put forth by the Native Village of Eklutna. This alternative respects the Native Village of Eklutna's stewardship and addresses decades of cultural and environmental neglect. It would restore the natural flow of the Eklutna River and its salmon habitat, allowing the salmon to return to their spawning grounds. It would also save ratepayers money and allow for the transition to new renewable energy projects. To learn more, check out these FAQs compiled by the Eklutna River Restoration Coalition.

Additionally, Native Movement supports the Anchorage Assembly's resolution AR 2024-40 that passed unanimously and seeks a two-year extension of the 1991 agreement. This extension would provide an opportunity for more meaningful consultation between the Native Village of Eklutna and the project owners (Chugach Electric Association, Matanuska Electric Association, and the Municipality of Anchorage).

We stand with the Native Village of Eklutna in demanding a long-term solution that restores the Eklutna River to its natural condition.

Signed,

Last	First	Home Phone	Address	City	State/Province	Zip/Postal	CountryCode	CountryName
Sorge	Sven		35 BARSTR	Berlin	DE	10713	US	United States
Apok	Charlene		9205 Commons Pl	Anchorage	AK	99502	US	United States
Hayden	Jaime		310 Broadway Ave N	New Richland	MN	56072	US	United States
Smith	Esther		1326 Medfra St	Anchorage	AK	99501	US	United States
Markham	Claudia	9074796122	1446 Grenac Rd	Fairbanks	AK	99709	US	United States
Urquia	Morgan	8043639396	5805 N Farm Loop	Palmer	AK	99645	US	United States
Mouw	Rika	9072357455	PO Box 4084	Homer	AK	99603	US	United States
CLAUS	SANTA	9073883836	PO Box 55122	North Pole	AK	99705	US	United States
Pizzuto	Vanessa		14279 Caminito Lazanja	San Diego	CA	92127	US	United States
Kramer	Emma		PO Box 1138	Girdwood	AK	99587	US	United States
Cronick	Sarah		1030 P St	Anchorage	AK	99501	US	United States
Long	Karol	4062409303	12912 E 12th Ave	Spokane Valley	WA	99216	US	United States
Watts	David	3236338153	1786 Caribou Way	Fairbanks	AK	99709	US	United States
Lieght	Ptery		812 W 29th Pl Apt 16	Anchorage	AK	99503	US	United States
Greene	Jay	9075180534	7304 Linden Dr	Anchorage	AK	99502	US	United States
Willean	Kirstie	9073621229	PO Box 2303	Seward	AK	99664	US	United States
Noblin	Barbara	5129651529	6327 Taylorcrest Dr	Austin	TX	78749	US	United States
Parlato	Nicholas	9073780910	1645 Old Pioneer Way	Fairbanks	AK	99709	US	United States
Kasza	Carol		PO Box 73452	Fairbanks	AK	99707	US	United States
Halloran	Maddie	9079529774	1337 Valarian St	Anchorage	AK	99508	US	United States
Bean	William	9072052361		Anchorage	AK	99504	US	United States
McClellan	Katie		321 Noyes St	Fairbanks	AK	99701	US	United States
Keiner	Alexis Roberts		2001 Churchill Dr	Anchorage	AK	99517	US	United States
			380 E 11th Ave					

Larson	Danna	9075387313	Unit 228	Anchorage	AK	99501	US	United States
Heath	Susan		2552 Mount Vernon St SE	Albany	OR	97322	US	United States
Williams	Sean		231 E Eagle Ave	Palmer	AK	99645	US	United States
Ebbesson	Barbara		3165 Anella Ave	Fairbanks	AK	99709	US	United States
Kun	Shoshana	9075908313	326 Wedgewood Dr Apt E27	Fairbanks	AK	99701	US	United States
Furman	Sarah		PO Box 6	Ester	AK	99725	US	United States
Francis	Teal	5416395464	1740 Reed Cir	Fairbanks	AK	99709	US	United States
Cameron	Casie		2599 18th Ave	Fairbanks	AK	99709	US	United States
Stokes	Jas		PO Box 82138	Fairbanks	AK	99708	US	United States
Stone	Shoshanah	9073606302	2425 Marian Bay Cir	Anchorage	AK	99515	US	United States
Koivisto	Ellen		1556 Great Hwy	San Francisco	CA	94122	US	United States
Cusimano	Lauren	6027430970	1664 Juneau Dr Apt A	Anchorage	AK	99501	US	United States
Nieland	Thomas	2103998338	415 Oakwood Dr	Alamo	TX	78516	US	United States
Meath	Tristyn	9077124762	3410 Eide St Apt 3	Anchorage	AK	99503	US	United States
Bare Grounds	Orion		775 Post St	San Francisco	CA	94109	US	United States
Ryan	Sandra		1407 W 47th Ave Apt 1	Anchorage	AK	99503	US	United States
Genet	Staci		PO Box 296	Talkeetna	AK	99676	US	United States
Plymire	Jim			Homer	AK	99603	US	United States
Hobbs	Lila		2220 N Star St Apt 3	Anchorage	AK	99503	US	United States
Privitera	Nora		3242 Kansas St	Oakland	CA	94602	US	United States
powers	korbyn			Sitkas	AK	99835	US	United States
Mireault	Kathleen		116 E Howard St Apt 221	Quincy	MA	2169	US	United States
Reynolds	Lisa-May	8435251328	26 Honeysuckle Ln	Beaufort	SC	29907	US	United States
Cowen	Anna		19308 Leland Rd	Oregon City	OR	97045	US	United States
piper	janna	5037566822	PO Box 15072	Portland	OR	97293	US	United States
Lapointe	Kenneth		2781 Mozart St	Los Angeles	CA	90031	US	United States
Apone	James	9072581778	PO Box 242213	Anchorage	AK	99524	US	United States
Nieland	Carolyn	2103998338	415 Oakwood Dr	Alamo	TX	78516	US	United States
Willsrud	Susan	9079786900	4780 Old Nenana Hwy	Fairbanks	AK	99709	US	United States
Downey	Deirdre		328 Gold St	Juneau	AK	99801	US	United States
Rivers	Jerry	5166704461	8 Gombert Pl	Roosevelt	NY	11575	US	United States
Kairaiuak	Tava		5246 17th Ave NE	Seattle	WA	98105	US	United States
Carroll	Donna	9074446110	9131 Centennial Cir Apt 201A	Anchorage	AK	99504	US	United States
Plauche	Alaina		1332 Virginia Ct Unit A	Anchorage	AK	99501	US	United States
Bradley	Ellen	4253688916	610 Laurel Dr	Everett	WA	98201	US	United States
ODonnell	Dorothy		4105 Murphy Dome Rd	Fairbanks	AK	99709	US	United States
Cantu	Autumn	9077994487	436 Spence Ave	Fairbanks	AK	99701	US	United States
Stockwell-White	Mary	9077991608	465 W Redoubt Ave	Soldotna	AK	99669	US	United States
Rogers	Julia		2427 Sprucewood St	Anchorage	AK	99508	US	United States
Rukovishnikoff	Faith	9073178716	710 N Yakima St	Wasilla	AK	99654	US	United States
Valentine	Dyana	3106636630	849 11th St Apt 207	Santa Monica	CA	90403	US	United States
Zhao	Jean		1189 Garfield Ave	San Jose	CA	95125	US	United States

Maugherman	Kelly		7623 Old Hickory Ct	Indianapolis	IN	46259	US	United States
Hanson	Kayci		62065 Oil Well Rd	Ninilchik	AK	99639	US	United States
Gluza	Devon		111 Caroline St Apt 301	Homestead	PA	15120	US	United States
Armand	Daniel	6265519385	26179 SW CANYON CREEK Rd	Wilsonville	OR	97070	US	United States
Rey	John	9095725141	675 Cameo Dr	Colton	CA	92324	US	United States
ramirez	nataly		709 W Ruiseñor Ave	Pharr	TX	78577	US	United States
Torres	Maria	6692381175	2352 W Turney Ave	Phoenix	AZ	85015	US	United States
arin	hannah		4780 W Ann Rd Ste Pm 5	North Las Vegas	NV	89031	US	United States
Joyce	Scott		2029 Sunrise Dr	Anchorage	AK	99508	US	United States
Lakshas	Kylan		3852 Dan Dr	Morristown	TN	37814	US	United States
Springer	Alissa		HC 72 Box 822	Tok	AK	99780	US	United States
Biskup	Toni		7601 Our Own Ln	Anchorage	AK	99516	US	United States
Fontaine-McHendry	RJ			Anchorage	AK	99515	US	United States
Eckel	Teresa			Wasilla	AK	99623	US	United States
Cronick	Sarah		1030 P St	Anchorage	AK	99501	US	United States
Burgess	Natalia	5708782992		Clarks Summit	PA	18411	US	United States
Hale	Tia		17546 Meadow Creek Dr	Eagle River	AK	99577	US	United States
Laurson	Kellie			Talkeetna	AK	99676	US	United States
Ticknor	Tatiana		5310 Larkspur St	Anchorage	AK	99507	US	United States
Wilson	Jenice			San Francisco	CA	94117	US	United States
Morisano	Dominique		37 Mohawk Dr	Collinsville	CT	6019	US	United States
Webber	Storme		PO Box 12924	Seattle	WA	98111	US	United States
Romero	Jasmine		10 Olean Ave	Jersey City	NJ	7304	US	United States
Menka	Nazune			Anchorage	AK	99507	US	United States
russell	W			La Grange	IL	60525	US	United States
Crichton	Savannah		2220 N Star St	Anchorage	AK	99503	US	United States
Snyder	Tom							

Chickaloon Village Traditional Council
(Nay'dini'aa Na' Kayax)

Chief Gary Harrison, *Chairman/Elder*

Philip Ling, *Vice-Chair*

Cheryl Sherman, *Secretary*

Doug Wade, *Treasurer/Elder*

Emily Ling, *Member*

Lisa Wade, *Executive Director*

Serena Martino, *Executive Assistant*

VIA EMAIL/MAIL

February 19, 2024

Samantha Owen
Senior Regulatory Consultant
McMillen Inc.
2607 Western Ave, Unit 360
Seattle, WA 98121
info@eklutnahyro.com

Re: Comments in Support of Eklutna Salmon and a Free-Flowing Eklutna River

To Whom it May Concern,

Chickaloon Native Village (CNV) is a federally recognized Ahtna Dene Tribe in southcentral Alaska, governed by Chickaloon Village Traditional Council (CVTC). CNV's ancestral territory and traditional area of influence include trading trails that span from the Beaufort Sea to the Copper River Delta. This territory also encompasses much of southcentral Alaska, Upper Cook Inlet, the Copper River Region, the Alaska Range, the Matanuska River watershed, and the Susitna River watershed. We acknowledge that this region overlaps neighboring Dene and other Tribal traditional customary use areas, including those of the Native Village of Eklutna. Actions that occur within Dene traditional ancestral territory and customary area of use (as noted above) may impact the environment, Dene cultural resources, and the health of Tribal citizens and community members.

CVTC fully supports the Native Village of Eklutna's vision for Eklutna Watershed:

- The Eklutna River running freely, continuously, and naturally from its glacial headwaters through its dramatic canyon and its productive estuary to the marine waters of Cook Inlet.
- All five species of Pacific salmon (King, sockeye, silver, pink & chum) again swimming freely from Knik Arm through the entire length of the Eklutna River to their spawning grounds at Eklutna Lake.
- An abundant salmon fishery that supports the Eklutna Dena'ina and the people of Southcentral Alaska.
- Eklutna Lake, centerpiece of Chugach State Park, full to its natural lake level to support sockeye salmon shore spawning and human-powered recreation.
- An Eklutna River that rebalances the needs of fish, the Eklutna Dena'ina, drinking water for Anchorage, and low-carbon power production.

CVTC fully supports the comments and position of the Native Village of Eklutna (NVE) as presented in their December 4, 2023 comments on the Chugach Electric Association, Matanuska Electric Association, and Municipality of Anchorage ("Project Owners")'s Eklutna Hydroelectric Project Draft Fish and Wildlife Program ("Draft Program"). NVE's

letter clearly presents the biased inadequacies of the Draft Program and CVTC agrees fully with NVE. The Draft Program fails to meet the fundamental purpose of the 1991 Eklutna Fish and Wildlife Agreement.

From page 4 of NVE's December 4, 2023 comments:
NVE's alternative of dam removal within ten years will provide fish passage upstream and downstream to and from the lake and upper tributaries and return the river's natural flow regime that salmon co-evolved to depend upon, restoring the entire river and lake ecosystem. This proposal aligns closely with National Marine Fisheries Service ("NMFS"), US Fish and Wildlife Service ("USFWS"), and other Technical Working Group ("TWG") member's study period preferred alternatives with fish passage to and from the lake and flows that closely mimic the river's historic natural flow regime. The Conservation Fund has pledged to pay all the costs of removing the Eklutna Lake dam.

From page 12 of NVE's December 4, 2023 comments:
The preferred alternative [of the Project Owners] continues to create a dead-end river, with over a mile of dry streambed below the dam. Creating a dead-end river hardly mitigates the damages caused to fish and wildlife from the Project because it prevents connectivity between Knik Arm, the lower Eklutna River, the lake, and the upper tributaries. The preferred alternative cannot mitigate damages to sockeye in any way because it will continue to prevent nearly all anadromous sockeye from spawning in the Eklutna River system. Because the destruction of the sockeye run was the "specific concern" leading to the Agreement, a Program that continues to prevent almost all sockeye from spawning is impermissible. The preferred alternative permits less than 10% of the river to flow down its historic channel to the Knik Arm, the smallest amount of any proposed alternative.

CVTC staff have taken the time to review the Eklutna Fish and Wildlife Program draft, the Cultural Resources Report, and Native Village of Eklutna's (NVE) comments dated December 4, 2023. CVTC fully supports NVE's response to the Draft Program including NVE's Traditional Ecological Knowledge (TEK) that has been ignored throughout the report. CVTC will remind the "Project Owners" that the Indigenous peoples of Alaska are the Original People of the land and understand its ecosystems far longer than Euro-Americans and colonists that have moved in over the last 150 years into the immediate area.

The following concerns regarding the Cultural Resources Report as follows:

- 2.1 Indigenous Occupation: "The United States purchased Alaska from the Russian Empire in 1867." This is technically not correct, by the Doctrine of Discovery and international laws on conquering nations, Russia technically only owned two forts on two different islands within Alaska, they never completely conquered Alaska or all its Indigenous Peoples.
- 5.1 Eklutna Lake Shoreline Survey – report mentions shovel tests were excavated along the lake shore but did not specify the screen mesh size. Was it 1/8" or ¼"?
- Earliest cultural resources investigations noted in the report are 1983 to 1984, 40 years ago while the Eklutna river and lake had been disturbed with construction in the 1920s with no mention of archaeological survey. The report mentions considerable disturbance and bulldozing throughout construction, land clearing, and redirection of flow. It is likely considerable cultural resources were lost during this time and SOI-Q Archaeological and Tribal monitors should be present for all ground disturbance.

Lastly, the Draft Program assumes that all costs associated with dam modifications and restoration will be borne by the rate payers. This is unnecessary and highly unlikely, especially if there is extensive restoration for fish and wildlife habitats. The Conservation Fund has already (and repeatedly) agreed to fund removal of the Eklutna Lake dam and there are numerous federal grant funding sources available for fish habitat restoration activities. This funding information should be shared publicly and with the governor for more accurate understanding of the costs of the alternatives. CVTC appreciates the opportunity to comment on this biologically and culturally very important project and urges all decision-makers to restore fish passage to Eklutna Lake and the entire Eklutna Watershed.

May Nek'eltaeni (Creator) Guide our Footsteps,

Chief Gary Harrison (Feb 19, 2024 20:39 AKST)

Chief Gary Harrison
Chairman

PO BOX 1105 Chickaloon, Alaska 99674 **Phone (907) 745-0749 Fax (907) 745-0709**
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2024.02.19 CVTC Comment on Eklutna Dam

Final Audit Report 2024-02-20

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From: Christine Wilcox
To: Sam Owen
Subject: Eklutna dam
Date: Monday, February 19, 2024 1:32:20 PM

I am deeply concerned about Eklutna dam project. I support the removal of the dam in 10 years to allow for renewable sources to come online to replace the dam. For the health of the community and the waterway, this is the healthier and cost effective solution.

Christine Wilcox
10001 Hampton Circle
Anchorage, AK 99507

Cook Inletkeeper
3734 Ben Walters Lane
Homer, Alaska 99603

p. 907.235.4068
f. 907.235.4069
www.inletkeeper.org

February 19, 2024

Sent via email

Eklutna Hydro Program Development Team
2607 Western Ave, Unit 360
Seattle, WA 98121

RE: Public comment on the draft Fish and Wildlife Plan

To the Eklutna Hydro Program Development Team:

Cook Inletkeeper is a community-based nonprofit organization formed by concerned Alaskans in 1995 to protect the Cook Inlet watershed and the life it sustains. Please accept these comments on the Eklutna draft Fish and Wildlife Plan on behalf of our organization and its more than 6,000 members and supporters throughout southcentral Alaska. Our concerns in this matter center on people and environmental justice, wild salmon and their habitat, and the critically endangered Cook Inlet beluga whale and its potential for recovery.

We support the people of the Native Village of Eklutna and their desire for wild salmon to thrive once again in the Eklutna River watershed providing for cultural practices and food sovereignty.

The 1991 Purchase Agreement allowed the Eklutna Project Owners to side-step the federal licensing process by FERC, thus official government-to-government consultation with Federally Recognized Tribes was not conducted thirty years ago, or likely any time before that. This injustice must be rectified. The people, who stewarded these lands and waters for thousands of years, must be respected as the priority stakeholders and their wishes and knowledge considered above all others in the selection of a final alternative.

We support removal of the Eklutna Lake Dam because it is the only alternative to meet the purpose of the Purchase Agreement.

The Purchase Agreement requires that the utilities work with key federal agencies to develop a Fish and Wildlife Plan with the purpose of developing and implementing measures to "protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat)." We agree with comments submitted by one of the key federal agencies - the U.S. Fish and Wildlife Service - which states that the draft plan does not meet the intent of the purchase

agreement because it does not address fish passage:

> "The Program should provide connectivity to the lake, release year-round instream flows sufficient to support salmon spawning and rearing habitats throughout the river corridor, and accommodate periodic high-volume flows that maintain habitat characteristics through a self-sustaining dynamic equilibrium between the hydrograph and natural sediment supply." (p. 3, U.S. Fish and Wildlife Service comments)

The inadequacy of the "Selected Alternative – Portal Release Facility" to achieve the intent of the Purchase Agreement should make it a nonresponsive option for the Fish and Wildlife Plan.

In addition to widely-shared concerns about the Selected Alternative providing inadequate stream flows to support downstream habitat, Inletkeeper rejects that three (3) years of winter temperature monitoring is adequate to assess thermal suitability of salmon habitat. With our rapidly changing climate and documented warming freshwater conditions in Cook Inlet salmon streams (Mauger et al. 2017), year-round monitoring is needed for a bare minimum of five (5) years.

We support removal of the Eklutna Lake Dam to create more foraging opportunities for beluga whales in their critical habitat in upper Cook Inlet.

The majority of the Cook Inlet beluga whale population forages at the mouth of the Eklutna River during the summer. Despite the obvious omission of the impact restored Eklutna salmon runs would have on potential recovery of this critically-endangered species, Inletkeeper requests that this analysis be completed and considered before a final alternative is selected.

We'd like to highlight comments submitted by one of the key federal agencies – NOAA and its National Marine Fisheries Services – regarding the link between beluga recovery and an increase in Eklutna salmon:

> Listed as endangered in 2008, the Cook Inlet beluga has experienced continued population decline and range retraction, with the entire population now occurring primarily in the upper and middle Inlet. Pacific salmon are a key prey item for Cook Inlet belugas, and the geographic distribution of the whales is strongly influenced by seasonal fish runs. Knik Arm, into which the Eklutna River flows, is important Cook Inlet beluga whale foraging habitat. In addition, Knik Arm, including the mouth of the Eklutna River, is designated critical habitat for the population. … Improving fish passage and habitat connectivity, as we recommend here, is anticipated to have beneficial effects to both the Cook Inlet beluga whale and its critical habitat and will support recovery of the population. (p. 6, NMFS comments)

Conclusion

Inletkeeper wholeheartedly supports renewable energy solutions to our climate and local energy crisis. By removing the Eklutna Lake Dam, the Railbelt will lose 3-4% of its generation capacity; however, this loss can be easily made up by renewable energy project coming online in the near future. We believe the Community Supported Alternative is the solution that is a win for people, a win for salmon, and a win for belugas. We support removing the Eklutna Lake Dam in the next 10 years with great investment by the conservation community and restoring the Eklutna River and its wild salmon populations to benefit the Native Village of Eklutna and all the Alaskans who recreate and enjoy the area.

Thank you for considering these comments,

Sue Mauger
Science Director
sue@inletkeeper.org

16515 Centerfield Dr, Ste 201
Eagle River, AK 99577
Phone: 907-696-2828
www.eklutnainc.com

February 19, 2024

Ms. Samantha Owens
McMillen Corp.
2607 Western Ave, Unit 360
Seattle, WA 98121

Re: Public Comment on Eklutna River Fish & Wildlife Program

Dear Eklutna Hydro Project Owners,

The Eklutna, Inc. Board of Directors respectfully submits these comments in response to the draft Eklutna River Fish and Wildlife Program (Program) released October 27, 2023.

I. Introduction

Eklutna, Inc. is an Alaska Native village corporation managing the land and interests of Eklutna shareholders. It is well-known Eklutna, Inc. is the largest private landowner in Anchorage, but Eklutna should also be recognized as one of Anchorage's largest philanthropic organizations. Eklutna, Inc. has endlessly contributed its most precious resources to the development of Anchorage – willingly or not.. At first, the flow of the Eklutna River was dammed in 1928, severing the water and salmon from our people. Then, in 1936, a federally-withdrawn reservation of 328,000 acres was withdrawn for the benefit of Eklutna but was eventually reduced by the US Government to a mere 1,900 acres by the 1950s. Part of these remaining lands housed the Eklutna Vocational School, where Eklutna and other tribes' children were made to assimilate to western culture and forced to cede our cultures. Shortly after the school was closed, the US Army began creating one of Alaska's most heavily contaminated sites at Camp Mohawk inside the Eklutna Village. Around the time the US Army left Eklutna, the Alaska Railroad started mining the granite knobs from which the name 'Eklutna' was derived. These acts perpetrated upon Eklutna are difficult to comprehend now.

Our lands provide many painful reminders of what our people have given to Anchorage's development. However, Eklutna, Inc. has continued to contribute to the growth of Anchorage. Utility lines and roads etched through our land. More than a thousand units of housing built on our lands. Land provided for school sites, airports, municipal purposes, parks, and public safety. Eklutna has long been deeply invested in the prosperity of Anchorage and Alaska as a whole. And now, as one of the state's largest land developers, we recognize the critical intersection between environmental stewardship and economic development. The restoration of the Eklutna River is more than a conservation effort; it is a strategic investment that will protect salmon habitat, boost tourism, elevate recreational activities, and increase property values.

Eklutna, Inc. and its partners took the first step in restoring the Eklutna River by taking down the lower river dam. Now, we urge the Project Owners (Chugach Electric Association, Matanuska Electric Association, and the Municipality), but also the entire Anchorage community, to collaborate in enhancing the draft Program to restore the remainder of the Eklutna River. By doing so, we will shape Anchorage into a city that offers a high quality of life, with the Eklutna River serving as a natural, cultural, and economic centerpiece of the city. Simply put, the AWWU Portal option[1] forwarded by the Project Owners does not achieve those goals for the Eklutna River.

II. NALA, ANSCA, and the Eklutna River

We urge a more thorough examination of the economic impact on landowners, such as our corporation, due to the devaluation of landholdings. Eklutna, Inc. owns nearly all the land on either side of the Eklutna River and around Eklutna Lake. Additionally, the State of Alaska's Public Access Assertion and Defense unit has deemed Eklutna, Inc. as the owner of the riverbed of the Eklutna River. By this assertion, the Eklutna Dam is sitting upon Eklutna, Inc. land. We would then pose the question of whether the Eklutna Dam, on Eklutna, Inc. property, is in trespass. There should be consideration of the legal ramifications of Eklutna, Inc.'s ownership of the riverbed. There is also a need for the Program to account for riparian zone rights with the consideration of the effective regulatory taking of the Eklutna, Inc. land, suppression of economic opportunities on these lands, and the continued destruction of public and subsistence resources. These are "other considerations under State law" that are important to the analysis.

On a related topic, the North Anchorage Land Agreement (NALA), as interpreted by the State of Alaska, prohibits development of Eklutna lands within the Chugach State Park. This prohibition has been in place for over 40 years. NALA is rooted in the conflicts between the Municipality, State of Alaska, and Alaska Railroad as Alaska Native Claims Settlement Act (ANCSA) selections were made. ANCSA lands were selected based on cultural and subsistence values and areas of potential economic value - a vehicle for economic development leading to opportunities and benefits for the shareholders of Eklutna. NALA freezes nearly 40,000 acres of Eklutna, Inc. lands within Chugach State Park from any economic or occupational benefits due to park management restrictions. The combination of NALA lands, lands bordering the Eklutna River, and a dry river bed results in the decimation of economic value for over half of the Eklutna, Inc.'s ANCSA land conveyances with severely diminished subsistence and cultural value. These agreements, where promises to the Eklutna people are broken or where we were not even considered a party, continue to stunt economic growth for Eklutna, Inc. and Municipality. Meanwhile, various public and quasi-public entities have generated hundreds of millions of dollars in revenue from the resources on the lands for the last 30 years.

III. Preserving Indigenous History and Rights

[1] The AWWU Portal is also referred to as the Eklutna River Release Facility option in the Program. This option proposes to draw water from Eklutna Lake to spill 27 to 40 cubic feet per second at river mile 11 through an AWWU facility. This leaves one mile of the Eklutna River dry from the release facility to the Eklutna Dam, thus not connecting Eklutna Lake to the river system.

The historical presence of Eklutna around the Eklutna Lake and subsistence issues must be acknowledged and integrated into the decision-making process. In most documents evaluating project alternatives, the original condition of the environment is considered. We suggest including a detailed accounting of the Eklutna River before the 1928 hydroelectric power project, rooted in tribal ecological knowledge from the records of the Native Village of Eklutna and other available sources. The public deserves to understand better what may be gained through connecting the Eklutna Lake to the Cook Inlet. Currently, the Program advances selective studies dispelling the existence and viability of sockeye in the Eklutna Lake. A fair and balanced document would include the narrative of pre-1928 Eklutna River conditions.

Protection of Native hunting, fishing, and gathering rights is a part of Alaska law and federal law. There was no discussion of subsistence rights and resources in the study. This analysis would be included in a Federal Energy Regulatory Commission re-licensing process. We believe the public would expect a detailed description of subsistence resources along the Eklutna River. Rather than discuss Eklutna River public and subsistence resources, the Program inexplicably assesses the recreational impacts on an artificial fishery – Eklutna Tailrace. Please explain the obligation to mitigate an artificial fishery likely created to substitute for the destruction of the prominent Eklutna River salmon runs less than 10 miles away. We do not understand why that impact is worth considering while the value of subsistence fishing and legal obligations to protect these rights is essentially ignored. Another requirement under State law mostly ignored in the Program.

IV. Energy Considerations

Eklutna, Inc. is situated within the service areas of Matanuska Electric Association (MEA) and Chugach Electric Association (Chugach). Eklutna, Inc. is currently exploring alternative energy projects with both utilities that would augment energy generation from alternative/renewable energy sources. We believe it is worth exploring an option where the Eklutna Dam is removed once adequate renewable energy sources are commissioned to replace the production from the Eklutna Project. With the expansion of the Bradley Lake hydro project in the next decade, it appears adequate replacement renewables are available in the next few years.

The stated need for the continuing existence of the Eklutna Hydro Project is the economic value of damming the River. The Program states the Eklutna Project is the lowest-cost energy source in the MEA and Chugach systems. The Program indicates the electricity is generated at $85/MWh. Recently, it was reported that the Houston Solar project power was purchased by MEA at $65/MWh. New power purchase agreements are typically based on the avoided cost of the utilities' portfolio, which is the cost the utilities would have to pay to produce the same power. Chugach Electric's avoided cost is reportedly even lower. A major cost, forwarded by the Project Owners, for dam removal or dam replacement is replacement energy costs – upwards of $150 million in the next 35 years. The Program predicts replacement electricity rates to reach over $130/MWh in 24 months and likely escalate sharply from there. We understand solar is an intermittent energy generation source, and a firm power source such as natural gas or hydroelectric is preferred, but we question how the replacement energy is determined based on these numbers as well as the CAPEX costs we will address later in this letter.

We would also note the Eklutna Generation Station (EGS) is rarely operating at full capacity, which would employ all of its 10 gas-powered turbines. It is important to consider the necessity of a 40-MW of hydroelectric generation when the EGS is only fully-employed for a handful of days per year. The EGS provides the same firm power supply as the hydro project for timely dispatch and offsetting renewable energy variability. We understand natural gas supply is reportedly waning, but shortfalls in gas supply cannot be offset by Eklutna Hydro. Thus, what is the "utility" of this hydropower resource when there is gas plant eight times its size nearby, providing firm power, needed for a handful of days per year, which dwarfs power to be dispatched from Eklutna Power Plant. When utilities are actively lobbying against Renewable Portfolio Standards, is it really the clean, firm power that is desired or maintaining the low-cost status quo at the expense of another resources?

The Eklutna people had their lands and resources diverted to Anchorage public water usage and electricity generation for the Eklutna Generation Station (ESG) and the Eklutna Dam. We understand the competition between Eklutna, Inc.'s needs and those of the utilities bringing power and water to our community. However, the Eklutna, Inc. board of directors demands a better approach to balance these needs, namely a means of fish passage to Eklutna Lake and more in-stream to the Eklutna River.

V. Corporate and Government Accountability

The Program outlines the remaining process for public review and the Governor's decision on the final Program. The utility-driven public process is closing, but the Governor's Public Interest Determination (Determination) process is not well defined. The Program alludes to the Alaska Energy Authority leading the State evaluation process; however, that agency would be an unlikely candidate for executing a public process and delivering a fair decision on the Governor's behalf. We request greater clarity on which department or division within the State of Alaska will be responsible for the State's public process leading to the Governor's Determination decision. Additionally, we request a meeting with the Governor and the state officials directing the public process to express our further position.

VI. Economic Analysis and Utility Revenue

We appreciate the Program recognizing Eklutna, Inc.'s contributions to the CAPEX for the dam replacement options. During the public meetings in January, McMillen consultants were unable to articulate how CAPEX figures for dam replacement ranged from $118-170 million when Eklutna, Inc. determined the cost of dam replacement would be closer to $57 million or lower.[2] The inflated CAPEX has been a driver for the Project Owners to promote the AWWU Portal option, disillusion rate payers, and deny options to meaningfully mitigate damages and enhance fish and wildlife habitat.

The Project Owners have had since 1997 to plan for enhancement and mitigation of the Eklutna Dam's deleterious impacts upon fish and wildlife habitat on and along Eklutna River. The Eklutna Dam was sold to the utilities, heavily discounted, in a private sale complete with a FERC

[2] McMillen asked Eklutna, Inc. for cost estimates advice due to our team's experience in construction and land development.

licensing workaround. Even with that head start, the Project Owners fail to save or plan for the future of the Eklutna River. The result of this level of myopia in the corporate world often results in bankruptcy or plummeting stock prices. Here, the lack of planning and foresight results in the Project Owners advancing the lowest cost and lowest benefit approach to compensate for more than 30 years of neglecting their responsibilities while the Eklutna and ratepayers cover the costs.

VII. Eklutna River Public Access

We would like to note there is public access to the Eklutna River through the Eklutna, Inc. permit system. Historically, we have provided free public access to our lands. Page 58 of the Program incorrectly states there is currently no public access to the Eklutna River that would prohibit new recreational opportunities for fish returning to the Eklutna River. The Project Owners were corrected several times in meetings that Eklutna lands are accessible to the public. With statements like this still included in the Program, it just goes to show the lack of rigor and attention to detail in this process.

VIII. Inadequate Alternative Analysis

We are also disappointed, yet unsurprised, by the option selected by the Project Owners; however, we are more disappointed with the analysis in the draft document. It is extremely unusual for a preferred option to be advanced in a preliminary plan without fully evaluating each viable option for the public's review. Typically, in a planning or project document, a suite of 3-4 options is identified, and each option is discussed and evaluated through a series of criteria, on a point-by-point basis, leaving the public with an opportunity to review the case for each option. Options forwarded by the federal agencies and the Native Village of Eklutna were not thoroughly evaluated under the same criteria the Portal option was given. Thus, the public reviewing the Program only received a serving of the benefits on the AWWU Portal while the other options were summarily dismissed. This is not dissimilar from the eight public meetings where a representative of the Project Owners focused on the merits of the preferred alternative while deriding the other options. For the Program to be legally-defensible, a full evaluation of each option – now including dam removal – should be included in the Program. By only forwarding analysis of the AWWU Portal option, it is our believe the Program is ripe for legal challenge as it rendered this multi-year planning process moot by not explaining each viable option and explaining the reasons for a preferred alternative based on a critical, purposeful evaluation of what the Agreement parties and working groups advanced to Project Owners.

IX. Request for Eklutna River

Six years ago, Eklutna, Inc, and partners removed the lower Eklutna Dam – an artifact of an initial violation of rights of the Eklutna people. Eklutna, Inc. and the Native Village of Eklutna have worked with US Environmental Protection Agency and US Army Corps of Engineers to remediate the Camp Mohawk contamination. The Alaska Railroad stopped mining the Eklutna Knobs and returned the land to Eklutna where we host youth cultural camps and pow-wows for the general public. The need to reconcile past harms have been recognized and addressed by

most public entities. Now, this is the time for the Project Owners to meet the intent of the 1991 Agreement's obligation and invest in our community's future.

The Eklutna, Inc. Board of Directors strongly urge the Project Owners to prioritize the concerns raised in our comments and work collaboratively with us towards solutions that ensure the sustainable development and preservation of the Eklutna River ecosystem. A solution where the Eklutna River is fully-connected from the Eklutna Lake to the Knik Arm/Cook Inlet is our desired outcome. If additional time is needed to continue negotiations and evaluations on how to reach the desired outcome, we support delaying finalization of the Program and delivery to the Governor for up to three years to ensure the outcome is sensible for our community.

In order to further outline our position on the future of the Eklutna River, we welcome the opportunity to meet with the Project Owners. Please feel free to contact the Eklutna, Inc. CEO, Kyle Foster, at 907-696-2828 or kfoster@eklutnainc.com.

Sincerely,

Michael Curry
Board Chair and President

CC: Governor Michael J. Dunleavy
Mayor David Bronson
Christopher Constant, Anchorage Assembly Chair
Aaron Leggett, Native Village of Eklutna
Sarah Lukin, Cook Inlet Region, Inc.
Tony Izzo, Matanuska Electric Association
Arthur Miller, Chugach Electric Association

From: Friends of Fish Creek
To: Sam Owen
Subject: Eklutna Hydroelectric Project Draft Fish and Wildlife Program
Date: Monday, February 19, 2024 1:20:29 PM

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19 February 2024

To: Eklutna Hydroelectric Project Team

From: Friends of Fish Creek

RE: Eklutna Hydroelectric Project Draft Fish and Wildlife Program

Friends of Fish Creek (FOFC) is an Anchorage-based non-profit with the mission to daylight (restore underground waters of the creek to the surface) and rehabilitate the creek, making it possible for Coho to once again inhabit and spawn in its waters.

We wholeheartedly celebrated the removal of the lower Eklutna dam, accomplished by a partnership of the Native Village of Eklutna and environmental NGOs. It was one step forward in restoring Eklutna River, which has been dammed for 100 years, to the detriment of traditional salmon runs and Eklutna's Dena'ina peoples.

As well, we wholeheartedly support the removal of the upper Eklutna dam and the restoration of its waters, which will have the beneficial effect of welcoming the river's salmon home. We believe dam removal to be the legal obligation of the Utility in order to mitigate the project's negative impacts to fish and wildlife.

The Utility's proposed plan fails to consider removal of the upper dam, which constitutes a fundamental flaw in the plan. As such, FOFC is encouraged by the unanimous resolution passed by the Anchorage Assembly on 2 February of this year to pause the plan for two years in order to address this.

The current proposal will also leave one mile of river without water and releases only 3-4 percent of historic flow, without which, fish passage is impossible without additional infrastructure, such as fish ladders.

Current electrical output is minimal from the dam and can be reasonably replaced by renewables like wind and solar within a decade.

Without dam removal, fully connecting the rive,r and returning water flow, negative impacts to fish will remain and obligations set forth in a 1991 agreement between the Native Village of Eklutna, the State of Alaska, the hydroelectric project owners, and the federal government to address the environmental damage will go unfulfilled.

For these reasons, we stand with the Native Village of Eklutna, the Anchorage Assembly, and the environmental groups who want to see removal of the upper dam. Further, because the proposed plan fails to consider dam removal, we also support a two-year pause and reset.

Thank you for the opportunity to comment on this important issue.

Respectfully,

Karen Button, board president

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Friends of Fish Creek
www.daylightfishcreek.org
www.facebook.com/salmoninspenard

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Ch’atanaltsegh / Ƚiq'aka Betnu (Fish Creek)
flows through Dena'ina Eƚnena (Dena'ina homelands)

KENAITZE
INDIAN
TRIBE

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Samantha Owen
Senior Regulatory Consultant
McMillen Inc.
2607 Western Ave, Unit 360
Seattle, WA 98121

Re: Eklutna Hydroelectric Project Draft Fish and Wildlife Program

I write today on behalf of the Kenaitze Indian Tribe, a federally recognized Tribal government with operations within view of the mouth of the Kenai River, in Old Town Kenai, Alaska, one of the most productive salmon producing rivers in the state. We call ourselves the Kahtnuht'ana Dena'ina – the Kenai River people – to recognize the source of the salmon that have nourished our bodies, minds and souls since time immemorial. Today, the Tribe has more than 2,000 members and provides services to about 8,000 Alaska Native and American Indian people. Our traditional lands are bordered by those of the Ninilchik Village Tribe to the south and the Native Village of Eklutna to the north.

It is with the traditional Dena'ina Value of Nagh'utdalts'ina – "respect for our neighbors and others" – that the Kenaitze Indian Tribe supports the removal of the Eklutna dam and restoration of the Eklutna River. Our Tribe specifically supports the Native Village of Eklutna (NVE) Eklutna River Restoration goals, as stated in NVE Resolution 2022 – 4; "Łiq'a nagh qinqtudeł - We are hopeful the salmon will return to us." These goals include "1) continuous flow in the river below the lake sufficient to support thriving salmon populations, with intermittent higher, habitat maintenance and re-creation flows, 2) salmon passage between Eklutna River and Lake, and 3) moderation of Eklutna Lake level variability, at levels sufficient to facilitate sockeye spawning." The Kenaitze Indian Tribe also supports the earlier comments submitted by NVE, the National Tribal Water Coalition, and other Alaska Native Tribes.

Our Tribe is fortunate to live near a huge flowing river that the salmon return to each summer, as they have for multitudes of generations. As a result, our members can use traditional methods to harvest fish, to stock their freezers with subsistence foods, and to share their cultural way with the next generation. Unfortunately, our sisters at NVE do not have that same ability, and the plan put forward by the electric utilities will not change that. Instead, the utilities' preferred option would leave a mostly dry river for nearly a mile between the Anchorage water supply pipe and Eklutna Lake. This alternative is insufficient to restore historic salmon habitat, including the main channel, side channels, and off channel habitat, which studies have shown still provide abundant potential sockeye spawning habitat if only there was water flowing through them. Moreover, fish could still not pass to sockeye habitat in Eklutna Lake and chinook and coho habitat in the Lake tributaries. This

alternative would not restore historic wrongs and it ignores the advice, options, and requests of NVE and other groups.

We ask that you adopt NVE's proposed alternative to remove the dam and restore the Eklutna River flow for the entire length of the river. This alternative would still allow water to be used for the City of Anchorage and for some power generation, but also allow the Tribal community to return to its traditional ways on its traditional lands.

Duk'idli, respectfully,

Chelsea Hendriks
Interim Executive Director
Kenaitze Indian Tribe

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Lizzy Dean
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, February 19, 2024 11:57:13 PM

To the Owners of the Eklutna Hydroelectric Project,

This comment is in regard to the Eklutna Hydroelectric Project's Draft Fish and Wildlife Program for the Eklutna River. I do not believe that the plan's proposal to utilize the existing Anchorage Water and Wastewater Utility (AWWU) water supply infrastructure meets the needs of salmon, the vision of the Native Village of Eklutna, or your legal obligation to mitigate the project's impact on fish and wildlife. I support the Native Village of Eklutna's vision for river restoration and ask you to consider dam removal or another alternative that will fully reconnect the river and return the water flows needed to support the river's fisheries. As an Anchorage resident, utility payer, and water drinker, this is also my vision - undoing the damage caused by this project in the first place and restoring the Eklutna River and its salmon runs.

The current proposal leaves a mile of the river dry, releases only 3% of historical flows, and does not provide fish passage into the lake and upstream habitat. Salmon populations will only recover with a reliable and consistent water supply and access to crucial upstream spawning and rearing areas. This proposal is unacceptable and needs to go further to restore the river's salmon runs. I attended one of the public comment meetings in Anchorage in January and spoke with you - the project Owners. You stated that your main concern for increasing flows to the river beyond what is in the draft proposal is the threat of erosion to pipe infrastructure underneath the river channel. When I asked you for specifics about this, you could not provide details on how various flow rates might affect the pipe infrastructure. You also could not provide information on any studies that you undertook to understand engineering or other solutions that might mitigate this risk of erosion while returning life-sustaining flows to the river. Given the mandate of the 1991 Fish and Wildlife Agreement, these are unsatisfactory answers and I implore you to do more research before making such an impactful decision.

I do not believe that the draft proposal and studies included by the out-of-state consultant took into account sufficient data and knowledge from the Native Village of Eklutna. When I asked one consultant about their process for understanding pre-dam salmon levels in the river, they gave many reasons why this number is so difficult to quantify and then outlined their process of sampling the lake, which gave them a range of population numbers. When I asked if they talked to the people with knowledge and experience fishing that river before the dam went in, they acknowledged that oral histories tell them that there were abundant salmon runs in the river before the dam. And yet the cost-benefit calculations throughout the report leave out this critical piece - the impact of this dam on a generation of salmon runs and a generation of people. The calculations do not include the enormous cultural, social, nutritional, environmental, and economic loss that this dam inflicted. When I asked the consultant if she thought that this was a problem, she sort of cryptically but also very tellingly told me that I was asking the right questions. The draft proposal for the Eklutna River minimizes the concerns, vision, and voice of the Eklutna people. It also minimizes the voices of all of us interested in a balanced solution - one that provides clean water, a restored ecosystem with salmon runs, and a future of renewable energy. I believe that we can do better than this proposal to strike that balance.

The Native Village of Eklutna has communicated its vision for thriving wild salmon in the Eklutna River. Dam removal looks to be the most effective way to achieve this important goal. I understand the reliance on this hydroelectric energy source in the near term. That said, I believe that the numbers were misrepresented in the public meetings - the power coming from the hydroelectric dam as a percentage of renewables is just 2 - 3% of the electricity on the grid as a whole. I support the plan to remove the dam within the next decade when replacement renewable energy is expected to be available. We cannot continue to rely on a system that is inflicting harm and pretend that it is without consequence. Can you imagine if there was a proposal, in 2024, to dam the Kenai River for hydroelectric power, eliminating the sport and subsistence fisheries there? It would never happen. This is a once in a generation opportunity to come together with a bold, forward-thinking, responsible vision to restore a cherished and beloved river system and mitigate the harm caused to its people, its salmon, and its ecosystem. It is a once in a generation opportunity to work hand-in-hand, and in good faith, with the Native Village of Eklutna. I urge you to reconsider the draft proposal which disappointingly fails to prioritize salmon return or the voice of the Native

Village of Eklutna.

Thank you for considering this comment.

From:	Mary Langdon
To:	Sam Owen
Subject:	public comment on hydro project
Date:	Thursday, February 15, 2024 6:19:55 PM

I am writing in strong support of returning the Eklutna River to its original free-running state, from the lake to the inlet, as per the vision of the Native Village of Eklutna's proposal. I have reviewed the Eklutna Hydroelectric Project Draft Summary of Study Results, US Fish and Wildlife Service comments on the same, as well as the Native Village of Eklutna's vision and proposal per their 4 December 2023 letter to Samantha Owen. I was not able to attend any of the public presentations, though my sister was able to and gave me feedback.

By way of background, my family came to Alaska pre-statehood, and my husband and I maintain a home in Anchorage.

I understand the Assembly has requested a two year extension on the project plan process. I sincerely hope this is granted; and, if granted, there is an on-going communication with the public about this process.

I agree with Assemblyman, Kevin Cross' statement (from APM article dated 6 FEB 2024): "If you're a small, limited government human being like I am, then you should be very concerned and angry about what we did to Native Village of Eklutna – just, honestly," he said. "Now, we've been very blessed and we've benefited from it ever since. Anchorage has benefitted wildly from the wrongs we have created. It's not a justification for why we can't move forward."

There's far too little of his thinking in government agencies and elected officials. I believe moving forward means returning the river back to its original state.

~Mary LANGDON

Sent with Proton Mail secure email.

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Mei Mei Evans
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, February 19, 2024 10:08:07 PM

Re-Wild the river! Bring back the salmon!

From:	Nelli Williams
To:	Sam Owen
Subject:	Eklutna comment
Date:	Monday, February 19, 2024 9:57:47 PM

I live in Anchorage and am a Chugach Electric Association rate payer. Our family are avid outdoor adventurers, anglers, and hikers and the Eklutna area is one of our favorite places to play within an easy drive of Anchorage.

I have been following this issue closely for many years and am disappointed in the owner's draft fish and wildlife program. It doesn't meet the terms they agreed to in 1991, and spends millions of dollars without meaningfully helping salmon, an important local river and many, many families.

There has been a lot of scientific input that has been ignored thus far. I encourage the owners to go back to the drawing board and put for a plan that's based on science, upholds the vision of NVE and makes a meaningful attempt to bring back the salmon runs that have been severely impacted by this project.

We have a once in a generation to restore a river that all Alaskans can be proud of...right now we are simply heading down a path to throw good money after a bad, inadequate idea (the AWUU portal option).

I support the idea that NVE, TU others have brought forward - removing the dam. While there are still questions that need to be answered, there have been numerous successful dam removal projects all over the country. While complex, dam removal is doable and likely our strongest return on investment. Removing the dam is also very likely the most cost effective with the community partners that have stepped forward to help with that effort.
The utilities current proposal is a short cut to a dead river, continues to short-change the Native village of Eklutna, and doesn’t make a whole lot of economic or logistical sense. Let's work on a creative forward-looking solution that gets us to the salmon-filled future that Alaskans want. We can do better.

Sincerely,

Nelli Williams

Anchorage, AK

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Paula Davis
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, February 19, 2024 9:17:14 PM

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i support the restoration of the eklutna river. I think the Native community should have a big say in the process & restoration of salmon, as should the Assembly, whose constituents get water from there. i support a community proposal, not the proposal submitted by the utilities.
Thanks,
Paula

From:	Pico Alaska
To:	Sam Owen
Subject:	Remarks opposing draft, "portal-valve" proposal for Eklutna Hydro project
Date:	Monday, February 19, 2024 3:20:58 PM

To Those It Concerns —

I am writing to comment on the draft proposal by several utilities & agencies for partial restoration of the Eklutna River.

I oppose the current draft proposal and instead support full restoration of the river, which includes removal of the dam at the lake outlet. This alternative is supported also by the Native Village of Eklutna and the Anchorage Assembly.

The citizens of Anchorage, including the village of Eklutna, have a precious opportunity to reverse the damage done to the river and the fish it supports, and we should take full advantage of it. The concept of "rewilding" — returning some segments of our physical environment, of the land we live on, to a state approximating what it was before industrialization and development — should guide our social-economic decisions whenever possible, and restoration of the Eklutna river and the salmon it once supported is a perfect example of the right project, in the right place, at the right time.

The effects of such a change can be mitigated over the next decade:
— additional support structures and/or reinforcement can be added to existing road and rail bridges over the Eklutna River;
— piping for city drinking water can be protected and/or enhanced;
— the loss of electrical power, while of concern, can be made up through continuing energy-conservation measures and additional renewable-energy projects (more wind turbines, for example) throughout the Municipality and beyond.

It is understandable that the electrical-power utilities involved in the Eklutna hydropower project wish to preserve the one-mile stretch of the river directly below the dam. I respect their views and motivations. But the spirit of the 1991 agreement goes beyond its direct call for mitigation of damages and some enhancement of the river and requires restoration in full. Let's do it.

(Because a wrinkle in this process has been created by a secretive pact between the electric utilities and the Anchorage Water & Wastewater Utility to bind the parties to the "portal valve" proposal, my comment here and those of many others may be rendered moot. It's impossible for us to know, at least as of now. Nevertheless, I wish my view of this matter and support for the Eklutna River's full restoration to be recognized as strongly felt opposition to the secret agreement and the draft proposal.)

Thank you.

Peter Porco
3620 Clay Products Drive
Anchorage AK 99517-1007

1.907.306.9659

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Ruth Wood
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, February 19, 2024 12:35:55 PM

I haven't lived in Anchorage for many years, but I still live in southcentral alaska (talkeetna,) and i know how fortunate we are to have an opportunity to remove the dam and restore water to the eklutna river. In fact, I thought the decision had already been made to do so. one of the problems with dams is that they reduce or completely eliminate water from the river and, if water is released, temperatures are radically different than natural temperatures. It was my understanding that removing the dam was going to happen and that The conservation fund and trout unlimited would fund the removal. i fully support complete removal of the dam in a timely fashion. I've heard a 10 year time-line, and while not ideal for the fish and wildlife, it would give the project members time to plan and implement other projects. In the meantime, it is imperative to choose an alternative that provides enough water be released that water will flow all the way to knik arm as soon as possible. A true eklutna fish & wildlife program will meet these objectives.

From:	Sarah Histand
To:	Sam Owen
Subject:	Comment on the Eklutna River Draft Fish and Wildlife Program
Date:	Monday, February 19, 2024 10:14:21 PM

Hello!

I am an Anchorage resident and Chugach Ratepayer.

I am writing in support of the Community Alternative plan as proposed by the Native Village of Eklutna.

The current plan (Draft Fish and Wildlife Program) would create a dead-end river, provide just a trickle of water, leave a mile of dry river, prevent salmon from reaching Eklutna Lake, and jeopardize the Anchorage drinking water system. The operators are legally required to make up for the damage caused by their hydroproject, but their plan doesn't do the job.

Instead, please consider the Community Alternative. I am in full support of this plan and know of many others in the local community who are as well.

Thank you for your attention,

Sarah Mehl Histand
Anchorage, AK

From:	Stephanie Quinn-Davidson
To:	Sam Owen
Cc:	samc@chugachboard.com; sisic@chugachboard.com; rachelm@chugachboard.com; Susanne Fleek-Green; bettinac@chugachboard.com; markw@chugachboard.com; Jimn@chugachboard.com
Subject:	Comments on the Eklutna Draft Fish and Wildlife Program
Date:	Monday, February 19, 2024 3:06:34 PM

Dear Ms. Owen and Chugach Board members,

I am writing to support full restoration of the Eklutna River. I'm a fisheries scientist with over a decade of experience working for the Alaska Department of Fish and Game and Tribes in Alaska on salmon fisheries. I currently work as the Restoration Policy Manager for an indigenous conservation organization based on the Klamath River, working with Tribes on post-dam removal efforts. I've also served on the municipality of Anchorage's Watershed and Natural Resources Commission, where we received several presentations on Eklutna River restoration from agency scientists. I've served as the Vice-President, President-Elect, President, and Past-President for the Alaska Chapter of American Fisheries Society and sit on the Advisory Council for the University of Alaska College of Fisheries and Ocean Sciences. I want to address three areas that drive my support for full restoration of the Eklutna River.

1. Full restoration is what the Native Village of Eklutna (and many other community members) want and, frankly, deserve.
The colonial taking of indigenous lands has been and continues to be one of the world's greatest environmental injustices. The construction of the Eklutna dam, the original agreement (and how the Tribe was excluded), the years the owners have let slip by without coming up with a reasonable approach to rehabilitation of the river, and this sham of a public process currently being undertaken is no exception. It is baffling to me that many in Alaska continue to stand by this colonial mindset and refuse to acknowledge the historical trauma that has been inflicted on the Native Village of Eklutna. You have a chance here to right the wrongs of history with full restoration of the river; anything but full restoration will be a choice you're making to instead barrel ahead with continued ignorance.

I'm currently involved in a Department of Energy funded effort called Uncommon Dialogue: Hydropower, River Restoration, and Public Safety, which brings together stakeholders from the hydropower industry, conservation groups, and Tribes to find common ground on hydropower reform in the United States. It is unprecedented to think that these groups, historically at odds, could agree on something, but Uncommon Dialogue showed that it was possible. Through this effort, the group provided joint recommendations to Congress related to hydropower reform that "reflected the groups' shared goals of enhancing the health of river ecosystems, respecting the rights of Tribes, and providing greater regulatory certainty for hydropower facilities". (found here: https://woods.stanford.edu/research/hydropower/hydropower-ucd-core-documents)

While the Eklutna dam is not a FERC-licensed dam and therefore is exempt from federal regulations through the Federal power Act, it was the intention of the original signers of the agreement to adhere to standards equal to the federal licensing process. You have undoubtedly received a number of comments about how you have failed to meet that standard, so I won't belabor that here. Instead, I want to focus on the recommendations made by the diverse group brought together through Uncommon Dialogue and highlight how river restoration and hydropower are being addressed throughout the rest of the country - and how Tribes are being uplifted in the process, rather than trampled or, in Eklutna's case, ignored. In particular, a bi-

partisan bill before Congress now - widely supported by the hydropower industry, environmental groups, and Tribal organizations (see statements of support here: https://www.daines.senate.gov/2023/06/14/what-they-are-saying-industry-and-community-leaders-endorse-daines-bipartisan-hydropower-bill/) - **empowers Tribes and recognizes their inherent decision-making authority to prevent future environmental and economic destruction on their ancestral lands,** and increases the cooperation between among Tribes and federal and state agencies in this effort. A bi-partisan effort in Congress is elevating the voices of Tribes in hydropower issues, while the approach pursued by the project owners here seeks to stifle Tribal input. Why are we doing things differently in Alaska?

There is a clear example for you to follow here and involve and genuinely listen to the Native Village of Eklutna. The rest of the country is showing you the way - will you follow or will you continue to perpetuate the decades-long environmental injustice?

2. Full restoration is the only viable option for restoration of sockeye salmon.
Sockeye salmon spawn in lakes. To restore the Eklutna River sockeye run, they need full, unobstructed access to the lake. Full restoration - ie dam removal - is the only option here.

Unfortunately, the spokesperson for the utilities is trying to mislead you into believing that sockeye salmon never occurred in the lake, citing a study published in 2017. The study examined the nitrogen isotopic signature of sediment cores as a way to document possible historic salmon spawning. My Ph.D. thesis used stable isotopes of nitrogen and carbon to reconstruct the historical food web of the Great Lakes fisheries. I'm quite familiar with using isotopes to study the historical ecology of ecosystems. They can be an invaluable tool, but like most scientific methodologies, they are not without flaws. I won't go in to details, as Rick Sinnot provided an excellent overview of these potential flaws in his editorial in the ADN (https://www.adn.com/alaska-life/we-alaskans/2017/12/02/fishing-for-prehistoric-traces-of-sockeye-salmon-in-eklutna-lake/). No scientific study should ever be interpreted in isolation. That's just bad science. As scientists, we replicate. We conduct other complementary studies. We look at oral history to help inform the results we're seeing for any given ecosystem. And oral history, as provided by the Native Village of Eklutna, tells us that there were certainly sockeye salmon present in the lake. The 2017 study authors state "...we contend that even a conservative interpretation of the model results demonstrates the possibility that sockeye salmon could have used Eklutna Lake before 1929 without leaving a detectable isotopic signature." Nevermind that kokanee - which are landlocked sockeye - are present in the lake today, most likely a relic of the historic anadromous population. If kokanee are present in any appreciable numbers, it's because of a relic population - not because someone threw a few sockeye in the lake at some point. The takeaway here is that the spokesperson for the utilities is not providing the full story and is cherry-picking from the study they are citing to serve utility interests. Please do not be duped.

3. Full restoration is, indeed, economically and logistically feasible.
Thanks to the generous offer of environmental groups, full restoration of the Eklutna River is, in fact, the most economically feasible option. The utilities won't have to pay a penny to remove the dam - far better than the utilities/ratepayers on the Klamath River which, by the way, are removing the dams because it was cheaper than building fish passage facilities to come in compliance with federal law... and because of widespread public support, not unlike the situation on the Eklutna River. And logistically speaking, it will be a relatively minor lift compared to other river restoration efforts happening around the country. If the power companies, state and federal agencies, Tribes, environmental groups and other stakeholders

can come together to remove (much larger and multiple!) dams on the Elwha and Klamath Rivers, then we can realistically remove a small, single dam on the Eklutna River.

Claims that removing the dam and AWWU winter water withdrawals would cause the river to dry up at times are - to date - not backed up with credible, reviewable science. It's impossible for any reputable hydrologist to review these claims by the project owners given the lack of transparency around their analysis. And in my professional opinion, the analysis does not seem to take into account changes in lake levels with predicted climate change impacts in Alaska. Models are showing higher winter lake levels in Alaska, as winter precipitation shifts from predominantly snowpack to more rain (https://www.nps.gov/articles/aps-19-1-10.htm), which would offset AWWU winter withdrawals.

I strongly encourage you to slow down your process and work with the Native Village of Eklutna to achieve a common, shared objective of rightfully returning salmon to the ecosystem while meeting water and power needs for the municipality. There are numerous examples to learn from where utilities, agencies, and Tribes are working together in the L48 on these same issues. I can't think of what would hold you back from taking a more thoughtful, holistic approach, can you?

Thank you for your consideration,
Dr. Stephanie Quinn-Davidson, Ph.D.
Fisheries scientist
Restoration Policy Manager, Ridges to Riffles Indigenous Conservation Group

--

Stephanie Quinn-Davidson (she/her/hers)
Anchorage, Alaska
stephqd@gmail.com
507.491.6607

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Ted Eischeid
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, February 19, 2024 10:13:46 PM

Hello,

I'm writing to submit my opposition to the utilities' recommended option called the "portal valve alternative". This option has some unknown impacts on anchorage's drinking water system, plus it has know impacts on preventing salmon access to eklutna lake and its tributaries.

I much prefer the alternative suggested by the native village of eklutna and others that recommend full eklutna dam removal in 10 years or so once other energy sources come online to replace some of the loss of hydroelectric generation. Its a conservative proposal that addresses most concerns.

I remember when utilities proposed a hydro electric project on the snow river in the kenai peninsula a few years back. The public response was clear: we didnt want to SACRIFICE a salmon fishery for electricity. I believe the same applies to eklutna.

Additionally, many groups have worked to open up and enhance salmon habitat in upper cook inlet, including the Mat-su Bourough (fish passage culvert program), mat-subasin salmon habitat partnership, and the Mat-su fish and wildlife commission as a small sample. The portal valve alternative counteracts all these efforts, the NVE proposal doesnt.

Finally, as a fisher and recreational user of eklutna lake, i want to see a restoration of this ecological system to what it was. Additionally, with the closed door negotiations the utilities have done with the A.W.W.U. I dont exactly trust my utility these days. If it quacks like a duck…

I oppose the portal valve alternative for these reasons, and suggest you forward the native village of eklutna proposal and restore the full length of the eklutna river by removing the eklutna lake dam and allow full access to the eklutna lake and tributories to anadromous fish.

Please make my comments part of the public record. Thank you.

Ted Eischeid
410 Mellow Pl
Anchorage ak 99508

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Valeria foster
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, February 19, 2024 5:51:40 PM

To the Esteemed Officials and Stakeholders,

I am reaching out to articulate my profound reservations regarding the "AWWU Portal" initiative proposed by The Owners. This plan, targeting the mitigation of the Eklutna River, starkly misses the mark in addressing the essential ecological requirements of the river and its historic salmon populations. The Eklutna River, with its legacy of supporting all five species of salmon, is a jewel in our ecological and cultural landscape, a fact that the proposed project fails to honor adequately.

The foundation of the 1991 agreement was to ensure the preservation and restoration of the Eklutna River's ecosystem to a state as close to its original condition as feasibly possible. However, the AWWU Portal proposal diverges alarmingly from this foundational goal, presenting a path that risks the ecological integrity and the rich cultural history tied to the river. Ignoring the critical need for a diverse and thriving salmon population in the river does a disservice not only to the ecosystem but to our community's heritage and future.

Understanding the species composition of the Eklutna River before its alteration poses challenges, yet the oral histories and traditions passed down from our indigenous communities offer a rich tapestry of knowledge. These stories are not mere anecdotes; they are testaments to the river's historical biodiversity and a guide to what restoration should aim to achieve.

The necessity of a vibrant river ecosystem, particularly for sockeye salmon fishing near Anchorage, cannot be overstated. The Kenai River serves as a testament to the socio-economic benefits of such ecosystems, showcasing the potential for Anchorage to harness similar benefits. A revitalized Eklutna River would not only enrich our community with natural beauty and recreational opportunities but would also serve as a crucial economic asset, much like its counterpart.

While I recognize the utility's objective to maintain affordable rates, it is crucial to embrace a broader vision—one that considers the paramount importance of sustaining our environment and, by extension, the Anchorage and Alaskan economy. This vision requires a commitment to solutions that foster all aspects of our community's well-being, from ecological health to economic vitality.

Moreover, the opportunity to leverage federal grant funds for this project should not be overlooked. Numerous federal initiatives aimed at environmental restoration and sustainable infrastructure offer financial resources that could mitigate the costs associated with more comprehensive and ecologically sound mitigation strategies. Investing in such solutions would not only align with the original goals of the 1991 agreement but also stimulate our local economy through job creation and long-term economic benefits.

In conclusion, the AWWU Portal proposal is insufficient for the monumental task of restoring the Eklutna River to its rightful state. I strongly advocate for a reconsideration of this approach in favor of a strategy that fully embraces the return and prosperity of all five salmon species. Such a strategy should honor our indigenous heritage, contribute positively to our economy, and seize the potential for federal funding to support these endeavors.

Let us choose a path that reflects a deep commitment to our environment, our economy, and our community's future. I urge you to seek an alternative that aligns with the profound spirit of the 1991 agreement and the collective aspirations of our community.

Thank you for considering this critical matter. I am eager to see how our collective efforts can lead to a sustainable and flourishing future for the Eklutna River and our community at large.

Warmest regards,

Valeria Foster

B-6. Against Dam Removal

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From: Randy Brown
To: Sam Owen
Subject: Keep the Damn Dam
Date: Thursday, November 2, 2023 8:13:23 AM

Good morning and thank you for taking the time to review my comment. I am a voting Chugach Electric member and homeowner in Anchorage.

With dwindling natural gas supplies, rising electricity costs, a warming planet, and hundreds of undammed rivers across this state, it's incredulous to me to think that we're seriously considering removing a reliable source of renewable energy from our electricity portfolio.

I generally support the Anchorage Assembly, but do not on this topic. I grew up in Washington State which has 80%+ of its power coming from renewable energy AND has some of the lowest power costs in the nation. It is because of its hydroelectric resources that it can accomplish is.

Furthermore, the Municipality has a Climate Action Plan that has been sitting on a shelf, collecting dust, not being acted on or taken seriously while the Assembly and Mayor squabble over homelessness. I find it offensive that our "progressive" elected leadership is taking time and effort to weigh in on this issue without offering any reasonable alternatives AND acting upon them.

It feels to me like this yet another example of "playing politics." Let's return the salmon to the stream without removing the dam. Let's build more dams that do not block salmon runs. And let's quit burning fossil fuels. Real leadership would accomplish this.

-Randy Brown
Fairview Resident

Sent from Yahoo Mail for iPhone

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Manda Gershon
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Thursday, December 21, 2023 3:36:20 PM

CAUTION: This email was received from an external source

TO DEPRIVE aLASKANS OF POWER WHILE WE'RE ALREADY STRUGGLING FOR ENERGY IS OUTRAGEOUS AND COULD LEAD TO DEATH FOR PEOPLE. IS THIS REALLY WHAT EKLUTNA WANTS TO BE KNOWN FOR?

From: Morgan
To: Sam Owen
Subject: Eklutna lake damn
Date: Monday, January 8, 2024 10:25:00 PM

I am in strong opposition of the proposal to remove the eklutna damn as it will impact both awwu and chugach electric.

From: Mary Tullius
To: Sam Owen
Subject: Leave the Eklutna dam as it is
Date: Wednesday, January 10, 2024 11:01:27 AM

Please leave the Ekluta dam as it is. The electric co-op utilities have/are spending millions of dollars enhancing water flow in the river at the expense of cheap electricity and drinking water for Anchorage. Do not give away this fossil fuel free, power on demand, environmental friendly part of our electric grid. The utilities recently received a 50 year extension to their permit from the federal government.

This is a valuable asset owned by all the co-op electric utility members in the rail belt area and it is the cheapest supply of electricity in the rail belt area. Do not trade it for the several hundred fishermen who might catch a fish in this river. There should be a cost analysis for dollars to remove and energy lost versus each fish that could be caught.

The governor has committed to Alaska to have 50% non fossil fuel free electrical grid by 2050 This asset is already constructed and upgraded and will cost millions of dollars to remove. Lets evaluate dam removal the next time the dam is up for permit renewal.

What's next? Remove dams at Bradley Lake and the dams in Southeast Alaska?

Michael and Mary Tullius
1334 N Street
Anchorage 99501

Sent from my iPad

From: Tim Deal
To: Sam Owen
Subject: Eklutna Lake
Date: Wednesday, January 10, 2024 8:39:45 AM

Morning,
I am staunchly opposed to removing the dam. This reservoir is perfect as a source of water and power generation.

Tim Deal
Anchorage

Sent from my iPad

From: Jack Freeman
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Saturday, January 13, 2024 3:15:37 PM

CAUTION: This email was received from an external source

Leave the dam alone. It will cost All residents to much money in the electricity and water that would have to be replaced. Our taxes are already to high.

From: Craig
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Saturday, January 13, 2024 11:54:57 AM

CAUTION: This email was received from an external source

I have two CONCERNS ABOUT REMOVING THE HYDRO DAM. THE FIRST IS THAT MOST OF THE DRINKING WATER FOR ANCHORAGE COMES FROM EKLUTNA LAKE. HOW IS THAT GOING TO BE ADDRESSED?
THE SECOND ISSUE IS THAT HYDRO IS A CHEAP GREEN ENERGY SOURCE. WE GET A TREMENDOUS AMOUNT OF CLEAN POWER FROM THE HYDRO DAM. WE SHOULD BE ADDING TO CLEAN ENERGY POWER, NOT TAKING THEM AWAY.
MY QUESTION IS, HOW MUCH MORE COAL AND GAS WILL NEED TO BE USED TO REPLACE THE CLEAN ENERGY FROM THE HYDRO?

From: John huschle
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Saturday, January 13, 2024 6:55:39 AM

CAUTION: This email was received from an external source

It seems Dum to my that there is even A convErsation about The eklutna dam. It an IMPORTANT Part of INFRASTRUCTURE especially wi th the dwindling gas su in cook inlet. We n more hydro electricity with all the river in this state It should be our main Source of ELECTRICITY. I say dam up the susitna,moose creek., king river, granite creek, matanuska .
Special interest groups and regulations are killing this c ountry

From: Keith Sopp
To: Sam Owen
Subject: Eklutna dam proposal
Date: Saturday, January 13, 2024 10:31:31 AM

I strongly support leaving the dam in place, this benefits most of the people in Anchorage and the rail belt. We have the best drinking water in the country and low cost, renewal power generation. Eklutna is also a wonderful, accessible recreation area. Please do not remove this asset. Thank you, Keith Sopp 99502
Sent from my iPhone

From: Larry McItnosh
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Saturday, January 13, 2024 10:20:32 AM

CAUTION: This email was received from an external source

As a former powerplant/gas handling facility operator for Taps in Valdez, I Encourage both MEA and CEA not to be bullied by the eco terrorist. REnewable energy via wind and solar is a joke. Natural gas is in abundance in Alaska, especially on the north slope, which should be utilized for local power generation. There apparently is the MEA natural gas power plant in eklutna as well to supply needed power to the valley and anchorage. Generally, few fish migrate into a glacier fed lake unless there is fresh water sources. Perhaps the eco terrorist prefer to collapse Alaska's economy and reduce population via progressive, unreliable, UNREALISTIC measures?

From: Mark Gordon
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Saturday, January 13, 2024 8:56:17 PM

CAUTION: This email was received from an external source

Please stop the stupidity. You cannot replace the water to Anchorage without building another dam, and there's no need to end the power generation. Just stop it. dancing to zealots and extremists has to come to an end. end it here, please.

From: Mike Layman
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Sunday, January 14, 2024 8:35:45 AM

CAUTION: This email was received from an external source

Sometimes things that seemed relevant 30 years ago change! If it's the cheapest power in the rail belt as stated; let common sense prevail and re write or toss out the previous agreement. It will cause a stir that will settle down after a bit and we'll all be winners after that.
You didn't have all the woke crap 30 years ago site that in your brief, as you are surely fighting an uphill battle; un-necessarily!
It's not broke, don't fix it.

From: Stacey dean
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Sunday, January 14, 2024 9:46:59 AM

CAUTION: This email was received from an external source

We have a huge need for power and water in southcentral alaska. We should not let a tiny group of people dictate what shall happen with our dam. This dam is necessary for energy and fresh water.

From: Tammie Smith-Scott
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Sunday, January 14, 2024 5:03:01 AM

CAUTION: This email was received from an external source

I have been in Anchorage since 1968. The hydro. Project has been the most stable source of electricity we have. At the time environmental impact statements were done. Due diligence was used. It is as green a project we have ever had. It seems foolish, and not cost effective to remove it. There are fish in the river, I have fished there myself. If additional ladders and such need to be added do so. But we can not afford tearing this down, when it is one of the only consistent and reliable sources of energy we have. It was green before anyone was worried about it. It is counter productive to WAste funds to remove this dam only to have to build another. If it were damaged that's another issue, but until then, please use common sense and let it remain.

From: Thomas Martin
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Sunday, January 14, 2024 3:52:32 PM

CAUTION: This email was received from an external source

As a MEA customer, reducing any power generation from eklutna station is inexcusable, clean energy is what we need correct? Then why even consider this. We have plenty of fish habitat all over the state that is not managed effectively. When will the nonsense stop. Really!!!!

From: W evans
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Sunday, January 14, 2024 11:39:46 AM

CAUTION: This email was received from an external source

Removal of the eklutna dam is asinine and a stupid idea. The cost to benefit ratio of the eklutna damn has and does far OUTWAY any dumb ass idea to remove it.

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): Email: STUDEFAN1@EMAIL.COM

CHUCK KAUCIC / MSB "FATHER OF FISH PASSAGE"; USFWS/ADF&G TRAINED

Write your comments on the Draft Fish and Wildlife Program here:

1) IDENTIFY THE LOCATIONS/COST/ENVIRONMENTAL & FISH PASSAGE BENEFITS OF IMPROVING FISH PASSAGE VIA MINIMIZING STREAM/TRIB/THUNDERBIRD FALLS & RIVER BLOCKAGES & PHYSICAL IMPEDIMENTS WITHIN THE H_2OSHED;
2) DEMONSTRATE THE NEGATIVE IMPACT VIA COST BENEFIT ANALYSIS OF REMOVING THE DAM VS THE COSTS ANTICIPATED TO BE BURNED BY THE USER/CONSUMER/BASE PAYER FOR THE: 1) 6% ELECTRIC & 2) 90% WATER LOSS (ANTICIPATED TO BE LOST);
3) QUANTIFY THE COST OF ALTERNATIVE, NON-GREEN POWER SOURCES: COAL & NUCLEAR (EXCLUDE WIND OPTION IN VALLEY) INCLUDE CAPITAL, OPERATION & MAINTENANCE AS WELL AS SOCIAL COSTS.
4) REMOVAL OF THE DAM WITH ITS ERRONEOUS "LOGIC" WOULD BE ANALOGOUS TO REMOVING ALL HIGHWAYS & TRANSPORTATION NETWORKS/SYSTEMS THAT WERE CONSTRUCTED ON & FOLLOWED ABORIGINAL TRAILS/ROUTES

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

Use the QR code to access the eklutnahydro.com website to submit your comments electronically. You can also send comments to info@eklutnahydro.com.

Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

From: Elizabeth samuel
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, January 16, 2024 11:36:36 AM

CAUTION: This email was received from an external source

I am against removing the Eklutna Hydro plant. Water for Anchorage and cheap clean energy for citizens is essential. REmoval of the DAm would also lead to flooding of area surrounding the Eklutna lake, destroying trails and camp areas as well as displacing fish and animals in the local habitat.

Public Comment Regarding Removal of the Eklutna Hydroelectric & Water Dam
by Fr. Randy Hillman, MEA Member and members of
Valley Anglican Fellowship Church who are also MEA members.

January 16, 2024

To: Whom it may concern: Mr. Tony Izzo, MEA CEO,
and other MEA Board Members

First, thank you, Mr. Izzo, for allowing the MEA members to express our opinions on the Removal of Eklutna Hydroelectric and Water Dam (Eklutna Dam) via email, info@Eklutnahydro.com ,

Mr. Izzo and fellow MEA Board members, a long time ago I was in Nuclear Physics and worked with radioactive materials and NBC warfare in the US Navy. I am also speaking with input from the church members. That being said, I cannot see how the Removal of the Eklutna Dam will help improve anything or anyone . To the contrary, the Removal will also cause more harm to the Environment in many ways; as well as, the discussion on the replacement of the electric power and a water source to the growing water needs of the largest city in Alaska, Anchorage.

Let us discuss the many ways the destruction of the Eklutna Dam harms the Environment.

1. **Where will MEA and Chugach Electric Association replace this renewable, carbon zero, scalable base load power? The Wind Turbines on Fire Island are not working and are being subsidized by the members at an additional cost for no value. They kill birds! Microreactors (Nuclear) Power plants are not available now and nor will they will be available in the near future. See then Department Of Energy's December 13, 2023, report.**
2. **The Carbon Dioxide generated from the equipment to remove Eklutna Dam is how much? It's definitely not "Net Zero", as it is now.**
3. **The Environmental impact from the waste from the removed concrete, which in itself has a great deal of Carbon from the manufacturing to the installation of the Eklutna Dam's concrete.**
4. **Where will the old removed concrete be placed? Again, Carbon Dioxide will be emitted from the destroyed Eklutna Dam's wasted/old concrete.**
5. **Are there any material(s) that are Environmental Hazards that you know for a fact are not in Eklutna Dam? If so, what kind of workers Personal Protective Equipment (PPEs) will be used, and what kind of Environment Abatement will be used? Can the people and property be safeguarded from any downwind emissions of Hazardous particulates?**
6. **Environmental Hazardous waste will be transported to and stored where? What will be the cost now and the cost for future storage?**

Now, let us discuss the Impact on the Loss of a Clean, Renewable, Carbon Zero and Scalable Base Load Electricity on the Mat-Su.

1. **The Loss of this Clean, Renewable, Carbon Zero and Scalable Base Load Electricity in the Mat-Su will impact Every Citizen (approximately 125,000 people) from Student Education to the Pumping of Water to survive and everywhere in between.**

2. **The Loss of this Clean, Renewable, Carbon Zero and Scalable Base Load Electricity will impact every Citizen multiple times from the Rising Costs of Electricity that we personally use as well the additional retail costs that will be passed on to the consumers as the cost of doing business.**
3. **What does the MEA Board have planned to replace the Loss of Eklutna Dam's Electricity when additional Electricity will be needed for the growing Mat-Su area that is Clean, Renewable, Carbon Zero and Scalable Base Load Electricity before Eklutna Dam is removed so there isn't any Electrical Power disruption?**
4. **As MEA members, how much monetary Refunds should we expect (not in future power credits) from Electric power disruptions as Mat-Su Citizens, Retail Users, Both Routine and Emergency Communications from the Loss of Eklutna Dam's Electric Power?**

In Conclusion

I do not believe this would be in the best interest of any MEA members to Remove the Eklutna Dam. Even though the "Environmentalists" do not consider Dams as a part of Carbon Reduction or Renewable Energy, where it truly is.

However, as a MEA member, I believe that Eklutna Dam should be upgraded so that the Dam could withstand and/or resist an Electromagnetic Pulse (EMP) and be able to have the ability to provide Electrical power within a short time period which may or may not affect National Defense (see Oak Ridge National Laboratories, appendix on HEMP/EMPs & the EMP Commission of Pres. Obama administration). The new modification should include a Fish Ladder for the migration of Fish.

Further, as a MEA member, I recommend that the MEA Board revisit building the Susitna River Dam project because of the ongoing issues in providing Clean, Carbon Zero, Renewable, Scalable Base Load Electric Energy, and designing it also to withstand or be resistant to an HEMP/EMP. The Susitna Dam should include in its design a Fish Ladder for the migration of Fish. The construction of the Susitna Dam would supply around or more than 300 MWs of Electrical Energy depending on what capacity the utility-scale electric power generators are operated.

Respectively Submitted,

Fr Randy Hillman

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): Email:

Jamie Harms

Write your comments on the Draft Fish and Wildlife Program here:

Removale of Dam Benifits a few at the expence of all.
I do not Support Removale

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

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Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): Email:

Write your comments on the Draft Fish and Wildlife Program here:

Taking out the Dam only benifits A tiny Amount. Leaving The Dam ~~Cleanly~~ is producing Relatively clean energy with it compared to other sources is WAY less destructive & Benificial to A greater multitude.

Please note all comments will be published online to www.eklutnahydro.com

☒ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

Use the QR code to access the eklutnahydro.com website to submit your comments electronically. You can also send comments to info@eklutnahydro.com.

Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

From:	Rick Whitbeck
To:	Sam Owen
Subject:	Comments for the record
Date:	Tuesday, January 16, 2024 9:42:56 PM
Attachments:	image001.png

Good day,

My name is Rick Whitbeck, and I am a nearly 40-year Alaskan and current Chugach ratepayer. I have thoughts on the proposed alternatives under the draft Fish & Wildlife plan as found on the Eklutna Hydro website.

To expand on those, I've written two opinion pieces that have been recently published. The first is on Must Read Alaska here:
https://mustreadalaska.com/can-the-eklutna-dam-be-removed/

And the second in the Anchorage Daily News here:
https://www.adn.com/opinions/2024/01/14/opinion-keep-the-eklutna-dam-as-it-is/

I'd ask that both pieces be made part of the record for the purposes of advancing the draft-to-final process for the Fish & Wildlife plan for Eklutna.

Should you need additional information or have questions on my content, please reach out at the contact info found below.

All the best,
Rick Whitbeck

Rick Whitbeck
Alaska State Director
Power The Future
907.313.0639
rwhitbeck@powerthefuture.com

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From: Barbara Derr
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, January 19, 2024 11:33:18 AM

CAUTION: This email was received from an external source

Please keep the eklutna hydro dam. the area needs the power and water the dam provides.

From: Daryl
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, January 19, 2024 8:12:28 AM

CAUTION: This email was received from an external source

I do not support the removal of the dam. It will negatively effect the Eklutna Tailrace Fishery, One of the only handicap accessable Fisheries in the Region. It is an Established Fishery that is heavily used by all members of the public.
To change that to a fishery that is only open to a Select few
is a Travesty in the making.
Please do not allow this to happen.

From: gehollett@everyactioncustom.com on behalf of Glenn Hollett
To: Sam Owen
Subject: Hydroelectric is the cleanest energy
Date: Friday, January 19, 2024 7:30:35 PM

Dear Operators of the Eklutna Hydroelectric Project,

Thank you for the opportunity to comment on the draft Fish and Wildlife Plan proposed for the Eklutna River.
We need more hydroelectric dams. This is the cleanest most dependable renewable energy there is.
Wind and solar are a nasty eye sore to Alaskas great beauty.
We need more hydroelectric across the state.

Sincerely,
Glenn Hollett
North Pole, AK 99705-1145
gehollett@gmail.com

From: Kathy Erickson
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, January 19, 2024 7:11:35 PM

CAUTION: This email was received from an external source

As a resident of Anchorage, and a person who values alaskan resources being used in the most efFicient way to support the humans living here, i am encouraging you to keep the dam. There is no better use that overrides supporting the residents in the multiple ways that it has meT significant needs of Alaskan citizens.
Thank you for this opportuNity to voice my choice in this decision!
Kathy Erickson
Anchorage ak

From: Mark Johnson
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, January 19, 2024 10:35:29 AM

CAUTION: This email was received from an external source

To whom it may concern, I am writing in support of preserving the Eklutna Hydroelectric powerplant. Hydro is the only reliable year round renewable power source. I am in favor of the smaller release of water into the eklutna river for the salmon but not if it impacts the hydroelectric and the salmon fishery that is established at the eklutna tailrace. I do support the creation of additional hydroelectric powerplants. there are people saying that the eklutna river fishery could be a world class fishery serving all alaskans. To counter this notion is the fact that there is no infrastructure or parking to support the thousands of people that may or may not fish the eklutna river.

From: Richard McClure
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, January 19, 2024 7:50:25 AM

CAUTION: This email was received from an external source

The removal of the eklutna lake dam makes no sense. Currently you have a good king and silver salmon sport fisheries at the eklutna tail race and you want to replace it with a marginal sockeye run that would have to be supported by a hatchery. what clearwater creeks flow into eklutna lake that would support suitable habitat for sockeye to spawn in, bold creek, hardly. Let alone the sterile water of eklutna lake laden with glacial silt where they could not grow to suitable size before they migrate out.
Do not remove the dam, hydropower is our best source of proven clean energy. no co2 emissions.

From: Wendy Gaydos
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, January 19, 2024 10:00:18 AM

CAUTION: This email was received from an external source

I am APPOSED to removing the Eklutna dam. it is safe clean electric power we need in Anchorage.

From: Ryan Kennedy
To: Sam Owen; Sam Owen
Subject: pulbic comment
Date: Saturday, January 20, 2024 5:33:52 PM

I think the dam should be left in place. Hydro power is the least expensive power there is. And we don't even have to build anything, it's already there. Removing the dam would be the least green thing we could do.

As for concerns about honoring indigenous cultures, we can erect a monument next to it. I recommend a beaver themed monument. Recently there's been little Native monuments erected at Potter Marsh, West Chester lagoon, and Pt. Woronzof. Erect one of those next to the dam and this will suffice in protecting it as a cultural resource.

-Ryan Kennedy

From: James Cloud
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, January 22, 2024 9:11:36 AM

CAUTION: This email was received from an external source

I am 46 year Anchorage resident and a 44 year member of Chugach Electric Association, and a user of Chugach State Park at eklutna lake.

I am against removing the Eklutna Dam or increasing the cost to electric and water users. We need more hydro-electric energy projects in Alaska, not less.

From: John J Gaydos
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, January 22, 2024 5:05:08 AM

CAUTION: This email was received from an external source

I oppose removing the Eklutna dam, it provides clean electricity.
Thank you,
John J Gaydos

From: John Hester
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, January 22, 2024 11:45:04 AM

CAUTION: This email was received from an external source

I think the idea of removing a dam that lights up 24,000 houses is absurd
In a time we're told that we are running out of gas it seems to be an irresponsible move to support such a thing

From: Amy HEnry
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, January 23, 2024 6:11:16 PM

CAUTION: This email was received from an external source

I support hydro-electric power. i support dams. i support building more dams. i believe hydro power through dams can be done in a thoughtful manner. but tearing down a good dam is neither wise, or thoughtful.
thank you,
amy henry

From: martha
To: Sam Owen
Subject: Dam at Eklutna
Date: Tuesday, January 23, 2024 3:00:21 PM

I support leaving the dam in place, in this case. Since 25,000 customers receive cheaper power from it versus millions of dollars to remove it, I say let it stay. Alaska has hundreds of other waterways for salmon to run freely. The removal makes no sense.

I am a 43-year resident of Anchorage, an avid environmentalist, a taxpayer, and a super voter. Make the economically sound choice and leave the Eklutna dam in place to help those who benefit from the power. Lucky us to have this great water from the lake, too.

Martha Jokela
2225 Radiant Cir
Anchorage, AK 99501

From: Theodore missig
To: Sam Owen
Subject: Ekutna Hydro
Date: Tuesday, January 23, 2024 10:55:49 AM

Dams are the most efficient and clean way to generate electrical power. We all benefit from this source of energy. Leave the damn as is. There is no shortage of salmon in Alaska! There is only a shortage of COMMON SENSE! Ted Missig

From: Trigg
To: Sam Owen
Subject: Dam removal
Date: Wednesday, January 24, 2024 11:36:41 AM

I oppose completely removing the Eklutna Dam. We need the power.
Economically retention works in the long term.
Sent from my iPhone

From: Thomas J Prunty
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Wednesday, January 24, 2024 3:40:49 PM

I have been updating myself on the Eklutna Hydro project by attending one of the public meetinings and browsing the project information on this website. I understand that the current project as it stands provides 90% of the moa's water and 6% of the railbelt power. The two remaining proposals both appear to be not only unnecessary but damaging. The optimistic virtue signaling of removing of the dam is by far the worst and the reduced politically correct version of cutting the electric output to the utilities on the railbelt is not only going to negatively affect the ultility consumers but also the tax payers in the moa. To get rid of or reduce the cheapest, and the most acceptable power produced in the rail belt is pandering to the woke and radical left wing of alaska politics.

There is no proof that salmon ever used the Eklutna river or lake outside of the convenient folk lore of the eklunta natives. According the the science associated with the lake, the lake has always had way too high a tribidity to raise fish. This dates back as far as records exist and is present today. Planted fish are starving to death because the lake can not produce enough food for thier survival. This condition will not change no matter what is done with the river. There is currently very little shoreline that would support spawning and little could be added.

In summary, don't fix something that isn't broke. Higher rate base, higher taxes do equate to spending millions of dollars to prove that stocking fish at trailRace is supplying more fishing than the river or lake ever did.

From: Laura Walter
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Thursday, January 25, 2024 10:35:21 AM

I believe That the Eklutna dam should remain in place and continue to supply Anchorage with water and power. It is considered clean power for over 24,000 residents and supplys 90% of the water for Anchorage use.

Looking at the studies on the fish (pages 32 and 33 of the Eklutna Hydroelectric ProjectFish Species Composition and Distribution
Year 2 Study Report Final) it appears that the fish do better where the water is moving slow. They seem to do just fine.

I see no benefit in removing the dam.

From: Rose Ann Goodman
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Thursday, January 25, 2024 11:17:20 AM

I am very much in favor of retaining the eklutna power plant. It is the most environmentally friendly way to generate electricity and has been working well for a long time. Removing the eklutna dam would affect thousands of people and benefit few. it is doubtful that salmon would return to the river anyhow after this length of time.
Roseann Goodman

From: Angela Birt
To: Sam Owen
Subject: Eklutna HydroElectric Project
Date: Thursday, January 25, 2024 10:45:23 PM

I oppose removing the Eklutna Dam and depriving residents of this clean, renewable source or energy to “possibly” bring back a tiny run of fish last seen in 1955. There is no way to know if the fish run can be restored and the loss of this power source is not merited, no matter how good some people “feel” about it. It’s wasting a resource we have for nothing.

Angela G. Birt
Eagle River, AK 99577
Sent from my iPhone

From: Ann
To: Sam Owen
Subject: Eklutna Hydro Proposal
Date: Thursday, January 25, 2024 11:12:01 AM

Sent from Mail for Windows

I am in favor of retaining the power plant at Eklutna. It is the environmental friendly way to get power and has been working well for a long time. Removing the Eklutna dam would affect lots of people and benefit few. It is doubtful that salmon would even return to the river.

From: Anna Fezatte
To: Sam Owen
Subject: Eklutna Hydropower
Date: Thursday, January 25, 2024 10:47:39 AM

Never has there been a greater need for carbon free power. The loss of Eklutna Hydropower would impact the power and water utilities. The electric utilities losing the hydropower will need to use more natural gas power, more carbon emissions and greater financial cost. With the increase use of natural gas rates will increase. More power would be required to pump water from the wells needed for Anchorage. Can the water utility wells keep up the increase in demand?

From: Gil Serrano
To: Sam Owen
Subject: Eklutna Dam
Date: Thursday, January 25, 2024 12:10:37 AM

Destroying that infrastructure is madness.

Gil Serrano.

From: dglscmpbll4
To: Sam Owen
Subject: Removing hydro dam
Date: Friday, January 26, 2024 11:00:13 AM

Good morning! I am adamantly apposed to the removal of the Eklutna hydroelectric dam. This project defies all common sense! If Cook Inlet natural gas is running out, which i highly doubt.Taking away a clean unlimited source of power like the Eklutna dam is a total contradiction to what more renewable energy sources the state and nation is calling for.

I understand the importance of restoring a healthy salmon run but have other alternatives like installing a fish ladder been examined.

Douglas Campbell.

Sent via the Samsung Galaxy S8+, an AT&T 5G Evolution capable smartphone

From: Mark worcester
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Saturday, January 27, 2024 1:39:38 PM

IT IS RECKLESS TO SUPPORT REMOVAL OF THE DAM AT THE VERY TIME INTENSE EFFORTS ARE BEING UNDERTAKEN TO TRANSITION FROM FOSSIL FUELS TO RENEWABLE RESOURCES FOR ELECTRICAL GENERATION. HYDROPOWER IS THE BEST SOURCE FOR FIRM POWER TO SUPPLY POWER WHEN THE WIND DOES NOT BLOW OR THE SUN DOES NOT SHINE. GIVEN THE HIGH COST OF AND RESISTANCE TO ANY NEW HYDRO OR NUCLEAR, THE HIGH COST AND UNCERTAINTY OF TIDAL GENERation, and the high cost of battery storage, it is irresponsible to even consider taking the dam out. How much and how would the eklutna hydro project output be replaced? This cost has to be factored into any decision to remove the dam. In ADDITION, DAM REMOVAL WOULD POSE RISKS AND COSTS ON ANCHORAGE'S WATER SUPPLY. FINALLY, I SUSPECT THAT THERE IS CONSIDERABLE UNCERTAINTY ABOUT HOW MUCH, IF ANY, SOCKEY SALMON RUNS WOULD ACTUALLY BE REVITALIZED. I UNDERSTAND THE EMOTIONAL ATTACHMENT to salmon, NATIVE HERITAGE AND NATURAL RIVERS (I am a long-time river runner, love salmon, and appreciate native sentiment), but these factors are SWAMPED by the reasons for keeping the dam.

From: Tammie Smith-Scott
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Sunday, January 28, 2024 7:09:26 PM

I would like to follow up on comments I made a couple weeks ago. After finding out there were only 70 members of the eklutna tribe, it seems inconceivable to me that removing the dam is not feasible at any level. Eklutna provides most of the water for Anchorage and electricity in a substantially green way. It would be cheaper in the long run to pay a royalty to these 70 folks. As I stated before I have fished the area, and there are fish, but in this case the needs of the many must take precedence. To redesign or replace aspects of this project and tear down the dam is too costly at a time we don't have the funds and cannot afford increased rates. Removing the dam will affect the lake levels as well , our water supply, and the recreational use of the area. Sadly progress and population affect natural habitat, but so has the pipelines and their impact was offset by royalties. I think this would be appropriate for the 70 members in this situation. Anchorage has so many problems power wise, we do not need additional ones and loss of water.
Thank you

From: kirk brown
To: Sam Owen
Subject: Closing the Eklutna Dam
Date: Monday, January 29, 2024 12:26:10 PM

I am strongly apposed to closing the dam.

The dam generate a great deal of power for the area and the valley. From what I understand that's about 6%. We have enough issues with power, why make it harder to have.

The lake is the biggest source of water for Anchorage. Are they crazy to deplete their water source??

If they want more fish; why not re-open the hatcher at Jim Creek, just below the power station is. Not every river has to have fish in it. Reopening the hatchery would provide more fish and easy access to all the area.

Couldn't they just construct a salmon run next to the dam for fish access to the lake. At this day in age of design and construction that should be a lot better time, money and effort instead of losing a water and electricity source.

Thank you,

Kirk Brown
Wasilla Resident

From: john marrero
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, January 30, 2024 4:14:44 PM

If we remove the dam and reduce anchorage's water supply it would be a financial, ecological & an electric power supply disdisaster, disaster.

From: Michael Packard
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, January 30, 2024 4:40:51 PM

How will the 90% of the Muni water supply be replaced if the dam is removed? How many additional fish will be produced every year when more water goes into the river? looking at the study It appears additional water could add more turbidity and perhaps damage the spawning grounds thereby producing less fish. I don't think the negative impacts of removing the dam will be offset by any positives. I don't think removing the dam will increase the fish population sufficiently to justify the removal. The better option for more fish may to increase the capacity the hatchery. Can the stream handle more fish?

From: Joseph Beckham
To: Sam Owen
Cc: beckham kyle
Subject: Eklutna Power
Date: Wednesday, January 31, 2024 2:46:16 PM

Come on it doesn't get any cleaner than Hydro-electric. My only question is how do we make more of the same around the state. The out flow has made for some great fishing opportunities. Provides access for all young and old alike including handicap or special needs people. What could possibly serve the community better. Please leave a good thing alone.

From: Aaron Arnold
To: Sam Owen
Subject: Eklutna dam
Date: Thursday, February 1, 2024 11:15:32 PM

Leave the Dam in place, the positive reasons for the people out weigh any agenda by local woke terrorists that want to ruin Alaska
Sent from my iPhone

From: Lindsay Standish
To: Sam Owen
Subject: Eklitna dam
Date: Thursday, February 1, 2024 8:33:18 PM

I love the concept behind the removal. I am all in support of things that support wildlife and our fish but:

Getting rid of green energy seems worse to me long term for our environment, and the people that live here.

I do not support this proposal to remove the dam.

From: Thomas Anderson
To: Sam Owen
Subject: No to Dam Removal!
Date: Sunday, February 4, 2024 11:42:37 PM

As a long term resident of Anchorage, I am proud of our commitment to clean energy- best represented by our Eklutna dam: both in the clean, non-polluting energy it produces, and in the fine drinking water it supplies. To remove it would be a travesty! 90 percent of our drinking water (!) and tremendous amounts of clean electrical power are the benefits of keeping this city's silent treasure. The village of Eklutna itself gets it's power from the Eklutna dam. And what would replace it? Burning still more hydrocarbons? This is a crazy scheme, and ought to be rejected as quickly and as forcefully as possible. Sincerely, T. Anderson, Anchorage AK

From: Robert Ferebauer
To: Sam Owen
Subject: Eklutna Hydroelectric Project comment
Date: Monday, February 5, 2024 5:03:59 PM

Anchorage needs the Eklutna power plant, dam, and reservoir. The power is clean with no emissions. The water doesn't require pumping out of the ground. Removing the dam would degrade the quality of life of Anchorage residents.

Sincerely,
Robert Ferebauer

From: Fr. Randy Hillman
To: Sam Owen
Subject: Ekluna Dam
Date: Monday, February 5, 2024 6:29:06 PM

My name is Susan Hillman. I have been a member of Matanuska Electric Association for over 20 years. I firmly believe that taking out
the dam is not beneficial to this area of Alaska. The population of Anchorage and the Mat-Su Borough would be harmed if the dam were
destroyed. Anchorage would lose its water source, and our electric rates would rise because of the removal of the dam. Currently, the Eklutna
Dam is a base-load, scaleable, and carbon neutral carbon source. We must think of how much pollution will occur if the dam is destroyed.

I understand that the Eklutna Tribe, population of 70 members, wants to remove the dam in order to restore fish migration to the river.
The dam was constructed between 1927 and 1929, and its main purpose is to provide hydroelectric power to the city of Anchorage and the
Matanuska-Susitna Borough. To me, it seems unlikely that the fish migration will return after so many years. So, for the greater good, leaving the
dam in place would better serve the larger population of Anchorage and the Mat-Su Borough as a water and electric source.

Susan Hillman

From: Jackie Muncy
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, February 6, 2024 12:05:19 PM

Please do not remove the Eklutna Power Plant. Thank you.

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Joseph & Rose White
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, February 9, 2024 10:33:17 PM

We're 56+ residents of Anchorage for whatever that maybe worth. We're already paying extra for the wind provided electricity and with the highly advertised natural gas availability it clearly doesn't make "any" economic sense to eliminate the eklutna hydro electricity. As a water source eklutna very likely, with it's volume and elevation, should be less costly to develop, operate and maintain that and adequate number of water wells. It took should be kept. And, yes maintain and enhance fishing and recreational opportunities to but don't eliminate it.

From: Jeremy Hermann
To: Sam Owen
Subject: Comment on Eklutna Dam
Date: Saturday, February 10, 2024 10:33:20 PM

To Whom it May Concern:

My wife and I both agree that closing the dam and removing it to allow the original waterway to flow as it did prior to the dam being built is a ridiculous idea. I thought we were trying to get away from fossil fuels? What's the plan to replace the power currently generated by the dam?
In addition the provision of clean mountain water to the residents of Anchorage is a wonderful thing as is the beautiful lake and camping area/park that has been built around the lake. What's the plan to replace all that?
I have read about other case where dams that had been long established were removed and the resulting damage caused was way more catastrophic than anyone anticipated.
There is really no positives that I'm aware of? Unless I'm mistaken. Nature has already adapted as nature does and removing the dam now will cause far more destruction to the ecosystem that has adapted than it will benefit the ecosystem.
Now that's science!

Sincerely,

Jeremy and Manilyn Hermann
(907)301-4933
(907)727-6882
Sent from my iPhone

From: Marvin Ebnet
To: Sam Owen
Subject: eklutna dam
Date: Sunday, February 11, 2024 10:25:25 AM

This is crazy talk! Why on gods green earth would anyone want to jeopardize a clean source of power, our drinking water AND source of fire water that goes into the large holding talk built some years ago.

I absolutely, unequivocally am against the removal. I have been a commercial fisherman for 38 years, to remove this Dam, the power source AND the drinking source is beyond crazy, leave it alone and let it continue to provide power, drinking water and fire water.

Marvin Ebnet
Alaska resident for over 50 years

From: Alex Gimarc
To: Sam Owen; "Julie Hasquet"
Cc: bettinac@chugachboard.com
Subject: Comments in opposition to removal of Eklutna Dam
Date: Tuesday, February 13, 2024 8:19:45 AM

Published the following on Must Read Alaska (MRAK) a couple months ago when this first came up. Short form: Strong opposition to removal of the dam.

- Dam produces perhaps 5-6% of Rail Belt electricity. No reliable replacement for the lost generation is available, planned or funded.
- Dam removal will negatively impact water availability for ANC. We get 90%+ of our water from Eklutna Lake.
- Water level in Eklutna Lake is highly variable. No evidence it will support a constant flow downstream year round.
- No evidence of a stable historic population of reds ever existed in the lake. You are trying to restore a population that never existed.
- OTOH, water from Eklutna Lake DOES support 2 stocked runs of salmon at the tailrace (kings and silvers) that have actively supported sport fishermen for 30+ years.
- Removal of the dam will eliminate the possibility of using the Eklutna Lake system for pumped energy storage necessary to support large wind & solar being currently contemplated (Bob Seitz suggestion in MRAK).
- No small number of Eklutna tribe members want the dam removed so they can rebuild one on their land, which makes this little more than another tribal corporation money grab not unlike Fire Island wind.

This is a dumb idea. Don't do it. Cheers –

- AG
  Alex Gimarc
  Chugach Board Member 2007 – 2010
  907-441-5343

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https://mustreadalaska.com/alex-gimarc-removing-the-eklutna-dam/

Alex Gimarc: Removing the Eklutna Dam

By SENIOR CONTRIBUTOR - December 29, 2023

By ALEX GIMARC

Must Read Alaska reported a few weeks ago that the Anchorage Assembly asked the legislature to approve removal of the Eklutna dam, ostensibly to rebuild a salmon run gone for at least a century.

This is the same Assembly majority that has managed to turn the homeless problem in town into a festering sore on the body politic. That festering sore has been financially lucrative for one of their members (Meg Zaletel) who they have determined not to have a conflict of interest.

With the decision to support removal of the Eklutna dam, the Assembly manages to get themselves into the energy business, and into the ever-contentious Cook Inlet fish wars while they pander to the 70 or so members of the Eklutna Tribe, something that apparently makes them feel good. The rest of us, not so much.

Their request is so well thought out that I am reminded of PJ O'Rourke's observation:

"Giving money and power to government is like giving whiskey and car keys to teenage boys."

With this recommendation, the Assembly majority has finished the whisky and is inserting the car keys into the ignition.

A deeper dive into the three issues revolving around the removal of the Eklutna dam is probably worth our time. From here, the issues include the following. There are likely more, but this is a start:

- *– Electrical generation*
- *– Anchorage water*
- *– How many fish?*

The Eklutna hydro station has been operating since 1955. It was sold to the three electric utilities, Chugach, MEA and ML&P in 1991. That sales agreement set a 30-year clock on returning the river to its natural state. Chugach and MEA published a draft of their Fish and Wildlife Program in Oct. The fourth utility involved is AWWU, as Anchorage gets 90% of its water from the same infrastructure used to generate electricity.

Eklutna hydro generates 40 – 47 MW of clean, reliable, carbon free electricity, just over 5% of all electricity generated in the Railbelt. The Eklutna dam raised water level in the lake some 24' from its natural level. That natural level changes throughout the year based on snowmelt. The intake is at the bottom of the lake, 60' below the current surface. AWWU's water comes off a tap to that piping system.

Advocates for removing the dam believe there is enough water available to support rebuilding the salmon runs, generating electricity and supplying water for Anchorage if the dam is removed. The immediate question is how will this water be allocated? Whose needs are most important? Our experience in the endangered species world is that the needs of the fish ALWAYS override those of the humans (delta smelt in California and snail darter in Tennessee).

Today, 90% of the flow is used for electrical generation. 10% of that flow is used for drinking water. Cut that flow in half, and output from Eklutna hydro will necessarily drop by a similar percentage. The intake was blocked for some weeks to months following the 1964 quake by an underwater landslide. It can be blocked again.

Additionally, there are two stocked salmon runs below the Eklutna hydro plant in its tailrace that need continual waterflow.

Perhaps the best analysis of Eklutna lake for the presence of salmon was a Sept 2017 paper by Loso, et al. They found no direct evidence in cores taken from the lake bottom for a red salmon population, though Eklutna tribal elders promised them they were a fishing village before the first dam was built in 1929.

Total population estimated entirely on Eklutna oral tradition is in the vicinity of 1,000 reds/year. It is up to the reader to determine how valuable those 1,000 fish/year are, especially since very few of them will be caught.

Note that salmon here in Upper Cook Inlet are gregarious. Silvers exploit flooding, spawning in places far outside their normal creeks and streams. All five species of salmon go up Rabbit Creek, as they also do in Campbell Creek. Very few salmon go up Eagle River. There is a small red run up a closed creek on Joint Base Elmendorf-Richardson.

If the Powers That Be make the decision to remove the dam, they will base that decision on all the "trust me" claims by the advocates like the Eklutna Tribe and Trout Unlimited that there will be no noticeable impact if the dam is removed. Of course, the advocates have no response other than trust me to questions about replacing lost electrical generation and what happens when the water levels are too low to support current water use during a dry year(s).

I would suggest the following questions be answered before any discussion of dam removal:

- How do you plan to provide drinking water for Anchorage in the event of low water levels in the lake? Who or what makes the allocation decisions? And who or what has priority?
- How do you plan on replacing 5% of Railbelt electrical generation with something that is at least as clean and reliable as hydro? That generation needs to be online before the dam is removed. Nobody has it budgeted.
- What impact of reduced water flow has on the two stocked run at the Eklutna tailrace? Do the needs of the new Eklutna fish outweigh those of the stocked fish in the tailrace and their user group? If so, why?

I always get worried when all the Usual Suspects demand immediate action to right an environmental wrong, especially when their response to all questions are “trust me.” I get more worried when the Rocket Scientists on the Anchorage Assembly are onboard.

We might get lucky. This might work out nicely. But the costs and pain level should it not will be substantial in terms of cratering electric reliability and drinking water availability. Are those costs and that risk worth the feel-goodism associated with removing yet another dam? Should be an interesting discussion.

Alex Gimarc lives in Anchorage since retiring from the military in 1997. His interests include science and technology, environment, energy, economics, military affairs, fishing and disabilities policies. His weekly column “Interesting Items” is a summary of news stories with substantive Alaska-themed topics. He was a small business owner and Information Technology professional.

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From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Brian rathbun
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, February 13, 2024 5:05:16 PM

Hopefully common sense prevails and the Dam stays in Place to supply necessary water supply for public consumption and Safety.
The Anchorage Assembly Sadly continues to be a Disaster.
Respectfully,
Brian Rathbun

From:	Britton Goldberg
To:	Sam Owen
Subject:	Re: Eklutna Dam removal proposition
Date:	Tuesday, February 13, 2024 8:54:39 AM

Please do not give any consideration to the Anchorage Assembly's poorly thought out desire to remove clean hydroelectric power from your portfolio. I hike Thunderbird Falls trail every year and have yet to see any salmon there that would justify losing a strong, paid for piece of infrastructure that provides clean electricity for the area. Install a fish ladder if you must, but don't hurt the community by removing this resource, especially after the recent weather conditions we experienced.

Thank you,
Britton Goldberg
Chugiak/Eagle River resident

Sent from Yahoo Mail on Android

From: Charles Johnston
To: Sam Owen
Subject: Dam project
Date: Tuesday, February 13, 2024 4:50:53 PM

Any person of wisdom would be able to see that "any" destruction to the Eklutna dam would be totally irresponsible, subversive, and fool hardy. It doesn't take a person of knowledge and intelligence to realize that.
Leave it alone, there is no value to the destruction of that dam but the repercussion's would be disastrous.
This is nothing but environmental muscling by entities with no reason but to harm other peopes wellbeing!

C.L. Johnston

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Edwin Richards
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Wednesday, February 14, 2024 8:25:43 AM

Leave the dam in place.

From: Jack
To: Sam Owen
Subject: Dam removal
Date: Tuesday, February 13, 2024 2:29:12 PM

Do not remove the dam! Anchorage needs the power and water to keep it alive!

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of katie nolan
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, February 13, 2024 5:01:31 PM

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this project gives us clean, reliable, renewable energy and the finest drinking water in the nation. please do nothing that endangers this tremendous asset.

From:	raraep@gci.net
To:	Sam Owen
Subject:	Eklutna Hydropower is Critical for South Central AK
Date:	Tuesday, February 13, 2024 3:10:26 PM

The Eklutna Hydropower provides needed electricity to South Central Alaska.

Do not remove the dam and power plant.

The dam and power plant are critical infrastructure.

Do not damage the infrastructure.

Sincerely

Randy Ruedrich
1515 W 13th Ave
Anchorage

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Richard
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Tuesday, February 13, 2024 5:10:37 PM

I want reliable and COST-EFFECTIVE hydro engery and clear drining water for anchorage.

From: Ann Crane
To: Sam Owen
Subject: Eklutna Dam
Date: Wednesday, February 14, 2024 10:03:46 PM

I strongly oppose removal of the Eklutna hydroelectric dam which supplies a significant amount of electricity to Anchorage and MatSu.

Sincerely,

Ann Crane

From: Daniel Powers
To: Sam Owen
Subject: Eklutna Lake Dam Comments
Date: Wednesday, February 14, 2024 11:19:09 AM

Dear CEA representative,

Please find my comments on the CEA Eklutna Hydro Valve Proposal below.

Thank you for considering my comments.

-Daniel Powers

_____

Anchorage residents should not consider removing the Eklutna Lake Dam until there is 1) dedicated redundant water supply infrastructure from Eklutna Lake to the Municipality of Anchorage and 2) its 40MW of electrical generation is replaced with alternative renewable power through public private partnerships.

I believe the Chugach Electric Association, the Municipality of Anchorage and State government cannot commit to tearing out a critical piece of infrastructure that supplies fresh water to the largest population center in Alaska without back-up plans in place.

Anchorage and Matanuska Susitna residents need clear answers on three questions before any demolition of the Eklutna Dam should be considered:

1. What would it cost to replace 40MW of hydro power with available renewable power?
2. How would replacing 40MW of hydro with wind or solar change the reliability of the power for the utility in terms of rolling reserve?
3. How can we justify eliminating existing reliable renewable energy considering our commitments to global emission reductions?

From: David Rutz
To: Sam Owen
Subject: Don't remove the Eklutna Dam!
Date: Wednesday, February 14, 2024 8:09:36 PM

I am strongly opposed to removing the Eklutna Hydroelectric Dam! We need it to help supply electricity and water! Removing it will have extremely negative impacts on our electric grid and it cannot be easily, reliably or affordably replaced.

I am a member of Matanuska Electric Assn.

Dave Rutz

From: Duane Rutz
To: Sam Owen
Subject: Dam removal
Date: Wednesday, February 14, 2024 7:05:36 PM

Removal of any hydro dam is a shortsighted plan. I appose any dam removal that produces power on a local level, unless that removal means its being replaced by a more efficient hydro dam producing more KW's. Period

From: Jane Johnson
To: Sam Owen
Subject: Do NOT remove the Eklutna Dam!
Date: Wednesday, February 14, 2024 7:09:03 PM

I strongly oppose the removal of the Eklutna Dam.

Sincerely,
Jane E. Johnson
Janejohnson.jej@gmail.com
480-239-4475
Sent from my iPhone

From: Jennifer Sandvik
To: Sam Owen
Subject: Hydroelectric Dam
Date: Wednesday, February 14, 2024 9:31:35 PM

February 14, 2024

I am absolutely opposed to removing the hydroelectric dam. Here are my reasons:

- Hydroelectric is a safe an sustainable energy source.
- The infrastructure is already in place. In order to replace a project like this would take YEARS of environmental study and cost millions upon millions in legal fees alone.
- We need every source of energy we can get in Alaska. We have extremely cold winters and the cost of electric and gas is not going down. Our processing plant in Fairbanks was shut and tore down years ago. We don't want to be in a position where our citizens are freezing to death because of a decision that was made by an email campaign from people who don't even live in this state.
- What are we doing to ensure our children will have viable energy sources here in Alaska
- Doing away with the hydroelectric plant does not make sense at all.

If you have any further questions, I can be reached at the above email or:

JENNIFER SANDVIK
24430 Coleman Circle
Eagle River, Alaska 99577
907-229-1365

From: Joni Burley
To: Sam Owen
Subject: Eklutna Dam
Date: Wednesday, February 14, 2024 6:41:48 PM

The Eklutna Dam is a very efficient dam. Do not take it down for something elusive. You cannot replace it and it provides a necessary service.

I am strongly opposed to the removal of the Eklutna Dam.

Thank you,
Joni Burley
907-360-0147
Eagle River, AK 99577

From: kassieandrews
To: Sam Owen
Subject: Draft Fish and Wildlife Program Comment
Date: Wednesday, February 14, 2024 7:24:24 PM

To whom it may concern,

I do not support the removal of the dam. The special interests involved in this project have one goal and that is to foist expensive, unreliable and environmentally destructive options on us all.

Brad Meiklejohn works for the Conservation Fund and is behind the dam removal. In his own words:

"A recent book with the title One Billion Americans is terrifying to contemplate. Everything I care about would be three times worse with three times more people than the 330 million currently here. I am waiting for the rejoinder book One Hundred Million Americans because I think we need to start rapidly downsizing. Humans are doing just fine but the rest of nature is not."

https://rewilding.org/we-lied-to-you/

The lead on the dam removal wants two thirds of the population eradicated. Let that sink in. These people wish us dead. They despise humanity. Who gets to decide who lives and who dies? This is horrible. Please do not let these people intentionally inflict harm on a huge percentage of the population.

This is not about fish. There are plenty of fish, available to EVERYONE at Tailrace, which is at risk. The critical supply of 90% of Anchorage's water will be lost. The critical and reliable power that we so need, especially when renewables fail and gas is short will be lost. The sunk cost of that invested into this critical infrastructure will be wasted. There will be extraordinary costs to upgrade the DOT/Railroad infrastructure when we least afford it.

Dam removal was never a part of the alternatives yet here we are. This was supposed to be a study. There is no end to what may be claimed to enact restoration projects of this sort (also happening in the lower 48) and for that reason I support a do nothing option.

Are there any rational adults in this conversation?

Please do the right thing.

Kassie Andrews
Anchorage resident

From: Kristen Dreschler
To: Sam Owen
Subject: I oppose removal of Eklutna dam
Date: Wednesday, February 14, 2024 7:04:56 PM

To whom it may concern,

I strongly oppose the removal of the Ekluta dam.

From: lrbaxter@alaskan.com
To: Sam Owen
Cc: "Loran Baxter"
Subject: Eklutna Hydro
Date: Wednesday, February 14, 2024 5:16:39 PM

Greetings,

As a retired Civil Engineer who previously worked on hydroelectric projects in Alaska including the Snettisham project that serves Juneau, I strongly encourage you to keep the Eklutna project.

Electricity from hydroelectric projects is some of the most cost effective and reliable electricity available. It is also very flexible in responding to peak demands which other forms of renewable energy are unable to do. The idea of replacing reliable Eklutna electricity with unreliable and much more expensive sources like solar or wind defies logic, especially when there is a push for renewable energy. I would encourage you to watch the Michael Moore documentary movie, Planet of the Humans available on YouTube, https://www.youtube.com/watch?v=Zk11vI-7czE which documents many of the problems with other forms of renewable energy.

The availability of our other reliable energy source, natural gas is becoming scarce due to limitations on future drilling and remains uncertain. Unless this trend is reversed, we may find ourselves with no reasonable alternatives to power Alaska's future.

As much as I like fish, removing the Eklutna Dam at this time, with no reliable replacement defies all logic; Therefore, I strongly encourage you to keep the Eklutna project intact.

Loran Baxter
(907) 887-6391
2 Chr 7:14

From: Mark Hansen
To: Sam Owen
Subject: The Eklutna hydro project
Date: Wednesday, February 14, 2024 10:11:46 AM

Gentlemen,
Removal of the Eklutna dam makes no sense at all. This is by far the most cost effective power source contributing to the southcentral grid. Hydro projects typically have high capital cost but very low operating cost. The longer these projects operate, the more cost effective their continued operation becomes. It is absolute nonsense to decommission this paid-for hydro project now.
What will replace the lost power? People say natural gas, but there is a looming shortage of natural gas in the Cook Inlet area. The MEA generating station at Eklutna currently operates on natural gas, but is designed to use multiple fuels if necessary. Care to pay for running it on petroleum to replace the lost hydro power? How about a new coal-fired plant? All these alternatives will be more expensive and more polluting than hydro power.
The tailrace of the hydro plant provides more salmon than could ever be expected from Eklutna River. I understand that based on study of the sediments in Eklutna Lake, there is no evidence that salmon ever spawned in Eklutna Lake.
Keep the dam. Keep the hydro plant.

Mark Hansen, P.E.
Hansen Engineering, Inc.
2605 N Old Glenn Hwy
Palmer, AK 99645
907-745-4721

Virus-free.www.avg.com

From: Meg Rutz
To: Sam Owen
Subject: Leave the Eklutna Dam alone!!!
Date: Wednesday, February 14, 2024 6:26:03 PM

I am strongly opposed to removing the Eklutna Dam! It serves a vital service that cannot be replaced with the same reliability and cost!

Quit trying to force a solution on something that isn't broken, and is itself already a solution!

Mary Rutz
Chugiak, AK

MEA Coop member

From: Mary Sims
To: Sam Owen
Subject: Please keep the Eklutna Dam!
Date: Wednesday, February 14, 2024 6:12:28 PM

Hello -

Alaska should be pushing for more hydro projects. Removing the Eklutna Dam would be a huge mistake. And after the cold spell we had this year is exactly why this project needs to be defended from all the greenies out there. The government is trying to remove gas and other fossil fuels from us and if these are gone what is going to keep our homes warm, run our vehicles and provide clean electricity. Please use your heads and keep your hands off the Eklutna Dam!!!

From: rm.kemp@charter.net
To: Sam Owen
Subject: Dam
Date: Wednesday, February 14, 2024 7:12:16 PM

We strongly oppose removing the eklitns dam!
Mary & Bob Kempenich

From: mb Kempenich
To: Sam Owen
Date: Wednesday, February 14, 2024 7:17:49 PM

The removal of the I want to inform you that I strongly oppose the removal of the Eklutna dam.
Robert Kempenich.

From: alan schneider
To: Sam Owen
Subject: Hydroelectric dam
Date: Thursday, February 15, 2024 5:28:31 AM

I oppose the removal of the eklutna dam, it makes no sense
Alan Schneider
Sent from my iPhone

From: Daniel Dreiling
To: Sam Owen
Date: Thursday, February 15, 2024 6:48:09 AM

I strongly oppose removing the eklunta hydroelectric dam!

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Dave R. Rutz
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Thursday, February 15, 2024 12:40:36 PM

For 200 to 1000 extra fish per year I am sure nicer fish ladders could be installed to gain near this amount OF fish. windmills in the ocean are killing this amount or more per year now. There is a very good fishery now at the Tailrace which this would do away with so this is reverse of things getting better. We all need the power it produces so lets keep the damn as is or upgrade it. Anchorage needs the water.

From: David Crane
To: Sam Owen
Subject: Eklutna dam
Date: Thursday, February 15, 2024 9:48:40 PM

I strongly oppose removing the Eklutna hydroelectric dam! The dam provides a significant portion of the electricity needed to power Anchorage and MatSu.
David Crane

Sent from my iPad

From: daxcvancara@gmail.com
To: Sam Owen
Subject: Eklutna dam
Date: Thursday, February 15, 2024 6:45:56 PM

I oppose the plan to shut down the Eklutna Hydroelectric Dam.

I am an Alaska resident.

Sent from my iPhone

From: Nancy Schneider
To: Sam Owen
Subject: Hydro dam
Date: Thursday, February 15, 2024 5:48:58 AM

I strongly oppose the removal of the eklutna hydro dam.

From:	PAMELA BEILFUSS
To:	Sam Owen
Subject:	Hydro project shut down
Date:	Thursday, February 15, 2024 4:29:17 PM

The Eklutna Lake Hydro Project has provided a great source of clean, dependable electricity for South Central and, is a water source for the Municipality of Anchorage. Leave well enough alone and don't disrupt the lives of hundreds of thousands of people for a few fish.

Randy Beilfuss
PO Box 298597
Wasilla, AK 99629

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Robert Coffin
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Thursday, February 15, 2024 9:05:12 AM

We need to maintain this hydroelectric dam as it is untill such time as we can find a sutable replacement, one that can provide the same amount of power at the same cost.

From: Sandra Harp
To: Sam Owen
Subject: EKLUTNA DAMN
Date: Thursday, February 15, 2024 8:28:21 AM

I live in Anchorage. leave the damn where it's at. We depend on that damn for electricity as well as for water.

From: Stephanypapa
To: Sam Owen
Subject: Eklutna Hydroelectric Dam
Date: Thursday, February 15, 2024 8:18:28 PM

To whom it may concern,

As an Alaska resident, I would like to express my concern with the removal of the dam and I would like to state that I strongly oppose removing the Eklutna Hydroelectric Dam.

Thank you,

Stephany Stevenson

From: Tina Jennings
To: Sam Owen
Subject: Eklutna Dam
Date: Thursday, February 15, 2024 1:52:59 PM

I strongly oppose the closing of the dam.

Thanks
Tina Jennings

Sent from my iPhone

From: Bryan Stevenson
To: Sam Owen
Subject: Eklutna dam
Date: Friday, February 16, 2024 11:05:39 AM

As a life long resident of Alaska and the anchorage area I strongly oppose removal of the dam that helps power my home and my communities homes.

Bryan Stevenson

From: Dave & Meg Rutz
To: Sam Owen
Subject: I am OPPOSED to dismantling the Eklutna Hydroelectric Dam!
Date: Friday, February 16, 2024 6:52:19 PM
Importance: High

I am very OPPOSED to any efforts to dismantle the Eklutna Hydroelectric Dam. Residents from Anchorage to the Mat-Su Valley depend on that dam for a reliable, affordable, and "green" source of energy and water. There is no reason to dismantle the dam that overrides the benefits of leaving it alone. The Anchorage Assembly should not be supporting the removal of something so vital to area residents!

I am a tax-payer in the Municipality of Anchorage and a member of the MEA Coop.

Dave Rutz

Virus-free.www.avast.com

From: Timothy Wotzka
To: Sam Owen
Subject: Removal or Hydroelectric Dam
Date: Friday, February 16, 2024 1:58:47 AM

To whom it may concern,

I appose the removal of the Hydroelectric Dam.

We need the power for our houses .

Tim Wotzka

From:	Lori Stender
To:	Sam Owen
Cc:	Lori Stender
Subject:	Do NOT remove the Eklutna Dam
Date:	Friday, February 16, 2024 12:44:33 PM

Good afternoon. After reading through the information on the website, I urge you to NOT remove the Eklutna dam.

If the dam is removed:
I am concerned about the cost increase to my water and utility monthly bills.
I am concerned about the damage to the wildlife due to the new construction.
I am concerned about losing one of the best water recreational areas in the State of Alaska.
The benefit to the few is minimal vs the benefit to the greater with keeping the dam in place.

This dam provides a great renewal energy source. The cost for total replacement is too high. Utilize the existing infrastructure to provide the fish habitat in most of the river.

Thank you for the opportunity to comment.
Sincerely,
Lori Stender
907.830.2621

From: Chugiak Mustangs
To: Sam Owen
Subject: Do NOT dismantle the Eklutna Hydroelectric Dam!
Date: Friday, February 16, 2024 5:57:59 PM

I am an Alaska resident and MEA Coop member. I am strongly opposed to any effort to dismantle the Eklutna Hydroelectric Dam! What an insane idea that I'm guessing did not originate from Alaska residents who depend on that dam for electricity & water. It's benefits FAR outweigh the costs. It is a source of reliable, affordable, & climate-friendly energy and water. Leave it alone!

Meg Rutz
Chugiak, AK

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From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Ryan kenny
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, February 16, 2024 3:20:20 PM

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re:comments on the Draft Fish and Wildlife Program

I am a resident of 99567 zip code and a member of Matanuska Electric. I am anti-dam removal. Eklutna's idea of replacing the hydro power with another renewable source will most certainly have its own negative environmental impacts somewhere else. So I do not support threatening our current water source and the non co2 emiting electic production with the hydro plant to attempt to restore fish habitat. Any gain in economic value of the restored fishery would likely be outweighed by higher ultility cost and therefore harms to all members of the Muni. My personal preference is for priotry to be given to efficient and economical power production, recreation, and a reliable water supply. Also please consider local resident's opinions over 'out of state' residents who are out of touch with local and state energy and ultility needs.

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Tim Wotzka
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, February 16, 2024 1:59:18 AM

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i appose the removal of the hydroelectric dam.

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Tracy Reed
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, February 16, 2024 5:42:49 PM

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i have heard a lot of talk lately that there is a proposal to remove the eklutna dam and power generation station. this is the most idiotic thing i have ever heard. The dam provides 90 % of the drinking water and 10% of the electrical power for the municipality of anchorage. how is that going to be replaced and at what cost? what about the looming natural gas shortage that already threatens the electric grid?

From: John Lau
To: Sam Owen
Subject: Eklutna Generation
Date: Saturday, February 17, 2024 3:38:16 PM

I am from Alaska and an engineer involved in the energy industry for over 40 years. I believe it is unwise to remove the Eklutna power generation facilities. Although I do enjoy fishing, I do realize the benefit of having hydropower. It's already in place, truely renewable energy, and it is very cost effective contribution to keeping our power rates low. It would take 3 Fire Island wind farms to replace the annual capacity at a much higher costs.
Please do not remove this resource.

John Lau
907-244-3980

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of pAMELA sNODGRASS
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Saturday, February 17, 2024 11:53:14 PM

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hELLO eKLUTNA HYDRO. THANK YOU FOR ALL YOUR HARD WORK TO EVALUATE THE fISH AND WILDLIFE AT MY eKLUTNA LAKE. i WANT TO SAY THAT WE HAVE A GREAT LAKE. IT GENERATES WONDERFUL WATER THAT i USED TO RAISE MY FOUR CHILDREN. WE HAVE ENJOYED CAMPING AND KAYAKING ON THE LAKE. WE HAVE NEVER THOUGHT ABOUT FISHING IN THE EKLUTNA RIVER. WE HAVE ALWAYS ENJOYED THE SILVERS AT THE TAILRACE. WE NEED RELIABLE AND SUSTAINABLE POWER MORE THAN EVER. KEEP THE HYDRO POWER PLANT. sOLAR AND WIND WILL NOT WORK WELL ENOUGH TO BE RELIABLE. tELL THE GOVERNOR TO LEAVE THINGS ALONE.

From: Francesca A
To: Sam Owen
Subject: I oppose dam removal
Date: Sunday, February 18, 2024 12:19:17 PM

To whom it may concern,

I do not support the removal of the dam. This is not about fish. There are plenty of fish, available to EVERYONE at Tailrace, which is at risk. The critical supply of 90% of Anchorage's water will be lost. The critical and reliable power that we so need, especially when renewables fail and gas is short will be lost.
Dam removal was never a part of the alternatives , why are we here? This was supposed to be a study.

-Francesca Allegrezza
Anchorage, Alaska

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of George R Snodgrass
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Sunday, February 18, 2024 12:12:06 AM

I am on the board of eaglexit a group that is endevoring to detach from the MOA and form a new borough in JBEr-Chugiak-Eagle River. It is our hope in the next few years to have ownership of the MOA interest in Eklutna hydro. I can not speak for the eaglexit board or all of the residents of the Assembly District 2 now. Howver, many people do not want to lose their hydro power or put the great water from eklutna lake in jeopardy. but more importantly they do not want to have to pay more for either of those services. we love the reliability and sustainability of eklutna hydro. we love our eklutna village residents and feel like they have put us in a tough situation by wanting to remove the dam. spending millions of dollars to remove the dam is just not reasonable. i am afraid that they see removing the dam as their only. They have had too many white ENVIRONMENTALISTS talk to them and paying them to turn eklutna river into a wild river. it is the flavor of the day by the environmentalist and NVE is being played. we saw the young white 20 year olds pushing their remove the dam fliers at the public meeting at the Eagle river event center. they were evangelizing the dam removal and sockeye return to eklutna lake. Hello people! eklutna lake is not kenai lake and never will be. please tell the governor to not accept the expensive options. keep our hydro power and our great lake. we cannot afford to lose them.

From: LORRAINE DERNER
To: Sam Owen; stephanienowersdistrict2@gmail.com
Subject: Eklutna Damn
Date: Sunday, February 18, 2024 8:56:16 PM

Hello,
Please leave the existing Eklutna damn alone. The is a valuable piece of infrastructure that does not need to be modified or degraded in any way.
It is fallacy to believe that removing the damn will bring fish back that do not even exist in waterways that do not have any obstructions.
Anchorage needs the water provided by the Eklutna damn and the Valley needs the power source.
I had the opportunity to visit the Eklutna plant and was most impressed by the efficiency of the entire facility. It is the most amazing and impressive facility that I have ever seen, and I believe it is a strategic necessity to maintain the damn.
To destroy or modify the damn would be tantamount to a crime against the people of south central Alaska.
Sincerely,
Lona Derner-Kinney

From: Dave & Meg Rutz
To: Sam Owen
Subject: Opposed to removal of Eklutna Dam
Date: Sunday, February 18, 2024 3:23:34 PM

I am very OPPOSED to any efforts to dismantle the Eklutna Hydroelectric Dam. Residents from Anchorage to the Mat-Su Valley depend on that dam for a reliable, affordable, and "green" source of energy and water. There is no reason to dismantle the dam that overrides the benefits of leaving it alone. The Anchorage Assembly should not be supporting the removal of something so vital to area residents!

I am a tax-payer in the Municipality of Anchorage and a member of the MEA Coop.

Sincerely,
Mary Rutz

Virus-free.www.avast.com

From:	Robert Seitz
To:	Sam Owen
Subject:	Draft Fish and Wildlife Progr
Date:	Sunday, February 18, 2024 9:32:16 PM

I am a Professional Electrical Engineer with 55 year experience in engineering, and over 80 years of living in Alaska. I have fished for sport, for subsistence and commercially for salmon. I consider the energy emergency to outweigh the fish emergency in the Eklutna River.

I consider that it is ill advised to remove the dam and reduce the power production from the Eklutna project so significantly at this time. Maybe after the Cook Inlet gas issued is worked out and some additional energy storage or other base energy source is added to the railbelt consideration of removing the dam would be less alarming,

Life and economy for most of Alaska is more important than a few fish at this time. I think the Eklutna river can be rehabilitated enough with the dam still in place to promote invigoration of at least some of the salmon species.

Robert Seitz, PE Electrical Engineer

From: Sara Penisten
To: Sam Owen
Subject: Opposition to Eklutna Dam Removal
Date: Sunday, February 18, 2024 1:37:25 PM

To Whom It May Concern,
I am writing to express my extreme opposition to the removal of the Eklutna dam. The claimed benefit of the “return of the salmon run” is idiotic, as any salmon that would have returned to spawn would have been hatched prior to the dam’s placement. (Please read up on salmon life cycles.)
I also oppose the acceptance of letters of support for the dam’s removal from parties outside of Alaska. Such “support” is being claimed by individuals whose lives would have no direct impact from reduced hydroelectric power generation and should have no voice in actions that put local residents’ electricity reliability at risk.
I am a 30+ year resident of the Thunderbird Heights community near Eklutna and member of Matanuska Electric Association Coop.
My expectation is that you resoundingly reject any proposed action to remove the Eklutna dam.

Sincerely,
Sara Penisten Turcic

From: Dave & Meg Rutz
To: Sam Owen
Subject: Leave the Eklutna Dam in place!
Date: Sunday, February 18, 2024 3:33:09 PM

I am opposed to the plan (as well as political efforts to delay the decision) to shut down the Eklutna Hydroelectric Dam. The dam has provided residents in Anchorage, Eagle River, Chugiak, Peters Creek and the Mat-Su Valley with a reliable, affordable, and "green" source of energy and water since the 1950's. The Anchorage Assembly should not be supporting the removal of something so vital to area residents!
Political ideaology is the driving factor in this misplaced effort, and that needs to stop!
Non-residents should also not have a voice in this Alaskan-only decision.

I am a life-long Alaskan, and that dam has been used to power my family's home since before I was even born.

Sara Rutz

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From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Andrew Laughlin, senior
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, February 19, 2024 9:10:19 PM

Do not remove the eklutna dam. It is a dispatchable renewable resource. Years of sediment will create an environmental disaster.

From: Bob
To: Sam Owen
Subject: Sam removal
Date: Monday, February 19, 2024 8:49:55 PM

Sent from my iPhone

I do not support the dam removal.

From: james.stone.ak@gmail.com
To: Sam Owen
Cc: james.stone.ak@gmail.com
Subject: Eklutna Hydro Comments
Date: Monday, February 19, 2024 9:00:15 PM

THANK YOU FOR THE OPPORTUNITY TO MAKE A COMMENT. I NORMALLY BITE MY TONGUE, BUT CONSIDERING EVERYTHING HAPPENING AT ALL LEVELS, I AM HOPING TO HELP PREVENT US FROM MAKING A MISTAKE WE WILL REGRET.

AS A COUNTRY, THERE IS AN ATTACK ON FOSSIL FUELS, WHICH WILL ONLY MAKE IT THAT MUCH MORE DIFFICULT TO LIVE SAFELY, ESPECIALLY IN OUR ENVIRONMENT. ACROSS THE WORLD, TRILLIONS ARE BEING SPENT TO CHASE CLEAN ENERGY, WITH HYDRO BEING ONE OF THE BEST. WE HAVE THAT HERE, AND SHOULD BE LOOKING TO ADD MORE HYDROPOWER, NOT TO MOVE TO OTHER ENERGY SOURCES NOT AS RELIABLE. (MY MS WAS IN PHYSICS, WITH MY FAVORITE COURSES BEING IN NATURAL ENERGY.) EVEN IN A STATE THAT HAS MORE NG THAN IMAGINABLE, OUR GOVERNMENT RESTRICTIONS ALMOST HAD US RUNNING OUT OF FUEL THIS YEAR, AND WE CURRENTLY DON'T HAVE A GOOD SOLUTION GOING FORWARD FOR NG. WE ARE TALKING ABOUT REMOVING THE BEST SOURCE OF ENERGY WE COULD HAVE? WE NEED TO NOT ONLY KEEP THIS, BUT WE ALSO NEED TO LOOK FOR MORE HYDRO OPPORTUNITIES SUCH AS A LAKE TAP HYDRO PLANT SUCH AS THE ONE IN USE IN JUNEAU. THIS IS THE BEST AND SAFEST SOURCE OF ENERGY.

PROCESS FOLLOWED TO BUILD OUR HYDRO PLANT WERE IN PLACE TO PROTECT OUR ENVIRONMENT, TO CREATE THE LEDPA SOLUTION, AND I KNOW THEY WERE EXCRUCIATINGLY FOLLOWED.

SALMON ISSUES ARE AFFECTING ALL RIVERS IN OUR STATE, SOME GREATER THAN OTHERS. I FISH THROUGHOUT ALASKA AND FOLLOW COUNTS, AND BESIDES SHIP CREEK, EKLUTNA IS ONE OF THE BEST FISHERIES BY FAR, AND IT CONTINUES TO IMPROVE AS OTHERS STRUGGLE. COULD THIS POSSIBLY BE BECAUSE THE PLANT IS ON THAT RIVER AND THE WORK DONE TO ENSURE THE SALMON WERE NOT IMPACTED ACTUALLY DID MORE TO SUSTAIN THE RUN THAN HURT THE RUN? TWISTING DATA TO SHOW EKLUTNA BEING IMPACTED FROM THE HYDRO PLANT CAN BE EASILY DONE, SOMETIMES NOT EVEN REALIZING ONE HAS SKEWED DATA THAT YOUR HEART AND SOUL THINK IS CORRECT, BUT IN THIS CASE, EKLUTNA HAS FAIRED BETTER THAN MOST RIVERS.

I WAS BLESSED TO WORK AT THE CORPS OF ENGINEERS FOR 5 YEARS WITH SOME OF THE ABSOLUTE BEST AMERICANS DEDICATED TO FOLLOWING THE LAW. I UNDERSTAND THE DUE DILIGENCE THAT MUST BE FOLLOWED. EVEN WHEN IT IS FOLLOWED AS REQUIRED AND THE LEDPA IS CHOSEN, THERE ARE MULTIPLE CASES BROUGHT AGAINST THE DECISION FOLLOWED BY APPEALS RESULTING IN THE VERY, VERY LEAST ENVIRONMENTALLY DAMAGING PRACTICABLE ALTERNATIVE.

REMINDS ME OF OUR PIPELINE, WHERE ONE OF THE COMPLAINTS WAS THE IMPACT ON THE CARIBOU, BUT THE PIPELINE RESULTED IN A PLACE FOR THE CARIBOU TO GATHER FOR THE HEAT OR THE OCCASIONAL BACK SCRATCH NOT AVAILABLE ANYWHERE ELSE ON THE SLOPE. MANY SAY THE CARIBOU ACTUALLY SEEM TO CONGREGATE NEAR THE PIPELINE. ANOTH EXAMPLE IS THE MULTIPLE CASES BROUGHT AGAINST A CORPS DECISION TO ADD BREAKERS TO JUNEAU HARBOR AS A

TEMPORARY MEASURE TO PROTECT THE HARBOR. THERE WAS COMPLAINT AFTER COMPLAINT THE WILDLIFE WOULD SUFFER, AND ALL OF THEIR STUDIES SHOWED THIS. AFTER AN EXTENDED BATTLE WHILE THE HARBOR SUFFERED, THE CORPS WAS EVENTUALLY ALLOWED TO INSTALL THE FLOATING BARRIERS. RECENTLY THE PLANS WERE COMPLETED TO ADD THE PERMANENT BREAKWATERS AND REMOVE THE TEMPORARY BARRIERS, BUT NOW THE ENVIRONMENTALISTS DON'T WANT US TO REMOVE THE FLOATING BARRIERS AS THE WILDLIFE LOVES THEM…ACCORDING TO THEIR DATA.

I ASK WE NOT ONLY KEEP THE EKLUTNA HYDROPLANT, BUT WE ALSO LOOK FOR ADDITIONAL OPPORTUNITIES TO ADD MORE HYDRO POWER TO OUR SYSTEM.

BOBBY STONE

From: Bret Chambers
To: Sam Owen
Subject: Public Comment on Eklutna Dam removal
Date: Monday, February 19, 2024 10:18:24 PM

As an Alaska resident, living in Anchorage, my family does not support removing the Eklutna Dam for the following reasons.

1) Eklutna Lake is a critical source of fresh drinking water for Anchorage and surrounding areas (totaling 130 sq miles). The City of Anchorage owned Anchorage Water and Wastewater Utility supplies over 56,000 customers (~ one quarter of a million people). We have some of the best water sources in the world, because most of it is supplied by pristine watersheds high in the Chugach Mountains, surrounded by the protected lands of the Chugach State Park. With Anchorage as the largest city in Alaska, and a key hub for visitors and commerce, we should not be doing anything to risk our water supply.

2) The economics of this proposal to destroy the remaining Eklutna Dam to possibly restore 5 species of salmon is without merit.

First off, Eklutna is an Alaska Native village of approximately 70 residents within the Municipality of Anchorage (population > 280,000). Historically, since the initial Eklutna Dam was built in 1929 atop a natural landslide dam in the Eklutna valley, through today's dam, the ability for salmon to spawn upstream was changed. However, at the same time the need for a subsistence lifestyle was also fundamentally changed. With access to the Alaska Railroad, public roads and highways, air transportation, and the economic growth of Alaska, it is now possible to obtain food (and five species of salmon) from a number of nearby sources. A person who might have fished the Eklutna river for salmon before 1929 would be over 95 years old now. Times have changed.

For an economic analysis we need to look at the tangible and intangible benefits of the current dam. I won't attempt to quantity the cost per salmon brought back, but I'm sure it's not pretty. However, on the status quo side we have:

Eklutna Hydroelectric Power is the lowest cost renewable energy in Southcentral Alaska
40 megawatts hydroelectric power capacity, produced 177,438 kilowatt hrs in 2018 (supply for more than 24,600 residential homes).

What is the cost alternative if the greater Anchorage area fresh water supply is ruined. Will we become California, forced to use our toilets as a source of treated water for drinking. We're Alaskans and know enough to not eat yellow snow.

Bret Chambers
Anchorage Resident

From: Bruce Jaffa
To: Sam Owen
Subject: Continued Service of Eklutna Lake System
Date: Monday, February 19, 2024 11:10:25 AM

I support the continued use of the Eklutna Lake System to support the population of South Central Alaska. I am familiar with the entire system including the upper lake area, powerplant, and public water system. The Hydroelectric plant is a stable, cost effective, low impact source of power for Railbelt customers. The plant was built to high standards, is well maintained and operated. Similar to other Alaska hydroelectric plants including Bradley, Terror Lake, Swan Lake, Snettisham etc. the Eklutna plant is fully amortised and operating expenses are extremely low. Compared to other planned or imagined alternative energy, this plant has 24/7 dependability.
The mitigation of previous structures downstream of the dam has nearly completely restored the river to a wild and traditional condition. This is similar to restoration of other creeks and rivers throughout the State.
There is obviously an impact by any structure and Eklutna Lake impoundment, does change some fish habitat. The species that habitate the lower River can return while the lower grade Salmon that might have used the upper reaches will not. All civilizations make trade offs. Other impacts in this area include the Power lines, the Glen Highway, the AKRR and more. I am sensitive to the individuals or groups that are most directly affected but the mitigation offered appears reasonable, providing continued benefits to all users of electricity in the distribution area of the owner utilities. In this case the potential cure is worse than the problem.

--
Bruce Jaffa

907-240-0362 Mobile
www.JaffaConstruction.com

From: Christine West
To: Sam Owen
Subject: Hydro project comment
Date: Monday, February 19, 2024 9:27:00 PM

Hello

I do not support the removal of Eklutna dam. It is the least expensive renewable form of energy for anchorage and provides 90% of drinking water for anchorage. Removing the the dam would be foolish and socially irresponsible.

Please reconsider

Christine West

Sent from my iPhone

From: Daniel Dossat
To: Sam Owen
Subject: Eklutna power plant
Date: Monday, February 19, 2024 7:52:48 PM

Please do not shut down Eklutna power plant.Anchorage can't afford to lose that plant with the natural gas shortage in Cook Inlet. Anchorage resident Daniel Dossat.
Sent from my iPhone

From: D Ohms
To: Sam Owen
Subject: Hydro project comment
Date: Monday, February 19, 2024 7:26:48 PM

I do NOT support removal of the Eklutna dam. It is the cheapest form of renewable energy for Anchorage that already exists at a time where shortages in gas are looming. And it supplies 90% of Anchorages drinking water. Removing the dam would be completely irresponsible!

Danielle Ohms.

Sent from my iPhone

From: Douglas Bartko
To: Sam Owen
Subject: Eklutna Dam Project
Date: Monday, February 19, 2024 6:40:59 PM

I have briefly read a few articles on the future of the Eklutna dam. It makes no sense to me to tear down the dam. I believe the dam water provides a large amount of the water needed by Anchorage. The dam provides a very inexpensive source of electricity. The Eklutna native group could settle for some type of compromise. Perhaps a fish processing plant could be build at Eklutna village area using salmon available from a new or renewed river system.
Douglas **Bartko**
Palmer

Sent from Mail for Windows

Virus-free.www.avast.com

From: Ingeborg Lentfer
To: Sam Owen
Subject: Eklutna Dam
Date: Monday, February 19, 2024 10:14:21 PM

Any logically thinking person immediately understands the devestating consequences the elimination of the Eklutna Dam would have for Anchorage. Hundreds of salmon streams around - would one more be more important than affordable, sufficient water and electricity for the Anchorage community? Eklutna dwellers who promote this are not effected by the water and electricity expenses and shortages - but Anchorage constituents certainly will be.
Frank and Inge Lentfer are totally opposed to shutting down our Eklutna project.
Sent from my iPhone

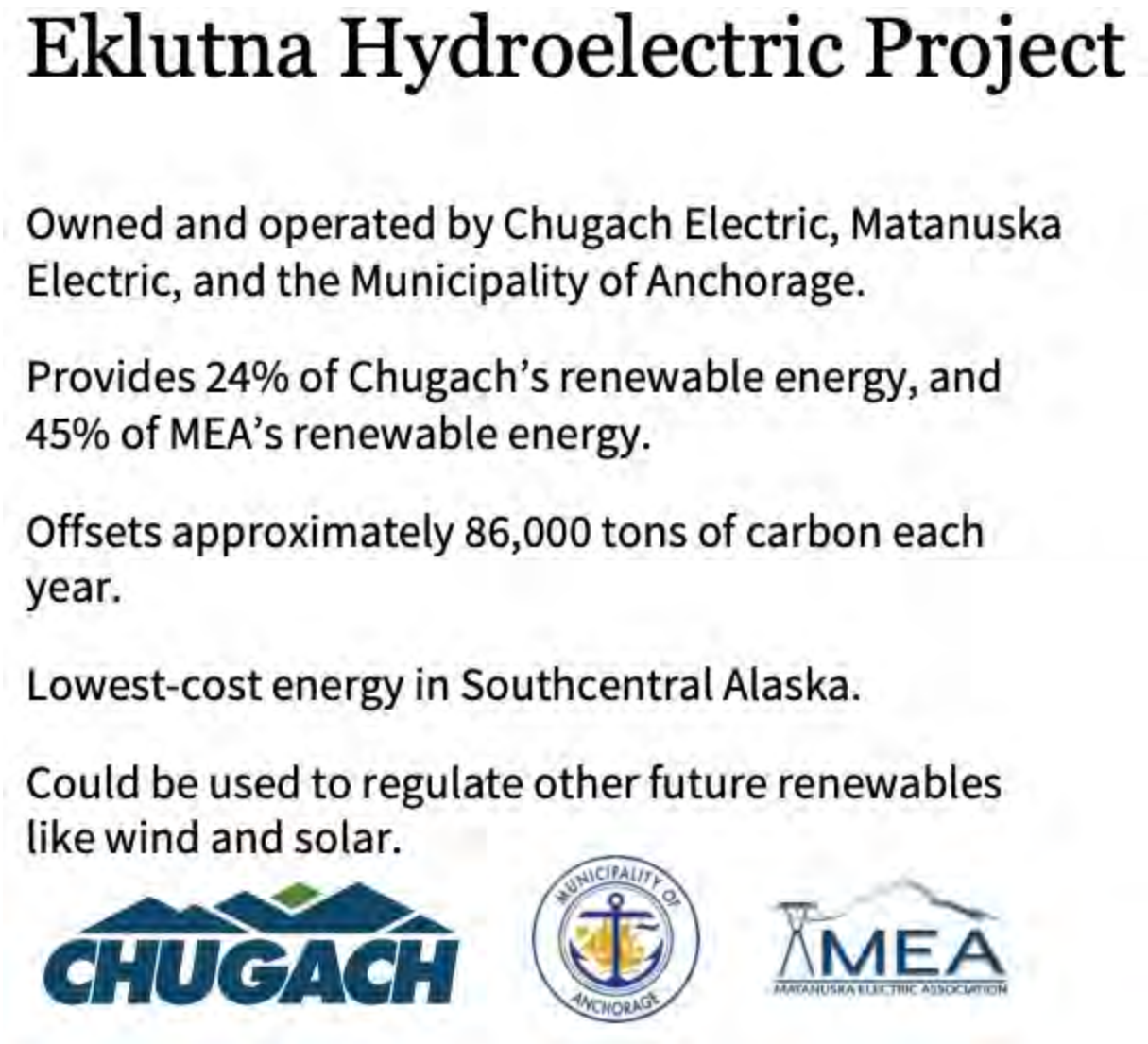
From:	Irene Quednow
To:	Sam Owen
Cc:	samc@chugachboard.com; sisic@chugachboard.com; rachelm@chugachboard.com; susannef@chugachboard.com; bettinac@chugachboard.com; markw@chugachboard.com; jimn@chugachboard.com
Subject:	Public comment on the Eklutna Hydroelectric Project
Date:	Monday, February 19, 2024 9:21:09 PM

Hello,

I am against the removal of the Eklutna Dam.

Most of you claim to be very concerned about the environment and our carbon footprint and are pushing the Green New Deal and the Climate Change agenda. And yet you are planning to remove the Eklutna Dam, a source of power that is both clean, renewable, has no carbon footprint, and supplies almost 50MW of electricity in the rail belt as well as most of the drinking water for Anchorage and vicinity. Not only is it hypocritical to be pushing for renewable, clean energy and reduction of our carbon footprint and at the same time destroying clean, renewable, non-CO2-producing energy production. And by the way, solar panels get covered with snow (by now they would all be buried in the snow, not just covered) and wind turbines freeze, so neither one are reliable replacements.

Here are some facts from your own presentation.



Hydropower has been generating clean, renewable electricity for over 100 years, providing almost 7% of the US' electricity and 40% of renewable energy. It has enormous growth potential to power more homes, schools, and businesses. Hydropower plants can provide power to the grid immediately, serving as a flexible and reliable form of backup power during major electricity outages or disruptions. It also produces a number of benefits outside of electricity generation, such as flood control, irrigation support, and water supply.

Instead of spending an untold amount of money on the destruction of the dam and then on the building of other sources of electricity and drinking water yet to be determined, maybe your focus should be on spending the money on a way for the fish around the dam. Here is a place to start: *The NOAA Fisheries Hydropower Program works with partners including other federal agencies, industry, states, non-governmental organizations, and Tribes to identify and implement solutions to reopen rivers to migratory fish while preserving hydropower generation. With more than 1,000 hydropower dams licensed by*

the Federal Energy Regulatory Commission (FERC), NOAA Fisheries is busy keeping up with the demand to upgrade the nation's hydropower infrastructure to meet today's environmental standards.

Irene Quednow

From: Joe Ralph
To: Sam Owen
Subject: Eklutna Dam Future
Date: Monday, February 19, 2024 11:18:37 PM

The removal of the Eklutna Dam to restore fish to the full length of the Eklutna River in light of the current use of the lake for providing Anchorage with 90% of its drinking water and providing a source of cheap reliable electricity for the area with the hydroelectric project in light of declining natural gas reserves in the Inlet makes absolutely no sense. I hope the folks involved can see through the fog and leave the system as is without negatively impacting others.

J M Ralph

From: swen@arctic.net
To: Sam Owen
Subject: Eklutna Dam
Date: Monday, February 19, 2024 1:37:02 PM

Please do not remove the Eklutna Dam. It is an important piece of infrastructure.

-James Swendseid
Resident of Anchorage.

From: Jeanni Brooking
To: Sam Owen
Subject: Hydro project
Date: Monday, February 19, 2024 8:06:16 PM

To whom this concerns,
I strongly do not support removal of the Eklutna Dam. It is the cheapest form of renewable energy for Anchorage that already exists at a time where we are experiencing shortages in gas. Eklutna supplies 90% of Anchorage's drinking water. Removing the dam would be completely irresponsible.
Thank You,
Jean Brooking
1035 W. 20th Avenue
Anchorage, Ak 99503

From: Kim Smith
To: Sam Owen
Subject: Don Not Remove Eklutna Dam
Date: Monday, February 19, 2024 7:39:14 PM

To Whom It May Concern;
I am opposed to the removal of the Eklutna Dam! 90% of our water in Anchorage is supplied by it. What are you thinking?! With the cost of everything sky rocketing these days, we need to keep this lower energy source.
Kim Smith

Sent from my iPhone

From: Mary Vittone
To: Sam Owen
Subject: Just stop the stupidity
Date: Monday, February 19, 2024 10:58:21 PM

Eklutna Hydro is the cheapest power alternative. Also it is a large portion of Anchorage's water resource. What is the other option? How will removing the damn save rate and tax payers any money?
How much money is being spent on this fruitless endeavor?

Get Smart,

Mary Vittone

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Peggy Doty
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, February 19, 2024 12:03:48 PM

I am totally opposed to the proposal to removed the Eklutna Dam. The dam is needed for water and electricity for Anchorage and is the most environmentally friendly option, is already there. Mitigation efforts should not require economic harm to Anchorage residents and removal of the dam.

From: Riley Creed
To: Sam Owen
Subject: Eklutna Dam Removal Proposal
Date: Monday, February 19, 2024 3:05:50 PM

Good afternoon,

I'm writing as an life long Anchorage resident to strongly discourage the removal of the Eklutna dam.

I was born in Anchorage in 1993 at Providence hospital. I've spent every year since growing and thriving in Alaska. I love Anchorage. I love Alaska. But I hate the route we're going to take if we cut ourselves off at the knees.

But why bother this only generates six percent of the energy?

Every little bit helps. Alaskan's rely upon ourselves. We make it work. We do our best. We strive to make a living in one of the roughest places on earth.

We've already let outside sources halt further oil production. We have representatives of our state calling to ship oil and natural gas in to supply instead of opening new wells.

Why remove something that aids both Anchorage and the Matsu on the hope it could return salmon? That's just it. It's a hope. None of the published consultations prove this would be beneficial let alone believable.

Why make Alaska worse? Why make Anchorage worse? We're already dealing with an Assembly that won't work with others or in Anchorages best interests. Spiking crime, high cost of living, lack of residential housing, and low employment rates.

It's like they want people to leave. I love Alaska. But I've watched all but one of my college mates leave state for better opportunities. I have family leaving state because it's too expensive to live and retire here.

I hate to think this but in the back of my mind I wonder when I'll have to leave. I want to grow old here. I want my career to flourish and this state to be great again. I want that for future generations as well. But right now I don't see that happening.

And this is another drop in the bucket in Alaska's slow death.

Thank you for your time,

Riley Creed

From: Gci
To: Sam Owen
Subject: Elkutna Dam
Date: Monday, February 19, 2024 8:48:45 PM

I wanted to voice my concern of the idea of the removal of the Elkutna Dam. I 100% do NOT support this idea. It would be foolish to remove something that provides a relatively inexpensive form in renewable energy to our community. Please do not consider this an option.

Thank you,
Sharon Webster

From: Dr. Sheryl Lentfer
To: Sam Owen
Subject: Dam
Date: Monday, February 19, 2024 8:27:28 PM

Born here the Eklutna dam has been servicing Anchorage for the better part of my life. It has never interfered with anyone's homes in a negative way or impacted our lives. As a matter fact it's always beautiful to fly over and lake is beautiful to spend time at.
That water shed refills beautifully every single year and nature gave us the ability to utilize it for energy. We are not causing any harm to the environment with this damn and I'm not quite sure I understand the decisions of those who want to remove the damn. From my reading majority of those people who want to remove the dam are not even from Anchorage originally and do not understand how we developed as a town and a municipality. We cannot be supported by windmills, and energies are being limited from natural gas due to federal legislation, and this is one of the most beautiful, renewable resources….. naturally. we are not lacking for water in our municipality or our state.
I am not in support of the damn removal!
Sherry Lentfer, OD, FCOVD
Katmai Eye and Vision Center
12570 Old Seward Hwy., Suite 104
Anchorage, AK 99515
(907)334-3937

From:	Tom Stuits
To:	Sam Owen
Subject:	Oppose removal of Eklutna dam
Date:	Monday, February 19, 2024 8:15:12 PM

Hello,
I am writing to express my opinion that there should be no change or removal of the Eklutna Hydro Dam! I find it hard to believe that it could even be considered to be taken out at this time. We have no shortage of rivers in Alaska that have salmon in them. We do have a shortage of hydro projects. With the push toward electric vehicles and appliances, the need for hydro power will only grow. We should be exploring how to get more hydro projects and increase capacity of the Eklutna project if possible.
Plus Anchorage depends on the water too!
Thanks,
Thomas Stuits
Anchorage, AK

Sent from my iPad

From: tom robles
To: Sam Owen
Subject: Dam removal
Date: Monday, February 19, 2024 11:38:19 PM

I am fully against the removal of the dam and the lost cost and clean power it generates. I can't understand what the people that think it is a good idea think who is going to pay for it. Also they don't understand the impact to your already high electricity rates. Removing hydropower generation electricity will greatly increase our electricity costs. The lower 48 are going to see the same power cost increases when they use all the water behind lake Powell and lake Mead on the Colorado River. They keep feeding water to the southern California desert cities (LA) and Phoenix valley with water they don't have and will eventually have to ration water constantly. It is funny that California can't even recharge all their electric cars in the summer with rolling brown outs do to their lack of power generation already and it's getting worse as they force more power plants to close.

Thank you,

Tom Robles

Sent from my iPhone

B-7. Questions/Other

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From: mail=eklutnahydro.com@wpdatacenter.com on behalf of TOdd Russell
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Thursday, December 21, 2023 1:30:10 PM

CAUTION: This email was received from an external source

I'm curious as to who will be able to access and fish in the Eklutna River once salmon have been rstored- will this only benefit the Eklutna tribal members or will the general public be ABLE TO benefit from this project? It appears that Eklutna Inc. owns most of the affected access to this river in it's fishable area.

From:	George Farnsworth
To:	owen@mcmjac.com
Subject:	New Message From Eklutna Hydro - CONTACT US
Date:	Sunday, January 14, 2024 1:48:02 PM

CAUTION: This email was received from an external source

C
Cost is to be born by rate users. Cost should be born by end users of the fish. Cost benefit is way out of line and is political .

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): Email:

Write your comments on the Draft Fish and Wildlife Program here:

Wow! Where was Eklutna village (or other Dena'aina Athabascan) input in These meetings???

Its the same old Dominant society telling Natives whats good for Them!

I Thought Eklutna Tribe rep would give their verbal input!

A M Rainier

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

Use the QR code to access the eklutnahydro.com website to submit your comments electronically. You can also send comments to info@eklutnahydro.com.

Comments must be received by **February 19, 2024**.

CHUGACH

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

Eklutna Draft Fish and Wildlife Program Comment Form

Name, Agency/Organization (optional): JOHN HARRIS
ALASKANS FOR PALMER HAYFLATS

Email: JOHN F HARRIS JR @ GMAIL.

Write your comments on the Draft Fish and Wildlife Program here:

THE BENEFIT/COST CALCULATION OMITTED THE VALUE OF THE FISHERIES LOST. THE ANNUAL VALUE OF THE SALMON STOCK FROM YEAR 1955 TO DATE MUST BE APPLIED WHEN ASSESSING THE COST & VALUE OF THE HYDRO PROJECT. THE NATIVE VILLIAGE OF EKLUTNA HAS BEEN SUBSIDIZING MEA/CEA RATE PAYERS FOR A GENERATION. IT'S TIME THEY WERE REPAID - WITH FISH.

Please note all comments will be published online to www.eklutnahydro.com

☐ Check here if you do not want your name associated with your comment on the website.

Prefer to submit your comments electronically?

Use the QR code to access the eklutnahydro.com website to submit your comments electronically. You can also send comments to info@eklutnahydro.com.

Comments must be received by **February 19, 2024**.

CHUGACH

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

From: Leslie Hiebert
To: Sam Owen
Subject: Restoring Eklutna River
Date: Wednesday, January 17, 2024 11:53:52 AM

We do need to honor past agreements and accept the important responsibility of not just keeping our waterways protected but rehabilitating a natural part of our environment. At a time when humans have had such a large negative impact in Alaska, benefiting from complying with the law in that way would be honorable and responsible. Although the Municipality "owns" the land, such ownership includes stewardship, respect, and obligation.

Leslie Hiebert
Anchorage

From: Shawn Roberts
To: Sam Owen
Subject: Eklutna Hydro Project
Date: Wednesday, January 17, 2024 12:33:44 PM

As an Alaskan taxpayer, I offer the following input regarding the Eklutna hydroelectric project dam.

I believe first and foremost, the damn needs to be upgraded with the local native community and salmon fishery in mind. I say this, because I believe these two things were completely ignored at the time the dam was built. Correcting these are the right
thing to do.
With that said, water quality and resource should be maintained, but not be the priority.
Financially, the Anchorage municipality could burden the taxpayers as little as possible. One dollar a year for $400,000 home is more like $.20 for most people.
Thank you for allowing input,
sincerely,
Shawn Roberts
3300 Arctic Blvd, Ste 201
Anchorage, AK 99503

Sent from my iPad

From: steve faulkner
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Wednesday, January 17, 2024 10:46:18 AM

CAUTION: This email was received from an external source

aLL THE STUDIES DONE BUT NOT ONE FOR THOSE WHO CAN LEAST AFFORD A HIGHER ENERGY COST. aS OUR POPULATION GROWS WHERE IS ADDITIONAL POWER TO COME FROM OR ARE WE TO CAP POPULATION GROWTH? hOPING TO GET MORE FISH TO GO UP RIVER TO ESTABLISH A HABITAT IS A VERY LONG TERM IDEA. SALMON GO BACK TO THIER NATIVE SPAWNING GROUND. hOW WE CAN CHANGE THAT IS UNKNOWN. NOW IF WE INTRODUCE AN ARTIFICAL RUN THAT IS DIFFERENT.

From: Lance Wilson
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Thursday, January 18, 2024 1:23:35 PM

CAUTION: This email was received from an external source

To reach the lofty goal of replacing electricity produced by burning fossil fuels with an increased percentage of electrcity produced with renewable resources, you need to allow renewable projects to be constructed and go into opertion. Reliability and economic sense is paramount For renewable energy projects to be successful. Hydro projects such as Eklutna have a long world-wide record of both reliability and economic operation. If fish mitigation efforts, which have a record of success, are not adopted and this becomes the reason to prevent hydro energy projects from being constructed, the whole push for increased renewable energy is a sham and is doomed to failure.

From: CJ Koan
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, January 19, 2024 7:59:30 AM

CAUTION: This email was received from an external source

This is the best natural renewal resource we have for power generation. Please keep this and build a fish ladder for the fish.

From: Owen, Samantha
To: ""Kurt Lehman""
Subject: RE: New Message From Eklutna Hydro - CONTACT US
Date: Friday, January 19, 2024 3:50:00 PM

Hi Kurt,

Thank you for your comments. They have been added to the record and will be taken into consideration by the Project Owners.

To answer your questions...

1. If thats is the case will the Glenn HIWAY NEED to be reconfigured to allow for flood mitigation, and at what cost? A natural flow regime in the Eklutna River could significantly impact the downstream highway bridges. These impacts are currently being evaluated as part of a more detailed assessment of dam removal.
2. Anchorages new water source? A natural flow regime in the Eklutna River would likely have significant impacts on AWWU's buried pipeline as it exists today. We are coordinating closely with AWWU to further evaluate these potential impacts and determine what actions would need to be taken to protect the public water supply under this scenario (e.g., relocating the pipeline, finding a new public water supply, etc.)
3. Is additional power avaialable to allow for the closing of the hydro plant? what is the anticipated cost increase? If Eklutna hydro was replaced with natural gas, the present worth would equal approximately $300M over 35-years. The cost of replacing Eklutna hydro with another firm renewable energy source, such as another storage hydro project, is currently unknown and not budgeted.
4. this is the only location providing the mobility impared salmon fishing opportunities in south central and that could be reduced to levels not worth participating, it's already on a steady decline from just 5 or 6 years ago. Thank you for your comment.
5. How could salmon posibly make their way up such a rapid elevation change to the lake? Our models show that salmon should be able to make it up the wetted area of the Eklutna River with the proposed flow regime.

Hope that helps and thank you again.

Regards,

Samantha Owen
Senior Regulatory Consultant

owen@mcmillen.com
C: (305) 409-5201 | O: (206) 743-9251
2607 Western Ave, Unit 360, Seattle, WA 98121
mcmillencorp.com

-----Original Message-----
From: Kurt Lehman <mail@eklutnahydro.com>
Sent: Friday, January 19, 2024 2:54 PM
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US

CAUTION: This email was received from an external source

RE: Eklutna tailrace

Hello Chugach Electric!

i was unable to attend the public meetings however I wanted to provide comment on the tailrace, I'M very familiar with the tailrace from a sportsmans perspective, I have fished there for well over 20 years. My understanding from trout unlimited press release is that they want the power plant shutdown and the dam removed to allow for fish passage to the lake.
1. If thats is the case will the Glenn HIWAY NEED to be reconfigured to allow for flood mitigation, and at what cost?
2. Anchorages new water source?
3. Is additional power avaialable to allow for the closing of the hydro plant? what is the anticipated cost increase?
4. this is the only location providing the mobility impared salmon fishing opportunities in south central and that could be reduced to levels not worth participating, it's already on a steady decline from just 5 or 6 years ago.
5. How could salmon posibly make their way up such a rapid elevation change to the lake?

This is an observation I have seen repeatedly while fishing the upstream area of the tailrace, when salmon are in the tailrace (from june on) and the turbines speed is reduced to low levels the salmon are able to make their way to the turbine impellers are crushed and or decapitated. I have watched many fresh salmon tumble out from under the concreate spalshing on the surface with their heads crushed. I fished at the turbine outlet when the plant was not GENERATING SEVERAL years ago and the bottom was littered with fresh king salmon heads and carcasses, all the heads were pinched off, every cast i reeled in one or the other time and time again until i had enough. with the turbid water in the summer people are totally unaware of this happening. fish screens would be a great idea if the plan is to reduce the power generation (flows). A side effect of the reduced flows during the summer is that the knick river builds up a sand bar accross the mouth of the tailrace and this noticeably reduces the number of salmon in the tailrace.
I host many people fishing every year, they love the tailrace and they can't wait go back even though I take them all over the valley fishing, people love the tailrace!

I have performed the annual fire inspections for the eklutna power plant several times, it is a very interesting site and worthy of tours!

thank you for your time, Kurt lehman

From: Owen, Samantha
To: "Bea trueblood"
Subject: RE: New Message From Eklutna Hydro - CONTACT US
Date: Wednesday, January 24, 2024 3:58:00 PM

Hello,

Thank you for your comment. Just to clarify, the Project Owners executed a term sheet with AWWU that would allow them to execute the AWWU portal valve option if (and only if) it's included in the Final Fish and Wildlife Program that will be issued by the Governor in October.

Please feel free to reach out if you have any follow-up questions on the project.

Regards,

Samantha Owen
Senior Regulatory Consultant

owen@mcmillen.com
C: (305) 409-5201 | O: (206) 743-9251
2607 Western Ave, Unit 360, Seattle, WA 98121
mcmillencorp.com

-----Original Message-----
From: Bea trueblood <mail@eklutnahydro.com>
Sent: Tuesday, January 23, 2024 6:28 PM
To: owen@mcmjac.com
Subject: New Message From Eklutna Hydro - CONTACT US

CAUTION: This email was received from an external source

So we now know that awwu, at the direction of mayor bronson,signed a 35-year contract with the power companies in the fall of 2023 for the AWWU Portal valve in exchange for a bargain price on water. This secret deal happened before the end of the Alternatives analysis and way before the public process.

Now that is corruption, FOLKS.

From: al baruth
To: Sam Owen
Date: Wednesday, January 24, 2024 6:53:52 PM

I would think Winder and our solar could provide enough electricity for residents. So that d*** should definitely come down the Fisher. Important for the whole environment there are Keystone animal. You don't like the wolves and stuff. And so I hope we can get this past

From: Robert Thompson
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Thursday, January 25, 2024 3:14:27 PM

I attended the recent public meeting at the Spenard Rec center concerning the impact of the dam on the eklutna river, and have two observations. if i understood correctly, the plan for the eklutna river salmon stocks was based on trying to keep salmon stocks to current levels, which I understand to be severely depleted. if that is the case, it seems like the responsibility to be a good steward of public resources is not being met. My other observation is that the idea of getting at least some relief to the watershed by adopting a long-term public water conservation education plan to help mitigate the pressure on this resource was conspicuously absent. I've been a resident of alaska since the 60s and do not recall ever hearing about something like that. I realize it would take time to see any real effect from a WATER conservation plan, but i think most people in the area are unawARE OF PROBLEM THERE. i hope these comments will be seriously considered.

From: cianaq68
To: Sam Owen
Subject: Eklutna River
Date: Thursday, January 25, 2024 11:06:02 AM

Morning,

Just read in regards to the dam that was built without consulting the Eklutna Tribe. Which, honestly, was wrong to do in the first place. Alaska has had alot of changes, and what Mr. Leggett mentioned below, he is absolutely correct.
(“The Native people and the salmon have been largely neglected".)

Thank you Mr. Leggett

Tammy Michaels-Jimenez

Sent from my Galaxy

From: skycabinairships@everyactioncustom.com on behalf of Thomas R. Wilson
To: Sam Owen
Subject: Comment on the Eklutna River Draft Fish and Wildlife Program
Date: Friday, January 26, 2024 5:20:05 PM

Dear Owners of The Eklutna Hydroelectric Project,

Chugach Electric & Owners of The Eklutna Hydroelectric Project;

Re: Eklutna Creek Restoration

Having witnessed Eklutna Lake rise and fall significantly over the sixty years+ of my residency in Anchorage, I appreciate that the electric output of that hydroelectric system has been important. It represents the least expensive electric source currently available, however the effort to maximize output has resulted in the sacrifice of a once vital fishery and the complex web of the Eklutna Lake's once healthy ecosystem.

Power can continue to be extracted even with surface out flow, enough to permit spawning salmon to return to Eklutna Lake. With investments in wind & solar power plus high head (drilling can be done with great accuracy these days) other small but reliable sources could add to the generation infrastructure portfolio. In short, Eklutna electricity does not need to be maximized but, instead can supply more in line with the natural varying rates of run-off into the lake. Keeping that lake full has too many benefits to ignore!

Sincerely; Thomas R. Wilson, 1834 Sunrise Drive, Anchorage, Alaska 99508, (907) 279-9868 skycabinairships@aol.com

Sincerely,
Thomas R. Wilson
1834 Sunrise Dr Anchorage, AK 99508-3349
skycabinairships@aol.com

From: Bill Crum
To: Sam Owen
Subject: Removal of Eklutna Lake Dam
Date: Saturday, January 27, 2024 8:08:41 AM

Since my use of Eklutna Lake is for kayaking and overnighting in the available wilderness cabins, I hope the dam is maintained in such a way as to NOT diminish the size of the existing reservoir.

Bill Crum

Sent from my iPhone

From: Scott Thomas
To: Sam Owen
Subject: Can there be a win-win solution?
Date: Sunday, January 28, 2024 9:53:01 PM

Reading the letters taking sides either for hydro and the best drinking water in Anchorage vs the salmon reaching the lake like all other world class lakes in Alaska, I wonder why people argue for only one or the other? Could the Utility option to restore a majority of the river now be a win, followed by an agreement to get salmon the rest of the way in 10+ years, perhaps without specifying the means being dam removal? Are there other ways that could benefit all sides - such as fish ladders like at Ship Creek where they fill up with salmon moving upstream? I wonder if we can find a different way to preserve the lake for drinking waste and energy - critical - and restore salmon to their spawining habitat and cultural significance at the lake - by other means than dam removal? That seems like a promise all sides can keep.

Scott Thomas

From: Blaine Lee
To: Sam Owen
Subject: Public Comment
Date: Tuesday, January 30, 2024 3:08:14 PM

To all concerned,

My comments are centered around the benefits of, and potential detriments to all communities in the South Central of Alaska that are affected by the power provided by the Eklutna Hydro Electric Dam.

Benefits include, but not limited to:

Employment provided by the Utilities involved
Reliable electricity to said areas
Fish Hatchery that provide for the reproduction of those species
Food the fish spawned on the waterways involved provide to people and animals fishing those waterways
Camping and recreational area for viewing wildlife, hiking, photography, swimming, and boating
Housing and jobs for the Eklutna tribe
Employment for Spenard Builders Supply and their employees

Potential detriments include, but not limited to:

Loss of all of the above mentioned benefits

Thank you for this avenue for communicating my concerns

Blaine Leek

From: ken everson
To: Sam Owen
Subject: Eklutna salmon restoration
Date: Wednesday, January 31, 2024 7:35:28 PM

I do not want to see a new dam built at Eklutna Lake. I want the current dam removed and the beautiful lake allowed to rejuvenate the Eklutna River and the natural population of salmon.

I am offering another way to look at this project. Reiterating information that has already been established is not my intention. Scientists, conservationists, economists, environmentalists, CEO's and politicians have all weighed in on their view of what the future should hold for the Eklutna River. Some have opinions or suggestions that can be well supported, and others don't.

There is so much information out there (thanks to expensive research) that we lose sight of the first-born objective---SAVE THE SALMON! The most immediate way this can be done is to restore the river from its start at Eklutna Lake to its termination in the Knik Arm. Building a dam is not going to put more water into the lake, it can only manage what flows out.

Our state's early visionaries did an amazing job of setting the stage for massive oil production, mining and development. Each Alaskan should appreciate that foresight but should not ignore the downside of the progress that has been made. The destruction of habitat of nature's residents is a primary example. Another aspect is the willingness by powerful people and companies to intentionally not honor promises and contracts previously agreed upon. These actions would certainly make our early visionaries' frown and possibly even cry.

Do not build a dam that may not be needed by the end of a single decade. Build a river that can exist for centuries.

Respectfully,
Ken Everson

From:	jsroth10@everyactioncustom.com on behalf of Jessica Roth
To:	Sam Owen
Subject:	Free the Eklutna River
Date:	Thursday, February 1, 2024 4:44:09 AM

Dear Operators of the Eklutna Hydroelectric Project,

Thank you for the opportunity to comment on the draft Fish and Wildlife Plan proposed for the Eklutna River. Do not construct the Eklutna Hydroelectric Project. This dam would not allow full capacity of water in the Eklutna River. This amount of water is needed for salmon to live in this River. Salmon are essential for the Eklutna people livelihood. Thank you for your support.

Sincerely,
Jessica Roth
Sitka, AK 99835-7459
jsroth10@live.com

From: Del Conrad
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Friday, February 2, 2024 10:12:54 AM

The proposed solution will result in reduced power production. How will that deficit be replaced? Assuming it would come from natural gas, how much gas would be used annually, how much would it cost and what price per MCF was assumed in the analysis?

From: Steve Kruse
To: Sam Owen
Subject: Electricity first
Date: Friday, February 2, 2024 4:48:49 PM

We are running out of gas - we need the power from the Eklutna dam! Power first!

From:	Hig
To:	Sam Owen
Subject:	Eklutna geohazards need more study
Date:	Sunday, February 4, 2024 1:49:44 PM

Hello,

I'd like to comment on proposed measures to improve salmon habitat and alter hydropower generation at Eklutna Lake. This comment does not support or oppose any specific proposal, but instead raises a concern that may be critical to consider, regardless of the option under consideration.

I am a geologist who studies natural disasters, especially landslides and tsunamis. About a year ago a colleague pointed out evidence that there are large sections of the mountains above Eklutna Lake that have slowly deformed in the past. This past deformation raises concerns about the possibility that one of these slopes could suddenly collapse in the future, generating a tsunami in the lake.

This concern has led a number of geologists including myself to make some initial steps to study the potential hazard. We have been working in coordination with Carrie Brophil and Marc Lamoreaux at Eklutna Village Tribe. This work is unfunded and we have only the most preliminary results to report.

I put details below, but in short my recommendation is that any proposed development be informed by study of the potential for large (> 1 million cubic meter) deep-seated landslides from the mountains around Eklutna Lake, with the potential to create tsunamis in the lake.

First - what we do know:

The evidence of past slope deformation is extremely strong - it is almost certain that this has happened in the past. The evidence we are focusing on is for "deep-seated" landslides, which are much thicker than common landslides involving just soil. They can extend hundreds of feet into the bedrock.

We also know that similar slopes in the area have failed suddenly ("catastrophically") in the past few thousand years. In particular, there is clear evidence of a landslide that crossed upper Eklutna River and formed a dam, which eventually eroded through. There's also evidence of a large landslide that swept across upper Eagle River Valley. However, we also know that there probably have been no large landslides from the mountains into Eklutna Lake since glaciers retreated, based on surveys studying smaller landslides that happened on deltas in Eklutna Lake.

In preliminary surveys of one of the unstable slopes above Eklutna Lake, we found evidence that it has moved recently, though that evidence was quite localized - not on the scale of the full instability, which appears to be approximately 100 million cubic meters.

We have reason to believe that these mountains have permafrost in them. There are areas where "rock glaciers" occur, such as upper Thunderbird. Rock glaciers are commonly associated with permafrost. This is potentially significant because there are areas in Alaska, Iceland, and Greenland where permafrost is getting weaker as it warms up, and this is leading

to more and larger landslides.

It is also common that when we study recent catastrophic landslides, there are signs of slow creeping deformation that happened before the catastrophic landslide. This creeping deformation is what we see at Eklutna. However, it's important to remember that there are many cases where slow deformation never leads to catastrophic failures.

Finally, where we see landslides of similar size on similar slopes fall into water, they produce very destructive tsunamis that can reach hundreds of feet up shorelines. Events like this have happened in Alaska at least 5 times in the past century. Such a tsunami in Eklutna Lake could destroy existing infrastructure or future development. If a tsunami like this resulted in failure of the dam allowing more water to escape from the lake, this could increase downstream impacts.

Second, what we don't know:

Unfortunately, sites like this, where deep-seated landslides are occurring in permafrost, are very poorly understood. There is currently no generally recognized technique for estimating the probability of failure - a crucial variable with any rational assessment of cost and benefit of development at Eklutna.

We also know little about the current status of the slope. In summer of 2023 we installed a number of temperature loggers that may help us estimate the extent of permafrost. This might be the basis for future work to estimate how this permafrost is changing and what might happen in the future.

However we have no instrumentation on site to detect deformation, if it is happening. By using instruments like GPS and tilt meters to measure deformation it might be possible to see signs of acceleration that can precede catastrophic failure.

Also, while we can say in general that a catastrophic failure could create a dangerous tsunami, no modeling has yet been completed to see how extensive the impacts of such an event might be.

In short, there is a lot that could be done to better understand the slope, but this work has barely begun.

Finally - recommendations:

I believe that in cases like this where there is strong evidence of a possible hazard, it is important to accurately characterize that hazard before making costly investment in new infrastructure.

It is also important to look at the potential for added risk when the lake-level is elevated for hydropower energy storage. If this elevated risk is substantial, this might favor development that minimized elevating the lake level.

Thank you for your attention, and please feel free to reach out to me if there is more detail I can provide, or if you wish to coordinate on research.

-Hig

--
Hig (Bretwood Higman, PhD)
hig314@gmail.com
907 290 6992
Ground Truth Alaska (www.groundtruthalaska.org)

From: Kathleen shoop
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Saturday, February 3, 2024 4:23:56 PM

I purchased the only piece of property I could afford, got my electric pole installed and I paid mea for this. if you remove my ELECTRICITY, i will not be able to survive. I am just trying to survive. hope a class action lawsiut will help the people. with no people being able to live in alaska it might as well be returned to russia, they would be better than what is happening now.

From: Teresa <churchel@alaska.net>
Sent: Monday, February 5, 2024 2:21 PM
To: Sam Owen <info@eklutnahydro.com>
Subject: Dam Removal

The Land Claim Settlement Act was reparations for all past ills put upon Alaska Natives. Or so I was told when I was at Clark Junior High in the 1970's. There were to be no further claims. This settlement gave Native groups funds and land resources to take care of their people and to use said land for purposes of revenue generation to take care of their people in trying times.

All fish in the upper cook inlet have diminished since the 1960's. How will fish for the Eklutna river be able to survive any better than all of the current declining runs.

When there is currently limited afordable housing in the greater Anchorage Mat-su area why do we want to make water and power even more expensive thus making housing more expensive for more people.

Teresa Churchel

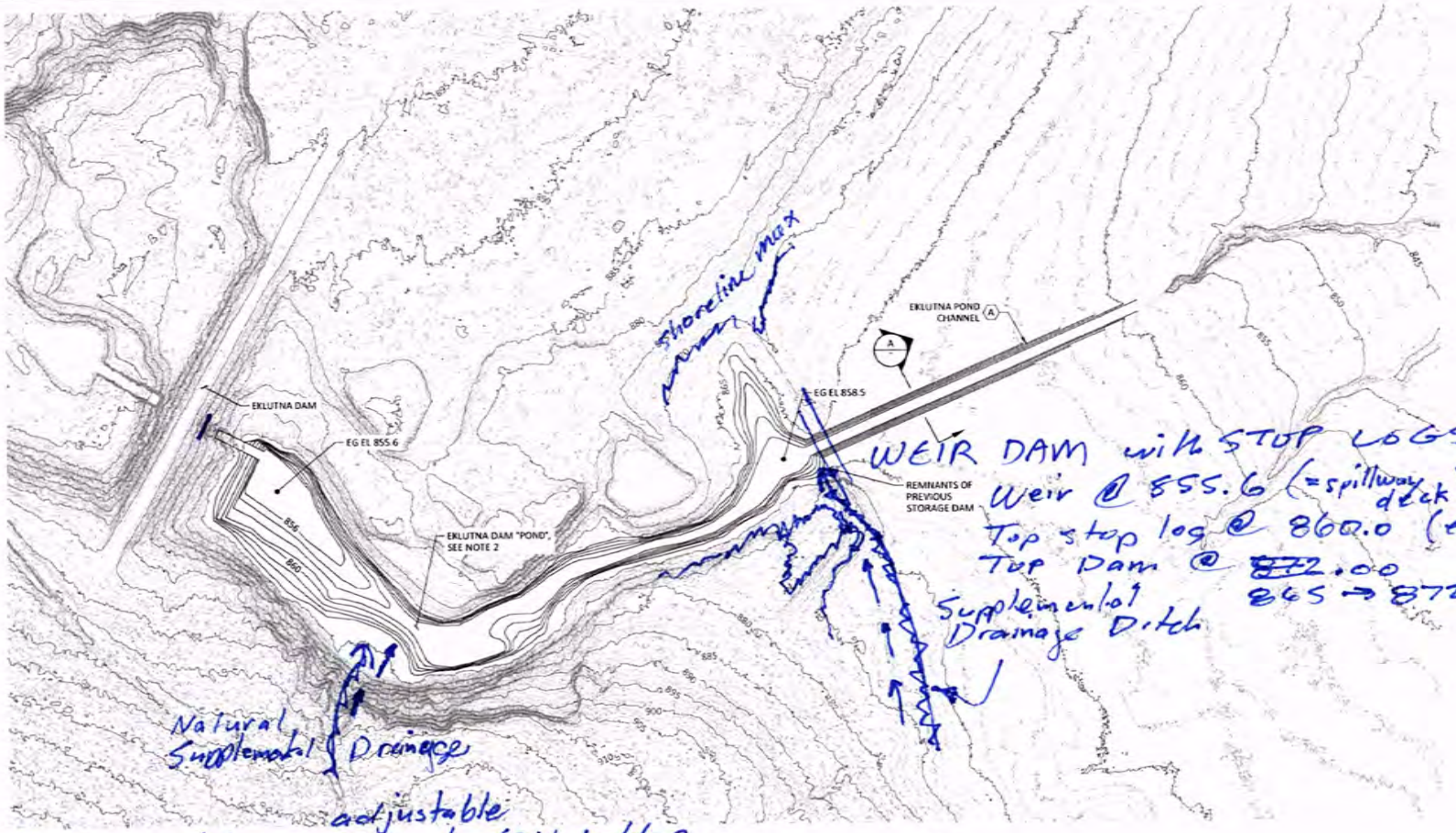
From:	haiku guy
To:	samc@chugachboard.com; sisic@chugachboard.com; rachelm@chugachboard.com; Susannef@chugachboard.com; bettinac@chugachboard.com; markw@chugachboard.com; Jimn@chugachboard.com; Sam Owen
Subject:	A better alternative for Eklutna Hydro
Date:	Monday, February 12, 2024 5:13:43 PM

Greetings,
I am Chris Nyman, a lifelong Chugach and MLP customer.
I have recently stuck my nose into the Eklutna Fish and Wildlife mitigation project.
When I read that various parties were asking for the dam to be removed I was astonished.
That got my curiosity going so I dug into this a little bit. I am a retired civil engineer .
I don't think many people realize that removing the dam is about the same as removing the entire Eklutna Hydropower Project.
It seems antithetical that one would contemplate removing the most economical and "greenest" energy source we have.
I realize also that there has been an environmental price to pay and so the notion of restoring a minimum flow to the riverbed is laudable.
Therefore I believe that the proposed mitigation should concentrate on releasing water from the dam at the most practical times.
A perfect solution will not be found due to the continued operation of Eklutna Lake as a clean energy reservoir.
This operation seasonally lowers the lake level 25' below the spillway drain which makes the idea of supplementing the river flow difficult to accomplish.

Attached is a concept I developed in an attempt to maximize the improvement to base flow without sacrificing the capacity and operation of the Hydropower project.
Also attached is a recent 1 year look at the water level in Eklutna Lake and how it relates to the dam. Notably the lake level is high enough in mid-July through December to continually drain water through the spillway drain. My proposal, if feasible would supplement the upper reach river flow through drainage improvements when lake levels are too low.

Its a lot to present on a couple sheets of hand scratches but I think it is a good compromise that achieves some of the restoration goals of those that are calling for the abandonment of the Eklutna Hydropower Project. AND still maintaining the efficient energy supply we enjoy from our "greenest" energy source.

Truly yours....Chris Nyman



SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
2. POND BATHYMETRIC PROFILE IS UNKNOWN, TOPOGRAPHY ESTIMATED BASED ON AS BUILT DRAWINGS OF DAM AND FIELD DATA.

SHEET KEY NOTES:

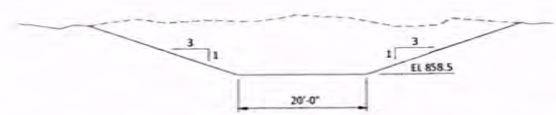
A EXCAVATE NEW CHANNEL THROUGH REMAINS OF PREVIOUS STORAGE DAM. L = 625-FT.

shoreline minimum 830.0

WEIR DAM with STOP LOGS (to prevent pond outflow)
Weir @ 855.6 (=spillway deck)
Top stop log @ 860.0 (example)
Top Dam @ ~~872~~.00
865 → 872 (design decision)

SITE PLAN
SCALE: 1"= 100'

- Replace spillway with adjustable gate/fish ladder.
- Excavate existing pond to deepen.
- Use bentonite to seal pond bottom.
- Use excavated material to build weir dam embankment.



TYPICAL CHANNEL SECTION
SCALE: 1"= 10'

REV	DATE	BY	DESCRIPTION
B	05/12/23	SPE	ADDED FISH PASSAGE ALTERNATIVE
A	05/12/23	SPE	CONCEPTUAL DESIGN

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

EKLUTNA FISH & WILDLIFE PROJECT
ENGINEERING FEASIBILITY STUDY
PME ALTERNATIVES ANALYSIS - INSTREAM FLOW
CHANNEL EXCAVATION
SITE PLAN

DESIGNED S. ELLENSON
DRAWN R. GUERRERO
CHECKED J. BOAG
PROJECT DATE 05/12/23

DRAWING F-1

POND ENHANCEMENT PLAN
"holding pond Dec 15 to July 15 on avg."
"provides a source for minimum streamflow."
Submitted By Chris F. Nyman
haikuguy2003@yahoo.com

An official website of the United States government Here's how you know

MENU

IMPORTANT Legacy real-time page

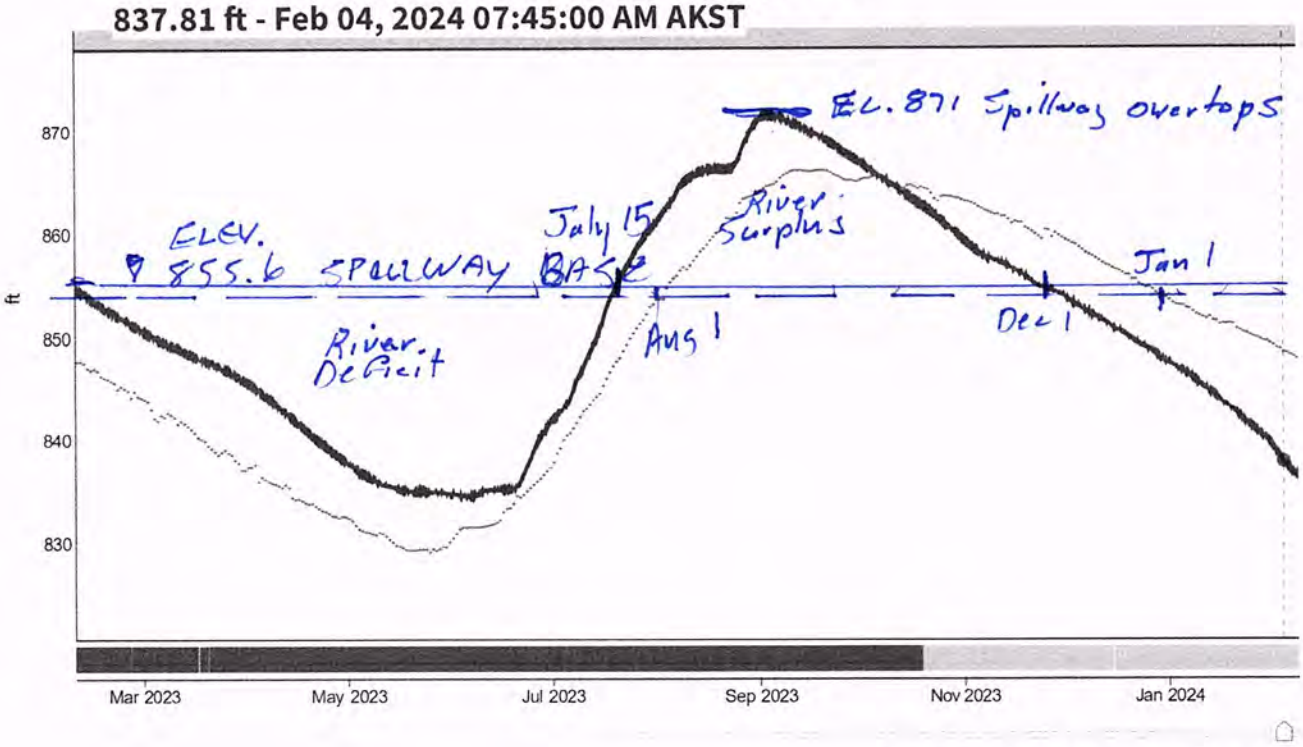
7 days 30 days 1 year

Eklutna LK NR Palmer AK - 15278000

February 8, 2023 - February 8, 2024

Gage height, feet

837.81 ft - Feb 04, 2024 07:45:00 AM AKST



IMPORTANT Data may be provisional

Show legend

	Value	Status	Time
Latest value	836.42 ft	Provisional	Feb 08, 2024 16:00:00 PM AKST
Selected	837.81 ft	Provisional	Feb 04, 2024 07:45:00 AM AKST
Compare			Add last year's data to graph

Submitted By:
Chris F. Nyman
haikuguy2003@yahoo.com

From:	Mark Spano
To:	Sam Owen
Subject:	Comments on Draft Fish and Wildlife Program, Eklutna Hydro Project
Date:	Monday, February 12, 2024 12:09:33 PM

I'm submitting the following comments after reviewing the materials on the project website and attending the Anchorage public meeting in January 2024. After the meeting presentation, I spoke with several of the subject matter experts to gauge whether my concerns, outlined below, are well grounded.

My Background: I worked for the Anchorage Water and Wastewater Utility (AWWU) for 30 years. I was the Water Quality Supervisor for most of that time and as such was responsible for monitoring drinking water to ensure that it met federal and state standards. I held a Water Treatment Operator certification during my time at AWWU and am knowledgeable about source water protection and treatment plant operations. I recently served seven years on the Chugach State Park Citizen Advisory Board. I do not represent either organization, but the knowledge gained from working there informs my comments.

I support the proposed plan to introduce water via the AWWU portal one mile downstream from the lake. It makes the most financial sense; it should create a flourishing fishery in the river, and it meets the intent of the 1991 agreement.

However, the reason I wish to comment is not to list the many other reasons why this option is best. It is instead to argue strongly against any option intended to introduce a flourishing fishery into Eklutna Lake by removing or modifying the dam. I have two areas of concern – negative impacts to the drinking water supply and increased adverse human/bear interactions.

Human/bear interactions:
Salmon attract bears. There is a campground next to the lake and a well-used trail adjacent to the lake along its entire length. A flourishing fishery in the lake will attract more people and bears to the lake. This will most certainly cause more bear/human interactions with increased possibility of injury or death to both.

Water Quality Impacts:
Eklutna Lake provides about 90% of AWWU's raw water supply. There isn't any other combination of AWWU's other sources that could replace this source. The first of five primary reasons for the creation of Chugach State Park, as listed in Alaska Statutes (AS 41.21.120-41.21.125), is "*To protect and supply a satisfactory water supply for the use of the people*".

There is a possibility of negative impacts to water quality through the addition of organic compounds to the water from live and rotting fish. The process at the Eklutna Treatment Plant

is designed to remove inorganics, primarily glacial silt. It isn't designed to remove organic compounds that can combine with chlorine to cause taste and odor issues. It's difficult to gauge whether this is a legitimate concern because no one was able to give me a firm estimate of what the increased biomass to the lake might be from the introduction of a fishery. **But no robust study by a team of professionals (that should include fishery experts, water quality chemists and water treatment engineers) has been done to determine if measurable negative impacts are possible.** AWWU was represented at the meetings that led to the proposed option. But it seems, from review of the project documents and talking to the public meeting subject experts, that only the most cursory consideration of water quality impacts has been done to date and that AWWU has been more focused on impacts to infrastructure.

Even if a valid study shows that the increased biomass shouldn't cause a problem, good management practices for raw water reservoirs (which Eklutna Lake is) would carefully manage public access rather than purposively create additional recreational opportunities that will attract significantly more people to the lakeshore and into the water.

Thanks for the opportunity to comment.

Mark Spano
Anchorage
markspano55@gmail.com

From:	gjoshuajr@everyactioncustom.com on behalf of George Joshua
To:	Sam Owen
Subject:	Comment on the Eklutna River Draft Fish and Wildlife Program
Date:	Monday, February 12, 2024 5:52:09 PM

Dear Owners of The Eklutna Hydroelectric Project,

[Write your unique comment here! The letter will be sent directly from this form.]follow through with your promise to fill Eklutna lake so that the fish can start the spawning process.

Sincerely,
George Joshua
7919 Parkway Dr Anchorage, AK 99504-2839
gjoshuajr@gmail.com

From: Will Johnson
To: Sam Owen
Cc: William Johnson
Subject: Eklutna Dam Removal Proposal
Date: Tuesday, February 13, 2024 11:23:29 AM

What is often poorly understood about green energy, primarily wind and solar, is how utilities must deal with the intermittent nature of these sources. The grid must always have enough power available for peak demand, and if there is a green energy supply shortfall then “rolling reserves” must be available almost instantly, with sufficient capacity to make up the shortfall, or the grid will go down. Depending on the extent of a power outage, it can take hours to get the grid back up and power restored to all customers. It is difficult to find a better source of instant power than hydroelectric. If those who are pushing for using green energy sources are serious, and are concerned about reliability and costs, they need to think about what is available to provide these rolling reserves. Other possible alternatives are batteries or operating fossil power plants connected to the grid, which are inefficient at low loads when on standby waiting for a green energy shortage. Large fossil power plants can’t be started instantly, and even combustion turbines can take several minutes or more to come up to speed and go on-line to deal with shortfalls.

Thank you,

William Johnson
3239 La Ree Way
Fairbanks, AK 99709
907-451-0088

From: Allen Mcleod
To: Sam Owen
Subject: Eklutina dam
Date: Thursday, February 15, 2024 2:10:50 PM

Hi. Allen McLeod here. Why is the eklutina dam scheduled to be removed? Or is this just a rumor? Doesn't it provide "clean" energy? Isn't it disingenuous to take out a source of renewable energy while encouraging more use of electricity to "save" the planet? And I believe I read recently that cook inlet gas reserves were waning. Encouraged to turn my thermostat down. What kind of alternative universe could this be where things that make no sense are not only considered but brought to fruition? Surely I'm not supposed to take these ideas seriously. Please. Explain. Maybe I've been misinformed. Thanks

From: Charlie Peter
To: Sam Owen
Subject: Surface Water gate to bypass Eklutna dam
Date: Friday, February 16, 2024 1:36:58 PM

It makes more sense to me to bypass the dam with a surface water gate that would feed ether a fish ladder or a bypass stream that would connect to the river bed downstream of the dam.
The surface water gate could be built in sections so surface water could be released at different levels as lake levels change. CHARLIE PETER

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of Gail Rutz
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Sunday, February 18, 2024 7:02:49 PM

This agreement seems so antiquated ... eklutna, Inc., even now is looking at a massive housing development that could be curtailed by removing the dam. Can't some trade be made if necessary to increase fish by stocking the Lake to provide fishing experiences for traditional lake fishing?

From: Robert Maier
To: Sam Owen
Subject: Comments Submitted
Date: Sunday, February 18, 2024 5:18:29 PM

Of all of the ongoing discussion on this issue one item has been left undisclosed to the Taxpayers and Ratepayers of the Municipality of Anchorage by all parties involved. This concerns how those arguing for the removal of the Eklutna Dam have not informed the AWWU Ratepayers that the Anchorage Assembly will replace the Regulatory Commission of Alaska in the setting of their rates charged.

This fact has been published in an article dated January 31st in the Alaska Landmine and also January 19th in Must Read Alaska authored by myself of which I now also submit as part of these comments.

During the sale of ML&P to Chugach Electric I testified to the RCA concerning how this aspect of the sale was not being disclosed to the voters by both the MOA and CEA. The RCA addressed this issue on Page 70 – (lines 14-19) - in Order Number 39 of Docket Number U-19-020 which approved the sale of ML&P to CEA in which the RCA stated …

"Based on the finding that MHP – (Municipal Hydro Power) – will be competing with other electric operating entities and public utilities under the MEA PPA, we also find that MHP is fully regulated under AS 42.05 pursuant to the AS 42.05.711(b)(2) exception to the exemption from regulation granted by AS 42.05.711(b). With this finding, and contrary to the expectation of the MOA, Anchorage Water and Wastewater Utility will remain subject to regulation under AS 42.05 pursuant to AS 42.50.711(b)(2)."

As none of the parties now in this current issue have disclosed this aspect as part of their fiducial responsibilities the question I asked of the RCA in my testimony concerning the sale of ML&P repeats itself.

What else is involved in this issue that Chugach Electric, the Municipality of Anchorage, the Anchorage Assembly and Matanuska Electric Association are not telling us about.

Thank you for taking the time to review these comments.

Bob Maier
Post Office Box 100177
Anchorage, Alaska 99510-0177

Sent from Mail for Windows

From: Ken Huckeba
To: Sam Owen
Subject: Grievous expansion
Date: Monday, February 19, 2024 9:41:14 PM

The only comment I have is for all parties involved to abide by the 1991 agreement at its minimum requirement.

The agreement stated to do a study and low or no cost mitigation.

The agreement did not state to include any and all input. “Stakeholders” were never mentioned in the agreement. The only parties privy to input are clearly stated.

The agreement did nor state that radical outside environmental NGOs and non profits should be allowed a consideration whatsoever. The agreement did not say the dam should be removed.

The agreement did not state that an alternative should be formulated, particularly nor a $57M project specifically tailored as a foundation towards an $800-900M pumped storage unit to further the inflation causing, grid destroying, corrupt renewable portfolio standard.

Review the agreement and abide by it in least cost fashion. We have no funds for any other path forward.

Ken Huckeba
907-227-6390
MEA member

From: kerrywilliams@gci.net
To: Sam Owen
Subject: Eklutna missed option
Date: Monday, February 19, 2024 1:51:59 PM

I don't believe that all the potential options were properly examined.

In particular, the Eklutna PSH proposal would meet ALL the objectives sought. It would restore the lake to it's natural level, permit the complete removal of the existing dam without risk of flooding, and restore year round water to Eklutna River with a natural flow from the mouth of the lake.

Secondly, it in combination with the Little Susitna Mtn wind farm would actually lower and stabilize the cost of electricity for CEA and MEA customers. Keeping electric rates from going up - though not one of the objectives of the Eklutna rehabilitation - is a fundamental duty of our utilities. It's wrong to think that "there is no room to reexamine the option or other alternatives regardless of the impacts to rate and taxpayers". It would be totally a neglect of duty (and possibly illegal) to disregard the cost of this decision.

Hydropower is both cheaper and more reliable than natural gas, especially here. Remember that it was a natural gas failure that drove our recent cold weather near catastrophe.

Respectfully,
Kerry Williams

(907) 248-4224

From:	lgoodman@everyactioncustom.com on behalf of Lilly Goodman-Allwright
To:	Sam Owen
Subject:	Comment on the Eklutna River Draft Fish and Wildlife Program
Date:	Monday, February 19, 2024 2:09:30 PM

Dear Owners of The Eklutna Hydroelectric Project,

The public does need more time to learn about, understand, and comment on this process. We have been urged to jump on one side of the issue, but this issue seems to be very complex and warrants a thorough understanding of the impacts of both removing the dam, and NOT removing the dam.

My questions include:

-- If the dam is removed, where will Anchorage get its drinking water?
-- If the dam is removed, will ground water supplies be tapped to supply Anchorage with water, and if so, what impacts could this have?
-- If the dam is removed, how will flow be restored in a way that permits fish passage? My understanding is that currently the obstacle is not so much the dam, but the current removal of the water.
-- If the dam is removed, will there be other environmentally taxing water development projects proposed as a trade-off?

-- If the dam is not removed, is further degradation of the watershed forecasted?
--If the dam is not removed, does this further impact the village of Eklutna?
-- Is there another method to compensate the village and people of Eklutna for their lost fishing grounds?

Thank you!

Sincerely,
Lilly Goodman-Allwright
30656 Kuparuk Ave Eagle River, AK 99577-9716
lgoodman@mtaonline.net

From: mail=eklutnahydro.com@wpdatacenter.com on behalf of M. KEFFER
To: Sam Owen
Subject: New Message From Eklutna Hydro - CONTACT US
Date: Monday, February 19, 2024 11:10:45 PM

Please ensure the cost of utilities and water access is considered. Projects can take many years, setting a firm timeline would be a challenge.

From: William H Gilbert
To: Sam Owen
Subject: Please keep the Eklutna Dam!
Date: Thursday, February 15, 2024 2:58:36 PM

Hello -
This dam was well considered before it was built and has been doing well since then.

Appendix C. Form Letters

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Trout Unlimited Form Letter – Version 1

To the operators of the Eklutna Hydroelectric Project,

The draft Fish and Wildlife Plan you proposed for the Eklutna River does not meet the needs of salmon, the vision of the Eklutna Peoples, or your legal obligation to mitigate the project's impact to fish and wildlife. Leaving a mile of the river dry, releasing only 3% of historic flows, and not providing fish passage into the lake and upstream habitat will not restore the river's salmon runs and are unacceptable.

Instead of wasting ratepayer and taxpayer money on a mitigation plan that won't fully revive salmon runs, **I ask you to remove the Eklutna Dam to fully reconnect the river and return the water flows needed to support the river's fisheries.**

I understand the reliance on this hydroelectric energy source in the near-term, and the proposal to remove the Eklutna Lake dam within the next decade, when replacement renewable energy is expected to be available, is reasonable. I also appreciate that community partners are willing to pitch in to help offset costs of the dam removal – taking advantage of this opportunity seems like a fiscally smart decision.

The Native Village of Eklutna has clearly communicated their vision for thriving wild salmon in the Eklutna River, including Eklutna Lake and headwater tributaries. Your ratepayers and many Alaskans support this vision.

The Eklutna Hydroelectric Project deprives the Eklutna River of water and blocks salmon from migrating in and out of Eklutna Lake. Salmon populations will not recover without a reliable and consistent supply of water and access to important up-stream spawning and rearing areas. This is particularly true for sockeye salmon, if they cannot access Eklutna Lake and its tributaries. CEA, MEA and MOA cannot meet their mitigation obligations within their budget constraints with anything less than removing the dam.

Now is your one chance to make this right. **Now is your chance to invest in a river that Alaskans can be proud of and help show the world that Anchorage does not just love our salmon, we know what it takes to care for them and actively work to bring them back.**

Submitted by:

Name	Date	Area of Residence	Name	Date	Area of Residence
Adrienne Lindholm	2/6/2024	Service Area	Heather Filice	2/6/2024	Out of State
Alexa Millward	2/6/2024	Service Area	Jessica Tarbutton	2/6/2024	Out of State
Alyssa Berger	2/6/2024	Service Area	John Vatalaro	2/6/2024	Out of State

Name	Date	Area of Residence	Name	Date	Area of Residence
Ann Dougherty	2/6/2024	Service Area	Kristopher Filice	2/6/2024	Out of State
April Harbison	2/6/2024	Service Area	Logan Gillingham	2/6/2024	Out of State
Bryan Arnold	2/6/2024	Service Area	Michael Saucy	2/6/2024	Out of State
Chung Ha	2/6/2024	Service Area	Allen Aronson	2/15/2024	Out of State
Debra Call	2/6/2024	Service Area	Bruce Williams	2/15/2024	Out of State
Eric Booton	2/6/2024	Service Area	Chuck Gehling	2/15/2024	Out of State
Grace Nichols	2/6/2024	Service Area	Daniel Hewko	2/15/2024	Out of State
Jenny Weis	2/6/2024	Service Area	Daniel Smart	2/15/2024	Out of State
John Koltun	2/6/2024	Service Area	David Carmichael	2/15/2024	Out of State
John Lindholm	2/6/2024	Service Area	E Silas Axtell	2/15/2024	Out of State
Kenneth Everson	2/6/2024	Service Area	Eric Abrams	2/15/2024	Out of State
Kimberly Miller	2/6/2024	Service Area	Eric Tichay	2/15/2024	Out of State
Kira Lena Lajarnie	2/6/2024	Service Area	Gary Delcourt	2/15/2024	Out of State
Liam Dooley	2/6/2024	Service Area	James Taylor	2/15/2024	Out of State
Linda Hilton	2/6/2024	Service Area	Jason Sikma	2/15/2024	Out of State
Lucan Seymour	2/6/2024	Service Area	Jeff Desmond	2/15/2024	Out of State
Patrick McElgunn	2/6/2024	Service Area	Jim Byrne	2/15/2024	Out of State
Samuel Theis	2/6/2024	Service Area	John Kinabrew	2/15/2024	Out of State
Schuyler Deeney	2/6/2024	Service Area	John MacDonald	2/15/2024	Out of State
Suzanne Marcy	2/6/2024	Service Area	John Zarnetske	2/15/2024	Out of State
Tom Reale	2/6/2024	Service Area	Karen Gremminger	2/15/2024	Out of State
Whitney Waskey	2/6/2024	Service Area	Kirk Kowalke	2/15/2024	Out of State
Adam Cuthriell	2/15/2024	Service Area	Mark Culpepper	2/15/2024	Out of State
Aerin Gaines	2/15/2024	Service Area	Mark Miller	2/15/2024	Out of State
Anthony Perelli	2/15/2024	Service Area	Mark Reinhardt	2/15/2024	Out of State
Barbara Reilly	2/15/2024	Service Area	Michael Dunn	2/15/2024	Out of State
Chris Little	2/15/2024	Service Area	Michael James	2/15/2024	Out of State
Claire Kaufman	2/15/2024	Service Area	Michael Simko	2/15/2024	Out of State
George Geiges	2/15/2024	Service Area	Mike LoPresti	2/15/2024	Out of State
Ivan Encelewski	2/15/2024	Service Area	Murray Brigham	2/15/2024	Out of State
Joyce Guest	2/15/2024	Service Area	Nick Masi	2/15/2024	Out of State
Larry Casey	2/15/2024	Service Area	Paul Doscher	2/15/2024	Out of State
Luc Mehl	2/15/2024	Service Area	Peter Hansberger	2/15/2024	Out of State
Mary Ann Thomas	2/15/2024	Service Area	Phil Spohn	2/15/2024	Out of State
Matthew Pyhala	2/15/2024	Service Area	Richard Carosone	2/15/2024	Out of State
Michael Adams	2/15/2024	Service Area	Richard Heller	2/15/2024	Out of State
Philip Hilbruner	2/15/2024	Service Area	Teresa Sopher	2/15/2024	Out of State
Ptery Lieght	2/15/2024	Service Area	Thearin Wendel	2/15/2024	Out of State
Rebecca King	2/15/2024	Service Area	Thomas Cizdziel	2/15/2024	Out of State
Roman Weber	2/15/2024	Service Area	Timothy Devine	2/15/2024	Out of State

Name	Date	Area of Residence	Name	Date	Area of Residence
Mary Glaves	2/6/2024	Other Part of Alaska	Vince Sereno	2/15/2024	Out of State
Maureen Knutsen	2/6/2024	Other Part of Alaska	William Brooks	2/15/2024	Out of State
Brenda Johnson	2/15/2024	Other Part of Alaska	Zac Holt	2/15/2024	Out of State
Rich Preston	2/15/2024	Other Part of Alaska	Evan Nelson	2/17/2024	Out of State
Alanis Berger	2/6/2024	Out of State	George Bennett	2/17/2024	Out of State
Edward Fannon	2/6/2024	Out of State	Greg Krochta	2/17/2024	Out of State

Trout Unlimited Form Letter – Version 2

Eklutna Power Companies & Alaska Governor,

As ratepayers, we believe affordable electricity and abundant drinking water are possible alongside healthy wild salmon runs in the Eklutna River. Removing the Lower Eklutna Dam in the summers of 2017-18 was the first step in restoring the Eklutna River. The second step is to restore streamflow and provide access for salmon to their historic spawning and rearing areas so wild salmon populations can flourish once again.

Eklutna River salmon have been strained by inadequate water flows and blocked migration for nearly a century. As ratepayers and residents of the area, we encourage you to move quickly to restore this important river.

We recognize and appreciate the efforts the utilities have taken to study the impacts of the Eklutna Project. We hope you recognize the unique opportunity for the Eklutna River and encourage you to develop and implement a comprehensive mitigation plan that fully restores the river and its wild salmon by restoring streamflow and providing fish passage past the remaining Eklutna dam.

The Eklutna River is important to the people of the Native Village of Eklutna and the neighboring communities and nearby cities. Restoring robust wild salmon populations to the Eklutna will help restore subsistence opportunities, promote new recreation opportunities, and rebuild a wild salmon population in the heart of Southcentral Alaska that we can all be proud of.

Submitted by:

Name	Date	Area of Residence	Name	Date	Area of Residence
Alejandro Lozano	2/16/2024	Service Area	Mackenzie Pope	2/17/2024	Service Area
Alex Rodriguez	2/16/2024	Service Area	Maddy Lee	2/17/2024	Service Area
Brian Fay	2/16/2024	Service Area	Malia Acovak	2/17/2024	Service Area

Name	Date	Area of Residence	Name	Date	Area of Residence
Chelsea Dischner	2/16/2024	Service Area	Margo Goodman	2/17/2024	Service Area
Dan Bissinger	2/16/2024	Service Area	Mariel Terry	2/17/2024	Service Area
Esther Smith	2/16/2024	Service Area	Matthew Dischner	2/17/2024	Service Area
Halen Hernandez	2/16/2024	Service Area	Matthew Schneider	2/17/2024	Service Area
Harold Shepherd	2/16/2024	Service Area	Maxim Manrah	2/17/2024	Service Area
Jasmine Parter	2/16/2024	Service Area	Mckayla Montgomery	2/17/2024	Service Area
Jessica Greene	2/16/2024	Service Area	Megan Engler	2/17/2024	Service Area
Jose Mora	2/16/2024	Service Area	Michael Fageke	2/17/2024	Service Area
Justin Hall	2/16/2024	Service Area	Mikayla Terry	2/17/2024	Service Area
Kat Haber	2/16/2024	Service Area	Mike Lutomski	2/17/2024	Service Area
Katey Shedden	2/16/2024	Service Area	Miranda Beach	2/17/2024	Service Area
Laniee Whetman	2/16/2024	Service Area	Miriah Phelps	2/17/2024	Service Area
Mark Rakozy	2/16/2024	Service Area	Nancy McWilliams	2/17/2024	Service Area
Nick Butryn	2/16/2024	Service Area	Nancy Thibodeau	2/17/2024	Service Area
Sarah Doaty	2/16/2024	Service Area	Nickolaos Gianncelis	2/17/2024	Service Area
Abby Burke	2/17/2024	Service Area	Randy Redman	2/17/2024	Service Area
Adriana Arroyo-Cruz	2/17/2024	Service Area	Rebecca Logan	2/17/2024	Service Area
Alexa Helm	2/17/2024	Service Area	Reese Ramponi	2/17/2024	Service Area
Allyson Burdett	2/17/2024	Service Area	Robert Johnson	2/17/2024	Service Area
Amy Holonics	2/17/2024	Service Area	Robert Rima	2/17/2024	Service Area
Amy Lundstrom	2/17/2024	Service Area	Robin Mcknight	2/17/2024	Service Area
Andy Paul	2/17/2024	Service Area	Sam Gr	2/17/2024	Service Area
Anna Peterson	2/17/2024	Service Area	Sam Lebo	2/17/2024	Service Area
Annika Kemp	2/17/2024	Service Area	Sarah McIntosh	2/17/2024	Service Area
Ariel Hyams	2/17/2024	Service Area	Sarah Paige	2/17/2024	Service Area
Aubree Day	2/17/2024	Service Area	Savannah Zimmerman	2/17/2024	Service Area
Belinda Hill	2/17/2024	Service Area	Shane Beason	2/17/2024	Service Area
Betsey Rogers	2/17/2024	Service Area	Sharon Kirr	2/17/2024	Service Area
Blake Scott	2/17/2024	Service Area	Sondra McCotter	2/17/2024	Service Area
Brian Fulkerson	2/17/2024	Service Area	Spencer Jones	2/17/2024	Service Area
Brian Kramp	2/17/2024	Service Area	Sue Rennolds	2/17/2024	Service Area
Brianna Sherer	2/17/2024	Service Area	Sydney Scout	2/17/2024	Service Area
Bry Navis	2/17/2024	Service Area	Teresa Frier	2/17/2024	Service Area
Carol Jewell	2/17/2024	Service Area	Thea Sutton	2/17/2024	Service Area
Carolyn Masrey	2/17/2024	Service Area	Theresa Huebler	2/17/2024	Service Area
Charles Earnshaw	2/17/2024	Service Area	Thomas Yukman	2/17/2024	Service Area
Charlie Runde	2/17/2024	Service Area	Tom Thibodeau	2/17/2024	Service Area
Charlotte Correiro	2/17/2024	Service Area	Tony Beard	2/17/2024	Service Area
Chisie Hoffman	2/17/2024	Service Area	Tracey Wiese	2/17/2024	Service Area

Name	Date	Area of Residence	Name	Date	Area of Residence
Chris Creglow	2/17/2024	Service Area	Victoria Bledsoe	2/17/2024	Service Area
Christalyn Panganiban	2/17/2024	Service Area	Victoria Cichocki	2/17/2024	Service Area
Christie Reinhardt	2/17/2024	Service Area	Willow-Creek Feighery	2/17/2024	Service Area
Coral Berry	2/17/2024	Service Area	Zayleen Kalalo	2/17/2024	Service Area
Corina Torgesen	2/17/2024	Service Area	Zoe Stonerov	2/17/2024	Service Area
Curtis Creglow	2/17/2024	Service Area	Ian Dobke	2/16/2024	Other Part of Alaska
Daniel Owen	2/17/2024	Service Area	Lily Ayau	2/16/2024	Other Part of Alaska
David Paperman	2/17/2024	Service Area	Arica Dobbe	2/17/2024	Other Part of Alaska
Dawn Schneideer	2/17/2024	Service Area	Aubnelle Champagne	2/17/2024	Other Part of Alaska
Delissa Owen	2/17/2024	Service Area	Cayla Barnes	2/17/2024	Other Part of Alaska
Delmar Pencher	2/17/2024	Service Area	Jared Quirk	2/17/2024	Other Part of Alaska
Devin Barnhurst	2/17/2024	Service Area	Joevahata Usugan-Weddington	2/17/2024	Other Part of Alaska
Dylan Gillespie	2/17/2024	Service Area	Kaley McGoey	2/17/2024	Other Part of Alaska
Ed Gurtler	2/17/2024	Service Area	Katerine Russell	2/17/2024	Other Part of Alaska
Ed Kobar	2/17/2024	Service Area	Marina Storm	2/17/2024	Other Part of Alaska
Elaine Aniy	2/17/2024	Service Area	Rodyn Dahl	2/17/2024	Other Part of Alaska
Emily Conloque	2/17/2024	Service Area	Shelby Rehmer	2/17/2024	Other Part of Alaska
Emma Laatsch	2/17/2024	Service Area	Steve Imhoff	2/17/2024	Other Part of Alaska
Engel Goodnight	2/17/2024	Service Area	Stran Stensland	2/17/2024	Other Part of Alaska
Erika Berube	2/17/2024	Service Area	Teresa Duncan	2/17/2024	Other Part of Alaska
Estel Adler	2/17/2024	Service Area	Alex Vale	2/15/2024	Out of State
Evan Mitchell	2/17/2024	Service Area	Anacia Rael	2/15/2024	Out of State
Gina Creedon	2/17/2024	Service Area	Bernadette Hawkins	2/17/2024	Out of State
Guadalupe Ochoa	2/17/2024	Service Area	Beth Cronin	2/17/2024	Out of State
Hailey Thompson	2/17/2024	Service Area	Christopher Kaiakaph	2/17/2024	Out of State
Hannah Larue	2/17/2024	Service Area	Cole Pumpe	2/17/2024	Out of State
Irene Bembenek	2/17/2024	Service Area	Cora Mckean	2/17/2024	Out of State
Isabel Beach	2/17/2024	Service Area	Dorice Hughes	2/17/2024	Out of State
Isabella Ennen	2/17/2024	Service Area	Emma Laue Lie	2/17/2024	Out of State
Jadyn Dennis	2/17/2024	Service Area	Erin Alberrts	2/17/2024	Out of State
James Lynn	2/17/2024	Service Area	Gayle Imhof	2/17/2024	Out of State
Janet Bacher	2/17/2024	Service Area	Haley Vandyck	2/17/2024	Out of State
Janine Kisala	2/17/2024	Service Area	Hannah Jachson	2/17/2024	Out of State
Jasmine Carter	2/17/2024	Service Area	Heather Bartz	2/17/2024	Out of State
Jennifer Isham	2/17/2024	Service Area	Jamie Earlywine	2/17/2024	Out of State
Jennifer Liepa	2/17/2024	Service Area	Jane Garret	2/17/2024	Out of State

Name	Date	Area of Residence	Name	Date	Area of Residence
Jesse Tiazer	2/17/2024	Service Area	Jess Helsley	2/17/2024	Out of State
Jessica Alder	2/17/2024	Service Area	Jon Michail Relima	2/17/2024	Out of State
Jodie Breen	2/17/2024	Service Area	Karen Shemon	2/17/2024	Out of State
Jordan Kara	2/17/2024	Service Area	Katelyn Burns	2/17/2024	Out of State
Kellie Monroe	2/17/2024	Service Area	Maree Feld	2/17/2024	Out of State
Kelly Sue Herman	2/17/2024	Service Area	Margeret Hurst	2/17/2024	Out of State
Kendall Benoit	2/17/2024	Service Area	Michael King	2/17/2024	Out of State
Kevin Crowley	2/17/2024	Service Area	Nathan Davis	2/17/2024	Out of State
Kimberly Lloyd	2/17/2024	Service Area	Oylen Adavis	2/17/2024	Out of State
Lauren Hurst	2/17/2024	Service Area	Rebecca Gleman	2/17/2024	Out of State
Lily Mochels	2/17/2024	Service Area	Wes Michels	2/17/2024	Out of State
Lyle Buckler	2/17/2024	Service Area			

Trout Unlimited Form Letter – Version 3

Now is your time to act for Eklutna salmon. As operators of the Eklutna Hydroelectric Project, you are legally required to make up for the project's impacts to fish, wildlife and their habitat. The decisions you make today will determine whether Eklutna salmon can recover and once again return in abundance. The fate of Eklutna wild salmon is in your hands. Please respect the gravity of your actions and choose accordingly.

Native Village of Eklutna has clearly communicated their vision for thriving wild salmon in the Eklutna River, including in Eklutna Lake and headwater tributaries. Your ratepayers and Alaskans support this vision. The Eklutna Hydroelectric Project deprives the Eklutna River of water and blocks salmon from migrating in and out of Eklutna Lake. The utilities have the obligation to make up for these impacts and do right by the Eklutna people and the Eklutna River.

Salmon populations will not recover without a reliable and consistent supply of water and access to important up-stream spawning and rearing areas. Sockeye salmon will not return if they cannot access Eklutna Lake and its tributaries. CEA, MEA and MOA cannot meet their mitigation obligations with anything less. Since it was originally built in 1955, Eklutna Hydroelectric Project has been a barrier to salmon migration and cut off water to the Eklutna River, causing a dry channel devoid of salmon for most of its length. Now is your one chance to make this right.

Submitted by:

Name	Date	Area of Residence	Name	Date	Area of Residence
Barbara Melland	2/15/2024	Service Area	Bruce Waring	2/15/2024	Out of State
Brenda Hewitt	2/15/2024	Service Area	Christopher Gagnon	2/15/2024	Out of State
Brian RItchie	2/15/2024	Service Area	David Stone	2/15/2024	Out of State
Brittany Thurstin	2/15/2024	Service Area	Denise Antony	2/15/2024	Out of State
Bruce Service	2/15/2024	Service Area	Dennis Jung	2/15/2024	Out of State
Cathleen Gordon	2/15/2024	Service Area	Douglas Shinn	2/15/2024	Out of State
Chennery Fife	2/15/2024	Service Area	Dr Alan Nissanbaum	2/15/2024	Out of State
Cindi Witt	2/15/2024	Service Area	Dr Bruce Finney	2/15/2024	Out of State
Dave Maternowski	2/15/2024	Service Area	Edward Kohler	2/15/2024	Out of State
Dawn Nixon	2/15/2024	Service Area	Eric Grams	2/15/2024	Out of State
Della Coburn	2/15/2024	Service Area	Gary Vilhauer	2/15/2024	Out of State
Jane Miles	2/15/2024	Service Area	Janell Bear	2/15/2024	Out of State
Jeannie Johnson	2/15/2024	Service Area	Janice Klinski	2/15/2024	Out of State
Jeff Chen	2/15/2024	Service Area	Jeff Theo	2/15/2024	Out of State
Jeff Stroke	2/15/2024	Service Area	Jeffrey Plackis	2/15/2024	Out of State
Jessica Thornton	2/15/2024	Service Area	Joe Kayafas	2/15/2024	Out of State
Jonathan Galin	2/15/2024	Service Area	John Hencke	2/15/2024	Out of State
Kendra Mclean	2/15/2024	Service Area	John Wondzell	2/15/2024	Out of State
Larry Hayden	2/15/2024	Service Area	Kevin O'Carroll	2/15/2024	Out of State
Leanne Warner	2/15/2024	Service Area	Kyle Schultz	2/15/2024	Out of State
Marian Giannulis	2/15/2024	Service Area	Matthew Roach	2/15/2024	Out of State
Mark Van Arsdale	2/15/2024	Service Area	Melissa Wong	2/15/2024	Out of State
Martica Drury	2/15/2024	Service Area	Michael Davis	2/15/2024	Out of State
Meghan Barker	2/15/2024	Service Area	Mickey Reves	2/15/2024	Out of State
Michael Dutton	2/15/2024	Service Area	Patricia Browne	2/15/2024	Out of State
Michael Funke	2/15/2024	Service Area	Patrick Camp	2/15/2024	Out of State
Oleks Lushchyk	2/15/2024	Service Area	Peter Williamson	2/15/2024	Out of State
Patrick Roobol	2/15/2024	Service Area	Richard Van Aken	2/15/2024	Out of State
Peter Lyford	2/15/2024	Service Area	Rick Casey	2/15/2024	Out of State
Raye Neustel	2/15/2024	Service Area	Robert Mueller	2/15/2024	Out of State
Stephanie Freitag	2/15/2024	Service Area	Russell Burdette	2/15/2024	Out of State
Thom Yukman	2/15/2024	Service Area	Shane Larson	2/15/2024	Out of State
Trevor Staples	2/15/2024	Service Area	Shelley Rowton	2/15/2024	Out of State
Whitney Cavazos	2/15/2024	Service Area	Thomas Smith	2/15/2024	Out of State
Willi Prittie	2/15/2024	Service Area	William Blair	2/15/2024	Out of State
Anika Pinzner	2/15/2024	Other Part of Alaska	William Yingst	2/15/2024	Out of State
Dr Kevin Fraley	2/15/2024	Other Part of Alaska	Gary Becker	2/17/2024	Out of State

Trout Unlimited Form Letter – Version 4

To the operators of the Eklutna Hydroelectric Project,

The draft Fish and Wildlife Plan you proposed for the Eklutna River does not meet the needs of salmon, the vision of the Eklutna Peoples, or your legal obligation to mitigate the project's impact to fish and wildlife. Leaving a mile of the river dry, releasing only 3% of historic flows, and not providing fish passage into the lake and upstream habitat will not restore the river's salmon runs and are unacceptable. Instead of wasting ratepayer and taxpayer money on a mitigation plan that won't fully revive salmon runs, I ask you to remove the Eklutna Dam to fully reconnect the river and return the water flows needed to support the river's fisheries. I understand the reliance on this hydroelectric energy source in the near-term, and the proposal to remove the Eklutna Lake dam within the next decade, when replacement renewable energy is expected to be available, is reasonable. I also appreciate that community partners are willing to pitch in to help offset costs of the dam removal – taking advantage of this opportunity seems like a fiscally smart decision. The Native Village of Eklutna has clearly communicated their vision for thriving wild salmon in the Eklutna River, including Eklutna Lake and headwater tributaries. Your ratepayers and many Alaskans support this vision. The Eklutna Hydroelectric Project deprives the Eklutna River of water and blocks salmon from migrating in and out of Eklutna Lake. Salmon populations will not recover without a reliable and consistent supply of water and access to important up-stream spawning and rearing areas. This is particularly true for sockeye salmon, if they cannot access Eklutna Lake and its tributaries. CEA, MEA and MOA cannot meet their mitigation obligations within their budget constraints with anything less than removing the dam. Now is your one chance to make this right. Now is your chance to invest in a river that Alaskans can be proud of and help show the world that Anchorage does not just love our salmon, we know what it takes to care for them and actively work to bring them back.

Submitted by:

Name	Date	Area of Residence
Jarod Norton	2/19/2024	Service Area
Jessica Ross	2/19/2024	Service Area
Joseph McGurrin	2/19/2024	Service Area
Naomi Bernard	2/19/2024	Service Area
Norman Hoppas	2/19/2024	Service Area
Randy Brannan	2/19/2024	Service Area
William Aubrey	2/19/2024	Service Area

The Alaska Center Form Letter

Dear Owners of The Eklutna Hydroelectric Project,

This comment is in regard to the Eklutna Hydroelectric Project's Draft Fish and Wildlife Program for the Eklutna River. I do not believe the plan's proposal to utilize the existing Anchorage Water and Wastewater Utility (AWWU) water supply infrastructure meets the needs of salmon, the vision of the Eklutna Peoples, or your legal obligation to mitigate the project's impact on fish and wildlife. I support the Native Village of Eklutna's vision for river restoration and ask you to consider dam removal to fully reconnect the river and return the water flows needed to support the river's fisheries.

The current proposal leaves a mile of the river dry, releases only 3% of historical flows, and does not provide fish passage into the lake and upstream habitat. Salmon populations will only recover with a reliable and consistent water supply and access to crucial upstream spawning and rearing areas. This proposal is unacceptable and needs to go further to restore the river's salmon runs.

The Native Village of Eklutna has communicated its vision for thriving wild salmon in the Eklutna River; dam removal is the most effective way to achieve this important goal. I understand the reliance on this hydroelectric energy source in the near term. But removing the Eklutna Lake dam within the next decade, when replacement renewable energy is expected to be available, is reasonable.

Now is your one chance to make this right. Please consider removing the Eklutna Dam so that all five species of salmon can once again return to the river.

Submitted by:

Name	Date	Area of Residence	Name	Date	Area of Residence
Angela Ferrari	1/12/2024	Service Area	Anne Vollertsen	2/18/2024	Service Area
April Woods	1/12/2024	Service Area	Bhargavi Pochi	2/18/2024	Service Area
Dave Harr	1/12/2024	Service Area	Erin Willahan	2/18/2024	Service Area
Janice Laxson	1/12/2024	Service Area	Hannah Gokaslan	2/18/2024	Service Area
Kurtis Jermain	1/12/2024	Service Area	Jocelyn Stanley	2/18/2024	Service Area
Paul Arneson	1/12/2024	Service Area	Kaitlyn Schwalber	2/18/2024	Service Area
Thomas Scott	1/12/2024	Service Area	Katherine Martini	2/18/2024	Service Area
Sharon Whytal	1/13/2024	Service Area	Megan Newcomb	2/18/2024	Service Area
Staci Genet	1/13/2024	Service Area	Molly Brown	2/18/2024	Service Area
Ann Yates	1/14/2024	Service Area	Rachael Schick	2/18/2024	Service Area
Martha Amore	1/15/2024	Service Area	Ryan Terry	2/18/2024	Service Area

Name	Date	Area of Residence	Name	Date	Area of Residence
Caleb Topolinski	1/16/2024	Service Area	Steve Kakaruk	2/18/2024	Service Area
James Apone	1/16/2024	Service Area	Tania M Spurkland	2/18/2024	Service Area
Aubrey Palmer	1/17/2024	Service Area	Ann Rappoport	2/19/2024	Service Area
Estelle Byrnes	1/19/2024	Service Area	Anna Warnock	2/19/2024	Service Area
Keller Friesen	1/19/2024	Service Area	Ari Romberg	2/19/2024	Service Area
Julian Ramirez	1/22/2024	Service Area	Aubrey Wieber	2/19/2024	Service Area
Cynthia Berger	1/25/2024	Service Area	Ben Virgin	2/19/2024	Service Area
Paula Case	1/25/2024	Service Area	Beth Odom	2/19/2024	Service Area
Anna Bosin	1/26/2024	Service Area	Brenda Tyler	2/19/2024	Service Area
beverly williams	1/26/2024	Service Area	Casey Brayton	2/19/2024	Service Area
Christine Wilcox	1/26/2024	Service Area	Dale Gardner	2/19/2024	Service Area
David Harrison	1/26/2024	Service Area	Jocelyn Ciarlone	2/19/2024	Service Area
Diane Wessing	1/26/2024	Service Area	John Dodge	2/19/2024	Service Area
Genevieve Holubik	1/26/2024	Service Area	Kailyn Hooley	2/19/2024	Service Area
Jack Mosby	1/26/2024	Service Area	Kayci Hanson	2/19/2024	Service Area
James Diehl	1/26/2024	Service Area	Kristine Chen	2/19/2024	Service Area
Jamie Shearer	1/26/2024	Service Area	LINDSEY FINNEY	2/19/2024	Service Area
Kaila Pfister	1/26/2024	Service Area	Lisa Peltola	2/19/2024	Service Area
Sheryl Salasky	1/26/2024	Service Area	Liz Dean	2/19/2024	Service Area
Scott Miller	1/27/2024	Service Area	MADDY MAURER	2/19/2024	Service Area
Tami Morrill	1/27/2024	Service Area	Marti Pausback	2/19/2024	Service Area
Wilma Klass	1/27/2024	Service Area	Max Kritzer	2/19/2024	Service Area
Anthony Knowles	1/28/2024	Service Area	Neil Waggoner	2/19/2024	Service Area
J Martin	1/28/2024	Service Area	Rick Marqusee	2/19/2024	Service Area
Adrienne McVey	1/29/2024	Service Area	Steven Poirot	2/19/2024	Service Area
Anastasia Scollon	1/29/2024	Service Area	Susan Salasky	2/19/2024	Service Area
Sarah Juetten	1/29/2024	Service Area	Akiak	1/12/2024	Other Part of Alaska
Bridget Shaughnessy Smith	1/30/2024	Service Area	Dogan Ozkan	1/12/2024	Other Part of Alaska
Erlinda Downing	1/30/2024	Service Area	Maggie King	1/12/2024	Other Part of Alaska
Patrick Solana Walkinshaw	1/30/2024	Service Area	K Murphy+	1/13/2024	Other Part of Alaska
Tana McNeese	1/30/2024	Service Area	Pamela Weaver	1/15/2024	Other Part of Alaska
Christina Livesey	1/31/2024	Service Area	Allegory Smith	1/26/2024	Other Part of Alaska
Rodney Hebert	1/31/2024	Service Area	Deborah Gravel	1/26/2024	Other Part of Alaska
Sandy Middleton	1/31/2024	Service Area	Jim Steffen	1/26/2024	Other Part of Alaska
Audrey Wright	2/1/2024	Service Area	John Neary	1/26/2024	Other Part of Alaska
Catigan West	2/1/2024	Service Area	Kate Persons	1/26/2024	Other Part of Alaska
Donavin Obrien	2/1/2024	Service Area	Luci Beach	1/26/2024	Other Part of Alaska
Jane Krise	2/1/2024	Service Area	Pat Stanley	1/26/2024	Other Part of Alaska
John Seaman	2/1/2024	Service Area	Raylynn Lawless	1/26/2024	Other Part of Alaska

Name	Date	Area of Residence	Name	Date	Area of Residence
Ammie Tremblay	2/2/2024	Service Area	Tara Chrisman	1/26/2024	Other Part of Alaska
Jan Carolyn Hardy	2/2/2024	Service Area	Evelyn Bass	1/27/2024	Other Part of Alaska
Barbara Jones	2/6/2024	Service Area	Lauren Padawer	1/27/2024	Other Part of Alaska
Courtney Moore	2/6/2024	Service Area	Jean Cole	1/29/2024	Other Part of Alaska
Heidi Frost	2/6/2024	Service Area	Susan Baker	2/5/2024	Other Part of Alaska
Ryen Richards	2/6/2024	Service Area	Heather Best	2/6/2024	Other Part of Alaska
Shara Diamond	2/6/2024	Service Area	Judy Jo Matson	2/6/2024	Other Part of Alaska
Steve Frost	2/6/2024	Service Area	Aurora Barnes	2/7/2024	Other Part of Alaska
Walter Tellman	2/6/2024	Service Area	James M Kari	2/7/2024	Other Part of Alaska
Ellen Vande Visse	2/7/2024	Service Area	John Nagel	2/7/2024	Other Part of Alaska
Kary Brinson	2/7/2024	Service Area	Etta Maillard	2/11/2024	Other Part of Alaska
Onica Sprokkreeff	2/7/2024	Service Area	Kathy Lenniger	2/12/2024	Other Part of Alaska
Susan Miller	2/8/2024	Service Area	Gail Cheney	2/16/2024	Other Part of Alaska
Theresa Slaven	2/8/2024	Service Area	Linda Fraley	2/16/2024	Other Part of Alaska
Bobby Tucker	2/9/2024	Service Area	Marc Dumas	2/16/2024	Other Part of Alaska
Connie Sumida	2/9/2024	Service Area	Susan Vogt	2/16/2024	Other Part of Alaska
Marcy Melville	2/11/2024	Service Area	Theodore Krieg	2/16/2024	Other Part of Alaska
Argene San Jose	2/13/2024	Service Area	Heather Mirczak	2/17/2024	Other Part of Alaska
Ben Guzman	2/13/2024	Service Area	Anna Laffrey	2/18/2024	Other Part of Alaska
Brannon Johnson	2/13/2024	Service Area	Aaron Brakel	2/19/2024	Other Part of Alaska
Greg Stevens	2/13/2024	Service Area	Christin Swearingen	2/19/2024	Other Part of Alaska
John Lanojan	2/13/2024	Service Area	Dominic Canale	2/19/2024	Other Part of Alaska
Judith Kell	2/13/2024	Service Area	Kenneth Nukwak	2/19/2024	Other Part of Alaska
Karen Glaser	2/13/2024	Service Area	Percy Ballot	2/19/2024	Other Part of Alaska
Kati Paddock	2/13/2024	Service Area	Anita Moore-Nall	1/11/2024	Out of State
Kelly Sandberg	2/13/2024	Service Area	John Roche+	1/13/2024	Out of State
Laura Bartholomew	2/13/2024	Service Area	Annie Porges	1/25/2024	Out of State
Patrice Lecso	2/13/2024	Service Area	Sam Mcfarland	1/25/2024	Out of State
Peter Heninger	2/13/2024	Service Area	Christen Blackburn	1/26/2024	Out of State
Polaris Sullo	2/13/2024	Service Area	Karen Jacques	1/26/2024	Out of State
Rose Khamis	2/13/2024	Service Area	Lauren Letsinger	1/26/2024	Out of State
Zack Yalibula	2/13/2024	Service Area	John Roche	1/27/2024	Out of State
Erica Khan	2/14/2024	Service Area	Susan Hilty	1/30/2024	Out of State
Catherine Campbell	2/15/2024	Service Area	Carrie Johnson	2/6/2024	Out of State
Angie Oberlitner	2/16/2024	Service Area	Jane Heltebrake	2/7/2024	Out of State
Claire Shaw	2/16/2024	Service Area	Michelle Rua	2/7/2024	Out of State
Donald Crandall	2/16/2024	Service Area	Ruby Ackermann	2/7/2024	Out of State
Doug Hill	2/16/2024	Service Area	Kevin Gowers	2/8/2024	Out of State
Jay Laxson	2/16/2024	Service Area	Mike Seyfried	2/8/2024	Out of State

Name	Date	Area of Residence	Name	Date	Area of Residence
Ken Zafren	2/16/2024	Service Area	Victoria Sindlinger	2/8/2024	Out of State
Laurie Daniel	2/16/2024	Service Area	Mark Cummins	2/9/2024	Out of State
Marcia Colson	2/16/2024	Service Area	Sierra Skinner	2/9/2024	Out of State
Mckenzy Johnson	2/16/2024	Service Area	Laura Krause	2/11/2024	Out of State
Rebecca Marks	2/16/2024	Service Area	line lie	2/12/2024	Out of State
Richard Rothstein	2/16/2024	Service Area	Angie Francis	2/16/2024	Out of State
Richard Wollenberg	2/16/2024	Service Area	Diana Gries	2/16/2024	Out of State
Rick Oldham	2/16/2024	Service Area	janna piper	2/16/2024	Out of State
Sharon Bissell Eddy	2/16/2024	Service Area	Patti Blevins	2/16/2024	Out of State
Terry S Johnson	2/16/2024	Service Area	alexis politz	2/17/2024	Out of State
Zoe Seppi	2/16/2024	Service Area	Gavin Siegert	2/17/2024	Out of State
Anna Wen	2/17/2024	Service Area	Gillian Britton	2/17/2024	Out of State
Beau Feckley	2/17/2024	Service Area	Jennifer Johnston	2/17/2024	Out of State
BOB STANDISH	2/17/2024	Service Area	Jorge Palacios	2/17/2024	Out of State
Cami Dalton	2/17/2024	Service Area	Kikken Schleusner	2/17/2024	Out of State
Charlie Lowell	2/17/2024	Service Area	Michelle DuBray	2/17/2024	Out of State
Cheryl Hickson	2/17/2024	Service Area	Owen Fitz	2/17/2024	Out of State
Elizabeth Bessenyey	2/17/2024	Service Area	Shay L	2/17/2024	Out of State
Hayley Cavitt	2/17/2024	Service Area	Coco Percival	2/18/2024	Out of State
Jasmine Redgrave	2/17/2024	Service Area	Debbie Ruiz	2/18/2024	Out of State
Kenneth Pysz	2/17/2024	Service Area	Diane Weisman	2/18/2024	Out of State
Lori Stephenson	2/17/2024	Service Area	Helen Watts	2/18/2024	Out of State
Rika Mouw	2/17/2024	Service Area	Ja Trussell	2/18/2024	Out of State
Sandy Harper	2/17/2024	Service Area	Maggie Chapin Chapin	2/18/2024	Out of State
Toshio Matsuoka	2/17/2024	Service Area	Rachael Rappoport	2/18/2024	Out of State
Wendy C Baker	2/17/2024	Service Area	Angela Dennis	2/19/2024	Out of State
Willow Feighery	2/17/2024	Service Area	Celia Darling	2/19/2024	Out of State
Adrienne Fleek	2/18/2024	Service Area	Fayette Krause	2/19/2024	Out of State
Allison Griffith	2/18/2024	Service Area	Lydia Lemon	2/19/2024	Out of State
Brian Himelbloom	2/19/2024	Out of Service Area			

Salmon State Form Letter

Dear Operators of the Eklutna Hydroelectric Project,

Thank you for the opportunity to comment on the draft Fish and Wildlife Plan proposed for the Eklutna River. Thriving salmon runs are essential to the majority of Alaskans — whether as a source of income, a way to practice culture or a way of filling the freezer. Unfortunately, the Eklutna River has been disrupted for nearly 70 years, causing salmon to significantly struggle, impacting the Peoples of Eklutna and Southcentral residents. The proposed plan, unfortunately, omits a complete mile between the lake and the portal valve which would continue to prohibit salmon from returning to the lake and upper tributaries to spawn. The plan would also fail to return the river to its historic flow levels, further impacting habitat and wildlife.

I strongly urge you to heed the recommendations of the Native Village of Eklutna to remove the dam and fully restore the Eklutna River. Not only would removing the dam restore salmon to the river, it would avoid financially burdening utility ratepayers and MOA taxpayers with a short-term, insufficient plan. Instead, the dam removal costs could be covered by two nonprofit organizations who have agreed to pay for it.

You have the opportunity to be leaders in learning from historic mistakes of damming rivers, in restoring a wild salmon run, and in righting a historic wrong on the Eklutna River.

Submitted by:

Name	Date	Area of Residence	Name	Date	Area of Residence
Andrew Andrew	1/19/2024	Service Area	Carol Kasza	1/19/2024	Other Part of Alaska
Kevin Scott	1/19/2024	Service Area	Christine Everett	1/20/2024	Other Part of Alaska
Ryan Astalos	1/19/2024	Service Area	Fred C Freer	1/20/2024	Other Part of Alaska
Allen Dahl	1/20/2024	Service Area	John Hudson	1/20/2024	Other Part of Alaska
Barry Santana	1/20/2024	Service Area	Lynn Wilbur	1/20/2024	Other Part of Alaska
Dave Nelson	1/20/2024	Service Area	Michael Garcia	1/20/2024	Other Part of Alaska
Georgian Nils	1/20/2024	Service Area	Karen Walker	1/21/2024	Other Part of Alaska
Guy Lopez	1/20/2024	Service Area	Stian Stensland	1/21/2024	Other Part of Alaska
Robert Vernon	1/20/2024	Service Area	Marie Katcheak	1/22/2024	Other Part of Alaska
Terry Cummings	1/20/2024	Service Area	Tisa Becker	1/29/2024	Other Part of Alaska
Marika Hintz	1/21/2024	Service Area	Sam Marchant	1/30/2024	Other Part of Alaska
Timothy Weglarz	1/22/2024	Service Area	Mary Martin	2/2/2024	Other Part of Alaska
Stephanie Foley	1/24/2024	Service Area	Erik Kokborg	2/3/2024	Other Part of Alaska
Rachel Zander	1/30/2024	Service Area	Ellen Americus	2/13/2024	Other Part of Alaska
J Lhesli Benedict	2/3/2024	Service Area	Audrey Y	2/17/2024	Other Part of Alaska

Name	Date	Area of Residence	Name	Date	Area of Residence
Jessica Anaruk	2/4/2024	Service Area	Carol Race	2/17/2024	Other Part of Alaska
Fia Chaney	2/10/2024	Service Area	Carrie Dodson	2/17/2024	Other Part of Alaska
Francis Cruise	2/10/2024	Service Area	Casimir Abramczyk	2/17/2024	Other Part of Alaska
Morris Horning	2/10/2024	Service Area	Chiara Rose	2/17/2024	Other Part of Alaska
Jade Haggard	2/13/2024	Service Area	Deb Corso	2/17/2024	Other Part of Alaska
Paul Zimmerman	2/13/2024	Service Area	Francine Brown	2/17/2024	Other Part of Alaska
Russell Hathaway	2/14/2024	Service Area	Gretchen Randolph	2/17/2024	Other Part of Alaska
Troy Hart	2/14/2024	Service Area	Jos Bakker	2/17/2024	Other Part of Alaska
Sean Tisch	2/16/2024	Service Area	Judy Palmer	2/17/2024	Other Part of Alaska
Sue Maurice	2/16/2024	Service Area	Lois Booth	2/17/2024	Other Part of Alaska
Dale Kaercher	2/17/2024	Service Area	Luann McVey	2/17/2024	Other Part of Alaska
David Allen	2/17/2024	Service Area	Nancy Waterman	2/17/2024	Other Part of Alaska
Davin Holen	2/17/2024	Service Area	Nathaniel Perry	2/17/2024	Other Part of Alaska
Deacon Bradley	2/17/2024	Service Area	Samuel McBeen	2/17/2024	Other Part of Alaska
Dulce Ben-East	2/17/2024	Service Area	Corinne Ferre	2/18/2024	Other Part of Alaska
Jared Becker	2/17/2024	Service Area	Jamiann Hasselquist	2/18/2024	Other Part of Alaska
Jason Bontrager	2/17/2024	Service Area	China Kantner	2/19/2024	Other Part of Alaska
John Hoopes	2/17/2024	Service Area	Fred - C Freer	2/19/2024	Other Part of Alaska
Kimberly Killion	2/17/2024	Service Area	marie hurd	2/19/2024	Other Part of Alaska
Lee Stark	2/17/2024	Service Area	Blaise Brockman	2/17/2024	Out of State
Mariza Tovar	2/17/2024	Service Area	Boyce Sherwin	2/17/2024	Out of State
Mark Niver	2/17/2024	Service Area	brad smith	2/17/2024	Out of State
Morgan MacConaugha	2/17/2024	Service Area	Brandi McCauley	2/17/2024	Out of State
Randy Paddock	2/17/2024	Service Area	Brenda Smith	2/17/2024	Out of State
Steven Bergt	2/17/2024	Service Area	Brian Conover	2/17/2024	Out of State
Carmen Bydalek	2/18/2024	Service Area	Brian Gingras	2/17/2024	Out of State
Claudia Jacobson	2/18/2024	Service Area	Candy Bowman	2/17/2024	Out of State
Marilyn Heiman	2/18/2024	Service Area	Carl Stapler	2/17/2024	Out of State
Mark Jacobson	2/18/2024	Service Area	Carla Tuke	2/17/2024	Out of State
Nicholas Cassara	2/18/2024	Service Area	Carol HILTON	2/17/2024	Out of State
Sandra Tompkins	2/18/2024	Service Area	Caroline Armon	2/17/2024	Out of State
Stephen Sims	2/18/2024	Service Area	carolyn fischer	2/17/2024	Out of State
Janice Banta	2/19/2024	Service Area	Catherine McNamara	2/17/2024	Out of State
Jessic Winnestaffer	2/19/2024	Service Area	Catherine Morris	2/17/2024	Out of State
JoAnn Bennett-Brown	2/19/2024	Service Area	Catherine Williams	2/17/2024	Out of State
Nadine Doiron	2/19/2024	Service Area	Charlene Woodcock	2/17/2024	Out of State
Terri Leman	2/19/2024	Service Area	Charles Hammerstad	2/17/2024	Out of State

Name	Date	Area of Residence	Name	Date	Area of Residence
August Ashmun	1/19/2024	Out of State	Charles Spreter	2/17/2024	Out of State
Julie Buchenau	1/19/2024	Out of State	Cherine Bauer	2/17/2024	Out of State
Lisa Mascho	1/19/2024	Out of State	Cheryl Vana	2/17/2024	Out of State
AJ Cho	1/20/2024	Out of State	Cheryl Watters	2/17/2024	Out of State
Alan Bedard	1/20/2024	Out of State	Chris Calvert	2/17/2024	Out of State
Alice Gard	1/20/2024	Out of State	Christine Kiefer	2/17/2024	Out of State
Amanda Dickinson	1/20/2024	Out of State	Cindy Grimes	2/17/2024	Out of State
Ann Sandritter	1/20/2024	Out of State	Claudia McNulty	2/17/2024	Out of State
Anthony Albert	1/20/2024	Out of State	Clayton Jones	2/17/2024	Out of State
Antje Fray	1/20/2024	Out of State	Clive O'Donoghue	2/17/2024	Out of State
Barbara Harper	1/20/2024	Out of State	Colleen Cleary	2/17/2024	Out of State
Barclay Hauber	1/20/2024	Out of State	Colleen Rodger	2/17/2024	Out of State
Beth Darlington	1/20/2024	Out of State	Constance Secaras	2/17/2024	Out of State
Bonita Staas	1/20/2024	Out of State	Cynthia Edwards	2/17/2024	Out of State
Brenda Hartman	1/20/2024	Out of State	Cynthia Liss	2/17/2024	Out of State
Bridgett Heinly	1/20/2024	Out of State	Dan Heffernan	2/17/2024	Out of State
Bruce Troutman	1/20/2024	Out of State	Dan Larson	2/17/2024	Out of State
Camille Gilbert	1/20/2024	Out of State	danny james	2/17/2024	Out of State
cara artman	1/20/2024	Out of State	Darlene Falk	2/17/2024	Out of State
Carol Book	1/20/2024	Out of State	David Edwards	2/17/2024	Out of State
Carol Else	1/20/2024	Out of State	Deb Hirt	2/17/2024	Out of State
Caroline Sévilla	1/20/2024	Out of State	Debora Hojda	2/17/2024	Out of State
Carolyn Nieland	1/20/2024	Out of State	Deborah Lane	2/17/2024	Out of State
Carolyn Ryan	1/20/2024	Out of State	Debra Smith	2/17/2024	Out of State
Cathy Barton	1/20/2024	Out of State	Del Stiewert	2/17/2024	Out of State
Charlie Burns	1/20/2024	Out of State	Derek Gendvil	2/17/2024	Out of State
Chris Guillory	1/20/2024	Out of State	Desiree Nagyfy	2/17/2024	Out of State
Christina Davis	1/20/2024	Out of State	Devorah Soodak	2/17/2024	Out of State
Cinda Johansen	1/20/2024	Out of State	Donald Taylor	2/17/2024	Out of State
Cindy Shoaf	1/20/2024	Out of State	Donna Barrett	2/17/2024	Out of State
Darlene Jakusz	1/20/2024	Out of State	Donna Bonetti	2/17/2024	Out of State
Darlene Wolf	1/20/2024	Out of State	Donna Hreha	2/17/2024	Out of State
Dave Searles	1/20/2024	Out of State	Doug Koffler	2/17/2024	Out of State
Debra Kern	1/20/2024	Out of State	Dr Jo Jones	2/17/2024	Out of State
Donna Selquist	1/20/2024	Out of State	Ed Fiedler	2/17/2024	Out of State
Felicity Hohenshelt	1/20/2024	Out of State	Edward Bielaus	2/17/2024	Out of State
Francelia Lieurance	1/20/2024	Out of State	Elaine Livingston	2/17/2024	Out of State
Frances Blythe	1/20/2024	Out of State	Elisa Townshend	2/17/2024	Out of State
fred rilling	1/20/2024	Out of State	Elisabeth Armendarez	2/17/2024	Out of State
Gary Gover	1/20/2024	Out of State	Elizabeth Butler	2/17/2024	Out of State

Name	Date	Area of Residence	Name	Date	Area of Residence
George Craciun	1/20/2024	Out of State	elizabeth darovic	2/17/2024	Out of State
Gerald Hallead	1/20/2024	Out of State	Elizabeth Meszaros	2/17/2024	Out of State
Gerry Milliken	1/20/2024	Out of State	Elizabeth Watts	2/17/2024	Out of State
Gudrun Dennis	1/20/2024	Out of State	Ellen Dryer	2/17/2024	Out of State
Heide Coppotelli	1/20/2024	Out of State	Eric Nylen	2/17/2024	Out of State
heidi ahlstrand	1/20/2024	Out of State	eric voorhies	2/17/2024	Out of State
Henry Berkowitz	1/20/2024	Out of State	Eric West	2/17/2024	Out of State
I Engle	1/20/2024	Out of State	erin garcia	2/17/2024	Out of State
Jackie Stolfi	1/20/2024	Out of State	Florence Harty	2/17/2024	Out of State
Jacquelyn Sidor	1/20/2024	Out of State	Fred Granlund	2/17/2024	Out of State
james hatchett	1/20/2024	Out of State	Frederique Joly	2/17/2024	Out of State
Jamie Green	1/20/2024	Out of State	Gary Thaler	2/17/2024	Out of State
Jana Harter	1/20/2024	Out of State	gary zahler	2/17/2024	Out of State
Jane Nachazel-Ruck	1/20/2024	Out of State	Gavin Bornholtz	2/17/2024	Out of State
Jared Brenner	1/20/2024	Out of State	Genny Hoyle	2/17/2024	Out of State
Jarrett Cloud	1/20/2024	Out of State	George Burnash	2/17/2024	Out of State
Jennifer Valentine	1/20/2024	Out of State	George Mackison	2/17/2024	Out of State
JL Angell	1/20/2024	Out of State	Gloria Picchetti	2/17/2024	Out of State
John Oda	1/20/2024	Out of State	Gloria Uribe	2/17/2024	Out of State
Johnny Hall	1/20/2024	Out of State	Grace Strong	2/17/2024	Out of State
Jonathan Hancock	1/20/2024	Out of State	Gregory Holtzapple	2/17/2024	Out of State
jonette bronson	1/20/2024	Out of State	Guy Taylor	2/17/2024	Out of State
Joseph Ponisciak	1/20/2024	Out of State	Harry Gerecke	2/17/2024	Out of State
Joy Kroeger-Mappes	1/20/2024	Out of State	Harry Knapp	2/17/2024	Out of State
Judy Moran	1/20/2024	Out of State	Heather LeBlanc	2/17/2024	Out of State
K Danowski	1/20/2024	Out of State	Heather Ruckman	2/17/2024	Out of State
Karen Kawszan	1/20/2024	Out of State	Helen Fisher	2/17/2024	Out of State
Karen Peterson	1/20/2024	Out of State	Helmut Kothbauer	2/17/2024	Out of State
Katherine Wright	1/20/2024	Out of State	Hiedi Tan	2/17/2024	Out of State
Kathryn Rose	1/20/2024	Out of State	Hunter Wallof	2/17/2024	Out of State
Kathy Bradley	1/20/2024	Out of State	I Engle	2/17/2024	Out of State
Kathy Dabanian	1/20/2024	Out of State	Ian Shelley	2/17/2024	Out of State
Kenneth Payne	1/20/2024	Out of State	Irini Dieringer	2/17/2024	Out of State
Kent Iverson	1/20/2024	Out of State	J Anderson	2/17/2024	Out of State
Kicab Castaneda-Mend	1/20/2024	Out of State	J W Andes	2/17/2024	Out of State
Laura Chinofsky	1/20/2024	Out of State	Jack Dodson	2/17/2024	Out of State
Laura Herndon	1/20/2024	Out of State	Jack H McCall Jr	2/17/2024	Out of State
Laura Long	1/20/2024	Out of State	Jack Steinberg	2/17/2024	Out of State
Lee Fister	1/20/2024	Out of State	James Herther	2/17/2024	Out of State
Linda Fowler	1/20/2024	Out of State	James Patton	2/17/2024	Out of State

Name	Date	Area of Residence	Name	Date	Area of Residence
Linda Headley	1/20/2024	Out of State	James Wee	2/17/2024	Out of State
Linda Luke	1/20/2024	Out of State	Jamie Le	2/17/2024	Out of State
Linda Prostko	1/20/2024	Out of State	Jane Gulley	2/17/2024	Out of State
Linda Vopicka	1/20/2024	Out of State	Jane Wiley	2/17/2024	Out of State
Lori Erbs	1/20/2024	Out of State	Janet Moser	2/17/2024	Out of State
Malcolm Simpson	1/20/2024	Out of State	Janine Kondreck	2/17/2024	Out of State
Marce Walsh	1/20/2024	Out of State	Jason Crawford	2/17/2024	Out of State
Marilynn Harper	1/20/2024	Out of State	Jean Hanson	2/17/2024	Out of State
Mark Klugiewicz	1/20/2024	Out of State	Jean Van Nest	2/17/2024	Out of State
Martha Gorak	1/20/2024	Out of State	Jennifer Layton	2/17/2024	Out of State
Mary Puglia	1/20/2024	Out of State	Jerry Banks	2/17/2024	Out of State
Maureen Zilner Palla	1/20/2024	Out of State	Jerry Fitzgerald	2/17/2024	Out of State
Meg Gilman	1/20/2024	Out of State	Jesse Kirkham	2/17/2024	Out of State
Meryle A Korn	1/20/2024	Out of State	Jewell Batway	2/17/2024	Out of State
Michael Brandes	1/20/2024	Out of State	Jill Nicholas	2/17/2024	Out of State
Michael Garitty	1/20/2024	Out of State	JL Charrier	2/17/2024	Out of State
Michael Lombardi	1/20/2024	Out of State	Joan M Cummings	2/17/2024	Out of State
Miriam Baum	1/20/2024	Out of State	Joan Oosterwyk	2/17/2024	Out of State
Ms Zentura	1/20/2024	Out of State	Joann Koch	2/17/2024	Out of State
Nancy White	1/20/2024	Out of State	Jody Lewis	2/17/2024	Out of State
Naomi Klass	1/20/2024	Out of State	Jody Mahnken	2/17/2024	Out of State
Nellie Medlin	1/20/2024	Out of State	John Alder	2/17/2024	Out of State
Nicola Nicolai	1/20/2024	Out of State	John Andes	2/17/2024	Out of State
Nina Kornstein	1/20/2024	Out of State	JOHN LEONARD	2/17/2024	Out of State
Patty Duffy	1/20/2024	Out of State	Joseph M Varon	2/17/2024	Out of State
Paul Hunrichs	1/20/2024	Out of State	Joyce Lahna	2/17/2024	Out of State
Paul Kalka	1/20/2024	Out of State	Judy Brewer	2/17/2024	Out of State
Paula Neville	1/20/2024	Out of State	Julia Cranmer	2/17/2024	Out of State
priscilla martinez	1/20/2024	Out of State	Karen Milstein	2/17/2024	Out of State
PROTECT All Things Wild and Wonderful	1/20/2024	Out of State	Karen Spradlin	2/17/2024	Out of State
Rev Carole Ann Cole	1/20/2024	Out of State	Kat Bowley	2/17/2024	Out of State
Robin Blakesley	1/20/2024	Out of State	Kathleen Shabi	2/17/2024	Out of State
Sam Butler	1/20/2024	Out of State	Kathy Jackson	2/17/2024	Out of State
Sandra Couch	1/20/2024	Out of State	KENNETH KRYNICKI	2/17/2024	Out of State
Sarah Hafer	1/20/2024	Out of State	Kevin Vaught	2/17/2024	Out of State
Scott Gorn	1/20/2024	Out of State	Kicab Castaneda-Mendez	2/17/2024	Out of State
Scott Korman	1/20/2024	Out of State	Kristin Bryant	2/17/2024	Out of State
Sharon Longyear	1/20/2024	Out of State	Lance Kammerud	2/17/2024	Out of State
Stacey Cannon	1/20/2024	Out of State	Larry Bogolub	2/17/2024	Out of State

Name	Date	Area of Residence	Name	Date	Area of Residence
Stefan Taylor	1/20/2024	Out of State	Laura Taylor	2/17/2024	Out of State
Stephen Owen	1/20/2024	Out of State	Linda Freeman	2/17/2024	Out of State
Steve Berman	1/20/2024	Out of State	Linda McKillip	2/17/2024	Out of State
Thomas Nieland	1/20/2024	Out of State	Lindsey Diamond	2/17/2024	Out of State
Thomas Ray	1/20/2024	Out of State	Lisa Ann Kelly	2/17/2024	Out of State
Tina Ann	1/20/2024	Out of State	Lyn Lowry	2/17/2024	Out of State
Trigg Wright	1/20/2024	Out of State	Lynn Shoemaker	2/17/2024	Out of State
Vic Bostock	1/20/2024	Out of State	Lynn Welch	2/17/2024	Out of State
Vicki Wheeler	1/20/2024	Out of State	Malcolm Elgut	2/17/2024	Out of State
Victoria hall	1/20/2024	Out of State	Manfred Zanger	2/17/2024	Out of State
Victoria Urias	1/20/2024	Out of State	Marc And Alice Imlay	2/17/2024	Out of State
Virginia Davis	1/20/2024	Out of State	Margaret Chasson	2/17/2024	Out of State
Wayne Laubscher	1/20/2024	Out of State	Margaret Silver	2/17/2024	Out of State
William Obrien	1/20/2024	Out of State	Margaretha Hertle	2/17/2024	Out of State
William Tarbox	1/20/2024	Out of State	Margarita Perez	2/17/2024	Out of State
AnnMarie Sardineer	1/21/2024	Out of State	Maria Nowicki	2/17/2024	Out of State
Asam Cuthriell	1/21/2024	Out of State	Marie Wakefield	2/17/2024	Out of State
Dennis Landi	1/21/2024	Out of State	Mark Hollinrake	2/17/2024	Out of State
Harold Tipping	1/21/2024	Out of State	Marsha Lowry	2/17/2024	Out of State
Helen Nickerson	1/21/2024	Out of State	Martin Marcus	2/17/2024	Out of State
Jessica Taliaferro	1/21/2024	Out of State	Maryanne Jerome	2/17/2024	Out of State
John Curotto	1/21/2024	Out of State	Maureen Rogers	2/17/2024	Out of State
Marianne Lazarus	1/21/2024	Out of State	Melvin Hughes	2/17/2024	Out of State
Marion Kraus	1/21/2024	Out of State	Merna Baker Blagg	2/17/2024	Out of State
Mary Johnson	1/21/2024	Out of State	Meryle A Korn	2/17/2024	Out of State
Maryon Hatter	1/21/2024	Out of State	Michael Madden	2/17/2024	Out of State
Pam Brocious	1/21/2024	Out of State	Michael R Watson	2/17/2024	Out of State
Paul Moss	1/21/2024	Out of State	MIchele Johnson	2/17/2024	Out of State
Paula Morgan	1/21/2024	Out of State	Mike Mahler	2/17/2024	Out of State
Richard Peterson	1/21/2024	Out of State	Nan Beatty	2/17/2024	Out of State
Robert Bergan	1/21/2024	Out of State	Nedra Carroll	2/17/2024	Out of State
Stephen Gliva	1/21/2024	Out of State	Norm Wilmes	2/17/2024	Out of State
Candace Rocha	1/22/2024	Out of State	Norman Baker	2/17/2024	Out of State
Colette Bennett	1/22/2024	Out of State	Pamela Kane	2/17/2024	Out of State
Diane Shifrin	1/22/2024	Out of State	Pat WOLONGEVICZ	2/17/2024	Out of State
L M	1/22/2024	Out of State	Patricia Auer	2/17/2024	Out of State
Patti Packer	1/22/2024	Out of State	Patricia Blackwell-Marchant	2/17/2024	Out of State
Trinidad Lopez	1/22/2024	Out of State	Patricia Burton	2/17/2024	Out of State
Joseph Wenzel	1/23/2024	Out of State	Patricia Martinez	2/17/2024	Out of State

Name	Date	Area of Residence	Name	Date	Area of Residence
Pauline Kahney	1/23/2024	Out of State	Pete Sullivan	2/17/2024	Out of State
Ken Snford	1/24/2024	Out of State	Phil DJernes	2/17/2024	Out of State
Janet Forman	1/25/2024	Out of State	Phyllis Corcacas	2/17/2024	Out of State
Robert Moore	1/27/2024	Out of State	Pris Wright	2/17/2024	Out of State
s cook	1/27/2024	Out of State	Quinton Moto	2/17/2024	Out of State
C Yee	1/28/2024	Out of State	Rachael Denny	2/17/2024	Out of State
Ellen Gutfleisch	1/28/2024	Out of State	Rebecca Evans	2/17/2024	Out of State
Kaitlin Fitch	1/28/2024	Out of State	Rich Speer	2/17/2024	Out of State
Wendy Niemeyer	1/28/2024	Out of State	Richard McAnulty	2/17/2024	Out of State
Ariel Buback	1/29/2024	Out of State	Richard Ohlendorf	2/17/2024	Out of State
Amy Grondin	1/30/2024	Out of State	Robert Cherwink	2/17/2024	Out of State
Christina Henning	1/30/2024	Out of State	Robert Cobb	2/17/2024	Out of State
Daniel OBrien	1/30/2024	Out of State	Robert Gibb	2/17/2024	Out of State
Jean Chagnon	1/30/2024	Out of State	Robert Giusti	2/17/2024	Out of State
Kurt Harvey	1/30/2024	Out of State	Roberta Kessler	2/17/2024	Out of State
Amber Locke	1/31/2024	Out of State	Roger Schmidt	2/17/2024	Out of State
Phillip O'Neil	1/31/2024	Out of State	Ronald Bogin	2/17/2024	Out of State
Cade Cannon	2/1/2024	Out of State	Ronald Meredith	2/17/2024	Out of State
Ann Stratten	2/3/2024	Out of State	Ronald Silver	2/17/2024	Out of State
Annie McCombs	2/3/2024	Out of State	Roth Woods	2/17/2024	Out of State
April Narcisse	2/3/2024	Out of State	Roy Ferguson	2/17/2024	Out of State
Barbara Jacobsen	2/3/2024	Out of State	Russell Weisz	2/17/2024	Out of State
Bob Gendron	2/3/2024	Out of State	Sam Rushforth	2/17/2024	Out of State
Bob-Marie Rayburn	2/3/2024	Out of State	Sandi Covell	2/17/2024	Out of State
Bonnie Brooks	2/3/2024	Out of State	Sandra Breakfield	2/17/2024	Out of State
Brian Yanke	2/3/2024	Out of State	Sandraa Varvel	2/17/2024	Out of State
Carmen Blakely	2/3/2024	Out of State	Sarah Sederstrom	2/17/2024	Out of State
Carol Collins	2/3/2024	Out of State	Scott Davis	2/17/2024	Out of State
Cathy Thomas	2/3/2024	Out of State	Scott Emsley	2/17/2024	Out of State
DANIEL HENLING	2/3/2024	Out of State	Sharon Baker	2/17/2024	Out of State
Dennis Schaef	2/3/2024	Out of State	Sheila Nolte	2/17/2024	Out of State
E Neal	2/3/2024	Out of State	Shelley Hartz	2/17/2024	Out of State
Emily Van Alyne	2/3/2024	Out of State	Shirley McCarthy	2/17/2024	Out of State
Evelyn Parker	2/3/2024	Out of State	Stefon Lira	2/17/2024	Out of State
fay forman	2/3/2024	Out of State	Stephan Donovan	2/17/2024	Out of State
Garrick Balk	2/3/2024	Out of State	Stephanie Huntington	2/17/2024	Out of State
gisela zech	2/3/2024	Out of State	Stephanie Marsicovetere	2/17/2024	Out of State
Harold Watson	2/3/2024	Out of State	Steve Keim	2/17/2024	Out of State

Name	Date	Area of Residence	Name	Date	Area of Residence
Howard Cohen	2/3/2024	Out of State	Steven Andrychowski	2/17/2024	Out of State
Janet Funicelli	2/3/2024	Out of State	Stewart Wilber	2/17/2024	Out of State
Joan Smith	2/3/2024	Out of State	Sue Denker	2/17/2024	Out of State
Joyce Frohn	2/3/2024	Out of State	Sue Hall	2/17/2024	Out of State
Judith Smith	2/3/2024	Out of State	Susan Delles	2/17/2024	Out of State
laura glenn	2/3/2024	Out of State	Susan Dorchin	2/17/2024	Out of State
Les Roberts	2/3/2024	Out of State	SUSAN GALANTE	2/17/2024	Out of State
Linda Seaver	2/3/2024	Out of State	Susan Porter	2/17/2024	Out of State
Marcella Crane	2/3/2024	Out of State	Susan Querze	2/17/2024	Out of State
Margaret Guilfoy Tyler	2/3/2024	Out of State	Susan Worden	2/17/2024	Out of State
Mary Gershanoff	2/3/2024	Out of State	Suzanne Becket	2/17/2024	Out of State
Meryl Pinque	2/3/2024	Out of State	Sydnee Thompson	2/17/2024	Out of State
RedElisa Mendoza	2/3/2024	Out of State	Sylvia O	2/17/2024	Out of State
Ruth Boice	2/3/2024	Out of State	Tania Malven	2/17/2024	Out of State
Sandy Zelasko	2/3/2024	Out of State	Theresa Hebron	2/17/2024	Out of State
Stephen Blakely	2/3/2024	Out of State	Thom Peters	2/17/2024	Out of State
Susan Thompson	2/3/2024	Out of State	Tim Butler	2/17/2024	Out of State
Thomasin Kellermann	2/3/2024	Out of State	Tim Quirante	2/17/2024	Out of State
Tracy Ouellette	2/3/2024	Out of State	Tony Fanucci	2/17/2024	Out of State
Jennifer Smith	2/4/2024	Out of State	Torunn Sivesind	2/17/2024	Out of State
Karen Naiman	2/4/2024	Out of State	tosh myers	2/17/2024	Out of State
Kent John Clark	2/4/2024	Out of State	Vicki Warner-Huggins	2/17/2024	Out of State
Mary Rivas	2/5/2024	Out of State	Vincent Rusch	2/17/2024	Out of State
Rachael Pappano	2/5/2024	Out of State	Virginia Dwyer	2/17/2024	Out of State
Tia Simon	2/5/2024	Out of State	Warwick Hansell	2/17/2024	Out of State
Jennifer Nitz	2/6/2024	Out of State	Wayne Steffes	2/17/2024	Out of State
A L Steiner	2/10/2024	Out of State	Whitney Watters	2/17/2024	Out of State
Alice Polesky	2/10/2024	Out of State	William Buchan	2/17/2024	Out of State
B Z	2/10/2024	Out of State	William Kuhl	2/17/2024	Out of State
Betsy Wolf	2/10/2024	Out of State	Zieh Fink	2/17/2024	Out of State
Betty Winholtz	2/10/2024	Out of State	Alexa McMahan	2/18/2024	Out of State
Bob Rayburn	2/10/2024	Out of State	Amanda Miller	2/18/2024	Out of State
Brenda Psaras	2/10/2024	Out of State	Andy Hughes	2/18/2024	Out of State
Carrie Swank	2/10/2024	Out of State	Anna Cruikshank	2/18/2024	Out of State
Chris R	2/10/2024	Out of State	Anna Tangi	2/18/2024	Out of State
Cynthia Hull	2/10/2024	Out of State	Bob Winslow	2/18/2024	Out of State
David Bryan	2/10/2024	Out of State	Bonnie G Brooks	2/18/2024	Out of State
David Worley	2/10/2024	Out of State	Carole Ann Cole	2/18/2024	Out of State
Debra Miller	2/10/2024	Out of State	Cathie Kwasneski	2/18/2024	Out of State

Name	Date	Area of Residence	Name	Date	Area of Residence
doug krause	2/10/2024	Out of State	David Meade	2/18/2024	Out of State
Georgia Shankel	2/10/2024	Out of State	Debra Rehn	2/18/2024	Out of State
Geraldine Card	2/10/2024	Out of State	Denise Shapiro	2/18/2024	Out of State
Greg Kimball	2/10/2024	Out of State	Diana Duffy	2/18/2024	Out of State
Greg Sells	2/10/2024	Out of State	Diana Soleil	2/18/2024	Out of State
Jamie Shields	2/10/2024	Out of State	Erline Towner	2/18/2024	Out of State
Jennifer Brandon	2/10/2024	Out of State	Fanny Whitman	2/18/2024	Out of State
Jennifer Schally	2/10/2024	Out of State	Gloria Morrison	2/18/2024	Out of State
Jerry Rivers	2/10/2024	Out of State	Holly Crawford	2/18/2024	Out of State
John Doucette	2/10/2024	Out of State	janet romine	2/18/2024	Out of State
Jordan Glass	2/10/2024	Out of State	Janice Wilfing	2/18/2024	Out of State
Joseph Slaven	2/10/2024	Out of State	John Papandrea	2/18/2024	Out of State
Kathleen O'Connell	2/10/2024	Out of State	John Ruhl	2/18/2024	Out of State
Kenneth Lapointe	2/10/2024	Out of State	Judith Dawn Silver	2/18/2024	Out of State
Linda Granato	2/10/2024	Out of State	Judith Falck-Madsen	2/18/2024	Out of State
Linda Myers	2/10/2024	Out of State	Kjersten Gmeiner	2/18/2024	Out of State
Linda Thompson	2/10/2024	Out of State	Lauren Richie	2/18/2024	Out of State
Linda Walters	2/10/2024	Out of State	Leslie Spurling	2/18/2024	Out of State
Lisa Koehl	2/10/2024	Out of State	Lora Steiner	2/18/2024	Out of State
Melissa Cathcart	2/10/2024	Out of State	Marie Garescher	2/18/2024	Out of State
Michelle Collar	2/10/2024	Out of State	Maureen McCullough	2/18/2024	Out of State
Nezka Pfeifer	2/10/2024	Out of State	Maurene Conway	2/18/2024	Out of State
Rollin Blanton	2/10/2024	Out of State	Michael McMahan	2/18/2024	Out of State
Ron Faich	2/10/2024	Out of State	Michele LaPorte	2/18/2024	Out of State
Ruth Clifford	2/10/2024	Out of State	Michele Nihipali	2/18/2024	Out of State
Sabrina Eckles	2/10/2024	Out of State	Mike and Susan Gail Raymond	2/18/2024	Out of State
Sarah Stewart	2/10/2024	Out of State	Patrick De La Garza Und Senkel	2/18/2024	Out of State
Stephen Dutschke	2/10/2024	Out of State	Pearl Spiro	2/18/2024	Out of State
SUSAN BABBITT	2/10/2024	Out of State	Phyllis Chavez	2/18/2024	Out of State
tucker valovic	2/10/2024	Out of State	Richard Tidd	2/18/2024	Out of State
Virgene Link-New	2/10/2024	Out of State	Rickey Buttery	2/18/2024	Out of State
Bernadette Webster	2/11/2024	Out of State	ROBERT CURTIN	2/18/2024	Out of State
Doug Gledhill	2/11/2024	Out of State	Sandra Materi	2/18/2024	Out of State
J	2/11/2024	Out of State	skylar mccollough	2/18/2024	Out of State
Jim Steitz	2/11/2024	Out of State	Stephanie L	2/18/2024	Out of State
Lenore Sivulich	2/11/2024	Out of State	Steve Gray	2/18/2024	Out of State
Letitia Noel	2/11/2024	Out of State	Tammy Beck	2/18/2024	Out of State

Name	Date	Area of Residence	Name	Date	Area of Residence
Veronica Bourassa	2/11/2024	Out of State	Terry Rice	2/18/2024	Out of State
Donna Buscemi	2/12/2024	Out of State	Theresa DeLuca	2/18/2024	Out of State
Janet Delaney	2/12/2024	Out of State	Till Meier	2/18/2024	Out of State
Katherine Hinson	2/12/2024	Out of State	Todd Monson	2/18/2024	Out of State
Jennifer Scott	2/13/2024	Out of State	Tonya Sexton	2/18/2024	Out of State
Julia Thollaug	2/13/2024	Out of State	Veronique Jarrell-King	2/18/2024	Out of State
Juliana Yang	2/13/2024	Out of State	Virginia Watson	2/18/2024	Out of State
Terri Raimondo	2/15/2024	Out of State	William Merry	2/18/2024	Out of State
mychel Flack	2/16/2024	Out of State	Carol Joan Patterson	2/19/2024	Out of State
Aarati Joly	2/17/2024	Out of State	Chey Richmond	2/19/2024	Out of State
Adelheid Koepfer	2/17/2024	Out of State	Dan Morgan	2/19/2024	Out of State
Alena Jorgensen	2/17/2024	Out of State	David Katz	2/19/2024	Out of State
Alexandra Sweitzer	2/17/2024	Out of State	Davvid Henning	2/19/2024	Out of State
Alexandra Tumarkin	2/17/2024	Out of State	Donna Jones	2/19/2024	Out of State
Alexis LaMere	2/17/2024	Out of State	Frank Pilholski	2/19/2024	Out of State
Alice West	2/17/2024	Out of State	Glenn Outon	2/19/2024	Out of State
Allison Fradkin	2/17/2024	Out of State	Holly Hall	2/19/2024	Out of State
Amy Mower	2/17/2024	Out of State	Jasha Stanberry	2/19/2024	Out of State
Ann Connor	2/17/2024	Out of State	JOHN Lamb	2/19/2024	Out of State
Ann Unertl	2/17/2024	Out of State	katarina spelter	2/19/2024	Out of State
Ann Wasgatt	2/17/2024	Out of State	Kathleen Smaluk-Nix	2/19/2024	Out of State
Arlene Aughey	2/17/2024	Out of State	lin farley	2/19/2024	Out of State
B	2/17/2024	Out of State	Lorraine Moore	2/19/2024	Out of State
Babara Franck	2/17/2024	Out of State	Merrie Thornburg	2/19/2024	Out of State
Barbara Abraham	2/17/2024	Out of State	Michael Rynes	2/19/2024	Out of State
Barbara Benzwi	2/17/2024	Out of State	Paula Shafransky	2/19/2024	Out of State
Barbara Blackwood	2/17/2024	Out of State	Robert Wolf	2/19/2024	Out of State
Beverly Stowe	2/17/2024	Out of State	Scott Gray	2/19/2024	Out of State

Eklutna Hydroelectric Project
Comparison to Existing Conditions

Evaluation Parameter	Existing Conditions	Proposed Final Fish and Wildlife Program
Instream Flows		
Year-Round Instream Flows	There are currently no year-round flow releases from Eklutna Lake into the Eklutna River. There is some accretion (~4-6 cfs) between the Project Dam and the Thunderbird Creek (TBC) confluence. TBC mean daily flows peaked in June (81 cfs in 2021; 182 cfs in 2022) and ranged from 7 cfs to 27 cfs in the winter.	Provides year-round instream flows to the Eklutna River by utilizing the existing AWWU tunnel. This provides flow to 11 out of 12 miles of the river, varying from 40 cfs in the summer to 27 cfs in the winter. The Committee may request changes to the flow regime within the water budget and operational limitations. Addition inflows to the reservoir will be reallocated every 10 years between hydro generation and instream flows to potentially increase the water budget.
Periodic Channel Maintenance Flows	There have been 10 spill events since the current dam was constructed in 1965 (every 6 years on average). Spill events occurred between August and October, ranged in magnitude from 18 cfs to 1,022 cfs, and ranged in duration from 8 days to 74 days.	Provides channel maintenance flows in 3 out of 10 years utilizing a combination of flows from the AWWU portal valve and the existing drainage outlet gate at the base of the dam. Channel maintenance flows will occur in the fall, ramp up from 40 cfs to 220 cfs over 6 hours, hold at 220 cfs for 36 hours, then ramp back down to 40 cfs over 52 hours. The Committee may request changes to the channel maintenance flows within the water budget and operational limitations. A limited reopener for the fixed wheel gate 10 years after instream flows are established by allow for higher magnitude channel maintenance flows in the future if needed.

Water Quality		
Temperature	Winter water temperatures in the Eklutna River above the TBC confluence ranged from 0.9°C to 3.3°C on average. Peak water temperatures in the Eklutna River above the TBC confluence ranged from 6.2°C to 9.3°C in 2021 and from 7.6°C to 9.7°C in 2022. This meets ADEC water quality criteria (≤15°C).	Flow releases to the Eklutna River would come from the existing intake at Eklutna Lake. The water temperature in Eklutna Lake at the intake depth ranges from ~3°C in the winter to ~10-12°C in the summer, which meets ADEC water quality criteria (≤15°C).
Dissolved Oxygen (DO)	DO in the Eklutna River above the TBC confluence is >10mg/L throughout the year. This meets ADEC water quality criteria (≥7mg/L).	Flow releases to the Eklutna River would come from the existing intake at Eklutna Lake. DO in Eklutna Lake at the intake depth is >10mg/L throughout the year, which meets ADEC water quality criteria (≥7mg/L).
pH	pH in the Eklutna River above the TBC confluence ranged from 7.8 to a maximum of 8.6 in the summer, just above the ADEC criteria (8.5).	Flow releases to the Eklutna River would come from the existing intake at Eklutna Lake. pH in Eklutna Lake at the intake depth ranged from 7.9 to 8.1, which meets ADEC water quality criteria (8.5).
Geomorphology		
Substrate	Salmon prefer a substrate size of 16-128 mm for spawning gravel. - Coho prefer 16-64 mm - Chinook prefer 64-128 mm The average substrate size where salmon are currently spawning (below the TBC confluence) is ~25-30 mm. The average substrate size above the canyon from: - RM 5 to 6.5 ranges from ~75-16 mm (good for spawning) - RM 6.5 to 10 is <16 mm (bad for spawning) - RM 10 to 11 is ~16-64 mm (good for spawning)	The sediment transport modeling results indicate that the proposed channel maintenance flows will maintain the preferred substrate size of 16-128 mm throughout the majority of the potential spawning reaches in the Eklutna River, with significant improvements from RM 6.5 to 10. Based on monitoring results, the Committee may request changes to the channel maintenance flows within the water budget and operational limitations if needed. A limited reopener for the addition of a fixed wheel gate 10 years after instream flows are established would allow for higher magnitude channel maintenance flows in the future if warranted.

Fish Passage		
Canyon Reach	The minimum flow required for adult salmon to migrate up through the canyon is ~40 cfs. Flows in the canyon currently range from ~4-6 cfs. Therefore, adult salmon are currently unable to migrate through the canyon.	Modeling indicates that the proposed 40 cfs flow release from the AWWU portal valve in the summer, plus the ~4-6 cfs of accretion above TBC, should allow adult salmon to migrate through the canyon. Based on monitoring results, the Committee may request changes to the instream flow regime within the water budget and operational limitations if needed.
Beaver Dams	There are several beaver dams in the Eklutna River below the railroad bridge. However, adult salmon have been observed above those dams, which indicates that they are not a barrier to upstream fish passage. There are 6 additional beaver dams above the canyon, the largest of which is 6 feet tall. It is unknown if these are a barrier to fish passage since adult salmon currently cannot reach this section of the river.	It is likely that increased flows in the Eklutna River will encourage beavers to build their dams on side channels instead of in the main channel, which should not impede upstream fish passage. Physical habitat enhancement funding may be used by the Committee to remove any beaver dams that are a barrier to fish passage if needed.
Project Dam	The dam does not currently have any volitional fish passage facilities; however, adult salmon are not currently able to reach the dam due to insufficient flows. Trap and haul of fish from the river into the lake is not currently being done.	The Proposed Final Program does not include any volitional or trap and haul fish passage into or out of Eklutna Lake at this time. However, the limited reopener for fish passage may allow fish passage measures to be implemented in the future (any time more than 10 years after instream flows are established) as long as they meet specific criteria.
Spawning Habitat		
Chinook	0.7 acres	2.2 acres (this is a 209% increase and represents 96.5% of the max available habitat below the AWWU portal valve and 81.7% of the max available habitat in the Eklutna River)
Coho	2.5 acres	4.1 acres (this is a 65% increase and represents 99.6% of the max available habitat below the AWWU

		portal valve and 83.7% of the max available habitat in the Eklutna River)
Pinks	Pink salmon are known to utilize the lower Eklutna River for spawning; however, spawning habitat for pink salmon was not quantified.	The Aquatics TWG agreed that flows benefiting Chinook and coho should also benefit pink salmon.
Chum	Chum salmon are known to utilize the lower Eklutna River for spawning; however, spawning habitat for chum salmon was not quantified.	The Aquatics TWG agreed that flows benefiting Chinook and coho should also benefit chum salmon.
Sockeye	No adult sockeye salmon were observed spawning in the Eklutna River by the Project Owners or NVE.	While the year-round flow releases may technically create spawning habitat for sockeye in the Eklutna River, sockeye generally rear in lakes and the Proposed Final Program does not propose fish passage into Eklutna Lake at this time. Therefore, any sockeye habitat that may technically be created in the Eklutna River is not included in the habitat benefits related to the Proposed Final Program. However, the limited reopener for fish passage may allow fish passage measures to be implemented in the future (any time more than 10 years after instream flows are established) as long as they meet specific criteria.
Rearing Habitat		
Chinook	11.8 acres	18.1 acres (this is a 53% increase) It should also be noted that beaver dams in the river above the canyon may create additional rearing habitat; however, this was not quantified. Physical habitat enhancement funding provided in the Proposed Final Program may be used by the Committee to improve rearing habitat in the river as deemed appropriate.

Coho	14.7 acres	24.6 acres (67% increase) It should also be noted that beaver dams in the river above the canyon may create additional rearing habitat; however, this was not quantified. Physical habitat enhancement funding provided in the Proposed Final Program may be used by the Committee to improve rearing habitat in the river as deemed appropriate.
Pinks	Pink salmon are known to utilize the lower Eklutna River for rearing; however, rearing habitat for pink salmon was not quantified.	The Aquatics TWG agreed that flows benefiting Chinook and coho should also benefit pink salmon.
Chum	Chum salmon are known to utilize the lower Eklutna River for rearing; however, rearing habitat for chum salmon was not quantified.	The Aquatics TWG agreed that flows benefiting Chinook and coho should also benefit chum salmon.
Sockeye	Sockeye generally rear in lakes. Ocean-run sockeye cannot currently access Eklutna Lake; however, the current water quality conditions in Eklutna Lake (high turbidity, low nutrients, low productivity) indicate that it would not support a large sockeye run. This is supported by the current condition of the kokanee (land-locked sockeye) population in Eklutna Lake, which is poor (undersized and low fecundity with no sexual dimorphism or coloration).	The Proposed Final Program does not propose any volitional or trap and haul fish passage into Eklutna Lake at this time; therefore, no change in sockeye rearing habitat is anticipated. However, the limited reopener for fish passage may allow fish passage measures to be implemented in the future (any time more than 10 years after instream flows are established) as long as they meet specific criteria.
Winter Habitat	The current overwintering strategy for salmon in the Eklutna River is unknown. However, modeling indicates that low winter flows may be causing unfavorable ice conditions (frazil ice and anchor ice) in the river.	Modeling indicates that the proposed 27 cfs flow release from the AWWU portal valve in the winter, plus the ~4 cfs of accretion above the TBC and ~7-27 cfs from TBC itself, should promote good ice conditions (surface ice) in the river. Based on monitoring results, the Committee may request changes to the flow regime within the water budget and operational limitations if needed.

Wetlands		
Estuary	There are 487.0 acres of habitat in the Eklutna River estuary below the railroad bridge. The brackish habitat types in this area have a high ranking for wetland function.	Since the Eklutna River estuary already receives flows from TBC (mean daily flows peaked in June at 81 cfs in 2021 and 182 cfs in 2022) the proposed base flow releases from the AWWU portal valve (40 cfs in the summer months) are not likely to significantly impact the quantity or quality of estuary habitat.
Riparian Zone	There are 42.5 acres of habitat in the flooded forest (area between the railroad bridges and the highway bridges) with a low to moderate ranking for wetland function. There are 46.9 acres of seasonally flooded Alder-Willow shrub scrub located above the canyon in portions of the dewatered Eklutna River channel with a high ranking for wetland function.	Channel maintenance flows are expected to remove the small, linear strip of riparian shrub along the narrowed stream channel in the upper and middle river. Overbank flooding and sediment deposits could, over time, promote greater cover of streamside cottonwoods in mixed forests. Physical habitat enhancement funding may be used by the Committee for vegetation management as deemed appropriate.
Littoral Zone	There are 114 acres of freshwater littoral habitat near the outlet of Eklutna Lake with a low to moderate ranking for wetland function.	Since there are no proposed changes to reservoir operations, the quantity and quality of littoral habitat near the outlet of Eklutna Lake is not likely to change significantly.
Wildlife		
Bears	Camera traps were deployed throughout the Eklutna River in 2022. A total of 32 black bear groups and 14 brown bear groups were recorded, some with 1-3 cubs. Both black and brown bears were seen throughout most of the river corridor. However, there were more brown bears seen below the canyon and more black bears seen above the canyon.	Increased salmon abundance will likely benefit and may attract more bears to the area. This could potentially increase competition between black and brown bears for prime fishing habitats.
Moose	Moose were the most abundant wildlife species observed along the Eklutna River. A total of 352 moose	Increased salmon abundance should indirectly benefit moose (increased plant nutrients for forage); however,

	groups were recorded in 2022. A moose browse survey was also conducted in 2022. The results showed a 22% browse removal rate, which is indicative of a population that should be in good nutritional status with healthy twinning rates. However, few moose twins were observed, which may be due to moose calf predation.	increased salmon abundance may also attract more bears, which could lead to a heightened predation risk for moose.
Beavers	There is one long-standing active beaver colony (with 4 active dams) in the Eklutna River below the railroad bridge. Since the lower dam was removed in 2018, evidence of beavers started to be seen above the lower dam site. In 2022, there were 2 active beaver colonies above the canyon, each with a colony size of ≥3 beavers. The middle river colony has 6 active dams. The largest dam is over 6 ft tall and some of the dams have caused flooding along the AWWU access road. The upper river colony was removed by ADFG in late 2022 because the impoundment behind the beaver dam was flooding the AWWU access road.	The study flow releases in 2021 breached 2 beaver dams and completely removed a third. It is likely that increased flows in the Eklutna River will encourage beavers to build their dams on side channels instead of in the main channel.
Raptors	A raptor nest survey was conducted in 2022. Suitable nesting sites for bald eagles are limited to coastal areas. A total of 4 bald eagle nests were recorded near the coast, but only 1 nest was determined to be occupied. The eroding cliff substrate in the river above the canyon is very low quality for other nesting raptors. However, 2 raven (or possible goshawk) nests were recorded in the Eklutna River valley.	Increased salmon abundance will likely benefit and may attract more raptors to the area.

Marine Mammals	Beluga, harbor seals, and sea otters have been observed around the mouth of the Eklutna River.	Increased salmon abundance will likely benefit and may attract more marine mammals to the area.
Cultural Resources		
Natural Resources	Eklutna Village (Idlughet) is located near the mouth of the Eklutna River (Idluytnu). The Eklutna River drainage is an important subsistence area for the Eklutna Dena'ina. - Fishing – salmon - Hunting – moose, bear, sheep and ground squirrel - Gathering – berries, plants, trees, and stones	Increased salmon abundance will indirectly benefit other wildlife species, all of which are important subsistence resources for the Eklutna Dena'ina.
Archaeological Resources	There were no archaeological resources identified within the Area of Potential Effect (APE).	No impacts to archaeological resources are anticipated.
Historic Resources	The Eklutna Dam and Spillway and the Eklutna River Railroad Bridge are within the APE and are eligible for the National Register of Historic Places.	No substantial modifications to the dam or spillway are proposed at this time. If the fixed wheel gate is implemented, the Project Owners will consult with the SHPO regarding a determination of effects. ARRC had previously raised concerns about the potential for increased flows to impact the railroad bridge. However, the study flow releases in 2021 had no impact on the railroad bridge, and the proposed flows are well within the hydraulic capacity of the bridge. Therefore, no impacts to the railroad bridge are anticipated.
Municipal Water Supply		
Water Availability	AWWU's water right allows them to divert up to 41 million gallons per day (MGD); however, on average AWWU only diverts ~31 MGD.	The Proposed Final Program proposes to utilize the excess capacity in the AWWU tunnel for providing flows to the Eklutna River. This will not impact AWWU's ability to divert up to 41 MGD. In addition, several engineering measures are

		proposed to prevent any potential disruption to the public water supply.
Water Treatment	Four step process: coagulation / flocculation, sedimentation, filtration, and disinfection.	Because the Proposed Final Program does not propose fish passage into Eklutna Lake at this time, no impact to the water quality in Eklutna Lake is anticipated. Therefore, no change in water treatment is required. The Committee is required to obtain AWWU's consent or approval of any fish passage measures they may propose in the future as part of the limited reopener.
Water Supply Infrastructure	AWWU's buried pipeline follows the Eklutna River for 6 miles, crossing it 8 times before exiting the valley to the water treatment facility. The pipeline is buried ~5 feet deep, and the crossings are armored; therefore, no impacts to the buried pipeline are anticipated. AWWU's access road follows the buried pipeline and crosses the river 10 times. Of the 10 crossings, 2 of them are bridges and 8 of them are fords. The AWWU bridges have a hydraulic capacity of ~1,000-1,200 cfs.	Year-round base flows will prevent AWWU from crossing the river at the 8 fords. Therefore, the Proposed Final Program proposes to construct 8 new bridges at these crossing to allow continued access by AWWU once the instream flow regime is implemented.
Other Downstream Infrastructure		
Old Glenn Highway Bridge	The current bridge was constructed in 2015 and has a hydraulic capacity of >1,800 cfs. Since 2015, the largest flow release from the dam was the study flow releases in 2021 which had a max flow release of 150 cfs and resulted in a peak mean daily flow of 215 cfs in the lower river. In 2022, the peak mean daily flow was 270 cfs. Neither of these flows in 2021 or 2022 impacted the bridge.	Increasing flows in the Eklutna River by 27 cfs in the winter, 40 cfs in the summer, and 220 cfs during peak flows is well within the hydraulic capacity of the Old Glenn Highway bridge.
New Glenn Highway Bridges	These bridges were constructed in 1975 and have a hydraulic capacity of >4,700 cfs. Since 1975, the largest	Increasing flows in the Eklutna River by 27 cfs in the winter, 40 cfs in the summer, and 220 cfs during peak

	flow release from the dam was the spill event in 1995 which had a max flow of 1,022 cfs. This did not impact the highway bridges, but it did occur before the lower dam was removed in 2018. ADOT&PF previously raised concerns about how all the accumulated sediment that was left in the river after the lower dam removal would be transported downstream and may impact the highway bridges. In 2021, the Project Owners conducted a series of study flow releases with a max flow release of 150 cfs. These flows did not impact the highway bridges.	flows is well within the hydraulic capacity of the New Glenn Highway bridges.
Railroad Bridge	The current bridge pre-dates the existing hydro project and has a hydraulic capacity of >8,000 cfs. Since 1965 when the existing dam was constructed, the largest flow release from the dam was a spill event in 1995 with a max flow of 1,022 cfs. This did not impact the railroad bridge, but it did occur before the lower dam was removed in 2018. ARRC previously raised concerns about how all the accumulated sediment that was left in the river after the lower dam removal would be transported downstream and may impact the railroad bridge. In 2021, the Project Owners conducted a series of study flow releases with a max flow release of 150 cfs. These flows did not impact the railroad bridge.	Increasing flows in the Eklutna River by 27 cfs in the winter, 40 cfs in the summer, and 220 cfs during peak flows is well within the hydraulic capacity of the railroad bridge.
Recreational Use and Facilities		
Lakeside Trail	A recreation survey was conducted in 2022. The Eklutna Lakeside Trail was the most frequently reported destination in the area, with >400	Chugach State Park has received funding to repair the sections of the trial that are currently impacted by erosion at high lake levels, and the

	pedestrians per day in the summer months. The trail is open to motorized use Sunday-Wednesday and non-motorized use Thursday-Saturday. There are areas where the trail splits, with the non-motorized trail closer to the lake shoreline. Current reservoir operations cause some erosion of the non-motorized trail at high lake levels.	Project Owners will provide match funding upon Governor's approval. Since the Proposed Final Program does not propose any changes to reservoir operation, no additional impacts are anticipated.
Campground and Cabins	The nearby Eklutna Lake Campground has 50 campsites and is a popular camping area. There are also 2 popular cabins near the dam.	No impacts to the campground or the cabins are anticipated.
Kayaking	Kayaking is a popular activity on Eklutna Lake.	No impacts to kayaking are anticipated.
Tailrace Fishery	ADFG stocks Chinook and coho smolts at the Project tailrace to support a recreational fishery. In 2022, a minimum of 31,447 recreators partook in activities (mostly fishing) at the tailrace between June 8 and August 23.	With the Proposed Final Program, water from Eklutna Lake will now be released into both the Project tailrace and the Eklutna River. Salmon returning to the tailrace will first pass by the mouth of the Eklutna River and may stray into the river. This could decrease the number of adult salmon returning to the tailrace each year, which could impact the tailrace fishery. Therefore, a straying study must be conducted as part of the monitoring plan. If significant straying is observed, the appropriate mitigation measures will be determined in coordination with ADFG.
Eklutna River Fishery	Most of the land around the river is owned by Eklutna, Inc. There is currently no free, non-permitted public access to the Eklutna River.	The Project Owners have requested that Eklutna, Inc. provide free, non-permitted public access to the Eklutna River once fishing for Chinook, coho, or sockeye is allowed.
Hunting	ADFG regulates hunting and trapping activities in the Eklutna Lake Management Area, which is closed to all hunting except by bow and arrow.	Bears and potentially moose are likely to benefit from increased salmon abundance, which could

	The taking of moose, brown bear, and sheep requires a permit, and the taking of black and brown bears requires completion of a hunter safety course.	improve hunting opportunities for these species in the area.
Wildlife Viewing	Some people reported wildlife viewing as one of their intended recreational activities in the Eklutna area.	Increased salmon abundance and the indirect benefits to other wildlife species will likely improve wildlife viewing opportunities in the area.
Safety		
Wildlife-Human Interactions	Negative wildlife-human interactions, while not common within Chugach State Park, are a public safety concern as visitors seek to view wildlife and use park resources for recreational pursuits. At least half of the 12 people injured or killed by bears in Chugach State Park since its establishment were within 100 yards of salmon spawning streams.	Increased salmon abundance may attract more bears to the area, which could increase negative bear-human interactions near the campground. However, the year-round base flows will be released at the AWWU portal valve approximately 1 mile downstream of the dam and campground. Therefore, any increase in negative bear-human interactions should be low.
Flood Protection	The entire volume of the Probable Maximum Flood can be contained in the flood storage capacity of the reservoir with 3 feet of freeboard remaining even if the spillway was blocked.	Because there are no proposed changes to reservoir operations, there will be no change in the flood storage capacity.
Power Production		
Generation	Average annual generation at the Eklutna Power Plant is approximately 169,000 MWh per year.	The water released into the river will not go through the powerhouse and will result in a net reduction of 16,100 MWh per year. This is a 10% reduction on average.
Grid Reliability	The Project provides grid reliability through diversification of fuel for generation.	While the Project would continue to provide grid reliability through diversification of fuel for generation, its benefit would be slightly reduced.
Renewable Integration	The Project can be used to firm other intermittent renewables (wind and solar).	While the Project could still be used to firm other intermittent renewables, its benefit would be slightly reduced.

Other Aspects of Environmental Quality		
Carbon Offsets	The Project offsets approximately 72,500 metric tons of CO_2 equivalent per year.	Carbon offsets would decrease by 6,900 metric tons of CO_2 equivalent per year. This is a 10% reduction on average.
Costs		
Capital Improvements	-	$20,482,860 with the fixed wheel gate
Operations and Maintenance	-	$315,900 (per year)
Replacement Energy	-	$1,333,188 (per year)
Total Annualized Cost	-	$4,043,000 (per year)
Potential Ratepayer and Taxpayer Impacts		
Chugach Electric	-	+0.78%
Matanuska Electric	-	+1.07%
Municipality of Anchorage	-	+$1.03 (per $100k of property value)

Eklutna Fish & Wildlife Program

AWWU Maintenance Road and Bridges

Design Documentation Report

15% Design
Revision No. 0

October 6, 2023

PLACEHOLDER FOR ENGINEER STAMP
Date:

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Appendix A. 15% Design Drawings
Appendix B. Class 4 Opinion of Probable Construction Costs

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Revision Log

Revision No.	Date	Revision Description
0	October 6, 2023	15% Design – Initial Draft

1.0 Introduction

1.1 Purpose

The purpose of this report is to present the design documentation associated with the development of the Anchorage Water and Wastewater Utility (AWWU) Maintenance Road and Bridges Improvements (Project) as part of the Eklutna Fish & Wildlife Program. The design documentation report (DDR) summarizes the pertinent data, design criteria, and standards used as the basis for the 15% level of design of the Project. The DDR documents the data, criteria, and standards by engineering discipline, and provides information about the operation of the design components associated with the Project.

The information presented within this DDR will be updated throughout the design development process to reflect refinement of the Project components and facilities, and advancement of the design analysis and details.

1.2 Location

The Project site is located in Southcentral Alaska approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna. The Project footprint spans across lands owned and managed by the State of Alaska, Eklutna Inc., and the Bureau of Land Management (BLM). As proposed, the Project involves the construction of eight new bridges along the AWWU maintenance road to cross the Eklutna River, as shown in Figure 1-1.

1.3 Background and Objectives

As part of the Eklutna Fish & Wildlife Program, Chugach Electric Association, Matanuska Electric Association, and the Municipality of Anchorage, known collectively as the Owners of the Eklutna Hydroelectric Project (Owners) are studying various means of providing water to the Eklutna River to mitigate damages to, and to enhance fish and wildlife impacted by the development of the project. A measure under careful consideration by the Owners is the implementation of a new river release structure, utilizing some of the infrastructure owned and operated by AWWU, to restore flows to the Eklutna River. With the future instream flow released into the Eklutna River, a potential risk is imposed on AWWU O&M crew who utilize the existing river crossings to maintain, repair, or inspect the buried pipeline. These river crossings may not be fordable by vehicle in their current conditions. This Project seeks to construct bridges at the locations of the river crossings to maintain access along the AWWU Maintenance Road.

1.4 Report Organization

This DDR is a record of the design effort for the Project and specifically describes the details of the design process and work effort for the improvements of the AWWU Road and Bridges. The DDR consists of a summary of the design elements, criteria, methods and approach, engineering calculations, and pertinent references. The major report sections and intended purpose are presented in Table 1-1.

Table 1-1. Major Report Sections and Purpose.

Section	Description	Purpose
1	Introduction and Background	Presents the Project purpose, location, background, objectives, and the report organization.
2	General Description	Summarizes the basic design criteria that are used as the basis of design.
3	Existing Infrastructure	Summarizes the existing infrastructure related to the Project.
4	Civil Design	Includes information related to the civil design of the realignment and gradient of the AWWU Road, including erosion and sediment control measures.
5	Structural Design	Includes information related to the structural design of the bridges.
6	References	Documents the references used in developing the design.
Appendices		
A	15% Design Drawings	Presents the 15% design drawings for the AWWU Maintenance Road and Bridges.
B	Class 4 OPCC	Presents the Class 4 Opinion of Probable Construction Costs for the AWWU Maintenance Road and Bridges.

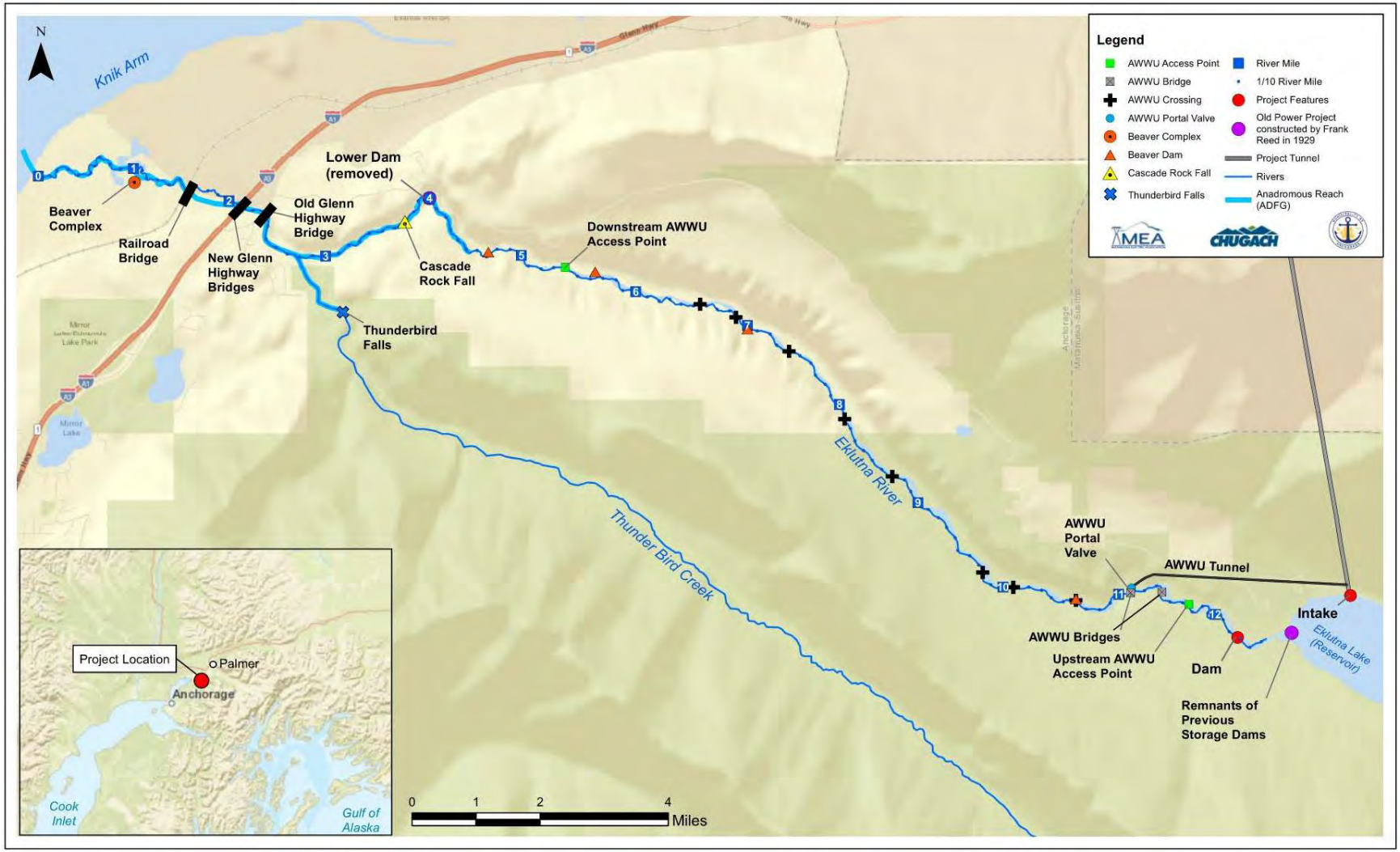

Figure 1-1. Project Overview.

2.0 General Description

2.1 General Design Criteria and Standards

General design criteria and standards for the Project include the abbreviations, survey datum, topographic mapping, references, and design standards as described below.

2.1.1 Standard List of Terms and Abbreviations

AACE	Association for Advancement of Cost Engineering
AASHTO	American Association of State Highway Transportation Officials
AC	alternating current
ACI	American Concrete Institute
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute
ASTM	American Society of Testing and Materials
AWWA	American Water Works Association
AWWU	Anchorage Water and Wastewater Utility
BMP	Best Management Practice
CADD	computer aided design and drafting
CEA	Chugach Electric Association
cfm	cubic feet per minute
cfs	cubic feet per second
CGP	Construction General Permit
DC	direct current
DDR	Design Documentation Report
DEM	Digital Elevation Model
DSM	Digital Surface Model
El.	elevation
ESC	Erosion and Sediment Control
fps	feet per second
ft	feet
GCP	Ground Control Points

GGDVLVLR	Guidelines for Geometric Design of Very Low Volume Local Roads
HDC	Hydraulic Design Criteria
HEC	Hydrologic Engineering Center
IBC	International Building Code
LiDAR	Light Detection and Ranging
MEA	Matanuska Electric Association
MGD	million gallons per day
MOA	Municipality of Anchorage
MSL	Mean Sea Level
NAD83	North American Datum of 1983
NAVD88	North American Vertical Datum of 1988
NEC	National Electric Code
NEMA	National Electrical Manufacturers Association
NESC	National Electrical Safety Code
NFPA	National Fire Protection Association
NGVD29	National Geodetic Vertical Datum of 1929
NVE	Native Village of Eklutna
O&M	operation and maintenance
pcf	pounds per cubic foot
PLC	programmable logic controller
psi	pounds per square-inch
SWPPP	Stormwater Pollution Prevention Plan
USGS	U.S. Geological Survey
UTM	Universal Transverse Mercator
V	volt
WSEL	water surface elevation

2.2 Mapping and Imagery

2.2.1 Survey Datum

McMillen contracted NV5 Geospatial to conduct LiDAR survey flights over the Project Area on May 28, 2020, and on May 18, 2022. Both datasets were presented in the NAV88 (GEOID12B), NAD83 (2011) and were projected to the UTM Zone 6N. The data was measured in metric units. For both datasets, Ground Control Points were established by A. William Stoll (AK PLS#12041) with DOWL INC, to provide geospatial correction of the aircraft positional coordinate data and for quality assurance.

The survey vertical datum that was utilized as the basis of this Project is NAVD88 (GEOID12B) in terms of elevation with respect to Mean Sea Level (MSL). The horizontal datum was reprojected to NAD83 (2011) Alaska State Plan Zone 4. Units were converted from metric to imperial (U.S. Feet).

2.3 Topography, Bathymetric and Imagery

Both the 2020 and 2022 LiDAR data were used selectively for the topography and bathymetry of the Eklutna River to accurately depict the geometry and water depth of the Eklutna river. The 2022 Imagery dataset was used for the aerial shown on the Drawings. LiDAR and imagery specifications are detailed in Table 2-1 below.

Table 2-1. LiDAR and Imagery Specifications

Date	Type	Data	Format	Equipment
May 2020	Rasters	LiDAR DEM	0.5 Meter GeoTIFF Bare Earth	Leica ALS80
		LiDAR DSM	0.5 Meter GeoTIFF Highest Hit	Leica ALS80
	Digital Imagery	Imagery	15 Centimeters GeoTIFFs, 3-Band, 8-bit (RGB)	UltraCAM Eagle M3
May 2022	Rasters	LiDAR DEM	0.5 Meter GeoTIFF Bare Earth	Leica ALS80
		LiDAR DSM	0.5 Meter GeoTIFF Highest Hit	Leica ALS80
	Digital Imagery	Imagery	15 Centimeters GeoTIFFs, 4-Band 32-bit (RGB-Ir)	UltraCAM Eagle M3

2.4 Geotechnical Data

At the present phase of development of the proposed facilities, site specific geologic and geotechnical investigations have not been performed. The basis of the geotechnical design for the facilities associated with the lake diversion tunnel and portal valve structure is the design summary report for the Eklutna Water Project (AWWU 1985). Additional geotechnical information was obtained for the vicinity around Eklutna Dam from the technical record of design and construction (USBR 1958).

3.0 Existing Infrastructure

Existing infrastructure information was extracted from the Eklutna Hydroelectric Project Existing Infrastructure Assessment Study Report, submitted in February 2022 by McMillen Inc (McMillen 2022). For additional information relating to the infrastructure discussed and for all other infrastructure not detailed in this section, refer to that Study Report.

3.1 AWWU Access Road

The AWWU Access Road is a 6.5-mile-long gravel road following the AWWU Pipeline along the Eklutna River. The road crosses the river in ten (10) locations, two (2) of which consist of a short spanning bridge and eight (8) requiring fording the river on foot or with a vehicle to the extent possible.

Table 3-1. River Crossing Locations and Descriptions

Crossing No.[1]	River Mile	Description
1	6.5	Natural Bottom Ford
2	6.9	Natural Bottom Ford
3	7.4	Natural Bottom Ford
4	8.1	Natural Bottom Ford
5	8.7	Natural Bottom Ford
6	9.8	Natural Bottom Ford
7	10.1	Natural Bottom Ford
8	10.3	Natural Bottom Ford
9	11.1	Bridge
10	11.4	Bridge

[1]Crossing Number are label based on the distance along Eklutna River and do not correspond with crossing numbering system shown on the Drawings.

The full extent of the AWWU access road was assessed during a field visit in September 2021 to determine the current condition of the road prior to releasing flows into the river. Crossings 1 - 7 were determined to be in acceptable condition, with no signs of advanced erosion. The bridges at crossings 9 and 10 were in good condition, with no evidence of scour at the bridge abutments. Crossing No.8 at river mile 10.3 was inundated to a depth of approximately 3-feet by a beaver dam constructed along the road. A second, larger beaver dam constructed at or around river mile 7.2 was causing inundation of the roadway between river crossing 2 and 3 to a depth of approximately 3-feet.

The AWWU road provides operations and maintenance access to the portal valve shaft and the buried water conveyance pipeline along the Eklutna River and is intended to be accessible year-round under normal flow conditions along the Eklutna River. The river ford crossings

were cut to provide a uniform 4:1 slope transitioning into and out of the riverbed and surfaced to prevent significant erosion under normal flow conditions. The standard design for each river crossing, as detailed in the AWWU pipeline design drawings, can be seen in Figure 3-1.

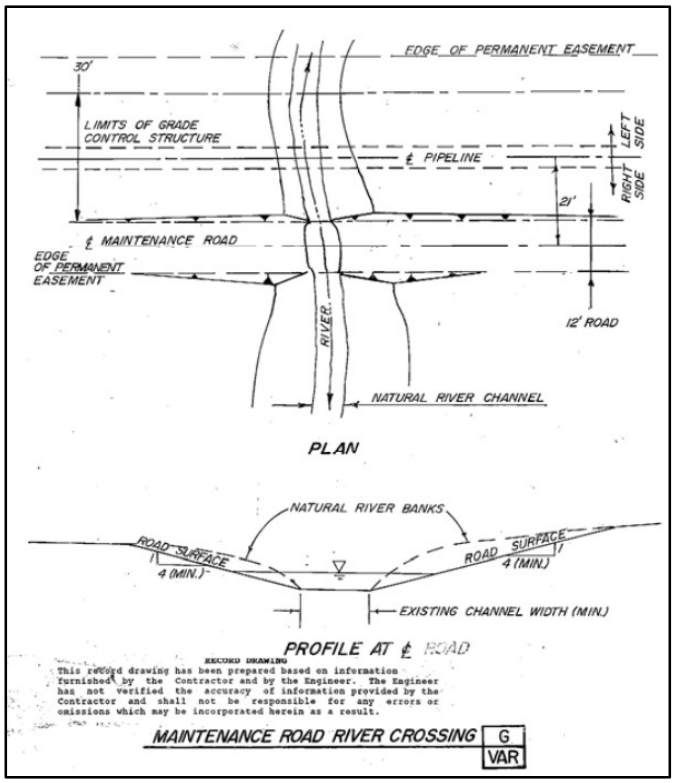

Figure 3-1. Maintenance Road River Crossing Standard Detail (AWWU 1986).

4.0 Civil Design Criteria

4.1 General Description

This section presents the civil design elements for the Access Road improvements and summarizes the civil design criteria, stormwater design, grading criteria, and the erosion and sediment control requirements during and post-construction.

4.2 Design Criteria

The Project is located in the Municipality of Anchorage in Alaska; therefore, during construction and after construction, the Project will be required to comply with all federal, state, and county standards and requirements. Given that the primary function of the existing AWWU Access Road is to provide access for maintenance of the AWWU pipeline, the design criteria for the roadway geometrics will adhere to AASHTO Guidelines for Geometric Design of Very Low-Volume Local Roads (GGDVLVLR). The Civil design elements adhered to the codes and standards administered and authorized by the following agencies and jurisdiction listed in Table 4-1.

Table 4-1. Codes and Standards

Codes & Standards	Description
AASHTO	American Association of State Highway and Transportation Officials
DOT&PF	Alaska Department of Transportation and Public Facilities
IBC	International Building Code
MOA	Municipality of Anchorage

4.2.1 Bridge Approach and Roadway Crossings

The existing natural-bottom ford crossings 1-8, listed in Table 3-1, are the locations where new bridges will be constructed. Some of the approaching alignments of the crossings have been shifted to ensure design criteria was met, but in general the proposed bridge crossings are in relatively the same location as the existing natural-bottom ford crossings. The proposed alignments were created using an iterative process which involved determining the geometry of the Eklutna River based on the topographical LiDAR data, placing the center point of the bridge such that the abutments on either side would not encroach on the existing river geometry, and tying the proposed bridge alignment back to the existing road alignment on either side of the bridge approach. See Figure 4-1 below for the proposed river crossing locations.

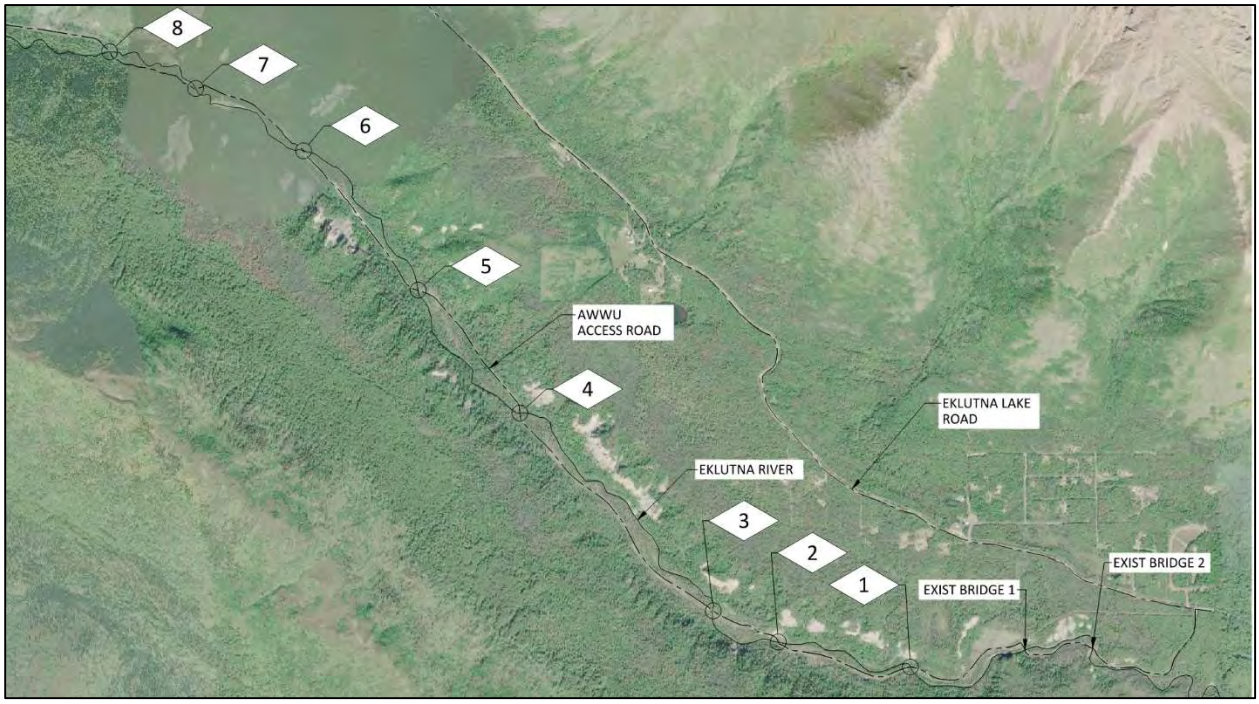

Figure 4-1. River Crossing Locations

4.2.2 Grading

The design of the grading slopes for cut and fill for the roadway section meets the requirements of the Anchorage Code of Ordinances. As required by the code, without a slope stability analysis or otherwise recommended in an approved soils engineer report, slope of fill and slope of excavation was designed to not be any steeper than safe for intended use and will not be steeper than 1 unit vertical in 2 units horizontal. The grading criteria are listed in Table 4-2.

Table 4-2. Grading Criteria

Criteria	Units	Value	Comments / Descriptions / References
Cut Slope	ft:ft	2H:1V	(Anchorage, 2023, 23.105.107.2)
Fill Slope	ft:ft	2H:1V	(Anchorage, 2023, 23.105.108.5)

4.2.3 Roadway Geometrics

The existing AWWU Maintenance Road can be classified by AASHTO as a low-speed Rural Minor Access Road due to characteristics such as the following: having a narrow road width, having a winding alignment, having periodic one-lane sections, having an unpaved surface,

being a private road, and being predominately used by familiar drivers for maintenance (AASHTO 2001, 6). The GGDVLVLR recommends selecting a design speed that will realistically represent the anticipated operating speed on the roadway being designed, additionally, for low-speed roads, the GGDVLVLR recommends selecting a design speed between 0 and 45 mph at increments of 5 mph (AASHTO 2001, 9)Due to existing characteristics of the road, and the surrounding mountainous terrain, a design speed of 15 mph was chosen for the approaches of the proposed bridge crossings. The roadway width was selected based on the required bridge width to accommodate a fully loaded construction dump truck and a 450 LC Excavator as needed for maintenance of the pipeline. All other design values for the proposed roadway geometry, summarized in Table 4-3, were chosen based on the design speed of 15 mph, surrounding mountainous terrain, and AASHTO standards.

Table 4-3. Roadway Design Criteria

Criteria	Units	Value	Comments / Descriptions / References
Design Speed	mph	15	(AASHTO 2001, 9)
Roadway Width	ft	15	
Road Surface Traction Coefficient	-	0.45	Coefficient for Loose Gravel; (AASHTO 2001, 52)
Stopping Sight Distance, SSD	ft	65	(AASHTO 2001, 39)
Min. Horizontal Curve Radius	ft	60	(AASHTO 2001, 22, 50, 51)
Max. Grades[1]	%	4	(AASHTO 2011, 3-115, 3-116)
Min. K[2], Rate of Vertical Curvature for Crest Curve	-	2	(AASHTO 2001, 39)
Min. K[2], Rate of Vertical Curvature for Sag Curve[3]	-	10	(AASHTO 2011, 5-4)

[1]AASHTO do not provide a clear maximum grade value based on the existing roadway characteristics. Based on an entering speed of 15 mph, and the relatively short length of the proposed approaches, figures 3-24 and 3-25 (AASHTO 2011, 3-115, 3-116) suggest that a maximum grade of 4% will ensure that trucks can maintain speed while traveling up/down grade.
[2]K-Value is a coefficient by which the algebraic difference in grade may be multiplied to determine the length in feet of the vertical curve that will provide the minimum sight distance.
[3]There are no special guidelines for design of sag vertical curves in GGDVLVLR (AASHTO 2001, 38)

4.2.4 Roadway Section

The typical roadway section used for the design of the proposed river crossing roads consists of a 15 ft-wide gravel road with a 2% grade away from the crown on both sides. In areas where the proposed roadway will require additional fill material, the edge of the roadway will continue towards existing ground at a minimum of a 2H:1V slope. In areas where the proposed roadway will require existing material to be removed, a ditch along the edge of the road will

be cut with minimum side slopes of 2H:1V and a flow line located 6 inches below the lowest aggregate base of the road. The section design ensures that water will drain adequately off and away from the road whether existing material needs to be added or removed. See Figure 4-2 below for a depiction of the proposed typical section.

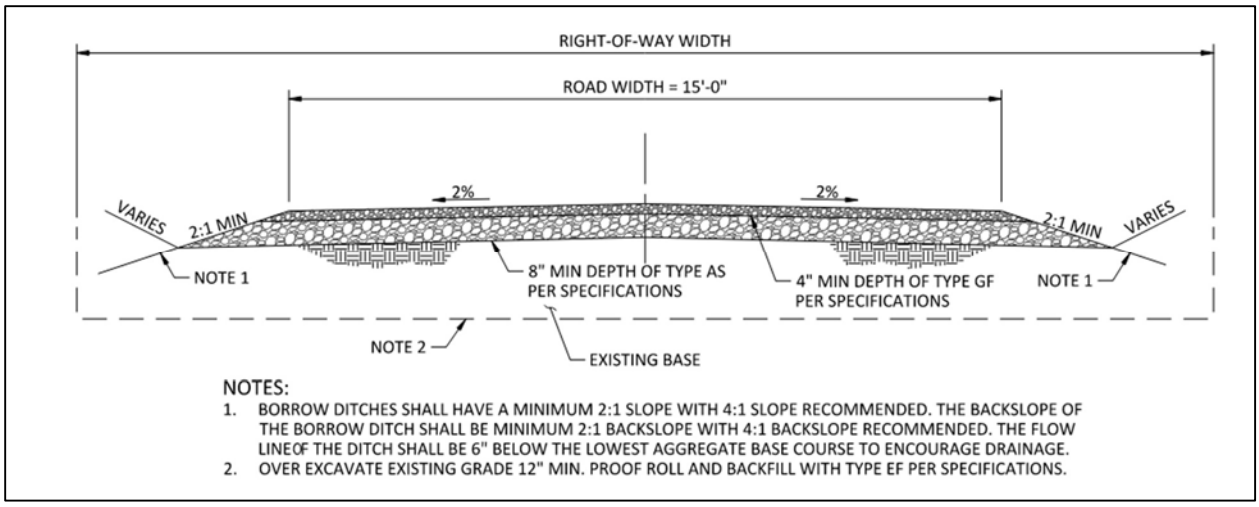

Figure 4-2. Typical Gravel Road Section

4.2.5 Stormwater Control

Stormwater control measures and facilities will be designed in compliance with MOA standards and requirements. Stormwater control measures and facilities will include surface drainage, road ditches and ditch relief culverts. The road ditches and culvert will be sized to convey the design storms listed in Table 4-4, in accordance with the guidelines set by Anchorage Stormwater Manual. Stormwater facility design criteria are listed in Table 4-5.

Table 4-4. Design Storm Criteria

Application	Design Storm	Comments / Descriptions / References
Minor Drainageway (Culverts)	10 year, 24-hour	(MOA 2017, Table 4.2-1)

Table 4-5. Stormwater Facility Criteria

Criteria	Units	Value	Comments / Descriptions / References
Min. Culvert Slope	%	0.5	(MOA 2017, 5.3.6.1)
Min. Culvert Spacing	ft	20	(MOA 2017, 5.3.6.1)
Min. Ditch Slope	%	0.5	(MOA 2017, 5.5.2)
Min. Ditch Side Slope	V:H	1:2	(MOA 2017, 5.5.2)

4.2.6 Erosion Control and Grading

Erosion and Sediment Control (ESC) measures in the drawings intend to reduce the potential for project-related activities causing erosion and sedimentation issues within the Project site or turbidity issues within the Eklutna River. These temporary and permanent construction activities may involve soil, rock, and vegetation removal, which could mobilize sediment resulting in soil erosion and/or sedimentation in the construction areas. The design will employ multiple standard control measures to prevent erosion and stream sedimentation in accordance with MOA Best Management Practices (BMP's). The drawings will serve as an aid for the contractor in developing a Stormwater Pollution Prevention Plan to obtain a construction general permit.

5.0 Structural Design Criteria

The structural design criteria apply to all design procedures to be implemented during the Project design. Structural design considerations listed in this section include detailing of Structural components, material selection, and design requirements that are intended to be incorporated into the Project.

5.1 Applicable Codes and Standards

The structural design will conform to the following reports, criteria, and industry codes and standards. The applicable version of each document is the latest edition in force unless noted otherwise. References to the specific codes and standards will be included in the applicable technical specifications as the final design documents are prepared. AASHTO is referenced for design live loads and general design methodology guidance, although the Project features are not specifically required to adhere to AASHTO design requirements.

Table 5-1. Structural Codes and Standards.

Number	Description
Building Code	
ASCE 7	ASCE 7/SEI 7-16 Minimum Design Loads for Buildings and Other Structures, 2016
Design Standards and References	
ACI 318	Building Code Requirements for Structural Concrete, 2014
ACI 350	Code Requirements for Environmental Engineering Concrete Structures, 2006
ACI 360R	Design of Slabs on Ground, 2006
AISC 360	Specification for Structural Steel Buildings, 2016
ASIC SCM	Steel Construction Manual, 14th Edition
AWS D1.1	Structural Steel Welding Code – Steel
AASHTO	AASHTO LRFD Bridge Design Specifications – 8th Edition, 2017 with CA Amendments
2018 NDS	National Design Specification for Wood Construction, 2018

5.2 Materials

Materials and standards for concrete, concrete-related materials, structural steel, and miscellaneous metals for the Project are indicated in Table 5-2.

Table 5-2. Structural Materials and Design Standards.

Component	Material and Standard
Concrete and Related	
New Concrete	Minimum 28-day Compressive Strength, f'c = 4,500 psi
Reinforcing Steel	ASTM A615, Grade 60
Adhesive Anchors	Two component epoxy, ASTM C-881 (with SS threaded anchor rod or reinforcing dowels)
Structural Steel	
Wide Flange Shapes	ASTM A992, Grade 50ksi
M, C, L shapes	ASTM A572, Grade 50ksi
Tube (HSS)	ASTM A500, Grade C. (46ksi Round / 50ksi Rect.)
Plates and Bars	ASTM A572, Grade 50ksi
High-Strength Bolts	ASTM F3125, Grade A325
Anchor Rods	ASTM F1554, Grade 50ksi (threaded) A193, Type 316 Stainless Steel
Miscellaneous Metals	
Guardrail	Galvanized steel
Wood	
Wood Bridge Components	Douglas Fir (DF) Larch No. 2 or better

5.3 Design Loads

The general load types considered in the design of the structure are summarized in Table 5-3.

Table 5-3. Structural Design Loads.

Load Type	Description
Dead	Self-weight of all permanent structural elements as well as super-imposed weight of permanent mechanical and electrical equipment and piping.
Live	Temporary loads produced by the use of the bridge structures (excluding environmental loads). This load type includes those produced by movable objects and loads on guardrails. Design basis wheel loads and axle spacing is based on an HL-93 or the equipment producing the maximum wheel loads that may be used during the construction of all Project features.
Soil	Weight of moist or buoyant soil on the structure and lateral earth pressures against surfaces retaining soil (abutments).
Wind	Wind load parallel and perpendicular to the bridge span acting over solid surfaces.
Seismic	Inertial forces produced by ground motion during a seismic event. The effects of this load type on these structures and non-structural equipment will be approximated based on the provisions of ASCE7.
Thermal	Self-straining loads due to thermal variation. Maximum and minimum temperatures for the site location will be considered.

5.3.1 Design Basis for Bridge Structures

Per AASHTO, all bridge structures will satisfy Load Factor and Resistance Design (LRFD) methodology by providing the required strength defined by the equation below:

$$R_r = \sum \eta_i \gamma_i Q_i \leq \phi R_n$$

Where:

- $R_r =$ required strength
- $\gamma_i =$ load factors per AASHTO
- $Q_i =$ load effects per structural calculations
- $\emptyset =$ resistance factor from AASHTO
- $R_n =$ nominal resistance from AAHSTO

This methodology will be applied to the design of other material types in accordance with the relevant design standards and references. Refer to the structural calculations for additional information and derivation of these equation variables for specific Project features and components.

5.3.2 Description of Bridge Structures

A single bridge design will be provided for all site locations based on the site conditions producing the most extreme forces the structure may see. The bridge design will consist of a 15’-0” wide by 32’-0” long (clear dimensions) single-span bridge that is supported by sheet pile abutments at each end. The bridges will consist of dimensional lumber wearing surface beams bearing on dimensional lumber transverse beams. The transverse beams will be through bolted to each of the three steel girders (each end and at midspan). Cross bracing will be located between the girders to provide bracing against lateral-torsional buckling in addition to acting as a diaphragm, transferring out-of-plane lateral forces.

Timber rails and scuppers will be located along each side of the bridge spans for vehicle safety and to facilitate drainage off the structure. A 6’-0” minimum clearance will be provided between the riverbed and bottom of bridge to allow for adequate freeboard.

6.0 References

AASHTO. 2011. *A Policy on Geometric Design of Highways and Streets - 6th Edition.* Washington, D.C.: AASHTO.

—. 2001. *Guidelines for Geometric Design of Very Low Volume Roads (ADT ≤ 400).* Washington, D.C.: AASHTO.

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USBR. 1964. *Eklutna Project - Alaska. Rehabilitation Pressure Tunnel. As Built Drawings .*

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Appendix A. 15% Design Drawings

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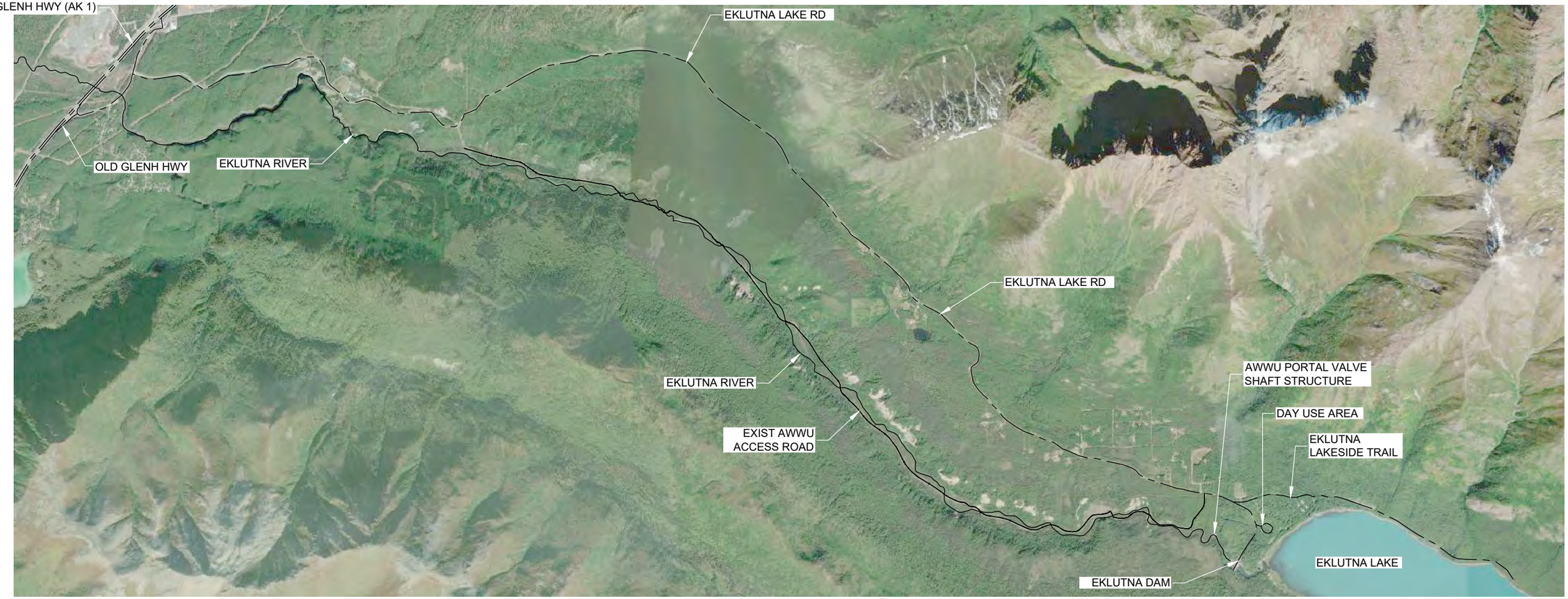
EKLUTNA FISH & WILDLIFE PROJECT
AWWU MAINTENANCE ROAD AND BRIDGE
ANCHORAGE, ALASKA

15% DESIGN
OCTOBER 2023

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES
15% DESIGN

LOCATION MAP
NTS



VICINITY MAP
NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
AWWU MAINTENANCE ROAD AND BRIDGES

LOCATION MAP AND VICINITY MAP

DESIGNED L. VO
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
G001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\G001.dwg Plot date: Sep 29, 2023 12:28pm, CAD User: HaberFlavia

DRAWING INDEX			
15% SUB*	SHEET NO.	DWG NO.	DESCRIPTION
			GENERAL
X			COVER SHEET
X	1	G001	LOCATION MAP AND VICINITY MAP
X	2	G002	DRAWING INDEX
X	3	G003	STANDARD ABBREVIATIONS
X	4	G004	STANDARD SYMBOLS
X	5	G005	PIPING SCHEDULE
X	6	G006	PROJECT SITE PLAN
			EROSION AND SEDIMENT CONTROL
	7	EC001	EROSION AND SEDIMENT CONTROL KEY PLAN
	8	EC002	STANDARD EROSION AND SEDIMENT CONTROL DETAILS 1
	9	EC003	STANDARD EROSION AND SEDIMENT CONTROL DETAILS 2
	10	EC004	EROSION AND SEDIMENT CONTROL DIAGRAM
			CIVIL
X	11	GC001	CIVIL GENERAL NOTES
X	12	GC002	STANDARD CIVIL DETAILS 1
	13	GC003	STANDARD CIVIL DETAILS 2
X	14	C001	OVERALL SITE KEY PLAN AND EARTHWORK QUANTITIES
X	15	C101	ROAD CROSSING NO. 1 PLAN AND PROFILE
X	16	C102	ROAD CROSSING NO. 2 PLAN AND PROFILE
X	17	C103	ROAD CROSSING NO. 3 PLAN AND PROFILE
X	18	C104	ROAD CROSSING NO. 4 PLAN AND PROFILE
X	19	C105	ROAD CROSSING NO. 5 PLAN AND PROFILE
X	20	C106	ROAD CROSSING NO. 6 PLAN AND PROFILE
X	21	C107	ROAD CROSSING NO. 7 PLAN AND PROFILE
X	22	C108	ROAD CROSSING NO. 8 PLAN AND PROFILE
			STRUCTURAL
X	23	GS001	STRUCTURAL GENERAL NOTES
X	24	S100	TYPICAL BRIDGE CROSSING PLAN
X	25	S101	TYPICAL BRIDGE SUBSTRUCTURE PLAN
X	26	S102	TYPICAL BRIDGE SUPERSTRUCTURE PLAN
X	27	S103	TYPICAL BRIDGE SECTIONS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

DRAWING INDEX

DESIGNED S. ELLENSON

DRAWN F. HABER

CHECKED J. BOAG

PROJECT DATE 10/6/23

DRAWING

G002

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\G002.dwg Plot date: Sep 26, 2023 06:20pm, CAD User: HaberFlavia

A/C	AIR CONDITIONING
A/E	ARCHITECT/ENGINEER
A	ARCHITECTURAL (DWG DISCIPLINE), AMP
AB	ANCHOR BOLT
ABC	AGGREGATE BASE COURSE
ABAN	ABANDON
AC	ALTERNATING CURRENT
ACST	ACOUSTIC
AD	ADDENDUM, AREA DRAIN
ADDL	ADDITIONAL
ADH	ADHESIVE
ADJ	ADJUSTABLE, ADJACENT
AF	AMP FRAME, AMP FUSE
AFF	ABOVE FINISH FLOOR
AFG	ABOVE FINISH GRADE
AGGR	AGGREGATE
AIC	AMPS INTERRUPTING CAPACITY
ALIG	ALIGNMENT
ALUM	ALUMINUM
ALT	ALTERNATE, ALTITUDE
AMB	AMBIENT
ANC	ANCHOR
AP	ACCESS PANEL
APRX	APPROXIMATE
APVD	APPROVED
ARCH	ARCHITECTURAL
ASSY	ASSEMBLY
AT	AMP TRIP
ATM	ATMOSPHERE
AUTO	AUTOMATIC
AUX	AUXILIARY
AVE	AVENUE
AVG	AVERAGE
AWG	AMERICAN WIRE GAGE
AWWU	ANCHORE WATER AND WASTEWATER UTILITY
B/B	BACK TO BACK
BAL	BALANCE
BBD	BULLETIN BOARD
BC	BASE CABINET, BOTTOM CHORD, BOLT CENTER, BOLT CIRCLE
BD	BOARD
BE	BOTH ENDS, BELL END
BF	BOTH FACES, BOTTOM FACE, BLIND FLANGE, BOARD FEET
BFV	BUTTERFLY VALVE
BITUM	BITUMINOUS
BKG	BACKING
BL	BASE LINE
BLDG	BUILDING
BLK	BLOCK
BLKG	BLOCKING
BM	BENCHMARK, BEAM
BOC	BACK OF CURB
BOD	BOTTOM OF DUCT
BOG	BOTTOM OF GRILLE
BOL	BOTTOM OF LOUVER
BOP	BOTTOM OF PIPE
BOR	BOTTOM OF REGISTER
BOT	BOTTOM
BOU	BOTTOM OF UNIT
BP	BASE PLATE
BRG	BEARING
BRGP	BEARING PLATE
BRKT	BRACKET
BS	BOTH SIDES
BTU	BRITISH THERMAL UNIT
BTW	BETWEEN
BTWLD	BUTT WELD
BV	BALL VALVE
BW	BOTH WAYS
BYP	BYPASS
C TO C	CENTER TO CENTER
C&G	CURB & GUTTER
C	CHANNEL SHAPE, CENTIGRADE, CONDUIT, CIVIL (DRAWING DISCIPLINE)
CAB	CABINET
CAP	CAPACITY
CAT	CATALOG
CAV	CAVITY
CB	CATCH BASIN
CCB	CONCRETE BLOCK
CCW	COUNTER CLOCKWISE
CF	CUBIC FEET (FOOT)
CHFR	CHAMFER
CHD	CHORD
CHH	COMMUNICATION HANDHOLE
CI	CURB INLET
CIP	CAST-IN-PLACE
CIPB	CONCRETE INTERLOCKING PAVER BALLAST
CIRC	CIRCULATION, CIRCULAR
CJ	CONSTRUCTION JOINT, CONTROL JOINT
CKT	CIRCUIT
CL	CENTERLINE, CLASS, CLOSE
CLR	CLEAR
CMH	COMMUNICATION MANHOLE
CMU	CONCRETE MASONRY UNIT
CO	CLEAN OUT, CONCRETE OPENING
COL	COLUMN
COM	COMMON
COMB	COMBINATION
COMM	COMMUNICATION
COMP	COMPOSITION, COMPRESSIBLE, COMPOSITE
CONC	CONCENTRIC, CONCRETE
CONN	CONNECTION
CONST	CONSTRUCTION
CONT	CONTINUOUS, CONTINUED
COORD	COORDINATE
CORR	CORROSIVE, CORRUGATED
CP	CHECKER PLATE, CONTROL POINT
CPLG	COUPLING
CSK	COUNTERSINK
CTR	CENTER
CTRL	CONTROL
CU	COPPER, CUBIC
CW	CLOCKWISE
CY	CUBIC YARD
d	PENNY (NAIL MEASURE)
D	DEEP, DIFFUSER
DB	DUCT BANK, DECIBEL, DRY BULB
DBA	DEFORMED BAR ANCHOR
DBL	DOUBLE
DC	DIRECT CURRENT
DEG	DEGREE
DEG C	DEGREE CENTIGRADE
DEG F	DEGREE FAHRENHEIT
DEMO	DEMOLITION
DEP	DEPRESSED
DEPT	DEPARTMENT
DET	DETAIL
DI	DROP INLET, DUCTILE IRON
DIA	DIAMETER
DIAG	DIAGONAL, DIAGRAM
DIFF	DIFFERENTIAL, DIFFERENCE
DIM	DIMENSION
DISCH	DISCHARGE
DIST	DISTANCE, DISTRIBUTION
DIV	DIVISION
DL	DEAD LOAD
DN	DOWN
DP	DEPTH
DS	DOWN SPOUT
DT	DOUBLE TEE, DRIP TRAP ASSEMBLY
DUP	DUPLICATE
DWG	DRAWING
DWL	DOWEL
E	EAST, ELECTRICAL (DWG DISCIPLINE)
EA	EACH, EXHAUST AIR
EC	ELECTRICAL CONTRACTOR
ECC	ECCENTRIC
EDB	ELECTRICAL DUCT BANK
EE	EACH END
EF	EACH FACE
EG	EXISTING GRADE
EGL	ENERGY GRADE LINE
EFF	EFFLUENT, EFFICIENCY
EHH	ELECTRICAL HANDHOLE
EIFS	EXTERIOR INSULATION & FINISH SYSTEM
EJ	EXPANSION JOINT
EL	ELBOW, ELEVATION
ELEC	ELECTRICAL
EMBD	EMBEDDED
EMER	EMERGENCY
EMH	ELECTRICAL MANHOLE
ENCL	ENCLOSURE
ENGR	ENGINEER
ENTR	ENTRANCE
EOP	EDGE OF PAVEMENT
EOW	EDGE OF WATER
EQ	EQUAL
EQUIP	EQUIPMENT
EQUIV	EQUIVALENT
ES	EACH SIDE, EQUAL SPACE, EMERGENCY SHOWER
ESEW	EMERGENCY SHOWER AND EYE WASH
EST	ESTIMATE
EW	EACH WAY, EMERGENCY EYE/FACE WASH
EWC	ELECTRIC WATER COOLER
EWEF	EACH WAY, EACH FACE
EWTB	EACH WAY, TOP AND BOTTOM
EXC	EXCAVATION
EXH	EXHAUST
EXIST	EXISTING
EXP	EXPANSION, EXPOSED
EXT	EXTERIOR, EXTERNAL, EXTENSION
F TO F	FACE TO FACE
FAB	FABRICATE
FBO	FURNISHED BY OWNER
FC	FLUSHING CONNECTION
FCA	FLANGED COUPLING ADAPTER
FCV	FIXED CONE VALVE
FD	FLOOR DRAIN
FDC	FLEXIBLE DUCT CONNECTION
FDR	FEEDER
FE	FLANGED END
FEC	FIRE EXTINGUISHER CABINET
FEXT	FIRE EXTINGUISHER
FF	FAR FACE, FACTORY FINISH, FLAT FACE
FG	FINISHED GRADE
FIG	FIGURE
FH	FIRE HYDRANT
FIN	FINISH
FL	FLOW, FLOW LINE
FLEX	FLEXIBLE
FLG	FLANGE
FLOR	FLUORESCENT
FLR	FLOOR
FLS	FLASHING, FLUSH
FND	FOUNDATION
FNC	FENCE
FO	FINISHED OPENING
FOB	FLAT ON BOTTOM
FOC	FACE OF CONCRETE, FACE OF CURB, FIBER OPTIC CABLE
FOF	FACE OF FINISH
FOM	FACE OF MASONRY
FOS	FACE OF STUDS
FOT	FLAT ON TOP
FPT	FEMALE PIPE THREAD
FR	FRAME
FRP	FIBERGLASS REINFORCED PLASTIC
FS	FLOOR SINK, FAR SIDE
FT	FEET, FOOT
FTG	FOOTING, FITTING FUR FURRED, FURRING
FURN	FURNITURE, FURNISH
FUT	FUTURE
FV	FACE VELOCITY
FW	FIELD WELD, FIRE WALL
FWD	FORWARD
FWE	FURNISHED WITH EQUIPMENT
FXTR	FIXTURE
G	GRILLE, GROUND, GENERAL (DWG DISCIPLINE)
GA	GAGE (METAL THICKNESS)
GAL	GALLON
GALV	GALVANIZED
GB	GRADE BREAK
GD	GUARD
GEN	GENERAL
GFCI	GROUND FAULT CIRCUIT INTERRUPTER
GL	GLASS
GP	GUY POLE
GR	GRADE
GRND	GROUND
GRTG	GRATING
GT	GREASE TRAP
GWB	GYPSUM WALLBOARD
GYP	GYPSUM HARDBOARD
H	HIGH
HB	HOSE BIB
HBD	HARDBOARD
HC	HANDICAPPED, HOLLOW CORE, HORIZONTAL CURVE
HC	HORIZONTAL CENTERLINE
HDR	HEADER
HDW	HARDWARE
HEX	HEXAGONAL
HH	HANDHOLE
HM	HOLLOW METAL
HORIZ	HORIZONTAL
HP	HIGH POINT, HORSEPOWER
HPC	HORIZONTAL POINT OF CURVATURE
HPS	HIGH PRESSURE SODIUM
HPT	HORIZONTAL POINT OF TANGENCY
HR	HOUR
HS	HEADED STUD, HIGH STRENGTH
HSS	HOLLOW STRUCTURAL SHAPE
HT	HEIGHT
HV	HIGH VOLTAGE
HVAC	HEATING, VENTILATION & AIR CONDITIONING
HWD	HARDWOOD
HWL	HIGH WATER LEVEL
HYD	HYDRAULIC HZ HERTZ, CYCLES PER SECOND
I	INSTRUMENTATION (DWG DISCIPLINE)
ID	INSIDE DIAMETER, INTERIOR DIMENSION
IE	INVERT ELEVATION
IF	INSIDE FACE
IH	INTAKE HOOD
IMP	IMPACT
IN	INCH
INC	INCLUDE, INCANDESCENT
INF	INFLUENT
INSTR	INSTRUMENTATION
INSUL	INSULATION
INT	INTERIOR, INTERSECTION
INTR	INTERMEDIATE, INTERIOR
INV	INVERT
IPS	IRON PIPE SIZE
IPT	INTERNAL PIPE THREAD
IRR	IRRIGATION
ISO	ISOMETRIC
JB	JUNCTION BOX
JCT	JUNCTION
JF	JOINT FILLER
JT	JOINT
K	KIP
KB	KNEE BRACE
KCMIL	THOUSAND CIRCULAR MILS
KD	KNOCK DOWN
KIUC	KAUAI ISLAND UTILITY COOPERATIVE
KO	KNOCK OUT
KSI	KIPS PER SQUARE INCH
L	ANGLE, LENGTH, LAVATORY
LAM	LAMINATE
LATL	LATERAL
LB	LAG BOLT, POUND
LDR	LEADER
LF	LINEAR FOOT
LG	LONG
LH	LEFT HAND
LIN	LINEAR
LIQ	LIQUID
LL	LIVE LOAD
LLH	LONG LEG HORIZONTAL
LLV	LONG LEG VERTICAL
LMLU	LIQUID MARKER LECTURE UNIT
LNG	LONGITUDINAL
LOC	LOCATION
LP	LOW POINT
LPS	LOW PRESSURE SODIUM
LR	LONG RADIUS
LT	LEFT
LTD	LIMITED
LTG	LIGHTING
LTL	LINTEL
LTNG	LIGHTNING
LV	LOW VOLTAGE
LVR	LOUVER
LW	LIGHTWEIGHT
LWC	LIGHTWEIGHT CONCRETE
LWL	LOW WATER LEVEL
M	MECHANICAL (DWG DISCIPLINE)
MA	MIXED AIR
MAINT	MAINTENANCE
MAN	MANUAL
MAOP	MAXIMUM ALLOWABLE OPERATING PRESSURE
MATL	MATERIAL
MAX	MAXIMUM
MB	MACHINE BOLT
MBR	MEMBER
MCJ	MASONRY CONTROL JOINT
MECH	MECHANICAL
MED	MEDIUM
MFR	MANUFACTURER
MH	MANHOLE, METAL HALIDE
MIN	MINIMUM
MIR	MIRROR
MISC	MISCELLANEOUS
MJ	MECHANICAL JOINT
MMB	MEMBRANE
MO	MASONRY OPENING
MOD	MODULAR, MODIFY
MON	MONUMENT
MPT	MALE PIPE THREAD
MSL	MEAN SEA LEVEL
MT	MOUNT
MU	MASONRY UNIT
MULL	MULLION
MV	MEDIUM VOLTAGE
MW	MONITORING WELL
N	NORTH, NEUTRAL
NA	NOT APPLICABLE
NAT	NATURAL
NC	NORMALLY CLOSED
NEG	NEGATIVE
NF	NEAR FACE, NON-FUSED
NG	NATURAL GAS
NIC	NOT IN CONTRACT
NO	NORMALLY OPEN, NUMBER
NOM	NOMINAL
NPS	NOMINAL PIPE SIZE
NPT	NATIONAL PIPE THREAD
NS	NEAR SIDE
NTS	NOT TO SCALE
NWL	NORMAL WATER LEVEL
O TO O	OUT-TO-OUT
OA	OUTSIDE AIR, OVERALL
OC	ON CENTER
OCPD	OVER CURRENT PROTECTION DEVICE
OD	OUTSIDE DIAMETER
OH	OVERHEAD
OPNG	OPENING
OPP	OPPOSITE
OPT	OPTIONAL
ORD	OVERFLOW ROOF DRAIN
ORIG	ORIGINAL
OVFL	OVERFLOW
OVHG	OVERHANG
OZ	OUNCE
P	PAINT, PROCESS (DWG DISCIPLINE)
PAR	PARALLEL, PARAPET
PB	PANIC BAR, PULL BOX
PBD	PARTICLE BOARD
PC	POINT OF CURVE, PIECE, PRECAST
PCC	POINT OF COMPOUND CURVATURE
PCF	POUNDS PER CUBIC FOOT
PCT	PERCENT
PE	PLAIN END
PED	PEDESTAL
PEN	PENETRATION
PERF	PERFORATED
PERM	PERMANENT
PERP	PERPENDICULAR
PF	POWER FACTOR
PH	PHASE
PI	POINT OF INTERSECTION
PKG	PACKAGE
PL	PLATE, PROPERTY LINE
PLBG	PLUMBING
PLF	POUNDS PER LINEAR FOOT
PNEU	PNEUMATIC
POL	POLISH
POS	POSITIVE, POSITION
PP	POLYPROPYLENE, POWER POLE
PRC	POINT OF REVERSE CURVATURE
PREF	PREFINISHED
PREFAB	PREFABRICATED
PRELIM	PRELIMINARY
PREP	PREPARE
PRES	PRESSURE
PROP	PROPERTY
PROT	PROTECTION
PSF	POUNDS PER SQUARE FOOT
PSI	POUNDS PER SQUARE INCH
PSIA	POUNDS PER SQUARE INCH ABSOLUTE
PSIG	POUNDS PER SQUARE INCH GAGE
PT	POINT, POINT OF TANGENCY
PTN	PARTITION
PVC	POLYVINYL CHLORIDE
PVMT	PAVEMENT
PWD	PLYWOOD
PZ	PIEZOMETER
Q	RATE OF FLOW
QTR	QUARTER
QTY	QUANTITY
QUAL	QUALITY
R&R	REMOVE AND REPLACE
R&S	REMOVE AND SALVAGE
R	RADIUS, REGISTER, RISER
RA	RETURN AIR
RB	RESILIENT BASE, ROCK BERM
RCPT	RECEPTACLE
RD	ROOF DRAIN
REC	RECESS
RECD	RECEIVED
RECT	RECTANGULAR
RED	REDUCER
REF	REFERENCE
REINF	REINFORCING
REQD	REQUIRED
RESIL	RESILIENT
RET	RETAINING, RETURN
REV	REVISION, REVERSE
RFL	REFLECTED, REFLECTOR
RGS	RIGID GALVANIZED STEEL
RH	RELIEF HOOD, RIGHT HAND, RELATIVE HUMIDITY
RL	REQUIRED LAP
RND	ROUND
RNG	RENEWABLE NATURAL GAS
RO	ROUGH OPENING
ROW	RIGHT-OF-WAY
RPM	REVOLUTIONS PER MINUTE
RR	RAILROAD
RT	RIGHT
S	SOUTH, SINK, STRUCTURAL (DWG DISCIPLINE)
SA	SUPPLY AIR
SAN	SANITARY
SC	SOLID CORE
SCH	SCHEDULE
SCHEM	SCHEMATIC
SCRN	SCREEN
SE	STEEL/ALUMINUM EDGE
SEC	SECONDARY, SECONDS
SECT	SECTION
SEP	SEPARATE
SF	SQUARE FOOT
SH	SHOWER
SHT	SHEET
SHTG	SHEATHING
SIM	SIMILAR
SL	SLOPE
SLTD	SLOTTED
SLV	SLEEVE
SMLS	SEAMLESS
SOG	SLAB ON GRADE
SP	SOUNDPROOF, STANDPIPE
SPC	SPACING
SPEC	SPECIFICATION
SPLY	SUPPLY
SPT	SET POINT
SQ	SQUARE
SR	SHORT RADIUS
SS	SERVICE SINK
SST	STAINLESS STEEL
ST	STREET
STA	STATION
STD	STANDARD
STIF	STIFFENER
STIR	STIRRUP
STL	STEEL
STOR	STORAGE
STR	STRUCTURAL, STRAIGHT
SUB	SUBSTITUTE
SUC	SUCTION
SUSP	SUSPENDED
SY	SQUARE YARD
SYM	SYMBOL
SYMM	SYMMETRICAL
SYN	SYNTHETIC
SYS	SYSTEM
T&B	TOP AND BOTTOM
T&G	TONGUE AND GROOVE
T	TILE, TREAD
TA	TEMPERED AIR
TAN	TANGENT
TBM	TEMPORARY BENCHMARK
TEMP	TEMPORARY, TEMPERATURE
THK	THICK
THRD	THREAD
THRU	THROUGH
TOB	TOP OF BOLT, TOP OF BANK, TOP OF BEAM
TOC	TOP OF CURB, TOP OF CONCRETE
TOD	TOP OF DUCT
TOF	TOP OF FOOTING
TOG	TOP OF GRATING
TOL	TOLERANCE, TOP OF LEDGER
TOM	TOP OF MASONRY
TOP	TOP OF PLATE
TOPO	TOPOGRAPHY
TOS	TOP OF SLAB, TOP OF STEEL
TOW	TOP OF WALL
TP	TELEPHONE POLE, TOE PLATE, TRAP PRIMER
TPG	TOPPING
TRANS	TRANSITION
TRD	TRENCH DRAIN
TYP	TYPICAL
U	URINAL
UG	UNDERGROUND
ULT	ULTIMATE
UNFN	UNFINISHED
UNO	UNLESS NOTED OTHERWISE
UTIL	UTILITY
V	VENT, VELOCITY, VOLT
VA	VOLT AMPERE
VAC	VACUUM
VAR	VARNISH, VARIABLE, VOLT AMPERES REACTIVE
VB	VAPOR BARRIER, VINYL BASE, VALVE BOX
VC	VERTICAL CURVE
VCT	VINYL COMPOSITION TILE, VERTICAL CENTERLINE
VEL	VELOCITY
VENT	VENTILATION
VERT	VERTICAL
VS	VERSES, VAPOR SEAL
VOL	VOLUME
VPC	VERTICAL POINT OF CURVATURE
VPI	VERTICAL POINT OF INTERSECTION
VPT	VERTICAL POINT OF TANGENCY
VTR	VENT THROUGH ROOF
VWC	VINYL WALL COVERING
W/	WITH
W/O	WITHOUT
W	WATT, WEST, WIDE, WINDOW, WIRE, WIDE FLANGE BEAM
WC	WATER CLOSET, WATER COLUMN
WD	WIDTH
WF	WIDE FLANGE, WASH FOUNTAIN
WG	WIRE GLASS, WATER GAGE
WH	WALL HYDRANT, WEEP HOLE
WL	WATER LEVEL
WLD	WELDED
WM	WIRE MESH
WP	WATERPROOF, WORKING POINT
WTHP	WEATHERPROOF
WS	WATERSTOP, WATER SURFACE
WSEL	WATER SURFACE ELEVATION
WT	WEIGHT, WATER TIGHT
WWF	WELDED WIRE FABRIC
XS	EXTRA STRONG
XXS	DOUBLE EXTRA STRONG
XSECT	CROSS SECTION
YH	YARD HYDRANT
YS	YIELD STRENGTH

GENERAL NOTES:

1. THESE ABBREVIATIONS APPLY TO THE ENTIRE SET OF CONTRACT DRAWINGS.
2. LISTING OF ABBREVIATIONS DOES NOT IMPLY ALL ABBREVIATIONS ARE USED IN THE CONTRACT DRAWINGS.
3. ABBREVIATIONS SHOWN ON THIS SHEET INCLUDE VARIATIONS OF THE WORD. FOR EXAMPLE, "MOD" MAY MEAN MODIFY OR MODIFICATION; "INC" MAY MEAN INCLUDED OR INCLUDING; "REINF" MAY MEAN EITHER REINFORCE OR REINFORCING.
4. SCREENING OR SHADING OF WORK IS USED TO INDICATE EXISTING COMPONENTS OR TO DE-EMPHASIZE PROPOSED IMPROVEMENTS TO HIGHLIGHT SELECTED TRADE WORK. REFER TO CONTEXT OF EACH SHEET FOR USAGE.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH
POWERING ALASKA'S FUTURE

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

STANDARD ABBREVIATIONS

DESIGNED L.VO
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
G003

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\G003.dwg Plot date: Sep 29, 2023 01:03pm, CAD User: HaberFlavia

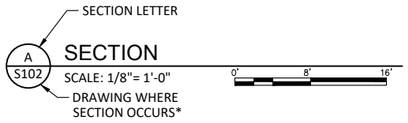
SHEET SYMBOLS

PLAN
SCALE: 1/2"= 1'-0"
0' 2' 4'

SECTION IDENTIFICATION

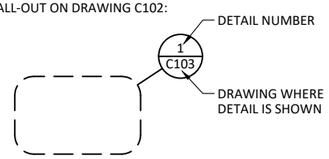
(1) SECTION CUT ON DRAWING C102:

(2) ON DRAWING C103 THIS SECTION IS IDENTIFIED AS:

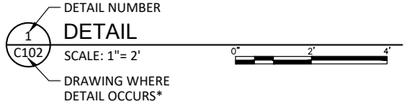


DETAIL IDENTIFICATION

(1) DETAIL CALL-OUT ON DRAWING C102:



(2) ON DRAWING C103 THIS SECTION IS IDENTIFIED AS:

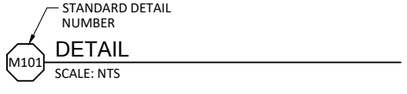


*NOTE: IF PLAN AND SECTION (OR DETAIL CALL-OUT AND DETAIL) ARE SHOWN ON SAME DRAWING. DRAWING NUMBER IS REPLACED BY A LINE.

STANDARD DETAIL IDENTIFICATION

(1) DETAIL CALL-OUT ON PLAN OR SECTION:

(2) ON DETAIL DRAWINGS, IDENTIFIED AS:



ELEVATION/IMAGE IDENTIFICATION

SITE PLAN LINE TYPES

X X	FENCE LINE
P P	OVERHEAD POWER
455	MAJOR CONTOUR
456	MINOR CONTOUR
455	EXIST MAJOR CONTOUR
456	EXIST MINOR CONTOUR
...	EDGE OF WATERLINE
TOE	TOE OF SLOPE
TOB	TOP OF BANK
SS SS	SANITARY SEWER
SD SD	STORM DRAIN
EP EP	EDGE OF PAVEMENT
EG EG	EDGE OF GRAVEL
W	WATTLE
SF SF	SILT FENCE
CF CF	CONSTRUCTION FENCE
GAS	GAS LINE
TC	TURBIDITY CURTAIN
IRR IRR	IRRIGATION LINE
WTR	WATER LINE
TEL	TELEPHONE LINE
COM	COMMUNICATION LINE
OHP	OVERHEAD ELECTRICAL/POWER
EUG	UNDERGROUND ELECTRICAL
P/L	PROPERTY LINE
OHP	EXISTING OVERHEAD POWER LINE
OHP&T	EXISTING OVERHEAD POWER & TELEPHONE LINE
T	EXISTING OVERHEAD TELEPHONE LINE
BT	EXISTING BURIED TELEPHONE LINE EVIDENCED BY PEDESTALS & WARNING PADDLES
	EXISTING FENCE LINE
	PROJECT BOUNDARY
	TREE PROTECTION FENCE
	LIMITS OF DISTURBANCE
	SHORING

SITE PLAN SYMBOLS

N	ARROW INDICATES DIRECTION OF PLAN NORTH
	CONIFER TREE: FIR, SPRUCE, LARCH OR PINE, 8" DIAMETER OR LARGER.
	DECIDUOUS TREE: COTTONWOOD, HAWTHORN, ASPEN, 8" DIAMETER OR LARGER.
MH	MANHOLE
EB	ELECTRIC BOX
	STORM DRAIN MANHOLE
FH	FIRE HYDRANT
YH-X	YARD HYDRANT
	SURVEY CONTROL POINT, AS NOTED.
	POLE ANCHOR
	POWER POLE
	LIGHT POLE
	SIGN
	SURVEY HUB
	SECTION CORNER
	BENCH MARK
	EXISTING HEADWALL
	EXISTING MONITORING STATION
X X	EXISTING FENCE
	STATE PLANE COORDINATE MARKER
	EXISTING TREE LINE
	EXISTING BUILDING, STRUCTURES
	EXISTING SECTION CORNER MONUMENT FOUND AS DESCRIBED
	EXISTING 5/8" REBAR CONTROL POINT MONUMENT, BORING LOCATION
W	EXISTING HOSE BIB
	EXISTING PORTABLE IRRIGATION WATER PUMP
WELL	EXISTING 6" WATER WELL
	EXISTING ELECTRICAL OUTLET
P	EXISTING POWER POLE
T	EXISTING TELEPHONE PEDESTAL
	CONTROL POINT
	PUMP
	PUMP
TP	TEST PIT LOCATION

MISCELLANEOUS SYMBOLS

	CHANGE OF PIPE MTL
OR	END OF PIPE
℄	CENTERLINE
Ø	DIAMETER
∠	ANGLE
PL	PLATE
±	PLUS/MINUS

GENERAL NOTES:

1. ALL SYMBOLS ARE NOT NECESSARILY USED. THIS IS A STANDARD DRAWING SHOWING COMMON SYMBOLS ON THIS PROJECT.
2. SCREENING OR SHADING OF WORK IS USED TO INDICATE EXISTING COMPONENTS OR TO DE-EMPHASIZE PROPOSED IMPROVEMENTS TO HIGHLIGHT SELECTED TRADE WORK. REFER TO CONTEXT OF EACH DRAWING FOR USAGE.

HATCH SYMBOLS

	ROCK, TYPE AS NOTED (PLAN/SECTION)
	BED ROCK
	EXISTING GRADE (SECTION)
	NEW SOIL (SECTION)
	CONCRETE EXISTING (SECTION/PLAN)
	CONCRETE 1ST STAGE (SECTION/PLAN)
	CONCRETE 2ND STAGE (SECTION/PLAN)
	SAND, GROUT (PLAN/SECTION)
	STEEL (SECTION)
	GRATING (PLAN)
	MASONRY (PLAN)
	WOOD, SIZE/TYPE AS NOTED (PLAN)
	WOOD, SIZE/TYPE AS NOTED (SECTION)
	RIP RAP (PLAN/SECTION)
	RIGID INSULATION (SECTION)
	ASPHALT CONCRETE PAVEMENT SURFACE (PLAN/SECTION)
	GRASS/VEGETATION (PLAN)
	BATT INSULATION (SECTION)
	NEW CONSTRUCTION
	EXISTING
	EXISTING TO BE REMOVED OR DEMOLISHED
	CLEARING AND GRUBBING
	ASPHALT
	GRASS/VEGETATION
	GRAVEL

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
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McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
AWWU MAINTENANCE ROAD AND BRIDGES

STANDARD SYMBOLS

DESIGNED L. VO
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
G004

JOB NO: 000000

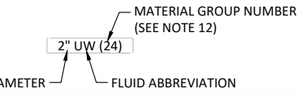
Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\G004.dwg Plot date: Sep 26, 2023 06:21pm, CAD User: HaberFlavia

FLUID ABBREVIATION	FUNCTION	ALLOWABLE PIPING MATERIAL GROUP NO. (SEE NOTE 1 AND 4)				FIELD TEST REQUIREMENTS (SEE NOTE 3 AND NOTE 4)		
	THIS LIST MAY INCLUDE FLUIDS NOT USED IN THIS PROJECT	EXPOSED PIPING (SEE NOTE 14)		BURIED PIPING (SEE NOTE 13)		MINIMUM TEST PRESSURE PSI	TEST MEDIUM	LEAKAGE ALLOWANCE (SEE NOTE 2)
		3" DIA AND SMALLER	4" DIA AND LARGER	3" DIA AND SMALLER	4" DIA AND LARGER			
COMMONLY USED FUNCTIONS								
SDR	STORM DRAIN	--	21	--	21	NOTE 6	WATER	(C)

PIPING MATERIAL SCHEDULE (SEE NOTE 1)

GROUP NO.	PIPE MATERIAL	FITTINGS / JOINTS	LININGS AND COATINGS (SEE NOTE 13)
21	CORRUGATED METAL PIPE, GALVANIZED, AASHTO M36 (TYP SERVICE - DRAINAGE & CULVERTS)	FOR COUPLING AND END-PROTECTORS, SEE SPEC 02567	NO APPLICABLE

TYPICAL PIPE DESIGNATION:



NOTES:

NOTE 1
ALTHOUGH SEVERAL PIPE MATERIAL GROUPS MAY BE LISTED ON THIS SHEET FOR A GIVEN FLUID SERVICE, CONTRACTOR SHALL PROVIDE ONLY THE PIPE MATERIAL GROUP SHOWN ON THE DRAWINGS AND SPECIFIED FOR THAT FLUID SERVICE.

NOTE 2
LEAKAGE ALLOWANCE IS AS FOLLOWS
A. PIPES SO DESIGNATED SHALL SHOW ZERO LEAKAGE.
B. PIPES SO DESIGNATED SHALL SHOW ZERO LEAKAGE FOR UNBURIED PIPE AND NOT MORE THAN 0.02 GALLON PER HOUR PER INCH DIAMETER PER 100 FEET OF BURIED PIPE.
C. PIPES SO DESIGNATED SHALL NOT SHOW A LEAKAGE OF MORE THAN 0.15 GALLON PER HOUR PER INCH OF DIAMETER PER 100 FEET OF PIPE.
D. PIPES SO DESIGNATED SHALL NOT SHOW A LOSS OF PRESSURE OF MORE THAN 5 PERCENT.
E. PIPE SO DESIGNATED SHALL NOT SHOW A LOSS OF VACUUM OF MORE THAN 4 INCHES MERCURY COLUMN.

NOTE 3
FOR FIELD TEST PROCEDURES AND ADDITIONAL TEST REQUIREMENTS, SEE PIPING SECTION OF SPECIFICATIONS.

NOTE 4
NO SUBSTITUTIONS U.N.O. IN THE SPECIFICATIONS.

NOTE 5
PIPING GROUP FUNCTION SHOWN THUS * SHALL BE INSULATED PER SPECIFICATIONS.

NOTE 6
STATIC WATER TEST WITH SURFACE 5 FEET ABOVE HIGH POINT OF PIPE.

NOTE 7
INSPECTION AND TESTING SHALL BE IN ACCORDANCE WITH APPLICABLE PLUMBING CODE.

NOTE 8
NO APPARENT LEAKS UNDER NORMAL OPERATING CONDITIONS.

NOTE 9
INSPECTION AND TESTING SHALL BE IN ACCORDANCE WITH APPLICABLE NATIONAL FIRE PROTECTION ASSOCIATION STANDARDS.

NOTE 10
PIPING MATERIALS SHALL BE IN ACCORDANCE WITH NATIONAL FIRE PROTECTION ASSOCIATION STANDARDS.

NOTE 11
FOR VALVES 4" AND LARGER SEE VALVE SCHEDULE FOR SPECIAL VALVES SEE SPECIFICATIONS.

NOTE 12
CHANGE IN PIPING MATERIAL GROUP NUMBER IS INDICATED THUS: ——◆

NOTE 13
FOR FULL PIPE LINING AND COATING REQUIREMENTS, SEE SPECIFICATIONS.

NOTE 14
EXPOSED OUTDOOR PIPING SHALL BE PAINTED IN ACCORDANCE WITH SPECIFICATIONS. COLORS TO BE SELECTED BY OWNER.

NOTE 15
NATURAL GAS BURIED PIPE SHALL BE POLYETHYLENE BASED PIPE IN ACCORDANCE W/ LOCAL GAS UTILITY PIPE REQUIREMENTS FOR PRESSURE GAS SERVICE.

NOTE 16
ALL FISH RELEASE PIPE BENDS SHALL HAVE A MINIMUM RADIUS OF 5 TIMES THE PIPE DIAMETER. FITTINGS FOR FISH RELEASE PIPE SHALL BE OF THE SAME MATERIAL AS THE PIPING. ALL FISH RELEASE PIPING SHALL BE FREE OF BURRS AND ROUGH SURFACES. ALL PIPING JOINTS SHALL BE SMOOTH AND FREE OF SURFACE BLEMISHES.

NOTE 17
FOR HDPE PIPING THE SIZE OF PIPE SHOWN ON DRAWING CALL-OUTS SHALL BE THE MINIMUM INSIDE DIAMETER. PIPE WALL THICKNESS SHALL BE PER DR RATING REQUIREMENT.

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0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
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MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

PIPING SCHEDULE

DESIGNED L. VO
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
G005

JOB NO: 0000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\G005.dwg Plot date: Sep 26, 2023 06:22pm, CAD User: HaberFlavia

SHEET NOTES:

1. VERTICAL DATUM: NORTH AMERICA VERTICAL DATUM 88 (NAVD88) GEOID12B, US FEET.
2. HORIZONTAL DATUM: NAD83(2011) ALASKA STATE PLANE ZONE 4, US FEET.
3. 2020 LIDAR AND IMAGERY MAPPING WERE PERFORMED BY NV5 LLC, (FORMERLY KNOWN AS QUANTUM SPATIAL INC.) ON MAY, 2020.
4. 2022 LIDAR AND IMAGERY MAPPING WERE BY PERFORMED BY NV5 LLC. ON MAY, 2022.
5. GROUND CONTROL POINTS (GCP) WERE ESTABLISHED FOR GEOSPATIAL CORRECTION BY A. WILLIAM STOLL, PLS #12041 WITH DOWL INC. ON MAY 2020 AND JUNE 2022 RESPECTIVELY FOR BOTH LIDAR AND IMAGERY MAPPING PERIODS.
6. 2022 IMAGERY MAPPING ARE 4-BAND, 32-BIT RGB-IR GEOTIFF WITH 0.15 METER GROUND SAMPLE DISTANCE VIA VEXCEL ULTRA CAM EAGLE ON A TWIN ENGINE, FIXED WING AIRCRAFT.
7. ROAD CROSSING NO. 2 THROUGH NO. 1

   2022 LIDAR - 0.5 METER GEOTIFFS BASE EARTH DIGITAL ELEVATION MODEL (DEM)

8. ROAD CROSSING NO. 2 THROUGH NO. 8

   2022 LIDAR - 0.5 METER GEOTIFFS BASE EARTH DIGITAL ELEVATION MODEL (DEM)

EXIST RIVER CROSSING				
POINT #	NORTHING	EASTING	ELEVATION	DESCRIPTION
1	2707503.60	1782922.84	759.77	ROAD CROSSING NO. 1
2	2707969.40	1780453.05	718.65	ROAD CROSSING NO. 2
3	2708552.28	1779237.95	698.21	ROAD CROSSING NO. 3
4	2712247.39	1775622.06	622.01	ROAD CROSSING NO. 4
5	2714544.84	1773722.77	576.10	ROAD CROSSING NO. 5
6	2717147.47	1771578.34	527.11	ROAD CROSSING NO. 6
7	2718313.63	1769561.00	494.88	ROAD CROSSING NO. 7
8	2718994.84	1767954.17	452.36	ROAD CROSSING NO. 8

PROJECT SITE PLAN

SCALE: 1"=750'

N

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0	10/6/23	SPE	15% DESIGN

WARNING

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MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

PROJECT SITE PLAN

DESIGNED L. VO

DRAWN F. HABER

CHECKED J. BOAG

PROJECT DATE 10/6/23

DRAWING

G006

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\G006.dwg Plot date: Sep 29, 2023 02:18pm, CAD User: HaberFlavia

GENERAL PROJECT NOTES:

1. ALL CONSTRUCTION ACTIVITIES SHALL BE PERFORMED IN COMPLIANCE WITH 1991 FISH AND WILDLIFE SERVICE (1991 AGREEMENT).
2. ALL CONSTRUCTION ACTIVITIES SHALL COMPLY WITH AWWU AND ADNR STANDARDS AND REQUIREMENTS.
3. ALL CONSTRUCTION ACTIVITIES SHALL BE PERFORMED IN COMPLIANCE WITH FEDERAL, STATE AND LOCAL STANDARDS FOR THE PROJECT.

GENERAL CIVIL NOTES:

1. EXISTING TOPOGRAPHY, STRUCTURES AND SITE FEATURES ARE SHOWN SCREENED AND/OR LIGHT-LINED. NEW FINISH GRADE, STRUCTURES, AND SITE FEATURES ARE SHOWN UNSCREENED AND HEAVY LINED.
2. VERTICAL DATUM: NAVD88, GEOID12B, US FEET.
3. HORIZONTAL DATUM: ALASKA STATE PLANE ZONE 4 NAD83(2011), US FEET.
4. ELEVATIONS GIVEN ARE TO FINISH GRADE UNLESS OTHERWISE SHOWN.
5. SLOPE UNIFORMLY BETWEEN CONTOURS AND SPOT ELEVATIONS SHOWN.

GENERAL CONSTRUCTION NOTES:

1. THE CONTRACTOR SHALL ATTEND A PRE-CONSTRUCTION CONFERENCE (OR AN ON-SITE MEETING) WITH THE PROJECT REPRESENTATIVE PRIOR TO THE START OF WORK.
2. THE CONTRACTOR SHALL NOTIFY THE PROJECT REPRESENTATIVE WHEN MATERIALS ARE ON SITE OR AN INSPECTION OF THE WORK IS REQUIRED. NO WORK MAY BEGIN ON ANY PROJECT WITHOUT TWENTY-FOUR (24) HOUR PRIOR NOTICE.
3. CONTRACTOR SHALL FURNISH PROOF THAT ALL MATERIALS INSTALLED ON THIS PROJECT MEET THE REQUIREMENTS OF THE CONTRACT DRAWINGS AND SPECIFICATIONS.
4. ANY DEVIATION FROM THE APPROVED PLANS AND SPECIFICATION MUST HAVE A DESIGN ENGINEER AND OWNER APPROVAL IN WRITING PRIOR TO CONSTRUCTION.
5. UNLESS OTHERWISE NOTED, ALL DISTURBED SURFACES SHALL BE RETURNED TO ORIGINAL OR BETTER CONDITIONS.
6. MAINTAIN, RELOCATE OR REPLACE EXISTING SURVEY MONUMENTS, CONTROL POINTS, AND STAKES WHICH ARE DISTURBED OR DESTROYED. PERFORM THE WORK TO PRODUCE THE SAME LEVEL OF ACCURACY AS THE ORIGINAL MONUMENT(S) IN A TIMELY MANNER, AND AT THE CONTRACTOR'S EXPENSE.
7. THE CONTRACTOR SHALL KEEP CONSTRUCTION ACTIVITIES WITHIN THE SITE BOUNDARIES FOR THIS PROJECT AS SHOWN. THIS INCLUDES, BUT IS NOT LIMITED TO, VEHICLES AND EQUIPMENT, STOCKPILED CUT MATERIAL, AND FILL MATERIAL UNLESS OTHERWISE APPROVED BY OWNER.
8. ALL CONTRACTORS, INCLUDING SUBCONTRACTOR WORKING WITHIN THE PROJECT BOUNDARIES ARE RESPONSIBLE FOR COMPLIANCE WITH ALL APPLICABLE SAFETY LAWS AND STANDARDS.
9. ONLY PLAN SETS STAMPED “ISSUED FOR CONSTRUCTION” SHALL BE USED BY THE PROJECT CONTRACTOR(S).
10. THE CONTRACTOR SHALL KEEP ON SITE AT ALL TIMES A COPY OF THE APPROVED CONSTRUCTION PLANS AND RECORD THE ACTUAL LOCATIONS OF THE CONSTRUCTED WORK AND ANY UTILITIES ENCOUNTERED. THE CONTRACTOR SHALL PROVIDE THESE LOCATIONS TO BE SUBMITTED TO AS PART OF THE RECORD DRAWINGS PER SPECIFICATIONS.
11. UNLESS NOTED OTHERWISE, THE CONTRACTOR(S) SHALL REMOVE ALL OBSTRUCTIONS, BOTH ABOVE AND BELOW GROUND, AS REQUIRED FOR CONSTRUCTION OF THE PROPOSED IMPROVEMENTS. THIS SHALL INCLUDE CLEARING AND GRUBBING WHICH CONSISTS OF CLEARING THE GROUND SURFACE OF ALL TREES, STUMPS, BRUSH, UNDERGROWTH, HEDGES, HEAVY GROWTH OF GRASS OR WEEDS, FENCES, STRUCTURES, DEBRIS, RUBBISH, AND SUCH MATERIAL, WHICH IN THE OPINION OF CONTRACTING OFFICER, IS UNSUITABLE FOR THE FOUNDATION OF CONSTRUCTED WORKS. ALL MATERIAL NOT SUITABLE FOR FUTURE USE ON SITE SHALL BE DISPOSED OF AT OWNER APPROVED LOCATIONS.

GENERAL EXISTING UTILITIES AND STRUCTURE NOTES:

1. EXISTING UNDERGROUND UTILITIES AND STRUCTURES WERE OBTAINED FROM AVAILABLE RECORDS. CONTRACTOR SHALL FIELD VERIFY DEPTH AND LOCATION PRIOR TO EXCAVATION. NEITHER THE OWNER NOR ENGINEER ASSUMES ANY RESPONSIBILITY FOR UTILITIES AND STRUCTURES NOT SHOWN OR NOT IN THE LOCATION SHOWN. THE CONTRACTOR SHALL VERIFY ALL LOCATIONS AND ELEVATIONS AND SHALL TAKE ALL PRECAUTIONARY MEASURES NECESSARY TO PROTECT UTILITIES OR STRUCTURES SHOWN OR NOT SHOWN.
2. THE CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES AND STRUCTURES DURING CONSTRUCTION. IF EXISTING UTILITIES (GAS, ELECTRIC, POTABLE WATER, ETC.) ARE IN CONFLICT WITH THE WORK, CONTRACTOR SHALL CONTACT THE ENGINEER.
3. PRIOR TO THE START OF CONSTRUCTION, THE CONTRACTOR SHALL LOCATE ALL EXIST UTILITIES AND STRUCTURES IN AND AROUND THE AREAS OF NEW CONSTRUCTION. THE CONTRACTOR SHALL POTHOLE FOR EXIST UTILITIES PRIOR TO SUBMITTAL OF SHOP DRAWINGS, FOR POINTS OF CONNECTIONS.
4. THE CONTRACTOR SHALL CONTACT THE UTILITY AGENCIES FOR THE FIELD LOCATION OF UTILITIES AT LEAST 72 HOURS PRIOR TO THE START OF CONSTRUCTION. A DIG ALERT IDENTIFICATION NUMBER MUST BE ISSUED BEFORE A PERMIT TO EXCAVATE WILL BE VALID.
5. THE CONTRACTOR SHALL REPAIR ALL EXISTING SURFACES, UTILITIES, BUILDINGS AND FOUNDATIONS IMPACTED BY CONSTRUCTION.

PRELIMINARY
NOT FOR CONSTRUCTION

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WARNING
0 1/2 1
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MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

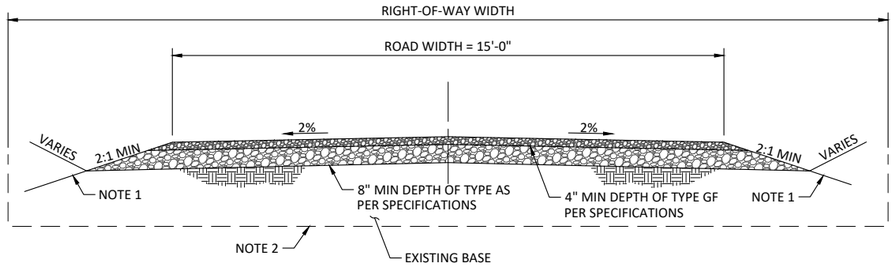
CIVIL GENERAL NOTES

DESIGNED L. VO
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
GC001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\GC001.dwg Plot date: Sep 29, 2023 02:18pm, CAD User: HaberFlavia



NOTES:
1. BORROW DITCHES SHALL HAVE A MINIMUM 2:1 SLOPE WITH 4:1 SLOPE RECOMMENDED. THE BACKSLOPE OF THE BORROW DITCH SHALL BE MINIMUM 2:1 BACKSLOPE WITH 4:1 BACKSLOPE RECOMMENDED. THE FLOW LINE IF THE DITCH SHALL BE 6" BELOW THE LOWEST AGGREGATE BASE COURSE TO ENCOURAGE DRAINAGE.
2. OVER EXCAVATE EXISTING GRADE 12" MIN. PROOF ROLL AND BACKFILL WITH TYPE EF PER SPECIFICATIONS.

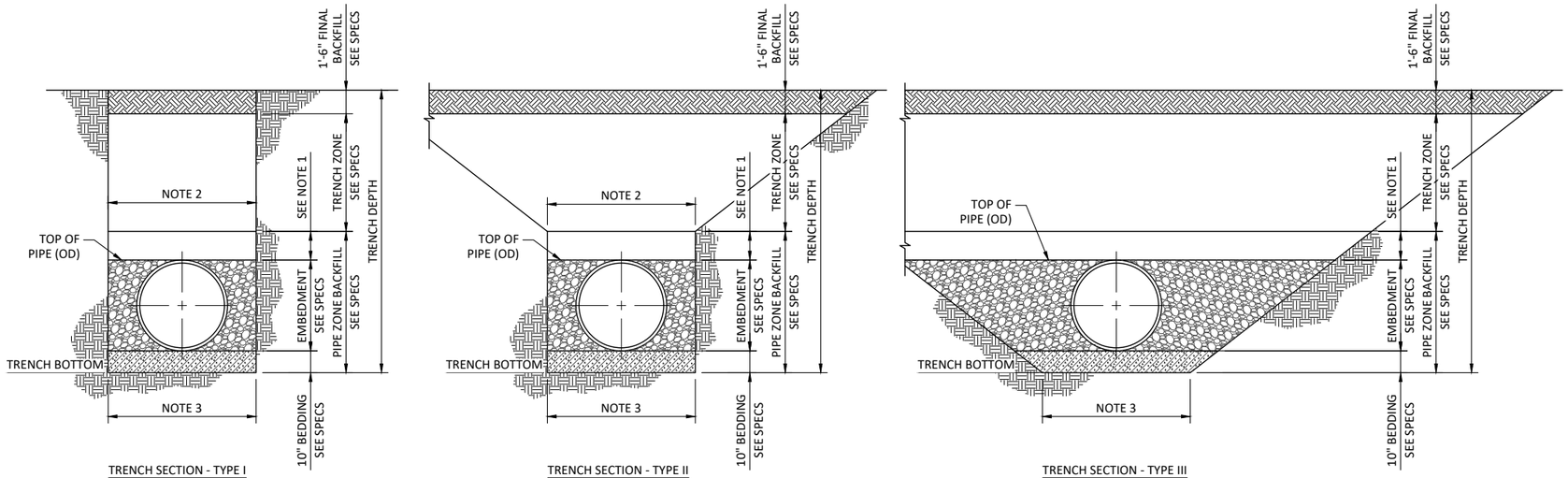
TYPICAL GRAVEL ROAD SECTION

SCALE: NTS

C137

A. FLEXIBLE PIPE REFERS TO ALL STEEL, DUCTILE-IRON, AND PLASTIC PIPES.
B. TYPICAL TRENCH SECTIONS (I, II AND III) ARE TO BE USED ONLY WHERE STABLE, COMPACT SOIL CONDITIONS EXIST. IF BOULDERS OR LARGE OBSTRUCTIONS ARE ENCOUNTERED, TRENCH SECTIONS MAY BE DEEPER OR WIDER THAN SHOWN. THE ENGINEER SHALL BE ADVISED SHOULD THIS OCCUR.
C. THE NEED FOR PROTECTIVE SYSTEMS AND EXCAVATION SLOPES SHALL BE DETERMINED CONSIDERING APPLICABLE LOCAL, STATE AND FEDERAL (OSHA) SAFETY STANDARDS AND REGULATIONS, AND GEOTECHNICAL CONSULTANTS' RECOMMENDATIONS.
D. PROTECTIVE SYSTEMS SHALL BE DESIGNED AND BUILT IN ACCORDANCE WITH THE APPLICABLE LOCAL, STATE AND FEDERAL (OSHA) SAFETY STANDARDS AND REGULATIONS.
E. SUPPORTING DOCUMENTATION SHALL BE SUBMITTED TO THE ENGINEER REGARDING PIPE DESIGN AND COMPLIANCE WITH APPLICABLE LOCAL, STATE AND FEDERAL (OSHA) SAFETY STANDARDS.
F. UNSUPPORTED VERTICAL AND/OR SLOPING TRENCH WALL SLOPES SHALL NOT BE STEEPER THAN ALLOWED BY APPLICABLE LOCAL, STATE AND FEDERAL (OSHA) SAFETY STANDARDS AND REGULATIONS, UNLESS SUPPORTING DOCUMENTATION IS SUBMITTED, ACCORDING TO AFOREMENTIONED SAFETY STANDARDS.
G. TRENCH SECTIONS OTHER THAN THE TYPICAL SECTIONS SHOWN MAY BE UTILIZED PROVIDED THEY COMPLY WITH APPLICABLE LOCAL, STATE AND FEDERAL (OSHA) SAFETY STANDARDS AND REGULATIONS. DOCUMENTATION SUPPORTING THIS COMPLIANCE AND PIPE DESIGN CALCULATIONS SHALL BE SUBMITTED TO THE ENGINEER.
H. IF OVER-EXCAVATION DUE TO POOR FOUNDATION MATERIAL IS ORDERED BY THE ENGINEER, THE BACKFILL MATERIAL SHALL BE ACCORDING TO THE EARTHWORK SECTION OF THE SPECIFICATIONS ARTICLE ENTITLED, "FILL AND BACKFILL MATERIAL REQUIREMENTS."
I. IF DURING CONSTRUCTION, THE WATER TABLE IS DISCOVERED TO BE ABOVE THE TRENCH BOTTOM, THE ENGINEER SHALL BE NOTIFIED, AND APPROPRIATE DEWATERING SHALL BE IMPLEMENTED TO LOWER THE WATER LEVEL BELOW THE TRENCH BOTTOM. THE BACKFILL MATERIAL SHALL BE ACCORDING TO THE EARTHWORK SECTIONS OF THE SPECIFICATIONS, OR AS ORDERED BY THE ENGINEER.

NOTES:
1. 6" MIN FOR PIPE DIAMETER < 24"
   12" MIN FOR PIPE DIAMETER > 24"
2. MAX TRENCH WIDTH @ TOP OF PIPE:
   O.D. + 36" FOR, 18" & LARGER PIPE O.D.
   O.D. + 24" FOR LESS THAN 18" PIPE O.D.
3. MIN TRENCH BOTTOM WIDTH =
   O.D. + 24" FOR MECHANICAL COMPACTION



TRENCH SECTION FLEXIBLE PIPE

SCALE: NTS

C601

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

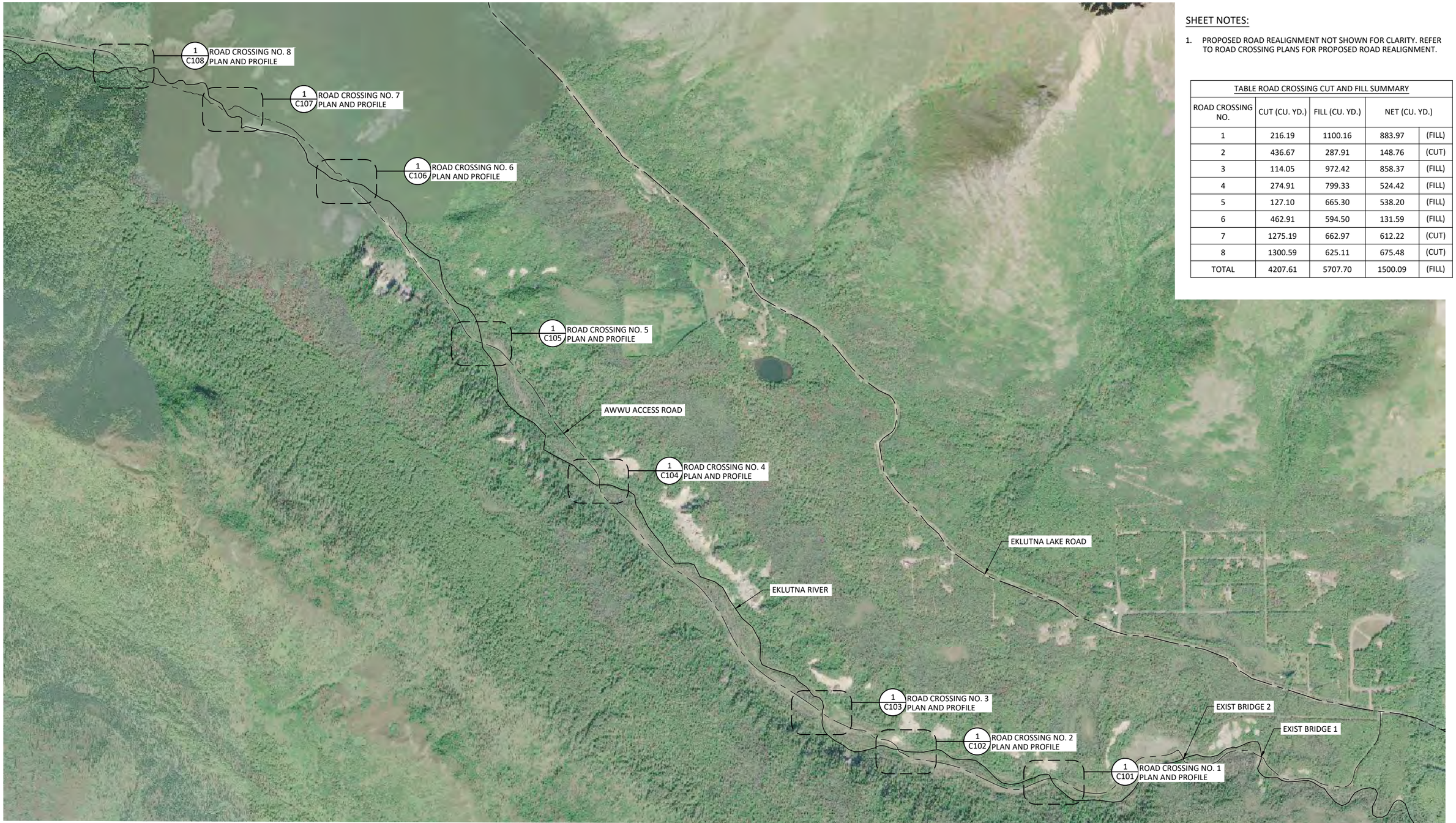
EKLUTNA FISH & WILDLIFE PROJECT
AWWU MAINTENANCE ROAD AND BRIDGES
STANDARD CIVIL DETAILS 1

DESIGNED L.VO
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
GC002

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\GC002.dwg Plot date: Sep 26, 2023 06:36pm, CAD User: HaberFlavia



SHEET NOTES:

1. PROPOSED ROAD REALIGNMENT NOT SHOWN FOR CLARITY. REFER TO ROAD CROSSING PLANS FOR PROPOSED ROAD REALIGNMENT.

TABLE ROAD CROSSING CUT AND FILL SUMMARY

ROAD CROSSING NO.	CUT (CU. YD.)	FILL (CU. YD.)	NET (CU. YD.)	
1	216.19	1100.16	883.97	(FILL)
2	436.67	287.91	148.76	(CUT)
3	114.05	972.42	858.37	(FILL)
4	274.91	799.33	524.42	(FILL)
5	127.10	665.30	538.20	(FILL)
6	462.91	594.50	131.59	(FILL)
7	1275.19	662.97	612.22	(CUT)
8	1300.59	625.11	675.48	(CUT)
TOTAL	4207.61	5707.70	1500.09	(FILL)

OVERALL SITE KEY PLAN
SCALE: 1"=750'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT
AWWU MAINTENANCE ROAD AND BRIDGES

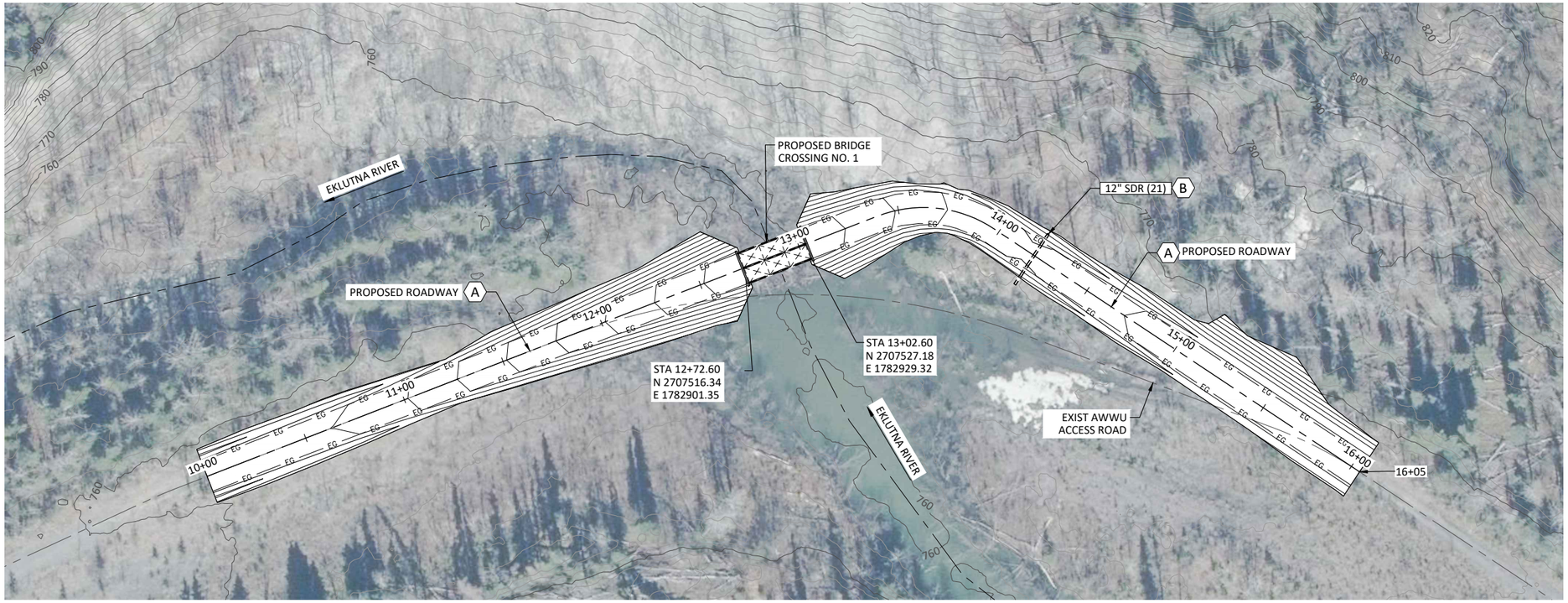
OVERALL SITE KEY PLAN AND EARTHWORK QUANTITIES

DESIGNED L. VO
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
C001

JOB NO: 0000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\C001.dwg Plot date: Sep 29, 2023 02:18pm, CAD User: HaberFlavia



1 / C001 ROAD CROSSING NO. 1 PLAN

SCALE: 1"= 30'

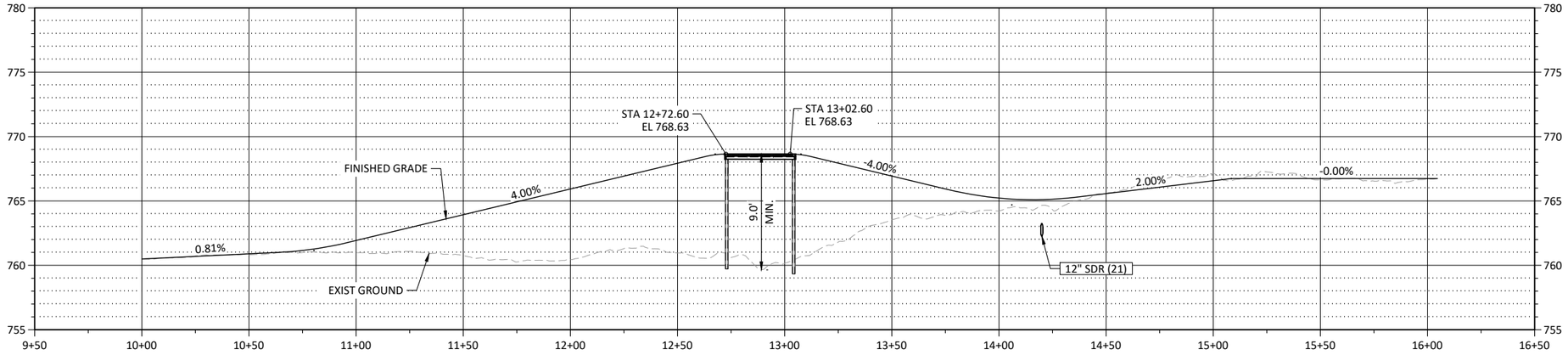
SHEET NOTES:

1. REFER TO STRUCTURAL DWG FOR BRIDGE DETAILS.

SHEET KEY NOTES:

A CONSTRUCT 15 FT WIDE ROAD PER STD DETAIL C137.

B INSTALL 12 INCH CULVERT PER STD DETAIL C601.



PROFILE

SCALE: HORIZ 1"= 30'

VERT 1"= 5'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

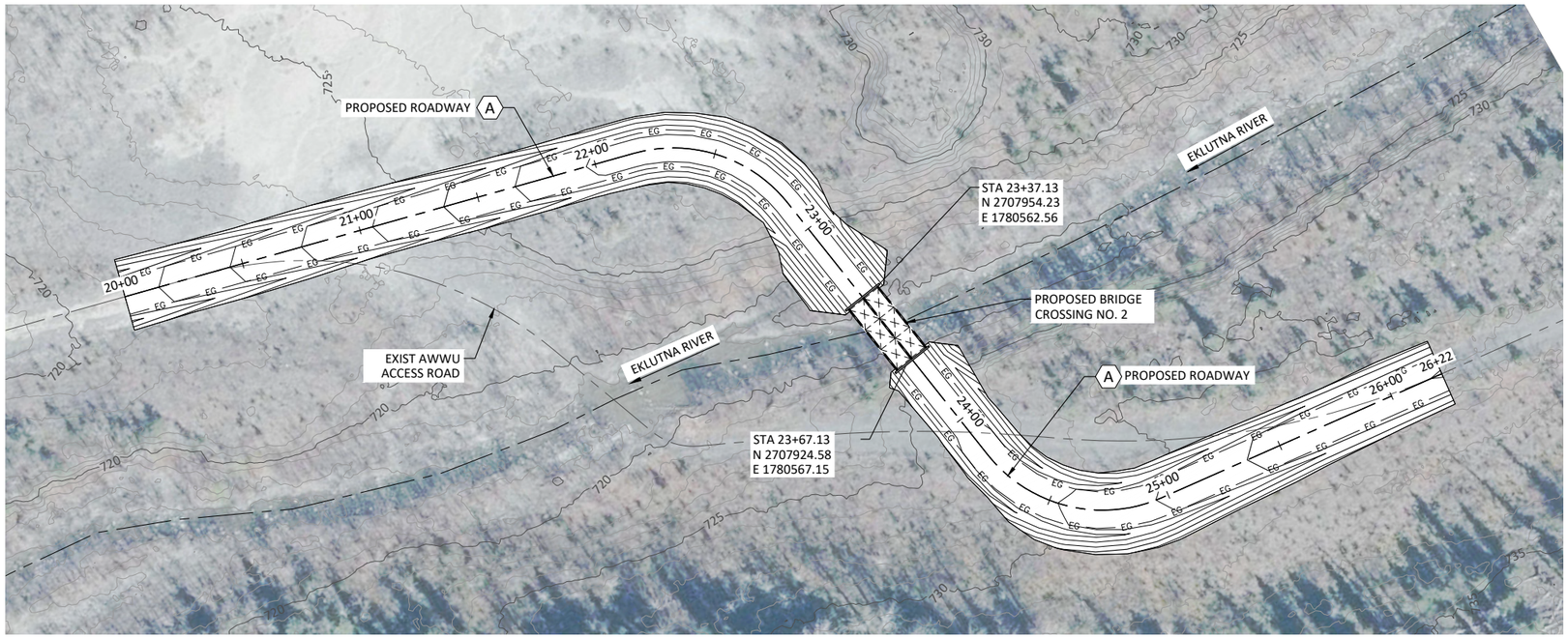
ROAD CROSSING NO. 1
PLAN AND PROFILE

DESIGNED L. VO
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
C101

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\C101.dwg Plot date: Sep 29, 2023 01:50pm, CAD User: HaberFlavia



1 / C001 ROAD CROSSING NO. 2 PLAN

SCALE: 1"= 30'

0" 30' 60'

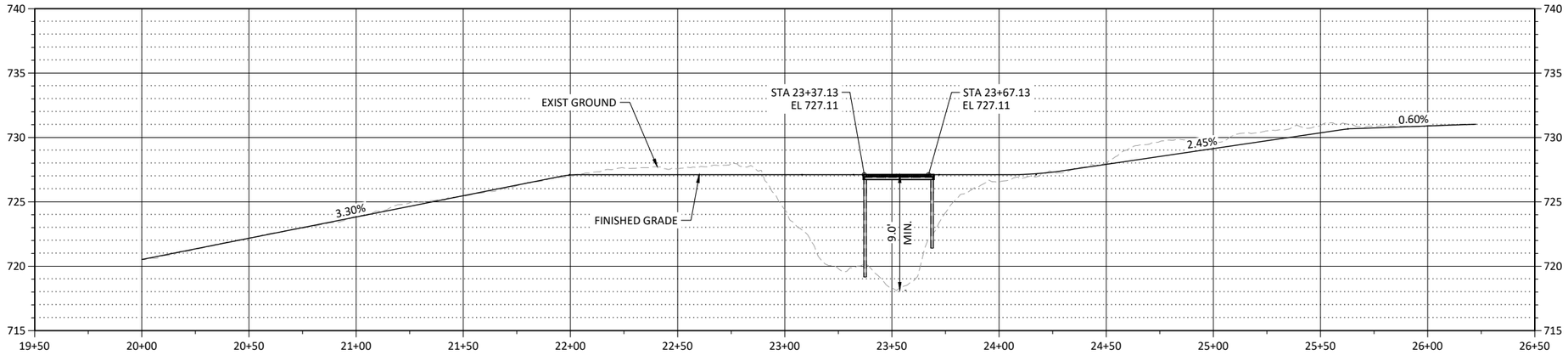
N

SHEET NOTES:

1. REFER TO STRUCTURAL DWG FOR BRIDGE DETAILS.

SHEET KEY NOTES:

A CONSTRUCT 15 FT WIDE ROAD PER STD DETAIL C137.



PROFILE

SCALE: HORIZ 1"= 30'

VERT 1"= 5'

0" 30' 60'

0" 5' 10'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

ROAD CROSSING NO. 2
PLAN AND PROFILE

DESIGNED L. VO

DRAWN F. HABER

CHECKED J. BOAG

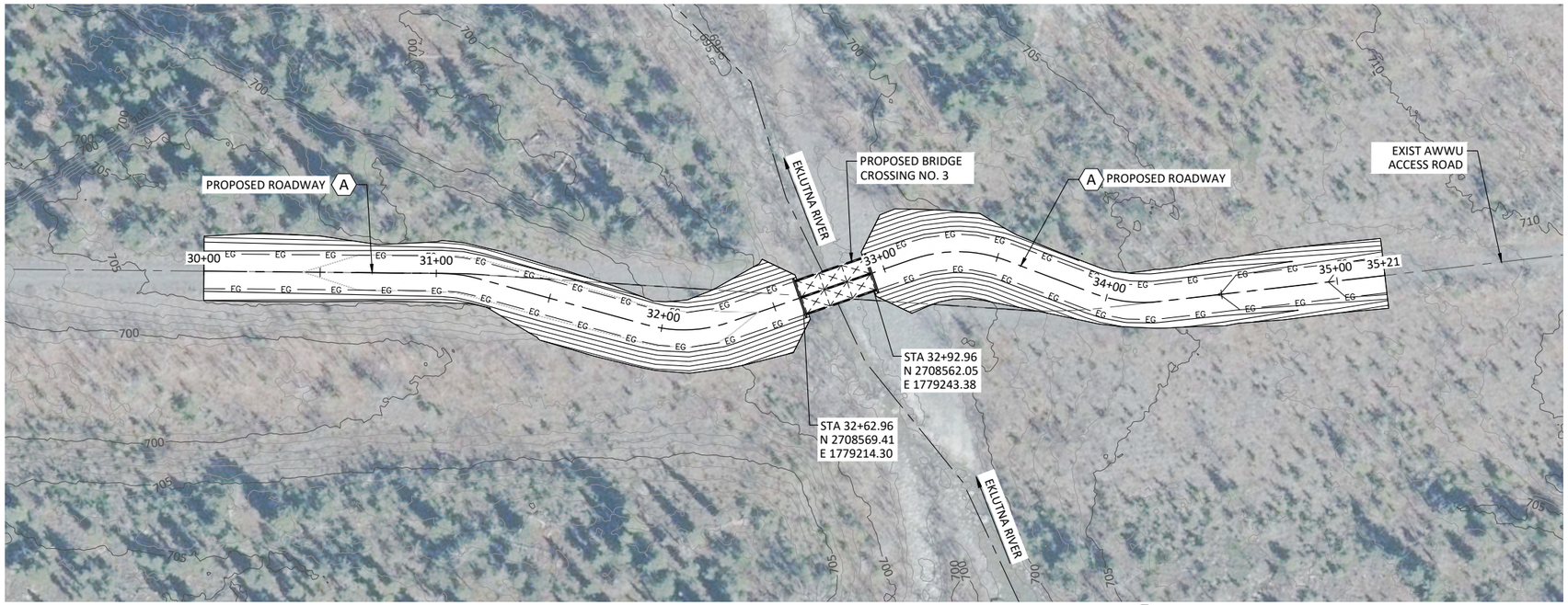
PROJECT DATE 10/6/23

DRAWING

C102

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\C102.dwg Plot date: Sep 29, 2023 11:59am, CAD User: HaberFlavia

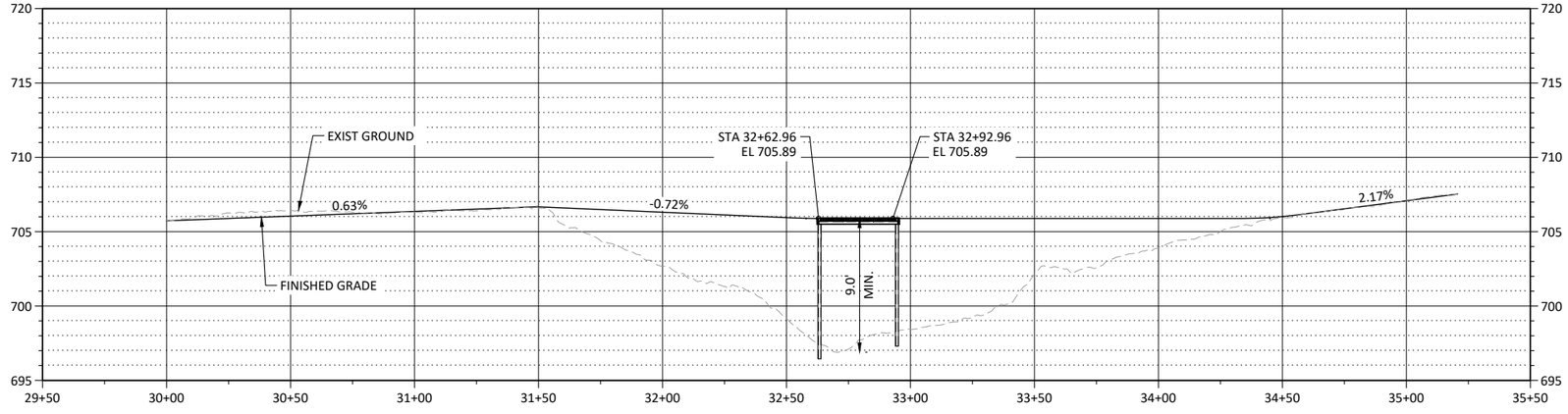


1 / C001 ROAD CROSSING NO. 3 PLAN

SCALE: 1"= 30'

0" 30' 60'

N



PROFILE

SCALE: HORIZ 1"= 30'

VERT 1"= 5'

0" 30' 60'

0" 5' 10'

SHEET NOTES:

1. REFER TO STRUCTURAL DWG FOR BRIDGE DETAILS.

SHEET KEY NOTES:

A CONSTRUCT 15 FT WIDE ROAD PER STD DETAIL C137.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

ROAD CROSSING NO. 3
PLAN AND PROFILE

DESIGNED L. VO

DRAWN F. HABER

CHECKED J. BOAG

PROJECT DATE 10/6/23

DRAWING

C103

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\C103.dwg Plot date: Sep 29, 2023 12:00pm, CAD User: HaberFlavia

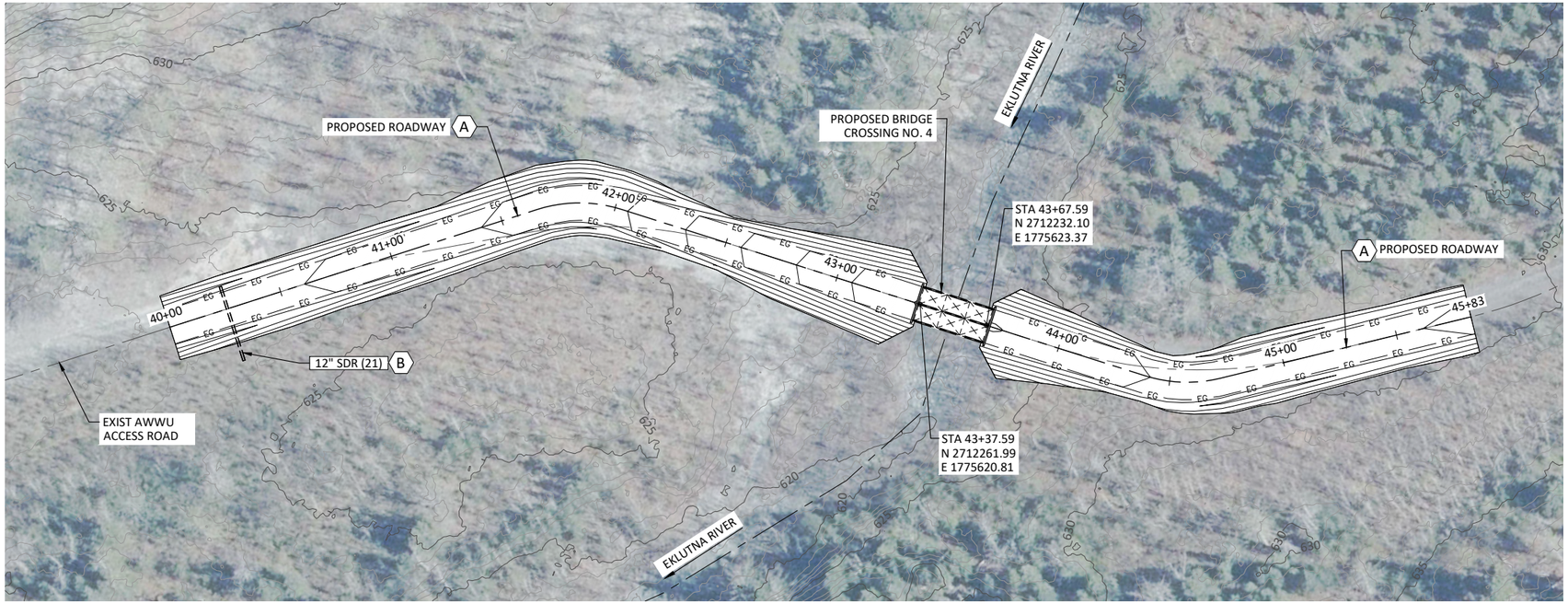
SHEET NOTES:

1. REFER TO STRUCTURAL DWG FOR BRIDGE DETAILS.

SHEET KEY NOTES:

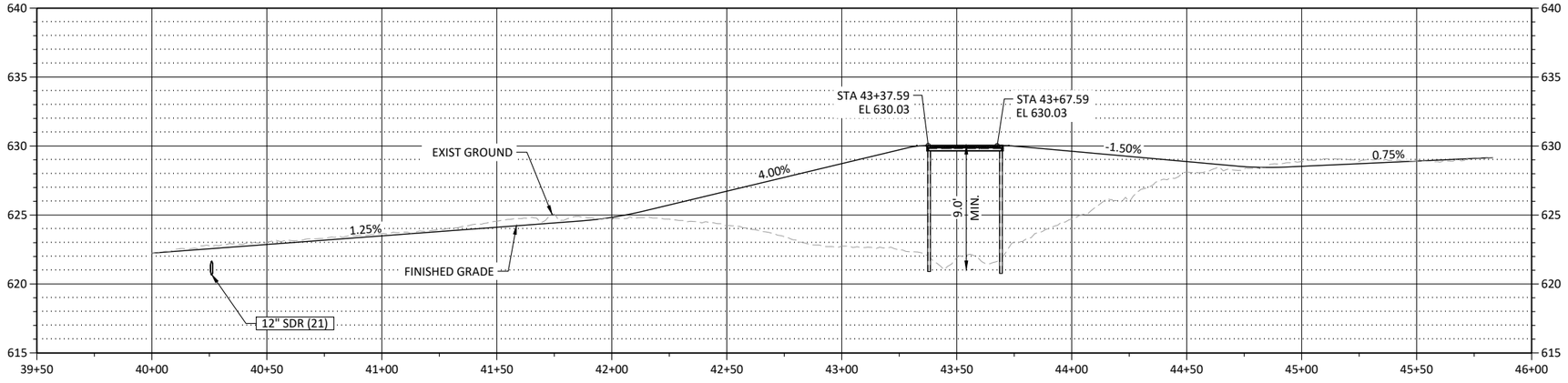
A CONSTRUCT 15 FT WIDE ROAD PER STD DETAIL C137.

B INSTALL 12 INCH CULVERT PER STD DETAIL C601.



1 / C001 ROAD CROSSING NO. 4 PLAN

SCALE: 1"= 30'



PROFILE

SCALE: HORIZ 1"= 30'

VERT 1"= 5'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

ROAD CROSSING NO. 4
PLAN AND PROFILE

DESIGNED L. VO

DRAWN F. HABER

CHECKED J. BOAG

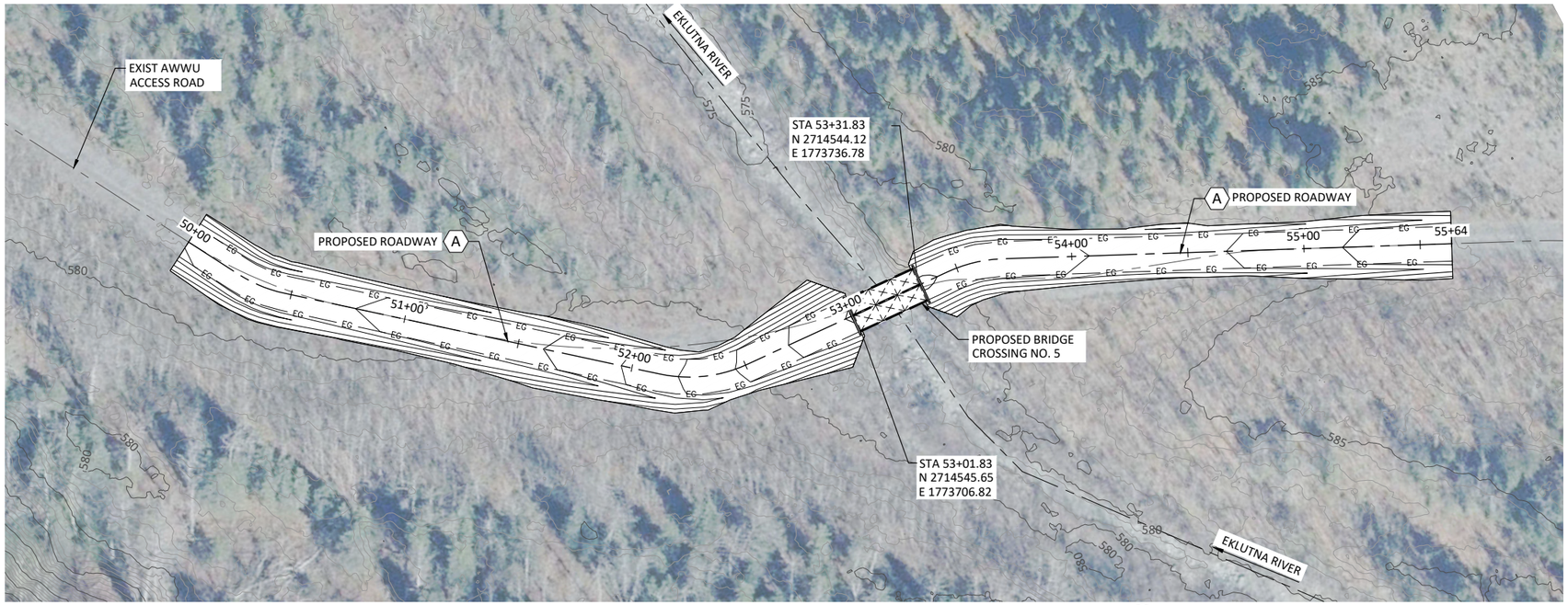
PROJECT DATE 10/6/23

DRAWING

C104

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\C104.dwg Plot date: Sep 29, 2023 12:00pm, CAD User: HaberFlavia

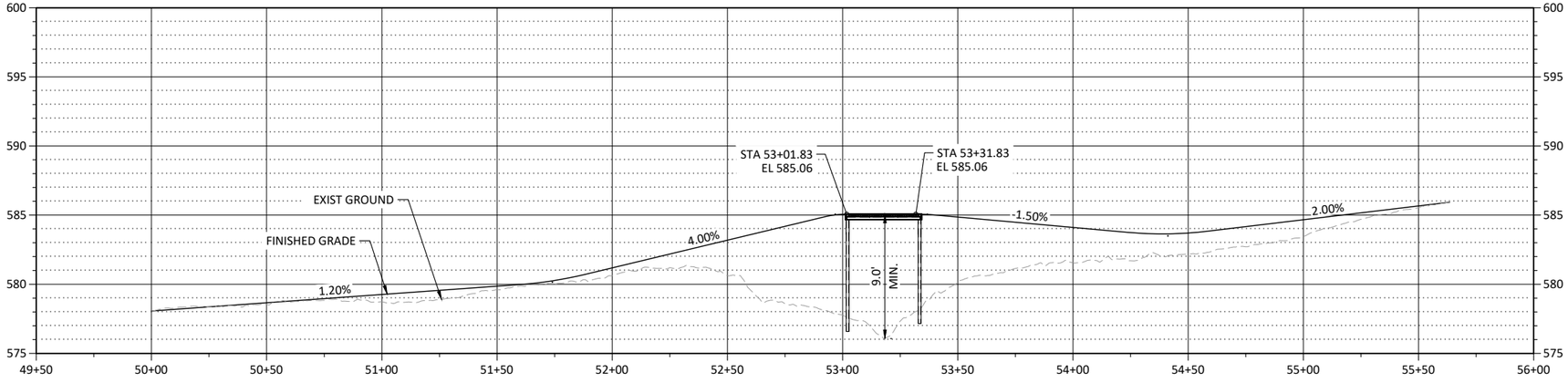


1 C001 ROAD CROSSING NO. 5 PLAN

SCALE: 1"= 30'

0" 30' 60'

N



PROFILE

SCALE: HORIZ 1"= 30'

VERT 1"= 5'

0" 30' 60'

0" 5' 10'

SHEET NOTES:

1. REFER TO STRUCTURAL DWG FOR BRIDGE DETAILS.

SHEET KEY NOTES:

A CONSTRUCT 15 FT WIDE ROAD PER STD DETAIL C137.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

ROAD CROSSING NO. 5
PLAN AND PROFILE

DESIGNED L. VO

DRAWN F. HABER

CHECKED J. BOAG

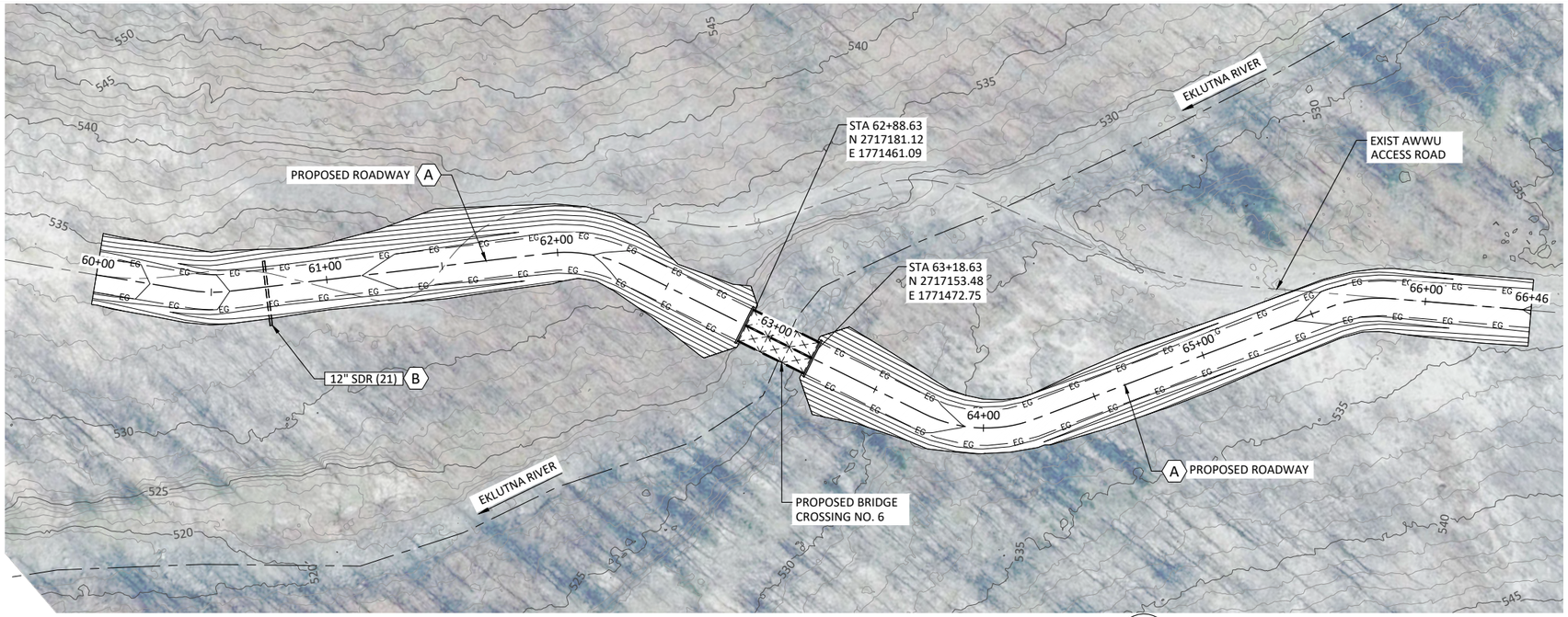
PROJECT DATE 10/6/23

DRAWING

C105

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\C105.dwg Plot date: Sep 29, 2023 12:02pm, CAD User: HaberFlavia



1 / C001 ROAD CROSSING NO. 6 PLAN

SCALE: 1"= 30'

0" 30' 60'

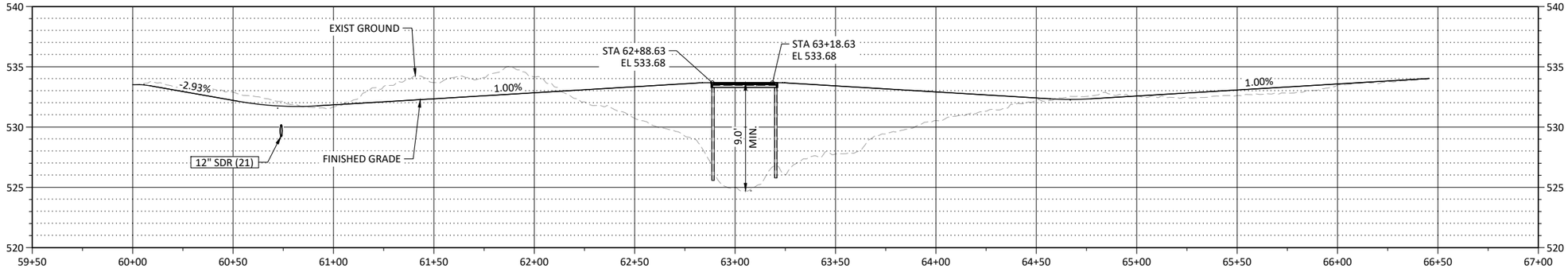
SHEET NOTES:

1. REFER TO STRUCTURAL DWG FOR BRIDGE DETAILS.

SHEET KEY NOTES:

A CONSTRUCT 15 FT WIDE ROAD PER STD DETAIL C137.

B INSTALL 12 INCH CULVERT PER STD DETAIL C601.



PROFILE

SCALE: HORIZ 1"= 30'

VERT 1"= 5'

0" 30' 60'

0" 5' 10'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

ROAD CROSSING NO. 6
PLAN AND PROFILE

DESIGNED L. VO

DRAWN F. HABER

CHECKED J. BOAG

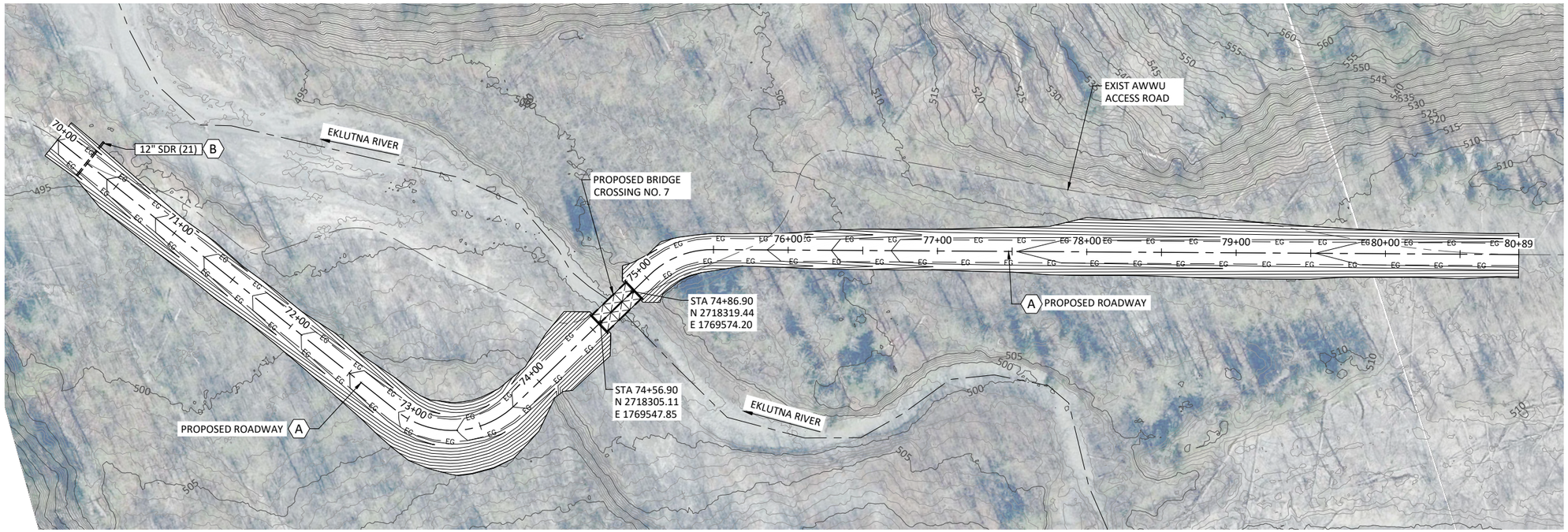
PROJECT DATE 10/6/23

DRAWING

C106

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\C106.dwg Plot date: Sep 29, 2023 01:39pm, CAD User: HaberFlavia



1 / C001 ROAD CROSSING NO. 7 PLAN

SCALE: 1"= 40'

0" 40' 80'

N

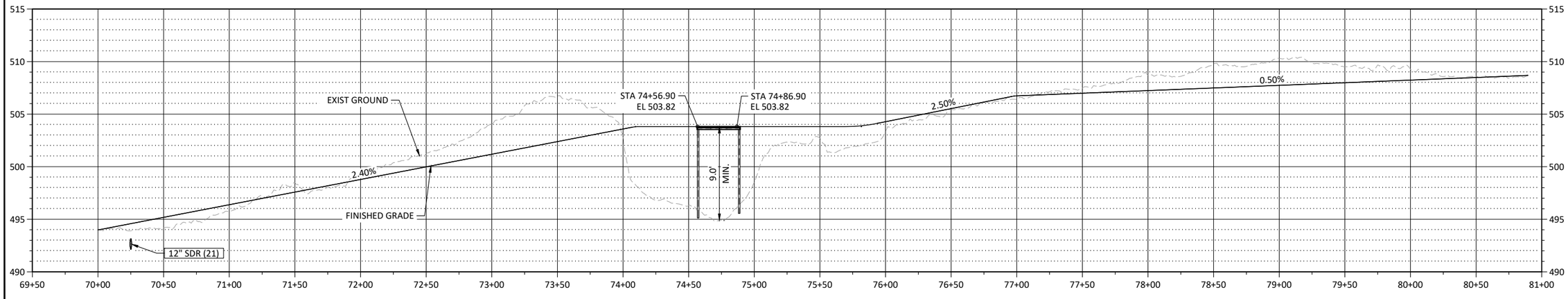
SHEET NOTES:

1. REFER TO STRUCTURAL DWG FOR BRIDGE DETAILS.

SHEET KEY NOTES:

A CONSTRUCT 15 FT WIDE ROAD PER STD DETAIL C137.

B INSTALL 12 INCH CULVERT PER STD DETAIL C601.



PROFILE

SCALE: HORIZ 1"= 40'

VERT 1"= 5'

0" 40' 80'

0" 5' 10'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

ROAD CROSSING NO. 7
PLAN AND PROFILE

DESIGNED L. VO

DRAWN F. HABER

CHECKED J. BOAG

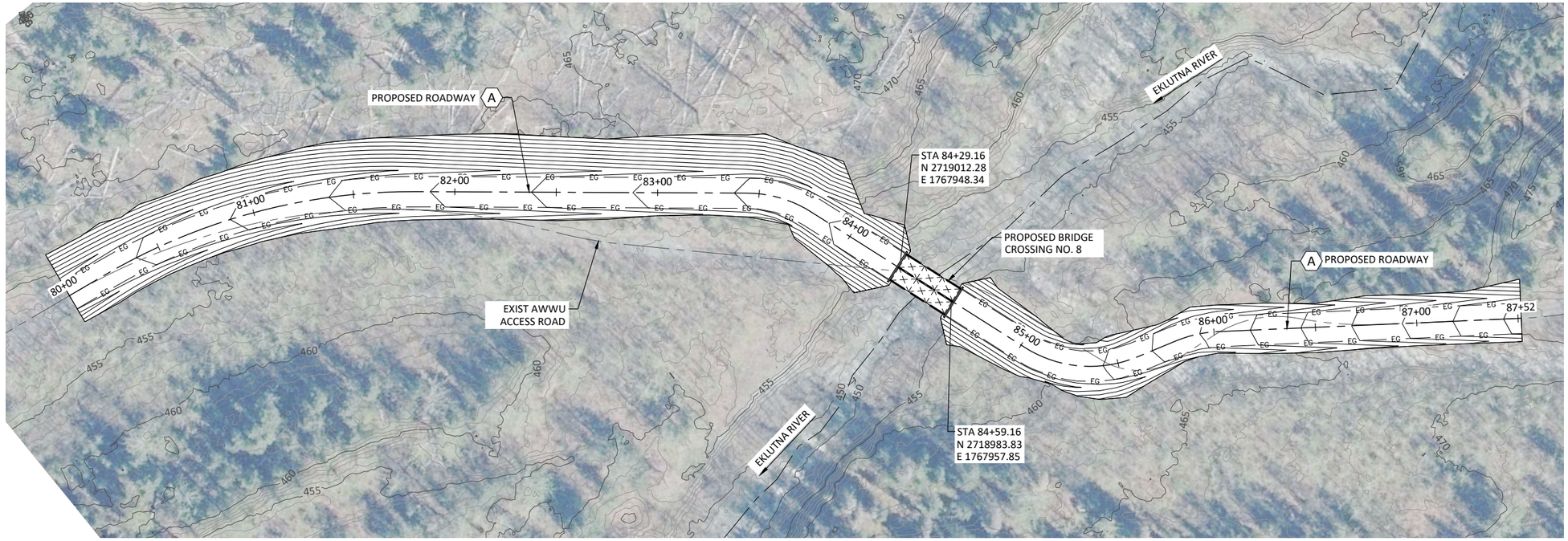
PROJECT DATE 10/6/23

DRAWING

C107

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\C107.dwg Plot date: Sep 29, 2023 01:57pm, CAD User: HaberFlavia

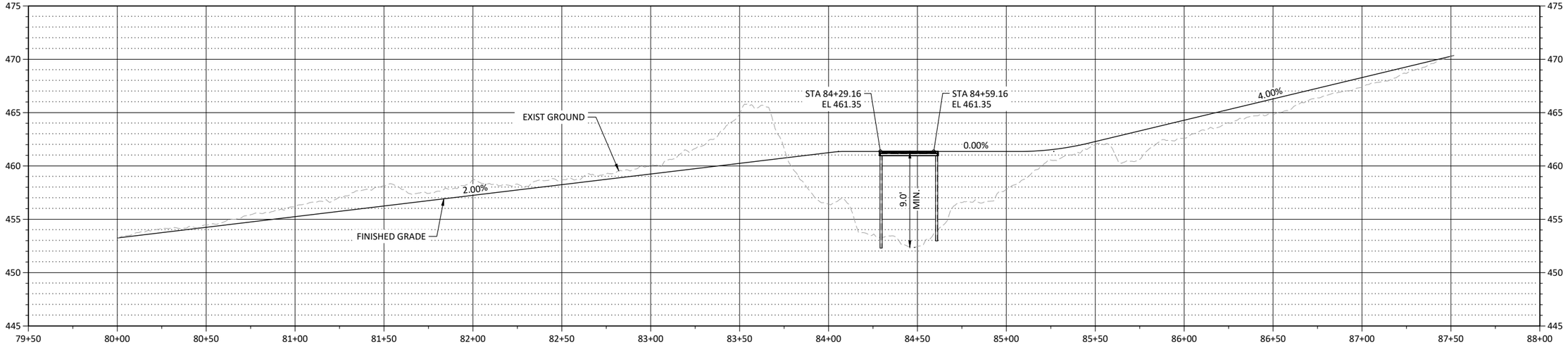


1 C001 ROAD CROSSING NO. 8 PLAN

SCALE: 1"= 30'

0" 30' 60'

N



PROFILE

SCALE: HORIZ 1"= 30'

VERT 1"= 5'

0" 30' 60'

0" 5' 10'

SHEET NOTES:

1. REFER TO STRUCTURAL DWG FOR BRIDGE DETAILS.

SHEET KEY NOTES:

A CONSTRUCT 15 FT WIDE ROAD PER STD DETAIL C137.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

ROAD CROSSING NO. 8
PLAN AND PROFILE

DESIGNED L.VO

DRAWN F. HABER

CHECKED J. BOAG

PROJECT DATE 10/6/23

DRAWING

C108

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\C108.dwg Plot date: Sep 29, 2023 12:07pm, CAD User: HaberFlavia

GENERAL STRUCTURAL NOTES:
THE FOLLOWING NOTES ARE GENERAL AND APPLY TO THE ENTIRE PROJECT, UNLESS SPECIFICALLY NOTED OTHERWISE (UNO)

1) GENERAL:

A. CONSTRUCTION DOCUMENTS:
   1. THE CONTRACTOR SHALL REVIEW THE APPROVED CONTRACT DOCUMENTS AND NOTIFY THE ENGINEER OF ANY ERRORS OR DISCREPANCIES PRIOR TO THE START OF CONSTRUCTION.
   2. THE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY IF ANY UNIDENTIFIED EXISTING UNDERGROUND UTILITIES ARE DISCOVERED.
   3. THE STRUCTURAL CONTRACT DRAWINGS REPRESENT THE FINISHED STRUCTURE. THEY DO NOT INDICATE THE METHOD OF CONSTRUCTION. THE CONTRACTOR SHALL PROVIDE ALL MEASURES NECESSARY TO PROTECT THE STRUCTURE DURING CONSTRUCTION. SUCH MEASURES SHALL INCLUDE, BUT ARE NOT LIMITED TO, BRACING AND/OR SHORING FOR LOADS DUE TO CONSTRUCTION EQUIPMENT, ETC.
   4. UNDER NO CIRCUMSTANCES CAN STRUCTURAL COMPONENTS BE SUBSTITUTED, OMITTED, OR ALTERED FROM THE APPROVED SET OF CONSTRUCTION DOCUMENTS WITHOUT WRITTEN APPROVAL FROM THE ENGINEER.

B. DIMENSIONS AND NOTATIONS:
   1. WRITTEN DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS. DO NOT SCALE DRAWINGS.
   2. ABBREVIATIONS USED ON THE APPROVED CONSTRUCTION DOCUMENTS SHALL BE CONSIDERED TYPICAL ABBREVIATIONS FOR THE INDUSTRY. THE CONTRACTOR SHALL BE RESPONSIBLE TO NOTIFY THE ENGINEER IMMEDIATELY OF ANY ABBREVIATIONS THAT ARE UNKNOWN TO THE CONTRACTOR.

C. TYPICAL NOTES AND DETAILS:
   1. SPECIFIC NOTES AND DETAILS SHALL TAKE PRECEDENCE OVER STANDARD TYPICAL NOTES AND DETAILS.
   2. STANDARD TYPICAL NOTES AND DETAILS ARE TO BE USED WHEN REFERRED TO OR WHEN NO OTHER MORE RESTRICTIVE OR DIFFERENT DETAILS ARE SHOWN ON THE DRAWINGS.
   3. WORK NOT PARTICULARLY SHOWN OR SPECIFIED SHALL BE THE SAME AS SIMILAR PARTS THAT ARE SHOWN OR SPECIFIED.

D. CODE REQUIREMENTS:
   1. ALL WORK SHALL CONFORM TO THE MINIMUM STANDARDS OF REGULATING AGENCIES WHICH MAY HAVE AUTHORITY OVER ANY PORTION OF THE WORK.
   2. SPECIFICATIONS, CODES AND STANDARDS NOTED SHALL BE OF THE LATEST APPROVED ISSUE, INCLUDING SUPPLEMENTS, UNLESS NOTED OTHERWISE.
   3. MINIMUM UNIFORM (BLANKET) ROOF SNOW LOAD, AS DEFINED BY LOCAL BUILDING OFFICIAL OR STATE, SHALL BE DESIGNED FOR.

2) CODES, STANDARDS, AND REFERENCES:

A. ASCE 7-16: MINIMUM DESIGN LOADS AND ASSOCIATED CRITERIA FOR BUILDINGS AND OTHER STRUCTURES
B. ACI 318-14: BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE
C. ACI 350-06: CODE REQUIREMENTS FOR ENVIRONMENTAL ENGINEERING CONCRETE STRUCTURES
D. AISC 360-16 SPECIFICATION FOR STRUCTURAL STEEL BUILDINGS
E. 2018 INTERNATIONAL BUILDING CODE (IBC)

3) FOUNDATIONS AND GEOTECHNICAL:

A. GEOTECHNICAL DESIGN CRITERIA IS BASED ON THE RECOMMENDATIONS DOCUMENTED IN THE DESIGN DOCUMENTATION REPORT:

4) NON-SHRINK GROUT:
A. ALL GROUT WORK SHALL CONFORM TO THE LATEST EDITION OF ACI 301.
B. FORMWORK: DESIGN, ERECT, SUPPORT, BRACE AND MAINTAIN FORMWORK TO SUPPORT VERTICAL, LATERAL, STATIC AND DYNAMIC LOADS THAT MIGHT BE APPLIED UNTIL STRUCTURE CAN SUPPORT SUCH LOADS.

5) STRUCTURAL AND MISCELLANEOUS STEEL:

A. STRUCTURAL STEEL SHALL CONFORM TO THE FOLLOWING ASTM STANDARDS:

a)	WIDE FLANGE SHAPES	A992, GR 50 GALV
b)	OTHER SHAPES, PLATES, ANGLES AND BARS	A36 GALV
c)	STEEL PIPE	A53, GRADE B GALV
d)	HOLLOW STRUCTURAL SECTIONS	A500, GRADE B GALV

B. WELDS: PROVIDE 70KSI LOW HYDROGEN ELECTRODE OR PROCESS IN ACCORDANCE WITH AWS A5.1.
C. BOLTS, U.N.O.:
   1. STAINLESS STEEL: ASTM A193, GRADE 8, CLASS 2, AISI TYPE 316
D. DRILL AND EPOXY ANCHOR BOLTS:
   1. STAINLESS STEEL: ASTM A193, GRADE 8, CLASS 2, AISI, TYPE 316 OR EQUAL APPROVED BY ENGINEER
E. EPOXY BOLT OR EXPANSION BOLT SUBSTITUTIONS FOR EMBEDDED BOLTS IS PROHIBITED WITHOUT WRITTEN CONSENT FROM THE ENGINEER.
F. UNLESS NOTED OTHERWISE ON THE DRAWINGS, ALL EPOXY BOLTS SHALL BE AS SPECIFIED.
G. ALL STRUCTURAL STEEL SHALL BE DETAILED, FABRICATED, AND ERECTED IN ACCORDANCE WITH THE AISC CODE OF STANDARD PRACTICE, EXCEPT AS MODIFIED IN THESE NOTES AND THE PROJECT SPECIFICATIONS.

6) ROUGH CARPENTRY:

A. STANDARDS AND REFERENCES

ROUGH CARPENTRY CONSTRUCTION SHALL COMPLY WITH THE FOLLOWING IN ADDITION TO THE STANDARDS AND REFERENCES LISTED IN GENERAL NOTE 2:

NDS	ANSI/AWC - NATIONAL DESIGN SPECIFICATION FOR WOOD CONSTRUCTION, 2015 EDITION
SDPWS	ANSI/AWC - SPECIAL DESIGN PROVISIONS FOR WIND AND SEISMIC, 2015 EDITION

B. MATERIALS

1. LUMBER GRADE – STRUCTURAL FRAMING LUMBER SHALL BE DOUGLAS FIR -LARCH, NO. 2 OR BETTER UNLESS OTHERWISE INDICATED. REFER TO ARCH FOR TIMBER SIDING MATERIAL SPECIFICATION.

2. MOISTURE CONTENT - STRUCTURAL WOOD MEMBERS SHALL HAVE A MAXIMUM MOISTURE CONTENT OF 19 PERCENT AND NOT LESS THAN ONE PERCENT.

3. PRESERVATIVE TREATMENT – WOOD SHALL BE PRESERVATIVE TREATED IN ACCORDANCE WITH AWPA STANDARD U1 AND M4 FOR THE SPECIES, PRODUCT, PRESERVATIVE AND END USE. PRESERVATIVE TREATED WOOD SHALL BE MARKED PER IBC SECTION 2303.1.9.1.

4. CONNECTORS AND FASTENERS – WOOD CONSTRUCTION CONNECTORS AND FASTENERS SHALL BE GALVANIZED.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

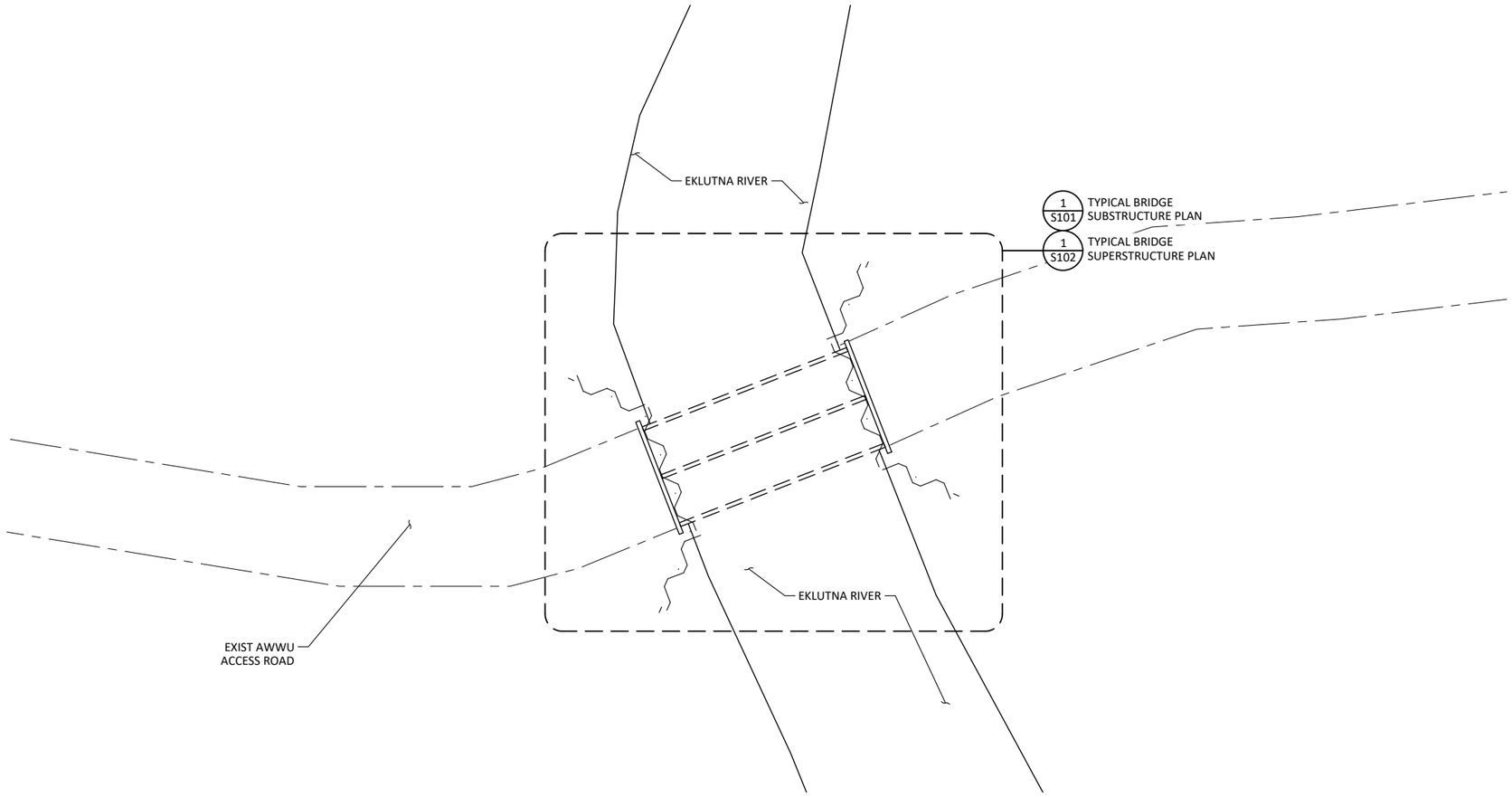
EKLUTNA FISH & WILDLIFE PROJECT
AWWU MAINTENANCE ROAD AND BRIDGES
STRUCTURAL GENERAL NOTES

DESIGNED K. HEINDEL
DRAWN F. HABER
CHECKED C. BY
PROJECT DATE 10/6/23

DRAWING
GS001

JOB NO: 0000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\GS001 STRUCTURAL GENERAL NOTES.dwg Plot date: Sep 27, 2023 08:13pm, CAD User: HaberFlavia



TYPICAL BRIDGE CROSSING PLAN

SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH
POWERING ALASKA'S FUTURE

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

TYPICAL BRIDGE CROSSING PLAN

DESIGNED K. HEINDEL

DRAWN F. HABER

CHECKED J. BOAG

PROJECT DATE 10/6/23

DRAWING

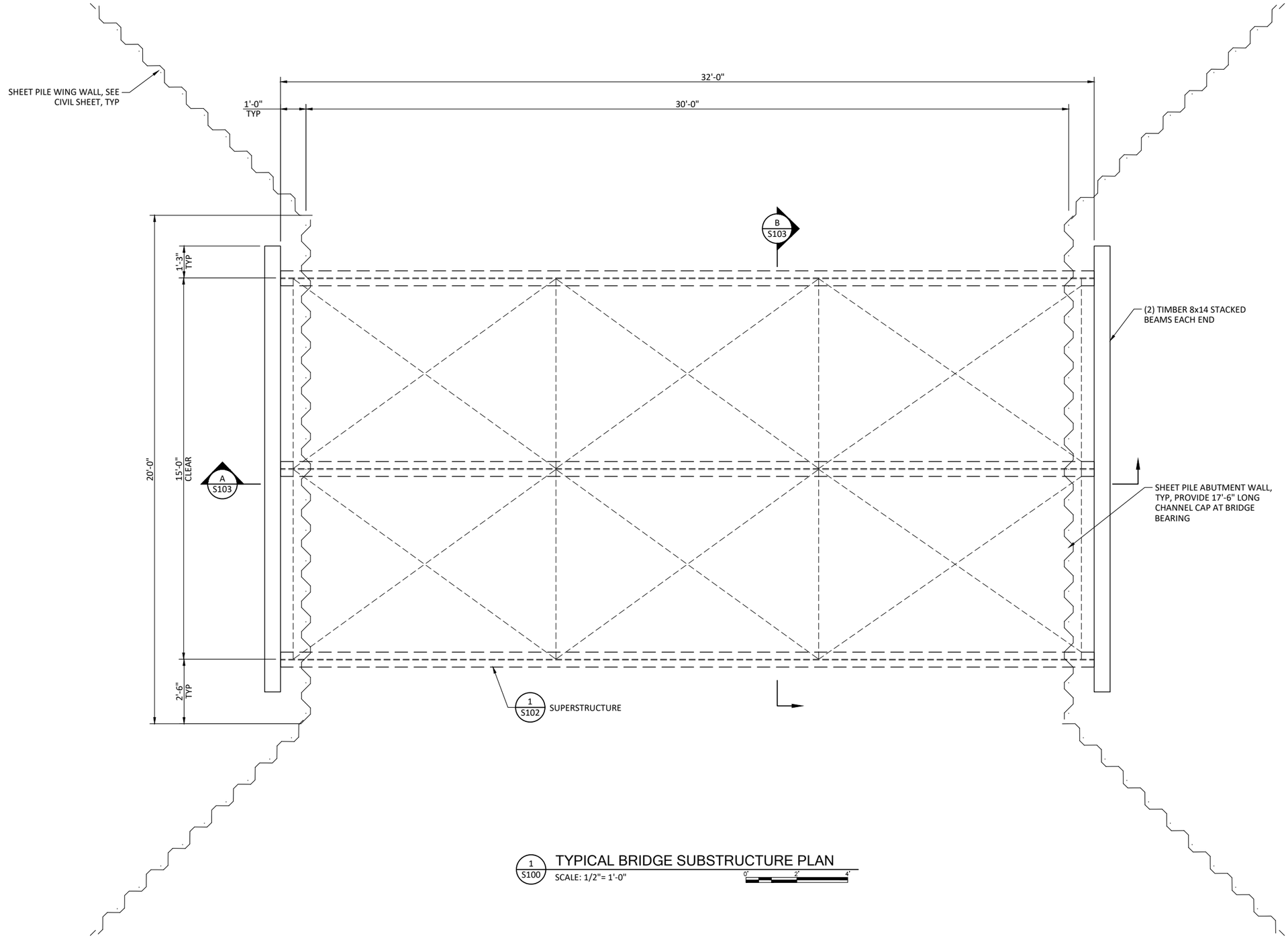
S100

JOB NO: 0000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\S100.dwg Plot date: Sep 27, 2023 08:13pm, CAD User: HaberFlavia

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



1 S100 TYPICAL BRIDGE SUBSTRUCTURE PLAN

SCALE: 1/2"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

TYPICAL BRIDGE SUBSTRUCTURE PLAN

DESIGNED K. HEINDEL
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING

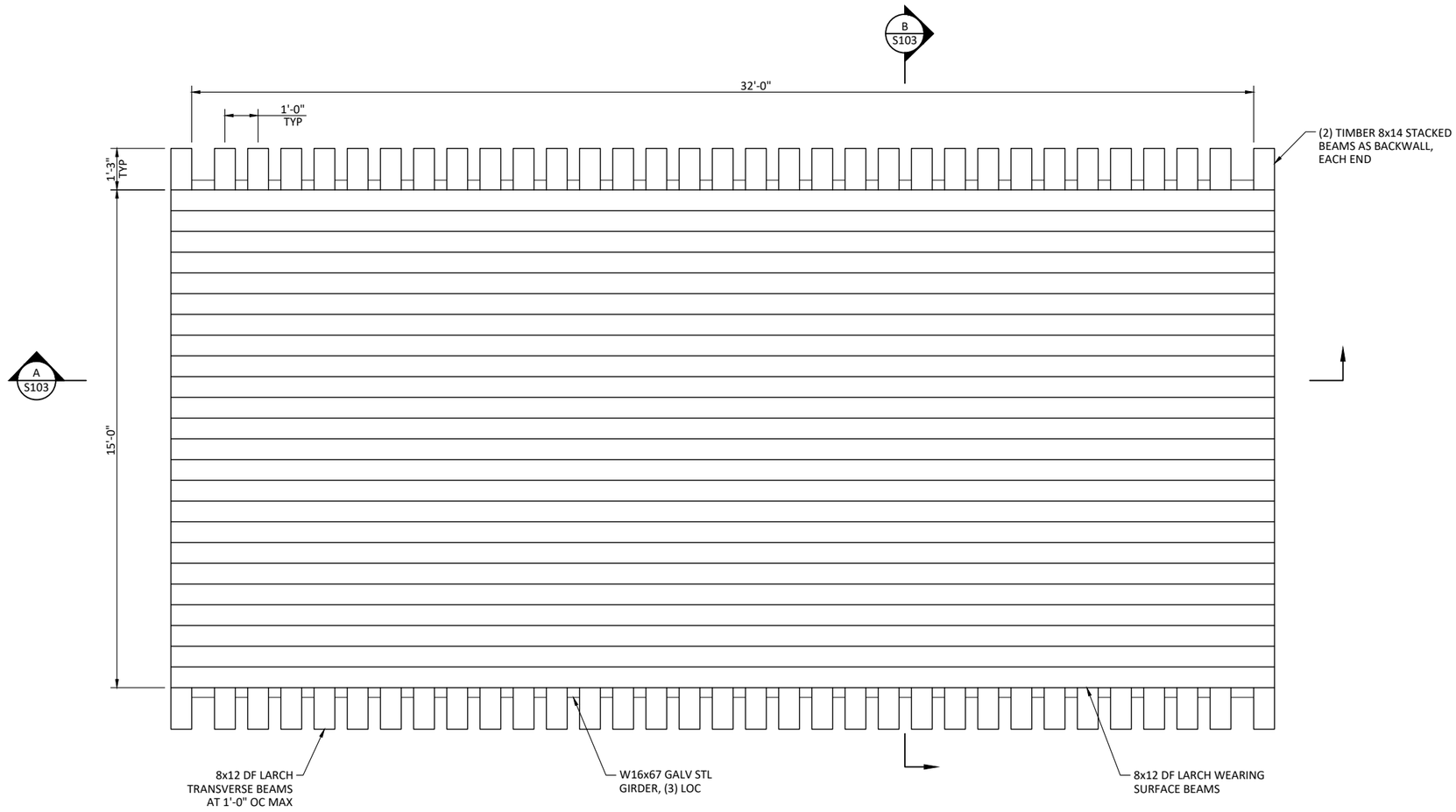
S101

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\S101.dwg Plot date: Sep 27, 2023 08:17pm, CAD User: HaberFlavia

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
2. INTERIOR W16x67 GALV STL GIRDER AND BRACING NOT SHOWN FOR CLARITY.



1 / S100 TYPICAL BRIDGE SUBSTRUCTURE PLAN

SCALE: 1/2"= 1'-0"

0' 2' 4'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

TYPICAL BRIDGE SUPERSTRUCTURE PLAN

DESIGNED K. HEINDEL

DRAWN J. HOLT

CHECKED J. BOAG

PROJECT DATE 10/6/23

DRAWING

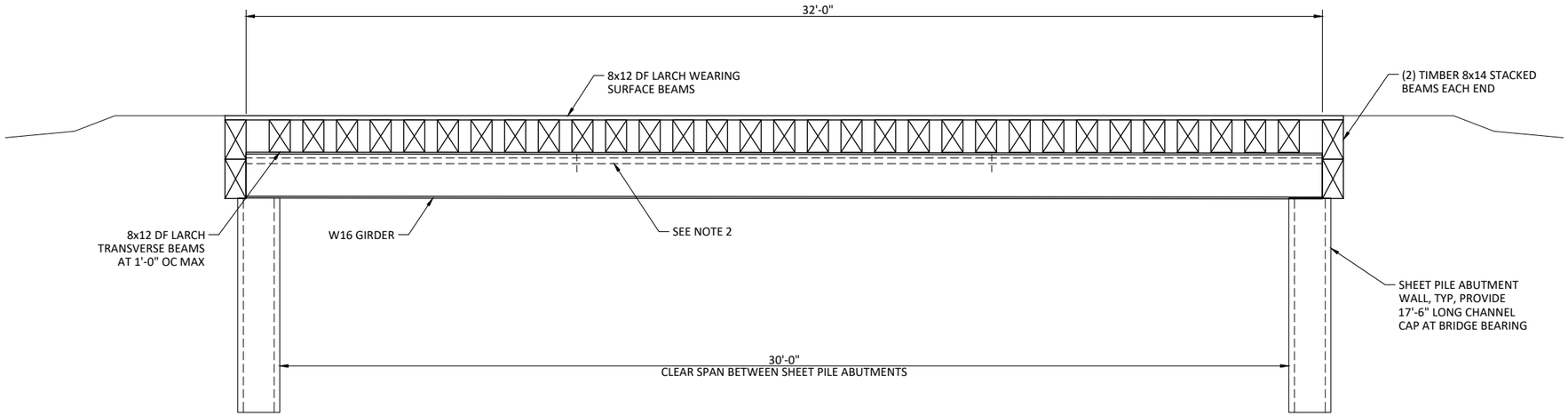
S102

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\S102.dwg Plot date: Sep 27, 2023 08:18pm, CAD User: HaberFlavia

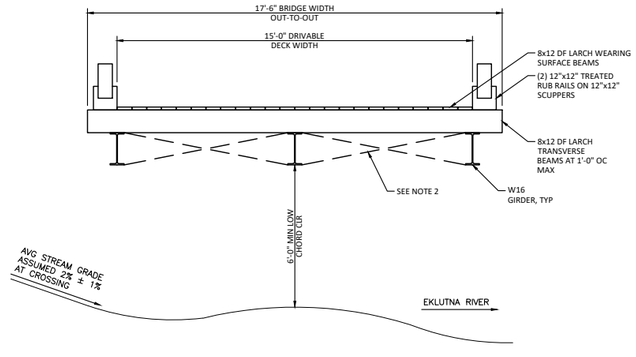
SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
2. INTERIOR GALV STL BRACING TO BE DETERMINED.



A S101 BRIDGE SECTION

SCALE: 1/2"= 1'-0"



B S101 BRIDGE SECTION

SCALE: 1/2"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

AWWU MAINTENANCE ROAD AND BRIDGES

TYPICAL BRIDGE SECTIONS

DESIGNED K. HEINDEL

DRAWN J. HOLT

CHECKED J. BOAG

PROJECT DATE 10/6/23

DRAWING

S103

JOB NO: 000000

Path: C:\Vault\Chugach Electric\AWWU Maintenance Bridge\S103.dwg Plot date: Sep 27, 2023 08:19pm, CAD User: HaberFlavia

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Appendix B. Class 4 Opinion of Probable Construction Costs

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Technical Memorandum			
To:	Mike Brodie, P.E. Chugach Electric Association	Project:	Eklutna Fish & Wildlife Project
From:	Sean P. Ellenson, P.E. McMillen, Inc	cc:	Curtis Neibaur McMillen, Inc
Prepared by:	Paul Rader McMillen, Inc	Job No.:	22-028
Date:	October 6, 2023		
Subject:	Class 4 Opinion of Probable Construction Costs – AWWU Maintenance Road and Bridges		

Revision Log

Revision No.	Date	Revision Description
0	October 6, 2023	Initial Draft

1.0 Introduction

1.1 Purpose

This technical memorandum (TM) presents a summary of the Opinion of Probable Construction Costs (OPCC) for the AWWU Maintenance Road and Bridges as part of the Eklutna Fish & Wildlife Project. The OPCC estimates are based on the 15% Design drawing package dated October 6, 2023.

1.2 Background

The Eklutna Hydroelectric Project (Project) is located in Southcentral Alaska approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna (NVE). The Project was originally constructed by the Federal government in the 1950s but was later sold to, and is currently owned by, the Municipality of Anchorage (MOA), Chugach Electric Association, Inc. (Chugach), and the Matanuska Electric Association (MEA), collectively the “Project Owners”. As part of the sale of the Project, the current Project Owners entered into the 1991 Fish and Wildlife Agreement (1991 Agreement) with the National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the State of Alaska (the Parties). The 1991 Agreement requires the Project Owners to develop and propose to the Governor of Alaska (Governor) a program to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Project.

In development of the program, the Project Owners have met with various stakeholders to identify protection, mitigation, and enhancement measures that may be implemented within the Project study area. These measures were incorporated into a Phase 1 Engineering Feasibility Study which advanced the preliminary design, estimated capital expenditures, and determined operations and maintenance costs for each alternative for the purposes of evaluation. Selected measures from the Phase 1 Engineering Feasibility Study have been advanced to a Phase 2 Engineering Feasibility Study which includes a 15% level of design and a Class 4 OPCC.

1.3 Estimation Preparation

McMillen has utilized historical cost data from similarly technical projects which we have designed or constructed as a self-performing general contractor, as the basis of our Class 4 OPCC estimate. Appropriate overhead and profit markups have been included below the subtotal to account for the competitive bidders' markups, they are likely to apply on their bid prices. A 20% contingency has been included at this stage to account for details and minor project features which are not yet included in the project documents at the 15% Design level of detail. The contingency value may be reduced in future versions of the OPCC estimate, as the project design is advanced.

General requirement and mobilization costs are estimated at 12% and 8% of construction activity costs based on historical project ranges. Overhead and profit markups have been included at 10% and 5% respectively of direct construction costs. The estimate is in 2023 dollars. No escalation is included in the pricing. This OPCC estimate is consistent with a Class 4 estimate as defined by the AACE classification system, as shown in Figure 1-1 and 1-2. For the purposes of this project, McMillen has utilized the accuracy range of -30% to +50%.

CLASS 4 ESTIMATE	
Description: Class 4 estimates are generally prepared based on limited information and subsequently have fairly wide accuracy ranges. They are typically used for project screening, determination of feasibility, concept evaluation, and preliminary budget approval. Typically, engineering is from 1% to 15% complete, and would comprise at a minimum the following: plant capacity, block schematics, indicated layout, process flow diagrams (PFDs) for main process systems, and preliminary engineered process and utility equipment lists. **Level of Project Definition Required:** 1% to 15% of full project definition. **End Usage:** Class 4 estimates are prepared for a number of purposes, such as but not limited to, detailed strategic planning, business development, project screening at more developed stages, alternative scheme analysis, confirmation of economic and/or technical feasibility, and preliminary budget approval or approval to proceed to next stage.	**Estimating Methods Used:** Class 4 estimates virtually always use stochastic estimating methods such as equipment factors, Lang factors, Hand factors, Chilton factors, Peters-Timmerhaus factors, Guthrie factors, the Miller method, gross unit costs/ratios, and other parametric and modeling techniques. **Expected Accuracy Range:** Typical accuracy ranges for Class 4 estimates are -15% to -30% on the low side, and +20% to +50% on the high side, depending on the technological complexity of the project, appropriate reference information, and the inclusion of an appropriate contingency determination. Ranges could exceed those shown in unusual circumstances. **Effort to Prepare (for US$20MM project):** Typically, as little as 20 hours or less to perhaps more than 300 hours, depending on the project and the estimating methodology used. **ANSI Standard Reference Z94.2-1989 Name:** Budget estimate (typically -15% to + 30%). **Alternate Estimate Names, Terms, Expressions, Synonyms:** Screening, top-down, feasibility, authorization, factored, pre-design, pre-study.

Figure 1-1: Class 4 Estimate Description

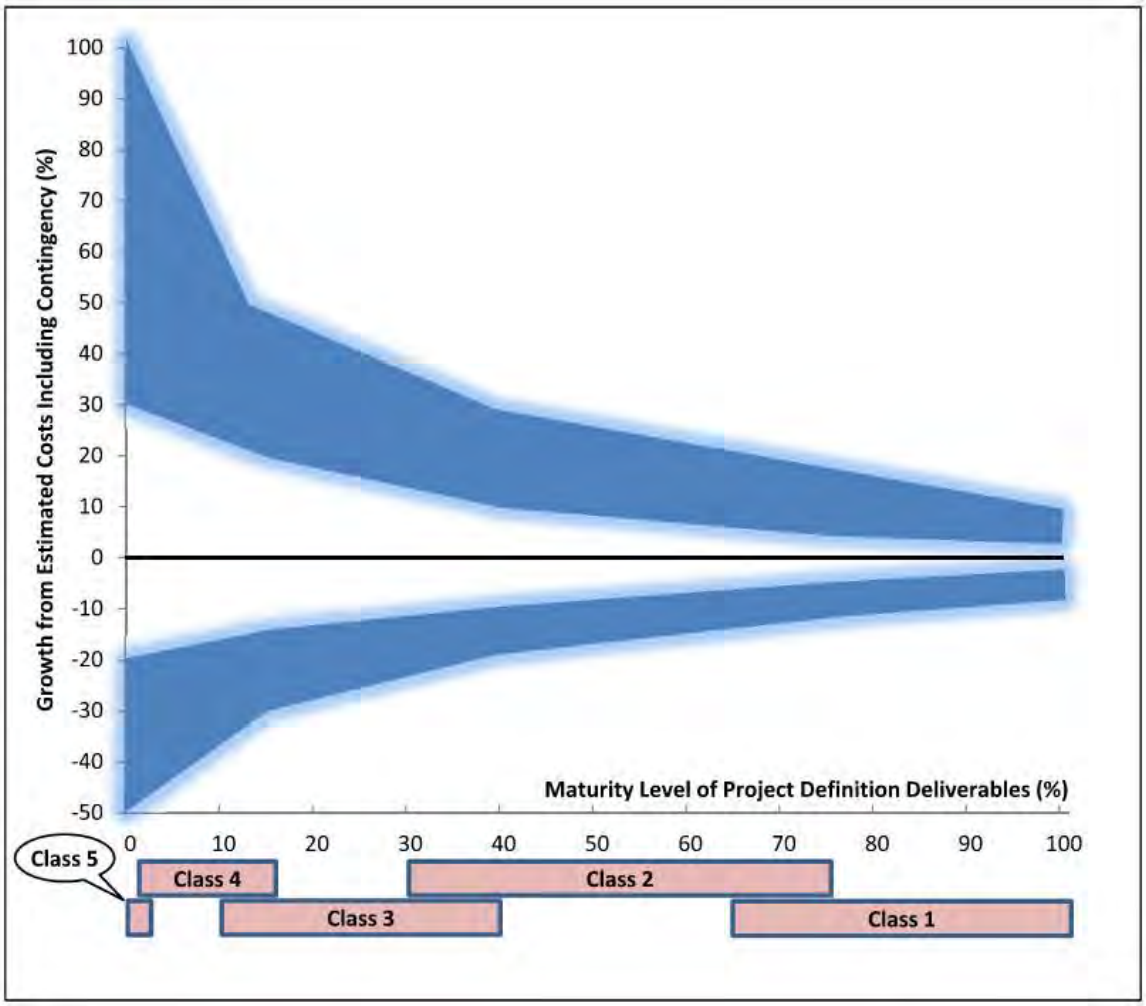

Figure 1-2: Variable in Accuracy Ranges (AACE 69R-12)

2.0 Project Cost Estimate

This OPCC estimate is consistent with a Class 4 estimate as defined by the Association for the Advancement of Cost Engineering (AACE) standard practice 69R-12. The maturity level of the project definition warrants a wide range of potential growth as the project design progresses. The Eklutna feasibility OPCC is based on 15% Design Drawings.

2.1 Cost Assumptions and Qualifications

The cost estimate was primarily developed utilizing costs from past projects and estimates. Below is a summary of the cost basis including any assumptions necessary for cost estimating purposes at this stage of design.

Common Cost Basis:

- General requirement and mobilization costs are based on a typical percentage of total direct construction costs: 12% and 8% respectively.
- Overhead & profit are added to direct construction costs at 10% and 5% respectively.
- A 20% contingency is added to the costs which is a typical contingency at the early concept phase of a project.
- Site access and laydown areas were all based on a unit price of $160k per acre for 0.3 acres.
- Excavation spoils can be disposed of nearby the location of excavation or re-used as fill material for the new bridge approaches.

Phase 2 Engineering
AWWU Maintenance Road and Bridges

Line Item	Item	Quantity	Unit	Unit Cost	Total Cost	Total
01	**DIVISION 01 INDIRECTS**					**$543,718**
	Mobilization and Establishment of Site Infrastructure	8	%	0.08	$217,487	
	Contractor General Requirements (Percentage of Direct Cost)	12	%	0.12	$326,231	
02	**SITE CONSTRUCTION AND ACCESS ROADS**	**8**			**$20,092**	**$160,736**
	Site Access - Construct Laydown Areas, Turnarounds and Crane Pads	0.1	ACRE	$160,736.40	$20,092	
03	**CIVIL WORKS - GRADING**	**1**			**$368,276**	**$368,276**
	Crossing #1 - Site Clearing and Grading	2,667	SY	$3.00	$8,001	
	Crossing #1 - Excavation	217	CY	$20.00	$4,340	
	Crossing #1 - Approach Ramp Fill Material	1,100	CY	$37.50	$41,250	
	Crossing #1 - Culvert Supply amd Install, 12"	29	LF	$50.00	$1,450	
	Crossing #2 - Site Clearing and Grading	2,667	SY	$3.00	$8,001	
	Crossing #2 - Excavation	437	CY	$20.00	$8,740	
	Crossing #2 - Approach Ramp Fill Material	288	CY	$37.50	$10,800	
	Crossing #3 - Site Clearing and Grading	2,667	SY	$3.00	$8,001	
	Crossing #3 - Excavation	114	CY	$20.00	$2,280	
	Crossing #3 - Approach Ramp Fill Material	973	CY	$37.50	$36,488	
	Crossing #4 - Site Clearing and Grading	2,667	SY	$3.00	$8,001	
	Crossing #4 - Excavation	275	CY	$20.00	$5,500	
	Crossing #4 - Approach Ramp Fill Material	800	CY	$37.50	$30,000	
	Crossing #4 - Culvert Supply amd Install, 12"	34	LF	$50.00	$1,700	
	Crossing #5 - Site Clearing and Grading	2,667	SY	$3.00	$8,001	
	Crossing #5 - Excavation	127	CY	$20.00	$2,540	
	Crossing #5 - Approach Ramp Fill Material	665	CY	$37.50	$24,938	
	Crossing #6 - Site Clearing and Grading	2,667	SY	$3.00	$8,001	
	Crossing #6 - Excavation	463	CY	$20.00	$9,260	
	Crossing #6 - Approach Ramp Fill Material	595	CY	$37.50	$22,313	
	Crossing #6 - Culvert Supply amd Install	28	LF	$50.00	$1,400	
	Crossing #7 - Site Clearing and Grading	2,667	SY	$3.00	$8,001	
	Crossing #7 - Excavation	1,275	CY	$20.00	$25,500	
	Crossing #7 - Approach Ramp Fill Material	663	CY	$37.50	$24,863	
	Crossing #7 - Culvert Supply amd Install	29	LF	$50.00	$1,450	
	Crossing #8 - Site Clearing and Grading	2,667	SY	$3.00	$8,001	
	Crossing #8 - Excavation	1,301	CY	$20.00	$26,020	
	Crossing #8 - Approach Ramp Fill Material	625	CY	$37.50	$23,438	
04	**AWWU BRIDGES**	**8**			**$273,697**	**$2,189,576**
	Steel Sheetpile Abutments, 20-ft Height, 44-ft length (qty = 2)	1760	SF	$75.00	$132,000	
	Steel Girder W16x67, 32-ft length, Qty = 3, Supply and Install	6432	LB	$6.00	$38,592	
	Steel Cross Bracing 6x6x1/2 Galv Angle, Supply and Install	3680	LB	$7.00	$25,760	
	Transverse Timber Beams, 8x12 DF Larch, 17.5 FT Length	31	EA	$880.00	$27,280	
	Timber Deck Beams, 8x12 DF Larch, 24 EA x 34 FT Length	510	SF	$81.50	$41,565	
	High Hub Rails (Qty = 2)	100	LF	$85.00	$8,500	
	Project Subtotal (without Division 01)					**$2,718,588**
	Project Subtotal					**$3,262,305**

AACE International CLASS 4 Cost Estimate - Class 4 estimates are generally prepared based on limited information and subsequently have fairly wide accuracy ranges. They are typically prepared for a number of purposes, such as but not limited to, detailed strategic planning, business case development, project screening at more developed stages, alternative scheme analysis, confirmation of economic and/or technical feasibility, selection of a feasible alternative and preliminary budget approval to proceed to next stage of the project (definition phase). Typically, engineering is from 1% to 15% complete, and would comprise at a minimum the following: Feasibility design for several alternative layouts to include design criteria, generation capacity, feasibility level drawings, preliminary one-line diagrams, and comprehensive user requirements. Class 4 estimates generally use stochastic estimating methods such as cost/capacity graphs or curves and factors, historical data and other parametric and modeling techniques. Typical accuracy ranges for Class 4 estimates are -15% to -30% on the low side, and +20% to +50% on the high side, depending on the technological complexity of the project, appropriate reference information, and other risks (after inclusion of an appropriate contingency determination). Ranges could exceed those shown if there are unusual risks.

Project: Eklutna Phase 2 Engineering
Location: AK

Direct Construction Cost

Item	Direction Construction Cost		Amount
01	DIVISION 01 INDIRECTS		$543,718
02	SITE CONSTRUCTION AND ACCESS ROADS		$160,736
03	CIVIL WORKS - GRADING		$368,276
04	AWWU BRIDGES		$2,189,576
	Total Construction Cost		**$3,262,305**
	Overhead		
	GC Overhead and Profit	15.00%	$489,346
	Construction Bonds	1.25%	$46,896
	Total - Overhead		**$536,241**
	Direct Cost Contingency		
	*Overall Project Contingency:	20.00%	$759,709
	Total - Contingency		**$759,709**
	Taxes		
	AK Sales Tax	0.00%	$0
	Total - Taxes		**$0**
	Median Construction Price - Direct and Indirect		**$4,558,256**
	Total Construction Price Range (-30% to +50%)		**$3,190,779 to $6,837,384**

Notes:
All costs based on 2023 Construction Dollars
Does not include: interest during construction, legal, financing, or administration costs.
* Overall Project Contingency is set at 20% due to the current level of project definition and it may be reduced at later stages of design.

Eklutna Fish & Wildlife Program

Eklutna Dam Outlet Modifications

Design Documentation Report

15% Design
Revision No. 0

October 6, 2023

PLACEHOLDER FOR ENGINEER STAMP
Date:

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Appendix A. 15% Design Drawings

Appendix B. Class 4 Opinion of Probable Construction Costs

Distribution

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Revision Log

Revision No.	Date	Revision Description
0	October 6, 2023	15% Design – Initial Draft

1.0 Introduction

1.1 Purpose

The purpose of this report is to present the design documentation associated with the development of the Dam Outlet Modifications as part of the Eklutna Fish & Wildlife Program (Project). The design documentation report (DDR) summarizes the pertinent data, design criteria, and standards used as the basis for the 15% level of design of the Project. The DDR documents the data, criteria, and standards by engineering discipline, and provides information about the operation of the design components associated with the Project.

The information presented within this DDR will be updated throughout the design development process to reflect refinement of the Project components and facilities, and advancement of the design analysis and details.

1.2 Location

The Project site is located in Southcentral Alaska approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna. The Project footprint spans lands owned and managed by the State of Alaska, Eklutna Inc., and the Bureau of Land Management. As proposed, the Project involves modifying the outlet gate within Eklutna Dam and adding additional instrumentation to the structure to allow for remote operation and control of the outletworks. The location of Eklutna Dam and it's vicinity to other features of the overall project is presented in Figure 1-1.

1.3 Background and Objectives

As part of the Eklutna Fish & Wildlife Program, Chugach Electric Association, Matanuska Electric Association, and the Municipality of Anchorage, known collectively as the Owners of the Eklutna Hydroelectric Project (Owners) are studying various means of providing water to the Eklutna River to mitigate damages to, and enhance fish and wildlife impacted by development and continuing operation of the Project. The measure proposed to provide periodic channel maintenance flows to the river includes modifications to the existing outletworks within Eklutna Dam. The purpose of this report is to document the design criteria and analyses performed for the engineering development of the dam outlet modifications.

1.4 Report Organization

This DDR is a record of the design effort for the Project and specifically describes the details of the design process and work effort for the Dam Outlet Modifications. The DDR consists of a

summary of the design elements, criteria, methods and approach, engineering calculations, and pertinent references. The major report sections and intended purpose are presented in Table 1-1.

Table 1-1. Major Report Sections and Purpose.

Section	Description	Purpose
1	Introduction and Background	Presents the Project background, purpose, location, authorization, objectives, feature scope, and the report organization.
2	General Description	Summarizes the basic design criteria that are used as the basis of design.
3	Existing Infrastructure	Summarizes the existing infrastructure related to the Project.
4	Project Infrastructure and Operation	Describes the proposed modifications for the Eklutna Dam outlet structure.
5	Structural Design	Includes information related to the structural design of the proposed access platform at Eklutna Dam.
6	Mechanical Design	Includes information related to the mechanical design of the outlet gate actuator.
7	Electrical and Instrumentation / Control Design	Includes information related to the electrical design and instrumentation and controls associated with the Eklutna Dam outlet structure modifications.
8	References	Documents the references used in developing the design.
Appendices		
A	15% Design Drawings	Presents the 15% design drawings for the Eklutna Dam Outlet Modifications
B	Class 4 OPCC	Presents the Class 4 Opinion of Probable Construction Costs for the Eklutna Dam Outlet Modifications.

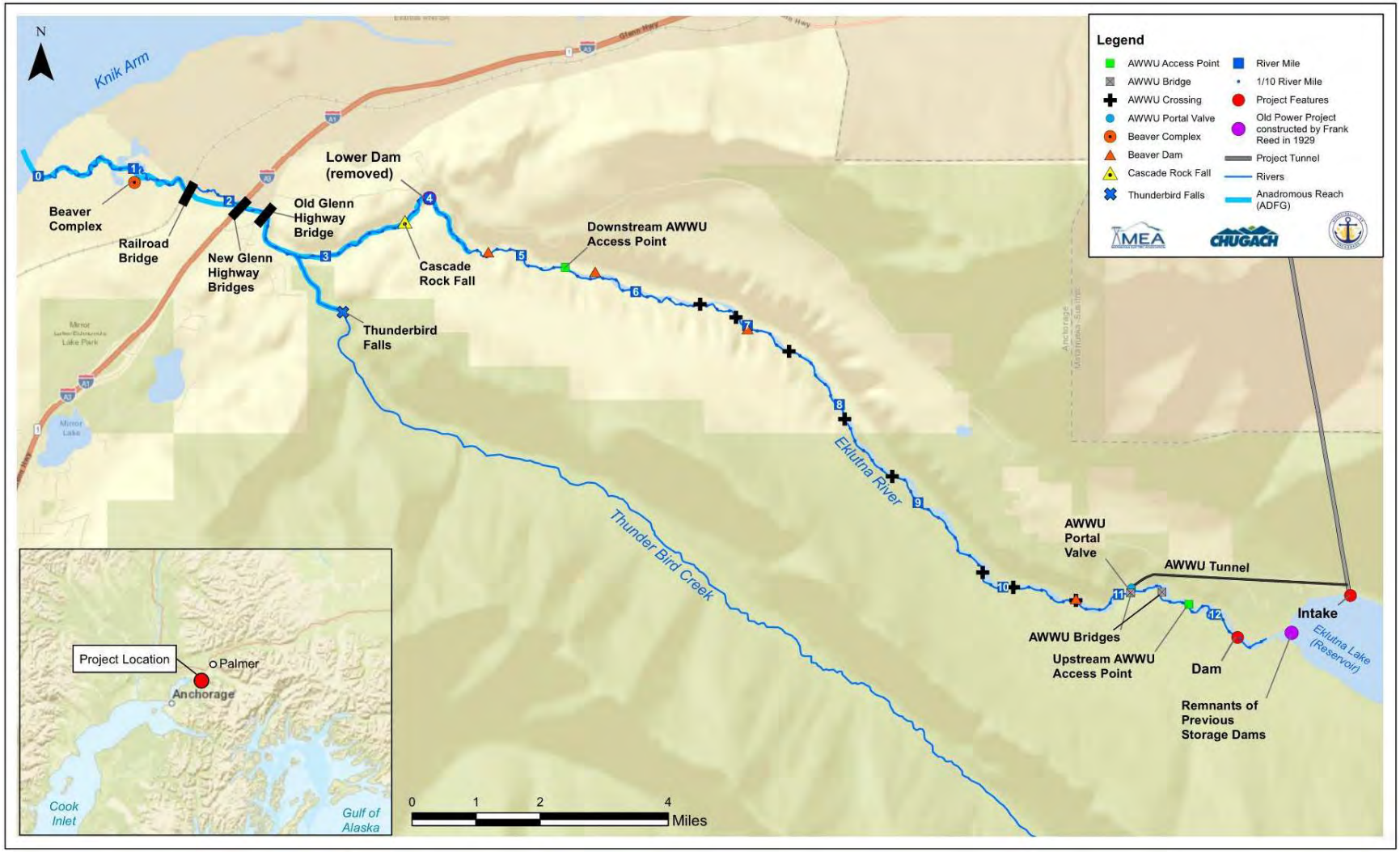

Figure 1-1. Project Overview.

2.0 General Description

2.1 General Design Criteria and Standards

General design criteria and standards for the Project include the abbreviations, survey datum, topographic mapping, references, and design standards as described below.

2.1.1 Standard List of Terms and Abbreviations

AACE	Association for Advancement of Cost Engineering
AC	alternating current
ACI	American Concrete Institute
AF	acre-ft
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute
ASTM	American Society of Testing and Materials
AWWA	American Water Works Association
AWWU	Anchorage Water and Wastewater Utility
BMP	Best Management Practice
CADD	computer aided design and drafting
CEA	Chugach Electric Association
cfm	cubic feet per minute
cfs	cubic feet per second
DC	direct current
DDR	Design Documentation Report
ERRV	Eklutna River Release Valve
El.	elevation
fps	feet per second
ft	feet
HDC	Hydraulic Design Criteria
HEC	Hydrologic Engineering Center
HMI	human-machine interface
HPU	hydraulic power unit

HVAC	heating, ventilation, and air conditioning
Hz	hertz
IESNA	Illuminating Engineering Society of North America
I/O	Input/Output
IBC	International Building Code
IEEE	Institute of Electrical and Electronics Engineers
LED	light-emitting diode
LiDAR	Light Detection and Ranging
MEA	Matanuska Electric Association
MGD	million gallons per day
MOA	Municipality of Anchorage
MSL	Mean Sea Level
NAD83	North American Datum of 1983
NAVD88	North American Vertical Datum of 1988
NEC	National Electric Code
NEMA	National Electrical Manufacturers Association
NESC	National Electrical Safety Code
NFPA	National Fire Protection Association
NGVD29	National Geodetic Vertical Datum of 1929
NVE	Native Village of Eklutna
O&M	operation and maintenance
pcf	pounds per cubic foot
PLC	programmable logic controller
psi	pounds per square-inch
RTD	Resistance Temperature Detector
SCADA	Supervisory Control and Data Acquisition
UL	Underwriters Laboratories
UPS	uninterruptible power supply
USGS	U.S. Geological Survey
V	volt

2.2 Survey Datum

Multiple vertical survey datums are reported in and around the main features of the Project. The following datums are identified within the Project area:

1. The MOA conducted LiDAR survey flights over the Project Area between May 12-30, 2015. The vertical datum this data is presented in is NGVD 1929 – M.O.A. 1972 Adjustment (MOA72).

2. McMillen contracted NV5 Geospatial to conduct LiDAR survey flights over the Project Area on May 28, 2020 and on May 18, 2022. The vertical datum this data is presented in is NAVD88, GEOID12B.

3. The As-Built Drawings for the intake structure are used for the reservoir modeling and hydraulic analysis. The drawings are titled “Eklutna Project – Alaska; Rehabilitation Pressure Tunnel” dated November 16, 1964 (USBR, Eklutna Project - Alaska. Rehabilitation Pressure Tunnel. As Built Drawings 1964). The vertical datum for these drawings is currently unknown and shall be referred to as “Local Datum” until further information is gathered.

4. The As-Built drawings of the AWWU lake diversion tunnel and pipeline are utilized as part of the design of the proposed facility. The drawings are titled “Eklutna Water Project” dated January 2, 1986 (AWWU 1986). The vertical datum used in these drawings is the GAAB Post-Quake, USC&GS, MSL, 1972. As currently understood this datum is identical to and used interchangeably with MOA72.

5. The USGS gauge station 15278000 Eklutna Lk Nr Palmer AK is reported by USGS to be based on the NGVD29. Discussions with USGS revealed that this is not necessarily the case, rather the gauge is tied to a brass cap set on the Eklutna Dam spillway wall.

The survey datum that will be utilized as the basis of this Project and the basis of all elevations within this report is NAVD88 GEOID 12B in terms of elevation with respect to Mean Sea level (MSL), US Foot. A conversion was determined from each of the unique project datums to correct to NAVD88 for the purposes of this investigation (McMillen 2022). The calculated correction factors between vertical datums used as part of the Eklutna Project is presented in Table 2-1.

Table 2-1. Eklutna Vertical Datum Conversion.

Vertical Datum	Conversion to NAVD88 (ft)	Notes
NAVD88	+0.00	
USGS Gauge	+3.263	Based on Staff Gauge Measurements at Dam
Local Datum	+3.593	Based on 2003 Survey at Dam
MOA72	+6.339	Based on 1987 Survey at Dam
	+6.520	Based on 2015 MOA LiDAR report

3.0 Existing Infrastructure

3.1 Eklutna Dam

The existing dam is located approximately 1,400 feet downstream of the natural outlet of Eklutna Lake. It is an earth and rock fill embankment dam with a crest length of 815 feet, a crest width of 30 feet, and a crest elevation (El.) of 894.6 feet (NAVD88) (USBR 1967). The crest of the dam is finished with crushed rock material to form a stable road surface, as shown in Figure 3-1. An ungated overflow spillway is incorporated within the middle of the dam. The spillway crest is El. 871 feet and the crest length is 18 feet. The dam allows for storage of water in Eklutna Lake for use throughout the year for power generation.

Figure 3-1. Dam Crest and Ungated Overflow Spillway, Looking North.

There is a natural glacial moraine at the outlet of Eklutna. When the lake level is below the crest of the moraine (El. 863.6 feet), a pond is created between the moraine and the current dam, as shown in Figure 3-2. The water level in the pond is not monitored; however, the pond level can differ from the lake level by up to 30 feet in an average year, when the lake level is drawn down below the crest of the moraine. A small tributary entering the pond approximately 400-ft upstream of the dam keeps the water level steady in the pond when the lake is disconnected from the dam, with a small outflow leaving the pond and entering Eklutna Lake.

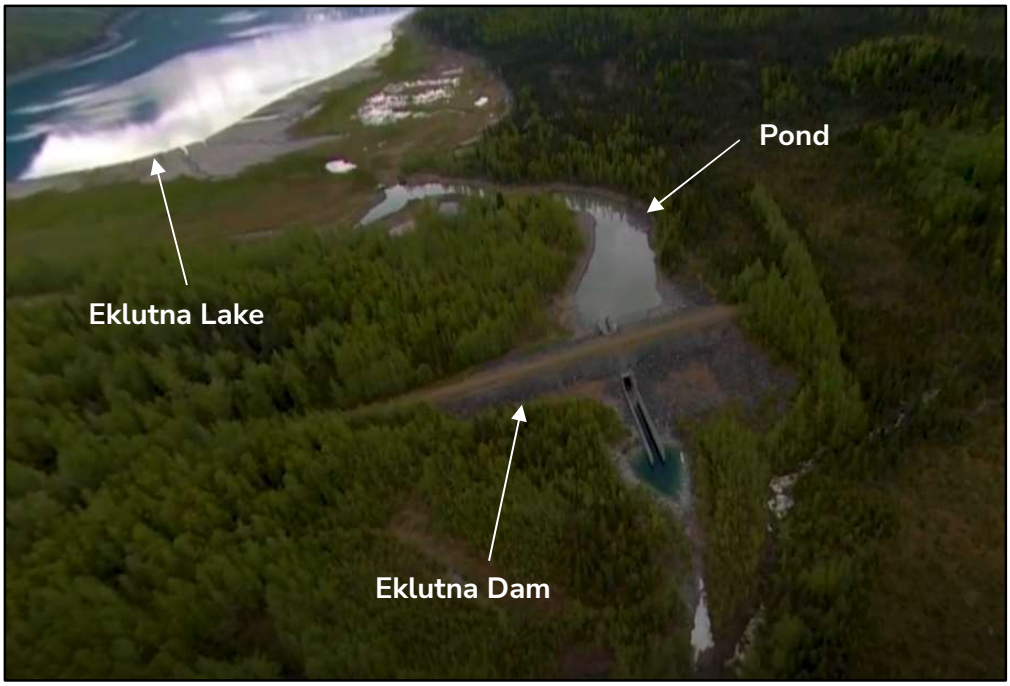

Figure 3-2. Pond between the Natural Glacial Moraine and Eklutna Dam; May 2020.

There is a 30-inch by 30-inch manually actuated outlet gate located at the base of the spillway crest with an invert elevation of El. 855.6 feet. The gate is manually actuated via a pedestal actuator with lever located within a gallery within the dam spillway accessible via ladder from the crest at a floor elevation of El. 861.6 ft. The original intent of this outlet was to drain the pond when water becomes trapped there during late fall or early winter; however, it has the ability to make continuous flow releases into Eklutna River when Eklutna Lake is at or above El. 864.6 ft. The original cast iron gate was replaced in 2021 with a stainless-steel gate to allow for study flow releases that same year. Figure 3-3 provides images of the intake, gate actuator and upstream face of the new outlet gate.

Figure 3-3. Outlet Gate Intake (Left). Gate Operator (Center). Face of Outlet Gate (Right).

The maximum capacity of the drainage outlet gate is 190 cfs when the lake is at a maximum pool elevation of 874.6 ft. Figure 3-4 presents the stage-discharge relationship of the gate at varying opening percentages.

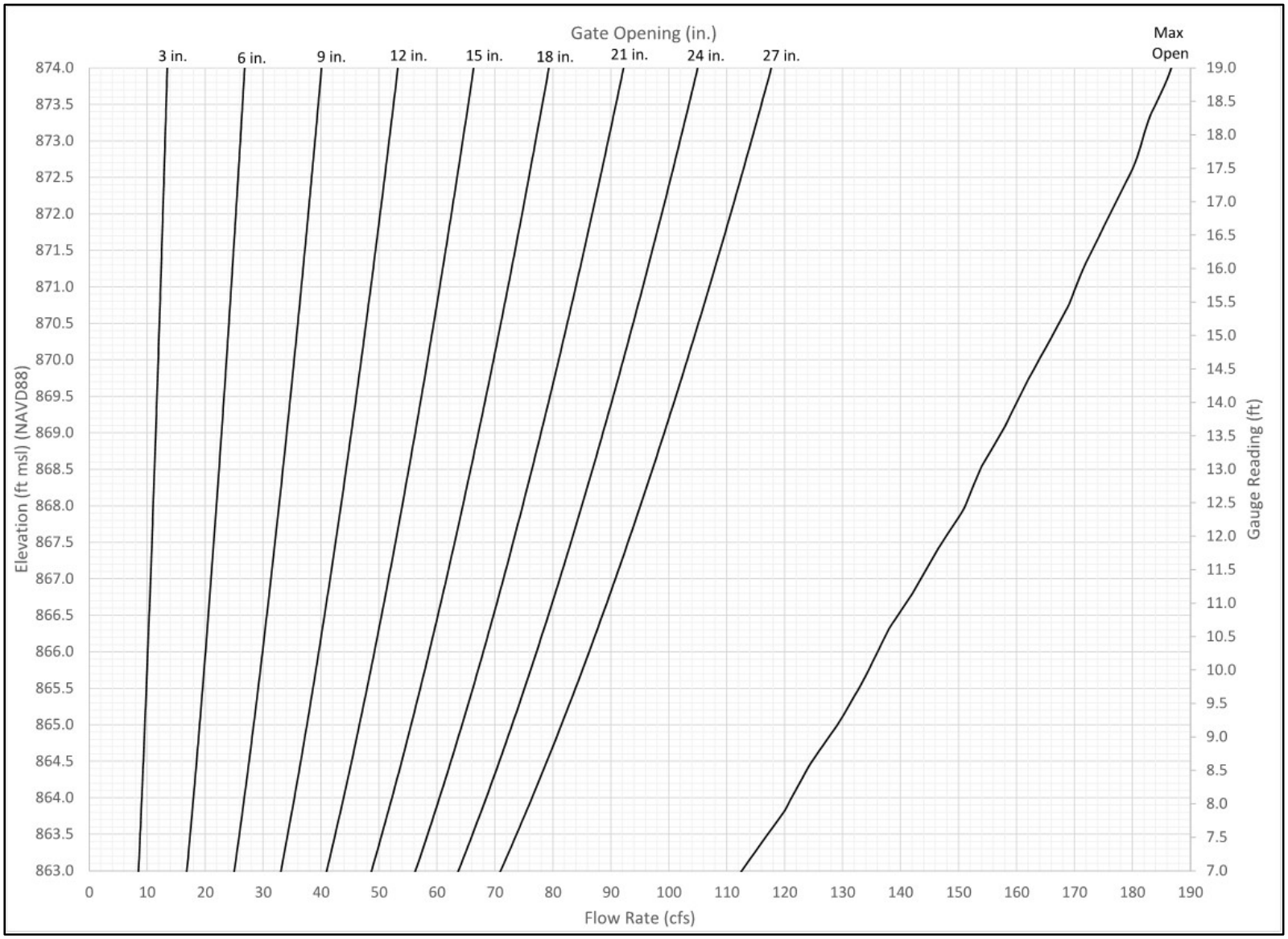

Figure 3-4. Eklutna Dam Outlet Gate Stage-Discharge Relationship.

4.0 Project Infrastructure and Operation

4.1 Proposed Channel Maintenance Flow Regime

The proposed channel maintenance flow regime has a peak flow of 220 cfs with an overall shaped release occurring approximately 72 hours in three out of every 10 years in order to take advantage of wet water years. The channel maintenance flow regime may be provided by natural high flow events or spill events. In the absence of any natural high flow events or spill events, flow releases to meet the channel maintenance flow regime will be made. It shall be noted that for this channel maintenance flow to occur, operations of the reservoir may need to change to raise the water surface high enough achieve the desired flow rate.

Based on geomorphic and fisheries studies and modeling, the proposal for the channel maintenance flow is a shaped hydrograph to more closely resemble a natural peak flow as shown in Table 4-1 and Figure 4-1. The timing of channel maintenance flows will be during the fall when Eklutna Lake levels are highest and take into consideration limitations of inflow volumes and allowance for continuing year-round hydropower operations.

Table 4-1. Proposed Channel Maintenance Regime Flow Rate and Duration.

Flow Duration (hours)	Flow Rate (cfs)
3	150
3	200
36	220
12	200
6	160
6	140
6	110
6	90
6	80
6	70
4	60

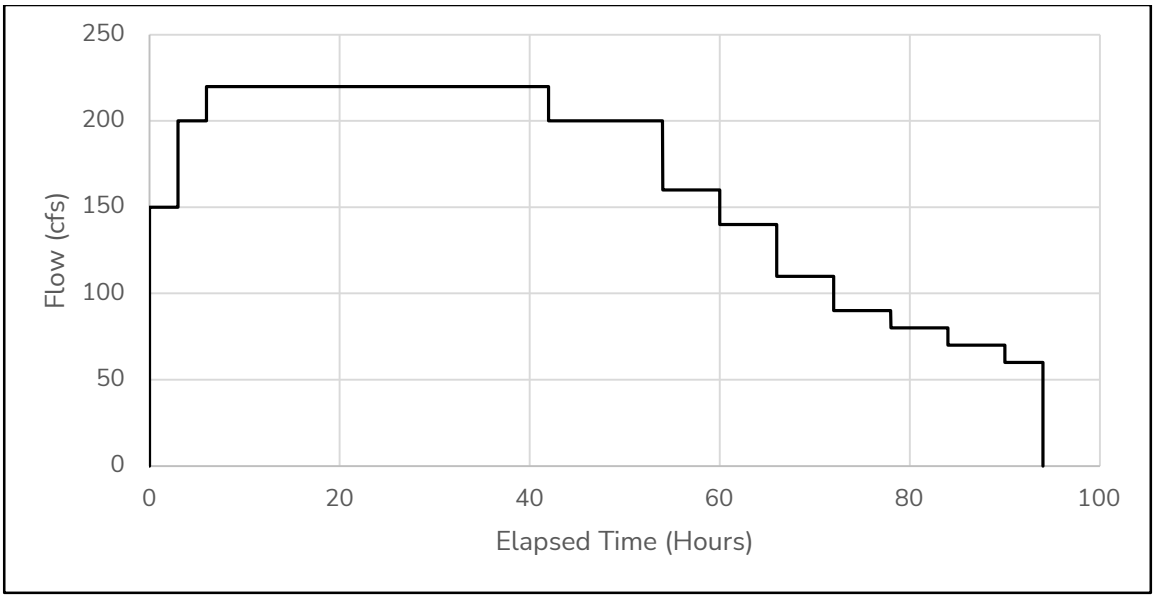

Figure 4-1. Channel Maintenance Flow Hydrograph.

The channel maintenance flow is intended to be released through a combination of the proposed Eklutna River Release Facility (ERRF) located near the AWWU portal valve and through the modified dam outletworks. The ERRF has a maximum flow capacity of 80 cfs, requiring a minimum of 140 cfs to be released through the dam outletworks to achieve the desired channel maintenance peak flow. Higher flow rates may be released through the modified outletworks up to a maximum of 190 cfs dependent on the water surface elevation within the lake during the channel maintenance flow period.

4.2 Eklutna Dam Outlet Gate Actuator

The existing outlet gate is operated via a 15" hand crank located on a pedestal support within the Eklutna Dam spillway gate gallery, as presented in Figure 4-2. This manual hand crank actuator is proposed to be removed and replaced with a Limitorque multi-turn electric motor actuator with integral position sensing or engineer approved equivalent.

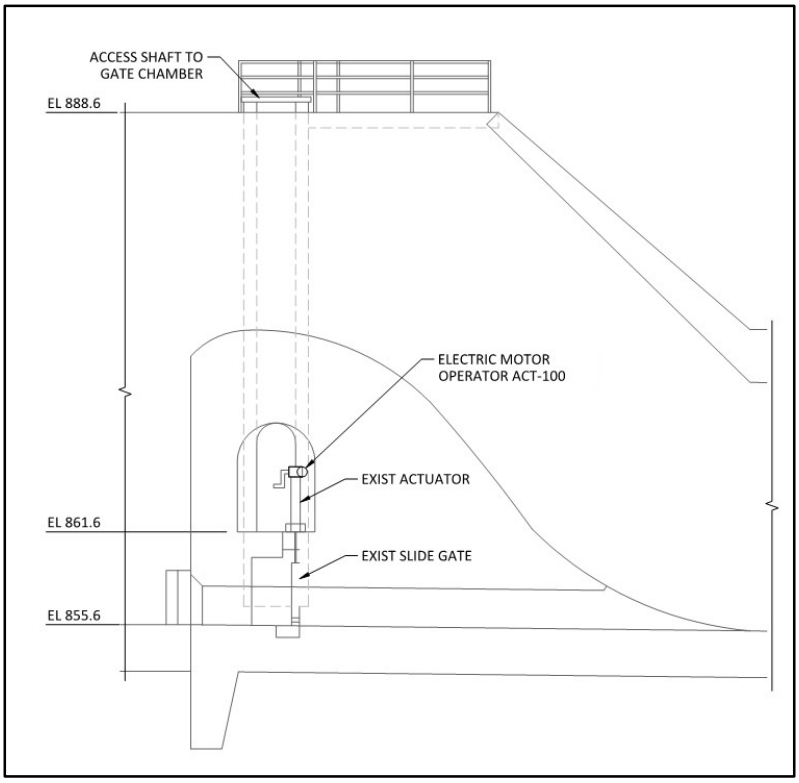

Figure 4-2. Eklutna Dam Gate Gallery Profile.

4.3 Eklutna Lake Level Transducer

To provide accurate monitoring of flow released through the dam outlet gate during a channel maintenance flow event, the rating curve tied to the design of the outlet gate shall be utilized, as presented in Figure 3-4. The gate position will be monitored remotely via the new position feedback sensor within the electric motor operator of the gate. To monitor the water surface elevation of the reservoir, a new stilling well and pressure transducer will be located upstream of the gate within the entrance to the Eklutna Dam spillway channel. The addition of this transducer will avoid any potential inaccuracies with utilizing the existing USGS gauge near the Project power intake to measure water surface elevation near the spillway channel entrance. The flow measurement at the gate is anticipated to have an accuracy of ±2%.

To access the new stilling well and level transducer, a grating platform will be constructed along the left training wall of the spillway immediately adjacent to the walkway to access the outlet gate access hatch. The platform will have a width of approximately 3feet and a length of approximately 25 feet. The plan and profile of the stilling well and access platform is presented in Figure 4-3.

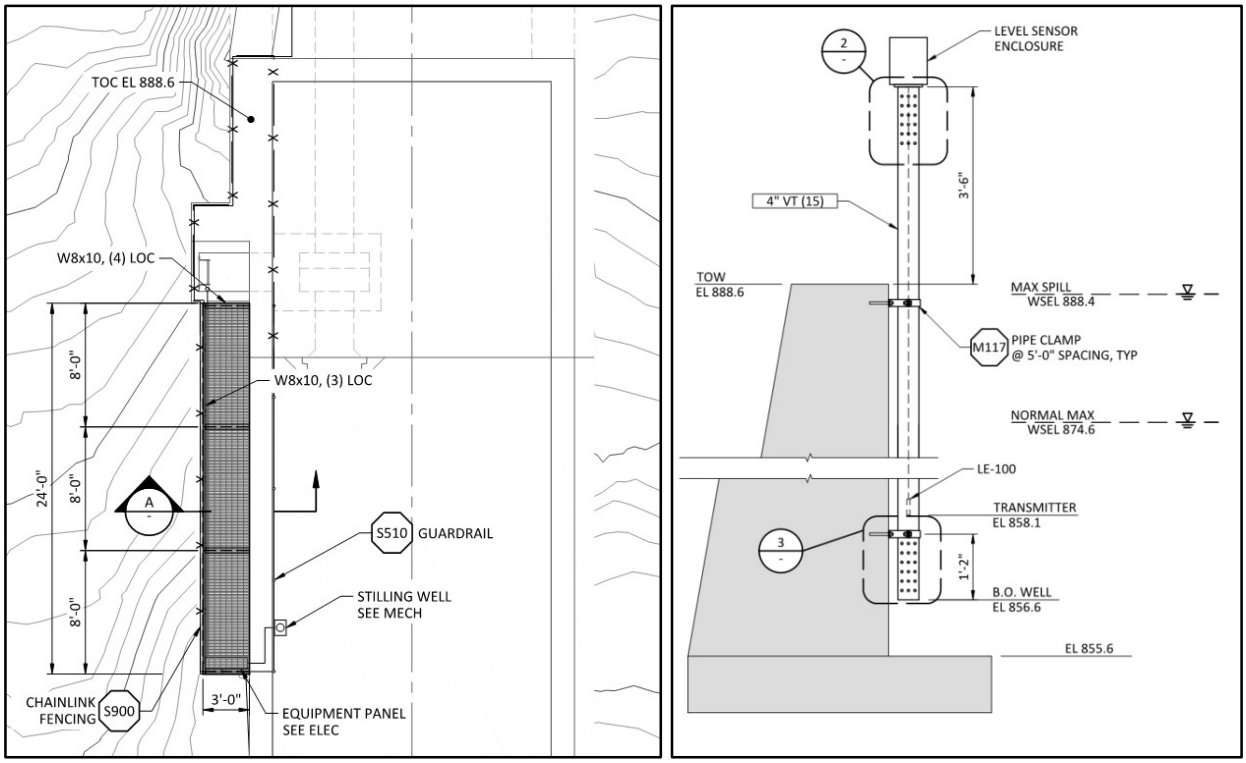

Figure 4-3. Stilling Well Access Platform Plan and Profile.

5.0 Structural Design Criteria

The structural design criteria apply to all design procedures to be implemented during the Project design. Structural design considerations listed in this section include material selection and design requirements that are intended to be incorporated into the Project.

5.1 Applicable Codes and Standards

The structural design of the access platform will conform to the following reports, criteria, and industry codes and standards. The applicable version of each document is the latest edition in force unless noted otherwise. References to the specific codes and standards will be included in the applicable technical specifications as the final design documents are prepared.

Table 5-1. Structural Codes and Standards.

Number	Description
Building Code	
ASCE 7	ASCE 7/SEI 7-16 Minimum Design Loads for Buildings and Other Structures, 2016
Design Standards and References	
ACI 318	Building Code Requirements for Structural Concrete, 2014
AISC 360	Specification for Structural Steel Buildings, 2016
ASIC SCM	Steel Construction Manual, 14th Edition
AWS D1.1	Structural Steel Welding Code – Steel

5.2 Materials

Materials and standards for concrete, concrete-related materials, structural steel, and miscellaneous metals for the Project are indicated in Table 5-2.

Table 5-2. Structural Materials and Design Standards.

Component	Material and Standard
Concrete and Related	
Existing Concrete	Compressive Strength (static), f'ce = 3000 psi
Adhesive Anchors	Two component epoxy, ASTM C-881 (with SS threaded anchor rod or reinforcing dowels)

Component	Material and Standard
Structural Steel	
Wide Flange Shapes	ASTM A992, Grade 50ksi
M, C, L shapes	ASTM A572, Grade 50ksi
Tube (HSS)	ASTM A500, Grade C. (46ksi Round / 50ksi Rect.)
Plates and Bars	ASTM A572, Grade 50ksi
High-Strength Bolts	ASTM F3125, Grade A325
Anchor Rods	ASTM F1554, Grade 50ksi (threaded) A193, Type 316 Stainless Steel
Miscellaneous Metals	
Guardrail and Grating	Galvanized steel

5.3 Design Loads

The general load types considered in the design of the structure are summarized in Table 5-3.

Table 5-3. Structural Design Loads.

Load Type	Description
Dead	Self-weight of all permanent structural elements as well as super-imposed weight of permanent mechanical and electrical equipment and piping.
Live	Temporary loads produced by the use and occupancy of the building or structure (excluding environmental loads). This load type includes those produced by movable objects and loads on guardrails, fixed ladders, and handrail systems by maintenance personnel.
Wind	Wind loads will be applied to all solid surfaces of the access platform and framing.
Seismic	Inertial forces produced by ground motion during a seismic event. The effects of this load type will be approximated based on the provisions of ASCE7.

5.3.1 Design Basis for Access Platform

Design of the access platform framing, guardrail, and connections will satisfy Load Factor and Resistance Design (LRFD) methodology by providing the required strength defined by the equation below:

$$U = \sum \gamma_i L_{ni} \leq \phi R_n$$

Where:

- $U =$ required strength
- $\gamma_i =$ load factors per ASCE 7
- $L_{ni} =$ load effects per structural calculations
- $\emptyset =$ resistance factor from ASCE 7
- $R_n =$ nominal resistance from ASCE 7

This methodology will be applied to the design of other material types in accordance with the relevant design standards and references. Refer to the structural calculations for additional information and derivation of these equation variables for specific Project features and components.

6.0 Mechanical Design Criteria

The mechanical design criteria apply to all design procedures to be implemented during the Project design. Mechanical design considerations listed in this section include detailing of mechanical components, material selection, and design requirements that are intended to be incorporated into the Project.

6.1 Applicable Codes and Standards

The mechanical design will conform to the following reports, criteria, and industry codes and standards. The applicable version of each document is the latest edition in force unless noted otherwise. References to the specific codes and standards will be included in the applicable technical specifications as the final design documents are prepared.

Table 6-1. Mechanical Codes and Standards.

Codes & Standards	Description
ASTM	American Society of Testing and Material
ANSI	American National Standards Institute
ASME	American Society of Mechanical Engineers
ASME B16.5	Steel Pipe Flanges
AWS	American Welding Society
FIST	Facilities Instructions, Standards and Techniques Manuals
USACE	United States Army Corps of Engineers Engineer Manuals

6.2 Materials

Materials and standards for the mechanical components of the Project are indicated in Table 6-2.

Table 6-2. Mechanical Materials and Design Standards.

Component	Material and Standard
Stilling Well	ASTM A312 Type 316 Stainless Steel - Schedule 10s

7.0 Electrical Design

The electrical design criteria apply to all design procedures implemented during the Project design. Electrical design considerations listed in this section include detailing of electrical components, material selection, and design requirements that are intended to be incorporated into the Project.

7.1 Applicable Codes and Standards

Applicable codes and standards are listed in Table 7-1.

Table 7-1. Electrical Codes and Standards

Code	Standard
NFPA 70	National Electrical Code
NFPA 70E	National Electrical Safety Code (NESC)
NFPA 110	Standard for Emergency and Standby Power Systems
IEEE	Institute of Electrical and Electronics Engineers
NEMA	National Electrical Manufacturers Association

NFPA – National Fire Protection Association

7.2 Materials

Materials are summarized in Table 7-2.

Table 7-2. Electrical Materials

Material	Standard
Circuit Breakers	NEMA AB 1, UL 489
Switches	NEMA KS 1, UL 98
Terminal Blocks	UL 1059
Power Conductors/Cable	NEMA WC 70, UL 44, UL 83, UL 854
Instrumentation Cable	NEMA WC 57, UL 13, UL 44
Boxes and Enclosures	NEMA 250

Material	Standard
Raceway	NEMA C80.1, NEMA C80.6, NEMA RN 1, UL 6, UL 360, UL 514B, UL 651, UL 1242
Standby Generators	NEMA MG 1, UL 142, UL 508, UL 1236, UL 2200
Transfer Switches	NEMA ICS 2, UL 1008
Grounding and Bonding Equipment	UL 467

NEMA – National Electrical Manufacturers Association

7.3 Design Loads

7.4 Power Distribution

The outlet gate actuator will be served from a 240V panelboard. A surge protective device will be provided at 240V and 120V to protect the system from transient surges. Power will be provided to the dam via buried 7,200V cable from the nearest transmission line located approximately 2,500 feet north of the site. A 7,200V / 240VAC single phase stepdown transformer will be located at the right abutment of the dam.

7.5 Process Instrumentation and Control

A SCADA system will be implemented to supervise and control the Eklutna Dam outlet gate and to monitor water surface elevation within Eklutna Lake using the proposed level transducer. The SCADA system will consist of a metal backplane in a local control panel with components mounted to it. This includes PLC and I/O modules, UPS, control power supply and distribution block, control relays, terminal blocks, overcurrent protection, digital communication hardware, and other required appurtenances. It is presumed that datalogging will be performed on the Eklutna Power Plant SCADA system. If autonomous and more continuous datalogging is determined to be required, a datalogging-capable HMI will be specified in addition to the above components.

A fiber optic communication network will be implemented between all systems of the Project via a fiber optic infrastructure. The dam outlet gate and level transducer will connect to a fiber optic communication network between Eklutna Dam, the Eklutna River Release Facility, and the Eklutna Power Plant. Digital communication protocol will be Ethernet/IP over single-mode fiber optic cable (OS2). All new segments of installation will consist of fiber optic cable that will be all-dielectric, loose-tube buffered, with water-repellant gel-fill and jacket rated for direct-bury. For adequate spares to mitigate strand failure, 24-strand cable is proposed. The

cable will be installed in HDPE SDR-11 smooth wall conduit. The fiber optic line will be brought to the LCP housed fiber connector housing for termination, then patched to the managed Ethernet switch in a loop configuration. All strands of all fiber optic cables shall be terminated and certified to the OTDR and OLTS tests. The Ethernet switch will connect the PLC to the communication system.

Field instrumentation consists of the following, as provided in Table 7-3.

Table 7-3. Field Instrumentation

Instrument Tag ISA)	Instrument Type	Parameters	Control Loop
LE-100	Pressure Transducer	Water Level Monitoring, 0-30 ft H_20 range	Measure Water Level in Stilling Well within Eklutna Dam Spillway
ACT-100	Electric Motor Actuator	Gate Position	Measure Status of Actuator and Position of Outlet Gate Leaf

8.0 References

AWWU. 1986. *Eklutna Water Project.* As Built Drawings.

McMillen. 2022. *Eklutna Vertical Datum Memorandum .*

USBR. 1964. *Eklutna Project - Alaska. Rehabilitation Pressure Tunnel. As Built Drawings .*

—. 1967. *Rehabilitation of Eklutna Project Features following Earthquake of March 1964. A Supplement to Eklutna Dam, Tunnel and Powerplant Technical Record of Design and Construction.*

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Appendix A. 15% Design Drawings

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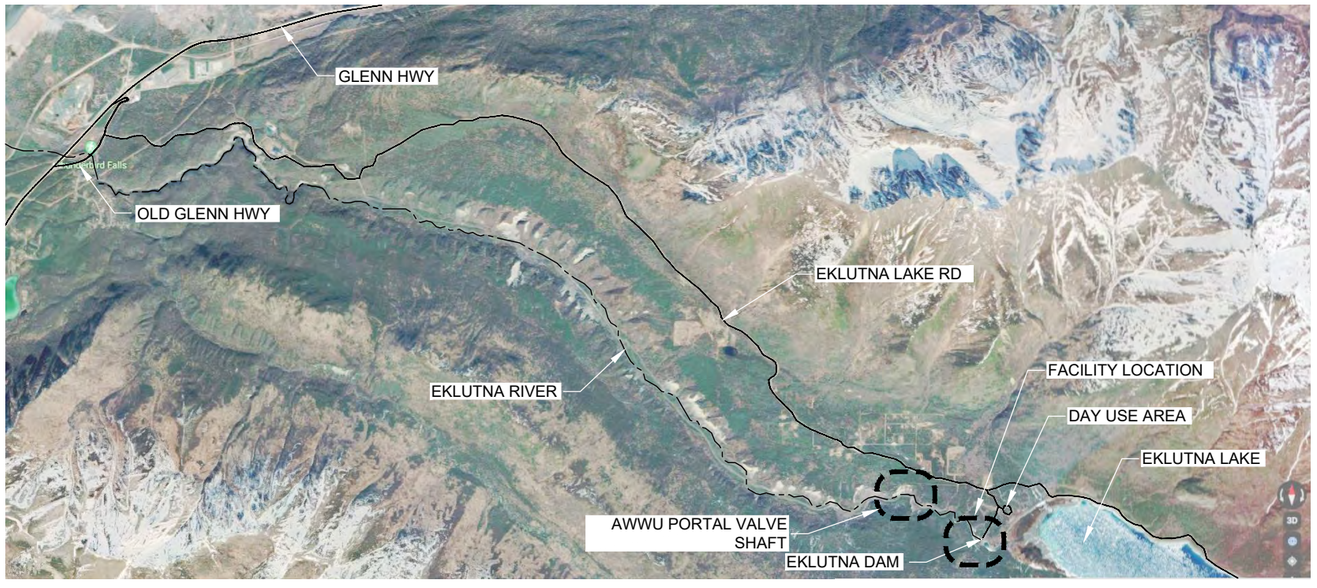
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM OUTLET MODIFICATIONS
ANCHORAGE, ALASKA

15% DESIGN
OCTOBER 2023

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM OUTLET MODIFICATIONS
15% DESIGN

LOCATION MAP
NTS



VICINITY MAP
NTS

FACILITY MAP
NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH POWERING ALASKA'S FUTURE | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM OUTLET MODIFICATIONS

LOCATION MAP, VICINITY MAP, AND FACILITY MAP

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
G001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Dam Outlet Modification\G001.dwg Plot date: Sep 28, 2023 09:19am, CAD User: HaberFlavia

DRAWING INDEX			
15% SUB*	SHEET NO.	DWG NO.	DESCRIPTION
			GENERAL
			COVER SHEET
X	1	G001	LOCATION MAP, VICINITY MAP, AND FACILITY MAP
X	2	G002	DRAWING INDEX
X	3	G003	STANDARD ABBREVIATIONS
X	4	G004	STANDARD SYMBOLS
X	5	G005	PIPING SCHEDULE
X	6	G006	INSTRUMENTATION AND EQUIPMENT LEGEND
			DEMOLITION
X	7	D001	DEMOLITION KEY PLAN
X	8	D100	EKLUTNA DAM OUTLET DEMOLITION PLAN, SECTIONS, AND DETAILS
X	9	D101	EKLUTNA DAM OUTLET DEMOLITION PHOTOS
			STRUCTURAL
X	10	GS001	STRUCTURAL GENERAL NOTES
X	11	GS002	STRUCTURAL STANDARD DETAILS 1
X	12	GS003	STRUCTURAL STANDARD DETAILS 2
X	13	S100	EKLUTNA DAM OUTLET STRUCTURAL PLAN, SECTIONS AND DETAILS
			MECHANICAL
X	14	GM001	MECHANICAL EQUIPMENT SCHEDULE
X	15	GM002	MECHANICAL STANDARD DETAILS
X	16	M100	EKLUTNA DAM OUTLET MECHANICAL PLAN, SECTION AND DETAILS 1
X	17	M101	EKLUTNA DAM OUTLET MECHANICAL PLAN, SECTION AND DETAILS 2
			ELECTRICAL
X	18	GE001	ELECTRICAL ABBREVIATIONS AND DEVICE INDEXES
X	19	GE002	ELECTRICAL STANDARD SYMBOLS 1
X	20	GE003	ELECTRICAL STANDARD SYMBOLS 2
	21	E001	OVERALL ONE-LINE DIAGRAM
	22	E002	COMMUNICATIONS BLOCK DIAGRAM
X	23	E003	TRANSMISSION AND COMMUNICATION UPGRADES PLAN
X	24	E100	EKLUTNA DAM OUTLET ELECTRICAL PLAN, SECTION AND DETAILS 2

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM OUTLET MODIFICATIONS

DRAWING INDEX

DESIGNED S. ELLENSON

DRAWN F. HABER

CHECKED J. BOAG

PROJECT DATE 10/6/23

DRAWING

G002

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Dam Outlet Modification\G002.dwg Plot date: Sep 28, 2023 09:20am, CAD User: HaberFlavia

A/C	AIR CONDITIONING
A/E	ARCHITECT/ENGINEER
A	ARCHITECTURAL (DWG DISCIPLINE), AMP
AB	ANCHOR BOLT
ABC	AGGREGATE BASE COURSE
ABAN	ABANDON
AC	ALTERNATING CURRENT
ACST	ACOUSTIC
AD	ADDENDUM, AREA DRAIN
ADDL	ADDITIONAL
ADH	ADHESIVE
ADJ	ADJUSTABLE, ADJACENT
AF	AMP FRAME, AMP FUSE
AFF	ABOVE FINISH FLOOR
AFG	ABOVE FINISH GRADE
AGGR	AGGREGATE
AIC	AMPS INTERRUPTING CAPACITY
ALIG	ALIGNMENT
ALUM	ALUMINUM
ALT	ALTERNATE, ALTITUDE
AMB	AMBIENT
ANC	ANCHOR
AP	ACCESS PANEL
APRX	APPROXIMATE
APVD	APPROVED
ARCH	ARCHITECTURAL
ASSY	ASSEMBLY
AT	AMP TRIP
ATM	ATMOSPHERE
AUTO	AUTOMATIC
AUX	AUXILIARY
AVE	AVENUE
AVG	AVERAGE
AWG	AMERICAN WIRE GAGE
AWWU	ANCHORE WATER AND WASTEWATER UTILITY
B/B	BACK TO BACK
BAL	BALANCE
BBD	BULLETIN BOARD
BC	BASE CABINET, BOTTOM CHORD, BOLT CENTER, BOLT CIRCLE
BD	BOARD
BE	BOTH ENDS, BELL END
BF	BOTH FACES, BOTTOM FACE, BLIND FLANGE, BOARD FEET
BFV	BUTTERFLY VALVE
BITUM	BITUMINOUS
BKG	BACKING
BL	BASE LINE
BLDG	BUILDING
BLK	BLOCK
BLKG	BLOCKING
BM	BENCHMARK, BEAM
BOC	BACK OF CURB
BOD	BOTTOM OF DUCT
BOG	BOTTOM OF GRILLE
BOL	BOTTOM OF LOUVER
BOP	BOTTOM OF PIPE
BOR	BOTTOM OF REGISTER
BOT	BOTTOM
BOU	BOTTOM OF UNIT
BP	BASE PLATE
BRG	BEARING
BRGP	BEARING PLATE
BRKT	BRACKET
BS	BOTH SIDES
BTU	BRITISH THERMAL UNIT
BTW	BETWEEN
BTWLD	BUTT WELD
BV	BALL VALVE
BW	BOTH WAYS
BYP	BYPASS
C TO C	CENTER TO CENTER
C&G	CURB & GUTTER
C	CHANNEL SHAPE, CENTIGRADE, CONDUIT, CIVIL (DRAWING DISCIPLINE)
CAB	CABINET
CAP	CAPACITY
CAT	CATALOG
CAV	CAVITY
CB	CATCH BASIN
CCB	CONCRETE BLOCK
CCW	COUNTER CLOCKWISE
CF	CUBIC FEET (FOOT)
CHFR	CHAMFER
CHD	CHORD
CHH	COMMUNICATION HANDHOLE
CI	CURB INLET
CIP	CAST-IN-PLACE
CIPB	CONCRETE INTERLOCKING PAVER BALLAST
CIRC	CIRCULATION, CIRCULAR
CJ	CONSTRUCTION JOINT, CONTROL JOINT
CKT	CIRCUIT
CL	CENTERLINE, CLASS, CLOSE
CLR	CLEAR
CMH	COMMUNICATION MANHOLE
CMU	CONCRETE MASONRY UNIT
CO	CLEAN OUT, CONCRETE OPENING
COL	COLUMN
COM	COMMON
COMB	COMBINATION
COMM	COMMUNICATION
COMP	COMPOSITION, COMPRESSIBLE, COMPOSITE
CONC	CONCENTRIC, CONCRETE
CONN	CONNECTION
CONST	CONSTRUCTION
CONT	CONTINUOUS, CONTINUED
COORD	COORDINATE
CORR	CORROSIVE, CORRUGATED
CP	CHECKER PLATE, CONTROL POINT
CPLG	COUPLING
CSK	COUNTERSINK
CTR	CENTER
CTRL	CONTROL
CU	COPPER, CUBIC
CW	CLOCKWISE
CY	CUBIC YARD
d	PENNY (NAIL MEASURE)
D	DEEP, DIFFUSER
DB	DUCT BANK, DECIBEL, DRY BULB
DBA	DEFORMED BAR ANCHOR
DBL	DOUBLE
DC	DIRECT CURRENT
DEG	DEGREE
DEG C	DEGREE CENTIGRADE
DEG F	DEGREE FAHRENHEIT
DEMO	DEMOLITION
DEP	DEPRESSED
DEPT	DEPARTMENT
DET	DETAIL
DI	DROP INLET, DUCTILE IRON
DIA	DIAMETER
DIAG	DIAGONAL, DIAGRAM
DIFF	DIFFERENTIAL, DIFFERENCE
DIM	DIMENSION
DISCH	DISCHARGE
DIST	DISTANCE, DISTRIBUTION
DIV	DIVISION
DL	DEAD LOAD
DN	DOWN
DP	DEPTH
DS	DOWN SPOUT
DT	DOUBLE TEE, DRIP TRAP ASSEMBLY
DUP	DUPLICATE
DWG	DRAWING
DWL	DOWEL
E	EAST, ELECTRICAL (DWG DISCIPLINE)
EA	EACH, EXHAUST AIR
EC	ELECTRICAL CONTRACTOR
ECC	ECCENTRIC
EDB	ELECTRICAL DUCT BANK
EE	EACH END
EF	EACH FACE
EG	EXISTING GRADE
EGL	ENERGY GRADE LINE
EFF	EFFLUENT, EFFICIENCY
EHH	ELECTRICAL HANDHOLE
EIFS	EXTERIOR INSULATION & FINISH SYSTEM
EJ	EXPANSION JOINT
EL	ELBOW, ELEVATION
ELEC	ELECTRICAL
EMBD	EMBEDDED
EMER	EMERGENCY
EMH	ELECTRICAL MANHOLE
ENCL	ENCLOSURE
ENGR	ENGINEER
ENTR	ENTRANCE
EOP	EDGE OF PAVEMENT
EOW	EDGE OF WATER
EQ	EQUAL
EQUIP	EQUIPMENT
EQUIV	EQUIVALENT
ES	EACH SIDE, EQUAL SPACE, EMERGENCY SHOWER
ESEW	EMERGENCY SHOWER AND EYE WASH
EST	ESTIMATE
EW	EACH WAY, EMERGENCY EYE/FACE WASH
EWC	ELECTRIC WATER COOLER
EWEF	EACH WAY, EACH FACE
EWTB	EACH WAY, TOP AND BOTTOM
EXC	EXCAVATION
EXH	EXHAUST
EXIST	EXISTING
EXP	EXPANSION, EXPOSED
EXT	EXTERIOR, EXTERNAL, EXTENSION
F TO F	FACE TO FACE
FAB	FABRICATE
FBO	FURNISHED BY OWNER
FC	FLUSHING CONNECTION
FCA	FLANGED COUPLING ADAPTER
FCV	FIXED CONE VALVE
FD	FLOOR DRAIN
FDC	FLEXIBLE DUCT CONNECTION
FDR	FEEDER
FE	FLANGED END
FEC	FIRE EXTINGUISHER CABINET
FEXT	FIRE EXTINGUISHER
FF	FAR FACE, FACTORY FINISH, FLAT FACE
FG	FINISHED GRADE
FIG	FIGURE
FH	FIRE HYDRANT
FIN	FINISH
FL	FLOW, FLOW LINE
FLEX	FLEXIBLE
FLG	FLANGE
FLOR	FLUORESCENT
FLR	FLOOR
FLS	FLASHING, FLUSH
FND	FOUNDATION
FNC	FENCE
FO	FINISHED OPENING
FOB	FLAT ON BOTTOM
FOC	FACE OF CONCRETE, FACE OF CURB, FIBER OPTIC CABLE
FOF	FACE OF FINISH
FOM	FACE OF MASONRY
FOS	FACE OF STUDS
FOT	FLAT ON TOP
FPT	FEMALE PIPE THREAD
FR	FRAME
FRP	FIBERGLASS REINFORCED PLASTIC
FS	FLOOR SINK, FAR SIDE
FT	FEET, FOOT
FTG	FOOTING, FITTING FUR FURRED, FURRING
FURN	FURNITURE, FURNISH
FUT	FUTURE
FV	FACE VELOCITY
FW	FIELD WELD, FIRE WALL
FWD	FORWARD
FWE	FURNISHED WITH EQUIPMENT
FXTR	FIXTURE
G	GRILLE, GROUND, GENERAL (DWG DISCIPLINE)
GA	GAGE (METAL THICKNESS)
GAL	GALLON
GALV	GALVANIZED
GB	GRADE BREAK
GD	GUARD
GEN	GENERAL
GFCI	GROUND FAULT CIRCUIT INTERRUPTER
GL	GLASS
GP	GUY POLE
GR	GRADE
GRND	GROUND
GRTG	GRATING
GT	GREASE TRAP
GWB	GYPSUM WALLBOARD
GYP	GYPSUM HARDBOARD
H	HIGH
HB	HOSE BIB
HBD	HARDBOARD
HC	HANDICAPPED, HOLLOW CORE, HORIZONTAL CURVE
HC	HORIZONTAL CENTERLINE
HDR	HEADER
HDW	HARDWARE
HEX	HEXAGONAL
HH	HANDHOLE
HM	HOLLOW METAL
HORIZ	HORIZONTAL
HP	HIGH POINT, HORSEPOWER
HPC	HORIZONTAL POINT OF CURVATURE
HPS	HIGH PRESSURE SODIUM
HPT	HORIZONTAL POINT OF TANGENCY
HR	HOUR
HS	HEADED STUD, HIGH STRENGTH
HSS	HOLLOW STRUCTURAL SHAPE
HT	HEIGHT
HV	HIGH VOLTAGE
HVAC	HEATING, VENTILATION & AIR CONDITIONING
HWD	HARDWOOD
HWL	HIGH WATER LEVEL
HYD	HYDRAULIC HZ HERTZ, CYCLES PER SECOND
I	INSTRUMENTATION (DWG DISCIPLINE)
ID	INSIDE DIAMETER, INTERIOR DIMENSION
IE	INVERT ELEVATION
IF	INSIDE FACE
IH	INTAKE HOOD
IMP	IMPACT
IN	INCH
INC	INCLUDE, INCANDESCENT
INF	INFLUENT
INSTR	INSTRUMENTATION
INSUL	INSULATION
INT	INTERIOR, INTERSECTION
INTR	INTERMEDIATE, INTERIOR
INV	INVERT
IPS	IRON PIPE SIZE
IPT	INTERNAL PIPE THREAD
IRR	IRRIGATION
ISO	ISOMETRIC
JB	JUNCTION BOX
JCT	JUNCTION
JF	JOINT FILLER
JT	JOINT
K	KIP
KB	KNEE BRACE
KCMIL	THOUSAND CIRCULAR MILS
KD	KNOCK DOWN
KIUC	KAUAI ISLAND UTILITY COOPERATIVE
KO	KNOCK OUT
KSI	KIPS PER SQUARE INCH
L	ANGLE, LENGTH, LAVATORY
LAM	LAMINATE
LATL	LATERAL
LB	LAG BOLT, POUND
LDR	LEADER
LF	LINEAR FOOT
LG	LONG
LH	LEFT HAND
LIN	LINEAR
LIQ	LIQUID
LL	LIVE LOAD
LLH	LONG LEG HORIZONTAL
LLV	LONG LEG VERTICAL
LMLU	LIQUID MARKER LECTURE UNIT
LNG	LONGITUDINAL
LOC	LOCATION
LP	LOW POINT
LPS	LOW PRESSURE SODIUM
LR	LONG RADIUS
LT	LEFT
LTD	LIMITED
LTG	LIGHTING
LTL	LINTEL
LTNG	LIGHTNING
LV	LOW VOLTAGE
LVR	LOUVER
LW	LIGHTWEIGHT
LWC	LIGHTWEIGHT CONCRETE
LWL	LOW WATER LEVEL
M	MECHANICAL (DWG DISCIPLINE)
MA	MIXED AIR
MAINT	MAINTENANCE
MAN	MANUAL
MAOP	MAXIMUM ALLOWABLE OPERATING PRESSURE
MATL	MATERIAL
MAX	MAXIMUM
MB	MACHINE BOLT
MBR	MEMBER
MCJ	MASONRY CONTROL JOINT
MECH	MECHANICAL
MED	MEDIUM
MFR	MANUFACTURER
MH	MANHOLE, METAL HALIDE
MIN	MINIMUM
MIR	MIRROR
MISC	MISCELLANEOUS
MJ	MECHANICAL JOINT
MMB	MEMBRANE
MO	MASONRY OPENING
MOD	MODULAR, MODIFY
MON	MONUMENT
MPT	MALE PIPE THREAD
MSL	MEAN SEA LEVEL
MT	MOUNT
MU	MASONRY UNIT
MULL	MULLION
MV	MEDIUM VOLTAGE
MW	MONITORING WELL
N	NORTH, NEUTRAL
NA	NOT APPLICABLE
NAT	NATURAL
NC	NORMALLY CLOSED
NEG	NEGATIVE
NF	NEAR FACE, NON-FUSED
NG	NATURAL GAS
NIC	NOT IN CONTRACT
NO	NORMALLY OPEN, NUMBER
NOM	NOMINAL
NPS	NOMINAL PIPE SIZE
NPT	NATIONAL PIPE THREAD
NS	NEAR SIDE
NTS	NOT TO SCALE
NWL	NORMAL WATER LEVEL
O TO O	OUT-TO-OUT
OA	OUTSIDE AIR, OVERALL
OC	ON CENTER
OCPD	OVER CURRENT PROTECTION DEVICE
OD	OUTSIDE DIAMETER
OH	OVERHEAD
OPNG	OPENING
OPP	OPPOSITE
OPT	OPTIONAL
ORD	OVERFLOW ROOF DRAIN
ORIG	ORIGINAL
OVFL	OVERFLOW
OVHG	OVERHANG
OZ	OUNCE
P	PAINT, PROCESS (DWG DISCIPLINE)
PAR	PARALLEL, PARAPET
PB	PANIC BAR, PULL BOX
PBD	PARTICLE BOARD
PC	POINT OF CURVE, PIECE, PRECAST
PCC	POINT OF COMPOUND CURVATURE
PCF	POUNDS PER CUBIC FOOT
PCT	PERCENT
PE	PLAIN END
PED	PEDESTAL
PEN	PENETRATION
PERF	PERFORATED
PERM	PERMANENT
PERP	PERPENDICULAR
PF	POWER FACTOR
PH	PHASE
PI	POINT OF INTERSECTION
PKG	PACKAGE
PL	PLATE, PROPERTY LINE
PLBG	PLUMBING
PLF	POUNDS PER LINEAR FOOT
PNEU	PNEUMATIC
POL	POLISH
POS	POSITIVE, POSITION
PP	POLYPROPYLENE, POWER POLE
PRC	POINT OF REVERSE CURVATURE
PREF	PREFINISHED
PREFAB	PREFABRICATED
PRELIM	PRELIMINARY
PREP	PREPARE
PRES	PRESSURE
PROP	PROPERTY
PROT	PROTECTION
PSF	POUNDS PER SQUARE FOOT
PSI	POUNDS PER SQUARE INCH
PSIA	POUNDS PER SQUARE INCH ABSOLUTE
PSIG	POUNDS PER SQUARE INCH GAGE
PT	POINT, POINT OF TANGENCY
PTN	PARTITION
PVC	POLYVINYL CHLORIDE
PVMT	PAVEMENT
PWD	PLYWOOD
PZ	PIEZOMETER
Q	RATE OF FLOW
QTR	QUARTER
QTY	QUANTITY
QUAL	QUALITY
R&R	REMOVE AND REPLACE
R&S	REMOVE AND SALVAGE
R	RADIUS, REGISTER, RISER
RA	RETURN AIR
RB	RESILIENT BASE, ROCK BERM
RCPT	RECEPTACLE
RD	ROOF DRAIN
REC	RECESS
RECD	RECEIVED
RECT	RECTANGULAR
RED	REDUCER
REF	REFERENCE
REINF	REINFORCING
REQD	REQUIRED
RESIL	RESILIENT
RET	RETAINING, RETURN
REV	REVISION, REVERSE
RFL	REFLECTED, REFLECTOR
RGS	RIGID GALVANIZED STEEL
RH	RELIEF HOOD, RIGHT HAND, RELATIVE HUMIDITY
RL	REQUIRED LAP
RND	ROUND
RNG	RENEWABLE NATURAL GAS
RO	ROUGH OPENING
ROW	RIGHT-OF-WAY
RPM	REVOLUTIONS PER MINUTE
RR	RAILROAD
RT	RIGHT
S	SOUTH, SINK, STRUCTURAL (DWG DISCIPLINE)
SA	SUPPLY AIR
SAN	SANITARY
SC	SOLID CORE
SCH	SCHEDULE
SCHEM	SCHEMATIC
SCRN	SCREEN
SE	STEEL/ALUMINUM EDGE
SEC	SECONDARY, SECONDS
SECT	SECTION
SEP	SEPARATE
SF	SQUARE FOOT
SH	SHOWER
SHT	SHEET
SHTG	SHEATHING
SIM	SIMILAR
SL	SLOPE
SLTD	SLOTTED
SLV	SLEEVE
SMLS	SEAMLESS
SOG	SLAB ON GRADE
SP	SOUNDPROOF, STANDPIPE
SPC	SPACING
SPEC	SPECIFICATION
SPLY	SUPPLY
SPT	SET POINT
SQ	SQUARE
SR	SHORT RADIUS
SS	SERVICE SINK
SST	STAINLESS STEEL
ST	STREET
STA	STATION
STD	STANDARD
STIF	STIFFENER
STIR	STIRRUP
STL	STEEL
STOR	STORAGE
STR	STRUCTURAL, STRAIGHT
SUB	SUBSTITUTE
SUC	SUCTION
SUSP	SUSPENDED
SY	SQUARE YARD
SYM	SYMBOL
SYMM	SYMMETRICAL
SYN	SYNTHETIC
SYS	SYSTEM
T&B	TOP AND BOTTOM
T&G	TONGUE AND GROOVE
T	TILE, TREAD
TA	TEMPERED AIR
TAN	TANGENT
TBM	TEMPORARY BENCHMARK
TEMP	TEMPORARY, TEMPERATURE
THK	THICK
THRD	THREAD
THRU	THROUGH
TOB	TOP OF BOLT, TOP OF BANK, TOP OF BEAM
TOC	TOP OF CURB, TOP OF CONCRETE
TOD	TOP OF DUCT
TOF	TOP OF FOOTING
TOG	TOP OF GRATING
TOL	TOLERANCE, TOP OF LEDGER
TOM	TOP OF MASONRY
TOP	TOP OF PLATE
TOPO	TOPOGRAPHY
TOS	TOP OF SLAB, TOP OF STEEL
TOW	TOP OF WALL
TP	TELEPHONE POLE, TOE PLATE, TRAP PRIMER
TPG	TOPPING
TRANS	TRANSITION
TRD	TRENCH DRAIN
TYP	TYPICAL
U	URINAL
UG	UNDERGROUND
ULT	ULTIMATE
UNFN	UNFINISHED
UNO	UNLESS NOTED OTHERWISE
UTIL	UTILITY
V	VENT, VELOCITY, VOLT
VA	VOLT AMPERE
VAC	VACUUM
VAR	VARNISH, VARIABLE, VOLT AMPERES REACTIVE
VB	VAPOR BARRIER, VINYL BASE, VALVE BOX
VC	VERTICAL CURVE
VCT	VINYL COMPOSITION TILE, VERTICAL CENTERLINE
VEL	VELOCITY
VENT	VENTILATION
VERT	VERTICAL
VS	VERSES, VAPOR SEAL
VOL	VOLUME
VPC	VERTICAL POINT OF CURVATURE
VPI	VERTICAL POINT OF INTERSECTION
VPT	VERTICAL POINT OF TANGENCY
VTR	VENT THROUGH ROOF
VWC	VINYL WALL COVERING
W/	WITH
W/O	WITHOUT
W	WATT, WEST, WIDE, WINDOW, WIRE, WIDE FLANGE BEAM
WC	WATER CLOSET, WATER COLUMN
WD	WIDTH
WF	WIDE FLANGE, WASH FOUNTAIN
WG	WIRE GLASS, WATER GAGE
WH	WALL HYDRANT, WEEP HOLE
WL	WATER LEVEL
WLD	WELDED
WM	WIRE MESH
WP	WATERPROOF, WORKING POINT
WTHP	WEATHERPROOF
WS	WATERSTOP, WATER SURFACE
WSEL	WATER SURFACE ELEVATION
WT	WEIGHT, WATER TIGHT
WWF	WELDED WIRE FABRIC
XS	EXTRA STRONG
XXS	DOUBLE EXTRA STRONG
XSECT	CROSS SECTION
YH	YARD HYDRANT
YS	YIELD STRENGTH

GENERAL NOTES:

1. THESE ABBREVIATIONS APPLY TO THE ENTIRE SET OF CONTRACT DRAWINGS.
2. LISTING OF ABBREVIATIONS DOES NOT IMPLY ALL ABBREVIATIONS ARE USED IN THE CONTRACT DRAWINGS.
3. ABBREVIATIONS SHOWN ON THIS SHEET INCLUDE VARIATIONS OF THE WORD. FOR EXAMPLE, "MOD" MAY MEAN MODIFY OR MODIFICATION; "INC" MAY MEAN INCLUDED OR INCLUDING; "REINF" MAY MEAN EITHER REINFORCE OR REINFORCING.
4. SCREENING OR SHADING OF WORK IS USED TO INDICATE EXISTING COMPONENTS OR TO DE-EMPHASIZE PROPOSED IMPROVEMENTS TO HIGHLIGHT SELECTED TRADE WORK. REFER TO CONTEXT OF EACH SHEET FOR USAGE.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM OUTLET MODIFICATIONS

STANDARD ABBREVIATIONS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
G003

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Dam Outlet Modification\G003.dwg Plot date: Sep 29, 2023 02:34pm, CAD User: HaberFlavia

SHEET SYMBOLS

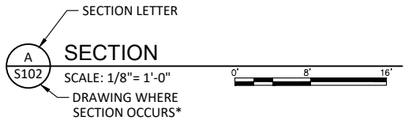
PLAN
SCALE: 1/2"= 1'-0"
0' 2' 4'

N

SECTION IDENTIFICATION

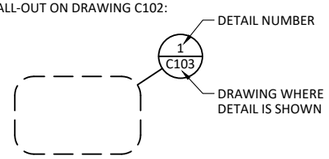
(1) SECTION CUT ON DRAWING C102:

(2) ON DRAWING C103 THIS SECTION IS IDENTIFIED AS:

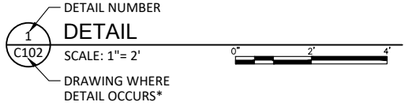


DETAIL IDENTIFICATION

(1) DETAIL CALL-OUT ON DRAWING C102:



(2) ON DRAWING C103 THIS SECTION IS IDENTIFIED AS:

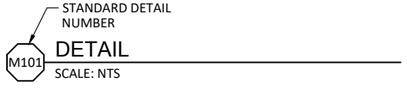


*NOTE: IF PLAN AND SECTION (OR DETAIL CALL-OUT AND DETAIL) ARE SHOWN ON SAME DRAWING. DRAWING NUMBER IS REPLACED BY A LINE.

STANDARD DETAIL IDENTIFICATION

(1) DETAIL CALL-OUT ON PLAN OR SECTION:

(2) ON DETAIL DRAWINGS, IDENTIFIED AS:



ELEVATION/IMAGE IDENTIFICATION

SITE PLAN LINE TYPES

X X	FENCE LINE
P P	OVERHEAD POWER
455	MAJOR CONTOUR
456	MINOR CONTOUR
455	EXIST MAJOR CONTOUR
456	EXIST MINOR CONTOUR
...	EDGE OF WATERLINE
TOE	TOE OF SLOPE
TOB	TOP OF BANK
SS SS	SANITARY SEWER
SD SD	STORM DRAIN
EP EP	EDGE OF PAVEMENT
EG EG	EDGE OF GRAVEL
W	WATTLE
SF SF	SILT FENCE
CF CF	CONSTRUCTION FENCE
GAS	GAS LINE
TC	TURBIDITY CURTAIN
IRR IRR	IRRIGATION LINE
WTR	WATER LINE
TEL	TELEPHONE LINE
COM	COMMUNICATION LINE
OHP	OVERHEAD ELECTRICAL/POWER
EUG	UNDERGROUND ELECTRICAL
P/L	PROPERTY LINE
OHP	EXISTING OVERHEAD POWER LINE
OHP&T	EXISTING OVERHEAD POWER & TELEPHONE LINE
T	EXISTING OVERHEAD TELEPHONE LINE
BT	EXISTING BURIED TELEPHONE LINE EVIDENCED BY PEDESTALS & WARNING PADDLES
X X X X X	EXISTING FENCE LINE
	PROJECT BOUNDARY
	TREE PROTECTION FENCE
	LIMITS OF DISTURBANCE
	SHORING

SITE PLAN SYMBOLS

N	ARROW INDICATES DIRECTION OF PLAN NORTH
	CONIFER TREE: FIR, SPRUCE, LARCH OR PINE, 8" DIAMETER OR LARGER.
	DECIDUOUS TREE: COTTONWOOD, HAWTHORN, ASPEN, 8" DIAMETER OR LARGER.
MH	MANHOLE
EB	ELECTRIC BOX
	STORM DRAIN MANHOLE
FH	FIRE HYDRANT
YH-X	YARD HYDRANT
	SURVEY CONTROL POINT, AS NOTED.
	POLE ANCHOR
	POWER POLE
	LIGHT POLE
	SIGN
	SURVEY HUB
	SECTION CORNER
	BENCH MARK
	EXISTING HEADWALL
	EXISTING MONITORING STATION
X X	EXISTING FENCE
	STATE PLANE COORDINATE MARKER
	EXISTING TREE LINE
	EXISTING BUILDING, STRUCTURES
	EXISTING SECTION CORNER MONUMENT FOUND AS DESCRIBED
	EXISTING 5/8" REBAR CONTROL POINT MONUMENT, BORING LOCATION
W	EXISTING HOSE BIB
P	EXISTING PORTABLE IRRIGATION WATER PUMP
WELL	EXISTING 6" WATER WELL
	EXISTING ELECTRICAL OUTLET
P	EXISTING POWER POLE
T	EXISTING TELEPHONE PEDESTAL
	CONTROL POINT
	PUMP
	PUMP
TP	TEST PIT LOCATION

MISCELLANEOUS SYMBOLS

	CHANGE OF PIPE MTL
OR	END OF PIPE
℄	CENTERLINE
Ø	DIAMETER
∠	ANGLE
PL	PLATE
±	PLUS/MINUS

GENERAL NOTES:

1. ALL SYMBOLS ARE NOT NECESSARILY USED. THIS IS A STANDARD DRAWING SHOWING COMMON SYMBOLS ON THIS PROJECT.
2. SCREENING OR SHADING OF WORK IS USED TO INDICATE EXISTING COMPONENTS OR TO DE-EMPHASIZE PROPOSED IMPROVEMENTS TO HIGHLIGHT SELECTED TRADE WORK. REFER TO CONTEXT OF EACH DRAWING FOR USAGE.

HATCH SYMBOLS

	ROCK, TYPE AS NOTED (PLAN/SECTION)
	BED ROCK
	EXISTING GRADE (SECTION)
	NEW SOIL (SECTION)
	CONCRETE EXISTING (SECTION/PLAN)
	CONCRETE 1ST STAGE (SECTION/PLAN)
	CONCRETE 2ND STAGE (SECTION/PLAN)
	SAND, GROUT (PLAN/SECTION)
	STEEL (SECTION)
	GRATING (PLAN)
	MASONRY (PLAN)
	WOOD, SIZE/TYPE AS NOTED (PLAN)
	WOOD, SIZE/TYPE AS NOTED (SECTION)
	RIP RAP (PLAN/SECTION)
	RIGID INSULATION (SECTION)
	ASPHALT CONCRETE PAVEMENT SURFACE (PLAN/SECTION)
	GRASS/VEGETATION (PLAN)
	BATT INSULATION (SECTION)
	NEW CONSTRUCTION
	EXISTING
	EXISTING TO BE REMOVED OR DEMOLISHED
	CLEARING AND GRUBBING
	ASPHALT
	GRASS/VEGETATION
	GRAVEL

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM OUTLET MODIFICATIONS

STANDARD SYMBOLS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
G004

JOB NO: 000000

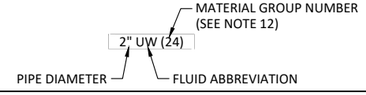
Path: C:\Vault\Chugach Electric\Dam Outlet Modification\G004.dwg Plot date: Sep 28, 2023 09:25am, CAD User: HaberFlavia

FLUID ABBREVIATION	FUNCTION	ALLOWABLE PIPING MATERIAL GROUP NO. (SEE NOTE 1 AND 4)				FIELD TEST REQUIREMENTS (SEE NOTE 3 AND NOTE 4)		
	THIS LIST MAY INCLUDE FLUIDS NOT USED IN THIS PROJECT	EXPOSED PIPING (SEE NOTE 14)		BURIED PIPING (SEE NOTE 13)		MINIMUM TEST PRESSURE PSI	TEST MEDIUM	LEAKAGE ALLOWANCE (SEE NOTE 2)
		3" DIA AND SMALLER	4" DIA AND LARGER	3" DIA AND SMALLER	4" DIA AND LARGER			
COMMONLY USED FUNCTIONS								
VT	VENT	15	15	--	--	15 IN Hg	VACUUM	(A) (D)

PIPING MATERIAL SCHEDULE (SEE NOTE 1)

GROUP NO.	PIPE MATERIAL	FITTINGS / JOINTS	LININGS AND COATINGS (SEE NOTE 13)
15	STAINLESS STEEL, TYPE 316, ASTM A312, SCHEDULE 10S.	STAINLESS STEEL, TYPE 316 WELDED SLIP-ON FLG ASME B16.3, OR SOCKET WELDED FITTINGS SCHEDULE 40S, (NO THREADED JOINTS ALLOWED)	NOT APPLICABLE

TYPICAL PIPE DESIGNATION:



NOTES:

NOTE 1
ALTHOUGH SEVERAL PIPE MATERIAL GROUPS MAY BE LISTED ON THIS SHEET FOR A GIVEN FLUID SERVICE, CONTRACTOR SHALL PROVIDE ONLY THE PIPE MATERIAL GROUP SHOWN ON THE DRAWINGS AND SPECIFIED FOR THAT FLUID SERVICE.

NOTE 2
LEAKAGE ALLOWANCE IS AS FOLLOWS
A. PIPES SO DESIGNATED SHALL SHOW ZERO LEAKAGE.
B. PIPES SO DESIGNATED SHALL SHOW ZERO LEAKAGE FOR UNBURIED PIPE AND NOT MORE THAN 0.02 GALLON PER HOUR PER INCH DIAMETER PER 100 FEET OF BURIED PIPE.
C. PIPES SO DESIGNATED SHALL NOT SHOW A LEAKAGE OF MORE THAN 0.15 GALLON PER HOUR PER INCH OF DIAMETER PER 100 FEET OF PIPE.
D. PIPES SO DESIGNATED SHALL NOT SHOW A LOSS OF PRESSURE OF MORE THAN 5 PERCENT.
E. PIPE SO DESIGNATED SHALL NOT SHOW A LOSS OF VACUUM OF MORE THAN 4 INCHES MERCURY COLUMN.

NOTE 3
FOR FIELD TEST PROCEDURES AND ADDITIONAL TEST REQUIREMENTS, SEE PIPING SECTION OF SPECIFICATIONS.

NOTE 4
NO SUBSTITUTIONS U.N.O. IN THE SPECIFICATIONS.

NOTE 5
NOT USED

NOTE 6
STATIC WATER TEST WITH SURFACE 5 FEET ABOVE HIGH POINT OF PIPE.

NOTE 7
INSPECTION AND TESTING SHALL BE IN ACCORDANCE WITH APPLICABLE PLUMBING CODE.

NOTE 8
NOT USED

NOTE 9
NOT USED

NOTE 10
NOT USED

NOTE 11
NOT USED

NOTE 12
CHANGE IN PIPING MATERIAL GROUP NUMBER IS INDICATED THUS: ——◆

NOTE 13
FOR FULL PIPE LINING AND COATING REQUIREMENTS, SEE SPECIFICATIONS.

NOTE 14
EXPOSED OUTDOOR PIPING SHALL BE PAINTED IN ACCORDANCE WITH SPECIFICATIONS. COLORS TO BE SELECTED BY OWNER.

NOTE 15
NOT USED

NOTE 16
NOT USED

NOTE 17
NOT USED

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
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McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM OUTLET MODIFICATIONS

PIPING SCHEDULE

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

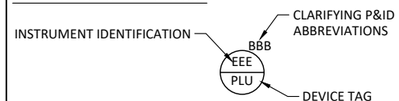
DRAWING
G005

JOB NO: 0000000

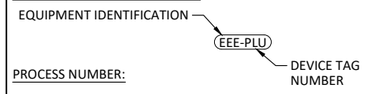
Path: C:\Vault\Chugach Electric\Dam Outlet Modification\G005.dwg Plot date: Sep 28, 2023 09:25am, CAD User: HaberFlavia

INSTRUMENTATION / EQUIPMENT TAGS

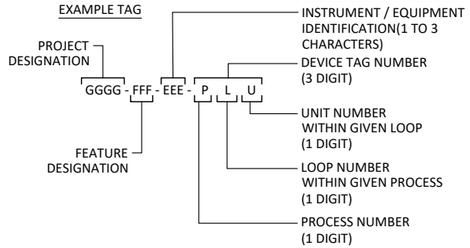
EXAMPLE INSTRUMENT CALLOUT



EXAMPLE EQUIPMENT CALLOUT



EXAMPLE TAG



PROCESS NUMBER:

0 MPH COMMON
1 TURBINE/GENERATOR
2 PUMPS/MOTORS
3 TIV
4 HVAC
5 LUBE/WATER COOLING
6 HPU
7 PLUMBING
8 VFD
9 CONTROLS INSTRUMENTATION

NOTE:

PROJECT AND FEATURE DESIGNATION FOR ALL COMPONENTS ON THIS FEATURE SET SHALL BE "EFWP-DOM" FOR "EKLUTNA FISH & WILDLIFE PROJECT - DAM OUTLET MODIFICATIONS". THIS HAS BEEN OMITTED ON THE DRAWINGS FOR BREVITY.

GENERAL INSTRUMENT OR FUNCTIONAL SYMBOLS

	FIELD MOUNTED	PRIMARY OR PANEL MOUNTED - ACCESSIBLE (1)	PRIMARY OR PANEL MOUNTED - INACCESSIBLE (2)	SECONDARY OR MCC MOUNTED - ACCESSIBLE (1)	SECONDARY OR MCC MOUNTED - INACCESSIBLE (2)
INSTRUMENT	EEE / PLU	EEE / PLU	EEE / PLU	EEE / PLU	EEE / PLU
SHARED DISPLAY SHARED CONTROL OR HMI	EEE / PLU	EEE / PLU	EEE / PLU	EEE / PLU	EEE / PLU
INDICATING LIGHTS	EEE / PLU	EEE / PLU	N/A	EEE / PLU	N/A

(1) NORMALLY ACCESSIBLE TO OPERATOR
(2) NORMALLY INACCESSIBLE TO OPERATOR (BEHIND-THE-PANEL)

SPECIAL CASE INSTRUMENT OR FUNCTIONAL SYMBOLS

- SINGLE INSTRUMENT OR OTHER COMPONENT HAVING MULTIPLE FUNCTIONS
- RELAY INTERLOCK LOGIC - SEE SCHEMATICS OR SPECIFICATIONS FOR MORE INFORMATION
- LSH / PLU — LEVEL (FLOAT)
- LE / PLU — LEVEL (ULTRASONIC)
- 24 VDC — POWER SUPPLY (SIZE AS NOTED)
- AS — AIR SUPPLY
- PRIMARY ELECTRICAL POWER (120V / 60 HZ UNLESS INDICATED OTHERWISE)
- INDICATES VENDOR PACKAGE
- CR — CONTROL RELAY
- LIGHTNING SURGE ARRESTOR
- M — MOTOR

SIGNAL SYSTEM INTERFACES

- AA / PLU — ANALOG INPUT
- AA / PLU — ANALOG OUTPUT
- AA / PLU / X — DISCRETE INPUT
- AA / PLU / X — DISCRETE OUTPUT
- AA / PLU / YY — DIGITAL DATA SIGNAL

AA = I/O DESIGNATION (MV = MULTIVARIABLE)

YY = DIGITAL PROTOCOL

X: H-MAINTAINED/LATCHING
M = MOMENTARY/FOLLOWER

ANALOG I/O DESIGNATORS

CR	CHLORINE RESIDUAL
DP	DIFFERENTIAL PRESSURE
FL	FLOW
LE	LOWER EXPLOSIVE LIMIT
LV	LEVEL
MO	MANIPULATED OUTPUT
PH	ACIDITY
PO	POSITION
PR	PRESSURE
PV	PROCESS VARIABLE
SP	SPEED
TE	TEMPERATURE
TU	TURBIDITY

DIGITAL PROTOCOL DESIGNATORS

DN	DEVICENET
IP	ETHERNET /IP
MB	MODBUS RTU
PB	PROFIBUS
PL	PARALLEL
SL	SERIAL
TC	MODBUS TCP

DISCRETE I/O DESIGNATORS

AM	AUTO-MANUAL
AU	AUTO
CL	CLOSED
EN	ENABLE
EL	POWER AVAILABLE
FA	FIRE ALARM
FW	FORWARD / REVERSE
HH	HI-HI LEVEL
HI	HI LEVEL
LL	LOW-LOW LEVEL
LO	LOW LEVEL
MN	MANUAL
OO	ON-OFF
OP	OPEN
RB	RUN BOOSTER
RC	RUN CLOSED
RE	REMOTE
RF	RUN FORWARD
RG	RUNNING
RN	RUN-STOP
RO	RUN-OPEN
RR	RUN-REVERSE
RV	REVERSE
YA	FAULT
SU	SUPERVISORY
SW	SELECTION
TR	TROUBLE

INSTRUMENTATION IDENTIFICATION TABLE (ISA)

FIRST LETTER			SUCCEEDING LETTER(S)		
LETTER	MEASURED INITIATING VARIABLE	VARIABLE MODIFIER	READOUT OR PASSIVE FUNCTION	OUTPUT OR ACTIVE FUNCTION	FUNCTION MODIFIER
A	ANALYSIS (+)		ALARM		
B	BURNER, COMBUSTION				
C	CONDUCTIVITY			CONTROL	CLOSED
D	DENSITY (S.G.)	DIFFERENTIAL			
E	VOLTAGE		SENSOR (PRIMARY ELEMENT)		
F	FLOW RATE	RATIO (FRACTION)			
G	GAUGE		GLASS, GAUGE, VIEWING DEVICE	GATE	
H	HAND (MANUAL)				HIGH
I	CURRENT (ELECTRICAL)		INDICATE		
J	POWER	SCAN			
K	TIME, TIME SCHEDULE	TIME RATE OF CHANGE		CONTROL STATION	
L	LEVEL		LIGHT (PILOT)		LOW
M	MOTION	MOMENTARY			MIDDLE, INTERMEDIATE
N	TORQUE		ISOLATE	ISOLATOR	
O	USER CHOICE		ORIFICE, RESTRICTION		OPEN
P	PRESSURE (VACUUM), PNEUMATIC		POINT (TEST) CONNECTION		
Q	QUANTITY	INTEGRATE, TOTALIZE			
R	RADIATION/ RESISTANCE (ELECTRICAL)		RECORD OR PRINT		
S	SPEED, FREQUENCY	SAFETY		SWITCH	
T	TEMPERATURE			TRANSMIT	
U	MULTI VARIABLE		MULTIFUNCTION	MULTIFUNCTION	MULTIFUNCTION
V	VIBRATION, MECHANICAL ANALYSIS			VALVE, DAMPER, LOUVER	
W	WEIGHT, FORCE		WELL		
X	INTRUSION	X-AXIS			
Y	EVENT, STATE OR PRESENCE	Y-AXIS		RELAY, COMPUTE, CONVERT	
Z	POSITION, DIMENSION	Z-AXIS		DRIVER, ACTUATOR, FINAL CONTROL ELEMENT	

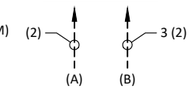
EQUIPMENT IDENTIFICATION TABLE

AC	AIR COMPRESSOR	GEN	GENERATOR	PV	PHOTOVOLTAIC
ACC	ACCUMULATOR	GSU	GENERATOR STEP-UP TRANSFORMER	RCT	RECTIFIER
ACT	ACTUATOR	GTC	GENERATOR POWER TERMINAL CABINET	RIO	REMOTE I/O UNIT
AF	AIR FILTER	HB	HOSE BIB	RTD	RESISTANCE TEMPERATURE DETECTOR
AFD	ADJUSTABLE FREQUENCY DRIVE	HMI	HUMAN-MACHINE INTERFACE	RTU	REMOTE TELEMETRY UNIT
AH	AIR HANDLING UNIT	HOI	HOIST/CRANE	SEC	SECURITY CONTROL PANEL
ARC	ARC PLENUM AND EXHAUST DUCT	HPU	HYDRAULIC POWER UNIT	SEP	SEPTIC SYSTEM
ATS	AUTOMATIC TRANSFER SWITCH	HTR	HEATER	SHG	SODIUM HYPOCHLORITE GENERATOR
BAT	BATTERY	INV	INVERTER	SNK	SINK
BC	BATTERY CHARGER	LCP	LOCAL CONTROL PANEL	SPU	SPEED PICKUP SENSOR
BRG	BEARING	LCS	LOCAL CONTROL STATION	STR	STRAINER
BRK	BREAKER	LPU	LUBRICATING OIL PUMP CONTROL UNIT	SVR	SERVER
CAM	CAMERA	MB	METER BASE	SWG	SWITCHGEAR
CSE	COMBINATION SERVICE ENCLOSURE	MC	MECHANICAL COUPLING	TIV	TURBINE INLET VALVE
CV	CHECK VALVE	MCC	MOTOR CONTROL CENTER	TNK	TANK
D	DAMPER	MCP	MAIN CONTROL PANEL	TOI	WATER CLOSET
DCU	DISTRIBUTED CONTROL UNIT	MES	MANAGED ETHERNET SWITCH	TRS	TRAVELING SCREEN
DS	DISCONNECT	MOV	MOTOR OPERATED VALVE	TUR	TURBINE
EAP	ENGINEERING ACCESS POINT	MS	MOTOR STARTER	UPS	UNINTERRUPTABLE POWER SUPPLY
ECP	ENVIRONMENTAL CONTROL PANEL (HVAC)	MTR	MOTOR	UVR	UV REACTOR
EEW	EMERGENCY EYEWASH STATION	MTS	MANUAL TRANSFER SWITCH	V	VALVE
EF	EXHAUST FAN	NET	NETWORK / COMMUNICATIONS RACK	VCP	VENDOR CONTROL PANEL
EXC	EXCITER	OWS	OIL WATER SEPARATOR	VFD	VARIABLE FREQUENCY DRIVE
FAS	FIRE ALARM SYSTEM	P	PUMP	VL	VENTILATION LOUVER
FD	FLOOR DRAIN	PB	PANELBOARD / LOAD CENTER	VSP	VENDOR SUPPLIED PANEL
FIL	FILTER	PCP	PLANT CONTROL PANEL	WS	WATER SOFTENER
FOR	FIBER OPTIC REPEATER	PCU	POWER CONTROL UNIT	XFR	TRANSFORMER
FOT	FIBER OPTIC TRANSCEIVER	PFL	PRE-FILTER	XVR	TRANSCEIVER
FPP	FIBER PATCH PANEL / CONNECTOR HOUSING	PLC	PROGRAMMABLE LOGIC CONTROLLER	YLT	EVENT PILOT LIGHT
G	GATE	PRV	PRESSURE REDUCING VALVE	ZZK	SECURITY GATE INTERFACE
GBK	GENERATOR BRAKE	PS	POWER SUPPLY / ISOLATOR / CONVERTER		

INSTRUMENTATION LINE SYMBOLOGY

- PRIMARY PROCESS (CLOSED CONDUIT, DASHED LINE INDICATES ALTERNATE FLOW STREAM)
- PRIMARY PROCESS (OPEN CHANNEL)
- ANALOG SIGNAL, (4 TO 20 mAdc, ECT)
- DISCRETE SIGNAL, (ON/OFF, ECT)
- PNEUMATIC SIGNAL
- FILLED SYSTEM SIGNAL
- HYDRAULIC SYSTEM SIGNAL
- DIGITAL DATA LINK
- PACKAGE SYSTEM EQUIPMENT
- STRUCTURE/FACILITY BOUNDARY
- CABLE FURNISHED WITH EQUIPMENT
- M — MECHANICAL POWER/LINKAGE
- E — ELECTRICAL POWER

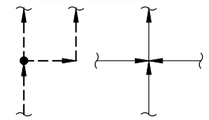
PARALLELING LINES



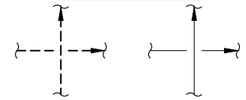
(A) TOTAL OF 2 SIGNALS

(B) 3 TYPICAL SETS OF 2 SIGNALS EACH. TOTAL OF 6 SIGNALS.

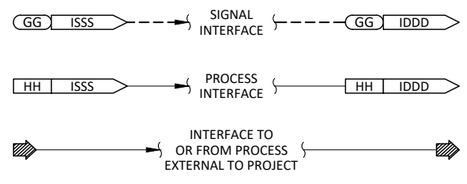
CONNECTING LINES



NON-CONNECTING LINES



SYSTEM CONTINUATION INTERFACES



GG SIGNAL INTERFACE NO.
HH PROCESS INTERFACE NO.
DDD DESTINATION DRAWING NO.
SSS SOURCE DRAWING NO.

P&ID ABBREVIATIONS

AC	ALTERNATING CURRENT
AM	AUTO-MANUAL
COD	CHEMICAL OXYGEN DEMAND
DEV	DEVIATION
DC	DIRECT CURRENT
DCS	DISTRIBUTED CONTROL SYSTEM
ECS	ENVIRONMENTAL CONTROL SYSTEM (HVAC)
EPO	EMERGENCY POWER OFF
FOC	FIBER OPTIC CABLE
FOS	FAST-OFF-SLOW
FOSA	FAST-OFF-SLOW-AUTO
FOSR	FAST-OFF-SLOW-REMOTE
HI	HIGH
HML	HIGH-MID-LOW
HOA	HAND-OFF-AUTO
HOR	HAND-OFF-REMOTE
ISR	INTRINSICALLY SAFE RELAY
LEL	LOWER EXPLOSIVE LIMIT
LO	LOW
LOR	LOCAL-OFF-REMOTE
LOS	LOCKOUT STOP
LR	LOCAL-REMOTE
MC	MODULATE-CLOSE
MOA	MANUAL-OFF-AUTO
MSC	MANUFACTURER SUPPLIED CABLE
NC	NORMALLY CLOSED
NO	NORMALLY OPEN
OC	OPEN-CLOSE(D)
OCA	OPEN-CLOSE-AUTO
OCR	OPEN-CLOSE-REMOTE
OI	OPERATOR INTERFACE
OO	ON-OFF
OOA	ON-OFF-AUTO
OOR	ON-OFF-REMOTE
ORP	OXIDATION REDUCTION POTENTIAL
OSC	OPEN-STOP-CLOSE
PC	PERSONAL COMPUTER
PCS	PLANT CONTROL SYSTEM
pH	HYDROGEN ION CONCENTRATION
PID	PROPORTIONAL INTEGRAL DERIVATIVE CONTROL
POT	POTENTIOMETER
RC	RUN CLOSE
RO	RUN OPEN
RL	RAISE-LOWER
RM	REMOTE MULTIPLEXING MODULE
RSL	RAISE-STOP-LOWER
RVSS	REDUCED VOLTAGE SOLID-STATE STARTER
SCADA	SUPERVISORY CONTROL AND DATA ACQUISITION
SEL	SELECT
SET	SET POINT
SF	SLOWER-FASTER
SHC	SODIUM HYPOCHLORITE
SR	START-RESET
SS	START-STOP
SSC	SUPERVISORY SET POINT CONTROL
ST	START
SW	SEAL WATER
TC	THERMOCOUPLE
TCR	TOTAL CHLORINE RESIDUAL
TEMP	TEMPERATURE
TSP	TWISTED SHIELD PAIR
TURB	TURBIDITY
VHC	VOLATILE HYDROCARBONS
VIB	VIBRATION
VSP	VENDOR SUPPLIED PANEL
VTO	VENT TO OUTSIDE
WSEL	WATER SURFACE ELEVATION

NOTES:

1. FOR MECHANICAL ELEMENT SYMBOLS, SEE MECHANICAL LEGEND.
2. FOR ELECTRICAL ELEMENT SYMBOLS, SEE ELECTRICAL LEGEND.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM OUTLET MODIFICATIONS

INSTRUMENTATION AND EQUIPMENT LEGEND

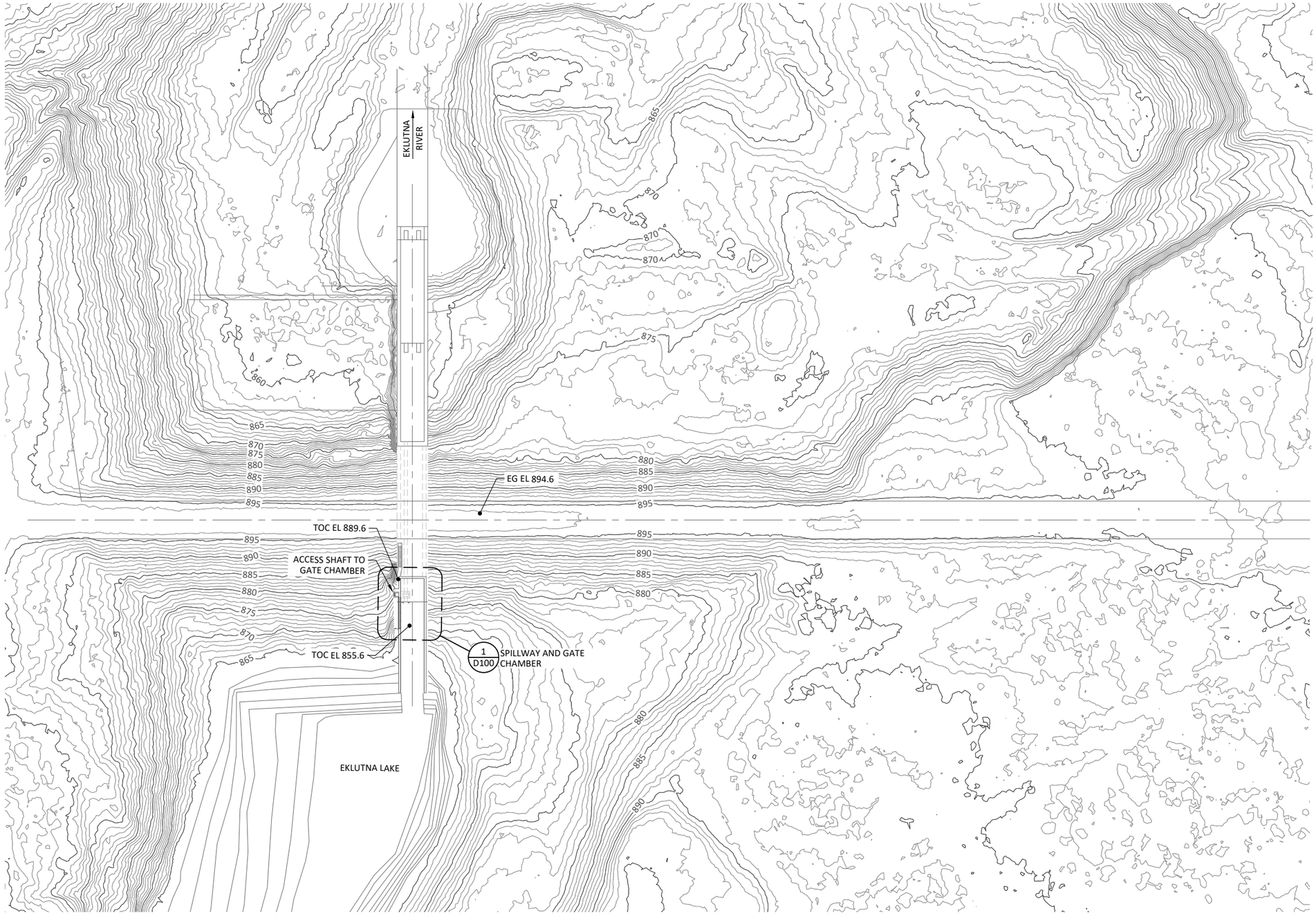
DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING

G006

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Dam Outlet Modification\G006.dwg Plot date: Sep 28, 2023 09:26am, CAD User: HaberFlavia



DEMOLITION KEY PLAN

SCALE: 1"= 40'

0" 40' 80'

N

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).

PRELIMINARY
NOT FOR CONSTRUCTION

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0	10/6/23	SPE	15% DESIGN

WARNING

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MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM OUTLET MODIFICATIONS

DEMOLITION KEY PLAN

DESIGNED S. ELLENSON

DRAWN F. HABER

CHECKED J. BOAG

PROJECT DATE 10/6/23

DRAWING

D001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Dam Outlet Modification\D001.dwg Plot date: Sep 28, 2023 09:29am, CAD User: HaberFlavia

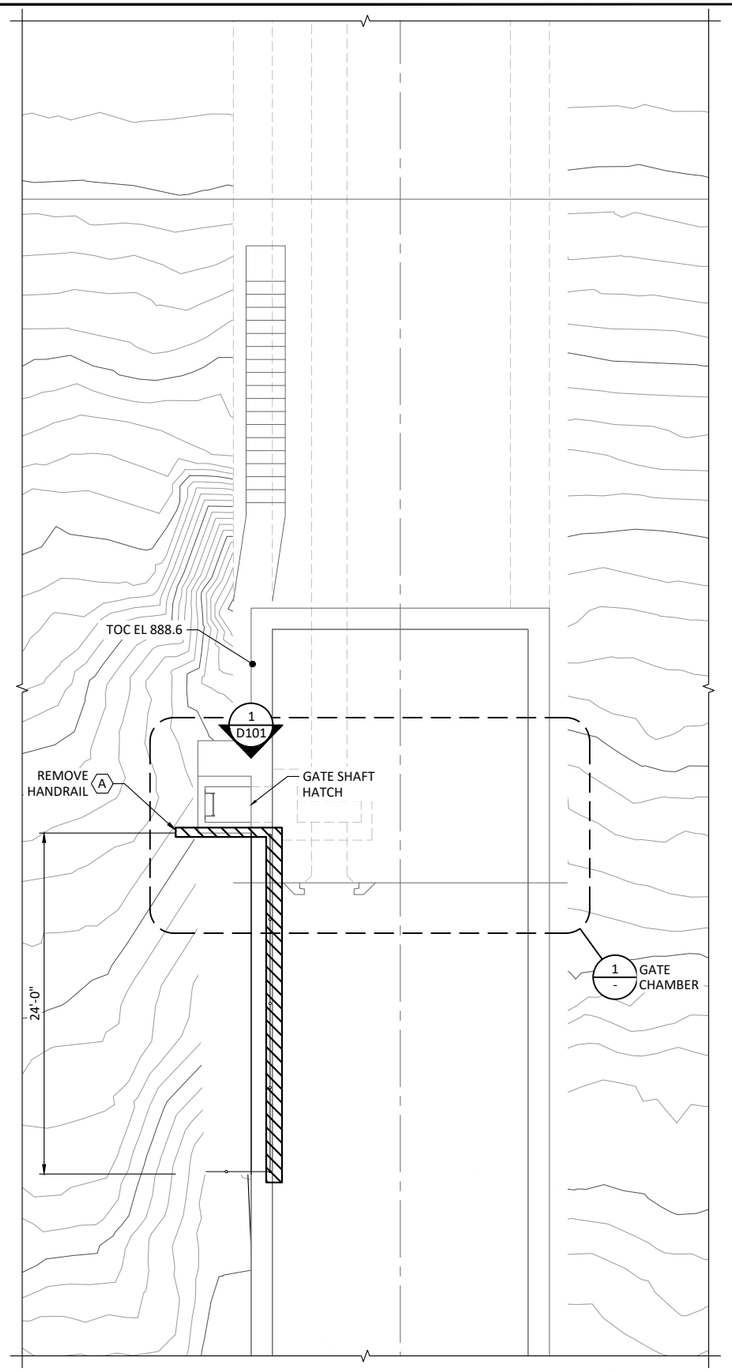
SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).

SHEET KEY NOTES:

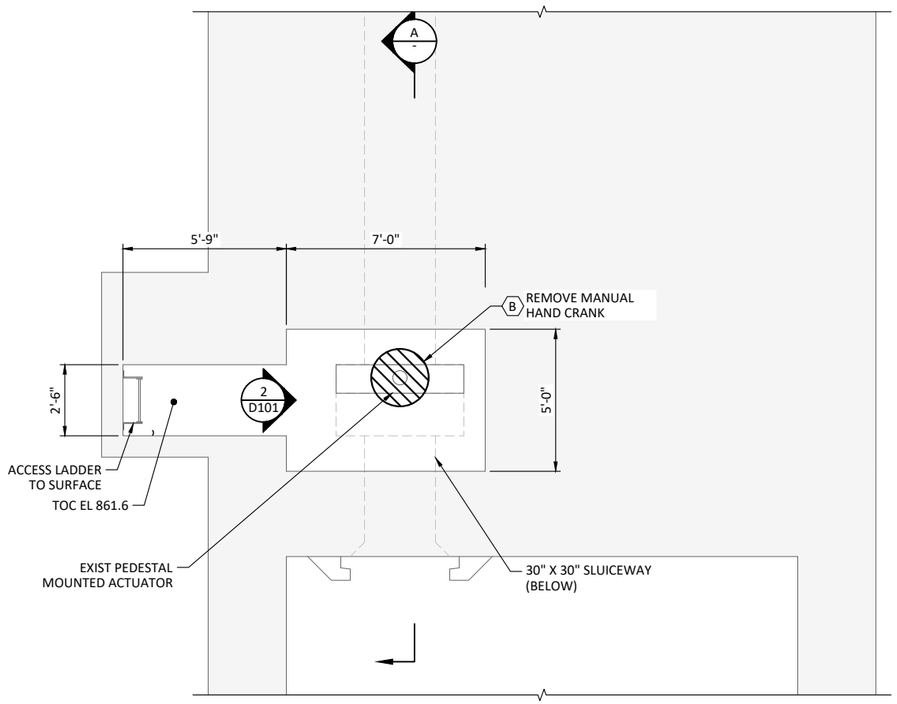
A. REMOVE HANDRAIL ALONG SPILLWAY TRAINING WALL AND EAST SIDE OF GATE SHAFT HATCH.

B. REMOVE MANUAL HAND CRANK OPERATOR FROM OUTLET GATE ACTUATOR FOR REPLACEMENT WITH ELECTRIC MOTOR OPERATOR.



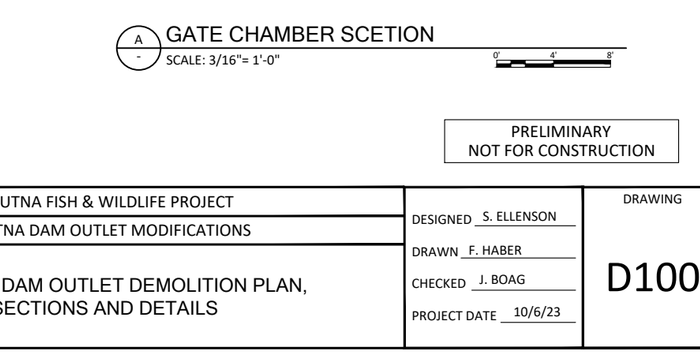
SPILLWAY DETAIL

SCALE: 3/16"= 1'-0"



1 - GATE CHAMBER PLAN

SCALE: 3/8"= 1'-0"



A - GATE CHAMBER SCETION

SCALE: 3/16"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM OUTLET MODIFICATIONS

EKLUTNA DAM OUTLET DEMOLITION PLAN, SECTIONS AND DETAILS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING

D100

JOB NO: 000000

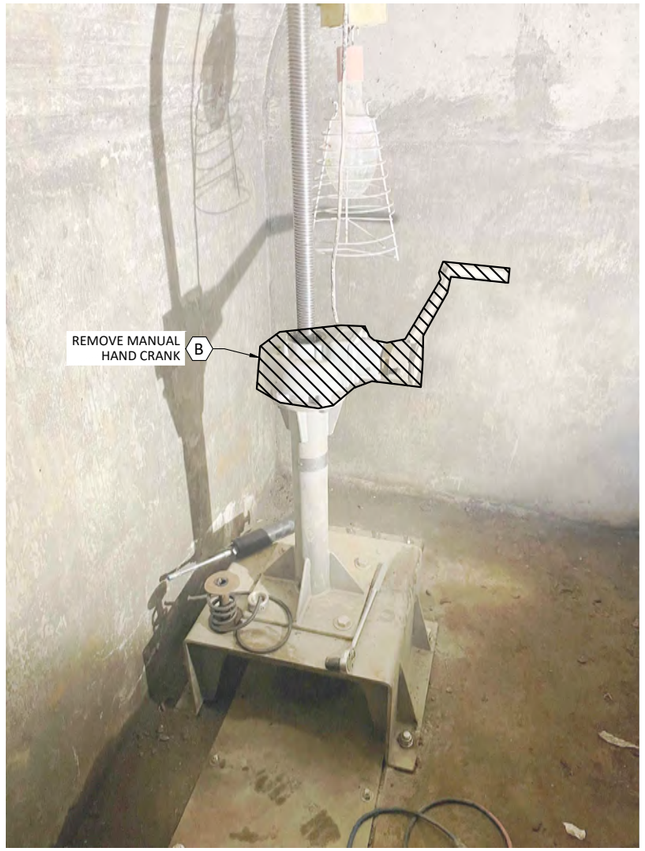
Path: C:\Vault\Chugach Electric\Dam Outlet Modification\D100.dwg Plot date: Sep 28, 2023 09:30am, CAD User: HaberFlavia

SHEET KEY NOTES:

A. REMOVE HANDRAIL ALONG SPILLWAY TRAINING WALL AND EAST SIDE OF GATE SHAFT HATCH.

B. REMOVE MANUAL HAND CRANK OPERATOR FROM OUTLET GATE ACTUATOR FOR REPLACEMENT WITH ELECTRIC MOTOR OPERATOR.

1 D100 PHOTO



2 D100 PHOTO

PRELIMINARY
NOT FOR CONSTRUCTION

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0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
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McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM OUTLET MODIFICATIONS

EKLUTNA DAM OUTLET
DEMOLITION PHOTOS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
D101

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Dam Outlet Modification\D101.dwg Plot date: Sep 28, 2023 09:30am, CAD User: HaberFlavia

GENERAL STRUCTURAL NOTES:
THE FOLLOWING NOTES ARE GENERAL AND APPLY TO THE ENTIRE PROJECT, UNLESS SPECIFICALLY NOTED OTHERWISE (UNO)

1) GENERAL:

A. CONSTRUCTION DOCUMENTS:
   1. THE CONTRACTOR SHALL REVIEW THE APPROVED CONTRACT DOCUMENTS AND NOTIFY THE ENGINEER OF ANY ERRORS OR DISCREPANCIES PRIOR TO THE START OF CONSTRUCTION.
   2. THE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY IF ANY UNIDENTIFIED EXISTING UNDERGROUND UTILITIES ARE DISCOVERED.
   3. THE STRUCTURAL CONTRACT DRAWINGS REPRESENT THE FINISHED STRUCTURE. THEY DO NOT INDICATE THE METHOD OF CONSTRUCTION. THE CONTRACTOR SHALL PROVIDE ALL MEASURES NECESSARY TO PROTECT THE STRUCTURE DURING CONSTRUCTION. SUCH MEASURES SHALL INCLUDE, BUT ARE NOT LIMITED TO, BRACING AND/OR SHORING FOR LOADS DUE TO CONSTRUCTION EQUIPMENT, ETC.
   4. UNDER NO CIRCUMSTANCES CAN STRUCTURAL COMPONENTS BE SUBSTITUTED, OMITTED, OR ALTERED FROM THE APPROVED SET OF CONSTRUCTION DOCUMENTS WITHOUT WRITTEN APPROVAL FROM THE ENGINEER.

B. DIMENSIONS AND NOTATIONS:
   1. WRITTEN DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS. DO NOT SCALE DRAWINGS.
   2. ABBREVIATIONS USED ON THE APPROVED CONSTRUCTION DOCUMENTS SHALL BE CONSIDERED TYPICAL ABBREVIATIONS FOR THE INDUSTRY. THE CONTRACTOR SHALL BE RESPONSIBLE TO NOTIFY THE ENGINEER IMMEDIATELY OF ANY ABBREVIATIONS THAT ARE UNKNOWN TO THE CONTRACTOR.

C. TYPICAL NOTES AND DETAILS:
   1. SPECIFIC NOTES AND DETAILS SHALL TAKE PRECEDENCE OVER STANDARD TYPICAL NOTES AND DETAILS.
   2. STANDARD TYPICAL NOTES AND DETAILS ARE TO BE USED WHEN REFERRED TO OR WHEN NO OTHER MORE RESTRICTIVE OR DIFFERENT DETAILS ARE SHOWN ON THE DRAWINGS.
   3. WORK NOT PARTICULARLY SHOWN OR SPECIFIED SHALL BE THE SAME AS SIMILAR PARTS THAT ARE SHOWN OR SPECIFIED.

D. CODE REQUIREMENTS:
   1. ALL WORK SHALL CONFORM TO THE MINIMUM STANDARDS OF REGULATING AGENCIES WHICH MAY HAVE AUTHORITY OVER ANY PORTION OF THE WORK.
   2. SPECIFICATIONS, CODES AND STANDARDS NOTED SHALL BE OF THE LATEST APPROVED ISSUE, INCLUDING SUPPLEMENTS, UNLESS NOTED OTHERWISE.
   3. MINIMUM UNIFORM (BLANKET) ROOF SNOW LOAD, AS DEFINED BY LOCAL BUILDING OFFICIAL OR STATE, SHALL BE DESIGNED FOR, AND IT IS THE RESPONSIBILITY OF THE MBSS ENGINEER TO CONFIRM IF ONE EXISTS BY CONTACTING THE LOCAL BUILDING OFFICIAL.

E. DEFERRED SUBMITTALS:
   1. DEFERRED STRUCTURE SUBMITTAL ITEMS HAVE NOT BEEN PERMITTED UNDER THE BASE BUILDING APPLICATION.
   2. THE CONTRACTOR SHALL SUBMIT COMPONENT SYSTEM DOCUMENTS FOR DEFERRED SUBMITTAL ITEMS, STAMPED BY A PROFESSIONAL ENGINEER LICENSED IN THE JURISDICTION HAVING AUTHORITY, TO THE REGISTERED DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE FOR REVIEW AND FORWARD THE REVIEWED DOCUMENTS TO THE BUILDING OFFICIAL IN COMPLIANCE WITH SECTION 107.3.4.1 OF THE CBC.
   3. DEFERRED SUBMITTAL ITEMS SHALL NOT BE INSTALLED UNTIL THE COMPONENT SYSTEM DOCUMENTS HAVE BEEN APPROVED BY THE BUILDING OFFICIAL.
   4. THE FOLLOWING CONTRACTOR-DESIGNED PROJECT ELEMENTS ARE DEFINED AS DEFERRED STRUCTURAL SUBMITTAL ITEMS:

      PRE-ENGINEERED METAL BUILDINGS

2) CODES, STANDARDS, AND REFERENCES:

A. ASCE 7-16: MINIMUM DESIGN LOADS AND ASSOCIATED CRITERIA FOR BUILDINGS AND OTHER STRUCTURES.
B. ACI 318-14: BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE.ACI 350-06: CODE REQUIREMENTS FOR ENVIRONMENTAL ENGINEERING CONCRETE STRUCTURES.
C. AISC 360-16 SPECIFICATION FOR STRUCTURAL STEEL BUILDINGS.

3) GRATING:

A. UNLESS INDICATED OTHERWISE, ALL GRATING SHALL BE FAS INDICATED IN THE DRAWINGS, OR APPROVED EQUAL.
B. WEIGHT OF GRATING SECTION SHALL NOT EXCEED 80 LBS.
C. PROVIDE A MINIMUM OF 4 CLIPS PER GRATING PANEL, APPROX 4" FROM PANEL CORNERS.
D. WIDTH OF GRATING SECTIONS SHALL NOT EXCEED 3'-0".
E. SHOP DRAWINGS BASED ON FIELD DIMENSIONS SHALL BE SUBMITTED TO THE ENGINEER PRIOR TO FABRICATION.
F. PROVIDE GRATING FASTENERS AS REQUIRED.
G. THE HORIZONTAL CLEARANCE BETWEEN THE GRATING AND GRATING SUPPORTS SHALL NOT BE LESS THAN ¼" NOR GREATER THAN ½"
H. ALL GRATING SECTIONS, WHEN IN PLACE, SHALL ALWAYS BE FIRMLY ANCHORED TO THEIR SUPPORTS.
I. PROVIDE MINIMUM BEARING PER MANUFACTURERS RECOMMENDATIONS FOR ALL FRP GRATING.

4) NON-SHRINK GROUT:

1. ALL GROUT WORK SHALL CONFORM TO THE LATEST EDITION OF ACI 301.
2. FORMWORK: DESIGN, ERECT, SUPPORT, BRACE AND MAINTAIN FORMWORK TO SUPPORT VERTICAL, LATERAL, STATIC AND DYNAMIC LOADS THAT MIGHT BE APPLIED UNTIL STRUCTURE CAN SUPPORT SUCH LOADS.

5) STRUCTURAL AND MISCELLANEOUS STEEL:

A. STRUCTURAL STEEL SHALL CONFORM TO THE FOLLOWING ASTM STANDARDS:
   a) WIDE FLANGE SHAPES — A992, GR 50 GALV
   b) OTHER SHAPES, PLATES, ANGLES AND BARS — A36 GALV
   c) STEEL PIPE — A53, GRADE B GALV
   d) HOLLOW STRUCTURAL SECTIONS — A500, GRADE B GALV
B. WELDS: PROVIDE 70KSI LOW HYDROGEN ELECTRODE OR PROCESS IN ACCORDANCE WITH AWS A5.1.
C. BOLTS, U.N.O.:
   1. STAINLESS STEEL: ASTM A193, GRADE 8, CLASS 2, AISI TYPE 316
D. DRILL AND EPOXY ANCHOR BOLTS:
   1. STAINLESS STEEL ASTM A193, GRADE 8, CLASS 2, AISI TYPE 316 OR EQUAL APPROVED BY ENGINEER
E. EPOXY BOLT OR EXPANSION BOLT SUBSTITUTIONS FOR EMBEDDED BOLTS IS PROHIBITED WITHOUT WRITTEN CONSENT FROM THE ENGINEER.
F. UNLESS NOTED OTHERWISE ON THE DRAWINGS, ALL EPOXY BOLTS SHALL BE AS SPECIFIED.
G. ALL STRUCTURAL STEEL SHALL BE DETAILED, FABRICATED, AND ERECTED IN ACCORDANCE WITH THE AISC CODE OF STANDARD PRACTICE, EXCEPT AS MODIFIED IN THESE NOTES AND THE PROJECT SPECIFICATIONS.
H. ALL STAINLESS STEEL SHALL BE TYPE 316.
I. SPLICING OF STEEL MEMBERS, UNLESS SHOWN ON THE DRAWINGS, IS PROHIBITED WITHOUT WRITTEN APPROVAL OF THE PROJECT ENGINEER.
J. GALVANIC PROTECTION SHALL BE PROVIDED BETWEEN DISSIMILAR METALS.
K. WELDING SHOWN FOR STAINLESS STEEL ELEMENTS SHALL COMPLY WITH AWS D1.6/D1.6M.

DESIGN LOADS - GENERAL	
FLOOR LOADS - ELEVATED PLATFORMS	
DEAD LOAD	VARIES
LIVE LOAD	100 PSF

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WARNING
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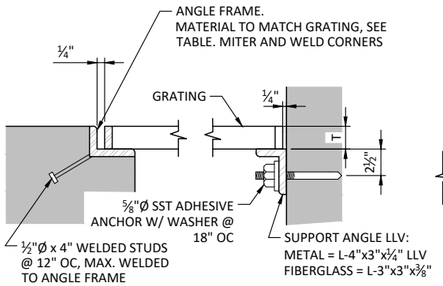
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM OUTLET MODIFICATIONS
STRUCTURAL GENERAL NOTES

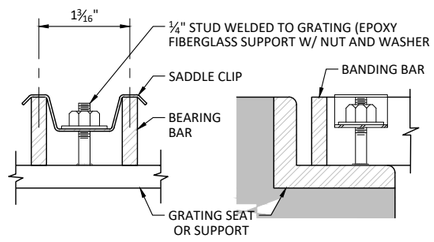
DESIGNED K. HEINDEL
DRAWN J. HOLT
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

DRAWING
GS001

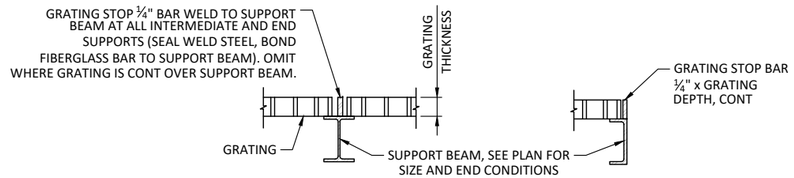
JOB NO: 000000

Path: C:\Vault\Chugach Electric\Dam Outlet Modification\GS001.dwg Plot date: Sep 28, 2023 09:35am, CAD User: HaberFlavia





GRATING CLIP DETAIL



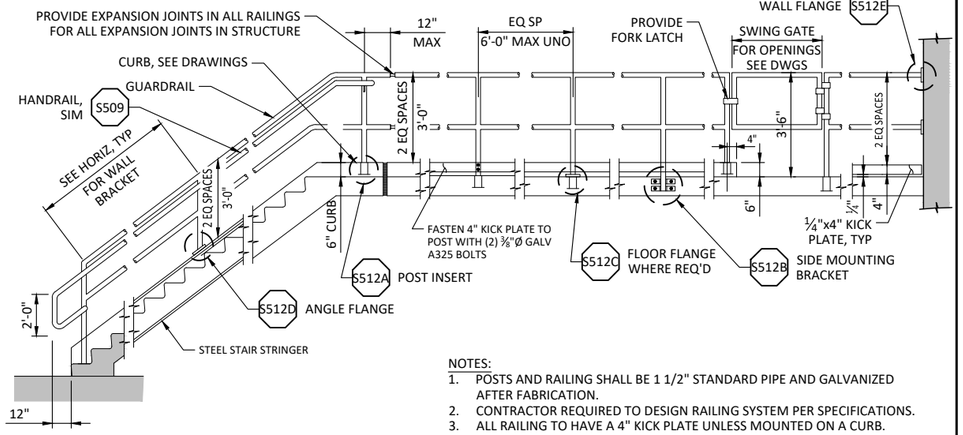
GRATING STOP DETAIL

NOTES:
1. UNLESS INDICATED OTHERWISE, ALL GRATING SHALL BE ALUM.
2. GRATING DEPTH TO BE DETERMINED BY MANUFACTURER AND APPROVED BY ENGINEER, UNO.
3. ALL ENDS AND OPENINGS SHALL BE BANDED.
4. WEIGHT OF GRATING SECTION SHALL NOT EXCEED 80 LBS.
5. METAL BEARING BARS SHALL BE DEPTH T x 3⁄16" @ 1 3⁄16" OC.. CROSS BARS SHALL BE @ 4" OC.
6. PROVIDE A MINIMUM OF 4 CLIPS PER GRATING PANEL, APPROX 4" FROM PANEL CORNERS. MAXIMUM CLIP SPACING AT 36" OC.
7. MATERIALS:
   - A. ALUM GRATING - USE ALUM ANGLE SUPPORTS AND SST BOLTS AND CLIPS. IF SUPPORTED BY STEEL BEAMS, USE STEEL STOP BARS. ALUM IN CONTACT WITH CONC OR STEEL SHALL BE COATED PER THE PROTECTIVE COATING SPECS.
   - B. GALV STEEL GRATING - USE STEEL ANGLE SUPPORTS, BOLTS AND CLIPS. GALV AFTER FABRICATION.
   - C. SST GRATING - USE SST ANGLE SUPPORTS, BOLTS AND CLIPS
   - D. FIBERGLASS GRATING - USE FIBERGLASS FOR ALL COMPONENTS EXCEPT DRILLED ANCHORS; ALL CUT EDGES SHALL BE SEALED WITH RESIN; BONDING: USE EPOXY ADHESIVE BONDING AGENT

GRATING FRAME TABLE SIZED TO MATCH GRATING (FOR FIBERGLASS USE CONTINUOUS PROTRUDED FIBERGLASS SEAT & ANCHOR)			
GRATING DEPTH (T)	STEEL ANGLE (STEEL)	GRATING DEPTH (T)	STEEL ANGLE (STEEL)
1"	1¾ x 1¼ x ¼ (1¼ x 1¼ x ¼)	2"	*2½ x 2½ x ½
1¼"	2 x 1½ x ¼ (1½ x 1½ x ¼)	2¼"	2½ x 2½ x ¼
1½"	1¾ x 1¾ x ¼	2½"	3 x 3 x ½
1¾"	2 x 2 x ¼		

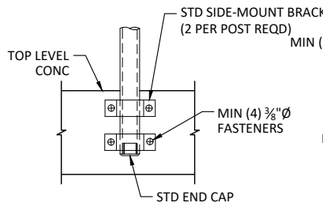
* OR USE 2½"x2½"x¼" W/ ¼" SHIM PLATE WELDED TO BOTTOM

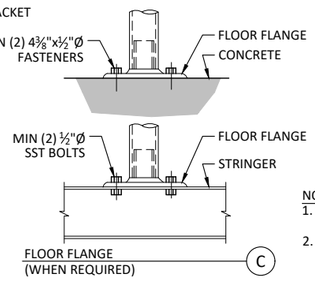
S501 GRATING
SCALE: NTS



NOTES:
1. POSTS AND RAILING SHALL BE 1 1/2" STANDARD PIPE AND GALVANIZED AFTER FABRICATION.
2. CONTRACTOR REQUIRED TO DESIGN RAILING SYSTEM PER SPECIFICATIONS.
3. ALL RAILING TO HAVE A 4" KICK PLATE UNLESS MOUNTED ON A CURB.

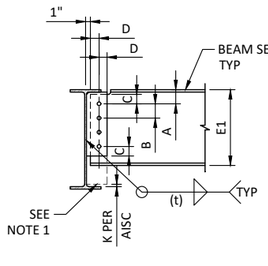
S510 TWO-RAIL RAILING GUARDRAIL DETAIL
SCALE: NTS



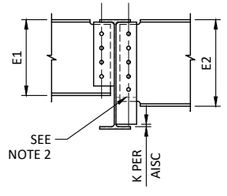


NOTES:
1. IF FASTENING TO CONCRETE, FASTENERS SHALL BE ADHESIVE ANCHORS.
2. CONTRACTOR REQUIRED TO DESIGN RAILING SYSTEM PER SPECIFICATIONS.

S512 RAILING, GUARDRAIL AND HANDRAIL SUPPORT DETAIL
SCALE: NTS



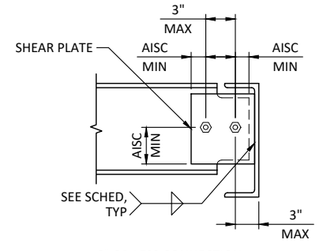
BEAM: ONE SIDE ONLY



BEAM: BOTH SIDES

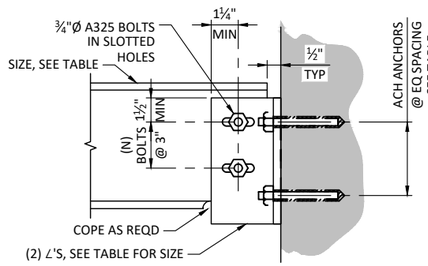
BEAM TO BEAM CONNECTION SCHEDULE								
BEAM SIZE	NO OF A325N BOLTS REQ'D ¾" Ø	NO OF A325N BOLTS REQ'D 1" Ø	CONN PLATE THICKNESS (IN)	WELD SIZE (t)	A (IN)	B (IN)	C (IN)	D (IN)
W8	2		5⁄16	3⁄16	2½"	2½"	1½"	1½"
W10	2		5⁄16	3⁄16	3	3	1½"	1½"

S562 BEAM TO BEAM CONNECTION - PLATE CONNECTION
SCALE: NTS



6" OR LESS CONNECTION

NOTES:
1. EXTEND CONN PLATE WHEN E1 IS GREATER THAN OR EQUAL TO W12 BM.
2. LIMIT OF CONN PLATE WHEN E2-E1 IS LESS THAN OR EQUAL TO 6 INCHES.



BEAM TO CONC CONNECTION SCHEDULE			
BEAM SIZE	DOUBLE ANGLE SIZE	# OF BOLTS (N)	ADHESIVE ANCHORS NUMBER AND SIZE

S563 BEAM TO CONC CONNECTION
SCALE: NTS

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WARNING
0 1/2 1
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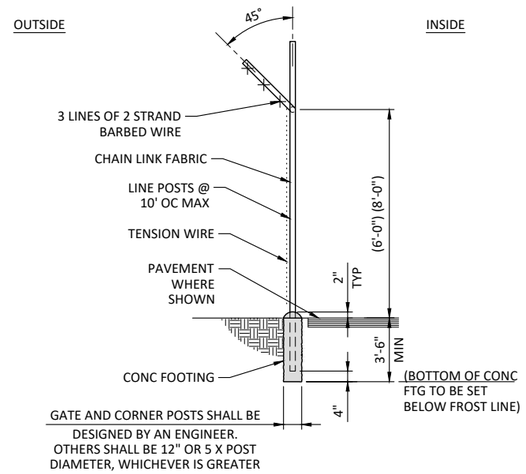
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM OUTLET MODIFICATIONS
STRUCTURAL STANDARD DETAILS 1

DESIGNED K. HEINDEL
DRAWN J. HOLT
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

DRAWING
GS002

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Dam Outlet Modification\GS002.dwg Plot date: Sep 28, 2023 09:35am, CAD User: HaberFlavia



NOTES:
1. SEE SPECIFICATIONS FOR FENCE MATERIAL, COATINGS, AND INSTALLATION REQUIREMENTS.
2. EXTENSION ARM MAY BE TURNED IN AT OPTION OF OWNER.

S900 CHAIN LINK FENCE
SCALE: NTS

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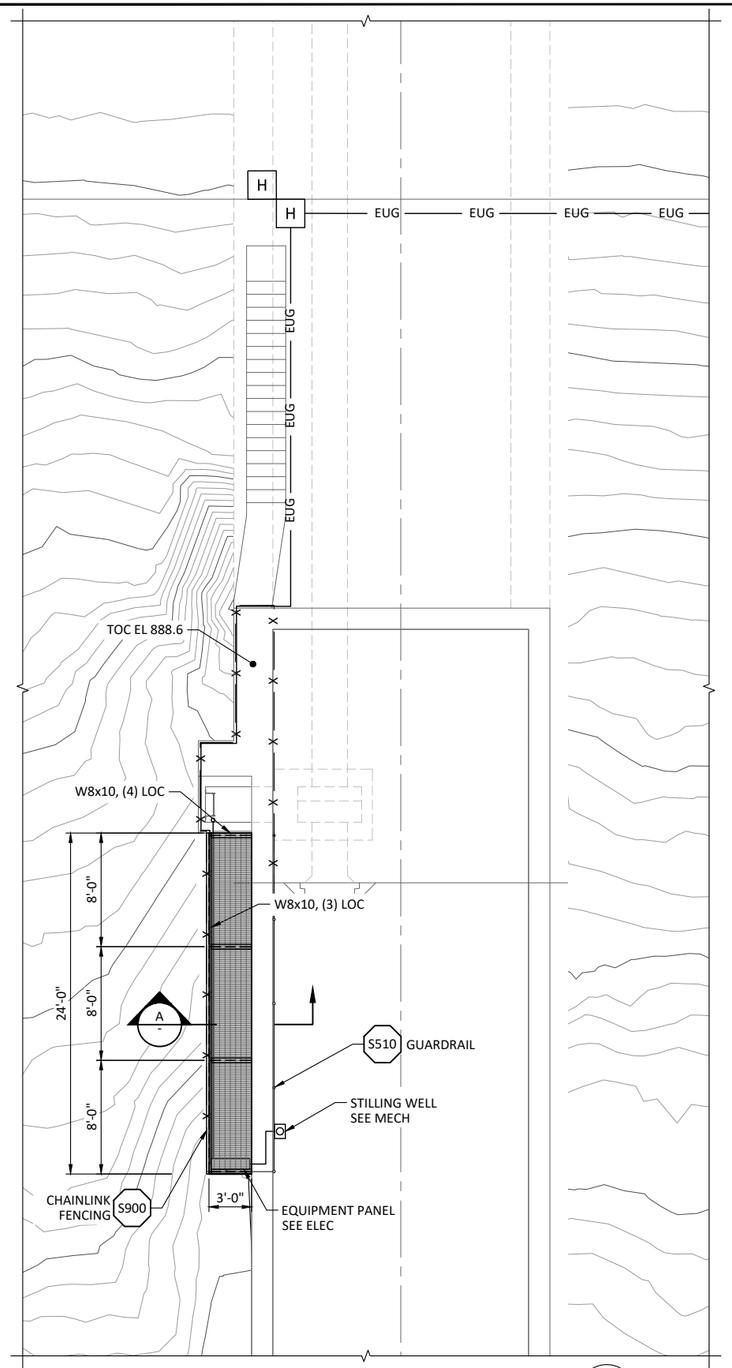
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM OUTLET MODIFICATIONS
STRUCTURAL STANDARD DETAILS 2

DESIGNED K. HEINDEL
DRAWN J.HOLT
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

DRAWING
GS003

JOB NO: 000000

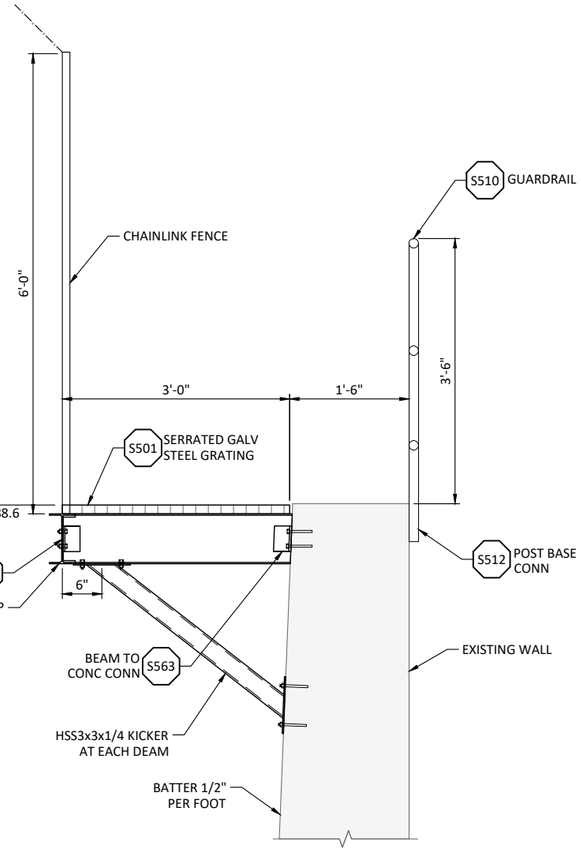
Path: C:\Vault\Chugach Electric\Dam Outlet Modification\GS003.dwg Plot date: Sep 28, 2023 09:35am, CAD User: HaberFlavia



SPILLWAY DETAIL

SCALE: 3/16"= 1'-0"

0' 4' 8'



A SECTION

SCALE: 1"= 1'-0"

0' 1' 2'

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).

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McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM OUTLET MODIFICATIONS

EKLUTNA DAM OUTLET STRUCTURAL PLAN, SECTION AND DETAIL

DESIGNED K. HEINDEL

DRAWN J. HOLT

CHECKED M. MERKLEIN

PROJECT DATE 10/6/23

DRAWING

S100

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Dam Outlet Modification\S100.dwg Plot date: Sep 28, 2023 09:35am, CAD User: HaberFlavia

ACTUATOR SCHEDULE

EQUIPMENT NUMBER	LOCATION	SERVICE	ACTUATOR TYPE (NORMAL POSITION)	RATING (HP)	ELECTRICAL SERVICE (V/PH/CY)	SPEC SECTION	COMMENTS
ACT-100	GATE CHAMBER	OUTLET GATE	ELECTRIC (CLOSED)	2	240 / 1 / 60		INCLUDES 4-20 mA POSITION SENSING

INSTRUMENTATION SCHEDULE

EQUIPMENT NUMBER	LOCATION	SERVICE	EQUIPMENT DESCRIPTION	FLUID	SIGNAL OUTPUT	ELECTRICAL SERVICE	MEASUREMENT RANGE	SPEC SECTION	COMMENTS
LE-100	EKLUTNA DAM	LEVEL MEASUREMENT	PRESSURE TRANSDUCER	RAW WATER	ANALOG; 4-20 mA	24 VDC	0 - 30 FT H20		

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McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

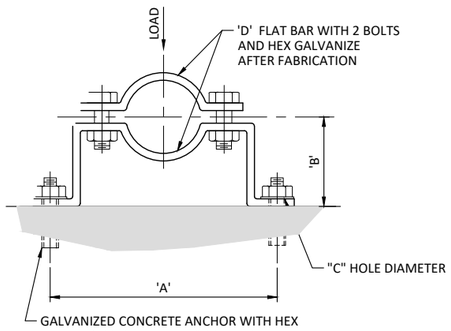
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM OUTLET MODIFICATIONS
MECHANICAL EQUIPMENT SCHEDULE

DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
GM001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Dam Outlet Modification\GM001.dwg Plot date: Sep 29, 2023 02:50pm, CAD User: HaberFlavia



DIMENSIONS IN INCHES					LOAD RATING LBS
PIPE DIAMETER	"A"	"B" SEE NOTE 3 BELOW	"C" HOLE DIAMETER	"D" FLAT BAR SIZE	
¾	5 15/16	2½	7/16	3/16 x 1¼	190
1	6¼	2⅝	7/16	3/16 x 1¼	190
1¼	6 11/16	2¾	7/16	3/16 x 1¼	190
1½	6 15/16	3	7/16	3/16 x 1¼	190
2	8 5/16	3 3/16	7/16	¼ x 1¼	420
2½	8⅞	3 7/16	7/16	¼ x 1¼	420
3	9⅛	3¾	7/16	¼ x 1¼	420
3½	10 1/16	4	7/16	¼ x 1¼	420
4	10 9/16	4¼	9/16	¼ x 1½	610
5	11¾	4¾	9/16	¼ x 1½	610
6	14⅜	5 5/16	9/16	⅜ x 1½	870
8	16⅝	6 5/16	9/16	⅜ x 1½	870

NOTE:
1. WHERE SUBMERGED, PIPE CLAMP, ANCHORS, SHIELD, NUTS AND LOCKWASHER TO BE TYPE 316 STAINLESS STEEL.
2. WHEN USED WITH PVC OR FIBERGLASS PIPE, PROVIDE STEEL SHIELD WITH LOOSE FIT AROUND PIPE AT CLAMP. WRAP COPPER TUBING WITH 2" WIDE STRIP OF RUBBER AT CLAMP.
3. FOR FLANGED PIPING, INCREASE 'B' DIMENSION AS REQUIRED.
4. FOR PIPES SMALLER THAN ¾" SEE STANDARD DETAIL M142.

M117 PIPE CLAMP FOR INDIVIDUAL PIPES

SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
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EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM OUTLET MODIFICATIONS
MECHANICAL STANDARD DETAILS

DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT DATE 10/6/23

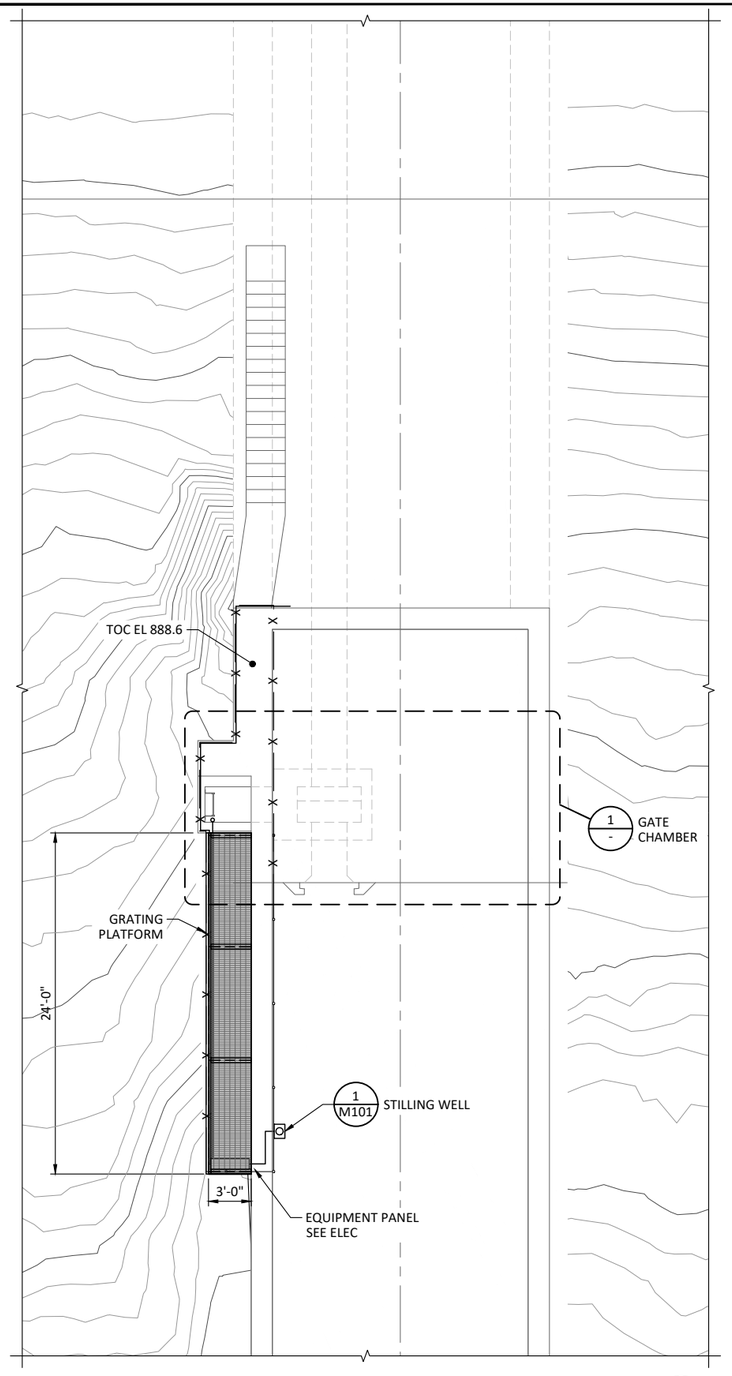
DRAWING
GM002

JOB NO: 000000

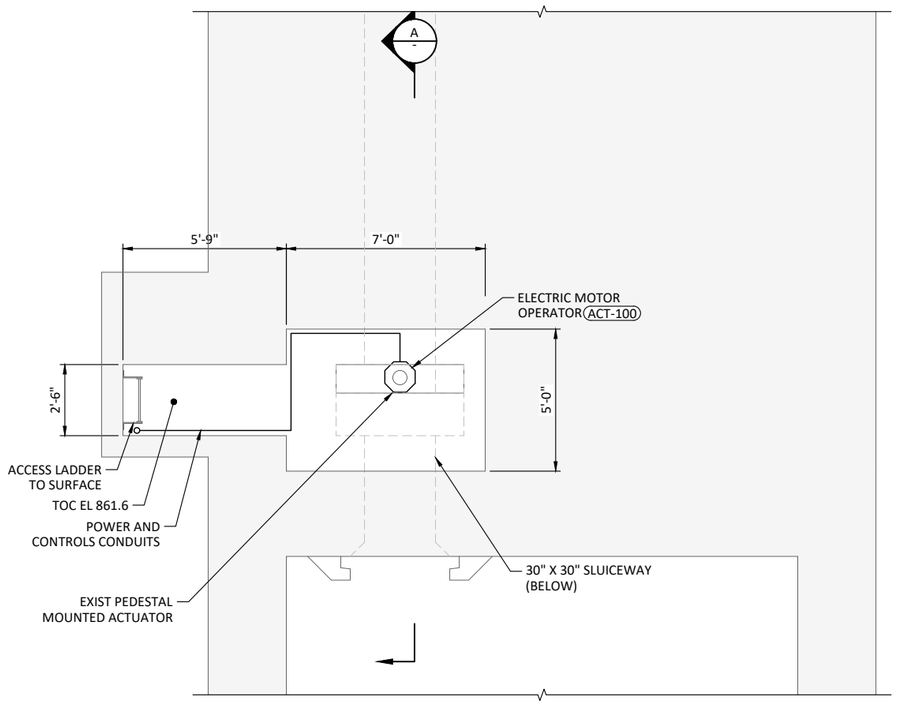
Path: C:\Vault\Chugach Electric\Dam Outlet Modification\GM002.dwg Plot date: Sep 28, 2023 09:44am, CAD User: HaberFlavia

SHEET NOTES:

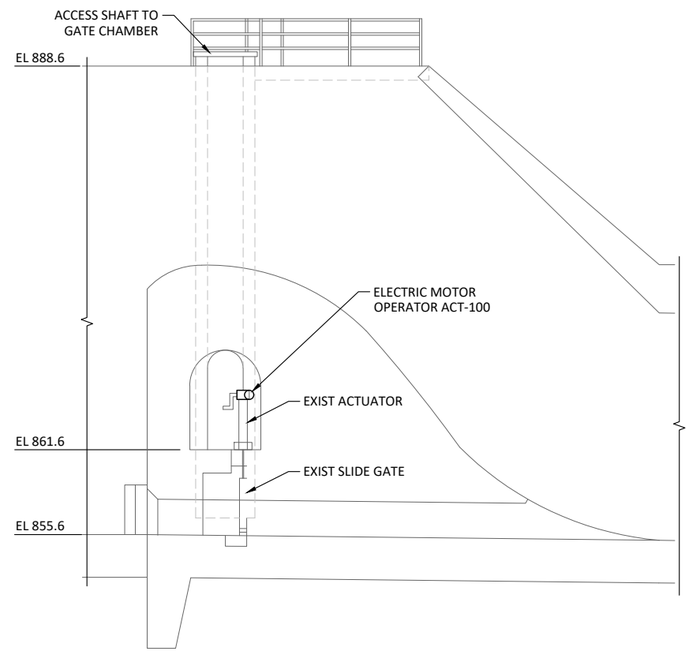
1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



SPILLWAY DETAIL
SCALE: 3/16"= 1'-0"



1 - GATE CHAMBER PLAN
SCALE: 3/8"= 1'-0"



A - GATE CHAMBER SECTION
SCALE: 3/16"= 1'-0"

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EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM OUTLET MODIFICATIONS

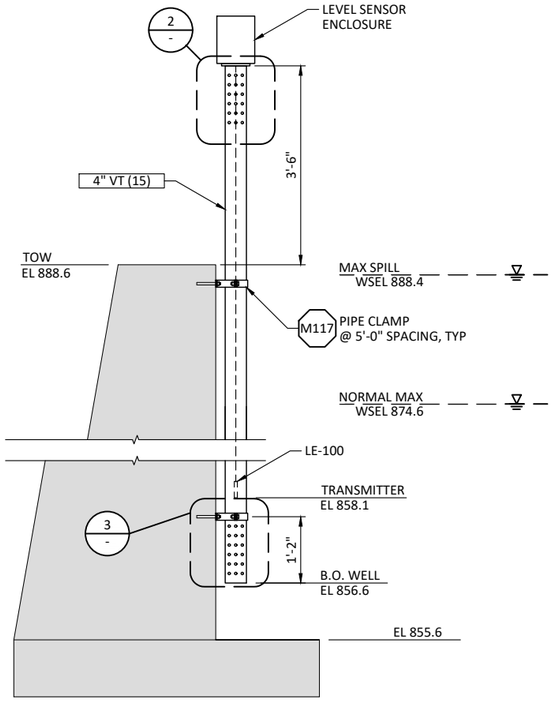
EKLUTNA DAM OUTLET MECHANICAL PLAN, SECTION AND DETAILS 1

DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT DATE 10/6/23

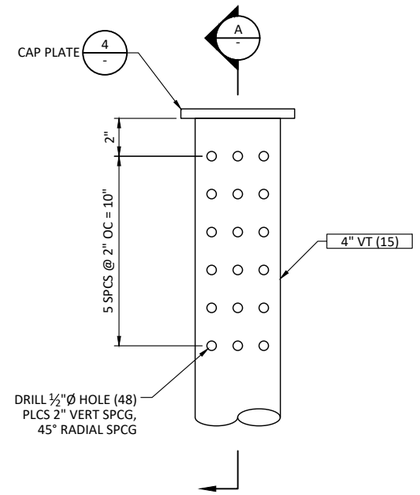
DRAWING
M100

JOB NO: 000000

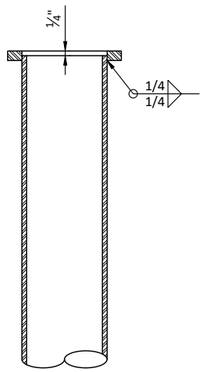
Path: C:\Vault\Chugach Electric\Dam Outlet Modification\M100.dwg Plot date: Sep 29, 2023 02:40pm, CAD User: HaberFlavia



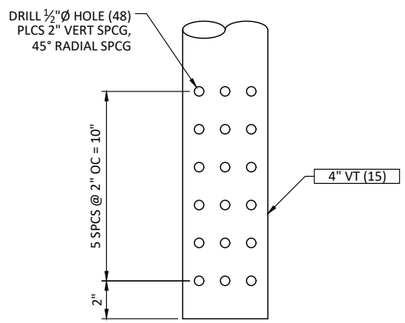
1 M100 STILLING WELL DETAIL
SCALE: 3/4"= 1'-0"



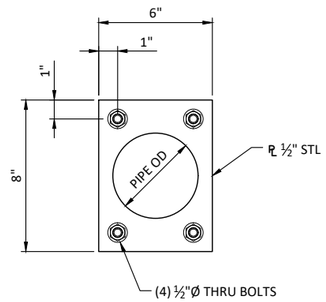
2 - TOP OF STILLING WELL DETAIL
SCALE: 3"= 1'-0"



A - TOP OF STILLING WELL DETAIL
SCALE: 3"= 1'-0"



3 - BOTTOM OF STILLING WELL DETAIL
SCALE: 3"= 1'-0"



4 - BOTTOM OF STILLING WELL DETAIL
SCALE: 3"= 1'-0"

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EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM OUTLET MODIFICATIONS

EKLUTNA DAM OUTLET MECHANICAL
PLAN, SECTION AND DETAILS 2

DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
M101

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Dam Outlet Modification\M101.dwg Plot date: Sep 28, 2023 09:44am, CAD User: HaberFlavia

IEEE STANDARD CONTROL AND PROTECTION DEVICES FUNCTION NUMBERS

01	MASTER ELEMENT
02	TIME-DELAY STARTING OR CLOSING RELAY (TDPU)
03	CHECKING OR INTERLOCKING RELAY
04	MASTER CONTACTOR
05	STOPPING DEVICE
06	STARTING CIRCUIT BREAKER
07	RATE-OF-CHANGE RELAY
08	CONTROL POWER DISCONNECTING DEVICE
09	REVERSING DEVICE
10	UNIT SEQUENCE SWITCH
11	MULTIFUNCTION DEVICE
12	OVER-SPEED DEVICE
13	SYNCHRONOUS-SPEED DEVICE
14	UNDER-SPEED DEVICE
15	SPEED OR FREQUENCY MATCHING DEVICE
16	DATA COMMUNICATIONS DEVICE
17	SHUNTING OR DISCHARGE SWITCH
18	ACCELERATING OR DECELERATING DEVICE
19	STARTING-TO-RUNNING TRANSITION CONTACTOR
20	ELECTRONICALLY OPERATED VALVE
21	DISTANCE RELAY
22	EQUALIZER CIRCUIT BREAKER
23	TEMPERATURE CONTROL DEVICE
24	VOLTS PER HERTZ RELAY
25	SYNCHRONIZING OR SYNCHRONISM - CHECK DEVICE
26	APPARATUS THERMAL DEVICE
27	UNDERVOLTAGE RELAY
28	FLAME DETECTOR
29	ISOLATING CONTACTOR
30	ANNUNCIATOR RELAY
31	SEPARATE EXCITATION DEVICE
32	DIRECTIONAL POWER RELAY
33	POSITION SWITCH
34	MASTER SEQUENCE DEVICE
35	BRUSH-OPERATING OF SLIP-RING SHORT-CIRCUITING DEVICE
36	POLARITY OR POLARIZING VOLTAGE DEVICE
37	UNDERCURRENT OR UNDERPOWER RELAY
38	BEARING PROTECTIVE DEVICE
39	MECHANICAL CONDITION MONITOR
40	FIELD (OVER/UNDER EXCITATION) RELAY
41	FIELD CIRCUIT BREAKER
42	RUNNING CIRCUIT BREAKER
43	MANUAL TRANSFER OR SELECTOR DEVICE
44	UNIT SEQUENCE STARTING RELAY
45	ATMOSPHERIC CONDITION MONITOR
46	REVERSE-PHASE OR PHASE-BALANCE CURRENT RELAY
47	PHASE-SEQUENCE OR PHASE-BALANCE VOLTAGE RELAY
48	INCOMPLETE SEQUENCE RELAY
49	MACHINE OR TRANSFORMER THERMAL RELAY
50	INSTANTANEOUS OVERCURRENT OR RATE-OF-RISE RELAY
51	AC INVERSE TIME OVERCURRENT RELAY
52	AC CIRCUIT BREAKER
53	EXCITER OR DC GENERATOR RELAY
54	TURNING GEAR ENGAGING DEVICE
55	POWER FACTOR RELAY
56	FIELD APPLICATION RELAY
57	SHORT-CIRCUITING OR GROUNDING DEVICE
58	RECTIFICATION FAILURE RELAY
59	OVERVOLTAGE RELAY
60	VOLTAGE OR CURRENT BALANCE RELAY
61	DENSITY SWITCH OR SENSOR
62	TIME-DELAY STOPPING OR OPENING RELAY (TDDO)
63	PRESSURE SWITCH
64	GROUND DETECTOR RELAY
65	GOVERNOR
66	NOTCHING OR JOGGING DEVICE
67	AC DIRECTIONAL OVERCURRENT RELAY
68	BLOCKING RELAY
69	PERMISSIVE CONTROL DEVICE
70	RHEOSTAT
71	LEVEL SWITCH
72	DC CIRCUIT BREAKER
73	LOAD-RESISTOR CONTACTOR
74	ALARM RELAY
75	POSITION CHANGING MECHANISM
76	DC OVERCURRENT RELAY
77	PULSE TRANSMITTER
78	PHASE-ANGLE MEASURING OR OUT-OF-STEP PROTECTIVE RELAY
79	AC RECLOSING RELAY
80	FLOW SWITCH
81	FREQUENCY RELAY
82	DC RECLOSING RELAY
83	AUTOMATIC SELECTIVE CONTROL OR TRANSFER RELAY
84	OPERATING MECHANISM
85	CARRIER OR PILOT-WIRE RECEIVER RELAY
86	LOCKOUT RELAY
87	DIFFERENTIAL PROTECTIVE RELAY
88	AUXILIARY MOTOR OR MOTOR GENERATOR
89	LINE SWITCH
90	REGULATING DEVICE
91	VOLTAGE DIRECTIONAL RELAY
92	VOLTAGE AND POWER DIRECTIONAL RELAY
93	FIELD-CHANGING CONTACTOR
94	TRIPPING OR TRIP-FREE RELAY
95	RESERVED FOR FUTURE APPLICATION
96	RESERVED FOR FUTURE APPLICATION
97	RESERVED FOR FUTURE APPLICATION
98	CREEP DETECTOR DEVICE
99	RESERVED FOR FUTURE APPLICATION

METERING SYSTEMS AND DEVICES INDEX

A	AMMETER	PB	PUSHBUTTON
AH	AMPERE HOUR METER	PF	POWER FACTOR METER
AS	AMMETER SELECTOR SWITCH	PH	PHASE METER
C	COUNTER	PI	POSITION INDICATOR
CMA	CONTACT MAKING AMMETER	REC	RECORDER
CMC	CONTACT MAKING CLOCK	RF	REACTIVE FACTOR METER
CMV	CONTACT MAKING VOLTMETER	RPM	SPEED INDICATOR
CS	CONTROL STATION	SW	TRANSFER SWITCH
DM	DEMAND METER	SY	SYNCHROSCOPE
ETM	ELAPSE TIME METER	T	TEMPERATURE METER
F	FREQUENCY METER	TLM	TELEMETER
G	GALVANOMETER	TOC	TRUCK-OPERATED CONTACT
GD	GROUND FAULT DETECTOR	TS	TIME SWITCH
KV	KILO-VOLTMETER	V	VOLTMETER
KW	KILO-WATTMETER	VAR	VARMETER
KWH	KILO-WATT HOUR METER	VH	VAR HOUR METER
mA	MILLI-AMMETER (TRANSDUCER)	VS	VOLTMETER SELECTOR SWITCH
MOC	MECHANISM-OPERATED CONTACT	W	WATTMETER
OHM	OHMMETER	WH	WATT HOUR METER
OSC	OSCILLOGRAPH	WHDM	WATT HOUR DEMAND METER

NOTE: "R" IN FRONT OF LETTERS INDICATES A RECORDING TYPE METER.

PILOT - INDICATOR LIGHT INDEX

A	AMBER
B	BLUE
C	CLEAR
G	GREEN
NE	NEON
O	ORANGE
OP	OPALESCENT
P	PURPLE
R	RED
W	WHITE
Y	YELLOW

FIRST LETTER SUFFIX OF IEEE DEVICE DESIGNATION

A	GOVERNOR SYSTEM (OR ACTUATOR SYSTEMS - GATES)
B	BATTERY CHARGING AND MONITORING SYSTEM OR BUS
C	HIGH-VOLTAGE CABLE SYSTEM OR CLOSING RELAY/CONTACTOR
D	DATA ACQUISITION SYSTEM
E	EXCITATION SYSTEM INCLUDING TRANSFORMER AND REGULATOR BUT NOT MAIN FIELD
F	FIRE AND CO2 SYSTEM
G	MAIN GENERATOR INCLUDING AUXILIARY SYSTEMS OR GROUND
G/M	GENERATOR MOTOR INCLUDING AUXILIARY SYSTEMS IN PUMPED STORAGE APPLICATIONS
H	TURBINE OR MAIN PUMP INCLUDING AUXILIARY SYSTEMS
I	ISOLATED AND OTHER POWER BUS SYSTEMS (NOT HIGH VOLTAGE CABLE)
J	POWER CIRCUIT BREAKER INCLUDING AUXILIARY SYSTEMS
K	POWER TRANSFORMER INCLUDING AUXILIARY SYSTEMS
L	ANNUNCIATOR SYSTEM, SECURITY SYSTEM, LINE, OR LOWERING RELAY/CONTACTOR
M	MAIN PUMP MOTOR INCLUDING AUXILIARY SYSTEMS AND VARIABLE SPEED DRIVE
N	AIR (PNEUMATIC) SYSTEM OR NEUTRAL
O	OPENING RELAY/CONTACTOR
P	PENSTOCK OR DISCHARGE LINE SYSTEM
Q	OIL STORAGE, HANDLING, PURIFICATION SYSTEM
R	FIELD FLASHING SYSTEM, PHASE REVERSAL SWITCH INCLUDING AUXILIARY SYSTEM, OR RAISING RELAY/CONTACTOR
S	STATION SERVICE SUBSTATION SYSTEM INCLUDING ENGINE/GENERATOR SYSTEM
T	TONE AND TRANSFER TRIP SYSTEM OR TRANSFORMER
U	UNIT CONTROL CIRCUIT SYSTEM OR UNINTERRUPTIBLE POWER SUPPLY SYSTEM
V	INTAKE AND/OR DISCHARGE VALVE SYSTEM
W	WATER SYSTEMS INCLUDING INTAKE/OUTLET WORKS AND PLANT WATER AND SUMP SYSTEMS
X	DEFINED FOR SYSTEMS UNIQUE TO A FACILITY
Y	DEFINED FOR SYSTEMS UNIQUE TO A FACILITY
Z	DEFINED FOR SYSTEMS UNIQUE TO A FACILITY

SECOND AND SUBSEQUENT LETTER SUFFIXES OF THE IEEE DEVICE DESIGNATION

A	ABNORMAL, A.C., ACCELERATION, ADMISSION, ALARM, AMPERES, AUTOMATIC, AUXILIARIES, PHASE A, ECT.
B	BACKUP, BEARING, BLOCK, BLOWER, BOOSTER, BRAKES, BUS, BUTTON, BYPASS, PHASE B, ETC.
C	CABLE, CARRIER, CHARGER, CHECK, CHLORINATION, CLOSE, COLLECTOR, COMMON, COMPENSATOR, COMPRESSOR, CONTROL, COOLING, CURRENT, CYCLE, CYLINDER, PHASE C, CONVEYOR, ECT.
D	D.C, DECELERATION, DELAY, DEPRESS, DETECTOR, DIELECTRIC, DIFFERENTIAL, DISCHARGE, DISCONNECT, DISCORDANCE, DOMESTIC, DOWN, DOWNSTREAM, DRAFT TUBE, DRAIN, ETC.
E	EJECTOR, ELEVATOR, EMERGENCY, EXPLOSIVE, ETC.
F	FAILURE, FAN, FAULT, FEEDER, FIELD, FILTER, FIRE, FLAME, FLOW, FOLLOWER, FORWARD, FREQUENCY, FULL, FUMES, FUSE, ETC.
G	GAS, GATE, GATING (SCR), GENERATE, GROUND, GUIDE BEARING, ETC.
H	HALON, HAND, HEAT, HEATER, HIGH, HOIST, HORN, HOT, HOUSING, HYDROPNEUMATIC TANK, ETC.
I	INDICATION, INITIAL, INLET, INOUT, INSTANTANEOUS, INTAKE, INTERFACE, INTERLOCK, INTERRUPT, INVERTER, IONIZATION, ETC.
J	JACKING, JET, ETC.
K	KEY, TRANSFORMER
L	LAMPS, LEFT, LEVEL, LIGHTS, LIMITS, LINE, LIQUID, LOCAL, LOGIC, LOSS, LOUVERS, LOW, LOWER, LUBRICATION, ETC.
M	MAIN, MALFUNCTION, MANUAL, METER, METERING, MOTOR, ETC.
N	NEGATIVE, NETWORK, NEUTRAL, NORMAL, ETC.
O	OPEN, OUTLET, OUTPUT, ETC.
P	PACKING BOX, PARALLEL, PARAMETER, PENSTOCK, PHASE, PHASEBACK, PILOT, PIT, POSITION, POTENTIAL, POTHEAD, POWER, PRESSURE, PRIMARY, PROTECTION, PULSE, PUMP, PURIFICATION, PUSH, ETC.
Q	OIL, ETC.
R	RAISE, REACTOR, RECLOSE, RECORD, RECTIFIER, REED, REFRIGERATION, REGULATE, RELAY, RELEASE, RELIEF, REMOTE, RESERVOIR, RESET, RESISTOR, RIGHT, ROTATION, ROTOR, RUNNER, ETC.
S	SEALS, SECONDARY, SELECTOR, SEWAGE, SHORTING, SHUTDOWN, SIGNAL, SKIMMER, SLUDGE, SMOKE, SOLENOID, SPEED, SPIRAL OR SCROLL CASE, SPLICE, STABILIZER, STANDBY, STARTING, STATOR, STEPPING, STORAGE, STRAINER, SUCTION, SUMP, SUPPLY, SWITCH, SYNCHRONIZING, ETC.
T	TANK, TEMPERATURE, TEST, THERMAL, THRUST BEARING, THYRATRON, TIE, TIME, TRANSDUCER, TRANSER, TRANSMITTER, TRIP, TROUBLE, TRASHRAKE, ETC.
U	UNIT, UNLOADER, UNWATERING, UP, UPPER, UPSTREAM, ETC.
V	VALVE, VARS, VIBRATION. VOLTAGE, ETC.
W	WATER, WATTS, WINDINGS, ETC.
X	AUXILIARY DEVICE, ETC.
Y	AUXILIARY TO DEVICE X, ANTIPUMP RELAY, ETC.
Z	AUXILIARY TO DEVICE Y

ABBREVIATIONS

A, AMP	AMP, AMPERE
AAAC	ALL ALUMINUM ALLOY CONDUCTOR
AC	ALTERNATING CURRENT
AF	AMPERE FRAME SIZE
AFD	ADJUSTABLE FREQUENCY DRIVE
AFF	ABOVE FINISHED FLOOR
AH	AMPERE HOURS
AHJ	AUTHORITY HAVING JURISDICTION
AHU	AIR HANDLING UNIT
AL	ALUMINUM
A/R	AS REQUIRED
AT	AMPERE TRIP
ATS	AUTOMATIC TRANSFER SWITCH
AVR	AUTOMATIC VOLTAGE REGULATOR
BAT	BATTERY
C	CONDUIT
CB	CIRCUIT BREAKER
CKT	CIRCUIT
CLF	CURRENT LIMITING FUSE
CO	CONDUIT ONLY
CP	CONTROL PANEL
CPT	CONTROL POWER TRANSFORMER
CR	CONTROL RELAY
CS	CONTROL SWITCH
CT	CURRENT TRANSFORMER
DC	DIRECT CURRENT
DCS	DISTRIBUTED CONTROL SYSTEM
DISC	DISCONNECT
DP	DISTRIBUTION PANEL
DPDT	DOUBLE-POLE, DOUBLE-THROW
DPST	DOUBLE-POLE, SINGLE-THROW
EDH	ELECTRIC DUCT HEATER
EG	ENGINE GENERATOR
EPT	EXCITATION POWER TRANSFORMER
EUH	ELECTRIC UNIT HEATER
EV	ELECTRICAL VAULT
F, FU	FUSE
FA	FIRE ALARM
FACP	FIRE ALARM CONTROL PANEL
FAS	FIRE ALARM SYSTEM
FREQ	FREQUENCY
FS	FLOAT SWITCH
FT	FLOW TRANSMITTER
FVNR	FULL VOLTAGE NON-REVERSING
FVR	FULL VOLTAGE REVERSING
GEN	GENERATOR
GFI	GROUND-FAULT INTERRUPTION
GFP	GROUND-FAULT PROTECTION
GND	GROUND
GPR	GENERATOR PROTECTION RELAY
GSU	GENERATOR STEP-UP TRANSFORMER
HMI	HUMAN-MACHINE INTERFACE
HOA	HAND-OFF-AUTO
HOR	HAND-OFF-REMOTE
HPU	HYDRAULIC POWER UNIT
HTR	HEATER
HZ	HERTZ (CYCLES PER SECOND)
IC	INTERRUPTING CAPACITY
I & C	INSTRUMENTATION AND CONTROL
I/O	INPUT/OUTPUT
INST	INSTANTANEOUS
INTLK	INTERLOCK
IP	INTERNET PROTOCOL
K	KEY INTERLOCK
kV	KILOVOLTS
kVA	KILOVOLT AMPERES (APPARENT POWER)
kVAR	KILOVARS (REACTIVE POWER)
kW	KILOWATTS (REAL POWER)
kWH	KILOWATT HOUR
LC	LIGHTING CONTROLLER
LCP	LOCAL CONTROL PANEL
LE	LEVEL ELEMENT
LIT	LEVEL INDICATING TRANSMITTER
LOR	LOCAL-OFF-REMOTE
LP	LIGHTING PANEL
LS	LEVEL SWITCH
LT	LEVEL TRANSMITTER
mA	MILLIAMPERES
M	MOTOR, MAN, MANUAL
MAG	MAGNETIC
MCC	MOTOR CONTROL CENTER
MDP	MAIN DISTRIBUTION PANEL
MFM	MULTIFUNCTIONAL METER
MPR	MOTOR PROTECTION RELAY
MTS	MANUAL TRANSFER SWITCH
mV	MILLIVOLTS
MVA	MEGAVOLT AMPERES (APPARENT POWER)
MVAR	MEGAVARS (REACTIVE POWER)
MW	MEGAWATTS (REAL POWER)
MWH	MEGAWATT HOUR
NEUT	NEUTRAL
NGR	NEUTRAL GROUNDING RESISTOR
OHM	OHMMETER
OL	OVERLOAD
OPER	OPERATOR, OPERATED
PB	PANELBOARD, PULLBOX, PUSH BUTTON
PC	PHOTOCELL
PCB	POWER CIRCUIT BREAKER
PCC	POINT OF COMMON CONNECTION
PF	POWER FACTOR
PH, Ø	PHASE
PMP	PUMP
PNL	PANEL
PLC	PROGRAMMABLE LOGIC CONTROLLER
POI	POINT OF INTER-CONNECTION
PS	PRESSURE SWITCH
PTT	PUSH-TO-TEST
PWR	POWER
R	RELAY, REVERSE, RUN
RCP	RECEPTACLE
RIO	REMOTE I/O
RTD	RESISTANCE TEMPERATURE DETECTOR
RVNR	REDUCED VOLTAGE NON-REVERSING
RVR	REDUCED VOLTAGE REVERSING
S	SYNC SCOPE
SA	SURGE ARRESTER
SC	SURGE CAPACITOR
SDP	STANDBY DISTRIBUTION PANEL
SEL	SELECTOR, SCHWEITZER ENGINEERING LABORATORIES
SPD	SURGE PROTECTION DEVICE
SPDT	SINGLE-POLE, DOUBLE-THROW
SPST	SINGLE-POLE, SINGLE-THROW
S/S	STATION SERVICE
SV	SOLENOID VALVE
SW	SWITCH
SWBD	SWITCHBOARD
SWGR	SWITCHGEAR
T	THERMOSTAT
TB	TERMINAL BLOCK, TERMINAL BOX
TD	TEMPERATURE DETECTOR, TIME DELAY
TEL	TELEPHONE
TS	THERMOSTAT
TSP	TWISTED SHIELDED PAIR
TST	TWISTED SHIELDED TRIAD
TX	TRANSMITTER
UH	UNIT HEATER
UP	UTILITY POWER
UPS	UNINTERRUPTIBLE POWER SUPPLY
V	VOLTS
VAC	VOLTS ALTERNATING CURRENT
VC	VIDEO CAMERA
VCB	VACUUM CIRCUIT BREAKER
VDC	VOLTS DIRECT CURRENT
VFD	VARIABLE FREQUENCY DRIVE
W	WIRE, WATTS
WP	WEATHER PROOF
XD	TRANSDUCER
XFMR	TRANSFORMER
XLP	CROSS LINKED POLYETHYLENE
XP	EXPLOSION PROOF

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McMillen | CHUGACH POWERING ALASKA'S FUTURE | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM OUTLET MODIFICATIONS

ELECTRICAL ABBREVIATIONS AND DEVICE INDEXES

DESIGNED C. CURTIS
DRAWN F. HABER
CHECKED J. BAKKEN
PROJECT DATE 10/6/23

DRAWING
GE001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Dam Outlet Modification\GE001.dwg Plot date: Sep 28, 2023 09:48am, CAD User: HaberFlavia

DIAGRAMS

HIGH - MEDIUM VOLTAGE SWITCHING

- POWER CIRCUIT BRK, DRAWOUT
- POWER CIRCUIT BRK, NON-DRAWOUT
- HV ISOLATING SW MOTOR OPERATED
- HV INTERRUPTER SW FUSED
- CENTER-BREAK SW MOTOR OPERATED
- DUAL-BREAK SW MOTOR OPERATED
- LOAD-BREAK SW MOTOR OPERATED
- HORN GAP SW

TRANSFORMERS:

- POWER XFMR
- MAG CORE XFMR
- LOAD TAP CHANGING XFMR
- SPLIT SECONDARY XFMR
- AUTO-XFMR

INSTRUMENT TRANSFORMERS:

- POTENTIAL XFMR
- POTENTIAL XFMR DUAL SECONDARY
- (3) 800:5 — CURRENT XFMR, QTY & RATIO AS INDICATED
- (1) 50:5 — CORE BALANCE CURRENT XFMR RATIO AS INDICATED
- (3) 800:5 — BUSHING CURRENT XFMR, QTY & RATIO AS INDICATED
- kWH — KILOWATT-HOUR METER

MACHINES:

- M / XXHP — MOTOR-DC
- M / XXHP — MOTOR-AC
- G / XXKW XXPF — AC GENERATOR

TRANSFORMERS WINDING CONNECTIONS:

- DELTA 3PH3W
- DELTA CENTER TAP GND 3PH4W
- DELTA CORNER GRD 3PH3W
- BROKEN DELTA 3PH2W
- OPEN DELTA 2PH2W
- WYE 3PH3W
- WYE GRD 3PH4W
- ZIG-ZAG 3PH3W
- ZIG-ZAG GRD 3PH4W

HIGH - MEDIUM VOLTAGE DEVICES

- L/A OR — LIGHTNING ARRESTER
- WT — WAVE TRAP
- M / 57 — GROUND SW MOTOR OPER
- MV CABLE TERMINATION
- CABLE POTHEAD OIL-FILLED

MISC DEVICES & CONNECTIONS:

- IN/OUT LINE
- 01 02 — PROTECTIVE DEVICE ELEMENT, SEE DEVICE FUNCTION INDEX
- TEST SWITCH
- TEST SWITCH, CURRENT SHORTING
- BATTERY
- GROUND
- DISCONNECTING DEVICE
- NEUTRAL CONNECTION
- ISOL PH BUS FLEX CONN
- ISOL PH BUS REMOVEABLE LINK

MISC DEVICES & CONNECTIONS:

- DEVICE TERMINAL POINT
- TERMINAL BLOCK
- EXTERNAL EQUIPMENT INTERCONNECTION
- XX XX — RELAY, SOLENOID, OR CONTACTOR COIL
- TD XX — TRANSDUCER
- I XX — INDICATING METER
- TLM XX — TELEMETRY
- X — PUSH-TO-TEST LIGHT
- X — PILOT/INDIC LIGHT
- XA — FUSE, SIZE AS INDICATED
- FUSE DUMMY
- XA — DISC SW FUSED
- FUSIBLE LINK
- CAPACITOR
- 3% — REACTOR
- RES — RESISTOR
- RES — RESISTOR VARIABLE
- OR — HEATER ELEMENT
- RECTIFIER SOLID STATE
- AC / DC+ / DC- / AC — RECTIFIER FULLWAVE
- DC BRAKE
- GROUND
- CHASSIS GROUND
- CURRENT SHUNT

LOW VOLTAGE SWITCHING:

- DISCONNECTING SWITCH, MANUALLY GANG-OPERATED
- MOLDED CASE OR AIR CIRCUIT BREAKER
- CONTACTOR WITH THERMAL OL TRIP
- CONTACTOR WITH MAGNETIC OL TRIP
- CONTACTOR WITH THERMAL AND MAGNETIC OL TRIP
- E — CIR BKR DRAWOUT ELEC OPER
- E — CIR BKR THERMO O/L DRAWOUT ELEC OPER
- E — CIR BKR MAG O/L DRAWOUT ELEC OPER
- E — CIR BKR THERMO/MAG O/L DRAWOUT ELEC OPER

SELECTOR:

J K / A1 / A2 — TWO-POSITION X-CONTACT CLOSED

	J	K
A1	X	
A2		X

J K L / A1 / A2 — THREE-POSITION X-CONTACT CLOSED

	J	K	L
A1	X		
A2			X

A B / 1 2 3 4 — TWO-POSITION SELECTOR PUSHBUTTON X-CONTACT CLOSED

CONTACTS	SELECTOR POSITION			
	A		B	
	BUTTON		BUTTON	
	FREE	CONTACTS	FREE	CONTACTS
1-2	X			
3-4		X	X	X

CONTROL SWITCHING:

- XX — PB SWITCH NORM OPEN
- XX — PB SWITCH NORM CLOSED
- XX OFF MAN AUTO — SELECTOR SWITCH
- XX — LIMIT SW NORM OPEN
- XX — LIMIT SW NORM CLOSED
- XX — LIMIT SW NORM OPEN HELD CLOSED
- XX — LIMIT SW NORM CLOSED HELD OPEN
- SOLENOID
- XX — CONTACT NORM OPEN
- XX — CONTACT NORM CLOSED
- XX — FLOW OPER NORM OPEN
- XX — FLOW OPER NORM CLOSED
- XX — LEVEL OPER NORM OPEN
- XX — LEVEL OPER NORM CLOSED
- XX — SWITCH NORM OPEN
- XX — SWITCH NORM CLOSED
- XX — TEMP ACT SW NORM OPEN
- XX — TEMP ACT SW NORM CLOSED
- XX — FOOT OPER NORM OPEN
- XX — FOOT OPER NORM CLOSED
- XX — PRESS OPER NORM OPEN
- XX — PRESS OPER NORM CLOSED

PRELIMINARY
NOT FOR CONSTRUCTION

MOMENTARY CONTACTS:

- NO / NC — SINGLE CIRCUIT
- NO & NC — DOUBLE CIRCUIT

MAINTAINED CONTACTS:

- TWO SINGLE CIRCUIT
- ONE DOUBLE CIRCUIT
- ESS — E-STOP, 2NC

INSTANT OPERATION CONTACTS WITH BLOWOUT
- XA — NO
- XA — NC

INSTANT OPERATION CONTACTS WITHOUT BLOWOUT
- XA — NO
- XA — NC

TIMED CONTACTS - CONTACT ACTION DELAYED AFTER COIL IS ENERGIZED
- NOTC — XX SEC
- NCTC — XX SEC

TIMED CONTACTS - CONTACT ACTION DELAYED AFTER COIL IS DE-ENERGIZED
- NOTC — XX SEC
- NCTC — XX SEC

SUPPLEMENTARY CONTACTS SYMBOLS:

- SPST, NO SINGLE-BREAK
- SPST, NO DOUBLE-BREAK
- SPST, NC SINGLE-BREAK
- SPST, NC DOUBLE-BREAK
- SPDT, SINGLE-BREAK
- SPDT, DOUBLE-BREAK
- DPST, NO, SINGLE-BREAK
- DPST, NO, DOUBLE-BREAK
- DPST, NC, SINGLE-BREAK
- DPST, NC, DOUBLE-BREAK
- DPDT, SINGLE-BREAK
- DPDT, DOUBLE-BREAK

NOTE:

1. "X" OR "XX" SHOWN ON SYMBOLS WILL BE SUBSTITUTED WITH DEVICE FUNCTION NUMBERS, LETTER SUFFIXES, PILOT LIGHT COLORS, OR OTHER DESCRIPTIVE TEXT, WHICH ARE DEFINED ELSEWHERE IN THESE LEGEND DRAWINGS.

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH POWERING ALASKA'S FUTURE | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM OUTLET MODIFICATIONS

ELECTRICAL STANDARD SYMBOLS 1

DESIGNED C. CURTIS
DRAWN F. HABER
CHECKED J. BAKKEN
PROJECT DATE 10/6/23

DRAWING
GE002

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Dam Outlet Modification\GE002.dwg Plot date: Sep 29, 2023 02:42pm, CAD User: HaberFlavia

PRIVATE TELEPHONE SYSTEM

- SB — SWITCHBOARD
- TC — TERMINAL CABINET
- D — DESK PHONE
- W — WALL PHONE

PRIVATE ETHERNET NETWORK SYSTEM

- DATA JACK
- VOICE/DATA JACK

PAGE/SOUND SYSTEM

- A — AMPLIFIER
- S — SPEAKER, WALL MTD
- S — SPEAKER, CEIL MTD
- H — HORN, WALL MTD
- H — HORN, CEIL MTD
- MIC — MICROPHONE
- P — HANDSET

INTRUSION ALARM/ACCESS SYSTEM

S_A — SECURITY ALARM
- A POINT OF CONTACT
- C SECURITY PROXIMITY CARD READER (+48" AFF)
- E SECURITY ELEVATOR LOCKOUT CONTROL
- K SECURITY KEYPAD
- P SECURITY PANIC BUTTON (MOUNT UNDER CABINET)

SC_D — SECURITY DOOR CONTACT
- D INTEGRAL TO DOOR HARDWARE OR HINGE. SEE ARCHITECTURAL DOOR HARDWARE SCHEDULE
- S SURFACE MOUNTED CONTACT/MAGNET COMBO WITH TAMPER RESISTANT METAL-CLAD PIGTAIL.
- M FULLY RECESSED CONTACT/MAGNET COMBO INSTALLED IN DOOR FRAME HEADER/TOP OF DOOR.

SL_D — SECURITY DOOR LOCK CONNECTION (LOCK BY OTHERS)
- D INTEGRAL TO DOOR HARDWARE OR HINGE. SEE ARCHITECTURAL DOOR HARDWARE SCHEDULE
- S ELECTRICAL STRIKE IN DOOR FRAME LATCH.
- M MAGNETIC LOCK ON DOOR FRAME HEADER.

S_M — SECURITY MOTION SENSOR - ARROW INDICATES DIRECTION OF SENSING; 360° INDICATES SENSING IN ALL DIRECTIONS

SM — SECURITY MONITOR AND MULTIPLEXOR/DVM

REX_D — REQUEST TO EXIT SIGNAL DEVICE
- D INTEGRAL TO DOOR HARDWARE OR HINGE. SEE ARCHITECTURAL DOOR HARDWARE SCHEDULE
- P PASSIVE INFRARED DETECTOR MOUNTED ABOVE DOOR FRAME. PROVIDE J-BOX TYPE 'B' HORIZONTALLY MOUNTED 6" ABOVE DOOR.

P — POWERED DOOR OPERATOR ACTUATOR

CCTV SYSTEM

- CCTV — CAMERA FIXED POSITION
- CCTV — CAMERA, PAN-TILT-ZOOM
- CCTV — CCTV MONITOR
- CCTV — CCTV MONITOR

LOW VOLTAGE ELECTRICAL MATERIALS

- CB — CIRCUIT BREAKER SWITCH
- UF — UNFUSED DISCONNECT SWITCH
- F — FUSED DISCONNECT SWITCH
- MOTOR STARTER MANUAL
- MOTOR STARTER MAGNETIC
- CB — MOTOR STARTER MAG. COMBINATION C.B. SW.
- F — MOTOR STARTER MAG. COMBINATION FUSED D.S.
- VFD — VARIABLE FREQUENCY DRIVE
- PUSHBUTTON SW. EMERG. STOP
- PUSHBUTTON SW. STOP/START
- PUSHBUTTON STATION
- SELECTOR SWITCH
- CS — CONTROL STATION
- FS — FLOAT SWITCH
- LI — LEVEL SWITCH
- BI — BIN LEVEL SWITCH
- LS — LIMIT SWITCH
- PS — PRESSURE SWITCH
- PE — ELECTRICAL/PNEUMATIC SWITCH
- PT — PRESSURE TRANSMITTER
- SV — SOLENOID VALVE
- T — THERMOSTAT
- TS — TEMPERATURE SWITCH

- 2 — MOTOR
- POINT OF CONNECTION
- J — JUNCTION BOX OR CONDUIT FITTING

$ — WALL SWITCH
- (1a) NUMBER & LETTER IN PARENTHESES INDICATES PANELBOARD CIRCUIT & SWITCHING ZONE
- 3 THREE WAY
- 4 FOUR WAY
- D DIMMER
- OS OCC SENSOR
- T TIMER
- XP EXPLOSIVE PROOF
- WP WATERPROOF

$_M — MOTOR SWITCH
- M MOTOR RATED TOGGLE SWITCH WITHOUT OVERLOADS
- MS MANUAL MOTOR STARTER WITH OVERLOADS

- DS — DAYLIGHT SENSOR
- OS — WALL MOUNTED OCCUPANCY SENSOR
- OS — CEILING MOUNTED OCCUPANCY SENSOR
- PC — PHOTOCELL, SUBSCRIPT INDICATES CIRCUIT

CONVENIENCE RECEPTACLE - DUPLEX
- C CLOCK
- CR CORROSION RESISTANT
- GFI GROUND FAULT INTERRUPTER
- TL TWIST LOCK, NEMA CONFIGURATION AS INDICATED
- U UPS FED
- WP WEATHERPROOF

SUBSCRIPT NUMBER AT RECEPTACLE INDICATES CIRCUIT

- QUADRUPLEX RECEPTACLE
- SINGLE RECEPTACLE
- FLOOR RECEPTACLE
- SPECIAL PURPOSE RECEPTACLE, NEMA CONFIGURATION AS INDICATED

SITE ELECTRICAL

- POLE CONCRETE
- POLE WOOD
- POLE MOUNTED TRANSFORMER
- DOWN GUY
- SIDEWALK GUY
- M — MANHOLE
- H — HANDHOLE
- V — VAULT
- S — PAD MOUNTED SWITCH
- T — TRANSFORMER VAULT
- PAD MOUNTED TRANSFORMER

GROUNDING

- GROUND ROD
- GROUND ROD WITH ACCESS BOX
- GROUND CONNECTION EXOTHERMIC
- GROUND CONNECTION MECHANICAL BOLTED
- GROUND CONNECTION COMPRESSION
- GROUND COIL (PIGTAIL) 5'0" (1.5M)
- GROUND GRADIENT MAT (SAFETY MAT) 4'X 4'
- GROUND GRADIENT MAT (SAFETY MAT) 4'X 6'

ELECTRICAL LIGHTING FIXTURES

- SURFACE/PENDANT LINEAR FIXTURE
- SURFACE/PENDANT LINEAR FIXTURE WITH BATTERY BACKUP
- RECESSED LINEAR FIXTURE
- RECESSED LINEAR FIXTURE WITH BATTERY BACKUP
- DOWNLIGHT FIXTURE SURFACE/PENDANT CEILING MOUNT
- DOWNLIGHT OR SCONCE FIXTURE SURFACE WALL MOUNT
- R — DOWNLIGHT FIXTURE RECESSED CEILING MOUNT
- R — DOWNLIGHT OR SCONCE FIXTURE RECESSED WALL MOUNT
- H — HAZARDOUS AREA LIGHT FIXTURE CEILING MOUNT
- EXIT SIGN, ARROW INDICATES DIRECTION SURFACE/PENDANT CEILING MOUNT, FILLED QUARTER INDICATES NON-INDICATING FACE
- EXIT SIGN, ARROW INDICATES DIRECTION SURFACE WALL MOUNT, FILLED QUARTER INDICATES NON-INDICATING FACE
- R — EXIT SIGN, ARROW INDICATES DIRECTION RECESSED WALL MOUNT, FILLED QUARTER INDICATES NON-INDICATING FACE

- EMERGENCY DOWNLIGHT FIXTURE SURFACE/PENDANT CEILING MOUNT
- EMERGENCY DOWNLIGHT OR SCONCE FIXTURE SURFACE WALL MOUNT
- R — EMERGENCY DOWNLIGHT FIXTURE RECESSED CEILING MOUNT
- R — EMERGENCY DOWNLIGHT OR SCONCE FIXTURE RECESSED WALL MOUNT
- EMERGENCY LIGHTING UNIT, 1 HEAD
- EMERGENCY LIGHTING UNIT, 2 HEAD
- EMERGENCY LIGHTING UNIT, 3 HEAD
- SURFACE MTD. DISTR. PANELBOARD
- FLUSH MTD. DISTR. PANELBOARD
- LF-1 — LF-1 — POLE-MOUNTED AREA LIGHT, NUMBER OF FIXTURES AND CONFIGURATION AS SHOWN AND PER SCHEDULE
- A / (2a) — LETTER NEXT TO LUMINAIRE INDICATES TYPE PER SCHEDULE. NUMBER AND LOWER CASE LETTER IN PARENTHESES INDICATES CIRCUIT AND SWITCHING ZONE IN PANELBOARD.

PLAN LINETYPES AND CONVENTIONS

- EXPOSED CONDUCTOR/CONDUIT
- CONCEALED/EMBEDDED CONDUCTOR/CONDUIT
- CONDUCTOR/CONDUIT DOWN
- CONDUCTOR/CONDUIT UP
- G — GROUNDING ELECTRODE CONDUCTOR, BARE COPPER
- G — GROUND CONNECTION, EXOTHERMIC OR WELDED
- G — GROUND CONNECTION, BOLTED
- EOH — OH POWER
- EUG — UG POWER
- [3/4"C, 3#12, 1#12G] — CIRCUIT CALLOUT, CONDUIT AND CONDUCTOR SIZES AS INDICATED; "n-" IN FRONT OF CALLOUT INDICATES "n" PARALLEL SETS
- RXX — RACEWAY CALLOUT, INDEX NUMBER AS INDICATED IN RACEWAY SCHEDULE

DIAGRAM LINETYPES AND CONVENTIONS

- ENCLOSURE
- CONDUCTOR, CABLE, CIRCUIT, OR BUS
- INTERCONNECTION WITH EXTERNAL EQUIPMENT
- GANG OPERATED INTERLOCK
- OR — CONDUCTOR, CROSSING OF PATHS OR CONDUCTORS NOT CONNECTED
- CONDUCTOR, JUNCTION OF CONNECTED PATHS, CONDUCTORS OR WIRES

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM OUTLET MODIFICATIONS

ELECTRICAL STANDARD SYMBOLS 2

DESIGNED C. CURTIS
DRAWN F. HABER
CHECKED J. BAKKEN
PROJECT DATE 10/6/23

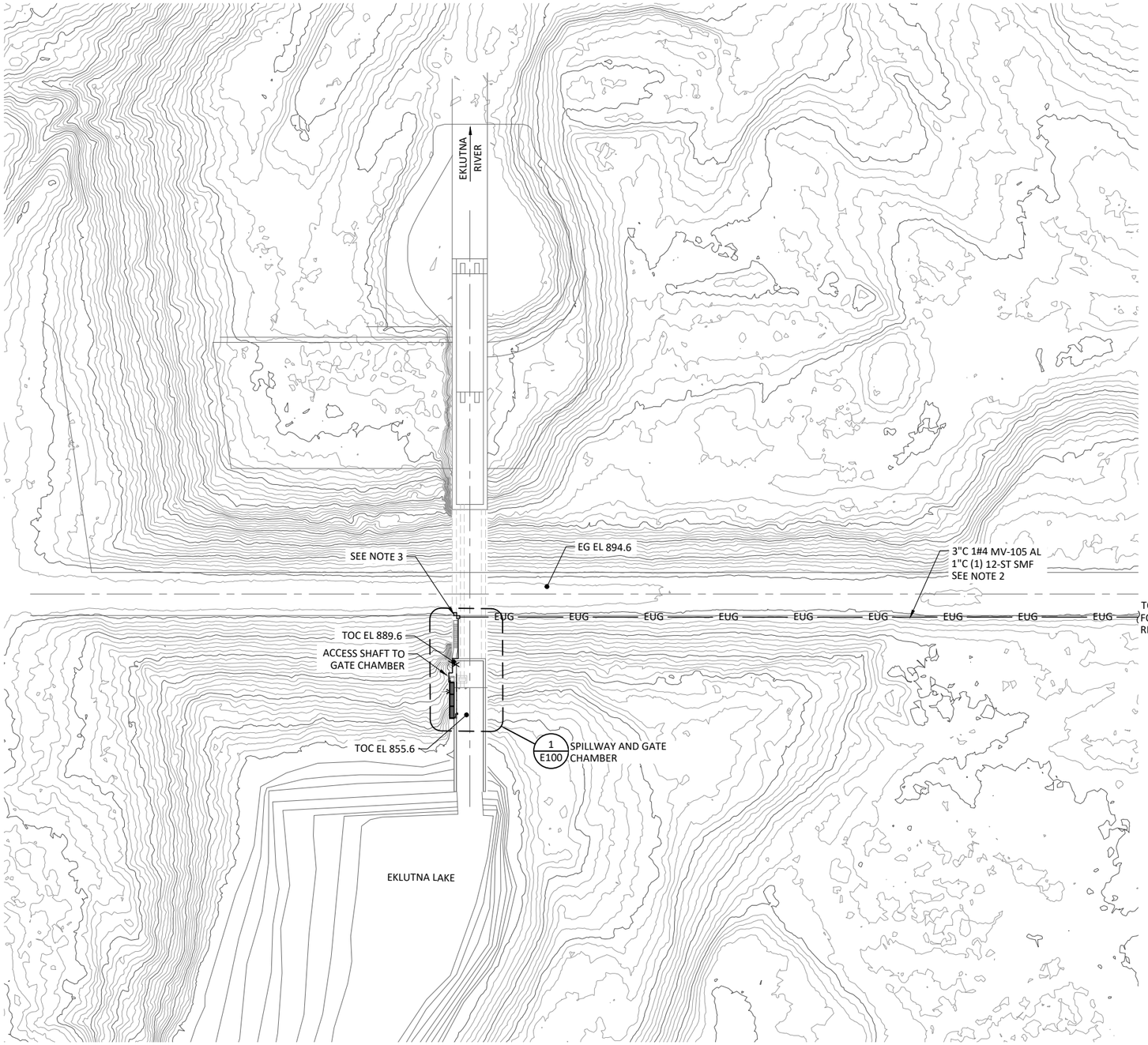
DRAWING
GE003

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Dam Outlet Modification\GE003.dwg Plot date: Sep 28, 2023 09:48am, CAD User: HaberFlavia

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
2. INSTALL BURIED POWER LINE AND FIBER OPTIC COMMUNICATION LINES. PROVIDE MINIMUM 24" OF COVER.
3. INSTALL (2) 4'X4'X4'D CONCRETE HANDHOLES. ONE SHALL BE USED FOR 7.2KV POWER, THE OTHER FOR FIBER OPTIC.



INSTALLATION KEY PLAN

SCALE: 1"= 40'

0" 40' 80'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM OUTLET MODIFICATIONS

ELECTRICAL TRANSMISSION & COMMUNICATIONS UPGRADES PLAN

DESIGNED C. CURTIS

DRAWN J. HOLT

CHECKED J. BAKKEN

PROJECT DATE 10/6/23

DRAWING

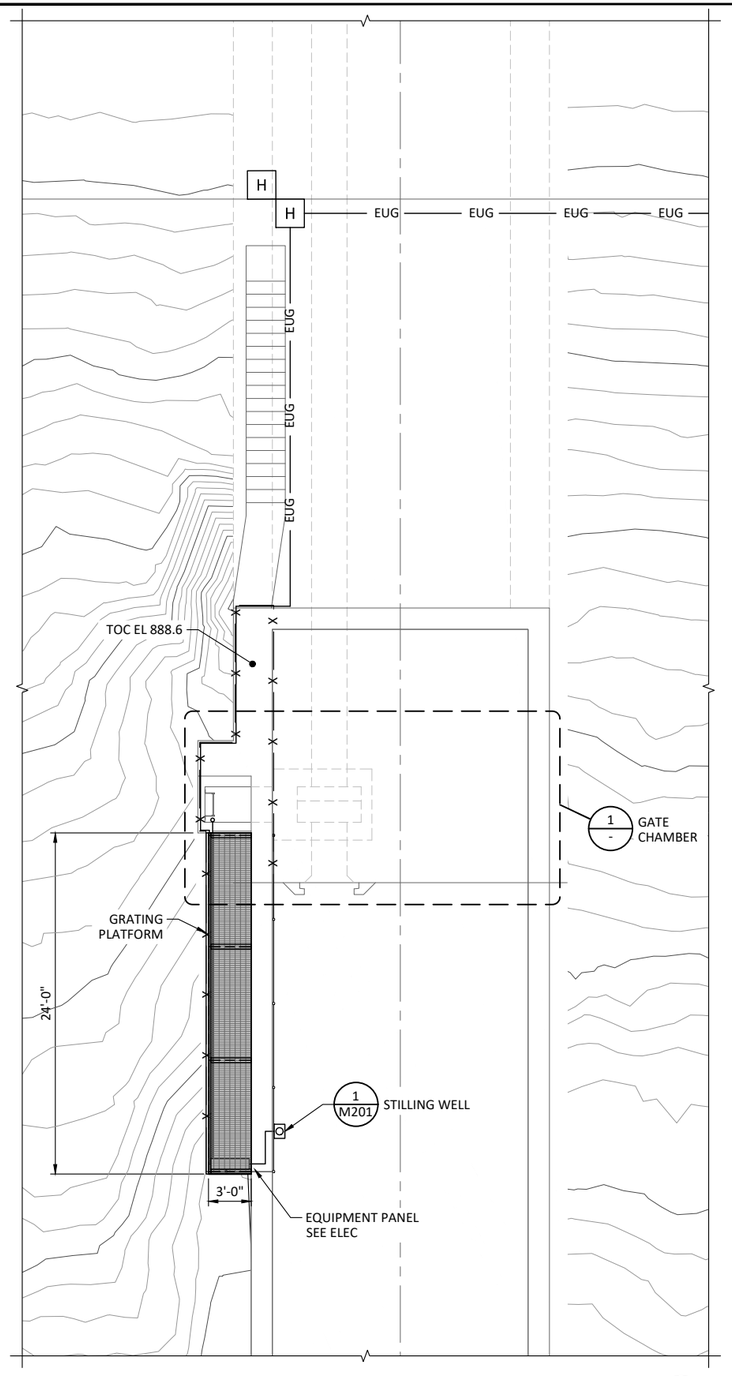
E003

JOB NO: 000000

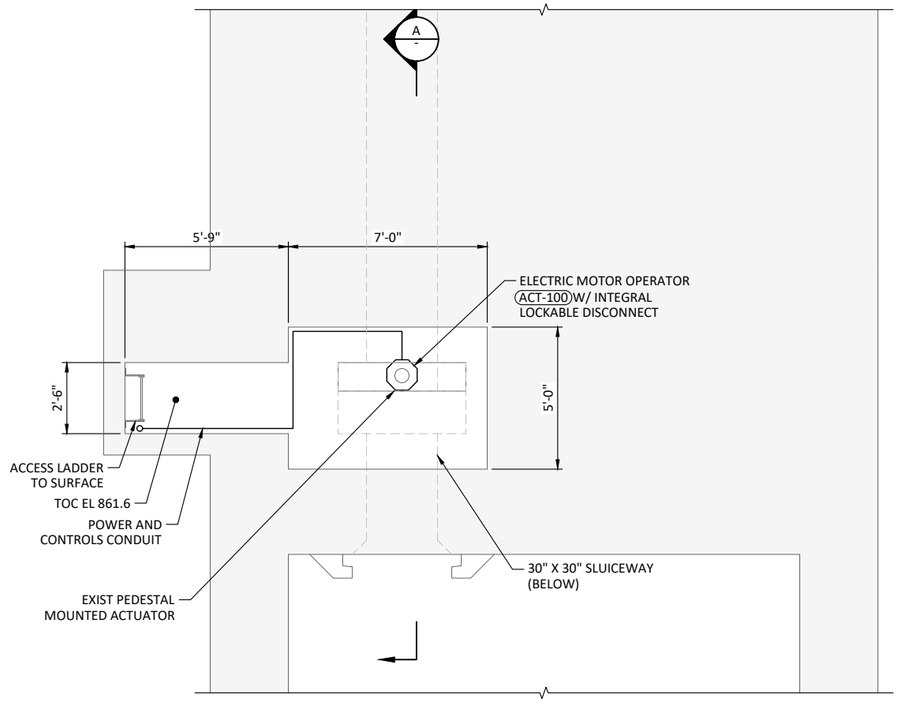
Path: C:\Vault\Chugach Electric\Dam Outlet Modification\E003.dwg Plot date: Sep 28, 2023 09:48am, CAD User: HaberFlavia

SHEET NOTES:

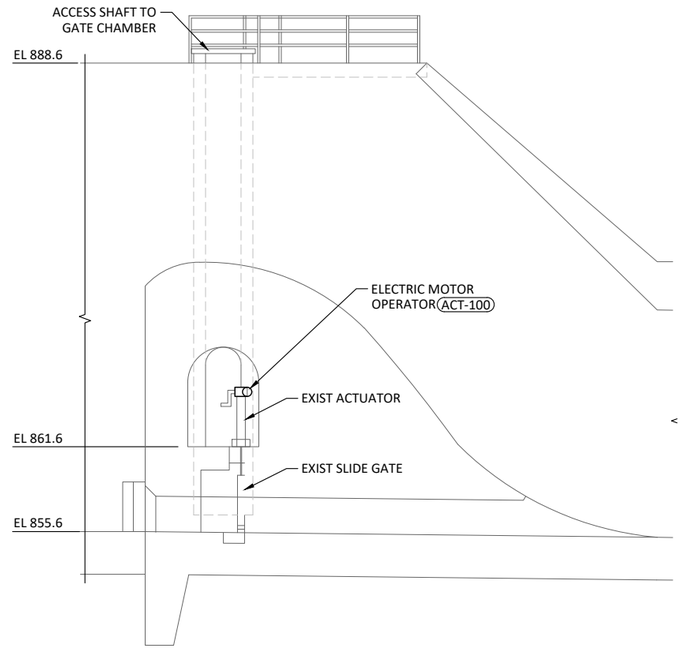
1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
2. INSTALL NEW NEMA 250 TYPE 4X SS CABINET ON HANDRAIL OR FRAMING CHANNEL RACK. CABINET SHALL INCLUDE 240VAC SINGLE-PHASE LOADCENTER, FIBER OPTIC CLOSET CONNECTOR HOUSING, AND REMOTE I/O RACK. PROVIDE CABINET COMPLETE AND OPERABLE WITH TERMINAL BLOCKS, SURGE SUPPRESSORS, AND POWER SUPPLIES. INCLUDE LOCKABLE SERVICE ENTRANCE RATED DISCONNECT SWITCH ON EXTERIOR OF CABINET.
3. MOUNT ALL CONDUITS ALONG LOWER PORTION OF HANDRAIL.
4. INSTALL NEW PADMOUNT SINGLE-PHASE 7200V/240VAC TRANSFORMER. INCLUDE PEDESTAL MOUNTED SECONDARY-SIDE METERING SOCKET. COORDINATE SERVICE REQUIREMENTS WITH UTILITY.



SPILLWAY DETAIL
SCALE: 3/16"= 1'-0"



1 - GATE CHAMBER PLAN
SCALE: 3/8"= 1'-0"



A - GATE CHAMBER SECTION
SCALE: 3/16"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
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EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM OUTLET MODIFICATIONS

EKLUTNA DAM OUTLET ELECTRICAL PLAN
SECTION AND DETAILS

DESIGNED C. CURTIS
DRAWN J. HOLT
CHECKED J. BAKKEN
PROJECT DATE 10/6/23

DRAWING
E100

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Dam Outlet Modification\E100.dwg Plot date: Sep 29, 2023 02:47pm, CAD User: HaberFlavia

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Appendix B. Class 4 Opinion of Probable Construction Costs

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Technical Memorandum			
To:	Mike Brodie, P.E. Chugach Electric Association	Project:	Eklutna Fish & Wildlife Project
From:	Sean P. Ellenson, P.E. McMillen, Inc	cc:	Curtis Neibaur McMillen, Inc
Prepared by:	Paul Rader McMillen, Inc	Job No.:	22-028
Date:	October 6, 2023		
Subject:	Class 4 Opinion of Probable Construction Costs - Eklutna Dam Outlet Modifications		

Revision Log

Revision No.	Date	Revision Description
0	October 6, 2023	Initial Draft

1.0 Introduction

1.1 Purpose

This technical memorandum (TM) presents a summary of the Opinion of Probable Construction Costs (OPCC) for the Eklutna Dam Outlet Modifications as part of the Eklutna Fish & Wildlife Project. The OPCC estimates are based on the 15% Design drawing package dated October 6, 2023.

1.2 Background

The Eklutna Hydroelectric Project (Project) is located in Southcentral Alaska approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna (NVE). The Project was originally constructed by the Federal government in the 1950s but was later sold to, and is currently owned by, the Municipality of Anchorage (MOA), Chugach Electric Association, Inc. (Chugach), and the Matanuska Electric Association (MEA), collectively the “Project Owners”. As part of the sale of the Project, the current Project Owners entered into the 1991 Fish and Wildlife Agreement (1991 Agreement) with the National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the State of Alaska (the Parties). The 1991 Agreement requires the Project Owners to develop and propose to the Governor of Alaska (Governor) a program to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Project.

In development of the program, the Project Owners have met with various stakeholders to identify protection, mitigation, and enhancement measures that may be implemented within the Project study area. These measures were incorporated into a Phase 1 Engineering Feasibility Study which advanced the preliminary design, estimated capital expenditures, and determined operations and maintenance costs for each alternative for the purposes of evaluation. Selected measures from the Phase 1 Engineering Feasibility Study have been advanced to a Phase 2 Engineering Feasibility Study which includes a 15% level of design and a Class 4 OPCC.

1.3 Estimation Preparation

McMillen has utilized historical cost data from similarly technical projects which we have designed or constructed as a self-performing general contractor, as the basis of our Class 4 OPCC estimate. Appropriate overhead and profit markups have been included below the subtotal to account for the competitive bidders' markups, they are likely to apply on their bid prices. A 20% contingency has been included at this stage to account for details and minor project features which are not yet included in the project documents at the 15% Design level of detail. The contingency value may be reduced in future versions of the OPCC estimate, as the project design is advanced.

General requirement and mobilization costs are estimated at 12% and 8% of construction activity costs based on historical project ranges. Overhead and profit markups have been included at 10% and 5% respectively of direct construction costs. The estimate is in 2023 dollars. No escalation is included in the pricing. This OPCC estimate is consistent with a Class 4 estimate as defined by the AACE classification system, as shown in Figure 1-1 and 1-2. For the purposes of this project, McMillen has utilized the accuracy range of -30% to +50%.

CLASS 4 ESTIMATE	
Description: Class 4 estimates are generally prepared based on limited information and subsequently have fairly wide accuracy ranges. They are typically used for project screening, determination of feasibility, concept evaluation, and preliminary budget approval. Typically, engineering is from 1% to 15% complete, and would comprise at a minimum the following: plant capacity, block schematics, indicated layout, process flow diagrams (PFDs) for main process systems, and preliminary engineered process and utility equipment lists. **Level of Project Definition Required:** 1% to 15% of full project definition. **End Usage:** Class 4 estimates are prepared for a number of purposes, such as but not limited to, detailed strategic planning, business development, project screening at more developed stages, alternative scheme analysis, confirmation of economic and/or technical feasibility, and preliminary budget approval or approval to proceed to next stage.	**Estimating Methods Used:** Class 4 estimates virtually always use stochastic estimating methods such as equipment factors, Lang factors, Hand factors, Chilton factors, Peters-Timmerhaus factors, Guthrie factors, the Miller method, gross unit costs/ratios, and other parametric and modeling techniques. **Expected Accuracy Range:** Typical accuracy ranges for Class 4 estimates are -15% to -30% on the low side, and +20% to +50% on the high side, depending on the technological complexity of the project, appropriate reference information, and the inclusion of an appropriate contingency determination. Ranges could exceed those shown in unusual circumstances. **Effort to Prepare (for US$20MM project):** Typically, as little as 20 hours or less to perhaps more than 300 hours, depending on the project and the estimating methodology used. **ANSI Standard Reference Z94.2-1989 Name:** Budget estimate (typically -15% to + 30%). **Alternate Estimate Names, Terms, Expressions, Synonyms:** Screening, top-down, feasibility, authorization, factored, pre-design, pre-study.

Figure 1-1: Class 4 Estimate Description

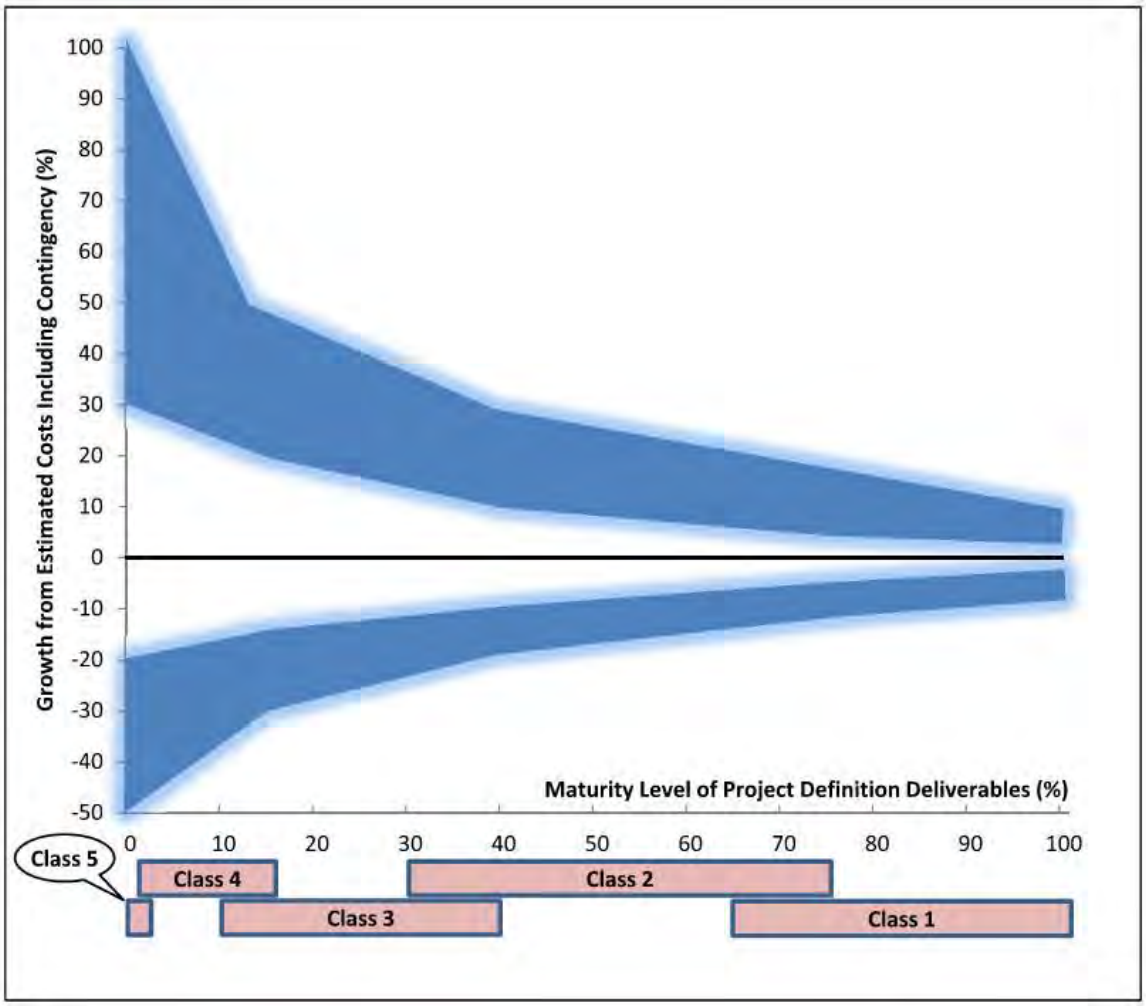

Figure 1-2: Variable in Accuracy Ranges (AACE 69R-12)

2.0 Project Cost Estimate

This OPCC estimate is consistent with a Class 4 estimate as defined by the Association for the Advancement of Cost Engineering (AACE) standard practice 69R-12. The maturity level of the project definition warrants a wide range of potential growth as the project design progresses. The Eklutna feasibility OPCC is based on 15% Design Drawings.

2.1 Cost Assumptions and Qualifications

The cost estimate was primarily developed utilizing costs from past projects and estimates. Below is a summary of the cost basis including any assumptions necessary for cost estimating purposes at this stage of design.

Common Cost Basis:

- General requirement and mobilization costs are based on a typical percentage of total direct construction costs: 12% and 8% respectively.
- Overhead & profit are added to direct construction costs at 10% and 5% respectively.
- A 20% contingency is added to the costs which is a typical contingency at the early concept phase of a project.
- Site access and laydown areas were all based on a unit price of $160k per acre for 0.3 acres.
- All handrail and grating costs are based on recent supply and install estimates.
- All electric controls are assumed to include a PLC for semi-automatic control capabilities along with standard instrumentation readouts.
- Electrical overhead and underground transmission costs provided by MEA.
- Transformer costs are provided by MEA.

Phase 2 Engineering
Eklutna Dam Outlet Modifications

Line Item	Item	Quantity	Unit	Unit Cost	Total Cost	Total
01	**DIVISION 01 INDIRECTS**					**$91,772**
	Mobilization and Establishment of Site Infrastructure	8	%	0.08	$36,709	
	Contractor General Requirements (Percentage of Direct Cost)	12	%	0.12	$55,063	
02	**SITE CONSTRUCTION AND ACCESS ROADS**					**$40,184**
	Site Access - Construct Laydown Areas, Turnarounds and Crane Pads	0.3	ACRE	$160,736.40	$40,184	
03	**SPILLWAY MODIFICATIONS**					**$48,139**
	Steel Access Platform w/ Grating	72	SF	$180.00	$12,960	
	Guardrail	32	FT	$200.00	$6,400	
	Chainlink Fence 6' Tall	56	FT	$138.00	$7,728	
	Stilling Well Supply and Installation	33	LF	$482.00	$16,051	
	Stilling Well Level Sensor	1	EA	$5,000.00	$5,000	
04	**GATE CHAMBER MODIFICATIONS**					**$36,016**
	Electric Motor Operator	1	LS	$21,516.00	$21,516	
	Gate Actuator Installation	1	LS	$14,500.00	$14,500	
05	**ELECTRICAL AND TRANSMISSION**					**$334,523**
	Overhead Transmission Line 7.2kV - 1P.	0.66	mi	$150,000.00	$99,432	
	Buried Power/Conrols Conduit	0.11	mi	$300,000.00	$34,091	
	5 kVA - 1P Transformer, Pole Mount	1	LS	$10,000.00	$10,000	
	Voltage Regulator	1	LS	$100,000.00	$100,000	
	Main Panelboard	1	EA	$10,000.00	$10,000	
	Instrumentation & Gate Controls	1	LS	$81,000.00	$81,000	
	Project Subtotal (without Division 01)					**$458,861**
	Project Subtotal					**$550,634**

AACE International CLASS 4 Cost Estimate - Class 4 estimates are generally prepared based on limited information and subsequently have fairly wide accuracy ranges. They are typically prepared for a number of purposes, such as but not limited to, detailed strategic planning, business case development, project screening at more developed stages, alternative scheme analysis, confirmation of economic and/or technical feasibility, selection of a feasible alternative and preliminary budget approval to proceed to next stage of the project (definition phase). Typically, engineering is from 1% to 15% complete, and would comprise at a minimum the following: Feasibility design for several alternative layouts to include design criteria, generation capacity, feasibility level drawings, preliminary one-line diagrams, and comprehensive user requirements. Class 4 estimates generally use stochastic estimating methods such as cost/capacity graphs or curves and factors, historical data and other parametric and modeling techniques. Typical accuracy ranges for Class 4 estimates are -15% to -30% on the low side, and +20% to +50% on the high side, depending on the technological complexity of the project, appropriate reference information, and other risks (after inclusion of an appropriate contingency determination). Ranges could exceed those shown if there are unusual risks.

Project: Eklutna Engineering Feasibility Study
Location: AK

Direct Construction Cost

Item	Direction Construction Cost		Amount
01	DIVISION 01 INDIRECTS		$91,772
02	SITE CONSTRUCTION AND ACCESS ROADS		$40,184
03	SPILLWAY MODIFICATIONS		$48,139
04	GATE CHAMBER MODIFICATIONS		$36,016
05	ELECTRICAL AND TRANSMISSION		$334,523
	Total Construction Cost		**$550,634**
	Overhead		
	GC Overhead and Profit	15.00%	$82,595
	Construction Bonds	1.25%	$7,915
	Total - Overhead		**$90,510**
	Direct Cost Contingency		
	*Overall Project Contingency:	20.00%	$128,229
	Total - Contingency		**$128,229**
	Taxes		
	AK Sales Tax	0.00%	$0
	Total - Taxes		**$0**
	Median Construction Price - Direct and Indirect		**$769,373**
	Total Construction Price Range (-30% to +50%)		**$538,561 to $1,154,059**

Notes:
All costs based on 2023 Construction Dollars
Does not include: interest during construction, legal, financing, or administration costs.
* Overall Project Contingency is set at 20% due to the current level of project definition and it may be reduced at later stages of design.

McMillen

Eklutna Fish & Wildlife Program
Phase 2 Engineering
Annual Operation and Maintenance Cost Summary
Eklutna Dam Outlet Modifications

Date: 10/6/2023
By: S. Ellenson
Checked By: J. Boag

Line Item	Item	Full Time Equivalent	Total Hours	Quantity	Unit	Unit Cost (2022)	Cost	Total Cost
1	**Personnel**							**$ 64,720**
2	**Operation**							
3	Facility Technician	0.06	168			$ 70.64	$ 11,900	
4	Facility Operator	0.25	730			$ 68.86	$ 50,268	
5								
6	**Maintenance**							
7	Electrician	0.01	16			$ 84.45	$ 1,351	
8	Mechanic	0.01	16			$ 75.04	$ 1,201	
9								
10								
11	**Transportation**							**$ -**
12								
13								
14								
15	**Power**							**$ 1,442**
16	Gate Operation			1095	kWh	$ 0.86	$ 942	
17	General Site Consumption			1.0	LS	500	$ 500	
18								
19								
20								
21								
22	**Materials**							**$ 1,000**
23	Gate			1.0	LS	1000	$ 1,000	
24								
25								
26								
27								
28								
29	**Project Subtotal**							**$ 68,000**
30								
31	**Contingency**			30%	LS			**$ 20,400**
32								
33								
34	**Project Total**							**$ 88,400**

Assumptions:
(1) Flow released through Gate year-round
(2) Facility operator is required to visit the site twice per week.
(3) The gate will be fitted with an instrumentation system capable of automated gate position changes to accommodate lake level fluctuations.
(4) Power consumption is estimated based on daily gate position changes and general site power consumption.
(5) A 2 day outage was assumed for performing inspection and maintenance of the gate chamber
(6) Electrical and mechanical maintenance support assumes ongoing support for gate and instrumentation system.
(7) Facility operator is a trained local operator with general mechanical skills.
(8) Labor Wages Per State of Alaska Minimum Rates of Pay; September 2023

	Class	Monthly	Hourly
Trap Operator/Truck Driver	A2106		$ 70.64
Trap Technician - Biological Technician	S1201		$ 68.86
Electrician	A0707		$ 84.45
Mechanic - Maint. & Ops. Supervisor	A1601		$ 75.04

Eklutna Fish &
Wildlife Program

Eklutna Dam Spillway Modifications

Design Documentation Report

15% Design
Revision No. 0

April 2024

PLACEHOLDER FOR ENGINEER STAMP
Date:

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Appendix A. 15% Design Drawings

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Distribution

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Revision Log

Revision No.	Date	Revision Description
0	April 18, 2024	15% Design – Initial Draft
1	April 25, 2024	15% Design – Final Draft

1.0 Introduction

1.1 Purpose

The purpose of this report is to present the design documentation associated with the development of the Spillway Modifications as part of the Eklutna Fish & Wildlife Program (Project). The design documentation report (DDR) summarizes the pertinent data, design criteria, and standards used as the basis for the 15% level of design of the Project. The DDR documents the data, criteria, and standards by engineering discipline, and provides information about the operation of the design components associated with the Project.

The information presented within this DDR will be updated throughout the design development process to reflect refinement of the Project components and facilities, and advancement of the design analysis and details.

1.2 Location

The Project site is located in Southcentral Alaska approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna. The Project footprint spans lands owned and managed by the State of Alaska, Eklutna Inc., and the Bureau of Land Management, with the dam and proposed modification to the dam spillway occurring on land owned by the State of Alaska. As proposed, the Project involves modifying the spillway within Eklutna Dam by removing the uncontrolled ogee crest overflow structure and replacing it with a fixed wheel gate and hoist for allowing controlled spills from Eklutna Lake. The location of Eklutna Dam and its vicinity to other features of the overall project is presented in Figure 1-1.

1.3 Background and Objectives

As part of the Eklutna Fish & Wildlife Program, Chugach Electric Association, Matanuska Electric Association, and the Municipality of Anchorage, known collectively as the Owners of the Eklutna Hydroelectric Project (Owners) are studying various means of providing water to the Eklutna River to mitigate damages to, and enhance fish and wildlife impacted by development and continuing operation of the Project. During the consultation process with various stakeholders to the Project, requests were made to replace the existing overflow spillway at the dam with a fixed wheel gate because either (1) climate change may cause inflows to the reservoir to increase significantly, which may increase the likelihood of future spill events, and a fixed wheel gate will allow the Project Owners to better manage those future spill events, or (2) while modeling results show that the default channel maintenance flow regime will maintain spawning gravels in the wetted reach of the Eklutna River, future

monitoring may show that a higher magnitude channel maintenance flow that exceeds the combined hydraulic capacity of the existing outlet gate and the Eklutna River Release Facility may be warranted. The purpose of this report is to document the design criteria and analyses performed for the engineering development of the spillway modifications to Eklutna Dam.

1.4 Report Organization

This DDR is a record of the design effort for the Project and specifically describes the details of the design process and work effort for the Dam Outlet Modifications. The DDR consists of a summary of the design elements, criteria, methods and approach, engineering calculations, and pertinent references. The major report sections and intended purpose are presented in Table 1-1.

Table 1-1. Major Report Sections and Purpose.

Section	Description	Purpose
1	Introduction and Background	Presents the Project background, purpose, location, authorization, objectives, feature scope, and the report organization.
2	General Description	Summarizes the basic design criteria that are used as the basis of design.
3	Existing Infrastructure	Summarizes the existing infrastructure related to the Project.
4	Project Infrastructure and Operation	Describes the proposed modifications for the Eklutna Dam spillway.
5	Structural Design	Includes information related to the structural design of the fixed wheel gate, guides, and stability of the dam.
6	Mechanical Design	Includes information related to the mechanical design of the gate hoist.
7	Electrical and Instrumentation / Control Design	Includes information related to the electrical design and instrumentation and controls associated with the spillway modifications.
8	References	Documents the references used in developing the design.

Section	Description	Purpose
Appendices		
A	15% Design Drawings	Presents the 15% design drawings for the Eklutna Dam Spillway Modifications
B	Class 4 OPCC	Presents the Class 4 Opinion of Probable Construction Costs for the Eklutna Dam Spillway Modifications.

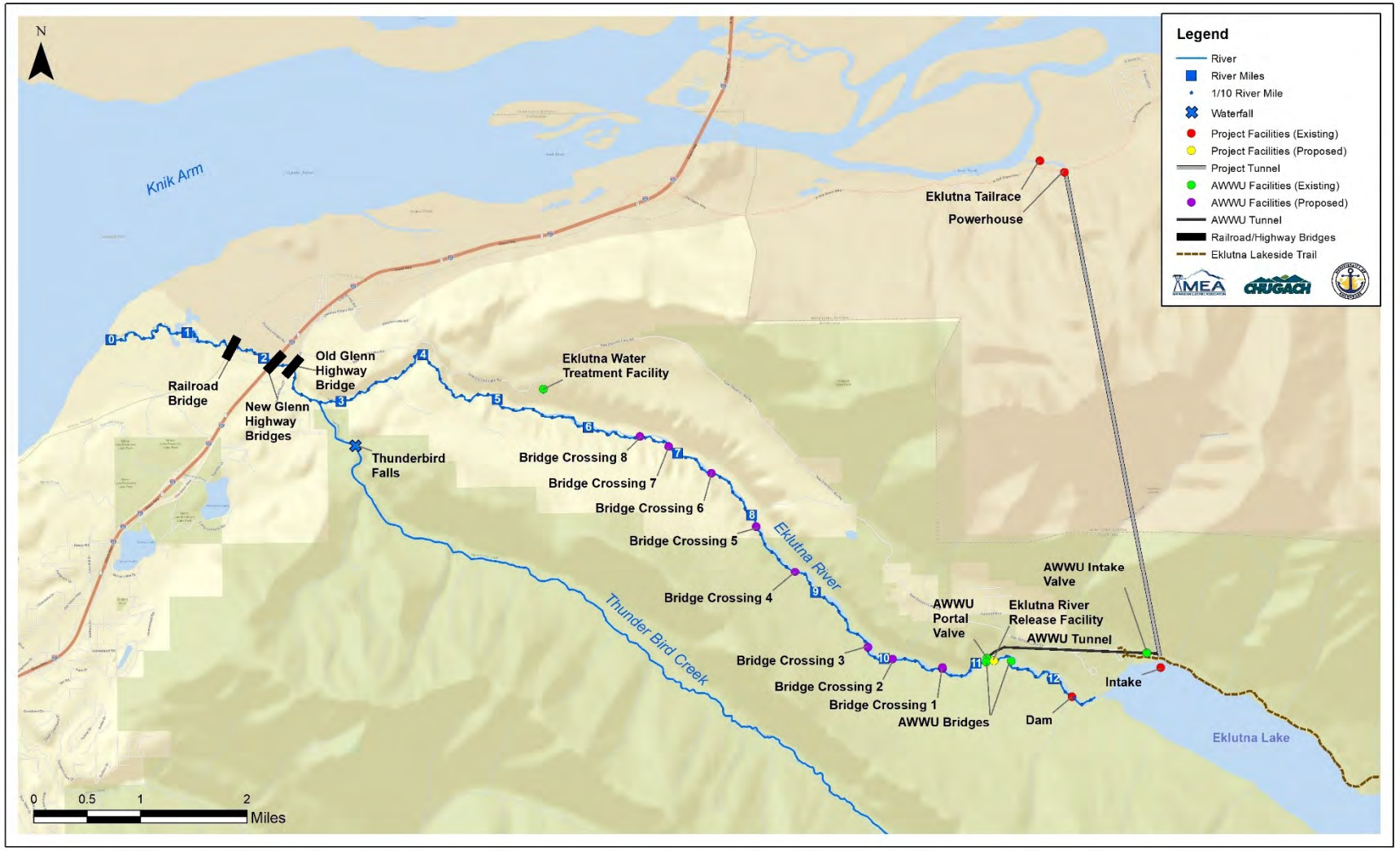

Figure 1-1. Project Overview.

2.0 General Description

2.1 General Design Criteria and Standards

General design criteria and standards for the Project include the abbreviations, survey datum, topographic mapping, references, and design standards as described below.

2.1.1 Standard List of Terms and Abbreviations

AACE	Association for Advancement of Cost Engineering
AC	alternating current
ACI	American Concrete Institute
AF	acre-ft
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute
ASTM	American Society of Testing and Materials
AWWA	American Water Works Association
AWWU	Anchorage Water and Wastewater Utility
BMP	Best Management Practice
CADD	computer aided design and drafting
CEA	Chugach Electric Association
cfm	cubic feet per minute
cfs	cubic feet per second
DC	direct current
DDR	Design Documentation Report
ERRV	Eklutna River Release Valve
El.	elevation
fps	feet per second
ft	feet
HDC	Hydraulic Design Criteria
HEC	Hydrologic Engineering Center
HMI	human-machine interface
HPU	hydraulic power unit

HVAC	heating, ventilation, and air conditioning
Hz	hertz
IESNA	Illuminating Engineering Society of North America
I/O	Input/Output
IBC	International Building Code
IEEE	Institute of Electrical and Electronics Engineers
LED	light-emitting diode
LiDAR	Light Detection and Ranging
MEA	Matanuska Electric Association
MGD	million gallons per day
MOA	Municipality of Anchorage
MSL	Mean Sea Level
NAD83	North American Datum of 1983
NAVD88	North American Vertical Datum of 1988
NEC	National Electric Code
NEMA	National Electrical Manufacturers Association
NESC	National Electrical Safety Code
NFPA	National Fire Protection Association
NGVD29	National Geodetic Vertical Datum of 1929
NVE	Native Village of Eklutna
O&M	operation and maintenance
pcf	pounds per cubic foot
PLC	programmable logic controller
psi	pounds per square-inch
RTD	Resistance Temperature Detector
SCADA	Supervisory Control and Data Acquisition
UL	Underwriters Laboratories
UPS	uninterruptible power supply
USGS	U.S. Geological Survey
V	volt

2.2 Survey Datum

Multiple vertical survey datums are reported in and around the main features of the Project. The following datums are identified within the Project area:

1. The MOA conducted LiDAR survey flights over the Project Area between May 12-30, 2015. The vertical datum this data is presented in is NGVD 1929 – M.O.A. 1972 Adjustment (MOA72).

2. McMillen contracted NV5 Geospatial to conduct LiDAR survey flights over the Project Area on May 28, 2020 and on May 18, 2022. The vertical datum this data is presented in is NAVD88, GEOID12B.

3. The As-Built Drawings for the dam and spillway are used for the reservoir modeling and hydraulic analysis. The drawings are titled “Eklutna Project – Alaska; Rehabilitation Pressure Tunnel” dated November 16, 1964 (USBR, Eklutna Project - Alaska. Rehabilitation Pressure Tunnel. As Built Drawings 1964). The vertical datum for these drawings is currently unknown and shall be referred to as “Local Datum” until further information is gathered.

4. The As-Built drawings of the AWWU lake diversion tunnel and pipeline are utilized as part of the design of the proposed facility. The drawings are titled “Eklutna Water Project” dated January 2, 1986 (AWWU 1986). The vertical datum used in these drawings is the GAAB Post-Quake, USC&GS, MSL, 1972. As currently understood this datum is identical to and used interchangeably with MOA72.

5. The USGS gauge station 15278000 Eklutna Lk Nr Palmer AK is reported by USGS to be based on the NGVD29. Discussions with USGS revealed that this is not necessarily the case, rather the gauge is tied to a brass cap set on the Eklutna Dam spillway wall.

The survey datum that will be utilized as the basis of this Project and the basis of all elevations within this report is NAVD88 GEOID 12B in terms of elevation with respect to Mean Sea level (MSL), US Foot. A conversion was determined from each of the unique project datums to correct to NAVD88 for the purposes of this investigation (McMillen 2022). The calculated correction factors between vertical datums used as part of the Eklutna Project is presented in Table 2-1.

Table 2-1. Eklutna Vertical Datum Conversion.

Vertical Datum	Conversion to NAVD88 (ft)	Notes
NAVD88	+0.00	
USGS Gauge	+3.263	Based on Staff Gauge Measurements at Dam
Local Datum	+3.593	Based on 2003 Survey at Dam
MOA72	+6.339	Based on 1987 Survey at Dam
	+6.520	Based on 2015 MOA LiDAR report

3.0 Existing Infrastructure

3.1 Eklutna Dam

The existing dam is located approximately 1,400 feet downstream of the natural outlet of Eklutna Lake. It is an earth and rock fill embankment dam with a crest length of 815 feet, a crest width of 30 feet, and a crest elevation (El.) of 894.6 feet (NAVD88) (USBR 1967). The crest of the dam is finished with crushed rock material to form a stable road surface, as shown in Figure 3-1. The dam allows for storage of water in Eklutna Lake for use throughout the year for power generation and water supply.

Figure 3-1. Dam Crest and Ungated Overflow Spillway, Looking North.

An ungated overflow spillway is incorporated within the middle of the dam. The reinforced concrete spillway consists of an inlet structure 105.54 feet long, a rectangular conduit section 83.80 feet long, a chute 77.66 feet long, and a stilling basin 89.00 feet long. The inlet structure contains a concrete overflow crest with a width of 18-feet and a crest elevation of El. 874.59 ft msl (NAVD88). The floor of the spillway is at El. 855.59 ft msl (NAVD88) for a total crest height of 19 feet. The design discharge capacity of the spillway is 3,315 cfs which corresponds to a reservoir water surface elevation of El. 888.39 ft msl (NAVD88). A cross sectional drawing of the structure is presented in Figure 3-2 with photographs of the spillway provided in Figure 3-3.

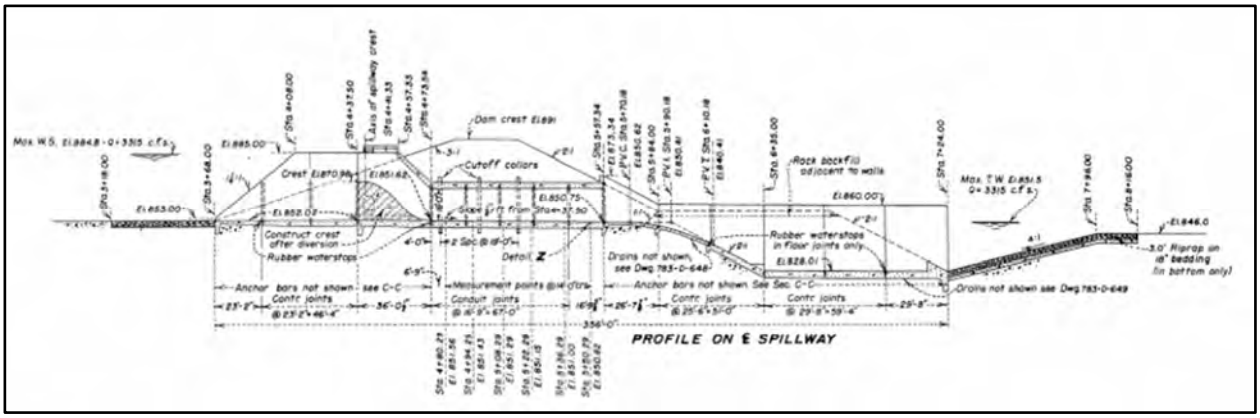

Figure 3-2. Cross Sectional View of Eklutna Dam Spillway.

Figure 3-3. Top View of Spillway (Left). Upstream Face of Spillway (Right).

4.0 Project Infrastructure and Operation

4.1 Spillway Infrastructural Modifications

The proposed modification to the Eklutna Dam Spillway involves the removal of the existing concrete overflow crest, installation of gate guides and sill plate, and installation of a fixed wheel gate, hoist, and hoist support structure. The concrete overflow crest currently provides stability to the concrete training walls; thus, removal of this element will introduce a new loading condition on the walls that must be addressed as part of the proposed scope of work. The modifications to address this new loading condition involve bracing the spillway training walls on the upper deck, which will also serve as the gate hoist platform. During the development of the design, the Alaska Department of Natural Resources Dam Safety division will be closely collaborated with to ensure the dam is protected during construction and operation of the new spillway gate. Details of the structural analysis of the existing spillway training walls under the new loading condition are provided in Appendix C. A section of the proposed infrastructural elements within the spillway is presented in Figure 4-1.

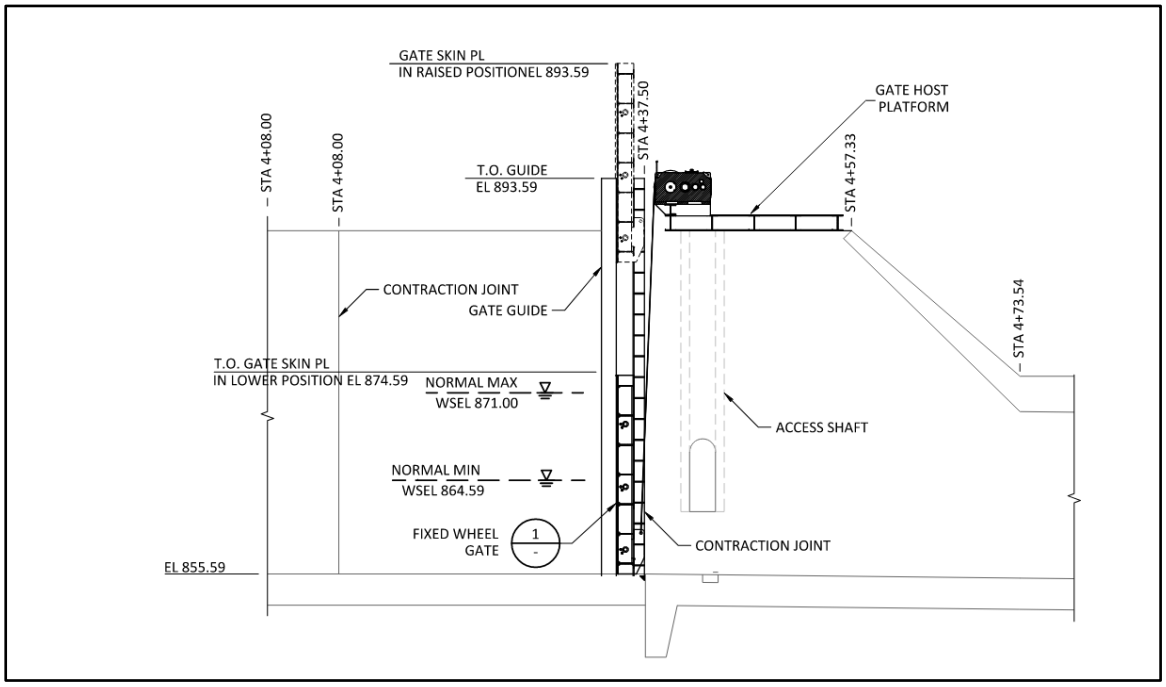

Figure 4-1. Spillway Modifications – Cross Section.

The gate hoist platform will consist of five W18x71 beams anchored across the span of the spillway. This platform will double as the support platform for the hoisting equipment for the gate. A new security fence will be located along the perimeter of the gate hoist platform and spillway upper deck to restrict public access and protect against theft or vandalism.

4.2 Fixed Wheel Gate

To control the flow within the spillway for regulated spill events or for future channel maintenance flow purposes, a fixed wheel gate will be implemented at Eklutna Dam. A fixed wheel gate is a type of vertical lift gate which utilizes wheels located on a fixed axle to transmit loads into the guides and supporting structure. These gates are commonly used in dams and other hydraulic structures due to their reduced friction requiring smaller hoisting mechanism and them being fairly economical to fabricate. A representative photograph of two fixed wheel gates at an existing dam intake is provided in Figure 4-2.

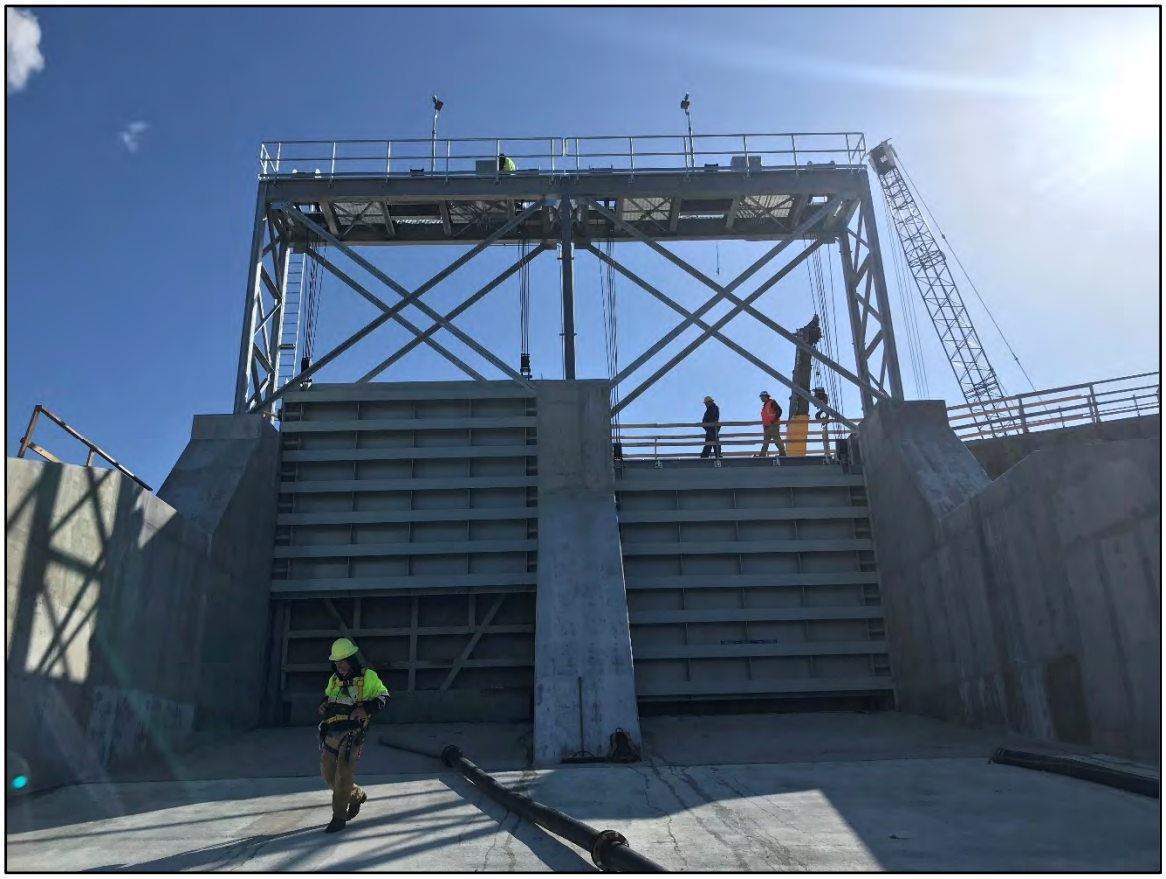

Figure 4-2. Fixed Wheel Gates at Dam Intake.

The fixed wheel gate would be lifted by a wire rope hoisting mechanism located on the proposed hoist platform on top of the spillway. The gate would be actuated locally via push button controls or remotely via the SCADA network. A stage-discharge relationship would be developed for the gate such that the flow rate released into the river may be calculated as a function of the gate opening position and the water surface elevation of the lake.

5.0 Structural Design Criteria

The structural design criteria apply to all design procedures to be implemented during the Project design. Structural design considerations listed in this section include material selection and design requirements that are intended to be incorporated into the Project. Structural Calculations may be found in Appendix A.

5.1 Applicable Codes and Standards

The structural design of the gate and hoist platform will conform to the following reports, criteria, and industry codes and standards. The applicable version of each document is the latest edition in force unless noted otherwise. References to the specific codes and standards will be included in the applicable technical specifications as the final design documents are prepared.

Table 5-1. Structural Codes and Standards.

Number	Description
Building Code	
ASCE 7	ASCE 7/SEI 7-16 Minimum Design Loads for Buildings and Other Structures, 2016
Design Standards and References	
ACI 318	Building Code Requirements for Structural Concrete, 2014
AISC 360	Specification for Structural Steel Buildings, 2016
ASIC SCM	Steel Construction Manual, 14th Edition
AWS D1.1	Structural Steel Welding Code – Steel
USACE EM 1110-2-2107	Design of Hydraulic Steel Structures

5.2 Materials

Materials and standards for concrete, concrete-related materials, structural steel, and miscellaneous metals for the Project are indicated in Table 5-2.

Table 5-2. Structural Materials and Design Standards.

Component	Material and Standard
Concrete and Related	
Existing Concrete	Compressive Strength (static), f'ce = 3000 psi
Adhesive Anchors	Two component epoxy, ASTM C-881 (with SS threaded anchor rod or reinforcing dowels)
Structural Steel	
Wide Flange Shapes	ASTM A992, Grade 50ksi
M, C, L shapes	ASTM A572, Grade 50ksi
Tube (HSS)	ASTM A500, Grade C. (46ksi Round / 50ksi Rect.)
Plates and Bars	ASTM A572, Grade 50ksi
High-Strength Bolts	ASTM F3125, Grade A325
Anchor Rods	ASTM F1554, Grade 50ksi (threaded) A193, Type 316 Stainless Steel
Miscellaneous Metals	
Guardrail and Grating	Galvanized steel

5.3 Design Loads

The general load types considered in the design of the structure are summarized in Table 5-3.

Table 5-3. Structural Design Loads.

Load Type	Description
Dead	Self-weight of all permanent structural elements as well as super-imposed weight of permanent mechanical and electrical equipment and piping.
Live	Temporary loads produced by the use and occupancy of the building or structure (excluding environmental loads). This load type includes those produced by movable objects and loads on guardrails, fixed ladders, and handrail systems by maintenance personnel.
Wind	Wind loads will be applied to all solid surfaces of the access platform and framing.

Seismic	Inertial forces produced by ground motion during a seismic event. The effects of this load type will be approximated based on the provisions of ASCE7.

5.3.1 Design Basis for Hoist Platform

Design of the access platform framing, guardrail, and connections will satisfy Load Factor and Resistance Design (LRFD) methodology by providing the required strength defined by the equation below:

$$U = \sum \gamma_i L_{ni} \leq \phi R_n$$

Where:

- $U =$ required strength
- $\gamma_i =$ load factors per ASCE 7
- $L_{ni} =$ load effects per structural calculations
- $\emptyset =$ resistance factor from ASCE 7
- $R_n =$ nominal resistance from ASCE 7

This methodology will be applied to the design of other material types in accordance with the relevant design standards and references. Refer to the structural calculations for additional information and derivation of these equation variables for specific Project features and components.

5.3.2 Design Basis for Fixed Wheel Gate

The proposed spillway fixed wheel gate will consist of a single steel skin plate welded to a series of WT shapes that are welded to a thick end plate. This design provides strength, stiffness and reliability. The roller wheel system is adjustable so that the wheels can be custom fit to the field conditions.

The gates will be fabricated from ASTM A709 Grade 50 steel and coated with a polyamine cure epoxy paint system. This type of steel is used in modern bridge fabrication because of its high toughness properties which resists sudden fracture. Seal retainer plates and bearing plates will be painted steel to reduce the amount of dissimilar metals in the vicinity which cause corrosion. The seal retainer bolts will be stainless steel. It is noted that some manufacturers choose to provide stainless steel wheels, axles, and embedded parts; however, carbon steel materials are allowed. Carbon steel components will be painted in order to provide corrosion resistance, and these coatings must be maintained by the Owners.

6.0 Mechanical Design Criteria

The mechanical design criteria apply to all design procedures to be implemented during the Project design. Mechanical design considerations listed in this section include detailing of mechanical components, material selection, and design requirements that are intended to be incorporated into the Project. Mechanical design calculations may be found in Appendix B.

6.1 Applicable Codes and Standards

The mechanical design will conform to the following reports, criteria, and industry codes and standards. The applicable version of each document is the latest edition in force unless noted otherwise. References to the specific codes and standards will be included in the applicable technical specifications as the final design documents are prepared.

Table 6-1. Mechanical Codes and Standards.

Codes & Standards	Description
ASTM	American Society of Testing and Material
ANSI	American National Standards Institute
ASME	American Society of Mechanical Engineers
ASME B16.5	Steel Pipe Flanges
AWS	American Welding Society
CMAA	Crane Manufacturers Association of America
FIST	Facilities Instructions, Standards and Techniques Manuals
MSS	Manufacturers Standardization Society of Valves and Fittings
USACE EM 1110-2-2610	Mechanical and Electrical Design for Lock and Dam Operating Equipment

6.2 Materials

Materials and standards for the mechanical components of the Project are indicated in Table 6-2.

Table 6-2. Mechanical Materials and Design Standards.

Component	Material and Standard
Wire Rope	6x37 Extra Improved Plow Steel – Stainless Steel
Gate Roller Bearings	Fabric Reinforced Composite Self Lubricated Bearing (CIP 151A)
Gate Roller Shafts	17-4 PH Stainless Steel
Cranes and Hoists	Steel with Vendor Coating Systems

6.3 Design Loads

6.3.1 Design Basis for Gate Hoist Components

USACE and ASME standards will be primarily used to guide spillway hoist and gate mechanical components. USACE EM 1110-2-2610 “Mechanical and Electrical Design for Lock and Dam Operating Equipment” and ASME B30.20 “Below the Hook Lifting Devices” are the most applicable. In general, they follow the Allowable Strength Design (ASD) method with the following design criteria:

- Normal operation load cases require that design stresses do not exceed 20% of material ultimate strength.
- Overload load cases require that design stresses do not exceed 75% of material yield strength.
- Overload load cases require that rope loads do not exceed 70% of minimum breaking strength.
- Self-lubricated bushing average bearing loads do not exceed 3,000 psi for normal operating conditions.

Off-the-shelf components will utilize their rated loads as they are assumed to have incorporated appropriate safety factors. In other words, the safety factors listed above will not be applied to off-the-shelf components.

6.3.2 Load Case A – Normal Operation

The normal operation load case (LCA) will be calculated based on the worst-case friction and efficiency values that would be obtained with moderate maintenance performed on the mechanical systems over the 50-year design life. This load case assumes that the hoist and gate are functioning as designed. Per the requirements of USACE EM 1110-2-2610, the hoist

system will be designed for a factor of safety of 5 for this load case. Load Case A is comparable to SG, U2 in Table 3-19 of USACE ETL-584. The normal operation loads on the hoist system are a function of the external loads applied to the gate (hydrostatic forces, gravitational forces, friction forces, etc.). To calculate the load required to lift the spillway gate (tension in hoist ropes), a free body diagram has been created. Operating loads were applied to the free body diagram and a summation of forces and moments was performed to solve for the tension in the wire ropes.

6.3.3 Load Case B – Maximum Allowable Motor Torque of Hoist

Load Case B (LCB) will be defined as the maximum torque of the motor applied to the hoist. Per the requirements of EM 1110-2-2610, the hoist system will be designed to not exceed 75% of the yield of the components under this loading except for wire rope, which will be limited to 70% of minimum breaking strength based on the guidance of USACE EM 1110-2-3200. This load case is not directly covered in USACE ETL 584 for the structural design of the gate. However, this load case is most comparable to SG.X3 in Table 3-19. This load case will be calculated based on breakdown torque of motor, which per NEMA MG-1 specifies at 200% of rated motor torque for a NEMA B motor.

6.4 Hoist Performance Criteria

6.4.1 Rated Load

The hoist load will be based on the loads listed below in Table 6-3. This rating is driven by the load required to lift the gate out of the slot under flow. It should be noted that the gate operation will require lifting from the sill at maximum normal water elevation. The contributions to hoist load total are listed in Table 6-3.

Table 6-3. Basic Hoist Loads.

Description	Load
Gate Weight, lbf	23,100
Roller Friction, lbf	20,368
Seal Friction, lbf	515
Ice and Mud, lbf	2,000
Inertial Loading, lbf	48

6.4.2 Gate Travel Speed

Gate travel speed will be one foot per minute, which is typical for dam or spillway gates of this size. The slow operating speed additionally will help regulate the down ramping within the river during spill events to prevent fish stranding.

6.4.3 Motor Sizing

The required power to operate the gates is 2 hp. A 5hp NEMA B motor was selected to be conservative at this time. The calculations to determine the motor capacity are provided in Appendix C.

6.4.4 Hoist Configuration

The hoist configuration will consist of a single 5-hp NEMA B motor with a motor brake driving a parallel shaft reducer with two output shafts, which drives two grooved wire rope drums through an 8-inch-diameter drive shaft supported by two pillow block roller bearings supporting each. The rope will be stainless steel rope and will require no maintenance or lubrication. Each side of the hoist will be two-part rope configuration (Figure 6-1).

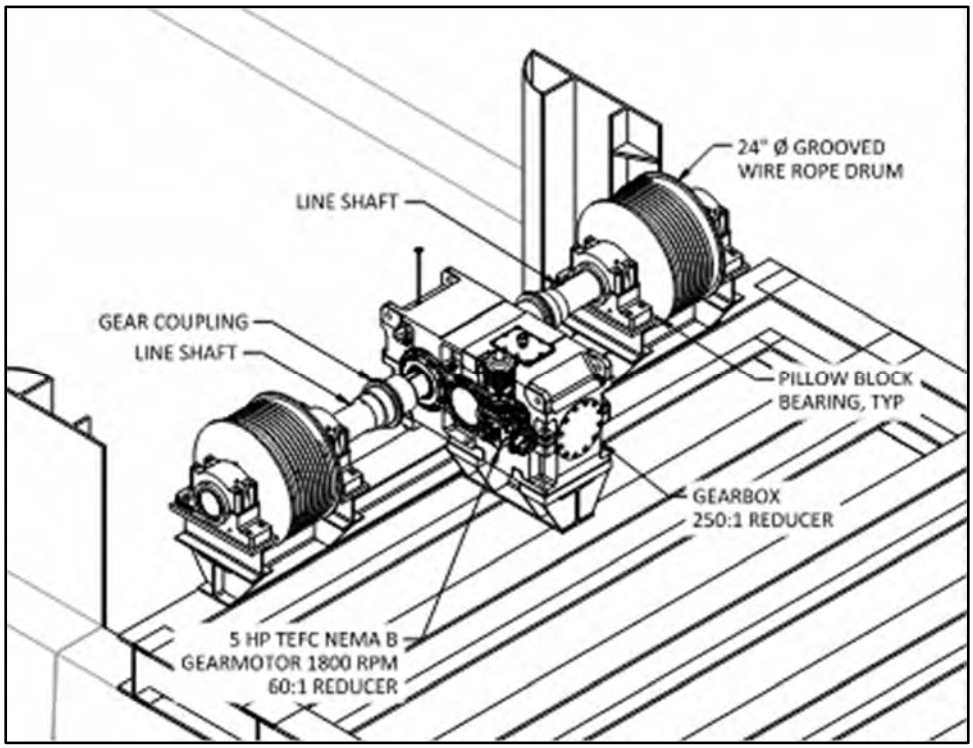

Figure 6-1. Hoist Configuration.

6.4.5 Hoist Wire Rope

The wire rope used will be 1 3/8-inch steel wire rope rated at a minimum 77,700 lbf breaking strength per ASTM A1023 – Standard Specification for Carbon Steel Wire Ropes for General Purposes.

6.4.6 Overload Limit Device

No overload limit device is required as the system will be capable of withstanding breakdown motor torque (load case B) without being damaged.

6.4.7 Hoist Brake

The motor hoist brake will be rated to be at least 250% rated motor torque. This this is a higher rating than USACE EM 1110-2-2610 chapter 2-2b recommends but will ensure that motor cannot overpower the brake if erroneously engaged. A disk type brake will be used for its simplicity, robustness, effectiveness and ease of maintenance.

7.0 Electrical Design

The electrical design criteria apply to all design procedures implemented during the Project design. Electrical design considerations listed in this section include detailing of electrical components, material selection, and design requirements that are intended to be incorporated into the Project.

7.1 Applicable Codes and Standards

Applicable codes and standards are listed in Table 7-1.

Table 7-1. Electrical Codes and Standards

Code	Standard
NFPA 70	National Electrical Code
NFPA 70E	National Electrical Safety Code (NESC)
NFPA 110	Standard for Emergency and Standby Power Systems
IEEE	Institute of Electrical and Electronics Engineers
NEMA	National Electrical Manufacturers Association

NFPA – National Fire Protection Association

7.2 Materials

Materials are summarized in Table 7-2.

Table 7-2. Electrical Materials

Material	Standard
Circuit Breakers	NEMA AB 1, UL 489
Switches	NEMA KS 1, UL 98
Terminal Blocks	UL 1059
Power Conductors/Cable	NEMA WC 70, UL 44, UL 83, UL 854
Instrumentation Cable	NEMA WC 57, UL 13, UL 44
Boxes and Enclosures	NEMA 250

Material	Standard
Raceway	NEMA C80.1, NEMA C80.6, NEMA RN 1, UL 6, UL 360, UL 514B, UL 651, UL 1242
Standby Generators	NEMA MG 1, UL 142, UL 508, UL 1236, UL 2200
Transfer Switches	NEMA ICS 2, UL 1008
Grounding and Bonding Equipment	UL 467

NEMA – National Electrical Manufacturers Association

7.3 Design Loads

7.4 Power Distribution

The gate hoist motor will run on single phase 240 VAC and will be served from a 240V panelboard. A surge protective device will be provided at 240V and 120V to protect the system from transient surges. Power will be provided to the dam via buried 7,200V cable from the nearest transmission line located approximately 2,500 feet north of the site. A 7,200V / 240VAC single phase stepdown transformer will be located at the right abutment of the dam.

7.5 Process Instrumentation and Control

A SCADA system will be implemented to supervise and control the Eklutna Dam spillway gate hoist and to monitor water surface elevation within Eklutna Lake using the level transducer installed as part of the prior dam outlet modification work. The SCADA system will consist of a metal backplane in a local control panel with components mounted to it. This includes PLC and I/O modules, UPS, control power supply and distribution block, control relays, terminal blocks, overcurrent protection, digital communication hardware, and other required appurtenances. It is presumed that datalogging will be performed on the Eklutna Power Plant SCADA system. If autonomous and more continuous datalogging is determined to be required, a datalogging-capable HMI will be specified in addition to the above components.

A fiber optic communication network will be implemented between all systems of the Project via a fiber optic infrastructure. The dam outlet gate and level transducer will connect to a fiber optic communication network between Eklutna Dam, the Eklutna River Release Facility, and the Eklutna Power Plant. Digital communication protocol will be Ethernet/IP over single-mode fiber optic cable (OS2). All new segments of installation will consist of fiber optic cable that will be all-dielectric, loose-tube buffered, with water-repellant gel-fill and jacket rated for direct-bury. For adequate spares to mitigate strand failure, 24-strand cable is proposed. The

cable will be installed in HDPE SDR-11 smooth wall conduit. The fiber optic line will be brought to the LCP housed fiber connector housing for termination, then patched to the managed Ethernet switch in a loop configuration. All strands of all fiber optic cables shall be terminated and certified to the OTDR and OLTS tests. The Ethernet switch will connect the PLC to the communication system.

Field instrumentation consists of the following, as provided in Table 7-3.

Table 7-3. Field Instrumentation

Instrument Tag ISA)	Instrument Type	Parameters	Control Loop
LE-100	Pressure Transducer	Water Level Monitoring, 0-30 ft H_20 range	Measure Water Level in Stilling Well within Eklutna Dam Spillway
HOI-100	Electric Motor Hoist	Hoist Position	Measure Status of Encoder and Position of Gate

8.0 References

AWWU. 1986. *Eklutna Water Project.* As Built Drawings.

McMillen. 2022. *Eklutna Vertical Datum Memorandum .*

USBR. 1964. *Eklutna Project - Alaska. Rehabilitation Pressure Tunnel. As Built Drawings .*

—. 1967. *Rehabilitation of Eklutna Project Features following Earthquake of March 1964. A Supplement to Eklutna Dam, Tunnel and Powerplant Technical Record of Design and Construction.*

Appendix A. 15% Design Drawings

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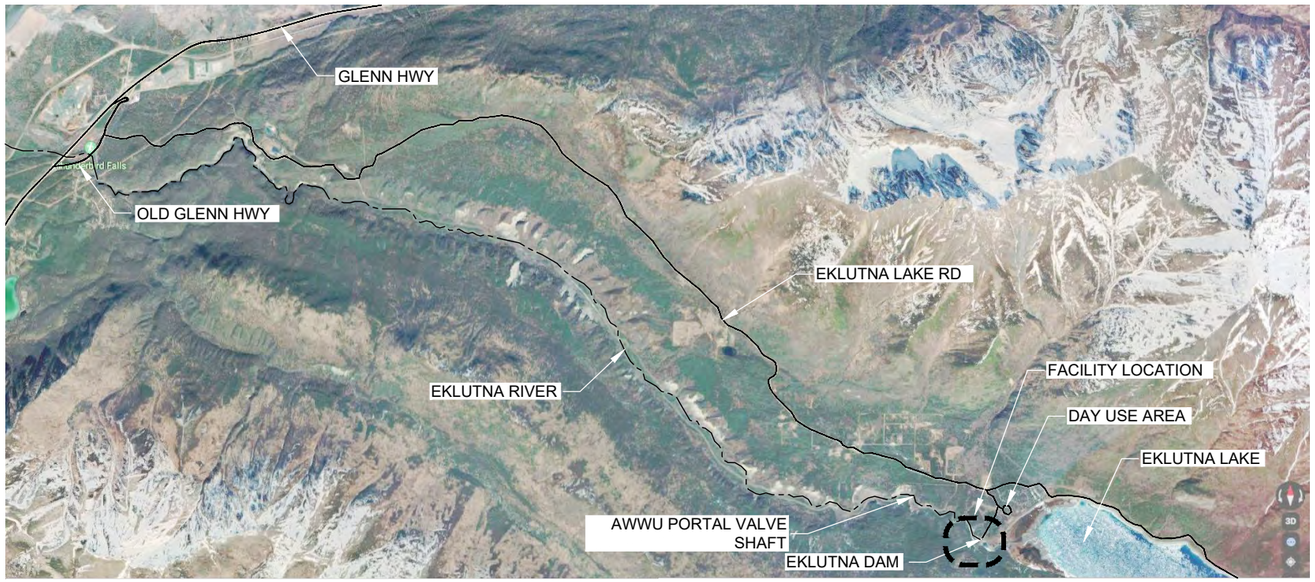
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM SPILLWAY MODIFICATIONS
ANCHORAGE, ALASKA

15% DESIGN
APRIL 2024

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM SPILLWAY MODIFICATIONS
15% DESIGN

LOCATION MAP
NTS



VICINITY MAP
NTS

FACILITY MAP
NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
A	04/26/24	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM SPILLWAY MODIFICATIONS

LOCATION MAP, VICINITY MAP, AND FACILITY MAP

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 04/26/24

DRAWING
G001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\G001.dwg Plot date: Apr 23, 2024 03:42pm, CAD User: WoodRon

DRAWING INDEX

DRAWING NO.	SHEET TITLE
	GENERAL
--	COVER
G001	LOCATION MAP, VICINITY MAP, AND FACILITY MAP
G002	DRAWING INDEX
G003	STANDARD ABBREVIATIONS
G004	STANDARD SYMBOLS
G005	INSTRUMENTATION AND EQUIPMENT LEGEND
	DEMOLITION
D001	DEMOLITION KEY PLAN
D100	EKLUTNA DAM SPILLWAY DEMOLITION PLAN, SECTIONS, AND DETAILS
D101	EKLUTNA DAM SPILLWAY DEMOLITION PHOTOS
	STRUCTURAL
GS001	STRUCTURAL GENERAL NOTES
GS002	STRUCTURAL STANDARD DETAILS
S100	EKLUTNA DAM SPILLWAY STRUCTURAL PLANS
S101	EKLUTNA DAM SPILLWAY STRUCTURAL SECTIONS
	MECHANICAL
GM001	MECHANICAL GENERAL NOTES
GM002	MECHANICAL STANDARD DETAILS
M100	EKLUTNA DAM SPILWAY MECHANICAL PLAN AND SECTIONS
M101	EKLUTNA DAM SPILLWAY MECHANICAL DETAILS
	ELECTRICAL
GE001	ELECTRICAL ABBREVIATIONS AND DEVICE INDEXES
GE002	ELECTRICAL STANDARD SYMBOLS 1
GE003	ELECTRICAL STANDARD SYMBOLS 2
E001	ELECTRICAL TRANSMISSION & COMMUNICATIONS UPGRADES PLAN
E100	EKLUTNA DAM SPILLWAY ELECTRICAL PLAN, SECTION, AND DETAILS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
A	04/26/24	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM SPILLWAY MODIFICATIONS
DRAWING INDEX

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 04/26/24

DRAWING
G002

JOB NO: 000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\G002.dwg Plot date: Apr 23, 2024 03:42pm, CAD User: WoodRon

A/C	AIR CONDITIONING
A/E	ARCHITECT/ENGINEER
A	ARCHITECTURAL (DWG DISCIPLINE), AMP
AB	ANCHOR BOLT
ABC	AGGREGATE BASE COURSE
ABAN	ABANDON
AC	ALTERNATING CURRENT
ACST	ACOUSTIC
AD	ADDENDUM, AREA DRAIN
ADDL	ADDITIONAL
ADH	ADHESIVE
ADJ	ADJUSTABLE, ADJACENT
AF	AMP FRAME, AMP FUSE
AFF	ABOVE FINISH FLOOR
AFG	ABOVE FINISH GRADE
AGGR	AGGREGATE
AIC	AMPS INTERRUPTING CAPACITY
ALIG	ALIGNMENT
ALUM	ALUMINUM
ALT	ALTERNATE, ALTITUDE
AMB	AMBIENT
ANC	ANCHOR
AP	ACCESS PANEL
APRX	APPROXIMATE
APVD	APPROVED
ARCH	ARCHITECTURAL
ASSY	ASSEMBLY
AT	AMP TRIP
ATM	ATMOSPHERE
AUTO	AUTOMATIC
AUX	AUXILIARY
AVE	AVENUE
AVG	AVERAGE
AWG	AMERICAN WIRE GAGE
AWWU	ANCHORE WATER AND WASTEWATER UTILITY
B/B	BACK TO BACK
BAL	BALANCE
BBD	BULLETIN BOARD
BC	BASE CABINET, BOTTOM CHORD, BOLT CENTER, BOLT CIRCLE
BD	BOARD
BE	BOTH ENDS, BELL END
BF	BOTH FACES, BOTTOM FACE, BLIND FLANGE, BOARD FEET
BFV	BUTTERFLY VALVE
BITUM	BITUMINOUS
BKG	BACKING
BL	BASE LINE
BLDG	BUILDING
BLK	BLOCK
BLKG	BLOCKING
BM	BENCHMARK, BEAM
BOC	BACK OF CURB
BOD	BOTTOM OF DUCT
BOG	BOTTOM OF GRILLE
BOL	BOTTOM OF LOUVER
BOP	BOTTOM OF PIPE
BOR	BOTTOM OF REGISTER
BOT	BOTTOM
BOU	BOTTOM OF UNIT
BP	BASE PLATE
BRG	BEARING
BRGP	BEARING PLATE
BRKT	BRACKET
BS	BOTH SIDES
BTU	BRITISH THERMAL UNIT
BTW	BETWEEN
BTWLD	BUTT WELD
BV	BALL VALVE
BW	BOTH WAYS
BYP	BYPASS
C TO C	CENTER TO CENTER
C&G	CURB & GUTTER
C	CHANNEL SHAPE, CENTIGRADE, CONDUIT, CIVIL (DRAWING DISCIPLINE)
CAB	CABINET
CAP	CAPACITY
CAT	CATALOG
CAV	CAVITY
CB	CATCH BASIN
CCB	CONCRETE BLOCK
CCW	COUNTER CLOCKWISE
CF	CUBIC FEET (FOOT)
CHFR	CHAMFER
CHD	CHORD
CHH	COMMUNICATION HANDHOLE
CI	CURB INLET
CIP	CAST-IN-PLACE
CIPB	CONCRETE INTERLOCKING PAVER BALLAST
CIRC	CIRCULATION, CIRCULAR
CJ	CONSTRUCTION JOINT, CONTROL JOINT
CKT	CIRCUIT
CL	CENTERLINE, CLASS, CLOSE
CLR	CLEAR
CMH	COMMUNICATION MANHOLE
CMU	CONCRETE MASONRY UNIT
CO	CLEAN OUT, CONCRETE OPENING
COL	COLUMN
COM	COMMON
COMB	COMBINATION
COMM	COMMUNICATION
COMP	COMPOSITION, COMPRESSIBLE, COMPOSITE
CONC	CONCENTRIC, CONCRETE
CONN	CONNECTION
CONST	CONSTRUCTION
CONT	CONTINUOUS, CONTINUED
COORD	COORDINATE
CORR	CORROSIVE, CORRUGATED
CP	CHECKER PLATE, CONTROL POINT
CPLG	COUPLING
CSK	COUNTERSINK
CTR	CENTER
CTRL	CONTROL
CU	COPPER, CUBIC
CW	CLOCKWISE
CY	CUBIC YARD
d	PENNY (NAIL MEASURE)
D	DEEP, DIFFUSER
DB	DUCT BANK, DECIBEL, DRY BULB
DBA	DEFORMED BAR ANCHOR
DBL	DOUBLE
DC	DIRECT CURRENT
DEG	DEGREE
DEG C	DEGREE CENTIGRADE
DEG F	DEGREE FAHRENHEIT
DEMO	DEMOLITION
DEP	DEPRESSED
DEPT	DEPARTMENT
DET	DETAIL
DI	DROP INLET, DUCTILE IRON
DIA	DIAMETER
DIAG	DIAGONAL, DIAGRAM
DIFF	DIFFERENTIAL, DIFFERENCE
DIM	DIMENSION
DISCH	DISCHARGE
DIST	DISTANCE, DISTRIBUTION
DIV	DIVISION
DL	DEAD LOAD
DN	DOWN
DP	DEPTH
DS	DOWN SPOUT
DT	DOUBLE TEE, DRIP TRAP ASSEMBLY
DUP	DUPLICATE
DWG	DRAWING
DWL	DOWEL
E	EAST, ELECTRICAL (DWG DISCIPLINE)
EA	EACH, EXHAUST AIR
EC	ELECTRICAL CONTRACTOR
ECC	ECCENTRIC
EDB	ELECTRICAL DUCT BANK
EE	EACH END
EF	EACH FACE
EG	EXISTING GRADE
EGL	ENERGY GRADE LINE
EFF	EFFLUENT, EFFICIENCY
EHH	ELECTRICAL HANDHOLE
EIFS	EXTERIOR INSULATION & FINISH SYSTEM
EJ	EXPANSION JOINT
EL	ELBOW, ELEVATION
ELEC	ELECTRICAL
EMBD	EMBEDDED
EMER	EMERGENCY
EMH	ELECTRICAL MANHOLE
ENCL	ENCLOSURE
ENGR	ENGINEER
ENTR	ENTRANCE
EOP	EDGE OF PAVEMENT
EOW	EDGE OF WATER
EQ	EQUAL
EQUIP	EQUIPMENT
EQUIV	EQUIVALENT
ES	EACH SIDE, EQUAL SPACE, EMERGENCY SHOWER
ESEW	EMERGENCY SHOWER AND EYE WASH
EST	ESTIMATE
EW	EACH WAY, EMERGENCY EYE/FACE WASH
EWC	ELECTRIC WATER COOLER
EWEF	EACH WAY, EACH FACE
EWTB	EACH WAY, TOP AND BOTTOM
EXC	EXCAVATION
EXH	EXHAUST
EXIST	EXISTING
EXP	EXPANSION, EXPOSED
EXT	EXTERIOR, EXTERNAL, EXTENSION
F TO F	FACE TO FACE
FAB	FABRICATE
FBO	FURNISHED BY OWNER
FC	FLUSHING CONNECTION
FCA	FLANGED COUPLING ADAPTER
FCV	FIXED CONE VALVE
FD	FLOOR DRAIN
FDC	FLEXIBLE DUCT CONNECTION
FDR	FEEDER
FE	FLANGED END
FEC	FIRE EXTINGUISHER CABINET
FEXT	FIRE EXTINGUISHER
FF	FAR FACE, FACTORY FINISH, FLAT FACE
FG	FINISHED GRADE
FIG	FIGURE
FH	FIRE HYDRANT
FIN	FINISH
FL	FLOW, FLOW LINE
FLEX	FLEXIBLE
FLG	FLANGE
FLOR	FLUORESCENT
FLR	FLOOR
FLS	FLASHING, FLUSH
FND	FOUNDATION
FNC	FENCE
FO	FINISHED OPENING
FOB	FLAT ON BOTTOM
FOC	FACE OF CONCRETE, FACE OF CURB, FIBER OPTIC CABLE
FOF	FACE OF FINISH
FOM	FACE OF MASONRY
FOS	FACE OF STUDS
FOT	FLAT ON TOP
FPT	FEMALE PIPE THREAD
FR	FRAME
FRP	FIBERGLASS REINFORCED PLASTIC
FS	FLOOR SINK, FAR SIDE
FT	FEET, FOOT
FTG	FOOTING, FITTING FUR FURRED, FURRING
FURN	FURNITURE, FURNISH
FUT	FUTURE
FV	FACE VELOCITY
FW	FIELD WELD, FIRE WALL
FWD	FORWARD
FWE	FURNISHED WITH EQUIPMENT
FXTR	FIXTURE
G	GRILLE, GROUND, GENERAL (DWG DISCIPLINE)
GA	GAGE (METAL THICKNESS)
GAL	GALLON
GALV	GALVANIZED
GB	GRADE BREAK
GD	GUARD
GEN	GENERAL
GFCI	GROUND FAULT CIRCUIT INTERRUPTER
GL	GLASS
GP	GUY POLE
GR	GRADE
GRND	GROUND
GRTG	GRATING
GT	GREASE TRAP
GWB	GYPSUM WALLBOARD
GYP	GYPSUM HARDBOARD
H	HIGH
HB	HOSE BIB
HBD	HARDBOARD
HC	HANDICAPPED, HOLLOW CORE, HORIZONTAL CURVE
HC	HORIZONTAL CENTERLINE
HDR	HEADER
HDW	HARDWARE
HEX	HEXAGONAL
HH	HANDHOLE
HM	HOLLOW METAL
HORIZ	HORIZONTAL
HP	HIGH POINT, HORSEPOWER
HPC	HORIZONTAL POINT OF CURVATURE
HPS	HIGH PRESSURE SODIUM
HPT	HORIZONTAL POINT OF TANGENCY
HR	HOUR
HS	HEADED STUD, HIGH STRENGTH
HSS	HOLLOW STRUCTURAL SHAPE
HT	HEIGHT
HV	HIGH VOLTAGE
HVAC	HEATING, VENTILATION & AIR CONDITIONING
HWD	HARDWOOD
HWL	HIGH WATER LEVEL
HYD	HYDRAULIC HZ HERTZ, CYCLES PER SECOND
I	INSTRUMENTATION (DWG DISCIPLINE)
ID	INSIDE DIAMETER, INTERIOR DIMENSION
IE	INVERT ELEVATION
IF	INSIDE FACE
IH	INTAKE HOOD
IMP	IMPACT
IN	INCH
INC	INCLUDE, INCANDESCENT
INF	INFLUENT
INSTR	INSTRUMENTATION
INSUL	INSULATION
INT	INTERIOR, INTERSECTION
INTR	INTERMEDIATE, INTERIOR
INV	INVERT
IPS	IRON PIPE SIZE
IPT	INTERNAL PIPE THREAD
IRR	IRRIGATION
ISO	ISOMETRIC
JB	JUNCTION BOX
JCT	JUNCTION
JF	JOINT FILLER
JT	JOINT
K	KIP
KB	KNEE BRACE
KCMIL	THOUSAND CIRCULAR MILS
KD	KNOCK DOWN
KIUC	KAUAI ISLAND UTILITY COOPERATIVE
KO	KNOCK OUT
KSI	KIPS PER SQUARE INCH
L	ANGLE, LENGTH, LAVATORY
LAM	LAMINATE
LATL	LATERAL
LB	LAG BOLT, POUND
LDR	LEADER
LF	LINEAR FOOT
LG	LONG
LH	LEFT HAND
LIN	LINEAR
LIQ	LIQUID
LL	LIVE LOAD
LLH	LONG LEG HORIZONTAL
LLV	LONG LEG VERTICAL
LMLU	LIQUID MARKER LECTURE UNIT
LNG	LONGITUDINAL
LOC	LOCATION
LP	LOW POINT
LPS	LOW PRESSURE SODIUM
LR	LONG RADIUS
LT	LEFT
LTD	LIMITED
LTG	LIGHTING
LTL	LINTEL
LTNG	LIGHTNING
LV	LOW VOLTAGE
LVR	LOUVER
LW	LIGHTWEIGHT
LWC	LIGHTWEIGHT CONCRETE
LWL	LOW WATER LEVEL
M	MECHANICAL (DWG DISCIPLINE)
MA	MIXED AIR
MAINT	MAINTENANCE
MAN	MANUAL
MAOP	MAXIMUM ALLOWABLE OPERATING PRESSURE
MATL	MATERIAL
MAX	MAXIMUM
MB	MACHINE BOLT
MBR	MEMBER
MCJ	MASONRY CONTROL JOINT
MECH	MECHANICAL
MED	MEDIUM
MFR	MANUFACTURER
MH	MANHOLE, METAL HALIDE
MIN	MINIMUM
MIR	MIRROR
MISC	MISCELLANEOUS
MJ	MECHANICAL JOINT
MMB	MEMBRANE
MO	MASONRY OPENING
MOD	MODULAR, MODIFY
MON	MONUMENT
MPT	MALE PIPE THREAD
MSL	MEAN SEA LEVEL
MT	MOUNT
MU	MASONRY UNIT
MULL	MULLION
MV	MEDIUM VOLTAGE
MW	MONITORING WELL
N	NORTH, NEUTRAL
NA	NOT APPLICABLE
NAT	NATURAL
NC	NORMALLY CLOSED
NEG	NEGATIVE
NF	NEAR FACE, NON-FUSED
NG	NATURAL GAS
NIC	NOT IN CONTRACT
NO	NORMALLY OPEN, NUMBER
NOM	NOMINAL
NPS	NOMINAL PIPE SIZE
NPT	NATIONAL PIPE THREAD
NS	NEAR SIDE
NTS	NOT TO SCALE
NWL	NORMAL WATER LEVEL
O TO O	OUT-TO-OUT
OA	OUTSIDE AIR, OVERALL
OC	ON CENTER
OCPD	OVER CURRENT PROTECTION DEVICE
OD	OUTSIDE DIAMETER
OH	OVERHEAD
OPNG	OPENING
OPP	OPPOSITE
OPT	OPTIONAL
ORD	OVERFLOW ROOF DRAIN
ORIG	ORIGINAL
OVFL	OVERFLOW
OVHG	OVERHANG
OZ	OUNCE
P	PAINT, PROCESS (DWG DISCIPLINE)
PAR	PARALLEL, PARAPET
PB	PANIC BAR, PULL BOX
PBD	PARTICLE BOARD
PC	POINT OF CURVE, PIECE, PRECAST
PCC	POINT OF COMPOUND CURVATURE
PCF	POUNDS PER CUBIC FOOT
PCT	PERCENT
PE	PLAIN END
PED	PEDESTAL
PEN	PENETRATION
PERF	PERFORATED
PERM	PERMANENT
PERP	PERPENDICULAR
PF	POWER FACTOR
PH	PHASE
PI	POINT OF INTERSECTION
PKG	PACKAGE
PL	PLATE, PROPERTY LINE
PLBG	PLUMBING
PLF	POUNDS PER LINEAR FOOT
PNEU	PNEUMATIC
POL	POLISH
POS	POSITIVE, POSITION
PP	POLYPROPYLENE, POWER POLE
PRC	POINT OF REVERSE CURVATURE
PREF	PREFINISHED
PREFAB	PREFABRICATED
PRELIM	PRELIMINARY
PREP	PREPARE
PRES	PRESSURE
PROP	PROPERTY
PROT	PROTECTION
PSF	POUNDS PER SQUARE FOOT
PSI	POUNDS PER SQUARE INCH
PSIA	POUNDS PER SQUARE INCH ABSOLUTE
PSIG	POUNDS PER SQUARE INCH GAGE
PT	POINT, POINT OF TANGENCY
PTN	PARTITION
PVC	POLYVINYL CHLORIDE
PVMT	PAVEMENT
PWD	PLYWOOD
PZ	PIEZOMETER
Q	RATE OF FLOW
QTR	QUARTER
QTY	QUANTITY
QUAL	QUALITY
R&R	REMOVE AND REPLACE
R&S	REMOVE AND SALVAGE
R	RADIUS, REGISTER, RISER
RA	RETURN AIR
RB	RESILIENT BASE, ROCK BERM
RCPT	RECEPTACLE
RD	ROOF DRAIN
REC	RECESS
RECD	RECEIVED
RECT	RECTANGULAR
RED	REDUCER
REF	REFERENCE
REINF	REINFORCING
REQD	REQUIRED
RESIL	RESILIENT
RET	RETAINING, RETURN
REV	REVISION, REVERSE
RFL	REFLECTED, REFLECTOR
RGS	RIGID GALVANIZED STEEL
RH	RELIEF HOOD, RIGHT HAND, RELATIVE HUMIDITY
RL	REQUIRED LAP
RND	ROUND
RNG	RENEWABLE NATURAL GAS
RO	ROUGH OPENING
ROW	RIGHT-OF-WAY
RPM	REVOLUTIONS PER MINUTE
RR	RAILROAD
RT	RIGHT
S	SOUTH, SINK, STRUCTURAL (DWG DISCIPLINE)
SA	SUPPLY AIR
SAN	SANITARY
SC	SOLID CORE
SCH	SCHEDULE
SCHEM	SCHEMATIC
SCRN	SCREEN
SE	STEEL/ALUMINUM EDGE
SEC	SECONDARY, SECONDS
SECT	SECTION
SEP	SEPARATE
SF	SQUARE FOOT
SH	SHOWER
SHT	SHEET
SHTG	SHEATHING
SIM	SIMILAR
SL	SLOPE
SLTD	SLOTTED
SLV	SLEEVE
SMLS	SEAMLESS
SOG	SLAB ON GRADE
SP	SOUNDPROOF, STANDPIPE
SPC	SPACING
SPEC	SPECIFICATION
SPLY	SUPPLY
SPT	SET POINT
SQ	SQUARE
SR	SHORT RADIUS
SS	SERVICE SINK
SST	STAINLESS STEEL
ST	STREET
STA	STATION
STD	STANDARD
STIF	STIFFENER
STIR	STIRRUP
STL	STEEL
STOR	STORAGE
STR	STRUCTURAL, STRAIGHT
SUB	SUBSTITUTE
SUC	SUCTION
SUSP	SUSPENDED
SY	SQUARE YARD
SYM	SYMBOL
SYMM	SYMMETRICAL
SYN	SYNTHETIC
SYS	SYSTEM
T&B	TOP AND BOTTOM
T&G	TONGUE AND GROOVE
T	TILE, TREAD
TA	TEMPERED AIR
TAN	TANGENT
TBM	TEMPORARY BENCHMARK
TEMP	TEMPORARY, TEMPERATURE
THK	THICK
THRD	THREAD
THRU	THROUGH
TOB	TOP OF BOLT, TOP OF BANK, TOP OF BEAM
TOC	TOP OF CURB, TOP OF CONCRETE
TOD	TOP OF DUCT
TOF	TOP OF FOOTING
TOG	TOP OF GRATING
TOL	TOLERANCE, TOP OF LEDGER
TOM	TOP OF MASONRY
TOP	TOP OF PLATE
TOPO	TOPOGRAPHY
TOS	TOP OF SLAB, TOP OF STEEL
TOW	TOP OF WALL
TP	TELEPHONE POLE, TOE PLATE, TRAP PRIMER
TPG	TOPPING
TRANS	TRANSITION
TRD	TRENCH DRAIN
TYP	TYPICAL
U	URINAL
UG	UNDERGROUND
ULT	ULTIMATE
UNFN	UNFINISHED
UNO	UNLESS NOTED OTHERWISE
UTIL	UTILITY
V	VENT, VELOCITY, VOLT
VA	VOLT AMPERE
VAC	VACUUM
VAR	VARNISH, VARIABLE, VOLT AMPERES REACTIVE
VB	VAPOR BARRIER, VINYL BASE, VALVE BOX
VC	VERTICAL CURVE
VCT	VINYL COMPOSITION TILE, VERTICAL CENTERLINE
VEL	VELOCITY
VENT	VENTILATION
VERT	VERTICAL
VS	VERSES, VAPOR SEAL
VOL	VOLUME
VPC	VERTICAL POINT OF CURVATURE
VPI	VERTICAL POINT OF INTERSECTION
VPT	VERTICAL POINT OF TANGENCY
VTR	VENT THROUGH ROOF
VWC	VINYL WALL COVERING
W/	WITH
W/O	WITHOUT
W	WATT, WEST, WIDE, WINDOW, WIRE, WIDE FLANGE BEAM
WC	WATER CLOSET, WATER COLUMN
WD	WIDTH
WF	WIDE FLANGE, WASH FOUNTAIN
WG	WIRE GLASS, WATER GAGE
WH	WALL HYDRANT, WEEP HOLE
WL	WATER LEVEL
WLD	WELDED
WM	WIRE MESH
WP	WATERPROOF, WORKING POINT
WTHP	WEATHERPROOF
WS	WATERSTOP, WATER SURFACE
WSEL	WATER SURFACE ELEVATION
WT	WEIGHT, WATER TIGHT
WWF	WELDED WIRE FABRIC
XS	EXTRA STRONG
XXS	DOUBLE EXTRA STRONG
XSECT	CROSS SECTION
YH	YARD HYDRANT
YS	YIELD STRENGTH

GENERAL NOTES:

1. THESE ABBREVIATIONS APPLY TO THE ENTIRE SET OF CONTRACT DRAWINGS.
2. LISTING OF ABBREVIATIONS DOES NOT IMPLY ALL ABBREVIATIONS ARE USED IN THE CONTRACT DRAWINGS.
3. ABBREVIATIONS SHOWN ON THIS SHEET INCLUDE VARIATIONS OF THE WORD. FOR EXAMPLE, "MOD" MAY MEAN MODIFY OR MODIFICATION; "INC" MAY MEAN INCLUDED OR INCLUDING; "REINF" MAY MEAN EITHER REINFORCE OR REINFORCING.
4. SCREENING OR SHADING OF WORK IS USED TO INDICATE EXISTING COMPONENTS OR TO DE-EMPHASIZE PROPOSED IMPROVEMENTS TO HIGHLIGHT SELECTED TRADE WORK. REFER TO CONTEXT OF EACH SHEET FOR USAGE.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
A	04/26/24	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM SPILLWAY MODIFICATIONS

STANDARD ABBREVIATIONS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 04/26/24

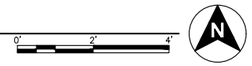
DRAWING
G003

JOB NO: 000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\G003.dwg Plot date: Apr 23, 2024 03:42pm, CAD User: WoodRon

SHEET SYMBOLS

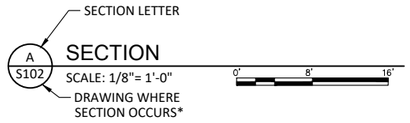
PLAN
SCALE: 1/2"= 1'-0"



SECTION IDENTIFICATION

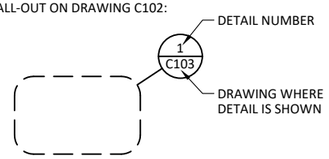
(1) SECTION CUT ON DRAWING C102:

(2) ON DRAWING C103 THIS SECTION IS IDENTIFIED AS:

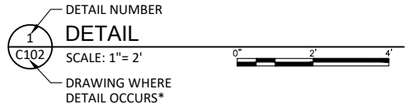


DETAIL IDENTIFICATION

(1) DETAIL CALL-OUT ON DRAWING C102:



(2) ON DRAWING C103 THIS SECTION IS IDENTIFIED AS:

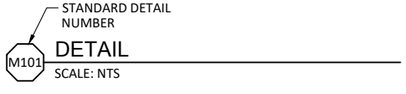


*NOTE: IF PLAN AND SECTION (OR DETAIL CALL-OUT AND DETAIL) ARE SHOWN ON SAME DRAWING. DRAWING NUMBER IS REPLACED BY A LINE.

STANDARD DETAIL IDENTIFICATION

(1) DETAIL CALL-OUT ON PLAN OR SECTION:

(2) ON DETAIL DRAWINGS, IDENTIFIED AS:



ELEVATION/IMAGE IDENTIFICATION

SITE PLAN LINE TYPES

X X	FENCE LINE
P P	OVERHEAD POWER
455	MAJOR CONTOUR
456	MINOR CONTOUR
455	EXIST MAJOR CONTOUR
456	EXIST MINOR CONTOUR
. . .	EDGE OF WATERLINE
TOE	TOE OF SLOPE
TOB	TOP OF BANK
SS SS	SANITARY SEWER
SD SD	STORM DRAIN
EP EP	EDGE OF PAVEMENT
EG EG	EDGE OF GRAVEL
W	WATTLE
SF SF	SILT FENCE
CF CF	CONSTRUCTION FENCE
GAS	GAS LINE
TC	TURBIDITY CURTAIN
IRR IRR	IRRIGATION LINE
WTR	WATER LINE
TEL	TELEPHONE LINE
COM	COMMUNICATION LINE
OHP	OVERHEAD ELECTRICAL/POWER
EUG	UNDERGROUND ELECTRICAL
P/L	PROPERTY LINE
OHP	EXISTING OVERHEAD POWER LINE
OHP&T	EXISTING OVERHEAD POWER & TELEPHONE LINE
T	EXISTING OVERHEAD TELEPHONE LINE
BT	EXISTING BURIED TELEPHONE LINE EVIDENCED BY PEDESTALS & WARNING PADDLES
	EXISTING FENCE LINE
	PROJECT BOUNDARY
	TREE PROTECTION FENCE
	LIMITS OF DISTURBANCE
	SHORING

SITE PLAN SYMBOLS

N	ARROW INDICATES DIRECTION OF PLAN NORTH
	CONIFER TREE: FIR, SPRUCE, LARCH OR PINE, 8" DIAMETER OR LARGER.
	DECIDUOUS TREE: COTTONWOOD, HAWTHORN, ASPEN, 8" DIAMETER OR LARGER.
MH	MANHOLE
EB	ELECTRIC BOX
	STORM DRAIN MANHOLE
FH	FIRE HYDRANT
YH-X	YARD HYDRANT
	SURVEY CONTROL POINT, AS NOTED.
	POLE ANCHOR
	POWER POLE
	LIGHT POLE
	SIGN
	SURVEY HUB
	SECTION CORNER
	BENCH MARK
	EXISTING HEADWALL
	EXISTING MONITORING STATION
X X	EXISTING FENCE
	STATE PLANE COORDINATE MARKER
	EXISTING TREE LINE
	EXISTING BUILDING, STRUCTURES
	EXISTING SECTION CORNER MONUMENT FOUND AS DESCRIBED
	EXISTING 5/8" REBAR CONTROL POINT MONUMENT, BORING LOCATION
W	EXISTING HOSE BIB
P	EXISTING PORTABLE IRRIGATION WATER PUMP
WELL	EXISTING 6" WATER WELL
	EXISTING ELECTRICAL OUTLET
P	EXISTING POWER POLE
T	EXISTING TELEPHONE PEDESTAL
	CONTROL POINT
	PUMP
	PUMP
TP	TEST PIT LOCATION

MISCELLANEOUS SYMBOLS

	CHANGE OF PIPE MTL
OR	END OF PIPE
℄	CENTERLINE
Ø	DIAMETER
∠	ANGLE
PL	PLATE
±	PLUS/MINUS

GENERAL NOTES:

1. ALL SYMBOLS ARE NOT NECESSARILY USED. THIS IS A STANDARD DRAWING SHOWING COMMON SYMBOLS ON THIS PROJECT.
2. SCREENING OR SHADING OF WORK IS USED TO INDICATE EXISTING COMPONENTS OR TO DE-EMPHASIZE PROPOSED IMPROVEMENTS TO HIGHLIGHT SELECTED TRADE WORK. REFER TO CONTEXT OF EACH DRAWING FOR USAGE.

HATCH SYMBOLS

	ROCK, TYPE AS NOTED (PLAN/SECTION)
	BED ROCK
	EXISTING GRADE (SECTION)
	NEW SOIL (SECTION)
	CONCRETE EXISTING (SECTION/PLAN)
	CONCRETE 1ST STAGE (SECTION/PLAN)
	CONCRETE 2ND STAGE (SECTION/PLAN)
	SAND, GROUT (PLAN/SECTION)
	STEEL (SECTION)
	GRATING (PLAN)
	MASONRY (PLAN)
	WOOD, SIZE/TYPE AS NOTED (PLAN)
	WOOD, SIZE/TYPE AS NOTED (SECTION)
	RIP RAP (PLAN/SECTION)
	RIGID INSULATION (SECTION)
	ASPHALT CONCRETE PAVEMENT SURFACE (PLAN/SECTION)
	GRASS/VEGETATION (PLAN)
	BATT INSULATION (SECTION)
	NEW CONSTRUCTION
	EXISTING
	EXISTING TO BE REMOVED OR DEMOLISHED
	CLEARING AND GRUBBING
	ASPHALT
	GRASS/VEGETATION
	GRAVEL

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
A	04/26/24	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM SPILLWAY MODIFICATIONS

STANDARD SYMBOLS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 04/26/24

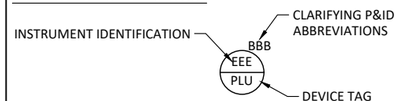
DRAWING
G004

JOB NO: 000000

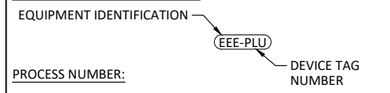
Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\G004.dwg Plot date: Apr 23, 2024 03:42pm, CAD User: WoodRon

INSTRUMENTATION / EQUIPMENT TAGS

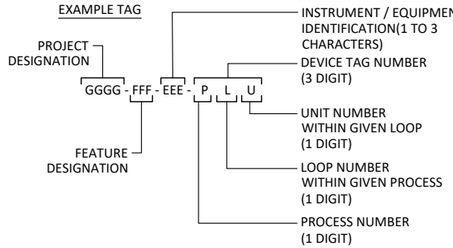
EXAMPLE INSTRUMENT CALLOUT



EXAMPLE EQUIPMENT CALLOUT



EXAMPLE TAG



PROCESS NUMBER:

0 MPH COMMON
1 TURBINE/GENERATOR
2 PUMPS/MOTORS
3 TIV
4 HVAC
5 LUBE/WATER COOLING
6 HPU
7 PLUMBING
8 VFD
9 CONTROLS INSTRUMENTATION

NOTE:

PROJECT AND FEATURE DESIGNATION FOR ALL COMPONENTS ON THIS FEATURE SET SHALL BE "EFWP-DOM" FOR "EKLUTNA FISH & WILDLIFE PROJECT - DAM SPILLWAY MODIFICATIONS". THIS HAS BEEN OMITTED ON THE DRAWINGS FOR BREVITY.

GENERAL INSTRUMENT OR FUNCTIONAL SYMBOLS

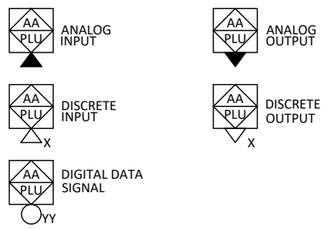
	FIELD MOUNTED	PRIMARY OR PANEL MOUNTED - ACCESSIBLE (1)	PRIMARY OR PANEL MOUNTED - INACCESSIBLE (2)	SECONDARY OR MCC MOUNTED - ACCESSIBLE (1)	SECONDARY OR MCC MOUNTED - INACCESSIBLE (2)
INSTRUMENT	EEE / PLU	EEE / PLU	EEE / PLU	EEE / PLU	EEE / PLU
SHARED DISPLAY SHARED CONTROL OR HMI	EEE / PLU	EEE / PLU	EEE / PLU	EEE / PLU	EEE / PLU
INDICATING LIGHTS	EEE / PLU	EEE / PLU	N/A	EEE / PLU	N/A

(1) NORMALLY ACCESSIBLE TO OPERATOR
(2) NORMALLY INACCESSIBLE TO OPERATOR (BEHIND-THE-PANEL)

SPECIAL CASE INSTRUMENT OR FUNCTIONAL SYMBOLS

- SINGLE INSTRUMENT OR OTHER COMPONENT HAVING MULTIPLE FUNCTIONS
- RELAY INTERLOCK LOGIC - SEE SCHEMATICS OR SPECIFICATIONS FOR MORE INFORMATION
- LSH / PLU — LEVEL (FLOAT)
- LE / PLU — LEVEL (ULTRASONIC)
- 24 VDC — POWER SUPPLY (SIZE AS NOTED)
- AS — AIR SUPPLY
- PRIMARY ELECTRICAL POWER (120V / 60 HZ UNLESS INDICATED OTHERWISE)
- INDICATES VENDOR PACKAGE
- CR — CONTROL RELAY
- LIGHTNING SURGE ARRESTOR
- M — MOTOR

SIGNAL SYSTEM INTERFACES



AA = I/O DESIGNATION (MV = MULTIVARIABLE)

YY = DIGITAL PROTOCOL

X: H-MAINTAINED/LATCHING
M = MOMENTARY/FOLLOWER

ANALOG I/O DESIGNATORS

CR	CHLORINE RESIDUAL
DP	DIFFERENTIAL PRESSURE
FL	FLOW
LE	LOWER EXPLOSIVE LIMIT
LV	LEVEL
MO	MANIPULATED OUTPUT
PH	ACIDITY
PO	POSITION
PR	PRESSURE
PV	PROCESS VARIABLE
SP	SPEED
TE	TEMPERATURE
TU	TURBIDITY

DIGITAL PROTOCOL DESIGNATORS

DN	DEVICENET
IP	ETHERNET /IP
MB	MODBUS RTU
PB	PROFIBUS
PL	PARALLEL
SL	SERIAL
TC	MODBUS TCP

DISCRETE I/O DESIGNATORS

AM	AUTO-MANUAL
AU	AUTO
CL	CLOSED
EN	ENABLE
EL	POWER AVAILABLE
FA	FIRE ALARM
FW	FORWARD / REVERSE
HH	HI-HI LEVEL
HI	HI LEVEL
LL	LOW-LOW LEVEL
LO	LOW LEVEL
MN	MANUAL
OO	ON-OFF
OP	OPEN
RB	RUN BOOSTER
RC	RUN CLOSED
RE	REMOTE
RF	RUN FORWARD
RG	RUNNING
RN	RUN-STOP
RO	RUN-OPEN
RR	RUN-REVERSE
RV	REVERSE
YA	FAULT
SU	SUPERVISORY
SW	SELECTION
TR	TROUBLE

INSTRUMENTATION IDENTIFICATION TABLE (ISA)

FIRST LETTER			SUCCEEDING LETTER(S)		
LETTER	MEASURED INITIATING VARIABLE	VARIABLE MODIFIER	READOUT OR PASSIVE FUNCTION	OUTPUT OR ACTIVE FUNCTION	FUNCTION MODIFIER
A	ANALYSIS (+)		ALARM		
B	BURNER, COMBUSTION				
C	CONDUCTIVITY			CONTROL	CLOSED
D	DENSITY (S.G.)	DIFFERENTIAL			
E	VOLTAGE		SENSOR (PRIMARY ELEMENT)		
F	FLOW RATE	RATIO (FRACTION)			
G	GAUGE		GLASS, GAUGE, VIEWING DEVICE	GATE	
H	HAND (MANUAL)				HIGH
I	CURRENT (ELECTRICAL)		INDICATE		
J	POWER	SCAN			
K	TIME, TIME SCHEDULE	TIME RATE OF CHANGE		CONTROL STATION	
L	LEVEL		LIGHT (PILOT)		LOW
M	MOTION	MOMENTARY			MIDDLE, INTERMEDIATE
N	TORQUE		ISOLATE	ISOLATOR	
O	USER CHOICE		ORIFICE, RESTRICTION		OPEN
P	PRESSURE (VACUUM), PNEUMATIC		POINT (TEST) CONNECTION		
Q	QUANTITY	INTEGRATE, TOTALIZE			
R	RADIATION/ RESISTANCE (ELECTRICAL)		RECORD OR PRINT		
S	SPEED, FREQUENCY	SAFETY		SWITCH	
T	TEMPERATURE			TRANSMIT	
U	MULTI VARIABLE		MULTIFUNCTION	MULTIFUNCTION	MULTIFUNCTION
V	VIBRATION, MECHANICAL ANALYSIS			VALVE, DAMPER, LOUVER	
W	WEIGHT, FORCE		WELL		
X	INTRUSION	X-AXIS			
Y	EVENT, STATE OR PRESENCE	Y-AXIS		RELAY, COMPUTE, CONVERT	
Z	POSITION, DIMENSION	Z-AXIS		DRIVER, ACTUATOR, FINAL CONTROL ELEMENT	

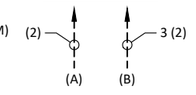
EQUIPMENT IDENTIFICATION TABLE

AC	AIR COMPRESSOR	GEN	GENERATOR	PV	PHOTOVOLTAIC
ACC	ACCUMULATOR	GSU	GENERATOR STEP-UP TRANSFORMER	RCT	RECTIFIER
ACT	ACTUATOR	GTC	GENERATOR POWER TERMINAL CABINET	RIO	REMOTE I/O UNIT
AF	AIR FILTER	HB	HOSE BIB	RTD	RESISTANCE TEMPERATURE DETECTOR
AFD	ADJUSTABLE FREQUENCY DRIVE	HMI	HUMAN-MACHINE INTERFACE	RTU	REMOTE TELEMETRY UNIT
AH	AIR HANDLING UNIT	HOI	HOIST/CRANE	SEC	SECURITY CONTROL PANEL
ARC	ARC PLENUM AND EXHAUST DUCT	HPU	HYDRAULIC POWER UNIT	SEP	SEPTIC SYSTEM
ATS	AUTOMATIC TRANSFER SWITCH	HTR	HEATER	SHG	SODIUM HYPOCHLORITE GENERATOR
BAT	BATTERY	INV	INVERTER	SNK	SINK
BC	BATTERY CHARGER	LCP	LOCAL CONTROL PANEL	SPU	SPEED PICKUP SENSOR
BRG	BEARING	LCS	LOCAL CONTROL STATION	STR	STRAINER
BRK	BREAKER	LPU	LUBRICATING OIL PUMP CONTROL UNIT	SVR	SERVER
CAM	CAMERA	MB	METER BASE	SWG	SWITCHGEAR
CSE	COMBINATION SERVICE ENCLOSURE	MC	MECHANICAL COUPLING	TIV	TURBINE INLET VALVE
CV	CHECK VALVE	MCC	MOTOR CONTROL CENTER	TNK	TANK
D	DAMPER	MCP	MAIN CONTROL PANEL	TOI	WATER CLOSET
DCU	DISTRIBUTED CONTROL UNIT	MES	MANAGED ETHERNET SWITCH	TRS	TRAVELING SCREEN
DS	DISCONNECT	MOV	MOTOR OPERATED VALVE	TUR	TURBINE
EAP	ENGINEERING ACCESS POINT	MS	MOTOR STARTER	UPS	UNINTERRUPTABLE POWER SUPPLY
ECP	ENVIRONMENTAL CONTROL PANEL (HVAC)	MTR	MOTOR	UVR	UV REACTOR
EEW	EMERGENCY EYEWASH STATION	MTS	MANUAL TRANSFER SWITCH	V	VALVE
EF	EXHAUST FAN	NET	NETWORK / COMMUNICATIONS RACK	VCP	VENDOR CONTROL PANEL
EXC	EXCITER	OWS	OIL WATER SEPARATOR	VFD	VARIABLE FREQUENCY DRIVE
FAS	FIRE ALARM SYSTEM	P	PUMP	VL	VENTILATION LOUVER
FD	FLOOR DRAIN	PB	PANELBOARD / LOAD CENTER	VSP	VENDOR SUPPLIED PANEL
FIL	FILTER	PCP	PLANT CONTROL PANEL	WS	WATER SOFTENER
FOR	FIBER OPTIC REPEATER	PCU	POWER CONTROL UNIT	XFR	TRANSFORMER
FOT	FIBER OPTIC TRANSCEIVER	PFL	PRE-FILTER	XVR	TRANSCEIVER
FPP	FIBER PATCH PANEL / CONNECTOR HOUSING	PLC	PROGRAMMABLE LOGIC CONTROLLER	YLT	EVENT PILOT LIGHT
G	GATE	PRV	PRESSURE REDUCING VALVE	ZZK	SECURITY GATE INTERFACE
GBK	GENERATOR BRAKE	PS	POWER SUPPLY / ISOLATOR / CONVERTER		

INSTRUMENTATION LINE SYMBOLOGY

- PRIMARY PROCESS (CLOSED CONDUIT, DASHED LINE INDICATES ALTERNATE FLOW STREAM)
- PRIMARY PROCESS (OPEN CHANNEL)
- ANALOG SIGNAL, (4 TO 20 mAdc, ECT)
- DISCRETE SIGNAL, (ON/OFF, ECT)
- PNEUMATIC SIGNAL
- X — FILLED SYSTEM SIGNAL
- L — HYDRAULIC SYSTEM SIGNAL
- DIGITAL DATA LINK
- PACKAGE SYSTEM EQUIPMENT
- STRUCTURE/FACILITY BOUNDARY
- CABLE FURNISHED WITH EQUIPMENT
- M — MECHANICAL POWER/LINKAGE
- E — ELECTRICAL POWER

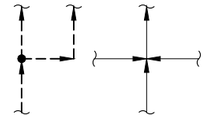
PARALLELING LINES



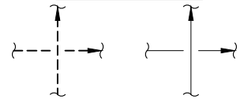
(A) TOTAL OF 2 SIGNALS

(B) 3 TYPICAL SETS OF 2 SIGNALS EACH, TOTAL OF 6 SIGNALS.

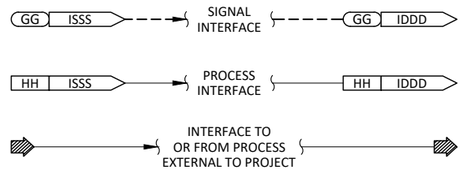
CONNECTING LINES



NON-CONNECTING LINES



SYSTEM CONTINUATION INTERFACES



GG SIGNAL INTERFACE NO.
HH PROCESS INTERFACE NO.
DDD DESTINATION DRAWING NO.
SSS SOURCE DRAWING NO.

P&ID ABBREVIATIONS

AC	ALTERNATING CURRENT
AM	AUTO-MANUAL
COD	CHEMICAL OXYGEN DEMAND
DEV	DEVIATION
DC	DIRECT CURRENT
DCS	DISTRIBUTED CONTROL SYSTEM
ECS	ENVIRONMENTAL CONTROL SYSTEM (HVAC)
EPO	EMERGENCY POWER OFF
FOC	FIBER OPTIC CABLE
FOS	FAST-OFF-SLOW
FOSA	FAST-OFF-SLOW-AUTO
FOSR	FAST-OFF-SLOW-REMOTE
HI	HIGH
HML	HIGH-MID-LOW
HOA	HAND-OFF-AUTO
HOR	HAND-OFF-REMOTE
ISR	INTRINSICALLY SAFE RELAY
LEL	LOWER EXPLOSIVE LIMIT
LO	LOW
LOR	LOCAL-OFF-REMOTE
LOS	LOCKOUT STOP
LR	LOCAL-REMOTE
MC	MODULATE-CLOSE
MOA	MANUAL-OFF-AUTO
MSC	MANUFACTURER SUPPLIED CABLE
NC	NORMALLY CLOSED
NO	NORMALLY OPEN
OC	OPEN-CLOSE(D)
OCA	OPEN-CLOSE-AUTO
OCR	OPEN-CLOSE-REMOTE
OI	OPERATOR INTERFACE
OO	ON-OFF
OOA	ON-OFF-AUTO
OOR	ON-OFF-REMOTE
ORP	OXIDATION REDUCTION POTENTIAL
OSC	OPEN-STOP-CLOSE
PC	PERSONAL COMPUTER
PCS	PLANT CONTROL SYSTEM
pH	HYDROGEN ION CONCENTRATION
PID	PROPORTIONAL INTEGRAL DERIVATIVE CONTROL
POT	POTENTIOMETER
RC	RUN CLOSE
RO	RUN OPEN
RL	RAISE-LOWER
RM	REMOTE MULTIPLEXING MODULE
RSL	RAISE-STOP-LOWER
RVSS	REDUCED VOLTAGE SOLID-STATE STARTER
SCADA	SUPERVISORY CONTROL AND DATA ACQUISITION
SEL	SELECT
SET	SET POINT
SF	SLOWER-FASTER
SHC	SODIUM HYPOCHLORITE
SR	START-RESET
SS	START-STOP
SSC	SUPERVISORY SET POINT CONTROL
ST	START
SW	SEAL WATER
TC	THERMOCOUPLE
TCR	TOTAL CHLORINE RESIDUAL
TEMP	TEMPERATURE
TSP	TWISTED SHIELD PAIR
TURB	TURBIDITY
VHC	VOLATILE HYDROCARBONS
VIB	VIBRATION
VSP	VENDOR SUPPLIED PANEL
VTO	VENT TO OUTSIDE
WSEL	WATER SURFACE ELEVATION

NOTES:

1. FOR MECHANICAL ELEMENT SYMBOLS, SEE MECHANICAL LEGEND.
2. FOR ELECTRICAL ELEMENT SYMBOLS, SEE ELECTRICAL LEGEND.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
A	04/26/24	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM SPILLWAY MODIFICATIONS

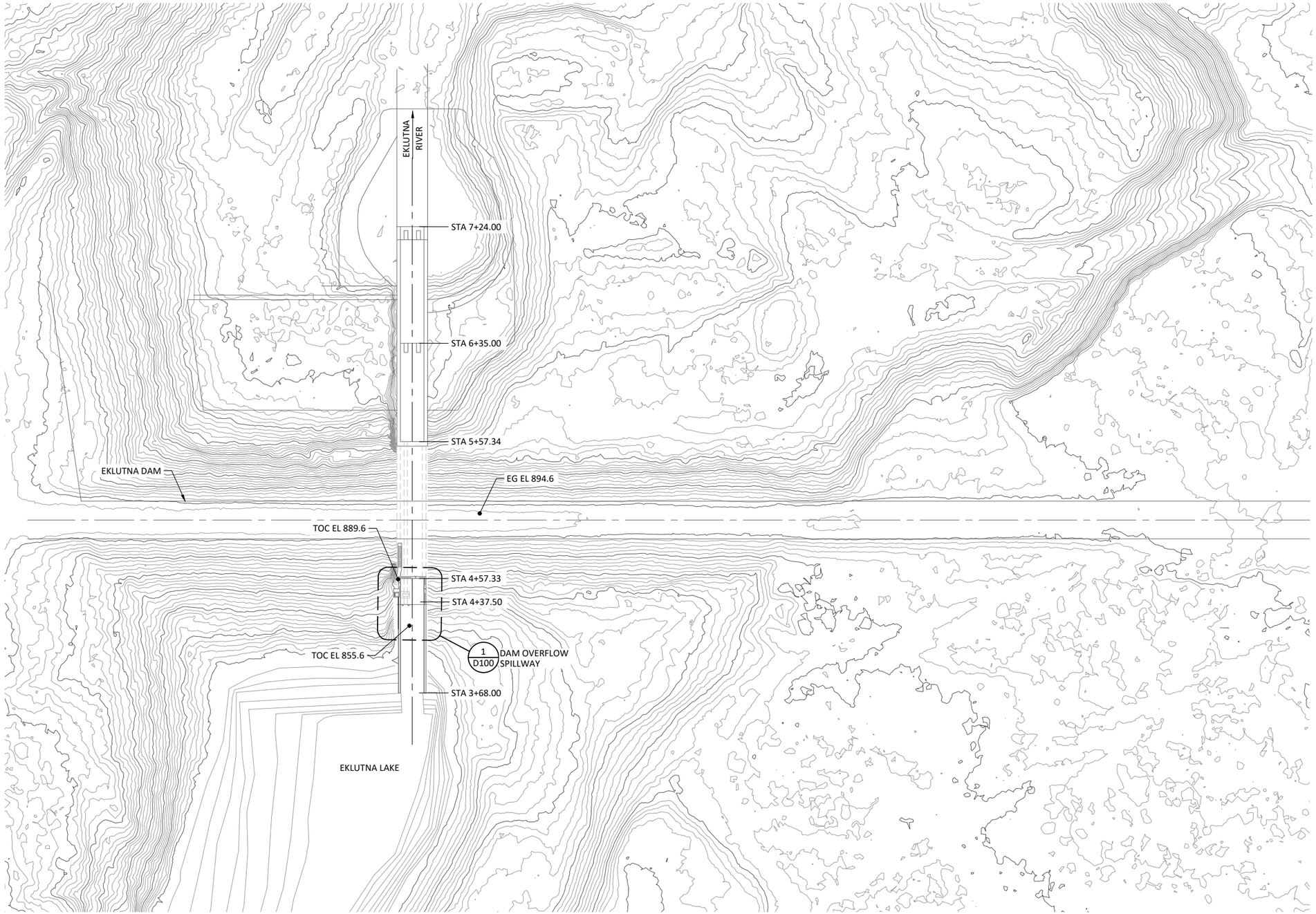
INSTRUMENTATION AND EQUIPMENT LEGEND

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 04/26/24

DRAWING
G005

JOB NO: 0000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\G005.dwg Plot date: Apr 23, 2024 03:42pm, CAD User: WoodRon



SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).

DEMOLITION KEY PLAN

SCALE: 1"= 40'

0" 40' 80'

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MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM SPILLWAY MODIFICATIONS

DEMOLITION KEY PLAN

DESIGNED S. ELLENSON

DRAWN F. HABER

CHECKED J. BOAG

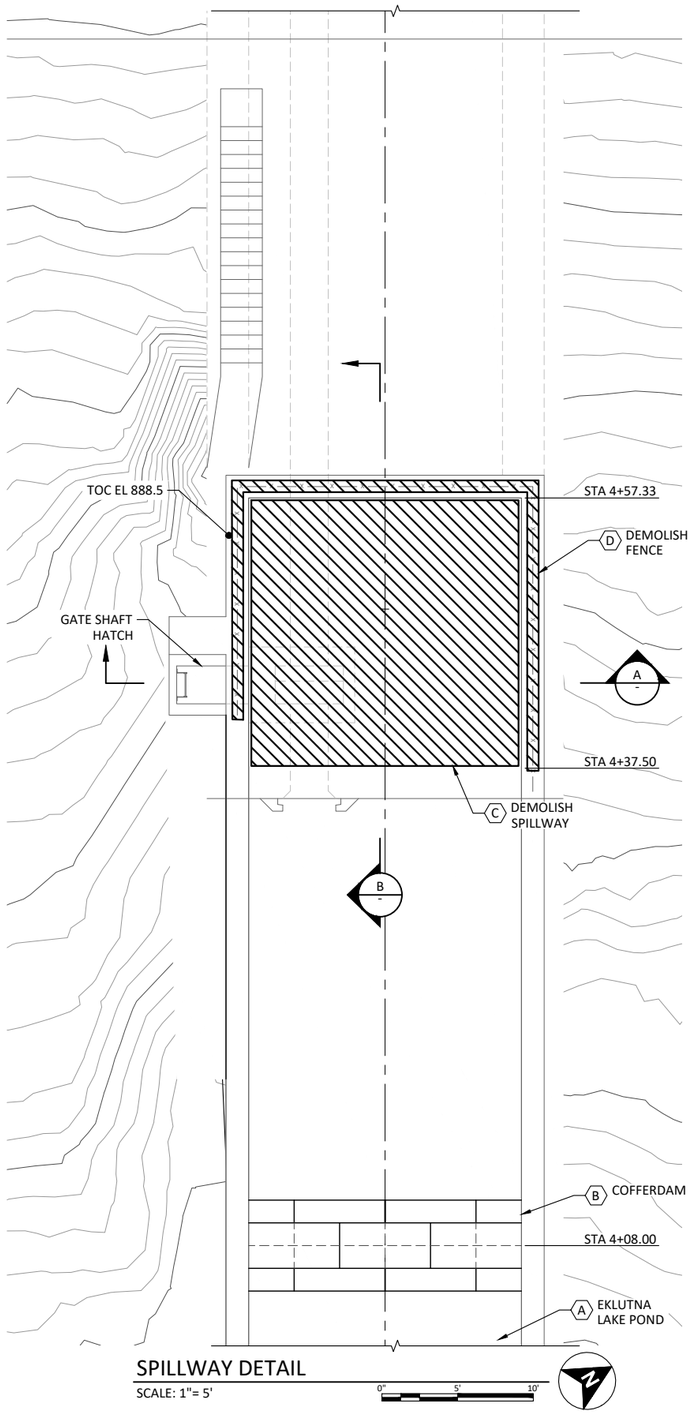
PROJECT DATE 04/26/24

DRAWING

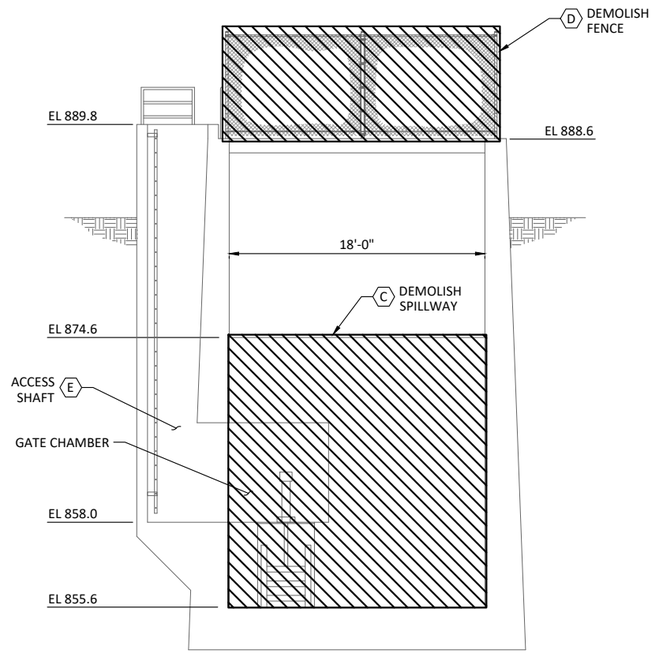
D001

JOB NO: 000000

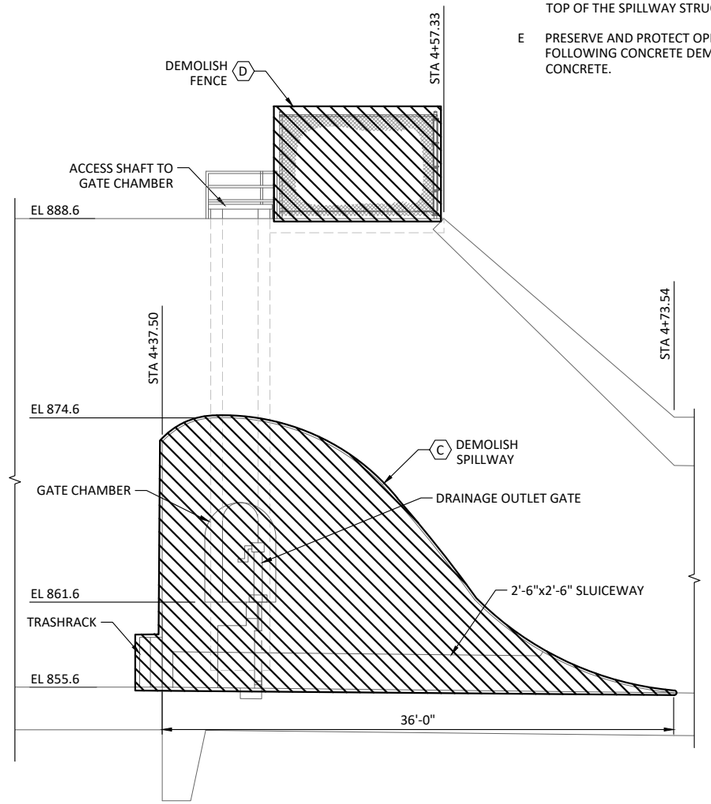
Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\D001.dwg Plot date: Apr 23, 2024 03:42pm, CAD User: WoodRon



SPILLWAY DETAIL
SCALE: 1"= 5'



A - SPILLWAY SECTION
SCALE: 3/16"= 1'-0"



B - SPILLWAY SECTION
SCALE: 3/16"= 1'-0"

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).

SHEET KEY NOTES:

A PRIOR TO BEGINNING WORK, DRAIN THE EKLUTNA LAKE POND THROUGH THE EXISTING DRAINAGE OUTLET GATE WITHIN THE DAM SPILLWAY. THIS SHALL OCCUR IN THE SPRING WHEN EKLUTNA LAKE IS DISCONNECTED FROM THE DAM.

B A COFFERDAM SHALL BE CONSTRUCTED AT THE INLET TO THE DAM SPILLWAY. DESIGN OF COFFERDAM AND DEWATERING SYSTEM SHALL BE DEVELOPED BY THE CONTRACTOR AND SUBMIT TO THE ENGINEER FOR APPROVAL.

C DEMOLISH AND DISPOSE OF EXISTING OGEE CREST SPILLWAY, APPROXIMATELY 235 CY OF CONCRETE.

D DEMOLISH AND DISPOSE OF CHAIN LINK FENCE LOCATED ON TOP OF THE SPILLWAY STRUCTURE.

E PRESERVE AND PROTECT OPENING TO ACCESS SHAFT FOLLOWING CONCRETE DEMOLITION. REPAIR ANY DAMAGED CONCRETE.

PRELIMINARY
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REV	DATE	BY	DESCRIPTION
A	04/26/24	SPE	15% DESIGN

WARNING
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CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM SPILLWAY MODIFICATIONS

EKLUTNA DAM SPILLWAY DEMOLITION PLAN, SECTIONS, AND DETAILS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 04/26/24

DRAWING
D100

JOB NO: 000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\D100.dwg Plot date: Apr 23, 2024 03:43pm, CAD User: WoodRon

SHEET KEY NOTES:

A DEMOLISH AND DISPOSE OF EXISTING OGEE CREST SPILLWAY, APPROXIMATELY 235 CY OF CONCRETE.

B DEMOLISH AND DISPOSE OF CHAIN LINK FENCE LOCATED ON TOP OF THE SPILLWAY STRUCTURE.

1 D100 PHOTO

1 D100 PHOTO

PRELIMINARY
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REV	DATE	BY	DESCRIPTION
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WARNING

0 1/2 1

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CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM SPILLWAY MODIFICATIONS

EKLUTNA DAM SPILLWAY
DEMOLITION PHOTOS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 04/26/24

DRAWING
D101

JOB NO: 000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\D101.dwg Plot date: Apr 23, 2024 03:43pm, CAD User: WoodRon

GENERAL STRUCTURAL NOTES:
THE FOLLOWING NOTES ARE GENERAL AND APPLY TO THE ENTIRE PROJECT, UNLESS SPECIFICALLY NOTED OTHERWISE (UNO)

1) GENERAL:

A. CONSTRUCTION DOCUMENTS:
   1. THE CONTRACTOR SHALL REVIEW THE APPROVED CONTRACT DOCUMENTS AND NOTIFY THE ENGINEER OF ANY ERRORS OR DISCREPANCIES PRIOR TO THE START OF CONSTRUCTION.
   2. THE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY IF ANY UNIDENTIFIED EXISTING UNDERGROUND UTILITIES ARE DISCOVERED.
   3. THE STRUCTURAL CONTRACT DRAWINGS REPRESENT THE FINISHED STRUCTURE. THEY DO NOT INDICATE THE METHOD OF CONSTRUCTION. THE CONTRACTOR SHALL PROVIDE ALL MEASURES NECESSARY TO PROTECT THE STRUCTURE DURING CONSTRUCTION. SUCH MEASURES SHALL INCLUDE, BUT ARE NOT LIMITED TO, BRACING AND/OR SHORING FOR LOADS DUE TO CONSTRUCTION EQUIPMENT, ETC.
   4. UNDER NO CIRCUMSTANCES CAN STRUCTURAL COMPONENTS BE SUBSTITUTED, OMITTED, OR ALTERED FROM THE APPROVED SET OF CONSTRUCTION DOCUMENTS WITHOUT WRITTEN APPROVAL FROM THE ENGINEER.

B. DIMENSIONS AND NOTATIONS:
   1. WRITTEN DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS. DO NOT SCALE DRAWINGS.
   2. ABBREVIATIONS USED ON THE APPROVED CONSTRUCTION DOCUMENTS SHALL BE CONSIDERED TYPICAL ABBREVIATIONS FOR THE INDUSTRY. THE CONTRACTOR SHALL BE RESPONSIBLE TO NOTIFY THE ENGINEER IMMEDIATELY OF ANY ABBREVIATIONS THAT ARE UNKNOWN TO THE CONTRACTOR.

C. TYPICAL NOTES AND DETAILS:
   1. SPECIFIC NOTES AND DETAILS SHALL TAKE PRECEDENCE OVER STANDARD TYPICAL NOTES AND DETAILS.
   2. STANDARD TYPICAL NOTES AND DETAILS ARE TO BE USED WHEN REFERRED TO OR WHEN NO OTHER MORE RESTRICTIVE OR DIFFERENT DETAILS ARE SHOWN ON THE DRAWINGS.
   3. WORK NOT PARTICULARLY SHOWN OR SPECIFIED SHALL BE THE SAME AS SIMILAR PARTS THAT ARE SHOWN OR SPECIFIED.

D. CODE REQUIREMENTS:
   1. ALL WORK SHALL CONFORM TO THE MINIMUM STANDARDS OF REGULATING AGENCIES WHICH MAY HAVE AUTHORITY OVER ANY PORTION OF THE WORK.
   2. SPECIFICATIONS, CODES AND STANDARDS NOTED SHALL BE OF THE LATEST APPROVED ISSUE, INCLUDING SUPPLEMENTS, UNLESS NOTED OTHERWISE.
   3. MINIMUM UNIFORM (BLANKET) ROOF SNOW LOAD, AS DEFINED BY LOCAL BUILDING OFFICIAL OR STATE, SHALL BE DESIGNED FOR, AND IT IS THE RESPONSIBILITY OF THE MBSS ENGINEER TO CONFIRM IF ONE EXISTS BY CONTACTING THE LOCAL BUILDING OFFICIAL.

E. DEFERRED SUBMITTALS:
   1. DEFERRED STRUCTURE SUBMITTAL ITEMS HAVE NOT BEEN PERMITTED UNDER THE BASE BUILDING APPLICATION.
   2. THE CONTRACTOR SHALL SUBMIT COMPONENT SYSTEM DOCUMENTS FOR DEFERRED SUBMITTAL ITEMS, STAMPED BY A PROFESSIONAL ENGINEER LICENSED IN THE JURISDICTION HAVING AUTHORITY, TO THE REGISTERED DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE FOR REVIEW AND FORWARD THE REVIEWED DOCUMENTS TO THE BUILDING OFFICIAL IN COMPLIANCE WITH SECTION 107.3.4.1 OF THE CBC.
   3. DEFERRED SUBMITTAL ITEMS SHALL NOT BE INSTALLED UNTIL THE COMPONENT SYSTEM DOCUMENTS HAVE BEEN APPROVED BY THE BUILDING OFFICIAL.
   4. THE FOLLOWING CONTRACTOR-DESIGNED PROJECT ELEMENTS ARE DEFINED AS DEFERRED STRUCTURAL SUBMITTAL ITEMS:

      PRE-ENGINEERED METAL BUILDINGS

2) CODES, STANDARDS, AND REFERENCES:

A. ASCE 7-16: MINIMUM DESIGN LOADS AND ASSOCIATED CRITERIA FOR BUILDINGS AND OTHER STRUCTURES.
B. ACI 318-14: BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE.
C. ACI 350-06: CODE REQUIREMENTS FOR ENVIRONMENTAL ENGINEERING CONCRETE STRUCTURES.
D. AISC 360-16 SPECIFICATION FOR STRUCTURAL STEEL BUILDINGS.

3) GRATING:

A. UNLESS INDICATED OTHERWISE, ALL GRATING SHALL BE FAS INDICATED IN THE DRAWINGS, OR APPROVED EQUAL.
B. WEIGHT OF GRATING SECTION SHALL NOT EXCEED 80 LBS.
C. PROVIDE A MINIMUM OF 4 CLIPS PER GRATING PANEL, APPROX 4" FROM PANEL CORNERS.
D. WIDTH OF GRATING SECTIONS SHALL NOT EXCEED 3'-0".
E. SHOP DRAWINGS BASED ON FIELD DIMENSIONS SHALL BE SUBMITTED TO THE ENGINEER PRIOR TO FABRICATION.
F. PROVIDE GRATING FASTENERS AS REQUIRED.
G. THE HORIZONTAL CLEARANCE BETWEEN THE GRATING AND GRATING SUPPORTS SHALL NOT BE LESS THAN ¼" NOR GREATER THAN ½"
H. ALL GRATING SECTIONS, WHEN IN PLACE, SHALL ALWAYS BE FIRMLY ANCHORED TO THEIR SUPPORTS.
I. PROVIDE MINIMUM BEARING PER MANUFACTURERS RECOMMENDATIONS FOR ALL GRATING.

4) NON-SHRINK GROUT:

1. ALL GROUT WORK SHALL CONFORM TO THE LATEST EDITION OF ACI 301.
2. FORMWORK: DESIGN, ERECT, SUPPORT, BRACE AND MAINTAIN FORMWORK TO SUPPORT VERTICAL, LATERAL, STATIC AND DYNAMIC LOADS THAT MIGHT BE APPLIED UNTIL STRUCTURE CAN SUPPORT SUCH LOADS.

5) STRUCTURAL AND MISCELLANEOUS STEEL:

A. STRUCTURAL STEEL SHALL CONFORM TO THE FOLLOWING ASTM STANDARDS:
   a) WIDE FLANGE SHAPES — A992, GR 50 GALV
   b) OTHER SHAPES, PLATES, ANGLES AND BARS — A36 GALV
   c) STEEL PIPE — A53, GRADE B GALV
   d) HOLLOW STRUCTURAL SECTIONS — A500, GRADE B GALV
B. WELDS: PROVIDE 70KSI LOW HYDROGEN ELECTRODE OR PROCESS IN ACCORDANCE WITH AWS A5.1.
C. BOLTS, U.N.O.:
   1. STAINLESS STEEL: ASTM A193, GRADE 8, CLASS 2, AISI TYPE 316
D. DRILL AND EPOXY ANCHOR BOLTS:
   1. STAINLESS STEEL ASTM A193, GRADE 8, CLASS 2, AISI TYPE 316 OR EQUAL APPROVED BY ENGINEER
E. EPOXY BOLT OR EXPANSION BOLT SUBSTITUTIONS FOR EMBEDDED BOLTS IS PROHIBITED WITHOUT WRITTEN CONSENT FROM THE ENGINEER.
F. UNLESS NOTED OTHERWISE ON THE DRAWINGS, ALL EPOXY BOLTS SHALL BE AS SPECIFIED.
G. ALL STRUCTURAL STEEL SHALL BE DETAILED, FABRICATED, AND ERECTED IN ACCORDANCE WITH THE AISC CODE OF STANDARD PRACTICE, EXCEPT AS MODIFIED IN THESE NOTES AND THE PROJECT SPECIFICATIONS.
H. ALL STAINLESS STEEL SHALL BE TYPE 316.
I. SPLICING OF STEEL MEMBERS, UNLESS SHOWN ON THE DRAWINGS, IS PROHIBITED WITHOUT WRITTEN APPROVAL OF THE PROJECT ENGINEER.
J. GALVANIC PROTECTION SHALL BE PROVIDED BETWEEN DISSIMILAR METALS.
K. WELDING SHOWN FOR STAINLESS STEEL ELEMENTS SHALL COMPLY WITH AWS D1.6/D1.6M.

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A	04/26/24	SPE	15% DESIGN

WARNING
0 1/2 1
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McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

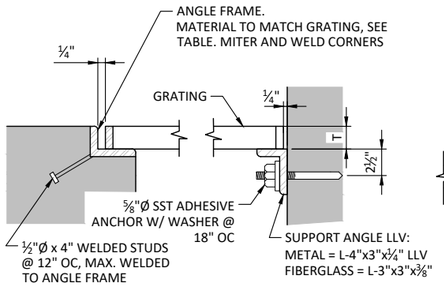
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM SPILLWAY MODIFICATIONS
STRUCTURAL GENERAL NOTES

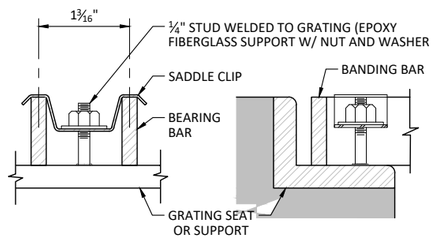
DESIGNED G. CLARK
DRAWN J. HOLT
CHECKED M. MERKLEIN
PROJECT DATE 04/26/24

DRAWING
GS001

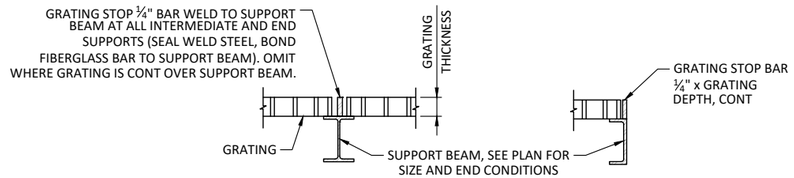
JOB NO: 000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\GS001.dwg Plot date: Apr 23, 2024 03:43pm, CAD User: Woodron





GRATING CLIP DETAIL



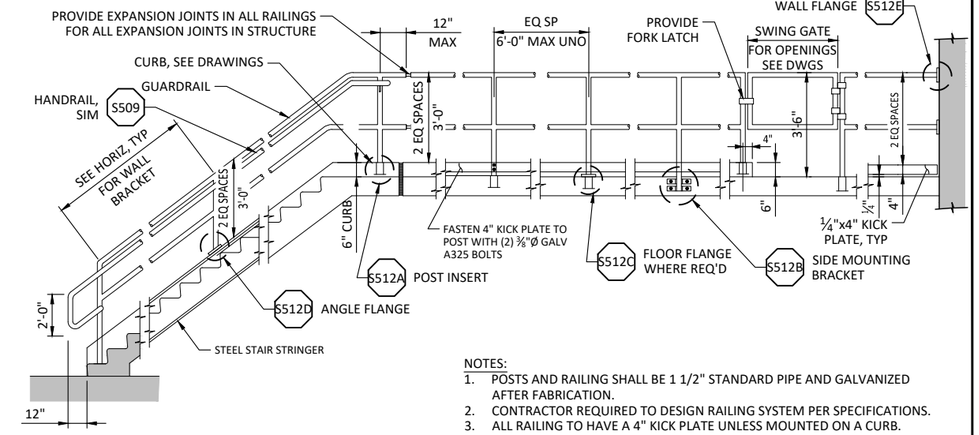
GRATING STOP DETAIL

NOTES:
1. UNLESS INDICATED OTHERWISE, ALL GRATING SHALL BE ALUM.
2. GRATING DEPTH TO BE DETERMINED BY MANUFACTURER AND APPROVED BY ENGINEER, UNO.
3. ALL ENDS AND OPENINGS SHALL BE BANDED.
4. WEIGHT OF GRATING SECTION SHALL NOT EXCEED 80 LBS.
5. METAL BEARING BARS SHALL BE DEPTH T x 3⁄16" @ 1 3⁄16" OC.. CROSS BARS SHALL BE @ 4" OC.
6. PROVIDE A MINIMUM OF 4 CLIPS PER GRATING PANEL, APPROX 4" FROM PANEL CORNERS. MAXIMUM CLIP SPACING AT 36" OC.
7. MATERIALS:
   - A. ALUM GRATING - USE ALUM ANGLE SUPPORTS AND SST BOLTS AND CLIPS. IF SUPPORTED BY STEEL BEAMS, USE STEEL STOP BARS. ALUM IN CONTACT WITH CONC OR STEEL SHALL BE COATED PER THE PROTECTIVE COATING SPECS.
   - B. GALV STEEL GRATING - USE STEEL ANGLE SUPPORTS, BOLTS AND CLIPS. GALV AFTER FABRICATION.
   - C. SST GRATING - USE SST ANGLE SUPPORTS, BOLTS AND CLIPS
   - D. FIBERGLASS GRATING - USE FIBERGLASS FOR ALL COMPONENTS EXCEPT DRILLED ANCHORS; ALL CUT EDGES SHALL BE SEALED WITH RESIN; BONDING: USE EPOXY ADHESIVE BONDING AGENT

GRATING FRAME TABLE SIZED TO MATCH GRATING (FOR FIBERGLASS USE CONTINUOUS PROTRUDED FIBERGLASS SEAT & ANCHOR)			
GRATING DEPTH (T)	STEEL ANGLE (STEEL)	GRATING DEPTH (T)	STEEL ANGLE (STEEL)
1"	1¾ x 1¼ x ¼ (1¼ x 1¼ x ¼)	2"	*2½ x 2½ x ½
1¼"	2 x 1½ x ¼ (1½ x 1½ x ¼)	2¼"	2½ x 2½ x ¼
1½"	1¾ x 1¾ x ¼	2½"	3 x 3 x ½
1¾"	2 x 2 x ¼		

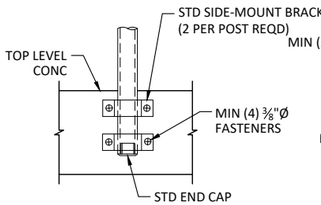
* OR USE 2½"x2½"x¼" W/ ¼" SHIM PLATE WELDED TO BOTTOM

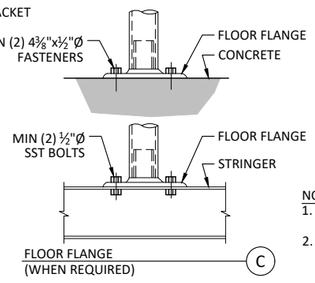
S501 GRATING
SCALE: NTS



NOTES:
1. POSTS AND RAILING SHALL BE 1 1/2" STANDARD PIPE AND GALVANIZED AFTER FABRICATION.
2. CONTRACTOR REQUIRED TO DESIGN RAILING SYSTEM PER SPECIFICATIONS.
3. ALL RAILING TO HAVE A 4" KICK PLATE UNLESS MOUNTED ON A CURB.

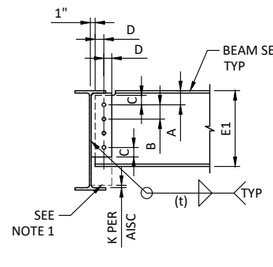
S510 TWO-RAIL RAILING GUARDRAIL DETAIL
SCALE: NTS



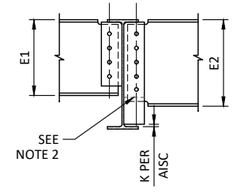


NOTES:
1. IF FASTENING TO CONCRETE, FASTENERS SHALL BE ADHESIVE ANCHORS.
2. CONTRACTOR REQUIRED TO DESIGN RAILING SYSTEM PER SPECIFICATIONS.

S512 RAILING, GUARDRAIL AND HANDRAIL SUPPORT DETAIL
SCALE: NTS



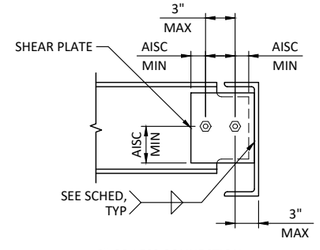
BEAM: ONE SIDE ONLY



BEAM: BOTH SIDES

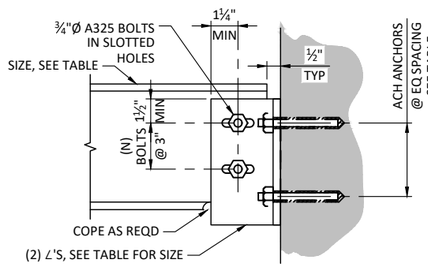
BEAM TO BEAM CONNECTION SCHEDULE								
BEAM SIZE	NO OF A325N BOLTS REQ'D ¾" Ø	NO OF A325N BOLTS REQ'D 1" Ø	CONN PLATE THICKNESS (IN)	WELD SIZE (t)	A (IN)	B (IN)	C (IN)	D (IN)
W8	2		5⁄16	3⁄16	2½"	2½"	1½"	1½"
W10	2		5⁄16	3⁄16	3	3	1½"	1½"

S562 BEAM TO BEAM CONNECTION - PLATE CONNECTION
SCALE: NTS



6" OR LESS CONNECTION

NOTES:
1. EXTEND CONN PLATE WHEN E1 IS GREATER THAN OR EQUAL TO W12 BM.
2. LIMIT OF CONN PLATE WHEN E2-E1 IS LESS THAN OR EQUAL TO 6 INCHES.



BEAM TO CONC CONNECTION SCHEDULE			
BEAM SIZE	DOUBLE ANGLE SIZE	# OF BOLTS (N)	ADHESIVE ANCHORS NUMBER AND SIZE

S563 BEAM TO CONC CONNECTION
SCALE: NTS

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REV	DATE	BY	DESCRIPTION
A	04/26/24	SPE	15% DESIGN

WARNING
0 1/2 1
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EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM SPILLWAY MODIFICATIONS
STRUCTURAL STANDARD DETAILS

DESIGNED G. CLARK
DRAWN J. HOLT
CHECKED M. MERKLEIN
PROJECT DATE 04/26/24

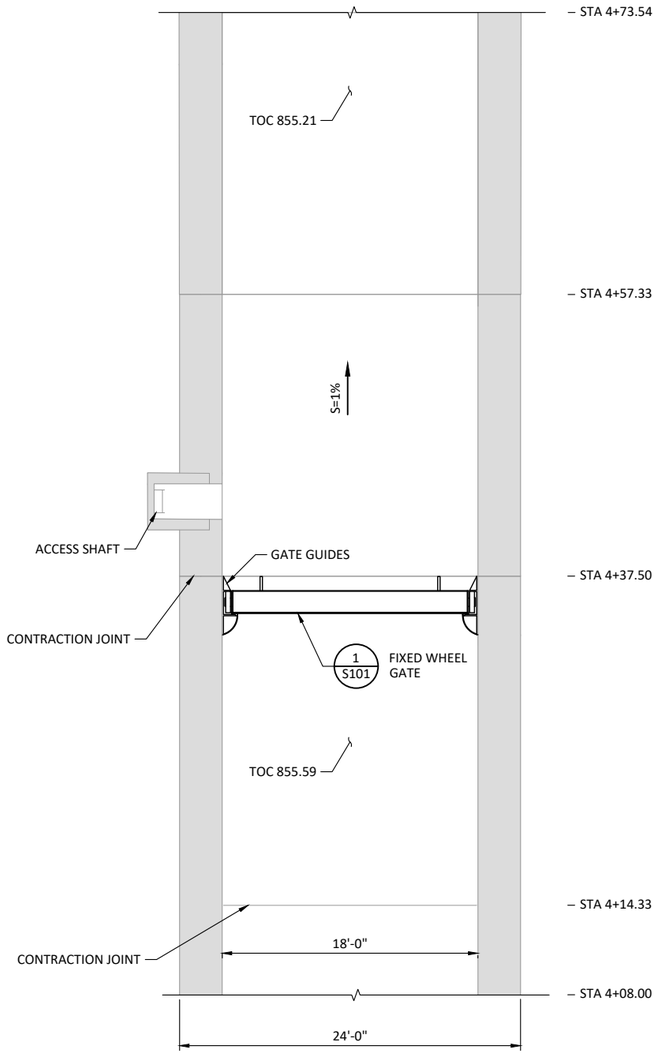
DRAWING
GS002

JOB NO: 000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\GS002.dwg Plot date: Apr 23, 2024 03:43pm, CAD User: WoodRon

SHEET NOTES:

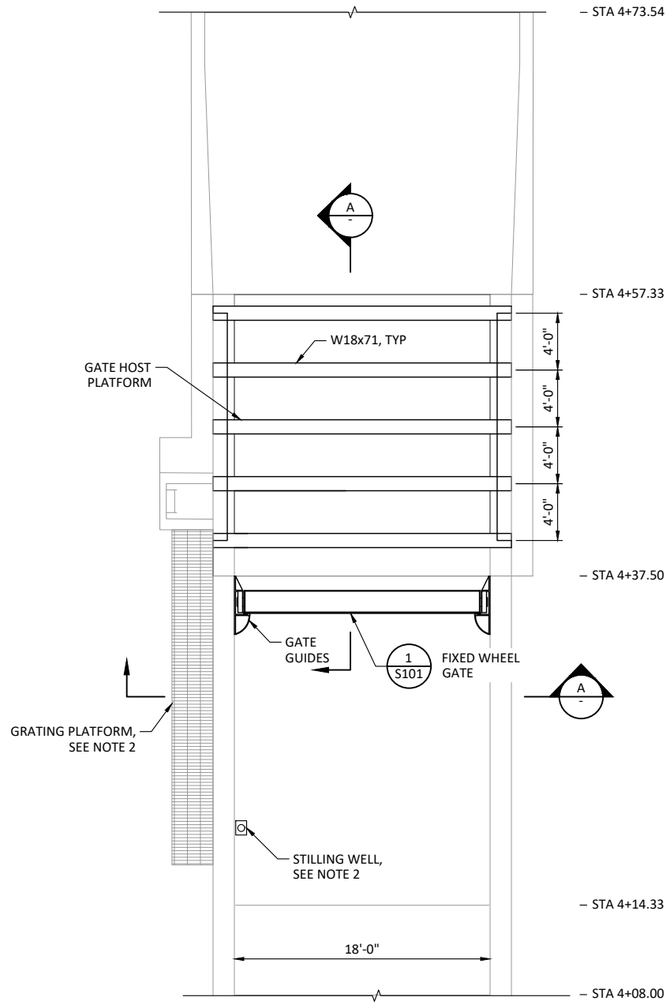
1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
2. GRATING PLATFORM AND STILLING WELL INSTALLED AS PART OF THE DAM OUTLET MODIFICATION WORK PRIOR TO THE SPILLWAY MODIFICATIONS BEING INITIATED. GRATING PLATFORM AND STILLING WELL SHALL BE PRESERVED AND PROTECTED AS PART OF THIS WORK EFFORT.



EKLUNTA DAM SPILLWAY STRUCTURAL PLAN - 862.0

SCALE: 3/16"= 1'-0"

0' 4' 8'



EKLUNTA DAM SP[ILLWAY STRUCTURAL PLAN - EL. 888.6

SCALE: 3/16"= 1'-0"

0' 4' 8'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
A	04/26/24	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM SPILLWAY MODIFICATIONS

EKLUTNA DAM SPILLWAY STRUCTURAL PLANS

DESIGNED G. CLARK

DRAWN J. HOLT

CHECKED M. MERKLEIN

PROJECT DATE 04/26/24

DRAWING

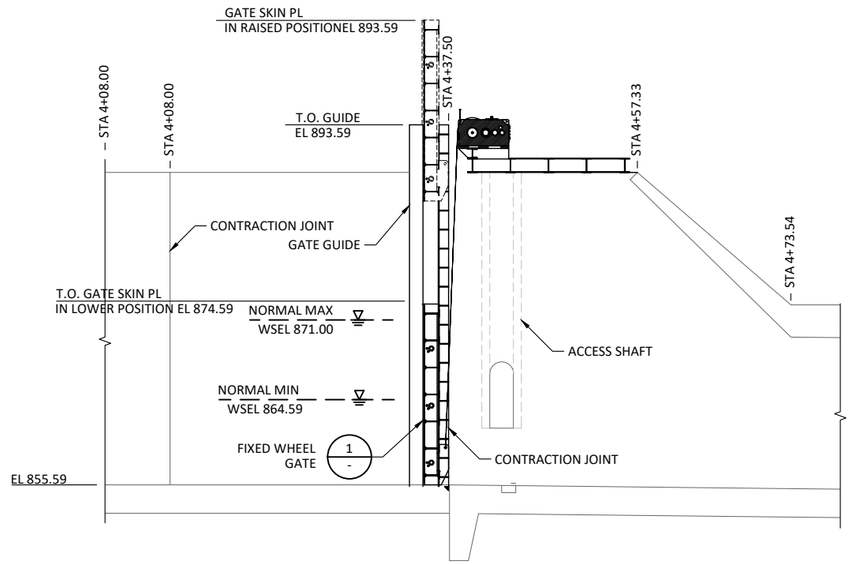
S100

JOB NO: 000000

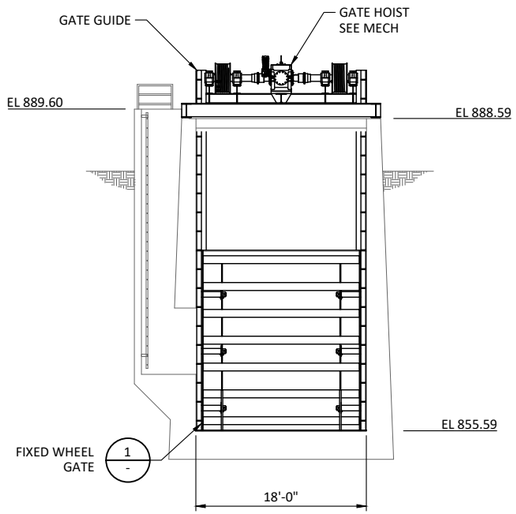
Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\S100.dwg Plot date: Apr 23, 2024 03:43pm, CAD User: WoodRon

SHEET NOTE:

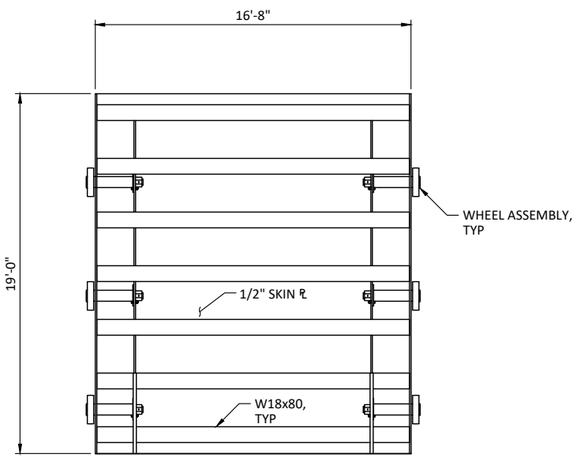
1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



A S100 SECTION
SCALE: 1/8"= 1'-0"
0' 8' 16'



B S100 SECTION
SCALE: 1/8"= 1'-0"
0' 8' 16'



1 S100 DETAIL
SCALE: 1/4"= 1'-0"
0' 4' 8'

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EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM SPILLWAY MODIFICATIONS
EKLUTNA DAM SPILLWAY STRUCTURAL SECTIONS

DESIGNED G. CLARK
DRAWN J. HOLT
CHECKED M. MERKLEIN
PROJECT DATE 04/26/24

DRAWING
S101

JOB NO: 000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\S101.dwg Plot date: Apr 23, 2024 03:43pm, CAD User: Woodfon

DIMENSIONS AND TOLERANCES:

1. UNLESS OTHERWISE NOTED PROVIDE THE FOLLOWING DIMENSIONAL TOLERANCES:

   FRACTIONAL `1/16"
   X `0.06"
   X.X `0.06"
   X.XX `0.010"
   X.XXX `0.002"

2. FEATURES OF PARTS AND ASSEMBLIES THAT ARE IMPLIED AS PARALLEL OR PERPENDICULAR MUST BE PARALLEL OR PERPENDICULAR WITHIN ANGULAR TOLERANCE.
3. INFORMATION, TOLERANCES, AND NOTES ON THIS SHEET APPLY TO ALL MECH. DRAWINGS, UNLESS NOTED OTHERWISE.
4. DIMENSIONS AND TOLERANCE ARE PER ASME Y14.5 UNLESS INDICATED OTHERWISE.
5. CYLINDRICAL LIMITS AND FITS ARE PER ASME B4.1 UNLESS INDICATED OTHERWISE.
6. THREAD CALLOUTS ARE PER ASME Y14.6 UNLESS INDICATED OTHERWISE.
7. SURFACE TEXTURE IS PER ASME B46.1.
8. PROVIDE A MAXIMUM OF 125 MICROINCH SURFACE TEXTURE ON ALL MACHINED SURFACES, UNLESS SHOWN OTHERWISE.
9. LINEAR UNITS ARE FEET AND INCHES OR INCHES AND ALL ANGULAR UNITS ARE DEGREES, UNLESS SHOWN OTHERWISE.
10. BREAK CORNERS AND EDGES, UNLESS SHOWN OTHERWISE.

FABRICATION AND INSTALLATION:

1. FABRICATION OF EQUIPMENT SHALL BE IN GENERAL CONFORMANCE WITH THE LATEST REVISION OF AISC STEEL CONSTRUCTION MANUAL.
2. SURFACE FINISH, WHERE GIVEN, IS ACCORDING TO ANSI B46.1. SURFACES NOT MARKED SHALL HAVE A FINISH OF 250 MICRO-INCHES OR BETTER, EXCEPT FOR SURFACES IN CONTACT WITH GASKETED BEARING SURFACES SHALL BE 125 MICRO-INCHES OR BETTER. NO MACHINING IS REQUIRED IF OTHERWISE FINISHED (ROLLED, CAST, ETC) SURFACE IS BETTER THAN THE INDICATED REQUIREMENTS, EXCEPT IF INDICATED OTHERWISE. SURFACES TO BE MACHINED SHALL INCLUDE ALL SURFACES REQUIRED TO BE PRECISELY ALIGNED INCLUDING BEARING AND SURFACES, BUSHINGS, PINS AND OTHER CRITICAL BEARING SURFACES. SURFACE FINISH IN EACH CASE SHALL BE AS SHOWN ON THE SHOP DRAWINGS. IF NOT SHOWN, THE FINISH SHALL BE SUBJECT TO APPROVAL BY THE DISTRICT.
3. TOLERANCED MACHINE FINISHES TO BE FINAL, AS INSTALLED VALUES, TOLERANCES NOT BE TAKEN PRIOR TO WELDING OR PAINTING.
4. LOCTITE NICKEL ANTI-SEIZE LUBRICANT FORMULA 771 (OR APPROVED EQUAL) SHALL BE APPLIED TO THE THREADS OF ALL FASTENERS PRIOR TO ASSEMBLY TO PREVENT GALLING. TORQUE VALUES USED TO BASED ON LUBRICATED VALUES.
5. DIMENSIONS SHALL BE MEASURED CALIBRATED MEASURING DEVICES SUITABLE FOR DIMENSIONS TAKEN. CALIBRATED TAPE MEASUREMENTS SUITABLE FOR FRACTIONAL DIMENSIONS ONLY. MICROMETERS OR CALIPERS WITH RESOLUTION TO SUITABLE FOR THE TOLERANCE OF THE PART TO BE USED. MAKE CALIBRATION RECORDS AVAILABLE AS REQUESTED BY ENGINEER.
6. LIKE PARTS SHALL BE INTERCHANGEABLE.
7. ROUNDING OF EDGES WHERE SHOWN SHALL BE FULL RADIUS.
8. PROVIDE STAINLESS STEEL SHIMS MEETING ASTM A240 TYPE 304 FOR ALIGNMENT OF MACHINERY. DEBURR ALL SHIMS PRIOR TO INSTALLATION.

FASTENERS:

1. UNLESS NOTED OTHERWISE, MAKE MECHANICAL CONNECTIONS WITH ASTM A449 HEAVY HEX BOLTS, ASTM A563 NUTS, AND ASTM F436 WASHERS. HOT DIP GALVANIZE CARBON STEEL BOLTS, NUTS, AND WASHERS UNLESS OTHERWISE NOTED.
2. USE FASTENERS THAT ARE IN ACCORDANCE WITH THE FOLLOWING DIMENSIONAL STANDARDS:
   A. HEAVY HEX BOLTS PER ASME B18.2.6.
   B. HEX NUTS PER ASME B18.2.6.
   C. PLAIN WASHERS PER ASTM F436.
3. TENSION FASTENERS IN ACCORDANCE WITH THE RESEARCH COUNCIL ON STRUCTURAL CONNECTIONS (RCSC) METHOD FOR TURN-OF-NUT PRETENSIONING. ROTATE NUT AFTER ACHIEVING A SNUG TIGHT CONDITION IN ACCORDANCE WITH RCSC TABLE 8.1
4. HOT DIP GALVANIZE FASTENERS PER ASTM A153. OVERSIZE NUT THREADS PER ASTM A563.

KEYWAYS:

1. MACHINE KEYS AND KEYWAYS PER ANSI B17.1 1967 (R 2017) INCLUDING THE RECOMMENDED CHAMFERS AND FILLETS PROVIDED IN THE STANDARD. SUPPLY KEYS FOR ALL ASSEMBLIES WHERE DIRECTLY INDICATED OR WHERE KEYWAYS ARE SHOWN FOR ONE OR BOTH MATING COMPONENTS.

WELDING:

1. PERFORM WELDING IN ACCORDANCE WITH AWS D1.1. WELDERS AND WELDING PROCEDURES SHALL BE IN ACCORDANCE WITH AWS D1.1. WELDING ELECTRODES SHALL CONFORM TO THE APPROPRIATE AWS SPECIFICATION FOR THE BASE METAL AND WELDING PROCESS USED.
2. PROVIDE WELD ACCESS HOLES TO AVOID INTERSECTING WELDSPER AISC STEEL CONSTRUCTION MANUAL 15TH ED. FIGURE C-J1..2 ALTERNATIVE 1 AND GRIND SMOOTH.
3. GRIND, BLEND, AND DRESS WELDS WITH SURFACE IRREGULARITIES AND SHARP CORNERS TO AVOID STRESS RISERS AND FOR PROPER ADHESION OF THE COATING BEFORE PROCEEDING WITH THE OVERALL SURFACE PREPARATION FOR COATING. REMOVE WELD SPATTER TO ENSURE PROPER ADHESION OF THE COATING. AREAS OF HIGH STRESS AND MACHINED SURFACES SHALL BE PROTECTED FROM WELD SPATTER.
4. CLEAN AND CAREFULLY EXAMINE COMPLETED WELDS FOR INSUFFICIENT THROAT OR LEG SIZES, CRACKS, UNDERCUTTING, OVERLAP, EXCESSIVE CONVEXITY OR REINFORCEMENT AND OTHER SURFACE DEFECTS TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF AWS D1.1. PERFORM NON-DESTRUCTIVE EXAMINATION BY ULTRASONIC METHOD FOR BUTT WELDS. EXAMINE OTHER WELDS BY DYE PENETRANT (PT) METHOD; MAGNETIC PARTICLE (MT); OR ULTRASONIC TESTING (UT).
5. PERFORM RANDOM SPOT CHECK EXAMINATION OF WELDS AS REQUESTED BY THE ENGINEER AS PART OF THE EQUIPMENT EXAMINATION.
6. PREHEAT THE BASE METAL AS NECESSARY TO MINIMIZE DISTORTION BEFORE WELDING. USE WELD PROCEDURES THAT CONTROL HEAT TO AVOID ADVERSELY AFFECT THE MECHANICALPROPERTIES OF THE BASE METAL. AFTER WELDING IS COMPLETE, STRESS RELIEVE WELDMENTS BY HEAT TREATMENT IN ACCORDANCE WITH AWS D1.1. USE PROPER RESTRAINT AND SUPPORT DURING HEAT TREATMENT TO MINIMIZE DISTORTION.

COMPONENT NAMING:

1. HOIST COMPONENT NAMING HAS BEEN PROVIDED WITH THE FOLLOWING NAMING CONVENTION:

   [GATE]-[MECH COMPONENT ABBR]-[COMPONENT NUMBER]

MECHANICAL COMPONENT ABBREVIATIONS	
ABBR	COMPONENT TYPE
B	BRAKE
D	DRUM
EN	ENCODER
GC	GATE CONNECTION
LP	LOAD PIN
LS	LIMIT SWITCH
M	MOTOR
MC	MACHINERY COVER
MS	MACINERY SKID
R	REDUCER
S	SHAFT
SB	SHAFT BEARING
SC	SHAFT COUPLING
SH	SHEAVE
W	WIRE ROPE

PRELIMINARY
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A	04/26/24	SPE	15% DESIGN

WARNING
0 1/2 1
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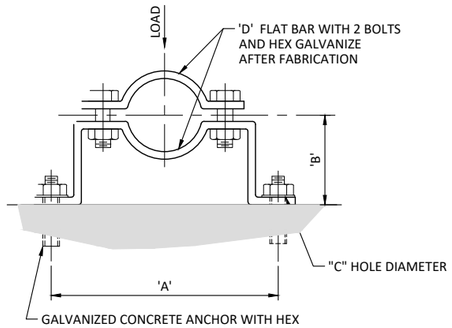
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM SPILLWAY MODIFICATIONS
MECHANICAL GENERAL NOTES

DESIGNED A. DESANTIS
DRAWN J. HOLT
CHECKED S. ELLENSON
PROJECT DATE 04/26/24

DRAWING
GM001

JOB NO: 000000

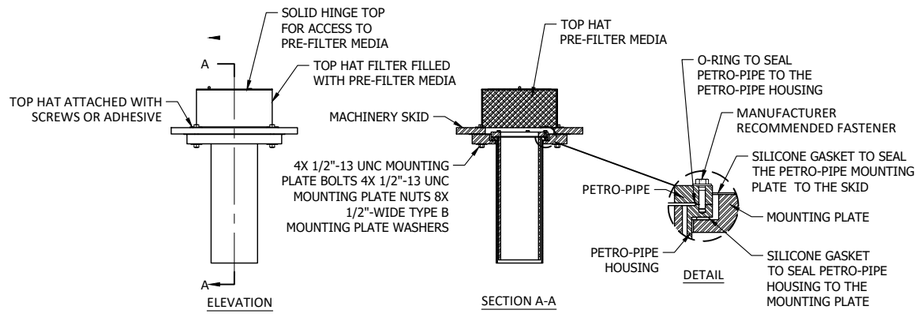
Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\GM001.dwg Plot date: Apr 23, 2024 03:43pm, CAD User: Woodfron



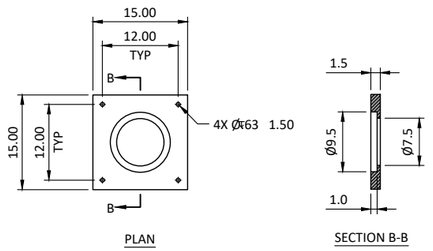
DIMENSIONS IN INCHES					LOAD RATING LBS
PIPE DIAMETER	"A"	"B" SEE NOTE 3 BELOW	"C" HOLE DIAMETER	"D" FLAT BAR SIZE	
¾	5 15/16	2½	7/16	3/16 x 1¼	190
1	6¼	2⅝	7/16	3/16 x 1¼	190
1¼	6 11/16	2¾	7/16	3/16 x 1¼	190
1½	6 15/16	3	7/16	3/16 x 1¼	190
2	8 5/16	3 3/16	7/16	¼ x 1¼	420
2½	8⅞	3 7/16	7/16	¼ x 1¼	420
3	9⅛	3¾	7/16	¼ x 1¼	420
3½	10 1/16	4	7/16	¼ x 1¼	420
4	10 9/16	4¼	9/16	¼ x 1½	610
5	11¾	4¾	9/16	¼ x 1½	610
6	14⅜	5 5/16	9/16	⅜ x 1½	870
8	16⅝	6 5/16	9/16	⅜ x 1½	870

NOTE:
1. WHERE SUBMERGED, PIPE CLAMP, ANCHORS, SHIELD, NUTS AND LOCKWASHER TO BE TYPE 316 STAINLESS STEEL.
2. WHEN USED WITH PVC OR FIBERGLASS PIPE, PROVIDE STEEL SHIELD WITH LOOSE FIT AROUND PIPE AT CLAMP. WRAP COPPER TUBING WITH 2" WIDE STRIP OF RUBBER AT CLAMP.
3. FOR FLANGED PIPING, INCREASE 'B' DIMENSION AS REQUIRED.
4. FOR PIPES SMALLER THAN ¾" SEE STANDARD DETAIL M142.

M117 PIPE CLAMP FOR INDIVIDUAL PIPES
SCALE: NTS



PETRO-PIPE ASSEMBLY



NOTES:
1. MOUNTING PLATE BOLT LENGTHS WILL DEPEND ON THE THICKNESS OF THE SKID BASE PLATE.
2. MATCH DRILL MOUNTING PLATE BOLT HOLES IN MACHINERY SKID BASE PLATE.

PETRO-PIPE MOUNTING PLATE

M750 PETRO-PIPE
SCALE: NTS

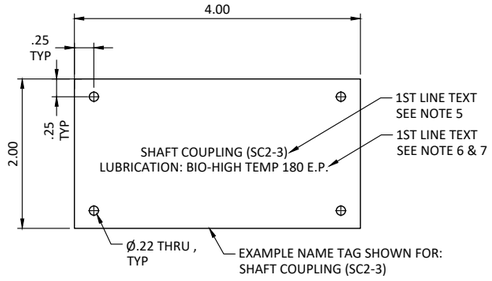


TABLE 1 -- NAMEPLATE INFO			
COMPONENT NAME	PART. NO.	LUBRICATION	TOP PLY COLOR
MOTOR	M	NA	BLACK
BRAKE	B1, B2	NA	BLACK
DRUM	D1, D2	NA	BLACK
REDUCER	R1, R2, R3	PANOLINE MARGEAR GEAR OIL	BLUE
SHAFT	S1	NA	BLACK
SHAFT BEARING	SB1-1, SB1-2, SB1-3, SB1-4, SB1-5, SB1-6, SB1-7, SB1-8, SB2-1, SB2-2	BOI-HIGH TEMP 180 EP	GREEN
SHAFT COUPLING	SC1, SC2-1, SC2-2, SC2-3, SC2-4, SC3-1, SC3-2	BOI-HIGH TEMP 180 EP	GREEN
LIMIT SWITCH	LS1, LS2, LS3	NA	BLACK
ENCODER	EN	NA	BLACK
MACHINERY SKID	MS1, MS2-1, MS2-2, MS3, MS4	NA	BLACK

NOTES:
1. PROVIDE POLYMER NAMEPLATES FOR EQUIPMENT AS INDICATED
2. MFABRICATE NAMEPLATES FROM IMPACT RESISTANT, UV STABILIZIED, 2-PLY, ACRYLIC LAMACOID RATED FOR OUTDOOR USE.
3. THE TOP LAMACOID PLY SHALL BE THE COLOR INDICATED. THE BOTTOM LAMACOID PLY COLOR SHALL BE WHITE.
4. ENGRAVE LETTERING THROUGH THE TOP LAMACOID PLY
5. 1ST LINE TEXT SHALL BE: COMPONENT NAME PER TABLE 1 (PART NO. PER TABLE 1).
6. 2ND LINE TEXT SHALL BE: "LUBRICATION:" (LUBRICATION PER TABLE 1).
7. IF COMPONENT IS NOT LUBRICATED (NA IN TABLE 1) THERE IS NO 2ND LINE TEXT.
8. PROVIDE NAMEPLATES WITH MOUNTING HOLES IN CORNERS FOR SOLID RIVETS OR SCREWS.

M605 MACHINERY NAMEPLATE
SCALE: NTS

PRELIMINARY
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0 1/2 1
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McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

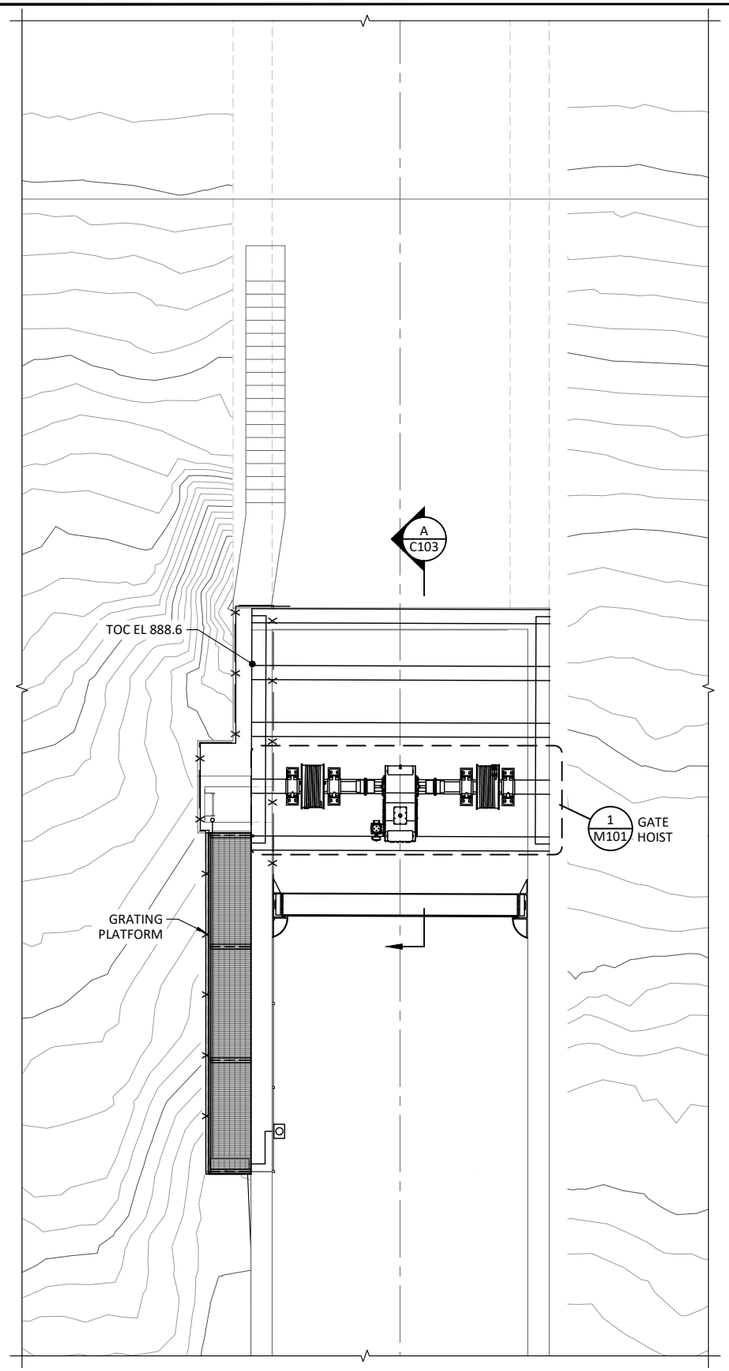
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM SPILLWAY MODIFICATIONS
MECHANICAL STANDARD DETAILS

DESIGNED A. DESANTIS
DRAWN J. HOLT
CHECKED S. ELLENSON
PROJECT DATE 04/26/24

DRAWING
GM002

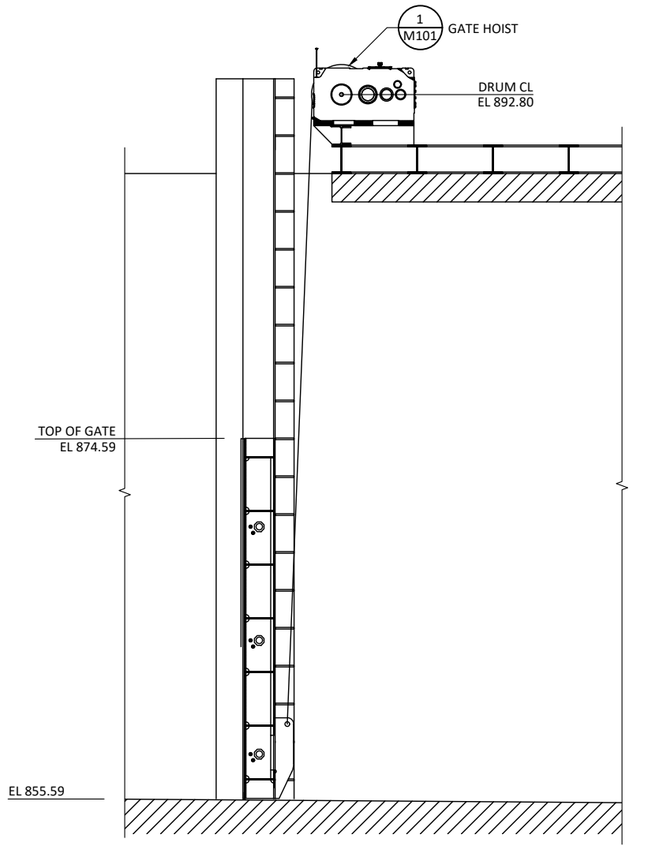
JOB NO: 000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\GM002.dwg Plot date: Apr 23, 2024 03:44pm, CAD User: Woodfon



EKLUNTA DAM SPILLWAY MECHANICAL PLAN - EL 888.6

SCALE: 3/16"= 1'-0"



A
-
SECTION

SCALE: 1/4"= 1'-0"

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MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM SPILLWAY MODIFICATIONS

EKLUTNA DAM SPILWAY MECHANICAL PLAN AND SECTIONS

DESIGNED A. DESANTIS

DRAWN J. HOLT

CHECKED S. ELLENSON

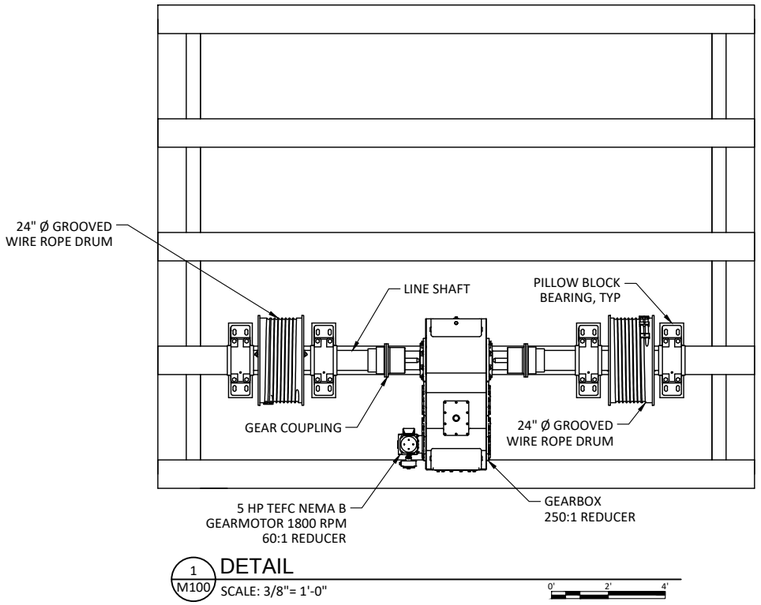
PROJECT DATE 04/26/24

DRAWING

M100

JOB NO: 000000

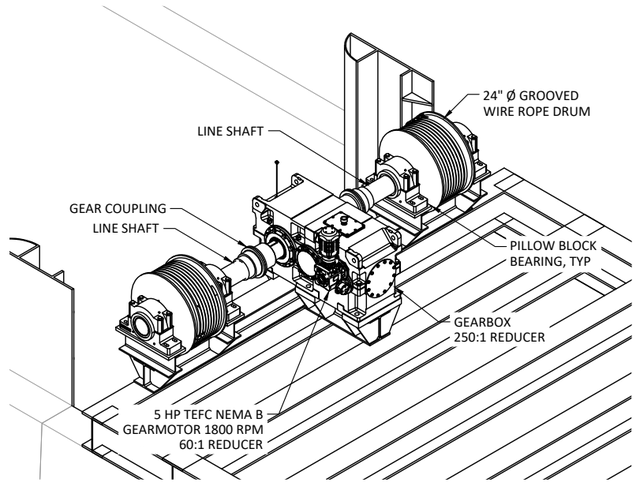
Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\M100.dwg Plot date: Apr 23, 2024 03:44pm, CAD User: WoodRon



1 M100 DETAIL

SCALE: 3/8"= 1'-0"

0' 2' 4'



FIXED WHEEL GATE HOIST ISOMETRIC VIEW

SCALE: NTS

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EKLUTNA DAM SPILLWAY MODIFICATIONS

EKLUTNA DAM SPILLWAY MECHANICAL DETAILS

DESIGNED A. DESANTIS

DRAWN J. HOLT

CHECKED S. ELLENSON

PROJECT DATE 04/26/24

DRAWING

M101

JOB NO: 000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\M101.dwg Plot date: Apr 23, 2024 03:44pm, CAD User: WoodRon

IEEE STANDARD CONTROL AND PROTECTION DEVICES FUNCTION NUMBERS

01	MASTER ELEMENT
02	TIME-DELAY STARTING OR CLOSING RELAY (TDPU)
03	CHECKING OR INTERLOCKING RELAY
04	MASTER CONTACTOR
05	STOPPING DEVICE
06	STARTING CIRCUIT BREAKER
07	RATE-OF-CHANGE RELAY
08	CONTROL POWER DISCONNECTING DEVICE
09	REVERSING DEVICE
10	UNIT SEQUENCE SWITCH
11	MULTIFUNCTION DEVICE
12	OVER-SPEED DEVICE
13	SYNCHRONOUS-SPEED DEVICE
14	UNDER-SPEED DEVICE
15	SPEED OR FREQUENCY MATCHING DEVICE
16	DATA COMMUNICATIONS DEVICE
17	SHUNTING OR DISCHARGE SWITCH
18	ACCELERATING OR DECELERATING DEVICE
19	STARTING-TO-RUNNING TRANSITION CONTACTOR
20	ELECTRONICALLY OPERATED VALVE
21	DISTANCE RELAY
22	EQUALIZER CIRCUIT BREAKER
23	TEMPERATURE CONTROL DEVICE
24	VOLTS PER HERTZ RELAY
25	SYNCHRONIZING OR SYNCHRONISM - CHECK DEVICE
26	APPARATUS THERMAL DEVICE
27	UNDERVOLTAGE RELAY
28	FLAME DETECTOR
29	ISOLATING CONTACTOR
30	ANNUNCIATOR RELAY
31	SEPARATE EXCITATION DEVICE
32	DIRECTIONAL POWER RELAY
33	POSITION SWITCH
34	MASTER SEQUENCE DEVICE
35	BRUSH-OPERATING OF SLIP-RING SHORT-CIRCUITING DEVICE
36	POLARITY OR POLARIZING VOLTAGE DEVICE
37	UNDERCURRENT OR UNDERPOWER RELAY
38	BEARING PROTECTIVE DEVICE
39	MECHANICAL CONDITION MONITOR
40	FIELD (OVER/UNDER EXCITATION) RELAY
41	FIELD CIRCUIT BREAKER
42	RUNNING CIRCUIT BREAKER
43	MANUAL TRANSFER OR SELECTOR DEVICE
44	UNIT SEQUENCE STARTING RELAY
45	ATMOSPHERIC CONDITION MONITOR
46	REVERSE-PHASE OR PHASE-BALANCE CURRENT RELAY
47	PHASE-SEQUENCE OR PHASE-BALANCE VOLTAGE RELAY
48	INCOMPLETE SEQUENCE RELAY
49	MACHINE OR TRANSFORMER THERMAL RELAY
50	INSTANTANEOUS OVERCURRENT OR RATE-OF-RISE RELAY
51	AC INVERSE TIME OVERCURRENT RELAY
52	AC CIRCUIT BREAKER
53	EXCITER OR DC GENERATOR RELAY
54	TURNING GEAR ENGAGING DEVICE
55	POWER FACTOR RELAY
56	FIELD APPLICATION RELAY
57	SHORT-CIRCUITING OR GROUNDING DEVICE
58	RECTIFICATION FAILURE RELAY
59	OVERVOLTAGE RELAY
60	VOLTAGE OR CURRENT BALANCE RELAY
61	DENSITY SWITCH OR SENSOR
62	TIME-DELAY STOPPING OR OPENING RELAY (TDDO)
63	PRESSURE SWITCH
64	GROUND DETECTOR RELAY
65	GOVERNOR
66	NOTCHING OR JOGGING DEVICE
67	AC DIRECTIONAL OVERCURRENT RELAY
68	BLOCKING RELAY
69	PERMISSIVE CONTROL DEVICE
70	RHEOSTAT
71	LEVEL SWITCH
72	DC CIRCUIT BREAKER
73	LOAD-RESISTOR CONTACTOR
74	ALARM RELAY
75	POSITION CHANGING MECHANISM
76	DC OVERCURRENT RELAY
77	PULSE TRANSMITTER
78	PHASE-ANGLE MEASURING OR OUT-OF-STEP PROTECTIVE RELAY
79	AC RECLOSING RELAY
80	FLOW SWITCH
81	FREQUENCY RELAY
82	DC RECLOSING RELAY
83	AUTOMATIC SELECTIVE CONTROL OR TRANSFER RELAY
84	OPERATING MECHANISM
85	CARRIER OR PILOT-WIRE RECEIVER RELAY
86	LOCKOUT RELAY
87	DIFFERENTIAL PROTECTIVE RELAY
88	AUXILIARY MOTOR OR MOTOR GENERATOR
89	LINE SWITCH
90	REGULATING DEVICE
91	VOLTAGE DIRECTIONAL RELAY
92	VOLTAGE AND POWER DIRECTIONAL RELAY
93	FIELD-CHANGING CONTACTOR
94	TRIPPING OR TRIP-FREE RELAY
95	RESERVED FOR FUTURE APPLICATION
96	RESERVED FOR FUTURE APPLICATION
97	RESERVED FOR FUTURE APPLICATION
98	CREEP DETECTOR DEVICE
99	RESERVED FOR FUTURE APPLICATION

METERING SYSTEMS AND DEVICES INDEX

A	AMMETER	PB	PUSHBUTTON
AH	AMPERE HOUR METER	PF	POWER FACTOR METER
AS	AMMETER SELECTOR SWITCH	PH	PHASE METER
C	COUNTER	PI	POSITION INDICATOR
CMA	CONTACT MAKING AMMETER	REC	RECORDER
CMC	CONTACT MAKING CLOCK	RF	REACTIVE FACTOR METER
CMV	CONTACT MAKING VOLTMETER	RPM	SPEED INDICATOR
CS	CONTROL STATION	SW	TRANSFER SWITCH
DM	DEMAND METER	SY	SYNCHROSCOPE
ETM	ELAPSE TIME METER	T	TEMPERATURE METER
F	FREQUENCY METER	TLM	TELEMETER
G	GALVANOMETER	TOC	TRUCK-OPERATED CONTACT
GD	GROUND FAULT DETECTOR	TS	TIME SWITCH
KV	KILO-VOLTMETER	V	VOLTMETER
KW	KILO-WATTMETER	VAR	VARMETER
KWH	KILO-WATT HOUR METER	VH	VAR HOUR METER
mA	MILLI-AMMETER (TRANSDUCER)	VS	VOLTMETER SELECTOR SWITCH
MOC	MECHANISM-OPERATED CONTACT	W	WATTMETER
OHM	OHMMETER	WH	WATT HOUR METER
OSC	OSCILLOGRAPH	WHDM	WATT HOUR DEMAND METER

NOTE: "R" IN FRONT OF LETTERS INDICATES A RECORDING TYPE METER.

PILOT - INDICATOR LIGHT INDEX

A	AMBER
B	BLUE
C	CLEAR
G	GREEN
NE	NEON
O	ORANGE
OP	OPALESCENT
P	PURPLE
R	RED
W	WHITE
Y	YELLOW

FIRST LETTER SUFFIX OF IEEE DEVICE DESIGNATION

A	GOVERNOR SYSTEM (OR ACTUATOR SYSTEMS - GATES)
B	BATTERY CHARGING AND MONITORING SYSTEM OR BUS
C	HIGH-VOLTAGE CABLE SYSTEM OR CLOSING RELAY/CONTACTOR
D	DATA ACQUISITION SYSTEM
E	EXCITATION SYSTEM INCLUDING TRANSFORMER AND REGULATOR BUT NOT MAIN FIELD
F	FIRE AND CO2 SYSTEM
G	MAIN GENERATOR INCLUDING AUXILIARY SYSTEMS OR GROUND
G/M	GENERATOR MOTOR INCLUDING AUXILIARY SYSTEMS IN PUMPED STORAGE APPLICATIONS
H	TURBINE OR MAIN PUMP INCLUDING AUXILIARY SYSTEMS
I	ISOLATED AND OTHER POWER BUS SYSTEMS (NOT HIGH VOLTAGE CABLE)
J	POWER CIRCUIT BREAKER INCLUDING AUXILIARY SYSTEMS
K	POWER TRANSFORMER INCLUDING AUXILIARY SYSTEMS
L	ANNUNCIATOR SYSTEM, SECURITY SYSTEM, LINE, OR LOWERING RELAY/CONTACTOR
M	MAIN PUMP MOTOR INCLUDING AUXILIARY SYSTEMS AND VARIABLE SPEED DRIVE
N	AIR (PNEUMATIC) SYSTEM OR NEUTRAL
O	OPENING RELAY/CONTACTOR
P	PENSTOCK OR DISCHARGE LINE SYSTEM
Q	OIL STORAGE, HANDLING, PURIFICATION SYSTEM
R	FIELD FLASHING SYSTEM, PHASE REVERSAL SWITCH INCLUDING AUXILIARY SYSTEM, OR RAISING RELAY/CONTACTOR
S	STATION SERVICE SUBSTATION SYSTEM INCLUDING ENGINE/GENERATOR SYSTEM
T	TONE AND TRANSFER TRIP SYSTEM OR TRANSFORMER
U	UNIT CONTROL CIRCUIT SYSTEM OR UNINTERRUPTIBLE POWER SUPPLY SYSTEM
V	INTAKE AND/OR DISCHARGE VALVE SYSTEM
W	WATER SYSTEMS INCLUDING INTAKE/OUTLET WORKS AND PLANT WATER AND SUMP SYSTEMS
X	DEFINED FOR SYSTEMS UNIQUE TO A FACILITY
Y	DEFINED FOR SYSTEMS UNIQUE TO A FACILITY
Z	DEFINED FOR SYSTEMS UNIQUE TO A FACILITY

SECOND AND SUBSEQUENT LETTER SUFFIXES OF THE IEEE DEVICE DESIGNATION

A	ABNORMAL, A.C., ACCELERATION, ADMISSION, ALARM, AMPERES, AUTOMATIC, AUXILIARIES, PHASE A, ECT.
B	BACKUP, BEARING, BLOCK, BLOWER, BOOSTER, BRAKES, BUS, BUTTON, BYPASS, PHASE B, ETC.
C	CABLE, CARRIER, CHARGER, CHECK, CHLORINATION, CLOSE, COLLECTOR, COMMON, COMPENSATOR, COMPRESSOR, CONTROL, COOLING, CURRENT, CYCLE, CYLINDER, PHASE C, CONVEYOR, ECT.
D	D.C, DECELERATION, DELAY, DEPRESS, DETECTOR, DIELECTRIC, DIFFERENTIAL, DISCHARGE, DISCONNECT, DISCORDANCE, DOMESTIC, DOWN, DOWNSTREAM, DRAFT TUBE, DRAIN, ETC.
E	EJECTOR, ELEVATOR, EMERGENCY, EXPLOSIVE, ETC.
F	FAILURE, FAN, FAULT, FEEDER, FIELD, FILTER, FIRE, FLAME, FLOW, FOLLOWER, FORWARD, FREQUENCY, FULL, FUMES, FUSE, ETC.
G	GAS, GATE, GATING (SCR), GENERATE, GROUND, GUIDE BEARING, ETC.
H	HALON, HAND, HEAT, HEATER, HIGH, HOIST, HORN, HOT, HOUSING, HYDROPNEUMATIC TANK, ETC.
I	INDICATION, INITIAL, INLET, INOUT, INSTANTANEOUS, INTAKE, INTERFACE, INTERLOCK, INTERRUPT, INVERTER, IONIZATION, ETC.
J	JACKING, JET, ETC.
K	KEY, TRANSFORMER
L	LAMPS, LEFT, LEVEL, LIGHTS, LIMITS, LINE, LIQUID, LOCAL, LOGIC, LOSS, LOUVERS, LOW, LOWER, LUBRICATION, ETC.
M	MAIN, MALFUNCTION, MANUAL, METER, METERING, MOTOR, ETC.
N	NEGATIVE, NETWORK, NEUTRAL, NORMAL, ETC.
O	OPEN, OUTLET, OUTPUT, ETC.
P	PACKING BOX, PARALLEL, PARAMETER, PENSTOCK, PHASE, PHASEBACK, PILOT, PIT, POSITION, POTENTIAL, POTHEAD, POWER, PRESSURE, PRIMARY, PROTECTION, PULSE, PUMP, PURIFICATION, PUSH, ETC.
Q	OIL, ETC.
R	RAISE, REACTOR, RECLOSE, RECORD, RECTIFIER, REED, REFRIGERATION, REGULATE, RELAY, RELEASE, RELIEF, REMOTE, RESERVOIR, RESET, RESISTOR, RIGHT, ROTATION, ROTOR, RUNNER, ETC.
S	SEALS, SECONDARY, SELECTOR, SEWAGE, SHORTING, SHUTDOWN, SIGNAL, SKIMMER, SLUDGE, SMOKE, SOLENOID, SPEED, SPIRAL OR SCROLL CASE, SPLICE, STABILIZER, STANDBY, STARTING, STATOR, STEPPING, STORAGE, STRAINER, SUCTION, SUMP, SUPPLY, SWITCH, SYNCHRONIZING, ETC.
T	TANK, TEMPERATURE, TEST, THERMAL, THRUST BEARING, THYRATRON, TIE, TIME, TRANSDUCER, TRANSER, TRANSMITTER, TRIP, TROUBLE, TRASHRAKE, ETC.
U	UNIT, UNLOADER, UNWATERING, UP, UPPER, UPSTREAM, ETC.
V	VALVE, VARS, VIBRATION. VOLTAGE, ETC.
W	WATER, WATTS, WINDINGS, ETC.
X	AUXILIARY DEVICE, ETC.
Y	AUXILIARY TO DEVICE X, ANTIPUMP RELAY, ETC.
Z	AUXILIARY TO DEVICE Y

ABBREVIATIONS

A, AMP	AMP, AMPERE
AAAC	ALL ALUMINUM ALLOY CONDUCTOR
AC	ALTERNATING CURRENT
AF	AMPERE FRAME SIZE
AFD	ADJUSTABLE FREQUENCY DRIVE
AFF	ABOVE FINISHED FLOOR
AH	AMPERE HOURS
AHJ	AUTHORITY HAVING JURISDICTION
AHU	AIR HANDLING UNIT
AL	ALUMINUM
A/R	AS REQUIRED
AT	AMPERE TRIP
ATS	AUTOMATIC TRANSFER SWITCH
AVR	AUTOMATIC VOLTAGE REGULATOR
BAT	BATTERY
C	CONDUIT
CB	CIRCUIT BREAKER
CKT	CIRCUIT
CLF	CURRENT LIMITING FUSE
CO	CONDUIT ONLY
CP	CONTROL PANEL
CPT	CONTROL POWER TRANSFORMER
CR	CONTROL RELAY
CS	CONTROL SWITCH
CT	CURRENT TRANSFORMER
DC	DIRECT CURRENT
DCS	DISTRIBUTED CONTROL SYSTEM
DISC	DISCONNECT
DP	DISTRIBUTION PANEL
DPDT	DOUBLE-POLE, DOUBLE-THROW
DPST	DOUBLE-POLE, SINGLE-THROW
EDH	ELECTRIC DUCT HEATER
EG	ENGINE GENERATOR
EPT	EXCITATION POWER TRANSFORMER
EUH	ELECTRIC UNIT HEATER
EV	ELECTRICAL VAULT
F, FU	FUSE
FA	FIRE ALARM
FACP	FIRE ALARM CONTROL PANEL
FAS	FIRE ALARM SYSTEM
FREQ	FREQUENCY
FS	FLOAT SWITCH
FT	FLOW TRANSMITTER
FVNR	FULL VOLTAGE NON-REVERSING
FVR	FULL VOLTAGE REVERSING
GEN	GENERATOR
GFI	GROUND-FAULT INTERRUPTION
GFP	GROUND-FAULT PROTECTION
GND	GROUND
GPR	GENERATOR PROTECTION RELAY
GSU	GENERATOR STEP-UP TRANSFORMER
HMI	HUMAN-MACHINE INTERFACE
HOA	HAND-OFF-AUTO
HOR	HAND-OFF-REMOTE
HPU	HYDRAULIC POWER UNIT
HTR	HEATER
HZ	HERTZ (CYCLES PER SECOND)
IC	INTERRUPTING CAPACITY
I & C	INSTRUMENTATION AND CONTROL
I/O	INPUT/OUTPUT
INST	INSTANTANEOUS
INTLK	INTERLOCK
IP	INTERNET PROTOCOL
K	KEY INTERLOCK
kV	KILOVOLTS
kVA	KILOVOLT AMPERES (APPARENT POWER)
kVAR	KILOVARS (REACTIVE POWER)
kW	KILOWATTS (REAL POWER)
kWH	KILOWATT HOUR
LC	LIGHTING CONTROLLER
LCP	LOCAL CONTROL PANEL
LE	LEVEL ELEMENT
LIT	LEVEL INDICATING TRANSMITTER
LOR	LOCAL-OFF-REMOTE
LP	LIGHTING PANEL
LS	LEVEL SWITCH
LT	LEVEL TRANSMITTER
mA	MILLIAMPERES
M	MOTOR, MAN, MANUAL
MAG	MAGNETIC
MCC	MOTOR CONTROL CENTER
MDP	MAIN DISTRIBUTION PANEL
MFM	MULTIFUNCTIONAL METER
MPR	MOTOR PROTECTION RELAY
MTS	MANUAL TRANSFER SWITCH
mV	MILLIVOLTS
MVA	MEGAVOLT AMPERES (APPARENT POWER)
MVAR	MEGAVARS (REACTIVE POWER)
MW	MEGAWATTS (REAL POWER)
MWH	MEGAWATT HOUR
NEUT	NEUTRAL
NGR	NEUTRAL GROUNDING RESISTOR
OHM	OHMMETER
OL	OVERLOAD
OPER	OPERATOR, OPERATED
PB	PANELBOARD, PULLBOX, PUSH BUTTON
PC	PHOTOCELL
PCB	POWER CIRCUIT BREAKER
PCC	POINT OF COMMON CONNECTION
PF	POWER FACTOR
PH, Ø	PHASE
PMP	PUMP
PNL	PANEL
PLC	PROGRAMMABLE LOGIC CONTROLLER
POI	POINT OF INTER-CONNECTION
PS	PRESSURE SWITCH
PTT	PUSH-TO-TEST
PWR	POWER
R	RELAY, REVERSE, RUN
RCP	RECEPTACLE
RIO	REMOTE I/O
RTD	RESISTANCE TEMPERATURE DETECTOR
RVNR	REDUCED VOLTAGE NON-REVERSING
RVR	REDUCED VOLTAGE REVERSING
S	SYNC SCOPE
SA	SURGE ARRESTER
SC	SURGE CAPACITOR
SDP	STANDBY DISTRIBUTION PANEL
SEL	SELECTOR, SCHWEITZER ENGINEERING LABORATORIES
SPD	SURGE PROTECTION DEVICE
SPDT	SINGLE-POLE, DOUBLE-THROW
SPST	SINGLE-POLE, SINGLE-THROW
S/S	STATION SERVICE
SV	SOLENOID VALVE
SW	SWITCH
SWBD	SWITCHBOARD
SWGR	SWITCHGEAR
T	THERMOSTAT
TB	TERMINAL BLOCK, TERMINAL BOX
TD	TEMPERATURE DETECTOR, TIME DELAY
TEL	TELEPHONE
TS	THERMOSTAT
TSP	TWISTED SHIELDED PAIR
TST	TWISTED SHIELDED TRIAD
TX	TRANSMITTER
UH	UNIT HEATER
UP	UTILITY POWER
UPS	UNINTERRUPTIBLE POWER SUPPLY
V	VOLTS
VAC	VOLTS ALTERNATING CURRENT
VC	VIDEO CAMERA
VCB	VACUUM CIRCUIT BREAKER
VDC	VOLTS DIRECT CURRENT
VFD	VARIABLE FREQUENCY DRIVE
W	WIRE, WATTS
WP	WEATHER PROOF
XD	TRANSDUCER
XFMR	TRANSFORMER
XLP	CROSS LINKED POLYETHYLENE
XP	EXPLOSION PROOF

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
A	04/26/24	SPE	15% DESIGN

WARNING
0 1/2 1
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CHUGACH
POWERING ALASKA'S FUTURE

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA DAM SPILLWAY MODIFICATIONS

ELECTRICAL ABBREVIATIONS AND DEVICE INDEXES

DESIGNED C. CURTIS
DRAWN F. HABER
CHECKED J. BAKKEN
PROJECT DATE 04/26/24

DRAWING
GE001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\GE001.dwg Plot date: Apr 23, 2024 03:44pm, CAD User: WoodRon

DIAGRAMS

HIGH - MEDIUM VOLTAGE SWITCHING

- POWER CIRCUIT BRK, DRAWOUT
- POWER CIRCUIT BRK, NON-DRAWOUT
- HV ISOLATING SW MOTOR OPERATED
- HV INTERRUPTER SW FUSED
- CENTER-BREAK SW MOTOR OPERATED
- DUAL-BREAK SW MOTOR OPERATED
- LOAD-BREAK SW MOTOR OPERATED
- HORN GAP SW

TRANSFORMERS:

- POWER XFMR
- MAG CORE XFMR
- LOAD TAP CHANGING XFMR
- SPLIT SECONDARY XFMR
- AUTO-XFMR

INSTRUMENT TRANSFORMERS:

- POTENTIAL XFMR
- POTENTIAL XFMR DUAL SECONDARY
- (3) 800:5 — CURRENT XFMR, QTY & RATIO AS INDICATED
- (1) 50:5 — CORE BALANCE CURRENT XFMR RATIO AS INDICATED
- (3) 800:5 — BUSHING CURRENT XFMR, QTY & RATIO AS INDICATED
- kWH — KILOWATT-HOUR METER

MACHINES:

- M / XXHP — MOTOR-DC
- M / XXHP — MOTOR-AC
- G / XXKW XXPF — AC GENERATOR

TRANSFORMERS WINDING CONNECTIONS:

- DELTA 3PH3W
- DELTA CENTER TAP GND 3PH4W
- DELTA CORNER GRD 3PH3W
- BROKEN DELTA 3PH2W
- OPEN DELTA 2PH2W
- WYE 3PH3W
- WYE GRD 3PH4W
- ZIG-ZAG 3PH3W
- ZIG-ZAG GRD 3PH4W

HIGH - MEDIUM VOLTAGE DEVICES

- L/A OR — LIGHTNING ARRESTER
- WT — WAVE TRAP
- M / 57 — GROUND SW MOTOR OPER
- MV CABLE TERMINATION
- CABLE POTHEAD OIL-FILLED

MISC DEVICES & CONNECTIONS:

- IN/OUT LINE
- 01 02 — PROTECTIVE DEVICE ELEMENT, SEE DEVICE FUNCTION INDEX
- TEST SWITCH
- TEST SWITCH, CURRENT SHORTING
- BATTERY
- GROUND
- DISCONNECTING DEVICE
- NEUTRAL CONNECTION
- ISOL PH BUS FLEX CONN
- ISOL PH BUS REMOVEABLE LINK

MISC DEVICES & CONNECTIONS:

- DEVICE TERMINAL POINT
- TERMINAL BLOCK
- EXTERNAL EQUIPMENT INTERCONNECTION
- XX XX — RELAY, SOLENOID, OR CONTACTOR COIL
- TD XX — TRANSDUCER
- I XX — INDICATING METER
- TLM XX — TELEMETRY
- X — PUSH-TO-TEST LIGHT
- X — PILOT/INDIC LIGHT
- XA — FUSE, SIZE AS INDICATED
- FUSE DUMMY
- XA — DISC SW FUSED
- FUSIBLE LINK
- CAPACITOR
- 3% — REACTOR
- RES — RESISTOR
- RES — RESISTOR VARIABLE
- OR — HEATER ELEMENT
- RECTIFIER SOLID STATE
- AC / DC+ / DC- / AC — RECTIFIER FULLWAVE
- DC BRAKE
- GROUND
- CHASSIS GROUND
- CURRENT SHUNT

LOW VOLTAGE SWITCHING:

- DISCONNECTING SWITCH, MANUALLY GANG-OPERATED
- MOLDED CASE OR AIR CIRCUIT BREAKER
- CONTACTOR WITH THERMAL OL TRIP
- CONTACTOR WITH MAGNETIC OL TRIP
- CONTACTOR WITH THERMAL AND MAGNETIC OL TRIP
- E — CIR BKR DRAWOUT ELEC OPER
- E — CIR BKR THERMO O/L DRAWOUT ELEC OPER
- E — CIR BKR MAG O/L DRAWOUT ELEC OPER
- E — CIR BKR THERMO/MAG O/L DRAWOUT ELEC OPER

SELECTOR:

J K / A1 / A2

	J	K
A1	X	
A2		X

TWO-POSITION X-CONTACT CLOSED

K / J L / A1 / A2

	J	K	L
A1	X		
A2			X

THREE-POSITION X-CONTACT CLOSED

A B / 1 2 3 4

CONTACTS	SELECTOR POSITION A BUTTON FREE	A BUTTON CONTACTS	B BUTTON FREE	B BUTTON CONTACTS
1-2	X			
3-4		X	X	X

TWO-POSITION SELECTOR PUSHBUTTON X-CONTACT CLOSED

CONTROL SWITCHING:

- XX — PB SWITCH NORM OPEN
- XX — PB SWITCH NORM CLOSED
- XX OFF MAN AUTO — SELECTOR SWITCH
- XX — LIMIT SW NORM OPEN
- XX — LIMIT SW NORM CLOSED
- XX — LIMIT SW NORM OPEN HELD CLOSED
- XX — LIMIT SW NORM CLOSED HELD OPEN
- SOLENOID
- XX — CONTACT NORM OPEN
- XX — CONTACT NORM CLOSED
- XX — FLOW OPER NORM OPEN
- XX — FLOW OPER NORM CLOSED
- XX — LEVEL OPER NORM OPEN
- XX — LEVEL OPER NORM CLOSED
- XX — SWITCH NORM OPEN
- XX — SWITCH NORM CLOSED
- XX — TEMP ACT SW NORM OPEN
- XX — TEMP ACT SW NORM CLOSED
- XX — FOOT OPER NORM OPEN
- XX — FOOT OPER NORM CLOSED
- XX — PRESS OPER NORM OPEN
- XX — PRESS OPER NORM CLOSED

PRELIMINARY
NOT FOR CONSTRUCTION

MOMENTARY CONTACTS:

- NO / NC — SINGLE CIRCUIT
- NO & NC — DOUBLE CIRCUIT

MAINTAINED CONTACTS:

- TWO SINGLE CIRCUIT
- ONE DOUBLE CIRCUIT
- ESS — E-STOP, 2NC

INSTANT OPERATION CONTACTS WITH BLOWOUT
- XA — NO
- XA — NC

INSTANT OPERATION CONTACTS WITHOUT BLOWOUT
- XA — NO
- XA — NC

TIMED CONTACTS - CONTACT ACTION DELAYED AFTER COIL IS ENERGIZED
- NOTC — XX SEC
- NCTC — XX SEC

TIMED CONTACTS - CONTACT ACTION DELAYED AFTER COIL IS DE-ENERGIZED
- NOTC — XX SEC
- NCTC — XX SEC

SUPPLEMENTARY CONTACTS SYMBOLS:

- SPST, NO SINGLE-BREAK
- SPST, NO DOUBLE-BREAK
- SPST, NC SINGLE-BREAK
- SPST, NC DOUBLE-BREAK
- SPDT, SINGLE-BREAK
- SPDT, DOUBLE-BREAK
- DPST, NO, SINGLE-BREAK
- DPST, NO, DOUBLE-BREAK
- DPST, NC, SINGLE-BREAK
- DPST, NC, DOUBLE-BREAK
- DPDT, SINGLE-BREAK
- DPDT, DOUBLE-BREAK

NOTE:

1. "X" OR "XX" SHOWN ON SYMBOLS WILL BE SUBSTITUTED WITH DEVICE FUNCTION NUMBERS, LETTER SUFFIXES, PILOT LIGHT COLORS, OR OTHER DESCRIPTIVE TEXT, WHICH ARE DEFINED ELSEWHERE IN THESE LEGEND DRAWINGS.

REV	DATE	BY	DESCRIPTION
A	04/26/24	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH POWERING ALASKA'S FUTURE | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM SPILLWAY MODIFICATIONS

ELECTRICAL STANDARD SYMBOLS 1

DESIGNED C. CURTIS
DRAWN F. HABER
CHECKED J. BAKKEN
PROJECT DATE 04/26/24

DRAWING
GE002

JOB NO: 000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\GE002.dwg Plot date: Apr 23, 2024 03:44pm, CAD User: WoodRon

PRIVATE TELEPHONE SYSTEM

- SB — SWITCHBOARD
- TC — TERMINAL CABINET
- D — DESK PHONE
- W — WALL PHONE

PRIVATE ETHERNET NETWORK SYSTEM

- DATA JACK
- VOICE/DATA JACK

PAGE/SOUND SYSTEM

- A — AMPLIFIER
- S — SPEAKER, WALL MTD
- S — SPEAKER, CEIL MTD
- H — HORN, WALL MTD
- H — HORN, CEIL MTD
- MIC — MICROPHONE
- P — HANDSET

INTRUSION ALARM/ACCESS SYSTEM

S_A — SECURITY ALARM
- A POINT OF CONTACT
- C SECURITY PROXIMITY CARD READER (+48" AFF)
- E SECURITY ELEVATOR LOCKOUT CONTROL
- K SECURITY KEYPAD
- P SECURITY PANIC BUTTON (MOUNT UNDER CABINET)

SC_D — SECURITY DOOR CONTACT
- D INTEGRAL TO DOOR HARDWARE OR HINGE. SEE ARCHITECTURAL DOOR HARDWARE SCHEDULE
- S SURFACE MOUNTED CONTACT/MAGNET COMBO WITH TAMPER RESISTANT METAL-CLAD PIGTAIL.
- M FULLY RECESSED CONTACT/MAGNET COMBO INSTALLED IN DOOR FRAME HEADER/TOP OF DOOR.

SL_D — SECURITY DOOR LOCK CONNECTION (LOCK BY OTHERS)
- D INTEGRAL TO DOOR HARDWARE OR HINGE. SEE ARCHITECTURAL DOOR HARDWARE SCHEDULE
- S ELECTRICAL STRIKE IN DOOR FRAME LATCH.
- M MAGNETIC LOCK ON DOOR FRAME HEADER.

S_M — SECURITY MOTION SENSOR - ARROW INDICATES DIRECTION OF SENSING; 360° INDICATES SENSING IN ALL DIRECTIONS

SM — SECURITY MONITOR AND MULTIPLEXOR/DVM

REX_D — REQUEST TO EXIT SIGNAL DEVICE
- D INTEGRAL TO DOOR HARDWARE OR HINGE. SEE ARCHITECTURAL DOOR HARDWARE SCHEDULE
- P PASSIVE INFRARED DETECTOR MOUNTED ABOVE DOOR FRAME. PROVIDE J-BOX TYPE 'B' HORIZONTALLY MOUNTED 6" ABOVE DOOR.

P — POWERED DOOR OPERATOR ACTUATOR

CCTV SYSTEM

- CCTV — CAMERA FIXED POSITION
- CCTV — CAMERA, PAN-TILT-ZOOM
- CCTV — CCTV MONITOR
- CCTV — CCTV MONITOR

LOW VOLTAGE ELECTRICAL MATERIALS

- CB — CIRCUIT BREAKER SWITCH
- UF — UNFUSED DISCONNECT SWITCH
- F — FUSED DISCONNECT SWITCH
- MOTOR STARTER MANUAL
- MOTOR STARTER MAGNETIC
- CB — MOTOR STARTER MAG. COMBINATION C.B. SW.
- F — MOTOR STARTER MAG. COMBINATION FUSED D.S.
- VFD — VARIABLE FREQUENCY DRIVE
- PUSHBUTTON SW. EMERG. STOP
- PUSHBUTTON SW. STOP/START
- PUSHBUTTON STATION
- SELECTOR SWITCH
- CS — CONTROL STATION
- FS — FLOAT SWITCH
- LI — LEVEL SWITCH
- BI — BIN LEVEL SWITCH
- LS — LIMIT SWITCH
- PS — PRESSURE SWITCH
- PE — ELECTRICAL/PNEUMATIC SWITCH
- PT — PRESSURE TRANSMITTER
- SV — SOLENOID VALVE
- T — THERMOSTAT
- TS — TEMPERATURE SWITCH

- 2 — MOTOR
- POINT OF CONNECTION
- J — JUNCTION BOX OR CONDUIT FITTING

$ — WALL SWITCH
- (1a) NUMBER & LETTER IN PARENTHESES INDICATES PANELBOARD CIRCUIT & SWITCHING ZONE
- 3 THREE WAY
- 4 FOUR WAY
- D DIMMER
- OS OCC SENSOR
- T TIMER
- XP EXPLOSIVE PROOF
- WP WATERPROOF

$_M — MOTOR SWITCH
- M MOTOR RATED TOGGLE SWITCH WITHOUT OVERLOADS
- MS MANUAL MOTOR STARTER WITH OVERLOADS

- DS — DAYLIGHT SENSOR
- OS — WALL MOUNTED OCCUPANCY SENSOR
- OS — CEILING MOUNTED OCCUPANCY SENSOR
- PC — PHOTOCELL, SUBSCRIPT INDICATES CIRCUIT

CONVENIENCE RECEPTACLE - DUPLEX
- C CLOCK
- CR CORROSION RESISTANT
- GFI GROUND FAULT INTERRUPTER
- TL TWIST LOCK, NEMA CONFIGURATION AS INDICATED
- U UPS FED
- WP WEATHERPROOF

SUBSCRIPT NUMBER AT RECEPTACLE INDICATES CIRCUIT

- QUADRUPLEX RECEPTACLE
- SINGLE RECEPTACLE
- FLOOR RECEPTACLE
- SPECIAL PURPOSE RECEPTACLE, NEMA CONFIGURATION AS INDICATED

SITE ELECTRICAL

- POLE CONCRETE
- POLE WOOD
- POLE MOUNTED TRANSFORMER
- DOWN GUY
- SIDEWALK GUY
- M — MANHOLE
- H — HANDHOLE
- V — VAULT
- S — PAD MOUNTED SWITCH
- T — TRANSFORMER VAULT
- PAD MOUNTED TRANSFORMER

GROUNDING

- GROUND ROD
- GROUND ROD WITH ACCESS BOX
- GROUND CONNECTION EXOTHERMIC
- GROUND CONNECTION MECHANICAL BOLTED
- GROUND CONNECTION COMPRESSION
- GROUND COIL (PIGTAIL) 5'0" (1.5M)
- GROUND GRADIENT MAT (SAFETY MAT) 4'X 4'
- GROUND GRADIENT MAT (SAFETY MAT) 4'X 6'

ELECTRICAL LIGHTING FIXTURES

- SURFACE/PENDANT LINEAR FIXTURE
- SURFACE/PENDANT LINEAR FIXTURE WITH BATTERY BACKUP
- RECESSED LINEAR FIXTURE
- RECESSED LINEAR FIXTURE WITH BATTERY BACKUP
- DOWNLIGHT FIXTURE SURFACE/PENDANT CEILING MOUNT
- DOWNLIGHT OR SCONCE FIXTURE SURFACE WALL MOUNT
- R — DOWNLIGHT FIXTURE RECESSED CEILING MOUNT
- R — DOWNLIGHT OR SCONCE FIXTURE RECESSED WALL MOUNT
- H — HAZARDOUS AREA LIGHT FIXTURE CEILING MOUNT
- EXIT SIGN, ARROW INDICATES DIRECTION SURFACE/PENDANT CEILING MOUNT, FILLED QUARTER INDICATES NON-INDICATING FACE
- EXIT SIGN, ARROW INDICATES DIRECTION SURFACE WALL MOUNT, FILLED QUARTER INDICATES NON-INDICATING FACE
- R — EXIT SIGN, ARROW INDICATES DIRECTION RECESSED WALL MOUNT, FILLED QUARTER INDICATES NON-INDICATING FACE

- EMERGENCY DOWNLIGHT FIXTURE SURFACE/PENDANT CEILING MOUNT
- EMERGENCY DOWNLIGHT OR SCONCE FIXTURE SURFACE WALL MOUNT
- R — EMERGENCY DOWNLIGHT FIXTURE RECESSED CEILING MOUNT
- R — EMERGENCY DOWNLIGHT OR SCONCE FIXTURE RECESSED WALL MOUNT
- EMERGENCY LIGHTING UNIT, 1 HEAD
- EMERGENCY LIGHTING UNIT, 2 HEAD
- EMERGENCY LIGHTING UNIT, 3 HEAD
- SURFACE MTD. DISTR. PANELBOARD
- FLUSH MTD. DISTR. PANELBOARD
- LF-1 — LF-1 — POLE-MOUNTED AREA LIGHT, NUMBER OF FIXTURES AND CONFIGURATION AS SHOWN AND PER SCHEDULE
- A (2a) — LETTER NEXT TO LUMINAIRE INDICATES TYPE PER SCHEDULE. NUMBER AND LOWER CASE LETTER IN PARENTHESES INDICATES CIRCUIT AND SWITCHING ZONE IN PANELBOARD.

PLAN LINETYPES AND CONVENTIONS

- EXPOSED CONDUCTOR/CONDUIT
- CONCEALED/EMBEDDED CONDUCTOR/CONDUIT
- CONDUCTOR/CONDUIT DOWN
- CONDUCTOR/CONDUIT UP
- G — GROUNDING ELECTRODE CONDUCTOR, BARE COPPER
- G — GROUND CONNECTION, EXOTHERMIC OR WELDED
- G — GROUND CONNECTION, BOLTED
- EOH — OH POWER
- EUG — UG POWER
- [3/4"C, 3#12, 1#12G] — CIRCUIT CALLOUT, CONDUIT AND CONDUCTOR SIZES AS INDICATED; "n-" IN FRONT OF CALLOUT INDICATES "n" PARALLEL SETS
- RXX — RACEWAY CALLOUT, INDEX NUMBER AS INDICATED IN RACEWAY SCHEDULE

DIAGRAM LINETYPES AND CONVENTIONS

- ENCLOSURE
- CONDUCTOR, CABLE, CIRCUIT, OR BUS
- INTERCONNECTION WITH EXTERNAL EQUIPMENT
- GANG OPERATED INTERLOCK
- OR — CONDUCTOR, CROSSING OF PATHS OR CONDUCTORS NOT CONNECTED
- CONDUCTOR, JUNCTION OF CONNECTED PATHS, CONDUCTORS OR WIRES

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
A	04/26/24	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen LLC
1417 Shrewsbury Dr. Ste 100, Anchorage, AK 99508 (907) 342-4114 mcmillen.com

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM SPILLWAY MODIFICATIONS

ELECTRICAL STANDARD SYMBOLS 2

DESIGNED C. CURTIS
DRAWN F. HABER
CHECKED J. BAKKEN
PROJECT DATE 04/26/24

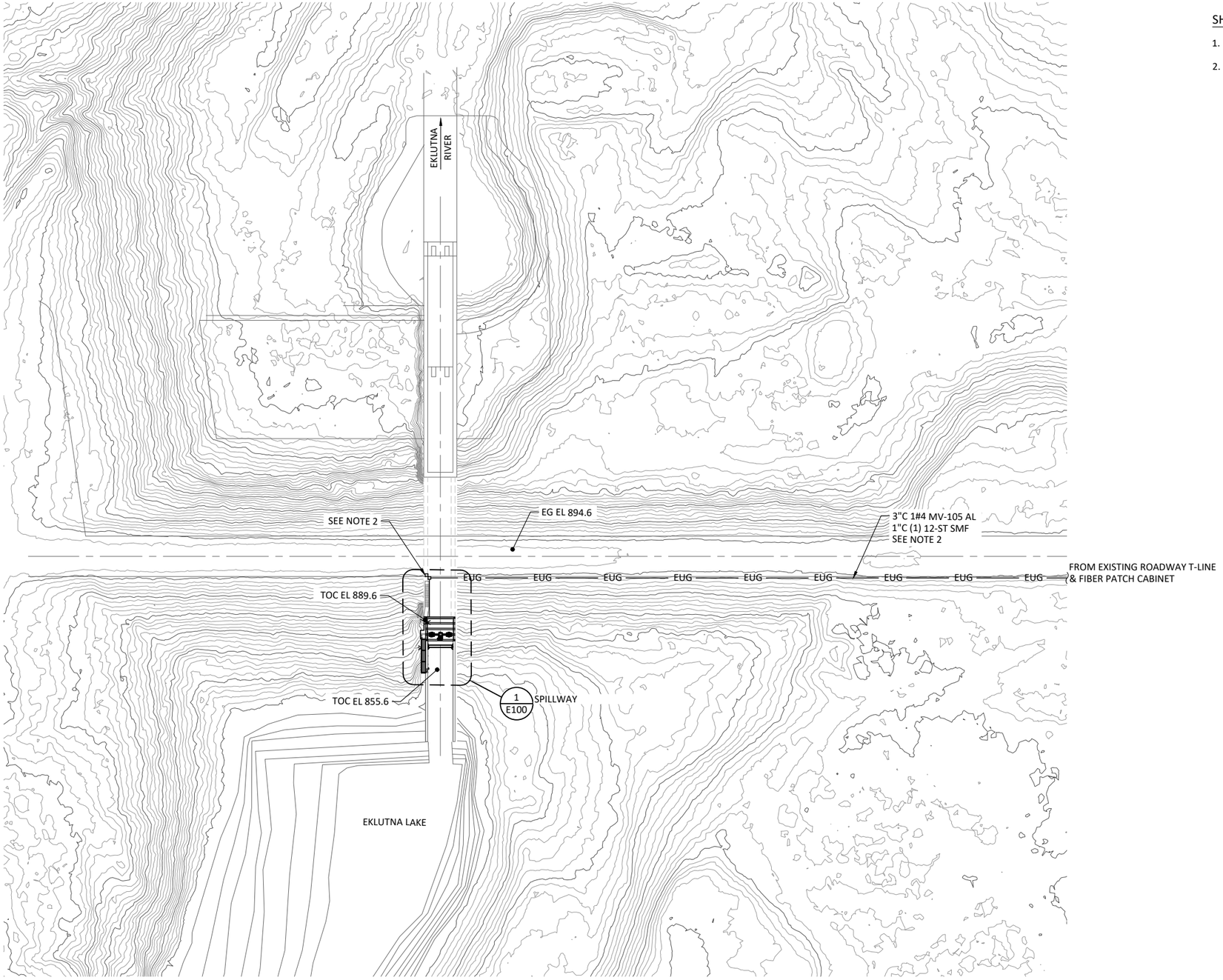
DRAWING
GE003

JOB NO: 000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\GE003.dwg Plot date: Apr 23, 2024 03:44pm, CAD User: Woodfon

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
2. BURIED POWER LINE, FIBER OPTIC COMMUNICATION LINES, AND CONCRETE HANHOLES INSTALLED PREVIOUSLY DURING DAM OUTLET GATE MODIFICATION WORK.



INSTALLATION KEY PLAN

SCALE: 1"= 40'

0' 40' 80'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
A	04/26/24	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM SPILLWAY MODIFICATIONS

ELECTRICAL TRANSMISSION & COMMUNICATIONS UPGRADES PLAN

DESIGNED S. ELLENSON

DRAWN J. HOLT

CHECKED J. BAKKEN

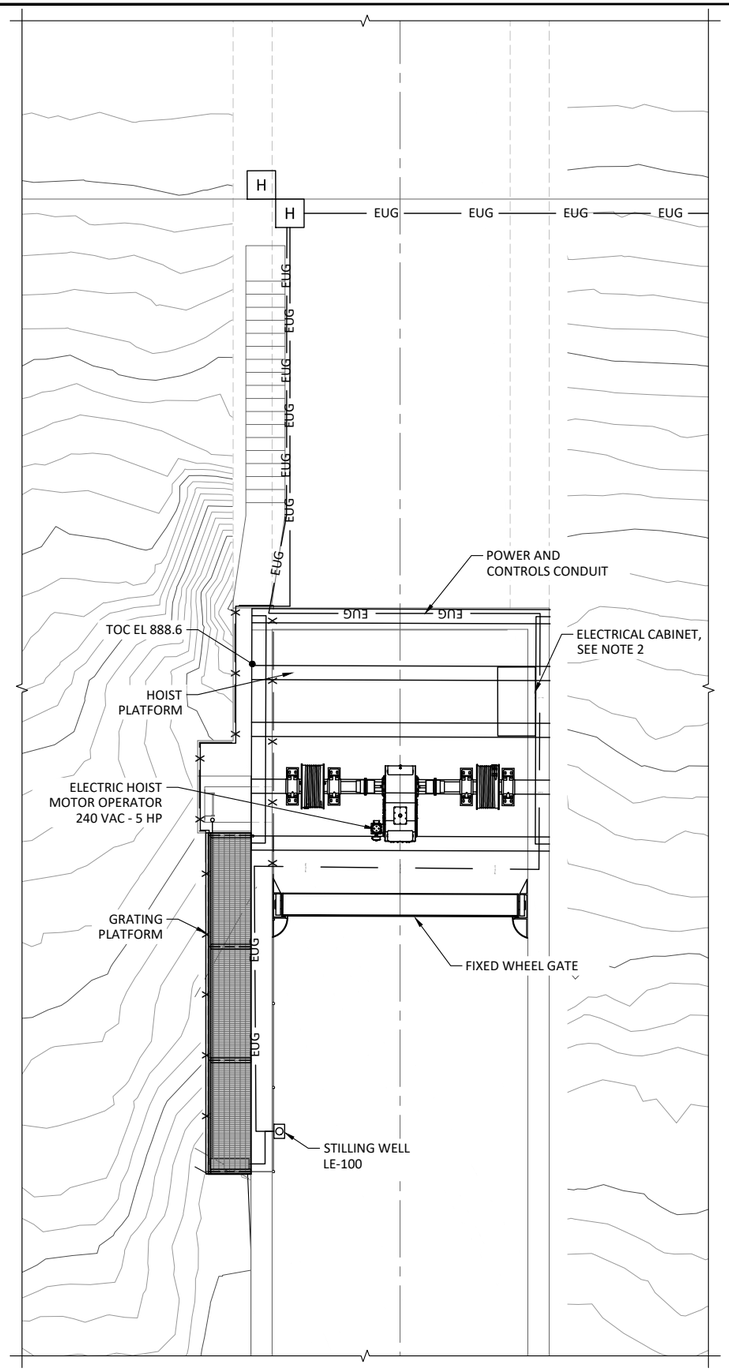
PROJECT DATE 04/26/24

DRAWING

E001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\E001.dwg Plot date: Apr 23, 2024 03:44pm, CAD User: WoodRon



SPILLWAY DETAIL

SCALE: 3/16"= 1'-0"

0' 4' 8'

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
2. INSTALL NEW NEMA 250 TYPE 4X SS CABINET ON HANDRAIL OR FRAMING CHANNEL RACK. CABINET SHALL INCLUDE 240VAC SINGLE-PHASE LOADCENTER, FIBER OPTIC CLOSET CONNECTOR HOUSING, AND REMOTE I/O RACK. PROVIDE CABINET COMPLETE AND OPERABLE WITH TERMINAL BLOCKS, SURGE SUPPRESSORS, AND POWER SUPPLIES. INCLUDE LOCKABLE SERVICE ENTRANCE RATED DISCONNECT SWITCH ON EXTERIOR OF CABINET.
3. MOUNT ALL CONDUITS ALONG LOWER PORTION OF HANDRAIL.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
A	04/26/24	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

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CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA DAM SPILLWAY MODIFICATIONS

EKLUTNA DAM SPILLWAY ELECTRICAL
PLAN, SECTION, AND DETAILS

DESIGNED S. ELLENSON

DRAWN J. HOLT

CHECKED J. BAKKEN

PROJECT DATE 04/26/24

DRAWING

E100

JOB NO: 000000

Path: C:\Vault\Chugach Electric\24-021 Eklutna Spillway Modification\E100.dwg Plot date: Apr 23, 2024 03:44pm, CAD User: WoodRon

Appendix B. Class 4 Opinion of Probable Construction Costs

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Phase 2 Engineering
Eklutna Dam Spillway Modifications

Line Item	Item	Quantity	Unit	Unit Cost	Total Cost	Total
01	**DIVISION 01 INDIRECTS**					**$460,000**
	Mobilization and Establishment of Site Infrastructure	8	%	0.08	$184,000	
	Contractor General Requirements (Percentage of Direct Cost)	12	%	0.12	$276,000	
02	**SITE CONSTRUCTION AND ACCESS ROADS**					**$80,000**
	Site Access - Construct Laydown Areas, Turnarounds and Crane Pads	0.5	ACRE	$160,000	$80,000	
03	**SPILLWAY MODIFICATIONS**					**$698,100**
	Cofferdam	1	LS	$30,000	$30,000	
	Dewatering	3	MO	$35,000	$105,000	
	Demo, Misc	1	LS	$15,000	$15,000	
	Concrete Demolition, Spillway Concrete	250	CY	$2,000	$500,000	
	Hoist Structure and Platfoms	16,500	LBS	$7.50	$123,800	
	Security Gate Installation	130	LF	$110	$14,300	
	Spillway Apron Surface Concrete Repair	40	CY	$1,500	$60,000	
04	**MECHANICAL EQUIPMENT**					**$1,275,000**
	Gate Guides and Embeds	1	LS	$155,000	$155,000	
	Fixed Wheel Gate Fabrication; 16-ft x 20-ft	25,000	lb	$20	$500,000	
	Gate Guides & Fixed Wheel Gate Installation	1	LS	$90,000	$90,000	
	Hoist and Gearbox Procurement	1	EA	$430,000	$430,000	
	Superstructure, Hoist and Gearbox Installation	1	LS	$100,000	$100,000	
05	**ELECTRICAL AND TRANSMISSION**					**$245,000**
	Distribution Panel, Conduit, & Cable	1	LS	$20,000	$20,000	
	Instrumentation, Flow Meters, & Gate Controls	1	LS	$150,000	$150,000	
	Electrical Install	1	LS	$40,000	$40,000	
	Startup & Commissioning	1	LS	$35,000	$35,000	
	Project Subtotal (without Division 01)					**$2,298,100**
	Project Subtotal					**$2,758,100**

AACE International CLASS 4 Cost Estimate - Class 4 estimates are generally prepared based on limited information, and subsequently have fairly wide accuracy ranges. Typically, engineering is 1% to 15% complete. They are typically prepared for detailed strategic planning, business case development, projection screening, alternative scheme analysis, confirmation of economic and technical feasibility, selection of a feasible alternative and preliminary budget approval to proceed to the next stage of the project. Virtually all Class 4 estimates use stochastic estimating methods such as cost/capacity curves and factors, historical data and other parametric and modeling techiques. Expected accuracy ranges are from -15% to -30% on the low side and +20% to 50% on the high side, depending on the technological complexity of the project, appropriate reference information, and other risks. Ranges could exceed those shown in unusual circumstances.

Project: Eklutna Dam Fixed Wheel Gate
Location: Anchorage, AK
Date: 18-Apr-24

Class 4 Engineer's Estimate -- 15% Design

Item	Direction Construction Cost		Amount
01	DIVISION 01 INDIRECTS		$460,000
02	SITE CONSTRUCTION AND ACCESS ROADS		$80,000
03	SPILLWAY MODIFICATIONS		$698,100
04	MECHANICAL EQUIPMENT		$1,275,000
05	ELECTRICAL AND TRANSMISSION		$245,000
	Total Construction Cost		**$2,758,100**
	Overhead		
	GC Overhead and Profit	15.00%	$414,000
	Construction Bonds	1.25%	$40,000
	Total - Overhead		**$454,000**
	Direct Cost Contingency		
	*Overall Project Contingency:	25.00%	$803,000
	Escalation:	0.00%	$0
	Total - Contingency		**$803,000**
	Taxes		
	AK Sales Tax	0.00%	$0
	Total - Taxes		**$0**
	Median Construction Price - Direct and Indirect		**$4,015,100**
	Total Construction Price Range (-30% to +50%)		**$2,810,000 to $6,020,000**

Notes:
All costs based on 2024 Construction Dollars
Does not include: interest during construction, legal, financing, or administration costs.
Costs assume a crane can be located on the dam crest for support of work in spillway.
* Overall Project Contingency is set at 25% due to the current level of project definition and it may be reduced at later stages of design.

Appendix C. Structural Calculations

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Calculation Cover Sheet

Project: Eklutna Fixed Wheel Gate

Client: Eklutna Fish & Wildlife **Proj. No.:** 24-021

Title: Channel Wall Stability

Prepared By, Name: J.Cirafici

Prepared By, Signature: _____ **Date:** 2/12/2024

Peer Reviewed By, Name: G. Clark

Peer Reviewed, Signature: _____ **Date:** 2/12/2024

McMillen

SUBJECT: Eklutna Fixed Wheel Gate
Eklutna Fish & Wildlife
Channel Wall Stability

BY: J.Cirafici **CHK'D BY:** G. Clark
DATE: 2/12/2024
PROJECT NO.: 24-021

Purpose

The purpose of this calculation is to determine whether the existing reinforcement in the channel was is adequate to resist lateral earth pressures after the ogee is removed. The ogee provides lateral bracing of the channel walls along their bottom halves. When the ogee is removed, the walls are no longer laterally braced and serve essentially as cantilevered retaining walls. The following analysis will determine if they can do adequately.

References

- *ACI 318-19: Building Code Requirements for Structural Concrete*
- *ACI 350-20: Code Requirements for Environmental Engineering Concrete Structures*
- *ASCE 7-22: Minimum Design Loads for Buildings and Other Structures*

General Information

Material Unit Weights

γ_w =	**62.4**	pcf	*Water*
γ_c =	**150**	pcf	*Concrete*
γ_s =	**490**	pcf	*Steel*
γ_{soil} =	**130**	pcf	*Soil (Saturated)*

Channel Wall Geometry

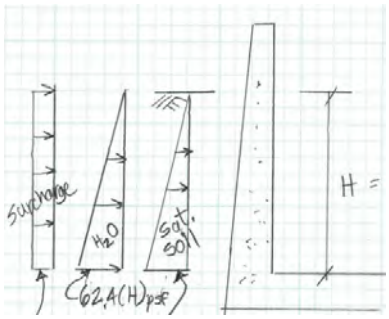
T.O Wall =	**885**	ft	*Top of Wall Elevation*
T.O. Slab =	**852**	ft	*Top of Slab Elevation*
B.O. Slab =	**849**	ft	*Bottom of Slab Elevation*
T.O. Soil =	**879.6667**	ft	
H_{wall} =	**36**	ft	*Height of Wall*
H_{soil} =	**27.667**	ft	*Height of Retained Soil*
t_{wtop} =	**18**	in	*Wall Thickness @ Top*
t_{wbott} =	**36**	in	*Wall Thickness @ Bottom*

**Note: Soil Elevation Varies along length of wall. The channel wall is braced laterally by a top slab starting @ Sta. 4+57.33 and by a vertical shaft @ approx. Sta. 4+45.17. The center point between these two bracing points will be considered for design for the closest approximation of pure cantilever action.*

Soil Properties (Assumed)

ϕ =	**30**	deg	*Friction Angle*
K_0 =	**0.500**		*At-Rest Pressure Coeff*
K_a =	**0.333**		*Active Pressure Coeff (Rankine)*
K_p =	**3.000**		*Passive Pressure Coeff (Rankine)*

Loads



Lateral Earth Pressure

*Wall is assumed to be designed as non-yielding, therefore at-rest pressures will be considered

σ_0 =	**935.133**	psf	*At-rest Lat. Earth Pressure @ Base*
σ_w =	**1726.400**	psf	*Lat. Water Pressure @ Base*
σ_{sur} =	**100.0**	psf	*Assumed Surchage Pressure for Construction/Maintenance*
LRFD Factor =	**1.6**		*ACI350 9.2*

Wall Strength Check - Cantilever Action

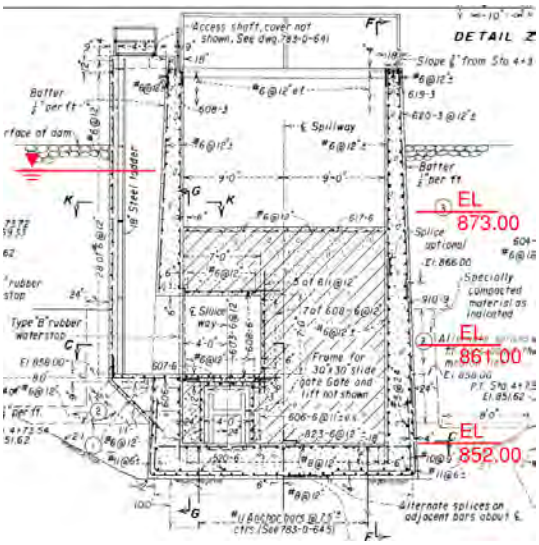
Assumed Concrete Properties:

f'_c =	4000	psi	*Concrete Compressive Strength*
f_y =	60000	psi	*Reinforcement Yield Strength*

**Since wall is battered, effective depth of reinforcement. Wall bending capacity will be checked at multiple points along height of wall. The wall will be analyzed in representative 1-ft segment idealized as a singly-reinforced rectangular section.*

Cover =	2	in	*Minimum concrete cover*
β_1 =	**0.85**		*ACI350 Section 10.2.7.3*
β =	EQ 10-6		*ACI350 Strain gradient amplification factor per 10.6.4.4*
Exposure:	Normal		*ACI350 Section 10.6.4.5*
Exposure Factor =	**320**		
Element action:	One-way		
Stress Limit =	**20000**	psi	

Typical Wall Section:



Wall		South Wall			North Wall		
Elevation		852.00	861.00	873.00	852.00	861.00	873.00
Wall Thickness	in	34.5	30	24	34.5	30	24
bar size		#11	#9	#6	#11	#9	#6
spacing	in	6	6	12	6	6	12
A_s/ft	in^2/ft	3.12	2.00	0.44	3.12	2.00	0.44
d_{bar}	in	1.375	1.125	0.750	1.375	1.125	0.750
d	in	31.8125	27.4375	21.625	31.8125	27.4375	21.625
a	in	4.59	2.94	0.65	4.59	2.94	0.65
c	in	5.40	3.46	0.76	5.40	3.46	0.76
β		1.10	1.11	1.11	1.10	1.11	1.11
ε_t		0.015	0.021	0.082	0.015	0.021	0.082
Check		OK	OK	OK	OK	OK	OK
Min Reinf Ratio		0.005	0.005	0.005	0.005	0.005	0.005
Min Reinf Req'd		1.035	0.900	0.720	1.035	0.900	0.720
Min Steel Check		OK	OK	OK	OK	OK	OK

$$a = {A_s f_y}/{0.85 f_c' b}$$

$$c = a/\beta_1$$

*Shrinkage and Temp steel can be considered to be split between both faces of wall

ACI 350							
M_{earth}	kip-ft/ft	119.3	36.6	1.7	119.3	36.6	1.7
M_{hydro}	kip-ft/ft	220.2	67.6	3.1	220.2	67.6	3.1
$M_{surcharge}$	kip-ft/ft	38.27	17.42	2.22	38.27	17.42	2.22
$M_{u\_factored}$	kip-ft/ft	604.50	194.73	11.16	604.50	194.73	11.16
$M_{u\_service}$	kip-ft/ft	377.81	121.71	6.97	377.81	121.71	6.97
Max f_s	psi	36,000	36,000	22,261	36,000	36,000	22,261
γ		1.600	1.600	1.600	1.600	1.600	1.600
φ (bending)		0.9	0.9	0.9	0.9	0.9	0.9
S_d		1.00	1.00	1.52	1.00	1.00	1.52
$S_d M_{factor}$	kip-ft/ft	604.50	194.73	16.91	604.50	194.73	16.91
φ *M_n	kip-ft/ft	414.44	233.70	42.18	414.44	233.70	42.18
Utilization	%	146%	83%	40%	146%	83%	40%
d - a/2	in	29.52	25.97	21.30	29.52	25.97	21.30
Actual f_s	psi	49,228	28,122	8,927	49,228	28,122	8,927
s Check ($f_{sactual} < f_{smas}$)		No Good	OK	OK	No Good	OK	OK

**At El. 852.00, there are multiple layers of vertical bars that can be considered ot resist bending moments. The capacity is rechecked more thoroughly below:*

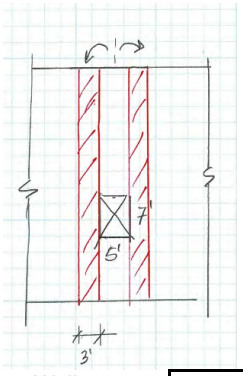
Outer Layer -->	#11	@	6	in O.C.
	d_{bar} =	1.375	in	
	A_s/ft =	3.12	in^2/ft	
	d_{outer} =	31.8125	in	
Inner Layer -->	#10	@	9	in O.C.
	d_{bar} =	1.250	in	
	A_s/ft =	1.69	in^2/ft	
	d_{inner} =	27.8125	in	
Combined -->	A_s/ft =	4.81	in^2/ft	
	d_{comb} =	30.405	in	

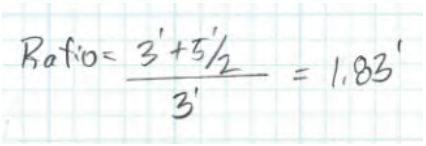
Bending Strength -->	a =	7.08 in
	c =	8.33 in
	β =	1.19
	ε_t =	0.008
	Check	OK
	Max f_s =	33,510 psi
	γ	1.600
	φ (bending)	0.9
	S_d	1.01
	$S_d M_{factor}$	608.84
	φ *M_n	581.92
	Utilization	105%
	d - a/2	31.81
	Actual f_s	29,609
	Tensile Reinf. Stress Check ($f_{sactual} < f_{smas}$)	OK

Even when considering all layers of reinforcement, the bending moments encountered at the base of the wal still exceed its capacity. As such, struts are recommended at the top of the wall so that the wall functions in simple support bending as opposed to cantilevered action.

Wall at Chamber Opening:

**There is an opening in the south side wall that allows access into the ogee. For the purpose of analysis, load imparted onto the wall above and below the openings are assumed to be resisted by 3-ft segments of the wall directly adjacent to the opening on both sides. A factor of 1.83 has been applied to the loads to account for the 5-ft opening width distributed to the adjacent segments.*





Wall		South Wall			
Elevation		852.00	858.00	861.00	873.00
Wall Thickness	in	34.5	31.5	30	24
bar size		#11	#9	#9	#6
spacing	in	6	6	6	12
A_s/ft	in^2/ft	3.12	2.00	2.00	0.44
d_{bar}	in	1.375	1.125	1.125	0.750
d	in	31.8125	28.9375	27.4375	21.625
a	in	4.59	2.94	2.94	0.65
c	in	5.40	3.46	3.46	0.76
β		1.10	1.04	0.86	1.62
ε_t		0.015	0.022	0.021	0.082
Check		OK	OK	OK	OK
Min Reinf Ratio		0.005	0.005	0.005	0.005
Min Reinf Req'd		1.035	0.945	0.900	0.720
Min Steel Check		OK	OK	OK	OK

$$a = {A_s f_y}/{0.85 f_c' b}$$

$$c = a/\beta_1$$

**Shrinkage and Temp steel can be considered to be split between both faces of wall*

		ACI 350			
M_{earth}	kip-ft/ft	218.3	104.9	67.1	3.1
M_{hydro}	kip-ft/ft	403.0	193.6	123.8	5.6
$M_{surcharge}$	kip-ft/ft	70.04	42.95	31.88	4.07
$M_{u\_factored}$	kip-ft/ft	1106.24	546.22	356.36	20.42
$M_{u\_service}$	kip-ft/ft	691.40	341.39	222.73	12.76
Max f_s	psi	36,000	36,000	36,000	20,000
γ		1.600	1.600	1.600	1.600
φ (bending)		0.9	0.9	0.9	0.9
S_d		1.00	1.00	1.00	1.69
$S_d M_{factor}$	kip-ft/ft	1106.24	546.22	356.36	34.45
φ *M_n	kip-ft/ft	414.44	247.20	233.70	42.18
Utilization	%	267%	221%	152%	82%
d - a/2	in	29.52	27.47	25.97	21.30
Actual f_s	psi	90,087	74,575	51,464	16,337
s Check ($f_{sactual}$ < f_{smas})		No Good	No Good	No Good	OK

Due to the increased loading from the opening, the segments of the wall adjacent to the opening are inadequate for the applied bending moments.

Wall Strength Check - Fixed-Pin Condition

*Recheck wall capacity for condition where lateral bracing is provided @ top of wall. The wall can now be considered fixed-pinned.

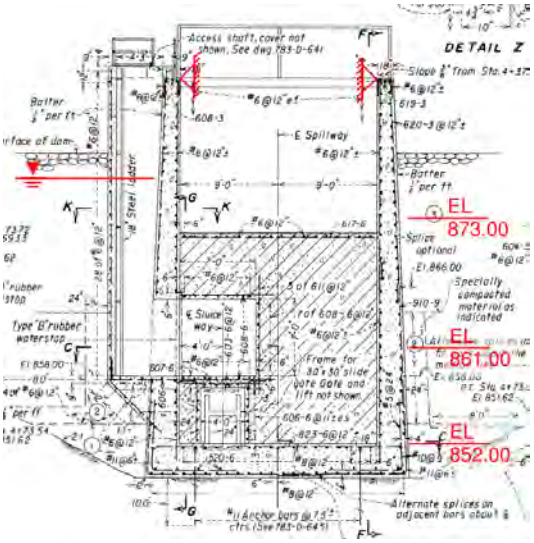
Assumed Concrete Properties:

f'_c =	4000	psi	*Concrete Compressive Strength*
f_y =	60000	psi	*Reinforcement Yield Strength*

**Since wall is battered, effective depth of reinforcement. Wall bending capacity will be checked at multiple points along height of wall. The wall will be analyzed in representative 1-ft segment idealized as a singly-reinforced rectangular section.*

Cover =	2	in	*Minimum concrete cover*
β_1 =	0.85		*ACI350 Section 10.2.7.3*
β =	EQ 10-6		*ACI350 Strain gradient amplification factor per 10.6.4.4*
Exposure:	Normal		*ACI350 Section 10.6.4.5*
Exposure Factor =	320		
Element action:	One-way		
Stress Limit =	20000	psi	

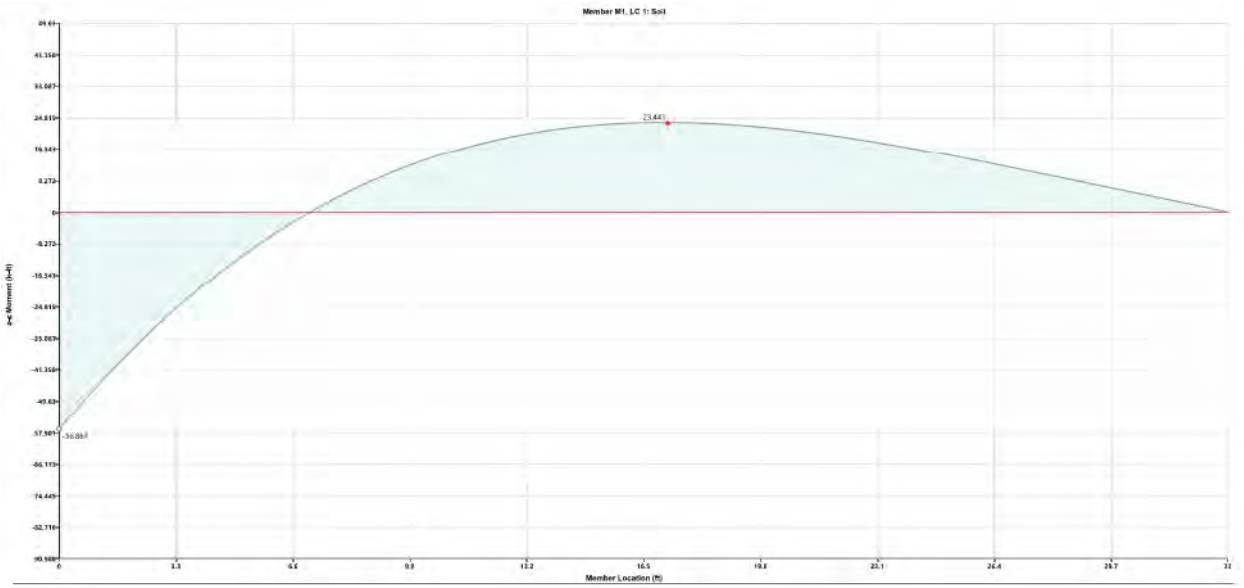
Typical Wall Section:

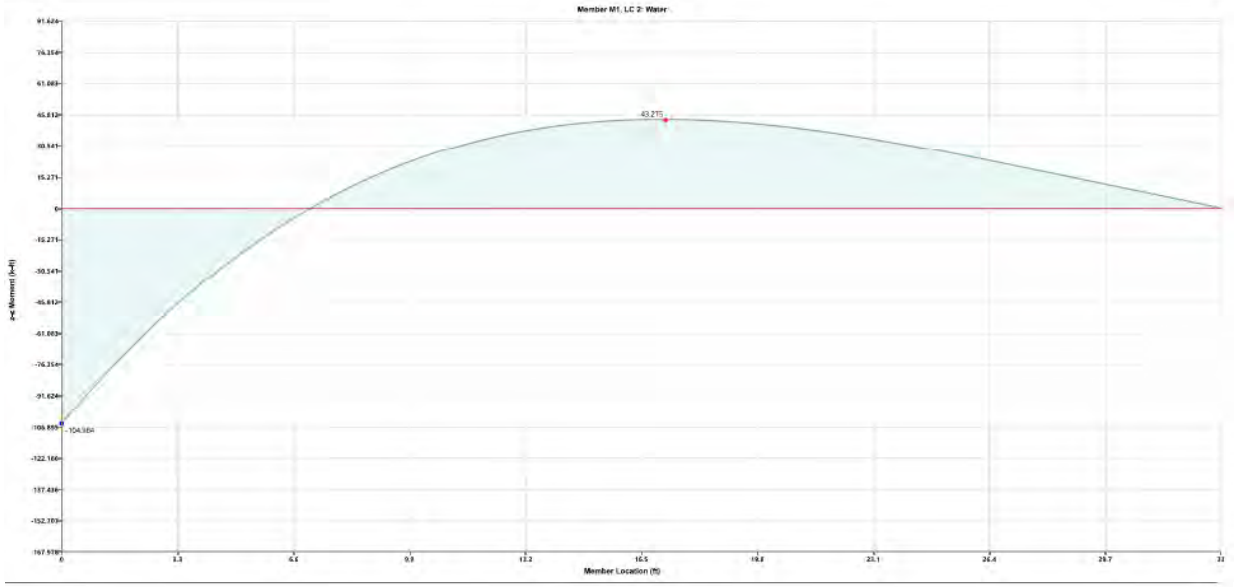


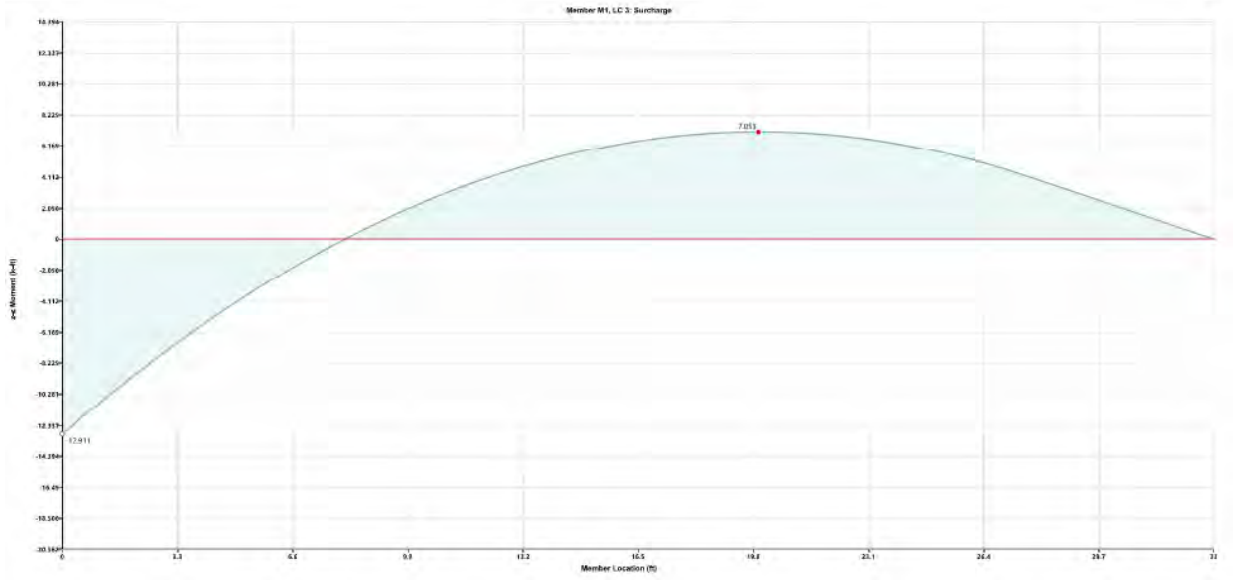
Wall		South Wall			North Wall		
Elevation		852.00	861.00	873.00	852.00	861.00	873.00
Wall Thickness	in	34.5	30	24	34.5	30	24
bar size		#11	#6	#6	#11	#6	#6
spacing	in	6	12	12	6	12	12
A_s/ft	in^2/ft	3.12	0.44	0.44	3.12	0.44	0.44
d_{bar}	in	1.375	0.750	0.750	1.375	0.750	0.750
d	in	31.8125	27.625	21.625	31.8125	27.625	21.625
a	in	4.59	0.65	0.65	4.59	0.65	0.65
c	in	5.40	0.76	0.76	5.40	0.76	0.76
β		1.10	1.09	1.11	1.10	1.09	1.11
ε_t		0.015	0.106	0.082	0.015	0.106	0.082
Check		OK	OK	OK	OK	OK	OK
Min Reinf Ratio		0.005	0.005	0.005	0.005	0.005	0.005

$$a = {A_s f_y}/{0.85 f'_c b}$$

$$c = a/\beta_1$$


Member M1, LC 1: Soil
23.441
-56.883
Member Location (ft)


Member M1, LC 2: Water
43.215
-104.384
Member Location (ft)

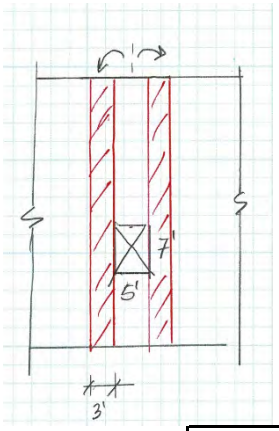

Member M1, LC 3: Surcharge
7.053
-12.911
Member Location (ft)

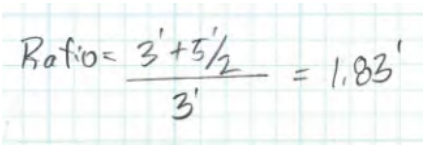
		ACI 350					
M_{earth}	kip-ft/ft	56.9	9.9	21.1	56.9	9.9	21.1
M_{hydro}	kip-ft/ft	105.0	18.2	38.9	105.0	18.2	38.9
$M_{surcharge}$	kip-ft/ft	12.91	1.33	7.00	12.91	1.33	7.00
$M_{u\_factored}$	kip-ft/ft	279.62	47.07	107.18	279.62	47.07	107.18
$M_{u\_service}$	kip-ft/ft	174.76	29.42	66.99	174.76	29.42	66.99
Max f_s	psi	36,000	22,781	22,261	36,000	22,781	22,261
γ		1.600	1.600	1.600	1.600	1.600	1.600
φ (bending)		0.9	0.9	0.9	0.9	0.9	0.9
S_d		1.00	1.48	1.52	1.00	1.48	1.52
S_dM_{factor}	kip-ft/ft	279.62	69.73	162.50	279.62	69.73	162.50
φ *M_n	kip-ft/ft	414.44	54.06	42.18	414.44	54.06	42.18
Utilization	%	67%	129%	385%	67%	129%	385%
d - a/2	in	29.52	27.30	21.30	29.52	27.30	21.30
Actual f_s	psi	22,771	29,385	85,767	22,771	29,385	85,767
s Check ($f_{sactual}$ < f_{smas})		OK	No Good	No Good	OK	No Good	No Good

While the base of the wall is now adequate when the wall is considered fixed-pinned, the new moment distribution means the inside face reinforcement is the primary tension reinforcement along the top 2/3 of the wall. This inside face is less heavily reinforced than the outside face, thus limiting the bending capacity.

Wall at Chamber Opening:

**There is an opening in the south side wall that allows access into the ogee. For the purpose of analysis, load imparted onto the wall above and below the openings are assumed to be resisted by 3-ft segments of the wall directly adjacent to the opening on both sides. A factor of 1.83 has been applied to the loads to account for the 5-ft opening width distributed to the adjacent segments.*





Wall		South Wall			
Elevation		852.00	858.00	861.00	873.00
Wall Thickness	in	34.5	31.5	30	24
bar size		#11	#6	#6	#6
spacing	in	6	12	12	12
A_s/ft	in^2/ft	3.12	0.44	0.44	0.44
d_{bar}	in	1.375	0.750	0.750	0.750
d	in	31.8125	29.125	27.625	21.625
a	in	4.59	0.65	0.65	0.65
c	in	5.40	0.76	0.76	0.76
β		1.10	1.03	0.87	1.62
ε_t		0.015	0.112	0.106	0.082
Check		OK	OK	OK	OK
Min Reinf Ratio		0.005	0.005	0.005	0.005

$$a = {A_s f_y}/{0.85 f_c' b}$$

$$c = a/\beta_1$$

		ACI 350			
M_{earth}	kip-ft/ft	104.1	13.1	18.1	38.6
M_{hydro}	kip-ft/ft	192.1	24.2	33.3	71.2
$M_{surcharge}$	kip-ft/ft	23.6	5.38	2.4	12.8
$M_{u\_factored}$	kip-ft/ft	511.70	68.34	86.13	196.14
$M_{u\_service}$	kip-ft/ft	319.81	42.71	53.83	122.59
Max f_s	psi	36,000	24,053	28,663	20,000
γ		1.600	1.600	1.600	1.600
φ (bending)		0.9	0.9	0.9	0.9
S_d		1.00	1.40	1.18	1.69
S_dM_{factor}	kip-ft/ft	511.70	95.89	101.42	330.99
φ *M_n	kip-ft/ft	414.44	57.03	54.06	42.18
Utilization	%	123%	168%	188%	785%
d - a/2	in	29.52	28.80	27.30	21.30
Actual f_s	psi	41,671	40,445	53,775	156,954
s Check ($f_{sactual}$ < f_{smas})		No Good	No Good	No Good	No Good

Due to the increased loading from the opening, the segments of the wall adjacent to the opening are inadequate for the applied bending moments.

Appendix D. Hydraulic Calculations

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Calculation Cover Sheet

McMillen

Project: Eklutna Spillway Modifications

Client: Chugach Electric Association **Proj. No.:** 24-021

Title: Hydraulic Calculations

Prepared By, Name: Sean Ellenson, P.E.

Prepared By, Signature: _____ **Date:** _____

Peer Reviewed By, Name: _____

Peer Reviewed, Signature: _____ **Date:** _____

SUBJECT:	Chugach Electric Association	**BY:** S Ellenson	**CHK'D BY:**
	Eklutna Spillway Modifications	**DATE:** 4/19/2024	
	Hydraulic Calculations	**PROJECT NO.:** 21-024	

Table of Content

Description	Page
Stage Discharge Relationship	3

- *Calculate the stage discharge relationship for the modified Eklutna Dam Spillway*

McMillen

SUBJECT:	Chugach Electric Association	**BY:** S Ellenson	**CHK'D BY:**
	Eklutna Spillway Modifications	**DATE:** 4/19/2024	
	Gate Rating Curve	**PROJECT NO.:** 21-024	

Purpose

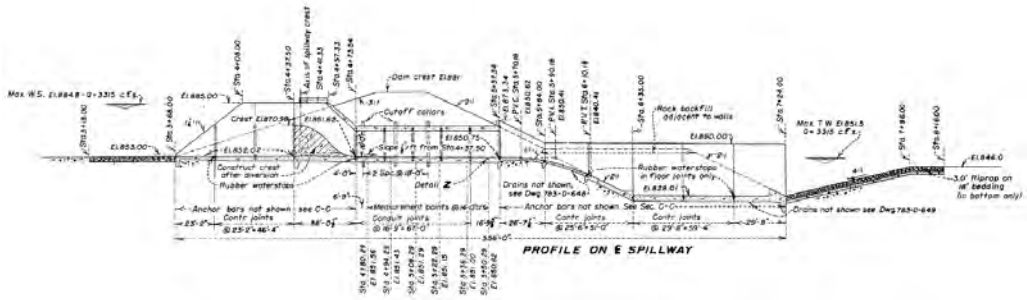
The purpose of this calculation sheet is to develop a preliminary gate rating curve for the proposed fixed wheel gate within the Eklutna Dam Spillway.

References

- *Tullis, J. Paul. (1989). Hydraulics of Pipelines, Pumps, Valves, Cavitation, Transients. New York: John Wiley & Sons.*
- *Miller, D.S. (1990). Internal Flow Systems, Design and Performance Prediction. Houston: Gulf Publishing Company.*

Information - Input

Dimensions and elevations of the spillway are obtained from the As-Built Drawings. Eklutna Project - Alaska. Replacement of Eklutna Dam and Spilway. January, 1965.



Calculation

Full Open

Calculations were performed to determine the stage-discharge relationship of the spoillway with the existing ogee crest removed and the gate in the fully open position. The spillway was treated as a concrete culvert utilzing open channel flow equations with a tailwater elevation assumed constant at a crest elevation of 855.09 ft msl (NAVD88)The spillway was treated as a concrete culvert utilzing open channel flow equations with a tailwater elevation assumed constant at a crest elevation of 855.09 ft msl (NAVD88).

Total Discharge (cfs)	Culvert Discharge (cfs)	Headwater Elevation (ft)	Inlet Control Depth(ft)	Outlet Control Depth(ft)	Flow Type	Normal Depth (ft)	Critical Depth (ft)	Outlet Depth (ft)	Tailwater Depth (ft)	Outlet Velocity (ft/s)	Tailwater Velocity (ft/s)
0.00	0.00	855.6100	0.00	0.0	0-NF	0.00	0.00	0.75	23.49	0.00	0.00
321.50	321.50	859.2700	3.66	0.88	1-S2n	1.35	2.15	1.49	23.49	11.96	0.00
643.00	643.00	861.4200	5.80	2.17	1-S2n	2.14	3.41	2.47	23.49	14.48	0.00
964.50	964.50	863.2200	7.61	3.26	1-S2n	2.80	4.47	3.33	23.49	16.11	0.00
1200.00	1200.00	864.4100	8.80	4.00	1-S2n	3.25	5.17	3.91	23.49	17.05	0.00
1607.50	1607.50	866.3100	10.69	5.19	1-S2n	3.96	6.28	4.86	23.49	18.39	0.00
1929.00	1929.00	867.6900	12.07	6.08	1-S2n	4.50	7.09	5.56	23.49	19.28	0.00
2250.50	2250.50	868.9900	13.38	6.94	1-S2n	5.01	7.86	6.23	23.49	20.06	0.00
2572.00	2572.00	870.2400	14.63	7.78	1-S2n	5.50	8.59	6.88	23.49	20.77	0.00
2893.50	2893.50	871.4300	15.82	8.60	1-S2n	5.99	9.29	7.50	23.49	21.42	0.00
3215.00	3215.00	872.5800	16.96	9.41	1-S2n	6.45	9.97	8.11	23.49	22.02	0.00

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Orifice Control

Calculations were performed to determine the stage discharge relationship at various gate openings with the gate controlling the flow. The flow rate is based on the orifice equation with a discharge coefficient of 0.70.

Gate Opening =	1	ft
Opening Elevation =	856.6	ft
Open Area =	18.0	ft2

Headwater Elevation (ft)	Water Depth(ft)	Control	Flow Rate (cfs)
855.6	0.0	Uncontrolled	0.0
856.0	0.4	Uncontrolled	34.3
857.0	1.4	Orifice Control	82.5
858.0	2.4	Orifice Control	119.7
859.0	3.4	Orifice Control	147.8
860.0	4.4	Orifice Control	171.3
861.0	5.4	Orifice Control	192.0
862.0	6.4	Orifice Control	210.6
863.0	7.4	Orifice Control	227.8
864.0	8.4	Orifice Control	243.7
865.0	9.4	Orifice Control	258.7
866.0	10.4	Orifice Control	272.8
867.0	11.4	Orifice Control	286.2
868.0	12.4	Orifice Control	299.1
869.0	13.4	Orifice Control	311.4
870.0	14.4	Orifice Control	323.2
871.0	15.4	Orifice Control	334.6
872.0	16.4	Orifice Control	345.7
873.0	17.4	Orifice Control	356.4
874.0	18.4	Orifice Control	366.8
875.0	19.4	Orifice Control	376.9

Gate Opening =	2	ft
Opening Elevation =	857.6	ft
Open Area =	36.0	ft2

Headwater Elevation (ft)	Water Depth(ft)	Control	Flow Rate (cfs)
855.6	0.0	Uncontrolled	0.0
856.0	0.4	Uncontrolled	34.3
857.0	1.4	Uncontrolled	122.1
858.0	2.4	Orifice Control	205.6
859.0	3.4	Orifice Control	268.9
860.0	4.4	Orifice Control	320.0
861.0	5.4	Orifice Control	363.9
862.0	6.4	Orifice Control	403.1
863.0	7.4	Orifice Control	438.8
864.0	8.4	Orifice Control	471.8
865.0	9.4	Orifice Control	502.6
866.0	10.4	Orifice Control	531.6
867.0	11.4	Orifice Control	559.2
868.0	12.4	Orifice Control	585.4
869.0	13.4	Orifice Control	610.6
870.0	14.4	Orifice Control	634.7
871.0	15.4	Orifice Control	657.9
872.0	16.4	Orifice Control	680.4
873.0	17.4	Orifice Control	702.1
874.0	18.4	Orifice Control	723.2
875.0	19.4	Orifice Control	743.7

Gate Opening =	3	ft
Opening Elevation =	858.6	ft
Open Area =	54.0	ft2

Headwater Elevation (ft)	Water Depth(ft)	Control	Flow Rate (cfs)
855.6	0.0	Uncontrolled	0.0
856.0	0.4	Uncontrolled	34.3
857.0	1.4	Uncontrolled	122.1
858.0	2.4	Uncontrolled	209.9
859.0	3.4	Orifice Control	297.8
860.0	4.4	Orifice Control	430.7
861.0	5.4	Orifice Control	513.9
862.0	6.4	Orifice Control	576.0
863.0	7.4	Orifice Control	631.9
864.0	8.4	Orifice Control	683.3
865.0	9.4	Orifice Control	731.1
866.0	10.4	Orifice Control	776.0
867.0	11.4	Orifice Control	818.4
868.0	12.4	Orifice Control	858.7
869.0	13.4	Orifice Control	897.2
870.0	14.4	Orifice Control	934.1
871.0	15.4	Orifice Control	969.6
872.0	16.4	Orifice Control	1003.9
873.0	17.4	Orifice Control	1037.0
874.0	18.4	Orifice Control	1069.1
875.0	19.4	Orifice Control	1100.3

Gate Opening =	4	ft
Opening Elevation =	859.6	ft
Open Area =	72.0	ft2

Headwater Elevation (ft)	Water Depth(ft)	Control	Flow Rate (cfs)
855.6	0.0	Uncontrolled	0.0
856.0	0.4	Uncontrolled	34.3
857.0	1.4	Uncontrolled	122.1
858.0	2.4	Uncontrolled	209.9
859.0	3.4	Uncontrolled	297.8
860.0	4.4	Orifice Control	430.7
861.0	5.4	Orifice Control	580.2
862.0	6.4	Orifice Control	727.8
863.0	7.4	Orifice Control	806.1
864.0	8.4	Orifice Control	877.5
865.0	9.4	Orifice Control	943.5
866.0	10.4	Orifice Control	1005.2
867.0	11.4	Orifice Control	1063.3
868.0	12.4	Orifice Control	1118.4
869.0	13.4	Orifice Control	1170.9
870.0	14.4	Orifice Control	1221.1
871.0	15.4	Orifice Control	1269.4
872.0	16.4	Orifice Control	1315.9
873.0	17.4	Orifice Control	1360.8
874.0	18.4	Orifice Control	1404.2
875.0	19.4	Orifice Control	1446.4

Gate Opening =	5	ft
Opening Elevation =	860.6	ft
Open Area =	90.0	ft2

Headwater Elevation (ft)	Water Depth(ft)	Control	Flow Rate (cfs)
855.6	0.0	Uncontrolled	0.0
856.0	0.4	Uncontrolled	34.3
857.0	1.4	Uncontrolled	122.1
858.0	2.4	Uncontrolled	209.9
859.0	3.4	Uncontrolled	297.8
860.0	4.4	Uncontrolled	430.7
861.0	5.4	Orifice Control	580.2
862.0	6.4	Orifice Control	746.6
863.0	7.4	Orifice Control	925.2
864.0	8.4	Orifice Control	1053.2
865.0	9.4	Orifice Control	1138.9
866.0	10.4	Orifice Control	1218.5
867.0	11.4	Orifice Control	1293.3
868.0	12.4	Orifice Control	1364.0
869.0	13.4	Orifice Control	1431.2
870.0	14.4	Orifice Control	1495.3
871.0	15.4	Orifice Control	1556.9
872.0	16.4	Orifice Control	1616.0
873.0	17.4	Orifice Control	1673.1
874.0	18.4	Orifice Control	1728.3
875.0	19.4	Orifice Control	1781.8

Gate Opening =	6	ft
Opening Elevation =	861.6	ft
Open Area =	108.0	ft2

Headwater Elevation (ft)	Water Depth(ft)	Control	Flow Rate (cfs)
855.6	0.0	Uncontrolled	0.0
856.0	0.4	Uncontrolled	34.3
857.0	1.4	Uncontrolled	122.1
858.0	2.4	Uncontrolled	209.9
859.0	3.4	Uncontrolled	297.8
860.0	4.4	Uncontrolled	430.7
861.0	5.4	Uncontrolled	580.2
862.0	6.4	Orifice Control	746.6
863.0	7.4	Orifice Control	925.2
864.0	8.4	Orifice Control	1118.9
865.0	9.4	Orifice Control	1316.3
866.0	10.4	Orifice Control	1415.3
867.0	11.4	Orifice Control	1507.8
868.0	12.4	Orifice Control	1594.9
869.0	13.4	Orifice Control	1677.6
870.0	14.4	Orifice Control	1756.3
871.0	15.4	Orifice Control	1831.7
872.0	16.4	Orifice Control	1904.1
873.0	17.4	Orifice Control	1973.8
874.0	18.4	Orifice Control	2041.2
875.0	19.4	Orifice Control	2106.4

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Gate Opening =	7	ft
Opening Elevation =	862.6	ft
Open Area =	126.0	ft2

Headwater Elevation (ft)	Water Depth(ft)	Control	Flow Rate (cfs)
855.6	0.0	Uncontrolled	0.0
856.0	0.4	Uncontrolled	34.3
857.0	1.4	Uncontrolled	122.1
858.0	2.4	Uncontrolled	209.9
859.0	3.4	Uncontrolled	297.8
860.0	4.4	Uncontrolled	430.7
861.0	5.4	Uncontrolled	580.2
862.0	6.4	Uncontrolled	746.6
863.0	7.4	Orifice Control	925.2
864.0	8.4	Orifice Control	1118.9
865.0	9.4	Orifice Control	1326.5
866.0	10.4	Orifice Control	1541.0
867.0	11.4	Orifice Control	1706.0
868.0	12.4	Orifice Control	1810.6
869.0	13.4	Orifice Control	1909.6
870.0	14.4	Orifice Control	2003.6
871.0	15.4	Orifice Control	2093.5
872.0	16.4	Orifice Control	2179.6
873.0	17.4	Orifice Control	2262.5
874.0	18.4	Orifice Control	2342.4
875.0	19.4	Orifice Control	2419.7

Gate Opening =	8	ft
Opening Elevation =	863.6	ft
Open Area =	144.0	ft2

Headwater Elevation (ft)	Water Depth(ft)	Control	Flow Rate (cfs)
855.6	0.0	Uncontrolled	0.0
856.0	0.4	Uncontrolled	34.3
857.0	1.4	Uncontrolled	122.1
858.0	2.4	Uncontrolled	209.9
859.0	3.4	Uncontrolled	297.8
860.0	4.4	Uncontrolled	430.7
861.0	5.4	Uncontrolled	580.2
862.0	6.4	Uncontrolled	746.6
863.0	7.4	Uncontrolled	925.2
864.0	8.4	Orifice Control	1118.9
865.0	9.4	Orifice Control	1326.5
866.0	10.4	Orifice Control	1541.0
867.0	11.4	Orifice Control	1768.3
868.0	12.4	Orifice Control	2005.7
869.0	13.4	Orifice Control	2126.6
870.0	14.4	Orifice Control	2236.8
871.0	15.4	Orifice Control	2341.8
872.0	16.4	Orifice Control	2442.2
873.0	17.4	Orifice Control	2538.8
874.0	18.4	Orifice Control	2631.7
875.0	19.4	Orifice Control	2721.5

Gate Opening =	9	ft
Opening Elevation =	864.6	ft
Open Area =	162.0	ft2

Headwater Elevation (ft)	Water Depth(ft)	Control	Flow Rate (cfs)
855.6	0.0	Uncontrolled	0.0
856.0	0.4	Uncontrolled	34.3
857.0	1.4	Uncontrolled	122.1
858.0	2.4	Uncontrolled	209.9
859.0	3.4	Uncontrolled	297.8
860.0	4.4	Uncontrolled	430.7
861.0	5.4	Uncontrolled	580.2
862.0	6.4	Uncontrolled	746.6
863.0	7.4	Uncontrolled	925.2
864.0	8.4	Uncontrolled	1118.9
865.0	9.4	Orifice Control	1326.5
866.0	10.4	Orifice Control	1541.0
867.0	11.4	Orifice Control	1768.3
868.0	12.4	Orifice Control	2005.7
869.0	13.4	Orifice Control	2253.1
870.0	14.4	Orifice Control	2455.2
871.0	15.4	Orifice Control	2576.1
872.0	16.4	Orifice Control	2691.6
873.0	17.4	Orifice Control	2802.3
874.0	18.4	Orifice Control	2908.9
875.0	19.4	Orifice Control	3011.6

Gate Opening =	10	ft
Opening Elevation =	865.6	ft
Open Area =	180.0	ft2

Headwater Elevation (ft)	Water Depth(ft)	Control	Flow Rate (cfs)
855.6	0.0	Uncontrolled	0.0
856.0	0.4	Uncontrolled	34.3
857.0	1.4	Uncontrolled	122.1
858.0	2.4	Uncontrolled	209.9
859.0	3.4	Uncontrolled	297.8
860.0	4.4	Uncontrolled	430.7
861.0	5.4	Uncontrolled	580.2
862.0	6.4	Uncontrolled	746.6
863.0	7.4	D/S Control	925.2
864.0	8.4	D/S Control	1118.9
865.0	9.4	D/S Control	1326.5
866.0	10.4	D/S Control	1541.0
867.0	11.4	D/S Control	1768.3
868.0	12.4	D/S Control	2005.7
869.0	13.4	D/S Control	2253.1
870.0	14.4	D/S Control	2510.3
871.0	15.4	D/S Control	2777.3
872.0	16.4	D/S Control	2927.2
872.6	17.0	D/S Control	3003.2

Gate Opening =	11	ft
Opening Elevation =	866.6	ft
Open Area =	198.0	ft2

Headwater Elevation (ft)	Water Depth(ft)	Control	Flow Rate (cfs)
855.6	0.0	Uncontrolled	0.0
856.0	0.4	Uncontrolled	34.3
857.0	1.4	Uncontrolled	122.1
858.0	2.4	Uncontrolled	209.9
859.0	3.4	Uncontrolled	297.8
860.0	4.4	Uncontrolled	430.7
861.0	5.4	Uncontrolled	580.2
862.0	6.4	Uncontrolled	746.6
863.0	7.4	Uncontrolled	925.2
864.0	8.4	D/S Control	1118.9
865.0	9.4	D/S Control	1326.5
866.0	10.4	D/S Control	1541.0
867.0	11.4	D/S Control	1768.3
868.0	12.4	D/S Control	2005.7
869.0	13.4	D/S Control	2253.1
870.0	14.4	D/S Control	2510.3
871.0	15.4	D/S Control	2777.3
872.0	16.4	D/S Control	3052.9
872.6	17.0	D/S Control	3215.0

Gate Opening =	12	ft
Opening Elevation =	867.6	ft
Open Area =	216.0	ft2

Headwater Elevation (ft)	Water Depth(ft)	Control	Flow Rate (cfs)
855.6	0.0	Uncontrolled	0.0
856.0	0.4	Uncontrolled	34.3
857.0	1.4	Uncontrolled	122.1
858.0	2.4	Uncontrolled	209.9
859.0	3.4	Uncontrolled	297.8
860.0	4.4	Uncontrolled	430.7
861.0	5.4	Uncontrolled	580.2
862.0	6.4	Uncontrolled	746.6
863.0	7.4	Uncontrolled	925.2
864.0	8.4	Uncontrolled	1118.9
865.0	9.4	D/S Control	1326.5
866.0	10.4	D/S Control	1541.0
867.0	11.4	D/S Control	1768.3
868.0	12.4	D/S Control	2005.7
869.0	13.4	D/S Control	2253.1
870.0	14.4	D/S Control	2510.3
871.0	15.4	D/S Control	2777.3
872.0	16.4	D/S Control	3052.9
872.6	17.0	D/S Control	3215.0

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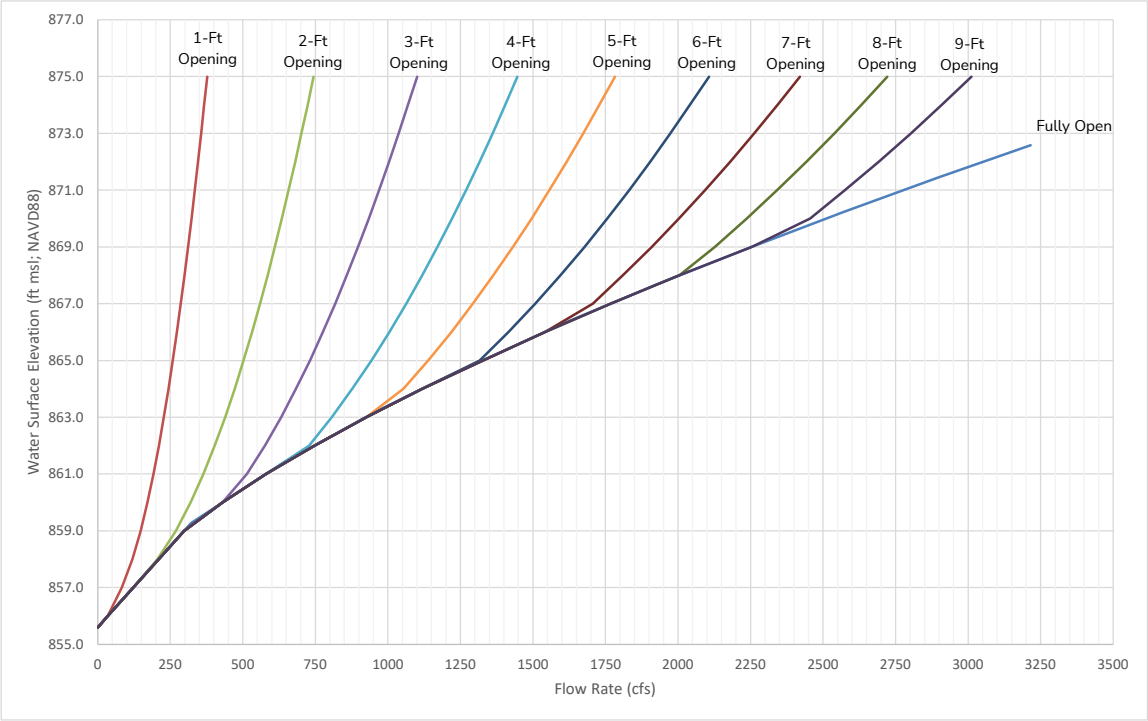
Results



Appendix E. Mechanical Calculations

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REVISION:

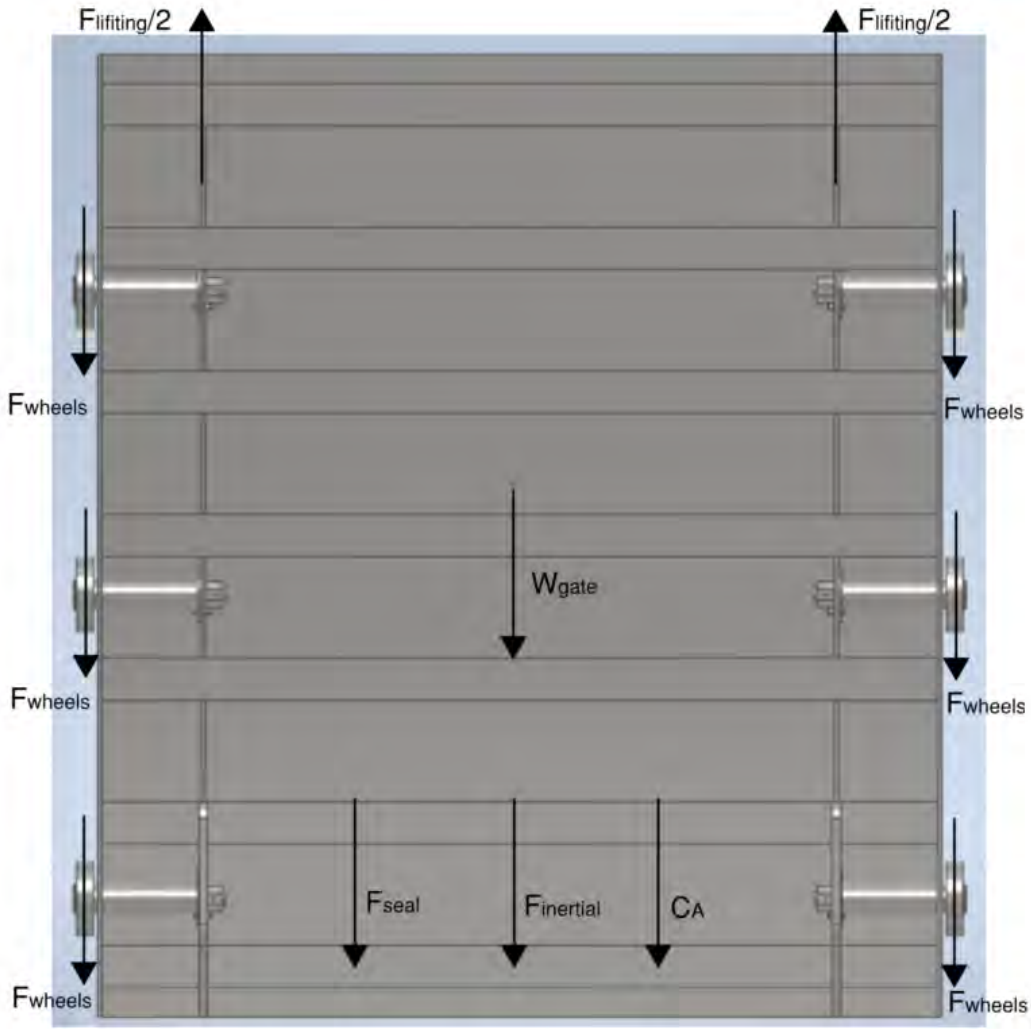
Rev: 0 | **Date**: April 17, 2024 | **Description**: Hydrostatic Gate Loading Calcs

Created By: Anthony DeSantis, EIT Reviewed By:

Gate, Hoist Loading

A) Discussion

This calculation sheet will determine the spillway gate loads imparted to the hoist.



B) Basic Gate Info

Gate width, width of gate subject to hydrostatic pressure, skin width per DWG C-004

$W_{gate} := 16\ ft + 8\ in$

Gate weight with a 10% uncertainty factor

$P_{gate} := 21000\ lbf \cdot 1.10 = 23100\ lbf$

Ice and mud load

$C_A := 1.0\ (2\ kip) = 2\ kip$

For structural load cases, the atmospheric ice load (C) comes from guidance in USACE EM 1110-2-2107 and ASCE 7. These sources typically find the most extreme loading which does not match the "normal operation" scenario intended for load case A. Because the extreme (max) ice loading is used, the ice and mud load will have an uncertainty factor of 1.0.

C) Hydrostatic Loading

Density of Water

$\gamma_w := 62.4 \cdot \frac{lbf}{ft^3}$

Sill Elevation

$EL_{sill} := 855.6 \cdot ft$

Top of Skin PL (max normal water level)

$EL_{pool} := 874.6 \cdot ft$

Head on gate

$h_{eff} := EL_{pool} - EL_{sill} = 19\ ft$

Average Effective pressure on Gate

$p_{eff1} := \gamma_w \cdot \frac{h_{eff}}{2} = 4.117\ psi$

Submerged area of gate

$A_1 := W_{gate} \cdot h_{eff} = 316.667\ ft^2$

Force acting on gate

$F_{hyd} := p_{eff1} \cdot A_1 = 187720\ lbf$

D) Roller Friction Forces

Roller Diameter

$Diam_{roller} := 18 \cdot in$

Bearing Bore Diameter

$Diam_{bearing} := 6.51\ in$

Coef of Friction for Self Lube bushings

$\mu_b := .3$

Frictional Force@ bushing

$F_{friction\_axle} := \mu_b \cdot F_{hyd}$

Frictional Force Seen by gate & hoist at full pool

$$F_{friction\_wheels} := F_{friction\_axle} \cdot \frac{Diam_{bearing}}{Diam_{roller}}$$

$$F_{friction\_wheels} = 20368\ lbf$$

Effective COF

$$\frac{F_{friction\_wheels}}{F_{hyd}} = 0.109$$

D) Seal Friction

Pressure at the bottom seal

$$P_{seal\_bottom} := \gamma_w \cdot h_{eff}$$

Coefficient of friction for the side seals (EM 2701, Section 10.2.9.1.1).

$$\mu_{seals} := 0.5$$

Seal dimensions are assumed for now
Side Seal Thickness

$$t_{seal} := \frac{1}{2} \cdot in$$

Preset Seal Distance (Not available in but this is common value among various projects)

$$\delta_s := \frac{1}{8} \cdot in$$

Typical J-bulb seal are 60-70 on the Shore A durometer scale

$$H_A := 60$$

Distance from inside of skin plate to centerline of J-bulb side seal

$$D_b := 1.23 \cdot in$$

E. Calculate Frictional Force From the Bulb Seals

See LP-212-78 for seal details. The force from side seal friction is defined in EM 2702, 3-4 as:

$$F_{SEALS} = \mu_{SEALS} \cdot S \cdot l + \mu_{SEALS} \cdot \gamma_W \cdot \frac{d}{2}\left(l_1 \cdot \frac{h}{2} + h \cdot l_2 \right)$$

where:

$$S = \frac{3\delta EI}{d^3}$$

Total Length of Both Side Seals:

$$L_{ss} := h_{eff} \cdot 2 = 38\ ft$$

Width of Side Seal exposed to Hydrostatic Pressure [(width of side seal)-(width of backing bar)] (Width of side seal & backing bar

$$d_{ss} := 1.91 \cdot in$$

Modulus of Elasticity for seals. (From Engineering with Rubber, Gent & Campion)

$$E_{seals} := \left(\frac{15.75 + 2.15 \cdot H_A}{100 - H_A} \right) \cdot 1 \cdot MPa$$

Seal Second Moment of Inertia

$$I_{ss} := \frac{L_{ss} \cdot \langle t_{seal} \rangle^3}{12}$$

Force Induced by Pre-setting Side Seal

$$S_{preset\_ss} := \frac{3 \cdot \langle \delta_s \rangle \cdot E_{seals} \cdot \langle I_{ss} \rangle}{d_{ss}^{\ 3}} = 134.17 \ \textit{lbf}$$

Side Seal Friction Force (both sides combined)

$$F_{ss} := \langle \mu_{seals} \cdot \langle S_{preset\_ss} \rangle \rangle + \left(\mu_{seals} \cdot \langle \gamma_w \rangle \cdot 0.5 \cdot \langle d_{ss} \rangle \cdot L_{ss} \cdot (0.5) \cdot \frac{h_{eff}}{2} \right) = 515 \ \textit{lbf}$$

Conclusion: Assumed bulb seal values show that side seals do not contribute greatly to overall lifting forces.

F. Gate Inertial Loads:

This section will calculate the inertial loads required to accelerate the gate to full speed.

LCA rope velocity. This values is an estimate. The actual gate speed is calculated at the end of this calculation sheet

$$V_g := 2.0 \ \frac{ft}{min}$$

Time for gate to reach full velocity (estimated)

$$t_g := 0.5 \ s$$

Acceleration of the gate from a stop to full speed.

$$A_g := \frac{V_g}{t_g} = 0.067 \ \frac{ft}{s^2}$$

Inertial force to accelerate the gate.

$$F_i := \frac{P_{gate}}{g} \cdot A_g = 48 \ \textit{lbf}$$

G. Combined Lifting Forces - Normal Lifting @ Unusual Water Elevation

$$F_{lifting} := P_{gate} + F_{friction\_wheels} + F_{ss} + C_A + F_i = 46031 \ \textit{lbf}$$

H. Hoist Load Evaluation:

This section evaluates the percent that each load contributes to the total hoist load

Percent that each force contributes to the hoist load

Weight of Gate	Ice and Mud:	Seal Friction	Roller Friction	Inertial Load
$P_{gate} = 23.1$ ***kip***	$C_A = 2.0$ ***kip***	$F_{ss} = 0.52$ ***kip***	$F_{friction\_wheels} = 20.37$ ***kip***	$F_i = 47.86$ ***lbf***
$\frac{P_{gate}}{F_{lifting}} = 50.2\%$	$\frac{C_A}{F_{lifting}} = 4.3\%$	$\frac{F_{ss}}{F_{lifting}} = 1.1\%$	$\frac{F_{friction\_wheels}}{F_{lifting}} = 44.2\%$	$\frac{F_i}{F_{lifting}} = 0.1\%$

Find the difference between gate gravity loads (D) and friction loads (F_{SS} + F_{RF}):. To lower under the influence of gravity the gate gravity loads will need to be larger than the friction loads. The ice and mud load will not be included here because for most operations it will not be applied to the gate. A positive value means the gate will lower under it's own weight.

$$P_{gate} - \left(F_{ss} + F_{friction\_wheels}\right) = 2.2 \text{ kip}$$

REVISION:

Rev: 0 | **Date**: April 17, 2024 | **Description**: Load Case A Calc

Created By: Anthony DeSantis, EIT Reviewed By:

Load Case A (Normal Lifting) Calculation

A) Discussion

The loads required to lift a spillway gate are a function of the external loads applied to the gate (hydrostatic forces, gravitational forces, friction forces, etc). To calculate the loads at Load Case A, (Normal Operating Condition, NOC, split 50/50 across both hoists) to hoist the Eklutna hoist gate, a free body diagram will be created per Part 1. Operating loads will be applied and the tension in the hoist ropes will be solved. The hoist tension in the wire ropes should experience the largest load at the instant the gate is being lifted from the closed position with a full pool. The assumption with this approach is that a discrete instant of time is utilized in order to account for the inclusion of dynamic forces (side seal and bearing friction). While this is not a true dynamic analysis, performing the calculation at the worse case scenario at its particular instant will yield the most conservative result. This approach has been validated by the inertia calc in Part 1 which indicates that the increase in tension required to bring the gate to full speed is negligible. With the hoist tension known, the torque and speed of the hoisting equipment can be solved for. These torque and speed values will be used to appropriately size equipment for the hoist system.

B) Reference Info

Part 1 - Spillway Gate Loading

C) Hoist Configuration

Lifting Load From Part 1 $F_{lifting} := 46031\ lbf$

Drum Diameter (live wrap) & radius $D_{drum} := 26 \cdot 1.375\ in = 35.75\ in$ $r_{drum} := \frac{D_{drum}}{2} = 17.875\ in$

Reducer Ratios: 250:1 Sumitomo Paramax 9105
60:1 BBB4 Gearmotor

$red_{paramax} := 250$

$red_{BBB} := 60$

$red_{total} := red_{paramax} \cdot red_{BBB} = 15000$

Rope Diameter $D_{rope} := 1.375 \cdot in$

Number of rope parts $n_{parts} := 1$

D) Define Efficiency Losses

Define the mechanical efficiencies of various hoist machinery components

Hoist drum roller bearing efficiency (EM 1110-2-2610-2.1.d):

$\eta_{Hoist\_Bearing} := 0.98$

Quadruple reduction parallel shaft reducer efficiency and BBB4 reducer efficiency (see cutsheets):

$\eta_{paramax} := 0.90$ $\eta_{BBB} := 0.90$

System Efficiency $\eta_{system} := \eta_{paramax} \cdot \eta_{BBB} \cdot \eta_{Hoist\_Bearing}^{2} = 0.778$

Wire Rope Sizing: Per EM 1110-2-3200

Rope Min Breaking Strength for 1-3/8in 6x37 carbon steel wire rope per ASTM-A1023 is 77.7 ton $MBS_{Rope\_.75in} := 77.7\ tonf$

Number of total ropes $n_{ropes} := 2$

EM3200 requires a SF>=5 on rope breaking strength for normal lifting $Q_{Rope\_Single\_LCA\_Allow} := 0.2 \cdot \left\langle MBS_{Rope\_.75in} \right\rangle = 31080\ lbf$

Rope Tension (each side) $Q_{Rope\_LCA} := \frac{F_{lifting}}{n_{ropes} \cdot n_{parts}} = 23016\ lbf$

Factor of Safey Ropes (over 1 is req'd) $FS_{rope\_LCA} := \frac{Q_{Rope\_Single\_LCA\_Allow}}{Q_{Rope\_LCA}} = 1.35$

E) Find speed at different locations

Motor RPM $\omega_{motor} := 1760 \cdot rpm$

BBB4 Output Shaft Speed $\omega_{BBB} := \frac{\omega_{motor}}{red_{BBB}} = 29.333\ rpm$

Paramax Output Shaft Speed $\omega_{paramax} := \frac{\omega_{BBB}}{red_{paramax}} = 0.117\ rpm$

Drum Rotational Speed $\omega_{drum} := \omega_{paramax} = 0.117\ rpm$

Gate Travel Speed $V_{gate} := r_{drum} \cdot \frac{\omega_{drum}}{n_{parts}} = 1.098\ \frac{ft}{min}$

Gate Travel Per Rev $D_{rope\_drum} := \frac{\pi \cdot D_{drum}}{n_{parts}} = 9.359\ ft$

Gate Travel Per Degree $D_{rope\_drum\_deg} := \frac{D_{rope\_drum}}{360} = 0.312\ in$

F) Find torque at different locations

Torque on Drum (each side)

$$T_{drum\_LCA} := Q_{Rope\_LCA} \cdot r_{drum} = 34.3 \ kip \cdot ft$$

Torque Output of PARAMAX Red 9105, 250 ratio

$$T_{paramax.out\_LCA} := \frac{2 \cdot T_{drum\_LCA}}{\eta_{Hoist\_Bearing}^{2}} = 71.394 \ kip \cdot ft$$

Torque Input of PARAMAX Red

$$T_{paramax.in\_LCA} := \frac{T_{paramax.out\_LCA}}{red_{paramax} \cdot \eta_{paramax}} = 317.308 \ lbf \cdot ft$$

Torque Output of BBB4 Red 3hp, 60 ratio

$$T_{BBB\_LCA} := T_{paramax.in\_LCA} = 317.3 \ lbf \cdot ft$$

Torque Output of Motor

$$T_{motor\_LCA} := \frac{T_{BBB\_LCA}}{red_{BBB} \cdot \eta_{BBB}} = 5.876 \ ft \cdot lbf$$

G) Find power at different locations

Motor Power Output

$$P_{motor} := \omega_{motor} \cdot T_{motor\_LCA} = 1.969 \ hp$$

BBB4 Red Power Output

$$P_{cyclo} := \omega_{BBB} \cdot T_{BBB\_LCA} = 1.772 \ hp$$

Paramax Red Power Output

$$P_{paramax} := \omega_{paramax} \cdot T_{paramax.out\_LCA} = 1.595 \ hp$$

Drum Power Output

$$P_{drum} := \omega_{drum} \cdot T_{drum\_LCA} = 0.766 \ hp$$

Select Motor HP:

$$Power_{motor} := 5 \cdot hp$$

H) Additional component checks

Torque Output after first reducer, motor rated at 250% of rated motor torque

$$T_{brake} := 2.5 \cdot T_{motor\_LCA} = 14.69 \ ft \cdot lbf$$

Torque requirement of coupling

$$T_{coupling} := \frac{T_{paramax.out\_LCA}}{2} = 428365 \ in \cdot lbf$$

Brake Motor Torque (250% rated torque)

$$T_{brake} := 2.5 \cdot \frac{Power_{motor}}{\omega_{motor}} = 37.302 \ ft \cdot lbf$$

I) Conclusions

1) Wire rope selection of 1-3/8" has 35% remaining capacity than required for normal operation
2) 5hp motor selection is the basis of design
3) 60:1 Primary reducer is the basis of design
4) 150:1 Secondary reducer is the basis of design

REVISION:

Rev: 0 | **Date**: April 17, 2024 | **Description**: Load Case B Calc

Created By: Anthony DeSantis, EIT Reviewed By:

Load Case B (Jammed Gate) Calculation

A) Discussion

The second load case, Load Case B (LCB), represents a gate jammed situation. LCB is comparable to Case 6 as defined in EM 1110-2-2107 Section 13.5.6 Load Combinations. For this load case, it is assumed that the gate has become jammed during operation and the maximum hoisting loads have been applied to the system.

Per the requirements of USACE EM 1110-2-2610 Section 2.1.b.(1), hoist systems will be designed to not exceed 75% of the yield strength of the components under this loading and 70% of breaking strength for the wire rope per Section 2.2.l. In addition, LCB assumes that the hoist load is imbalanced between the sides of the gate with a 70/30 split. The imbalanced loading assumptions are taken from USACE EM 1110-2-2610 Section 9-2.m.(5) that discusses the 70/30 imbalanced loading assumptions.

Electric motors can typically generate 275% to 325% of rated load torque when experiencing a locked rotor condition. Given the gear reduction typically associated with wire rope hoists, even a small motor can apply very large loads to the gate and supporting structure in a locked rotor condition. The maximum allowable overload applied to the gate will be calculated, and load-limiting devices will be incorporated to de-energize the motor at the corresponding output torque. Load limiting devices would consist of a motor control relay that would measure the loads in the drivetrain, with a 150% LCA motor torque cut-out applying to the LCB design limit.

B) Reference Info

Part 1 - Spillway Gate Loading

Part 2 - Hoist LCA

C) Hoist Torque and Power

Hoist motor Power $Torque_{motor.LCA} := 5.876\ (ft \cdot lbf)$

NEMA B motor locked rotor torque for a 3hp motor as a % of full load torque
https://www.engineeringtoolbox.com/iec-nema-standards-torques-d_741.html

Motor torque limited to 150% of LCA motor torque $T_{bd} := 150\%$

Motor RPM $\omega_{motor} := 1760\ rpm$

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PART 3 - EKLUTNA
SPILLWAY HOIST
LOAD CASE B CALCULATION

Motor Limited Torque

$T_{motor} := T_{bd} \cdot Torque_{motor.LCA} = 8.814\ ft \cdot lbf$

Drum Pitch Diameter and radius

$D_{drum} := 35.75\ in$ $r_{drum} := \frac{D_{drum}}{2} = 17.875\ in$

Reducer Ratios: 250:1 Sumitomo Paramax 9105

$red_{paramax} := 250$

60:1 BBB4 Reducer

$red_{BBB} := 60$

BBB4 Red Output Torque (each side)

$T_{BBB\_LCB} := T_{motor} \cdot red_{BBB} = 0.53\ ft \cdot kip$

Max Reducer Output Torque
PARAMAX 9105 is rated to $T := 144\ kN \cdot m$
$T = 106.209\ ft \cdot kip$

$T_{paramax\_LCB} := T_{BBB\_LCB} \cdot red_{paramax} = 132.21\ ft \cdot kip$

Max Rope Force (each side)

$T_{Rope\_LCB.70} := \frac{70\% \cdot \left(T_{paramax\_LCB}\right)}{r_{drum}} = 62.13\ kip$

$T_{Rope\_LCB.30} := \frac{30\% \cdot \left(T_{paramax\_LCB}\right)}{r_{drum}} = 26.63\ kip$

Wire Rope Sizing: Per EM 3200

Load Case B allowable tension (EM 1110-2-3200 section 4-5):

Rope Min Breaking Strength for 1-3/8" wire rope

$MBS_{Rope\_.75in} := 77.7\ tonf$

Number of total ropes

$n_{ropes} := 2$

EM3200 requires 70% or less for breaking on overload cases

$T_{Rope\_Single\_LCB\_Allow} := .7 \cdot \left(MBS_{Rope\_.75in}\right) = 108780\ lbf$

Factor of Safety Ropes (over 1 is req'd)

$FS_{rope\_LCB} := \frac{T_{Rope\_Single\_LCB\_Allow}}{T_{Rope\_LCB.70}} = 1.751$

Conclusion: 1-3/8" carbon steel IRWC wire rope is adequate for this application.

REVISION:

Rev: 2 | **Date**: April 17, 2024 | **Description**: 15% Design

Created By: Anthony DeSantis, E.I.T. Reviewed By:

Extreme Ice Loading Calculation

A. DISCUSSION:

This calculation sheet will find the deep bay hoist system loads under extreme ice loading. Ice loading is found using the method in ASCE 7-22

B. REFERENCES:

- *ASCE* - ASCE 7-22 Minimum Design Loads and Associated Criteria for Buildings and Other Structures

C. EXTREME ICE LOADING:

1. Height above ground. This is taken as the distance from top of the gate in the closed position to the sill elevation assuming there is no tailrace. The tailrace is assumed to be a factor(ASCE - Section 10.4.3):

$$z := 874.6\ ft - 855.6\ ft = 19.00\ ft$$

2. Height factor (ASCE - Eqn. 10.4-4):

$$f_z := \left(\frac{z}{33\ ft}\right)^{0.10} = 0.95$$

3. Ice thickness (Figure 1 & ASCE - Figure 10.4-4D):

$$t := 0.75\ in$$

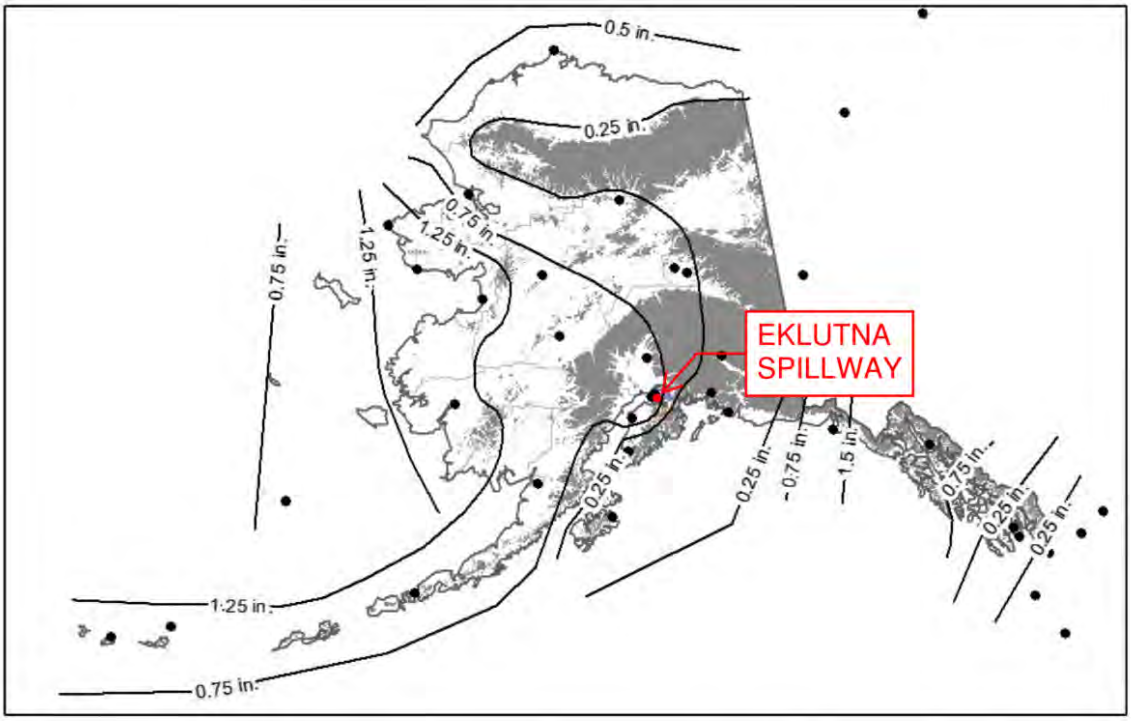

Figure 10.4-3D. Nominal ice thicknesses caused by freezing rain for Alaska for Risk Category IV (1,400-year mean recurrence interval) structures.

Figure 1 - ASCE Ice Thickness for Risk Category IV Structures
(Figure 10.4-3D)

4. Width of gate (from Inventor model):

$$B := 200\ in$$

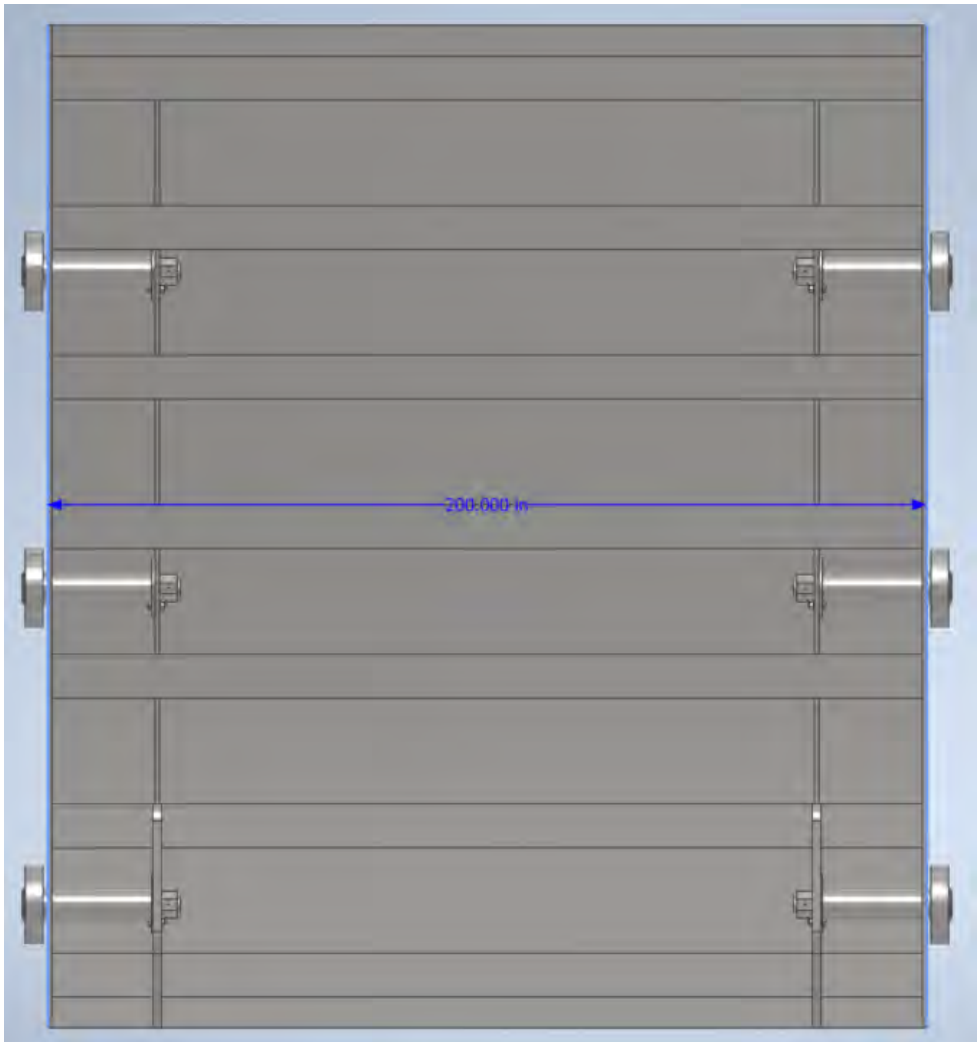

Figure 2 - New Gate Plan and Elevation View Showing Width
(DWG. S111)

5. Design Ice thickness for freezing rain. Deep bay gates do not meet the dimensional conditions of an escarpment. Topographic factor is taken as 1.0 (ASCE - Section 10.4.4 and 26.8.2):

$$K_{zt} := 1.0$$

6. Design Ice thickness for freezing rain (ASCE - Eqn. 10.4.5):

$$t_d := t \cdot f_z \cdot \left(K_{zt}\right)^{0.35} = 0.71\ in$$

7. Deep bay gate characteristic length (Figure 3 & ASCE - Section 10.4-1):

$D_c := 228.77\ in$

Figure 3 - Gate Characteristic Length

8. Volume of freezing rain buildup on deep bay gate:

$V_I := B \cdot \langle D_c \rangle \cdot t_d = 18.8\ ft^3$

9. Ice density (ASCE - Section 10.4.1):

$\rho_I := 56\ \frac{lbf}{ft^3}$

10. Extreme ice load:

$C_A := V_I \cdot \langle \rho_I \rangle = 1.1\ kip$

Eklutna Fish & Wildlife Program

Eklutna River Release Facility

Design Documentation Report

15% Design
Revision No. 0

October 6, 2023

PLACEHOLDER FOR ENGINEER STAMP
Date:

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Appendix A. 15% Design Drawings
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1.0 Introduction

1.1 Purpose

The purpose of this report is to present the design documentation associated with the development of the Eklutna River Release Facility (ERRF) as part of the Eklutna Fish & Wildlife Program (Project). The design documentation report (DDR) summarizes the pertinent data, design criteria, and standards used as the basis for the 15% level of design of the Project. The DDR documents the data, criteria, and standards by engineering discipline, and provides information about the operation of the design components associated with the Project.

The information presented within this DDR will be updated throughout the design development process to reflect refinement of the Project components and facilities, and advancement of the design analysis and details.

1.2 Location

The Project site is located in Southcentral Alaska approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna. The Project footprint spans lands owned and managed by the State of Alaska, Eklutna Inc., and the Bureau of Land Management. As proposed, the Project involves utilizing an existing diversion pipeline, owned and operated by Anchorage Water and Wastewater Utility (AWWU,) to deliver flow into the Eklutna River approximately 1 mile downstream of Eklutna Dam, as shown in Figure 1-1.

1.3 Background and Objectives

As part of the Eklutna Fish & Wildlife Program, Chugach Electric Association, Matanuska Electric Association, and the Municipality of Anchorage, known collectively as the Owners of the Eklutna Hydroelectric Project (Owners) are studying various means of providing water to the Eklutna River to mitigate damages to, and enhance fish and wildlife impacted by development and continued operation of the Project. A measure under consideration by the Owners is the implementation of a new river release structure utilizing some of the infrastructure owned and operated by AWWU. The purpose of this report is to document the design criteria and analyses performed for the engineering development of the Eklutna River Release Facility.

1.4 Report Organization

This DDR is a record of the design effort for the Project and specifically describes the details of the design process and work effort for the Eklutna River Release Facility (ERRF). The DDR

consists of a summary of the design elements, criteria, methods and approach, engineering calculations, and pertinent references. The major report sections and intended purpose are presented in Table 1-1.

Table 1-1. Major Report Sections and Purpose.

Section	Description	Purpose
1	Introduction and Background	Presents the Project background, purpose, location, authorization, objectives, feature scope, and the report organization.
2	General Description	Summarizes the basic design criteria that are used as the basis of design.
3	Existing Infrastructure	Summarizes the existing infrastructure related to the Project
4	Project Infrastructure and Operation	Describes the layout of the Eklutna River Release Facility and its operation.
5	Hydraulic Design	Presents the hydraulic and transient analysis to determine the design of the facility and impacts to existing AWWU infrastructure.
6	Civil Design	Includes information related to the civil design of the Eklutna River Release Facility, including erosion and sediment control measures.
7	Structural Design	Includes information related to the structural design of the Eklutna River Release Facility, including the building and foundation.
8	Mechanical Design	Includes information related to the mechanical design of the Eklutna River Release Facility valves.
9	Electrical Design	Includes information related to the electrical design and instrumentation and controls associated with the Eklutna River Release Facility.
10	References	Documents the references used in developing the design.

Section	Description	Purpose
Appendices		
A	15% Design Drawings	Presents the 15% design drawings for the Eklutna River Release Facility
B	Class 4 OPCC	Presents the Class 4 Opinion of Probable Construction Costs for the Eklutna River Release Facility

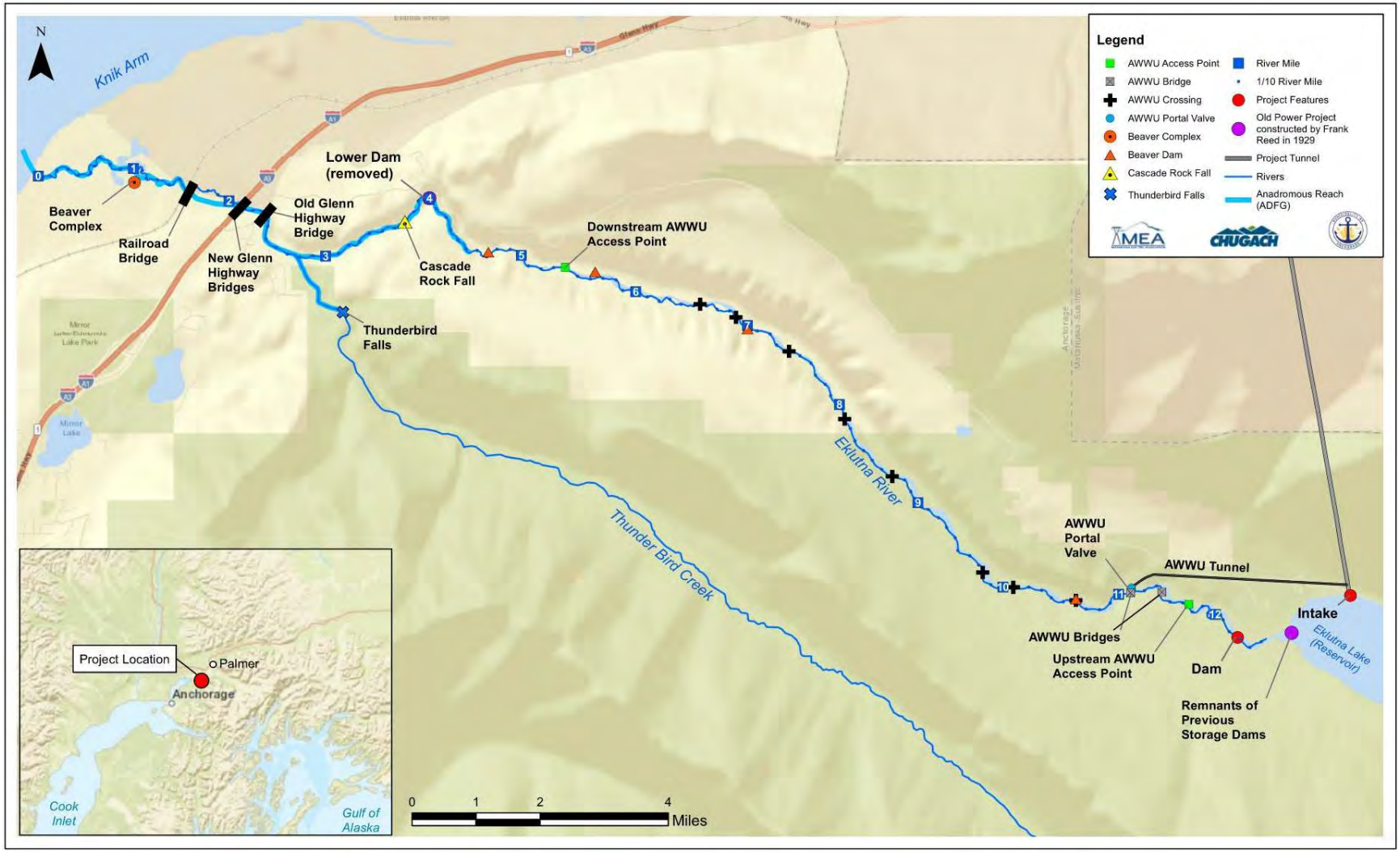

Figure 1-1. Project Overview.

2.0 General Description

2.1 General Design Criteria and Standards

General design criteria and standards for the Project include the abbreviations, survey datum, topographic mapping, references, and design standards as described below.

2.1.1 Standard List of Terms and Abbreviations

AACE	Association for Advancement of Cost Engineering
AC	alternating current
ACI	American Concrete Institute
AF	acre-ft
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute
ASTM	American Society of Testing and Materials
AWWA	American Water Works Association
AWWU	Anchorage Water and Wastewater Utility
BMP	Best Management Practice
CADD	computer aided design and drafting
CEA	Chugach Electric Association
cfm	cubic feet per minute
cfs	cubic feet per second
DC	direct current
DDR	Design Documentation Report
ERRV	Eklutna River Release Valve
El.	elevation
fps	feet per second
ft	feet
HDC	Hydraulic Design Criteria
HEC	Hydrologic Engineering Center
HMI	human-machine interface
HPU	hydraulic power unit

HVAC	heating, ventilation, and air conditioning
Hz	hertz
IESNA	Illuminating Engineering Society of North America
I/O	Input/Output
IBC	International Building Code
IEEE	Institute of Electrical and Electronics Engineers
LED	light-emitting diode
LiDAR	Light Detection and Ranging
MEA	Matanuska Electric Association
MGD	million gallons per day
MOA	Municipality of Anchorage
MSL	Mean Sea Level
NAD83	North American Datum of 1983
NAVD88	North American Vertical Datum of 1988
NEC	National Electric Code
NEMA	National Electrical Manufacturers Association
NESC	National Electrical Safety Code
NFPA	National Fire Protection Association
NGVD29	National Geodetic Vertical Datum of 1929
NVE	Native Village of Eklutna
O&M	operation and maintenance
pcf	pounds per cubic foot
PLC	programmable logic controller
psi	pounds per square-inch
SCADA	Supervisory Control and Data Acquisition
UL	Underwriters Laboratories
UPS	uninterruptible power supply
USGS	U.S. Geological Survey
V	volt
WSEL	water surface elevation

2.2 Survey Datum

Multiple vertical survey datums are reported in and around the main features of the Project. The following datums are identified within the Project area:

1. The MOA conducted LiDAR survey flights over the Project Area between May 12-30, 2015. The vertical datum this data is presented in is NGVD 1929 – M.O.A. 1972 Adjustment (MOA72).

2. McMillen contracted NV5 Geospatial to conduct LiDAR survey flights over the Project Area on May 28, 2020 and on May 18, 2022. The vertical datum this data is presented in is NAVD88, GEOID12B.

3. The As-Built Drawings for the intake structure are used for the reservoir modeling and hydraulic analysis. The drawings are titled “Eklutna Project – Alaska; Rehabilitation Pressure Tunnel” dated November 16, 1964 (USBR, Eklutna Project - Alaska. Rehabilitation Pressure Tunnel. As Built Drawings 1964). The vertical datum for these drawings is currently unknown and shall be referred to as “Local Datum” until further information is gathered.

4. The As-Built drawings of the AWWU lake diversion tunnel and pipeline are utilized as part of the design of the proposed facility. The drawings are titled “Eklutna Water Project” dated January 2, 1986 (AWWU, Eklutna Water Project 1986). The vertical datum used in these drawings is the GAAB Post-Quake, USC&GS, MSL, 1972. As currently understood this datum is identical to and used interchangeably with MOA72.

5. The USGS gauge station 15278000 Eklutna Lk Nr Palmer AK is reported by USGS to be based on the NGVD29. Discussions with USGS revealed that this is not necessarily the case, rather the gauge is tied to a brass cap set on the Eklutna Dam spillway wall.

The survey datum that will be utilized as the basis of this Project and the basis of all elevations within this report is NAVD88 GEOID 12B in terms of elevation with respect to Mean Sea level (MSL), US Foot. A conversion was determined from each of the unique project datums to correct to NAVD88 for the purposes of this investigation (McMillen 2022). The calculated correction factors between vertical datums used as part of the Eklutna Project is presented in Table 2-1.

Table 2-1. Eklutna Vertical Datum Conversion.

Vertical Datum	Conversion to NAVD88 (ft)	Notes
NAVD88	+0.00	
USGS Gauge	+3.263	Based on Staff Gauge Measurements at Dam
Local Datum	+3.593	Based on 2003 Survey at Dam
MOA72	+6.339	Based on 1987 Survey at Dam
	+6.520	Based on 2015 MOA LiDAR report

2.3 Geotechnical Data

At the present phase of development of the proposed facilities, site specific geologic and geotechnical investigations have not been performed. The basis of the geotechnical design for the facilities associated with the lake diversion tunnel and portal valve structure is the design summary report for the Eklutna Water Project (AWWU 1985). Additional geotechnical information was obtained for the vicinity around Eklutna Dam from the technical record of design and construction (USBR 1958).

3.0 Existing Infrastructure

3.1 Eklutna Lake

Eklutna Lake is a natural lake formed by the retreating Eklutna glacier. It is approximately 7 miles long, 1 mile wide, and 200 feet deep at its deepest. Eklutna Dam raises the water level of Eklutna Lake by 21 feet to a maximum regulated lake level of El. 874.59 ft (NAVD88). At this elevation, the lake has a surface area of 3,420 acres. The maximum surcharge water surface elevation is 888.39 ft at the peak spillway flow rate of 3,315 cfs. The minimum regulated lake level is El. 817.59 ft, which provides an active storage capacity of 174,800 acre-feet. The average monthly water surface elevation of Eklutna Lake is presented in Table 3-1.

Table 3-1. Average Monthly Water Surface Elevation of Eklutna Lake; 2011 - 2022.

Month	Average WSL (ft)
Jan	857.4
Feb	852.4
Mar	846.8
Apr	840.0
May	835.2
Jun	837.8
Jul	851.1
Aug	864.3
Sep	870.1
Oct	869.8
Nov	866.3
Dec	861.7

3.2 Intake Structure

Water from Eklutna Lake is currently diverted for power generation and/or water supply purposes through a submerged intake structure located on the northern end of the lake approximately 4,500 feet northeast of Eklutna Dam. The intake structure was originally constructed in 1952 and was replaced following damage in the 1964 earthquake. The intake consists of a reinforced concrete box structure protected with trash racks on its top, front, and both sides. The intake sits at an invert elevation of El. 794.19 ft and conveys water through to the Project power tunnel.

3.3 Power Tunnel

The power tunnel has an internal diameter of 9 feet and spans a distance of approximately 4.5-miles through Goat Mountain to the Project penstock. The tunnel consists of 225 feet of precast concrete conduit with the remainder being reinforced concrete lined segments. A gate shaft is located approximately 860 feet downstream of the intake to provide isolation of the tunnel for maintenance purposes. A tee was tapped into the tunnel approximately 500 feet downstream of the intake as part of the Eklutna Water Project constructed by AWWU in 1985. The tunnel terminates in a surge chamber located directly over the tunnel prior to entering the Project penstock. The surge chamber is used to dampen pressure surges within the conveyance during operation.

3.4 Penstock

Extending from the surge tank at the end of the tunnel is the penstock, which conveys water to the power plant turbines. The overall length of the penstock is about 1,088 feet. The penstock is a variable-diameter (91, 83, and 75-inch-outside-diameter) welded and coupled steel pipe encased in concrete in a tunnel extending from the surge tank to the power plant. At the powerplant, the penstock bifurcates into two 51-inch-diameter 23-foot-long branches, which are connected to the spiral cases of the turbines. A 66-inch butterfly valve is installed in each penstock branch upstream from the turbines to provide means of unwatering the turbines for servicing or maintenance.

3.5 Eklutna Power Plant

The Eklutna power plant is located on the Old Glenn Highway. It houses two vertical-shaft Francis-style hydroelectric generating units with an installed nameplate capacity of 44.4 MW. Actual capacity is less; the plant is rated at 41.9 MW at high lake elevations and 38.8 MW at low lake elevations. The rated flow through both turbine-generator units combined is 640 cfs, with a maximum allowable flow through the tunnel of 660 cfs. The average flow passing through the plant annually is 320 cfs. The monthly average flow rate through the Eklutna Power Plant from 2011 to 2020 is presented graphically in Figure 3-1.

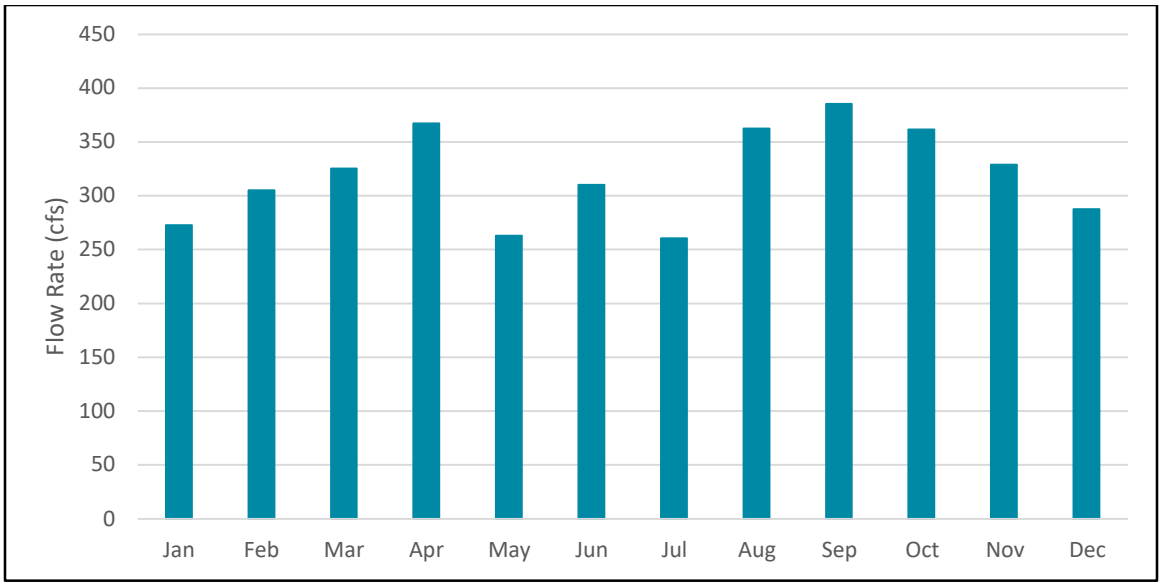

Figure 3-1. Average monthly flow rate; Eklutna Power Plant.

3.6 AWWU Lake Diversion Tunnel

As part of the Eklutna Water Project, AWWU constructed a new diversion tunnel and hydraulic conveyance from Eklutna Lake in 1985 to supply drinking water for the Municipality of Anchorage. The diversion tunnel connects to the Project power tunnel upstream of the tunnel gate shaft via a concrete encased fabricated steel 108-inch x 54-inch tee. The AWWU lake diversion tunnel has an inside diameter of 54-inches for the initial 60 feet, spanning from the tee to the intake valve shaft. The intake valve shaft houses a butterfly valve for emergency closure purposes and a gate valve for tunnel isolation. From the intake valve shaft, the tunnel enlarges to 72-inch diameter and spans a length of approximately 1.6 miles to the terminus of the tunnel approximately 1 mile downstream of Eklutna Dam. At this point the tunnel transitions into a 54-inch diameter steel pipeline and enters the portal valve shaft. The portal valve shaft houses an additional butterfly valve for emergency closure purposes of the AWWU pipeline. Hydraulic criteria of the AWWU lake diversion tunnel is presented in Table 3-2.

Table 3-2. Tunnel Hydraulic Design Criteria.

Description	Value
Inside Diameter (ft)	6
Length (ft)	8,540
Hydraulic Capacity (MGD)	100
Hydraulic Capacity (cfs)	155
Max Design Velocity (ft/s)	5.5
Normal Max Operating Pressure (psi)	42
Test Pressure (psi)	70
Max Allowable Transient Pressure (psi)	75
Maximum Design Pressure (psi)	186

3.7 AWWU Pipeline

The AWWU Pipeline segment P-4 spans from the AWWU portal valve shaft to the Eklutna Water Treatment Facility (EWTF) over a total distance of approximately 6 miles alongside the Eklutna River. The pipeline varies in diameter from 54-inch to 60-inch and is buried to a depth of 6- to 9 feet to the crown of the pipe. The pipeline is a mortar lined and coated steel pipe and contains a cathodic protection scheme consisting of 21 cathodic testing stations spaced at an interval of 1,500 feet. At a location within the Eklutna River valley approximately 6.5 miles downstream of Eklutna Dam, the pipeline is routed approximately 360 feet up the canyon wall to the EWTF located along Eklutna Lake Rd. The hydraulic criteria of the AWWU Pipeline segment P-4 is presented in Table 3-3.

Table 3-3. Hydraulic Design Criteria; AWWU Pipeline.

Description	Value
Inside Diameter (ft)	4.5 / 5
Length (ft)	32,600
Hydraulic Capacity (MGD)	100
Hydraulic Capacity (cfs)	155
Max Design Velocity (ft/s)	9.7 / 7.9

3.8 Eklutna Water Treatment Facility

The EWTF treats all water from Eklutna Lake prior to being discharged to the Municipality of Anchorage and AWWU's water distribution network. The facility is sized to treat a maximum of 63.4 cfs (41 MGD). All water from the pipeline passes through an energy recovery station located at the EWTF, consisting of a 922 HP (690 kW) Turgo-style hydroelectric turbine with the option of bypassing water around the turbine through an energy dissipation sleeve valve. Flow through the facility typically varies from 30-40 cfs (19-26 MGD). The average monthly flow through the EWTF from 2011-2020 is presented in Figure 3-2.

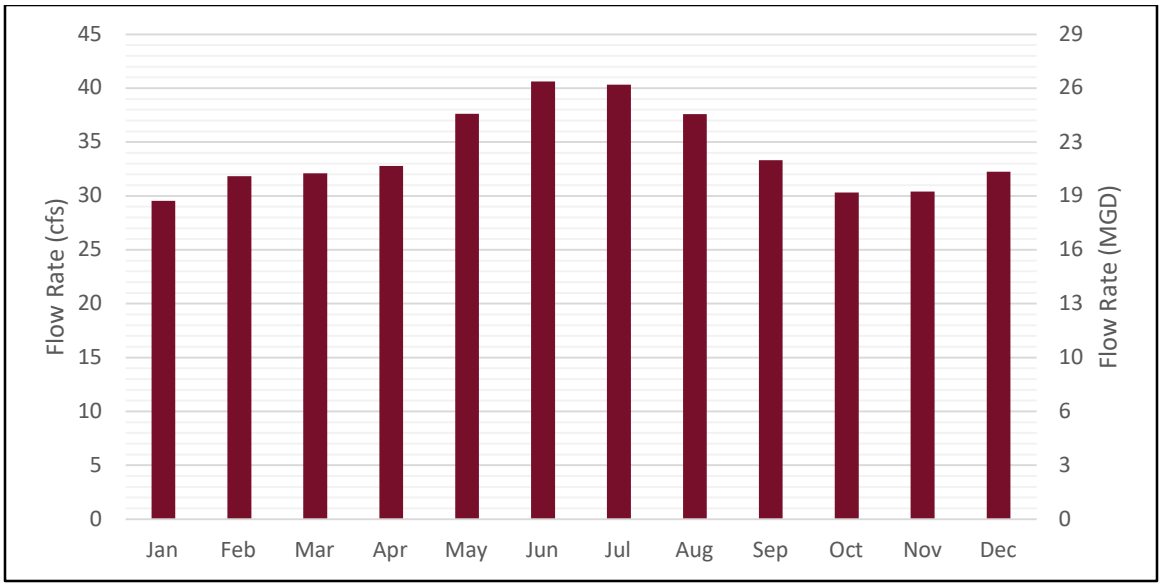

Figure 3-2. Average Monthly Flow Rate - EWTF; 2011-2020.

4.0 Project Infrastructure and Operation

The proposed infrastructural modification for providing continuous, year-round flow from Eklutna Lake to the Eklutna River involves the addition of a new valve and release structure located adjacent to AWWU's portal valve one mile below the Eklutna Dam. The proposed infrastructure, referred to as the Eklutna River Release Facility (ERRF), would consist of a tee off of the existing 54-inch pipeline that diverts water from Eklutna Lake as part of AWWU's Eklutna Water Project and new control valves to bypass water into the Eklutna River. The infrastructure to be included as part of the Eklutna River Release Facility is as follows:

- Construction of a new isolation gate structure immediately upstream of the AWWU portal valve release facility;
- Replacement of approximately 21 feet of existing pipeline with a newly fabricated steel 54-inch x 42-inch tee;
- Installation of a 54-inch gate valve on the main segment of pipe intended to provide dual means of isolation for AWWU's pipeline segment P-4;
- Installation of a 42-inch gate valve on the branch segment intended to provide isolation to the river release structure;
- Installation of a draining and filling system around each isolation valve;
- Installation of a pressure monitoring system and flow meter to provide dual redundant flow monitoring at AWWU's portal release valve facility;
- Construction of a new river release structure approximately 30 feet downstream of the isolation gate structure;
- Installation of a 30-inch sleeve valve or alternative energy dissipation valve to control flow into the Eklutna River;
- Installation of a flow monitoring system to monitor flow releases into the Eklutna River;
- Construction of a bypass channel connecting the river release structure with the Eklutna River;
- Installation of a flow meter at AWWU's intake valve shaft to provide dual redundant flow monitoring;
- Upgrades to communication infrastructure to provide direct communication between the Eklutna River Release Facility, AWWU portal valve shaft, AWWU intake valve shaft, Eklutna Water Treatment Facility, and Eklutna power plant.

4.1 Proposed Instream Flow Releases

The flow releases into the Eklutna River are anticipated to vary seasonally with a winter flow of 27 cfs and a summer flow of 40 cfs with appropriate ramping rates between flow levels. The total volume of water to be released annually from Eklutna Lake into the Eklutna River is 24,280 acre-ft/yr, equivalent to approximately 10% of the average annual inflow to the lake. The seasonal flows released into the river are presented in Figure 4-1 and tabulated in Table 4-1.

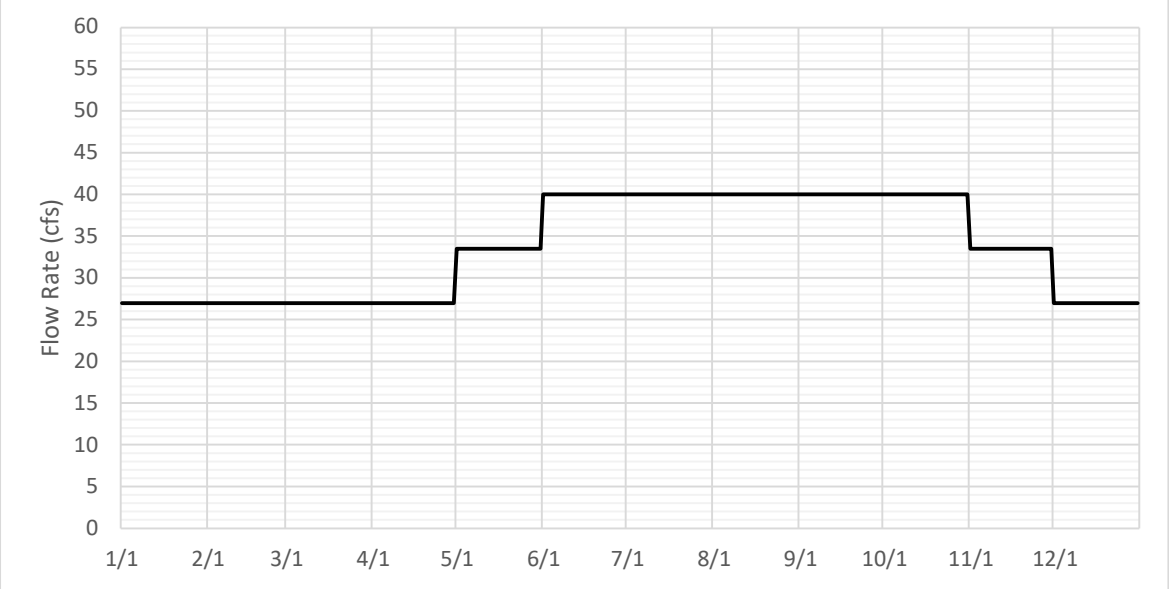

Figure 4-1. Eklutna River Flow Release Regime.

Table 4-1. Eklutna River Flow Release Regime by Month.

Month	Flow Rate (cfs)
Jan	27
Feb	27
Mar	27
Apr	27
May	34
Jun	40
Jul	40
Aug	40
Sep	40
Oct	40
Nov	34
Dec	27

4.2 Proposed Channel Maintenance Flow Releases

The proposed channel maintenance flow regime is water equivalent to 220 cfs for 72 hours in 3 out of every 10 years. The channel maintenance flow regime may be provided by natural high flow events over the dam; in the absence of natural high flow events, flow releases to meet the channel maintenance flow regime will be made by releasing up to 80 cfs from the proposed Eklutna River Release Facility and 140 cfs from the Eklutna Dam outlet gate. The proposed channel maintenance flow regime is presented in Table 4-2.

Table 4-2. Proposed Channel Maintenance Flow Regime and Duration.

Flow Duration (hours)	Flow Rate (cfs)
3	150
3	200
36	220
12	200
6	160
6	140
6	110
6	90
6	80
6	70
4	60

The channel maintenance flows must be planned such that the Eklutna Dam Outlet gate is connected to Eklutna Lake and able to provide a minimum of 140 cfs concurrently with the Eklutna River Release Valve (ERRV) providing up to 80 cfs into the river. This requires a water surface elevation of at least 866.6 ft, which typically occurs in mid-August.

4.3 Project Operations

The proposed ERRV and structure will be owned and operated by the Owners with remote control of the proposed valve and monitoring of valve position and flow rate from the Eklutna Power Plant. The Owners would control the valve by making periodic adjustments to valve position to meet the required flow rate based on the monthly flow regime presented in Table 4-1.

Operations and control of the proposed isolation gate structure upstream of the river release structure would be co-owned and operated by both AWWU and the Project Owners. Both isolation gate valves within that structure would normally be left in the open position. The Owners may choose to close the 42-inch gate valve as necessary during maintenance on the river release valve. AWWU may choose to close the 54-inch gate valve to provide a secondary

means of isolation on their portal valve structure if maintenance is required within the portal valve shaft or on the AWWU Pipeline Segment P-4.

The flow meter installed on the main 54-inch line and on the river release bypass would be monitored within the local SCADA system at the Portal Valve Shaft and AWWU's main SCADA controller at the EWTF. The intake emergency shutoff valve must be provided the instantaneous flow rate through the river release bypass to determine whether a change in flow within the conveyance is a result of variations in the river release valve flow rate or whether it constitutes a leak or break within the pipeline. Additionally, the flow monitoring on the river release bypass piping would be monitored by the Owners SCADA system within the Eklutna Power Plant to ensure compliance with the Fish & Wildlife Program.

During channel maintenance flow events occurring 3 times out of 10 years that cannot be met with natural high flow spill events, the Owners are proposing to release up to 80 cfs from the river release valve and 140 cfs from the dam outlet gate for a total of 220 cfs in accordance with the flow regime presented in Table 4-2. This must be timed to occur when the water surface elevation of Eklutna Lake is at or above El. 866.6 ft.

In the event of a catastrophic failure or emergency shutdown of the lake diversion tunnel caused by closure of the intake emergency shutoff valve, a reduction of the prescribed flow rate through the river release valve would immediately trigger the dam outlet gate to open to provide immediate flow continuity in the Eklutna River. If this event were to occur during the portion of the year that Eklutna Lake is at or above El. 864.59 ft, the outlet gate has the capability to continuously release the required flow rate. If this event were to occur when the lake is disconnected from the dam, it is anticipated that flow continuity into the Eklutna River would last for approximately 12 hours as the pond drains, during which an emergency fish salvage/rescue plan would be initiated.

5.0 Hydraulic Design

5.1 General Description

This section presents the hydraulic design of the Eklutna River Release Facility and summarizes the hydraulic and transient analyses performed to date.

5.2 Hydraulic Analysis

A spreadsheet hydraulic model was developed to determine the hydraulic losses and hydraulic profile for the conveyance from the intake to the EWTF. The following sections describe how the minor and major friction losses were calculated and what coefficients were used in the analysis.

5.2.1 Major Friction Losses

An accurate estimate of the energy losses caused by the shear stress between the fluid and the boundary is essential to determining the hydraulic changes caused by additional flow releases being made from the river release structure. The shear stress or friction factor is a function of the viscosity and velocity gradient of the fluid near the boundary (Tullis, 1989). The Darcy-Weisbach equation (Equation 1) was used to determine the friction losses in the tunnel and pipeline. The Colebrook-White equation (Equation 2) was used to determine the friction factor, used in the Darcy-Weisbach equation, for the conveyance. The selected roughness (e) for different linings used in the analysis is presented in Table 5-1.

$$h_f = \frac{fL}{D}\frac{V^2}{2g} \qquad \text{Equation 1}$$

$$\frac{1}{\sqrt{f}} = 1.14 - 2\log\left(\frac{e}{D} + \frac{9.35}{R_e\sqrt{f}}\right) \qquad \text{Equation 2}$$

Where:

h_f = friction losses (ft)
f = friction factor
D = Pipe or Tunnel Diameter (ft)
L = Pipe or Tunnel Length (ft)
V = Average Velocity (ft/second)
g = Gravitational Acceleration (ft/second²)
e = roughness height (ft)
R_e = Reynolds Number, using Kinematic Viscosity at 60°F = 1.22E-05 ft²/s

Table 5-1. Pipeline and Tunnel Roughness Values.

Description	Value (mm)	Value (ft)	Range (mm)	Reference
Concrete-Lined Tunnel Roughness Height, *e* (feet) [1/]	0.30	0.0098	0.30-3.0	Rennels, 2012
Cement-Mortar Lined Steel Pipe, *e* (feet) [2/]	0.10	0.00035	0.10 – 0.12	AWWA, 2017

[1/] CIP Concrete Lining in power tunnel and lake diversion tunnel.

[2/] Cement-mortar lined steel pipe in AWWU pipeline segment P-4 and new river release structure.

5.2.2 Minor Friction Losses

Minor losses, or more appropriately called local losses, is a term referring to losses that occur at conveyance system appurtenances such as entrances, elbows, orifices, valves, etc. The head losses, as a result of a minor loss, are due primarily to the formation and decay of turbulent eddies (Tullis, 1989). The minor head loss is proportional to the velocity head, as presented in Equation 3. The minor loss coefficients used in the analysis are presented in Table 5-2.

$$h_l = K_l \frac{V^2}{2g} \qquad \text{Equation 3}$$

Where:

h_l = Minor losses (ft)
K_l = Loss Coefficient
V = Average Pipe Velocity (ft/second)
g = Gravitational Acceleration (ft/second²)

Table 5-2. Minor Loss Coefficients.

Description	Assumed Value	Reference
Entrance Loss, Sharp Corner	0.50	Tullis, 1989
Full Open Isolation Valve	0.20	Tullis, 1989
90 Bend Loss	0.24	Tullis, 1989
Profile Bar, Trashrack	0.52	Tullis, 1989
Exit Loss	1.0	Tullis, 1989

5.2.3 Combined Head Losses

Considering both major and minor friction losses in the proposed hydraulic conveyance, an overall system head loss function was developed from the intake structure to the EWTF. The

combined head losses consider flow withdrawn at the EWTF and the maximum flow rate of 660 cfs entering the intake structure withdrawn at the power plant. The head loss equation as a function of flow rate is provided below in Equation 4. The site-specific head loss coefficient is equal to 0.008, and the residual losses caused by the maximum flow withdrawn through the power plant is 3.6 ft. The corresponding head loss curve is provided in Figure 5-1.

$$H_T = KQ^2 + B \qquad \text{Equation 4}$$

Where:

H_T = Combined Head Losses (ft)
K = Head Loss Coefficient
Q = Flow Rate (cfs)
B = Residual Loss Coefficient (ft)

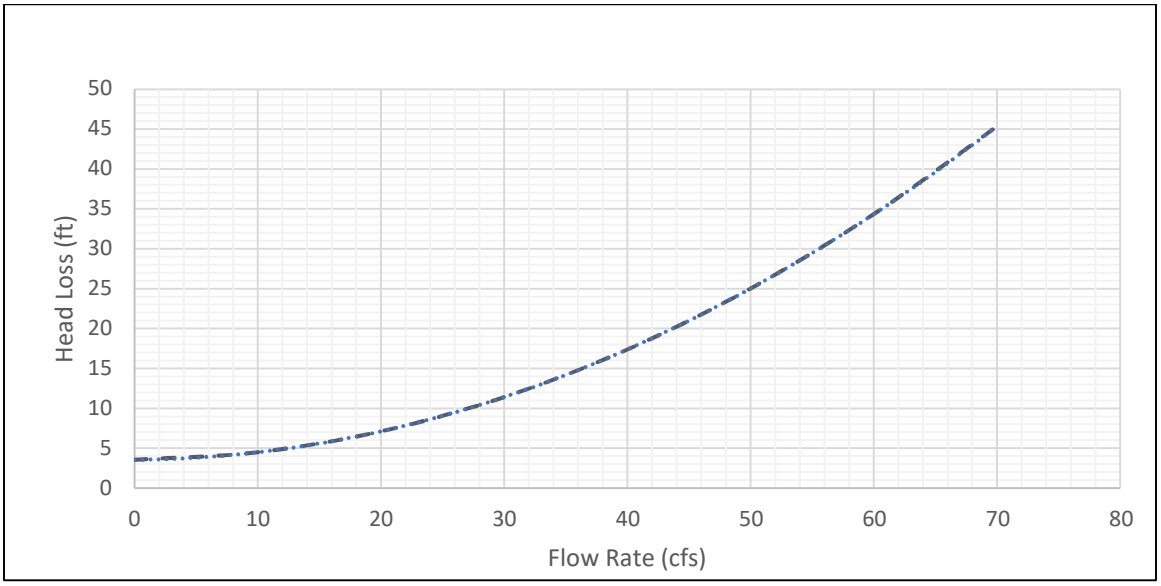

Figure 5-1: Head Loss Curve - Hydraulic Conveyance.

5.2.4 Hydraulic Grade Line – Existing Conditions

The AWWU conveyance was analyzed under various flow distribution scenarios to determine baseline operating conditions. The hydraulic grade line of the system at the average lake water surface elevation and a maximum withdrawal of 63 cfs (41 MGD) is presented in Figure 5-2. A tabular summary of the losses through the system and residual pressures at the EWTF under the average monthly operating conditions is presented in Table 5-3.

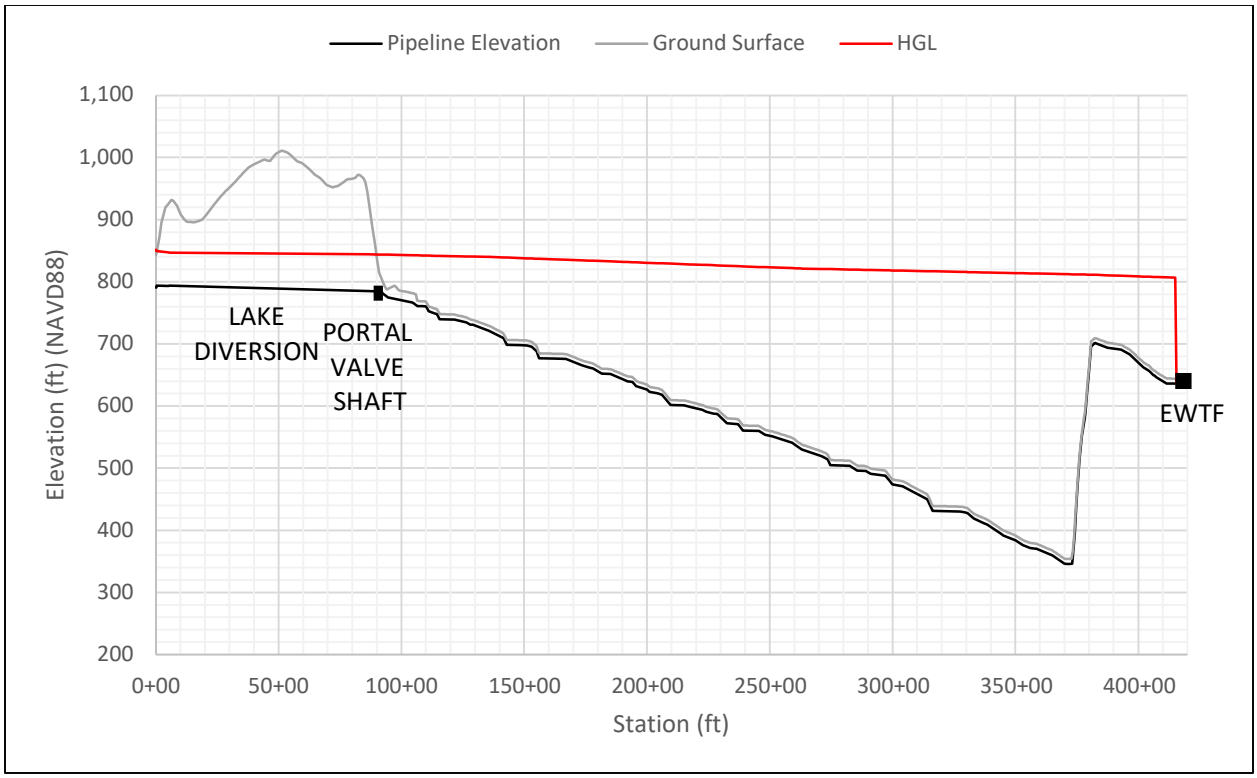

Figure 5-2. Hydraulic Grade Line – 63 cfs; AWWU Conveyance.

Table 5-3. EWTF Pressure – Existing Conditions; Monthly Average Flow.

Month	Avg Eklutna Lake WSL (ft)	Power Plant Flow Rate (cfs)	EWTF Flow Rate (cfs)	Head Losses (ft)	EWTF Pressure (psi)
Jan	853.8	273	30	5.1	89
Feb	848.8	305	32	6.0	86
Mar	843.2	325	32	6.2	84
Apr	836.4	367	33	6.7	81
May	831.6	263	38	7.8	78
Jun	834.2	310	41	9.2	79
Jul	847.6	261	40	8.9	85
Aug	860.7	363	38	8.4	90
Sep	866.5	386	33	7.0	93
Oct	866.2	360	28	5.1	94
Nov	862.7	329	30	5.7	92
Dec	858.1	286	32	6.0	90

5.2.5 Hydraulic Grade Line – Future Conditions

A hydraulic analysis was performed on the AWWU hydraulic conveyance under a proposed future flow regime. Under this future operating scenario, the maximum flow rate of 63 cfs (41 MGD) was delivered to the EWTF at the average monthly water surface elevations of Eklutna Lake. To determine impacts to the EWTF as a result of operation of the proposed Eklutna River Release Facility, a secondary scenario was analyzed which added a secondary withdrawal immediately upstream of the AWWU Portal Valve Shaft, corresponding to the monthly instream flow regime as discussed in Section 4.2. The residual pressure at the EWTF under a future flow regime with and without the instream flow releases is presented in Table 5-4 and Table 5-5, respectively.

Table 5-4. EWTF Pressure – Maximum EWTF Withdrawal; Monthly Average Flow.

Month	Avg Eklutna Lake WSL (ft)	Power Plant Flow Rate (cfs)	EWTF Flow Rate (cfs)	River Release (cfs)	Head Losses (ft)	EWTF Pressure (psi)
Jan	853.8	273	63	0	21.0	82
Feb	848.8	305	63	0	21.2	80
Mar	843.2	325	63	0	21.3	77
Apr	836.4	367	63	0	21.6	74
May	831.6	263	63	0	21.0	72
Jun	834.2	310	63	0	21.2	73
Jul	847.6	261	63	0	21.0	79
Aug	860.7	363	63	0	21.6	85
Sep	866.5	386	63	0	21.7	87
Oct	866.2	360	63	0	21.6	87
Nov	862.7	329	63	0	21.4	86
Dec	858.1	286	63	0	21.1	84

Table 5-5. EWTF Pressure - Maximum EWTF Withdrawal with River Bypass; Monthly Average Flow.

Month	Eklutna Lake WSL (ft)	Power Plant Flow Rate (cfs)	EWTF Flow Rate (cfs)	River Release (cfs)	Head Losses (ft)	EWTF Pressure (psi)	EWTF Pressure Loss (psi)
Jan	853.8	246	63	27	24.1	81	1.4
Feb	848.8	278	63	27	24.3	78	1.4
Mar	843.2	298	63	27	24.5	76	1.4
Apr	836.4	340	63	27	24.7	73	1.4
May	831.6	228	63	35	25.2	71	1.8
Jun	834.2	270	63	40	26.3	71	2.2
Jul	847.6	221	63	40	26.0	77	2.2
Aug	860.7	323	63	40	26.6	82	2.2
Sep	866.5	346	63	40	26.8	85	2.2
Oct	866.2	320	63	40	26.6	85	2.2
Nov	862.7	294	63	35	25.6	84	1.8
Dec	858.1	259	63	27	24.2	82	1.4

5.3 Transient Analysis

A transient analysis was completed to determine the expected pressure fluctuations within the existing Project power tunnel, AWWU lake diversion tunnel, AWWU pipeline, and EWTF caused by operations of the proposed ERRV. The following subsections describe the results of that analysis.

5.3.1 Model Configuration

The hydraulic transient pressures were calculated using Applied Flow Technology (AFT) Impulse Version 9 modeling software. AFT Impulse simulates the hydraulic pressure surges using the Method of Characteristics, the most widely used method for solving fluid transient problems. This section presents an overview of the model setup, assumptions, and input parameters which represent operating conditions and associated hydraulic transients.

5.3.2 Piping Arrangements

The hydraulic transient model was constructed to represent the physical geometry of the conveyance network from Eklutna Lake including the length of associated tunnels and piping, vertical profile, and varying pipeline wall thicknesses throughout the alignment. The model includes the intake structure, power tunnel, AWWU lake diversion tunnel, AWWU pipeline to

the EWTF, and the proposed ERRV and associated bypass piping. Figure 5-3 presents the model used to evaluate the transients that occur during closure of the ERRV.

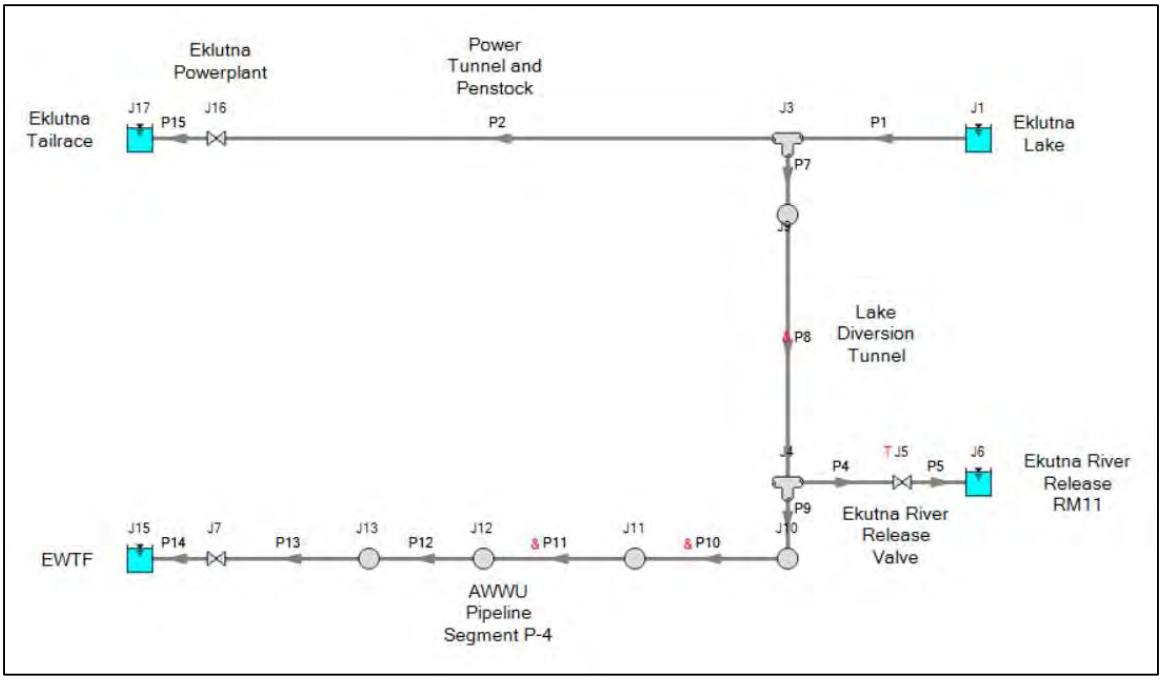

Figure 5-3. Transient Model Layout.

5.3.3 Input Parameters

The conveyance segment lengths, required to solve the Method of Characteristics, were increased until the time step was <0.005 seconds. The discrete gas cavity model was used to simulate the model transient cavitation using a psi weight factor of 0.95, and initial void fraction of 1E-07, with a void fraction reference pressure of 1 atmosphere. The simulations were run for 500 seconds to observe the dampening of the transient wave. Four model runs were used as the basis of the analysis as detailed in Table 5-6.

Table 5-6. Transient Model Runs.

Model Run		Water Surface Elevation (NAVD88)	Eklutna Power Plant Flow Rate (cfs)	EWTF Flow Rate (cfs)	ERRV Flow Rate (cfs)
A	No Flow	888.39	0	0	80
B		817.59	0	0	40
C	Max Flow	888.39	660	63	80
D		817.59	660	63	40

5.3.3.1 Wave Celerity

The wave celerity is the speed at which a transient wave propagates through the conveyance and is a function of the acoustical velocity of the fluid and the physical properties of the pipelines and tunnel. Table 5-7 presents the wave celerity parameter utilized for each penstock segment.

Table 5-7. Hydraulic Conveyance Wave Celerity.

Description	Units	Lake Diversion Tunnel	AWWU Pipeline Segment P-4	River Release Bypass
Modulus of Elasticity Lining/Wall	psi	4,000,000	30,000,000	30,000,000
Poisson Ratio		0.2	0.3	0.3
Soil/Rock Modulus of Rigidity	kPa	30,000	7,000	7,000
Wave Celerity	ft/s	3,940	3,000	3,220

5.3.3.2 Eklutna Powerplant

The Eklutna Powerplant contains two vertical-shaft Francis-style hydroelectric generating units with an installed nameplate capacity of 44.4 MW. The maximum flow available for diversion through the powerplant is 660 cfs. The fixed flow rate through the powerplant defined for each model run is presented in Table 5-8.

Table 5-8. Eklutna Power Plant Model Parameters.

Model Run		Flow Rate (cfs)	Water Surface Elevation (NAVD88)	Cv (gpm/psi$^{0.5}$)
A	No Flow	0	888.39	0
B		0	817.59	0
C	Max Flow	660	888.39	16,240
D		660	817.59	17,070

5.3.3.3 Eklutna Water Treatment Facility

The EWTF contains one horizontal-shaft Turgo-style hydroelectric generating units with an installed nameplate capacity of 922 HP (690 kW). The maximum flow available to the EWTF is 63.4 cfs (41 MGD). For the purposes of this transient model, the facility was modeled as a

valve with a fixed flow coefficient. The fixed flow rate through the powerplant defined for each model run is presented in Table 5-9.

Table 5-9. EWTF Model Parameters.

Model Run		Flow Rate (cfs)	Water Surface Elevation (NAVD88)	C_v (gpm/psi$^{0.5}$)
A	No Flow	0	888.39	0
B		0	817.59	0
C	Max Flow	63.4	888.39	2,984
D		63.4	817.59	3,576

5.3.3.4 Eklutna River Release Facility

The Eklutna River Release Facility consists of a 42-inch tee off of the main 54-inch AWWU Pipeline segment upstream of the portal valve structure followed by a run of approximately 30 feet of piping and an energy dissipating valve for release into the Eklutna River. The proposed valve to control the flow into the Eklutna River is a 30-inch class 150 Bailey model B-10 sleeve valve, as presented in Figure 5-4.

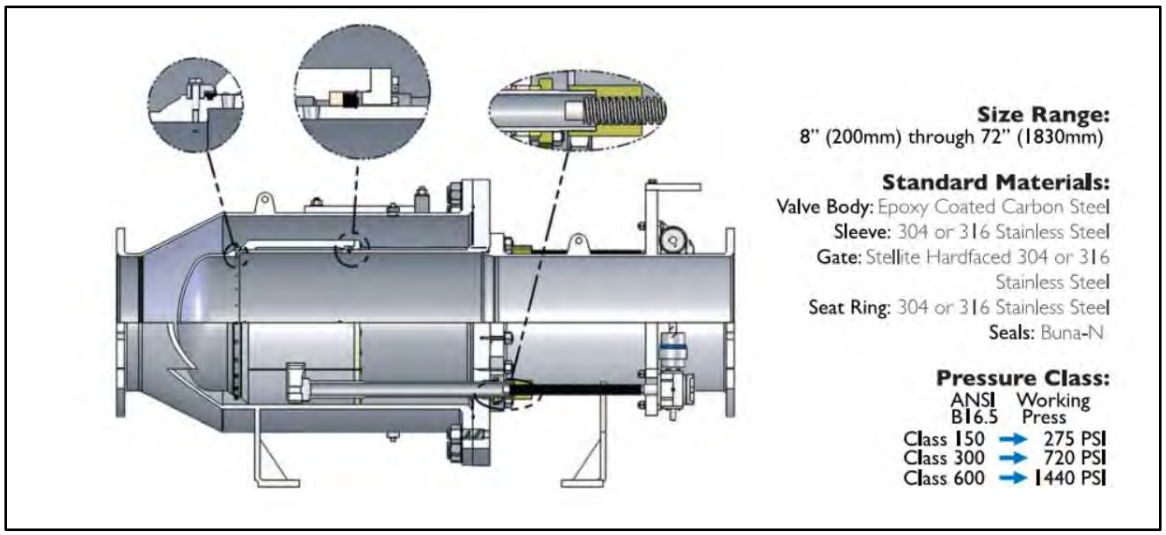

Figure 5-4. Bailey Model B-10 Sleeve Valve (Bailey, 2023).

Discharge through the sleeve valve is a function of the actuator stroke and the differential pressure across the valve. The maximum flow through the valve at the minimum water surface elevation of the reservoir is 40 cfs. The maximum flow through the valve at the maximum water surface elevation corresponds to the channel maintenance flow regime of 80 cfs. The

sleeve valve discharge coefficient (C_v) as a function of the valve stroke is presented in Figure 5-5.

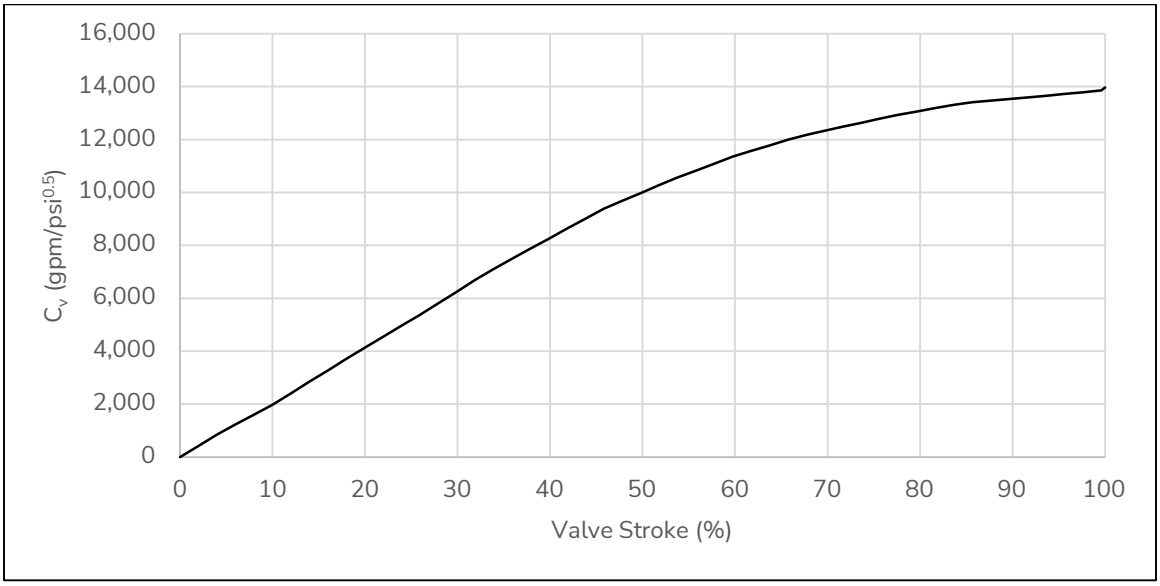

Figure 5-5. Sleeve Valve Discharge Coefficient, C_v.

The closure rate of the sleeve valve in the event of an emergency shall be set to meet or be less than the closure rate of the AWWU intake emergency shutoff valve to prevent the ERRV from continuing to release water and dewatering the AWWU pipeline in the event of an emergency shutdown of the system. The closure rate of the intake emergency shutoff valve is not known at this time, however per the design criteria of the system the closure rate was initially set for 10-minutes for a full closure cycle and may be adjusted but shall not be set for < 5 minutes to limit potential surge pressures (AWWU 1989). For conservative purposes, the full stroke of the sleeve valve is set to a closure time of 5 minutes. During commissioning of the valve, the closure rate shall be set to match the AWWU intake emergency shutoff valve closure timing. The input parameters for the sleeve valve for each model run is presented in Table 5-9.

Table 5-10. Eklutna River Release Facility Model Parameters.

Model Run		Flow Rate (cfs)	Water Surface Elevation (NAVD88)	Initial C_v (gpm/psi$^{0.5}$)	Initial Stroke (%)	Closure Time (sec)
A	No Flow	80	888.39	6,090	29%	78
B		40	817.59	7,445	36%	105
C	Max Flow	80	888.39	6,670	32%	95
D		40	817.59	13,700	100%	300

5.3.4 Transient Analysis Results

To evaluate that the closure rate of the proposed sleeve valve is adequate to prevent the lake diversion tunnel and associated facilities from experiencing pressure surges outside of their design limitations, the maximum and minimum transient pressure were evaluated at the extreme upper and lower water surface elevations in Eklutna Lake. The criteria utilized for evaluation of the pressure surges is discussed in Section 3.6. The results of the transient analysis for model runs A and B with no flow being delivered to the Eklutna Power Plant or the EWTF is presented in Figure 5-6 and summarized in Table 5-11.

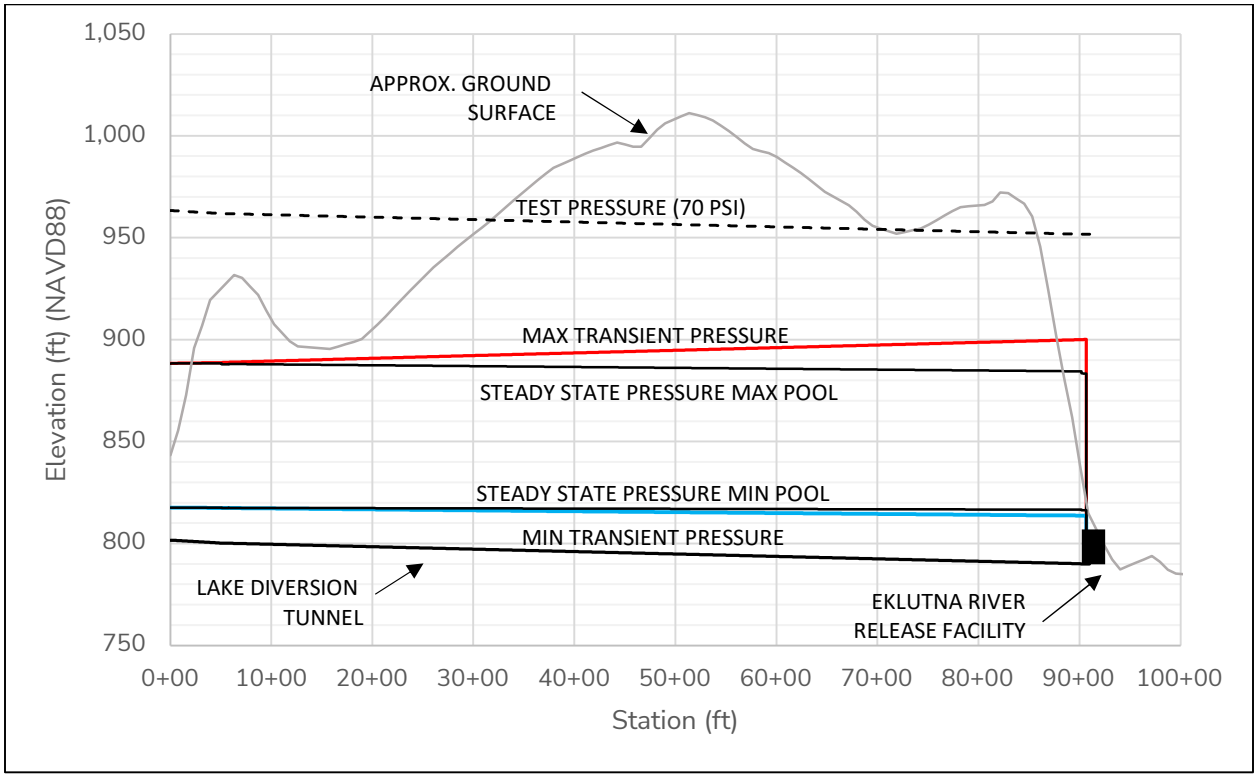

Figure 5-6. Transient Pressure Results; No Flow to Power Plant or EWTF.

Table 5-11. Summary of Transient Pressure; Lake Diversion Tunnel - Model Run A/B.

Description	Water Surface Elevation (NAVD88)	Closure Time (sec)	Steady State Pressure (psi)	Transient Pressure (psi)[1]	Test Pressure (psi)
Maximum Pool	888.39	78	56	62	70
Minimum Pool	817.59	105	26	20	

[1] Transient pressure displayed presents the maximum upsurge pressure at maximum WSEL and minimum downsurge pressure at minimum WSEL.

To determine how the pressure surge is impacted by operations of the EWTF and powerplant, model runs C and D incorporated the maximum flow rate drawn through both facilities. The results of the transient analysis for model runs C and D with the maximum flow being delivered to the Eklutna Power Plant and the EWTF is presented in Figure 5-7 and summarized in Table 5-11. Under each flow condition modeled, the maximum transient pressure is within the design pressure for the Lake Diversion Tunnel and the minimum downsurge does not cause partial vacuum or interruption of flow within the conveyance.

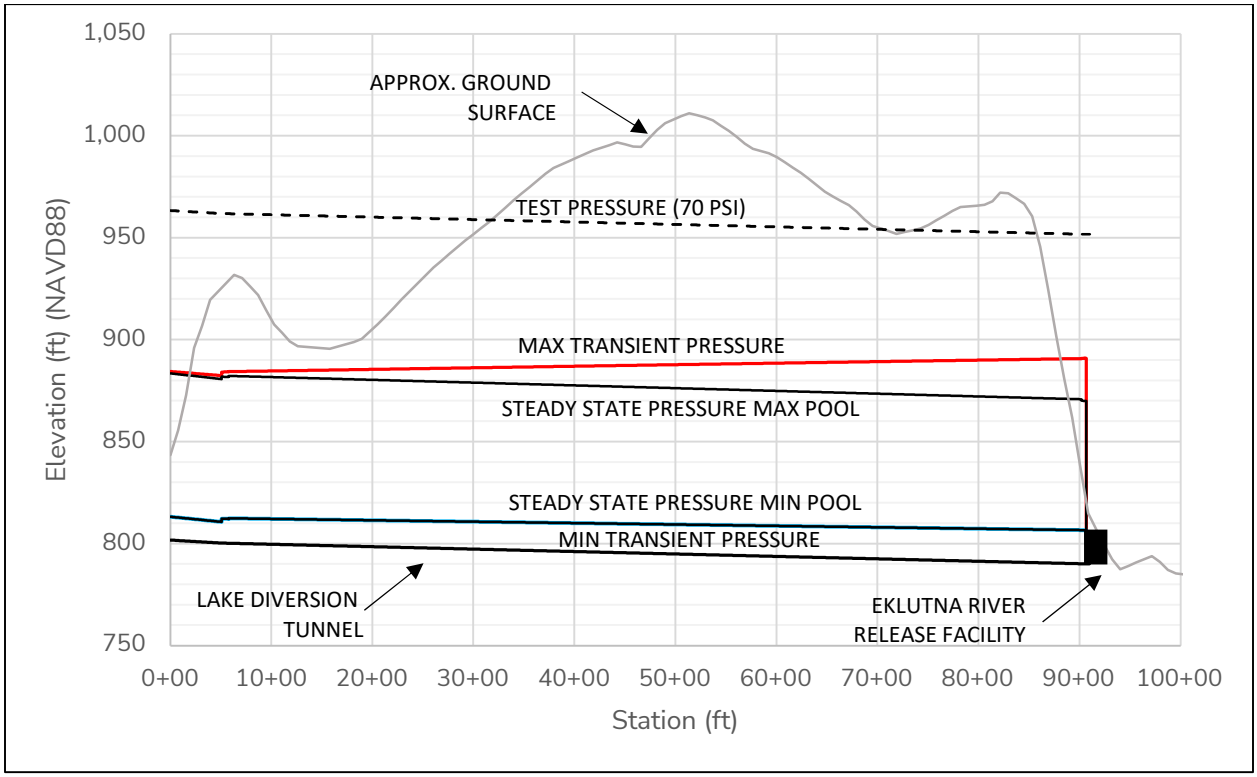

Figure 5-7. Transient Pressure Results; Max Flow to Power Plant and EWTF.

Table 5-12. Summary of Transient Pressure; Lake Diversion Tunnel - Model Run C/D.

Description	Water Surface Elevation (NAVD88)	Closure Time (sec)	Steady State Pressure (psi)	Transient Pressure (psi)[1]	Test Pressure (psi)
Maximum Pool	888.39	95	50	58	70
Minimum Pool	817.59	300	22	19	

[1] Transient pressure displayed presents the maximum upsurge pressure at maximum WSEL and minimum downsurge pressure at minimum WSEL.

6.0 Civil Design Criteria

6.1 General Description

This section presents the civil design elements at the Eklutna River Release Facility and summarizes civil design criteria, erosion and sediment control requirements during and post-construction, stormwater design, and the required grading at the site.

6.2 Design Criteria

The Project is located in the Municipality of Anchorage in Alaska; therefore, during and after construction, the Project will be required to comply with all federal, state, and county laws regarding environmental pollution control.

6.2.1 Erosion Control and Grading

A portion of the existing site will be cleared and graded to support the expansion of the AWWU Portal Valve fencing and construction of the Eklutna River Release Facility. Prior to construction, an erosion and sediment control plan will be developed. During construction, all construction activities shall follow Best Management Practices (BMP) plan to prevent erosion, reduce sediment discharges from construction sites, and prevent damage by sedimentation, erosion, or dust to streams, waterways, natural areas, and adjacent properties.

Areas disturbed during construction will be carefully graded and replanted with native vegetation leaving the area similar to the condition it was prior to the disturbance activities.

6.2.2 Site Fencing

As part of the development of the site to provide room for the new isolation gate and river release structures, the security fencing around the perimeter of both the existing portal facility and the new ERRF facility will be expanded. The fence will be set back a minimum of 25-ft from the buildings to allow for a drive aisle around the facility and room for parking and miscellaneous storage. Additionally, two new double-leaf gates will be installed in the fencing to allow ease of snow removal. The new gates will be located on the northwest and southwest corners of the facility allowing a small plow to push accumulated snow away from the buildings periodically during winter.

7.0 Structural Design Criteria

The structural design criteria apply to all design procedures to be implemented during the Project design. Structural design considerations listed in this section include detailing of structural components, material selection, and design requirements that are intended to be incorporated into the Project.

7.1 Applicable Codes and Standards

The structural design will conform to the following reports, criteria, and industry codes and standards. The applicable version of each document is the latest edition in force unless noted otherwise. References to the specific codes and standards will be included in the applicable technical specifications as the final design documents are prepared.

Table 7-1. Structural Codes and Standards.

Number	Description
Building Code	
ASCE 7	ASCE 7/SEI 7-16 Minimum Design Loads for Buildings and Other Structures, 2016
Design Standards and References	
ACI 318	Building Code Requirements for Structural Concrete, 2014
ACI 350	Code Requirements for Environmental Engineering Concrete Structures, 2006
ACI 360R	Design of Slabs on Ground, 2006
AISC 360	Specification for Structural Steel Buildings, 2016
ASIC SCM	Steel Construction Manual, 14th Edition
AWS D1.1	Structural Steel Welding Code – Steel
EM 2100	USACE EM 1110-2-2100 – Stability Analysis of Concrete Structures, 2005
EM 2104	USACE EM 1110-2-2104 – Strength Design for Reinforced Concrete Hydraulic Structures, 2016

7.2 Materials

Materials and standards for concrete, concrete-related materials, structural steel, and miscellaneous metals for the Project are indicated in Table 7-2.

Table 7-2. Structural Materials and Design Standards.

Component	Material and Standard
Concrete and Related	
Existing Concrete	Compressive Strength (static), f'ce = 3000 psi
New Concrete	Minimum 28-day Compressive Strength, f'c = 4,500 psi
Reinforcing Steel	ASTM A615, Grade 60
Adhesive Anchors	Two component epoxy, ASTM C-881 (with SS threaded anchor rod or reinforcing dowels)
Structural Steel	
Wide Flange Shapes	ASTM A992, Grade 50ksi
M, C, L shapes	ASTM A572, Grade 50ksi
Tube (HSS)	ASTM A500, Grade C. (46ksi Round / 50ksi Rect.)
Plates and Bars	ASTM A572, Grade 50ksi
High-Strength Bolts	ASTM F3125, Grade A325
Anchor Rods	ASTM F1554, Grade 50ksi (threaded) A193, Type 316 Stainless Steel
Miscellaneous Metals	
Guardrail and Grating	Galvanized steel

7.3 Design Loads

The general load types considered in the design of the structure are summarized in Table 7-3.

Table 7-3. Structural Design Loads.

Load Type	Description
Dead	Self-weight of all permanent structural elements as well as super-imposed weight of permanent mechanical and electrical equipment and piping.
Live	Temporary loads produced by the use and occupancy of the building or structure (excluding environmental loads). This load type includes those produced by movable objects and loads on guardrails, fixed ladders, and handrail systems by maintenance personnel.
Hydraulic	Hydrostatic and hydrodynamic loads imposed on surfaces containing, retaining, or displacing water.

Soil	Weight of moist or buoyant soil on the structure and lateral earth pressures against surfaces retaining soil.
Wind	By inspection, wind loading does not govern the structural design aspects of these project features.
Seismic	Inertial forces produced by ground motion during a seismic event. The effects of this load type on these structures and non-structural equipment will be approximated based on the provisions of ASCE7.
Thermal	Self-straining loads due to thermal variation. Maximum and minimum temperatures for the site location will be considered.

7.3.1 Design Basis for Reinforced Concrete Structures

Per EM 1110-2-2104, all reinforced concrete structures will satisfy Load Factor and Resistance Design (LRFD) methodology by providing the required strength defined by the equation below:

$$U = \sum \gamma_i L_{ni} \leq \phi R_n$$

Where:

- $U =$ required strength
- $\gamma_i =$ USACE load factors per EM 2104
- $L_{ni} =$ load effects per structural calculations
- $\emptyset =$ resistance factor from ACI
- $R_n =$ nominal resistance from ACI

This methodology will be applied to the design of other material types in accordance with the relevant design standards and references. Refer to the structural calculations for additional information and derivation of these equation variables for specific Project features and components.

8.0 Mechanical Design Criteria

The mechanical design criteria apply to all design procedures to be implemented during the Project design. Mechanical design considerations listed in this section include detailing of mechanical components, material selection, and design requirements that are intended to be incorporated into the Project.

8.1 Applicable Codes and Standards

The mechanical design will conform to the following reports, criteria, and industry codes and standards. The applicable version of each document is the latest edition in force unless noted otherwise. References to the specific codes and standards will be included in the applicable technical specifications as the final design documents are prepared.

Codes & Standards	Description
ASTM	American Society of Testing and Material
ANSI	American National Standards Institute
ASME	American Society of Mechanical Engineers
ASME B16.5	Steel Pipe Flanges
AWS	American Welding Society
ASHRAE	American Society of Heating, Refrigerating and Air-Conditioning Engineers
ASHRAE 2019	2019 Handbook – HVAC Applications
ASHRAE 62.1	Ventilation for Acceptable Indoor Air Quality
AWWA C200	Steel Water Pipe, 6 in. (700 mm) and Larger
AWWA C208	Dimensions for Steel Water Pipe Fittings
AWWU 2018	2018 Design and Construction Practices Manual
FIST	Facilities Instructions, Standards and Techniques Manuals
MOA Div 60	Standard Construction Specifications for Water Systems
MSS	Manufacturers Standardization Society of Valves and Fittings
UPC	Uniform Plumbing Code
USACE	United States Army Corps of Engineers Engineer Manuals

8.2 Isolation Gate Structure

The isolation gate structure is located immediately upstream of the AWWU portal valve shaft and houses two isolation knife gate valves, fill piping, combo air release/vacuum breaker valve, a flow meter, sump pump, backup 24VDC emergency batteries, and electrical control cabinets. A representation of the isolation gate structure valve floor is presented in Figure 8-1.

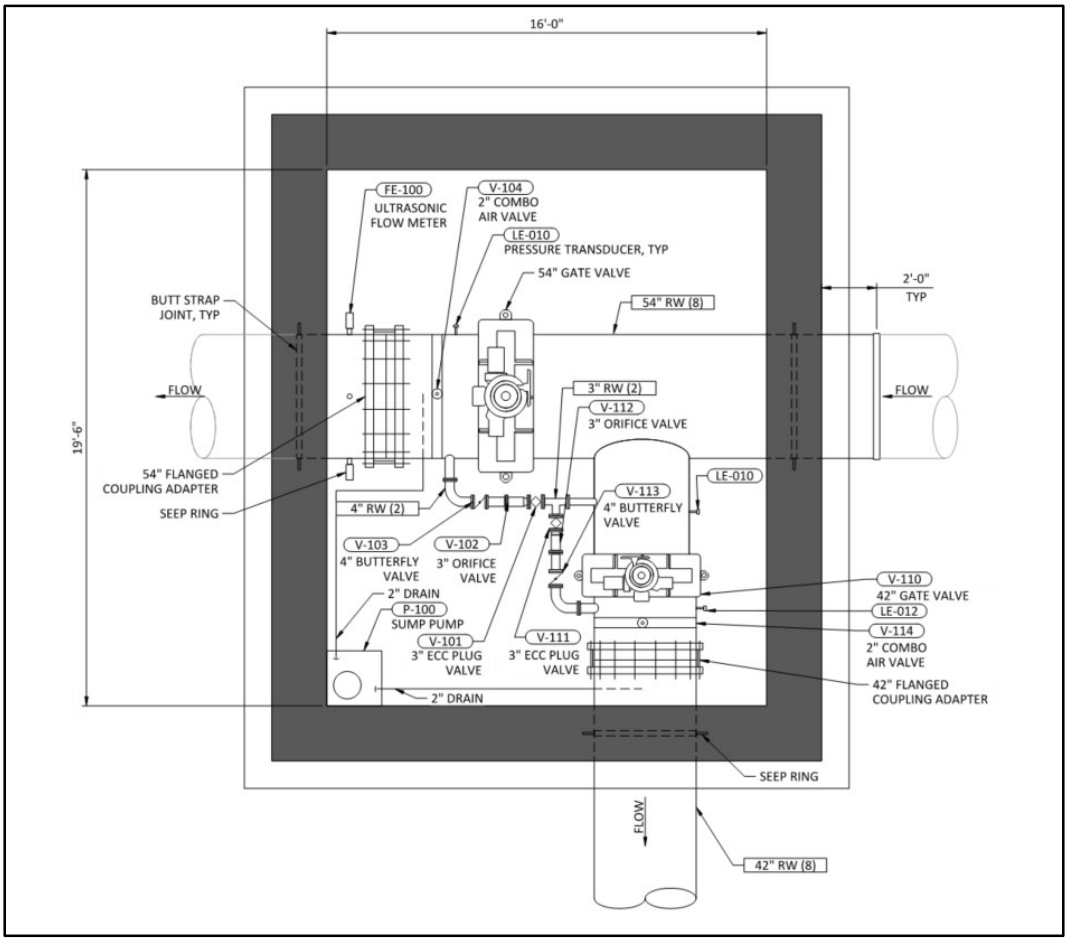

Figure 8-1. Isolation Gate Structure Plan View.

8.2.1 Isolation Gate Valves

Two new isolation gate valves will be installed within the proposed isolation gate structure immediately upstream of the AWWU portal valve shaft. The valves are anticipated to be a 54-inch and 42-inch class 150 bonneted knife gate valve for the AWWU pipeline and river release bypass pipelines, respectively. Each valve will be actuated with an electric motor operator with a rated load of approximately ¾ HP and an electrical service of 240V single phase. The valve will be designed for a maximum operating pressure of 75 psi (175 ft) corresponding to the peak transient pressure caused by closure of the AWWU portal

emergency shutoff valve. All wetted parts are anticipated to be fabricated with type 304 stainless steel for corrosion resistance with a carbon steel bonnet, flanges, and stiffeners for enhanced strength.

8.2.2 Bypass Filling and Drainage Piping

The isolation gate valves are designed to open and close under balanced head conditions. In the event the valve is used for isolation, the piping downstream of the valve would be drained through a 2-inch drain line with ball valve located downstream of each gate valve. All water would be drained into the sump located in the floor of the structure to be discharged to the Eklutna River. To re-open the valve, the line must be recharged through a new 4-inch filling line with energy dissipating sleeve-type orifice plate and 3-inch eccentric plug valve for flow control.

8.3 Eklutna River Release Structure

The Eklutna River release structure houses the energy dissipating flow control valve for making releases into the Eklutna River as well as an ultrasonic type flow meter for monitoring the flow rate. A representation of the Eklutna River release structure valve floor is presented in Figure 8-2.

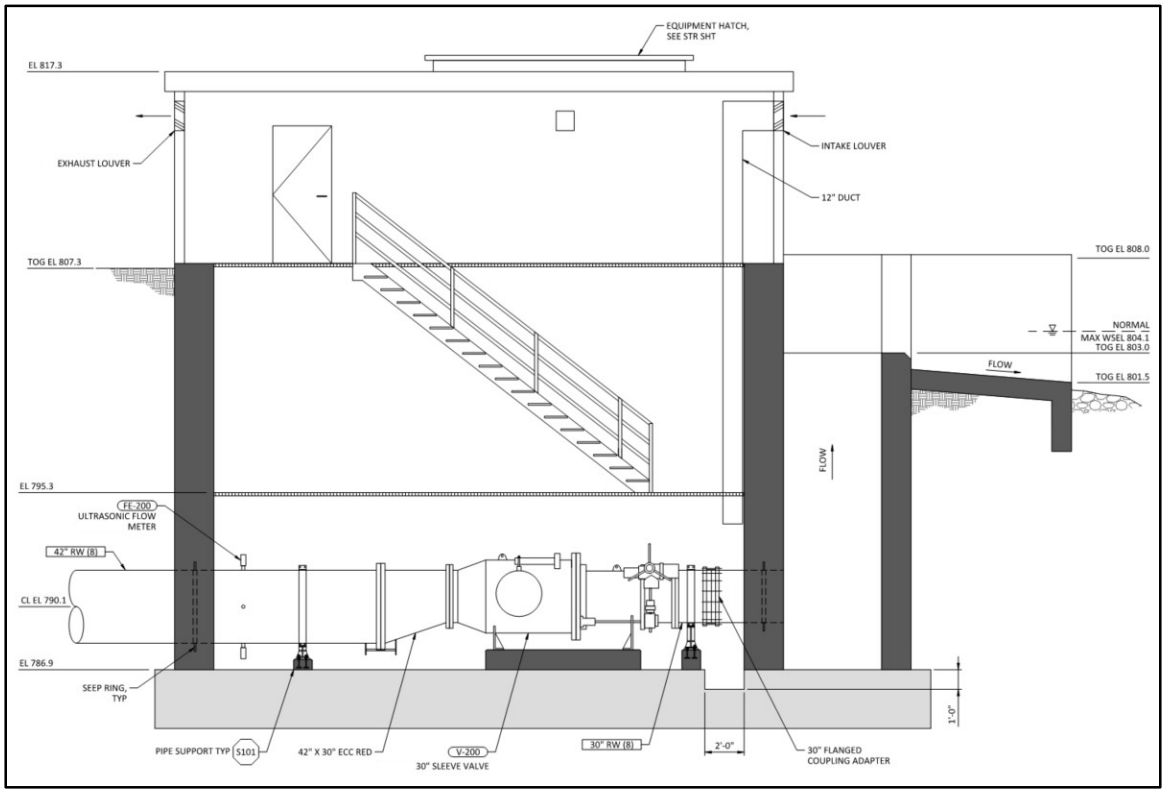

Figure 8-2. Eklutna River Release Structure Floor Plan.

8.3.1 Sleeve Valve

At the Eklutna River release structure, a sleeve valve is anticipated to be used for flow control and energy dissipation purposes. A sleeve valve for this application has improved energy dissipating characteristics than other modulating control valves, allowing operation over a wide range of head while reducing vibration and noise. Cavitation is controlled by directing implosions within the center of the valve chamber away from metallic surfaces, increasing the operating life and reducing O&M costs. The valve is sized based on the maximum flow coefficient necessary for operation, which requires it to pass the maximum instream flow at the minimum water surface elevation of Eklutna Lake, or the maximum channel maintenance flow rate at the lowest water surface elevation needed for operation of the dam outlet gate. Valve sizing calculations are presented in Table 8-1.

Table 8-1. Sleeve Valve Sizing Criteria.

Description	Maximum Instream Flow	Maximum Channel Maintenance Flow
Flow Rate (cfs)	40	80
Flow Rate (gpm)	17,952	35,904
Minimum WSEL; Eklutna Lake (ft) (NAVD88)	817.6	864.6
Discharge Weir Crest Elevation (ft) (NAVD88)	803.0	803.0
Head on Weir Crest (ft)	1.1	1.8
Diversion Tunnel Pressure Losses; Max Flow (ft)	9	17
Differential Pressure, dP (psi)	2.2	19.3
C_v; (gpm/$dP^{0.5}$)	13,700	8,340

The proposed valve for this application is the Bailey Model B-10 sleeve valve with an inline configuration. Bailey sleeve valves are a common valve selected for energy dissipation purposes within the water supply industry. The maximum Cv determine from Table 8-1 was compared to the valve sizing selection from bailey valves, which results in the selection of a 30-inch sleeve valve as presented in Figure 8-3.

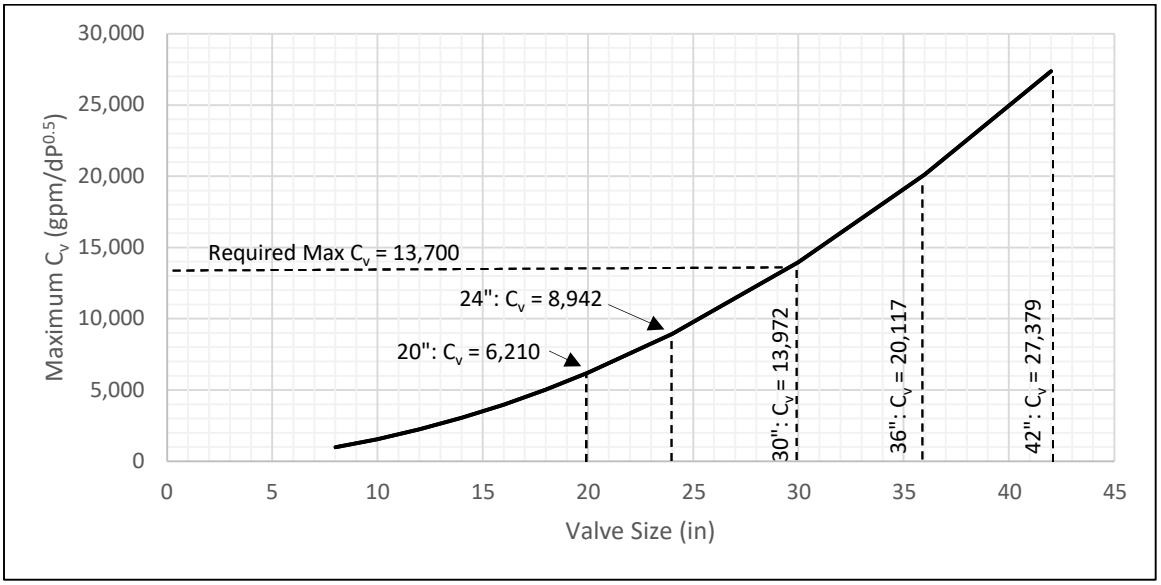

Figure 8-3. Bailey Model B-10 Valve Sizing.

9.0 Electrical Design

The electrical design criteria apply to all design procedures implemented during the Project design. Electrical design considerations listed in this section include detailing of electrical components, material selection, and design requirements that are intended to be incorporated into the Project.

9.1 Applicable Codes and Standards

Applicable codes and standards are listed in Table 9-1.

Table 9-1. Electrical Codes and Standards

Code	Standard
NFPA 70	National Electrical Code
NFPA 70E	National Electrical Safety Code (NESC)
NFPA 110	Standard for Emergency and Standby Power Systems
IEEE	Institute of Electrical and Electronics Engineers
NEMA	National Electrical Manufacturers Association

NFPA – National Fire Protection Association

9.2 Materials

Materials are summarized in Table 9-2.

Table 9-2. Electrical Materials

Material	Standard
Circuit Breakers	NEMA AB 1, UL 489
Switches	NEMA KS 1, UL 98
Terminal Blocks	UL 1059
Power Conductors/Cable	NEMA WC 70, UL 44, UL 83, UL 854
Instrumentation Cable	NEMA WC 57, UL 13, UL 44
Boxes and Enclosures	NEMA 250

Material	Standard
Raceway	NEMA C80.1, NEMA C80.6, NEMA RN 1, UL 6, UL 360, UL 514B, UL 651, UL 1242
Standby Generators	NEMA MG 1, UL 142, UL 508, UL 1236, UL 2200
Transfer Switches	NEMA ICS 2, UL 1008
Grounding and Bonding Equipment	UL 467

NEMA – National Electrical Manufacturers Association

9.3 Power Distribution

The isolation gate actuators and sleeve valve actuator will be served from a 240V panelboard. A surge protective device will be provided at 240V and 120V to protect the system from transient surges. All 240/120V loads will be served from a power center load center. This will include the building lights, convenience receptacles, instrumentation, SCADA system, and telemetry, with 24 Vdc provided where necessary by a 120V-fed power supply.

A UPS will provide battery backup to all SCADA system equipment and instrumentation for short-term power losses (< 5 minutes). Standby power for this site is dependent on a portable standby generator that would provide power to this site during an outage.

Equipment ratings are sized to NEC requirements and industry standards. The electrical distribution at the Eklutna River Release Facility will consist of the following:

- 240/120V, 5 kVA, single-phase, 3-wire mini power center with 18-pole load center
- Local disconnects for devices as required
- AWWU Pipeline isolation gate electric actuator
- Eklutna River release isolation gate electric actuator
- Eklutna River release sleeve valve electric actuator

9.4 Process Instrumentation and Control

A SCADA system will be implemented to supervise and control the ERRV and to monitor flow through the AWWU pipeline and river release bypass. The SCADA system will consist of a metal backplane in an LCP with components mounted to it. This includes PLC and I/O modules, UPS, control power supply and distribution block, control relays, terminal blocks, overcurrent protection, digital communication hardware, and other required appurtenances. It is presumed that datalogging will be performed on the overall AWWU and Eklutna Power Plant SCADA

system. If autonomous and more continuous datalogging is determined to be required, a datalogging-capable HMI will be specified in addition to the above components.

The SCADA system will feed and communicate with a transit-time ultrasonic flowmeter located within the Eklutna River release structure to monitor river release flow and to communicate with the AWWU intake valve shaft and portal valve shaft. The instrument controller for the transit-time flowmeter will be housed in the Eklutna River release structure.

A fiber optic communication network will be implemented between all systems of the Project via a fiber optic infrastructure. The Eklutna River Release Facility will connect to a fiber optic communication network between the EWTF, Eklutna Power Plant, AWWU Intake Valve Shaft and AWWU Portal Valve Shaft. Digital communication protocol will be Ethernet/IP over single-mode fiber optic cable (OS2). All new segments of installation will consist of fiber optic cable that will be all-dielectric, loose-tube buffered, with water-repellant gel-fill and jacket rated for direct-bury. For adequate spares to mitigate strand failure, 24-strand cable is proposed. The cable will be installed in HDPE SDR-11 smoothwall conduit. The fiber optic line will be brought to the LCP housed fiber connector housing for termination, then patched to the managed Ethernet switch in a loop configuration. All strands of all fiber optic cables shall be terminated and certified to the OTDR and OLTS tests. The Ethernet switch will connect the PLC to the communication system.

The PLC will be networked in continuous communication with the AWWU and Eklutna Power Plant SCADA system for real-time supervision and system operational adjustments. The PLC will be capable of autonomous operation and will be programmed to establish a fail-safe condition of the Eklutna River Release Facility in the event of loss of communications with Eklutna Power Plant SCADA.

Field instrumentation consists of the following, as provided in Table 9-3.

Table 9-3. Field Instrumentation

Instrument Tag ISA)	Instrument Type	Parameters	Control Loop
LE-010	Pressure Transducer	Conduit Pressure Tap, 0-75 psi range	Measure Pressure in AWWU Pipeline U/S of Isolation Gate Valve
LE-011	Pressure Transducer	Conduit Pressure Tap, 0-75 psi range	Measure Pressure in AWWU Pipeline D/S of Isolation Gate Valve
LE-012	Pressure Transducer	Conduit Pressure Tap, 0-75 psi range	Measure Pressure in River bypass D/S of Isolation Gate Valve
FE-100	Flowmeter, Transit-Time Ultrasonic, 4-path	54-inch pipe, 0 - 63 cfs	Measure flow to AWWU Pipeline
FE-110	Flowmeter, Transit-Time Ultrasonic, 4-path	42-inch pipe, 0 - 80 cfs	Measure flow to Eklutna River

In addition to the field instrumentation, the remainder of I/O signals necessary will be dedicated to the status and control signals for the isolation gate actuators, sleeve valve actuator, and site security signals. Signals for all actuators include discrete RUN OPEN and RUN CLOSE commands, discrete FAULT status supervision, and discrete full OPENED and full CLOSED status monitoring.

10.0 References

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Appendix A. 15% Design Drawings

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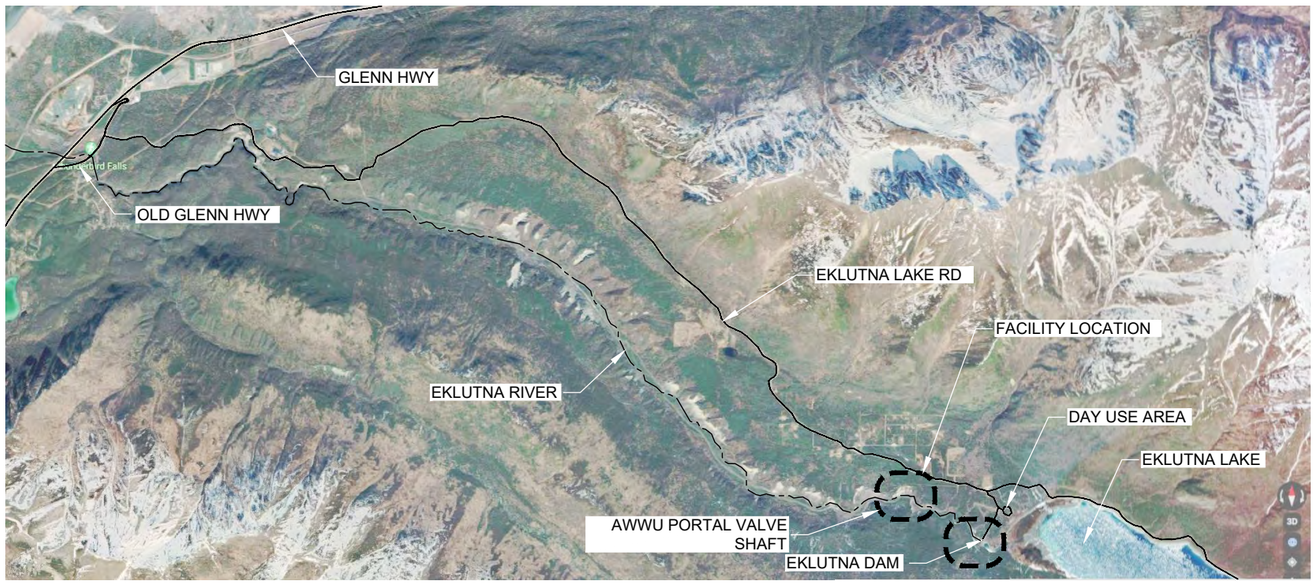
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
ANCHORAGE, ALASKA

15% DESIGN
OCTOBER 2023

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY
15% DESIGN

LOCATION MAP
NTS



VICINITY MAP
NTS

FACILITY MAP
NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

LOCATION MAP, VICINITY MAP, AND FACILITY MAP

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
G001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\G001.dwg Plot date: Sep 28, 2023 10:08am, CAD User: HaberFlavia

DRAWING INDEX

15% SUB*	SHEET NO.	DWG NO.	DESCRIPTION
			GENERAL
			COVER SHEET
X	1	G001	LOCATION MAP, VICINITY MAP, AND FACILITY MAP
X	2	G002	DRAWING INDEX
X	3	G003	STANDARD ABBREVIATIONS
X	4	G004	STANDARD SYMBOLS
X	5	G005	PIPING SCHEDULE
X	6	G006	INSTRUMENTATION AND EQUIPMENT LEGEND
			DEMOLITION
X	7	D001	DEMOLITION KEY PLAN
X	8	D100	PORTAL VALVE SHAFT YARD DEMOLITION PLAN
			CIVIL
X	9	GC001	CIVIL GENERAL NOTES AND STANDARD DETAILS
X	10	C001	PORTAL VALVE SHAFT YARD EXISTING SITE PLAN
X	11	C100	PORTAL VALVE SHAFT YARD GRADING PLAN
			STRUCTURAL
X	12	GS001	STRUCTURAL GENERAL NOTES
X	13	GS002	STRUCTURAL STANDARD DETAILS 1
X	14	GS003	STRUCTURAL STANDARD DETAILS 2
X	15	S001	STRUCTURAL KEY PLAN
X	16	S100	ISOLATION VALVE STRUCTURAL PLAN, SECTIONS, AND DETAILS
X	17	S101	ISOLATION VALVE STRUCTURAL SECTIONS
X	18	S200	RIVER RELEASE STRUCTURE PLAN,SECTIONS AND DETAILS
X	19	S201	RIVER RELEASE STRUCTURE SECTIONS
			MECHANICAL
X	20	GM001	MECHANICAL EQUIPMENT SCHEDULE
X	21	GM002	MECHANICAL STANDARD DETAILS
X	22	M001	MECHANICAL KEY PLAN
X	23	M100	ISOLATION VALVE STRUCTURE MECHANICAL PLAN
X	24	M101	ISOLATION VALVE STRUCTURE MECHANICAL SECTIONS
X	25	M200	RIVER RELEASE STRUCTURE MECHANICAL PLAN, SECTIONS
			ELECTRICAL
X	26	GE001	ELECTRICAL ABBREVIATIONS AND DEVICE INDEXES
X	27	GE002	ELECTRICAL STANDARD SYMBOLS 1
X	28	GE003	ELECTRICAL STANDARD SYMBOLS 2
X	29	E001	ELECTRICAL SITE AND KEY PLAN
	30	E002	COMMUNICATIONS BLOCK DIAGRAM
X	31	E003	TRANSMISSION AND COMMUNICATION UPGRADES PLAN
X	32	E100	ISOLATION VALVE STRUCTURE ELECTRICAL PLAN
X	33	E200	RIVER RELEASE STRUCTURE ELECTRICAL PLAN AND SECTION

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH POWERING ALASKA'S FUTURE | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
DRAWING INDEX

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
G002

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\G002.dwg Plot date: Sep 26, 2023 05:01pm, CAD User: HaberFlavia

A/C	AIR CONDITIONING
A/E	ARCHITECT/ENGINEER
A	ARCHITECTURAL (DWG DISCIPLINE), AMP
AB	ANCHOR BOLT
ABC	AGGREGATE BASE COURSE
ABAN	ABANDON
AC	ALTERNATING CURRENT
ACST	ACOUSTIC
AD	ADDENDUM, AREA DRAIN
ADDL	ADDITIONAL
ADH	ADHESIVE
ADJ	ADJUSTABLE, ADJACENT
AF	AMP FRAME, AMP FUSE
AFF	ABOVE FINISH FLOOR
AFG	ABOVE FINISH GRADE
AGGR	AGGREGATE
AIC	AMPS INTERRUPTING CAPACITY
ALIG	ALIGNMENT
ALUM	ALUMINUM
ALT	ALTERNATE, ALTITUDE
AMB	AMBIENT
ANC	ANCHOR
AP	ACCESS PANEL
APRX	APPROXIMATE
APVD	APPROVED
ARCH	ARCHITECTURAL
ASSY	ASSEMBLY
AT	AMP TRIP
ATM	ATMOSPHERE
AUTO	AUTOMATIC
AUX	AUXILIARY
AVE	AVENUE
AVG	AVERAGE
AWG	AMERICAN WIRE GAGE
AWWU	ANCHORAGE WATER AND WASTEWATER UTILITY
B/B	BACK TO BACK
BAL	BALANCE
BBD	BULLETIN BOARD
BC	BASE CABINET, BOTTOM CHORD, BOLT CENTER, BOLT CIRCLE
BD	BOARD
BE	BOTH ENDS, BELL END
BF	BOTH FACES, BOTTOM FACE, BLIND FLANGE, BOARD FEET
BFV	BUTTERFLY VALVE
BITUM	BITUMINOUS
BKG	BACKING
BL	BASE LINE
BLDG	BUILDING
BLK	BLOCK
BLKG	BLOCKING
BM	BENCHMARK, BEAM
BOC	BACK OF CURB
BOD	BOTTOM OF DUCT
BOG	BOTTOM OF GRILLE
BOL	BOTTOM OF LOUVER
BOP	BOTTOM OF PIPE
BOR	BOTTOM OF REGISTER
BOT	BOTTOM
BOU	BOTTOM OF UNIT
BP	BASE PLATE
BRG	BEARING
BRGP	BEARING PLATE
BRKT	BRACKET
BS	BOTH SIDES
BTU	BRITISH THERMAL UNIT
BTW	BETWEEN
BTWLD	BUTT WELD
BV	BALL VALVE
BW	BOTH WAYS
BYP	BYPASS
C TO C	CENTER TO CENTER
C&G	CURB & GUTTER
C	CHANNEL SHAPE, CENTIGRADE, CONDUIT, CIVIL (DRAWING DISCIPLINE)
CAB	CABINET
CAP	CAPACITY
CAT	CATALOG
CAV	CAVITY
CB	CATCH BASIN
CCB	CONCRETE BLOCK
CCW	COUNTER CLOCKWISE
CF	CUBIC FEET (FOOT)
CHFR	CHAMFER
CHD	CHORD
CHH	COMMUNICATION HANDHOLE
CI	CURB INLET
CIP	CAST-IN-PLACE
CIPB	CONCRETE INTERLOCKING PAVER BALLAST
CIRC	CIRCULATION, CIRCULAR
CJ	CONSTRUCTION JOINT, CONTROL JOINT
CKT	CIRCUIT
CL	CENTERLINE, CLASS, CLOSE
CLR	CLEAR
CMH	COMMUNICATION MANHOLE
CMU	CONCRETE MASONRY UNIT
CO	CLEAN OUT, CONCRETE OPENING
COL	COLUMN
COM	COMMON
COMB	COMBINATION
COMM	COMMUNICATION
COMP	COMPOSITION, COMPRESSIBLE, COMPOSITE
CONC	CONCENTRIC, CONCRETE
CONN	CONNECTION
CONST	CONSTRUCTION
CONT	CONTINUOUS, CONTINUED
COORD	COORDINATE
CORR	CORROSIVE, CORRUGATED
CP	CHECKER PLATE, CONTROL POINT
CPLG	COUPLING
CSK	COUNTERSINK
CTR	CENTER
CTRL	CONTROL
CU	COPPER, CUBIC
CW	CLOCKWISE
CY	CUBIC YARD
d	PENNY (NAIL MEASURE)
D	DEEP, DIFFUSER
DB	DUCT BANK, DECIBEL, DRY BULB
DBA	DEFORMED BAR ANCHOR
DBL	DOUBLE
DC	DIRECT CURRENT
DEG	DEGREE
DEG C	DEGREE CENTIGRADE
DEG F	DEGREE FAHRENHEIT
DEMO	DEMOLITION
DEP	DEPRESSED
DEPT	DEPARTMENT
DET	DETAIL
DI	DROP INLET, DUCTILE IRON
DIA	DIAMETER
DIAG	DIAGONAL, DIAGRAM
DIFF	DIFFERENTIAL, DIFFERENCE
DIM	DIMENSION
DISCH	DISCHARGE
DIST	DISTANCE, DISTRIBUTION
DIV	DIVISION
DL	DEAD LOAD
DN	DOWN
DP	DEPTH
DS	DOWN SPOUT
DT	DOUBLE TEE, DRIP TRAP ASSEMBLY
DUP	DUPLICATE
DWG	DRAWING
DWL	DOWEL
E	EAST, ELECTRICAL (DWG DISCIPLINE)
EA	EACH, EXHAUST AIR
EC	ELECTRICAL CONTRACTOR
ECC	ECCENTRIC
EDB	ELECTRICAL DUCT BANK
EE	EACH END
EF	EACH FACE
EG	EXISTING GRADE
EGL	ENERGY GRADE LINE
EFF	EFFLUENT, EFFICIENCY
EHH	ELECTRICAL HANDHOLE
EIFS	EXTERIOR INSULATION & FINISH SYSTEM
EJ	EXPANSION JOINT
EL	ELBOW, ELEVATION
ELEC	ELECTRICAL
EMBD	EMBEDDED
EMER	EMERGENCY
EMH	ELECTRICAL MANHOLE
ENCL	ENCLOSURE
ENGR	ENGINEER
ENTR	ENTRANCE
EOP	EDGE OF PAVEMENT
EOW	EDGE OF WATER
EQ	EQUAL
EQUIP	EQUIPMENT
EQUIV	EQUIVALENT
ES	EACH SIDE, EQUAL SPACE, EMERGENCY SHOWER
ESEW	EMERGENCY SHOWER AND EYE WASH
EST	ESTIMATE
EW	EACH WAY, EMERGENCY EYE/FACE WASH
EWC	ELECTRIC WATER COOLER
EWEF	EACH WAY, EACH FACE
EWTB	EACH WAY, TOP AND BOTTOM
EXC	EXCAVATION
EXH	EXHAUST
EXIST	EXISTING
EXP	EXPANSION, EXPOSED
EXT	EXTERIOR, EXTERNAL, EXTENSION
F TO F	FACE TO FACE
FAB	FABRICATE
FBO	FURNISHED BY OWNER
FC	FLUSHING CONNECTION
FCA	FLANGED COUPLING ADAPTER
FCV	FIXED CONE VALVE
FD	FLOOR DRAIN
FDC	FLEXIBLE DUCT CONNECTION
FDR	FEEDER
FE	FLANGED END
FEC	FIRE EXTINGUISHER CABINET
FEXT	FIRE EXTINGUISHER
FF	FAR FACE, FACTORY FINISH, FLAT FACE
FG	FINISHED GRADE
FIG	FIGURE
FH	FIRE HYDRANT
FIN	FINISH
FL	FLOW, FLOW LINE
FLEX	FLEXIBLE
FLG	FLANGE
FLOR	FLUORESCENT
FLR	FLOOR
FLS	FLASHING, FLUSH
FND	FOUNDATION
FNC	FENCE
FO	FINISHED OPENING
FOB	FLAT ON BOTTOM
FOC	FACE OF CONCRETE, FACE OF CURB, FIBER OPTIC CABLE
FOF	FACE OF FINISH
FOM	FACE OF MASONRY
FOS	FACE OF STUDS
FOT	FLAT ON TOP
FPT	FEMALE PIPE THREAD
FR	FRAME
FRP	FIBERGLASS REINFORCED PLASTIC
FS	FLOOR SINK, FAR SIDE
FT	FEET, FOOT
FTG	FOOTING, FITTING FUR FURRED, FURRING
FURN	FURNITURE, FURNISH
FUT	FUTURE
FV	FACE VELOCITY
FW	FIELD WELD, FIRE WALL
FWD	FORWARD
FWE	FURNISHED WITH EQUIPMENT
FXTR	FIXTURE
G	GRILLE, GROUND, GENERAL (DWG DISCIPLINE)
GA	GAGE (METAL THICKNESS)
GAL	GALLON
GALV	GALVANIZED
GB	GRADE BREAK
GD	GUARD
GEN	GENERAL
GFCI	GROUND FAULT CIRCUIT INTERRUPTER
GL	GLASS
GP	GUY POLE
GR	GRADE
GRND	GROUND
GRTG	GRATING
GT	GREASE TRAP
GWB	GYPSUM WALLBOARD
GYP	GYPSUM HARDBOARD
H	HIGH
HB	HOSE BIB
HBD	HARDBOARD
HC	HANDICAPPED, HOLLOW CORE, HORIZONTAL CURVE
HC	HORIZONTAL CENTERLINE
HDR	HEADER
HDW	HARDWARE
HEX	HEXAGONAL
HH	HANDHOLE
HM	HOLLOW METAL
HORIZ	HORIZONTAL
HP	HIGH POINT, HORSEPOWER
HPC	HORIZONTAL POINT OF CURVATURE
HPS	HIGH PRESSURE SODIUM
HPT	HORIZONTAL POINT OF TANGENCY
HR	HOUR
HS	HEADED STUD, HIGH STRENGTH
HSS	HOLLOW STRUCTURAL SHAPE
HT	HEIGHT
HV	HIGH VOLTAGE
HVAC	HEATING, VENTILATION & AIR CONDITIONING
HWD	HARDWOOD
HWL	HIGH WATER LEVEL
HYD	HYDRAULIC HZ HERTZ, CYCLES PER SECOND
I	INSTRUMENTATION (DWG DISCIPLINE)
ID	INSIDE DIAMETER, INTERIOR DIMENSION
IE	INVERT ELEVATION
IF	INSIDE FACE
IH	INTAKE HOOD
IMP	IMPACT
IN	INCH
INC	INCLUDE, INCANDESCENT
INF	INFLUENT
INSTR	INSTRUMENTATION
INSUL	INSULATION
INT	INTERIOR, INTERSECTION
INTR	INTERMEDIATE, INTERIOR
INV	INVERT
IPS	IRON PIPE SIZE
IPT	INTERNAL PIPE THREAD
IRR	IRRIGATION
ISO	ISOMETRIC
JB	JUNCTION BOX
JCT	JUNCTION
JF	JOINT FILLER
JT	JOINT
K	KIP
KB	KNEE BRACE
KCMIL	THOUSAND CIRCULAR MILS
KD	KNOCK DOWN
KIUC	KAUAI ISLAND UTILITY COOPERATIVE
KO	KNOCK OUT
KSI	KIPS PER SQUARE INCH
L	ANGLE, LENGTH, LAVATORY
LAM	LAMINATE
LATL	LATERAL
LB	LAG BOLT, POUND
LDR	LEADER
LF	LINEAR FOOT
LG	LONG
LH	LEFT HAND
LIN	LINEAR
LIQ	LIQUID
LL	LIVE LOAD
LLH	LONG LEG HORIZONTAL
LLV	LONG LEG VERTICAL
LMLU	LIQUID MARKER LECTURE UNIT
LNG	LONGITUDINAL
LOC	LOCATION
LP	LOW POINT
LPS	LOW PRESSURE SODIUM
LR	LONG RADIUS
LT	LEFT
LTD	LIMITED
LTG	LIGHTING
LTL	LINTEL
LTNG	LIGHTNING
LV	LOW VOLTAGE
LVR	LOUVER
LW	LIGHTWEIGHT
LWC	LIGHTWEIGHT CONCRETE
LWL	LOW WATER LEVEL
M	MECHANICAL (DWG DISCIPLINE)
MA	MIXED AIR
MAINT	MAINTENANCE
MAN	MANUAL
MAOP	MAXIMUM ALLOWABLE OPERATING PRESSURE
MATL	MATERIAL
MAX	MAXIMUM
MB	MACHINE BOLT
MBR	MEMBER
MCJ	MASONRY CONTROL JOINT
MECH	MECHANICAL
MED	MEDIUM
MFR	MANUFACTURER
MH	MANHOLE, METAL HALIDE
MIN	MINIMUM
MIR	MIRROR
MISC	MISCELLANEOUS
MJ	MECHANICAL JOINT
MMB	MEMBRANE
MO	MASONRY OPENING
MOD	MODULAR, MODIFY
MON	MONUMENT
MPT	MALE PIPE THREAD
MSL	MEAN SEA LEVEL
MT	MOUNT
MU	MASONRY UNIT
MULL	MULLION
MV	MEDIUM VOLTAGE
MW	MONITORING WELL
N	NORTH, NEUTRAL
NA	NOT APPLICABLE
NAT	NATURAL
NC	NORMALLY CLOSED
NEG	NEGATIVE
NF	NEAR FACE, NON-FUSED
NG	NATURAL GAS
NIC	NOT IN CONTRACT
NO	NORMALLY OPEN, NUMBER
NOM	NOMINAL
NPS	NOMINAL PIPE SIZE
NPT	NATIONAL PIPE THREAD
NS	NEAR SIDE
NTS	NOT TO SCALE
NWL	NORMAL WATER LEVEL
O TO O	OUT-TO-OUT
OA	OUTSIDE AIR, OVERALL
OC	ON CENTER
OCPD	OVER CURRENT PROTECTION DEVICE
OD	OUTSIDE DIAMETER
OH	OVERHEAD
OPNG	OPENING
OPP	OPPOSITE
OPT	OPTIONAL
ORD	OVERFLOW ROOF DRAIN
ORIG	ORIGINAL
OVFL	OVERFLOW
OVHG	OVERHANG
OZ	OUNCE
P	PAINT, PROCESS (DWG DISCIPLINE)
PAR	PARALLEL, PARAPET
PB	PANIC BAR, PULL BOX
PBD	PARTICLE BOARD
PC	POINT OF CURVE, PIECE, PRECAST
PCC	POINT OF COMPOUND CURVATURE
PCF	POUNDS PER CUBIC FOOT
PCT	PERCENT
PE	PLAIN END
PED	PEDESTAL
PEN	PENETRATION
PERF	PERFORATED
PERM	PERMANENT
PERP	PERPENDICULAR
PF	POWER FACTOR
PH	PHASE
PI	POINT OF INTERSECTION
PKG	PACKAGE
PL	PLATE, PROPERTY LINE
PLBG	PLUMBING
PLF	POUNDS PER LINEAR FOOT
PNEU	PNEUMATIC
POL	POLISH
POS	POSITIVE, POSITION
PP	POLYPROPYLENE, POWER POLE
PRC	POINT OF REVERSE CURVATURE
PREF	PREFINISHED
PREFAB	PREFABRICATED
PRELIM	PRELIMINARY
PREP	PREPARE
PRES	PRESSURE
PROP	PROPERTY
PROT	PROTECTION
PSF	POUNDS PER SQUARE FOOT
PSI	POUNDS PER SQUARE INCH
PSIA	POUNDS PER SQUARE INCH ABSOLUTE
PSIG	POUNDS PER SQUARE INCH GAGE
PT	POINT, POINT OF TANGENCY
PTN	PARTITION
PVC	POLYVINYL CHLORIDE
PVMT	PAVEMENT
PWD	PLYWOOD
PZ	PIEZOMETER
Q	RATE OF FLOW
QTR	QUARTER
QTY	QUANTITY
QUAL	QUALITY
R&R	REMOVE AND REPLACE
R&S	REMOVE AND SALVAGE
R	RADIUS, REGISTER, RISER
RA	RETURN AIR
RB	RESILIENT BASE, ROCK BERM
RCPT	RECEPTACLE
RD	ROOF DRAIN
REC	RECESS
RECD	RECEIVED
RECT	RECTANGULAR
RED	REDUCER
REF	REFERENCE
REINF	REINFORCING
REQD	REQUIRED
RESIL	RESILIENT
RET	RETAINING, RETURN
REV	REVISION, REVERSE
RFL	REFLECTED, REFLECTOR
RGS	RIGID GALVANIZED STEEL
RH	RELIEF HOOD, RIGHT HAND, RELATIVE HUMIDITY
RL	REQUIRED LAP
RND	ROUND
RNG	RENEWABLE NATURAL GAS
RO	ROUGH OPENING
ROW	RIGHT-OF-WAY
RPM	REVOLUTIONS PER MINUTE
RR	RAILROAD
RT	RIGHT
S	SOUTH, SINK, STRUCTURAL (DWG DISCIPLINE)
SA	SUPPLY AIR
SAN	SANITARY
SC	SOLID CORE
SCH	SCHEDULE
SCHEM	SCHEMATIC
SCRN	SCREEN
SE	STEEL/ALUMINUM EDGE
SEC	SECONDARY, SECONDS
SECT	SECTION
SEP	SEPARATE
SF	SQUARE FOOT
SH	SHOWER
SHT	SHEET
SHTG	SHEATHING
SIM	SIMILAR
SL	SLOPE
SLTD	SLOTTED
SLV	SLEEVE
SMLS	SEAMLESS
SOG	SLAB ON GRADE
SP	SOUNDPROOF, STANDPIPE
SPC	SPACING
SPEC	SPECIFICATION
SPLY	SUPPLY
SPT	SET POINT
SQ	SQUARE
SR	SHORT RADIUS
SS	SERVICE SINK
SST	STAINLESS STEEL
ST	STREET
STA	STATION
STD	STANDARD
STIF	STIFFENER
STIR	STIRRUP
STL	STEEL
STOR	STORAGE
STR	STRUCTURAL, STRAIGHT
SUB	SUBSTITUTE
SUC	SUCTION
SUSP	SUSPENDED
SY	SQUARE YARD
SYM	SYMBOL
SYMM	SYMMETRICAL
SYN	SYNTHETIC
SYS	SYSTEM
T&B	TOP AND BOTTOM
T&G	TONGUE AND GROOVE
T	TILE, TREAD
TA	TEMPERED AIR
TAN	TANGENT
TBM	TEMPORARY BENCHMARK
TEMP	TEMPORARY, TEMPERATURE
THK	THICK
THRD	THREAD
THRU	THROUGH
TOB	TOP OF BOLT, TOP OF BANK, TOP OF BEAM
TOC	TOP OF CURB, TOP OF CONCRETE
TOD	TOP OF DUCT
TOF	TOP OF FOOTING
TOG	TOP OF GRATING
TOL	TOLERANCE, TOP OF LEDGER
TOM	TOP OF MASONRY
TOP	TOP OF PLATE
TOPO	TOPOGRAPHY
TOS	TOP OF SLAB, TOP OF STEEL
TOW	TOP OF WALL
TP	TELEPHONE POLE, TOE PLATE, TRAP PRIMER
TPG	TOPPING
TRANS	TRANSITION
TRD	TRENCH DRAIN
TYP	TYPICAL
U	URINAL
UG	UNDERGROUND
ULT	ULTIMATE
UNFN	UNFINISHED
UNO	UNLESS NOTED OTHERWISE
UTIL	UTILITY
V	VENT, VELOCITY, VOLT
VA	VOLT AMPERE
VAC	VACUUM
VAR	VARNISH, VARIABLE, VOLT AMPERES REACTIVE
VB	VAPOR BARRIER, VINYL BASE, VALVE BOX
VC	VERTICAL CURVE
VCT	VINYL COMPOSITION TILE, VERTICAL CENTERLINE
VEL	VELOCITY
VENT	VENTILATION
VERT	VERTICAL
VS	VERSES, VAPOR SEAL
VOL	VOLUME
VPC	VERTICAL POINT OF CURVATURE
VPI	VERTICAL POINT OF INTERSECTION
VPT	VERTICAL POINT OF TANGENCY
VTR	VENT THROUGH ROOF
VWC	VINYL WALL COVERING
W/	WITH
W/O	WITHOUT
W	WATT, WEST, WIDE, WINDOW, WIRE, WIDE FLANGE BEAM
WC	WATER CLOSET, WATER COLUMN
WD	WIDTH
WF	WIDE FLANGE, WASH FOUNTAIN
WG	WIRE GLASS, WATER GAGE
WH	WALL HYDRANT, WEEP HOLE
WL	WATER LEVEL
WLD	WELDED
WM	WIRE MESH
WP	WATERPROOF, WORKING POINT
WTHP	WEATHERPROOF
WS	WATERSTOP, WATER SURFACE
WSEL	WATER SURFACE ELEVATION
WT	WEIGHT, WATER TIGHT
WWF	WELDED WIRE FABRIC
XS	EXTRA STRONG
XXS	DOUBLE EXTRA STRONG
XSECT	CROSS SECTION
YH	YARD HYDRANT
YS	YIELD STRENGTH

GENERAL NOTES:

1. THESE ABBREVIATIONS APPLY TO THE ENTIRE SET OF CONTRACT DRAWINGS.
2. LISTING OF ABBREVIATIONS DOES NOT IMPLY ALL ABBREVIATIONS ARE USED IN THE CONTRACT DRAWINGS.
3. ABBREVIATIONS SHOWN ON THIS SHEET INCLUDE VARIATIONS OF THE WORD. FOR EXAMPLE, "MOD" MAY MEAN MODIFY OR MODIFICATION; "INC" MAY MEAN INCLUDED OR INCLUDING; "REINF" MAY MEAN EITHER REINFORCE OR REINFORCING.
4. SCREENING OR SHADING OF WORK IS USED TO INDICATE EXISTING COMPONENTS OR TO DE-EMPHASIZE PROPOSED IMPROVEMENTS TO HIGHLIGHT SELECTED TRADE WORK. REFER TO CONTEXT OF EACH SHEET FOR USAGE.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

STANDARD ABBREVIATIONS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
G003

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\G003.dwg Plot date: Sep 29, 2023 01:06pm, CAD User: HaberFlavia

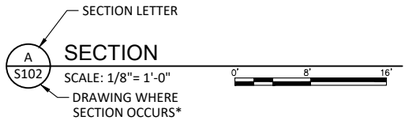
SHEET SYMBOLS

PLAN
SCALE: 1/2"= 1'-0"
0' 2' 4'

SECTION IDENTIFICATION

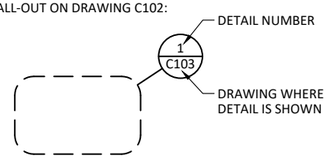
(1) SECTION CUT ON DRAWING C102:

(2) ON DRAWING C103 THIS SECTION IS IDENTIFIED AS:

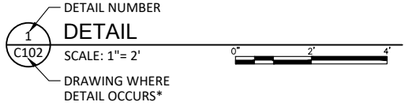


DETAIL IDENTIFICATION

(1) DETAIL CALL-OUT ON DRAWING C102:



(2) ON DRAWING C103 THIS SECTION IS IDENTIFIED AS:

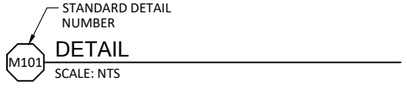


*NOTE: IF PLAN AND SECTION (OR DETAIL CALL-OUT AND DETAIL) ARE SHOWN ON SAME DRAWING. DRAWING NUMBER IS REPLACED BY A LINE.

STANDARD DETAIL IDENTIFICATION

(1) DETAIL CALL-OUT ON PLAN OR SECTION:

(2) ON DETAIL DRAWINGS, IDENTIFIED AS:



ELEVATION/IMAGE IDENTIFICATION

SITE PLAN LINE TYPES

- FENCE LINE
- OVERHEAD POWER
- MAJOR CONTOUR
- MINOR CONTOUR
- EXIST MAJOR CONTOUR
- EXIST MINOR CONTOUR
- EDGE OF WATERLINE
- TOE OF SLOPE
- TOP OF BANK
- SANITARY SEWER
- STORM DRAIN
- EDGE OF PAVEMENT
- EDGE OF GRAVEL
- WATTLE
- SILT FENCE
- CONSTRUCTION FENCE
- GAS LINE
- TURBIDITY CURTAIN
- IRRIGATION LINE
- WATER LINE
- TELEPHONE LINE
- COMMUNICATION LINE
- OVERHEAD ELECTRICAL/POWER
- UNDERGROUND ELECTRICAL
- PROPERTY LINE
- EXISTING OVERHEAD POWER LINE
- EXISTING OVERHEAD POWER & TELEPHONE LINE
- EXISTING OVERHEAD TELEPHONE LINE
- EXISTING BURIED TELEPHONE LINE EVIDENCED BY PEDESTALS & WARNING PADDLES
- EXISTING FENCE LINE
- PROJECT BOUNDARY
- TREE PROTECTION FENCE
- LIMITS OF DISTURBANCE
- SHORING

SITE PLAN SYMBOLS

- ARROW INDICATES DIRECTION OF PLAN NORTH
- CONIFER TREE: FIR, SPRUCE, LARCH OR PINE, 8" DIAMETER OR LARGER.
- DECIDUOUS TREE: COTTONWOOD, HAWTHORN, ASPEN, 8" DIAMETER OR LARGER.
- MH — MANHOLE
- EB — ELECTRIC BOX
- STORM DRAIN MANHOLE
- FH — FIRE HYDRANT
- YH-X — YARD HYDRANT
- SURVEY CONTROL POINT, AS NOTED.
- POLE ANCHOR
- POWER POLE
- LIGHT POLE
- SIGN
- SURVEY HUB
- SECTION CORNER
- BENCH MARK
- EXISTING HEADWALL
- EXISTING MONITORING STATION
- EXISTING FENCE
- STATE PLANE COORDINATE MARKER
- EXISTING TREE LINE
- EXISTING BUILDING, STRUCTURES
- EXISTING SECTION CORNER MONUMENT FOUND AS DESCRIBED
- EXISTING 5/8" REBAR CONTROL POINT MONUMENT, BORING LOCATION
- W — EXISTING HOSE BIB
- EXISTING PORTABLE IRRIGATION WATER PUMP
- WELL — EXISTING 6" WATER WELL
- EXISTING ELECTRICAL OUTLET
- P — EXISTING POWER POLE
- T — EXISTING TELEPHONE PEDESTAL
- CONTROL POINT
- PUMP
- PUMP
- TP — TEST PIT LOCATION

MISCELLANEOUS SYMBOLS

- CHANGE OF PIPE MTL
- OR — END OF PIPE
- ℄ — CENTERLINE
- Ø — DIAMETER
- ∠ — ANGLE
- PL — PLATE
- ± — PLUS/MINUS

GENERAL NOTES:

1. ALL SYMBOLS ARE NOT NECESSARILY USED. THIS IS A STANDARD DRAWING SHOWING COMMON SYMBOLS ON THIS PROJECT.
2. SCREENING OR SHADING OF WORK IS USED TO INDICATE EXISTING COMPONENTS OR TO DE-EMPHASIZE PROPOSED IMPROVEMENTS TO HIGHLIGHT SELECTED TRADE WORK. REFER TO CONTEXT OF EACH DRAWING FOR USAGE.

HATCH SYMBOLS

- ROCK, TYPE AS NOTED (PLAN/SECTION)
- BED ROCK
- EXISTING GRADE (SECTION)
- NEW SOIL (SECTION)
- CONCRETE EXISTING (SECTION/PLAN)
- CONCRETE 1ST STAGE (SECTION/PLAN)
- CONCRETE 2ND STAGE (SECTION/PLAN)
- SAND, GROUT (PLAN/SECTION)
- STEEL (SECTION)
- GRATING (PLAN)
- MASONRY (PLAN)
- WOOD, SIZE/TYPE AS NOTED (PLAN)
- WOOD, SIZE/TYPE AS NOTED (SECTION)
- RIP RAP (PLAN/SECTION)
- RIGID INSULATION (SECTION)
- ASPHALT CONCRETE PAVEMENT SURFACE (PLAN/SECTION)
- GRASS/VEGETATION (PLAN)
- BATT INSULATION (SECTION)
- NEW CONSTRUCTION
- EXISTING
- EXISTING TO BE REMOVED OR DEMOLISHED
- CLEARING AND GRUBBING
- ASPHALT
- GRASS/VEGETATION
- GRAVEL

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

STANDARD SYMBOLS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
G004

JOB NO: 000000

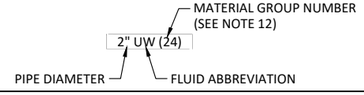
Path: C:\Vault\Chugach Electric\Portal Release Structure\G004.dwg Plot date: Sep 26, 2023 03:57pm, CAD User: HaberFlavia

FLUID ABBREVIATION	FUNCTION	ALLOWABLE PIPING MATERIAL GROUP NO. (SEE NOTE 1 AND 4)				FIELD TEST REQUIREMENTS (SEE NOTE 3 AND NOTE 4)		
	THIS LIST MAY INCLUDE FLUIDS NOT USED IN THIS PROJECT	EXPOSED PIPING (SEE NOTE 14)		BURIED PIPING (SEE NOTE 13)		MINIMUM TEST PRESSURE PSI	TEST MEDIUM	LEAKAGE ALLOWANCE (SEE NOTE 2)
		3" DIA AND SMALLER	4" DIA AND LARGER	3" DIA AND SMALLER	4" DIA AND LARGER			
COMMONLY USED FUNCTIONS								
DR	DRAIN	2	2	2	2	NOTE 6	WATER	(D)
RW	RAW WATER	2,8	2,8	8	8	150	WATER	(A)

PIPING MATERIAL SCHEDULE (SEE NOTE 1)

GROUP NO.	PIPE MATERIAL	FITTINGS / JOINTS	LININGS AND COATINGS (SEE NOTE 13)
2	STEEL, ASTM A53, SCHEDULE 40, BLACK WELDED, GALVANIZED	2 1/2" AND SMALLER, MALLEABLE IRON, ASME B16.3, THREADED, BANDED, GALVANIZED 150 PSI. 3" AND LARGER, CAST IRON, ASME B16.1, 125 PSI FLANGED OR MECHANICAL COUPLING.	SEE SECTION 40 23 15
8	WELDED STEEL PIPE (AWWA C200 & MODIFIED PER SECTION 331111) (ALL PIPE CALLOUT DIAMETERS ARE 'ID' OF MORTAR LINING)	WELDED STEEL, AWWA C208 MODIFIED PER SECTION 331111, FABRICATED.	SEE SECTION 33 11 11

TYPICAL PIPE DESIGNATION:



NOTES:

NOTE 1
ALTHOUGH SEVERAL PIPE MATERIAL GROUPS MAY BE LISTED ON THIS SHEET FOR A GIVEN FLUID SERVICE, CONTRACTOR SHALL PROVIDE ONLY THE PIPE MATERIAL GROUP SHOWN ON THE DRAWINGS AND SPECIFIED FOR THAT FLUID SERVICE.

NOTE 2
LEAKAGE ALLOWANCE IS AS FOLLOWS
A. PIPES SO DESIGNATED SHALL SHOW ZERO LEAKAGE.
B. PIPES SO DESIGNATED SHALL SHOW ZERO LEAKAGE FOR UNBURIED PIPE AND NOT MORE THAN 0.02 GALLON PER HOUR PER INCH DIAMETER PER 100 FEET OF BURIED PIPE.
C. PIPES SO DESIGNATED SHALL NOT SHOW A LEAKAGE OF MORE THAN 0.15 GALLON PER HOUR PER INCH OF DIAMETER PER 100 FEET OF PIPE.
D. PIPES SO DESIGNATED SHALL NOT SHOW A LOSS OF PRESSURE OF MORE THAN 5 PERCENT.
E. PIPE SO DESIGNATED SHALL NOT SHOW A LOSS OF VACUUM OF MORE THAN 4 INCHES MERCURY COLUMN.

NOTE 3
FOR FIELD TEST PROCEDURES AND ADDITIONAL TEST REQUIREMENTS, SEE PIPING SECTION OF SPECIFICATIONS.

NOTE 4
NO SUBSTITUTIONS U.N.O. IN THE SPECIFICATIONS.

NOTE 5
NOT USED

NOTE 6
STATIC WATER TEST WITH SURFACE 5 FEET ABOVE HIGH POINT OF PIPE.

NOTE 7
INSPECTION AND TESTING SHALL BE IN ACCORDANCE WITH APPLICABLE PLUMBING CODE.

NOTE 8
NOT USED

NOTE 9
NOT USED

NOTE 10
NOT USED

NOTE 11
NOT USED

NOTE 12
CHANGE IN PIPING MATERIAL GROUP NUMBER IS INDICATED THUS: ——◆

NOTE 13
FOR FULL PIPE LINING AND COATING REQUIREMENTS, SEE SPECIFICATIONS.

NOTE 14
EXPOSED OUTDOOR PIPING SHALL BE PAINTED IN ACCORDANCE WITH SPECIFICATIONS. COLORS TO BE SELECTED BY OWNER.

NOTE 15
NOT USED

NOTE 16
NOT USED

NOTE 17
NOT USED

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
PIPING SCHEDULE

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

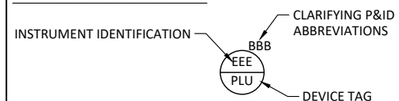
DRAWING
G005

JOB NO: 0000000

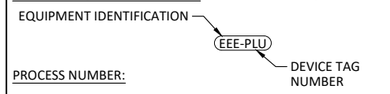
Path: C:\Vault\Chugach Electric\Portal Release Structure\G005.dwg Plot date: Sep 26, 2023 03:57pm, CAD User: HaberFlavia

INSTRUMENTATION / EQUIPMENT TAGS

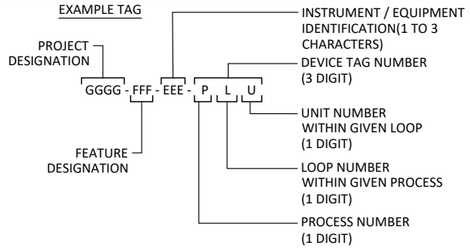
EXAMPLE INSTRUMENT CALLOUT



EXAMPLE EQUIPMENT CALLOUT



EXAMPLE TAG



PROCESS NUMBER:

0 MPH COMMON
1 TURBINE/GENERATOR
2 PUMPS/MOTORS
3 TIV
4 HVAC
5 LUBE/WATER COOLING
6 HPU
7 PLUMBING
8 VFD
9 CONTROLS INSTRUMENTATION

NOTE:

PROJECT AND FEATURE DESIGNATION FOR ALL COMPONENTS ON THIS FEATURE SET SHALL BE "EFWP-DOM" FOR "EKLUTNA FISH & WILDLIFE PROJECT - EKLUTNA RIVER RELEASE FACILITY". THIS HAS BEEN OMITTED ON THE DRAWINGS FOR BREVITY.

GENERAL INSTRUMENT OR FUNCTIONAL SYMBOLS

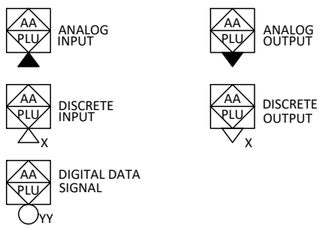
	FIELD MOUNTED	PRIMARY OR PANEL MOUNTED - ACCESSIBLE (1)	PRIMARY OR PANEL MOUNTED - INACCESSIBLE (2)	SECONDARY OR MCC MOUNTED - ACCESSIBLE (1)	SECONDARY OR MCC MOUNTED - INACCESSIBLE (2)
INSTRUMENT	EEE PLU	EEE PLU	EEE PLU	EEE PLU	EEE PLU
SHARED DISPLAY SHARED CONTROL OR HMI	EEE PLU	EEE PLU	EEE PLU	EEE PLU	EEE PLU
INDICATING LIGHTS	EEE PLU	EEE PLU	N/A	EEE PLU	N/A

(1) NORMALLY ACCESSIBLE TO OPERATOR
(2) NORMALLY INACCESSIBLE TO OPERATOR (BEHIND-THE-PANEL)

SPECIAL CASE INSTRUMENT OR FUNCTIONAL SYMBOLS

- SINGLE INSTRUMENT OR OTHER COMPONENT HAVING MULTIPLE FUNCTIONS
- RELAY INTERLOCK LOGIC - SEE SCHEMATICS OR SPECIFICATIONS FOR MORE INFORMATION
- LSH PLU — LEVEL (FLOAT)
- LE PLU — LEVEL (ULTRASONIC)
- 24 VDC — POWER SUPPLY (SIZE AS NOTED)
- AS — AIR SUPPLY
- PRIMARY ELECTRICAL POWER (120V / 60 HZ UNLESS INDICATED OTHERWISE)
- INDICATES VENDOR PACKAGE
- CR — CONTROL RELAY
- LIGHTNING SURGE ARRESTOR
- M — MOTOR

SIGNAL SYSTEM INTERFACES



AA = I/O DESIGNATION (MV = MULTIVARIABLE)

YY = DIGITAL PROTOCOL

X: H-MAINTAINED/LATCHING
M = MOMENTARY/FOLLOWER

ANALOG I/O DESIGNATORS

CR	CHLORINE RESIDUAL
DP	DIFFERENTIAL PRESSURE
FL	FLOW
LE	LOWER EXPLOSIVE LIMIT
LV	LEVEL
MO	MANIPULATED OUTPUT
PH	ACIDITY
PO	POSITION
PR	PRESSURE
PV	PROCESS VARIABLE
SP	SPEED
TE	TEMPERATURE
TU	TURBIDITY

DIGITAL PROTOCOL DESIGNATORS

DN	DEVICENET
IP	ETHERNET /IP
MB	MODBUS RTU
PB	PROFIBUS
PL	PARALLEL
SL	SERIAL
TC	MODBUS TCP

DISCRETE I/O DESIGNATORS

AM	AUTO-MANUAL
AU	AUTO
CL	CLOSED
EN	ENABLE
EL	POWER AVAILABLE
FA	FIRE ALARM
FW	FORWARD / REVERSE
HH	HI-HI LEVEL
HI	HI LEVEL
LL	LOW-LOW LEVEL
LO	LOW LEVEL
MN	MANUAL
OO	ON-OFF
OP	OPEN
RB	RUN BOOSTER
RC	RUN CLOSED
RE	REMOTE
RF	RUN FORWARD
RG	RUNNING
RN	RUN-STOP
RO	RUN-OPEN
RR	RUN-REVERSE
RV	REVERSE
YA	FAULT
SU	SUPERVISORY
SW	SELECTION
TR	TROUBLE

INSTRUMENTATION IDENTIFICATION TABLE (ISA)

FIRST LETTER			SUCCEEDING LETTER(S)		
LETTER	MEASURED INITIATING VARIABLE	VARIABLE MODIFIER	READOUT OR PASSIVE FUNCTION	OUTPUT OR ACTIVE FUNCTION	FUNCTION MODIFIER
A	ANALYSIS (+)		ALARM		
B	BURNER, COMBUSTION				
C	CONDUCTIVITY			CONTROL	CLOSED
D	DENSITY (S.G.)	DIFFERENTIAL			
E	VOLTAGE		SENSOR (PRIMARY ELEMENT)		
F	FLOW RATE	RATIO (FRACTION)			
G	GAUGE		GLASS, GAUGE, VIEWING DEVICE	GATE	
H	HAND (MANUAL)				HIGH
I	CURRENT (ELECTRICAL)		INDICATE		
J	POWER	SCAN			
K	TIME, TIME SCHEDULE	TIME RATE OF CHANGE		CONTROL STATION	
L	LEVEL		LIGHT (PILOT)		LOW
M	MOTION	MOMENTARY			MIDDLE, INTERMEDIATE
N	TORQUE		ISOLATE	ISOLATOR	
O	USER CHOICE		ORIFICE, RESTRICTION		OPEN
P	PRESSURE (VACUUM), PNEUMATIC		POINT (TEST) CONNECTION		
Q	QUANTITY	INTEGRATE, TOTALIZE			
R	RADIATION/ RESISTANCE (ELECTRICAL)		RECORD OR PRINT		
S	SPEED, FREQUENCY	SAFETY		SWITCH	
T	TEMPERATURE			TRANSMIT	
U	MULTI VARIABLE		MULTIFUNCTION	MULTIFUNCTION	MULTIFUNCTION
V	VIBRATION, MECHANICAL ANALYSIS			VALVE, DAMPER, LOUVER	
W	WEIGHT, FORCE		WELL		
X	INTRUSION	X-AXIS			
Y	EVENT, STATE OR PRESENCE	Y-AXIS		RELAY, COMPUTE, CONVERT	
Z	POSITION, DIMENSION	Z-AXIS		DRIVER, ACTUATOR, FINAL CONTROL ELEMENT	

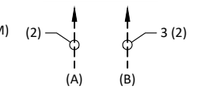
EQUIPMENT IDENTIFICATION TABLE

AC	AIR COMPRESSOR	GEN	GENERATOR	PV	PHOTOVOLTAIC
ACC	ACCUMULATOR	GSU	GENERATOR STEP-UP TRANSFORMER	RCT	RECTIFIER
ACT	ACTUATOR	GTC	GENERATOR POWER TERMINAL CABINET	RIO	REMOTE I/O UNIT
AF	AIR FILTER	HB	HOSE BIB	RTD	RESISTANCE TEMPERATURE DETECTOR
AFD	ADJUSTABLE FREQUENCY DRIVE	HMI	HUMAN-MACHINE INTERFACE	RTU	REMOTE TELEMETRY UNIT
AH	AIR HANDLING UNIT	HOI	HOIST/CRANE	SEC	SECURITY CONTROL PANEL
ARC	ARC PLENUM AND EXHAUST DUCT	HPU	HYDRAULIC POWER UNIT	SEP	SEPTIC SYSTEM
ATS	AUTOMATIC TRANSFER SWITCH	HTR	HEATER	SHG	SODIUM HYPOCHLORITE GENERATOR
BAT	BATTERY	INV	INVERTER	SNK	SINK
BC	BATTERY CHARGER	LCP	LOCAL CONTROL PANEL	SPU	SPEED PICKUP SENSOR
BRG	BEARING	LCS	LOCAL CONTROL STATION	STR	STRAINER
BRK	BREAKER	LPU	LUBRICATING OIL PUMP CONTROL UNIT	SVR	SERVER
CAM	CAMERA	MB	METER BASE	SWG	SWITCHGEAR
CSE	COMBINATION SERVICE ENCLOSURE	MC	MECHANICAL COUPLING	TIV	TURBINE INLET VALVE
CV	CHECK VALVE	MCC	MOTOR CONTROL CENTER	TNK	TANK
D	DAMPER	MCP	MAIN CONTROL PANEL	TOI	WATER CLOSET
DCU	DISTRIBUTED CONTROL UNIT	MES	MANAGED ETHERNET SWITCH	TRS	TRAVELING SCREEN
DS	DISCONNECT	MOV	MOTOR OPERATED VALVE	TUR	TURBINE
EAP	ENGINEERING ACCESS POINT	MS	MOTOR STARTER	UPS	UNINTERRUPTABLE POWER SUPPLY
ECP	ENVIRONMENTAL CONTROL PANEL (HVAC)	MTR	MOTOR	UVR	UV REACTOR
EEW	EMERGENCY EYEWASH STATION	MTS	MANUAL TRANSFER SWITCH	V	VALVE
EF	EXHAUST FAN	NET	NETWORK / COMMUNICATIONS RACK	VCP	VENDOR CONTROL PANEL
EXC	EXCITER	OWS	OIL WATER SEPARATOR	VFD	VARIABLE FREQUENCY DRIVE
FAS	FIRE ALARM SYSTEM	P	PUMP	VL	VENTILATION LOUVER
FD	FLOOR DRAIN	PB	PANELBOARD / LOAD CENTER	VSP	VENDOR SUPPLIED PANEL
FIL	FILTER	PCP	PLANT CONTROL PANEL	WS	WATER SOFTENER
FOR	FIBER OPTIC REPEATER	PCU	POWER CONTROL UNIT	XFR	TRANSFORMER
FOT	FIBER OPTIC TRANSCEIVER	PFL	PRE-FILTER	XVR	TRANSCEIVER
FPP	FIBER PATCH PANEL / CONNECTOR HOUSING	PLC	PROGRAMMABLE LOGIC CONTROLLER	YLT	EVENT PILOT LIGHT
G	GATE	PRV	PRESSURE REDUCING VALVE	ZZK	SECURITY GATE INTERFACE
GBK	GENERATOR BRAKE	PS	POWER SUPPLY / ISOLATOR / CONVERTER		

INSTRUMENTATION LINE SYMBOLOGY

- PRIMARY PROCESS (CLOSED CONDUIT, DASHED LINE INDICATES ALTERNATE FLOW STREAM)
- PRIMARY PROCESS (OPEN CHANNEL)
- ANALOG SIGNAL, (4 TO 20 mAdc, ECT)
- DISCRETE SIGNAL, (ON/OFF, ECT)
- PNEUMATIC SIGNAL
- FILLED SYSTEM SIGNAL
- HYDRAULIC SYSTEM SIGNAL
- DIGITAL DATA LINK
- PACKAGE SYSTEM EQUIPMENT
- STRUCTURE/FACILITY BOUNDARY
- CABLE FURNISHED WITH EQUIPMENT
- M — MECHANICAL POWER/LINKAGE
- E — ELECTRICAL POWER

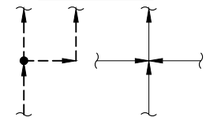
PARALLELING LINES



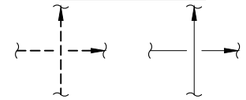
(A) TOTAL OF 2 SIGNALS

(B) 3 TYPICAL SETS OF 2 SIGNALS EACH. TOTAL OF 6 SIGNALS.

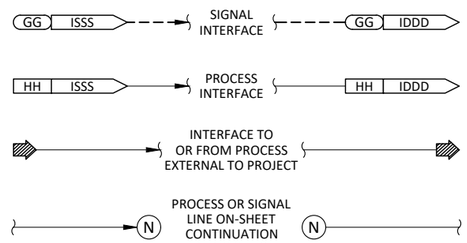
CONNECTING LINES



NON-CONNECTING LINES



SYSTEM CONTINUATION INTERFACES



GG SIGNAL INTERFACE NO.
HH PROCESS INTERFACE NO.
DDD DESTINATION DRAWING NO.
SSS SOURCE DRAWING NO.

P&ID ABBREVIATIONS

AC	ALTERNATING CURRENT
AM	AUTO-MANUAL
COD	CHEMICAL OXYGEN DEMAND
DEV	DEVIATION
DC	DIRECT CURRENT
DCS	DISTRIBUTED CONTROL SYSTEM
ECS	ENVIRONMENTAL CONTROL SYSTEM (HVAC)
EPO	EMERGENCY POWER OFF
FOC	FIBER OPTIC CABLE
FOS	FAST-OFF-SLOW
FOSA	FAST-OFF-SLOW-AUTO
FOSR	FAST-OFF-SLOW-REMOTE
HI	HIGH
HML	HIGH-MID-LOW
HOA	HAND-OFF-AUTO
HOR	HAND-OFF-REMOTE
ISR	INTRINSICALLY SAFE RELAY
LEL	LOWER EXPLOSIVE LIMIT
LO	LOW
LOR	LOCAL-OFF-REMOTE
LOS	LOCKOUT STOP
LR	LOCAL-REMOTE
MC	MODULATE-CLOSE
MOA	MANUAL-OFF-AUTO
MSC	MANUFACTURER SUPPLIED CABLE
NC	NORMALLY CLOSED
NO	NORMALLY OPEN
OC	OPEN-CLOSE(D)
OCA	OPEN-CLOSE-AUTO
OCR	OPEN-CLOSE-REMOTE
OI	OPERATOR INTERFACE
OO	ON-OFF
OOA	ON-OFF-AUTO
OOR	ON-OFF-REMOTE
ORP	OXIDATION REDUCTION POTENTIAL
OSC	OPEN-STOP-CLOSE
PC	PERSONAL COMPUTER
PCS	PLANT CONTROL SYSTEM
pH	HYDROGEN ION CONCENTRATION
PID	PROPORTIONAL INTEGRAL DERIVATIVE CONTROL
POT	POTENTIOMETER
RC	RUN CLOSE
RO	RUN OPEN
RL	RAISE-LOWER
RM	REMOTE MULTIPLEXING MODULE
RSL	RAISE-STOP-LOWER
RVSS	REDUCED VOLTAGE SOLID-STATE STARTER
SCADA	SUPERVISORY CONTROL AND DATA ACQUISITION
SEL	SELECT
SET	SET POINT
SF	SLOWER-FASTER
SHC	SODIUM HYPOCHLORITE
SR	START-RESET
SS	START-STOP
SSC	SUPERVISORY SET POINT CONTROL
ST	START
SW	SEAL WATER
TC	THERMOCOUPLE
TCR	TOTAL CHLORINE RESIDUAL
TEMP	TEMPERATURE
TSP	TWISTED SHIELD PAIR
TURB	TURBIDITY
VHC	VOLATILE HYDROCARBONS
VIB	VIBRATION
VSP	VENDOR SUPPLIED PANEL
VTO	VENT TO OUTSIDE
WSEL	WATER SURFACE ELEVATION

NOTES:

1. FOR MECHANICAL ELEMENT SYMBOLS, SEE MECHANICAL LEGEND.
2. FOR ELECTRICAL ELEMENT SYMBOLS, SEE ELECTRICAL LEGEND.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

INSTRUMENTATION AND EQUIPMENT LEGEND

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING

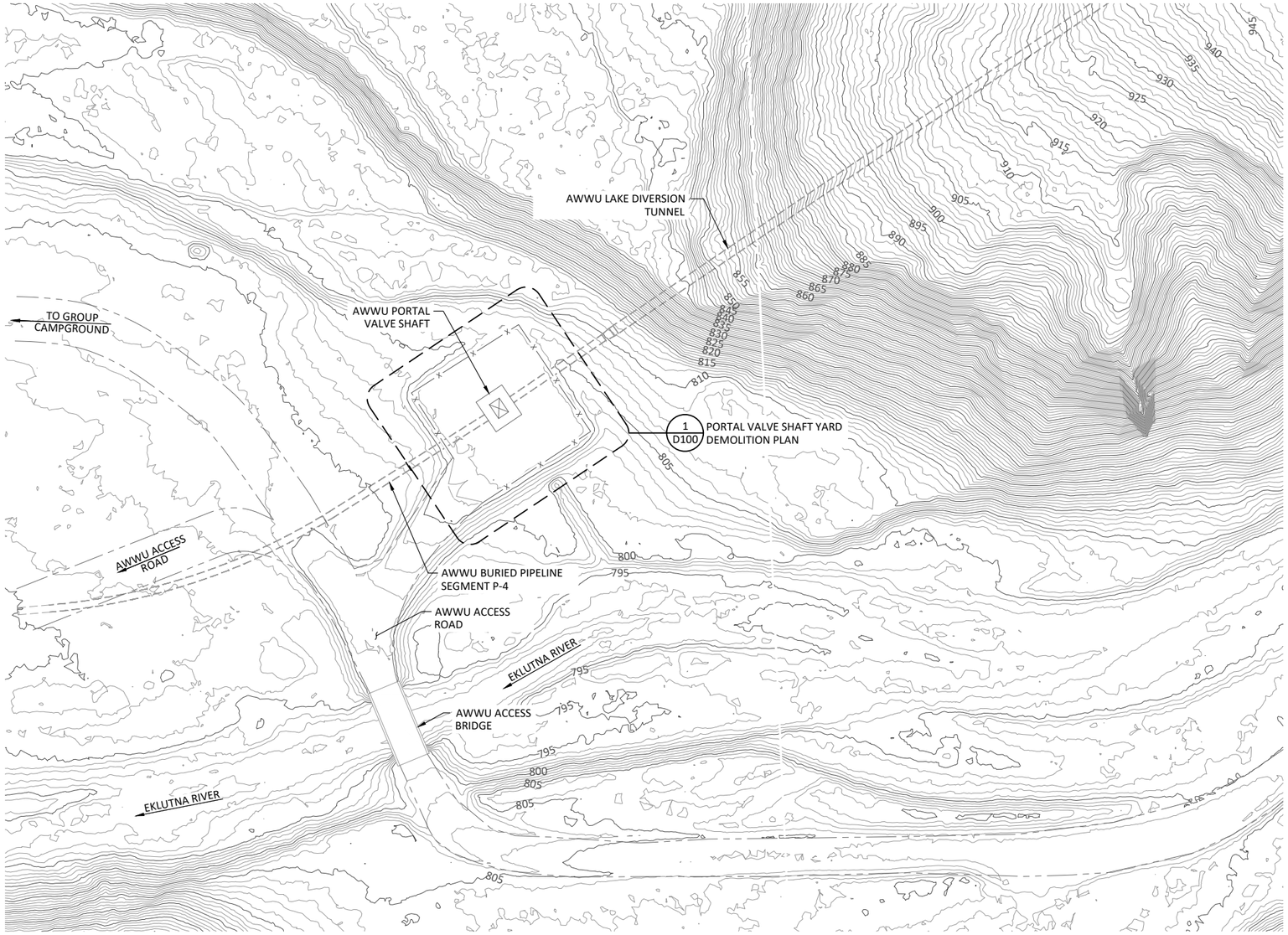
G006

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\G006.dwg Plot date: Sep 26, 2023 03:58pm, CAD User: HaberFlavia

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



DEMOLITION KEY PLAN

SCALE: 1"= 40'

0" 40' 80'

N

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

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MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

DEMOLITION KEY PLAN

DESIGNED S. ELLENSON

DRAWN F. HABER

CHECKED J. BOAG

PROJECT DATE 10/6/23

DRAWING

D001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\D001.dwg Plot date: Sep 26, 2023 04:06pm, CAD User: HaberFlavia

SHEET NOTES:

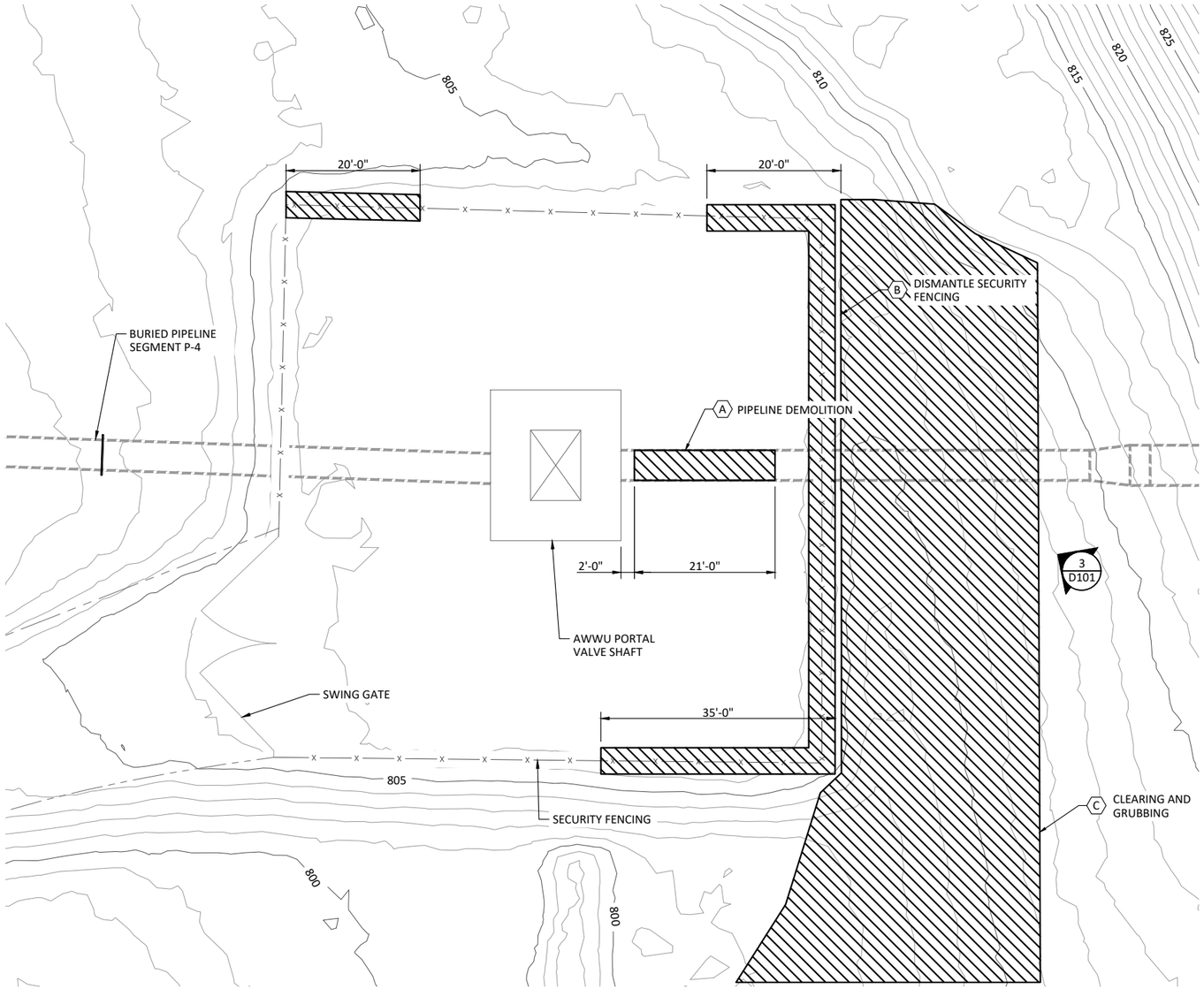
1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).

SHEET KEY NOTES:

A. EXCAVATE AND EXPOSE BURIED STEEL PIPELINE UPSTREAM OF PORTAL VALVE SHAFT. DEMOLISH AND DISPOSE OF 21-FT SEGMENT OF PIPELINE.

B. DISMANTLE SECURITY FENCING TO EXTENTS SHOWN. PRESERVE AND PROTECT FOR RE-INSTALLATION FOLLOWING PROJECT CONSTRUCTION.

C. CLEAR AND GRUB LAND NORTHEAST OF PORTAL VALVE SHAFT TO EXTENTS SHOWN .



PORTAL VALVE SHAFT YARD DEMOLITION PLAN

SCALE: 1"= 10'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

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MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

PORTAL VALVE SHAFT YARD DEMOLITION PLAN

DESIGNED S. ELLENSON

DRAWN F. HABER

CHECKED J. BOAG

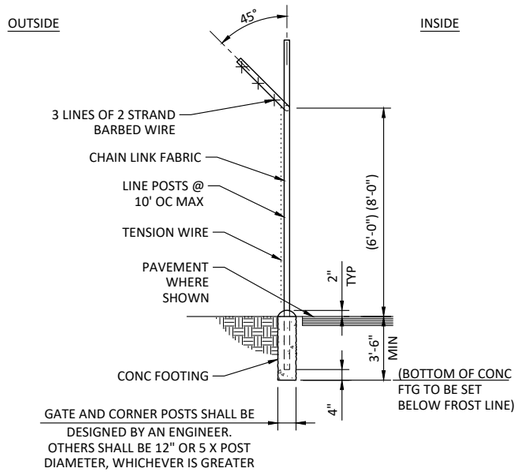
PROJECT DATE 10/6/23

DRAWING

D100

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\D100.dwg Plot date: Sep 28, 2023 12:49pm, CAD User: HaberFlavia

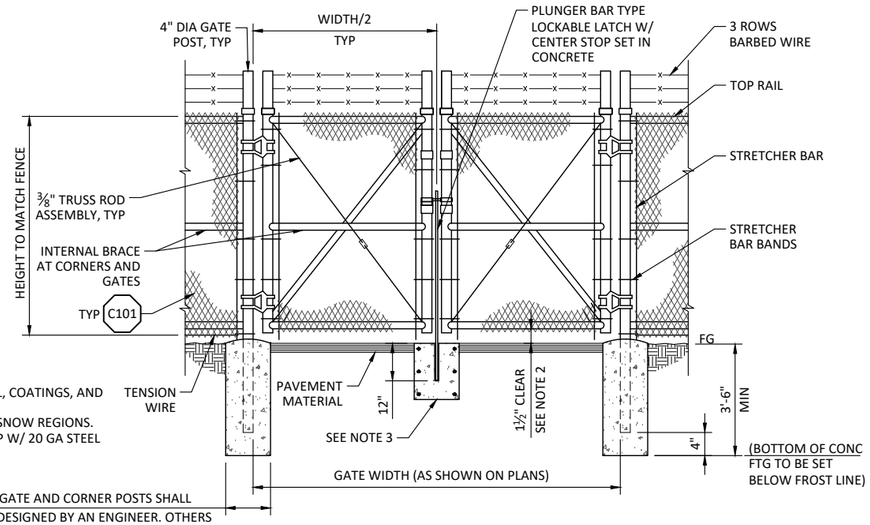


NOTES:
1. SEE SPECIFICATIONS FOR FENCE MATERIAL, COATINGS, AND INSTALLATION REQUIREMENTS.
2. EXTENSION ARM MAY BE TURNED IN AT OPTION OF OWNER.

CHAIN LINK FENCE

SCALE: NTS

C101



NOTES:
1. SEE SPECIFICATIONS FOR FENCE MATERIAL, COATINGS, AND INSTALLATION REQUIREMENTS.
2. SEE SPECIFICATIONS FOR CLEARANCES IN SNOW REGIONS.
3. 12" DIAMETER x 18" DEEP CONCRETE STOP W/ 20 GA STEEL PLUNGER SLEEVE, DIA = ROD O.D. +½".

DOUBLE LEAF GATE

SCALE: NTS

C102

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

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MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

CIVIL GENERAL NOTES AND STANDARD DETAILS

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING

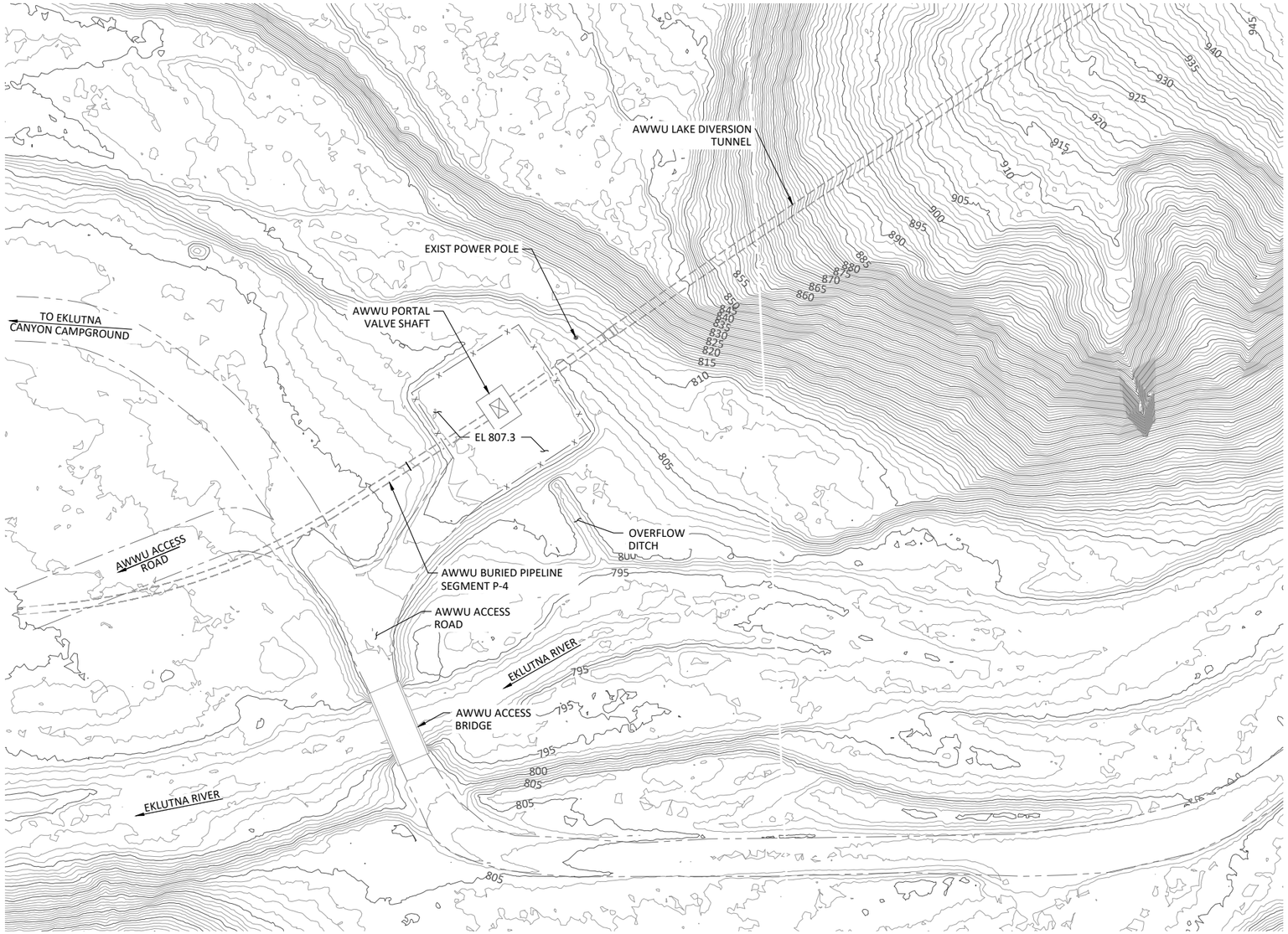
GC001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GC001.dwg Plot date: Sep 28, 2023 01:12pm, CAD User: HaberFlavia

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



PORTAL VALVE SHAFT YARD EXISTING SITE PLAN

SCALE: 1"= 40'

0" 40' 80'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

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MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

PORTAL VALVE SHAFT YARD
EXISTING SITE PLAN

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING

C001

JOB NO: 000000

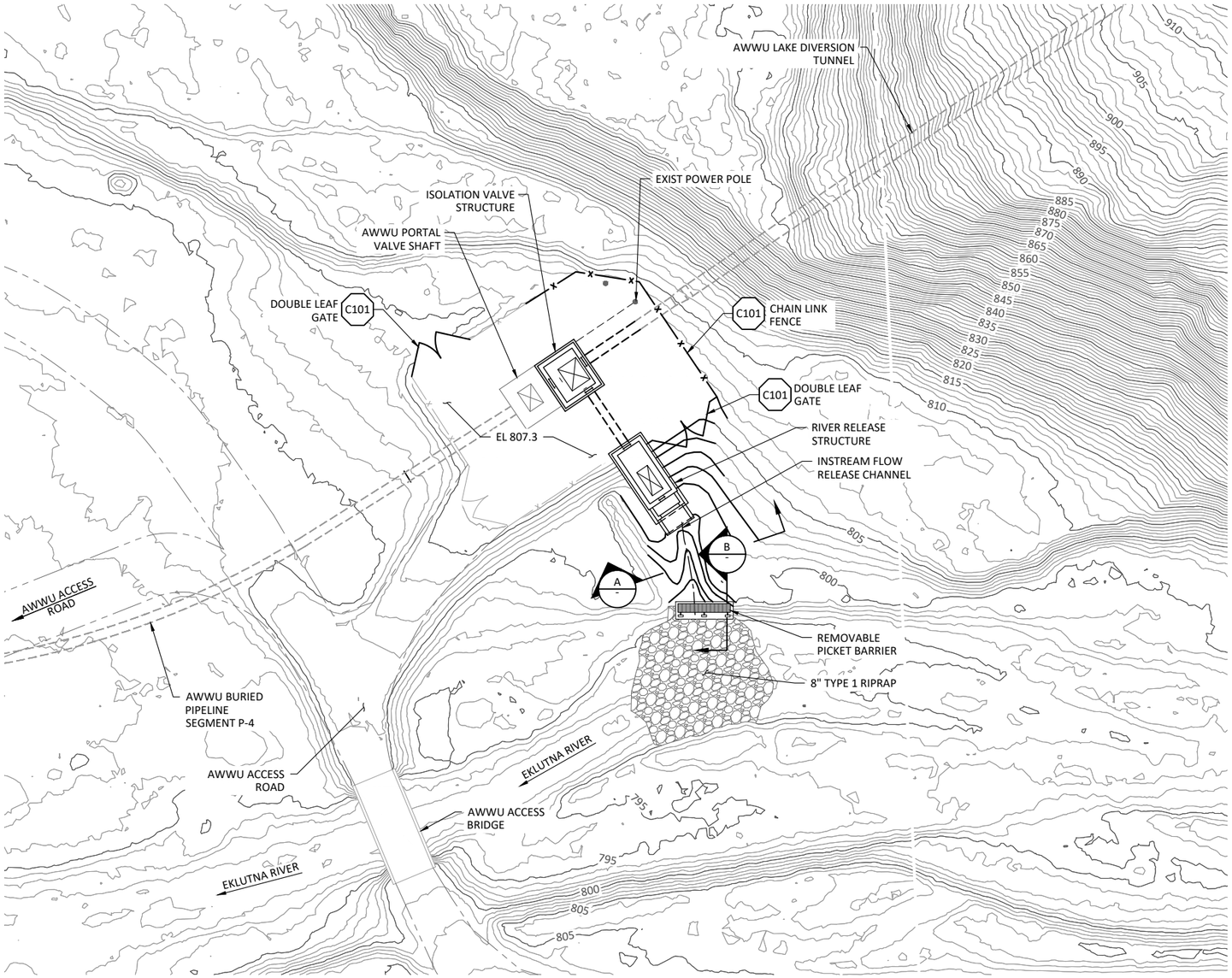
Path: C:\Vault\Chugach Electric\Portal Release Structure\C001.dwg Plot date: Sep 28, 2023 01:13pm, CAD User: HaberFlavia

GENERAL NOTES:

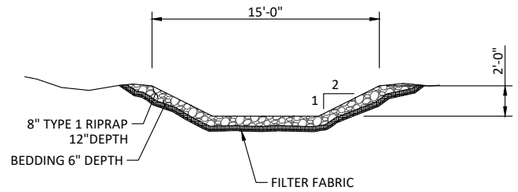
1. SURVEY BASED ON LIGHT DETECTION AND RANGING (LIDAR) AERIAL IMAGERY DATA CAPTURED IN MAY 2022.

PROJECTION: UTM ZONE 6 NORTH
HORIZONTAL DATUM: NAD83 (2011)
VERTICAL DATUM: NAVD88 (GEOID 12B)

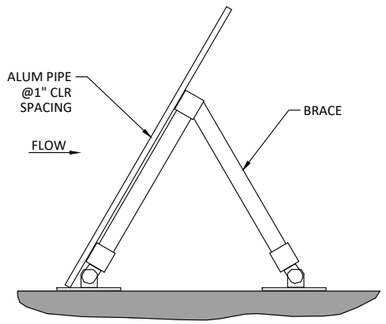
2. ELEVATIONS ARE TO FINISHED GRADE UNLESS OTHERWISE SHOWN.
3. SLOPE UNIFORMLY BETWEEN CONTOURS AND SPOT ELEVATIONS SHOWN



PORTAL VALVE SHAFT YARD EXISTING SITE PLAN
SCALE: 1"= 30'



A
SECTION
SCALE: 1"= 5'



B
SECTION
SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

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CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

PORTAL VALVE SHAFT YARD
GRADING PLAN

DESIGNED S. ELLENSON
DRAWN F. HABER
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
C100

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\C100.dwg Plot date: Sep 28, 2023 01:13pm, CAD User: HaberFlavia

GENERAL STRUCTURAL NOTES:
THE FOLLOWING NOTES ARE GENERAL AND APPLY TO THE ENTIRE PROJECT, UNLESS SPECIFICALLY NOTED OTHERWISE (UNO)

1) GENERAL:

A. CONSTRUCTION DOCUMENTS:
   1. THE CONTRACTOR SHALL REVIEW THE APPROVED CONTRACT DOCUMENTS AND NOTIFY THE ENGINEER OF ANY ERRORS OR DISCREPANCIES PRIOR TO THE START OF CONSTRUCTION.
   2. THE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY IF ANY UNIDENTIFIED EXISTING UNDERGROUND UTILITIES ARE DISCOVERED.
   3. THE STRUCTURAL CONTRACT DRAWINGS REPRESENT THE FINISHED STRUCTURE. THEY DO NOT INDICATE THE METHOD OF CONSTRUCTION. THE CONTRACTOR SHALL PROVIDE ALL MEASURES NECESSARY TO PROTECT THE STRUCTURE DURING CONSTRUCTION. SUCH MEASURES SHALL INCLUDE, BUT ARE NOT LIMITED TO, BRACING AND/OR SHORING FOR LOADS DUE TO CONSTRUCTION EQUIPMENT, ETC.
   4. UNDER NO CIRCUMSTANCES CAN STRUCTURAL COMPONENTS BE SUBSTITUTED, OMITTED, OR ALTERED FROM THE APPROVED SET OF CONSTRUCTION DOCUMENTS WITHOUT WRITTEN APPROVAL FROM THE ENGINEER.

B. DIMENSIONS AND NOTATIONS:
   1. WRITTEN DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS. DO NOT SCALE DRAWINGS.
   2. ABBREVIATIONS USED ON THE APPROVED CONSTRUCTION DOCUMENTS SHALL BE CONSIDERED TYPICAL ABBREVIATIONS FOR THE INDUSTRY. THE CONTRACTOR SHALL BE RESPONSIBLE TO NOTIFY THE ENGINEER IMMEDIATELY OF ANY ABBREVIATIONS THAT ARE UNKNOWN TO THE CONTRACTOR.

C. TYPICAL NOTES AND DETAILS:
   1. SPECIFIC NOTES AND DETAILS SHALL TAKE PRECEDENCE OVER STANDARD TYPICAL NOTES AND DETAILS.
   2. STANDARD TYPICAL NOTES AND DETAILS ARE TO BE USED WHEN REFERRED TO OR WHEN NO OTHER MORE RESTRICTIVE OR DIFFERENT DETAILS ARE SHOWN ON THE DRAWINGS.
   3. WORK NOT PARTICULARLY SHOWN OR SPECIFIED SHALL BE THE SAME AS SIMILAR PARTS THAT ARE SHOWN OR SPECIFIED.

D. CODE REQUIREMENTS:
   1. ALL WORK SHALL CONFORM TO THE MINIMUM STANDARDS OF REGULATING AGENCIES WHICH MAY HAVE AUTHORITY OVER ANY PORTION OF THE WORK.
   2. SPECIFICATIONS, CODES AND STANDARDS NOTED SHALL BE OF THE LATEST APPROVED ISSUE, INCLUDING SUPPLEMENTS, UNLESS NOTED OTHERWISE.
   3. MINIMUM UNIFORM (BLANKET) ROOF SNOW LOAD, AS DEFINED BY LOCAL BUILDING OFFICIAL OR STATE, SHALL BE DESIGNED FOR, AND IT IS THE RESPONSIBILITY OF THE ENGINEER TO CONFIRM IF ONE EXISTS BY CONTACTING THE LOCAL BUILDING OFFICIAL.

E. DEFERRED SUBMITTALS:
   1. DEFERRED STRUCTURE SUBMITTAL ITEMS HAVE NOT BEEN PERMITTED UNDER THE BASE BUILDING APPLICATION.
   2. THE CONTRACTOR SHALL SUBMIT COMPONENT SYSTEM DOCUMENTS FOR DEFERRED SUBMITTAL ITEMS, STAMPED BY A PROFESSIONAL ENGINEER LICENSED IN THE JURISDICTION HAVING AUTHORITY, TO THE REGISTERED DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE FOR REVIEW AND FORWARD THE REVIEWED DOCUMENTS TO THE BUILDING OFFICIAL IN COMPLIANCE WITH SECTION 107.3.4.1 OF THE CBC.
   3. DEFERRED SUBMITTAL ITEMS SHALL NOT BE INSTALLED UNTIL THE COMPONENT SYSTEM DOCUMENTS HAVE BEEN APPROVED BY THE BUILDING OFFICIAL.
   4. THE FOLLOWING CONTRACTOR-DESIGNED PROJECT ELEMENTS ARE DEFINED AS DEFERRED STRUCTURAL SUBMITTAL ITEMS:

      PRE-ENGINEERED METAL BUILDINGS

2) CODES, STANDARDS, AND REFERENCES:

A. ASCE 7-16: MINIMUM DESIGN LOADS AND ASSOCIATED CRITERIA FOR BUILDINGS AND OTHER STRUCTURES.
B. ACI 318-14: BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE.
C. ACI 350-06: CODE REQUIREMENTS FOR ENVIRONMENTAL ENGINEERING CONCRETE STRUCTURES.
D. AISC 360-16 SPECIFICATION FOR STRUCTURAL STEEL BUILDINGS.

3) FOUNDATIONS AND GEOTECHNICAL:

A. GEOTECHNICAL DESIGN CRITERIA IS BASED ON THE RECOMMENDATIONS DOCUMENTED IN THE DESIGN DOCUMENTATION REPORT:

4) GRATING:

A. WEIGHT OF GRATING SECTION SHALL NOT EXCEED 80 LBS.
B. PROVIDE A MINIMUM OF 4 CLIPS PER GRATING PANEL, APPROX 4" FROM PANEL CORNERS.
C. WIDTH OF GRATING SECTIONS SHALL NOT EXCEED 3'-0".
D. SHOP DRAWINGS BASED ON FIELD DIMENSIONS SHALL BE SUBMITTED TO THE ENGINEER PRIOR TO FABRICATION.
E. PROVIDE GRATING FASTENERS AS REQUIRED.
F. THE HORIZONTAL CLEARANCE BETWEEN THE GRATING AND GRATING SUPPORTS SHALL NOT BE LESS THAN ¼" NOR GREATER THAN ½"
G. ALL GRATING SECTIONS, WHEN IN PLACE, SHALL ALWAYS BE FIRMLY ANCHORED TO THEIR SUPPORTS.
H. PROVIDE MINIMUM BEARING PER MANUFACTURERS RECOMMENDATIONS FOR ALL GRATING.

5) NON-SHRINK GROUT:
1. ALL GROUT WORK SHALL CONFORM TO THE LATEST EDITION OF ACI 301.
2. FORMWORK: DESIGN, ERECT, SUPPORT, BRACE AND MAINTAIN FORMWORK TO SUPPORT VERTICAL, LATERAL, STATIC AND DYNAMIC LOADS THAT MIGHT BE APPLIED UNTIL STRUCTURE CAN SUPPORT SUCH LOADS.

6) STRUCTURAL AND MISCELLANEOUS STEEL:

A. STRUCTURAL STEEL SHALL CONFORM TO THE FOLLOWING ASTM STANDARDS:
   a) WIDE FLANGE SHAPES — A992, GR 50 GALV
   b) OTHER SHAPES, PLATES, ANGLES AND BARS — A36 GALV
   c) STEEL PIPE — A53, GRADE B GALV
   d) HOLLOW STRUCTURAL SECTIONS — A500, GRADE B GALV
C. WELDS: PROVIDE 70KSI LOW HYDROGEN ELECTRODE OR PROCESS IN ACCORDANCE WITH AWS A5.1.
D. BOLTS, U.N.O.:
   1. STAINLESS STEEL: ASTM A193, GRADE 8, CLASS 2, AISI TYPE 316
H. DRILL AND EPOXY ANCHOR BOLTS:
   1. STAINLESS STEEL ASTM A193, GRADE 8, CLASS 2, AISI TYPE 316 OR EQUAL APPROVED BY ENGINEER
I. EPOXY BOLT OR EXPANSION BOLT SUBSTITUTIONS FOR EMBEDDED BOLTS IS PROHIBITED WITHOUT WRITTEN CONSENT FROM THE ENGINEER.
J. UNLESS NOTED OTHERWISE ON THE DRAWINGS, ALL EPOXY BOLTS SHALL BE AS SPECIFIED.
K. ALL STRUCTURAL STEEL SHALL BE DETAILED, FABRICATED, AND ERECTED IN ACCORDANCE WITH THE AISC CODE OF STANDARD PRACTICE, EXCEPT AS MODIFIED IN THESE NOTES AND THE PROJECT SPECIFICATIONS.
L. ALL STAINLESS STEEL SHALL BE TYPE 316.
M. SPLICING OF STEEL MEMBERS, UNLESS SHOWN ON THE DRAWINGS, IS PROHIBITED WITHOUT WRITTEN APPROVAL OF THE PROJECT ENGINEER.
N. GALVANIC PROTECTION SHALL BE PROVIDED BETWEEN DISSIMILAR METALS.
O. WELDING SHOWN FOR STAINLESS STEEL ELEMENTS SHALL COMPLY WITH AWS D1.6/D1.6M.

7) CONCRETE:

A. ALL CONCRETE WORK SHALL CONFORM TO THE LATEST EDITION OF ACI 301 AND ACI 117, EXCEPT AS MODIFIED BY THE FOLLOWING SUPPLEMENTAL REQUIREMENTS:
B. ALL CONCRETE SHALL BE NORMAL WEIGHT CONCRETE.
C. CONCRETE MIX DESIGN SHALL BE ESTABLISHED IN ACCORDANCE WITH CHAPTER 5 OF ACI 350.
D. COMPRESSIVE STRENGTH (28 DAYS)
   F'C — 4,500 PSI
E. REINFORCEMENT FOR CONCRETE:
1. ALL REINFORCING SHALL BE SUPPORTED IN FORMS SPACED WITH NECESSARY ACCESSORIES AND SHALL BE SECURELY WIRED TOGETHER IN ACCORDANCE WITH THE LATEST EDITION OF THE CRSI "MANUAL OF STANDARD PRACTICE"
2. CLEAR COVER
   a) CONCRETE CAST AGAINST EARTH = 3"
   b) ALL OTHER CONCRETE, UNO = 2"
F. SLAB-ON-GRADE REINFORCEMENT SHALL BE PLACED AT THE MID-DEPTH OF THE SLAB, UNO.
G. FORMWORK: DESIGN, ERECT, SUPPORT, BRACE AND MAINTAIN FORMWORK TO SUPPORT VERTICAL, LATERAL, STATIC AND DYNAMIC LOADS THAT MIGHT BE APPLIED UNTIL STRUCTURE CAN SUPPORT SUCH LOADS.

8) ALUMINUM:

A. ALL ALUMINUM WORK SHALL CONFORM TO THE LATEST EDITION OF THE ALUMINUM DESIGN MANUAL BY THE ALUMINUM ASSOCIATION.
B. UNLESS OTHERWISE INDICATED, ALUMINUM METALWORK SHALL BE FABRICATED FROM ALLOY 6061-T6, EXCEPT GRATING WHICH SHALL BE PER DESIGN.

9) REINFORCEMENT:

A. ASTM A615 - FY = 60,000 PSI
B. SEE SPECIFICATIONS FOR REINFORCING PLACEMENT REQUIREMENTS.
C. ABSOLUTELY NO WELDING OF REINFORCING BARS OR TORCHING TO BEND REINFORCING BARS SHALL BE ALLOWED WITHOUT SPECIFIC APPROVAL FROM THE STRUCTURAL ENGINEER.

10) TESTS AND INSPECTIONS:

A. INSPECTIONS
   1. CONSTRUCTION SHALL BE SUBJECT TO INSPECTION BY THE BUILDING OFFICIAL OR THE AUTHORITY HAVING JURISDICTION AND SUCH CONSTRUCTION OR WORK SHALL REMAIN ACCESSIBLE AND EXPOSED FOR INSPECTION PURPOSES UNTIL APPROVED.
   2. THE CONTRACTOR IS RESPONSIBLE TO NOTIFY THE BUILDING OFFICIAL OR THE AUTHORITY HAVING JURISDICTION WHEN WORK IS READY FOR INSPECTION. IN ADDITION, THE CONTRACTOR IS RESPONSIBLE TO PROVIDE ACCESS TO AND MEANS FOR INSPECTIONS OF SUCH WORK THAT ARE REQUIRED BY THE BUILDING OFFICIAL OR AUTHORITY HAVING JURISDICTION.

B. STATEMENT OF SPECIAL INSPECTIONS
   1. THE DESIGN ENGINEER HAS PREPARED AND SUBMITTED A STATEMENT OF SPECIAL INSPECTIONS TO THE BUILDING OFFICIAL SPECIFYING THE SCOPE OF WORK TO BE INSPECTED BY A SPECIAL INSPECTION AGENCY (IN ADDITION TO THE INSPECTIONS BY THE BUILDING OFFICIAL OR AUTHORITY HAVING JURISDICTION) TO SATISFY THE REQUIREMENTS OF THE CALIFORNIA BUILDING CODE, SECTION 1704. THE CONTRACTOR SHALL REVIEW THIS DOCUMENT AND SUBMIT A WRITTEN STATEMENT OF RESPONSIBILITY TO THE BUILDING OFFICIAL AND OWNER (OR THE OWNER'S AUTHORIZED AGENT) PRIOR TO COMMENCEMENT OF THE WORK THAT ACKNOWLEDGES AWARENESS OF THE REQUIREMENTS CONTAINED IN THE STATEMENT OF SPECIAL INSPECTIONS.
   2. THE CONTRACTOR IS RESPONSIBLE FOR COORDINATING THEIR WORK WITH THE SPECIAL INSPECTION AGENCY. THE CONSTRUCTION OR WORK FOR WHICH SPECIAL INSPECTION OR TESTING IS REQUIRED SHALL REMAIN ACCESSIBLE AND EXPOSED FOR SPECIAL INSPECTION AND TESTING PURPOSES UNTIL COMPLETION OF THE REQUIRED SPECIAL INSPECTIONS OR TESTS.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

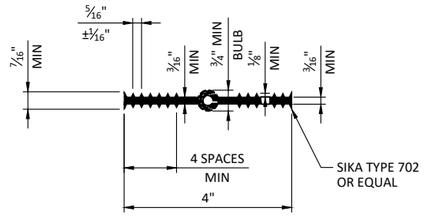
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
STRUCTURAL GENERAL NOTES

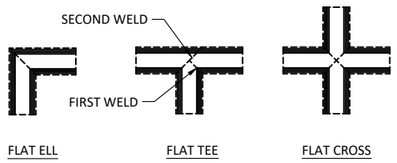
DESIGNED K. HEINDEL
DRAWN D. JOHNSTON
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

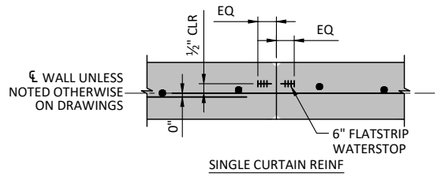
DRAWING
GS001

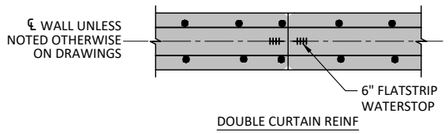
JOB NO: 0000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GS001.dwg Plot date: Sep 26, 2023 04:37pm, CAD User: HaberFlavia









S121 WITH WATERSTOP
SCALE: NTS

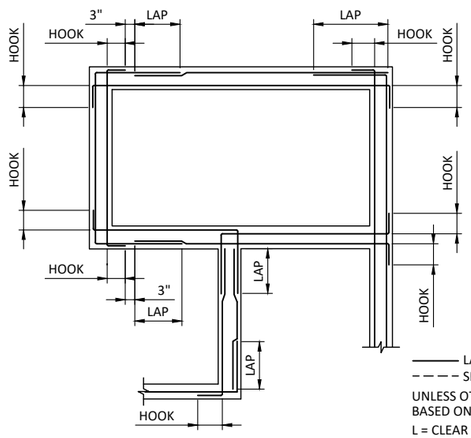
S122 NO WATERSTOP
SCALE: NTS

S123 WITH WATERSTOP
SCALE: NTS

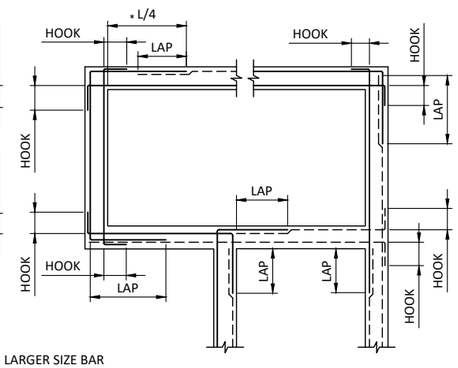
S124 NO WATERSTOP
SCALE: NTS

NOTES:
1. WHERE WATERSTOP IS REQUIRED IN SINGLE CURTAIN WALL REINFORCEMENT, PLACE WATERSTOP ON WATER SIDE OF WALL.
2. STAGGER SPLICES UNLESS NOTED OTHERWISE.

S107 4" CENTER-BULB WATERSTOP
SCALE: NTS



S108 PREFABRICATED WATERSTOP JOINTS
SCALE: NTS

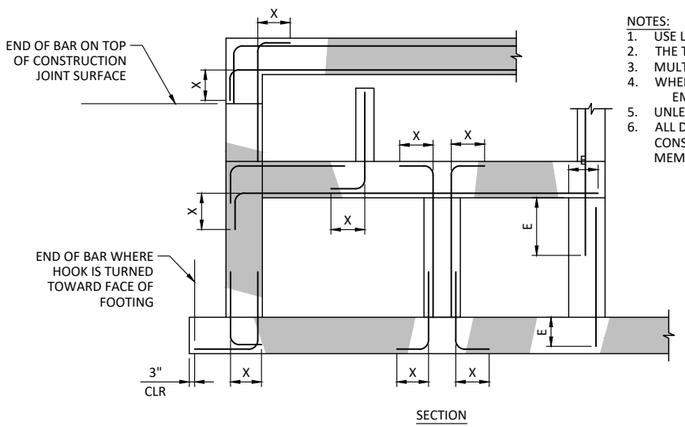


UNLESS OTHERWISE NOTED LAPS ARE BASED ON THE SMALLER SIZE BARS

L = CLEAR SPAN

*USE THIS DETAILING PROCEDURE WHEN LARGER OR CLOSER SPACED BARS ARE CALLED OUT FOR CORNERS

VERTICAL WALL CONSTRUCTION JOINT
SCALE: NTS



SECTION

NOTES:
1. USE LAP LENGTHS AS DETERMINED FROM THESE TABLES UNLESS SHOWN OTHERWISE.
2. THE TABLES SHOWN ARE FOR f'c=4000psi, fy=60,000psi, 1.5" MIN CONCRETE COVER AND 3" MIN BAR SPACING.
3. MULTIPLY THE LAP AND E SHOWN IN THESE TABLES BY 1.5 FOR EPOXY COATED REINFORCING.
4. WHEN BARS OF DIFFERENT SIZES ARE LAP SPLICED, LAP LENGTH SHALL BE THE LARGER OF: EMBEDMENT LENGTH OF LARGER BAR LAP OR LENGTH OF SMALLER BAR.
5. UNLESS NOTED OTHERWISE USE REBAR COUPLERS FOR SPLICES OF #11 AND LARGER BARS.
6. ALL DOWEL BARS SHALL EXTEND AN EMBEDMENT LENGTH E INTO ANOTHER MEMBER OR ACROSS A CONSTRUCTION JOINT UNLESS SHOWN TO SPLICE WITH OTHER BARS OR TO EXTEND TO THE FAR FACE OF THE MEMBER AND END WITH A STANDARD HOOK.

BAR SIZE	LENGTH (*) HOOK X	LAP	EMBEDMENT E
#3	6"	16" (21")	12" (16")
#4	8"	16" (21")	12" (16")
#5	10"	20" (26")	15" (20")
#6	12"	28" (37")	22" (28")
#7	14"	48" (62")	37" (48")
#8	16"	62" (81")	48" (62")
#9	19"	79" (102")	61" (79")
#10	22"	100" (130")	77" (100")
#11	24"	123" (160")	95" (123")

* USE LENGTH IN PARENTHESIS FOR WALL HORIZONTAL REBARS AND SLAB BARS WITH 12" OR MORE OF FRESH CONCRETE UNDERNEATH

S141 HORIZONTAL REINFORCEMENT AT WALL INTERSECTIONS
SCALE: NTS

S143 STANDARD 90° BAR HOOKS, EMBEDMENT LENGTHS AND LAP LENGTHS
SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

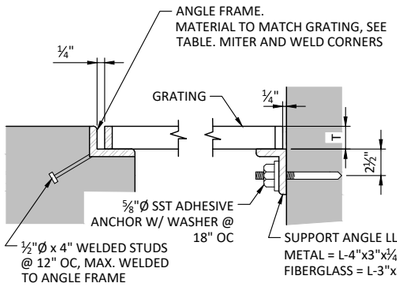
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
STRUCTURAL STANDARD DETAILS 1

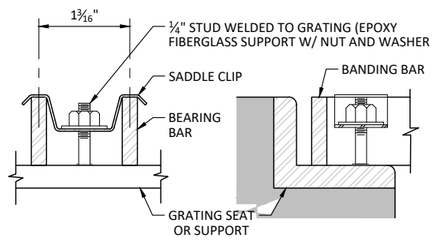
DESIGNED K. HEINDEL
DRAWN D. JOHNSTON
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

DRAWING
GS002

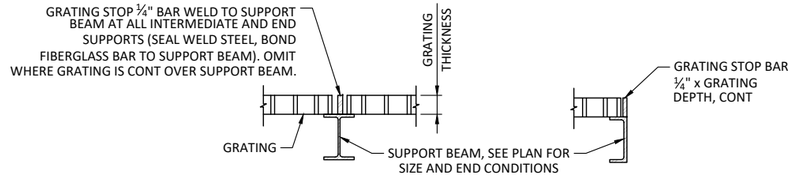
JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GS002.dwg Plot date: Sep 26, 2023 04:37pm, CAD User: HaberFlavia





GRATING CLIP DETAIL



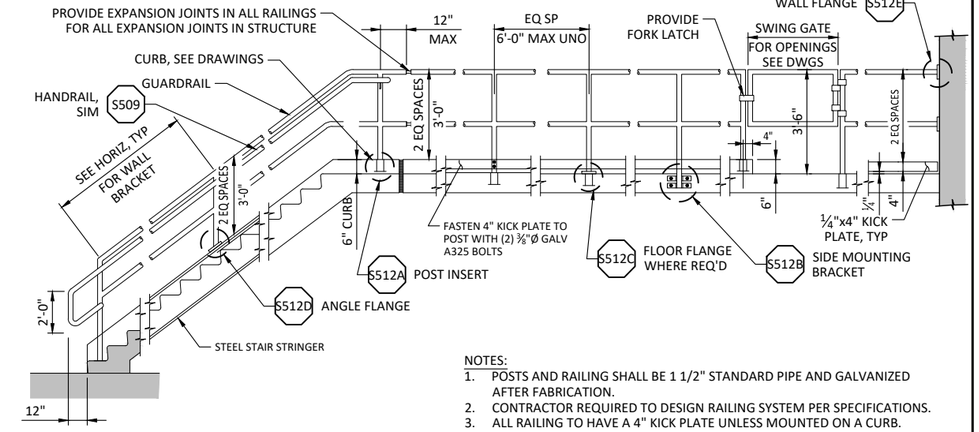
GRATING STOP DETAIL

NOTES:
1. UNLESS INDICATED OTHERWISE, ALL GRATING SHALL BE ALUM.
2. GRATING DEPTH TO BE DETERMINED BY MANUFACTURER AND APPROVED BY ENGINEER, UNO.
3. ALL ENDS AND OPENINGS SHALL BE BANDED.
4. WEIGHT OF GRATING SECTION SHALL NOT EXCEED 80 LBS.
5. METAL BEARING BARS SHALL BE DEPTH T x 3⁄16" @ 1 3⁄16" OC.. CROSS BARS SHALL BE @ 4" OC.
6. PROVIDE A MINIMUM OF 4 CLIPS PER GRATING PANEL, APPROX 4" FROM PANEL CORNERS. MAXIMUM CLIP SPACING AT 36" OC.
7. MATERIALS:
   - A. ALUM GRATING - USE ALUM ANGLE SUPPORTS AND SST BOLTS AND CLIPS. IF SUPPORTED BY STEEL BEAMS, USE STEEL STOP BARS. ALUM IN CONTACT WITH CONC OR STEEL SHALL BE COATED PER THE PROTECTIVE COATING SPECS.
   - B. GALV STEEL GRATING - USE STEEL ANGLE SUPPORTS, BOLTS AND CLIPS. GALV AFTER FABRICATION.
   - C. SST GRATING - USE SST ANGLE SUPPORTS, BOLTS AND CLIPS
   - D. FIBERGLASS GRATING - USE FIBERGLASS FOR ALL COMPONENTS EXCEPT DRILLED ANCHORS; ALL CUT EDGES SHALL BE SEALED WITH RESIN; BONDING: USE EPOXY ADHESIVE BONDING AGENT

GRATING FRAME TABLE SIZED TO MATCH GRATING (FOR FIBERGLASS USE CONTINUOUS PROTRUDED FIBERGLASS SEAT & ANCHOR)			
GRATING DEPTH (T)	STEEL ANGLE (STEEL)	GRATING DEPTH (T)	STEEL ANGLE (STEEL)
1"	1¾ x 1¼ x ¼ (1¼ x 1¼ x ¼)	2"	*2½ x 2½ x ½
1¼"	2 x 1½ x ¼ (1½ x 1½ x ¼)	2¼"	2½ x 2½ x ¼
1½"	1¾ x 1¾ x ¼	2½"	3 x 3 x ½
1¾"	2 x 2 x ¼		

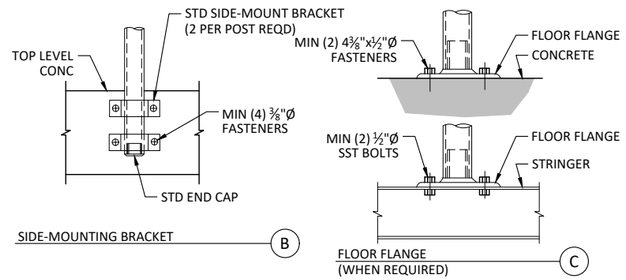
* OR USE 2½"x2½"x¼" W/ ¼" SHIM PLATE WELDED TO BOTTOM

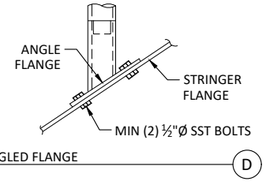
S501 GRATING
SCALE: NTS

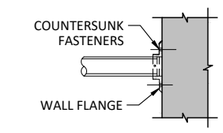


NOTES:
1. POSTS AND RAILING SHALL BE 1 1/2" STANDARD PIPE AND GALVANIZED AFTER FABRICATION.
2. CONTRACTOR REQUIRED TO DESIGN RAILING SYSTEM PER SPECIFICATIONS.
3. ALL RAILING TO HAVE A 4" KICK PLATE UNLESS MOUNTED ON A CURB.

S510 TWO-RAIL RAILING GUARDRAIL DETAIL
SCALE: NTS

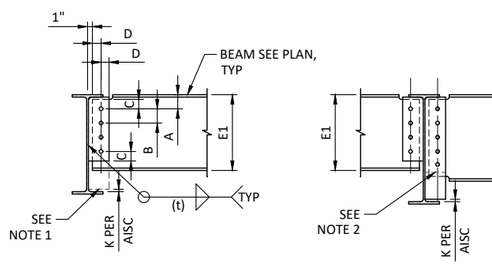




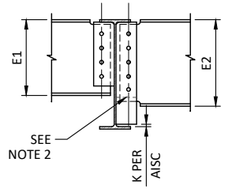


NOTES:
1. IF FASTENING TO CONCRETE, FASTENERS SHALL BE ADHESIVE ANCHORS.
2. CONTRACTOR REQUIRED TO DESIGN RAILING SYSTEM PER SPECIFICATIONS.

S512 RAILING, GUARDRAIL AND HANDRAIL SUPPORT DETAIL
SCALE: NTS



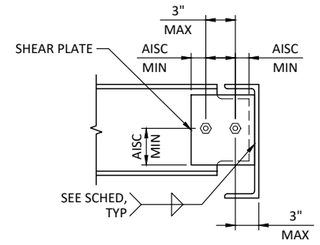
BEAM: ONE SIDE ONLY



BEAM: BOTH SIDES

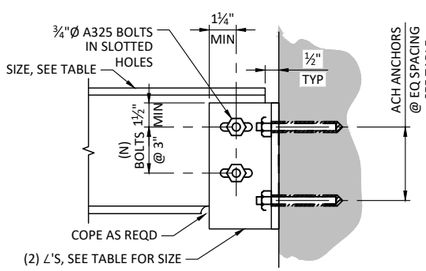
BEAM TO BEAM CONNECTION SCHEDULE								
BEAM SIZE	NO OF A325N BOLTS REQ'D		CONN PLATE THICKNESS (IN)	WELD SIZE (t)	A (IN)	B (IN)	C (IN)	D (IN)
	¾" Ø	1" Ø						
W8	2		5⁄16	3⁄16	2½"	2½"	1½"	1½"
W10	2		5⁄16	3⁄16	3	3	1½"	1½"

S562 BEAM TO BEAM CONNECTION - PLATE CONNECTION
SCALE: NTS



6" OR LESS CONNECTION

NOTES:
1. EXTEND CONN PLATE WHEN E1 IS GREATER THAN OR EQUAL TO W12 BM.
2. LIMIT OF CONN PLATE WHEN E2-E1 IS LESS THAN OR EQUAL TO 6 INCHES.



BEAM TO CONC CONNECTION SCHEDULE			
BEAM SIZE	DOUBLE ANGLE SIZE	# OF BOLTS (N)	ADHESIVE ANCHORS NUMBER AND SIZE

S563 BEAM TO CONC CONNECTION
SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
STRUCTURAL STANDARD DETAILS 2

DESIGNED K. HEINDEL
DRAWN D. JOHNSTON
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

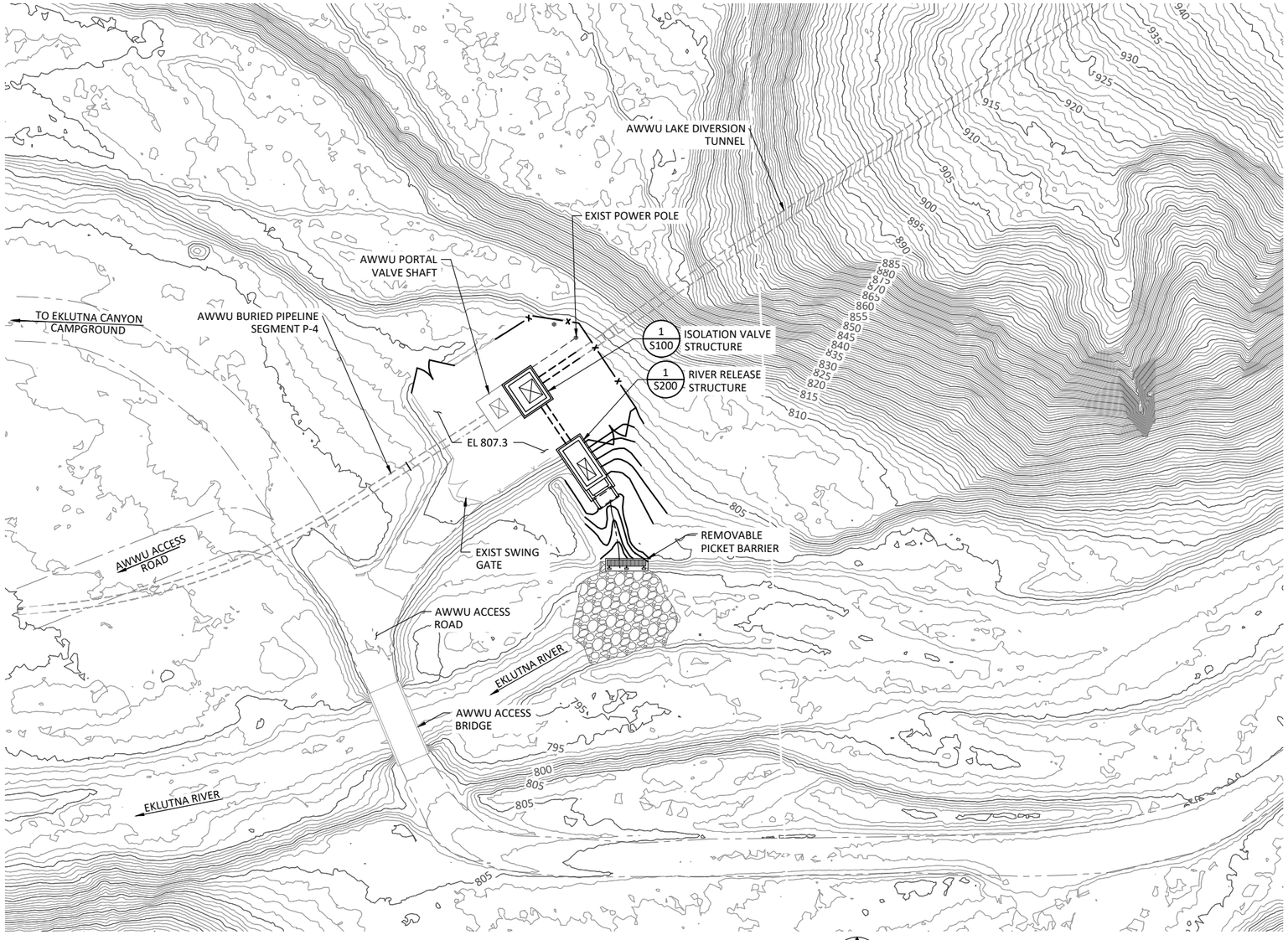
DRAWING
GS003

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GS003.dwg Plot date: Sep 26, 2023 04:39pm, CAD User: HaberFlavia

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



STRUCTURAL KEY PLAN
SCALE: 1"= 40'

0' 40' 80'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
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McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
STRUCTURAL KEY PLAN

DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT DATE 10/6/23

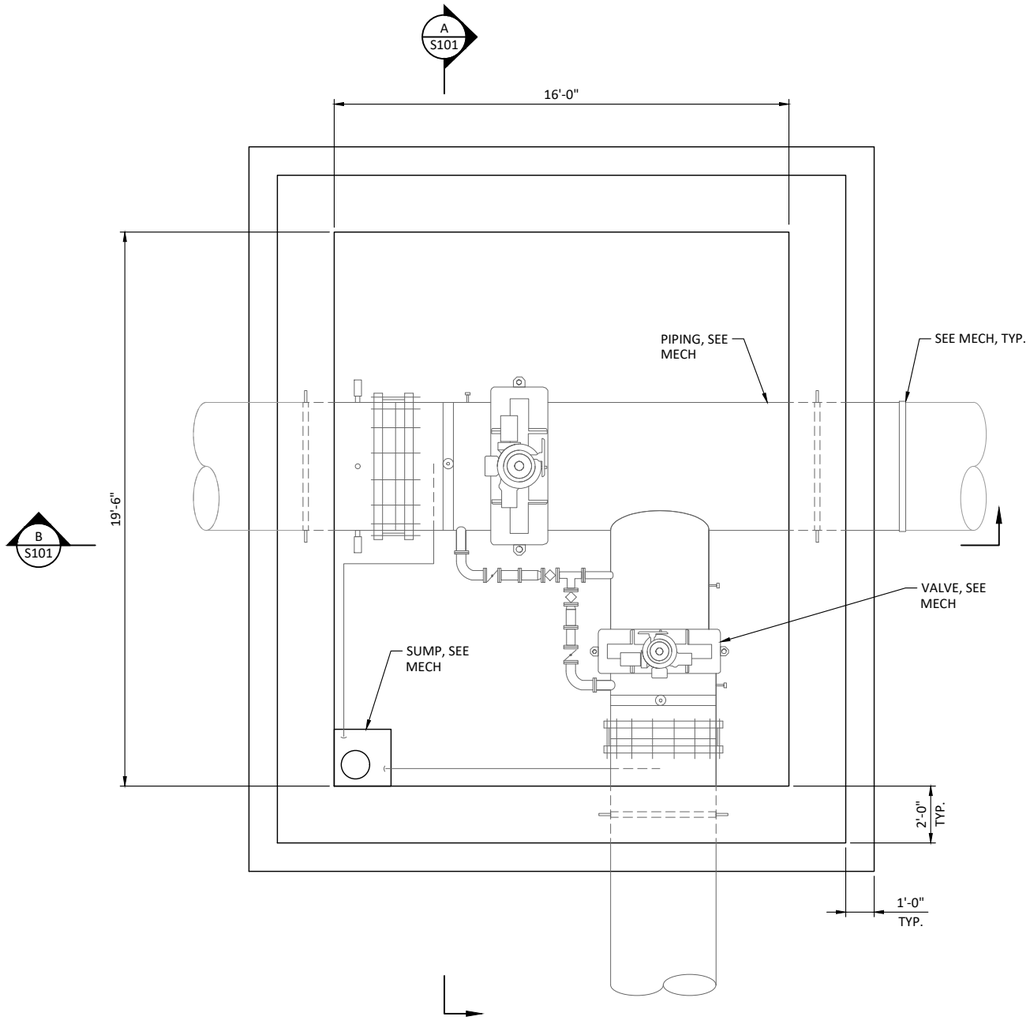
DRAWING
S001

JOB NO: 000000

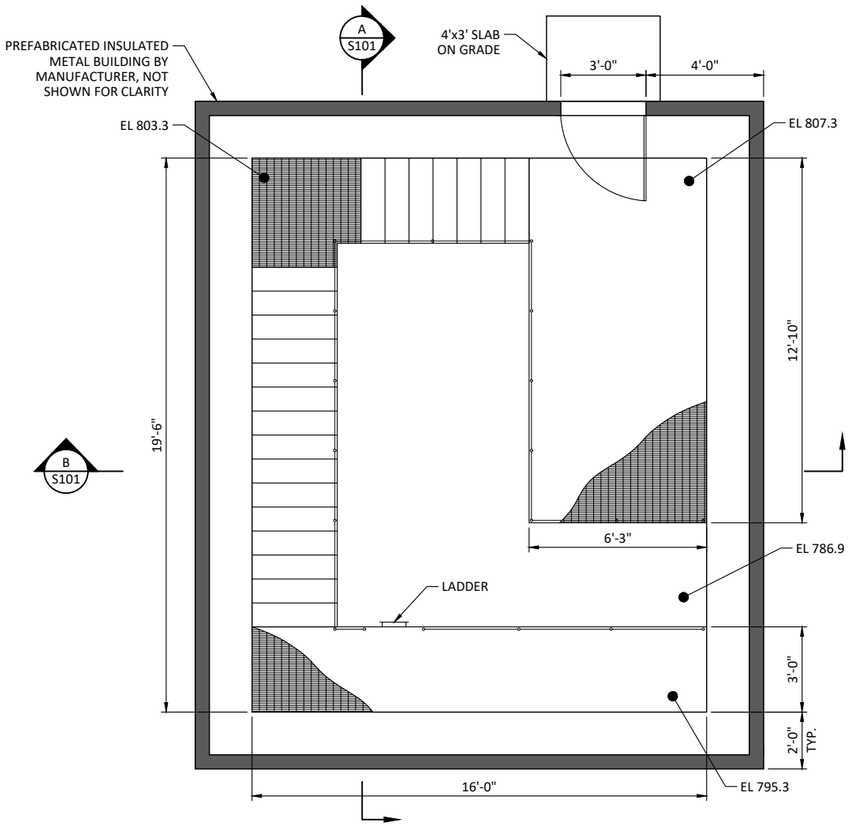
Path: C:\Vault\Chugach Electric\Portal Release Structure\S001.dwg Plot date: Sep 28, 2023 01:32pm, CAD User: HaberFlavia

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



A S001 ISOLATION VALVE STRUCTURE FOUNDATION PLAN
SCALE: 3/8"= 1'-0"



A S001 ISOLATION VALVE STRUCTURE TOP PLAN
SCALE: 3/8"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
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McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

ISOLATION VALVE STRUCTURE PLAN, SECTIONS AND DETAILS

DESIGNED K. HEINDEL
DRAWN J. HOLT
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

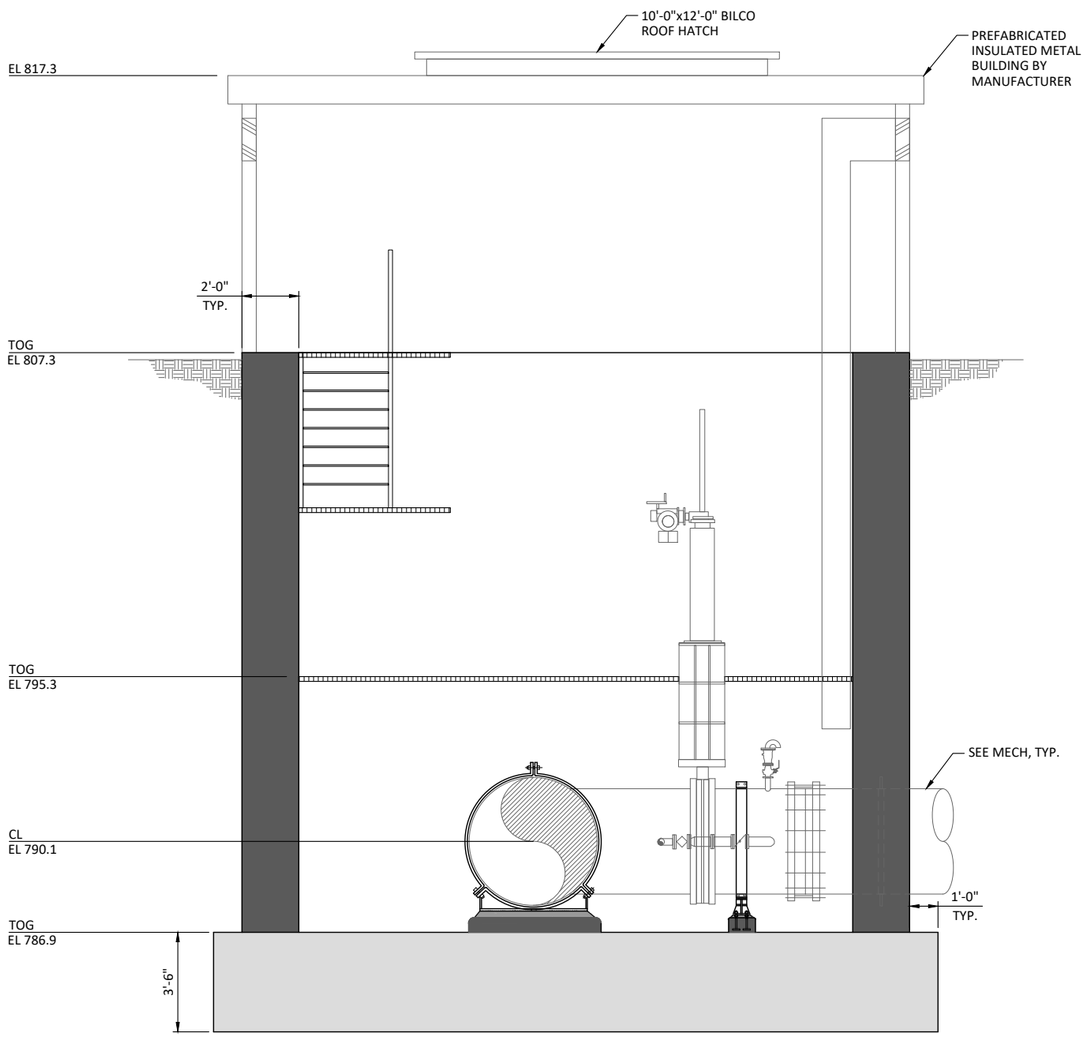
DRAWING
S100

JOB NO: 000000

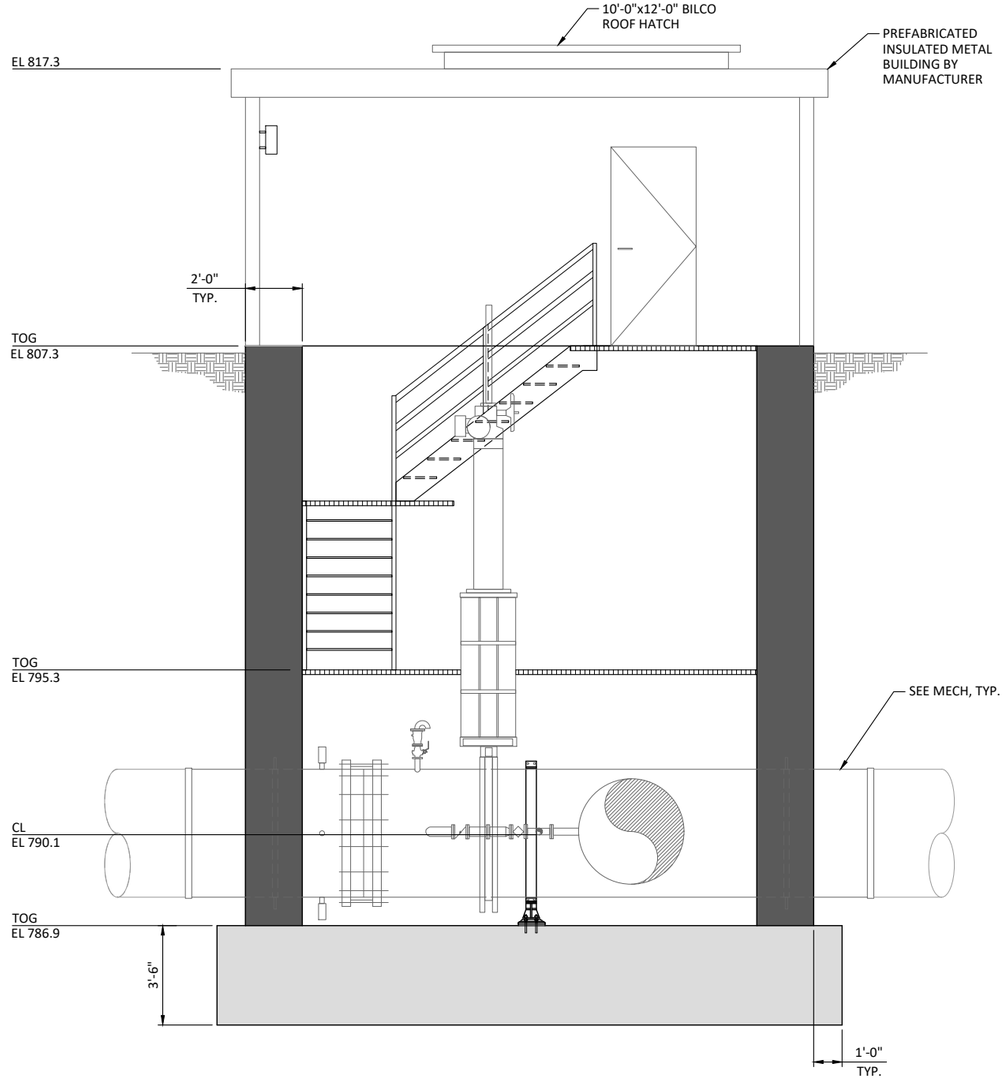
Path: C:\Vault\Chugach Electric\Portal Release Structure\S100.dwg Plot date: Sep 28, 2023 01:41pm, CAD User: HaberFlavia

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



A S100 SECTION
SCALE: 3/8"= 1'-0"



B S100 SECTION
SCALE: 3/8"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

ISOLATION VALVE STRUCTURE SECTIONS

DESIGNED K. HEINDEL
DRAWN J. HOLT
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

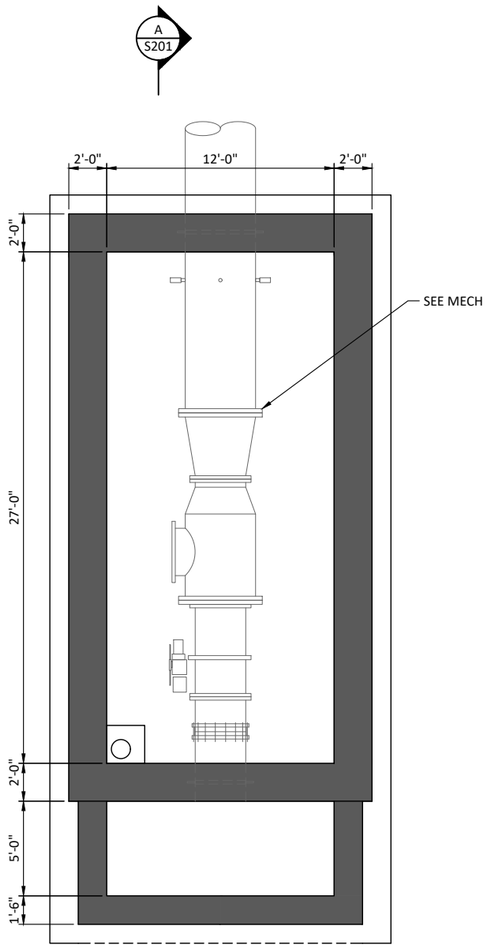
DRAWING
S101

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\S101.dwg Plot date: Sep 26, 2023 04:42pm, CAD User: HaberFlavia

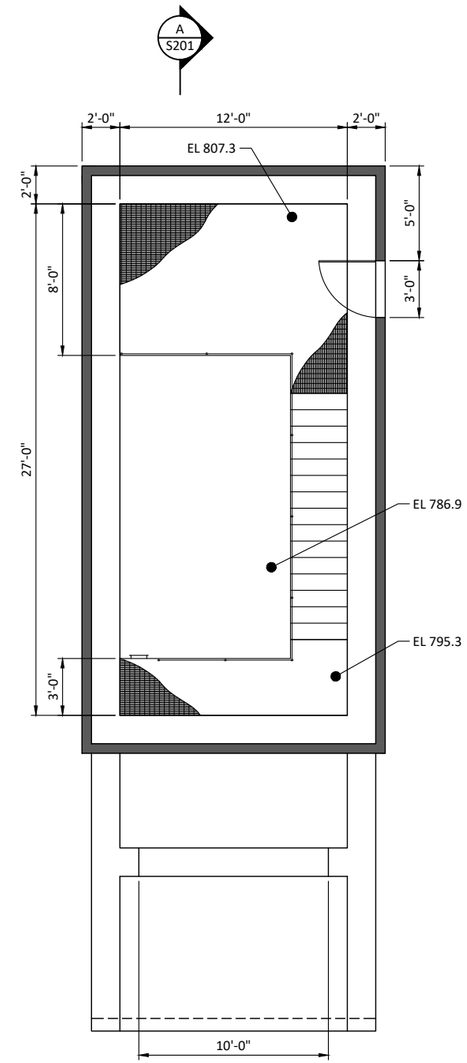
SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



B S001 RIVER RELEASE STRUCTURE FOUNDATION PLAN

SCALE: 1/4"= 1'-0"



B S001 RIVER RELEASE STRUCTURE TOP PLAN

SCALE: 1/4"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

RIVER RELEASE STRUCTURE PLAN, SECTIONS AND DETAILS

DESIGNED K. HEINDEL

DRAWN J. HOLT

CHECKED M. MERKLEIN

PROJECT DATE 10/6/23

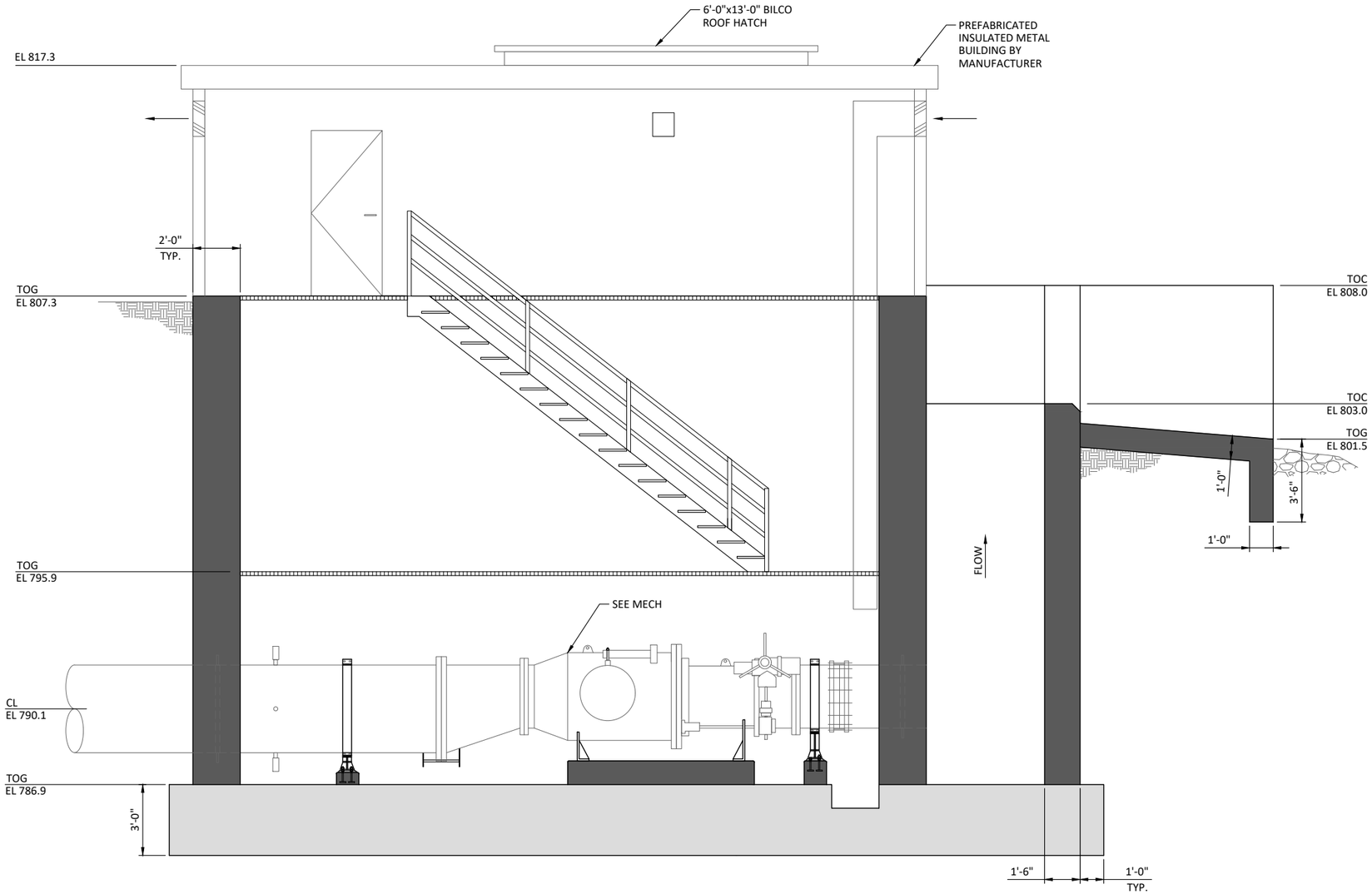
DRAWING

S200

Path: C:\Vault\Chugach Electric\Portal Release Structure\S200.dwg Plot date: Sep 26, 2023 04:43pm, CAD User: HaberFlavia
JOB NO: 000000

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



A S200 SECTION
SCALE: 3/8"= 1'-0"

0' 2' 4'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

RIVER RELEASE STRUCTURE SECTIONS

DESIGNED K. HEINDEL
DRAWN J. HOLT
CHECKED M. MERKLEIN
PROJECT DATE 10/6/23

DRAWING
S201

JOB NO: 0000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\S201.dwg Plot date: Sep 28, 2023 01:41pm, CAD User: HaberFlavia

VALVE SCHEDULE

EQUIPMENT NUMBER	LOCATION	SERVICE	FLUID	TYPE	DIAMETER (IN)	ASME PRESSURE CLASS	ENDS	ACTUATOR TYPE (NORMAL POSITION)	MATERIAL	SPEC SECTION	COMMENTS
V-100	ISOLATION GATE STRUCTURE	ISOLATION VALVE	RAW WATER	GATE	54	150	FLXFL	ELECTRIC (OPEN)			
V-101	ISOLATION GATE STRUCTURE	BYPASS/FILLING	RAW WATER	ECC. PLUG	3	150	FLXFL	MANUAL (HANDWHEEL)			
V-102	ISOLATION GATE STRUCTURE	PRESSURE REDUCTION	RAW WATER	ORIFICE	3	150	FLXFL	N/A			
V-103	ISOLATION GATE STRUCTURE	BYPASS/ISOLATION	RAW WATER	BUTTERFLY	4	150	FLXFL	MANUAL (HANDWHEEL)			
V-104	ISOLATION GATE STRUCTURE	AIR RELEASE/VACUUM	RAW WATER	COMBO AIR VENT	2	150	FLXFL	N/A			
V-110	ISOLATION GATE STRUCTURE	ISOLATION VALVE	RAW WATER	GATE	42	150	FLXFL	ELECTRIC (OPEN)			
V-111	ISOLATION GATE STRUCTURE	BYPASS/FILLING	RAW WATER	ECC. PLUG	3	150	FLXFL	MANUAL (HANDWHEEL)			
V-112	ISOLATION GATE STRUCTURE	PRESSURE REDUCTION	RAW WATER	ORIFICE	3	150	FLXFL	N/A			
V-113	ISOLATION GATE STRUCTURE	BYPASS/ISOLATION	RAW WATER	BUTTERFLY	4	150	FLXFL	MANUAL (HANDWHEEL)			
V-114	ISOLATION GATE STRUCTURE	AIR RELEASE/VACUUM	RAW WATER	COMBO AIR VENT	2	150	FLXFL	N/A			
V-200	EKLUTNA RIVER RELEASE STRUCTURE	FLOW CONTROL	RAW WATER	SLEEVE	30	150	FLXFL	ELECTRIC (OPEN)			BAILEY MODEL B-10 OR EQUIVALENT

PUMP SCHEDULE

EQUIPMENT NUMBER	LOCATION	SERVICE	EQUIPMENT DESCRIPTION	FLUID	FLOW CAPACITY (GPM) AND TDH (FT)	MOTOR SIZE (HP)	ELECTRICAL SERVICE (V/PH/CY)	SPEC SECTION	COMMENTS
P-100	ISOLATION GATE STRUCTURE	SUMP	SUBMERSIBLE PUMP	RAW WATER	50 @ 30	0.75	120 / 1 / 60		
P-200	RIVER RELEASE VALVE STRUCTURE	SUMP	SUBMERSIBLE PUMP	RAW WATER	50 @ 30	0.75	120 / 1 / 60		

FLOW METER SCHEDULE

ISA TAG	LOCATION	SERVICE	FLUID	EQUIPMENT DESCRIPTION	FLOW RANGE (CFS) / DIA (IN)	ELECTRICAL SERVICE (V/PH/CY)	COMMENTS
FE-100	ISOLATION GATE STRUCTURE	FLOW MEASUREMENT	RAW WATER	TRANSIT TIME UTRASONIC, 4 PATH	0 - 63/ 54"	120/1/60	
FE-200	RIVER RELEASE VALVE STRUCTURE	FLOW MEASUREMENT	RAW WATER	TRANSIT TIME UTRASONIC, 4 PATH	0 - 80/ 42"	120/1/60	

INSTRUMENTATION SCHEDULE

ISA TAG	LOCATION	SERVICE	EQUIPMENT DESCRIPTION	FLUID	SIGNAL OUTPUT	ELECTRICAL SERVICE	MEASUREMENT RANGE	SPEC SECTION	COMMENTS
LE-010	ISOLATION GATE STRUCTURE	PRESSURE MEASUREMENT	PRESSURE TRANSDUCER	RAW WATER	ANALOG; 4-20 mA	24 VDC	0 - 75 PSI		
LE-011	ISOLATION GATE STRUCTURE	PRESSURE MEASUREMENT	PRESSURE TRANSDUCER	RAW WATER	ANALOG; 4-20 mA	24 VDC	0 - 75 PSI		
LE-012	ISOLATION GATE STRUCTURE	PRESSURE MEASUREMENT	PRESSURE TRANSDUCER	RAW WATER	ANALOG; 4-20 mA	24 VDC	0 - 75 PSI		

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen JACOBS

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

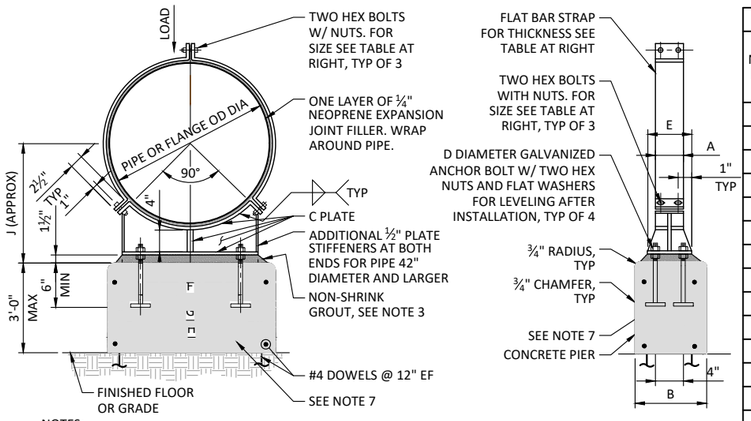
MECHANICAL EQUIPMENT SCHEDULE

DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
GM001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GM001.dwg Plot date: Sep 28, 2023 02:09pm, CAD User: HaberFlavia



DIMENSIONS IN INCHES																
NOMINAL PIPE SIZE	A	B	C	D	E	STRAP		SUPPORTING								
						BOLT SIZE	FLAT BAR	PIPE				FLANGE				
								F	G	H	J	F	G	H	J
6	4	12	⅜	⅝	6	½	¼	4½	8	14	10	6½	11	16	13
8	4	12	⅜	⅝	6	½	¼	5	9½	14	11	7½	13	18	14
10	4	12	⅜	⅝	6	½	¼	6	11	16	12	9	15	20	15
12	4	12	⅜	⅝	6	½	¼	7	13	18	13	10	17	22	16
14	4	12	⅜	⅝	6	½	¼	8	13	18	14	11	18	23	17
16	4	12	⅜	⅝	6	½	¼	9	15	21	15	12	20	26	18
18	4	12	⅜	⅝	6	½	¼	10	16	22	16	13	21	26	19
20	5	12	⅜	⅝	6	⅝	⅜	10	18	24	17	15	23	28	21
22	5	12	⅜	⅝	6	⅝	⅜	12	19	24	18	16	25	30	22
24	5	12	⅜	⅝	6	⅝	⅜	13	21	26	19	16	26	32	23
26	5	12	⅜	¾	6	⅝	⅜	14	22	28	20	18	28	34	24
30	5	12	⅜	¾	6	⅝	⅜	16	25	30	22	20	31	36	26
34	5	15	⅜	¾	6	⅝	⅜	18	28	33	24	22	35	41	29
36	6	15	⅜	¾	6	¾	⅜	19	29	34	25	24	36	42	30
42	6	18	½	1	8	¾	⅜	21	33	39	28	27	41	47	33
48	6	18	½	1	8	¾	⅜	24	38	44	31	30	46	52	37
54	6	18	½	1	8	¾	⅜	28	42	48	34	34	50	56	40
60	6	18	½	1⅛	8	¾	⅜	32	46	52	37	36	56	62	44
66	6	18	½	1⅛	8	¾	⅜	33	51	58	40	40	61	68	47
72	6	18	½	1⅛	8	¾	⅜	36	55	62	43	44	65	72	50

NOTES:
1. WHEN SUPPORTING PIPE AND FLANGE ALTERNATELY ON THE SAME LINE, CONCRETE PIERS FOR PIPE SUPPORTS SHALL ALL HAVE THE SAME DIMENSION 'H' FOR FLANGE SUPPORT
2. PIPE SUPPORTS SHALL BE LOCATED IN PLAN AT POINTS MARKED THUS: (X)
3. WHERE DIFFERENTIAL SETTLEMENT IS LIKELY TO OCCUR, OMIT GROUT AS DIRECTED BY THE ENGINEER.
4. GALVANIZE ALL PARTS AFTER FABRICATION.
5. WHERE DIRECTED BY THE STRUCTURAL ENGINEER, BOTTOM OF PIERS SHALL EXTEND BELOW BOTTOM OF SLAB
6. WHERE PIPE SUPPORT OCCURS ON GRADE REFER TO STRUCTURAL DRAWINGS FOR DETAILS.
7. GALVANIZED ANCHOR BOLT OR CONCRETE ANCHOR WITH TWO NUTS AND ONE LOCKWASHER. PROVIDE BAR 4x½x4" WELDED TO BOLT, TYP OF 4. SEE SPECIFICATIONS.

M110 PIPE SUPPORT WITH STRAP

SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
MECHANICAL STANDARD DETAILS

DESIGNED S. ELLENSON
DRAWN D. JOHNSTON
CHECKED J. BOAG
PROJECT DATE 10/6/23

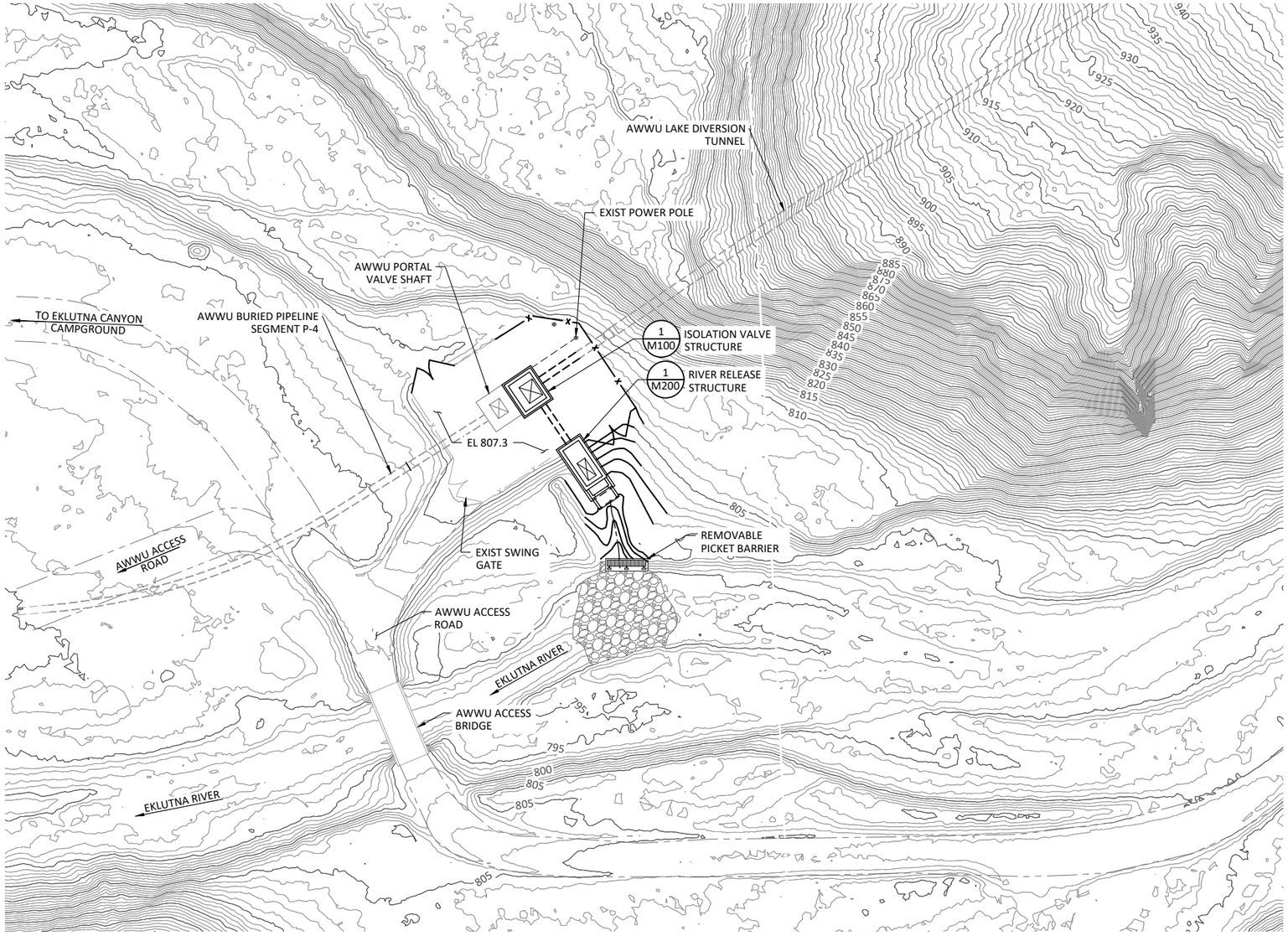
DRAWING
GM002

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GM002.dwg Plot date: Sep 26, 2023 04:49pm, CAD User: HaberFlavia

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).



MECHANICAL KEY PLAN

SCALE: 1"= 40'

0" 40' 80'

N

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

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McMillen

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MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

MECHANICAL KEY PLAN

DESIGNED S. ELLENSON

DRAWN J. HOLT

CHECKED J. BOAG

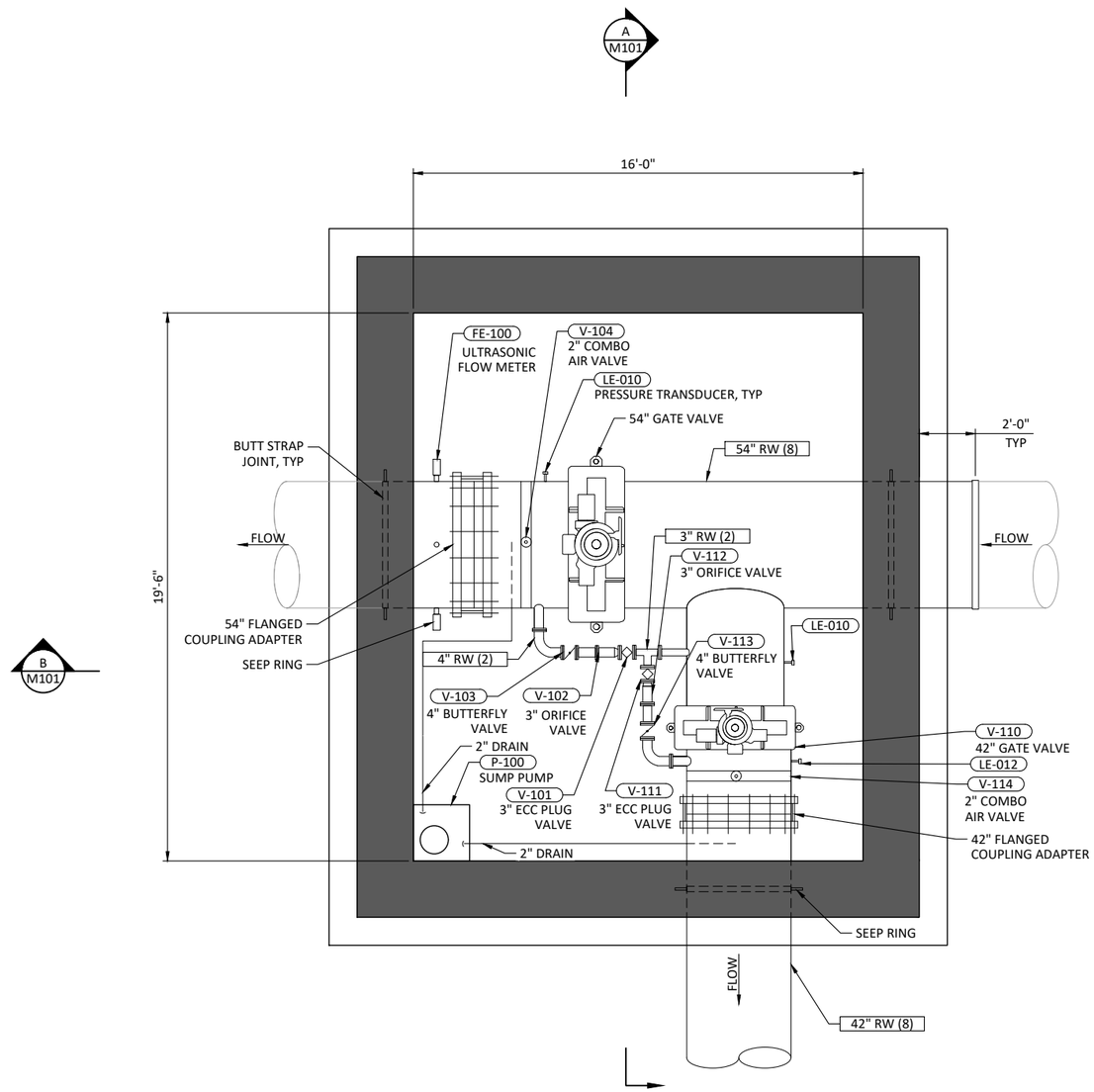
PROJECT DATE 10/6/23

DRAWING

M001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\M001.dwg Plot date: Sep 28, 2023 02:10pm, CAD User: HaberFlavia



1 M001 ISOLATION VALVE STRUCTURE MECHANICAL PLAN

SCALE: 3/8"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

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EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

ISOLATION VALVE STRUCTURE
MECHANICAL PLAN

DESIGNED S. ELLENSON

DRAWN J. HOLT

CHECKED J. BOAG

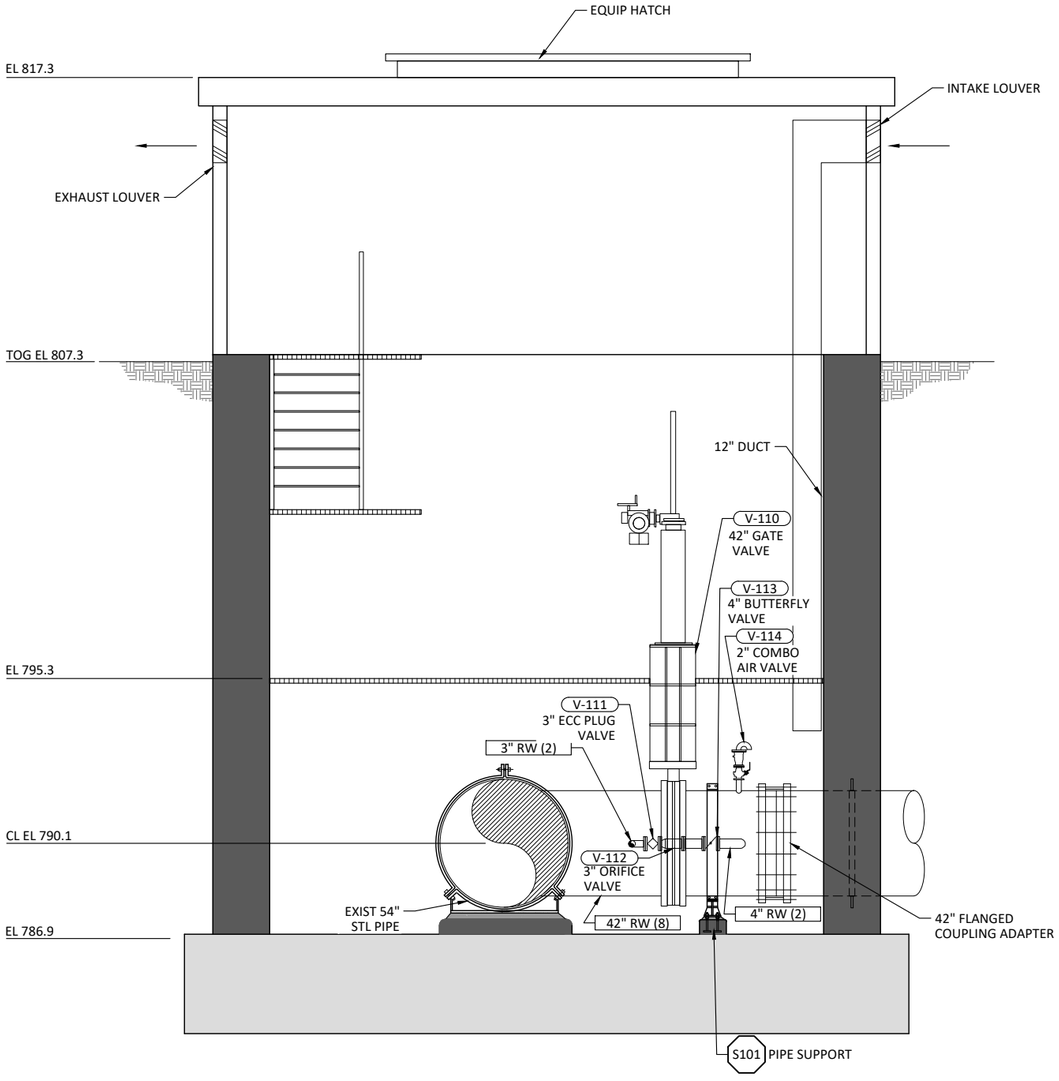
PROJECT DATE 10/6/23

DRAWING

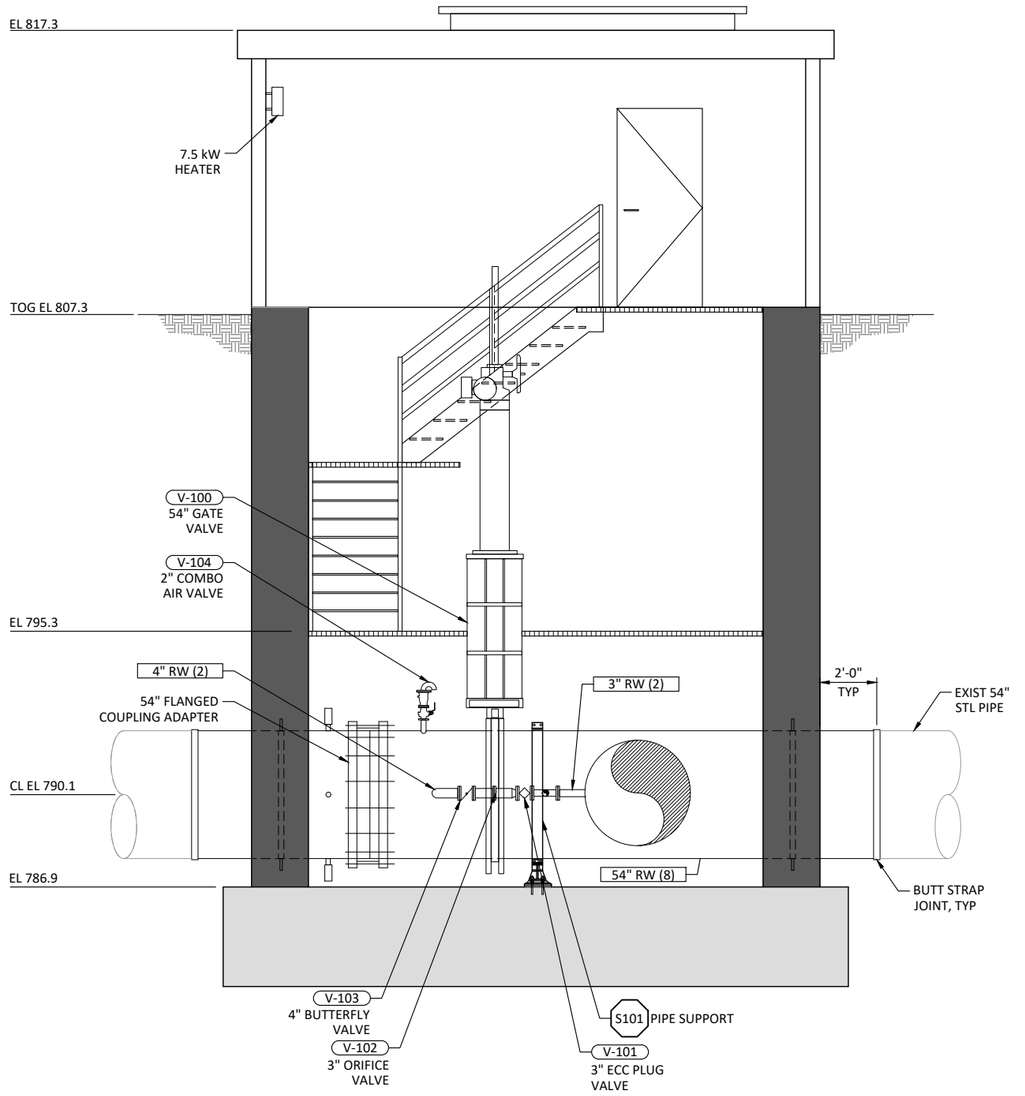
M100

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\M100.dwg Plot date: Sep 28, 2023 02:31pm, CAD User: HaberFlavia



A SECTION
SCALE: 3/8"= 1'-0"
0' 2' 4'



B SECTION
SCALE: 3/8"= 1'-0"
0' 2' 4'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
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McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

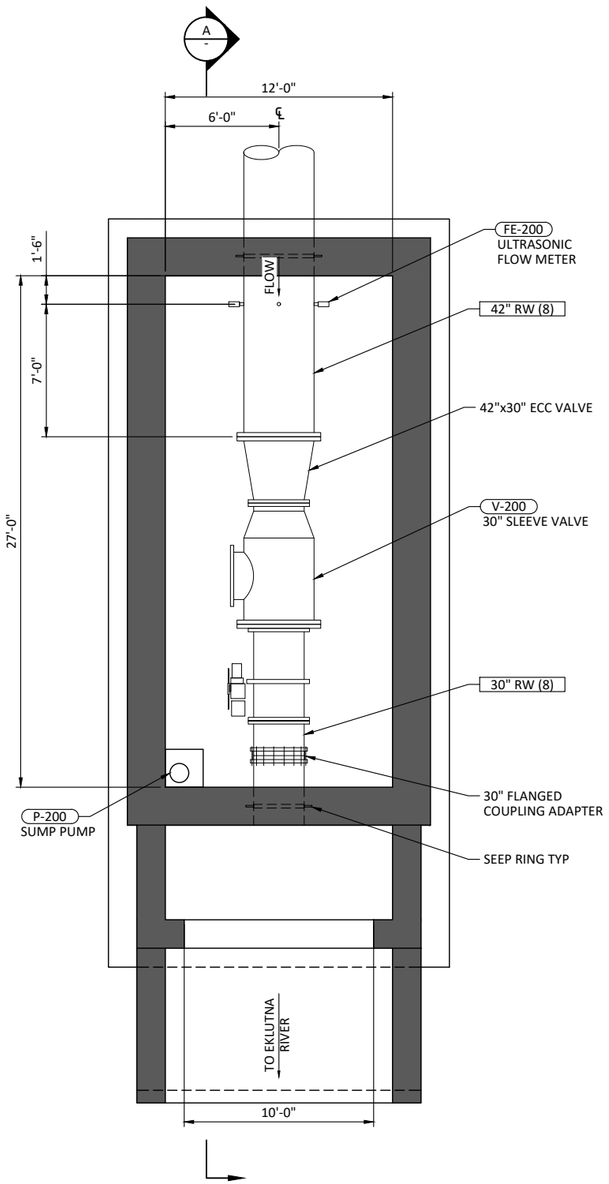
EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

ISOLATION VALVE STRUCTURE MECHANICAL SECTIONS

DESIGNED S. ELLENSON
DRAWN J. HOLT
CHECKED J. BOAG
PROJECT DATE 10/6/23

DRAWING
M101

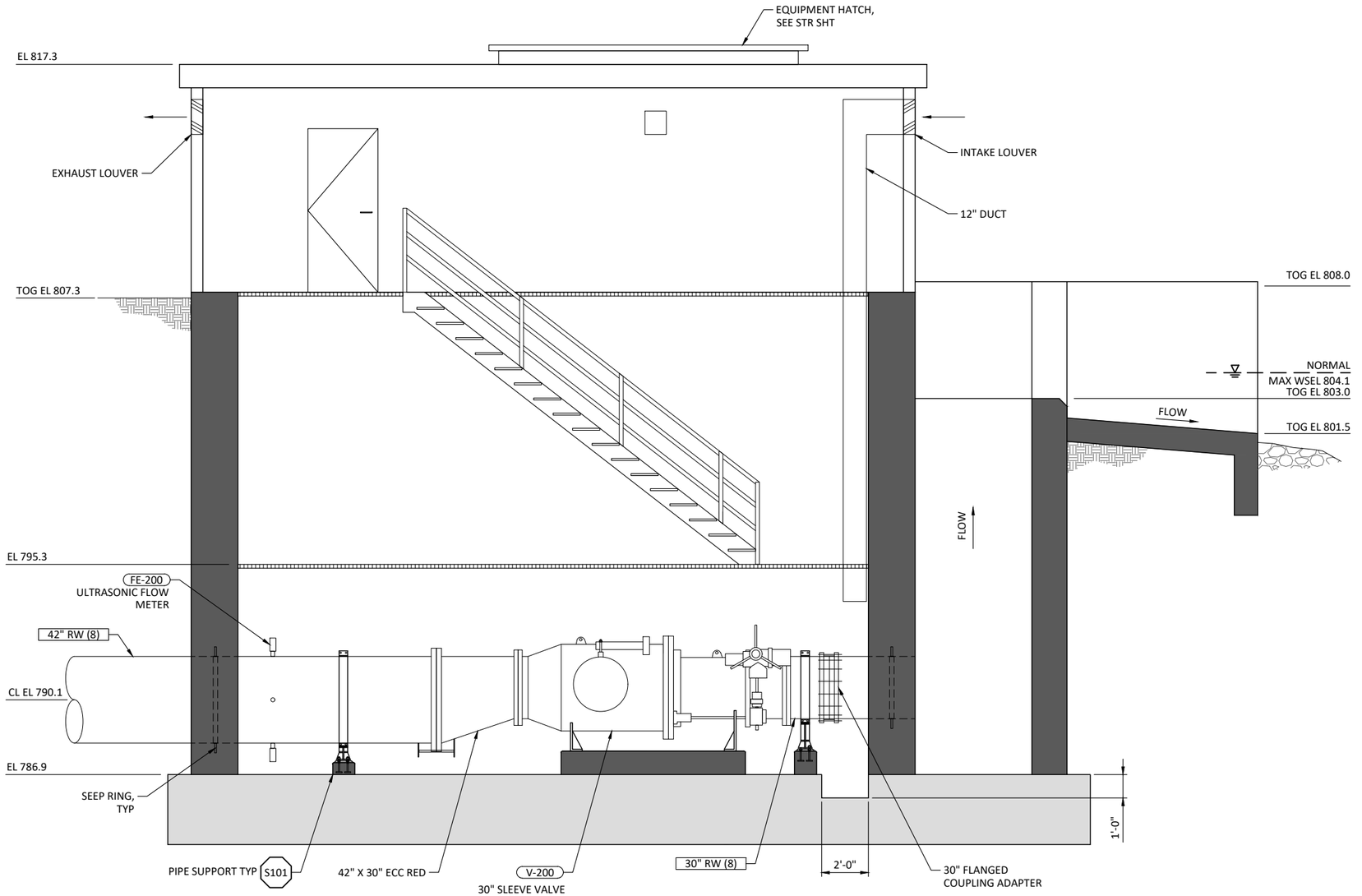
Path: C:\Vault\Chugach Electric\Portal Release Structure\M101.dwg Plot date: Sep 28, 2023 02:31pm, CAD User: HaberFlavia
JOB NO: 000000



1 M001 RIVER RELEASE STRUCTURE PLAN

SCALE: 1/4"= 1'-0"

0' 4' 8'



A - SECTION

SCALE: 3/8"= 1'-0"

0' 2' 4'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

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EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

RIVER PORTAL RELEASE VALVE SHAFT MECHANICAL PLAN, SECTIONS AND DETAIL

DESIGNED S. ELLENSON

DRAWN J. HOLT

CHECKED J. BOAG

PROJECT DATE 10/6/23

DRAWING

M200

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\M200.dwg Plot date: Sep 28, 2023 02:31pm, CAD User: HaberFlavia

IEEE STANDARD CONTROL AND PROTECTION DEVICES FUNCTION NUMBERS

01	MASTER ELEMENT
02	TIME-DELAY STARTING OR CLOSING RELAY (TDPU)
03	CHECKING OR INTERLOCKING RELAY
04	MASTER CONTACTOR
05	STOPPING DEVICE
06	STARTING CIRCUIT BREAKER
07	RATE-OF-CHANGE RELAY
08	CONTROL POWER DISCONNECTING DEVICE
09	REVERSING DEVICE
10	UNIT SEQUENCE SWITCH
11	MULTIFUNCTION DEVICE
12	OVER-SPEED DEVICE
13	SYNCHRONOUS-SPEED DEVICE
14	UNDER-SPEED DEVICE
15	SPEED OR FREQUENCY MATCHING DEVICE
16	DATA COMMUNICATIONS DEVICE
17	SHUNTING OR DISCHARGE SWITCH
18	ACCELERATING OR DECELERATING DEVICE
19	STARTING-TO-RUNNING TRANSITION CONTACTOR
20	ELECTRONICALLY OPERATED VALVE
21	DISTANCE RELAY
22	EQUALIZER CIRCUIT BREAKER
23	TEMPERATURE CONTROL DEVICE
24	VOLTS PER HERTZ RELAY
25	SYNCHRONIZING OR SYNCHRONISM - CHECK DEVICE
26	APPARATUS THERMAL DEVICE
27	UNDERVOLTAGE RELAY
28	FLAME DETECTOR
29	ISOLATING CONTACTOR
30	ANNUNCIATOR RELAY
31	SEPARATE EXCITATION DEVICE
32	DIRECTIONAL POWER RELAY
33	POSITION SWITCH
34	MASTER SEQUENCE DEVICE
35	BRUSH-OPERATING OF SLIP-RING SHORT-CIRCUITING DEVICE
36	POLARITY OR POLARIZING VOLTAGE DEVICE
37	UNDERCURRENT OR UNDERPOWER RELAY
38	BEARING PROTECTIVE DEVICE
39	MECHANICAL CONDITION MONITOR
40	FIELD (OVER/UNDER EXCITATION) RELAY
41	FIELD CIRCUIT BREAKER
42	RUNNING CIRCUIT BREAKER
43	MANUAL TRANSFER OR SELECTOR DEVICE
44	UNIT SEQUENCE STARTING RELAY
45	ATMOSPHERIC CONDITION MONITOR
46	REVERSE-PHASE OR PHASE-BALANCE CURRENT RELAY
47	PHASE-SEQUENCE OR PHASE-BALANCE VOLTAGE RELAY
48	INCOMPLETE SEQUENCE RELAY
49	MACHINE OR TRANSFORMER THERMAL RELAY
50	INSTANTANEOUS OVERCURRENT OR RATE-OF-RISE RELAY
51	AC INVERSE TIME OVERCURRENT RELAY
52	AC CIRCUIT BREAKER
53	EXCITER OR DC GENERATOR RELAY
54	TURNING GEAR ENGAGING DEVICE
55	POWER FACTOR RELAY
56	FIELD APPLICATION RELAY
57	SHORT-CIRCUITING OR GROUNDING DEVICE
58	RECTIFICATION FAILURE RELAY
59	OVERVOLTAGE RELAY
60	VOLTAGE OR CURRENT BALANCE RELAY
61	DENSITY SWITCH OR SENSOR
62	TIME-DELAY STOPPING OR OPENING RELAY (TDDO)
63	PRESSURE SWITCH
64	GROUND DETECTOR RELAY
65	GOVERNOR
66	NOTCHING OR JOGGING DEVICE
67	AC DIRECTIONAL OVERCURRENT RELAY
68	BLOCKING RELAY
69	PERMISSIVE CONTROL DEVICE
70	RHEOSTAT
71	LEVEL SWITCH
72	DC CIRCUIT BREAKER
73	LOAD-RESISTOR CONTACTOR
74	ALARM RELAY
75	POSITION CHANGING MECHANISM
76	DC OVERCURRENT RELAY
77	PULSE TRANSMITTER
78	PHASE-ANGLE MEASURING OR OUT-OF-STEP PROTECTIVE RELAY
79	AC RECLOSING RELAY
80	FLOW SWITCH
81	FREQUENCY RELAY
82	DC RECLOSING RELAY
83	AUTOMATIC SELECTIVE CONTROL OR TRANSFER RELAY
84	OPERATING MECHANISM
85	CARRIER OR PILOT-WIRE RECEIVER RELAY
86	LOCKOUT RELAY
87	DIFFERENTIAL PROTECTIVE RELAY
88	AUXILIARY MOTOR OR MOTOR GENERATOR
89	LINE SWITCH
90	REGULATING DEVICE
91	VOLTAGE DIRECTIONAL RELAY
92	VOLTAGE AND POWER DIRECTIONAL RELAY
93	FIELD-CHANGING CONTACTOR
94	TRIPPING OR TRIP-FREE RELAY
95	RESERVED FOR FUTURE APPLICATION
96	RESERVED FOR FUTURE APPLICATION
97	RESERVED FOR FUTURE APPLICATION
98	CREEP DETECTOR DEVICE
99	RESERVED FOR FUTURE APPLICATION

METERING SYSTEMS AND DEVICES INDEX

A	AMMETER
AH	AMPERE HOUR METER
AS	AMMETER SELECTOR SWITCH
C	COUNTER
CMA	CONTACT MAKING AMMETER
CMC	CONTACT MAKING CLOCK
CMV	CONTACT MAKING VOLTMETER
CS	CONTROL STATION
DM	DEMAND METER
ETM	ELAPSE TIME METER
F	FREQUENCY METER
G	GALVANOMETER
GD	GROUND FAULT DETECTOR
KV	KILO-VOLTMETER
KW	KILO-WATTMETER
KWH	KILO-WATT HOUR METER
mA	MILLI-AMMETER (TRANSDUCER)
MOC	MECHANISM-OPERATED CONTACT
OHM	OHMMETER
OSC	OSCILLOGRAPH
PB	PUSHBUTTON
PF	POWER FACTOR METER
PH	PHASE METER
PI	POSITION INDICATOR
REC	RECORDER
RF	REACTIVE FACTOR METER
RPM	SPEED INDICATOR
SW	TRANSFER SWITCH
SY	SYNCHROSCOPE
T	TEMPERATURE METER
TLM	TELEMETER
TOC	TRUCK-OPERATED CONTACT
TS	TIME SWITCH
V	VOLTMETER
VAR	VARMETER
VH	VAR HOUR METER
VS	VOLTMETER SELECTOR SWITCH
W	WATTMETER
WH	WATT HOUR METER
WHDM	WATT HOUR DEMAND METER

NOTE: "R" IN FRONT OF LETTERS INDICATES A RECORDING TYPE METER.

PILOT - INDICATOR LIGHT INDEX

A	AMBER
B	BLUE
C	CLEAR
G	GREEN
NE	NEON
O	ORANGE
OP	OPALESCENT
P	PURPLE
R	RED
W	WHITE
Y	YELLOW

FIRST LETTER SUFFIX OF IEEE DEVICE DESIGNATION

A	GOVERNOR SYSTEM (OR ACTUATOR SYSTEMS - GATES)
B	BATTERY CHARGING AND MONITORING SYSTEM OR BUS
C	HIGH-VOLTAGE CABLE SYSTEM OR CLOSING RELAY/CONTACTOR
D	DATA ACQUISITION SYSTEM
E	EXCITATION SYSTEM INCLUDING TRANSFORMER AND REGULATOR BUT NOT MAIN FIELD
F	FIRE AND CO2 SYSTEM
G	MAIN GENERATOR INCLUDING AUXILIARY SYSTEMS OR GROUND
G/M	GENERATOR MOTOR INCLUDING AUXILIARY SYSTEMS IN PUMPED STORAGE APPLICATIONS
H	TURBINE OR MAIN PUMP INCLUDING AUXILIARY SYSTEMS
I	ISOLATED AND OTHER POWER BUS SYSTEMS (NOT HIGH VOLTAGE CABLE)
J	POWER CIRCUIT BREAKER INCLUDING AUXILIARY SYSTEMS
K	POWER TRANSFORMER INCLUDING AUXILIARY SYSTEMS
L	ANNUNCIATOR SYSTEM, SECURITY SYSTEM, LINE, OR LOWERING RELAY/CONTACTOR
M	MAIN PUMP MOTOR INCLUDING AUXILIARY SYSTEMS AND VARIABLE SPEED DRIVE
N	AIR (PNEUMATIC) SYSTEM OR NEUTRAL
O	OPENING RELAY/CONTACTOR
P	PENSTOCK OR DISCHARGE LINE SYSTEM
Q	OIL STORAGE, HANDLING, PURIFICATION SYSTEM
R	FIELD FLASHING SYSTEM, PHASE REVERSAL SWITCH INCLUDING AUXILIARY SYSTEM, OR RAISING RELAY/CONTACTOR
S	STATION SERVICE SUBSTATION SYSTEM INCLUDING ENGINE/GENERATOR SYSTEM
T	TONE AND TRANSFER TRIP SYSTEM OR TRANSFORMER
U	UNIT CONTROL CIRCUIT SYSTEM OR UNINTERRUPTIBLE POWER SUPPLY SYSTEM
V	INTAKE AND/OR DISCHARGE VALVE SYSTEM
W	WATER SYSTEMS INCLUDING INTAKE/OUTLET WORKS AND PLANT WATER AND SUMP SYSTEMS
X	DEFINED FOR SYSTEMS UNIQUE TO A FACILITY
Y	DEFINED FOR SYSTEMS UNIQUE TO A FACILITY
Z	DEFINED FOR SYSTEMS UNIQUE TO A FACILITY

SECOND AND SUBSEQUENT LETTER SUFFIXES OF THE IEEE DEVICE DESIGNATION

A	ABNORMAL, A.C., ACCELERATION, ADMISSION, ALARM, AMPERES, AUTOMATIC, AUXILIARIES, PHASE A, ECT.
B	BACKUP, BEARING, BLOCK, BLOWER, BOOSTER, BRAKES, BUS, BUTTON, BYPASS, PHASE B, ETC.
C	CABLE, CARRIER, CHARGER, CHECK, CHLORINATION, CLOSE, COLLECTOR, COMMON, COMPENSATOR, COMPRESSOR, CONTROL, COOLING, CURRENT, CYCLE, CYLINDER, PHASE C, CONVEYOR, ECT.
D	D.C, DECELERATION, DELAY, DEPRESS, DETECTOR, DIELECTRIC, DIFFERENTIAL, DISCHARGE, DISCONNECT, DISCORDANCE, DOMESTIC, DOWN, DOWNSTREAM, DRAFT TUBE, DRAIN, ETC.
E	EJECTOR, ELEVATOR, EMERGENCY, EXPLOSIVE, ETC.
F	FAILURE, FAN, FAULT, FEEDER, FIELD, FILTER, FIRE, FLAME, FLOW, FOLLOWER, FORWARD, FREQUENCY, FULL, FUMES, FUSE, ETC.
G	GAS, GATE, GATING (SCR), GENERATE, GROUND, GUIDE BEARING, ETC.
H	HALON, HAND, HEAT, HEATER, HIGH, HOIST, HORN, HOT, HOUSING, HYDROPNEUMATIC TANK, ETC.
I	INDICATION, INITIAL, INLET, INOUT, INSTANTANEOUS, INTAKE, INTERFACE, INTERLOCK, INTERRUPT, INVERTER, IONIZATION, ETC.
J	JACKING, JET, ETC.
K	KEY, TRANSFORMER
L	LAMPS, LEFT, LEVEL, LIGHTS, LIMITS, LINE, LIQUID, LOCAL, LOGIC, LOSS, LOUVERS, LOW, LOWER, LUBRICATION, ETC.
M	MAIN, MALFUNCTION, MANUAL, METER, METERING, MOTOR, ETC.
N	NEGATIVE, NETWORK, NEUTRAL, NORMAL, ETC.
O	OPEN, OUTLET, OUTPUT, ETC.
P	PACKING BOX, PARALLEL, PARAMETER, PENSTOCK, PHASE, PHASEBACK, PILOT, PIT, POSITION, POTENTIAL, POTHEAD, POWER, PRESSURE, PRIMARY, PROTECTION, PULSE, PUMP, PURIFICATION, PUSH, ETC.
Q	OIL, ETC.
R	RAISE, REACTOR, RECLOSE, RECORD, RECTIFIER, REED, REFRIGERATION, REGULATE, RELAY, RELEASE, RELIEF, REMOTE, RESERVOIR, RESET, RESISTOR, RIGHT, ROTATION, ROTOR, RUNNER, ETC.
S	SEALS, SECONDARY, SELECTOR, SEWAGE, SHORTING, SHUTDOWN, SIGNAL, SKIMMER, SLUDGE, SMOKE, SOLENOID, SPEED, SPIRAL OR SCROLL CASE, SPLICE, STABILIZER, STANDBY, STARTING, STATOR, STEPPING, STORAGE, STRAINER, SUCTION, SUMP, SUPPLY, SWITCH, SYNCHRONIZING, ETC.
T	TANK, TEMPERATURE, TEST, THERMAL, THRUST BEARING, THYRATRON, TIE, TIME, TRANSDUCER, TRANSER, TRANSMITTER, TRIP, TROUBLE, TRASHRAKE, ETC.
U	UNIT, UNLOADER, UNWATERING, UP, UPPER, UPSTREAM, ETC.
V	VALVE, VARS, VIBRATION. VOLTAGE, ETC.
W	WATER, WATTS, WINDINGS, ETC.
X	AUXILIARY DEVICE, ETC.
Y	AUXILIARY TO DEVICE X, ANTIPUMP RELAY, ETC.
Z	AUXILIARY TO DEVICE Y

ABBREVIATIONS

A, AMP	AMP, AMPERE
AAAC	ALL ALUMINUM ALLOY CONDUCTOR
AC	ALTERNATING CURRENT
AF	AMPERE FRAME SIZE
AFD	ADJUSTABLE FREQUENCY DRIVE
AFF	ABOVE FINISHED FLOOR
AH	AMPERE HOURS
AHJ	AUTHORITY HAVING JURISDICTION
AHU	AIR HANDLING UNIT
AL	ALUMINUM
A/R	AS REQUIRED
AT	AMPERE TRIP
ATS	AUTOMATIC TRANSFER SWITCH
AVR	AUTOMATIC VOLTAGE REGULATOR
BAT	BATTERY
C	CONDUIT
CB	CIRCUIT BREAKER
CKT	CIRCUIT
CLF	CURRENT LIMITING FUSE
CO	CONDUIT ONLY
CP	CONTROL PANEL
CPT	CONTROL POWER TRANSFORMER
CR	CONTROL RELAY
CS	CONTROL SWITCH
CT	CURRENT TRANSFORMER
DC	DIRECT CURRENT
DCS	DISTRIBUTED CONTROL SYSTEM
DISC	DISCONNECT
DP	DISTRIBUTION PANEL
DPDT	DOUBLE-POLE, DOUBLE-THROW
DPST	DOUBLE-POLE, SINGLE-THROW
EDH	ELECTRIC DUCT HEATER
EG	ENGINE GENERATOR
EPT	EXCITATION POWER TRANSFORMER
EUH	ELECTRIC UNIT HEATER
EV	ELECTRICAL VAULT
F, FU	FUSE
FA	FIRE ALARM
FACP	FIRE ALARM CONTROL PANEL
FAS	FIRE ALARM SYSTEM
FREQ	FREQUENCY
FS	FLOAT SWITCH
FT	FLOW TRANSMITTER
FVNR	FULL VOLTAGE NON-REVERSING
FVR	FULL VOLTAGE REVERSING
GEN	GENERATOR
GFI	GROUND-FAULT INTERRUPTION
GFP	GROUND-FAULT PROTECTION
GND	GROUND
GPR	GENERATOR PROTECTION RELAY
GSU	GENERATOR STEP-UP TRANSFORMER
HMI	HUMAN-MACHINE INTERFACE
HOA	HAND-OFF-AUTO
HOR	HAND-OFF-REMOTE
HPU	HYDRAULIC POWER UNIT
HTR	HEATER
HZ	HERTZ (CYCLES PER SECOND)
IC	INTERRUPTING CAPACITY
I & C	INSTRUMENTATION AND CONTROL
I/O	INPUT/OUTPUT
INST	INSTANTANEOUS
INTLK	INTERLOCK
IP	INTERNET PROTOCOL
K	KEY INTERLOCK
kV	KILOVOLTS
kVA	KILOVOLT AMPERES (APPARENT POWER)
kVAR	KILOVARS (REACTIVE POWER)
kW	KILOWATTS (REAL POWER)
kWH	KILOWATT HOUR
LC	LIGHTING CONTROLLER
LCP	LOCAL CONTROL PANEL
LE	LEVEL ELEMENT
LIT	LEVEL INDICATING TRANSMITTER
LOR	LOCAL-OFF-REMOTE
LP	LIGHTING PANEL
LS	LEVEL SWITCH
LT	LEVEL TRANSMITTER
mA	MILLIAMPERES
M	MOTOR, MAN, MANUAL
MAG	MAGNETIC
MCC	MOTOR CONTROL CENTER
MDP	MAIN DISTRIBUTION PANEL
MFM	MULTIFUNCTIONAL METER
MPR	MOTOR PROTECTION RELAY
MTS	MANUAL TRANSFER SWITCH
mV	MILLIVOLTS
MVA	MEGAVOLT AMPERES (APPARENT POWER)
MVAR	MEGAVARS (REACTIVE POWER)
MW	MEGAWATTS (REAL POWER)
MWH	MEGAWATT HOUR
NEUT	NEUTRAL
NGR	NEUTRAL GROUNDING RESISTOR
OHM	OHMMETER
OL	OVERLOAD
OPER	OPERATOR, OPERATED
PB	PANELBOARD, PULLBOX, PUSH BUTTON
PC	PHOTOCELL
PCB	POWER CIRCUIT BREAKER
PCC	POINT OF COMMON CONNECTION
PF	POWER FACTOR
PH, Ø	PHASE
PMP	PUMP
PNL	PANEL
PLC	PROGRAMMABLE LOGIC CONTROLLER
POI	POINT OF INTER-CONNECTION
PS	PRESSURE SWITCH
PTT	PUSH-TO-TEST
PWR	POWER
R	RELAY, REVERSE, RUN
RCP	RECEPTACLE
RIO	REMOTE I/O
RTD	RESISTANCE TEMPERATURE DETECTOR
RVNR	REDUCED VOLTAGE NON-REVERSING
RVR	REDUCED VOLTAGE REVERSING
S	SYNC SCOPE
SA	SURGE ARRESTER
SC	SURGE CAPACITOR
SDP	STANDBY DISTRIBUTION PANEL
SEL	SELECTOR, SCHWEITZER ENGINEERING LABORATORIES
SPD	SURGE PROTECTION DEVICE
SPDT	SINGLE-POLE, DOUBLE-THROW
SPST	SINGLE-POLE, SINGLE-THROW
S/S	STATION SERVICE
SV	SOLENOID VALVE
SW	SWITCH
SWBD	SWITCHBOARD
SWGR	SWITCHGEAR
T	THERMOSTAT
TB	TERMINAL BLOCK, TERMINAL BOX
TD	TEMPERATURE DETECTOR, TIME DELAY
TEL	TELEPHONE
TS	THERMOSTAT
TSP	TWISTED SHIELDED PAIR
TST	TWISTED SHIELDED TRIAD
TX	TRANSMITTER
UH	UNIT HEATER
UP	UTILITY POWER
UPS	UNINTERRUPTIBLE POWER SUPPLY
V	VOLTS
VAC	VOLTS ALTERNATING CURRENT
VC	VIDEO CAMERA
VCB	VACUUM CIRCUIT BREAKER
VDC	VOLTS DIRECT CURRENT
VFD	VARIABLE FREQUENCY DRIVE
W	WIRE, WATTS
WP	WEATHER PROOF
XD	TRANSDUCER
XFMR	TRANSFORMER
XLP	CROSS LINKED POLYETHYLENE
XP	EXPLOSION PROOF

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH POWERING ALASKA'S FUTURE | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
ELECTRICAL ABBREVIATIONS AND DEVICE INDEXES

DESIGNED C. CURTIS
DRAWN J. HOLT
CHECKED J. BAKKEN
PROJECT DATE 10/6/23

DRAWING
GE001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GE001.dwg Plot date: Sep 26, 2023 05:07pm, CAD User: HaberFlavia

DIAGRAMS

HIGH - MEDIUM VOLTAGE SWITCHING

- POWER CIRCUIT BRK, DRAWOUT
- POWER CIRCUIT BRK, NON-DRAWOUT
- HV ISOLATING SW MOTOR OPERATED
- HV INTERRUPTER SW FUSED
- CENTER-BREAK SW MOTOR OPERATED
- DUAL-BREAK SW MOTOR OPERATED
- LOAD-BREAK SW MOTOR OPERATED
- HORN GAP SW

TRANSFORMERS:

- POWER XFMR
- MAG CORE XFMR
- LOAD TAP CHANGING XFMR
- SPLIT SECONDARY XFMR
- AUTO-XFMR

INSTRUMENT TRANSFORMERS:

- POTENTIAL XFMR
- POTENTIAL XFMR DUAL SECONDARY
- (3) 800:5 CURRENT XFMR, QTY & RATIO AS INDICATED
- (1) 50:5 CORE BALANCE CURRENT XFMR RATIO AS INDICATED
- (3) 800:5 BUSHING CURRENT XFMR, QTY & RATIO AS INDICATED
- kWH KILOWATT-HOUR METER

MACHINES:

- M XXHP MOTOR-DC
- M XXHP MOTOR-AC
- G XXKW XXPF AC GENERATOR

TRANSFORMERS WINDING CONNECTIONS:

- DELTA 3PH3W
- DELTA CENTER TAP GND 3PH4W
- DELTA CORNER GRD 3PH3W
- BROKEN DELTA 3PH2W
- OPEN DELTA 2PH2W
- WYE 3PH3W
- WYE GRD 3PH4W
- ZIG-ZAG 3PH3W
- ZIG-ZAG GRD 3PH4W

HIGH - MEDIUM VOLTAGE DEVICES

- L/A OR LIGHTNING ARRESTER
- WT WAVE TRAP
- M 57 GROUND SW MOTOR OPER
- MV CABLE TERMINATION
- CABLE POTHEAD OIL-FILLED

MISC DEVICES & CONNECTIONS:

- IN/OUT LINE
- 01 02 PROTECTIVE DEVICE ELEMENT, SEE DEVICE FUNCTION INDEX
- TEST SWITCH
- TEST SWITCH, CURRENT SHORTING
- BATTERY
- GROUND
- DISCONNECTING DEVICE
- NEUTRAL CONNECTION
- ISOL PH BUS FLEX CONN
- ISOL PH BUS REMOVEABLE LINK

MISC DEVICES & CONNECTIONS:

- DEVICE TERMINAL POINT
- TERMINAL BLOCK
- EXTERNAL EQUIPMENT INTERCONNECTION
- XX XX RELAY, SOLENOID, OR CONTACTOR COIL
- TD XX TRANSDUCER
- I XX INDICATING METER
- TLM XX TELEMETRY
- X PUSH-TO-TEST LIGHT
- X PILOT/INDIC LIGHT
- XA FUSE, SIZE AS INDICATED
- FUSE DUMMY
- XA DISC SW FUSED
- FUSIBLE LINK
- CAPACITOR
- 3% REACTOR
- RES RESISTOR
- RES RESISTOR VARIABLE
- OR HEATER ELEMENT
- RECTIFIER SOLID STATE
- AC DC+ DC- AC RECTIFIER FULLWAVE
- DC BRAKE
- GROUND
- CHASSIS GROUND
- CURRENT SHUNT

LOW VOLTAGE SWITCHING:

- DISCONNECTING SWITCH, MANUALLY GANG-OPERATED
- MOLDED CASE OR AIR CIRCUIT BREAKER
- CONTACTOR WITH THERMAL OL TRIP
- CONTACTOR WITH MAGNETIC OL TRIP
- CONTACTOR WITH THERMAL AND MAGNETIC OL TRIP
- E CIR BKR DRAWOUT ELEC OPER
- E CIR BKR THERMO O/L DRAWOUT ELEC OPER
- E CIR BKR MAG O/L DRAWOUT ELEC OPER
- E CIR BKR THERMO/MAG O/L DRAWOUT ELEC OPER

SELECTOR:

J K A1 A2 — TWO-POSITION X-CONTACT CLOSED

	J	K
A1	X	
A2		X

J K L A1 A2 — THREE-POSITION X-CONTACT CLOSED

	J	K	L
A1	X		
A2			X

A B 1 2 3 4 — TWO-POSITION SELECTOR PUSHBUTTON X-CONTACT CLOSED

CONTACTS	SELECTOR POSITION			
	A		B	
	BUTTON		BUTTON	
	FREE	CONTACTS	FREE	CONTACTS
1-2	X			
3-4		X	X	X

CONTROL SWITCHING:

- XX PB SWITCH NORM OPEN
- XX PB SWITCH NORM CLOSED
- XX OFF MAN AUTO SELECTOR SWITCH
- XX LIMIT SW NORM OPEN
- XX LIMIT SW NORM CLOSED
- XX LIMIT SW NORM OPEN HELD CLOSED
- XX LIMIT SW NORM CLOSED HELD OPEN
- SOLENOID
- XX CONTACT NORM OPEN
- XX CONTACT NORM CLOSED
- XX FLOW OPER NORM OPEN
- XX FLOW OPER NORM CLOSED
- XX LEVEL OPER NORM OPEN
- XX LEVEL OPER NORM CLOSED
- XX SWITCH NORM OPEN
- XX SWITCH NORM CLOSED
- XX TEMP ACT SW NORM OPEN
- XX TEMP ACT SW NORM CLOSED
- XX FOOT OPER NORM OPEN
- XX FOOT OPER NORM CLOSED
- XX PRESS OPER NORM OPEN
- XX PRESS OPER NORM CLOSED

PRELIMINARY
NOT FOR CONSTRUCTION

MOMENTARY CONTACTS:

- NO NC SINGLE CIRCUIT
- NO & NC DOUBLE CIRCUIT

MAINTAINED CONTACTS:

- TWO SINGLE CIRCUIT
- ONE DOUBLE CIRCUIT
- ESS E-STOP, 2NC

INSTANT OPERATION CONTACTS WITH BLOWOUT

- XA NO
- XA NC

INSTANT OPERATION CONTACTS WITHOUT BLOWOUT

- XA NO
- XA NC

TIMED CONTACTS - CONTACT ACTION DELAYED AFTER COIL IS ENERGIZED

- XX SEC NOTC
- XX SEC NCTC

TIMED CONTACTS - CONTACT ACTION DELAYED AFTER COIL IS DE-ENERGIZED

- XX SEC NOTC
- XX SEC NCTC

SUPPLEMENTARY CONTACTS SYMBOLS:

- SPST, NO SINGLE-BREAK
- SPST, NO DOUBLE-BREAK
- SPST, NC SINGLE-BREAK
- SPST, NC DOUBLE-BREAK
- SPDT, SINGLE-BREAK
- SPDT, DOUBLE-BREAK
- DPST, NO, SINGLE-BREAK
- DPST, NO, DOUBLE-BREAK
- DPST, NC, SINGLE-BREAK
- DPST, NC, DOUBLE-BREAK
- DPDT, SINGLE-BREAK
- DPDT, DOUBLE-BREAK

NOTE:

1. "X" OR "XX" SHOWN ON SYMBOLS WILL BE SUBSTITUTED WITH DEVICE FUNCTION NUMBERS, LETTER SUFFIXES, PILOT LIGHT COLORS, OR OTHER DESCRIPTIVE TEXT, WHICH ARE DEFINED ELSEWHERE IN THESE LEGEND DRAWINGS.

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH POWERING ALASKA'S FUTURE | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

ELECTRICAL STANDARD SYMBOLS 1

DESIGNED C. CURTIS
DRAWN J. HOLT
CHECKED J. BAKKEN
PROJECT DATE 10/6/23

DRAWING
GE002

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GE002.dwg Plot date: Sep 28, 2023 02:48pm, CAD User: HaberFlavia

PRIVATE TELEPHONE SYSTEM

- SB SWITCHBOARD
- TC TERMINAL CABINET
- D DESK PHONE
- W WALL PHONE

PRIVATE ETHERNET NETWORK SYSTEM

- DATA JACK
- VOICE/DATA JACK

PAGE/SOUND SYSTEM

- A AMPLIFIER
- WS SPEAKER, WALL MTD
- CS SPEAKER, CEIL MTD
- WH HORN, WALL MTD
- CH HORN, CEIL MTD
- MIC MICROPHONE
- P HANDSET

INTRUSION ALARM/ACCESS SYSTEM

SA SECURITY ALARM
- A POINT OF CONTACT
- C SECURITY PROXIMITY CARD READER (+48" AFF)
- E SECURITY ELEVATOR LOCKOUT CONTROL
- K SECURITY KEYPAD
- P SECURITY PANIC BUTTON (MOUNT UNDER CABINET)

SCD SECURITY DOOR CONTACT
- D INTEGRAL TO DOOR HARDWARE OR HINGE. SEE ARCHITECTURAL DOOR HARDWARE SCHEDULE
- S SURFACE MOUNTED CONTACT/MAGNET COMBO WITH TAMPER RESISTANT METAL-CLAD PIGTAIL.
- M FULLY RECESSED CONTACT/MAGNET COMBO INSTALLED IN DOOR FRAME HEADER/TOP OF DOOR.

SLD SECURITY DOOR LOCK CONNECTION (LOCK BY OTHERS)
- D INTEGRAL TO DOOR HARDWARE OR HINGE. SEE ARCHITECTURAL DOOR HARDWARE SCHEDULE
- S ELECTRICAL STRIKE IN DOOR FRAME LATCH.
- M MAGNETIC LOCK ON DOOR FRAME HEADER.

SM SECURITY MOTION SENSOR - ARROW INDICATES DIRECTION OF SENSING; 360° INDICATES SENSING IN ALL DIRECTIONS

SM SECURITY MONITOR AND MULTIPLEXOR/DVM

REXD REQUEST TO EXIT SIGNAL DEVICE
- D INTEGRAL TO DOOR HARDWARE OR HINGE. SEE ARCHITECTURAL DOOR HARDWARE SCHEDULE
- P PASSIVE INFRARED DETECTOR MOUNTED ABOVE DOOR FRAME. PROVIDE J-BOX TYPE 'B' HORIZONTALLY MOUNTED 6" ABOVE DOOR.

P POWERED DOOR OPERATOR ACTUATOR

CCTV SYSTEM

- CCTV CAMERA FIXED POSITION
- PTZ CCTV CAMERA, PAN-TILT-ZOOM
- CCTV CCTV MONITOR
- CCTV CCTV MONITOR

LOW VOLTAGE ELECTRICAL MATERIALS

- CB CIRCUIT BREAKER SWITCH
- UF UNFUSED DISCONNECT SWITCH
- F FUSED DISCONNECT SWITCH
- MOTOR STARTER MANUAL
- MOTOR STARTER MAGNETIC
- CB MOTOR STARTER MAG. COMBINATION C.B. SW.
- F MOTOR STARTER MAG. COMBINATION FUSED D.S.
- VFD VARIABLE FREQUENCY DRIVE
- PUSHBUTTON SW. EMERG. STOP
- PUSHBUTTON SW. STOP/START
- PUSHBUTTON STATION
- SELECTOR SWITCH
- CS CONTROL STATION
- FS FLOAT SWITCH
- LI LEVEL SWITCH
- BI BIN LEVEL SWITCH
- LS LIMIT SWITCH
- PS PRESSURE SWITCH
- PE ELECTRICAL/PNEUMATIC SWITCH
- PT PRESSURE TRANSMITTER
- SV SOLENOID VALVE
- T THERMOSTAT
- TS TEMPERATURE SWITCH

- 2 MOTOR
- POINT OF CONNECTION
- J JUNCTION BOX OR CONDUIT FITTING

$ WALL SWITCH
- (1a) NUMBER & LETTER IN PARENTHESES INDICATES PANELBOARD CIRCUIT & SWITCHING ZONE
- 3 THREE WAY
- 4 FOUR WAY
- D DIMMER
- OS OCC SENSOR
- T TIMER
- XP EXPLOSIVE PROOF
- WP WATERPROOF

$M MOTOR SWITCH
- M MOTOR RATED TOGGLE SWITCH WITHOUT OVERLOADS
- MS MANUAL MOTOR STARTER WITH OVERLOADS

- DS DAYLIGHT SENSOR
- OS WALL MOUNTED OCCUPANCY SENSOR
- OS CEILING MOUNTED OCCUPANCY SENSOR
- PC PHOTOCELL, SUBSCRIPT INDICATES CIRCUIT

CONVENIENCE RECEPTACLE - DUPLEX
- C CLOCK
- CR CORROSION RESISTANT
- GFI GROUND FAULT INTERRUPTER
- TL TWIST LOCK, NEMA CONFIGURATION AS INDICATED
- U UPS FED
- WP WEATHERPROOF

SUBSCRIPT NUMBER AT RECEPTACLE INDICATES CIRCUIT

- QUADRUPLEX RECEPTACLE
- SINGLE RECEPTACLE
- FLOOR RECEPTACLE
- SPECIAL PURPOSE RECEPTACLE, NEMA CONFIGURATION AS INDICATED

SITE ELECTRICAL

- POLE CONCRETE
- POLE WOOD
- POLE MOUNTED TRANSFORMER
- DOWN GUY
- SIDEWALK GUY
- M MANHOLE
- H HANDHOLE
- V VAULT
- S PAD MOUNTED SWITCH
- T TRANSFORMER VAULT
- PAD MOUNTED TRANSFORMER

GROUNDING

- GROUND ROD
- GROUND ROD WITH ACCESS BOX
- GROUND CONNECTION EXOTHERMIC
- GROUND CONNECTION MECHANICAL BOLTED
- GROUND CONNECTION COMPRESSION
- GROUND COIL (PIGTAIL) 5'0" (1.5M)
- GROUND GRADIENT MAT (SAFETY MAT) 4'X 4'
- GROUND GRADIENT MAT (SAFETY MAT) 4'X 6'

ELECTRICAL LIGHTING FIXTURES

- SURFACE/PENDANT LINEAR FIXTURE
- SURFACE/PENDANT LINEAR FIXTURE WITH BATTERY BACKUP
- RECESSED LINEAR FIXTURE
- RECESSED LINEAR FIXTURE WITH BATTERY BACKUP
- DOWNLIGHT FIXTURE SURFACE/PENDANT CEILING MOUNT
- DOWNLIGHT OR SCONCE FIXTURE SURFACE WALL MOUNT
- R DOWNLIGHT FIXTURE RECESSED CEILING MOUNT
- R DOWNLIGHT OR SCONCE FIXTURE RECESSED WALL MOUNT
- H HAZARDOUS AREA LIGHT FIXTURE CEILING MOUNT
- EXIT SIGN, ARROW INDICATES DIRECTION SURFACE/PENDANT CEILING MOUNT, FILLED QUARTER INDICATES NON-INDICATING FACE
- EXIT SIGN, ARROW INDICATES DIRECTION SURFACE WALL MOUNT, FILLED QUARTER INDICATES NON-INDICATING FACE
- R EXIT SIGN, ARROW INDICATES DIRECTION RECESSED WALL MOUNT, FILLED QUARTER INDICATES NON-INDICATING FACE

- R EMERGENCY DOWNLIGHT FIXTURE SURFACE/PENDANT CEILING MOUNT
- EMERGENCY DOWNLIGHT OR SCONCE FIXTURE SURFACE WALL MOUNT
- R EMERGENCY DOWNLIGHT FIXTURE RECESSED CEILING MOUNT
- R EMERGENCY DOWNLIGHT OR SCONCE FIXTURE RECESSED WALL MOUNT
- EMERGENCY LIGHTING UNIT, 1 HEAD
- EMERGENCY LIGHTING UNIT, 2 HEAD
- EMERGENCY LIGHTING UNIT, 3 HEAD
- SURFACE MTD. DISTR. PANELBOARD
- FLUSH MTD. DISTR. PANELBOARD
- LF-1 LF-1 POLE-MOUNTED AREA LIGHT, NUMBER OF FIXTURES AND CONFIGURATION AS SHOWN AND PER SCHEDULE
- A (2a) LETTER NEXT TO LUMINAIRE INDICATES TYPE PER SCHEDULE. NUMBER AND LOWER CASE LETTER IN PARENTHESES INDICATES CIRCUIT AND SWITCHING ZONE IN PANELBOARD.

PLAN LINETYPES AND CONVENTIONS

- EXPOSED CONDUCTOR/CONDUIT
- CONCEALED/EMBEDDED CONDUCTOR/CONDUIT
- CONDUCTOR/CONDUIT DOWN
- CONDUCTOR/CONDUIT UP
- G GROUNDING ELECTRODE CONDUCTOR, BARE COPPER
- G GROUND CONNECTION, EXOTHERMIC OR WELDED
- G GROUND CONNECTION, BOLTED
- EOH OH POWER
- EUG UG POWER
- [3/4"C, 3#12, 1#12G] CIRCUIT CALLOUT, CONDUIT AND CONDUCTOR SIZES AS INDICATED; "n-" IN FRONT OF CALLOUT INDICATES "n" PARALLEL SETS
- RXX RACEWAY CALLOUT, INDEX NUMBER AS INDICATED IN RACEWAY SCHEDULE

DIAGRAM LINETYPES AND CONVENTIONS

- ENCLOSURE
- CONDUCTOR, CABLE, CIRCUIT, OR BUS
- INTERCONNECTION WITH EXTERNAL EQUIPMENT
- GANG OPERATED INTERLOCK
- OR CONDUCTOR, CROSSING OF PATHS OR CONDUCTORS NOT CONNECTED
- CONDUCTOR, JUNCTION OF CONNECTED PATHS, CONDUCTORS OR WIRES

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McMillen
CHUGACH POWERING ALASKA'S FUTURE
MEA MATANUSKA ELECTRIC ASSOCIATION
MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY

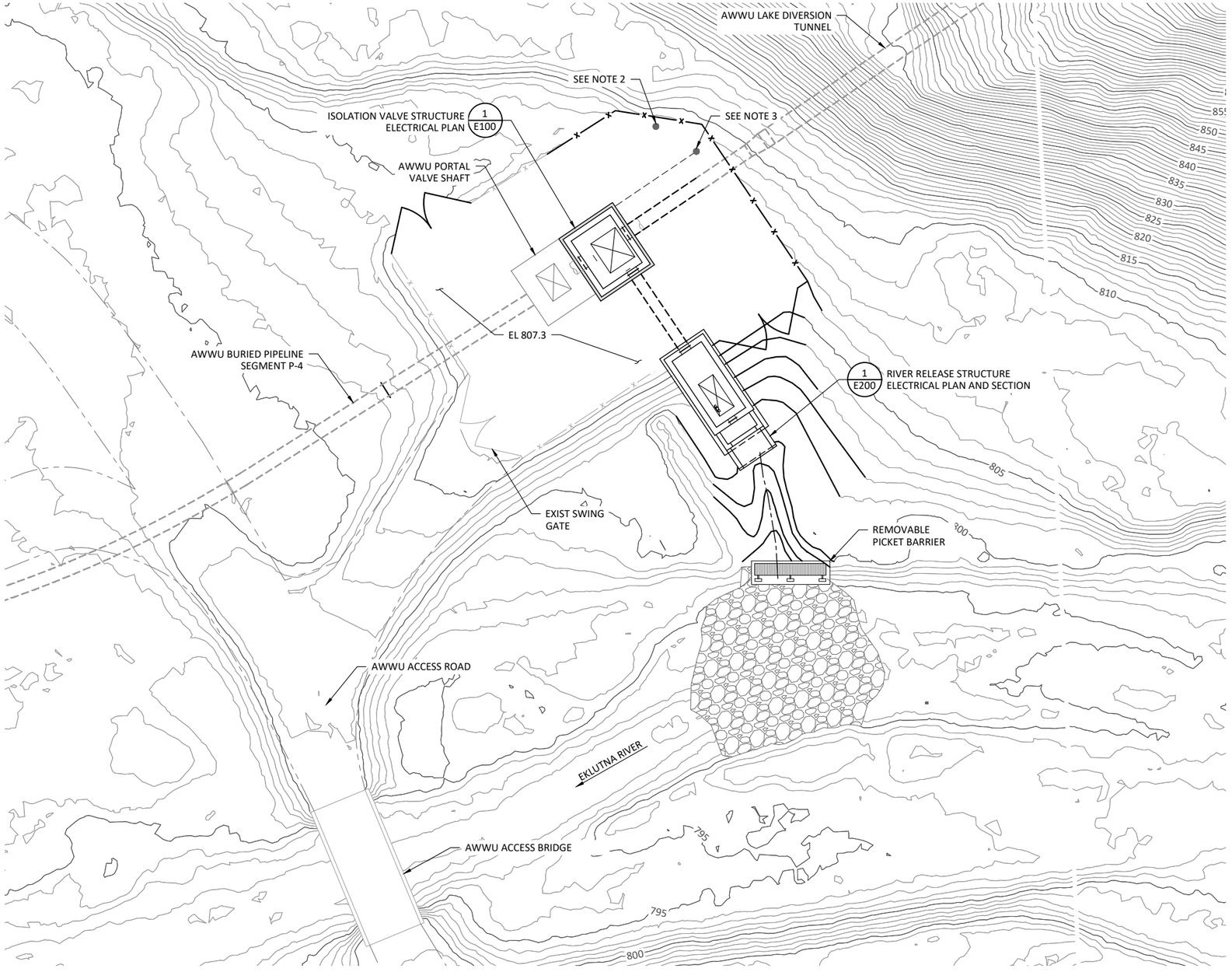
ELECTRICAL STANDARD SYMBOLS 2

DESIGNED C. CURTIS
DRAWN J. HOLT
CHECKED J. BAKKEN
PROJECT DATE 10/6/23

DRAWING
GE003

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\GE003.dwg Plot date: Sep 26, 2023 05:08pm, CAD User: HaberFlavia



ELECTRICAL SITE AND KEY PLAN

SCALE: 1"= 20'

0" 20' 40'

N

SHEET NOTES:

1. ELEVATIONS SHOWN ARE IN NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
2. EXISTING 7.2 kV SINGLE-PHASE POWER SERVICE POLE. EXTEND POWER LINE TO NEW DEAD-END POLE FOR NEW POWER SERVICE DROP.
3. NEW POWER POLE SERVICE DROP. PROVIDE METER SOCKET AND SERVICE DISCONNECT. COORDINATE REQUIREMENTS WITH UTILITY.

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
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WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

ELECTRICAL SITE AND KEY PLAN

DESIGNED C. CURTIS

DRAWN J. HOLT

CHECKED J. BAKKEN

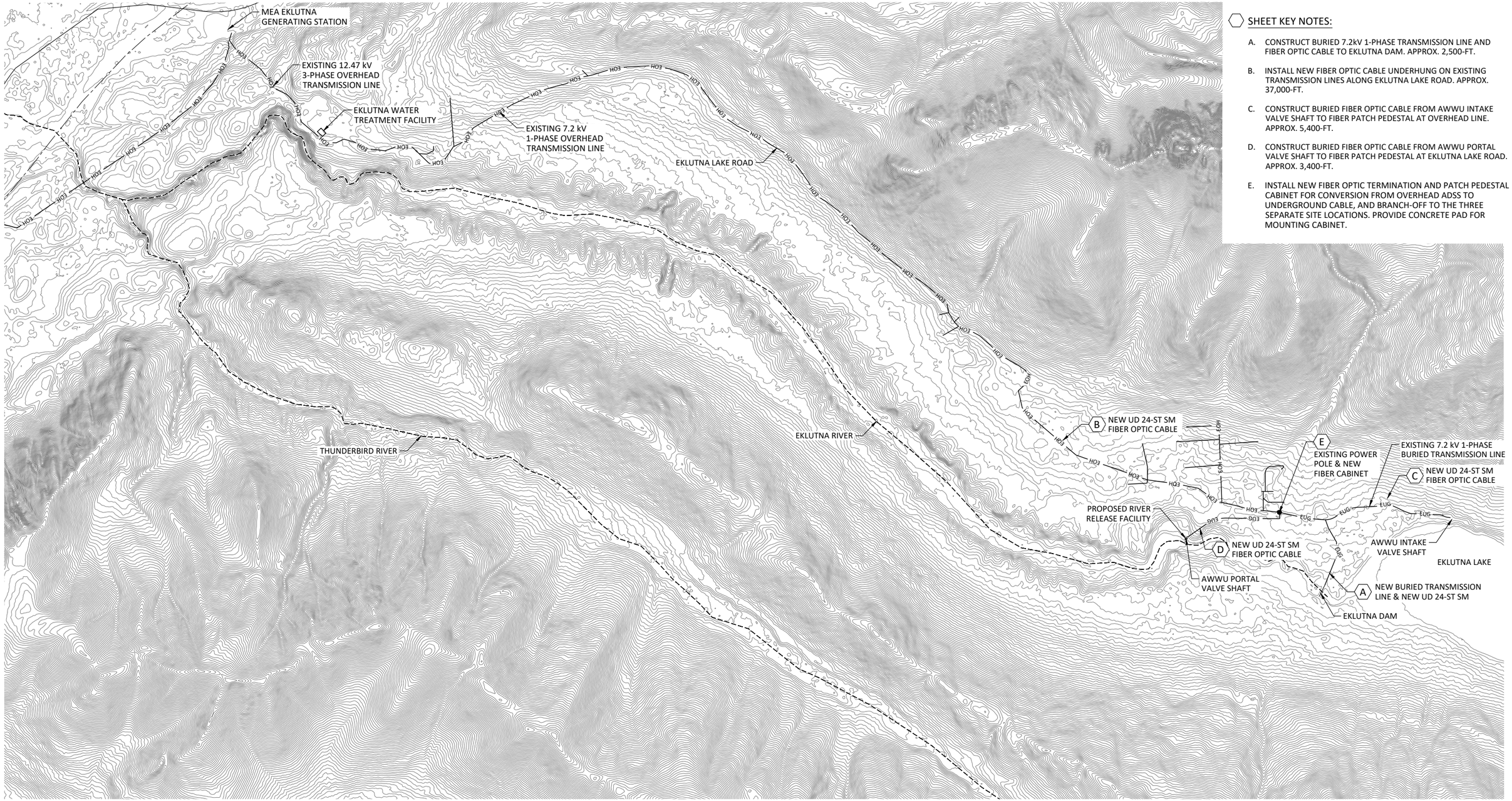
PROJECT DATE 10/6/23

DRAWING

E001

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\E001.dwg Plot date: Sep 28, 2023 02:48pm, CAD User: HaberFlavia



SHEET KEY NOTES:

A. CONSTRUCT BURIED 7.2kV 1-PHASE TRANSMISSION LINE AND FIBER OPTIC CABLE TO EKLUTNA DAM. APPROX. 2,500-FT.

B. INSTALL NEW FIBER OPTIC CABLE UNDERHUNG ON EXISTING TRANSMISSION LINES ALONG EKLUTNA LAKE ROAD. APPROX. 37,000-FT.

C. CONSTRUCT BURIED FIBER OPTIC CABLE FROM AWWU INTAKE VALVE SHAFT TO FIBER PATCH PEDESTAL AT OVERHEAD LINE. APPROX. 5,400-FT.

D. CONSTRUCT BURIED FIBER OPTIC CABLE FROM AWWU PORTAL VALVE SHAFT TO FIBER PATCH PEDESTAL AT EKLUTNA LAKE ROAD. APPROX. 3,400-FT.

E. INSTALL NEW FIBER OPTIC TERMINATION AND PATCH PEDESTAL CABINET FOR CONVERSION FROM OVERHEAD ADSS TO UNDERGROUND CABLE, AND BRANCH-OFF TO THE THREE SEPARATE SITE LOCATIONS. PROVIDE CONCRETE PAD FOR MOUNTING CABINET.

TRANSMISSION AND COMMUNICATION UPGRADES PLAN

SCALE: NTS

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING
0 1/2 1
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen | CHUGACH POWERING ALASKA'S FUTURE | MEA MATANUSKA ELECTRIC ASSOCIATION | MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT
EKLUTNA RIVER RELEASE FACILITY
TRANSMISSION AND COMMUNICATION UPGRADES PLAN

DESIGNED C. CURTIS
DRAWN J. HOLT
CHECKED J. BAKKEN
PROJECT DATE 10/6/23

DRAWING
E003

JOB NO: 000000

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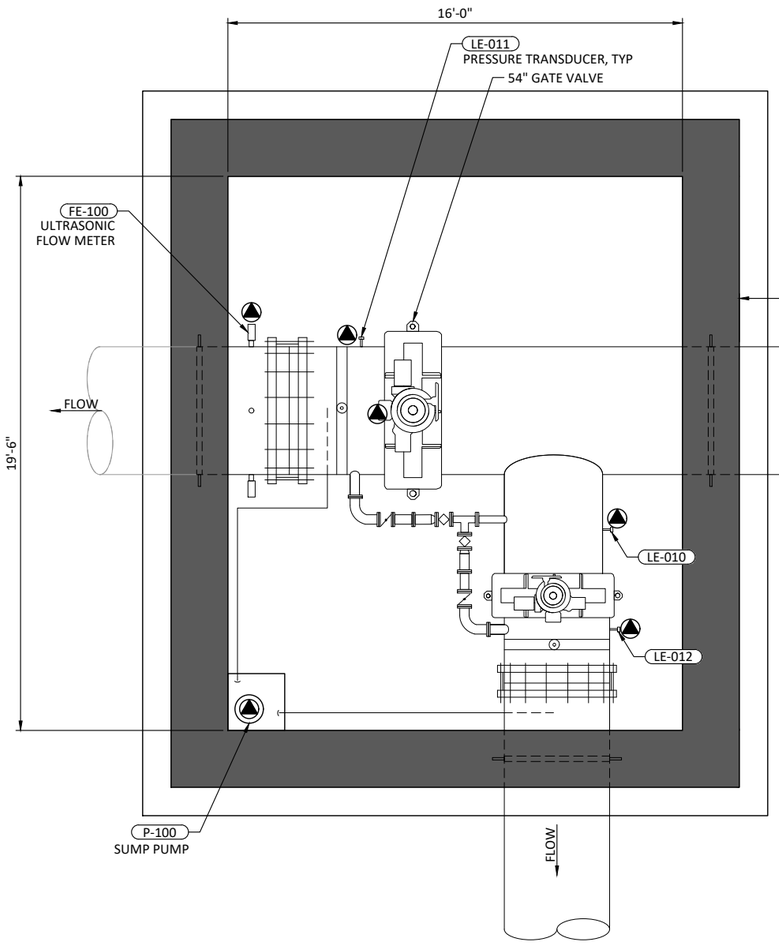

1 M001 ISOLATION VALVE STRUCTURE ELECTRICAL PLAN

SCALE: 3/8"= 1'-0"

0' 2' 4'

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

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CHUGACH POWERING ALASKA'S FUTURE

MEA MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

ISOLATION VALVE STRUCTURE ELECTRICAL PLAN

DESIGNED C. CURTIS

DRAWN J. HOLT

CHECKED J. BAKKEN

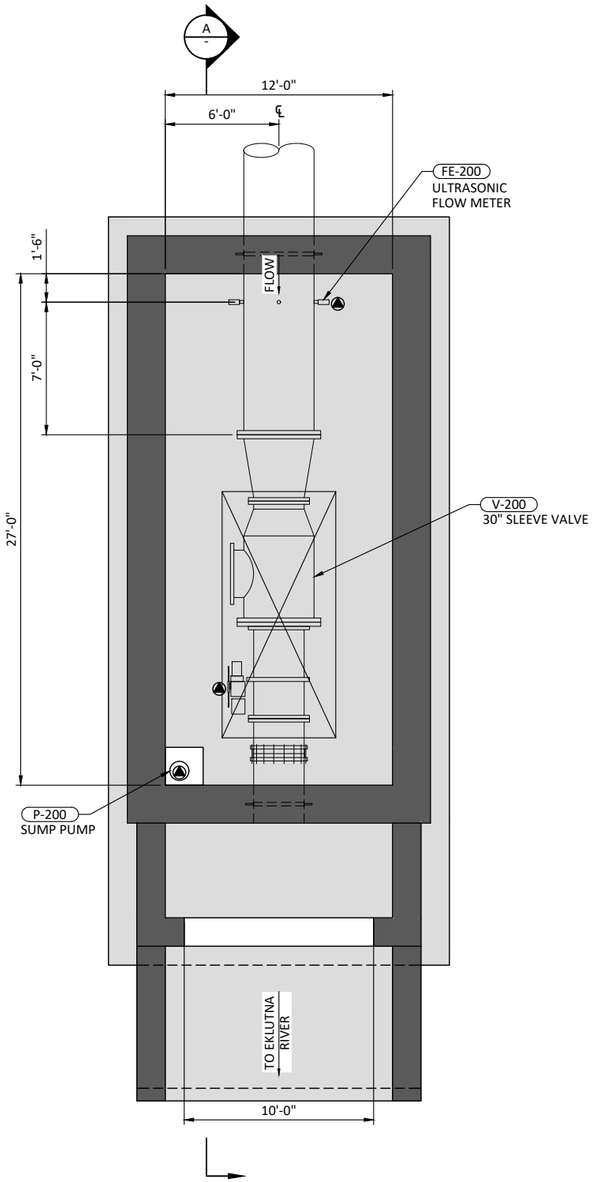
PROJECT DATE 10/6/23

DRAWING

E100

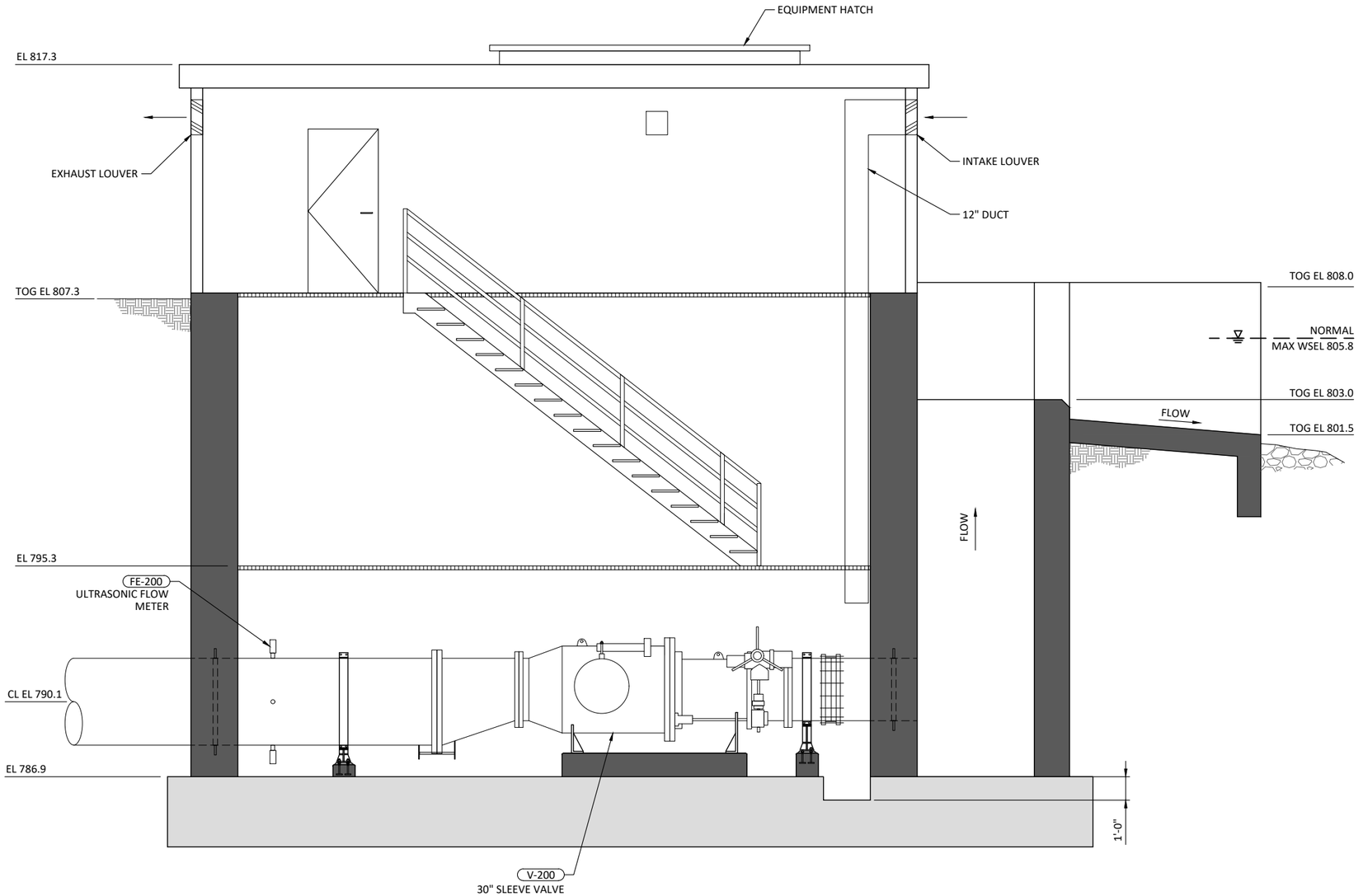
JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\E100.dwg Plot date: Sep 28, 2023 02:48pm, CAD User: HaberFlavia



1 M001 RIVER RELEASE ELECTRICAL PLAN

SCALE: 1/4"= 1'-0"



A - SECTION

SCALE: 3/8"= 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

REV	DATE	BY	DESCRIPTION
0	10/6/23	SPE	15% DESIGN

WARNING

0 1/2 1

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

McMillen

CHUGACH
POWERING ALASKA'S FUTURE

MEA
MATANUSKA ELECTRIC ASSOCIATION

MUNICIPALITY OF ANCHORAGE

EKLUTNA FISH & WILDLIFE PROJECT

EKLUTNA RIVER RELEASE FACILITY

RIVER RELEASE STRUCTURE ELECTRICAL PLAN AND SECTION

DESIGNED C. CURTIS

DRAWN J. HOLT

CHECKED J. BAKKEN

PROJECT DATE 10/6/23

DRAWING

E200

JOB NO: 000000

Path: C:\Vault\Chugach Electric\Portal Release Structure\E200.dwg Plot date: Sep 28, 2023 02:49pm, CAD User: HaberFlavia

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Appendix B. Class 4 Opinion of Probable Construction Costs

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Technical Memorandum			
To:	Mike Brodie, P.E. Chugach Electric Association	Project:	Eklutna Fish & Wildlife Project
From:	Sean P. Ellenson, P.E. McMillen, Inc	cc:	Curtis Neibaur McMillen, Inc
Prepared by:	Paul Rader McMillen, Inc	Job No.:	22-028
Date:	October 6, 2023		
Subject:	Class 4 Opinion of Probable Construction Costs - Eklutna River Release Facility		

Revision Log

Revision No.	Date	Revision Description
0	October 6, 2023	Initial Draft

1.0 Introduction

1.1 Purpose

This technical memorandum (TM) presents a summary of the Opinion of Probable Construction Costs (OPCC) for the Eklutna River Release Facility as part of the Eklutna Fish & Wildlife Project. The OPCC estimates are based on the 15% Design drawing package dated October 6, 2023.

1.2 Background

The Eklutna Hydroelectric Project (Project) is located in Southcentral Alaska approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna (NVE). The Project was originally constructed by the Federal government in the 1950s but was later sold to, and is currently owned by, the Municipality of Anchorage (MOA), Chugach Electric Association, Inc. (Chugach), and the Matanuska Electric Association (MEA), collectively the “Project Owners”. As part of the sale of the Project, the current Project Owners entered into the 1991 Fish and Wildlife Agreement (1991 Agreement) with the National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the State of Alaska (the Parties). The 1991 Agreement requires the Project Owners to develop and propose to the Governor of Alaska (Governor) a program to protect, mitigate damages to, and enhance fish and wildlife impacted by the development of the Project.

In development of the program, the Project Owners have met with various stakeholders to identify protection, mitigation, and enhancement measures that may be implemented within the Project study area. These measures were incorporated into a Phase 1 Engineering Feasibility Study which advanced the preliminary design, estimated capital expenditures, and determined operations and maintenance costs for each alternative for the purposes of evaluation. Selected measures from the Phase 1 Engineering Feasibility Study have been advanced to a Phase 2 Engineering Feasibility Study which includes a 15% level of design and a Class 4 OPCC.

1.3 Estimation Preparation

McMillen has utilized historical cost data from similarly technical projects which we have designed or constructed as a self-performing general contractor, as the basis of our Class 4 OPCC estimate. Appropriate overhead and profit markups have been included below the subtotal to account for the competitive bidders' markups, they are likely to apply on their bid prices. A 20% contingency has been included at this stage to account for details and minor project features which are not yet included in the project documents at the 15% Design level of detail. The contingency value may be reduced in future versions of the OPCC estimate, as the project design is advanced.

General requirement and mobilization costs are estimated at 12% and 8% of construction activity costs based on historical project ranges. Overhead and profit markups have been included at 10% and 5% respectively of direct construction costs. The estimate is in 2023 dollars. No escalation is included in the pricing. This OPCC estimate is consistent with a Class 4 estimate as defined by the AACE classification system, as shown in Figure 1-1 and 1-2. For the purposes of this project, McMillen has utilized the accuracy range of -30% to +50%.

CLASS 4 ESTIMATE	
Description: Class 4 estimates are generally prepared based on limited information and subsequently have fairly wide accuracy ranges. They are typically used for project screening, determination of feasibility, concept evaluation, and preliminary budget approval. Typically, engineering is from 1% to 15% complete, and would comprise at a minimum the following: plant capacity, block schematics, indicated layout, process flow diagrams (PFDs) for main process systems, and preliminary engineered process and utility equipment lists. **Level of Project Definition Required:** 1% to 15% of full project definition. **End Usage:** Class 4 estimates are prepared for a number of purposes, such as but not limited to, detailed strategic planning, business development, project screening at more developed stages, alternative scheme analysis, confirmation of economic and/or technical feasibility, and preliminary budget approval or approval to proceed to next stage.	**Estimating Methods Used:** Class 4 estimates virtually always use stochastic estimating methods such as equipment factors, Lang factors, Hand factors, Chilton factors, Peters-Timmerhaus factors, Guthrie factors, the Miller method, gross unit costs/ratios, and other parametric and modeling techniques. **Expected Accuracy Range:** Typical accuracy ranges for Class 4 estimates are -15% to -30% on the low side, and +20% to +50% on the high side, depending on the technological complexity of the project, appropriate reference information, and the inclusion of an appropriate contingency determination. Ranges could exceed those shown in unusual circumstances. **Effort to Prepare (for US$20MM project):** Typically, as little as 20 hours or less to perhaps more than 300 hours, depending on the project and the estimating methodology used. **ANSI Standard Reference Z94.2-1989 Name:** Budget estimate (typically -15% to + 30%). **Alternate Estimate Names, Terms, Expressions, Synonyms:** Screening, top-down, feasibility, authorization, factored, pre-design, pre-study.

Figure 1-1: Class 4 Estimate Description

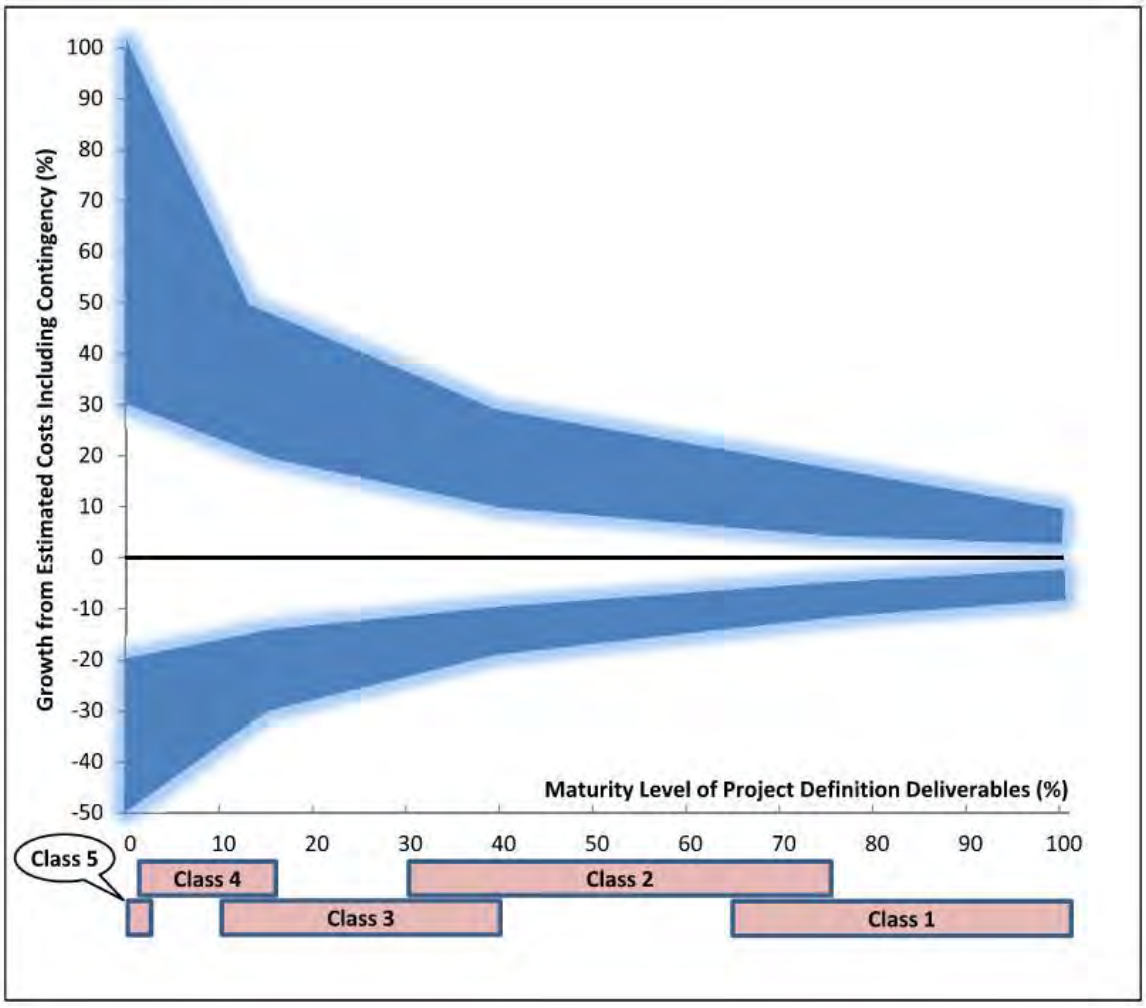

Figure 1-2: Variable in Accuracy Ranges (AACE 69R-12)

2.0 Project Cost Estimate

This OPCC estimate is consistent with a Class 4 estimate as defined by the Association for the Advancement of Cost Engineering (AACE) standard practice 69R-12. The maturity level of the project definition warrants a wide range of potential growth as the project design progresses. The Eklutna feasibility OPCC is based on 15% Design Drawings.

2.1 Cost Assumptions and Qualifications

The cost estimate was primarily developed utilizing costs from past projects and estimates. Below is a summary of the cost basis including any assumptions necessary for cost estimating purposes at this stage of design.

Common Cost Basis:

- General requirement and mobilization costs are based on a typical percentage of total direct construction costs: 12% and 8% respectively.
- Overhead & profit are added to direct construction costs at 10% and 5% respectively.
- A 20% contingency is added to the costs which is a typical contingency at the early concept phase of a project.
- Site access and laydown areas were all based on a unit price of $160k per acre for 0.3 acres.
- All steel buildings priced at $200/sf.
- All handrail and grating costs are based on recent supply and install estimates.
- All vaults and shafts require shoring to construct.
- Excavation spoils can be disposed of nearby the location of excavation or re-used as fill material for the new bridge approaches.
- All electric controls are assumed to include a PLC for semi-automatic control capabilities along with standard instrumentation readouts.
- Electrical overhead and underground transmission costs provided by MEA.
- Transformer costs are provided by MEA.

Phase 2 Engineering
Eklutna River Release Facility

Line Item	Item	Quantity	Unit	Unit Cost	Total Cost	Total
01	**DIVISION 01 INDIRECTS**					**$1,223,668**
	Mobilization and Establishment of Site Infrastructure	8	%	0.08	$489,467	
	Contractor General Requirements (Percentage of Direct Cost)	12	%	0.12	$734,201	
02	**SITE CONSTRUCTION AND ACCESS ROADS**					**$40,184**
	Site Access - Construct Laydown Areas, Turnarounds and Crane Pads	0.3	ACRE	$160,736.40	$40,184	
03	**CIVIL WORKS - GRADING**					**$909,573**
	Excavation to Existing Buried Pipe	1,620	CY	$50.00	$81,019	
	Excavation for New Pipe to Release Structure	195	CY	$50.00	$9,750	
	Excavation for River Release Structure	1,244	CY	$50.00	$62,200	
	Isolation Vault Shoring	3,740	SF	$75.00	$280,500	
	Pipe Shoring	1,050	SF	$75.00	$78,750	
	Release Structure Shoring	3,744	SF	$75.00	$280,800	
	Excavate Bypass Channel	193	CY	$40.00	$7,704	
	Disposal Area Fill (Excavation Spoils)	1,143	CY	$20.00	$22,860	
	Security Fencing	150	LF	$110.00	$16,500	
	Bypass Portal Pad - Fill to El. 807.3	100	CY	$100.00	$10,000	
	8" Type 1 Riprap @ Release Channel	42	TON	$125.00	$5,287	
	8" Type 1 Riprap @ Eklutna River	434	TON	$125.00	$54,204	
04	**ISOLATION VALVE STRUCTURE**					**$611,150**
	Reinforced Concrete	186	CY	$2,000.00	$372,000	
	Steel Builidng	470	SF	$200.00	$94,000	
	Equipment Hatch	1	LS	$15,000.00	$15,000	
	Stairway and Gratings	1	LS	$25,000.00	$25,000	
	Grating Platform	466	SF	$150.00	$69,900	
	Building Lighting	470	SF	$15.00	$7,050	
	Building HVAC	470	SF	$60.00	$28,200	
05	**RIVER RELEASE STRUCTURE**					**$836,700**
	Reinforced Concrete	259	CY	$2,000.00	$518,000	
	Steel Builidng	496	SF	$200.00	$99,200	
	Equipment Hatch	1	LS	$15,000.00	$15,000	
	Stairway and Gratings	1	LS	$25,000.00	$25,000	
	Grating Platform	462	SF	$150.00	$69,300	
	Building Lighting	496	SF	$15.00	$7,440	
	Building HVAC	496	SF	$60.00	$29,760	
	Removable Picket Barrier Foundation	24	CY	$2,000.00	$48,000	
	Removable Picket Barrier	25	LF	$1,000.00	$25,000	
06	**PIPING AND VALVES**					**$1,241,300**
	Demo 21' of existing Pipeline	21	LF	$300.00	$6,300	
	Install New 54" Pipe Sections (Including Flanged Coupling Adapter)	1	LS	$25,000.00	$25,000	
	Install New 42" Pipe Sections (Including Flanged Coupling Adapter)	1	LS	$35,000.00	$35,000	
	Install Mechanical Bypass, Instrumentation, and Miscellaneous Mechanical Components	1	LS	$75,000.00	$75,000	
	Supply and Install 54" Gate Valve, Electric Motor Operated	1	LS	$350,000.00	$350,000	
	Supply and Install 42" Gate Valve, Electric Motor Operated	1	LS	$300,000.00	$300,000	
	Supply and Install 30" Sleeve Valve, Electric Motor Operated	1	LS	$400,000.00	$400,000	
	Upgrades to Existing AWWU Portal Shaft	1	LS	$50,000.00	$50,000	
07	**ELECTRICAL, TRANSMISSION, AND COMMUNICATION**					**$2,479,432**
	Buried Power/Controls Conduit	100	ft	$56.82	$5,682	
	10 kVA Transformer, Pole Mount	1	LS	$15,000.00	$15,000	
	Vault Main Panel Board	1	EA	$10,000.00	$10,000	
	Instrumentation, Flow Meter, Pressure Transducers, Valve Controls - ERRF	1	LS	$86,000.00	$86,000	
	Instrumentation, Flow Meter, Pressure Transducers, Valve Controls - Intake Shaft	1	LS	$42,500.00	$42,500	
	3-Phase Upgrade Transmission Line - Overhead	8.2	MI	$150,000.00	$1,230,000	
	3-Phase Upgrade Transmission Line - Underground	1.0	MI	$300,000.00	$300,000	
	Voltage Regulator	1	LS	$100,000.00	$100,000	
	Fiber Optic Cable - Buried - Eklutna Dam	2500	LF	$17.50	$43,750	
	Fiber Optic Cable - Underhung - Eklutna Lake Road	37000	LF	$12.50	$462,500	
	Fiber Optic Cable - Buried - Intake Valve Shaft	5400	LF	$17.50	$94,500	
	Fiber Optic Cable - Buried - Portal Valve Shaft	3400	LF	$17.50	$59,500	
	Fiber Optic Cable - Termination and Patch Pedestals	3	EA	$10,000.00	$30,000	
	Project Subtotal (without Division 01)					**$6,118,339**
	Project Subtotal					**$7,342,007**

AACE International CLASS 4 Cost Estimate - Class 4 estimates are generally prepared based on limited information and subsequently have fairly wide accuracy ranges. They are typically prepared for a number of purposes, such as but not limited to, detailed strategic planning, business case development, project screening at more developed stages, alternative scheme analysis, confirmation of economic and/or technical feasibility, selection of a feasible alternative and preliminary budget approval to proceed to next stage of the project (definition phase). Typically, engineering is from 1% to 15% complete, and would comprise at a minimum the following: Feasibility design for several alternative layouts to include design criteria, generation capacity, feasibility level drawings, preliminary one-line diagrams, and comprehensive user requirements. Class 4 estimates generally use stochastic estimating methods such as cost/capacity graphs or curves and factors, historical data and other parametric and modeling techniques. Typical accuracy ranges for Class 4 estimates are -15% to -30% on the low side, and +20% to +50% on the high side, depending on the technological complexity of the project, appropriate reference information, and other risks (after inclusion of an appropriate contingency determination). Ranges could exceed those shown if there are unusual risks.

Project: Eklutna Phase 2 Engineering
Location: AK

Direct Construction Cost

Item	Direction Construction Cost		Amount
01	DIVISION 01 INDIRECTS		$1,223,668
02	SITE CONSTRUCTION AND ACCESS ROADS		$40,184
03	CIVIL WORKS - GRADING		$909,573
04	ISOLATION VALVE STRUCTURE		$611,150
05	RIVER RELEASE STRUCTURE		$836,700
06	PIPING AND VALVES		$1,241,300
07	ELECTRICAL, TRANSMISSION, AND COMMUNICATION		$2,479,432
	Total Construction Cost		**$7,342,007**
	Overhead		
	GC Overhead and Profit	15.00%	$975,796
	Construction Bonds	1.25%	$103,973
	Total - Overhead		**$1,079,769**
	Direct Cost Contingency		
	*Overall Project Contingency:	20.00%	$1,684,355
	Total - Contingency		**$1,684,355**
	Taxes		
	AK Sales Tax	0.00%	$0
	Total - Taxes		**$0**

Median Construction Price - Direct and Indirect	**$10,106,130**
Total Construction Price Range (-30% to +50%)	**$7,074,291 to $15,159,195**

Notes:
All costs based on 2023 Construction Dollars
Does not include: interest during construction, legal, financing, or administration costs.
* Overall Project Contingency is set at 20% due to the current level of project definition and it may be reduced at later stages of design.

McMillen

Eklutna Fish & Wildlife Program
Phase 2 Engineering
Annual Operation and Maintenance Cost Summary
Eklutna River Release Facility

Date: 10/6/2023
By: S. Ellenson
Checked By: J. Boag

Line Item	Item	Full Time Equivalent	Total Hours	Quantity	Unit	Unit Cost (2022)	Cost	Total Cost
1	**Personnel**							**$ 136,929**
2	**Operation**							
3	Facility Technician	0.33	973			$ 70.64	$ 68,749	
4	Facility Operator	0.25	730			$ 68.86	$ 50,268	
5								
6	**Maintenance**							
7	Electrician	0.04	112			$ 84.45	$ 9,484	
8	Mechanic	0.04	112			$ 75.04	$ 8,428	
9								
10								
11	**Transportation**							**$ -**
12								
13								
14								
15	**Power**							**$ 27,913**
16	Valve Operation			3,650	kWh	$ 0.86	$ 3,140	
17	General Site Consumption			28,800	kWh	$ 0.86	$ 24,773	
18								
19								
20								
21								
22	**Materials**							**$ 10,000**
23	Intake Valve			1.0	LS	5000	$ 5,000	
24	River Release Valve			1.0	LS	5000	$ 5,000	
25								
26								
27								
28								
29	**Project Subtotal**							**$ 175,000**
30								
31	**Contingency**			30%	LS			**$ 52,500**
32								
33								
34	**Project Total**							**$ 227,500**

Assumptions:
(1) Flow released through valve year-round
(2) Facility operator is required to visit the site twice per week.
(3) The valve will be fitted with an instrumentation system capable of automated valve position changes to accommodate lake level fluctuations.
(4) Power consumption is estimated based on daily valve position changes and general site power consumption.
(5) A one week outage was assumed for performing inspection and maintenance of the valve shaft.
(6) Electrical and mechanical maintenance support assumes ongoing support for valves and instrumentation system.
(7) Facility operator is a trained local operator with general mechanical skills.
(8) Labor Wages Per State of Alaska Minimum Rates of Pay; September 2023

	Class	Monthly	Hourly
Trap Operator/Truck Driver	A2106		$ 70.64
Trap Technician - Biological Technician	S1201		$ 68.86
Electrician	A0707		$ 84.45
Mechanic - Maint. & Ops. Supervisor	A1601		$ 75.04

FOR IMMEDIATE RELEASE
April 25, 2024

Proposed Final Fish and Wildlife Program sent to Governor

Proposal calls for returning water, creating habitat in Eklutna River

After five years of study, analysis, and stakeholder engagement, Chugach Electric Association, Inc. (Chugach) and Matanuska Electric Association, Inc. (MEA), two of the owners of the Eklutna Hydroelectric Project, have sent the Proposed Final Fish and Wildlife Program (proposed final program) to Governor Mike Dunleavy for his consideration and approval. The submittal follows resolutions approving the proposed final program by the boards of directors of both Chugach and MEA.

The Eklutna Hydroelectric Project is the lowest cost power in Southcentral Alaska. It produces approximately 44% of MEA's renewable generation portfolio and approximately 25% of Chugach's renewable generation portfolio, increases electric grid reliability, and offsets approximately 72,500 metric tons of CO2 equivalent each year. The reservoir also supplies about 90% of the domestic water supply for the Municipality of Anchorage (MOA).

In 1997, Chugach, MEA, and the MOA purchased the hydro project from the federal government. As part of the purchase process, the project owners entered into what's called the 1991 Agreement with the National Marine Fisheries Service, U.S. Fish and Wildlife Service, and the State of Alaska to study the project's impact on fish and wildlife.

The 1991 Agreement required the project owners to initiate a consultation process with the signatories by 2022 to develop and propose to the governor a program to protect, mitigate damages to, and enhance fish and wildlife resources impacted by the project. The project owners initiated that process more than three years early in 2019, expanding the consultation process to include not only the parties to the 1991 Agreement, but also the Native Village of Eklutna (NVE), Eklutna, Inc., The Conservation Fund, Trout Unlimited, Alaska Pacific University, and several other stakeholders interested in the project.

Over the past five years, the project owners, working with stakeholders, compiled and summarized all relevant and existing information, identified information gaps, developed study plans, and conducted two years of studies in the Eklutna River basin. A total of 16 environmental and engineering studies were completed along with a comprehensive alternatives analysis to guide the project owners in the development of a draft program.

After the draft program was released on Oct. 27, 2023, the project owners met with the signatories of the 1991 Agreement and with NVE multiple times in an attempt to resolve differences. In January 2024, six public meetings were held in Anchorage, Eagle River, and

Palmer where over 200 people attended and were provided the opportunity to ask questions and submit comments.

After reviewing all of the comments received, the Project Owners made substantive revisions to the program reflecting negotiations with the parties to the 1991 Agreement and NVE, and are submitting the proposed final program to the Governor. The proposed final program includes the following:

- Construction of the Eklutna River Release Facility and establishment of year-round instream flows in the Eklutna River;
- Automation of the existing outlet gate at the dam to provide periodic channel maintenance flows in the Eklutna River;
- Construction of eight new bridges along the Anchorage Water and Wastewater Utility (AWWU) access road to enable AWWU's access to critical infrastructure year-round following the establishment of instream flows;
- Payment to Chugach State Park for lakeside trail repairs;
- Establishment of a Committee to oversee implementation of the Monitoring and Adaptive Management Plan;
- Funding to conduct monitoring studies in the Eklutna River throughout the 35-year program;
- Funding for physical habitat enhancement in the Eklutna River based on the monitoring results;
- Procedures for the Committee to adaptively manage the flow regime in the Eklutna River based on the monitoring results;
- Provisions for banking water in Eklutna Lake and potentially increasing the water budget for instream flows in the future;
- Potential installation of a fixed wheel gate to accommodate higher inflows in the future and/or allow higher channel maintenance flows if needed; and
- Potential installation of upstream and downstream fish passage facilities that meet specific criteria in the plan.

Approval of the Proposed Final Program will enable the Project Owners to implement these significant fish and wildlife measures at the Project, while simultaneously protecting the municipal water supply and continuing to provide firm, low cost, renewable energy to Southcentral Alaska.

The submittal of the proposed final program to Gov. Dunleavy triggers a 60-day comment period for the 1991 Agreement signatories, followed by a 30-day comment period for the owners. The 1991 Agreement, in giving final authority for the mitigation program to the governor, calls for equal consideration to be given to:

- Efficient and economical power production
- Energy conservation
- Fish and wildlife
- The protection of recreational opportunities

- Municipal water supplies
- The protections of other aspects of environmental quality
- Other beneficial public uses
- The requirements of State law

Although representatives of the MOA, through Anchorage Hydropower, have participated at every step in the process required by the 1991 Agreement for the past five years, the MOA is not participating in the submittal to the Governor. In October 2020, as part of the acquisition of Municipal Light & Power by Chugach, the MOA surrendered its voting rights on the Eklutna Hydroelectric Project and the 1991 Agreement matters until the MOA acquires necessary utility managerial and technical expertise that is approved by the Regulatory Commission of Alaska (RCA). That process has not yet occurred, so according to RCA's orders, the Municipality continues to have no voting rights and cannot participate in or delay decisions related to implementation of the 1991 Agreement at this time.

The final program is posted at www.eklutnahydro.com.

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Eklutna Hydroelectric Project

Proposed Final Fish and Wildlife Program

April 2024

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Terms, Acronyms, and Abbreviations

1991 Agreement	1991 Fish and Wildlife Agreement
ADEC	Alaska Department of Environmental Conservation
ADFG	Alaska Department of Fish and Game
ADNR	Alaska Department of Natural Resources
AEA	Alaska Energy Authority
AWWU	Anchorage Water and Wastewater Utility
cfs	cubic feet per second
Draft Program	Draft Fish and Wildlife Program
fish and wildlife measures	PME measures for fish and wildlife
Final Program	Final Fish and Wildlife Program
Governor	Governor of Alaska
mgd	million gallons per day
MW	megawatt
NMFS	National Marine Fisheries Service
NVE	Native Village of Eklutna
Parties	Chugach, MEA, MOA, NMFS, USFWS, and the State of Alaska
PME measures	protection, mitigation, and enhancement measures
Project	Eklutna Hydroelectric Project
Project Owners	Chugach, MEA, and MOA
Proposed Final Program	Proposed Final Fish and Wildlife Program
USFWS	U.S. Fish and Wildlife Service

1.0 Introduction

The Eklutna Hydroelectric Project (Project) is located in Southcentral Alaska, approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna (NVE). The federal government completed construction of the Project in 1955. Decades later, Chugach Electric Association, Matanuska Electric Association, and the Municipality of Anchorage (collectively the "Project Owners") agreed to purchase the Project and entered into a Purchase Agreement with the federal government in 1989. Shortly thereafter, concerns were raised about the Project's potential impacts on fish and wildlife. This led to the execution of a binding agreement in 1991 (referred to as the "1991 Agreement") amongst the Project Owners, National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the State of Alaska (collectively the "Parties") that requires the Project Owners to (1) study the Project's impacts to fish and wildlife, (2) develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the development of the Project, (3) consider the impact of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use, and (4) identify available means to mitigate these impacts. The Project Owners must repeat this process every 35 years and it replaces regulation by the Federal Energy Regulatory Commission. The sale of the Project was authorized by U.S. Congress in 1995, and the Project was sold to the Project Owners in October 1997.

Per the 1991 Agreement, the Project Owners were required to initiate this process no later than 25 years after the sale of the Project. Since the Project was sold in October 1997, the Project Owners were not required to initiate this process until October 2022. However, in order to allow adequate time for a comprehensive analysis, the Project Owners initiated the process in March 2019, more than three years early. After several years of study and consultation with all interested stakeholders detailed in the Supporting Information Document, the Project Owners issued a Draft Fish and Wildlife Program (Draft Program) as required in the 1991 Agreement in October 2023. The Project Owners met with the Parties and the Native Village of Eklutna several times from December 2023 through March 2024 to attempt to resolve differences. They also held six public meetings in January 2024 to solicit public comments. After considering all comments received, and giving due weight to the recommendations and expertise of the Parties and the Native Village of Eklutna, the Project Owners have developed this Proposed Final Fish and Wildlife Program (Proposed Final Program) for submittal to the Governor.

Accordingly, the Project Owners are excited for the next phase of the Project. Details of the Proposed Final Program are described in subsequent sections and include the following:

- Construction of the Eklutna River Release Facility and establishment of year-round instream flows in the Eklutna River;
- Automation of the existing outlet gate at the dam to provide periodic channel maintenance flows in the Eklutna River;
- Construction of eight new bridges along the Anchorage Water and Wastewater Utility (AWWU) access road to enable AWWU's access to critical infrastructure year-round following the establishment of instream flows;
- Payment to Chugach State Park for lakeside trail repairs;
- Establishment of a Committee to oversee implementation of the Monitoring and Adaptive Management Plan;
- Funding to conduct monitoring studies in the Eklutna River throughout the 35-year program;
- Funding for physical habitat enhancement in the Eklutna River based on the monitoring results;
- Procedures for the Committee to adaptively manage the flow regime in the Eklutna River based on the monitoring results;
- Provisions for banking water in Eklutna Lake and potentially increasing the water budget for instream flows in the future;
- Potential installation of a fixed wheel gate to accommodate higher inflows in the future and/or allow higher channel maintenance flows if needed; and
- Potential installation of upstream and downstream fish passage facilities that meet specific criteria.

Approval of the Proposed Final Program will enable the Project Owners to implement these significant fish and wildlife measures at the Project, while simultaneously protecting the municipal water supply and continuing to provide low cost, renewable energy to Southcentral Alaska. The Project Owners anticipate the Governor's issuance of a Final Fish and Wildlife Program by October 2024.

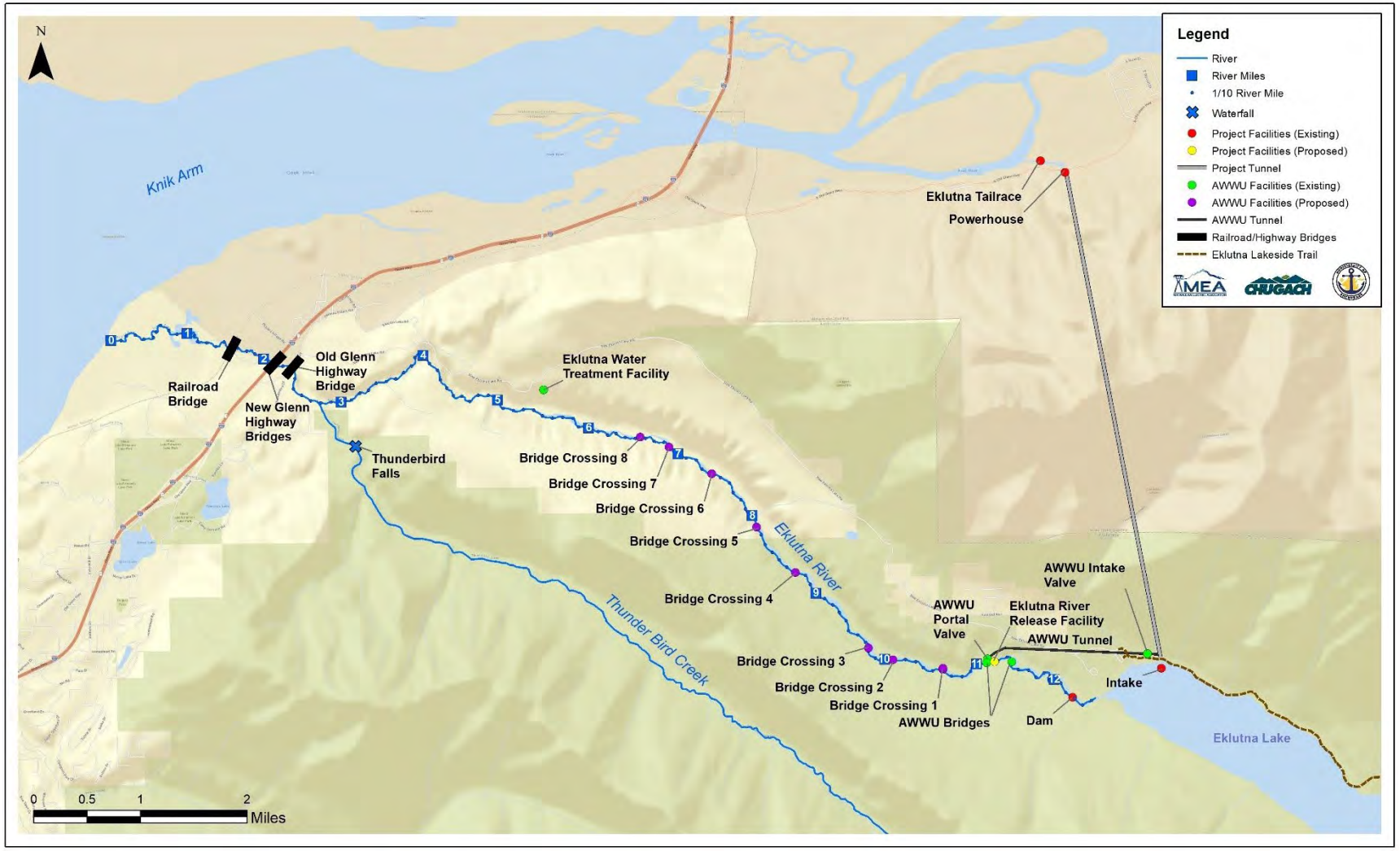

Figure 1-1. Existing and Proposed Infrastructure.

2.0 Protection, Mitigation, and Enhancement Measures

The Project Owners will continue to operate the Project in a manner consistent with the current operating procedures. In addition, The Project Owners will implement the following protection, mitigation, and enhancement (PME) measures for fish and wildlife habitat, the municipal water supply, and recreational facilities.

2.1 Year-Round Instream Flows

2.1.1 Eklutna River Release Facility

In order to provide year-round instream flows to the Eklutna River for fish and wildlife habitat, the Project Owners will construct a new valve and release structure located adjacent to the existing Anchorage Water and Wastewater Utility (AWWU) portal valve approximately one mile downstream of Eklutna Dam. The proposed infrastructure, referred to as the Eklutna River Release Facility, will consist of a tee off the existing 54-inch pipeline that conveys water from Eklutna Lake as part of AWWU's Eklutna Water Project and new control valves to bypass water into the Eklutna River. The 30% design drawings for the Eklutna River Release Facility are provided in the Supporting Information Document. The infrastructure included as part of the 30% level of design for the Eklutna River Release Facility is as follows:

- Construction of a new isolation gate structure immediately upstream of the AWWU portal valve shaft;
- Replacement of approximately 25-ft of existing pipeline with a newly fabricated steel 54-inch x 42-inch tee;
- Installation of a 54-inch gate valve on the main segment of pipe intended to provide dual means of isolation for AWWU's pipeline segment P-4;
- Installation of a 42-inch gate valve on the branch segment intended to provide isolation to the river release structure;
- Installation of a draining and filling system around each isolation valve;
- Installation of a pressure monitoring system and flow meter to provide dual redundancy to AWWU's portal release valve facility;
- Construction of a new river release structure approximately 30-ft downstream of the isolation gate structure;

- Installation of a 30-inch sleeve valve or alternative energy dissipation valve to control flow into the Eklutna River;
- Installation of a flow monitoring system to monitor flow releases into the Eklutna River;
- Construction of a bypass channel from the river release structure to the Eklutna River; and
- Upgrades to communication infrastructure to provide direct communication between the Eklutna River Release Facility, AWWU portal valve shaft, AWWU intake valve shaft, Eklutna Water Treatment Facility, and the Eklutna Power Plant.

The addition of this release facility on the existing Eklutna Water Project will not reduce or impact flow available for water supply purposes, as required by state law. Flow releases through the facility will be limited to a maximum of 80 cfs to protect the AWWU valves and pipeline. The closure rate of the proposed river release valve will be set to keep transient pressures within the rating of the lake diversion tunnel and AWWU pipeline. Additional instrumentation including new flow meters and pressure transducers will be installed to monitor the new facility and protect AWWU infrastructure in the event of an emergency.

The current design allows the AWWU pipeline to be dewatered for maintenance, and in the event of a pipeline rupture, it allows for emergency closure at the AWWU portal valve, in both cases allowing continued operation of the Eklutna River Release Facility. Any maintenance activities that may be required to replace the intake valve shaft will be planned for the fall when the lake level is high and instream flows can be released through the existing outlet gate at the dam.

The Project Owners have closely coordinated with AWWU throughout the preliminary design of the Eklutna River Release Facility and will obtain AWWU approval on all final designs related to AWWU infrastructure. The Project Owners and AWWU have also discussed the water transportation services, compensation, and water rights issues that need to be resolved in order to utilize AWWU infrastructure for providing instream flows to the Eklutna River. A summary of proposed arrangements with AWWU is set forth in the Supporting Information Document. Upon the Governor's approval, the Project Owners will enter into long-term agreements with AWWU following, and subject to, all necessary approvals. If such approvals are delayed or are not able to be obtained, the Project Owners will continue with the other PME measures outlined in this program to the degree possible.

2.1.2 Default Year-Round Instream Flow Regime

Once construction is complete, the Project Owners will utilize the existing Project intake, excess capacity in the AWWU tunnel, and new Eklutna River Release Facility to provide year-round instream flows to approximately 11 out of 12 miles of the Eklutna River. The default year-round instream flow regime, shown in Table 2-1 and Figure 2-1, varies seasonally and was developed based on field studies and modeling.

Table 2-1. Default Year-Round Instream Flow Regime.

Month	Flow (cfs)	Volume (acre-feet)
January	27	1,660
February	27	1,500
March	27	1,660
April	27	1,607
May	34	2,060
June	40	2,380
July	40	2,460
August	40	2,460
September	40	2,380
October	40	2,460
November	34	1,993
December	27	1,660
Total	-	**24,280**

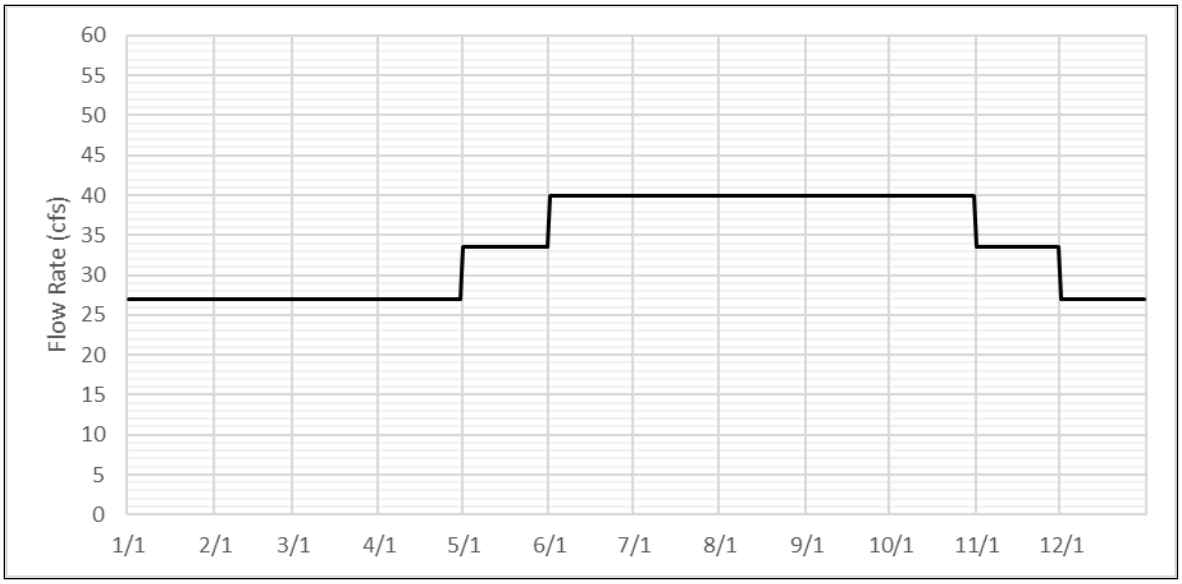

Figure 2-1. Default Year-Round Instream Flow Regime.

The default winter flow releases (27 cfs) when combined with natural accretion in the Eklutna River should promote favorable ice conditions to protect redds during incubation and provide overwintering habitat for juvenile salmon in the Eklutna River.

The default summer flow releases (40 cfs) when combined with natural accretion in the Eklutna River should (1) significantly increase the available spawning habitat for Chinook, coho, pink, and chum salmon, (2) provide sufficient flows for migrating adult salmon to navigate the potential upstream passage barriers identified in the confined canyon reach, and 3) provide additional rearing habitat for salmon.

The default November flow releases (34 cfs) reflect a downramping rate of less than 1 to 2 inches per hour to reduce the risk of any fish stranding downstream when transitioning from summer flows to winter flows.

The total volume of water to be released annually from Eklutna Lake into the Eklutna River for year-round base flows is 24,280 acre-ft/yr, equivalent to approximately 10% of the average annual inflow to the lake.

2.2 Channel Maintenance Flows

2.2.1 Existing Outlet Gate

In order to provide periodic channel maintenance flows to the Eklutna River, the Project Owners will automate the existing outlet gate within the base of the spillway at Eklutna Dam so that it can be controlled remotely. The 30% design drawings for automating the gate are

provided in the Supporting Documentation Document. The infrastructure included as part of the 30% level of design for automating the existing outlet gate is as follows:

- Replacement of existing manual actuator for the dam outlet gate with electric motor actuator with position sensing;
- Construction of new access platform and stilling well with level transducer to measure water surface elevation in Eklutna Lake; and
- Installation of 0.5 miles of new buried power line from Eklutna Lake Road to the dam.

The 30-inch by 30-inch outlet gate has a maximum capacity of approximately 190 cfs at the normal maximum water surface elevation of El 871.0 ft.

2.2.2 Channel Maintenance Flow Regime

Once year-round instream flows have been established in the Eklutna River and the existing outlet gate has been automated, the Project Owners will use both the Eklutna River Release Facility and the automated outlet gate to provide periodic channel maintenance flows to the Eklutna River. The default channel maintenance flow, shown in Table 2-2 and Figure 2-2, was developed based on field studies, modeling, and peak flow statistics in similar unmanaged Alaskan rivers and is shaped to resemble a natural peak flow hydrograph.

Table 2-2. Default Channel Maintenance Flow Releases.

Steps	Duration (hours)	Total Flow (cfs)	Base Flow (cfs)	Additional Flow (cfs)	Additional Volume (acre-feet)
1	3	150	40	110	27
2	3	200	40	160	40
3	36	220	40	180	535
4	12	200	40	160	159
5	6	160	40	120	59
6	6	140	40	100	50
7	6	110	40	70	35
8	6	90	40	50	25
9	6	80	40	40	20
10	6	70	40	30	15
11	4	60	40	20	7
Total for 1 flow	**94**	-	-	-	**971**
Total for 3 flows	**282**	-	-	-	**2,913**

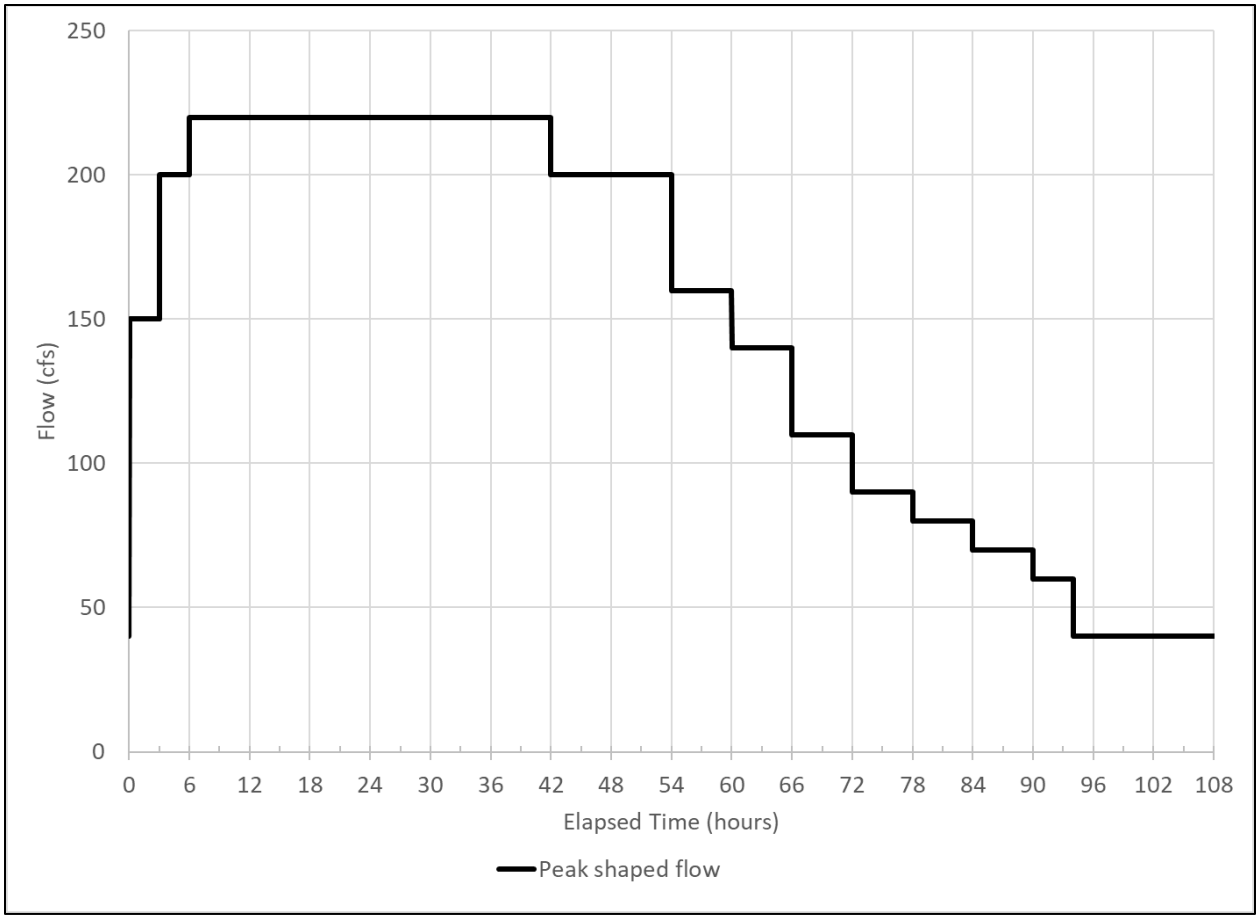

Figure 2-2. Default Channel Maintenance Flow Releases.

The default channel maintenance flow (peaking at 220 cfs for 36 hours) should complement the base flow regime and help create and maintain channel dimensions and substrate characteristics to support physical fish habitat over the long term.

The default downramping schedule (steps 4-11 in Table 2-2) reflects a downramping rate of less than 1 to 2 inches per hour to reduce the risk of any fish stranding downstream when transitioning back to base flows.

Channel maintenance flows will be conducted in the fall when the lake level is highest. The default schedule calls for the Project Owners to conduct a channel maintenance flow in years 2, 5, and 8 of each 10-year period. The first 10-year period will start with the first full calendar year after year-round instream flows are established. The total volume of water to be released in a 10-year period from Eklutna Lake into the Eklutna River for channel maintenance flows is 2,913 acre-ft. Any spill event that exceeds 220 cfs for 36 hours will count as one of the required channel maintenance flows for the current 10-year period.

The intent of providing flexibility in scheduling channel maintenance flows is to allow the Project Owners to take advantage of wet water years. If a planned channel maintenance flow coincides with a dry water year, the Project Owners may choose to postpone the channel maintenance flow to a subsequent year in the current 10-year period. However, if it is already the final year in the current 10-year period, then to the extent possible the Project Owners will curtail generation in order to raise the lake level high enough to achieve the desired flow rate. If due to unforeseen circumstances the Project Owners are unable to provide all three channel maintenance flows in any given 10-year period, then the Project Owners will provide the missed channel maintenance flows in the subsequent 10-year period.

2.3 Flow Monitoring

In order to monitor the year-round flow releases into the Eklutna River, the Project Owners will install a flow meter on the river release pipeline within the Eklutna River Release Facility. The accuracy of this meter is anticipated to utilize the ultrasonic transit time method and have an accuracy of ±1%.

In order to monitor channel maintenance flow releases into the Eklutna River, the Project Owners will utilize the rating curve for the existing outlet gate to calculate flow as a function of gate position and water surface elevation in the reservoir. The gate position will be monitored remotely via a new position feedback sensor within the electric motor operator of the gate. To monitor the water surface elevation of the reservoir, a new stilling well and pressure transducer will be located upstream of the gate within the entrance to the Eklutna Dam spillway channel. The addition of this transducer will avoid any potential inaccuracies with the existing USGS gauge measuring water surface elevation near the Project intake. The flow measurement at the gate is anticipated to have an accuracy of ±2%.

2.4 AWWU Bridges

Providing year-round instream flows to the Eklutna River will likely make all of the existing ford crossings along the AWWU access road impassable for most of the year. To mitigate these potential impacts, the Project Owners will construct eight new bridges, one at each of the existing ford crossings to allow AWWU year-round access to the AWWU pipeline for maintenance. The new bridges will be designed to pass the same flows as the two existing AWWU bridges. The existing ford crossings will be removed to prevent anyone from attempting to drive through the riverbed in the future. The 15% design drawings for the new AWWU bridges are provided in the Supporting Information Document. The Project Owners will obtain AWWU approval on all final designs related to AWWU infrastructure and will work with AWWU to obtain all necessary permits and easements as may be necessary.

2.5 Recreation

2.5.1 Lakeside Trail Repairs

The Project Owners operate the Project to not spill any water. However, due to various circumstances, spill events have occurred in the past. During past spill events, high lake levels have caused erosion along discrete segments of the lakeside trail. Chugach State Park has received $234,000 in funding for general lakeside trail repairs. Within 120 days of the Governor's approval or by January 31, 2025, whichever comes later, the Project Owners will provide a one-time payment of $234,000 to Chugach State Park (or another entity as directed by Chugach State Park) for lakeside trail repairs that address erosion impacts. This funding match brings the total budget for lakeside trail repairs to $468,000. State Parks will be responsible for seeking and obtaining approval from Eklutna, Inc. if needed. The Project Owners will not be responsible for funding the repair of any future erosion impacts to the lakeside trail that may result from continued Project operations.

2.5.2 Annual Powerhouse Maintenance

The Project Owners conduct annual maintenance activities that require Project shutdown for approximately two weeks every year. In order to avoid having multiple generation assets offline at the same time, the Project Owners coordinate with the other Railbelt utilities when scheduling the annual maintenance shutdown for the Project. In some previous years, this annual maintenance shutdown has coincided with peak fishing times and has had a negative impact on the tailrace fishery. The Project Owners will endeavor to avoid peak fishing times when scheduling the annual maintenance shutdown and any other maintenance activities that would require Project shutdown, taking into consideration the overall system maintenance needs.

2.5.3 Public Access to the Eklutna River

There is currently no free, un-permitted public access to most of the Eklutna River. The land under and surrounding the Eklutna River is largely owned by Eklutna, Inc., which requires permits for access to the Eklutna River. The Project Owners are therefore requesting that Eklutna, Inc. provide free, non-permitted public access to the Eklutna River once the ADFG Board of Fisheries has determined that the Eklutna River fishery for Chinook, coho, or sockeye salmon is sustainable and can be opened for recreational fishing.

3.0 Monitoring and Adaptive Management Plan

The PME measures described in the previous sections are based on the results of field studies, modeling, and extensive consultation. However, the Project Owners recognize there is some inherent uncertainty in modeling and physical habitat conditions in the Eklutna River will evolve over time. Therefore, the following Monitoring and Adaptive Management Plan will be implemented. This approach allows for flexibility and adjustments to PME measures, if needed.

3.1 Committee

Upon the Governor's issuance of the Final Fish and Wildlife Program, a Monitoring and Adaptive Management Committee (Committee) will be established to execute the Monitoring and Adaptive Management Plan. The Committee will consist of one voting representative from each of the following entities: ADFG, ADNR, NMFS, USFWS, and NVE. The Committee will make decisions through consensus, and the Committee chair will be selected by the members of the Committee. One or more representatives from the Project Owners will serve as non-voting participants on the Committee to provide technical expertise about Project operations. All voting and non-voting representatives named to serve on the Committee should possess the technical expertise necessary to carry out the responsibilities of the Committee and should ideally be local to the Project area. Each entity shall bear all costs for its representative to participate on the Committee.

Once the Committee is established, it will develop appropriate evaluation criteria for the Fish and Wildlife Program. These evaluation criteria will help inform monitoring efforts and adaptive management decisions. Decisions made by the Committee shall not be imputed to the Project Owners; implementation of actions pursuant to guidance provided by the Committee shall not create liability to the Project Owners.

3.2 Monitoring

The Project Owners will provide a total of $450,000 in April 2024 U.S. dollars (see Section 5.0) to ADFG over the length of the Program to fund additional monitoring efforts in the Eklutna River. The Committee will develop a plan to monitor aquatic habitat conditions and fish utilization in the Eklutna River and the straying rate of hatchery fish from the Eklutna Tailrace to the Eklutna River. The Committee may pursue other funding sources to supplement the monitoring budget if desired. ADFG will implement the monitoring plan based on direction from the Committee and must request funds from the Project Owners by July 1 each year based on the planned monitoring efforts for the subsequent year. The Project Owners will then budget accordingly and submit payment to ADFG by January 31 of the subsequent year.

Reports that summarize the various monitoring results will be prepared by ADFG and provided to the Committee by February 1 each year. The Committee will review and provide a composite report to the Project Owners by March 1 each year. The Committee shall maintain a database/archive for all monitoring results and reports.

3.3 Adaptive Management

3.3.1 Water Budget

The total volume of water available for release into the Eklutna River in the first water year (June 1 to May 31) following completion of the Eklutna River Release Facility is 24,280 acre-feet. This is based on the default year-round instream flow regime. An additional 24,280 acre-feet will become available at the beginning of each subsequent water year. An additional 2,913 acre-feet of water will become available at the beginning of each 10-year period, starting the first water year after instream flows are initiated. This is based on the default channel maintenance flow being released three times in each 10-year period.

3.3.2 Water Banking

If the entire annual water budget (24,280 acre-feet) is not released into the Eklutna River in a given water year, either intentionally or unintentionally, then that "banked water" can be released in subsequent water years with the following limitations: (1) water can only be banked for up to 5 years, (2) no more than 50% of the total annual water budget can be banked at any given time; and (3) in the event of any unplanned spill event at the Project, banked water is spilled first.

The additional water budget for each 10-year period (2,913 acre-feet) must be used within that period and cannot be carried over to the following 10-year period. However, as described in Section 2.2.2, if due to unforeseen circumstances the Project Owners are unable to provide all of the planned channel maintenance flows in any given 10-year period, then the Project Owners will provide the missed channel maintenance flows in the subsequent 10-year period.

3.3.3 Allocation of Additional Inflow

Climate change is anticipated to cause increased glacial melt in the coming decades. Increased glacial melt would likely result in more inflow to Eklutna Lake, and therefore more water available for both hydropower generation and instream flows. Because of this, the Project Owners will calculate the inflows to Eklutna Lake each year using the available lake level and flow monitoring data. Then 10 years after instream flows are established, the Project Owners will compare the average annual inflows to Eklutna Lake for the last 10 years to the previous 10-year period. Any increase in average annual inflows will be split 50/50 between

hydropower and the annual water budget for instream flows. If there is a decrease in average annual inflows, the annual water budget for instream flows will not be decreased. The Project Owners will repeat this process every 10 years.

3.3.4 Water Accounting Report

The Project Owners will prepare an annual report that summarizes (1) the inflows to Eklutna Lake, (2) instream flow releases, and (3) channel maintenance flow releases for all prior water years as well as the available water budget for the upcoming water year and provide it to the Committee by March 1 each year.

3.3.5 Requests to Modify the Flow Regime

Based on the results of the monitoring program, the Committee may request modifications to the default year-round instream flow regime and/or the magnitude, duration, frequency, or shape of the scheduled channel maintenance flow releases, as long as (1) the requested flows do not exceed the operational limitations of the Project infrastructure, and (2) the ramping rates conform to fisheries ramping rate requirements. If the total volume of water to be released exceeds the available water budget (which includes any banked water that may be available), then that deficit will be carried over into the next water year.

The Committee must provide a 60-day notice to the Project Owners for any requests to modify the default year-round instream flow regime or the default channel maintenance flow schedule. If the requested flows exceed the operational limitations of the Project infrastructure, the available water budget, or the approved ramping rates, then the Project Owners may reject the requested flow modifications. If the Project Owners reject the requested flow modifications, then they must notify the Committee so that the Committee may request alternative flows if desired. The Committee may request modifications to flows within 60 days; however, the Project Owners are not required to meet the request if it is not operationally feasible.

3.3.6 Physical Habitat Enhancement

The Project Owners will provide a total of $350,000 in April 2024 U.S. dollars (see Section 5.0) to ADFG during the Program to fund physical habitat enhancement and vegetation management efforts in the Eklutna River. The Committee will develop a plan to implement physical habitat enhancement and vegetation management efforts in the Eklutna River. These efforts will focus on enhancing rearing habitat in the Eklutna River. All physical habitat enhancement and vegetation management efforts must occur downstream of the Eklutna River Release Facility. The Committee may pursue other funding sources to supplement the physical habitat enhancement and vegetation management budget if desired. ADFG will implement the

plan based on direction from the Committee and must request funds from the Project Owners by July 1 each year based on the planned physical habitat enhancement and vegetation management efforts for the subsequent year. The Project Owners will then budget accordingly and submit payment to ADFG by January 31 of the subsequent year.

Reports that summarize the various physical habitat enhancement and vegetation management efforts will be prepared by ADFG and provided to the Committee by February 1 each year. The Committee will review and provide a composite report to the Project Owners by March 1 each year. The Committee shall maintain a database/archive for all physical habitat enhancement and vegetation management reports.

The Project Owners are not responsible for responding to natural processes that result in undesirable conditions in the river such as debris flow associated with precipitation or earthquakes, beaver activity, large wood build-up, etc.

3.4 Annual Meeting

The Committee will meet annually in April of each year to (1) review the results of the monitoring efforts conducted in the previous calendar year, (2) review the available water budget for the upcoming water year, (3) discuss any potential adaptive management actions for the upcoming water year, and (4) determine what monitoring efforts and/or physical habitat enhancement should be conducted in the subsequent calendar year. The Committee must notify the Project Owners of any planned monitoring efforts and/or physical habitat enhancement activities for the subsequent calendar year by July 1 so that the Project Owners can budget accordingly.

4.0 Limited Reopeners

Per the 1991 Agreement, the Project Owners are required to repeat this process every 35 years and must initiate the next process by October 2057. In addition, the Project Owners are required to repeat this process before making any major structural or operational modification to the Project that would substantially affect water usage or fish and wildlife. The following two limited reopeners are intended to enable consideration and potential execution of the specified structural and operational modifications during the period between processes without triggering the need to repeat this entire process outlined in the 1991 Agreement.

As set forth below, the two limited reopeners may occur no sooner than 10 years following completion of the Eklutna River Release Facility (Section 2.1.1) and establishment of year-round instream flows (Section 2.1.2). If the Eklutna River Release Facility and instream flows are delayed due to any reason such as litigation or appeals of the Final Fish and Wildlife Program or a failure to complete permitting or gain necessary approvals, the 10-year timeframe leading to the reopeners will be delayed until such time as the Eklutna River Release Facility is completed and the instream flows established.

4.1 Fixed Wheel Gate

During the consultation process, several stakeholders requested that the existing overflow spillway be replaced with a fixed wheel gate because either (1) climate change may cause inflows to the reservoir to increase significantly, which may increase the likelihood of future spill events, and a fixed wheel gate will allow the Project Owners to better manage those future spill events, or (2) while modeling results show that the default channel maintenance flow regime will maintain spawning gravels in the wetted reach of the Eklutna River, future monitoring may show that a higher magnitude channel maintenance flow that exceeds the combined hydraulic capacity of the existing outlet gate and the Eklutna River Release Facility may be warranted. Replacement of the existing overflow spillway with a new fixed wheel gate was evaluated during the study program and alternatives analysis and the Project Owners determined that it was not warranted at this time due to significant dam safety concerns, and the need for future monitoring. Recognizing that the fixed wheel gate might be warranted in the future, however, the Project Owners will continue to investigate the fixed wheel gate as described below and will construct it if certain criteria are met.

Within three years of the Governor's issuance of the Final Fish and Wildlife Program, the Project Owners will conduct a more detailed feasibility study of the fixed wheel gate (including a stability analysis and Class 3 cost estimate). The Project Owners will report the results of that analysis to the Committee.

If the fixed wheel gate is considered feasible and cost effective, then on the 10th anniversary after initiating instream flows, the Project Owners will confer with the Committee to reevaluate the need for the fixed wheel gate. If the monitoring efforts during that 10-year period indicate that (1) average annual inflows to the lake have increased by 20,000 acre-feet, or (2) the Committee determines that higher channel maintenance flows are warranted to maintain spawning gravels, then the Project Owners will commit up to $10M in April 2024 U.S. dollars (see Section 5.0) to demolish the existing overflow spillway and construct a new fixed wheel gate.

If the demolition/construction costs are estimated to be less than $10M in April 2024 U.S. dollars, then the Project Owners will obtain necessary permits, demolish the existing overflow spillway, and construct a new fixed wheel gate. If the demolition/construction costs are estimated to be greater than $10M in April 2024 U.S. dollars, then the Committee may seek supplemental funding payable to the Project Owners from other sources. If the supplemental funding is federal funding and triggers additional NEPA requirements, then the Committee will be responsible for ensuring that outside funding is available and payable to the Project Owners in order to meet those requirements. Upon receipt of such supplemental funding, the Project Owners will obtain necessary permits, demolish the existing overflow spillway, and construct a new fixed wheel gate.

This is a limited reopener and will not reopen any other components of the Fish and Wildlife Program or trigger the process requirements outlined in the 1991 Agreement. Governor approval of the decision to replace the fixed wheel gate will not be required.

4.2 Fish Passage

During the consultation process, several stakeholders requested that upstream fish passage of adult salmon into Eklutna Lake and downstream fish passage of juvenile salmon out of Eklutna Lake be evaluated. All fish passage measures proposed by the Project Owners and other stakeholders were evaluated during the study program and alternatives analysis. See alternatives analysis in Supplemental Information Document. All of the volitional upstream fish passage measures that were evaluated either (1) would have significant impacts to the hydropower project (i.e., would reduce the storage capacity of the reservoir by approximately 40% or would require the Project to be shutdown throughout the winter when energy is needed most), or (2) are cost prohibitive (the estimated present worth for the stakeholders' preferred alternatives that included volitional fish passage ranged from $221M to $385M including capex, operations and maintenance, and replacement energy). In addition, there are still significant concerns regarding the effectiveness of all the downstream fish passage facilities studied (i.e., low attraction flow velocities and/or the inability to operate the

downstream fish passage facilities while the lake is frozen over). Therefore, fish passage measures are not proposed at this time.

Nonetheless, the Project Owners recognize that fish passage may become feasible in the future and fish passage is important to NVE, the federal and state agencies, and others who have commented on the Draft Program. If a new, proven methodology or technology becomes available, then the Committee may reevaluate the potential for the construction and operation of fish passage facilities both into and out of Eklutna Lake on its own initiative or at the request of any of the resource agencies or NVE. Any fish passage measures must meet the following criteria:

1. Fish passage facilities must be safe and effective for human health, the environment, and operations of the Project, the Eklutna River Release Facility, and AWWU's Eklutna Water Project and its water supply;

2. Fish passage facilities must address both upstream and downstream fish passage for anadromous fish (i.e., no effective upstream passage without effective downstream passage);

3. Fish passage facilities cannot affect reservoir operations in a manner that would cause AWWU operation shutdown for any amount of time or Project shutdown for more than two weeks annually (except during construction);

4. Fish passage facilities cannot result in more than 10% loss of storage capacity in the reservoir (i.e., the active storage capacity in the reservoir cannot be reduced by more than 17,480 acre-feet);

5. Fish passage facilities must operate within the available water budget administered by the Committee.

Because fish passage into the lake has the potential to impact recreational use or facilities within Chugach State Park and/or the water quality of the municipal water supply, both of these potential impacts must be evaluated by the Committee. The Committee must also consult with the State Park and AWWU regarding any such impacts and the appropriate mitigation for those impacts. The Committee must ultimately obtain written consent or approval from both the State Park and AWWU for any proposed fish passage measures, including the construction schedule.

The cost of any fish passage measures (including scientific studies, engineering, construction, operation, maintenance, and mitigation for any impacts to recreational use or facilities and/or

the municipal water supply, etc.) must be completely funded by parties other than the Project Owners.

At any time more than 10 years after initiating instream flows, if (1) the Committee has identified fish passage measures that meet all of the listed criteria, (2) the Committee has obtained written consent or approval from both the State Park and AWWU, (3) the Committee has obtained the necessary funding for all fish passage measures, and (4) the Anadromous Waters Catalog maintained by ADFG has been updated to reflect that migrating or spawning adult sockeye salmon have been documented within 1 mile of the Eklutna River Release Facility, then the Committee may propose those fish passage measures to the Project Owners with supporting information. As long as all of the above criteria and prerequisites are met, then the Project Owners will support the development and operation of the proposed fish passage facilities. The Project Owners may choose to waive criteria numbers 3, 4, and/or 5 upon unanimous decision, provided that AWWU must independently consent or approve fish passage measures affecting its facilities or its water supply.

Upon receiving a statement of support from the Project Owners, the Committee and the Project Owners will coordinate and cooperate to obtain the Governor's approval of the proposed fish passage measures. Governor approval of the decision to add the fish passage facilities will be required.

If the Governor approves the proposed fish passage measures, then the 35-year timeframe requirement to repeat the consultation process required by the 1991 Agreement will restart from the date the Governor's approval.

The construction schedule must minimize impacts to Project operations. The Project Owners will oversee all construction activities and will support the development and operation of the fish passage facilities. However, the Project Owners will not operate the fish passage facilities and will be held harmless from the development and operation of such facilities.

This is a limited reopener and will not reopen any other components of the Fish and Wildlife Program.

5.0 Funding Commitments and Inflation Adjustment

All monetary amounts in this Proposed Final Program are in 2024 U.S. dollars, unless otherwise stated. All monetary amounts will be adjusted annually for inflation using a 15-year rolling average reflected in the Bureau of Labor Statistics' Urban Alaska Consumer Price Index (CPI-U) (as currently reported by State of Alaska Department of Labor and Workforce Development at https://live.laborstats.alaska.gov/cpi/table).

Eklutna Hydroelectric Project

Supporting Information Document

April 2024

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Attachment I. Design Documentation Reports

Terms, Acronyms, and Abbreviations

1991 Agreement	1991 Fish and Wildlife Agreement
ADEC	Alaska Department of Environmental Conservation
ADFG	Alaska Department of Fish and Game
ADNR	Alaska Department of Natural Resources
ADOT&PF	Alaska Department of Transportation and Public Facilities
AEA	Alaska Energy Authority
AF	acre-feet
AL&P	Anchorage Light & Power
APU	Alaska Pacific University
ARRC	Alaska Railroad Corporation
AWWU	Anchorage Water and Wastewater Utility
CEA	Chugach Electric Association, Inc.
cfs	cubic feet per second
CIAA	Cook Inlet Aquaculture Association
Draft Program	Draft Fish and Wildlife Program
EPA	Environmental Protection Agency
EUOC	Enterprise and Utility Oversight Committee
FERC	Federal Energy Regulatory Commission
Final Program	Final Fish and Wildlife Program
ft	feet
Governor	Governor of Alaska
IHN	Infectious Hematopoietic Necrosis
IIP	Initial Information Package
MEA	Matanuska Electric Association, Inc.
MGD	million gallons per day
MOA	Municipality of Anchorage
MW	megawatt
NMFS	National Marine Fisheries Service
NVE	Native Village of Eklutna
OHA	Office of History and Archaeology
OPCC	Opinion of Probable Construction Costs
Parties	CEA, MEA, MOA, NMFS, USFWS, and the State of Alaska
PME	protection, mitigation, and enhancement
Project	Eklutna Hydroelectric Project
Project Owners	CEA, MEA, and MOA
Proposed Final Program	Proposed Final Fish and Wildlife Program
RCA	Regulatory Commission of Alaska

resource management agencies	USFWS, NMFS, ADFG, ADEC, and ADNR
RM	river mile
State	State of Alaska
State Parks	ADNR Division of Parks and Outdoor Recreation
TCF	The Conservation Fund
TEK	Traditional Ecological Knowledge
Transaction Date	October 2, 1997
TU	Trout Unlimited
TWG	Technical Work Group
USACE	U.S. Army Corps of Engineers
USBR	U.S. Bureau of Reclamation
USFWS	U.S. Fish and Wildlife Service

1.0 Introduction

The Eklutna Hydroelectric Project (Project) is located in Southcentral Alaska, approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna (NVE). The federal government completed construction of the Project in 1955. Decades later, Chugach Electric Association (CEA), Matanuska Electric Association (MEA), and the Municipality of Anchorage (MOA) (collectively the "Project Owners") agreed to purchase the Project and entered into a Purchase Agreement with the federal government in 1989. Shortly thereafter, concerns were raised about the Project's potential impacts on fish and wildlife and a desire to avoid federal regulation. This led to the execution of a binding agreement in 1991 (referred to as the "1991 Agreement") amongst the Project Owners, National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the State of Alaska (collectively the "Parties") that requires the Project Owners to (1) study the Project's impacts to fish and wildlife, (2) develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the development of the Project, (3) consider the impact of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use, and (4) identify available means to mitigate these impacts. The Project Owners must repeat this process every 35 years and it replaces regulation by the Federal Energy Regulatory Commission (FERC). The sale of the Project was authorized by U.S. Congress in 1995, and the Project was sold to the Project Owners in October 1997.

Per the 1991 Agreement, the Project Owners were required to initiate this process no later than 25 years after the sale of the Project. Since the Project was sold in October 1997, the Project Owners were not required to initiate this process until October 2022. In order to allow meaningful consultation process and adequate time for a comprehensive analysis, the Project Owners initiated the process in March 2019, more than three years early. After several years of study and consultation with all interested stakeholders detailed in the Supporting Information Document, the Project Owners issued a Draft Fish and Wildlife Program (Draft Program) as required in the 1991 Agreement in October 2023. The Project Owners met with the Parties and NVE several times from December 2023 through March 2024 to attempt to resolve differences. They also held six public meetings in January 2024 to solicit public comments. After considering all comments received, and giving due weight to the recommendations and expertise of the Parties and NVE, the Project Owners have developed this Proposed Final Fish and Wildlife Program (Proposed Final Program) for submittal to the Governor.

Accordingly, the Project Owners are excited for the next phase of the Project. The Proposed Final Program includes the following:

- Construction of the Eklutna River Release Facility and establishment of year-round instream flows in the Eklutna River;
- Automation of the existing outlet gate at the dam to provide periodic channel maintenance flows in the Eklutna River;
- Construction of eight new bridges along the Anchorage Water and Wastewater Utility (AWWU) access road to enable AWWU's access to critical infrastructure year-round following the establishment of instream flows;
- Payment to Chugach State Park for lakeside trail repairs;
- Establishment of a Committee to oversee implementation of the Monitoring and Adaptive Management Plan;
- Funding to conduct monitoring studies in the Eklutna River throughout the 35-year program;
- Funding for physical habitat enhancement in the Eklutna River based on the monitoring results;
- Procedures for the Committee to adaptively manage the flow regime in the Eklutna River based on the monitoring results;
- Provisions for banking water in Eklutna Lake and potentially increasing the water budget for instream flows in the future;
- Potential installation of a fixed wheel gate to accommodate higher inflows in the future and/or allow higher channel maintenance flows if needed; and
- Potential installation of upstream and downstream fish passage facilities that meet specific criteria.

Approval of the Proposed Final Program will enable the Project Owners to implement these significant fish and wildlife measures at the Project, while simultaneously protecting the municipal water supply and continuing to provide low cost, renewable energy to Southcentral Alaska. The Project Owners anticipate the Governor's issuance of a Final Fish and Wildlife Program (Final Program) by October 2024.

This Supplement Information Document sets forth in a single document a description of the Project, its components and operations, the requirements of the 1991 Agreement, and a detailed summary of process and considerations leading to the Proposed Final Program. This

document also provides a guide to the large quantity of supporting information gathered and prepared by the Project Owners through the process that began in 2019. Some of that information is presented in text, tables, and figures in this Supporting Information Document or Attachments, while other information is referenced, hyperlinked, and made publicly available on the Project website (www.eklutnahydro.com). All such information is incorporated in the Proposed Final Program by reference.

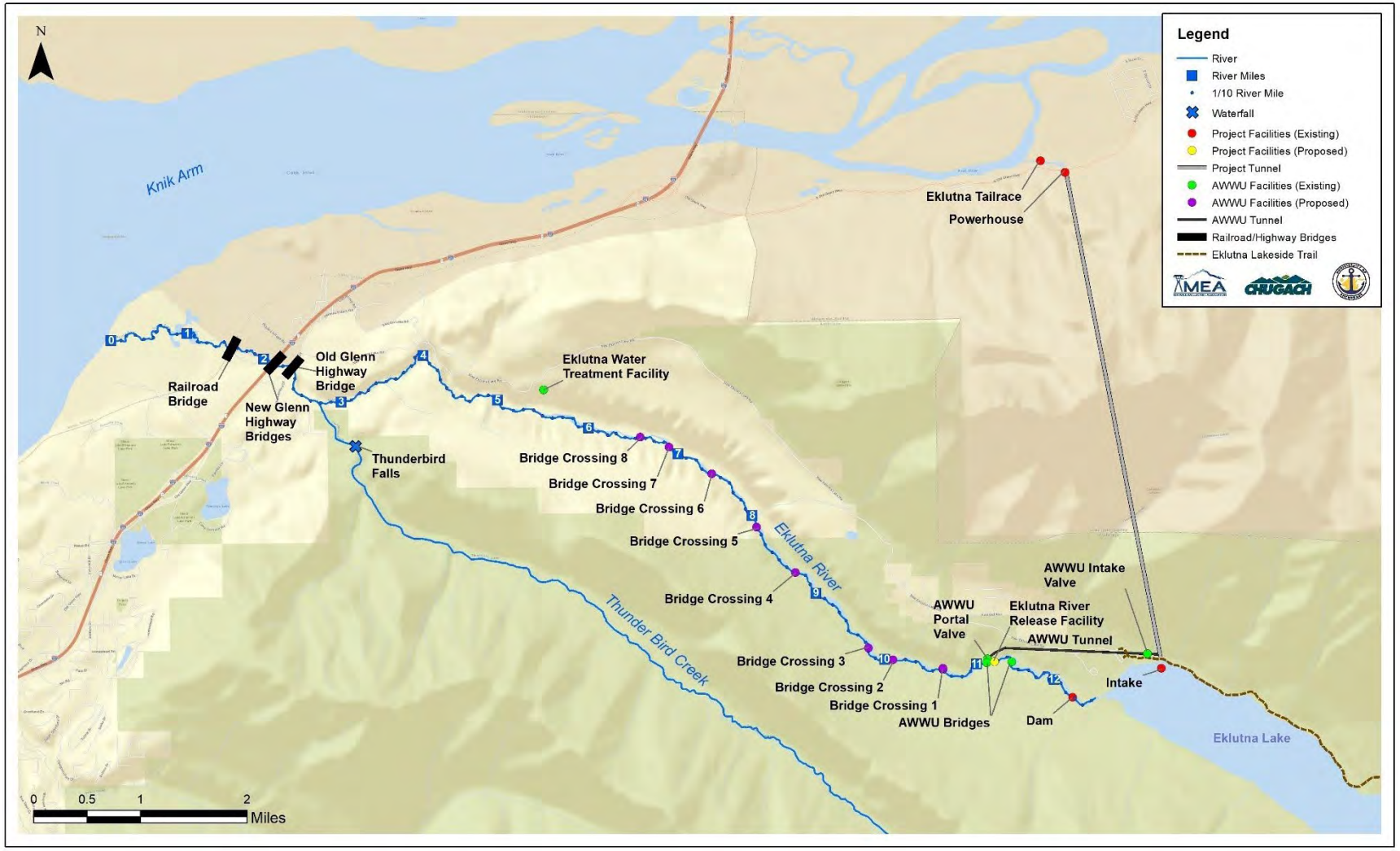

Figure 1-1. Existing and Proposed Infrastructure.

2.0 Existing Project Facilities and Operations

The 40-megawatt (MW) Project is located in Southcentral Alaska, approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna (NVE). The U.S. Bureau of Reclamation (USBR) constructed the Project in 1955, which included rehabilitation of the old dam at the outlet of Eklutna Lake. The rehabilitated dam was damaged in the 1964 earthquake, at which point a new and taller embankment dam was constructed just downstream. This new dam (the existing dam) is an earth and rockfill structure 815 feet long and 41 feet high with a rectangular concrete spillway that runs through the dam.

Eklutna Lake (the Project reservoir) is approximately seven miles long and one mile wide and is located within Chugach State Park. The lake is the source of water for the Project. The reservoir also provides almost 90 percent of the domestic water supply for the Municipality of Anchorage to the Anchorage Water and Wastewater Utility (AWWU) through the Project intake. Typically, the reservoir fills during the summer months from snow and glacial melt and is drained during the winter months to generate power. The reservoir is generally at its lowest elevation in May and peaks in September.

The Project facilities and operation are designed to minimize release of water to the Eklutna River from the existing dam by capturing runoff during late spring/summer and taking that water out of the storage reservoir/Eklutna Lake over the course of the year and sending it through the powerhouse located on the Knik Arm. The Project water right entitles the Project Owners to operate the Project to fully utilize the water in Eklutna Lake for hydroelectric power production, except for the water that may be diverted for public water supply. The Project also provides other important benefits to electric customers including spinning reserve, frequency and voltage regulation, load following, and firming up electric generation from intermittent renewables. Additionally, the Project tailrace below the powerhouse provides a popular put-and-take Chinook and coho fishery. This fishery is public and handicap accessible.

Figure 1-1 above shows the Project location, legislative boundary for Chugach State Park, and the current extent of anadromy in the Eklutna River. The existing hydro project facilities are shown as red dots, an old hydropower project constructed in 1929 is represented by purple dots, and other non-project features such as the Eklutna Lake Campground, Eklutna Tailrace Day-Use Fishing Access Site, AWWU Water Treatment Plant, and NVE are represented by green dots. Other AWWU infrastructure shown in the figure includes the AWWU tunnel, portal valve, and buried pipeline. All three bridges in the lower river are also shown in Figure 1-1.

2.1 Existing Project Facilities

The Project consists of several components that allow water from Eklutna Lake to be diverted through a 4.5-mile-long tunnel to the powerhouse and eventually discharged into the Knik River for the purpose of power generation. The Project facilities and AWWU water supply infrastructure that is connected to Project facilities are briefly described below. More detailed information on Project facilities is provided in the IIP document available on the Project website (www.eklutnahydro.com).

2.1.1 Dam and Spillway

The existing dam is located approximately 1,400 feet downstream of the natural outlet of Eklutna Lake. It is an earth and rock fill embankment dam with a crest length of 815 feet, a crest width of 30 feet, and a crest elevation (El.) of 891 feet[1]. The crest of the dam is finished with crushed rock material to form a stable road surface (Figure 2-1). An ungated overflow spillway is incorporated within the middle of the dam. The spillway crest is El. 871 feet and the crest length is 18 feet. The dam allows for storage of water in Eklutna Lake for use throughout the year for power generation. The dam also prevents water from flowing into the Eklutna River unless the lake level exceeds the spillway crest elevation and water "spills" from the lake into the river via the spillway (see Section 2.2.3).

Figure 2-1. Dam crest and ungated overflow spillway, looking north.

There is a natural glacial moraine at the outlet of Eklutna Lake. When the lake level is below the crest of the moraine (El. 860 feet), a pond is created between the moraine and the current dam (Figure 2-2). The water level in the pond is not monitored; however, the pond level can

[1] Multiple vertical survey datums are reported in and around the main features of the Project. Throughout this document, the elevation datum that shall be used is the "local datum" tied to the crest of Eklutna Dam. Engineering documentation and design drawings, as presented in Attachment I utilizes the NAVD88, GEOID12B datum for consistency purposes throughout all of the Project Features, which is offset from the Local Datum by approximately 3.6-feet.

differ from the lake level by up to 30 feet in an average year. A small tributary entering the pond approximately 400-ft upstream of the dam keeps the water level steady in the pond when the lake is disconnected from the dam, with a small outflow leaving the pond and entering Eklutna Lake.

There is a 30-inch by 30-inch drainage outlet gate in the base of the spillway crest at El. 852 feet that was designed to drain the pond when water becomes trapped there during late fall or early winter. At the time, it was thought that this water would cause detrimental frost action against the toe of the current dam and at the spillway inlet. However, no detrimental frost action has been observed, and the gate is currently not used for this purpose. This cast iron gate was replaced in 2021 with a stainless-steel gate to allow for study flow releases that same year.

Figure 2-2. Pond between the natural glacial moraine and existing dam in May 2020.

2.1.2 Reservoir

Eklutna Lake is a natural lake formed by the retreating Eklutna glacier. It is approximately 7 miles long, one mile wide, and 200 feet deep at its deepest. The natural lake elevation is El. 850 feet.

The current dam raises the water level of Eklutna Lake by 21 feet to a maximum regulated lake level of El. 871 feet (the elevation of the spillway crest). At this elevation, the lake has a surface area of 3,420 acres. The minimum regulated lake level is El. 814 feet, which provides an active storage capacity of 174,800 acre-feet. Storage between the spillway crest (El. 871 feet) and the dam crest (El. 891 feet) is an additional 72,800 acre-feet.

2.1.3 Intake

The intake is located on the north shore of Eklutna Lake approximately one mile east of the dam. Water is diverted from the lake through an inlet channel 100 feet wide and originally about 720 feet long excavated at the lake bottom (the original intake structure and portions of the original intake conduit damaged in the 1964 earthquake remain in the intake channel). The intake channel leads to the intake structure, which consists of a rectangular reinforced concrete box structure, open and protected by trash racks on its top, front, and both sides. Elevation of the invert (i.e., the base elevation of the intake) is El. 793.6 feet.

2.1.4 Tunnel and Surge Tank

A 4.5-mile-long tunnel through Goat Mountain conveys water from the intake to the penstock. The tunnel is a circular, concrete-lined pressure tunnel with a 9-foot inside diameter. The tunnel terminates in a surge chamber located directly over the tunnel prior to entering the project penstock. The surge tank is used to dampen pressure surges within the conveyance during operation.

2.1.5 Penstock

Extending from the surge tank at the end of the tunnel is the penstock, which conveys water to the power plant turbines. The overall length of the penstock is about 1,088 feet. The penstock is a variable-diameter (91-, 83-, and 75-inch-outside-diameter) welded and coupled steel pipe encased in concrete in a tunnel extending from the surge tank to the power plant. At the powerplant, the penstock bifurcates into two 51-inch-diameter 23-foot-long branches, which are connected to the spiral cases of the turbines. A 66-inch butterfly valve is installed in each penstock branch upstream from the turbines to provide means of dewatering the turbines for servicing or maintenance. These valves also serve as emergency shutoff valves in the event of damage to the turbines.

2.1.6 Power Plant and Switchyard

The Eklutna Power Plant (Figure 2-3) is located on the Old Glenn Highway. It houses two vertical-shaft Francis-style hydroelectric generating units with an installed nameplate capacity

of 44.4 MW. The switchyard equipment, consisting of the power circuit breakers, disconnecting switches, and main buses, is on the roof of the Eklutna Power Plant.

Figure 2-3. Eklutna Power Plant.

2.1.7 Tailrace

Water discharged from the turbines in the Eklutna Power Plant enters a 209-foot-long tailrace conduit through which the water is conducted under the Old Glenn Highway to a 2,000-foot-long open tailrace channel which discharges into the Knik River (Figure 2-4). The channel has a top width of about 75 feet, a bottom width of 25 feet, and a depth of about 12 feet 6 inches.

Figure 2-4. Fisherman at the Eklutna Tailrace.

2.1.8 AWWU Connection to Project Tunnel

A water supply project was constructed in 1988 to supply water to Anchorage from Eklutna Lake (Eklutna Water Project). It is now the main source of drinking water for the Anchorage service area. The Eklutna Water Project diverts Eklutna Lake water from the Project tunnel to a diversion tunnel that connects to a buried pipeline. Water flows by gravity through the one-mile-long diversion tunnel and the approximately six-mile-long buried pipeline down the Eklutna River valley to a 750-kW energy recovery station at the Eklutna Water Treatment Plant (see Figure 1-1).

A portal valve at the intersection of the AWWU tunnel and pipeline, located approximately one mile downstream of the existing dam, is used to shut down the pipeline for emergency or maintenance purposes. The pipeline drain valve is located approximately six miles downstream of Eklutna Dam. AWWU maintains an access road that roughly parallels the pipeline and crosses the riverbed in a series of bridges and fords. After treatment, water flows by gravity through a 23-mile-long buried pipeline to the distribution system. This system supplies water to the Anchorage service area, from Eklutna Village to Potter Marsh in South Anchorage. Approximately 10% of the water diverted from Eklutna Lake provides up to 90% of the public water supply for the Municipality of Anchorage. The remaining 90% of water diverted from Eklutna Lake is used for power production.

2.1.9 Water Rights

When the Project was originally authorized in the Eklutna Project Act of 1950,[2] Congress also created a federal reserved water right in Eklutna Lake and its tributaries for the purposes of operating the Project. Under federal and state law, the Project's water right dates back to December 31, 1954, when the Project began operations.[3]

Later, after Alaska statehood, the then-federal owner of the Project, the Alaska Power Administration (APA), applied for a Certificate of Appropriation from the State of Alaska in order to comply with newly-created state law. This permanent Certificate of Appropriation (Certificate) was originally granted in 1973 and is now referred to as "ADL 44944." As subsequently amended, ADL 44944 mirrors the federal reserved water right and authorizes the Project Owners to use any and all of the natural inflow to Eklutna Lake for hydroelectric power generation subject to other terms of the Certificate.

In 1984, MOA sought to use Eklutna Lake for public water supply. Typically, under Alaska law, such a new use would be disallowed due to the senior water right of the APA, but Alaska law

[2] Public Law 81-628, 64 Stat. 383 (1950).
[3] ALASKA STAT. § 46.15.050(b) (2022).

also permits the use of Alaska waters for public water supply even where there are prior appropriators given the importance of maintaining a sufficient water supply.[4] Such use is referred to as "preferred use".[5] In acknowledgement that such preferred use can burden or harm a prior appropriator (water right holder), Alaska law requires that such use be subject to compensation in order to minimize such burden or harm.[6] Accordingly, the MOA and the then-owner (APA) entered a long-term compensation agreement entitled "Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska" dated February 17, 1984, that expires in 2025 (Water Supply Agreement).

Further, MOA and APA worked with Congress to amend the *Eklutna Project Act* to include the additional public water usage of the Eklutna Lake that was otherwise reserved for the purposes of the Project.[7] MOA also obtained a 40-year permit to appropriate water from the State of Alaska to utilize water from Eklutna Lake, referred to as "LAS 2569." LAS 2569 expires on December 31, 2025, and may be replaced with a certificate of appropriation subject to the continuing obligation to compensate the holder of ADL 44944 (the Project Owners).

Upon the sale of the Project to the Project Owners in October 1997, the federal reserved water right and ADL 44944 were conveyed to the Project Owners in a quitclaim deed[8] and the Water Supply Agreement was assigned to by the Project Owners.[9]

2.1.10 Land Ownership and Management

Land ownership and management in the Project area are shown below in Figure 2-5. A majority of the land adjacent to the Eklutna River was once owned by the federal government and due to a number of Alaska Native Claims Settlement Act conveyances, is now owned by Eklutna, Inc. Such ownership includes the area where the lower dam on the Eklutna River was once located, and which Eklutna, Inc. subsequently removed.

Notable exceptions to this Eklutna, Inc. area ownership today remain, however, including that: (1) the land around the AWWU portal valve is owned by BLM, and (2) the land surrounding the Eklutna Dam is owned by the State of Alaska. When the Eklutna Dam was built, this land

[4] ALASKA STAT. § 46.15.150 (2022).
[5] ALASKA STAT. § 46.15.150 (2022). "Preferred use" is further defined under Title 11 of the Alaska Administrative Code Section 93.230, which provides: "Preferred use status allows the use of water for a preferred use when adequate water is not available from the same source to supply all lawful appropriators."
[6] ALASKA ADMIN. CODE tit. 11 § 93.240 (2023).
[7] Public Law 98-552, 98 Stat. 2824 (1984).
[8] "Quitclaim Deed, Federal Reserved Water Right Under the Eklutna Project Act of 1950, 64 Stat. 382, As Amended, Including State of Alaska Water Rights Certificate of Appropriation (Amended) ADL 44944", dated October 2, 1997.
[9] Assignment and Transfer of Agreement for Public Water Supply and Energy Generation from Eklutna Lake, Alaska, as Supplemented, dated October 2, 1997.

surrounding the Eklutna Dam was still owned by the federal government, but when the Project was transferred to the Project Owners in 1997, the federal government gave the Project Owners a perpetual right-of-way to access this land for operating the Project (serial number AA-70133) so long as the Project exists.[10] When that same land was subsequently transferred by the federal government to the State of Alaska in 1998, such transfer was subject to AA-70133.[11] AWWU also has all necessary rights-of-way to access and operate its facilities adjacent to the Eklutna River, including the AWWU portal valve, access road, and buried pipeline.

A majority of the land adjacent to Eklutna Lake is also owned by Eklutna, Inc. but is managed by ADNR as part of Chugach State Park.

[10] UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, RIGHT-OF-WAY GRANT, Serial Number AA-70133 (September 15, 1997).
[11] United States of America Patent No. 50-2019-0080.

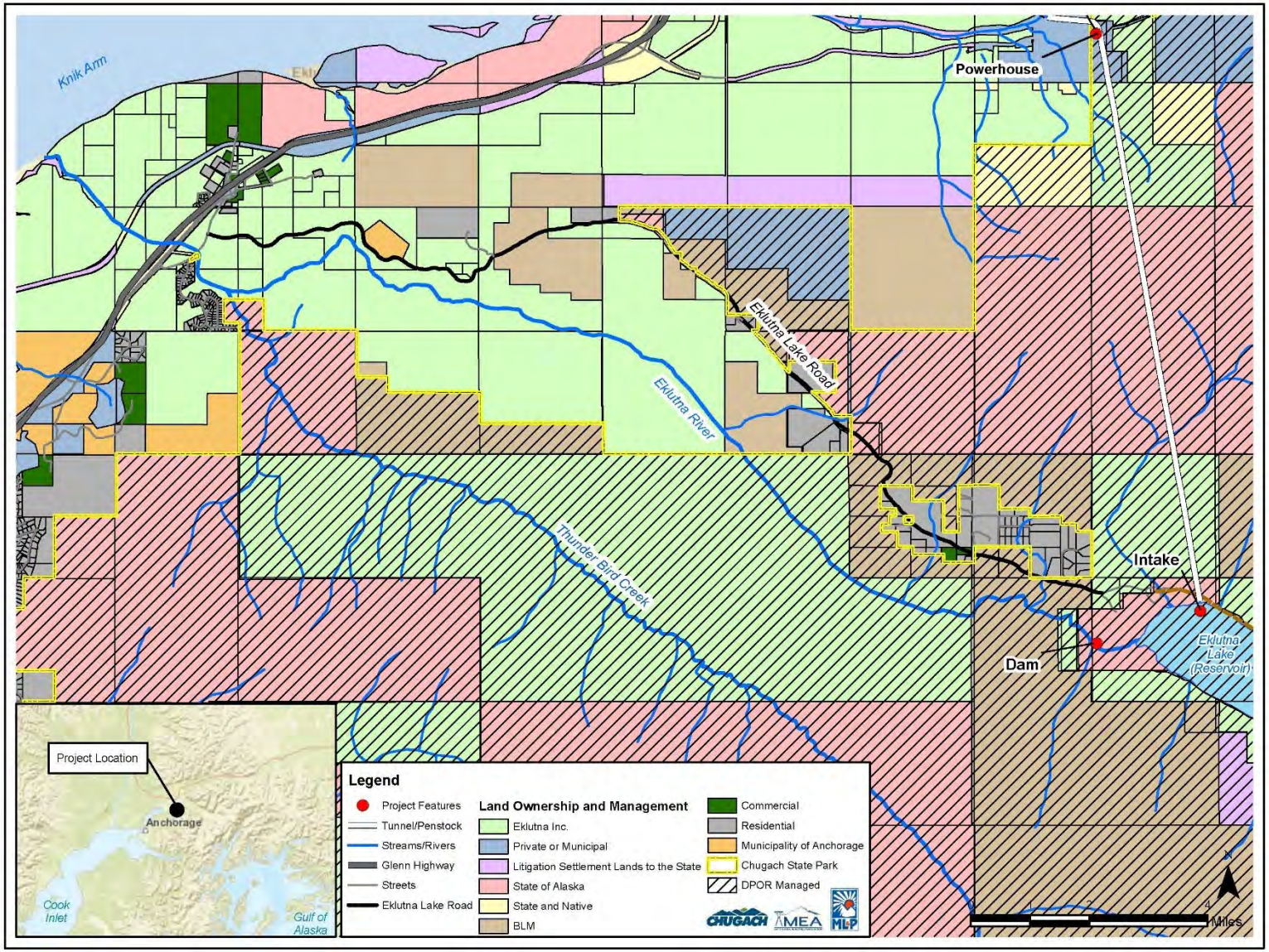

Figure 2-5. Land Ownership and Management in the Project Area.

2.2 Existing Project Operations

The Project Owners operate the Project to provide firm, low-cost, renewable energy. Project-generated renewable energy offsets approximately 72,500 metric tons of CO_2 equivalent each year and can be used to regulate other renewable energy sources like wind and solar in the future. The Eklutna Dam allows storage of spring and summer runoff for power generation in the winter when it is needed most.

2.2.1 Reservoir Operations

Typical operation of the Project is to fill the reservoir during the summer and drain it during the winter months. The Project operators try to refill the reservoir as much as possible without spilling, and the extent of winter drawdown is based on power requirements and the operator's estimates of the winter snowpack. The lake level is generally at its lowest elevation in May and then peaks in September. As shown in Figure 2-6, the lake level is drawn down below the natural lake level (El. 850 feet) for about six months out of the year, and below the crest of the natural glacial moraine (El. 860 feet) for about 9 months out of the year.

The lake level increases as a result of inflows (mostly glacial melt) and is drawn down by operation of the tunnel/penstock system. Assuming no inflow, the lake can be drawn down by approximately four inches per day when the Eklutna Power Plant is generating at max capacity (660 cfs). Water conveyance can be closed at the lake intake structure by closing the intake bulkhead gate or by closing the turbine wicket gates or the turbine inlet valves within the powerhouse.

Flow through the Eklutna Power Plant is the primary means of controlling the water level in Eklutna Lake. In addition, the 30-inch by 30-inch drainage outlet in the base of the spillway (see Section 2.1.1) is controlled by a manually operated slide gate conduit and can release up to 190 cfs (with reservoir at the spillway crest). Operation of the spillway slide gate is checked on an annual basis and the operating mechanism lubricated.

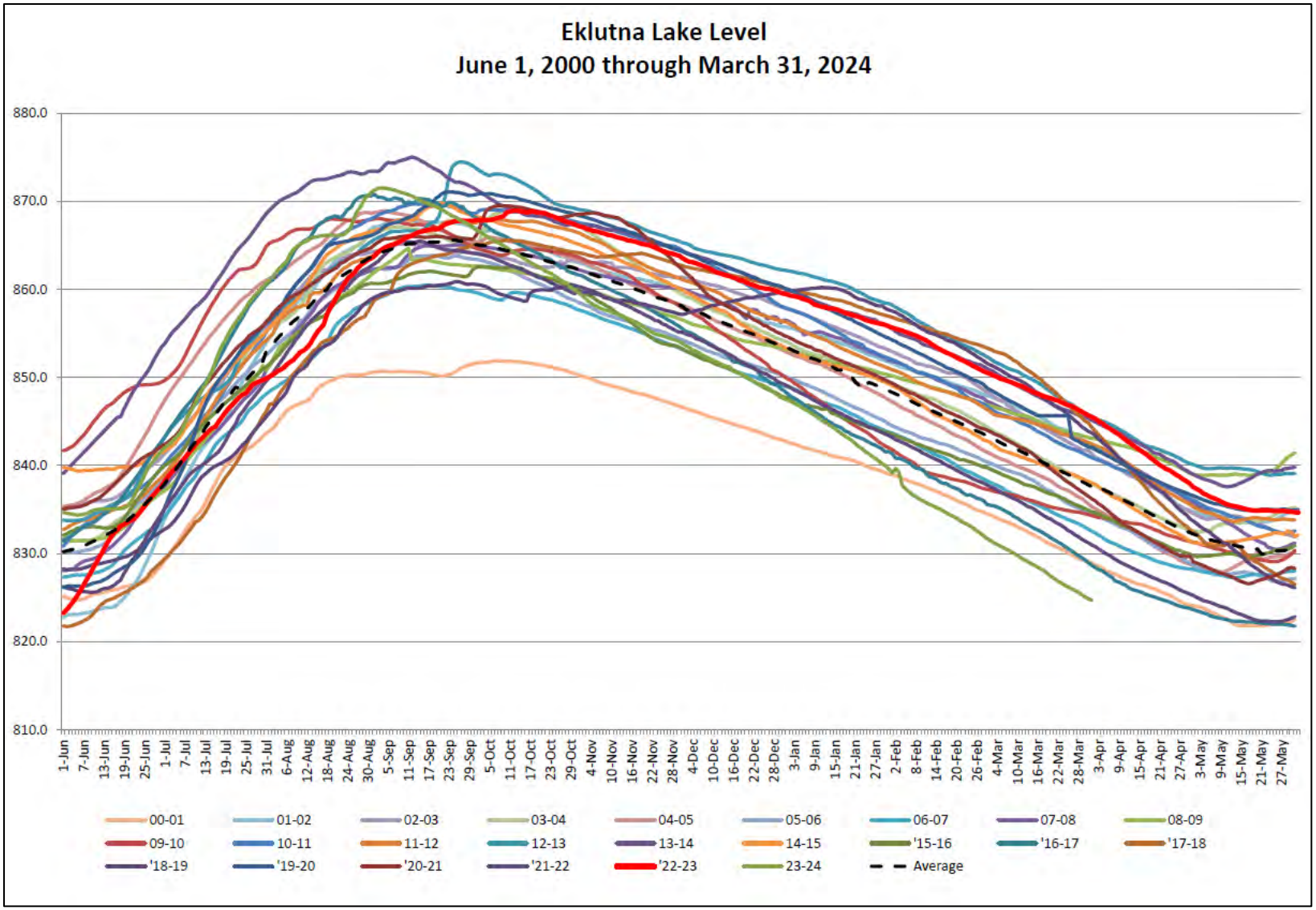

Figure 2-6. Eklutna Lake Level from June 1, 2000, through March 31, 2024.

2.2.2 Energy Generation and Cost of Power

The Project produces nearly 6% of the Project Owners' combined total generation portfolio, approximately 44% of MEA's renewable generation portfolio, and approximately 25% of CEA's renewable generation portfolio. The Project is consistently the lowest-cost resource for power in the Railbelt (i.e., the inter-connected transmission line system that runs from Fairbanks to Homer) and is necessary for MEA to meet their power capacity reserve reliability standard requirements. The average monthly energy generation output of the project is presented in Figure 2-7.

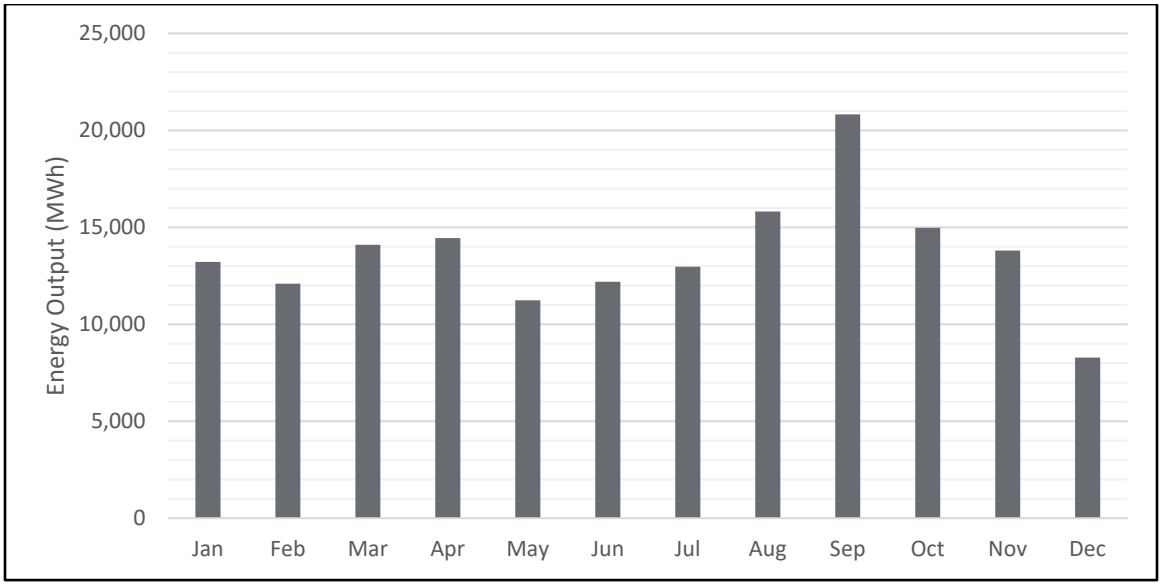

Figure 2-7. Eklutna Power Plant Average Monthly Energy Output.

One of the other major benefits of the Project is increased grid reliability through diversification of fuel for generation. With an uncertain future regarding natural gas supply and costs, hydropower plays an important alternate energy source if there is an interruption to the availability of natural gas. In addition, Project generation offsets approximately 72,500 metric tons of CO_2 equivalent each year.

The Project's value is underscored by the difficulty in locating replacement generation of similar characteristics. CEA and MEA are looking to add renewable resources to meet their respective clean energy goals, and they are grappling with considerable unknowns such as how renewable generation resources and the necessary new transmission lines for such resources can be contracted, permitted, financed, constructed, interconnected, and integrated with the existing Railbelt electric system. The cost of energy storage, integration, and regulation of intermittent generation resources adds considerable complexity and cost.

2.2.3 Spill Events

Spill occurs when water flows from Eklutna Lake into the Eklutna River via the ungated spillway (El. 871 feet). Since the spillway is ungated, the Project operators cannot control spill. Ten spill events have occurred since the existing dam was constructed in 1965. Table 2-1 summarizes the historical data and calculated values for each of these spill events.

Table 2-1. Summary of Spill Events at Eklutna Dam from 1965 to 2023.

Year	Spill Period	Duration (Days)	Peak Lake Level Elevation (ft)	Average Lake Level Elevation (ft)	Peak Spillway Flow (cfs)	Average Spillway Flow (cfs)	Total Volume Spilled (AF)
1967	9/20 – 10/11	22	872.99	-	160	-	-
1977	8/15 – 9/26	43	874.60	-	396	-	-
1981	8/15 – 9/23	40	873.50	-	226	-	-
1989	9/5 – 10/7	33	873.73	872.40	259	107	7,018
1990	9/12 – 9/27	16	872.31	871.78	85	43	1,370
1995	9/21 – 10/20	30	877.62	874.40	1,022	426	25,356
1997	8/19 – 10/31	74	875.51	873.33	561	242	35,591
2012	9/23 – 10/19	27	874.52	873.10	383	188	10,055
2013	8/9 – 10/1	54	874.99	873.18	464	201	21,567
2023	9/1 – 9/8	8	871.51	871.36	18	10	157

The highest lake level elevation ever recorded in Eklutna Lake was 877.62 feet on September 25, 1995. At this elevation, the flow through the spillway was calculated to be 1,022 cfs. The longest spill event at Eklutna Dam occurred in 1997 and lasted for a total of 74 days. The calculated total volume of water spilled during this time was 35,591 acre-feet.

3.0 Requirements of the 1991 Agreement

The 1991 Agreement is the guiding document that the Project Owners have followed during development of the Proposed Final Program and is available here on the Project website for reference. The Project Owners recognize that there is a high level of interest in the Eklutna River and are committed to meeting their obligations as outlined in the 1991 Agreement. The overarching goal of the Project Owners is to provide the information that will allow the Governor to make an informed decision with regard to the Final Program.

The main focus of the 1991 Agreement concerns protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat) affected by hydroelectric development of the Eklutna Project. It specifies that the Project Owners are responsible for the consultation, study, and implementation provisions called for in the 1991 Agreement.

3.1 Procedural Requirements

The 1991 Agreement required the Project Owners to fund and conduct studies to examine and quantify, if possible, the impacts to fish and wildlife from the hydroelectric development of the Project. The studies were also designed to examine and develop proposed protection, mitigation, and enhancement (PME) measures to address those impacts. This examination also had to consider the impact of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users, and adjacent land use, as well as available means to mitigate those impacts.

Per the 1991 Agreement, the study plans had to be developed by the Project Owners in consultation with the USFWS, NMFS, the Alaska Department of Fish and Game (ADFG), the Alaska Department of Environmental Conservation (ADEC), and the Alaska Department of Natural Resources (ADNR), collectively the "resource management agencies." The study plans had to include a schedule for the consultation, comment, and decision making required by the 1991 Agreement to be adopted by the Parties[12] in consultation with the Governor. Prior to implementation of the studies, the Parties had to review the study plans and concur with their scope of work. The Project Owners were required to seek input from the resource management agencies and other interested stakeholders as the studies progressed and provide the resource management agencies with an opportunity to comment on the Draft Study Reports. All comments and responses had to be included in the Final Study Reports.

[12] The Parties to the 1991 Agreement as it pertains to the Eklutna Hydroelectric Project are CEA, MEA, MOA, NMFS, USFWS, and the State of Alaska.

After the Final Study Reports were prepared, the Project Owners were required to prepare a Draft Summary of Study Results and a Draft Program. The Draft Program had to include the PME measures recommended by the Project Owners and set a tentative schedule for their implementation. The Project Owners were required to provide the resource management agencies with an opportunity to comment on the Draft Summary of Study Results and the Draft Program and/or provide recommendations. If the resource management agencies' comments or recommendations differ from those of the Project Owners, the Project Owners had to attempt to resolve such differences giving due weight to the recommendations, expertise, and statutory responsibilities of the resource management agencies.

Once comments and recommendations had been received, the Project Owners were required to hold at least one public meeting each in Anchorage and the Matanuska Valley to receive public comment on the Draft Summary of Study Results, the Draft Program, and the comments and recommendations of the resource management agencies. The Project Owners were required to prepare a summary and analysis of all comments received, develop a Proposed Final Program, and prepare an explanatory statement describing the basis for the Proposed Final Program. All of this information must be provided to the Parties and the Governor.

The Parties then have 60 days to submit written comments on the Proposed Final Program, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources, to the Governor. The Project Owners then have 30 days to submit written reply comments to the Governor. The Governor is required to review the Proposed Final Program as well as any comments or recommendations for alternative PME measures while giving equal consideration to:

1. Efficient and economical power production
2. Energy conservation
3. The protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat)
4. The protection of recreational opportunities
5. Municipal water supplies
6. The protection of other aspects of environmental quality
7. Other beneficial public uses
8. Requirements of State law

Based on his review and consideration, the Governor is required to establish a Final Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources (including affected spawning grounds and habitat) affected by the Project. The Project Owners are required to implement the Final Program established by the Governor. Pursuant to the 1991 Agreement and APA Asset Sale Act, the Governor's decision regarding the provisions of the Final Program is reviewable and enforceable by the Parties in the U.S District Court for the District of Alaska.

3.2 Schedule Requirements

The 1991 Agreement gives deadlines for specific milestones in the consultation, program development, and implementation processes. These deadlines, listed below, are all relative to the date on which ownership of the Project was officially transferred from the Federal government to the current Project Owners (October 2, 1997). This date is referred to as the Transaction Date.

- Initiate the consultation process no later than 25 years after the Transaction Date (October 2, 2022)
- Issuance of the Final Program by the Governor at least 3 years prior to implementation (October 2, 2024)
- Begin implementation of the Final Program no later than 30 years after the Transaction Date (October 2, 2027)
- Complete implementation of the Final Program no later than 35 years after the Transaction Date (October 2, 2032)

The Project Owners are required to repeat the process called for in the 1991 Agreement on a recurring basis every 35 years, beginning within 25 years of the time implementation of the Final Program has been completed for the prior consultation process. In addition, the Project Owners are required to repeat the process called for in the 1991 Agreement prior to undertaking any major structural or operational modifications substantially affecting water usage or fish and wildlife at the Project.

4.0 Compliance with the 1991 Agreement

The Project Owners have fully met the procedural and schedule requirements of the 1991 Agreement to date. In fact, the Project Owners have gone well beyond the requirements of the 1991 Agreement in terms of consultation, documentation, and analysis of alternatives. In terms of schedule requirements, the Project Owners began the process more than three years prior to the prescribed initiation date. The following sections describe the efforts undertaken by the Project Owners to date to comply with the 1991 Agreement and highlight the efforts that have gone beyond the requirements.

4.1 Early Consultation

The 1991 Agreement states that the Project Owners shall consult with the USFWS, NMFS, ADF&G, ADEC, and ADNR regarding the development of study plans and that "the consultation process shall be initiated no later than 25 years after the Transaction Date," (i.e., October 2, 2022).

The Project Owners began the consultation process in 2019, three years earlier than required by the 1991 Agreement. Recognizing the high level of public and tribal interest in the Project, the Project Owners did not limit consultation to the five federal and state agencies identified in the 1991 Agreement, but they reached out to many other entities with an interest in the Project. Their consultation efforts included in-person meetings, quarterly calls and newsletters, technical work groups, and involvement of interested stakeholders in the alternatives analysis process. A summary of consultation undertaken by the Project Owners is included in Attachment A; early consultation efforts are highlighted below.

4.1.1 Initial Consultation Meetings

In March and April of 2019, more than three years earlier than required by the 1991 Agreement, the Project Owners conducted in-person initial consultation meetings with multiple agencies and interested stakeholders. In total, the Project Owners met with 14 agencies and interested stakeholders as part of their initial consultation efforts, including:

- National Marine Fisheries Service (NMFS)
- U.S. Fish and Wildlife Service (USFWS)
- Alaska Department of Fish and Game (ADFG)
- Alaska Department of Environmental Conservation (ADEC)

- Alaska Department of Natural Resources (ADNR), including:
    - Division of Mining, Land, and Water
    - Division of Parks and Outdoor Recreation (State Parks)
    - Office of History and Archaeology (OHA)
- Alaska Department of Transportation & Public Facilities (ADOT&PF)
- Alaska Railroad Corporation (ARRC)
- Anchorage Water and Wastewater Utility (AWWU)
- U.S. Army Corps of Engineers (USACE)
- Eklutna, Inc.
- Native Village of Eklutna (NVE)
- The Conservation Fund (TCF)

After these initial consultation meetings, the Project Owners identified additional interested stakeholders and consulted with them as appropriate, including Cook Inlet Region, Inc. (CIRI), Cook Inlet Aquaculture Association (CIAA), The Alaska Center, Trout Unlimited (TU), the Alaska Energy Authority (AEA), the Alaska Institute for Climate and Energy (ALICE), staff from Alaska Pacific University (APU), the Anchorage Watershed and Natural Resources Advisory Commission (WNRC), and the U.S. Bureau of Land Management (BLM).

Some entities, while interested in the Project, declined to participate in the consultation process, including the U.S. Environmental Protection Agency (EPA), U.S. Geological Survey (USGS), National Weather Service (NWS), and the Anchorage Waterways Council.

4.1.2 Group Stakeholder Meeting

During the initial consultation meetings, several entities requested a follow-up group meeting to promote technical discussion amongst the agencies and interested stakeholders. In response to those requests, the Project Owners conducted an in-person follow-up group meeting on July 16, 2019. Discussion topics included a review of the contact list and existing information gathered to date, updates on on-going data collection by others, an overview of current Project operations, discussion regarding the initial comments and concerns of agencies and interested stakeholders, and next steps.

4.1.3 Project Website

In 2019 the Project Owners developed and launched a Project website, www.eklutnahydro.com. The purpose of this website is to provide information on the efforts being undertaken by the Project Owners to comply with the 1991 Agreement, including background information, the Project schedule, Project updates, reference and final documents, frequently asked questions, and a contact form.

4.1.4 Quarterly Update Calls

During the July 2019 Group Stakeholder Meeting, it was suggested that the Project Owners conduct quarterly calls to update the agencies and interested stakeholders on Project activities. The Project Owners conducted the first quarterly update call in November 2019, and since that time, have continued to conduct these calls approximately every three months.

4.1.5 Anchorage Assembly

In February 2020, the Project Owners were invited to give a brief presentation to the Anchorage Assembly at a work session regarding the Eklutna River. The Project Owners have continued to provide subsequent updates to the Anchorage Assembly's Enterprise and Utility Oversight Committee on a quarterly basis. All of the presentations that have been given to the Anchorage Assembly are available here on the Project website.

4.1.6 Native Village of Eklutna

Eklutna Village is located near the mouth of the Eklutna River. The historical and current presence of the Eklutna Dena'ina in the area is described in the IIP. The Project Owners first met with NVE as part of their initial consultation efforts (Section 4.1.1) and have continued to engage with NVE throughout this process.

In April 2020, NVE requested formal recognition as a consulting government, with their Land and Environment Department analogous to other governmental signatories, for purpose and processes of the 1991 Agreement applicable to the Project. In a May 2020 letter to the Project Owners, NVE recognized that amending the 1991 Agreement may entail substantial time and effort, and as an alternative invited a joint letter from the Project Owners to the effect that the Project Owners will act in good faith to help mitigate impacts to the Eklutna River and that the Project Owners will recognize NVE as a consulting government on a basis comparable to the governmental signatories to the 1991 Agreement.

In June 2020, the Project Owners responded to NVE's request by committing to a review and participation framework that ensures information NVE and its members share regarding the

Eklutna River and development of the Fish and Wildlife Program is appropriately considered and addressed. This includes:

- Providing significance and due weight to NVE's expertise throughout the development of the Fish and Wildlife Program
- Recognizing and including traditional ecological knowledge (TEK) in the review and development of the study plans and Fish and Wildlife Program
- Working with NVE to schedule additional meetings with the goal of hearing input from NVE and its members (one after the study program is completed and another following the development of the Draft Program) and coordinating with NVE on developing the agenda items for these meetings
- Recommitting to sharing all study plans, data, reports, and comments directly with NVE when developed to seek feedback
- Submitting an NVE-specific comment summary to the Governor for consideration along with the Project Owners' Proposed Final Program (see Section 4.12)

The Project Owners' letter also stated: "We value the unique perspectives of NVE's members regarding the Eklutna River, and we also understand that NVE is primarily interested in the presence of both water and salmon in the lower Eklutna River. While we are contractually and legally bound by the terms of the Agreement, please know that if the process set forth in the Agreement bears out the release of water from Eklutna Lake and the addition of salmon into the Eklutna River as part of the Fish and Wildlife Program, we will be prepared to support it."

Since then, NVE has been involved in all four Technical Work Groups (TWGs) (see Section 4.3), the alternatives analysis (see Section 4.5), and attempts to resolve differences (see Section 4.8). The Project Owners have also met with the NVE Tribal Council on several occasions, including meetings with the Boards of Directors for both CEA and MEA and the Anchorage Assembly.

4.1.7 Project Newsletter

In December 2020, the Project Owners published their first Project newsletter. These newsletters provided a status update regarding the Project Owners' efforts to comply with the 1991 Agreement and next steps. They have been issued quarterly and are all available here on the Project website.

4.2 Initial Information Package

Although not required by the 1991 Agreement, the Project Owners developed an Initial Information Package (IIP) document. The IIP established a baseline of existing information and informed the study planning process required by the 1991 Agreement. The Draft IIP was distributed to stakeholders in March 2020 for review and comment. The Project Owners received comments from NMFS, ADNR, ADOT&PF, NVE, TCF, TU, ALICE, and two members of the public. The Project Owners revised the document based on comments received and issued the Final IIP in September 2020. The Draft and Final IIP and all comments received are available here on the Project website. All reference documents used to develop the IIP are available here.

4.3 Technical Working Groups

In April 2020, a Technical Working Group (TWG) focused on aquatic resources was established to solicit technical input throughout study planning, implementation, and reporting. In October 2021, three more TWGs were established to address other resource areas, including the Terrestrial TWG, Cultural TWG, and Recreation TWG. Table 4-1 shows the entities that participated in each of the TWGs.

Table 4-1. Technical Working Group Members.

Entity	Aquatics	Terrestrial	Recreation	Cultural
Native Village of Eklutna	x	x	x	x
Alaska Department of Fish and Game	x	x	x	
ADNR Chugach State Park			x	
ADNR Office of History and Archaeology				x
U.S. Fish and Wildlife Service	x	x		x
National Marine Fisheries Service	x			
Trout Unlimited	x		x	
Alaska Pacific University	x	x		
Project Owners	x	x	x	x

The TWGs met regularly to assist in study planning and review technical information developed by the study program and by others. A total of 28 TWG meetings were held during the study program (see Attachment A).

4.4 Study Program

The 1991 Agreement required the Project Owners to fund studies to examine and quantify, if possible, the impacts to fish and wildlife from the Project. Per the 1991 Agreement, the studies had to examine and develop proposed PME measures to address those impacts. This examination had to also consider the impact of potential fish and wildlife measures on electric rate payers, municipal water utilities, recreational users, and adjacent land use, as well as available means to mitigate these impacts.

Beginning in 2020, the Project Owners consulted with the TWGs regarding the development of a comprehensive, 2-year study program implemented in 2021 and 2022. During that same time period, several other entities were also conducting studies in the Eklutna watershed. These studies included:

- Aquatic habitat monitoring conducted by ADFG, originally under an agreement with Eklutna Inc., then under a new agreement with TU. These study results were shared with the Project Owners.
- Sediment transport monitoring at the highway and railroad bridges conducted by Eklutna, Inc. These study results were shared with the Project Owners.
- Adult salmon spawner surveys conducted by NVE. The data collected in 2021-2022 were shared with the Project Owners.
- Minnow trapping in the lower Eklutna River conducted by NVE. The data collected in 2021-2022 were shared with the Project Owners.
- Habitat assessment of the East and West Forks of Eklutna Creek conducted by NVE. This study has not been completed yet.
- Stream gaging in the East and West Forks of Eklutna Creek conducted by APU. The data from this ongoing effort is publicly available.
- State-wide pumped hydro study conducted by AEA. This study has not been made publicly available.
- Pumped hydro system flow analysis and animation conducted by ALICE in coordination with NVE. This analysis has not been completed yet.
- Formal TEK assessment of the historic and cultural importance of the Eklutna River conducted by NVE in partnership with TU. This assessment has not been completed yet.

The Project Owners coordinated with each of these entities during study planning regarding relevant study methods, monitoring locations, etc. When available, the Project Owners incorporated the results of these other studies in their study reports. Of note, NVE shared their fish survey and habitat study data with the Project Owners, which were included in the Fish Species Composition and Distribution Study Report and the Eklutna Lake Aquatic Habitat and Fish Utilization Study Report (see Section 4.4.2).

4.4.1 Early Study Efforts

In May 2020 the Project Owners acquired LiDAR, aerial imagery, and spherical video of the entire Eklutna River as well as the northeastern shoreline of Eklutna Lake along the lakeside trail. The spherical video is available at https://biglook360.com/eklutna/.

In July 2020, the Project Owners conducted a site reconnaissance with ADFG staff to support study planning efforts. The Aquatics TWG met on July 23, 2020, to review the observations made during the site reconnaissance and to kick-off the study planning process. This meeting included initial discussions regarding the planned Instream Flow Study (see Section 4.4.2), potential study methods, and associated challenges with providing study flow releases.

In August 2020, the Project Owners conducted an initial condition assessment of the drainage outlet gate at the base of the spillway to determine if it could be used to provide study flow releases into the Eklutna River for the planned Instream Flow Study. In the same month, the Project Owners also established several monitoring transects and installed scour monitors in the Eklutna River in advance of any potential unplanned spill events to allow for subsequent data collection that could benefit the study program. There were no spill events in 2020; however, the established transects and scour monitors were later utilized during the Geomorphology and Sediment Transport Study (see Section 4.4.2) to assess erosion and sediment transport through the Eklutna River downstream from Eklutna Lake and to help calibrate the sediment transport model.

The final Eklutna River LiDAR and aerial imagery report, spillway and drainage outlet inspection report, geomorphology monitoring plan and transect locations are all available here on the Project website.

4.4.2 Year 1 Study Planning

Based on this early work, the Project Owners developed a Proposed Study Program Framework and presented it to Aquatics TWG on September 3, 2020. This meeting included discussion regarding how study efforts would occur over a two-year period, the goals and objectives, general study area, proposed methods for each study, the study plan outline, and the study planning schedule.

Draft Study Plans were distributed to the Aquatics TWG on October 26, 2020, for review and comment. The deadline for written comments was November 25, 2020. The Project Owners received comments from NVE, ADFG, USFWS, NMFS, TU, APU staff, and a member of the WNRC. Two meetings were held with the Aquatics TWG on November 30, 2020, and December 21, 2020, to review and address the Aquatics TWG's comments on the Draft Study Plans.

The Project Owners revised the Draft Study Plans based on the comments received, and the Revised Draft Study Plans were distributed to the Aquatics TWG on January 18, 2021, for review and comment. The deadline for written comments on the Revised Draft Study Plans was January 29, 2021.

Since several of the Aquatics TWG's comments on the Draft Study Plans were questions related to the operational capabilities of the Project, the Project Owners decided to start developing the proposed hydro operations model early and presented the preliminary modeling results to the Aquatics TWG at a meeting on January 26, 2021, to help inform the Aquatics TWG's comments on the Revised Draft Study Plans. The Project Owners also addressed additional clarifying questions from the Aquatics TWG at the January 2021 meeting in advance of the comment deadline.

The Project Owners received comments from ADFG, NMFS, TU, and APU staff and revised the study plans again based on comments received. As required by the 1991 Agreement, the Proposed Final Study Plans were distributed to the Parties on February 24, 2021, for review and concurrence on the scope of work.

A meeting amongst the State agencies involved in the Project was held on February 25, 2021, to determine how the State of Alaska, as a party to the 1991 Agreement, would concur on the scope of work in the study plans. The State agencies determined that it would be most appropriate for the Commissioners of each State agency (ADFG, ADEC, ADNR, and ADOT&PF) to sign a letter stating that they concur on the scope of work in the study plans, and then the Project Owners would send those concurrence letters to AEA, the Governor's representative, with the Proposed Final Study Plans for review and feedback.

The Project Owners received concurrence letters from all of the state and federal agencies, including the NMFS, USFWS, ADFG, ADEC, ADNR, and ADOT&PF. The State agency concurrence letters and the Proposed Final Study Plans were sent to AEA as the Governor's representative for review and feedback; however, the Project Owners did not receive any additional feedback from AEA. Each version of the Year 1 Study Plans, all comments received, and each of the concurrence letters are available here on the Project website.

Studies initiated in 2021 included the following:

- **Instream Flow Study** – informed how much habitat would be created by a range of potential flows for various species (Chinook, coho, sockeye) and life stages (spawning and rearing).
- **Geomorphology and Sediment Transport Study** – informed what peak flows might be needed in conjunction with year-round instream flows.
- **Fish Species Composition and Distribution Study** – identified what fish species were present in the Eklutna River, what habitat they were utilizing, and when.
- **Water Quality Study** – monitored various water quality parameters (temperature, dissolved oxygen, pH, turbidity, nutrients, etc.) in both the Eklutna River and Eklutna Lake.
- **Macroinvertebrate Study** – assessed the baseline community of aquatic organisms at three locations in the Eklutna River.
- **Stream Gaging** – collected continuous flow data at various points in the Eklutna River and select tributaries to Eklutna Lake.
- **Lake Aquatic Habitat and Fish Utilization Study** – examined the presence and health of fish in Eklutna Lake, as well as the availability of potential spawning habitat around the lake shoreline and in its tributaries.
- **Lakeside Trail Erosion Study** – identified areas along the Eklutna Lakeside Trail that were experiencing shoreline erosion and the potential causes.
- **Hydro Operations Model Development** – allows the assessment of different potential operational scenarios for the hydroelectric project.
- **Existing Infrastructure Assessment** – evaluated the condition and hydraulic capacity of downstream infrastructure, including the AWWU infrastructure, railroad bridge, and highway bridges.

One of the major components of the year 1 study program was the need to conduct study flow releases for both the Instream Flow Study and the Geomorphology and Sediment Transport Study. With the current infrastructure, the drainage outlet gate at the base of spillway in the dam is the only mechanism for providing controlled flow releases from the lake into the river. However, this gate had not been used regularly, and upon inspection, it was determined that the gate needed to be replaced. The Project Owners were able to design, procure, permit, and

install the new drainage outlet gate during the summer of 2021 before the planned study flow releases in the fall of 2021, which ranged from 150 cfs to 25 cfs over 3 weeks.

It should be noted that in 2018, a different dam (non-operational since 1955) was removed from the lower stretch of the Eklutna River by Eklutna, Inc. After the removal of this lower dam, a significant portion of the sediment wedge that had accumulated behind the lower dam for decades was left in the river. During year 1 study planning, some TWG members requested a flushing flow as part of the study program to flush the remaining sediment from behind the lower dam site. It was determined that this flushing flow was not necessary for study purposes. However, the Project Owners did commit to evaluating the need for conducting a higher calibration flow as part of the second study year.

In June 2021, before the study flow releases, the Project Owners organized a site visit with the Aquatics TWG (Figure 4-1) to identify and establish transect locations. A total of 30 transects were established throughout the river for the Instream Flow Study in relatively stable areas of the river that were not likely to change significantly as a result of the study flow releases. Additional transects were established throughout the river for the Geomorphology and Sediment Transport Study in relatively dynamic areas of the river that were more likely to change significantly as a result of the study flow releases.

Figure 4-1. Site Visit with the Aquatics TWG in June 2021.

In preparation for study flow releases, the Project Owners requested consent and waiver of liability from the principal landowners downstream of the dam for any damage that may result from the potential movement of Eklutna Inc.'s sediment wedge during the planned study flow

releases. The principal downstream landowners include Eklutna, Inc., ADOT&PF, ARRC, and the MOA/AWWU. Among them, only the MOA/AWWU consented and waived such potential liability.

4.4.3 Year 1 Study Reporting

The Project Owners held a series of TWG meetings in November 2021 to discuss the preliminary results of the year 1 studies. Draft year 1 study reports were distributed to the TWGs and other interested parties (including AWWU) in February 2022 for review and comment. The Project Owners received comments on the draft study reports from ADFG, NMFS, and AWWU. The study reports were then revised and finalized based on comments received. The year 1 study reports and all comments received are available here on the Project website.

4.4.4 Year 2 Study Planning

Based on observations made after the study flow releases and the preliminary results from the first year of studies, the Project Owners revised the Study Program Framework for year 2 and presented it to the TWGs during the November 2021 TWG meetings. As stated above, these meetings included discussions regarding preliminary results from year 1 (if applicable), what studies were being proposed for year 2 (Table 4-2), and the goals, general study area, and proposed methods for each study.

Table 4-2. Year 2 Study Program.

Studies Continued from Year 1 (2021)	Studies Initiated in Year 2 (2022)
Instream Flow Study	Engineering Feasibility and Cost Assessment
Geomorphology and Sediment Transport Study	Hydropower Valuation Study
Fish Species Composition and Distribution Study	Wetland and Wildlife Habitat Study
Lake Aquatic Habitat and Fish Utilization Study	Terrestrial Wildlife Study
Water Quality Study	Recreation Study
Stream Gaging	Cultural Resources Study
	LiDAR and Ortho Imagery Acquisition

Following their commitment in 2021, the Project Owners evaluated the need for a higher calibration flow in 2022. However, based on the data collected in 2021, it was determined that reasonably reliable models could be developed using the collected data, and that a higher calibration flow in 2022 was not necessary for study purposes.

The Draft Year 2 Study Plans were distributed to the Parties and TWGs on February 11, 2022, for review and comment. The deadline for written comments on the Draft Year 2 Study Plans was March 11, 2022. The Project Owners received comments from NVE, USFWS, NMFS, ADFG, ADEC, OHA, TU, and TCF.

A series of TWG meetings were held in March 2022 to address substantive comments on the Draft Year 2 Study Plans that required further discussion. The Project Owners then revised the study plans based on comments received and distributed the Proposed Final Year 2 Study Plans to the Parties on April 1, 2022, for review and concurrence.

The Project Owners received concurrence letters from each of the state agencies. The NMFS and USFWS also provided concurrence letters but only concurred with 10 of the 12 study plans. The federal agencies did not concur with the Geomorphology and Sediment Transport Study Plan or the Instream Flow Study Plan due to their uncertainty about the Project Owners ability to model higher flows without a significantly higher calibration flow.[13] The Project Owners documented this area of non-agreement and distributed the Proposed Final Year 2 Study Plans and State concurrence letters to AEA as the Governor's representative for review and feedback; however, the Project Owners did not receive any additional feedback from AEA. Each version of the Year 2 Study Plans, all comments received, and each of the concurrence letters are available here on the Project website.

It should be noted that although it was not included in the Year 2 Study Plans, the Project Owners also conducted a winter flow analysis to determine the range of flows that would be needed to promote favorable ice conditions. These study results were presented to the Aquatics TWG in March 2023 (see Section 4.4.6).

4.4.5 Year 2 Interim Reporting

The Project Owners held a series of meetings with the Aquatics TWG in September, October, and November 2022 to present the preliminary year 2 study results and potential engineering solutions (PME measures) for providing year-round instream flows, periodic peak flows, and fish passage both into and out of the lake. During those meetings, the Aquatics TWG determined which potential engineering solutions should be advanced to phase 1 engineering, which involved the development of 5% conceptual designs and Class 5 Opinion of Probable Construction Costs (OPCC) for each PME measure. The preliminary study results, potential PME measures, and all comments received are available here on the Project website.

[13] The Project Owners acknowledge the uncertainty associated with any modeling effort. And after reviewing the modeling results, both federal agencies have confirmed the validity of both models.

The proposed PME measures and those that were advanced to phase 1 engineering are shown below in Table 4-3.

Table 4-3. Proposed PME Measures.

Proposed PME Measures	Phase 1 Engineering
Year-round flow releases from the existing dam (RM 12)	Yes
Year-round flow releases from the existing dam (RM 12) and excavate the lake outlet	Yes
Year-round flow releases from a new siphon (RM 12)	Yes
Year-round flow releases from a new bypass tunnel (RM 11.5)	Yes
Year-round flow releases from the existing AWWU portal valve (RM 11)	Yes
Year-round flow releases from the existing AWWU pipeline (RM 5.5)	Yes
Reroute Lach Q'atnu Creek back into the Eklutna River	Yes
Groundwater pumping downstream of the existing dam	No
Channel maintenance flows with existing overflow spillway	Yes
Channel maintenance flows with a new radial gate	Yes
Channel maintenance flows with a new fixed wheel gate	Yes
Upstream fish passage with a fish ladder (gravity flow)	Yes
Upstream fish passage with a fish ladder (variable exits)	Yes
Upstream fish passage with a fish ladder (pump station and slide)	Yes
Upstream fish passage with trap and haul	Yes
Downstream fish passage with a spill event	Yes
Downstream fish passage with a floating surface collector	Yes
Downstream fish passage with a rotary screw and guide nets	No
Downstream fish passage through the existing intake	No
Trapping facility with hatchery spawning, rearing, and release	No
Physical habitat enhancement	Yes
New AWWU bridges	Yes
Lakeside trail improvements	Yes

The Project Owners held another Aquatics TWG meeting in February 2023 to present the preliminary 2D modeling results for the river. It was during this meeting that USFWS proposed a nature-like fishway that would go around the existing dam and NVE proposed dam replacement as potential PME measures. The Project Owners held two meetings with USFWS and NVE in March 2023 to discuss both options further. The Project Owners also had several subsequent meetings with Eklutna, Inc. to discuss details of the potential replacement dam.

Ultimately, the stand-alone nature-like fishway was not advanced, but the potential replacement dam was advanced through phase 1 engineering as quickly as possible.

4.4.6 Year 2 Study Reporting

Draft year 2 study reports and phase 1 engineering deliverables were distributed to the TWGs and other interested parties in March 2023 for review and comment. The Project Owners also held a series of TWG meetings in March 2023 to review and discuss the study results. The Project Owners received comments on the draft study reports from ADFG, ADNR, and USFWS. The study reports were then revised and finalized based on comments received. The year 2 study reports and all comments received are available here on the Project website.

4.4.7 Summary of Study Results

In addition to the individual study reports, the Project Owners developed a Draft Summary of Study Results as required by the 1991 Agreement. This document was distributed in October 2023 with the Draft Program (see Section 4.7). The Project Owners did not receive any comments on the Draft Summary of Study Results. The Final Summary of Study Results is provided in Attachment B.

4.5 Alternatives Analysis

The purpose of the alternatives analysis was to evaluate the costs, benefits, and impacts of a range of comprehensive alternatives (which may consist of multiple PME measures) in a consistent manner. This process was not required by the 1991 Agreement; however, the Project Owners felt that it was necessary to bridge the gap between study reporting and issuance of a Draft Program.

Based on the study results, the Project Owners made a commitment early in the alternatives analysis process to provide year-round flow releases into the Eklutna River as part of their Proposed Final Program. Based on this commitment, the primary objectives during the alternatives analysis were to determine how to release water into the Eklutna River and how much water to release for both year-round flows and periodic channel maintenance flows while considering estimated costs and potential impacts.

The alternatives analysis helped to narrow down the list of comprehensive alternatives by removing those that either did not provide a significant benefit, or where multiple alternatives provided similar benefits, those that were more costly could be removed from consideration. The following subsections detail the method of analysis, participation in the process, the purpose of each alternatives analysis meeting, and the comprehensive alternatives that were ultimately evaluated.

4.5.1 Cost Effectiveness and Incremental Cost Analysis

To help inform decision making, a cost effectiveness and incremental cost analysis was conducted to assess the relative benefits and costs of comprehensive alternatives. This method of analysis is an industry standard, developed by the USACE to compare environmental outputs and the economic costs of alternative plans for environmental restoration or mitigation projects. The cost effectiveness analysis compares the annual cost of a proposed alternative with the ecological lift it provides to help identify the least cost alternatives for a given level of environmental benefits.

The ecological lift used as a basis for comparison was the improvements in spawning and rearing habitat for Chinook, coho, and sockeye salmon that would result from providing flow to the Eklutna River, adding fish passage into and out of the lake, changing operation of the lake levels to provide additional lakeshore spawning habitat, or some combination of these measures. The specific gains in habitat were determined using the models that were developed as part of the Instream Flow Study and the results from the Lake Aquatic Habitat and Fish Utilization Study.

To determine the costs of each proposed alternative, the total capital costs, operations and maintenance costs, and replacement energy costs were combined and annualized over 35 years with appropriate escalation factors as described in Attachment C.

4.5.2 Participation

In March 2023, the Project Owners reached out to the Parties, the TWGs, and other stakeholders regarding their interest to participate in the alternatives analysis process. The following entities participated in one or more of the alternatives analysis meetings.

- Alaska Energy Authority (AEA)
- Alaska Department of Fish and Game (ADFG)
- Alaska Department of Natural Resources (ADNR)
    - Water Section
    - Chugach State Park
    - Office of History and Archaeology (OHA)
- National Marine Fisheries Service (NMFS)

- U.S. Fish and Wildlife Service (USFWS)
- Native Village of Eklutna (NVE)
- Eklutna, Inc.
- Anchorage Water and Wastewater Utility (AWWU)
- Trout Unlimited (TU)
- The Conservation Fund (TCF)
- Project Owners

4.5.3 Meetings

The Project Owners held a series of five meetings between April and August 2023 for the alternatives analysis. The general discussion topics for each meeting are summarized below, and the presentations from each meeting are available here on the Project website.

4.5.3.1 Meeting 1

The first alternatives analysis meeting was held on April 6, 2023. At this meeting, seven potential year-round instream flow levels were presented to the group. When developing these potential flow levels, the Project Owners considered the minimum flows needed for upstream migration through the canyon reach, the flows that provide the maximum amount of spawning habitat for Chinook and coho salmon below the dam, the range of flows that would optimize overwintering habitat, and the hydraulic limitations of the proposed PME measures. Corresponding channel maintenance flows for each potential flow level were also presented. The Project Owners also described how the cost effectiveness and incremental cost analysis would be conducted. At the end of the meeting, participants were invited to submit any potential comprehensive alternatives to the Project Owners within two weeks so they could be evaluated before the next meeting. A request form was provided to participants that allowed them to select one of the seven identified flow regimes (or write in a different flow regime) and any combination of the PME measures that were advanced though phase 1 engineering.

After the first meeting, the Project Owners received 33 comprehensive alternatives from eight entities (including the Project Owners). These alternatives were comprised of various flow regimes and PME measures, including flow releases from the existing dam (with and without fish passage), a replacement dam, a new bypass tunnel, the existing AWWU portal valve, or the existing AWWU pipeline. Alternatives also included periodic channel maintenance flows with uncontrolled spill or with a fixed wheel gate. None of the alternatives included the

siphon, rerouting Lach Q'atnu Creek, the radial gate, gravity flow fish ladder, the fish ladder with a pump station and slide, or trap and haul. The Project Owners conducted a cost effectiveness and incremental cost analysis for all 33 comprehensive alternatives.

4.5.3.2 Meeting 2

The second alternatives analysis meeting was held on May 17, 2023. At the beginning of the meeting, the conceptual design and cost estimate for the replacement dam (proposed by NVE in March 2023) were presented to the group. The sediment transport modeling results for each of the proposed channel maintenance flows were also presented. The Project Owners then reviewed the results of the cost effectiveness and incremental cost analysis for each of the 33 comprehensive alternatives that were submitted for evaluation. During the meeting, the group decided to discard the alternatives that involved flow releases from the existing AWWU pipeline (RM 5.5) or a new bypass tunnel because they did not make sense from a cost benefit perspective. Participants were then invited to revise their alternatives based on the information provided and resubmit them for analysis and discussion at Meeting 3.

After the second meeting, the Project Owners received 36 comprehensive alternatives from eight entities (including the Project Owners). Three of the entities had no changes to their alternatives, but five entities submitted revisions, including the Project Owners. The Project Owners conducted a cost effectiveness and incremental cost analysis for all 36 comprehensive alternatives.

4.5.3.3 Meeting 3

The third alternatives analysis meeting was held on June 14, 2023. In response to questions during the previous meeting regarding the feasibility and benefits of fish passage, the Project Owners began this meeting with a review of the downstream fish passage options/challenges and the documented fish habitat in Eklutna Lake and its tributaries. The Project Owners then presented the revised results for each of the revised alternatives. At the end of the meeting, participants were asked to consider the information presented and submit their preferred alternative(s) for analysis and discussion at Meeting 4.

After the third meeting, the Project Owners received 12 preferred alternatives from seven entities (including the Project Owners). Most entities provided one preferred alternative; however, some entities provided more than one preferred alternative (see Section 4.5.4). The Project Owners conducted a cost effectiveness and incremental cost analysis for all 12 preferred alternatives.

4.5.3.4 Meeting 4

The fourth alternatives analysis meeting was held on July 12, 2023. In response to a question from ADFG during the previous meeting regarding potential velocity barriers, the Project Owners presented modeling results for a range of higher flows (80 to 350 cfs) in the canyon reach. It was concluded that these higher flows would not create a barrier to upstream fish migration in the canyon reach. The Project Owners then presented the revised results for each of the preferred alternatives. The total present value of annualized costs (capital, O&M, and replacement energy) for each alternative ranged from $44 million to $385 million over the 35-year program. Potential impacts to CEA and MEA ratepayers and MOA taxpayers were also reviewed, along with results of the cost effectiveness and incremental cost analysis. During the meeting, TCF proposed a hybrid flow release alternative, releasing flows from the existing dam in the summer and the AWWU portal valve in the winter. The Project Owners committed to evaluating this alternative and discussing it at the next meeting. For the remainder of the meeting, the Project Owners reviewed the potential effects, both positive and negative, of the preferred alternatives on other resources including wetlands and wildlife, public water supply, and recreational use and facilities.

4.5.3.5 Meeting 5

The fifth and final alternatives analysis meeting was held on August 9, 2023. The meeting began with a discussion on the potential effects, both positive and negative, of the preferred alternatives on cultural resources. The Project Owners then presented their evaluation of the hybrid flow release alternative that was proposed by TCF in the previous meeting. This alternative ultimately had the same impacts to reservoir operations as releasing flows from the dam year-round and therefore was not advanced any further. The Project Owners then discussed potential adaptive management strategies and proposed using water budgets for both year-round instream flows and periodic channel maintenance flows. A water budget establishes a total amount of water available for release into the Eklutna River each year; adjustments can be made to the flow regime as long as the total volume of water to be released does not exceed the water budget. The remainder of the meeting was an open discussion regarding potential monitoring efforts. At the end of the meeting, the Project Owners invited participants to revise and resubmit their preferred alternatives if needed.

4.5.4 Preferred Alternatives

After the fifth meeting, the Project Owners received 12 preferred alternatives from eight entities (including the Project Owners). Most entities provided one preferred alternative; however, some entities provided more than one preferred alternative. The following subsections detail the components of each entity's preferred alternative(s).

4.5.4.1 Infrastructure Modifications

The infrastructure modifications proposed by each entity for their preferred alternative(s) are shown below in Table 4-4. If an entity provided more than one preferred alternative, then their alternatives were labeled in descending order of preference.

Table 4-4. Infrastructure Modifications for Preferred Alternatives.

Entity	Instream Flows	Channel Maintenance Flows	Upstream & Downstream Fish Passage	Other
NMFS[1]	AWWU Portal Valve	Fixed Wheel Gate	None	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
	Replacement Dam	Fixed Wheel Gate	Variable Exit Fish Ladder[2] & Floating Surface Collector	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
USFWS Alt A	Replacement Dam	Fixed Wheel Gate	Variable Exit Fish Ladder[2] & Juvenile Bypass Gate[3]	Physical Habitat Enhancement New AWWU Bridges Lakeside Trial Repairs
NVE	Replacement Dam	Fixed Wheel Gate	Variable Exit Fish Ladder[2] & Spill	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
TCF	Replacement Dam	Fixed Wheel Gate	Variable Exit Fish Ladder[2] & Spill	None
USFWS Alt B	Existing Dam	Fixed Wheel Gate	Variable Exit Fish Ladder & Floating Surface Collector	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
TU	Existing Dam	Fixed Wheel Gate	Variable Exit Fish Ladder & Spill	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
USFWS Alt C[4]	Existing Dam	Fixed Wheel Gate	None	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
USFWS Alt D[4]	AWWU Portal Valve	Fixed Wheel Gate	None	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs

Entity	Instream Flows	Channel Maintenance Flows	Upstream & Downstream Fish Passage	Other
ADFG Alt A[5]	AWWU Portal Valve	Fixed Wheel Gate	None	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
ADFG Alt B[5]	AWWU Portal Valve	Fixed Wheel Gate	None	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
ADNR Parks	AWWU Portal Valve	Existing Gate	None	Physical Habitat Enhancement New AWWU Bridges Lakeside Trail Repairs
Project Owners	AWWU Portal Valve	Existing Gate	None	Physical Habitat Manipulation New AWWU Bridges Lakeside Trail Repairs

1 NMFS's preferred alternative involved implementing the AWWU portal valve and fixed wheel gate as an immediate action (within 5 years as required by the 1991 Agreement), followed by the replacement dam and fish passage as long-term actions to be implemented after the implementation period specified in the 1991 Agreement.

2 The conceptual design for the replacement dam included a variable exist fish ladder with a nature-like entrance for upstream fish passage.

3 The conceptual design for the replacement dam included a juvenile bypass gate for downstream fish passage.

4 USFWS alternatives C and D were only if public and financial support for alternatives A and B could not be obtained.

5 ADFG alternatives A and B had the same infrastructure modifications but different flow regimes.

4.5.4.2 Year-Round Instream Flow Regimes

The year-round instream flow regimes proposed by each entity for their preferred alternative(s) are presented below in Table 4-5.

Table 4-5. Year-Round Instream Flow Regimes for Preferred Alternatives.

Entity	Flow Releases (cfs)											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
NMFS[1]	75	75	75	75	75	160	160	160	160	160	75	75
USFWS Alt A	75	75	75	75	75	160	160	160	160	160	75	75
NVE[2]	65	65	65	65	160	255	350	350	150	150	108	65
TCF[2]	60	60	60	60	100	180	180	180	180	100	60	60
USFWS Alt B	75	75	75	75	75	160	160	160	160	160	75	75
TU[2]	61	61	61	61	134	206	206	206	134	61	61	61

Entity	Flow Releases (cfs)											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
USFWS Alt C	75	75	75	75	75	160	160	160	160	160	75	75
USFWS Alt D[1]	75	75	75	75	75	160	160	160	160	160	75	75
ADFG Alt A	35	35	35	35	50	65	80	80	57	57	46	35
ADFG Alt B	31	31	31	31	41	50	60	60	48	48	39	31
ADNR Parks	27	27	27	27	34	40	40	40	40	40	34	27
Project Owners	27	27	27	27	34	40	40	40	40	40	34	27

[1] Given the infrastructure selected for the NMFS alternative and USFWS Alt D (the AWWU portal valve), the preferred flow regimes shown for these alternatives are not technically feasible.

[2] The NVE, TU, and TCF preferred alternatives include additional releases from the dam for downstream fish passage in April – June, which is not reflected in the instream flow regime presented.

4.5.4.3 Channel Maintenance Flow Regimes

The channel maintenance flow regime proposed by each entity for preferred alternative(s) are presented below in Table 4-6.

Table 4-6. Stakeholders' Preferred Channel Maintenance Flows.

Entity	Flow (cfs)	Duration (Hrs)	Recurrence (Yrs)
NMFS	700	72	3 of 10
USFWS Alt A	700	72	3 of 9
NVE	700	72	Annually
TCF	600	72	3 of 10
USFWS Alt B	700	72	3 of 9
TU	400	72	3 of 10
USFWS Alt C	700	72	3 of 9
USFWS Alt D	700	72	3 of 9
ADFG Alt A	400	72	3 of 10
ADFG Alt B	325	72	3 of 10
ADNR Parks	220	72	3 of 10
Project Owners	220	72	3 of 10

4.5.4.4 Cost Benefit Summary

Each of the preferred alternatives were analyzed as part of the cost effectiveness and incremental cost analysis. A summary of the total annualized costs and present worth of each preferred alternative for the 35-year program is presented below in Table 4-7 and Figure 4-2.

Table 4-7. Cost Summary for Stakeholders' Preferred Alternatives.

Entity	Capital Cost ($M)[1]	O&M Cost ($M)	Replacement Energy Cost ($M)	35-Year Annualized Cost ($M)	35-Year Present Worth ($M)
NMFS	170.8	1.7	4.9	23.5	385
USFWS Alt A	158.7	1.7	4.9	22.4	366
NVE	122.9	0.3	8.4	21.1	346
TCF	118.1	0.3	6.9	18.9	310
USFWS Alt B	88.6	2.1	5.2	17.7	289
TU	28.9	0.6	7.2	13.5	221
USFWS Alt C	18.0	0.5	5.2	8.7	142
USFWS Alt D	16.9	0.2	2.0	4.3	70
ADFG Alt A	16.9	0.2	2.0	4.3	70
ADFG Alt B	16.9	0.2	1.7	3.8	63
ADNR Parks	8.9	0.2	1.3	2.7	44
Project Owners	8.9	0.2	1.3	2.7	44

[1] Capital costs are based on Class 5 OPCC's and carry an expected accuracy range of -50% to +100%.

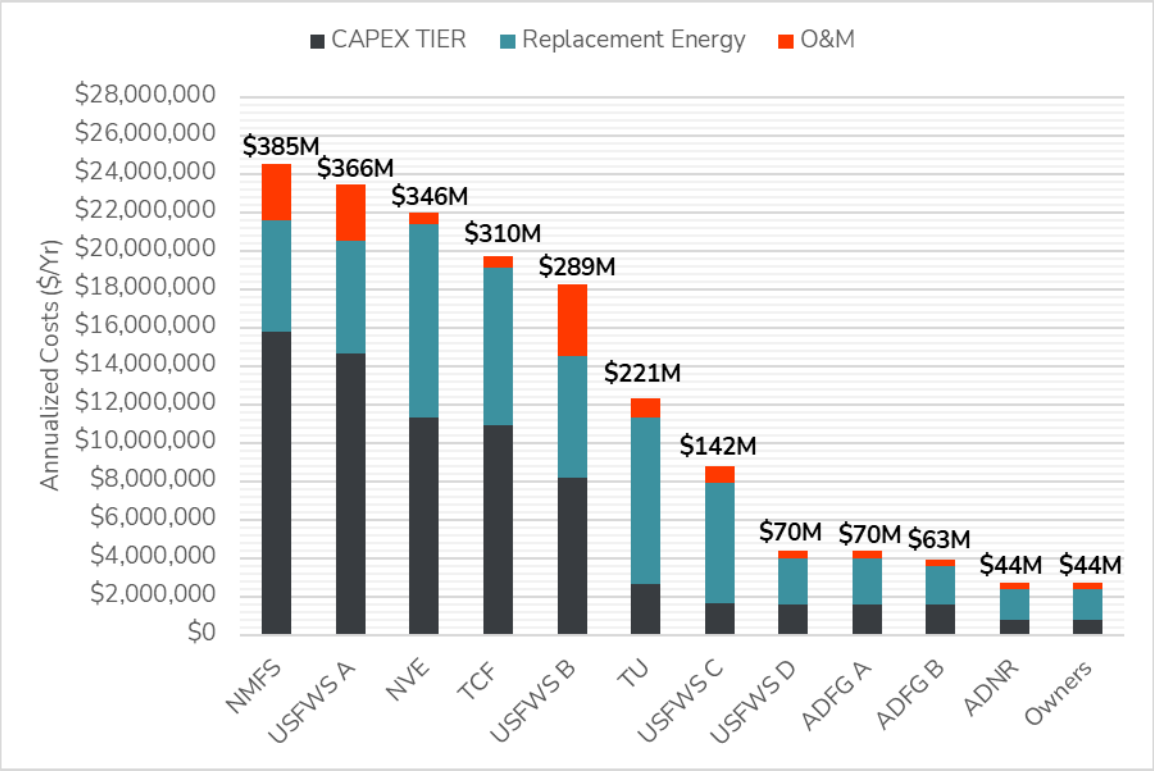

Figure 4-2. Comparison of Annualized Costs and Present Worth for Preferred Alternatives.

The associated ratepayer/taxpayer impacts are presented in Table 4-8. The supporting data for the cost effectiveness modeling is provided in Attachment C.

Table 4-8. Ratepayer/Taxpayer Impacts for Preferred Alternatives.

Entity	Ratepayer Impacts		Property Tax Increase	
	CEA	MEA	MOA	
	(%)	(%)	(mils)	($/100k)
NMFS	+ 4.73%	+ 5.81%	0.076	$7.63
USFWS Alt A	+ 4.53%	+ 5.45%	0.072	$7.21
NVE	+ 4.24%	+ 6.10%	0.046	$4.62
TCF	+ 3.80%	+ 5.29%	0.045	$4.46
USFWS Alt B	+ 3.53%	+ 4.66%	0.052	$5.23
TU	+ 2.38%	+ 4.11%	0.016	$1.60
USFWS Alt C	+ 1.70%	+ 2.96%	0.011	$1.13
USFWS Alt D	+ 0.84%	+ 1.31%	0.008	$0.81
ADFG Alt A	+ 0.84%	+ 1.31%	0.008	$0.81

Entity	Ratepayer Impacts		Property Tax Increase	
	CEA	MEA	MOA	
	(%)	(%)	(mils)	($/100k)
ADFG Alt B	+ 0.76%	+ 1.13%	0.008	$0.81
ADNR Parks	+ 0.53%	+ 0.84%	0.005	$0.51
Project Owners	+ 0.53%	+ 0.84%	0.005	$0.51

The models developed as part of the Instream Flow Study and the results of the Lake Aquatic Habitat and Fish Utilization Study were used to quantify habitat gains for three species (Chinook, coho, and sockeye) and two life stages (spawning and rearing). A summary of the habitat gains for each preferred alternative is presented below in Table 4-9.

Table 4-9. Summary of Habitat Gains for Stakeholders' Preferred Alternatives.

Stakeholder	Habitat Gains (Acres)				
	Chinook Spawning	Coho Spawning	Sockeye Spawning	Chinook Rearing	Coho Rearing
NMFS	3.9	4.0	3.0	15.5	22.8
USFWS Alt A	3.9	4.0	3.0	15.5	22.8
NVE	3.1	3.6	2.5	21.0	31.0
TCF	3.8	3.9	2.7	19.0	28.1
USFWS Alt B	4.9	5.0	4.0	19.1	28.2
TU	4.7	5.0	4.2	18.2	27.1
USFWS Alt C	2.0	2.1	1.1	19.1	28.2
USFWS Alt D	1.5	1.2	0.5	12.6	18.5
ADFG Alt A	1.6	1.6	1.2	8.7	12.7
ADFG Alt B	1.5	1.6	1.2	7.7	11.6
ADNR Parks	1.5	1.6	1.2	6.3	9.9
Project Owners	1.5	1.6	1.2	6.3	9.9

To further assess each preferred alternative, the incremental costs were analyzed to determine the annual spending per acre of habitat gained in the river and lake. This exercise helps to inform the consequences of increasing unit costs to achieve additional habitat gains. A summary of the incremental costs is presented below in Table 4-10.

Table 4-10. Incremental Costs Per Acre of Habitat for Preferred Alternatives.

Entity	Incremental Cost ($/Yr/Acre)				
	Chinook Spawning	Coho Spawning	Sockeye Spawning	Chinook Rearing	Coho Rearing
NMFS	$1,800,000	$1,700,000	$2,300,000	$400,000	$300,000
USFWS Alt A	$6,000,000	$5,900,000	$7,800,000	$1,500,000	$1,000,000
NVE	$5,700,000	$5,600,000	$7,500,000	$1,400,000	$1,000,000
TCF	$7,100,000	$6,100,000	$8,800,000	$1,000,000	$700,000
USFWS Alt B	$5,200,000	$5,100,000	$7,300,000	$1,000,000	$700,000
TU	$2,900,000	$2,700,000	$3,200,000	$700,000	$500,000
USFWS Alt C	$4,400,000	$4,100,000	$7,900,000	$500,000	$300,000
USFWS Alt D	$2,700,000	$2,700,000	$3,600,000	$500,000	$300,000
ADFG Alt A	$2,500,000	$2,400,000	$3,200,000	$500,000	$300,000
ADFG Alt B	$1,800,000	$1,700,000	$2,300,000	$400,000	$300,000
ADNR Parks	$1,800,000	$1,700,000	$2,300,000	$400,000	$300,000
Project Owners	$1,800,000	$1,700,000	$2,300,000	$400,000	$300,000

4.6 AWWU Agreements

After the alternatives analysis, the Project Owners initiated conversations with AWWU in August 2023 to ascertain if AWWU would be willing to allow for potential the use of its infrastructure to release water into the Eklutna River. These conversations concluded with a confidential binding term sheet in October 2023, pursuant to which the Project Owners and AWWU agreed to: (1) broad commercial terms to allow for the construction, interconnection, and operation of the Eklutna River Release Facility and transportation of water for instream flows if the AWWU portal valve alternative was included in the Final Program approved by the Governor; (2) negotiate three definitive contracts elaborating upon such terms prior to the submission of the Proposed Final Program to the Governor:

- A **Water Facilities Interconnection Agreement** to govern the rights and responsibilities of the Project Owners and AWWU with respect to the construction of the Eklutna River Release Facility and eight AWWU bridges over the Eklutna River that will be needed for year-round access to AWWU infrastructure;
- A **Long-Term Water Transportation Agreement** to govern the rights and responsibilities of the Project Owners and AWWU with respect to the transportation of

water from Eklutna Lake, through AWWU infrastructure and the Eklutna River Release Facility, and into the Eklutna River; and

- A **Public Water Supply Agreement** to replace a 1984 agreement between AWWU and the Project Owners governing AWWU's compensation for and use of the Project Owners' water rights to provide drinking water to AWWU customers from Eklutna Lake that expires in 2025.

In March 2024, the Project Owners and AWWU reached agreement on final drafts of these documents, which are provided in Attachment D. While these agreements themselves have not yet been signed by the parties, the parties have signed an amendment to the binding term sheet agreeing that the substantive terms of such documents are complete, provided that certain technical and procedural exhibits will still need to be finalized. The Project Owners and AWWU further agreed that they will execute the agreements upon (1) the approval of the Governor of a Final Program including the use of AWWU facilities as set forth in the Proposed Final Program, (2) the approval by the Anchorage Assembly to the extent necessary for the MOA to execute and perform under the agreements; and (3) any necessary MEA and CEA board approvals.

The binding term sheet and amendment are available here on the Project website.

4.6.1 Water Facilities Interconnection Agreement

The negotiated terms of the Water Facilities and Interconnection Agreement are summarized below.

- The Project Owners shall be responsible for the design, engineering, permitting, constructing, and testing the Eklutna River Release Facility and AWWU Bridges, and shall do such work in compliance with prudent industry standards.

- The proposed design for the Eklutna River Release Facility as developed by the Project Owners must be approved by AWWU.

- The Project Owners shall bear all the costs associated with constructing the Eklutna River Release Facility and will provide certain workmanship and other warranties with respect to the Eklutna River Release Facility for one year after commercial operation.

- AWWU shall provide access to the necessary land and AWWU facilities within its control to allow for such work. The Project Owners shall be responsible for obtaining any necessary third-party approvals for land access, with AWWU assistance.

- After the Eklutna River Release Facility is commercially operable, legal title to a certain portion of the Eklutna River Release Facility including the portions necessary for isolating AWWU's pipeline segment shall pass to AWWU. Legal title to AWWU bridges shall also pass to AWWU.

4.6.2 Long-Term Water Transportation Agreement

The negotiated terms of the Long-Term Water Transportation Agreement are summarized below.

- Beginning upon the commercial operation of the Eklutna River Release Facility and for at least 35 years thereafter, AWWU shall transport water belonging to the Project Owners upon request through AWWU's facilities to the Eklutna River Release Facility to be released into the Eklutna River.

- Under no circumstance shall AWWU be required to deliver water in such a way that will inhibit its ability to deliver a daily flow rate of at least 41 million gallons per day (MGD) to the downstream Eklutna Water Treatment Facility or to exceed the hydraulic capacity or design criteria of the AWWU facilities.

- The parties shall together develop detailed operating procedures before the beginning of the term which will be regularly updated throughout the term.

- As with the Water Facilities Interconnection Agreement, AWWU shall provide access to the necessary land and AWWU facilities within its control to allow for these water transportation services.

4.6.3 Public Water Supply Agreement

The negotiated terms of the Public Water Supply Agreement are summarized below.

- As partial consideration for the services and access to AWWU infrastructure being provided by AWWU pursuant to the Water Facilities Interconnection Agreement and the Long-Term Water Transportation Agreement, the Project Owners have agreed to make available and allow AWWU to continue to interconnect the Eklutna Water Treatment Facility to the Project infrastructure, to use certain of the Project Owners' facilities, and to use a portion of the Project Owners' water rights, up to 41 MGD, all for the public water supply through October 2060.

- In 2055, AWWU will have an option to obtain by transfer of title from the Project Owners' a portion of their first priority water rights up to 41 MGD at no cost to AWWU other than documentation and approvals.

- AWWU shall pay significantly reduced compensation to the Project Owners for associated reductions in electric energy generation.
- The Project Owners will remain responsible for Eklutna Lake reservoir operations and shall operate the reservoir in such a way that the projected allocations of water to AWWU are available upon request at a flow rate of 41 MGD.
- The Project Owners recommit to take no action regarding Eklutna Lake that has the effect of reducing the quality or increasing the turbidity of the lake water or otherwise allow any other action that might have the effect of reducing its suitability for use as a source of public water supply.

4.7 Draft Fish and Wildlife Program

Per the 1991 Agreement, the Project Owners distributed a Draft Program (with the Draft Summary of Study Results) to the Parties in October 2023. Both documents were also provided to NVE.

In the Draft Program, the Project Owners proposed to utilize the existing AWWU water supply infrastructure to provide a robust year-round base instream flow regime to 11 out of 12 miles of the Eklutna River and benefit all four species of salmon that are currently observed spawning in the lower river, while implementing measures to protect the public water supply and minimizing impacts to ratepayers, taxpayers, carbon emissions, and recreation. The proposed flows were determined based on modeling results and were designed to optimize habitat gains while minimizing the costs of replacement energy. The Draft Program also proposed periodic peak flows to maintain downstream fish habitat, construction of eight new bridges for the AWWU water supply access road, a funding commitment for monitoring studies, and an adaptive management framework. Due to the significant costs, impacts, and uncertainty regarding the viability of introducing anadromous species above the Project dam, no fish passage related facilities or changes in operations were proposed at that time.

The Parties and NVE had 30 days to review and provide comments to the Project Owners. The Project Owners received comment letters from ADFG, ADNR, NMFS, USFWS, NVE, and Eklutna, Inc. The Draft Program, Draft Summary of Study Results, and all comments received are available here on the Project website. Responses to comments on the Draft Program are provided in Attachment E.

In their comment letter dated December 4, 2023, NVE proposed a new alternative that involved the removal of Eklutna Dam “within ten years when sufficient renewable power generation is available to offset the lost power generation from dam removal.” In response to this letter, the Project Owners committed to evaluate dam removal in further detail. A

memorandum documenting this evaluation is provided in Attachment F. This alternative was not selected for the Proposed Final Program for reasons described in Section 4.12.2.

4.8 Attempt to Resolve Differences

Per the 1991 Agreement, the Project Owners were required to attempt to resolve differences with the Parties giving due weight to their recommendations, expertise, and statutory responsibilities. The Project Owners held individual meetings with each of the Parties in December 2023 to discuss their comments on the Draft Program. The Project Owners continued to meet with the Parties through April 2024 and made substantive changes to the proposed program based on these discussions.

The Project Owners also met with NVE in December 2023 to discuss their comments on Draft Program and underlying interests. NVE declined to meet with the Project Owners again until March 2023, at which point the Project Owners presented the substantive changes to the program that had been negotiated with the Parties. Subsequent to this meeting, NVE proposed a new alternative that still involved the removal of Eklutna Dam by 2034 once 40 MW of replacement renewable energy is secured. In addition, NVE's new proposal also included the construction of a pump station that would pump water from deep in Eklutna Lake to the pond upstream of Eklutna Dam, and then release water from the dam into the river year-round. This alternative was not selected for the Proposed Final Program for reasons described in Section 4.12.3.

4.9 Public Meetings

After meeting with the Parties and NVE in December 2023 to attempt to resolve differences, the Project Owners were required to hold at least two public meetings, one in Anchorage and one in the Matanuska-Susitna Valley. The Project Owners ultimately held six public meetings, two in Anchorage, two in Palmer, and two in Eagle River. For each location, one meeting was held in the afternoon and one in the evening. All six meetings were held in January 2024 and were an open house format with a brief presentation followed by an opportunity for participants to meet with the Project Owners and their subject matter experts, ask questions, and submit comments. Members of the public had an opportunity to submit both written comments to the Project Owners using the comment forms provided at the public meetings or electronically via the Project website or email. Members of the public also had an opportunity to record their verbal comments at the public meetings.

The public comment period was open from October 27, 2023, when the Draft Program was issued, through February 19, 2024, one month after the last public meeting. The Project Owners received a total of 1,672 public comments, including 1,299 form letters. Individual

comments primarily addressed dam removal and the Draft Program, with comments supporting and opposing both dam removal and the Draft Program essentially evenly split. All of the form letters called for removal of Eklutna Dam; however, most of these form letters were from out of state. The Public Comment Summary and Analysis is provided in Attachment G.

4.10 Proposed Final Fish and Wildlife Program

After five years consultation, study, and analysis, the Project Owners are excited to submit their Proposed Final Program to the Governor. The Project Owners believe that the Proposed Final Program substantively protects, mitigates, and enhances fish and wildlife impacted by the Project, while balance costs and potential impacts to municipal water supply and recreation. The primary components of the Proposed Final Program are summarized below.

- Construction of the Eklutna River Release Facility adjacent to the AWWU portal valve and establishment of year-round instream flows in the Eklutna River.
- Automation of the existing outlet gate at the dam to provide periodic channel maintenance flows in the Eklutna River.
- Construction of eight new bridges along the AWWU access road to enable AWWU's access to critical infrastructure year-round following the establishment of instream flows.
- Payment to Chugach State Park for lakeside trail repairs.
- Establishment of a Committee to oversee implementation of the Monitoring and Adaptive Management Plan.
- Funding to conduct monitoring studies in the Eklutna River throughout the 35-year program.
- Funding for physical habitat enhancement in the Eklutna River based on the monitoring results.
- Procedures for the Committee to adaptively manage the flow regime in the Eklutna River based on the monitoring results.
- Provisions for banking water in Eklutna Lake and potentially increasing the water budget for instream flows in the future.

- Potential installation of a fixed wheel gate to accommodate higher inflows in the future and/or allow higher channel maintenance flows if needed.
- Potential installation of upstream and downstream fish passage facilities in the future if specific criteria are met.

Approval of the Proposed Final Program will enable the Project Owners to implement these significant fish and wildlife measures at the Project, while simultaneously protecting the municipal water supply and continuing to provide low cost, renewable energy to Southcentral Alaska. A comparison to existing conditions is provided in Attachment H. The Design Documentation Reports (DDRs) are provided in Attachment I.

4.10.1 Anticipated Benefits to Fish and Wildlife

Based on modeling results, the default flow regime should create significant new spawning and rearing habitat for salmon in the Eklutna River. The expected spawning and rearing habitat gains for Chinook and coho salmon are presented in Table 4-11.

Table 4-11. Chinook and Spawning and Rearing Habitat Gains.

	Chinook Habitat		Coho Habitat	
Criteria	**Spawning**	**Rearing***	**Spawning**	**Rearing***
Baseline Habitat (Acres)	0.7	11.8	2.5	14.7
Total Habitat with Proposed Base Flows (Acres)	2.2	18.1	4.1	24.6
Percent Gain	209%	53%	65%	67%
% of Maximum Available Habitat Below the AWWU Portal Valve	96.5%	n/a	99.6%	n/a
% of Maximum Available Habitat in the Eklutna River	81.7%	n/a	83.7%	n/a

*The % of maximum available habitat is not shown for Chinook or coho rearing habitat because the flow needed to achieve maximum rearing habitat for both species appears to be higher than the range of flows that was modeled.

The spawning habitat curves for Chinook and coho salmon habitat downstream of the AWWU Portal Valve are presented in Figure 4-3. Spawning and rearing habitat gains are presented graphically in Figure 4-4 and Figure 4-5, respectively.

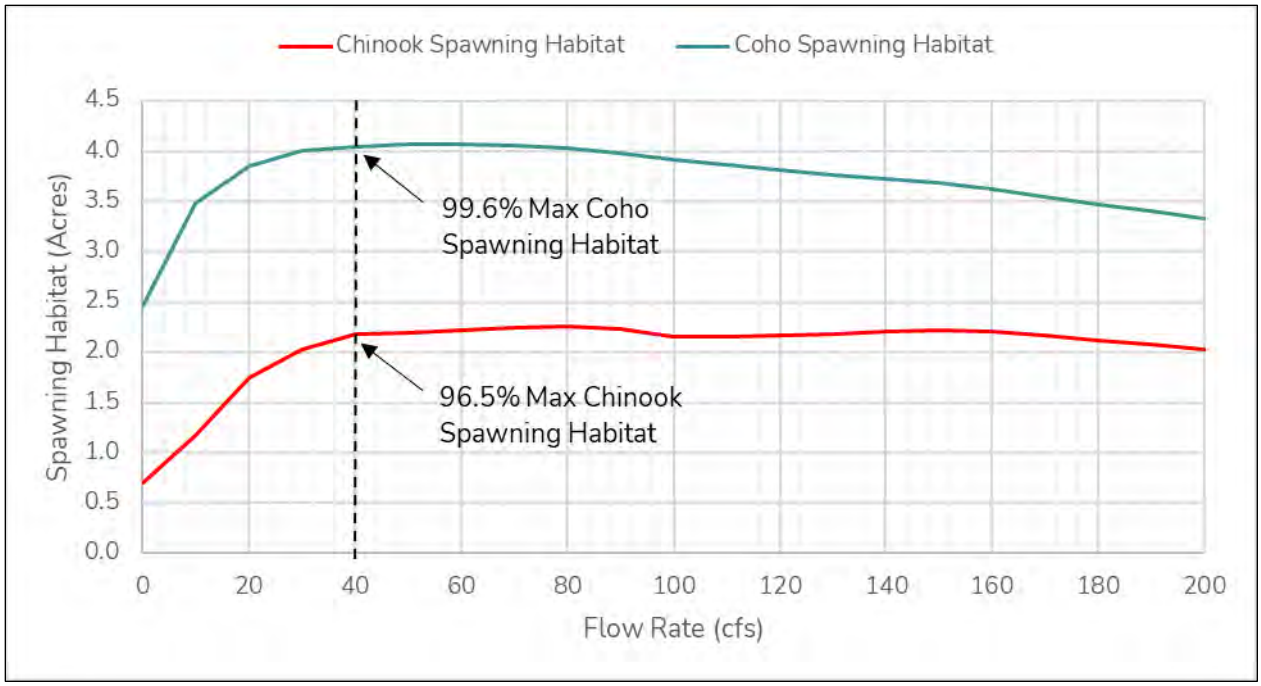

Figure 4-3. Spawning Habitat Curves for the Eklutna River below the AWWU Portal Valve.

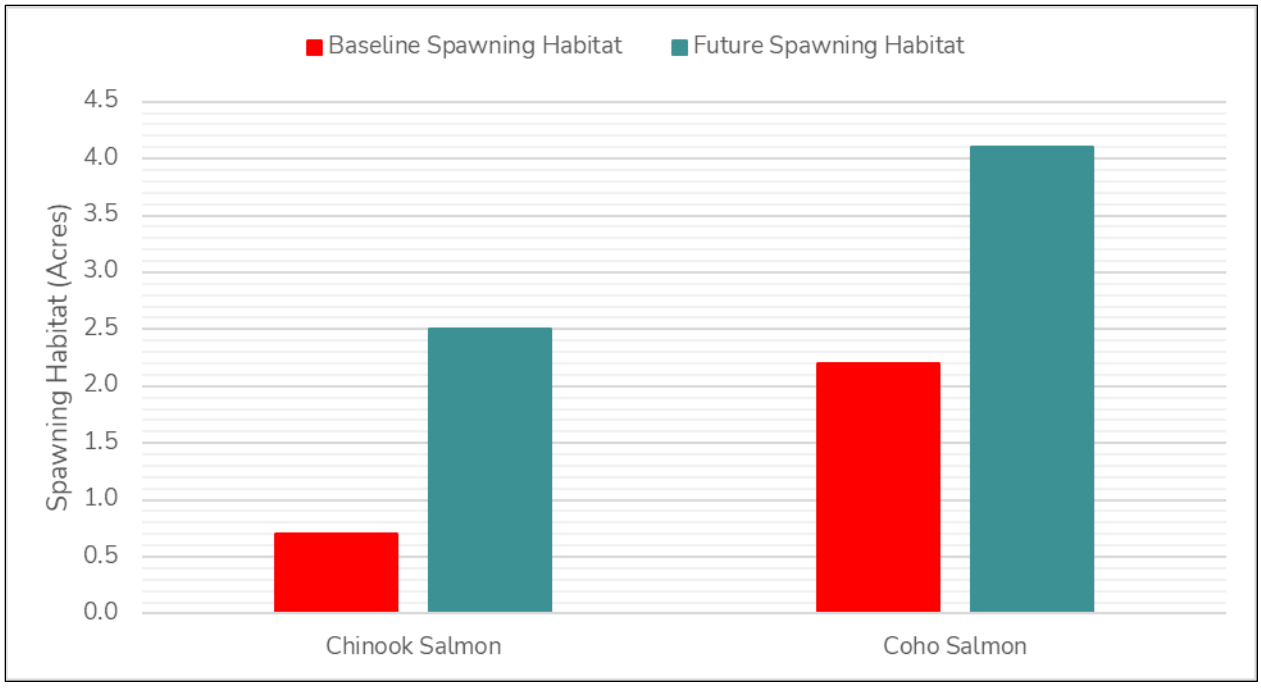

Figure 4-4. Spawning Habitat Comparison, Baseline vs. Future Flow Conditions.

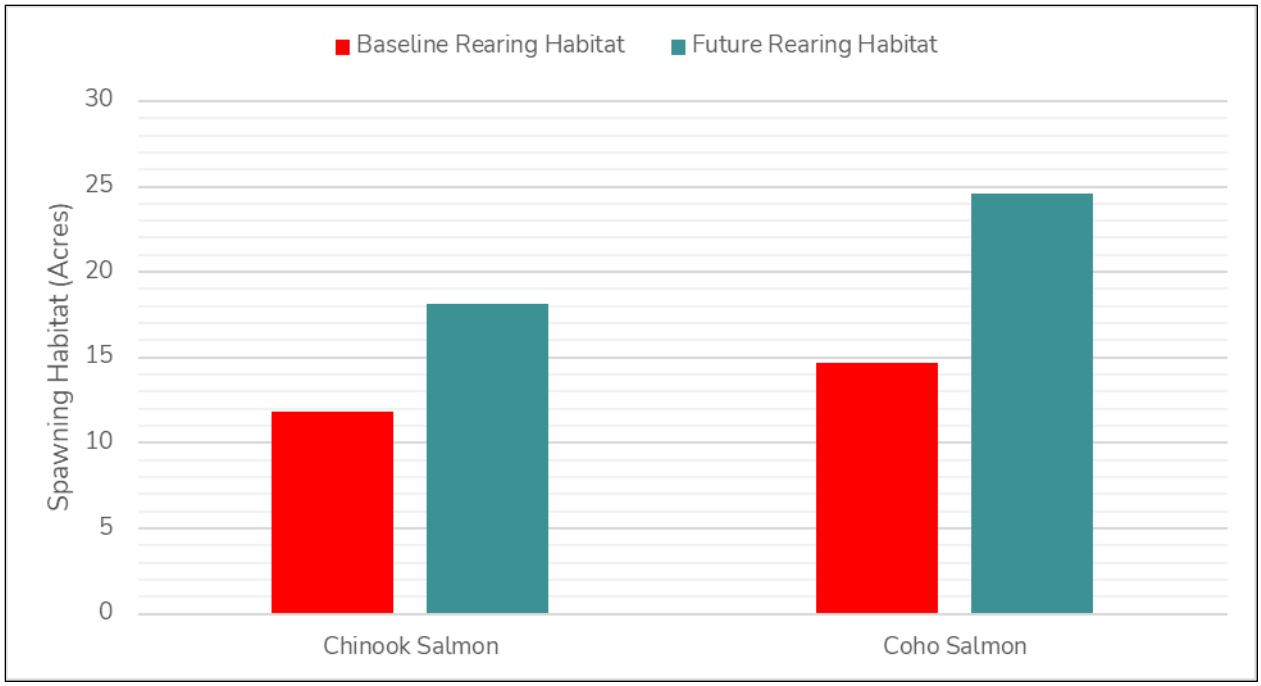

Figure 4-5. Rearing Habitat Comparison, Baseline vs. Future Flow Conditions.

Additional habitat gains for pink and chum salmon are expected to be similar to the prior two species but were not quantified as part of the study program. While these flow releases may also create potential spawning habitat for sockeye in the river, they are unlikely to create rearing habitat for sockeye since sockeye typically rear in lakes. Therefore, the potential spawning habitat for sockeye in the river is not shown. It should be noted that the limited reopener for fish passage (Section 4.2 of the Proposed Final Program) creates the opportunity to benefit sockeye in the future. Increased flow and salmon abundance will also directly or indirectly benefit several ecologically and/or culturally important wildlife species, including:

- Bears, especially brown bears (direct foraging)
- Moose (increased plant nutrients and forage; however, moose could also be negatively impacted as a result of increased bear densities)
- Wolves (direct foraging and potentially higher prey base)
- River otters and mink (direct foraging)
- Beavers (beaver dams would also create salmon rearing habitat)
- Piscivorous birds
- Marine mammals

4.10.2 Anticipated Costs

A Class 4 OPCC with an accuracy range of -30% to +50% was developed for the capital improvements proposed in the Proposed Final Program. Both the capital costs and the O&M costs for the proposed improvements increased from the Class 5 OPCC in part due to modifications to the design that were requested by AWWU. Due to uncertainties whether the fixed wheel gate PME measure will be implemented in the future, the costs are broken out into total program costs with and without the fixed wheel gate.

The costs for implementing the Proposed Final Program will be distributed among the Project Owners based on their ownership percentages and long-term power purchase agreements that modify allocations of costs related to the 1991 Agreement. The resulting allocations are as follows:

- CEA is responsible for 64.29% of all costs, including Capital Costs, O&M Costs, and Replacement Energy Costs.
- MEA is responsible for 16.67% of the Capital Costs and O&M Costs, and 35.71% of Replacement Energy Costs.
- MOA is responsible for 19.04% of the Capital Costs and O&M Costs but does not incur any Replacement Energy Costs.

The total anticipated costs for the Project Owners to implement the Proposed Final Program are presented below in Table 4-12.

Table 4-12. Cost Summary for the Proposed Final Program.

Cost Description	Value
Capital Costs	
ERRF Capital Cost ($)[1]	$10,106,130
Dam Outlet Modifications Capital Cost ($)[1]	$769,373
AWWU Bridges Capital Cost ($)[1]	$4,558,256
Lakeside Trail Repairs ($)	$234,000
Monitoring Program Cost ($)	$450,000
Physical Habitat Enhancement ($)	$350,000
Fixed Wheel Gate ($)[1] *if implemented*	$4,015,100[2]
Subtotal Capital Costs w/o Fixed Wheel Gate ($)	$16,467,759
Subtotal Capital Costs w/ Fixed Wheel Gate ($)	$20,482,860

Cost Description	Value
O&M Costs	
ERRF O&M Cost ($/Yr)	$227,500
Dam Outlet Modifications O&M Cost ($/Yr)	$88,400
Subtotal O&M Costs ($/Yr)	$315,900
Replacement Energy Costs	
Average Annual Energy Reduction (MWh)	15,749
Replacement Energy Costs ($/MWh)	$84.65
Replacement Energy Cost ($/Yr)	$1,333,188
Annualized Costs w/o Fixed Wheel Gate	
Total Annualized Cost ($/Yr)	$3,555,527
CEA Share of Total Annualized Cost ($/Yr)	$2,360,729
MEA Share of Total Annualized Cost ($/Yr)	$897,638
MOA Share of Total Annualized Cost ($/Yr)	$297,160
Estimated Present Value of Total Annualized Costs ($)	$58,218,000
Annualized Costs w/ Fixed Wheel Gate	
Total Annualized Cost ($/Yr)	$3,898,161
CEA Share of Total Annualized Cost ($/Yr)	$2,599,245
MEA Share of Total Annualized Cost ($/Yr)	$955,068
MOA Share of Total Annualized Cost ($/Yr)	$343,848
Estimated Present Value of Total Annualized Costs ($)	$63,828,000[2]

[1] Capital costs at this level of design have an expected accuracy range of -30% to +50%.

[2] The Project Owners' maximum commitment to the fixed wheel gate is $10M, which would raise the Program's capital costs to about $26.5M and its 35-year present value to $72.2M.

Each Project Owner will be responsible for paying its proportionate share of the costs associated with implementing the Final Program. It is too early to determine whether and when such costs will be recovered in rates because any rate recovery will be determined through a rate-setting regulatory process before the Regulatory Commission of Alaska (RCA). Similarly, it is premature to estimate that the costs incurred by the MOA ill exceed its revenues under its long-term power purchase agreements such that the MOA will have to raise taxes Assuming that all such costs are passed directly through as increases to rates and taxes, however, the maximum ratepayer impacts for each utility and potential tax implications of these annualized costs are summarized in the following table.

Table 4-13. Summary of Ratepayer Impacts for Proposed Program.

Fish and Wildlife Program w/ Fixed Wheel Gate	
Cost Description	**Value**
CEA Rate Impact	+0.78%
MEA Rate Impact	+1.07%
MOA Property Tax Impact	.010 mils[1]

[1] 1 mil is $100 per $100,000 of taxable property value.

4.10.3 Implementation Schedule

The schedule for the remainder of the consultation process and implementation of the Final Program is outlined below in Table 4-14.

Table 4-14. Remaining Consultation Process and Implementation Schedule.

Entity	Milestone	Deadline
Parties	Provide comments to the Governor	June 24, 2024
Project Owners	Provide responses to the Governor	July 24, 2024
Governor	Issues the Final Program	October 2, 2024
Project Owners	Feasibility study for the fixed wheel gate	October 2, 2027
Project Owners	Begin implementation	October 2, 2027
Project Owners	Complete implementation (establish instream flows)	October 2, 2032
Project Owners	Reallocation of any additional inflows to the reservoir	October 2, 2042[1]
Committee	Limited reopener for the fixed wheel gate	October 2, 2042[1]
Committee	Limited reopener for fish passage	Any time after October 2, 2042[1]
Project Owners	Reallocation of any additional inflows to the reservoir	October 2, 2052[1]
Project Owners	Repeat the process called for by the 1991 Agreement	October 2, 2057

[1] These dates may change based on the actual date instream flows are established.

4.10.3.1 Review and Comment Period

The Parties will have 60 days to submit written comments on the Proposed Final Program and any alternative recommendations to the Governor. The Project Owners will then have 30 days to submit written responses to the Governor.

4.10.3.2 Final Fish and Wildlife Program

The Governor shall review the Proposed Final Program, supporting information, comments, and any alternative recommendations. The Governor shall attempt to reconcile any differences between the Parties, giving due weight to the recommendations, expertise, and statutory responsibilities of the resource management agencies and the Project Owners. In order to ensure that the Project is best adapted for power generation and other beneficial public uses, the Governor is required by the 1991 Agreement to give equal consideration to:

1. Efficient and economical power production
2. Energy conservation
3. The protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat)
4. The protection of recreational opportunities
5. Municipal water supplies
6. The preservation of other aspects of environmental quality
7. Other beneficial public uses
8. Other requirements of State law

Based on his review, the Governor shall establish a Final Program that adequately and equitably protects, mitigates damages to, and enhances fish and wildlife resources affected by the Project. The Project Owners anticipate the Governor's issuance of a Final Program no later than October 2, 2024.

4.10.3.3 Additional Requirements to Implementing the Final Program

After the Governor's issuance of the Final Program in October 2024, the Project Owners will have three years to achieve the following additional requirements that are preconditions to the Project Owners' ability to implement the Final Program. Should any of these requirements fail to be achieved, the Project Owners may not be able to execute the Final Program.

- **AWWU Agreements:** As described in Section 4.6, the Project Owners and AWWU have reached agreement on the final drafts of all three agreements provided in Attachment D. The Project Owners and AWWU will execute these agreements upon (1) the approval by the Anchorage Assembly to the extent necessary for the MOA to

execute and perform under the agreements; and (2) any necessary MEA and CEA board approvals.

- **Water Right:** As described in Section 2.1.9, the Project Owners' current Certificate of Appropriation (ADL 44944) allows the Project Owners to use any and all of the natural inflow to Eklutna Lake for hydroelectric power generation, except that which is used for public water supply (up to 41 MGD). Therefore, in order for the Project Owners to intentionally release water into the Eklutna River for the purposes of creating fish habitat, ADNR must amend the current water right to allow for such use.

- **Land Rights:** As described in Section 2.1.10, the proposed Eklutna River Release Facility is located within AWWU's easement on BLM land that's managed as part of Chugach State Park. Therefore, the Project Owners anticipate that various land rights (rights of way, easements, etc.) will be required for both temporary and permanent infrastructure related to constructing the Eklutna River Release Facility. The Project Owners will also evaluate the need for any land rights that may be needed for both temporary and permanent infrastructure related to constructing the new AWWU bridges. Chugach State Park is responsible for obtaining any approvals that might be needed for the lakeside trail repairs. The Project Owners do not need any additional land rights for automation of the existing gate at the dam.

- **Dam Safety:** Per ADNR, the Project Owners will be required to update the current O&M manual for Project and seek approval from ADNR to maintain compliance with state dam safety regulations. Automation of the existing gate at the dam may also require a Certificate of Approval to Modify the Dam from ADNR. If the fixed wheel gate is implemented, the Project Owners will work closely with the State Dam Safety Engineer throughout design and construction to ensure compliance with all regulations.

- **Historic Properties:** Per ADNR, the automation of the existing gate at the dam would likely not be considered an adverse effect to the historic property. The Project Owners will seek concurrence from the State Historic Preservation Officer (SHPO) on this determination. If the fixed wheel gate is implemented, the Project Owners will consult with the SHPO at that time regarding a new determination of effect.

- **Permits:** The Project Owners will work with the relevant entities to determine if any other permits may be required and will seek to obtain such permits as needed.

4.11 Measures Not Selected for the Proposed Final Program

This section presents alternative means of mitigating Project impacts that were identified by others and evaluated during the alternatives analysis process described in Section 4.5.

4.11.1 Higher Flow Releases from the AWWU Portal Valve

Of the 12 preferred alternatives, five included using the AWWU portal valve to deliver flow into the Eklutna River. Three of these preferred alternatives proposed flow regimes higher than that of the Project Owners' Proposed Final Program. The increased flows are technically feasible to be released at the AWWU portal valve and provide increased habitat; however, the incremental gains in habitat are minor and result in significantly larger incremental unit costs, as presented in Figure 4-6.

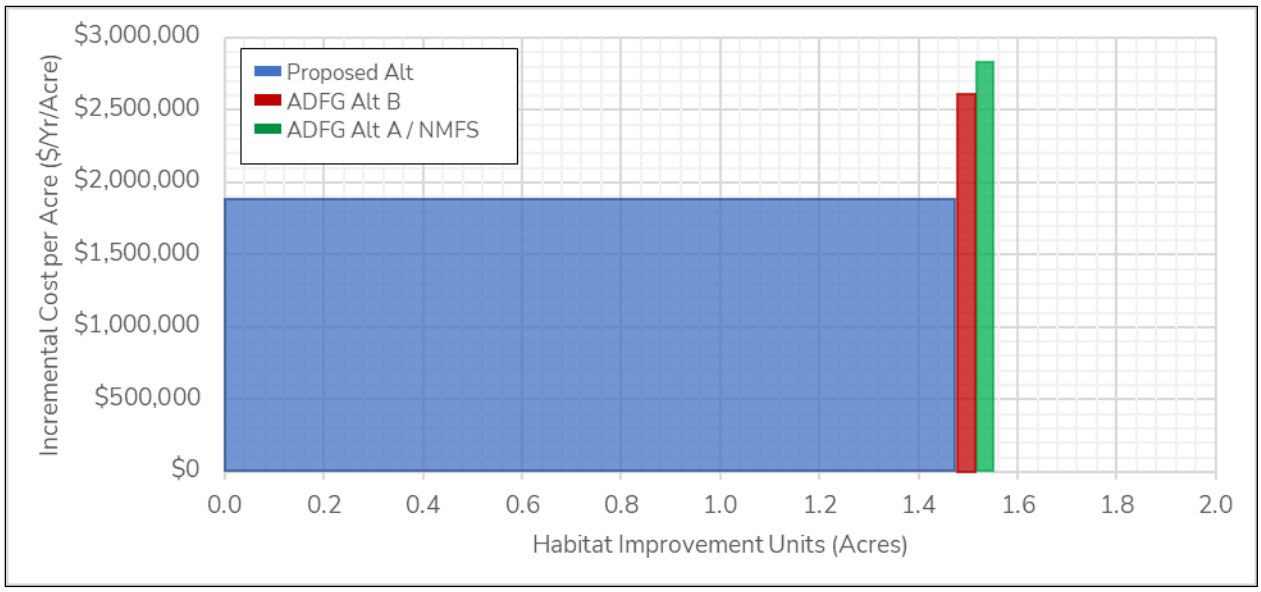

Figure 4-6. Incremental Cost Comparison – AWWU Portal Release Facility.

An additional means of analyzing the incremental gains of higher flow releases from the AWWU portal release facility is to quantify habitat improvements as a function of the maximum spawning habitat in the river. The Proposed Final Program year-round flow release enhances 82% of maximum spawning habitat for Chinook and 84% of the maximum spawning habitat for coho. In comparison, the higher flow release alternatives from the Eklutna River Release Facility have minor gains of approximately 1% - 3% of Chinook spawning habitat and 0.2% - 0.3% of coho spawning habitat. A comparison of the habitat change as a percentage of maximum available riverine habitat is presented in Table 4-15.

Table 4-15. Habitat Gains Comparison – AWWU Portal Release Facility.

Comprehensive Alternative	Chinook		Coho	
	Flow Rate in July/Aug (cfs)	Habitat Gain (% of Max River Habitat)	Flow Rate in Sep/Oct (cfs)	Habitat Gain (% of Max River Habitat)
Selected Alternative	40	82%	40	84%
ADFG Alt B	60	83%	48	84%
ADFG Alt A	80	85%	57	84%

4.11.2 Flow Releases from the Existing AWWU Pipeline

The AWWU pipeline segment P-4 runs along the Eklutna River from RM 5.5 to RM 11.0. Similar to the design of the Eklutna River Release Facility at the AWWU portal valve, an alternative was originally proposed to build a river release structure on the existing pipeline at or near RM 5.5, to take advantage of additional pipeline pressure resulting in a more compact facility. This location would have also eliminated the need to improve upstream AWWU road fords. This alternative was ultimately not selected as a preferred alternative due to the significant reduction in habitat that would benefit from releases. A summary of the gains in habitat if the preferred flow regime is released at the AWWU portal valve rather than RM 5.5 is presented in Table 4-16.

Table 4-16. Habitat Gains Comparison – AWWU Pipeline Release Facility.

Description	Chinook Spawning	Coho Spawning	Chinook Rearing	Coho Rearing
Habitat Gains (Acres) with AWWU Portal Releases	1.5	1.6	6.3	9.9
Habitat Gains (Acres) with AWWU Pipeline Releases	0.3	0.8	3.3	4.7
Incremental Cost ($/Yr/Acre) for AWWU Portal Releases	$1,833,000	$1,696,000	$428,000	$273,000
Incremental Cost ($/Yr/Acre) for AWWU Pipeline Releases	$8,486,000	$3,594,000	$860,000	$601,000

4.11.3 Flow Releases from a New Bypass Tunnel

As an alternative to the Eklutna River Release Facility at the AWWU portal valve, which utilizes the existing AWWU diversion tunnel, an alternative was brought forth to construct a new bypass tunnel in parallel to the existing AWWU tunnel complete with a river release facility at RM 11.5. This alternative was ultimately not selected due to the substantial capital costs to provide the same environmental benefits as using the AWWU portal valve. A comparison of the new bypass tunnel with the AWWU portal valve is presented in Table 4-17.

Table 4-17. Habitat Gains Comparison – New Bypass Tunnel Release Facility.

Description	Chinook Spawning	Coho Spawning	Chinook Rearing	Coho Rearing
Habitat Gains (Acres) with Portal Releases	1.5	1.6	6.3	9.9
Habitat Gains (Acres) with New Bypass Tunnel	1.5	1.6	6.3	9.9
Incremental Cost ($/Yr/Acre) for Portal Releases	$1,833,000	$1,696,000	$428,000	$273,000
Incremental Cost ($/Yr/Acre) for New Bypass Tunnel	$5,373,000	$5,037,000	$1,279,000	$814,000

4.11.4 Flow Releases from the Existing Dam

A measure that was included in three of the 12 comprehensive alternatives proposed by stakeholder groups was to modify the existing dam to release water into the river continuously. In doing so, operations of the reservoir would need to change substantially from current operations. In an average year, the water surface elevation fluctuates from El. 867.0 ft (local datum) to El. 830.0 ft with the ability to draw down to El. 814 ft if necessary. Releases year-round at the existing dam would require the reservoir to remain above El. 861 ft to maintain connectivity with the existing outlet gate at the dam. A representation of the proposed reservoir operation if flow releases were made at the existing dam compared to current operations is presented in Figure 4-7.

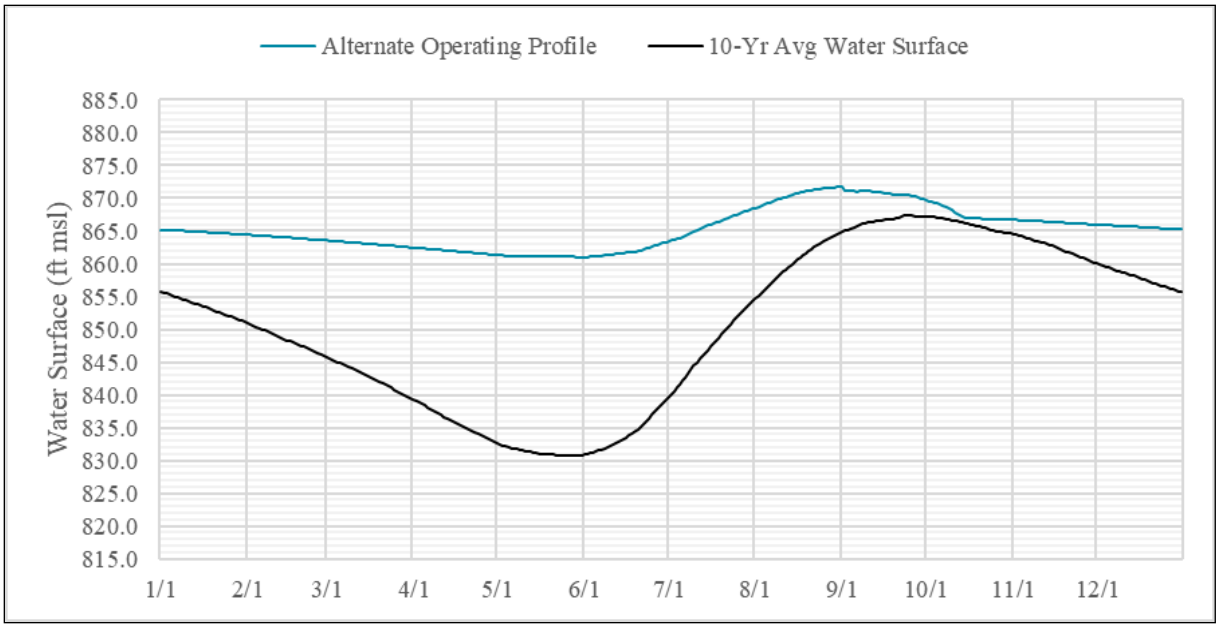

Figure 4-7. Water Surface Elevation Comparison – Existing Dam Releases.

This alternative was ultimately not selected due to the elimination of over 80% of the reservoir storage from being utilized for power generation purposes. Due to the reduction of inflows throughout the winter and the need for maintaining the reservoir above El. 861 ft for river release purposes, the powerhouse is unable to operate for up to eight months of the year. This results in a substantial loss of power generation when grid demand is highest, violates power capacity reserve requirements throughout the winter for MEA, and presents an unacceptable risk to the Project Owners.

4.11.5 Lach Q'atnu Creek Reroute

A proposal to provide year-round natural flows into the Eklutna River included the re-route of Lach Q'atnu Creek from its current path into Eklutna Lake to a location approximately 1,000 feet downstream of Eklutna Dam. Stream gauging records of the creek as part of the study program revealed negligible inflows in the winter (<1 cfs) with daily mean flow rates >10 cfs for about 30 days in the summer. Engineering challenges with the proposed reroute of the creek involve the risk of channel migration through the alluvial fan over time and the encroachment onto private property in the vicinity of the proposed alignment. For these reasons the cost associated with the re-routing combined with the risk of impacting private property deemed this alternative unsuitable for further analysis and was excluded from all preferred alternatives.

4.11.6 Channel Maintenance Flows with Uncontrolled Spill

Intentionally spilling water through the existing overflow spillway was considered for providing periodic channel maintenance flows to the Eklutna River. However, this PME measure was ultimately not selected because of the inherent risk associated with an uncontrolled spill event. In addition, it would require the reservoir to be raised above El. 871 ft which would cause more erosion of the lakeside trail and would limit the time of year when channel maintenance flows could be provided.

4.11.7 Channel Maintenance Flows with Radial Gate

The Project Owners considered adding a radial gate on top of the existing overflow spillway in order to provide controlled spill for periodic channel maintenance flows. However, this PME was ultimately not selected because it would still require the reservoir to be raised above El. 871 ft which would cause more erosion of the lakeside trail and would limit the time of year when channel maintenance flows could be provided.

4.11.8 Channel Maintenance Flows with Fixed Wheel Gate

During the consultation process, several stakeholders requested that the existing overflow spillway be replaced with a fixed wheel gate because either (1) climate change may cause inflows to the reservoir to increase significantly, which may increase the likelihood of future spill events, and a fixed wheel gate will allow the Project Owners to better manage those future spill events, or (2) while modeling results show that the default channel maintenance flow regime will maintain spawning gravels in the wetted reach of the Eklutna River, future monitoring may show that a higher magnitude channel maintenance flow that exceeds the combined hydraulic capacity of the existing outlet gate and the Eklutna River Release Facility may be warranted. Replacement of the existing overflow spillway with a new fixed wheel gate was evaluated during the study program and alternatives analysis and the Project Owners determined that it was not warranted at this time due to the need to perform additional design analysis to confirm whether significant dam safety concerns might exist, and the need for future monitoring of habitat conditions under the proposed flow regime. Recognizing that the fixed wheel gate might be warranted in the future, however, the Project Owners will continue to investigate the fixed wheel gate and will construct it if certain criteria are met.

4.11.9 Fish Passage

The Traditional Ecological Knowledge (TEK) from NVE indicates that there was a sockeye salmon run in Eklutna Lake before the lower dam was constructed in 1929. However, in a 2011 report, the USACE stated “It is doubtful that significant numbers of sockeye salmon ever spawned in the Eklutna River drainage because suitable spawning area upstream of the lake is

limited and water quality in the lake would likely have limited opportunities for spawning in the littoral zone of the lake. Fully 80 percent of the water entering Eklutna Lake comes from two glacial streams that would not be conducive to the consistent survival of sockeye salmon from egg to fry, and the remaining spawning area would not be sufficient to support large numbers of spawning anadromous salmon. In addition, the physical limnology studies of Eklutna Lake suggest that the turbidity in Eklutna Lake during much of the year is not conducive to significant primary production."

A separate study was conducted by Loso et al. to try to determine "whether there was an anadromous salmon run into Eklutna Lake prior to 1929" by using marine derived nutrients (MDN) as a biochemical marker in lake sediment. The study found that there was no significant difference in the composition of sediment layers from before and after 1929. However, a sensitivity test was conducted to assess the possibility that a small salmon run may have gone undetected by the isotopic analysis. It was determined that "a salmon run of up to 1,000 per year, and potentially as many as 15,000 per year, would be possible without noticeably altering the measured isotopic composition of the sediments in Eklutna Lake." Therefore, the results "provide no evidence that such runs occurred, but do not preclude the possible existence of a relatively small sockeye fishery in Eklutna Lake before 1929."

During the consultation process, several stakeholders requested that upstream fish passage of adult salmon into Eklutna Lake and downstream fish passage of juvenile salmon out of Eklutna Lake be evaluated. All fish passage measures proposed by the Project Owners and other stakeholders were evaluated during the study program and alternatives analysis (see Section 4.5). All of the volitional upstream fish passage measures that were evaluated either (1) would have significant impacts to the hydropower project (i.e., would reduce the storage capacity of the reservoir by approximately 40% or would require the Project powerhouse to be shutdown throughout the winter when energy is needed most), or (2) are cost prohibitive (the estimated present worth for the stakeholders' preferred alternatives that included volitional fish passage ranged from $221M to $385M including capex, operations and maintenance, and replacement energy). In addition, there are still significant concerns regarding the effectiveness of all the downstream fish passage facilities studied (i.e., low attraction flow velocities and/or the inability to operate the downstream fish passage facilities while the lake is frozen over). Therefore, fish passage measures are not proposed at this time. The lake study results and justification for the exclusion of each measure from the Project Owners' Proposed Final Program are presented in the following subsections.

Nonetheless, the Project Owners recognize that fish passage may become feasible in the future and that fish passage is important to NVE and the federal resource management agencies. The Project Owners have therefore included a limited reopener for fish passage in the Proposed Final Program.

4.11.9.1 Lake Studies

Much of the Eklutna Lake shoreline is steep, bouldery, or characterized by fine silt and grasses. The remaining shorelines that could be accessed during the study program (above the waterline) contained ~1.5 acres of potential habitat for lakeshore-spawning ocean-run salmon such as sockeye.

Most tributaries to Eklutna Lake are too steep to provide significant spawning or rearing habitat for ocean-run salmon. The only lake tributaries with accessible low-gradient habitat suitable for the migration and spawning of ocean-run salmon are the East and West Forks of Eklutna Creek where an estimated 0.77 – 3.61 acres of potential spawning habitat was documented based on water depth and substrate size. A small tributary to the West Fork of Eklutna Creek adds between 0.02 – 0.24 acres of potential spawning habitat.

Low water transparency (caused by high turbidity) and low nutrients levels in Eklutna Lake correlate with low levels of chlorophyll *a* (an indirect indicator of primary production). The low algal biomass within Eklutna Lake likely corresponds to low zooplankton densities (secondary production) and appears to be a limiting factor (i.e., food resource) for fish production in the lake, especially for the resident kokanee population.

A majority of the spawning kokanee collected from Eklutna Lake have Infectious Hematopoietic Necrosis (IHN) and were smaller (4.5-6.5 inches) than those reported in many other lake systems (10–12 inches). The kokanee in Eklutna Lake also differ from other kokanee in their low fecundity (only 20-30 eggs), lack of sexual dimorphism, and lack of spawning color that is typical of the species (Figure 4-8). These are likely an indication of low nutrient concentrations and limited food sources in the environment, and may indicate that Eklutna Lake, in its existing condition, may not provide productive potential rearing habitat for large populations of ocean-run salmon.

Figure 4-8. Typical spawning Kokanee in Eklutna Lake (left) vs. other lake systems (right).

It has been theorized, but not studied, that if fish passage was provided into Eklutna Lake, the spawning salmon would bring enough marine derived nutrients with them. However, high turbidity in Eklutna Lake would still limit light penetration. The high turbidity in the lake is caused by runoff from the retreating Eklutna Glacier. Like the Eklutna Glacier, the nearby Skilak Glacier is also retreating. Elevated runoff from the retreating Skilak Glacier produces more silt (i.e. turbidity), blocking sunlight, reducing the euphotic zone, and diminishing zooplankton densities. The result is fewer zooplankton (e.g. copepods) available as a food resource for juvenile sockeye. Research by ADFG in 2004 showed that the average weight of juvenile sockeye in Skilak Lake was almost half of what was typical. If a critical summer weight size isn't achieved, overwinter survival of juvenile sockeye will be poor and at some point, will have a substantial impact on sockeye returns. As the Eklutna Glacier retreats further, we can expect a similar trend of increasing turbidity in Eklutna Lake as well.

It also important to note that no adult sockeye were observed spawning in the lower river during the 2-year study program. Therefore, any attempt to establish a sockeye salmon run in the Eklutna watershed would either rely on sockeye straying from other river systems or intentional stocking efforts.

4.11.9.2 Upstream Fish Passage

Gravity Flow Fish Ladder

The gravity flow fish ladder measure includes the construction of a new technical fishway at the existing Eklutna Dam. The fish ladder would be of the weir and orifice or vertical slot style with an entrance below the dam and exit at fixed elevation on the upstream side of the dam. For proper function, the water surface elevation of the lake must maintain relatively constant during spawning season, resulting in the inability to utilize any of the reservoir storage for power generation purposes. For this reason, this alternative was not included in any of the preferred comprehensive alternatives.

Variable Exit Fish Ladder

The variable exit fish ladder measure is included in three of the 12 comprehensive alternatives proposed by stakeholders. The design and construction are similar to the gravity flow fish ladder measure; however, the exit includes a series of gates corresponding to varying water surface elevations which allow for approximately 15-feet of reservoir fluctuation. While allowing for some operational flexibility and continued hydropower generation, this alternative being combined with the existing dam structure for flow releases still requires the hydroelectric powerhouse to be offline throughout the winter, when power demand is the

highest. For this reason, the variable exit fish ladder and release through the existing dam was not included as part of the Project Owners' Proposed Final Program.

Fish Ladder with Pumped Water Supply and Slide

The fish ladder with pumped supply and slide measure includes the construction of a new technical fishway at the existing Eklutna Dam with a chute or slide to return fish to a lower water surface elevation within the lake. The fish ladder would be of the weir and orifice or vertical slot style with an entrance below the dam and exit at a false weir located at the dam. Water from the lake would be pumped continuously over the weir during spawning season providing attraction flow for salmon. From the false weir, migrating adults would fall into a chute or slide and enter Eklutna Lake at a reduced water surface elevation. While this alternative allows for operations of the reservoir for power supply purposes, the reliance on pumps for providing flow to the ladder presents a significant risk. Additionally, this method of fish passage has little to no precedence at existing dams. For these reasons this measure was not included in any of the stakeholder comprehensive alternatives.

Trap and Haul

A trap and haul facility was proposed for analysis early on by the Project Owners to be combined with either the AWWU Portal Release or AWWU Pipeline Release measures. The proposal included the addition of a false weir, holding pond with crowder, and lift to transport migrating adults to a truck for transport to Eklutna Lake. While this measure would allow the Project Owners to maintain current reservoir operations and operate the powerhouse year-round, it was ultimately not selected as part of the Project Owners' Proposed Final Program due to the lake studies concluding that Eklutna Lake has little to no productivity potential and would likely not support a healthy fishery as evidenced by the condition of kokanee residing in the lake. In addition, this upstream fish passage option received no support from any of the stakeholders.

4.11.9.3 Downstream Fish Passage

Spill

One measure proposed for allowing downstream passage of out-migrating juvenile salmonids is to release a significant flow from the dam via a new spillway gate, or by uncontrolled release over the existing spillway from April through June. While this approach is viable, due to the size, depth, and layout of Eklutna Lake, a spill event on the order of 300-500 cfs would provide very low attraction velocities within the lake itself, resulting in substantially reduced efficacy of downstream passage. Additionally, the volume of water released in a spill event of this magnitude for a duration of up to 3 months results in a significant portion of the reservoir

annual inflow volume being utilized for downstream passage rather than for power generation purposes. For these reasons spill was not proposed for downstream passage as part of the Project Owners' Proposed Final Program.

Floating Surface Collector

To preserve water for power supply purposes, an alternate method for downstream passage was proposed, consisting of a floating surface collector located at or near the intake or the lake outlet. This floating barge structure would consist of guidance screens and attraction flow pumps moving approximately 500 cfs through the screens to attract and capture migrating juveniles. A primary concern with the usage of floating surface collector for downstream passage is that the barge must operate in ice-free conditions. At Eklutna Lake, ice breakups typically occur in May to June, which results in the floating surface collector being inoperable for 50%-70% of the theorized outmigration window. Additionally, as presented in the cost estimate summary, these structures have substantial capital and operating expenses. For these reasons, the floating surface collector was not included as part of the Project Owners' Proposed Final Program.

Other Downstream Passage Measures

During the Aquatics TWG meeting on November 9, 2022, two other downstream fish passage measures were discussed: 1) volitional downstream fish passage through the existing intake, and 2) trap and haul downstream fish passage utilizing a rotary screw trap and guide net. However, after preliminary evaluation, it was determined that neither of these measures would have a high success rate; therefore, neither measure was selected by the Aquatics TWG for further evaluation.

4.11.10 Trapping Facility with Hatchery Spawning, Rearing, and Release

During the Aquatics TWG meeting on November 9, 2022, the concept of a trapping adult salmon at the flow release point, spawning the adult salmon and rearing the juvenile salmon at a hatchery, and then releasing the juvenile salmon back into the Eklutna River. This method would likely result in a higher survival rate which would accelerate the salmon population growth in the river. However, the Aquatics TWG strongly opposed the idea of a hatchery; therefore, this measure was not selected by the Aquatics TWG for further evaluation.

4.11.11 Replacement Dam

The base of the existing Eklutna Dam is located on a depositional shelf approximately 200-ft higher in elevation than the deepest portion of Eklutna Lake and approximately 60-ft higher in elevation than the intake elevation for the power tunnel. As described in Section 4.11.4,

providing continuous releases to the Eklutna River from the existing dam significantly curtails power generation and reduces the active storage volume of the reservoir by over 80%. An alternative proposed to reduce restrictions on reservoir operations while providing year-round hydroelectric generation involves the excavation of the depositional shelf at the existing dam and construction of a replacement dam in its place. The excavation would require construction of a channel approximately 20-ft deep, 50- to 350-ft in width, and 1-mile in length resulting in removal of approximately 550,000 cubic yards of material. The replacement dam would have an overall height of approximately 56-feet and incorporate a spillway and fish passage structures.

This alternative would restrict the minimum reservoir operating elevation to El. 840 ft, removing approximately 40% of the storage capacity of the reservoir. While this allows operation of the Eklutna Power plant year-round in an average water year, it requires some operational restrictions and reduces flexibility in hydropower generation seasonally.

The replacement dam is included in four of 12 comprehensive alternatives proposed by stakeholder groups. While the replacement dam concept continues to allow hydroelectric generation year-round, the cost of this measure and loss of reservoir capacity are the primary reasons it is not included within the Project Owners' Proposed Final Program. Dependent on the measure chosen for downstream fish passage, the replacement dam alternatives range from a capital cost of approximately $120M to $180M[14] which results in a significant additional burden on ratepayers and taxpayers. A summary of the costs of the replacement dam alternatives compared to the Project Owners' AWWU portal valve alternative is presented in Table 4-4.

Table 4-18. Cost Comparison Summary – Replacement Dam.

Entity	Alternative Measure	Capital Cost ($)	Annualized Cost ($/Yr)	CEA Rate Impact (%)	MEA Rate Impact (%)	MOA Tax Impact ($/100k)
Project Owners	AWWU Portal Valve	$20,482,860	$3,898,161	0.78%	1.07%	$1.03
TCF	Replacement Dam	$118,129,000	$19,776,000	3.81%	5.31%	$4.46

[14] The cost estimate for the replacement dam measure was developed in close coordination with Eklutna Inc. and has a median construction cost of $113M with a class 5 estimate range of $57M to $220M. Following development of the original estimate, Eklutna Inc. had recommended a few revisions to the costs including providing a new location for material disposal which resulted in a potential cost savings of approximately $25M. The revision falls within the price range of the original estimate and will be considered if the design of this measure is advanced.

NVE	Replacement Dam	$122,853,000	$22,006,000	4.24%	6.10%	$4.62
USFWS Alt A	Replacement Dam	$158,719,000	$23,483,000	4.61%	5.50%	$7.48
NMFS	Replacement Dam	$177,833,000	$25,465,000	4.91%	5.89%	$8.32

4.12 NVE Comment Summary

As stated in their June 2020 letter to NVE, the Project Owners committed to submitting an NVE-specific comment summary to the Governor for consideration along with the Project Owners' Proposed Final Program.

4.12.1 Dam Replacement – NVE's First Preferred Alternative

In July 2023, NVE identified the replacement dam as their preferred alternative (see Section 4.5.4). NVE's preferred year-round instream flow regime was 350 cfs in July and August, 150 cfs in September and October, and 65 cfs throughout the winter. NVE's preferred channel maintenance flow regime was 700 cfs annually. Channel maintenance flows would be provided through a fixed wheel gate and upstream fish passage would be provided through a fish ladder (both consistent with the conceptual design of the replacement dam). Downstream fish passage would be provided through spill.

As described in Section 4.11.11, the replacement dam was not selected by the Project Owners primarily because of the associated costs and the 40% reduction in storage capacity for the reservoir.

4.12.2 Dam Removal – NVE's Second Preferred Alternative

Following the publication of the Draft Program, NVE proposed a new preferred alternative that requires removal of Eklutna Dam and decommissioning of the Project. NVE stated the following in their comment letter dated December 4, 2023:

> "To meaningfully meet the purpose of the Agreement, NVE proposes an alternative solution – removing the Eklutna Lake dam within ten years when sufficient renewable power generation is available to offset the lost power generation from dam removal."

NVE's second preferred alternative proposal contained no analysis of costs or risks of removing the Project dam or replacing its energy and capacity. In response to the letter, the Project Owners engaged engineers and hydrologists to conduct a high-level analysis of the

technical risks and cost implications associated with the removal of the Project. This investigation evaluated the effects that an unregulated river hydrograph may have on infrastructure on or adjacent to the Eklutna River downstream of the existing dam, summarized the costs associated with dam removal and decommissioning of Project infrastructure, investigated potential mitigation measures where necessary to address such risks, and analyzed the use of other comparable renewable energy sources to determine how to offset the lost generation from the Project. A memorandum documenting this analysis and the results is included in Attachment F.

The dam removal analysis revealed that if the Project were removed and the expected stream flows were allowed to flow unregulated down the Eklutna River, AWWU's water pipeline infrastructure would be at significant risk and the New Glenn Highway bridges and Alaska Railroad bridge would need to be replaced. Note that this analysis was limited to large public infrastructure and did not include an assessment of negative effects (or potential liabilities) arising from the inundation of lands on downstream landowners during high water flood events, including Eklutna, Inc. and NVE. Additionally, the assessment showed that mitigating the risks to the downstream infrastructure and replacing the Project energy and capacity with firm renewable energy would cost more than $500 million in total known costs in 2034 dollars.

Ultimately, given (1) the likely adverse impacts to the municipal water supply and downstream infrastructure, including the buried AWWU pipeline, New Glenn Highway bridges, and railroad bridge, (2) the cost of replacing the Project's capacity and energy generation, (3) the Project Owners' overall renewable energy goals, and (4) the dwindling natural gas supply in Cook Inlet, the Project Owners determined it would not be prudent or rational for the Project Owners to include dam removal in the Proposed Final Program.

4.12.3 Pump Station and Dam Removal – NVE's Third Preferred Alternative

On April 9, 2024, NVE proposed a new alternative still centered on the removal of Eklutna Dam "by 2034." However, in addition to all the costs and risks that would be created by dam removal outlined in Section 4.12.2 and Attachment F, NVE's third alternative also included additional requirements to obtain "40 MW of replacement renewable energy" within 10 years and the obligation to construct and operate an alternative Eklutna River Release Facility through the construction of a pump station that would pump water from Eklutna Lake to the small pond upstream of Eklutna Dam, and then release water from the dam into the river year-round (see Section 4.8). This pump station would remain in place and operating after the dam is removed to ensure that AWWU can maintain its full withdrawals and, if necessary, keep the river watered during dry winter months. NVE's third alternative also proposed other Program elements, such as creation of an earnings fund reserve, amending the 1991 Agreement to

delay its process and implementation, and including NVE as a permanent member of the Monitoring and Adaptive Management Committee.

As with its second preferred alternative, NVE's third preferred alternative proposal contained no analysis of costs or risks to the Project Owners or any other entity. The Project Owners acknowledge that NVE's proposed pump station is a viable alternative to the proposed Eklutna River Release Facility from an engineering perspective, and the Project Owners actually studied and considered variations of the pump station alternative during early analysis of all potential alternatives that were identified. Ultimately, however, the idea was not advanced as a preferred alternative because the pump station depends on the proper functioning of a powered mechanical system; if that powered mechanical system fails, the consequence could be catastrophic to the downstream fish populations and habitat that would depend on future flow releases. The Project Owners' proposed Eklutna River Release Facility does not depend upon a powered mechanical system to provide instream flows; rather it requires only gravity. Unlike the pump station, if there is a power outage for an extended time (which is somewhat likely given its location), then the Project Owners' Eklutna River Release Facility would continue to function by simple gravity flow from the river release valve. The Project Owners know of no instream flows established at any hydroelectric project in the U.S. that depends upon the proper functioning of a powered mechanical system to convey water, especially one in a remote location with complex supporting infrastructure.

The Project Owners expect that the capital costs of the pump station would significantly exceed the $10 million of estimated capital costs for the proposed Eklutna River Release Facility. The Project Owners disagree with NVE's statement that the $8.4 million capex figure developed for the siphon alternative as part of phase 1 engineering is reflective of what the pump station would cost. The pump station would be significantly more expensive due to the cost of the deep wet well excavation and boring of the intake pipe as proposed. Additionally, the Project Owners expect that the operational and maintenance costs of the pump station would far exceed the proposed Eklutna River Release Facility as the pumps require a continuous energy draw to operate and the emergency generator would need regular servicing and maintenance. The new access road construction, distribution line, and electrical building required by the pump station, all to be located so close to the state park recreation and campground facilities, may raise potential sound and aesthetic concerns.

Furthermore, the Project Owners do not believe that the proposal to provide power to the pump station using the existing system's 12.47 KV single-phase line on wooden poles would be adequate. A more robust distribution system would need to be erected at a much higher expense. Seven miles of 3-phase distribution lines in that territory would cost roughly $2 million. Finally, the Project Owners estimated that NVE's pump station alternative would not accommodate channel maintenance flows allowed under the Proposed Final Program.

Consequently, the Project Owners determined it would not be prudent or rational for the Project Owners to agree to the costs and risks of NVE's third preferred alternative (dam removal starting in 2034, 40 MW of replacement renewable energy, and the pump station). With all due respect to NVE, the Project Owners must observe prudent utility practices and our obligations to our member-ratepayers. The Project Owners also reject the need for fund reserve and ability to amend the 1991 Agreement without Congressional approval. The Project Owners did agree to name NVE as a permanent member of the Committee as set forth in Section 3.1 of the Proposed Final Program.

Attachments

Attachment A. Consultation Record

Attachment B. Final Summary of Study Results

Attachment C. Supporting Data for Cost Effectiveness Modeling

Attachment D. Draft AWWU Agreements

Attachment E. Responses to Comments on the Draft Program

Attachment F. Dam Removal Assessment

Attachment G. Public Comment Summary and Analysis

Attachment H. Comparison to Existing Conditions

Attachment I. Design Documentation Reports